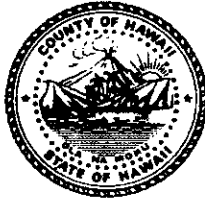


William P. Kenoi
Mayor



BJ Leithead Todd
Planning Director

Margaret K. Masunaga
Deputy Planning Director

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 30, 2011

Ms. Gayle Harper, Office Manager
For Andre and Jyoti Ulrych
Starseed Ranch
P.O. Box 6142
Kapa'au, HI 96755

Dear Ms. Harper:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA-11-000673)**

Special Management Area Minor Use Permit (SMM-11-000182)

Applicant: Andre and Jyoti Ulrych

Land Owner: Andre and Jyoti Ulrych

Project: To Create a Model for Sustainable Farm Living

**Tax Map Key: (3) 5-3-007:047; Por. of Halawa to Pueke, North
Kohala, Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA-11-000673), which you submitted on May 31, 2011. The proposed development includes installation of underground irrigation lines, planting trees, a water reservoir, one farm dwelling, field trails all on the subject parcel, and fences for animal paddocks, gardens, orchards, and the family burial plot.

The subject property consists of 117.681 acres. It is zoned Agricultural (A-20a) by the County and is designated Agricultural by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Important Agricultural Land.

Special Management Area Determinations

1. According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e)(1)(E) and 9-4 (e)(1)(A) relating to Special Management Area,

Ms. Gayle Harper, Office Manager
For Andre and Jyoti Ulrych
Starseed Ranch
June 30, 2011
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“Construction, reconstruction, demolition or alteration of the size of any structure” and “Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste” are defined as “development”.

Therefore, a Special Management Area Minor Permit is required for the underground irrigation lines, fences, water reservoir and field trails. For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 11-000182 is hereby issued to allow for the installation of underground irrigation lines, fences, water reservoir and field trails, subject to the applicant’s compliance with the conditions of approval as specified in the permit.

2. According to HRS Chapter 205A-22, and PC Rule 9-4(e)(2)(A) relating to Special Management Area, “development” does not include *“Construction of a single-family residence that is not part of a larger development”*. Therefore, we have determined that the proposed single-family dwelling and related improvements, including the family burial plot, are exempt from the definition of “development”. In addition, Planning Commission Rule 9-4(e)(2)(H) 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, of forestry products or animal husbandry, or aquacultural or mariculture of plants or animals, or other agricultural purposes”*. Therefore, we have determined that the planting of trees is exempt from the definition of “development”.

In addition, since the property is not a shoreline property, the requirement of a certified shoreline survey is waived. Also, the proposed improvements are not anticipated to have an adverse effect on the environment.

While further review of the construction of the proposed improvements against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied. Additionally, this determination of exemption from the SMA definition of development is subject to compliance with 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 Hawai‘i departments and agencies.

Ms. Gayle Harper, Office Manager
For Andre and Jyoti Ulrych
Starseed Ranch
June 30, 2011
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3. The Building Permit for the proposed single-family dwelling shall be secured within two (2) years from the date this determination.
4. 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.
5. 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 determination; 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).
6. 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.

Should you have questions, please contact Bethany Morrison of this office at 961-8138.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJM:cs

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Ms. Gayle Harper, Office Manager
For Andre and Jyoti Ulrych
Starseed Ranch
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Page 4

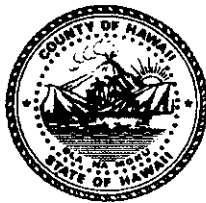
Enclosure: SMM No. 11-000182
Department of Public Works Memorandum dated June 24, 2011

cc: Andre and Jyoti Ulrych
201 E Silver Street
Carbondale, CO 81623

Long Range Planning Division
Planning Department, Kona Office
Planning Division

cc 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

SUB-08-000748



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

Special Management Area Minor Permit No. 11-000182

Project: To Create a Model for Sustainable Farm Living
Applicants: Andre and Jyoti Ulrych
Land Owners: Andre and Jyoti Ulrych
Location: Por. of Halawa to Pueke, North Kohala, Hawai'i
TMK: (3) 5-3-007:047 **Land Area:** 117.681 acres

Applicant's Request

1. Project Description:

The proposed farming project includes the installation of underground irrigation lines, fences for animal paddocks, gardens, orchards, and the family burial plot, a water reservoir, and field trails all on the subject parcel.

2. Purpose of Project:

The applicant is proposing a project where several farmers share the same community space, equipment, and equipment facilities, know as Whalewatch Village.

3. Project Valuation: \$14,000.

4. Determination:

The proposed farming project is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

State and County Plans

- 1. State Land Use District:** The subject parcel is designated Agricultural by the State Land Use (SLU) Commission.
- 2. General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Important Agriculture Land.
- 3. County Zoning:** The subject parcel is zoned Agricultural -20 acre minimum building site (A-20a) by the County of Hawai'i.

4. **Special Management Area (SMA):** The subject parcel is partially within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject parcel is located within Zone X.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area
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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 tsunamis, 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 \$14,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated June 24, 2011, states the following:

"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 Hawai'i. Zone "X" is not a designated Special Flood Hazard Area. A Zone "X" designation does not imply that the referenced property will be free from flooding or flood damage. 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 Hawai'i County Code for watercourse alterations."

Pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 11-000182 is hereby approved to allow the installation of underground irrigation lines, fences, water reservoir and field trails on the subject property.

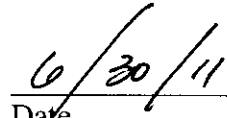
Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 11-000182 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. 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

2011 JUN 27 PM 1:46

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: June 24, 2011

Memorandum

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

FROM : Ben Ishii, Division Chief *BI*
~~Engineering~~ Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 11-000673)
Applicant: Andre and Jyoti Ulrych
Location: Halawa, North Kohala, Hawaii
TMK: 3 / 5-3-007:047

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. Zone "X" is not a designated Special Flood Hazard Area. A Zone "X" designation does not imply that the referenced property will be free from flooding or flood damage. 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 323-4850.

KE
copy: ENG-HILO/KONA

