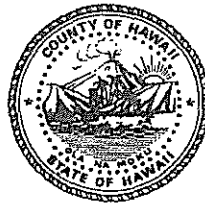


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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

August 31, 2010

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
P.O. Box 686
Hilo, HI 96721-0686

Dear Mr. Lim:

**Subject: Special Management Area Use Permit Assessment Application (SAA 10-000583)
Special Management Area Minor Permit No. 10-000159
Applicant: Kona Country Club, Inc.
Land Owner: Kona Country Club, Inc.
Request: Two (2) Lot Subdivision
Tax Map Key: 7-8-10:3, Keauhou 1st, North Kona, Hawai'i**

This is to follow up on our August 2, 2010 letter concerning the above-referenced Special Management Area Assessment for the two (2)-lot subdivision of the subject parcel.

This parcel is designated Urban by the State Land Use Commission and zoned Open (O) by the County. It is in the Special Management Area and has frontage along the coastline.

The General Plan designation is Open and Resort Node. The General Plan also mandates districts to plan for the future through implementation of Community Development Plans. The Kona Community Development Plan was adopted as Ordinance No. 08 131 with an effective date of September 25, 2008.

This area was previously included in Subdivision No. 6814 and Subdivision No. 7412. Therefore, the proposed two (2)-lot subdivision requires a SMA Minor Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 10-000159 is hereby issued to allow for the two (2) lot subdivision, subject to the applicant's compliance with the conditions of approval as required by the permit.

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
Page 2
August 31, 2010

Finally, all other applicable Zoning and Subdivision Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8139.

Sincerely,



BJ LEITHEAD TODD
Planning Director

ETI: cs

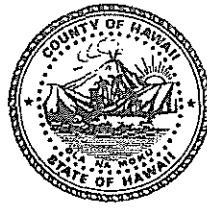
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Enclosures - SMM No. 10-000159
Department of Public Works August 25, 2010 Memo

cc w/encls.: Long Range Planning
Planning Commission
Administrative Permits
Planning Department - Kona

cc ltr. only: Mr. Abbey S. Mayer, Interim Director
Office of Planning, DBEDT
State of Hawaii Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

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Special Management Area Minor Permit No. 10-000159

Project: Two (2)-Lot Subdivision
Applicant: Kona Country Club, Inc.
Land Owner: Kona Country Club, Inc.
Location: Keauhou 1st, North Kona, Hawaii
TMK: 7-8-10:3

Land Area: 43.442 acres

Applicant's Request

1. Project Description:

The applicant proposes to subdivide the subject property into two (2) lots consisting of Lot 3-A-1 (42.940 acres) and Lot 3-A-2 (0.502 acre). There will be no associated physical improvements.

2. Purpose of Project:

The project is to satisfy the terms of a private agreement to convey the existing scenic lookout area (proposed Lot 3-A-2) to Kamehameha Investment Corporation. The existing use of both proposed lots will not change.

3. Project Valuation: \$0.

4. Determination:

The subject area was previously included in Subdivision No. 4354 and Subdivision No. 5560. Therefore, the proposed two (2)-lot subdivision requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban by the State Land Use (SLU) Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open and Resort Node.

3. **Kona Community Development Plan (CDP):** The proposed 2-lot subdivision is not contrary to the goals, objectives and policies of the CDP.
4. **County Zoning:** The subject property is zoned Open (O).
5. **Special Management Area (SMA):** The subject property is in the SMA and has frontage along the coastline. However, the scenic lookout area, proposed Lot 3-A-2, is approximately 1,975 feet from the ocean. The rest of the property is primarily comprised of golf course holes 11 through 16.
6. **Flood Zone:** Flood Zone "X"

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>

The lookout area is approximately 1,975 feet from the coastline and the balance of the property is part of an existing golf course. No improvements are required. Therefore, the proposed subdivision will not affect the recreational resources available to the public.

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.

- ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, 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 is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of \$0 is not in excess of \$125,000.

By enclosed memorandum dated August 11, 2010, the Department of Public Works, Engineering Division had the following comments:

"We reviewed the subject application and our comments are as follows:

We have determined that the subject property is located within Flood Zone 'X' according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

The above information is based on the most recent FIRM for the County of Hawaii. This memo does not imply that the referenced property will or will not be free from flooding or flood damage. Zone 'X' is not a designated Special Flood Area. A property not in a Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. Should a watercourse affect the property, it shall not be altered without first obtaining approval from DPW and a grading permit. A flood study may be required under Chapter 27 of Hawaii County Code for watercourse alterations."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000159** is hereby approved for the two (2) lot subdivision, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 10-000159** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of the State of Hawaii, Department of Health and the Hawaii County, Department of Public Works and applicable requirements of other affected agencies.
3. Final subdivision approval shall be secured within two (2) years from the date of approval of this permit.
4. Any future development of the lots shall be subject to review against the SMA guidelines as such plans are implemented.
5. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance form the State Historic Preservation Division of the Department of Land and Natural Resources.

6. An extension of time for the performance of the conditions contained herein 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 original reasons for the granting of the permit; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:



BJ LEITHEAD TODD
Planning Director

AUG 31 2010

Date