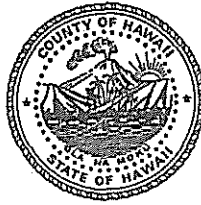


Harry Kim
Mayor



Susan
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

September 1, 2005

Mr. Eric Schott, President
Kapoho Kai Water Association
RR2, Box 4043
Pahoa, Hawaii 96743

Dear Mr. Schott:

**Special Management Area Use Permit Assessment Application No. 05-73
(SAA 05-53)**

Special Management Area Minor Permit No. 05-000015 (SMM 05-15)

Applicant: Kapoho Kai Water Association

Land Owner: John T. and Mary Katherine Sullivan

Project: Temporary placement of portable toilets over Labor Day weekend

TMK: (3) 1-4-068:036

By this letter we acknowledge receipt of the subject Special Management Area Use Permit Assessment application (SAA 05-73) and issue our determination that a Special Management Area Minor (SMM) Permit (enclosed) is required for the proposed project.

We understand that you have secured the permission of the owners of the subject vacant lot to locate portable toilets on the property by their letter dated August 18, 2005, a copy of which was included with your SAA application submittals.

The subject 8,007-square foot vacant lot is zoned Single-Family Residential (RS-10) by the County of Hawaii and is situated in the State Land Use Urban district.

We further acknowledge the State Department of Health (DOH) letter dated August 3, 2005 to Mr. Kirk Flanders of the Vacationland Hawaii Community Association, in response to a complaint regarding unsanitary conditions at Vacationland and Waiopae Marine Conservation Area, a copy of which you also included with your SAA submittals. The DOH response included the suggestion that it is the responsibility of the property owners to prevent the public from relieving themselves on their properties.

Mr. Eric Schott
Kapoho Kai Water Association
Page 2
September 1, 2005

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Chy', written over the printed name.

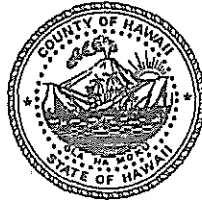
CHRISTOPHER J. YUEN
Planning Director

LMB: je

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xc Long Range Planning - Ms. Susan Gagorik

Harry Kim
Mayor



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Special Management Area Minor Permit No. 05-000015

Project: Temporary placement of portable toilets on vacant lot
Applicant: Kapoho Kai Water Association
Land Owners: John T. and Mary Katherine Sullivan
Location: Kapoho, Puna, Island & County of Hawaii, Hawaii
TMK: (3) 1-4-068:036

Applicant's Request

1. Project Description:

The applicant proposes to temporarily place two (2) portable toilets on the privately owned subject parcel during the upcoming Labor Day weekend.

2. Purpose of Project:

The purpose of the project is to mitigate the health risks and adverse environmental impacts resulting from the lack of toilet facilities for the anticipated large number of visitors to the seaside and tide pools over the Labor Day weekend.

3. Project Valuation: \$360.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(v), relating to the Special Management Area, "development" includes the construction, reconstruction, or alteration of the size of any structure.

Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban 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 low density urban uses.
- 3. County Zoning:** The subject property is zoned Single-Family Residential (RS-10) 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$360.00 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 29, 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 26, 2005 and have no objections to the request.

The subject parcel is located within Flood Zone AE as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined.

The Building Division has stated that a temporary building permit will not be required for the proposed temporary placement of the portable toilets."

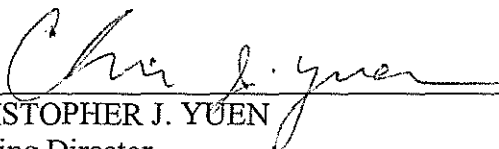
Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 05-000015** is hereby approved to allow for the proposed placement of two (2) portable toilets on the subject property, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 05-000015** 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 Hawai'i and Federal departments and agencies.
3. The portable toilets shall be allowed on a temporary basis only between 7:00 AM, September 2, 2005 and 11:00 AM, September 6, 2005.
4. The portable toilets shall be placed securely on the subject property and secured as reasonably practical to prevent them from being subjected to tidal flooding or inaccessible from Wai'Opae Road during tidal flooding.
5. The portable toilets shall be monitored and properly stocked and maintained as necessary to accommodate usage during their location on the subject property.
6. This permit may be temporarily renewed by the Planning Director for other extended holiday weekend periods during which large numbers of visitors are anticipated. Such renewal may be granted after receipt of a written request from the Kapoho Kai Water Association, the Vacationland Hawaii Community Association or other responsible party approved by the Director specifying the exact dates and proposed location of the portable toilets and the written approval of the landowner(s)..
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

SEP 07 2005

Date