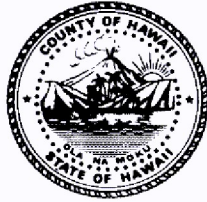


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## County of Hawai'i

### PLANNING DEPARTMENT

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July 14, 2023

Hank Correa  
630 Kilauea Ave.  
Hilo, HI 96720  
VIA EMAIL

Dear Mr. Correa:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(PL-SAA-2023-000168)**  
**Applicant: Continental Pacific, LLC**  
**Landowner: Continental Pacific, LLC**  
**Project: Land and Resource Management Activities**  
**TMK: (3) 2-8-008:151, 152 & (3) 2-8-008:777, South Hilo, Island of Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000168), submitted to this office on July 7, 2023.

The area of the proposed work is zoned Single-Family Residential 7500-square feet (RM-7.5) by the County and designated Urban by the State Land Use Commission (LUC). The project area is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

Staff notes that on October 15, 2004, SMA Use Permit No. 03-009 (SMA 450) was approved for the development of a 11-lot subdivision and related improvements. Under SMA 450, only those trees less than 12-inches in diameter would be permitted to be cut without additional authorization. This permit aims to resolve activities in which trees larger than 12-inches in diameter were cut within the SMA 450 permit area.

The entire project area is located within the Special Management Area (SMA); however, only parcel 77 is located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS). The Director has waived the requirement for a shoreline certification due to the location and type of work being conducted.

**Proposed Project:**

The Applicant is proposing to conduct the following:

- Remove/Cut six (6) ironwood trees.
- Remove all remaining cut vegetation debris.
- Plant six (6) native/endemic or Polynesian introduced trees.
- Remove two (2) piles of re-bar.
- Conduct on-going maintenance within the subject parcels and permit area covered under SMA 450 to maintain safe shoreline access and minimize hazards.

**Special Management Area Determination:**

1. Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(1), relating to the Special Management Area, *“Development means any of the [listed] uses, activities, or operations on land or in or under water within the special management area. According to the application, the following definitions of “Development” can be applied to the proposed use:*
  - *Grading, removing, dredging, mining, or extraction of any materials.*
  - *Placement or erection of any solid material, or any gas, liquid, solid or thermal waste.*
2. Pursuant to Planning Commission Rule 9-4(e)(3), *“any proposed use, activity, or operation listed in Section 9-4(e)(2) shall be deemed to be “Development” until the Director has determined it to be exempted from the definition of “development.”* According to 9-4(e)(2), “Development” does not include the following uses, activities, or operations, and therefore is determined to be exempt from the definition of “Development.”
  - *Repair, maintenance, or interior alterations to existing structures or relating to existing uses.*
3. Pursuant to Planning Commission Rule 9-4(e)(4), *“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 purposes of this rule.”*

Based on the information provided, the Director finds that the proposed land and resource management activities with no construction is exempt from the definition of “development” and will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

However, please note that any substantive changes to the improvements listed in the current application may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

While further review of the proposed activities against the Special Management Area rules and regulations will not be required at this time, all other applicable Zoning and Building Code requirements must be satisfied. Additionally, pursuant to Planning Commission Rule 9-10(g), *"the Director may impose certain conditions with the exemption determination to assure that the proposed use, activity or operation does not have a substantial adverse effect on the Special Management Area."*

The Director has added the following conditions for the proposed project:

**Director's Conditions:**

1. The applicant(s), its successor(s), or assign(s) (Applicant) shall be responsible for complying with all stated conditions of approval.
2. The Applicant will continue to adhere to the conditions set forth in Special Management Area (SMA) Use Permit No. 03-009 (SMA 450)
3. Any substantive changes or further development, including but not limited to, the design and size of the improvements not included in this determination shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
4. That in issuing this determination, the Department has relied on the information and data that the Applicant has provided in connection with this determination. If, subsequent to issuance of this determination such information and data prove to be false, incomplete, or inaccurate, this determination may be modified, suspended, or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
5. 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.

If you have questions regarding this document, please feel free to contact Alex J. Roy of this office at (808) 961-8140 or via email at [Alex.Roy@hawaiicounty.gov](mailto:Alex.Roy@hawaiicounty.gov).

Sincerely,

Zendo Kern

Zendo Kern (Jul 14, 2023 07:54 HST)

ZENDO KERN  
Planning Director

AJR:mads  
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cc via email: GIS Section