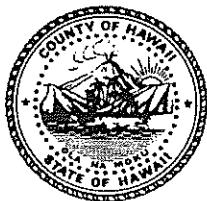


William P. Kenoi
Mayor



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

April 4, 2011

Mr. Muhammad Yunis
RR 2 Box 3918
Pahoa, Hawai'i 96778

Dear Mr. Yunis:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 11-000635)
Special Management Area Minor Permit No. 11-000173
Applicant(s): Muhammad Yunis
Land Owner: Continental Pacific, LLC
Request: Install and Repair Fencing for Livestock and Farming
Tax Map Key: (3) 2-8-008:127 and 128; Makahanaloa, South Hilo, Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA 11-635), which you submitted on February 28, 2011. The applicant proposes to repair the existing fence and install new five (5) foot high hog wire fencing inside the property lines and cross fencing within the subject properties.

The properties consist of 8.904 acres. The properties are zoned A-20a (Agricultural-20 acre minimum lot size) by the County and are designated Agricultural by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as Important Agricultural Lands. In addition, the entire parcel is located within the Special Management Area (SMA).

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (A), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the fencing is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10 (E), Special

Mr. Muhammad Yunis

Page 2

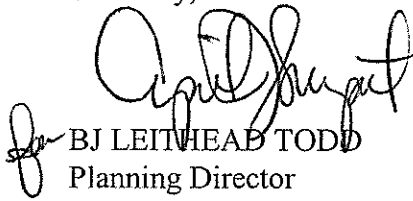
April 4, 2011

Management Area Minor Permit No.11-000173 is hereby issued to allow the repair of the existing fence and installation of new five (5) foot high hog wire fencing inside the property lines and cross fencing within the subject properties. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Please note that this permit is only being issued to the subject parcels listed on the application. If additional fencing will be proposed on the neighboring parcel, TMK 2-8-008:100, another Special Management Area Use Permit Assessment Application will need to be submitted. In addition, because the makai portion of that parcel is located within the State Land Use Conservation District, any proposed development plans must also be submitted to the Department of Land and Natural Resources Office of Conservation and Coastal Lands for their review and approval.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJM:bjm

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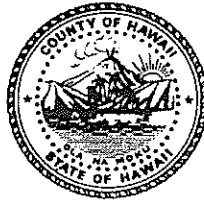
Enclosure - SMM No. 11-000173
Department of Public Works Memorandum dated March 30, 2011

xc w/encls: Continental Pacific LLC
P.O. Box 1350
Santa Rosa Beach, FL 32459

Long Range Planning Division
Planning Division

xc ltr only: Mr. Jesse K. Souki, 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
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 11-000173

Project:	Install and Repair Fencing for Livestock and Farming		
Applicants:	Muhammad Yunis		
Land Owners:	Continental Pacific LLC		
Location:	Makahalanaloa, South Hilo, Hawai'i		
TMK:	(3) 2-8-0008:127 and 128	Land Area:	8.904 acres

Applicant's Request

1. Project Description:

The applicant proposes to repair the existing fence and install new five (5) foot high hog wire fencing inside the property line and cross fencing within the subject properties. The proposed fence will be used for the future livestock and farming activities on the properties.

2. Purpose of Project:

The fence is being proposed for the raising of livestock and farming of produce on the properties.

3. Project Valuation: \$25,000.00

4. Determination:

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (A), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the fence is considered "development" and requires a Special Management Area Minor Permit.

State and County Plans

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

3. **County Zoning:** The parcel is zoned A-20a (Agricultural-20 acre minimum lot size) by the County of Hawai'i.
4. **Special Management Area:** The subject property is located in the SMA.
5. **Flood Zone:** X

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

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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$25,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated March 30, 2011, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated March 22, 2011 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 of 120 feet, we designate such parcels as Zone X- areas determined to be outside the 500-year floodplain."

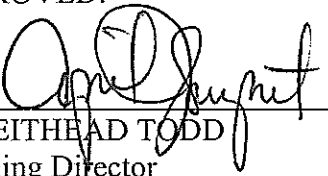
Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 11-000173** is hereby approved to allow the repair of the existing fence and installation of new five (5) foot high hog wire fencing inside the property lines and cross fencing within the subject properties.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 11-000173** 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 as necessary to comply with all applicable laws and regulations.
3. 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.
4. 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).
5. 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:


for BJ LEITHEAD TODD
Planning Director

4-5-11
Date

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 9, 2011

Mr. Muhammad Yunis
RR 2 Box 3918
Pahoa, Hawai'i 96778

Dear Mr. Yunis:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 11-000635)
Special Management Area Minor Permit No. 11-000173
Applicant(s): Muhammad Yunis
Land Owner: Continental Pacific, LLC
Request: Install and Repair Fencing for Livestock and Farming
Tax Map Key: (3) 2-8-008:127, 128, 100; Makahanaloa, South Hilo, Hawai'i**

We are writing in response to your letter received on April 25, 2011, requesting that parcel 100 be included in the Special Management Area Minor Use Permit No. 11-000173 (SMM-11-000173) which allowed the installation and repair of fencing for livestock and farming on subject parcels 127 and 128.

On April 4, 2011, SMM-11-000173 was issued to parcels 127 and 128. The owner of parcel 100 has since authorized the applicant, Mr. Yunis, to apply for the necessary permits to install fencing for his proposed livestock area on a portion of the parcel. In addition, the owner has drafted a "License for Shoreline Access" over a portion, or "license area," of the subject parcel 100. The subject property consists of 38.25 acres. However, the proposed license area is approximately 4.25 acres.

The license area is zoned A-20a (Agricultural-20 acre minimum lot size) by the County and designated Conservation by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject license area as Open. In addition, the entire license area is located within the Special Management Area (SMA).

Mr. Muhammad Yunis

June 9, 2011

Page 2

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (A), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the fencing is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), SMM-11-000173 is hereby amended to allow installation of new five (5) foot high hog wire fencing within the subject license area as shown on the Exhibit A. In addition to those conditions listed in the original SMM-11-000173 permit; this amendment is subject to the following conditions:

1. At no time shall the landowner or applicant restrict or impede access to the ten foot wide pedestrian access easement located on parcel 129 or the ten foot wide lateral public pedestrian shoreline access easement located on the subject property.
2. 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 forty foot shoreline setback area.
3. A Conservation District Use Permit from the Board of Land and Natural Resources or other written approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands must be obtained for the installation of the fencing within one (1) year from the date of approval of this revised permit.

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.

Mr. Muhammad Yunis
June 9, 2011
Page 3

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,


BJ LEITHEAD TODD
Planning Director

BJM:cs
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cc: Long Range Planning Division

Planning Division

Continental Pacific LLC
P.O. Box 1350
Santa Rosa Beach, FL 32459

Mr. Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
State of Hawaii Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Mr. Jesse K. Souki, Director
Office of Planning, DBEDT
State of Hawaii Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359