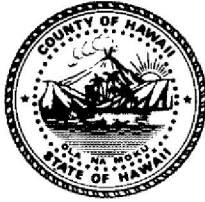


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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County of Hawai'i

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Deputy Director

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July 25, 2022

John Cross
P.O. Box 367
Hakalau, HI 96710

Dear Mr. Cross:

SUBJECT: Special Management Area (SMA) Minor Permit-AMENDED
(SMM-13-000261)
(PL-INT-2022-002043)

Applicant(s): John Cross
Landowner(s): Hawaiian Ola Brewing Corporation
Project: Land and Resource Management, Fence Installation,
Clearing of Seawall Vegetation
Tax Map Key: (3) 2-6-015:001
Location: Wainaku & Mokuhonua, South Hilo, Hawai'i

We have reviewed your request to amend Special Management Area (SMA) Minor Permit No. 13-000261 (SMM-13-000261), received by this office on April 19, 2022, with additional information provided on June 8, 2022.

The subject parcel consists of 10.34 acres and is zoned MG-5a (General Industrial). The parcel is located in the State Land Use Urban District and designated as Resort Node (ren) and Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. In addition, the subject parcel is located entirely within the Special Management Area (SMA) with a portion of the proposed project located within the "shoreline area" as defined by Section 205A-41(as amended), Hawai'i Revised Statutes (HRS).

Existing Land Uses:

The subject parcel includes the existing Wainaku Center, which replaced the original Wainaku Mill Site. On September 12, 1996, the Planning Commission approved SMA Permit No. 96-8 (SMA 367) to allow for the development of a new headquarters for C. Brewer and Company,

Ltd. by restoration, renovation, and additions to the existing warehouse structure at Wainaku Mill Site.

Proposed Project:

The applicant is proposing to conduct several activities related to land and resource management and safety improvements that are analogous to the approved uses under SMM-13-000261. The proposed activities are as follows:

- Clearing of vegetation, without ground disturbance, utilizing hand tools and approved herbicides.
- Application of approved herbicides to Banyan Tree stumps.
- Resurface and repair the existing “old paint shed” concrete pad for safety.
- Installation of fencing/railings along shoreline bluff.
- Restoration of public access trail, and addition of signage in accordance with the approved 1997 Shoreline Public Access Plan.

Purpose of Project:

Since the issuance of SMM-13-000261, the property has come under new ownership and a new focus (proposed brewery and restaurant); however, it has not been maintained during that time. The current owner would like to continue the minor land and resource management activities and safety improvements in order to conduct master planning for the conversion of the existing Wainaku Center to a brewery and restaurant. These proposed activities under the amended SMA Minor permit constitute a continuation of the previously approved activities, with only minor changes to the overall plan.

Shoreline Setback Area Determination:

Pursuant to County of Hawai‘i Planning Department (PD) Rule 11-7(a): *The following structures or activities may be permitted within the shoreline setback area provided written clearance is secured from the Planning Department.*

- (4) *A minor structure or activity approved in accordance with Section 11-8.*

In accordance with PD Rule 11-3(f):

- *Minor activity means any activity that does not alter the existing grade of the shoreline setback area and may include activities such as landscaping and minor clearing (grubbing) of vegetation.*

The improvements associated with the proposed project that are proposed within the minimum 40-foot shoreline setback area consist of land management, installation of fencing/railings, and

clearing of vegetation along seawall. After review, the Planning Department has determined that the proposed improvements would not affect beach or shoreline processes, would not alter, or change the grade of the nearshore area, nor would it artificially fix the shoreline as there is an existing seawall already in place spanning the majority of the shoreline frontage for this parcel. Shoreline access will be preserved and improved upon with the applicant's intent to formalize the shoreline access path

Based on the preceding information, the Planning Department has determined the proposed project can be considered a minor activity pursuant to PD Rule 11-8 and therefore is a permitted use within the Shoreline Setback Area.

Due to the presence of the existing seawall located along the majority of the project parcel that has been in place prior to 1970, and the proposed project activities are considered minor; the Planning Director has waived the requirement to submit a certified shoreline survey.

Special Management Area Determination:

Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, "Development" means *any of the [listed] uses, activities, or operations on land or in or under water within the special management area.*

According to the application, the following definition of "Development" can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste.*
- *Construction, reconstruction, demolition, or alteration of the size of any structure, and*
- *Grading, removing, dredging, mining, or extraction of any materials.*

We find that the proposed activity, as described above, is not exempt from the definition of "development;" however, the project will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. **SMM-13-000261-AMENDED** is hereby **approved** for the proposed project. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Chapter 343, HRS Determination:

Pursuant to Hawai'i Revised Statutes (HRS) Chapter 343-5, an environmental assessment (EA) shall be required for actions that propose any use within a shoreline area. However, Hawai'i Administrative Rules (HAR), Chapter 200.1, *Environmental Impact Statement Rules*, includes actions that may be exempt from the preparation of an environmental assessment (EA). Based on our review of the proposed project, the following exemptions may be applied to the proposed project in accordance with Ch. 11-200.1-15(c):

- (1) Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, and*
(4) Minor alterations on the conditions of land, water, or vegetation.

Based on the preceding, the Planning Department has determined that the proposed action will probably have minimal or no significant effect on the environment and hereby exempts the applicant from the preparation of an EA for the proposed project. No uses, activities, or development, other than those described in the application, shall be exempt from environmental review under HRS, Chapter 343.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any future development or activities not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,


Jeffrey W. Darrow for (Jul 25, 2022 16:17 HST)

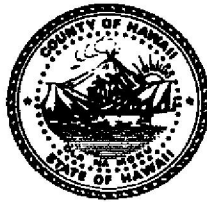
ZENDO KERN
Planning Director

AJR:jaa

Enclosure: SMM-13-000261 (ORIGINAL)
SMM-13-000261(AMENDED)
1997 Shoreline Public Access Plan

Cc (via email): Director, Office of Planning and Sustainable Development, DBEDT
Shichao Li; State-OPSD
Lisa E. Webster, State-OPSD
GIS Section
Brett Jacobson (brett@olabrewco.com)

William P. Kenoi
Mayor



BJ Leithead Todd
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Special Management Area Minor Permit No. 13-000261

Project: Removal of Non-Native Trees, Replacing Chain-Link Fence Along Seawall, Installing New Railings Along Shoreline Bluff, Relocation of Existing Statue and Flagpoles

Applicants: John C. Cross

Land Owners: Wainaku Ventures, LLC

Location: Wainaku & Mokuhonua, South Hilo, Hawai'i

TMK: (3) 2-6-015:001 Land Area: 10.34 acres

Applicant's Request

1. Project Description:

The applicant proposes the removal of non-native trees, replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles on the subject property.

2. Purpose of Project:

On September 12, 1996, the Planning Commission approved SMA Permit No. 96-8 (SMA 367) to allow for the development of a new headquarters for C. Brewer and Company, Ltd. by restoration, renovation and additions to the existing warehouse structure at Brewer's Hilo Wainaku Mill Site. The objective of this application is to return the property to its former state of care when SMA 367 was issued. Invasive and damaging trees that have grown since that time will be removed.

3. Project Valuation: \$100,000.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (B), "Grading, removing, dredging, mining, or extraction of any materials," is not exempt from the definition of "development." In addition, according to HRS Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "Construction, reconstruction, demolition, or alteration of the size of any structure" is not exempt from the definition of "development."

Therefore, the proposed tree removal, replacement of the chain-link fence, installation of new railings, and the relocation of the statue and flagpoles are considered to be development and will require a review against the Special Management Area rules and regulations.

State and County Plans

1. **State Land Use District:** The subject parcel is designated Urban 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 Resort Node and Open.
3. **County Zoning:** The subject parcel is zoned MG-5a (General Industrial) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone VE and 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 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$100,000 is not in excess of \$500,000.

Agency Consultation:

The project was reviewed under HRS Chapter 6E-42. The enclosed Department of Land and Natural Resources, State Historic Preservation Division (SHPD) correspondence dated March 20, 2013, states the following:

"Based on current information, SHPD recommends that an archeological inventory survey be conducted of the parcel prior to recommencement of landscape improvements, with the following exception:

- 1. Relocation of the flagpoles can be completed due to the unsafe nature of the open excavations around the poles, and given that they were set in modern fill, as observed during the February 26th site visit.*
- 2. Relocation of the statue of Doc Buyers can occur; this will involve superficial ground disturbance only.*
- 3. Repair of the existing chain link fence can occur, due to the unsafe condition of the fence and because no ground disturbance will occur in connection with this repair."*

The enclosed Department of Public Works, Engineering Division memorandum dated march 7, 2013, states the following:

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

A portion of the subject parcel (Alealea Point) is in an area designated as Flood Zone VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency. Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year).

The proposed improvements are outside the flood zone, except a portion of the chain link fence that is to be replaced with new railing and is of no concern. "

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 13-000261 is hereby approved to allow the removal of non-native trees, replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles on the subject property.

Please note that although the application asked for tree removal, prior to any land disturbance, the applicant must conduct an archeological inventory survey acceptable to SHPD.

Conditions of Approval

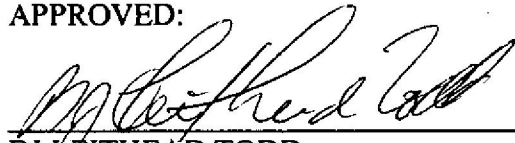
The Planning Director has approved SMA Minor Permit No. 13-000261 subject to the following conditions:

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 shall comply with the provisions included in the previously approved Shoreline Public Access Plan.

4. Prior to any stump removal or root disturbance, the applicant shall conduct an archeological inventory survey acceptable to SHPD and provide the SHPD written approval of the survey report to the Planning Department.
5. Until written approval from SHPD is received, non-native invasive trees and vegetation may only be trimmed and maintained using hand tools, without ground disturbance.
6. During any work near the Alealea stream channel, a construction and silt barrier, meeting with the approval of the Planning Director, shall be erected along the top of the culvert system and stream bank to prevent materials from the stream channel.
7. All work, including the felling of trees, near the stream shall be directed away from the stream channel.
8. The Alealea stream channel shall be hand-cleared of any remaining green waste from previous tree removal activities and shall be maintained.
9. All green waste remaining from previous tree removal activities shall be collected by hand and disposed of at appropriate locations designated by the Department of Environmental Management for green waste, or mulched within the portions of the subject property located within Flood Zone "X" and outside of the stream channel and shoreline setback area.
10. All work within the shoreline setback area, along the top of the seawall, and shoreline bluff shall be performed from the mauka (inland) side of the property with the implementation of industry standard best management practices to prevent any materials from entering coastal waters.
11. During the replacement of the old chain-link fence along seawall, a construction barrier, meeting with the approval of the Planning Director, shall be erected along the top of the existing seawall to prevent materials from entering coastal waters.
12. During the installation of new railings along the shoreline bluff, a construction barrier, meeting with the approval of the Planning Director, shall be erected along the top of the bluff to prevent materials from entering coastal waters.
13. Other than the approved replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles, no land alteration, grubbing, demolition or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to PD Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
14. As required by PD Rule 11-8 (b), the work within the shoreline setback area shall be completed within one (1) year from the date of this determination of minor structure or activity within the Shoreline Setback Area.
15. No heavy equipment shall be used in the shoreline setback area.

16. 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. This includes the determination of the shoreline setback area.
17. 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.
18. 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).
19. 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

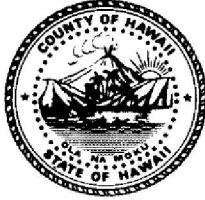
MAR 22 2013

Date

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. SMM-13-000261 **(AMENDED)**

Project: Land and Resource Management, Fence Installation, Clearing of Seawall Vegetation
Applicant: John Cross
Landowner: Hawaiian Ola Brewing Corporation
Location: Wainaku & Mokuhonua, South Hilo, Hawai'i
TMK: (3) 2-6-015:001
Land Area: 10.34 acres

Applicant's Request

1. Project Description:

The applicant is proposing to conduct several activities related to land and resource management and safety improvements that are analogous to the approved uses under SMM-13-000261. The proposed activities are as follows:

- Clearing of vegetation, without ground disturbance, utilizing hand tools and approved herbicides.
- Application of approved herbicides to Banyan Tree stumps.
- Resurface and repair the existing "old paint shed" concrete pad for safety.
- Installation of fencing/railings along shoreline bluff.
- Restoration of public access trail, and addition of signage in accordance with the approved 1997 *Shoreline Public Access Plan*.

2. Purpose of Project:

On September 12, 1996, the Planning Commission approved SMA Permit No. 96-8 (SMA 367) to allow for the development of a new headquarters for C. Brewer and Company, Ltd.

by restoration, renovation, and additions to the existing warehouse structure at the Wainaku Mill Site.

On March 22, 2013, the Planning Director approved SMA Minor Permit SMM-13-000261 in order to return the property to its former state of care when SMA 367 was issued.

Since the issuance of SMM-13-000261, the property has come under new ownership and a new focus (proposed brewery and restaurant); however, it has not been maintained during that time. The current owner would like to continue the minor land and resource management activities and safety improvements in order to conduct master planning for the conversion of the existing Wainaku Center to a brewery and restaurant. These proposed activities under the amended SMA Minor permit constitute a continuation of the previously approved activities, with only minor changes to the overall plan.

3. **Project Valuation:** \$100,000.
4. **Determination:** According to Hawai‘i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (B), “*Grading, removing, dredging, mining, or extraction of any materials,*” is not exempt from the definition of “development.” In addition, according to HRS Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), “*Construction, reconstruction, demolition, or alteration of the size of any structure*” is not exempt from the definition of “development.” Therefore, the proposed project, as described above, is considered to be development and will require a review against the Special Management Area (SMA) rules and regulations.

State and County Plans

1. **State Land Use District:** The subject parcel is designated Urban by the State Land Use Commission.
2. **General Plan:** The subject parcel is designated as both Resort Node (ren) and “Open” (ope) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The subject parcel is zoned MG-5a (General Industrial) by the County of Hawai‘i.
4. **Special Management Area:** The subject parcel is located in the SMA as well as located within the “shoreline area” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).

- 5. Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone VE and X.

<p align="center">Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area</p>

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 objective(s) 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, including reefs, beaches, and coastal dunes, 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 coastal hazards.

- ☒ 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 and coastal dunes for: 1) public use and recreation; 2) the benefit of coastal ecosystems; 3) use as a natural buffer against coastal hazards; and 4) coordinate and fund beach management and protection.
- ☒ 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 and Coastal Dune Protection
 - ☒ Marine and Coastal Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements. *Pursuant to Hawai'i Administrative Rules Section 11-200.1-15(c)(4), the proposed project is considered an exempt action and therefore an Environmental Assessment is not required for the proposed project.*

Findings

1. 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.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$100,000 does not exceed \$500,000.

Agency Consultation

The project was reviewed under HRS Chapter 6E-42 by the State Historic Preservation Division (SHPD). By Letter dated March 20, 2013, SHPD stated the following:

Based on current information, SHPD recommends that an archeological inventory survey be conducted of the parcel prior to recommencement of landscape improvements, with the following exception:

1. *Relocation of the flagpoles can be completed due to the unsafe nature of the open excavations around the poles, and given that they were set in modern fill, as observed during the February 26th site visit.*
2. *Relocation of the statue of Doc Buyers can occur; this will involve superficial ground disturbance only.*
3. *Repair of the existing chain link fence can occur, due to the unsafe condition of the fence and because no ground disturbance will occur in connection with this repair.*

Staff notes that the applicant has provided additional information in regard to the SHPD recommendations. By letter dated June 8, 2022, the Applicant states that:

- *The landscape activities are with use of hand tools and chainsaws. NO GROUND DISTURBANCE activity is proposed or will be allowed under the terms of the SMM minor permit issued in 2013 [sic].*
- *In regard to this specific amendment to SMM-13-000261, NO SOIL DISTURBANCE ACTIVITIES will be performed and as such the minor actions of the landscaping, brush removal, and improvements to the paint shop structure can occur without the AIS being completed.*

Approved Uses, Activities and Operations

Pursuant to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), **Special Management Area Minor Permit No. 13-000261 (SMM-13-0000261-AMENDED)** is hereby approved for the land and resource management/repair and maintenance project on the above referenced property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 13-000261 (SMM-13-0000261-AMENDED)**, **subject to the following conditions:**

1. The applicant(s), its successor(s), or assign(s) (Applicant) 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 shall complete all conditions of the 1997 *Shoreline Public Access Plan* within one (1) year from the date of this approval.
4. The Applicant shall ensure the shoreline access path remains open and free of any project related impacts during all proposed activities or alternative access shall be provided.
5. The Applicant will ensure the activities will be conducted as described, using hand tools only, with no soil or ground disturbance proposed as represented by the Applicant.
6. Other than the proposed project as described in this permit, no further work is permitted under this approval.
7. Landscaping and irrigation shall be contained and maintained within the property lines of the subject parcel and shall under no circumstances extend seaward of the shoreline as depicted on the certified shoreline survey for the parcel dated August 25, 2021. No vegetation removal, land alteration or construction shall occur between the shoreline and shoreline setback line unless approved by this permit.
8. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.
9. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.

10. The Applicant shall ensure that excessive debris from the clearing of the seawall is contained or otherwise minimized using Best Management Practices.
11. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission
12. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights 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.
13. Any further development, including but not limited to, the construction of structures or improvements not included in this permit shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
14. That in issuing this permit, the Department has relied on the information and data that the Applicant has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
15. 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).
16. The Planning Director shall initiate procedures to revoke this permit should any of the conditions not be met or substantially complied with in a timely fashion.

John Cross
July 25, 2022
Page 8

If you have questions regarding this document, please feel free to contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

APPROVED:

Jeffrey W. Darrow for
Jeffrey W. Darrow for (Jul 25, 2022 16:17 HST)

ZENDO KERN
Planning Director

July 25, 2022

Date

Mauna Kea Agribusiness Co., Inc.
P. O. Box 15
Papaikou, Hawaii 96781

COPY

February 21, 1997

Virginia Goldstein
Planning Director
County of Hawaii, Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Dear Virginia:

Special Management Area Use Permit No. 367
Applicant: Mauna Kea Agribusiness Co., Inc., a subsidiary
of C. Brewer and Company, Ltd.
Approved Development: Draft Shoreline Access Plan and
Proposed Improvements within the 40-foot Shoreline Setback
Area for the Proposed C. Brewer Wainaku Office Building.
Tax Map Key: 2-6-15:1 and 2-6-16:2: Wainaku & Mokuhonua
South Hilo, Hawaii

Shoreline Public Access Plan

Map of Shoreline Public Access: The alignment of the proposed
Shoreline Public Access is temporarily rendered on a map attached
and included as a part of this letter. A final map of the route
will be submitted at time of granting an the Public Access
Easement.

Parking: Space for up to six (6) vehicles will be made available
to the public by moving the rock boulders away from the Wainaku
Street Frontage. The Area will allow parking far enough away
from Wainaku Street so that cars will not need to back onto the
street when exiting.

Access Route: The route will cross the open ground to the
existing concrete bridge, cross the bridge to the concrete paved
abutment, and across the abutment to the beginning of the crushed
cinder trail. The route will continue down the embankment by a
compacted crushed cinder path no less than tree (3) feet wide at
any point. Because the grade is steep, the compacted crushed
cinder will provide better footing than the current dirt trail.

The compacted crushed cinder trail leads to the Railroad right-of-way which is of level grade. The route turns south along the Railroad right-of-way to a concrete ramp which leads to the development area' general grade. The route will continue to and along the northern seawall until reaching the Alaelea Point, the preferred fishing site.

Lateral Shoreline Public Access: As noted in your letter to Mr. Evan D. Cruthers dated January 28, 1997, Lateral Shoreline Public Access will not be provided along the property's shoreline frontage due to the hazardous shoreline conditions, as Item 1 on Page 2.

Trail Conditions: Mauna Kea Agribusiness will keep the parking area, concrete bridge, abutment area, concrete ramp, and the general project area free of weeds and growth which might make traversing these areas unsafe. The trail down the embankment will be at least three feet wide at all points and will be capped with a compacted surface of crushed cinders for better traction and lower trail maintenance.

Signage: A map/sign will be posted at the Belt Highway entrance to the Wainaku Office Building area which will include the route to the Wainaku Street parking area and public access entrance.

A map/sign will be posted at the Wainaku Street parking area which will state "Shoreline Public Access" and indicate general route.

Twenty-four Hour Shoreline Public Access: It is the intention of Mauna Kea Agribusiness Co., Inc. to allow unrestricted shoreline public access. A pedestrian opening will be created through the existing fence between the Wainaku Street site and the concrete bridge. No permits or access control are currently under consideration. Some control measures could be implemented at a later date if an unrestricted access policy results in vandalism or damages to the general site or building improvements.

Public Access Easement: Mauna Kea Agribusiness Co., Inc. agrees to grant a Public Access Easement to the appropriate County of Hawaii authority over the Shoreline Public Access route. Mauna Kea Agribusiness Co., Inc. would propose to reserve the right to relocate the Public Access Easement should a more suitable, and Planning Department approved, route become available in the future.

I hope that this letter answers your questions and meets the requirements of Condition No. 5 of the SMA Use Permit No. 367.

Thank you for your invaluable assistance in bringing the C.
Brewer Corporate Offices to Hilo.

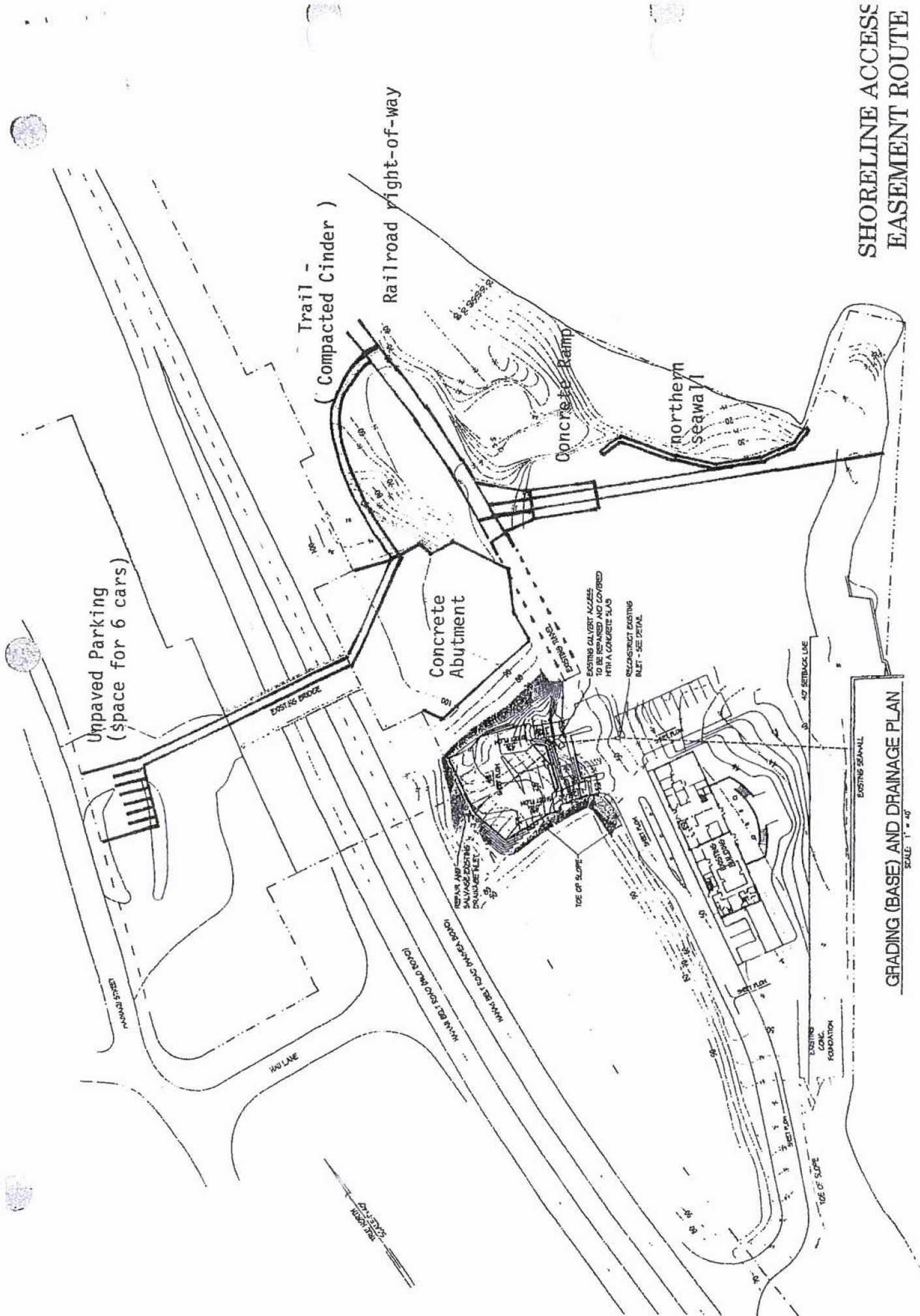
Sincerely,

Willie K. Tallett

Willie K. Tallett

President

Mauna Kea Agribusiness Co., Inc.

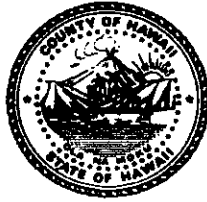


SHORELINE ACCESS
EASEMENT ROUTE

SPECIAL MANAGEMENT AREA USE PERMIT PETITION
COUNTY OF HAWAII

■ C. BREWER WAINAKU
OFFICE BUILDING

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. 13-000261

Project: Removal of Non-Native Trees, Replacing Chain-Link Fence Along Seawall, Installing New Railings Along Shoreline Bluff, Relocation of Existing Statue and Flagpoles

Applicants: John C. Cross

Land Owners: Wainaku Ventures, LLC

Location: Wainaku & Mokuhonua, South Hilo, Hawai'i

TMK: (3) 2-6-015:001 **Land Area:** 10.34 acres

Applicant's Request

1. Project Description:

The applicant proposes the removal of non-native trees, replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles on the subject property.

2. Purpose of Project:

On September 12, 1996, the Planning Commission approved SMA Permit No. 96-8 (SMA 367) to allow for the development of a new headquarters for C. Brewer and Company, Ltd. by restoration, renovation and additions to the existing warehouse structure at Brewer's Hilo Wainaku Mill Site. The objective of this application is to return the property to its former state of care when SMA 367 was issued. Invasive and damaging trees that have grown since that time will be removed.

3. Project Valuation: \$100,000.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (B), "*Grading, removing, dredging, mining, or extraction of any materials,*" is not exempt from the definition of "development." In addition, according to HRS Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "*Construction, reconstruction, demolition, or alteration of the size of any structure*" is not exempt from the definition of "development."

Therefore, the proposed tree removal, replacement of the chain-link fence, installation of new railings, and the relocation of the statue and flagpoles are considered to be development and will require a review against the Special Management Area rules and regulations.

State and County Plans

1. **State Land Use District:** The subject parcel is designated Urban 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 Resort Node and Open.
3. **County Zoning:** The subject parcel is zoned MG-5a (General Industrial) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone VE and 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 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$100,000 is not in excess of \$500,000.

Agency Consultation:

The project was reviewed under HRS Chapter 6E-42. The enclosed Department of Land and Natural Resources, State Historic Preservation Division (SHPD) correspondence dated March 20, 2013, states the following:

"Based on current information, SHPD recommends that an archeological inventory survey be conducted of the parcel prior to recommencement of landscape improvements, with the following exception:

- 1. Relocation of the flagpoles can be completed due to the unsafe nature of the open excavations around the poles, and given that they were set in modern fill, as observed during the February 26th site visit.*
- 2. Relocation of the statue of Doc Buyers can occur; this will involve superficial ground disturbance only.*
- 3. Repair of the existing chain link fence can occur, due to the unsafe condition of the fence and because no ground disturbance will occur in connection with this repair."*

The enclosed Department of Public Works, Engineering Division memorandum dated march 7, 2013, states the following:

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

A portion of the subject parcel (Alealea Point) is in an area designated as Flood Zone VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency. Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year).

The proposed improvements are outside the flood zone, except a portion of the chain link fence that is to be replaced with new railing and is of no concern. "

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 13-000261 is hereby approved to allow the removal of non-native trees, replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles on the subject property.

Please note that although the application asked for tree removal, prior to any land disturbance, the applicant must conduct an archeological inventory survey acceptable to SHPD.

Conditions of Approval

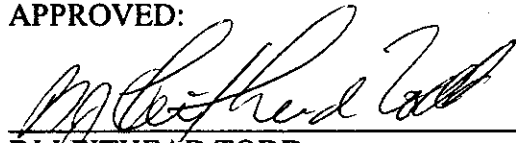
The Planning Director has approved SMA Minor Permit No. 13-000261 subject to the following conditions:

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 shall comply with the provisions included in the previously approved Shoreline Public Access Plan.

4. Prior to any stump removal or root disturbance, the applicant shall conduct an archeological inventory survey acceptable to SHPD and provide the SHPD written approval of the survey report to the Planning Department.
5. Until written approval from SHPD is received, non-native invasive trees and vegetation may only be trimmed and maintained using hand tools, without ground disturbance.
6. During any work near the Alealea stream channel, a construction and silt barrier, meeting with the approval of the Planning Director, shall be erected along the top of the culvert system and stream bank to prevent materials from the stream channel.
7. All work, including the felling of trees, near the stream shall be directed away from the stream channel.
8. The Alealea stream channel shall be hand-cleared of any remaining green waste from previous tree removal activities and shall be maintained.
9. All green waste remaining from previous tree removal activities shall be collected by hand and disposed of at appropriate locations designated by the Department of Environmental Management for green waste, or mulched within the portions of the subject property located within Flood Zone "X" and outside of the stream channel and shoreline setback area.
10. All work within the shoreline setback area, along the top of the seawall, and shoreline bluff shall be performed from the mauka (inland) side of the property with the implementation of industry standard best management practices to prevent any materials from entering coastal waters.
11. During the replacement of the old chain-link fence along seawall, a construction barrier, meeting with the approval of the Planning Director, shall be erected along the top of the existing seawall to prevent materials from entering coastal waters.
12. During the installation of new railings along the shoreline bluff, a construction barrier, meeting with the approval of the Planning Director, shall be erected along the top of the bluff to prevent materials from entering coastal waters.
13. Other than the approved replacement of old chain-link fence along seawall, installation of new railings along shoreline bluff, and relocation of existing statue and flagpoles, no land alteration, grubbing, demolition or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to PD Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
14. As required by PD Rule 11-8 (b), the work within the shoreline setback area shall be completed within one (1) year from the date of this determination of minor structure or activity within the Shoreline Setback Area.
15. No heavy equipment shall be used in the shoreline setback area.

16. 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. This includes the determination of the shoreline setback area.
17. 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.
18. 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).
19. 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

MAR 22 2013

Date