

**STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawai‘i**

File No: CDUP HA-3793

September 27, 2019

Board of Land and
Natural Resources
State of Hawai‘i
Honolulu, Hawai‘i

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) HA-3793 for a Single Family Residence and Related Improvements

**APPLICANT/
LANDOWNER:** William Meurer

LOCATION: ‘Opihikao, Puna, Hawai‘i

TAX MAP KEY(S): (3)1-3-004:008

AREA OF USE: 2,265 square feet

SUBZONE: Resource

BACKGROUND:

On August 11, 2017, the Board of Land and Natural Resources (Board) approved CDUP HA-3793 for a single family residence and related improvements subject to 32 conditions (**see Exhibits 1 & 2**). Since then, the landowner filed for an initial time extension (Time Ext. Request HA 19-01) of 1 year to initiate and complete construction. The reason for the time extension request was due the landowner not having yet been able to file for a building permit, which at that time, was expected to take several months to obtain. The time extension was granted by the Chairperson on August 22, 2018.

TIME EXTENSION REQUEST:

Condition No. 7 of CDUP HA-3793 states *“any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed.”*

By correspondence dated July 31, 2019, the applicant is requesting an additional time extension to CDUP HA-3793; one year to initiate construction, and one year to complete construction (start construction by August 11, 2020 and complete construction August 11, 2022). The purpose for the extension request is that the landowner has had his building and structural plans at the County building department since last winter and subsequently received plan comments on May 31, 2019 in which he responded to them in June and is still waiting for his building permit. In addition, the landowner wishes to be mindful of his permit conditions, especially the one regarding building if there are nesting Hawaiian hawks on the property, and does not want to rush construction (see **Exhibit 3**).

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Hawai'i Administrative Rules (HAR), §13-5-43, which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the applicant's second time requesting a time extension, HAR §13-5-43(c) states that "*time extensions may be granted by the board upon the second or subsequent requires for a time extension on a board permit, based on supportive documentation from the applicant.*"

BASIS FOR 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. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the requested time extension. Approval of the time extension request will hopefully provide the additional time needed to for the landowner to complete his single family residence.

Staff, therefore, recommends the following:

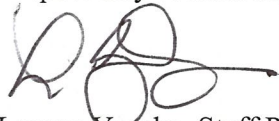
RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to start and complete the construction of the single family residence and related improvements, subject to the following conditions:

1. That Condition 7 of CDUA HA-3793 is amended to provide that the Permittee has until August 11, 2020 to initiate construction and until August 11, 2022 to complete any work or construction to be done on the land; and


2. That all other conditions imposed by the Board under CDUP MA-3746, as amended, shall remain in effect.

Respectfully submitted,

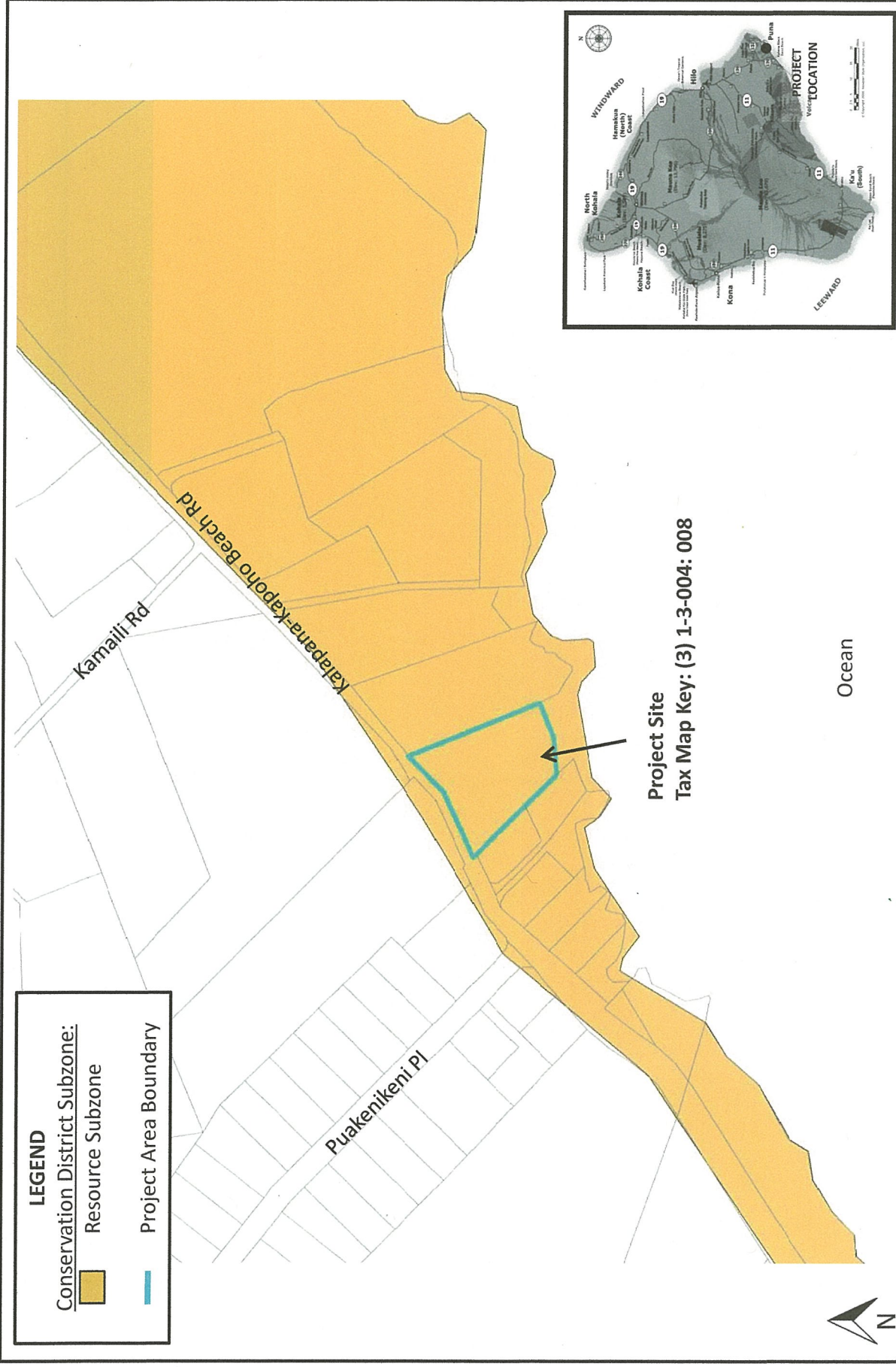


Lauren Yasaka, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



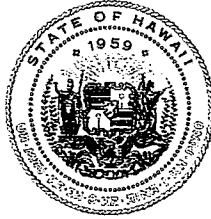
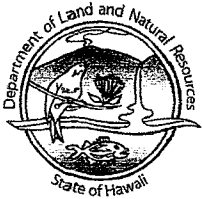
SUZANNE D. CASE., Chairperson
Board of Land and Natural Resources



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

CONSERVATION DISTRICT SUBZONE/LOCATION MAP

DA VID Y. IGE
GOVERNOR OF HAWAII



SUZZANE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

2018 JUL 23

AM 11

STATE OF HAWAII

Ref: OCCL:LY

CDUP: HA-3793

Mr. James Leonard
JM Leonard Planning, LLC
P.O. Box 11321
Hilo, HI 96721

AUG 15 2017

SUBJECT: Conservation District Use Permit HA-3793

Dear Mr. Leonard:

On August 11, 2017, the Board of Land and Natural Resources, pursuant to Hawai'i Administrative Rules (HAR) §13-5-30, approved Conservation District Use Application HA-3793 for a single family residence and related improvements located in 'Ophikao, Puna, Hawai'i, further identified as Tax Map Key (TMK): (3) 1-3-004:008 and is subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall comply with all applicable department of health administrative rules;
4. The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
6. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and

EXHIBIT 2

William Meurer
701 Linda Vista Ave.
Pasadena, CA 91105

OFFICE
A

HA-20-5

2019 AUG 12 A 8:50

DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE OF HAWAII
July 31, 2019

Ms. Suzanne D. Case, Chairperson
Department of Land and Natural Resources,
Office of Conservation and Coastal Lands
P. O Box 621
Honolulu, Hawaii 96809

**SUBJECT: CONSERVATION DISTRICT USE PERMIT (CDUP HA-3793)
TMK (3) 1-3-004:008, 'OPIHIKAO, PUNA, HAWAII'
REQUEST FOR AN EXTENSION OF TIME TO MEET CONDITION NO. 7
REGARDING INITIATION OF WORK**

Dear Ms. Case:

I am writing to request an extension of time of one (1) additional year to meet Condition 7 of the subject Conservation District Use Permit, which requires that:

“7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson; and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed.”

The CDUA Permit approval (HA-3793), was approved on August 11, 2017. So, by the requirements of Condition 7, I understand that I would need to initiate construction for my home by August 11, 2018 and complete construction by August 11, 2020. I received a one year extension from your office last August 22, 2018.

Although all outstanding issues have been addressed, my building and structural plans have been in the Hilo building department since last winter. I received plan comments in on May 31 to which I responded in June. In addition the solar hot water variance took several months to receive and I am awaiting the building permit at this time. I do not want to rush construction and I want to be mindful of the restrictions on building if there are nesting hawks on the property. Therefore, I am seeking additional time to obtain the necessary permit and in order to be able to start construction on the residence.

Accordingly, I am respectfully requesting an extension of time of one (1) year to meet the Condition 7 of the subject CDUA Permit, which, if granted, would allow until August 11, 2020 to start the construction on my home and to August 11, 2022 to complete the work.

I appreciate your consideration in this. Please let me know if you any questions or need any further information related to this request.

Yours truly,



William Meurer, 701 Linda Vista Ave., Pasadena, CA 91105

EXHIBIT 3