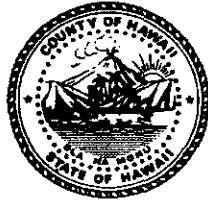


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy Director

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

July 21, 2011

Mr. Jeff LaFrance
Facility Manager
AOAO Kona by the Sea
75-6106 Ali'i Drive
Kailua-Kona, HI 96740

Dear Mr. LaFrance:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA 11-000680)
Special Management Area Minor Use Permit (SMM-11-000184)
Applicant: Todd Miller, President of AOAO Kona by the Sea
Land Owner: AOAO Kona by the Sea
Request: Replenish Beach Sand and Level Gravel
Tax Map Key: (3) 7-5-020:016, North Kona, Hawai'i**

We have reviewed the Special Management Area Use Permit Assessment Application (SAA-11-000680) received on June 20, 2011. The applicant proposes the replenishment of beach sand and general maintenance of existing landscaped areas, including leveling the gravel of a lava rock garden for esthetic as well as utilitarian purposes within the shoreline setback area on the subject property.

The 3.2705 acre parcel is zoned Multiple-Family Residential (RM-1.5) by the County and designated Urban by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the parcel as Medium Density Urban and Open. The entire parcel is also located in the Special Management Area (SMA).

Mr. Jeff LaFrance
Facility Manager
AOAO Kona by the Sea
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Special Management Area Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes and Planning Commission Rule 9-4(e) (1) (A) relating to Special Management Area, "development" does include *"Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste"*. Therefore, we have determined that the proposed replenishment of beach sand and placement of native lava rock to level the rock garden is considered "development" and will require either a Special Management Area Minor or Major Use Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.11-000184 is hereby issued to allow replenishment of beach sand and placement of native lava rock to level the rock garden. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

In addition, according to the shoreline certification survey map of May 16, 1990, the Chairman of the Board of Land and Natural Resources affirmed that the "shoreline follows along the seaward edge of CRM wall". Therefore, since the shoreline is determined to be fixed at the existing CRM wall, the requirement of an updated certified shoreline survey is waived.

Determination of Minor Activity within Shoreline Setback Area:

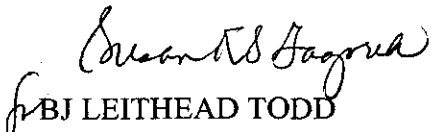
The development is being proposed within the 40-foot shoreline setback area. However, according to Planning Department Rules of Practice and Procedure, Rule 11-8, *"A minor structure or activity proposed in the shoreline setback area shall not need a shoreline setback variance if the Planning Department determines that it 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 proposed replenishment of beach sand and general maintenance of existing landscaped areas, including leveling the gravel of a lava rock garden is located mauka of the existing CRM wall and 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. Therefore a shoreline setback variance shall not be required.

Mr. Jeff LaFrance
Facility Manager
AOAO Kona by the Sea
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If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,


BJ LEITHEAD TODD
Planning Director

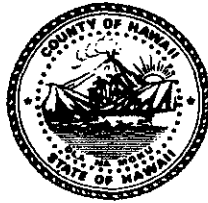
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Enclosure - SMM No. 11-000184
Department of Public Works Memorandum dated July 14, 2011

xc w/encls: Long Range Planning Division
Planning Division

xc ltr only: Mr. Jesse K. Souki, 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. 11-000184

Project: Replenish Beach Sand and Level Gravel
Applicants: Todd Miller, President of AOA Kona by the Sea
Land Owners: AOA Kona by the Sea
Location: North Kona, Hawai'i
TMK: (3) 7-5-020:016 **Land Area:** 3.2705 acres

Applicant's Request

1. Project Description:

The applicant is proposing the replenishment of beach sand and general maintenance of existing landscaped areas, including leveling the gravel of a lava rock garden for esthetic as well as utilitarian purposes within the shoreline setback area on the subject property. The sand replenishment is proposed in three phases. The proposed first phase of sand replenishment shall consist of 7 cubic yards of sand spread over a distance of 5600 square feet; the second phase will be approximately the same amount; and the third phase consisting of 15 cubic yards. The total phases of sand replenishment will recover approximately 1' of the original elevation loss. The leveling of the rock garden will require approximately 5 yards of native lava rock to properly level the 600 sq ft depression.

2. Purpose of Project:

The project is for the replenishment of beach sand and general maintenance of existing landscaped areas, including leveling the gravel of a lava rock garden for esthetic as well as utilitarian purposes enhancing safe public access to the shoreline.

3. Project Valuation: \$1,500.

4. Determination:

The proposed replenishment of beach sand and placement of native lava rock to level the rock garden is considered "development" and will require either a Special Management Area Minor or Major Use Permit.

State and County Plans

1. **State Land Use District:** The subject parcel is designated Urban by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open and Medium Density Urban.
3. **County Zoning:** The subject parcel is zoned Multiple-Family Residential (RM-1.5) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone AE and VE.

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 tsunامي, 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 \$1,500 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated July 14, 2011, states the following:

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

We have determined that the subject property is located within Flood Zones "AE and VE" 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. Alteration of, or any new construction, improvements to repetitive loss structures or substantial improvements of structures within the AE/VE flood zones will be subject to the requirements of Chapter 27 - Flood Plain Management, of the Hawaii County Code.

The proposed beach sand replenishment and leveling activities mauka of the existing sea wall do not violate Chapter 27 of Hawaii County Code."

Pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 11-000184 is hereby approved to allow the replenishment of beach sand and general maintenance of existing landscaped areas, including leveling the gravel of a lava rock garden on the subject property.

Conditions of Approval

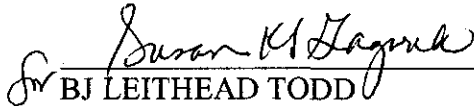
The Planning Director has approved SMA Minor Permit No. 11-000184 subject to the following conditions:

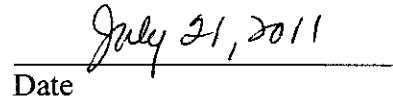
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. No further construction, land alteration, or landscaping, including but not limited to the removal or alteration of existing vegetation or planting of new vegetation shall occur within the shoreline setback area without prior written approval of the Planning Director.
4. No stockpiling of materials or equipment shall occur within the shoreline setback area without prior written approval of the Planning Director.
5. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the entire length of the subject sand replenishment area and rock garden area mauka of the existing CRM wall prior to the commencement of any land altering activities and shall remain in place until the final inspection has been performed by the Planning Department. The construction barrier must be erected as to prevent any sand, rock, or other landscaping materials or debris from falling makai of the existing CRM wall and into the shoreline.
6. The mechanized equipment allowed within the shoreline setback area shall be limited to the proposed ½ yard loader and four wheel drive wagon. This equipment must be removed from the shoreline setback area each day until the project is completed.
7. The applicant(s) shall implement standard Best Management Practices (BMPs), including the ability to contain and clean up fuel, fluid or oil spills immediately for activities/uses. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance. The

Planning Department shall be contacted immediately at 961-8288 to conduct a visual inspection and to provide appropriate guidance.

8. The public access easement and the four public parking stalls shall remain open at all times. No activity or stockpiling of construction materials or equipment shall impede access to or be located in these areas.
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. 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