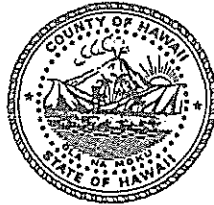


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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December 11, 2003

Daniel Quinn, Administrator
State Department of Land and Natural Resources
Division of State Parks
1151 Punchbowl Street, Room 310
Honolulu, HI 96813

Dear Mr. Quinn:

Special Management Area Use Permit Application (SMA 03-013)
Applicant: State of Hawaii, DLNR, Division of State Parks
Request: Access and Park Related Improvements – Kekaha Kai State Park
Tax Map Key: 7-2-4:Portions of 3, 17 and 19

This letter replaces our letter to you dated November 24, 2003.

The Planning Commission at its duly held public hearing on November 7, 2003, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 438 is hereby issued to allow the development of the Kekaha Kai State Park Phase I improvements, which include the construction or installation of a park access road, gates, and signage; parking related improvements; comfort station and storage facility; landscaping, pathways, and trail improvements; and associated utility improvements. The property is located makai of the Queen Kaahumanu Highway and includes the area adjacent to Kua Bay, Maniniowali and Kukio 2nd, North Kona, Hawaii.

Approval of this request is based on the following:

The State of Hawaii Department of Land & Natural Resources, Division of State Parks is requesting a Special Management Area Use Permit to allow the development of the Kekaha Kai State Park Phase I improvements at Kua Bay, which includes the construction or installation of a channelized intersection across from the West Hawaii Veteran's Cemetery on Queen Kaahumanu Highway; a two lane paved park access road with gates and signage; parking, which includes parking for 50 cars including ADA stalls

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and van parking; future parking expansion; a day use area, which includes a comfort station; a restroom building, which includes a storage room and small work area; shower and picnic facilities; a camping area; landscaping; pathways; trail improvements; pond improvements; and associated utility improvements within the Special Management Area.

The proposed development of the Kekaha Kai State Park Phase I improvements at Kua Bay 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. Kekaha Kai State Park will be developed in phases, as funding becomes available. The improvements at Kua Bay are the first phase of three phases planned to improve Kekaha Kai State Park. Based on information provided from the application and the Park Development Plan (PDR), the applicant is proposing to create a "wilderness" park that will emphasize the sustainability of natural and cultural resources in balance with public use. Natural landforms, flora and fauna and open spaces are the heart of the wilderness experience. The applicant proposes to create this "wilderness" theme by the following actions; cultural landscapes will be preserved within the park. Modern amenities, facilities and conveniences will be limited. Wide-open natural spaces will be preserved and enhanced as much as possible. Recreational uses will be more passive, such as hiking, camping and beachgoing, rather than active recreation associated with improved facilities. Access to many areas will remain "unimproved" or "managed for low impact." Paved or graded areas such as roads and parking areas will be buffered with appropriate xeriscape. Comfort stations and new park structures will be clustered to minimize impact. Landscape improvements will be kept at a minimal level. By following these actions through plans that will be required by conditions of approval, such as archaeological mitigation and preservation and burial treatment plans, anchialine pond preservation and restoration plans, trail preservation and restoration plans, shoreline public access plans, etc., any significant adverse environmental or ecological effect will be minimized.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS) and Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

The proposed development will be consistent with the numerous objectives and policies of the Coastal Zone Management Program (Chapter 205A, Hawaii Revised Statutes) including:

Recreational Resources:

- Objective: To provide coastal recreational opportunities accessible to the public.
- Policies: (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
- (iii) Providing and managing adequate public access, consistent with the conservation of natural resources, to and along the shorelines with recreational value.
 - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation.

The proposed development will provide a valuable public shoreline access to Kua Bay within Kekaha Kai State Park. Until this time, access has been via an unimproved road accessible by foot or by 4-wheel drive vehicles. This proposed development would provide a planned shoreline park that will focus on the conservation of the natural, cultural and historical resources in the area while providing a limited amount of facilities for public recreation.

Historic Resources:

- Objective: To protect, preserve, and, where desirable, restore those natural and manmade historic resources in the coastal zone management area that are significant in Hawaiian and American history and cultural.
- Policies: (A) Identify and analyze significant archaeological resources;

There is a rich complex around Kua Bay, especially around the anchialine pond and the dune area near the shore. Intact canoe shed walls (hale wa'a), burials, and shelters are found in this area. Many lava tubes used for shelter, storage, and burials are also located in this area. While the density of features diminishes as one moves mauka, agricultural mounds, shelters, and burials are located near the historic mauka-makai trails that run through the area. Some intact burial sites were discovered in recent archaeological investigations and were re-sealed after the study. As a condition of approval the applicant will be required submit an archaeological mitigation and preservation plan and a burial treatment plan. The applicant will also be required to create clear vehicular and pedestrian pathways and install landscaping and signage in a manner that minimizes inadvertent destruction of the cultural and historical resources for the park facility. The applicant will be required to identify features with signage and limit access to some features.

Scenic and Open Space Resources:

- Objective: Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- Policy: (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources.

The proposed development will improve public access to one the most beautiful shoreline areas on the Kona Coast. It will allow local residents and visitors to experience valuable scenic resources and open spaces preserved on the Big Island.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area as Open Area. This type of designation includes areas for open space recreational uses. The applicant proposes to conduct improvements that will allow for the recreational use of Kua Bay by providing shoreline public access via a two lane paved roadway with parking areas, pathways and trails, and a comfort station with restroom and shower facilities. The proposed project will also compliment the Historic Sites, Natural Beauty, Natural Resources and Shoreline, Recreation and Economy goals and policies of the General Plan.

The proposed development will not have a significant adverse impact to traditional and customary Hawaiian rights:

Investigation of valued resources: The applicant presented a Final Environmental Impact Statement (FEIS) along with the Special Management Area Use Permit application. Included within the FEIS was:

- an archaeological reconnaissance survey,
- an archaeological inventory survey,
- a report on archival and historical document research and oral history interviews,
- a survey of wildlife resources
- a botanical (flora) study.

Portions of the FEIS have been submitted along with Exhibit A.

The valuable cultural, historical, and natural resources found in the permit area:
An archaeological inventory survey was conducted of the portions of the Kekaha Kai State Park. The area of the survey consisted of approximately 583 acres on the northern portion of Kekaha Kai State Park. It included the whole of Awake'e ahupua'a makai of Queen Ka'ahumanu Highway, and approximately 1,000 foot wide strip of land that takes in the seaward ends of Manini'owali and Kūki'o 2nd ahupua'a. The survey areas are portions of the park that have been identified as desirable locations for public park facilities. They include planned improvement areas and road and trail corridors with a combined area of approximately 120 acres. The largest and best preserved site, 50-10-18-23355, is located at Kākapa Bay. A total of 359 features was recorded here (Kākapa Bay). Settlement pattern analysis indicates that this site comprises seven household clusters preferentially located on a'ā lava flows near the cobble and white sand beach. Also present are a heiau reported to have been one of Kamehameha's as well as several large boulders and lava slabs that have been bashed with cobble hammerstones to expose an interior layer of red, often ropy, lava. The heiau, which is the largest religious structure recorded during the survey, is one indication of the local importance of the Kākapa Bay community. Another is the network of transportation routes that serve the settlement. Four major trails terminate at the village. The entire site offers an outstanding opportunity for interpretation and display.

Site 50-10-18-23356 is the remains of a small village with a total of 348 features recorded at this site (Kua Bay). Intact canoe shed walls, burials, and shelters were found in this area. Many lava tubes used for shelter, storage, and burials are also located in this area. The Ala Kahakai trail runs along the coastline near Kua Bay. There is an anchialine pond located approximately 250 feet from the beach.

With regard to mammals, two endemic species have been recorded in the area: the Hawaiian hoary bat and recently, the Hawaiian Monk Seal. Although there have been

three types of endangered plant species identified in the botanical study, these were not observed at area where the improvements are proposed. The property borders the shoreline. Along the shoreline and in the offshore waters, important natural resources include fish and shellfish found in the Hawaiian waters. The coastal water quality is very high.

Possible adverse effect or impairment of valued resources: The proposed development will require site grading and grubbing, and construction of various improvements such as the roadway, parking areas and buildings (comfort station, restroom, shower and picnic facilities). Mitigative measures to minimize possible effects or impairments of valued resources will be addressed within the mitigation and preservation plans required by the conditions of approval. If the applicant follows these mitigation measures, there should be minimal impact to archaeological and historical resources, and other natural resources associated with the shoreline and coastal waters.

Feasible actions to protect native Hawaiian rights: A majority of the potential cultural resources located within the project area are near the shoreline area (Kua Bay and Kākapa Bay). The natural and cultural resources related to traditional and customary cultural practices are easily accessible from the proposed improved areas. Given the fact that the applicant is committed to providing easy access to the shoreline and improved public facilities, the development should have minimal potential for adverse impacts to cultural resources or the various cultural resource users. State Parks has represented that none of the archaeological features will be harmed in the construction of the park facilities.

The quality of ocean water should be protected by conditions of approval that require the restroom to be connected to a secondary-level wastewater treatment plant, and by normal construction period safeguards.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the Special Management Area Use Permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.

2. Construction of the proposed development shall be substantially completed within 10 years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed development, as represented in the plans submitted with the application, shall be secured from the Planning Department. Plans shall identify existing and proposed structures, paved driveway access, parking stalls and landscaping in compliance with the Zoning Code and Planning Department Rule No. 17 (Landscaping Rule) associated with the proposed use except as modified by agreement between the County Planning Department and the Division of State Parks.
3. Improvements shall be located generally as shown in Figure No. 2, "Phase I, Project Site Plan" and Figure No. 3, "Phase I, Kua Bay Improvements," attached as Exhibit "B" and "C" to the applications, with adjustments that may be necessary because of site topography and to avoid historic sites. This permit also authorizes parking expansion in areas shown in the Final Environmental Impact Statement near Kua Bay and along the access road, to the extent discussed in the EIS, provided that all construction complies with the Final Site Preservation Plan approved by the State Historic Preservation Division.
4. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
5. All utilities shall be placed underground to minimize visual impacts.
6. Channelized intersection improvements including, but not limit to, acceleration, deceleration and left-turn lanes shall be provided at the intersection of Queen Kaahumanu Highway and the park access road meeting with the approval of the State Department of Transportation.
7. A Shoreline Public Access Plan shall be submitted for review and approval to the Planning Director prior to submitting plans for Final Plan Approval review or prior to issuance of any land alteration permits. A copy of the approved plan shall be submitted to the Planning Department for its files.
8. An Archaeological Preservation Plan shall be submitted for review and approval of the Planning Director prior to submitting plans for Final Plan Approval review or prior to issuance of any land alteration permits, in consultation with the Department of Land and Natural Resources-Historic Preservation Division

(DLNR-HPD). The preservation Plan shall include provisions for signage to inform public park users of the importance of the historic sites and of not moving rocks. The Plan shall also address potential off-road driving. After development of the new public access road, the applicant shall close off use of jeep roads in the Kua Bay area to prevent further damage to historic sites. Proposed mitigation treatment for the burial sites within the subject area shall be approved by the Historic Preservation Division's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved plan shall be submitted to the Planning Department for its files.

9. Should any remains of unidentified historic sites such as rock walls, terraces, platforms, or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
10. Public vehicular use shall be limited to vehicles licensed for use on public highways.
11. All wastewater shall be treated at an approved secondary wastewater treatment facility to R-2 standards.
12. A Trail Management and Restoration Plan shall be submitted for review and approval of the Planning Director prior to submitting plans for Final Plan Approval review or concurrently with of any land alteration permits, in consultation with the Department of Land and Natural Resources-Division of Forestry and Wildlife Division-Na Ala Hele Program. This plan will identify the existing and new trail system within the Phase I improvement area (Manini'ōwali and Kuki'ō) and will identify restoration areas. This plan will also implement signage to be used for informational and educational purposes. A copy of the approved plan shall be submitted to the Planning Department for its files.
13. An Anchialine Pond Management and Restoration Plan shall be submitted for review and approval of the Planning Director concurrently with submitting plans for Final Plan Approval review or prior to issuance of any land alteration permits. A copy of the approved plan shall be submitted to the Planning Department for its files.

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14. Comply with all applicable laws, rules, regulations, and requirements of affected agencies, including the Department of Public Works, the Department of Health and the State Department of Transportation for the proposed project.
15. An initial extension of time for the performance of conditions within the permit 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 applicants, 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.
 - C. 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).

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.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galtones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program
Department of Land and Natural Resources-HPD/Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Ms. Alice Kawaha
Mr. Robert Usagawa
Plan Approval Section