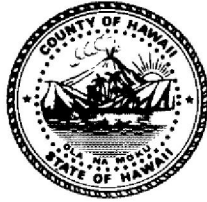


Mitchell D. Roth  
Mayor

Lee E. Lord  
Managing Director

West Hawai'i Office  
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Kailua-Kona, Hawai'i 96740  
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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

April 18, 2023

Kim Chiodo  
c/o Land Planning Hawaii, LLC  
194 Wiwo'ole St.  
Hilo, HI 96720  
VIA EMAIL

Dear Ms. Chiodo:

**SUBJECT: Special Management Area Use Permit Assessment Application**  
**(PL-SAA-2023-000156)**  
**Special Management Area Minor Permit**  
**(PL-SMM-2023-000045)**

**Applicant: Dennis Durban**  
**Landowner: Dennis Durban**  
**Request: Subdivide Property into Four (4) Parcels**  
**TMK: (3) 3-5-010:006, Kihalani, North Hilo District, Island of Hawai'i**

---

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000156) received by this office on March 30, 2023. The applicant is requesting approval for a four (4) lot subdivision of the subject parcel. Staff notes the subject parcel was created through subdivision No. 7843 (SUB 7843) in 2004; SMA approval for the original subdivision was granted via SMA Minor Permit (SMM) No. 27 on July 5, 1995. The parcel is currently vacant of structures and has one existing water meter; staff notes the landowner received variance approval (PL-SVAR-2022-000027) to utilize rainwater catchment for two (2) of the proposed parcels.

The 3.25-acre subject parcel is zoned Single-Family Residential 15,000 square feet (sf) (RS-15) by the County and designated as Urban by the State Land Use Commission (LUC). The subject parcel is designated as "Medium Density Urban" (mdu), Low Density Urban (ldu), with a small portion designated as "Important Agricultural Lands" (ial) 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), and as such, no shoreline certification is required.

Kim Chiodo  
c/o Land Planning Hawaii, LLC  
April 18, 2023  
Page 2

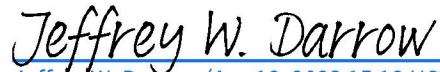
**Special Management Area Determination:**

According to Hawai‘i Revised Statutes (HRS) Chapter 205A-44 and Planning Commission (PC) Rule No. 9-4(e)(1)(E) relating to Special Management Area (SMA), “*Change in the density and intensity of use of land, including but not limited to the division or subdivision of land*” is defined as “development.” Therefore, the proposed four (4) lot subdivision 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 because the total valuation of the proposed project is under \$500,000 and will not have a cumulative impact or significant adverse environmental or ecological effect on the SMA.

Therefore, pursuant to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), Special Management Area Minor Permit No. PL-SMM-2023-000045 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.

If you have questions regarding this document, please contact Alex J. Roy of this office at (808) 961-8140 or via email at [Alex.Roy@hawaiicounty.gov](mailto:Alex.Roy@hawaiicounty.gov).

Sincerely,



Jeffrey W. Darrow (Apr 18, 2023 15:18 HST)

JEFFREY W. DARROW  
Deputy Planning Director

AJR:jaa

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Enclosure: SMA Minor Permit No. PL-SMM-2023-000045  
Exhibit 1 – Site Plan

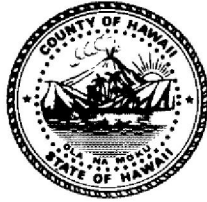
Cc (via email): Shichao Li, State-OPSD  
Lisa E. Webster, State-OPSD  
GIS Section  
Administrative Permits Division



Mitchell D. Roth  
Mayor

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## **Special Management Area Minor Permit No. PL-SMM-2023-000045**

**Project:** Subdivide Property into Four (4) Parcels  
**Applicant(s):** Dennis Durban  
**Landowner(s):** Dennis Durban  
**TMK(s):** (3) 3-5-010:006  
**Location:** Kihalani, North Hilo District, Island of Hawai'i  
**Land Area:** 3.25-acres

### **Applicant's Request**

- 1. Project Description:** The applicant recently submitted Subdivision application No. PL-SUB-2022-000052 to subdivide the subject parcel into four (4) lots. The subject parcel was created via Subdivision No. 7843 in 2004. No other work or development is proposed at this time.
- 2. Purpose of Project:** The purpose of the proposed project is to subdivide the subject parcel into four (4) separate lots of record.
- 3. Project Valuation:** \$0.
- 4. Determination:** According to Hawai'i Revised Statutes (HRS) Chapter 205A-44 and Planning Commission (PC) Rule No 9-4(e)(1)(E), "*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*" is defined as "development." Therefore, the proposed subdivision of the subject parcel into four (4) lots 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 because the total valuation of the proposed project is under \$500,000 and will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA.

### **State and County Plans**

- 5. State Land Use District:** The subject parcel is within the State Land Use Urban District.

6. **General Plan:** The subject parcel is designated as “Medium Density Urban” (mdu), “Low Density Urban” (ldu) and a small portion of “Important Agricultural Lands” (ial) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcels are currently zoned as Single-Family Residential 15,000 square feet (RS-15).
8. **Special Management Area:** The project 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).
9. **Flood Zone:** FEMA designates the subject parcel as Zone X; however, there is a drainage easement located along the western side of the parcel (D-2, Part 2) adjacent to the Kihalani Stream which borders the subject parcel.

<p style="text-align: center;"><b>Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area</b></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. These adverse effects 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.

<b>Findings</b>
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1. As discussed above, the proposed subdivision 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 \$0 is not in excess of \$500,000.

<b>Approved Uses, Activities and Operations</b>
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Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2023-000045** is hereby approved for the proposed subdivision of the subject parcel into four (4) new lots, subject to the applicants' compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. PL-SMM-2023-000045**, **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 comply with all conditions and recommendations outlined in County Zoning Code relating to Subdivisions and shall apply for any variances required for the proposed subdivision, including, but not limited to, water and access.

4. The Applicant will confirm with the State Department of Transportation (HDOT) that the proposed ingress/egress for the proposed subdivision meets with HDOT approval.
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. Any further development, including but not limited to, the construction of structures or improvements not included in this determination shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
7. 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.
8. The Planning Director shall initiate procedures to revoke this permit should any of the conditions not be met or substantially complied with in a timely fashion.

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

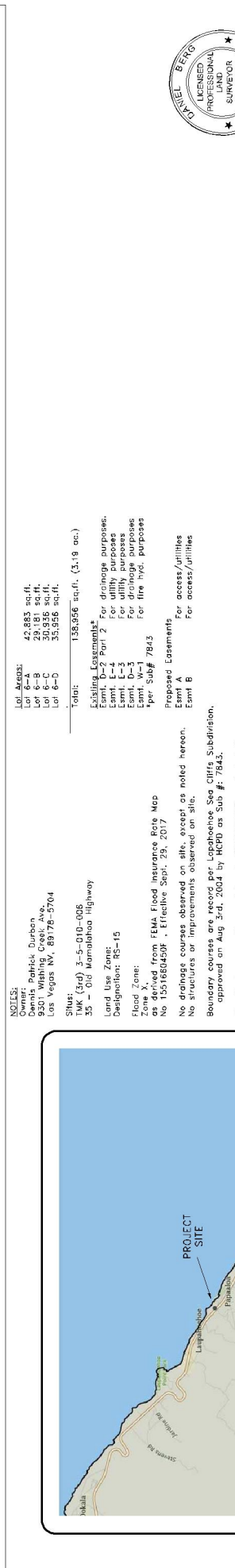
APPROVED:

Jeffrey W. Darrow  
Jeffrey W. Darrow (Apr 18, 2023 15:18 HST)

JEFFREY W. DARROW  
Deputy Planning Director

April 18, 2023

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Date



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FIGURE 1