

William P. Kenoi
Mayor



Duane Kanuha
Director

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Deputy Director

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74-5044 Ane Keohokalole Hwy
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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
Fax (808) 961-8742

June 20, 2014

Mr. Matthew Kilgore, AIA
65-1285C Kawaihae Road
Kamuela, HI 96743

Dear Mr. Kilgore:

SUBJECT: Special Management Area Use Permit Assessment Application (SAA 14-001120)
Special Management Area Minor Use Permit (SMM-14-000302)
Applicant: Matthew Kilgore
Land Owner: Seascape Ventures, LLC
Request: Site Grubbing
TMK (s): (3) 7-7-008:113; Kapala'ala'ea, North Kona, Hawai'i

This is in response to your Special Management Area Use Permit Assessment Application received on May 19, 2014 for the proposed site grubbing of the entire subject parcel to mitigate brush fire hazard.

The subject parcel consists of 11.271 acres and is zoned A-5a (Agricultural). According to the County of Hawai'i General Plan (as amended), the subject property is designated as Urban Expansion by the Land Use Pattern Allocation Guide. The parcel is designated Agricultural by the State Land Use Commission. In addition, although the proposed project site is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS), it is within the Special Management Area (SMA) and subject to review against SMA rules and regulations.

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4(e)(1)(B), "*Grading, removing, dredging, mining, or extraction of any materials,*" is not exempt from the definition of "development." Therefore, the proposed site grubbing will require a review against the Special Management Area rules and regulations.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 14-000302 is hereby issued for the SMA approval of the site grubbing of the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Mr. Matthew Kilgore, AIA
June 23, 2014
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If you have questions, please feel free to contact Bethany Morrison of this department at (808) 961-8138.

Sincerely,



DUANE KANUHA
Planning Director

BJM:cs

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Enclosures - SMM No. 14-000302
DPW Memorandum dated June 13, 2014

cc w/encls: Long Range Planning
Planning Division

cc ltr only: Mr. Leo Asuncion, Acting 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. 14-000302

Project:	Site Grubbing
Applicant:	Matthew Kilgore
Land Owner:	Seascope Ventures, LLC
Location:	Kapala'ala'ea, North Kona, Hawai'i
TMK(s):	(3) 7-7-008:113 Land Area: 11.271 acres

Applicant's Request

1. Project Description:

The applicant proposes the site grubbing of the entire parcel. Existing vegetation will be managed via a grubbing permit from its current overgrown and fire hazard state. Potential erosion will be managed by maintaining all runoff on site using geotech fabric 3' tall silt fences.

2. Purpose of Project:

The objective of the project is to mitigate brush fire hazards.

3. Project Valuation: \$8,000.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4(e)(1)(B), "*Grading, removing, dredging, mining, or extraction of any materials,*" is not exempt from the definition of "development." Therefore, the proposed site grubbing 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 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 Urban Expansion.
- 3. County Zoning:** The subject parcel is zoned A-5a (Agricultural) by the County of Hawai'i.

4. **Special Management Area (SMA):** The subject parcel is located entirely within the Special Management Area. However, the project area is not located in a “shoreline area” as defined by Hawai‘i Revised Statutes (HRS) Chapter 205A-41.
5. **Flood Zone:** X.

<p align="center">Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area</p>

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.

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 \$8,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated June 13, 2014, states the following:

"We have reviewed the subject application for compliance with Chapter 27, and our comments are as follows:

We have determined that the subject property is located within Flood Zone "X" according to 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. The above information is based on the most recent FIRM for the County of Hawai'i. This letter does not imply that the referenced property will or will not be free from flooding or flood damage. A property not in the Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. This letter does not create liability for the County of Hawai'i, or any officer or employee thereof, for any damage that results from reliance on this information.

All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.

The applicant should consult with the Natural Resources Conservation Service.

The applicant shall comply with chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity."

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 14-000302 is hereby approved for the site grubbing of the subject property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 14-000302** 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 construction activities shall be completed within two (2) years from the date of this permit.
4. Earthwork shall adhere to Best Management Practices in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i. Measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation.
5. A sedimentation barrier (silt fence), meeting with the approval of the Planning Director, shall be erected along the entire western (downslope) boundary of the subject property prior to the commencement of any land altering or construction activities and shall remain in place until final inspection by Department of Public Works (or Planning Department)."
6. The sedimentation barrier must be shown and properly noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement, "the construction (and/or erosion control) barrier must be erected prior to any land altering or construction activities, and must remain in place until final inspection by Department of Public Works (or Planning Department)."
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. Any further 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.

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.

APPROVED:


DUANE KANUHA
Planning Director

JUN 20 2014

Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII


PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 JUN 13 PM 4:35

DATE: June 13, 2014

Memorandum

TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 14-001120)
Request: Proposed Grubbing of 11.27 acres for brush fire mitigation
Applicant: Mathew Kilgore, AIA
Land Owner: Seascape Ventures, LLC
Location: Kapala'ala'ea
TMK: 3 / 7-7-008:113

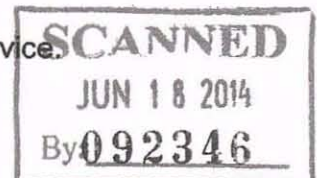
We reviewed the subject application for compliance with Chapter 27 and our comments are as follows:

We have determined that the subject property is located within Flood Zone "X" according to 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. The above information is based on the most recent FIRM for the County of Hawaii. This letter does not imply that the referenced property will or will not be free from flooding or flood damage. A property not in the Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. This letter does not create liability for the County of Hawaii, or any officer or employee thereof, for any damage that results from reliance on this information.

All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.

The applicant should consult with the Natural Resources Conservation Service.



Memorandum to PD

June 13, 2014

Page 2 of 2

The applicant shall comply with chapter 11-55, Water Pollution Control, Hawaii Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.

Should there be any questions concerning this matter, please contact Kiran Emler of our Kona Engineering Division office at 323-4851.

KE

copy: ENG-HILO/KONA