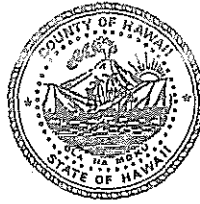


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

August 30, 2005 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

Mr. Nematollah Najibi
1950 Dorrance Court
San Jose, CA 95125

Dear Mr. Najibi:

**Special Management Area Use Permit Assessment Application No. 05-000069
(SAA 05-69)**

Special Management Area Minor Permit No. 05-000013 (SMM 05-13)

Applicant: Nematollah Najibi

Land Owners: Nematollah and Tina Najibi

**Project: Subdivision of subject property into three lots & related
improvements**

TMK: (3) ~~7-5-008:006~~ (3) 3-2-02:107

By this letter we acknowledge receipt of the subject Special Management Area Use Permit Assessment application (SAA 05-69), which we received on August 1, 2005. After careful review of your submittals and receipt of comments from the Department of Public Works, Engineering Division, we have determined that a Special Management Area Minor (SMM) Permit is required for the proposed project. Therefore, we are also transmitting SMM 05-13 by this letter.

The subject 2.764-acre property is zoned Residential and Agricultural (RA-.5a) by the County of Hawaii and is in the Special Management Area (SMA). The property is also situated in the State Land Use Rural district.

From your submittals we understand that you intend to subdivide the subject parcel into three (3) lots ranging in size from approximately 1.0 to 0.822 acres, inclusive of roadway and utility easements. You have indicated that no construction costs are anticipated for the proposed subdivision. However, previous correspondence from this office, namely our letter dated May 16, 2005 to Niels Christensen, indicated that you should anticipate that it will be necessary to improve the existing Easement C with a minimum 20-foot wide pavement along its entire length in accordance with Department of Public Works Standard Detail R-39. The cost of such improvement should have been included on your SAA application.

Please be advised that the approval of SMM 05-13 is conditioned on the assumption that the total construction costs for the improvements necessary for the granting of final approval of the proposed subdivision will not exceed \$125,000, including the pavement widening to Easement C.

For your information, we offer the following observations regarding the plat map for the proposed subdivision submitted with your SAA application.

1. The total area of Lot 6 does not equal the sum of the areas for Lots 6-A, 6-B and 6-C.
2. Lots 6-A and 6-B do not appear to meet the 100-foot minimum average width for lots in the RA-.5a zoning district.

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

Sincerely,



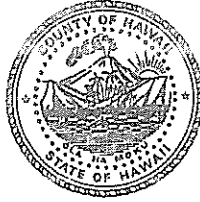
CHRISTOPHER J. YUEN
Planning Director

LMB: je

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xc w/encl. Long Range Planning - Ms. Susan Gagorik
Planning Commission
State Office of Business, Economic Development and Tourism, Office of
Planning

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Special Management Area Minor Permit No. 05-000013

Project: Three-Lot Subdivision and Related Improvements
Applicant: Nematollah Najibi
Land Owners: Nematollah and Tina Najibi
Location: Kapena, North Hilo, Island & County of Hawaii, Hawaii
TMK: (3) 3-2-02:107

Applicant's Request

1. Project Description:

The applicant proposes to subdivide the subject property into 3 new lots ranging in size from approximately 1.0 to 0.822 acres and to construct the improvements necessary for final subdivision approval.

2. Purpose of Project:

The project is proposed to create additional lots with shoreline frontage for agricultural use.

3. Project Valuation: \$6,000.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(iii), relating to the Special Management Area, "development" includes the change in the density or intensity of the use of land, including, but not limited to, the division or subdivision of land.

Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Rural 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 rural uses.
- 3. County Zoning:** The subject property is zoned Residential and Agricultural (RA-.5a) 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 tsunamis, 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 a cumulative impact or a significant adverse environmental or ecological effect on the Special Management Area, 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 is a permitted use in the Residential and Agricultural zoning district.

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

The estimated project cost of approximately \$6,000 is not in excess of \$125,000.

The Department of Public Works – Engineering Division has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawaii County Code and has submitted the following comments, dated August 15, 2005, regarding the subject SMAA. A copy of the memorandum is also enclosed.

"We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated August 12, 2005 and offer the following comments for your consideration.

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

The proposed subdivision shall conform to Chapter 23, Subdivisions, of the Hawaii County Code.

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

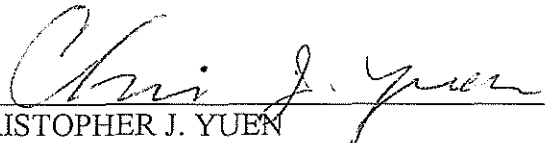
Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 05-000013** is hereby approved to allow for the proposed three (3)-lot subdivision and the construction of related improvements.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 05-000013** 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 all State and County of Hawaii and Federal departments and agencies.
3. Applicant shall submit a written estimate(s) provided by a contractor(s) licensed to do business in the State of Hawaii for all construction activities proposed and/or required prior to the granting of final subdivision approval to confirm that the total project valuation (exclusive of land costs) is not in excess of \$125,000. In the event the total valuation of the proposed subdivision does exceed \$125,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area Use (Major) Permit from the Planning Commission.
4. Final subdivision approval shall be secured within 2 years from the approval date of this permit.
5. Any further subdivision or consolidation and resubdivision of the lots resulting from the proposed 3-lot subdivision shall constitute a cumulative impact on the SMA and require a Special Management Area (Major) Use Permit.
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

8-31-05
Date