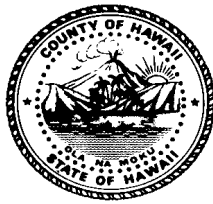


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

January 17, 2022

Ms. Ann Bouslog
PBR Hawai'i
1001 Bishop Street, Suite 650
Honolulu, HI 96813
VIA EMAIL

Dear Ms. Bouslog:

SUBJECT: Special Management Area Use Permit Application PL-SMA-2021-000001
Applicant: Waikoloa Land Company
Request: To Amend SMA Major Permit No. 25 to Withdraw Three (3)
Non-Contiguous Land Areas Identified as "Area A," "Area B,"
and "Area C"
Tax Map Key: (3) 6-9-008:013 (por.), 021, 022, 025, 027 (por.), 028 (por.),
029 (por.), 031 (por.), and 033

The Leeward Planning Commission, at its duly held public hearing on December 16, 2021, voted to approve the above-referenced request to amend Special Management Area Use Permit No. 25 ("SMA 25") to withdraw three (3) non-contiguous land areas identified as "Area A," "Area B," and "Area C" comprising the proposed Kumu Hou at Waikoloa project totaling approximately 182.9 acres from the land area covered under SMA 25, which allowed the development of the Waikoloa Beach Resort ("WBR") complex. Additionally, SMA 25 has been amended to delete conditions requiring the development of two (2) golf courses and their related conditions within the WBR complex. Finally, SMA 25 has been amended to delete conditions that have already been completed and amended to update other conditions to match current standard condition language and to modify conditions that have on-going compliance requirements. The properties are located between the 75- and 76-mile markers on Queen Ka'ahumanu Highway and west (makai) of the highway to the King's Highway Foot Trail, 'Anaeho'omalu and Waikoloa, South Kohala, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The overall development shall conform substantially to the plans submitted and the representations made by the applicant(s), its successor(s) or assign(s) (Applicant) and as described in the environmental impact statement, hereafter identified as "File Exhibit 1" on file in the Planning Department, except as further amended by subsequent ordinances and permits.
2. The area covered under SMA 25 shall consist of the area depicted on the enclosed exhibit from PBR Hawaii & Associates, Inc. titled '*Proposed Changes to Areas Governed by SMA 25*' received by the Planning Department on 11/3/2021.
3. The method of sewage disposal shall conform to the rules and regulations of the State Department of Health.
4. The Applicant shall set aside those historic site preserves identified in "File Exhibit 1" on file in the Planning Department. The Applicant shall also conduct an archaeological survey of the area between the King's Trail and the Queen Ka'ahumanu Highway prior to any land development of that area. The Applicant shall implement any mitigation required by Archaeological Inventory Surveys and Preservation Plans approved by the State Historic Preservation Division.
5. The King's Trail shall be open for public access. Any breaching of the King's Trail shall first be approved by the Planning Director. The number of breaches in the King's Trail shall be limited to three, two street crossings and one golf cart crossing, each of which shall be of a minimal width as determined by the Planning Director and the Chief Engineer.
6. The Applicant shall implement the approved program for research, maintenance, restoration, and/or management of Ku'uali'i and Kahapapa fishponds, or any amendments thereto. The Applicant shall also provide public access to the fishponds meeting with the approval of the Planning Director.
7. The Applicant shall continue to provide public accesses to the shoreline meeting with the approved public access plan or any amendments thereto. Such public accesses shall be provided in perpetuity and by recorded covenant running with the land.
8. The Applicant shall comply with requirements of the *Waikoloa Anchialine Pond Research Program* approved in 1994, or any amendments thereto.
9. The Applicant shall comply with requirements of the overall landscaping plan approved in 1978 including approved plant pallette for the Waikoloa Beach Resort or any amendments thereto.

10. The effective date of this current amendment shall be simultaneous with the effective date of the concurrent change of zone requests.
11. The Applicant shall comply with the *Waikoloa Beach Resort Water Quality Monitoring Program* approved in 1988, *Water Quality and Marine Life Monitoring and Mitigation Plan for the Waikoloa Development* approved in 1993, or any amendments thereto or successor plans, including monitoring for nutrients, fecal coliform and enterococci and sediment analysis and shall implement appropriate measures to protect groundwater and ocean water quality and the near shore environment as may be required by the State Department of Health.
12. All utility lines shall be underground.
13. The Applicant shall comply with the *Crisis Management Team Emergency Response Plan for the Waikoloa Beach Resort* approved by the Hawai‘i County Civil Defense Agency in 2011 or any amendments thereto.
14. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
15. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
16. 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 Hawai‘i.
17. The Applicant shall comply with the requirements of the State Department of Health, including the “Guidelines Applicable to Golf Courses in Hawai‘i” dated July 2002 (Version 6) or applicable subsequent versions.

18. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Water Supply, the Department of Public Works, the Department of Land and Natural Resources and the Department of Transportation-Highways Division.
19. Comply with applicable conditions of Ordinance No. 265, as amended, the State Land Use Commission Decision and Order, and SMA Use Permit No. 25, as amended.
20. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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 and the Planning Director acknowledges that further reports are not required.
21. Should any of the foregoing conditions not be met or substantially complied with, the Planning Director may initiate procedures to revoke the permit.

[Note: Ramseyer version available upon request.]

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

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Tracie-Lee Camero of the Planning Department at (808) 961-8166 or by email at Tracie-Lee.Camero@hawaiicounty.gov or Christian Kay at (808) 961-8136 or by email at Christian.Kay@hawaiicounty.gov.

Sincerely,



Michael Vitousek (Jan 17, 2022 10:14 HST)

Michael Vitousek, Chairman
Leeward Planning Commission

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Attachment: Planning Commission Findings

Ms. Ann Bouslog
PBR Hawai'i
January 17, 2022
Page 5

cc w/att. via email: Waikoloa Land Company
Mr. Sidney Fuke
Department of Public Works
Department of Water Supply
State Department of Health
State Department of Land and Natural Resources
- State Historic Preservation Division
- Division of Forestry and Wildlife
GIS Section
Plan Approval Section
West Hawai'i Division

COUNTY OF HAWAI ‘I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

WAIKOLOA LAND COMPANY
AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT NO. 25

Based on the following findings Special Management Area Use Permit No. 25 (SMA 25), which allowed the development of the Waikoloa Beach Resort (WBR) complex is hereby amended to withdraw three (3) non-contiguous land areas identified as “Area A”, “Area B”, and “Area C” comprising the proposed Kumu Hou at Waikoloa project totaling approximately 182.9 acres from the land area covered under SMA 25. Additionally, SMA 25 has been amended to delete conditions requiring the development of two (2) golf courses and their related conditions within the WBR complex. Finally, SMA 25 has been amended to delete conditions that have already been completed and amended to update other conditions to match current standard condition language and to modify conditions that have on-going compliance requirements. The properties are located between the 75- and 76- mile markers on Queen Ka‘ahumanu Highway and west (*makai*) of the highway to the King’s Highway Foot Trail, ‘Anaeho‘omalulu and Waikoloa, South Kohala, Hawai‘i, TMKS: (3) 6-9-008:013 (por.), 021, 022, 025, 027 (por.), 028 (por.), 029 (por.), 031 (por.), and 033.

The applicant is requesting to amend SMA 25 to withdraw three (3) non-contiguous areas identified as “Area A”, “Area B”, and “Area C” totaling approximately 182.9 acres of land from the area covered under SMA 25, which allowed the development of the Waikoloa Beach Resort (WBR) complex. The applicant concurrently submitted three (3) new Special Management Area Use Permit (SMA) applications and two (2) rezoning applications to cover “Areas A, B, and C” to facilitate the development of the Kumu Hou at Waikoloa project (Kumu Hou) for the same land area. The Kumu Hou project includes 1,164 multi-family residential timeshare units, 25 single-family residential lots, golf support facilities, including a relocated golf clubhouse and driving range, community and operational facilities, parks and pathways, a brackish water well and distribution system for irrigation, wells, and accessory uses. A more detailed discussion of the proposed Kumu Hou project will be included in the Background and Recommendation reports for the concurrent SMA Use Permit and Change of Zone Applications.

A majority of the land to be removed from coverage under SMA 25 is currently part of the King’s Golf Course (King’s Course) situated *mauka* of the King’s Highway Foot Trail (King’s Trail). According to the applicant, demand for golf at the King’s Course has significantly diminished over the last 20 years. This trend and the extended closure of the resort/golf courses during the Covid-19 pandemic has caused long-term financial challenges for the resort and analyses indicate that the resort’s current and long-term future demands could be supported with 27 golf holes at the resort (18 holes in the makai Beach Course and a reconfiguration of nine (9) holes in the King’s Course). Based on the preceding, the applicant has developed the Kumu Hou master plan that will repurpose the lands from golf course and vacant use to develop the Kumu Hou project. In support of this, the applicant is seeking to secure three new SMA Use Permits and two Change of Zone applications for these withdrawn areas. The intent of the new permits is

to support separate governance structures and conditions that will be relevant to differing development plans and ownership anticipated for each of the three (3) areas to be undertaken over an extended period of time. The change of zone applications are necessary for implementation of the Kumu Hou Master Plan. In support of this, the applicant is seeking to secure three (3) new SMA Use permits and two (2) Change of Zone applications for these withdrawn areas. The intent of the new permits is to support separate governance structures and conditions that will be relevant to differing development plans and ownership anticipated for each of the three areas.

If approved, these new permits and ordinances will facilitate the development of the Kumu Hou project consistent with current code, rules, and requirements specific to development of the mauka area of the resort complex. The remainder of the 1,353 acres of land will continue to be controlled under SMA 25 and existing rezone ordinances that have controlled the uses within the resort area since 1977. Thus, while the Kumu Hou project area will be removed from coverage under SMA 25, any project related impacts to the SMA will be evaluated and appropriate mitigation will be conditioned in the concurrent SMA Use Permit recommendations.

Since the last amendment to SMA 25 in 2007, several conditions of approval have been complied with, thus, the Director is recommending deletion of those conditions. Furthermore, the Director recommends modification of conditions that will have ongoing compliance requirements (e.g., modifying existing conditions that required the development and approval of public access or water quality management plans to conditions that require compliance with the approved plans). Finally, the Director is recommending the modification of some conditions to match current regulations or standard condition language (e.g., inadvertent finds of archaeological or historic resources).

SMA 25 and its amendments permitted the development of four (4), 18-hole golf courses throughout the WBR, two of which have been developed as the Waikoloa Beach Course and King's Course, and two (2) have not been developed. While not expressly part of the applicant's request, the Director is recommending amending SMA 25 to remove two (2) additional golf courses entitled under an August 1991 amendment to SMA 25 and related conditions. Lands planned for these new courses include both a portion of the land area slated for the Kumu Hou project and the land adjacent to the north consisting of the current 'Āinamalu project area.

That permit amendment required construction of the first new golf course to be completed by 1997 and the second course to be completed shortly thereafter. Through a series of administrative and Planning Commission approved time extensions, the final deadline to complete construction of the first course was before April 2013 and Final Plan Approval for the second new golf course was to be secured within one (1) year thereafter. Previous owners of the adjacent 'Āinamalu property secured Final Plan Approval, a grading permit, and completed initial earth work for the first new course as required by the permit. However, based on changing market conditions and subsequent sale of the property, the course was not completed by the required time.

According to letters to the Planning Director, neither JPL Hawaii, LLC (current owner of the 'Āinamalu property) nor the applicant intend to develop the additional golf courses entitled under the permit. Instead, both entities intend to repurpose those land areas for the Kumu Hou project (in part) on the applicant's property and a mix of other

residential and visitor uses and related improvements to complete the 'Āinamalu project. As such, they are supportive of the recommended removal of the entitlement to develop two (2) new golf courses and the deletion of related conditions from SMA 25, which largely were added in the 1991 permit amendment to apply to development of the two (2) new courses. If the Kumu Hou project is approved, there will still be 27 holes of golf operated within the WBR, therefore the Director is recommending a condition requiring compliance with State Department of Health guidelines related to Golf Course operations in Hawai'i for the remaining golf facilities.