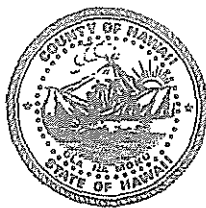


William P. Kenoi
Mayor



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

March 11, 2010

Mr. Ralph D. Blancato
and Mr. Craig O. Matkin
P.O. Box 1135
Hilo, Hawaii 96755

Dear Messrs. Blancato and Matkin:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 10-000537) SMM No. 10-000143
Applicant(s): Ralph D. Blancato and Craig O. Matkin
Request: Construction of an Additional Farm Dwelling and Barn
Tax Map Key: (3) 5-4-009:026; Laaumama and Portion of Kapa'au,
North Kohala, Hawai'i**

This is to acknowledge receipt on February 10, 2010 of your Special Management Area (SMA) Use Permit Assessment Application for the construction of an Additional Farm Dwelling and barn.

The subject parcel consists of 13.166 acres and is zoned A-20a (Agricultural- 20 acre minimum lot size). In addition, this parcel is located in both the State Land Use Agricultural and Conservation districts. The entire parcel is located in the Special Management Area (SMA) and does have frontage along the coastline. On January 6, 2010, an Additional Farm Dwelling Agreement (FDA-09-000259) was approved by this department, subject to conditions.

Based upon your submittals, we have made the following determinations:

1. Please note that according to Chapter 205A-22, Hawaii Revised Statutes (HRS) and Planning Commission (PC) Rule 9-4(10)B(i) relating to Special Management Area, "development" does not include "*Construction of a single-family residence that is not part of a larger development*". Although, the first farm dwelling may qualify under this exemption, please note that HRS Chapter 205A and PC Rule 9 do not exempt a second single-family residence from the definition of development. Therefore, the construction of the Additional Farm Dwelling

requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

For this reason and pursuant to PC Rule Section 9-10(E), Special Management Area Minor Permit No. 10-000143 is hereby issued to allow for the construction of the Additional Farm Dwelling, subject to the applicant's compliance with the conditions of approval as specified in the permit.

2. Chapter 205A-22, HRS and PC Rule 9-4(10)B(viii) relating to Special Management Area, states that "development" does not include *"Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes"*. Therefore, we have determined that the proposed barn is considered to be related to a permitted agricultural use as proposed by the previously submitted agricultural development and use program for Puu Hue Hu Farms.

In addition, since all improvements are or will be located at least 375 feet from the coastline, the requirement of a certified shoreline survey is waived. Also, the proposed barn will not have an adverse effect on the environment.

While further review of the construction of the proposed barn against the SMA rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied.

According to PC Rule 9-10G, "The Director may impose certain conditions with the exemption determination to assure that the proposed use, activity, or operation does not have a substantial adverse effect on the Special Management Area." This determination of exemption from the SMA definition of development for construction of the barn is subject to compliance with the following conditions:

- a) The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- b) The applicant shall comply with all applicable requirements of all Federal, State and County of Hawaii departments and agencies.
- c) The Building Permit for the proposed barn shall be secured within two (2) years from the date of approval of this permit.

Mr. Ralph D. Blancato
and Mr. Craig O. Matkin

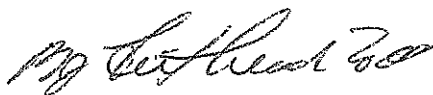
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- d) The landowner shall abide by the terms and conditions of the Shoreline/Coastal Public Access Agreement submitted for recordation to the State of Hawai'i, Bureau of Conveyances on November 10, 2009.
- e) An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - i. 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;
 - ii. Granting of the time extension would not be contrary to the original reasons for the granting of the determination; and
 - iii. 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).
- f) The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

If you have questions or require further information, please feel free to contact Bethany Morrison of this office at 961-8138.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJM:cs

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Enclosure: SMM No. 10-000143
Department of Public Works Memorandum dated March 4, 2010

cc w/Enclosures: Long Range Planning Division
Planning Department, Kona Office
Planning Division

Mr. Ralph D. Blancato
and Mr. Craig O. Matkin

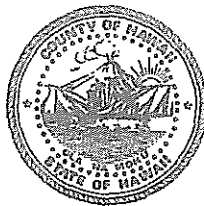
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March 11, 2010

cc 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

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
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Special Management Area Minor Permit No. 10-000143

Project: Construction of an Additional Farm Dwelling and Related Improvements
Applicant: Ralph D. Blancato and Craig O. Matkin
Location: Laaumama and Portion of Kapa'au, North Kohala, Hawai'i
TMK: (3) 5-4-009:026 13.166 acres

Applicant's Request

- 1. Project Description:** The applicant proposes to construct an Additional Farm Dwelling and related improvements. A building permit has been issued for a single-family dwelling as well as three buildings associated with agricultural uses on the subject property.
- 2. Purpose of Project:** The request is for a proposed Additional Farm Dwelling. As stated in the recently submitted Agricultural Development and Use Program for Puu Hue Hu Farms, this dwelling will house agricultural workers in order to increase and continue agriculture development on the subject property.
- 3. Project Valuation:** \$90,000
- 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 Additional Farm Dwelling and related improvements requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Agricultural and Conservation by the State Land Use Commission; the project site is located within the Agricultural district.

2. **General Plan:** The subject property is designated Important Agricultural Land and Open by the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map; the project site is located in the Important Agricultural Land area.
3. **County Zoning:** The subject property is zoned Agricultural (A-20a) by the County.
4. **Special Management Area:** The subject property is located in the SMA, and it does have frontage along the coastline.
5. **Flood Zone:** According to the Department of Public Works, the parcel is located in Flood Zone "X".

<p align="center">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>
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Although, the subject property does have frontage along the coastline, the lateral pedestrian shoreline/ coastal public access hiking trail is located along the steep cliff bluffs and more than 300 feet from the proposed site. Therefore, the construction of the Additional Farm 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 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 construction cost of \$90,000 is not in excess of \$125,000.

By enclosed memorandum dated March 4, 2010, the Department of Public Works, Engineering Division stated that:

"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 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."

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

Pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 10-000143 is hereby approved to allow the construction of an Additional Farm 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. 10-000143 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 Additional Farm Dwelling shall be issued within two (2) year from the date of approval of this permit.
4. Construction of the Additional Farm 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 350 feet mauka (inland) from the top of the sea cliff. No land altering or construction activities shall be permitted within the 350' 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 landowner shall abide by the terms and conditions of the Shoreline/Coastal Public Access Agreement submitted for recordation to the State of Hawai'i, Bureau of Conveyances on November 10, 2009.

7. Neither the landowner nor any agent of the landowner or its successors shall, at any time, impede or otherwise restrict lateral public access along the shoreline and within the public pedestrian access trail that follows along the top of the sea cliff across the entire property.
8. 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.
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


Date