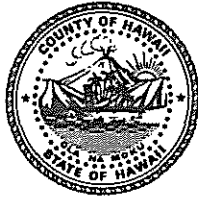


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

P 101 317 797

MAY 20 1999

Duane Kanuha, Vice President
Chalon International of Hawaii, Inc.
P.O. Box 249
Hawi, HI 96719

Dear Mr. Kanuha:

Special Management Area Use Permit (SMA 351)

Initiator: Planning Director

Subject: Revocation of Permit Issued to Chalon International of Hawaii, Inc.

Tax Map Key: 5-3-6:21; 5-3-7:1 and 10; 5-4-8:1; 5-4-9:1 and 5-5-8:13

The Planning Commission at its duly held public hearing on May 7, 1999, voted to revoke Special Management Area Use Permit No. 351 granted to Chalon International of Hawaii, Inc. which allowed the establishment of an 8.5 mile long recreational trail and related facilities on approximately 8.6 miles of land. The trail would follow existing cane haul roads along the coast from Lipoa Gulch to Halawa Gulch, and would be a minimum of 50 feet inland of the cliff edges, North Kohala, Hawaii.

Revocation of the permit was requested by the applicant due to changing economics, subsequent adjustments to the corporate mission, and that the applicant does not intend to pursue the subject project.

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MAY 20 1999

Duane Kanuha, Vice President
Chalon International of Hawaii, Inc.
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Should you have questions regarding the above, please contact Alice Kawaha of the Planning Department at 961-8288 or Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510.

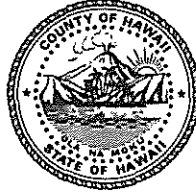
Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

cc: West Hawaii Office
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Office of Planning
Kazu Hayashida/DOT-Highways, Honolulu
Department of Land and Natural Resources
Mr. Norman Hayashi

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

JAN - 3 1995

Mr. Takeshi Okumura
Mr. Michael Gomes
Chalon International of Hawaii, Inc.
PO Box 249
Hawi, HI 96719

Dear Mr. Okumura and Mr. Gomes:

Special Management Area Use Permit Application (SMA 94-9)
Applicant: Chalon International of Hawaii, Inc.
Request: Construction and Operation of a Private 8.5 Mile Long
Multi-purpose Trail for Recreational Purposes
Including Access Roads, Parking Areas and Restrooms
TMK: 5-3-6:21, 5-3-7:1 & 10, 5-4-8:1, 5-4-9:1, and 5-5-8:13

The Planning Commission at its duly held public hearing on December 14, 1994, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 351 is hereby issued to establish an 8.5 mile long recreational trail and related facilities on approximately 8.6 miles of land in the North Kohala district. This coastal trail is located approximately makai from the Akoni Pule Highway extending from Lipoa Gulch to Halawa Gulch, North Kohala, Hawaii.

Approval of this request is based on the following:

The proposed trail will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest:

1. The proposed trail does not involve an irrevocable commitment to, loss, or destruction of any natural or cultural resource, including historic sites and view planes: The trail will retain the existing soils and topography, and will primarily utilize existing cane roads which have been previously graded and cleared. The 1.7 miles of new trail will only impact about 1.6 acres of land, and the applicant will implement measures to limit erosion caused by construction and use of the trail. The

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trail will provide public access to a remote stretch of shoreline, which possesses extraordinary natural beauty and offers a wide variety of recreational opportunities to trail users. Separate multi-use and pedestrian trails will be established in particularly sensitive areas, such as the area of Halawa Gulch with the two significant historic sites. A long-range preservation plan will be developed for these sites, and interpretative signs will be posted to inform the public of their historic value. Therefore, the establishment of the proposed trail should enhance the public's appreciation of the natural and cultural resources which exist in this area.

2. The proposed trail will not curtail the range of beneficial uses of the environment: Existing agricultural uses on the six large parcels traversed by the trail will continue of the lands mauka of the trail corridor. The trail will only impact a small portion of the land available for agricultural use, as all six parcels are over 100 acres in size. The trail should stimulate the economy in the North Kohala district, by providing an alternative visitor attraction for hikers, cyclists, and equestrians. By making the remote areas of North Kohala more accessible to both visitors and island residents, the trail will attract business to the surrounding communities of Hawi and Kapaau. The trail will also provide access to some of the finest fishing, diving, surfing, and hiking spots on the island, thereby making it more convenient for the public to engage in these activities.
3. The proposed trail does not conflict with the long-term environmental policies or goals of the General Plan or the State Plan: Both the Hawaii State Plan and the County General Plan call for greater public access to the shoreline and to significant historic and scenic sites, for encouragement of private initiatives to enhance and preserve Hawaii's natural environment, and for the development of clean industries which benefit local businesses as well as the natural environment. The proposed trail will advance all three of these important long-range environmental goals.
4. The proposed trail will not adversely impact the economic or social welfare and activities of the community, County, or State: The trail will make it easier for residents and visitors alike to access the shoreline for subsistence or recreational purposes. Increased traffic in the area should stimulate local business, and thus enhance the local economy. The trail should thus promote the welfare of the

community, by providing a wider range of recreational facilities and direct economic benefits via increased business.

5. The proposed trail will not involve substantial secondary impacts, such as population changes and effects on public facilities: Although there will be an increase in traffic on some secondary roads as a result of the establishment of this trail, several different access routes are proposed, and the impacts will not be concentrated in one place. Use estimates are well below 100 users per day for the next 15 years, which, when spread over five access roads, will not mean a dramatic increase in traffic. The applicant has expressed a willingness to maintain those roads which cross its land so that they remain safely passable. The applicant will be constructing portions of three new mauka-makai access roads, thereby making a substantial contribution to the public facilities in the district. The applicant will also be hiring private security guards to patrol the parking areas, thereby reducing the demand for police services.
6. The proposed trail does not involve a commitment to a larger project which will have a considerable adverse effect upon the environment: The proposed site was selected by the applicant because it is the longest uninterrupted stretch of coast which the applicant owns. Therefore, it is the only location suitable for the establishment of a continuous shoreline trail such as the one the applicant is proposing. The community has been requesting the establishment of such a trail for the past several years; so far, the applicant is the only entity which has come forward with a proposal to create such a trail. The proposed trail is not contingent upon the approval of any other development plans, and, if approved, it will be constructed within four to five months from the date of approval.
7. The proposed trail does not substantially affect a rare, threatened, or endangered species of animal or plant, or its habitat: No rare or endangered species of plants or animals were found on the property in the course of the botanical and faunal surveys which were conducted by the applicant. Also, no unique wildlife habitats exist on the lands within the trail corridor. The vast majority of this land has been extensively cultivated for sugar cane production, and it has been cleared and graded repeatedly in the course of the last several decades.

8. The proposed trail will not detrimentally affect air or water quality or ambient noise levels: The proposed construction and use of the trail should have no appreciable effects on air quality in the area. Construction activities may increase the risk of potential erosion in the low-lying gulch areas. The applicant will implement measures to reduce the risk of erosion, such as the installation of water bars to divert overland runoff, the application of crushed stone to stabilize more susceptible areas of the trail, and the construction of cement fords at the bottom of the gulches to reduce erosion caused by use of the trail. All improvements in the flood zone will be required to comply with Chapter 27 of the County Code, regarding Flood Control. Noise associated with construction of the trail and parking areas should be temporary in duration. The applicant anticipates that improvements can be completed within four to five months of the receipt of County and State approvals. Construction will take place during daylight hours only. There are only a few small parcels in the vicinity of the proposed trail, so the noise impacts on surrounding property owners should be minimal.

9. The proposed trail should not affect an environmentally sensitive area, such as a flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, or fresh or coastal water: The trail is located at higher elevations than the areas which are designated on the FIRM Maps as susceptible to hazardous wave activity. Those portions of the trail which cross flood plains, in the bottoms of ten of eleven of the gulches, will be equipped with drainage improvements, as described in No. 8 above. The applicant will post warning signs at the various trail heads to inform the public of hazardous conditions which could be associated with use of the trail. Should heavy rainfall or other unforeseen natural event cause hazardous conditions on the trail, the applicant plans to close the trail until it becomes safe to reopen it to the public. .

For these reasons, the Planning Director has determined that the proposed trail will not have a significant adverse impact on the environment.

The proposed trail is consistent with objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area Guidelines: The proposed trail will advance the following objectives articulated in Chapter 205A, regarding Coastal Zone Management:

1. **Recreational Resources:** The trail will provide public access to an 8.6-mile long stretch of coastline. The trail will open up numerous recreational opportunities, including hiking, cycling, horseback riding, swimming, surfing, fishing, netting, picnicking, boogie boarding, diving, kayaking, and wind surfing.
2. **Historic Resources:** The applicant intends to preserve and protect significant historic sites along the trail corridor, in accordance with a mitigation plan approved by the State's Historic Preservation Division. Interpretative signs will be posted at these historic sites, to educate the public about their significance and relevance in Hawaiian history. The trail will provide safe and easy access to sites which are not now easily accessible.
3. **Scenic and Open Space Resources:** The proposed trail will provide tremendous opportunities for the public to appreciate the beauty of the rugged North Kohala coastline. Proposed amenities such as access road improvements, convenient parking lots, portable toilets, and trash receptacles will enhance the quality of trail users' experiences. The trail will open up some of Kohala's most scenic resources to groups such as children and elderly people who might not otherwise be able to enjoy them.
4. **Economic Uses:** The applicant is proposing to provide the public with free access through privately owned land. All improvement costs will be borne by the applicant, and the trail will be maintained at the applicant's expense. The applicant is essentially providing the public with a recreational facility which it can enjoy and utilize at no charge.

The proposed trail is thus consistent with the goals of Chapter 205A and with the Special Management Area Guidelines which are based upon these goals.

The proposed trail is consistent with the General Plan, the Zoning Code, and other applicable ordinances: The trail, once established, will attract traffic to the surrounding communities, and thereby benefit local businesses. Thus, the trail will help to implement the economic goals of the General Plan. The trail will also advance the Historic Sites, Natural Beauty, Natural Resources and Shoreline, and Recreation Elements of the General Plan by increasing public access to North Kohala's historic, coastal, scenic, natural, and recreational resources. In keeping with the Public Facilities Element, the applicant will be providing a public service to the community by

establishing and maintaining this shoreline trail. Local residents have long expressed their desire for a continuous shoreline trail such as the one the applicant is proposing. The project is thus consistent with the County General Plan.

The trail will not significantly impact agricultural use of the surrounding property, and cattle grazing will continue on lands mauka of the trail corridor. "Public and private open area types of recreational uses" are permitted on State Land Use Agricultural district land, and "recreational areas that are essentially open lands and where none of the recreational features are entirely enclosed in a building" are permitted in the County's Agricultural zoned district. The project is therefore consistent with the Zoning Code.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, successors, or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors, or agents under this ordinance or relating to or connected with the granting of this ordinance.
3. The applicant, successors, or assigns shall secure a Conservation District Use Permit for the proposed recreational trail from the Board of Land and Natural Resources.
4. The applicant, successors, or assigns shall secure Final Plan Approval for the proposed recreational trail. Plans shall indicate existing and proposed trail improvements, landscaping, access roads, restrooms, and parking areas associated with the trail.
5. Construction of Phase I of the trail, consisting of three (3) mauka-makai access roads and the first four parking areas, shall be completed within three (3) years from the effective date of this SMA Use Permit. Construction of Phase II of the trail, consisting of the remaining two (2) access roads and parking areas, shall be completed within ten (10) years from the date of this SMA Use Permit.

6. A detailed Historic Preservation Plan which has been approved by the State Department of Land and Natural Resources - Historic Preservation Division shall be submitted to the Planning Director prior to the issuance of Final Plan Approval for the development. This Historic Preservation Plan shall consist of an approved mitigation plan for Site No. 18423 and Site No. 18429, and an agreed upon plan for the text, appearance, and locations of proposed interpretative signs. The State's Historic Preservation Division and the Planning Director shall verify in writing the successful execution of the plan, prior to any land altering activities on the site.
7. Should any unidentified sites or remains such as artifacts, shell, bone, charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease, and the Planning Director shall be immediately notified. When sufficient mitigative measures have been taken, the Planning Director shall issue an archaeological clearance to allow work at the site to proceed.
8. The roadway accesses to the proposed trail from the Akoni Pule Highway shall meet with the approval of the Department of Public Works. Detailed roadway plans and profiles shall be submitted to and approved by the Department of Public Works prior to the issuance of any grading permits.
9. The wastewater treatment and disposal system shall meet with Department of Health regulations, and shall be installed prior to the establishment of the trail for public use. At least one toilet facility shall be provided for every 30 parking stalls which are made available for public use.
10. All drainage improvements shall meet with the approval of the Department of Public Works and shall be installed prior to the establishment of the trail for public use. Any improvements proposed within the flood zone shall comply with the provisions of Chapter 27 of the County Code, regarding Flood Control.
11. Appropriate measures to control erosion, as established by State and County laws, shall be implemented during construction of the proposed trail and related improvements. All construction-related run-off shall be contained on-site.

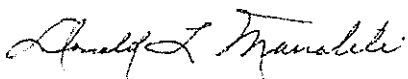
Mr. Takeshi Okumura
Mr. Michael Gomes
Page 8

12. An extension of time for the performance of conditions may be granted by the Planning Director only when a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successor, 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 original reasons for granting of the SMA Use Permit; c) granting of the time extension would not be contrary to the General Plan or Zoning Code; d) the time extension granted does not 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.
13. If any of the conditions are not met or substantially complied with in a timely fashion, the Director may initiate measures to revoke this SMA Use 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.

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

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LChalo01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
Corporation Counsel
County Real Property Tax Division
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Department of Land and Natural Resources-Historic Preservation
Board of Land and Natural Resources
Department of Health
West Hawaii Office
Plan Approval Section