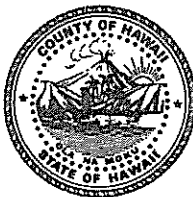


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

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MAY 23 2000

Mr. James Leonard, AICP
Managing Director
PBR Hawaii – Hilo Office
101 Aupuni Street, Suite 310
Hilo, HI 96720-4276

Dear Mr. Leonard:

Special Management Area Use Permit Application (SMA 00-005)
Applicant: 1250 Oceanside Partners (dba Oceanside 1250)
Request: Development of an 80-Unit Members Lodge and Related Uses
Tax Map Key: 8-1-004:Portion of 003

The Planning Commission at its duly held public hearing on May 5, 2000, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 403 is hereby issued for the development of an 80-unit private members' lodge, related onsite and infrastructure improvements and other related improvements. The project area is within the Hokuli'a development approximately 2 miles west (makai) from Kealakekua Village and 1.5 miles from Kona Scenic Subdivision at Keekee, Iikahi, Kanakau, and Kalukalu, South 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. 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.

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The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and elimination of planning options.

The proposed 80-unit Members' Lodge will be adjacent to the golf course, designed by Jack Nicklaus and currently under construction. It is envisioned as a private lodge for members and guests. Primarily, the lodge is planned to accommodate up to 80 units in separate bungalow-type cottages carefully sited on the sloping site to take maximum advantage of view opportunities to the golf course and ocean. The lodge will also include a main pavilion, with reception area, retail space, spa, exercise room, restaurant lounge, offices and outdoor recreational amenities. The site, in addition to being supported by the necessary infrastructure (e.g., sewer, water, roads, and utilities), is in a unique, isolated environment that will provide guests a quiet and restful experience. The lodge would serve as an important project amenity by providing members and their guests with onsite accommodations, thereby avoiding the need to travel off-site for lodging. Since the lodge is designed for members and their guests, it is not intended to offer public accommodations but will provide overnight, non-residential accommodations and related services which are appropriate in a Retreat Resort area. The total cost of the Members' Lodge, including site preparation, infrastructure, construction, and landscaping improvements is estimated to be approximately \$40 million. Currently on the site is an open air sales pavilion, which is likely to be retained for use for special function, social gathering, weddings etc.

This application was submitted and reviewed by the Office of Planning's MACZMAG. No comments or objections were received.

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

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. 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. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

The proposed development is consistent with the General Plan and Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates 25 ± acre area surrounding the private Members' Lodge as Resort (Retreat). 14.8 acres within this 25 ± acre site area is zoned Resort Hotel (V-6.0). The area surrounding this site is designated Agricultural-1 acre (A-1a). The following sections of the General Plan describe the consistency of the proposed development to the General Plan to the pertinent goals, policies and courses of action.

Resort- Goals

- o Maintain an orderly development of the visitor industry.
- o Provide for resort development that maximizes conveniences to its users and optimizes the benefits derived by the residents of the County.
- o Ensure that resort developments maintain the social, economic, and physical environments of Hawaii and its people.

Resort-Standards: The following established standards shall guide the development of resort areas.

Retreat Resort Area: A retreat resort area is generally an area which provides the user with rest, quiet, and isolation for an environmental experience. It shall have sewer, water, roads, employee housing, and recreational facilities, etc.

- o Maximum hotel and condominium-hotel units: up to 100 rooms to be determined in conjunction with retreat resort area's zoning.
- o Resort acreage: 15 acres minimum.
- o Provide active and passive recreation area commensurate with the scale of development.

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- o The required employee housing ratio and method of provision shall be determined by an analysis of housing needs of each district or relative area and with the adoption of the resort zoning; provided that the ratio shall not exceed one employee unit for every two hotel units built.

The proposed development conforms to the following applicable goals, policies, standards and courses of action of the General Plan:

- 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.
- 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.

The Land Use elements of the General Plan also state that resort uses shall be developed in areas adequately served by essential services and other infrastructure. The area under consideration is or will be provided with all essential utilities and services, including water, wastewater, and roadways. It is felt that the granting of the subject request would complement the policies of the General Plan Land Use and Resort Elements which says the County should "promote and encourage the rehabilitation and utilization of resort areas which are serviced by basic facilities and utilities."

The proposed project will not have any adverse impact to cultural or historical resources within the project area. An "Archaeological Inventory Survey and Limited Subsurface Testing" of the entire 1,550-acre Hokuli'a site was conducted by Cultural Surveys Hawaii from August 20, 1991 to January 17, 1992, with a survey report

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completed in July 1992. Within the affected properties, 807 structural and non-structural features were identified and subsequently organized into 408 sites and site complexes. Of this total, 161 sites are recommended for preservation of which 17 sites are recommended for selective preservation, and 228 sites are recommended for data recovery. Limited subsurface testing was conducted at 13 possible burial sites within two of the lava tube systems and at an agricultural mound complex. The Great Wall of Kuakini is located mauka of the project site. There are also a few remnants of the Old Government Road within the area as evidenced by historical maps. This trail crosses the upper portion of the lodge area.

A data recovery plan was submitted and approved on August 4, 1999. The burial treatment plan was approved by the Department of Land and Natural Resources-Historic Preservation Division on September 15, 1999. An interim preservation and monitoring plan, was approved by the Planning Department prior to Final Subdivision approval. The implementation of this plan will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

While no endemic or endangered species of plants were located within the project site, the applicant has noted that the existing flora will be impacted by site preparation activities associated with Members' Lodge development and its associated infrastructure. The applicant proposes that to offset the loss of existing vegetation, vegetation will be replaced to create a landscaped environment.

While no endemic species of fauna was found, introduced species consisted of mongoose, cardinal, barred dove, mynah bird, golden plover, feral dogs, cats and pigs, and rodents. Endemic birds, such as the short-eared owl or Pueo and the Hawaiian Hawk or I'o may forage within this region. The applicant acknowledges that development of the project site will disrupt wildlife use of the site. The applicant anticipates that completion of the proposed development will "contribute to increased habitat diversity necessary for the fauna which are present or frequent the area" due to the availability of formal open landscaping associated with the lodge. Efforts will be made to avoid disturbing active nests of 'Io should any be encountered during the project construction. 'Io are known to aggressively defend their nests by calling and flying at intruders. Any hawk acting in this manner would be an indication of a nest nearby.

Potential negative impacts on coastal waters during site preparation and construction can be mitigated through compliance with existing ordinances and

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regulations. Runoff or discharge generated by the proposed 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.

The project conforms to the Land Use and Open Space requirements of the General Plan.

Land Use and Open Space

- Protect scenic vistas and view planes from becoming obstructed.

View planes within the area will not be significantly affected by the proposed improvements. The site is located at the 170 to 270 foot elevation. Slopes across the project site average approximately 16 percent with some areas exceeding 20 percent. The geography of the land prevent the view plane from Mamalahoa Highway from being obstructed. The visual character of the subject area and the areas directly mauka will be low profile, with the central lodge uses such as reception, retail, spa, food and beverage, administration, parking and members services placed away from the steepest portion of the site, the view planes will be greatly enhanced and will be integrated with compatible agricultural uses. To further ensure that view planes will not be adversely impacted, all electrical and communication systems will be placed underground.

Access to the project site from the Mamalahoa Highway is currently provided off of Haleki'i Street, which has a pavement width of approximately 34 feet with gutters and sidewalks within an 80-foot wide right-of-way. At its intersection with the Mamalahoa Highway, Haleki'i Street is channelized as a "T" intersection with separate left and right turn lanes. The applicant has completed signalization of the Haleki'i Street-Mamalahoa Highway intersection to facilitate left-turn movements. After the subdivision roadways are completed, access to the Members' Lodge will be through a private road.

Based on the above, the proposed Members' Lodge 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 205A, HRS,

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

1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Final Plan Approval for the proposed Members' Lodge shall be secured from the Planning Department in accordance with Chapter 25-2-72 of the Zoning Code. Plans shall identify existing structures, landscaping, fire protection measures, driveway and parking areas, drainageways, trails, and archaeological features.
3. Construction of Phase I of the proposed development shall be completed within five (5) years from the effective date of this permit.
4. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to submitting plans for Final Plan Approval. The plan shall include, but not be limited to, the management of construction solid waste as well as operating and domestic solid waste generated by the proposed development. Approval recommendations and mitigation measures shall be implemented meeting with the approval of the Department of Public Works.
5. 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.
6. All electrical and communication utilities and systems within the project site shall be placed underground.
7. 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.

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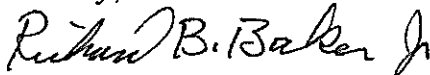
8. Construction of the lodge shall be subject to the requirements of Chapter 27 – Flood Control, of the Hawaii County Code. A detailed drainage study shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Plan Approval. A drainage system shall be installed meeting with the approval of the Department of Public Works. If required, a Conditional Letter of Map Revision (CLOMR) shall be obtained from the Federal Emergency Management Agency (FEMA) prior to issuance of affected building permits for the lodge and related improvements, and a Letter of Map Revision or a Physical Map Revision shall be required from FEMA prior to approval of any Certificate of Occupancy.
9. Should any remains of historic sites, such as lava tubes, walls, terraces, platforms, artifacts, marine shell concentrations, or human burials be encountered, work in the affected 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 finds that sufficient mitigative measures have been taken.
10. The applicant shall comply with all applicable laws, rules, regulations, and requirements.
11. 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.
12. An initial 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.

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- 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.

Sincerely,



Richard B. Baker, Jr., Chairman
Planning Commission

Loceansidesma00-005PC

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
Plan Approval Section
Mr. Richard Humphreys