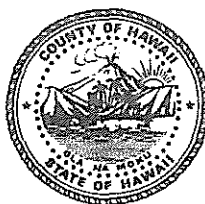


William P. Kenoi
Mayor



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

June 2, 2009

Mr. Lono Tyson, Director
County of Hawai'i
Department of Environmental Management
25 Aupuni Street
Hilo HI 96720

Dear Mr. Tyson:

**Subject: Special Management Area Use Permit Assessment Application (SAA 09-000446)
Special Management Area Minor Permit No. 09-000113**

Applicant: County of Hawai'i Department of Environmental Management

Land Owner: Hawai'i Health Systems Corporation

Request: Placement of excavation material into an abandoned settling pond

Tax Map Key: 4-5-002:060, Por. Pa'alaea to Lauka, Hāmākua, Hawai'i

This is in response you the Special Management Area (SMA) Use Permit Assessment Application received in our office on May 4, 2009 for the placement of excavation material in an abandoned settling pond on the subject parcel. There was additional supporting material for the application provided on May 28, 2009 and June 1, 2009.

The 12.506 acre property is zoned Agriculture (A-40a) by the County and designated Conservation and Agriculture by the State Land Use Commission. The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Open, Important Agriculture Lands, and Industrial.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(i) relating to Special Management Area, the definition of "development" includes the *"Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste."*

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. 09-000113 is hereby issued to allow for the placement of excavated material from stabilizing lagoons into an abandoned settling pond on the parcel, subject to the applicant's compliance with the conditions of approval as specified in the permit.

JUN 03 2009

Mr. Lono Tyson, Director
County of Hawai'i
Department of Environmental Management
Page 2
June 2, 2009

Finally, all other applicable federal, state, and county requirements must also be satisfied.

Should you have questions, please feel free to contact Dana Okano of this department at 961-8288, extension 255.

Sincerely,



BJ LEITHEAD TODD
Planning Director

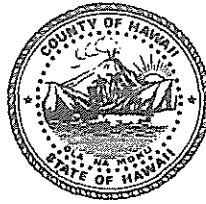
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Enclosures - SMM No. 09-000113
Department of Public Works May 18, 2009 Memo

xc w/encls: Long Range Planning

xc ltr only: Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

William P. Kenoi
Mayor



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Special Management Area Minor Permit No. 09-000113

Project: Placement of excavated material from existing Wastewater Treatment Plant into an existing abandoned settling pond
Applicant: County of Hawai'i Department of Environmental Management
Land Owner: Hawai'i Health Systems Corporation
Location: Por. Of Pa'alaea to Lauka, Hāmākua, Hawai'i
TMK: 4-5-002:060

Applicant's Request

1. Project Description:

The applicant proposes to excavate two existing Wastewater Treatment Plant (WWTP) stabilization lagoons located on parcel 4-5-002:060 that are situated outside of the Special Management Area (SMA), and place the excavated rock and soil into an abandoned settling pond within the SMA on the same parcel.

2. Purpose of Project:

The project seeks to expand the capacity of the current WWTP, which will require a deepening of the existing stabilization lagoons. Due to soil arsenic levels at the site exceeding State of Hawai'i Department of Health Tier I Environmental Action Levels, it is preferable to keep the contaminated excavation material on-site. The existing abandoned settling pond will be able to contain all excavated material without mounding above the pond's berm top elevation.

3. Project Valuation:

\$75,000.

4. Determination:

Chapter 205A-22, HRS and Planning Commission Rule 9-4(10)A(i) relating to the Special Management Area, states that "development" includes "*Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste*". Therefore, the proposal to place excavate material from the WWTP into an existing abandoned settling ponds requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** Conservation and Agriculture.
2. **General Plan:** Open, Important Agriculture Lands, and Industrial.
3. **County Zoning:** Agriculture (A-40a).
4. **Special Management Area (SMA):** The parcel is located partially within the SMA, with the makai (seaward) edge of the abandoned settling pond approximately 219 feet from the shoreline.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone "X".

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

While the subject parcel has frontage along the coastline, the project area is over 200 feet from the top of the pali (cliff). Therefore, the requirement to obtain a certified shoreline survey is hereby waived.

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 tsunامي, 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 ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Therefore, we have determined that the proposed placement of excavated soil and rock from the two (2) stabilizing lagoons on the property into the abandoned settling pond will not have a substantial adverse effect on the environment.

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 enclosed memorandum dated May 18, 2009, the Department of Public Works – Engineering Division submitted the following comments regarding the subject application:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated May 11, 2009 and have no objections to the request.

The subject pond is in an area 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.

All earthwork activity shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code. A grading permit will be required from the Department of Public Works.

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. 09-000113** is hereby approved to allow for the placement of excavated soil and rock from stabilizing lagoons into the abandoned settling pond on the subject parcel, 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. 09-000113 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 other affected federal, state, and county agencies.
3. The applicant shall obtain a Conservation District Use Permit from the Board of Land and Natural Resources, or a letter stating the proposed activity is exempt from permitting requirements, for the proposed placement of excavation material in the abandoned settling pond that is partially within the State Land Use Conservation District.
4. Lateral public access to and along the shoreline shall not be inhibited within forty feet of the top of the pali, or further mauka (inland) as may be necessary for the safety of the public traversing the area.
5. No stabilization lagoon sludge or other waste material may enter SMA boundaries without obtaining appropriate permitting prior to the movement of material.
6. Engineering standard measures must be implemented to ensure no excavation material placed within the abandoned settling pond will overtop the berm banks and/or erode out of the pond.
7. Best Management Practices must be in place to ensure no excavated material is spilled as it is transported from the stabilizing lagoons to the settling pond.
8. All requisite permits and proposed activities must be completed within two (2) years from the approval date of this permit.

9. 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).
10. 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
Planning Director


Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: May 18, 2009

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 09-000446)
Applicant: County of Hawaii, Department of Environmental Management
Land Owner: Hawaii Health Systems, Corp.
Request: Placement of Material into an Abandoned Settling Pond
Location: Por. of Paalaea to Lauka, Hāmākua, Hawaii
Tax Map Key: 4-5-02: 060

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated May 11, 2009 and have no objections to the request.

The subject settling pond is in an area 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.

All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code. A grading permit will be required from the Department of Public Works.

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

