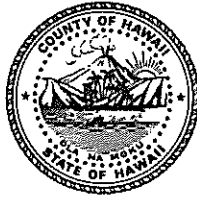


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
P 021 737 130

May 23, 1995

Mr. Charles Kohn
P.O. Box 1283
Kailua-Kona, HI 96740-1283

Dear Mr. Kohn:

Use Permit Application No. 95-2
Applicant: Charles Kohn
Request: Development of Water Park
Tax Map Key: 7-5-9:48

The Planning Commission at duly held public hearings on March 30, 1995 and May 11, 1995, voted to approve the above-referenced application. Use Permit No. 137 is hereby issued to allow the establishment of a water park and related improvements on approximately 4.11 acres of land zoned Resort-Hotel (V-1.25) by the Hawaii County Code located on the east (mauka) side of Kuakini Highway across from the County's Kailua Playground, Hienaloli 6th, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of this request will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a Major Recreational Use and related facilities within the County's General Resort Zone District may be permitted through the granting of a Use Permit. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject area for Medium Density uses. The subject request will provide a form of recreational activities which is not presently available in the West Hawaii district. The proposed development would be consistent with the policies of the Recreation, Historical and Open Space Elements of the General Plan which state that recreational facilities in the County shall reflect the natural,

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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, the recommendations of the Archaeological Mitigation Program prepared by Paul Rosendahl will be required and provided for in a condition of approval. The granting of this proposal would complement 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...."

To mitigate concerns expressed by neighboring residents, conditions have been imposed prohibiting alcohol and nightclub activities, limiting the water park's hours of operation between 8:00 a.m. to 7:00 p.m. and requiring landscaping to be consistent with those listed in the Kailua Village Design Plan landscape list.

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The character of the subject area of the property is urban. The subject property is currently being used for a car dealership. Surrounding properties are zoned Resort-Hotel and are within the Kailua Village Special Design District, a recognized resort destination area. The proposed water park and related improvements will provide a 130-car parking area and trained safety personnel for all aspects of the development. Water usage for the course is available and will be provided from the existing waterline from Kuakini Highway. The provisions for pedestrian access will also be provided from the Hualalai Road portion of the development, as the applicant shall be required to provide curb, gutter and sidewalk improvements along the entire frontage of Hualalai Road. Minimal improvements to Kuakini Highway are warranted. Therefore, it is determined that the impacts to the surrounding area will not be substantial nor negatively impact upon existing infrastructural systems. Requiring traffic signals at the Hawaii Belt Road-Kuakini Highway intersection approximately three miles away as recommended by the State Department of Transportation does not have a rational linkage to the project and the recommended traffic improvements.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. The proposed water park will be designed and be compatible with the proposed overall character and development of the area. This location of the subject development is along a major roadway corridor, amongst a highly dense residential area and in close proximity to all of the

existing resort developments. The proposed water park will also fill a recreational void (that exists) as well as provide a place for the children of the community and visitors to enjoy as they experience our island community. As such, the addition of a recreational activity situated at the subject property will not adversely affect similar or related existing uses within the surrounding area, community or region.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure. Water is and/or will be made available to the subject property. Primary access to the project site shall be via Kuakini Highway which will be improved in accordance with the requirements of the Department of Public Works. Wastewater will be disposed of via the Kailua Wastewater Treatment plant. All other utilities or facilities are or will be made available to support the proposed use.

Approval of this request is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
3. No alcohol or nightclub activities shall be allowed in the water park for the life of this Use Permit.
4. The hours of operation of the water park open to the public shall be between 8:00 a.m. to 7:00 p.m.
5. All landscaping to be planted in the water park shall be planting material as listed in the 1976 Kailua Village Design Plan Landscaping List.
6. Final Plan Approval shall be secured from the Planning Department. To assure adequate time for Plan Approval review and in accordance with Chapter 25-244 (Zoning Code), plans must be submitted a minimum of 45 days prior to the date by which Final Plan Approval must be secured. The plans to be submitted for the proposed water park and

related improvements shall be as presented in the applicant's Use Permit application. Should any additional related improvement uses be proposed, the Planning Department shall determine whether or not these uses would be consistent with the Zoning Code requirements. The plans to be submitted for Plan Approval review shall be drawn to scale and consist of the following:

- A. Preliminary topographic and grading plans showing all proposed infrastructural improvements related to the water park, including the necessary requirements related to the archaeological mitigation program.
- B. A detailed site plan drawn to scale showing all proposed structures and ride systems, including off-street parking and landscaping.
- C. Scaled architectural drawings of all proposed structures, including floor plans and elevations.
- D. The off-street parking requirements shall be evaluated with respect to the following criteria:
 - i) One (1) off-street parking stall per 200 square feet of gross floor area for all retail buildings, restaurants, including outdoor areas and kiosks.
 - ii) Ride and water features capacity or volume and any other methods which the Building Code utilizes in determining capacities.
 - iii) A detailed landscaping plan showing all existing and proposed tree, shrubbery and ground cover plantings. A detailed schedule showing the plant types, heights, canopies, sizes, calipers, etc. shall also be required to be submitted for Plan Approval review.
7. The design of the water slides shall be such that all structural elements shall be concealed in conjunction with building materials and/or landscaping methods.
8. In the design of the water park, the design of the proposed heights of the slides shall not exceed the Height Limitations as allowed by the Zoning Code. The Planning Department shall determine appropriate setback requirements (i.e. building and property line) at the time of plan approval review.

9. Construction of the project and related improvements shall be completed within three (3) years after the effective date of this permit.
10. Curb, gutter and sidewalk improvements shall be constructed along the property's frontage on Hualalai Road meeting with the approval of the Department of Public Works prior to issuance of an occupancy permit for the project. Such construction may include pavement transitions, striping, drainage improvements and relocation of utilities as required by the Department of Public Works.
11. Improvements to Kuakini Highway, such as restriping, shall meet with the approval of the Department of Public Works prior to issuance of an occupancy permit for the project.
12. A phased archaeological mitigation program shall be approved by the Planning Department, in consultation with the State Department of Land and Natural Resources, prior to submitting plans for plan approval review. The applicant shall obtain written verification from the Department of Land and Natural Resources-Historic Preservation Division that applicable portions of the approved plan have been properly executed prior to securing approval for any land alteration activities in the area of historic sites. Proposed mitigation treatment (preservation in place or disinterment/reinterment) for burial sites shall be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed plans are finalized. Appropriate phases and its recommendations shall be implemented and completed prior to approval for any land alteration permits, if applicable.
13. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving or walks be encountered, work in the immediate area shall cease, and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
14. 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;

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- 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 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).
15. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

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 Connie Kiriu of the Planning Department at 961-8288.

Sincerely,


Wilton K. Wong, Chairman
Planning Commission

CRK:syw
LKohn01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Kona
West Hawaii Office
Plan Approval Section
Ms. Cynthia Supnet
Department of Land and Natural Resources
Department of Liquor Control
Kona Alii Condo Association