

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

September 28, 2018

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Extension Request HA-18-08, Time Extension Request for Conservation District Use Permit (CDUP) HA-3682 regarding a single-family residence

PERMITTEE: Maria Shon Magsalin

LOCATION: Wa`awa`a, Puna, Hawaii

TMK: (3) 1-4-028:007

AREA OF USE: 1412 ft²

SUBZONE: Resource

BACKGROUND

On December 13, 2013, the Board of Land and Natural Resources issued Conservation District Use Permit (CDUP) HA-3682 to Maria Shon Magsalin to build a one-story single-family residence on post-and-pier with a developed area of 1365 square-feet on the above subject parcel.

The residence will be set back 58 feet from the shoreline, at an elevation of 30 to 35 feet above sea level. It is not in a tsunami or large-wave inundation zone. A parcel owned communally by the Wa`awa`a subdivision-owners separates the subject parcel from the pāhoehoe shelf along the coast.

As a condition of the permit, work was to be initiated within one year (December 12, 2014) and completed within three years (December 12, 2016).

The location of the parcel is shown on **Exhibit 1**.

In October 2014 the permittee notified the Department that she was experiencing delays in finalizing the construction plans for the residence and requested a one-year extension of the deadlines. The Department had no objections to the request, and the Chair of the Board of Land and Natural Resources approved a one-year extension to the construction deadlines pursuant to Hawaii Administrative Rules (HAR) § 13-5-43 Time Extensions (a) *Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a*

permit, and (b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant.

The permit was amended to read that the work must be initiated before December 13, 2015 and be completed by December 13, 2017. The permittee was notified that further extensions would require approval by the full Board of Land and Natural Resources.

SECOND TIME EXTENSION REQUEST

In October 2017 the permittee applied for a second-time extension. She reported that she had initiated work on the property and had cleared the property and installed the permitted septic tank. However, she stated that she was having trouble securing financing and finding a contractor for the project and requested a three to five-year extension on the deadline for completing the residence.

OCCL presented the extension request to the Board on April 27, 2018. At the time OCCL noted potential compliance issues with the permit conditions and recommended that the Board defer action until those issues have been resolved. In reviewing the request, OCCL learned that the property was for sale, and that the MLS listing disclosed the existence of a one bedroom 360 square-foot cottage on the property. OCCL notified that the permittee that we were unable to consider the time extension request, as there appeared to be a potential violation of the permit conditions.

This report is a resubmittal of the second time-extension request.

BASIS AND AUTHORITY FOR GRANTING TIME EXTENSIONS

A time extension may be sought when a permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a permittee demonstrates some sort of hardship or delay in initiating work on a particular project. The permittee should be able to demonstrate that the hardship or delay was not self-imposed and that a good faith effort had been made to undertake the project.

The authority for the granting of time extensions is provided in §13-5-43, Hawaii Administrative Rules (HAR), which allows for a permittee to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

The relevant sections are §13-5-43:

(a) Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

...

(c) Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.

... and

(f) Temporary variances are excluded from this provision.

DISCUSSION

As the Board has the authority to grant or deny time extension requests, OCCL is forwarding the permittee's request for review. The extension request was submitted in a timely manner pursuant to HAR §13-5-43.

When OCCL presented the extension request to the Board we noted that the existence of an unpermitted 'temporary' residence on the property. The Board accepted OCCL's recommendation to defer action on the permit request until any potential violation of permit conditions was resolved.

Ms. Magsalin submitted an amended plan for the single-family residence to OCCL on May 16, 2018. The plans incorporated the 360-square foot unauthorized structure into the final design of the house. The finished structure, including car port and lanai, will have an approximate developed area of 1400 square-feet. This request is attached as **Exhibit 2**.

After reviewing the revised plans, OCCL found that they were consistent with DCUP HA-3682 and the single family residential design guidelines found in HAR Chapter 13-5. OCCL felt that this resolved the issues regarding the parcel and notified Ms. Magsalin that we would resubmit her request for a time extension to the Board for consideration.

RECOMMENDATION

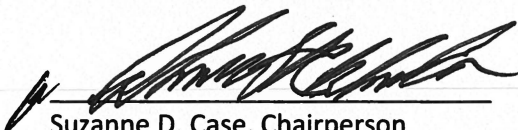
Based on the above, OCCL recommends that the Board of Land and Natural Resources approve the request for an extension of the deadlines of CDUP HA-3682 for the Magsalin Single Family Residence in Wa'awa'a, Puna District, Hawai'i, TMK (3) 1-4-028:007. The new deadline for completing the project will be December 13, 2020.

Respectfully submitted,



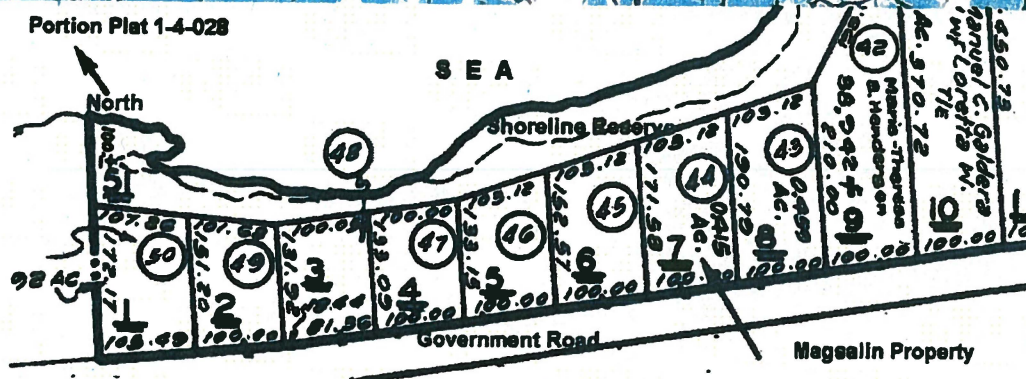
Michael Cain
Office of Conservation and Coastal Lands

Approved for submittal:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

Figure 1 Project Location Map



Samuel Lemmo, Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
PO Box 621
Honolulu, Hawaii 96809
May 14, 2018

OFFICE OF CONSERVATION
AND COASTAL LANDS

2018 MAY 16 P 3:48

NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Lemmo,

Subject: Magsalin Singe Family Residence
Amended Site/ Floor Plan
Extension Request HA-18-08 re: Conservation District Use Permit (CDUP) HA-3682
Wa'aawa'a, Puna, Hawaii
TMK (3) 1-4-028:007

I am attaching the new floor plan/ site for the single family residence. It will be a smaller home, 1213 square foot. The location is almost similar to the previous plan. I am also attaching the revised cost of this project and a financial proof I could afford this project. Previously, one of the reasons I could not proceed is due to my financial situation.

I have sent a request for a revised SMA determination to Mr. Jeff Darrow at Planning Department in Hilo. An application for a new building permit will follow after his approval.

I just hope and pray the volcanic lava eruption will slow down and eventually stop.

Thank you again for your patience, understanding and support.

Respectfully yours,


Maria Shon Magsalin
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CC: Michael Cain