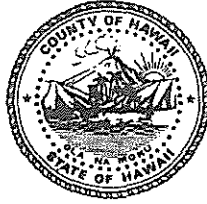


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

May 1, 2009

Mr. Joseph J. Melillo  
85 Kuikahi St  
Hilo HI 96720

Dear Mr. Melillo:

**Subject: Special Management Area Use Permit Assessment Application  
(SAA 09-000429)**

**Special Management Area Minor Permit No. 09-000107**

**Applicant: Joseph J. Melillo**

**Land Owner: Melillo Trust of 2001**

**Request: Restoration of an Existing Residential Tropical Garden**

**Tax Map Key: (3) 2-7-021:006, Honoli'i Pali Tract 2, Pauka'a, South Hilo, Hawai'i**

This letter is in response to the Special Management Area Assessment Application (SMAA) we received on April 6, 2009 requesting to restore an existing garden on the subject parcel. This restoration will consist of removing invasive plant species and replanting with native and tropical plants.

This parcel is designated Urban by the State Land Use Commission. The project site is designated as Open by the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map and zoned Single-Family Residential minimum 20,000 sq ft lot size (RS-20) by the County of Hawai'i.

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(i), (ii), and (iv) relating to the Special Management Area, "*Placement or erection of any solid material of any gaseous, liquid, solid, or thermal waste,*" and "*Grading, removing, dredging, mining, or extraction of any materials,*" are not exempt from the definition of "development." Therefore, the proposed project requires a SMA Minor Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 09-000107 is hereby issued to restore the existing garden, subject to compliance with the conditions of approval as specified in the permit.

MAY 6 2009

Mr. Joseph J. Melillo

Page 2

May 1, 2009

Should you have questions, please feel free to contact Bethany Morrison of this department at 961-8288, extension 252.

Sincerely,



BJ LEITHEAD TODD

Planning Director

BJM:cs

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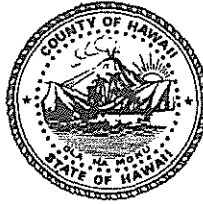
Enclosures: SMM No. 09-000107  
Department of Public Works April 29, 2009 Memo

cc w/encls: Long Range Planning Division

Clean Water Branch  
Environmental Management Division  
State Department of Health  
P.O. Box 3378  
Honolulu, HI 96801-3378

cc ltr only: Mr. Abbey S. Mayer, Director  
State of Hawaii, Office of Planning  
Department of Business, Economic Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

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### PLANNING DEPARTMENT

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Phone (808) 961-8288 • Fax (808) 961-8742

### Special Management Area Minor Permit No. 09-000107

**Project:** Restoration of an Existing Residential Tropical Garden  
**Applicant:** Joseph J. Melillo  
**Land Owner:** Melillo Trust of 2001  
**Location:** Honoli'i Pali Tract 2, Pauka'a, South Hilo, Hawai'i  
**TMK:** (3) 2-7-021:006 **Land Area:** 1.049 acres

#### Applicant's Request

- 1. Project Description:** The applicant proposes to restore an existing garden on the residential property. The existing driveway, walls, and home will remain as is.
- 2. Purpose of Project:** The purpose of the project is to clear out landscape debris from years of neglect. Invasive plant species will be removed and replanted with native and tropical plants. The existing banks have been eroding, so groundcovers and soil retaining cover will be installed.
- 3. Project Valuation:** \$50,000.

**Determination:** According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(i), (ii), and (iv) relating to the Special Management Area, "Placement or erection of any solid material of any gaseous, liquid, solid, or thermal waste," and "Grading, removing, dredging, mining, or extraction of any materials," are not exempt from the definition of "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 (SLU) Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open.
- 3. County Zoning:** The subject property is zoned Single-Family Residential minimum 20,000 sq ft lot size (RS-20) by the County of Hawaii.
- 4. Special Management Area (SMA):** The subject parcel is located entirely within the SMA.

5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone X.

**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 project area has frontage along the coastline, however it is a cliff bluff. Therefore, the proposed activity will not affect public access to the shoreline or public use of the shoreline area.

The proposed development is consistent with the Hawaii 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 \$50,000 is not in excess of \$125,000.

By enclosed memorandum dated April 29, 2009, the Department of Public Works, Engineering Division had the following comments:

*"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated April 22, 2009 and have no objections to the request.*

*The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as an area of "minimal tsunami inundation."*

*Questions may be referred to Kelly Gomes at ext. 8327."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000107** is hereby approved for the restoration of an existing garden to include removal of invasive plant species and replanting of native and tropical plants and soil retaining covers.

### Conditions of Approval


The Planning Director has approved SMA Minor Permit No. 09-000107 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 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. All activities requiring use of heavy equipment for landscaping activities approved by this permit shall be completed within one (1) year from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon completion of the activities requiring use of heavy equipment. Use of heavy equipment within 40 feet of the top bank of the cliff facing the ocean is strictly prohibited.
4. Silt barriers, jute netting, or other appropriate barriers approved by the landscape architect shall be used to prevent erosion or sedimentation from entering either the ocean or the stream. These measures must remain in place until replacement vegetation is sufficiently rooted to prevent surface erosion.
5. All green waste shall be collected and disposed of off-site at appropriate locations outside of the SMA site.
6. All landscaping work must be done under the authority and direction of a landscape architect.
7. Implementation of the proposed landscaping plan shall be completed within one (1) year from the date of this permit.
8. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the 40 foot shoreline setback area.
9. This permit does not include the construction of any structures or other uses on the subject property. Another SMA Use Permit Assessment will be required for any uses or activities beyond the scope of this project.
10. An extension of time for the performance of the conditions contained herein 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 determination; and
  - c) The time extension granted shall be for a period of not to exceed the

period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

11. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

APPROVED:

  
\_\_\_\_\_  
BJ LEITHEAD TODD  
Planning Director

**MAY -1 2009**

\_\_\_\_\_  
Date

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: April 29, 2009

*Memorandum*

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

**SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 09-000429)**  
Applicant: Joseph J. Melillo  
Request: Restoration of an Existing Residential Tropical Garden  
Location: Honoli'i Pali Tract 2, Paukaa, S. Hilo, Hawaii  
Tax Map Key: 2-7-21: 006

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated April 22, 2009 and have no objections to the request.

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as an area of "minimal tsunami inundation."

Questions may be referred to Kelly Gomes at ext. 8327.

