

Planning Department

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

Bernard K. Akana
Mayor

Duane Kanuha
Director

William L. Moore
Deputy Director

January 9, 1990

CERTIFIED MAIL

Mr. Patrick M. Cunningham
78-142 Holua Road
Keauhou, HI 96739

Dear Mr. Cunningham:

SPECIAL MANAGEMENT AREA (SMA) MINOR USE PERMIT NO. 90-1
Applicant: Patrick M. Cunningham, dba Hawaiiana Enterprises
Tax Map Key: 7-8-12:98

Upon careful review of your SMA Use Permit request, we have found that it complies with the requirements for a Minor Permit set forth in Rule 9.7 of the Planning Commission's Rules and Regulations Relating to Special Management Area.

Accordingly, please find enclosed an SMA Minor Use Permit No. 90-1 to allow the site preparation for and establishment of a boat rental business on the 47,004 square foot (1.079 acre) lot which he leases from the Kamehameha Investment Corporation. The land involved is located about 500 feet southwest of Keauhou Small Boat Harbor and a little over 100 feet from the shoreline on the south side of Keauhou Bay near the intersection of Ehukai Street and Kaleopapa Road, Keauhou, South Kona, Hawaii, TMK: 7-8-12:98.

Please note that the permit approval is also subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. The applicant shall comply with all other applicable laws, rules, regulations, and requirements.
3. The applicant shall obtain Plan Approval from the Planning Department before commencing any site preparation or construction activities.
4. The applicant shall refrain from grading and grubbing the northern portion of the parcel containing the wall segments described in the archaeological report.

Mr. Patrick M. Cunningham
January 9, 1990
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5. Should any unanticipated archaeological or historic features be encountered or uncovered during the construction activities, work in the affected area shall cease immediately and the Planning Department be notified. Work shall not resume until clearance has been obtained from the Planning Department.
6. Should any unanticipated burials be encountered or uncovered, work in the affected area shall cease immediately and the Department of Land and Natural Resources, Historic Sites Section, be notified. Work shall not resume until a clearance has been obtained from the Historic Sites Section.
7. The applicant shall complete the construction within one year.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) 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; 2) granting of the time extension would not be contrary to the general plan or zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and 4) 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 you have any questions regarding the above, please do not hesitate to contact this department at 961-8288.

Sincerely,



DUANE KANUHA
Planning Director

BRW:aeb

Enclosures

cc: Kona Office, w/Background & Recommendation
✓SMA Section, w/Background & Recommendation

PLANNING DEPARTMENT - PLANNING COMMISSION
COUNTY OF HAWAII
Hilo, Hawaii

PERMIT NO. 90-1

SPECIAL MANAGEMENT AREA MINOR USE PERMIT

The Planning Director completed on January 5, 1990, an assessment on
Patrick M. Cunningham,
the application of dba Hawaiiana Enterprises for a Special

Management Area (SMA) Minor Use Permit pursuant to Section 9.7.C., Rule 9 of the
Planning Commission Rules Relating to Administrative Procedures, as amended. The

permit request is for: to allow the site preparation for and establishment of a
boat rental business on the 47,004 square foot (1.079 acre) lot which he
leases from the Kamehameha Investment Corporation. The land involved is
located about 500 feet southwest of Keauhou Small Boat Harbor and a little
over 100 feet from the shoreline on the south side of Keauhou Bay near the
intersection of Ehukai St. and Kalecpapa Rd., Keauhou, S.Kona, HI TRK 7-8-12

As indicated on the attached report, the Director finds that the proposed

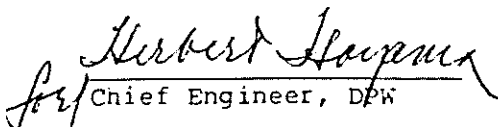

98.

development is:

- 1) not in excess of \$65,000; and
- 2) will not significantly affect the SMA.

Therefore, with concurrence of the Chief Engineer, the Director hereby grants
to the applicant a minor use permit under the authority vested in him by
Section 9.7.C of said Rules, with the following condition(s) that:

SEE ATTACHED CONDITIONS


for Chief Engineer, DPW

Planning Director

Attachment

6257A-5/84

SMA Minor 90-1

PATRICK M. CUNNINGHAM, dba HAWAIIANA ENTERPRISES

Conditions

1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. The applicant shall comply with all other applicable laws, rules, regulations, and requirements.
3. The applicant shall obtain Plan Approval from the Planning Department before commencing any site preparation or construction activities.
4. The applicant shall refrain from grading and grubbing the northern portion of the parcel containing the wall segments described in the archaeological report.
5. Should any unanticipated archaeological or historic features be encountered or uncovered during the construction activities, work in the affected area shall cease immediately and the Planning Department be notified. Work shall not resume until clearance has been obtained from the Planning Department.
6. Should any unanticipated burials be encountered or uncovered, work in the affected area shall cease immediately and the Department of Land and Natural Resources, Historic Sites Section, be notified. Work shall not resume until a clearance has been obtained from the Historic Sites Section.
7. The applicant shall complete the construction within one year.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) 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; 2) granting of the time extension would not be contrary to the general plan or zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and 4) 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).

2857Q; 1/5/90

BACKGROUND (SMA 90-1)

The applicant, Patrick M. Cunningham, dba Hawaiiana Enterprises, is requesting a Special Management Area (SMA) Use Permit to allow the site preparation for and establishment of a boat rental business on the 47,004 square foot (1.079 acre) lot which he leases from the Kamehameha Investment Corporation. The land involved is located about 500 feet southwest of Keauhou Small Boat Harbor and a little over 100 feet from the shoreline on the south side of Keauhou Bay near the intersection of Ehukai Street and Kaleopapa Road, Keauhou, South Kona, Hawaii, TMK: 7-8-12: 98.

The applicant proposes to grade less than half the lot, and on this portion to improve the driveway, to construct a 24 x 60 foot boat hale and a 12 x 20 foot office structure, to prepare parking for 8-10 vehicles, to erect 3 stone wall segments and a gate, a bamboo fence, and to do landscaping around these improvements. The plans for two buildings and fence feature bamboo and thatch-type roof construction. The cost of the construction is estimated to be about \$5,000.

These facilities will be used to house and rent up to 6 small boats during daylight hours. The boats, when not in the water, will be stored on trailers for ease of transport to the adjacent boat harbor for launch and recovery by the renters. Between such times, they will be housed under the boat hale roof. Access to the site is from Alii Drive via Kaleopapa Road.

The State Land Use Classification for the project site is Urban. The General Plan Land Use Pattern Allocation Guide (LUPAG)

Map designates the area for resort use. The County zoning for the area is Resort-Hotel (VH-1.75). Nearby properties are zoned for Residential, Open, and Resort-Hotel uses. These properties are used for residential, apartment, resort hotel, resort-related businesses and resort-related recreational uses.

The proposed boat rental use has been approved by the landowner and lessor and has been determined by the Planning Director to be permitted under Section 25-168(a)(8) of the Zoning Code.

The applicant had an archaeological field inspection survey performed recently. The survey report noted the existence of several wall segments in the far north part of the parcel, and determined them to be of modern origin and that any information content from them to have been collected by the survey. While not precisely mapped, the wall segments are along the edge of the property farthest from the portion to be developed.

The approximately half-acre of land to be cleared is gently undulating pahoe-hoe lava flow bearing little to no soil according to the aforementioned archaeological report. The same source also described the current vegetation to be "sparse to moderately dense and consists primarily of koa-haole" (Leucaena leucocephala), uhaloa (Waltheria americana), opiuma (Pithecellobium dulce), bougainvillea (Bougainvillea sp.) and various grasses and introduced ornamentals.

The Flood Insurance Rate Map (FIRM), prepared by the Federal Emergency Management Agency (FEMA), designates the subject site to be in Zone AE, a Special Flood Hazard Area inundated by the 100-year flood, and to have a Base Flood Elevation of 14 feet.

No rare or endangered flora and fauna are known to exist on the property nor are there any sites of historic significance as depicted in the National or State Register of Historic Places situated on the property.

The total cost of the proposal is approximately \$50,000.

RECOMMENDATION

An SMA Minor Use Permit is issued based on the following findings:

1. The total valuation of the proposal will not exceed \$65,000; and
2. The proposal will not result in a significant adverse effect on the Special Management Area.

The proposed project is consistent with the Special Management Area objectives, policies, and guidelines. These were established to provide guidance for the preservation, protection and development of the coastal resources of the State and County. The guidelines identify several areas of management concerns including recreational, historic, and scenic and open space resources, coastal ecosystems, economic uses, and coastal hazards.

Since no structures are proposed and due to the limited nature of the project proposal and since the shoreline setback area will be staked with only hand clearing activities in this area, no adverse impacts are anticipated on these management concerns.

The grubbing activity is consistent with the Industrial designation of the General Plan as well as the Resort-Hotel zoning.

Based on the foregoing, it is determined that the granting of the request will not create a significant adverse effect on the environment 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 Hawaii County Zoning Code; or the General Plan.

A Special Management Area Minor Use Permit is approved subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. Secure a grubbing permit from the Department of Public Works, Engineering and Surveys Division, within 6 months of the effective date of this SMA Minor Use Permit.
3. A minimum 40-foot setback shall be staked out from the edge of any pond and/or shoreline prior to commencement of any grubbing.
4. Only hand clearing/cutting is to take place within the 40-foot setback area.
5. The U.S. Army Corps of Engineers must be contacted should any work be proposed within the ponds or open ocean.
6. Commence grubbing activities within 30 days from receipt of the grubbing permit and be completed within 60 days thereafter.
7. Comply with all other applicable laws, rules, regulations, and requirements.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning

Director upon the following circumstances: 1) 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; 2) granting of the time extension would not be contrary to the general plan or zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and 4) 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.