

Planning Commission

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

LARRY S. TANIMOTO
Mayor

CERTIFIED MAIL

October 10, 1990

Ms. Marcia Stevens, Project Planner
Mauna Lani Resort, Inc.
P. O. Box 4959
Kohala, HI 96743-4959

Dear Ms. Stevens:

State Land Use Boundary Amendment, Change of Zōne and
Special Management Area Use Permit Applications -302
Tax Map Key 6-8-01:52 (portion) and 6-8-22:2 & 35 (portion)

The Planning Commission at its duly held public hearing on September 28, 1990 reviewed and acted on your applications for a State Land Use boundary amendment, change of zone, and SMA Use Permit for the above described property.

The Commission voted to recommend the approval of the State Land Use Boundary amendment and change of zone applications to the County Council.

While no conditions are attached to the State Land Use District boundary amendment, the following conditions of approval are recommended for the change of zone request:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Consolidation/resubdivision plans shall be submitted within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval.

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- C. Final Plan Approval for the Phase I of the commercial development shall be secured from the Planning Department within one year from the date of final subdivision approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), Hawaii County Code, as amended, plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.
- D. Phase I construction shall commence (building permit) within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within two years thereafter.
- E. Final Plan Approval for the Phase II of the commercial development shall be secured from the Planning Department within one year from the issuance of a certificate of occupancy for Phase I.
- F. Phase II construction shall commence (building permit) within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within two years thereafter.
- G. A drainage system shall be installed meeting with the requirements of the Department of Public Works.
- H. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- I. Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, and Public Works.
- J. 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 developers' election, be satisfied by

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performance in accordance with the requirements of the Unified Impact Fees Ordinance.

- K. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. 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 and the Planning Director acknowledges that further reports are not required.

- L. An extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the 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 permit; 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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

The Commission also voted to approve Special Management Area (SMA) Use Permit No. 302 based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes, and Rule No. 9 of the Planning Commission relating to Coastal Zone Management and Special Management Area, respectively, 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.

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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 development conforms with the General Plan designation of Urban Expansion and will conform to the zoning upon its approval.

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. The property is not a habitat for any endangered plant or animal species. Also, no adverse impacts on air quality are expected to be generated by the proposed development due to the lack of soil and the need for only modest site preparation. Air emission generated during the construction phase can be mitigated by existing rules and regulations.

Coastal ecosystems are not expected to be affected by the proposed development. The subject area is located approximately one mile from the shoreline. The distance would negate the possibility of wastewater pollutants from entering coastal waters. The combination of on-site porous lavas, drywells, and landscaping should effectively inhibit erosion and runoff from discharging into coastal waters. As such, the proposed development should have minimal impacts on coastal resources.

The proposed project is not expected to obstruct public views of the coastline from the Queen Kaahumanu Highway. The proposed one- and two-story structures are to be constructed at a distance of approximately 3,500 feet from the Queen Kaahumanu Highway. The slope and topographical contours of the terrain will tend to alleviate the visual and structural impact of the low profile structures.

Public access to and along the shoreline will not be affected because of the project's considerable distance from the coastal waters. As stated earlier, the project site is located

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approximately one mile from the shoreline and will not interfere with any publicly owned or used recreational areas.

Based on the above, it has been determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be inconsistent with the General Plan and Zoning Code or 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 Special Management Area.

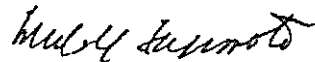
The approval of the SMA Use Permit is subject to the following conditions:

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

This recommendation 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 regarding the above, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Mr. Gerald Park
State Department of Health
Department of Public Works
Department of Water Supply
Planning Office - Kona
DLNR
CZM (with background)

bcc: Plan Approval Section

bcc: Subdivision Section