

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. 14-000297

Project: After-The-Fact Grubbing of Parcels, Removal of Trees, and Installation of Construction Screening
Applicant: Janet Rugg Lew
Landowner: Janet Rugg Lew
Location: Kapoho Beach Lots, Kapoho, Hawai'i
TMKs: (3) 1-4-027:011, 012 & 028 **Land Area:** 1.3033 acres

Applicant's Request

1. Project Description:

The applicant proposed the grubbing, removal of trees, installation of construction screening, a perimeter rock wall, driveway, and landscaping on the subject properties. Application materials were insufficient to make Special Management Area (SMA) determinations on all the requested improvements. Therefore, under this SMA review, the Planning Department will only be considering the documented activities that took place on or prior to February 10, 2014; specifically the grubbing, removal of trees, and installation of construction screening on the subject properties. Any further uses, activities or operations will not be considered under this determination. Further reference in this permit to the "proposed development" will only include the above underlined activities that occurred on or prior to February 10, 2014.

2. Purpose of Project:

The project removed thick vegetation to allow for open viewing and future planning for the subject properties.

3. Project Valuation: \$19,000

State and County Plans

- 1. State Land Use District:** The parcel is located in the State Land Use Urban 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. Puna Community Development Plan (PCDP):** The PCDP recognizes that this part of the island is undergoing subsidence at a rate of up to 0.7 inches per year, and can be subject to seawater inundation during high wave events and high tides.

Consideration should be made to these factors when planning future development on the subject parcels.

4. **County Zoning:** The parcel is zoned Residential (RS-10) by the County of Hawai'i.
5. **Special Management Area:** The subject property is located entirely within the SMA with shoreline frontage along all three parcels.
6. **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 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 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 stated estimated project cost of \$19,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated February 21, 2014, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated February 13, 2014 and have no objections to the request.

The subject parcels are in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.

Because the grubbing was less than one acre for each parcel, a grubbing permit will not be required for any of the subject parcels."

Determination

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), "development" includes the "grading, removing, dredging, mining, or extraction of any materials" and the "placement or erection of any solid material or any gaseous, liquid, solid, or thermal

waste”. Therefore, the grubbing of the subject properties, removal of trees, and installation of construction screening that occurred on or before February 10, 2014, is considered development and shall require an SMA Minor Permit. Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 14-000297** is hereby approved for the after-the-fact grubbing, tree removal, and installation of screening on the subject parcels that took place prior to February 10, 2014, subject to the applicant’s compliance with the conditions of approval as specified below.

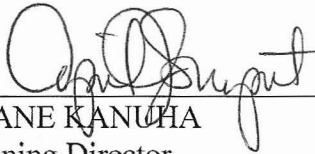
Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 14-000297**, 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. All equipment used for grubbing, including green waste containers and tractors, shall be moved off of the subject property within two weeks from the date of this permit.
4. The applicant shall install a dust/sediment fence, parallel to and at a distance of 40’ from the shoreline, as measured from the tree growing on the shoreline of parcel (3) 1-4-027:011 and as identified on the enclosed photograph labeled Exhibit 1, within two weeks of the date of this permit. The dust/sediment fence shall span the makai side of the three grubbed parcels. No structures or activities as defined by Rule 11-36 of the Planning Department Rules of Practice and Procedure shall be allowed makai (seaward) of this 40’ line.
5. Within two weeks of the date of this permit, the applicant shall arrange for Planning Department staff to conduct a site visit to verify that conditions 3 and 4 of this permit have been complied with.
6. No additional uses, activities or operations, other than the maintenance of the dust/sediment fence described in condition 4 of this permit, shall occur on the properties without first securing approval from the Planning Department. Any additional uses, activities or operations will first require the submission of a Special Management Area Use Permit Assessment Application, inclusive of a shoreline survey certified by the Chairperson of the Board of Land and Natural Resources, and receive a determination from the Planning Department prior to commencement.
7. No additional after-the-fact SMA determinations will be made by the Planning Department concerning the subject parcels. Any further uses, activities or operations conducted on the subject properties without securing prior SMA approvals may result in the immediate issuance of a Notice of Violation.
8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may revoke the subject permit.

If you have questions, please feel free to contact Lucas Mead of this department at 961-8140.

APPROVED:



DUANE KANUHA
Planning Director

3-10-14

Date