

WILLIAM L. MOORE PLANNING, INC.

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2012 NOV 16 AM 9:33

November 16, 2012

Bobby Jean Leithead Todd, Director
Planning Department
101 Aupuni Street, Suite 3
Hilo, Hawaii 96720

Dear Ms. Leithead Todd:

Subject: Healy Foundation
TMK: (3) 8-2-006: 027
Manini Beach, Kahauloa 1st, South Kona Hawaii.

This is response to your letter dated May 17, 2012 informing the Healy Foundation that certain activities have taken place on TMK: (3) 8-2-006: 027 (the "Subject Property") without the appropriate County Permits/Approval. In addition your letter stated that in order to address the issues identified in your letter, the Healy Foundation would be required to submit a Special Management Area Assessment (SMAA) application to address the unauthorized/unpermitted work performed on the Subject Property.

In response to your letter, enclosed is a completed SMAA application to allow (1) the continued operation of the Subject Property as a privately owned beach park that is open to the public and (2) the retention of certain improvements on the Subject Property, including a rock wall along a portion of the southern property line and a community garden in the southwestern corner of the Subject Property.

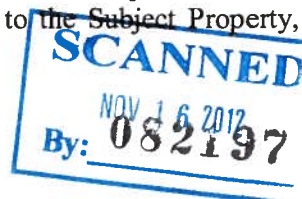
The park activities that were formalized upon the Healy Foundation's acquisition of the lease for the Subject Property from Kamehameha Schools in 2000, are a continuation of the informal use of the Subject Property as a park/recreation area/public shoreline access from the late 1960's.

A full time caretaker and a part time employee manage and maintain the park area. The park is open to the public during daylight hours, and is available for fishing access 24 hours a day. The few limits on the use of the park area include prohibiting commercial activities and disruptive behavior.

On March 11, 2011, a Japan generated tsunami struck Kealakekua Bay and resulted in a series of waves as high as 19 feet that swept through the Subject Property. The tsunami caused major damage, including destruction of the landscaped areas as well as significant change in the shoreline area to the point that a white sand beach was established in an area that previously consisted of lava rocks and coral cobble.

In response to the destruction of the park area, a group of volunteers undertook the restoration of the park improvements, including reestablishment of the grass lawn and landscaping. This work was undertaken without securing the necessary permits/approvals from the County.

In order to address the lack of formal administrative approval, we have completed the attached SMAA application to both address the after-the-fact work in on the Subject Property to restore the park activities and improvements and to allow the retention of certain existing improvements to the Subject Property,



including a rock wall along a portion of the southern property line and a community garden in the southwestern corner of the Subject Property.

Unfortunately, we have been delayed in responding to your letter while the Healy Foundation has been addressing a Notice of Civil Violation (NOCV) from the State Department of Land and Natural Resource's Office of Conservation and Coastal Lands (OCCL) alleging that certain work occurred in the shoreline area of the Subject Property in violation of the Conservation District requirements.

We have also been working with the State Land Surveyor (SLS) in an effort to establish the shoreline boundary for the Subject Property. In this regard, while we do not have a certified shoreline, the SLS has asserted that the shoreline is as delineated on the attached map.

Based on this shoreline determination, we have been working with OCCL to reach a settlement of the NOCV. It is anticipated that the settlement will include the re-naturalization of the shoreline area to remove rocks, plantings and landscaping that were placed in those areas as part of the restoration of the park improvements. More specifically, as part of the OCCL settlement, the Healy Foundation will undertake the following activities:

1. Hand removal of the rock planters, stacked rock and shrub plantings in the shoreline as asserted by the SLS; and
2. Hand removal of the all emplaced soil from the area makai of a line five (5) feet mauka of the shoreline as determined by the SLS.

It is our understanding that the work described above can be taken prior to final action on the SMAA by the County. Nevertheless, we wanted to provide the Department with advance notice of the anticipated work. In connection with the work, while the soil will be fully removed from the Subject Property and the rocks will be removed from the shoreline area, we are requesting the Department's approval to temporarily store the rocks on the Subject Property pending the Department's action on the SMAA application. These rocks will be stockpiled in the southwest corner of the Subject Property, over 100 feet from the shoreline area. Should the SMA Minor Permit be approved, the rocks will be used to supplement the existing stacked rock walls around the planters and (possibly) for the continuation of the rock wall in the southwestern corner of the Subject Property to a location no closer than 75 feet from the shoreline as asserted by the SLS.

This is also to confirm our understanding that the existing park activities and improvements are exempt from the requirements of Hawaii Revised Statutes Chapter 343 (HRS) related to Environmental Impact Statements. The exemption is based upon the following provisions in the Hawaii Administrative Rules implementing Chapter 343:

1. §11-200-8(a)(4): "Minor alterations in the conditions of land, water, or vegetation", and
2. §11-200-8(a) (3) "Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same..."

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It is also our understanding that the existing improvements are exempt from the County of Hawaii shoreline setback requirements. The only improvements within close proximity to the shoreline area were the re-establishment of the landscaping and irrigation that were in existence prior to the tsunami. With the removal of all soil within five feet of the shoreline as part of the OCCL settlement, the landscaping improvements will not affect beach/shoreline processes or artificially fix the shoreline. The entire Subject Property is managed as a park area open to the public and therefore will not interfere with public access or public views to and along the shoreline. In light of the above, we understand that the existing landscape improvements are a minor activity that can be allowed without a shoreline setback variance.

All other improvements being considered under the SMAA application are a significant distance from the shoreline. The only other activities being requested for the Subject Property are the retention of a rock wall that was placed along a portion of the southern property line as well as retention of a community garden that is situated in the southwestern corner of the Subject Property. These improvements are over 110 feet mauka of the shoreline as asserted by the SLS and over 120 feet from the prior shoreline as established by a certified shoreline survey in 1985.

Inasmuch as no activity that would require a shoreline setback variance is proposed within close proximity of the shoreline, we are requesting that the submittal of a certified shoreline survey be waived as a condition of the Department's review of the enclosed SMAA application.

We look forward to the Department's timely review and action on the enclosed SMAA application. Please feel free to call me if you have any questions regarding the enclosed application or if you require any further information.

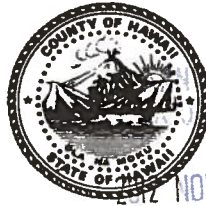
Sincerely,



William L. Moore, President

XC: Healy Foundation
Bud Quitiquit
Ron Terry

William P. Kenoi
Mayor



PLANNING DEPARTMENT
COUNTY OF HAWAII

BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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SAA

COR-12-913

SPECIAL MANAGEMENT AREA USE PERMIT ASSESSMENT APPLICATION

APPLICANT INFORMATION (*Applicant is the person or entity actually responsible for the proposed use, activity or operation—typically the landowner or lessee.*)

APPLICANT'S NAME(S): The Bill Healy Foundation

ADDRESS: PO Box 4525

CITY: Portland STATE: Oregon ZIP CODE: 97208

EMAIL: chealy8@comcast.net

PHONE NUMBER(S): bus: (503) 222-1899 hm /cell: (503) 784-6590

SIGNATURE(S): [Signature] DATE: 10/11/12

LANDOWNER INFORMATION SAME AS APPLICANT (*may leave this section blank*)

LANDOWNER'S NAME(S): Kamehameha Schools

ADDRESS: 78-6831 Alii Dr. , Suite 234

CITY: Kailua-Kona STATE: HI ZIP CODE: 96740

EMAIL: alsalave@ksbe.edu

PHONE NUMBER(S): bus: (808) 322-5300 hm /cell: (808) 756-5267

SIGNATURE(S): [Signature] DATE: 11/16/12

Landowner agrees to grant representatives of the County of Hawai'i the right to enter the property at reasonable business hours for the purpose of site inspection.

AUTHORIZED AGENT/ CONTACT PERSON

CONTACT NAME(S): William L. Moore

ADDRESS: 159 Halai Street

CITY: Hilo STATE: HI ZIP CODE: 96720

EMAIL: billmoore@hawaii.rr.com

PHONE NUMBER(S): bus: (808) 987-7336 hm /cell: _____

SIGNATURE(S): [Signature] DATE: 11/15/2012

TAX MAP KEY(S): (3) 8-2-006: 027

Special Management Area Use Permit Assessment Application
Background Information

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Purpose: To allow the continued use of the Subject Area as a privately owned beach park as well as retention of certain improvements, including a rock wall along a portion of the southern property line, a community garden area, landscaping and irrigation system, and related improvements.

Location: Tax Map Key: (3) 8-2-006: 027

Applicant: The Bill Healy Foundation

Total Cost/ Fair Market Value: \$25,000 (need to confirm this estimate)

1. Description of the proposed development.

The Manini Beach Park was formally established by the Bill Healy Foundation on the 32,567-square foot parcel ("Subject Area") in 2000 upon securing of a lease from Kamehameha Schools. The Park activities are a continuation of the informal use of the Subject Area as a park/recreation/public shoreline access that has been on-going since at least the late 1960s. The initial goal of the foundation was to provide a safe and respectful environment for community members and visitors to gather.

The purpose of the request is to allow the continued operation of the Subject Area as a privately owned beach park as well as the retention of certain improvements to the Subject Area, including a rock wall along a portion of the southern property line, a community garden area, landscaping and irrigation system, signage, picnic table(s) and related improvements. Attachment 1 is a site plan of the existing improvements that are proposed to be retained as part of this request.

A portable toilet has been relocated from the Subject Area to an adjacent property. However, in the future a portable toilet may be situated on the Subject Area. If so, we are requesting that as part of this request, it would be allowed to be placed in the southwestern portion of the Subject Area, away from the shoreline area.

The park hours of operation are typically from 6:00 am to 8:00 pm daily, 365 days per year. After hours, or on days where safe access to the park is limited by maintenance or other activities, the park gate remains unlocked so that the shoreline area is accessible to fisherman 24 hours a day. The few limits on the use of the park area include prohibiting commercial activities and disruptive behavior. Attachment 2 is a photograph of the entry sign welcoming people to the park and outlining the rules.

Parking is available along the County-owned road shoulders near to the park entrance. These areas have been used for parking for beach access prior to the formal establishment of the park activities by the Bill Healy Foundation. In addition, many of the residents of the Napo`opo`o area walk to the beach since it is one of the few accessible beaches in the area.

2. Statement of Objectives of the proposed project.

On March 11, 2011, a Japan generated tsunami struck Kealakekua Bay and resulted in a series of waves as high as 19 feet that swept through the Subject Area. The tsunami caused major damage including destruction of the landscaped areas as well as significant change in the shoreline area to the point that a white sand beach has been established in an area that previously consisted of lava rocks and coral cobble.

In response to the destruction of the park area, a group of volunteers undertook the restoration of the park improvements, including reestablishment of the grass lawn and landscaping. This work was undertaken without securing the necessary permits/approval from the County.

Therefore, the objective of this request is to ensure that the Bill Healy Foundation is in compliance with the applicable laws and regulations and to allow the continued operation of the Subject Area as a privately owned beach park as well as the retention of existing improvements.

3. Description of the anticipated impacts of the proposed project on the SMA:

a. Description of the area involved, including existing uses, structures, vegetation and other features.

The Subject Area is a rectangular parcel that was formally established as a beach park in 2000. The area was and is vacant of any permanent structures. It includes a sandy beach, a rocky shoreline with coral cobble and a grassed area that is used for passive recreational activities. Landscaping includes a grassed area interspersed with coconut, Kiawe, Naupaka and other shrubs and Monkey Pod trees. There is a small community garden area situated in the southwestern corner of the Subject Area. There is a rock wall that was placed on a portion of the southern property line, extending an existing wall that is situated on the adjacent property.

Access to the Subject Area is from one-lane roads extending through the adjacent residential areas.

b. Description of the surrounding area and land uses.

The surrounding areas include single family residential uses and vacant land. The area to the southwest is identified as the County of Hawaii's Napo'opo'o Park, a 5.60-acre parcel that is presently vacant and overgrown.

c. Description of how the proposed project will affect the area involved and surrounding areas.

The proposed request is to continue the use of the Subject Area as a beach park. The Manini Beach Park was formally established in 2000 and has been continuously used as a park since that time. Prior to the Bill Healy Foundation supporting the park activities, the Subject Area was used for beach access on an informal basis. No further improvements or activities are being

proposed as part of this request. Accordingly, we believe that there will no further impact to the area and surrounding areas from the approval of this request.

d. Description of the impacts which cannot be avoided and mitigating measures proposed to minimize that impact.

The approval of this request will not create any change to the Subject Area and therefore will not create any additional impacts.

e. Alternatives to the proposed project.

The Subject Area is with the County's Single Family Residential zoned district. If the existing park uses are not allowed to continue, the Subject Area could be developed with a single family dwelling.

f. Any irreversible and irretrievable commitment of resources.

The approval of this request will not create any change to the Subject Area and therefore will not result in any irreversible and/or irretrievable commitment of resources.

4. Relationship of the proposed development to the objectives and policies as contained in Chapter 205A, HRS and the SMA Guidelines:

a. Recreational and Visual Resources

The Subject Area consists of a sandy beach area, rocky shoreline and landscaped areas, including grassed lawn and shade trees. The approval of the request will allow the continued use of the Subject Area for recreational uses and will protect visual resources by limiting further development activities. The continued use of the Subject Area as a beach park will protect the unique sandy beach as well as provide for management of the coastal resources through the hiring of a full time caretaker.

There is a 5.6-acre County property immediately adjacent to the Subject Area that is identified for future park use. However, the County property has not been developed because of lack of funding. Accordingly, the Manini Beach Park provides an alternative of a privately-held shoreline park available to the community and visitors to the area.

b. Historic Resources

No historic resources will be impacted by the approval of the request. The Subject Area has been disturbed in the past and has been landscaped. No additional improvements or ground disturbing activities are being proposed as part of this request. In addition, the Subject Area was completely inundated by the 2011 tsunami.

c. Scenic and Open Space Resources

The Subject Area consists of a sandy beach area, rocky shoreline and landscaped areas, including grassed lawn and shade trees. The approval of the request will allow the continued use of the Subject Area for recreational uses and serve to preserve and maintain the shoreline open space and scenic resources.

d. Coastal Ecosystems

The approval of the request is not anticipated to have any impacts on the Special Management Area. The Manini Beach Park area includes a sandy beach area along the eastern portion of the property and an open area with grassed lawn and shade trees in the western portion. Improvements are limited to a portion of a rock wall, community garden and an irrigation system.

The only improvement within close proximity of the shoreline area was the re-establishment of the landscaping and irrigation that was in existence prior to the tsunami. Regardless of its prior location, the soil placed near the shoreline will be removed. Accordingly, the landscaping improvements will not affect beach/shoreline processes or artificially fix the shoreline. The entire Subject Area is managed as a passive park open and, therefore, will not interfere with public access or public views to and along the shoreline.

All other improvements being considered under the SMAA application are a significant distance from the shoreline. The only other activities being requested for the Subject Area are the retention of a rock wall that was placed along a portion of the southern property line as well as a community garden that is situated in the southwestern corner of the Subject Area. These particular improvements are over 120 feet mauka of shoreline as established by a certified shoreline survey in 1985.

e. Economic Uses

The continuation of the beach park use will minimize adverse social, visual and environmental impacts on the coastal zone management area. The operation as a private beach park provides a significant benefit to the surrounding community and visitors to the area. It also provides an economic benefit through the hiring of a full time manager and part-time caretaker as well as providing resources to Kamehameha Schools through the lease payments.

f. Coastal Hazards

The Subject Area is with the VE flood zoned, which is defined as a coastal flood zone with velocity hazard. The proposed park activities will not increase the flood hazard since no improvements are proposed except for the retention of an existing wall and community garden area. The continuation of the park uses will minimize the potential for damage from coastal hazards since no improvements are proposed.