



West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

Special Management Area Minor Permit No. 12-000214

Project: Replacement of an Existing Comfort Station, Access Road Improvements, ADA Compliant Parking Stalls, ADA Sidewalks and Sign Installation
Applicant: Brian T. Nishimura
Owner: State of Hawai'i
Location: Malama, Puna, Hawai'i
TMK: (3) 1-3-007:026 **Land Area:** 81.5 acres

Applicant's Request

1. Project Description:

The proposed project will close an existing comfort station which includes a double unit pit toilet structure constructed in 1936 and replacing it with a new comfort station with two unisex composting toilets. The new facilities will be situated in a different location than the existing comfort station, approximately 250 feet west of the park pavilion and nearer to the park campground. In addition to the new comfort station, the project will include roadway improvements, two ADA (Americans with Disabilities Act) compliant parking stalls, ADA sidewalks and sign installations.

2. Purpose of Project:

The existing comfort station has reached its capacity and is in dire need of replacement. The existing facility is not compliant with ADA accessibility requirements nor is it compliant with current health regulations which do not allow the open pit or cesspool type of waste disposal. The proposed project will allow the State Parks Division to address both issues as well as improve the services provided to visitors of the park.

3. Project Valuation: \$431,820

4. Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4 (e)(1)(A) and 9-4 (e)(1)(E) relating to the Special Management Area, "Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste" and "Construction, reconstruction, demolition or alteration of the size of any structure" are defined as "development" and require a review against the Special Management Area (SMA) rules and regulations. Therefore, the replacement of an existing comfort station, access road improvements, ADA compliant parking stalls, ADA sidewalks and sign installation at the MacKenzie State Recreation Area require an SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The parcel is located in the State Land Use Conservation District.
2. **General Plan:** The parcel is designated as Open and Conservation by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** In the Conservation District, there is no county zoning, per se. Therefore, the State of Hawai'i Department of Land and Natural Resources (DLNR) has jurisdiction on any use or activity on this parcel.
4. **Special Management Area:** The subject property is located entirely within the SMA, but the project site is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** X

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

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 tsunami, 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, regarding 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 Hawai'i 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 \$431,820 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated April 2, 2012, states the following:

"We reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated March 20, 2012 and have no objections to the request.

The subject project is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain."

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 12-000214** is hereby approved for the replacement of an existing comfort station, access road improvements, ADA compliant parking stalls, ADA sidewalks and sign installation at the MacKenzie State Recreation Area on the subject parcel, 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. 12-000214**, 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 secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. A Conservation District Use Permit from the Board of Land and Natural Resources or other written approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands must be obtained for the project within one (1) year from the date of approval of this permit.
4. In accordance with the Department of Land and Natural Resources Division of Parks memorandum to State Historic Preservation Division dated January 18, 2011, a pre-construction briefing by a State Park Archeologist shall be conducted to advise the construction crew of the mitigation measures and appropriate procedures to follow if the lava tube unexpectedly collapses or if other historic sites or materials are uncovered, including separate lava tubes. In addition, protective fencing shall be erected to mark a 20 foot protective buffer along the trail to ensure that staging of heavy equipment, stockpiling of materials, or vehicles do not inadvertently damage the trail.
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. 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).
7. 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.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

APPROVED:

APR 13 2012


BJ LEITHEAD TODD
Planning Director

Date