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County of Hawai'i
PLANNING DEPARTMENT

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August 28, 2014

Mr. Gregory R. Mooers
Mooers Enterprises, LLC
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 14-001154)**
Applicant: Charles and Diane Bundrant
Land Owner: BP Bishop Estate Trustees
**Project: Construct a Single-Family Residence, Install Additional
Landscaping and Re-outfit the Irrigation Well**
TMK: (3) 8-3-005:001, 020 and 021, South Kona, Hawai'i

This is in response to the Special Management Area Use Permit Assessment Application, received on July 28, 2014 to construct a single-family residence, install additional landscaping and re-outfit the irrigation well on the subject properties.

According to Real Property Tax Office records, Parcel 1 consists of 24.55 acres, Parcel 20 consists of 0.2296 acres and Parcel 21 consists of 0.79 acres. As they are all within the State Land Use Conservation District, there is no county zoning, per se. The State of Hawai'i Department of Land and Natural Resources (DLNR) has jurisdiction on any use or activity within the Conservation District. They are also all designated Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.

Although the parcels are located within the Special Management Area (SMA), they are not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS Chapter 205A-41). Therefore, the requirement to submit a current certified shoreline survey is waived.

They are also all located within the Kealahou Bay Historical District which is listed on the National and State Register of Historic Places as Site No. 10 47 7000.

Proposed for Parcel 1 is the construction of a two-story, 4,528 square feet single-family residence. On Parcel 20, the pump will be re-outfitted, two 2,500 gallon water tanks installed and the existing well house will be reconstructed. Irrigation lines from the well site will connect to the new residence and Parcel 21 to allow for the landscaping improvements.

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Special Management Area Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), relating to Special Management Area, the "*Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area and is not part of a larger development*" may be determined exempt from the definition of "development." Further, Planning Commission Rule 9-4(e)(2)(F) relating to Special Management Area states that "development" does not include "*Repair, maintenance, or interior alterations to existing structures or relating to existing uses*".

In view of the foregoing, we have determined that the proposed construction of the two-story, 4,528 square feet single-family residence, landscaping improvements and re-outfitting of the existing irrigation well are exempt from the definition of "development" and shall not require further review against the SMA guidelines. However, please note that any substantive changes to the project as proposed in this application, including, but not limited to, an increase in the floor area of the proposed residence will require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

Finally, to ensure adequate public mauka/makai access to fish, gather or dive along the shoreline areas, a public access plan consistent with the intent of Chapter 205A (HRS) will be required.

Compliance with Environmental Impact Statement Regulations (Chapter 343, HRS):

According to HRS Chapter 343-5, an environmental assessment shall be required for actions that propose any use within any land classified as a Conservation District by the State Land Use Commission and use within any historic site as designated in the National Register or Hawai'i Register. A Final Environmental Assessment and Finding of No Significant Impact (FONSI) were published in the July 23, 2014, Department of Health, Office of Environmental Quality Control Environmental Notice.

While further review of the construction of the proposed improvements against the Special Management Area rules and regulations will not be required, all other applicable code requirements must be satisfied. Additionally, this determination of exemption from the SMA definition of development is based on the site plan, as submitted, and is subject to compliance with the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of all Federal, State and County of Hawai'i departments and agencies.


3. A Conservation District Use Permit from the Board of Land and Natural must be obtained for the single-family residence and related improvements within one (1) year from the date of approval of this permit.
4. The Building Permit for the proposed single-family residence shall be secured within one (1) year from the date of approval of the Conservation District Use Permit.
5. A public access plan shall be submitted and approved by the Planning Director prior to issuance of a building permit for the single-family residence. This plan shall, at a minimum, provide a mauka-makai vehicular and pedestrian public access on or along Ke'ei Beach Road from Puuhonua Road to the intersection of Ke'ei Beach Road/southern end of Keawaiki Road where a parking easement sufficient to accommodate approximate ten (10) vehicles shall be provided. The access shall be reasonably safe, as determined by the Planning Department. The public access plan shall address each of the elements outlined in the "What should be included in a Public Access Plan" guide which is enclosed for your reference.
6. The provisions of the approved Public Access Plan shall be embodied in a Public Access Agreement and submitted to the Planning Director for approval and submittal to the Bureau of Conveyance for recordation.
7. The applicant shall comply with the requirements of the Department of Land and Natural Resources, Historic Preservation Division letter dated March 3, 2014.
8. Artificial light from exterior lighting fixtures, including, but necessarily limited to floodlights, uplights 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 Chapter 205A-71(b), HRS.
9. Any further development, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
10. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.

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11. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the determination; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
12. 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 questions please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,


for DUANE KANUHA
Planning Director

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Encl. Guide to What Should be Included in a Public Access Plan

cc: Long Range Planning
Planning Department- Kona

Mr. Samuel J. Lemmo

Mr. Michael Vitousek