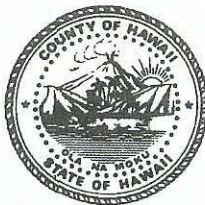


William P. Kenoi
Mayor



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

July 21, 2009

Mr. Wesley T. Matsunaga
DLNR, Land Division
75 Aupuni Street, Room 204
Hilo HI 96720

Dear Mr. Matsunaga:

Subject: Special Management Area Use Permit Assessment Application (SAA 09-000453)
Special Management Area Minor Permit No. 09-000119

Applicant: Department of Land & Natural Resources, Land Division

**Request: Harvesting of Ironwood Tree Logs from Parcel 20 to Restrict
Unauthorized Vehicular Access onto Parcels 18 and 19**

Landowner: State of Hawai'i

Tax Map Key: 1-4-3:18

Landowner: Maher and Nagiba Habashi

Tax Map Key: 1-4-3:19 & 20

This is to follow up on our May 27, 2009 letter relating to the above-referenced Special Management Area Assessment Application for the harvesting of ironwood tree logs from Parcel 20 which would be placed on Parcels 18 and 19 or within the Old Government Road right-of-way to restrict unauthorized vehicular access.

As stated in our letter dated May 27, 2009, the harvesting site is outside of the Special Management Area (SMA). Therefore, no SMA review or permit is required for activity on Parcel 20.

For Parcels 18 and 19, however, Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(i) relating to Special Management Area states that the "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*" is considered to be "development".

Therefore, a Special Management Area Minor Permit is required. For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 09-000119 is hereby issued for the placement of ironwood tree logs to restrict unauthorized vehicular access, subject to the applicant's compliance with the conditions of approval as specified in the permit.

JUL 23 2009

Mr. Wesley T. Matsunaga
DLNR, Land Division
Page 2
July 21, 2009

Finally, all other applicable Zoning and Building Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8139.

Sincerely,



BJ LEITHEAD TODD
Planning Director

ETI:cs

P:\Public\Wpwin60\CZM\SMM\2009\SMM 09-119L DLNR Sand Hill.Rtf

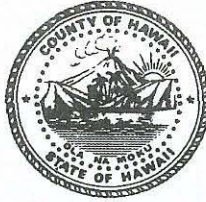
Enclosures - SMM No. 09-000119
Department of Public Works June 2, 2009 Memo
DLNR, SHPD July 14, 2009 Letter

xc w/encls: Long Range Planning ✓
Mr. Norman Hayashi, Planning Commission

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

Ms. Theresa K. Donham
Department of Land and Natural Resources
State Historic Preservation Division
Hawai'i Island Section
40 Po'okela Street
Hilo, Hi 96720

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

Special Management Area Minor Permit No. 09-000119

Project: Placement of Ironwood Tree Logs to Restrict Unauthorized Vehicular Access
Applicant: Department of Land & Natural Resources, Land Division
Landowner: State of Hawai'i Tax Map Key: 1-4-3:18 78.33 acres
Landowner: Maher & Nagiba Habashi Tax Map Key: 1-4-3:19 30 acres

Applicant's Request

1. Project Description:

The applicant proposes to place ironwood tree logs along the property boundaries or within the Old Government Road right-of-way. A backhoe will be used to harvest these logs from TMK: 1-4-3:20. These logs would be cut into ten-foot lengths.

2. Purpose of Project:

The logs would be used to restrict unauthorized vehicular access. Recreational ATV and dirt bike riders are causing damage to the sand dunes and require immediate attention to resolving the recurring and continued unauthorized access onto and use of the parcels.

3. Project Valuation: \$5,000

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(i) relating to the Special Management Area (SMA), the "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*" is defined as "development." Therefore, the proposed placement of Ironwood tree logs to restrict unauthorized vehicular access requires a SMA Minor Permit.

State and County Plans

1. **Chapter 343, Hawai'i Revised Statutes (HRS):** Approved EIS Exemption List for Division of Land Management, Department of Land and Natural Resources, April 28, 1986:
Exemption Class 1: Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing;
Exemption Class 4: Minor alteration in the conditions of land, water, or vegetation.
2. **State Land Use District:** Both parcels are designated Conservation.
3. **General Plan:** Parcel 18 is designated Open along the coastal area and Conservation further inland. Parcel 19 is designated Open.
4. **County Zoning:** Parcel 18 is zoned Open. Parcel 19 is zoned Agricultural (A-1a). However, since both are in the State Land Use Conservation district, the Department of Land and Natural Resources has jurisdiction over these areas.
5. **Special Management Area (SMA):** Although the subject properties are located in the SMA, the project site is approximately 200 feet from the coastline.
6. **Flood Zone:** The proposed project 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".

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

Although these parcels have frontage along the coastline, the placement of the Ironwood tree logs will be approximately 200 feet from the coastline. Therefore, the proposed improvements will not affect public pedestrian access to the shoreline or public pedestrian use of the shoreline 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 tsunamis, 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 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 approximately \$5,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated June 2, 2009 states the following:

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

The subject development 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'."

The enclosed Department of Land and Natural Resources, State Historic Preservation Division letter dated July 14, 2009 states, in part, the following:

*"We determine that **no historic properties will be affected** by this project because:*

No land alteration will occur in connection with this application.

Other: Measures will be taken to ensure that trees are felled onto the open road area and not onto undisturbed forested land. Roots will be left intact; no grubbing will occur."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000119** is hereby approved to allow for the placement of Ironwood tree logs to restrict unauthorized vehicular access, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 09-000119**, subject to the following conditions:

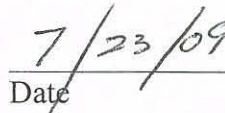
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall complete the placement of Ironwood tree logs within one (1) year from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.
3. The applicant shall comply with the requirements of the Department of Land and Natural Resources, State Historic Preservation Division letter dated July 14, 2009.
4. 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

5. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
6. 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/owner, 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 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).
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:



BJ LEITHEAD TODD
Planning Director


Date


PLANNING DEPARTMENT
COUNTY OF HAWAII

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: June 2, 2009

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM:  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 09-000453)
Applicant: Department of Land & Natural Resources, Land Division
Request: Harvest Ironwood to Restrict Unauthorized Vehicular Access
Tax Map Key: 1-4-03: 18 (Landowner: State of Hawaii)
Tax Map Key: 1-4-03: 19 & 20 (Landowner: Mather & Nagiba Habashi)

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

The subject development 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.

SCANNED

JUN 03 2009

By 053396

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

July 14, 2009

Bobby Jean Leithead-Todd, Planning Director
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720-4224

LOG NO: 2009.2465
DOC NO: 0907TD11
Archaeology

Dear Ms. Leithead-Todd:

**SUBJECT: Chapter 6E-8 Historic Preservation Review –
Special Management Area Assessment for Placement of Log Barriers Across
Unauthorized Vehicular Trails at Honolulu Landing; DLNR Land Division
Halepua`a Ahupua`a, Puna District, Island of Hawai'i
TMK: (3) 1-4-003: 18, 19 & 20 (portions)**

This is a follow up of our letter dated June 22, 2009 wherein we requested an opportunity to conduct a site inspection of the proposed project area prior to commenting on impacts to historic properties. A site inspection was conducted by SHPD staff archaeologist Theresa Donham July 10, 2009, with Wesley Matsunaga, DLNR Land Agent. The road to be blocked was inspected and Mr. Matsunaga pointed out the specific trees that are to be harvested from Parcel 20 for use in blocking the trail onto Parcels 18 & 19. The trees are very close to the existing Government Road and will be felled onto the road area rather than into the forested area of Parcel 20. The trees will be cut above the roots, which will be left intact. No historic properties (other than the Government Road) were observed in the area affected by the project.

We determine that **no historic properties will be affected** by this project because:

- ☒ No land alteration will occur in connection with this application
- ☐ Development/urbanization has altered the land
- ☐ An accepted archaeological inventory survey (AIS) found no historic properties
- ☐ SHPD previously reviewed this project and mitigation has been completed
- ☒ Other: *Measures will be taken to ensure that trees are felled onto the open road area and not onto undisturbed forested land. Roots will be left intact; no grubbing will occur.*

In the event that historic resources, including human skeletal remains, lava tubes, and lava blisters/bubbles are identified during the activities, all work should cease in the immediate vicinity of the find, the find should be protected from additional disturbance, and the State Historic Preservation Division, Hawaii Island Section, should be contacted immediately. Please contact Theresa Donham at (808) 933-7653 if you have any questions or concerns regarding this letter.

Aloha,

Theresa K. Donham, Lead Archaeologist
Hawai'i Island Section
State Historic Preservation Division

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

June 7, 2011

Mr. Wesley T. Matsunaga
DLNR, Land Division
75 Aupuni Street, Room 204
Hilo, HI 96720

Dear Mr. Matsunaga:

Subject: Special Management Area Minor Permit No. 09-000119 (SMM 09-000119)
Applicant: Department of Land & Natural Resources, Land Division
Request: Harvesting of Ironwood Tree Logs from Parcel 20 to Restrict
Unauthorized Vehicular Access onto Parcels 18 & 19
Landowner: State of Hawaii TMK: 1-4-3:18
Landowner: Maher & Nagiba Habashi TMK: 1-4-3:19 & 20

This is to acknowledge receipt of your letter dated April 28, 2011. Also acknowledged is receipt of additional information on June 6, 2011.

SMM 09-000119, approved on July 21, 2009, allowed for the harvesting of Ironwood Tree logs from Parcel 20 to be placed along the property boundaries of Parcel 18 and 19 or within the Old Government Road right-of-way fronting these two parcels.

This request is to revise SMM 09-000119 to allow for an "open-ended"/on-going or routine and continuous effort to prevent unauthorized vehicular access onto Parcels 18 and 19. Individuals have continued to seek alternate entries onto Parcels 18 and 19. The unauthorized vehicular accesses also provides others access to the land to discard their household trash, abandoned vehicles, green waste, and other refuse.

In order to react in a timely manner, the request would allow for placement of the barricade at any unauthorized vehicular access onto the lands by using harvested Ironwood Tree logs from Parcel 20. By email dated June 3, 2011, Mr. Maher Habashi stated that *"You have my permission to harvest what you need to block access, provided that I am indemnified from liability"*.

Mr. Wesley T. Matsunaga
DLNR, Land Division
June 8, 2011
Page 2

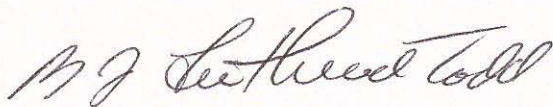
Therefore, we are amending SMM 09-000119 to allow for the routine harvesting of Ironwood Tree logs from Parcel 20 to restrict unauthorized vehicular access onto Parcels 18 and 19. Please note, however, that in addition to the placement of new logs to block new unauthorized entry areas, the existing logs may be replaced and/or relocated to better restrict unauthorized access.

In view of the foregoing, the Conditions of Approval of SMM No. 09-000119 is hereby revised as follows:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with the requirements of the Department of Land and Natural Resources, State Historic Preservation Division letter dated July 14, 2009.
3. 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
4. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.

If you have questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



BJ LEITHEAD TODD
Planning Director

ETI:cs

P:\Public\Wpwin60\CZM\SMAA\2010\SAA 10-578 DLNR Sand Hill 2011.Rtf

Mr. Wesley T. Matsunaga
DLNR, Land Division
June 8, 2011
Page 3

cc: Long Range Planning

Ms. Theresa K. Donham
Department of Land and Natural Resources
State Historic Preservation Division
40 Po'okela Street
Hilo, Hi 96720