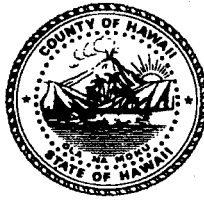


Harry Kim
Mayor



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

October 31, 2018

Mr. Paul Ely
Ms. Darlene Ely
P.O. Box 6972
Kamuela, HI 96743

Dear Mr. and Ms. Ely:

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA 18-001626)
Special Management Area Minor Permit No. 18-000398
(SMM 18-000398)
Applicants: Paul Ely and Darlene Ely
Land Owners: Paul Ely and Darlene Ely
Project: Cutting of Six (6) Ironwood Trees
TMK: (3) 2-8-008:156, South Hilo, Hawai'i

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA 18-001626), submitted on August 27, 2018.

The applicant proposes to remove the threat of windstorm damage from flying limbs and falling trees to nearby homes by cutting six (6) ironwood trees. Other mature, smaller trees such as palm and oak trees will remain. The six ironwood trees are approximately 40-50 feet from the top of the coastal pali and are also mauka (inland) of Easement P-11-B for Public Access (Pedestrian) Purposes.

The subject parcel is zoned Single-Family Residential (RS-7.5) by the County of Hawai'i and designated Low Density Urban and Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. It is designated Urban by the State Land Use Commission. Further, although this parcel is partially within the Special Management Area (SMA), the project area is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.

Mr. Paul Ely
Ms. Darlene Ely
October 31, 2018
Page 2

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) relating to the Special Management Area, "*Grading, removing, dredging, mining, or extraction of any materials,*" is not exempt from the definition of "development." Therefore, the cutting of six (6) ironwood trees is considered to be development and will require a review against the Special Management Area rules and regulations.

In view of the above and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 18-000398 is hereby issued for the SMA approval of the cutting of six (6) ironwood trees on the subject parcel. It is the applicants' responsibility to read and comply with the conditions listed in the enclosed permit.

We are also enclosing the receipt for the filing fee of \$50. If you have any questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



 MICHAEL YEE
Planning Director

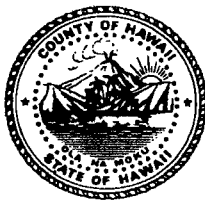
ETI:ja

\\Coh33\planning\public\wpwin60\CZM\SMM\2018\SMM 18-398L Ely.doc

Enclosures: SMM No. 18-000398
Receipt No. 5352 in the Amount of \$50

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. 18-000398

Project: Cutting of Six (6) Ironwood Trees
Applicant(s): Paul Ely and Darlene Ely
Landowner(s): Paul Ely and Darlene Ely
Location: South Hilo, Hawai'i
TMK: (3) 2-8-008:156 **Land Area:** 2.47 acres

Applicants' Request

1. Project Description:

The applicants propose the cutting of six (6) ironwood trees that are approximately 40-50 feet from the top of the coastal pali and that are also mauka (inland) of Easement P-11-B for Public Access (Pedestrian) Purposes.

2. Purpose of Project:

The purpose is to remove the threat of windstorm damage from flying limbs and falling trees to nearby homes. Other mature, smaller trees such as palm and oak trees will remain. All vehicles will use existing paved road and only park on the subject property outside of Easement P-11-B. Debris will be removed as soon as the trees are cut to avoid impacting the public access easement.

3. Project Valuation: \$5,000

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(B) relating to the Special Management Area, "*Grading, removing, dredging, mining, or extraction of any materials,*" is not exempt from the definition of "development." Therefore, the cutting of the six (6) ironwood trees is considered to be development and will require a review against the Special Management Area rules and regulations.

State and County Plans

- 1. State Land Use District:** This parcel is located in the State Land Use Urban district.
- 2. General Plan:** This parcel is designated Low Density Urban and Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** This parcel is zoned Single Family Residential (RS-7.5) by the County of Hawai'i.

4. **Special Management Area:** This parcel is partially within the Special Management Area (SMA); 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.

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

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai‘i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State’s economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - ☒ Stimulate public awareness, education, and participation in coastal management.
 - ☒ Protect beaches for public use and recreation.
 - ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:

- ☒ Recreational Resources
- ☒ Historic Resources
- ☒ Scenic and Open Space Resources
- ☒ Coastal Ecosystems
- ☒ Economic Uses
- ☒ Coastal Hazards
- ☒ Managing Development
- ☒ Public Participation
- ☒ Beach Protection
- ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

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.
3. The proposed development is also consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
4. The estimated project cost of \$5,000 is not in excess of \$500,000.
5. Pursuant to PC Rule Section 9-10(e), the Planning Director hereby approves the cutting of the six (6) ironwood trees. This approval is subject to the applicants' compliance with the conditions of approval as specified below.

Conditions of Approval

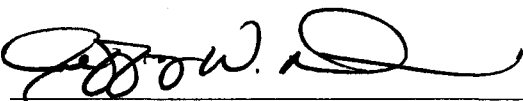
This SMA Minor Permit is subject to the following conditions:

1. The applicants, their successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants 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. Cutting of the six (6) ironwood trees will be completed within one (1) year from the date of this permit.
4. The applicants shall be responsible for complying with all stated conditions of approval in the enclosed Settlement Agreement for Board of Appeals and Subdivision of Continental Pacific, LLC Lands.

5. At no time shall the proposed activity impede lateral public access over Easement P-11-B for Public Access (Pedestrian) Purposes. Furthermore, should the lateral public access easement become impassible or unsafe due to erosion or cliff loss, the applicants shall allow for a mauka realignment of lateral public access to a safe distance from the top of the pali as determined by the Planning Department.
6. All green waste shall be properly disposed of in a manner meeting with the approval of the Planning Department or outside the SMA, 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, Solid Waste Division.
7. No green waste or loose soil from the top of the cliff is permitted along the shoreline. The applicants may be subject to Penalties as provided for in Planning Department Rule 11-14, Penalties, for any material that falls into the shoreline as a result of the applicants' activities.
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. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division at (808) 692-8015.
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 applicants, 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.

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

APPROVED:



MICHAEL YEE
Planning Director

10/31/18

Date

NOTES

RECEIPT

DATE 8-27-2018 NO. 5352

RECEIVED FROM Paul + Darlene Ely

ADDRESS P.O. Box 918

Honolulu, HI 96727

\$ 50.00

FOR SMA F/F TML # 2-8-008: 156

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID	50	-	CHECK	50	00
BALANCE DUE			MONEY ORDER		

#1081

BY



©2001 RECIFORM® 8L808