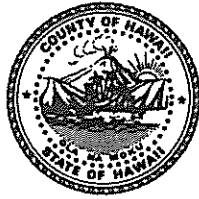


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 279

January 25, 1996

Mr. Fred Duennebier, UHM SOEST
Chairman and Principal Investigator
University of Hawaii Geology and Geophysics
Department, HUGO Project
2525 Correa Road
Honolulu, HI 96822

Dear Chairman Duennebier:

Special Permit Application (SPP 95-25)

Applicant: University of Hawaii Geology and Geophysics
Department, HUGO Project

Request: To Allow an Unmanned Educational and Research Facility That
Uses a Cable That Will Connect the Submarine Volcano Loihi to the Big Island

Tax Map Key: 9-5-14:49; Portions of 1, 7 and 29

The Planning Commission at its duly held public hearing on January 11, 1996, voted to approve the above-referenced application. Special Permit No. 921 is hereby issued to allow the establishment of an unmanned educational and research facility and related improvements on approximately 11,000 square feet of land situated within the State Land Use Agricultural District. The proposed facility will be utilized in conjunction with a proposed junction vault and fiber optic cable connection from the facility to the submarine volcano Loihi. The property is located on the makai side of Highway 11 in the vicinity of Whittington Beach Park at Honuapo, Kau, Hawaii.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules 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 districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The soils within the project site are classified "D" or Poor and "E" or Very Poor by the Land Study Bureau for agricultural productivity and unclassified according to the ALISH map system. The subject properties are portions of

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Mr. Fred Duennebier, UHM SOEST
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Whittington Beach Park, cattle grazing lands and an abandoned sugar mill. The applicant proposes to establish an unmanned educational and research facility and related improvements that, through electro-optical cables, will provide a physical link between land-based recording equipment and the underwater volcano Loihi. Portions of the project that are located within the State Land Use Agricultural district consist of a shore recording site that consists of two equipment trailers and a parking area. New utility poles would also be installed to upgrade electrical services to the project site. These pole installations are a permitted use within the State Land Use Agricultural district and Agricultural zoned districts. The project would have an approximate life of 10 years based on equipment and funding. As portions of lands to be used for the project site are vacant, this request will not displace a significant amount of land from agricultural activity nor diminish the agricultural potential of the area. Therefore, the request would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- * Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- * The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- * Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- * The County of Hawaii shall continue to encourage the expansion of the research and development industry by working with and supporting the university, private sector, and other agencies' programs developed to aid the County of Hawaii.
- * The County shall support all levels of educational opportunities and institutions for its residents.

The proposed use will not have any significant adverse effects on the surrounding properties. Portions of the project site include Whittington Beach Park, where there are picnic, restroom and shower facilities. Surrounding development is rather sparse and mainly used for cattle grazing. The area is the site of an abandoned sugar mill, with remnants still visible. During construction, cable installation areas will be roped. The proposed project will not interfere with recreational areas and uses of Whittington Beach Park and the nearby coastal area.

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The proposed use will not substantially alter or change the essential character of the land and the present use. The subject properties are presently vacant. Majority of the cables will be buried and lain in the ocean. The temporary nature of the proposed use will preclude any adverse impact to the character of the project site or its surrounding areas.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. Existing public utilities will be upgraded with the installation of four (4) utility poles. Restroom facilities are available nearby at the Whittington Beach Park. Due to the facility being unmanned, no major support facilities are required. Periodic visits by the site manager, for tape pickup, or maintenance of equipment are not expected to have a major impact on existing traffic. Public agencies reviewing the request had no objections.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The proposed project will provide valuable information on Loihi volcanology, earthquakes, tsunami hazard and other topics. Research projects, such as the HUGO project, are based on funding and need to be site specific. Most are temporary in nature and do not need permanent facilities on a long term basis. This particular proposed project will provide linkages to the submarine volcano Loihi, which is located approximately 20 miles offshore.

The proposed use will not have an adverse effect on archaeological resources within the area. Historic sites on the affected parcels include remnants of an abandoned sugar mill and the Honuapo Pier. However, review by the Department of Land and Natural Resources concur with the applicant that the proposed project will have no adverse effect on historic sites. A condition of approval is included to require work to cease if any unidentified sites or remains are discovered.

Based on the above considerations, the establishment of an unmanned educational and research facility is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant 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 approval of this permit.
3. The applicant shall comply with SMA Minor Use Permit No. 39.

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4. Construction of all improvements shall be completed within five (5) years from the effective date of this permit. Prior to the start of construction, Final Plan Approval of the proposed improvements shall be secured from the Planning Director. Plans shall identify all proposed improvements and structures, parking areas and/or driveway and proposed path of cable lines associated with the proposed use.
5. 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 Department of Land and Natural Resources and Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when sufficient mitigated measures have been taken.
6. The applicant shall comply with applicable laws, rules and regulations of the affected agencies including the Department of Land and Natural Resources and the Department of Army - Corp of Engineers.
7. Upon compliance with all conditions of approval, and upon completion of the proposed work, the applicant shall submit a final status report, in writing, to the Planning Director.
8. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A) 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.
 - 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).
9. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

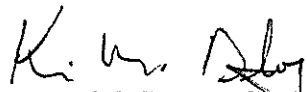
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

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cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Mr. Bob Jordan