

January 26, 2004

Gregory R. Mooers, President
Mooers Enterprises
PO Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

Use Permit No. 82
Applicant: Nansay Hawaii, Inc. (Hale Wailani Partners)
Subject: Response to Letter Regarding Revocation of Permit
Tax Map Key: 6-2-001:018, 074 & 075

Thank you for your letter dated January 13, 2004 responding to our request to revoke Use Permit No. 82. Based on your request, we will defer action regarding the revocation of Use Permit No. 82.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,

CHRISTOPHER J. YUEN
Planning Director

JWD:smn
P:\WPWIN60\JEFF\Letters\PC\LMooers-RevokeUse82(3).doc

cc w/copy of letter: Planning Department-Kona
Planning Commission



MOOERS ENTERPRISES, LLC
P.O. Box 1101
KAMUELA, HAWAII 96743

2004 JAN 21 PM 1 10

PLANNING DEPARTMENT
COUNTY OF HAWAII

January 13, 2004

Mr. Christopher Yuen
Director
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

**Re: Use Permit No. 82
Hale Wailani Partners
TMK: 6-2-01:18,74&75**

Dear Mr. Yuen:

I am in receipt of your letter dated December 17, 2003, requesting confirmation that we would like to revoke the Use Permit identified above for a golf course on the subject property.

Given our on-going negotiations with you related to our compliance with conditions related to our change of zone ordinance REZ 759, we request that the issue of the Use Permit be deferred until all of these issues are agreed to and the method of making the fair share contributions determined.

We are in active discussion with the Office of Housing and Community Development about additional contributions toward their affordable rental project at Ouli. We will be contacting you shortly about proposals that we believe will complete our compliance with REZ 759.

Should you or your staff have any questions please contact me directly.

Sincerely,

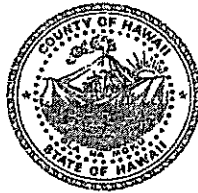
Gregory R. Mooers
President

GRM:jy

Copy: Steve Hurwitz, C&H Properties

046522

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

December 17, 2003

Mr. Gregory R. Mooers
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

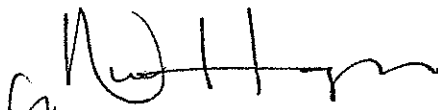
Dear Mr. Mooers:

Use Permit No. 82
Applicant: Nansay Hawaii, Inc.
Subject: Confirmation of Revocation of Permit
Tax Map Key: 6-2-001:018, 074 & 075

In our October 7, 2003 letter we informed you that the Planning Department would be moving forward to revoke Use Permit No. 82 based on non-compliance of Condition No. 2 (securing Final Plan Approval). We are asking for confirmation if your client wants to nullify this Use Permit. Please send us a response as soon as possible.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,

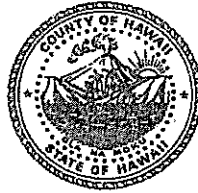

CHRISTOPHER J. YUEN
Planning Director

JWD:syw
p:\wpwin60\jeff\letters\Pe\LMooers-RevokeUse82(2).doc
cc: Planning Department-Kona
Planning Commission

045/331

DEC 18 2003

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

October 7, 2003

Mr. Gregory R. Mooers
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

Use Permit No. 82
Applicant: Nansay Hawaii, Inc.
Subject: Revocation of Permit
Tax Map Key: 6-2-001:018, 074 & 075

Our last correspondence regarding Use Permit No. 82 was our letter dated July 5, 1996, which allowed a time extension until March 25, 1999, to comply with Condition No. 2 (securing Final Plan Approval). Since this date, Final Plan Approval has not been secured, and there has been no request for a time extension to comply. It is our understanding that the project is no longer being pursued. With this understanding, we will be bringing this matter before the Planning Commission to revoke Use Permit No. 82. We will notify you when the hearing date will be scheduled.

If you have any objections, please forward them to the Planning Department in writing. If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Chris Yuen".

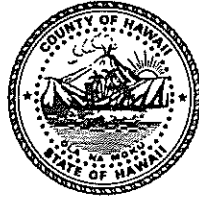
CHRISTOPHER J. YUEN
Planning Director

JWD:syw
p:\pwin60\jeff\letters\Pe\L\Mooers-RevokeUse82.doc
cc: Planning Department-Kona
Planning Commission

042438

OCT 08 2003

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

July 5, 1996

Mr. Richard Riegels, Vice President, Construction
Nansay Hawaii, Inc.
64-1032 Mamalahoa Hwy., Suite 204
Kamuela, HI 96743

Dear Mr. Riegels:

Use Permit No. 82 - Applicant: Nansay Hawaii, Inc.
Subject: Extension of Time to Condition No. 2
Tax Map Key: 6-2-1:18, 74 and 75

This is in regards to telephone conversation with Keith Kato on July 3, 1996, regarding our letter dated May 29, 1996, to you.

Our letter was in response to your request for an extension of time to Condition No. 2, in regards to securing Final Plan Approval for the proposed golf course. According to Condition No. 2, Final Plan Approval should have been secured in three years from the effective date of the Use Permit or by March 25, 1996.

In error, our letter granted you a one year extension of time until March 25, 1999. The March 25, 1999 deadline actually provides you with a three-year extension of time of which you are entitled to. We stand corrected that the letter should have stated "a three-year extension of time until March 25, 1999."

We apologize for the error and any inconvenience this may have caused you. Should you have any further questions on this matter, please contact Susan Gagorik or Alice Kawaha of this Department at 961-8288.

Sincerely,

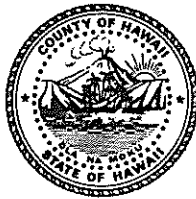

VIRGINIA GOLDSTEIN
Planning Director

SG:pak

67248

f:\wpwin60\lriege02.skg

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

May 29, 1996

Mr. Richard Riegels
Vice President, Construction
Nansay Hawaii, Inc.
64-1032 Mamalahoa Hwy., Suite 204
Kamuela, HI 96743

Dear Mr. Riegels:

Use Permit No. 82
Applicant: Nansay Hawaii, Inc.
Request: Three Year Extension of Time to Condition No. 2
Tax Map Key: 6-2-1:18, 74 and 75

This is to acknowledge receipt of your letter on May 16, 1996 requesting a time extension to Condition No. 2 of Use Permit No. 82.

Effective March 25, 1993, the Planning Commission approved your request for a time extension to Condition No. 2 subject to, the following amendments:

- "2. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Department within three years from the effective date of the approval of this request. 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. The Planning Department shall determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review."

Based on the above, Plan Approval should have been secured by March 25, 1996.

Resp to 4915
JUN 04 1996

Mr. Richard Riegels
Page 2
May 29, 1996

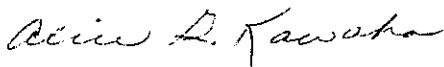
Condition No. 16 of the approved Use Permit No. 82 permit allows the Planning Director to grant an extension of time for performance of conditions within the permit. You have informed us that the golf course frontage real estate has been depressed making it unfeasible to pursue your development plans. You have however, continued your efforts in affordable housing and expect the market to turn favorable, in the future. The Planning Director has determined that non-performance is a result of circumstances beyond the control of the applicant and not a result of fault or negligence, and hereby grants you a one year extension of time until March 25, 1999, in which to comply with Condition No. 2.

Please be aware that if an additional extension of time is needed, your request must be forwarded to the County Planning Commission through this office. A \$100 filing fee shall be submitted when requesting an additional extension of time together with an original and 20 copies of the request.

Also, please be aware, that you are required to comply with all conditions as stated in the Use Permit No. 82 within their appropriate timetables.

Should you have any questions regarding the above, please contact Susan Gagorik or Alice Kawaha of this office at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

SG:mjs
F:\WP60\MICHELLE\1996\LRIEGELS.SG

xc w/ltr: Planning Commission
Plan Approval Section

N A N S A Y
H A W A I I , I N C .

May 15, 1996

Ms. Virginia Goldstein, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

96 APR 16 PM 12 03
COUNTY OF HAWAII
PLANNING DEPT.

Re: Ouli Country Club
Use Permit No. 82
Time Extension Request

Dear Ms. Goldstein:

We are requesting a three (3) year time extension to comply with the plan approval requirements of Use Permit No. 82. The reasons for this request are as follows:

- 1) The market for golf course frontage real estate has been depressed for several years which has made it unfeasible to pursue our development plans. These circumstances are clearly beyond the control of Nansay Hawaii.
- 2) In spite of the softness in the golf course market, we have continued our efforts in affordable housing. The Ouli Ekahi Low Income Tax Credit project was completed in 1995 and has been turned over to the county for operations. The 33 single family rental units are fully occupied and represent the first use to be established on the subject property. The completion of this first phase of our affordable housing program demonstrates Nansay's commitment to the community's needs and a continuing interest in the development of the Ouli property.
- 3) We expect that the market will turn favorable in the future and would like the opportunity to develop the golf course at that time. Development of the golf course at a later date would still fulfill the General Plan and zoning goals which were originally expressed in the Planning Commission's approval of the golf course use permit.

04915

HONOLULU OFFICE
Davies Pacific Center 841 Bishop Street, Suite 1000 Honolulu, Hawaii 96813
808-599-4774 Fax 808-599-5744

BIG ISLAND OFFICE Kamuela Business Center P.O. Box 111222, Suite 727 Kamuela, Hawaii 96743-0020 808-885-5300 Fax 808-885-7186

Ms. Virginia Goldstein

May 15, 1996

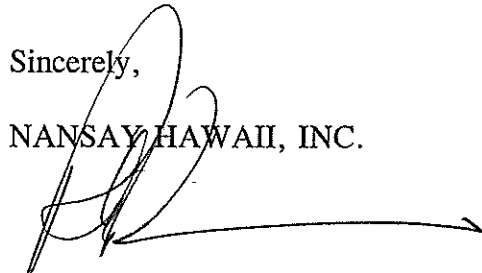
Page 2

We believe that the conditions prompting the commission to grant the original approval are valid today and therefore request a three (3) year extension to the time requirements for securing Plan Approval for the golf course project.

Please contact Keith Kato at 885-5300 if you have any questions concerning this request.

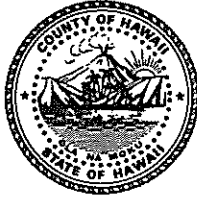
Sincerely,

NANSAY HAWAII, INC.

A handwritten signature in black ink, appearing to read 'Richard Riegels', with a long horizontal flourish extending to the right.

Richard Riegels
Vice President, Construction

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

April 17, 1996

Nansay Hawaii, Inc.
c/o Keith Kato
64-1032 Mamalahoa Highway, Suite 204
Kamuela, Hawaii 96743-0020

Dear Mr. Kato:

Use Permit No. 82
TMK: 6-2-01:18, 74 & 75

A review of our files reveal that Use Permit No. 82 to allow the establishment of an 18-hole golf course and related improvements was approved on May 14, 1991. This permit was approved subject to conditions.

Condition No. 2 states that "Final plan approval for the proposed golf course and related improvements shall be secured from the Planning Department within one year from the effective date of the permit."

On February 10, 1992, an administrative extension of time until March 14, 1993 was granted to secure final plan approval for the golf course and related improvements.

On March 18, 1993, The Planning Commission granted an extension of time until March 18, 1996 to secure final plan approval for the 18-hole golf course and related improvements.

This is to inform you that an additional extension of time is required to be submitted to the Planning Department. You are hereby notified that you must submit this request within thirty (30) calendar days upon receipt of this letter. Failure to comply with this request would leave us no alternative but to initiate procedures to revoke the permit.

03974

APR 18 1996

Nansay Hawaii, Inc.
c/o Keith Kato
Page 2
April 17, 1996

Should you have any questions on this matter, please feel free to contact Francis Saiki or Alice Kawaha of this office at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

FS:cmr
f:\wp60\christy\nansay.ltr

c: Planning Commission

July 28, 1994

Mr. Thomas H. Yamamoto
Chief Operating Officer
Nansay Hawaii, Inc.
Kamuela Business Center
P. O. Box 111222, Suite 727
Kamuela, HI 96743-0020

8707

Dear Mr. Yamamoto:

Use Permit (USE 82)
Applicant: Nansay Hawaii, Inc.
Approved Use: 18-Hole Golf Course & Related Improvements
Request: Time Extension to Condition No. 2
Tax Map Key: 6-2-01: 18, 74 and 75

We are in receipt of your letter dated July 1, 1994, requesting an extension of time in which to secure Final Plan Approval of the proposed golf course as required by Condition No. 2 of the above-described permit. Please accept our apologies for our delay in responding to your request.

RELEVANT BACKGROUND INFORMATION

Effective March 14, 1991, the Planning Commission approves Use Permit No. 82 to allow the establishment of an 18-hole golf course and related improvements on the subject properties. Condition No. 2 required the applicant to secure Final Plan Approval of the golf course development on or before March 14, 1992. As administrative extension of time until March 14, 1993, was subsequently granted by this office. The Planning Commission, at its March 18, 1993, hearing on a request by the applicant for an extension of time in which to comply with Condition No. 2, approved the request subject to, in part, the following amended conditions:

- "2. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Department within three (3) years from the effective date of approval of this request. To assure adequate time for the approval

AUG 01 1994

Mr. Thomas H. Yamamoto
Page 2
July 28, 1994

of this request 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. The Planning Department shall determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review.

"16. An 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) the 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; 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 permit."

Pursuant to Condition No. 2, Final Plan Approval of the proposed golf course shall be secured on or before **March 18, 1996**. While we understand that domestic and international economies have depressed the local market for developments like that proposed on the subject properties, the compliance deadline is still two years away. We feel that it is much too early to consider an additional extension of time of up to 3 additional years in which to comply with Condition No. 2. A more appropriate time would be during the later half of 1995, where we, as well as the applicant, could better assess the amount of additional time necessary to secure Final Plan Approval, should an extension be deemed necessary.

Mr. Thomas H. Yamamoto
Page 3
July 28, 1994

We appreciate your candidness in keeping our office informed of the status of the proposed Ouli development. Please contact Daryn Arai or Rodney Nakano of this office should you have any questions.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

DSA:mjh
LNansa02.DSA

xc/ltr: Planning Commission
West Hawaii Office
SLU 862
REZ 759



Planning Commission

STEPHEN K. YAMASHIRO
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

March 25, 1993

Mr. Tom Yamamoto
Nansay Hawaii, Inc.
PO Box 111222
Kamuela, HI 96743

Dear Mr. Yamamoto:

Time Extension to Use Permit No. 82
Applicant: Nansay Hawaii, Inc.
Request: Time Extension to Condition B (Final Plan Approval)
Tax Map Key 6-2-01:18, 74 and 75

The Planning Commission at its duly held public hearing on March 18, 1993, voted to approve the above time extension to Condition 2 (Secure Final Plan Approval) of Use Permit No. 82 which allowed the establishment of an 18-hole golf course and related improvements within the County's Unplanned (U) zoned district. The project site is located on the south side of the Kawaihae-Waimea Road, across from the Waimea Landmark Estates Subdivision and to the west of Anekona Estates Subdivision, Ouli, South Kohala, Hawaii.

Approval of this request is based on the following:

The issuance of the Use Permit No. 82 by the Planning Commission fulfilled all of the necessary criteria for the approval of the Use Permit application. In addition, the Use Permit was approved with 16 performance conditions to ensure the commitment made by the petitioner would be performed. The petitioner has made substantial progress in complying with the conditions of the Use Permit, especially with respect to Condition No. 4, the Community Benefit Assessment Program. The Community Benefit Assessment Program has been approved by the Planning Department, the Planning Commission and the County Council to satisfy compliance with Condition No. 4 of Use Permit No. 82. The donation of the aero-medivac helicopter has been officially accepted by the County and the County Council has also adopted Resolution No. 467-92 directing the additional monies from the Assessment program to be given to the North Hawaii Community Hospital fund.

MAR 25 1993

Mr. Tom Yamamoto
March 25, 1993
Page 2

Substantive and good faith efforts have been made by the petitioner and they are actively moving to comply with the remaining conditions of approval.

The denial of the time extension request would not serve the best interests of the community and the region as it would seriously affect the petitioner's ability to secure the necessary financing to complete the project. The original intent of the development, which was to provide additional recreational and open space areas in the West Hawaii region, is still a valid development for the petitioner and they are committed to complete the project. Therefore, it is important to note that while the petitioner is requesting this time extension because of financing difficulties, the commitment already made by the petitioner with respect to the Community Benefit Assessment program for this project is an important element in this matter.

Based on the above, the Planning Commission approved the request and amended Condition Nos. 2 and 16 to read as follows:

2. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Department within three years from the effective date of the approval of this request. 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. The Planning Department shall determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review."
16. An 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) the 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; 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

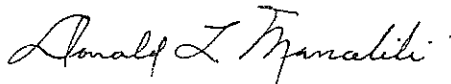
Mr. Tom Yamamoto
March 25, 1993
Page 3

timely fashion, the Director shall initiate procedures to
revoke the permit.

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.

Should you have any questions, please feel free to contact Rodney
Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:SMN

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Plan Approval Section



Planning Commission

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

LORRAINE R. INOUYE
Mayor

CERTIFIED MAIL

April 1, 1991

Mr. Thomas Yamamoto
Nansay Hawaii, Inc.
P. O. Box 111222
Kamuela, HI 96743

Dear Mr. Yamamoto:

Use Permit Application
Tax Map Key: 6-2-01:18, 74, and 75

The Planning Commission at its duly held public hearing on March 14, 1991, voted to approve your application, Use Permit No. 82, to allow the establishment of an 18-hole golf course and related improvements within the County's Unplanned (U) zoned district. The project site is located on the south side of the Kawaihae-Waimea Road, across from the Waimea Landmark Estates Subdivision and to the west of Anekona Estates Subdivision, Ouli, South Kohala, Hawaii.

Approval of this request is based on the following:

The establishment of an 18-hole golf course and related facilities within the Unplanned (U) zoned district will not be inconsistent with the general purpose of that zoned district, the intent and purpose of the Zoning Code, and the General Plan, provided adequate mitigating conditions are met.

The subject request will also provide a form of perpetual open space, thus, maintaining the current open character of the surrounding area along with its natural and scenic qualities. The proposed development would, therefore, be consistent with the policies of the Recreation and Open Space elements of the General Plan which state that recreational facilities in the County shall reflect the natural, historic, and cultural character of the area, and that the recreational use should be compatible with the adjacent areas. To further ensure that these General Plan elements are implemented further data recovery and interpretive preservation will be required.

APR 1 1991

Mr. Thomas Yamamoto
April 1, 1991
Page 2

The granting of this proposal would complement the goals of the General Plan's Recreation element which states to "Provide a diversity of environments for active and passive pursuits" and to "Provide a wide variety of recreational opportunities"

A condition of this approval would be the submittal of a community benefit assessment program to the Planning Director for approval prior to Final Plan Approval of the golf course. It is felt that this provision would be consonant with the policy of the Land Use Element that states "The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." A community benefit assessment program would also encompass a wide range of community needs rather than the limited recreational needs determination previously required.

Golf courses are permitted uses within the State Land Use Agricultural District provided that the affected lands are not classified either A and B soils by the Land Study Bureau. The Land Study Bureau's Overall Master Productivity rating for agricultural use of the subject properties is Class E or very poor; therefore, consideration of a golf course within these State land use parameters is permissible.

The County's Unplanned (U) zoned district applies to areas that have not had sufficient studies to adopt specific district classifications. Among the permitted uses in this zoned district are single family dwellings, agricultural uses and activities, home occupations, hunting and fishing preserves or lodges, aquaculture activities, and accessory uses or structures. Since golf courses are not permitted uses in the County's Unplanned zoned district, a Use Permit must be approved by the Planning Commission before the use can be established. Golf courses are permitted uses within the County's Residential and Open zoned districts.

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 character of land use in the immediate area is pasture, open space, and clustered single family residential homes. With the exception of cattle grazing, the area under consideration and immediately surrounding lands are basically in open space and not in intensive agricultural pursuits. It is

Mr. Thomas Yamamoto
April 1, 1991
Page 3

determined that impacts to the agricultural resources of the area are negligible. This finding is consistent with the Land Study Bureau's classification and the ALISH system map for soils of the area.

The proposed golf course and related improvements will continue to change the character of Ouli. This pattern of transformation, however, is already evident in the land use pattern adjacent to and abutting the project site where the Anekona and Waimea Landmark Estate Subdivisions have been established.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region. These areas have already been committed to large lot rural residential type development which would essentially be compatible with the proposed golf course use. The establishment of another golf course within the community and region should provide an inland recreational alternative not currently available.

All essential utilities and services required for the development of a golf course and related facilities are or will be made available. Conditions of approval relative to the provision of such services are being proposed. These include the provision for off-site roadway improvements as well as water.

Approval of this request 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 golf course and related improvements shall be secured from the Planning Department within one year from the effective date of the permit. 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 (45) days prior to the date by which plan approval must be secured. The Planning Department shall determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review.

Mr. Thomas Yamamoto

April 1, 1991

Page 4

3. Construction of the golf course and related improvements shall commence within one year from the date of receipt of final plan approval and be completed within three (3) years thereafter.
4. To ensure that the goals and policies of the General Plan are implemented, the Planning Director shall formulate a community benefit assessment program for implementation by the applicant prior to receipt of Final Plan Approval of the golf course.
5. In the design of the golf course, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements (i.e. building and property line) at the time of plan approval review. Easements for golf course purposes over and across abutting lots, either existing or proposed, shall not be permissible.
6. No individual fee interest, ownership, or title to any portion of the golf course shall be permitted without prior compliance with the Subdivision Code.
7. A data recovery plan and mitigation program shall be submitted for review and approval by the Planning Department, in consultation with the State Department of Land and Natural Resources, prior to receipt of Final Plan Approval and/or prior to the issuance of any grading or grubbing permit, whichever occurs first.
8. 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. Work within the affected area shall not resume until clearance is obtained from the Planning Department.
9. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
10. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust

Mr. Thomas Yamamoto
April 1, 1991
Page 5

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.

11. 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 resource site.
12. Access(es) to the proposed development from Kawaihae-Waimea Road, including channelization, shall meet with the approval of the State Department of Transportation-Highways Division.
13. The applicant shall provide adequate water service and back-up facilities or assurances to meet the demands for fire protection and all domestic related facilities prior to the issuance of any occupancy permit.
14. Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health and Public Works.
15. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
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) the granting of the time extension would not be contrary to the general plan or zoning

Mr. Thomas Yamamoto
April 1, 1991
Page 6

code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; 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 permit.

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.

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

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

6155d

xc: Mr. Bruce Tsuchida
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Parks & Recreation
State Department of Transportation-Highway Division
Department of Health
West Hawaii Office
DLNR

Bcc: Plan Approval Section