

CERTIFIED MAIL

December 30, 1985

Mr. Wellington Chu, President
Ahualoa Development, Inc.
P. O. Box 3979
Honolulu, HI 96813

Dear Mr. Chu:

Change of Zone Application
Special Management Area Use Permit Application
Tax Map Key 5-7-02:11

The Planning Commission at its duly held public hearing on December 18, 1985, voted to recommend approval to the County Council on the Change of Zone application. The Planning Commission also voted to approve the application, Special Management Area (SMA) Use Permit No. 230 to allow the development of a 168-lot subdivision and related improvements at Kapaanui and Kou, North Kohala, Hawaii.

The approval recommendation for change of zone application is subject to the following conditions:

- A. The petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The property shall be zoned in two increments. The first increment shall consist of a maximum of 130 contiguous acres, and the second, the remaining area. The zoning for the second increment shall become effective upon subdivision approval of the first increment; and further, it shall be demonstrated to the satisfaction of the Planning Director that either 1) substantial agricultural activity is being conducted on the land within the first increment, or 2) that building permits have been issued for single family dwellings and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the lots within the first increment. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops,

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including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered substantial: (a) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (b) if it provides a major source of income to the person(s) who reside on the property; or (c) if the property is dedicated for agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the Planning Department and Bureau of Conveyances. The execution of a Farm Dwelling Agreement may also suffice in lieu of the above requirements.

- C. Subdivision plans for the first increment shall be submitted to the Planning Department within one year from the effective date of the change of zone.
- D. A drainage system shall be installed in accordance with the requirements of the Department of Public Works.
- E. Access(es) to the proposed subdivision shall meet with the approval of the State Department of Transportation, Highways Division. The lots shall not have direct access from Akoni Pule Highway.
- F. All other applicable rules, regulations and requirements shall be complied with.

The Planning Director may administratively grant extensions to the foregoing time conditions. Further, should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the property to its original or more appropriate designation.

The SMA permit was approved subject to the following conditions:

- 1. The petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- 2. The SMA permit shall not become effective until the change of zone ordinance is adopted.

3. The entire area within the State Land Use Conservation District shall be designated, in perpetuity, as a public shoreline easement. Said easement shall be recorded with the State Bureau of Conveyances simultaneously with the recordation of the final subdivision plat map for the first increment. Further, a public parking area consisting of a minimum of ten parking stalls shall be provided at the end of the subdivision road abutting the public easement area. Public access along the subdivision road leading to the public parking area shall be provided in perpetuity as a public easement. Said easement shall be recorded with the State Bureau of Conveyances simultaneously with the recordation of the final subdivision plat map for the first increment.
4. Prior to the issuance of final subdivision approval, an intensive survey shall be conducted for those sites identified by the archaeological reconnaissance submitted by the petitioner as well as those identified in the Tominari-Tuggle study (North Kohala: Perception of a Changing Community, 1981), which are situated within the SMA area but outside of the State Land Use Conservation District. The intensive survey should also include the railroad right-of-way. Three copies of the survey report shall be submitted to the Planning Department for review and approval.
5. All archaeological features on the parcel which would be impacted by the development shall be recorded in a manner consistent with current archaeological standards and three copies of this report shall be sent to the Planning Department for further review and approval prior to the start of any construction activity. At this time, additional comments and recommendations for the mitigation of sites may be provided.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work within the affected area shall cease and the Planning Department immediately notified. Subsequent work within the affected area shall proceed upon receipt of an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
7. All other applicable rules, regulations and requirements shall be complied with.

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6. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, this permit shall be void.

A requirement, as part of our recommendation to the County Council, is the inclusion of a legal description of the subject area in map and written form by metes and bounds. Please submit such a description to us as soon as possible so that the application can be forwarded to the Council with a minimum of delay.

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

Sincerely,



Barbara A. Koi
Chairman Pro Tem, Planning Commission

cc: DLRR

• DFED, CZM Program w/background
Department of Public Works
Department of Water Supply
Hawaii County Services, Deputy Managing Director's Office
County Real Property Tax Division

bcc: Plan Approval Section