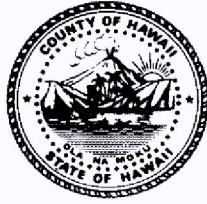


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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County of Hawai'i

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Zendo Kern
Director

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Deputy Director

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November 16, 2022

Manu Powers
c/o Sea Quest Hawaii
78-7106 Kamehameha III Rd.
Kailua-Kona, HI 96740

Dear Mr. Powers:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000101)**

Special Management Area Minor Permit (PL-SMM-2022-000031)

Applicant(s): Sea Quest Hawaii

Landowner(s): BP Bishop Estates

Project: Site Improvements for Existing Boating Facility

Tax Map Key: (3) 7-8-010:044

Location: North Kona District, Island of Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000101), submitted to this office on August 21, 2022; we apologize for the delay in processing your application.

The subject parcel totals 25.239 acres; however, the proposed project area will only be approximately 1.43 acres. The parcel is zoned both resort-hotel, 4,000 sq. ft. (V-4) and resort-hotel 1,250 sq. ft. (V-1.25) by the County and designated Urban by the State Land Use Commission. The project area is designated resort node (ren) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The subject parcel is located entirely within the SMA and is considered to be a "shoreline parcel" as defined by Hawai'i Revised Statutes (HRS) 205A-41; however, the proposed project will be located approximately 300-ft. from the nearest shoreline.

Proposed Project:

The purpose of the proposed project is to improve the existing site for visitors, improve security for the site, and to conduct routine maintenance for safety. At this time, the applicant is proposing the following:

- Construction of a new entry gate at the entrance to the existing vessel parking lot.
- Installation of four (4) new security cameras in the vessel parking lot.
- Installation of four (4) new solar lights – one (1) mounted on the perimeter fence and three (3) mounted on 15-foot posts.
- Replacement of an existing canvas fence with approximately 1,000 linear feet of metal chain-link fencing around the perimeter of the vessel parking lot.
- Installation of new security signage at the entrance to the vessel parking lot.
- Fill existing potholes in both the vessel and vehicle parking lots with gravel.
- Remove overgrown vegetation around the vessel and vehicle parking lots.
- Removal of one (1) monkey pod tree.

It was noted by the applicant that the area was cleared prior to this use being established and is considered to be “as-built.” It is estimated that the initial project cost to create the boat parking and storage area was approximately \$40,000. The current project (as listed above) valuation is approximately \$72,000 which means the total cost for all work (as-built and proposed) is \$112,000. No grading or grubbing is proposed, and only minor replacement of gravel (to in-fill potholes) will be used. The proposed placement of gravel will not exceed one hundred cubic yards of material and as such, no grading permit is required according to the Department of Public Works. This approval is also to permit the previous work done by others, which includes the clearing of the site and minor grading to create the parking area. The current applicant was guided by the landowner (BP Bishop Estates/KS) to utilize this area for the boat parking site.

Shoreline Area Determination:

The project parcel is located within the Special Management Area (SMA); however, no portion of the proposed project is located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS). Therefore, as the proposed project is located approximately 300 feet from the shoreline, the requirement to submit a current certified shoreline survey is waived by the Planning Director.

Chapter 6E-42 Historic Preservation Review:

The property is located within the Kealahou Bay Historical District but is some distance from the shoreline area. As this parcel is part of Kamehameha Schools (BP Bishop Estates) land holdings, a portion of which will be included in the Keauhou Bay Master Plan project, an Archeological Inventory Survey (AIS) was submitted for the recent Environmental Impact Statement. The AIS showed there were no sites within this project area, and staff notes that the land has been completely cleared and graded sometime in the past. The entire project area is cleared and graded, and as such the county has determined that no historic properties would be affected by the proposed project. However, in the event that surface or subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the 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.

Special Management Area Determination:

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

- *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste.*
- *Grading, removing, dredging, mining, or extraction of any materials, and*
- *Construction, reconstruction, or alteration of the size of any structure.*

The Planning Department finds that the proposed project is not exempt from the definition of “development;” therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. PL-SMM-2022-000031, is hereby issued for the proposed improvement project. It is the applicant’s responsibility to read and comply with the conditions listed in the enclosed permit, that cover both the SMA exemption determination and the SMA minor 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 Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,

Zendo Kern
Zendo Kern (Nov 16, 2022 15:31 HST)

ZENDO KERN
Planning Director

AJR:jaa

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Manu Powers
c/o Sea Quest Hawaii
November 16, 2022
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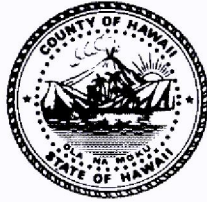
Enclosures: SMM Permit No. PL-SMM-2022-000031
Exhibit 1 – Site Plan

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

Mitchell D. Roth
Mayor

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Special Management Area Minor Permit No. PL-SMM-2022-000031

Project: Site Improvements for Existing Boating Facility
Applicant(s): Sea Quest Hawaii
Landowner(s): BP Bishop Estates
TMK(s): (3) 7-8-010:044
Location: Kaleiopapa Street, North Kona District, Hawai'i
Land Area: 25.239 acres

Applicant's Request

1. Project Description: This Special Management Area (SMA) Minor Use Permit is being pursued as the Proposed project includes uses defined as "development" and therefore require the SMA minor permit in accordance with SMA rules and regulations. At this time, the applicant is proposing the following:

- Construction of a new entry gate at the entrance to the existing vessel parking lot.
- Installation of four (4) new security cameras in the vessel parking lot.
- Installation of four (4) new solar lights – one (1) mounted on the perimeter fence and three (3) mounted on 15-foot posts.
- Replacement of an existing canvas fence with approximately 1,000 linear feet of metal chain-link fencing around the perimeter of the vessel parking lot.
- Installation of new security signage at the entrance to the vessel parking lot.
- Fill existing potholes in both the vessel and vehicle parking lots with gravel.
- Remove overgrown vegetation around the vessel and vehicle parking lots.
- Removal of one (1) monkey pod tree.

It was noted by the applicant that the area was cleared prior to this use being established and is considered to be "as-built." It is estimated that the initial project cost to create the boat parking and storage area was approximately \$40,000. The current project (as listed above) valuation is approximately \$72,000 which means the total cost for all work (as-built and proposed) is \$112,000. No grading or grubbing is proposed, and only minor replacement of gravel (to in-fill potholes) will be used. The proposed placement of gravel will not exceed one hundred (100) cubic yards of material and as such, no grading permit is required according to the Department of Public Works. This approval is also to permit the previous work done by others, which includes the clearing of the site and minor grading to create the parking area. The current applicant was guided by the landowner (BP Bishop Estates/KS) to utilize this area for the boat parking site.

2. **Purpose of Project:** The purpose of the proposed project is to improve the existing site for visitors, improve security for the site, and to conduct routine maintenance for safety.
3. **Project Valuation:** \$72,000 (current project) + \$40,000 for as-built work (\$112,000 total)
4. **Determination:** According to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(1) relating to Special Management Area (SMA): “*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*”, “*Construction, reconstruction, demolition, or alteration of the size of any structure*”, and “*Grading, removing, dredging, mining, or extraction of any materials*” is defined as “development.” Therefore, the proposed improvement project is considered “development” and requires a SMA Minor Permit.

State and County Plans

5. **State Land Use (SLU) District:** The subject parcel is within the SLU Urban District.
6. **General Plan:** The parcel is designated as resort node (ren) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcel is currently zoned as both resort-hotel 4,000 sq. ft. (V-4) and resort-hotel 1,250 sq. ft. (V-1.25).
8. **Special Management Area:** The proposed project parcel is located within the Special Management Area (SMA), as well as within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS). However, the proposed project area will be sited approximately 300-ft from the nearest shoreline.
9. **Flood Zone:** Zone X, AE, 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 any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effect shall include but not be limited to the potential cumulative impact of individual

developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.

- ☒ The proposed development is consistent with the Hawai'i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), 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: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and 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 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 property is located within the Kealahou Bay Historical District but is some distance from the shoreline area. As this parcel is part of Kamehameha Schools (BP Bishop Estates) land holdings, a portion of which will be included in the Keauhou Bay Master Plan project, an Archeological Inventory Survey (AIS) was submitted for the recent Environmental Impact Statement. The AIS showed there were no sites within this project area, and staff notes that the land has been completely cleared and graded sometime in the past. The entire project area is cleared and graded, and as such, the county has determined that no historic properties would be affected by the proposed project.
4. The estimated project cost of \$112,000 (\$72,000 for current project, and \$40,000 for as-built work) for the improvement project is not in excess of \$500,000.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2022-000031** is hereby approved for the following activities:

- Construction of a new entry gate at the entrance to the existing vessel parking lot.
- Installation of four (4) new security cameras in the vessel parking lot.
- Installation of four (4) new solar lights – one (1) mounted on the perimeter fence and three (3) mounted on 15-foot posts.
- Replacement of an existing canvas fence with approximately 1,000 linear feet of metal chain-link fencing around the perimeter of the vessel parking lot.
- Installation of new security signage at the entrance to the vessel parking lot.
- Fill existing potholes in both the vessel and vehicle parking lots with gravel.
- Remove overgrown vegetation around the vessel and vehicle parking lots.
- Removal of one (1) monkey pod tree.
- As-built construction of cleared parking area.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000031**, **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. Other than the proposed project as described in this permit, no further work is permitted under this approval.
4. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within the minimum 40-foot shoreline setback area without securing a prior written determination of minor structure or activity pursuant to Planning Department Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.

6. The proposed work shall comply with the requirements of Hawai‘i County Code (HCC) Chapter 10, Erosion and Sedimentation Control.
7. The Applicant shall provide adequate and safe pedestrian access throughout the project area as required and will not alter or block any access.
8. 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.
9. 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.
10. 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 issuance of 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.
11. 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.

If you have any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

APPROVED:

Zendo Kern

Zendo Kern (Nov 16, 2022 15:31 HST)

ZENDO KERN
Planning Director

November 16, 2022

Date

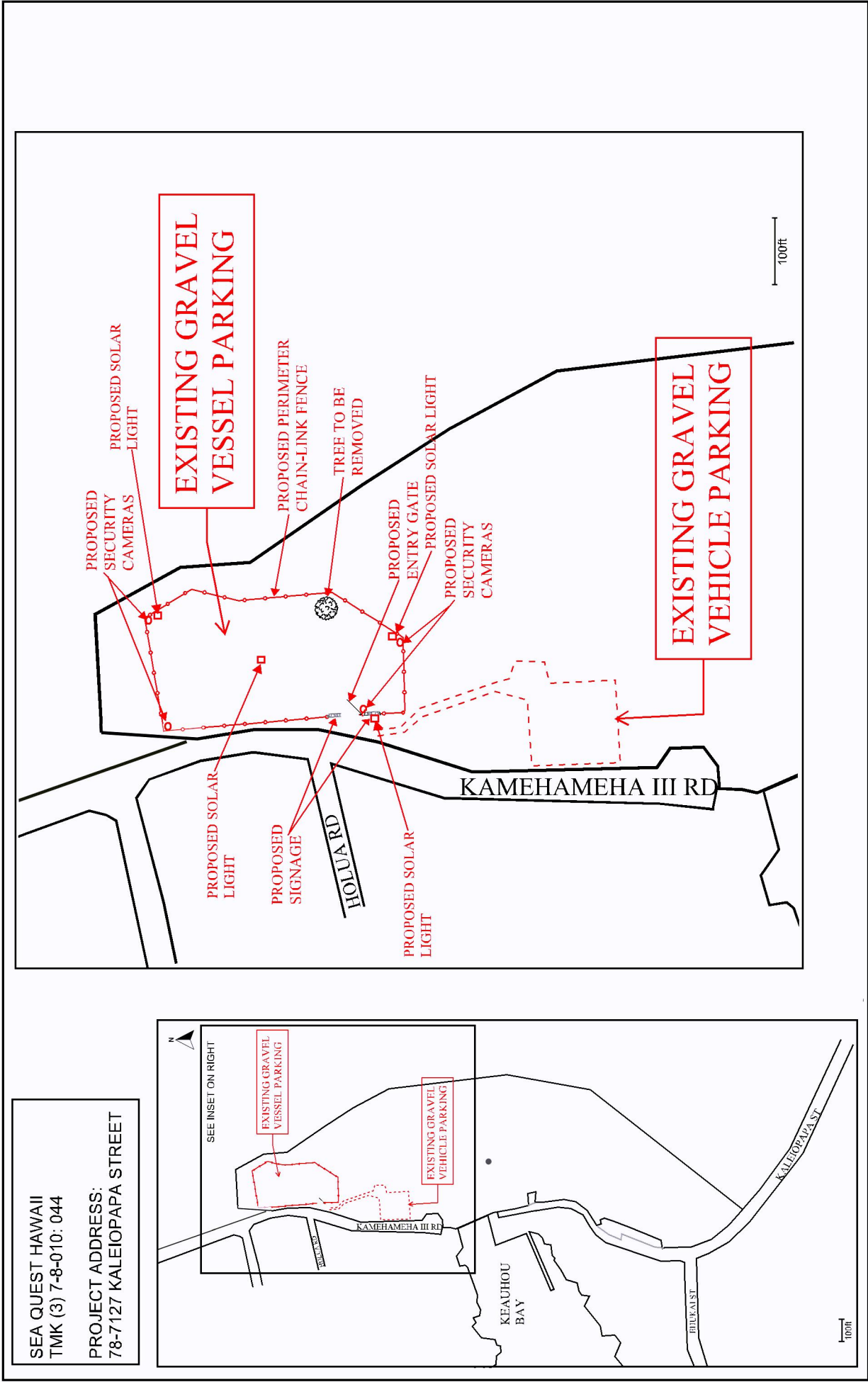


FIGURE 2