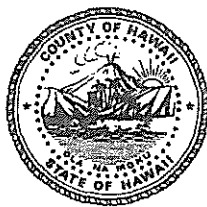


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

May 5, 2009

Mr. Michael Urso and
and Mrs. Patti Urso
1021 Hoa Street
Honolulu, HI 96825

Dear Mr. and Mrs. Urso:

Subject: Special Management Area Use Permit Assessment Application
(SAA 09-000433)
Special Management Area Minor Permit No. 09-000108
Applicant: Michael T. Urso
Land Owner: Michael T. Urso and Patti P. Urso
Request: Construction of an Ohana Dwelling and Related Improvements
Tax Map Key: (3) 3-6-005:014:0002, Waipunalei Homesteads, North Hilo, Hawai'i

This letter is in response to the Special Management Area Assessment Application we received on April 13, 2009 for the construction of an Ohana dwelling and related improvements on the subject parcel. Also, acknowledged is a site inspection by Planning Department staff on April 28, 2009 to verify the surveyed measurements of the building site.

The property consists of 1.618 acres. The property is zoned Agricultural (A-20) by the County and is designated Agricultural by the State Land Use Commission. In addition, the entire parcel is located within the Special Management Area (SMA).

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(v) relating to the Special Management Area, *the construction, reconstruction, or alteration of the size of any structure* is defined as "development." Therefore, the proposed Ohana dwelling and related improvements is considered "development" and is not exempt from the SMA rules.

MAY 7 2009

Mr. Michael Urso and
and Mrs. Patti Urso

Page 2

May 5, 2009

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. 09-000108 is hereby issued to allow for the construction of an Ohana dwelling and related improvements, subject to the applicant's compliance with the conditions of approval as specified in the permit.

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

Should you have questions, please feel free to contact Bethany Morrison of this department at 961-8288, extension 252.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJM:cs

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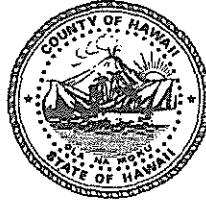
Enclosures - SMM No. 09-000108
Department of Public Works Memo dated April 6, 2009

cc w/encls: Long Range Planning Division

Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

cc ltr only: Mr. Abbey S. Mayer, Director
State of Hawaii, Office of Planning
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804

William P. Kenoi
Mayor



BJ Leithead Todd
Director

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Special Management Area Minor Permit No. 09-000108

Project: Construction of an Ohana Dwelling and Related Improvements
Applicant: Michael and Patti Urso
Location: Waipunalei Homesteads, North Hilo, Hawai'i
TMK: (3) 3-6-005:014:0002 1.618 acres

Applicant's Request

- 1. Project Description:** The applicant proposes to construct an Ohana dwelling and related improvements. There is an existing single-family residence on the opposite end of the property.
- 2. Purpose of Project:** The request is for a proposed Ohana dwelling with exposed patios around both floors. A previous Special Management Area Assessment Application for an Ohana dwelling was submitted for this subject property, but the Ohana dwelling was never built. The new owners would like to utilize the Ohana dwelling permit that was issued on September 22, 1992.
- 3. Project Valuation:** \$107,600
- 4. Determination:** According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(v) relating to the Special Management Area, the construction, reconstruction, or alteration of the size of any structure is defined as "development." Therefore, the proposed Ohana dwelling and related improvements requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Agricultural by the State Land Use Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Open and Important Agricultural Lands.

3. **County Zoning:** The subject property is zoned Agricultural (A-20).
4. **Special Management Area (SMA):** The subject property is located in the SMA, and it does have frontage along the shoreline. However, the shoreline consists of steep cliff bluffs and is not accessible at the subject property.
5. **Special Management Area (SMA) Exemption:** An SMA exemption for the first single-family dwelling on the subject property was granted on July 24, 1991.
6. **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>

Although, the subject property does have frontage along the coastline, it consists of steep cliff bluffs. Therefore, the construction of an Ohana dwelling and related 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.

The estimated construction cost of \$107,600 is not in excess of \$125,000.

By enclosed memorandum dated April 6, 2009, the Department of Public Works, Engineering Division stated that:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated March 25, 2009 and have no objections to the request."

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as an area of "minimal tsunami inundation."

Questions may be referred to Kelly Gomes at ext. 8327.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000108** is hereby approved to allow the construction of an Ohana dwelling and related 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. 09-000108** 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 Department of Health, the Hawaii County Department of Public Works and applicable requirements of other affected agencies.
3. The Building Permit(s) for the Ohana dwelling shall be issued within two (2) year from the date of approval of this permit.
4. Construction of the Ohana dwelling and related improvements shall be completed within three (3) years from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.
5. The Shoreline Setback Line shall be established 25 feet mauka (inland) from the top of the sea cliff. No land altering or construction activities shall be permitted within the 25-foot shoreline setback area without the prior written Determination of Minor Structure or Minor Activity by the Planning Director or the approval of a Shoreline Setback Variance by the Planning Commission.
6. The applicant shall erect a construction barrier meeting with the approval of the Planning Department along the entire length of 25-foot shoreline setback line. The construction barrier shall be erected prior to the commencement of any construction, clearing, grading or other land altering activities and shall remain in place until the Building Division has granted Final Approval for all Building Permits issued in connection with the subject project.
7. 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.

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:


BJ LEITHEAD TODD


Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: April 6, 2009

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 09-000414)

Applicant: Mike and Patti Urso

Land Owner: Michael T. / Patti P. Urso Trust

Request: Construction of an Ohana Dwelling

Tax Map Key: (3) 3-6-005-014-0002

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated March 25, 2009 and have no objections to the request.

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