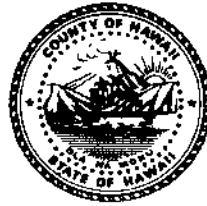


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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County of Hawai'i

PLANNING DEPARTMENT

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Director

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April 26, 2021

Diane K. Kai
301 Makani Circle
Hilo, HI 96720

Dear Ms. Kai,

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application (SAA-21-001802)
Special Management Area (SMA) Minor Use Permit (SMM-21-000439)
Applicant(s): Diane K. Kai
Landowner(s): Kaomea LLC
Project: Land and Resource Management
Tax Map Key: (3) 7-8-014:021

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (SAA-20-001769), submitted to this office on January 7, 2021. Additional information was submitted to this office on January 19, 2021, and March 23, 2021; we appreciate the included information regarding the updated project plan.

The applicant's 0.66-acre parcel is zoned Resort (V-1.25) by the County and designated as Urban by the State Land Use Commission (LUC). The subject parcel is designated as both "Open" (o) and Medium Density Urban (mdu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The parcel is within the Special Management Area (SMA) but is not within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS) and is not a shoreline parcel as it is located mauka (landward) of Ali'i Drive.

Proposed Use:

This Special Management Area (SMA) Minor Use Permit is being pursued to clear overgrowth of invasive trees to prevent hazardous conditions to nearby properties, electric lines, and the roadway. Only hand tools will be used, and the removed material will be mulched and used on site for future landscaping purposes. No development, construction or impacts to the existing rock walls is proposed at this time. Trees to be trimmed include a cluster of Kou, Banyan, and Tamarind trees as well as other non-native brush and shrubs. The applicant intends to utilize the subject property as a park/open space area for personal use. A review of our files indicates that there is no existing structures or development other than existing rock structures. No impacts to the rock structures will occur during tree trimming, nor will any activities be in the vicinity of the existing rock structures.

Shoreline Area Determination:

The parcel is not a shoreline parcel and is approximately ~200 feet from the nearest shoreline.

Special Management Area Determination:

Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, "Development" means any of the [listed] uses, activities, or operations on land or in or under water within the special management area.

According to the application, the following definition of "Development" can be applied to the proposed use:

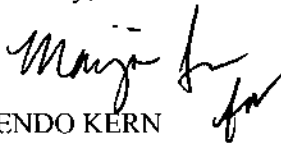
- *Grading, removing, dredging, mining, or extraction of any materials*

We find that the proposed action is not exempt from the definition of "development" and will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. **SMM-21-000439**, is hereby issued for the project as described above. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any further development not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at alex.roy@hawaincounty.gov.

Sincerely,



ZENDO KERN
Planning Director

AJR:klt

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Enclosures **SMM-21-000439**

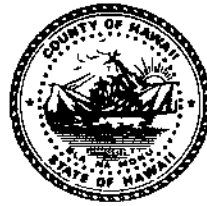
cc w/Encls Kona Planning

cc ltr. only: Mrs. Mary Alice Evans, Director
 Office of Planning, DBEDT

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Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. 21-000439

Project: Land and Resource Management
Applicant(s): Diane K. Kai
Owner(s): Kaomea LLC
TMK(s): (3) 7-8-014:021
Location: North Kona District, Island of Hawai'i
Land Area: 0.66 acres

Applicant's Request

- 1. Project Description:** Applicant intends to clear overgrowth of invasive trees to prevent hazardous conditions to nearby properties, electric lines, and the roadway. Only hand tools will be used, and the removed material will be mulched and used on site for future landscaping purposes. No development, construction or impacts to the existing rock walls is proposed at this time. Trees to be cut include a cluster of Kou, Banyan, and Tamarind trees as well as other non-native brush and shrubs.
- 2. Purpose of Project:** The applicant is trying to improve health and safety of parcel and surrounding properties.
- 3. Project Valuation:** \$3,200.
- 4. 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): "*Grading, removing, dredging, mining, or extraction of any materials.*" is defined as "development." Therefore, the proposed tree cutting, landscaping and tree trimming are considered "development" and require a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The parcel is designated within the Urban District by the State Land Use Commission.

2. **General Plan:** The parcel is designated as both Open (o) and Medium Density Urban (mdu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcel is currently zoned Resort-Hotel (V-1.25)
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

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

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

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

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems

- ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
- ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements

Findings

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 \$3,200 for the tree cutting, tree trimming, and landscaping 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-21-000439** is hereby approved to:

1. Clear invasive and non-native trees, shrubs, and bushes from subject parcel for health and safety of property owner and neighbors.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. SMM-21-000439**, subject to the following conditions:

1. The applicant, its successors or assigns (applicant) 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 mulch all vegetative waste on site or will dispose of material in a County approved upland disposal site.
4. The applicant will ensure that approval from the County of Hawai'i Dept. of Public Works is granted for all ground disturbing activities.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
6. 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.

7. 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:


ZENDO KERN
Planning Director

4/27/21
Date