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PLANNING DEPARTMENT

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December 22, 2016

Mr. David S. De Luz Jr.
811 Kanoelehua Avenue
Hilo, HI 96720

Dear Mr. De Luz:

SUBJECT: Special Management Area Minor Use Permit (SMM 159)
Project: Vegetation Removal
TMK(s): (3) 2-2-030:017 & 019; Waiākea, South Hilo, Hawai'i

This is in response to your Special Management Area (SMA) Use Permit Assessment Application that was received on November 22, 2016, for the cutting of grasses, shrubs, and trees on the subject properties. There will be no ground disturbance and cut material will be left in place, chipped, or disposed of at the Hilo green waste facility.

Special Management Area Determination:
On May 24, 2004, SMA Minor Permit No. 159 (SMM 159) was approved to allow for after-the-fact land clearing activities that included the cutting down and removal of nearly all trees and underbrush on the parcel 17. On August 8, 2006, our office included the periodic pruning and mowing of the existing vegetation to the SMM 159 permit approval. According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e) (1) (B), "*Grading, removing, dredging, mining, or extraction of any materials*" is not exempt from the definition of "development." Therefore, the removal of vegetation requires a review against the Special Management Area rules and regulations.

The total development cost of $49,164 does not exceed the $500,000 valuation threshold for SMA Minor Permits. In addition, the proposed vegetation removal will not have any significant adverse environmental or ecological effect. For these reasons and pursuant to Planning Commission Rule Section 9-10(E), SMM 159 is hereby amended to include vegetation removal and periodic maintenance on parcel 19.

DEC 22 2016

As a reminder, the applicant, its successors or assigns shall be responsible for complying with all stated conditions of SMM 159.

If you have any questions, please feel free to contact Bethany Morrison of this department at (808) 961-8138.

Sincerely,

for MICHAEL YEE
Planning Director

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Enclosures: SMM 159, amended

cc w/Encls.: Planning Division

cc ltr. only: Mr. Leo Asuncion, Director
Office of Planning, DBEDT
State of Hawai'i Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

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Special Management Area Minor Permit No. 159 (Amended)

Project: **After-the-Fact Land Clearing**
Applicant: **Ka'iulani 4, LLC**
Owners: **Waiākea L6 Project, LP**
Location: **Waiākea, South Hilo, Hawai'i, Island of Hawai'i**
TMK: **(3) 2-2-030:017 & 019** **Land Area: 6.2313 acres**

Applicant's Request

1. **Project Description:**

   The after-the-fact activities include cutting down and removal of trees and underbrush. Ongoing trimming of grass and shrubs

2. **Purpose of Project:**

   To remove potential liability hazards due to tree branches overhanging public rights-of-way and neighboring properties and to facilitate better management of the property.

3. **Project Valuation:** $49,164.00+.

4. **Determination:**

   According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(ii) relating to the Special Management Area, the grading, removing, dredging, mining, or extraction of any materials is defined as "development." Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use Commission.

2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the project site as High Density Urban. This allows for commercial, multiple residential and related services (general and office commercial; multiple residential-up to 87 units per acre).

3. **County Zoning:** The subject property is zoned Resort-Hotel (V-.75) and General Commercial (CG-7.5) by the County.

4. **Special Management Area:** The subject property is located in the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located in an area designated as Zone X, which is outside the 500-year floodplain.

Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area

The project site is not a shoreline property. Therefore, the proposed improvements will not affect the shoreline recreational resources available to 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 Hawai'i 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, Environmental Impact Statements.

Findings

As discussed above, the proposed 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.

The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately $49,164 plus costs for periodic maintenance is not in excess of $500,000.

The Department of Public Works – Engineering Division (DPW-ED) has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawai'i County Code and has no objections. A copy of the DPW-ED comments memo is enclosed.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 159, as amended,** is hereby approved to allow the after-the-fact land clearing activities on the subject property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 159, as amended, subject to the following conditions:**

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.

2. Applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. This permit allows for the routine maintenance of the existing vegetation, such as grass cutting and trimming of shrubs on the subject property. Any further development on the subject property including but not limited to new landscaping, grubbing, grading or excavation shall require further review under the SMA guidelines.
4. 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 he finds that sufficient mitigative measures have been taken.
5. The applicant shall comply with all applicable requirements of the State of Hawai'i-Department of Health and the Hawai'i County-Department of Public Works and applicable requirements of other affected agencies.

APPROVED:

for MICHAEL YEE
Planning Director

12-22-16
Date