

MICHAEL P. VICTORINO
Mayor
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Director
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DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

May 23, 2022

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

APPROVED FOR TRANSMITTAL


Mayor Date

For Transmittal to:

Honorable Michael J. Molina, Chair
Government Relations, Ethics and Transparency Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Molina,

**SUBJECT: CONSTRUCTION ON LOWER HONOAPIILANI ROAD (NAPILI)
(GREAT-36)**

In response to your May 18, 2022 letter relating to inquiries received from the public about the home being constructed at 5385 Lower Honoapiilani Road (TMK 4-3-002: 057), please consider the following:

1. The Planning Department (Department) did not take setback measurements at any site visit.
2. When conducting Special Management Area (SMA) review, the Department considers tsunami inundation zones or coastal high hazard areas (flood zones V and VE), which are regulated under Chapter 19.62, Maui County Code (MCC).
3. Since the adoption of Ordinance No. 5233, MCC Section 19.60.030 does not allow a 45-foot tall structure in the Napili Bay Civic Improvement District (NBCID), where building heights are limited to two stories and 30 feet in height. MCC Section 19.14.050 allows a 45-foot tall structure in the HM Hotel District, which provides a maximum building height of 90 feet, and the H-2 Hotel District and the Hotel District, which provide a maximum building height of 100 feet, but not in the H-1 Hotel District, which limits building heights to 35 feet.

4. The Department did not see a basis to question the valuation provided on the after-the-fact SMA assessment application for the wall, as the application was submitted by a licensed contractor, and did not consult with the Department of Public Works. (The Department requested the documents that were quoted and referenced in this question but we did not receive them; however, we believe this response is accurate.)

5. The referenced building permit is for the home (\$2,000,000 valuation) and the referenced SMA assessment application is for the wall (\$15,000 valuation). The valuation of a project is relevant when the project is a “development” and is not exempt from having to obtain a SMA permit.

When reviewing a SMA assessment application, the Department applies the definitions from Section 205A-22, Hawaii Revised Statutes (HRS) to determine whether the proposed action is a development. If the proposed action is a development, then the valuation determines whether a SMA minor permit or use (major) permit is required. If the proposed action is not a development, then a SMA exemption can be issued, and valuation is not relevant.

(The Department requested the documents that were referenced in this question but we did not receive them; however, we believe this response is accurate.)

6. The Department is not aware that the term “media room” is defined in MCC.

7. a. No, the Department did not order a tool to measure building elevations. After discussions among our enforcement personnel and building inspectors, it was determined that the devices that are accurate to the degree needed are those used by licensed surveyors and engineering professionals, and are quite technical and sophisticated.

b. Yes, the pad height was measured and documented by a licensed surveyor that we hired to perform this task.

c. An after-the-fact SMA minor permit was issued for the wall after reviewing the SMA assessment and applicable criteria.

d. The Department is not aware of the wall having a particular classification.

(The Department requested the document that was quoted in this question but we did not receive it; however, we believe this response is accurate.)

8. The violation was that the wall was constructed without first undergoing SMA review. (The Department requested the document that was referenced and quoted in this question but we did not receive it; however, we believe this response is accurate.)

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9. The Department imposes a standard \$1,000 fee for all after-the-fact applications and does not impose an additional fee based on project valuation. (The Department requested the document that was referenced in this question but we did not receive it; however, we believe this response is accurate.)

10. The Senior Land Use and Building Plans Examiner is a working supervisor who reviews building permits like all of the other employees in the Department's plans review section. This building permit was not "elevated" to her review; it was assigned to her like hundreds of others are each year. (The Department requested the document that was quoted in this question but we did not receive it; however, we believe this response is accurate.)

11. The Department has never acknowledged or approved any transient vacation rental use on the property. (The Department requested the document that was quoted in this question but we did not receive it; however, we believe this response is accurate.)

12. Short-term rental home regulations were not considered as part of the Department's review of the permits for this project because the Department has always maintained that the structure would be used for long-term occupancy or as a second home, and that short-term rental use would not be allowed.

13. As noted in the response to question no. 5, when reviewing a SMA assessment application, the Department applies the definitions from HRS Section 205A-22 to determine whether the proposed action is a development. If the proposed action is a development, then the valuation determines whether a SMA minor permit or use (major) permit is required. If the proposed action is not a development, then a SMA exemption can be issued, and valuation is not relevant.

If you have any questions or require additional information, please feel free to contact me.

Sincerely, .



MICHELE MCLEAN, AICP
Planning Director

xc: Moana Lutey, Corporation Counsel
Jordan Molina, Director of Public Works
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