

William P. Kenoi
Mayor



FILE COPY

JUL 23 2013

Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
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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

MEMORANDUM

TO: Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

FROM: County of Hawai'i Director of Planning

SUBJECT: Exemption Declaration

DATE: June 12, 2013

AGENCY OR APPLICANT ACTION

Check applicable box

- This exempted action is an agency action as defined by Section 343-5(b), HRS, and Section 11-200-5, HAR
- This exempted action is an applicant action as defined by Section 343-5(c), HRS, and Section 11-200-6, HAR

SPECIFY EXEMPTION CLASS

Check applicable box

- The Exemption Declaration for the action described below is based on the Exemption List for the [name of agency], reviewed and concurred to by the Environmental Council on [date of concurrence].
 - Exemption List Class ____.
 - Item Number ____
 - Applicable language from the exemption list:
- The Exemption Declaration for the action described below is based on the consultation process prescribed by Section 11-200-8(a), Hawai'i Administrative Rules (HAR), Exemption Class: 11-200-8(A) (4), 11-200-8(A) (3).

DESCRIPTION OF ACTION

Proposing Agency or Applicant: William L. Moore/ The Bill Healy Foundation

Project Name: Continued use of privately owned beach park and retention of certain as-built improvements including a rock wall along a portion of the southern property line, a community garden area, landscaping and irrigation system, and related improvements.

Address/Location: Kahauloa 1st, South Kona, Hawai'i

Anticipated Start Date: Not applicable

Anticipated End Date: Not applicable

Island and District: Hawai'i, South Kona

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

All Necessary Permits and Approvals: Special Management Area (SMA) Minor Use Permit, Department of Land and Natural Resources Office of Conservation and Coastal Lands Corrective Actions of Civil Resource Violation HA 4 12-36.

NARRATIVE

Describe the action and why it qualifies for the exemption:

The applicant proposes the continued use of the subject property as a privately owned beach park as well as the approval of as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, picnic tables and related improvements. In addition, as a corrective action to an enforcement case with the Department of Land and Natural Resources Office of Conservation and Coastal Lands (DLNR OCCL), the applicant will remove all emplaced soil from an area 5 feet mauka of the DLNR-proposed shoreline. This will include naturalization of the shoreline by hand removal of the planters, stacked rock walls, and planted shrubbery.

On March 11, 2011, a Japan generated tsunami struck the Kealahou Bay area. The tsunami caused major damage. In response to the destruction of the subject park area, a group of volunteers undertook the restoration of the park improvements, including the reestablishment of the grass lawn and landscaping. This work was undertaken without securing the necessary permits/ approvals.

A portion of this activity has occurred within the shoreline setback area. However, this minor activity does not affect beach processes or artificially fix the shoreline and does not interfere with public access or public views to and along the shoreline.

The Planning Department consulted with the Department of Public Works (DPW) regarding the Planning Director's "Declaration of Exemption" from the preparation of an EA for the subject project. The Planning Department determines that the proposed action will probably have minimal or no significant effect on the environment and hereby exempts the applicant from the preparation of an EA for the proposed project. No uses, activities, or development, other than those described in the application, shall be exempt from environmental review under Hawai'i Revised Statutes (HRS) Chapter 343.

RECEIVING ENVIRONMENT

Describe the site, including any impacts on the receiving environment:

The subject parcel consists of 32,587 square feet. It is zoned Single-Family Residential (RS-15) by the County of Hawai'i. In addition, the property is designated Urban by the State Land Use Commission and is designated Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The subject property is located entirely within the SMA and has frontage along the coastline. In addition, the subject property is located within Flood Zones "VE and AE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency.

The project is not anticipated to affect the surrounding properties as no further improvements or activities are being proposed.

ENVIRONMENTAL ANALYSIS

I have considered the potential effects of the proposed project and all related activities against the criteria checked below:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Land Use and Zoning Conformance | <input checked="" type="checkbox"/> Public Beach Access |
| <input checked="" type="checkbox"/> Traffic (Vehicles, Bicycles, Pedestrian) | <input checked="" type="checkbox"/> Cultural Resources and Practices |
| <input checked="" type="checkbox"/> Infrastructure (Roads, Buildings, Utilities) | <input checked="" type="checkbox"/> Visual/Aesthetic |
| <input checked="" type="checkbox"/> Air Quality Pollutant Emissions | <input checked="" type="checkbox"/> Environmental Justice |
| <input checked="" type="checkbox"/> Noise Emissions | <input checked="" type="checkbox"/> Rare, Threatened, and/or Endangered Species |
| <input checked="" type="checkbox"/> Solid, Hazardous, and Liquid Waste Management | <input checked="" type="checkbox"/> Surface and Ground Water Resources |
| <input checked="" type="checkbox"/> Social | <input checked="" type="checkbox"/> Wetlands |
| <input checked="" type="checkbox"/> Economic | <input checked="" type="checkbox"/> Floodplains |
| <input checked="" type="checkbox"/> Health and Safety | <input checked="" type="checkbox"/> Riparian/Coastal Resources |
| <input checked="" type="checkbox"/> Recreation | <input checked="" type="checkbox"/> Other |

Comments/summary of impact analysis: The proposed development is consistent with the objectives, policies, and Special Management Area (SMA) guidelines of Chapter 205A, Hawai'i Revised Statutes (HRS). 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.

MITIGATION

Describe all mitigation measures and best management practices planned to address impacts during the project activities and after project completion:

1. A certification, accepted by the Department of Public Works, for compliance with Chapter 27 of Hawai'i County Code shall be submitted to this department within **ninety (90) days** of the date of this permit. If the certification is not received within ninety (90) days, the applicant shall have thirty (30) days to completely remove the rock wall along a portion of the southern property line. Failure to remove the rock wall shall result in Penalties as provided for in PC Rule 9-17, Penalties.
2. Other than the approved as-built landscaping and irrigation improvements, no land alteration, grubbing, demolition or construction activities, including, but not limited

to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to PD Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.

3. No wheel or track motorized heavy equipment shall be used in the shoreline setback area.
4. Any portable toilet facility placed on the property shall not be allowed in the shoreline setback area and shall be maintained in good working condition by a company which is registered as a wastewater and wastewater sludge pumper and hauler with the State of Hawai'i Department of Health.
5. Within not more than 30 days from the approval of this permit, the applicant shall submit a public access plan for the approval of the Planning Director that will provide pedestrian public access to and along the shoreline on the subject property. A copy of our "What Should be Included in a Public Access Plan" guide is enclosed for your reference.

CONSULTATION

The following parties have been consulted about this declaration exemption (Name, affiliation, consultation date):

1. County of Hawai'i – Department of Public Works, December 12, 2012;

EXEMPT DECLARATION

The direct, cumulative, and potential impacts of the action described above have been considered pursuant to Chapter 343, Hawai'i Revised Statutes and Chapter 11-200, Hawai'i Administrative Rules. I declare that the action described above will have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment.



DUANE KANUHA
Planning Director

JUN 12 2013

Date

- This document is on file in our office and is available for public review.
- This document has been submitted to the Office of Environmental Quality Control for publication in The Environmental Notice.

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

BM
PLANNING DEPARTMENT
COUNTY OF HAWAII
2013 APR 22 AM 10:09

DATE: April 22, 2013

Memorandum

TO : B. J. Leithead-Todd, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief
Engineering Division 

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 12-000913)
Applicant: Bill Healy Foundation
Location: Kahauloa1st, South Kona, Hawaii
TMK: 3 / 8-2-006:027

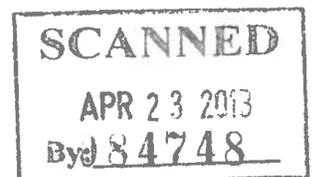
We reviewed the subject application and our comments are as follows:

We have determined that the subject property is located within Flood Zones "VE and AE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The above information is based on the most recent FIRM for the County of Hawaii. The "As-Built" CRM wall the applicant wishes to maintain in place along the southerly property line is in the AE Zone and is an encroachment or obstruction, subject to the requirements of Chapter 27 of Hawaii County Code. Certification by a licensed Civil Engineer is required in conformance to Section 27-18c (Encroachments).

We concur with Planning Directors HRS Chapter 343 Declaration of Exemption.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 323-4851.

KE
copy: ENG-HILO/KONA



What should be included in a Public Access Plan

Each situation will be different, depending on permit conditions, the type of access it is, and its location. This list is intended to guide the applicant in creating a Public Access Plan that is consistent with intent of Chapter 34 (H.C.C.) and Chapter 205-A (H.R.S.). The applicant is responsible for the creation and submittal of a comprehensive and complete Public Access Plan acceptable to the Planning Director.

Location –

- A required public access easement must be sufficiently described by metes and bounds and encumbered to ensure accessibility from a public right-of-way. Metes and bounds descriptions and formal easements are not always necessary for SMA permits.
- In Subdivision maps, the easements should be clearly noted as “Public Access.” Any public access plan required by condition of a permit that does not require the granting of an easement shall include a map or site plan that clearly delineates the Public Access.
- When recordation is required, the Applicant shall provide the Planning Department with a copy of the recorded document.

Construction –

- The plan shall include a timeframe for completion of any required construction of the access as well as specifics on the type and width of surfacing, landscaping, accessory amenities, etc.

Parking –

- The plan must address the need for parking, including, but not limited to, the number of spaces, surfacing, and ADA accessibility.

Hours –

- The plan must specify the hours of availability for the Public Access.

Signage & sign replacement –

- The plan shall identify what Shoreline Public Access signage, if any, shall be installed and who will be responsible for its purchase installation, maintenance and replacement. Basic SPA signs may be purchased from the County via the Planning Department depending on availability. Otherwise, the Planning Department will provide the applicant with appropriate signage specifications and provider information so the applicant may acquire signage independently.

Rules –

- Any special or site specific rules the applicant deems necessary shall be clearly articulated in the plan and approved by the Planning Director

Maintenance responsibility –

- The plan shall clearly identify who is responsible for any maintenance requirement to ensure the required Public Access and any required amenities remain in a suitable condition for use as they are intended.

- 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, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

We commend the property owner for voluntarily providing access to the shoreline. In an effort to provide public access consistent with other County public access locations, the gate placed at the entrance shall remain open to the public from 6:00am to 8:00pm, as stated in the application. In addition, we will keep the provided hours of operation, restrictions on use, and signage on file in our office.

The estimated project cost of approximately \$25,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated April 22, 2013, states the following:

"We reviewed the subject application and our comments are as follows:

We have determined that the subject property is located within Flood Zones "VE and AE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The above information is based on the most recent FIRM for the County of Hawai'i. The "As-Built" CRM wall the applicant wishes to maintain in place along the southerly property line is in the AE Zone and is an encroachment of obstruction, subject to the requirements of Chapter 27 of Hawai'i County Code. Certification by a licensed Civil Engineer is required in conformance to Section 27-18c (Encroachments).

We concur with Planning Directors HRS Chapter 343 Declaration of Exemption."

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 13-000269 is hereby approved to allow the continued use of the subject property as a privately owned beach park as well as the approval of as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, picnic tables and related improvements on the subject property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 13-000269** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. A certification, accepted by the Department of Public Works, for compliance with Chapter 27 of Hawai'i County Code shall be submitted to this department within **ninety (90) days** of the date of this permit. If the certification is not received within ninety (90) days, the applicant shall have thirty (30) days to completely remove the rock wall along a portion of the southern property line. Failure to remove the rock wall shall result in Penalties as provided for in PC Rule 9-17, Penalties.

4. Other than the approved as-built landscaping and irrigation improvements, no land alteration, grubbing, demolition or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to PD Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
5. As required by PD Rule 11-8 (b), the work within the shoreline setback area shall be completed within one (1) year from the date of this determination of minor structure or activity within the Shoreline Setback Area.
6. No wheel or track motorized heavy equipment shall be used in the shoreline setback area.
7. Any portable toilet facility placed on the property shall not be allowed in the shoreline setback area and shall be maintained in good working condition by a company which is registered as a wastewater and wastewater sludge pumper and hauler with the State of Hawai'i Department of Health.
8. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and PC Rule 9. This includes the determination of the shoreline setback area.
9. Within not more than 30 days from the approval of this permit, the applicant shall submit a public access plan for the approval of the Planning Director that will provide pedestrian public access to and along the shoreline on the subject property. A copy of our "What Should be Included in a Public Access Plan" guide is enclosed for your reference.
10. The approved public access plan shall be memorialized in a Shoreline Public Access Agreement document recorded with Bureau of Conveyances.
11. Artificial light from exterior lighting fixtures, including, but necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Chapter 205A-71(b), Hawai'i Revised Statutes.
12. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
13. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:

- a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
14. Any deviation from the above conditions will automatically result in the termination of this approval and the applicant shall be responsible to restore the area to its original condition within 30 days of notice of termination by the Planning Director. Failure to abide by the notice of termination shall result in Penalties as provided for in PC Rule 9-17 and/or PD Rule 11-14, Penalties.

APPROVED:



DUANE KANUHA
Planning Director

JUN 12 2013

Date

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
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PLANNING DEPARTMENT

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

May 30, 2013

Mr. William L. Moore
159 Halai Street
Hilo, HI 96720

Dear Mr. Moore:

**SUBJECT: Special Management Area Use Permit Assessment Application (SAA 12-000913)
Special Management Area Minor Use Permit (SMM-13-000269)**

Applicant: The Bill Healy Foundation

Landowner: B.P. Bishop Estate Trustees Kamehameha Schools

**Request: Continued Use of Privately Owned Beach Park and Retention
of Certain As-Built Improvements Including a Rock Wall
Along a Portion of the Southern Property Line, a Community
Garden Area, Landscaping and Irrigation System, and Related
Improvements.**

Tax Map Key: (3) 8-2-006:027, Kahauloa 1st, South Kona, Hawai'i

This is in response to your Special Management Area Use Permit Assessment Application, received on November 16, 2012, to allow the continued use of the subject property as a privately owned beach park as well as the approval of as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, picnic tables and related improvements on the subject property. In addition, as a corrective action to an enforcement case with the Department of Land and Natural Resources Office of Conservation and Coastal Lands (DLNR OCCL), the applicant will remove all emplaced soil from an area 5 feet mauka of the DLNR-proposed shoreline. This will include naturalization of the shoreline by hand removal of the planters, stacked rock walls, and planted shrubbery. Also, we understand that the applicant is currently working with an engineer on the final design of the as-built rock wall to comply with Chapter 27 of the Hawai'i County Code.

The subject parcel consists of 32,587 square feet and is zoned RS-15 (Single-Family Residential). The parcel is located in the State Land Use Urban District and designated as Open by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. In addition, the subject parcel is located entirely within the Special Management Area (SMA) with frontage along the shoreline.

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Mr. William L. Moore
June 12, 2013
Page 2

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (A) and PC Rule 9-4 (e) (1) (B), "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste,*" and "*Grading, removing, dredging, mining, or extraction of any materials,*" are not exempt from the definition of "development." Therefore, the as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, and picnic tables will require a review against the SMA rules and regulations. In addition, the applicant's naturalization of the shoreline by hand removal of all emplaced soil, planters, stacked rock walls, and planted shrubbery requires a review against SMA rules and regulations.

Determination of Minor Activity within Shoreline Setback Area:

Pursuant to HRS 205A-45 and Planning Department (PD) Rule 11-5 (a) "*All lots which abut the shoreline shall have a minimum shoreline setback line of forty feet.*" Please note that the shoreline setback for any future developments on the subject parcels will be subject to a valid shoreline certification and will be determined during the SMA assessment of that project.

Some of the as-built landscaping and irrigation improvements occurred within the 40-foot shoreline setback area. However, the improvements do not affect beach processes, artificially fix the shoreline, or interfere with public access or public views to and along the shoreline. Therefore, the improvements are considered minor and pursuant to PD Rule 11-8, will not require a Shoreline Setback Variance.

Further, since the as-built improvements are considered minor and are proposed inland from the DLNR-proposed shoreline, the requirement to submit a current certified shoreline survey is waived.

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

According to HRS Chapter 343-5, an environmental assessment shall be required for actions that propose any use within a shoreline area. However, Hawai'i Administrative Rules (HAR), Chapter 200, Environmental Impact Statement Rules, provides a list of classes of action that may be exempt from the preparation of an environmental assessment (EA). Among the list of exempt classes of action listed in HAR Chapter 200 are:

- *11-200-8(A)(4) Minor alterations in the conditions of land, water, or vegetation;*
- *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, including, but not limited to:
 - a. *Single-family residences less than 3,500 square feet not in conjunction with the building of two or more such units;**

Mr. William L. Moore
June 12, 2013
Page 3

- b. Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;*
- c. Stores, offices, and restaurants designed for total occupant load of twenty persons or less per structure, if not in conjunction with the building of two or more structures; and*
- d. Water, sewage, electrical, gas, telephone, and other essential public utility service extensions to serve such structures or facilities; accessory or pools, and fences; and acquisition of utility easements.*

The Planning Department consulted with the Department of Public Works (DPW) regarding the Planning Director's "Declaration of Exemption" from the preparation of an EA for the subject project. The Planning Department determines that the as-built improvements will probably have minimal or no significant effect on the environment and hereby exempts the applicant from the preparation of an EA for the proposed project. No uses, activities, or development, other than those described in the application, shall be exempt from environmental review under HRS, Chapter 343.

In summary, the as-built improvements will require an SMA Minor Permit. For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.13-000269 is hereby issued for the SMA approval of the continued use of the subject property as a privately owned beach park as well as the approval of as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, picnic tables and related improvements on the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Bethany Morrison of this department at (808) 961-8138.

Sincerely,



DUANE KANUHA
Planning Director

BJM:cs

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Enclosures - SMM No. 13-000269
HRS Chapter 343 Declaration of Exemption
DPW Memorandum dated April 22, 2013
Shoreline Public Access Plan Guide

Mr. William L. Moore
June 12, 2013
Page 4

cc w/encls: Long Range Planning
Planning Division
Planning Department- Kona Office

State of Hawai'i
Department of Health
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

The Bill Healy Foundation
c/o Bill Healy
14075 NW Old Germantown Road
Portland, OR 97231

BP Bishop Estate Trustees
Kamehameha Schools
PO Box 3466
Honolulu, HI 96801

cc ltr only: Mr. Jesse K. Souki, Director
Office of Planning, DBEDT
State of Hawaii Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

William P. Kenoi
Mayor



Duane Kanuha
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Deputy Director

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Special Management Area Minor Permit No. 13-000269

Project: Continued Use of Privately Owned Beach Park and Retention of Certain As-Built Improvements Including a Rock Wall Along a Portion of the Southern Property Line, a Community Garden Area, Landscaping and Irrigation System, and Related Improvements

Applicant(s): The Bill Healy Foundation

Land Owner(s): B.P. Bishop Estate Trustees, Kamehameha Schools

Location: Kahauloa 1st, South Kona, Hawai'i

TMK: (3) 8-2-006:027 **Land Area:** 32,587 square feet

Applicant's Request

1. Project Description:

The applicant requests the continued use of the subject property as a privately owned beach park as well as the approval of as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, picnic tables and related improvements on the subject property. In addition, as a corrective action to an enforcement case with the Department of Land and Natural Resources Office of Conservation and Coastal Lands (DLNR OCCL), the applicant will remove all emplaced soil from an area 5 feet mauka of the DLNR-proposed shoreline. This will include naturalization of the shoreline by hand removal of the planters, stacked rock walls, and planted shrubbery on the subject property. Also, the applicant is currently working with an engineer on the final design of the as-built rock wall to comply with Chapter 27 of the Hawai'i County Code.

2. Purpose of Project:

As acknowledged by the applicant, the property is being used as a privately owned beach park. On March 11, 2011, a Japan-generated tsunami struck the Kealakekua Bay area. The tsunami caused major damage. In response to the destruction of the subject park area, a group of volunteers undertook the restoration of the park improvements, including the reestablishment of the grass lawn and landscaping. This work was undertaken without securing the necessary permits/ approvals. The applicant is working to ensure compliance with applicable laws and regulations.

3. **Project Valuation:** \$25,000.

4. **Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4 (e) (1) (A) and PC Rule 9-4 (e) (1) (B), "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste,*" and "*Grading, removing, dredging, mining, or extraction of any materials,*" are not exempt from the definition of "development." Therefore, the as-built improvements including a rock wall, a community garden area, landscaping and irrigation system, signage, and picnic tables will require a review against the SMA rules and regulations. In addition, the applicant's naturalization of the shoreline by hand removal of all emplaced soil, planters, stacked rock walls, and planted shrubbery requires a review against SMA rules and regulations.

State and County Plans

1. **State Land Use District:** The subject parcel is designated Urban by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open.
3. **County Zoning:** The subject parcel is zoned RS-15 (Single-Family Residential) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the Special Management Area (SMA) with frontage along the shoreline.
5. **Flood Zone:** VE and AE.

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

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- The proposed development is consistent with the Hawai'i 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.