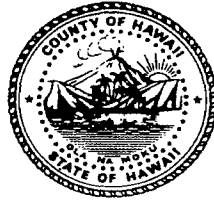


Harry Kim
Mayor



Keith F. Unger, Chair
Oliver "Sonny" Shimaoka, Vice Chair
Nancy Carr Smith
Scott Church
Perry Kealoha
Michael Vitousek
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

NOV - 9 2018

Mr. Dave Eadie, Senior Vice-President
Entitlement & Development
Kennedy Wilson
3200 Bristol Street, Suite 640
Costa Mesa, CA 92626

Dear Mr. Eadie:

SUBJECT: Special Management Area Use Permit (SMA 260)
Applicant: KW Kona Investors LLC
Request: Time Extensions to Condition No. 5 (Secure Final Plan Approval) and
Condition No. 6 (Commence & Complete Construction of Phase II)
Tax Map Key: 7-2-010:010

The Leeward Planning Commission, at its duly held public hearing on October 18, 2018, voted to approve the above-referenced request to amend Special Management Area Use Permit (SMA 260) to amend Condition No. 5 (Secure Final Plan Approval) and Condition No. 6 (Commence and Complete Construction of Phase II), which was approved in 1987 to allow the expansion and renovation of the existing Kona Village Resort, including the construction of 54 new hotel units and related improvements. Phase II consists of 25 units. The project site is located at 72-300 Maheawalu Drive, Kona Village Resort, Ka'ūpūlehu, North Kona, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The applicants, successors or its assigns shall be responsible for complying with all of the stated conditions of approval.
2. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years from the effective date of this amendment.
3. Construction of Phase II shall commence within one year from the date of receipt of Final Plan Approval and be completed within three years thereafter. The location of the 25 additional units shall be constructed in the locations represented on the plans

Hawai'i County is an Equal Opportunity Provider and Employer

NOV - 9 2018

4. No improvements shall be allowed within the 40-foot shoreline setback area unless a shoreline setback variance is obtained.
5. Public access to and along the shoreline, including related improvements, shall be provided meeting with the approval of the Planning Director, which is identified within the Kona Village Public Access Plan.
6. Provide parking in compliance with the Zoning Code for the resort's guests, the public using the resort's facilities, and the resort's employees. A parking management plan shall be submitted for the approval of the Planning Director prior to the issuance of an occupancy permit. Any practices, signage, or other improvements which delineates parking for the resort's guests, parking for the public using the resort's facilities, or employee parking shall have the prior approval of the Planning Director.
7. The applicant shall comply with mitigation and preservation plans approved by the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) and the County Planning Department. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the DNLR-SHPD at (808) 933-7651.
8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
9. 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 nullify 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.

Mr. Dave Eadie, Senior Vice-President
Entitlement & Development
Kennedy Wilson
Page 3

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

Should you have any questions, please contact Jeff Darrow of the Planning Department at 961-8158.

Sincerely,



Keith F. Unger, Chairman
Leeward Planning Commission

LKWkonainvestorsAmendSMA260lpc
Enclosure: PC Findings Report

cc w/enclosures: Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural; Resources-HPD
DOT, Highways-Honolulu
Plan Approval Section
GIS Section
Planning Department - Kona

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

KW KONA INVESTORS, LLC (FORMERLY KONA VILLAGE RESORT)
AMENDMENT TO CONDITION NOS. 5 & 6
SPECIAL MANAGEMENT AREA USE PERMIT NO. 260

Based on the following considerations, the amendments for time extensions to Condition No. 5 (Secure Final Plan Approval) and Condition No. 6 (Commence and Complete Construction of Phase II) of Special Management Area Use Permit No. 260 are approved.

KW KONA INVESTORS, LLC (FORMERLY KONA VILLAGE RESORT) submitted a request for time extensions to Condition No. 5 (Secure Final Plan Approval) and Condition No. 6 (Commence and Complete Construction of Phase II) of Special Management Area Use Permit No. 260, which was approved in 1987 to allow the expansion and renovation of the existing Kona Village Resort, including the construction of 54 new hotel units and related improvements. Phase II consists of 25 units. The subject property is located at 72-300 Maheawalu Drive, Kona Village Resort, Ka‘ūpūlehu, North Kona, Hawai‘i, TMK: (3) 7-2-010:010.

The applicant submitted a 5-year time extension amendment to comply with Condition No. 5 (Secure Final Plan Approval) and Condition No. 6 (Commence and Complete Construction of Phase II) of Special Management Area Use Permit No. 260, which was approved in 1987 to allow the expansion and renovation of the existing Kona Village Resort, including the construction of 54 new hotel units and related improvements. Phase I, which consisted of 29 units (25 units and 4 that were converted for administrative uses) has been previously completed. Phase II consists of 25 additional units.

Condition No. 5 and Condition No. 6 currently read as follows:

5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years from the effective date of this amendment.
6. Construction of Phase II shall commence within one year from the date of receipt of Final Plan Approval and be completed within three years thereafter.

The Kona Village Resort was established in 1959 as an isolated retreat type resort with 71 hotel units, the Hale Samoa restaurant and support facilities. The resort was functional and in the process of expanding the overall unit count as allowed under SMA 260 until the Tōhoku Tsunami event in March of 2011.

SMA Use Permit No. 260 was approved on August 25, 1987 to allow the renovation of the existing Kona Village Resort complex and the construction of 54 new hotel units. There have been several time extensions granted to comply with Condition No. 5 of SMA 260 with the last extension being approved until April 4, 2008, citing the inability to comply due to unforeseeable changes in market and economic conditions.

The current time extension amendment requests are a result of the Tōhoku Tsunami event in March of 2011 that devastated a number of structures and improvements at the resort, which resulted in it being closed since this event. Additionally, the renovation work had to be delayed for a period of time due to foreclosure proceedings and litigation.

The current applicant, KW Kona Investors, LLC, has been diligently trying to restore and renovate the project to be able to re-open. They could not meet the current deadlines to complete Phase II and have submitted these amendment requests for additional time to comply with conditions of SMA 260.

The additional 25 units are located on the north side of the property. The proposed improvements are mauka (east) of existing hotel units approximately 200+ feet back from the shoreline, which is comprised of a hardened cliff.

The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. The original application was reviewed against the guidelines for granting of a Special Management Area Use Permit and was approved by the Planning Commission with conditions. The time extension requests are reviewed by the following criteria:

- A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence.
- B. Granting of the time extension would not be contrary to the General Plan and Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

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. As stated above, the current request is a result of the Tōhoku Tsunami event in March of 2011 that devastated a number of structures and improvements, which resulted in the resort being closed since this event. Additionally, the renovation work had to be delayed for a period of time due to foreclosure proceedings and litigation. These events could not have been readily foreseen and the inability to comply with conditions is not the result of the applicant's fault or negligence.

This approval recommendation to amend SMA Use Permit No. 260 for a time extension will not be contrary to the General Plan or the Zoning Code. The LUPAG designation for the subject parcel is mainly Resort Node, with Open along the shoreline and some Conservation on portions of the property that appear to line up with existing ponds. The project continues to be consistent with goals, policies and actions articulated in the Land Use and Economic elements of the General Plan. In addition, the project is consistent with land use policies in the 2008 Kona Community Development Plan (KCDP), which identifies the area as existing urban resort development. The County Zoning for the property is Resort-Hotel District (V-7) and Open, which allows for the existing development and the additional 25 units allowed as part of SMA 260. Based on the preceding, the granting of the time extension request is not be contrary to the General Plan or the Zoning Code.

This approval recommendation to amend SMA Use Permit No. 260 for a time extension will not be contrary to the original reasons for granting the permit.

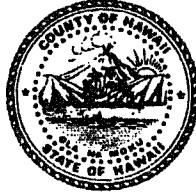
The original SMA Use Permit application and subsequent time extension requests were reviewed against the guidelines for granting of a Special Management Area Use Permit and the objectives and policies of Chapter 205A, HRS. These include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas. The subject property is a shoreline property located in the SMA that has been developed as an urban resort since 1959. There is an identified public access to the shoreline that runs through the subject property that includes public access parking and a public access restroom. The subject project will not restrict access to coastal recreational resources along the shoreline.

The proposed development will not substantially affect scenic vistas or view planes from the nearest State Highway nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The proposed project will not create significant adverse impacts upon immediately adjacent properties, as surrounding properties include the Four Seasons Resort project to the south, which is zoned Resort, Multiple Family Residential, Village Commercial and Open. To the north and east are properties that are part of the Ka'ūpūlehu Development, which is zoned Project District (PD) and made up of a mix of uses.

There have been numerous archaeological surveys in the Ka'ūpūlehu area that have documented the existence of both prehistoric and historic period archaeological sites and features mauka of the shoreline. All of the historic and archaeological sites identified have undergone mitigation in accordance with the Mitigation Plan approved by the County of Hawai'i and the State Historic Preservation Division of the Department of Land and Natural Resources (DLNR-SHPD).

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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

APR 9 2003

Stephen J. Menezes, Esq.
441 Kipuni Street
Hilo, HI 96720

Dear Mr. Menezes:

Special Management Area Use Permit No. 260

Applicant: Kona Village Resort

Request: Amendment to Condition No. 5

Extension of Time to Submit Plans for Phase I for Plan Approval

Tax Map Key: 7-2-3:Portion of 1 and 2

The Planning Commission at its duly held public hearing on April 4, 2003, voted to approve the above-referenced amendment to Condition No. 5 (extension of time to submit plans for Phase II for Plan Approval) of Special Management Area Use Permit No. 260, which allows expansion and renovation of the Kona Village Resort, at Ka'ūpūlehu, North Kona, Hawai'i.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS), and 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 an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

The request for a 5-year extension of time to submit plans for Phase II for Plan Approval 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. SMA Use Permit No. 260 was approved on August 25, 1987 for the renovation of the existing Kona Village Resort and the construction of 54 new hotel units. On November 24, 1992, an administrative extension of time to October 28, 1997 to Condition No. 5 (submit plan approval for Phase II) was granted by the Planning Director. On February 20, 1998, the Planning Commission approved a subsequent request to amend Condition No. 5, to allow an extension to March 4, 2003 to submit plan approval for Phase II. The applicant is

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APR 9 2003

currently requesting another 5-year time extension to Condition No. 5, citing inability to comply due to unforeseeable changes in market and economic conditions.

The request for a time extension will not have an adverse impact to coastal recreational or visual resources to the shoreline and coastal ecosystems. Views to and along the shoreline will not be affected, and the scenic and open space resources of the area will not be negatively impacted. There are no public recreational resources being affected by the request. There will be no effect on recreational resources of the coastal areas, and the size of the coastline or areas used for public recreational uses will not be reduced. There will be no disruption of existing public access to the shoreline. The proposed project will not create significant adverse impacts upon immediately adjacent properties.

This approval recommendation to amend SMA Use Permit No. 260 for a time extension to Condition No. 5 will not be contrary to the original reasons for granting the permit. Approval of this request will not increase the scope or nature of the development and is not contrary to the Planning Commission's original findings for SMA Use Permit No. 260. The request would continue to be consistent with the General Plan and Kona Regional Plan. The applicant has stated that at the time the permit was originally issued, the growth of the Big Island's tourism industry was anticipated to be greater than what has actually occurred. Projections indicated that commencement of development of Phase II would be consistent with the anticipated growth in tourism. The projected growth never materialized. As a result, it has been a difficult time for the Big Island's tourism industry.

The inability of the applicant to comply with the requirements of Condition No. 5 of SMA Use Permit No. 260 is the result of conditions which could not have been foreseen or are beyond the control of the applicant. Delays were due to poor market and economic conditions, as well as the attack on September 11, 2001. These events could not have been readily foreseen and the inability to comply is not the result of the applicant's fault or negligence.

Based on the above findings, it is determined that the request for a time extension to submit plans for Phase II for Plan Approval will not have any 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 amended Condition No. 5 (material to be deleted is bracketed and material to be added is bold and underscored):

Stephen J. Menezes, Esq.
Page 3

"5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years [of] **from** the **effective** date of this amendment."

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 Norman Hayashi of the Planning Department at 961-8288.

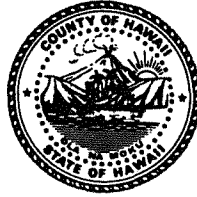
Sincerely,



Fred Galdones, Chairman
Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Rodney Haraga/DOT-Highways, Honolulu
Plan Approval Section
Planning Department - Kona

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z 179 517 309

MAR 04 1998

Stephen J. Menezes, Esq.
Menezes, Tsukazaki, Yeh & Moore
100 Pauahi Street, Suite 204
Hilo, HI 96720

Dear Mr. Menezes:

Special Management Area Use Permit No. 260 (SMA 260)
Applicant: Kona Village Resort
Request: Amendment to Condition No. 5 (Extension of Time
to Submit Plans for Phase II for Plan Approval)
Tax Map Key: 7-2-3:Portion of 1 and 2

The Planning Commission at its duly held public hearing on February 20, 1998, voted to approve the above-referenced request to amend Condition No. 5 (extension of time to submit plans for Phase II for Plan Approval) of Special Management Area (SMA) Use Permit No. 260 which allowed the expansion and renovation of the existing Kona Village Resort, including the construction of 54 new units and related improvements. The property is located adjacent (north) to the Hualalai Resort at Kaupulehu, North Kona, Hawaii.

Approval of this request is based on the following:

SMA Use Permit No. 260 was approved by the Planning Commission on August 25, 1987, subject in part, to the following Condition No. 5:

"5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years of the date of this permit."

On November 24, 1992 the Planning Director granted an administrative approval for an extension of time to comply with Condition No. 5 (secure plan approval for Phase II, 25 additional units) until October 28, 1997.

SMA Use Permit No. 260 was issued by the Planning Commission which allowed for the renovation of the existing Kona Village Resort and the construction of 54 new hotel units. This permit also relocated the connection of the Kona Village

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MAR 04 1998

access roadway to Queen Kaahumanu Highway and approved the construction of a guard house. Construction of Phase I (29 units) has been completed. Phase II consists of the 25 additional units. Phase II will be constructed on 15 acres to the north of the existing development. It should be pointed out that the applicant completed the development of the previously approved 29 additional hotel units.

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Condition No. 5 would not be contrary to the original reasons for granting the SMA Use Permit. The request would be consistent with the Land Use Element of the General Plan which states "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The applicant, in its request, stated that at the time the SMA Use Permit was issued, the growth of the Big Island's tourism industry was anticipated to be greater than what has actually occurred. Projections indicated that commencement of development of Phase II would be consistent with the anticipated growth in tourism. The projected growth did not materialize. As a result, the past several years have been a difficult time for the Big Island's tourism industry including Kona Village Resort. The applicant has requested until October 28, 2002 in which to file for plan approval.

The inability of the applicant to comply with the requirements of Condition No. 5 of SMA Use Permit No. 260 is the result of conditions which could not have been foreseen or are beyond the control of the applicant. Delays were due to the market and economic conditions. These events could not have been foreseen and are not the result of their fault or negligence.

Based on the above, the request for amendment to Condition No. 5 is hereby approved. Approval of this amendment is subject to the following (new material is underscored and deleted material is bracketed):

- "5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years of the date of this [permit] amendment."

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.

Stephen J. Menezes, Esq.
Page 3

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

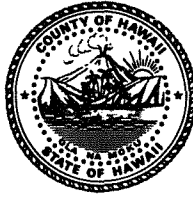
Sincerely,

Kevin M. Balog
Kevin M. Balog, Chairman
Planning Commission

Lkonav01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program (w/Background)
Kazu Hayashida, Director/DOT-Highways, Honolulu

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

December 21, 1995

Stephen J. Menezes, Esq.
Menezes Tsukazaki Yeh & Moore
100 Pauahi Street, Suite 204
Hilo, HI 96720

Dear Mr. Menezes:

Special Management Area Use Permit No. 260
Applicant: Kona Village Associates
Subject: Administrative Time Extension to Condition No. 5
Tax Map Key: 7-2-03:01 (Portion) and 2

This is to acknowledge receipt of your letter dated November 21, 1995 requesting an administrative extension of time in which to comply with Condition No. 5 of the referenced permit.

In review, the effective date of SMA Use Permit is October 28, 1987, which is based on the effective date of the accompanying Change of Zone Ordinance No. 87-113. The applicant submitted a request for a five-year administrative extension of time to comply with Condition No. 5 by letter date October 1, 1995. By letter dated November 24, 1992, the Planning Director granted a three-year administrative extension until October 28, 1995.

Conditions No. 5 and 11 state, respectively:

- "5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years of the date of this permit.
11. An extension of time for the performance of conditions within this permit may be granted by the planning director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general

DEC 22 1995

Resp to 13197

Stephen J. Menezes, Esq.
Menezes Tsukazaki Yeh & Moore
Page 2
December 21, 1995

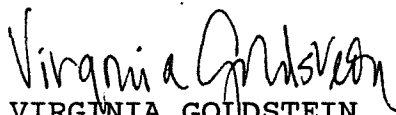
plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may 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 nullify the permit."

The applicant has stated that they are still unable to comply with Condition No. 5 in a timely manner due to significant changes in the current market and economic conditions that have affected tourism industry. As such, Kona Village Associates cannot prudently proceed with Phase II of the project. Based on the applicant's situation and Condition No. 11 above, the Planning Director hereby grants the applicant an administrative extension of time of two (2) years until October 28, 1997, in which to submit plans for Phase II for Plan Approval review. This additional extension of time would provide the applicant with the total extension time allowable under Condition No. 11 - for a period not to exceed the time originally granted - which was 5 years.

Please be aware, that should an additional extension of time be needed, the applicant should submit their request, along with 15 copies and a \$200 filing fee to the Planning Department for consideration by the Planning Commission.

Should you have any questions regarding this matter, please contact Susan Gagorik or Alice Kawaha of this Department at 961-8288.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

SG:mjs
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CERTIFIED MAIL

September 4, 1987

Ms. Jan Naoe Sullivan
Takeyama & Sullivan
Century Square, Suite 3404
1188 Bishop Street
Honolulu, HI 96813

Dear Ms. Sullivan:

Special Management Area (SMA) Application
Petitioner: Kona Operating Partnership/Kaupulehu Developments
TMK: 7-2-03:1 (portion) and 2

The Planning Commission at its duly held public hearing on August 25, 1987, voted to approve the above application, Special Management Area Use Permit No. 260, to allow the expansion and renovation of the existing Kona Village Resort, including the construction of 54 new units and related improvements at Kaupulehu, North Kona, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes and Rule No. 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. As a result, 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 (1) of the criteria for approving a development within the Special Management Area (SMA) is that the development is consistent with the General Plan, Zoning and Subdivision Control Codes, and other applicable ordinances. As presented earlier, the request does conform to the General Plan which designated the Kaupulehu area, which the property is a part of, as a resort area.

SEP 4 1987

The proposed improvements are also not anticipated to have any substantial adverse environmental or ecological effects. The property is not known to contain any unique ecological systems, nor provide habitats for any endangered plant or animal species. While certain archaeological features and sites of importance are present on the property, measures for the preservation and/or recordation of these sites have been and will continue to be maintained.

While the area under consideration is situated along the shoreline, it is felt that the proposed improvements are not expected to have substantial adverse effects on the coastal resources. Public access to and along the shoreline will be provided. Based on the above, it is determined that the approval of the proposed project will not result in the loss of valuable natural, cultural or recreational resources of the shoreline and coastal area.

Further, no adverse impacts on air and water quality are expected to be generated by the proposed development. The nature of the proposed development is such that no unusual air emissions are likely to be produced from it. Air emissions generated during the construction phase can be mitigated by existing regulations. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Further, 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.

Based on the above, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be contrary to the objectives and policies of Chapter 205-A or with the intent or Rule No. 9.

Approval of this request is subject to the following conditions:

1. The permit shall become effective after the accompanying change of zone is adopted.
2. The applicants, successors or its assigns shall be responsible for complying with all of the stated conditions of approval, including those of the accompanying change of zone.
3. Plans for Phase I shall be submitted to the Planning Department for Plan Approval review within one year of the effective date of this permit.

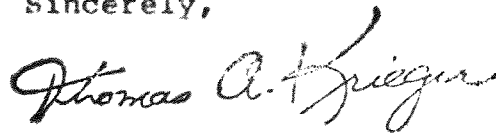
4. Construction of Phase I shall commence within one year from the date of receipt of Final Plan Approval and be completed within three years thereafter.
5. Plans for Phase II shall be submitted to the Planning Department for Plan Approval review within five years of the date of this permit.
6. Construction of Phase II shall commence within one year from the date of receipt of Final Plan Approval and be completed within three years thereafter.
7. A certified shoreline survey certified within six months of the approval of this permit shall be submitted in conjunction with the Plan Approval process for Phase I. No improvements shall be allowed within the 40-foot shoreline setback area unless a shoreline setback variance is obtained.
8. Public access to and along the shoreline, including related improvements, shall be provided meeting with the approval of the Planning Director.
9. Provide parking in compliance with the Zoning Code for the resort's guests, the public using the resort's facilities, and the resort's employees. A parking management plan shall be submitted for the approval of the Planning Director prior to the issuance of an occupancy permit. Any practices, signage, or other improvements which delineates parking for the resort's guests, parking for the public using the resort's facilities, or employee parking shall have the prior approval of the Planning Director.
10. All other applicable rules, regulations, and requirements shall be complied with.
11. An extension of time for the performance of conditions within this permit may be granted by the planning director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to

Ms. Jan Naoe Sullivan
Page 4
September 4, 1987

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 nullify the permit.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Thomas A. Krieger
Chairman, Planning Commission

cc: Kona Operating Partnership
Kaupulehu Developments
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
DBED, CZM Program (w/background)
bcc: Plan Approval Section