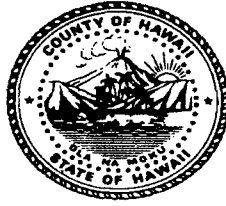


Harry Kim  
Mayor



Gregory Henkel, Chair  
Joseph Clarkson, Vice Chair  
Donn Dela Cruz  
Donald Ikeda  
Myles Miyasato

## County of Hawai'i

### WINDWARD PLANNING COMMISSION

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

MAY 11 2017

Mr. Ryan McCauley  
Tritium3  
2800 Woodlawn Drive, #193  
Honolulu, HI 96822

Dear Mr. McCauley:

**SUBJECT: Special Management Area Use Permit Application No. SMA 17-000067**  
**Applicant: Hilo Lagoon Centre**  
**Permitted Use: Allowed for Additional PV System Components on the Existing Roof and on Four Carport Structures in Parking Lot of Property**  
**Tax Map Key: 2-2-014:010**

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The Windward Planning Commission, at its duly held public hearing on May 4, 2017 voted to approve the above-referenced request to allow the installation of a solar photovoltaic system on the existing building roof and on four proposed shade structures in the parking lot at the Hilo Lagoon Centre, which is on approximately 4.3625 acres of land situated within the Special Management Area. The project site is situated at 101 Aupuni Street approximately 480 feet from the intersection with Kīlauea Avenue, Waiākea, South Hilo, 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 applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of the Federal Aviation Administration (FAA) Aeronautical Study No. 2016-AWP-3494-OE and No. 2016-AWP-3493-OE.
3. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70 of the Hawai'i County Code, Chapter 25 Zoning. Plans shall identify all

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MAY 11 2017.

existing and proposed structure(s), existing landscaping, paved driveway access and parking stalls associated with the proposed development, with the appropriate yard setbacks and the proposed staging areas.

4. Within two (2) years from the effective date of this permit, the applicant shall secure and finalize any building permits required by the Department of Public Works-Building Division for the existing structures, including but not limited to, the installation of the rooftop solar photovoltaic system on the Hilo Lagoon Centre building and the proposed four (4) shade structures with rooftop solar photovoltaic system above. To help facilitate the Building Permit process, please contact the DPW Building Division at (808)961-8331 in Hilo for a list of the non-residential drawings requirements to incorporate into your plans.
5. All development-generated runoff shall be disposed of on-site and shall not be directed towards any adjacent properties.
6. The applicant shall comply with Hawai'i County Code, Chapter 27 – Floodplain Management.
7. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
8. 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-State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigated measures have been taken.
9. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
10. An initial extension of time for the performance of conditions may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, 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).
- E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant(s) request to the Planning Commission for appropriate action.

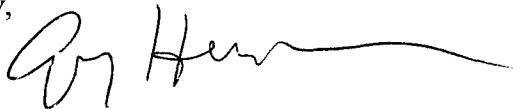
Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

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 Shancy Watanabe of the Planning Department at (808) 961-8144.

Sincerely,



Gregory Henkel Chairman  
Windward Planning Commission

LHilolagooncentreSMA17-067wpc  
Enclosure: PC Findings Report

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
GIS Section

**COUNTY OF HAWAI‘I**  
**PLANNING COMMISSION FINDINGS**

**HILO LAGOON CENTRE**  
**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 17-000067)**

Based on the following, SMA Use Permit No. 17-000067 is hereby issued to allow the installation of a solar photovoltaic system on the existing building roof and on four (4) proposed shade structures in the parking lot at the Hilo Lagoon Centre, which is on approximately 4.3625 acres of land situated within the Special Management Area. The subject property is located at 101 Aupuni Street approximately 480 feet from the intersection with Kīlauea Avenue, Waiākea, South Hilo, Hawai‘i, TMK: (3) 2-2-014:010.

The SMA Use Permit was requested to install a 309.52 kilowatt (kW) DC/240.00 kW AC solar photovoltaic system, consisting of a total of 848 solar photovoltaic modules and related electrical improvements, on the existing building roof and on four (4) proposed shade structures in the parking lot at the Hilo Lagoon Centre.

Of the total 848 modules proposed, 98 modules will be installed on the rooftop of the existing Hilo Lagoon Centre, for a maximum output of 35.77 kW DC. The 98 rooftop modules and related electrical equipment improvements will be installed in two (2) arrays that will cover an area of 2,068 square feet and shall not exceed 18 inches above the existing elevation. The remaining 750 modules and related electrical equipment improvements will be distributed on the four (4) new shade structure rooftops, for a maximum output of 273.75 kW DC. The 750 rooftop modules will be installed in four (4) separate arrays that will cover an area of 15,824 square feet on the four (4) proposed shade structures above the existing paved parking lot. The height of the proposed four (4) shade structures will be approximately 14 feet above grade level. The shade structures will be made of galvanized steel construction and will be painted. The proposed electrical equipment improvements will include the DC/AC inverters, AC disconnects and associated wiring. The proposed inverters and solar panelboard will be located on the shade structure closest to the Hilo Lagoon Centre. The proposed four (4) shade structures will be located northwest and outside of the Special Management Area. The estimated total construction costs is approximately \$1.3 million and will take about three (3) months to complete.

Large scale reflective surfaces, such as photovoltaic panels that are located in or near airport approaches may be a hazard to air traffic. The proposed project is located in close proximity to the Hilo International Airport. On July 29, 2016, the Federal Aviation Administration provided two (2) separate Determination of No Hazard to Air Navigation letters with conditions for the proposed Hilo Lagoon Centre rooftop solar photovoltaic installation, Aeronautical Study No. 2016-AWP-3494-OE and Hilo Lagoon Centre carport solar photovoltaic installation, Aeronautical Study No. 2016-AWP-3493-OE.

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 install a solar photovoltaic system on the existing building roof and on four proposed shade structures in the parking lot at the Hilo Lagoon Centre, which is on approximately 4.3625 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 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 (SMA) 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.

The objectives and policies of Chapter 205A, HRS include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources,

coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas. There is no public access to the mountains or to the shoreline that runs through the subject property. The subject project will not restrict access to coastal recreational resources along the shoreline.

The subject property is not a shoreline property, but a sliver of the subject property is located in the SMA. 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. Thus, scenic resources should not be affected. There are no current views of the nearby ocean, Hilo Bay or of the Waiākea Fish Pond. There are no beaches on the subject property. Although the subject property is not at the shoreline, development can cause runoff that has the potential to affect coastal ecosystems. Therefore, the Planning Commission recommends a condition to ensure that runoff will not adversely affect coastal ecosystems.

The Department of Public Works has indicated that the flood zone maps for the subject property will be changing later this year, which will shift a portion of the subject property into Flood Zone VE. Flood Zone VE is further defined as an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. To reduce hazard to life and property due to coastal hazards, the proposed project is subject to the requirements of Hawai'i County Code, Chapter 27 Floodplain Management. A condition will be added requiring that construction comply with the Floodplain Management Code.

The closest property line is located approximately 75 feet from the Waiākea Fish Pond and about 1,538 feet in a direct line from the nearest shoreline. The proposed four (4) shade structures, which will be about 14 feet in height, will be located to the northwest and outside of the SMA affecting subject property. No historic resources will be affected as project site has been fully developed from 1971 with the existing Hilo Lagoon Centre, a swimming pool and parking lots.

After review, it has been determined that the proposed development is consistent with the objectives and policies listed under Chapter 205A, HRS.

**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 High Density Urban (hdu). These are areas of general commercial, multiple-family residential (up to 87 units per acre) and related services. Commercial buildings and related accessory buildings, such as shade structures, are consistent with the LUPAG designation of high density urban and with the County Zoning of General Commercial District. The County continues to support research and development of renewable energy.

As the proposed project to install a solar photovoltaic system on the existing building rooftop and on four (4) proposed shade structures intends to reduce the non-renewable energy and dependence on fossil fuels at the Hilo Lagoon Centre, the proposed development is consistent with the County General Plan, Zoning Code and other applicable ordinances.

**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;**
- 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.**

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 in the area. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. The property does not front the shoreline and will not be impacted by coastal hazard and beach erosion. No scenic or open space resources to the shoreline, coastal view place, coastal ecosystem or marine resources will be negatively impacted by the proposed action.

The subject property has been fully developed, with the Hilo Lagoon Centre, swimming pool and parking lot areas from 1971. The on-site landscaping is minimal and non-native. There are no known rare, threatened, or endangered species, or their habitats on the subject property.

Two separate historical surveys was conducted in 1991 and 2004 for nearby properties. After the 1960 tsunami, an estimated 10 to 15 feet of landfill above mean sea level was placed in the area of about 40 acres, prior to the construction of the Kaiko'o Mall, which would have covered any existing archaeological resources. Pilings for the proposed project are expected to be drilled to a maximum depth of 12 feet. As such, it is unlikely that there are any valued cultural, historical, and natural resources to be found in the proposed project area.

A condition of approval has been 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 applicant 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.

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), possible mitigation to meet Federal Aviation Administration rules and regulations, 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.

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.