

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

September 12, 2025

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

Regarding: Request for Third Time Extension for Conservation District Use Permit (CDUP) HA-3847 to Complete a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and Agroforestry Management Plan

Applicant: Michael S. Moore - Landowner

Agent: Dawn Hegger-Nordblom of Kekai Planning LLC

Location: Popoki, Puna, Island of Hawaii

Tax Map Key: (3) 1-5-010:031

Area of Use: Approximately 7-acres

Subzone: Resource

Exhibits: **Exhibit 1:** Location Map
Exhibit 2: CDUP HA-3847
Exhibit 3: First Time Extension Approval
Exhibit 4: Site Plan Approval HA 22-55
Exhibit 5: Second Time Extension Approval
Exhibit 6: Third Time Extension Request
Exhibit 7: Site Visit Photos

Background:

CDUP HA-3847

On November 8, 2019, the Board of Land and Natural Resources (Board) approved CDUP HA-3847 for the Moore single-family residence (SFR); Subsistence Agriculture; Landscaping and Associated Improvements; and the Agroforestry Management Plan in Popoki, Puna, Island of Hawaii, TMK (3) 1-5-010:031, subject to 30 conditions. (**Exhibit**

1 & 2). The Staff Report for CDUP HA-3847 can be viewed at <https://dlnr.hawaii.gov/wp-content/uploads/2019/11/K-2.pdf>.

First Time Extension

On September 25, 2020, the landowner requested a time extension of 1-year to initiate construction while maintaining the same completion date of November 8, 2023. The reasoning for the first time extension request was due to delays caused by a number of unforeseen events such as damage to property in California, overseas deployment for work related duties, and disruptions caused by the COVID-19 global pandemic.

On October 26, 2020, the Chairperson authorized the 1-year time extension to initiate construction by November 8, 2021. (**Exhibit 3**).

The landowners notified the Department on October 31, 2021, that they had commenced the construction of the project in accordance with Conditions #8 and #16 of CDUP HA-3847.

Site Plan Approval HA 22-55

On March 29, 2022, Site Plan Approval HA 22-55 was approved for a constructed lava-rock entry feature to be located near the current driveway entry from the Government Beach Road, a permanent entry gate at the existing driveway access, installation of agricultural fencing at the perimeter of the property, the addition of two concrete steps at the makai corners of the perimeter walkway surrounding the SFR, and the relocation of the photovoltaic solar panels from the roof of the SFR to the roof of the farm shed and water storage tank. (**Exhibit 4**).

Second Time Extension:

On October 13, 2023, the landowner requested a second time extension. The time extension was for 1-year to complete construction approved by CDUP HA-3847. The reasoning for the second time extension request was due to initial delays in starting the project, heavy winter rains, numerous supply-chain issues, and difficulties in scheduling specialty contractors when needed.

On January 12, 2024, the Board of Land and Natural Resources approved the second time extension request of 1-year to complete construction. The Permittee had until November 8, 2024, to complete any work or construction to be done on the land. (**Exhibit 5**). The Staff Report for the Second Time Extension can be viewed at <https://dlnr.hawaii.gov/wp-content/uploads/2024/01/K-3.pdf>.

Current Time Extension Request:

By correspondence dated December 17, 2024, Ke Kai Planning LLC on behalf of the landowner, Michael S. Moore, is requesting a third time extension to CDUP HA-3847; for approximately 3-years to complete the construction. (**Exhibit 6**).

During the review of the landowner's request for a third time extension for CDUP HA-3847, it came to staff's attention that alleged unauthorized improvements consisting of an unauthorized trailer and outdoor toilet had been placed on the parcel. On June 20, 2025, staff performed a site visit and confirmed the presence of an unauthorized trailer and outdoor toilet on the property. OCCL requested the removal of these unauthorized structures to resolve matters. Mr. Moore complied by removing the structures and submitted photographic evidence. (**Exhibit 7**).

The landowner notes the following progress on project construction:

- Single-family Residence: structure is 95% complete
 - Utilities have been installed; HELCO meter and electrical lines connect from the roadway to the SFR
 - Installation of the Individual Wastewater System (septic tank and leach field) is complete
 - Well and drilling not currently scheduled, Commission on Water Resource Management Well Construction Permit acquired (No. 8-3485-009)
 - 6-month waiting list to install the water tank
- Subsistence Agriculture and Landscaping: 0% complete
 - Once SFR, well, water tank, and barn are complete the planting will be initiated.
 - Farm Shed is 0% complete
- Agro-Forestry Management Plan:
 - The Agro-Forestry Management Plan is an ongoing plan that proposes to reintroduce native, Polynesian introduced, and subsistence planting to replace invasive species in a six-acre area

The landowner states that due to unforeseen events, and personal and work obligations, they were unable to meet the required completion deadline of November 8, 2024, as required by the second time extension approved by the Board of Land and Natural Resources. The landowner is requesting a three-year time extension to complete construction with a new proposed completion deadline date of November 8, 2027.

Authority for Granting Time Extensions:

The authority for granting time extensions is provided in Hawaii Administrative Rule (HAR) § 13-5-43, which allow for a permittee to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the applicant's third time requesting a time extension, this request is being forwarded to the Board of Land and Natural Resources pursuant to HAR § 13-5-43.

HAR § 13-5-43 Time extensions. states:

(c) Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.

(d) Unless otherwise authorized, all time extensions shall be submitted to the department prior to the expiration deadline.

(e) If a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void.

Basis For Time Extension:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed, and that some good faith effort has been made to undertake the project.

Discussion:

As noted above, the landowner/permittee has been granted two previous time extensions to initiate and complete the work and activities approved by the Board and CDUP HA-3847. With regards to the current third request for a time extension to CDUP HA-3847, staff notes that the extension request was received on December 19, 2024, a month after the amended and extended completion deadline (November 8, 2024) had passed.

It appears that the delay or hardship in the current extension request being processed was at least partially self-inflicted due to the landowner constructing and placing an unauthorized trailer (dwelling) and outdoor toilet on the property. Conservation District rules allow for only one single-family residence per legal lot of record and the unauthorized trailer (dwelling) was a second residence on the parcel and not consistent with Conservation District regulations. See HAR § 13-5-6 (c) and (d) and 13-5-41 (b). To resolve matters, the landowner removed the unauthorized improvements which then allowed staff to continue reviewing and processing their third time extension request.

Additionally, staff notes that the landowner stated in their previous extension requests that delays in meeting previous construction completion deadlines were due to “unforeseen” events, which they continue to cite as delays in completing the projects approved by CDUP HA-3847. These unforeseen events have included reconstruction of their existing home that appears to have been destroyed in the 2018 California wildfires, being deployed overseas for work related duties, disruptions caused by the COVID-19 pandemic, heavy winter rains/the parcel’s physical environmental constraints, and locating and scheduling licensed contractors.

According to the landowner’s application and the staff report that was submitted to the Board on November 8, 2019, it was disclosed and noted that the area and parcel could present challenges to the proposed project due to the area’s remoteness, the lack of

County services, and having an overall hazard assessment as moderately high with the storm hazard being high due to the coast's exposure to tropical and Kona storms. It is staff's opinion that the landowner was aware and should have accounted for these issues.

Regarding the landowner's challenges in locating and scheduling licensed contractors, the request notes that the construction of the single-family residence has been delayed due to their inability to hire licensed plumbers, electricians, and window installers. Pictures of the residence submitted in 2023 and 2024 appear to show that all or almost all windows have been installed and the current extension requests states that utilities, including the HELCO meter and electrical lines, have been installed, so it is unclear to staff why these issues may have caused the most recent delays and are part of the landowner's justification for their current time extension request.

The continued delays in completing the project or projects approved under CDUP HA-3847 raise, in staff's mind, at least the possibility or appearance of a lack of determination and commitment to complete the project or projects approved in a timely manner, since based on their application, it appeared they had a plan and were seeking authorization to do so. The landowner and their agent should clarify for OCCL and the Board in more details what they have accomplished in the time they were granted their second time extension by the Board on January 12, 2024, the date of this Board meeting, and their potential plan moving forward to complete the project in a timely manner.

The landowner and their agent have requested a three-year time extension to complete construction until November 8, 2027.

Based on the information provided by the landowner, staff's potential recommendation to either approve the current extension request or deny it is challenging. Should the Board deny the extension request, all work would have to halt, and the landowner would have to reapply to complete structures and improvements that have not been finished or initiated.

On the other hand, should the Board approve the extension request, OCCL may not be comfortable with a six-year-old Board permit with an additional 3-year construction completion deadline remaining and lingering open while there appears to be limited progress being made to finish the project in a timely manner. Additionally, staff notes that construction activities, in general, generate waste and are environmentally disturbing and noisy.

Mr. Moore needs to complete construction. Based upon the submitted information, the water tank should have been installed and well drilling should have been scheduled. With a two-year time extension, construction shall be completed prior to November 8, 2026.

Recommendation:

That the Board of Land and Natural Resources APPROVE a 2-year extension to complete the construction of the Moore Single-Family Residence, subsistence agriculture, landscaping and associated improvements, and Agro-Forestry Management Plan in Popoki, Puna, Hawaii, TMK (3) 1-5-010:031, subject to the following conditions:

1. That Condition 8 of CDUA HA-3847 is amended to provide that the Permittee has until November 8, 2026, to complete any work or construction to be done on the land; and,
2. That all other conditions imposed by the Board under CDUA HA-3847 as amended, shall remain in effect.

Respectfully submitted,



Kariann Stark, Staff Planner
Office of Conservation and Coastal Lands

Approval for submittal:



TF

Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

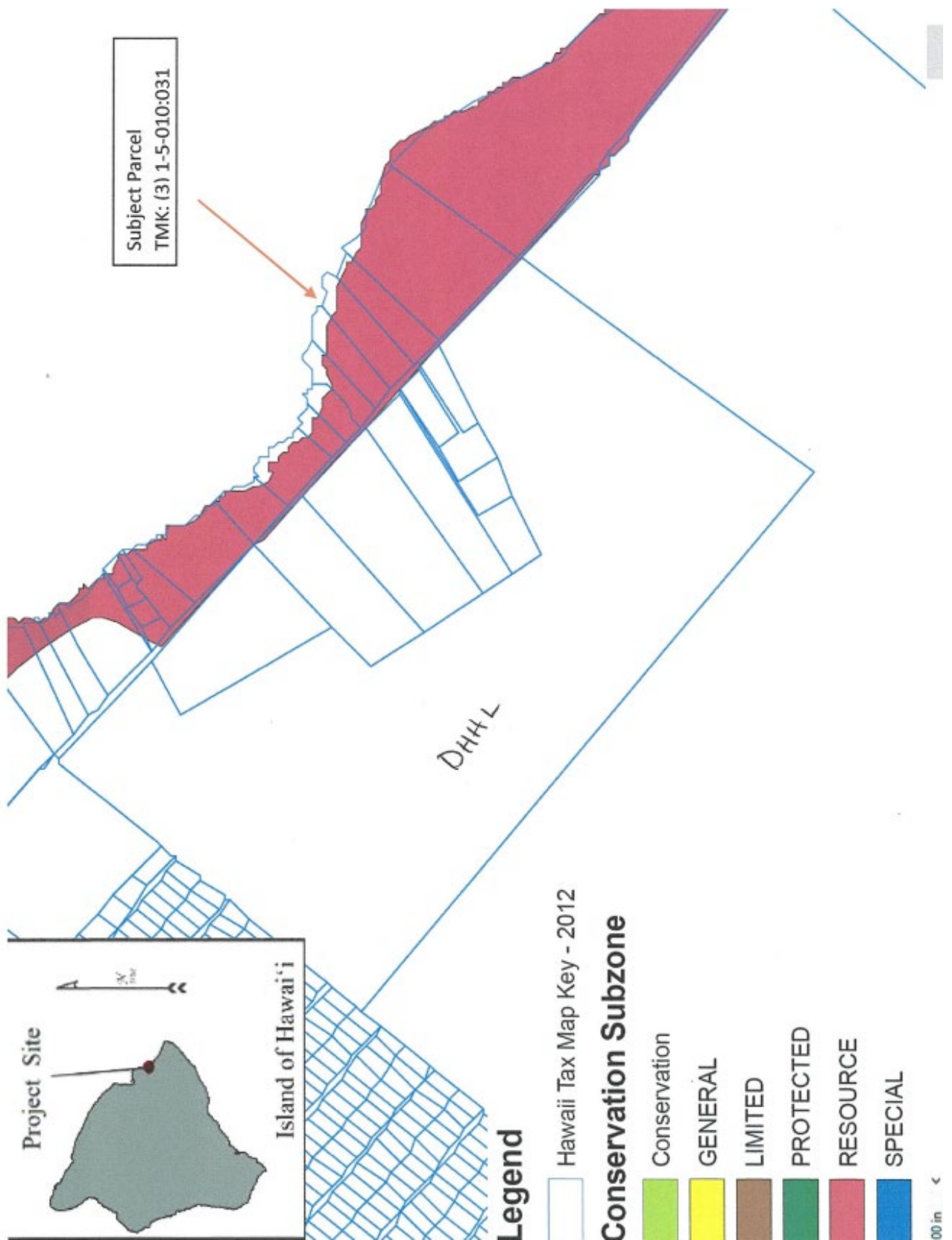


Exhibit 1: Location Map

DAVID V. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUP: HA-3847

James Leonard
JM Leonard Planning, LLC
56 Laukona St.
Hilo, HI 96720

NOV 13 2019

SUBJECT: Conservation District Use Permit (CDUP) HA-3847

Dear Mr. Leonard:

On November 8, 2019, the Board of Land and Natural Resources approved Conservation District Use Application HA-3847 for a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan located at Pōpōkī, Puna, Hawai'i, Tax Map Key: (3) 1-5-010:031 subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall comply with all applicable department of health administrative rules;
4. The permittee shall consult with the Commission of Water Resource Management to obtain authorization for the proposed well;
5. The single-family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
6. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;

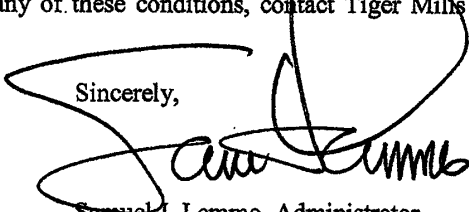
7. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
9. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
10. The permittee shall adhere to the approved Agricultural Management Plan;
11. Any landscaping shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited;
12. Site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15);
13. A pre-construction 'Io nest search by a qualified ornithologist using standard methods shall be conducted prior to land clearing between the months of March and September, inclusive;
14. Should sea level rise endanger the approved land use, the land use shall be removed or relocated. No shoreline hardening shall be allowed to protect the integrity of any approved land use;
15. The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
16. The permittee shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;

17. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
18. The permittee shall utilize Best Management Practices for the proposed project;
19. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
20. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawaii Administrative Rules, Chapter 13-5;
21. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
22. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
23. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
24. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
25. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
26. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
27. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
28. Artificial light from exterior lighting fixtures, including but not 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 be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;

29. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; and
30. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under HAR, Chapter 13-5, as determined by the chairperson or board.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, contact Tiger Mills at (808) 587-0382.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

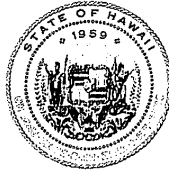
Receipt acknowledged:


Permittee's Signature

Date 11/30/2019

c: Chairperson
HDLO
County of Hawaii
Department of Planning

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
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AQUATIC RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

Time Ext. Req: HA 21-7
CDUP HA-3847

OCT 26 2020

James M. Leonard
JM Leonard Planning, LLC
56 Laukona Street
Hilo, HI 96720

SUBJECT: Time Extension Request for Conservation District Use Permit (CDUP) HA-3847 to Meet CDUP Condition No. 8 Regarding the Initiation of Work or Construction Located at 15-2259 Government Beach Road, Pōpōkī, Puna, Hawai'i
Tax Map Key: (3) 1-5-010:031

Dear Mr. Leonard:

The Department is in receipt of your request regarding the subject matter. According to the information you have provided, the landowner and permittee, Mr. Michael Moore, is requesting a time extension of one (1) year to meet Condition No. 8 of Conservation District Use Permit (CDUP) HA-3847 which states that:

8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use.

CDUP HA-3847 for a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan were approved on November 8th, 2019 subject to thirty (30) conditions. The time extension request states that Mr. Moore has made progress in meeting the conditions of CDUP HA-3847 by recording the permit approval with the Bureau of Conveyances in accordance with Condition No. 6 and has submitted a draft of final construction plans for preliminary review with the intent of submitting final construction plans for review and consistency with the conditions of the permit and declarations set forth in the permit application in the near future.

However, Mr. Moore has been delayed in moving forward with his projects related to CDUP HA-3847 due to unforeseen events such as having to reconstruct his existing home that was destroyed

James M. Leonard
JM Leonard Planning, LLC

Time Ext Req: HA 21-7

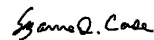
by the California wildfires, being deployed overseas for work related duties, and disruptions caused by the COVID-19 global pandemic. Mr. Moore is therefore requesting a time extension of one (1) year to meet Condition No. 8 of CDUP HA-3847 which would allow Mr. Moore until November 8th, 2021 to initiate construction and complete construction by November 8th, 2023.

Pursuant to Hawai'i Administrative Rules (HAR) §13-5-43, Time Extensions, (a) *Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.*

Therefore, the Department grants a 1-year time extension to CDUP HA-3847. Work shall be initiated by November 8th, 2021 and completed by November 8th, 2023. All other conditions imposed by the Board of Land and Natural Resources under CDUP HA-3847 shall remain in effect.

Should you have any questions regarding this matter, please contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands staff at (808) 798-6660.

Sincerely,



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources



CC: *Hawaii Division Land Office*
County of Hawaii – Planning Department

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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SUZANNE D. CASE,
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

SPA: HA 22-55

James M. Leonard
J M Leonard Planning, LLC
56 Laukona Street
Hilo, HI 96720

Mar 29, 2022

SUBJECT: Submittal of an Updated Site Plan Approval (SPA) Application for Accessory Structures.
Located at 15-2259 Government Beach Road
Pōpōkī, Puna, Island of Hawai'i
Tax Map Key (TMK): (3) 1-5-010:031

Dear Mr. Leonard:

The Office of Conservation and Coastal Lands (OCCL) has reviewed the SPA application and request regarding the subject matter. According to the information in your SPA application, you and your client are proposing alterations and additions to portions of the Moore Single-Family Residence (SFR) and Agroforestry Farm. Proposed alterations and additions that are being requested under this SPA application include the following:

- A constructed lava-rock entry feature (lava rock wall) to be located near the current driveway entry from the Government Beach Road
 - The lava rock wall will consist of two (2) 25ft long curved sections on either side of the proposed entry gate. Each rock wall section will be approximately 6ft tall by 1 ½ ft wide and occupy an approximate footprint of 125 sq. ft.
- A permanent entry gate at the existing driveway access that would be installed in conjunction with the lava-rock entry feature and would replace the current temporary gate at this location
 - The proposed entry constructed of metal with bamboo ornamentation that would be approximately 6ft tall and 18ft wide.
- Installation of agricultural fencing at the perimeter of the property to help keep out feral pigs and contain farm animals
 - The agricultural fencing will be constructed of T-posts painted black and hog fencing. The agricultural fencing will be approximately 5ft tall and run along the perimeter of the property except along the makai edge where it will be setback at least 52ft.

- Proposed strands of barbed wire have been removed from the top of the fence to address bird entanglement concerns
- The addition of a set (2) of concrete steps at the makai corners of the perimeter walkway surrounding the SFR
 - Each set (2) of concrete steps will be approximately 1 ½ ft tall by approximately 5ft wide and contain approximately three (3) steps.
- The relocation of the photovoltaic solar panels from the roof of the SFR to the roof of the farm shed and water storage tank.
 - The batteries and related power equipment would also be relocated from the SFR to within the farm shed.

The application notes that with the exception of the perimeter fencing and new entry rock wall feature, these additional proposed features would all be either replacing existing structures or placed on or within the planned structures. On behalf of your client, you are requesting site plan approval for the proposed accessory structures.

ANALYSIS:

The OCCL notes that TMK: (3) 1-5-010:031 lies in the Resource Subzone of the State Land Use Conservation District. According to OCCL files, the Board of Land and Natural Resources (BLNR) approved Conservation District Use Permit (CDUP) HA-3847 for a SFR, subsistence agriculture, landscaping and associated improvements, and the AgroForestry Management Plan on November 8, 2019, subject to thirty (30) conditions. The Developable Area of approved structures included an approximately 4,301 sq. ft SFR and 765 sq. ft Farm shed. On October 26, 2020, the Chairperson of the BLNR approved the landowner's request for a one (1) year time extension to meet Condition 8 of CDUP HA-3847. Work approved under CDUP HA-3847 was to be initiated by November 8, 2021 and shall be completed by November 8, 2023.

After reviewing the application, we have determined that the proposed alterations and additions to portions of the Moore Single-Family Residence (SFR) and Agroforestry Farm is consistent with Hawaii Administrative Rules (HAR) §13-5-22, P-9 STRUCTURES, ACCESSORY (B-1) *Construction or placement of structures accessory to existing facilities or uses*. This requires site plan approval from the OCCL. The alterations and additions will result in the SFR occupying an approximate total Developable Area of 3,592 sq. ft and a 769 sq. ft Farm shed.

The OCCL notes that the Final Environmental Assessment (FEA) and associated Finding of No Significant Impact (FONSI) for CDUP HA-3847 was published in *The Environmental Notice* on October 8, 2019. Regarding HRS 6E compliance, the State Historic Preservation Division (SHPD) accepted the Archaeological Inventory Survey for CDUP HA-3847 and determined that Site 30712 had been sufficiently documented and that the project would have no historic properties affected on September 19, 2019.

Therefore, authorization is hereby granted for the alterations and additions to portions of the Moore Single-Family Residence (SFR) and Agroforestry Farm located at 15-2259 Government Beach Road, Pōpōkī, Puna, Island of Hawai'i, on TMK: (3) 1-5-010:031 and is subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of Chapter 13-5, HAR;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall comply with all applicable Department of Health administrative rules;
4. Unless otherwise authorized, any work or construction to be done on the land shall be completed by November 8, 2023. The permittee shall notify the department in writing when the work has been completed;
5. The permittee understands and agrees that this permit does not convey any vested rights or exclusive privilege;
6. In issuing the approval, the department has relied on the information and data, which the applicant has provided in connection with the application. If, subsequent to the issuance of the approval such information and data prove to be false, incomplete, or inaccurate, this approval may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
7. Where any interference, nuisance, or harm may be caused, or hazard established by the use the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
8. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
9. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The VSAS shall immediately contact SHPD ((808) 692-8015), which will assess the

James M. Leonard
J M Leonard Planning, LLC

- significance of the find and recommend an appropriate mitigation measure, if necessary;
10. Should any unanticipated problems occur which may affect public health, safety or welfare, the Department may require immediate removal of all project components;
 11. All representations relative to mitigation or best management practices as stated in the application or supplemental material submitted to the Department for the proposed project are incorporated as conditions of the permit;
 12. All best management practices and conditions of CDUP HA-3847 shall continue to be followed;
 13. Other terms and conditions as prescribed by the OCCL; and
 14. Failure to comply with any of these conditions shall render a permit void under Chapter 13-5, HAR, as determined by the Department.


Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions, please feel free to contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands at (808) 798-6660 or trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Acting Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

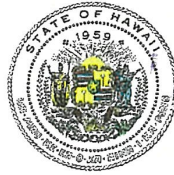

Applicant's signature

Date 5 APR 2022

CC: Hawaii District Land Office
County of Hawaii, Planning Department

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
Office of Conservation and Coastal Lands
P.O. BOX 621
HONOLULU, HAWAII 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2024 JAN 25 A 9:47
DEPT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

CDUP: HA-3847
Time Ext: HA 24-5

EQUITY TRUST CO FBO MOORE, M S IRA
C/O Michael S. Moore
6215 Kanan Dume Road, Suite M1079
Malibu, CA 90265

Jan 16, 2024

SUBJECT: Request for Second Time Extension for Conservation District Use Permit (CDUP) HA-3847 to Complete a Single-Family Residence, Subsistence Agriculture, Landscaping, and Associated Improvements, And AgroForestry Management Plan
Located at 15-2259 Government Beach Road
Pōpōkī, Puna, Island of Hawai'i
Tax Map Key (TMK): (3) 1-5-010:031

Dear Landowners:

This is to inform you that on January 12, 2024, the Board of Land and Natural Resources (Board) approved your request for a second time extension of 1-year to complete the construction of the single-family residence, subsistence agriculture, landscaping and associated improvements, and AgroForestry Management Plan, subject to the following conditions:

1. That Condition 8 of CDUP HA-3847 is amended to provide that the Permittee has until November 8, 2024, to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Board under CDUP HA-3847, as amended, shall remain in effect.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two (2) copies. Retain one and return the other within thirty (30) days. Should you have any questions, please feel free to contact Trevor Fitzpatrick at (808) 798-6660 or trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

M. Moore
Applicant's Signature

Date *01/30/2024*

CC: *Hawaii Land Division Office*
County of Hawaii Planning Department

kekaiplanning

PO Box 791001, Paia, Hawaii 96779

Phone: (808) 282-2141

kekaiplanning@icloud.com



December 17, 2024

Administrator Michael Cain
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Kalanimoku Building
1151 Punchbowl - Room 131
Honolulu, Hawaii 96813

Dear Mr. Cain,

SUBJECT: REQUEST FOR TIME EXTENSION for Conservation District Use Application (CDUA) Permit HA-3847 for a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and AgroForestry Management Plan, located at Popoki, Puna, Island of Hawaii, Tax Map Key: (3) 1-5-010:031

Ke Kai Planning notes on November 8, 2019, the Department of Land and Natural Resources (DLNR), Board of Land and Natural Resources (BLNR) approved CDUA Permit HA-3847 for a Single-Family Residence (SFR); Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan, located at Popoki, Puna, Hawaii, Tax Map Key (TMK): (3) 1-5-010:031 subject to thirty (30) terms and conditions.

Condition # 8 notes, "Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed." Under Condition # 8. the deadline to initiate work would have been November 8, 2020 and the deadline to complete work would have been November 8, 2023.

On September 25, 2020, the landowner applied for the first (1) time extension - Time Ext. Req: HA 21-7.

On October 26, 2020, the BLNR Chairperson Case approved Time Ext. Req: HA 21-7 CDUP HA-3847. The Department granted an one (1) year time extension to CDUP HA-3847. Work shall be initiated by November 8th, 2021 and work completed by November 8th, 2023. All other conditions imposed by the Board of Land and Natural Resources under CDUP HA-3847 shall remain in effect.

On March 29, 2022, the DLNR, OCCL approved Site Plan Approval (SPA): HA 22-55 for the submittal of an updated SPA application for accessory structures; subject to fourteen (14) terms and conditions. Proposed alterations and additions requested

in the SPA included a constructed lava-rock entry feature/lava rock wall and a permanent entry gate in the same location, installation of agricultural perimeter fencing, addition of two (2) concrete steps, and relocation of the photovoltaic solar panels from the SFR roof to the farm shed and water storage tank. The additional features would be replacing existing structures or placed within the planned structures.

On September 2023, the landowner requested a second (2) time extension for Conservation District Use Permit HA-3847 to complete SFR; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan.

On January 12, 2024, the BLNR approved OCCL's Item K-3 for the request - one (1) year to complete the construction of SFR; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan. The Permittee has until November 8, 2024 to complete any work or construction to be done on the land.

Ke Kai Planning notes work was initiated on the subject parcel TMK: (3) 1-5-010:031 by the November 8, 2021 deadline as the landowners commenced construction on October 31, 2021. The following below summarizes the status of the SFR; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan:

Single Family Residence:

- The installation of the Individual Wastewater System (septic tank, leach field) is complete.
- The SFR structure is 95% complete: Estimated completion is November 2025.
- The SFR's construction has been delayed due to the inability to schedule licensed professional contractors (plumbing, electrical, windows).
- Site work has been delayed due to the subject parcels physical environmental constraints and several heavy Kona Low storm.
- Pursuant to Condition # 12, the clearing of the site was timed to avoid disturbance(s) during the bat birthing and pup rearing season (June 1-September 15). The season shortened the landowners ability to clear the site and begin construction concurrently.
- Utilities have been installed; the HELCO meter and electrical lines connect from the roadway to the SFR.



Source: Landowner photo taken 2024

Subsistence Agriculture:

- There has been zero action on the Subsistence Agriculture.
- The landowner is waiting to complete the construction and/or installation of the SFR, well, water tank, barn, water catchment tank, and perimeter fence. Once the above structures are in place the heavy equipment will be removed and planting can start. The well and drilling has yet to be scheduled TBD. On January 31, 2024, the landowner received the Commission on Water Resource Management approval for a Well Construction Permit Well No. 8-3485-009.
- There is a six (6) month long waiting list to install the water tank.

Landscaping and Associated Improvements:

- Grading and grubbing work is 95% complete.
- The perimeter agricultural fencing is 100 % complete.
- Work on the entry wall and gate will be initiated in 2025.



SOURCE: landowner photo taken 2024

AgroForestry Management Plan:

- There has been zero action on the AgroForestry Management Plan.
- The landowner would like to complete the construction and/or installation of the SFR, well, water tank, barn, water catchment tank, and perimeter fence. Once the above structures are in place the heavy equipment will be removed and planting can start. The well and drilling has yet to be scheduled TBD. On January 31, 2024, the landowner received the Commission on Water Resource Management approval for a Well Construction Permit Well No. 8-3485-009.

Ke Kai Planning notes, due to unforeseen events, personal and work obligations the landowner was unable to meet the required November 8, 2024 deadline as required by the January 12, 2024 BLNR meeting. The COVID pandemic, the California wildfires, and being deployment overseas for work have affected the ability to construct the SFR. The landowner has been dealing with reconstructing a residence in Mailbu, California and constructing the SFR on the Big Island.

The landowner is asking for the BLNR to approve a request for a third (3) time extension, pursuant to Hawaii Administrative Rules (HAR) Section 13-5-43, TIME EXTENSIONS, (e) If a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void.

However, instead of one (1) year to complete the construction of the SFR; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan, the landowner is asking the BLNR for a three (3) year time extension to complete construction until November 8th, 2027. The landowner still has to source appropriate planting materials for the Subsistence

Agriculture and the AgroForestry Management Plan actions.

The following is a summary update of the 30 terms and conditions assigned to CDUA Permit HA-3847 for a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - The landowner will comply with this term and condition.
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
 - LANDOWNER ACKNOWLEDGES CONDITION
3. The permittee shall comply with all applicable department of health administrative rules;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - Septic Designs was hired to design the Individual Wastewater System (IWS) Design.
 - On July 13, 2020, the landowner applied for the Department of Health's (DOH) Individual Wastewater System (IWS) Application Information Sheet. On October 7, 2020, the DOH approved the IWS.
4. The permittee shall consult with the Commission of Water Resource Management to obtain authorization for the proposed well;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - On June 29, 2003, the landowner contracted with Derrick's Well Drilling and Pump Services for CWRM's Well Construction/Pump Installation (WCPI) Permit.
 - On January 31, 2024, the landowner received the Commission on Water Resource Management approval for a Well Construction Permit Well No. 8-3485-009.
5. The single-family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
 - LANDOWNER ACKNOWLEDGES CONDITION

6. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - The Declaration of Restrictive Covenants pursuant to approval of Conservation District Use Permit (CDUP) No. HA-3874 was filed with the DLNR Bureau of Conveyances on August 5, 2020.
7. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - The landowner submitted four copies of construction plans and specifications to the DLNR.
8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - On October 31, 2021, the landowners commenced construction.
 - On November 8, 2019, the BLNR approved CDUP HA-3847.
 - On September 25, 2020, the landowner applied for the first (1) time extension - Time Ext. Req: HA 21-7.
 - On October 26, 2020, the BLNR Chairperson approved the request; one (1) year to initiate construction by November 1, 2021, and completed construction by November 8, 2023.
 - On September 2023, the landowner applied for the second (2) time extension request.
 - On January 12, 2024 the BLNR approved the request; one (1) year to complete the construction of the SFR, subsistence agriculture, landscaping and associated improvements, and Agroforestry Management Plan. The Permittee has until November 8, 2024 to complete any work or construction to be done on the land.

9. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
 - LANDOWNER ACKNOWLEDGES CONDITION
10. The permittee shall adhere to the approved Agricultural Management Plan;
 - LANDOWNER ACKNOWLEDGES CONDITION
11. Any landscaping shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited;
 - LANDOWNER ACKNOWLEDGES CONDITION
12. Site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15);
 - LANDOWNER ACKNOWLEDGES CONDITION
 - The landowner waited to clear the subject parcel between June 1 - September 15.
13. A pre-construction 'lo nest search by a qualified ornithologist using standard methods shall be conducted prior to land clearing between the months of March and September, inclusive;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - On May 17, 2022, the landowner employed a qualified ornithologist prior to land clearing and between the months of March and September.
14. Should sea level rise endanger the approved land use, the land use shall be removed or relocated. No shoreline hardening shall be allowed to protect the integrity of any approved land use;
 - LANDOWNER ACKNOWLEDGES CONDITION
15. The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
 - LANDOWNER ACKNOWLEDGES CONDITION
16. The permittee shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
 - LANDOWNER ACKNOWLEDGES CONDITION

- On October 31, 2021, the landowners commenced the construction.
17. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
 - LANDOWNER ACKNOWLEDGES CONDITION
 18. The permittee shall utilize Best Management Practices for the proposed project;
 - LANDOWNER ACKNOWLEDGES CONDITION
 19. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
 - LANDOWNER ACKNOWLEDGES CONDITION
 20. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawaii Administrative Rules, Chapter 13-5;
 - LANDOWNER ACKNOWLEDGES CONDITION
 21. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
 - LANDOWNER ACKNOWLEDGES CONDITION
 22. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
 - LANDOWNER ACKNOWLEDGES CONDITION
 23. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - On July 13, 2020, the landowner applied for the Department of Health's (DOH) Individual Wastewater System (IWS) Application Information Sheet. On October 7, 2020, the DOH approved the IWS.

24. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 - LANDOWNER ACKNOWLEDGES CONDITION
25. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
 - LANDOWNER ACKNOWLEDGES CONDITION
26. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
 - LANDOWNER ACKNOWLEDGES CONDITION
27. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
 - LANDOWNER ACKNOWLEDGES CONDITION
 - The landowner received Building Permit (A2021-BH006688) and a Grading Permit.
28. Artificial light from exterior lighting fixtures, including but not 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 be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
 - LANDOWNER ACKNOWLEDGES CONDITION
29. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; and
 - LANDOWNER ACKNOWLEDGES CONDITION
30. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under HAR, Chapter 13-5, as determined by the chairperson or board.
 - LANDOWNER ACKNOWLEDGES CONDITION

If you have any questions or require further information or clarification regarding the Request for Third (3) Extension for CDUA HA-3847 for a SFR); Subsistence Agriculture; Landscaping and Associated Improvements; and the

AgroForestry Management Plan, located at located at Tax Map Key: (3) 1-5-010:031,
please do not hesitate to call me at 808-282-2141 or email me at
kekaiplanning@icloud.com.

Mahalo -



Dawn Hegger-Nordblom, Principal
KE KAI PLANNING LLC
PO BOX 791001
PAIA, HAWAII 96779



Unauthorized Trailor and Outdoor Toilet



Unauthorized Trailor and Outdoor Toilet Removed