



*Dedicated to the conservation of coastal and marine environments,
emphasizing stewardship of the natural resources of Hanauma Bay*

Board of Land and Natural Resources
Dawn N.S. Chang, Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: MARCH 24, 2023

TIME: 9:15 AM

LOCATION: In person at 1151 Punchbowl St, Room 132
(Kalanimoku Building) online via ZOOM, livestream via YouTube

Re: Testimony in **opposition** to parts of Item K-3 amending CDUP OA-2957

March 20, 2023

Aloha Chair Chang and Members of the Board of Land and Natural Resources,

Friends of Hanauma Bay thanks you for allowing us to testify in opposition to the portion of the K-3 amendment requested by City and County of Honolulu [City] which would allow the City to "... provide the latest carrying capacity study to the Board of Land and Natural Resources upon request."

Founded in 1990, Friends of Hanauma Bay [FOHB] is the leading NGO advocate with local, state, and federal decision makers for the best stewardship of the natural resources of Hanauma Bay. FOHB also proposed and funds the first restoration project of endemic Hawaiian corals in Hanauma's history.

For almost twenty years, successive City Administrations have not complied with two key rulings affecting Hanauma Bay:



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(1) Condition 12 of DLNR's 2001 Conservation District Use Permit requiring the City to contract for annual updates to the baseline carrying capacity of the Hanauma Bay Marine Life Conservation District and provide updates to the BLNR. The City only began complying with this requirement of the permit in 2018, thereby losing 17 years of critical data on the impacts of almost unlimited visitors on the marine ecosystems in the Hanauma Bay Marine Life Conservation District.

(2) Requirements of the 2002 First District Federal Court Order (upheld in 2004 by the Ninth Circuit Court of Appeals) governing expenditures from the City's Hanauma Bay Nature Preserve Fund. Despite being upheld on appeal, the City did not comply with the Federal Court Order governing expenditures from the Hanauma Bay Nature Preserve Fund for sixteen years (2004 - 2020).

Without direct advocacy from Friends of Hanauma Bay over several years, City Administrations would continue to violate both DLNR's Conservation District Use Permit and the Federal Court Order governing expenditures from the Hanauma Bay Fund to the continued detriment of Hanauma Bay.

We fully acknowledge, applaud, and support the current Blangiardi City Administration and the leadership of City Department of Parks and Recreation Director Laura Thielen in moving toward full compliance with both the State permit and the Federal Court Order. However, Hawaii's mayors are term limited, and successive administrations over several years have proven that the City has not been committed to complying with State or Federal rulings regarding Hanauma Bay.

We are delighted for the City to continue publishing the annual Hanauma Bay Carrying Capacity Study updates on line. However, this Administration can not guarantee that its successors will comply with the permit since all of its predecessors did not. We therefore believe it is imperative to continue public oversight by the BLNR over adherence to this aspect of the permit by requiring the City to continue making annual presentations of these studies to the Board.

In September 2017, DLNR's Office of Conservation and Coastal Lands notified the City that "...Unless proposed improvements are for public health, safety and welfare or



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resource protection, the Department is not inclined to entertain any proposed improvements to Hanauma Bay until compliance with Conservation District Use Permit (CDUP) OA-2957 for improvements to Hanauma Bay Nature Preserve is completed. Specifically Board imposed condition #12 which states: "The applicant will contract for the continuation of the carrying capacity study and submit a yearly update of baseline data to the Board." Without direct Board oversight ensuring the studies continue, this moratorium could easily be forgotten or ignored.

In the continued absence of a State natural resource management plan for the Hanauma Bay Marine Life Conservation District, and DLNR staff dedicated to oversee its preservation, this mandatory annual review of ongoing carrying capacity studies is the only avenue readily available to the Board to receive updates on visitor impacts on the fragile marine ecosystems in the Bay; the status of the CIP moratorium; implementation of best practices recommendations from the studies; and critical insight into the commercialization of this treasured natural resource from community stewards including Friends of Hanauma Bay and the Hawaii Kai Neighborhood Board.

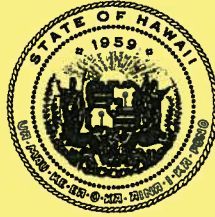
Please do not remove the requirement for the City to provide annual carrying capacity study updates of Hanauma Bay directly to the Board of Land and Natural Resources.

Thank you again for this opportunity to testify in opposition to parts of the proposed K-3 amendments, and mahalo for everything you do conserve, protect and restore Hanauma Bay!

With Aloha,

Lisa Bishop
President
Friends of Hanauma Bay

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

Correspondence: OA 18-41

Tessa Munekiyo Ng
Munekiyo Hiraga
305 High Street, Suite 104
Wailuku, HI 96793

SEP 22 2017

SUBJECT: Proposed Improvements at the Hanauma Bay Nature Preserve Located at Maunaloa,
O'ahu, TMK: (1) 3-9-012:002, 006, 012

Dear Ms. Munekiyo Ng:

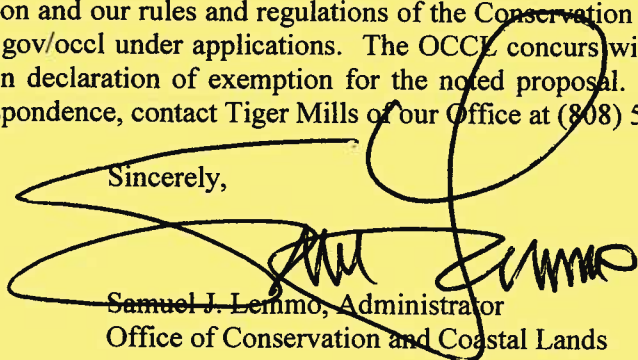
The Office of Conservation and Coastal Lands (OCCL) has reviewed your correspondence regarding the subject matter. According to your information the City & County of Honolulu is proposing to update the facilities to meet the current and projected needs of the Preserve based upon the recent Hanauma Bay Nature Park Master Plan Update, dated November 2014.

Unless proposed improvements are for public health, safety and welfare or resource protection, the Department is not inclined to entertain any proposed improvements to Hanauma Bay until compliance with Conservation District Use Permit (CDUP) OA-2957 for improvements to Hanauma Bay Nature Preserve is completed [Attached]. Specifically Board imposed condition #12 which states: "The applicant will contract for the continuation of the carrying capacity study and submit a yearly update of baseline data to the Board."

The Hanauma Bay Preserve Park lies within the General and Limited subzone of the Conservation District with the submerged land within the Bay within the Protective subzone. Regarding the proposed emergency generators, this land use appears to be an identified land use within the Conservation District and requires the filing for a Site Plan Approval (SPA) pursuant to the Hawai'i Administrative Rules (HAR), §13-5-22, P-9, STRUCTURES, ACCESSORY (B-1) Construction or placement of structures accessory to existing facilities or uses.

The Site Plan Approval (SPA) application and our rules and regulations of the Conservation District may be found on our website at dlnr.hawaii.gov/occl under applications. The OCCL concurs with the City's Department of Design and Construction declaration of exemption for the noted proposal. Should you have any questions regarding this correspondence, contact Tiger Mills of our Office at (808) 587-0382.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

C: Chairperson
ODLO/DAR
City- DPP/Parks & Rec



DEPT OF DESIGN & CONSTR
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

LAND DIVISION

P.O. BOX 621

HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

FEB 13 2001

File: CDUA OA-2957

Rae Loui, Director
Department of Design and Construction
City and County of Honolulu
650 S. King Street
Honolulu, HI 96813

Dear Ms. Loui:

SUBJECT: Conservation District Use Application (CDUA) #OA-2957 for Improvements to Hanauma Bay Nature Preserve, Oahu

I am pleased to inform you that on February 9, 2001, the Board of Land and Natural Resources approved your CDUA for Improvements to Hanauma Bay Nature Preserve, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. Before proceeding with any work authorized by the Board, the applicant shall submit four copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the

- applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. The applicant shall submit construction plans for any work within the State Highway right-of-way to the Department of Transportation;
 6. Any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been approved by the Department; further, all work and construction must be completed within three years of the approval;
 7. The applicant shall notify the Land Division in writing prior to the initiation, and upon completion, of the project;
 8. All mitigation measures set forth in the application materials and in the Final Environmental Impact Statement for this project are hereby incorporated as conditions of the permit;
 9. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 10. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
 11. The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
 12. The applicant will contract for the continuation of the carrying capacity study and submit a yearly update of baseline data to the Board.
 13. Grubbing and grading activities shall be conducted during the low rainfall months-April-October;
 14. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove

**BOARD OF LAND AND
NATURAL RESOURCES**

**CDUA OA-2957
Improvements to Hanauma Bay Nature Preserve**

to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

15. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during construction or operations, all work shall cease in the vicinity and the applicant shall immediately contact the State Historic Preservation Division;
16. The applicant shall replant or cover bare areas as soon as grading or construction are completed. New plantings will require soil amendments and fertilizers to become established;
17. Other terms and conditions as may be prescribed by the Chairperson; and
18. That failure to comply with any of these conditions may render this Conservation District Use Permit null and void; and
19. The applicant, within ninety (90) days of this decision, shall submit a report to the Board of Land and Natural Resources on the types of exhibits that will be incorporated into the exhibit areas.

Please contact Traver Carroll of our Planning Branch at 587-0439 should you have any questions on this matter.

Please acknowledge your receipt of this permit and acceptance of conditions by signing in the space provided below and returning a **copy** to us.

Sincerely,



DEAN UCHIDA, Administrator
Land Division

**BOARD OF LAND AND
NATURAL RESOURCES**

**CDUA OA-2957
Improvements to Hanauma Bay Nature Preserve**

Receipt acknowledged:

Sam Sui 2/16/01
Signature Date

cc: Oahu Board Member
DOH/OHA
DOCARE/HPD/DAR
C&C Department of Planning and Permitting
C&C Department of Parks and Recreation
Board of Water Supply
East Honolulu Community Coalition
Roy Benham
Beverly Palenapa