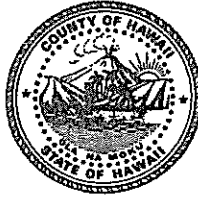


Stephen K. Yamashiro
Mayor



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 00-006)
Special Permit Application (SPP 00-008) ✓
Applicant: 1250 Oceanside Partners (dba Oceanside 1250)
Request: Allow for the Development of a Wastewater Treatment Facility
Tax Map Key: 8-1-4:Portion of 3

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. 404 and Special Permit No. 1056 are hereby issued for the development of a wastewater treatment plant and related improvements on approximately 3 acres of land situated within the State Land Use Agricultural District. The project area is within the Hokuli'a development approximately 2 miles west (makai) of Kealakekua Village, mauka of Pu'u Ohau, and approximately 1,000 feet from the shoreline, Hokukano, South Kona, Hawaii.

Approval of these requests are based on the following:

Special Management Area Use Permit Application

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

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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. The proposed wastewater treatment plant is part of a master planned low-density community. The Hokuli'a project plan includes 750 residential lots, an 18-hole golf course, clubhouse and related facilities, the Members' Lodge with up to 80-units, an approximately 157-acre coastal park, open space elements and community facilities and wastewater treatment facility.

The wastewater treatment plant site will be approximately 300 feet by 600 feet with a treatment plant structure, odor control filters, and storage and decanting tanks. Appropriate architectural design and landscaping will be installed so that the structure will harmonize with the surrounding area and offer pleasing visual quality. The design capacities of Phases I and I+II are 270,000 gallons per day and 405,000 gpd, respectively. The wastewater treatment plant (WWTP) will be designed in accordance with the Department of Health rules. The WWTP is designed to produce an effluent that will meet R-1 water quality requirements as defined by the Department of Health and the effluent will be used as irrigation on the project golf course. Design standards for preliminary treatment, secondary treatment, disinfection, and sludge treatment and disposal will be according to County standards. The treatment plant will be serviced by three to four employees with, at minimum, an operator on duty or on call at all times. A passive odor control system will be provided. The odor control unit will treat gases collected from the various covered treatment units. The odor control system is provided to further mitigate WWTP odor impacts on the surrounding development. The systems will be designed in accordance with the manufacturer's design recommendations. Alarms will be provided at critical treatment units to notify an operator of any malfunction. A standby generator will be provided to supply power to critical components of the WWTP. The design of the WWTP allows for incremental increases to up the system capacity in concert with phases of the Hokuli'a project development. The current schedule calls for completion of the initial increment of the WWTP by the end of the year 2000. The initial increment will provide service to the Phase I subdivision, Members' Lodge, golf clubhouse, shoreline park and other ancillary project uses.

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The proposed wastewater treatment facility will be located on an approximately three (3) acre portion of the Hokuli'a property and will be situated mauka of Pu'u Ohau, 1,000 feet from the shoreline. The area surrounding the wastewater treatment plant includes portions of the golf course, agricultural lot subdivision, shoreline park and open space areas. This area has been grubbed and is presently used as a baseyard for landscaping services. The proposed development is not anticipated to have any substantial adverse environmental or ecological effects.

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. Current vegetation on the property is dominated by non-native plants. There are no known rare or endangered plant life or animal species on the property or in its immediate vicinity. The proposed development is not expected to impact the immediate adjacent properties as the subject property is surrounded by vacant lands. In regards to traffic, it is not anticipated that traffic generated from the project will have a substantial adverse impact within the coastal zone. As such, no substantial adverse ecological effects to the physical environment within the immediate area is anticipated to be generated by the proposed project.

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.

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The proposed development is consistent with the County General Plan and Zoning Code. The proposed project does conform to the General Plan's Public Utilities Element and Sewer Subsection.

Public Utilities

- o Ensure that adequate, efficient and dependable public utility services will be available to users.
- o Maximize efficiency and economy in the provision of public utility services.
- o To have public utility facilities which are designed to fit into their surroundings or concealed from public view.

Policies

- o Public utility facilities shall be designed so as to complement adjacent land uses and shall be operated so as to minimize pollution or disturbance.
- o Provide utilities and service facilities which minimize total cost to the public and effectively service the needs of the community.
- o Utility facilities shall be designed to minimize conflict with the natural environment and natural resources.

Sewer

- o The "Sewerage Study for All Urban and Urbanizing Areas of the County of Hawaii, State of Hawaii," December 1970, and the "Water Quality Management Plan for the County of Hawaii," December 1980, shall be used as guides for the general planning of sewerage disposal systems.
- o The County shall take immediate steps to designate treatment plant sites, sewerage pump station sites, and sewer easements according to the facility plans to facilitate their acquisition.
- o Disposal of raw sewage directly into waterways and the ocean shall be discontinued as soon as possible.

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Standards

- o Sewerage systems shall be designed for the particular area, depending on topography, geology, density of population, costs, and other considerations of the specific area.
- o There shall be a minimum of visual and odor pollution emanating from sewerage treatment facilities.

Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will be consistent with the following goals and policies of the General Plan:

Historic Sites

- o Protect and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii.
- o The County of Hawaii shall encourage the restoration of significant sites on private lands.
- o The County shall also aid in the development of a program of public education concerning historic sites.

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 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. An integrated archaeological mitigation plan was submitted to the Planning Director in June 1999. This plan included burial treatment plans for historical sites for the entire 1,550-acre site.

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This survey did not locate any significant cultural or historical remains and no sites designated for preservation were located within the proposed wastewater treatment site. The SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources" has been satisfied.

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 the wastewater treatment facility 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.

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

Land Use and Open Space

- o Protect scenic vistas and view planes from becoming obstructed. The facility will be a low profile and designed to blend with the natural features of the land. Due to the project design and location, views to the shore from the surrounding agricultural lots will not be impacted.

Environmental Quality, Natural Resources and Shoreline

- o Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.

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The proposed wastewater treatment facility should reduce the risk of contamination of coastal waters. This project will help to ensure the protection of the coastal ecosystem and enhance the groundwater conditions in the area.

Economic Uses

- o Provide residents with opportunities to improve their quality of life. This project is consistent with the State and County policies governing the Special Management Area, and the County's General Plan. The proposed wastewater treatment facility will ensure adequate waste disposal for the urbanizing activities and growth in the area.

Based on the above, the proposed Wastewater Treatment Plant 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, 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 the 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 wastewater treatment facility shall be secured from the Planning Department in accordance with Section 25-2-72 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.
3. Construction of Phase I of the proposed development shall be completed within five (5) years from the effective date of this permit.
4. The wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health.

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5. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to occupancy.
6. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works. 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.
7. 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.
8. 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) and the Hawaii Island Burial Council 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.
9. The applicant shall comply with all applicable laws, rules, regulations, and requirements.
10. 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.
11. 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.

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- 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).

Special Permit Application

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are identified as:

- a) Kainaliu very stony silty clay loam (KDD), 12 to 20 percent slopes. Within the project site, this soil is located immediately mauka of Red Hill as well as along the project site's southern boundary. This soil consist of well-drained, silty clay loams that formed in volcanic ash. Permeability is rapid, runoff is slow and the erosion hazard is slight. This soil generally follows the long narrow patterns of lava flows, but can be isolated and surrounded by more recent flows. This soil type is generally used for coffee, macadamia nuts and pasture.
- b) Waiaha extremely stony silt loam (WHC), 6 to 12 percent slopes. This soil is used for pasture and are the predominant soils within the project site. This soil consists of well-drained silt loams that formed in volcanic ash. Permeability is moderately rapid, runoff is slow and the erosion hazard is slight.

The soil at the Wastewater Treatment Facility is classified as "D" (Poor) and "E" (Very Poor) by the Land Study Bureau's Overall Master Productivity Rating and a portion of the property is classified as "Other Important Agricultural Lands" under the Department of Agriculture's ALISH Map.

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The proposed wastewater treatment plant is part of a master planned low-density community. The Hokuli'a project plan includes 750 residential lots, an 18-hole golf course, clubhouse and related facilities, the Members' Lodge with up to 80-units, an approximately 157-acre coastal park, open space elements and community facilities and wastewater treatment facility.

The wastewater treatment plant site will be approximately 300 feet by 600 feet with a treatment plant structure, odor control filters, and storage and decanting tanks. Appropriate architectural design and landscaping will be installed so that the structure will harmonize with the surrounding area and offer pleasing visual quality. The design capacities of Phases I and I+II are 270,000 gallons per day and 405,000 gpd, respectively. The wastewater treatment plant (WWTP) will be designed in accordance with the Department of Health rules. The WWTP is designed to produce an effluent that will meet R-1 water quality requirements as defined by the Department of Health and the effluent will be used as irrigation on the project golf course. Design standards for preliminary treatment, secondary treatment, disinfection, and sludge treatment and disposal will be according to County standards. The treatment plant will be serviced by three to four employees with, at minimum, an operator on duty or on call at all times. A passive odor control system will be provided. The odor control unit will treat gases collected from the various covered treatment units. The odor control system is provided to further mitigate WWTP odor impacts on the surrounding development. The systems will be designed in accordance with the manufacturer's design recommendations. Alarms will be provided at critical treatment units to notify an operator of any malfunction. A standby generator will be provided to supply power to critical components of the WWTP. The design of the WWTP allows for incremental increases to up the system capacity in concert with phases of the Hokuli'a project development. The current schedule calls for completion of the initial increment of the WWTP by the end of the year 2000. The initial increment will provide service to the Phase I subdivision, Members' Lodge, golf clubhouse, shoreline park and other ancillary project uses.

The desired use will not adversely affect the surrounding properties. The proposed wastewater treatment facility will be located on an approximately three (3) acre portion of the Hokuli'a property and will be situated mauka of Pu'u Ohau, 1,000 feet from the shoreline. The area surrounding the wastewater treatment plant includes portions of the golf course, agricultural lot subdivision, shoreline park and open space areas. Landscape screening will provide additional buffers. The facility will be a state of the art facility incorporating odor controls as part of the effluent treatment and

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leaching process. There will be no venting or outside exposure of effluent. Therefore, potential odors from the facility are not expected to impact surrounding properties. A condition of approval is included to ensure that wastewater treatment facility will comply with all of the State Department of Health's requirements. The traffic to be generated by the facility will be only maintenance personnel for the facility. Therefore, the traffic impact should not negatively impact the infrastructure that would be in place to serve this use.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. Access to the area is presently from a private ranch road extending through the Hokuli'a property from Haleki'i Street. As part of the overall Hokuli'a development, access to the facility will be provided from the project roadways constructed as part of the Hokuli'a subdivision and golf course development. Employee parking will be provided on the plant premises. All infrastructural improvements such as water, roads, sewage disposal, drainage will be provided for by the applicant which will be constructed in accordance with the Department of Public Works and State Department of Health requirements. All other essential services are or will be made available as the development proceeds. In addition, these essential services would also be made available to the surrounding property owners which would benefit from the improvements proposed by the applicant.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The wastewater treatment facility are accessory and support facilities to the agricultural subdivision, shoreline park and golf course. The facility is to be designed to blend into the landscape with low profile and be environmentally sensitive in its architecture to ensure compatibility with the agricultural environment. With the development of this facility, the Hokuli'a subdivision would allow for recreational and proper wastewater disposal for the master planned community.

The use will not substantially alter or change the essential character of the land and the present use. The proposed support facility will be strategically placed on a 3-acre site and will be designed to a scale which will be compatible with the existing terrain and topography. The low profile and environmental design sensitivity and landscape screening will assist in maintaining the essential agricultural character of the area.

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The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district. The proposed use will not interfere with the master plan for the property, but is necessary in order to provide for the recreational activity and the agricultural master plan activities. No agricultural activities will be diminished as a result of this approval. In fact, the agricultural activities would complement and enhance the agricultural potential of the property with the provision of this support facility.

The proposed use is not contrary to the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Extensive Agriculture and Orchards. The request is consistent with the Economic, Environmental Quality, Flood Control and Drainage, Historic Sites, Natural Beauty, Natural Resources and Shoreline, Public Facilities, Public Utilities, Transportation, Energy, Land Use, Agriculture and Housing elements goals, policies and courses of action. The requests are also consistent with the Hawaii State Plan's Economy, Physical Environment, Land and Air Quality, Facility Systems for Solid and Liquid Wastes, Water, Transportation, Agriculture, Scenic Natural Beauty, Historic Resources, Socio-cultural advancement (Leisure) objectives and policies. The request is also consistent with Chapter 205 as no State Land Use classification changes are required for this proposal. The subject property is classified as "D" and "E" by the Land Study Bureau. All essential utilities and services required for the development of the project are or will be made available. The project site is within reasonable proximity to centers of trading, employment, and basic services located in Kealahou and Kailua-Kona.

Based on the above considerations, the proposed wastewater treatment facility is considered an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

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 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 wastewater treatment facility shall be secured from the Planning Department in accordance with Section 25-2-72 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic,

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paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.

3. Construction of Phase I of the proposed development shall be completed within five (5) years from the effective date of this permit.
4. The wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health.
5. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to occupancy.
6. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works. 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.
7. 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.
8. 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) and the Hawaii Island Burial Council 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.
9. The applicant shall comply with all applicable laws, rules, regulations, and requirements.
10. 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

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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.

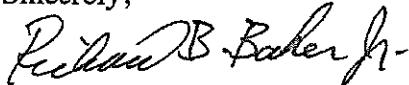
11. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors 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.
 - 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).

These approvals 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.

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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,



Richard B. Baker, Jr., Chairman
Planning Commission

Loceansidesmaspp01PC

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
Land Use Commission
Mr. Richard Humphreys