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October 26, 2023

John Pipan
c/o Land Planning Hawaii LLC
194 Wiwoole St.
Hilo, HI 96720
VIA EMAIL: info@landplanninghawaii.com

Dear Mr. Pipan:

SUBJECT:	**Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000194)** **Special Management Area Minor Permit (PL-SMM-2023-000053)**
Applicant(s):	**Vanessa Pearson**
Landowner(s):	**Vanessa Pearson**
Project:	**CRM Wall and Vegetation Removal on Undeveloped Parcel**
Tax Map Key:	**(3) 7-5-005:040, North Kona District, Island of Hawaii**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000194), received by this office on October 11, 2023. The subject 13,781 square foot (sf) parcel is zoned Single-Family Residential (RS-15) by the County and designated Urban 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 parcel is within the Special Management Area (SMA) and is considered a "shoreline parcel" as defined by Section 205A-41(as amended), Hawai'i Revised Statutes (HRS).

The entire project area is located within the Special Management Area (SMA) as well as situated on a shoreline parcel pursuant to section 205A-22, Hawaii Revised Statues (HRS). According to information provided by the applicant, a Shoreline Certification was approved by the Board of Land and Natural Resources (BLNR) on July 7, 2017, which demarcates the shoreline at the makai face of an existing CRM seawall. The existing seawall is designated as "Easement Q" to provide lateral shoreline access throughout this subdivision. Pursuant to Hawaii Revised Statutes (HRS) Ch. 13-222-11 if the location of the certified shoreline *is fixed by an artificial structure*

that was appropriately permitted, no new certification is required. Therefore, an updated shoreline certification is not required at this time.

Proposed Project:

The applicant is proposing to conduct two (2) separate actions on the subject parcel:

- Remove existing naupaka located along the western property boundary from the access road to the 40-foot shoreline setback line, and
- Construct approximately 140 linear feet of Concrete-Rubble-Masonry (CRM) wall along the western property boundary; the wall will be no more than 6-feet in height and will end at the 40-foot shoreline setback line.

No expansion or enlargement of the existing shoreline CRM wall will occur, and no additional work is proposed.

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), "*placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*", and "*construction, reconstruction, demolition or alteration of the size of any structure*," is defined as "development." Therefore, the proposed construction of a CRM wall and vegetation removal requires a review against the Special Management Area rules and regulations. Our review has resulted in the issuance of an 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-2023-000053 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.

Future Special Management Area Determinations:

While further review of the proposed activities against the Special Management Area and Shoreline Setback Area rules and regulations will not be required at this time, all other applicable Zoning and Building Code requirements must be satisfied.

Additionally, **Staff notes that the previous approval for a Single-Family Residence (SFR) provided via SAA-17-001552 is now considered null and void**. According to a letter dated November 26, 2018, the applicant had until December 21, 2019, to obtain building permits for the proposed residence. To date no such permits have been applied for or been granted. Therefore, when the applicant proposes to construct a Single-Family Residence on the subject

parcel, a new Special Management Area Assessment Application must be submitted for review to determine required approvals, such as a SMA Use Permit.

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

Sincerely,

Jeffrey W. Darrow

October 26, 2023, 01:45 PM

JEFFERY W. DARROW
Planning Deputy Director

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CC: GIS Section
OPSD – CZM Office

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Special Management Area Minor Permit No. PL-SMM-2023-000053

Project:	**CRM Wall and Vegetation Removal on Undeveloped Parcel**
Applicant(s):	**Vanessa Pearson**
Landowner(s):	**Vanessa Pearson**
TMK(s):	**(3) 7-5-005:040**
Location:	**North Kona District, Island of Hawai'i**
Land Area:	**0.39 acres**

Applicant's Request

1. **Project Description:** The applicant is proposing to conduct two (2) separate actions on the subject parcel:
   - Remove existing naupaka located along the western property boundary from the access road to the 40-foot shoreline setback line, and
   - Construct approximately 140 linear feet of Concrete-Rubble-Masonry (CRM) wall along the western property boundary; the wall will be no more than 6-feet in height and will end at the 40-foot shoreline setback line.
2. **Project Valuation:** $10,000.

3. **Determination:** Pursuant to Hawai'i Revised Statutes (HRS), Chapter 205A-22, as amended, and Planning Commission (PC) Rule No. 9-4 (e)(2) relating to the Special Management Area, 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.
   (E) Construction, reconstruction, demolition, or alteration of the size of any structure.

   Therefore, the proposed CRM wall and landscaping, as presented, is not exempt from the definition of "development" and will require a review under 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

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

5. **General Plan:** The parcel is designated as "Open" (ldu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.

6. **County Zoning:** The parcel is currently zoned as Single-Family Residential – 15,000 square feet (RS-15).

7. **Special Management Area:** The 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).

8. **Flood Zone:** The majority of the project area is within Flood Zone "AE" and Flood Zone D.

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. 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.

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 $10,000 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-2023-000053** is hereby approved for the construction of a CRM wall and vegetation removal, subject to the applicants' compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2023-000053, 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.

3) All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.

4) No retaining or landscaping walls shall be constructed within the 40-foot shoreline setback area without Planning Commission approval via a Shoreline Setback Variance.

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 Applicant will adhere to all Best Management Practices.

7) The Applicant will maintain the existing shoreline access Easement Q and shall not block or alter the existing access along the shoreline.

8) Any future request to develop a single-family residence on the subject parcel will require a new Special Management Area Assessment Application or SMA Use Permit Application (and related documents) for review and approval.

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) 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.

11) 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.

12) That in issuing this determination, the Department has relied on the information and data that the applicant has provided in connection with this determination. If, subsequent to this determination, such information and data prove to be false, incomplete or inaccurate, this determination may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.

13) The Planning Director shall initiate procedures to revoke this determination 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 J. Roy at (808) 961-8140 or via email at alex.roy@hawaiicounty.gov

APPROVED:

Jeffrey W. Darrow

October 26, 2023, 01:45 PM

JEFFREY W. DARROW
Deputy Planning Director

10/26/23

Date