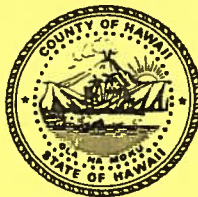


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

November 5, 1993

Mr. Richard Frye, Project Manager
Oceanside 1250
74-5620A Palani Road, Suite 200
Kailua-Kona, HI 96740

Dear Mr. Frye:

Change of Zone Application (REZ 93-5)

Request: Agricultural-5acre (A-5a) and Unplanned (U) to
Agricultural-1acre (A-1a);

Use Permit Application (USE 93-2)

Request: 27-Hole Golf Course, Golf Clubhouse, Driving Range
and Related Improvements

✓ Special Management Area (SMA) Use Permit Application (SMA 93-1) ^{SMA No.} (345)

Request: 27-Hole Golf Course, Driving Range, Public Shoreline
Access and Related Improvements

Applicant: Oceanside 1250

TMK: 7-9-6:portion of 1; 7-9-12:portions of 3, 4, 5 & 11;
and 8-1-4:portion of 3

The Planning Commission at its duly held public hearing on October 27, 1993, voted to recommend the approval of the above-referenced Change of Zone request to the County Council. The Commission also voted to approve the above-referenced Use Permit and Special Management Area (SMA) Use Permit applications. The subject properties are located makai of the Mamalahoa Highway, makai of Kealakekua Village, Halekii, Keekee, North and South Kona, Hawaii.

The Commission voted to recommend approval of the Change of Zone to the County Council subject to the following conditions:

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- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this ordinance or relating to or connected with the approval of the ordinance.
- C. The effective date of the rezoning shall be upon:
(1) the execution of an agreement, meeting with the approval of the Water Commission of the County of Hawaii, to assign water commitment rights in the Kealakekua Source Agreement to the current landowners of the subject properties within one-hundred-eighty (180) days from the effective date of this ordinance; provided that a maximum ninety (90) day extension may be granted by the Planning Director with reasonable and sufficient justification; and (2) the acceptance by the Department of Water Supply of the required water commitment payment in accordance with its "Water Commitment Policy" within one-hundred-eighty (180) days from the effective date of this ordinance.
- D. Subdivision plans for any portion of the agricultural-zoned area within the project site shall be submitted to the Planning Department and Final Subdivision Approval secured within five (5) years from the effective date of this ordinance as determined in Condition C.
- E. A wastewater disposal system shall constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
- F. All electrical and communication utilities and systems within the project site shall be placed underground, with the exception of the main 69 KV transmission line from the Mamalahoa Highway to the proposed electrical substation site.

- G. A Flood Study of the project site shall be submitted to the Planning Department in conjunction with plans submitted for subdivision review for any portion of the Agricultural-zoned area within the project site. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval for the residential-agricultural development.
- H. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for subdivision review. The Plan shall consist of three subplans; (1) an 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 or in conjunction with any land alterations within the project area.
- I. 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 Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
- J. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to submitting plans for subdivision review. The Plan shall include, but not be limited to, the management of construction solid waste as well as operating and domestic solid waste generated by the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works.

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- K. Access(es) to the project site shall be constructed in a manner meeting with the approval of the Departments of Transportation-Highways Division and/or Public Works, whichever is applicable, for the following roadway improvements which shall be completed prior to the issuance of Final Subdivision Approval for any portion of the residential-agricultural subdivision within the project site: (1) the channelization and signalization of the project site's Mamalahoa Highway-Haleki'i Street intersection; (2) the construction of the Mamalahoa Highway ByPass, consisting of two lanes with sufficient right-of-way to accommodate its expansion to four lanes, along its general alignment as shown in Figure 20 of the Villages at Hokukano Final Environmental Impact Statement (FEIS) dated September 1993; (3) the construction of channelization improvements to the ByPass at its intersections with Kuakini Highway, Mamalahoa Highway/Napo'opo'o Road and Haleki'i Street; and (4) the construction of the project's main access roadway extension from Haleki'i Street along the general alignment as reflected in Figure 4 of the FEIS with provisions for a stub-out along the project site's northern boundary to accommodate its future connection with the Alii Highway.
- L. Infrastructural improvements as required under Conditions E, G and K shall not prohibit the Applicant from participating in a Development Agreement or any other agreement together with the appropriate bond, surety or other security deemed acceptable by the Planning Director, appropriate agencies or the County Council, whichever is applicable, to ensure the provision of necessary infrastructural improvements to support the proposed development in a timely manner.
- M. The Applicant shall participate in the funding and construction of any regional roadway improvements as may be required by the State Department of Transportation, provided that any costs borne by the applicant shall be credited and limited to the amount of its fair share contribution for regional road and traffic impacts, as required in Conditions K and N.
- N. The Applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to park, fire, police, solid waste disposal facilities, sewer and roads. The fair share

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contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the residential-agricultural lot counts are adjusted. A pro rata portion of the contribution, based upon the density of the land affected, shall become due and payable, at the discretion of the Planning Director, in the event the Applicant conveys an ownership, leasehold, or controlling development interest in the land prior to receiving its subdivision approval of any portion of the agricultural-zoned area within the project site. Otherwise, said contribution shall be satisfied in conjunction with the receipt of Final Subdivision Approval of the affected land. The fair share contribution for each residential-agricultural lot shall be based on a maximum density for each lot as determined by the applicant with the concurrence of the Planning Director. The fair share contribution in a form of cash, land, facilities, or any combination thereof shall have a maximum combined value of \$ 4,701,205.74. In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies).

- O. The Applicant shall conform, to the best extent practicable, with the guidelines as provided within the Strategies for Energy Efficient Architecture by Hawaiian Design and the State Model Energy Code, in the construction of dwellings within the project site.
- P. The Applicant shall contribute its fair share of costs attributable to school facilities made necessary by the project, provided that the contribution of Applicant's fair share shall be paid no later than the date upon which Final Subdivision Approval is obtained for the two-hundredth and first (201st) lot of the small lot subdivision.
- Q. Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, State Department of Education and the Department of Water Supply.

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- R. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- S. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail the status of the development and the compliance with the conditions of approval. 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.
- T. An extension of time for the performance of conditions within the ordinance, with the exception of Condition C, may be granted by the Planning Director upon the following circumstances: (1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; (2) granting of the time extension would not be contrary to the General Plan or Zoning Code; (3) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; (4) 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); and (5) should the Applicant require an additional extension of time, the Planning Director shall submit the Applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

Use Permit No. 115 is hereby issued to construct a 27-hole golf course, golf clubhouse, driving range and related improvements.

Approval of the Use Permit is based on the following:

In considering a Use Permit for a proposed 27-hole golf course and related improvements, Rule 7 of the Planning

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Commission relating to Use Permits require that such action conform to the following guidelines:

- (a) The proposed use will still be consistent with the general purpose of the zoned district, the intent and purpose of this chapter, and the County General Plan;
- (b) 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;
- (c) The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region; and
- (d) The proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

Non-conformance with any of the above-mentioned guidelines would require that the requested Use Permit be denied.

The establishment of a 27-hole golf course and related facilities within the County's 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 provide a form of perpetual open space, thus, maintaining the current open character of the surrounding area to the north and south along with its natural and scenic qualities. The proposed development would, therefore, be consistent with the policies of both 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. The project site is characterized as predominantly pastureland used for cattle grazing. Located makai of the project site on the boundary of North and South Kona is the cinder cone Pu'u Ohau, or Red Hill which is a prominent feature in the middle of the property, near the coast. No improvements are presently being

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proposed within this area, which is located within the State Land Use Conservation District. Also located makai of the project site along its northwestern boundary is the historic Hokukano Village. An archaeological inventory survey of the entire Villages at Hokukano project site located evidence of features associated with the Kona Field System, primarily the rectangular walled fields formed by kua'iwi walls. Other features associated with the walled fields consist of intermittent mound concentrations, terraces and modified outcrops. The Survey located 807 structural and non-structural features which were subsequently organized into 473 sites and site complexes, some of which were located within the golf course project site. Of this total, 179 of these sites are recommended for preservation; 17 sites are recommended for selective preservation, and 289 sites are recommended for data recovery. These findings were supported by limited subsurface testing conducted at nine probable and possible burial sites, one agricultural mound complex, and within two extensive lava tube systems. Fourteen sites within the project area were interpreted to be possible heiau or shrine structures, with one major structure known as "Ukanipo". Sites intended for selective preservation include the Kuakini Wall, distinguishable portions of the King's Trail or Ala Loa, the railroad bed and the ahupua'a boundary walls. Preservation is recommended for all confirmed burial sites, all confirmed and probable heiaus, and all major lava tubes. The Applicant intends to preserve the King's Trail or Ala Loa in its present location, with slight modifications if necessary. Possible burials, if not preserved "as is", will be treated in a manner as prescribed by the State Department of Land and Natural Resources (DLNR)-Historic Preservation Division. A detailed archaeological mitigation and interpretation plan, meeting with the approval of the Planning Director in consultation with the DLNR-Historic Preservation Division, is recommended prior to the submittal of plans for Final Plan Approval review of the golf course or any land alteration activities.

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" These goals will be further achieved through the development of a public play program at the propose golf course which will be implemented prior to commencing operations.

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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 golf course project site is Class "D" and "E" or "Poor" and "Very Poor", respectively. 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 immediate area consists largely of pasture and vacant lands to the north and south of the golf course project site. Located makai of the project site on the boundary of North and South Kona is the cinder cone Pu'u Ohau, or Red Hill which is a prominent feature in the middle of the property near the coast. Also located makai of the project site along its northwestern boundary is the historic Hokukano Village. Pu'u Ohau and Hokukano Village are located within the coastal portions of the affected properties and designated Conservation by the State Land Use Commission. Located to the east (mauka) are the Kona Scenic and Keekee Estates subdivisions and the town of Kealahou. Approval of the proposed golf course in this particular location would expand on the open space character to the north, south and west (makai) of the project site, thereby complementing the open space character of the Conservation District along the coastal area fronting the project site as well as reducing urban development pressure on the nearby historic Hokukano Village.

The siting of the clubhouse, driving range, parking areas, maintenance facility and related improvements will consider the historical, open space, and cultural elements located within and adjacent to the project site during plan approval review. The Planning Department's Guidelines for Golf Course Development will be utilized to assure that adjacent properties will not be adversely affected by direct play on the golf course (i.e. errant golf balls). In addition, the central location of the clubhouse and its related facilities will take advantage of the landscaping elements within the golf course to mitigate any adverse visual impacts to surrounding properties as well as from coastal areas. Due consideration by the Applicant in the siting, height, bulk, color schemes, and landscaping of golf

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course-related structures will be required to mitigate any adverse noise and visual impacts.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region. Kona Country Club, a resort golf course located in Keauhou, is the only existing course in the immediate region. The Kona Country Club golf course is oriented for resort and public play, while the proposed golf course will be oriented toward private membership play. Therefore, it is not anticipated that this approval would affect the operations of the Kona Country Club. Located approximately 16 miles to the south of the project site in Opihihale is the proposed Akahi Golf Course, which received the Planning Commission's approval in 1992. While the proposed Akahi Golf Course is also planned as a private membership course, it is anticipated that the distance of these project sites from one another would assist to negate any adverse affect to the operation of either golf courses.

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. Primary access to the golf course and clubhouse facilities will be provided through an extension of Haleki'i Street. Haleki'i Street, which has a pavement width of approximately 34 feet with gutters and sidewalks within an 80-foot wide right-of-way. Haleki'i Street is currently channelized as a "T" intersection with separate left and right turn lanes at its intersection with the Mamalahoa Highway. A Traffic Impact Study prepared by the Applicant found that the traffic signal warrant for this intersection has been marginally met based on existing traffic volumes. Therefore, it is recommended that signalization of this intersection and its attendant improvements be provided prior to commencing operations at the golf course. The General Plan Facilities Map delineates this Haleki'i Street extension as a major arterial in a makai, then north, direction to its eventual connection to the proposed Alii Highway Extension. This approval is also conditioned upon the extension and construction of this Alii Highway-Haleki'i Street extension along its general mauka-makai alignment as shown on the General Plan Facilities Map in accordance with county dedicable standards meeting with the requirements of the Department of Public Works, concurrently with the golf course development. No golf cart paths shall gain access

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across the this extension. Further, the Alii Drive-Haleki'i Street extension shall be open to the public or may be dedicated to the county. To eliminate impacts through the possible future development of residential lots along the Alii Drive-Haleki'i Street extension, no direct access shall be permitted from lots adjoining this roadway. Main access to any residential lots shall be from interior roadway systems.

The Department of Water Supply has issued the Applicant 499 water commitments, which is sufficient to support the golf clubhouse activities. A water assignment agreement and commitment payment will be required from the Applicant prior to the submittal of golf course plans for Plan Approval review. An "Evaluation of Water Resources for Hokuano Project" was conducted by the Applicant which found that for general planning purposes, the proposed golf course would demand approximately 900,000 gallons of water per day for irrigation purposes. The Applicant has drilled an irrigation well within the project site to explore the use of brackish water to supplement its golf course irrigation needs. The pilot irrigation well indicated promising results for its possible use as a brackish water source for irrigation purposes. In addition, the provision of on-site retention basins and storage reservoirs within the proposed golf course will provide another supplemental source of irrigation water through the use of excess runoff. A condition of approval will require the Applicant to establish an irrigation water source of sufficient quantity and quality to support the total irrigation needs of the proposed golf course, prior to the commencement of operations at the golf course. All other essential utilities and services are or will be made available to support the proposed golf course, golf clubhouse, driving range and related improvements.

Approval of the Use Permit is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or 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 approval of this permit.

3. The Applicant shall provide assurance(s) satisfactory to the Planning Director, upon consultation with the Department of Land and Natural Resources-Commission on Water Resource Management, and the Department of Health, that a water source(s) of sufficient quality and quantity to support the total irrigation needs of the golf course be established prior to the issuance of a certificate of occupancy or opening of the golf course, whichever occurs first.
4. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Director. In the design and review of any improvements, noise and visual impacts shall be minimized through appropriate siting, height, bulk, color schemes, and landscaping. The Planning Director 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.
5. Construction of the golf course and related improvements shall be completed within five (5) years from the date of receipt of Final Plan Approval.
6. A detailed drainage study shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Plan Approval review of the golf course. The Study shall take into consideration the tile drainage system, retention basins and "Reduced Turf" design to be incorporated within the golf course. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy or golf course opening, whichever occurs first.
7. 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 Director 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, except as may be approved by the Planning Director.

8. The Alii Drive-Haleki'i Street extension shall be constructed as an arterial along its general mauka-makai alignment as shown on the General Plan Facilities Map to County dedicable standards, meeting with the approval of the County Department of Public Works. The mauka-makai alignment of Alii Drive-Haleki'i Street shall be installed prior to issuance of a certificate of occupancy or golf course opening, whichever occurs first. The Alii Drive-Haleki'i Street extension shall allow for perpetual public use by easement or be dedicated to the county. No golf cart path shall be permitted to cross over the Alii Drive-Haleki'i Street extension, except as may be approved by the Planning Director and Chief Engineer. Furthermore, direct access from future residential lots adjoining this alignment will not be permitted.
9. Intersection improvements at the Mamalahoa Highway-Haleki'i Street intersection, including traffic signals and channelization, shall be installed in a manner meeting with the approval of the State Department of Transportation and the County Department of Public Works, prior to issuance of a certificate of occupancy or golf course opening, whichever occurs first.
10. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for plan approval review. The Plan shall consist of three subplans; (1) an 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 or in conjunction with any land alteration activity within the project area. The Plan shall also include a detailed map of known lava tube/cave systems located within the project site and

mitigative measures to ensure that the golf course and related drainage systems do not impact these cave systems.

11. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the Planning Director immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director.
12. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
13. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
14. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Director that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or resource site.
15. A program for public play at the proposed golf course shall be developed meeting with the approval of the Planning Director, prior to the issuance of a certificate of occupancy or the opening of the golf course, whichever occurs first. The Program shall include, but not be limited to, the provision of public play, at kama'aina rates, at least one (1) day per month.
16. The Applicant shall establish a program for employee housing and which shall be submitted for the review and approval of the Planning Director and Housing Agency together with the submittal of plans for plan approval of the golf course and clubhouse. The program shall include provisions for on-site or off-site housing for the employees at a ratio to be determined by a study of surrounding housing opportunities and employee needs. The ratio shall be no less than 10% and no more than

50% of the number of employees. The program may also include consideration for other alternatives such as rental housing subsidies or housing allowances. The approval of the program shall be secured prior to the issuance of a certificate of occupancy with the golf course.

17. A job training program for the operating phase of the golf course and golf clubhouse shall be developed and submitted to the Planning Director for review and approval prior to the issuance of a certificate of occupancy or opening of the golf course, whichever occurs first.
18. Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health and Public Works.
19. An annual progress report shall be submitted to the Planning Director prior to each 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.
20. 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.

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Special Management Area (SMA) Use Permit No. 345 is hereby issued to construct a 27-hole golf course, driving range, public shoreline access and related improvements.

Approval of the Special Management Area (SMA) Use Permit is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving a development within the Special Management Area (SMA) is that it is consistent with the General Plan and Zoning Code. The construction of portions of a proposed 27-hole golf course, driving range, public access improvement and other related improvements within the Unplanned (U) zoned district will not be inconsistent with the general purpose of the Zoning Code, and the General Plan, provided adequate mitigating conditions are met.

The subject request will provide a form of perpetual open space, thus, maintaining the current open character of the surrounding area to the north, south and west (makai) 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. The project site is characterized as predominantly pastureland used for cattle grazing. Located makai of the project site on the boundary of North and South Kona is the cinder cone Pu'u Ohau, or Red Hill which is a prominent feature in the middle of the property near the coast. No improvements are presently being proposed within these areas, which are located within the State Land Use Conservation District. Also located makai of the project site along its northwestern boundary is the historic Hokukano Village. The proposed golf course will not encroach upon lands located makai of the project site within the State Land Use Conservation District. An archaeological inventory survey of the entire Villages at

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Hokukano project site recommended that of the 473 site and site complexes located, 179 are recommended for preservation, of which 17 are recommended for selective preservation, and 289 sites are recommended for data recovery. With the approval of an archaeological mitigation and interpretation plan by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, archaeological features will be incorporated within the golf course project site through historic parks, interpretive programs and an extensive pedestrian trail system. According to plans, an internal roadway within the northern portion of the project site will provide a public access roadway and parking area in the vicinity of the proposed 8th and 9th holes of the golf course. It is recommended that the Applicant develop and implement a comprehensive coastal public access plan for the review and approval of the Planning Director. With the approval and implementation of the comprehensive coastal access plan and the establishment of the public access area within the Conservation District, the proposal would not have any adverse effect on public access to the shoreline and 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"

Another criteria in reviewing an SMA Use Permit application is that "The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse effect and elimination of planning options." The proposed improvements are not anticipated to create substantial adverse ecological effects to the affected area. No endangered species of flora or fauna were located within the project site nor were any special habitats identified. Air emissions generated during the construction phase can be mitigated by existing construction regulations. As proposed by the Applicant, native plant species, such as the Prosopis tree, Capparis, and Wili Wili tree, shall be preserved or utilized to the furthest extent possible for landscaping in and around the golf course. The use of such native plantings will be detailed in a landscaping plan to be required of the

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Applicant. Applicable and appropriate governmental regulations will be adhered to in the application and use of pesticides and herbicides within the project site.

The project site is located approximately 300 feet from the shoreline. Any potential runoff or discharge which could reach ocean waters can be handled by existing construction regulations during the construction phase and on-site drainage systems during operations. Wastewater generated by the golf course clubhouse will be disposed of within a wastewater treatment system meeting with the approval of the Department of Health. As recommended by the Department of Public Works, appropriate drainage systems will be required to accommodate runoff generated by the proposed improvements. To ensure that no significant adverse impacts to coastal systems are generated, a groundwater and coastal water monitoring plan(s) will be required.

The proposed golf course will not have an adverse impact to cultural or historical resources within the area. An archaeological inventory survey of the entire Villages at Hokukano project site located 473 sites and site complexes, some of which were located within the golf course project site. Of this total, 179 of these sites are recommended for preservation of which 17 sites are recommended for selective preservation, and 289 sites are recommended for data recovery. Sites intended for selective preservation include the Kuakini Wall, distinguishable portions of the King's Trail or Ala Loa, the railroad bed and the ahupua'a boundary walls. Preservation is recommended for all confirmed burial sites, all confirmed and probable heiaus, and all major lava tubes. The Applicant intends to preserve the King's Trail or Ala Loa in its present location, with slight modifications if necessary. Possible burials, if not preserved "as is", will be treated in a manner as prescribed by the State Department of Land and Natural Resources (DLNR)-Historic Preservation Division. These archaeological mitigative measures were recommended by the Applicant and it's archaeological consultant. A detailed archaeological mitigation and interpretation plan, meeting with the approval of the Planning Director in consultation with the DLNR-Historic Preservation Division, is recommended prior to the submittal of plans for Final Plan Approval review of the golf course or any land alteration activities.

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Due to the open nature of the proposed golf course, viewplanes within the area will not be significantly affected by the proposed improvements. To further ensure that viewplanes will not be adversely impacted, all electrical and communication systems will be placed underground, with the exception of the 69 KV line from the Mamalahoa Highway to the proposed substation site.

Approval of the Special Management Area (SMA) Use Permit is subject to the following conditions:

1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or 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 approval of this permit.
3. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for plan approval review. The Plan shall consist of three subplans; (1) an 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 or in conjunction with any land alteration activity within the project area. The Plan shall also include a detailed map of known lava tube/cave systems located within the project site and mitigative measures to ensure that the golf course and related drainage systems do not impact these cave systems.

4. Should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Director immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
5. A detailed drainage study shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Plan Approval review of the golf course. The Study shall take into consideration the tile drainage system, retention basins and "Reduced Turf" design to be incorporated within the golf course. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy or golf course opening, whichever occurs first.
6. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.
7. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
8. A final comprehensive public access plan, to be developed in consultation with community groups, shall be submitted to the Planning Director in conjunction with golf course plans submitted for plan approval review. The final comprehensive public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai and lateral shoreline accesses; parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements. Within one (1) year from the date of approval of the final comprehensive public access plan by the Planning Director, the Applicant shall apply for a Conservation

District Use Permit, Special Management Area Use Permit and other applicable permits/approvals to allow for the implementation of the recommendations of the approved Plan.

9. The Alii Drive-Haleki'i Street extension shall allow for perpetual public use by easement or be dedicated to the County.
10. Areas of the affected properties located within the State Land Use Conservation District shall be set aside as public shoreline access areas in a manner consistent with the approved final comprehensive public access plan via covenants recorded with the Bureau of Conveyances. Upon approval of the final comprehensive public access plan, draft covenants which detail the rights, obligations and privileges of the public, the County of Hawaii and the applicant, its successors or assigns shall be submitted to the Planning Director for approval. The approved covenants shall be recorded prior to the receipt of Final Plan Approval for the golf course or the subdivision of any portion of the Agricultural-zoned area within the project site, whichever occurs first. These covenants shall be encumbrances running with the land and shall be binding on all parties and persons claiming under them.
11. Prior to the commencement of construction of any portion of the proposed golf course development, an overall monitoring plan on the potential pollution to groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the Department of Health. A Golf Course Best Management Plan and Integrated Groundwater Monitoring Plan shall be component parts of this overall monitoring plan.
12. The Applicant shall prepare and submit to the Planning Director for approval a Landscaping Plan for the golf course and golf clubhouse along with plans submitted for plan approval review. The Plan shall discuss the method of preservation and/or propagation and use of native plants, such as the Prosopis tree, Capparis, and Wili Wili tree, within and around the golf course and golf clubhouse facilities.

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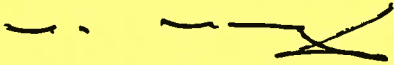
13. All electrical and communication utilities and systems shall be placed underground, with the exception of the main 69 KV transmission line from the Mamalahoa Highway to the proposed electrical substation site.
14. Comply with all other applicable laws, rules, regulations and requirements;
15. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this 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 and the Planning Director acknowledges that further reports are not required;
16. An initial extension of time for the performance of conditions within this 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 the 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 this permit.

These approval do not, however, sanction the specific plans submitted with the applications as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Sincerely,



Wilton Wong, Vice Chairman
Planning Commission

DSA:jdk
LOcean01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
PBR Hawaii, Inc.
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Department of Transportation-Highways Division
Department of Parks & Recreation
Fire Department
Police Department
Department of Health
Department of Education
Office of Housing and Community Development
Plan Approval Section
Subdivision Section