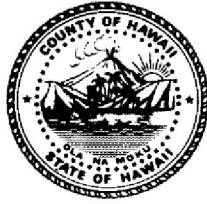


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
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Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

September 2, 2022

Mark Krzyzanowski
88-1491 Awapuhi Place
Captain Cook, HI 96704
Email: mark@mkplanninghawaii.com

Dear Mr. Krzyzanowski:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000078)
Special Management Area (SMA) Minor Permit
(PL-SMM-2022-000024)
Applicant: Mark Krzyzanowski
Landowner: Alia Legaux
Request: Single-Family Residence and Related Improvements
Tax Map Key: (3) 8-8-005:091, Pāpā, South Kona, Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (PL-SAA-22-000078) received by this office on May 18, 2022; additional information was submitted to this office on June 21, 2022, and August 22, 2022. The applicant is requesting to construct a single-family residence with related improvements. The valuation of the proposed project is \$475,000 as reported by the applicant.

The 7,803-square-foot subject parcel is zoned Agricultural-5 acres (A-5a) by the County and designated as Agricultural 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. The entire subject parcel is located within the Special Management Area (SMA) and is considered a "shoreline parcel" 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 January 6, 2022, by the Chairperson of the Board of Land and Natural Resources.

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-44 and Planning Commission (PC) Rule No. 9-4(e)(1)(E), "*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 a 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.

In view of the above and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. PL-SMM-2022-000024 is hereby issued for the SMA approval of the construction of a single family residence and related improvements. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions regarding this document, please contact Tracie-Lee Camero of this office at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiicounty.gov.

Sincerely,


Zendo Kern (Sep 7, 2022 08:40 HST)

ZENDO KERN
Planning Director

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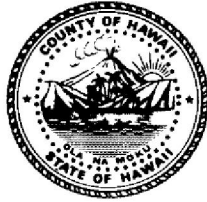
Enclosure: SMM No. PL-SMM-2022-000024

Cc (via email): Shichao Li, State OPSD
Lisa E. Webster, State OPSD
GIS Section

Mitchell D. Roth
Mayor

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Special Management Area Minor Permit No. PL-SMM-2022-000024

Project: Single-Family Residence and Related Improvements
Applicant(s): Mark Krzyzanowski
Landowner(s): Alia Legaux
TMK(s): (3) 8-8-005:091
Location: South Kona District, Island of Hawai'i
Land Area: 7,803 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. This Special Management Area (SMA) Minor Use Permit is being pursued for the following activities:

- Construction of a 2,440 sf., three (3) bedroom and two and a half (2 ½) bath single-family residence with a porte cochere and concrete driveway.
- Water is not available to the site; therefore, the residence will be connected to underground water cistern.
- An Individual Wastewater System (IWS) will be installed on the property in accordance with Department of Health rules and regulations.

There is minimal vegetation on the subject parcel; the area has been previously graded, and no other development is proposed.

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

3. Project Valuation: \$475,000.

4. Determination: According to Hawai'i Revised Statutes (HRS) Chapter 205A-44 and Planning Commission (PC) Rule No. 9-4(e)(1)(E), "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 a 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.

State and County Plans

5. **State Land Use District:** The subject parcel is within the State Land Use Agricultural District.
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 as both Agricultural-5 acres (A-5a).
8. **Special Management Area:** The project parcel is located within the Special Management Area (SMA); however, no portion of the parcel is located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS).
9. **Flood Zone:** Zone X/VE (Staff notes VE zone is makai of certified shoreline).

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 estimated project cost of \$475,000 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. PL-SMM-2022-000024** 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-2022-000024**, 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. A building permit for the proposed single-family dwelling and related improvements shall be secured from the Department of Public Works- Building Division within two (2) years from the date of this letter.
4. The 40-foot shoreline setback line as shown on the certified shoreline map dated January 6, 2022, must be delineated on the site/plot plan submitted with the Building Permit application.
5. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the entire length of the 40-foot shoreline setback line prior to the commencement of land altering and construction activities and shall remain in place until final inspection has been granted by the Building Division for the new single-family dwelling. 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).”*
6. No land alteration, grubbing, landscaping/irrigation or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur within forty (40) feet of the certified shoreline 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.
7. The Applicant shall not, at any time, impede or otherwise restrict lateral public access along the shoreline fronting the subject parcel.
8. The method of sewage disposal shall meet with the requirements of the Department of Health. The individual wastewater system shall be located mauka of the proposed dwelling.
9. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.
10. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.
11. 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.

12. 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.
13. 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.
14. 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, after issuance of this permit, such information and data prove to be false, incomplete or inaccurate (i.e., valuation of development), this permit may be modified, suspended, or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
15. The Applicant has submitted a written estimate(s) provided by a contractor(s) licensed to do business in the State of Hawaii for all construction activities to confirm that the total project valuation is not in excess of \$500,000. In the event the total valuation of the (construction of a single-family residence and related improvements) 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.
16. 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 any questions, please feel free to contact Tracie-Lee Camero at (808) 961-8166 or via email at Tracie-Lee.Camero@hawaiicounty.gov.

APPROVED:

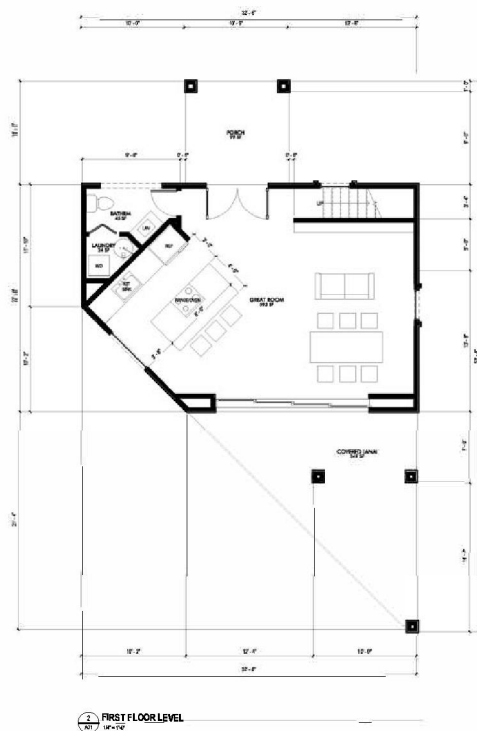
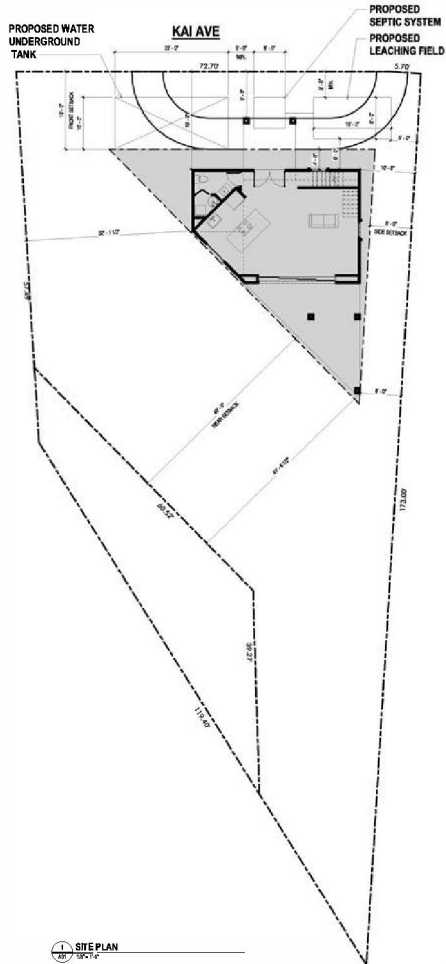
Zendo Kern
Zendo Kern (Sep 7, 2022 08:40 HST)

ZENDO KERN
Planning Director

September 07, 2022

Date

Enclosure: Exhibit A - Site Plan



Planning Dept.
Exhibit **A**

SITE PLAN & FLOOR PLAN	
NAME	DATE
DESCRIPTION	DATE
<p>ALL PLANS AND SPECIFICATIONS ARE SUBJECT TO THE DISCRETION OF THE PLANNING DEPARTMENT. THE PLANNING DEPARTMENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE SUBMITTER. THE SUBMITTER IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.</p>	
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