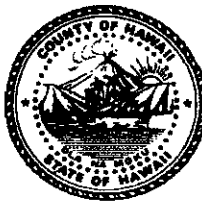


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
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## County of Hawai'i

### PLANNING DEPARTMENT

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101 Pauahi Street, Suite 3  
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### **Special Management Area Minor Permit No. 13-000264**

**Project:** Approval of As-Built Platform and Placement of a Portable Restroom  
**Applicant(s):** William Gibson and Kahala Ann Trask-Gibson  
**Land Owner(s):** William Gibson and Kahala Ann Trask-Gibson  
**Location:** Ka'apahu, Hāmākua, Hawai'i  
**TMK:** (3) 4-4-002:003      **Land Area:** 208 acres

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

##### **1. Project Description:**

The applicant requests the approval of the "as-built" platform for private recreation purposes and placement of a portable restroom on the subject property. In addition, the applicant has decided to permanently remove the as-built "fishing hale" structure on the subject property.

##### **2. Purpose of Project:**

The subject property is used to grow Kava, Noni and Vanilla as well as a variety of truck crops. The purpose of the project is to provide land owner's family and farm workers and their families with a private recreation area near the coastline.

##### **3. Project Valuation: \$2,500.**

##### **4. Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (A), "Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste" is not exempt from the definition of "development." Therefore, the approval of the "as-built" platform for private recreation purposes and placement of a portable restroom 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 Agricultural and Conservation 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 and Open.
3. **County Zoning:** The subject parcel is zoned A-40a (Agricultural) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located partially within the Special Management Area (SMA).
5. **Flood Zone:** X and VE.

### 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 \$2,500 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated April 16, 2013, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated March 13, 2013 and have no objections to the request.*

*Portions of the subject parcel's coastline are in an area designated as Flood Zone VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area*

*inundated by the 100-year flood (1% chance of occurrence in any year). The as-built structures are in an area designated as Zone X (outside the 500-year floodplain)."*

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 13-000264 is hereby approved to allow the as-built" platform for private recreation purposes and placement of a portable restroom on the subject property.

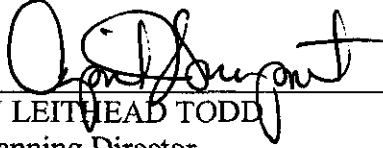
<b>Conditions of Approval</b>
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The Planning Director has approved SMA Minor Permit No. 13-000264 subject to the following conditions:

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 "fishing hale" structure shall be completely removed from the shoreline setback area within **ninety (90) days** of the date of this permit. Once the structure has been removed, please contact Bethany Morrison of this department at 961-8138 for verification. Failure to remove the structure shall result in Penalties as provided for in Planning Department Rule 11-14, Penalties.
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. 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.
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).

7. 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

4.22.13  
Date