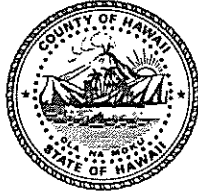


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

June 24, 1993

Steven S. C. Lim, Esq.
Case & Lynch
460 Kilauea Avenue
Hilo, HI 96720-3084

Dear Mr. Lim:

State Land Use Boundary Amendment (SLU 91-3)
Change of Zone Application (REZ 91-15)
Special Management Area (SMA) Use Permit No. 341 ✓
Use Permit No. 111
Applicant: Chalon International of Hawaii, Inc.
Requests: Hotel, Golf Course, Tennis Facility, Agricultural
Subdivision and Related Improvements
Tax Map Keys: 5-7-2:11, 5-7-3:2, 3, 7, 8, 10, 12, & 16²⁴

The Planning Commission at its duly held public hearing on June 16, 1993 reviewed and acted on the above applications for a State Land Use Boundary Amendment, Change of Zone, Special Management Area (SMA) Use Permit and Use Permit for the above-described properties.

The Commission voted to recommend the approval of the State Land Use Boundary Amendment and Change of Zone applications to the County Council. The State Land Use Boundary Amendment has no conditions of approval, however the Change of Zone request is subject to the following conditions:

- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The effective date of the change of zone shall be (1) when the applicant provides assurance satisfactory to the

JUN 25 1993

Departments of Water Supply and Planning, upon consultation with the State Department of Health and the Department of Land and Natural Resources, that a water source(s) of sufficient quality and quantity has/have been established within two years from the enactment of this ordinance; provided that a maximum one-year extension may be granted by the Planning Director with reasonable and sufficient justification; and (2) an agreement together with the appropriate bond, surety or other security deemed acceptable by the Planning Director, is executed between the applicant and the County through its Departments of Water Supply and Planning for the actual development of a proven source and its water transmission and distribution system within one year from the official date of compliance with condition B(1); provided that a one-year extension may be granted by the Planning Director with reasonable and sufficient justification.

- C. Construction of the hotel and all interior roads providing access to the parking areas for the Public Shoreline Access Areas shall be completed within five years from the effective date of the change of zone. Appropriate plans to be submitted for subdivision of the proposed lots, including plans to be submitted for Final Plan Approval of the proposed hotel complex shall be consistent with all applicable conditions of approval as required by the change of zone. Plans shall identify improvements, structures, landscaping, and parking stalls associated with the proposed development.
- D. A detailed historical mitigation plan which does not conflict with the Consensus Agreement between Chalon and Na Maka'ala 'O Kohala shall be submitted for the treatment of the significant historic sites. The Plan shall consist of two subplans; (1) an archaeological data recovery plan (scope of work) for the sites to undergo data recovery and (2) a detailed preservation plan for the sites to undergo preservation, to include buffer zones, interim protection measures, and long-range preservation concerns. This mitigation plan must be approved by the County Planning Department and the State Historic Preservation Division prior to its implementation. These offices must also verify in writing that the plan is successfully executed. No land alteration can occur in the project area until at least the data recovery fieldwork and interim protection measures are verified to be successfully executed.

Steven S. C. Lim, Esq.

June 24, 1993

Page 3

- E. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving 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.
- F. An analysis of the flood/drainage problems at the existing drainage structures along Akoni Pule Highway shall be completed. A drainage system shall be installed meeting with the approval of the Department of Public Works and Department of Transportation, Highways Division.
- G. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in the Hawaii County Housing Agency Resolution No. 65 or subsequently adopted policies. This housing plan shall be approved by the County Housing Agency prior to Final Plan Approval of any portion of the Resort zoned area; Provided that the applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the property prior to visible commencement of construction on the property; provided further that the applicant may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency. In the event the applicant conveys an ownership, leasehold, or controlling development interest in the Resort zoned area prior to the approval of the housing plan by the Hawaii County Housing Agency, a pro rata portion of the affordable housing requirement, based upon unit density of the land affected by such sale, lease or conveyance, shall be satisfied by either an in-lieu payment, land, or any combination thereof by the applicant upon such conveyance of ownership, leasehold or controlling development interest of the Resort-zoned area. The in-lieu payment, land, or any combination thereof for the Resort zoned area shall be based on a maximum of density for the Resort zoned area, as determined by the applicant with the concurrence of the Planning Director. The amount and method of satisfying

this requirement shall be determined by the County Housing Agency.

- H. A job training program for the operating phase of the hotel shall be developed and submitted to the Planning Director for review and approval prior to receipt of Final Plan Approval for the hotel.
- I. The applicant shall work with the State Department of Education and the Planning Department to provide its pro rata share for school facilities. In establishing the applicant's pro rata share, credit shall be given to the applicant for contributions made to public and private schools in the area subsequent to the passage of the change of zone. The pro rata share determination and its implementation (i.e., dedication of land, construction of classrooms or funding) shall be approved by the Planning Department, in consultation with the Department of Education, in conjunction with final subdivision approval of any residential lot subdivision within the development.
- J. The applicant shall provide 2.5± acres of land, the equivalent value in improvements, or combination thereof, for offsite public park and recreational purposes within a 5-mile radius of the perimeter boundary of the properties covered by this ordinance. The applicant shall submit the location of the proposed sites and/or proposed improvement plan to the County Council, the Planning Department and the Parks and Recreation Department for review and information prior to receipt of tentative subdivision approval of any rezoned parcel of this project. If required, said site(s) shall be graded or improved by the applicant and be available for use prior to receipt of final subdivision approval of any rezoned parcel of this project. The land and any improvements shall be credited towards satisfying any portion of the County's assessment relative to fire, police, solid waste disposal facilities, and roads as noted in Condition K below.
- K. The applicant shall provide its fair share contribution to address regional impacts of the project with respect to fire, police, solid waste disposal facilities and roads. The fair share contribution shall be initially based on the representations contained in the change of zone application and may be increased or reduced proportionally if dwelling units or hotel units are adjusted. A pro rata portion of the contribution, based upon the unit density and resort area of the land affected shall become due and/or payable,

at the discretion of the County in the event the applicant conveys full controlling ownership, leasehold, or development interest in the affected land prior to receiving its initial subdivision or final Plan Approval of the proposed development. Otherwise, said contribution shall be satisfied in conjunction with the receipt of final subdivision or Plan Approval, as the case may be, of the proposed development. The fair share contribution for each residential unit or hotel unit shall be based on the maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contributions in a form of cash, land, facilities, or any combination thereof shall have the following maximum value: (a) \$44,350 for fire protective services and \$9,280 for police protective services; (b) \$1,911,750 to support state and county road and traffic improvements within the North Kohala region. Appropriate credits shall be given for any of the applicant's land contribution associated with the Akoni Pule Highway improvements; (c) \$20,750 to support county solid waste disposal functions. The applicant is encouraged to provide land for a landfill or solid waste transfer station site as a means to satisfy this requirement. Any contributions required by this ordinance that exceed the fair share requirement of this project shall, at the applicant's request, be credited towards any of the applicant's future developments that require infrastructural impact contributions.

- L. Prior to the commencement of construction of any portion of the proposed development, a monitoring plan on potential pollution to the groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the Department of Health.
- M. A landscaping easement along both the mauka and makai sides of the property's frontage along Akoni Pule Highway shall be set aside and delineated on all plans, including Subdivision plans. The width of the landscaping easement shall not exceed 150 feet, measured from the existing right-of-way along both the mauka and makai sides of Akoni Pule Highway. The landscaping plan for the easement area and the width of the landscape easement shall be submitted to the Planning Director for review and approval in consultation with the County Arborist Council prior to issuance of final subdivision approval for any portion of the easement area, or Final Plan Approval for the golf course, whichever occurs first. Said plan shall depict the landscaping, which may include golf course fairways, tees

and greens, identifying the plant species to be utilized along with related accessory improvements such as irrigation facilities, maintenance roads/paths, and other required drainage, access or utility corridors, and the program for ongoing maintenance.

- N. Underground telephone, water, electrical and cable television utility lines shall be constructed throughout the project site; no overhead utility lines shall be permitted.
- O. A final comprehensive public access plan shall be submitted for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources along with plans for subdivision approval, plan approval, or any land alteration activity, whichever comes first. The public access plan shall include mauka-makai and lateral shoreline accesses; a minimum of ten (10) parking stalls for each of the four parking areas for users of the shoreline area, signage, restrictions on use (if any), provision of toilet facilities at appropriate locations, and related improvements. The plan shall also integrate where appropriate, any public accessway(s) or trail system(s) approved in conjunction with the detailed mitigation plan for the Historic Interpretive Park.
- P. The areas of the property within the State Land Use Conservation District shall be set aside as public shoreline access areas via covenants recorded with the Bureau of Conveyances. These covenants shall be encumbrances running with the land and shall be binding on all parties and persons claiming under them.
- Q. The applicant shall participate with the Department of Transportation, Highways Division on regional highway improvements on a pro rata basis, which shall include at a minimum; (1) improvements to the Queen Kaahumanu Highway/Kawaihae Road intersection; (2) channelization and street lighting of the project access to Akoni Pule Highway; (3) dedication of additional right-of-way to the State along Akoni Pule Highway fronting the project site; (4) guardrails, where needed, along the highway right-of-way to protect lower lots from highway traffic; (5) protection of highway traffic from errant golf balls for all golf links bordering the highway; and (6) closing of all unused access points to Akoni Pule Highway.

Steven S. C. Lim, Esq.

June 24, 1993

Page 7

- R. 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.
- S. As agreed to by the applicant, restrictive covenants shall be included in the deeds of all applicable subdivided lots which would prohibit the construction of additional ohana dwelling units. A copy of the proposed covenant(s) shall be submitted to the Planning Department for review and approval prior to final subdivision approval of each applicable subdivision. Proof of recordation along with a copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval of each applicable subdivision.
- T. The applicant shall comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire Department and the Department of Water Supply.
- U. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the change of zone. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.
- V. 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- W. An extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances; (a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; (b) granting of the time extension would not be contrary to the general plan or zoning code; (c) granting of the time extension would not

be contrary to the original reasons for the granting of the change of zone; (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); and (e) 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.

- X. 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 Planning Commission also approved Special Management Area (SMA) Use Permit No. 341 to allow the construction of a 200-240 unit lodge hotel, 125-150 one acre lot subdivision, 18-hole golf course and related facilities, tennis facility, related site improvements and supporting infrastructure and Use Permit No. 111 to allow the construction of an 18-hole golf course with related facilities for property located approximately 12 miles north of Kawaihae Harbor and 6 miles southwest of Hawi off the Akoni Pule Highway between Lapakahi State Historical Park to the south and Kapaa Park to the north in Mahukona-Kapaanui, North Kohala, Hawaii.

Approval of Special Management Area (SMA) Use Permit No. 341 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 shore 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 development does conform to the General Plan which designates the area as a Minor Resort. With the approval of the change of zone request, the area will be appropriately zoned for the proposed use.

Another criteria for reviewing the 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." The proposed development is not anticipated to have any substantial adverse environmental or ecological effects. Surveys conducted for biological resources, historic and cultural resources, visual impacts, public access and recreational aspects, socio-economic impacts support this conclusion. No endangered plant or animal species uses the project site as a habitat.

Negative impacts on the coastal waters during site preparation and construction phases can be mitigated through compliance with existing ordinances and regulations. Performance conditions relating to monitoring of coastal waters, groundwater are also proposed.

The goals and objectives with respect to coastal, recreational, scenic, historic and economic resources can be met with an approval with conditions. A public access plan provides for opportunities for public coastal recreation. A condition for designating the coastal Conservation District as a Shoreline access easement is being proposed. Through the Consensus Agreement with Na Maka'ala 'O Kohala archaeological sites have been identified and treatment for preservation/data recovery has been determined for each site. The hotel has been designed to minimize visual obstruction from the Akoni Pule Highway. While some concern has been expressed relative to degradation of ground and coastal water quality from the golf course use, these may be mitigated through conditions of approval attached with the Use Permit for the golf course. The proposed development is not subject to coastal hazards such as tsunami or storm waves as the lowest point exceeds 20 feet in elevation above Mean Sea Level, which is higher than the recorded 12 feet height attributed to historically measured tsunami.

Approval of Special Management Area (SMA) Use Permit No. 341 is subject to the following conditions:

1. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
2. Approval of development within the special management area affected by the accompanying changes of zone shall become effective on the effective date of the changes of zone.
3. Construction of the hotel and all interior roads providing access to the parking areas for the Public Shoreline Access Areas shall be completed within five years from the effective date of the change of zone. Appropriate plans to be submitted for subdivision of the proposed lots,

including plans to be submitted for Final Plan Approval of the proposed hotel complex shall be consistent with all applicable conditions of approval as required by the change of zone. Plans shall identify improvements, structures, landscaping and parking stalls associated with the proposed development.

4. A detailed historical mitigation plan which does not conflict with the Consensus Agreement between Chalon and Na Maka'ala 'O Kohala shall be submitted for the treatment of the significant historic sites. The Plan shall consist of two subplans; (1) an archaeological data recovery plan (scope of work) for the sites to undergo data recovery and (2) a detailed preservation plan for the sites to undergo preservation, to include buffer zones, interim protection measures, and long-range preservation concerns. This mitigation plan must be approved by the County Planning Department and the State Historic Preservation Division prior to its implementation. These offices must also verify in writing that the plan is successfully executed. No land alteration can occur in the project area until at least the data recovery fieldwork and interim protection measures are verified to be successfully executed and that a representative of Na Maka'ala 'O Kohala and the Hawaiian Civic Club of North Kohala be on site during any construction or land alteration activity.
5. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving 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.
6. A final comprehensive public access plan shall be submitted for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources along with plans for subdivision approval, plan approval, or any land alteration activity, whichever comes first. The public access plan shall include mauka-makai and lateral shoreline accesses; a minimum of ten (10) parking stalls for each of the four parking areas for users of the shoreline area, signage, restrictions on use (if any), provision of toilet facilities at appropriate locations, and related improvements. The plan shall also integrate, where appropriate, any public accessway(s) or

trail system(s) approved, in conjunction with the detailed mitigation plan for the Historic Interpretive Park. The public access plan shall include provisions for night fishing. As part of the public access plan, improvements to Mahukona Park & Harbor Access Road meeting the approval of the Department of Public Works shall be completed to the proposed public access parking area off the Mahukona Park & Harbor Access Road.

7. The areas of the property within the State Land Use Conservation District shall be set aside as public shoreline access areas via covenants recorded with the Bureau of Conveyances. These covenants shall be encumbrances running with the land and shall be binding on all parties and persons claiming under them.
8. A landscaping easement along both the mauka and makai sides of the property's frontage along Akoni Pule Highway shall be set aside and delineated on all plans, including Subdivision plans. The width of the landscaping easement shall not exceed 150, measured from the existing right-of-way along both the mauka and makai sides of Akoni Pule Highway. The landscaping plan for the easement area and the width of the landscape easement shall be submitted to the Planning Director for review and approval in consultation with the County Arborist Council prior to issuance of final subdivision approval for any portion of the easement area, or Final Plan Approval for the golf course, whichever occurs first. Said plan shall depict the landscaping, which may include golf course fairways, tees and greens, identifying the plant species to be utilized along with related accessory improvements such as irrigation facilities, maintenance roads/paths, and other required drainage, access or utility corridors, and the program for ongoing maintenance.
9. Underground telephone, water, electrical and cable television utility lines shall be constructed throughout the project site; no overhead utility lines shall be permitted.
10. An analysis of the flood/drainage Problems at the existing drainage structures along Akoni Pule Highway shall be completed. A drainage system shall be installed meeting with the approval of the Department of Public Works and Department of Transportation, Highways Division.

11. The minimum 40-foot shoreline setback line measured from a current (at the time of staking) Certified Shoreline Survey shall be staked by a registered land surveyor prior to any land alterations in the affected area. Written confirmation shall be submitted in conjunction with the required/requested permits. No improvements shall be allowed within the 40-foot shoreline setback area unless as required by law, a Shoreline Setback Variance is granted by the Planning Commission.
12. Additional open space shall be provided between; (a) the Maumalei Heiau and the proposed swimming pool, (b) Ko'aholomoana Heiau and the golf course, (c) the Mahukona Park & Harbor Access Road Public Access Parking Area and the golf course, (d) the proposed hotel and along the shoreline area at Nishimura Bay. The Planning Director in consultation with Na Maka'ala 'O Kohala and the Hawaiian Civic Club of North Kohala shall determine the required additional open space.
13. 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.
14. Prior to the commencement of construction of any portion of the proposed development, an overall monitoring plan on potential pollution to the groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the Department of Health. A Golf Course Best Management Plan and Integrated Groundwater Monitoring Plan shall be component parts of this overall monitoring plan.
15. During construction, fugitive dust and runoff sedimentation mitigating measures meeting construction industry standards shall be implemented at all times.
16. An extension of time for the performance of conditions within the SMA Use Permit may be granted by the Planning Director upon the following circumstances; (a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; (b) granting of the time extension would not be contrary to the general plan or

zoning code; (c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; (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); and (e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission for appropriate action.

17. Should any of the 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.

Approval of the Use Permit No. 111 is based on the following:

The establishment of a golf course and related facilities within the Agricultural and Unplanned zoned districts will not be inconsistent with the general purpose of the zoned districts, the intent and purpose of the Zoning Code, and the General Plan, provided that adequate mitigating conditions are met.

The golf course will provide a form of perpetual open space, thus, maintaining the current open character of the surrounding area along with its natural and scenic qualities. The golf course would, therefore, be consistent with the policies of the Recreation and Open Space Elements of the General Plan, which cite that recreational facilities in the County shall reflect the natural, historic, and cultural character of the area, and that the recreational use should be compatible with the adjacent areas.

Granting of this proposed development would further complement the goals of the General Plan's Recreation element which states "Provide a diversity of environments for active and passive pursuits" and to "Provide a wide variety of recreational opportunities...."

Golf courses are a permitted use within the State Land Use Agricultural District provided that the affected lands are not classified either A and B soils by the Land Study Bureau. The Land Study Bureau's Overall Master Productivity rating for agricultural use of the subject property is E or very poor, therefore, consideration of a golf course within these State land use parameters is permissible.

Steven S. C. Lim, Esq.
June 24, 1993
Page 14

The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties. The subject lands are presently vacant.

All essential utilities and services will be made available. Conditions of approval shall include water source and transmission improvements, off-site roadway improvements, groundwater monitoring and a golf course maintenance (fertilizers, pesticides, biocides) plan.

Approval of Use Permit No. 111 is subject to the following conditions:

1. The applicant, successors or its assigns shall comply with all of the stated conditions of approval.
2. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, 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.
3. A landscaping easement along both the mauka and makai sides of the property's frontage along Akoni Pule Highway shall be set aside and delineated on all plans, including Subdivision plans. The width of the landscaping easement shall not exceed 150 feet, measured from the existing right-of-way along both the mauka and makai sides of Akoni Pule Highway. The landscaping plan for the easement area and the width of the landscape easement shall be submitted to the Planning Director for review and approval in consultation with the County Arborist Council prior to issuance of final subdivision approval for any portion of the easement area, or Final Plan Approval for the golf course, whichever occurs first. Said plan shall depict the landscaping, which may include golf course fairways, tees and greens, identifying the plant species to be utilized along with related accessory improvements such as irrigation facilities, maintenance roads/paths, and other required drainage, access or utility corridors, and the program for ongoing maintenance.
4. A detailed historical mitigation plan which does not conflict with the Consensus Agreement between Chalon and Na

Maka'ala 'O Kohala shall be submitted for the treatment of the significant historic sites. The Plan shall consist of two subplans; (1) an archaeological data recovery plan (scope of work) for the sites to undergo data recovery and (2) a detailed preservation plan for the sites to undergo preservation, to include buffer zones, interim protection measures, and long-range preservation concerns. This mitigation plan must be approved by the County Planning Department and the State Historic Preservation Division prior to its implementation. These offices must also verify in writing that the plan is successfully executed. No land alteration can occur in the project area until at least the data recovery fieldwork and interim protection measures are verified to be successfully executed and that a representative of Na Maka'ala 'O Kohala and the Hawaiian Civic Club of North Kohala be on site during any construction or land alteration activity.

5. A final comprehensive public access plan shall be submitted for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources along with plans for subdivision approval, plan approval, or any land alteration activity, whichever comes first. The public access plan shall include mauka-makai and lateral shoreline accesses; a minimum of ten (10) parking stalls for each of the four parking areas for users of the shoreline area, signage, restrictions on use (if any), provision of toilet facilities at appropriate locations, and related improvements. The plan shall also integrate, where appropriate, any public accessway(s) or trail system(s) approved, in conjunction with the detailed mitigation plan for the Historic Interpretive Park. The public access plan shall include provisions for night fishing. As part of the public access plan, improvements to Mahukona Park & Harbor Access Road meeting the approval of the Department of Public Works shall be completed to the proposed public access parking area off the Mahukona Park & Harbor Access Road.
6. Additional open space shall be provided between, (a) the Maumalei Heiau and the proposed swimming pool, (b) Ko'aholomoana Heiau and the golf course, (c) the Mahukona Park & Harbor Access Road Public Access Parking Area and the golf course, (d) the proposed hotel and along the shoreline area at Nishimura Bay. The Planning Director in consultation with Na Maka'ala 'O Kohala and the Hawaiian Civic Club of North Kohala shall determine the required additional open space.

7. Underground telephone, water, electrical and cable television utility lines shall be constructed throughout the project site; no overhead utility lines shall be permitted.
8. An analysis of the flood/drainage problems at the existing drainage structures along Akoni Pule Highway shall be completed. A drainage system shall be installed meeting with the approval of the Department of Public Works and Department of Transportation, Highways Division.
9. The minimum 40-foot shoreline setback line measured from a current (at the time of staking) Certified Shoreline Survey shall be staked by a registered land surveyor prior to any land alterations in the affected area. Written confirmation shall be submitted in conjunction with the required/requested Permits. No improvements shall be allowed within the 40-foot shoreline setback area unless as required by law, a Shoreline Setback Variance is granted by the Planning Commission.
10. Prior to the commencement of construction of any portion of the proposed development, an overall monitoring plan on potential pollution to the groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the Department of Health. A Golf Course Best Management Plan and Integrated Groundwater Monitoring Plan shall be component parts of this overall monitoring Plan.
11. During construction, fugitive dust and runoff sedimentation mitigating measures meeting construction industry standards shall be implemented at all times.
12. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Director within 18 months from the effective date of this permit. To assure adequate time for Plan Approval review and in accordance with Section 25-244, Chapter 25 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which Plan Approval must be secured. Plans, at the minimum, shall delineate structure(s), archaeological preservation areas, landscaping, parking and roadway alignments. The Planning Director shall determine the consistency of the related improvements and accessory uses to the golf course with the applicable provisions of the Zoning Code at the time of Plan Approval review.


13. In the design of the golf course, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements (i.e., building and property line) at the time of plan approval review. Easements for golf course purposes over and across abutting lots, either existing or proposed, shall not be permissible.
14. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Director that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or resource site.
15. An extension of time for the performance of conditions within the Use Permit may be granted by the Planning Director upon the following circumstances; (a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; (b) granting of the time extension would not be contrary to the general plan or zoning code; (c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; (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); and (e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission for appropriate action.
16. Should any of the 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.

These recommendations do not, however, sanction the specific plans submitted with the applications as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Steven S. C. Lim, Esq.
June 24, 1993
Page 18

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

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LChalo04.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Chalon International of Hawaii, Inc.
PBR Hawaii
Department of Public Works
Department of Water Supply
County Real Property Tax Office
State Land Use Commission
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Department of Health
Department of Transportation-Highways Division
Office of Housing and Community Development
Department of Education
Department of Parks & Recreation
Fire Department
Police Department
County Arborist Council
HELCO
Hawaiian Telephone
Na Maka'ala 'O Kohala
Hawaiian Civic Club of North Kohala
West Hawaii Office
Plan Approval Section
Subdivision Approval Section