Mitchell D. Roth Mayor

Deanna S. Sako Managing Director

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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 23, 2024

Karen Good PO Box 12 Kapa'au, HI 96755 <u>VIA EMAIL</u>

Dear Ms. Good:

SUBJECT:	Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2024-000219)
	Special Management Area (SMA) Minor Permit
	(PL-SMM-2024-000060)
Applicant:	Hale Ipu Kukui LLC
Landowner:	Hale Ipu Kukui LLC
Request:	Establish Community Farm and Related Uses
TMK:	(3) 5-3-007:047, North Kohala District, Island of Hawai'i

We have reviewed the subject Special Management Area Use Permit Assessment Application (PL-SAA-2024-000219) received by this office on March 25, 2024, with additional information received on April 8, 2024. The 117.68-acre subject parcel is zoned Agricultural-20 acres (A-20a) by the County and designated as Agricultural by the State Land Use Commission (LUC). The subject parcel is designated as "Important Agricultural Lands" (ial) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. Approximately 60% of the subject 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.

Site History:

- January 19, 2010 Special Management Area Minor Pemit No. SMM-10-000138 was approved for the after-the-fact construction of a well site for farm use.
- June 11, 2011 Special Management Area Minor Permit No. SMM-11-000182 was approved for the establishment of a "community" farm and related uses including the

installation of irrigation lines, planting, one (1) farm dwelling, trails, fencing, and related development.

• Existing structures – 30-ft. by 60-ft. farm storage structure; a ~600-square foot farm dwelling; a well/pump house; and a number of fenced areas for farming practices.

Proposed Project:

At this time the applicant is proposing to conduct the following activities:

- Extend existing irrigation lines.
- Construct fencing throughout the subject parcel to designate areas for paddocks, gardens, orchards, and for future windbreaks.
- Construct a 16-foot by 50-foot (800 square feet) open storage shed for farm storage.
- Construct a "water reservoir" for farm use.
- Construct a 2,985 square foot single-family dwelling that includes a main living area, and four (4) detached bedrooms to house the landowner and farm workers. Staff notes that one (1) of the detached bedrooms and a farm dwelling exist but will require upgrades and reconstruction. The existing dwelling will be converted to a detached bedroom. Only one (1) kitchen will be constructed.
- Construct a new Individual Wastewater System (IWS) for the new dwelling structures.
- Subdivision of the subject parcel into five (5) separate lots of record and one (1) roadway lot for access to the parcels.
- Conduct farming activities such as growing and planting vegetation, animal husbandry, and other related farm activities and uses.

Additional work, like grading new roadways, and some fencing will occur outside the SMA portion of the parcel, and therefore are not included in this approval.

The valuation of the proposed project will be approximately \$480,000.

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; Placement or erection of any solid material or any gaseous, liquid, or thermal waste; Change in the density or intesity of use of land, including but not limited to the division or subdivision of land; and Construction, reconstruction, demoliton, or alteration of the size of any structure." Therefore, the proposed development of a community farm and related uses 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 Karen Good April 23, 2024 Page 3

ecological effect on the SMA. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. PL-SMM-2024-000060 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 questions regarding this document, please contact Alex J. Roy of this office at (808) 961-8140 or via email at <u>alex.roy@hawaiicounty.gov</u>.

Sincerely,

Zendo Kern

Zendo Kern (Apr 23, 2024 09:11 HST) ZENDO KERN Planning Director

AJR:sklo C:\Users\sota\Desktop\2024-04-22 PL-SAA-2024-000060\PL-SMM-2024-000060L_Farm_Development.doc

Enclosure: SMA Minor Permit No. PL-SMM-2024-000060 Site Plan

cc via email w/enclosure: Shichao Li, State-OPSD Lisa E. Webster, State-OPSD GIS Section Mitchell D. Roth Mayor

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<u>Specia</u>	<u>l Management Area Minor Permit No. PL-SMM-2024-000060</u>
Project:	Establish Community Farm and Related Uses
Applicant(s):	Hale Ipu Kukui LLC
Landowner(s):	Hale Ipu Kukui LLC
TMK(s):	(3) 5-3-007:047
Location:	North Kohala District, Island of Hawai'i
Land Area:	117.68 acres

Applicant's Request

1. **Project Description:**

- Extend existing irrigation lines.
- Construct fencing throughout the subject parcel to designate areas for paddocks, gardens, orchards, and for future windbreaks.
- Construct a 16-foot by 50-foot (800 square feet) open storage shed for farm storage.
- Construct a "water reservoir" for farm use.
- Construct a 2,985 square foot single-family dwelling that includes a main living area, and four (4) detached bedrooms to house the landowner and farm workers. Staff notes that one (1) of the detached bedrooms and a farm dwelling are existing but will require upgrades and reconstruction. The existing dwelling will be converted to a detached bedroom. Only one (1) kitchen will be constructed.
- Construct a new Individual Wastewater System (IWS) for the new dwelling structures.
- Subdivision of the subject parcel into five (5) separate lots of record and one (1) roadway lot for access to the parcels.
- Conduct farming activities such as growing and planting vegetation, animal husbandry, and other related farm activities and uses.
- 2. Project Valuation: \$480,000.

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3. 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; Placement or erection of any solid material or any gaseous, liquid, or thermal waste; Change in the density or intensity of use of land, including but not limited to the division or subdivision of land; and Construction, reconstruction, demolition, or alteration of the size of any structure." Therefore, the proposed development of a community farm and related uses is considered to be development and will require 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

- 4. State Land Use District: The subject parcel is within the State Land Use Agricultural District.
- **5.** General Plan: The parcel is designated as "Important Agricultural Land" (ial) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 6. County Zoning: The parcel is currently zoned as Agricultural-20 acres (A-20a).
- 7. 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.
- **8.** Flood Zone: The subject parcel is designated as Flood Zone "X", which is an area determined to be outside the 500-year floodplain.

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 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:
 - Image: 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 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 \$480,000 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-2024-000060** is hereby approved for the proposed project as described above, 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-2024-000060, 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 will submit the final requirements for tentative subdivision approval or obtain an approved time extension from the County of Hawaii Planning Department Administrative Permits Division prior to July 23, 2024.
- 4. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.

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- 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.

If you have any questions, please feel free to contact Alex Roy at (808) 961-8140 or via email at <u>alex.roy@hawaiicounty.gov</u>

APPROVED:

Zendo Kern Zendo Kern (Apr 23, 2024 09:11 HST)

ZENDO KERN Planning Director April 23, 2024

Date













