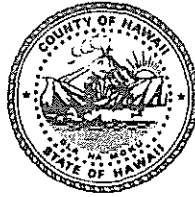


Harry Kim
Mayor



County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

April 6, 2006

Mr. Dallas and Mrs. Beverly Jackson
P.O. Box 1517
Pahoa, Hawaii 96778

Dear Mr. and Mrs. Jackson:

**SUBJECT: Special Management Area Use Permit Assessment Application
No. 06-000133 (SAA 06-133)
Special Management Area Minor Permit No. 06-000026 (SMM 06-26)
Notice of Violation and Order (ZCV 06-114E)
Special Management Area (SMA) Violation (SMA/V 06-03)
Complaint: Clearing and Grubbing of Lot in the Special
Management Area (SMA)
Tax Map Key: 1-4-069: 014, Vacationland Hawaii, Puna, Hawaii**

This is to acknowledge receipt of your check #607 in the amount of \$300.00, which we received on March 22, 2006, in payment of the civil fine assessed by Corrective Action No. 5 in ZCV 06-114E as amended by our letter dated March 14, 2006. Please find Receipt #9764 enclosed. We further acknowledge your compliance with the Corrective Actions stipulated in ZCV 06-114E and SMA/V 06-03.

By this letter we are also transmitting the enclosed Special Management Area Minor Permit No. 06-000026 (SMM 06-26) to allow for the after-the-fact and proposed land clearing and landscaping activities on the subject property.

You were cited for "Clearing and Grubbing" within the Special Management Area (SMA) without proper approvals issued by the Planning Department" in our Notice of Violation and Order dated February 16, 2006. This Notice of Violation and Order required you to pay a civil fine of \$3,000 for the violation that occurred on the subject property and situated within the Special Management Area (SMA). You were further required to submit an "After-the-fact" SMA Use Permit Assessment Application to this office by March 22, 2006.

Mr. Dallas and Mrs. Beverly Jackson
Page 2
April 7, 2006

By your letter dated March 3, 2006 you explained that all clearing activities had been conducted by hand and that no grubbing was done. You also requested a waiver or reduction in the amount of the civil fine assessed in ZCV 06-114E.

By our letter dated March 14, 2006 we acknowledged receipt of SAA 06-126 and agreed to reduce the amount of the civil fine from \$3,000.00 to \$300.00.

On March 22, 2006 we received your check #607 in the amount of \$300.00 in payment of the civil fine assessed in ZCV 06-114E.

As of the date of this letter, SMM 06-26 was issued to allow for the after-the-fact clearing and landscaping activities cited in ZCV 06-114E and the proposed additional clearing and landscaping activities.

Based on all of the above, and your immediate compliance with our requests, this Zoning Code Violation and Special Management Area (SMA) Violation file is closed.

Please be advised that in the future, if you violate Chapter 25 in the same manner as stated above, the violation will be considered as recurring and will be subject to an immediate fine, up to a maximum of \$10,000.00 per violation. In addition, a daily fine may be imposed.

Thank you for your cooperation in these matters. If you have any questions, please feel free to contact CZM Planner Larry Brown at 961-8288, extension 258.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:cd

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Encl: SMM 06-26
Receipt #9764

cc: CZM Section
Planning Commission
Corporation Counsel
Larry Brown, CZM Planner
Robert Usagawa, Zoning Inspector

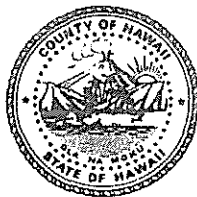
Mr. Dallas and Mrs. Beverly Jackson
Page 3
April 7, 2006

cc:

Regulatory Branch
U.S. Army Engineer District, Honolulu
Attention: Ms. Lolly Silva
Building 230
Fort Shafter, HI 96858

Division of Conservation and Resource Enforcement
DOCARE/DLNR
Attention: Officer Weller
35 Holomua Street
Hilo, HI 96720

Harry Kim
Mayor



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Director

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PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 06-000026

Project: After-the-Fact Clearing and Landscaping
Applicants: Dallas and Beverly Jackson
Land Owners: Dallas and Beverly Jackson
Location: Vacationland Hawaii, Kapoho, Puna, Hawaii
TMK: (3) 1-4-069:014

Applicant's Request

1. Project Description:

After-the-fact hand clearing of brush, trees and rubbish. Anticipated ongoing uses, activities and operations include additional hand clearing of brush and the planting of palm seedlings, lawn areas, fruit trees and ongoing landscaping maintenance. No work will be conducted within the perimeter of the one anchialine pond situated on the subject property.

2. Purpose of Project:

The purpose of the project is to create a landscaped yard to be used in connection with the owner's single-family dwelling situated on the adjacent Parcel 13.

3. Project Valuation: \$0.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(i) and (ii), relating to the Special Management Area, "development" includes the placement of any solid material or the grading, removing, dredging, mining, or extraction of any materials. This includes the placement of fill material or planting of vegetation and the removal of vegetation, soil or rock within the SMA.

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 (SLU) Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property for low-density urban uses.
3. **County Zoning:** The subject property is zoned Single-Family Residential (RS-10) by the County of Hawaii.
4. **Special Management Area:** The subject property is located in the SMA.

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

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 Hawaii 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, regarding 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The applicant does not anticipate the expenditure of any monies in connection with the proposed project as they will perform all clearing and landscaping themselves by hand and that plantings will be from seedlings started from plants on their adjacent property. Therefore, the estimated valuation of the after-the-fact and proposed project is not in excess of \$125,000.

The Department of Public Works – Engineering Division has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawaii County Code and has submitted the following comments, dated March 22, 2006, regarding the subject SMAA.

"We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated March 14, 2006 and have no objections to the request.

The majority of the subject parcel is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.

A portion of the parcel, approximately 20 to 30 feet inland from Kapoho Kai Drive, is located within Flood Zone AE - the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined.

Questions may be referred to Kelly Gomes of our Engineering Division at ext. 8327."


Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 06-000026** is hereby approved to allow for the after-the-fact hand clearing and landscaping activities identified in the Notice of Violation No. 06-114E (ZCV 06-114E), additional non-land altering clearing and landscaping plantings, and for the ongoing maintenance of landscaping improvements.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 06-000026** 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 comply with all applicable requirements of all State and County of Hawaii and Federal departments and agencies.
3. Prior to the application of any pesticide or herbicides, the applicant shall consult with the State Department of Health regarding any regulations and/or permits applicable to the proposed activities.
4. This permit does not allow for the construction or placement of any structures or for any excavation, grading or filling on the subject property.
5. No use of mechanized heavy equipment, such as bulldozers, backhoes, tractors, trucks, etc, shall be permitted without a prior review under the SMA guidelines.
6. The applicant shall complete the corrective actions specified in ZCV 06-114E as amended in our letter dated February 16, 2006.
7. Should any of the conditions not be met the Planning Director shall initiate procedures to revoke the permit.

APPROVED:


CHRISTOPHER J. YUEN
Planning Director

APR 11 2006
APR 11 2006
Date