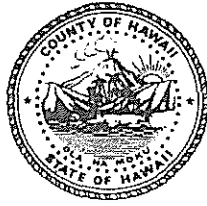


William P. Kenoi
Mayor



BJ Leithead Todd
Planning Director

County of Hawaii

PLANNING DEPARTMENT

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

March 25, 2009

Steven S. C. Lim, Esq.
Carlsmith Ball LLP
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

**Subject: Special Management Area Use Permit Assessment Application
(SAA 09-000423)**

Special Management Area Minor Permit No. 09-000103

Applicant: O'oma Beachside Village, LLC

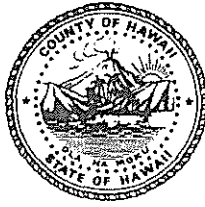
**Request: Implementation of Public Safety and
Protective Measures to Beach Resources**

Tax Map Key: 7-3-9:4, O'oma, North Kona, Hawai'i

This is in response to the above-referenced Special Management Area Use Permit Assessment Application for the implementation of public safety and protective measures to beach resources as follows: 1) temporary placement of boulders 3-feet in diameter within the existing vegetation and mauka of the existing sand dune, 2) placement of a temporary shelter (tarp, pop-up tent, or similar type structure) to provide shade during the staging operation, 3) trim and thin, and maintenance of existing vegetation to improve greater visibility to vehicles utilizing the coastal road within the subject parcel, and 4) install warning signs to address vehicular traffic and pedestrian safety.

This parcel is designated Conservation by the State Land Use Commission. It is designated Urban Expansion and Open by the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map and zoned Open (O) by the County. The goals and policies of the General Plan require the protection and management of open space and shoreline, protection of beach and coastal erosion, and to ensure that public access, including pedestrian access, is provided to the shoreline and recreational areas. The subject parcel is located within the Special Management Area and has frontage along the shoreline.

MAR 25 2009



County of Hawaii

PLANNING DEPARTMENT

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

Special Management Area Minor Permit No. 09-000103

Project: Implementation of Public Safety and Protective Measures to Beach Resources
Applicant: O`oma Beachside Village, LLC (fka North Kona Village, LLC)
Landowner(s): O`oma Beachside Village, LLC
Location: O`oma, North Kona, Hawaii
TMK: Portions of 7-3-009:004 **Total Land Area:** 217.66 acres

Applicant's Request

1. Project Description:

The applicant proposes to implement public safety and protective measures to beach resources as follows: 1) temporary placement of boulders 3-feet in diameter within the existing vegetation and mauka of the existing sand dune, 2) placement of a temporary shelter (tarp, pop-up tent, or similar type structure) to provide shade during the staging operation, 3) trim and thin, including maintenance, existing vegetation to improve greater visibility to vehicles utilizing the coastal road within the subject parcel, and 4) install two warning signs to address vehicular traffic and pedestrian safety. The boulders will be placed, using heavy equipment at least 50 feet from the shoreline.

2. Purpose of Project:

Due to increased vehicular activities onto the beach from the existing coastal road within the subject parcel, the applicant is concerned about public safety, vehicular and pedestrian visibility, erosion, and the protection of the beach and its resources. The placement of the boulders will prevent vehicular access onto the sandy beach, and the trimming and thinning of the vegetation and installation of warning signs will improve visibility and safety between vehicular and pedestrian traffic.

3. Project Valuation: \$10,000.

to a burial treatment plan with the Hawaii Burial Council. However, none of those sites mentioned above will be impacted by the proposed project.

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 tsunami, 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

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000103** is hereby approved for temporary placement of boulders 3-feet in diameter within the existing vegetation and mauka of the existing sand dune, placement of a temporary shelter (tarp, pop-up tent, or similar type structure), trim and thin existing vegetation, and installation of two warning signs. It should be noted that the applicant is pursuing land use entitlements and the placement of the boulders will be temporary for a term of five (5) years from the date of approval of this permit. This permit includes ongoing routine maintenance of the vegetation along the coastal road, and if necessary, installation of additional warning signs. This approval is subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 09-000103** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Temporary placement of the boulders will be for a term of five (5) years from the date of approval of this permit.
3. Prior to commencement of the placement of the boulders, the applicant shall contact the Planning Department for inspection and approval of the location for the placement of the boulders.
4. Use of heavy equipment shall be strictly prohibited within the 40-foot shoreline setback area.
5. All activities requiring use of heavy equipment for the placement of the boulders shall be completed within one (1) year from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon completion of the activities requiring use of heavy equipment.
6. Shoreline public access shall not be restricted during the proposed activities.
7. All green waste shall be collected and disposed of off-site at appropriate location outside of the Special Management Area.
8. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
9. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations. This may require appropriate permits from the


DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

PLANNING DEPARTMENT
COUNTY OF HAWAII
2009 MAR 23 PM 3:37

DATE: March 23, 2009

Memorandum

TO : B. J. Leithead-Todd, Planning Director
Planning Department

FROM : Galen M. Kuba, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 09-000423)
Applicant: O'oma Beachside Village, LLC
Location: O'oma 2nd, North Kona, Hawaii
TMK: 3 / 7-3-009:004

We reviewed the subject application and our comments are as follows:

We have determined that portions of the subject property are located within Flood Zones "AE and VE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

However, the proposed action will not invite further regulatory permitting or approvals under Chapter 27 of Hawaii County Code.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 327-3530.

KE
copy: ENG-HILO/KONA
PLNG- KONA