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**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
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November 7, 2013

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

Dear Mr. Harris,

**Subject: Special Management Area Use Permit Assessment Application (SAA 13-001022)**  
**Special Management Area Minor Permit No. 13-000288**

**Applicant: Mauna Lani Bay Hotel/Mauna Lani Resort, Inc.**

**Request: Construction of Wooden Deck and Whirlpool/Spa and Addition of Concrete Deck with Stepped Seat Wall and Water Spouts at Keiki Pool**

**Tax Map Key: 6-8-22:15, South Kohala, Hawai'i**

This is to follow up on our October 17, 2013 letter relating to the above-referenced Special Management Area assessment for the construction of a wooden deck and whirlpool/spa and addition of a concrete deck with stepped seat wall and water spouts at the Keiki Pool. Also acknowledged is receipt of additional information on October 24, 2013.

This 31.787 acre parcel is zoned Resort-Hotel (V-1.25) and Open (O) by the County. It is designated Resort Node by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map and Urban by the State Land Use Commission.

Although this parcel in the Special Management Area and has frontage along the coastline, the project areas are not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).

Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(e)(1)(B) and (A), state that "Development" includes "Grading, moving, dredging, mining, or extraction of any materials" and "Placement or erection of any solid material or any gaseous, liquid, solid or thermal waste", respectively. Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 13-000288 is hereby issued for the construction of a wooden deck and whirlpool/spa and addition of a concrete deck with stepped seat wall and water

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spouts at the Keiki Pool subject to the applicant's compliance with the conditions of approval as specified in the permit.

Finally, all other applicable Zoning and Building Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura of this department at (808) 961-8139.

Sincerely,



DUANE KANUHA  
Planning Director

ETI:cs

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Enclosure - SMM No. 13-000288  
Department of Public Works Memorandum dated October 31, 2013

cc w/Encls: Long Range Planning  
Planning  
Planning Department – Kona

cc ltr only: Mr. Jesse K. Souki, Director  
Office of Planning, DBEDT  
P.O. Box 2359  
Honolulu, HI 96804-2359





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**Special Management Area Minor Permit No. 13-000288**

**Project:** Construction of Wooden Deck and Whirlpool/Spa and Addition of Concrete Deck with Stepped Seat Wall and Water Spouts at Keiki Pool  
**Applicant:** Mauna Lani Bay Hotel/Mauna Lani Resort, Inc.  
**Location:** South Kohala, Hawai'i  
**TMK:** 6-8-22:15 **Land Area:** 31.787 acres

**Applicant's Request**

**1. Project Description:**

The applicant is proposing the construction of a wooden deck and whirlpool/spa and addition of a concrete deck with stepped seat wall and water spouts at the Keiki Pool.

A dust and construction fence will be installed to protect the nearby pond and the shoreline area.

A backhoe will be used to dig up and remove rock, fill and soil materials to construct the new spa and deck. These materials will be hauled away inland of the dust/construction fence and to the loading dock at the mauka Kawaihae wing of the hotel for disposal offsite.

Approximately 9-12 cubic yards of the former pool restaurant's flooring will be disposed off at the Pu'uanahulu Landfill.

Materials for the new construction will be brought to the work area thru the mauka side of the hotel or from the southwest side of the hotel. At all times, water will be used to control fugitive dust in the work areas.

**2. Purpose of Project:**

The low wooden deck and whirlpool/spa will be placed at the former Ocean Grill Restaurant site. The existing Keiki pool will be upgraded with the addition of concrete deck, stepped seat wall and water spouts.

**3. Project Valuation: \$220,000**

**4. Determination:**

Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)1)(B) and (A) relating to the Special Management Area, states that "Development" includes "Grading, removing,



*dredging, mining, or extraction of any materials” and “Placement or erection of any solid material or any gaseous liquid, solid, or thermal waste”, respectively. Therefore, the proposed project requires a SMA Minor Permit.*

#### **State and County Plans**

- 1. State Land Use District:** The subject property is designated Urban.
- 2. General Plan:** It is designated Resort Node and Open by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The subject property is zoned Resort-Hotel (V-1.25) and Open (O).
- 4. Special Management Area (SMA):** The subject property is located in the SMA and has frontage along the shoreline. However, the distance from the proposed deck and whirlpool/spa to the low rock wall along the mauka edge of the sandy beach is 46 feet. The Keiki Pool is further inland, approximately 80 feet back from that low rock wall. Therefore, they are not located in a “shoreline area” as defined by Section 205A-41, Hawai‘i Revised Statutes (HRS).
- 5. Flood Zone:** Flood Zone “AE”.

#### **Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area**

The subject property has frontage along the ocean. However, the project sites are 46 feet and 80 feet inland of a low rock wall that is along the mauka edge of the sandy beach. Therefore, the proposed project will not affect the recreational resources available to the public.

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

- ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
- ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
- ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
- ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
- ☒ Beach Protection
- ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, Environmental Impact Statements.

<b>Findings</b>
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As discussed above, 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.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.



The estimated project cost of approximately \$220,000 is not in excess of \$500,000.

The enclosed Department of Public Works (DPW), Engineering Division memorandum dated October 31, 2013 states the following:

*"We reviewed the subject application and our comments are as follows:*

*We have determined that the subject projects are located within Flood Zone "AE" according to the effective Flood insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).*

*Alteration of, or any new construction, improvements to repetitive loss structures or substantial improvements of structures within the AE and/or VE flood zone will be subject to the requirements of Chapter 27 – Flood Plain Management, of the Hawai'i County Code."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 13-000288** is hereby approved for the construction of a wooden deck and whirlpool/spa and addition of a concrete deck with stepped seat wall and water spouts at the Keiki Pool, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 13-000288**, 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 shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. The disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawaii County Code and may require a Landfill Disposal Permit from the Department of Environmental Management, Solid Waste Division. They may be contacted at (808) 961-8339.
4. A construction barrier, meeting with the approval of the Planning Director, shall be erected forty (40) feet mauka of the low rock wall/sandy beach area and along the entire length of the project area prior to the commencement of construction activities and shall remain in place until final inspection has been granted by the Building Division for the improvements.
5. A construction and dust barrier, as proposed by the enclosed site plan, must meet with the approval of the Planning Director and shall be erected a minimum fifteen (15) feet away from and along the entire northern side of the nearby natural pond prior to the commencement of construction activities. It shall remain in place until final inspection has been granted by the Building Division for all proposed improvements.

6. The construction and dust barriers must be shown and properly noted on the plans submitted with any permits required for the demolition. The construction notes on the plans must include the following statement, "the construction and dust barriers must be erected prior to any construction activity, and must remain in place until final inspection by Department of Public Works (or Planning Department)."
7. All activities in connection with this project shall be completed within one (1) year from the date of this permit.
8. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department
9. An extension of time for the performance of the conditions contained herein 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 original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
10. 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.

If you have questions, please feel free to contact Esther Imamura at 961-8139.

APPROVED:

  
DUANE KANUHA  
Planning Director

NOV 07 2013

Date