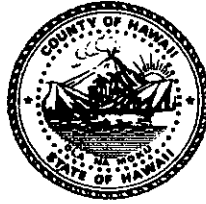


William P. Kenoi
Mayor



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 24, 2011

Mr. Sidney M. Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 11-000656)
Special Management Area Minor Use Permit (SMM-11-000181)
Applicant(s): Kevin Hayes
Land Owner: One Puakō Bay Associates LLC
Request: Selective Removal of Some Trees and Low Bushes as
well as Removal of Existing Organic Debris
Tax Map Key: (3) 6-9-002:001 and 002; Lālāmilo, South Kohala, Hawai'i**

This is in response to your Special Management Area Use Permit Assessment Application received on April 8, 2011. The applicant proposes the selective clearing of the subject properties. This clearing would include the removal of the organic debris, certain trees, and a low-lying bush.

The properties consist of 6.714 acres. They are zoned Resort-Hotel (V 1.25) by the County and are designated Urban by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as open and Low Density Urban. In addition, the entire parcel is located within the Special Management Area (SMA).


According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (B), "development" includes *Grading, removing, dredging, mining, or extraction of any materials*. Therefore, the proposed selective clearing is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

Mr. Sidney M. Fuke
May 24, 2011
Page 2

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.11-000181 is hereby issued to allow selective removal of some trees and low bushes as well as removal of existing organic debris. 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,


for BJ LEITHEAD TODD
Planning Director

BJM:cs

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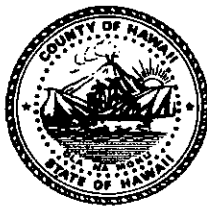
Enclosure - SMM No. 11-000181
Department of Public Works Memorandum dated May 17, 2011

cc w/encls: Mr. Kevin Hayes
One Puakō Bay Associates, LLC
610 Newport Center Drive, Suite 500
Newport Beach, CA 92660

Long Range Planning Division
Planning Division

cc ltr only: Mr. Jesse K. Souki, 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



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Special Management Area Minor Permit No. 11-000181

Project: Selective Removal of Some Trees and Low Bushes as well as Removal of Existing Organic Debris
Applicants: Kevin Hayes
Land Owners: One Puakō Bay Associates LLC
Location: Lālāmilo, South Kohala, Hawai'i
TMK: (3) 6-9-002:001 and 002 **Land Area:** 6.714 acres

Applicant's Request

1. Project Description:

The applicant is proposing to do some selective clearing of the subject properties. This clearing would include the removal of the organic debris, certain trees, and a low-lying bush. Most, if not all, of the larger majestic kiawe trees on the site would be retained to allow for their fuller growth and incorporation as future landscaping for the project. Over forty (40) of the larger trees within the site and all of the major trees fronting the road have also been tagged for retention. As reflected in the clearing plan, none of this clearing is anticipated to occur within 40 feet of the shoreline as well as 20 feet from the front property line.

2. Purpose of Project:

The subject site is currently overgrown with shrubs, weeds, and trees. There are also few large piles of organic debris that have been left to rot. The existing condition is not only unsightly but poses a fire hazard. Furthermore, the debris and thick vegetation make it difficult for the applicant to do the needed engineering and related design of the site.

3. Project Valuation: \$50,000.

4. Determination:

The proposed selective clearing is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

State and County Plans

1. **State Land Use District:** The subject parcels are designated Urban by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open and Low Density Urban.
3. **County Zoning:** The subject parcels are zoned Resort-Hotel -1,250 sq. ft per dwelling unit (V-1.25) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcels are located entirely within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject properties are located within Flood Zone AE, AO, VE and 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 proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$50,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated May 17, 2011, states the following:

"We reviewed the subject application and our revised comments are as follows:

We have determined that the subject property is located within Flood Zones "VE, AE, AO and X" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zones AE and AO are Special Flood Hazard Areas.

Alteration of, or any new construction, improvements to repetitive loss structures or substantial improvements of structures within a Special Flood Hazard Area are

subject to the requirements of Chapter 27- Flood Plain Management, of the Hawai'i County Code.

For the purposes of erosion control, as much natural vegetation should be retained as feasible. Removed vegetation shall not be deposited, disposed of or stockpiled within or adjacent to a watercourse."

Pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 11-000181 is hereby approved to allow the selective removal of some trees and low bushes as well as the removal of existing organic debris on the subject properties.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 11-000181** 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 in the 40 foot shoreline setback area. In addition, the use of mechanized equipment within 40 feet of the shoreline is strictly prohibited.
4. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the 40-foot shoreline setback line fronting the subject properties prior to the commencement of any clearing activities and shall remain in place until the work is completed.
5. For the purposes of erosion control, only selective clearing of dead or dying low bush and trees will be allowed within the Special Flood Hazard Areas (Flood Zones AE and AO).
6. All green waste shall be collected from the Special Flood Hazard Areas and disposed of at appropriate locations designated by the Department of Environmental Management for green waste, or mulched within the portions of the subject properties located within Flood Zone "X".
7. Prior to any clearing or removal, the applicant shall mark the trees, bushes or debris to be removed from the Special Flood Hazard Areas and contact the Planning Department to schedule a site inspection.
8. 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.

9. 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:

MAY 24 2011


for BJ LEITHEAD TODD
Planning Director


Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: May 17, 2011

Memorandum

TO : B. J. Leithead-Todd, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief
Engineering Division 

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 11-000656)
Applicant: One Puako Bay Assoc., LLC
Location: Lalamilo, S. Kohala, Hawaii
TMK: 3 / 6-9-002: 001 and 002

We reviewed the subject application and our revised comments are as follows:

We have determined that the subject property is located within Flood Zones "VE, AE AO and X" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zones AE and AO are Special Flood Hazard Areas.

Alteration of, or any new construction, improvements to repetitive loss structures or substantial improvements of structures within a Special Flood Hazard Area are subject to the requirements of Chapter 27 – Flood Plain Management, of the Hawaii County Code.

For the purposes of erosion control, as much natural vegetation should be retained as feasible. Removed vegetation shall not be deposited, disposed of or stockpiled within or adjacent to a watercourse.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 327-3530.

KE
copy: ENG-HILO/KONA