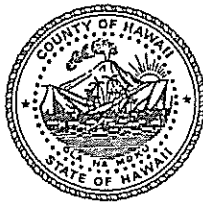


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

December 7, 2004

Dr. William C. Foulk
75-5656 Kuakini Highway, #301
Kailua-Kona, Hawaii 96740

Dear Mr. Foulk:

Special Management Area Use Permit Assessment Application (SMAA 04-103)
Special Management Area (SMA) Minor Permit No. 173 (SMM 173)
Applicant: Deborah Rosenbaum
Landowners: Deborah Rosenbaum
Project: Construct an Additional Farm Dwelling
Tax Map Key: (3) 8-2-008:079

By this letter we are transmitting the referenced SMA Minor Permit No. 173, which is approved, subject to conditions, for the construction of an Additional Farm Dwelling on the subject property.

Should you have questions, please feel welcome to contact Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Yuen", is written over a horizontal line.

CHRISTOPHER J. YUEN
Planning Director

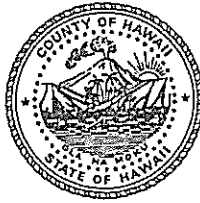
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Encl: SMM 173

xc: Ms. Susan Gagorik – Long Range Planning
Mr. Norman Hayashi – Planning Commission, w/encl.

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Special Management Area Minor Permit No. 173

Project: Construction of an Additional Farm Dwelling
Applicant: Deborah Rosenbaum
Land Owner: Deborah Rosenbaum
Location: Kahauloaiki, South Kona, Island & County of Hawaii, Hawaii
TMK: (3) 8-2-008:079

Applicant's Request

1. Project Description:

The applicant proposes to construct an Additional Farm Dwelling (second dwelling unit) on the subject property. The proposed Additional Farm Dwelling will consist of three stories within a 20'x40' footprint. The ground level will consist of space for storage and fruit packing. The two upper floors will contain the living area of the structure.

2. Purpose of Project:

The project is intended create an additional dwelling unit on the subject property to provide living quarters for farm workers engaged in the applicant's fruit, herb, and flower growing operations.

3. Project Valuation: \$120,000.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(B)(i) relating to the Special Management Area, the construction of a single-family residence that is not part of a larger development, is not defined as "development." The Planning Director has determined that the construction of a second dwelling unit on a lot in the SMA constitutes a larger development. Therefore, the proposed Additional Farm Dwelling requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Agricultural by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property for Orchard uses.
3. **County Zoning:** The subject property is zoned Family Agricultural (FA-1a) by the County of Hawaii.
4. **Special Management Area:** The subject property is located in the SMA.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - ☒ Stimulate public awareness, education, and participation in coastal management.

- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the Hawaii County General Plan. The Zoning Code allows for Additional Farm Dwellings in the Agricultural district provided the applicant shall secure an Additional Farm Dwelling Agreement from the Planning Department when the subject property is situated in the SLU Agricultural district.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$120,000 is not in excess of \$125,000.

The Department of Public Works – Engineering Division submitted the following comments, dated November 22, 2004, regarding the subject SMAA.

"We have reviewed the subject application and find the subject property is not within a Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM)."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 173** is hereby approved to allow for the construction of an Additional Farm Dwelling on the subject property, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 173 subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of the State of Hawaii-Department of Health and the Hawaii County-Department of Public Works and applicable requirements of other affected agencies.
3. Approval of this SMA Minor Permit is, in part, based on the representation that the total cost/fair market value of the proposed Additional Farm Dwelling will not exceed \$125,000. Should the valuation used to determine the Building Permit fee for the proposed Additional Farm Dwelling exceed \$125,000, SMM 173 shall be null and void; and the applicant shall be required to secure approval of a SMA Use Permit from the Planning Commission prior to the issuance of said Building Permit.
4. Applicant shall secure approval of an Additional Farm Dwelling Agreement from the Planning Department.
5. Final inspection for the Additional Farm Dwelling shall be secured from the Department of Public Works – Building Division within two (2) years from the approval date of the Additional Farm Dwelling Agreement.
6. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:


CHRISTOPHER J. YUEN
Planning Director

12/7/04
Date