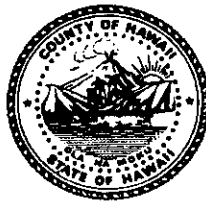


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
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## County of Hawai'i

### PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
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### **Special Management Area Minor Permit No. 12-000226**

**Project:** Six (6) Lot Subdivision  
**Applicant:** Linda Bangert Harris and David C. Bangert  
**Land Owner:** Linda Bangert Harris and David C. Bangert  
**Location:** Puna, Hawaii  
**TMK:** 1-5-10:23 **Land Area:** 38 acres

#### **Applicant's Request**

**1. Project Description:**

The applicant proposes to subdivide the subject property into six (6) lots ranging in size from 6.158 acres to 6.888 acres

**2. Purpose of Project:**

The project is to create six lots that would be suitable for supporting a family on each. Revised preliminary plat map for the six lot subdivision was submitted on October 27, 2008. However, Tentative Subdivision Approval was not issued pending the required submittal of a Special Management Area Use Permit Assessment Application.

**3. Project Valuation:** \$50,000.

**4. Determination:**

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(C) relating to the Special Management Area, the "*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*" is defined as development. Therefore, the proposed six (6) lot subdivision requires a SMA Minor Permit.

### State and County Plans

1. **State Land Use District:** The subject property is designated Agricultural.
2. **General Plan:** According to the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map, the designation is Extensive Agriculture and Open.
3. **Puna Community Development Plan:** Under Managing Growth are “3.2.1 Goals a. Lands for agricultural use are preserved” and “c. Opportunities for diversified agriculture increase”.
4. **County Zoning:** The subject property is zoned Agricultural (A-5a). Variance 08-052 to allow for the 6 lot subdivision to be created without provided a water system meeting the minimum requirements of the Department of Water Supply was approved on October 28, 2009.
5. **Special Management Area (SMA):** Although the subject parcel is in the SMA and mauka of Government Beach Road, only a small portion of proposed Lot 2-A and Lot 2-F are in the SMA.
6. **Flood Zone:** Zone X.

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

The project area does not have frontage along the coastline. Therefore, the proposed subdivision will not affect public access to the coastline 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 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.

<b>Findings</b>
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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 \$50,000 is not in excess of \$500,000.

In response to our request for comments, the enclosed Department of Public Works, Engineering Division memorandum dated May 30, 2012 states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated May 25, 2012 and have no objections to the request.*

*The subject parcel is in area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as Zone X – areas outside the 500-year floodplain (minimal tsunami inundation)."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 12-000226** is hereby approved for the six (6) lot subdivision, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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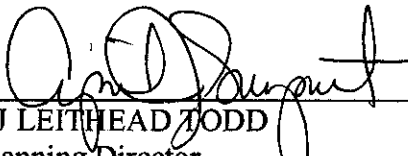
The Planning Director has approved SMA Minor Permit No. 12-000226 subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of all State and County of Hawaii departments and agencies.
3. For proposed Lot 2-A and Lot 2-F, future development shall be subject to review against the SMA guidelines as such plans are implemented.
4. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, petroglyphs, 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.

If you have questions, please contact Esther Imamura at (808) 961-9139.

APPROVED:

  
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BJ LEITHEAD TODD  
Planning Director

**JUN 13 2012**  
\_\_\_\_\_  
Date