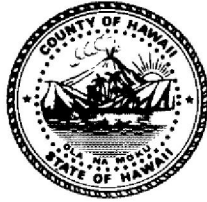


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
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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

November 10, 2022

Katherine Luga
c/o Carlsmith Ball LLP
121 Waianuenue Avenue
Hilo, HI 96720
Email: kluga@carlsmith.com

Dear Ms. Luga:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000100)
Special Management Area (SMA) Minor Use Permit
(PL-SMM-2022-000036)
Applicant(s): Katherine Luga
Landowner(s): Lilikoi Farm Trust
Project: Grading, Grubbing, and Installation of Fencing
Tax Map Key: (3) 5-3-007:041, Hālawā, Napapa'a North Kohala, Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000100), submitted to this office on August 18, 2022. The subject 24.27-acre parcel is zoned Agricultural-20 acres (A-20a) by the County and designated Agricultural by the State Land Use Commission (LUC). The subject parcel is designated as "Important Agricultural Land" (ial) and "Open" (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The subject parcel is located within the Special Management Area (SMA); however, it is not considered a "shoreline parcel" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).

Proposed Project:

According to the information provided, the applicant is proposing to conduct the following activities:

1. Grade and grub portions of the property to remove Christmas Berry and Strawberry Guava shrubs and other invasive vegetation.
2. Install fencing to allow for animal grazing and other agricultural pursuits.

Katherine Luga
c/o Carlsmith Ball LLP
November 10, 2022
Page 2

The objective of the proposed project is to facilitate the Applicant's future farm dwelling and accessory structures and uses.

Special Management Area Determination:


Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(1)(B) relating to the Special Management Area, "Development" includes: "*Grading, removing, dredging, mining, or extraction of any materials*"

We find that the proposed project is not exempt from the definition of "development", however, the project 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-2022-00036, 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 or via email at tracie-lee.camero@hawaiicounty.gov.

Sincerely,


Jeffrey W. Darrow (Nov 10, 2022 12:55 HST)

ZENDO KERN
Planning Director

TC:mads
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Enclosures: PL-SMM-2022-000036

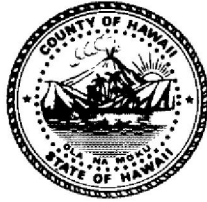
Exhibits: Exhibit 1 – Site Plan
Exhibit 2 – Easement Maps

cc via email: Director, Office of Planning, DBEDT
Shichao Li; State-OPSD
Lisa E. Webster, State-OPSD

Mitchell D. Roth
Mayor

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Managing Director

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Special Management Area Minor Permit No. PL-SMM-2022-000036

Project: Grading, Grubbing and Installation of Fencing
Applicant: Katherine Luga, Carlsmith Ball LLP
Landowner(s): Lilikoi Farm Trust
TMK(s): (3) 5-3-007:041
Location: Hālawā, Napapa'a, North Kohala, Island of Hawai'i
Land Area: 24.27 acres

Applicant's Request

1. **Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued for the following activities:
 1. Grade and grub portions of the property to remove Christmas Berry and Strawberry Guava shrubs and other invasive vegetation.
 2. Install fencing to allow for animal grazing and other agricultural pursuits.
2. **Purpose of Project:** The objective of the project is to facilitate the Applicant's future farm dwelling and accessory structures and uses.
3. **Project Valuation:** \$18,500.00
4. **Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(1)(B) relating to Special Management Area (SMA), "development" includes: "Grading, removing, dredging, mining, or extraction of any materials"; as such the proposed project will require a SMA Minor permit.

State and County Plans

5. **State Land Use District:** The subject parcel is within the State Land Use Agricultural District.
6. **General Plan:** The parcel is designated as Important Agricultural Land (ial) and Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.

7. **County Zoning:** The parcel is currently zoned as Agricultural-20 acres (A-20a).
8. **Special Management Area:** The subject parcel is located within the Special Management Area (SMA); however, it is not considered a “shoreline parcels” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).
9. **Flood Zone:** The majority of the project area is within Flood Zone “X”.

| |
|--|
| <p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawai‘i 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 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 conducted activities 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 \$18,500.00 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-2022-000036** is hereby approved to:

1. Grade and grub portions of the property to remove Christmas Berry and Strawberry Guava shrubs and other invasive vegetation.
2. Install fencing to allow for animal grazing and other agricultural pursuits.

| |
|-------------------------------|
| Conditions of Approval |
|-------------------------------|

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000036**, 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. The Applicant shall not, at any time, impede or otherwise restrict lateral public access along the shoreline and within the public pedestrian access easements (Easement 30 and Easement PA-12) traversing the subject property as indicated in Exhibit 2 – Easement Maps (enclosed).
4. All site plans submitted to the Planning Department for any future land use permits or development on the subject parcel shall include the location of the public pedestrian access and easements (Easement 30 and Easement PA-12) traversing the subject property as indicated in Exhibit 2 – Easement Maps (enclosed).
5. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.
6. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.
7. The green waste must be contained within the subject parcel or collected and disposed of off-site, either outside the Special Management Area or at appropriate locations designated by the Department of Environmental Management for the green waste.
8. Any future land uses, activities or operations proposed for the subject property shall require further review and approval as provided under HRS Chapter, and Rule 9 of Planning Commission Rules of Practice and Procedure.
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. 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.
11. 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

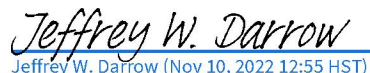
Katherine Luga
c/o Carlsmith Ball LLP
November 10, 2022
Page 6

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.

12. 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.

If you have any questions, please feel free to contact Tracie-Lee Camero at (808) 961-8166 or via email at tracie-lee.camero@hawaiiicounty.gov.

APPROVED:



Jeffrey W. Darrow (Nov 10, 2022 12:55 HST)

ZENDO KERN
Planning Director

November 10, 2022

Date

Exhibit 5



Exhibit 4a

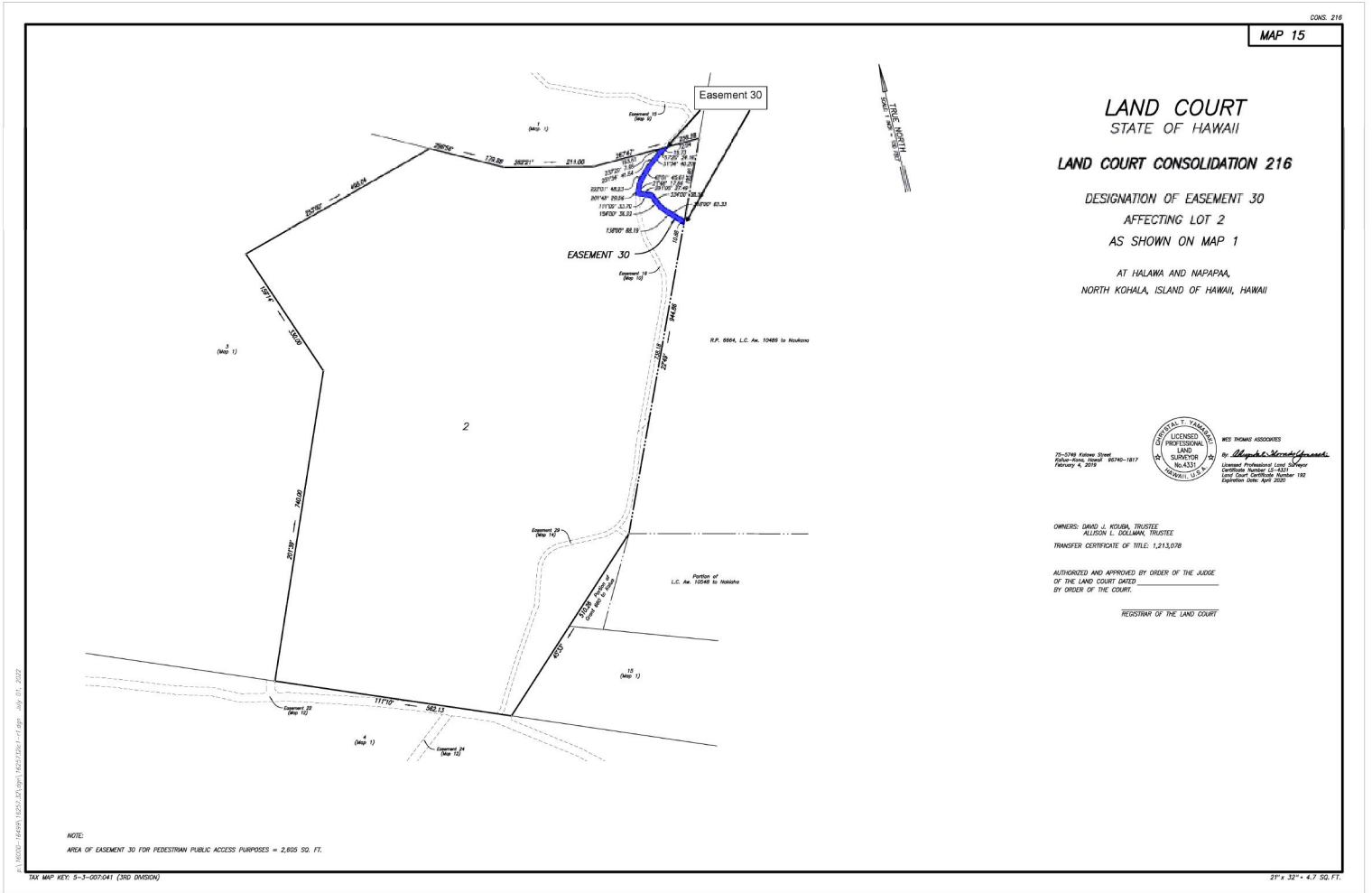
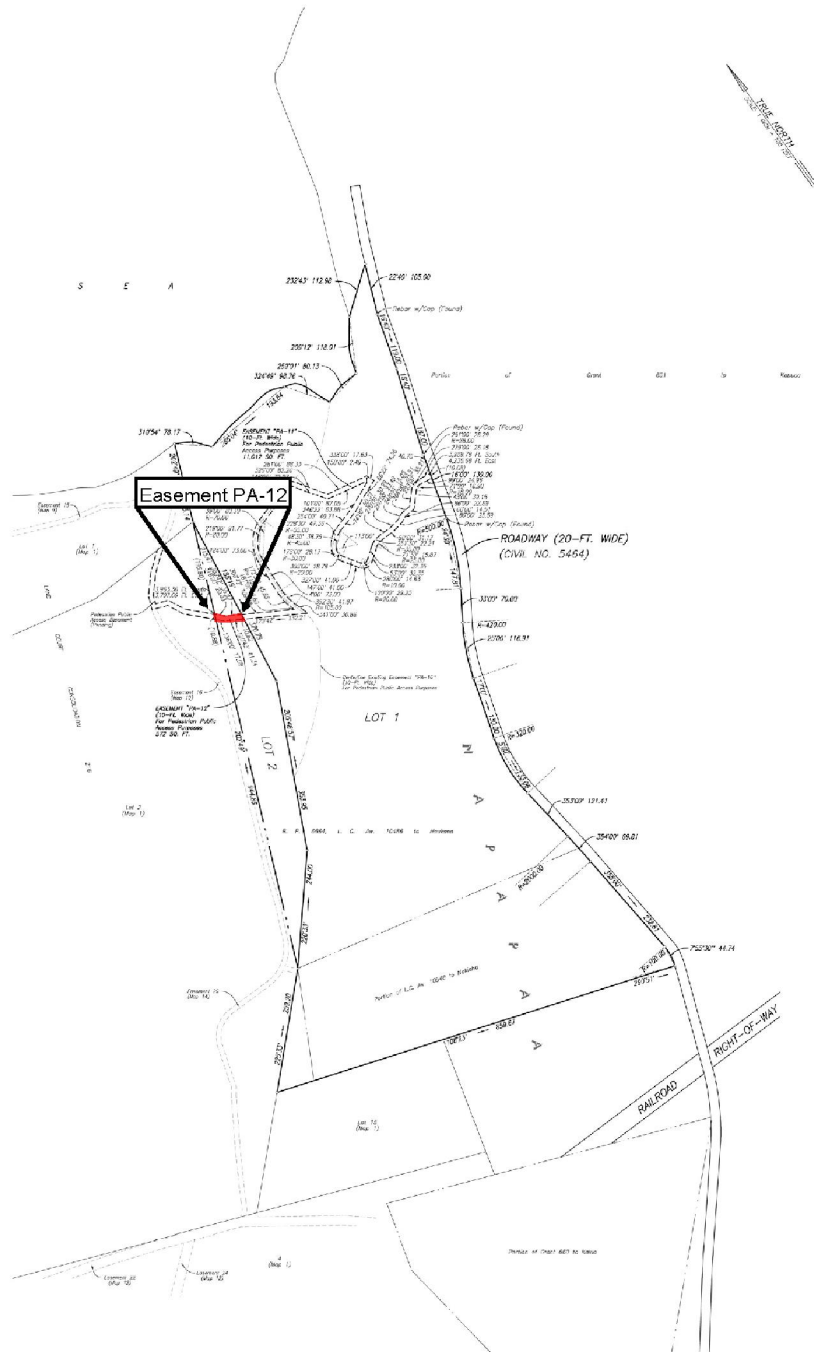


Exhibit 4b



MAP SHOWING EASEMENT "PA-11" AFFECTING LOT 1 AND EASEMENT "PA-12" AFFECTING LOT 2 FOR PEDESTRIAN PUBLIC ACCESS PURPOSES

Being Portions of R.P. 6664, L.C. Aw. 10486 to Naukane

At Napapaa, North Kohala
Island and County of Hawaii, State of Hawaii

- NOTES:
1. All points and coordinates are referred to Government Survey Station Station "Naukane".
 2. The features shown herein, were located by an actual survey on the ground date between February 16, 2015 and March 16, 2015.



Prepared For:
PPUCADA (HAWAII)
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THIS MAP WAS PREPARED BY THE
ENGINEER AND SURVEYOR
THOMAS S. THOMAS
ON BEHALF OF THE
HAWAIIAN LANDS
DEPARTMENT
DATE: FEBRUARY 1, 2015
PROJECT NO.: 15027.35
FIELD BOOK NO.:
HAWAIIAN LANDS DEPARTMENT
STATE OF HAWAII
Honolulu, Hawaii