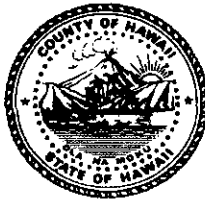


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

## County of Hawai'i

### PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

### Special Management Area Minor Permit No. 12-000237

**Project:** Install Fencing for Livestock and Planting  
**Applicant:** Jerry M. Hiatt  
**Owner:** Continental Pacific, LLC  
**Location:** Kapehu, South Hilo, Hawai'i  
**TMK:** (3) 2-8-008:003 (Por.) **Land Area:** 55.26 Acres

#### Applicant's Request

- 1. Project Description:**  
The applicant is proposing to install a fence around approximately 2 acres of the subject property.
- 2. Purpose of Project:**  
The purpose of the fencing is to allow for light grazing of sheep and the planting of a limited number (less than 40) of native, endemic, or fruit bearing trees.
- 3. Project Valuation:** \$10,000.00
- 4. Determination:**  
According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (A), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste,* is defined as "development." Therefore, the fencing requires an SMA Minor Permit.

#### State and County Plans

- 1. State Land Use District:** The parcel is located in the State Land Use Agricultural and Conservation District.
- 2. General Plan:** The parcel is designated as Important Agricultural Lands (IAL) and Open (O) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The subject property is zoned A-20a (Agricultural-20 acre minimum lot size).
- 4. Special Management Area:** The entire parcel is located within the Special Management Area (SMA) and has frontage along the shoreline.

**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 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 \$10,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated August 20, 2012, states the following:

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

*We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by our memo dated August 1, 2012 and have no objections to the request.*

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

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 12-000237** is hereby approved for the installation of fence for livestock and planting purposes.

### Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 12-000237, 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. A Conservation District Use Permit from the Board of Land and Natural Resources or other written approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands must be obtained for the project within one (1) year from the date of approval of this permit.
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. At no time shall fence construction activities or the finished fence impede lateral public access. Furthermore should the lateral public access easement become impassible or unsafe due to erosion or cliff loss, the applicant shall allow for a mauka realignment of lateral public access a to safe distance from the top of the pali as determined by the Planning Department.
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, 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 feel free to contact Christian Kay of this department at 961-8136.

APPROVED:

  
BJ LEITHEAD TODD  
Planning Director

SEP 19 2012

\_\_\_\_\_  
Date