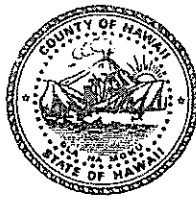


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Harry Kim



SCWA
Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

MEMORANDUM

NO. 06-11

May 22, 2006

TO: STAFF

FROM: CHRISTOPHER J. YUEN
PLANNING DIRECTOR

SUBJECT: HOKULIA

This staff memo is to explain how we handle the Hokulia project after the settlement of the lawsuit.

In brief, Hokulia is to be handled like any other project, according to the conditions of the rezoning ordinances, the SMA permits, and the special permits covering the property, with the exception of the "lodge" site. This is the 15 acre property that is zoned V-6.0.

Taking the "lodge" first: to settle the case, the parties agreed not to appeal the portion of Judge Ibarra's decision that invalidated Ord. 97-34, which amended the LUPAG map to "Resort", Ord. 97-35, which reclassified the property from the agricultural to the urban district, and Ord. 97-36, which rezoned the property from A-1a to V-6.0. Because of the invalidation of the ordinances, the property reverts to the state land use agricultural district and to A-1a zoning. Staff should change the GIS designations of the property accordingly, and Kona staff should change the maps used to check zoning and the state land use classifications. The LUPAG map is more complicated because the "Resort" designation was re-enacted with the 2005 General Plan. We will process an interim amendment later to remove the "Resort" designation.

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On the remainder of the property, we will process all applications according to the conditions of the rezoning ordinances (Ord. 96-7 and 96-8), and the other permits. The remainder of the property is zoned A-1a. When individual lot owners apply for building permits for homes, they should be given the "farm dwelling notice", the same as for other subdivisions receiving final approval after June 4, 1976.

The golf course and other associated facilities are covered by the use permit. Although the state land use law was amended in 2005 to prohibit golf courses in the agricultural district, golf courses that had previously been approved by a county are still legitimate.

There may be issues with time extensions for some aspects of the project. We are still working with Oceanside 1250 to comprehensively review the time extension issue. In the meantime, staff should proceed to handle applications such as building permits as if time extensions were not needed. At this point, it looks like all time conditions will be met, given that there was a court injunction, which would normally be considered to toll the times for performance.

Finally, the Development Agreement is still valid. This does not change the basic way that staff reviews applications, and we will still address violations of the zoning ordinances and other county and state land use laws and permits the same as we would without the Development Agreement.

CJY:pak
Wpwin60/Chris2/Staff Memo - Hokulia