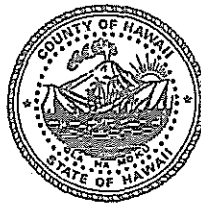


Susan

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

August 1, 2005

Ms. Anne Rene LaVasseur-Mullen
HCR 2 Box 9621
Keaau, HI 96749

Dear Ms. LaVasseur-Mullen:

Subject: Special Management Area Use Permit Assessment Application (SAA 05-000066)
Special Management Area Minor Permit No. 05-000011 (SMM 05-000011)
Applicant: Anne Rene LaVasseur-Mullen
Land Owner: Anne Rene LaVasseur-Mullen
Request: Grading Only a Portion of Property
Tax Map Key: 1-5-59:55, Hawaiian Paradise Park, Puna, Hawai'i

This is in response to the above-referenced Special Management Area Assessment Application for the grading only of a portion of the subject property. The subject property is 0.61 acre, or 20,473 square feet.

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(ii) relating to the Special Management Area, the "Grading, removing, dredging, mining, or extraction of any materials" is defined as "development. Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 05-000011 is hereby issued to allow for the grading activities only a portion of the subject property, subject to the applicant's compliance with the conditions of approval as specified in the permit.

Ms. Anne Rene LaVasseur-Mullen


August 1, 2005

Page 2

Please note, however, that any further activity on or development of the property will require the submittal of another Special Management Area Use Permit Assessment Application for the proposed use.

Should you have questions, please feel free to contact Esther Imamura or Larry Brown of this department at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN

Planning Director

AK: je

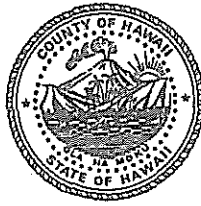
P:\WPWIN60\CZM\SMM\2005\SMM L LaVasseur-Mullen55.doc

Enclosures - SMM No. 05-000011

Department of Public Works July 22, 2005 Memo

xc w/encls: Long Range Planning – Ms. Susan Gagorik
Planning Commission

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

Special Management Area Minor Permit No. 05-000011

Project: Grading of Property for Future Single Family Dwelling
Applicant: Anne Rene LaVasseur-Mullen
Land Owner: Anne Rene LaVasseur-Mullen
Location: Hawaiian Paradise Park, Puna, Hawai'i, Island of Hawai'i
TMK: 1-5-59:55 **Land Area:** 20,473 square feet

Applicant's Request

1. Project Description:

At this time, the applicant proposes to grade only a portion of the subject property.

2. Purpose of Project:

The purpose is to clear a portion of the property. Presently, there are no plans to develop the property.

3. Project Valuation: \$5,000

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(ii) relating to the Special Management Area, the "*Grading, removing, dredging, mining, or extraction of any materials*" is defined as "development." Therefore, the proposed project 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 Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Open.
- 3. County Zoning:** The parcel is zoned Agricultural-1 acre (A-1a) by the County.
- 4. Special Management Area:** The subject property is located in the SMA.

5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as "minimal tsunami inundation."

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

The project site is a shoreline property. Due to the sea caves, severe undermining and undercutting, and hazardous nature of the coastal cliff, the applicant has agreed to setback a minimum of 64 feet from the closest edge of the cliff. From the location of the 64 feet, a shoreline setback line, measuring perpendicular to the southern property line, shall extend across the entire width of the property to its northern boundary. No land altering or grading activities, or improvements shall be permitted within this shoreline setback area.

There are existing fishing and opihi picking activities along the coastline in Hawaiian Paradise Park. The applicant has indicated that shoreline public access for fishermen shall be permitted to traverse laterally within the setback area along the coastline of the subject property. Therefore, the proposed grading activities will not affect the shoreline recreational resources available to the public nor impact the coastal environment.

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 tsunامي, 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, 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 and Zoning Code.

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

The estimated project cost of approximately \$5,000 is not in excess of \$125,000.

The Department of Public Works (DPW) – Engineering Division has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawaii County Code and has stated that the property is designated as “minimal tsunami inundation.” DPW has also stated that the proposed grading shall conform to Chapter 10, Erosion and

Sedimentation Control, of the Hawaii County Code. A copy of DPW's memorandum is enclosed.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 05-000011** is hereby approved to allow for only the grading activities of a portion of the property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 05-000011** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Applicant shall measure 64 feet inland from the closest edge of the cliff. From the location of the 64 feet, a shoreline setback line, measuring perpendicular to the southern property line, shall extend across the entire width of the property to its northern boundary. Prior to any land altering or grading activities, a colored construction fencing barrier shall be erected along the length of this setback line and shall remain in place until the grading activities has been completed. No land altering or grading activities, or improvements shall be permitted within the shoreline setback area without proper approval from the Planning Department.
3. The applicant shall immediately notify the Planning Department to verify the location of the construction barrier prior to any land altering or grading activities.
4. The applicant, its successors or assigns shall permit shoreline public access for fishermen to traverse laterally within the shoreline setback area along the coastline of the subject property.
5. Applicant shall obtain the applicable grading permit from the Department of Public Works, relating to conformance to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
6. Applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.

APPROVED


CHRISTOPHER J. YUEN
Planning Director



Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: July 22, 2005

Memorandum

TO: Christopher J. Yuen, Planning Director

FROM:  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATIONS
(SMAA 05-064, SMAA 05-065, SMAA 05-066)

Applicant: Anne Rene La Vasseur-Mullen

Request: Proposed Grading Only

SMAA 05-064, TMK: 1-5-57:023

SMAA 05-065, TMK: 1-5-57:070

SMAA 05-064, TMK: 1-5-59:055

We have reviewed the subject applications for compliance with Chapter 27, Flood Control, forwarded by your memo dated July 22, 2005 and offer the following comments for your consideration.

The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as "minimal tsunami inundation."

The applications did not include grading plans, nor indicate the volume of material to be graded. All proposed grading shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code and may require a grading permit from the Department of Public Works.

Questions may be referred to Kelly Gomes of our Engineering Division at ext. 8327.

KG

002856