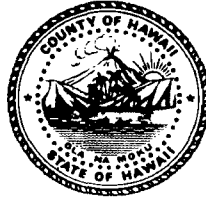


Harry Kim  
Mayor



Michael Yee  
Director

Duane Kanuha  
Deputy Director

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 12, 2019

Mr. Gregory Mooers  
Mooers Enterprises, LLC  
P.O. Box 1101  
Kamuela, HI 96743

Dear Mr. Mooers:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(SAA 19-001671)  
Special Management Area Minor Permit No. 19-000411 (SMM-19-000411)  
Applicant: James Hobbs, Managing Member, Oyster Property LLC  
Landowner: Oyster Property LLC  
Project: Proposed Second Single-Family Dwelling  
Tax Map Key: (3) 6-6-002:029-0002**

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This is to acknowledge receipt of the above-referenced resubmitted application dated March 15, 2019. The applicant is proposing to build a second dwelling on Unit 2 of the subject 2-Unit CPR property. The applicant is proposing to construct a single-story, 2,524-sf single-family dwelling and related improvements on a 15,005 square-foot portion (CPR Unit 2) of a 36,725 square-foot property.

The subject parcel is 36,725 square feet in size and is zoned Residential Single Family, 15,000 sq. ft. (RS-15) by the County of Hawai'i and is designated State Land Use (SLU) Urban District by the State of Hawai'i. According to the County of Hawai'i General Plan 2005 Land Use Pattern Allocation Guide (LUPAG) map, the subject parcel is within the Open and near the Low Density Urban (ldu) designation. As mentioned previously, the property has been approved as a 2-Unit Condominium Property Regime (CPR).

Mr. Gregory Mooers  
Mooers Enterprises, LLC  
Page 2 of 3  
April 12, 2019

The entire parcel is located within the Special Management Area (SMA) and is located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS). The applicant submitted a certified shoreline survey of the subject unit, which was certified on August 2, 2018 by the Chairperson of the Board of Land and Natural Resources.

**Special Management Area Determination:**

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(E) relating to Special Management Area (SMA), "*construction, reconstruction, demolition or alteration of the size of any structure,*" is defined as "development." Therefore, the proposed construction of a second dwelling, and related improvements is considered "development" and requires a review against the SMA rules and regulations and requires an SMA Minor Permit.

**Shoreline Setback Determination:**

According to Planning Department (PD) Rule 11, shoreline setback areas are established to regulate the use and activities along the shoreline. All lots which abut the shoreline shall have a minimum shoreline setback line of forty feet unless it qualifies for an exemption or clearance is secured from this department that the activity is permitted within the shoreline setback area.

PD Rule 11-5(b) (1) (a) provides that a lot which was created prior to the adoption of Rule 11 (January 19, 1997) shall have a minimum shoreline setback line of twenty feet when the average lot depth of the parcel is one hundred feet or less or when the buildable area of the parcel is reduced to less than fifty percent of the parcel after applying the forty-foot shoreline setback line and all state and county requirements of the parcel.

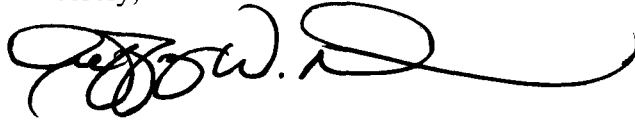
The subject parcel (Lot 1-F) was created by Subdivision No. 1591, approved on January 19, 1961. It has been confirmed that the buildable area of the parcel is reduced to less than fifty percent of the parcel after applying the forty-foot shoreline setback line and all state and county requirements of the parcel. Therefore, the subject parcel qualifies for a twenty-foot shoreline setback line measured from the certified shoreline.

We find that the proposed actions will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area, Minor Permit No. SMM-19-000411, is hereby issued for the project as described above. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Mr. Gregory Mooers  
Mooers Enterprises, LLC  
Page 3 of 3  
April 12, 2019

If you have questions, please feel free to contact Jeff Darrow of this office at (808) 961-8158.

Sincerely,



*For*

MICHAEL YEE  
Planning Director

JWD:mad

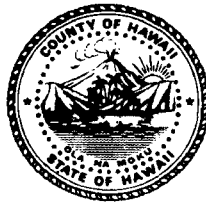
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Enclosures: SMM-19-000411 and Receipt for Filing Fee

cc w/encls: Administrative Permits Division (*via email*)

cc ltr. only: Mrs. Justine W. Nihipali  
Office of Planning  
State of Hawai'i DBEDT  
P.O. Box 2359  
Honolulu, HI 96804-2359

Harry Kim  
Mayor



Michael Yee  
Director

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Deputy Director

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## County of Hawai'i PLANNING DEPARTMENT

East Hawai'i Office  
101 Pauahi Street, Suite 3  
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Phone (808) 961-8288  
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### **Special Management Area Minor Permit No. 19-000411**

**Project:** Proposed Second Dwelling  
**Applicant(s):** James Hobbs, Managing Member, Oyster Property LLC  
**Owner(s):** Oyster Property LLC  
**TMK:** (3) 6-6-002:029-0002  
**Land Area:** 36, 725 square feet (property) – 15,005 square feet (Unit 2)

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

- 1. Project Description:**  
The applicant proposes to construct a single-story, 2,524-sf single-family dwelling and related improvements on a 15,005 square-foot portion (CPR Unit 2) of a 36,725 square-foot property.
- 2. Purpose of Project:** The objective of the proposed project is build a second dwelling on Unit 2 of subject property for the applicant.
- 3. Project Valuation:** \$450,000
- 4. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(E) relating to Special Management Area (SMA): Construction, reconstruction, demolition or alteration of the size of any structure," is defined as "development." Therefore, the proposed construction of a second dwelling on the subject property is considered "development" and requires a review against the Special Management Area rules and regulations and requires an SMA Minor Permit.

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

- 1. State Land Use District:** The parcel is designated Urban by the State Land Use Commission.
- 2. General Plan:** The parcel is designated as Open (ope) and Low Density Urban (ldu) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The parcel is zoned Residential Single Family, 15,000 sq. ft. (RS-15)

4. **Special Management Area:** The subject parcel is located in the SMA and is located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS). The applicant submitted a certified shoreline survey of the subject unit, which was certified on August 2, 2018 by the Chairperson of the Board of Land and Natural Resources.

5. **Flood Zone:** Zone X (Area of minimal flood hazard)

<p align="center"><b>Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area</b></p>
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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**

1. 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.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$450,000 for construction of proposed structure is not in excess of \$500,000.

#### **Approved Uses, Activities and Operations**

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. SMM-19-0004011** is hereby approved to allow the construction of a single-story, single-family dwelling and related improvements on a 15,005 square-foot portion (CPR Unit 2) of a 36,725 square-foot property.

#### **Conditions of Approval**

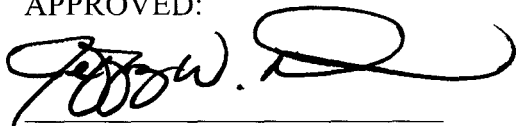
The Planning Director has approved **SMA Minor Permit No. SMM-19-000409**, subject to the following conditions:

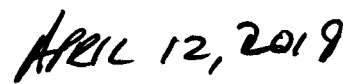
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.

3. The applicant complete construction of the second dwelling and related improvements within two (2) years from the date of approval of this permit.
4. All construction shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
5. Best Management Practices (BMP) must be followed to ensure the grounds surrounding the project area are kept clear of any rubbish or debris resulting from the construction activities at all times.
6. Any further uses, activities or operations proposed for the subject property shall require further review and approval as provided under HRS Chapter, and Rule 9 of Planning Commission Rules of Practice and Procedure.
7. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.
8. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
9. 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 any questions, please feel free to contact Jeff Darrow at (808) 961-8158.

APPROVED:

  
MICHAEL YEE  
Planning Director

  
Date