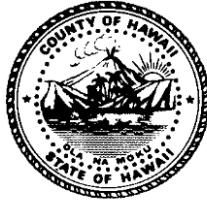


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## County of Hawai'i

### PLANNING DEPARTMENT

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August 24, 2023

Jason Knable  
c/o Carlsmith Ball LLP  
121 Waianuenue Avenue  
Hilo, HI 96720

Dear Mr. Knable:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(PL-SAA-2023-000175)**

**Applicant(s): Jason Knable**  
**Landowner(s): BP Bishop Estate**  
**Project: Construction of Four (4) New At-Grade Plunge Pools**  
**Tax Map Key: (3) 7-2-010:004**  
**Location: 72-100 Ka'ūpūlehu Drive, Ka'ūpūlehu, North Kona, Island  
of Hawai'i**

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We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2023-000175), submitted to this office on August 10, 2023. The 39.144-acre subject parcel is zoned Resort-Hotel-Minimum 2,250 sq. ft. per rentable unit (V-2.25) and Open (O) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as "Resort Node" (ren) and "Open" (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

#### **Proposed Project:**

The applicant is proposing to construct four (4) new at-grade plunge pools fronting Suites 902, 1002, 2602 and 3102. The work includes work areas that are approximately 400 square feet in size. The staging area for all construction activities will occur within an approximately 14,945 square foot area located at in the Upper Employee Parking Lot C on the subject property.

**Shoreline Area Determination:**

The subject parcel is within the County Special Management Area (SMA), as well as situated on a shoreline parcel pursuant to Section 205A-22, Hawai'i Revised Statutes (HRS). Due to the location of the proposed project being approximately in range from 90 feet to 225 feet from the shoreline, the Director has waived the requirement for a Shoreline Certification for this proposed activity.

**Special Management Area Determination:**

Special Management Area Use Permit No. 271 & 272 was originally granted by the Planning Commission on July 29, 1988, to allow the construction of hotel complexes, golf course/clubhouses, infrastructure for resort use, public access, and other related improvements.

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.*
  - *Grading, removing, dredging, mining, or extraction of any materials, and*
  - *Construction, reconstruction, demolition, 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."
  - *Structural and non-structural improvements to existing single-family residences, where otherwise permissible.*
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 construction of four (4) at-grade plunge pools 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.

Jason Knable  
c/o Carlsmith Ball LLP  
August 24, 2023  
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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.

If you have questions regarding this document, please contact Tracie-Lee Camero of this office at (808) 961-8166 or via email at [Tracie-Lee.Camero@hawaiicounty.gov](mailto:Tracie-Lee.Camero@hawaiicounty.gov).

Sincerely,

*Zendo Kern*  
Zendo Kern (Aug 24, 2023 09:33 HST)

ZENDO KERN  
Planning Director

TC:mads  
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Enclosures: Exhibit 1 - Site Plan

cc via email w/enclosures: Planning Department-Kona  
GIS Section



## Hualalai Resort Plunge Pool Locations and Staging Area

