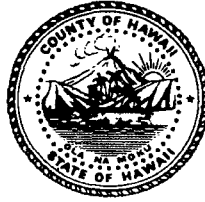


Harry Kim  
Mayor

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## County of Hawai'i

### PLANNING DEPARTMENT

Michael Yee  
Director

Duane Kanuha  
Deputy Director

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May 10, 2019

Janna Wehilani Ahu, Esq.  
Alston Hunt Floyd & Ing  
1001 Bishop Street, Suite 1800  
Honolulu, HI 96813

Dear Ms. Ahu:

**SUBJECT: Special Management Area Minor Permit No. SMM 13-000289**  
**Applicant: Hawai'i Conference Foundation United Church of Christ**  
**Request: Amendment to Conditions of Approval**  
**Tax Map Key: (3) 6-9-002:009, Lalamilo, South Kohala, Hawai'i**

This is in response to your amending SMM 13-000289 with new terms and with specific corrective language to clear up any ambiguity in the Conditions of Approval of the subject SMA Minor Permit.

Pursuant to Hawai'i Revised Statutes 205A-45 and Planning Department (PD) Rule 11 Shoreline Setback Section 11-5(a), "*Except as otherwise provided in this section, all lots which abut the shoreline shall have a minimum shoreline setback line of forty feet.*" PD Rule 11-5(b)(1)(b) further states that there are exceptions for a lot which was created (final subdivision approval or a legal lot of record as determined by the Planning Department) prior to the date of adoption of this rule shall have a minimum shoreline setback line of twenty (20) feet when the buildable area of the parcel is reduced to less than fifty percent of the parcel, after applying the forty (40) feet shoreline setback line and all state and county requirements of the parcel.

The Taxation Maps Bureau's July 1935 plat map for TMK: 6-9-002 included the subject parcel and meets the criteria under PD Rule 11-5(b)(1)(b). Further, a shoreline survey of the subject parcel was certified on December 14, 2018. Based on this map, the gross area of the Hōlualoa Church Lot of 1.778 acres resulted in the net buildable area, after the forty (40) feet shoreline, and front and side

MAY 10 2019

Janna Wehilani Ahu, Esq.  
Alston Hunt Floyd & Ing  
May 10, 2019  
Page 2

yard setbacks, of 0.771 acre which is less than the 50% calculation (0.889 acres) of the subject parcel. Therefore, we have determined that a minimum shoreline setback of twenty (20) feet is applicable to the subject property.

Due to the foregoing determination of the twenty (20) feet shoreline setback instead of forty (40) feet, amendments were required to reflect this change in the Conditions of Approval for SMM 13-000289. Also, clarification was provided for the scope of work and types of equipment to be allowed within the shoreline setback area. Therefore, we have enclosed a copy of SMM 13-000289 (Revised) for your files. New material is underscored and materials to be deleted is struck through and bracketed.

If you have questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



MICHAEL YEE  
Planning Director

ETI:mad  
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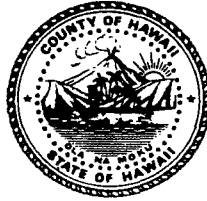
Encl. SMM 13-000289 (Revised)

cc: Board of Appeals  
Ronald Kim, BOA & Planning Department Deputy Corporation Counsel  
Dept. of Land & Natural Resources, Division of Land Management  
Horace Yanagi, Planning Inspector

Harry Kim  
*Mayor*

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## **Special Management Area Minor Permit No. 13-000289 (Revised)**

**Project:** Hokuloa Church Landscaping Improvements  
**Applicant:** Hawai'i Conference Foundation United Church of Christ  
**Landowner:** State of Hawai'i  
**Location:** Lālāmilo, South Kohala, Hawai'i  
**TMK:** (3) 6-9-002:009 lot A1 **Land Area:** 2.953 acres

### **Applicant's Request**

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

The proposed activities and improvements within the SMA include the gradual removal of the dense kiawe vegetation on the property, planting of native and non-invasive vegetation, clearing of church activity areas, construction of rock walls, installation of hog-wire fencing, installation of gravel along the shoulder of Puakō Beach Drive, and construction of a mauka-makai and lateral shoreline trail. Activities proposed within the shoreline setback area are limited to removal of the kiawe vegetation, planting of native and other vegetation, and construction of the lateral shoreline trail.

#### **1. Purpose of Project:**

The proposed landscaping improvements will provide scenic landscaped areas for church activities and provide the public access to and along the shoreline of the subject property.

#### **2. Project Valuation:** \$341,451

### **State and County Plans**

- 1. State Land Use District:** The parcels are located in the State Land Use Urban District.
- 2. General Plan:** The parcels are designated as Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The parcels are zoned Open by the County.

4. **Special Management Area:** The subject property is located entirely within the SMA and does front the shoreline.
5. **Flood Zone:** VE & AE

<b>Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes</b>
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Checked boxes below indicate that the objectives and policies are found to be consistent with the proposed development. Issuance of a SMA Minor Permit requires that the activities, uses, or operations 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 removal of invasive vegetation and replacement with native vegetation, as well as the creation of a public access trail to access the shoreline, is consistent with the Hawai'i County General Plan, Chapter 8, Section 8.3, and the Hawai'i County Zoning Code.

The proposed is also consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of \$341,451 is not in excess of \$500,000.

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

*"We have reviewed the subject application and our comments are as follows:*

*Please see our comment to the Draft Environmental Assessment by letter dated June 22, 2011.*

*With regard to compliance with Chapter 27 of Hawai'i County Code, Flood Zones "VE and AE", affect the subject parcels as designated by the Flood Insurance Rated Map (FIRM), dated September 16, 1988. Improvements will be subject to the requirements of Chapter 27 – Flood Plain Management, of the Hawai'i County Code. New encroachments are not allowed to increase the base flood elevation during the base flood event. Flood carrying capacity shall be maintained. Notably, DPW approval of the proposed wall construction is subject to further review.*

*Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office as 327-3530."*

#### **Approved Uses, Activities and Operations**

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 13-000289 (Revised)** is hereby approved for removal of the dense kiawe vegetation on the property, planting of native and other vegetation, clearing of church activity areas, construction of rock walls, installation of hog-wire fencing, installation of gravel along the shoulder of Puakō Beach Drive, and construction of a mauka-makai and lateral shoreline trail, as presented in the revised SAA 14-1129, subject to the applicant's compliance with the conditions of approval as specified below. New material is underscored and materials to be deleted is struck through and bracketed.

#### **Revised Conditions of Approval**

The Planning Director has approved SMA Minor Permit No. 13-000289 **(Revised)**, 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. Activities approved by this permit shall be completed within three years of the date of the amended permit.
4. Best management practices described in "Part 3: Environmental Setting, Impacts and Mitigation" of the final Environmental Assessment published for the subject project shall be adhered to in full.

5. ~~[Both the shoreline and the 40']~~The 20' shoreline setback area shall be clearly marked by installing a construction fence and a [siltation] sedimentation barrier, and markings routinely maintained, for the entire duration of time the approved land alteration activities are being conducted. Volunteers executing the improvements shall be briefed on the specific activities permitted within the shoreline setback area and the area mauka of the shoreline setback area.
6. No ~~[heavy]~~ motorized equipment other than chainsaws, weed whackers, and other similar equipment for hand-clearing [or ground-disturbance] is allowed within the shoreline setback area. Where there is motorized equipment with an arm, the arm is allowed to reach into the shoreline setback area to perform tasks such as holding branches that will be cut to avoid having the branches fall into the ocean, lifting and removing large branches, moving a person or persons in a bucket to reach trees along the shoreline for hand-clearing, and other tasks that require this type of equipment. The base of the equipment with the arm must remain outside the shoreline setback area.
7. Trees shall be cut so as to fall away from the ocean and no debris from the subject activities shall be allowed to enter or be removed from the ocean other than what is approved and permitted by Department of Land and Natural Resources (DLNR). Tree roots shall be allowed to decompose in place to stabilize soils until new plantings have taken root.
- ~~[8. Irrigation installed within the shoreline setback area to aid in establishment of desired vegetation shall be removed once the vegetation is established, or within one year of installation of irrigation, whichever date is earlier.]~~
- ~~[9-]~~ 8. Any non-native plants used for landscaping shall not be considered invasive as determined by the Department of Land and Natural Resources, Hawai'i Invasive Species Council.
- ~~[10-]~~ 9. During work, all green waste shall be routinely removed from within the SMA and disposed of at an appropriate location designated by the Department of Environmental Management. No stockpiling of green waste on the property shall be allowed. Containers used for green waste collection and disposal shall be sited mauka of the ~~[40]~~20' shoreline setback area.
- ~~[11-]~~ 10. A public access plan and public access agreement, meeting with the approval of the Planning Director, shall be submitted for recordation with the Bureau of Conveyances prior to allowing any church functions on the lands formerly described by TMK (3) 6-9-002:008. Per Section 34-7 of Chapter 34 of the Hawai'i County Code, "[t]he public access shall have a minimum width of ten feet".
- ~~[12-]~~ 11. The rock walls proposed within the properties are subject to the requirements of Chapter 27 of the Hawai'i County Code, and will require approval from the Department of Public Works (DPW). Written confirmation that the walls meet the requirements of Chapter 27 shall be submitted to the Planning Department prior to their construction.

- [13-] 12. Portable restrooms brought in to accommodate wastewater generation for church functions shall be placed at a location(s) outside of the [40] 20' shoreline setback area, properly secured, and removed within not more than 48 hours after the activities have ended.
- [14-] 13. An annual progress report detailing the work which has been completed and the work which remains to be done shall be submitted on or before the anniversary date of this revised permit. Should work within the shoreline setback area not be completed within one year of the date of this revised permit, the applicant may be required to submit a request detailing the remaining work to be done within the shoreline setback area for review by the Planning Department against Rule 11 of Planning Department Rules of Practice and Procedure.
- [15-] 14. 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.
- [16-] 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).
  - d)
- [17-] 16. 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 Esther Imamura at 961-8139.

APPROVED:

  
\_\_\_\_\_  
MICHAEL YEE  
Planning Director

5/10/19  
\_\_\_\_\_  
Date