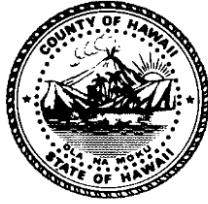


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County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

April 18, 2022

Mr. Jason Knable
Carlsmith Ball, LLP
121 Waiānuenu Avenue
Hilo, HI 96720

Dear Mr. Knable:

SUBJECT: Special Management Area Use Permit (PL-SMA-2021-000007)
Applicant: Holcomb Family Trust
**Approved Use: Allows the Construction of a New Single-Family Dwelling
and Related Improvements**
Tax Map Key: (3) 2-8-012:028

The Windward Planning Commission, at its duly held public hearing on April 7, 2022, voted to approve the above-referenced request to allow the construction of a single-story, 3,018-square foot, 3-bedroom, 3.5-bath single-family residence and related improvements which include a swimming pool, garage, lanai, and a utilities room on 6.485 acres of land situated within the SMA. The property is located at 28-3426 Hawai'i Belt Road (Highway 19), on the makai side of the highway approximately 0.5 miles south of its intersection with Honomū Road, por. of Kaakepa-Malamalama Iki, South Hilo, Hawai'i.

Approval of this permit is 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 regulation, including but not limited to the State Department of Health and the DLNR – Office of Conservation and Coastal Lands.

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3. Construction of the single-family residence and related improvements shall be conducted in a manner that is substantially representative of plans and details as contained within the SMA Permit application dated October 10, 2021, Final Environmental Assessment (FEA) dated November 2021 and representations made to the Windward Planning Commission, including but not limited to the structure height and distance the structures are setback from the top of the pali.
4. Construction of the proposed development shall be completed within five (5) years from the effective day of this permit.
5. The Applicant is encouraged to allow access through the subject property to the Ladders fishing spot to all fishermen, which may include but not be limited to the creation of private agreements with fishing associations, or a licensing program for fishing access.
6. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health prior to the commencement of construction activities.
7. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights 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 otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
8. The applicant shall comply with Chapter 27 - Flood Control, of the Hawai'i County Code.
9. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
10. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
11. The method of sewage disposal shall meet with the requirements of the Department of Health.
12. The Applicant shall ensure that excessive siltation and turbidity of stream and ocean waters are contained or otherwise minimized through the use of silt containment devices or barriers, or other approved Best Management Practices as approved by the Planning Director.

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13. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
14. 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.
15. An initial extension of time for the performance of conditions within this permit 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 General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of this permit.
 - D. The time extension granted 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).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.
16. 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 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.

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

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Alex Roy of the Planning Department at 961-8140.

Sincerely,

DocuSigned by:

Dean Au

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Dean Au, Chairman
Windward Planning Commission

LHolcombPL-SMA-2021-007wpc

Enclosure: PC Findings

cc w/enclosure via email: Ms. Kelly Holcomb, Trustee of the Holcomb Family Trust
Department of Public Works
Department of Water Supply
County Real Property Tax Division
DLNR—Office of Conservation and Coastal Lands
State Department of Health
GIS Section

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

HOLCOMB FAMILY TRUST
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2021-000007)

At the Planning Commission meeting on April 7, 2022, the Windward Planning Commission voted to approve the subject Special Management Area Use Permit No. PL-SMA-2021-000007 with an amendment to Condition No. 3, changing the date of the application from October 29, 2020 to October 10, 2021. Based on the following findings Special Management Area Use Permit No. PL-SMA-2021-000007 is hereby approved to construct a single-story, 3,018 square foot, single-family residence, and related improvements on 6.485 acres of land situated within the Special Management Area. The subject property is located at 28-3426 Hawai‘i Belt Road (Highway 19), on the makai side of the highway approximately 0.5 miles south of its intersection with Honomū Road, por. of Ka‘akepa-Malamalama Iki, South Hilo, Hawai‘i, TMK: (3) 2-8-012:028.

The applicant, the Holcomb Family Trust, is requesting a Special Management Area Use Permit to build a single-family residence on a 6.485-acre shoreline parcel located *makai* (seaward) of Highway 19 just southeast of Honomū. The single-story home would have 3,018 square feet (sf) of interior space, with 3 bedrooms and 3.5 baths, and related improvements which include a swimming pool, garage, lanai, and a utilities room. Together with the residence, garage, lanai, swimming pool, utilities room, and other features, the total development area for the residence is 4,877 sf. The home will be off grid and powered by a rooftop photovoltaic system with a backup generator, with potable water provided from an on-site water well. Wastewater would be treated by an approved individual wastewater system (IWS) located adjacent to the residence. The residence is designed as a single structure supporting efficient use of energy and materials and facilitating natural ventilation and lighting. The projects proposed landscaping will include removing highly invasive albizia, ironwood, and fiddlewood trees and planting near the home with native, Polynesian, and noninvasive ornamental trees, groundcover, and ferns, along with some fruit trees, herbs, and vegetables.

The grounds for approving development within the Special Management Area are based on HRS, Chapter 205A-26(2) (Special Management Area guidelines) and Rule 9-11(e) of the Planning Commission Rules of Practice and Procedure. Planning Commission Rule 9-11(e) states that the Authority (Planning Commission) may permit the proposed development only upon finding that:

1. The development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety or compelling public interest;
2. The development is consistent with the objectives and policies and the Special Management Area guidelines as provided by Chapter 205A, HRS;

3. The development is consistent with the General Plan, Community Plan, Zoning Code and other applicable ordinances;
4. The development will, to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist, including specific factual findings regarding:
 - a. The identity and scope of valued cultural historical or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
 - b. The extent to which those resources including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action; and
 - c. The feasible action, if any, to be taken by the Authority to reasonably protect any valued cultural, historical or natural resources including any existing traditional and customary native Hawai'i rights.

In review of the SMA guidelines as listed under HRS 205A-26(2)(A), the proposed development will not have any substantial 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. In considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action on the Special Management Area. 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 eliminate planning options.

As the proposed project is located entirely within the State Land Use (SLU) Conservation District, the applicant submitted a final environmental assessment (FEA) in accordance with Hawai'i Revised Statutes (HRS) Ch. 343-5(a)(2) with the application. A notice of Finding of No Significant Impact (FONSI) for the FEA was published in the November 23, 2021, issue of the *Environmental Notice*. Additionally, the applicant is currently working to obtain a Conservation District Use Permit (CDUP) for the proposed project via the Department of Land and Natural Resources, Office of Conservation and Coastal Lands; the Conservation District Use Application number is CDUA: HA-3878.

The proposed single-family residence is considered a permitted use within the Conservation District and as designed will not significantly alter or impact coastal resources. The subject parcel was used for over a century for sugarcane agriculture, and no native vegetation is present as the land has been altered by historic land disturbance for agriculture and animal husbandry practices. No rare species or forest resources would be affected by the proposed project as none were observed. A home on this parcel would have no adverse effect on natural beauty and scenic view planes since it is low profile, and topography aids to hide the proposed project from the highway. No historic properties are affected, and there would be no change to the shoreline/fishing access or cultural practices that take place along this coastline.

The property is not situated over any natural drainage system or water feature that would flow into the nearby coastal ecosystem and no floodplains are present in the affected area. In terms of beach protection, the applicant conducted a Coastal Erosion Study which concluded that a 100-foot minimum setback was appropriate considering rock fall hazards in this area. The applicant proposed to exceed that setback by locating construction to more

than 130 feet from the top of pali and as such the proposed development would not affect any coastal resources nor adversely affect public use and recreation in this area.

In reviewing the proposed development against the factors that may constitute a substantial adverse effect as listed under Planning Commission Rule 9-10 (H) (1-10), it has been determined that the proposed project to construct a single-family residence and related development on 6.485-acres of land will not have a significant adverse environmental or ecological effect upon the Special Management Area. This determination is based on the following:

In review of the SMA guidelines as listed under HRS 205A-26, the proposed development is consistent with the objectives and policies as provided by Chapter 205A-26, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.

The purpose of Chapter 205A-26, Hawai'i Revised Statutes (HRS) and Rule 9 of the Planning Commission Rules of Practice and Procedure, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. The objectives and policies of Chapter 205A-26, HRS and Rule 9-10(h) include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas.

The following factors of a proposal, although not limited to same, may constitute a substantial adverse effect on the environment when the proposed use, activity, or operation:

Involves an irrevocable commitment to loss or destruction of any natural or cultural resource, including but not limited to, historic sites and view planes outlined in the General Plan or other adopted plans: No valuable natural or cultural resources would be committed or lost. Several common native plants are present, especially near the cliffs where there will be no disturbance other than removal of invasive trees. No native ecosystems or valuable flora or fauna would be adversely affected. An archaeological inventory survey (AIS) determined that two (2) sites that lack physical integrity but are associated with former sugarcane cultivation were found. No adverse effects to historic sites would occur. A path to the top of a shoreline point accessed only by a series of now-defunct ladders but formerly used for shoreline fishing will be maintained and improved for access. No valuable cultural resources and practices such as shoreline access, fishing, gathering, hunting, or access to ceremonial sites would be adversely affected by the proposed project.

Curtails the range of beneficial uses of the environment: The current beneficial uses of the environment on this parcel include the access to fishing areas located on the makai side of the subject parcel. The proposed project will not have any impact on those current uses as the shoreline access will remain open for fishing. The project site is a previously graded and worked landscape that once supported sugar cane cultivation and animal husbandry. Based on these attributes and the design of the project, no restriction of beneficial uses would occur by residential use of this parcel.

Conflicts with the long-term environmental policies or goals of the General Plan or the State Plan: The State's long-term environmental policies are set forth in Chapter

344-3, HRS, and include broad policies to conserve natural resources, and to enhance the quality of life without impacting the environment. The proposed development of a single-family residence that is sited a significant distance from the shoreline and will incorporate best management practices in regard to landscaping, grading/grubbing, and energy production is consistent with the elements of the State's long term environmental policies. The General Plan for the County of Hawai'i is the document expressing the broad goals and policies for the long-range development of the Island of Hawai'i. The plan was adopted by ordinance in 1989 and revised in 2005. The proposed construction and occupation of a single-family residence would not have a substantial adverse effect on the environment and would not diminish the valuable natural resources of the region. The home and associated improvements would be compatible with the existing rural single-family residences and farm dwellings, farming, grazing, and recreational uses in the project region. Therefore, the project will not conflict with goals and policies of either the State Plan or the County General Plan.

Substantially affects the economic or social welfare and activities of the community, County, or State: The proposed construction and occupation of a single-family home would be in balance with the natural, cultural, and social environment of the County, would create temporary construction jobs for residents, and would indirectly boost the economy through construction industry purchases from local suppliers. As such the proposed project would not have any substantial effect of the economic or social welfare of the County or State.

Involves substantial secondary impacts, such as population changes and effects on public facilities: Due to the applicants plan to incorporate a private well, fire sprinklers, and a PV system for energy, the small scale of the proposed project would not produce any major secondary impacts, such as population changes or effects on public facilities.

In itself has no substantial adverse effect but cumulatively has considerable adverse effect upon the environment or involves a commitment for larger actions: The adverse effects of building a single-family residence are limited to very minor and temporary disturbance to traffic, air quality, noise, and visual quality during construction. This area is isolated from sweeping or coastal views and there are no traffic issues associated with the highway access point, which provides access for a few properties and therefore will generate negligible traffic increases. There are no substantial government or private projects in construction or planning in the area, and no accumulation of adverse construction effects would be expected. Other than the precautions for preventing adverse effects during construction listed above, no special mitigation measures will be required for this proposed project.

Substantially affects a rare, threatened, or endangered species of animal or plant, or its habitat: The site has been surveyed for threatened and endangered plants, and none were observed or recorded. Other than Hawaiian hoary bats and Hawaiian hawks, island wide-ranging species will experience no adverse impacts due to mitigation through seasonal timing of vegetation removal and seasonal hawk surveys as needed. There are no rare, threatened, or endangered faunal species known to exist on or near the property, and none would be affected by any project activities. Only very minor exterior lighting is planned, and it will be down-shielded and will consist of blue-deficient lighting such as filtered LED lights or amber LED lights, with a Correlated Color Temperature (CCT) of 2700 Kelvin. This will reduce the risk that transiting threatened or endangered seabirds

may be attracted to and then disoriented by the lighting.

Detrimentially affects air or water quality or ambient noise levels: No substantial effects to air, water, or ambient noise would occur from the proposed project. Brief, temporary effects that are common to all construction projects (i.e., noise, dust) would occur during construction and would be mitigated. The context of the property's location, with no residences, parks, or other sensitive uses nearby, will help avoid noise impacts. Erosion and sedimentation impacts will be avoided by implementation of Best Management Practices during grading, which will occur in a very limited area and at a significant distance from the shoreline.

Affects an environmentally sensitive area, such as flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water: The proposed home site is not located in a flood zone, nor would it impact drainage areas. In general, geologic conditions do not impose undue constraints on the proposed action, as volcanic hazard is low, and the home will meet or exceed all seismic hazard standards. The house would be set back a minimum of 130 feet from the edge of the pali which will mitigate the hazard associated with predicted sea level rise or the episodic retreat of the shoreline pali. The project has adapted to climate change by accounting for the potential for larger storms, through minimizing hard surfaces that generate runoff and removing nearby tall invasive trees.

Is contrary to the objectives and policies of the Coastal Zone Management Program and the Special Management Area Guidelines of Chapter 205A, HRS: The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, Coastal Zone Management and SMA. The proposed use would be consistent with Chapter 205A because it would not affect public access to recreational areas, historic resources, scenic and open space resources, coastal ecosystems, economic uses, or coastal hazards, and would not result in any substantial adverse impact on the surrounding environment. The house site is set far back from the pali and will not restrict any shoreline uses such as fishing or water sports. Access to the shoreline is difficult and hazardous because of steep cliffs, but the project accommodates users who have traditionally set ropes and ladders to access the area for fishing. View planes towards the property will not be adversely impacted, as the home site is not visible from the highway, accessible shorelines, or other public vantage points. The property contains mostly non-native and several common native plants. Standard clearing, lighting, and seasonal survey mitigation strategies will be employed to ensure no adverse impacts to any threatened or endangered animals that may traverse the property. The property is not situated over any natural drainage system or water feature that would flow into the nearby coastal ecosystem and no floodplains are present in the affected area. In terms of beach protection, construction is set back from the top of pali (i.e., shoreline location) at least 130-feet and would not affect any beaches nor adversely affect public use and recreation of the shoreline in this area. With implementation of Best Management Practices associated with grading permits, there should be no impacts on marine resources. No historic sites would be adversely affected. No effects to cultural resources and practices will occur since the existing cultural use of the shoreline area for fishing and gathering uses will be maintained.

The proposed development is consistent with the County General Plan, Hāmākua Community Development Plan (HCDP), Zoning Code and other applicable

ordinances. The General Plan Land Use Pattern Allocation Guide (LUPAG) for the County of Hawai‘i is a policy document expressing the broad goals and policies for the long-range development of the Island of Hawai‘i. The plan was adopted by ordinance in 1989 and revised in 2005; the map designation for the subject property is Open (ope), which allows for “*Parks and other recreational areas, historic sites, and open shoreline areas*”. The proposed development is consistent with the General Plan LUPAG Map designation as it will complement the goals, policies, and standards of the Land Use Elements of the General Plan. The proposed action is in balance with the natural, cultural, and social environment of the County, and it will create temporary construction jobs for local residents and indirectly affect the economy through construction industry purchases from local suppliers. The residence and associated improvements would be compatible with the existing rural single-family homes and farming, grazing, and recreational uses in area surrounding the project parcel.

Additionally, the entire property is zoned by the County of Hawai‘i as within the Agricultural District, minimum lot size of 20 acres (A-20a), although County zoning per se does not apply in the Conservation District. No aspect of the project appears to be inconsistent with the County’s Agricultural zoning designation since a “*dwelling, single-family*” is a permitted use identified in Section 25-5-70 of the Hawai‘i County Code (HCC).

Lastly, the proposed development is consistent with the Hāmākua Community Development Plan (HCDP). The HCDP was developed under the framework of the February 2005 County of Hawai‘i General Plan and was adopted in 2018 via Ordinance 2018-078 by the Hawai‘i County Planning Commission. While the HCDP does not list specific land uses for the subject parcel, the proposed residence does align with certain priorities of the natural and cultural resources, and community infrastructure sections, such as: protecting coastal areas from development, protecting, and preserving coastal view planes, preserving historic resources, ensuring appropriate public access is retained or bolstered, and concentrating future development in an existing subdivision.

The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist. In view of the Hawai‘i State Supreme Court’s “PASH” and “*Ka Pa‘akai O Ka‘Aina*” decisions, the issue relative to native Hawaiian rights, such as gathering and fishing rights, must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: In preparation for the proposed project the applicant conducted an Archaeological Inventory Survey (AIS), a Cultural Impact Assessment (CIA), a Coastal Erosion Study, a Biological Survey, and a Visual Impact Assessment (all conducted in 2020) in order to investigate the full breadth of the project area’s valued resources.

The valuable cultural, historical, and natural resources found in the area:

The Archaeological Inventory Survey (AIS), conducted in support of the proposed project, determined that two (2) sites are situated on the subject parcel, one previously recorded site (Site 50-10-26- 24212) and one newly recorded site (Site 50-10-26-31238) were identified and documented. Site 24212 is a portion of the Hilo Railroad-Hawai‘i Consolidated Railway bed, a portion of which extends near the western boundary of the parcel. Site 31238 is a section of a cut earthen ditch situated along the southeastern edge

of Mālamalamaiki Gulch near the northern boundary of the project area. This ditch is the former location of a permanent flume built by the Honomū Sugar Company. Based on the extent and location of the proposed project, no adverse effects to historic sites would occur. A path to the top of a shoreline point accessed only by a series of now-defunct ladders but formerly used for shoreline fishing will be maintained. No valuable cultural resources and practices such as shoreline access, fishing, gathering, hunting, or access to ceremonial sites would be adversely affected in any way.

In a letter dated November 8, 2021, the Department of Land and Natural Resources (DLNR) Historic Preservation Division concurred with the findings of the AIS report that “no historic properties affected for the current project” and that the “*permit issuance process may proceed*”.

The cultural impact assessment (CIA) found of the identified traditional and customary practices located on the parcel, many of the consulted parties expressed explicit concern over the potential impact the proposed development could have on coastal access and gathering of near-shore and pelagic marine species. As expressed by the consulted parties, accessing the cliffs to gather marine resources from the eastern point in the project area has been taking place for at least the past five (5) generations, and that this practice has always been a fundamental part of their lifestyle. To mitigate any potential adverse impact to this above identified traditional and customary practice, the CIA recommends that an access easement be created that extends from the old cane haul road (currently designated by the County of Hawai‘i as an easement) to the eastern point in the project area. An access easement will help ensure that the above-identified practices are maintained for current and future generations.

No floral or faunal species listed as threatened, endangered, or proposed for listing under the federal or state endangered species statutes were identified on the site. Additionally, no species used for cultural gathering purposes were identified within the project area.

Possible adverse effects or impairment of valued resources: Native vegetation may be destroyed by ground alteration, however, there is no evidence that the flora in the project area is particularly desired or used for cultural practices. Archaeological remains could inadvertently be uncovered during construction activities, however, according to the AIS, the two (2) sites noted on this parcel have been adequately documented and no further work is required.

Lastly, access to the shoreline fishing area known as “ladders” will not be affected by this project. The applicant intends to keep the coastal access corridor in private ownership and does not intend to dedicate the coastal access corridor to the County. To facilitate safe access for shoreline fishermen, the applicant has reached a general understanding with the Makahanaloa Fishing Association, an organization representing a large group of fishermen from the Hāmākua area. The applicant intends to execute a *License for Shoreline Access* over the coastal access corridor with the Association to govern the Association members access to the “Ladders” fishing site. While the Director supports the idea of continued access, he does not want to limit access to just the members of the Association but to allow *any* fishermen who have used “Ladders” in the past continued access to the site. The Director encourages the applicant to allow access for all fishermen, but not for the general public as the actual ladders that descend to the shoreline

from the subject parcel are delapidated and are considered unsafe. Restricting public access to the shoreline is necessary due to the unique and dangerous method of accessing the fishing site.

Lastly, there may be common short-term impacts (i.e., noise, dust) from the construction activities for the development as well as the new proposed structures, however best management practices will be in place to mitigate these short-term impacts which will cease at the completion of the project.

Feasible actions to protect native Hawaiian rights: The proposed development will not restrict access to, and the use of natural resources at the existing shoreline fishing area known as “ladders” for fishermen. Conditions of approval have been added to protect endangered, threatened, and indigenous birds such as the Newell’s shearwater and the Hawaiian Petrel and the Applicant has proposed to utilize native, endemic, or Polynesian introduced flora in site landscaping. A condition of approval has also been added to protect any unidentified cultural, historical, and natural resource in the event any are encountered during construction. To the extent that traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable government requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above findings, the proposed development will not have substantial adverse impacts on the environment, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.