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## County of Hawai'i PLANNING DEPARTMENT

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October 06, 2023

Jaclyn Jung  
159 S. Jackson St., Ste. 600  
Seattle, WA 98104  
VIA EMAIL: [jaclyn@olsonkundig.com](mailto:jaclyn@olsonkundig.com)

Dear Ms. Jung:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(PL-SAA-2023-000185)**  
**Applicant: Waiulu Ocean View Trust**  
**Landowner: Waiulu Ocean View Trust**  
**Project: Interior Renovation to Existing Structure**  
**TMK: (3) 7-2-012:015, North Kona District, Island of Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000185), submitted to this office on September 22, 2023.

The 0.98-acre subject parcel zoned Resort-Hotel 2,250-square feet (V-2.25) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcels are designated as 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:**

A review of our files indicates that the subject property contains an approximately 8,000 square foot single-family residence and related improvements on the 0.98-acre parcel. The proposed project includes interior renovations (remodeling of bathroom, kitchen and family room, and the

removal or decommissioning of the existing fireplace and HVAC system. Additional work includes minor landscaping contingent on the approval from the HOA. The applicant has stated that the project will not alter the existing footprint of the structure, and no new additional living space will be added. No other activities are proposed at this time.

**Special Management Area Determination:**

1. Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(1), 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:
  - *Construction, reconstruction, demolition, or alteration of the size of any structure.*
2. Pursuant to Planning Commission Rule 9-4(e)(3), "*any proposed use, activity, or operation listed in Section 9-4(e)(2) shall be deemed to be "Development" until the Director has determined it to be exempted from the definition of "development."* According to 9-4(e)(2), "Development" does not include the following uses, activities, or operations, and therefore is determined to be exempt from the definition of "Development."
  - *Structural and non-structural improvements to existing single-family residences, where otherwise permissible.*
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 improvement to an existing single-family residence is exempt from the definition of "development" and will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

However, please note that any substantive changes to the improvements listed in the current application may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

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 building permits for the proposed project within two (2) years from the date of this 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.
3. Any substantive changes or further development, including but not limited to, the design and size of the 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.
4. 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 issuance of 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.
5. 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 regarding this document, please feel free to contact Alex J. Roy of this office at (808) 961-8140 or via email at [Alex.Roy@hawaiiicounty.gov](mailto:Alex.Roy@hawaiiicounty.gov).

Sincerely,



Zendo Kern (Oct 6, 2023 11:13 HST)

ZENDO KERN  
Planning Director

AJR:lms

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cc via email: GIS Section