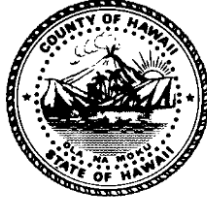


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## County of Hawai'i

### PLANNING DEPARTMENT

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July 21, 2023

James M. Leonard  
56 Laukona St.  
Hilo, HI 96720  
VIA EMAIL

Dear Mr. Leonard:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(PL-SAA-2023-000169)**

**Applicant(s): Carl J. and Anick L. Reese**

**Landowner(s): Carl J. and Anick L. Reese**

**Project: Single-Family Residence and Related Improvements**

**TMK: (3) 1-4-028:005; Wa'awa'a, Puna District, Island of Hawai'i**

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We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000169), received by this office on July 7, 2023, with additional information received on July 10, 2023. The 14,242 square foot (sf) subject parcel is zoned Agricultural 3-acres (A-3a) by the County and designated Conservation by the State Land Use Commission (LUC). The subject parcel is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

The parcel is situated entirely within the Special Management Area (SMA); however, the project site is not located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS) as there is a State-owned shoreline parcel between the subject parcel and the ocean. Additionally, a site visit by staff confirmed that there is fast land between the ocean and the makai property boundary of the subject parcel such that the proposed residence will be cited approximately 100-feet from the estimated shoreline location. Therefore, no shoreline certification is required for this SMA approval.

#### **Proposed Project:**

The applicant is proposing to construct an 1,883 square-foot, single story single-family residence consisting of two (2) bedrooms, one (1) bathroom, kitchen/dining area, living room, and an

individual wastewater system (IWS). The applicant is also proposing to construct 10,000-gallon water catchment tank, propane tank and pad, and the home will feature roof-mounted solar photovoltaic (PV) and solar hot water. The project also includes a compacted gravel driveway, and minimal landscaping to replace Hala trees cut for the house site.

Staff notes that as this proposed project is within the SLU Conservation District and as such, the applicant has submitted a Conservation District Use Application (CDUA) and Draft Environmental Assessment (DEA) for review and approval by the Department of Land and Natural Resources (DLNR).

**Special Management Area Determination:**

1. Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, "*Development means any of the [listed] uses, activities, or operations on land or in or under water within the special management area.*" According to the application, the following definitions of "Development" can be applied to the proposed use:
  - *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste.*
  - *Grading, removing, dredging, mining, or extraction of any materials; and*
  - *Construction, reconstruction, demolition, or alteration of the size of any structure.*
2. Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, "Development" does not include the following uses, activities, or operations, and therefore is determined to be exempt from the definition of "Development":
  - *Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development.*
3. Pursuant to Planning Commission Rule 9-4(e)(4), "*whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as "Development" for the purposes of this rule.*"
  - Based on the information provided, the Director finds that the proposed development of a single-family residence and related improvements will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

Please note that any substantive changes to the proposed improvements, as well as any subsequent phases or activities may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

**Future Special Management Area Determinations:**

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

Additionally, pursuant to Planning Commission Rule 9-10(g), *“the Director may impose certain conditions with the exemption determination to assure that the proposed use, activity, or operation does not have a substantial adverse effect on the Special Management Area.”* The Director has added the following conditions for the proposed project:

**Director’s 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, including a Conservation District Use Permit (CDUP).
3. Other than the proposed project as described in this determination, no further work is permitted under this approval.
4. The Applicant shall secure building permits for the proposed project within two (2) years from the date of the determination. If building permits have not been secured within that two (2) year period, this determination is automatically null and void, and a new Special Management Area Assessment Application must be submitted for review and approval.
5. The proposed work shall comply with the requirements of Hawai‘i County Code (HCC) Chapter 10, Erosion and Sedimentation Control.
6. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.
7. 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

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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.

8. 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.
9. That in issuing this determination, the Department has relied on the information and data that the applicant has provided in connection with this determination. If, subsequent to this determination, such information and data prove to be false, incomplete, or inaccurate, this determination may be modified, suspended, or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this determination or require additional review against the Special Management Area rules and regulations.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at [Alex.Roy@hawaiicounty.gov](mailto:Alex.Roy@hawaiicounty.gov).

Sincerely,

Jeffrey W. Darrow

July 21, 2023: 12:57 PM

ZENDO KERN

Planning Director

AJR:mds

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cc via email: Mr. Carl Reese  
GIS Section