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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 20, 2024

Jeremy Graham
CalCam Investments, LLC
16457 Curled Oak Drive
Monument, CO 80132
VIA EMAIL

Dear Mr. Graham:

SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000047)
Applicant: Jeremy Graham
Permitted Use: Allows the Construction of a Two (2) Story Single Family Residence and Related Improvements
Tax Map Key: (3) 1-5-059:049, Puna, Hawai'i

The Windward Planning Commission, at its duly held public hearing on April 4, 2024, voted to approve the above-referenced request to allow the construction of a two (2) story, 6,404 square foot single-family residence and related improvements on a 23,958-square foot shoreline parcel within the Special Management Area. The project site is located on Paradise Ala Kai Road, approximately 200-feet north of the intersection of Paradise Ala Kai Road and Kilika Street, Hawaiian Paradise Park Subdivision, Puna, 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 regulations.

- 3) Construction of the new 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 January 16, 2024, and representations made to the Windward Planning Commission.
- 4) Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.
- 5) 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.
- 6) All construction and maintenance activities shall comply with Chapter 27, Flood Control of the Hawai'i County Code.
- 7) All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- 8) All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- 9) The method of sewage disposal shall meet with the requirements of the Department of Health.
- 10) 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.
- 11) The Applicant shall install a silt fence barrier along the entire length of the 40-foot shoreline setback area to ensure that no work, or impacts affect the shoreline setback area. The barrier will remain in place until all construction activities are completed.
- 12) 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.

- 13) 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 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.
- 14) 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 request is based on the reasons given in the enclosed Findings Report.

Should you have any questions, please contact Alex Roy of this department at (808) 961-8140 or by email at alex.roy@hawaiicounty.gov

Sincerely,



April 20, 2024 07:04 AM

Dennis Lin, Chairman
Windward Planning Commission

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Jeremy Graham
CalCam Investments, LLC
April 20, 2024
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Enclosure: Planning Commission Findings Report
Site Plan

cc w/enclosure via email: Val Colter
County Real Property Tax Division
State Department of Health
Office of Planning and Sustainable Development
GIS Section

COUNTY OF HAWAI'I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

JEREMY GRAHAM
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2024-000047)

Based on the following findings Special Management Area Use Permit No. PL-SMA-2024-000047 is hereby **approved by the Windward Planning Commission** to allow for the construction of **a two (2) story, 6,404 square foot single-family residence and related improvements on a 23,958-square foot shoreline parcel within the Special Management Area (SMA)**. The subject property is located on Paradise Ala Kai Road, approximately 200-feet north of the intersection of Paradise Ala Kai Drive and Kilika Street, Hawaiian Paradise Park Subdivision, Puna, Hawai'i, TMK: (3) 1-5-059:049.

The applicant requests a Special Management Area Use Permit to construct a new two-story single-family residence with 3,357 square feet of interior space, and 3,047 square feet of accessory space on a 0.55-acre parcel of land located on the makai (seaward) side of Paradise Ala Kai Drive within the Special Management Area (SMA) on the Island of Hawai'i. The proposed two-story home would have a total of 6064 sf of living space, with five (5) bedrooms and three and a half (3.5) baths, garage and covered lanai. Additionally, the Applicant is proposing to construct an in-ground swimming pool on the makai side of the parcel approximately 47-feet from the certified shoreline. The home will be powered by the existing electric service, with potable water provided by a proposed well to be installed by the applicant. The proposed project will require a Department of Health (DOH) approved individual wastewater system to be installed on the makai side of the subject parcel; this will also be sited 47-feet from the shoreline.

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 Planning Commission may permit the proposed development only upon finding that:

1. The development will not have any significant 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 Special Management Area objectives, policies and 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 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.

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.

The proposed single-family residence is within a well-established residential development/subdivision that was created decades ago. Many of the shoreline parcels in this area are fully developed with single-family residential structures, related development, and landscaping. The Applicant has designed the development to be 47-feet from the certified shoreline, which is greater than the required 40-foot shoreline setback boundary. There is an existing shoreline access pathway located on a County owned parcel located 200-feet south of the subject parcel which will not be impacted by the proposed project. Based on the above factors the proposed project will not significantly alter or impact coastal resources nor impact access to and along the shoreline.

The subject parcel has been an undeveloped parcel within a well-established residential agricultural community, while no work has been done on the parcel the land has been altered by historic land disturbance common to the creation of a residential subdivision. The parcel is overgrown, but with non-native plant species and therefore, it is not anticipated that any rare or endangered floral or faunal species would be found on the parcel, nor would any be affected by the proposed project. A home on this property would have no adverse effect on natural beauty and scenic view planes since it matches the existing residential development located throughout this community developmental parcels. Based on the small size and characteristics, it is anticipated that 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 or are access via the County parcel located south of the project parcel.

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 new single-family residence and related development on a 0.55-acre parcel of land will not have a significant adverse environmental or ecological effect upon the Special Management Area.

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 proposed construction of a new single-family residence and related improvements is consistent with the objectives and policies of the Coastal Zone Management Program (Chapter 205A, Hawai‘i Revised Statutes) including:

Recreational Resources:

The house site is designed outside of the shoreline setback area and will not restrict any current shoreline recreation or activities. Access to the shoreline is via a pedestrian access path located 200 feet south of the subject property. View planes towards the shoreline will not be adversely impacted, as the subject parcel is adjacent to parcels developed with a single-family residence and related improvements since the 1960’s. A public pedestrian access route to the shoreline runs through a County owned parcel located 200-feet from the subject parcel. According to the County’s Shoreline Access website, this coastline is used for hiking, swimming, fishing (with restrictions), kayaking and surfing. The shoreline public access adjacent to the property will not be affected by this project.

Historic Resources:

The small subject parcel is within a well-established residential community with similar single-family residences and related developments such as pools and landscaping. The applicant has stated that no valuable cultural resources and practices have been known to occur on the parcel. Additionally, there would be no historic resources, such as the shoreline, that would be adversely affected by the proposed project.

Scenic and Open Space Resources:

The proposed project site is not visible from the vantage point of any public highway since there is no view from the highway towards the project site. The proposed project will not impact scenic or open space resources and the use of a single-family residence is consistent with the other homes along this section of shoreline. The proposed project will maintain existing public access and would not adversely affect any sightlines or scenic resources in any way.

Coastal Ecosystems and Marine Resources:

The subject property abuts the shoreline; however, the design of the proposed residence and the conditions of construction permits will minimize potential impacts to coastal resources such as soil erosion. All mandated setbacks and government regulations related to runoff and nearshore waters will be adhered to. No threatened or endangered animal or plant species are present and as such no adverse impact to flora, fauna, or ecosystems would be expected to result from the proposed development or any activities associated with the use.

Coastal Hazards:

The property contains overgrown non-native vegetation such as non-native palms,

and ironwood, and no native or endemic species are known or have been observed. The property is predominantly within Flood Zone X with a small portion of the shoreline located within Flood Zone VE. Occupied structures are planned to be elevated above base flood elevations plus freeboard, and properly engineered to withstand wind and water loads. The proposed pool will be designed and engineered to comply with flood zone and building permit regulations. The proposed structures will not be subject to flooding since the dwelling will be built according to flood zone regulations and will be outside the 40-foot shoreline setback.

Based on the above information, the proposed development is consistent with the objectives and policies of Chapter 205A, HRS.

The proposed development is consistent with the County General Plan, Puna Community Development Plan (PCDP), 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 comprehensive updated plan was adopted by ordinance in 2005 and amended in 2006, 2007, 2009, 2012 and 2014. The map designation for the subject property is Rural (rur) and Open (ope). The proposed development is consistent with this designation, and 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 single-family homes and recreational uses in the area surrounding the subject parcel.

Additionally, the entire property is zoned by the County of Hawai'i as Agricultural 1-acre (A-1a) as well as the surrounding properties which are all zoned A-1a and developed with single-family dwellings. These properties range in size from approximately 20,000 to 40,000 square feet. The newly proposed dwelling and associated improvements will be designed and constructed in a manner that is in keeping with the neighborhood.

Lastly, the proposed development is consistent with the Puna Community Development Plan (PCDP). The PCDP was developed under the framework of the February 2005 County of Hawai'i General Plan and was adopted in 2008 and amended several times by the Hawai'i County Council. The subject property is located within the Hawaiian Paradise Park Community as identified within the PCDP. The requested project aligns with the following policies of the Puna Community Development Plan:

Managing the effect of growth and development: The proposed project is the construction of a new single-family residence in keeping with the surrounding area's character. The proposed project will not result in any change to the area's character or increase in density and will be built in accordance with current County and building codes.

Natural Resources and Shoreline: The proposed project will protect and preserve the quality of areas endowed with natural beauty, including the quality of coastal scenic resources as the project will be developed with restraint to coastal impacts. The applicant supports a conservative approach to the conservation of the shoreline, and will not impact or alter the shoreline, or access to the shoreline located nearby. Additionally, the

proposed project will not include any development within the shoreline setback area and will utilize Best Management practices during construction to minimize any coastal impacts during construction.

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: Based on the long development history of the subject parcel is highly unlikely that any historic sites would be found on the property. In conformance with review criteria the project was submitted to the State Historic Preservation Division (SHPD) for a HRS, Ch. 6E-42 review, however, no response was received from SHPD, this is typical when SHPD agrees that the proposed project will not have any impacts or effects on any valued resources in the area.

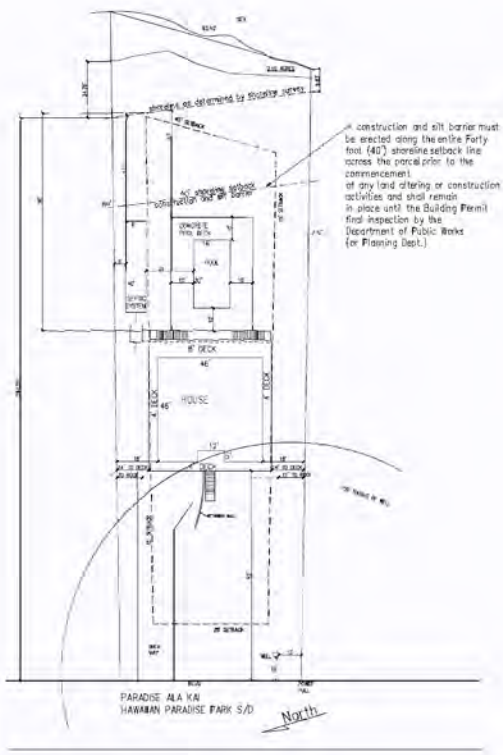
The valuable cultural, historical, and natural resources found in the area: The applicant notes that the subject parcel is located adjacent to an established public shoreline access trail and no changes to access or use are proposed or anticipated. It is not known whether the subject site or immediately surrounding area was ever used for the gathering of plants by native Hawaiians. Given the residential development of the area, it would appear very unlikely that the site would serve such a purpose today and/or in the recent past. Thus, the project does not appear to present any cultural impacts.

Possible adverse effects or impairment of valued resources: 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. The residential nature of the surrounding areas would make it less likely to find other protected or endangered animal life in this area. All construction activities will follow Best Management Practices to minimize adverse point and non-point pollution to coastal resources and surrounding areas.

Feasible actions to protect native Hawaiian rights: A public pedestrian access route to the shoreline runs through the County owned parcel located just south of the subject property. According to the County's Shoreline Access website, this coastline is used for hiking, swimming, fishing (with restrictions), kayaking and surfing. The shoreline public access adjacent to the property will not be affected by this project.

Lastly, this recommendation for 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.

NEW 5 BEDROOM / 3-1/2 BATH DWELLING:
 ENCLOSED LIVING AREA: 3357 SQ FT (2ND LEVEL: 2116 / 1ST LEVEL: 1241)
 ACCESSORY AREA: 3047 SQ FT
 (GARAGE 1ST LEVEL: 875 / LANAI 1ST LEVEL: 1016 / DECK 2ND LEVEL: 1016
 ENTRY PORCH: 60 / REAR LANDING: 80)
 IN GROUND POOL: 16'x30' : 480 SQ FT
 WITH CONCRETE POOL DECK: 1320 SQ FT
 WELL
 SEPTIC SYSTEM



PLOT PLAN
 SCALE: 1" = 20'

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