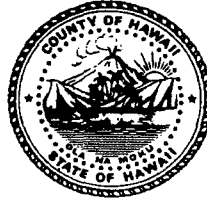


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July 24, 2019

Dennis Onishi
99 West Kahaopea St.
Hilo, HI 96720

Dear Mr. Onishi:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA-19-001681)**

Special Management Area (SMA) Minor Use Permit (SMM-19-000416)

Applicant(s): Wendy McCaw, Trustee: Mauna Kea Kai Trust

Land Owner(s): Wendy McCaw, Trustee: Mauna Kea Kai Trust

Project: Construction of Two (2) Single-Family Dwellings

Tax Map Key: (3) 6-8-034:007, South Kohala District, Island of Hawai'i

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA-19-001681), originally submitted on April 26, 2019. Additional information requested by the Planning Department for the proposed project was received by this office on June 27, 2019.

The applicant proposes the following activities:

1. Construct one (1) 7,489 square foot (sq. ft.) one-story, single-family dwelling with related improvements such as a pool, parking area, and landscaping; and
2. Construct one (1) 773 sq. ft., one-story, single-family dwelling adjacent to the 7,489 sq. ft. dwelling structure.

The subject 63,891 square-foot parcel is zoned Resort-Hotel (V-1.25) by the County and designated Urban District by the State Land Use Commission. The parcel is designated as both Open and Resort

JUL 24 2019

Node by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The parcel is located entirely within the Special Management Area (SMA) and has approximately 190 linear feet of frontage along the coastline.

Shoreline Area:

Pursuant to Hawai'i Revised Statutes (HRS) 205A-45 and County of Hawai'i Planning Department (PD) Rules of Practice and Procedure, Section 11-5(a) Establishment of Shoreline Setback Lines, "*Except as otherwise provided in this section, all lots which abut the shoreline shall have a minimum shoreline setback line of forty feet*". Subdivision No. 7358 was approved on December 12, 2000, and therefore is required to follow this rule. The applicant has sited the proposed improvements approximately 195-feet from the certified shoreline location which includes the Ala Kahakai Shoreline Trail Easement (Easement No. 14) and two (2) Anchialine ponds with preservation buffers to preserve the resources; staff notes these two (2) buffer zones are recorded in the deed of the parcel. The Ala Kahakai Shoreline Trail located makai of the proposed improvements provides public pedestrian access to and along the shoreline.

Pauoa Beach Declaration of Covenants, Conditions, Restrictions, and Easements:

A retaining wall has been constructed upon, across, in and under the subject lot (parcel 007) as shown on map 19 of land Court Application 1785 for purposes of complying with requirements of the Federal Emergency Management Agency (FEMA). Each owner of a lot upon which the "Wall" has been constructed accepts the continued and perpetual existence of the Wall on and within the Lot and covenants: *(a) to maintain, repair and restore the Wall to keep it in good and sound condition, and (b) to refrain from doing anything, or permitting any other person to do anything, that results in, or might result in, damage to the Wall or its structural integrity.* Additionally, as recorded in the Subdivision Improvement Agreement, dated December 19, 2001, it states: *Approval of the Letter of Map Revision (LOMR) by the Federal Emergency Management Agency (FEMA) will also be required before a lot buyer can make certain improvements on the makai (ocean) side of the current AE/X Flood Line. Any improvements on the makai side of the newly created AE/X Flood Line shall comply with the provisions of Chapter 27 – Flood Control of the Hawaii County Code, and the National Flood Insurance Program (NFIP) and related regulations.* Staff notes that the LOMR has been obtained from FEMA as required by the agreement dated December 4, 2000. The LOMR was issued May 5, 2002 by FEMA.

Special Management Area Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 relating to Special Management Area (SMA), "development" does not include

"Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet (7,500 sq. ft.) of floor area and is not part of a larger development". Therefore, the first dwelling is considered exempt from the definition of "development".

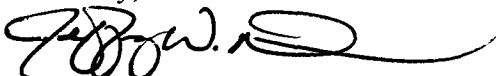
However, according to HRS Chapter 205A-22 and Planning Commission Rule No. 9-4, "Development" does include the *"construction, reconstruction, demolition or alteration of the size of any structure"* and as such the proposed construction of the second single-family dwelling will require review against the Special Management Rules and regulations. Further, we find that the proposed project, as represented in SAA-19-001681, will not have a cumulative impact, or significant adverse environmental or ecological effects on the Special Management Area.

Please note that any increase in the proposed floor area will require another SMA Use Permit Assessment Application be submitted to this office. In addition, any construction, enlargement or reconstruction of the single family residence that increases the gross floor area to greater than 7,500 square feet will require an SMA (Major) Use permit.

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-19-000416, 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.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140.

Sincerely,



FM
MICHAEL YEE
Planning Director

AJR:mad

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Enclosures: SMM-19-000416
Receipt for Application Fee (SAA-19-001681)

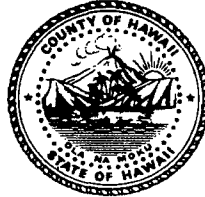
cc w/Encls.: Administrative Permits Division (*via email*)

cc ltr. only: Mrs. Mary Alice Evans, Director
Office of Planning, DBEDT

Harry Kim
Mayor

Wil Okabe
Managing Director

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Special Management Area Minor Permit No. 19-000416

Project: Construction of Second Single-Family Dwelling on Property
Applicant(s): Wendy McCaw, Trustee: Mauna Kea Kai Trust
Owner(s): Wendy McCaw, Trustee: Mauna Kea Kai Trust
Location: 68-1011 Pauoa Way, Waimea, HI 96743
TMK: (3) 6-8-034:007
Land Area: 63,891 square feet

Applicant's Request

1. Project Description:

The applicant proposes the following activities:

1. Construct one (1) 773 sq. ft., one-story, single-family dwelling adjacent to the 7,489 sq. ft. dwelling structure.

1. **Purpose of Project:** The applicant is proposing to construct a single-family dwelling and related improvements on the subject property for their personal use.

2. **Project Valuation:** \$100,000

3. **Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 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 (2nd) single-family 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 within the Urban District by the State Land Use Commission.
2. **General Plan:** The parcel is designated as *Open* (O) and *Resort (res)* by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcel is currently zoned Resort-Hotel (V-1.25)
4. **Special Management Area:** The subject parcel is located in the SMA; no portion of the proposed project is located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** Zone AE and Zone X

Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area

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 tsunامي, 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 \$100,000 for the construction of the proposed second single-family dwelling 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-19-000416** is hereby approved to:

1. Construct a second single-family dwelling on the subject parcel as described above.

Conditions of Approval

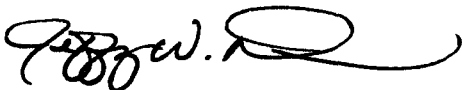
The Planning Director has approved **SMA Minor Permit No. SMM-19-000416**, **subject to the following conditions:**

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 Building Permit(s) shall be secured within two (2) years from the date of approval of this permit.
4. Any increase in the proposed floor area will require another SMA Use Permit Assessment Application be submitted to this office. In addition, any construction, enlargement or reconstruction of the first single family residence that increases the gross floor area to greater than 7,500 square feet will require an SMA (Major) Use permit.
5. The applicant, its successors or assigns shall be responsible for complying with all conditions set forth in the *Pauoa Beach Owners Association Design and Construction Requirements*.
6. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
7. Best Management Practices (BMP) discussed in the application and outlined in the *Pauoa Beach Owners Association Design and Construction Requirements* must be followed to ensure the grounds surrounding the project area are kept clear of any rubbish or debris, and to minimize impacts to natural and cultural resources.
8. 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.

9. 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.
10. 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).
11. 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 Alex J. Roy at (808) 961-8140 or via email at alex.roy@hawaiicounty.gov

APPROVED:



MICHAEL YEE
Planning Director

7/24/19

Date