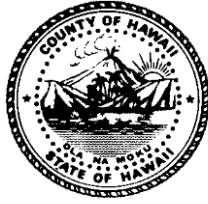


Mitchell D. Roth
Mayor

Deanna S. Sako
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
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County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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May 21, 2024

Richard and Faith Jones
PO Box 272
Honolulu, HI 96728-0272
VIA EMAIL

Dear Mr. and Mrs. Jones:

**SUBJECT: Special Management Area Assessment Application
(PL-SAA-2024-000216)
Special Management Area (SMA) Minor Permit
(PL-SMM-2024-000063)**

Applicant: Richard Jones

Landowners: Jones Family Trust

**Request: Construct a Single-Family Dwelling, Swimming Pool and a Detached
Garage with an 'Ohana Above**

Tax Map Key: (3) 2- 9-006:029

Location: Hakalau, North Hilo District, Island Hawai'i

This is to acknowledge receipt of your Special Management Area Use Permit Assessment Application dated March 11, 2024, requesting a Special Management Area (SMA) determination for the construction of a 4,078-square foot (sf) single family dwelling, swimming pool, private well, and garage with a second story 'ohana above. Additional information regarding the project was received on May 2nd, 2024.

The proposed project is at 29-2266 Old Mamalahoa Highway (TMK: (3)2-9-006-026) and the parcel is 15,507-sf in size. The parcel is zoned Residential Single-Family 7.5 (RS-7.5) by the County, designated Urban by the State Land Use Commission, and designated Medium Density Urban (mdu) and Low Density Urban (ldu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. There is a 10-ft electrical easement running through the subject parcel and a 5-ft easement in the front yard for future roadway expansion. The entire project area is located within the Special Management Area (SMA) but is not within the

“shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS); therefore, there is no requirement for a Shoreline Certification for this proposed activity.

Existing Land Uses:

Currently the subject parcel is undeveloped.

Proposed Project:

The proposed project has two objectives with two different regulatory tracks: A) for the landowner to construct a new single-family dwelling with a swimming pool and a private well (**Exempt**) and B) to construct a new detached garage with an ohana and lanai above (**Development**).

PART A:

The proposed project’s “**Exempt**” activities are listed below:

- Construction of a new, 3,310-sf single family dwelling with a swimming pool and a private well. Additional work includes minor grading and placement of course material to accommodate structure.

The applicant estimated the valuation of the **Exempt** portion of the proposed project to be \$342,450.

PART B:

The proposed project’s “**Development**” activities are listed below:

- Construction of a new, detached 768-sf garage with a 768-sf ‘ohana with a 336-sf covered lanai above. The ‘ohana will consist of a single bedroom, single bathroom, combined sitting/dining, area, and kitchen area. Additional work includes minor grading and placement of course material to accommodate structure.

Pursuant to Planning Commission Rules, this portion of the proposed project would be considered “**Development**” and will require a SMA Minor Permit.

The applicant estimated the valuation of the **Development** portion of the proposed project to be \$92,000.

Purpose of Project:

The objective of this project is to construct a new single-family residence with a swimming pool and a detached garage with an ‘ohana and lanai above on the subject parcel.

Special Management Area Determination:

PART A:

Those activities of the proposed project listed as “**Exempt**” can be considered exempt actions in accordance with SMA Rules and Regulations as follows:

1. Pursuant to Planning Commission Rule 9-4(i)(2), “*“Development” does not include the following uses, activities, or operations*”, and therefore is determined to be exempt from the definition of “Development.”
 - *(A) “Construction or reconstruction of a single-family residence that is less than seven thousand five hundred (7,500) 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. Floor area shall be the total area of all floors of a building(s) associated with the single-family residence, including a basement and accessory structures, measured along the exterior walls of such building(s). The floor area of a building(s), or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above”.*
2. Pursuant to Planning Commission Rule 9-4(i)(3), “*any proposed use, activity, or operation listed in Section 9-4(i)(2) shall be deemed to be “Development” until the Director has determined it to be exempted from the definition of “development.”*”

Based on the findings of Planning Commission Rule 9-4(i)(2), the director has determined the proposed construction of a new, 3,310 sf single family dwelling and swimming pool is **Exempt** from the definition of development and will not have a cumulative impact, or significant adverse environmental effect on the Special Management Area. As such, no further action is required regarding a Special Management Area Permit.

Part B:

Those activities of the proposed project listed as “**Development**” (construction of a new garage with an ‘ohana above) can be considered development in accordance with SMA Rules and Regulations as follows:

1. Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(i)(1), relating to the Special Management Area, “*Development means any of the following 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:

(C) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land.

Based on the information provided, the Director finds the proposed construction of a detached 768-sf garage with a 768-sf 'ohana and 336-sf lanai above as proposed is considered **“Development”** and requires review against the SMA rules and regulations. Our review has resulted in the issuance of an SMA Minor Permit.

As such, pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. PL-SMM-2024-000063 is hereby issued for the construction of a new Garage with 'Ohana above. It is the applicant's responsibility to read and comply with all the conditions listed in the enclosed permit.

In addition to the SMA Minor Permit issued above, the applicant must also secure an 'Ohana Dwelling Permit.

Lastly, please note that any substantive changes to the improvements listed in the current application may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

Planning Director's Conditions:

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 Planning Director has added the following conditions for the proposed project's **“Exempt”** activities:

1. The applicant(s), its successor(s) or assign(s) (Applicant) shall be responsible for complying with all stated conditions.
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, including, but not limited to, Department of Public Works Building Division.
3. Other than the proposed project as described in this determination letter or the attached SMA Minor Permit, 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 or permit. If Building Permits have not been secured within that two (2) year period, the determination or permit 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. 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. 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.
8. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

If you have questions regarding this document, please contact Derek Harbaugh of this office at (808) 961-8038 or via email at derek.harbaugh@hawaiicounty.gov

Sincerely,

Zendo Kern
[Zendo Kern \(May 21, 2024 13:10 HST\)](#)
ZENDO KERN
Planning Director

DSH:sklo
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Enclosure: SMM Permit No. PL-SMM-2024-000063
Site Plan

cc via email with enclosure: GIS Section
OPSD

Mitchell D. Roth
Mayor

Deanna S. Sako
Managing Director

West Hawai'i Office
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Kailua-Kona, Hawai'i 96740
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Special Management Area Minor Permit No. PL-SMM-2024-000063

Project: Construct a Single-Family Dwelling, Swimming Pool, Private Well and a Detached Garage with an 'Ohana Above

Landowner: Jones, Family Trust

Location: Hakalau, North Hilo District, Island of Hawai'i

TMK(s): (3) 2-9-006-029

Land Area: 15,507 square feet.

Applicant's Request

1. Proposed Project:

The applicant is requesting approval for the following work:

PART A: Construction of a new, 3,310 square foot (sf) single family dwelling with a swimming pool, private well and a 939-sf lanai on a 15,507-sf parcel.

PART B: Construction of a new detached 768-sf garage and a 768-sf. 'ohana with a 336-sf lanai above.

- *The 'ohana will consist of a single bedroom, single bathroom, combined sitting/dining, area, covered lanai and a kitchen.*

Additional work includes minor grading and placement of course material to accommodate both structures.

Purpose of Project: The objective of this project is to construct a new single-family residence with a swimming pool and a detached garage with an 'ohana and lanai above on the subject parcel.

1. **Project Valuation:** \$432,450 (total): \$92,000 (“**Development**”), \$340,450 (**Exempt**)

2. **Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (i)(1)(A)(B)(C) and (E) relating to Special Management Area (SMA): “*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste; Grading, removing, dredging, mining, or extraction of any materials; Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;*” and “*Construction, reconstruction, or alteration of the size of any structure*” is defined as “development.” Therefore, the proposed project as described

in PART B above is considered “**Development**” and requires a review against the Special Management Area (SMA) rules and regulations. Our review has resulted in the issuance of an SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject parcels are primarily within the State Land Use (SLU) Urban District.
2. **General Plan:** The project parcel is designated Medium Density Urban (mdu), and Low Density Urban (ldu) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The project area is designated as RS-7.5 by the County.
4. **Special Management Area:** The entire project area is located within the SMA; however, in accordance with HRS Ch. 205A-22, the subject parcel is not considered a shoreline parcel.
5. **Flood Zone:** The subject parcel is not in a flood zone.

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 such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effects 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 objective(s) 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, 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: 1) public use and recreation; 2) the benefit of coastal ecosystems; 3) use as a natural buffer against coastal hazards; and 4) 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 proposed project will not have any significant adverse environmental or ecological effects, 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 project is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost for the garage, ‘ohana and lanai above is \$92,000 which does not exceed \$500,000.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2024-000063** is hereby approved for the Construction of a new detached 768-sf garage with a 768-sf ohana with a 336-sf. lanai above.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2024-000063**, 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. Chapter 2052A and Planning Commission Rule 9 do not exempt a second single-family residence from the definition of development. Therefore, the construction of the ‘Ohana dwelling requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.
4. The Applicant shall secure an ‘Ohana Dwelling Permit and complete construction of the ‘Ohana Dwelling Permit and complete construction of the ‘Ohana dwelling and related improvements within two (2) years from the date of approval of this permit. The

applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.

5. Other than the proposed project as described in this permit, no further work is permitted under this approval.
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. Any further development, including but not limited to, the construction of structures or improvements not included in this permit shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
9. The Applicant shall include the location of all preserves, sites, preservation buffers or similar protection strategies on the site plan and all future maps submitted to the County in conjunction with any application reviews or approval requests.
10. In the 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, 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 (DLNR-SHPD) at (808) 933-7651. The Applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.
11. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) 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.
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

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

If you have questions regarding this document, please feel free to contact Derek Harbaugh of this office at (808) 961-8038 or via email at derek.harbaugh@hawaiicounty.gov.

APPROVED:

Zendo Kern

Zendo Kern (May 21, 2024 13:10 HST)

May 21, 2024

ZENDO KERN
Planning Director

Date



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION AND
CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION.

**JONES
RESIDENCE**

A SINGLE FAMILY RESIDENCE
LOT 7-E, HAKALAU ESTATES
OLD MAMALAHOA HIGHWAY
HAKALAU, HI 96710
TMK: (3) 2-9-006-029

DATE	ISSUE
OCT. 31, 2023	SUBMITTAL
JAN. 14, 2024	RESUBMITTAL
FEB. 09, 2024	RESUBMITTAL

#	DATE	ISSUE
1	02/09/2024	LAND USE COMMENTS

SITE PLAN

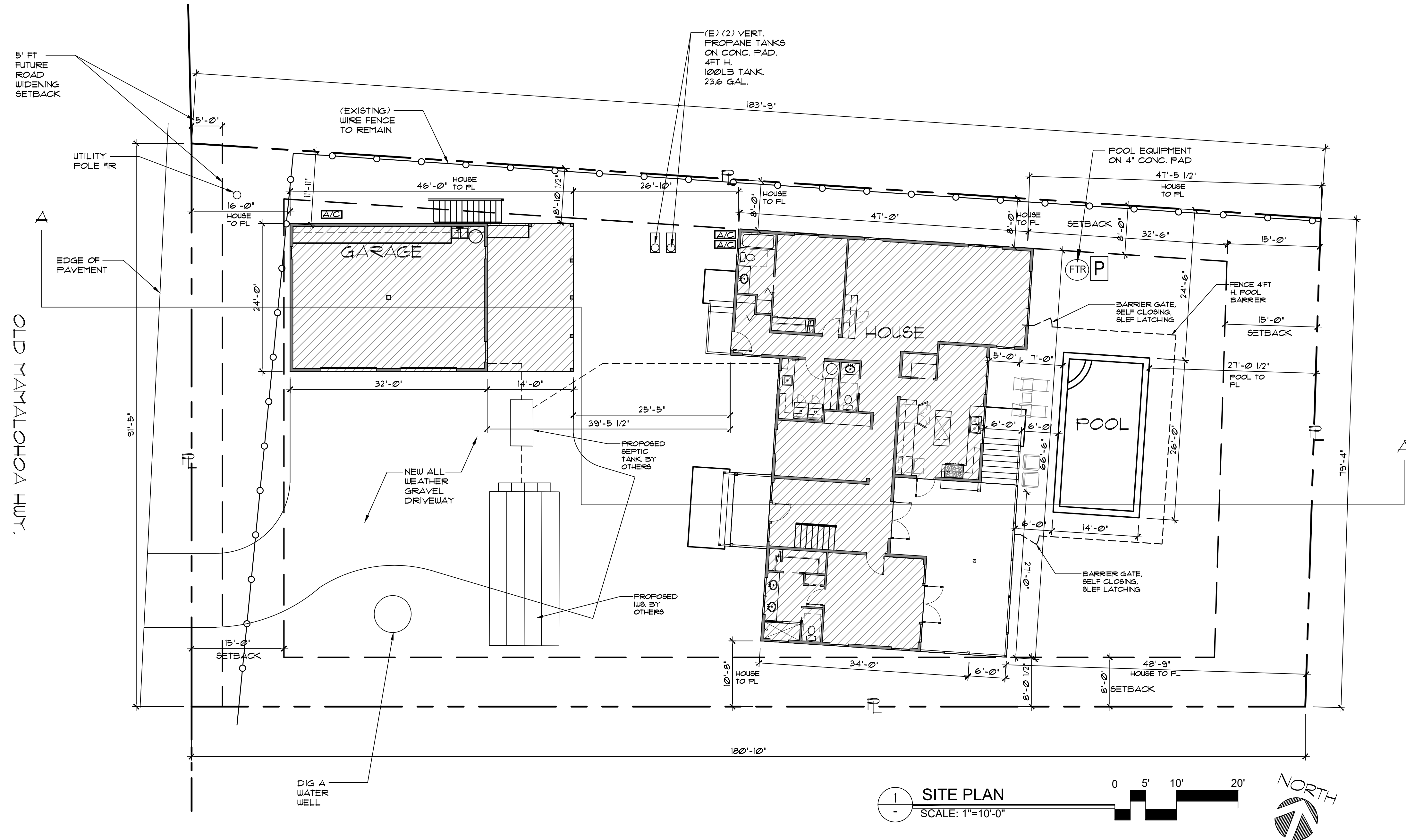
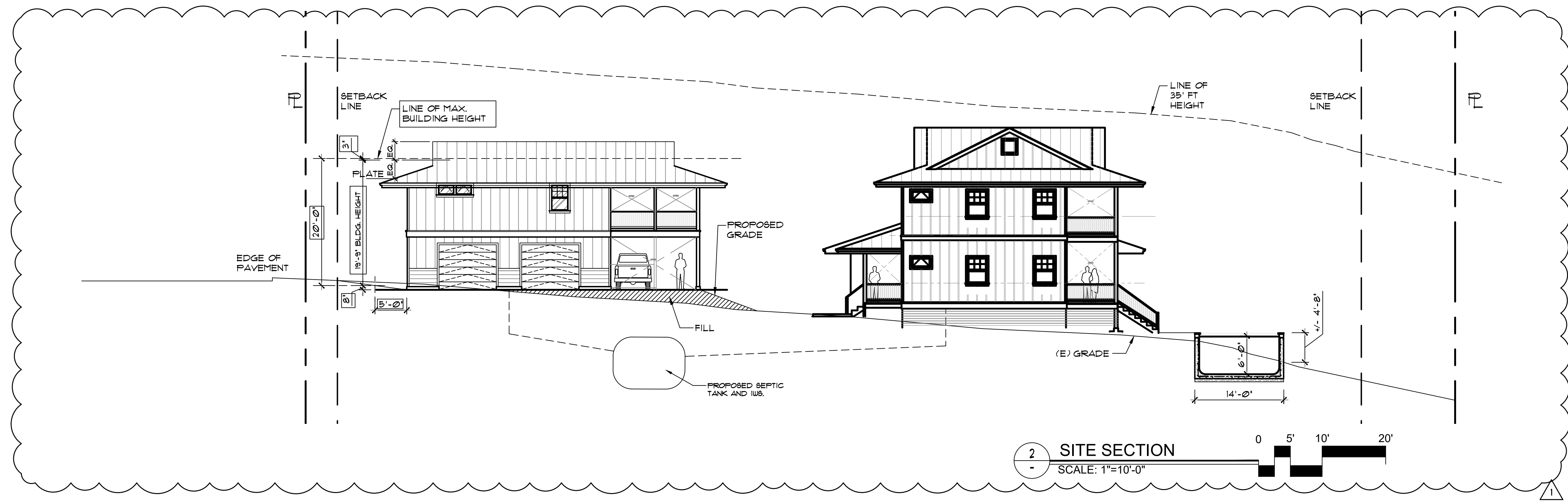
PROJECT #

DRAWN BY: HC

CHECKED BY: MRK

DRAWING NO:

A1.1



OLD MAMALAHOA HWY.

