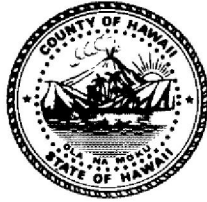


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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

August 26, 2022

James Komata
Department of Parks and Recreation
101 Pauahi Street, Suite 6
Hilo, HI 96720

Dear Mr. Komata:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000082)
Special Management Area Minor Permit (SMM)
(PL-SMM-2022-000029)
Applicant(s): Hawai'i County Department of Parks and Recreation
Landowner(s): State of Hawai'i
Project: Demolition and Removal of Pavilion, Restroom, and WWTS
and other related improvements
TMK: (3) 5-7-003:013, North Kohala, Island of Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000082), received by this office on June 13, 2022, with additional information received on July 8, 2022. The 14.960-acre subject parcel is zoned Agricultural 5-acre (A-5a) by the County and designated Agricultural and Conservation by the State Land Use Commission (LUC). The subject parcel is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

The entire project area is located within the Special Management Area (SMA) as well as located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS). Due to the location of the demolition and removal of the pavilion, restroom and WWTS (wastewater treatment system) and related improvements being at least 200-feet from the approximate shoreline and will only require minimal ground disturbance, the Director has waived the requirement for a Shoreline Certification for this proposed activity.

Proposed Project:

The applicant is proposing to:

- Demolish and remove existing pavilion and restroom.
- Demolish and remove existing WWTS.
- Relocate electrical equipment to maintain functionality of existing site lighting.
- Restore ground surface to match existing, adjacent conditions.
- Removal of Fire Pit/Grills

Ground disturbance will include the removal of underground utilities and will be filled with backfill that is to be re-graded and re-naturalized. The applicant will also relocate electrical equipment to maintain functionality of existing site lighting and restore ground surface to match existing, adjacent conditions.

Purpose of Project:

The purpose of the project will remove an existing beach pavilion that is not in use that will deter unpermitted activities, such as squatting, littering and other illicit activities.

Hawai'i Revised Statutes (HRS) Ch. 343 Determination:

The proposed project does not meet any of the triggers for environmental review in Hawai'i Administrative Rules (HAR) Section 11-200.1-9 (Applicability of Chapter 343, HRS, to applicant actions) and HRS Chapter 343-5, thus an environmental document is not required.

Additional Agency Reviews Conducted:

Based on the style and scope of the proposed project, the Planning Department solicited comments from other agencies that may have concerns or recommendations for the proposed project. The following outlines the agencies contacted and their comments:

County of Hawai'i Department of Public Works Engineering Division (DPW): According to the Department of Public Works Engineering Division, the subject parcel is in an area designated as Flood Zone X and VE. All construction within the Flood Zone VE shall comply with the requirements of Hawai'i County Code, Chapter 27, Floodplain Management. Based on the preceding, the Planning Director will add this as a condition as well as standard conditions that the applicant comply with the requirements of DPW.

Special Management Area Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(B) and (E) relating to Special Management Area (SMA), "*Grading, removing, dredging, mining, or extraction of any materials*", and "*Construction, reconstruction, demolition or alteration of the size of any structure*" is defined as "development." Additionally, in conformance with HRS Ch. 205A-22, the proposed demolition and removal of the pavilion, restroom and WWTS and other related improvements that are situated on a shoreline parcel is considered "development" and requires a review against the Special Management Area rules and

James Komata
Department of Parks and Recreation
August 26, 2022
Page 2

regulations. Our review has resulted in the issuance of a SMA Minor Permit because the total valuation of the proposed project is \$200,000 which is under \$500,000 and 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-2022-000029 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.

If you have any questions, please contact Tracie-Lee Camero of this office at (808) 961-8166.

Sincerely,

Zendo Kern
Zendo Kern (Aug 26, 2022 10:02 HST)

ZENDO KERN
Planning Director

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Attached: SMA Minor Permit No. PL-SMM-2022-000029
Exhibit 1 – Site Plan

Cc (via e-mail): Shichao Li, State-OPSD
Lisa E. Webster, State-OPSD
GIS Section

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Phone (808) 323-4770
Fax (808) 327-3563



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Phone (808) 961-8288
Fax (808) 961-8742

Special Management Area Minor Permit No. PL-SMM-2022-000029

Project: Mahukona Beach Park Demolition and Removal of Pavilion, Restroom and WWTS and other related improvements
Applicant: County of Hawai'i Department of Parks and Recreation
Location: Mahukona Beach Park, North Kohala, Hawai'i
TMK: (3) 5-7-003:013
Land Area: 14.960 acres

Applicant's Request

1. Project Description:

The applicant is proposing to:

- Demolish and remove existing pavilion and restroom.
- Demolish and remove existing wastewater treatment system.
- Relocate electrical equipment to maintain functionality of existing site lighting.
- Restore ground surface to match existing, adjacent conditions.
- Removal of Fire Pit/Grills

Currently there is an open recreation area located on the subject parcel, and no other uses or activities, other than what is described above, are proposed.

2. Purpose of Project: The project will remove an existing beach pavilion that is not in use.

3. Project Valuation: \$200,000.00

4. Determination: According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(B) and (E) relating to Special Management Area (SMA): "*Grading, removing, dredging, mining, or extraction of any materials*", and "*Construction, reconstruction, demolition or alteration of the size of any structure*" is defined as "development." Additionally, in conformance with Hawai'i Revised Statutes (HRS) Ch. 205A, the proposed demolition and removal of the pavilion, restroom and WWTS and other related improvements that are situated on a shoreline 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

1. **State Land Use District:** The parcel is designated Agricultural and Conservation by the State Land Use Commission.
2. **General Plan:** The parcel is designated as “open” (ope) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcel is currently zoned Agriculture 5-acre (A-5a).
4. **Special Management Area:** The subject parcel is located in the SMA as well as located within the “shoreline area” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).
5. **Flood Zone:** X & VE

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 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 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 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.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$200,000 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-2022-000029** is hereby approved for the demolition and removal of the pavilion, restroom and WWTS and other related improvements on the above referenced property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000029**, **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.
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 the Department of Land and Natural Resources Office on Conservation and Coastal Lands.
3. A Building Permit for the demolition and removal of the pavilion, restroom and WWTS and other related improvements shall be issued within two (2) years from the date of this letter.

4. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
6. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the entire length of the shoreline setback line as shown on Exhibit 1 prior to the commencement of land altering and construction activities and shall remain in place until final inspection has been granted by the Building Division for the removal.
7. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur seaward (makai) of the shoreline setback line as shown on Exhibit 1 without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
8. In the event the total valuation of the proposed demolition of the pavilion, restroom and wastewater system and relocation of electrical equipment exceeds \$500,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area (Major) Use Permit from the Planning Commission.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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).
14. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit or require additional review against the Special Management Area rules and regulations.

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

APPROVED:

Zendo Kern
Zendo Kern (Aug 26, 2022 10:02 HST)

ZENDO KERN
Planning Director

August 26, 2022

Date

