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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 09, 2023

Thomas Pace
c/o Kealakekua Heritage Ranch, LLC
PO Box 2240
Kealakekua, HI 96750
Email: theranch@hokukano.com

Dear Mr. Pace:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2023-000198)**

**Special Management Area (SMA) Minor Permit
(PL-SMM-2023-000056)**

Applicant: Thomas Pace

Landowner: Kealakekua Heritage Ranch, LLC

Request: Proposed Grubbing Activities

**Tax Map Keys: (3) 8-2-003:002 & 8-2-004:021, Kealakekua, Kīloa 1,
South Kona, Island of Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (PL-SAA-2023-000198) received by this office on October 26, 2023. The total land area of approximately 1.00-acre portion of a combined 73.547-acre parcel is zoned Agricultural-5 acres (A-5a) and Single-Family Residential-10,000 square feet (RS-10) by the County and designated as Agricultural and Urban by the State Land Use Commission (LUC). The subject parcel is designated as "Conservation" (con), "Important Agricultural Lands" (ial) and "Open" (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. The project parcel is located within the Special Management Area (SMA), however, it is not located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS) and as such no shoreline certification is required.

Proposed Project:

The applicant is proposing ground disturbing activities to grub an existing roadway to clear the project area of vegetation and tree stumps. The grubbing activities are being proposed in order to meet the conditions of the subject properties tentative subdivision approval that was granted by the Planning Department.

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

The subject parcel is located within the Kealahou Bay Historical District which is listed on the National Register, as well as the Hawai'i Register, which lists it as Site No. 50-10-47-07000. According to HRS Chapter 343-5(a), an environmental assessment (EA) shall be required for actions that propose any use within any historic site as designated in the National Register or Hawai'i Register, as provided for in the Historic Preservation Act of 1966, Public Law 89-665, Chapter 6E. However, Hawai'i Administrative Rule (HAR), Chapter 200, Environmental Impact Statement Rules, provides a list of classes of action that may be exempt from the preparation of an EA. Among the list of exempt classes of action listed in HAR Chapter 200 11-200.1-15(c)(4) include the minor alterations in the conditions of land, water, or vegetation.

In a letter dated August 7, 2023, the Department of Land and Natural Resources State Historic Preservation Division (SHPD) determined that no historic properties were to be affected by the proposed project. Furthermore, as the applicant is proposing minor grubbing activities, the Planning Director has determined that the preparation of an EA will not be required at this time.

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), "development" includes "*Grading, removing, dredging, mining or extraction of any materials.*" Therefore, the proposed grubbing activities is considered to be development and will require a review against the Special Management Area rules and regulations.

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-2023-000056 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.

Thomas Pace
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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 questions regarding this document, please contact Tracie-Lee Camero of this office at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiiicounty.gov.

Sincerely,

Jeffrey W. Darrow

November 09, 2023, 07:10 AM

for ZENDO KERN
Planning Director

TC:lms

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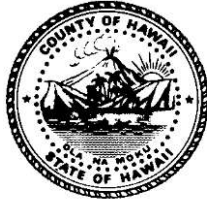
Enclosure: SMA Minor Permit No. PL-SMM-2023-000056

cc (via email): Shichao Li, State-OPSD
Lisa E. Webster, State-OPSD
GIS Section

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. PL-SMM-2023-000056

Project: Proposed Grubbing Activities
Applicant(s): Thomas Pace
Landowner(s): Kealakekua Heritage Ranch, LLC
TMK(s): (3) 8-2-003:002 and 8-2-004:021
Location: Kealakekua, Kīloa 1, South Kona, Island of Hawai'i
Land Area: 1.00-acre portion of a combined 73.547-acres

Applicant's Request

- 1. Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued for grubbing activities.
- 2. Purpose of Project:** The applicant is proposing ground disturbing activities to grub an existing roadway to clear the project area of vegetation and tree stumps.
- 3. Project Valuation:** \$1,000.
- 4. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e)(1) relating to Special Management Area (SMA): "*grading, removing, dredging, mining or extraction of any materials*" are defined as "development." Therefore, the proposed grubbing of the subject parcels 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

- 5. State Land Use District:** The subject parcel is within the State Land Use Agricultural and Urban District.
- 6. General Plan:** The parcel is designated as "Conservation" (con), "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 both Agricultural-5 acres (A-5a) and Single-Family Residential-10,000 square feet (RS-10).

8. **Special Management Area:** The project parcel is located within the Special Management Area (SMA), however, it is not located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS) and as such, no shoreline certification is required.
9. **Flood Zone:** Zone X, XS, AE, and AEF. Zone “X” which covers most of the subject parcel, is an area determined to be outside the 500-year floodplain. Zone “XS” which covers approximately 5% of the subject parcel, is an area of moderate flood hazard corresponding to areas of the 500-year floodplain, areas of one-hundred year flooding where average depths are less than one foot, areas of one-hundred year flooding where the contributing drainage area is less than one square mile, and areas protected from the one-hundred-year flood by levees. Zone “AE” which covers approximately 5% of the subject parcel, is the Special Flood Hazard Area that corresponds to the 100-year floodplain that are determined in the Flood Insurance Study by detailed methods. Zone “AEF” which covers approximately 5% of the subject parcel, is the floodway areas in Zone “AE”. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year floodplains can be carried without increasing the Base Flood Elevation. All construction within Zones “AE” and “AEF” shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.

<p>Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area</p>
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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 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 \$1,000.00 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-2023-000056** is hereby approved for the grubbing activities, 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-2023-000056**, 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. Prior to the commencement of any land altering or construction activities, sedimentation barriers (silt fences) shall be implemented on downhill slope of the project site to minimize potential run off or sedimentation and shall remain in place until final inspection has been granted for the proposed grubbing activities.
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. 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.
7. 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.
8. 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.
9. 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.

Thomas Pace
November 09, 2023
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If you have any questions, please feel free to contact Tracie-Lee Camero at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiicounty.gov.

APPROVED:

Jeffrey W. Darrow

November 09, 2023, 07:10 AM

11/09/23

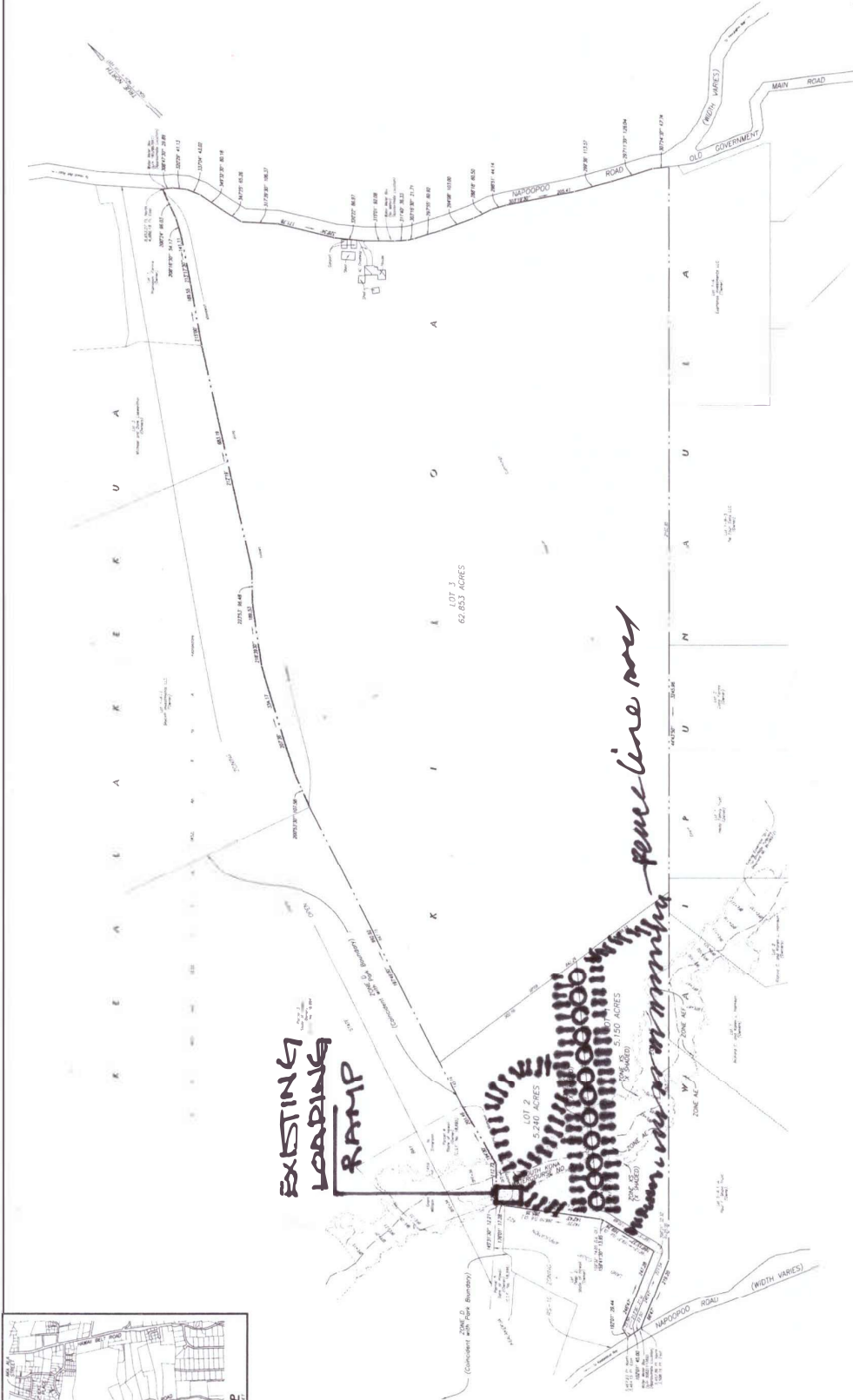
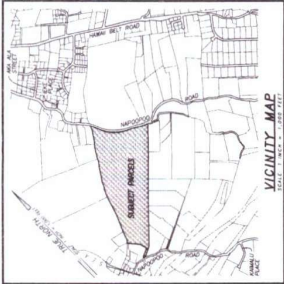
for ZENDO KERN
Planning Director

Date

TC:lms

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Enclosure: Exhibit 1, Site Plan



O = ROCK WALL
 III = EXISTING ROADWAYS
 TO GRUB

COMPOSITE
 MAP SHOWING
 CONSOLIDATION OF LOT 2
 AS SHOWN ON MAP 2 OF LAND COURT APPLICATION 422

AND T.M.K.: (3)8-2-003.002
 Being Portions of Grant 867 to Preston Cummings
 and L.C. Aw. 9453-F, Ap. 2 to Papaia
 AND RESUBDIVISION INTO LOTS 1, 2 AND 3
 At Kila, South Kona
 Island and County of Hawaii, State of Hawaii

RECORDED AT THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF HAWAII, STATE OF HAWAII, ON 04/11/2011.



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 WWW.WESTTHOMAS.COM

PROJECT NO. 1111
 DATE: 4/11/2011
 BY: [Signature]
 CHECKED: [Signature]
 APPROVED: [Signature]