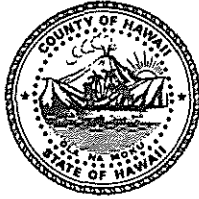


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 470

September 6, 1996

Sandra Pechter Schutte, Esq.  
101 Aupuni Street, Suite 1014A  
Hilo, HI 96720

Dear Ms. Schutte:

Special Management Area Use Permit Application (SMA 96-1)  
Applicant: Hawaii Tropical Botanical Garden  
Request: Master Plan for Expansion of Botanical Garden and Arboretum  
Tax Map Key: 2-7-9:2, 6, 10 and 2-7-10:Portion of 22

The Planning Commission at its duly held public hearing on August 23, 1996, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 366 is hereby issued to allow for the botanical garden master plan expansion and improvements to include entrance, trails, employee parking areas, shelters and related improvements. The property is located along the makai or northeasterly side of the Old Mamalahoa Highway (also known as "4 Mile Scenic Route") in the vicinity of Onomea Bay, approximately two miles north of the Hawaii Belt Road/Old Mamalahoa Highway intersection at Alakahi, Kahalii and Onomea, South Hilo, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas and natural reserves by dedication or other means.

The proposed project will not have any significant adverse environmental or ecological effect. The Hawaii Tropical Botanical Garden (HTBG) has been in existence since the 1980's. The existing improvements to the Garden include extensive landscaping, walkways, tool sheds, a greenhouse, two ponds, three bird cages and bird perches, two restrooms, a rain shelter, a bulletin board and informational signs that have been approved through various SMA Use Minor Permits. The applicant also has secured a Conservation

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District Use Permit (CDUP) from the State Department of Land and Natural Resources (DLNR) for the existing Gardens. Immediate proposed improvements include a new garden entrance, trails, rain shelters/rest shelters, employee parking areas, diversion dams, utility poles and lines, signage and landscaping improvements. Future improvements include additional fencing, landscaping, footpaths, foot bridge, greenhouses, restrooms and signage. The applicant has also applied for a CDUP with the State for the expansion of the Gardens. The proposed improvements will be located throughout the Gardens for accommodating visitors and improving the Garden.

The new garden entrance will be located directly across of the proposed new Visitor Center. Visitors would park at the visitor center and walk across to the garden entrance. Since there will be an increase in pedestrian traffic, a condition is being included to require the applicant to comply with the Department of Public Works requirements in regards to complying with all sight distances and the installation of warning signs or lights, whichever is applicable. With the new garden entrance, the shuttle vans which transport visitors to the garden via the Onomea Access Trail will be discontinued. To provide for a safer pedestrian public access, a condition is also being included to restrict the Onomea Access Trail from any vehicular traffic and that it be reserved as a pedestrian public access trail.

In regards to the Visitor Center Employee Parking proposed for along the northwestern frontage of TMK: 2-7-9:2 fronting the Old Mamalahoa Highway. For the safety of the employees and to minimize additional pedestrian crossing, we are recommending that all employee parking for the Visitor Center remain on the Visitor Center site, TMK: 2-7-10:14. As for the proposed Garden employee parking area, the applicant shall clear and maintain a sight distance easement to allow for safe entering and exiting of vehicles.

Most of the clearing for improvements will be completed by hand. The applicant proposes a walking trail that will cross the Kahalii Stream bed and states that all walkway footings are proposed to be constructed outside of and will not disturb the stream beds. However, some concerns have been expressed by the Division of Aquatic Resources - DLNR, regarding the native freshwater fauna. To minimize any erosion and siltation of streams during construction, the applicant proposes to 1) schedule site work during a period of minimal rainfall; 2) replant or cover lands denuded of vegetation as quickly as possible; and 3) prevent construction materials, petroleum products and debris from falling, blowing or leaching into the aquatic environment. Finally, there is no anticipation of any increase in noise levels, dust and exhaust fumes during construction activities.

In regards to the approval of the after-the-fact diversion dams, the Division of Aquatic Resources recommended the removal of the diversion dams, as their presence poses a great threat to native freshwater fauna should they remain. Should the Department of Land and Natural Resources require removal of the diversion dams, the applicant would be required to comply with those requirements and, thereby, find an alternate source for water for the Gardens.

As proposed utility poles and lines to be constructed within the Mamalahoa Highway right-of-way will be an extension of existing services, it is not anticipated that these improvements will have a significant adverse effect to the environment.

In regards to the future long-term improvements, as these improvements are similar to the existing and immediate improvements, the applicant would be required to submit plans for Final Plan Approval, siting specific locations for the proposed improvements, prior to the start of any construction. In addition, prior to installation, any proposed fencing within and around the Gardens shall be clearly defined - to include its location, height and type of material to be used.

The proposed project is consistent with the objectives, policies and guidelines of the Special Management Area. These were established to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational, scenic resources, coastal ecosystems, economic use and coastal hazards. Safety and wellbeing of the visitors and the public will be enhanced by the new entrance to the Gardens, new trails, signage and restrooms. The existing shuttle van to the existing entrance will be discontinued, thereby, leaving the Onomea Access Trail as a pedestrian public access trail. Scenic and open space areas will be more accessible and enhanced by the establishment of new trails and shelters. No known threatened or endangered species of flora or fauna or their special habitats are within the project area. In regards to the Orangeblack Hawaiian Damselfly as this rare species has been found in the upper reaches of the Onomea and Kahalii Streams, above the Old Mamalahoa Highway, there are concerns of the impact that fogging of the garden for mosquito control has on the Damselfly. As a result, a condition is included to require the applicant to work with the Pacific Islands Science Center in developing a monitoring program on the effects of their current mosquito abatement program on the Damselfly. Therefore, impacts to the physical environment within the immediate area which may be generated by the proposed project can be mitigated through appropriate conditions.

There are no known presence of any significant historic or archaeological feature situated on the project area. However, as the possibly exists, the applicant would be required to complete an archaeological inventory for the future long-term improvements meeting with the approval of the Department of Land and Natural Resources. No improvements are proposed to be located within the shoreline setback area. As such, the project would not interfere with any recreational resources, with the natural shoreline processes nor impact viewplanes to the coastal area. Shoreline access will continue to be provided to the public by means of the Onomea Access Trail, the Alakahi Trail and the Donkey Trail. As a condition, the applicant would be required to comply with the Mediation Agreement dated October 27, 1995, or as amended, regarding public access. Further, the proposed improvements to the Garden will have a positive impact on the local and state economy by visitors. Runoff or discharge generated by the proposed project will be handled by on-site drainage improvements meeting with the approval of the Department of Public Works. Potential adverse impacts to coastal waters from soil erosion and runoff during construction can be adequately mitigated through compliance with existing construction regulations. The location of the project area from coastal areas coupled with the provision of on-site drainage improvements and compliance with existing governmental regulations to control runoff, drainage and erosion would mitigate any adverse impact to the area's environment or the ecology of the area's coastal waters.

The proposed project within the Special Management Area is consistent with the General Plan and Zoning Code. The approval of the request would conform to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map which designates the area for

Agricultural uses and the County Zoning Code which designates the properties as Agricultural (A-1a) and Open. The proposed development is consistent with the following goals, policies and standards of the Land Use, Economic and Natural Beauty Elements of the General Plan:

- \* 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 development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- \* The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- \* The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.
- \* Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- \* Maximize opportunities for present and future generations to appreciate and enjoy natural and scenic beauty.
- \* Increase public pedestrian access opportunities to scenic places and vistas.

Finally, as portions of the subject properties are located within the State Land Use Conservation District, additional review will be conducted by the Department of Land and Natural Resources through the issuance of a CDUP.

Based on the above, the proposed project will not have any substantial adverse impacts to the subject or surrounding area and, therefore, will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, the General Plan and Zoning Code of the County of Hawaii.

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, 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. The applicant shall comply with all conditions of the CDUP issued by the State Department of Land and Natural Resources regarding the subject improvements.
4. The applicant shall comply with the Mediation Agreement on Onomea Public Access, effective October 27, 1995, or as amended.
5. All proposed improvements, with the exception of landscaping and footpaths, shall be completed within five (5) years from the effective date of this approval. Prior to the start of any construction, Final Plan Approval for all improvements shall be secured from the Planning Director. Plans shall identify existing and proposed structures and improvements--including trails, shelters and detailed information on fencing; fire protection measures; driveways and parking stalls; appropriate signage; landscaping and sign distance easements associated with the proposed uses. Final Plan Approval shall also be secured for all future long-term improvements, providing detailed information on their locations, materials to be used and size, prior to the start of any construction activities.
6. During the construction phases of the project, the applicant shall 1) schedule site work during a period of minimal rainfall; 2) replant or cover lands denuded of vegetation as quickly as possible; and 3) prevent construction materials, petroleum products and debris from falling, blowing or leaching in to the aquatic environment.
7. The applicant shall comply with the Department of Land and Natural Resources requirements in regards to the existing diversion dams.
8. Upon the opening of the new entrance gate, the Onomea Public Access Trail shall be restricted to pedestrian traffic only and shall not be used by HTBG to transport visitors in vans to the Gardens.
9. All grading shall meet with the approval of the Department of Public Works.
10. Right-of-way data along the Old Mamalahoa Highway, along the project site frontage, shall be submitted for review and approval by the Department of Public Works prior to securing Final Plan Approval.
11. A Flood Study and Drainage Report shall be completed, meeting with the approval of the Department of Public Works prior to securing Final Plan Approval for the development.
12. A Sight Distance Study shall be submitted for review and approval by the Department of Public Works prior to securing Final Plan Approval.
13. All sight distance easements as identified and approved by the Department of Public Works shall be maintained by the applicant.
14. The applicant shall install streetlights/signs/pavement markings at entrances and exits as required by the Traffic Division, Department of Pubic Works prior to the opening of the new entrance gate.

15. The applicant shall work with the Pacific Islands Science Center, in developing a Monitoring Plan in regards to the *Megalagrion xantomelas* (Damselfly) and the impact of HTBG's current mosquito abatement program on this insect species.
16. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
17. Archaeological inventory surveys and appropriate mitigation for the future long-term improvements shall be completed for review and approval by the Department of Land and Natural Resources (DLNR) prior to the start of any construction.
18. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
19. An annual progress report shall be submitted on the anniversary date of the permit until all conditions have been complied with, in writing, to the Planning Director.
20. An initial 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 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).

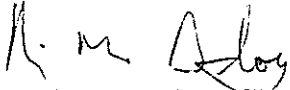
Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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.

Sandra Pechter Schutte, Esq.  
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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  
Office of State Planning, CZM Program  
Department of Land and Natural Resources  
Mr. Daniel J. Lutkenhouse