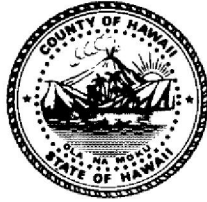


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July 21, 2022

Jason Knable
Carlsmith Ball, LLP
121 Waiānuenue Ave.
Hilo, HI 96720

Dear Mr. Knable:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000081)**

**Special Management Area (SMA) Minor Permit
(PL-SMM-2022-000025)**

Applicant(s): B P Bishop Estate c/o Kamehameha Schools

Landowner(s): B P Bishop Estate

Project: Ke'ei Beach Road Safety Project

Tax Map Key(s): (3) 8-3-004:001

Location: Ke'ei, South Kona District, Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2021-000081), received by this office on June 8, 2022. The project area includes the Ke'ei Beach Road, a private unimproved access roadway through the subject parcel. The subject parcel is entirely within the State Land Use (SLU) Conservation District, and as such the applicant has applied for approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands (OCCL). Similarly, the project area is within the Special Management Area (SMA) and can be considered a "shoreline parcel" as defined by Section 205A-41(as amended), Hawai'i Revised Statutes (HRS).

Existing Land Uses:

Ke'ei Beach Road is a private unpaved dead-end crushed rock road intended primarily to provide access from Pu'u'honua Road to the Ke'ei fishing village which is located on the subject parcel. The fishing village consists of approximately 22 residential lots. Pedestrian public shoreline access is provided along roadway.

Proposed Project:

The applicant is proposing to:

- Place large boulders approximately four (4) feet in diameter directly on the ground fronting select areas along the makai (west) shoulder of the Ke‘ei Beach Road, as depicted in the areas identified as CPA 1 to CPA 9 on attached Exhibit 1.
- At CPA 4 & CPA 6 rock will be arranged to allow for two (2) standard parking spots.
- Minor clearing of vegetation from areas along the mauka shoulder of Ke‘ei Beach Road to accommodate for the parking of twelve (12) vehicles.
- Install signage at various sections of roadway to inform public (e.g., no parking, no overnight camping, etc.).

No grading or grubbing is proposed, and no material will be staged or stored within the shoreline setback area.

Purpose of Project:

KS recognizes that the public uses its private Road within its Property for access to the shoreline. However, due to the increase in usage, and the resulting negative impacts to the shoreline and the quality of life of the Village residents, KS is compelled to mitigate these impacts by proposing to install vehicular control devices (boulders) and signage along the privately owned Road. These measures are by no means intended to restrict public access, rather they are intended to convey the needed message to the public using the Property that thoughtful consideration should be paid towards the Village residents and surrounding community, and that the land should be respected. This would help to create safer access for all, while attempting to minimize the current impacts to the shoreline resulting from the current abuses.

Shoreline Setback Area Determination:

Planning Department Staff notes that tourism’s impact on coastal areas, left unchecked, can damage the nearshore and coastal environment. These proposed measures are minor, will fit with the landscape, and only aim to improve the existing trails, paths, cut-outs, and parking areas which are unmanaged.

The entire project area is located within the Special Management Area (SMA) as well as located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS). Based on a review of site photographs and aerial photographs it appears the proposed activities are located between 50 and 250 feet from the apparent rocky shoreline. Due to the location of the (Proposed Project) being a minimum of 50-feet from the shoreline area and will only require minimal ground disturbance (installation of signs), the Director has waived the requirement for a Shoreline Certification for this proposed activity.

Special Management Area Determination:

Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, “Development” means *any of the*

[listed] uses, activities, or operations on land or in or under water within the special management area.

According to the application, the following definition of “Development” can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste.*
- *Grading, removing, dredging, mining, or extraction of any materials.*

The Planning Department finds that the proposed activity is not exempt from the definition of “development;” therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. **PL-SMM-2022-000025**, is hereby issued for the proposed Ke‘ei Beach Road Safety project. It is the applicant’s responsibility to read and comply with the conditions listed in the enclosed permit, that cover both the SMA exemption determination and the SMA minor permit.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any future development or activities not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,

Zendo Kern

Zendo Kern (Jul 21, 2022 14:26 HST)

ZENDO KERN
Planning Director

AJR:jaa

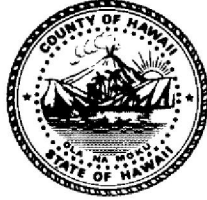
Enclosure: SMM Permit No. PL-SMM-2022-000025
Exhibit 1 – Map of Project Area

Cc (via e-mail): Shichao Li, State-OPSD
Lisa E. Webster, State-OPSD
DLNR-OCCL
GIS Section

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Special Management Area Minor Permit No. PL-SMM-2022-000025

Project: Ke'ei Beach Road Safety Project
Applicant(s): B P Bishop Estate c/o Kamehameha Schools
Landowner(s): B P Bishop Estate
TMK(s): (3) 8-3-004:001
Location: Ke'ei, South Kona District, Hawai'i
Land Area: 6.48 acres (approx.)

Applicant's Request

- 1. Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued as the Proposed project includes uses deemed "development" and therefore require the SMA minor permit in accordance with SMA rules and regulations. The proposed project includes:

- Place large boulders approximately four (4) feet in diameter directly on the ground fronting select areas along the makai (west) shoulder of the Ke'ei Beach Road, as depicted in the areas identified as CPA 1 to CPA 9 on attached Exhibit 1.
- At CPA 4 & CPA 6, rock will be arranged to allow for two (2) standard parking spots.
- Minor clearing of vegetation from areas along the mauka shoulder of Ke'ei Beach Road to accommodate for the parking of twelve (12) vehicles.
- Install signage at various sections of roadway to inform public (e.g., no parking, no overnight camping, etc.).

No grading or grubbing is proposed, and no material will be staged or stored within the shoreline setback area.

- 2. Purpose of Project:** The proposed project will allow for critical safety improvements for residents and tourists who visit this area. The proposed activities aim to provide access while protecting shoreline and coastal resources.
- 3. Project Valuation:** \$50,000.
- 4. Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(1) relating to Special Management Area (SMA): "*Placement or erection of any solid material or any gaseous, liquid, solid, or*

thermal waste”, “Construction, reconstruction, demolition, or alteration of the size of any structure”, and “Grading, removing, dredging, mining, or extraction of any materials” is defined as “development.” Therefore, the proposed Ke‘ei Beach Road Safety project is considered “development” and requires a SMA Minor Permit.

State and County Plans

5. **State Land Use (SLU) District:** The subject parcel is within the SLU Conservation District.
6. **General Plan:** The parcel is designated as Open (ope) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcel is currently zoned Open (ope).
8. **Special Management Area:** The project parcel is located within the Special Management Area (SMA), as well as within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS).
9. **Flood Zone:** Zone X, AE, VE.

Compliance with Objectives and Policies of Chapter 205A, Hawai‘i 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 any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai‘i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), 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, including reefs, beaches, and coastal dunes, 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 coastal hazards.
- ☒ 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 and coastal dunes for: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and coordinate and fund beach management and protection.
- ☒ 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 and Coastal Dune Protection
- ☒ Marine and Coastal Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

1. As discussed above, the proposed activities 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.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$50,000 for the Ke‘ei Beach Road Safety Project is not in excess of \$500,000.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2022-000025** is hereby approved for the following activities:

- Place large boulders approximately four (4) feet in diameter directly on the ground fronting select areas along the makai (west) shoulder of the Ke‘ei Beach Road, as depicted in the areas identified as CPA 1 to CPA 9 on attached Exhibit 1.
- At CPA 4 & CPA 6, rock will be arranged to allow for two (2) standard parking spots.
- Minor clearing of vegetation from areas along the mauka shoulder of Ke‘ei Beach Road to accommodate for the parking of twelve (12) vehicles.
- Install signage at various sections of roadway to inform public (e.g., no parking, no overnight camping, etc.).

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000025**, subject to the following conditions:

1. The applicant(s), its successor(s), or assign(s) (Applicant) 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, specifically Conservation District approval from the Office of Conservation and Coastal Lands.
3. Other than the proposed project as described in this permit, no further work is permitted under this approval.
4. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai‘i County Code.
5. The Applicant shall provide adequate and safe pedestrian access throughout the project area and will not alter or block any shoreline or coastal access.
6. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
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 any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

APPROVED:

Zendo Kern

Zendo Kern (Jul 21, 2022 14:26 HST)

ZENDO KERN

Planning Director

July 21, 2022

Date

Exhibit 1

CPA = Current Parking Area
MPA = Mauka Parking Area

July 21, 2022

