

## 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

APR - 4 2016

John Baldwin  
Bridge 'Āina Le'a, LLC  
c/o Bridge Capital LLC  
PMB 29 Box 10001  
Saipan, MP 96950

Robert Wessels  
'Āina Le'a, Inc. et al  
201 Waikoloa Beach Drive #2F17  
Waikoloa, HI 96738

Dear Sirs:

**SUBJECT: Planning Director Initiated  
Revocation of Use Permit No. 90 (USE 90)  
Applicants: Bridge 'Āina Le'a, LLC and 'Āina Le'a, Inc.  
Tax Map Key: 6-8-001:025, 036-040 and 069**

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The Leeward Planning Commission, at its duly held public hearing on March 17, 2016, voted to revoke Use Permit No. 90 for the subject properties. Revocation of the permit is based on the reasons given in the attached findings report. At the hearing, Mauna Lani Resort Association withdrew its petition for standing in a contested case hearing and took no position with respect to the revocation.

Should you have any questions please contact Daryn Arai at (808) 961-8142 or Maija Jackson at (808) 961-8159.

Sincerely,

Brandi K. Beudet, Chairman  
Leeward Planning Commission

MJJ:mad  
LPDInitiated- RevokeUSE90lpc.doc

*Hawai'i County is an Equal Opportunity Provider and Employer*

APR 04 2016

John Baldwin  
Bridge 'Āina Le'a, LLC  
Robert Wessels  
'Āina Le'a, Inc. et al  
Page 2

Enclosures: PC Findings Report

cc w/enclosures: William Brilhante Esq., Corporation Counsel  
State Land Use Commission  
State Office of Planning  
Alan Okamoto Esq., Nakamoto, Okamoto, Yamamoto  
Vincent Bidez, Bridge Āina Lea LLC (via email)  
Sidney Fuke, Planning Consultant  
James Leonard, JM Leonard Planning LLC  
Roy A. Vitousek, III. Esq., Cades Schutte LLP  
Department of Public Works  
Department of Water Supply  
Real Property Tax Office  
Gilbert Bailado, GIS Section  
Kona Planning Office  
REZ 734, LUC 682, SUB 11-001070

**COUNTY OF HAWAI‘I**  
**PLANNING COMMISSION FINDINGS**

**INITIATOR: PLANNING DIRECTOR**  
**REVOCAION OF USE PERMIT NO. 90**

The application for revocation of Use Permit No. 90 came on for hearing before the Leeward Planning Commission (“Planning Commission”), County of Hawai‘i, on March 17, 2016. Present at the hearing was the Planning Director, Department of Planning, County of Hawai‘i, and Randy A. Vitousek III, appearing on behalf of Mauna Lani Resort Association, who filed a petition for standing to intervene in this matter. Neither the landowners nor their representatives were present.

For the following reasons, **the Planning Commission adopts the Planning Director’s findings and recommendation** as stated in the Planning Director’s background and recommendation report, **and hereby revokes Use Permit No. 90.**

Use Permit No. 90 was originally issued to Puakō Hawai‘i Properties by the Planning Commission on December 19, 1991 to allow the construction of six, 18-hole championship golf courses, a golf teaching academy and related improvements on 3,000 acres. The property is located on the mauka side of the Queen Ka‘ahumanu Highway between the Mauna Lani Resort and Waikoloa Village, Waikoloa, South Kohala, Hawai‘i, TMK: 6-8-001:025, 036-040, and 069.

The Planning Director requested the revocation of Use Permit No. 90 (“USE 90”) for two reasons: 1) conditions of the permit were not met because the golf courses have not been constructed; and 2) golf courses are no longer a permitted use in the State Land Use Agricultural District (“Agricultural District”). Specifically, Condition 3 of the permit required construction of three of the six golf courses be completed by September 30, 2011. To date, construction of the golf courses has not begun. Further, in 2005 the State Land Use law was changed to prohibit golf courses on lands in the Agricultural District. Approximately 1,940 acres of the subject properties is situated in the Agricultural District.

Condition 21 of USE 90 states in part, “Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.” Further, Section 25-2-67 of the Hawai‘i County Zoning Code and Rule 7-11 of the Planning Commission’s Rules of Practice and Procedure provide the Planning Commission the authority to revoke any use permit, upon request of the Director, if any one of the following criteria is met:

- (1) There have been continual violations of the use permit; or
- (2) The use authorized under the use permit is creating a threat to the health or safety of the community; or
- (3) The use authorized under the use permit has been abandoned for a continuous period of two years.

Accordingly, the Commission revokes USE 90 based upon the third criterion stated above. It is clear the golf courses that were permitted twenty-five (25) years ago in 1991, have not been established within the prescribed time period. Further, Bridge 'Āina Le'a, LLC has indicated in writing that they have no plans to develop their 1,940 acres in the near future. Although 'Āina Le'a, Inc. has communicated to the Planning Department that they intend to construct one golf course on their 1,060 acres, it is unclear if and when this will occur.

Additionally, the State land use law changed in 2005 to prohibit golf courses in the Agricultural District. Although the change in State law included a 'grandfather' clause that permits golf courses and golf driving ranges within the Agricultural District if approved by a county before July 1, 2005, USE 90 was approved subject to 21 conditions that have not been satisfied.

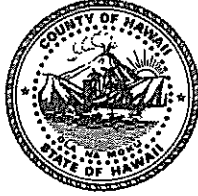
Neither 'Āina Le'a, Inc. nor Bridge 'Āina Le'a, LLC objected to the revocation of Use Permit No. 90.

Subsequent to the Planning Director's filing of the background and recommendation report, by letter dated March 11, 2016, 'Āina Le'a, Inc. confirmed that they will submit an application for a new Use Permit at the appropriate time in the future in order to establish a golf course on the lands in the Urban district, and took no position with respect to the revocation concerning the lands in the Agricultural district owned Bridge 'Āina Le'a, LLC.

Bridge 'Āina Le'a, LLC was notified by the Planning Department, and confirmed receipt via email, of the revocation action, Director's recommendation, and hearing agenda but did not respond to that information.

Mauna Lani Resort Association withdrew its Petition for Standing in a Contested Case Hearing, and took no position with respect to the revocation.

Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL

7099 3220 0000 4869 7640

MAR 14 2000

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Resolution for Time Share

Request: Resolution in Order to Establish Time Share on Subject Properties  
Change of Zone Application (REZ 99-028)

Request: A-5a, RA-1a, RM-4.0, RM-7, RM-14.5 & CV-10 to Project District  
Change of Zone Ordinance No. 96-153 (REZ 734)

Request: Amend Conditions D, G, O, Q & T and Delete Conditions S & W  
of Change of Zone Ordinance No. 96-153

Use Permit No. 90 ✓

Request: Amend Condition Nos. 3, 4, 14 & 16 and Delete Condition Nos. 2 & 5

Applicant: Bridge Puako, LLC

Tax Map Key: 6-8-1:25 and 36-40

The Planning Commission at its duly held public hearing on March 3, 2000, voted to withdraw the above-referenced requests for a Project District zoning, amendments to conditions of Rezoning Ordinance No. 96-153 and amendments to conditions of Use Permit No. 90 as you had requested on behalf of the applicant with your letter dated March 2, 2000. The Commission then voted to send a favorable recommendation to the County Council relative to the request for a resolution to establish a Time Share. The project site is located on the mauka side of Queen Ka'ahumanu Highway between the Mauna Lani Resort and Waikoloa Village, approximately one-half mile north of the Queen Ka'ahumanu Highway-Waikoloa Road intersection, Waikoloa, South Kohala, Hawaii.

The favorable recommendation for the Time Share request is based upon the following reasons as cited by the Planning Director:

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In order to consider an area for any type of zoning designation, the applicable goals, policies and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions can be made to better time and stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and decisions must be also considered as they may have an impact on similar areas in the County.

Approval of this request would not be contrary to the General Plan or the Zoning Code. According to the Zoning Code, time share unit is defined as "any multiple-family dwelling unit or hotel, which is owned, occupied or possessed, under an ownership and/or use agreement among various persons for less than a sixty-day period in any year for any occupant, and is regulated under the provisions of chapter 514E, Hawaii Revised Statutes, as amended." Time share units are permitted in the Resort and General Commercial zoned district. Further, time share units would be permitted in the Multiple Family Residential zoned district if they are situated in any of the following:

- a) Areas designated as resort under the General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- b) Areas determined by the Director to be within resort areas identified by the General Plan Land Use Element, except for retreat resort areas.
- c) Areas determined for such use by the Council, by resolution.

The project area is zoned Multiple Family Residential (RM-4, RM-7 and RM-14.5) and Village Commercial (CV-10). The applicant proposes to offer a maximum of 750 time share units within the RM zoned areas. Therefore, the proposed time share use is consistent with the RM zoned district.

The request would also be consistent with the Land Use Element of the General Plan which states "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The request to allow the time share units within the project urban area would not be contrary to the General Plan. The proposed Puako Residential Golf Community project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates the area as Urban Expansion. This designation allows for a mix of high density, medium density, and low density urban developments, 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

Mr. Sidney Fuke  
Page 3

designated for development as resorts, portions of the resort area may be included in the Urban Expansion area. High Density allows uses relating to commercial, multiple residential and related services (general and office commercial; multiple residential - up to 87 units per acre). Medium Density allows uses relating to village and neighborhood commercial and residential and related functions (3-story commercial; residential - up to 35 units per acre). Low Density allows single family residential in character, ancillary community and public uses, and convenience type commercial uses.

The General Plan Land Use Element identifies the coastal areas proximate to the subject property, as Resort. The coastal areas are part of the South Kohala Coast Resort community consisting of Waikoloa, Mauna Lani, Hapuna and Mauna Kea Resorts. These resorts are located less than five miles from the project site and are zoned Resort (V-1.25), Village Commercial (CV-10), and Multiple Family Residential (RM-1.5, RM-3, RM-4, RM-6 and RM-8).

Impacts associated with this request such as historical, traffic, drainage and design concerns have been assessed through the Environmental Report, which was filed with the change of zone application, and will be mitigated through conditions of approval. Therefore, the request would not unreasonably burden the public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The proposed request would complement the surrounding resort and residential developments established in this area of South Kohala.

Based on the above findings, approval of the request to allow time share units within the project area would result in an appropriate land use pattern that will further benefit the general public.

Should you have any questions regarding the above, please contact Eleanor Mirikitani of the Planning Department Kona Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Richard B. Baker, Jr., Chairman  
Planning Commission

Liluokalanitrust01PC

cc: Department of Public Works  
Department of Water Supply  
West Hawaii Office  
Department of Land and Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Mr. John K. Baldwin



SidneyFuke, Planning Consultant

100 Pauahi Street, Suite 212 • Hilo, Hawaii 96720  
Telephone: (808) 969-1522 • Fax: (808) 969-7996

• Planning • Variance • Zoning  
• Subdivision • Land Use Permits  
• Environmental Reports

March 2, 2000 '00 MAR 2 AM 11 35

#6

PLANNING DEPT.  
COUNTY OF HAWAII

Ms. Virginia Goldstein, Director  
Planning Department  
COUNTY OF HAWAII  
25 Aupuni Street  
Hilo, HI 96720

Dear Ms. Goldstein:

**Subject: Bridge Puako, LLC. - Project District and Related Applications  
Waikoloa, South Kohala, HI, TMK: 6-8-01: 25, et al.**

Since the last Planning Commission meeting on these applications, we have met with a number of individuals and community groups to review their concerns. For the most part, these meetings have been very constructive, and we appreciate your and the Commission's willingness to give the applicant this much needed time to have this dialogue with the community. It has and continues to be the applicant's desire to work these matters out in the spirit of *ho' o ponopono* and not in a litigious, confrontational manner.

As a result of these meetings, the applicant is in the process of working out letters of understanding with the Waikoloa Community Association and Mauna Lani Resort that address matters of mutual concern such as access, potable and irrigation water, school facilities, mauka-makai access, and others. In that regard, I am attaching a copy of a presentation sheet, dated February 18, 2000, that summarizes the applicant's preliminary position on these issues. It is the applicant's belief that this understanding and/or some modifications thereto can be consummated in the very near term.

At the same time, the applicant has been trying to address concerns of individual landowners from Puako and the Puako Community Association. To date, nothing has been resolved. Since some of the concerns relate to the scale of the already-entitled project itself and not the requested amendments to conditions, there is no telling when any resolution can occur. Please be assured, however, that the already in place agreement with the Puako Community Association will be honored by the applicant.

It was the applicant's hope to successfully address all concerns before the March 3 meeting. Unfortunately, this will not be possible, and time is very important to the applicant. As such, rather than risk further delays, the applicant has elected to proceed with the existing entitlements and hereby respectfully requests the withdrawal of its applications for a Project District zoning, amendments to conditions of Ordinance No. 96-153, and amendments to conditions of Use Permit No. 90.

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Ms. Virginia Goldstein, Director  
March 2, 2000  
Page 2

At the same time, the applicant respectfully requests your and the Commission's continued review of the time share resolution. The applicant believes that the inclusion of time share within the Urban District area

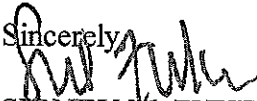
- involves only a change in the form of ownership of a unit and not in the overall density of the project. The density is already governed by the existing RM and CV zonings;
- will provide the needed economic cushion so that the additional concessions demanded by the community - such as more school land, mauka-makai road connection, reduction in the total number golf courses - can be made possible; and
- will have a positive economic impact, while creating less of an infrastructural impact than full-time homeowners with children.

The concern of not having a "cap" or limit on the number of time shared units is understandable. As such, the applicant proposes to restrict time share use to only the State Land Use Urban district area and limit the number of units to 750.

The applicant would like to point out that the commitments contained in the attachment were predicated upon the approvals of the submitted applications. With their withdrawal, there may be some modifications to these commitments. Please be assured, however, that should time share use be allowed, the project's economic cushion will be wider, making it possible to honor the additional commitments on school, mauka-makai road, and limitation on the number of golf courses.

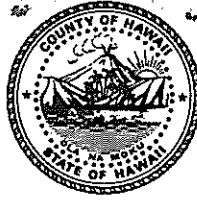
Finally, in spite of this withdrawal, the applicant intends to continue working with the affected communities and individuals to address existing and potential concerns.

We apologize for any inconvenience this action may have caused your office and the Commission and appreciate your time, patience, and understanding on this matter.

Sincerely,  
  
SIDNEY M. FUKU  
Planning Consultant

Enclosure  
cc Bridge Capital, LLC.

Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 758

SEP 30 1996

Philip Y. Ho, President  
Puako Hawaii Properties  
Nansay Hawaii, Inc.  
841 Bishop Street, Suite 1000  
Honolulu, HI 96813

Dear Mr. Ho:

Use Permit (USE 90)

Request: Amendment to Condition Nos. 2, 3, 4, 5 and 14

Applicant: Puako Hawaii Properties (Nansay Hawaii, Inc.)

Tax Map Key: 6-8-1:25, 36, 37, 38, 39 and 40

The Planning Commission, at its duly held public hearing on September 19, 1996, voted to approve the above-referenced request. Use Permit No. 90 allowed the construction of six 18-hole championship golf courses, a golf teaching academy and related improvements. The amendments relate to the requirements for development performance, community benefit assessment program and monitoring program. The project site is located on the mauka side of Queen Ka'ahumanu Highway between the Mauna Lani Resort and Waikoloa Village, approximately one-half mile north of the Waikoloa Road-Queen Ka'ahumanu Highway intersection, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Use Permit No. 90 was approved by the Planning Commission on December 11, 1991, subject in part, to the following Condition Nos. 3 and 4:

- "3. Final Plan Approval for three golf courses and related improvements shall be secured from the Planning Department within 18 months from the effective date of this 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. Plans would delineate structure(s), archaeological and biological preservation areas, landscaping, parking and roadway alignments, at the minimum. The Planning Department shall determine the related improvements and accessory uses to the golf courses not inconsistent with the applicable provisions of the Zoning Code

09917

SEP 30 1996

at the time of plan approval review. This condition shall not preclude the simultaneous submittal of plans for the remaining golf courses.

- "4. Construction of the three golf courses within the first phase and related improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within four years thereafter. Phases II and III shall be completed within three years from the date of completion of the golf courses within the previous increment(s). Construction of the golf courses within Phases II and III shall commence within one year from the date of opening of the golf course(s) within the previous increment(s) and be completed within three years thereafter."

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Condition Nos. 3 and 4 would not be contrary to the original reasons for granting the Use Permit. The amendments would only reschedule the time for completion of the golf courses and provide the applicant the flexibility of timing the construction of each of the golf courses as economic conditions warrant. A modified amendment to allow five years for completion of a project has become a standard condition of approval and the proposed amendments would be consistent with this direction. The request would be consistent with the Land Use Pattern Allocation Guide Map which designates the area for Urban Expansion, and which would allow for a range of Urban uses, including resorts and recreational facilities. Further, the applicant, in its request, stated that since the development of the project they have pursued the drilling of potable and brackish wells, numerous environmental and engineering studies and the construction of 107 affordable homes to serve the South Kohala region. However, in spite of this, the market conditions have precluded further development of the property as originally planned. Nansay Hawaii Inc. is in discussion with prospective investors with resources to bring the property into active use and to determine how best to accommodate future development. It was impossible for them to comply with the conditions of the permit at this time.

The request would also be consistent with the policies of the Recreation and Open Space Elements of the General Plan which states 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. The granting of this amendment would further compliment the goals of the General Plan's Recreational Element which states to "Provide a diversity of environments for active and passive pursuits" and to "Provide a wide variety of recreational opportunities...."

The inability of the applicant to comply with the requirements of Condition Nos. 3 and 4 of Use Permit No. 90 is the result of conditions which could not have been foreseen or are beyond the control of the applicant. The current economic situation has affected the real estate industry over the last three years. The outlook for the future looks more promising but remains uncertain. The plans remain to develop the property with both golf course and residential development. However, the exact product mix will have to reflect the market realities. The applicant can no longer undertake the magnitude of this project due to other financial commitments. These events could not have been foreseen and are not the result of their fault or negligence.

Based on the above, the request for an amendment to Condition Nos. 3 and 4 are hereby approved.

Approval of this amendment is subject to the following (new material is underscored and deleted material is bracketed):

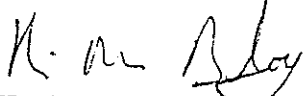
3. [Final Plan Approval for ] The three golf courses and related improvements shall be [secured from the Planning Department] completed within [18 months] fifteen (15) years from the effective date of this [permit] amendment. [To assure adequate time for Plan Approval review and in accordance with Chapter 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. Plans would delineate structure(s), archaeological and biological preservation areas, landscaping, parking and roadway alignments, at the minimum.] Prior to the start of construction, Final Plan Approval shall be secured from the Planning Director. The Planning Department shall determine the related improvements and accessory uses to the golf courses not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review. This condition shall not preclude the simultaneous submittal of plans for the three golf courses or the remaining golf courses.
4. Construction of the [three] golf courses within [the first phase and related improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within four years thereafter.] Phase[s] II [and III] shall be completed within [three] ten years [after] from the date of completion of the golf courses within [the previous increment(s)] Phase I. Construction of the golf [courses] course within Phase[s] II and] III shall [commence] be completed within [one] five years from the date of [opening] completion of the golf course(s) within [the previous increment(s) and be completed within three years thereafter] Phase II.

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.

Philip Y. Ho, President  
Puakō Hawaii Properties  
Nansay Hawaii, Inc.  
Page 4

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



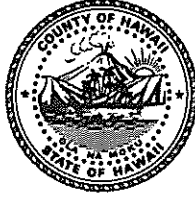
Kevin M. Balog, Chairman  
Planning Commission

AK:syw

LPuako03.PC

cc: Honorable Stephen K. Yamashiro, Mayor  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
Mr. Keith Kato

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

CERTIFIED MAIL  
Z 416 229 180

May 24, 1995

Mr. Fred Yamashiro  
Nansay Hawaii, Inc.  
P. O. Box 111222, Suite 727  
Kamuela, HI 96743-0020

Dear Mr. Yamashiro:

Use Permit No. 90  
Tax Map Key: 6-8-1:25, 36 thru 40

A review of our files reveals that Use Permit No. 90 to allow the construction of six 18-hole championship golf courses, a golf teaching academy and related improvements was approved on December 11, 1991. This permit was approved subject to compliance with conditions.

Condition No. 3 required that final plan approval for three golf courses and related improvements be secured from the Planning Department within 18 months from the effective date of the permit.

On September 28, 1993, the Planning Director granted an extension of time until December 19, 1994 to comply with securing final plan approval for Phase I of the golf course project.

Final plan approval for Phase I has not been secured from this office, to this date.

Based on the above, you are hereby notified that you have sixty (60) calendar days, upon receipt of this letter, to submit a letter of your intentions to utilize this Use Permit and a timetable as to your compliance with the conditions of approval. Failure to comply with this request would leave us no alternative but to initiate procedures to revoke the permit.

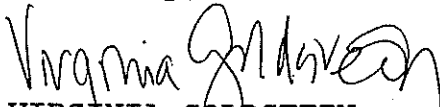
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MAY 25 1995

Mr. Fred Yamashiro  
Page 2  
May 24, 1995

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

Sincerely,



VIRGINIA GOLDSTEIN  
Planning Director

FS:mjs

xc: Planning Commission  
West Hawaii Office

September 28, 1993

Mr. Thomas Yamamoto, P.E.  
Chief Operating Officer  
Nansay Hawaii, Inc.  
P. O. Box 111222  
Kamuela, HI 96743-0020

Dear Mr. Yamamoto:

Use Permit No. 90  
Applicant: Puako Hawaii Properties  
Request: Administrative Time Extension  
Tax Map Key: 6-8-1:25, 36, 37, 38, 39 & 40

This is to acknowledge receipt of your letter dated September 14, 1993 and copy of your letter dated May 6, 1993 requesting a time extension to the above-referenced Use Permit. Apparently our files did not contain your original letter.

Effective December 19, 1991, the Planning Commission approved your Use Permit subject to, in part, the following Condition No. 3:

- "3. Final Plan Approval for three golf courses and related improvements shall be secured from the Planning Department within 18 months from the effective date of this 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. Plans would delineate structure(s), archaeological and biological preservation areas, landscaping, parking, and roadway alignments, at the minimum. The Planning Department shall determine the related improvements and accessory uses to the golf courses not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review. This condition shall not preclude the simultaneous submittal of plans for the remaining golf courses.

SEP 30 1993



Mr. Thomas Yamamoto, P.E.  
Page 2  
September 28, 1993

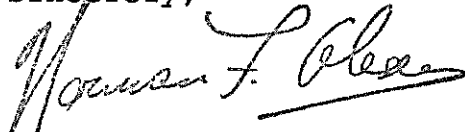
Condition No. 21 of the approved use permit allows the Planning Director to grant an extension of time for performance of conditions within the permit. You have informed us that due to the slow down in the general economy, the applicant has had difficulty in securing financing and is continuing to work with potential investors to reach a final agreement. 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 to December 19, 1994, in which to comply with Condition No. 3.

Please be aware that if an additional extension of time is needed, your request must be forwarded to 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. 90 within their appropriate timetables. For your information your next annual report will be due on or before December 19, 1993.

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

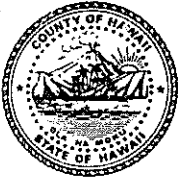
Sincerely,



FOR VIRGINIA GOLDSTEIN  
Planning Director

SG:mjs  
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xc w/ltr: Planning Commission  
Plan Approval Section  
West Hawaii Office



# Planning Commission

Lorraine R. Inouye  
Mayor

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

CERTIFIED MAIL

December 19, 1991

Mr. Thomas H. Yamamoto  
Chief Operating Officer  
Puako Hawaii Properties  
PO Box 111222  
Kamuela, HI 96743-0020

Dear Mr. Yamamoto:

Use Permit Application (91-7)  
Applicant: Puako Hawaii Properties  
Request: 6 Golf Courses and Related Improvements  
TMK: 6-8-01:25, 36, 37, 38, 39 & 40

The Planning Commission at its duly held public hearing on December 11, 1991, voted to approve your application, Use Permit No. 90, to allow the construction of six 18-hole championship golf courses, a golf teaching academy and related improvements within the County's Unplanned zoned district. The project site is located on the mauka side of the Queen Kaahumanu Highway between the Mauna Lani Resort complex and Waikoloa Village, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

The establishment of six 18-hole golf courses 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.

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The proposed development would, therefore, be consistent with the policies of the Recreation and Open Space elements of the General Plan, which cite 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, botanical mitigation and interpretive preservation will be required.

The granting of this proposed development would further 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 consistent 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."

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 and the ALISH system does not classify the subject area; therefore, consideration of a golf course within these State land use parameters is permissible.

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 subject area is vacant open space. The area under consideration and surrounding lands are basically in open space and not in intensive agricultural pursuits. The Waikoloa Residential community is adjacent to the east. It is 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.

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The proposed project will continue to change the character of this portion of Puako. This pattern of transformation, however, is already evident in the land use pattern adjacent to and abutting the project site where the Mauna Lani and Waikoloa resort and residential complexes 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 resort and residential type development which would essentially be compatible with the proposed golf course use. The establishment of six (6) additional golf courses within the community and region should provide an inland recreational alternative not currently available.

All essential utilities and services required for the development of the six golf courses 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. In addition, conditions of approval relative to a groundwater monitoring and a golf course maintenance (fertilizers, pesticides, biocides) plan are also being required.

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. The golf course project shall be developed in three phases. The first phase shall consist of a maximum of three golf courses, one of which shall be made available for play at comparable municipal rates within the County of Hawaii meeting with the approval of the Planning Department in consultation with the Department of Parks and Recreation. The second and third phases shall consist of two golf courses and one golf course, respectively.
3. Final Plan Approval for three golf courses and related improvements shall be secured from the Planning Department within 18 months from the effective date of this 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

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date by which plan approval must be secured. Plans would delineate structure(s), archaeological and biological preservation areas, landscaping, parking and roadway alignments, at the minimum. The Planning Department shall determine the related improvements and accessory uses to the golf courses not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review. This condition shall not preclude the simultaneous submittal of plans for the remaining golf courses.

4. Construction of the three golf courses within the first phase and related improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within four years thereafter. Phases II and III shall be completed within three years from the date of completion of the golf courses within the previous increment(s). Construction of the golf courses within Phases II and III shall commence within one year from the date of opening of the golf course(s) within the previous increment(s) and be completed within three years thereafter.
5. 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 courses. As part of the community benefit assessment program, one golf course, or the equivalent number of rounds per year, shall be turned over to the County of Hawaii and/or made available within Phase 1 for public play at municipal rates, as determined by the Planning Director in consultation with the Department of Parks and Recreation.
6. 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.
7. An archaeological 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. A botanical mitigation and preservation plan shall be prepared for review and approval by the U.S. Fish and Wildlife Service and the Department of Land and Natural Resources prior to submitting plans for plan approval or any land alterations on the project site, whichever comes first.
10. The use of pesticides, biocides and herbicides in conjunction with all phases of the golf courses operation shall conform with the applicable regulations of appropriate governmental agencies.
11. 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.
12. Prior to each golf course construction, the applicant shall demonstrate to the satisfaction of the Planning Department that adequate water for the continuous use of the golf course is available.
13. Prior to each golf course 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.
14. Prior to issuance of a grading permit for the golf courses in Phases II and III, the applicant shall submit an analytical mitigation report to the Planning Department and the Planning Commission. The analytical mitigation report

shall (A) summarize the results of the groundwater quality monitoring program; (B) summarize the golf course management practices being utilized at the existing golf courses; (C) analyze the results of the groundwater quality monitoring and golf course management practices; and (D) recommend revisions or additional mitigation measures to be initiated with the next phase to be constructed. The Planning Department or Commission may determine that appropriate mitigation measures be taken by the applicant. The Planning Department or Commission reserves the right to conduct a hearing on the mitigation measures.

15. Access(es) to the proposed development from Queen Kaahumanu Highway, including channelization, shall meet with the approval of the State Department of Transportation-Highways Division. Should the Department of Transportation allow phasing of access improvements, the specific improvements shall be installed prior to opening of each golf course.
16. The applicant shall designate an 80-foot wide mauka-makai road from the eastern property boundary to Queen Kaahumanu Highway at a location meeting with the approval of the Departments of Public Works and Transportation. The mauka-makai road shall be open for general public traffic. The 80-foot wide mauka-makai road shall be delineated on plans submitted for plan approval review or subdivision. The mauka-makai road may be constructed incrementally with the golf course development; provided, however, the entire road within the project site, including an interchange at Queen Kaahumanu Highway, is completed either prior to completion of the final golf course or as required by the Department of Transportation, whichever occurs first.
17. The applicant shall provide water service and back-up facilities or assurances to meet the demands for fire protection and domestic-related facilities prior to issuance of a certificate of occupancy permit for the respective project phase to be developed.
18. A groundwater monitoring plan and system shall be prepared, in consultation with the State Department of Health, and submitted to the Planning Department prior to issuance of a grading permit for the golf course(s). The plan and system shall be updated prior to opening of each successive golf course.

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19. Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health and Public Works.
20. 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.
21. 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 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.



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

Sincerely,



Mike Luce, Chairman  
Planning Commission

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jdk

xc: Mr. Bruce Tsuchida  
Mayor  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
Department of Transportation-Highways  
Plan Approval Section  
Planners  
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Department of Health  
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