



# Planning Commission

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

LARRY S. TANIMOTO

~~BERNARD KAWANA~~  
Mayor

CERTIFIED MAIL

April 25, 1990

Joseph N. Castelli, President  
Homeowner's Association  
Keauhou-Kona Surf and Racquet Club  
68-7800 Alii Drive  
Kailua-Kona, HI 96740

Dear Mr. Castelli:

Shoreline Setback Variance Application  
TMK: 7-8-13:3

The Planning Commission at its duly held public hearing on April 11, 1990, voted to approve your application, Shoreline Setback Variance Permit No. 643, to allow the excavation of material and placement of rock riprap and grout at three locations within the 40-foot shoreline setback area. The area involved is part of the Keauhou-Kona Surf and Racquet Club situated along the makai (west) side of Alii Drive, Keauhou and Kahaluu, North Kona, Hawaii.

Approval of this request is based on the following:

The Shoreline Setback Law was enacted by the State Legislature in 1970 for the protection of the shoreline from undue man-made improvements. Many of the improvements have disturbed the natural shoreline process and have caused erosion of the shoreline. To prevent unnecessary encroachment of structures and other improvements upon the shoreline, the Legislature felt that it is in the best interest of the public to establish shoreline setbacks and to regulate the uses and activities within the shoreline setback area.

The Legislature, however, also recognized that certain activities and improvements may be required to be done or constructed within the shoreline setback area for protection of certain shoreline properties. Rule 8 of the Planning Commission

APR 25 1990

Joseph N. Castelli, President  
April 25, 1990  
Page 2

recognizes this need and sets forth procedures for granting variances for certain activities and improvements within the shoreline setback area.

Pursuant to Section 205A-46(a), Hawaii Revised Statutes (HRS), a variance may be granted for a structure or activity otherwise prohibited by the shoreline setback regulations that may artificially fix the shoreline, provided that it is found that shoreline erosion is likely to cause hardship to the applicant if the facilities or improvements are not allowed within the shoreline area, and provided further that the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest. Furthermore, Section 205A-46(c) states that no variance shall be granted unless appropriate conditions are imposed to maintain safe lateral access to and along the shoreline or adequately compensate for its loss, to minimize risk of adverse impacts on beach processes, to minimize risk of structures failing and becoming loose rocks or rubble on public property, and to minimize adverse impacts on public views to, from, and along the shoreline.

In accordance with Section 8-12 of the Planning Commission's Rule No. 8, the Planning Commission may grant variances within the shoreline setback area if it is found that:

1. Such structures, activities, or facilities are in the public interest; or
2. Hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline setback.

The applicant seeks to restore and stabilize the shoreline in areas eroded by high surf by placement of rock riprap within the 40-foot shoreline setback area. It is the intent of the applicant to restore a buffer zone between existing residential structures and the ocean in order to prevent damage to property. Storm surf has previously damaged existing structures and the proposed construction is expected to reduce the potential for future damage. It is determined that hardship will be caused to the applicant if the proposed activity is not allowed on that portion of the land within the shoreline setback area.

Joseph N. Castelli, President  
April 25, 1990  
Page 3

The proposed construction will contribute to the provision of lateral public access along the shoreline, which has been curtailed by loss of shoreline material. A requirement for reconstruction of an asphalt pathway within a pedestrian easement has been included as a condition of SMA Minor Use Permit No. 90-5. Conditions of prior SMA Use Permit and Shoreline Setback Variance ensure that public access will be maintained. Thus, it is determined that the approval of the request will be in the public interest by providing safe lateral access along the shoreline.

Restoration of the shoreline to its previous configuration is not expected to interfere with the natural shoreline processes. Conditions are being imposed to require that no construction or deposition of material shall occur seaward of the certified shoreline. The proposed activity will not negatively impact the scenic vistas of the natural coastline and open space since no structural activity above the original grade is proposed.

The proposed development is consistent with the General Plan, the Zoning Code, and other applicable ordinances. The General Plan identifies the area as a Major Resort area. The Land Use Pattern Allocation Guide (LUPAG) Map depicts the project site as Open and the mauka portion of the property as Medium Density Urban. Multi-family residential development has taken place in accordance with the Zoning Code and SMA rules and regulations.

Based on the foregoing, it is determined that the proposed placement of rock riprap within the 40-foot shoreline setback area are consistent with the purpose and intent of Rule 8 of the Planning Commission relating to Shoreline Setback.

Approval of this request is subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all conditions of approval.
2. Comply with all conditions of SMA Minor Use Permit No. 90-5.
3. Comply with all other laws, rules, regulations, and requirements of State and County agencies.
4. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the variance. The report shall include, but

Joseph N. Castelli, President  
April 25, 1990  
Page 4

not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

5. An extension of time for the performance of conditions within the variance 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 general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the variance.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Fred Y. Fujimoto  
Chairman, Planning Commission

xc: Department of Public Works  
County Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background