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PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 14-000295

Project: Subdivision of One Lot into Two Lots
Applicant: County of Hawai'i, Department of Finance
Landowners: Merrill and Ida Smith
Location: Keahialaka, Puna, Hawai'i
TMK: (3) 1-3-008:034 **Land Area:** 35.547 acres

Applicant's Request

1. Project Description:

Proposed is the subdivision of TMK: (3) 1-3-008:034 into two separate lots of record; lot 26-A containing 8.785 acres, and lot 26-B containing 26.782 acres. No associated construction is proposed in addition to the subdivision action.

2. Purpose of Project:

The proposed project will subdivide the property, after which the County of Hawai'i will purchase the proposed unimproved lot 26-B for coastal ecosystem and open space preservation.

3. Project Valuation: \$0

4. Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), as amended, relating to Special Management Area, "development" includes the "*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*". "Development" does not, however, include the "*Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any land that is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels*". Since the subject property was already part of a previous subdivision action (SUB No. 7680), the proposed subdivision is not exempt from the definition of "development", requires review against the Special Management Area rules and regulations, and requires a SMA Minor Permit

State and County Plans

- 1. State Land Use District:** The parcel is located in the State Land Use Conservation District.

2. **General Plan:** The parcel is designated as Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** There is no County zoning per se in State Land Use Conservation districts.
4. **Special Management Area:** The subject property is located entirely within the SMA and has substantial ocean frontage.
5. **Flood Zone:** AE & VE.

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>

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 effect 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 objectives 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 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 tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ 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 for public use and recreation.
- ☒ 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 Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, 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.

The proposed subdivision is consistent with the Hawai'i County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of \$0 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated January 30, 2014, states the following:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated January 21, 2014 and have no objections to the request.

A portion of the subject parcel is in an area designated as Flood Zones AE and VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency. Flood Zones AE and VE are the Special Flood Hazard Areas inundated by the 100-year

flood (1% chance of occurring in any given year) where flood elevations have been determined."

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 14-000295** is hereby approved for the subdivision of the referenced parcel into two separate lots of record, subject to the applicant's compliance with the conditions of approval as specified below.


Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 14-000295**, subject to the following conditions:

1. The applicant, its successors or assigns 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. This permit does not authorize any other uses, activities or operations, including but not limited to, grading, grubbing, landscaping, or the placement or construction of any structures on the subject property without further review of any such additional uses, activities or operations against the SMA Guidelines.
4. If at some time the shoreline in front of parcel (3) 1-3-008:086 becomes eroded, damaged, or inundated to the point that pedestrian travel to proposed lot 26-B is no longer possible, the current or future landowner of proposed lot 26-A may be required to grant or deed to the County a pedestrian access trail through proposed lot 26-A for public shoreline access purposes to proposed lot 26-B. The need for such a trail will be made by the Planning Director in consultation with the Director of Parks and Recreation. The request for the trail may be made by the Planning Director, should the need arise, with or without a request for additional land-use entitlements by the landowner(s) of proposed lot 26-A. The lots referenced in this condition are identified on the enclosed map titled "Land Court Application 1800", and the above references shall include any future identifications assigned to those lots.
5. The applicant shall adhere to the recommendations of the State Historic Preservation Division regarding their review and preservation recommendations concerning the archaeological sites extant on the subject property, as identified in the document "An Archaeological Inventory Survey of a 35.5-acre Parcel Located at Pohoiki Bay", dated June 2014.

6. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:



DUANE KANUHA
Planning Director

SEP - 4 2014

Date