



County of Hawai'i

LEEWARD PLANNING COMMISSION

DEC 17 2013

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

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
121 Waiānuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

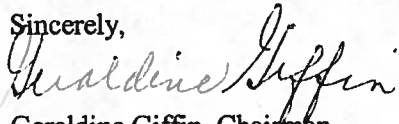
Planning Director Initiated
Revocation of Special Management Area Use Permit No. 321 Originally
Issued to Azabu USA (Kona) Co.
Tax Map Key: 7-6-024:032

The Leeward Planning Commission at its duly held public hearing on November 21, 2013, considered the request by the Planning Director for the revocation of Special Management Area (SMA) Use Permit No. 321 originally issued to Azabu USA (Kona) Co. by the Planning Commission on October 10, 1991, to allow the upgrade of facilities and construction of related improvements at the former Keauhou Beach and Hilo Lagoon Hotels and the former botanical garden site located across and along the mauka side of Ali'i Drive in Keauhou, North Kona, Hawai'i.

On behalf of your clients, the Trustees of the Estate of Bernice Pauahi Bishop and Kamehameha Investment Corporation, you indicated that the master plan covered by SMA No. 321 is no longer being proposed, and they as the current owners are working on an alternative master plan for the properties, focusing on increasing educational opportunities and Native Hawaiian cultural practices and awareness.

Therefore, SMA No. 321 is hereby revoked. Should you have questions regarding the above, please contact Daryn Arai of the Planning Department at (808) 961-8288.

Sincerely,


Geraldine Giffin, Chairman
Leeward Planning Commission

Lpdinitiatedrevokesma321lpc

cc: Planning Department – Kona
Department of Public Works
Department of Water Supply
Real Property Tax Division
Office of Planning

Hawai'i County is an Equal Opportunity Provider and Employer

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
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December 18, 2013

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
121 Waiānuenu Avenue
Hilo, HI 96720

Dear Mr. Lim:

Planning Director Initiated
Revocation of Special Management Area Use Permit No. 321 Originally
Issued to Azabu USA (Kona) Co.
Tax Map Key: 7-8-013:002, 013, 043; 7-8-010:035

This is to correct the heading in the Leeward Planning Commission's letter to you dated December 17, 2013, regarding the revocation of SMA Permit No. 321 at the Commission's meeting on November 21, 2013. The correct tax map key number is Tax Map Key: 7-8-013:002, 013, 043; 7-8-010:035.

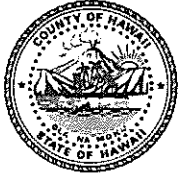
We sincerely apologize for any inconvenience that may have resulted from this error. Should you have questions regarding the above, please contact Daryn Arai of the Planning Department at (808) 961-8288.

Sincerely,


DUANE KANUHA
Planning Director

Lpdinitiatedrevokesma321Correction
cc: Planning Department – Kona
Department of Public Works
Department of Water Supply
Real Property Tax Division
Office of Planning

DEC 18 2013



Planning Commission

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

Lorraine R. Inouye
Mayor

CERTIFIED MAIL

October 24, 1991

Mr. Glen T. Koyama
Belt, Collins & Associates
680 Ala Moana Boulevard, Suite 200
Honolulu, HI 96813

Dear Mr. Koyama:

Special Management Area Use Permit Application (90-23)
Applicant: Azabu U.S.A (Kona) Co., Ltd.
Request: Upgrade Resort Facilities at
Keauhou Beach and Kona Lagoon Hotels
TMK: 7-8-13:2, 13, 43; and 7-8-10:Portion of 35

The Planning Commission at its duly held public hearing on October 10, 1991, voted to approve your application, Special Management Area (SMA) Use Permit No. 321, to allow the upgrade of its resort facilities at Keauhou Beach and Kona Lagoon Hotels. The proposed improvements include the construction of a swimming pool, restaurant, landscaping, entry drive, parking modifications, white sand area, repair of a shoreline wall, and related improvements. Also proposed is the demolition of the existing tennis complex and construction of a new tennis complex on the mauka side of Alii Drive within the botanical gardens site. The site is the existing Keauhou Beach and Kona Lagoon Hotels and the botanical gardens, Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed development is consistent with the objectives and policies as provided by Chapter 205-A, Hawaii Revised Statutes (HRS) and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

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One criteria in reviewing an SMA Use Permit application is that "The 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 elimination of planning options." The proposed development is not anticipated to have substantial adverse ecological effects, provided approved management and mitigation plans are implemented. While no botanical surveys were conducted on the subject properties, a survey conducted by George K. Linney and Winona Char on an adjacent property found no listed, proposed, or candidate threatened and endangered species. A survey of areas adjacent to and mauka of the project sites was conducted by Phillip L. Bruner in 1988. No rare or endangered species of animals were observed within the project sites. Further, the project site is already significantly altered and developed.

The project sites are located in close proximity to the shoreline. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Negative impacts on the local water resulting from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. Impacts to nearshore ponds and wetlands can be expected due to increased hotel and public usage of pond areas and potential nutrient loading caused by the maintenance of landscaped areas. To address these long-term concerns, an off-shore water quality and pond monitoring program shall be implemented. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

An archaeological inventory survey of the project area was conducted by Paul H. Rosendahl, Ph.D in 1988. As recommended by the survey, the applicant has prepared a detailed historic preservation mitigation plan for the proper management of the historical resources identified on the subject property. However, with data recovery recently completed, the plan has only been partially executed. The establishment of buffer zones, interim protection measures and remaining archaeological

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data recovery still needs to be completed. Therefore, it is recommended as a condition of approval that the applicant fully implement the approved historic preservation mitigation plan prior to securing Final Plan Approval of the proposed development. The implementation of this mitigation plan will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

The proposed development is not expected to have adverse impact on public access. With the proposed improvements, public shoreline access would be improved. However, to ensure public access along the shoreline areas as well as to integrate the historical sites located on the subject properties into a public awareness and educational theme for the resort, it is recommended that a public shoreline access plan and interpretive management plan be developed and submitted for review and approval prior to securing Final Plan Approval for the proposed development.

Coastal and mauka viewplanes will not be adversely affected since the existing hotels and extensive landscaping of the makai properties already provide a visual buffer between the shoreline and Alii Drive.

Provided conditions are imposed relating to historic preservation, public access to the shoreline, traffic improvements and employee housing, the proposed project is consistent with the adopted goals, policies, standards, and courses of action as articulated in the General Plan, as amended. A policy of the General Plan's Housing Element states "Large industries which create a demand for housing shall provide employee housing based upon a ratio to be determined by an analysis of the locality's needs." A Course of Action for the North Kona District mandates that "The County shall require that developments which create a demand for employee housing shall provide for that need." The expansion of the resorts in the South Kohala District resulted in an emergent social concern where a lack of employee housing created overall housing shortages and serious overflow of campers and squatters. Therefore, in an effort to address the employee housing impacts in support of the General Plan, a condition of this approval would require that an employee housing assessment and mitigation plan be submitted to the Planning Department for review and approval prior to receipt of Final Plan Approval for the hotel development. Mitigation measures shall be implemented prior to

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issuance of a certificate of occupancy for any portion of the proposed development.

The Land Use and Resort Elements of the General Plan also state that resort uses shall be developed in areas adequately served by essential services and other infrastructure, provided traffic improvements, including channelization and curbs, gutters and sidewalks, are required as a condition of approval.

The subject request is also consistent with the Economic Element of the General Plan in that the proposed development will provide additional and expanded employment opportunities for residents of the area, as well as the entire island as a whole; will strengthen the existing visitor industry; and will provide residents with opportunities to improve their quality of life. It is recommended that the job training program provide an upgrading of skills and opportunities and that it be an on-going program.

Through conditions of approval the applicant will be required to install necessary improvements along Alii Drive prior to issuance of a certificate of occupancy for the proposed development as required by the Department of Public Works.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all stated conditions of approval.
2. Final Plan Approval for the proposed development shall be secured from the Planning Department within one (1) year from the effective date of approval of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, driveway circulation, archaeological sites' buffers and parking stalls associated with the proposed development.
3. Construction of the proposed development shall commence within one (1) year from the date of receipt of Final Plan Approval and shall be completed within two (2) years thereafter.

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4. The minimum 40-foot shoreline setback line shall be staked by a registered surveyor prior to any land alterations in the affected area. Written confirmation shall be submitted in conjunction with requested permit(s). No improvements shall be allowed within the 40-foot shoreline setback area unless a Shoreline Setback Variance has been granted by the Planning Commission.
5. Access to the project site shall comply with the requirements of the Department of Public Works. Access improvements along Alii Drive, including channelization and curbs, gutters and sidewalks, shall be completed prior to issuance of a certificate of occupancy for any portion of the proposed development. Curbs, gutters and sidewalks shall be installed on both sides of Alii Drive fronting the length of the project sites to and including portions of the Kahalu'u Beach Park frontage, as determined appropriate to accommodate public shoreline access parking.
6. The Alii Drive underpass shall be constructed in accordance with the requirements of the Department of Public Works.
7. The applicant shall implement the historical preservation mitigation plan (Azabu Kona Resort: Historic Preservation Mitigation-Phase I-Archaeological Investigations) as approved by the Department of Land and Natural Resources. The preservation and mitigative measures recommended in the plan shall be implemented, as appropriate, prior to the issuance of a certificate of occupancy for any portion of the proposed development.
8. Should any unanticipated archaeological sites be uncovered during land preparation activity, work within the affected area shall cease and the Planning Director shall be immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director.
9. An emergency preparedness and response plan shall be filed with the Planning Director and the Civil Defense Agency prior to issuance of a certificate of occupancy for any portion of the proposed development.
10. A water quality and pond management plan shall be submitted to and approved by the Planning Director, in consultation

with the Department of Land and Natural Resources, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service, prior to the issuance of a grading permit and/or prior to conducting any land preparation activity in the affected area, whichever occurs first.

11. A public shoreline access plan shall be submitted for review and approval by the Planning Department, in consultation with the Department of Land and Natural Resources, prior to submittal of plans for plan approval review. The public access plan shall include, but not be limited to, the delineation of shoreline access to and along the length of the property; location, time of construction and/or availability of public accesses; restrictions on use; signage and related improvements.
12. The applicant shall provide an additional parking area for Kahalu'u Beach Park, subject to the lease with the lessor, meeting with the approval of the Department of Parks and Recreation and the Planning Department prior to the issuance of a certificate of occupancy for the proposed development.
13. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
14. An employee housing assessment and mitigation plan shall be submitted for review and approval by the Planning Department, in consultation with the Office of Housing and Community Development, prior to Final Plan Approval. The employee housing assessment and mitigation plan shall address, but not be limited to, the economic and social profile of the employees; the profile and inventory of the housing stock; and projections of existing and future major industries' employee needs. Mitigation measures shall be implemented prior to issuance of a certificate of occupancy for any portion of the proposed development.
15. A job training program for the operating phase of the hotel shall be developed and submitted to the Planning Department for review and approval prior to the issuance of a

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certificate of occupancy for the proposed development. The on-going training program shall continue and will provide for an upgrading of skills and opportunities.

16. Comply with all other applicable laws, rules, regulations and requirements.
17. An annual progress report shall be submitted to the Planning Department prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
18. An initial extension of time for the performance of conditions within the permit 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 petitioner, successors or assigns, and that are not the result of their fault or negligence; (b) the granting of the time extension would not be contrary to the general plan or zoning code; (c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and (d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

Mike Luce

Mike Luce, Chairman
Planning Commission

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jdk

xc: Councilman Russell Kokubun	Dept. of Health
Department of Public Works	Dept. of Parks & Recreation
Department of Water Supply	Civil Defense Agency
County Real Property Tax Division	US Army Corps of Engineers
West Hawaii Office	US Fish & Wildlife Service
OSP, CZM Program w/background	Kamehameha Investment Corp.
DLNR	Plan Approval Section
Office of Housing & Community Development	