

Mitchell D. Roth
Mayor

Deanna S. Sako
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



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

September 27, 2024

Cheryl M. Kratke
15-945 Paradise Ala Kai
Keaau, HI 96749
VIA EMAIL

Dear Ms. Kratke,

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application - (PL-SAA-2024-000225)
Applicant: Cheryl M Kratke
Landowner: Kratke, Stephen/Cheryl M. Trust
Project: Removal of Existing Pool and Construction of a New Pool
Tax Map Key: (3) 1-5-057:080
Location: Hawaiian Paradise Park, Puna District, Island of Hawai'i

We have reviewed the subject request to amend Special Management Area (SMA) Use Permit Assessment Application (SAA-2024-000225), originally submitted to this office on May 1, 2024, as well as the new construction plans and requested additional information submitted August 8, 2024, to remove an existing in-ground pool and replace it with a new in-ground pool in the same location.

The subject 0.520-acre parcel is zoned Agricultural 1-acre (A-1a) by the County and designated Agricultural by the State Land Use Commission (LUC). The parcel is designated as "Open" (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. A small portion makai of the residence is in Flood Zone VE. The subject project is located within the Special Management Area (SMA) as well as situated on a shoreline parcel pursuant to section 205A-22, Hawai'i Revised Statutes (HRS). Due to the location of the proposed project being greater than 105 feet from the shoreline, the Director has waived the requirement for an updated shoreline certification for this project.

Proposed Project:

Removal of an existing 135 square foot (sf) in-ground pool and replacing it with a new 345-sf in-ground pool and spa.

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”:
 - *Structural and non-structural improvements to existing single-family residences, where otherwise permissible.*
3. Pursuant to Planning Commission Rule 9-4(i)(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 demolition of an existing in-ground swimming pool and the construction of a new in-ground pool 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.
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. A construction barrier shall be erected along the entire length of the 40-foot shoreline setback line prior to the commencement of land altering and construction activities and shall remain in place until final inspection has been granted by the Building Division for the new pool.
7. No grading, re-grading, stockpiling of materials, or heavy machinery shall be allowed within the shoreline setback area.
8. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.
9. 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.

10. 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.
11. 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.
12. 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 Derek S. Harbaugh of this office at (808) 323-4774 or via email at derek.harbaaugh@hawaiicounty.gov.

Sincerely,


Jeffrey W. Darrow (Sep 27, 2024 06:51 HST)

for
ZENDO KERN
Planning Director

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