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Special Management Area Minor Permit No. 20-000430

Project: Demolish and Reconstruct Pool and Jacuzzi
Applicant(s): Thomas Patapoff
Owner(s): Thomas Patapoff
TMK(s): (3) 8-2-008:016
Location: South Kona District, Island of Hawai'i
Land Area: 5.0-acres

Applicant's Request

1. Project Description:

The applicant proposes the following activities:

- Demolish an existing 540 square-foot concrete pool with 36 square-foot jacuzzi.
- Construction of a new 12-foot by 46-foot pool with 7-foot by 7-foot jacuzzi, approximately 144-feet long.

1. Purpose of Project: Required maintenance

2. Project Valuation: \$30,000

- 3. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 relating to Special Management Area (SMA): *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste; and Construction, reconstruction, demolition, or alteration of the size of any structure* is defined as "development." Therefore, the proposed demolition of an existing pool and jacuzzi and the construction of a new pool and jacuzzi on the subject parcel is considered "development" and necessitates a review against the Special Management Area rules and regulations and requires an SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The parcel is designated within the Agricultural District by the State Land Use Commission.
2. **General Plan:** The parcel is designated as *extensive agriculture (ea)* by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** Agricultural 5-acres (A-5a)
4. **Special Management Area:** The subject parcel is located in the SMA; no portion of the proposed project is located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$30,000 for the conversion of the existing structure is not in excess of \$500,000.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. SMM-20-000430** is hereby approved to:

1. Demolish an existing 540 square-foot concrete pool with 36 square-foot jacuzzi.
2. Construction of a new 12-foot by 46-foot pool with 7-foot by 7-foot jacuzzi, approximately 144-feet long.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. SMM-20-000430**, 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 will adhere to the updated agricultural development and use program (i.e., Farm Plan) as represented in the submitted Special Management Assessment Application (SMM-20-001769), and by letter dated July 6, 2020.
3. The Additional Farm Dwelling as designated within the submitted Special Management Assessment Application (SMM-20-001769), and by letter dated July 6, 2020 will not be used for Vacation or Short-Term Rental activities;


4. 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.
5. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
6. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
7. All driveway connections to Lower Nāpo'opo'o Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
8. That in issuing this permit, the Department has relied on the information and data that the applicant(s) 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, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
9. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, 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 (DLNR-SHPD) at (808) 933-7651. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.
10. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;

- b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
- c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

11. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at alex.roy@hawaiicounty.gov

APPROVED:



Michael YEE
Planning Director

7/30/20
Date