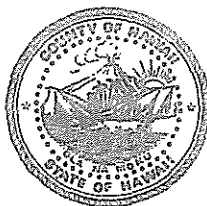


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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

June 1, 2009

Mr. Charles Wiggins
PO Box 6600
Kamuela, HI 96743

Dear Mr. Wiggins:

Subject: Special Management Area Use Permit Assessment Application
No. 09-000450
Special Management Area Minor Permit No. 09-000112
Applicant: Charles Wiggins
Land Owner: State of Hawai'i
Project: Install Educational Signs
Tax Map Key: (3) 6-9-001:002, (3) 6-9-006:003; Puakō Beach Lots, Lalamilo, South
Kohala, Hawai'i

We have reviewed the subject Special Management Area Use Permit Assessment Application (SMAA 09-450), which you submitted on May 6, 2009. The applicant proposes to install two (2) educational coral reef signs at Puakō coastal access sites. It is proposed that one (1) sign be installed on the state-owned beach reserve (TMK: (3) 6-9-001:002) and one (1) installed on the state-owned parcel (TMK: (3) 6-9-006:003). In addition, a request for a determination of a minor structure was also submitted on May 6, 2009. Also, acknowledged is a site visit on April 14, 2009 by Planning Department staff, Christopher Conger from Department of Land and Natural Resources and Reid Siarot from the Department of Accounting and General Services Land Survey Division.

The subject parcels consist of 50.501 acres and .3458 acres. The parcels are both zoned as Open by the County of Hawai'i. The parcels are both located in the State Land Use Urban district. In addition, both parcels are entirely located within the Special Management Area.

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(i), (ii), and (iv) relating to the Special Management Area, "*Placement or erection of any solid material of any gaseous, liquid, solid, or thermal waste,*" and "*Grading, removing, dredging, mining, or extraction of any materials,*" are not exempt from the definition of "development." Therefore, the proposed project requires a SMA Minor Permit.

JUN 02 2009

Mr. Charles Wiggins

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June 1, 2009

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 09-000 is hereby issued for the installation of educational coral reef signs on the subject parcels, subject to compliance with the conditions of approval as specified in the permit.

The applicant requested that the proposed signs qualify as minor structures within the shoreline setback area. This request was reviewed against Planning Department Rules of Practice and Procedure 11-8 relating to Determination of Minor Structure and Minor Activity. It was found that this request to install educational coral reef signs "*would not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline,*" and is hereby approved.

To ensure the signs do not interfere with coastal conditions, the applicant must comply with the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. No removal of trees or existing landscaping shall be permitted within the 40-foot shoreline setback area.
3. The proposed installation of the sign on TMK (3) 6-9-001:002 shall not occur closer than twenty (20) feet from the shoreline as determined by the April 14, 2009 site visit.
4. The proposed installation of the sign on TMK (3) 6-9-006:003 shall not occur closer than ten (10) feet from the shoreline as determined by the April 14, 2009 site visit.
5. The installation of the signs shall be completed within one year from the date of this determination.
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 this determination.
7. Should there be any erosion, episodic or otherwise, which makes access along the proposed signs unsafe, the Planning Director reserves the right to require the signs be moved mauka of the 40-foot shoreline setback line.

Mr. Charles Wiggins

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June 1, 2009

Should you have questions, please contact Bethany Morrison of this office at 961-8288, extension 252.

Sincerely,



BJ LEITHEAD TODD

Planning Director

BJM:cs

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Enclosures: SMM No. 09-000112
Department of Public Works May 21, 2009 Memo

w/encls: Long Range Planning Division

Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

cc ltr only: Mr. Abbey S. Mayer, Director
State of Hawaii, Office of Planning
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

PLANNING DEPARTMENT
COUNTY OF HAWAII

2009 MAY 22 AM 8:54

DATE: May 21, 2009

Memorandum

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

FROM : Galen M. Kuba, Division Chief *GK*
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 09- 000450)
Applicant: Charles Wiggins
Request : Install Educational Signs
Location: Lalamilo, S. Kohala
TMK: 3 / 6-9-001:002 and 6-9-006:003

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

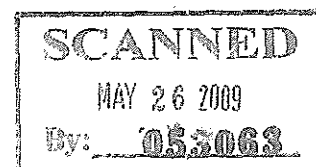
We have determined that the proposed site within TMK: 6-9-001:002 is located within Flood Zone "VE" and the proposed site within TMK: 6-9-006:003 is located within Flood Zone "X" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

The above information is based on the most recent FIRM for the County of Hawaii. Zone VE is and Zone "X" is not a designated Special Flood Area.

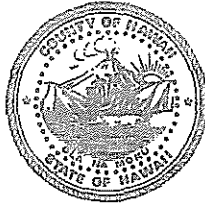
The proposed signs are not regulated "structures" under Chapter 27 – Flood Plain Management, of the Hawaii County Code. However, we recommend the proposed sign within Zone VE be properly anchored to minimize debris hazards during a flooding event.

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



William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 09-000112

Project: Install Educational Signs "Respecting Coral Reefs"
Applicant: Charles Wiggins
Location: Puakō Beach Lots, Lalamilo, South Kohala, Hawai'i
TMK: (3) 6-9-001:002, (3) 6-9-006:003 **Land Area:** 50.8468 acres

Applicant's Request

1. Project Description:

The applicant proposes to install educational signs at state owned shoreline areas. Easements are being obtained from the Department of Land and Natural Resources for the sites. The installation sites are used by SCUBA divers, snorkelers, swimmers, sunbathers, picnickers, and surfers to enter the ocean. Installation will require digging a hole in the sand and installing a concrete footing.

2. Purpose of Project:

Community surveys reveal increased numbers of visitors to Puakō. There is currently no informational signage to direct reef interaction. Sign objectives include reef impact mitigation, enhanced safety, endangered species protection, support for Fisheries Management Area Regulations, and coral reef ecosystem education. Each sign will provide useful information for snorkelers, swimmers, and divers in a non-confrontational way. The proposed signs educate visitors by providing information about unique Hawaiian species, fish cleaning stations, and different species of coral.

3. Project Valuation: \$1,650.

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(i), (ii), and (iv) relating to the Special Management Area, "Placement or erection of any solid material of any gaseous, liquid, solid, or thermal waste," and "Grading, removing, dredging, mining, or extraction of any materials," are not exempt from the definition of "development." Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject properties are designated Urban by the State Land Use Commission.
2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the properties as Open and Low Density Urban.
3. **County Zoning:** The subject properties are zoned Open.
4. **Special Management Area (SMA):** The subject properties are located in the SMA, and have frontage along the coastline.
5. **Flood Zone:** The proposed site within TMK: (3) 6-9-001:002 is located within Flood Zone VE and the proposed site within TMK: (3) 6-9-006:003 is located within the Flood Zone X as designated on the Flood Insurance Rate Map (FIRM).

Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area

The project area is along the coastline. However, the project area is relatively small compared to the accessible shoreline area. It is not anticipated that the proposed project will have any negative impacts on public access to the shoreline.

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 Hawai'i 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
 - ☒ 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 Hawai'i County General Plan and Zoning Code.

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

The estimated project cost of approximately \$1,650 is not in excess of \$125,000.

The enclosed Department of Public Works memorandum dated May 21, 2009, stated the following:

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

We have determined that the proposed site within TMK: 6-9-001:002 is located within Flood Zone "VE" and the proposed site within TMK: 6-9-006:003 is located within Flood Zone "X" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

The above information is based on the most recent FIRM for the County of Hawai'i. Zone VE is and Zone "X" is not a designated Special Flood Area.

The proposed signs are not regulated "structures" under Chapter 27- Flood Plain Management, of the Hawai'i County Code. However, we recommend the proposed sign within Zone VE be properly anchored to minimize debris hazards during a flooding event.

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

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000112** is hereby approved for installation of educational coral reef signs on the subject parcels. 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. 09-000112 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 secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. No removal of trees or existing landscaping shall be permitted within the forty (40) foot shoreline setback area.
4. The installation shall be done using hand tools. The use of heavy equipment within the forty (40) foot shoreline setback area is strictly prohibited.
5. The installation of the sign on TMK (3) 6-9-001:002 shall not occur closer than twenty (20) feet from the shoreline as determined by the April 14, 2009 site visit.

6. The installation of the sign on TMK (3) 6-9-006:003 shall not occur closer than ten (10) feet from the shoreline as determined by the April 14, 2009 site visit.
7. Should there be any erosion, episodic or otherwise, which makes access along the proposed signs unsafe, the Planning Director reserves the right to require the signs be moved mauka of the forty (40) foot shoreline setback line.
8. The installation of the signs shall be completed within one year from the date of this determination.
9. 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.
10. 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 determination; 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).
11. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

APPROVED:


BJ LEITHEAD TODD
Planning Director


Date