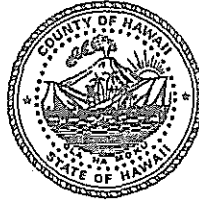


Harry Kim
Mayor



Debbie
Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

December 15, 2005

Mr. John and Mrs. Michele Gamble
P.O. Box 189
Honomu, Hawaii 96749

Dear Mr. and Mrs. Gamble:

**Subject: Special Management Area Use Permit Assessment Application No. 05-110
(SMAA 05-000110)
Special Management Area Minor Permit No. 05-000020 (SMM 05-20)
Request for Determination of Minor Structure and Minor Activity in the
Shoreline Setback Area**

Applicants: John and Michele Gamble

Land Owners: John and Michele Gamble

**Project: After-the fact construction of rock wall along the top of the pali
running the length of the subject property**

Tax Map Key: 2-8-013:038

This is in response to the subject SMAA application and request for a Determination of Minor Structure and Minor Activity in the Shoreline Setback Area that you submitted on November 15, 2005. We understand from your application that you are seeking the approvals necessary regarding uses and activities in the Special Management Area (SMA) and the Shoreline Setback Area (SSA) to allow for the existing rock wall constructed along approximately 770 feet of the seacliff on the subject property. You have estimated total cost for the subject rock wall improvements, which were initiated by and paid for by the previous owner of the property to be \$10,000.

The subject rock wall runs along the top of the seacliff edge of the subject property and is approximately 2 feet in height and 14 to 16 inches wide. Being approximately 100 feet above sea level it does not affect natural beach processes nor does it obstruct public access to any beach or shoreline and does not affect public view from Mamalahoa Highway.

Mr. John and Mrs. Michele Gamble

Page 2

December 16, 2005

The rock wall does serve as a relatively unobtrusive safety barrier to prevent accidental falls by residents, guests and employees over the edge of the pali.

We also acknowledge your written request to withdrawn your initial proposal to construct a shade cloth barrier along the Hilo (south) property line within the 40' shoreline setback area.

The subject 3.405-acre parcel is zoned Agricultural (A-2a) by the County of Hawaii and is in the Special Management Area. The property is primarily situated in the State Land Use Agricultural district, however, the subject project area is entirely within the Conservation district portion of the subject property that runs along the makai portion.

We have determined that the rock wall described above qualifies as development as defined under Rule 9-4(10)A(i) of the Planning Commission Rules of Practice and Procedure (PC Rules), which states that the placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste is not exempt from the definition of development. Rule 9-10E, PC Rules, requires that a SMA Minor Permit shall be issued for development that is not in excess of \$125,000 and that will not have a cumulative impact, or a substantial adverse effect on the Special Management Area after review by the Public Works Director for compliance with Chapter 27, Flood Control Code, of the Hawaii County Code.

Therefore, we have issued SMA Minor Permit No. 05-000020 to allow for the after-the-fact construction of the subject rock wall, subject to the applicant's compliance with the conditions of approval as specified in the permit.

Rule 11-8 of the Planning Department Rules of Practice and Procedure provides that the Planning Director may issue a Determination of Minor Structure and Minor Activity in lieu of a Shoreline Setback Variance for structures or activities in the shoreline setback area where it is determined that the proposed structure or activity would not affect beach processes or artificially fix the shoreline ands would not interfere with public access or public views to and along the shoreline.

In view of the above, we have determined that the existing rock wall described above does meet the requirements for a minor structure and may remain without a Shoreline Setback Variance.

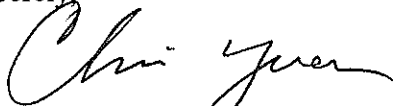
Mr. John and Mrs. Michele Gamble

Page 3

December 16, 2005

Should you have questions, please feel welcome to contact Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN

Planning Director

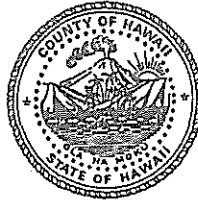
LMB:cd

P:\Wpwin60\Czm\SMM\2005\SMM05-20 Gamble ltr.doc

Encl: SMM 05-20

xc: Ms. Deborah Chang – Long Range Planning Division
Mr. Norman Hayashi – Planning Commission, w/encl.

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

Special Management Area Minor Permit No. 05-000020

Project: After-the-Fact Construction of a Rock Wall
Applicants: John and Michele Gamble
Land Owners: John and Michele Gamble
Location: Honomu, South Hilo, Island & County of Hawaii, Hawaii
TMK: (3) 2-8-013:038

Applicant's Request

1. Project Description:

The applicant is seeking after-the-fact approval for the construction of a rock wall along 770 feet of the top of the approximately 100-foot high seaciff fronting the subject property. The rock wall is approximately 2 feet in height and between 14 and 16 inches in width.

2. Purpose of Project:

The low rock wall serves as a safety barrier to mitigate the potential hazard to the residents, visitors and employees of the existing residence/bed and breakfast operation of falling over the edge of the pali.

3. Project Valuation: \$10,000.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(i), relating to the Special Management Area, "development" includes the placement or erection of any solid material or any gaseous, liquid, solid or thermal waste.

Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Agriculture and Conservation by the State Land Use (SLU) Commission. The project area is entirely in the Conservation district.

2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property for open space and intensive agricultural uses.
3. **County Zoning:** The area of the subject property not in the State Land Use Conservation district is zoned Agricultural (A-20a) by the County of Hawaii.
4. **Special Management Area:** The subject property is located in the SMA.

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - ☒ Stimulate public awareness, education, and participation in coastal management.
 - ☒ Protect beaches for public use and recreation.

- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$10,000 is not in excess of \$125,000.

The Department of Public Works – Engineering Division has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawaii County Code and has submitted the following comments, dated December 8, 2005, regarding the subject SMAA. A copy of the memorandum is also enclosed.

"We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated December 5, 2005 and have no objections to the request.

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as "minimal tsunami inundation."

Questions may be referred to Kelly Gomes of our Engineering Division at ext. 8327."


Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 05-000020** is hereby approved to allow for the after-the-fact construction of the 2' high rock wall along 770 feet of the top of the seacliff fronting the subject property.

Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 05-000020 subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of all State and County of Hawaii and Federal departments and agencies.
3. The applicant shall refrain from constructing any additional structures within the shoreline setback area, being that area between the top of the pali and 40 feet inland, without first securing all necessary approvals from the Planning Department. This includes, but is not limited to, any enlargement in height, length or width of the subject rock wall.
4. If required, the applicant shall secure approval of a Conservation District Use Permit from the Board of Land and Natural Resources.
5. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:


CHRISTOPHER J. YUEN
Planning Director

DEC 16 2005

Date