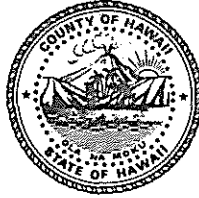


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
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APR 24 1998

Mr. Dane M. Shibuya
Hana Laulima Lahui O Ka'u, Inc.
P.O. Box 839
Naalehu, HI 96772

Dear Mr. Shibuya:

Special Management Area Use Permit Application (SMA 98-2)
Applicant: Hana Laulima Lahui O Ka'u, Inc.
Request: Development of a Hawaiian Cultural Center and Hawaiian
Botanical Garden
Tax Map Key: 9-5-19:34

The Planning Commission at its duly held public hearing on April 17, 1998, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 383 is hereby issued for the development of a Hawaiian Cultural Center and Botanical Garden. The property is located on the east (makai) side of Mamalahoa Highway at the northeast corner of its intersection with Alanui Road, in the vicinity of the SeaMountain Resort, Wailau, Ka'u, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS) and 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.

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 will

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consist of a Hawaiian Cultural Center museum and botanical garden. The proposed development is located makai of Mamalahoa Highway, approximately one mile from the shoreline. Therefore, there would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems. In the past the property was used for a nursery, arboretum and landscaping purposes. Presently, the property is overgrown. Current vegetation on the property is dominated by non-native plants. There are no known rare or endangered plant life or animal species on the property or in its immediate vicinity. The proposed development would not impact the immediate adjacent properties. Surrounding lands are zoned A-20a to the north and west. Parcels to the east and south are zoned RS-7.5 and Open, with lots varying from one-half acres to 100+ acres.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. According to the Department of Health, the subject proposal is located within a critical wastewater disposal area. Therefore, due to groundwater pollution concerns, no new cesspools will be allowed in this area. Further, the applicant may use a septic system that serves no more than 1,000 gallons per day. The Department of Health also indicated that if there is any type of process wastewater discharge from the project into State waters, the applicant may be required to apply for an individual National Pollutant Discharge Elimination System (NPDES) Permit. The applicant has stated that they will file a Notice of Intent for a NPDES Permit. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation as Open Area which are for parks and historic sites. The property is currently zoned Open which allows uses such as community buildings, natural features, phenomena, and vistas as tourist attractions, parks and historic sites. The proposed use would be consistent with the following goals and policies of the Land Use element of the General Plan.

Land Use

- * Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- * The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed use would also conform to the following goals and policies of the Historic Sites Element:

- * Protect and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii.
- * Access to significant historic sites, buildings and objects of public interest should be made available.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successor or assigns shall secure a Conservation District Use Permit (CDUP) from the Board of Land and Natural Resources within five (5) years from the effective date of this permit.
3. Construction of the proposed development and related improvements shall be completed within five (5) years from the effective date of the Conservation District Use Permit (CDUP). This time period shall include the securing of Final Plan Approval from the Planning Director for the proposed development. Plans shall identify structures, fire protection measures, paved and striped parking stalls and driveway, landscaping and other improvements associated with the proposed use.
4. Wastewater generated by the proposed development shall be disposed of meeting with the requirements and approval of the Department of Health.
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
6. Comply with all applicable laws, rules, regulations and requirements of affected agencies for the proposed development within the subject property.
7. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

Mr. Dane M. Shibuya
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- 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.
- 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).

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.

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LHanal01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu