Mitchell D. Roth Mayor

Lee E. Lord Managing Director

West Hawai'i Office 74-5044 Ane Keohokālole Hwy Kailua-Kona, Hawai'i 96740 Phone (808) 323-4770 Fax (808) 327-3563

January 17, 2023

Kale Bob P.O. Box 492970 Kea'au, HI 96749 <u>VIA EMAIL</u>

Dear Mr. Bob:

SUBJECT:Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000129) and Issuance of SMA Exemption Determination
Applicant(s):Jieyu Zhu Shepard
Landowner(s):Jieyu Zhu Shepard
Project:
Construction of a Single-Family Residence
TMK:(3) 2-1-018:018 Waiākea, Island of Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000129), received by this office on November 2, 2022. The 0.49 square foot subject parcel is zoned Single Family Residential with a minimum lot size of 15,000 square feet (RS-15) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as Low Density Urban (Idu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The valuation of the proposed project is \$350,000.

The parcel is situated entirely within the Special Management Area (SMA); however, the project site is not located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS) as it is located approximately 316 feet from the nearest shoreline.

Proposed Project:

The applicant is proposing to construct a 2,812 square foot single-family residence consisting of three (3) bedrooms, three (3) bathrooms, a study, kitchen/dining area, living room, covered lānai, and septic system. Currently there is no existing development or structures located on the subject parcel, and no other uses or activities, other than what is described above, are proposed.



County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern Director

Jeffrey W. Darrow Deputy Director

East Hawai'i Office 101 Pauahi Street, Suite 3 Hilo, Hawai'i 96720 Phone (808) 961-8288 Fax (808) 961-8742 Kale Bob January 17, 2023 Page 2

Special Management Area Determination:

- 1. 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 definitions of "Development" can be applied to the proposed use:
 - Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste.
 - Grading, removing, dredging, mining, or extraction of any materials; and
 - Construction, reconstruction, demolition, or alteration of the size of any structure.
- 2. Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, "Development" does not include the following uses, activities, or operations, and therefore is determined to be exempt from the definition of "Development":
 - Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development.
- 3. Pursuant to Planning Commission Rule 9-4(e)(4), "whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as "Development" for the purposes of this rule."
 - Based on the information provided, the Director finds that the construction of a single-family residence will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

Please note that any substantive changes to the proposed improvements, as well as any subsequent phases or activities may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

Future Special Management Area Determinations:

While further review of the proposed activities against the Special Management Area rules and regulations will not be required at this time, <u>all other applicable Zoning and Building Code</u> requirements must be satisfied.

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Additionally, pursuant to Planning Commission Rule 9-10(g), "the Director may impose certain conditions with the exemption determination to assure that the proposed use, activity, or operation does not have a substantial adverse effect on the Special Management Area." The Director has added the following conditions for the proposed project:

Director's Conditions:

- 1. The applicant(s), its successor(s), or assign(s) ("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. Other than the proposed project as described in this determination, no further work is permitted under this approval.
- 4. The Applicant shall secure building permits for the proposed project within two (2) years from the date of the determination. If building permits have not been secured within that two (2) year period, this determination is automatically null and void, and a new Special Management Area Assessment Application must be submitted for review and approval.
- 5. Any fill material, fences, and walls below the Base Flood Elevation is considered an encroachment and/or obstruction which may block, impede, or aggravate flooding and is prohibited unless certified by a civil engineer licensed by the State of Hawai'i, with supporting data, that the encroachment will not cause any increase in the Base Flood Elevation during the occurance of the Base Flood in accordance with section 27-18(c)(3).
- 6. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- 7. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- 8. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.

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- 9. Any further development, including but not limited to, the construction of structures or improvements not included in this determination shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
- 10. That in issuing this determination, the Department has relied on the information and data that the Applicant has provided in connection with this determination. If, subsequent to this determination, such information and data prove to be false, incomplete, or inaccurate, this determination may be modified, suspended, or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
- 11. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this determination or require additional review against the Special Management Area rules and regulations.

If you have any questions, please contact Tracie-Lee Camero of this office at (808) 961-8166 or via email at <u>Tracie-Lee.Camero@hawaiicounty.gov</u>.

Sincerely,

Zendo Kern Zendo Kern (Jan 17, 2023 15:14 HST)

ZENDO KERN Planning Director

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Enclosure: Exhibit 1 (Site Plan)

Cc (via email): GIS Section













