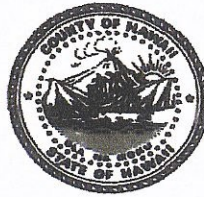


William P. Kenoi
Mayor



West Hawai'i Office
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County of Hawai'i
PLANNING DEPARTMENT

Duane Kanuha
Director

Bobby Command
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

December 12, 2013

Ms. Theresa K. Donham
P.O. Box 4340
Hilo HI 96721

Dear Ms. Donham:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA 13-001054)
Special Management Area Minor Use Permit (SMM 13-000292)
Applicant: Dianna L. Guenther and Theresa K. Donham
Land Owner: Dianna L. Guenther and Theresa K. Donham
Request: Landscaping Improvements and Routine Maintenance
Tax Map Key: 1-4-67:15, Vacationland Hawai'i, Puna, Hawai'i**

This is to follow up on our December 3, 2013 letter relating to the above-referenced Special Management Area assessment for landscaping improvements and routine maintenance of the subject parcel.

The 8,000 square feet parcel is designated Urban by the State Land Use Commission and zoned Single-Family Residential (RS-10) by the County. It is in the Special Management Area, but does not have frontage along the coastline. Therefore, since it is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS), the requirement to submit a current certified shoreline survey is waived.

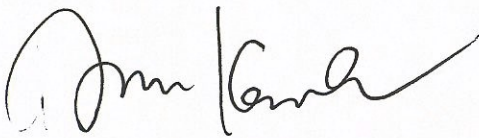
According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e)(1)(B) and (A), relating to the Special Management Area, "Grading, removing, dredging, mining, or extraction of any materials" and "Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste" are not exempt from the definition of "development." Therefore a Special Management Area Minor Permit is required.

Ms. Theresa K. Donham
December 12, 2013
Page 2

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 13-000292 is hereby issued for the landscaping improvements and routine maintenance of the property, subject to the applicant's compliance with the conditions of approval as required by the permit.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Duane Kanuha', with a stylized flourish at the end.

DUANE KANUHA
Planning Director

ETI
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Enc. SMM 13-000292
 Department of Public Works December 5, 2013 Memo

cc w/encls: Long Range Planning Division
 Planning Division

cc ltr only: Mr. Jesse K. Souki, Director
 Office of Planning, DBEDT
 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. 13-000292

Project: Landscaping Improvements and Routine Maintenance
Applicant: Dianna L. Guenther and Theresa K. Donham
Land Owner: Dianna L. Guenther and Theresa K. Donham
Location: Vacationland Hawai'i, Puna, Hawai'i
TMK: 1-4-67:15 **Land Area:** 8,000 square feet

Applicant's Request

1. Project Description:

Chainsaws and loppers will be used to remove invasive vines, plants and selected trees. Some of the larger trees along the property boundary will be removed by a licensed contractor.

Hedges will be planted along the back and side property lines. A small, removable tool shed to store gardening tools will be placed on the property. Along Wai'ōpae Road, a small sign and boulders will be installed to prevent people from parking on the property.

There will be no mechanized grubbing or grading. All green waste will be taken to the County approved green waste facility. Wood chipped onsite will be retained on the property.

There are no tidal ponds or wetland areas on the property.

2. Purpose of Project:

The dense vegetation and some large trees will be removed to decrease coqui frog habitats and improve the appearance of the parcel. As construction of a dwelling is not feasible at this time, routine maintenance of the property is also requested.

3. Project Valuation: \$5,000 - \$8,000

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e)(1)(B) and (A), "Development" includes "Grading, removing, dredging, mining, or extraction of any materials" and "Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste", respectively. Therefore, the proposed landscaping improvements and routine

maintenance of the property are considered "Development" and requires a Special Management Area Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Urban.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property as Low Density Urban.
3. **County Zoning:** The subject property is zoned Single-Family Residential (RS-10).
4. **Special Management Area:** The parcel is located within the Special Management Area (SMA). However, it is mauka of several dwellings and the Wai'ōpae Road. Therefore, it is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** AE

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

This parcel does not have frontage along the coastline. Therefore, the proposed project will not affect public access to the shoreline or negatively affect shoreline recreational resources available to the public.

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 Hawaii 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 tsunامي, storm waves, stream flooding, erosion, subsidence and pollution.
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.

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

The estimated project cost of approximately \$5,000 - \$8,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated December 5, 2013, states the following:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated December 3, 2013 and have no objections to the request.

The subject parcel is in an area designated as Flood Zone AE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100 year flood (1% chance of occurring in any given year) where flood elevations have been determined."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 13-000292** is hereby approved for the proposed landscaping improvements and routine maintenance of the parcel, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

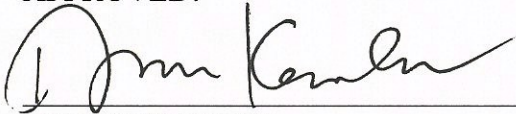
The Planning Director has approved **SMA Minor Permit No. 13-000292**, subject to the following conditions:

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. Debris shall be disposed of at an approved County green waste facility.
4. Any future 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.
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, with the exception of No. 6, however, 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.

If you have questions, please contact Esther Imamura of this department at 961-8138.

APPROVED:



DUANE KANUHA
Planning Director

DEC 12 2013

Date