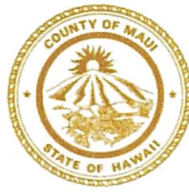


MICHAEL P. VICTORINO  
Mayor  
MICHELE CHOUTEAU MCLEAN, AICP  
Director  
JORDAN E. HART  
Deputy Director



**DEPARTMENT OF PLANNING**  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

April 22, 2021

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

**APPROVED FOR TRANSMITTAL**

*Michael P. Victorino*  
Mayor

*4/26/21*  
Date

For Transmittal to:

Honorable Tamara Paltin  
Chair, Planning and Sustainable Land Use Committee  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Paltin:

**SUBJECT: REVIEW, ASSESSMENT, AND AUDIT OF THE DEPARTMENT  
OF PLANNING (PSLU-14)**

The Department of Planning (Department) has received your letter dated March 30, 2021 with the requests repeated in bold below. The Department's response follows each request below.

**1. An outline of the Special Management Area ("SMA") exemption process.**

- Check the application for completeness. This includes checking if any other permits are required such as a flood development permit, and also if the project warrants receiving comments from the State Historic Preservation Division (SHPD) or any other agency in order for the Department to determine whether the proposed action will have a cumulative impact or a significant environmental or ecological effect on the special management area.
- Check if there are any outstanding pending permits or enforcement actions for the parcel. This can include an outstanding RFS, NOV, NOW or other permits related to the parcel.
- Complete our internal assessment form (attached), reviewing each category. This is where we determine if the project conforms to one of the exemption categories, or if the project will need a permit. In this step we also review the parcel and project as a whole. Looking at the parcel can help us to determine if the parcel is on the shoreline and in the shoreline setback area or if the project is within the SMA.



OFFICE OF THE  
COUNTY COUNCIL

2021 APR 27 AM 10:02

RECEIVED

Honorable Tamara Paltin  
Chair, Planning and Sustainable Land Use Committee  
April 22, 2021  
Page 2

- If the project is determined to be an exemption based on the assessment, then an exemption form or letter is drafted.

**2. Relating to the SMA Assessment Application Packet, of which a copy is available here <https://tinyurl.com/s26mynjf>:**

- a. **Page two lists 16 SMA exemption categories for actions that are not considered a development in accordance with Section 205A-22, Hawaii Revised Statutes. Please provide a brief description of any key differences in the SMA Assessment Application review process among the 16 SMA exemption categories.**

The SMA Assessment Application review process does not differ from the 16 SMA exemption categories.

- b. **Page six is the Zoning and Flood Confirmation Form. Please explain how the Department further ensures the correct zoning designations are identified in the SMA exemption process.**

The Zoning and Flood Confirmation Form is a required form that is used to determine the correct zoning and other land use designations of a project. Applicants must have this form completed by the Zoning Administration and Enforcement Division (ZAED) prior to submitting the application. The Zoning and Flood Confirmation Form must be recent in order for the Department to accept it as part of the application. ZAED has personnel specifically trained to process these forms and confirm the correct zoning.

Thank you for your attention to this matter. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely, .



MICHELE MCLEAN, AICP  
Planning Director

**Attachment**

xc: John S. Rapacz, Planning Program Administrator (PDF)  
Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)  
Jeffrey Dack, AICP, Current Planning Supervisor (PDF)  
Laury K. Sanger, Staff Planner (PDF)

MCM:CIY:LKS:lp

K:\WP\_DOCS\PLANNING\RFC\2021\PSLU\_SMAExemption\Letter to council SMA exemption.docx

## SPECIAL MANAGEMENT AREA ASSESSMENT

(Date)

Project Name:	
Proposed Development:	
Building Permit App. No:	
SMA App. No:	
Project Address:	
Tax Map Key:	
Applicant:	
Owner:	

Pursuant to §12-202-12(d), Special Management Rules for the Maui Planning Commission ("SMA Rules"), the assessment application shall be reviewed as follows:

1. Upon submission of a completed application, the director shall review the proposed action and make a written evaluation as to:
  - A. The valuation of the proposed action: The applicant's estimates of the total cost or fair market value may be verified by the Director of Public Works. In the event of a conflict between the estimates of the applicant and the Director of Public Works, the higher estimate amount shall be used by the director for the purposes of an assessment of the proposed action:
    - (1) **The estimated valuation of the project is**
    - (2) **The calculated valuation of the project is**
    - (3) **Therefore, the valuation of the project is/is not less than \$500,000.00**
  - B. Whether the proposed action is or is not a development:
    - (1) **Pursuant to Chapter 205A-22, Hawaii Revised Statutes ("HRS"), the ENTER PROJECT NAME HERE is/is not considered a "development". The Applicant proposes to ("Proposed Project"):**
    - (2) **In consideration of the foregoing, the Proposed Project is not considered a "development" and qualifies as an exemption.**
    - (3) **The proposed "development" qualifies as...**

- **Construction of a single family residence, including accessory unit, that is not part of a larger development**
- **Repair or maintenance of roads and highways within existing rights-of-ways**
- **Routine maintenance dredging of existing streams, channels and drainage ways**
- **Repair and maintenance of underground utility lines, including, but not limited to, water, sewer, power and telephone and minor appurtenant structures, such as pad mounted transformers and sewer pump stations**
- **Zoning variances, except for height, density, parking and shoreline setback**
- **Repair, maintenance or interior alterations to existing structures**
- **Demolition or removal of structures, except those structures located on any historic site designated on national or state registers**
- **Use of any land for the purposes of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals or other agricultural purposes**
- **Transfer of title of land**
- **Creation or termination of easements, covenants, or other rights in structures or land**

- Subdivision of land into lots greater than twenty acres in size
  - Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any future subdivision of the resulting parcels thereafter shall not qualify for this exception
  - Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors
  - Structural and nonstructural improvements to existing single-family residences where otherwise permissible
  - Nonstructural improvements to existing commercial structures.
  - Construction installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens.
- (2) In consideration of the foregoing, the Proposed Project is considered to be a "development" and does not qualify as an exemption.
- (3) The proposed "development" qualifies as...
- Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
  - Grading, removing, dredging, mining, or extraction of any materials;
  - Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;

Project Name

(Date)

Page 4

- **Change in the intensity of use of water, ecology related thereto, or of access thereto; and**
- **Construction, reconstruction, demolition, or alteration of the size of any structure.**

C. The potential adverse environmental and ecological effects based upon the significance criteria set forth in subsection (e):

**The Proposed Project's activities are common and minor in nature. Therefore, the Proposed Project will not have an adverse environmental and ecological effect.**

§12-202-12(e), SMA Rules states that in considering the significance of potential environmental and ecological effects, the Planning Director shall evaluate:

1. The sum of those effects that adversely affect the quality of the environment and the ecology, and shall evaluate the overall and cumulative adverse effect of the proposed action:

A. **Due to the nature of the Proposed Project, it is not anticipated that the project will have an adverse effect on the quality of the environment and the ecology.**

2. Every phase of a proposed action, its expected primary and secondary consequences, and its cumulative and short or long-term effects. A proposed action may have a significant adverse effect on the environment when the proposed action:

A. Involves an irrevocable commitment to loss or destruction of any natural or cultural resources:

(1) **The Proposed Project was not sent to the State Historic Preservation Division for review as the project does not require any major ground altering activities. The majority of the work involves improvements and alterations to a structure that already exists. The project area is highly developed and has already been severely impact. Therefore, it is unlikely that the proposed project will**

**involve an irrevocable commitment to loss or destruction of any natural or cultural resources.**

- (2) The Proposed Project was sent to the State Historic Preservation Division for review as the project does require major ground altering activities. The majority of the work involves improvements and alterations to a structure that already exists. The project area is highly developed and has already been severely impact. Therefore, it is unlikely that the proposed project will involve an irrevocable commitment to loss or destruction of any natural or cultural resources.**

**B. Significantly curtails the range of beneficial uses of the environment:**

- (1) Given the nature and scope of the Proposed Project within the confines of the property boundaries, it is not anticipated that the project will significantly curtail the range of beneficial uses of the environment.**

**C. Conflicts with the county's or the state's long-term environmental policies or goals:**

- (1) The Proposed Project does not conflict with the County's or the State's long term environmental policies or goals.**

**D. Substantially affects the economic or social welfare and activities of the community, county, or state:**

- (1) Given the nature and scope of the Proposed Project within the confines of the property boundaries, it is not anticipated that the project will affect the economic or social welfare and activities of the community, county, or state.**

**E. Involves substantial secondary impacts, such as population changes and increased effects on public facilities, streets, drainage, sewage, and water systems, and pedestrian walkways:**

- (1) **Given the nature and scope of the Proposed Project, it will not have secondary impacts such as population changes and increased effects on public facilities, streets, drainage, sewage, water systems, and pedestrian walkways.**
  - (2) **Given the nature and scope of the Proposed Project, there may be secondary impacts such as population changes and increased effects on public facilities, streets, drainage, sewage, water systems, and pedestrian walkways. It is highly unlikely that those effects will be substantial.**
- F. In itself has no significant adverse effects but cumulatively has considerable effect upon the environment or involves a commitment for larger actions:
  - (1) **The Proposed Project has no known significant cumulative adverse effects upon the environment nor is a commitment for extended actions anticipated.**
- G. Substantially affects a rare, threatened, or endangered species of animal or plant, or its habitat:
  - (1) **Given the scope and nature of the Proposed Project and it's location, it is not anticipated that any rare, threatened, or endangered species of animal or plant will be affected.**
- H. Is contrary to the state plan, county's general plan, appropriate community plans, zoning and subdivision ordinances:
  - (1) **The Proposed Project is in compliance with:**
    - (a) **The State Land Use District:**
    - (b) **County General Plan:**
- I. Detrimentially affects air or water quality or ambient noise levels:
  - (1) **There will be no detrimental effects on air or water quality or ambient noise levels.**



- (2) **There may be temporary effects on air quality, water quality, or ambient noise levels. However, such effects can be mitigated through BMP's.**

J. Affects an environmentally sensitive area, such as flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh waters, or coastal waters:

- (1) **The Proposed Project is adjacent to the shoreline and therefore is subject to the Shoreline Setback Rules of the Maui Planning Commission.**
- (2) **The Proposed Project is not adjacent to the shoreline and therefore is not subject to the Shoreline Setback Rules of the Maui Planning Commission.**
- (2) **According to site plans provided by the Applicant, the area in which the action will take place is located outside of the Shoreline Setback area.**
- (3) **With respect to Flood Zones, the entire property is located in Zone XXX-Areas Det.To Be Outside The .2% Ann. Fld. Therefore, a Flood Hazard District Permit is/is not required.**

K. Substantially alters natural land forms and existing public views to and the shoreline:

- (1) **The Proposed Project will not substantially alter natural land forms.**

L. Is contrary to the objectives and policies of Chapter 205A, HRS:

- (1) **The Proposed Project is not contrary to the objectives and policies of Chapter 205A, HRS.**

Prepared by:   

Approved by: Michele McLean, Planning Director      Date:

SMX XXXX/XXXX

Project Name

(Date)

Page 8

K:\Permits\permitSMX20200406

(rev. 10.13)