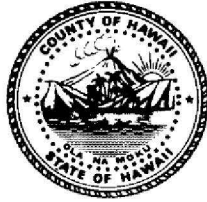


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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County of Hawai'i PLANNING DEPARTMENT

Zendo Kern
Director

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Deputy Director

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December 05, 2023

Matthew Kilgore
c/o KOA Architects, LLC
65-1285C Kawaihae Road
Kamuela, HI 96743
Email: mkilgore@koaarchitects.com

Dear Mr. Kilgore:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2023-000181)
Special Management Area (SMA) Minor Permit
(PL-SMM-2023-000057)
Applicant: Giampaolo Boschetti
Landowner: Giampaolo Boschetti
Request: Construction of Three (3) Permanent Pavilions with
Related Improvements
Tax Map Keys: (3) 2-3-009:009, Ponahawai, Hilo, Island of Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (PL-SAA-2023-000181) received by this office on September 7, 2023. The total land area of approximately 1.2028-acres is zoned Downtown Hilo Commercial District (CDH) by the County and designated as Urban by the State Land Use Commission (LUC). The subject parcel is designated as "High Density Urban" (hdu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The project parcel is located within the Special Management Area (SMA); however, it is not located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS) and as such no shoreline certification is required.

Proposed Project:

The applicant is proposing the construction of three (3) open air pavilions with related improvements for the operation of a farmers market. The farmers market will operate seven days a week from 6:00 am to 8:00 pm on the subject property.

Existing Land Uses:

SMM 54 issued on February 21, 1997, allowed for the erection of a 60' x 120' canvas tent to accommodate a farmers market to be conducted on Wednesdays and Saturdays. SMM 54 was amended on September 19, 2019 to allow for the construction of a permanent 24' x 30' farmers market structure that will operate seven (7) days a week from 6:00 am to 6:00 pm on the subject property. This request will supersede SMM 54 and therefore SMM 54 will be null and void.

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-44 and Planning Commission (PC) Rule No. 9-4(e)(1)(E), "development" includes "*Construction, reconstruction or alteration of the size of any structure.*" Therefore, the proposed grubbing activities is considered to be development and will require a review against the Special Management Area rules and regulations.

We find that the proposed project is not exempt from the definition of "development;" however, the project 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. PL-SMM-2023-000057 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 future development or activities 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.

Matthew Kilgore
c/o KOA Architects LLC
December 05, 2023
Page 3

If you have questions regarding this document, please contact Tracie-Lee Camero of this office at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiicounty.gov.

Sincerely,

Zendo Kern
Zendo Kern (Dec 5, 2023 07:54 HST)

ZENDO KERN
Planning Director

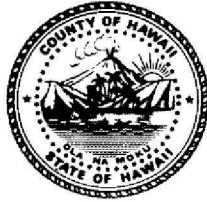
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Enclosure: SMA Minor Permit No. PL-SMM-2023-000057
cc (via email): Shichao Li, State-OPSD
Lisa E. Webster, State-OPSD
GIS Section

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. PL-SMM-2023-000057

Project: Construction of Three (3) Permanent Pavilions with Related Improvements
Applicant(s): Giampaolo Boschetti
Landowner(s): Giampaolo Boschetti
TMK(s): (3) 2-3-009:009
Location: Ponahawai, Hilo, Island of Hawai'i
Land Area: 1.2028 acres

Applicant's Request

- 1. Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued for grubbing activities.
- 2. Purpose of Project:** The applicant is proposing the construction of three (3) open-air pavilions with related improvements for the operation of a farmers market. The farmers market will operate seven days a week from 6:00 am to 8:00 pm on the subject property.
- 3. Project Valuation:** \$90,000.
- 4. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e)(1)(E) relating to Special Management Area (SMA): "*Construction, reconstruction or alteration of the size of any structure*" are defined as "development." Therefore, the proposed construction of three (3) open-air pavilions with related improvements on the subject parcel is considered "development" and requires a review against the Special Management Area rules and regulations. Our review has resulted in the issuance of a SMA Minor Permit.

State and County Plans

- 5. State Land Use District:** The subject parcel is within the State Land Use Urban District.
- 6. General Plan:** The parcel is designated as "High Density Urban" (hdu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.

7. **County Zoning:** The parcel is currently zoned Downtown Hilo Commercial District (CDH).
8. **Special Management Area:** The project parcel is located within the Special Management Area (SMA); however, it is not located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS) and as such, no shoreline certification is required.
9. **Flood Zone:** Zone X, AE, VE. Zone “X” which covers most of the subject parcel, is an area determined to be outside the 500-year floodplain. Zone “AE” which covers approximately 5% of the subject parcel, is the Special Flood Hazard Area that corresponds to the 100-year floodplain with approximately 1% of chance of occurring in any given year) with Base Flood Elevations determined. Zone “VE” is the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action) with Base Flood Elevations determined. All construction within Zones “AE” and “VE” shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.

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 any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effects shall include but not be limited to the potential cumulative impact of individual developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai‘i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), 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, including reefs, beaches, and coastal dunes, 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 coastal hazards.
- ☒ 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 and coastal dunes for: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and Coordinate and fund beach management and protection.
- ☒ 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 and Coastal Dune Protection
- ☒ Marine and Coastal Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

1. As discussed above, the conducted activities 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 \$90,000 is not in excess of \$500,000.
4. The enclosed Department of Public Works, Engineering Division memorandum dated October 23, 2023, states the following:

“We have reviewed the subject request and provide the following comments:

1. *The subject parcels are in areas designated as Flood Zone X, AE, and VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).*
 - *Flood Zone X is an area determined to be outside the 500-year floodplain.*
 - *Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year) with Base Flood Elevations determined.*
 - *Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action) with Base Flood Elevations determined.*
2. *All construction within Flood Zones AE and VE shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code (HCC).*
3. *All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the HCC and Chapter 27.*

4. *All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72(3) of the HCC and shall be constructed meeting the approval of the Department of Public Works, Engineering Division.*
5. *Construction within the County right-of-way shall comply with HCC, Chapter 22, County Streets.*
6. *The permanent steel-frame greenhouse-style pavilions are not considered a “structure,” as defined in Chapter 27. We still recommend that non-structures have their lowest horizontal structural member elevated to or above the Base Flood Elevation. We also recommend non-structures be designed and adequately anchored to prevent flotation, collapse, or lateral movement, constructed of flood-resistant materials, and construction using methods and practices that minimize flood damages in accordance with Chapter 27, Section 27-18(a) and (b).*
7. *The chain link fence and wire fence located in Zone AE and Zone VE may be considered an obstruction as defined in Chapter 27, and adversely impacting surrounding properties. The applicant shall be responsible for contacting the Engineering Division for obtaining approval for any item that may be considered an “obstruction”.*
8. *The 2-ft high CRM retaining wall may need to be removed if it is determined to be located in Zone AE since it would be considered obstruction.*

Questions may be referred to Robyn Matsumoto at 961-8924.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2023-000057** is hereby approved for the proposed construction of three (3) permanent pavilions with related improvements, subject to the applicants' compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2023-000057**, **subject to the following 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. Hours of operation shall be seven (7) days a week from 6:00 am to 8:00 pm.
4. Construction of the proposed development shall be completed within two (2) 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.
5. Best Management Practices shall be followed to ensure the grounds surrounding the project area is kept clear of any rubbish or debris resulting from the landscaping and construction activities at all times.
6. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
7. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
8. 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.
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 permit, the Department has relied on the information and data that the applicant has provided in connection with this permit. If, subsequent to 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.
11. An initial extension of time for the performance of conditions contained herein may be granted by the Planning Director upon the following circumstances:

1. 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.
2. Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
3. The time extension shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

12. The Planning Director shall initiate procedures to revoke this permit should any of the conditions not be met or substantially complied with in a timely fashion.

If you have any questions, please feel free to contact Tracie-Lee Camero at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiicounty.gov.

APPROVED:

Zendo Kern
Zendo Kern (Dec 5, 2023 07:54 HST)
ZENDO KERN
Planning Director

12/05/23
Date

TC:lms
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Enclosure: Exhibit 1, Site Plan

