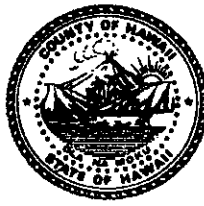


William P. Kenoi
Mayor



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. 12-000245

Project: 4-Lot Subdivision and Installation of Water Line
Applicant(s): Elizabeth Marshall and Carol Gibson
Land Owner(s): Elizabeth Marshall and Carol Gibson
Location: Waipunaula and Kalamakumu, South Kona, Hawai'i
Tax Map Key: (3) 8-2-003:029 **Land Area:** 22.128 acres

Applicant's Request

1. Project Description:

The applicant is seeking approval for the subdivision of the property into 4 lots and associated waterline improvements. Access to the lots is proposed via the existing graded on-site dirt roads.

2. Purpose of Project:

The objective is to develop 4 lots for more intensive agricultural purposes and more manageable maintenance of the extremely steep slopes in the lower western portion of the parcel.

3. Project Valuation: \$ 50,000

4. Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e) (1) (C) states that "Change in the density or intensity of use of land, including but not limited to the division or subdivision of land" is not exempt from the definition of "development." Therefore, the proposed subdivision will also require a review against the Special Management Area Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject parcel is designated Agricultural 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 Important Agricultural Lands.

3. **County Zoning:** The subject parcel is zoned A-5a (Agricultural- minimum five acre lot size) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcels are located entirely within the SMA.
5. **Flood Zone:** Zone X.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area
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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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$ 50,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated May 30, 2012, states the following:

"We reviewed the subject application for conformance with Chapter 27 of Hawai'i County Code and our comments are as follows:

The subject property is located within Flood Zone "X" according to the current effective Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). However, as acknowledged by the applicant, a known watercourse affects the subject property and the proposed access to the lots and the property is very steep. In our opinion an access road or driveway located within the watercourse may be damaged during a flood event and render building sites and property inaccessible for an extended period of time.

Please advise the applicant that a detailed analysis was recently performed on that watercourse, identified as Watercourse #5, in the Draft South Kona District Flood Hazard Study (Study). Current data from the Study shall be used to identify the watercourse boundaries and base flood elevations on the preliminary and final plats.

A watercourse shall not be altered without first obtaining approval from DPW and a grading permit under Chapter 10 of Hawai'i County Code. Watercourse alterations will be subject to the Hawai'i County Storm Drainage Standards and Chapter 27-

Flood Plain Management of Hawai'i County Code. A flood study may be required. New construction, improvements to repetitive loss structures or substantial improvements of structures within a known watercourse will be subject to the requirements of Chapter 27-Flood Plain Management, of Hawai'i County Code."

Pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 12-000245 is hereby approved for the subdivision of 4 lots and associated waterline improvements on the subject property.


Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 12-000245 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. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
4. Final subdivision approval shall be secured within two (2) years from the date of approval of this permit.
5. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
6. 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.
7. 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).
8. 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:



BJ LEITHEAD TODD
Planning Director

NOV 13 2012

Date