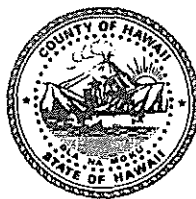


Debbie

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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

April 21, 2006

Mr. Richard J. Shea, President
Vacationland Hawaii Community Association
RR2 Box 4008
Pahoa, Hawaii 96778

Dear Mr. Shea:

**Special Management Area Use Permit Assessment Application No. 06-000126
(SAA 06-126)**

Special Management Area Minor Permit No. 06-000029 (SMM 06-29)

**Determination of Minor Structure or Minor Activity in the Shoreline Setback
Area**

Applicant: Vacationland Hawaii Community Association (VHCA)

Land Owner: Vacationland Hawaii Community Association

**Project: Traffic Safety and Landscaping Improvements within the
Private Subdivision Roadways**

TMK: (3) 1-4-067:040 Vacationland Hawaii, Kapoho, Puna, Hawaii

By this letter we acknowledge receipt of the subject Special Management Area Use Permit Assessment application (SAA 06-126) and issue our determination that a Special Management Area Minor (SMM) Permit is required for the proposed project. We also acknowledge receipt of and thank you for the additional information transmitted by the previous VHCA President's (Kirk Flanders) letter dated March 6, 2006. The approved SMM Permit No. 06-29 is enclosed.

From the application submittals, we understand that the proposed uses, activities and operations within the private subdivision roadways are intended to mitigate the impact of heavy visitor traffic on the neighborhood as well as the coastal ecosystem, and to improve the safety of visitors and residents. It is anticipated that the proposed roadway alterations and landscaping, which are listed in detail in the Project Description portion of SMM 06-29, will provide a welcoming and orderly environment to facilitate visitor parking and access to the aesthetic and recreational resources of this coastal area, which have been long enjoyed by the residents and the public.

Mr. Richard J. Shea, President
Vacationland Hawaii Community Association
Page 2
April 21, 2006

By its letter (enclosed) dated April 7, 2006 the Department of Land and Natural Resources - Office of Conservation and Coastal Lands (DLNR-OCCL) has expressed no objections to the proposed project and does not wish to exercise jurisdictional authority over any portions of the private road right-of-way that may be subject to tidal flooding. Therefore, in lieu of a Certified Shoreline Survey, and **for the purposes of this project only**, we have determined that the shoreline setback area shall be that area 40 feet inland from the makai edge of the Wai'opae Road right-of-way between TMK parcels 1-4-68:20 and 1-4-67:12.

Since this shoreline area is predominately made up of pahoehoe lava rock the proposed roadway improvements along Wai'opae Road are not anticipated to affect beach processes or to artificially fix the shoreline.

Rule 11 of the Planning Department Rules of Practice and Procedure (PD Rules) deals with structures and activities within the shoreline setback area. Pursuant to §11-7(a)(4), a minor structure or activity approved in accordance with §11-8 may be permitted within the shoreline setback area. The Planning Department may determine that a proposed structure or activity is a minor structure or activity if it would not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline.

Therefore, we have determined that proposed roadway improvements within the shoreline setback area as described above are minor activities as provided for under Rule 11, PD Rules and are permitted provided the applicant remains in compliance with the conditions of SMM 06-29.

Should you have questions, please feel welcome to call Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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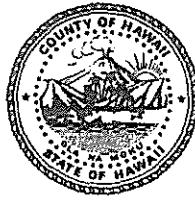
Encl: SMM 06-29
DLNR-OCCL letter dated 4/7/06
USACE letter dated 4/5/06

xc w/encl: Long Range Planning - Ms. Deborah Chang
Planning Commission
DLNR-OCCL
U.S. Army Corps of Engineers

Mr. Richard J. Shea, President
Vacationland Hawaii Community Association
Page 2
April 21, 2006

xc w/encl: Mr. Dennis Hwang
Reinwald O'Connor & Playdon, LLP
P.O. Box 3199
Honolulu, Hawaii 96801-3199

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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

Special Management Area Minor Permit No. 06-000029

Project: Traffic and Parking Controls and Related Improvements
within the Subdivision Roadways
Applicants: Vacationland Hawaii Community Association
Land Owners: Vacationland Hawaii Community Association
Location: Vacationland Hawaii, Kapoho, Puna, Hawaii
TMK: (3) 1-4-067:040

Applicant's Request

1. Project Description:

Elements of the overall project being proposed that will be sited within the SMA shall be the subject of this permit and include the following:

- a) An existing guard shack on the south side of Kapoho Kai Drive at the subdivision entrance will remain and be used to store civil defense sawhorses for road closures due to flooding.
- b) An existing bulletin board will be relocated near the guard shack and secured to new concrete pier pads. The bulletin board will include a kiosk to provide parking and tide pool information to the public.
- c) New signage will be installed to indicate that the reef (tide pool) parking area will be available to the public between 7:00 a.m. to 7:00 p.m. only and that vehicles will be subject to towing after 7:00 p.m. Vacationland Hawaii Community Association (VHCA) will allow occasional nighttime access for important Hawaiian cultural events such as coral spawning.
- d) An existing bus stop shelter that may be in the SMA will be relocated to the south side of Kapoho Kai Drive across from Kikiao Road outside the SMA.
- e) Signage to be installed on Waio'pae Road in the vicinity of Kapoho Kai Drive to identify parking for six visitor vehicles that will facilitate access to the tide pools via the foot trail off the south end of Kapoho Kai Drive.

- f) Landscaping of the shoulder of Wai`opae Road from Kapoho Kai Drive to the end of the currently paved portion of Wai`opae Road with rows of Naupaka or other suitable shrubbery desired by adjacent lot owners to inhibit visitor parking. Signage and/or road markings will also be installed prohibiting parking along this stretch of roadway. Speed bumps will also be installed along this section of the roadway.
- g) Visitor parking for fourteen 45-degree angle stalls and one parallel ADA accessible stall will be provided along the makai side of Wai`opae Road between the end of the existing paved section of the road at TMK 1-4-68:20 and the 5-foot wide pedestrian access parcel (TMK 1-4-68:16). Signage and concrete wheel stops or curbs will be installed to identify parking area and stalls.
- h) The steel cable linking the 20 existing steel posts along the makai side of Wai`opae Road will be removed. The existing posts will be relocated as necessary within the Wai`opae Road right-of-way and additional posts will be installed such that post spacing will be at approximately 5-foot intervals, which will provide an adequate deterrent to vehicular access makai of the road.
- i) Protrusions of lava rock above the surrounding grade in the parking area described above will be broken away to provide a more smooth parking surface.
- j) Signage and road markings will be installed along the mauka side of Wai`opae Road as necessary to prohibit parking on the mauka side of the road.
- k) Signage will be installed at the 5-foot wide pedestrian access parcel (TMK 1-4-68:16) directing visitors to the tide pools.
- l) Milo trees will be planted on the makai side of Wai`opae Road opposite TMKs 1-4-68:38 & 39 to inhibit further tidal erosion. Old pavement fragments fronting these two parcels will be removed to smooth out the road surface.
- m) Naupaka or other suitable vegetation will be planted and signage installed on either side of the road where houses exist to prohibit parking along the roadway north of the tide pool access parking area to Kaheka Road.
- n) Two additional parking spaces will be located at the intersection of Wai`opae Road and Kaheka Road and at the north end of Wai`opae Road. These spaces will be designated for fishermen only and located on the mauka side of the roadway. No land altering activities will be undertaken to provide for these four additional parking stalls.
- o) In order to create a more recognizable and safer visitor parking area at the tide pools, the applicant proposes an alternative to the improvements mentioned above, which include repaving the section of Wai`opae Road from the south end of the existing pavement for a distance of approximately 210 feet, or just beyond the 5-foot wide pedestrian access (TMK 1-4-68:16).

- p) Applicant further proposes to hire a "parking warden" during times of peak public usage of the tide pools to greet visitors, encourage compliance with the parking restrictions, request an end to inappropriate behavior, and to call for towing of vehicles of egregious or repeat offenders as necessary.

2. Purpose of Project:

The purpose of the project is to improve the safety, scenic value and tranquility for visitors and residents.

3. Project Valuation: \$24,900.00

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 tsunامي, 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 estimated total expenditures for both phases of the proposed project are \$24,900.00.

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 subject roadway parcel encompasses 10.28 acres and crosses over Flood Zones AE and VE as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

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

Due to questions regarding the proper approving authority for some elements of the project, the subject application was also referred to the State Department of Land and Natural Resources - Office of Conservation and Coastal Lands (DLNR-OCCL) and the U.S. Army Corp of Engineers (USACE) for their review and comment. Copies of the DLNR-OCCL letter dated April 7, 2006 and the USACE letter dated April 5, 2006 are enclosed for your review and record.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 06-000029** is hereby approved to allow for the elements of proposed project as described in Item #1, Project Description of this permit.

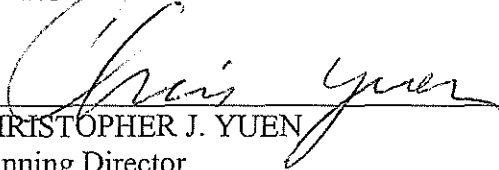
Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 06-000029** 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. The applicant shall consult with the State Department of Health regarding any regulations and/or permits applicable to the proposed activities prior to the application of any fertilizer, pesticide or herbicides along Wai`opae Road.
4. The applicant shall secure the approval of any Department of the Army permits deemed necessary the USACE-Honolulu.
5. The proposed Civil Defense gate to be installed at the entrance to the Vacationland Hawaii subdivision shall be maintained in a locked open position at all times, except during official County of Hawaii Civil Defense declared emergencies requiring evacuation of Vacationland Hawaii subdivision. Approval by the Planning Commission for a SMA Use (Major) Use Permit shall be required prior to the installation or use of any gate in the SMA to limit public pedestrian or vehicular access to the shoreline along Wai`opae Road.
6. The reconstruction/repaving of sections of Wai`opae Road, as described above shall not result in more than a 6-inch increase of the finish roadway elevation over the existing grade of the right-of-way being reconstructed or repaved without an additional review under the SMA guidelines that includes a Certified Shoreline Survey and a Coastal Study to evaluate the impacts of the proposed roadway improvement.
7. The applicant shall be responsible for the maintenance of all visitor parking facilities and signage allowed by this permit.
8. Should any of the conditions not be met the Planning Director shall initiate procedures to revoke the permit.

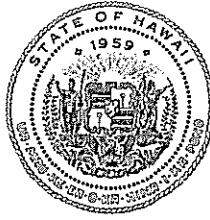
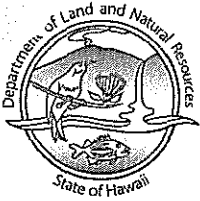
APPROVED:


CHRISTOPHER J. YUEN
Planning Director

'APR 24 2006

Date

LINDA LINGLE
GOVERNOR OF HAWAII



2006 APR 11 PM 1 19

PLANNING DEPARTMENT
COUNTY OF HAWAII

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN NAKANO
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

File No.: HA-06-219

REF.PB:SL

APR - 7 2006

Mr. Chris Yuen, Director
County of Hawaii
Department of Planning
25 Aupuni St., Room 109
Hilo, Hawaii 96720

Dear Mr. Yuen:

SUBJECT: Special Management Area Use Permit Assessment Application No. 06-000126,
Vacationland, Hawaii (TMK:1-4-67:40)

Thank you for your March 13, 2006 request for comments on the above referenced application.
We have reviewed this matter and offer the following comments.

The proposed action involves roadway and landscaping improvements within private lots at Vacationland, Kapoho, Puna, in order to address traffic and parking concerns. The applicant for the proposed action is the Vacationland Hawaii Community Association. The OCCL has no objections to the proposed actions.

Should you have questions, please call me at 587-0381.

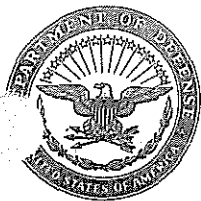
Sincerely,

A handwritten signature in black ink, appearing to read "Sam Lemmo".

Sam Lemmo, Administrator

Attachments

013243



DEPARTMENT OF THE ARMY

U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

2006 APR 10 AM 11 26

REPLY TO
ATTENTION OF

April 5, 2006

PLANNING DEPARTMENT
COUNTY OF HAWAII

Regulatory Branch

Mr. Christopher J. Yuen
Planning Director, County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Dear Mr. Yuen:

This letter is written in regards to a request for comments on the Special Management Use Permit Application No. 06-000126, Certain Roadway and Landscaping Improvements located in Vacationland Hawaii Subdivision, Kapoho, Hawaii. We have reviewed the application provided under the Corps' authority to issue Department of the Army (DA) permits pursuant to Section 404 of the Clean Water Act (CWA) (33 USC 1344) and Section 10 of the Rivers and Harbors Act (RHA) of 1899 (33 USC 403).

Based on the SMA permit assessment application (dated February 16, 2006) submitted by Mr. Kirk Flanders, President of Vacationland Hawaii Community Association, activities being conducted in Phase 1 will not require a DA permit. In Phase 2, a portion of Wai Opae Road will be extended approximately 210 feet. It appears a portion of the road was paved in the past and repaving work is being proposed. Furthermore, an additional 210 linear feet extension to the road is being considered.

A meeting was held on February 9, 2006 with Ms. Lolly Silva of my staff and Mr. and Mrs. Flanders. According to Mrs. Flanders, she has been monitoring the inundation reach of the high tides for several years and produced a drawing showing Wai Opae Road along with numerous parcels inundated at a 3.2 feet high tide. Tide charts indicate that this annual high tide event occurs approximately five times or less during a year.

Per regulations under 33 CFR Ch. II, 328.5, changing sea levels or subsidence of land may cause some areas to become waters of the United States. Subsidence of the land has been evident throughout the years and gradual changes due to natural causes have changed the boundaries of the waters in this area. Therefore any repairs to the roadway will require authorization under Section 404 of the CWA and Section 10 of the RHA.

It is recommended that the applicant contact the Corps Regulatory Branch for further permitting requirements should future plans involve repaving and/or construction of the new road.

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Should you have any questions, you may contact Ms. Silva at (808) 438-7023 or by email at laurene.l.silva@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "G. P. Young", written in a cursive style.

George P. Young, P.E.
Chief, Regulatory Branch

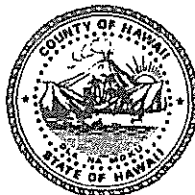
Copy furnished:

Mr. Sam Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, P.O. Box 621, Honolulu, Hawaii 96809

John Nakagawa, Department of Business, Economic Development and Tourism, Office of Planning, P.O. Box 2359, Honolulu, Hawaii 96813

Debbie

* Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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

August 4, 2006

Mr. Richard J. Shea, President
Vacationland Hawaii Community Association
RR2 Box 4008
Pahoa, Hawaii 96778

Dear Mr. Shea:

Special Management Area Minor Permit No. 06-000029 (SMM 06-29)
Determination of Minor Structure or Minor Activity in the Shoreline
Setback Area

Applicant: Vacationland Hawaii Community Association (VHCA)
Land Owner: Vacationland Hawaii Community Association
Project: Amendment to the specific uses, activities and operations
allowed by SMM 06-29

TMK: (3) 1-4-067:040 Vacationland Hawaii, Kapoho, Puna, Hawaii

We have reviewed the changes to the specific uses, activities and operations allowed by the subject Special Management Area Minor Permit No. 06-29 requested by your letter dated July 17, 2006. It is our determination that the proposed modifications to the previously approved project elements do not significantly alter the overall impact on the SMA and 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.

Therefore, SMM 06-29 is amended (copy enclosed) as of the date of this letter to allow for the requested modifications to the specific uses, activities and operations.

We understand that in addition to the previously approved activities, the VHCA proposes to cut down not more than six (6) trees with a trunk diameter 2 inches or more and placing rocks within the Kaheka Road extension makai of Wai'opae Road. The purpose of the tree cutting and rock placement is to create a foot path to the shoreline area from Wai'opae Road for fishermen and others that is less frequently flooded during periods of high tide. Although the actual location of the shoreline has not been identified in this area, the Planning Department is quite certain that at least a portion of the proposed

Mr. Richard J. Shea, President
Vacationland Hawaii Community Association
Page 2
August 4, 2006

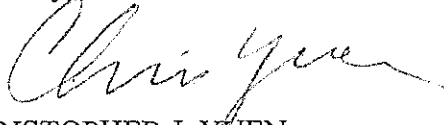
footpath alignment is likely to be situated in the Shoreline Setback Area. We further acknowledge that some or all of the proposed foot path may actually be makai of the shoreline. The VHCA should be aware that any uses, activities or operations makai of the shoreline, within areas subject to tidal flooding or within the boundaries of anchialine ponds may be subject to permitting requirements by the Department of Land and Natural Resources and the U.S. Army Corps of Engineers.

Rule 11 of the Planning Department Rules of Practice and Procedure (PD Rules) deals with structures and activities within the shoreline setback area. Pursuant to §11-7(a) (4), a minor structure or activity approved in accordance with §11-8 may be permitted within the shoreline setback area. The Planning Department may determine that a proposed structure or activity is a minor structure or activity if it would not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline.

Therefore, we have determined that in addition to the amended roadway improvements being proposed, the additional tree cutting and footpath clearing within the shoreline setback area as described in SMM 06-29, as amended, are minor activities as provided for under Rule 11, PD Rules and are permitted provided the applicant remains in compliance with the conditions of SMM 06-29, as amended.

Should you have questions, please feel welcome to call Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:ld

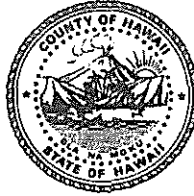
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Encl: SMM 06-29, as amended

xc w/encl: Long Range Planning - Ms. Deborah Chang
Planning Commission
DLNR-OCCL
U.S. Army Corps of Engineers

xc w/encl: Mr. Dennis Hwang
Reinwald O'Connor & Playdon, LLP
P.O. Box 3199
Honolulu, Hawaii 96801-3199

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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

Special Management Area Minor Permit No. 06-000029 (Amended)

Project: Traffic and Parking Controls and Related Improvements
within the Subdivision Roadways
Applicants: Vacationland Hawaii Community Association
Land Owners: Vacationland Hawaii Community Association
Location: Vacationland Hawaii, Kapoho, Puna, Hawaii
TMK: (3) 1-4-067:040

Applicant's Request

This permit is issued in amendment to SMM 06-29, which was approved on April 21, 2006 and provides for changes to the Project Description as specified below with the understanding that certain elements of the proposed project may be either makai of the shoreline and/or within the nearshore waters or wetlands of the United States and subject to the approval of the Board of Land and Natural Resources and/or the U.S. Army Corps of Engineers.

1. Project Description:

Elements of the overall project being proposed that will be sited within the SMA shall be the subject of this permit and include the following:

- a) An existing guard shack on the south side of Kapoho Kai Drive at the subdivision entrance will remain and be used to store civil defense sawhorses for road closures due to flooding.
- b) An existing bulletin board will be relocated near the guard shack and secured to new concrete pier pads. The bulletin board will include a kiosk to provide parking and tide pool information to the public.
- c) Two or three electric lighting poles will be put into place to light the rock wall entrance area, bulletin board/mail box area and bus shelter. A security camera will also be installed on one pole near the bulletin board/mail box area.

- d) New signage will be installed to indicate that the reef (tide pool) parking area will be available to the public between 7:00 a.m. to 7:00 p.m. only and that vehicles will be subject to towing after 7:00 p.m. Vacationland Hawaii Community Association (VHCA) will allow occasional nighttime access for important Hawaiian cultural events such as coral spawning.
- e) An existing bus stop shelter that may be in the SMA will be relocated to the south side of Kapoho Kai Drive across from Kikiao Road outside the SMA.
- f) An additional stop sign will be installed at the intersection of Kapoho Kai Road and Wai'opae Road affecting the eastbound traffic on Wai'opae Road traveling towards the tide pools.
- g) Signage to be installed on Waio'pae Road in the vicinity of Kapoho Kai Drive to identify parking for six visitor vehicles that will facilitate access to the tide pools via the foot trail off the south end of Kapoho Kai Drive.
- h) Landscaping of the shoulder of Wai'opae Road from Kapoho Kai Drive to the end of the currently paved portion of Wai'opae Road with rows of Naupaka or other suitable shrubbery desired by adjacent lot owners to inhibit visitor parking. Signage and/or road markings will also be installed prohibiting parking along this stretch of roadway. Speed bumps will also be installed along this section of the roadway.
- i) Visitor parking for fourteen 45-degree angle stalls and one parallel ADA accessible stall will be provided along the makai side of Wai'opae Road between the end of the existing paved section of the road at TMK 1-4-68:20 and the 5-foot wide pedestrian access parcel (TMK 1-4-68:16). Signage and concrete wheel stops or curbs will be installed to identify parking area and stalls.
- j) The steel cable linking the 20 existing steel posts along the makai side of Wai'opae Road will be removed. The existing posts will be relocated as necessary within the Wai'opae Road right-of-way and additional posts will be installed such that post spacing will be at approximately 5-foot intervals, which will provide an adequate deterrent to vehicular access makai of the road.
- k) Protrusions of lava rock above the surrounding grade in the parking area described above will be broken away to provide a more smooth parking surface.
- l) Signage and road markings will be installed along the mauka side of Wai'opae Road as necessary to prohibit parking on the mauka side of the road.
- m) Signage will be installed at the 5-foot wide pedestrian access parcel (TMK 1-4-68:16) directing visitors to the tide pools.
- n) Milo trees will be planted on the makai side of Wai'opae Road opposite TMKs 1-4-68:38 & 39 to inhibit further tidal erosion. Old pavement fragments fronting these two parcels will be removed to smooth out the road surface.

- o) Naupaka or other suitable vegetation will be planted and signage installed on either side of the road where houses exist to prohibit parking along the roadway north of the tide pool access parking area to Kaheka Road.
- p) Two additional parking spaces will be located at the intersection of Wai`opae Road and Kaheka Road and at the north end of Wai`opae Road. These spaces will be designated for fishermen only and sited within the road right-of-way. No land altering activities will be undertaken to provide for these four additional parking stalls.
- q) A pedestrian path from Wai`opae Road to the ocean will be created within the makai extension of Kaheka Road to allow for easier public access during periods of high tide. Up to six (6) existing trees with a trunk diameter of two (2) or more inches will be cut down to allow for the desired trail alignment.
- r) In order to create a more recognizable and safer visitor parking area at the tide pools, the applicant proposes an alternative to the improvements mentioned above, which include repaving the section of Wai`opae Road from the south end of the existing pavement for a distance of approximately 177 feet, or to the northern edge of the 5-foot wide pedestrian access (TMK: 1-4-68:16).
- s) Applicant further proposes to hire a "parking warden" during times of peak public usage of the tide pools to greet visitors, encourage compliance with the parking restrictions, request an end to inappropriate behavior, and to call for towing of vehicles of egregious or repeat offenders as necessary.

2. Purpose of Project:

The purpose of the project is to improve the safety, scenic value and tranquility for visitors and residents.

3. Project Valuation: \$24,900.00

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 estimated total expenditures for both phases of the proposed project are \$24,900.00.

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 subject roadway parcel encompasses 10.28 acres and crosses over Flood Zones AE and VE as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

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

Due to questions regarding the proper approving authority for some elements of the project, the subject application was also referred to the State Department of Land and Natural Resources - Office of Conservation and Coastal Lands (DLNR-OCCL) and the U.S. Army Corp of Engineers (USACE) for their review and comment.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 06-000029, as amended**, is hereby approved to allow for the elements of proposed project as described in Item #1, Project Description of this permit.

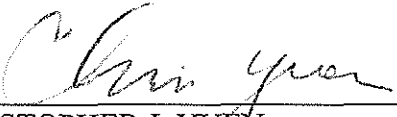
Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 06-000029, as amended**, subject to the following conditions:

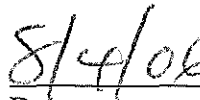
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of all State and County of Hawaii and Federal departments and agencies.
3. The applicant shall consult with the State Department of Health regarding any regulations and/or permits applicable to the proposed activities prior to the application of any fertilizer, pesticide or herbicides along Wai'opae Road.
4. The applicant shall secure the approval of any Department of the Army permits deemed necessary by the USACE-Honolulu prior to conducting any uses, activities or operations within any areas subject to tidal flooding or the boundaries of anchialine ponds.
5. The applicant shall secure all approvals deemed necessary by the Department of Land and Natural Resources, Office of Conservation and Coastal Lands prior to commencing any uses, activities, or operations makai of Wai'opae Road that are subject to tidal inundation regardless of the frequency of such inundation.
6. All green waste resulting from the approved uses, activities or operations shall be removed from the SMA and disposed of in accordance with the requirements of the Department of Environmental Management.
7. The proposed Civil Defense gate to be installed at the entrance to the Vacationland Hawaii subdivision shall be maintained in a locked open position at all times, except during official County of Hawaii Civil Defense declared emergencies requiring evacuation of Vacationland Hawaii subdivision. Approval by the Planning Commission for a SMA Use (Major) Use Permit shall be required prior to the installation or use of any gate in the SMA to limit public pedestrian or vehicular access to the shoreline along Wai'opae Road.

8. The reconstruction/repaving of sections of Wai'opae Road, as described above shall not result in more than a 6-inch increase of the finish roadway elevation over the existing grade of the right-of-way being reconstructed or repaved without an additional review under the SMA guidelines that includes a Certified Shoreline Survey and a Coastal Study to evaluate the impacts of the proposed roadway improvement.
9. The applicant shall be responsible for the maintenance of all visitor parking facilities and signage allowed by this permit.
10. Should any of the conditions not be met the Planning Director shall initiate procedures to revoke the permit.

APPROVED:



CHRISTOPHER J. YUEN
Planning Director



Date