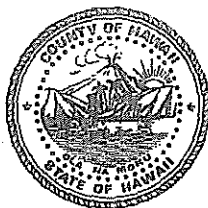


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawaii

PLANNING DEPARTMENT

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

September 24, 2009

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 09-000487) Special Management Area Minor Permit No. 09-000129**
Applicant: Gregory Mooers, Mooers Enterprises, LLC
Land Owner(s): Roman Catholic Church
Request: Demolition of Three Earthquake Damaged Existing Structures
Tax Map Key: 7-5-008:006 Por. Hienaloli 1st – Hienaloli 6th, North Kona, Hawai'i

This letter is in response to the Special Management Area Assessment Application we received on September 8, 2009 for the demolition of three (3) earthquake damaged existing structures on the subject parcel, including Saint Michael the Archangel Church, the Convent and the Church Rectory.

This 3.2 acre parcel is designated Urban by the State Land Use Commission and Resort Node by the County's General Plan Land Use Pattern Allocation Guide (LUPAG) Map. County zoning designates the parcel as Resort-Hotel District (V.75). The parcel is located entirely with the Special Management Area (SMA).

According to Chapter 205A-22(5), Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(v) relating to Special Management Area, the proposed project does not qualify as exempt from the definition of "development". 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. 09-000129 is hereby issued for the demolition of

Dr. Ann Kobsa
Malama O Puna
Page 2
September 24, 2009

the three structures on the subject parcel, subject to compliance with the conditions of approval as specified in the permit. Since the project is a significant distance from the

shoreline, being on the mauka (inland) side of Ali'i Drive, the requirement for a certified shoreline survey is hereby waived for the purposes of this project.

The applicant is responsible for securing appropriate permits from all other state, county and federal agencies with jurisdiction over the proposed project.

Should you have questions, please feel free to contact Dana Okano of this department at 961-8134.

Sincerely,



BJ LEITHEAD TODD
Planning Director

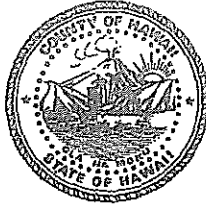
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P:\wpwin60\CZM\SMM\2009\SMM 09-129L Saint Michael Church.rtf

Enclosure - SMM No. 09-000129
Department of Public Works Memorandum dated September 22, 2009

xc w/encls: Long Range Planning Division
Mr. Norman Hayashi, Planning Division
Planning Department, Kona Office

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

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Special Management Area Minor Permit No. 09-0000129

Project: Demolition of Three Earthquake Damaged Existing Structures
Applicant: Gregory Mooers, Mooers Enterprises, LLC
Location: Por. Hienaloli 1st – Hienaloli 6th, North Kona, Hawai'i
TMK: 7-5-008:006 Acres: 3.2

Applicant's Request

1. Project Description:

The applicant proposes to demolish three buildings on the parcel that were structural damaged by the October 15, 2006 earthquake, including Saint Michael the Archangel Church, the Convent and the Church Rectory. The grave of Frere Maechal is presumed to be within the altar slab of the Church, and a Burial Treatment Plan has been developed for disinterment of the grave. Also on the parcel are a grotto shrine, cemetery and mature landscaping. The project will leave the cemetery, shrine and most of the mature landscaping in place.

2. Purpose of Project:

The purpose of this project is to remove the three structures that have been damaged during the earthquake. The structural integrity of the Church and the Rectory have been comprised and are deemed unsafe. The Convent will be removed to accomodate for the new church campus under design.

3. Project Valuation: \$80,000.

4. Determination:

According to Chapter 205A-22(5), Hawaii Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(10)A(v) relating to the Special Management Area, "Construction, reconstruction, demolition, or alteration of the size of any structure" 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:** Urban.
2. **General Plan:** Resort Node.
3. **County Zoning:** Resort-Hotel (V.75).
4. **Special Management Area (SMA):** The parcel is located in the SMA.
5. **Flood Zone:** Zone AE as designated on the Flood Insurance Rate Map (FIRM).
Flood zones AE is the Special Flood Hazard Area inundated by the 100-year coastal flood.

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

The structures on the parcel have historical significance for the State of Hawaii. Given the extent of the damage to the structure, the State Historic Preservation Division (SHPD) has agreed to the demolition of the structures provided a number of conditions including implementation of agreed upon mitigation measures, historic documentation, and the approval of a Burial Treatment Plan, among others. With the approval of SHPD for the project, we find SMA objectives and policies are being met.

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 with plans approved by SHPD is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$80,000 is not in excess of \$125,000.

The enclosed Department of Public Works memorandum dated September 22, 2009, stated the following:

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

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

Any new construction or substantial improvements within the subject property will be subject to the requirements of Chapter 27 – Flood Plain Management, of the Hawai'i County Code. Demolition of existing structures is not regulated under Chapter 27 provided all demolished structure materials are removed from the site as soon as possible."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000129** is hereby approved for the demolition of Saint Michael the Archangel Church, the Convent, and the Church Rectory on the subject parcel. This approval is subject to the applicant's compliance with the conditions of approval as specified below.


Conditions of Approval

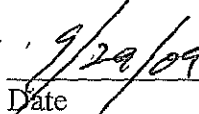
The Planning Director has approved **SMA Minor Permit No. 09-000129** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies, and shall complete all demolition activities related to this permit within one (1) year from the date of this permit. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the demolition activities.
3. The applicant shall comply with all requirements, conditions, or guidance of SHPD including agreed upon mitigative measures, photo documentation of structures prior to demolition, and a Burial Treatment Plan for Frere Maechal's grave, among others.
4. All debris/material from the demolition that is not slated for salvage by SHPD must be removed from the SMA and properly disposed of at an approved waste facility within one week of demolition.
5. An archaeologist responsible for project oversight must be on sight during demolition activities to ensure the SPHD conditions and requirements are complied with in full.

6. 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).
7. 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: September 22, 2009

Memorandum

TO : B. J. Leithead-Todd, Planning Director
Planning Department

FROM : Galen M. Kuba, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 09-000487)
Applicant: Mooers Enterprises, LLC
Request: Demolition of Existing Earthquake Damaged Structures
Location: Hienaloli, N. Kona, HI
TMK: 3 / 7-5-8:006

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

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

Any new construction or substantial improvements within the subject property will be subject to the requirements of Chapter 27 - Flood Plain Management, of the Hawaii County Code. Demolition of existing structures is not regulated under Chapter 27 provided all demolished structure materials are removed from the site as soon as possible.

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

KE
copy: ENG-HILO/KONA