



Planning Commission

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

LORRAINE R. INOUE
Mayor

CERTIFIED MAIL

February 15, 1991

Mr. Roger Harris
Kaupulehu Venture
P. O. Box 4375
Kailua-Kona, HI 96745-4375

Dear Mr. Harris:

Special Management Area Use Permit Application
Applicant: Kaupulehu Venture By Potomac Investment
TMK: 7-2-03: portion of 1

The Planning Commission at its duly held public hearing on January 31, 1991, voted to approve your application, Special Management Area Use Permit No. 308, to allow construction of ten beach villas and related improvements. The property is situated within the Kaupulehu Resort Development between Kona Village Resort and the Four Seasons Hotel (currently under construction) 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. 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 objectives of Chapter 205A relating to Coastal Zone Management (CZM) is to protect valuable coastal ecosystems and to minimize adverse impact on all coastal ecosystems. In conjunction with the rezoning ordinance and two SMA Use Permits approved for the Kaupulehu Resort development, a water quality/marine life monitoring and mitigation plan and an anchialine pond management plan were required. These have been prepared and received approval from the Planning Department. Thus, implementation of the plans by continued monitoring and

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reporting or by execution of an agreement with the County will protect coastal ecosystems and assist in gathering information for research purposes.

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, provided approved management and mitigation plans are implemented. Botanical and terrestrial fauna surveys, conducted by Char & Associates in 1986, indicate that no endangered or threatened plant species will be affected by the proposed development. Similarly, since no archaeological sites have been identified on the project site, cultural and historical resources will not be impacted.

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. Portions of the property are within the coastal high hazard zone. Development within this area shall comply with Chapter 27 of the Hawaii County Code relating to Flood Control. This chapter also controls tsunami and coastal high hazard zone development. Additionally, an emergency preparedness and response plan will be drafted for review and approval by the Planning Director and the Civil Defense Agency. As mentioned previously, a water quality and marine life monitoring and mitigation plan was mandated at the change of zone and SMA levels. With these precautionary measures in place, the proposed development is not expected to have any substantial adverse effects on the coastal resources or the environment.

The applicant will be providing two mauka-makai public accesses and complete lateral shoreline access as part of

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Kaupulehu's comprehensive development. Thus, public access and recreational resources will be protected and enhanced.

A minimum 100-foot structural setback from the certified shoreline for the villas is being recommended in an effort to maintain open space resources along the sandy beach coastline. The additional setback is also intended to heighten sensitivity toward a public resource that should be preserved. Any improvements allowed within the 100-foot setback area would be subject to review and approval by the Planning Director. As such, this approval would be consistent with the objective and policies of Chapter 205A and Rule 9 which state:

- * Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
- * Ensure that new developments are compatible with the visual environment.
- * Preserve and maintain shoreline open space and scenic resources.

The added setback also supports the following goals and policies of the General Plan:

- * Protect and effectively manage Hawaii's open space, watersheds, and natural areas.
- * The shoreline of the island of Hawaii shall be maintained for recreational, educational, and/or scientific uses in a manner that is protective of resources and is of the maximum benefit to the general public.

Viewplanes from Queen Kaahumanu Highway will be minimally impacted due to the low density scale of the proposed development and its two-story height. While a total of 76 units could be permitted based on the existing zoning, only ten units are being proposed. This reduced density is desirable over the intensive residential use.

One of the criteria for approving a development within the SMA is that it is consistent with the General Plan. 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

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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, transmit, and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; air pollution; and such other matters 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 proposed development 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 or are 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 or intimacy of leisureliness associated with the area. In light of this, the General Plan

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does set forth standards for the various types of resort destination areas.

The General Plan identifies Kaupulehu, of which the site 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 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 improvements 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.

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 "promote and encourage the rehabilitation and utilization of resort areas which are serviced by basic facilities and utilities."

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 Special Management Area (SMA).

Approval of this request is subject to the following conditions:

1. The applicant, successors, or its assigns shall comply with all of the stated conditions of approval.
2. Plans for the development shall be submitted to the Planning Department and Final Plan Approval shall be secured within one year from the effective date of the Special Management Area (SMA) Use Permit. To assure

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adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.

3. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
4. 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.
5. A 100-foot setback area from the certified shoreline shall be established in which the construction of structures shall be prohibited, unless otherwise approved by the Planning Director. The 100-foot setback line shall be delineated on plans for plan approval and building permit(s).
6. The minimum 40-foot shoreline setback line shall be staked by a registered surveyor prior to any land alterations in the affected area. Written confirmation shall be submitted in conjunction with requested permit(s). No improvements shall be allowed within the 40-foot shoreline setback area, except as provided for under Shoreline Setback Variance No. 642 or applicable rules and statutes.
7. All roadways within the proposed development shall be constructed in accordance with the requirements of the Department of Public Works.
8. A drainage system shall be installed meeting with the approval of the Department of Public Works.
9. All residential units shall be connected to a secondary sewage treatment plant, public or private, meeting with the approval of the appropriate governmental agencies. The secondary sewage treatment plant shall have a stand-by

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generator to operate the plant in the event of an electrical power outage.

10. 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.
11. An emergency preparedness and response plan shall be submitted to the Planning Director and the Civil Defense Agency for review and approval prior to issuance of a certificate of occupancy for any portion of the residential development.
12. 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.
13. All utility lines shall be underground.
14. Comply with all affected conditions imposed by the State Land Use Commission, Ordinance No. 88 157 (Change of Zone) and SMA Use Permit Nos. 271 and 272.
15. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Public Works.
16. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the SMA Use 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.
17. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance

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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 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 revoke the permit.

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.

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

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
OSP, CZM Program w/background
DLNR
Ms. Anne Mapes