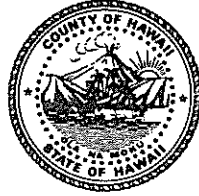


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

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Hiluhilu Development LLC
65-1210 Kawaihae Road, 2nd Floor
Kamuela, HI 96743

Gentlemen:

Use Permit Application (USE 99-004)
Applicant: Hiluhilu Development LLC
Request: To Develop a Private 18-Hole Golf Course, Clubhouse and
Driving Range, and Related Improvements
Tax Map Key: 7-2-5:Portion of 1

The Planning Commission at its duly held public hearing on November 5, 1999, voted to approve the above-referenced application. Use Permit No. 180 is hereby issued to allow the development of an 18-hole golf course with a clubhouse and driving range, and related improvements. The property is located on the makai side of Makalei Estates midway between Queen Ka'ahumanu Highway and Mamalahoa Highway, and to the northeast of Keahole International Airport at Kau, North Kona, Hawaii.

Approval of this request is based on the following:

Rule 7 (Use Permits) of the Planning Commission's Rules of Practice and Procedure states that the Planning Commission may approve a use permit based on the certain criteria. Section 7-6, Criteria for Granting a Use Permit, states:

"The Commission may approve a use permit upon finding that:

"(a) The granting of the proposed use shall be consistent with the general purpose of

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the zoning district, the intent and purpose of the Zoning Code, and the County General Plan;

- "(b) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; and
- "(c) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure."

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 golf course with a clubhouse, driving range and related improvements on a parcel located within the State Land Use Agricultural District are permitted uses; and within the County's Agricultural-3 acre (A-3a) zoned district may be permitted through the Use Permit review process, provided that the Land Study Bureau's Detailed Classification System classifies the site as having a master productivity rating of C, D or E. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the General Plan goals and policies. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject area as Extensive Agricultural. This category generally designates uses such as pasturage and range lands.

The Kona Regional Plan, adopted by the Planning Commission in April 1994, designates the area as Agricultural-3 acres (minimum lot size of 3 acres).

The Keahole to Kailua Development Plan, adopted by the County Council by Resolution on April 3, 1991, suggests that the Lands of Kau "could provide housing for the resorts in North Kona and South Kohala." It also asserts that additional golf courses could be developed within this area.

Mindful of the type of service the applicant will provide to the residents of West Hawaii as well as the residents of Hawaii, the proposed use will compliment the following goals, policies and standards of the Land Use Elements of the General Plan.

Land Use Element

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed request would also complement the following goals and policies of the Recreational, Environmental Quality, Natural Resources and Shorelines, and Natural Beauty Elements of the General Plan.

Recreational Element

- Provide a wide variety of recreational opportunities for the residents and visitors of the County.
- Maintain the natural beauty of recreation areas.
- Provide a diversity of environments for active and passive pursuits.

Environmental Quality Element

- Maintain, and if feasible, improve the existing environmental quality of the island.
- Encourage the concept of recycling agricultural and municipal waste material.

The proposed use would also conform to the following:

Natural Resources and Shorelines

- Protect and conserve the natural resources of the County of Hawaii from undue exploitation, encroachment and damage.

- Provide opportunities for the public to fulfill recreational, economic, and educational needs without despoiling or endangering natural resources.
- Protect and promote the prudent use of Hawaii's unique, fragile and significant environmental and natural resources.
- Protect rare or endangered species and habitats native to Hawaii.
- Protect and effectively manage Hawaii's open space, watersheds, and natural areas.
- Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment.
- Encourage the use of native plants for screening and landscaping.

Natural Beauty Element

- Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- Protect scenic vistas and view planes from becoming obstructed.
- The County shall consider structural setback from major thoroughfares and highways and shall establish development and design guidelines to protect important view planes.

The proposed use would also conform to the following goals and policies of the Economic Element of the General Plan.

Economic Element

- Provide residents with opportunities to improve their quality of life.

- Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.
- The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

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 open and non-urban in character. The subject property is currently vacant. Water for the golf clubhouse, cart barn, maintenance facilities and comfort stations will be supplied by the owner's potable well, Kau Well No. 2, located at the 1,810-foot elevation of Makalei Estates. Once it is tied into the Department of Water Supply's system, the well will be dedicated to the County. The County has granted an allocation of 343 units to the applicant for use from this well; 85 units will be used for the lots and common areas within the subdivision and the remainder or a portion of it will be used by the golf course. Irrigation for the golf course will be supplied by brackish water from wells within the golf course.

There is no municipal sewage collection system in the project vicinity. As such, the applicant will install its own sewage disposal system meeting with the approval of the Department of Health.

Power and telephone services will be provided by Hawaii Electric Light Co., Inc., and GTE Hawaiian Telephone, respectively, from overhead electrical and telephone lines along Mamalahoa Highway.

Therefore, it is determined that the impacts to the surrounding area will not be substantial nor negatively impact upon existing infrastructural systems.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. The proposed project will be designed and be compatible with the proposed overall character and development of the area. The location of the subject development is near Mamalahoa Highway, a major roadway corridor, near several residential areas. The planned Makalei Estates Subdivision is immediately mauka and adjacent to the project site and abuts Mamalahoa Highway. The proposed project will provide an alternative to golfers who wish to belong to a membership course in the midst of the Kohala Coast and North

Kona resorts without being a guest of or a homeowner within a particular hotel or resort.

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 Mamalahoa Highway through the Makalei Estates Subdivision. Wastewater will be disposed of via a private wastewater system. 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. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval for the proposed golf course, clubhouse, driving range, and related improvements shall be secured from the Planning Department in accordance with Chapter 25-2-71 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed uses.
3. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.
4. 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 the appropriate setback requirements, e.g. building and property line, at the time of Plan Approval review.
5. Construction of a water system including the development of the Kau No. 2 Well and related facilities shall be completed prior to water service being available to the golf course development and the related subdivision.
6. The applicant shall submit the existing biological surveys to the U.S. Fish and Wildlife Service for its review and approval prior to the issuance of any land alteration permit for the property.

7. Prior to construction of the proposed development, the applicant shall submit in writing to the Planning Department that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or recourse site.
8. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
9. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
10. A detailed drainage study, if required, shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Subdivision review or Plan Approval review of the golf courses and clubhouse, whichever occurs first. The study shall take into consideration the tile drainage system, retention basins and 'reduced turf' design to be incorporated into the golf courses. A drainage system for each phase of development in the project area shall be installed meeting with the approval of the Department of Public Works, prior to issuance of Final Subdivision Approval, a certificate of occupancy or golf course opening, whichever occurs first.
11. Access(es) to the project site shall meet with the approval of the Departments of Transportation-Highways Division and Public Works as follows. All roadways within the development shall be designed and constructed in conformance with the Keahole to Kailua Development Plan as adopted by Council Resolution No. 296-91 and the County General Plan as adopted by Council Ordinance No. 89-142. At a minimum, these roadways shall be rough graded and defined as future roadway easements. The applicant's plans must include an easement for the required 80-foot right-of-way for the future extension of the mauka-makai road through the portion of the property in the Conservation District as required by Ordinance No. 88-23. The access to the golf course via Mamalahoa Highway and the mauka-makai access road shall be constructed according to the approved subdivision plans.
12. Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Health or Department of Public Works, whichever is applicable.

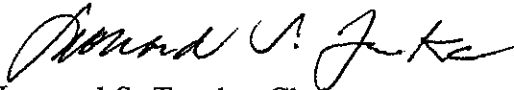
13. A Solid Waste Management Plan shall be prepared and submitted for approval by the Department of Public Works prior to issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.
14. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD), prior to submitting plans for subdivision review, plan approval, or land alteration activities, whichever occurs first. The Plan shall consist of three subplans: (1) a detailed archaeological data recovery plan for the sites to undergo data recovery, (2) a detailed interim protection/preservation plan for the sites to undergo preservation, and (3) an interpretation plan which shall include buffer zones, signage and long-range preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to the issuance of any land alterations permits for each phase of development within the project area. The DLNR-HPD shall notify the Planning Department in writing when the plans have been successfully executed.
15. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the (DLNR-HPD) when the (DLNR-HPD) finds that sufficient mitigative measures have been taken.
16. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
17. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this Use Permit. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
18. 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. 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.
- 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).

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 contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Kazu Hayashida, Director/DOT-Highways, Honolulu
Belt Collins Hawaii
Island Advisors Inc.