



Planning Commission

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Bernard K. Akana
Mayor

CERTIFIED MAIL

January 31, 1990

Max Yuki, President
Mauna Lani Resort, Inc.
P.O. Box 4959
Kohala Coast, HI 96743-4959

Dear Mr. Yuki:

Special Management Area (SMA) Use Permit Application
Use Permit Application
TMK: 6-8-01:Portion of 52

The Planning Commission at its duly held public hearing on January 18, 1990, voted to approve your applications, Special Management Area (SMA) Use Permit No. 292 and Use Permit No. 72, to allow the establishment of a new pre-school/day care center and related improvements on approximately 1.7 acres of land situated within the County's Unplanned zoned district adjacent to and southwest of the Mauna Lani Resort, Inc. administrative offices, Kalahuipuaa, South Kohala, Hawaii.

Approval of the requests is based on the following:

SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION 89-14

The purpose of Chapter 205-A, Hawaii Revised Statutes (HRS), and Rule No. 9, Special Management Area (SMA) 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 the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

Max Yuki, President
January 31, 1990
Page 2

One of the criteria for approving a development within the SMA is that it is consistent with the General Plan and zoning designation. The proposed development does conform to the General Plan which designates the area as Alternate Urban Expansion. While the proposed activity is not a permitted use within the County's Unplanned (U) zoned district, the County Zoning Code does allow the possibility of establishing such an activity through the issuance of a Use Permit. Therefore, the proposed use will not be inconsistent with the intent and purpose of the Zoning Code and the General Plan.

Another criteria in reviewing an SMA Use Permit application is that, "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 development is not anticipated to have any substantial adverse environmental or ecological effects. The property is not a habitat for any endangered plant or animal species. Also, no adverse impacts on air quality are expected to be generated by the proposed development due to the lack of soil and the need for only modest site preparation. Air emissions generated during the construction phase can be mitigated by existing rules and regulations.

Coastal ecosystems are not expected to be affected by the proposed development. The subject area is located approximately one mile from the shoreline. The distance would negate the possibility of wastewater pollutants from entering coastal waters. The combination of on-site porous lavas, drywells, and landscaping should effectively inhibit erosion and runoff from discharging into coastal waters. As such, the proposed development should have minimal impacts on coastal resources.

The proposed project is not expected to obstruct public views of the coastline from the Queen Kaahumanu Highway. The proposed structures are to be constructed at a distance of 3,500 feet from the Queen Kaahumanu Highway. The slope and topographical contours of the terrain will tend to alleviate the visual and structural impact of the low profile structures. The grade of the Highway, the undulating lava landscape, and the 15

Max Yuki, President
January 31, 1990
Page 3

to 20-foot high lava ridge along the south (mauka) edge of the project site would not allow for a continuous view of the site from the Highway. The proposed single story, 15-foot high structures will be placed near the center of the site with landscaping to minimize the physical and visual effects from the adjacent uses.

An archaeological reconnaissance of the entire 823.608-acre parcel was conducted by Chiniago, Inc. (1989) during which one site, a crude shelter wall and several excavations into the pahoehoe, was found. The site is located within the southeast corner of the proposed project site. The applicant intends to preserve the site. It should also be noted that should subsurface archaeological features be unearthed during construction, the applicant will cease work in the affected area, and State and County officials will be promptly notified.

Public access to and along the shoreline will not be affected because of the project's considerable distance from the coastal waters. As stated earlier, the project site is located approximately one mile from the shoreline. The project also will not interfere with any publicly owned or used recreational area.

Based on the above, it has been determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be inconsistent with the General Plan and Zoning Code or 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 Special Management Area.

USE PERMIT APPLICATION (UP 89-11)

The establishment of a pre-school/day care facility within an area zoned Unplanned (U) by the County will not be inconsistent with the general purpose of that zoned district, the intent and purpose of the Zoning Code, and the General Plan. The granting of such a facility would complement the goals of the General Plan's Land Use element which state that, "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 Mauna Lani Resort development is, in itself, a "resort community." The applicant notes that residents from possibly every district on this island

Max Yuki, President
January 31, 1990
Page 4

are employed at the resort complex. The highly variable hours and shift work associated with operating a hotel makes it difficult for employees to locate convenient day care services with hours that would suit the varied work hours of the employee. The applicant notes that with the increased number of two-income households and working women, such a service would be desirable.

The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties. The project site is located in a section of the Mauna Lani Resort reserved for ancillary services and would be relatively secluded from resort, recreational, and residential uses along the coastal areas. The proposed pre-school/day care facility would be located next to an existing administrative services building, warehouses, open stockpile areas, utility facilities, and a wastewater treatment plant. The school will be constructed on vacant, generally unimproved land whose Land Study Bureau's overall master productivity rating for agricultural use is Class "E" or very poor.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region. While child care services are available in Kamuela and Kailua, the proposed pre-school/day care facility would provide these services nearer to the place of employment rather than a place of residence. Due to the isolated nature of the Mauna Lani Resort development and the considerable commuting time for its employees, it is felt that an on-site child-care service would offer such a convenience. The varied working hours and shift work of the employees would make most other child care services unavailable.

The proposed development is not anticipated to have any substantial adverse environmental or ecological effects. The area is not a habitat for any endangered plant or animal species.

The granting of the permit to allow the establishment of a pre-school/day care facility will not unreasonably burden public agencies to provide the necessary utilities and services. All essential utilities and services are or will be available to the property.

Approval of the requests is subject to the following conditions:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval.
2. Final Plan Approval for the proposed development and related improvements shall be secured from the Planning Department within one year from the effective date of the permits. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.
3. Construction of the proposed development and related improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within two (2) years thereafter.
4. Access(es) to the proposed development shall meet with the approval of the Department of Public Works.
5. A drainage system shall be installed meeting with the approval of the Department of Public Works.
6. An archaeological mitigation plan shall be submitted to the Planning Department for approval by the Planning Director in consultation with the Department of Land and Natural Resources together with submittals for plan approval and/or prior to the issuance of any grading or grubbing permit. This plan shall include protective and/or interpretive measures for significant site both during and after construction.
7. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Department notified. No work within the affected area shall resume until clearance is obtained from the Planning Department.
8. 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.

9. Comply with all other applicable laws, rules, regulations, and requirements.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permits. 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 extension of time for the performance of conditions within the permits may be granted by the Planning Director upon the following circumstances: 1) 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 permits; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permits.

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.

Max Yuki, President
January 31, 1990
Page 7

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Mr. Gerald Park
Ms. Marcia Stevens
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
DBED, CZM Program w/background
DLNR

bcc: Plan Approval Section