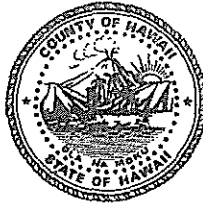


William P. Kenoi
Mayor



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

August 25, 2010

The Kohala Center
Kohala Watershed Partnership
Ms. Melora K. Purell, Coordinator
P.O. Box 437462
Kamuela, Hawai'i 96743

Dear Ms. Purell:

SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 10-000587)

Special Management Area Minor Permit No. 10-000158

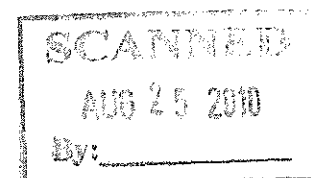
Applicant(s): The Kohala Center

Request: Construction of approximately 3 miles of ungulate-proof fence to protect 2000 acres of mauka forested watershed

Tax Map Key: (3) 4-9-015:001, Kohala Forest Reserve, Hamakua, Hawai'i

This is in response to your Special Management Area Use Permit Assessment Application received on August 4, 2010 for the construction of approximately 3 miles of ungulate-proof fence to protect 2000 acres of mauka forested watershed on the subject property.

The subject property consists of 2,576 acres. The parcel is designated Conservation by the State Land Use Commission. In the Conservation District, there is no county zoning, per se. Therefore, the Department of Land and Natural Resources (DLNR) has jurisdiction on any use or activity on this parcel. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Conservation and Open. The entire parcel is located in the Special Management Area (SMA).



The Kohala Center
Kohala Watershed Partnership
Ms. Melora K. Purell, Coordinator
Page 2
August 25, 2010

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(10)A(i), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the fence is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No.10-000158 is hereby issued to allow for the construction of approximately 3 miles of ungulate-proof fence to protect 2000 acres of mauka forested watershed on the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

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

Sincerely,


BJ LEITHEAD TODD
Planning Director

BJM:cs

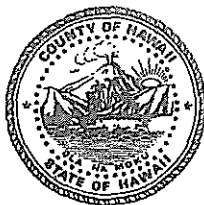
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Enclosure - SMM No. 10-000158
Department of Public Works Memorandum dated August 17, 2010

cc w/encls: Long Range Planning Division ✓
Planning Division

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

William P. Kenoi
Mayor



BJ Leithead Todd
Director

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PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 10-000158

Project: Construction of approximately 3 miles of ungulate-proof fence to protect 2000 acres of mauka forested watershed
Applicant: The Kohala Center
Land Owner: Laupāhoehoe Nui LLC
Location: Kohala Forest Reserve, Hamakua, Hawai'i
TMK: (3) 4-9-015:001 **Land Area:** 2,576 acres

Applicant's Request

1. Project Description:

The applicant proposes the construction of up to 3 miles of ungulate-proof fencing, enclosing approximately 550 acres of a total 2000 acre public-private watershed conservation preserve. In order to build the fence, a 6-foot wide corridor will be cleared with hand tools. In order to avoid the spread of alien species, all clothing, tools, etc., will be cleaned before transport to the site. Fence checks and invasive species control will continue along the fence line for the expected life of the fence (20+ years). Besides the 6-foot wide corridor which will be cleared with hand tools for fence construction and the 48" ungulate-proof fence, no grading, permanent structures, utilities, or roads are being proposed.

2. Purpose of Project:

The proposed fencing will be part of a larger public-private partnership to protect native Hawaiian montane wet forest and globally-rare ohia-sedge bogs, as well as high rainfall areas that are critical for the infiltration of rainwater to recharge underground aquifers. The construction of the animal-proof fencing, followed by feral animal control, are the critical first steps to protect, and then to restore this area.

3. Project Valuation: \$125,000

4. Determination:

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(10)A(i), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the proposed construction of the fence is considered "development" and requires a Special Management Area Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Conservation by the State Land Use Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property Conservation and Open.
3. **County Zoning:** In the Conservation District, there is no county zoning per se.
4. **Special Management Area:** The subject property is located in the SMA.
5. **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 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, 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 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 \$125,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated August 17, 2010, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated August 5, 2010 and have no objections to the request.

The subject project 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.

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. 10-000158** is hereby approved to allow for the proposed construction of the fence on the subject parcel, 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. 10-000158** 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. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within the State Land Use Conservation district without securing a prior approval of a Conservation District Use Application (CDUA) or other written approval as deemed necessary by the Board of Land and Natural Resources.
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.

5. 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 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).
6. 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:

AUG 25 2010


BJ LEITHHEAD TODD
Planning Director

Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: August 17, 2010

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 10-000587)

Applicant: The Kohala Center

Request: Construction of Approximately 3 Miles of Ungulate-Proof Fence

Location: Kohala Forest Reserve, Hāmākua, Hawaii

Tax Map Key: 4-9-15: 001

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated August 5, 2010 and have no objections to the request.

The subject project 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.

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