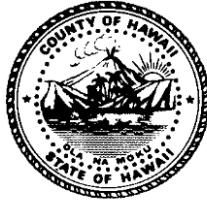


Mitchell D. Roth
Mayor

Lee E. Lord
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

May 23, 2022

Mark Krzyzanowski
88-1491 Awapuhi Place
Captain Cook, HI 96704

Dear Mr. Krzyzanowski:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000049)
Special Management Area (SMA) Minor Use Permit
(PL-SMM-2022-000014)
Applicant(s): Frederick Carl Turshman & Lesley Burks Vaninni
Landowner(s): Frederick Carl Turshman & Lesley Burks Vaninni
Project: Single-Family Residence and Related Improvements
TMK: (3) 8-2-005:011, Waipunaula-Kalamakowali, South Kona, Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000049), received by this office on January 21, 2022; additional information was received on March 31, 2022, and April 12, 2022. The 13,068 square foot subject parcel is zoned Single-Family Residential-10,000 square feet (RS-10) 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.

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). A Shoreline Certification dated August 25, 2021, was submitted with the application; all work will be sited outside the minimum 40-foot shoreline setback area. Staff notes there is no deeded public access through the subject parcel; however, the applicant will not restrict lateral public access along the shoreline.

Special Management Area Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1) relating to Special Management Area (SMA), "Grading, removing, dredging, mining, or extraction of any materials" and, "construction, reconstruction, demolition or alteration of the size of any structure" is defined as "development." Therefore, the proposed construction of a

single-family residence and related improvements that is located on a shoreline parcel is considered “development” and requires a review against the Special Management Area rules and regulations. Our review has resulted in the issuance of an SMA Minor Permit because the total valuation of the proposed project is under \$500,000 and will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA.

Hawai‘i Revised Statutes (HRS) Ch. 343 Determination:

In accordance with Hawai‘i Administrative Rules (HAR) Section 11-200.1-15 and HRS Chapter 343, the proposed project to construct a single-family residence and associated development on the subject parcel which is within the Special Management Area and the Kealahou Bay Historic District is considered an exempt action pursuant to HAR 11-200.1-15(c)(3)(a): *Single Family Residences less than 3,500 square feet*. Therefore, an Environmental Assessment is not required for this proposed project.

Chapter 6E-42 Historic Preservation Review:

An agent for the applicant conducted an archaeological field inspection (Tam Sing, November 2021) on November 20, 2021, for the proposed project parcel. The field inspection report indicates that no historic properties were identified within the project area and the survey determined the entirety of the project area was previously mechanically disturbed. Outside of the project area, a historic well was identified in the 40-foot shoreline setback area. Although the historic well will not be impacted, orange fencing or yellow caution tape will be placed around it during the construction activities. The report also indicates that the project area consists of a thin layer of soil atop of bedrock. Based on the results of the field inspection report, the SHPD determination is “*No historic properties affected*” for the proposed project. Pursuant to HAR §13-284-7(e), the permit issuance process may proceed.

Therefore, pursuant to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), Special Management Area Minor Permit No. PL-SMM-2022-000014 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 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,



Zendo Kern (May 23, 2022 11:09 HST)

ZENDO KERN
Planning Director

AJR:

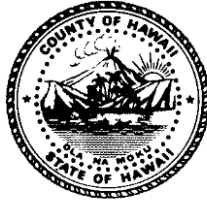
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Attached: SMA Minor Permit No. PL-SMM-2022-000014

Mitchell D. Roth
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West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
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Special Management Area Minor Permit No. PL-SMM-2022-000014

Project: Single Family Residence and Related Improvements
Applicant: Frederick Carl Turshman & Lesley Burks Vaninni
Location: Waipunaula-Kalamakowali, South Kona District, Island of Hawai'i
TMK: (3) 8-2-005:011
Land Area: 13,068 square feet

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 2,799 square-foot single-family residence with garage, lānais, and its related utilities including an Individual Wastewater System (IWS), in accordance with Department of Health rules and regulations, set mauka of the proposed residence.
- A short driveway from Pu'uhonua Road to the residence will also be constructed for access. A review of our files indicates that there is no existing development, structures or uses on the subject parcel.

The property is vegetated with common non-native plants as well as kamani trees and coconut palm trees. Construction will include the excavation of approximately 70 cubic yards for foundation/footings and an Individual Wastewater System (IWS).

2. Purpose of Project: To construct a single-family residence on the parcel.

3. Project Valuation: \$410,000.

4. Determination: According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(B) and (E) relating to Special Management Area (SMA): "*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” is defined as “development.” Therefore, the proposed construction of a single-family residence and related improvements to be located on the subject shoreline parcel is considered “development” and requires a review against the Special Management Area rules and regulations. Our review has resulted in the issuance of 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) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcel is currently zoned Single-Family Residential-10,000 square feet (RS-10).
4. **Special Management Area:** The subject parcel is located in the SMA as well as located within the “shoreline area” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).
5. **Flood Zone:** X/XS/AEF/VE.

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 objective(s) 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, 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: 1) public use and recreation; 2) the benefit of coastal ecosystems; 3) use as a natural buffer against coastal hazards; and 4) 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. *Pursuant to Hawai‘i Administrative Rules Section 11-200.1-15(c)(3)(a), the proposed project is considered an exempt action and therefore an Environmental Assessment is not required for the proposed project.*

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 \$410,000 does not exceed \$500,000.

Approved Uses, Activities and Operations

Pursuant to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), **Special Management Area Minor Permit No. PL-SMM-2022-000014** is hereby approved for the construction of a single-family residence and related improvements on the above referenced property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000014**, subject to the following 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 permit, no further work is permitted under this approval.
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. The Planning Director may require a shoreline survey certified by the Chair of the Board of Land and Natural Resources for any future construction or activity.
6. The certified shoreline dated August 25, 2021 and the 40-foot shoreline setback line must be delineated on the site/plot plan submitted with the Building Permit application.
7. Landscaping and irrigation shall be contained and maintained within the property lines of the subject parcel and shall under no circumstances extend seaward of the shoreline as depicted on the certified shoreline survey for the parcel dated August 25, 2021. No vegetation removal, land alteration or construction shall occur between the shoreline and shoreline setback line unless approved by this permit.
8. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
9. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
10. The Applicant shall ensure that excessive siltation and turbidity are contained or otherwise minimized through the use of silt containment devices or barriers, or other approved Best Management Practices as approved by the Planning Director.
11. The construction (and/or erosion control) barrier must be shown and properly noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement, *"The construction (and/or erosion control) barrier must be erected prior to any land altering or construction activities and must remain in place until final inspection by Department of Public Works (or Planning Department)."*

12. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission
13. The method of sewage disposal shall meet with the requirements of the Department of Health.
14. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights 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.
15. Prior to any land altering activities, the applicant shall install orange or yellow flagging around the well site located within the shoreline setback area as required by SHPD in their letter dated March 30, 2022.
16. 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.
17. The Applicant shall include the location of all preserves, sites, preservation buffers or similar protection strategies on the site plan and all future maps submitted to the County in conjunction with any application reviews or approval requests.
18. Any further development, including but not limited to, the construction of structures or improvements not included in this permit shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
19. That in issuing this permit, the Department has relied on the information and data that the Applicant has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be

modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.

20. Conditions of this permit shall be included on the title sheet of the proposed project's Building Permit application plan submittal to ensure the Applicant, and agents for the Applicant, comply with all conditions of approval.

21. 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).

22. The Planning Director shall initiate procedures to revoke this permit should any of the conditions not be met or substantially complied with in a timely fashion.

If you have questions regarding this document, please feel free to contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

APPROVED:

Zendo Kern
Zendo Kern (May 23, 2022 11:09 HST)

ZENDO KERN
Planning Director

May 23, 2022

Date