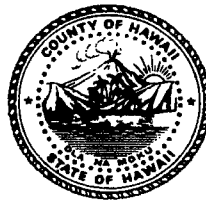


Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

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

April 19, 2017

Mr. Steve Shropshire  
P.O. Box 1146  
Hilo, HI 96721

Dear Mr. Shropshire:

**SUBJECT: Correction to Letter Dated April 4, 2017  
Special Management Area Use Permit Assessment Application  
(SAA 16-001461)**

**Special Management Area Minor Permit No. 17-000366**

**Applicant: Shropshire Group, LLC**

**Land Owner: Shropshire Group, LLC**

**Request: Consolidation and Resubdivision of Two Lots into Two  
Lots and Establishment of a Distillery, Food  
Manufacturing and Processing Operation, Watchman's  
Quarters, Brewery, Tasting Room, Restaurant, and  
Related Improvements including Fencing of the Arsenic  
Contamination Area, Landscaping, and the "As-built"  
Water Tank and Carport**

**TMK(s): (3) 2-9-002:079 & 081, Hakalau, Hawai'i**

It has been brought to our attention that the enclosed April 4, 2017, letter inadvertently left out a line in the sentence that began on Page 2 and should have continued on to Page 3. Therefore, we are enclosing an April 4, 2017 [Revised April 19, 2017] letter with the minor correction underlined for your file. Please note that no changes were required for the Special Management Area Minor Permit No. 17-000366.

**APR 20 2017**

Mr. Steve Shropshire  
April 19, 2017  
Page 2

We apologize for this oversight and any inconveniences that it may have caused. Should you have any questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



6MICHAEL YEE  
Planning Director

ETI:ja

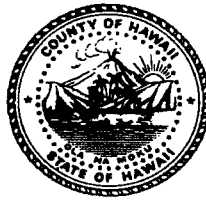
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Enclosures: Planning Department letter dated April 4, 2017  
Correction letter dated April 4, 2017 [Revised April 19, 2017]

cc w/encls.: Planning Division (via email)

cc ltr. only: Mr. Leo Asuncion, Director  
Office of Planning, DBEDT  
State of Hawai'i Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

Harry Kim  
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Phone (808) 961-8288  
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April 4, 2017 [Revised April 19, 2017]

Mr. Steve Shropshire  
P.O. Box 1146  
Hilo, HI 96721

Dear Mr. Shropshire:

**SUBJECT: Special Management Area Use Permit Assessment Application  
(SAA 16-001461)**

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**Applicant: Shropshire Group, LLC**

**Land Owner: Shropshire Group, LLC**

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and Establishment of a Distillery, Food Manufacturing and  
Processing Operation, Watchman's Quarters, Brewery,  
Tasting Room, Restaurant, and Related Improvements  
including Fencing of the Arsenic Contamination Area,  
Landscaping, and the "As-built" Water Tank and Carport**

**TMK(s): (3) 2-9-002:079 & 081, Hakalau, Hawai'i**

This is to acknowledge receipt on December 14, 2016, of the Special Management Area Use Permit Assessment Application for the consolidation and resubdivision of two lots into two lots and establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, and restaurant within the two existing buildings and related site improvements on the subject parcels. Also acknowledged is receipt of emails for proposed exterior improvements consisting of fencing, landscaping, and the "as-built" water tank and carport. Upon receipt of the enclosed revised site plan received on March 10, 2017, the subject application was deemed complete.

A complaint (ZCV 2017-002E) was received on January 3, 2017, regarding the unpermitted deposit and spreading of base course gravel along and behind warehouse Building B. However, Planning Commission Rule 9-(e)(2)(F) does allow for "*Repair, maintenance, or interior alterations to existing structures or relating to existing uses.*" As this activity is a permitted use and will be included in this application, the complaint is being closed.

Subsequently, a February 24, 2017, warning letter for unpermitted fencing and livestock on the subject parcels was issued by certified mail. Your March 9, 2017, email stated that the livestock, as well as the section of fencing that was designated in purple on the enclosed map had been removed. However, Mr. John Peard of the Hawai'i Department of Health, Hazard Evaluation and Emergency Response (HDOH HEER) Office required that the section of fence in brown remain in place to contain the arsenic contamination area to protect the public health, safety and welfare. Therefore, it was left intact. After a site inspection on March 23, 2017, and receipt of photos on March 24, 2017, staff verified that there are no livestock on the property and that the fencing in purple has been removed. The fencing in brown, however, is proposed to remain in place as part of the containment area required by HDOH HEER. Therefore, as both issues have been addressed, the warning is hereby closed.

Proposed is the consolidation and resubdivision of two lots into two lots, confining all building uses to one parcel. Also established would be a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements. However, the proposed locations for these specific uses will be flexible and may shift between Buildings A and B based on tenant requirements. The fencing of the arsenic contaminated area, and landscaping improvement are proposed along a portion of the north and west sides of the project area. Finally, additional "as-built" structures include a water tank and a carport.

Parcel 079, consisting of 5.117 acres, and Parcel 081, consisting of 3.597 acres, are both designated Urban by the State Land Use Commission and zoned General Industrial (MG-5a) by the County. In addition, the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates both parcels as Industrial and Open. They are also both located in the Special Management Area (SMA) and have frontage along the coastline. We find that the proposed development is located a considerable distance from the shoreline and therefore waive the need to submit a shoreline survey.

According to Hawai'i County Code, Chapters 25-5-150 and 152, respectively, Permitted Uses in the General Industrial (MG) district, areas are noted for uses that are generally considered to be offensive or have some element of danger, and include the following:

- (a) (12) Breweries, distilleries, and alcohol manufacturing facilities
- (30) Food manufacturing and processing facilities
- (52) Restaurants
- (d) (1) Permitted as incidental and subordinate to any permitted use: Living quarters for watchmen or custodians in connection with the operation of any permitted use.
- (e) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MG district.

Our files include a Final Removal Action Report, dated June 18, 2014, that was prepared to address elevated soil arsenic on the subject parcels. Although the required Remediation Implementation Work Plan has not yet been submitted to the HDOH HEER Office, we

understand that your intention is to continue with remediation of the contaminated areas on the subject parcels. Pursuant to the March 7, 2017, email from the Department of Health, we received confirmation regarding the requirement of fencing around the arsenic contamination area. In addition, HDOH HEER Office expressed concerns about the pressure washing of Building B, which reportedly resulted in potential lead-based paint chips on the ground. Therefore, they are also requiring testing for lead in the area around this building.

**Special Management Area Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1), "Development" includes the following:

- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;*
- (B) Grading, removing dredging, mining or extraction of any materials;*
- (C) Change in the density or intensity of use of land, including, but not limited to the division or subdivision of land; and*
- (D) Change in the intensity of use of water, ecology related thereto, or to access thereto.*

Therefore, the proposed improvements and "as-built" structures, as presented, are not exempt from the definition of "development" and will require a review against the Special Management Area rules and regulations.

According to PC Rule 9-10 (h), when considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. Although most of the proposed actions are primarily interior improvements to Buildings A and B, the fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport are not expected to affect the project area involved and the surrounding areas, nor have a cumulative impact or a substantial adverse environmental or ecological effect on the SMA.

Based on the foregoing and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 17-000366 is hereby issued for the SMA approval of the consolidation and resubdivision, establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements which include fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport on the subject parcels. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit. Please note that any substantive changes to the project as proposed in this application will require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.

Finally, in issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified,

Mr. Steve Shropshire  
April 4, 2017 [Revised April 19, 2017]  
Page 4

suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.

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

Sincerely,



MICHAEL YEE  
Planning Director

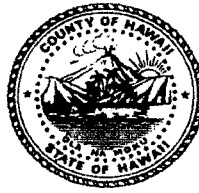
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Enclosures: SMM No. 17-000366  
DPW Memorandum dated January 3, 2017  
Revised Site Plan received March 10, 2017

cc w/encls.: Planning Division (via email)

cc ltr. only: Mr. Leo Asuncion, Director  
Office of Planning, DBEDT  
State of Hawai'i Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

Harry Kim  
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West Hawai'i Office  
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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

#### Special Management Area Minor Permit No. 17-000366

**Project:** Consolidation and Resubdivision of Two Lots into Two Lots and Establishment of a Distillery, Food Manufacturing and Processing Operation, Watchman's Quarters, Brewery, Tasting Room, Restaurant, and Related Improvements including Fencing of the Arsenic Contamination Area, Landscaping, and the "As-built" Water Tank and Carport

**Applicant:** Shropshire Group, LLC

**Landowner:** Shropshire Group, LLC

**Location:** Hakalau, Hawai'i

**TMK(s):** (3) 2-9-002:079 & 081      **Land Area(s):** 5.117 acres & 3.597 acres

#### Applicant's Request

**1. Project Description:**

Proposed is the consolidation and resubdivision of two lots into two lots with no associated construction costs. Also established would be a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements. However, based on tenant requirements, the proposed locations for these specific uses will be flexible and may shift between Buildings A and B. Additional exterior improvements include fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport.

**2. Purpose of Project:**

The applicant is proposing to contain the project area within one lot, Lot 2-A, and utilize it in accordance with its General Industrial (MG-5a) zoning, which would include commercially viable means to adapt and reuse the two warehouse buildings.

**3. Project Valuation:** \$384,489.17

**4. Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1), "Development" includes the following:

- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
- (B) Grading, removing dredging, mining or extraction of any materials;

- (C) Change in the density or intensity of use of land, including, but not limited to the division or subdivision of land; and*  
*(D) Change in the intensity of use of water, ecology related thereto, or to access thereto.*

Therefore, the proposed project is considered "development" and requires an SMA Minor Permit.

#### **State and County Plans**

1. **State Land Use District:** Both parcels are located in the State Land Use Urban District.
2. **General Plan:** The parcels are designated as Industrial and Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcels are zoned General Industrial (MG-5a) by the County.
4. **Special Management Area:** The subject properties are located entirely within the SMA and have frontage along the coastline.
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 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.

<b>Findings</b>
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1. 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.
2. 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.
3. The estimated project cost of \$384,489.17 is not in excess of \$500,000.
4. The enclosed Department of Public Works, Engineering Division memorandum dated January 3, 2017, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated December 16, 2016, and offer the following comments for your consideration.*

*All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72(3) of the Hawai'i County Code.*

*The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency and is identified as an area of "minimal tsunami inundation." The parcels, at elevation 80 feet, are designated as Zone X (an area determined to be outside the 500-year floodplain). 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) and by letter dated April 4, 2017, the Planning Director hereby approves the consolidation and resubdivision of two lots into two lots and the establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements including fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport, as presented in SAA 16-001461, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
-------------------------------

**This SMA Minor Permit is 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. The applicant shall secure final approval of the consolidation and resubdivision within one (1) year from the date of this permit.
4. The applicant shall secure Plan Approval from the Planning Department prior to the construction or establishment of the proposed uses and within one (1) year from the date of this permit.
5. All construction activities in connection with this project shall be completed within two (2) years from the date of Final Plan Approval.
6. Prior to applying for Plan Approval, the applicant is required to submit a copy of the approved HDOH HEER Remediation Implementation Work Plan that addresses soil arsenic contamination.

7. Prior to issuance of the Certificate of Occupancy, submit HDOH HEER documentation that the proposed remedy has been completed. Further, lead contamination remediation, if applicable, must also be documented.
  8. The applicant shall comply with the Department of Land and Natural Resources, State Historic Preservation Division's "Site 26591 Preservation Treatments" required by the approved Architectural Preservation Plan for Site 26591 Feature A and Feature B.
  9. The disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawai'i County Code and may require a Landfill Disposal Permit from the Department of Environmental Management. Please contact the Department of Environmental Management, Solid Waste Division at (808) 961-8339 for more information.
  10. To confirm the total project valuation, the applicant shall submit a written construction bid for all construction activities, provided by a contractor(s) licensed to do business in the State of Hawai'i, prior to the submittal of any building permit application. Should any revisions/additions to the construction plans for the project be required, the applicant must provide a revised construction bid. In the event the total valuation of the project exceeds \$500,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area (Major) Use Permit from the Windward Planning Commission.
  11. According to Hawai'i County Code, Chapter 25-5-152 (d), only watchmen or custodians are permitted to occupy the proposed watchman's quarters as incidental and subordinate to the permitted uses.
  12. Any further grading, grubbing, filling or other construction activity, including but not limited to the construction of additional 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.
  13. Neither the landowner nor any agent of the landowner or its successors shall at any time impede or otherwise restrict public access within the public access easement as provided in the previously recorded declaration of public access easement.
  14. Artificial light from exterior lighting fixtures, including but necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
  15. No structure or land alteration, including landscaping activity shall occur within sixty (60) feet of the top of cliff without securing prior written approval from the Planning Director.
-

16. 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.
17. 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).
18. 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 (808) 961-8139.

APPROVED:

  
MICHAEL YEE  
Planning Director

4/4/17  
Date

2017 JAN 3 PM 11:54

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

NT

DATE: January 3, 2017

***Memorandum***

TO: Michael Yee, Planning Director

FROM: *for* *by* Department of Public Works, Engineering Division

**SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 16-001461)**

Applicant: Shropshire Group, LLC

Request: Establish a Distillery, Food Manufacturing & Processing Operation

Location: Hakalau, Hawaii

Tax Map Key: 2-9-02: 079 & 081

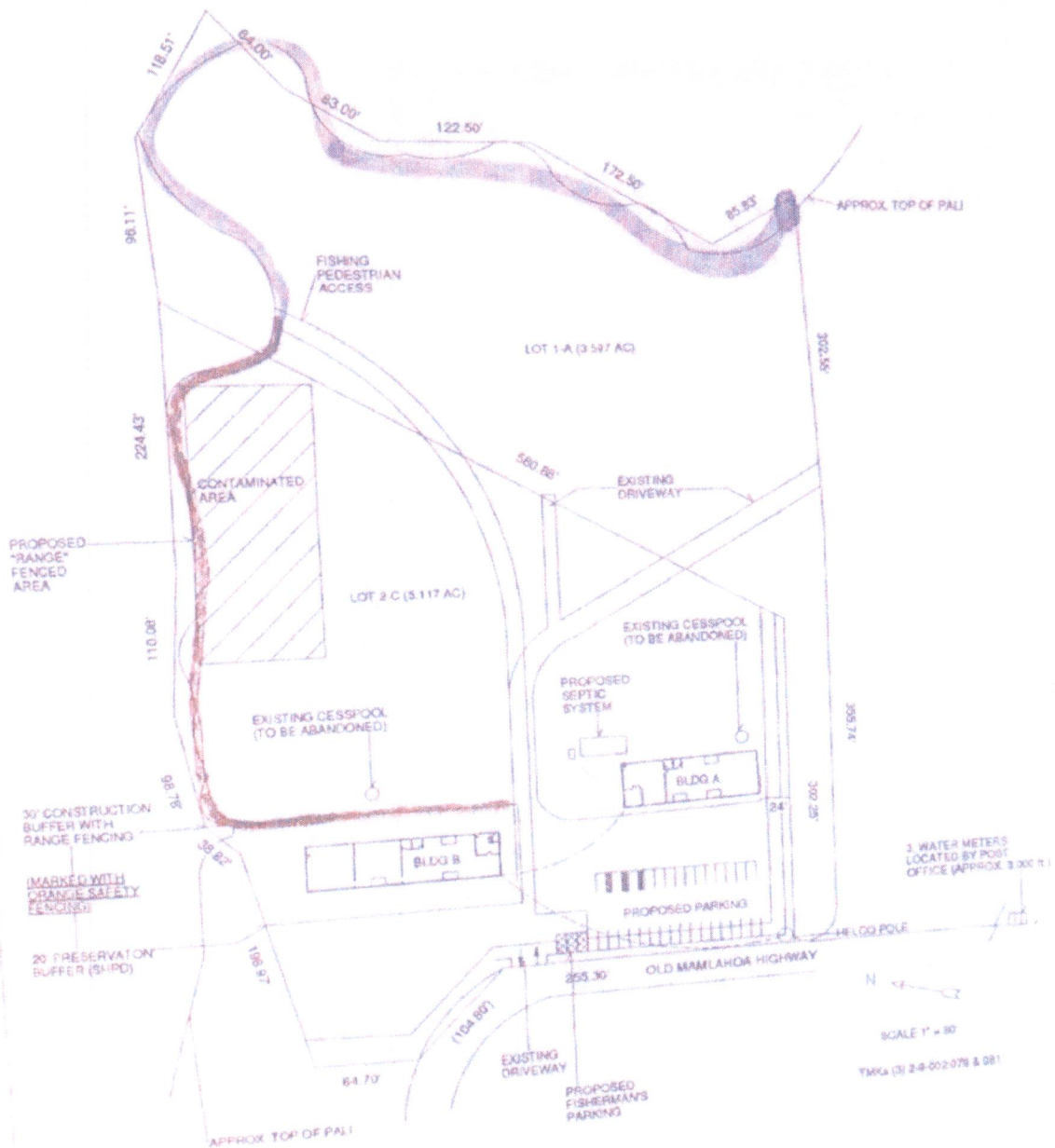
We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated December 16, 2016 and offer the following comments for your consideration.

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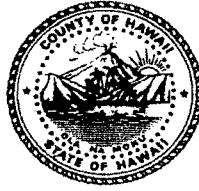
The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency and is identified as an area of "minimal tsunami inundation." The parcels, at elevation 80 feet, are designated as Zone X (an area determined to be outside the 500-year floodplain). The Federal Government and the County of Hawaii do not have any regulations for developments within areas of minimal tsunami inundation and Zone X.

Questions may be referred to Kelly Gomes at ext. 8327.

**109185**



Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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Fax (808) 961-8742

April 4, 2017

Mr. Steve Shropshire  
P.O. Box 1146  
Hilo, HI 96721

Dear Mr. Shropshire:

**SUBJECT: Special Management Area Use Permit Assessment Application  
(SAA 16-001461)**

**Special Management Area Minor Permit No. 17-000366**

**Applicant: Shropshire Group, LLC**

**Land Owner: Shropshire Group, LLC**

**Request: Consolidation and Resubdivision of Two Lots into Two Lots  
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including Fencing of the Arsenic Contamination Area,  
Landscaping, and the "As-built" Water Tank and Carport**

**TMK(s): (3) 2-9-002:079 & 081, Hakalau, Hawai'i**

This is to acknowledge receipt on December 14, 2016, of the Special Management Area Use Permit Assessment Application for the consolidation and resubdivision of two lots into two lots and establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, and restaurant within the two existing buildings and related site improvements on the subject parcels. Also acknowledged is receipt of emails for proposed exterior improvements consisting of fencing, landscaping, and the "as-built" water tank and carport. Upon receipt of the enclosed revised site plan received on March 10, 2017, the subject application was deemed complete.

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- (52) Restaurants
- (d) (1) Permitted as incidental and subordinate to any permitted use: Living quarters for watchmen or custodians in connection with the operation of any permitted use.
- (e) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MG district.

Our files include a Final Removal Action Report, dated June 18, 2014, that was prepared to address elevated soil arsenic on the subject parcels. Although the required Remediation Implementation Work Plan has not yet been submitted to the HDOH HEER Office, we



subject parcels. Pursuant to the March 7, 2017, email from the Department of Health, we received confirmation regarding the requirement of fencing around the arsenic contamination area. In addition, HDOH HEER Office expressed concerns about the pressure washing of Building B, which reportedly resulted in potential lead-based paint chips on the ground. Therefore, they are also requiring testing for lead in the area around this building.

**Special Management Area Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1), "Development" includes the following:

- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;*
- (B) Grading, removing dredging, mining or extraction of any materials;*
- (C) Change in the density or intensity of use of land, including, but not limited to the division or subdivision of land; and*
- (D) Change in the intensity of use of water, ecology related thereto, or to access thereto.*

Therefore, the proposed improvements and "as-built" structures, as presented, are not exempt from the definition of "development" and will require a review against the Special Management Area rules and regulations.

According to PC Rule 9-10 (h), when considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. Although most of the proposed actions are primarily interior improvements to Buildings A and B, the fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport are not expected to affect the project area involved and the surrounding areas, nor have a cumulative impact or a substantial adverse environmental or ecological effect on the SMA.

Based on the foregoing and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 17-000366 is hereby issued for the SMA approval of the consolidation and resubdivision, establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements which include fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport on the subject parcels. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit. Please note that any substantive changes to the project as proposed in this application will require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.

Finally, in issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified,

Mr. Steve Shropshire  
April 4, 2017  
Page 4

suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.

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

Sincerely,



MICHAEL YEE  
Planning Director

ETI: ja

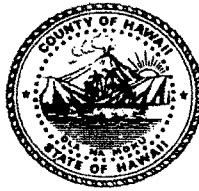
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Enclosures: SMM No.: 17-000366  
DPW Memorandum dated January 3, 2017  
Revised Site Plan received March 10, 2017

cc w/encls.: Planning Division (via email)

cc ltr. only: Mr. Leo Asuncion, Director  
Office of Planning, DBEDT  
State of Hawai'i Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

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. 17-000366

**Project:** Consolidation and Resubdivision of Two Lots into Two Lots and Establishment of a Distillery, Food Manufacturing and Processing Operation, Watchman's Quarters, Brewery, Tasting Room, Restaurant, and Related Improvements including Fencing of the Arsenic Contamination Area, Landscaping, and the "As-built" Water Tank and Carport

**Applicant:** Shropshire Group, LLC

**Landowner:** Shropshire Group, LLC

**Location:** Hakalau, Hawai'i

**TMK(s):** (3) 2-9-002:079 & 081      **Land Area(s):** 5.117 acres & 3.597 acres

#### Applicant's Request

**1. Project Description:**

Proposed is the consolidation and resubdivision of two lots into two lots with no associated construction costs. Also established would be a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements. However, based on tenant requirements, the proposed locations for these specific uses will be flexible and may shift between Buildings A and B. Additional exterior improvements include fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport.

**2. Purpose of Project:**

The applicant is proposing to contain the project area within one lot, Lot 2-A, and utilize it in accordance with its General Industrial (MG-5a) zoning, which would include commercially viable means to adapt and reuse the two warehouse buildings.

**3. Project Valuation:** \$384,489.17

**4. Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1), "Development" includes the following:

- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
- (B) Grading, removing dredging, mining or extraction of any materials;

- (C) *Change in the density or intensity of use of land, including, but not limited to the division or subdivision of land; and*
- (D) *Change in the intensity of use of water, ecology related thereto, or to access thereto.*

Therefore, the proposed project is considered "development" and requires an SMA Minor Permit.

#### **State and County Plans**

1. **State Land Use District:** Both parcels are located in the State Land Use Urban District.
2. **General Plan:** The parcels are designated as Industrial and Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcels are zoned General Industrial (MG-5a) by the County.
4. **Special Management Area:** The subject properties are located entirely within the SMA and have frontage along the coastline.
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 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.

<b>Findings</b>
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1. 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.
2. 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.
3. The estimated project cost of \$384,489.17 is not in excess of \$500,000.
4. The enclosed Department of Public Works, Engineering Division memorandum dated January 3, 2017, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated December 16, 2016, and offer the following comments for your consideration.*

*All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72(3) of the Hawai'i County Code.*

*The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency and is identified as an area of "minimal tsunami inundation." The parcels, at elevation 80 feet, are designated as Zone X (an area determined to be outside the 500-year floodplain). 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) and by letter dated April 4, 2017, the Planning Director hereby approves the consolidation and resubdivision of two lots into two lots and the establishment of a distillery, food manufacturing and processing operation, watchman's quarters, brewery, tasting room, restaurant, and related improvements including fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport, as presented in SAA 16-001461, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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**This SMA Minor Permit is subject to the following conditions:**

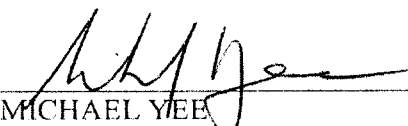
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. The applicant shall secure final approval of the consolidation and resubdivision within one (1) year from the date of this permit.
4. The applicant shall secure Plan Approval from the Planning Department prior to the construction or establishment of the proposed uses and within one (1) year from the date of this permit.
5. All construction activities in connection with this project shall be completed within two (2) years from the date of Final Plan Approval.
6. Prior to applying for Plan Approval, the applicant is required to submit a copy of the approved HDOH HEER Remediation Implementation Work Plan that addresses soil arsenic contamination.

7. Prior to issuance of the Certificate of Occupancy, submit HDOH HEER documentation that the proposed remedy has been completed. Further, lead contamination remediation, if applicable, must also be documented.
  8. The applicant shall comply with the Department of Land and Natural Resources, State Historic Preservation Division's "Site 26591 Preservation Treatments" required by the approved Architectural Preservation Plan for Site 26591 Feature A and Feature B.
  9. The disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawai'i County Code and may require a Landfill Disposal Permit from the Department of Environmental Management. Please contact the Department of Environmental Management, Solid Waste Division at (808) 961-8339 for more information.
  10. To confirm the total project valuation, the applicant shall submit a written construction bid for all construction activities, provided by a contractor(s) licensed to do business in the State of Hawai'i, prior to the submittal of any building permit application. Should any revisions/additions to the construction plans for the project be required, the applicant must provide a revised construction bid. In the event the total valuation of the project exceeds \$500,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area (Major) Use Permit from the Windward Planning Commission.
  11. According to Hawai'i County Code, Chapter 25-5-152 (d), only watchmen or custodians are permitted to occupy the proposed watchman's quarters as incidental and subordinate to the permitted uses.
  12. Any further grading, grubbing, filling or other construction activity, including but not limited to the construction of additional 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.
  13. Neither the landowner nor any agent of the landowner or its successors shall at any time impede or otherwise restrict public access within the public access easement as provided in the previously recorded declaration of public access easement.
  14. Artificial light from exterior lighting fixtures, including but necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
  15. No structure or land alteration, including landscaping activity shall occur within sixty (60) feet of the top of cliff without securing prior written approval from the Planning Director.
-

16. 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.
17. 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).
18. 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 (808) 961-8139.

APPROVED:

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

4/4/17  
\_\_\_\_\_  
Date



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DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

NT

DATE: January 3, 2017

**Memorandum**

TO: Michael Yee, Planning Director

FROM: *for* *by* Department of Public Works, Engineering Division

**SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 16-001461)**

Applicant: Shropshire Group, LLC

Request: Establish a Distillery, Food Manufacturing & Processing Operation

Location: Hakalau, Hawaii

Tax Map Key: 2-9-02: 079 & 081

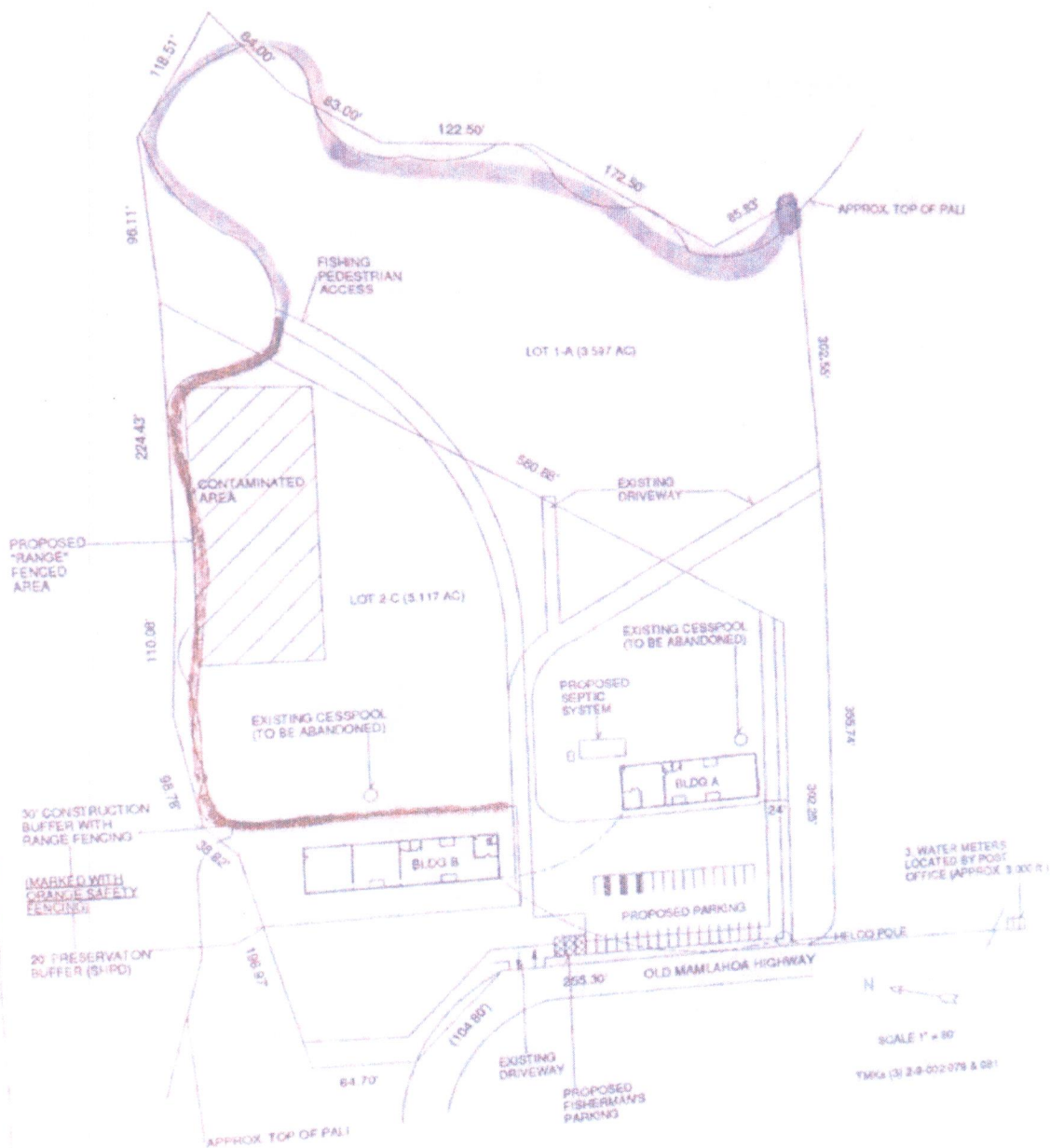
We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated December 16, 2016 and offer the following comments for your consideration.

All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72(3) of the Hawaii County Code.

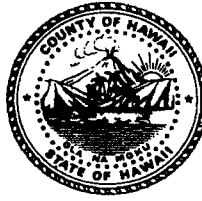
The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency and is identified as an area of "minimal tsunami inundation." The parcels, at elevation 80 feet, are designated as Zone X (an area determined to be outside the 500-year floodplain). The Federal Government and the County of Hawaii do not have any regulations for developments within areas of minimal tsunami inundation and Zone X.

Questions may be referred to Kelly Gomes at ext. 8327.

**109185**



Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

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

August 29, 2017

Mr. Steve Shropshire  
P.O. Box 1146  
Hilo, HI 96721

Dear Mr. Shropshire:

**SUBJECT: Special Management Area Use Permit Assessment Application  
(SAA 16-001461)**

**Special Management Area Minor Permit No. 17-000366**

**Applicant: Shropshire Group, LLC**

**Land Owner: Shropshire Group, LLC**

**Request: Consolidation and Resubdivision of Two Lots into Two Lots  
and Establishment of a Distillery, Food Manufacturing and  
Processing Operation, Watchman's Quarters, Brewery,  
Tasting Room, Restaurant, and Related Improvements  
including Fencing of the Arsenic Contamination Area,  
Landscaping, and the "As-built" Water Tank and Carport  
Subject: RESCISSION OF SMA MINOR PERMIT NO. 17-000366  
TMK(s): (3) 2-9-002:079 & 081, Hakalau, Hawai'i**

The Planning Director issued Special Management Area (SMA) Minor Permit No. 17-000366 on April 4, 2017, to allow a consolidation and resubdivision of the subject properties to accommodate the establishment of a distillery, food manufacturing and processing operation, a watchman's quarters, a brewery, tasting room, restaurant, and related improvements which include fencing of the arsenic contamination area, landscaping, and the "as-built" water tank and carport.

A review of Planning Commission Rule 9 relating to the Special Management Area finds that the Planning Commission has provided the Planning Director with the authority to issue SMA Minor Permits for development only where the valuation of the development is not in excess of \$125,000 and where such development will not have a cumulative impact, or a substantial adverse environmental or ecological effect on the Special Management Area. Where the development has a valuation in excess of \$125,000 or may have a substantial adverse effect on

**AUG 29 2017**

Mr. Steve Shropshire  
August 29, 2017  
Page 2

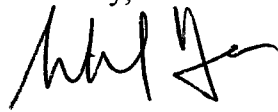
the Special Management Area, Rule 9 requires the Planning Director to declare that a SMA [Major] Use Permit is required.

As the project valuation was represented as \$384,489.17, it exceeds this \$125,000 threshold amount and therefore requires that I rescind SMA Minor Permit No. 17-000366.

In light of the above action, you must complete and submit an application for a Special Management Area [Major] Use Permit to the Planning Commission, along with all required documents, information, copies and filing fee described on the application form and as specified by Planning Commission Rule 9.

If you have any questions, please contact me at (808) 961-8125.

Sincerely,



MICHAEL YEE  
Planning Director

DSA:ja

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Enclosure: SMA Use Permit Application

cc: BOA 17-000171

# SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION

## COUNTY OF HAWAII PLANNING DEPARTMENT

(Type or legibly print the requested information)

APPLICANT: \_\_\_\_\_

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LIST APPLICANT'S INTEREST IF NOT OWNER: \_\_\_\_\_

LIST PRINCIPAL(S) INCLUDING NAMES OF MAIN OFFICERS: \_\_\_\_\_

PHONE: (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_ (Fax) \_\_\_\_\_

LANDOWNER(S): \_\_\_\_\_

LANDOWNER SIGNATURE(S): \_\_\_\_\_ DATE: \_\_\_\_\_

(May be by letter)

LANDOWNER(S) ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

REQUEST: \_\_\_\_\_

\_\_\_\_\_

TAX MAP KEY: \_\_\_\_\_ ZONING: \_\_\_\_\_

SIZE OF PROPERTY OR AFFECTED AREA(S): \_\_\_\_\_

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE: (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_ (Fax) \_\_\_\_\_

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: \_\_\_\_\_ COPIES: \_\_\_\_\_

**THIS SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION SHALL BE ACCOMPANIED BY THE FOLLOWING:**

1. A filing fee of five hundred dollars (\$500) with check shall be made payable to the County Director of Finance.
2. The Original (signed) and twenty (20) copies of the completed application.
3. The Original and twenty (20) copies of the following background information on the subject request:
  - A. An EIS, if required, under Chapter 343, HRS, or when required by the Director may be submitted in lieu of this section.
  - B. Detailed written description of the proposed project and a statement of objectives and reasons for the request.
  - C. Description of the subject property in sufficient detail to precisely locate the property. Describe existing uses, structures and topography.
  - D. A statement of the valuation of the proposed use, activity or operation.
  - E. State/County Plans affecting the subject request: General Plan designation and Community Development Plans.
  - F. A written statement discussing the proposed development in relationship to the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein.
  - G. Surrounding zoning and land uses.
  - H. Flood Insurance Rate Map (FIRM) designation (contact Department of Public Works - Engineering Division).
  - I. Archaeological Resources (one of the following):
    1. An archaeological inventory report containing significance assessments, effect determinations, and proposed mitigation commitments. The report should be completed pursuant to State Department of Land and Natural Resources Historic Preservation Division (DLNR-SHPD) rules.
    2. A "no effect" letter from the State DLNR Historic Preservation Division.
    3. A copy of a letter written by the applicant to the State DLNR Historic Preservation Division requesting a "no effect" letter, including supporting documentation, to which SHPD has not responded after 30 days (SHPD's time limit under their rules).
  - J. Floral and Faunal Resources.
  - K. Valued Cultural Resources: Identify any traditional and customary native Hawaiian rights that are exercised in the area; the extent in which the proposed development will affect these rights; and feasible action to be taken to protect native Hawaiian rights if they exist.
  - L. Public Access: Existing public access to and along the shoreline or to mountain

areas and knowledge of whether public access is being used.

- M. Description of access(es) to the area (e.g. width, type of surface and condition of roadway). If a private roadway, submit evidence of access rights.
  - N. Traffic impacts - assessment of existing traffic conditions, anticipated increase in traffic and traffic impacts from proposed use (a formal study may be requested by Department of Public Works or Department of Transportation during the review process).
  - O. Availability of Utilities: Water, telephone, electricity, sewage disposal.
  - P. In the case of an applicant whose proposed development has been assessed, any information as to the areas of critical concern delineated by the director.
- 4. An Original and twenty (20) copies of the anticipated impacts of the proposed development on the Special Management Area, including but not limited to the following:
    - A. Description of environmental setting;
    - B. The relationship of the proposed action to land use plans, policies, and control of the affected area;
    - C. The probable impact of the proposed actions on the environment;
    - D. Any probably adverse environmental effect which cannot be avoided;
    - E. Alternatives to the proposed action;
    - F. Mitigating measures proposed to minimize impact; and
    - G. Any irreversible and irretrievable commitment of resources.
  - 5. The Original and twenty (20) copies of a preliminary site plan drawn to scale showing property lines and measurements; all existing and proposed structures with elevations, uses and improvements; proposed subdivision and reference points such as roadways, shoreline, etc.
  - 6. One copy of a full-size (2' x 3') scale-drawn plot plan of Item 5 for presentation purposes.
  - 7. A shoreline survey when the parcel abuts the shoreline, except as may be waived by the Director when the proposed development is clearly and unmistakably located on a shoreline parcel at a considerable distance from the shoreline.
  - 8. In the case where a multi-unit residential structure, containing more than ten units is proposed, the Director may require the applicant to develop a scale model or three-dimensional rendering of the proposed development and related improvements.
  - 9. A list of names, addresses and tax map keys of all owners and lessees of record of surrounding properties who are required to receive notice. See attached instructions for notification procedures.
  - 10. Any other plans or additional information relevant to this application may be requested by the Planning Director to facilitate processing of this request.

## **HAWAII REVISED STATUTES**

### **§205A-2 Coastal zone management program; objectives and policies.**

(a) The objectives and policies in this section shall apply to all parts of this chapter.

(b) Objectives.

- (1) Recreational resources;
  - (A) Provide coastal recreational opportunities accessible to the public.
- (2) Historic resources;
  - (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- (3) Scenic and open space resources;
  - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- (4) Coastal ecosystems;
  - (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
- (5) Economic uses;
  - (A) Provide public or private facilities and improvements important to the State's economy in suitable locations.
- (6) Coastal hazards;
  - (A) Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.
- (7) Managing development;
  - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- (8) Public participation;
  - (A) Stimulate public awareness, education, and participation in coastal management.
- (9) Beach protection;
  - (A) Protect beaches for public use and recreation.
- (10) Marine resources;
  - (A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

(c) Policies.

- (1) Recreational resources;
  - (A) Improve coordination and funding of coastal recreational planning and management; and
  - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
    - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
    - (ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to, surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
    - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
    - (iv) Providing an adequate supply of shoreline parks and other recreational



- facilities suitable for public recreation;
  - (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
  - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
  - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
  - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of section 46-6.
- (2) Historic resources;
- (A) Identify and analyze significant archaeological resources;
  - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
  - (C) Support state goals for protection, restoration, interpretation, and display of historic resources.
- (3) Scenic and open space resources;
- (A) Identify valued scenic resources in the coastal zone management area;
  - (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
  - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
  - (D) Encourage those developments that are not coastal dependent to locate in inland areas.
- (4) Coastal ecosystems;
- (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
  - (B) Improve the technical basis for natural resource management;
  - (C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
  - (D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures.
- (5) Economic uses;
- (A) Concentrate coastal dependent development in appropriate areas;
  - (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal dependent developments to areas

presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:

- (i) Use of presently designated locations is not feasible;
- (ii) Adverse environmental effects are minimized; and
- (iii) The development is important to the State's economy.

- (6) Coastal hazards;
  - (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
  - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
  - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
  - (D) Prevent coastal flooding from inland projects.
- (7) Managing development;
  - (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
  - (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
  - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.
- (8) Public participation;
  - (A) Promote public involvement in coastal zone management processes;
  - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and
  - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.
- (9) Beach protection;
  - (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;
  - (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
  - (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.
- (10) Marine resources;
  - (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
  - (B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;
  - (C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
  - (D) Promote research, study, and understanding of ocean processes, marine life, and

- other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

**§205A-26 Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
  - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
  - (B) Adequate and properly located public recreation areas and wildlife preserves are reserved;
  - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources; and
  - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
  - (A) That the development will not have any substantial 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 interests. Such adverse effects 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;
  - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature; and
  - (C) That the development is consistent with the county general plan and zoning. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
  - (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
  - (B) Any development which would reduce the size of any beach or other area usable for public recreation;
  - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach;
  - (D) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast; and
  - (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.

**FOR REFERENCE TO THE ABOVE SUBMITTAL REQUIREMENTS PLANNING  
COMMISSION RULE 9-SPECIAL MANAGEMENT AREA CAN BE OBTAINED FROM  
THE COUNTY OF HAWAII WEBSITE UNDER PLANNING DEPARTMENT,  
PLANNING RULES.**

**COUNTY OF HAWAI'I  
PLANNING DEPARTMENT**

**Requirement to Inform Surrounding Property Owners and Lessees  
of Contested Case Procedure**

These requirements are prepared in accordance with the Planning Commission's Rules of Practice and Procedure, Rule 4, Contested Case Procedure, effective April 19, 2010. Rule 4, Contested Case Procedure affects "all cases where the action of the Commission is the final action of a County official or agency, prior to the opportunity for appeal to Circuit Court, whenever it is required. It shall therefore be followed in all cases where statutes provide for direct appeal from the Commission to Circuit Court." Applications affected by Rule 4 include Special Permits, Shoreline Setback Variances, Special Management Area (SMA) Use Permits and Use Permits.

***First Notice***

Within (10) days after the Planning Department or Planning Commission has officially acknowledged receipt of your application, you are required to serve notice of your application on surrounding property owners and lessees of record, in accordance with the Hawai'i County Zoning Code, Section 25 - 2 - 4.

***Second Notice***

*Special Permit Applications:* You are required to serve a second notice to surrounding owners and lessees of record within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

*Shoreline Setback Variance Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

*SMA Use Permit Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than twenty (20) days prior to the date of the scheduled hearing.

*Use Permit Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

Both notices shall include the following information:

1. Name of the applicant;
2. Precise location of the property involved, including tax map key identification, location map and site plan;
3. Nature of the application and the proposed use of the property;

4. Date on which the application was filed with the director or the commission;
5. Inform the landowner and lessee that they have a right to submit a written request for a contested case procedure. Should they seek to intervene as a party, they shall file a written request on the attached form, "Petition for Standing in Contested Case Hearing." You should include this form in both notices to the landowners and lessees. The request shall be filed with the Planning Commission at Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawai'i 96720; and accompanied by a filing fee of \$200 payable to the Director of Finance. The required information shall be submitted no later than seven (7) calendar days, prior to the Commission's first scheduled public hearing to consider the application;
6. Inform the landowner and lessee that should they choose not to submit a written request for a contested case procedure, they may express their support/opposition in writing or by oral testimony at the Planning Commission public hearing to be scheduled; and
7. Planning Department mailing address and phone number should there be any questions.

In addition, the second notice shall include the date, time and place that the scheduled public hearing will be held to consider the application.

#### ***Who Should Be Notified?***

When the subject property is located within the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record of all lots within three hundred feet (300') of the perimeter boundary of the subject property.

When the subject property is located within the State Land Use Agricultural District, notice shall be served to owners and lessees of record of all lots within five hundred feet (500') of the perimeter boundary of the subject property. Except that if the surrounding properties are located within either the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record of all lots within three hundred feet (300') of the perimeter boundary of the subject property.

Data available from the Real Property Tax division of the Department of Finance shall be utilized in determining the names and addresses of the affected owners and lessees of record. The applicant shall also provide notice to such other owners and lessees of record when the applicant has actual knowledge of such names or as informed by the Planning Director or Planning Commission.

Proof of service for the first notice and second notice shall be submitted to the Planning Director or Planning Commission prior to the date of public hearing. Proof of service may consist of certified mail receipts, affidavits, declarations or the like. The list of names, addresses and tax map keys of those individuals notified and one copy of the first and second notification letter shall also be submitted.

Should you have any questions, please contact the Planning Department at 961-8288 or 327-3510.

**PETITION FOR STANDING IN A CONTESTED CASE HEARING**

(Page 1 of 2)

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**PHONE NO.:** \_\_\_\_\_

**APPLICANT/**

**DOCKET NO.:** \_\_\_\_\_

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain the nature of the agency's jurisdiction:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain:

\_\_\_\_\_  
\_\_\_\_\_

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 2 of 2)

- D. Are you a person or persons descended from native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practiced those rights which were customarily and traditionally exercised for subsistence, cultural, or religious purposes?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please submit any genealogical evidence and historical evidence showing the exercise of those rights to support your statement:

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\_\_\_\_\_  
Petitioner's Signature

STATE OF HAWAII        )  
                                      ) SS.  
COUNTY OF HAWAII    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

\_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

Appendix A



## **POSTING OF SIGNS FOR PUBLIC NOTIFICATION**

In accordance with Chapter 25 (Zoning Code), Article 2, Division 1, Section 25-2-12, Hawaii County Code 1983 (2005 Edition) and/or Planning Commission Rules of Practice and Procedure, within ten (10) days of being notified of the acceptance of an application, the applicant shall post a sign on the subject property notifying the public of the following:

1. The nature of the application;
2. The proposed use of the property;
3. The size of the property;
4. The tax map key(s) of the property;
5. That the public may contact the Planning Department for additional information; and
6. The address and telephone number of the Planning Department.

The sign shall be not less than nine square feet and not more than twelve square feet in area, with letters not less than one inch high. No pictures, drawings, or promotional materials shall be permitted on the sign.

The sign shall be posted at or near the property boundary adjacent to a public road bordering the property and shall be readable from said public road. If more than one public road borders the property, the applicant shall post the sign to be visible from the more heavily traveled public road.

The sign shall, in all other respects, be in compliance with Chapter 3 (Signs), Hawaii County Code 1983 (2005 edition).

The applicant shall file an affidavit with the Planning Department not more than five (5) days after posting the sign stating that a sign has been posted, and that the applicant will not remove the sign until the application has been granted, denied, or withdrawn. A photograph of the sign in place shall accompany the affidavit.

The sign shall remain posted until the application has been granted, denied, or withdrawn. The applicant shall remove the sign promptly after such action.