

Rez 609

CERTIFIED MAIL

July 29, 1988

Mr. Carl Carlson, Jr. Manager
Huehue Ranch
72-3667 Hawaii Belt Road
Kailua-Kona, HI 96740

Dear Mr. Carlson:

Change of Zone and Special Management Area
Use Permit Applications
Tax Map Key: 7-2-04:5 (Portion) and 16

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 application, SMA Use Permit No. 273, to allow the development of a 19-lot subdivision, golf course/clubhouse, infrastructure, plant nursery, and other related improvements and support facilities at Uluweoweo Bay, Kukio, North Kona, Hawaii.

The favorable recommendation on the change of zone request to the County Council and the approval recommendation on the SMA Use Permit application 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. Section 3-16 of the County Charter reads, "It (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 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."

Granting of the zoning change is consistent with the General Plan. The General Plan identifies Kuki'o 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 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 proposed development of two hotels having a total of 1,250 units, single-/multiple- family residential units, village/neighborhood commercial centers, two golf courses and a community park will be in keeping with this concept of a self-contained resort area.

Granting of the zoning changes are also consistent with the General Plan's goals and policies set forth in the Resort Section of the Land Use Element:

Goals

- o To guide the orderly development of the visitor industry.
- o To provide for resort development that maximizes conveniences to its users.
- o To ensure that resort developments maintain the social, economic, and physical environments of Hawaii and its people.

Policies

- o The County shall designate and allocate resort areas in appropriate proportions and in keeping with the social, economic, and physical environments of the County.

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- o The County shall encourage the visitor industry to provide resort facilities which provide an educational experience of Hawaii as well as recreational activities.

The applicant proposes to phase the resort community to meet market needs and to coincide with infrastructure improvements. Approval of this change of zone contains performance conditions which would allow development of the various zoned districts upon infrastructure being completed. Proof of adequate potable water supply and commitment to allocate the resources appropriately shall be contained in a water resource management plan which must be accepted by the Director upon consultation of the Department of Water Supply. The zoning changes requested either in whole or in part will not be effective until proof of adequate domestic water and its proper management can be demonstrated and committed. A traffic monitoring plan of the resort's intersection at Queen Kaahumanu Highway must be submitted and approved by the Department of Transportation-Highways Division prior to final subdivision approval. In this manner, the applicant will be assessing and evaluating traffic flow throughout various stages of the resort development. The applicant shall be required to provide any intersection improvements deemed necessary by the Department of Transportation as a result of periodic analysis. An area of 4.4 acres, which includes a 40-foot buffer area, will be set aside as an anchialine pond preserve. Management plans and an interpretive program will assure protection and heightened public awareness of a significant natural resource. The focal recreational elements of the Kuki'o Beach Resort are the shoreline and beach area and the makai golf course. The mauka community will be supplemented with another 18-hole golf course and an 11-acre community park. These recreational amenities together with the proposed commercial centers create a master-planned resort with two basic focuses: activity- and tourist-oriented on the makai side and private residential on the mauka side. It is determined then that the rezoning would be in the direction of fulfilling the General Plan's goals and policies for Resort Land Use.

Approval of this change of zone request would not be contrary to the commercial and residential sections of the Land Use Element of the General Plan, which articulate that these uses shall be developed to maximize conveniences to its users and should be adequately served by essential services and other infrastructure. 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

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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. 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. The Kuki'o Beach Resort is or will be provided with all essential utilities and services, including water and sewage treatment. The applicant has drilled an exploratory well in the vicinity of Huehue Ranch at the 1500 foot elevation. Pump tests have shown the source to be of potable quality with estimated capacity of 150 gallons per minute. Additional potable water wells would be constructed on ranch properties or on adjacent lands to accommodate projected water needs to the project area. The projected potable water demand for the resort at full build-out is estimated at 1.96 million gallons per day (mgd). As mentioned previously, included in this change of zone approval are conditions which would assure adequate water supply for domestic and fire protection purposes as the project proceeds through its phases. A private sewage treatment plan would be constructed on the mauka property to service the resort community. All internal roadway systems will be built to dedicable standards but will probably be retained under private ownership.

The granting of the subject request would complement a policy of the General Plan Land Use Element which says to "Zone urban-type uses in areas with ease of access to community services and employment centers and with adequate public utilities and facilities." The Kuki'o Beach Resort is located approximately six miles north of Keahole Airport and 13 miles north of Kailua Village. Access is easily gained from Queen Kaahumanu Highway. The closest public schools serving the area are Kealakehe Elementary-Intermediate School and Konawaena High School. Since additional classroom space and staff will be needed to accommodate enrollment generated from the project, the applicant will be keeping the Department of Education informed of the project's status in order that funds can be requested from the Legislature on a timely basis.

Approval of the request is supportive of the Economic Element of the General Plan by providing additional and expanded employment opportunities for residents of the area, as well as the entire island as a whole; increasing the County's real property tax base; strengthening the existing visitor industry; and providing residents with opportunities to improve their quality of life.

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Without question, new opportunities will be generated for both short-term (construction) and long-term (operational) employment. Direct construction employment is projected to be about 2,700 to 3,600 person-years for full build-out of project. At project completion, it is estimated that the proposed resort will generate approximately 1,500 to 2,100 direct employment opportunities and approximately 1,330 to 1,740 indirect and induced full-time jobs.

The proposed project, as characterized at the time of the General Plan amendment (EIS, 1986), will generate \$6,200,000 to \$8,800,000 annual revenues to the state at full build-out and approximately \$1,700,000 to \$2,400,000 in expenditures to the state. Annual net revenues for the county would be approximately \$2,700,000 to \$3,600,000.

In terms of providing opportunities for residents to improve their quality of life, this approval contains conditions that address social and economic impacts of the development. Specifically, a job training program shall be developed and submitted to the Planning Department. The concept of job training has been introduced to alleviate potential social impacts in the realm of human interaction, lifestyle issues and the well-being of the family or individual. These issues have been discussed in a study done by Community Resources, Inc. entitled "Assessment of Potential Qualitative Social Impacts of the Proposed Kuki'o Beach Project."

In addition, a construction housing mitigation plan will be submitted to the Planning Department to review housing demand generated by in-migration of construction employees. Thus, the project achieves the goals and policies of the Economic Element.

Granting of this change of zone request would underscore the relationship of the Housing Element with other elements of the General Plan. As early as 1971, the County recognized that "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." Simultaneously, Hawaii was experiencing a boom in tourism. The General Plan tells "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

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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. Efforts by government to provide low and moderate income housing still lagged behind replacement and growth needs." In this light, the basic purpose of the housing element is to "minimize housing problems and maximize housing opportunities for residents in the County of Hawaii." The following are goals, policies and courses of action (for Kona) listed in the Housing Element of the General Plan:

- 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.
- 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.
- 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.
- The County shall require developments which create a demand for employee housing shall provide for that need.
- Aid and encourage the development of a wide variety of housing for this area to attain a diversity of housing mix.

A more recent appraisal of the affordable housing environment was given by the Office of Housing and Community Development in its memo responding to the subject applications. It reasoned: 1) the median family income for the County is \$28,800; 2) the maximum home purchase price for which this family can qualify is \$96,700; less than 10% of all single-family dwellings listed for sale in December 1987 were below \$96,700. The problem will be compounded by new resort/residential developments along the West Hawaii coast. In an effort to balance this inequity, this approval contains a condition

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requiring the provision for affordable housing units, in-lieu fee, in-kind services or other acceptable means.

The proposed development of Kuki'o Beach Resort is also not anticipated to have any substantial adverse environmental or ecological effects. Any potential negative impacts will be effectively mitigated through monitoring programs, management and protection plans and through conditions of approval. The Elements of Environmental Quality, Natural Beauty, Historic Sites, Recreation and Natural Resources and Shoreline will be discussed in more detail as part of the SMA review.

Finally, it should be noted that the area has no substantial adverse topographic 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 - SPECIAL MANAGEMENT AREA USE PERMIT 88-1

The purpose of Chapter 205-A, HRS, (Coastal Zone Management) and the Planning Commission's Rule No. 9 (Special Management Area) 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 designation. The proposed developments do conform to the General Plan which designates the area as a Intermediate Resort Area. Moreover, with the approval of the accompanying change of zone request, the area will be appropriately zoned for the proposed uses.

Another criteria in reviewing development within the SMA requires 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

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planning options." The Kuki'o Beach Resort will not have a substantial negative impact on the coastal ecosystems with proper monitoring systems in place. A qualitative baseline survey of nearshore waters and a detailed assessment of the anchialine ponds has been prepared for the applicant. It recommended the preparation of a pond management plan to minimize potential adverse impacts including introduction of new plant and animal species; increased human disturbance; increased withdrawal of groundwaters; and increased nutrient loading due to irrigation, surface run-off fertilization and pest control. Such an Anchialine Pond Management Plan has been developed in consultation with the U.S. Department of Interior-Fish and Wildlife Service. Although the Plan was submitted with the SMA Use Permit application, the Department of Land and Natural Resources and the Planning Department must still review and approve the Plan. Proper implementation of an interpretive educational program will help to heighten public awareness and appreciation of this unique resource and historic site. To further mitigate concerns over possible deterioration of the offshore Class AA waters, a water quality monitoring plan is recommended as a condition of approval.

It should be noted that any potential runoff or discharge which could reach ocean waters can 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, as well as proposed conditions of approval.

With these precautionary measures in place, the proposed development of an 18-hole golf course, infrastructure and related support facilities are not expected to have any substantial adverse effects on the coastal resources or the environment.

There have been no rare or endangered species of plant or animal surveyed on the project site. The avifauna of Kuki'o include the endangered Hawaiian Stilt or ae'o (*Himantopus himantopus kudseni*) and a single specimen of the Hawaiian Duck (*Anas wyvilliana*). The endemic Hawaiian owl or pueo (*Asio flammeus sandwichensis*) is known to range throughout most of the Kona area. This species is known to range from sea level to at least 8,000 feet elevation. From a regional perspective, the ponds at Kuki'o appear to play a peripheral role to the larger wetland bird habitats of Opaepa at Makalawena and Aimakapa at Honokohau. The presence of human activity does not seem to influence the Hawaiian stilt bird

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population. The Anchialine Pond Management Plan should be expanded to serve as an avifaunal monitoring plan.

While several archaeological surveys were conducted of the property, additional work will be required as part of the approval process. A proposed archaeological mitigation plan for site preservation and data recovery has been appended to the SMA application. The mitigation plan consists of the preservation and interpretation of two major sites: a possible heiau complex (Site D21-12) and the anchialine pond complex (Site D21-24). 39 sites still need to be data recovered but not preserved. Although preservation of two burial caves is preferred, reinternment of skeletal remains can be performed in accordance with the State Department of Health regulations. Seven foot trails were felt to be culturally significant. Selected well-preserved portions of the trails have also been recommended for protection. Execution of an approved mitigation plan would further an objective of the SMA which is to "Protect, preserve and, where desirable, restore significant historical and cultural resources."

Since the proposed two-story golf clubhouse and one-story maintenance buildings will be constructed a great distance from the Highway and heavily landscaped, they are not expected to interfere with the mauka-makai view plane from Queen Kaahumanu Highway. The construction of an 18-hole golf course would, in fact, improve open space vistas between future resort, commercial and residential uses. Further, since all utilities are to be placed underground, the panoramic views will not be interrupted with unsightly utility lines.

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 constructed and maintained by the applicant.

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.

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

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CONDITIONS - CHANGE OF ZONE

- A. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
- B. The change of zone ordinance shall not be in effect until the adequacy of potable water can be met for the various zoned districts or a specified increment thereof 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 to assure implementation of the accepted water resource management plan. The executed date of said agreement shall be the effective date of this ordinance, except as specifically restricted to incremental zoned districts in the agreement.
- C. Preliminary plans for subdivision shall be submitted to the Planning Department within one year from the effective date of this ordinance. Subdivision plans affecting lands adjacent to Queen Kaahumanu Highway shall denote a 150-foot wide planting easement adjacent to and along each side of Queen Kaahumanu Highway throughout the length of the properties exclusive of roadway accesses.
- 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 of the Queen Kaahumanu Highway-Kuki'o Beach Resort's intersection shall be submitted to and approved by the State Department of Transportation, Highways Division prior to receiving final subdivision 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. Roadway connections to the adjacent property along the northeastern and southwestern boundaries 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 have a stand-by generator to operate the plant in the event of an electrical power outage.

- K. The petitioner, 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 five hundred twenty-five (525) affordable units will be required to address the needs generated by the one thousand two hundred fifty (1,250) resort/hotel units currently being proposed. A maximum of nine hundred seventy-two (972) 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 one thousand four hundred ninety-seven (1,497) 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 petitioner.

Stated in 1988 dollars and subject to adjustment for inflation, the dollar value equivalent of the affordable housing requirement involving one thousand four hundred ninety-seven (1,497) affordable units shall be a maximum of twelve million dollars (\$12,000,000). 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 and the Department of Land and Natural Resources-Historic Sites Section for review and approval prior to tentative subdivision approval and/or prior to any land preparation activity being conducted on the properties.
- 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. 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.
- O. Plans for implementation of the mauka community park shall be submitted to the Department of Parks and Recreation and the Planning Director for review and approval prior to final plan approval for the first mauka residential development.
- P. Development within the Special Management Area (SMA) of the County of Hawaii shall comply with Chapter 205A, HRS, relating to Coastal Zone Management and Rule 9 of the Planning Commission relating to Special Management Area.
- Q. Submit an SMA Use Permit Application for the first hotel within three years from the effective date of this ordinance.
- R. All other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply shall be complied with.

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- S. 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.
- T. 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.
- U. An initial 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 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 application is subject to the following conditions:

CONDITIONS - SMA USE PERMIT

1. This permit shall have an effective date simultaneous with the effective date of the accompanying change of zone request.

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2. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
3. Preliminary subdivision plans shall be submitted to the Planning Director within one year from the effective date of this permit. Submit final subdivision plat maps within one year from the date of tentative subdivision approval. Subdivision plans affecting lands adjacent to Queen Kaahumanu Highway shall denote a 150-foot wide planting easement adjacent to and along each side of Queen Kaahumanu Highway throughout the length of the properties exclusive of roadway accesses. Landscaping plans shall be submitted and approved by the Planning Director in conjunction with the review of construction plans for the subdivision improvements.
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.
5. 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. These improvements may be provided jointly with adjoining property owners.
6. A traffic monitoring program of the Queen Kaahumanu Highway-Kuki'o Beach Resort's intersection shall be submitted to and approved by the State Department of Transportation, Highways Division prior to receiving final subdivision approval for any portion of the proposed development. If additional intersection improvements, such as a fully channelized intersection with acceleration and 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.

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7. 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.
8. Roadway connections to the adjacent property along the southwestern and northeastern boundaries shall be provided meeting with the approval of the Department of Public Works.
9. 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 activities being conducted on the properties.
10. An anchialine pond management plan shall be submitted to and approved by the Planning Director upon consultation with the Department of Land and Natural Resources prior to issuance of a grading permit for the golf course or prior to tentative subdivision approval, whichever occurs first. The plan shall include, but not be limited to, an inventory, reporting and mitigation system for avifauna (Hawaiian stilt, the Hawaiian duck and the Hawaiian owl) and care of the hala groves.
11. An intensive archaeological survey and mitigation plan shall be submitted to the Planning Department and the Department of Land and Natural Resources-Historic Sites Section for review and approval prior to tentative subdivision approval and/or prior to any land preparation activity being conducted on the properties.
12. 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.
13. A mauka-makai public access shall be provided. A lateral public access throughout the length of the property shall also be provided. A minimum of one public shoreline parking stall for every ten hotel and residential units and a

restroom/shower facility shall be provided at the mauka-makai access. An easement shall be recorded with the State Bureau of Conveyances for the public access and parking area. 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 an ocean front park on the makai side of the property to the south of the existing beach.

14. The use of pesticides and herbicides shall conform with the applicable regulations of the appropriate governmental agencies.
15. 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.
16. 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.
17. 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.
18. A job training program for the operating phase of the hotels shall be developed and submitted to the Planning Department for review and approval prior to the receipt of final plan approval for each of the proposed hotels.
19. A construction housing mitigation plan shall be submitted to the Planning Department for review and approval prior to receipt of final plan approval for each of the proposed

hotels. The plan shall include a regular reporting schedule to allow the Planning Department to monitor the construction housing impact.

20. An emergency preparedness and response plan shall be submitted to the Planning Director and the Civil Defense Agency for review and approval prior to occupancy of the first hotel or residential development.
21. All utility lines shall be underground.
22. 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.
23. All affected conditions in the accompanying change of zone shall be complied with.
24. All other applicable laws, rules, regulations and requirements shall be complied with.
25. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this permit. 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.
26. 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 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).

Mr. Carl Carlson, Jr.

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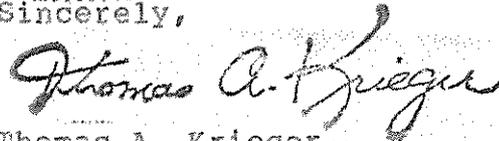
July 29, 1988

27. 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.

For your favorable consideration, an amendment to Section 25-86, the North and South Kona District Zone Maps, of the County Zoning Code is transmitted.

We are enclosing a copy of the application and a copy of the staff background for your information.

Sincerely,



Thomas A. Krieger
Chairman, Planning Commission