

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
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Kailua-Kona, Hawai'i 96740
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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

March 03, 2023

John Pipan
c/o Land Planning Hawaii
194 Wiwo'ole Street
Hilo, HI 96720
VIA EMAIL

Dear Mr. Pipan:

SUBJECT: Special Management Area (SMA) Use Permit Assessment - AMENDED (PL-SAA-2022-000139) and Issuance of SMA Exemption Determination
Applicant(s): John Pipan
Landowner(s): Touching the Earth, LLC
Project: Alteration to Existing Restaurant Kitchen to be Used to Brew and Bottle Mead
Tax Map Key: (3) 6-1-002:064, Kawaihae 1st, South Kohala, Hawai'i

We have reviewed your request to amend Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000139), received by this office on January 23, 2023. The 0.08-acre subject parcel is zoned Village-Commercial – 10,000 square feet (CV-10) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as Industrial (ind) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The valuation of the proposed project is \$2,000.

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).

Proposed Project:

The applicant is proposing to convert 200 square feet of an existing kitchen within the existing Blue Dragon restaurant to allow for the existing kitchen to be utilized as a brewery to produce and bottle mead.

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:

- *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”:
- *Repair, maintenance, or interior alterations to existing structures or relating to existing uses.*
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 alteration to the existing restaurant kitchen to be used to brew and bottle mead 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, all other applicable Zoning and Building Code requirements must be satisfied.

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 **AMENDED** 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.

John Pipan
c/o Land Planning Hawaii
March 03, 2023
Page 3

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. 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.
5. 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.
6. 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 Tracie-Lee.Camero@hawaiiicounty.gov.

Sincerely,

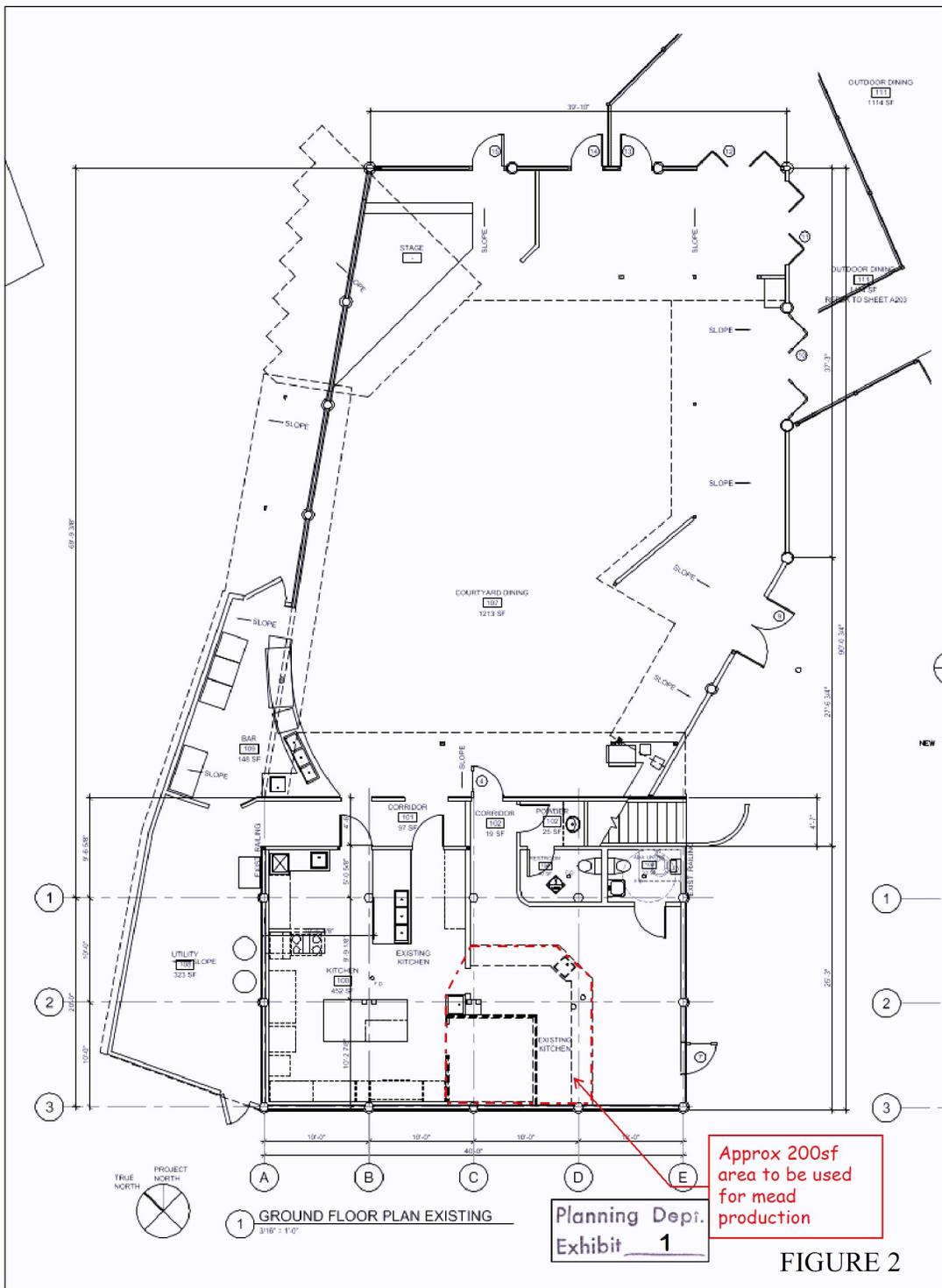

Jeffrey W. Darrow (Mar 3, 2023 14:22 HST)

JEFFREY W. DARROW
Deputy Planning Director

TC:mads
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Enclosure: Exhibit 1 (Site Plan)

cc via email: GIS Section



Mitchell D. Roth
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Lee E. Lord
Managing Director

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January 20, 2023

John Pipan
c/o Land Planning Hawaii
194 Wiwo'ole Street
Hilo, HI 96720
VIA EMAIL

Dear Mr. Pipan:

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000139) and Issuance of SMA Exemption Determination
Applicant(s): John Pipan
Landowner(s): Touching the Earth, LLC
Project: Alteration to Existing Restaurant Kitchen to be Used to Brew and Bottle Mead
TMK: (3) 6-1-002:064, Kawaihae 1st, South Kohala, Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000139), received by this office on December 8, 2022. The 0.08-acre subject parcel is zoned Village-Commercial – 10,000 square feet (CV-10) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as Industrial (ind) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The valuation of the proposed project is \$2,000.

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).

Proposed Project:

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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:

- *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”:
 - *Repair, maintenance, or interior alterations to existing structures or relating to existing uses.*
 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 alteration to the existing restaurant kitchen to be used to brew and bottle mead 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, all other applicable Zoning and Building Code requirements must be satisfied.

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:

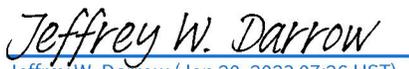
1. The applicant(s), its successor(s), or assign(s) (“Applicant”) shall be responsible for complying with all stated conditions of approval.

John Pipan
c/o Land Planning Hawaii
January 20, 2023
Page 3

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 this 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 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.
6. 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.
7. 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 Tracie-Lee.Camero@hawaiicounty.gov.

Sincerely,


Jeffrey W. Darrow (Jan 20, 2023 07:26 HST)

JEFFREY W. DARROW
Deputy Planning Director

TC:jaa

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Enclosure: Exhibit 1 (Site Plan)

