

County of Hawai'i

WINDWARD PLANNING COMMISSION

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APR 20 2011

Ms. Elizabeth Dykstra
County of Hawai'i
Department of Research and Development
25 Aupuni Street
Hilo, HI 96720

Dear Ms. Dykstra:

Special Management Area Use Permit Application (SMA 11-000045)
Request: Hilo Bayfront Trails Project – Variety of Multimodal Paths Spanning
Approximately Two Miles Between Hilo Harbor & the Wailuku River
Applicant: County of Hawai'i, Department of Research & Development
Tax Map Key: 2-1-001:012, 102; 2-1-003:001, 019; 2-1-005:001; 2-1-006:010;
2-2-001:027; 2-2-002:001, 035; 2-2-003:003, 046; 2-2-4:001, 002, 025, 028, 035, 056,
060; 2-2-005:002; 2-2-006:001, 026, 027; 2-2-007:018; 2-2-011:001; 2-2-012:001, 016;
2-2-013:003; 2-2-014:002; 2-2-029:001, 008, 027; 2-2-031:001, 2-2-033:001, 015;
2-2-053:019, 020, 023; 2-3-1:002 and Various County and State Rights-of-Way Adjacent
To Above Parcels

The Windward Planning Commission at its duly held public hearing on April 7, 2011, voted to approve the above-referenced request to allow the Hilo Bayfront Trails project, which will include a variety of multimodal paths spanning a distance of approximately two miles between Hilo Harbor and the Wailuku River in Downtown Hilo and looping into several associated areas. The project will include various improvements such as signage, bicycle racks, benches, and related improvements. The properties are located along the Hilo Bayfront area, South Hilo, Hawai'i, Tax Map Key Nos. 2-1-001:012, 102; 2-1-003:001, 019; 2-1-005:001; 2-1-006:010; 2-2-001:027; 2-2-002:001, 035; 2-2-003:003, 046; 2-2-4:001, 002, 025, 028, 035, 056, 060; 2-2-005:002; 2-2-006:001, 026, 027; 2-2-007:018; 2-2-011:001; 2-2-012:001, 016; 2-2-013:003; 2-2-014:002; 2-2-029:001, 008, 027; 2-2-031:001, 2-2-033:001, 015; 2-2-053:019, 020, 023; 2-3-1:002 and various County and State rights-of-way adjacent to above parcels.

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Approval of this request is based on the following:

The applicant is requesting a Special Management Area Use Permit to allow the Hilo Bayfront Trails Project, which will provide a variety of multimodal paths, pedestrian sidewalks, dedicated bicycle lanes, and shared roads for bicycles spanning the approximately two-mile distance between Hilo Harbor and the Wailuku River in Downtown Hilo. The project also includes multi-modal path loops for downtown, Wailoa River State Park and Bayfront Beach Park for development of an enhanced transportation system for the Hilo Bayfront area to allow for greater use and access for pedestrians, runners, and bicyclists within the Special Management Area. Aside from the multi-modal paths themselves, the project will build several new parking areas, interpretive signs denoting areas of interest, bicycle racks, benches, supplemental water fountains and supplemental plantings.

The Hilo Bayfront provides opportunities for a variety of recreational activities. However, it currently lacks a cohesive system of walkways or other pathways connecting Hilo Harbor and the recreational areas along Banyan Drive to the Bayfront Canoe area and Wailoa Park, and from there to Downtown Hilo. Users include residents engaged in recreational walking or cycling, those traveling on foot or bicycle from one activity or attraction to another, and visitors disembarking from cruise ships at Hilo's piers at Kūhio Street who would like to walk between downtown and the harbor. There is a clear need for pedestrian and bike trails that can complement and enhance the attributes of the Hilo Bayfront: dramatic views of Hilo Bay and Mauna Kea, green spaces, historic landscapes, cultural and community events, and a variety of recreational activities.

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 Hilo Bayfront trails project will not have a significant adverse environmental or ecological effect to the Special Management Area.

The proposed project will not create significant adverse impacts upon nearby and adjacent properties. The surrounding properties are zoned for a mix of uses that include Open, Downtown Hilo Commercial, General Commercial, Resort and Industrial zoned districts. Surrounding uses include commercial uses, numerous hotels, condos and resorts, and open recreational uses along the shoreline. The proposed project will increase recreational opportunities by creating walkways and bike paths for residents and visitors in this area of Hilo bringing connectivity between Hilo Harbor, along Bayfront, to Downtown Hilo.

Additionally, the open spaces and natural resources of the Hilo Bayfront provide the backdrop for numerous organized and informal outdoor activities throughout the year, including walking, strolling, bicycling, and picnicking. Outrigger canoe paddling and racing, and paddle boarding take place in the waters off the Hilo Bayfront Beach Park. When the Hilo Bayfront Trails project is implemented, Hilo residents and visitors will enjoy a system of linked paths connecting Downtown Hilo, parks and recreational areas, Hilo Bay, and Hilo Harbor, and a foundation for connections to future destinations. The trail alignments and amenities will enhance existing recreational activities along the Bayfront; integrate with the existing vernacular of the Bayfront; and increase trail users' knowledge and appreciation of the area's rich cultural heritage and natural beauty.

Lastly, the project is located within an area adequately served with essential services and facilities such as restrooms, water, sewer, transportation systems and other utilities. The project will also add several new parking areas, interpretive signs denoting areas of interest, bicycle racks, benches, supplemental water fountains and supplemental plantings.

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

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

Recreation

- Develop a network of pedestrian access trails to places of scenic, historic, natural or recreational values. This system of trails shall provide, at a minimum, an islandwide route connecting major parks and destinations.
- Develop facilities and safe pathway systems for walking, jogging, and biking activities.
- 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.

Additionally, the proposed project is consistent with the following course of action for the Recreation Element in the South Hilo District:

- Expand the depth of coastal recreation areas. Park areas should be connected with trails to increase public access.

Natural Resources and Shoreline

- Ensure public access is provided to the shoreline, public trails and hunting areas, including free public parking where appropriate.
- 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.

Historic Sites

- Appropriate access to significant historic sites, buildings, and objects of public interest should be made available.
- Public access to significant historic sites and objects shall be acquired, where appropriate.
- Signs explaining historic sites, buildings and objects shall be in keeping with the character of the area or the cultural aspects of the feature.

Transportation

- Make available a variety of modes of transportation that best meets the needs of the County.

- Develop a comprehensive, islandwide multi-modal transportation plan that identifies the location and operation of automobile, mass transit, bicycle and pedestrian systems, in coordination with appropriate Federal and State agencies.

A majority of the proposed project is located within the Open zoned district by the County. Public parks, public uses and historical areas, structures and monuments are listed as permitted uses within the Open zoned district in the Zoning Code. The O (open) district applies to areas that contribute to the general welfare, the full enjoyment, or the economic well-being of open land type use which has been established, or is proposed. The object of this district is to encourage development around it such as a golf course and park, and to protect investments which have been or shall be made in reliance upon the retention of such open type use, to buffer an otherwise incompatible land use or district, to preserve a valuable scenic vista or an area of special historical significance, or to protect and preserve submerged land, fishing ponds, and lakes (natural or artificial tide lands). The proposed use is also complimentary to the other zoned districts that are affected by the request.

Additionally, the Hilo Community Development Plan (CDP), which was adopted by Planning Commission Resolution No. 1 on May 21, 1975, identifies the properties as Open, General Commercial and Resort. The Recreation element of the Hilo CDP identifies a path and walking trail along the coast in Hilo from the Keaukaha area to the Wailoa River. The plan also states that pedestrian paths and trails are particularly appropriate for development within and between the various parks and recreation areas.

Lastly, the Envision Downtown Hilo 2025: Community-Based Vision and Living Action Plan was adopted by the Hawaii County Council by Resolution No. 192-05 on November 22, 2005 and last year, the EDH 2025 5-Year Action Plan Update was adopted by Council Resolution 352 10, effective November 4, 2010. The Plan is divided into 6 focus areas. A strong component of the plan is the value the community placed on preserving and enhancing our strong environmental assets, including the physical landscape, the magnificent vistas, natural beauty, and open space surrounding Downtown Hilo. Implementation of the Hilo Bayfront Trails Project is consistent with Focus Area 2: Preserving Our Environment, including Strategy 2.1: Develop a network of trails, paths, and green spaces for recreational uses from Wailuku River to Hilo harbor; Strategy 2.5 Protect and enhance Downtown Hilo's natural beauty through landscaping, plantings, and related improvements; and Strategy 2.6 – Develop walking access from Downtown to Hilo Bayfront. Hilo Bayfront Trails is an action in the plan that received community support and is specifically listed through two actions in the EDH 2025 Plan: Action 2.11 Publish the Hilo Bayfront Trails conceptual master plan and 2.14: Construct the Hilo Bayfront Trails Project. Many other actions in EDH 2025 Plan call for components of the

Hilo Bayfront Trails Project, such as creating more pedestrian-friendly amenities, bicycle paths, parks, landscaping, and interpretive signage.

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

The Hilo Bayfront Trails project would have beneficial social and economic impacts. It would improve social conditions in East Hawai'i through enhancement of a recreational transportation system serving thousands of residents and visitors. The multi-use paths and other components of the trail project would improve and make safer the variety of access opportunities between Hilo Harbor and Downtown Hilo. The project would provide alternate scenic routes and signage with information about the area. It would also provide a safer and more scenic path for cruise ship passengers and others wishing to walk from Hilo Harbor to Downtown Hilo or locations in between. Basically, the new pathways and improved circulation for walkers, runners and bicyclists will enhance opportunities for both visitors and residents to travel and view the entire Hilo Bayfront area. The project would enhance enjoyment of existing State and County parks and is not expected to adversely affect parks.

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 project area.

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

- A botanical and fauna survey was conducted by Patrick J. Hart, Ph.D, and Ron Terry, Ph.D,
- An Archaeological Assessment Survey was conducted by Robert B. Rechtman, Ph.D. of Rechtman Consulting, LLC. Additionally, there have been numerous archaeological studies conducted within the project area in the past.
- A Cultural Impact Assessment was conducted by Robert B. Rechtman, Ph.D. and Leslie Lang, M.A. of Rechtman Consulting, LLC.

The valuable cultural, historical, and natural resources found in the area: The project site is a two-mile area from Hilo Harbor to Wailuku River in Downtown Hilo. The botanical survey concluded that no listed or proposed threatened or endangered plant species were found or would be expected to be found on the project site, which is highly urbanized.

As part of the biological survey, a fauna observed the habitat and noted birds that were heard or seen. Nearly all birds observed were non-native, and no native forest birds were present. Various species of ducks, geese and other migratory birds utilize the ponds behind the Hilo Bayfront, and the Hawai'i Department of Land and Natural Resources, Division of Forestry and Wildlife, has protected several fingers of land adjacent to the shore with gates that keep out dogs to allow resting areas for these species. The endangered Hawaiian goose or Nēnē was observed near Waiākea Pond. While the Nēnē was once widespread, its numbers dwindled and at one point in the 20th century there were only 30 breeding pairs in the Islands. The population on the island of Hawai'i is presently estimated at several hundred, and one of the flocks is located in Hilo. Various other birds may overfly, nest, or utilize resources of the property, including the endangered Hawaiian Hawk, the endangered Hawaiian Petrel, and the threatened Newell's Shearwater. These species are found throughout the urban areas of Hilo. Furthermore, Hawai'i's only land mammal, the endangered Hawaiian hoary bat, is frequently observed on the Hilo Bayfront, as it is present in low numbers throughout East Hawai'i. Hawaiian Hawks nest between March and September, and Hawaiian hoary bats are vulnerable to vegetation disturbance during a portion of their roosting period from June through August. Nocturnally flying seabirds, especially fledglings on their way to sea in the summer and fall, can become disoriented by exterior lighting and may collide with manmade structures; if not killed outright, the dazed or injured birds are easy targets of opportunity for feral mammals.

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The Archaeological Assessment did not identify any specific archaeological features that would be impacted by the project, but there is still a small potential for undiscovered buried features (in either a disturbed or pristine context) to be encountered during subsurface development activities related to the project. The survey was reviewed by the Department of Land and Natural Resources-State Historic Preservation Division as part of the draft environmental assessment. The Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) concurred with the recommendation for archaeological monitoring of trail construction activities in areas that are not already paved, but noted that monitoring is included as a mitigation measure for "any construction involving surface alteration."

The Cultural Impact Assessment identified no specific resources or practices that would be impacted by the development and use of the trail network. Many individuals consulted in the preparation of the cultural impact assessment believed that the development of the Hilo Bayfront Trails project would be a community and cultural benefit.

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. No lighting is planned for the trail, and thus no impacts to overflying seabirds is expected.

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. Additionally, a condition of approval will be added requiring the applicant to submit and receive approval of an archaeological monitoring plan to the State Historic Preservation Division (SHPD) prior to the commencement of any construction activity involving surface alteration. Lastly, in order to avoid impacts to Hawaiian Hawks and Hawaiian hoary bats, the County will ensure that major vegetation clearing (currently only planned for the private property on Maile Street) is scheduled outside the March and September time period.

Based on the above findings, it is determined that the Hilo Bayfront Trails project 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:

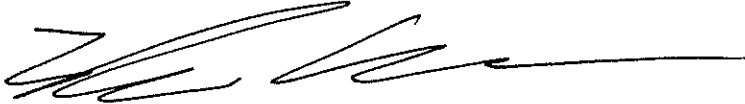
1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. The applicant shall submit and receive approval of an archaeological monitoring plan to the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) prior to the commencement of any construction activity involving surface alteration within the project area.
3. 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.
4. The applicant shall comply with the requirements of Chapter 27 – Floodplain Management, of the Hawai'i County Code.
5. All earthwork activity, including grading and grading, shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
6. 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.
7. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

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.

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

Sincerely,



Zendo Kern, Chairman
Windward Planning Commission

LCOHR&DSMA11-045

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Land and Natural Resources/HPD
DOT-Highways, Honolulu
Ms. April Suprenant/Long Range Planning
Zoning Inspector
Mr. Gilbert Bailado ✓