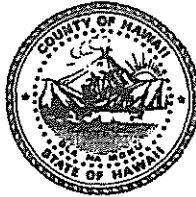


Harry Kim
Mayor



Long Range
Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

March 3, 2008

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

Dear Mr. Mooers:

SUBJECT: Special Management Area Use Permit Assessment Application (SAA 08-000311)
Special Management Area Minor Permit No. 08-000076
Applicant: Peter and Marta Orelup
Land Owner: Peter and Marta Orelup
Request: Two (2) Lot Subdivision and Associated Improvements
Tax Map Key: (3) 8-2-08:75 Kalamakumu, South Kona, Hawaii

This letter is in response to the Special Management Area Assessment Application we received on February 5, 2008 for the two (2)-lot subdivision of the subject parcel.

This parcel is designated Agricultural by the State Land Use Commission and zoned Agricultural (A-5a) by the County. The General Plan designation is Important Agricultural Lands. The subject parcel is in the Special Management Area; however since it does not abut the shoreline the requirement of a certified shoreline survey is waived.

This subject parcel was previously included in Subdivision Nos. 4124, 4438, and 6473. Therefore, the proposed two (2)-lot subdivision requires an SMA Minor Permit.

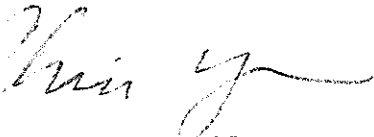
For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 08-000076 is hereby issued to allow for the two (2) lot subdivision, subject to the applicant's compliance with the conditions of approval as required by the permit.

Finally, all other applicable Zoning and Subdivision Code requirements must also be satisfied.

Mr. Gregory R. Mooers
Mooers Enterprises, LLC
Page 2
March 3, 2008

Should you have questions, please feel free to contact Maija Cottle of this department at 961-8288, extension 253.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

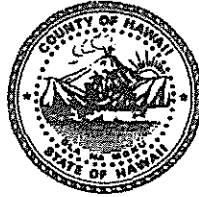
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Enclosure - SMM No. 08-000076

xc w/encls: Long Range Planning Division
Mr. Norman Hayashi, Planning Commission
Mr. Ed Cheplic, Ministerial Division
Planning Department – Kona Office
SUB 05-162

xc ltr only: Mr. Abbey S. Mayer
Interim Director
State of Hawaii, Office of Planning
Department of Business, Economic Development & Tourism
P O Box 2359
Honolulu, Hawaii 96804
(SMM 08-000076 will be emailed with the semi-monthly report)

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

Special Management Area Minor Permit No. 08-000076

Project: Two (2)-Lot Subdivision and Associated Improvements
Applicant: Peter and Marta Orelup
Land Owner: Peter and Marta Orelup
Location: Kalamakumu, South Kona, Hawaii
TMK: (3) 8-2-08:75 **Land Area:** 17.283 acres

Applicant's Request

1. Project Description:

The applicant proposes to subdivide the subject property into two (2) lots consisting of Lot 4-A-3-A (11.795 acres) and Lot 4-A-3-B (5.488 acres). Physical improvements associated with this subdivision include constructing a driveway within Easements 9 and 10 to provide access to proposed Lot 4-A-3-B.

2. Purpose of Project:

The project is to subdivide the unimproved portion of the property (Proposed Lot 4-A-3-B) from the improved portion of the property (Proposed Lot 4-A-3-A).

3. Project Valuation: \$20,000.

4. Determination:

This area was previously included in Subdivision Nos. 4124, 4438, and 6473. Therefore, the proposed two (2)-lot subdivision requires an SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Agricultural by the State Land Use (SLU) Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Important Agricultural Lands.
- 3. County Zoning:** The subject property is zoned Agricultural (A-5a) by the County of Hawaii.

4. **Special Management Area (SMA):** The subject parcel is located entirely within the SMA, but is approximately 2,000 feet from the shoreline, mauka of Napo'opo'o Road at an elevation of 300 feet.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone "X".

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>

The project area does not have frontage along the coastline and there are no known trails on or adjacent to the subject parcel. Therefore, the proposed subdivision will not affect the recreational resources available to the public.

The subject property includes an 11.951-acre historic preserve area, noted on the amended preliminary subdivision map dated August 26, 2005 as "Easement 1 for Historical Site Purposes." The historic preserve area will not be impacted by the proposed subdivision activity.

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 Zoning Code.

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

The estimated project cost of \$20,000 is not in excess of \$125,000.

By enclosed memorandum dated February 25, 2008, the Department of Public Works, Engineering Division had the following comments:

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

We have determined that the subject property is located within Flood Zone 'X' according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

The above information is based on the most recent FIRM for the County of Hawaii. This memo does not imply that the referenced property will or will not be free from flooding or flood damage. Zone 'X' is not a designated Special Flood Area. A property not in a Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. Should a watercourse affect the property, it shall not be altered without first obtaining approval from DPW and a grading permit. A flood study may be required under Chapter 27 of Hawaii County Code for watercourse alterations."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 08-000076** is hereby approved for the two (2) lot subdivision and associated improvements, 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. 08-000076** 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 the State of Hawaii, Department of Health and the Hawaii County, Department of Public Works and applicable requirements of other affected agencies.
3. 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.
4. Easement 1 for Historical Site Purposes is clearly labeled for Lot 4-A-3-A on the amended preliminary subdivision map dated August 26, 2005. The same label with correct acreage shall be added to the final subdivision plat for Lot 4-A-3-B.
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

Date