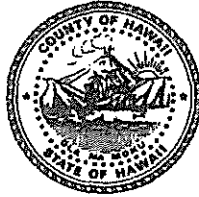


Harry Kim
Mayor



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

July 18, 2008

Mr. Tracy Parlier
and Mr. David Empey
RR 3 Box 1329
Pahoa, HI 96778

Dear Messrs. Parlier and Empey:

Subject: Special Management Area (SMA) Assessment Application (SAA 08-000348)
Special Management Area Minor Permit No. 08-000085
Applicant(s): Tracy Parlier and David Empey
Owner(s): Tracy Parlier and David Empey
Request: Fill & Level Vacant Lot and Construct Rock Wall Across Front of Lot
TMK: 1-4-069:035, Kapoho, Vacationland Hawaii, Puna, Hawaii

This letter is in response to the Special Management Area Assessment Application we received on July 10, 2008 to fill and level 1620 square-feet with 30 yards of black cinder and to construct a rock wall across the front of the subject parcel.

The subject 0.1888-acre parcel is zoned Single-Family Residential District (RS-10) by the County and designated Urban by the State Land Use Commission. It does not have frontage along the coastline, but is located entirely within the SMA.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)A(i) relating to the Special Management Area, the proposed activity does not qualify as exempt from the definition of "development". Therefore, a Special Management Area Minor Permit is required.

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Mr. Tracy Parlier
and Mr. David Empey
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July 18, 2008

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 08-000085 is hereby issued to allow for the grubbing, landscaping, mowing of tall grasses and removal of trees and shrubs on the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Dana Okano of this department at 961-8288, extension 271.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

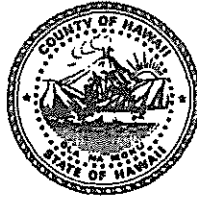
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Enclosure: SMM No. 08-000085

xc w/encls: Long Range Planning Division
Mr. Abbey S. Mayer, Acting Director – Office of Planning, DBED&T

Mr. George Young, Chief of Regulatory Branch
U.S. Army Corps of Engineers
Honolulu Engineers District, Building 230
Ft. Shafter, HI 96858

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Special Management Area Minor Permit No. 08-000085

Project: Fill & Level Vacant Lot and Construct Rock Wall Across Front of Lot
Applicant: Tracy Parlier and David Empey
Landowner: Tracy Parlier and David Empey
Location: Kapoho, Vacation Land Hawaii, Puna, Hawaii
TMK: 1-4-069:035 Land Area: 0.1888-acre

Applicant's Request

1. Project Description:

The applicant requests to fill and level approximately 1620 square-feet with 30 yards of black cinder on the subject parcel, and to construct a rock wall across the front of said parcel.

2. Purpose of Project:

The applicant wishes to fill and level the lot to make it safer to traverse. The rock wall will beautify the curb appeal of the property and provide a sense of security.

3. Project Valuation: \$4,230.00.

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(i) relating to the Special Management Area, "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*" is not exempt from the definition of "development." 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 Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Low Density Urban.

3. **County Zoning:** The subject property is zoned Single-Family Residential District (RS-10).
4. **Special Management Area (SMA):** The subject property is located entirely within the SMA. It does not have frontage along the coastline.
5. **Flood Zone:** Zone X, outside the 500-year floodplain.

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

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 project area does not have frontage along the coastline. Therefore, the proposed activity will not affect public access to the shoreline or public use of the shoreline area.

The estimated project cost of approximately \$4,230 is not in excess of \$125,000.

The Department of Public Works, Engineering Division memorandum dated June 25, 2008, provided response for another permit request on the subject parcel, and stated the following:

"We have reviewed the subject application for compliance with Chapter 27, Flood Management, forwarded by your memo dated June 10, 2008 and have no objections.

The subject parcel is in an area that is designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.

A grubbing permit will not be required (less than one acre) for the subject request."

There are two (2) large tidal ponds on the property with no visible surface connection to the ocean. Ponds that do not have a surface connection to the sea are regulated as "wetlands" by the U.S. Army Corps of Engineers.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 08-000085** is hereby approved to fill and level 1620 square-feet of the parcel with 30 yards of black cinder, and to construct a rock wall across the front of the subject parcel. This approval is 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. 08-000085** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Any approvals required by the Army Corps of Engineers relating to the ponds, including designated distances of fill material from the ponds and appropriate erosion control measures to prevent materials from entering into the ponds, on the subject parcel shall be obtained. This written documentation identifying required measures or confirmation that no measures or approvals are required shall be provided to this office prior to the start of filling activity. All requirements determined by the Army Corps of Engineers shall be complied with in entirety.
3. Unless a more stringent requirement is imposed by the Army Corps of Engineers, the applicant shall erect a construction barrier meeting with Planning Department approval not less than five (5) feet from the perimeter of the ponds during a +2.8 high tide to prevent materials and machinery from entering the ponds.
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. All activities approved by this permit shall be completed within one (1) year from the date of approval of this permit.
6. The work to be conducted shall conform with what was proposed in the SMA Assessment Application.
7. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.

8. 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).
9. 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

7/22/08 JUL 22 2008
Date