

COUNTY OF HAWAI'I PLANNING DEPARTMENT
BACKGROUND REPORT

VANESSA PEARSON
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2024-000062)
USE PERMIT APPLICATION
(PL-USE-2024-000027)

VAMESSA PEARSON has submitted an application for a Special Management Area Use Permit to construct a two (2) story, 5,200 square foot single-family residence with six bedrooms and six bathrooms, and related improvements on a 13,781 square foot shoreline parcel within the Special Management Area. Additionally, the application has also submitted an application for a Use Permit to operate a 5-bedroom bed and breakfast establishment within the proposed dwelling located in the Single-Family Residential – 15,000 square foot (RS-15) zoning district. The subject property is located in Kona Bay Estates on the makai side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street, Kailua Airport, North Kona, Hawai'i, TMK: (3) 7-5-005:040.

PROPOSED DEVELOPMENT

1. **Request:** The applicant wishes to develop a two-story, approximately 5,200-square foot residence with six (6) bedrooms and six (6) bathrooms, an office, a kitchen, dining, living room, rumpus room, elevator and laundry room. Additionally, the dwelling will also have approximately 3,100 square feet of accessory space including lanais, storage and a two-car garage as well as a swimming pool and spa which will be located on the top floor. The dwelling is proposed to be 35 feet in height and will connect to both County sewer and County water. A USE permit application is being submitted concurrently with this application to operate the dwelling as a bed and breakfast. If approved, bedrooms 1-5, located on the lower level, will be used to host guests, while bedroom 6, located on the upper level, will serve as the caretaker's quarters. Guests will be required to park within the six (6) designated on-site parking stalls identified in the application. Four (4) stalls are located in the driveway and two (2) stalls are located in the garage. The bed and

breakfast will be operated by the property caretaker who will reside on-site in the bedroom indicated on the floor plans (**Planning Department Exhibit 1 – SMA Use Permit Application dated May 28, 2024, and Planning Department Exhibit 2 – USE Permit Application dated May 28, 2024**)

2. **Project Objectives:** The purpose of the project is to construct and operate a bed and breakfast establishment on the subject parcel.
3. **Cost/Time of Project:** The current estimated cost of the improvements is \$4,000,000. The project would be initiated after the granting of all necessary permits.
4. **Landowner: Vanessa S. Pearson, Kailua-Kona, HI**

BACKGROUND INFORMATION

5. **Special Management Area (SMA):** The subject property contains a legal seawall, which serves as the certified shoreline and was built in accordance with SMA permitting that established the Kona Bay Estates subdivision, SMA DO 83-199. The shoreline is demarcated by the makai face of the existing CRM seawall.
6. **Chapter 343, HRS:** The proposed improvements are not subject to the requirements of Chapter 343, Hawai‘i Revised Statutes, regarding Environmental Impact Statements.

STATE AND COUNTY PLANS

7. **State Land Use Designation:** Urban
8. **General Plan LUPAG MAP:** Open (ope)
9. **County Zoning:** Single-Family Residential, 15,000 square feet (RS-15)
10. **Kona Community Development Plan (SKCDP):** The Kona Community Development Plan was adopted by the Hawai‘i County Council by Ordinance No. 19-91 on September 18, 2019.
11. **Special Management Area (SMA):** The project is located within the Special Management Area and therefore, the proposed development is subject to the SMA review.

DESCRIPTION OF PROJECT AREAS AND SURROUNDING AREA

12. **Subject Project Area:** The subject property is located in Kona Bay Estates on the makai side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street. The site is to the east of the Old Kona Airport State Park. The

subject parcel is zoned Residential – 15,000 square feet (RS-15) and was created by Subdivision 433, approved on April 23, 1951, and modified by Subdivision 5059-c, approved on January 20, 1984. There are no existing structures on the property and minimal vegetation. The parcel is subject to an approved public access plan for the Kona Bay Estates subdivision, which consists of several easements and follows the existing seawall. Public access along the shoreline is also protected under HRS Chapter 115, which is a right independent of the County-approved public access plan for the subdivision. The parcel has no discernible slope and sits approximately ten (10) to twenty (20) feet above sea level.

13. **Surrounding Land Zoning/Uses:** Kona Bay Estates is primarily developed with single-family residences within the RS-15 zoning designation. Mauka of the subdivision is the old Kona Airport property which is zoned ML-20.
14. **Flood Insurance Rate Map (FIRM):** The project parcel is located within the following FEMA flood zones: Flood Zone AE: Areas subject to a 1% annual chance of inundation by a 100-year flood event. Flood Zone VE: Areas subject to a 1% annual chance of inundation by a 100-year flood event with additional hazards associated with storm-induced wave action. Flood Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible (seawall).
15. **Sea Level Rise:** According to the State of Hawaii Sea Level Rise Viewer (SLR-Xa), the coastal portion of the subject parcel is within the 3.2 ft. Sea Level Rise Exposure Area and the 3.2 ft. Passive Flooding area.
16. **Flora/Fauna Resources:** The applicant did not complete a “biotic” survey of the subject parcel; however, they do not believe that any rare, threatened, or endangered floral or faunal resources are likely to be found within the project parcel. The project site has minimal vegetation, with the only notable plant being naupaka on the corner of the parcel. There are also a few scattered coconut palms present on the site. All species located on the parcel are considered non-native or common native species (i.e., naupaka), none of which require protection or preservation. The site is not known to be a habitat for any rare or endangered faunal species; however, the Hawaiian Hawk and Hawaiian Owl may be on site. Along the shoreline, and outside the property boundaries the Hawaiian

- Green Sea Turtle, and Hawaiian Monk Seal that could be found within the waters of Puakō, however, due to the lack of beach area, it is unlikely they would frequent the area.
17. **Archaeological Resources:** Although no archaeological survey of the site was conducted for this application, it is highly unlikely that any historic sites would be found as the property has been completed graded and developed as a subdivision for some time.
 18. **Cultural/Historic Resources:** The shoreline area located adjacent to the subject parcel is currently used for coastal gathering and fishing by native Hawaiians, however, use of the project site itself for traditional and customary rights is unknown. The parcel has been cleared/graded, and therefore it would be unlikely that the site would serve and traditional purpose or use. The proposed project will not interfere, alter, or block shoreline access in this area and the applicant will ensure that vegetation does not grow from the subject property into the shoreline access located makai of the parcel.
 19. **Scenic and Open Space Resources:** The construction of a new single-family dwelling is anticipated to have minimal impacts on scenic views. Impacts to scenic resources are not pronounced since shoreline setbacks will be observed and views to the shoreline from the Old Airport Park and public highways are already blocked by large trees.
 20. **Recreation/Public Access:** A public pedestrian shoreline access pathway is located on the makai boundary of the subject parcel and runs the length of the Kona Bay Estates subdivision. According to the County's Shoreline Access website, this coastline is used for hiking, swimming, fishing, kayaking, and surfing. The existing shoreline public access as well as the lateral shoreline access located makai of the project site will not be impacted by the proposed activities.

PUBLIC UTILITIES AND SERVICES

21. **Access:** The subject parcel is accessible via Kona Bay Drive approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street. Kona Bay Drive is a private road, which begins at Kuakini Highway and terminates roughly 550 feet to the west of the subject property.
22. **Water:** Potable water is provided to the project site via an existing County of Hawaii Department of Water Supply (DWS) water meter.

23. **Wastewater:** Wastewater from the proposed project will be handled through the County sewer system via an existing utility connection.
24. **Other Essential Utilities and Services:** All other utilities including electrical, telephone and cable services are available to the site.

AGENCIES' COMMENTS

25. **Department of Public Works - Engineering:** (Planning Department Exhibit 3 – September 9, 2024, Memo, and Exhibit 4 - September 9, 2024, Memo).
26. **State Department of Health:** (Planning Department Exhibit 5 – July 16, 2024, Memo, and Exhibit 6 – July 16, 2024, Memo).
27. **Department of Public Works - Building:** (Planning Department Exhibit 7 – July 24, 2024, Memo).
28. **Department of Water Supply:** (Planning Department Exhibit 8 - August 15, 2024, Memo, and Exhibit 9 - August 15, 2024, Memo).
29. **Department of Land and Natural Resources – Engineering Division, Division of Forestry and Wildlife:** (Planning Department Exhibit 10 – August 9, 2024).

AGENCIES - NO COMMENT

30. **Hawaii Police Department.**

AGENCIES - NO RESPONSE

31. **Fire Department; DLNR – State Historic Preservation Division; State Office of Planning.**

PUBLIC COMMENTS

32. The Department has not received any comments or objections from the general public or adjacent landowners on the subject application.

SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION

COUNTY OF HAWAII PLANNING COMMISSION

(Type or legibly print the requested information)

APPLICANT(S): Vanessa Pearson

APPLICANT'S SIGNATURE:  DATE: May 28 2024 19:30 PDT

ADDRESS: 75-5446 Kona Bay Drive, Kailua-Kona, HI 96740

LIST APPLICANT'S INTEREST (if not owner): _____

PHONE: (Bus.) (616) 990-0067 (Res.) _____ (Email) vanessa.pearson@kdvtrading.com.au

REQUEST: To construct a single-family dwelling and associated improvements and operate it as a
bed and breakfast

TAXMAP KEY: (3) 7-5-005: 040 ZONING: RS-15

SIZE OF PROPERTY / AREA OF REQUESTED USE: 16,972 sf / 16,972 sf

LANDOWNER(S): Vanessa Pearson

FEE SIMPLE LANDOWNER(S) WRITTEN AUTHORIZATION

(may be provided by letter with the below statement included):

DATE: _____

 DATE: May 28 2024 19:30
PDT

AGENT: Land Planning Hawaii LLC

AGENT ADDRESS: 194 Wiwoole St, Hilo, HI 96720

PHONE: (Bus.) 808 333-3393 (Res.) _____ (Email) info@landplanninghawaii.com

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: Agent COPIES: Applicant

Planning Dept.
Exhibit <u>1</u>

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
VANESSA PEARSON
KONA BAY ESTATES, NORTH KONA, HAWAI'I
TMK (3) 7-5-005: 040**

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I. Background Information

A. EIS

The proposed project was evaluated with respect to Hawai‘i Revised Statutes Chapter 343-5 and no triggers were identified. Therefore, further environmental review should not be required beyond what is detailed in this report.

B. Project Description, Objectives, and Reasons

Vanessa Pearson (“applicant”) is requesting a Special Management Area Use Permit to construct a single-family dwelling and associated improvements on a 16,972 square foot parcel of land located within a Special Management Area (SMA). The subject property is identified by TMK: (3) 7-5-005: 040 and is located on the *makai* side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street (**Figure 1**).

The property is vacant of any structures. According to County records, Building Permit No. BK2019-00301 was issued to a previous landowner in 2018 to permit the construction of a new 2-story dwelling, however work was never initiated, and the permit has since expired. The applicant would like to build a new single-family dwelling. A Use Permit is being submitted concurrently with this application to allow the home to operate as a Bed and Breakfast with an on-site operator.

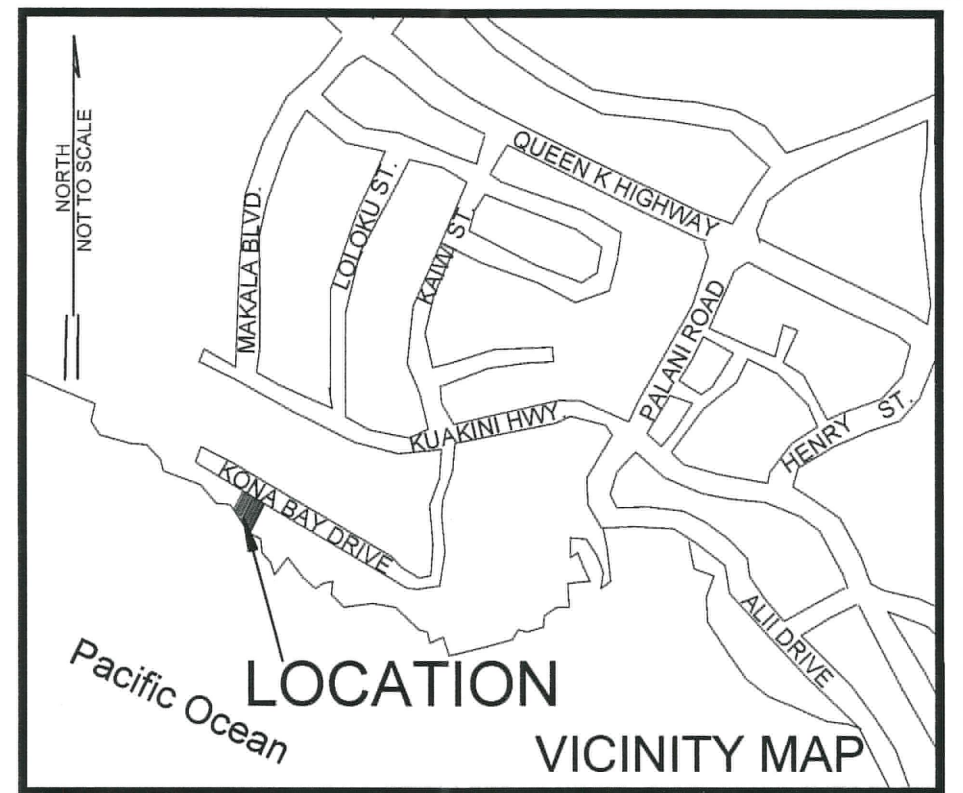
The subject property contains a legal seawall, which serves as the certified shoreline (**Figure 2**) built in accordance with SMA permitting that established the Kona Bay Estates subdivision, SMA DO 83-199 (**Exhibit A**). The shoreline is demarcated by the *makai* face of the existing CRM seawall. Pursuant to Hawaii Revised Statutes, Chapter 13-222-11, if the location of the certified shoreline is fixed by an artificial structure that was appropriately permitted, no new certification is required. Thus, the applicant requests a waiver from the requirement to provide a certified shoreline survey. Additionally, it is noted that the seawall is designated as an existing easement for walkway and shoreline setback wall purposes and runs just *mauka* of an existing pedestrian easement for beach access purposes. Both easements provide lateral shoreline access throughout the Kona Bay Estates subdivision.

Kona Bay Estates is primarily developed with single-family residences. The proposed new dwelling and associated improvements will be in keeping with the style and square footage of many of the surrounding homes. As the requested improvements are located entirely within the Special Management Area and the project valuation will exceed \$500,000, the applicant is submitting a Special Management Area Major Use Permit application for review and approval by the Hawai‘i County Planning Department and Leeward Planning Commission.

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SHORELINE CERTIFICATION
MAP SHOWING
LOT 29 OF KONA BAY ESTATES
(FILE PLAN 1813)

Being a portion of R.P. 7456, L.C. Aw. 8559-B, Ap. 11
to William C. Lunalilo
AND LOT 68 AS SHOWN ON MAP 9 OF
LAND COURT APPLICATION 1319
At Lanihau Iki and Lanihau Nui, North Kona
Island and County of Hawaii, State of Hawaii



The shoreline as delineated in red is
hereby certified as the shoreline as of
SEP 28 2017

Chairperson, Board of Land and Natural Resources

Tmk (3)7-5-005:041
LOT NO. 30
11,117 Sq. Ft.
OWNER:
Putman Clark

LOT NO. 29
15,386 Sq. Ft.
13,781 Sq. Ft. (Less Erosion)

Tmk (3)7-5-005:039
LOT NO. 28
19,299 Sq. Ft.
OWNER:
Prowell Family Trust

TRUE NORTH

SCALE ONE INCH
EQUALS 20.00 FEET
Graphical Scale is in Feet

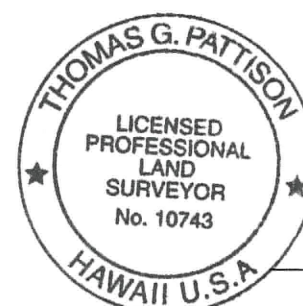
PREPARED FOR:
Brian and Nili Alben
715 Mason Road
Vista, CA 92084

NOTE: ALL CORNERS ARE FOUND
1/2" IRON PIPES IN CONCRETE
UNLESS OTHERWISE NOTED

NOTES:

1. Denotes photograph number and direction of view.
2. Denotes number in photograph.
3. Azimuths and distances are based on record information.
4. Name(s) of owner(s) of adjoining parcels were taken from county tax records.
5. The features, shown hereon, represent ground conditions existing on July 7th, 2017.

I, Thomas G. Pattison, do hereby certify that this
work was prepared by me or under my
supervision.



EXP. DATE 4/30/2018
THOMAS G. PATTISON
Hawaii Certificate No. 10743
July 7th, 2017

Affecting Tax Map Key: 7-5-005:040 (3rd Div.)

FIGURE 2

15" X 21" = 2.19 SQ. FT.

i. Project Objectives

The applicant wishes to construct a single-family residence and associated improvements on the subject property. The proposed dwelling will be constructed to current Building Code standards and be in alignment with all County Zoning and shoreline setback regulations.

ii. Project Components

The applicant wishes to develop a two-story, approximately 5,200-square foot residence with six (6) bedrooms and six (6) bathrooms, an office, a kitchen, dining, living, rumpus room, elevator and laundry room. Additionally, the dwelling will also have approximately 3,100 square feet of accessory space including lanais, storage and a two-car garage as well as a swimming pool and spa which will be located on the top floor. The dwelling is proposed to be 35 feet in height and will be connected to both County sewer and County water. **Figures 3a-5b** show the proposed renders, site plan, floor plans and elevations.

A use permit application is being submitted concurrently with this application to operate the dwelling as a bed and breakfast. If approved, bedrooms 1-5, located on the lower level, will be used to host guests, while bedroom 6, located on the upper level, will serve as the caretaker's quarters.

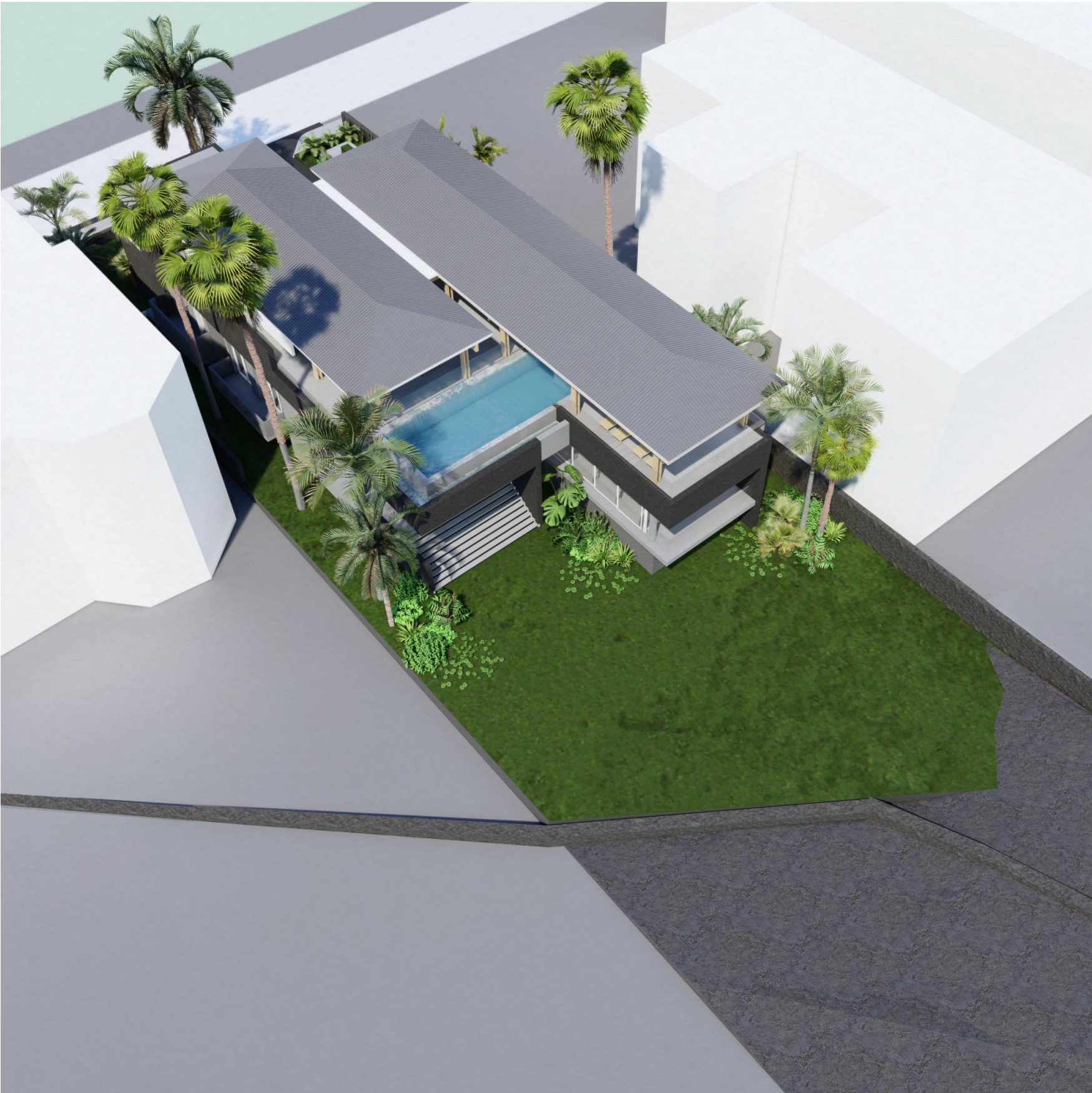
C. Property Description

The subject property is located in Kona Bay Estates on the *makai* side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street. The site is to the east of the Old Kona Airport State Park.

The subject parcel is zoned Residential – 15,00 square feet (RS-15) (**Figure 6**) and was created by Subdivision 433, approved on April 23, 1951, and modified by Subdivision 5059-c, approved on January 20, 1984.

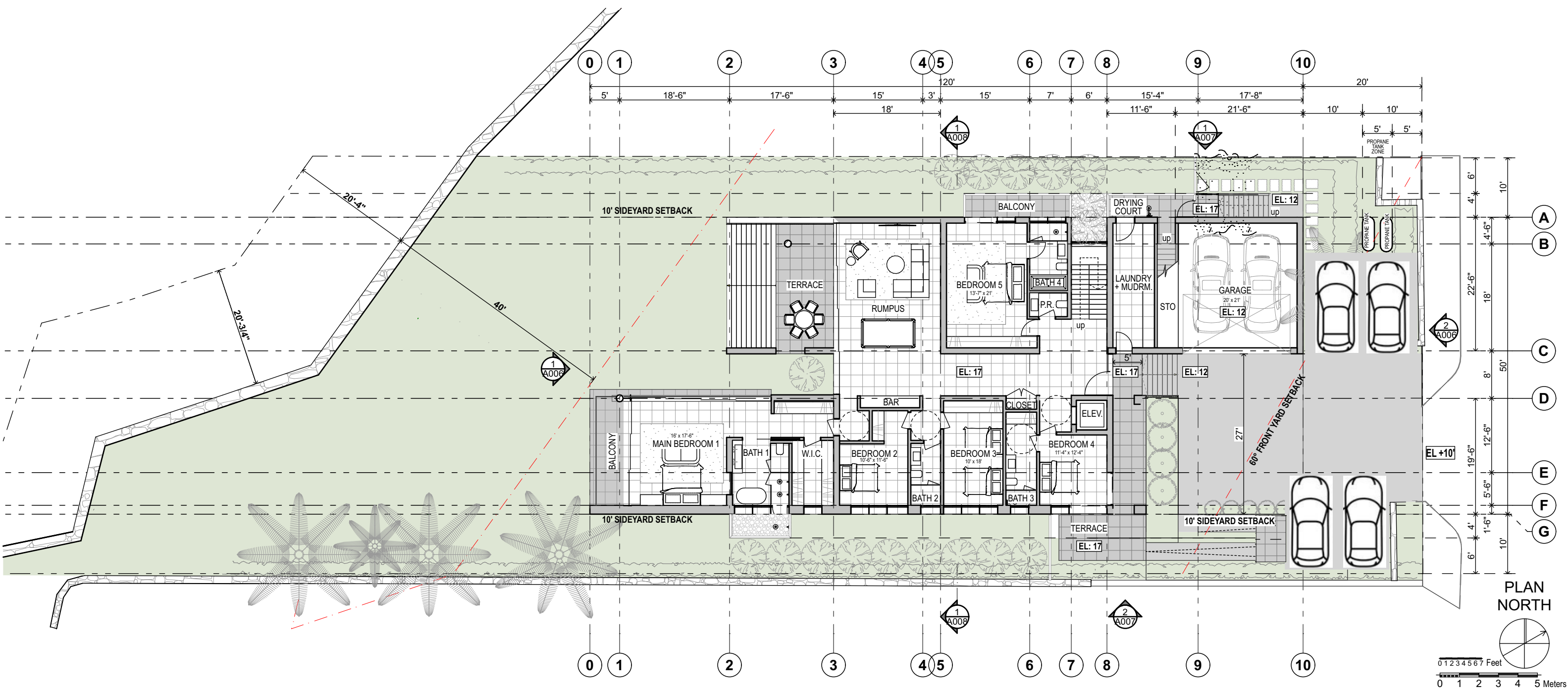
The site is a shoreline parcel. There are no existing structures on the property and minimal vegetation. The parcel is subject to an approved public access plan for the Kona Bay Estates subdivision, which consists of several easements and follows the existing seawall. Public access along the shoreline is also protected under HRS Chapter 115, which is a right independent of the County-approved public access plan for the subdivision.

The parcel has little discernible slope and sits approximately ten (10) to twenty (20) feet above sea level.



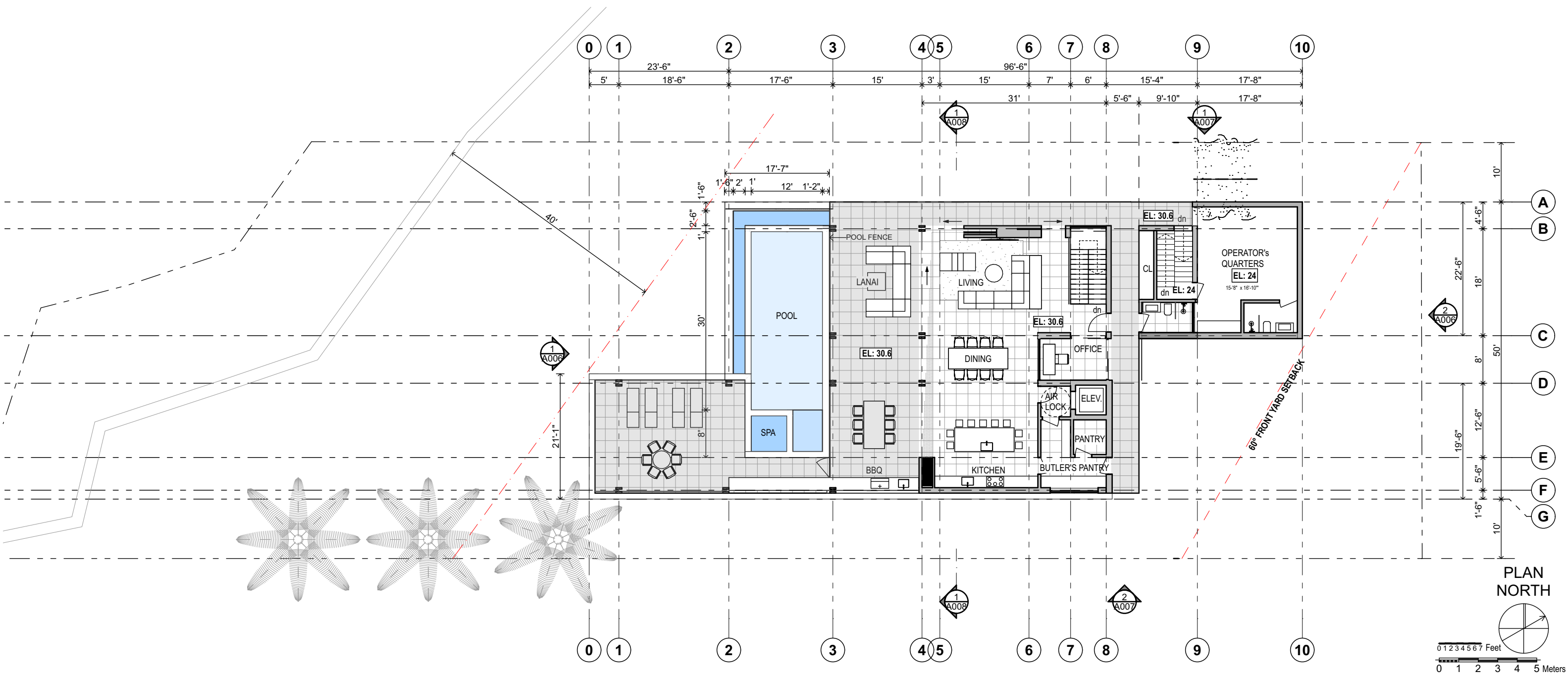






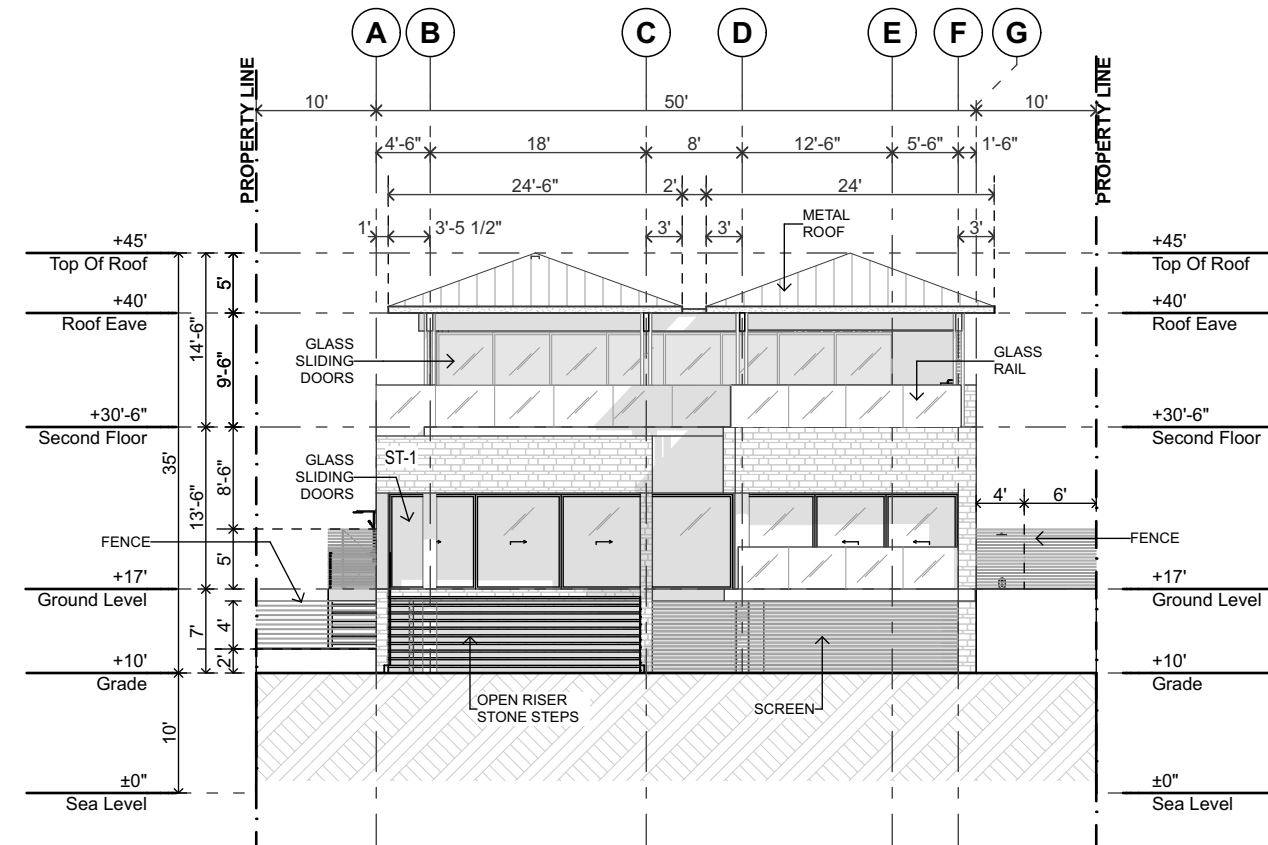
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Level 1 Plan
SCALE: 1/16" = 1'-0"

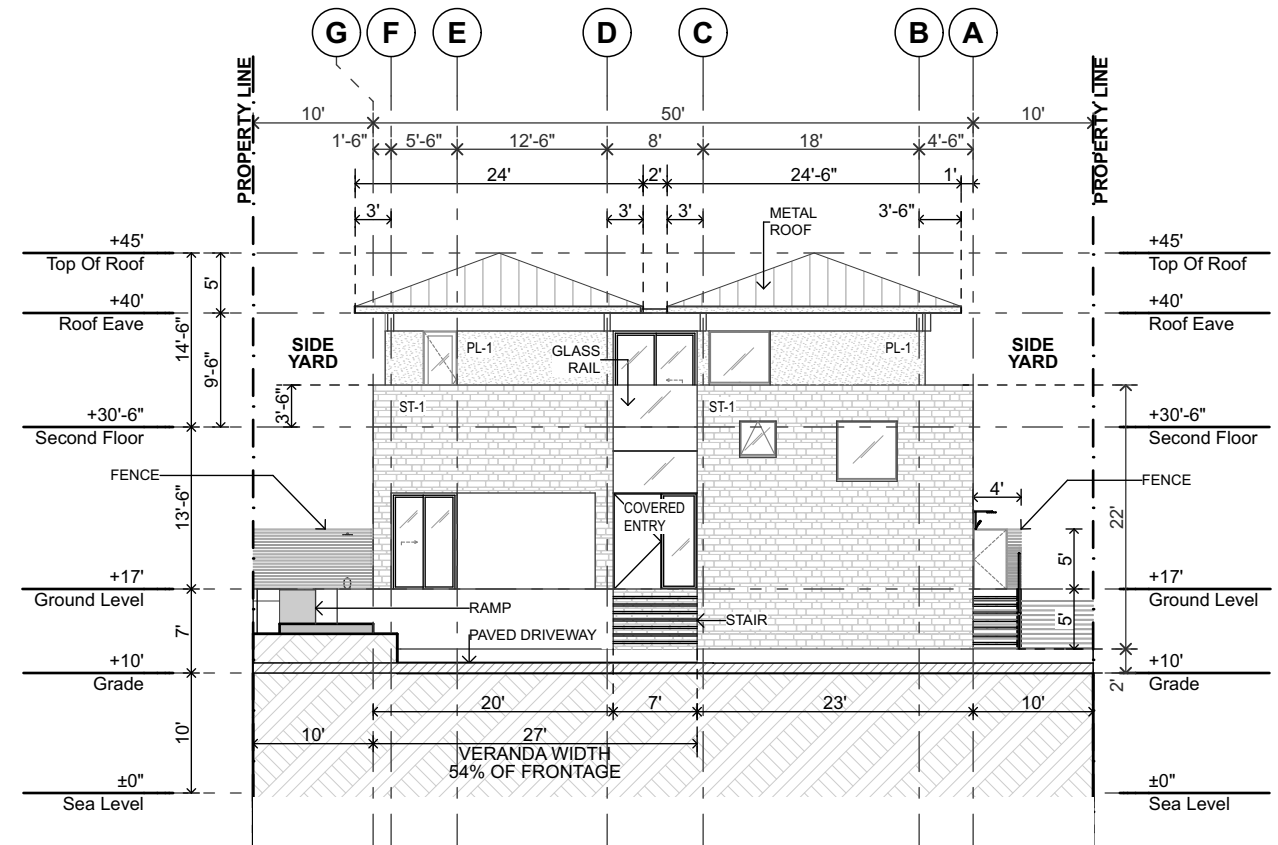


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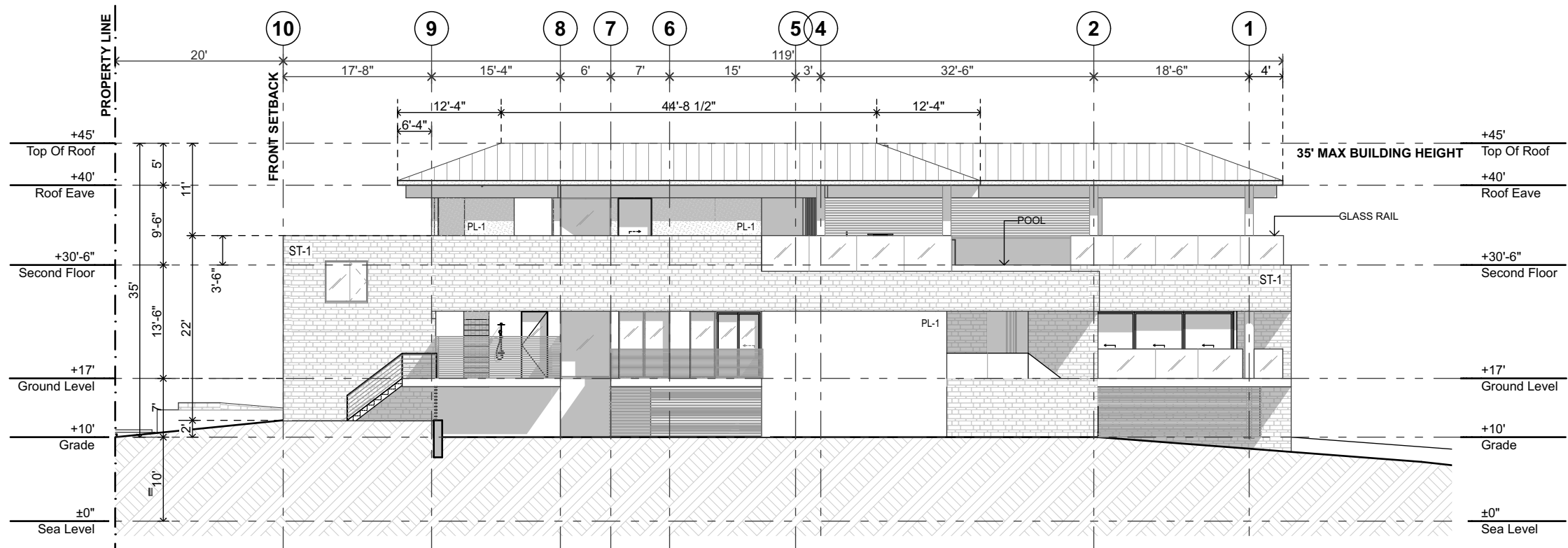
Level 2 Plan
SCALE: 1/16" = 1'-0"



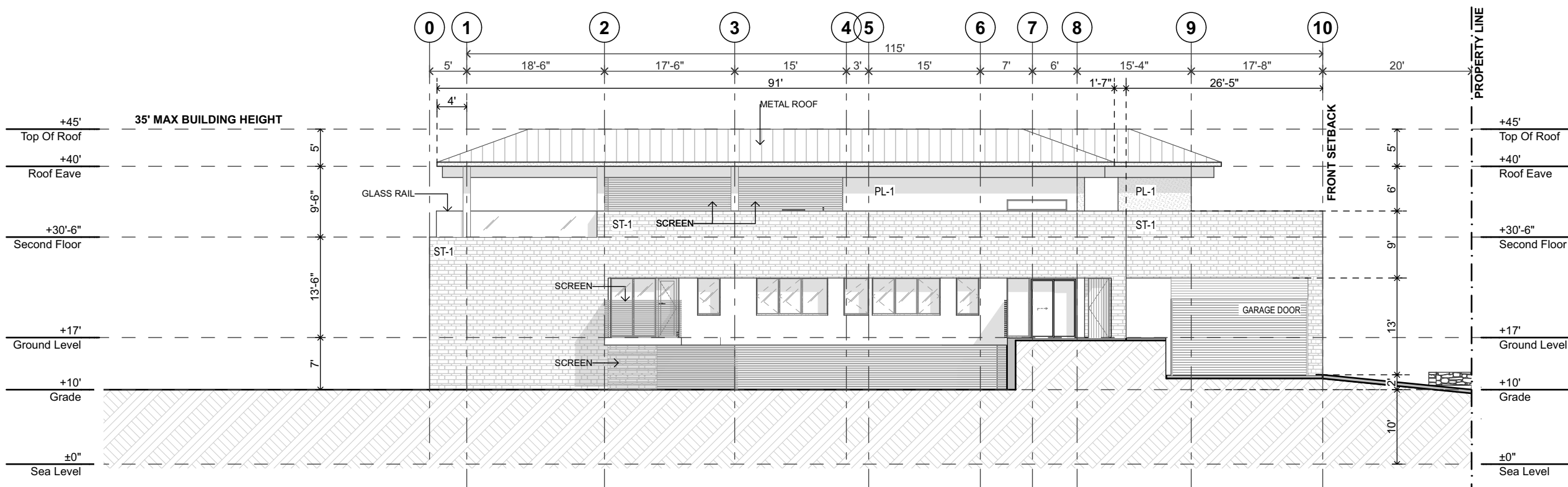
1 Elevation
SCALE: 1/16" = 1'-0"



2 Elevation
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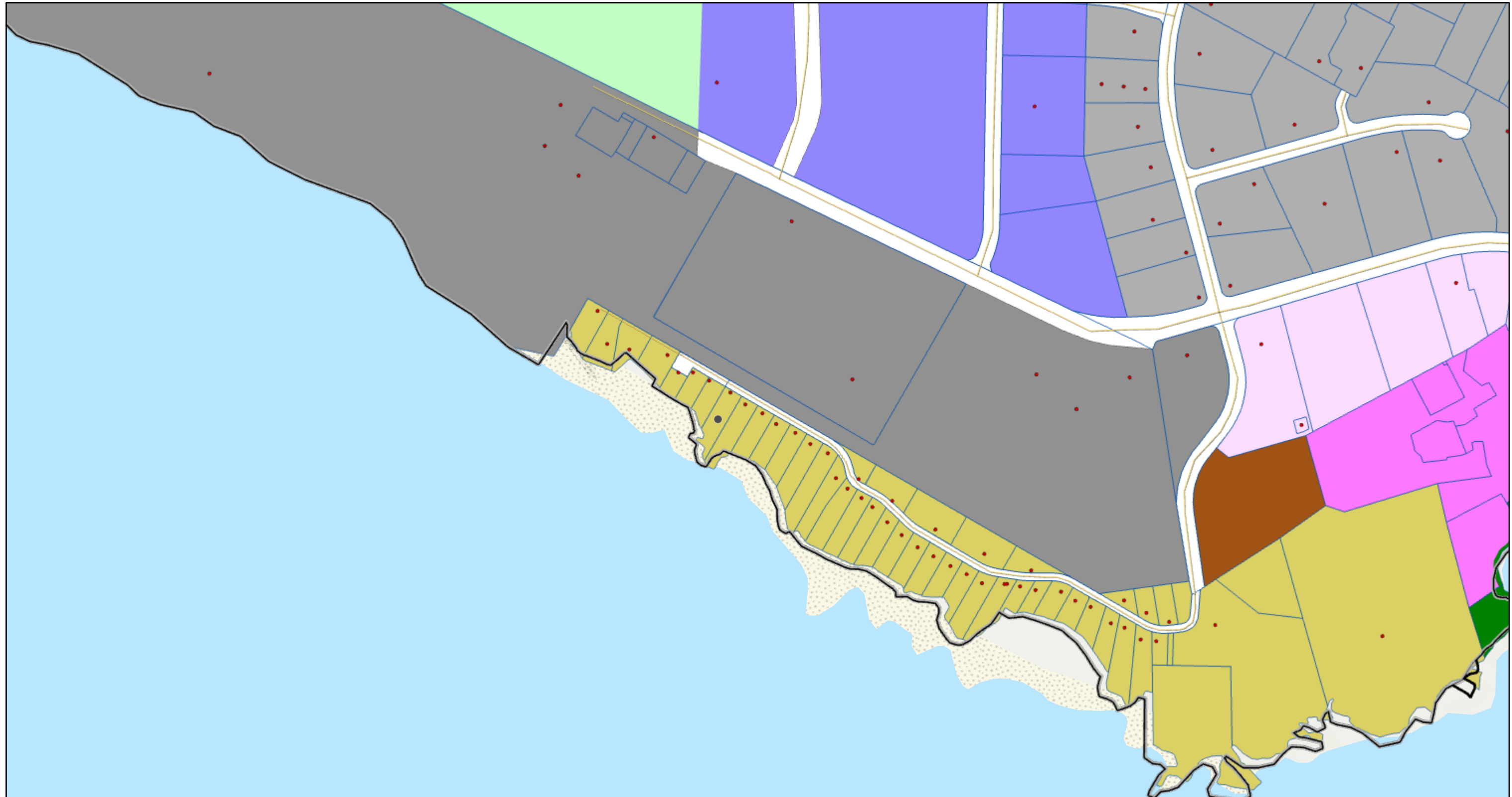


1 Elevation
SCALE: 1/16" = 1'-0"



2 Elevation
SCALE: 1/16" = 1'-0"

HAWAII COUNTY ZONING MAP



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Hawaii County Zoning

(road)

A-5a

CV-10

MCX-20

MG-1a

ML-20

OPEN

RM-1.5

RS-15

V-.75

Parcels (current boundary lines)

Address Points

Street Centerlines

Hawaii County District Boundary

Coastline

1:4,514

0 0.05 0.1 0.2 mi
0 0.07 0.15 0.3 km

County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FIGURE 6

D. Project Valuation

The applicant hopes to secure County SMA Permit approval as soon as possible and begin the Building Permit process immediately thereafter. Construction is estimated to take approximately two years. Cost estimates for the project are approximately \$4,000,000.

E. State/County Plans Affecting Request

i. State Land Use

The State Land Use Designation of the subject property is Urban (**Figure 7**). The proposed action to develop a single-family dwelling and associated improvements is consistent with this designation and will not be contrary to the objectives sought to be accomplished by State Land Use Laws and Regulations.

ii. DLNR Conservation District

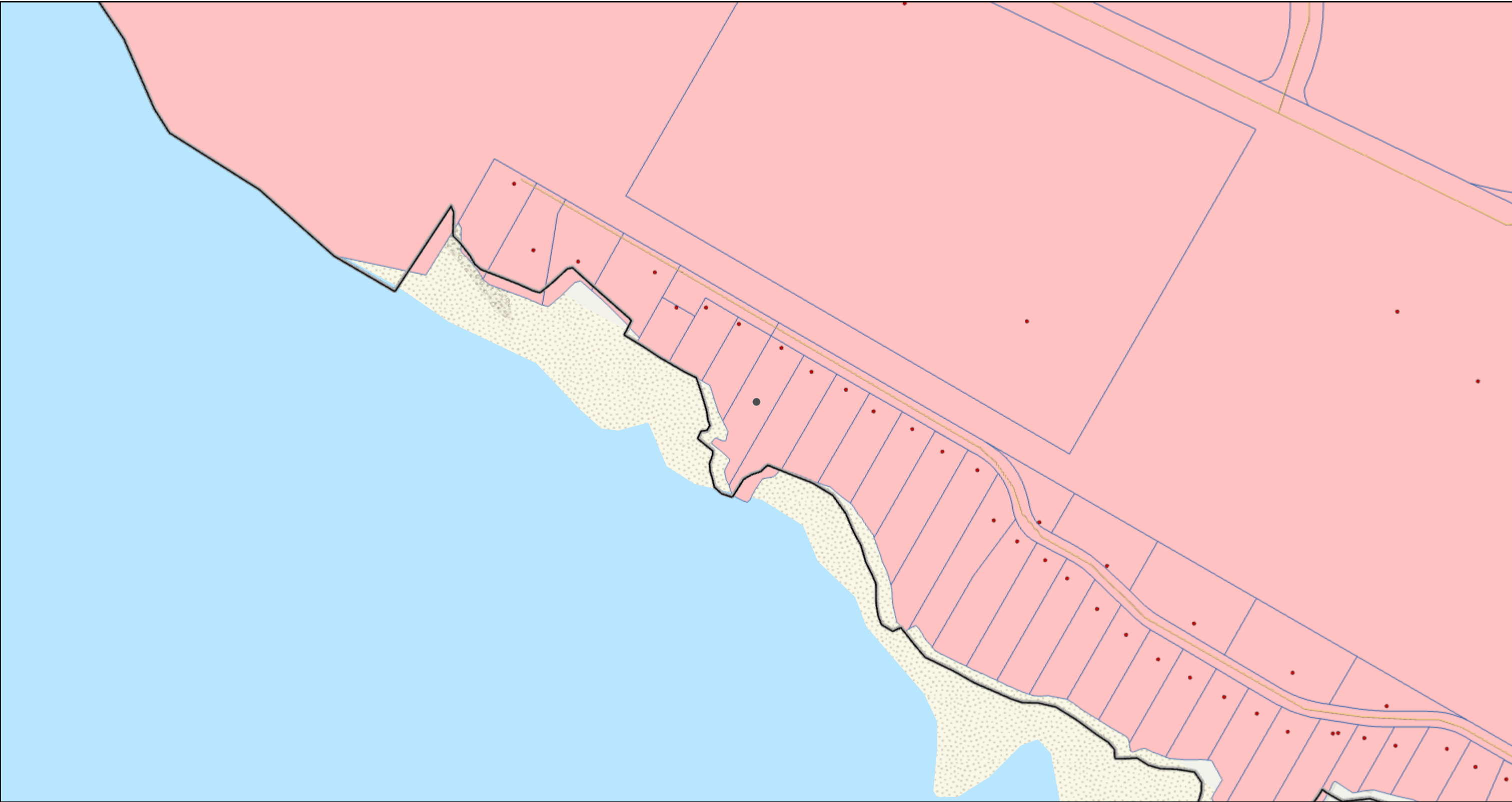
The property is located outside of the Department of Land and Natural Resources Conservation District.

iii. County General Plan

The General Plan provides for the long-range comprehensive development of the island of Hawai‘i. It provides direction for balanced growth in the County. The County General Plan Land Use Pattern Allocation Guide (“LUPAG”) map designates the site as *Open* (**Figure 8**). The LUPAG Open area designation is defined as parks and other recreational areas, historic sites, and open shoreline areas. This designation is consistent with the existing development of Kona Bay Estates as the development is accommodating of public recreation and uses. The shoreline public easement extends along the makai side of shoreline lots in Kona Bay Estates connecting pedestrians with established mauka-makai access easements. Further, the proposed project aligns with the General Plan policies for Open land use spaces, which are intended to provide and protect open space for the social, environmental, and economic well-being of the County of Hawai‘i and its residents as well as to protect designated natural areas. The subject request is in keeping with the Open designation of the property since stewardship of this property would continue the designated and reliable public access along the shoreline. The proposed home would preserve open space along the shoreline by respecting the shoreline setbacks and not affecting any sight lines or scenic resources. Further, the proposed action will retain the essential character of the land and will be consistent with the surrounding area and with the goals, policies, and standards of the General Plan document.

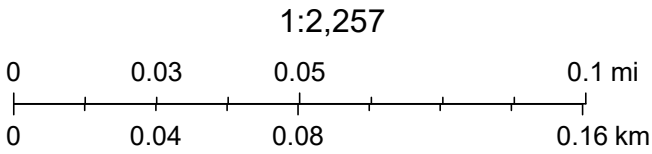
The proposed construction of one (1) single-family residence and associated improvements would provide temporary employment for local construction workers and would support the **economy** through the purchase of construction materials from on-island suppliers. This will stimulate and support the general economic stability and

STATE LAND USE DESIGNATION MAP



5/26/2023, 4:24:43 PM

- State Land Use Classifications (SLU)
- Urban
 - Parcels (current boundary lines)
 - Address Points
- Street Centerlines
- Hawaii County District Boundary
- Coastline



County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FIGURE 7

LAND USE PATTERN ALLOCATION GUIDE (LUPAG) MAP

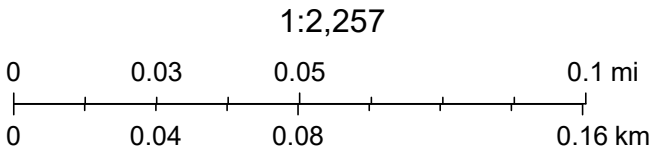


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Land Use Pattern Allocation Guide (LUPAG)

- Industrial
- Open Area
- Parcels (current boundary lines)

- Address Points
- Street Centerlines
- Hawaii County District Boundary
- Coastline



County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FIGURE 8

development of Hawai'i Island by allowing for local businesses to thrive and gain income from the proposed project. In the long-term, the newly constructed single-family residence will bring in additional property taxes, adding revenues to the County coffers.

The project is and will be **energy** conscious through its use and/or encouragement of solar energy and design features that take advantage of the sun and wind patterns.

The proposed development would not provide adverse effects on the **environment** or the natural resources of the region. The General Plan identifies five (5) areas of environmental concerns - air pollution, water quality, soil pollution, solid waste disposal, and noise pollution. As proposed, the project would not be contrary to any of those objectives.

There may be a modest increase in vehicular emissions during construction, but otherwise all other air pollution associated with the project should be negligible. Additionally, the long-term traffic generation, and thus vehicular emission, will be limited to the existing typical residential use of the property.

Connection to the County sewer system and implementation of construction Best Management Practices will mitigate potential water quality, coastal ecosystems, and soil impacts due to wastewater.

There will be little potential for waste management issues or noxious wastes from the proposed residential use. If required, a solid waste management plan could be prepared and implemented.

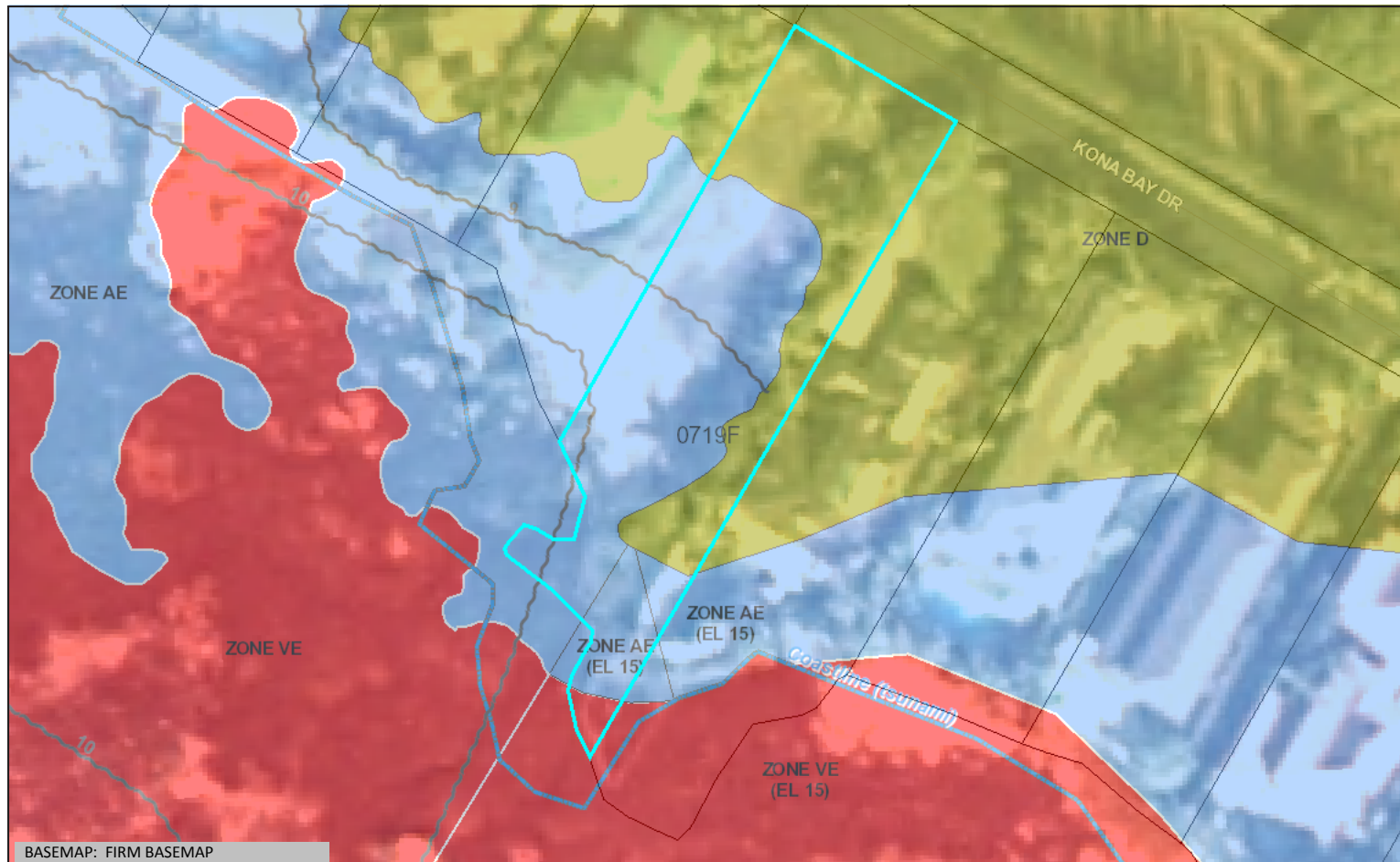
There should be little, if any, increase to the ambient noise levels as the proposed request does not increase density nor does it change or affect the permitted use. The activities would remain residential in nature.

With regard to **flooding**, the property is located within **(Figure 9)**:

- Flood Zone AE (areas subject to a 1% annual chance of inundation by a 100-year flood event).
- Flood Zone VE (areas subject to a 1% annual chance of inundation by a 100-year flood event with additional hazards associated with storm induced wave action).
- Flood Zone D (unstudied areas where flood hazards are undetermined, but flooding is possible).

The proposed dwelling will be constructed and permitted in accordance with the County Flood Control Code Chapter 27 and current building codes.

With regard to **historic sites**, the subject parcel has undergone previous archaeological and cultural studies to determine the presence and significance of sites in the area. These analyses concluded that there would be no effect on any cultural or historic sites or uses. Therefore, it is highly unlikely that any historic sites would be found on the property as the parcel has been previously cleared. If the State Historic Preservation Division



Flood Hazard Assessment Report

www.hawaiiinfip.org

Property Information

COUNTY: HAWAII
 TMK NO: (3) 7-5-005:040
 WATERSHED: WAIAHA
 PARCEL ADDRESS: 75-5446 KONA BAY DR
 KAILUA KONA, HI 96740

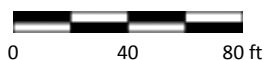
Notes:

Flood Hazard Information

FIRM INDEX DATE: SEPTEMBER 29, 2017
 LETTER OF MAP CHANGE(S): NONE
 FEMA FIRM PANEL: 1551660719F
 PANEL EFFECTIVE DATE: SEPTEMBER 29, 2017

THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: YES
 FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO
 FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain manager for flood zone determinations to be used for compliance with local floodplain management regulations.

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND (Note: legend does not correspond with NFHL)

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase applies, but coverage is available in participating communities.
--	---

FIGURE 9

(SHPD) mandates additional studies before construction begins, the applicant will carry them out. Further, in the event any archaeological or historical features are found during any earth disturbance activity, work will stop within the affected area and appropriate clearances from the State DLNR-SHPD and County Planning Department will be secured before work resumes. If needed, an archaeological monitoring program can be instituted during any land clearing activity.

The General Plan also emphasizes that developments be mindful of an area's **natural beauty**. In this situation, the site will be developed in a manner that is consistent with the neighboring residences. Impacts to scenic resources are not pronounced since shoreline setbacks will be observed and views to the shoreline from the Old Airport Park and public highways are already blocked by large trees.

No significant **visual impacts** are expected to occur. The single-family residence will be designed with aesthetically pleasing architecture and similar to surrounding homes in the area. Artificial lighting will follow all appropriate guidelines to protect dark skies and seabirds.

As the site is adjacent to the shoreline, there are potential **coastal resources** issues. The proposed single-family residence is located outside the 40-foot shoreline setback area. No improvements are proposed within the 40-foot shoreline setback area and no staging of materials or heavy machinery will be allowed in the shoreline setback area. In addition, pedestrian access to and along the shoreline will be preserved.

In addition, since there is no increase in density or change in permitted use, there will be no significant impact to **public utilities** or government services and infrastructure.

Given the above, the project specifically fulfills the following pertinent **land use** goals, policies, and standards of the General Plan:

- *Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.*
- *Promote and encourage the rehabilitation and use of urban areas that are serviced by basic community facilities and utilities.*
- *Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.*
- *Encourage urban development within existing zoned areas already served by basic infrastructure, or close to such areas, instead of scattered development.*

In view of the foregoing goals and policies, it is noted that the requested Special Management Area Permit would not be contrary to the County General Plan. The proposed development will complement the goals, policies, and standards of the Land Use Elements of the General Plan. The project will be designed and constructed in conformance with the character of the surrounding neighborhood and will result in an intensity of land use that is no higher than what is permitted by the existing zoning.

iv. Kona Community Development Plan

The Kona Community Development Plan (KCDP) attempts to further define the General Plan and serves as a guide for decision-makers. The KCDP designates the subject parcel as within the Kona Urban Area and within a Regional Center transit oriented development (**Figure 10**).

The proposed SMA request is conducive to the following relevant policies and objectives outlined in the KCDP:

Objective LU-1: Overall Growth Pattern. *To identify areas where higher intensity growth areas should occur and areas where the rural character and open space along the shoreline should be preserved.*

Policy LU-1.1: Official Kona Land Use Map. *The Official Kona Land Use Map shall define the Kona Urban Area and the general locations, spacing, and type of TOD Villages.*

Policy LU-1.2: Urban Area. *The majority of future growth in Kona shall be directed to the Kona Urban Area shown on the Official Kona Land Use Map which spans from Kona International Airport to Keauhou subject to the policies set forth under Objective LU-2 Urban Area Growth Management.*

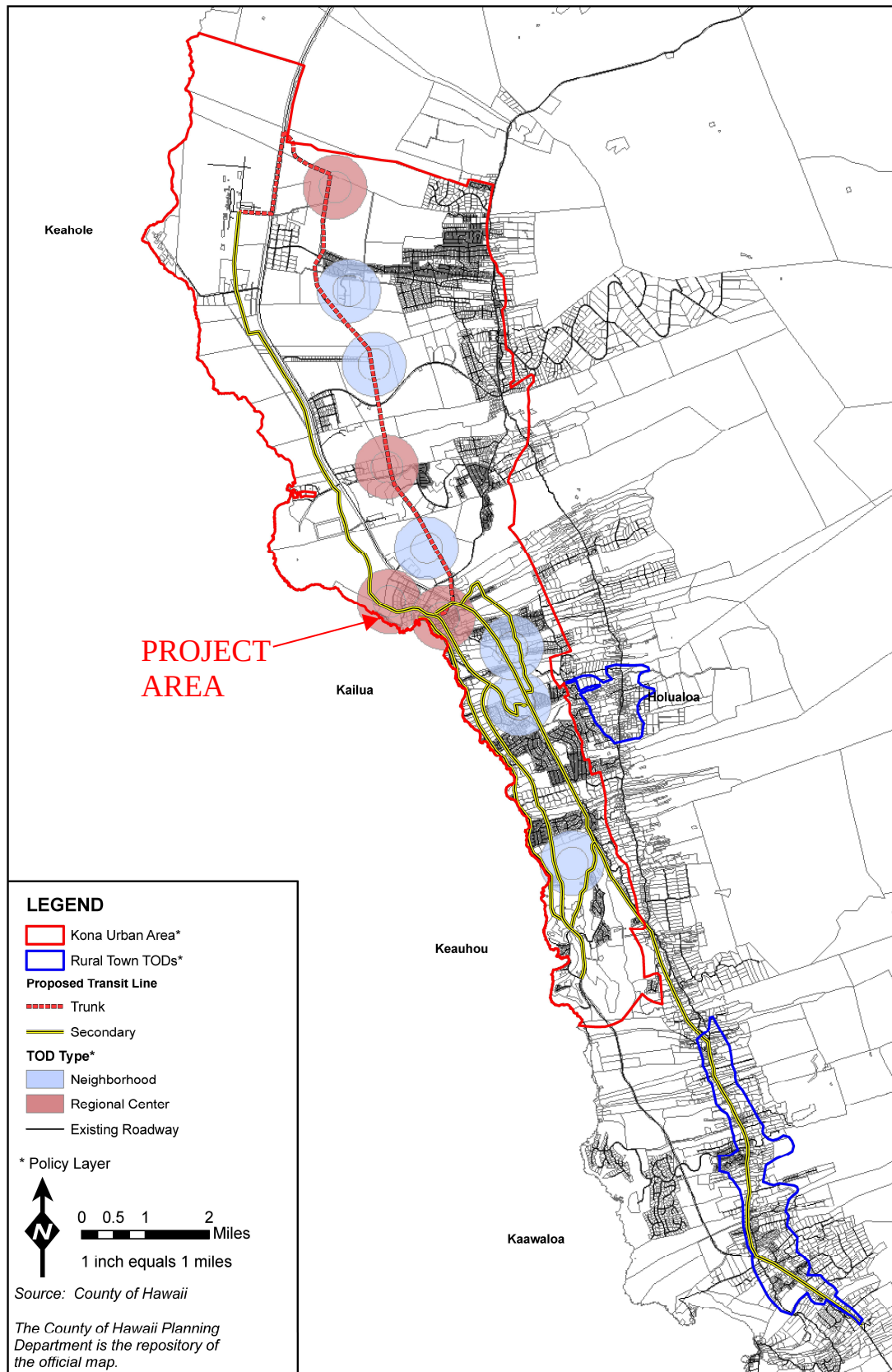
Policy LU-1.3: Rural Area. *The rural area consists of the lands outside of the Kona Urban Area. Future growth in this area shall be concentrated within and around the existing LUPAG medium and low-density areas, which correspond to the existing rural towns.*

Policy LU-1.4: Consistency with Land Use Pattern Allocation Guide (LUPAG). *The current LUPAG accommodates the vision and needs for the Kona CDP area planning horizon and should be amended only for compelling reasons. Any rezoning application shall be consistent with the LUPAG.*

Objective LU-2: Urban Area Growth Management. *Recognizing that the LUPAG Urban Area is larger than needed in order to accommodate the projected growth within the planning horizon, future growth within the Urban Area shall be encouraged in a pattern of compact villages at densities that support public transit.*

Policy LU-2.1: Village Types Defined – Transit-Oriented Developments (TODs) vs. Traditional Neighborhood Developments (TNDs). *Both TODs and TNDs are compact mixed-use villages, characterized by a village center within a higher-density urban core, roughly equivalent to a 5-minute walking radius (1/4 mile), surrounded by a secondary mixed-use, mixed-density area with an outer boundary roughly equivalent to a 10-minute walking radius from the village center (1/2 mile). The distinction between a TOD and TND is that the*

Figure 4-7 Official Kona Land Use Map



approximate location of a TOD is currently designated on the Official Kona Land Use Map along the trunk or secondary transit route and contains a transit station, while TND locations have not been designated and may be located off of the trunk or secondary transit route at a location approved by a rezoning action.

Discussion:

The KCDP guiding principle of *Preserving the diverse coastlines, protected nearshore waters, open space, and vast untouched upland landscapes*, and to *direct future growth patterns toward compact villages preserving Kona's rural, diverse, and historical character* will be furthered by the proposed development as it is proposed within an existing subdivision in the Kona Urban Area with adequate access to utilities and roadways. Additionally, the proposed development will be located between existing similar single-family residences. The project would not disrupt untouched landscapes as the lot has been previously graded and contains previous minor development in the form of modern rock walls. Furthermore, the proposed project will not impact the shoreline setback area, nor will it impact the public access along the shoreline and in so doing will preserve the coastline.

F. Special Management Area & HRS 205A Guidelines Discussion

i. HRS 205A-2 Objectives

(1)(A) Provide coastal recreational opportunities accessible to the public.

Public access to and along the shoreline is available from three (3) main points near the subject parcel (**Figure 11**): 1) an existing public access easement located on the makai side of the property which runs along the entirety of Kona Bay Estates; 2) a mauka-makai walking path available three (3) parcels to the east; and 3) a mauka-makai walking path connecting Kona Bay Drive with the “Keiki Pond” area approximately 1,400 feet east of the subject property.

Also, public shoreline access and recreational opportunities are available roughly 0.15 miles to the northwest at the Old Kona Airport State Park.

The proposed project will not impede on this access or recreational activities.

No structures are proposed within the 40-foot shoreline setback area.

(2)(A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

There are no known historic or prehistoric resources on the subject property. The subject property has undergone previous archaeological studies prior to the creation of the subdivision. Based on these studies no sites appear to be present on the property.

FIGURE 11

Currently fishing, hiking and gathering of marine resources occur in the shoreline area makai of the subject property. None of these cultural practices will be impacted or restricted by the proposed project.

(3)(A) Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.

The proposed project should not have an impact on the area's scenic and open space resources. The new single-family dwelling will be constructed with a maximum height of 35 feet and conform to the character of the neighborhood. Views of the proposed project from the public highway are minimal and already obscured by development at the Old Airport State Recreation Area and tall trees mauka of the subject property.

(4)(A) Protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes, from disruption and minimize adverse impacts on all coastal ecosystems.

The proposed development will be constructed in accordance with Best Management Practices to minimize adverse impacts to air pollution, sedimentation, and erosion, control stormwater runoff, and wastewater management.

(5)(A) Provide public or private facilities and improvements important to the State's economy in suitable locations.

The proposed development would provide temporary employment for local construction workers and would support the local economy through the purchase of local construction materials. Overall, the project would stimulate and support the general economic stability and development of the County.

(6)(A) Reduce hazard to life and property from coastal hazards.

The subject property lies between ten (10) and twenty (20) feet above sea level and within the tsunami evacuation zone. A Civil Defense siren is located approximately 0.3 miles to the northwest of the subject property. The proposed dwelling will be located within Flood Zones D and AE (**Figure 9**), complying with all flood zone regulations, and outside the 3.2-foot sea level rise exposure area (**Figure 12**).

(7)(A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

As this is a managing authority related policy, it is not applicable.

(8)(A) Stimulate public awareness, education, and participation in coastal management.

As this is a managing authority related policy, it is not applicable.

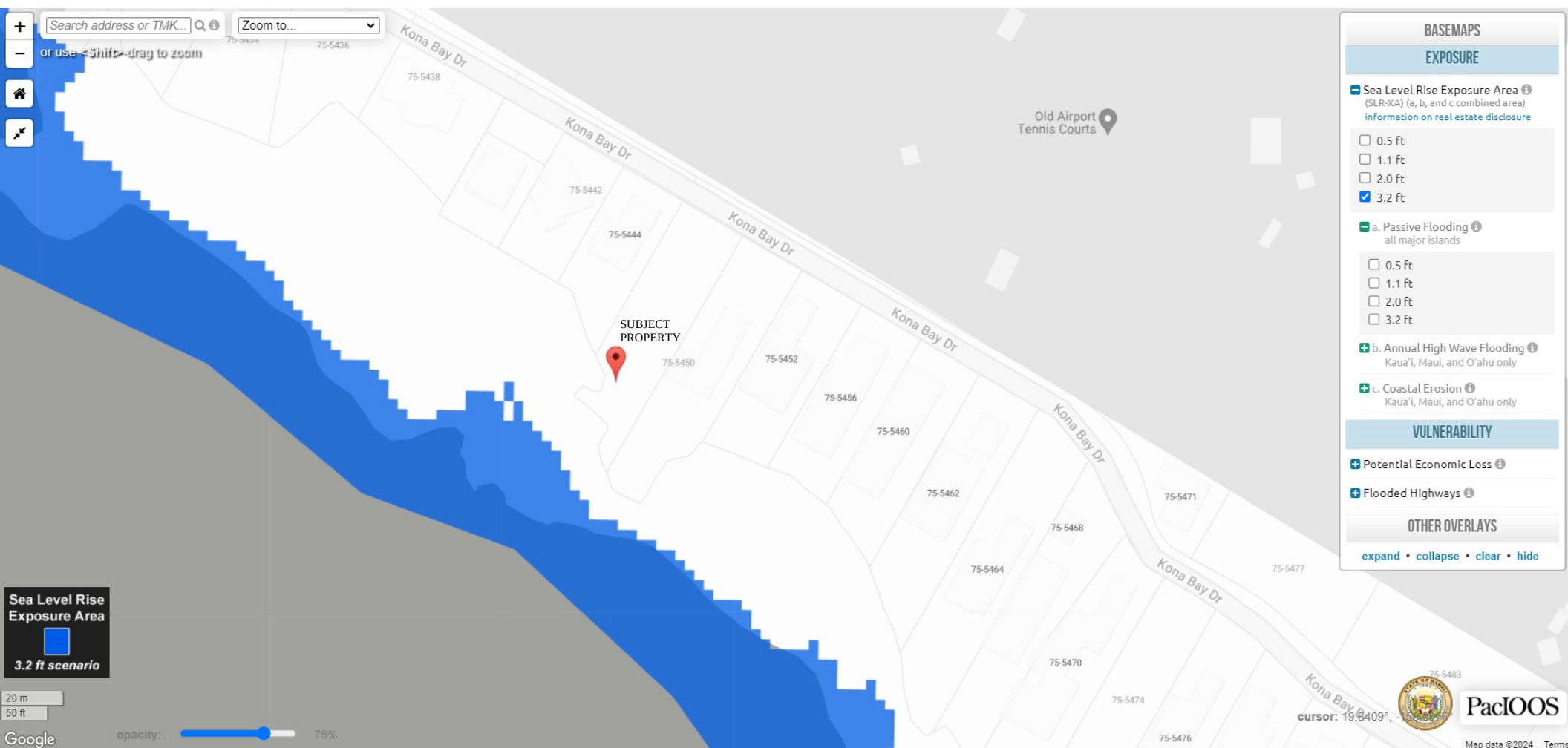


FIGURE 12

- (9)(A) Protect beaches and coastal dunes for:***
(i) Public use and recreation;
(ii) The benefit of coastal ecosystems; and
(iii) Use as natural buffers against coastal hazards; and

The shoreline on the property has already been hardened by an existing legal seawall. No improvements are proposed within the shoreline setback and the existing seawall will not be altered. Vegetation on the property will be maintained and will not encroach onto public roadways or beyond the existing sea wall. The proposed new dwelling would connect to the County sewer system, which would protect coastal resources from wastewater pollution.

- (9)(B) Coordinate and fund beach management and protection.***

As this is a managing authority related policy, it is not applicable.

- (10)(A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.***

The proposed project will strictly follow construction Best Management Practices, control stormwater runoff, and manage wastewater to prevent impacts to coastal resources from point and nonpoint pollution sources. No development is proposed within the 40-foot shoreline setback and public access will remain open and unaffected.

ii. HRS 205A-2 Policies

- (1)(A) Improve coordination and funding of coastal recreational planning and management.***

As this is a managing authority related policy, it is not applicable.

- (1)(B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:***

- (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;***
(ii) Requiring restoration of coastal resources that have significant recreational and ecosystem value, including but not limited to coral reefs, surfing sites, fishponds, sand beaches, and coastal dunes, when these resources will be unavoidably damaged by development; or requiring monetary compensation to the State for recreation when restoration is not feasible or desirable;
(iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
(iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;

- (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;***
- (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;***
- (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and***
- (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting that dedication against the requirements of section 46-6;***

The recreational resources policies pertain to improving coordination and funding of coastal recreational planning and management and providing adequate, accessible, and diverse recreational opportunities in the coastal zone management area. As these are managing authority related policies, they are not applicable to this application. However, stewardship of the property will help prevent overgrowth of vegetation from encroaching onto shoreline open space.

- (2)(A) Identify and analyze significant archaeological resources;***
- (2)(B) Maximize information retention through preservation of remains and artifacts or salvage operations; and***
- (2)(C) Support state goals for protection, restoration, interpretation, and display of historic resources;***

The historic resource policies pertain to identifying, analyzing, preserving, and protecting historic resources. As there appear to be no historic sites on the property, this policy does not apply. However, in the event any undiscovered historical, archaeological, or cultural resources are identified on the property, work will cease in the immediate area and the Department of Land and Natural Resources, State Historic Preservation Division will be contacted for appropriate action.

- (3)(A) Identify valued scenic resources in the coastal zone management area;***
- (3)(B) Ensure that new developments are compatible with their visual environment by designing and locating those developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;***
- (3)(C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and***
- (3)(D) Encourage those developments that are not coastal dependent to locate in inland areas;***

The proposed new single-family dwelling will be compatible with the visual environment of the neighborhood. The maximum building height of the proposed dwelling is thirty-five (35) feet. Views from nearby properties and roads will not change significantly.

Again, no new development is proposed within the shoreline setback area and so the shoreline open space will be preserved. Stewardship of the property will help prevent overgrowth of vegetation onto shoreline open space.

(4)(A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;

Relative to coastal ecosystems, there should be little, if any, adverse impacts. As noted earlier, the development proposes to connect to the public sewer system to minimize coastal water quality impacts. Further, by utilizing a previously disturbed site, potential adverse impacts to natural landscapes and ecosystems on alternative locations are avoided. Further, no staging of materials or heavy machinery will be allowed in the shoreline setback area.

(4)(B) Improve the technical basis for natural resource management;

As this is a managing authority related policy, it is not applicable.

(4)(C) Preserve valuable coastal ecosystems of significant biological or economic importance, including reefs, beaches, and dunes;

No development is proposed within the 40-foot shoreline setback and no staging of materials or heavy machinery will be allowed in the shoreline setback area. This will protect sensitive biological ecosystems including reefs, beaches, and dunes. The proposed connection to the public sewer system will minimize the possibility of impacts to water quality from wastewater.

(4)(D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and

The planned development proposes no stream diversions, channelization or similar drainage or water use components.

(4)(E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures;

Demolition and construction Best Management Practices will prevent stormwater runoff from impacting water quality and will further mitigate any coastal ecosystem impacts from point and nonpoint source water pollution.

(5)(A) Concentrate coastal dependent development in appropriate areas;

As this is a managing authority related policy, it is not applicable.

(5)(B) Ensure that coastal dependent development and coastal related development are located, designed, and constructed to minimize exposure to coastal hazards and adverse social, visual, and environmental impacts in the coastal zone management area; and

The proposed project is planned, with appropriate mitigation measures, to minimize potential adverse social, visual, and environmental impacts. Any effect that may result will be minimized to the extent practicable and is clearly outweighed by public health, safety and welfare, and other compelling public interest.

(5)(C) Direct the location and expansion of coastal development to areas designated and used for that development and permit reasonable long-term growth at those areas, and permit coastal development outside of designated areas when:

(i) Use of designated locations is not feasible;

(ii) Adverse environmental effects and risks from coastal hazards are minimized; and;

(iii) The development is important to the State's economy;

The subject property is zoned for residential development and surrounded by existing residential development. The proposed house is designed to minimize the potential adverse impacts from coastal hazards, respecting shoreline setback requirements, flood zone regulations. Further the entire property sits outside the 3.2-foot sea level rise exposure area.

(6)(A) Develop and communicate adequate information about the risks of coastal hazards;

As this is a managing authority related policy, it is not applicable.

(6)(B) Control development, including planning and zoning control, in areas subject to coastal hazards;

(6)(C) Ensure that developments comply with requirements of the National Flood Insurance Program; and

The applicant will comply with all requirements of the Federal Flood Insurance Program and Chapter 27 Floodplain Management. Occupied structures are planned to be elevated above base flood elevations and properly engineered to withstand wind and water loads.

(6)(D) Prevent coastal flooding from inland projects;

The project will dispose of all runoff generated by project improvements on site by approved means. Thus, although the proposed project is within coastal hazard zones, the proposed design will mitigate potential impacts from coastal hazards and will not worsen flooding conditions in the area.

- (7)(A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;***
- (7)(B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and***
- (7)(C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process;***

The managing development policies relate to use, implementation and enforcement of laws, processing of applications for development permits and communication of coastal development impacts to the public. As these are managing authority related policies, they are not applicable to this application.

- (8)(A) Promote public involvement in coastal zone management processes;***
- (8)(B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and***
- (8)(C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;***

The public participation policies relate to promoting public involvement and dissemination of information with respect to coastal zone management. These are managing authority related policies and are not applicable to this application. The public will be able to participate in the proposed project during the Planning Commission public meetings and testimony process to voice support and/or concerns.

- (9)(A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;***
- (9)(B) Prohibit construction of private shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;***
- (9)(C) Minimize the construction of public shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;***
- (9)(D) Minimize grading of and damage to coastal dunes;***

Although the shoreline on the property has already been hardened by an existing legal seawall, no new improvements are proposed within the shoreline setback area. There are no coastal dunes on or near the subject property. Therefore, the proposed project will not affect natural shoreline processes.

- (9)(E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and***

(9)(F) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor.

The landscaped vegetation on the subject property will be maintained and will not encroach upon or disrupt public shoreline access.

(10)(A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;

(10)(B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;

(10)(C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;

(10)(D) Promote research, study, and understanding of ocean and coastal processes, impacts of climate change and sea level rise, marine life, and other ocean resources to acquire and inventory information necessary to understand how coastal development activities relate to and impact ocean and coastal resources; and

(10)(E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

The marine resources policies relate to the development of marine and coastal resources, coordination of marine and coastal resources activities, forging State partnerships, promoting research of ocean and coastal processes, and encouraging new technologies for exploring, using, and protecting marine and coastal resources. These are managing authority related policies and are not applicable to this application.

Based on the foregoing, it is concluded that the proposed improvements are consistent with the objectives, policies and guidelines of the Special Management Area Rules and Regulations. Specifically:

- A. The proposed project will not have any substantial, adverse environmental or ecological effect. Rather the proposed project seeks to ensure the property and new dwelling comply with current building codes and Special Management Area Objectives and Policies.

Any effect that may result from the construction of the new dwelling will be minimized to the extent practicable and will be outweighed by the public benefits the project presents.

Further, the proposed improvements will not generate any adverse effects by themselves or in conjunction with other individual developments, nor will the proposed improvements pose a potential cumulative impact which would result in a substantial adverse environmental or ecological effect or the elimination of planning options. Appropriate mitigative measures will be taken to address any potential adverse impacts of this project;

- B. The proposed activities - as discussed earlier - are consistent with the objectives, policies, and guidelines of the SMA Rules and Regulations; and
- C. The proposed activities are consistent with the County General Plan and County Zoning Code.

G. Surrounding Zoning and Land Uses

The subject parcel is bounded to the east and west by similarly sized RS-15 zoned properties in the Kona Bay Estates subdivision, to the south by the coastline, and to the north by Kona Bay Drive and Old Kona Airport State Recreation Area.

H. Flood Insurance Rate Map

The subject property is within Flood Zone D (unstudied areas where flood hazards are undetermined, but flooding is possible) and AE (areas subject to a 1% annual chance of inundation by a 100-year flood event) (**Figure 9**). A small coastal portion of the site is also located in Flood Zone VE (areas subject to a 1% annual chance of inundation by a 100-year flood event with additional hazards associated with storm induced wave action). Occupied structures are planned to be elevated above base flood elevations plus freeboard, and properly engineered to withstand wind and water loads. The proposed home will therefore not be subject to significant flooding since it will be built according to flood zone regulations and will be outside the 40-foot shoreline setback and identified sea level rise exposure areas.

Additionally, the subject property lies approximately ten (10) to twenty (20) feet above sea level and within the tsunami evacuation zone. However, a Civil Defense Siren is located 0.3 miles to the northwest at the entrance of Old Kona Airport State Park.

I. Archaeological Resources

The subject parcel has undergone previous archaeological and cultural studies to determine the presence and significance of sites in the area. These analyses concluded that there would be no effect on any cultural or historic sites or uses. Therefore, it is highly unlikely that any historic sites would be found on the property as the parcel has been previously cleared. If the State Historic Preservation Division (SHPD) mandates additional studies before construction begins, the applicant will carry them out. Further, in the event any archaeological or historical features are found during any earth disturbance activity, work will stop within the affected area and appropriate clearances from the State DLNR-SHPD and County Planning Department will be secured before work resumes. If needed, an archaeological monitoring program can be instituted during any land clearing activity.

J. Floral and Faunal Resources

There is little in the way of vegetation currently on the subject property with the exception of naupaka. Artificial outdoor lighting can cause significant disorientation to seabirds that frequently pass through the area at night. Collision or grounding of birds are potential adverse impacts if the proper mitigating measures are not taken. The applicant will follow Hawai'i County Code Chapter 14-50 to minimize the potential for disorientation of seabirds. All nighttime construction work that requires lighting should be avoided during the seabird fledging season between September 15 and December 15.

The site is not known to be a habitat for any rare or endangered animal life. It would be possible, though unlikely, to find the Hawaiian Hawk (I'o) (*Buteo solitarius*) and Hawaiian owl (*Asio flammeus sandwichensis*) in the surrounding area. However, the residential nature of the area would make it less likely to find other terrestrial protected or endangered animal life.

The Hawaiian Green Sea Turtle (*Chelonia mydas*) and Hawaiian Monk Seal (*Monachus schauinslandi*) are both endangered marine creatures that could be found in the coastal waters of Puakō. No adverse effects are anticipated on these aquatic species, since the property is protected by a legal seawall, and the project will prohibit any construction, material staging, or use of heavy machinery within the 40-foot shoreline setback zone.

If any endangered fauna is spotted during the construction phases, the Department of Land and Natural Resources, Department of Forestry and Wildlife will be contacted immediately for appropriate action.

K. Valued Cultural Resources

The Hawaii State Supreme Court's "PASH" and "*Ka Pa`akai O Ka`Aina*" decisions require decision-makers to consider a project's impact to native Hawaiian gathering and fishing rights. Specifically, there must be a discussion of the cultural, historical, and natural resources and associated traditional and customary practices of this site and the impact of this project to these resources and practices.

The shoreline adjacent to the subject property is currently used for coastal gathering, fishing and hiking by native Hawaiians and others. None of these practices will be altered or restructured during or after construction of the proposed residence and its use as a bed and breakfast. Thus, these activities will not be impacted by the proposed project.

Public shoreline access from Kona Bay Drive and Old Kona Airport State Recreation Area is available approximately 200 feet southeast of the site. Additionally, a public access easement is located on the makai side of the property and follows along the shoreline through the entirety of the Kona Bay Estates. No changes will be made to the existing public shoreline access routes. The applicant will maintain all vegetation on site and will prevent overgrowth into shoreline access areas. Thus, the proposed project will not impact or impair any public shoreline access.

It is unknown if the subject property has ever been used for any traditional and/or customary rights. However, the parcel has been cleared and surrounded by other residential developments for many years and thus it would appear very unlikely that the site would serve such a purpose today and/or in the recent past.

Therefore, the project does not appear to present any cultural impacts. However, in the event documented claims of gathering or access are made of this site, the applicant will honor them.

L. Public Access

Public shoreline access from Kona Bay Drive and Old Kona Airport State Recreation Area is available approximately 200 feet southeast of the site. Additionally, a public access easement is located on the makai side of the property and follows along the shoreline through the entirety of the Kona Bay Estates. The project proposes no changes to the existing public shoreline access routes. The applicant will maintain all vegetation on site and will prevent overgrowth into shoreline access areas. Thus, the proposed project will not impact or impair any public shoreline access.

M. Description of Access

The subject parcel is accessible via Kona Bay Drive approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street. Kona Bay Drive is a private road, which begins at Kuakini Highway and terminates roughly 550 feet to the west of the subject property.

N. Traffic Impacts

The subject parcel is located within Kona Bay Estates, an existing subdivision that has been in place for decades. The project seeks to build one single-family residence on a vacant lot intended for such use. No changes in allowed land use or density are proposed and thus traffic should remain at a residential level and hence not any different than what exists today.

O. Availability of Utilities

i. Water

According to the Department of Water Supply (DWS) one (1) existing 5/8-inch water meter is available to the subject site. This meter allows for an average daily usage of 400 gallons, which is suitable for the proposed single-family residence.

ii. Wastewater

Wastewater will be handled through the County sewer system. Municipal wastewater service is provided to the property via an existing utility connection.

iii. Other Utilities

All other utilities including electrical, telephone and cable services are available to the site.

P. Potential Areas of Concern

i. Coastal Hazards

The site may be subject to coastal hazards due to its proximity to the ocean. However, with the exception of very rare events, the proposed activity will not be directly affected by any coastal hazards. Occupied structures are planned to be elevated above base flood elevations plus freeboard, and properly engineered to withstand wind and water loads. The proposed home will therefore not be subject to significant flooding since it will be built according to flood zone regulations and will be outside the 40-foot shoreline setback and identified sea level rise exposure areas.

As the property is located within the Tsunami Evacuation Zone, it is covered by a civil defense siren located 0.3 miles to the northwest along Kuakini Highway, at the entrance of Old Kona Airport State Park.

ii. Coastal Resources

All construction activities will follow Best Management Practices to minimize adverse point and non-point pollution to coastal resources and surrounding areas. The following BMPs specific to demolition will be followed. This is not a comprehensive list; any other mitigating measures identified during the permitting process that are required to prevent significant impacts will be followed.

1. Soil loss and erosion will be minimized by stabilizing slopes and disturbed areas of soil. All exposed areas will be stabilized within seven (7) days of soil disturbance. Initiation of stabilization will commence within one (1) calendar day of soil-disturbing activities.
2. Sediment loss will be minimized by placing structural controls including silt fences, gravel bags, sediment ponds, check dams, and other barriers.
3. Sediment wattles and protective covers will be applied to soil and material stockpiles.
4. Stockpiles of debris will be located away from waterways and low spots. Debris will be removed periodically from the subject site to prevent large stockpiles.
5. No heavy machinery will be used within the 40-foot shoreline setback area. Low-impact tools such as jackhammers and wheelbarrows will be used instead.

6. Demolition will be avoided during rainy periods to the maximum extent possible.
7. Dust impacts will be minimized by erecting a screen or fence. Demolition will be avoided during high winds.
8. Routine inspection and maintenance of structural BMPs will be performed by trained personnel.
9. Significant leaks or spills will be properly cleaned and disposed of at an approved site.

The applicant has not observed any significant runoff or erosion on the subject property. Pursuant to County drainage requirements, appropriate drywell and/or similar means to capture runoff from any improvements will be built, if necessary, in conjunction with the appropriate permitting process.

II. Anticipated Impacts

A. Environmental Setting

i. General Description

The subject property is located in Kona Bay Estates on the *makai* side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street. The site is to the east of the Old Kona Airport State Park. The property consists of approximately 16,972 square feet of land and is bordered by the shoreline. Vegetation on the property consists of coconut palm (*Cocos nucifera*) and naupaka (*Scaevola taccada*).

The parcel sits approximately ten (10) to twenty (20) feet above sea level. The average annual temperature ranges between 70-80 degrees Fahrenheit, with occasional higher and lower ranges during certain periods in the summer and winter months. The prevailing wind patterns in the area are often light and variable, dominated by sea breeze (westerly) during the day and easterly or mountain winds during the evenings.

ii. Soils

Soil on the subject property is made up of lava flows of the Honokohau complex with 2 to 20 percent slopes, is well drained with a very high runoff class. Additionally, the proposed dwelling will be connected to the County sewer system. As such, no impacts on soil are anticipated.

iii. Flora and Fauna

Although there were no professional surveys conducted of the floral or faunal resources of the site, the applicant does not believe that rare or endangered floral or faunal resources are likely to be found within the subject site as the site has been cleared for many years.

The subject site has very minimal vegetation. There are some scattered coconut palms (*Cocos nucifera*) and a hedge of naupaka (*Scaevola taccada*) on the northwest corner of the site. The parcel is otherwise clear.

The only fauna likely to be on the project site are non-native birds such as Japanese White-eye (*Zosterops japonicus*) and Common Mynah (*Acridotheres tristis*). Mongoose (*Herpestes auropunctatus*) is also common in the area.

iv. Volcanic and Earthquake Hazards

The subject property lies within the outer reaches of Hualalai lava flows, putting it in Lava Hazard Zone 4, on a scale ranging from 9 to 1, ranking least hazardous to most. There are no anticipated impacts from earthquake activity due to mitigating measures and building regulations and requirements. Potential volcanic hazards are inherent to the area and are shared with every other lot within the Kona Bay Estates Subdivision.

v. Flood/Drainage

The property is located within (**Figure 9**):

- Flood Zone AE (areas subject to a 1% annual chance of inundation by a 100-year flood event).
- Flood Zone VE (areas subject to a 1% annual chance of inundation by a 100-year flood event with additional hazards associated with storm induced wave action).
- Flood Zone D (unstudied areas where flood hazards are undetermined, but flooding is possible).

The proposed dwelling will be constructed and permitted in accordance with the County Flood Control Code Chapter 27 and current building codes. Further, no new improvements are proposed within the 40-foot shoreline setback area.

B. Relationship to Land Use Plans and Policies

i. Special Management Area

The subject site is situated within the County Special Management Area (SMA). As such, a Major SMA Permit is being requested. A discussion of this project's relationship to HRS Chapter 205A is found in Section I.F. of this report.

C. Probable Environmental Impact

There are no anticipated significant environmental impacts associated with the proposed action. The project is and will be energy conscious through its use of design features that take advantage of the sun and wind patterns. The proposed development would not entail adverse effects on the environment or the natural resources of the region. There will be no long-term impacts to air pollution, water quality, soil pollution, solid waste disposal, or noise pollution.

Wastewater will be handled by the county sewer system, minimizing potential impacts due to wastewater.

D. Unavoidable Adverse Environmental Effects

The proposed action and land use will not have any significant adverse effects to natural resources. The applicant intends to utilize the land for residential purposes, which is consistent with the current land use designation. This land use is compatible with the locality and surrounding area, which supports single-family residences.

No adverse impacts are expected to air or water quality, scenic or other natural resources outside of temporary and minor impacts during construction. Mitigating measures and best management practices will protect all existing flora and fauna, soil, shoreline, and coastal resources. Further, no significant secondary or cumulative impacts are expected with the request.

The proposed development is not expected to exacerbate any adverse natural processes occurring on the property, including coastal erosion. No development is proposed within the 40-foot shoreline setback area or the conservation district.

E. Alternatives to Proposed Action

A no action alternative is the only alternative to the proposed action. This is not a reasonable action as it would unnecessarily restrict the property rights of the applicant.

F. Irreversible and Irretrievable Commitment of Resources

The proposed action will not result in the loss or destruction of any irreversible or irretrievable commitment of natural, cultural, or historic resources. Earthwork will closely follow all mitigating measures and Best Management Practices to minimize impacts to natural resources.

It is highly unlikely that any historic, archaeological, or cultural resources are present on the property as the parcel was previously cleared and the area has been developed for residential use for many years. However, in the event any historic, archaeological, or cultural features are discovered during construction, work will stop within the affected area and appropriate clearances from the State DLNR-SHPD, and County Planning Department will be secured before work resumes.

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition)
 of)
 THE HILTON HEAD COMPANY)
)
for a Special Management Area)
(SMA) Use Permit for Property)
Situated at Lanihau, North)
Kona, Island of Hawaii)
_____)

DOCKET NO. 81-31

FINDINGS OF FACT, CONCLUSIONS OF LAW,

AND DECISION AND ORDER

(CERTIFICATE OF SERVICE ATTACHED)

EXHIBIT A

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition)
of)
THE HILTON HEAD COMPANY) DOCKET NO. 81-31
)
for a Special Management Area)
(SMA) Use Permit for Property)
Situated at Lanihau, North)
Kona, Island of Hawaii)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The Planning Commission, having duly considered the record and evidence in this proceeding, the parties' proposed findings of fact and conclusions of law, the hearing officer's report, and the parties' exceptions to the hearing officer's report, makes the following findings of fact, conclusions of law and decision and order.

Application

1. This matter arises from an application for a Special Management Area (SMA) Use Permit filed pursuant to Chapter 205-A of Hawaii Revised Statutes, as amended, and Rule No. 9, Special Management Area Rules and Regulations of the County of Hawaii, by The Hilton Head Company, Inc. ("Petitioner"), to allow an installation of a waterline, electrical lines, communication lines (television and telephone), the improvement of roadway facilities, and construction of stone walls approximately four feet in height with landscape planters. The walls would run along the mauka boundary of the proposed project area and along both sides of two proposed beach accesses. Additionally, Petitioner proposes to fix the location of a shoreline trail and construct a low rock wall along the shoreline setback line, landscaping, and other

improvements. The property involved is located within Lanihau, North Kona, Island of Hawaii, more specifically identified by Tax Map Keys: 7-5-05: 01, 11, 14-51.

Pre-hearing Procedure

2. The SMA Use Permit application was received by the County of Hawaii Planning Commission on December 16, 1981. Notice of the hearing was duly published in the Honolulu Advertiser and Hawaii Tribune-Herald, Ltd. on April 8, 1982. The hearings on this matter were opened by the Planning Commission on April 28, 1982, in Keauhou, North Kona, Hawaii. During the proceedings the Office of Hawaiian Affairs, and the Native Hawaiian Legal Corporation on behalf of Kuka'SPOKA petitioned for contested case proceedings on the application and to be admitted as interested parties to the contested case proceedings.

3. On June 3, 1982, the Planning Commission heard further arguments on initiating contested case proceedings under Rule No. 4 of the Planning Commission, Rules Relating to Administrative Procedure. At that meeting, the Planning Commission voted to initiate the contested case procedure pursuant to Rule No. 4 and to publish notice that any other potential parties should file petitions within 20 days of the publication date.

4. The notice to potential parties was published in the Hawaii Tribune-Herald, Ltd. on June 8, 1982.

5. On July 1, 1982, the Planning Commission voted to proceed with a contested case hearing pursuant to Rule No. 4 and admitted the Office of Hawaiian Affairs, Kuka'SPOKA, and the Kona Conservation Group as parties to the proceedings. The Commission's Vice Chairman was subsequently appointed by the Planning Commission as a hearing officer to conduct the contested case hearings and to conclude the public hearings on this application.

6. A pre-hearing conference was held on July 12, 1982, in Hilo, Hawaii, which was attended by all parties, except the Office of Hawaiian Affairs which waived its appearance and agreed to any stipulations that may be entered into by the other parties. During the conference, certain stipulations were entered into between the parties regarding the scheduling of the hearing, procedures to be observed during the hearing, and the exchanging of some of the exhibits.

Public Testimony

7. Public testimony was received by Planning Commission on April 28, 1982, and by the hearings officer, Clyde Imada, on Tuesday, August 3, 1982, at Keauhou, Kona, Hawaii. Persons testifying in favor of the petition included John Michael White, Barbara Thurston, Lorrin Thurston, Phillip Parker, and Curt Tyler, Jr. Persons testifying in opposition to the petition included Kiyono Kunitaki, Patrick Dennison, Caroline Ainsworth and Herman K. Paakonia, Jerry Rothstein, and Craig Cornell. Mollie Kunewa Dunaway presented testimony concerning the history of the area under consideration.

Evidentiary Hearings

8. Evidence on the application was taken by the hearing officer in hearings held on August 3, 1982, August 4, 1982, and November 22, 1982, at Keauhou, North Kona, Island of Hawaii. Parties to the hearing were Petitioner, represented by Clifford H. F. Lum; Kuka'SPOKA, represented by Gary Pakele; Office of Hawaiian Affairs, represented by William Tagupa; and the Kona Conservation Group, represented by Colin L. Love.

9. The witnesses presented by the aforementioned parties were as follows:

Petitioner:

John Michael White - Petitioner's Representative
George J. Higa - Registered Land Surveyor,
employed by William Hee & Associates
Joseph Vierra - Civil Engineer,
employed by Belt, Collins & Associates
Paul Rosendahl - Archaeologist

Kuka'SPOKA

David Bills - Civil Engineer
employed by Gray, Hong & Associates
Virginia Isbell - State Representative,
3rd House District
Herman Paakonia

Kona Conservation Group:

Susumu Ono - Chairman of the Board of Land and
Natural Resources, State of Hawaii
Milton Hakoda - Director, Department of Parks and
Recreation, County of Hawaii

Exhibits Admitted

10. The following exhibits were admitted into evidence:

Petitioner:

HH-1	SMA Use Permit Application and attachments
HH-2	Letter: Ralston Nagata, DLNR, to Sidney Fuke, 1/5/82
HH-3	Letter: Herkes/Hodgman, Outdoor Circle, to George Ariyoshi 2/6/82
HH-4	Letter: George Ariyoshi to Herkes/ Hodgman, 3/8/82

HH-5	Letter: James M. Greenwell, Lanikai Corp., to Planning Commission, 4/8/82
HH-6	Letter: Petitioner to Susumu Ono, DLNR, 4/26/82
HH-7	Statement to Planning Commission by Petitioner, 4/28/82
HH-8	Vita: Paul Rosendahl, 8/82
HH-9	Preliminary Report, September 1982 by Paul Rosendahl
Kuka'SPOKA:	
KS-1	Archeological Reconnaissance Report of the Old Kona Airport Beach Park by Earl Neller, 11/80
KS-2	Land Court Application No. 1319 by Lorrin Potter Thurston
KS-3	Water Quality Management Plan for the County of Hawaii, 12/80
KS-10	Land Court Map
KS-11	Tax Map
KS-12	Survey Map Kailua Bay by George E.C. Jackson, June 1883
KS-13A	Survey Field Book (extract) by George E.C. Jackson, June 1883
KS-13B	Survey Field Book (extract) by George E.C. Jackson. June 1883
KS-17	Aerial photo print, 1975
KS-18	Photo
KS-19	Photo
KS-20	Photo
KS-21	Photo

KS-22	Photo
KS-23	Photo
KS-24	Photo
KS-25	Photo
KS-26	Photo
KS-27	Letter: Susumu Ono, DLNR, to Hideto Murakami, State Comptroller, 1/25/82
KS-28	Report: Hilton Head Subdivison by Brian L.Gray, Gray, Hong and Associates, Inc., 7/27/82
KS-29	Conceptual Sewer Layout at Hilton Head Subdivison
KS-30	Photo
KS-31	Photo
KS-32	Photo
KS-33	Photo
KS-34	Photo
KS-35	Photo
KS-36	Photo

Kona Conservation Group:

KCG-1	Section 342-41, Hawaii Revised Statutes
KCG-2	Letter: George Yuen, DOH, to Byron Baker, State House of Representatives
KCG-3	House Resolution No. 194, 11th Legislature, 1982

Position of the Parties

11. The positions of the various parties on the subject application are as follows:

Petitioner - Approval

Kuka'SPOKA - Opposed

Office of Hawaiian Affairs - Opposed

Kona Conservation Group - Opposed

Motions and Objections

12. The Kona Conservation Group moved during the course of the contested case hearing that the application be denied and the hearing suspended because the application did not address the effect that noise generation on adjacent, public property would have on the subject property. Further, it contended that the Department of Health can shut down the park if that noise is sufficient to affect the peaceful enjoyment of the private properties. The Kona Conservation Group concluded that the proposed project would be contrary to the Special Management Area Guideline 9.7(a)(2) which requires the authority or director, in the review of the proposed development, to seek to minimize any development that would reduce the area usable for public recreation. It further argued that Rule 9 of the Planning Commission requires that no development shall be approved unless it is found to be consistent with the objectives and policies as provided by Chapter 205-A and the Special Management Area Guidelines. This motion of the Kona Conservation Group was and is deemed to have been denied.

13. Kuka'SPOKA objected that the Planning Commission should be required to view exhibit KS-17 (aerial photo) since only one copy is provided. The hearings officer ruled that there will be one hearing officer's report and that KS-17 will be a part of it.

FINDINGS OF FACT

GENERAL FACTS

Proposed Development

14. The petition seeks approval of certain improvements to be made to property situated makai of the Old Kona Airport, Lanihau, North Kona, bearing Tax Map Keys: 7-5-5:1, 11, 14-51.

15. The property under consideration is a portion of an existing residential subdivision which was granted final subdivision approval by the County of Hawaii on April 23, 1951. The subject property consists of 40 lots and a 30-foot right-of-way for access purposes.

16. Petitioner's proposed improvements would entail the construction and installation of:

- (a) An 8-inch water line buried adjacent to and along the proposed roadway improvement. The water connects to the County water system now existing along Palani Road. Fire hydrants would also be installed and appropriately spaced according to County requirements. The Department of Water Supply has issued a water commitment for provision of adequate water for the project.
- (b) Underground electric, telephone, and cable television lines with transformer vaults as required along the proposed road. The proposed on-site system would be connected to the existing power/telephone lines from Kuakini Highway to parcel 13 of the project site. If connection to the overhead lines is not acceptable to the utility companies, Petitioner would install underground lines to connect with existing power/telephone lines along Kuakini Highway. The proposed lines measure 1,050 feet in length and follow

the alignment of Kaiwi Street extension (access road to the project site).

- (c) Roadway improvements within the 30 foot wide right-of-way (parcel 51) and through parcel 1 to the western boundary of the subdivision consist of a 22-foot wide, 2-inch thick asphaltic concrete pavement over a 6-inch gravel base course. The shoulder areas of the roadway would be a 2-foot wide, graded, and grassed or landscaped strip on the makai side and 6 feet wide on the mauka side of the street pavement. Street lighting will be provided as required by the County. A 4-foot high concrete block wall with rock facade and landscape planters on top would be constructed on the private lot side of the right-of-way. Driveway openings would be placed on the wall at appropriate locations.
- (d) A 4-foot high concrete block wall with rock facade and landscape planters on top. The wall would run along the side and mauka boundary lines of the residential subdivision and include a proposed entry gate near parcel 11. The entry gate would consist of a security station house and an electronically operated gate or gates. Two public access pedestrian corridors were proposed that would run mauka-makai along the western parcel line of parcels 1 and 18. These public access pedestrian corridors to the shoreline would be 10 feet wide and bordered on both sides with 4-foot high walls with planters on top similar to the proposed side and mauka walls. The pedestrian easement would be cleared for accessibility. At the entrance to these access corridors, 3-foot high concrete posts spaced about

2 feet apart are proposed to be installed to prevent access by vehicles to the shoreline. There is presently no mauka-makai public access available through the subject property.

- (e) Drainage improvements would consist of a shallow swale area on either side of the roadway pavement.
- (f) The shoreline trail (Easement "B" of Tax Map 7-5-05) is proposed to be fixed as a 5-foot wide easement, for pedestrian access purposes, parallel to the shoreline and within or adjacent to the shoreline setback area. A low 2-foot high rock wall is proposed mauka of the shoreline setback boundary and/or mauka of the shoreline trail. No improvements would be made within the trail easement or the shoreline setback area without prior approval by the County.
- (g) Standardized house number and name signs, mail boxes, signs identifying the project, public access signs, and other information and direction signs.
- (h) Three model homes may be located on lots 15, 16 and 17 or similar lots. These homes would be designed and built to assist in sales and in setting a character for the residential area.

17. Portions of the subject property are owned by Petitioner, the remaining lots within the subdivision are owned by other individuals. Petitioner, through its attorney, Clifford H. F. Lum, Esq., has been authorized to act on behalf of all the owners relating to the petition.

18. Petitioner has made all the required filings and submissions pursuant to law and rules of the Planning Commission relating to applications for Special Management Area (SMA) Use Permits.

Description of the Subject Property

19. The property is located makai of the Old Kona Airport, Lanihau, North Kona, Hawaii designated by Tax Map Keys: 7-5-05:1, 11, 14-51, containing an area of approximately 26 acres and is situated within the Special Management Area.

20. The project site is adjacent to the shoreline near Kailua Bay. The shoreline is rocky with some sandy areas and tide pools. Vegetation in the area includes: beach and morning glory, sea-shore rush grass, Haole Koa, and Heliotrope tree. Wildlife in the area includes: rats, field mice, mongoose and bats. Avifaunal species in the general area include: the Barred Dove, Cardinal, English Sparrow, Golden Plover, and Mynah. There are no rare or endangered species of vegetation, wildlife, or avifauna in the area. Due to the low rainfall in the vicinity of the subject property, erosion and sedimentation problems are not anticipated to be significant. The subject property has one existing home on one of the lots and is otherwise vacant of any structures. The surrounding land uses include the Old Kona Airport Park, a Coast Guard Reservation, and vacant lands.

County Zoning, General Plan, and Special Management Area Considerations

21. The proposed development is consistent with the County Single Family Residential-15,000 square foot (RS-15) zoning of the subject property. Within this zoned district single family dwellings, infrastructural improvements and property walls are permitted uses. Approval of the request will not increase the permissible density of the development in view of the existing lots in place.

22. The proposed development is also consistent with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map designations of Resort and Open. Single family residential uses are

permitted within the General Plan Resort designation. The requirement and installation of suitable public access to and along the shoreline would be consistent with the designation.

23. Petitioner proposes to legally designate and improve mauka-makai public access, thus furthering the Special Management Area objective of providing "coastal recreational opportunities accessible to the public."

IMPACTS ON RESOURCES OF THE AREA

Natural Resources

24. The proposed action will have minimal impact on the vegetation, wildlife, and the avifauna environment. It is expected that most wildlife that are affected would find suitable habitats in adjacent undeveloped areas. There are no known endangered plant or animal species on the subject property.

25. Marine near-shore coastal waters will not be significantly affected by erosion or sedimentation resulting from the proposed action. It is expected that the relatively flat topographic condition of the site would minimize any erosion or sedimentation problems that may impact near shore marine waters.

Archaeological Resources

26. An archaeological reconnaissance of the site was conducted in 1979, by Paul H. Rosendahl, Ph.D., Consultant Archaeologist, and its findings are discussed in the report entitled "Archaeological Reconnaissance Survey of the Hilton Head Company Kona Property Site." An update of the survey was conducted in November 1981, and its findings are outlined in a letter from Paul H. Rosendahl, Ph.D. to Petitioner.

27. The archaeological reconnaissance survey of the subject site revealed relatively few features. The principal types found were bait cups and petroglyphs. Aside from the isolated individual

examples, the petroglyphs are found concentrated in two relatively small clusters (Features J, P). The figures comprising these clusters are generally in poor to fair condition. In neither case does there seem to be any really outstanding examples such as those to be seen in the extensive petroglyph fields further up the coast in the South Kohala District, at Anaehoomalu and Puako.

28. With the exception of the immediate shoreline portion, most of the survey area had been bulldozed or scraped prior to purchase by Petitioner. Also, it appears that the recent occupation of the southeast end of the survey area might well have involved the disturbance of any pre-existing stone structural remains in the process of constructing new platforms, low walls, and alignments.

29. The archaeological features encountered at the subject site, with the exception of the two petroglyph concentrations (Features J, P), are believed to have only minimal significance in terms of potential research, interpretive, or preservation value. At the same time, intensive archaeological survey should be conducted as a necessary part of any future development within the survey area. The scope of this intensive survey would include the following field work tasks:

- (1) Location and precise plotting of all features present on an appropriate scale topographic map;
- (2) Detailed archaeological recording of all individual features and feature concentrations - written descriptions, large-scale plan maps and profiles, and photographs;
- (3) Dismantling of specific surface structural remains (Features F, M, N, O);
- (4) Surface artifact and midden collection at areas with remnant disturbed cultural deposits (Features E, I); and

- (5) Clear field definition and delimitation of peripheries of petroglyph concentrations (Features J, P).

Shoreline Trail (Lateral Public Access)

30. There is a foot-trail easement shown on the tax map which runs approximately parallel to the shoreline through some of the 30 subject shoreline parcels. Portions of this trail are now makai of the certified shoreline while other portions are mauka of the recently surveyed shoreline. Petitioner proposes to relocate and fix the location of a single shoreline trail as a five-foot wide easement for pedestrian access purposes parallel to the shoreline and within or adjacent to the setback area. A low rock wall is proposed along the mauka side of the shoreline setback boundary or shoreline trail. Petitioner proposes that the trail would be cleared as necessary and would be maintained in the future to insure continued public lateral access along the shoreline.

31. A 5-foot wide lateral shoreline access situated within the shoreline setback area will be difficult to traverse as portions of the path would be over lands covered by large beach boulders. Clearing of a path through the shoreline setback area would require a shoreline setback variance from the Planning Commission.

32. A 5-foot wide lateral shoreline access situated on the mauka side of the shoreline setback line would provide direct access to the shoreline only in two places where the mauka-makai access is proposed. Additional accesses to the shoreline, if any, would then have to be over portions of the subject property within the shoreline setback area. Should these accesses to the shoreline be defined as confined paths by easement, the paths would be surrounded by private lawns or yard spaces.

33. Should people wander off these mauka-makai easements, they would be trespassing.

34. Physical improvements of mauka-makai paths within the shoreline setback area will require a shoreline setback variance.

35. There is a unique sandy tide pool beach area, portions of which are located makai of the subject property's certified shoreline.

36. People will want to walk along the shoreline to gain access to the sandy tide pool beach area and other coastal recreational resources.

Tsunami Inundation

37. Coastal hazards due to tsunami inundation and storm surf are a potential threat to development on the makai portion of the subject property. In order to manage development within these areas, the Federal Flood Insurance Maps and Regulations administered in building design review have been adopted by the County of Hawaii. Compliance with these regulations will mitigate potential hazards to the property resulting from tsunami inundation and storm surf conditions.

PUBLIC SERVICES AND FACILITIES

Sewage Treatment and Disposal

38. Mr. David Bills testified as an expert witness with respect to sewage issues. He is a registered civil engineer in the State of Hawaii, employed by the engineering firm of Gray, Hong & Associates located in Honolulu, Hawaii. Mr. Bills received an undergraduate degree, Bachelor of Science, in civil engineering from Purdue University and received his Master degree in Sanitary Engineering from the University of Hawaii at Manoa.

39. The firm of Gray, Hong & Associates has conducted numerous dye testing studies along the Kona Coast, including the Kona Village Resort.

40. The State Department of Health has granted a clearance for the use of cesspools on an interim basis until such time as sewer connection is available.

41. It is a generally recognized principle that ground-water in the coastal waters will migrate towards the coast and end up in the coastal waters.

42. There is a sandy bottom tide pool which is relatively enclosed and which is located makai of the subject property. This tide pool area is a unique feature. The amount of flushing which can occur in the tide pool is significantly reduced compared to the open ocean environment.

43. Cesspools could be located at a distance of 150 feet from the tide pool in lots 13-23.

44. If cesspools were to be installed in lots 13-23, it is probable that water quality degradation will occur in the form of nutrients, nitrogens, and phosphorous in the tide pool area, and there is a possibility that pathogens would get into the tide pool from cesspool seepage.

45. The cost of installation of a sewer system which would be hooked-up to the public sewage treatment plant is estimated to be from \$370,000 to \$500,000.

Water

46. An 8-inch underground water line along the proposed roadway improvement will connect to the County water system now existing along Palani Road.

Firefighting

47. Fire hydrants will also be installed and appropriately spaced according to County requirements.

Roadway Facilities

48. The relatively small size of the proposed development will not contribute significantly to existing traffic.

49. Street lighting will be provided as required by the County.

Acquisition by the State of the Subject Project

50. A State of Hawaii House of Representatives resolution has been adopted requesting the State administration to investigate the factors determinative of purchasing the subject premises. No evidence has been presented to indicate any commitment by the State of Hawaii to acquire the subject premises as part of the Old Kona Airport State Park or that funds for acquisition of the subject property have been appropriated.

RULINGS ON MOTIONS, OBJECTIONS, AND PROPOSED FINDINGS

Any proposed finding submitted by a party and not already ruled upon, in whole or in part, by the Planning Commission by adoption herein, or by rejection through clearly contrary findings of fact herein, is hereby rejected.

Any motion or objection raised by a party and not previously ruled upon, in whole or in part, is deemed to be denied.

CONCLUSIONS OF LAW

Based on the review of petition filed herein, the evidence and arguments presented at the hearings and the provisions of Chapter 205-A, Hawaii Revised Statutes, and Rule 9 "Special Management Area Rules and Regulations of the County of Hawaii," the Planning Commission concludes:

1. The subject improvements are consistent with the General Plan, Zoning Code and other applicable ordinances of Hawaii County.
2. The subject development will not have any significant or substantial adverse environmental or ecological effects.
3. The subject development is consistent with the objectives and policies as provided by Chapter 205-A, Hawaii

Revised Statutes and the Special Management Area guidelines.

4. The imposition of conditions of approval are sufficient to minimize or obviate any adverse effects relating to water quality, public access, recreation, and cultural resources.

DECISION AND ORDER

It is hereby ordered that the requested Special Management Area Use Permit application filed by The Hilton Head Company for the subject property consisting of approximately 26 acres, situated at Lanihau, North Kona, Hawaii, identified as Tax Map Keys: 7-5-05:1, 11, 14-51, being in compliance with Chapter 205-A, Hawaii Revised Statutes, and Rule 9, "Special Management Area Rules and Regulations of the County of Hawaii," shall be and is hereby granted, subject to the following conditions:

1. Petitioner or its authorized representative shall be responsible for complying with all conditions of approval.

2. The recommendations of the June 1979 archaeological reconnaissance survey report and the November 1981 update shall be implemented prior to the construction of infrastructural or related improvements. A report on the results of these activities shall be forwarded to the Planning Department and the State Department of Land and Natural Resources, Division of State Parks, Historic Sites Section, for review and approval. The Planning Director is empowered to require additional archaeological work and development adjustments as may be necessitated by the findings of the above mentioned archaeological work. Further, no grading, grubbing, excavation, or construction shall be undertaken on the subject property without the express written consent of the Planning Director.

3. Within one year from the final archaeological clearance issued by the Planning Director, plans for the construction of

the infrastructure and property wall improvements shall be submitted to and approved by the Planning Director.

4. A public shoreline access plan shall be submitted for the approval of the Planning Director in conjunction with the infrastructural and property wall improvement plans. This plan is exclusive of and does not prejudice any efforts by Petitioner to remove or relocate the old Hawaiian trail. The shoreline access plan shall include, but not necessarily be limited to:

- (a) Location and description of all public pedestrian access paths including: (1) two 10-foot wide mauka-makai access paths, one of which is to be located along the western boundary of lot 18 and the other along the western boundary of lot 36; (2) a lateral shoreline access which shall include all of the lands within the subject property which are within the shoreline setback area and an additional two or more feet immediately mauka of the shoreline setback line, as may be deemed necessary by the Planning Director to encompass the proposed two-foot wide rock wall top; (3) a 5-foot wide path along the mauka boundary of the subject property from its western end to the mauka-makai access within lot 18, provided that this path may be situated on the adjacent State-owned lands if approved by the Board of Land and Natural Resources.
- (b) Plans for any proposed improvements for the access paths, including but not limited to: (1) the provision of a rock wall mauka of the shoreline setback line of the various lots which would be designed to have a smooth walking surface of a

minimum 2-foot width and not exceeding 18-inches in height; (2) the clearing and improvement of the mauka-makai paths; and (3) the clearing of the 5-foot wide path that is located either along the mauka boundary of the subject property, or within the adjacent State-owned lands, if so approved by the Board of Land and Natural Resources.

(c) Proposed method of signage to identify the location of the public shoreline access paths.

5. All public access paths shall be described by metes and bounds and shall be recorded to provide a perpetual right of pedestrian access to the public.

6. All planning, construction, and recordation as required for public shoreline access shall be completed prior to the issuance of building permits for the subject property.

7. Petitioner or its successors or assigns shall be responsible for the maintenance of all shoreline access paths.

8. As part of the infrastructural improvement, each lot shall be serviced by a connection to the County sewage treatment plant in accordance with the County of Hawaii design standards as established by the Chief Engineer. Further, all dwellings to be constructed on the subject property shall be serviced by the County sewage system.

9. Construction of the infrastructure, property wall, and shoreline access improvements shall commence within one year from the date of final approval of the plans and shall be completed within two years thereafter.

10. That the subject property shall be re-platted for Land Court registration or for recordation at the Bureau of Conveyances, as appropriate, reflecting:

- (a) The existence of only 40 lots;
- (b) The shoreline as certified by the Chairman of the Board of Land and Natural Resources on November 24, 1981;
- (c) The shoreline access paths and all public easements of record. Said re-platting shall occur prior to the issuance of any construction approval or permits.

11. All other applicable rules, regulations, and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Special Management Area Use Permit shall be automatically void.

Dated at Hilo, Hawaii on this 19th day of May, 1983.

COUNTY OF HAWAII
PLANNING COMMISSION



ROY KAGAWA
Chairman Pro Tem

DOCKET NO. 81-31

U. S. Postal Service by certified mail:

5. PLANNING COMMISSION
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dated: Hilo, Hawaii, this 19th day of May, 1983.

COUNTY OF HAWAII
PLANNING COMMISSION


ROY KAGAWA
Chairman Pro Tem

May 5, 1983

Mr. Clifford Lum
192 Kapiolani Street
Hilo, Hawaii 96720

Mr. Colin L. Love
77-6400 Nalani Street
Kailua-Kona, HI 96740

Mr. Gary Pakele
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1102
Honolulu, HI 96813

Mr. William Tagupa
Cultural Affairs Officer
Office of Hawaiian Affairs
State of Hawaii
567 South King Street, #100
Honolulu, HI 96813

Dear Messrs. Lum, Pakele, Love and Tagupa:

Special Management Area Use Permit Application (SMA 81-31)
Hilton Head Company, Inc.
Tax Map Key 7-5-5:1, 11, 14-51

The Planning Commission at its meeting held April 28, 1983, voted to approve the subject Special Management Area Use Permit application based on the findings contained in the hearing officer's report.

A copy of the decision and order will be forwarded to you as soon as it has been finalized.

Should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,


Clyde Imada
Chairman, Planning Commission

cc: R. Ben Tsukazaki

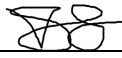
MAY 4 1983

USE PERMIT APPLICATION

COUNTY OF HAWAII PLANNING COMMISSION

(Type or legibly print the requested information)

APPLICANT(S): Vanessa Pearson

APPLICANT'S SIGNATURE:  DATE: May 28 2024 19:28 PDT

ADDRESS: 75-5446 Kona Bay Drive, Kailua-Kona, HI 96740

LIST APPLICANT'S INTEREST (if not owner): _____

PHONE: (Bus.) (616) 990-0067 (Res.) _____ (Email) vanessa.pearson@kdvtrading.com.au

REQUEST: To operate a 5-bedroom bed and breakfast

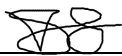
TAXMAPKEY(S): (3) 7-5-005: 040 ZONING: RS-15

SIZE OF PROPERTY / AREA OF REQUESTED USE: _____ 16,972 sf / 16,972 sf

LANDOWNER(S): Vanessa Pearson

FEE SIMPLE LANDOWNER(S) WRITTEN AUTHORIZATION
(may be provided by letter with the below statement included):

DATE: _____

 DATE: May 28 2024 19:28
PDT

AGENT: Land Planning Hawaii LLC

AGENT ADDRESS: 194 Wiwoole St, Hilo, HI 96720

PHONE: (Bus.) 808 333-3393 (Res.) _____ (Email) info@landplanninghawaii.com

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: Agent COPIES: Applicant

Planning Dept.
Exhibit <u>2</u>

**COUNTY BACKGROUND & ENVIRONMENTAL REPORT
COUNTY USE PERMIT REQUEST
VANESSA PEARSON
KONA BAY ESTATES, NORTH KONA, HAWAI'I
TMK (3) 7-5-005: 040**

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I. INTRODUCTION

Vanessa Pearson (“**applicant**”) is requesting a use permit to operate a 5-bedroom bed and breakfast on the subject residentially zoned property. The property is located within the Kona Bay Estates Subdivision, identified by TMK: (3) 7-5-005: 040 and is located on the makai side of Kona Bay Drive, approximately 1,800 feet northwest of the intersection of Kona Bay Drive and Kaiwi Street (**Figure 1**). The property is within the Special Management Area and an SMA Use Permit Application is being submitted concurrently with this request.

The applicant, who primarily lives overseas, wishes to construct a 6-bedroom single-family residence and associated improvements on the subject property to use as her residence when she visits the island. The dwelling will also serve as the primary residence of a live-in caretaker who will assist in operating the property as a 5-bedroom bed and breakfast when the applicant is not using the home.

Alternative visitor experiences are in high demand in Hawaii. Many visitors to Hawaii are looking for accommodations and experiences outside of the typical resort environment. Bed and breakfast accommodations provide alternative lodging sites for visitors seeking a more personal experience in Hawaii. The County, recognizing this trend, has established guidelines in the Zoning Code, Section 25-4-7(b) regarding bed and breakfast establishments. Under the proposed request, the proposed 6-bedroom single-family dwelling on the property will serve as the primary residence of a live-in caretaker who will manage the bed and breakfast operations by renting out the remaining five (5) bedrooms in the dwelling to guests when the applicant is not using the home. To this end, the bed and breakfast will be subordinate and clearly incidental to the principal use of the dwelling as the caretaker’s primary residence.

Approval of this bed and breakfast facility would be consistent with the social and physical character of the surrounding residential area and would contribute to the economic development of the County.

II. PROJECT DESCRIPTION

3A. Project Concept and Components

As noted earlier, the subject property is located within the Kona Bay Estates Subdivision, approximately 1,800 feet northwest of the intersection of Kona Bay Drive and Kaiwi Street in Kailua-Kona, HI (**Figure 1**). The parcel is zoned Residential (RS-15) and is within the Urban State land use district. The parcel has been previously cleared and is currently undeveloped.

The applicant wishes to develop a two-story, approximately 5,200-square foot residence with six (6) bedrooms and six (6) bathrooms. The dwelling will also have approximately 3,100 square feet of accessory space including lanais, storage and a two-car garage as well as a swimming pool and spa which will be located on the top floor. The dwelling will be connected to both County sewer and County water. On-site parking will include two parking stalls in the garage and four (4) parking stalls in the driveway for a total of

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up to six (6) on-site parking stalls. **Figures 2a-3b** show the proposed site plan, floor plans and elevations.

The dwelling is proposed to be the primary residence of a live-in caretaker who will reside in one of the bedrooms while renting out the other five (5) bedrooms to guests of the bed and breakfast. The proposed bed and breakfast will provide overnight accommodations to a maximum of ten (10) guests, for compensation, for periods of less than thirty days.

The applicant proposes the following elements be included as part of the Use Permit:

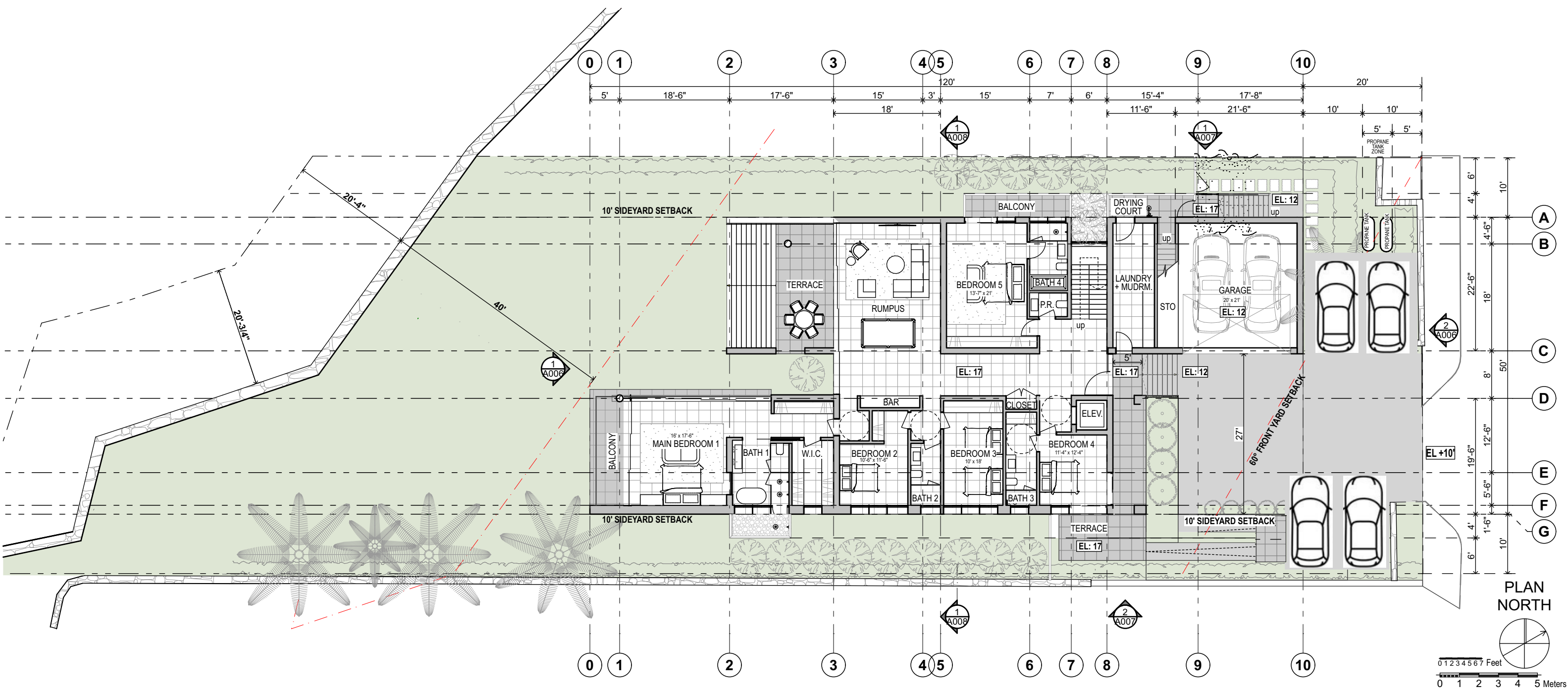
1. Five (5) bedrooms within the proposed dwelling on the property will be rented as overnight accommodations to up to 10 guests.
2. Breakfast may be provided only to registered guests and no other meals will be provided.
3. Guests will be required to park within the six (6) designated on-site parking stalls identified on the attached site plan (**Figure 2a**). Four (4) stalls are located in the driveway and two (2) stalls are located in the garage.
4. Guests will observe quiet hours from 9:00 p.m to 8:00 a.m. and sound levels during non-quiet hours will remain at a residential level.
5. The bed and breakfast will be operated by the property caretaker who will reside on-site in the bedroom indicated on the floor plans (**Figure 2b**).
6. Access will be via Kona Bay Drive, a privately owned and maintained paved roadway.

The applicant hopes to secure County SMA Permit approval for the construction of the proposed improvements and Use Permit approval for the operation of the bed and breakfast as soon as possible and begin the building permit process immediately thereafter. Construction is estimated to take approximately two (2) years. Cost estimates for the project are approximately \$4,000,000.00.

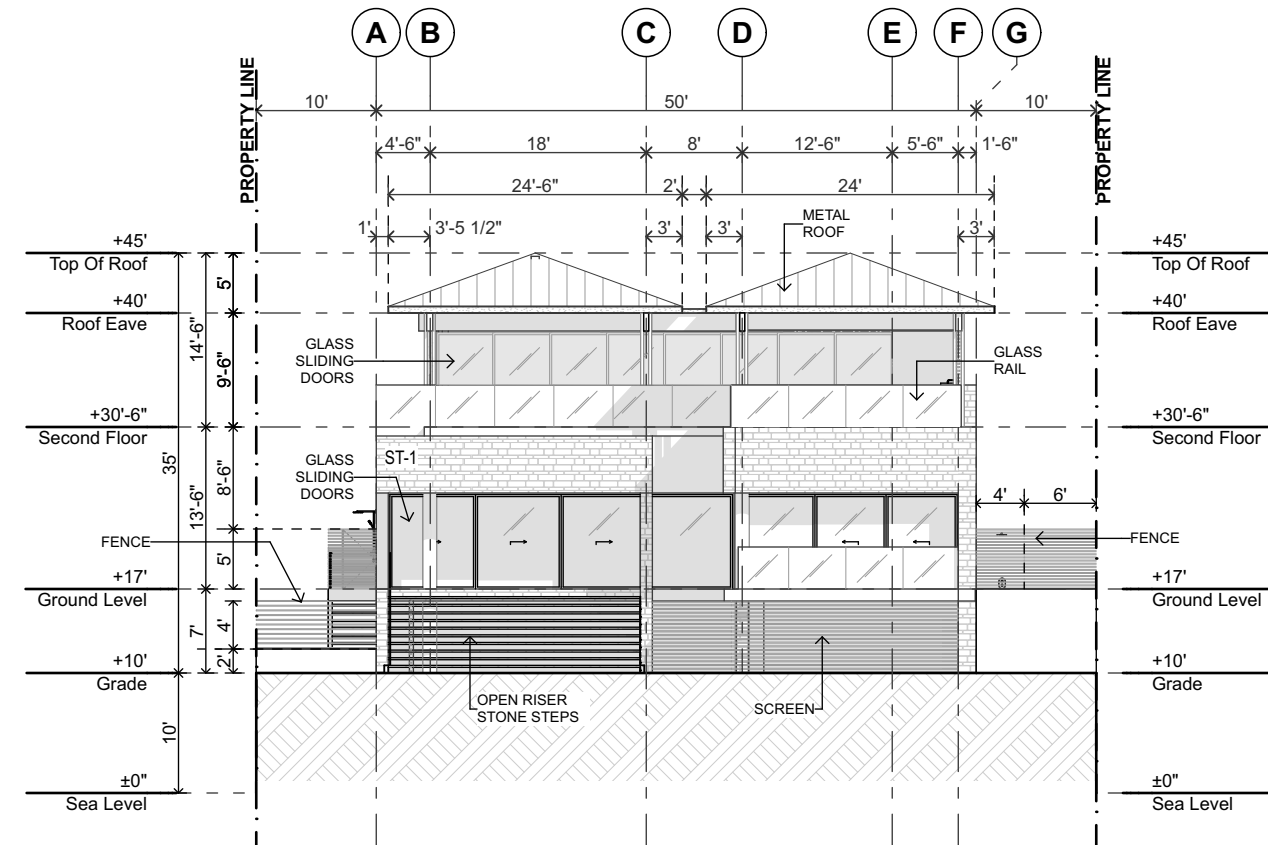
3B. Subject Property Description

The subject site, identified as TMK (3) 7-5-005: 040 and consists of 16,972 square feet of land. The parcel is located approximately 1,800 feet northwest of the intersection of Kona Bay Drive and Kaiwi Street. Access to the parcel is from Kona Bay Drive, a privately owned and maintained paved roadway. The parcel is roughly rectangular in shape and is zoned Residential – 15,000 square feet (RS-15) (**Figure 4**).

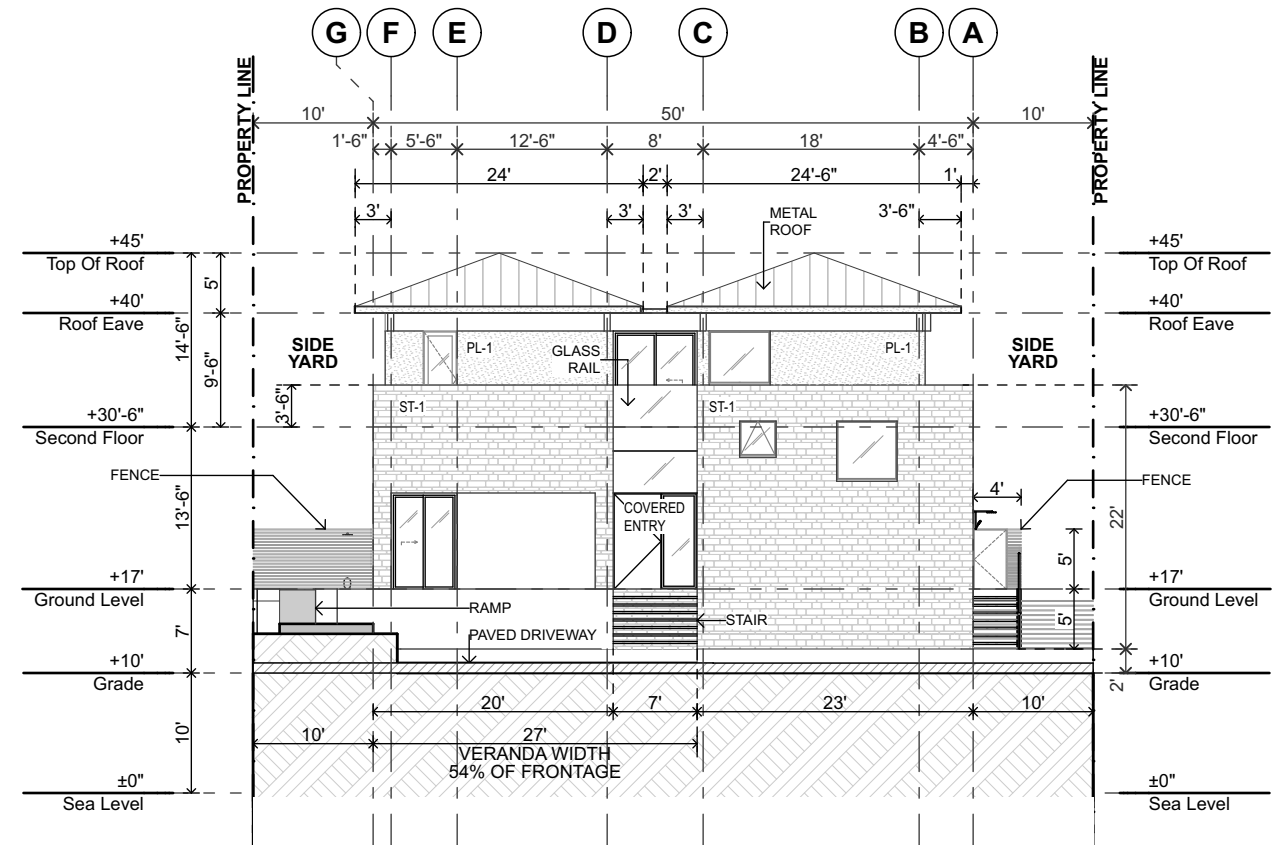
This area of the North Kona District is considered Lava Zone 4, on a scale ranging from 9 to 1 (least hazardous to most). The site is located adjacent to the shoreline and within the



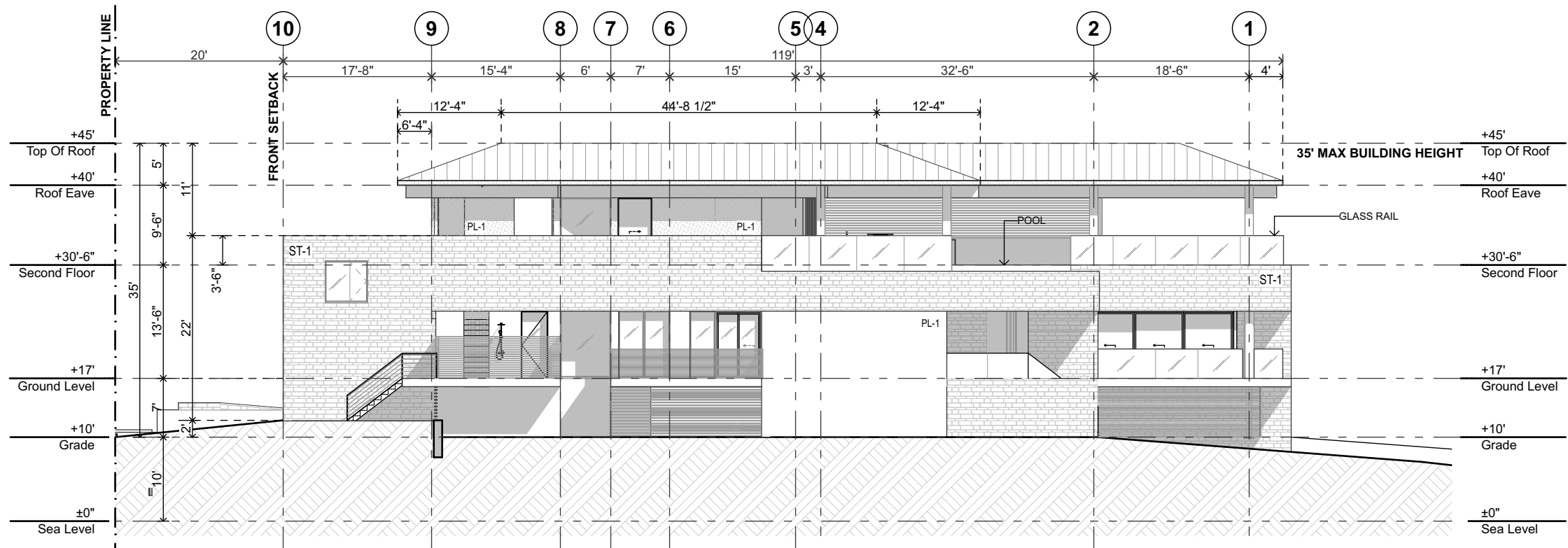
1 Level 1 Plan
SCALE: 1/16" = 1'-0"



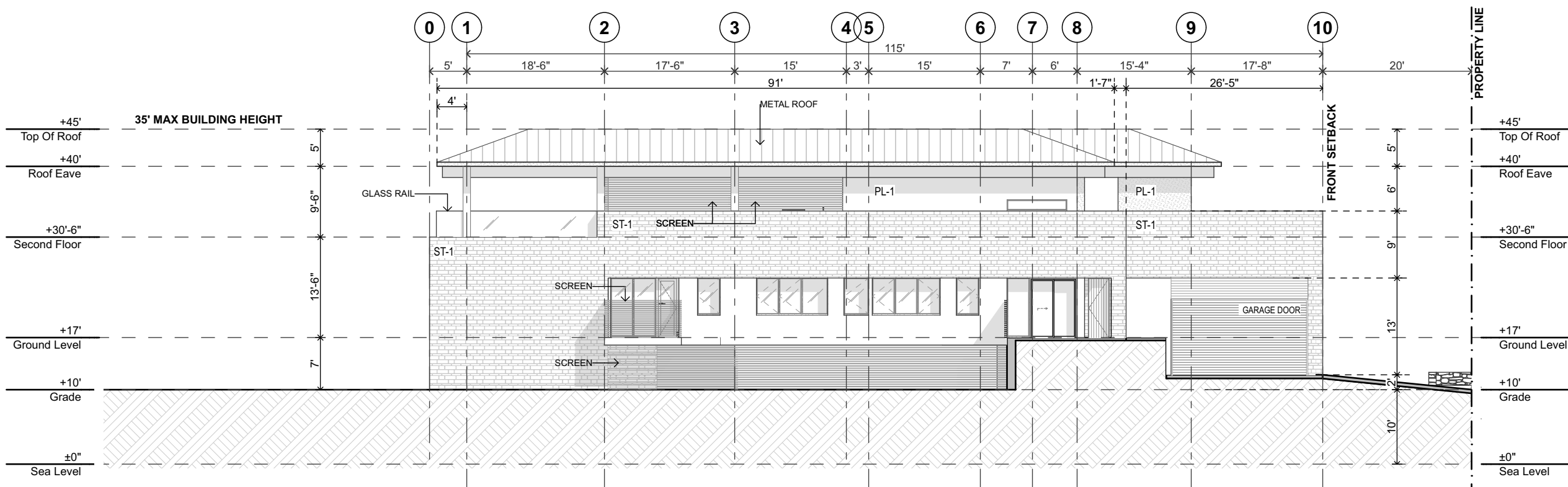
1 Elevation
SCALE: 1/16" = 1'-0"



2 Elevation
SCALE: 1/16" = 1'-0"

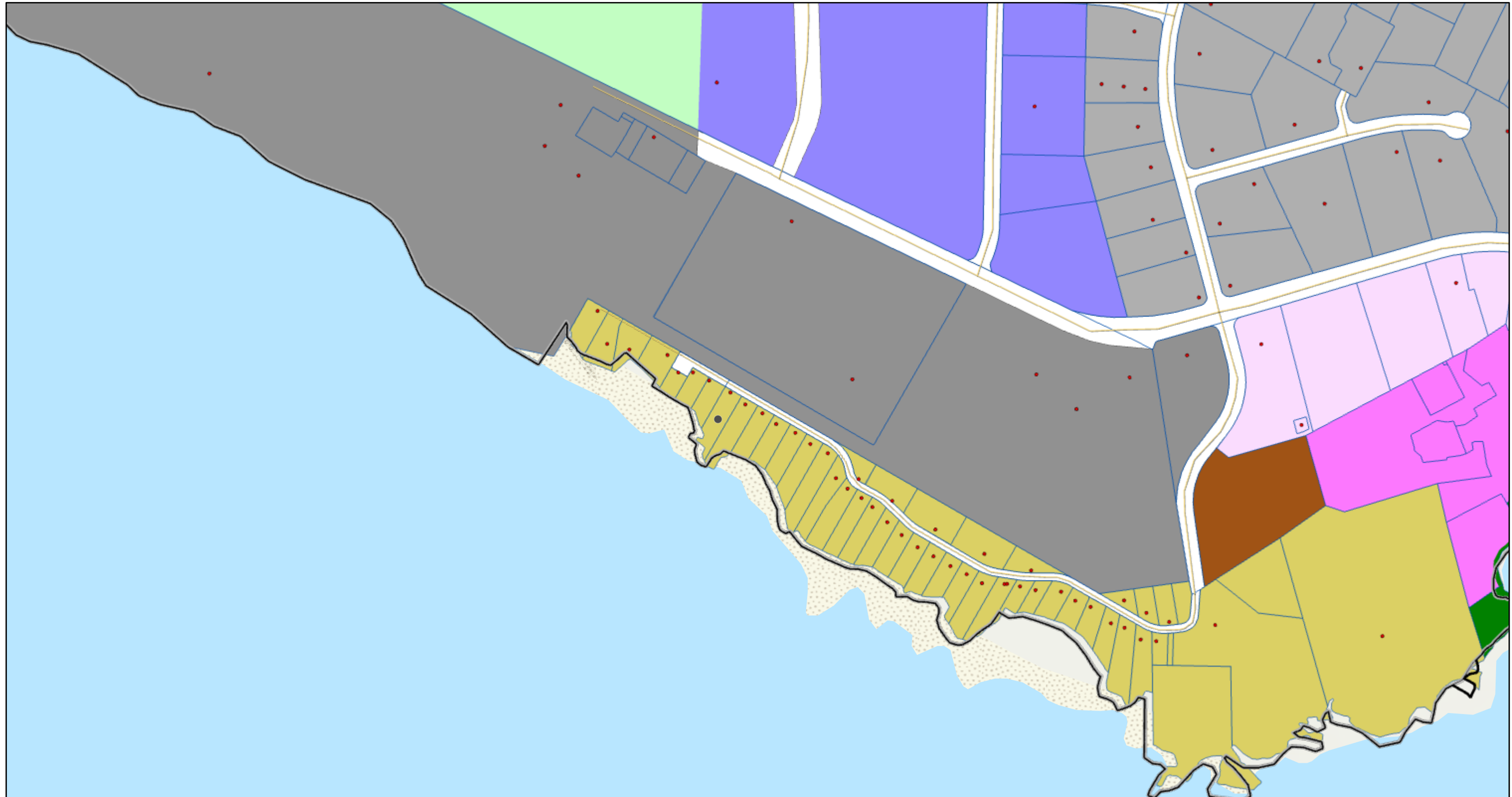


1 Elevation
SCALE: 1/16" = 1'-0"



2 Elevation
SCALE: 1/16" = 1'-0"

HAWAII COUNTY ZONING MAP



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Hawaii County Zoning

(road)

A-5a

CV-10

MCX-20

MG-1a

ML-20

OPEN

RM-1.5

RS-15

V-.75

Parcels (current boundary lines)

Address Points

Street Centerlines

Hawaii County District Boundary

Coastline

1:4,514

0 0.05 0.1 0.2 mi
0 0.07 0.15 0.3 km

County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FIGURE 4

Special Management Area. The Land Use Pattern Allocation Guide (LUPAG) designates this land as *Open* (**Figure 5**).

The subject parcel was created by Subdivision 433, approved on April 23, 1951, and modified by Subdivision 5059-c, approved on January 20, 1984.

The site is a shoreline parcel. There are no existing structures on the property and minimal vegetation. The parcel is subject to an approved public access plan for the Kona Bay Estates subdivision, which consists of several pedestrian access easements and follows the existing seawall.

The parcel has little discernible slope and sits approximately ten (10) to twenty (20) feet above sea level.

3C. Institutional Considerations

State Land Use

The subject site is designated State land use Urban (**Figure 6**). The proposed use would not be contrary to the objectives of Chapter 205, or Title 15 Chapter 15 Hawaii Revised Statutes. State land use laws and regulations generally defer to the authority of the County regarding permitted uses within the urban district.

Hawaii County Code Chapter 25-5-3 (b)(1) allows for the establishment of a bed and breakfast on residentially zoned lands provided that a use permit is issued by the Planning Commission in accordance with County Code Sections 25-2-62 to 65.

Special Management Area

The subject property is a shoreline parcel and within the designated Special Management Area. A SMA Use Permit Application is being submitted concurrently with this application.

County Zoning and General Plan

The subject property is zoned Residential (RS-15) (**Figure 4**). The County General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the parcel as *Open* (**Figure 5**). This designation is intended for parks and other recreational areas, historic sites, and open shoreline areas such as the subject parcel. Relative to these designations, the General Plan and Hawaii County Code Chapter 25, Section 25-5-3 (b)(1) allows for the establishment of a bed and breakfast on residentially zoned lands provided that a use permit is issued where the requested use meets certain criteria as outlined in Section III of this report.

LAND USE PATTERN ALLOCATION GUIDE (LUPAG) MAP



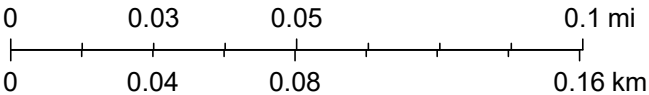
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Land Use Pattern Allocation Guide (LUPAG)

- Industrial
- Open Area
- Parcels (current boundary lines)

- Address Points
- Street Centerlines
- Hawaii County District Boundary
- Coastline

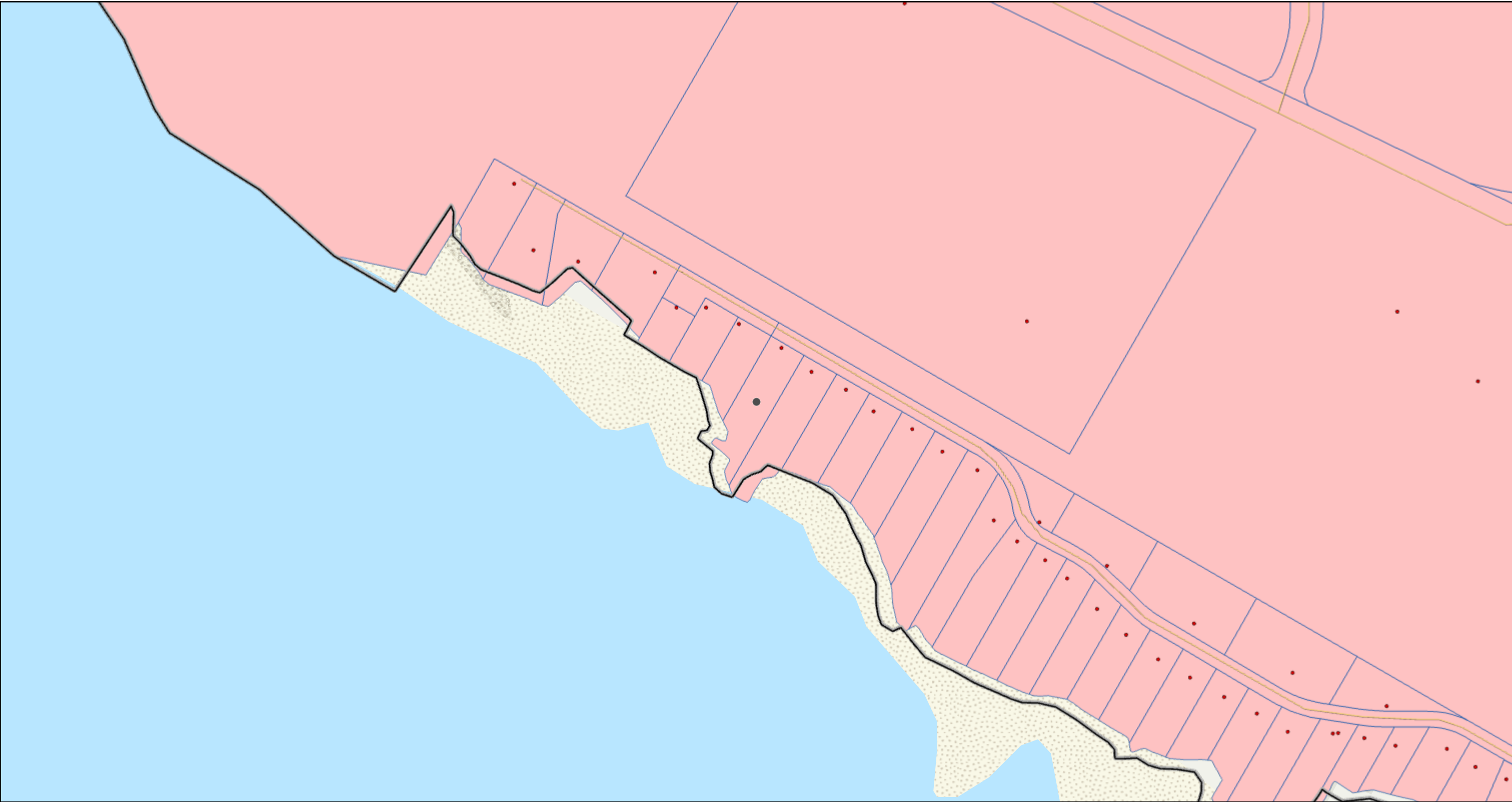
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County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

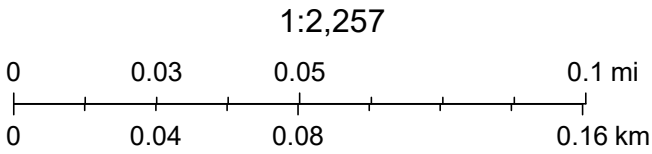
FIGURE 5

STATE LAND USE DESIGNATION MAP



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- State Land Use Classifications (SLU)
- Urban
 - Parcels (current boundary lines)
 - Address Points
- Street Centerlines
- Hawaii County District Boundary
- Coastline



County of Hawaii IT Department, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

FIGURE 6

General Plan Discussion

The Hawai‘i County General Plan serves as a guide for decision-makers in land use matters. The proposed project is conducive to the General Plan’s guidelines as it conforms to the following goals, policies, and standards of the General Plan:

Economic Elements:

2.2 Goals

- (a) Provide residents with opportunities to improve their quality of life through economic development that enhances the County’s natural and social environments.*
- (b) Economic development and improvement shall be in balance with the physical, social, and cultural environments of the island of Hawai‘i.*
- (c) Strive for diversity and stability in the economic system.*
- (d) Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County’s cultural, natural and social environment.*
- (e) Strive for an economic climate that provides its residents an opportunity for choice of occupation.*
- (f) Strive for diversification of the economy by strengthening existing industries and attracting new endeavors.*

2.3 Policies

- (c) Encourage the development of a visitor industry that is in harmony with the social, physical, and economic goals of the residents of the County.*

Environmental Elements:

4.2 Goals

- (a) Define the most desirable use of land within the County that achieves an ecological balance providing residents and visitors the quality of life and an environment in which the natural resources of the island are viable and sustainable.*

Land Use Elements:

14.1.2 Goals

- (a) Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.*

14.1.3 Policies

- (f) *Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.*

Additionally, the General plan also notes the following:

In recent years, niche tourism markets, such as eco-tourism and health and wellness tourism have established themselves throughout the island. Niche markets for these types of tourism have growth potential by promoting the abundance of natural, historical and cultural resources this island has to offer. While most of the larger resorts focus upon recreational opportunities offered by the island's coastal resources, these niche tourism markets also take advantage of other natural and cultural resources available from various locations throughout the County.

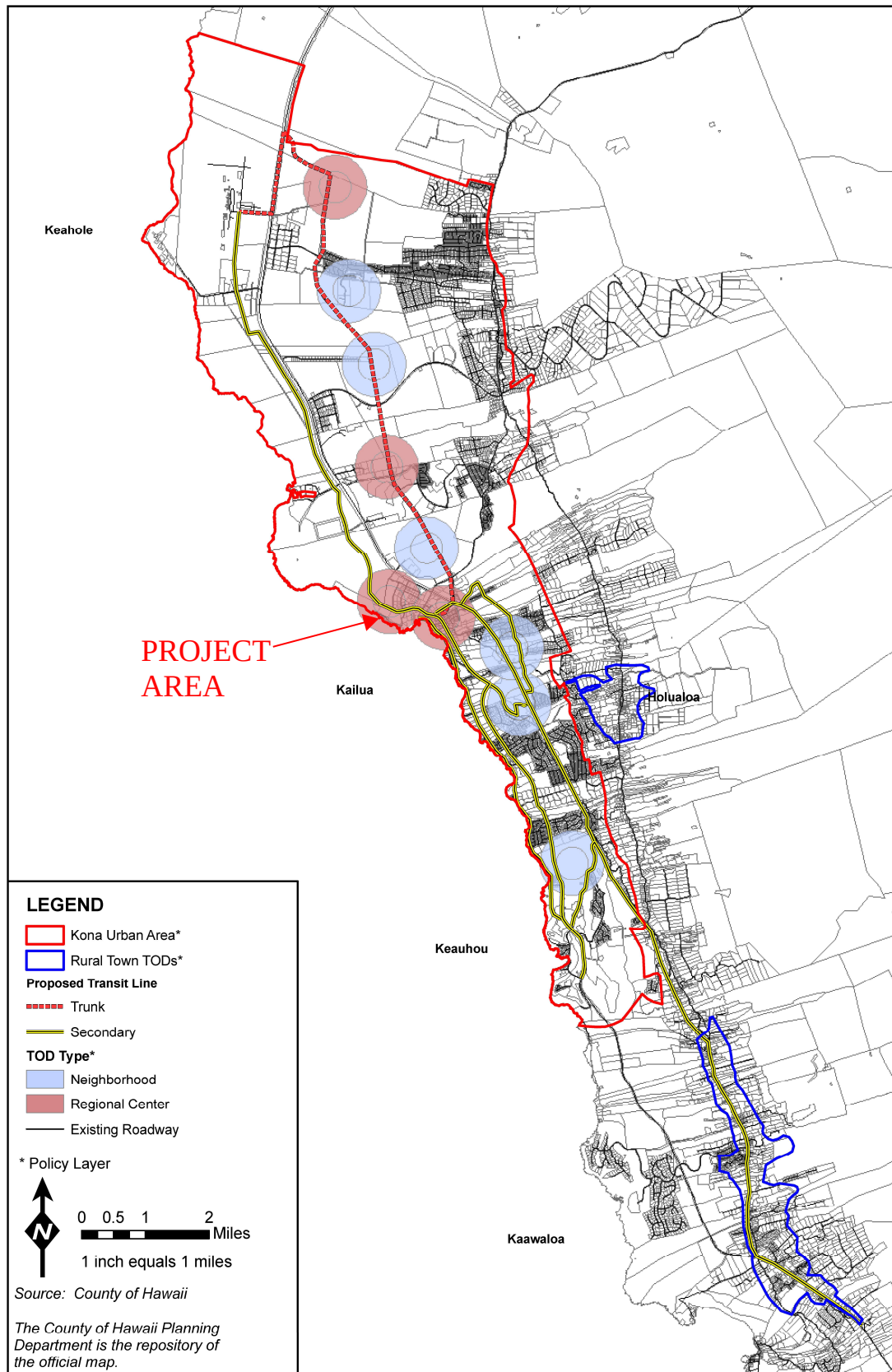
Discussion: Approval of the requested use permit would be in line with the aforementioned economic, environmental and land use goals and policies of the General Plan by providing an opportunity for the applicant to offer niche tourism bed and breakfast accommodations while also providing long-term housing for the on-site caretaker. The caretaker would live on-site and ensure that all activities taking place on the property conform to the character of the surrounding neighborhood and that guests adhere to the County's good neighbor policy by observing quiet hours from 9:00 p.m. to 8:00 a.m., sound levels during non-quiet hours remains at a residential level and guest vehicles are parked in the designated onsite parking areas. Additionally, a search of vacation rental sites indicates that many other nearby Kona Bay Drive properties operate as short-term vacation rentals. Thus, approval of the proposed use permit will enhance economic opportunities for the landowner and her employees (i.e. caretaker, cleaners, landscapers, etc), while also encouraging a harmonious visitor experience that is in keeping with the surrounding residential and transient accommodation uses.

Kona Community Development Plan

The Kona Community Development Plan (KCDP) attempts to further define the General Plan and serves as a guide for decision-makers. The subject property is located within the Kona Urban Area and within a Regional Center transit-oriented development as identified on the Official Kona Land Use Map (**Figure 7**). Thus, the proposed use permit would establish visitor accommodations in an area identified as desirable for development and with adequate access to a variety of services.

Additionally, the proposed use permit request is specifically conducive to the following objectives and policies of the KCDP:

Figure 4-7 Official Kona Land Use Map



Objective LU-1: Overall Growth Pattern. To identify areas where higher intensity growth areas should occur and areas where the rural character and open space along the shoreline should be preserved.

Policy LU-1.1: Official Kona Land Use Map. The Official Kona Land Use Map shall define the Kona Urban Area and the general locations, spacing, and type of TOD Villages.

Policy LU-1.2: Urban Area. The majority of future growth in Kona shall be directed to the Kona Urban Area shown on the Official Kona Land Use Map which spans from Kona International Airport to Keauhou subject to the policies set forth under Objective LU-2 Urban Area Growth Management.

Objective LU-2: Urban Area Growth Management. Recognizing that the LUPAG Urban Area is larger than needed in order to accommodate the projected growth within the planning horizon, future growth within the Urban Area shall be encouraged in a pattern of compact villages at densities that support public transit.

Policy LU-2.1: Village Types Defined – Transit-Oriented Developments (TODs) vs. Traditional Neighborhood Developments (TNDs). Both TODs and TNDs are compact mixed-use villages, characterized by a village center within a higher-density urban core, roughly equivalent to a 5-minute walking radius (1/4 mile), surrounded by a secondary mixed-use, mixed-density area with an outer boundary roughly equivalent to a 10-minute walking radius from the village center (1/2 mile). The distinction between a TOD and TND is that the approximate location of a TOD is currently designated on the Official Kona Land Use Map along the trunk or secondary transit route and contains a transit station, while TND locations have not been designated and may be located off of the trunk or secondary transit route at a location approved by a rezoning action.

As the proposed bed and breakfast is within the Kona Urban Area, it would further the policy of concentrating growth in this area. Additionally, the project will not impact shoreline access as the shoreline access easement located on the makai side of the property will be preserved.

3D. Surrounding Zoning and Land Uses

The subject parcel is located within the Kona Bay Estates Subdivision. The subject parcel and surrounding subdivision are zoned *Residential (RS-15)* (**Figure 4**). The other Kona Bay Estates parcels to the east and west of the subject parcel contain single-family dwellings of similar size to the proposed dwelling. North of the subject parcel is the ML-20 zoned Old Kona Airport Recreation Area.

Nearly all of the Kona Bay Estates parcels are already developed with single-family residences, many of which are offered as short-term rentals. The proposed new dwelling and associated improvements will be in keeping with the style and square footage of many of the surrounding homes. Thus, the subject Use Permit request would remain in keeping with the surrounding residential uses in the area. Furthermore, approval of the subject request would only allow transient overnight accommodations for up to 10 individuals. Given that many of the surrounding properties are already offered as short-term rentals, the impacts to the surrounding properties from the proposed project would be minimal.

3E. Flood Insurance Rate Map

With regard to flooding, the property is located within **(Figure 8)**:

- Flood Zone AE (areas subject to a 1% annual chance of inundation by a 100-year flood event).
- Flood Zone VE (areas subject to a 1% annual chance of inundation by a 100-year flood event with additional hazards associated with storm induced wave action).
- Flood Zone D (unstudied areas where flood hazards are undetermined, but flooding is possible).

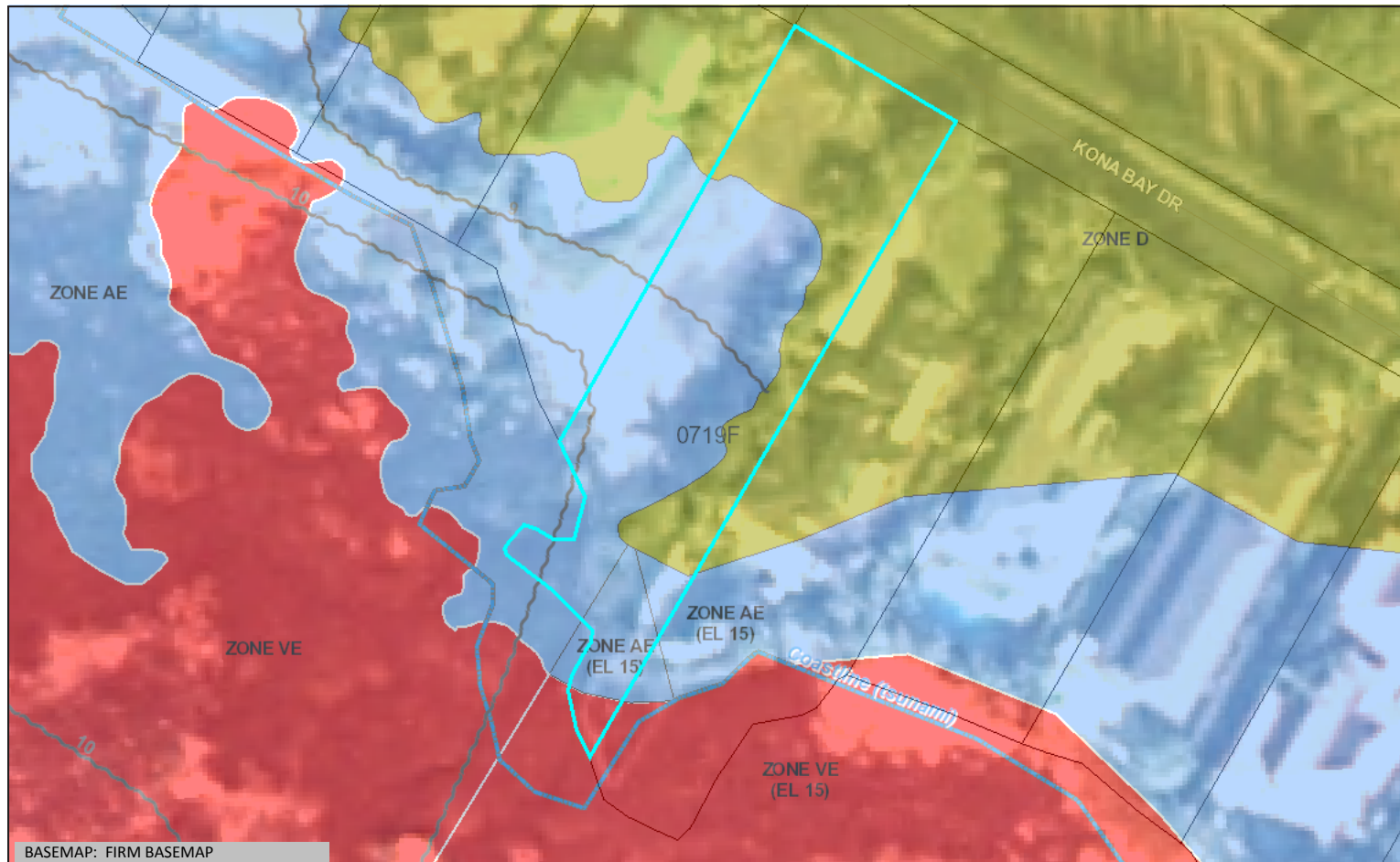
The proposed dwelling will be constructed and permitted in accordance with the County Flood Control Code Chapter 27 and current building codes.

3F. Archaeological Resources

It is unlikely any archaeological or historic resources will be encountered on the property as the property has undergone previous archaeological and cultural study to determine the presence and significance of sites in the area. These prior studies were conducted prior to the creation of the existing subdivision, and prior to the grading done to construct walls and level the subject parcel. Based on these previous studies, no historic sites appear to be present on the property. Additionally, based on the limited soil formation in the area and subsurface proximity of the bedrock, no burial sites are anticipated within the project area. Therefore, it is highly unlikely that any historic sites would be found on the property. If the State Historic Preservation Division (SHPD) mandates further studies, the applicant will carry them out. Further, in the event any archaeological or historical features are found during any earth disturbance activity, work will stop within the affected area and appropriate clearances from the State DLNR-SHPD and County Planning Department will be secured before work resumes. If needed, an archaeological monitoring program can be instituted during any land clearing activity.

3G. Valued Cultural Resources

The Hawaii State Supreme Court's "PASH" and "*Ka Pa`akai O Ka`Aina*" decisions require decision-makers to consider a project's impact to native Hawaiian gathering and fishing rights. Specifically, there must be a discussion of the cultural, historical, and



Flood Hazard Assessment Report

www.hawaiiinfip.org

Property Information

COUNTY: HAWAII
 TMK NO: (3) 7-5-005:040
 WATERSHED: WAIAHA
 PARCEL ADDRESS: 75-5446 KONA BAY DR
 KAILUA KONA, HI 96740

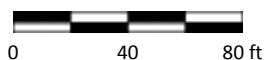
Notes:

Flood Hazard Information

FIRM INDEX DATE: SEPTEMBER 29, 2017
 LETTER OF MAP CHANGE(S): NONE
 FEMA FIRM PANEL: 1551660719F
 PANEL EFFECTIVE DATE: SEPTEMBER 29, 2017

THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: YES
 FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO
 FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain manager for flood zone determinations to be used for compliance with local floodplain management regulations.

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND (Note: legend does not correspond with NFHL)

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase applies, but coverage is available in participating communities.
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FIGURE 8

natural resources and associated traditional and customary practices of this site and the impact of this project to these resources and practices.

The shoreline adjacent to the subject property is currently used for coastal gathering, fishing and hiking by native Hawaiians and others. None of these practices will be altered or restructured during or after construction of the proposed residence and its use as a bed and breakfast. Thus, these activities will not be impacted by the proposed project.

Public shoreline access from Kona Bay Drive and Old Kona Airport State Recreation Area is available approximately 200 feet southeast of the site. Additionally, a public access easement is located on the makai side of the property and follows along the shoreline through the entirety of the Kona Bay Estates. No changes will be made to the existing public shoreline access routes. The applicant will maintain all vegetation on site and will prevent overgrowth into shoreline access areas. Thus, the proposed project will not impact or impair any public shoreline access.

It is unknown if the subject property has ever been used for any traditional and/or customary rights. However, the parcel has been cleared and surrounded by other residential developments for many years and thus it would appear very unlikely that the site would serve such a purpose today and/or in the recent past.

Therefore, the project does not appear to present any cultural impacts. However, in the event documented claims of gathering or access are made of this site, the applicant will honor them.

3H. Flora and Fauna Resources

There is little in the way of vegetation currently on the subject property with the exception of naupaka.

The site is not known to be a habitat for any rare or endangered animal life. It would be possible, though unlikely, to find the Hawaiian Hawk (I'o) (*Buteo solitarius*) and Hawaiian owl (*Asio flammeus sandwichensis*) in the surrounding area. However, the residential nature of the area would make it less likely to find other terrestrial protected or endangered animal life.

The Hawaiian Green Sea Turtle (*Chelonia mydas*) and Hawaiian Monk Seal (*Monachus schauinslandi*) are both endangered marine creatures that could be found in the nearby coastal waters. No adverse effects are anticipated on these aquatic species, since the property is protected by a legal seawall, and the project will prohibit any construction, material staging, or use of heavy machinery within the 40-foot shoreline setback zone.

Additionally, artificial outdoor lighting can cause significant disorientation to seabirds that frequently pass through the area at night. Collision or grounding of birds are potential adverse impacts if the proper mitigating measures are not taken. The applicant will follow Hawai'i County Code Chapter 14-50 to minimize the potential for

disorientation of seabirds. All nighttime construction work that requires lighting should be avoided during the seabird fledging season between September 15 and December 15.

If any endangered fauna is spotted during the construction phases, the Department of Land and Natural Resources, Department of Forestry and Wildlife will be contacted immediately for appropriate action.

3I. Description of Access

The subject parcel is accessible via Kona Bay Drive, approximately 1,800 feet west of the intersection of Kona Bay Drive and Kaiwi Street. Kona Bay Drive is a privately owned and maintained paved roadway in good condition. It terminates roughly 550 feet to the west of the subject property and connects to Kuakini Highway via Kaiwi Street. The project includes a paved driveway with adequate on-site guest parking stall.

3J. Traffic Impacts

As Kona Bay Drive is a private gated road, traffic in the area is generally made up of area residents. Traffic generated from the request would be limited to registered guests of the proposed 5-bedroom bed and breakfast and would remain consistent with the current residential levels. Thus, the proposed use will not represent a significant increase in traffic.

3K. Availability of Utilities

HELCO power is available to the site. Water is provided by the Department of Water Supply. Municipal wastewater service is provided to the property via an existing utility connection. All other utilities are also available to the site.

III. REGULATORY ANALYSIS

4A. Conformance to Zoning Code and General Plan

Granting of the proposed use would be consistent with the general purpose of the residential zoning district, the intent and purpose of the Zoning Code and the County General Plan. The subject parcel is zoned RS-15 and the County General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the parcel as *open* (**Figure 5**). This designation is intended for parks and other recreational areas, historic sites, and open shoreline areas such as the subject parcel. Relative to these designations, the General Plan and Hawaii County Code Chapter 25, Section 25-5-3 (b)(1) allows for the establishment of a bed and breakfast on residentially zoned lands provided that a use permit is issued where the requested use meets certain criteria as described herein.

The proposed use conforms to the Economic and Land Use Policies, Goals, and Standards of the General Plan as is further outlined in Section II.3C of this report. These elements of the General plan state that a project should provide residents with

opportunities to improve their quality of life through economic development that enhances the County's natural and social environments, and that those developments shall be in balance with the physical, social, and cultural environments of the island of Hawai'i. Additionally, the General Plan encourages diversification of the economy by strengthening existing industries and attracting new endeavors and encourages the development of small-scale accommodations which enable visitors to take advantage of natural and cultural resources throughout the County versus large resorts that often focus on resort-type recreational activities.

As noted above, the parcel is within the urban State land use district and zoned RS-15. Nearly all of the Kona Bay Estates parcels have already been developed with single-family residences, several of which are operated as short-term rentals. Thus, the proposed use of the property as a residential bed and breakfast would be similar to the existing uses in the surrounding area. Therefore, approval of this bed and breakfast facility would be consistent with the social and physical character of this area. Additionally, the proposed project would enhance economic opportunity for the applicant and contribute to the economic development of the County while also providing additional alternative lodging choices for visitors.

Furthermore, the proposed use would not substantially alter or change the essential character of the land and the present use. Rather, the proposed project is intended to preserve the essential character of the area so that it may be enjoyed by others. The subject property would also serve as a permanent residence for the property caretaker.

4B. Impacts to Community's Character and Surrounding Properties

The desired use shall not adversely affect the surrounding properties. Like many other properties in the area, the applicant will utilize landscaping to screen views from neighboring properties. This landscaping will remain in keeping with the character of the area. All patrons will park on site in the designated parking spaces in the driveway. Based on the maximum number of guests and anticipated frequency of trips, the proposed request will not generate a significant increase in traffic. Additionally, the requested use should not interfere with morning school and work traffic as guests are more likely to travel during non-peak hours.

Though the bed & breakfast will be available for overnight accommodations, the on-site caretaker will ensure that guests adhere to the County's Good Neighbor Policy and observe quiet hours from 9:00 p.m to 8:00 a.m. and that sound levels during non-quiet hours will remain at a residential level. The on-site caretaker will be available to further mitigate any potential adverse impacts from visitor use.

4C. Impacts to Public Agencies

The proposed project will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The subject site is already accessible via Kona Bay Drive with access to all necessary

utilities. The site is served by the County water system and the dwelling will connect to the County sewer system. The parcel is served by all other utilities. Additionally, the Kailua-Kona Fire Station and the Hawaii County Police Department Office are both located within 2 miles of the property. Thus, the proposed use is not expected to impact public agencies as it will not require any extension of any services or utilities.

IV. Conclusion

Alternative visitor experiences are in high demand in Hawai'i. Many visitors to Hawai'i are looking for accommodations and experiences outside of the typical resort environment. Bed and breakfast accommodations provide alternative lodging opportunities for visitors seeking a more personal experience in Hawaii while also providing permanent housing for the bed and breakfast operator. Additionally, the proposed bed and breakfast establishment will provide an appropriate scale of service in this suburban, residential area and will maintain the unique small-town character of the community. Thus, approval of the proposed use permit request would be reasonable as it would enable the landowner to realize her entrepreneurial goals without unduly burdening public agencies or causing any substantial adverse impacts to the surrounding community.

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: September 9, 2024

Memorandum

TO: Zendo Kern, Planning Director

FROM: Department of Public Works, Engineering Division



**SUBJECT: Special Management Area Use Permit Application
(PL-SMA-2024-000062)**

Applicant: Vanessa Pearson

Request: To Construct a Two (2)-Story, Five (5)-Bedroom, Single-Family
Residence and Related Improvements

TMK: 7-5-005:040

Sorry for the delay. We have reviewed the subject request forwarded by your memo dated July 12, 2024 and have the following comments:

1. The subject parcels are in areas designated as Flood Zone AE, VE, and D on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).
 - Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year) with Base Flood Elevations determined.
 - Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action) with Base Flood Elevations determined.
 - Zone D corresponds to unstudied areas where flood hazards are undetermined, but possible.
 - All construction within Flood Zones AE and VE shall comply with Chapter 27, Floodplain Management, of the Hawaii County Code.
2. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code (HCC).

Questions may be referred to Robyn Matsumoto at 961-8924.

Planning Dept.
Exhibit <u>3</u>

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: September 9, 2024

Memorandum

TO: Zendo Kern, Planning Director

FROM: Department of Public Works, Engineering Division



SUBJECT: USE PERMIT APPLICATION (PL-USE-2024-000027)

Applicant: Vanessa Pearson

Request: To Operate a Five (5) Bedroom Bed and Breakfast Establishment

TMK: 7-5-005:040

Sorry for the delay. We have reviewed the subject request forwarded by your memo dated July 12, 2024 and have the following comments:

1. The subject parcels are in areas designated as Flood Zone AE, VE, and D on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).
 - Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood (1% chance of occurring in any given year) with Base Flood Elevations determined.
 - Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action) with Base Flood Elevations determined.
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Questions may be referred to Robyn Matsumoto at 961-8924.

Planning Dept.
Exhibit <u>4</u>



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: July 16, 2024

TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000062)
Applicant: Vanessa Pearson
Request: To Construct a Two (2)-Story, Five (5)-Bedroom, Single-Family
Residence and Related Improvements
Tax Map Key: (3) 7-5-005:040, North Kona, Hawai'i

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.

2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at: <https://health.hawaii.gov/epo/landuse/>

Clean Water Branch

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55.
 1. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, and 11-504.
2. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
3. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related to the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H, and 342I, and HAR Chapters 11-58.1 and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse, and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

Sanitation / Local DOH Comments:

1. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure. A demolition permit is required prior to demolition.

Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Hawaii District Health Office, at (808) 933-0917.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: July 16, 2024

TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Use Permit Application (PL-USE-2024-000027)
Applicant: Vanessa Pearson
Request: To Operate a Five (5) Bedroom Bed and Breakfast Establishment
Tax Map Key: (3) 7-5-005:040, North Kona, Hawai'i

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

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Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

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 1. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, and 11-504.
2. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
3. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental

- compliance for their projects in the areas of 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related to the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H, and 342I, and HAR Chapters 11-58.1 and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse, and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

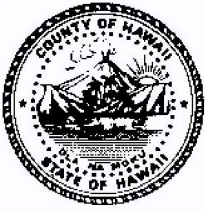
Sanitation / Local DOH Comments:

1. “Bed and Breakfast establishment” means a single-family dwelling, including a single guest house, in which overnight accommodations and only breakfast meals are provided, and the number of guests does not exceed six(6).
2. “Potentially hazardous food” means any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of four and six-tenths or below or a water activity (aw) value of eighty-five hundredths or less.

3. When required by the County Planning Department, Bed and Breakfast establishments may request documentation from the Department of Health. The Department of Health will provide documentation to the Planning Department once written communication from the Bed and Breakfast operators are received regarding their food service operations.
4. If the proposed Bed and Breakfast meal consists of commercial cereal, pastries (except custards or cream filled), breads, fruits, coffee, tea, and juice, a food establishment permit will not be required from the Department of Health at this time. This limited menu must be documented in a letter to the Department of Health. The guests shall be informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Department of Health.
5. For Bed and Breakfast operations that provide meals which include potentially hazardous foods, a food establishment permit will be required to operate. County landuse approval for operating a food establishment may also be required. A kitchen used to prepare foods for individual family consumption will not be allowed to be permitted. A separate commercial kitchen will need to be constructed.
6. If you have any questions regarding this guideline, please feel free to the Food Safety Branch at 933-0917.

Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Hawaii District Health Office, at (808) 933-0917.



BUILDING DIVISION – DPW

COUNTY OF HAWAII – 101 Pauahi Street, Suite 7 – Hilo, Hawai'i 96720

Hilo Office (808) 961-8331 • Fax (808) 961-8410

Kona Office (808) 323-4720 • Fax (808) 327-3509

July 24, 2024

TO:

Planning Department County of Hawaii – Planning Dept.
Aupuni Center 101 Pauahi St
Hilo, HI. 96720

SUBJECT:

SMA use permit application PL-SMA-2024-000062

Applicant: Vanessa Pearson

Owner Susanne Hayes & Richard Kleit

Request: To construct a two story, five bedroom, single family residence and related improvements.

TMK: (3) 7-5-005:040

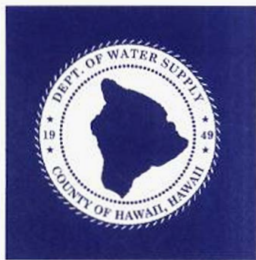
This is to inform you that our records on file, relative to the status of the subject discloses that:

- ☐ No Building permit was issued for work done on the premises.
- ☐ No building permit was issued for the change of occupancy.
- ☐ At the time of completion, the subject complied with all Building Code regulations that were in effect.
- ☐ Variance from any building regulation (Building, Electrical, Plumbing, or Sign) was/was not granted.
- ☐ The following violations(s) still outstanding:
 - ☐ Building
 - ☐ Electrical
 - ☐ Plumbing
 - ☐ Sign
- ☒ Others: All construction to comply with current Building codes.

This status report reflects Building Division records only and does not include information from other agencies.

Should you have any questions regarding matters contained herein, please feel free to contact Chris Domino at phone no. (808) 323-4720

Planning Dept.
Exhibit 7



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 15, 2024

COH PLANNING DEPT
AUG 21 2024 PM 3:49

REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Special Management Area Use Permit Application (PL-SMA-2024-000062)**
Applicant - Vanessa Pearson
Request - To Construct a Two (2)-Story, Five (5)-Bedroom, Single-Family
Residence and Related Improvements
Tax Map Key 7-5-005:040

We have reviewed the subject application and have the following comments:

1. There is an existing 8-inch waterline within Kona Bay Drive fronting the property. Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is limited to an average daily usage of 400 gallons.
2. The applicant will be required to install a reduced pressure type backflow prevention assembly within five (5) feet of the existing meter on private property. The installation must be inspected and approved by our Department.

Should there be any questions, please contact Mr. Ryan Quitarano of our Water Resources and Planning Branch at (808) 961-8070, extension 256.

Sincerely yours,

Keith K. Okamoto, P.E.
Manager-Chief Engineer

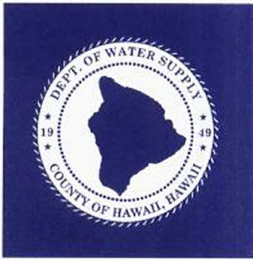
RQ:dfg

copy – Ms. Vanessa Pearson
Land Planning Hawaii LLC

Planning Dept.
Exhibit 8

... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

The Department of Water Supply is an Equal Opportunity provider and employer.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAO'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 15, 2024

COH PLANNING DEPT
AUG 21 2024 PM 3:49

REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Use Permit Application (PL-USE-2024-000027)
Applicant - Vanessa Pearson
Request - To Operate a Five (5) Bedroom Bed and Breakfast Establishment
Tax Map Key 7-5-005:040

We have reviewed the subject application and have the following comments.

Please be informed that the subject parcel is currently served by a 5/8-inch meter. We have no objection to the establishment of a 5-bedroom bed and breakfast on the subject parcel.

The applicant shall be informed, through a copy of this letter, that the existing 5/8-inch meter is limited to an average daily usage of 400 gallons, and the Department may install a flow-reducing device on the meter should the consumption through the existing meter exceed its rated capacity.

The applicant will be required to install a reduced pressure type backflow prevention assembly within five (5) feet of the existing meter on private property. The installation must be inspected and approved by our Department.

Should there be any questions, please contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at (808) 961-8070, extension 256.

Sincerely yours,

Keith K. Okamoto, P.E.
Manager-Chief Engineer

Planning Dept.
Exhibit 9

RQ:dfg

copy – Ms. Vanessa Pearson
Land Planning Hawaii LLC

... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

The Department of Water Supply is an Equal Opportunity provider and employer.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

August 9, 2024

County of Hawaii
Planning Department
Attn: Mr. Alex Roy
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

via email: planning@hawaiicounty.gov

Dear Mr. Roy:

SUBJECT: Use Permit Application (PL-USE-2024-000027) – Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment located at Kona Bay Estates Subdivision, North Kona, Island of Hawaii; TMK: (3) 7-5-005:040 on behalf of Vanessa **Pearson**

Thank you for the opportunity to review and comment on the subject matter. The Land Division of the Department of Land and Natural Resources (DLNR) distributed or made available a copy of your request pertaining to the subject matter to DLNR's Divisions for their review and comments.

At this time, enclosed are comments from the (a) Engineering Division, (b) Division of Forestry & Wildlife, and (c) Land Division–Hawaii District on the subject matter. Should you have any questions, please feel free to contact Darlene Nakamura at (808) 587-0417 or email: darlene.k.nakamura@hawaii.gov. Thank you.

Sincerely,

Russell Tsuji

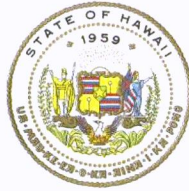
Russell Y. Tsuji
Land Administrator

Enclosures
cc: Central Files

Planning Dept.
Exhibit 10

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

July 16, 2024

MEMORANDUM

FROM: ~~TO:~~

DLNR Agencies:

- ☒ Div. of Aquatic Resources (kendall.l.tucker@hawaii.gov)
- ☐ Div. of Boating & Ocean Recreation
- ☒ Engineering Division (DLNR.ENGR@hawaii.gov)
- ☒ Div. of Forestry & Wildlife (rubyrosa.t.terrago@hawaii.gov)
- ☐ Div. of State Parks
- ☒ Commission on Water Resource Management (DLNR.CWRM@hawaii.gov)
- ☒ Office of Conservation & Coastal Lands (sharleen.k.kuba@hawaii.gov)
- ☒ Land Division – Hawaii District (gordon.c.heit@hawaii.gov)
- ☒ Aha Moku Advisory Committee (leimana.k.damate@hawaii.gov)

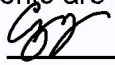
TO: ~~FROM:~~ Russell Y. Tsuji, Land Administrator *Russell Tsuji*
SUBJECT: Use Permit Application (PL-USE-2024-000027) – Request to Operate a
Five (5) Bedroom Bed and Breakfast Establishment
LOCATION: Kona Bay Estates Subdivision, North Kona, Island of Hawaii; TMK: (3) 7-5-
005:040
APPLICANT: County of Hawaii on behalf of Vanessa **Pearson**

Transmitted for your review and comment is information on the above-referenced subject matter. Please submit comments by **August 9, 2024**.

If no response is received by the above date, we will assume your agency has no comments. Should you have any questions about this request, please contact Darlene Nakamura at darlene.k.nakamura@hawaii.gov. Thank you.

BRIEF COMMENTS:

- ☐ We have no objections.
- ☐ We have no comments.
- ☐ We have no additional comments.
- ☒ Comments are included/attached.

Signed: 
Print Name: Carty S. Chang, Chief Engineer
Division: Engineering Division
Date: Jul 23, 2024

Attachments
cc: Central Files

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/Russell Y. Tsuji

Ref: Use Permit Application (PL-USE-2024-000027) – Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment

LOCATION: Kona Bay Estates Subdivision, North Kona, Island of Hawaii

TMK(s): (3) 7-5-005:040

Applicant: County of Hawaii on behalf of Vanessa Pearson

COMMENTS

The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high-risk areas). Be advised that 44CFR, Chapter 1, Subchapter B, Part 60 reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards.

The owner of the project property and/or their representative is responsible for researching the Flood Hazard Zone designation for the project. Flood zones subject to NFIP requirements are identified on FEMA's Flood Insurance Rate Maps (FIRM). The official FIRMs can be accessed through FEMA's Map Service Center (msc.fema.gov). Our Flood Hazard Assessment Tool (FHAT) (fhathawaii.gov) could also be used to research flood hazard information.

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

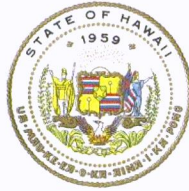
- Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- Maui/Molokai/Lanai: County of Maui, Department of Planning (808) 270-7139.
- Kauai: County of Kauai, Department of Public Works (808) 241-4849.

Signed: 
CARTY S. CHANG, CHIEF ENGINEER

Date: Jul 23, 2024

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

July 16, 2024

MEMORANDUM

FROM:

DLNR Agencies:

- ☒ Div. of Aquatic Resources (kendall.l.tucker@hawaii.gov)
- ☐ Div. of Boating & Ocean Recreation
- ☒ Engineering Division (DLNR.ENGR@hawaii.gov)
- ☒ Div. of Forestry & Wildlife (rubyrosa.t.terrago@hawaii.gov)
- ☐ Div. of State Parks
- ☒ Commission on Water Resource Management (DLNR.CWRM@hawaii.gov)
- ☒ Office of Conservation & Coastal Lands (sharleen.k.kuba@hawaii.gov)
- ☒ Land Division – Hawaii District (gordon.c.heit@hawaii.gov)
- ☒ Aha Moku Advisory Committee (leimana.k.damate@hawaii.gov)

TO:

Russell Y. Tsuji, Land Administrator *Russell Tsuji*

SUBJECT:

Use Permit Application (PL-USE-2024-000027) – Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment

LOCATION:

Kona Bay Estates Subdivision, North Kona, Island of Hawaii; TMK: (3) 7-5-005:040

APPLICANT:

County of Hawaii on behalf of Vanessa **Pearson**

Transmitted for your review and comment is information on the above-referenced subject matter. Please submit comments by **August 9, 2024**.

If no response is received by the above date, we will assume your agency has no comments. Should you have any questions about this request, please contact Darlene Nakamura at darlene.k.nakamura@hawaii.gov. Thank you.

BRIEF COMMENTS:

- ☐ We have no objections.
- ☐ We have no comments.
- ☐ We have no additional comments.
- ☒ Comments are included/attached.

Signed:

Lindsey Nietmann

Print Name: Lindsey Nietmann, Acting Wildlife Prog. Mgr.

Division:

Forestry and Wildlife

Date:

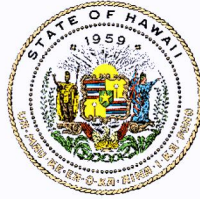
Aug 7, 2024

Attachments

cc: Central Files

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813

August 7, 2024

Log no. 4662

MEMORANDUM

TO: RUSSEL Y. TSUJI, Administrator
Land Division

FROM: Lindsey Nietmann, Acting Wildlife Program Manager
Division of Forestry and Wildlife

SUBJECT: Use Permit Application (PL-USE-2024-000027)- Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment in the Kona Bay Estates Subdivision in North Kona on Hawai'i Island.

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has received your request for consultation regarding the Use Permit Application (PL-USE-2024-000027) Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment at 75-5446 Kona Bay Drive in the Kona Bay Estates Subdivision, in North Kona, on the island of Hawai'i; TMK: (3) 7-5-005:040. The applicant wishes to develop a two-story, approximately 5,200-square foot residence with six (6) bedrooms and six (6) bathrooms. The dwelling will also have approximately 3,100 square feet of accessory space including lanais, storage and a two-car garage as well as a swimming pool and spa which will be located on the top floor. The dwelling will be connected to both County sewer and County water. On-site parking will include two parking stalls in the garage and four parking stalls in the driveway. The site is a shoreline parcel within the Special Management Area. There are no existing structures on the property and minimal vegetation.

DOFAW concurs with the measures included in the permit application intended to avoid construction and operational impacts to State-listed seabirds. If nighttime construction is required during the seabird fledgling season (September 15 to December 15), we recommend that a qualified biologist be present at the project site to monitor and assess the risk of seabirds being attracted or grounded due to the lighting. If seabirds are seen circling around the area, lights should then be turned off. If a downed seabird is detected, please follow DOFAW's recommended response protocol by visiting <https://dlnr.hawaii.gov/wildlife/seabird-fallout-season/>. Permanent lighting also poses a risk of seabird attraction, and as such should be minimized or eliminated to protect seabird flyways and preserve the night sky. For illustrations and guidance related to seabird-friendly light styles that also protect seabirds and

the dark starry skies of Hawai'i please visit

<https://dlnr.hawaii.gov/wildlife/files/2016/03/DOC439.pdf>. DOFAW provides the following additional comments regarding the potential for the proposed work to affect listed species in the vicinity of the project area.

The State listed 'ōpe'ape'a or Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) could potentially occur at or in the vicinity of the project and may roost in nearby trees. Any required site clearing should be timed to avoid disturbance to bats during their birthing and pup rearing season (June 1 through September 15). During this period woody plants greater than 15 feet (4.6 meters) tall should not be disturbed, removed, or trimmed. Barbed wire should also be avoided in any construction as bats can become ensnared and killed by such fencing material during flight.

The endemic pueo or Hawaiian Short-Eared Owl (*Asio flammeus sandwichensis*) could potentially nest in the project area. Pueo nest on the ground and active nests have been found year-round. Before any potential vegetative alteration, especially ground-based disturbance, we recommend that line transect surveys are conducted during crepuscular hours through the project area. If a pueo nest is discovered, a minimum buffer distance of 100 meters from the nest should be established until chicks are capable of flight.

The State listed nēnē or Hawaiian Goose (*Branta sandvicensis*), ae'o or Hawaiian stilt (*Himantopus mexicanus knudseni*), and 'alae ke'oke'o or Hawaiian coot (*Fulica alai*), could potentially occur in the vicinity of the proposed project site. It is against State law to harm or harass these species. If any are present during construction, all activities within 100 feet (30 meters) should cease and the bird or birds should not be approached. Work may continue after the bird or birds leave the area of their own accord. If a nest is discovered at any point, please contact the Hawai'i Island Branch DOFAW Office at (808) 974-4221 and establish a buffer zone around the nest.

The State listed 'io or Hawaiian Hawk (*Buteo solitarius*) may occur in the project vicinity. Prior to undertaking vegetation clearing, DOFAW recommends that pre-construction surveys of the area be conducted by a qualified biologist following appropriate survey methods (Gorresen et al., 2008)¹ to ensure no Hawaiian Hawk nests are present, which may occur during the breeding season from March to September. The survey should be conducted at least 10 days prior to the start of construction. If an 'io nest is detected, a buffer zone of 100 meters (330 feet) should be established around it where no construction shall occur until the chick or chicks have fledged, or the nest is abandoned and DOFAW staff should be immediately notified. If adult individuals are detected in the area during construction, all activities within 30 meters (100 feet) of the bird should cease. Work may continue when the bird has left the area on its own.

1. Gorresen, P. M., R. J. Camp, J. L. Klavitter, and T. K. Pratt. 2008. Abundance, distribution and population trend of the Hawaiian Hawk: 1998-2007. Hawai'i Cooperative Studies Unit Technical Report HCSU-009. University of Hawai'i at Hilo. 53 pp., incl. 8 figures, 3 tables & 1 appendix.

The project area is within the range of the State listed Blackburn's Sphinx Moth (*Manduca blackburni*) or BSM. Larvae of BSM feed on many nonnative hostplants, which includes tree tobacco (*Nicotiana glauca*), that grow in disturbed soil. We recommend contacting the Hawai'i Island Branch DOFAW office at (808) 974-4221 for further information about where BSM may be present and whether a vegetation survey should be conducted to determine the presence of plants preferred by BSM. DOFAW recommends removing plants less than one meter in height or during the dry season to avoid harm to BSM. If you intend to either remove tree tobacco over one meter in height or to disturb the ground around or within several meters of these plants, they must be thoroughly inspected by a qualified entomologist for the presence of BSM eggs and larvae.

State endangered, Yellow-faced Bee (*Hylaeus* spp.) populations are known to occur along the west, north, and south coastline regions of Hawai'i Island. Owing to the potential occurrence of this species in these areas, DOFAW recommends surveys be completed by a qualified entomologist before work commences at the proposed project site. Yellow-faced Bee surveys should be carried out between the months of April to November.

DOFAW recommends minimizing the movement of plant or soil material between worksites. Soil and plant material may contain detrimental fungal pathogens (e.g., Rapid 'Ōhi'a Death), vertebrate and invertebrate pests (e.g., Little Fire Ants, Coqui Frogs, etc.), or invasive plant parts (e.g., African Tulip, Octopus Tree, Trumpet Tree, etc.) that could harm our native species and ecosystems. We recommend consulting the Big Island Invasive Species Committee (BIISC) at (808) 933-3340 to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

The invasive Coconut Rhinoceros Beetle (CRB) or *Oryctes rhinoceros* is found on the islands of O'ahu, Hawai'i Island, Maui and Kaua'i. On July 1, 2022, the Hawai'i Department of Agriculture (HDOA) approved Plant Quarantine Interim Rule 22-1. This rule restricts the movement of CRB-host material within or to and from the island of O'ahu, which is defined as the Quarantine Area. Regulated material (host material or host plants) is considered a risk for potential CRB infestation. Host material for the beetle specifically includes a) entire dead trees, b) mulch, compost, trimmings, fruit and vegetative scraps, and c) decaying stumps. CRB host plants include the live palm plants in the following genera: *Washingtonia*, *Livistona*, and *Pritchardia* (all commonly known as fan palms), *Cocos* (coconut palms), *Phoenix* (date palms), and *Roystonea* (royal palms). When such material or these specific plants are moved there is a risk of spreading CRB because they may contain CRB in any life stage. For more information regarding CRB, please visit <https://dlnr.hawaii.gov/hisc/info/invasive-species-profiles/coconut-rhinoceros-beetle/>.

Cats prey on native birds, including State-listed endangered waterbirds, seabirds, and forest birds. Predation is instinctive and means that even well-fed cats will hunt and kill wildlife. Therefore, DOFAW recommends that homeowner associations request that residents with pet cats be kept indoors or safely contained. In addition, no feeding of feral cats should occur on the premises.

DOFAW recommends using native plant species for landscaping that are appropriate for the area; i.e., plants for which climate conditions are suitable for them to thrive, plants that historically occurred there, etc. Please do not plant invasive species. DOFAW also recommends referring to www.plantpono.org for guidance on the selection and evaluation of landscaping plants and to determine the potential invasiveness of plants proposed for use in the project.

We recommend that Best Management Practices are employed during and after construction to contain any soils and sediment with the purpose of preventing damage to near-shore waters and marine ecosystems.

Due to the arid climate and risks of wildfire to listed species, we recommend coordinating with the Hawai'i Wildfire Management Organization at (808) 850-0900 or admin@hawaiiwildfire.org, on how wildfire prevention can be addressed in the project area. When engaging in activities that have a high risk of starting a wildfire (i.e. welding in grass), it is recommended that you:

- Wet down the area before starting your task,
- Continuously wet down the area as needed,
- Have a fire extinguisher on hand, and
- In the event that your vision is impaired, (i.e. welding goggles) have a spotter to watch for fire starts.

We appreciate your efforts to work with our office for the conservation of our native species. These comments are general guidelines and should not be considered comprehensive for this site or project. It is the responsibility of the applicant to do their own due diligence to avoid any negative environmental impacts. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible. If you have any questions, please contact Kinsley McEachern Protected Species Habitat Conservation Planning Associate at laurinda.k.mceachern.researcher@hawaii.gov.

Sincerely,

Lindsey Nietmann

Lindsey Nietmann
Acting Wildlife Program Manager

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

July 16, 2024

MEMORANDUM

TO: **DLNR Agencies:**
☒ Div. of Aquatic Resources (kendall.l.tucker@hawaii.gov)
☐ Div. of Boating & Ocean Recreation
☒ Engineering Division (DLNR.ENGR@hawaii.gov)
☒ Div. of Forestry & Wildlife (rubyrosa.t.terrago@hawaii.gov)
☐ Div. of State Parks
☒ Commission on Water Resource Management (DLNR.CWRM@hawaii.gov)
☒ Office of Conservation & Coastal Lands (sharleen.k.kuba@hawaii.gov)
☒ Land Division – Hawaii District (gordon.c.heit@hawaii.gov)
☒ Aha Moku Advisory Committee (leimana.k.damate@hawaii.gov)

FROM: Russell Y. Tsuji, Land Administrator *Russell Tsuji*

SUBJECT: Use Permit Application (PL-USE-2024-000027) – Request to Operate a Five (5) Bedroom Bed and Breakfast Establishment

LOCATION: Kona Bay Estates Subdivision, North Kona, Island of Hawaii; TMK: (3) 7-5-005:040

APPLICANT: County of Hawaii on behalf of Vanessa **Pearson**

Transmitted for your review and comment is information on the above-referenced subject matter. Please submit comments by **August 9, 2024**.

If no response is received by the above date, we will assume your agency has no comments. Should you have any questions about this request, please contact Darlene Nakamura at darlene.k.nakamura@hawaii.gov. Thank you.

BRIEF COMMENTS:

() We have no objections.
(X) We have no comments.
() We have no additional comments.
() Comments are included/attached.

Signed: *Gordon Heit*
Print Name: Gordon Heit
Division: Land Division
Date: August 6, 2024

Attachments
cc: Central Files