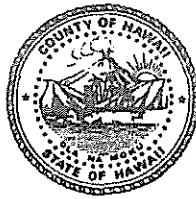


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

April 18, 2007

Ms. Patricia Engelhard
County of Hawaii
Department of Parks & Recreation
101 Pauahi Street, Suite 6
Hilo HI 96720

Dear Ms. Engelhard:

Subject: Special Management Area Use Permit Assessment Application (SAA 07-000243)
Special Management Area Minor Permit No. SMM 07-000052
Applicant: Department of Parks and Recreation
Request: Public Park Amenities: Walking Paths, Picnic Tables (With and Without Gazebos), Outdoor Showers and Other Related Improvements
Tax Map Key: 1-4-2:8, Pohoiki,, Puna, Hawaii

This is to follow up on our April 3, 2007 letter relating to the above-referenced Special Management Area Use Permit assessment to provide public park amenities consisting of walking paths, picnic tables (with and without gazebos), outdoor showers and other related improvements on the subject parcel.

This 27.33 acre property is zoned Open (O) by the County and designated Conservation by the State Land Use Commission.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(v) relating to Special Management Area, the proposal to provide public park amenities consisting of walking paths, picnic tables (with and without gazebos), outdoor showers and other related improvements does not qualify as exempt from the definition of "development". Therefore, a Special Management Area Minor Permit is required.

Ms. Patricia Engelhard
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Department of Parks & Recreation
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Further, Planning Department Rules of Practice and Procedure, Rule 11 states that shoreline setback areas are established to regulate the use and activities along the shoreline. All shoreline lots shall have a minimum shoreline setback line of forty feet.

The project proposes up to twelve concrete bollards, a portion of the western parking lot, an earth berm along a portion of the road, a shower and 6' wide concrete walkways within the shoreline setback area. Certain activities, though, may be permitted within the shoreline setback area provided that approval is obtained from our Department.

Planning Department Rules of Practice and Procedure, Rule 11, includes the following:

1. 11-3(e): *"Minor structure" shall not alter the existing grade of the shoreline setback area and shall be limited to landscape features (i.e., benches, chairs, borders, wooden trellis, bird feeders, signs, safety improvements, et.); walkways for access; and sprinkler systems.*
2. 11-3(f): *"Minor Activity" means an activity that does not alter the existing grade of the shoreline setback area and may include activities such as landscaping and minor clearing (grubbing) of vegetation.*
3. 11-8: *A minor structure or activity proposed in the shoreline setback area shall not need a shoreline setback variance if the Planning Department determines that it would not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline.*

In view of the foregoing, we have determined that the proposed improvements within the shoreline setback area to be minor structures or minor activities. Further, a shoreline setback variance would not be required. These proposed improvements, however, are limited to the concrete bollards, a portion of the western parking lot, an earth berm along a portion of the road, a shower and 6' wide concrete walkways as denoted on "Site Plan-New Work" dated "12-9-05".

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 07-000052 is hereby issued to provide public park amenities consisting of walking paths, picnic tables (with and without gazebos), outdoor showers and other related improvements on the parcel, subject to compliance with the conditions of approval.

Ms. Patricia Engelhard
County of Hawaii
Department of Parks & Recreation
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April 18, 2007

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8288, extension 257.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

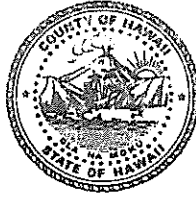
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Enclosures: SMM No. 07-000052
Department of Public Works April 16, 2007 Memo

xc w/Encls: Ms. Esther Imamura, Long Range Planning
Mr. Norman Hayashi, Planning

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
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County of Hawaii

PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 07-000052

Project: Public Park Amenities: Walking Paths, Picnic Tables (With and Without Gazebos), Outdoor Showers and Other Related Improvements
Land Owner: County of Hawaii
Applicant: Department of Parks and Recreation
Location: Pohoiki, Puna, Hawaii
TMK: 1-4-2:8 **Land Area:** 27.33 acres

Applicant's Request

1. Project Description:

The applicant proposes to provide public park amenities consisting of walking paths, picnic tables (with and without gazebos), outdoor showers and other related improvements.

2. Purpose of Project:

The project intends to provide recreational amenities lost by lava inundation. It is also intended to spread out park use along the shoreline and draw people away from the nearby boat ramp where swimmers and surfers are constantly at odds with boaters. The subject parcel has always been used as an extension of Isaac Hale Memorial Park and hosted unpermitted/unauthorized camping, parking of vehicles, congregation, fishing and other park-type and ocean-related uses. The intent is to provide formal park amenities and related improvements in order to manage and control the types of public use on the site and to better protect the land. The park improvements are intended to formalize specific areas for specific types of uses. Formal pathways are intended to concentrate pedestrian flow and minimize unintended damage to existing flora, picnic tables with refuse containers will try to localize high maintenance areas and refuse collection, and offsite features (parking lots, earthen berms, landscaping, barriers, etc.) will be implemented to prevent vehicular access up to the shoreline.

3. Project Valuation: \$118,451.

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A) relating to the Special Management Area, "development" includes the following:

- (i) *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste;*
- (ii) *Grading, removing, dredging, mining, or extraction of any materials;*
- (v) *Construction, reconstruction, demolition, or alteration of the size of any structure".*

Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Conservation by the State Land Use Commission.
2. **General Plan:** The parcel is designated Open by the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The subject property is zoned Open (O) by the County. However, due to the State Land Use Conservation designation, there is no County zoning per se.
4. **Special Management Area:** The subject property is located in the SMA.
5. **Flood Zone:** The subject parcel is located within Flood Zone "VE" which is the Special Flood Hazard Area inundated by the 100-year coastal flood.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

The proposed improvements are intended to increase the recreational resources available to the public.

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ 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. 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:

- ☒ Provide coastal recreational opportunities accessible to the public.
- ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
- ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
- ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
- ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, Environmental Impact Statements.

Findings

As discussed above, 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.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$118,451 is not in excess of \$125,000.

Upon review of the subject application, the Department of Public Works (DPW), Engineering Division memorandum dated April 16, 2007 stated the following:

"We reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated April 3, 2007 and have no objections to the request.

The subject parcel is located within Flood Zone VE as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood.

Construction within the designated FEMA flood zone shall comply with the requirements of Chapter 27, Flood Control, of the Hawaii County Code."

Enclosed is a copy of this memorandum.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 07-000052** is hereby approved to provide public park amenities consisting of walking paths, picnic tables (with and without gazebos), outdoor showers and other related improvements, subject to the applicant's compliance with the conditions of approval as specified below.

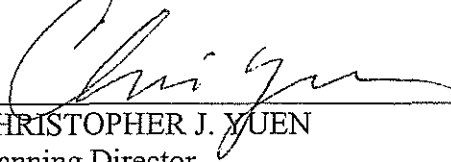
Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 07-000052, subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of the State Department of Health and the County Department of Public Works and applicable requirements of other affected agencies.
3. A construction barrier shall be erected along the project area to prevent construction debris and runoff sedimentation from impacting the ocean waters.
4. Continuous public lateral pedestrian shoreline access shall be maintained in the project area except as necessary to ensure the public welfare and safety during the actual construction period.

5. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
6. Construction activity within the forty (40)-foot shoreline setback area shall be completed within one year from the issuance of a Conservation District Use Permit. No extension of time to complete work within the shoreline setback area will be granted
7. For construction activity mauka of the forty (40)-foot shoreline setback line, an extension of time for the performance of the conditions contained herein 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 original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:


CHRISTOPHER J. YUEN
Planning Director

APR 18 2007

Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: April 16, 2007

Memorandum

TO: Christopher J. Yuen, Planning Director

FROM:  Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 07-000243)
B-3512 Isaac Hale Memorial Park Expansion & Improvements
Applicant: County of Hawaii, Department of Parks & Recreation
Request: Public Park Amenities: Walking Paths, Picnic Tables, Outdoor
Showers and Other Related Improvements
Location: Pohoiki, Puna, Hawaii
Tax Map Key: 1-4-02: 008

We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated April 3, 2007 and have no objections to the request.

The subject parcel is located within Flood Zone VE as designated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood.

Construction within the designated FEMA flood zone shall comply with the requirements of Chapter 27, Flood Control, of the Hawaii County Code.

Questions may be referred to Kelly Gomes of the Engineering Division at ext. 8327.