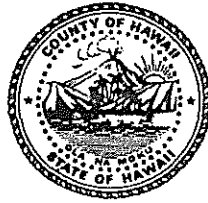


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
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CERTIFIED MAIL  
7000 0600 0024 2904 6600

DEC 26 2000

Steven S. C. Lim, Esq.  
Carlsmith Ball  
121 Waianuenue Avenue  
Hilo, HI 96720

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 00-17) ✓  
Request: Allow the Development of a 27-Hole Golf Course, Driving Range,  
Clubhouse and Related Improvements

Use Permit Application (USE 00-06)

Request: Allow the Development of a 27-Hole Golf Course, Driving Range,  
Clubhouse and Related Improvements

Applicant: Kamehameha Investment Corporation

Tax Map Key: 7-8-5:1,6,27,28,37,38,39; 7-8-7:4,11; 7-8-10:6,9,29, Por.30 & Por.50

The Planning Commission at its duly held public hearing on November 30, 2000, voted to approve the above-referenced applications. Use Permit No. 183 and Special Management Area Use Permit No. 413 are hereby issued for the development of a new 27-hole golf course, driving range, clubhouse, related maintenance support facilities, and associated improvements and infrastructure. The project area is located within the Keauhou Major Resort Area, on the makai side of Kuakini Highway and mauka of Kaluna Street and Kona Country Club golf course, and extends to the Keauhou 2<sup>nd</sup>/Honalo ahupua'a boundary, Kahaluu and Keauhou, North Kona, Hawaii.

Approval of these requests are based on the following:

#### Use Permit

Rule 7 (Use Permits) of the Planning Commission's Rules of Practice and Procedure states that the Planning Commission may approve a use permit based on certain criteria. Section 7-6, Criteria for Granting a Use Permit, states:

"The Commission may approve a use permit upon finding that:

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- "(a) The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County General Plan;
- "(b) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; and
- "(c) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure."

The granting of these requests will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a golf course, driving range, clubhouse, ground maintenance facility and related improvements, on a project site located within the State Land Use Agricultural and Urban Districts and zoned Agricultural-5 acre (A-5a) by the County, is a permitted use through the Use Permit review process, provided that the Land Study Bureau's Detailed Classification System classifies the project site as having a master productivity rating of C, D or E. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the goals and policies of the General Plan. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject area for Urban Expansion, which allows for a mix of high, medium and low density urban uses, industrial and/or open designations in areas where new settlements may be desirable, but where specific settlement patterns and mix of uses have not yet been determined. The Land Study Bureau's Detailed Land Classification System classifies soils within the project area having an overall master productivity rating for agricultural use of "C", "D" and "E" or "Fair", "Poor" and "Very Poor", respectively.

Mindful of the type of service and opportunities the applicant will provide to the residents of West Hawaii, the proposed project will compliment the following goals, policies and standards of the Land Use Elements of the General Plan:

Land Use

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed request would also complement the following goals and policies of the Recreational, Environmental Quality, Natural Resources and Shorelines, and Natural Beauty Elements of the General Plan.

Recreational

- Provide a wide variety of recreational opportunities for the residents and visitors of the County.
- Maintain the natural beauty of recreation areas.
- Provide a diversity of environments for active and passive pursuits.

Environmental Quality

- Maintain, and if feasible, improve the existing environmental quality of the island.
- Encourage the concept of recycling agricultural and municipal waste material. The proposed use would also conform to the following:

Natural Resources and Shorelines

- Protect and conserve the natural resources of the County of Hawaii from undue exploitation, encroachment and damage.
- Provide opportunities for the public to fulfill recreational, economic, and educational needs without despoiling or endangering natural resources.
- Protect and promote the prudent use of Hawaii's unique, fragile and significant environmental and natural resources.

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- Protect rare or endangered species and habitats native to Hawaii.
- Protect and effectively manage Hawaii's open space, watersheds, and natural areas.
- Ensure that alterations to existing land forms and vegetation , except 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.
- The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment.
- Encourage the use of native plants for screening and landscaping.

#### Natural Beauty

- Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- Protect scenic vistas and view planes from becoming obstructed.
- The County shall consider structural setback from major thoroughfares and highways and shall establish development and design guidelines to protect important view planes.

The proposed use would also conform to the following goals and policies of the Economic Element goals and policies of the General Plan.

#### Economic

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

- The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The Keauhou area is identified as a Major Resort Area. The proposed project, if approved, will allow the applicant to develop a golf course that can be integrated as part of its future plans for development of this resort area. While the project site and its immediately surrounding area consist of primarily undeveloped lands, the Keauhou area itself is a mixture of resort, commercial, multiple family and single family residential developments. Approval of the applicant's requests will allow them to provide a recreational amenity that is typically found in major resort areas. Furthermore, a golf course can be defined as another form of open space use, which will not severely detract from its current undeveloped and open character. By letters dated November 29, 2000, the applicant has entered into an agreement with homeowners within the adjacent Puuloa Subdivision and along Ihilani Place to include, as a condition of this approval, various requirements and restrictions upon the applicant and the proposed development that will ensure that potential significant adverse impacts upon these neighboring landowners are minimized.

An archaeological inventory survey of the project site was conducted by the applicant and found a total of 67 sites. Of these sites, 55 will undergo data recovery and the remaining 12 sites will be preserved. One of the sites to be preserved is the Holua Slide located within TMK: 7-8-10: 30. Plans submitted with the application indicates that the applicant will provide a 200-foot wide preservation buffer between the edge of the golf course fairway to the exterior perimeter of the Holua Slide. The Keauhou Trail and West Hawaii railroad right-of-way will be preserved within the design of the golf course. The State Department of Land and Natural Resources has approved of the applicant's mitigation measures for the archaeological sites identified within the project site. As a condition of this approval, the applicant will be required to prepare and secure the Planning Director's approval of an archaeological preservation and data recovery plan prior to commencing any land alteration activities.

In response to comments expressed by the State Land Use Commission, the applicant noted the project site's distance of 1,300 feet from the Kahalu'u Shaft Portal property and other existing wells within the project area. The project site is also 500 feet from an existing well the applicant will utilize for irrigation purposes. The applicant stated that they will consult with the Department of Land and Natural Resources-Commission on Water Resource Management and the County Department of Water Supply during the design phase of the golf course to ensure the continued protection of

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these ground water sources. A condition will be included to effect this commitment by the applicant.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection, and other related infrastructure. Water is and/or will be made available to the project site. Potable water will be provided by the County. Irrigation water will be obtained from the applicant's own private water source. Access to the golf course site from Kuakini Highway will be along Kamehameha III Road and Kealii Road. Kaluna Road provides access from Alii Drive. A private paved driveway will provide access from the Kealii Road-Kaluna Road intersection to the proposed clubhouse facilities. Both Kealii and Kaluna Roads are privately-maintained, 60-foot wide roadways. As recommended by the Department of Public Works, a traffic impact analysis report will be required for the proposed project to assess traffic impacts at the Kaluna Street-Alii Drive and Kealii Street-Kamehameha III Road intersections. All improvements recommended by the study shall be provided by the applicant at no cost to the County.

Wastewater disposal will be accommodated by the Heeia Wastewater Treatment Plant at Heeia Bay. Existing gravity lines along Kaluna Street will extend to the project site. The proposed clubhouse facilities is expected to generate approximately 15,000 gallons of wastewater per day. The applicant anticipates that the existing capacity at the Heeia Wastewater Treatment Plant is more than sufficient to accommodate the proposed project.

Due to the location of the project site approximately 4,500 feet from the shoreline, coastal flooding concerns are not an issue. However, as recommended by the Department of Public Works, a detailed flood study of the project site will be required and drainage system improvement meeting with the approval of the Department of Public Works must be installed prior to commencing operations of the golf course.

Power and telephone services will be provided by Hawaii Electric Light Co., Inc., and GTE Hawaiian Telephone, respectively, from underground electrical and telephone lines located along Kealii and Kaluna Roads.

It has been determined that any impacts generated from the proposed development will not be substantial nor negatively impact upon the surrounding area nor upon existing infrastructural systems.

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 procedures to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall prepare a Traffic Impact Analysis Report (TIAR) for traffic generated by the proposed golf course in a manner meeting with the approval of the Department of Public Works, prior to the submittal of plans for Plan Approval Review. All improvements recommended by the TIAR for the intersections of Kealii Street-Kamehameha III Road and Kaluna Street-Alii Drive shall be provided at no cost to the County, prior to the issuance of a certificate of occupancy for the golf clubhouse or the opening of the golf course, whichever comes first.
3. Final Plan Approval for the proposed golf course, clubhouse, driving range, ground maintenance facilities and related improvements shall be secured from the Planning Director. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use as well as the following:
  - a) a minimum 200-foot wide preservation buffer from Holua Slide;
  - b) a 200-foot wide "as is" and undisturbed buffer measured horizontally from the common property lines between the applicant's "Project" (also known as the "Property") site and (1) the Puuloa Subdivision Lots, including any Puuloa Road homeowners's property line that has a common property line with the applicant's Project site, (2) the lots adjacent to Ihilani Place, including TMK: (3) 7-8-17: 04, which have a common property line with the applicant's Project site, which buffers preclude golf uses, residential structures, or any structure or alteration of any kind;
  - c) underground construction of all utility lines;
  - d) prohibition of vehicular access to or from the golf course, residential and any other makai Project lands through Puuloa Subdivision, Puuloa Road, Puuiki Road, Puupele Road, TMK Parcel (3) 7-8-07: 07, or Ihilani Place;

- e) exterior night lighting for the golf course and related uses shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance;
- f) prohibition of night lighting on the golf course for night golf;
- g) prohibition of night lighting for evening operations of the driving range, with the exception of ambient lighting from other uses;
- h) prohibition of amplified sound for clubhouse or other facility functions after 10:00 p.m.;
- i) operation of maintenance vehicles shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m., with the exception of emergency repairs and maintenance during golf tournaments;
- j) location of the construction baseyard within the project area will be at a site which will minimize, to the extent feasible, the impacts on surrounding properties;
- k) incorporation of the Keauhou Trail and West Hawaii Railroad right-of-way into the design of the golf course, with the West Hawaii Railroad right-of-way being preserved throughout the Project site as a public pedestrian access pursuant to a managed access plan approved by the applicant, the State Historic Preservation Division and the Planning Department, in consultation with the Keauhou Cultural Advisory Committee;
- l) the applicant shall submit for approval by the Planning Department a Fire Control Plan which shall include provisions for a "defensible area" maintained by the Ihilani Place lot owners at the perimeter of the Ihilani Place subdivision;
- m) 50-foot wide "as is" undisturbed area and/or constructed or landscaped sound and "no access" barrier along the common property line between the applicant's Project site and the makai edge of the Kuakini Highway right-of-way for at least 1,000 feet to the north of the Ihilani Place subdivision;



- n) the Driving Range, Clubhouse and related Service Facilities shall be sited no further to the north or east than as presently shown on Exhibit 2 to the Application;
  - o) grubbing, grading and landscpaing plans for the proposed golf course shall seek to minimize, to the extent feasible, the removal of natural cover and the stand of ohia just northwest of Ihilani Place subdivision;
  - p) the applicant shall file with the Planning Department the current names, telephone and pager numbers of at least two (2) contact persons who have authority to order immediate corrective actions (including cessionation of activity) should there be a problem during the project construction phases; and
  - q) exterior night lighting for tennis courts within the Project site shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance.
4. The applicant shall consult with the State Department of Land and Natural Resources-Commission on Water Resource Management and the County Department of Water Supply regarding the provision of appropriate buffers from the Kahaluu Shaft Portal property as well as other potable water wells within the affected area to ensure the protection of these water sources. Approved buffers shall be incorporated in plans submitted for Plan Approval Review.
5. 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 Final Plan Approval review for the golf course and/or clubhouse, whichever is submitted first. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy for the golf clubhouse or opening of the golf course, whichever occurs first.
6. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Public Works prior to submitting plans for Final Plan Approval. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.
7. Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Public Works.

8. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or recourse site.
9. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
10. The use of pesticides and herbicides in conjunction with all phases of the golf course operation shall conform with the applicable regulations of appropriate governmental agencies.
11. An archaeological preservation and data recovery plan shall be prepared and submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for Final Plan Approval or prior to any land alteration activities. 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. Approved mitigation measures shall be implemented prior to the issuance of any land alteration permits for development within the project area.
12. That portion of the Keauhou Trail and West Hawaii Railroad right-of-way that traverses through the project site shall be preserved in place and integrated within the overall design of the golf course. A public access plan, which shall include signage, shall be established and submitted for review and approval to the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to the issuance of any land alteration permits for activities within the project area.

13. 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 finds that sufficient mitigative measures have been taken.
14. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
15. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this Use Permit. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
16. 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).

**Special Management Area Use Permit Application**

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS), and 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.

The proposed development of a 27-hole golf course, driving range, clubhouse and other related facilities and improvements on the project site will not have any substantial 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 project site is located mauka of Ali'i Drive, approximately 4,500 feet from the shoreline. The distance of the project site from the shoreline would preclude any substantial adverse impacts the proposed development may have upon coastal recreational and visual resources, public access to and along the shoreline, or upon the coastal ecosystem. Wastewater generated by the proposed development will be accommodated by the Heeia Wastewater Treatment Plant. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements provided in accordance with existing County regulations. Likewise, any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing County erosion and sedimentation control regulations as well as standard construction practices. In response to comments expressed by the State Land Use Commission, the applicant noted the project site's distance of 1,300 feet from the Kahalu'u Shaft Portal property and other existing wells within the project area. The project site is also 500 feet from an existing well the applicant will utilize for irrigation purposes. The applicant stated that they will consult with the Department of Land and Natural Resources-Commission on Water Resource Management and the County Department of Water Supply during the design phase of the golf course to ensure the continued protection of these ground water sources. A condition will be included to effect this commitment by the applicant. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon the coastal resources or environment.

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. According to the application, flora located within the project site consists of common species such as noni, monkeypod, koa haole, Christmas berry, lantana and a variety of other types of plants. None of the species identified within the affected area are officially listed as endangered or threatened; nor are any of these species proposed or identified as a candidate for such status.

According to the application, lowland urban birds and feral mammals are anticipated to inhabit the project site. Mongoose, cats, mice and rats are the feral mammals expected to inhabit the site. Migratory indigenous birds and exotic birds, such as the Pacific Golden Plover, Japanese white-eye, zebra dove, house finch, ring-neck pheasant are just some of the exotic bird species found. With the exception of the Hawaiian Hoary Bat, the species that are likely to be found within the project site are not rare or endangered. The Hawaiian Hoary Bat was not observed on the project site, however, they have been observed offshore in the general Kona area a number of times.

An archaeological inventory survey of the project site was conducted by the applicant and found a total of 67 sites. Of these sites, 55 will undergo data recovery and the remaining 12 sites will be preserved. One of the sites to be preserved is the Holua Slide located within TMK: 7-8-10: 30. Plans submitted with the application indicates that the applicant will provide a 200-foot wide preservation buffer between the edge of the golf course fairway to the exterior perimeter of the Holua Slide. The Keauhou Trail and West Hawaii railroad right-of-way will be preserved within the design of the golf course. It is recommended that the applicant prepare a public access plan that outlines the public use of the Keauhou Trail and the West Hawaii Railroad right-of-way. The State Department of Land and Natural Resources has approved of the applicant's mitigation measures for the archaeological sites identified within the project site. As a condition of this approval, the applicant will be required to prepare and secure the Planning Director's approval of an archaeological preservation and data recovery plan prior to commencing any land alteration activities. Furthermore, should archaeological features be discovered during construction, a condition of this approval requires the applicant to contact the State Department of Land and Natural Resources and secure their clearance prior to continuing with any development activities.

There are no air quality monitoring stations in the West Hawaii Region. The existing noise generated in the area is coming from the noise from Ali'i Drive, Kamehameha III Road and Kuakini Highway traffic. The principal source of short-term air quality impacts will be associated with the construction of the proposed golf course and related facilities. Given the limited nature of the improvements, no long term air and noise quality impacts are anticipated.

The proposed development will not severely interfere with the coastal view plane. The subject property is not located within an area recognized by the General Plan as an example of natural beauty. The project site is situated below Kuakini Highway on lands that maintain an average slope of 13 percent. The location of the project site below Kuakini Highway, the relatively steep slope of the land, and the open space characteristic typical of a golf course would combine to mitigate any substantial adverse impact to the coastal viewplane from the Kuakini Highway. The location of the project site approximately 4,500 feet from the shoreline would also preclude any visual impacts along the shoreline. Therefore, the proposed development will not adversely impact any coastal scenic or open space resources.

The project site is not situated within an area that may be impacted by coastal flooding hazards due to its distance from the shoreline. The Department of Public Works is recommending that a drainage study be prepared for the project site and a recommended drainage system installed meeting with their approval. The preparation of such as study has been made a condition of this approval.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for Urban Expansion. Urban Expansion allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. Within areas designated for development as resorts, portions of the resort area may be included in the Urban Expansion Area. While not typical of urban types of use due to its extensive, structured landscaping and minimal amount of structures, a golf course does provide direct support of resort uses. Its proximity to resort areas is essential for it provides a much desired recreational amenity for both tourists and residents alike.

By letters dated November 29, 2000, the applicant has entered into an agreement with homeowners within the adjacent Puuloa Subdivision and along Ihilani Place to include, as a condition of this approval, various requirements and restrictions upon the applicant and the proposed development that will ensure that potential significant adverse impacts upon these neighboring landowners are minimized.

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 procedures to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.
3. Final Plan Approval for the proposed golf course, clubhouse, driving range, ground maintenance facilities and related improvements shall be secured from the Planning Director. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use as well as the following:
  - a) a minimum 200-foot wide preservation buffer from Holua Slide;
  - b) a 200-foot wide "as is" and undisturbed buffer measured horizontally from the common property lines between the applicant's "Project" (also known as the "Property") site and (1) the Puuloa Subdivision Lots, including any Puuloa Road homeowners's property line that has a common property line with the applicant's Project site, (2) the lots adjacent to Ihilani Place, including TMK: (3) 7-8-17: 04, which have a common property line with the applicant's Project site, which buffers preclude golf uses, residential structures, or any structure or alteration of any kind;

- c) underground construction of all utility lines;
- d) prohibition of vehicular access to or from the golf course, residential and any other makai Project lands through Puuloa Subdivision, Puuloa Road, Puuiki Road, Puupele Road, TMK Parcel (3) 7-8-07: 07, or Ihilani Place;
- e) exterior night lighting for the golf course and related uses shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance;
- f) prohibition of night lighting on the golf course for night golf;
- g) prohibition of night lighting for evening operations of the driving range, with the exception of ambient lighting from other uses;
- h) prohibition of amplified sound for clubhouse or other facility functions after 10:00 p.m.;
- i) operation of maintenance vehicles shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m., with the exception of emergency repairs and maintenance during golf tournaments;
- j) location of the construction baseyard within the project area will be at a site which will minimize, to the extent feasible, the impacts on surrounding properties;
- k) incorporation of the Keauhou Trail and West Hawaii Railroad right-of-way into the design of the golf course, with the West Hawaii Railroad right-of-way being preserved throughout the Project site as a public pedestrian access pursuant to a managed access plan approved by the applicant, the State Historic Preservation Division and the Planning Department, in consultation with the Keauhou Cultural Advisory Committee;
- l) the applicant shall submit for approval by the Planning Department a Fire Control Plan which shall include provisions for a "defensible area" maintained by the Ihilani Place lot owners at the perimeter of the Ihilani Place subdivision;



- m) 50-foot wide "as is" undisturbed area and/or constructed or landscaped sound and "no access" barrier along the common property line between the applicant's Project site and the makai edge of the Kuakini Highway right-of-way for at least 1,000 feet to the north of the Ihilani Place subdivision;
  - n) the Driving Range, Clubhouse and related Service Facilities shall be sited no further to the north or east than as presently shown on Exhibit 2 to the Application;
  - o) grubbing, grading and landscaping plans for the proposed golf course shall seek to minimize, to the extent feasible, the removal of natural cover and the stand of ohia just northwest of Ihilani Place subdivision;
  - p) the applicant shall file with the Planning Department the current names, telephone and pager numbers of at least two (2) contact persons who have authority to order immediate corrective actions (including cessation of activity) should there be a problem during the project construction phases; and
  - q) exterior night lighting for tennis courts within the Project site shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance.
4. 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 Final Plan Approval review for the golf course and/or clubhouse, whichever is submitted first. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy for the golf clubhouse or opening of the golf course, whichever occurs first.
5. The applicant shall consult with the State Department of Land and Natural Resources-Commission on Water Resource Management and the County Department of Water Supply regarding the provision of appropriate buffers from the Kahaluu Shaft Portal property as well as other potable water wells within the affected area to ensure the protection of these water sources. Approved buffers shall be incorporated in plans submitted for Plan Approval Review.
6. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Public Works prior to submitting plans for Final Plan

Approval. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.

7. Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Public Works.
8. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or recourse site.
9. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
10. The use of pesticides and herbicides in conjunction with all phases of the golf course operation shall conform with the applicable regulations of appropriate governmental agencies.
11. An archaeological preservation and data recovery plan shall be prepared and submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for Final Plan Approval or prior to any land alteration activities. 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. Approved mitigation measures shall be implemented prior to the issuance of any land alteration permits for development within the project area.
12. That portion of the Keauhou Trail and West Hawaii Railroad right-of-way that traverses through the project site shall be preserved in place and integrated within the overall design of the golf course. A public access plan, which shall include signage, shall be established and submitted for review and approval to the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to the issuance of any land alteration permits for activities within the project area.


13. 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 finds that sufficient mitigative measures have been taken.
14. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
15. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this Use Permit. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
16. 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.

Steven S. C. Lim, Esq.  
Carlsmith Ball  
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Should you have any questions, please contact Daryn Arai 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

Lkicuse00-017sma00-006PC

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

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. A item 4 if Restricted Delivery is
- Print your name and address so that we can return the card
- Attach this card to the back of or on the front if space permits

1. Article Addressed to:

STEVEN S C LIM ESQ  
CARLSMITH BALL  
121 WAIANUENUE  
HILO HI 96720

2. Article Number (Copy from serial number)

7000 0600

PS Form 3811, July 1999

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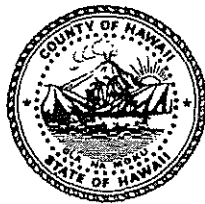
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## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

MAR 14 2011

Steven S. C. Lim, Esq.  
121 Waiānuenu Avenue  
Hilo, HI 96720

Dear Mr. Lim:

Special Management Area Use Permit No. 413

Request: Amendment to SMA 413 to Allow an Additional Five Years from  
December 26, 2010 to December 26, 2015 to Comply With Condition No. 2  
(Complete Construction)

Applicant: Kamehameha Investment Corporation

Tax Map Key: 7-8-5:1 6, 27, 28, 37, 38, 39; 7-8-7:4, 11; 7-8-10:6, 9, 29, por. 30, por. 50

The Leeward Planning Commission at its duly held public hearing on February 17, 2011, voted to approve the above-referenced request for an amendment to Condition No. 2 (complete construction) of SMA No. 413 to allow for an additional five years in which to complete development of a 27-hole golf course, driving range, clubhouse, related maintenance support facilities, and associated improvements and infrastructure. The project area is located within the Keauhou Major Resort Area, on the makai side of Kuakini Highway and mauka of Kaluna Street and Kona Country Club golf course, and extends to the Keauhou 2<sup>nd</sup>/Honalo ahupua'a boundary, Kahalu'u and Keauhou, North Kona, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a 5-year time extension to comply with Condition No. 2 (complete construction) of SMA Use Permit No. 413, which was approved by the Planning Commission on November 30, 2000 to allow the development of a 27-hole golf course, driving range, clubhouse and related maintenance support facilities (hereinafter referred to as "proposed project") on the above-referenced properties, which are contiguous and are comprised of approximately 806.610 acres of land within the County's Special Management Area (SMA).

The development of the proposed project has been delayed since the approval of SMA 413 due to a series of events, including the lengthy selection process of a master developer for the entire Keauhou Resort project area. During the selection process for the master developer, and the subsequent negotiations over the terms of the development for the Keauhou Resort project area, all work on Land Area 52 Mauka was put on hold, as it was for many other properties within the Keauhou Resort project area. On July 10, 2008, KIC reached an agreement with a master developer, and Keauhou Resort Development Venture, LLC acquired the development rights for this and other numerous undeveloped Keauhou Resort project area lands. The new master developer has initiated the long range planning required to adhere to the various land use entitlement regulations placed upon the property, including the requirements of the Kona Community Development Plan.

Unfortunately, the recent global, national, and local economic picture underwent unprecedented changes in the late 2000's, which proved even more significant for the real estate development business. As a result of these historic events, Keauhou Resort Development Venture, LLC dissolved on April 24, 2009 and Land Area 52 Mauka was conveyed back to KIC.

Since reacquiring Land Area 52 Mauka and other properties from the master developer, KIC has reoriented its development goals for Keauhou Resort and is developing a master plan to incorporate a Neighborhood Village – Transit Oriented Development core within Keauhou Resort, pursuant to Kona Community Development Plan. KIC is also in the process of identifying another master developer but the lingering effects of the faltering real estate and financial markets continue to make this process complicated. Despite these challenging times, KIC is optimistic that the real estate and financial markets will stabilize in the near future and that the next developer will create a sustainable, responsible, and viable development.

**The amendment request 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.** As discussed in detail above, the applicant has had to face difficult circumstances including the lengthy selection process of a master developer for the entire Keauhou Resort project area and the recent global, national, and local economic crisis, which were unforeseen and beyond the applicant's control, and delayed the progress of the proposed project. Based on the above information, it has been determined that non-compliance was a result of conditions that could not have been foreseen and were beyond the control of the applicant.

**The granting of the amendment request would not be contrary to the General Plan or Zoning Code.** The request continues to be consistent with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which continues to designate

this area as Urban Expansion Area. This designation allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. Within areas designated for development as resorts, portions of the resort area may be included in the Urban Expansion Area. While not typical of urban types of use due to its extensive, structured landscaping and minimal amount of structures, a golf course does provide direct support of resort uses. Its proximity to resort areas is essential for it provides a much desired recreational amenity for both tourists and residents alike.

Additionally, the request continues to be consistent with the zoning for the property, which is Agricultural (A-5a). The applicant previously secured approval from the Planning Commission of a Use Permit (Use Permit No. 183), which allowed the development of the golf course, driving range within the State Land Use Agricultural and Urban Districts, as well as the County's Agricultural zoned district. With the approval of the Use Permit, the proposed golf course and driving range is a permitted use in these districts.

Additionally, the applicant received approval from the Land Use Commission on August 1, 2005 to reclassify approximately 456 acres of land from the Agricultural District to the Rural District for the development of a single-family residential subdivision that incorporates the previously permitted golf facilities and related amenities.

Based on the above discussion, the granting of the amendment request is not contrary to the General Plan or Zoning Code.

**The granting of the amendment request would not be contrary to the original reasons for the granting of the permit.** The amendment request continues to be consistent with the original reasons for approving the Special Management Area Use Permit. It was originally determined that the proposed 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.

The proposed development also continues to be 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.

An archaeological inventory survey of the project site was previously conducted by the applicant that found a total of 67 sites. Of these sites, 55 will undergo data recovery and the remaining 12 sites will be preserved. One of the sites to be preserved is the Holua Slide located within TMK: 7-8-10: 30. Plans submitted with the original

application indicate that the applicant will provide a 200-foot wide preservation buffer between the edge of the golf course fairway to the exterior perimeter of the Holua Slide. Additionally, the Keauhou Trail and West Hawaii railroad right-of-way will be preserved within the design of the golf course. A condition of approval has been added requiring the applicant to prepare a public access plan that outlines the public use of the Keauhou Trail and the West Hawaii Railroad right-of-way. Since the approval of this application, the Kona Community Development Plan has been adopted. There is a shared pedestrian and bike path alignment that runs through the project site and appears to align with the West Hawaii railroad right-of-way. Condition No. 12 will be amended to require the applicant to incorporate a shared pedestrian and bike path on this alignment within the required public access plan to be submitted.

The Department of Land and Natural Resources-State Historic Preservation Division previously approved of the applicant's mitigation measures for the archaeological sites identified within the project site. As a condition of this approval, the applicant will be required to prepare and secure the Planning Director's approval of an archaeological preservation and data recovery plan prior to commencing any land alteration activities. Furthermore, should archaeological features be discovered during construction, a condition of this approval requires the applicant to contact the State Department of Land and Natural Resources and secure their clearance prior to continuing with any development activities.

The applicant previously entered into an agreement with homeowners within the adjacent Puuloa Subdivision and along Ihilani Place to include, as a condition of the approval, various requirements and restrictions upon the applicant and the proposed development that will ensure that potential significant adverse impacts upon these neighboring landowners are minimized. These various requirements and restrictions are still in place and the applicant will continue to be required to comply with all conditions of approval for Special Management Area (SMA) Use Permit No. 413.

Therefore, based on the above information, the granting of the amendment request is not contrary to the original reasons for the granting of the permit.

Approval of this amendment 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 procedures to revoke this permit. Material to be added is underscored; material to be deleted is bracketed and struck through.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.



2. Construction of the proposed development shall be completed within five (5) years from the effective date of this [~~permit~~]amendment.
3. Final Plan Approval for the proposed golf course, clubhouse, driving range, ground maintenance facilities and related improvements shall be secured from the Planning Director. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use as well as the following:
  - a) a minimum 200-foot wide preservation buffer from Holua Slide;
  - b) a 200-foot wide "as is" and undisturbed buffer measured horizontally from the common property lines between the applicant's "Project" (also known as the "Property") site and (1) the Puuloa Subdivision Lots, including any Puuloa Road homeowners's property line that has a common property line with the applicant's Project site, (2) the lots adjacent to Ihilani Place, including TMK: (3) 7-8-17: 04, which have a common property line with the applicant's Project site, which buffers preclude golf uses, residential structures, or any structure or alteration of any kind;
  - c) underground construction of all utility lines;
  - d) prohibition of vehicular access to or from the golf course, residential and any other makai Project lands through Puuloa Subdivision, Puuloa Road, Puuiki Road, Puupele Road, TMK Parcel (3) 7-8-07: 07, or Ihilani Place;
  - e) exterior night lighting for the golf course and related uses shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance;
  - f) prohibition of night lighting on the golf course for night golf;
  - g) prohibition of night lighting for evening operations of the driving range, with the exception of ambient lighting from other uses;
  - h) prohibition of amplified sound for clubhouse or other facility functions after 10:00 p.m.;
  - i) operation of maintenance vehicles shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m., with the exception of emergency repairs and maintenance during golf tournaments;
  - j) location of the construction baseyard within the project area will be at a site which will minimize, to the extent feasible, the impacts on surrounding properties;
  - k) incorporation of the Keauhou Trail and West Hawaii Railroad right-of-way into the design of the golf course, with the West Hawaii Railroad right-of-way being preserved throughout the Project site as a public pedestrian access pursuant to a managed access plan approved by the applicant, the State Historic Preservation Division and the Planning

Department, in consultation with the Keauhou Cultural Advisory Committee;

- l) the applicant shall submit for approval by the Planning Department a Fire Control Plan which shall include provisions for a "defensible area" maintained by the Ihilani Place lot owners at the perimeter of the Ihilani Place subdivision;
  - m) 50-foot wide "as is" undisturbed area and/or constructed or landscaped sound and "no access" barrier along the common property line between the applicant's Project site and the makai edge of the Kuakini Highway right-of-way for at least 1,000 feet to the north of the Ihilani Place subdivision;
  - n) the Driving Range, Clubhouse and related Service Facilities shall be sited no further to the north or east than as presently shown on Exhibit 2 to the Application;
  - o) grubbing, grading and landscpaing plans for the proposed golf course shall seek to minimize, to the extent feasible, the removal of natural cover and the stand of ohia just northwest of Ihilani Place subdivision;
  - p) the applicant shall file with the Planning Department the current names, telephone and pager numbers of at least two (2) contact persons who have authority to order immediate corrective actions (including cessaation of activity) should there be a problem during the project construction phases; and
  - q) exterior night lighting for tennis courts within the Project site shall be downlighted, shielded and comply with the applicable County of Hawaii lighting ordinance.
4. 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 Final Plan Approval review for the golf course and/or clubhouse, whichever is submitted first. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy for the golf clubhouse or opening of the golf course, whichever occurs first.
  5. The applicant shall consult with the State Department of Land and Natural Resources-Commission on Water Resource Management and the County Department of Water Supply regarding the provision of appropriate buffers from the Kahaluu Shaft Portal property as well as other potable water wells within the affected area to ensure the protection of these water sources. Approved buffers shall be incorporated in plans submitted for Plan Approval Review.
  6. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Public Works prior to submitting plans for Final Plan

Approval. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.

7. Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Public Works.
8. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Department that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or recourse site.
9. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
10. The use of pesticides and herbicides in conjunction with all phases of the golf course operation shall conform with the applicable regulations of appropriate governmental agencies.
11. An archaeological preservation and data recovery plan shall be prepared and submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for Final Plan Approval or prior to any land alteration activities. 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. Approved mitigation measures shall be implemented prior to the issuance of any land alteration permits for development within the project area.
12. That portion of the Keauhou Trail and West Hawaii Railroad right-of-way that traverses through the project site shall be preserved in place and integrated within the overall design of the golf course. A public access plan, which shall include signage, shall be established and submitted for review and approval to the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to the issuance of any land alteration permits for activities within the project area. The public access plan shall incorporate a shared pedestrian and bike path to incorporate the path alignment identified within the Kona Community Development Plan under Figure 4-2c (Official Transportation Network Map – Kahaluu Area).

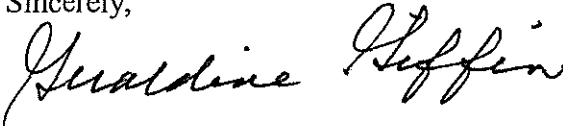
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This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Steven S. C. Lim, Esq.  
Page 9

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine Giffin".

Geraldine Giffin, Chairman  
Leeward Planning Commission

Lkicsma413lpc

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources-HPD  
DOT-Highways, Honolulu  
Ms. April Suprenant  
Zoning Inspector - Kona  
Plan Approval Section  
Mr. Gilbert Bailado ✓

