

Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 Fax (808) 961-9615

#### CERTIFIED MAIL

DEC - 5 1994

Sandra Pechter Schutte, Esq.  
Case and Lynch  
460 Kilauea Avenue  
Hilo, HI 96720

Dear Ms. Schutte:

Special Management Area Use Permit Application (SMA 94-8)  
Applicant: Mauna Kea Holding Company, Inc.

Request: Renovation of and Construction of Additions to  
the "Ice House"

Tax Map Key: 2-k-03:24 and Portion of 23

The Planning Commission at its duly held public hearing on November 17, 1994, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 350 is hereby issued to allow the renovation of and construction of additions to the "Ice House". The site is located on the Waiakea Peninsula, Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended 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 area. Therefore, special controls on development within an area within the SMA are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving the proposed development within the SMA is that it is consistent with the General Plan and Zoning Code. The project site is situated in a proposed Resort Hotel (V-5.5) District which would allow a maximum density of 5 hotel or condominium units to be built. Residential apartments for use as transient accommodations,

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commercial office use and restaurant uses are permitted uses in the Resort Hotel District.

Another 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 of which taken in itself might not have a substantial adverse ecological effects." The Waiakea Peninsula is already developed with infrastructural improvements, as well as hotels, apartment and condominium complexes. The project site is adjacent to Liliuokalani Gardens and has already be improved. The proposed improvements will not require a shoreline setback variance and will not interfere with the shoreline processes. All fill/construction must comply with existing legal requirements and 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 constructions phases can be adequately mitigated through compliance with existing regulations. Therefore, no significant adverse impact to coastal ecosystems in anticipated. There are no records of endangered or threatened plant or animal species being associated with the site.

A third finding is that "the development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines." More specifically the recreational, historic, scenic, coastal environmental, and economic aspects of the project need to be considered. The visual impacts of project will be that of a Japanese teahouse making the building more compatible with the Japanese style park on the adjacent property. Impacts to the coastal processes will be minimized by allowing construction activity to be in conformance with Chapter 27, Flood Control, of the Hawaii County Code, which regulates the fill/construction activity in the VE zone proposed by the developer.

According to Section 9-7(C) of the Planning Commission's Rules, all development permitted in the Special Management Area shall be subject to reasonable terms and conditions as necessary in order to ensure that:

1. Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;

2. Adequate and properly located public recreation areas and wildlife preserves are reserved;
3. Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon Special Management Area resources;
4. Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake;
5. Adverse environmental or ecological impacts are minimized to the extent practicable; and
6. The proposed development is consistent with the goals, policies, and standards of the General Plan.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. The renovations and building additions shall be constructed within five years from the effective date of the change of zone ordinance. Plan Approval in accordance with the provisions of the Zoning Code shall be required for all renovations and building additions.
4. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

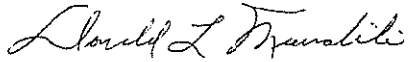
5. The wastewater disposal system shall be connected to the County's sewer system in a manner meeting with the approval of the Department of Public Works.
6. All construction activity must be in conformance with Chapter 27, Flood Control, of the Hawaii County Code. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent property in accordance with the requirements administered by the Department of Public Works. Any construction activity that may result in the discharge of storm water to the waters of the State shall require compliance with the National Pollutant Discharge Elimination System (NPDES) requirements administered by the State Department of Health.
7. Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, State Department of Education and the Department of Water Supply.
8. An 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 applicant, successors or assigns, and that are not the result of their fault or negligence; b) 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).
9. 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.

Sandra Pechter Schutte, Esq.  
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Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman  
Planning Commission

RKN:jdk  
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xc: Honorable Stephen K. Yamashiro, Mayor  
Planning Director  
Mauna Kea Holding Company, Inc.  
Department of Public Works  
Department of Water Supply  
Fire Department  
Department of Health  
Department of Education  
Corporation Counsel  
County Real Property Tax Division  
Office of State Planning, CZM Program w/background  
Department of Land and Natural Resources  
Plan Approval Section