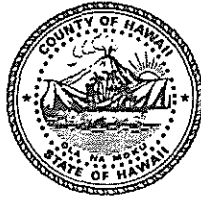


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

November 26, 1996

Mr. George Yoshida, Director
Department of Parks and Recreation
25 Aupuni Street
Hilo, HI 96720

Dear Mr. Yoshida:

Special Management Area Use Permit Assessment Application No. 96-66
Special Management Area Minor Use Permit No. 51
Applicant: County, P&R
Request: To Allow Various Accessibility Improvements to Existing Restroom
Facilities, Access Walkways, Sidewalks and Parking Area within Spencer
Beach Park
Tax Map Key: 6-2-02: Portion of 8; Kawaihae, South Kohala, Hawaii

We are in receipt of the above-described application on October 21, 1996, to allow various accessibility improvements to facilities situated within Spencer Beach Park.

Based on the information provided within the application, we find that the proposed improvements, with the exception of the proposed new walkway leading to the main pavilion, is exempt from the definition of "development" pursuant to Section 9-4(10)(B)(vi) of Planning Commission Rule No. 9 regarding the Special Management Area, which states that "development" does not include the *"Repair, maintenance, or interior alterations to existing structures or relating to existing uses"*. These improvements which are exempt from further SMA review includes:

1. The interior renovation of two existing restroom facilities situated within the northern end of the park to accommodate ADA improvements such as new partitions, repair damaged floor, new lavatory, new sidewalks, signage and related improvements.
2. Remove existing concrete wheel stops and striping from selected existing parking stalls within existing parking areas located at northern and southern end of park.

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These selected stalls will be improved with new signage and markings to accommodate handicap parking.

While these improvements do not require further SMA review, the applicant is responsible for complying with all other applicable government regulations.

The proposed installation of a new 8-foot wide A.C. walkway from the existing south-end parking lot to the existing main pavilion is anticipated to cost less than \$125,000 and is not anticipated to have any adverse impact to the coastal environment. Therefore, the proposed installation of a new A.C. walkway is defined as "development" under Planning Commission Rule No. 9 which requires the issuance of a Special Management Area Minor Use Permit. We are hereby issuing Special Management Area Minor Use Permit No. 51 (SMM 51) for the reasons as detailed below.

APPLICANT'S REQUEST

1. **Request:** The applicant proposes to construct an 8-foot wide, 195-foot long A.C. pavement walkway from the existing Spencer Beach Park southern parking lot to the park's existing main pavilion. The proposed walkway will be situated from 5 to 27 feet south of the existing access walkway.
2. **Reason for Request:** The proposed improvements are necessary to provide improved accessibility for the handicapped in accordance with the requirements of the American with Disabilities Act (ADA).
3. **Total Valuation:** The proposed improvements is anticipated to cost approximately \$25,000.

STATE AND COUNTY PLANS

4. **State Land Use District:** The project site is designated Urban by the State Land Use Commission.
5. **General Plan:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the affected area for Open uses, which are normally set aside for parks and historic places.
6. **County Zoning:** The project site is designated Open (O) by the County Zoning Code. Public parks are uses permitted within the Open-zoned district.

7. **Special Management Area (SMA):** The property is located within the boundaries of the Special Management Area. Therefore, this Special Management Area Minor Use Permit is being issued in satisfaction of the Rules and Regulations of the Special Management Area. The proposed improvements will be situated at least 50 feet from the nearest shoreline. Therefore, the proposed improvements will not be situated within the 40-foot shoreline setback area.
8. **Chapter 343, HRS:** Pursuant to a November 25, 1996 telephone conversation with Glen Miyao of the Department of Parks and Recreation, the proposed improvements are considered a class of action exempt from the requirements of Chapter 343, HRS [Section 11-200-8(a)(2), Title 11, Chapter 200, HAR].

DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

9. **Subject Property:** The subject property is approximately 13.3 acres in size and is bound to the north by the National Park Service's Pu'ukohola Heiau National Historic Park; to the east (mauka) and south by lands owned by the Queen Emma Foundation.
10. **Existing Use:** As previously mentioned, the subject property has been extensively developed to accommodate the Spencer Beach Park and its related facilities. Spencer Beach Park is a County-maintained park facility.
11. **FIRM:** The Flood Insurance Rate Maps (FIRM) designates portions of the project site as being located within an area subject to a 100-year frequency flood (Zone AE) with base flood elevations of 8 to 9 feet above mean sea level. Areas near the coastline are situated within an area inundated by 100-year frequency coastal flood zone (Zone VE) with base flood elevations of about 9 feet. The remainder of the project site is situated outside of the 500-year flood plain (Zone X).
12. **Archaeological/Floral/Fauna Resources:** The proposed improvements will be limited to existing facilities and areas intensively developed to accommodate park facilities. Therefore, impacts to archaeological sites and endangered species of plants and animals are not anticipated.

UTILITIES AND SERVICES

13. **Access:** Access to the project site is provided by a 20-foot wide paved access roadway from Kawaihae Road.

14. Other Essential Utilities and Services, such as water, wastewater disposal, fire, police and emergency services are available to the subject property.

ASSESSMENT

The purpose of Chapter 205A-HRS, and Planning Commission Rule No. 9, 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 island's coastal zone areas. Special controls on development within these areas have been enacted to prevent permanent loss of valuable resources. Upon review of the subject request, the Planning Director finds that the proposed accessibility improvements to existing facilities within Spencer Beach Park are consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed accessibility improvements to existing park facilities will not interfere with recreational uses of the coastal area. As an established county park facility, the project site is well developed to encourage use of the coastal areas. The proposed accessibility improvements will enhance the use of recreational facilities by removing architectural barriers which limit use of facilities by the physically handicapped.
- b) **Historical and Floral and Faunal Resources:** The project site has been extensively developed as a county beach park. Therefore, adverse impacts to historical resources or endangered species of plants and animals are not anticipated. Nevertheless, a condition will be included to require the notification of the Planning Department should archaeological sites be encountered.
- c) **Scenic and Open Space Resources:** The subject property is not located within an area recognized by the General Plan as an example of natural beauty. The scope of the proposed improvements, which will be limited to improvements to existing structures and at-grade construction, will not involve new structures which could detract from the open space character of the existing park. Therefore, the proposed use will not have any effect upon the County's open space and scenic resources.
- d) **Coastal Ecosystems:** Due to the limited nature of the proposed improvements, concerns regarding runoff, erosion and ambient dust generated by construction activities will be extremely limited. Existing construction practices are sufficient to mitigate any potential impacts. To ensure protection of the coastal environment, the applicant must stake and flag a line a minimum of 50 feet from that portion of the shoreline adjacent to the proposed walkway installation site. No construction related activities will be permitted makai of this staked and flagged line.

- e) **Economic Uses:** There is no economic benefit to be derived from the proposed improvements. Social benefits will be realized through greater accessibility to park facilities by the general public.
- f) **Coastal Hazards:** The project site is situated within an area affected by 100-year frequency floods and coastal flooding hazards. All construction activities must meet the requirements of the County's flood control code (Chapter 27, Hawaii County Code).

DETERMINATION

Based on the preceding assessment, the Planning Director has determined that the installation of various accessibility improvements to existing structures within Spencer Beach Park would not be contrary to the State and county policies governing the Special Management Area. The Planning Director hereby approves Special Management Area Minor Use Permit No. 51, **subject to the following conditions:**

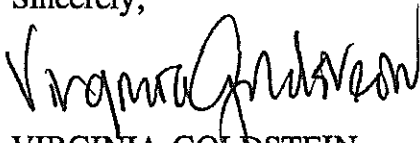
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval for the proposed improvements shall be secured from the Planning Director prior to commencing construction.
3. Prior to commencing any land alteration activities, the applicant shall stake and flag a line approximately 50 feet from that portion of the shoreline adjacent to the project site. Written approval of the staking and flag line shall be secured from the Planning Director prior to commencing any land alteration activities. No construction-related activities will be permitted makai of this staked and flagged line.
4. Construction of the accessibility improvements shall be completed within two (2) years from the date of this approval.
5. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
6. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

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- 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 original reasons for the granting of the permit; and
 - 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).
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

Please feel free to contact Daryn Arai of my staff at 961-8288 should you have any questions.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

DSA:pak
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cc: Ms. Donna Kiyosaki, Chief Engineer
West Hawaii Office
SMA Section