

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

TIELI WANG
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2024-000058)

Upon careful review of the applicant's request against the guidelines for granting of a Special Management Area Use Permit, the Planning Director recommends **that this request to construct three (3), three-story, single-family dwellings and related improvements; one single-family dwelling will be constructed on each parcel totaling 24,250 square feet of land situated within the Special Management Area be approved by the Planning Commission.** Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This approval recommendation is based on the following:

The applicant requests a Special Management Area Use Permit to develop the following improvements:

Parcel 44:

First level to consist of parking only, second and third levels to consist of living areas and balconies. Residence to contain five (5) bedrooms and twelve (12) bathrooms. Total Parking area of three thousand and four (3004) square feet. Total living area of six thousand and eight (6008) square feet. Balcony area of three hundred fifty two (352) square feet. Total area of nine thousand three hundred sixty four (9364) square feet.

Parcel 45 and Parcel 46 (same design, one for each parcel):

First level to consist of parking only, second and third levels to consist of living areas and balconies. Residence to contain five (5) bedrooms and eight (8) bathrooms. Total Parking area of two thousand two hundred and eighty (2280) square feet. Total living area of four thousand five hundred and sixty (4560) square feet. Balcony area of two hundred and forty (240) square feet. Total area of seven thousand and eighty (7080) square feet.

The construction of the three residences is similar. All will be built on concrete slab with concrete support walls at first floor, the remainder of the construction will be standard wood framing. Roof construction will be wood framing with metal roofing.

Height at roof midpoints will be approximately thirty five (35) feet, and will not exceed a maximum of forty (45) feet. The closest of the three parcels (Parcel 44) is approximately two hundred and fifty (250) feet from the shoreline and separated from shoreline by Onekahakaha Beach Park. The other two parcels are mauka of Parcel 44 and approximately three hundred and eighty (380) feet from the shoreline. The residences will respect parcel setbacks of twenty (20) foot front and rear setbacks and twelve (12) foot side setbacks as required for three stories. A septic system for each residence will be installed on its lot as approved by the DOH.

The grounds for approving development within the Special Management Area are based on HRS, Chapter 205A-26(2) (Special Management Area guidelines) and Rule 9-11(e) of the Planning Commission Rules of Practice and Procedure. Planning Commission Rule 9-11(e) states that the Authority (Planning Commission) may permit the proposed development only upon finding that:

1. The development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety or compelling public interest;
2. The development is consistent with the objectives and policies and the Special Management Area guidelines as provided by Chapter 205A, HRS;
3. The development is consistent with the General Plan, Community Plan, Zoning Code and other applicable ordinances;
4. The development will, to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist, including specific factual findings regarding:
 - a. The identity and scope of valued cultural historical or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
 - b. The extent to which those resources including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action;and

- c. The feasible action, if any, to be taken by the Authority to reasonably protect any valued cultural, historical or natural resources including any existing traditional and customary native Hawaii rights.

In review of the SMA guidelines as listed under HRS 205A-26(2)(A), the proposed development will not have any substantial 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. In considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action on the Special Management Area. Such adverse effects 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 eliminate planning options.

The proposed project did not meet the criteria in State law for the requirement of an environmental assessment or environmental impact statement. While the subject parcels are located within the Special Management Area, no work is proposed within the shoreline setback area. Additionally, no work is proposed within the State Right-of-Way (ROW) and as such, no HRS 343 trigger was identified.

The Project is set back from the coastline by a minimum of 250 feet to the nearest development, which will be the residence and septic system on Parcel 44. This project will not affect beach processes, artificially fix the shoreline or interfere with public access and views to and along the shoreline. Site specific Best Management Practices (“BMPs”) will be developed by the contractor in order to mitigate any potential for project-related impacts to the nearshore marine environments, including, but not limited to the use of construction and silt barriers.

In review of the SMA guidelines as listed under HRS 205A, the proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.

The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS) and Special Management Area Rules and Regulations of the County of Hawai'i, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. The objectives and policies of Chapter 205A, HRS include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas.

Coastal Recreational Resources: Only one of the subject parcels (Parcel 44) is located adjacent to the Onekahakaha Beach Park which is frequently used for recreational activities. The remaining two (2) parcels are located mauka of Parcel 44 and Machida Lane, with the development more than 200 feet from the shoreline. The proposed project will not interfere with Park activities or impact on the shoreline access in this area.

Historic and Cultural Resources: Although no commissioned archaeological survey of the site was conducted, it is highly unlikely that any historic sites would be found on the property as the parcel has been previously developed and cleared in the past. Historic and cultural uses in this area include the beach park located adjacent to the developed subdivision. The proposed project will have no affect on park uses and activities and only borders the parking lot for the park.

Scenic and Open Space Resources: Scenic views of the ocean from Onekahakaha Beach Park will not be impacted by the proposed development. The proposed development will be in concert with the existing single-family dwellings and related improvements of the existing subdivision.

Coastal Ecosystems, Marine Resources, Beaches: The proposed project, located approximately 200-300 feet from the shoreline, will be developed in accordance with the construction Best Management Practices to minimize adverse impacts to air pollution, sedimentation, erosion, control stormwater runoff, and wastewater management. A DOH approved IWS will be installed, one for each dwelling.

Coastal Hazards: The project site is not a shoreline parcel; however, it is located adjacent to a beach park, and within the Tsunami Evacuation Zone. A Civil Defense siren is located approximately 850 feet southeast of the project area. Evacuation would be via Kalanianaʻole Highway.

Investigation of valued resources: Previous approvals for land development on this parcel have not revealed any historic resources on the subject parcel. Staff notes that this property has undergone ground disturbance and clearing of the parcel during the prior development and land management activities.

The valuable cultural, historical, and natural resources found in the area:

The primary resource in the immediate area is the Onekahakaha Beach Park which is located adjacent to the subdivision which holds the subject parcels. The applicant states that no valuable cultural or historic resources exist on the parcel due to its small size and previous impacts. The proposed project will not impact or affect the use of Beach Park or surrounding shoreline area.

Possible adverse effects or impairment of valued resources: There is no evidence that the flora in the area is particularly desired or used for cultural practices as the site has a history of disturbance and development. The vegetation of the site is primarily non-native species and is overgrown even after significant clearing some time ago. The project will not impact access to the park, or any use visitors to the park may enjoy.

Feasible actions to protect native Hawaiian rights: The proposed development will not restrict access to, and the use of natural resources at the Park and to ensure preservation, a condition of approval has also been added to protect any unidentified cultural, historical, and natural resources in the event any are encountered during construction. To the extent that traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable government requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance

with Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above findings, the proposed development will not have substantial adverse impacts on the environment, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) (Applicant) shall be responsible for complying with all of the 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. Construction and operation of each of the three (3) single-family dwellings shall be conducted in a manner that is substantially representative of plans and details as contained within the Special Management Area Use Permit application dated May 3, 2024, and representations made to the Windward Planning Commission.
4. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.
5. The Applicant shall comply with Chapter 27 - Flood Control, of the Hawai'i County Code.
6. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
7. The Applicant shall not, at any time, impede or otherwise restrict public access to the shoreline at Onekahakaha Beach Park located adjacent to the project area.
8. 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.

9. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
10. The Applicant will ensure that each of the proposed dwellings obtain approval from the State Department of Health for three (3) separate Individual Wastewater Systems prior to occupancy.
11. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
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, 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. An initial extension of time for the performance of conditions within this permit 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 General Plan or Zoning Code.
 - C. The granting of the time extension would not be contrary to the original reasons for the granting of this permit.

- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.
14. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.