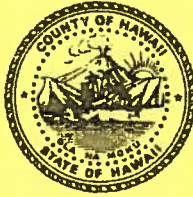


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

August 1, 2007

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
P. O. Box 1101  
Kamuela HI 96743

Dear Mr. Mooers:

**SUBJECT: Special Management Area Use Permit Assessment Application (SAA 07-000228)  
Special Management Area Minor Permit No. 07-000059  
Applicant: Dick Chun  
Land Owner: Yee Hop Ltd.  
Request: Consolidation and Resubdivision of Five (5) Lots into Five (5) Lots  
TMK: 8-8-2:14, 17 & 22, Alika, South Kona, Hawaii**

This is to follow up on our February 15, 2007 letter relating to the above-referenced Special Management Area Use Permit Assessment for the consolidation and resubdivision of five (5) lots into five (5) lots.

After review of documents received on June 15, 2007, we concur that TMK: 8-8-2:14 consists of three legal lots of record.

These parcels are zoned Agricultural (A-5a) by the County. The State Land Use Commission's designation is Agricultural and Conservation.

All of these parcels are partially in the Special Management Area (SMA). However, the proposed consolidation and resubdivision will result in only one lot containing all of the SMA areas.

Although the consolidation and resubdivision of five (5) lots into five (5) lots is not considered development, Planning Commission Rule 9-4(10)D, relating to Special Management Area states that *"Whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as 'development' for the purpose of this rule."*

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
Page 2  
August 1, 2007

The requirement to provide a public lateral shoreline pedestrian access easement as a condition of final subdivision approval is considered "development". Further, it is anticipated that the cost of any required infrastructural improvements will not exceed \$125,000 in valuation and will not have a significant adverse impact to coastal resources. Therefore, pursuant to Planning Commission Rule 9-10(E), Special Management Area Minor Permit No. 07-000059 is hereby issued to allow for the consolidation and resubdivision of five (5) lots into five (5) lots, subject to the applicant's compliance with the conditions of approval as specified in the permit.

Please note, however, that issuance of SMM 07-000059 does not imply tacit approval of the proposed consolidation and resubdivision project. All applicable Zoning and Subdivision Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8288, extension 257.

Sincerely,

  
CHRISTOPHER J. YUEN  
Planning Director

ETI:cd

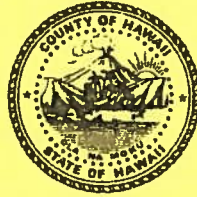
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Encl: SMM No. 07-000059

xc w/encl: Mr. Samuel J. Lemmo, Administrator, DLNR, OCCL  
Ms. Esther Imamura, Long Range Planning Division  
Mr. Norman Hayashi, Planning Commission  
Mr. Daryn Arai, Ministerial Division

xc ltr only: Director – Office of Planning, DBED&T (enclosure to be emailed with semimonthly report)

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**Special Management Area Minor Permit No. 07-000059**

**Project:** Consolidation and Resubdivision of Five (5) Lots into Five (5) Lots  
**Applicant:** Dick Chun  
**Land Owner:** Yee Hop Ltd.  
**Location:** Alika, South Kona, Hawaii  
**TMK:** 8-8-2:14 (148.93 acres); 8-8-2:17 (277.258 acres); 8-8-2:22 (74 acres)

**Applicant's Request**

**1. Project Description:**

After reviewing the June 14, 2007 submittal, staff concurred that TMK: 8-8-2:14 consists of three legal lots of record. Therefore, the applicant proposes to consolidate and resubdivide these five (5) existing lots of record into five (5) lots.

**2. Purpose of Project:**

Currently, all five lots have frontage along the coastline. The proposed configuration will result in proposed Lots 1 - 4 entirely outside of the SMA. Proposed Lot 5 will be comprised of area that is outside of the SMA as well as include all of the SMA area.

**3. Project Valuation:** None, according to the applicant. However, the requirement to provide public lateral shoreline pedestrian access may require some infrastructural improvements anticipated to cost less than \$125,000.

**4. Determination:**

According to Chapter 205A-22, HRS and Planning Commission Rule 9-4(10)A(iii) relating to the Special Management Area, "development" includes "*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*".

Further, according to Planning Commission Rule No. 9-4(10)(D), "*Whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as 'development' for the purpose of this rule*".

A public lateral shoreline pedestrian access easement along the existing coastal jeep road or as otherwise mutually agreed upon will be required prior to final consolidation and

resubdivision approval. This public lateral shoreline pedestrian access will have a cumulative impact and ecological effect on the parcels. Therefore, the proposed consolidation and resubdivision of these five (5) lots requires a SMA Minor Permit.

### **State and County Plans**

1. **State Land Use District:** The parcels are designated Agricultural and Conservation by the State Land Use Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as Extensive Agriculture and Open.
3. **County Zoning:** The parcels are zoned Agricultural (A-5a).
4. **Special Management Area (SMA):** Portions of all of the parcels are located in the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone "X".

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

Public access will be imposed to enhance access to the shoreline for recreational purposes. There are unimproved trails to and along the shoreline currently used by 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 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.

<b>Findings</b>
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As discussed above, the proposed development will not have any significant adverse ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. In that four of the resultant lots will be situated at the most mauka portion of the project area and out of the SMA, we have determined that the proposed consolidation and resubdivision of these five (5) lots will not have a substantial adverse effect on the environment.

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.

Although there is no project cost for the consolidation and resubdivision of the five (5) lots, the requirement to provide a public lateral shoreline pedestrian access may require some infrastructural improvements.

By enclosed memorandum dated February 28, 2007, the Department of Public Works – Engineering Division submitted the following comments regarding the subject application:

*“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. This memo does not imply that the referenced property will or will not be free from flooding or flood damage. Zone ‘X’ is not a designated Special Flood Area. 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 the Hawaii County Code for watercourse alterations.”*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 07-000059** is hereby approved to allow for the consolidation and resubdivision of five (5) lots into five (5) lots, 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. 07-000059** 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 other affected agencies.
3. The applicant shall develop a public access plan for the subject property that provides, at a minimum, a continuous traversable public lateral shoreline pedestrian access easement along the existing coastal jeep road or as otherwise mutually agreed upon. This plan shall be submitted to the Planning Director for approval not more than one year after the granting of this permit. Approval of the public access plan shall be required prior to granting of final approval of the proposed consolidation and resubdivision. This public access easement shall be delineated on the final plat map.
4. Applicant shall submit a written estimate(s) provided by a contractor(s) licensed to do business in the State of Hawaii for all construction activities proposed and/or required prior to the granting of final consolidation and resubdivision

approval to confirm that the total project valuation (exclusive of land costs) is not in excess of \$125,000. In the event the total valuation of the proposed consolidation and resubdivision does exceed \$125,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area Use (Major) Permit from the Planning Commission.

5. Final consolidation and resubdivision approval shall be secured within 2 years from the approval date of this permit.
6. Any further subdivision or consolidation and resubdivision of the lots resulting from the proposed 5-lot consolidation and resubdivision shall constitute a cumulative impact on the SMA and require a Special Management Area (Major) Use Permit.
7. All site plans submitted to the Planning Department for any future land use permits or development on the applicable resultant lot shall include the location of the public lateral shoreline pedestrian access easement.
8. Future development of the proposed lots shall be subject to review against the SMA guidelines as such plans are implemented.
9. 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).
10. 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:



CHRISTOPHER J. YUEN  
Planning Director

8/11/07  
Date



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COUNTY OF HAWAII  
HILO, HAWAII

**DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII**

DATE: February 28, 2007

**Memorandum**

**TO :** Christopher J. Yuen, Planning Director  
Planning Department

**FROM :** Galen M. Kuba, Division Chief   
Engineering Division 

**SUBJECT :** Special Management Area Use Permit  
Assessment Application (SAA 07-000228)  
Applicant: Dick Chun  
Location: Alika, South Kona, Hawaii  
TMK: 3 / 8-8-002:014,017, & 022

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. This memo does not imply that the referenced property will or will not be free from flooding or flood damage. Zone "X" is not a designated Special Flood Area. 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 327-3530.

KE  
copy: ENG-HILO/KONA  
PLNG-HILO