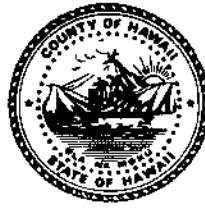


Mitchell D. Roth
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County of Hawai'i

PLANNING DEPARTMENT

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Deputy Director

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April 26, 2021

Land Planning Hawaii, LLC
194 Wīwoole St.
Hilo, HI 96720

Dear Mr. Pipan.

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application (SAA-21-001805)
Special Management Area (SMA) Minor Permit (SMM-21-000447)
Applicant(s): Jackrabbit, LLC
Landowner(s): Jackrabbit, LLC
Project: Single-Family Residence and Related Improvements
Location: Wailea Beach Lots, Puakō, South Kohala District, Hawai'i
Tax Map Key: (3) 6-6-002:027-0003 (Unit C)

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (SAA-21-001805), submitted to this office on January 26, 2021. We apologize for the lengthy review and appreciate your patience. The subject parcel consists of three (3) CPRs: 0001 (Unit A), 0002 (Unit B) and 0003 (Unit C). Unit C is the subject of this approval. Combined the parcel is approximately 1.29 acres and is zoned Single-Family Residential-15,000 square feet (RS-15) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as "Open" (O) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

Proposed Use:

The applicant is proposing to construct a single-family residence and related development on the subject parcel. The proposed project includes:

- Construction of a two (2) story, two (2) bedroom and one (1) bathroom single-family dwelling that includes a lanai, garage, potable water well and septic system totaling an area of 6,013 square feet.
- An unpermitted shade structure located within the project CPR 0003 (Unit C) will be completely removed prior to development of the residence.

A review of our files indicates that there is an existing single-family residence on CPR 0001 (Unit A) which is not owned by the applicant. The structure was permitted and built in 1989 and consists of two (2) bedrooms and two (2) bathrooms. CPR 0002 (Unit B), which is also owned by the applicant, is currently undeveloped other than a seawall, minor landscaping and an unimproved driveway.

Shoreline Area Determination:

The parcel is within the Special Management Area (SMA), as well as within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS). Based on the proposed project's distance from the "shoreline" (approximately 200 feet) the Director has determined the requirement to submit a current certified shoreline survey is waived.

On September 21, 1987, the Planning Commission approved a Shoreline Setback Variance Permit (No. 638) to construct a retaining wall and related improvements within the 40-foot shoreline setback area on the subject parcel. The seawall was established as the certified shoreline of the property on September 27, 1989.

Special Management Area Determination:

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 definition of "Development" can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste, and*
- *Construction, reconstruction, demolition, or alteration of the size of any structure*

We find that the proposed action is not exempt from the definition of "development", however, it has been determined the proposed project 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-21-000447, 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.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any further development not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

Land Planning Hawaii, LLC

April 26, 2021

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If you have any questions, please contact Alex J Roy of this office at (808) 961-8140 or via email at alex.roy@hawaiicounty.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey W. Darrow", with a long horizontal flourish extending to the right.

JEFFREY W. DARROW
Deputy Planning Director

AJR klt

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Enclosures SMM-21-000447

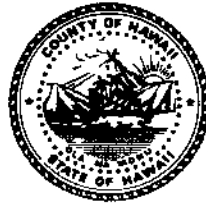
cc w/Encls.: Kona Planning

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

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. 21-000447

Project: Single Family Residence and Related Improvements
Applicant(s): Jackrabbit, LLC
Owner(s): Jackrabbit, LLC
TMK(s): (3) 6-6-002:027-0003 (Unit C)
Location: Wailea Beach Lots, Puakō, South Kohala District, Hawai'i
Land Area: 1.29 acres

Applicant's Request

1. **Project Description:** The applicant is proposing to construct a single-family residence and related development on the subject parcel. The proposed project includes:
 - Construction of a two (2) story, two (2) bedroom and one (1) bathroom single-family dwelling that includes a lanai, garage, potable water well and septic system totaling an area of 6,013 square feet.
 - An unpermitted shade structure located within the project CPR (0003) will be completely removed prior to development of the residence.
2. **Purpose of Project:** The objective is to obtain a SMA Minor Permit to build a single-family dwelling on the subject parcel.
3. **Project Valuation:** \$480,000
4. **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): "*Placement or erection of any solid material on any gaseous, liquid, solid or thermal waste*", and "*Grading, removing, dredging, mining, or extraction of any materials.*" are defined as "development." Therefore, the proposed single-family dwelling and associated appurtenances are considered "development" and require a SMA Minor Permit

State and County Plans

5. **State Land Use District:** The parcel is designated within the Urban District by the State Land Use Commission.
6. **General Plan:** The parcel is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcel is currently zoned Single-Family Residential 15,000 square feet (RS-15).
8. **Special Management Area:** The subject parcel is located in the SMA and the project parcel is located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
9. **Flood Zone:** 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 any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.
- ☒ - The proposed development is consistent with the Hawai'i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), 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, including reefs, beaches, and coastal dunes, 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 coastal hazards
- ☒ 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 and coastal dunes for: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and Coordinate and fund beach management and protection.
- ☒ 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 and Coastal Dune Protection
- ☒ Marine and Coastal 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 valuation of \$480,000 for the single-family dwelling and associated appurtenances 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-21-000447** is hereby approved to:

1. Construct a two (2) story, two (2) bedroom and one (1) bathroom single-family dwelling that includes a lanai, garage, potable water well and septic system totaling an area of 6,013 square feet.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. SMM-21-000447**, subject to the following conditions:

1. The applicant, its successors or assigns (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. Applicant shall submit a written estimate(s) provided by a contractor(s) licensed to do business in the State of Hawaii for all construction activities required prior to issuance of a building permit to confirm that the total project valuation (exclusive of land costs) is

not in excess of \$500,000. In the event the total valuation of the proposed development does exceed \$500,000, this Special Management Area Minor Permit shall be deemed null and void and the applicant shall be required to secure approval of a Special Management Area (Major) Use Permit from the Planning Commission.

4. A Building Permit for the proposed single-family dwelling and related improvements shall be issued within two (2) years from the date of this permit.
5. Removal of all unauthorized or unpermitted structures shall be completed prior to construction of the new single-family dwelling.
6. The applicant will not conduct any activities within the shoreline setback area without first obtaining a shoreline setback variance
7. The applicant will ensure that approval from the County of Hawai'i Dept. of Public Works is granted for all ground disturbing activities
8. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
9. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
10. 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
11. 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).

12 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:



JEFFREY W DARROW
Deputy Planning Director

4/26/21

Date