

County of Hawai'i

PLANNING COMMISSION

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January 29, 2010

Mr. Kevin Sakai, Project Manager
Department of Parks & Recreation
County of Hawaii
101 Pauahi Street, Suite 6
Hilo, HI 96720

Dear Mr. Sakai:

Special Management Area Use Permit Application (SMA 09-000036)
Request: Redevelopment and Improvements to Reed's Bay Beach Park Including
New Restroom Pavilion, Walkways, Seatwalls, and Landscaping
Applicant: County of Hawaii, Parks & Recreation
Tax Map Key: 2-1-5:1

The Windward Planning Commission at its duly held public hearing on January 8, 2010, voted to approve the above-referenced request for a Special Management Area (SMA) Use Permit to allow the redevelopment and improvements to Reed's Bay Beach Park, including new restroom pavilion, walkways, walls, landscaping, and related improvements. The property is the site of the existing beach park located along the makai side of Banyan Drive, Waiākea, South Hilo, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Special Management Area Use Permit to allow the redevelopment and improvement to the Reed's Bay Beach Park, which is located within the Special Management Area. The project will be conducted in two (2) phases. This SMA permit is only for the Phase I portion of the project, which will consist of the following:

- Comfort station with restrooms, shower area and storage
- One or two approximate 12-foot by 12-foot (144-square foot) pavilion.
- Six picnic tables, including three that are ADA accessible.
- Walkways and low seat walls.
- Drinking fountains and trash receptacles.
- Bike racks.

- Limited trailer boat/kayak access.
- Landscaping, which will include the removal of selected trees and replacement and additions with native or Polynesian coastal species.

The applicant will submit an amendment to the SMA permit when funding is available for the Phase II portion of the project, which is located on the adjacent parcel to the north (TMK: 2-1-5: 28) and will consist of similar features as Phase I, but with a relatively large paved public parking lot with 51 stalls.

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. In considering the significance of potential environmental effects, the Director shall consider the sum of those that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. 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 elimination of planning options.

A “substantial adverse effect” is determined by the specific circumstances of the proposed use, activity or operation. In determining whether a proposal may have a substantial adverse effect on the environment, the Director shall consider every phase of a proposed action and expected consequences, either primary or secondary, or the cumulative as well as short or long-term effect of the proposal. In reviewing the proposed development against the factors that may constitute a substantial adverse effect as listed under Planning Commission Rule 9-10 (H) (1 through 10), it has been determined that the proposed redevelopment and improvements to the Reed’s Bay Beach Park will not have a significant adverse environmental or ecological effect to the Special Management Area.

The proposed development will not create significant adverse impacts upon nearby and adjacent properties. Surrounding properties are zoned Open (O) and Resort-Hotel (V- .75). Surrounding uses include numerous hotels, condos and resorts along the shoreline to the north including Reed’s Bay Hotel, Bayview Banyan, Country Club Condo/Hotel, Naniloa Volcano Resort, Uncle Billy’s and Hilo Hawaiian Hotel. To the west across Banyan Drive is the Naniloa Country Club golf course. To the south is the Hilo Seaside Hotel and the Ice Pond. To the east across Reed’s Bay is Kuhio Kalaniana’ole Beach Park and the Ice Pond Restaurant. The proposed development will increase recreational opportunities for residents and visitors in this area of Hilo.

The property is located within an area adequately served with essential services and facilities such as water, sewer, transportation systems and other utilities. Access to

the project site will be from Banyan Drive. County water is available to the site. As a condition of approval, the applicant will be required to hook to the County's sewer line fronting the property along Banyan Drive.

Parking will no longer be allowed on the beach area. This will improve water and sand quality in this area by preventing any adverse run off impacts that may have been caused by any discharges of oil and gas from the vehicles. The applicant proposes to allow parking along Banyan Drive. There is also parking available on the adjacent property to the north (TMK: 2-1-5:28), which is currently used as an informal gravel parking area for the park.

Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

The proposed development is consistent with the County General Plan, the Zoning Code and the Hilo Community Development Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for the property is Open, which allows for parks and other recreational areas, historic sites, and open shoreline areas.

The proposed development will complement the following goals, policies and standards of the Natural Resources & Shoreline and the Recreation Elements of the General Plan.

Natural Resources and Shoreline

- Protect and conserve the natural resources from undue exploitation, encroachment and damage.
- Provide opportunities for recreational, economic, and educational needs without despoiling or endangering natural resources.
- Protect and effectively manage Hawai'i's open space, watersheds, shoreline, and natural areas.

Recreation

- Provide a wide variety of recreational opportunities for the residents and visitors of the County.
- Maintain the natural beauty of recreation areas.
- Improve existing public facilities for optimum usage.
- Beach parks provide opportunities for swimming/sunbathing, surfing, camping, fishing, boating, nature study, and other pastimes. Every section of the island should be adequately served. Facilities depend on size and intensity of use but should include: restrooms with showers; picnic facilities; a defined tent camping area when allowed; drinking water; adequate parking; pavilions of various sizes; and lifeguard facilities.

The quality of recreation areas often diminishes with heavy expanded use. There is competition for prime beach area between the visitor industry and residents. This competition will continue to increase in the future. Heavy demands are placed on the recreational resources of the County as a result of an expanding population and a growing number of visitors. The resident population is expected to grow, thus increasing the use of recreational facilities. Ideally, all residents should have convenient access to popular recreation facilities, such as beach parks.

Hilo is the major urban center in the County and has a diversity of recreational facilities. Most beach areas in the district have little depth due to coastal roads or residential lots. Parking is often a problem and vehicles occupy valuable recreation area. There are eight developed beaches with about 3,000 linear feet of shoreline in Hilo. These include Hilo Bayfront Beach, Mokuola (Coconut Island), Reed's Bay, Onekahakaha Beach Park, Leleiwi Beach Park, James Kealoha Beach Park, Carlsmith, and Richardson Ocean Park Beaches. Lihikai (Onekahakaha) has a small sand beach with shallow water and is especially good for children.

There is a two-mile stretch of coastline from Lehia Beach Park through Lihikai (Onekahakaha) that can be developed for recreation. The Reed's Bay area and Kuhio Bay (Baker's Beach) have sand beaches with potential for more intensive recreational use.

As such, the General Plan has listed the following course of action for South Hilo, which this project implements:

- Develop Reed's Bay for more intensive water-oriented recreation.

The proposed project will meet this course of action by improving and enhancing Reed's Bay Beach Park to expand the recreational uses of the park and meet the demand

for increased recreational uses caused by the growing population of residents and visitors in this area.

The subject property is zoned Open by the County. Public parks are listed as a permitted use within the Open zoning in the Zoning Code. Therefore, the proposed development is consistent with the County General Plan and with County zoning.

Lastly, the Hilo Community Development Plan, which was adopted by Planning Commission Resolution No. 1 on May 21, 1975, identifies the property as Open. The Recreation Plan recommends that Reed's Bay be preserved for park use and recommends that parcels be acquired and added to increase the size of Reed's Bay.

Based on the above information, the proposed development is consistent with the County General Plan, the Zoning Code and the Hilo Community Development Plan.

The proposed project 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, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, 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. In reviewing the proposed development, it has been determined that it is consistent with the objectives and policies listed under Chapter 205A, HRS, which includes protecting and preserving recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, beach protection, and marine resources.

There are identified recreational resources along Reed's Bay. These include kayaking, snorkeling, fishing, boating, and other similar types of activities. The proposed project will enhance these uses and will not restrict access to this coastal recreational resource as public access is unrestricted to the shoreline on the subject property.

The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist. In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian rights, such as gathering and fishing rights, must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: The following surveys were conducted for the project:

- A botanical survey by botanist Layne Yoshida of the project site.
- A Fauna Report by biologist Reginald E. David.
- An Archaeological Inventory Survey and a Cultural Impact Assessment by Thomas R. Wolforth of Scientific Consultant Services Inc.

The valuable cultural, historical, and natural resources found in the area: The property is the site of the existing Reed's Bay Beach Park located along the makai side of Banyan Drive. There are several existing structures, including a restroom with shower, which will be removed. The flora survey concluded that no rare, threatened or endangered plant species are present or would be affected in any way by the project. No valuable or protected native species or ecosystems would be adversely affected, and protection of water quality encouraged by the project will only enhance aquatic biology.

The fauna report concluded that it is not expected that the improvements proposed for the Reed's Bay Beach Park will have significant impacts to native avian or mammalian resources present within the project site.

The Archaeological Inventory Survey identified four historic sites in or near the project site. These included railroad remnants, the Kanakea Fishpond, a wall from the Scott-Legionnaire Hotel and pecked basins. The survey was reviewed and approved by the Department of Land and Natural Resources-State Historic Preservation Division after requested revisions were made. The Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) issued a "no-effect" letter dated February 6, 2007 stating that no historic properties will be affected by the proposed development. They found that the revised Archaeological Inventory Survey was acceptable and that the historic preservation review process has been concluded.

Possible adverse effects or impairment of valued resources: Native vegetation may be destroyed by ground alteration. There is no evidence that the flora in the area are particularly desired or used for cultural practices. The fauna report recommended that external lighting used during construction and any streetlights that may be installed as part of the project be shielded to protect the Hawaiian Petrels and Newell's Shearwaters. A condition of approval will be added requiring the applicant to use shielded lighting to protect the Hawaiian Petrels and Newell's Shearwaters.

Feasible actions to protect native Hawaiian rights: To the extent that traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights. The proposed project will not restrict the use of natural

resources along the shoreline, as public access to the shoreline is unrestricted. A condition of approval will protect any unidentified cultural, historical, and natural resource in the event any are encountered during construction.

Based on the above findings, it is determined that the proposed development and related improvements will not have 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:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. The applicant shall remit the prevailing facilities charge to the Department of Water Supply within one hundred and eight (180) days of the effective date of this permit.
3. The applicant shall resubmit construction plans to the Department of Water Supply for review and approval. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the meter, which must be inspected and approved by the Department of Water Supply before water service can be granted.
4. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify, if applicable, all proposed structures, fire protection measures, paved driveway access and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
5. The applicant shall not remove the four (4) banyan trees that have placards along Banyan Drive identified on Demolition Plan L-1-1. If these trees impede upon public health and/or public safety, the applicant shall apply for a Special Management Area Minor Permit from the Planning Director for removal.
6. The project shall connect to the County's sewer line fronting the property along Banyan Drive.
7. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil

- engineer and submitted to the Department of Public Works prior to issuance of Final Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
8. The applicant shall comply with the requirements of Chapter 27 – Floodplain Management, of the Hawai‘i County Code.
 9. 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 Hawai‘i.
 10. All earthwork activity, including grading and grading, shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai‘i County Code.
 11. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
 12. The applicant shall design all lighting associated with the proposed improvements to be shielded downward for protection of the Hawaiian Petrels and Newell’s Shearwaters.
 13. Should any undiscovered remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations 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 mitigation measures have been taken.
 14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
 15. An initial extension of time for the performance of conditions within this 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 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.

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Department of Parks & Recreation
Page 9

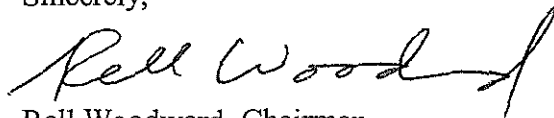
- C. Granting of the time extension would not be contrary to the original reasons for the granting of this permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
- E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

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 permit.

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 Planning Director, BJ Leithead-Todd, at 961-8288.

Sincerely,



Rell Woodward, Chairman
Windward Planning Commission

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cc: Mr. Leonard Bisel
Ms. Susan Gagorik
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Land and Natural Resources-HPD
Zoning Inspector-Hilo
Plan Approval Section
Mr. Gilbert Bailado