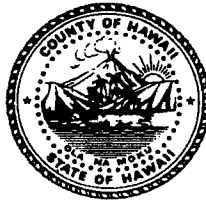


Harry Kim  
Mayor



Keith F. Unger, Chair  
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## County of Hawai'i

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

MAR 8 2017

Mr. Roger Harris  
Roger Harris Planning  
P.O. Box 803  
Kamuela, HI 96743

Dear Mr. Harris:

**SUBJECT: Special Management Area Use Permit No. SMA 16-000066**  
**Applicant: RB2 Investors, LLC**  
**Permitted Use: Allowed to Modify and Incorporate an Existing Building and**  
**and Parking Lot and Add Two Additional Buildings and**  
**Additional Parking to Support a 20-Unit Commercial and**  
**Light Industrial Lease Space for Businesses, Offices, Self-**  
**Storage and a Restaurant**  
**Tax Map Key: 6-8-001:058**

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The Leeward Planning Commission, at its duly held public hearing on February 16, 2017, voted to approve the above-referenced request allowing to modify and incorporate an existing building and parking lot and add two additional buildings and additional parking to support a 20-unit commercial and light Industrial lease space for businesses, offices, self-storage and a restaurant for approximately 1.756 acres of land situated within the Special Management area. The project site is situated at 68-148 Ho'ohana Street within the Mauna Lani Resort, Kalahuipua'a, South Kohala, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. The effective Date of this SMA Use Permit shall be the effective date of the approved ordinance generated by the concurrent change of zone request (REZ 16-000215).
3. The applicant shall comply with conditions of the approved ordinance generated by the concurrent change of zone request (REZ 16-000215), and any amendments thereof.

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Mr. Roger Harris  
Roger Harris Planning  
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4. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may 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

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Keith F. Unger, Chairman  
Leeward Planning Commission

LRB2investorsSMA16-066lpc

Enclosure: PC Findings Report

cc: RB2 Investors, LLC  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
Ms. April Surprenant  
GIS Section

**COUNTY OF HAWAII**  
**PLANNING COMMISSION FINDINGS**

**RB2 INVESTORS, LLC**

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 16-000066)**

The applicant, RB2 Investors, LLC, is requesting a Special Management Area (SMA) Use Permit to modify and incorporate an existing building and parking lot and add two additional buildings and additional parking to support a 20-unit commercial and light Industrial lease space for businesses, offices, self-storage and a restaurant for approximately 1.756 acres of land situated within the Special Management Area. The applicant has also submitted a request to change the zoning district for approximately 1.756 acres of land from an Agricultural-5 acres (A-5a) to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district.

The applicant proposes to develop the project in two phases, with the first to include the incorporation and expansion of the existing 6,667 square ft. building to create eight spaces for lease to local businesses for commercial and light industrial uses, including a restaurant. The applicant is also proposing an additional 1,000 square foot building to be developed as a self-storage business as part of phase one. In addition, the parking lot will be improved and expanded from 21 to 68 parking spaces. According to the applicant, the construction of the first phase will begin within six-months of obtaining the proper permits and cost approximately \$1.5 million dollars. The second phase will include a single-story, 8,220 square foot building to accommodate up to ten additional spaces for lease. Based on market conditions, the applicant expects to commence construction of the second phase within 3-5 years after the initial phase is complete.

The subject site is part of the Mauna Lani Resort and is in an area designated in the Master Plan for "Service/Light Industrial" and is located across the street from property planned for resort residential development. The applicant believes a change of zone from A-5a to MCX-20 would allow for the development of the subject site into intermediate commercial and light industrial lease space to meet the local demand by businesses in the region.

The grounds for approving development within the Special Management Area are based on HRS, Chapter 205A-26(2) (Special Management Area guidelines) and Rule 9-11(E) of the Planning Commission Rules of Practice and Procedure. Planning Commission Rule 9-11(E) states that the Authority (Planning Commission) may permit the proposed development only upon finding that:

1. The development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest;
2. The development is consistent with the objectives and policies and the Special Management Area guidelines as provided by Chapter 205A, HRS;
3. The development is consistent with the General Plan, Zoning Code and other applicable ordinances;
4. The development will, to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist, including specific factual findings regarding:
  - a. The identity and scope of valued cultural, historical or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
  - b. The extent to which those resources, including traditional and customary native

- Hawaiian rights, will be affected or impaired by the proposed action; and
- c. The feasible action, if any, to be taken by the Authority to reasonably protect any valued cultural, historical or natural resources, including any existing traditional and customary native Hawaiian rights.

**The proposed 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.** In considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. 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.

A "substantial adverse effect" is determined by the specific circumstances of the proposed use, activity or operation. In determining whether a proposal may have a substantial adverse effect on the environment, the Director shall consider every phase of a proposed action and expected consequences, either primary or secondary, or the cumulative as well as short or long-term effect of the proposal. In reviewing the proposed development against the factors that may constitute a substantial adverse effect as listed under Planning Commission Rule 9-10 (H) (1 through 10), it has been determined that the proposed project to modify and incorporate an existing building and parking lot and add two additional buildings and additional parking to support a 20-unit commercial and light Industrial lease space for businesses, offices, self-storage and a restaurant for approximately 1.756 acres of land will not have a significant adverse environmental or ecological effect upon the Special Management Area. This determination is based on the following:

**The proposed development does not involve an irrevocable commitment to the loss or destruction of any natural or cultural resource within the SMA, including but not limited to, historic sites.**

The proposed development will not create significant adverse impacts upon nearby and adjacent properties as the immediate area are either vacant or have been developed with similar uses (industrial/service uses). The lands surrounding the subject property to the east, west, and south are currently zoned Agricultural (A-5a). Zoning across Ho'ohana Street is a mix between Multiple-Family Residential (RM-4), Resort (V-1.25) and Open zoning designations. The subject parcel is part of the Mauna Lani Resort and is located in an area designated in the Mauna Lani Master Plan for "Service/ Light Industrial" use, and is adjacent to a parcel designated for "Resort Service." The properties across the street are planned for resort residential development. The site is surrounded by undeveloped A'a lava lands to the south and east, a 20-foot wide paved service road to the west, a single-story Administrative Services building, a base yard and associated structures to the north.

The property is located within an area adequately served with essential services and facilities such as water, transportation systems and other utilities. Access to the project site will be from Ho'ohana Street. County water is available to the site with an existing 24-inch waterline within Ho'ohana Street and the parcel currently serviced by a 1½-inch meter which is limited to an average daily usage of 2,400 gallons, or 6 units of water. Should the applicant desire additional water units, they will need to obtain an allocation of water units from Tokyu Corporation, subject to written consent of the Water Board.

The subject parcel is not a shoreline property and is located approximately 4,056 feet from the nearest shoreline, therefore it is unlikely that the proposed project will impact the shoreline. However, any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment.

**The proposed development is consistent with the County General Plan and Zoning Code and other applicable ordinances.** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Resort Node, which allows for a mix of visitor-related uses such as hotels, condominium-hotels (condominiums developed and/or operated as hotels), single family and multiple family residential units, golf courses and other typical resort recreational facilities, resort commercial complexes and other support services. The proposed development is consistent with the General Plan LUPAG Map designation and will complement the goals, policies and standards of the Land Use (Resort, Commercial and Industrial) Elements of the General Plan.

The subject property is currently zoned Agricultural 5-acres (A-5a) by the County, however, the applicant has submitted a concurrent Change of Zone Application to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district. A variety of commercial, retail, light industrial and institutional uses are listed as permitted uses within the Industrial-Commercial Mixed zoning district in the Zoning Code. The applicant intends to modify and incorporate an existing building and parking lot and add two additional buildings and additional parking to support a 20-unit commercial and light Industrial lease space for businesses, offices, self-storage and a restaurant, which are all permitted uses in the requested Industrial-Commercial Mixed zoning district. Therefore, the proposed development is consistent with the County General Plan and with County zoning.

Finally, the South Kohala CDP, which was adopted by the Hawai'i County Council by Ordinance No. 08-159 on December 1, 2008. The CDP identifies the Mauna Lani Resort as existing resort development.

**The proposed project 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.** The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, 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. After review, it has been determined that the proposed development is consistent with the objectives and policies listed under Chapter 205A, HRS, which includes protecting and preserving recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, beach protection, and marine resources.

The proposed development will not substantially affect scenic vistas or view planes from the nearest State Highway nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The project will not restrict access to coastal recreational resources along the shoreline.

There were no listed, candidate or proposed threatened or endangered plant species that found on the subject property, and no rare plant species or ecosystems are present or nearby. The subject site has had irrigated landscaping for 25 years so the plants and trees are mature. The area surrounding the subject property is arid and barren lava, which supports limited vegetation, including fountain grass, kiawe and ilima. Animals periodically found in the area include rats, mongoose, feral goats, zebra dove, spotted dove, myna, and Japanese white-eye. No flora or faunal species which are listed or proposed for threatened or endangered species status have been documented on the subject site in previous environmental studies (Belt Collins 1985, Park 1989).

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources on the property, however, Haun and Associates prepared an Archeological Assessment in association with this application. The assessment was prepared for the 0.047-acre, undeveloped portion of the property located on the southeast side of a chain-link fence surrounding the majority of the property. The report referenced a 1989 archeological study by William Barrera, Jr. of Chinango, Inc. which was prepared for the Use Permit No. 72 to allow for a school. Barrera conducted a reconnaissance survey of the project area which at that time was classified as a portion of TMK: 6-8-001:052, which identified one site in the area, described as a "crude shelter wall and several excavations into the pahoehoe (often referred to as aboriginal scoria quarries)." These features were not mapped or described and the site was not assigned a State Inventory of Historic Places (SIHP) site number. Barrera recommended that the site be preserved and protected by a 15-ft buffer and that a chain-link fence be built where the buffer zone bounded the school site. Implementation of this buffer and fence satisfied the Use Permit condition for historic site mitigation and memorialized in an undated letter from SHPD to Duane Kanuha, Director of the County of Hawai'i Planning. According to this letter, "We believe that [t]his site will be adequately preserved and that the project will have 'no effect' on historic sites." The area was subsequently subdivided with the school lot designated as TMK: 6-8-001:058. The fenced area to the property line constitutes the .047-acre, undeveloped portion of the property that was the subject of Haun and Associates 2016 study. A copy of this Archeological Assessment was submitted to State Historic Preservation Commission (SHPD) for consultation on November 12, 2016 and as of this writing, the Planning Department has not received any response from SHPD. A condition of approval will require that the applicant maintain the previously agreed upon 15-foot buffer, which encroaches on a .047-acre portion of the subject property up to the existing chain link fence. Based on the preceding, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area. Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others.

Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

**The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist.** In view of the recent Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: As stated above, an archeological assessment for a 0.047-acre, undeveloped portion of the property was included with the application for change of zone.

The valued cultural, historical, and natural resources found in the rezoning area. The majority of the site has been previously cleared and used as a school site for 25 years. An archaeological study was conducted in 2016 and found no archaeological or historic sites on the undeveloped portion of the subject property and previous studies have determined that no archaeological or historical resources were found on the property. As such, it is unlikely that there are any valued cultural, historical, and natural resources to be found in the rezoning area.

Possible adverse effect or impairment of valued resources: There is no evidence of any possible adverse effects or impairments will occur to any valued resources. Since the property was previously bulldozed and cleared in the past, it is unlikely that any archaeological or historic features exist on the property. Additionally, there is no evidence that the flora in the area are particularly desired or used for cultural practices.

Feasible actions to protect native Hawaiian rights: As there is no evidence of any valued cultural, historical, and/or natural resources found on the site, there is no action to be taken. In addition to the preservation buffer condition referenced above, a condition of approval will be added for the protection of inadvertent finds should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered. The applicants shall be required to cease work in the immediate area and contact the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD). Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

Based on the above findings, it is determined that the proposed development and related improvements will not have 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

Based on the above findings the request for a Special Management Area Use Permit to modify and incorporate an existing building and parking lot and add two additional buildings and additional parking to support a 20-unit commercial and light Industrial lease space for businesses, offices, self-storage and a restaurant for approximately 1.756 acres of land situated within the Special Management Area is approved.