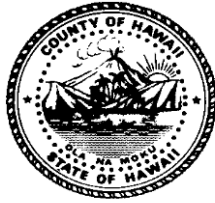


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director



Michael Vitousek, Chair
Barbara DeFranco, Vice Chair
Clement "CJ" Kanuha III
Mahina Paishon-Duarte
Faith "Faye" Yates

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

January 17, 2022

Ms. Ann Bouslog
PBR Hawai'i
1001 Bishop Street, Suite 650
Honolulu, HI 96813
VIA EMAIL

Dear Ms. Bouslog:

SUBJECT: Special Management Area Use Permit Application PL-SMA-2021-000001
Applicant: Waikoloa Land Company
Request: To Amend SMA Major Permit No. 25 to Withdraw Three (3)
Non-Contiguous Land Areas Identified as "Area A," "Area B,"
and "Area C"
Tax Map Key: (3) 6-9-008:013 (por.), 021, 022, 025, 027 (por.), 028 (por.),
029 (por.), 031 (por.), and 033

The Leeward Planning Commission, at its duly held public hearing on December 16, 2021, voted to approve the above-referenced request to amend Special Management Area Use Permit No. 25 ("SMA 25") to withdraw three (3) non-contiguous land areas identified as "Area A," "Area B," and "Area C" comprising the proposed Kumu Hou at Waikoloa project totaling approximately 182.9 acres from the land area covered under SMA 25, which allowed the development of the Waikoloa Beach Resort ("WBR") complex. Additionally, SMA 25 has been amended to delete conditions requiring the development of two (2) golf courses and their related conditions within the WBR complex. Finally, SMA 25 has been amended to delete conditions that have already been completed and amended to update other conditions to match current standard condition language and to modify conditions that have on-going compliance requirements. The properties are located between the 75- and 76-mile markers on Queen Ka'ahumanu Highway and west (makai) of the highway to the King's Highway Foot Trail, 'Anaeho'omalu and Waikoloa, South Kohala, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The overall development shall conform substantially to the plans submitted and the representations made by the applicant(s), its successor(s) or assign(s) (Applicant) and as described in the environmental impact statement, hereafter identified as "File Exhibit 1" on file in the Planning Department, except as further amended by subsequent ordinances and permits.
2. The area covered under SMA 25 shall consist of the area depicted on the enclosed exhibit from PBR Hawaii & Associates, Inc. titled '*Proposed Changes to Areas Governed by SMA 25*' received by the Planning Department on 11/3/2021.
3. The method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
4. The Applicant shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The Applicant shall also conduct an archaeological survey of the area between the King's Trail and the Queen Ka'ahumanu Highway prior to any land development of that area. The Applicant shall implement any mitigation required by Archaeological Inventory Surveys and Preservation Plans approved by the State Historic Preservation Division.
5. The King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
6. The Applicant shall implement the approved program for research, maintenance, restoration, and/or management of Ku'uali'i and Kahapapa fishponds, or any amendments thereto. The Applicant shall also provide public access to the fishponds meeting with the approval of the Planning Director.
7. The Applicant shall continue to provide public accesses to the shoreline meeting with the approved public access plan or any amendments thereto. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land.
8. The Applicant shall comply with requirements of the *Waikoloa Anchialine Pond Research Program* approved in 1994, or any amendments thereto.
9. The Applicant shall comply with requirements of the overall landscaping plan approved in 1978 including approved plant pallette for the Waikoloa Beach Resort or any amendments thereto.

10. The effective date of this current amendment shall be simultaneous with the effective date of the concurrent change of zone requests.
11. The Applicant shall comply with the *Waikoloa Beach Resort Water Quality Monitoring Program* approved in 1988, *Water Quality and Marine Life Monitoring and Mitigation Plan for the Waikoloa Development* approved in 1993, or any amendments thereto or successor plans, including monitoring for nutrients, fecal coliform and enterococci and sediment analysis and shall implement appropriate measures to protect groundwater and ocean water quality and the near shore environment as may be required by the State Department of Health.
12. All utility lines shall be underground.
13. The Applicant shall comply with the *Crisis Management Team Emergency Response Plan for the Waikoloa Beach Resort* approved by the Hawai'i County Civil Defense Agency in 2011 or any amendments thereto.
14. In the 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, the applicant shall 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.
15. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
16. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
17. The Applicant shall comply with the requirements of the State Department of Health, including the "Guidelines Applicable to Golf Courses in Hawai'i" dated July 2002 (Version 6) or applicable subsequent versions.

18. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Water Supply, the Department of Public Works, the Department of Land and Natural Resources and the Department of Transportation-Highways Division.
19. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.
20. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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 and the Planning Director acknowledges that further reports are not required.
21. Should any of the foregoing conditions not be met or substantially complied with, the Planning Director may initiate procedures to revoke the permit.

[Note: Ramseyer version available upon request.]

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 Tracie-Lee Camero of the Planning Department at (808) 961-8166 or by email at Tracie-Lee.Camero@hawaiicounty.gov or Christian Kay at (808) 961-8136 or by email at Christian.Kay@hawaiicounty.gov.

Sincerely,

/s/ Michael Vitousek

Michael Vitousek, Chairman
Leeward Planning Commission

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Attachment: Planning Commission Findings

Ms. Ann Bouslog
PBR Hawai'i
January 17, 2022
Page 5

cc w/att. via email: Waikoloa Land Company
Mr. Sidney Fuke
Department of Public Works
Department of Water Supply
State Department of Health
State Department of Land and Natural Resources
- State Historic Preservation Division
- Division of Forestry and Wildlife
GIS Section
Plan Approval Section
West Hawai'i Division

COUNTY OF HAWAI ‘I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

WAIKOLOA LAND COMPANY
AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT NO. 25

Based on the following findings Special Management Area Use Permit No. 25 (SMA 25), which allowed the development of the Waikoloa Beach Resort (WBR) complex is hereby amended to withdraw three (3) non-contiguous land areas identified as “Area A”, “Area B”, and “Area C” comprising the proposed Kumu Hou at Waikoloa project totaling approximately 182.9 acres from the land area covered under SMA 25. Additionally, SMA 25 has been amended to delete conditions requiring the development of two (2) golf courses and their related conditions within the WBR complex. Finally, SMA 25 has been amended to delete conditions that have already been completed and amended to update other conditions to match current standard condition language and to modify conditions that have on-going compliance requirements. The properties are located between the 75- and 76- mile markers on Queen Ka‘ahumanu Highway and west (*makai*) of the highway to the King’s Highway Foot Trail, ‘Anaeho‘omalulu and Waikoloa, South Kohala, Hawai‘i, TMKs: (3) 6-9-008:013 (por.), 021, 022, 025, 027 (por.), 028 (por.), 029 (por.), 031 (por.), and 033.

The applicant is requesting to amend SMA 25 to withdraw three (3) non-contiguous areas identified as “Area A”, “Area B”, and “Area C” totaling approximately 182.9 acres of land from the area covered under SMA 25, which allowed the development of the Waikoloa Beach Resort (WBR) complex. The applicant concurrently submitted three (3) new Special Management Area Use Permit (SMA) applications and two (2) rezoning applications to cover “Areas A, B, and C” to facilitate the development of the Kumu Hou at Waikoloa project (Kumu Hou) for the same land area. The Kumu Hou project includes 1,164 multi-family residential timeshare units, 25 single-family residential lots, golf support facilities, including a relocated golf clubhouse and driving range, community and operational facilities, parks and pathways, a brackish water well and distribution system for irrigation, wells, and accessory uses. A more detailed discussion of the proposed Kumu Hou project will be included in the Background and Recommendation reports for the concurrent SMA Use Permit and Change of Zone Applications.

A majority of the land to be removed from coverage under SMA 25 is currently part of the King’s Golf Course (King’s Course) situated *mauka* of the King’s Highway Foot Trail (King’s Trail). According to the applicant, demand for golf at the King’s Course has significantly diminished over the last 20 years. This trend and the extended closure of the resort/golf courses during the Covid-19 pandemic has caused long-term financial challenges for the resort and analyses indicate that the resort’s current and long-term future demands could be supported with 27 golf holes at the resort (18 holes in the makai Beach Course and a reconfiguration of nine (9) holes in the King’s Course). Based on the preceding, the applicant has developed the Kumu Hou master plan that will repurpose the lands from golf course and vacant use to develop the Kumu Hou project. In support of this, the applicant is seeking to secure three new SMA Use Permits and two Change of Zone applications for these withdrawn areas. The intent of the new permits is

to support separate governance structures and conditions that will be relevant to differing development plans and ownership anticipated for each of the three (3) areas to be undertaken over an extended period of time. The change of zone applications are necessary for implementation of the Kumu Hou Master Plan. In support of this, the applicant is seeking to secure three (3) new SMA Use permits and two (2) Change of Zone applications for these withdrawn areas. The intent of the new permits is to support separate governance structures and conditions that will be relevant to differing development plans and ownership anticipated for each of the three areas.

If approved, these new permits and ordinances will facilitate the development of the Kumu Hou project consistent with current code, rules, and requirements specific to development of the mauka area of the resort complex. The remainder of the 1,353 acres of land will continue to be controlled under SMA 25 and existing rezone ordinances that have controlled the uses within the resort area since 1977. Thus, while the Kumu Hou project area will be removed from coverage under SMA 25, any project related impacts to the SMA will be evaluated and appropriate mitigation will be conditioned in the concurrent SMA Use Permit recommendations.

Since the last amendment to SMA 25 in 2007, several conditions of approval have been complied with, thus, the Director is recommending deletion of those conditions. Furthermore, the Director recommends modification of conditions that will have ongoing compliance requirements (e.g., modifying existing conditions that required the development and approval of public access or water quality management plans to conditions that require compliance with the approved plans). Finally, the Director is recommending the modification of some conditions to match current regulations or standard condition language (e.g., inadvertent finds of archaeological or historic resources).

SMA 25 and its amendments permitted the development of four (4), 18-hole golf courses throughout the WBR, two of which have been developed as the Waikoloa Beach Course and King's Course, and two (2) have not been developed. While not expressly part of the applicant's request, the Director is recommending amending SMA 25 to remove two (2) additional golf courses entitled under an August 1991 amendment to SMA 25 and related conditions. Lands planned for these new courses include both a portion of the land area slated for the Kumu Hou project and the land adjacent to the north consisting of the current 'Āinamalu project area.

That permit amendment required construction of the first new golf course to be completed by 1997 and the second course to be completed shortly thereafter. Through a series of administrative and Planning Commission approved time extensions, the final deadline to complete construction of the first course was before April 2013 and Final Plan Approval for the second new golf course was to be secured within one (1) year thereafter. Previous owners of the adjacent 'Āinamalu property secured Final Plan Approval, a grading permit, and completed initial earth work for the first new course as required by the permit. However, based on changing market conditions and subsequent sale of the property, the course was not completed by the required time.

According to letters to the Planning Director, neither JPL Hawaii, LLC (current owner of the 'Āinamalu property) nor the applicant intend to develop the additional golf courses entitled under the permit. Instead, both entities intend to repurpose those land areas for the Kumu Hou project (in part) on the applicant's property and a mix of other

residential and visitor uses and related improvements to complete the 'Āinamalu project. As such, they are supportive of the recommended removal of the entitlement to develop two (2) new golf courses and the deletion of related conditions from SMA 25, which largely were added in the 1991 permit amendment to apply to development of the two (2) new courses. If the Kumu Hou project is approved, there will still be 27 holes of golf operated within the WBR, therefore the Director is recommending a condition requiring compliance with State Department of Health guidelines related to Golf Course operations in Hawai'i for the remaining golf facilities.



County of Hawai'i

PLANNING COMMISSION

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

April 2, 2007

Lisa Bail, Esq.
Goodwill Anderson Quinn & Stifel
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, HI 96813

Dear Ms. Bail:

Special Management Area Use Permit (SMA 25)

Request: Time Extension to Condition No. 12

Applicant: Waikoloa Development Co.

Tax Map Key: 6-9-7:1-9, 11, 14, 17, 19-21, 26, 30-38; 6-9-8:1-31; 6-9-9: 1-14;
6-9-10:1, 34; and 6-9-11:1-26 (formerly 6-8-1:26 and 6-9-7:1-30)

The Planning Commission at its duly held public hearing on March 16, 2007, voted to approve the above-referenced request for an amendment to Condition No. 12 (completion of the Waikoloa Homesites Venture Golf Course) of Special Management Area (SMA) Use Permit No. 25, which allowed the overall development of the Waikoloa Resort at Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Approval of this request would not be contrary to the General Plan or the Zoning Code nor the original reasons for the granting of Special Permit No. 25. Approval of the applicant's request will provide the applicant with additional time in which to complete the proposed golf course in a manner as approved by the Planning Commission in 1991. The applicant has demonstrated its commitment to proceed with the proposed golf course development by securing various approvals for the proposed development over the years as well as commencing with the construction of the golf course in 1995.

The applicant has noted that current market conditions and the difficulties of obtaining financing for the development has attributed to their need to request additional time for completion. Current market conditions, while improving, have not improved to a level that financially justifies the need to increase golf course capacity. The requested

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time extension will allow the applicant to complete the construction of the golf course. The additional time needed to complete the golf course will not be contrary to the original reasons for granting of the SMA Use Permit or its subsequent amendments. The applicant has and will continue to comply with all conditions of approval of SMA Use Permit No. 25 that will ensure that significant adverse impacts to the coastal environment, historical resources, public access and other important coastal resources are minimized. Over the years, the applicant has completed an archaeological survey of the project site and implemented approved mitigative measures; committed to place all permanent utility lines underground; established a ground water monitoring program, prepared an emergency preparedness and response plan, paid approximately half of a \$3 million community benefit assessment payment, and continues to comply with the conditions of approval of SMA Use Permit No. 25.

Based on the above considerations, request for an amendment to Condition No. 12 is approved subject to the following revised changes (Material to be deleted is bracketed and stricken, and material to be added is underscored):

1. That the overall development shall conform substantially to the plans submitted and the representations made by the petitioner and as described in the environmental impact statement, hereafter identified as "File Exhibit 1" on file in the Planning Department, except as further amended by subsequent ordinances and permits.
2. That the method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
3. That the petitioner shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The petitioner shall submit plans for the historic preserves to the Planning Director for review and approval prior to undertaking any research, restoration, reconstruction, or development within the historic preserves. Such plans shall include but not be limited to a proposed management and interpretation program, and the means of providing public access to the historic preserves. Further, any alteration and/or salvage of archaeological sites which are not located in the designated preserves shall first be approved by the Planning Director. The petitioner/representative(s) shall also submit plans for interim control and protection measures for sites which are not to be immediately salvaged, researched, or developed within six (6) months of the effective date of approval of the change of zone request for the review and approval of the Planning Director. The petitioner/representative(s) shall also conduct an archaeological survey of the area between the King's Trail and the Queen Kaahumanu Highway prior to any land development of that area.

4. That the King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
5. That any proposal or program for research, maintenance, restoration, and/or management of Ku'uali'i and Kahapapa fishponds shall be submitted to the Planning Director for review. The petitioner shall also provide public access to the fishponds meeting with the approval of the Planning Director.
6. That the petitioner shall provide public accesses to the shoreline meeting with the approval of the Planning Director. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land. The general location of public accesses shall be as described in 'File Exhibit 1.'
7. That temporary overhead utility lines will be permitted for Increment I of the existing Resort; however, all utility lines shall be installed underground in conjunction with development of Increment II of the existing Resort. Furthermore, a bond or other forms of legal assurance for utility improvements shall be submitted prior to issuance of building permits within Increment II of the existing Resort.
8. That the petitioner or its authorized representative(s) shall submit a comprehensive program for the treatment of the tidal, or anchialine pond, ponds, for the review of the Planning Director within one (1) year of the effective date of approval of the Special Management Area Use Permit and/or prior to any construction directly affecting any tidal pond, whichever comes first.
9. That the petitioner or its authorized representative(s) shall submit an overall landscaping plan which includes the use of native and indigenous plants for Increment One to the Planning Director for review and approval within one (1) year from the effective date of approval of the Special Management Area Use Permit.
10. The effective date of this amendment shall be simultaneous with the effective date of the accompanying change of zone.
11. Plans for the proposed golf course and related improvements shall be submitted to the Planning Department within one year from the effective date of this amendment and Final Plan Approval secured within one year thereafter. To assure adequate time for Plan Approval Review and in accordance with Chapter

25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which plan approval must be secured.

12. Construction of the golf course and related improvements shall commence within one year from the date of receipt of final plan approval and be completed on or before April 5, ~~[2007]~~2013.
13. Plans for the second golf course and related improvements shall be submitted to the Planning Department and Final Plan Approval secured within one year thereafter. The second golf course may be constructed simultaneously with the first golf course.
14. A ground and ocean water quality monitoring and mitigation plan, to include monitoring for nutrients, fecal coliform and enterococci and sediment analysis, shall be developed. The mitigation plan shall include appropriate measures to protect water quality and the near shore environment. The plans, as amended, shall be submitted to and approved by the Planning Department in consultation with the Department of Health prior to the issuance of a grading permit and/or prior to any land preparation activity being conducted on the golf course or multi-family residential sites, whichever occurs first.
15. All utility lines shall be underground.
16. An emergency preparedness and response plan shall be filed with the Planning Director and the Civil Defense Agency prior to receipt of occupancy for the multi-family residential units, commercial structures or establishment of the golf course, whichever occurs first.
17. To ensure that the goals and policies of the General Plan are implemented, the Planning Director shall formulate a community benefit assessment program for implementation by the applicant prior to receipt of Final Plan Approval of the golf courses.
18. In the design of the golf courses, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements (i.e. building and property line) at the time of plan approval review.
19. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Department notified. Work within the affected area shall not resume until clearance is obtained from the Planning Department.

20. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
21. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
22. Prior to golf course construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction materials such as topsoil or sand are being supplied from an approved quarry or resource site.
23. Comply with the requirements of the Department of Health, including the "New Golf Course Development Guidelines" dated April 1990 (Version 3) or applicable subsequent versions.
24. The applicant shall prepare an integrated golf course management plan ("IGCMP") for the review and approval of the Planning Director. The IGCMP shall address the design, construction, maintenance, and operation of the golf course. The design, construction, maintenance, and operation of the golf course shall be in compliance with the IGCMP. The IGCMP shall contain specific best management practices (BMP's) for the golf course.
25. The goals of the IGCMP will be to:
 - A. minimize the offsite transport of nutrients, sediments, herbicides, and pesticides;
 - B. minimize the use of fertilizers, herbicides, and pesticides through integrated pest management, fertility testing, and proper course design;
 - C. implement surface and groundwater conservation;
 - D. operate safely considering the public usage in the vicinity; and
 - E. prevent any harm to native biota in anchialine ponds and the shoreline and offshore environment.
26. The IGCMP requirements for the second course shall be conditioned at the time of plan approval. The IGCMP for the first course shall contain, at a minimum, the following requirements:
 - A. The golf course shall be designed so that surface drainage is not directed into anchialine ponds or the ocean;

- B. Fairways, greens and tees shall be sited on a base of medium textured soils, with adequate cation exchange capacity to hold nutrients. Soil permeability shall be between 0.2 to 6.0 inches/hour;
- C. Exposed soil areas shall be minimized during construction. Planting of grassed areas shall follow the installation of topsoil as soon as possible. The contractor shall apply dust screens, temporary soil covers and silt fences as needed. All exposed soil shall drain to a sediment trapping device;
- D. Operator shall develop and implement an integrated pest management plan with the intent of minimizing use of herbicides and pesticides. The operator shall first attempt to control weeds and pests by biological or cultural (non-chemical) means, and utilize chemical controls only after cultural means have proven infeasible. The operator shall use the least toxic chemical control at the lowest effective dosage, and shall use spot application wherever feasible. Pesticides and herbicides shall be sprayed at the lowest possible height and only when wind speeds are under 10 mph. Chloropyrifos shall not be used. The integrated pest management plan shall be reviewed by an IPM certified specialist;
- E. A qualified golf course superintendent shall control the fertilization and use of agricultural chemicals;
- F. All fertilizers, pesticides, and herbicides shall be stored in a covered maintenance area designed to contain any spill with structural barriers;
- G. Fertilization shall be based on actual plant needs as determined by leaf testing or other objective method;
- H. Fertilizers shall be "slow-release" to the extent feasible;
- I. Equipment wash area shall be set up so that oil and grease can be removed before it enters the storm drainage system;
- J. Operator shall control the timing of irrigation to follow actual plant needs, rather than on a set schedule;
- K. Grass clippings shall be used as a mulch or soil amendment.

[24.]27. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply, the Department of Public

Works, the Department of Land and Natural Resources and the Department of Transportation-Highways Division.

[25.]28. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.

[26.]29. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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 and the Planning Director acknowledges that further reports are not required.

[27.]30. ~~[An initial extension of time for the performance of conditions within the 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 foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) the 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; and 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)]~~ 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.

Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Lisa Bail, Esq.
Page 8

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288, ext 205.

Sincerely,


William Graham, Chairman
Planning Commission

Lwaikoloasma25PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Land and Natural Resources/HPD-Kona
DOT-Highways, Honolulu
Ms. Alice Kawaha
Zoning Inspector
Mr. Daryn Arai
Mr. Bennett Mark
William Yuen, Esq.

Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL
7000 0600 0024 2904 6532

FEB 01 2001

Mr. Myron Yamasato, Vice President
Waikoloa Development Company
150 Waikoloa Beach Drive
Waikoloa, HI 96738

Dear Mr. Yamasato:

Amendment to Special Management Area Use Permit No. 25 (SMA 25)
Applicant: Waikoloa Development Company
Request: Amendment to Condition No. 12 to Allow for an Extension of Time
in Which to Complete Construction to Golf Course
Tax Map Key: 6-9-7:1-14, 17, 19-21, 26, 30-38 and 6-9-8:1-13

The Planning Commission at its duly held public hearing on January 19, 2001, voted to approve the above-referenced request to amend Condition No. 12 (extension of time to complete construction of golf course) of Special Management Area Use Permit No. 25, which allowed the entire development of the Waikoloa Beach Resort complex, and other related improvements necessary for the development of the resort complex. The properties are located on the makai side of the Queen Kaahumanu Highway, adjacent to and south of the Mauna Lani Resort, Anaeho'omalulu and Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Approval of this request would not be contrary to the General Plan or the Zoning Code nor the original reasons for the granting of Special Permit No. 25. Approval of the applicant's request will provide the applicant with additional time in which to complete the proposed golf course in a manner as approved by the Planning Commission in 1991. The applicant has demonstrated its commitment to proceed with the proposed golf course development by securing various approvals for the proposed development over the years as well as commencing with the construction of the golf course in 1995. To date, the applicant remains in compliance with all conditions of approval of SMA Use Permit No. 25; further testament to their commitment to complete the proposed golf course development.

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The applicant has noted that current market conditions and the difficulties of obtaining financing for the development has attributed to their need to request additional time for completion. Current market conditions, while improving, have not improved to a level that financially justifies the need to increase golf course capacity. The request to defer the completion of the golf course for an additional 6 years will give the applicant the opportunity to await better market conditions that will support the development of the golf course. This delay in the completion of the golf course will not be contrary to the original reasons for granting of the SMA Use Permit or its subsequent amendments. The applicant has and will continue to comply with all conditions of approval of SMA Use Permit No. 25 that will ensure that significant adverse impacts to the coastal environment, historical resources, public access and other important coastal resources are minimized. Over the years, the applicant has completed an archaeological survey of the project site and implemented approved mitigative measures; committed to place all permanent utility lines underground; established a ground water monitoring program, prepared an emergency preparedness and response plan, paid approximately half of a \$3 million community benefit assessment payment, and continues to comply with the conditions of approval of SMA Use Permit No. 25.

Based on the above considerations, the request for an amendment to Condition No. 12 is hereby granted subject to the following revised changes (Material to be deleted is bracketed and material to be added is underscored):

1. That the overall development shall conform substantially to the plans submitted and the representations made by the petitioner and as described in the environmental impact statement, hereafter identified as "File Exhibit 1" on file in the Planning Department, except as further amended by subsequent ordinances and permits.
2. That the method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
3. That the petitioner shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The petitioner shall submit plans for the historic preserves to the Planning Director for review and approval prior to undertaking any research, restoration, reconstruction, or development within the historic preserves. Such plans shall include but not be limited to a proposed management and interpretation program, and the means of providing public access to the historic preserves. Further, any alteration and/or salvage of archaeological sites which are not located in the designated preserves shall first be approved by the Planning Director. The petitioner/representative(s) shall also submit plans for interim control and protection measures for sites which are not to

be immediately salvaged, researched, or developed within six (6) months of the effective date of approval of the change of zone request for the review and approval of the Planning Director. The petitioner/representative(s) shall also conduct an archaeological survey of the area between the King's Trail and the Queen Kaahumanu Highway prior to any land development of that area.

4. That the King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
5. That any proposal or program for research, maintenance, restoration, and/or management of Ku'uuali'i and Kahapapa fishponds shall be submitted to the Planning Director for review. The petitioner shall also provide public access to the fishponds meeting with the approval of the Planning Director.
6. That the petitioner shall provide public accesses to the shoreline meeting with the approval of the Planning Director. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land. The general location of public accesses shall be as described in 'File Exhibit 1.'
7. That temporary overhead utility lines will be permitted for Increment I of the existing Resort; however, all utility lines shall be installed underground in conjunction with development of Increment II of the existing Resort. Furthermore, a bond or other forms of legal assurance for utility improvements shall be submitted prior to issuance of building permits within Increment II of the existing Resort.
8. That the petitioner or its authorized representative(s) shall submit a comprehensive program for the treatment of the tidal, or anchialine pond, ponds, for the review of the Planning Director within one (1) year of the effective date of approval of the Special Management Area Use Permit and/or prior to any construction directly affecting any tidal pond, whichever comes first.
9. That the petitioner or its authorized representative(s) shall submit an overall landscaping plan which includes the use of native and indigenous plants for Increment One to the Planning Director for review and approval within one (1) year from the effective date of approval of the Special Management Area Use Permit.

10. The effective date of this amendment shall be simultaneous with the effective date of the accompanying change of zone.
11. Plans for the proposed golf course and related improvements shall be submitted to the Planning Department within one year from the effective date of this amendment and Final Plan Approval secured within one year thereafter. To assure adequate time for Plan Approval Review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which plan approval must be secured.
12. Construction of the golf course and related improvements shall commence within one year from the date of receipt of final plan approval and be completed [within three years thereafter]on or before April 5, 2007.
13. Plans for the second golf course and related improvements shall be submitted to the Planning Department and Final Plan Approval secured within one year thereafter. The second golf course may be constructed simultaneously with the first golf course.
14. A ground and ocean water quality monitoring and mitigation plan shall be developed. The plans shall be submitted to and approved by the Planning Department in consultation with the Department of Health prior to the issuance of a grading permit and/or prior to any land preparation activity being conducted on the golf course or multi-family residential sites, whichever occurs first.
15. All utility lines shall be underground.
16. An emergency preparedness and response plan shall be filed with the Planning Director and the Civil Defense Agency prior to receipt of occupancy for the multi-family residential units, commercial structures or establishment of the golf course, whichever occurs first.
17. To ensure that the goals and policies of the General Plan are implemented, the Planning Director shall formulate a community benefit assessment program for implementation by the applicant prior to receipt of Final Plan Approval of the golf courses.

18. In the design of the golf courses, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements (i.e. building and property line) at the time of plan approval review.
19. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Department notified. Work within the affected area shall not resume until clearance is obtained from the Planning Department.
20. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
21. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
22. Prior to golf course construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction materials such as topsoil or sand are being supplied from an approved quarry or resource site.
23. Comply with the requirements of the Department of Health, including the "New Golf Course Development Guidelines" dated April 1990 (Version 3) or applicable subsequent versions.
24. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply, the Department of Public Works, the Department of Land and Natural Resources and the Department of Transportation-Highways Division.
25. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.
26. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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

Mr. Myron Yamasato, Vice President
Waikoloa Development Company
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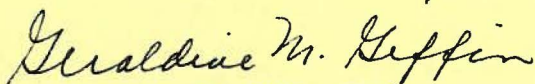
effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

27. An initial extension of time for the performance of conditions within the 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 foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) the 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; and
 - 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall 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.

Should you have any questions, please contact Daryn Arai of the Planning Department Kona Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lwaikoloadevcosma25PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section

RECORD OF VOTING

PLANNING COMMISSION COUNTY OF HAWAII

DATE: January 19, 2001

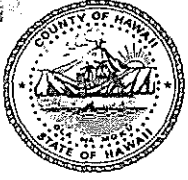
APPLICANT: Waikoloa Development Company – Amend SMA 25

- PUBLIC HEARING:**
- CLOSE 1ST _____ 2ND _____
 - CONTINUE 1ST _____ 2ND _____
 - REOPEN 1ST _____ 2ND _____
 - OTHER _____
 - REMARKS _____

- ACTION:**
- APPROVE 1ST Mosher 2ND Kubota 7-0
 - APPROVE WITH AMENDMENTS
 - DENY
 - AFFIRM
 - OTHER _____
 - REMARKS as recommended by Ditzel

COMMISSIONERS: **AYE** **NO** **EXCUSED** **ABSTAIN**

	AYE	NO	EXCUSED	ABSTAIN
BAKER, Richard	✓			
FUJIKAWA, Earl			✓	
GIFFIN, Geraldine	✓			
KUBOTA, Florence (2)	✓			
MINA, Aurelio	✓			
MOSHER, Mildred (1)	✓			
SMITH, Francis	✓			
SOUZA, James	✓			
TOGASHI, Grant			✓	



Planning Commission

Lorraine R. Inouye
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

August 23, 1991

Mr. Ken Melrose
Waikoloa Development Co.
P. O. Box 3028
Waikoloa, Village Station
Kohala Coast, HI 96743-3028

Dear Mr. Melrose:

Applications for Change of Zone and Amendment to
Special Management Area Use Permit No. 25 ✓
Applicant: Waikoloa Development Co.
TMK: 6-9-7:1-14, 17, 19-21, 26, 30-37; and 6-9-8:1-13
(formerly 6-8-1:26; and 6-9-7:1-30)

The Planning Commission at its duly held public hearing on August 15, 1991, reviewed and acted on your applications for a change of zone and amendment to Special Management Area Use Permit No. 25 for the above-described property.

The Commission voted to recommend the approval of the application for a change of zone to the County Council, subject to the following conditions:

- A. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
- B. Plans for residential development or a portion thereof shall be submitted for plan approval within one year from the effective date of the change of zone and Final Plan Approval secured within one year thereafter. To assure adequate time for Plan Approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which Plan Approval must be secured.
- C. Intersection improvements to Queen Kaahumanu Highway, which may include phasing thereof as well as a highway underpass and diamond interchange at the south entrance, shall be installed in a manner meeting with the approval

AUG 23 1991

Mr. Ken Melrose
August 23, 1991
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of the Department of Transportation. A Traffic Management Plan shall be approved by the Department of Transportation and approved recommendations implemented. Further, a letter from the Department of Transportation-Highways Division confirming the funding and construction of other on-site and off-site transportation improvements or other means agreed upon, shall be submitted within one year from completion of the Department of Transportation-Highways Division Corridor Study.

- D. All roadways within the proposed development shall be constructed in accordance with the requirements of the Department of Public Works. Curbs, gutters and sidewalks may be required to be constructed in areas of likely pedestrian traffic as determined by the Chief Engineer and the Planning Director.
- E. A roadway connection to the adjacent property to the north shall be provided meeting with the approval of the Department of Public Works.
- F. A drainage system shall be installed meeting with the approval of the Department of Public Works.
- G. All residential, commercial and industrial units and uses shall be connected to a sewage treatment plant, public or private, meeting with the approval of the appropriate governmental agencies.
- H. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Department notified. Work within the affected area shall not resume until clearance is obtained from the Planning Department.
- I. Comply with the requirements of the Department of Education. A letter from the Department of Education confirming compliance and the nature in which compliance has been met shall be submitted prior to issuance of a certificate of occupancy for any of the multi-family residential units.
- J. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of

Water Supply, Department of Public Works and the
Department of Land and Natural Resources.

- K. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.
- L. Should the council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.
- M. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this change of zone. 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 and the Planning Director acknowledges that further reports are not required.
- N. An extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: 1) 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; 2) granting of the time extension would not be contrary to the general plan or zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; 4) 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); and 5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

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The Planning Commission also approved your request to amend Special Management Area (SMA) Use Permit No. 25, which allowed the entire development of the Waikoloa Beach Resort complex, including 3,000 hotel rooms, approximately 3,430 multiple residential units, 2 golf courses, other recreational facilities, commercial facilities, temporary construction and maintenance yard, infrastructure such as roads, utilities, etc., and other related improvements necessary for the development of the resort complex. The amendment request is (i) to reduce the allowable multiple residential units to 3,365 units (1,604 units to be constructed within the expansion area) and (ii) to allow two additional golf courses and related improvements. The site is the existing Waikoloa Beach Resort and those lands on the mauka side of the Resort to the Queen Kaahumanu Highway extending from the State-owned lands on the south to Mauna Lani Resort on the north, in the ahupua'a of Anaeho'omalu and Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

The request to decrease the total number of residential units from 3,430 multiple residential units to 3,365 units and to allow two additional golf courses will not militate against the original reasons for granting the SMA Use Permit. The reduction in units over a greater land area is preferable in trying to provide for a quality resort destination area.

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving a development within the SMA is that it is consistent with the General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide Map, which designates this area for Urban Expansion. As discussed previously, the granting of this amendment will also complement the above-mentioned goals, policies and standards of the General Plan.

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Another criteria in reviewing an SMA Use Permit application is that "The 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 elimination of planning options." The area is not a habitat for any endangered plant or animal species. Approvals are in place for the preservation of significant historic sites on the property. These preservation plans include interpretive management in order that further research work may be accomplished and that signage will be provided for resort guests.

Based on the Air Quality Impact Analysis prepared by J.W. Morrow, air quality is not expected to be significantly degraded. Existing air quality is good and no serious problems are envisioned. Therefore, no adverse impacts on air quality are expected to be generated by the proposed decrease in residential units or the construction of two golf courses.

The site is a considerable distance from the shoreline and should not affect water quality. Any potential runoff or discharge which could reach ocean waters will be handled by on-site improvements. Negative impacts on the local water quality resulting from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing ordinances and regulations.

To further address water quality concerns, a condition is being included that requires the preparation of a water quality monitoring plan approved by the appropriate agencies. Compliance with the golf course guidelines developed by the Department of Health is also being required as a new condition of this permit. With these precautionary measures in place, the proposed developments are not expected to have any substantial adverse effects on the coastal resources or the environment.

The proposed development will not have adverse impact on public access which was already made a requirement in the original permit. Because that requirement was imposed and fulfilled for the entire unit count, it is not necessary to impose public access requirements given the decrease in unit count.

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Viewplanes and corridors will not be significantly affected by the proposed project. With the State LUC requirement for an 800-foot open space buffer from the Queen Kaahumanu Highway right-of-way, adequate setbacks have been established for the construction of multiple-family residential units, which height may not exceed 45 feet. Topographical characteristics will also affect the design considerations and visual impacts of the project. The applicant has prepared its design guidelines which future developments would follow. This is meant to provide parameters to guide quality development within the resort.

Based on the above, it is determined that the proposed development 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.

Approval of this request is subject to the following conditions: (new material underscored; material to be deleted is bracketed.)

1. That the overall development shall conform substantially to the plans submitted and the representations made by the petitioner and as described in the environmental impact statement, hereinafter identified as 'File Exhibit 1' on file in the Planning Department, except as further amended by subsequent ordinances and permits.
2. That the method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
3. That the petitioner shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The petitioner shall submit plans for the historic preserves to the Planning Director for review and approval prior to undertaking any research, restoration, reconstruction, or development within the historic preserves. Such plans shall include but not be limited to a proposed management and interpretation program, and the means of providing public access to the historic preserves. Further, any alteration and/or salvage of archaeological sites which are not located in

Mr. Ken Melrose
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the designated preserves shall first be approved by the Planning Director. The petitioner/representative(s) shall also submit plans for interim control and protection measures for sites which are not to be immediately salvaged, researched, or developed within six (6) months of the effective date of approval of the change of zone request for the review and approval of the Planning Director. The petitioner/representative(s) shall also conduct an archaeological survey of the area between the King's Trail and the Queen Ka'ahumanu Highway prior to any development of that area.

4. That the King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
5. That any proposal or program for research, maintenance, restoration, and/or management of Ku'uiali'i and Kahapapa fishponds shall be submitted to the Planning Director for review. The petitioner shall also provide public access to the fishponds meeting with the approval of the Planning Director.
6. That the petitioner shall provide public accesses to the shoreline meeting with the approval of the Planning Director. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land. The general location of public accesses shall be as described in "File Exhibit 1."
7. [That construction of the golf course and clubhouse facility shall be completed and available for play upon issuance of the occupancy permit for the first hotel. The plans for the golf course shall be submitted to the Planning Department for review and approval.
- 8.] That temporary overhead utility lines will be permitted for Increment I of the existing Resort; however, all utility lines shall be installed underground in conjunction with development of Increment II of the existing Resort. Furthermore, a bond or other forms of

legal assurance for utility improvements shall be submitted prior to issuance of building permits within Increment II of the existing Resort.

- [9]8. That the petitioner or its authorized representative(s) shall submit a comprehensive program for the treatment of the tidal, or anchialine, ponds for the review of the Planning Director within one (1) year of the effective date of approval of the Special Management Area Use Permit and/or prior to any construction directly affecting any tidal pond, whichever comes first.
- [10]9. That the petitioner or its authorized representative(s) shall submit an overall landscaping plan which includes the use of native and indigenous plants for Increment One to the Planning Director for review and approval within one (1) year from the effective date of approval of the Special Management Area Use Permit.
- [11. That all accesses from the Queen Ka'ahumanu Highway shall conform to the requirements, including the provision of a channelized intersection, of the State of Hawaii Department of Transportation, Highways Division.
12. That all other applicable rules and regulations shall be complied with, including the conditions of approval of the change of zone request and all necessary permits. Should these conditions not be met, the Special Management Area Use Permit may be deemed null and void by the Planning Commission or the designated authority for Special Management Areas as may be established by any amendments to Act 176, SLH 1975.]
10. The effective date of this amendment shall be simultaneous with the effective date of the accompanying change of zone.
11. Plans for the proposed golf course and related improvements shall be submitted to the Planning Department within one year from the effective date of this amendment and Final Plan Approval secured within one year thereafter. To assure adequate time for Plan Approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which plan approval must be secured.

12. Construction of the golf course and related improvements shall commence within one year from the date of receipt of final plan approval and be completed within three years thereafter.
13. Plans for the second golf course and related improvements shall be submitted to the Planning Department and Final Plan Approval secured within one year thereafter. The second golf course may be constructed simultaneously with the first golf course.
14. A ground and ocean water quality monitoring and mitigation plan shall be developed. The plan shall be submitted to and approved by the Planning Department in consultation with the Department of Health prior to the issuance of a grading permit and/or prior to any land preparation activity being conducted on the golf course or multi-family residential sites, whichever occurs first.
15. All utility lines shall be underground.
16. An emergency preparedness and response plan shall be filed with the Planning Director and the Civil Defense Agency prior to receipt of occupancy for the multi-family residential units, commercial structures or establishment of the golf course, whichever occurs first.
17. To ensure that the goals and policies of the General Plan are implemented, the Planning Director shall formulate a community benefit assessment program for implementation by the applicant prior to receipt of Final Plan Approval of the golf courses.
18. In the design of the golf courses, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements (i.e. building and property line) at the time of plan approval review.
19. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Department notified. Work within the affected

area shall not resume until clearance is obtained from the Planning Department.

20. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
21. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
22. Prior to golf course construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction materials such as topsoil or sand are being supplied from an approved quarry or resource site.
23. Comply with the requirements of the Department of Health, including the "New Golf Course Development Guidelines" dated April 1990 (Version 3) or applicable subsequent versions.
24. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply, the Department of Public Works, the Department of Land and Natural Resources and the Department of Transportation-Highways Division.
25. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.
26. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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 and the Planning Director acknowledges that further reports are not required.

Mr. Ken Melrose
August 23, 1991
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27. An initial extension of time for the performance of conditions within the 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) the 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

These recommendations do not, however, sanction the specific plans submitted with the applications as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions regarding the above, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Mike Luce, Chairman
Planning Commission

6623d
jdk

xc: Mr. Bill Yuen
Department of Public Works
Department of Water Supply
West Hawaii Office
OSP, CZM Program w/background
DLNR
Department of Health
Department of Transportation-Highways
Department of Education
Plan Approval Section

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for)
SPECIAL MANAGEMENT AREA USE PERMIT)
by)
BOISE CASCADE HOME AND LAND CORPORATION)
for) SMA USE PERMIT NO. 25
DEVELOPMENT OF THE ENTIRE)
WAIKOLOA RESORT COMPLEX)
at)
Anaeho'omalu and Waikoloa)
South Kohala, Hawaii)
_____)

SPECIAL MANAGEMENT AREA USE PERMIT

The County Planning Commission at a duly held public hearing on February 14, 1977, considered the application of BOISE CASCADE HOME AND LAND CORPORATION for a Special Management Area Use Permit in accordance with Rule No. 9, Rules and Regulations Relating to Environmental Shoreline Protection, to allow the Development of the Entire Waikoloa Resort Complex located makai of the Queen Ka'ahumanu Highway in the land divisions of Anaeho'omalu and Waikoloa, South Kohala, Tax Map Key 6-8-01:26 and 6-9-07:1 to 30.

The Commission has found that approval of the SMA Use Permit for the proposed development will not be inconsistent with the spirit and intent of Act 176 (Environmental Shoreline Protection Act) of the 1975 Legislature. The intent of Act 176 is to implement the State policy of preserving, protecting, and restoring where possible the natural resources of Hawaii's coastal zone, as well as to provide special interim controls on developments along the shoreline. The Legislature has deemed that such controls are necessary to avoid the permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves.

Based on development plans and supporting studies submitted by the petitioner, the proposed development is deemed to be in conformance with the policies and guidelines of Act 176 and Rule 9 of the Planning Commission in the following ways:

1. Adequate access to the shoreline, including beach areas, will be provided. The petitioner has committed to retain Anaeho'omalu Beach and the fishponds in open space. This area, consisting of approximately 16.3 acres, is and will be open to the public. The petitioner's plans also show that a path along the shoreline will be provided. In addition, the petitioner's plans show that pedestrian access with public parking areas will be provided along the side property lines of makai parcels. These will extend from the main resort road to the shoreline and with the beach area and shoreline path will assure that an integrated system of public shoreline access is established.

2. The petitioner will also protect, and interpret where appropriate, significant historical sites on the subject property. An archaeological survey has been conducted in the subject areas and partial salvage work has been undertaken. Historical sites which will be protected include habitation complexes, the fishponds, the petroglyph field, and the King's Trail. Significant sites will be retained in open space and public access to them will be provided. Research and salvage of other sites will be conducted as necessary.
3. The petitioner has made the necessary provisions for waste treatment, disposition, and management so as to minimize potential adverse effects on the area's natural resources. Sewage treatment facilities will be provided by the petitioner. In addition, the environmental impact statement (EIS) submitted by the petitioner has addressed the characteristics of the near-shore waters and fishponds and the potential impact of the proposed development upon them. The EIS will also be instrumental in monitoring and assessing the impact of the proposed development as it progresses.
4. The size of the beach or other areas usable for public recreational purposes will not be reduced by the proposed development. Some areas of the subject property to which public access will be made available have previously been basically inaccessible. It is expected that the proposed development will provide additional recreational opportunities for the public.
5. There will be minimal alteration of the coastal shoreline area. Alterations will basically consist of landscaping. Structures will be sufficiently set back so that there will essentially be an open corridor along the shoreline.
6. The proposed structures will be limited in height so that they will not substantially interfere with the line of sight from the Queen Ka'ahumanu Highway. Although they will be visible, the relief of the sites upon which are to be located will determine the ultimate height of each building. Landscaping, the choice of color, and the open space imposed through setback requirements and density limitations will help to minimize the visual impact of structures. In addition, the siting of structures will be closely examined so that view planes from the Queen Ka'ahumanu Highway will be protected.

The enforcement of other existing rules, regulations, and standards will further ensure that adverse effects are minimized and the mitigating measures are undertaken.

Furthermore, approval of the Special Management Area Use Permit shall exclude the proposed small boat harbor. Upon reviewing the application filed by the petitioner, it has found that there is insufficient evidence to warrant the approval of such a facility. Detailed plans and engineering, environmental and related studies are needed before the impact of the proposed facility can be evaluated. In addition, other governmental reviews must be conducted before such a facility can be initiated. One of these reviews is by the Department of Health for the reclassification of the water quality class. Previous application by the petitioner for the same purpose was denied by the Department of Health in December, 1971.

Further, the petitioner is uncertain as to the timetable for the proposed small boat harbor. When the petitioner has determined that development of such a facility might be warranted, reapplication can be made.

Therefore, The Commission hereby grants to the petitioner a Special Management Area Use Permit to allow the entire development of the Waikoloa Beach Resort Complex which includes 3,000 hotel rooms, approximately 3,430 multiple residential units, two (2) golf courses, other recreational facilities, commercial facilities, temporary construction and maintenance yard, infrastructures such as roads, utilities, etc., and other related improvements necessary for the development of the resort complex, pursuant to the authority vested in it by Rule No. 9, Rules and Regulations Relating to Environmental Shoreline Protection, subject to the following conditions:

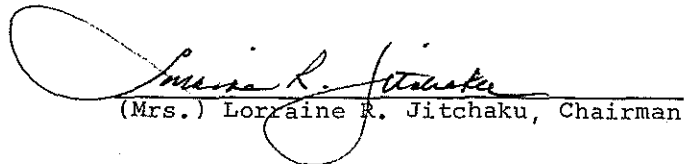
1. That the overall development shall conform substantially to the plans submitted and the representations made by the petitioner and as described in the environmental impact statement, hereafter identified as "File Exhibit 1" on file in the Planning Department. Structural development and construction of the golf course shall be contingent upon approval of the change of zone request. Hotel and condominium development shall also be contingent upon receipt of Planned Development Permits.
2. That the method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
3. That the petitioner shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The petitioner shall submit plans for the historic preserves to the Planning Director for review and approval prior to undertaking any research, restoration, reconstruction, or development within the historic preserves. Such plans shall include but not be limited to a proposed management and interpretation program, and the means of providing public access to the historic preserves. Further, any alteration and/or salvage of archaeological sites which are not located in the designated preserves shall first be approved by the Planning Director. The petitioner/representative(s) shall also submit plans for interim control and protection measures for sites which are not to be immediately salvaged, researched, or developed within six (6) months of the effective date of approval of the change of zone request for the review and approval of the Planning Director. The petitioner/representative(s) shall also conduct an archaeological survey of the area between the King's Trail and the Queen Ka'ahumanu Highway prior to any development of that area.
4. That the King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
5. That any proposal or program for research, maintenance, restoration, and/or management of Ku'uiali'i and Kahapapa fishponds shall be submitted to the Planning Director for review. The petitioner shall also provide public access to the fishponds meeting with the approval of the Planning Director.
6. That the petitioner shall provide public accesses to the shoreline meeting with the approval of the Planning Director. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land. The general location of public accesses shall be as described in "File Exhibit 1."

7. That construction of the golf course and clubhouse facility shall be completed and available for play upon issuance of the occupancy permit for the first hotel. The plans for the golf course shall be submitted to the Planning Department for review and approval.
8. That temporary overhead utility lines will be permitted for Increment I; however, all utility lines shall be installed underground in conjunction with development of Increment II. Furthermore, a bond or other forms of legal assurance for utility improvements shall be submitted prior to issuance of building permits within Increment II.
9. That the petitioner or its authorized representative(s) shall submit a comprehensive program for the treatment of the tidal, or anchialine, ponds for the review of the Planning Director within one (1) year of the effective date of approval of the Special Management Area Use Permit and/or prior to any construction directly affecting any tidal pond, whichever comes first.
10. That the petitioner or its authorized representative(s) shall submit an overall landscaping plan which includes the use of native and indigenous plants for Increment One to the Planning Director for review and approval within one (1) year from the effective date of approval of the Special Management Area Use Permit.
11. That all accesses from the Queen Ka'ahumanu Highway shall conform to the requirements, including the provision of a channelized intersection, of the State of Hawaii Department of Transportation, Highways Division.
12. That all other applicable rules and regulations shall be complied with, including the conditions of approval of the change of zone request and all necessary permits.

Should these conditions not be met, the Special Management Area Use Permit may be deemed null and void by the Planning Commission or the designated authority for Special Management Areas as may be established by any amendments to Act 176, SLH 1975.

The effective date of this permit shall be February 14, 1977.

Dated at Hilo, Hawaii, this 4th day of March, 1977.


(Mrs.) Lorraine R. Jitchaku, Chairman

