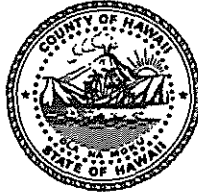


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

OCT 28 1994

Mr. Carl A. Carlson, Jr., Trustee
Richard Smart Revocable Personal Trust
PO Box 458
Kamuela, HI 96743

Dear Mr. Carlson:

Special Permit Application (SPP 94-13)
Applicant: Richard Smart Revocable Personal Trust
Request: Establish a wastewater treatment facility
and related improvements
Tax Map Key: 6-8-01:Portion of 1

The Planning Commission at its duly held public hearing on October 20 1994, voted to approve the above-referenced application. Special Permit No. 890 is hereby issued to establish a wastewater treatment plant on approximately 14.94 acres of land within the State Land Use Agricultural district. The project site is located approximately one-half mile makai of the Mamalahoa Highway in the vicinity of the Waimea-Kohala Airport and one mile south of the Lalamilo Farm Lots, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are identified as Puu Pa, an extremely stony very fine sandy loam which is unsuitable for extensive cultivation and more suited for pasture, range or woodland. The soil is classified as "E" or Very Poor by the Land Study Bureau's Overall Master Productivity Rating and the property is

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UNCLASSIFIED by the Department of Agriculture's ALISH map. The subject property is currently being used for cattle grazing. The applicant proposes to construct a Private Wastewater Treatment Plant on approximately a 14.95 acre portion of the subject property which exceeds 31,000 acres in size. The proposed uses will not displace any major agricultural activity or diminish the agricultural potential of the area. The removal of approximately 14.95 acres of the subject parcel will have a negligible effect on the County's agricultural land inventory and will not significantly affect the agricultural potential of the remainder of the property. Therefore, the proposed uses would not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The desired use will not adversely affect the surrounding properties. Surrounding uses are more than one mile away and include agricultural uses, Gary's Automotive and the Waimea-Kohala Airport, both of which are industrial uses. The wastewater treatment plant will have little or no visual impact on the properties in the immediate area because of the buffer provided by the eucalyptus grove along Mamalahoa Highway will not allow direct visual exposure. Also the distance from other public vantage points will reduce visual impacts. The wastewater treatment plant/facility will be a state of the art facility incorporating odor controls as a part of the effluent treatment process, thus, potential odors from the facility are not expected to impact surrounding properties. A condition of approval is included to ensure that the wastewater treatment facility will comply with all of the State Department of Health's requirements with regard to this type of facility. The traffic to be generated by the operation will be limited to maintenance personnel traffic therefore, the traffic impacts should be minimal.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. A new roadway to access the plant will be constructed by the developer and all transmission piping will be constructed on Parker Ranch lands except for crossing the Mamalahoa Highway. All infrastructural improvements such as water, roads, electrical connection, and drainage will be provided for by the applicant and will be constructed in accordance with the Department of Public Works and State Department of Health requirements.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The wastewater treatment facility is an essential component for the implementation of the Parker Ranch 2020 Master Plan. The facilities are designed to blend into the landscape with low

profile and be environmentally sensitive in its architecture to ensure compatibility with the agricultural environment.

The use will not substantially alter or change the essential character of the land and the present use. The proposed facilities will be strategically placed and will be designed to a scale which will be compatible with the existing terrain and topography. The low profile and environmental design sensitivity and landscape screening will assist in maintaining the essential agricultural character of the area.

The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district. The proposed uses will remove some pasture use for the property, but will be replaced by portions of the facility used for silvaculture. No agricultural activities will be diminished as a result of this approval. In fact, the agricultural activities would complement and enhance the agricultural potential of the property with the provision of these support facilities.

The proposed use is not contrary to the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the area for Extensive Agriculture. The request is consistent with the Economic, Environmental Quality, Flood Control and Drainage, Historic Sites, Natural Beauty, Natural Resources and Shoreline, Public Facilities, Public Utilities, Transportation, Energy, Land Use, Agriculture and Housing elements goals, policies and courses of action for South Kohala. The requests are also consistent with the Hawaii State Plan's Economy, Physical environment, Land and Air Quality, Facility systems for Solid and Liquid Wastes, Water, Transportation, Agriculture, Scenic Natural Beauty, Historic Resources, Socio-cultural advancement (Leisure) objectives and policies. The request is also consistent with Chapter 205 as no State Land Use classification changes are required for this proposals. The subject property is classified as "E" by the Land Study Bureau. All essential utilities and services required for the development of the project are or will be made available.

Approval of this request is 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, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers,

employees, contractors and agents under this permit or relating to or connected with the granting of the permit.

3. Any request to amend conditions of this Special Permit shall be forwarded to the Planning Commission pursuant to Rule 6.8 of the Planning Commission's Rules of Practice and Procedure.
4. The plans for the Wastewater Treatment Facility shall be submitted to the Planning Department for Plan Approval review within 1 year from the effective date of approval of the Special Permit and be construction shall completed within 5 years. The plans for Plan Approval review shall consist of pre-construction drawings drawn to scale consisting of a grading plan, conceptual landscaping plan, a site plan showing the location of proposed buildings, off-street parking, and architectural drawings of all proposed buildings. The conceptual landscaping plans shall include a landscaping buffer areas between the proposed Wastewater Treatment Facility site and the adjacent pasture. Only earth tone colors shall be used for all exterior painting of all proposed buildings.
5. Construction of the facilities shall commence within two years of the effective date of Final Plan Approval and be completed within 2 years from the date of issuance of the building permits.
6. The wastewater disposal system shall constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
8. Access to the project site shall be constructed in a manner meeting with the approval of the Departments of Transportation-Highways Division shall be completed prior to the issuance of issuance of the certificate of occupancy for the Wastewater Treatment facility.
9. A metes and bounds description in written and map form of the wastewater treatment facility shall be prepared by a

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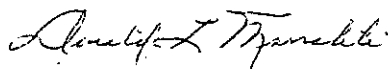
certified surveyor or engineer in the State of Hawaii and submitted simultaneously with plans for Plan Approval review.

10. An extension of time for the performance of conditions within the permit 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 General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
11. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
lSmart01.PC

xc: Mr. Dennis Reid
Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources
Plan Approval Section