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## County of Hawai'i PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
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September 5, 2013

Mr. Edward F. Schroeder  
P.O. Box 167  
Hakalau, Hawai'i 96710

Dear Mr. Schroeder:

**SUBJECT: Special Management Area Use Permit Assessment Application  
(SAA 13-001011)  
Special Management Area Minor Use Permit (SMM 13-000283)  
Applicant(s): Edward F. Schroeder  
Landowner: Hāmākua Coast Ag 401(K) Plan  
Request: Tree Removal  
Tax Map Key: (3) 1-3-004:008; 'Opihikao, Puna, Hawai'i**

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We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA 13-001003), submitted on August 8, 2013. The applicant proposes the removal of six (6) Monkey Pod trees that either fall into the Maximum Developable Area or pose a hazard to public safety on the subject parcel.

The subject property consists of 41,730 square feet. The parcel is designated Conservation by the State Land Use Commission. In the Conservation District, there is no county zoning, per se. Therefore, the Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) has jurisdiction on any use or activity on this parcel. In addition, according to the County of Hawai'i General Plan 2005 (as amended), the subject property is designated as Open by the Land Use Pattern Allocation Guide. The entire parcel is located in the Special Management Area (SMA) with frontage along the shoreline. However, since the tree removal is proposed more than 40-feet from the shoreline, we hereby waive the requirement to submit a current certified shoreline survey.

### **Special Management Area Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (B), "development" includes "Grading, removing, dredging, mining, or extraction of any materials." Therefore, the proposed tree removal is considered "development" and requires a review against the SMA rules and regulations.



Mr. Edward F. Schroeder  
September 5, 2013  
Page 2

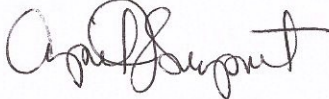
**Compliance with Environmental Impact Statement Regulations (Chapter 343, HRS):**

According to Hawai'i Revised Statutes (HRS) Chapter 343-5, an environmental assessment shall be required for actions that propose any use within any land classified as a conservation district by the state land use commission. However, according to correspondence received on August 26, 2013, the DLNR OCCL has provided an exemption from the requirements of HRS Chapter 343 for the subject project.

Based on the above and pursuant to PC Rule Section 9-10(e), Special Management Area Minor Permit No.13-000283 is hereby issued to allow the tree removal on the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

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

Sincerely,



*for* DUANE KANUHA  
Planning Director

BJM:cs

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Enclosures - SMM No. 13-000283  
DPW Memorandum dated August 28, 2013

cc w/encls: Long Range Planning Division  
Planning Division

Mr. Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands  
State of Hawaii Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

cc ltr. only: Mr. Jesse K. Souki, Director  
Office of Planning  
State of Hawaii Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359





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**Special Management Area Minor Permit No. 13-000283**

**Project:** Tree Removal  
**Applicant(s):** Edward F. Schroeder  
**Landowner:** Hāmākua Coast Ag 401(K) Plan  
**Location:** 'Opihikao, Puna, Hawai'i  
**TMK:** (3) 1-3-004:008 **Land Area:** 41,730 square feet

**Applicant's Request**

**1. Project Description:**

The proposed project includes the removal of six (6) Monkey Pod trees that either fall into the Maximum Developable Area or pose a hazard to public safety on the subject parcel. The trees are proposed to be removed by a professional arborist at or just above grade to prevent ground disturbance in the process of removing the identified trees.

**2. Purpose of Project:**

The applicant is proposing the removal of six (6) Monkey Pod trees that compromise proposed solar and catchment utilities, pose a hazard to public safety, and/ or are dead or diseased.

Power and water service is not available to the subject property. In order to meet the utility requirements for future development of the parcel, the owner consulted with Big Island Electrical Service, LLC and Water Works of Hawai'i. The companies recommended tree removal in order to make available the required light for a solar power installation and reduce the organic debris leaf litter that will compromise water quality in a water catchment system.

In addition, one tree proposed for removal is hanging over the County road with numerous large branches and is an imminent threat to vehicular/ pedestrian traffic. Also, the asphalt is up-heaving due to the root structure migrating across/ below the road, creating a potential major liability to the subject property owner.

**3. Project Valuation: \$5,500**

**4. Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (B), "development" includes "Grading, removing, dredging, mining, or extraction of any materials." Therefore, the proposed tree removal is considered "development" and requires an SMA Minor Permit.



### State and County Plans

1. **State Land Use District:** The parcel is located in the State Land Use Conservation District.
2. **General Plan:** The parcel is designated as Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** In the Conservation District, there is no county zoning, per se. Therefore, the State of Hawai'i Department of Land and Natural Resources (DLNR) has jurisdiction on any use or activity on this parcel.
4. **Special Management Area:** The subject property is located entirely within the SMA, with frontage along the shoreline.
5. **Flood Zone:** X

### Compliance with Objectives and Policies of Chapter 205A, Hawai'i 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 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.

<b>Findings</b>
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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 also consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of \$5,500 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated August 28, 2013, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated August 26, 2013 and have no objections to the request. Removal of trees is exempt from the requirements of Chapter 27."*



*The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is identified as an area of "minimal tsunami inundation." 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."*

Pursuant to PC Rule Section 9-10(e), **Special Management Area Minor Permit No. 13-000283** is hereby approved for the tree removal, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 13-000283**, 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 required permits from affected state and county agencies as necessary to comply with all applicable laws and regulations.
3. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within the State Land Use Conservation district without securing a prior approval of a Conservation District Use Application (CDUA) or other written approval as deemed necessary by the Board of Land and Natural Resources.
4. 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 tree removal within one (1) year from the date of approval of this permit.
5. 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 40 foot shoreline setback area.
6. All activities requiring use of heavy equipment for tree removal activities approved by this permit shall be completed within one (1) year from the date of approval of this permit. Use of heavy equipment within 40 feet of the shoreline is strictly prohibited.
7. All green waste shall be collected from the project and disposed of at appropriate locations designated by the Department of Environmental Management for green waste.
8. This permit does not include the construction of any structures or other uses on the subject property. Another SMA Use Permit Assessment will be required for any uses or activities beyond the scope of this project.
9. 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.

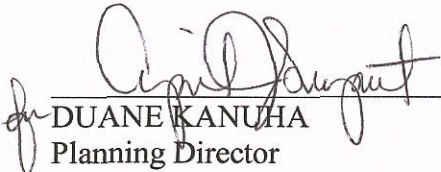
10. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:

- 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).

11. 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 contact Bethany Morrison of this department at 961-8138.

APPROVED:

  
DUANE KANUHA  
Planning Director

SEP 05 2013

Date