

CERTIFIED MAIL

July 29, 1988

Mr. Alexander Kinzler  
Kaupulehu Development  
2828 Paa Street, Suite 2085  
Honolulu, HI 96819

Dear Mr. Kinzler:

Change of Zone and Special Management Area  
Use Permit Applications  
Tax Map Key: 7-2-03:Portion of 1

The Planning Commission at its duly held public hearing on July 19, 1988, voted to recommend the approval of your change of zone application to the County Council. The Commission also voted to approve your Special Management Area Use Permit applications, SMA Use Permit Nos. 271 and 272 to allow the construction of hotel complexes, golf course/clubhouses, infrastructures, public accesses and other related improvements at Kaupulehu, North Kona, Hawaii.

The favorable recommendation on the change of zone request to the County Council and the approval recommendations on the SMA Use Permit applications are based on the following findings:

FINDINGS - CHANGE OF ZONE

The General Plan is a long range, comprehensive policy document which guides the overall development of the County of Hawaii. As stated in section 3-16 of the County Charter, the General Plan shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the county for residential, recreational, agricultural, commercial, industrial and other purposes which shall be consistent with proper conservation of natural resources and the preservation of our natural beauty and historical sites; the most desirable density of population in the several parts of the county; a system of principal thoroughfares, highways, streets, public access to the shorelines, and other open spaces; the general locations, relocations and improvement of public buildings, the general location and extent of public utilities

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and terminals, whether publicly or privately owned, for water, sewers, light, power, transit, and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; air pollution; and such other matter as may, in the council's judgment, be beneficial to the social, economic, and governmental conditions and trends and shall be designed to assure the coordinated development of the county and to promote the general welfare and prosperity of its people. The Charter further states that "The (county) council shall enact zoning, subdivision, and such other ordinances which shall contain the necessary provisions to carry out the purpose of the general plan," and that "No public improvement or project, or subdivision or zoning ordinance shall, be initiated or adopted unless the same conforms to and implements the general plan."

The requested zone change is consistent with the adopted goals, policies, standards, and courses of action as articulated in the General Plan, as amended.

Resort developments are created to satisfy the needs and desires of both visitors and residents. Such areas have basic amenities and attributes which attract the development of visitor accommodations and related facilities. Almost every successful resort area has a harmonious combination of certain characteristics, such as climate, scenery, recreational amenities, level of services, and other man-made facilities. In most instances, such as at Kaupulehu, the natural factors have been the basis for the development of an area, and the man-made facilities were designed to enhance the area. A resort area should be large enough to provide a concentration of hotel, residential, and recreational amenities which will keep the visitor interested and entertained. It should not be so large, however, as to destroy either the sense of scale, intimacy of leisureliness associated with the area. In light of this, the General Plan does set forth standards for the various types of resort destination areas.

The General Plan identifies the Kaupulehu area, which the property is a part of, as an Intermediate Resort Area. An Intermediate Resort Area is a self-contained resort destination area which provides basic and support facilities for the needs of the entire development. Such facilities include sewer, water, roads, employee housing, recreational facilities, etc. The maximum visitor units within an area designated Intermediate Resort Area is 1,500 rooms. The concept of a self-contained

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resort area also includes the provision of residential accommodations and commercial activities for long-term visitors as well as for permanent residents. Such facilities are considered to be an integral part of a resort area. The requested multiple family residential and village commercial zoned districts will be in keeping with this concept of a self-contained resort area and will aid in the realization of it. It is therefore determined that the requested zone changes contemplated will be in the direction of creating a self-contained resort destination at this section of North Kona.

The Land Use and Resort elements of the General Plan also state that resort uses shall be developed in areas adequately served by essential services and other infrastructure. The area under consideration is or will be provided with all essential utilities and services, including water. The applicant has successfully drilled a well which has been tested and approved by the Department of Health. A second well has also been drilled.

Based on the above, it is felt that the granting of the subject request would complement the policies of The General Plan Land Use and Resort elements which state to "Zone urban-type uses in areas with ease of access to community services and employment centers and with adequate public utilities and facilities," and "Promote and encourage the rehabilitation and utilization of resort areas which are serviced by basic facilities and utilities."

The subject request is also consistent with the Economic element of the General Plan in that the proposed development will provide additional and expanded employment opportunities for residents of the area, as well as the entire island as a whole; will increase our real property tax base; will strengthen the existing visitor industry; and will provide residents with opportunities to improve their quality of life.

With regards to employment opportunities, the proposed development as a result of this rezoning request will generate both short-term (construction) and long-term (operational) employment.

The development of a project of this magnitude will also directly benefit the residents of this County as the real property tax base will substantially increase.

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With regard to the provision of employee housing, this matter will be further conditioned as part of this rezoning and the SMA Use Permit requests. In this regard, the requests will conform to the following statements, goals, policies and courses of action of the General Plan:

a) One of the General Plan's standards for a resort states:

Employee housing shall be provided at a maximum ratio of one employee unit to every two hotel units built. The required ratio shall be determined by an analysis of housing needs of each district and relative area.

b) The Housing Element of the General Plan states, in part:

- ° . . . many people cannot afford housing in today's market. The rising costs of land, land improvements, and construction discourage many low and moderate income families from purchasing a home. Personal income will not rise commensurate with rising costs of land and construction of housing units. Inappropriate location of various housing types also contributes to the difficulties in providing adequate public services which are essential for a desirable living environment.
- ° The basic purpose of the housing element is to minimize housing problems and maximize housing opportunities for residents in the County of Hawaii.
- ° Although efforts are being made by government to provide low and moderate income housing, construction still lags behind replacement and growth needs. Government, however, will continue to play an important role in providing housing for low and moderate income families.
- ° The growth of the visitor industry is also generating an increasing demand for low and moderate income housing for employees, precisely the type which private industries are not building in substantial amounts. With the growth of visitor and other industries, new housing units will be needed to accommodate an increase in population. This additional population growth will compete with the existing population for new housing.

Therefore, growth also becomes a problem in respect to this housing element.

- c) The Housing Element's goals in the General Plan include:
- ° To attain diversity of socio-economic housing mix throughout the different parts of the County.
  - ° Maintain a housing supply which allows a variety of choice.
- d) The Housing Element's policies in the General Plan include:
- ✓ ° It shall be the policy of the County of Hawaii to assure that safe, sanitary, and livable housing is available to persons of all ages, income and ethnic groups and to provide a variety of choice as to location and types.
  - ° A volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies shall be promoted.
  - ° The construction of specially designed facilities for elderly persons needing institutional care and for active elderly persons shall be encouraged.
  - ° Corporations and non-profit organizations shall be encouraged to participate in Federal programs to provide new and rehabilitated housing for low and moderate income households and the elderly.
  - ✓ ° Public and private programs intended to increase the supply of housing and to create a variety of choice shall be encouraged.
  - ✓ ° Large industries which create a demand for housing shall provide employee housing based upon a ratio to be determined by an analysis of the locality's needs.
- e) The General Plan's Housing Element includes the following courses of action for the North Kona district:
- ° The County shall require developments which create a demand for employee housing to provide for that need.

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- Aid and encourage the development of a wide variety of housing for this area to attain a diversity of housing mix.
- f) The multiple-family residential section of the General Plan's Land Use Element includes the following statements:
- Multiple residential living is becoming a way of life for many people. Such units provide housing for persons who have no desire or need to own a single-family residence, persons who find it financially difficult to own a single-family residence, persons with changing employment and others. This trend will continue in the future due to rapid urban growth, mobile populations and the rising costs of land and improvements.
  - Multiple residential living has not been well accepted in the past, mainly because of the unimaginative and stereotyped design of buildings, social attitudes and the desire for single-family ownership. The costs of land and construction, however, have greatly risen, thus making it difficult for many people to afford a home.
  - The County will be faced with a great demand for multiple residential development. A carefully worked out land use plan and development standards will be essential in assuring that any development will be an asset to the County.
- g) The multiple-family residential section of the General Plan's Land Use Element sets forth the following goal:
- To provide for multiple residential developments that maximize convenience for its occupants.
- h) The multiple-family residential section of the General Plan's Land Use Element includes the following policies:
- Appropriately zoned lands shall be allocated as the demand for multiple residential dwellings increases. These areas shall be allocated with respect to places of employment, shopping facilities, educational,

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recreational and cultural facilities, and public facilities and utilities.

- o To assure the use of multiple residential zoned areas and to curb speculation and resale of undeveloped lots only, the County shall impose incremental and conditional zoning which shall be based on performance requirements.
- i) The multiple-family residential section of the General Plan's Land Use Element sets forth the following course of action for the Kona district:
  - o Appropriately zoned lands shall be allocated as the need for multiple residential development arises.

The proposed developments 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 were found on the property, measures for the preservation and/or recordation of these sites will be made a condition of approval.

Finally, it should be noted that the area has no substantial adverse topographic or geologic problems which cannot be properly rectified or which would render the land unusable for the proposed uses.

Based on the above, it is determined that the requested zoning changes will result in an appropriate land use pattern that will further the public necessity and convenience and general welfare.

#### FINDINGS - SMA 88-3 AND SMA 88-4

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. 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

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designation. The proposed developments do conform to the General Plan which designates the area as a Intermediate Resort Area. Further, with the approval of the accompanying change of zone request, the area will be appropriately zoned for the proposed uses.

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 proposed development is not anticipated to have any substantial adverse environmental or ecological effects. Surveys conducted by Winona P. Char & Associates (Botanical Survey for Kaupulehu Developments) and by Phillip L. Bruner (An Avifaunal and Feral Mammal Survey of Property Proposed for a Resort-Residential Development at Kaupulehu, Hawaii) indicate that the property is not a habitat for any endangered plant or animal species.

Based on the Air Quality Impact Analysis, Kaupulehu Resort prepared by J. W. Morrow, Environmental Management Consultant, the low density character of the proposed development and the substantial roadway setbacks planned, 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 development. Air emissions generated during the construction phase can be mitigated by the existing rules and regulations.

A Baseline Assessment of Offshore Marine Environment in the Vicinity of Kaupulehu, North Kona, Hawaii, was conducted by Steven Dollar, Marine Research Consultant. The purpose of the study was ". . . to provide estimates of the degree of environmental impact that might occur as a result of construction of the Kaupulehu Developments based on the data gathered during the course of this baseline study." The report ". . . concluded that as long as the normal reasonable steps are taken in construction practices, and the maintenance procedures for the golf courses remain as planned, there should be no adverse impacts to the marine environments."

It should be noted that any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements.



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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, as well as proposed conditions of approval.

To further mitigate these concerns, a condition is being recommended that a water quality monitoring plan be prepared. 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 anchialine ponds on the property will be preserved by the applicant. Where possible, these ponds will be integrated into the development design. Therefore, since none of the ponds will be filled, as indicated by OI Consultants, direct and indirect impacts on the pond and wetland resources will be negligible.

While several archaeological surveys were conducted of the property, additional surveys will be required as part of the approval process. Further, measures for the preservation and/or recordation of the sites will be required.

Since the proposed buildings will be constructed a great distance from the highway, they are not expected to impede the mauka-makai view plane from Queen Kaahumanu Highway. Further, since the portions of the proposed golf courses are situated between the highway and hotel sites, the visual impact of the proposed hotel developments will not be substantial.

Finally, the applicant will provide mauka-makai public accesses, as well as a lateral access, to and along the shoreline. Public parking areas, restrooms and shower facilities will also be provided.

Based on the above, it is determined that the proposed development is consistent with the objectives and policies as provided by Chapter 205A, Hawaii Revised Statutes, Relating to Coastal Zone Management, and the Planning Commission's Rule 9 relating to the Special Management Area (SMA). Furthermore, if any adverse environmental or ecological effects exist, such effects are clearly outweighed by public health, safety, or compelling public interest.

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

CONDITIONS - CHANGE OF ZONE

- A. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
- B. A determination that the adequacy of potable water can be met for the various zoned districts or a specified increment thereof shall be made in the following manner:  
(1) A detailed water resource management plan shall be submitted to and accepted by the Planning Director in consultation with the Department of Water Supply and the State Department of Health. Said plan shall include, but not be limited to, hydrological study(ies) of water source(s); location of the well(s) or point of diversion; quantity and quality of water; dependability and sustainable yield of the identified source(s); a calculation of water demand based on maximum density permitted or total land area of the zoned district; projected maximum water consumption for domestic, commercial, industrial and fire protection purposes of the proposed development or specified increment; location of proposed water system, water storage, pumps and transmission lines; reporting schedule and operational procedures. (2) Following the acceptance of a water resource management plan, an agreement, which has been approved by the Department of Water Supply, the Planning Director and Corporation Counsel, shall be executed with the County of Hawaii prior to the issuance of final subdivision approval to assure implementation of the accepted water resource management plan.
- C. A 150-foot wide planting easement adjacent to and along Queen Kaahumanu Highway throughout the length of the properties, exclusive of roadway access, shall be set aside and delineated on subdivision plans submitted for the affected area. Landscaping plans shall be submitted and approved by the Planning Director in conjunction with the review of construction plans for subdivision improvements.
- D. Fully channelized intersection improvements, including but not limited to deceleration, acceleration and left-turn

- storage lanes, traffic lights and/or an overpass or underpass, if required, shall be provided at the intersection of Queen Kaahumanu Highway and a proposed main resort entry road meeting with the approval of the State Department of Transportation, Highways Division. These improvements may be provided jointly with adjoining property owners.
- E. A traffic monitoring program at the intersection with Queen Kaahumanu Highway shall be submitted to and approved by the State Department of Transportation, Highways Division, prior to receiving final plan approval for any portion of the proposed development. If additional intersection improvements such as a fully channelized intersection with acceleration/deceleration lanes, signal lights and/or an underpass or overpass, are required as determined by the findings of subsequent monitoring and analysis, the applicant shall provide the improvements in accordance with the requirements of the State Department of Transportation, Highways Division. These improvements may be provided jointly with adjoining property owners.
- F. 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.
- G. A roadway connection to the adjacent property along the southwestern boundary shall be provided meeting with the approval of the Department of Public Works.
- H. No lots shall have direct access from the Queen Kaahumanu Highway except through an access point approved by the State Department of Transportation. Other access to the proposed lots shall be from the interior roadways.
- I. A drainage system shall be installed meeting with the approval of the Department of Public works.
- J. All residential, commercial and hotel units and uses shall be connected to a sewage treatment plant, public or private, meeting with the approval of the appropriate governmental agencies. The sewage treatment plant shall

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have a stand-by generator to operate the plant in the event of an electrical power outage.

- K. The applicant, successors or assigns shall be responsible for satisfying an affordable housing requirement which is being assessed on both the resort and residential components of the proposed project. A maximum of four hundred eighteen (418) affordable units will be required to address the needs generated by the one thousand fifty eight (1,058) resort/hotel units currently being proposed.

A maximum of three hundred (300) affordable units will be required for the residential component of the project based on 60% of the total number of residential units being proposed. The total affordable housing requirement being assessed, based on the current development scenario, will be a maximum of seven hundred eighteen (718) affordable units. These affordable housing units may be provided on or off the project site. The actual number of affordable units required may increase or decrease proportionally along with the actual number of resort and residential units developed by the applicant. Stated in 1988 dollars and subject to adjustment for inflation, the dollar value equivalent of the affordable housing requirement involving seven hundred eighteen (718) affordable units shall be a maximum of five million seven hundred seventy-one thousand five hundred twenty dollars (\$5,771,520). This value may be adjusted annually on the effective date of the change of zone ordinance by the Planning Director in consultation with the Office of Housing and Community Development based on mutually acceptable cost indices. The affordable housing requirement shall be implemented concurrently with the completion of units for the resort/residential project. An in lieu payment may be made in cash, through the provisions of services, or by other acceptable means to satisfy the affordable housing condition. The method of satisfying the affordable housing requirement must be approved by the County Housing Agency, subsequent to review and approval by the Planning Director, prior to the issuance of Final Plan Approval for any phase or increment of the proposed resort/residential development.

Affordable units provided to satisfy the requirements of these conditions shall, as a guide, utilize the following distribution:

- 17% affordable to families earning less than 80% of the median family income.
- 33% affordable to families earning between 80% to 120% of median family income.
- 50% affordable to families earning between 120% to 140% of median family income.
- L. An intensive archaeological survey and mitigation plan shall be submitted to the Planning Department for review and approval at the time of plan approval review and/or prior to any land preparation activity being conducted on the property.
- M. Should any unanticipated archaeological sites be uncovered during land preparation activity, work within the affected area shall cease and the Planning Director shall be immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director.
- N. All other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply shall be complied with.
- O. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- P. 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.
- Q. An initial extension of time for the performance of conditions within the ordinance may be granted by the

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Planning Director upon the following circumstances: 1) the non-performance is the result of the 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; 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; and 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 may initiate rezoning of the area to its original or to a more appropriate designation.

Approval of the Special Management Area (SMA) Use Permit requests are subject to the following conditions:

CONDITIONS - SMA 88-3/SMA 88-4

1. This permit shall not be in effect until the accompanying change of zone request has been approved.
2. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
3. Plans for the hotel and related improvements shall be submitted to the Planning Department for plan approval review within one year from the effective date of this permit. Construction shall commence within one year from the date of receipt of final plan approval and be completed within three years thereafter.
4. Plans for the golf course and golf clubhouse shall be submitted to the Planning Department for plan approval review within one year from the effective date of this permit. Construction shall commence within one year from the date of receipt of final plan approval and be completed within three years thereafter.

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5. A 150-foot wide planting easement adjacent to and along Queen Kaahumanu Highway throughout the length of the property, exclusive of roadway accesses, shall be set aside and delineated on subdivision plans submitted for the affected area. Landscaping plans shall be submitted and approved by the Planning Director in conjunction with the review of construction plans for subdivision improvements.
6. Fully channelized intersection improvements, including but not limited to deceleration, acceleration and left-turn storage lanes, traffic lights and/or an overpass or underpass, if required, shall be provided at the intersection of Queen Kaahumanu Highway and a main resort entry road meeting with the approval of the State Department of Transportation, Highways Division, prior to the opening of the proposed hotel or golf course, whichever occurs first. These improvements may be provided jointly with adjoining property owners.
7. A traffic monitoring program at the intersection with Queen Kaahumanu Highway shall be submitted to and approved by the State Department of Transportation, Highways Division, prior to receiving final plan approval for any portion of the proposed development. If additional intersection improvements such as a fully channelized intersection with acceleration/deceleration lanes, signal lights and/or an overpass or underpass are required as determined by the findings of subsequent monitoring and analysis, the applicant shall provide the improvements in accordance with the requirements of the State Department of Transportation, Highways Division. These improvements may be provided jointly with adjoining property owners.
8. 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.
9. A roadway connection to the adjacent property along the southwestern boundary shall be provided meeting with the approval of the Department of Public Works.

15. The use of pesticides and herbicides shall conform with the applicable regulations of the 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 Hawaii.
17. All residential, commercial and hotel units and uses shall be connected to a sewage treatment plant, public or private, meeting with the approval of the appropriate governmental agencies. The sewage treatment plant shall have a stand-by generator to operate the plant in the event of an electrical power outage.
18. Unless a lesser setback is approved by the Planning Director, all proposed buildings, other than those directly related to the golf course operations, shall observe a minimum setback of 100 feet from the edge of the fairways/greens/tee areas of the golf course. If deemed necessary, additional setbacks or other mitigating measures, such as additional landscaping along certain portions of the golf course boundaries, may be imposed at the time of plan approval review.
19. A job training program for the operating phase of the hotel shall be developed and submitted to the Planning Department for review and approval prior to the granting of final plan approval for the proposed hotel.
20. A construction housing mitigation plan shall be submitted to the Planning Department for review and approval prior to the issuance of final plan approval of the proposed hotel. The plan shall include a regular reporting schedule to allow the Planning Department to monitor the construction housing impact.
21. An emergency preparedness and response plan shall be submitted to the Planning Department and Hawaii County Civil Defense Agency for review and approval prior to occupancy of the first hotel.



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10. A water quality and marine life monitoring and mitigation plan shall be submitted to and approved by the Planning Department prior to the issuance of a grading permit and/or prior to any land preparation activity being conducted on the property.
11. An anchialine pond management plan shall be submitted to and approved by the Planning Director within one year from the effective date of the permit or prior to conducting any land preparation activity in the affected area, whichever occurs first.
12. An intensive archaeological survey and mitigation plan shall be submitted to the Planning Department for review and approval at the time of plan approval review and/or prior to any land preparation activity being conducted on the property.
13. Should any unanticipated archaeological sites be uncovered during land preparation activity, work within the affected area shall cease and the Planning Director shall be immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director.
14. Two mauka-makai public accesses shall be provided within the area covered by by SMA Permits 88-3 and 88-4. A lateral public access throughout the length of the property shall also be provided. One public shoreline parking stall for every 10 hotel and residential units and restroom/shower facilities shall be provided at each mauka-makai access concurrent with the development of the first hotel or residential development. Based on the proposed development scenarios, 156 parking stalls shall be provided. An easement shall be recorded with the State Bureau of Conveyances for both the public accesses and parking areas. The location, time of construction and/or availability, restrictions on use, signage, and related improvements for the public shoreline accesses and parking areas shall be approved by the Planning Director. Best efforts shall be used to secure the necessary governmental permits for the development of a swimming beach at a location between the two hotel sites on the subject property.

22. All utility lines shall be underground.
23. No improvements shall be allowed within the 40-foot shoreline setback area unless a Shoreline Setback Variance has been applied for and granted by the Planning Commission.
24. All affected conditions in the accompanying change of zone shall be complied with.
25. All other applicable laws, rules, regulations and requirements shall be complied with.
26. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
27. The Planning Director may administratively grant extensions to the foregoing conditions subject to any of the following circumstances occurring: A) the need for an extension is the result of either unforeseen conditions or are circumstances beyond the control of the applicant, successors or assigns; 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 permits; 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).
28. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion after the Planning Director has given the permittee notice, this permit may be voided by the Planning Commission.

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

Sincerely,

  
Thomas A. Krieger  
Chairman, Planning Commission

cc: Alexander Kinzler  
cc: James Bell  
Department of Public Works  
Department of Water Supply  
Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background  
DLNR

bcc: Plan Approval Section