

COUNTY OF HAWAII PLANNING DEPARTMENT
RECOMMENDATION

1250 OCEANSIDE PARTNERS (DBA OCEANSIDE 1250)
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 00-004)

Upon careful review of the applicant's request, the Planning Director is recommending that the **Special Management (SMA) Area Use Permit for the development of the Mamalahoa Highway Bypass Road be approved by the Planning Commission.** This recommendation does not, however, sanction the specific plans submitted with the application as they may be subject to change given the specific code and regulatory requirements of the affected agencies. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS) and 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.

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 be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and elimination of planning options.

The Mamalahoa Highway Bypass Road is a five mile roadway segment was required through the rezoning process under Ordinance Nos. 96-7 and 96-8. The

roadway would traverse the mauka portion of the Hokuli'a site near the 800-foot elevation. The proposed Mamalahoa Highway Bypass alignment would connect with Ali'i Highway at the southern boundary of the Keauhou Resort area and terminate at the Napo'opo'o Road intersection by tying back into the existing Mamalahoa Highway. The proposed bypass road corridor of approximately 80 to 120 feet wide will be initially a two-lane roadway with sufficient right-of-way to accommodate four-lanes, and is intended to divert through traffic from Mamalahoa Highway and relieve the current congestion at peak traffic hours within the Kealakekua area. The traffic impact study conducted by the applicant anticipated that the proposed development (Phase I) will generate 297 additional trips during the A.M. peak hour and 412 additional trips during the P.M. peak hour. The study concludes that the bypass road will reduce traffic volumes along the Mamalahoa Highway, thereby improving operating conditions at the existing Haleki'i Street-Mamalahoa Highway intersection. The study further concludes that if forecasted conditions are realized, improving the bypass road to a four-lane road is recommended by the year 2005. All approaches to the Haleki'i Street-Mamalahoa Bypass Highway intersection are recommended to have separate through and turn lanes.

The Special Management Area Use Permit pertains to an approximately 2,500 foot portion of the total five-mile long roadway, near the terminus of Ali'i Highway in Keauhou. The affected portion is located approximately 1,100 feet from the shoreline and at an elevation of about 240 feet above mean sea level. As a condition of approval for the development of the entire Hokuli'a project site, the applicant is responsible for securing the right-of-way and ensuring construction of the bypass road between Keauhou and Haleki'i Street be completed and available for public use prior to the occupancy of any dwelling unit within the entire project area.

On April 20, 1998, Oceanside 1250 and the County of Hawaii entered into a Development Agreement to identify obligations of Oceanside, to provide assurance that these obligations are met in a timely manner, to provide assurances to Oceanside that it may complete full development of the Hokuli'a project (previously Hokukano project)

and the Mamalahoa Highway Bypass, to allow Oceanside and the County to enter a reimbursement agreement for costs associated with the Bypass and to reduce or eliminate uncertainty in the responsibilities of Oceanside and the County relating to the development of the project and the Bypass. The scope and purpose of the agreement is consistent with Ordinance No. 93-97, the application, preparation and administration of development agreements as provided by Ordinance No. 93-97. The roadway alignment has been established by the Department of Public Works. Oceanside has continued discussions with each of the landowners along the Bypass route regarding acquisition of right-of-way sufficient to build the road. Oceanside and the County of Hawaii have finalized options to purchase these portions of the right-of-way from many of the lands.

According to the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, the portion of the Mamalahoa Highway Bypass Road alignment is determined to pass through five drainageways. The Kawanui-Lehuula Drainageway, which runs makai through the town of Honalo and is classified as Zone A, 100-year flood with no base flood elevation determined. The Kainaliu Drainageway, also classified as Zone A, is south of the Kawanui-Lehuula Drainageway, and runs parallel to and just north of the Hokuli'a northern property boundary. The third through fifth drainageways are referred to as Watercourse No. 1 (Zone AE and X) and No. 2 (Zone A) and No. 3 (Zone AE and X) are all located in the South Kona District. In addition to the five major drainage ways, runoff from several small drainage basins must also be accommodated in the highway design. Depending on the quantity of the peak discharge, runoff from these smaller basins will either be collected in roadway swales and discharged to drywells or conveyed under the highway via culverts. Culverts will be located and sized to accommodate projected flows without significant impacts to the highway or nearby properties. There are no perennial streams crossing within the Bypass corridors as flows occur only intermittently during significant rainfall events.

The Flood Insurance Rate Map indicates that remainder of the Mamalahoa Highway Bypass alignment that is not within the Special Management Area is located

within an area located outside of the 500-year flood plain (Zone X), There are areas subject to the 100-year frequency flood (Zones A and AE) are located within the property. An area defined as Zone A (base flood elevation not determined) runs along the northern boundary of the project site. Another area designated Zone A traverses the project site near the southern project site boundary. Areas designated as Flood Zone AE (base flood elevations determined) traverses midway into the southern half of the project site with another area running along the southern property line. All of these flood areas run through the project site in a mauka-makai direction.

As require by the Environmental Protection Agency (EPA) through the Clean Water Act and the National Pollution Discharge Elimination System (NPDES) Program, storm water pollution prevention measures will be required for the Bypass project both during and after construction. The storm water pollution prevention plan (SWPPP) will include the following types of best management practice:

1. Practices that prevent erosion, such as stabilization of cut and fill slopes by vegetation and non-vegetation means.
2. Practices that trap pollutants before they can be discharged, such as the use of silt fences, check dams, mulching, culvert outlet protection, and sedimentation basins.
3. Practices that prevent pollutants from mixing with storm water, such as providing protected storage for chemicals, solvents and other toxic materials.
4. Other measures that can be taken to minimize the potential for soil erosion and the amount of sediment that leaves the construction limits include the soil erosion and Sediment Control Standard Management Practices under the guidelines as set forth in the Erosion and Sediment Control Guide for Hawaii (U.S. Soil Conservation Service 1981).

This will eliminate existing drainage deficiencies and insure that any flow concentration that could result from construction of the proposed highway would not adversely affect downstream properties. Changes in the official floodplain made under

the National Flood Insurance Program will be required in conformance with Hawaii County Chapter 27. All Federal, State and County regulations will be complied with during the project development to minimize any coastal flooding from inland projects.

The proposed development is not anticipated to have any substantial adverse environmental or ecological effects to the physical environment within the immediate area. Surveys conducted for biological resources, historic and cultural resources, visual impacts, public access and recreation aspects, socio-economic impacts support this conclusion. The goals and objectives of the SMA with respect to coastal, recreational, scenic, historic and economic resources can be met with an approval with conditions.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

The proposed development is consistent with the County General Plan and Zoning Code. This project is consistent with the General Plan's Environmental Quality, Natural Resources, Shoreline, Flood Control and Drainage and Transportation elements, goals policies and courses of action.

Transportation

Goals

- o Provide a transportation system whereby people and goods can move efficiently, safely, comfortably and economically.
- o Make available a variety of modes of transportation which best meets the needs of the County.

Policies

- o A framework of transportation facilities which will promote and influence desired land use shall be established by concerned agencies.
- o The agencies concerned with transportation systems shall provide for present traffic and future demands, including mass transit programs for high growth areas.
- o The improvement of transportation service shall be encouraged.
- o There shall be coordinated planning of Federal, State and County street systems to meet program goals of the other elements such as historic, recreational, environmental quality, and land use.
- o Transportation and drainage systems shall be integrated where feasible.

North Kona Transportation

- o Construct a scenic drive from Keauhou above the Kealakekua cliffs to Napo'opo'o.

Environmental Quality

- o The County of Hawaii shall take positive action to further maintain the quality of the environment for residents both in the present and in the future."

Natural Resources and Shoreline

- o The County shall encourage public and private agencies to manage the natural resources in a manner that avoids or minimizes adverse effects on the environment and depletion of energy and natural resources to the fullest extent.

Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will be consistent with the following goals and policies of the General Plan:

Historic Sites

- o Protect and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii.

- o The County of Hawaii shall encourage the restoration of significant sites on private lands.

There were several Archaeological Inventory Surveys conducted along the Mamalahoa Highway Bypass Road. Inventory surveys conducted by Ogden and previous archaeological studies overlapping the central and southern portion of the corridor (Barrera 1990; Rosendahl and Jensen 1989; and Hammatt et al. 1997), indicate a total of 47 sites were identified within 13 of the total 17 ahupua'a crossed by the road corridor. An additional 15 sites were identified outside the present course of the proposed road project corridor. The sites are located between 125 feet and 1,060 feet above mean sea level with 60 percent of the sites situated between 300 and 400 feet above mean sea level in the ahupua'a crossed by the northern portion of the proposed road corridor (e.g. Honalo, Ma'ihii, Kuamo'o, and Kawainui). Roughly half of the sites are interpreted as traditional Hawaiian sites attributable to the pre-Contact and early post-Contact periods. The remaining sites are likely affiliated with non-traditional land use during the post-Contact period. The traditional Hawaiian sites were interpreted as features associated with intensive, dryland agriculture, habitation, and animal husbandry. The sites associated with non-traditional land use include 23 boundary walls, the Kona Sugar Co. railroad trestle and a possible clearing mound.

All 47 including the Kona Sugar Co. railroad trestle site in the proposed road corridor have been evaluated for site significance using the National and State Registers of Historic Places criteria.

The burial grounds for the Kuamoo Battle Warriors is listed as a National Historic Site. This site will not be affected by the construction of the Mamalahoa Bypass Highway as the burial ground is located makai of the roadway.

For those sites assessed as significant solely for information content, further data collection is recommended. The data recovery and site preservation plan will also include measures to protect known sites of cultural sensitivity. Fencing will be placed along most of the length of the corridor boundaries, with gates at existing and proposed

ranch roads to maintain controlled access into those portions. The fencing would provide an additional level of protection of sites of significance located outside the project area to control potential intrusions into areas of sensitivity.

Conditions of approval will be included stating that the applicant fully implement the recommendations of the State Department of Land and Natural Resources Historic Preservation Division prior to securing of any land alteration permits for the proposed Mamalahoa Highway Bypass Road. The implementation of a mitigation plan will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

Land Use and Open Space

- o Protect scenic vistas and view planes from becoming obstructed.

Environmental Quality, Natural Resources and Shoreline

- Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.

There are no coastal ecosystems present within the alignment area within the Special Management Area. The Bypass roadway in this area is situated approximately 1000 feet from the shoreline and at an elevation of about 240 feet above mean sea level. The remainder of the Bypass roadway segment proposed by the applicant that would traverse the mauka portion of the Hokuli'a site near the 800-foot elevation. The proposed Mamalahoa Highway Bypass alignment would connect with Ali'i Highway at the southern boundary of the Keauhou Resort area and terminate at the Napo'opo'o Road intersection by tying back into the existing Mamalahoa highway. The proposed bypass road corridor of approximately 80 to 120 feet wide, will be initially a two-lane roadway with sufficient right-of-way to accommodate four-lanes, and is intended to divert through traffic from Mamalahoa Highway and relieve the current congestion at peak traffic hours within Kealakekua. Portions of the highway will be visible up slope from existing subdivisions, but the project is largely obstructed from views of those traveling on Kuakini and Mamalahoa Highways. Alteration of the existing topography as part of the project construction is expected to result in exposed

rock faces and fills within the roadway corridor. The project will not significantly alter existing view planes in the area and development of the Mamalahoa Bypass road will open new vistas to the travelling public thereby complying with the General Plan – to construct a scenic drive from Keauhou above the Kealakekua cliffs to Napo'opo'o. Therefore, the proposed project will not adversely impact any recreational or visual resources to the shoreline and coastal ecosystems.

A "Botanical Survey Report of the Hokukano Lands" (Villages of Hokukano Final EIS) was performed by Evangeline J. Funk, PhD. during November of 1991 and 1999. No proposed or listed candidate of rare, threatened or endangered plant species were found within the project site. The survey found five vegetation types: (A) Prosopis/Mixed Grass Understory, (B) Koa Haole/Prosopis Scrub, (C) Kukui Scrub, (D) Lantana/Schinus Scrub, and (E) Planted Monkeypods. The Prosopis/Mixed Grass Understory, the most common vegetation type within the project site, consist primarily of the Prosopis tree, African grass, buffelgrass, sandbur grass and other grass species which occur from coastal areas to an elevation of about 700 feet. The Koa Haole/Prosopis Scrub is the second most common vegetation type occurring in the central part of the project site. Within this area were found three wili wili trees and the only native plant species, a colony of the native Euphorb and 'Akoko (*Chamaesyce celastroides*) within an area mauka of Pu'u Ohau at the 470 foot elevation. Within this colony was found a single individual of Maiapilo or Hawaiian Caper (*Capparis sandwichiana* DC). From approximately the 850 foot elevation to the 1,100 foot elevation are the Kukui Scrub vegetation type consisting of Kukui trees, mulberry, coffee, noni and Kakalaioa (gray and yellow knickers) trees. From about 1,150-foot elevation to the mauka boundary of the project site is dominated in Lantana/Schinus scrub. Mixed within this area are mango, avocado, guava and papaya trees. The upper elevations, especially its southern areas, are large monkeypod trees.

While no endemic or endangered species of plants were located within the project sites, the applicant has noted that the existing flora will be impacted by site preparation activities associated with Mamalahoa Bypass Road. The applicant proposes

that to offset the loss of existing vegetation, vegetation will be replaced to create a landscaped environment.

A "Survey of the Avifaunal and Feral Mammals at Hokukano" (Villages of Hokukano Final EIS) was prepared by Phillip L. Bruner in October 1991. According to the survey, existing fauna typically consists of introduced species that are transient in nature. In addition, no unique wildlife habitat was discovered within the project site. While no endemic species of fauna was found, introduced species consisted of mongoose, cardinal, barred dove, mynah bird, golden plover; feral dogs, cats and pigs; and rodents. Endemic birds, such as the short-eared owl or Pueo and the Hawaiian Hawk or I'o may forage within this region.

The applicant acknowledges that development of the project site will disrupt wildlife use of the site. The applicant anticipates that completion of the proposed development will "contribute to increased habitat diversity necessary for the fauna which are present or frequent the area" due to the availability of formal open landscaping associated with the lodge. Efforts will be made to avoid disturbing active nests of 'Io should any be encountered during the project construction. 'Io are known to aggressively defend their nests by calling and flying at intruders. Any hawk acting in this manner would be an indication of a nest nearby.

Thus, the proposed project would have no significant effect on flora and fauna resources.

Economic Uses

- o Provide residents with opportunities to improve their quality of life.
- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.

This project is consistent with the State and County policies governing the Special Management Area, and the County's General Plan. Construction of the proposed highway is intended to reduce congestion on the existing road network and provide adequate new capacity in the Keauhou to Kealakekua corridor through the year 2015. Projected traffic conditions for the existing regional roadway network indicated

can no longer adequately serve existing and projected traffic volumes.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
3. A flood study for improvements affecting designated flood hazard areas shall be submitted to the Department of Public Works for review. Should a conditional letter of map revision (CLOMR) be required, ^{the CLOMR shall be obtained from the} approval from Federal Emergency Management Agency (FEMA) ^{the} shall be filed ^{construction plans of} prior to approval of the subdivision ^{the Mamalahoa Highway Bypass Road grading} construction plan approval or any land alteration in the flood zone area, ^{and on} whichever comes first. An application for a letter of map revision shall be filed upon completion of construction.
4. 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.
5. 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 construction plans. 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. ^{Mamalahoe Highway Bypass Road} The Plan shall also include a 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.]

6. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for any land alteration permits.
7. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
8. 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 with and the Planning Director acknowledges that further reports are not required.
9. 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. 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).

COUNTY OF HAWAII PLANNING DEPARTMENT
BACKGROUND REPORT

1250 OCEANSIDE PARTNERS (DBA OCEANSIDE 1250)
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 00-003)
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 00-004)
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 00-005)
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 00-006)
SPECIAL PERMIT APPLICATION (SPP 00-008)

1250 OCEANSIDE PARTNERS (DBA OCEANSIDE 1250) has submitted applications for the following:

- A. A Special Management Area Use Permit for the development of an 80-unit private members' lodge, related onsite and infrastructure improvements and other related improvements. The project area is within the Hokuli'a development approximately 2 miles west (makai) from Kealakekua Village and 1.5 miles from Kona Scenic Subdivision at Keekee, Ilikahi, Kanakau, and Kalukalu, South Kona, Hawaii, TMK: 8-1-4:Portion of 3.
- B. A Special Management Area Use Permit and Special Permit for the development of a wastewater treatment plant and related improvements on approximately 3 acres of land situated within the State Land Use Agricultural District. The project area is within the Hokuli'a development approximately 2 miles west (makai) of Kealakekua Village, mauka of Pu'u Ohau, and approximately 1,000 feet from the shoreline, Hokukano, South Kona, Hawaii, TMK: 8-1-4:Portion of 3.
- C. A Special Management Area Use Permit for the development of a shoreline park and related uses and improvements. The project area is within the Hokuli'a development approximately 2 miles west (makai) from Kealakekua Village and 1.5 miles from Kona Scenic Subdivision within the land sections

from Hokukano to Onouli, North and South Kona, Hawaii, TMK: 7-9-12:
Portion of 3 & 8-1-4: Portion of 3.

- D. A Special Management Area Use Permit for the development of a portion of the Mamalahoa Highway Bypass Road, approximately 2,500 linear feet. The project area is located in the vicinity at the end of Ali'i Highway at Keauhou, North Kona, Hawaii, TMK: 7-8-10:Portion of 30.

GENERAL INFORMATION

1. **Ownership:** The applicant is the owner of a portion of TMK: 7-9-12:3. Within TMK: 7-9-12:3 is an approximately 16.7-acre state owned parcel referred to as Hokukano Village. The Shoreline Park will be situated on this parcel. The State of Hawaii has consented to the filing of this application. TMK: 8-1-04:3 is owned in fee simple by the applicant. The Member's Lodge, the wastewater treatment plant and a portion of the Shoreline Park will be situated on this parcel. Tax Map Key: 7-8-10:30 is owned in fee simple by Kamehameha Investment Corporation (KIC). The Mamalahoa Highway Bypass Road will be situated on a portion of this property. The remaining parcels are owned by Ackerman Ranch, Inc. and leased to Lyle Anderson, President of 1250 Oceanside Partners (dba Oceanside 1250). All owners to the above mentioned parcels have consented to the filing of these applications.
2. There are fourteen Kuleana parcels located along the shoreline in the vicinity of Nawawa Bay, just south of Pu'u Ohau. These Kuleana parcels are owned by persons other than the applicant. These parcels are not included as part of the project. Also, within the State-owned parcel there is a single, individually owned Kuleana parcel which is also excluded from the proposed park area. Therefore, consent from these various landowners were not included as part of the application process.
3. The State of Hawaii has indicated that it has probable cause for claiming ownership of a public road right-of-way which traverses over and across TMK: 8-1-4:Portion of 3. This road right-of-way is identified as the "Old Government Road" and referred to within the subject applications as the "Ala Loa", Ala Aupuni" or "King's Trail". The Department of Land and Natural Resources has consented to the filing of this

application. 1250 Oceanside Partners does not contest the ownership of the public road right-of-way through its lands.

RELATED INFORMATION

4. **April 1975 thru May 1993:** Five separate consolidation and re-subdivision actions occurred on the affected properties which resulted in various reconfigurations of the parcels (Subdivision Nos. 3569, 3734, 4849, 6068 & 6275).
5. **April 1, 1986:** TMK: 7-9-12:3 was purchased by Lyle Anderson.
6. **October 27, 1993:** The Planning Commission approved Use Permit No. 115 and SMA Use Permit No. 345 to allow development of a 27-hole golf course, golf clubhouse, driving range, and related facilities and improvements.
7. **June 28, 1994:** Ordinance No. 94-73 was approved by the County Council which changed the district classification for approximately 684 acres of land on the mauka portion (Phase I) from Agricultural (A-5a) to Agricultural (A-1a) to allow for development of lots one acre or larger in size.
8. **July 1, 1994 -** A lawsuit was filed against the County of Hawaii (Civil No. 94-169K) seeking to invalidate Ordinance No. 94-73. Oceanside 1250 and the State of Hawaii were added as party defendants on November 16, 1994. The Amended Final Judgement, which upheld the validity of Ordinance No. 94-73, was filed on July 9, 1996. A notice of appeal was filed on August 14, 1996. Of the two counts in the suit, one was dismissed with prejudice by stipulation of the parties. The remaining count was heard by the Circuit Court and judgement was granted in favor of both the County and Oceanside. The Court entered this final judgment on the entire litigation on February 9, 1998.
9. **June 7, 1995:** An additional consolidation and resubdivision action resulted in a reconfiguration of certain parcels on the subject and adjacent properties (Subdivision No. 6589).
10. **September 28, 1995:** The Planning Commission approved a request by Oceanside 1250 for a SMA Use Permit (SMA Use Permit No. 356) to allow development of portions of a 400-lot agricultural subdivision and related improvements.

11. **January 15, 1996:** Ordinance No. 96-7 was approved by the County Council, changing the district classification for approximately 756 acres in the makai portion of the property from Agricultural (A-5a) to Agricultural (A-1a) to allow for development of lots one acre and larger in size. The change of zone allowed for the development of Phase II of the residential/agricultural development.
12. **January 15, 1996:** Ordinance No. 96-8, amending Ordinance No. 94-73, was approved by the County Council. Conditions L, N, P and Q and the deletion of Condition M were approved to address the Mamalahoa Bypass Road and related conditions within Ordinance No. 96-7.
13. **March 13, 1997:** Ordinance No. 97-34 was approved by the County Council for the Planning Director initiated General Plan amendment by adding Keekee-Kalukalu as a Resort (Retreat) area for approximately 25 acres of land in the South Kona District and by changing the Land Use Pattern Allocation Guide (LUPAG) Map from Orchard to Resort.
14. **March 13, 1997:** Ordinance No. 97-35 was approved by the County Council which changed the State Land Use Boundary from Agricultural to Urban district for approximately 14.8± acres of land.
15. **March 13, 1997:** Ordinance No. 97-36 was approved by the County Council which changed the district classification from Agricultural (A-1a) to Resort-Hotel(V-6.0) for approximately 14.8± acres of land.
16. **April 20, 1998:** Oceanside 1250 and the County of Hawaii entered into a Development Agreement to identify obligations of Oceanside, to provide assurance that these obligations are met in a timely manner, to provide assurances to Oceanside that it may complete full development of the Hokuli'a project (previously Hokukano project) and the Mamalahoa Highway Bypass, to allow Oceanside and the County to enter a reimbursement agreement for costs associated with the Bypass and to reduce or eliminate uncertainty in the responsibilities of Oceanside and the County relating to the development of the project and the Bypass. The agreement will: (i) provide for the parameters within which the obligation of Oceanside for public or other improvements

will be met; (ii) "provide assurances to Oceanside that the project will not be restricted or prohibited by the subsequent enactment or adoption of more restrictive Land Use regulations, including but not limited to changes in zoning classifications or revocation of Oceanside's approvals, except when, with the agreement of Oceanside, it becomes necessary to preserve the public health, safety and welfare; and (iii) provide appropriate assurances to Oceanside that it may complete the development and construction of the Project in accordance with all Land Use Regulations and Approvals applicable to the Project on the date of this Agreement, subject to Oceanside's adherence to and performance of all material conditions of this Agreement." The scope and purpose of the agreement is consistent with Ordinance No. 93-97, the application, preparation and administration of development agreements as provided by Ordinance No. 93-97.

The roadway alignment has been agreed to by the landowners and the County of Hawaii Department of Public Works. Oceanside has continued discussions with each of the landowners along the Bypass route regarding acquisition of right-of-way sufficient to build the road. Oceanside has finalized options to purchase these portions of the right-of-way from several of the landowners. Condemnation procedures are pending for two of the parcels.

17. **January 29, 1999:** Shoreline Park Management and Public Access Plan accepted by the Planning Director for the Hokuli'a project. This plan was a condition of approval of Ordinance Nos. 94-73, 96-8, 96-8 and Special Management Area Use Permit No. 345. The plan includes measures for mauka-makai and lateral shoreline accesses, parking area(s), signage, emergency response considerations, restrictions on use, provision of recreational and restroom facilities and related improvements. The plan also integrates public accessways to the trail system and to appropriate historical and archaeological sites.
18. **September 18, 1999:** Phase I was granted Final Subdivision Approval (Subdivision No. 7168) by the Planning Director for the creation of 262 lots ranging in size of one to three acres.

PROPOSED DEVELOPMENT

19. **Special Management Area Use Permit Application No. 00-005:** The applicant is seeking to develop an 80-unit private members' lodge, related onsite and infrastructure improvements and other related improvements. The 14.8 acre area is zoned Resort Hotel (V-6.0). The project area is within the Hokuli'a development approximately 2 miles west (makai) from Kealakekua Village and 1.5 miles from Kona Scenic Subdivision at Keekee, Ilikahi, Kanakau, and Kalukalu, South Kona, Hawaii, TMK: 8-1-4: Portion of 3.

Objectives: "The proposed Lodge will be adjacent to the golf course, designed by Jack Nicklaus and currently under construction. It is envisioned as a private lodge for members and guests. Primarily, the Lodge is planned to accommodate up to 80 units in separate bungalow-type cottages carefully sited on the sloping site to take maximum advantage of view opportunities to the golf course and ocean. The Lodge will also include a Main Pavilion, with reception area, retail space, spa, exercise room, restaurant lounge offices and outdoor recreational amenities. The Site, in addition to being supported by the necessary infrastructure (e.g., sewer, water, roads, and utilities), is in a unique, isolated environment that will allow to provide guests a quiet and restful experience." The Lodge would serve as an important project amenity by providing members and their guests with onsite accommodations, thereby avoiding the need to travel off-site for lodging. Since the lodge is designed for members and their guests, it is not intended to offer public accommodations but will provide overnight, non-residential accommodations and related services which are appropriate in a Retreat Resort area. The total cost of the Members' lodge, including site preparation, infrastructure, construction, and landscaping improvements is estimated to be approximately \$40 million. Currently on the Site is an open air pavilion, which is likely to be retained for use for special function, social gathering, weddings etc."

20. **Special Management Area Use Permit No. 00-006 and Special Permit No. 00-008:** The applicant is requesting to develop a wastewater treatment plant and related improvements on approximately 3 acres of land situated within the State Land Use

Agricultural District. The project area is within the Hokuli'a development approximately 2 miles west (makai) of Kealakekua Village, mauka of Pu'u Ohau, and approximately 1,000 feet from the shoreline at the 100-foot elevation, Hokukano, Hawaii, TMK: 8-1-4: Portion of 3.

Objectives: "In this request, the applicant proposes to establish a wastewater treatment plant (WWTP) on the subject property with all associated infrastructure, such as pump stations and pipelines. The WWTP will be used on a continuous basis by all facilities within the planned Hokuli'a development, including the agricultural lots, the golf course and related facilities, the Member's Lodge, and the Shoreline Park. The facility will be built and operated by the developer or its assignees at no cost to the County."

21. **Special Management Area Use Permit Application No. 00-003:** The applicant is requesting to develop a shoreline park and related uses and improvements. The project area is within the Hokuli'a development approximately 2 miles west (makai) from Kealakekua Village and 1.5 miles from Kona Scenic Subdivision within the land sections from Hokukano to Onouli, Hawaii, TMK: 7-9-12: Portion of 3 & 8-1-4: Portion of 3. The development of the shoreline park was a condition of Ordinance No. 94-73, 96-8, 96-8 and Special Management Area Use Permit No. 345.

Objectives: "The applicant seeks to develop the approximately 157-acre coastal portion of the Hokuli'a development as an oceanfront park, with the intent of encouraging public use and enjoyment of the recreational and cultural attributes of this rural stretch of the shoreline. The shoreline park is envisioned as a passive park that will encourage uses such as hiking, picnicking, swimming, recreational fishing, snorkeling, and limited camping within appropriate use areas. Although proposed for public use, the cost of park improvements, maintenance, and management would be assumed by the developer and eventually the Hokuli'a property owners. Overall, the owner's objective is to develop the proposed park in a manner that improves public shoreline access and recreational opportunities while preserving and enhancing the natural, historical, and cultural resources of the park area."

22. **Special Management Area Use Permit Application No. 00-004:** The applicant is requesting to develop a portion of the Mamalahoa Highway Bypass Road, approximately 2,500 linear feet. The project area is located in the vicinity at the end of Ali'i Highway at Keauhou, Hawaii, TMK: 7-8-10: Portion of 30.

Objectives: "This application for a Special Management Area Permit pertains to an approximately five-mile long, approximately 80- to 120-foot wide, corridor for a Bypass Road that would provide an alternative roadway between Keauhou and Captain Cook, in the North and South Kona districts on the west side of the Island of Hawaii. The total area of the Bypass corridor encompasses approximately 80 acres. A relatively small (2,500 foot area) portion of the corridor, near the northern terminus, extends through the County Special Management Area (SMA) thereby prompting the need for this petition for the SMA Use Permit. The proposed Mamalahoa Highway Bypass Road corridor extends near the current terminus of Ali'i Highway, in Keauhou, to the junction of Napo'opo'o Road and Mamalahoa Highway to Captain Cook."

23. **Supportive Information:** The applicant has submitted the following documents which have been distributed:

**Refer to: SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(SMA 00-003)**

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(SMA 00-004)**

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(SMA 00-005)**

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(SMA 00-006) and SPECIAL PERMIT APPLICATION (SPP 0 0-008)**

STATE AND COUNTY PLANS

24. **State Land Use Classification:** The properties are located within an area designated as Agricultural by the State Land Use Commission, with the exception of approximately 140 acres of land along the coastal portion of the Hokuli'a site, which is located within the State Land Use Conservation District. In addition, the 14.8-acre

Members' Lodge site is located within the State Land Use Urban district.

25. **General Plan:** This project is consistent with the General Plan's Environmental Quality, Natural Resources, Shoreline, Open Space and Transportation elements, goals policies and courses of action.

North Kona and South Kona Transportation

- o Construct a scenic drive from Keauhou above the Kealakekua cliffs to Napo'opo'o.

Environmental Quality

- o The County of Hawaii shall take positive action to further maintain the quality of the environment for residents both in the present and in the future."

Natural Resources and Shoreline

- o The County shall encourage public and private agencies to manage the natural resources in a manner that avoids or minimizes adverse effects on the environment and depletion of energy and natural resources to the fullest extent.

Recreation

- o Encourage the development of the coastal area for public recreational use.

Historic Sites

- o Protect and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii
- o The County of Hawaii shall encourage the restoration of significant sites on private lands.

26. **General Plan Land Use Pattern Allocation Guide (LUPAG) Map:** The Hawaii County General Plan LUPAG Map designates a 25±-acre area surrounding the private Members' Lodge as Resort (Retreat). The remainder of the lands is designated for Extensive Agricultural and Orchard uses, with the exception of the coastal area which is designated for Open Space. Orchard designated lands are located within the northern and southern portions of the project site, and Extensive Agricultural designated lands running mauka-makai through the middle.

27. **General Plan Facilities Map:** The 1971 and subsequent 1989 General Plan Maps both reflects the proposed Mamalahoa Highway Bypass Road.
28. **County Zoning:** The property is zoned Agricultural-1 acre (A-1a) with the exception of the 14.8-acre area of the Members' Lodge which is zoned Resort-Hotel (V-6.0). A portion of the project site within the coastal area is zoned Agricultural-5 acres (A-5a). The area surrounding the proposed Mamalahoa Highway Bypass Road is designated Agricultural-5 acres (A-5a).
29. **Special Management Area (SMA):** A portion of the entire property is located within the County's SMA. The mauka boundary of the SMA is delineated by the general alignment of the Old Government Road, which traverses the entire project site. In addition the proposed Mamalahoa Highway Bypass Road crosses an approximately 2,500-foot portion of the SMA area. This roadway corridor is located approximately 1,100 feet from the shoreline and at an elevation of 240 feet above mean sea level.
30. **Chapter 343, Hawaii Revised Statutes (HRS):** The development was subject to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements. Compliance with Chapter 343, HRS, was met with a Draft Environmental Impact Statement published in the June 23 and July 8 & 23, 1993, OEQC Bulletin. A Final Environmental Impact Statement for the overall project was published in the October 8, 1993, OEQC Bulletin. A separate Final Environmental Impact Statement was prepared for the Mamalahoa Bypass Road in 1999 and was published in the December 8, 1999, OEQC Bulletin.

DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

31. **Topography:** The project sites range in elevation between 20 to 1,350 feet above mean sea level. The average slope of the property is 11 percent, with steeper slopes exceeding 15 percent associated with gullies and rock outcroppings.
32. **Temperature:** The mean annual temperature for the subject area is 74 degrees.
33. **Wind:** Wind velocities range from 7 to 8 miles per hour with diurnal wind patterns prevailing onshore in the morning and early afternoon, and offshore in the late afternoon and evening.

34. **Rainfall:** The affected region has a mean annual rainfall of about 50 inches.
35. **Soil Conservation Service Soil Survey Report:** The Soil Survey Report classifies soils within the project site as:
- a) **Kainaliu very stony silty clay loam (KDD)**, 12 to 20 percent slopes. Within the project site, this soil is located immediately mauka of Red Hill as well as along the project site's southern boundary. This soil consists of well-drained, silty clay loams that formed in volcanic ash. Permeability is rapid, runoff is slow and the erosion hazard is slight. This soil generally follows the long narrow patterns of lava flows, but can be isolated and surrounded by more recent flows. This soil type is generally used for coffee, macadamia nuts and pasture.
 - b) **Waiaha extremely stony silt loam (WHC)**, 6 to 12 percent slopes. This soil is used for pasture and are the predominant soils within the project site. This soil consists of well-drained silt loams that formed in volcanic ash. Permeability is moderately rapid, runoff is slow and the erosion hazard is slight.
 - c) **Kaimu extremely stony peat (rKED)**, 6 to 20 percent slopes. This soil, which is confined to the northeastern corner of the project site, consists of well-drained, thin organic soil over A'a Lava. Permeability is rapid, runoff is slow, and the erosion hazard slight. This soil is not suitable for cultivation, however, some small areas can be used for pasture, macadamia nuts, papaya, and citrus fruits.
 - d) **Pahoehoe lava (rLW)**, a "miscellaneous land type". This soil occupies the middle of the project site in a mauka-makai direction from sealevel to about the 800-foot elevation. Although this lava often has a billowy, glassy surface, it can also be rough and broken. There is no soil covering and is typically bare of vegetation except for mosses and lichens.
 - e) **Punaluu extremely rocky peat (rPYD)**, 6 to 20 percent slopes. This soil is located within the mauka-most extension of the project site above the 800-foot elevation with a small, isolated area located along the northeastern corner. This

soil consists of well-drained, thin organic soils over pahoehoe lava bedrock and characteristically has rock outcrops occupying approximately 40 to 50 percent of the surface. The peat portions of the soil are rapidly permeable while the pahoehoe lava is very slowly permeable, although water moves rapidly through the cracks. Runoff is slow and the erosion hazard is slight.

f) **Kainaliu extremely stony silty clay loam (KEC)**, 12 to 20 percent slopes.

This soil, which occupies a very small area along the northeastern corner of the project site, consists of well-drained, extremely stony, silty clay loams that formed in volcanic ash and underlain by fragmental A'a Lava. Permeability is rapid, runoff is slow and the erosion hazard is slight. This soil type is used for coffee, macadamia nuts and pasture.

36. **Flood Insurance Rate Map (FIRM):** The majority of the property is located within an area located outside of the 500-year flood plain (Zone X). However, areas subject to the 100-year frequency flood (Zones A and AE) are located within the property. An area defined as Zone A (base flood elevation not determined) runs along the northern boundary of the project site. Another area designated Zone A traverses the project site near the southern project site boundary. Areas designated as Flood Zone AE (base flood elevations determined) traverses midway into the southern half of the project site with another area running along the southern property line. A portion of the Members' Lodge site is affected by the Flood Zone AE. All of these flood areas run through the project site in a mauka-makai direction. The area surrounding the Mamalahoa Highway Bypass Road indicates five drainageways pass through the highway alignment. The Kawanui-Lehuula Drainageway, which runs makai through the town of Honalo and is classified as Zone A, 100-year flood with no base flood elevation determined. The Kainaliu Drainageway, also classified as Zone A, is south of the Kawanui-Lehuula Drainageway, and runs parallel to and just north of the Hokuli'a northern property boundary. The third through fifth drainageways are referred to as Watercourse No. 1 (Zone AE and X) and No. 2 (Zone A) and No. 3 (Zone AE and X) are all located in the South Kona District. In addition to the five major drainage ways,

runoff from several small drainage basins must also be accommodated in the highway design. Depending on the quantity of the peak discharge, runoff from these smaller basins will either be collected in roadway swales and discharged to drywells or conveyed under the highway via culverts. Culverts will be located and sized to accommodate projected flows without significant impacts to the highway or nearby properties. There are no perennial streams crossing within the Bypass corridors as flows occur only intermittently during significant rainfall events.

37. **Surrounding Land Uses:** To the north and south of the project site are vacant lands and agricultural uses on lands zoned Agricultural-5 acres (A-5a). To the east (mauka) are Kona Scenic Subdivision and Keekee Estates, both of which are single family residential subdivisions on lands zoned Single Family Residential (RS-10, RS-15) by the County. The town of Kealahou is also located mauka of the project site along the Mamalahou Highway with Kealahou Bay located approximately 6,200 feet to the south. The lands surrounding the Mamalahou Highway Bypass Road are predominately open ranch lands zoned Agricultural (A-5a), which are used for cattle grazing and some smaller farm lots located at the southern portion near the junction with Mamalahou Highway. There are several residences and business lots along Mamalahou Highway near the junction of Mamalahou and Napo'opo'o Road. The proposed Mamalahou Highway Bypass Road has been planned so as not to require the relocation of any residential businesses or commercial structures, farm buildings or other agricultural structures.
38. **Land Study Bureau's Detailed Land Classification System:** Lands within the project site are classified as "B", "C", "D" and "E" or "Good", "Fair", "Poor" and "Very Poor," respectively. Lands within the northern and southern portions of the project site are predominantly classified as "D." Soils within the middle portion of the project site comprising predominantly of lava flows are classified as "E." At the extreme mauka portion of the project site on lands currently zoned A-5a are "B" and "C" soils.
39. **Agricultural Lands of Importance to the State of Hawaii (ALISH) system:** The majority of the project site is unclassified by the ALISH system. There are isolated

pockets of lands designated as "Other Important Agricultural Lands" within the northeast corner of the project site, within an area immediately mauka of Puu Ohau (Red Hill), and along the southern boundary. "Other Important Agricultural Lands" are lands other than "Prime" or "Unique" agricultural lands which are also of statewide or local importance for agricultural uses. The lands surrounding the Mamalahoa Bypass Road are designated as "Other Important Agricultural Lands" and unclassified.

40. **Lava Flow Hazard:** The project site is located within Lava Flow Hazard Zone 3 on a scale of 1 (most hazardous) to 9 (least hazardous). Zone 3 defines areas of which less than 5 percent have been covered by lava since 1800 but more than 75 percent in the last 750 years.
41. **Seismic Hazard:** The entire island of Hawaii is within earthquake Zone 3, which is the zone of highest seismic occurrence and danger.
42. **Tsunami Hazard:** While coastal areas are subject to potential tsunami inundation (Zones AE and VE), the project site should not be impacted due to its location roughly 300 feet from the shoreline and at an elevation of approximately 20 feet above mean sea level.

FLORAL AND FAUNAL RESOURCES

43. **Botanical:** A "Botanical Survey Report of the Hokukano Lands" (Villages of Hokukano Final EIS) was performed by Evangeline J. Funk, PhD. during November of 1991 and 1999 for the project areas now under consideration. No proposed or listed candidate of rare, threatened or endangered plant species were found within the project site. The survey found five vegetation types: (A) Prosopis/Mixed Grass Understory, (B) Koa Haole/Prosopis Scrub, (C) Kukui Scrub, (D) Lantana/Schinus Scrub, and (E) Planted Monkeypods. The Prosopis/Mixed Grass Understory, the most common vegetation type within the project site, consist primarily of the Prosopis tree, African grass, buffelgrass, sandbur grass and other grass species which occur from coastal areas to an elevation of about 700 feet. The Koa Haole/Prosopis Scrub is the second most common vegetation type occurring in the central part of the project site. Within this area were found three wili wili trees and the only native plant species, a colony of

the native Euphorb and 'Akoko (*Chamaesyce celastroides*) within an area mauka of Pu'u Ohau at the 470 foot elevation. Within this colony was found a single individual of Maiapilo or Hawaiian Caper (*Capparis sandwichiana* DC). From approximately the 850-foot elevation to the 1,100-foot elevation are the Kukui Scrub vegetation type consisting of Kukui trees, mulberry, coffee, noni and Kakalaioa (gray and yellow knickers) trees. From about 1,150-foot elevation to the mauka boundary of the project site is dominated in Lantana/Schinus scrub. Mixed within this area are mango, avocado, guava and papaya trees. The upper elevations, especially its southern areas, are large monkeypod trees.

44. **Mitigative Measures:** While no endemic or endangered species of plants were located within the project sites, the applicant has noted that the existing flora will be impacted by site preparation activities associated with Mamalahoa Bypass Road, Members' Lodge, and Wastewater Treatment Facility developments and its associated infrastructure. The area surrounding the Members Lodge and Wastewater Treatment have be grubbed. The applicant proposes that to offset the loss of existing vegetation, vegetation will be replaced to create a landscaped environment.
45. **Faunal:** A "Survey of the Avifaunal and Feral Mammals at Hokukano" (Villages of Hokukano Final EIS) was prepared by Phillip L. Bruner in October 1991. According to the survey, existing fauna typically consists of introduced species that are transient in nature. In addition, no unique wildlife habitat was discovered within the project site. While no endemic species of fauna was found, introduced species consisted of mongoose, cardinal, barred dove, mynah bird, golden plover; feral dogs, cats and pigs; and rodents. Endemic birds, such as the short-eared owl or Pueo and the Hawaiian Hawk or I'o may forage within this region.
46. **Mitigative Measures:** The applicant acknowledges that development of the project site will disrupt wildlife use of the site. The applicant anticipates that completion of the proposed development will "contribute to increased habitat diversity necessary for the fauna which are present or frequent the area" due to the availability of formal open

landscaping associated with the lodge. Efforts will be made to avoid disturbing active nests of 'Io should any be encountered during the project construction.

Nearshore Marine Environment \ Air Quality

47. **A Quantitative Assessment of the Marine Communities and Water Quality** was completed in 1993 (Villages of Hokukano Final EIS). The Study concluded that "In general the marine communities resident to the waters fronting the Hokukano project site are diverse and the fish communities do not show the declines in abundance that have been encountered in many other Hawaiian coastal settings in recent years. No unusual marine species or communities were noted in the study area." "No threatened or endangered species were encountered within the study area, however several humpback whales were noted well offshore of the project site during a March 1992 field effort. Despite not seeing green turtles (a threatened species), it is expected that turtles must, at a minimum, pass through the waters fronting the project site."
48. **Coastal water quality characteristics** were examined at 24 sites. Only one of these sampled a brackish water pool, the remaining stations sampled marine waters. Based on this analysis, "the waters fronting the project site are typical of well-flushed, undeveloped West Hawaii coastal settings."

Mitigative Measures: As a condition of approval for Special Management Area Use Permit 356, an overall water quality monitoring program was approved by the Planning Department on July 14, 1999. The water quality monitoring program concluded that impact to the marine communities is greatest during the construction phase of the proposed development. Operation of the development could later change the groundwater chemistry which may impact the marine biota. However, based on long-term water quality studies conducted along the coast at Waikoloa, groundwater chemistry changes involve increases in the concentration of inorganic nutrients while pesticides and herbicides were not detected in water, sediment or in organisms. These long-term studies have been unable to detect any quantifiable change in the aquatic biota resident to the Waikoloa area. The study recommends that if prudent construction techniques be used (i.e., removing vegetation only as immediately needed,

use of temporary settlement basins, etc.), the opportunity for negative impact due to sedimentation would be low. In addition, there may be an impact to marine communities as a result of the increased public access and fishing. The applicant has implemented a Water Quality Monitoring and Mitigation Program to ensure monitoring of soil and coastal water conditions for impacts associated with the developments.

49. **Air Quality:** Short-term impacts from fugitive dust during project construction phases will likely occur. To a lesser extent, emissions from engine exhausts will also occur during project construction phases from both stationary and mobile construction equipment, vehicles used by construction workers, and from the disruption of traffic. **Mitigation measures:** As a condition approval for Special Management Area Use Permit No. 356, an effective dust control program shall be established during construction phases, which could include watering of active work sites and unpaved roads, the use of wind screens, covering of open bodied trucks, limiting area to be disturbed at any given time and/or the mulching or chemically stabilizing inactive areas, among other control measures. Potential long-term air pollution impacts could potentially occur indirectly from increased motor vehicle traffic associated with the project. A Final Environment Impact Study for the Mamalahoa Bypass Road was prepared 1999. An air quality modeling study was conducted by B.D. Neal and Associates to estimate current maximum ambient concentrations of carbon monoxide along roadways leading to and from the project site as well as predicting future levels (Years 2005 and 2010) of carbon monoxide emissions with or without the project. Based on the findings of the air quality study, the most significant long-term impact will likely occur near the existing intersection of Kamehameha III Road and Ali'i Drive due to the added traffic in this area. Air quality at other locations in the project area such as at the intersection of Mamalahoa Highway and Napo'opo'o Road and intersections along Mamalahoa Highway to the north would likely improve as a result of the Bypass Road. At the Napo'opo'o Road intersection the projected worst case concentrations of carbon monoxide in the year 2015, would likely exceed the State Air Quality Standards, although within Federal Air Quality Standards. The air quality

study notes that the roadway project is itself a measure to mitigate traffic related impacts of the proposed Hokuli'a development, and additional measure to mitigate long term project related air quality impacts are probably unwarranted.

CULTURAL/HISTORICAL RESOURCES

50. **An "Archaeological Inventory Survey and Limited Subsurface Testing" of the entire 1,550 acre Hokuli'a site was conducted by Cultural Surveys Hawaii from August 20, 1991 to January 17, 1992, with a survey report completed in July 1992. 807 structural and non-structural features were identified and subsequently organized into 408 sites and site complexes. Of this total, 161 sites are recommended for preservation of which 17 sites are recommended for selective preservation, and 228 sites are recommended for data recovery. Limited subsurface testing was conducted at 13 possible burial sites within two of the lava tube systems and at an agricultural mound complex. The survey 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 noted that historic and modern land modifications, such as chain-dragging, bulldozing and other activities associated with cattle ranching, sugar cane and urban activities have apparently destroyed much of the field system within the area. Fourteen sites within the project area were interpreted to be possible heiau or shrine structures, with one major structure known as "Ukanipo".**
51. **Mitigation Measures:** Those sites which are recommended for selective preservation include the Kuakini Wall, distinguishable portions of the King's Trail/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/Ala Loa in its present location, with slight modifications, including possible breaches, as approved by the Planning Director in consultation with the State Department of Land and Natural Resources (DLNR.) In areas where there is no evidence of the trail, it will be re-established in the general area where it was believed to be located based on existing map information, historical

references and compatibility with the proposed development. Where the trail intersects with project roadways, appropriate signage and alternative road pavement treatment could be used. 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, Hawaii Island Burial Council and other resource groups as appropriate. A data recovery plan was submitted and approved on August 4, 1999. The burial treatment plan was approved by the Department of Land and Natural Resources-Historic Preservation Division on September 15, 1999. An interim preservation and monitoring plan was approved by the Planning Department prior to Final Subdivision Approval.

Archaeological Features within the area of the Members' Lodge occur along the lower elevations and along the coast. The Great Wall of Kuakini is located mauka of the project site. There are also a few remnants of the Old Government Road within the area, evidenced from historical maps. This trail crosses the upper portion of the lodge area. A data recovery plan was submitted and approved on August 4, 1999. The burial treatment plan was approved by the Department of Land and Natural Resources-Historic Preservation Division on September 15, 1999. An interim preservation and monitoring plan was approved by the Planning Department prior to Final Subdivision Approval.

52. **Archaeological Features within the area of the Shoreline Park** identified 94 sites. The area contains habitation, burial and religious sites. This area was a locus of traditional Hawaiian and historic period habitation until the mid to late 1800s when most of the settlement had become focused along the mauka roadway corridor. Unlike those in Kailua-Kona, the habitation settlements in the proposed shoreline park did not develop into a royal center, and they are not influenced as heavily by post contact Euro-American trade and commerce as were other nearby settlements. There are also examples of adaption to historic-era influences on habitation such as walled house lots and mortared tombs to crypts. The influences of the newer market based economies of commerce and ranching are exemplified in part by cattle walls, corrals, and even a

retail store. Located on the lava bench along the coastline between Keikiwaha Point and Nenua Point are Sites 16747, 16755, 16756, and 16758, which are good examples of prehistoric permanent habitation sites that are in good condition within what is thought to have been the locus of activity in the Village cluster. Located near these habitation sites are two coastal heiau, Sites 16757 and 16762, that are in good condition and may have functioned in conjunction with each other to locate offshore fishing spot or to denote the distribution and/or procurement of marine resources. To the south of Pu'u Ohau and above Nawawa Bay, is a small cluster of sites that includes two prehistoric permanent habitation sites, a heiau, and on the south side of the bay at Wool's Landing, the foundation site of the old Greenwell store. This cluster includes several habitation sites.

53. **Archaeological Features within the Wastewater Treatment Plant:** This survey did not locate any significant cultural or historical remains and no sites designated for preservation were located within the proposed wastewater treatment site. However, as a condition of approval for the Change of Zone, Ordinance Nos. 96-7 and 96-8 a data recovery plan was submitted and approved on August 4, 1999. The burial treatment plan was approved by the Department of Land and Natural Resources-Historic Preservation Division on September 15, 1999. An interim preservation and monitoring plan was approved by the Planning Department prior to Final Subdivision Approval. By letter dated April 13, 2000 the Department of Land and Natural Resources- Historic Preservation Division is requiring submission of the final preservation and monitoring plan.
54. **Archaeological Inventory Surveys along the Mamalahoa Bypass Road:** Inventory surveys conducted by Ogden and previous archaeological studies overlapping the central and southern portion of the corridor (Barrera 1990; Rosendahl and Jensen 1989; and Hammatt et al. 1997), indicate a total of 47 sites were identified within 13 of the total 17 ahupua'a crossed by the road corridor. An additional 15 sites were identified outside the present course of the proposed road project corridor. The sites are located between 125 ft and 1,060 ft above mean sea level with 60 percent of the sites situated

between 300 and 400 feet above mean sea level in the ahupua'a crossed by the northern portion of the proposed road corridor (e.g. Honalo, Ma'ihii, Kuamo'o, and Kawainui). Roughly half of the sites are interpreted as traditional Hawaiian sites attributable to the pre-Contact and early post-Contact periods. The remaining sites are likely affiliated with non-traditional land use during the post-Contact period. The traditional Hawaiian sites were interpreted as features associated with intensive, dryland agriculture, habitation, and animal husbandry. The sites associated with non-traditional land use include 23 boundary walls, the Kona Sugar Co. railroad trestle and a possible clearing mound.

Specific Archaeological Features along the Mamalahoa Bypass Highway: All 47 including the Kona Sugar Co. railroad trestle site in the proposed road corridor have been evaluated for site significance using the National and State Registers of Historic Places criteria.

Mitigation Measures: For those sites assessed as significant solely for information content, further data collection is recommended. By letter dated April 20, 2000, the Department of Land and Natural Resources-Historic Preservation Division stated that they are completing their review of the draft inventory report. The data recovery and site preservation plan will also include measures to protect known sites of cultural sensitivity. Fencing will be placed along most of the length of the corridor boundaries, with gates at existing and proposed ranch roads to maintain controlled access into those portions. The fencing would provide an additional level of protection of sites of significance located outside the project area to control potential intrusions into areas of sensitivity.

PUBLIC FACILITIES AND SERVICES

55. Access to the project site from the Mamalahoa Highway is currently provided off of Haleki'i Street, which has a pavement width of approximately 34 feet with gutters and sidewalks within an 80-foot wide right-of-way. At its intersection with the Mamalahoa Highway, Haleki'i Street is channelized as a "T" intersection with separate left and right turn lanes. The applicant has completed signalization of the Haleki'i Street-

Mamalahoa Highway intersection to facilitate left-turn movements. Haleki'i Street is the major roadway for Kona Scenic Subdivision. These lands are zoned Single Family Residential (RS-10). The neighboring subdivision, Keekee Subdivision is zoned Single Family Residential (RS-15).

56. **Mamalahoa Highway Bypass:** The construction of the Mamalahoa Highway Bypass in its entirety was a condition of approval of Ordinance Nos. 96-7 and 96-8. This five mile roadway segment proposed by the applicant would traverse the mauka portion of the Hokuli'a site near the 800-foot elevation. The proposed Mamalahoa Highway Bypass alignment would connect with Ali'i Highway at the southern boundary of the Keauhou Resort area and terminate at the Napo'opo'o Road intersection by tying back into the existing Mamalahoa highway. The proposed bypass road will be initially a two-lane roadway with sufficient right-of-way to accommodate four-lanes, and is intended to divert through traffic from Mamalahoa Highway and relieve the current congestion at peak traffic hours within Kealakekua. The traffic impact study anticipated that the proposed development (Phase I) will generate 297 additional trips during the A.M. peak hour and 412 additional trips during the P.M. peak hour. The study concludes that the bypass road will reduce traffic volumes along the Mamalahoa Highway, thereby improving operating conditions at the existing Haleki'i Street-Mamalahoa Highway intersection. The study further concludes that if forecasted conditions are realized, improving the bypass road to a four-lane road is recommended by the year 2005. All approaches to the Haleki'i Street-bypass Highway intersection are recommended to have separate through and turn lanes.
57. **Development of the Mamalahoa Bypass Road:** The Special Management Area Use Permit pertains to an approximately 2,500 foot portion of the total five-mile long roadway, near the terminus of Ali'i Highway in Keauhou prompting the need for this SMA Use Permit. The affected portion is located approximately 1,100 feet from the shoreline and at an elevation of about 240 feet above mean sea level. The Mamalahoa Highway Bypass Road is expected to relieve the current Mamalahoa Highway congestion at peak times in the villages, at Konawaena School, and at the Kona

Hospital. Most of the overall traffic is expected to use this alternative, with the exception of those needing to frequent the area businesses along Mamalahoa Highway. As a condition of approval for the development of the entire Hokuli'a project site, the applicant is responsible for securing the right-of-way and ensuring construction of the entire bypass road prior to the issuance of a Certificate of Occupancy for the Lodge development. The applicant has secured the construction of the Mamalahoa Bypass Highway with the filing of a bond with the County of Hawaii.

58. **Potable water** to support the proposed Phase I development will be provided by the existing County of Hawaii North Kona Water System through the issuance of 499 water commitments under the Kealakekua Water Source Agreement. An 8-inch transmission line is located along Haleki'i Street and the Mamalahoa Highway and is fed by a 0.25 million gallon reservoir above Kealakekua.

WASTEWATER TREATMENT AND DISPOSAL

59. The proposed wastewater treatment plant is an essential component to the overall development of the Hokuli'a development. The wastewater treatment plant site comprises an area of three (3) acres and is located mauka of the Pu'u Ohau, approximately 1,000 feet from the shoreline. This area has been grubbed and is presently used as a base yard for landscaping services. The plant will be approximately 300 feet by 600 feet with a treatment plant structure, odor control filters, and storage and decanting tanks. Appropriate architectural design and landscaping will be installed so that the structure will harmonize with the surrounding area and offer pleasing visual quality. The design capacities of Phases I and I+II are 270,000 gallons per day and 405,000 gpd, respectively. The wastewater treatment plant (WWTP) will be designed in accordance with the Department of Health rules. The WWTP is designed to produce an effluent that will meet R-1 water quality requirements as defined by the Department of Health and the effluent will be used as irrigation on the project golf course. Design standards for preliminary treatment, secondary treatment, disinfection, and sludge treatment and disposal will be according to County standards. The treatment plant will be serviced by three to four employees with, at minimum, an operator on duty or on

call at all times. A passive odor control system will be provided. The odor control unit will treat gases collected from the various covered treatment units. The odor control system is provided to further mitigate WWTP odor impacts on the surrounding development. The systems will be designed in accordance with the manufacturer's design recommendations. Alarms will be provided at critical treatment units to notify an operator of any malfunction. A standby generator will be provided to supply power to critical components of the WWTP. The design of the WWTP allows for incremental increases to up the system capacity in concert with phases of the Hokuli'a project development. The current schedule calls for completion of the initial increment of the WWTP by the end of the year 2000. The initial increment will provide service to the Phase I subdivision, Members' Lodge, golf clubhouse, shoreline park and other ancillary project uses.

60. **Solid Waste:** Solid waste generated by the project will be disposed of at the new County Puuanahulu landfill. Transfer stations are located at Keauhou and Napo'opo'o. Some mulching of greenwaste is being conducted. A greenwaste composting facility and other solid waste recycling and reuse facility will be established on site.
61. **Electrical power:** Electrical power will be supplied by HELCO via a 69 KV overhead transmission line located along the Mamalahoa Highway.
62. **Police services:** Police services are located in Captain Cook through its Captain Cook substation located less than 3 miles to the south of the project site.
63. **Fire protection:** Fire services are provided by the Captain Cook fire station also located less than 3 miles south from the project site.
64. **Medical services:** Medical services are provided at Kona Hospital, located less than one-half mile mauka of the project site in Kealahou. Acute and emergency care is provided at the facility. Ambulance service is provided at the Captain Cook fire station.
65. **Schools:** Schools in the area would not be impacted, as the proposed lodge development provides only transient accommodations.

66. All other essential utilities and services are or will be made available to the project site.

RECREATIONAL FACILITIES

67. The proposed shoreline park encompasses approximately 140 privately owned acres and comprises TMK: 7-9-12:03 and a makai portion of TMK: 8-1-4:03. The shoreline park is topographically divided into two distinct areas. In the area south of Pu'u Ohau, the shoreline consists of cliffs that range from 25 to 80 feet high that are undercut by erosion in several areas. The area extending north of Pu'u Ohau has a flatter lower terrain, allowing greater access to the shoreline and open areas for passive recreational uses. Throughout the proposed shoreline park are archaeological sites, including house sites, heiau, agricultural features, salt bowls, game boards, and petroglyphs. In the northern portion of the park, just north of Keikiwaha Point, are the remains of a historical village site comprising approximately 16.7 acres and is owned by the State of Hawaii. The applicant is seeking to include the State property as part of the park management program through a lease agreement. A request for a lease agreement would be submitted to the Department of Land and Natural resources concurrently with a Conservation District Use Permit application for the proposed uses within the State Conservation.
68. Phase I of the Shoreline Park will occur between Keikiwaha Point and the parks northern boundary. The plan would include improvements on the Hokukano Village parcel under joint sponsorship with the State of Hawaii. Vehicle access to the park will be provided by a proposed mauka-makai road extending from the mauka Hokuli'a property boundary and the Mamalahoa Bypass Road. The access road will extend to the parking area near the inland boundary of the shoreline park, near Keikiwaha Point and the northern boundary of the Hokukano village. The parking area would provide twenty-five public parking stalls, with additional parking for Park employees. The parking lot would be paved and furnished with trash receptacles and appropriate signage indicating pedestrian access routes to the shoreline. A separate parking area will be provided for Hokuli'a residents to avoid private use of the public parking area. The Special Management Area

Use application includes the following: 1) construction of an access road and parking area providing a minimum of 25 spaces for public parking and separate parking for residents and employees; 2) improvements to existing trails and creation of new trails, trail connections, and extensions; 3) structural and park improvements, including restrooms, an information kiosk, pavilions, Civil Defense warning system, signage, park furniture (benches, tables, waste receptacles and fire pits) protection and stabilization of archaeological areas for picnicking and camping; 4) landscape removal, remediation, and planting; 5) cleaning and identification with appropriate signage of some historic sites in the area as part of the overall archaeological interpretive program; and 6) other related infrastructural improvements. The proposed shoreline park will be completed in five phases. Phase I will be completed incrementally within a five year period. The improvements will be completed and the area opened to the public within 30 days of the opening of the golf course.

69. Phase II of the Shoreline Park would occur in the area between Nenu Point and Pu'u Ohau. Any improvements in this Phase will require additional approvals from the Department of Land and Natural Resources. The improvements will be similar to those implemented in Phase I.
70. Phase III improvements would occur in the area between Pu'u Ohau and Nawawa Bay. Additional landscape maintenance activities will be as part of Phase I. The public access road to the shoreline access parking area at Keikiwaha Point will be paved. The pedestrian access trail will be extended from Keikiwaha Point south to Pu'u Ohau, where the trail will follow an alignment along the State Land Use Boundary that runs mauka of Pu'u Ohau. In the interest of safety and the protection of sensitive archaeological sites, trail access onto the makai side of Pu'u Ohau will be carefully restricted. The public access trail along the kuleana parcels around Nawawa Bay will be limited to an extension of a foot path to provide for privacy. A connector trail will be provided to link the mauka side of Pu'u Ohau with the "old government trail" and the historic park which is centered around the heiau on the hillside, about 700 feet mauka of the park. Phase III will also include additional restroom facilities in the area south of Nenu Point, as well as passive

recreational uses, such as small grassed areas for picnicking and seating. Additional signage, site stabilization and/or partial site restoration, will be implemented in accordance with the approved archaeological mitigation plan.

71. Phase IV improvements will occur in the area between Nawawa Bay and Kalukalu Bluffs. Access at or near to the shoreline in these steep areas will be setback from the cliff edge, and the trail through this area will be a continuation of the footpath from the north of Pu'u Ohau. There will also be a short scenic footpath down a grassy overlook and seating area within an area near Wool's Landing. Two or three small rest areas will be maintained for bench seating along the trail.

72. Phase V would occur between Kalukalu Bluffs and Keawekaheka Bay at the property's southern boundary. There are limited portions of this area within which trail access along the cliff's is neither safe nor suitable. Thus, the extension of the lateral footpath in this area will be setback from the cliff edge. Additional three or four small rest areas will be provided in this portion of the park with bench seating for trail users. Also, a small restroom facility with toilets, washbasins and drinking water will be located at the junction of the trail and the "Old Kalukalu Road."

<u>Timing of Improvements</u>	<u>General Location</u>	<u>Timing</u>
Phase 1 - Park improvements	Nenu to Kainaliu	5 years
Phase 2 - Park improvements	Nenu to Pu'u Ohau	3 years
Phase 3 - Park improvements	Pu'u Ohau to Nawawa	3 years
Phase 4 - Park improvements	Nawawa to Kalukalu	2 years
Phase 5 - Park improvements	Kalukalu to Keawekaheka	2 years

74. The managing and maintenance will be funded by property owners of the project by association dues. To provide for ongoing management of the coastal area and the shoreline marine resources, the Management Association would establish a Shoreline Resource Advisory Committee (SRAC). The purpose of this committee would be to review monitoring reports, to establish policies and guidelines for protection of marine resources, to review the effectiveness of these policies, to coordinate with DLNR's Aquatic Division rules and regulations. The committee would consist of

representatives of community resource groups, such as fishing, hiking, trails, ocean recreation, ocean resource management and Hawaiian organizations, as well as concerned individuals and park owner and park management representatives.

75. **Pedestrian Access/Trails:** A trail network to facilitate pedestrian access through the park to view points, picnic and camping areas, sites of historic and cultural interest, and the shore are planned as part of the shoreline park improvements. The trail improvements will consist of foot-paths, four to six feet wide, with a variety of surfaces, including concrete or grass pavers, paving stones, crushed rock or coral and a variety of grasses. All materials will be chosen to complement the passive nature and existing character of the area within the proposed shoreline park. Sections of the trail will meet appropriate Americans With Disabilities Act (ADA) specifications to allow barrier free access to portions of the park. The trail, pathways and trail connections are intended to meet the objectives of the park area regarding recreational access, enjoyment, safety, maintenance, viewshed protection, landscape, and management while preserving the unobtrusive and natural feel of the shoreline park.

AGENCIES' COMMENTS

76. **Office of Housing and Community Development (March 21, 2000 Memo):**
"The applicant should comply with any applicable housing conditions, pursuant to Ordinance 98-1."
77. **Department of Public Works: (See Exhibit A - April 10, 2000 Memos)**
78. **Police Department: (See Exhibit B - March 2, 2000 Memos)**
79. **Department of Health: (See Exhibit C - February 25, 2000 and February 28, 2000 Memos)**
80. **Fire Department: (See Exhibit D - March 9, 2000 Memos)**
81. **Department of Land and Natural Resources - Land Division: (See Exhibit E - March 16, 2000 and April 10, 2000 Letters)**
82. **Land Use Commission: (See Exhibit F - March 6, 2000 Letters)**

83. **Department of Land and Natural Resources -Historic Preservation Division:
(See Exhibit G - April 13, 2000 and April 20, 2000 Letters)**

84. **Department of Transportation: (See Exhibit H - April 25,2000 Letters)**