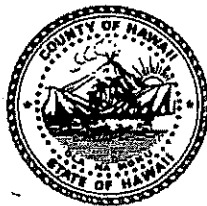


William P. Kenoi
Mayor



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

August 31, 2010

Mr. Brett Kayzar
Mr. David Kopec
P.O. Box 5349
Hilo, HI 96720

Dear Messer's. Kayzar and Kopec:

**Subject: Special Management Area Use Permit Assessment Application
(SAA 10-000576)
Special Management Area Minor Permit No. 10-000160
Applicant: Brett Kayzar and David Kopec
Request: Construction of an Additional Farm Dwelling
and Related Improvements
Tax Map Key: 3-1-1:51, North Hilo, Hawaii**

This is to follow up on our July 19, 2010 letter relating to the above-referenced Special Management Area assessment for the construction of an additional farm dwelling and related improvements on the subject parcel.

This 1.869 acre parcel is designated Urban by the State Land Use Commission and zoned Agricultural (A-20a) by the County.

It is in the Special Management Area and has frontage along the coastline. However, the additional farm dwelling and improvements will be located approximately 87 feet mauka of the top of the coastal pali.

SAA 05-000105 for the construction of a single family dwelling and related improvements was approved on February 3, 2006. Initially, the dwelling was proposed to be located 102 feet from the top of the pali. Subsequently, the location was moved further mauka, now approximately 240 feet from the top of the pali. The proposed additional farm dwelling will be located in the same area previously approved for the single family dwelling.

Mr. Brett Kayzar
Mr. David Kopec
Page 2
August 31, 2010

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(e)(1)(E) relating to Special Management Area, the construction of an additional farm dwelling and related improvements is considered "*Construction, reconstruction, demolition or alteration of the size of any structure*" and defined as "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. 10-000160 is hereby issued to allow for the construction of an additional farm dwelling and related improvements, subject to the applicant's compliance with the conditions of approval as required by the permit.

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

Should you have questions, please feel free to contact Esther Imamura at 961-8139.

Sincerely,



BJ LEITHEAD TODD
Planning Director

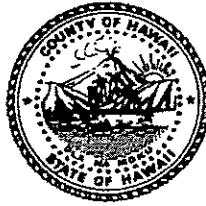
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Enclosures - SMM No. 10-000160
Department of Public Works August 25, 2010 Memo

cc w/Encls.: Long Range Planning
Planning
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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Special Management Area Minor Permit No. 10-000160

Project: Construction of an Additional Farm Dwelling and Related Improvements
Applicant: Brett Kayzer and David Kopec
Location: North Hilo, Hawai'i
TMK: 3-1-1:51 1.869 acres

Applicant's Request

- 1. Project Description:** The applicants propose to construct an additional farm dwelling and related improvements. Building Permit No. B2010-1073H has been issued for the first single family dwelling on the parcel.
- 2. Purpose of Project:** The property has operated continually for crop farming (guava, coconuts, etc.) since 2007 under the business name of Palua'K Plantation Company. The owners would like to add a small farm dwelling for equipment storage and crew use purposes only. Proposed trees include citrus, lychee, banana and passion fruit.
- 3. Project Valuation:** \$123,000
- 4. Determination:** According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(E) relating to the Special Management Area, the "*Construction, reconstruction, demolition, 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 by the State Land Use Commission.
- 2. General Plan:** The subject property is designated Important Agricultural Land by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map.

3. **County Zoning:** The subject property is zoned Agricultural (A-20a).
4. **Special Management Area (SMA):** The subject property is located in the SMA and has frontage along the coastline.

On February 3, 2006, SAA 05-000105 for the construction of a single family dwelling and related improvements was approved. As the dwelling was proposed to be located approximately 102 feet from the top of the pali, the requirement to submit a certified shoreline survey was waived. Subsequently, the location for the main dwelling was moved further mauka and is now approximately 240 feet from the top of the pali.

The additional farm dwelling will be located in the same area previously approved for the first dwelling - approximately 102 feet from the top of the pali, - so submittal of a current certified shoreline survey was not required.

5. **Flood Zone:** Flood Zone "X"

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

Although the subject property has frontage along the coastline, the most makai improvements will be located approximately 87 feet from the top of the pali. Therefore, 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 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 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 \$123,000 is not in excess of \$125,000.

By enclosed memorandum dated August 25, 2010, the Department of Public Works, Engineering Division stated that:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated July 19, 2010 and have no objections to the request.

The subject property is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is identified as an area of "minimal tsunami inundation." At an approximate elevation between 180 and 220 feet above sea level, we designate the parcel as Zone X – an area determined to be outside the 500-year floodplain."

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 10-000160** 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. 10-000160** 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 all Federal, State and County of Hawaii departments and agencies.
3. The Building Permit for the proposed farm dwelling shall be issued within two (2) years from the date of approval of this permit.
4. In the absence of a current certified shoreline survey, the Shoreline Setback Line shall be established at 80 feet mauka (inland) of the top of the pali.
5. 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.
6. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the entire length 80 feet from the top of the pali prior to commencement of land altering and construction activities and shall remain in place until final inspection has been granted for the additional farm dwelling and related improvements.

7. No land alteration, grubbing, landscaping or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within the 80-foot area without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
8. The area makai of the 80-foot shoreline setback line shall be kept clear of any rubbish or debris resulting from construction activities at all times.
9. 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.
10. 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).
11. 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

AUG 31 2010

Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: August 25, 2010

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 10-000576)

Applicants: Brett Kayzar and David Kopec

Land Owners: Brett Kayzar and David Kopec

Request: Construction of an Additional Farm Dwelling

Tax Map Key: 3-1-01: 051

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated July 19, 2010 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 identified as an area of "minimal tsunami inundation." At an approximate elevation between 180 and 220 feet above sea level, we designate the parcel as Zone X - an area determined to be outside the 500-year floodplain.

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