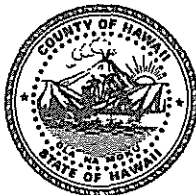


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL

P 101 317 914

NOV 30 1999

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 99-004)

Applicant: Manini'owali Equity Company, LLC

Request: Allow a Residential Community Consisting of a Maximum 900 Units of a Mix of Single and Multiple Family Units, Golf Course, Tennis Facility and Other Related Improvements

Tax Map Key: 7-2-4:18

The Planning Commission at its duly held public hearing on November 5, 1999, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 395 is hereby issued to allow the development of a residential community with a maximum of 900 units consisting of mixed single family and multiple family residential units, golf course, tennis facility, and related ancillary facilities and improvements. The property is located on the makai side of Queen Ka'ahumanu Highway immediately south of the proposed Kuki'o Resort and existing Hualalai Resort developments at Manini'owali and Kuki'o 2nd, North Kona, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes, and Rule 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.

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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.

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. There are five basic elements planned for the proposed Manini'owali Residential Community Project:

1. Residential: Approximately 900 residential units are proposed within approximately 174 acres of the development area. The development would consist of single-family, double family and multi-family units. The overall density of the entire Project District would be approximately 2.3 units per acre. Residential units will have some direct golf course frontage homesite. No condominium or apartment offering time-sharing plan shall be developed.
2. Golf Course, Clubhouse and Related Facilities: A private championship 18-hole golf course and driving range on approximately 175± acres are planned. Portions of the golf course will be located within a 400-foot wide open space buffer adjacent to the State-owned parcel, as well as within a 150-foot wide open space buffer adjacent to the Queen Ka'ahumanu Highway. The balance of the course will meander throughout the project site, providing additional open space for homeowners. An 8± acre area would be used for the golf clubhouse and tennis complex. The clubhouse would include a locker and dining area. The clubhouse would be designed in a manner consistent with the coastal environment and would be less than 45 feet tall. This complex would also have a swimming pool, tennis courts, and related facilities.
3. Wastewater Treatment and Maintenance Area: Two to three acres would be set aside for the golf course maintenance functions and wastewater treatment facility. These facilities would be tentatively located near the northern boundary of the property.
4. Open Space and Preserve Areas: Approximately 40 acres will be set aside for open space and/or cultural preserve areas. A small pu'u (cinder cone) consisting of 10± acres as well as 1.5± acres of cultural preserves will be left intact. Additionally, a 400-foot wide band paralleling the shoreline and another 150-foot wide band fronting the Queen Ka'ahumanu Highway will be left free of structures

and used as part of the golf course, landscaped and/or kept in its natural state. Inclusive of the golf course, the amount of open space/preserve area approximates 206 acres or more than 50 percent of the property.

5. **Public Access and Circulation System:** Access to the project will be directly from Queen Ka'ahumanu Highway. A fully channelized intersection, complete with a left-turn storage lane will be constructed by the applicant. The roadways within the project site will be private. Bikeways and walking paths are tentatively planned within the project site. The circulation system is intended to provide access to residents and guests of the subdivision. The project site does not abut the shoreline. As such, lateral coastal access is not an issue. A mauka-makai access through the project site and leading to the State's coastal property will be provided by the applicant in accordance with the conditions of the Land Exchange. The public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai access, parking area(s), provision of restroom facilities at appropriate locations, and related improvements.

The applicant's overall objective is to develop a high quality residential community while protecting the important cultural and environmental resources of the area. The applicant has recognized the benefits of planning and designing a project in a manner that is sensitive to the natural features and unique historical heritage of the land. Based upon preliminary studies, the applicant believes that these objectives can be obtained in an economically viable manner.

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, socio-economic impacts support this conclusion. The goals and objectives of the Special Management Area (SMA) with respect to coastal, recreational, scenic, historic and economic resources can be met with conditions of approval.

The project site soil is classified as Pahoehoe, and A'a lava, Rock Land and Cinder Land. A floral survey of the project site was conducted by Char & Associates in April 1991. Of a total of 36 species inventoried, 25 are introduced or alien species; 1 is a Polynesian introduction; and 10 are native. Typical vegetation expected to be found within the project site consists of scattered patches of plants on pahoehoe lava flows. The majority of the area surveyed is covered by a grassland composed of fountain grass with scattered kiawe trees. Other shrubs included the 'ilima, 'uhaloa, and a'ali'i. Other plants

found on the property include pili grass, ihi, carpetweed, goosefood, bitter herb, and buffell grass. No officially listed threatened or endangered plants were recorded on the project site.

An avifaunal and feral mammal survey was conducted in 1989 and 1990 by Phillip L. Bruner. The survey did not locate any threatened or endangered species within the project site. The black-necked stilt or Ae'o on the adjoining makai parcel was observed. The Pueo (short-eared owl) was not observed. Migratory indigenous birds, such as the Pacific Golden Plover and the Wandering Tattler, were observed along the coastline. Feral mammals observed within the general vicinity include the small Indian Mongoose, feral cats and feral goats. The report concluded that "No threatened or endangered wildlife species will be affected by the project, as none occur on the property." Further, "T(t) the controlled use of fertilizers and pesticides in golf course maintenance pose little or no hazard to birds frequenting the grassed areas or ponds associated with the golf courses."

A study prepared by Oceanit Laboratories, Inc. in September 1991 recommended the following observations: Marine waters located off of the Kaupulehu coastline are classified as Class AA. The objective of Class AA is that these waters remain in their natural pristine state as nearly as possible. The reef fish community off Manini'owali is typical of other sites along the North Kona coast. A single anchialine pond near the project area is located on the privately owned land approximately 250 feet behind the beach. There are no anchialine ponds on the project site. "Short term impacts on the marine environment from nearshore construction projects could potentially result from airborne dust and increased silt in runoff waters. Dust and silt introduction to the ocean will not occur due to this project because of the 1,000-foot distance of the property from the shoreline, extensive construction site watering, the low normal rainfall, and the lack of surface runoff from the site. Long-term impacts on the marine environment could potentially occur from the use of fertilizers and pesticides, irrigation disposal of diluted secondary treated sewage effluent, and the increased public access to the shoreline."

Mitigative measures to protect the groundwater directly relate to the marine environment and ocean water quality. These include erosion control during construction as well as long-term operational measures such as the use of an Integrated Pest Control Measure, managed fertilizer and pesticides applications and monitoring of the ground water.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The proposed development will incorporate specific measures to prevent any adverse impact to the

surrounding environment. The temporary effects of noise, dust and runoff which may be generated during construction activities can be controlled utilizing current construction practices and compliance with applicable construction regulations.

The property is located approximately 1,000 feet inland and as such, does not abut the shoreline. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations.

A visual analysis of the project site and its relation to the surrounding area was conducted by the applicant. The view analysis indicates that the project area will obstruct some views of the ocean from the Queen Ka'ahumanu Highway. Several mitigative measures have been proposed to minimize the impact on visual resources. This is based upon the uses and design standards including the following concepts: 1) maximize building heights, locations, setbacks, materials and landscaping will be comparable to the existing Zoning Code; 2) there will be nonstructural setbacks at the mauka and makai ends of the subject site. The setback from Queen Ka'ahumanu Highway will be 150 feet and the setback from the makai boundary adjacent to the State property will be 400 feet. Although portions of the golf course and landscaping would be allowed in these areas, there would be no above ground structures; 3) the small pu'u consisting of 8-10 acres and located at the northwestern end of the site would be preserved. The foot or base of the Pu'u Kuili is located at the southwestern section of the property. This area will be also restricted from structures; 4) heights of structures would be restricted to a level so as not to totally obstruct the view of the Pu'u; and 5) extensive landscaping would be introduced throughout the site.

The construction of the proposed wastewater treatment plant will allow for the treatment of wastewater generated by the proposed development. Without such a treatment facility, surface wastewater disposal must be carried out by cesspools or septic systems, which may contaminate the region's ground and coastal waters. The disposal of treated effluent by irrigation or by injection into the ground will be done in strict compliance with Department of Health regulations. Therefore, approval of the subject improvements will protect the coastal ecosystem, instead of threatening it.

An archaeological inventory survey of the property was conducted by Applied Research Group, Bishop Museum from March to May 1991. A total of 25 archaeological sites, comprised of 1,311 features (mostly small pits), have been recorded, mapped and their spatial relationships determined. The range of sites included mauka-makai trail, burial, burial chamber and platform possible shrine, pits, habitation features, and artifacts. Twenty-two (22) of the 25 sites identified will be directly affected by the proposed

project. It is proposed to appropriately treat the 25 significant sites through preservation or data recovery. Significant sites will undergo data recovery or be preserved with the approval of the Department of Land and Natural Resources Historic Preservation Division (DLNR-HPD). "At this point it is agreed to preserve sites 50-10-18-5337 (trail), -5348 (burials), portions of -5338 (a burial and representative examples of temporary habitations and pits), and two other isolated burial sites (50-10-18-5339 and -5352). In the event preservation of site 5337 (trail) creates a conflicting use with portions of land plan, the developer will coordinate with the DLNR-HPD and Na Ala Hele to determine appropriate treatment of these trail sections. Site 50-10-18-5355, a possible habitation or small shrine, will require additional testing to verify its function. If it is determined to be a shrine, the site will be preserved." The cinder cone and sections of the trail may be incorporated into a public interpretation program. All of these, plus the possible retention of representative pit features and temporary habitations in site 5358 along a section of a trail will be discussed more fully in the preservation and mitigation plan. Data recovery will address the portions of significant sites not recommended for preservation. Data recovery will be conducted to recover a reasonable and adequate amount of information of the affected sites. The State Historic Preservation Division approved a revised Archaeological Inventory Survey (1993) of the Land Exchange Parcel.

Public access from Queen Ka'ahumanu Highway to the shoreline at Manini'owali will continue to be provided along the existing trail until a superior access is provided. This existing unimproved roadway traverses the property and leads to Kua Bay which is best accessed by 4-wheel drive vehicles. The applicant will provide an improved public shoreline access roadway from Queen Ka'ahumanu Highway to the State park and will continue to work with the DLNR - Division of State Parks to establish the exact location of this access.

The proposed development will not have significant adverse impacts to the surrounding area. The project site is located one mile from the Kona Village and Hualalai Resort developments. The project will complement the adjacent Kukio property which is planned for resort, residential, golf course and other resort amenities.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed development conforms to the following applicable goals, policies, standards and courses of action of the General Plan Land Use element.

- o Maintain and, if feasible, improve the existing environmental quality of the island.
- o Protect and conserve the natural resources of the County of Hawaii from undue exploitation, encroachment and damage.

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- o Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.
- o Ensure that alterations to existing land forms and vegetation, expect crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- o There shall be a minimum of visual and odor pollution emanating from sewerage treatment facilities.

The proposed request would also complement the following Housing Element goals and policies by creating a mix of residential housing opportunities, maintaining a housing supply that allows a variety of choice.

- o Attain safe, sanitary and livable housing for the residents of the County of Hawaii.
- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.
- o Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.
- o Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

The proposed use conforms to the following goals and policies of the Economic Element:

- o Provide residents with opportunities to improve their quality of life.

- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate to revoke this permit.

1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The effective date of the Special Management Area Permit shall be the effective date of the Manini'owali Project District Ordinance.
3. The applicant shall comply with all conditions of approval of the Land Use Commission Decision and Order (Docket No. A92-677) and Exchange Deed and Agreement to Exchange dated December 28, 1990 (Document No. 92-038660), and shall not seek any amendments to said Agreement. A copy of the written documentation of compliance with these conditions shall also be submitted to the Planning Director.
4. No residential development or vertical improvements other than landscaping and improvements and uses allowed by the Manini'owali Project District Ordinance shall be allowed within the 400-foot wide open space along the makai property line and the 150-foot wide open space fronting Queen Ka'ahumanu Highway.

5. The applicant shall prepare and submit to the Planning Director for approval a Landscaping Plan for the golf course and golf course clubhouse along with plans submitted for plan approval review. The plan shall also reflect the metes and bounds description of the small pu'u and the foot of Pu'u Kuili within the subject property. Said areas shall be preserved in perpetuity in their natural state. The plan shall set aside areas for preservation and/or propagation and use of native plants, such as 'ilima, 'uhaloa, Capparais, and Wili Wili tree, within and around the golf course and golf clubhouse.
6. Prior to the commencement of construction of any portion of the proposed golf course development, an overall monitoring plan on the potential pollution to groundwater and coastal waters shall be approved by the State Department of Health and shall be submitted to the Planning Director. A Golf Course Best Management Plan and Integrated Groundwater Monitoring Plan shall be component parts of this overall monitoring plan.
7. A detailed drainage study, if required, shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Subdivision and/or Plan Approval review of the residential and golf course, whichever occurs first. The study shall take into consideration the tile drainage system, retention basins and 'reduced turf' design which may be incorporated into the golf course. A drainage system for each phase of development in the project area shall be installed meeting with the approval of the Department of Public Works, prior to issuance of Final Subdivision Approval, a Certificate of Occupancy or golf course opening, whichever occurs first.
8. 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.
9. The use of pesticides, biocides and herbicides in conjunction with all phases of the golf course operation shall conform with the applicable regulations of appropriate government agencies.
10. 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.

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 Queen Ka'ahumanu Highway to the proposed electrical substation site.
12. A Final Comprehensive Public Access Plan, to be developed in accordance with applicable conditions of approval of the Land Use Commission Decision and Order (Docket No. A92-677) and Land Exchange Agreement, shall be submitted in conjunction with golf course plans submitted for plan approval review or with any residential development, whichever occurs first. The plan shall be submitted for the review and approval by the Planning Director, upon consultation with the Department of Land and Natural Resources (DLNR), and shall include mauka-makai, bike, pedestrian and vehicular access; parking areas and restroom facilities on State land located makai of the subject property and at locations approved by the DLNR, signage, emergency response considerations, restrictions on use (if any), and related improvements. Implementation of the public access plan shall be completed no later than the opening of the golf course or Final Subdivision Approval of any residential increment.
13. A nearshore water quality monitoring program shall be approved by the State Department of Health, and submitted to the Planning Director prior to the issuance of a grading permit for the golf course.
14. A groundwater monitoring plan and system shall be approved by the State Department of Health, and submitted to the Planning Director prior to the issuance of a grading permit for the golf course. The plan and system shall be updated prior to opening of the golf course.
15. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). The Plan shall consist of three subplans: (1) an archaeological data recovery plan for the sites to undergo data recovery, (2) a detailed interim protection/preservation plan for the sites to undergo preservation, and (3) an interpretation plan which shall include buffer zones, signage and long-range preservation concerns which may be submitted at a later date. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites within the subject property shall be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Data Recovery Plan and Preservation Plan shall be submitted to the Planning

Director for its files prior to submitting plans for subdivision review or prior to any approval for any land alteration permits, whichever occurs first.

16. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigative measures have been taken.
17. The applicant shall comply with all applicable laws, rules, regulations, and requirements of affected agencies.
18. 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.
19. 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 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 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).

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.

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Should you have any questions, please contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

Lmaniniowali01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Dr. Robert Warmington