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PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 13-000258

Project: Construction and Drilling of Water Well
Applicant: Thomas M. Mullen
Landowner: Thomas M. Mullen Trust
Location: Hawaiian Paradise Park, Puna, Hawai'i
TMK: (3) 1-5-057:013 **Land Area:** 11,761 square feet

Applicant's Request

1. Project Description:

The proposed project is to construct and drill a water well. There will be no grading or leveling of land. The well will provide water for fruit trees, including orange, tangerine, avocado, star fruit, ti leaf, and banana as well as for the future dwelling and fire fighting.

2. Purpose of Project:

The well will provide water for fruit trees, including orange, tangerine, avocado, star fruit, ti leaf, and banana as well as for the future dwelling and fire fighting.

3. Project Valuation: \$5,000.

4. Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(E) relating to Special Management Area, "Construction, reconstruction, demolition or alteration of the size of any structure" is defined as "development" and requires a review against the Special Management Area rules and regulations. Therefore, the construction and drilling of the water well requires an SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The parcel is located in the State Land Use Agricultural District.
- 2. General Plan:** The parcel is designated as Rural by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The parcel is zoned Agricultural (A-1a) by the County of Hawai'i.

4. **Special Management Area:** The subject property is located entirely within the SMA, but the project site is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood 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 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 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 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 \$5,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated January 29, 2013, states the following:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated January 23, 2013 and have no objections to the request.

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency and is identified as an area of "minimal tsunami inundation." The parcel, at elevation 35 feet, is designated as Zone X (an area determined to be outside the 500-year floodplain). The Federal Government and the County of Hawai'i do not have any regulations for developments within areas of minimal tsunami inundation and Zone X.

Beach Road fronting the subject parcel is under private ownership."

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 13-000258** is hereby approved for the construction of a water well on the subject parcel, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

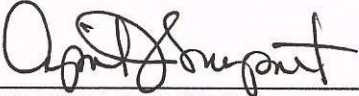
The Planning Director has approved **SMA Minor Permit No. 13-000258**, subject to the following conditions:

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 Well Construction/Pump Installation Permit for the proposed well shall be secured within one (1) year from the date of approval of this permit.
4. Any further development, 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. This includes the determination of the shoreline setback area.
5. Artificial light from exterior lighting fixtures, including, but necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
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.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

APPROVED:



BJ LEITHEAD TODD
Planning Director

2.7.13
Date