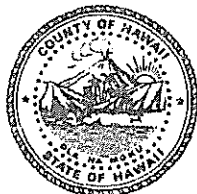


Debbie

Harry Kim  
Mayor



**County of Hawaii**  
**PLANNING DEPARTMENT**

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

**Christopher J. Yuen**  
Director

**Brad Kurokawa, ASLA**  
**LEED® AP**  
Deputy Director

December 6, 2006

HPAC, L.L.C.  
421 Makalika Street  
Hilo HI 96720

Gentlemen:

**Subject: Special Management Area Use Permit Assessment (SAA 06-000190)**  
**Special Management Area Minor Permit No. 06-000042**  
**Applicant: HPAC, L.L.C.**  
**Request: Grade Approximately 3/4 –acre Pad and Related Improvements**  
**Tax Map Key: 9-6-13:Portion of 7, Keaiwa, Kau, Hawaii**

This is to follow up on our October 2, 2006 letter to grade an approximately ¾-acre pad and related improvements on the subject parcel.

To ensure that no historical properties would be impacted, the application was held in abeyance pending receipt of comments from the Department of Land and Natural Resources, State Historic Preservation Division (SHPD). By letter dated November 15, 2006, they concurred that no historic properties would be affected.

According to Chapter 205A-22, Hawaii Revised Statutes, and Planning Commission Rule No. 9-4(10)A(ii) relating to Special Management Area, "development" includes "*Grading, removing, dredging, mining, or extraction of any materials*". 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. 06-000042 is hereby issued to grade approximately ¾ acre pad and related improvements, subject to the applicant's compliance with the conditions of approval as required by the permit.

HPAC, L.L.C.  
Page 2  
December 6, 2006

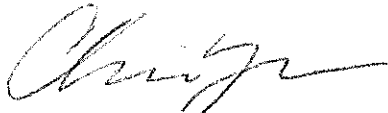
On the map submitted with the application, we note that the pad site is located close to the State Land Use Conservation District boundary. As a reminder, any use within the Conservation District requires that a Conservation District Use Application (CDUA) be filed with the Department of Land and Natural Resources, Office of Conservation and Coastal Lands.

In addition, all affected agency requirements must also be satisfied.

Finally, please note that any proposed structural improvement on this site will require the submittal of an SMA assessment for the new use.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8288, extension 257.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

ETI:cd

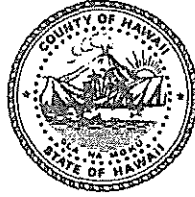
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Enclosures - SMM No. 06-000042  
Department of Public Works October 9, 2006 Memo

xc w/encls: Ms. Deborah Chang, Long Range Planning Division  
Mr. Norman Hayashi, Planning Commission  
Ms. Laura H. Thielen, Director – Office of Planning, DBED&T (emailed enclosure)  
Planning Department – Kona

Mr. Samuel J. Lemmo  
Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
P. O. Box 621  
Honolulu, Hawaii 96809-0621

Harry Kim  
Mayor



Christopher J. Yuen  
Director

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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. 06-000042**

**Project:** Grade Approximately  $\frac{3}{4}$ -acre Pad and Related Improvements  
**Applicant:** HPAC, L.L.C.  
**Location:** Keaiwa, Kau, Hawaii  
**TMK:** 9-6-13:Portion of 7      **Parcel Land Area:** 70.026 acres

**Applicant's Request**

**1. Project Description:**

The applicant proposes to grade approximately  $\frac{3}{4}$  acre (175' x 175') to clear rubble from an existing relatively flat "pad".

**2. Purpose of Project:**

The project will create a recreational use area with potential landscaping improvements.

**3. Project Valuation:** \$200

**4. Determination:**

According to Hawaii Revised Statutes, Chapter 205A and Planning Commission Rule 9-4(10)A(ii), the "*Grading, removing, dredging, mining, or extraction of any materials*" is defined as "development". Therefore, the project required a SMA Minor Permit.

**State and County Plans**

- 1. State Land Use District:** Although the subject property is designated Agricultural and Conservation, the project site is in the Agricultural District, close to the Agricultural/Conservation District boundary. A Conservation District Use Application for the proposed use would be required if it is in the Conservation District.
- 2. General Plan:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property as Extensive Agriculture and Open, with the project site as Extensive Agriculture.
- 3. County Zoning:** The subject property is zoned Agricultural (A-20a).
- 4. Special Management Area (SMA):** The subject property is located in the SMA. However, since the project site is approximately 300 feet from the shoreline, submittal of a current certified shoreline survey is not required.

5. **Flood Zone:** The project site is in Zone "X" on the Flood Insurance Rate Map (FIRM). Although not a Special Flood Hazard Area, it does not mean the parcel is not subject to flooding.

<p align="center"><b>Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</b></p>
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The project area does not have frontage along the coastline. Therefore, the proposed improvements will not affect the recreational resources available to the public.

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 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.

By letter dated November 15, 2006, the Department of Land and Natural Resources, State Historic Preservation Division stated that *"The proposed area of effect is within the area of the 1823 lava flow and is located some distance away from any older flows, or suspected areas that would contain historic properties. We believe it is highly unlikely that the proposed action will affect any historic properties"*.

The estimated project cost of approximately \$200 is not in excess of \$125,000.

Upon review of the subject application, the Department of Public Works, Engineering Division memorandum dated October 9, 2006 had the follow comments:

1. *The subject parcel is located in Zone "X" on the Flood Insurance Rate Map (FIRM), Panel 1725C, dated September 16, 1988. Although not a Special Flood Hazard Area, designation "X" does not mean the parcel is not subject to flooding.*
2. *All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.*

3. *The applicant shall comply with chapter 11-55, Water Pollution Control, Hawaii Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 06-000042** is hereby approved to grade approximately ¾-acre pad and related improvements, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 06-000042** 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 complete all construction activity within one (1) year from the date of approval of this permit.
3. The applicant shall comply with all applicable requirements of the State Department of Health and the County Department of Public Works and applicable requirements of other affected agencies.
4. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
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).

APPROVED:

  
CHRISTOPHER J. YUEN

DEC 13 2006

\_\_\_\_\_  
Date

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PLANNING DEPARTMENT  
COUNTY OF HAWAII

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: October 9, 2006

## Memorandum

**TO :** Christopher J. Yuen, Planning Director  
Planning Department

**FROM :** Galen M. Kuba, Division Chief   
Engineering Division

**SUBJECT :** Special Management Area Use Permit  
Assessment Application (SAA 06-000190)  
Applicant: HPAC, LLC  
Location: Keaiwa, Kau, HI  
TMK: 3 / 9-6-013:007

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

1. The subject parcel is located in Zone "X" on the Flood Insurance Rate Map (FIRM), Panel 1725C, dated September 16, 1988. Although not a Special Flood Hazard Area, designation "X" does not mean the parcel is not subject to flooding.
2. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
3. The applicant shall comply with chapter 11-55, Water Pollution Control, Hawaii Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.

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

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copy: ENG-HILO/KONA  
PLNG-KONA

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