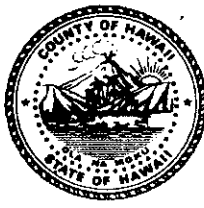


William P. Kenoi
Mayor



BJ Leithead Todd
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PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 12-000207

Project: Grading and the Stockpiling of 11,000 Cubic Yards of Material
Applicant: Stephen J. Herbert
Land Owner: Donel R. Howard and Stuart B. Howard
Tax Map Key: 7-7-4:70 **Land Area:** 6.458 acres

Applicant's Request

1. Project Description:

Proposed is grading and the stockpiling of 11,000 cubic yards of fill material. Vegetation on the parcel consists of sparse grasses and haole koa.

2. Purpose of Project:

The purpose is to grade for the future single-family residence and related improvements and for the stockpiling of 11,000 cubic yards of fill material to create a mound to improve the westward views.

3. Project Valuation: \$150,000

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(B) and (A) relating to the Special Management Area, the "*Grading, removing, dredging, mining, or extraction of any materials*" and the "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*", respectively, are defined as "development." Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Agricultural.

2. **Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD):** There are historic properties in this area, which includes the Judd Trail running along the south boundary of the parcel. According to the enclosed DLNR-SHPD's December 22, 2011 letter, the stockpiling materials will be outside of the preservation buffer. Also, with the interim protection measures already in place for the preservation sites, they believe that no historic properties will be adversely affected by the project.
3. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Medium Density Urban and Urban Expansion.
4. **County Zoning:** The subject property is zoned Agricultural (A-5a).
5. **Special Management Area (SMA):** Although the parcel is located in the SMA, it is mauka of Ali'i Drive and approximately 1,200 feet from the ocean. Therefore, it is not located in a "shoreline area" as defined by Section 205A-41, Hawaii Revised Statutes (HRS).
6. **Flood Zone:** Flood Zone "X".

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

The subject parcel does not have frontage along the coastline. Therefore, the proposed activity will not affect public access to the shoreline or negatively affect shoreline recreational resources available to the public.

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 Hawai'i 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, 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 Hawai'i 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 \$150,000 is not in excess of \$500,000.

By enclosed memorandum dated March 7, 2012, the Department of Public Works, Engineering Division had the following comments:

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

We have determined that the subject property is located within Flood Zone "X" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

The above information is based on the most recent FIRM for the County of Hawai'i. Zone "X" is not a designated Special Flood Hazard Area. A Zone "X" designation does not imply that the referenced property will be free from flooding or flood damage. A property not in a Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. Should a watercourse affect the property, it shall not be altered without first obtaining approval from DPW and a grading permit. A flood study may be required under Chapter 27 of Hawai'i County Code for watercourse alterations."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 12-000207** is hereby approved to allow for grading and the stockpiling of 11,000 cubic yards of material on the parcel, subject to conditions of approval as specified below.

Conditions of Approval

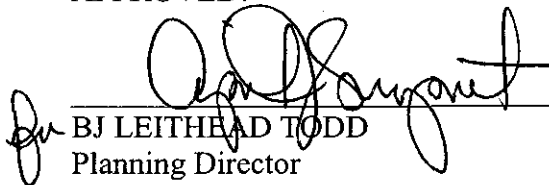
The Planning Director has approved SMA Minor Permit No. 12-000207 subject to the following conditions:

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. The applicant must comply with the Department of Land and Natural Resources, State Historic Preservation Division requirements in letter dated December 22, 2011.
4. All required preservation buffers must be shown and property noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement: *"The preservation barriers must be erected prior to any land altering or construction activities, and must remain in place until final inspection by the Department of Public Works (or the Planning Department)."*
5. The preservation barriers must be properly maintained to serve their intended purpose and shall remain in place until all grading and construction activities are completed.

6. Throughout the preservation buffer area, the natural existing terrain and grade must be maintained. No grading or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within the preservation buffer areas.
7. Grading and stockpiling of the property shall be completed within one (1) year from the date of approval of this permit.
8. The original location of the Judd Trail shall be restored within the breach using materials that mimic the historic trail surface. If the breach crossing needs to be filled, the approach and exit on either side of the breach shall be sloped to the trail's walking tread. Plans for the treatment of the breach in the Judd Trail shall be submitted to Mr. Irving Kawashima with Na Ala Hele Trail and Access Program at (808) 974-4221 for review and approval prior to their implementation.
9. 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 form the State Historic Preservation Division of the Department of Land and Natural Resources.
10. Should any of the conditions not be met, the Planning Director shall initiate procedures to revoke the permit.

Should you have questions, please contact Esther Imamura of this office at 961-8139.

APPROVED:


BJ LEITHEAD TODD
Planning Director

3.28.12
Date