

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i

October 28, 2022

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

REGARDING: Third 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:

- 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 at 'Opihikao, Puna, Hawai'i. **Exhibits 1 & 2**
- A one-year time extension to initiate and complete construction was authorized by the Chairperson on August 22, 2018. **Exhibit 3**
- A second time extension to initiate work by August 11, 2020, and completed work by August 11, 2022, was authorized by the Board of Land and Natural Resources on September 27, 2019. **Exhibit 4**

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 June 20, 2022, the applicant is requesting an additional time extension to CDUP HA-3793; one year and twenty days to complete construction by "August 31, 2023." According to the applicant, "All of the long lead time materials are currently installed or in route to the homesite." In addition, there has been delays due to supply chain disruptions and finding experienced local contractors. **Exhibit 5**

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 third 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 request 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 reviewing the conditions of CDUP HA-3793, staff noted that the permit and the waiver and indemnification was not yet recorded with the deed instrument. Staff instructed Mr. Meurer to complete this process prior to staff making a recommendation to the Board thus the delay in getting this time extension matter to the Board.

Staff notes it will take about six years to complete the construction of the single-family residence in the Conservation District. However, in the present case, there are no factors that suggest any reason to deny the requested time extension. The permittee has had to cope with the eruption of Ahu'aiala'au, the Covid pandemic, and the lack of construction material due to supply chain issues that our islands encounter. Approval of this time extension request will hopefully provide the additional time needed for the landowner to complete his single-family residence.

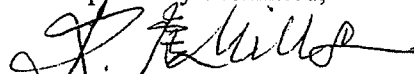
Staff, therefore, recommends the following:

RECOMMENDATION:

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

1. That Condition 7 of CDUP HA-3793 is amended to provide that the Permittee has until August 31, 2023, to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Board under CDUP HA-3793, as amended, shall remain in effect.

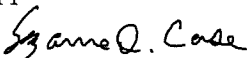
Respectfully submitted,



K. Tiger Mills, Staff Planner

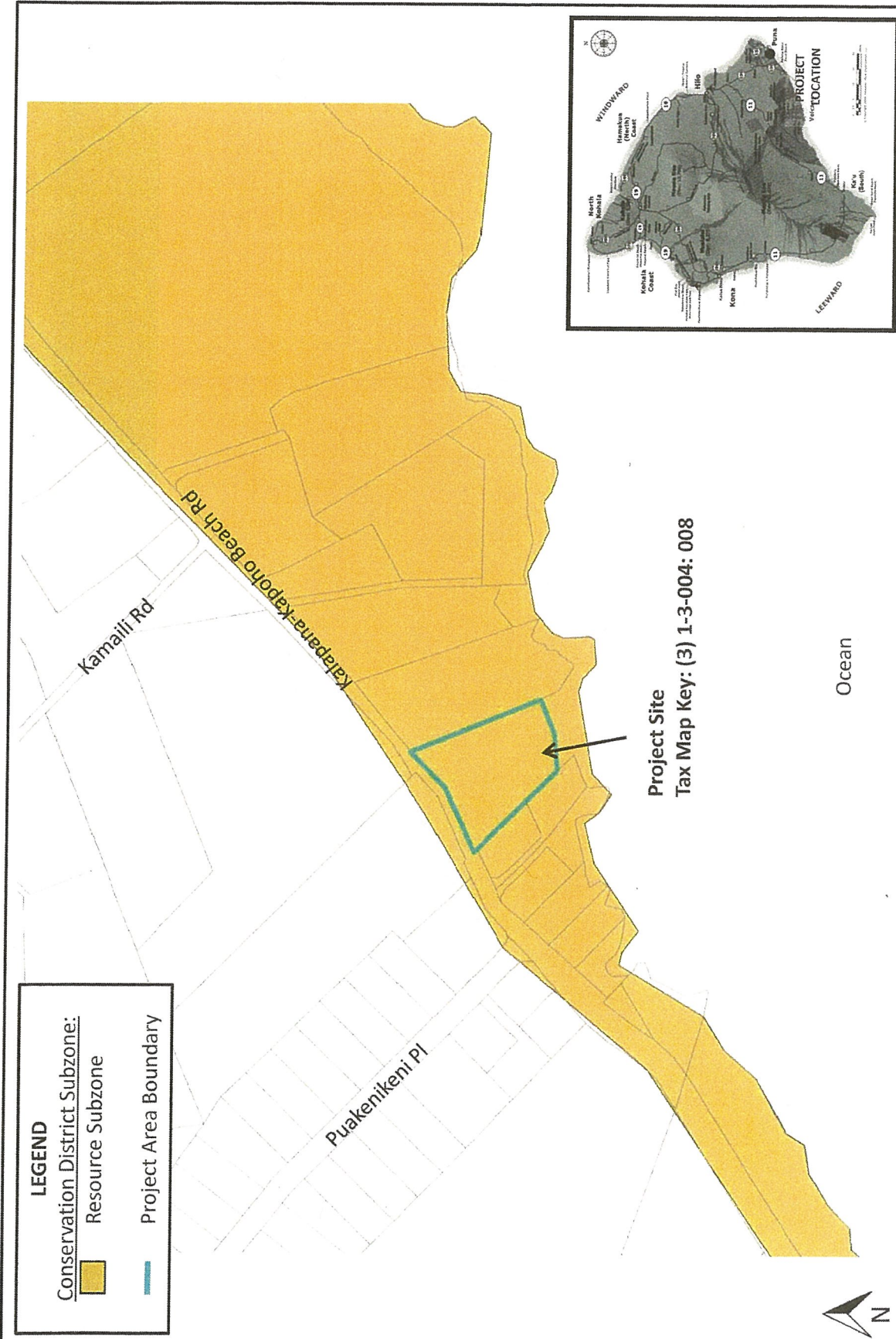
Office of Conservation and Coastal Lands

Approved for submittal:



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

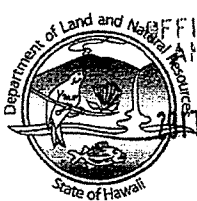
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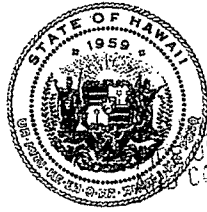
Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

CONSERVATION DISTRICT SUBZONE/LOCATION MAP

DAVID Y. IGE
GOVERNOR OF HAWAII



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STATE OF HAWAII
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OFFICE OF CONSERVATION AND COASTAL LANDS
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HONOLULU, HAWAII 96809
AUG 15 11:55 AM '17

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
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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

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

the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;

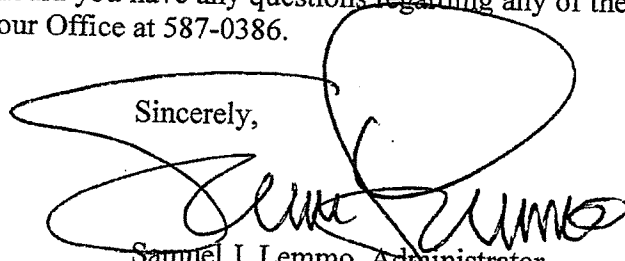
7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
8. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
9. The permittee shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
10. The permittee shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
11. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
12. The permittee shall utilize Best Management Practices for the proposed project;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
14. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawaii Administrative Rules, Chapter 13-5;
15. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
16. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;

17. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
18. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
19. Obstruction of public roads, trails, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;
20. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
21. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
22. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, 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 be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
23. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
24. Any landscaping will shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited;
25. Trees taller than 15 feet shall not be removed or trimmed during the Hawai'i Hoary bat birthing and pup rearing season from June 1st to September 15th;
26. If land clearing occurs between March 1 and September 30, a pre-construction hawk nest search by a qualified ornithologist using standard methods will be conducted. If Hawaiian Hawks are present, no land clearing will be allowed until October, when hawk nestlings will have fledged;
27. The landowner shall maintain the *Rhapis excelsa* palm hedge so that it is no more than two feet wide, thus retaining room for walking between the edge of the road pavement and the hedge shall be maintained so that it is no more than 4 feet high at any given time.

- 28. The landowner shall execute a waiver and indemnity agreement prior to construction plan approval that is satisfactory to the Department;
- 29. The landowner will forgo any future requests for shoreline hardening to protect the residence, regardless of hardship and that in the event that coastal hazards (i.e. sea level rise) eventually threatens the integrity of the structure, the landowner will be required to move or dismantle the structure.
- 30. That the applicant acknowledges that the State does not waive any claim that there may be a public trail across the property;
- 31. Other terms and conditions as may be prescribed by the Chairperson; and
- 32. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under Chapter 13-5, as determined by the chairperson or board.

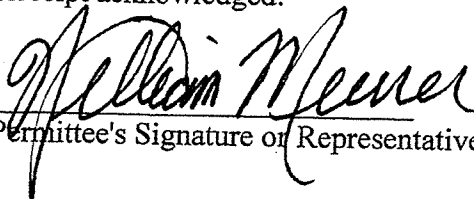
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please have an authorized signature sign two copies. Retain one (1) and return the other within thirty (30) days. Should you have any questions regarding any of these conditions, please to contact Lauren Yasaka of our Office at 587-0386.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

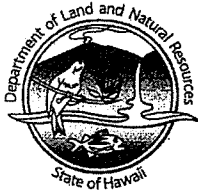
Receipt acknowledged:


Permittee's Signature or Representative

Date 8/26/17

C: Chairperson
Hawai'i Board Member
HDLO
County of Hawai'i, Planning Dept.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE 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
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHO'OLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: OCCL:LY

Time Ext. Req: HA 19-01
CDUP HA-3793

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

AUG 22 2018

SUBJECT: Time Extension Request for Conservation District Use Permit (CDUP) HA-3793
Regarding the Initiation and Completion of Construction of a Single Family
Residence Located at 'Opihikao, Puna, Hawai'i
Tax Map Key: (3) 1-3-004:008

Dear Mr. Meurer:

The Department is in receipt of your request regarding the subject project. According to the information you have provided, pursuant to Condition No. 7 of your permit approval it is your understanding that construction of your single family residence (SFR) would need to be initiated by August 11, 2018 and completed by August 11, 2020. However, while you have been able to address some of the conditions of your permit (i.e. the filing with the Bureau of Conveyances and submission of you construction plans with the Department), you have yet to submit your application for a building permit which is expected to take several months to obtain. You have experienced a delay in this process due to a number of unforeseen events, specifically the recent eruption at the Leilani Estates Subdivision which had inundated an agricultural property owned by yourself. Therefore, you are requesting a time extension of one (1) year to meet Condition 7 which would allow you to initiate construction by August 11, 2019 and complete work by August 11, 2021.

CDUP HA-3793 was approved on August 11, 2017 for the subject SFR located at 'Opihikao, Puna,, island of Hawai'i, subject to 32 conditions. Condition No. 7 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."

Pursuant to Hawai'i Administrative Rules (HAR) §13-5-43, Time Extensions. (b) *Time extensions may be granted as determined by the chairperson on all departmental permits and on the first*

EXHIBIT 3

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.

Therefore, the Department grants a 1-year time extension for initiation of construction to CDUP HA-3793. **Construction shall be initiated prior to August 11, 2019 and shall be completed by August 11, 2021.** All other conditions imposed by the Board under CDUP HA-3793 shall remain in effect.

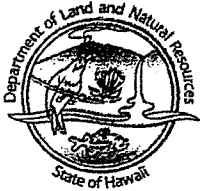
Should you have any questions regarding this matter, please contact Ms. Lauren Yasaka of our Office of Conservation and Coastal Lands staff at (808) 587-0386.

Sincerely,



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

c: HDLO
CoH, Planning Dept.



ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
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DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

CDUP: HA-3793
Time EXT: HA 20-5

SEP 30 2019

REF: OCCL: TF

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

SUBJECT: Second Time Extension for Conservation District Use Permit (CDUP) HA-3793 for the Construction of a Single Family Residence and Related Improvements. Located at 'Opihikao, Puna, Hawai'i Tax Map Key (TMK): (3) 1-3-004:008

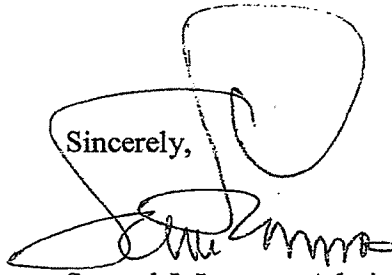
Dear Mr. Meurer:

This is to inform you that on September 27, 2019, the Board of Land and Natural Resources (Board) approved your request for a second time extension to August 11, 2020 to initiate construction and August 11, 2022 to 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-3793, as amended, shall remain in effect.

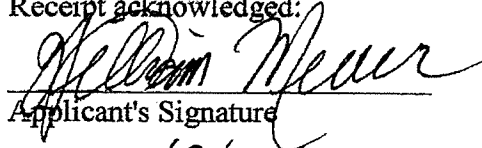
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two (2) copies. Retain one and return the other within thirty (30) days. Should you have any questions, please feel free to contact Trevor Fitzpatrick at 587-0373.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:


Applicant's Signature

Date 10/8/19

CC: *Chairperson*
Hawai'i Land Division Office
County of Hawai'i, Planning Department

Ext HA-22-10
TM

June 20, 2022

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OFFICE OF CONSERVATION
AND COASTAL LANDS
William Meurer
PO Box 1014
Hilo, HI 96721

2022 JUN 23 P 3:56

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr. Michael Cain, Administrator
Office of Conservation & Coastal Lands
Department of Land & Natural Resources PO
Box 621, Honolulu, HI 96809

Re: Request for (1) one additional year for construction
TMK: (3) 1-3-004:008 (CDUP) HA-3793

Dear Mr. Cain:

I am requesting that the completion date for my home be extended for one more year until August 31, 2023.

All of the long lead time materials are currently installed or in route to the homesite. Delays due to the supply chain disruptions for custom steel and glu-laminated beams are the primary delays which were unforeseen.

Additionally, I am committed to using local Hawaiian and Hilo based steel fabricators and local craftsmen. The custom fabricated main steel columns were fabricated in Honolulu by Universal Steel Fabricators which are shown in the photo below. The limited availability of experienced local contractors has also delayed the process. I have chosen to work with 2nd generation local contractor Kalama Evans who serves the community on other projects while waiting for the components to arrive on my home. I am pleased with the quality of construction and want to insure that this project has the additional time that one more year will give us.



Please contact me with any questions @ [REDACTED] Thank you for your understanding.

Sincerely yours,

William Meurer

Cc: Ms. Suzanne Case