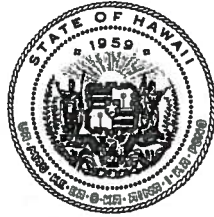


LINDA LINGLE
GOVERNOR OF HAWAII



PLANNING DEPARTMENT
COUNTY OF KAUAI
LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
RUSSELL Y. TSUJI
FIRST DEPUTY
2009 DEC 16 PM 2:20
KEN G. KAWAHARA
DEPUTY DIRECTOR - WATER

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUP: HA-3518

Roy A. Vitousek, III
Cades • Schutte
75-170 Hualalai Road, Suite B-303
Kailua Kona, Hawaii 96740

DEC 14 2009

Dear Mr. Vitousek:

SUBJECT: Conservation District Use Permit (CDUP) HA-3518

This is to inform you that on December 11, 2009, the Board of Land and Natural Resources approved your client's Conservation District use Application for Kuleana land use and related land use consisting of a proposed residence approximately (≈) 2046-ft² with 1403-ft² of interior space utilized as a kitchen, living & dining room, 2 bedrooms and a dressing room and 633-ft² of lanai and porch; a 10,000-gallon catchments water tank, a composting toilet, a 9-ft²-building for generator storage, minimal landscaping and related driveway located at Kalahiki, Kapalilua, South Kona, island of Hawaii, TMKs: (3) 8-6-014:012 and a portion of (3) 8-6-011:003 (driveway) subject to the following conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) §11-60.1-33, Fugitive Dust; Chapter 11-46, Community Noise Control; and Chapter 11-62, Wastewater;
- 4) The single-family dwelling shall not be used for rental or any other commercial purposes unless approved by the Board;
- 5) All mitigation measures set forth in the application materials, and in the final environmental assessment for this project are hereby incorporated as conditions of the permit
- 6) The applicant shall provide documentation (i.e. book/page document number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;



- 7) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 8) Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
- 9) The applicant will minimize visual impacts using appropriate house color and landscaping;
- 10) The applicant shall obtain all applicable permits from Hawaii County prior to construction. As applicable, the applicant shall obtain a County of Hawaii Building and Grading Permit;
- 11) The applicant shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
- 12) Artificial light from exterior lighting fixtures, including but not 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 be permitted pursuant to §205A-71, HRS. No outdoor lighting shall be directed towards the sea;
- 13) The applicant/landowner shall execute a waiver and indemnity prior to submitting construction plans for approval that is satisfactory to the Department;
- 14) No shoreline hardening, sandbags or other structures shall be allowed to artificially fix the shoreline for the life of the structure;
- 15) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of 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;
- 16) Archeological monitoring shall be conducted during construction activities in accordance with an approved Archeological Mitigation and Preservation Plan by SHPD;
- 17) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (808-692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
- 18) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 19) Potable water supply and sanitation facilities shall have the approval of the appropriate agencies;

