

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Keilua-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

June 20, 2014

Mr. Ron Terry
P.O. Box 396
Hilo HI 96721

Dear Mr. Terry:

Subject: Special Management Area Use Permit Assessment Application
(SAA 14-001106) and Special Management Area Minor Permit No. 14-000300
Applicant: Hawai'i County Department of Parks and Recreation
Landowner: State of Hawai'i (Executive Order No. 4421 dated September 25, 2012,
transfers control and management of the park to the County of Hawai'i)
Request: Kaipalaoa Park Improvements
TMK: 2-3-003:001, 004, 027 & 028, 2-3-004:001, and
Unimproved Waianuenue Avenue ROW Makai of Kamehameha Avenue,
Hilo, Hawai'i

This is to acknowledge receipt on April 21, 2014 of the Special Management Area Use Permit Assessment Application for the Kaipalaoa Park improvements on the subject parcels and the County right-of-way makai of Kamehameha Avenue. Also acknowledged is receipt of additional information on May 8 and 12, 2014 and time extensions granted to June 30, 2014 to review the application.

According to Real Property Tax Office records, the subject parcels consist of the following:

1. 2-3-003:001 566 sq. ft.
2. 2-3-003:004 34,848 sq. ft.
3. 2-3-003:027 435 sq. ft.
4. 2-3-003:028 30,491 sq. ft.
5. 2-3-004:001 17,903 sq. ft.

They are all designated Urban by the State Land Use Commission and are in the Special Management Area with frontage along the coastline. They are also all zoned Open (O) by the County.

According to the Hawai'i County Code, Section 25-5-162(11), public parks are a permitted use on the subject parcels. However, Section 25-5-167 states that "*Plan approval shall be required for all new structures and additions to existing structures in the O district*".

The proposed project consists of repair and maintenance activities in the park, which include:

1. Repair of various sections of walls.
2. Repair of hazardous and eroding surfaces with placement of stacked boulders on top of geotextile fabric.
3. Leveling and placement of grasspave or approved equivalent on soil areas and gravelpave or approved equivalent in place of existing paved surfaces.
4. Removal of several False Kamani trees and trimming of two trees to allow for the proposed improvements and to provide a more attractive and useable space. Removed vegetation will be replaced with appropriate native species to include trees, shrubs, and/or groundcovers.
5. Construction of an enhanced concrete entry courtyard, 5' wide concrete and ADA accessible walkways.
6. Construction of one ADA accessible and one non-ADA accessible picnic table.
7. Construction one ADA accessible and one non-ADA accessible outdoor shower, involving 250' of new water line.
8. Installation of four trash receptacles.

Outlined below are determinations for both the Special Management Area and Shoreline Setback Area as noted under separate headings.

■ **Special Management Area Determination:**

1. Chapter 205A-22, Hawai'i Revised Statutes and Planning Commission Rule 9-4(e)(2) states that "Development" does not include the following:
 - (F) Repair, maintenance, or interior alterations to existing structures or relating to existing uses
- Therefore, the proposed repair of various sections of walls and the maintenance of trees are consistent with the existing park use and are determined to be exempt from the definition of "development."

While further review of the repair of various sections of walls and maintenance of trees against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied. Additionally, this

determination of exemption from the SMA definition of development is subject to compliance with the following conditions:

- a. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- b. 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.
- c. The applicant shall secure Plan Approval from the Planning Department prior to commencement of any improvements. All activities in connection with this project shall be completed within one (1) year from the date of this letter.
- d. The applicant shall comply with the conditions of approval of Governor's Executive Order No. 4421. (see enclosure)
- d. Disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawai'i County Code.
- e. The public shall be allowed pedestrian lateral access along the shoreline at all times during the repair and maintenance activities period.
- f. Best Management Practices regarding water quality must be strictly adhered to during all repair and maintenance activities. In particular, loose soil and other debris removed and well as materials utilized must be carefully handled.
- g. Comply with the Best Management Practices included in the SMA Application on Page 4 noted as D. Description of Unavoidable Impacts and Proposed Mitigation Measures, and in the project design and construction drawings on Page CO.1, Sheet 2 of 6 (dated August 2013) noted as Best Management Practices Notes.
- h. Also comply with the following Planning Director requirements:
 - I. No use of mechanized equipment or machinery within the shoreline setback area.
 - II. No storage of materials or debris within the shoreline setback area.
 - III. All green waste and construction waste generated shall be removed daily.
- i. A silt fence shall be installed prior to the commencement of land altering and construction activities and shall remain in place until all activity in the immediate areas has been completed. This silt fence may be placed incrementally as the work progresses, but must extend five (5) feet laterally beyond the current work area on the makai side.
- j. The location of the entire silt fence must be shown and properly noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement, "the silt fence must be erected prior to any land altering or construction activities, and must remain in place until all activities have been completed".
- k. The silt fence must be properly maintained to serve the intended purpose and shall remain in place until all construction activities are completed.

- l. The area makai of the project area shall be kept clear of any rubbish or debris at all times.
 - m. No additional activities shall occur without prior written approval of the Planning Director.
 - n. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, petroglyphs, 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.
 - o. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - I. 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;
 - II. Granting of the time extension would not be contrary to the original reasons for the granting of the determination; and
 - III. 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).
 - p. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.
2. Chapter 205A-22, Hawai'i Revised Statutes and Planning Commission Rule 9-4(e)(1) states that "Development" includes the following:
- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste
 - (B) Grading, removing, dredging, mining, or extraction of any materials
 - (E) Construction, reconstruction, demolition, or alteration of the size of any structure

Therefore, the other proposed activities and structures (not including repair of various sections of walls or maintenance of trees) are considered "development" and require a review against the Special Management Area rules and regulations. For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.14-000300 is hereby issued to allow:

- a. Repair of hazardous and eroding surfaces with placement of stacked boulders on top of geotextile fabric.

- b. Leveling and placement of grasspave or approved equivalent on soil areas and gravelpave or approved equivalent in place of existing paved surfaces.
- c. Construction of an enhanced concrete entry courtyard, 5' wide concrete and ADA accessible walkways.
- d. Construction of one ADA accessible and one non-ADA accessible picnic table.
- e. Construction of one ADA accessible and one non-ADA accessible outdoor shower, involving 250' of new water line.
- f. Installation of four trash receptacles.

In summary, the activities and structures proposed by SAA 14-001106 are either approved as exempt or are covered by the issuance of Special Management Area Minor Permit No. 14-000300.

It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

■ **Activities Permitted within Shoreline Setback Area:**

1. Pursuant to Planning Department (PD) Rule No. 11-7(a) (6), the repair of various sections of walls can be allowed within the shoreline setback area as "Structures which were completed by or activities which commenced prior to June 22, 1970". The Territory of Hawai'i, Survey Department map dated December 11, 1931 documents the existence of the stone retaining wall/concrete wall along the southeastern end of the project area and a concrete stone wall along the northeastern side of the project area. Therefore, remnants of these walls were in existence prior to June 22, 1970. However, according to PD Rule No. 11-7(b), structures that qualify may only be repaired, but shall not be enlarged without a shoreline setback variance. The repair of various sections of walls has been proposed within the shoreline setback area and may be repaired.

Further, according to the plans submitted, the repair work will not change the dimensions or increase the height of the wall. Because there is no enlargement, the plans for the repair work on the walls are approved. Please note, however, that although repair and maintenance of the walls is permitted, demolition and/or reconstruction of any portion of the wall is not allowed unless a Shoreline Setback Variance is first obtained from the Planning Commission.

2. Planning Department (PD) Rule 11-3(e) states that "*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, etc.); walkways for access; and sprinkler systems. "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. Further, according to PD Rule 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."

We find that other proposed activities will not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline and therefore qualify as minor structures and activities. Pursuant to PD Rule No. 11-7(a) (4), the proposed activities are hereby allowed within the shoreline setback area as "minor structure or activity".

After review of the submittals, we have approved the proposed activities and confirm that a shoreline setback variance will not be required. As a reminder, however, pursuant to PD Rule 11-9(b), all improvements within the shoreline setback area must be completed within one (1) year from the date of this letter. Further, since the activities are considered minor, the requirement for a current certified shoreline survey is waived.

■ **Best Management Practices**

The Best Management Practices notes were included in the SMA Application on page 4 noted as *D. Description of Unavoidable Impacts and Proposed Mitigation Measures*, and in the project design and construction drawings on page CO.1, sheet 2 of 6 (dated August 2013) noted as *Best Management Practices Notes*.

However, please note our additional requirements:

1. No use of mechanized equipment or machinery within the shoreline setback area.
2. No storage of materials or debris within the shoreline setback area.
3. All green waste and construction waste generated shall be removed daily.
4. The area makai of the silt barriers will be kept clear of any rubbish or debris resulting from the construction/landscaping activities at all times.

■ **Compliance with Environmental Impact Statement Regulations (Chapter 343, HRS)**

A copy of the Chapter 343, HRS and Chapter 11-200, HAR Declaration of Exemption approved by the Director of Parks and Recreation was included with the application.

Mr. Ron Terry
June 20, 2014
Page 7

If you have questions, please feel free to contact Esther Imamura of this office at 961-8139.

Sincerely,



DUANE KANUHA
Planning Director

ETI:
P:\Wpwin60\CZM\SMMA\2014\SAA 14-1106 P&R Kaipalaoa.Doc

Enc. SMM No. 14-000300
Executive Order No. 4421
June 3, 2014 Department of Parks and Recreation
Declaration of Exemption
Department of Public Works August 19, 2013 Memo
United States Coast Guard letter dated September 25, 2013

cc: Long Range Planning
Mr. Larry Nakayama - Administrative Permits
Department of Parks & Recreation

Mr. Leo Asuncion, Acting Director
Office of Planning, DBEDT
P.O. Box 2359
Honolulu HI 96804-2359

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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. 14-000300

Project: Kaipalaoa Park Improvements
Applicant: County of Hawai'i, Department of Parks and Recreation
Land Owner: State of Hawai'i (Executive Order No. 4421 dated September 25, 2012, transfers control and management of the park to the County of Hawai'i)
TMK: 2-3-003:001 Land Area: 566 sq. ft.
TMK: 2-3-003:004 Land Area: 34,848 acres
TMK: 2-3-003:027 Land Area: 435 acres
TMK: 2-3-003:028 Land Area: 30,491 acres
TMK: 2-3-004:001 Land Area: 17,903 acres
**Unimproved Waiānuenue Avenue ROW Makai of Kamehameha Avenue
Hilo, Hawai'i**

Applicant's Request

1. Project Description:

The proposed project consists of the following repair and maintenance activities:

- a. Repair of hazardous and eroding surfaces with placement of stacked boulders on top of geotextile fabric.
- b. Leveling and placement of grasspave or approved equivalent on soil areas and gravelpave or approved equivalent in place of existing paved surfaces.
- c. Construction of an enhanced concrete entry courtyard, 5' wide concrete and ADA accessible walkways.
- d. Construction of one ADA accessible and one non-ADA accessible picnic table.
- e. Construction of one ADA accessible and one non-ADA accessible outdoor shower, involving 250' of new water line.
- f. Installation of four trash receptacles.

2. Purpose of Project:

The applicant proposes to provide an area for residents and visitors to fish, gather, picnic, surf and enjoy nature.

3. **Project Valuation:** Approximately \$275,000.

4. **Determination:**

Chapter 205A-22, Hawai'i Revised Statutes and Planning Commission Rule 9-4(e)(1) states that "Development" includes the following:

- (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste
- (B) Grading, removing, dredging, mining, or extraction of any materials
- (E) 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:** All parcels are designated Urban.
2. **General Plan:** According to the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map, all parcels are designated Open.
3. **County Zoning:** All parcels are zoned Open (O). According to the Hawai'i County Code, Section 25-5-162(11), public parks are a permitted use on the subject parcels. However, Section 25-5-167 states that *"Plan approval shall be required for all new structures and additions to existing structures in the O district"*.
4. **Special Management Area (SMA):** The parcels are located in the SMA and have frontage along the shoreline.
5. **Flood Zone "VE".**

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

The proposed project will improve accessibility and enjoyment by increasing 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 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 \$275,000 for the entire project is not in excess of \$500,000.

The enclosed June 3, 2014 Department of Parks and Recreation Declaration of Exemption from the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR listed the exempt classes of actions from their Exemption List approved on August 8, 2001.

The enclosed Department of Public Works (DPW), Engineering Division memorandum dated August 19, 2013 stated that:

"We reviewed your August 10, 2013, "Kaipalaoa Landing, Certification of No Significant Impact to Base Flood Elevation" letter and August 2013, construction plans for the subject property. The letter and construction plans provide sufficient supporting data to satisfy the requirement of Hawai'i County Code Chapter 27 Section 27-18(c)(2), regarding encroachments within a Federal Emergency Management Agency Zone VE Special Flood Hazard Area."

Finally, the enclosed United States Coast Guard letter dated September 25, 2013, in part states that *"This letter is to inform you of the United States Coast Guard's approval of the subject erosion repair that affects Coast Guard owned land in the vicinity of the Coconut Point Lighthouse at Kaipalaoa Park in Hilo, Hawai'i."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 14-000300** is hereby approved for the proposed project, 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. 14-000300** 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. The applicant shall secure Plan Approval from the Planning Department prior to commencement of any improvements. All activities in connection with this project shall be completed within one (1) year from the date of this letter.
4. The applicant shall comply with the conditions of approval of Governor's Executive Order No. 4421. (see enclosure)
5. Disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawai'i County Code.
6. The public shall be allowed pedestrian lateral access along the shoreline at all times during the repair and maintenance activities period.
7. Best Management Practices regarding water quality must be strictly adhered to during all repair and maintenance activities. In particular, loose soil and other debris removed and well as materials utilized must be carefully handled.
8. The applicant shall comply with the Best Management Practices included in the SMA Application on Page 4 noted as D. Description of Unavoidable Impacts and Proposed Mitigation Measures, and in the project design and construction drawings on Page CO.1, Sheet 2 of 6 (dated August 2013) noted as Best Management Practices Notes.
9. The applicant shall also comply with the following Planning Director requirements:
 - a. No use of mechanized equipment or machinery within the shoreline setback area.
 - b. No storage of materials or debris within the shoreline setback area.
 - c. All green waste and construction waste generated shall be removed daily.
10. A silt fence shall be installed prior to the commencement of land altering and construction activities and shall remain in place until all activity in the immediate areas has been completed. This silt fence may be placed incrementally as the work progresses, but must extend five (5) feet laterally beyond the current work area on the makai side.
11. The location of the entire silt fence must be shown and properly noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement, "the silt fence must be erected prior to any land altering or construction activities, and must remain in place until all activities have been completed".
12. The silt fence must be properly maintained to serve their intended purpose and shall remain in place until all construction activities are completed.
13. The area makai of the project area shall be kept clear of any rubbish or debris at all times.
14. No additional activities shall occur without prior written approval of the Planning Director.

15. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, petroglyphs, 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.
16. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

If you have questions, please contact Esther Imamura at 961-8139.

APPROVED:



DUANE KANUHA
Planning Director

6/19/14
Date

Total Number of Pages: _____
Tax Map Key No. (3)2-3-004:001

TO: COUNTY OF HAWAII
101 Pauahi Street, Suite 6
Hilo, Hawaii 96720

SETTING ASIDE LAND FOR PUBLIC PURPOSES

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, as amended, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR PARK AND ANCILLARY PURPOSES, to be under the control and management of the County of Hawaii, being that parcel of land situate at Piihonua, South Hilo, Island of Hawaii, Hawaii, identified as "Kaipalaoa Landing Park," containing an area of 17,915 square feet, TOGETHER WITH all of the submerged

lands seaward of seashore to the Mean Lower Low Water Mark, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 25,219 and dated August 21, 2012, subject, however, that public access to be established to the park shall not traverse any portion of the four (4) smaller parcels of State of Hawaii land in the area designated as tax map key no(s). (3) 2-3-003:001, 004, 027 and 028.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Hawaii shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

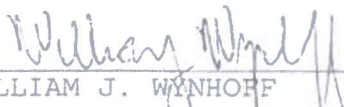
SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 25th day of September, 2012.


NEIL ABERCROMBIE
Governor of the State of Hawaii

APPROVED AS TO FORM:


WILLIAM J. WYNNHOFF
Deputy Attorney General

Dated: 9/5/12

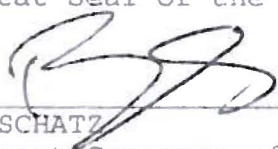
FILED
DEPARTMENT OF LAND AND NATURAL RESOURCES
SEP 10 2012
HONOLULU

STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of
Executive Order No. 4421 setting aside land for public
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant
Governor of the State of Hawaii, has
hereunto subscribed his name and caused
the Great Seal of the State to be affixed.



BRIAN SCHATZ
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 10TH day of
October, A.D. 2012



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,219

August 21, 2012

KAIPALAOA LANDING PARK

Piihonua, South Hilo, Island of Hawaii, Hawaii

Being a portion of the Government (Crown) Land of Piihonua granted to Hilo Railroad Company as a Right of Way and Railroad Yard and Station by deed dated April 23, 1909 and recorded in Liber 316, Page 287 and subsequently abandoned and regressed to the Territory of Hawaii by reversion clause contained in said deed.

Being also Parcels 3-B and 3-C of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2).

Beginning at Triangulation Station "ISABEL" at the north corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 4004.97 feet North and 3385.89 feet East, thence running by azimuths measured clockwise from True South:-

1. 324° 40' 269.46 feet;
2. 56° 47' 70.63 feet along the north side of the Abandoned Waianuenue Street;
3. 146° 52' 6.85 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);

4. 146° 52' 30.00 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
5. 146° 52' 185.00 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
6. 106° 20' 13.85 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
7. 146° 52' 24.00 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
8. 76° 17' 11.66 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
9. 146° 52' 11.20 feet along the northeast side of Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SDR 2 (2);
10. 256° 17' 24.21 feet along Parcel 1 of Wailuku River Pump Site, Governor's Executive Order 666;
11. 230° 56' 57.76 feet along Parcel 1 of Wailuku River Pump Site, Governor's Executive Order 666 to the point of beginning and containing an AREA OF 17,915 SQUARE FEET.

August 21, 2012

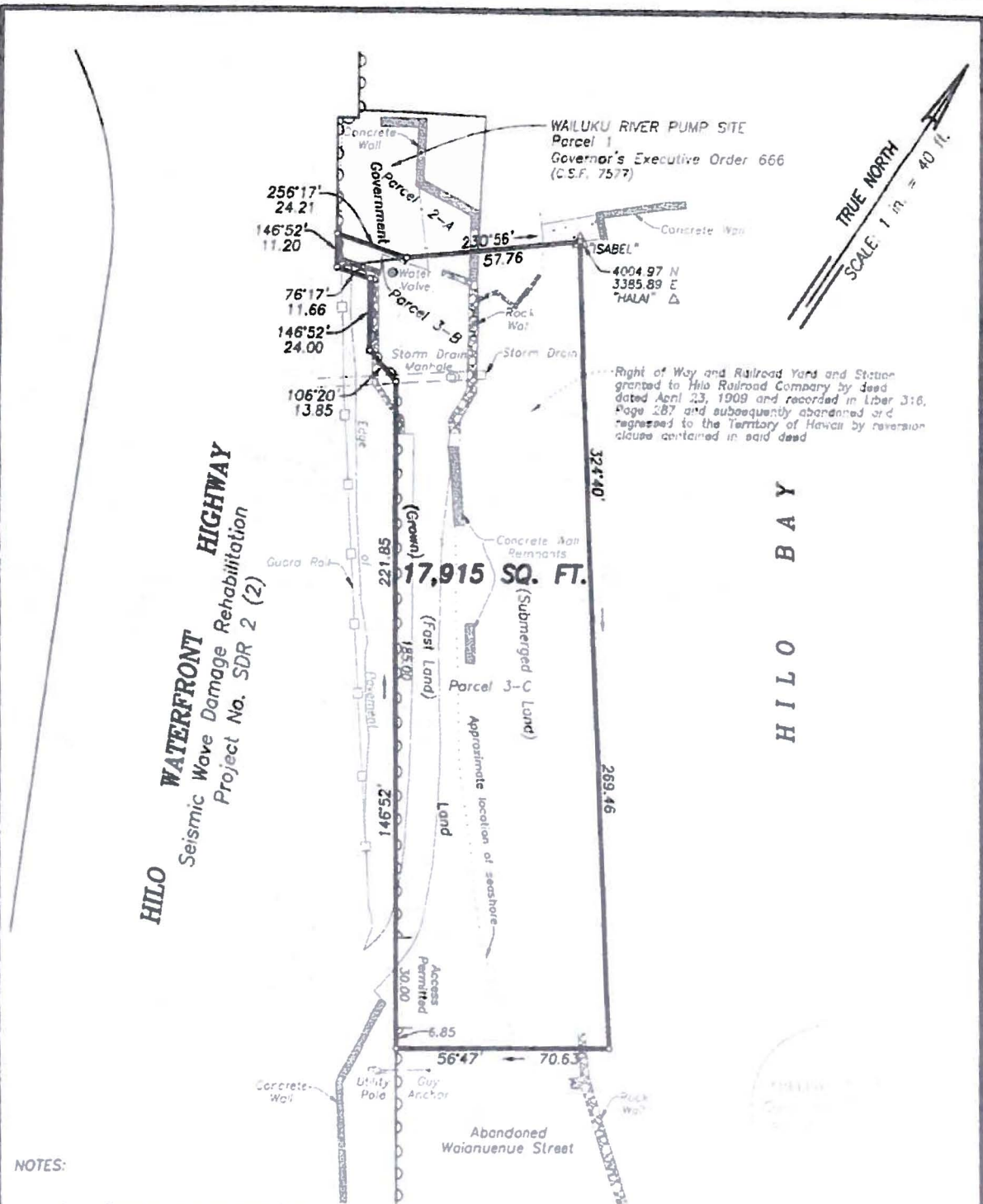
Vehicle access shall not be permitted into and from Hilo Waterfront Highway, Seismic Wave Damage Rehabilitation Project No. SRD 2 (2) over and across Courses 3,5,6,7 and 8 of the above-described parcel of land.

TOGETHER WITH the above-described parcel of land, all of the submerged lands seaward of seashore to the Mean Lower Low Water Mark.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Glenn J. Kodani
Glenn J. Kodani
Land Surveyor ry

Compiled from map and desc.
furn. by dlb & Associates. Said map and desc.
have been examined and checked as to
form and mathematical correctness but
not on the ground by the Survey Division.



NOTES:

- Denotes access permitted
- Denotes no vehicle access permitted

REDUCED NOT TO SCALE

KAIPALAOA LANDING PARK

Piihonua, South Hilo, Island of Hawaii, Hawaii

Scale: 1 inch = 40 feet

Job H-167(12)

C. BK.

EXHIBIT "B"

TMK: 2-3-04: 01

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

C.S.F. NO. 25,219

RDM August 21, 2012

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10HD-005

Hawaii

Set Aside to County of Hawaii for Park Purposes, Piihonua, South Hilo, Hawaii,
Tax Map Key: 3rd/ 2-3-04:01.

APPLICANT:

County of Hawaii

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Piihonua situated at South Hilo, Hawaii, identified by
Tax Map Key: 3rd/ 2-3-04:01, as shown on the attached maps labeled Exhibits A-1
through A-4.

AREA:

17,903 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Open and SMA

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

August 12 2010
A I H
RD OF
OURCES
ON

D-3

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE:

Vacant and unencumbered, except for a right-of-entry permit issued to Malama Kaipalaoa Working Group to allow it to clean the area of grass, brush and rubbish.

PURPOSE:

Park and ancillary purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Malama Kaipalaoa Working Group (MKWG) has spearheaded a community effort in recent years to have the subject shorefront parcel and an adjoining County parcel, together commonly known as Kaipalaoa Landing, turned into a County park. MKWG explains that Kaipalaoa Landing is a significant Hawaiian historic site associated with an account of the origin of the place name "Hilo", and was also King Kamehameha's favorite surf spot. MKWG additionally states that King Kamehameha proclaimed the Kanawai Mamalahoe – Law of the Splintered Paddle – at the Kaipalaoa Landing area.

In later years during the development of Hilo town, Waianuenue Avenue was built in the vicinity, extending from a mauka direction all the way to a seawall at the shoreline. The subject parcel, TMK: 3rd/ 2-3-04:01 (Parcel 1), was located north of Waianuenue Avenue. See Exhibit A-4 attached. South of Waianuenue Avenue was a wharf (removed prior to 1909), and four small parcels of State land were located between Waianuenue Avenue and the wharf. The County has indicated that it does not need the four smaller parcels, Tax Map Keys: 3rd/ 2-3-03:01, 04, 27 & 28, for its park.

The construction of Belt Road (Highway 19) along Hilo Bay Front cut Parcel 1 and a remnant of Waianuenue Avenue off from downtown Hilo without providing a safe pedestrian access to the area. Since that time, the inaccessibility of the land has resulted in light recreational use of Kaipalaoa Landing.

The County of Hawaii now desires a formal set-aside of Parcel 1 to the County to allow it to develop a shorefront park in the area.

As a shorefront parcel, Parcel 1 is suited for recreational use under appropriate weather and sea conditions. Due to the small size of the parcel and its location in the Special Management Area, significant park improvements may not be possible, and the lands are likely prone to flooding and wave wash during high surf in any event. Under these circumstances, there is no higher and better use of the area than recreational use, assuming that a safe pedestrian access can be developed across Kamehameha Avenue and Belt Road onto the lands under County control and management. The proposed use fully utilizes the requested land.

Staff solicited comments on a draft of this submittal from the agencies listed below with the results indicated.

| Agency | Comment |
|---|---|
| DLNR - Historic Preservation Office | No response |
| DLNR - Office of Conservation and Coastal Lands | No comments and no objections |
| DLNR - Engineering | The project site is located in Flood Zone VE. The National Flood Insurance Program (NFIP) regulates developments in Zone VE. The project must comply with NFIP's rules and regulations whenever development within a Special Flood Hazard Area is undertaken. |
| DLNR - Division of Aquatic Resources | No objections |
| DLNR - DOFAW - Na Ala Hele | No response |
| DLNR - State Parks | No response |
| DLNR - DOCARE | No response |
| DOT - Highways Division | No objections and no comments |
| DOT - Harbors Division | No objections |
| DOH - Environmental Division | No response |
| Office of Hawaiian Affairs | No response |
| | |
| County of Hawaii - Planning Department | No response |
| County of Hawaii - Parks & Recreation | No response |
| County of Hawaii - Property Management | No objections |
| County of Hawaii - Fire Department | No response |
| County of Hawaii - Police Department | Does not anticipate any significant impact to vehicular traffic. Public safety is a concern due to lack of crosswalks to access the area. No parking is available in the |

| | |
|---|--|
| | immediate vicinity. |
| County of Hawaii - Department of Public Works | No comments |
| County of Hawaii - Department of Water Supply | No objections. Department of Water Supply maintains no water system in the parcel. |
| County of Hawaii - Environmental Management | No response |
| | |
| United States Coast Guard | No response |
| United States Army Corps of Engineers | No response |

Regarding the comments from the Department of Land and Natural Resources' Engineering Division, the County will be responsible for complying with any applicable rules and regulations of the NFIP. Regarding the Police Department's concerns with pedestrian access, the County will be responsible for establishing a safe route for the public to the area.

On July 25, 2009, Land Division issued Right-of-Entry No. 3803 (ROE 3803) to MKWG for the period August 1, 2009 to July 10, 2010 to allow it to clean the area of grass, brush and rubbish. ROE 3803 has now expired.

Staff is including a recommendation below that the seaward boundary of Parcel 1 be established in the executive order setting aside the property at the mean lower low water line. This will give the County management jurisdiction over the entire area instead of leaving Land Division with management responsibility for a strip of land seaward of the shoreline.

As mentioned above, Waianuenue Avenue used to extend all the way to the seawall north of the four small parcels of the subject land. The current tax map shows an empty space for the former road lot. It has no parcel number. The County claims ownership of this land as a former County road, and for that reason has excluded it from the requested set-aside. If further title research should show that the State has an interest in the former road lot, the County's request may need to be amended to address such interest.

Also as mentioned above, the subject lands are located in the Special Management Area. The County will need to comply with applicable requirements for uses in such areas, as well as environmental assessment requirements under Chapter 343, HRS, prior to the establishment of a park at Kaipalaoa Landing. Additionally, the County will need to comply with any applicable subdivision or consolidation and resubdivision requirements.

The County has intentionally excluded the four small parcels of State land in the area from its request. Accordingly, staff is including a recommendation below that the public

access route to be established to the park not traverse the four small parcels. For liability reasons, the County should be responsible for maintaining such access routes over land under its control and management.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the County of Hawaii under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The seaward boundary of the set-aside shall be established in the executive order at the mean lower low water line;
 - B. The public access to be established to the park shall not traverse any portion of the four small parcels of State land in the area designated as Tax Map Keys: 3rd/ 2-3-03:01, 04, 27 & 28;
 - C. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - D. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - E. Review and approval by the Department of the Attorney General; and
 - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of an immediate management right-of-entry permit to County of Hawaii covering the subject land under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and

- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



August 12, 2010



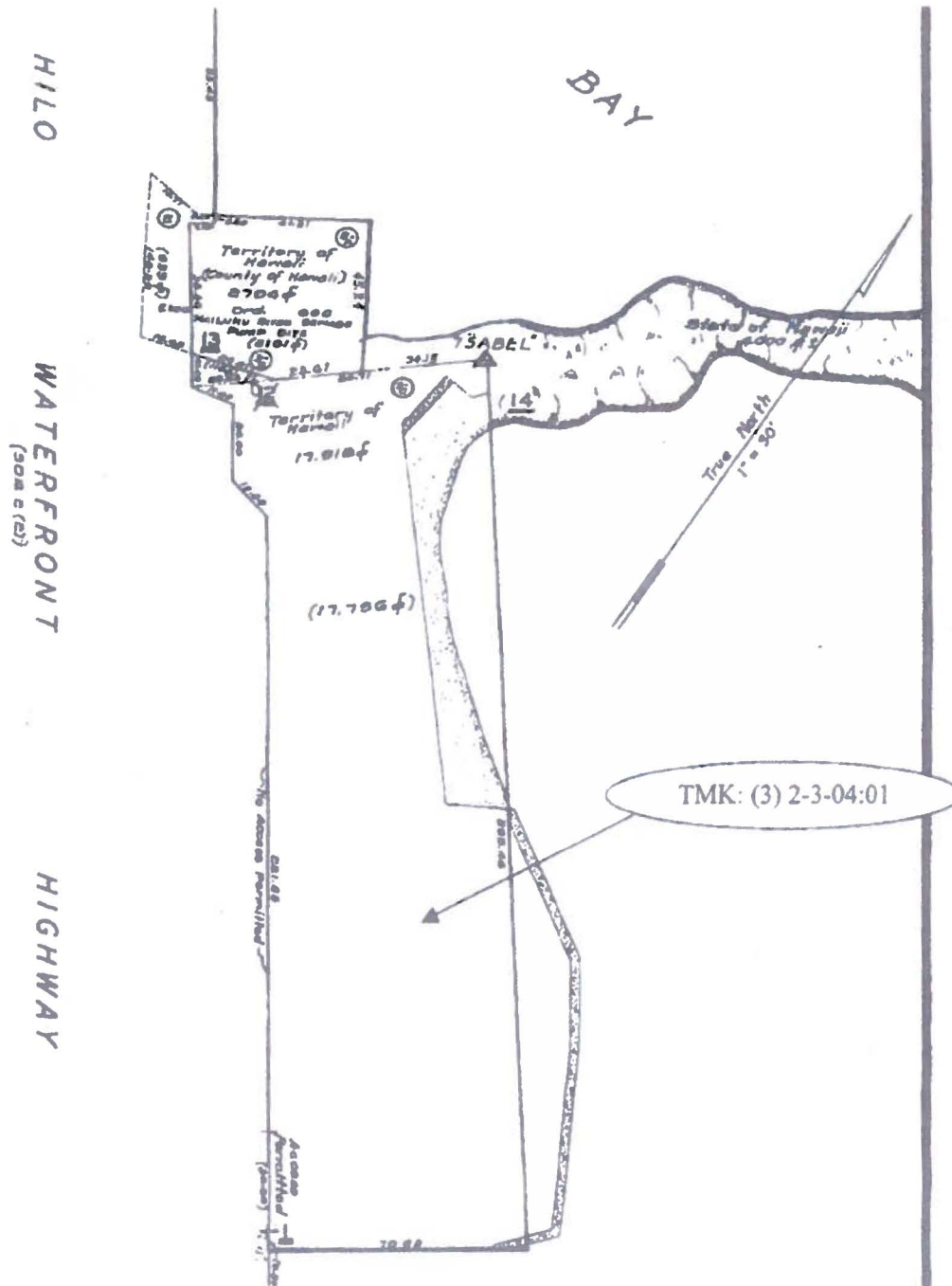


EXHIBIT A-2

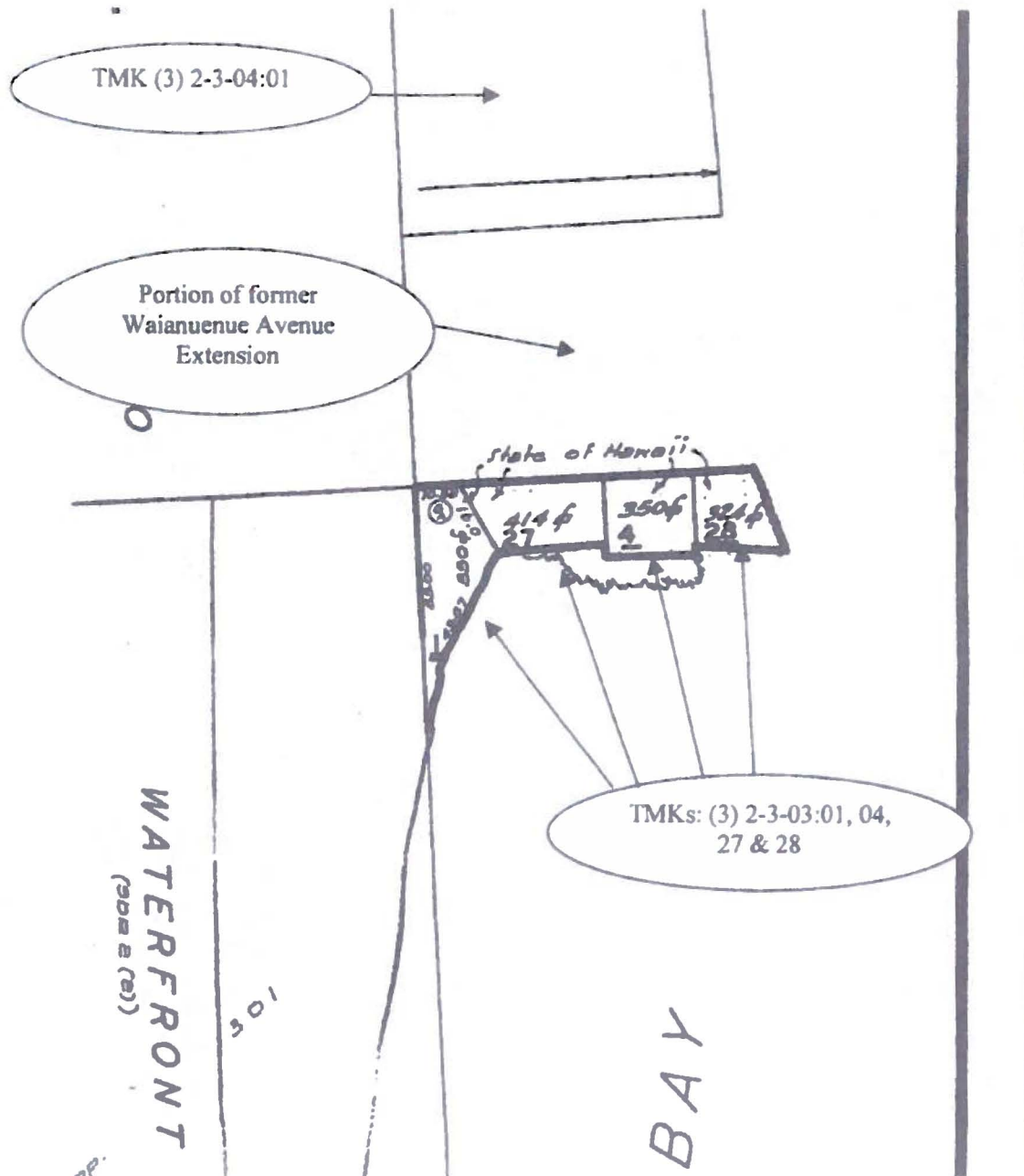


EXHIBIT A-3

Kaipalaoa Landing

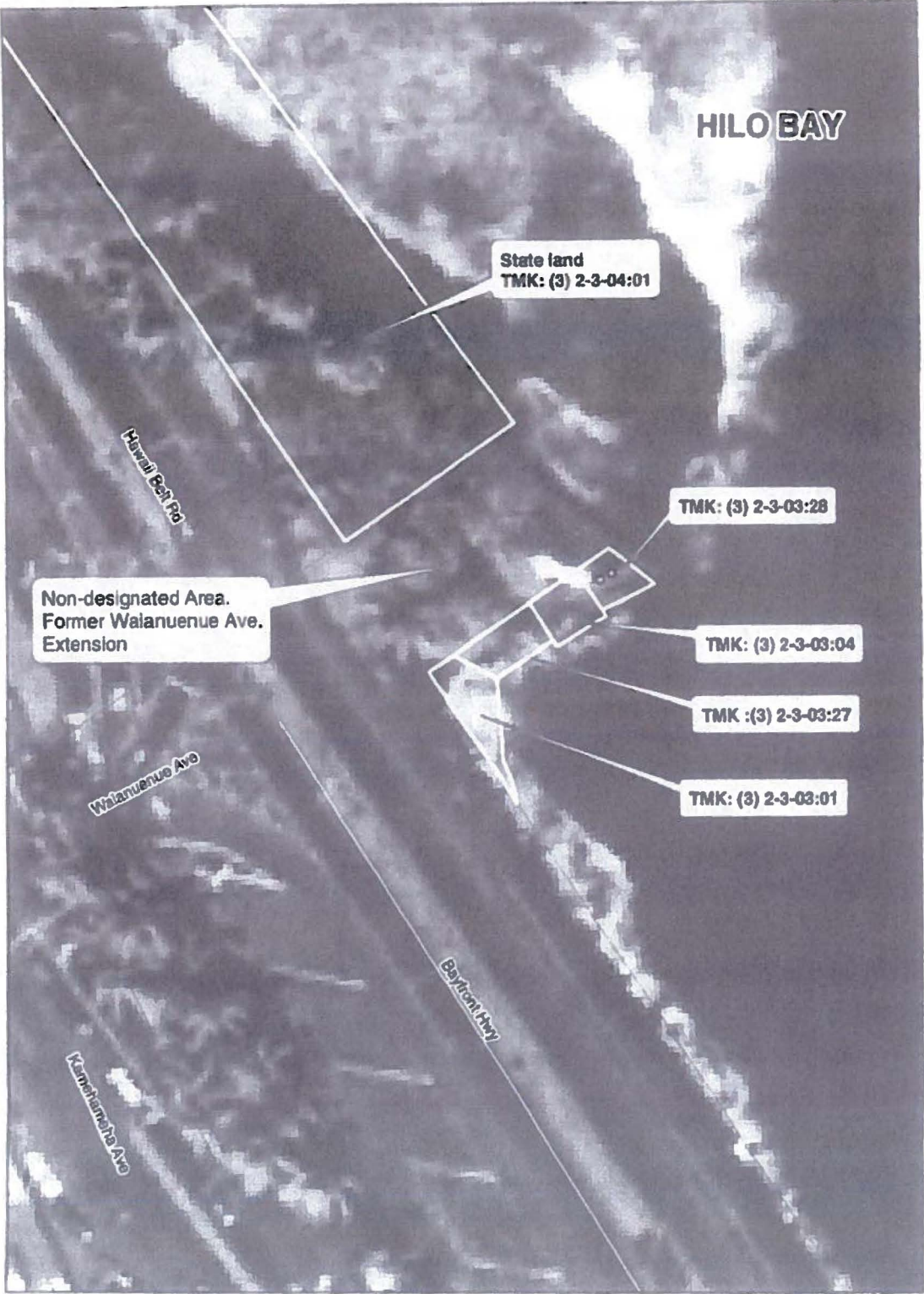


EXHIBIT A-4



LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
DIRECTOR
DEPARTMENT OF LAND AND NATURAL RESOURCES
1700 KALANIANAʻOHE AVENUE, SUITE 1000, HONOLULU, HI 96813

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to County of Hawaii for Park Purposes

Project Number: PSF No. 10HD-005

Project Location: Piihonua, South Hilo, Hawaii, Tax Map Key: 3rd/ 2-3-04:01

Project Description: Set aside of State lands to the County of Hawaii for future park development

Consulted Parties: Department of Land and Natural Resources (DLNR), Office of Conservation of Coastal Lands; DLNR Historic Preservation Office; Department of Transportation – Harbors Division; County of Hawaii Planning Department; and others

Exemption Class No.: In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment under the following:

Exemption Class No. 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

This action is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this

EXHIBIT B

action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements.

Recommendation:

The transfer of management jurisdiction over the lands from the State to the County of Hawaii in itself will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the proposed transfer is exempt from the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to the County of Hawaii's proposed use of the lands, the County of Hawaii shall be responsible for compliance with Chapter 343, HRS, as amended.

Laura H. Thielen, Chairperson

Date

William P. Kenoi
Mayor



PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 JUN -3 PM 2:40

Clayton S. Honma
Director

Robert A. Fitzgerald
Deputy Director

County of Hawai'i
DEPARTMENT OF PARKS AND RECREATION
101 Pauahi Street, Suite 6 • Hilo, Hawai'i 96720
(808) 961-8311 • Fax (808) 961-8411

DECLARATION OF EXEMPTION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

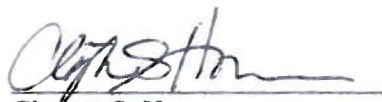
Project Title: Kaipalaoa Landing Beach Park
Project Number: N/A
Project Description: Tree Removal/Clearing in SMA
Consulted Parties: Department of Parks and Recreation
Exemption Class Number: 1

Exempt Item Number From Agency Exemption List: 3:10, 11, 16, 20, 23, 37 & 42
4:1

Exempt Item Description From Agency Exemption List: The scope of work includes installation of water lines, trash receptacles, outdoor showers, accessible ramps and walkways, landscaping and related work.

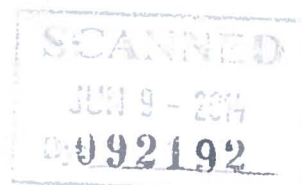
Date Agency Exemption List Approved: August 8, 2001

I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200, HAR. I declare that this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.


Clayton S. Honma
Director

Original: Planning Department
Copy: Project File

Date: April 21, 2014



William P. Kenoi
Mayor

Walter K. M. Lau
Managing Director



Warren H. W. Lee
Director

Brandon A. K. Gonzalez
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pauahi Street, Suite 7 · Hilo, Hawai'i 96720-4224
(808) 961-8321 · Fax (808) 961-8630
www.co.hawaii.hi.us

August 19, 2013

David Imata
Imata & Associates, Inc.
171 Kapiolani Street
Hilo, HI 96720

SUBJECT: KAIPALAOA LANDING [TMK (3) 2-3-003:001, 004, 027, 028 and 2-3-004:001]; NO RISE CERTIFICATION

We reviewed your August 10, 2013, "Kaipalaoa Landing, Certification of No Significant Impact to Base Flood Elevation" letter and August 2013, construction plans for the subject property. The letter and construction plans provide sufficient supporting data to satisfy the requirements of Hawaii County Code Chapter 27 Section 27-18(c)(2), regarding encroachments within a Federal Emergency Management Agency Zone VE Special Flood Hazard Area.

Frank DeMarco

B BEN ISHII, P.E.
Division Chief

fjd

U.S. Department of
Homeland Security

United States
Coast Guard



Commanding Officer
United States Coast Guard
Civil Engineering Unit

300 Ala Moana Blvd., Rm. 8-134
Honolulu, HI 96850-4982
Phone: (808) 535-3461
Fax: (808) 535-3479
Email: Clay.D.McKinney@uscg.mil

4790

SEP 25 2013

Mr. Stan Lawrence
262 Kamehameha Avenue
Hilo, HI 96720

Subj: EROSION REPAIRS AT KAIPALAOA LANDING PARK, HILO, HAWAII

This letter is to inform you of the United States Coast Guard's approval of the subject erosion repair project that affects Coast Guard owned land in the vicinity of the Coconut Point Lighthouse at Kaipalaoa Park in Hilo, Hawaii. Prior to the start of work on your project, a license will be required to be executed between the Malama Kaipalaoa Working Group and the United States Coast Guard. As soon as possible, please provide the following information for our use in drafting the license:

1. Scope of work and project drawings to include site map showing project location in relation to Coast Guard property
2. Dates when the project is scheduled to start and end
3. Certificate of insurance to do the work
4. Malama Kaipalaoa Working Group point of contact for project (Name, Title, Mailing Address, Telephone number and Email Address)
5. Malama Kaipalaoa Working Group authorized signatory of the license (Name, Title, Mailing Address, Telephone number and Email Address)

Please contact Coast Guard realty specialist Leslie Decena at telephone (510) 637-5533, email: leslie.b.deцена@uscg.mil for inquiries regarding the license.

Sincerely,

A handwritten signature in blue ink, appearing to read "C.D. McKinney".

C.D. McKinney
Lt. Commander
U.S. Coast Guard

Encl: (1) Executive Order 9884
(2) USCG Drawing L1-239

Copy: CEU Oakland (PLRP)

091249

DATE August 15, 1947

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 9884

RESTORING CERTAIN LAND TO THE JURISDICTION OF THE TERRITORY OF HAWAII

WHEREAS by proclamation of the Governor of the Territory of Hawaii, dated March 16, 1911, certain land on the Island of Hawaii, situated at Coconut Point at the foot of Waiuanue Street, Hilo City, South Hilo, Hawaii, was set aside for the use of the United States of America for lighthouse purposes; and

WHEREAS such land is no longer needed by the United States for lighthouse purposes, and it is deemed advisable and in the public interest that it be restored to the use of the Territory of Hawaii:

NOW, THEREFORE, by virtue of the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 447, and as President of the United States, it is ordered that the following-described land at Coconut Point, Hilo City, South Hilo, Hawaii; be, and it is hereby, restored to the jurisdiction of the Territory of Hawaii:

Beginning at a point on the south side of Waiuanue Street, marked by an iron spike driven into the ground, whose azimuth and distance from the triangulation station, Isabel Point, are $326^{\circ} 22' 10''$ and 333.74 feet respectively; and, from a cross on a boulder, on the north side of the above mentioned street, are $320^{\circ} 47'$ and 55 feet respectively, thence:

1. $326^{\circ} 47' 17.5''$ to a point; thence
2. $56^{\circ} 47' 20.0''$ to a point; thence
3. $146^{\circ} 47' 17.5''$ to a point; thence
4. $238^{\circ} 47' 20.0''$ to point of beginning, containing an area of 350 square feet.

HARRY S. TRUMAN

THE WHITE HOUSE,
August 13, 1947.

[F. R. Doc. 47-7727; Filed, Aug. 14, 1947,
10:37 a. m.]

U. S. COAST GUARD

SEP 8 - 1947

CHIEF, OFFICE OF OPERATIONS

U. S. COAST GUARD

SEP 8 1947

OPERATIONS—SHORE UNITS

U. S. COAST GUARD

SEP 8 - 1947

OPERATIONS
AIDS TO NAVIGATION

Office of the Judge Advocate General, Research and Publications, Room 237,
Ext. 4529, Navy Department, Washington 25, D.C.
FORM NAVJAG-241A

Page 1 of 1

A-2786

091249

