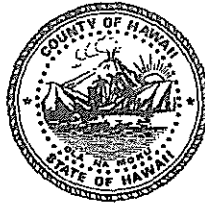


William P. Kenoi
Mayor



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

August 18, 2010

Mr. James N. Cairns
P.O. Box 102
Hakalau, HI 96710

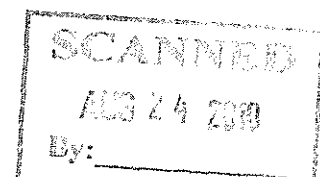
Dear Mr. Cairns:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 10-000581)
Special Management Area Minor Permit No. 10-000156
Applicant(s): James N. Cairns
Land Owner: James N. and Joann R Cairns
Request: After-the-fact construction of a rock wall along the
top of the pali and within the 40'-Shoreline Setback
Area
Tax Map Key: (3) 2-9-002:084, Hakalau Estates, South Hilo, Hawai'i**

This is in response to your Special Management Area Use Permit Assessment Application received on July 7, 2010 for the after-the-fact construction of a rock wall along the top of the pali and within the 40'-Shoreline Setback Area. The wall was constructed to provide safety along the steep pali.

The subject property consists of 2.827 acres. The parcel is zoned RS 7.5 (Single-Family Residential) by the County and is designated Urban by the State Land Use Commission. The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Open and Medium Density Urban.

The application was reviewed against the Planning Department Rules of Practice and Procedure 11-8 relating to Determination of Minor Structure and Minor Activity within the Shoreline Setback. A Shoreline Setback Variance shall not be required for minor structures or activities in



Mr. James N. Cairns

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the shoreline setback area where it is determined that the proposed structure or activity *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.*

The rock wall is located 5 feet or more from the top of the pali edge and is 1-2 feet in height. The pali and rock wall is 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 to and along the shoreline. The existing rock wall described above does meet the requirements for a minor structure and may remain without a Shoreline Setback Variance.

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(10)A(i), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste.* Therefore, the rock wall is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No.10-000156 is hereby issued to allow for the after-the-fact rock wall to remain for safety purposes on the subject parcel. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,



BJ LEITHEAD TODD
Planning Director

BJM:cs

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Enclosure - SMM No. 10-000156
Department of Public Works Memorandum dated August 9, 2010

Mr. James N. Cairns

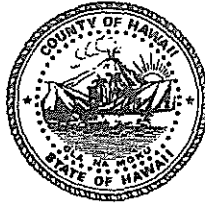
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August 18, 2010

cc w/Encls: Long Range Planning Division
Planning Department, Kona Office
Planning Division

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

William P. Kenoi
Mayor



BJ Leithead Todd
Director

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Special Management Area Minor Permit No. 10-000156

Project: After-the-fact Construction of a Rock Wall
Applicants: James N. Cairns
Land Owners: James N. and Joann R Cairns
Location: Hakalau Estates, South Hilo, Hawai'i
TMK: (3) 2-9-002:084 **Land Area:** 2.827 acres

Applicant's Request

1. Project Description:

The applicant is seeking after-the-fact approval for the construction of a rock wall along the top of the pali and within the 40'-Shoreline Setback Area on the subject property. The rock wall is approximately 1-2 feet in height and between 18 and 20 inches in width.

2. Purpose of Project:

The rock wall is located 5 feet or more from the top of the pali edge and is 1-2 feet in height. The pali and rock wall is approximately 100 feet above sea level. The wall was constructed to provide safety along the steep pali.

3. Project Valuation: \$4,000.00

4. Determination:

According to Hawaii Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(10)A(i), "development" includes *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*. Therefore, the rock wall is considered "development" and requires a Special Management Area Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use (SLU) Commission.

2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property Open and Medium Density Urban.
3. **County Zoning:** The parcel is zoned RS 7.5 (Single-Family Residential) by the County of Hawai'i.
4. **Special Management Area:** The subject property is located in the SMA.
5. **Flood Zone:** X

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

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 \$4,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated August 9, 2010, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated July 21, 2010 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 the Department of Public Works designates it as Zone X- an area determined to be outside the 500-year floodplain.

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


Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000156** is hereby approved to allow for the after-the-fact rock wall to remain for safety purposes on the subject parcel.

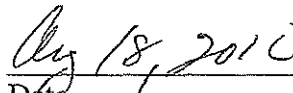
Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 10-000156 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. The applicant shall refrain from constructing any additional structures within the shoreline setback area 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. 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).
5. 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
Planning Director


Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: August 9, 2010

Memorandum

TO: BJ Leithead Todd, Planning Director

FROM:  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 10-000581)

Applicant: James N. Cairns

Request: After-the-Fact Construction: Rock Wall Along the Top of the Pali

Tax Map Key: 2-9-02: 084

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated July 21, 2010 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 the Department of Public Works designates it as Zone X - an area determined to be outside the 500-year floodplain.

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