

STATE OF HAWAI`I
DEPARTMENT OF LAND AND NATURAL RESOURCE
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai`i

180-Day Exp. Date: Oct. 6, 2014

September 12, 2014

**Board of Land and
Natural Resources
State of Hawai`i
Honolulu, Hawai`i**

REGARDING: Time Extension Request for Conservation District Use Application (CDUA) OA-3698: Waimalu Nature Center and Zipline Canopy Tour

APPLICANT: Waimalu Holding Company LLC

AGENT: Ron Terry, Geometrician Associates
Gregory W. Kugle, Damon Key Leong Kupchak Hastert

LOCATION: Waimalu, `Ewa District, O`ahu

TMK: (1) 9-8-073:001

AREA OF PARCEL: 447 acres

AREA OF USE: Nature Center: 1200 square feet; Paving of existing 4WDroad: 700 linear feet; zip lines: approximately 0.5 linear miles

SUBZONE: Resource and General

DESCRIPTION OF AREA AND PROPOSED USE

Waimalu Holding Company proposes to build and operate the "Waimalu Nature Center and Zipline Canopy Tour" at Waimalu, Honolulu District, O`ahu, TMK (1) 9-8-073:001. The project area is in the Resource and General Subzones of the State Land Use Conservation District.

The 447-acre parcel lies above the residential Royal Summit and Newtown residential subdivisions. The only developed infrastructure on the parcel is a dirt access road and Hawaiian Electric Company's (HECO) 138kV towers and power lines. Unimproved and unofficial mountain bike and hiking trails also run along the ridgeline.

The applicant proposes to construct a nature center / way station and zipline course on a portion of the property. The 1200 square-foot nature center is proposed for a location 700 feet mauka of the terminus of Ka`ahele Street. The seven-run zipline course is proposed along a stretch of land running from 0.7 to 1.2 miles mauka of the terminus.

HISTORY

On January 10, 2104 the Department notified the applicant that:

1. The proposed use was an identified land use in the Resource subzone of the Conservation District, pursuant to §13-5-24, Hawai'i Administrative Rules (HAR), R-8, BOTANICAL GARDENS, PRIVATE PARKS, AND NATURE CENTERS (D-1), *For a profit or non-profit establishment featuring plants or other natural resources and offering tours or other nature-based, outdoors educational and recreational activities, primarily during daylight hours. Facilities may include access road, restrooms, shelters, and not more than one structure for housing, administration, and maintenance not to exceed 1,200 square feet, under a management plan approved simultaneously with the permit, is also required.*

This use requires a permit from the Board of Land and Natural Resources, who have the final authority to grant, modify, or deny any permit. This use also requires a management plan, which will be presented to the Board along with the application.

2. Pursuant to §13-5-40 of the HAR, a Public Hearing would be required.
3. Pursuant to HAR §13-5-31 *Permit applications*, the permit required that an environmental assessment be carried out.
4. It is the applicant's responsibility to comply with the provisions of Hawaii's Coastal Zone Management law (HRS Chapter 205A) pertaining to the Special Management Area (SMA) requirements administered by the various counties.

The draft environmental assessment (DEA) for the project was published in the January 23, 2014 edition of the *Environmental Notice*. At the same time OCCL distributed the application for public and agency comments. The application and supporting documents were also made available on OCCL's website, as well as the Hawai'i State and Pearl City Public Libraries.

OCCL conducted a public hearing on February 19, 2014 at the Waimalu Elementary School. OCCL estimates that over 200 members of the public attended.

On March 6, 2015 OCCL forwarded the written comments that had been received to the applicant.

On April 23, 2014 the applicant submitted their Final Environmental Assessment (FEA) for the project. The FEA contained written responses to all the comments that had been received.

After reviewing the FEA DLNR determined that the proposal triggered the Significance Criteria outlined in Hawai'i Administrative Rules Title 11 Chapter 200, ENVIRONMENTAL IMPACT STATEMENT RULES. On May 13, 2014 the applicant was notified that DLNR was unable to issue a Finding of No Significant Impact (FONSI). OCCL recommended that the applicant issue an Environmental Impact Statement Preparation Notice (EISPN). This correspondence is attached as **Exhibit 1**.

On June 9, 2013 the applicant requested a 90-day extension to the processing period for the CDUA. Per this request, the Department extended the processing deadline for CDUA OA-3698 from July 8, 2014 to October 6, 2014.

On September 3, 2014 the applicant requested an additional year to process the CDUA, which they state should give them enough time to complete the EIS process.

AUTHORITY FOR GRANTING TIME EXTENSIONS

The authority for the granting of time extensions is provided in §13-5-43, Hawaii Administrative Rules (HAR), which allows for a permittee to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, pursuant to HAR §13-5-43 (c): *Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based upon supportive documentation from the applicant*

BASIS FOR TIME EXTENSIONS AND DISCUSSION

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

OCCL understands that the EIS process can be time consuming. The next step in the process is for OCCL to transmit the final environmental assessment and environmental impact statement preparation notice (FEA-EISPN) to the Office of Environmental Quality Control (OEQC) for publication in the *Environmental Notice*. Publication of the FEA-EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the applicant's action and to request to become consulted parties in the applicant's preparation of the draft environmental impact statement.

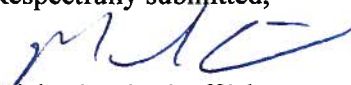
At the conclusion of the public consultation period on the FEA-EISPN the applicant will file a draft EIS with both OEQC and DLNR.

A one-year extension on the processing deadline should give the applicant time to complete the EIS process, although OCCL notes that they will need to authorize the publication of the FEA-EISPN soon.

RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVES the request by Waimalu Holding LLC for an a one year extension of the deadline for CDUA OA-3698 for the Waimalu Nature Center and Zipline Canopy Tour at Waimalu, 'Ewa District, O'ahu, TMK: (1) 9-8-073:001, so that the new processing deadline is October 5, 2015.

Respectfully submitted,


Michael Cain, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:


William J. Aila, Chairperson
Board of Land and Natural Resources

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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LAND
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ref:OCCL:MC

Ron Terry
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Hilo, HI 96721

CDUA OA-3698
MAY 13 2014

Dear Mr. Terry,

Subject: Recommendation to Proceed With Environmental Impact Statement Preparation Notice
Conservation District Use Application (CDUA) OA-3698
Waimalu Nature Center and Zipline Canopy Tour
Waimalu, 'Ewa District, O'ahu
TMK (1) 9-8-073:001

The Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) has reviewed the Final Environmental Assessment (FEA) submitted on behalf of the proposed Waimalu Nature Center and Zipline Canopy Tour at Waimalu, Honolulu District, O'ahu, TMK (1) 9-8-073:001.

We find that the proposal triggers the Significance Criteria outlined in Hawai'i Administrative Rules Chapter 200, ENVIRONMENTAL IMPACT STATEMENT RULES, and are unable to issue a Finding of No Significant Impact (FONSI).

Pursuant to §11-22-12 SIGNIFICANCE CRITERIA (B) In determining whether an action may have a significant effect on the environment, the agency shall consider every phase of a proposed action, the expected consequences, both primary and secondary, and the cumulative as well as the short-term and long-term effects of the action. In most instances, an action shall be determined to have a significant effect on the environment if it: (3) Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders; and (4) Substantially affects the economic welfare, social welfare, and cultural practices of the community or State

The stated purpose of the State's Environmental Policy is to *encourage productive and enjoyable harmony between people and their environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humanity, and enrich the understanding of the ecological systems and natural resources important to the people of Hawai'i.* [HRS §344-1].

As noted in previous correspondences, visitor facilities on O'ahu have traditionally been confined to Waikiki and other designated districts. The proposed revisions to the O'ahu General Plan identify five other secondary resort areas: Ko 'Olina, Kulima, Hoakalei at Ocean Pointe, Mākaha Valley, and Lā'ie. OCCL believes that any proposed visitor facilities outside of these designated areas need to be carefully studied for the impact they might have on the neighboring communities.

Many residents of the neighboring community have been vocal in their opposition to the proposal; OCCL received roughly eight comments in favor of the project and fifty opposed. Public testimony at the hearing held on February 24, 2014 was overwhelmingly opposed to the project. A common thread throughout involved concerns on the impact a large visitor recreational facility would have on the community.

OCCL notes that these concerns extend beyond the immediate potential impacts of the project as proposed, and dealt with the longer term impacts of establishing a visitor facility on the site. One would expect that any commercial facility would evolve over time to meet changing economic and social conditions and visitor expectations; OCCL thus also needs to expand its analysis from *What is the environmental and social impact of building a zipline facility at this time?* to *What is the long-term impact of establishing this parcel as a visitor-oriented recreational facility?*

Given the project's potential to substantially impact the economic and social welfare of the neighboring communities now and in the future, OCCL recommends that the applicant issue an Environmental Impact Statement Preparation Notice (EISP). Issues OCCL would like to see addressed include but are not limited to:

1. The social and economic impact that new visitor recreation facilities have on neighboring residential communities;
2. The potential impact of developing visitor facilities outside of the recognized resort areas of O'ahu;
3. The options for mitigating any of the above impacts; and
4. The long-term parameters for development of the parcel (e.g., what will happen when the market for zipline tours slows?).

Pursuant to HRS §183C-6, the one-hundred eighty day processing period for a CDUA may be extended by ninety days at the request of the applicant when environmental impact statements are required. Additional requests for extensions are subject to the approval of the land board.

Please let our office know how you wish to proceed. Should you have any questions, please contact Michael Cain at 587-0048.

Sincerely,



WILLIAM J. AILA, CHAIRPERSON
Board of Land and Natural Resources

c: OEQC