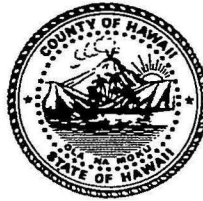


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director



John Replogle, Chair
Gilbert Aguinaldo, Vice-Chair
Dean Au
Joseph Clarkson
Michelle Galimba
Dennis Lin
Thomas Raffipiy

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 13 2021

Mr. Sidney Fuke
Planning Consultant
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

SUBJECT: Special Management Area Use Permit Application (SMA 21-000079)
Applicant: Island Natural Properties, LLC
Request: Allows the Development of a Retail and Office Complex
Tax Map Key: 2-2-030:017

The Windward Planning Commission, at its duly held public hearing on May 6, 2021, voted to approve the above-referenced request for a Special Management Area Use Permit to allow the construction of an approximately 67,685 square-foot retail and office complex. The property is located on the northwestern corner of the intersection of Mililani Street and Kekūanaō'a Avenue, South Hilo District, Hawai'i.

Approval of this Special Management Area Use Permit is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected Federal, State, and County agencies as necessary to comply with all applicable laws and regulation, including but not limited to the State Department of Health Hazard Evaluation and Emergency Response Office.

MAY 14 2021

3. Construction and operation of the retail and office complex shall be conducted in a manner that is substantially representative of plans and details as contained within the Special Management Area Use Permit application received January 27, 2021 and representations made to the Windward Planning Commission.
4. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this permit in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
5. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
6. The applicants, successors, or assigns shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for commercial uses prior to issuance of a Certificate of Occupancy.
7. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s), or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
8. To protect any seabirds (Hawaiian petrels and Newell's shearwaters) in the vicinity of the property, any lighting shall be fully shielded so that the bulb can only be seen from below bulb height. The lights shall be turned off when human activity is not occurring in the lighted area. Any lighting shall be shielded and directed away from the Waiākea Villas properties and other residentially zoned properties east of Mililani Street and south of Kekūanā'oa Avenue.

9. All driveway connections to Kekūanāo‘a Avenue and Mililani Street shall conform to Chapter 22, County Streets, of the Hawai‘i County Code. Driveway connections to Kekūanāo‘a Avenue shall be limited to right-turn in/right-turn out movements only.
10. The applicant shall comply with Chapter 27 - Flood Control, of the Hawai‘i County Code.
11. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.
12. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a professional civil engineer licensed in the State of Hawai‘i and submitted to the Department of Public Works prior to issuance of Final Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy for any portion of the development.
13. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
14. Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.
15. 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.
16. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.
17. An Emergency Evacuation Plan shall be submitted to the Hawai‘i County Civil Defense Agency for review and approval prior to the issuance of Certificate of Occupancy. A copy of the approved plan shall be submitted to the Planning Department for their files.
18. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during

the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

19. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this 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.
20. An initial extension of time for the performance of conditions within this 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 this 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.
21. 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.

Mr. Sidney Fuke
Planning Consultant
Page 5

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

Should you have any questions, please contact Tracie Lee Camero of the Planning Department at 961-8166.

Sincerely,

~~Gilbert~~ (May 13, 2021 22:27 HST)

Gilbert Aguinaldo, Vice Chair
Windward Planning Commission

LIslandNaturalSMA21-079wpc.doc

Enclosure: PC Findings Report

cc: Island Naturals Properties, LLC
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Environmental Management
County Civil Defense Agency
State Department of Health
Plan Approval Section
GIS Section (via email)

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

ISLAND NATURALS PROPERTIES LLC
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 21-000079)

At the Planning Commission meeting on May 6, 2021, the Windward Planning Commission voted to approve the subject Special Management Area Use Permit No. 21-000079. Based on the following findings Special Management Area Use Permit No. 21-000079 is hereby approved to establish a 67,685 square-foot, retail, and office complex on approximately 4.045-acres of land situated within the Special Management Area. The subject property is located on the northwestern corner of the intersection of Mililani Street and Kekūanā‘a Avenue, Portion of Waiākea, South Hilo District, Hawai‘i, TMK (3) 2-2-030:017.

The applicant requests a Special Management Area Use Permit to develop a 67,685 square-foot, retail, and office complex in three detached structures. If phased, the project would be developed in three phases consisting of:

- The first phase will include a 41,657 square foot two-story structure that would include Island Naturals Store on the first level and an office space on the second level.
- The second phase will include a 2,966 square foot free-standing drive through restaurant near the Mililani Street/Kekūanā‘a Avenue intersection.
- The third and final phase will include a 23,072 square foot two-story structure consisting of retail space on the first level and an office space on the second level.

Approximately 226 conventional parking stalls are proposed for the project, with eight (8) ADA stalls and six (6) loading zones. The applicant currently has 70 employees but anticipates up to 100 employees at the anchor store. The applicant would like to develop a one-stop commercial retail and office center, with its store being one of the major anchors. While “Offices” are not a permitted use in the site’s Resort (V-.75) zoning district, “Business Services” are an allowable use. Therefore, the applicant clarified the proposed use to create a commercial retail and office center would essentially function as that of a “Business Service” that would provide goods and business services to other businesses for both residents and visitors. Phase I is expected to take approximately 24 months to complete and will begin immediately upon approval of all required permits and approvals. The second and third phases will be a function of demand and are anticipated to be completed by 2026. The cost of the project is estimated to be approximately \$10 million. The applicant currently operates its retail and deli business in the Hilo Shopping Center. Over time, its operations have grown to the point where its current space is no longer sufficient. Accordingly, having a new facility would enable the applicant to have a design that best addresses its overall spatial and functional needs.

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, Community 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 Hawaii rights.

In review of the SMA guidelines as listed under HRS 205A-26(2)(A), the proposed development will not have any substantial 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 on the Special Management Area. Such adverse effects 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 eliminate planning options.

The proposed project did not meet the criteria in State law for the requirement of an environmental assessment or environmental impact statement. The property is located about 3,300 feet from the shoreline and 400 feet from Waiākea Fishpond, thus the proposed use is not expected to have a substantial environmental or ecological effect.

In review of the SMA guidelines as listed under HRS 205A, 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. 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. 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.

Coastal Recreational Resources: The Waiākea Fishpond which flows into Hilo Bay and associated 131.9-acre Wailoa River State Park are located approximately 400 feet from the subject property. Recreational activities in the park include fishing and picnicking. There are no significant recreational resources located directly on the subject property and no access to the shoreline or Waiākea Fishpond through the property. Therefore, the proposed project will not have any impact to the coastline or other areas utilized for public recreational activities in the adjacent park area, nor would it impede or hinder the public's ability to access the shoreline or park resources.

Historic and Cultural Resources: Features and remnants of historic Hilo town has been lost over the years to continual urban development of the town, especially along its major commercial corridors, such as Kekūanāo'a Avenue. No archeological or cultural sites appear to be present, and the project site does not support any traditional resource use, not that there are any Hawaiian customary and traditional rights, or practices known to be associated with the subject parcel. The DLNR-SHPD has determined that no historic properties will be affected and a previous cultural impact assessment report for the subject property, prepared by T.S. Dye and Colleagues determined that no cultural resources would be affected.

Scenic and Open Space Resources: Within the general area of the project site is Waiākea Fishpond, which flows into Hilo Bay, which are considered significant in the General Plan for their scenic character in Hawai'i County. From a visual resources perspective, the planned development will change the visual character of the property from that of a vegetative parcel to being a fully developed parcel with a two-story retail and office complex with parking areas. This impact, however, will be mitigated by the building's placement in the western corner of the property and the inclusion of landscaping as part of the surrounding parking area and property perimeter. Any views towards Waiākea Fishpond and Hilo Bay are blocked by the neighboring Waiākea Villas apartment/condo complex. Therefore, the development will not adversely affect scenic and open space resources to and along the shoreline.

Coastal Ecosystems, Marine Resources, Beaches: The property is located over 3,300 feet from the shoreline. Any potential storm water runoff or discharge that could reach shoreline waters can be handled by on-site drainage 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 construction best management practices. With implementation of appropriate mitigation measures related to water quality and soil remediation, it is unlikely that the development will adversely affect coastal ecosystems, shoreline processes and marine resources.

Coastal Hazards: The project site is located in a tsunami inundation zone. To reduce hazard to life and property from this threat, County and State civil defense requirements will be adhered to regarding evacuation procedures. There is a Civil Defense siren located at the Hilo State Office building which provides coverage to the subject property. Although the CDA did not comment on this specific project request, the proposed project lies within the Tsunami Evacuation Zone, thus for the safety of the public and to address planning for other types of emergencies, the Planning Director has added a condition for the applicant to develop an Emergency Plan in coordination with the Civil Defense Agency. According to the FIRM maps prepared by the Federal Emergency Management Agency (FEMA), the subject parcel is designated as Flood Zone "X" which is considered in an "area of minimal flood hazard, usually depicted as above the 500-year flood level." The development will be subject to the requirements

of Chapter 27 - Flood Control, of the Hawai'i County Code in order to minimize the effects of coastal hazards. In addition, all buildings will be constructed in conformance with Uniform Building Code specifications.

The proposed development is consistent with the County General Plan, Hilo Community Development Plan (CDP), Zoning Code and other applicable ordinances. The General Plan Land Use Pattern Allocation Guide (LUPAG) for the County of Hawai'i is a policy document expressing the broad goals and policies for the long-range development of the Island of Hawai'i. The plan was adopted by ordinance in 1989 and revised in 2005 (Hawai'i County Department of Planning and the map designation for the subject property is High Density Urban, which allows "*general commercial, multiple family residential and related services (multiple family residential -- up to 87 units per acre)*". The proposed development is consistent with the General Plan LUPAG Map designation and will complement the goals, policies, and standards of the Land Use (Economic, Environmental and Land Use) Elements of the General Plan. The proposed action is in balance with the natural, cultural, and social environment of the County, and it will create temporary construction jobs for local residents and indirectly affect the economy through construction industry purchases from local suppliers.

Additionally, the proposed development is consistent with the Zoning Code. The property is presently dual zoned as: 1) Resort Hotel, which allows one dwelling unit for every seven hundred fifty square feet of land (V-.75), and 2) General Commercial, which allows for one building site for every 7,500 feet (CG-7.5). While "Offices" are not a permitted use in the site's Resort (V-.75) zone, "Business Services" are an allowable use. Therefore, the applicant clarified the proposed use to create a commercial retail and office center would essentially function as that of a "Business Service" that would provide goods and business services to other businesses for both residents and visitors. The Resort-Hotel district applies to areas to accommodate the needs and desires of visitors, tourists, and transient guests. It applies to specific areas where public roads and utilities are available or where suitable alternate private facilities are assured. The proposed development will provide commercial opportunities to visitors and residents staying at the adjacent Waiākea Villas, which is also located on property zoned Resort-Hotel. The development will conform to the requirements of the zoning district relative to permissible uses, maximum allowable height, minimum yard setbacks, minimum off-street parking, and landscaping requirements.

Lastly, the proposed development is consistent with the Hilo Community Development Plan (Hilo CDP). The Hilo CDP was adopted by the Hawai'i County Planning Commission, by Resolution No. 1 on May 21, 1975 and guides decisions within the Hilo Urban Area. The subject property is designated Hotel-Resort in the Hilo CDP.

The project site is located within an area adequately served with essential services and utilities such as water, sewer, and other utilities. Conditions of approval will require the applicant to install and/or upgrade any necessary water and sewer lines to connect to the County's main water and sewer lines within the adjacent streets.

The Department of Public Works recommends road and traffic improvements, however based on the Topliss vs Planning Commission decision, the Planning Director will not impose traffic conditions at this time. The applicant believes that traffic impacts to surrounding properties will be reduced by the implementation of limiting access to the property by proposing two "right-in, right-out movement only" accesses on Kekūanāo'a Avenue and providing full access movements into the project site to the Mililani Street and the Hualani Street accesses.

The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist. In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian rights, such as 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: An Archeological Assessment report of the subject property was completed by Haun & Associates in February 2008 and a Cultural Impact Assessment report was prepared by T.S. Dye & Colleagues in April 2008. In addition, a *Survey of Botanical, Avian and Terrestrial Mammalian Species* was conducted in February 2008 by Rana Productions, Ltd. and Geometrician Associates, LLC for the subject property.

The valuable cultural, historical, and natural resources found in the area: The archeological assessment report found no surface archaeological sites or features. In a letter dated October 31, 2008, the Department of Land and Natural Resources (DLNR) Historic Preservation Division concurred with the findings of the report that "no historic properties will be affected" by the proposed project. The cultural impact assessment found no traditional cultural properties and no evidence that cultural practices are being conducted on the subject property. No floral or faunal species listed as threatened, endangered, or proposed for listing under the federal or state endangered species statutes were identified on the site. Additionally, no species used for cultural gathering purposes were identified on the subject property. Although not detected during the survey, it is possible that small numbers of the endangered endemic Hawaiian Petrel and threatened Newell's Shearwater birds fly over the area between the months of May and November.

Possible adverse effects or impairment of valued resources: Native vegetation may be destroyed by ground alteration. However, there is no evidence that the flora in the area is particularly desired or used for cultural practices. Archaeological remains could inadvertently be uncovered during construction activities.

Lastly, Hawaiian fishing rights along the shoreline will not be affected by this project and as there is no public access located on the subject property, there will not be any restricted public access from the proposed project. There may be short term impacts from the construction activities for the development as well as the new proposed structures, however best management practices will be in place to mitigate these short-term impacts.

Feasible actions to protect native Hawaiian rights: The proposed development will not restrict access to, and the use of natural resources to and along the shoreline as the subject property is not located along the shoreline. Conditions of approval have been added to protect endangered, threatened, and indigenous birds such as the Newell's shearwater and the Hawaiian Petrel and to utilize native plants in site landscaping. A condition of approval has also been added to protect any unidentified cultural, historical, and natural resource in the event any are encountered during construction. To the extent that traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable government 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 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.

Based on the above findings, the proposed development will not have substantial adverse impacts on the environment, 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.