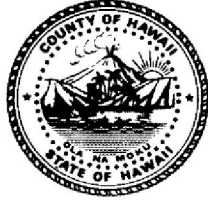


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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

January 17, 2023

Daniel Johnson
c/o Hawaii Unified Industries, LLC
84-1170 Farrington Hwy., Unit C-1
Waianae, HI 96792
VIA EMAIL

Dear Mr. Johnson:

SUBJECT: Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000136) and Issuance of SMA Exemption Determination
Applicant: Hawaii Unified Industries, LLC
Landowners: Tessa G and Robert P. Dye FBO Trusts/ Bank of Hawaii
Project: Rooftop Photovoltaic Power System
Tax Map Key: (3) 7-5-009:013, :019, :046 & 063, Bay Building at Royal Kona Resort, North Kona District, Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000136), submitted to this office on November 21, 2022. Additional information was received on December 28, 2022.

The four (4) subject parcels (13 – 0.39 ac., 19 – 0.18 ac., 46 – 0.70 ac., 63 – 0.31 ac.) encompass approximately 1.58-acres and are all zoned Resort-Hotel-7,500 square feet (V-.75) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcels are designated as both Open (ope) and Resort Node (ren) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

The project parcels are located within the Special Management Area (SMA); however, only one of the subject parcels (p. 63) is located within the “shoreline area” as defined by section 205A-41, Hawai'i Revised Statutes (HRS). Due to the location of the proposed work to be on the roof of an existing structure with no land-based activities, the Director has waived the requirement for a shoreline certification.

Proposed Project:

A review of our files indicates that the subject property contains the existing Royal Kona Resort “Bay Building” and related development such as landscaping. The project site is a portion of the Royal Kona Resort complex that includes numerous parcels.

Currently, the applicant is proposing the following activities:

- The proposed use is the installation of 294 solar panels to be placed on top of the existing Royal Kona Resort “Bay Building” as shown on the submitted plans. The 7,400 square foot array will be installed on the existing rooftop and will be concealed from sight below the existing 30-inch-high parapet wall.

The objective of the proposed project is to promote energy independence for the Royal Kona Resort.

Special Management Area Determination:

1. Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(1), relating to the Special Management Area, “*Development means any of the [listed] uses, activities, or operations on land or in or under water within the special management area. According to the application, the following definitions of “Development” can be applied to the proposed use:*
 - *Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste.*
 - *Construction, reconstruction, or alteration of the size of any structure.*
2. Pursuant to Planning Commission Rule 9-4(e)(3), “*any proposed use, activity, or operation listed in Section 9-4(e)(2) shall be deemed to be “Development” until the Director has determined it to be exempted from the definition of “development.”* According to 9-4(e)(2), “Development” does not include the following uses, activities, or operations, and therefore is determined to be exempt from the definition of “Development.”
 - *Non-structural improvements to existing commercial structure.*
3. Pursuant to Planning Commission Rule 9-4(e)(4), “*whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity or operation shall be defined as “development” for the purposes of this rule.*”

Based on the information provided, the Director finds that the proposed installation of PV panels on an existing building roof is exempt from the definition of “development” and will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

However, please note that any substantive changes to the improvements listed in the current application may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

While further review of the proposed activities against the Special Management Area rules and regulations will not be required at this time, all other applicable Zoning and Building Code requirements must be satisfied. Additionally, pursuant to Planning Commission Rule 9-10(g), *“the Director may impose certain conditions with the exemption determination to assure that the proposed use, activity or operation does not have a substantial adverse effect on the Special Management Area.”*

The Director has added the following conditions for the proposed project:

Director’s Conditions:

1. The applicant(s), its successor(s), or assign(s) (Applicant) shall be responsible for complying with all stated conditions of approval.
2. The Applicant shall secure building permits for the proposed project within two (2) years from the date of this determination. If building permits have not been secured within that two (2) year period, this determination is automatically null and void, and a new Special Management Area Assessment Application must be submitted for review and approval.
3. Any substantive changes or further development, including but not limited to, the design and size of the improvements not included in this determination shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
4. That in issuing this determination, the Department has relied on the information and data that the Applicant has provided in connection with this determination. If, subsequent to issuance of this determination such information and data prove to be false, incomplete, or inaccurate, this determination may be modified, suspended, or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings.
5. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

Daniel Johnson
c/o Hawaii Unified Industries, LLC
January 17, 2023
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If you have questions regarding this document, please feel free to contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,

Zendo Kern

Zendo Kern (Jan 17, 2023 15:16 HST)

ZENDO KERN
Planning Director

AJR:jaa

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Cc (via email): GIS Section