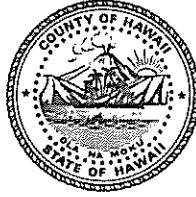


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 416 228 850

September 28, 1995

R. T. "Dick" Frye, Project Manager
1250 Oceanside Partners
74-5620A Palani Road, Suite 200
Kailua-Kona, HI 96740

Dear Mr. Frye:

Applicant: Oceanside 1250 dba 1250 Oceanside Partners
Special Management Area Use Permit Application No. 95-3
Request: To Allow Development of Portions of a 730-Lot Agricultural
Subdivision and its Related Improvements
Tax Map Key: 7-9-12:11 and Portions of 3 and 4; 8-1-4:Portion of 3

The Planning Commission at its duly held public hearing on September 14, 1995, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 356 is hereby issued to allow the development of portions of the proposed 400-lot agricultural subdivision and related infrastructure improvements and facilities on approximately 110 acres of land. The application represents a portion of the approximately 1,540 acres master planned community known as the Villages of Hokukano. The property is located makai of Mamalahoa Highway and Kealakekua Village, Haleki'i, Keekee, North and South Kona, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii Planning Commission is to preserve, protect and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an 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 Special Management Area (SMA) is that it is consistent with the General Plan and Zoning Code. The subject area is designated for Orchards and Extensive Agricultural uses by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The applicant's proposal to develop agricultural lots one-acre and larger in size is consistent with the General Plan Goals, Policies and

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LUPAG Map. Such agricultural-type of development provides opportunities for a mix of residential and limited-scale agricultural activities. The project site has historically been marginally used for cattle grazing purposes. The applicant is exploring options aimed at integrating agricultural zones on portions of the agricultural zoned lots in a manner that would allow for an efficient management operation for select crops and/or orchard uses. It is anticipated that these agricultural zones will be provided to farmers through a leasing arrangement at a nominal cost initially, with the applicant to provide the necessary infrastructural development to sustain such agricultural activity. Along with the provision of residential sites, the proposed one-acre lots can provide opportunities for gardening, hobby activities and reasonable-scaled agricultural endeavors on these marginal agricultural lands. This combination of uses will provide a balance between the agricultural potential of the project site and the residential and commercial uses located in the Kealakekua area. The construction of approximately 100 agricultural lots and related farm dwellings, related infrastructure improvements, trails, signs and landscape improvements associated with implementation of an archaeological preservation program within the Agriculture 1-acre (A-1a) zoned district will be consistent with the general purpose of the Zoning Code and the General Plan, provided adequate mitigating conditions are met.

The subject request will be compatible with the proposed golf course development in maintaining the current open character of the surrounding area to the north, south and west (makai) along with its natural and scenic qualities. The proposed development would, therefore, be consistent with the policies of the Housing, Land Use Agriculture, Recreation and Open Space elements of the General Plan which state that recreational facilities in the County shall reflect the natural, historic and cultural character of the area, and that the housing, agriculture and recreational use should be compatible with the adjacent areas.

Another criteria for reviewing the SMA Use Permit 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 effects shall include, but not limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse effect and elimination of planning options."

The proposed development is part of the Villages at Hokukano master planned community. The preliminary development plan includes a 27-hole golf course, clubhouse and related facilities, a future members lodge with up to 80-units, an approximately 140 acre coastal park, open space elements and community facilities, and approximately 730 agricultural lots with associated dwelling and agricultural uses, including approximately 100 lots within the SMA.

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 recreation aspects and socio-economic impacts support this conclusion. The goals and objectives of the SMA with respect to coastal, recreational, scenic, historic and economic resources can be met with an approval with conditions.

The proposed project will not have any adverse impact to cultural or historical resources within the project area. An archaeological inventory survey of the entire Villages

at Hokukano project site located 408 sites and site complexes. Of this total, 161 of these sites are recommended for preservation, 17 sites are recommended for selective preservation, and 228 sites are recommended to be available for data recovery and 2 recommended for no further study. Sites intended for selective preservation include portion of the Kuakini Wall, distinguishable portions of the King's Trail or Ala Loa, the railroad bed and the ahupua'a boundary walls. Preservation is recommended for all confirmed burial sites, all confirmed and probable heiaus, and all major lava tubes. The applicant intends to preserve the King's Trail or Ala Loa in its present location, with some modifications, including possible breaches, as approved by the Planning Director in consultation with the State Department of Land and Natural Resources (DLNR). Possible burials, if not preserved "as is," will be treated in a manner as prescribed by the DLNR-Historic Preservation Division. A detailed archaeological mitigation and interpretation plan, meeting with the approval of the Planning Department in consultation with the DLNR-Historic Preservation Division, is recommended prior to the submittal of plans for subdivision review or any land alteration activities.

The project site is situated east (mauka) of the Conservation District which extends along the shoreline and will be retained as a coastal park. The proposed agricultural lots will be further buffered from the shore by the proposed golf course, which was previously approved by the Planning Commission. Potential negative impacts on coastal waters during site preparation and construction can be mitigated through compliance with existing ordinances and regulations. Runoff or discharge generated by the proposed subdivision development which could reach ocean waters can be handled by on-site drainage improvements meeting with the approval of the Department of Public Works. Wastewater generated by the project will be disposed of within a wastewater treatment system meeting with the approval of the Department of Health. To further ensure that no significant adverse impacts to coastal systems are generated, a groundwater and coastal water monitoring plan(s) will be required.

Viewplanes within the area will not be significantly affected by the proposed improvements. The visual character of the subject area and the areas directly mauka will be low profile, with landscaped dwellings integrated with compatible agricultural uses. The coastal area within the State Land Use Conservation District is planned to remain primarily as a natural open space with minimal improvements to support park activities. To further ensure that viewplanes will not be adversely impacted, all electrical and communication systems will be placed underground with the exception of the 69 KV transmission line from the Mamalahoa Highway to the proposed substation site.

Based on the foregoing, the proposed construction of portions of an agricultural subdivision and other related improvements will not have a substantial adverse impact on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205-A, HRS, relating to Coastal Zone Management and Rule 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval;

2. The applicant 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 and agents under this permit or relating to or connected with the approval of this permit.
3. The effective date of this Special Management Area Use Permit shall be the effective date of the Change of Zone.
4. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for plan approval review. The Plan shall consist of three subplans;
 - (A) an archaeological data recovery plan for the sites to undergo data recovery,
 - (B) a detailed interim protection/preservation plan for the sites to undergo preservation, and
 - (C) an interpretation plan which shall include buffer zones, signage, and long-range preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to or in conjunction with any land alteration activity within the project area.

The Plan shall also include a detailed map of known lava tube/cave systems located within the project site and mitigative measures to ensure that the proposed development does not impact these cave systems.

5. Should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease, and the Planning Director immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
6. A Natural Resources Management Plan shall be submitted for review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources, prior to securing Final Subdivision Approval.
7. A detailed drainage study shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Subdivision Approval review of the agricultural subdivision. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to securing Final Subdivision Approval.
8. Use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of the appropriate government agencies.

9. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
10. Prior to Final Subdivision Approval of any lands within the project site, an overall monitoring plan on the potential pollution of groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the State Department of Health.
11. All electrical and communication utilities and systems within the project site shall be placed underground, with the exception of the main 69 KV transmission line from the Mamalahoa Highway to the proposed electrical substation site.
12. A wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
13. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. 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.
14. An extension of time for the performance of conditions within this 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 applicant, 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 this 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).

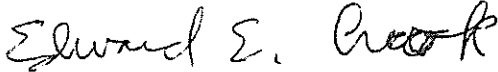
Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

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.

R. T. "Dick" Frye, Project Manager
1250 Oceanside Partners
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Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Edward E. Crook, Chairman
Planning Commission

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