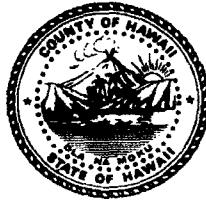


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

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

**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

April 30, 2013

Mr. Michael B. Russo  
1335 Kalaniana'ole Street  
Hilo, HI 96720

Dear Mr. Russo :

**SUBJECT: Special Management Area Use Permit Assessment Application No. 13-000959**  
**Special Management Area Minor Permit No. 13-000263**  
**Applicant: Michael B. Russo**  
**Request: Conversion of Single Family Dwelling into a Bed and Breakfast**  
**Tax Map Key: (3) 2-1-014:005; Keaukaha, Hawai'i**

This is to acknowledge receipt on March 27, 2013 of the Special Management Area Use Permit Assessment Application (SAA-13-959) for the conversion of an existing single-family dwelling to a bed and breakfast establishment, and eventually to a neuro-rehabilitation center. The application included a master site plan of the Coco Palms at Keaukaha townhouse development plus detailed drawings of the floor plans for unit 3, which is currently the only completed unit of the development and the subject of this application. Additional information was supplied by phone by the applicant's agent, Ms. Amber Kooyman, on 4/4/2013.

The property consists of 1.44 acres, is situated in the State Land Use Urban district, zoned Resort (V-.75) by the County, and designated Resort by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map. In addition, the property is located entirely within the Special Management Area (SMA). However, it is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41. The property was issued a permit for a 12-unit townhouse development under SMA Use Permit 07-000018.

Proposed is the conversion of the existing unit, a 3 bedroom / 3 bathroom 1,904 s.f. single-family dwelling and 2-car 784 s.f. below-house garage into a bed and breakfast establishment, and eventually into a neuro-rehabilitation center. Additional parking, including an ADA compliant parking stall, is available adjacent to the house. Two full bedrooms and bathrooms are proposed to lodge guests, while the remaining bedroom and bathroom will be occupied by the innkeepers. Hawai'i County Code section 25-5-92(a)(6) lists "*Bed and breakfast establishments, as permitted under section 25-4-7*" as a permitted use in Resort zoned properties. Hawai'i County Code section 25-5-92(b)(3) also lists "*Hospitals, sanitariums, old-age, convalescent, nursing and rest*

Mr. Michael B. Russo  
April 30, 2013  
Page 2

homes" as an approved use in Resort zoning, conditional to Use Permit approval by the Windward Planning Commission. As such, the scope of this permit will be limited to conversion of the existing single-family dwelling into a bed and breakfast. At such time as the applicant wishes to further convert the establishment into a neuro-rehabilitation center, a Use Permit Application and associated documentation will need to be submitted to this department. The Use Permit Application should also include copies of any approvals or licenses that may be required by the State Department of Health, Office of Health Care Assurance, who can be reached at (808) 692-7227, or found online at (<http://hawaii.gov/health/disability-services/elder-care/health-assurance/index.html>).

**Special Management Area Determination:**

According to Chapter 205A-22, HRS, as amended, relating to Special Management Area, "development" includes the *"Change in the density or intensity of use of land."* Therefore conversion of the existing single-family dwelling into a bed and breakfast as presented in SAA 13-959 is considered "development" and will require a SMA Minor Permit. The valuation for the proposed conversion of the existing single-family dwelling to a bed and breakfast is \$10,000 and we find that it will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.13-000263 is hereby issued for the conversion of the existing single-family dwelling into a **bed and breakfast**. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit and operate within the confines of a bed and breakfast as defined by Hawai'i County Code section 25-1-5 and 25-4-7 (enclosed for your convenience).

If you have questions or require further information, please feel free to contact Lucas Mead of this office at 961-8140.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

LM:lm

P:\wpwin60\CZM\SMM\2013\SMM 13-263L Russo.doc

Encl: SMM 13-000263

Department of Public Works Memo Dated April 29, 2013

Application for Plan Approval

Hawai'i County Code, Chapter 25, Sections 25-1-5 and 25-4-7

cc: Long Range Planning

Mr. Michael B. Russo  
April 30, 2013  
Page 3

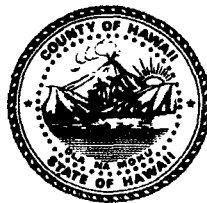
Planning Division

Mr. Trevor Ball & Ms. Amber Kooyman  
1335 Kalaniana'ole Street  
Hilo, HI 96720

Virgil Wheatley  
78-7003 Mololani Street  
Keauhou, HI 96740

cc ltr. only: Mr. Jesse K. Souki, Director  
Office of Planning, DBEDT  
State of Hawai'i  
P.O. Box 2359  
Honolulu, HI 96804-2359

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

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## County of Hawai'i PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

### **Special Management Area Minor Permit No. 13-000263**

**Project:** Conversion of Single-Family Dwelling into a Bed and Breakfast  
**Applicant:** Michael B. Russo  
**Landowner:** Virgil Wheatley  
**Location:** Keaukaha, Hawai'i  
**TMK:** (3) 2-1-014:005 **Land Area:** 1.44 acres

#### **Applicant's Request**

**1. Project Description:**

The proposed project is to convert the existing unit, a 3 bedroom / 3 bathroom 1,904 s.f. single-family dwelling and 2-car 784 s.f. below-house garage into a bed and breakfast establishment, and eventually to a neuro-rehabilitation center. Two full bedrooms and bathrooms are proposed to lodge guests, while the remaining bedroom and bathroom will be occupied by the innkeepers.

**2. Purpose of Project:**

The bed and breakfast will provide transient accommodations for guests and income for the project owner.

**3. Project Valuation:** \$10,000.

**4. Determination:**

According to Chapter 205A-22, HRS, as amended, relating to Special Management Area, "development" includes the "*Change in the density or intensity of use of land*", therefore the conversion of the existing single family dwelling into a bed and breakfast as presented in SAA 13-959 is considered "development", requires review against the Special Management Area rules and regulations, and requires a SMA Minor Permit.

#### **State and County Plans**

- 1. State Land Use District:** The parcel is located in the State Land Use Urban District.
- 2. General Plan:** The parcel is designated as Resort by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The parcel is zoned Resort (V-.75) by the County of Hawai'i.

4. **Special Management Area:** The subject property is located entirely within the SMA, but the project site is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** VE & AE.

<b>Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</b>
--

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
  - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
  - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
  - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
  - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
  - ☒ Stimulate public awareness, education, and participation in coastal management.
  - ☒ Protect beaches for public use and recreation.
  - ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach Protection
  - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

### **Findings**

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed conversion from a single-family dwelling to a bed and breakfast is consistent with the Hawai'i County General Plan and Zoning Code. The further development from a bed and breakfast establishment into a neuro-rehabilitation facility will require a Use Permit, applied for through the Planning Department, before establishment. As such, the scope of SMA Minor Permit 13-000263 is limited only to the conversion of the single-family residence to a bed and breakfast, and does not allow for the establishment and operation of a neuro-rehabilitation facility.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of \$10,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated April 29, 2013, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated April 17, 2013 and have no objections to the request.*

*The subject dwelling is in an area designated as Flood Zone AE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of*

occurring in any given year). We approved the certificate of occupancy for the dwelling on November 12, 2009.

*Kalanianaʻole Street, fronting the subject parcel, is maintained by the County of Hawaii."*

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 13-000263** is hereby approved for the conversion of the existing single-family dwelling on the subject parcel to a bed and breakfast as defined by Hawai'i County Code Chapter 25-1-5 and 25-4-7 (enclosed for your convenience), and subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
-------------------------------

The Planning Director has approved SMA Minor Permit No. 13-000263, subject to 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 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. Plan Approval shall be secured for the conversion of the single-family dwelling into a bed and breakfast prior to accepting customers to the establishment.
4. Any further development or changes of use, 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.
5. 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.
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have questions, please feel free to contact Lucas Mead of this department at 961-8140.

APPROVED:



BJ LEITHEAD TODD  
Planning Director

  
Date

PLANNING DEPARTMENT  
COUNTY OF HAWAII

2013 APR 30 AM 10:38

**DEPARTMENT OF PUBLIC WORKS**  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: April 29, 2013

**Memorandum**

TO: BJ Leithead Todd, Planning Director

FROM: *for* <sup>BR</sup> Department of Public Works, Engineering Division

**SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 13-000959)**

Applicant: Michael B. Russo

Landowner: Virgil Wheatly

Request: Conversion of a Single Family Dwelling into a Bed & Breakfast

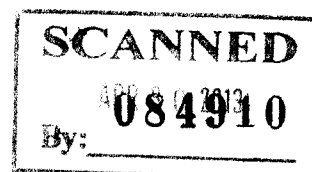
Tax Map Key: (3) 2-1-014: 005

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated April 17, 2013 and have no objections to the request.

The subject dwelling is in an area designated as Flood Zone AE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year). We approved the certificate of occupancy for the dwelling on November 12, 2009.

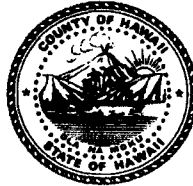
Kalaniana'ole Street, fronting the subject parcel, is maintained by the County of Hawaii.

Questions may be referred to Kelly Gomes at ext. 8327.





William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

**APPLICATION FOR PLAN APPROVAL**

APPLICANT: \_\_\_\_\_

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME OF SIGNER: \_\_\_\_\_ TITLE: \_\_\_\_\_

(if for a corp., LLC, trust, partnership)

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ EMAIL: \_\_\_\_\_

APPLICANT'S INTEREST: \_\_\_\_\_

(if not recorded land owner)

RECORDED LAND OWNER: \_\_\_\_\_

(Use counterpart forms for multiple owners)

LANDOWNER'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME OF SIGNER: \_\_\_\_\_ TITLE: \_\_\_\_\_

(if for a corp., LLC, trust, partnership)

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ EMAIL: \_\_\_\_\_

By signing above, ☐ LANDOWNER ☐ APPLICANT hereby authorizes the following to act on their behalf:

AUTHORIZED AGENT: \_\_\_\_\_

AGENT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ EMAIL: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

STREET ADDRESS OF PROPERTY: \_\_\_\_\_

TAX MAP KEY: (3) \_\_\_\_\_ LAND AREA: \_\_\_\_\_ ZONING: \_\_\_\_\_

STATE LAND USE DISTRICT: \_\_\_\_\_ SPECIAL MANAGEMENT AREA: ☐ YES ☐ NO

*This application must be accompanied by additional items as specified on the second page.*

*Application for Plan Approval  
Required Submittals*

Pursuant to the Zoning Code (Article 2, Divisions 1 and 7) and the Planning Department's Rules of Practice and Procedure, this application form, with original signatures, must be accompanied by:

1. A site plan, drawn to scale and fully dimensioned, indicating clearly the following information:
  - (a) *The location and dimension of the building site (the entire legal lot of record) with TMK No.;*
  - (b) *The location, size, and use of all existing and proposed structures;*
  - (c) *All yards and open spaces (building setback lines) and distance of buildings from property lines;*
  - (d) *Location, height, and material of all fences and walls;*
  - (e) *The location, number, and dimensions of all on-site parking and loading spaces, ADA parking/ access aisle signage, pavement for parking and accessway surfaces, drainage control facilities, waste collection enclosures, and vehicle circulation plan including points of street access;*
  - (f) *The location, general nature, and type of all exterior lighting, including shielding devices;*
  - (g) *All proposed landscaping and planting, meeting requirements of Planning Dept. Rule 17;*
  - (h) *All proposed street dedication and improvement, if any;*
2. Building floor plans and elevations (front, rear, and side views), drawn to scale, of all existing and proposed above-ground structures, indicating height above finish grade;
3. A site drainage plan previously approved by the Director of Public Works in accordance with Section 25-2-72(3) of the Zoning Code, based on the improvements proposed in this application;
4. A certification of clearance from the Director of Finance that the real property taxes and all other fees relating to the subject parcel(s) have been paid and that there are no outstanding delinquencies; and
5. Any other information required by the director.

***THE PROJECT SHALL COMPLY WITH ALL REQUIREMENTS OF PERMITS/APPROVALS  
GRANTED BY THE PLANNING DIRECTOR, PLANNING COMMISSION OR COUNTY COUNCIL.***

## **Hawai'i County Code, Chapter 25, Sections 25-1-5 and 25-4-7**

### **"Section 25-1-7. Definitions.**

(...)

"Bed and breakfast establishment" means any single-family dwellings and/or guest houses (pursuant to section 25-4-9), which have been permitted on a building site, in which overnight accommodations and only breakfast meals are provided to a maximum of ten guests, for compensation, for periods of less than thirty days."

### **"Section 25-4-7. Bed and breakfast establishments.**

- (a) Bed and breakfast establishments shall be permitted in the RD, RM, RCX, V, CN, CG, CV and CDH districts. A bed and breakfast establishment may be permitted in the RS districts and RA, FA, A districts, within the State land use urban district, provided that a use permit is obtained for each such use. A special permit shall also be required for any bed and breakfast establishment located in either the State land use rural or agricultural districts.
- (b) A bed and breakfast establishment shall be subject to the following standards:
  - (1) The bed and breakfast establishment shall be subordinate and clearly or customarily incidental to the principal use as a residence by its operator and not alter or be detrimental to the character of the surrounding area.
  - (2) The operator of the bed and breakfast establishment shall reside on the same building site as that being used for the bed and breakfast establishment.
  - (3) The bed and breakfast establishment may be located on a building site, within any single-family dwellings, and/or guest houses (pursuant to section 25-4-9).
  - (4) The bed and breakfast establishment shall contain no more than five guest bedrooms for rent to guests.
  - (5) The maximum number of guests permitted within a bed and breakfast establishment at any one time shall be ten.
  - (6) Only breakfast meals may be offered to guests. The serving of breakfast meals on the building site, for a fee to individuals other than registered guests shall be prohibited. A bed and breakfast establishment shall not operate as a food service establishment (i.e. a restaurant), unless such use is a permitted use within the zoning district and the required permits have been acquired.
  - (7) One paved (with materials such as bricks, concrete, asphalt concrete surface or chip-seal, pavers, stones) off-street parking stall shall be provided for each guest bedroom, in addition to the required stalls(s) for the dwelling unit, except that in the RS, RA, FA and A districts paved parking stalls shall not be required as long as the material used for the parking stalls will eliminate erosion, mud and standing water within the parking stall area.
  - (8) Exterior signage which advertises the dwelling as a bed and breakfast establishment shall comply with the requirements for residential signage as set forth in chapter 3 (advertising and signs), Hawaii County Code.
- (c) Any bed and breakfast establishment which has not received the required permits shall be considered illegal under this chapter, unless otherwise noted herein.
- (d) Any bed and breakfast establishment existing as of the effective date of this section and conforming to the standards contained in section 25-4-7(b) which has not received the permits required under section 25-4-7(a) may continue such use for twelve months following the effective date of this section. After this date, continued use without having submitted the necessary permit applications shall be considered illegal under this chapter.
- (e) The conditions contained in any use permit issued for a bed and breakfast establishment prior to the adoption of this section shall continue to apply to the bed and breakfast establishment, notwithstanding provisions to the contrary contained in this section.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2000, Ord. No. 00-152, sec. 3; Am. 2012, Ord. No 12-124, sec.5.)"