

July 16, 1997

Mr. Vince Anna Fraser  
c/o Ms. Candace A. Applegate  
P.O. Box 1674  
Honokaa, HI 96727

Dear Ms. Applegate:

Special Management Area Use Permit Assessment Application No. 97-29  
Special Management Area Minor Use Permit No. 61  
Applicant: Candace A. Applegate for Vince Anna Fraser  
Request: To Allow the Clearing of Vegetation of Subject Property Utilizing  
Heavy Equipment  
TMK: 8-2-07: 4; Kalamawaiawaawa, South Kona, Hawaii

We are in receipt of the above-described application on June 12, 1997, to allow the use of heavy equipment in the removal of over-grown vegetation from within the subject property. The proposed mechanical removal of vegetation will not exceed \$125,000 in valuation. It has been determined that the proposed mechanical grubbing and clearing of the subject property will not have a significant adverse impact to coastal resources. Therefore, we are hereby issuing Special Management Area (SMA) Use Permit No. 61 to allow the clearing and grubbing of the subject property with heavy equipment, for the reasons as detailed below:

**APPLICANT'S REQUEST**

1. **Request:** Use of heavy equipment to clear overgrown exotic and non-native vegetation from within subject property to improve appearance and be more in keeping with the appearance of the rest of the subdivision.

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2. **Valuation:** The cost of the proposed activity has not yet been determined.

#### **STATE AND COUNTY PLANS**

3. **Land Use Designations:** The project site is situated within the State Land Use Urban District. The County General Plan designates the affected area for Medium Density Urban uses. Zoning for the property is Single Family Residential-15,000 square feet (RS-15).
4. **SMA:** The project site is situated within the County's Special Management Area. Therefore, this SMA Minor Use Permit is being issued in satisfaction of Planning Commission Rule No. 9 regarding the Special Management Area.

#### **DESCRIPTION OF PROPERTY AND SURROUNDING AREA**

5. **Location:** The property, consisting of approximately 7,394 square feet, is located on the mauka side of Puuhonoua Road approximately 300 feet from the Puuhonoua Road-Napoopoo Beach Road intersection and approximately 500 feet from the nearest shoreline.
6. **Physical Properties:** The project site is vacant of any use and heavily overgrown with exotic and non-native vegetation. The Soil Survey Report classifies soils within the project site as consisting of Aa lava flow. The project site, which shows evidence of being extensively graded in the past, is not anticipated to be an essential habitat for any endangered species of plants or animals.
7. **FIRM:** The Flood Insurance Rate Maps (FIRM) designates the project site as being located within an area outside of the 500-year flood plain (Zone X).
8. **Archaeological Resources:** An archaeological site inspection of the subject property was conducted by Mr. Marc Smith of the Department of Land and Natural Resources (DLNR) on April 15, 1997. Mr. Smith's letter report dated May 1, 1997 indicates that the property was grubbed and graded in the past. However, he did locate portions of a dry stacked basalt stone wall which encloses most of the property. A mauka-makai trail is also evident along the property's northern boundary. The DLNR report recommends that a 10-foot (3 meter) wide buffer be established from the dry stacked stone walls to ensure it continued preservation from grubbing activities.

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A July 16, 1997, conversation between Marc Smith and staff planner Daryn Arai confirmed the appropriateness of the required buffer for mechanical grubbing activities.

### **ASSESSMENT**

The purpose of Chapter 205A-HRS, and Planning Commission Rule No. 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 island's coastal zone areas. Special controls on development within these areas have been enacted to prevent permanent loss of valuable resources. Upon review of the subject request, the Planning Director finds that the proposed mechanical grubbing activities are consistent with the State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed activity will not interfere with recreational uses of the coastal area due to its location approximately 500 feet from the shoreline. The subject property is over-grown with local vegetation such as kiawe, opiuma, bougainvillea and Guinea grass and has not provided for any recreational opportunities. Therefore, approval of the proposed activity will have no effect on existing recreational resources within the area, which are centralized along shoreline areas far removed from the subject property.
- b) **Historical and Natural Resources:** An archaeological site inspection located dry-stacked stone walls along portions of the property's boundaries. The stone wall may be significant for its information content. The inspection report recommended that if a 10-meter (3-foot) is established from the stone walls, the Department of Land and Natural Resources would find that the proposed clearing and grubbing activity will have "no adverse effect on significant historic sites." The establishment of the recommended buffer zones will be incorporated with this permit as a condition of approval.
- c) **Scenic and Open Space Resources:** The subject property is not specified as an example of natural beauty by the Hawaii County General Plan. The proposed activity will not have any adverse effect upon the County's open space and scenic resources. The clearing of the overgrown vegetation may actually improve the area's open space and scenic characteristics.

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- d) **Coastal Ecosystems:** At a distance of approximately 500 feet, the proposed mechanical grubbing activities will not adversely impact the coastal ecosystem situated within Kealakekua Bay. No extensive grading activities are being proposed, so excessive runoff is not anticipated.
- e) **Economic Uses:** Approval of the proposed activity will have no short-term economic impacts to coastal resources. However, long term protection of the coastal environment can be viewed as having a positive economic impact; especially when recognizing the popularity of Kealakekua Bay as a visitor destination.
- f) **Coastal Hazard:** The subject property is located within an area outside of the 500-year flood plain (Zone X) and is not recognized as an area affected by coastal flooding hazards.

#### **DETERMINATION**

Based on the preceding assessment, the Planning Director has determined that approval of the proposed activity would not be contrary to the State and County policies governing the Special Management Area. The Planning Director hereby approves Special Management Area Minor Use Permit No. 61, **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 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. Prior to commencing grubbing or land alteration activities within the subject property, the landowner shall erect high-visibility construction fencing a minimum of 3 meters (10 feet) from the dry-stacked stone walls surrounding the subject property. No grubbing, by hand or mechanically, or other land alteration activities will be permitted within this 3 meter buffer zone. Grubbing activities within the subject property shall commence only upon receiving written clearance from the Planning Department that the 3 meter wide buffer zone has been properly erected. The 3-meter buffer zone and its construction fencing shall remain in place until all grubbing activities have been completed.

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4. Grubbed material from the subject property site shall be removed from the project site in a timely and proper manner, but not to exceed two years from the date of this permit.
5. The proposed activity shall be completed within two years from the date of the approval of this permit.
6. 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 Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
7. An 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 original reasons for the granting of the permit; and
  - c) 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).
8. 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.

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Should you have any questions, please do not hesitate to contact staff planner Daryn Arai at 961-8288.

Sincerely,

VIRGINIA GOLDSTEIN  
Planning Director

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xc: Ms. Donna Fay Kiyosaki, Chief Engineer  
Mr. Marc Smith, DLNR (Hilo)  
SMA Section  
West Hawaii Office