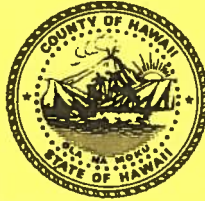


William P. Kenoi  
Mayor



8-6-11:3

BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawaii

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

## MEMORANDUM

September 17, 2009

**TO:** Margaret K. Masunaga, Deputy Planning Director

**FROM:** BJ Leithead Todd, Planning Director *BJL*

**SUBJECT:** Kona Office Notice of Violations in the SMA

The Planning Department, at the request of the previous Director, has been investigating a suspected unpermitted structure in the Kalahiki Beach area just south of Ho'okena Beach since August 2008 that has yet to be acted upon. Based on the information gathered by Hilo and Kona staff it has been determined that this apparently unpermitted house is situated on TMK 8-6-14:007 in violation of the conditions of a SMA Assessment application determination letter issued by the Department in 1991 (copy attached). Furthermore, research of our department files, Real Property Tax records and staff consultation with DLNR-OCCL indicates that no Conservation District Use Permit has been issued, no building permit has been issued and no building assessment for the property has been levied.

Unless it has been confirmed that the landowners have complied with all of the conditions in our 1991 SAA determination letter, a SMA/NOV with appropriate corrective actions should be immediately generated by Kona staff. All affected state and county agencies, including but not limited to, Department of Public Works-Building Division, Department of Finance-Real Property Tax Division, DLNR-OCCL & SHPD, Department of Health-Wastewater Branch shall be copied the SMA/NOV along with photographic evidence (attached) of the house and a copy of the 1991 SMA Assessment determination letter.

Also, Hilo staff has investigated and confirmed that a portion of the historic government trail on McCandles Ranch lands at Kalahiki (TMK 8-6-011:003) appears to have been bulldozed in relatively recent years destroying a significant stretch of the trail from Ho'okena Road south without first securing SMA review and approval for that portion of

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Margaret K. Masunaga, Deputy Planning Director  
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September 17, 2009

the trail within the SMA. Hilo staff will draft a SMA/NOV for my signature and copy the appropriate government agencies and the Kona office. Upon issuance of this SMA/NOV Kona enforcement staff will be responsible for management of the NOV until all corrective actions have been completed and the case closed.

I would like to provide direct supervision of these two violations. Please feel free to contact Hilo staff, principally Dana Okano or Larry Brown, for any questions that you or the Kona staff may have on these two cases as well as Esther Imamura and Bethany Morrison for SMA related enforcement activities.

LMB:cs

P:\wpwin60\CZM\violations\Director to Deputy regarding SMA-NOV.doc

Encl: Aerial photo  
SAA Determination letter dated 12/23/91

December 23, 1991

Mr. Gerald Park  
1245 Young Street, Suite 201  
Honolulu, HI 96814

Dear Mr. Park:

Special Management Area (SMA) Use Permit  
Assessment Application  
Proposed Single-Family Residence  
TMK: 8-6-14:7; Kalahiki, South Kona, Hawaii

This is in regards to the subject SMA Use Permit assessment application for the construction of a proposed single-family residence on the subject property.

The State Historic Preservation Division (HPD) has reviewed the SMA Use Permit application and its archaeological survey report and has concluded that Site No. 16,154 (the subject parcel) is significant for its information content. Further, the visual impacts of the project to the larger complex of sites (4200) would be minimal due to the overgrowth nature in the area.

Based on the conditioned "no adverse effect" determination by the State Historic Preservation Division, we find that the proposed construction of the single-family residence is exempt from further SMA review but subject to the following conditions:

1. Prior to submittal of plans for a Building Permit or prior to any land preparation activity, whichever occurs first, a qualified archaeologist shall conduct representative test excavations of the entire project area and submit its report of findings (two copies) for review and approval to the the Planning Department, in consultation with the State Department of Land and Natural Resources, Historic Preservation Division. In addition, if required by HPD, an archaeological data recovery and mitigation plan (two copies) shall be submitted for review and approval by the Planning Department, in consultation with HPD.

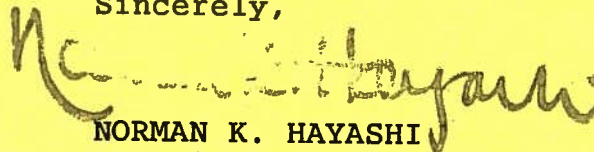
DEC 26 1991

Mr. Gerald Park  
December 23, 1991  
Page 2

2. The applicant shall maintain and restore the walls enclosing the project area, to ensure that the visual character of the historic complex (Site 4200) is maintained. Prior to submittal of plans for a Building Permit or prior to any land preparation activity, whichever occurs first, brief wall restoration plans (two copies) shall be submitted for review and approval by the Planning Department, in consultation with HPD.
3. Comply with all other rules, regulations and requirements of the County and State, including the State Department of Health.

Should you have any questions, please feel free to contact Alice Kawaha or Rick Warshauer of this office at 961-8288.

Sincerely,



NORMAN K. HAYASHI  
Planning Director

AK:pjw  
4025D

Enclosure

cc: Don Hibbard, HPD  
West Hawaii Office  
SMA Section

DEC 26 1991

