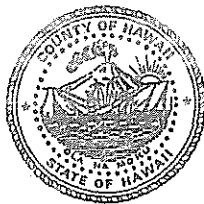


Harry Kim
Mayor



Deborah
Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

October 11, 2005 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

Mr. Gregory R. Mooers
Mooers Enterprises, LLC
P.O. Box 1101
Kamuela, Hawaii 96743

Dear Mr. Mooers:

**Special Management Area Use Permit Assessment Application No. 05-000080
(SAA 05-80)**

Special Management Area Minor Permit No. 05-000018 (SMM 05-18)

Applicants: EWM Investments, LLC, Charles A. Anderson, Lisa L.
Anderson and Terry Lynn Harrison

Land Owners: EWM Investments, LLC, Charles A. Anderson, Lisa L.
Anderson and Terry Lynn Harrison

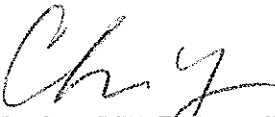
Project: Paving of access roadway, replacement of existing gate,
associated landscaping and after-the-fact construction of
underground utilities.

TMK: (3) 5-3-007:022, 023, 025 & 026

By this letter we acknowledge receipt of the subject Special Management Area Use Permit Assessment application (SAA 05-80) and issue our determination that a Special Management Area Minor (SMM) Permit is required for the proposed project. We are also transmitting the subject SMM permit by this letter.

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

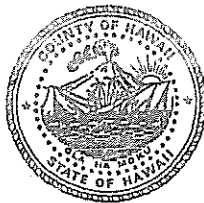
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Mr. Gregory R. Mooers
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Encl. SMM 05-18

xc Long Range Planning - Ms. Deborah Chang

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 05-000018

Project: Paving of access roadway, replacement of existing gate, associated landscaping and after-the-fact construction of underground utilities.

Applicants: EWM Investments, LLC, Charles A. Anderson, Lisa L. Anderson and Terry Lynn Harrison

Land Owners: EWM Investments, LLC, Charles A. Anderson, Lisa L. Anderson and Terry Lynn Harrison

Location: Halawa, North Kohala, Island & County of Hawaii, Hawaii

TMK: (3) 5-3-007:022, 023, 025 & 026

Applicant's Request

1. Project Description:

The applicant proposes to pave the access roadway easements #7 & 9 and a portion of the railroad right-of-way (TMK 5-3-07:025) identified on the map dated November 5, 2002, which was submitted as part of the applicant's Special Management Assessment Application No. 05-000080; to replace the existing manual gate on the makai side of the railroad right-of-way opposite Easement 6 with a new solar powered electric gate with associated landscaping on the makai side of the railroad right-of-way within parcel 5-3-07:023; and for the after-the-fact construction of underground water lines and utilities within the railroad right-of-way and Easements 7 & 9. All of the proposed improvements are not closer than 1,600 feet from the shoreline.

2. Purpose of Project:

The project is proposed to improve the vehicular access to the subject properties and to provide the utilities necessary for further development of the lots.

3. Project Valuation: \$95,000.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(i), relating to the Special Management Area, "development" includes the placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste. Pursuant to §9-4(10)(A)(ii), "development" also includes the grading, removing, dredging, mining, or extraction of any materials.

Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Agricultural and Conservation by the State Land Use (SLU) Commission. The project area is entirely within the Agricultural district.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property as Important Agricultural Lands. A portion of the properties along the coastline and outside the project area is designated Open.
3. **County Zoning:** The subject property is zoned Agricultural (A-20a) 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 and is a permitted use in the 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 \$95,000 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 October 3, 2005, regarding the subject SMAA.

"We reviewed the subject application and our comments are as follows:

The proposed work is not within any Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM).

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 327-3530."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 05-000018** is hereby approved to allow for the paving of the access roadway easements #7 & 9 and a portion of the railroad right-of-way (TMK 5-3-07:025) identified on the map dated November 5, 2002, which was submitted as part of the applicant's Special Management Assessment Application No. 05-000080; to replace the existing manual gate on the makai side of the railroad right-of-way opposite Easement 6 with a new solar powered electric gate with associated landscaping on the makai side of the railroad right-of-way within parcel 5-3-07:023; and for the after-the-fact construction of underground water lines and utilities within the railroad right-of-way and Easements 7 & 9, 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. 05-000018 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 of Hawaii, County of Hawaii, and Federal departments and agencies.
3. Construction of the proposed improvements shall be completed within one (1) year from the date of this permit.
4. The non-exclusive, perpetual 4-foot wide lateral pedestrian access easement in favor of the State of Hawaii along the seaward boundary of the subject properties shall be clearly delineated on all subsequent maps and site plans submitted to the County of Hawaii in connection with all subsequent land use and development applications. This 4-foot wide pedestrian access easement shall be aligned such that the eastern and western terminus shall align with the existing 10-foot wide lateral shoreline pedestrian access easements.
5. 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).
6. 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

OCT 12 2005

Date