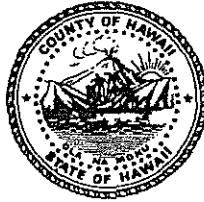


William P. Kenoi
Mayor



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 8, 2010

Michael W. Moore, Esq.
Law Offices of Yeh and Moore
85 W. Lanikāula Street
Hilo HI 96720

Dear Mr. Moore:

SUBJECT: Special Management Area Use Permit Assessment Application (SAA 10-000568)
Special Management Area Minor Permit No. 10-000153
Applicant: Sandor W. Shapery
Land Owner: Sandor W. Shapery
Request: Conversion of Existing Structure to Dwelling and Related
Renovation and Vertical Addition
Tax Map Key: 1-4-27:20, Kapoho Beach Lots Subdivision, Puna, Hawai'i

This is to follow up on our May 5, 2010 letter relating to the above-referenced Special Management Area assessment for the conversion of existing structure to dwelling and related renovation and vertical addition on the subject parcel.

This 36,490 square foot parcel is designated Urban by the State Land Use Commission and zoned Single-Family Residential (RS-10) by the County.

Although it is in the Special Management Area and has frontage along the coastline, the project area is mauka of two existing structures and is approximately 200 feet inland.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(e)(1)(E) relating to Special Management Area, the conversion of existing structure to dwelling and related renovation and vertical addition is considered "*Construction, reconstruction, demolition or alteration of the size of any structure*" and defined as "development". Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 10-000153 is hereby issued to allow for the

Michael W. Moore, Esq.
Law Offices of Yeh and Moore
Page 2
June 8, 2010

conversion of existing structure to dwelling and related renovation and vertical addition, subject to the applicant's compliance with the conditions of approval as required by the permit.

Finally, all other applicable Zoning and Building Code requirements must also be satisfied. In particular, any renovation of the garage/porch structure requires a building permit. Any change to residential use will require an SMA review for the proposed conversion.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8139.

Sincerely,



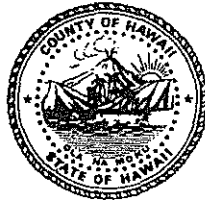
BJ LEITHEAD TODD
Planning Director

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Enclosures - SMM No. 10-000153
Department of Public Works May 18, 2010 Memo

cc w/Encls: Long Range Planning
Planning
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T
Department of Public Works, Building Division

William P. Kenoi
Mayor



BJ Leithead Todd
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Special Management Area Minor Permit No. 10-000153

Project: Conversion of Existing Structure to Dwelling and Related Renovation and Vertical Addition

Land Owner: Sandor W. Shapery

Location: Kapoho Beach Lots Subdivision, Puna, Hawai'i

TMK: 1-4-27:20

Land Area: 36,490 sq. ft.

Applicant's Request

1. Project Description:

The applicant proposes to convert an existing structure to a dwelling and related renovation and vertical addition. Proposed improvements include the following:

- a. First floor: Addition of interior walls to create 1 bedroom and addition of on-demand water heater to exterior wall of bathroom.
- b. Second floor: Addition of a 285 square foot second story which includes a bedroom and half bathroom; and two covered decks totaling approximately 70 square feet (one deck with a shower).
- c. Addition of a 4-foot wide exterior staircase with landings to access the second story addition.
- d. Various limited additional landscaping work around the dwelling.

2. Existing Structures:

There are five structures on the property. From mauka to makai, they are identified in the application as (1) a utility room, (2) carport, (3) guest house to be converted to the second single-family residence, (4) garage/porch, and (5) the main residence.

In the Written Description 1.4.4 Existing Improvements, however, it was stated that other existing improvements included "a detached garage converted to residential use with enclosed porch (BP48900; approximately 1,200 square feet in area)". BP48900 was for a

“new garage and storage bldg” and we have no record of any permits that converted this structure to a residential use. Since this garage/porch conversion was not included in the application, the interior renovation of this structure requires a separate SMA review.

3. Purpose of Project:

The subject structure, originally permitted as a garage and storage room, was subsequently utilized as an efficiency dwelling/guest house. This application is to allow for conversion of the original structure to a two-story single-family dwelling.

4. Project Valuation: \$92,500.

This structure was appraised at \$62,500. Estimated cost of the proposed improvements is \$30,000.

5. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(E) relating to the Special Management Area, the *“Construction, reconstruction, demolition or alteration of the size of any structure”* is defined as “development.” Therefore, the proposed conversion of the existing structure to a dwelling and related renovation and vertical addition requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban by the State Land Use Commission.
- 2. General Plan:** According to the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map, the parcel appears to be Open.
- 3. County Zoning:** The subject property is zoned Single Family Residential (RS-10), which allows for one dwelling per 10,000 square feet of land area.
- 4. Special Management Area (SMA):** The subject property is located in the SMA. However, this building is mauka of two existing structures and over 200 feet from the coastline.
- 5. Flood Zone:** Zone AE.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area
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Although this parcel has frontage along the coastline, the subject structure is mauka of two existing structures and over 200 feet from the coastline. Therefore, the conversion of the existing structure to a dwelling and related renovation and vertical addition will not affect the recreational resources available to the public.

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
 - ☒ 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 Hawaii County General Plan and Zoning Code.

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

The total estimated replacement cost of \$92,500 is not in excess of \$125,000.

By memorandum dated May 18, 2010, the Department of Public Works, Engineering Division stated that:

"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated May 5, 2010 and offer the following comments for your consideration.

The subject structure is in an area designated as Flood Zone AE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined. Any construction within the designated FEMA flood zone shall comply with the requirements of Chapter 27 of the Hawaii County Code.

According to the appraisal report by Robert G. Bloom, the subject structure's market value is \$62,500, while the proposed construction cost is \$30,000. Therefore, the proposed construction would be "exempt by the Engineering Division."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000153** is hereby approved to allow the conversion of the existing structure to a dwelling and related renovation and vertical addition, 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. 10-000153 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 Building Permit for the proposed conversion shall be issued within two (2) years from the date of this letter.
3. If required by the Department of Public Works, Building Division, a Building Permit for renovations to the garage/porch structure shall be issued prior to or concurrently with the building permit for this application. If the intention is to change the use of the garage/porch structure, further SMA review will be required before the building permit for that proposed use is processed by our Department.
4. The applicant shall comply with all applicable requirements of the State Department of Health, the Hawaii County Department of Public Works and applicable requirements of other affected agencies.
5. Artificial light from exterior lighting fixtures, including, but not necessarily 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 otherwise be permitted pursuant to Section 205A-71(b), Hawaii Revised Statutes.
6. 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).
7. 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:


BJ LEITHEAD TODD

JUN 08 2010

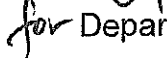
Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: May 18, 2010

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM: *for*  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 10-000568)
Applicant: Sandor W. Shapery
Land Owner: Sandor W. Shapery
Request: Conversion of Exist. Structure to Dwelling and Related Renovations
Tax Map Key: 1-4-27: 020

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated May 5, 2010 and offer the following comments for your consideration.

The subject structure is in an area designated as Flood Zone AE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined. Any construction within the designated FEMA flood zone shall comply with the requirements of Chapter 27 of the Hawaii County Code.

According to the appraisal report by Robert G. Bloom, the subject structure's market value is \$62,500, while the proposed construction cost is \$30,000. Therefore, the proposed construction would be "exempt" by the Engineering Division.

Questions may be referred to Kelly Gomes at ext. 8327.

