

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

SCOTT SHRADER
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2025-000084)

Upon careful review of the applicant's request against the guidelines for granting of a Special Management Area Use Permit, the Planning Director recommends **that this request to construct a two-story, four-bedroom single-family dwelling, swimming pool, and related improvements on a 0.57-acre shoreline parcel within the Special Management Area (SMA) be approved by the Planning Commission.** Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This approval recommendation is based on the following:

The applicant seeks a Special Management Area (SMA) Use Permit to construct a new two-story, approximately 4,978 square-foot (sf) single-family residence consisting of approximately 3,834 sf of enclosed living area and 1,144 sf of covered (non-enclosed) areas, including four bedrooms, two-and-a-half bathrooms, covered lānai spaces, and a 500 sf two-car garage, along with a 180 sf swimming pool, pool deck and related improvements. A 6-foot-high CRM wall is proposed along the front property line and side property lines up to the 40-foot shoreline setback line. Electricity, telephone, and internet utilities are available within the Hawaiian Paradise Park subdivision, and the residence will connect to existing utility infrastructure. Potable water will be provided by an on-site well, and wastewater will be handled by an on-site individual wastewater system (IWS) in accordance with County and State Department of Health requirements. The IWS will be sited at the most mauka portion of the subject parcel, adjacent to Beach Road. The proposed building site will occupy a portion of the 21,841-square-foot parcel and is sited mauka of the shoreline setback and a minimum of

40-feet inland from the coastal pali to reduce exposure to coastal hazards and minimize environmental impacts. The Applicant received a certified shoreline survey from the Board of Land and Natural Resources (BLNR) on December 1, 2022, in support of the project and to establish an accurate shoreline setback area for this site. The project's construction cost is estimated at approximately \$700,000, with construction anticipated to commence following the issuance of all necessary permits and approvals.

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

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

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

In review of the SMA guidelines as listed under HRS 205A-26(2)(A), the proposed development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Pursuant to Hawai'i Revised Statutes (HRS) §205A-26(2)(A) and Rule 9 of the County of Hawai'i Planning Commission relating to the Special Management Area, the proposed development has been reviewed for potential environmental and ecological impacts. The project consists of single-family residential use and related improvements on a previously disturbed, vacant parcel within an established residential subdivision. The site is characterized by hardened lava substrate with sparse vegetation and does not contain any identified sensitive environmental, cultural, or ecological resources. The proposed development is sited mauka of the required 40-foot shoreline setback, thereby avoiding direct impacts to coastal processes and resources, and incorporates standard construction best management practices to minimize erosion, runoff, and potential impacts to nearshore waters. Additionally, no significant impacts to public access, scenic resources, or recreational uses are anticipated. Based on the foregoing, the proposed development is not expected to result in any substantial adverse environmental or ecological effect, and any potential impacts have been minimized to the extent practicable, consistent with the objectives and policies of Chapter 205A, HRS. This determination is based on the following:

In review of the SMA guidelines as listed under HRS 205A-26, the proposed development is consistent with the objectives and policies as provided by Chapter 205A-26, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.

The purpose of Chapter 205A-26, Hawai'i Revised Statutes (HRS) and Rule 9 of the Planning Commission Rules of Practice and Procedure, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. The objectives and policies of Chapter 205A-26, HRS and Rule 9-10(h) include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas.

The proposed development has been reviewed in accordance with the objectives and policies of the Coastal Zone Management Act, Chapter 205A, Hawai'i Revised Statutes (HRS), including the Special Management Area (SMA) guidelines set forth under HRS §205A-26, and Rule No. 9 of the County of Hawai'i Planning Commission Rules of Practice and Procedure. The project involves the construction of a single-family residence and related improvements within an existing residential subdivision and is consistent with the State's objectives to preserve, protect, and, where practicable, restore coastal resources. The following provides a more detailed analysis of consistency with applicable resource categories:

Recreational Resources:

The subject property fronts a rocky lava shoreline with limited recreational use due to the presence of a coastal pali and absence of a sandy beach. Recreational activities in the area are generally limited to passive uses such as shoreline fishing and sightseeing. The project will not impede public access to adjacent shoreline areas, including the undeveloped State-owned parcel to the west, and will not adversely affect existing recreational opportunities.

Historic Resources:

The project site has been previously disturbed and is not known to contain any significant historic or archaeological resources. No formal cultural resource

studies identified historic properties within the subject parcel. Standard inadvertent discovery protocols will be followed, requiring cessation of work and consultation with the State Historic Preservation Division (SHPD) should any cultural resources be encountered during construction, consistent with HRS Chapter 6E.

Scenic and Open Space Resources:

The project site provides coastal views typical of the Hawaiian Paradise Park area. The proposed residence is sited mauka of the required 40-foot shoreline setback, preserving open space along the coastal edge and maintaining the visual character of the shoreline. The adjacent State-owned parcel to the west further contributes to the open space character of the area. The scale and design of the residence are consistent with surrounding development and are not expected to adversely impact scenic resources.

Coastal Ecosystems and Marine Resources:

The subject property does not contain sensitive coastal ecosystems such as wetlands, dunes, or nearshore habitats. The shoreline consists of hardened lava with minimal biological productivity. The project incorporates standard construction best management practices (BMPs) to control erosion and runoff, thereby minimizing the potential for sedimentation or pollution of nearshore marine waters. No direct impacts on marine resources are anticipated.

Coastal Hazards:

The property is located within the SMA as well as within FEMA Flood Zone X. The shoreline is characterized by a lava cliff, which is less susceptible to chronic erosion but may be subject to episodic erosion and wave run-up. The proposed development complies with the required 40-foot shoreline setback and is sited at elevations ranging from approximately 22 to 30 feet above mean sea level, reducing exposure to coastal hazards.

Based on the foregoing, the proposed development is consistent with the applicable objectives, policies, and guidelines of Chapter 205A, HRS, and Rule No. 9 of the Planning Commission Rules of Practice and Procedure.

The proposed development is consistent with the County General Plan, Puna Community Development Plan (PCDP), Zoning Code, and other applicable ordinances. The County General Plan Land Use Pattern Allocation Guide (LUPAG) designates the parcel as Open (ope). The Open designation along the shoreline is primarily intended for the preservation and protection of natural and scenic resources, including coastal ecosystems, shoreline areas, and open space, while allowing for limited uses that are compatible with the natural environment and do not adversely impact coastal processes or public access. By siting the new home on the mauka (inland) half of the lot, 40 feet landward of the certified shoreline, the project will retain the coastal open-space character while satisfying the land-use goals, policies and standards of the General Plan.

The proposed development has been reviewed for consistency with the County of Hawai'i General Plan, the Puna Community Development Plan (PCDP), the County Zoning Code, and other applicable ordinances. While the applicant did not identify specific PCDP policy sections, staff have evaluated the project against relevant provisions, as discussed below:

Zoning Code

The subject property is located within the Agricultural (A-1A) zoning district, which permits single-family residential dwellings and accessory uses. The proposed development consists of a single-family residence and related improvements, which are permitted within the district pursuant to Chapter 25 (Zoning Code), Hawai'i County Code. The project has been designed to comply with applicable development standards, including yard setbacks, maximum building height, and shoreline setback requirements in accordance with Planning Department Rule 11 (Shoreline Setbacks). The surrounding Hawaiian Paradise Park subdivision is characterized by similar single-family residential development, and the proposed use is consistent with the established land use pattern of the area.

Puna Community Development Plan

Although the application does not cite specific policies, the project is consistent with the intent of the Puna Community Development Plan (PCDP), particularly those policies that support maintaining and improving existing residential subdivisions and directing growth to areas already subdivided and served by infrastructure. The Hawaiian Paradise Park subdivision is identified as an established residential area where infill development is appropriate. The proposed single-family residence is consistent with PCDP policies that encourage compatible residential uses, efficient use of existing infrastructure, and the protection of coastal resources. Additionally, the project's compliance with shoreline setback requirements and incorporation of erosion control measures are consistent with PCDP policies related to coastal hazard mitigation and environmental stewardship.

Conclusion

While the applicant did not reference specific sections of the PCDP or County Code, the proposed development has been independently evaluated by staff and found to be consistent with the County General Plan, the Puna Community Development Plan, the Zoning Code, and other applicable ordinances. The project represents a permitted residential use within an established subdivision, is compatible with surrounding land uses, and complies with applicable regulatory requirements. Accordingly, the proposed development is consistent with the applicable planning policies and regulations governing the subject property.

The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist. In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian rights, such as gathering and fishing rights, must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: The application was submitted with the

project details and development application to the SHPD for their HRS Ch. 6E-42 review and concurrence. SHPD has not responded, however, a review of similar development in this area revealed no known cultural, historical, or archaeological resources on the subject parcel. The applicant has assessed the site conditions and reported no known evidence of ongoing traditional or customary practices occurring on the property. The parcel has been previously disturbed and is located within an established residential subdivision, which has limited its potential for supporting traditional gathering or subsistence activities.

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

The subject property consists primarily of hardened lava substrate with sparse vegetation and does not contain identified cultural sites, historic structures, or natural resources traditionally associated with Native Hawaiian practices. The shoreline is characterized by a lava cliff (pali) without a sandy beach, which limits access and use for fishing or gathering. While the broader coastal area may support intermittent fishing and other customary practices, these activities are not known to occur specifically on the subject parcel.

No floral or faunal species listed as threatened, endangered, or proposed for listing under state or federal statutes were observed on site, nor were any plants typically gathered for cultural purposes identified within the project area.

Possible adverse effects or impairment of valued resources: Ground alteration will remove most existing vegetation, but none of the species present is known to be culturally important. Given the absence of identified cultural or natural resources and the lack of evidence of traditional and customary practices occurring on the site, the proposed development is not anticipated to result in the degradation or impairment of valued Native Hawaiian resources or rights. The project has been designed to comply with the required 40-foot shoreline setback, which preserves the coastal area and avoids direct impacts to the shoreline environment. Additionally, the development will not impede access to adjacent State-owned lands or the shoreline.

Feasible actions to protect native Hawaiian rights: To the extent that any traditional and customary Native Hawaiian rights are found to exist, the project incorporates measures to reasonably protect such rights. These include maintaining the required shoreline setback to preserve access and natural shoreline conditions, and implementing standard inadvertent discovery procedures requiring that all work cease and the State Historic Preservation Division (SHPD) be contacted if any cultural resources or iwi kūpuna are encountered during construction, consistent with HRS Chapter 6E. Based on these considerations, the proposed development will, to the extent feasible, reasonably protect Native Hawaiian rights in accordance with the PASH and Ka Pa‘akai O Ka ‘Āina decisions.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable government requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

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

1. The applicant(s), its successor(s), or assign(s) (“Applicant”) shall be responsible for complying with all stated conditions of approval.
2. The Applicant shall secure all necessary approvals and permits from other

affected Federal, State, and County agencies as necessary to comply with all applicable laws and regulations.

3. Other than the proposed project as described in this permit, no further work is permitted under this approval.
4. Construction of the single-family dwelling and related improvements shall be conducted in a manner that is substantially representative of plans and details as contained within the SMA Application dated February 15, 2026, and representations made to the Windward Planning Commission.
5. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.
6. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
7. The applicant shall comply with Chapter 27 - Flood Control, of the Hawai'i County Code.
8. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
9. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
10. No land alteration, grubbing, landscaping or construction activities, including but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
11. A construction barrier shall be erected along the entire length of the 40-foot shoreline setback line prior to the commencement of land altering and construction activities and shall remain in place until final inspection has been

granted by the Building Division for the proposed dwelling.

12. The Applicant shall ensure that excessive siltation and turbidity are contained or otherwise minimized through the use of silt containment devices or barriers, or other approved Best Management Practices to minimize impacts to the nearshore and riverine areas.
13. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
14. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
15. An initial extension of time for the performance of conditions within this permit may be granted by the Planning Director upon the following circumstances:
 - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of this permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

16. That in issuing this permit, the Commission has relied on the information and data that the Applicant has provided in connection with this permit. If, subsequent to this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Commission may, in addition, institute appropriate legal proceedings.
17. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.