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PLANNING DEPARTMENT
County Of Hawaii
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Kailua-Kona, HI 96740
RECEIVED OCT 11 2001

October 6, 2001

Mr. Christopher Yuen
Planning Director
County of Hawaii
25 Aupuni Street
Hilo, Hawaii

VIA FAX AND MAIL

Re: Kealakekua Development Corp. REZ 95-70 (798) and 98-63
USE PERMIT 121 and SPECIAL PERMIT 898

Dear Mr. Yuen:

This is to follow up with our phone call concerning Kealakekua Development Corp.'s interest in amending the rezoning ordinance(s) for its 502-lot subdivision/golf course project to allow the corporation to create a 3 or 4 large lot subdivision on the lower end of the property for sale. In speaking with Mr. Arai at the Kona office, he mentioned that the county's one benefit from the rezoning ordinance(s) was the creation of the 8,000 acre lot to be used for reforestation. This was also a goal of the Office of State Planning's boundary review for the area.

I have not obtained the specific plans which Kealakekua Development Corp. has for the area outside of the golf course/subdivision area of the property. At this time, the corporation is interested in the possibility of "undoing" some of its entitlements and project conditions (like the Aman Resort project) and "restoring" some of the pre-existing zoning for the area.

Your attention to this matter is greatly appreciated. Thank you.

Yours truly,


Michael J. Matsukawa

ENC

c: D. Arai (Kona Office)

He on 1.7

October 6, 2001
Comments by: M. Matsukawa

1977 Tax Map Plat

8-2-12: 01
10,136 acres

Source of Title: Portion LC Aw 8559
 Portion LC Aw 8452: 9
 Grant 5206

Pre-existing Lot
Status of Original 3 separate parcels before "consolidated"
Awards/Grants for tax map purposes into single tax map parcel

1967 zoning Ag 20 a ?
1992 zoning Ag 20 a ?

Project Rezoning and Entitlements

Rezoning: A-8,000 a (forest preserve)
 A-1 a (along golf course)
 A-3 a (outside golf course)

Use Permit: Golf Course

Special Permit Recreation Center in State Ag District

Conditions: Various infrastructure requirements, assessments
 and project-related improvements (attached)

"Undoing Entitlements

Amending the existing zoning ordinance is done in context of existing
zoning code and land use law.

This project was done solely at the county level, having "by-passed" the state Land Use Commission by creating an "agricultural golf course/subdivision project."

The state Land Use Commission's interest was the OSP's desire to reclassify 8,000 acres into conservation to protect the forest area. The county was also interested in this proposal since the existing zoning was Ag 20-a all the way up to the slopes of Mauna Loa.

Nearly all of the conditions listed in the enclosed summary of project conditions (via the use permit, special permit or rezoning measures) would not be relevant if the property were rezoned to its earlier Ag 20-a status. However, the county and state would be concerned over the effect on the Ag 8000-a zoning for the forest area (this was the product of an agreement signed by the landowner and the state of Hawaii).

If the 8,000 acre forest preserve were left aside, then I believe all of the conditions would no longer be relevant if the project were "disbanded" and the land put back to its original state/uses prior to 1993.

Subjects of Negotiations/Discussions

- * Status of the 8,000 acre forest preserve and any agreements signed by the landowner and the State of Hawaii¹
- * Recognition of at least 3 parcels existing as separate parcels before tax map and subdivision ordinances came into existence
- * Ability of landowner to obtain 3 "free" large size lots with the pre-existing lot ruling
- * Ability of landowner to subdivide out additional large lot parcels for sale under the existing subdivision code without further assessments for infrastructure (road improvements, utilities, etc.)

¹ It is my understanding that the OSP filed a petition to reclassify the forest area into conservation and that in lieu thereof, the parties reached an agreement that the landowner would, as part of its rezoning and project, put 8,000 acres into an Ag 8000-a zoning district with the conditions noted in the ordinance relating to restriction on uses in that district.

COMPARATIVE TABLE FOR CONDITIONS OF APPROVAL
UNDER REZONING ORD. 95-70 (amended 98-63) AND USE PERMIT 121 (1994)

	<u>Rezoning Ord.</u>	<u>Use Permit</u>
Securing a Water Source	B: Provide assurance to DWS and Pl. Dep't upon consultation with DLNR and DOH that a water source of sufficient quality and quality has been established within 5 years	3: Provide assurance to Pl. D'or upon consultation with DLNR-COWRM that a water source of sufficient quality and quantity to support the total <i>irrigation needs of the golf course</i> has been established prior to certificate of occupancy or opening of golf course
	* COWRM has issued a well construction permit for Well 1, No. 2952-01.	
Submission of Subdivision Plans	C: Increment I -- 300 lots zoned A-1a and A-3a. Increment II - 202 lots; but subject to condition that Mamalahoa By Pass Road has been built from Keauhou to Napoopoo Road intersection D: After Increment II, Pl. D'or to initiate further rezoning of the golf course area to an appropriate zoning district to ensure that land on which the golf course is built is not subdivided. E: 200 feet reserve easement to be placed along west (makai) boundary and TMK 8-2-01: 42, 43, 44, 45, 46, 47, 98, 99, 100, 101 (150 ft. setback, plus 50 feet	

landscape buffer)

E: Koa Road "corridor alignment" to be located south of shopping center

Waste Water

F: System shall be approved by DOH and/or DPW

Pesticide and Herbicide Use

12: Use shall comply with all applicable government regulations

Monitoring Plan for Groundwater Pollution

13: Overall monitoring plan on potential pollution of groundwater shall meet approval of PI. D'or upon consultation with DOH

Drainage

G: Study of entire project area shall be approved by DPW

Drainage improvements and flood mitigation measures required by Chief Engineer shall be constructed and/or installed in a manner approved by DPW.

6: Study shall be approved by DPW and shall consider the drainage system, retention basin and "reduced turf" design to be incorporated in golf course.

Drainage system to be installed in a manner approved by DPW.

Historical Review, Endangered Species

H: Archaeological mitigation plan shall be approved by the PI. D'or upon consultation with DLNR-SHPD and Hawaiian community organizations.

Two subplans: (1) data recovery plan for data recovery sites;

10: -- same --

(2) detailed interim protection preservation plan for preservation sites

-- same --

Third subplan: (3) interpretation plan, including buffer zones, signage and long-range mitigation

Approved mitigation measures shall be implemented prior to or in conjunction with land alteration.

Plan shall include detailed map of known lava tube/cave systems in project area and mitigation measures to ensure that golf course and related drainage systems do not impact these tube/cave systems

I: Encounters with *unidentified* artifacts, deposits, burials, etc. will result in cessation of all work and notice to PI. D'or

11: Encounters with *unanticipated* archaeological sites or features will result in cessation of all work and notice to PI. D'or

Work may continue when PI. D'or approves mitigation measures

Work may continue when PI. D'or gives "clearance"

Solid Waste

J: Solid waste management plan shall be approved by DPW, including management of construction solid waste and operating and domestic solid waste

Roads

K: Road improvements and access shall be approved by DOT and/or DPW.

In addition, subject to determination of PI. D'or upon consultation with Chief Engineer, road improvements shall include:

8: Koa Road shall be built to *county dedicable standards* approved by DPW. Koa Road shall allow for perpetual public use by easement or shall be dedicated to the county.

No golf cart path shall cross over Koa Road, except as approved by PI. D'or and Chief

Engineer

No direct access from *residential*
lots adjoining this alignment shall
be allowed

(1) Intersection improvements at
Koa Road/Mamalahoa Hiway
intersection, including signalization
and channelization approved by
DOT and DPW

9: -- same --

(2) Improvements for shoulder,
widening and restriping for a two-way
left turn lane along Mamalahoa Hiway
from Kamigaki Market to Keekee
Street

(3) Improvements for shoulder, widen-
ing, restriping and drainage for a south
bound, left-turn pocket at Haukapila
Street, two-way left turn lane between
Halekii Street and Haukapila Street and
signalization at Mamalahoa Hiway and
Haukapila Street intersection

(4) Widening of shoulder areas for
maximum of five southbound and five
northbound bus pullouts along
Mamalahoa Hiway between Koa Road
and Kuakini Hiway

L: Roads shall stub out to north and
south boundaries below 3,500 foot
elevation as approved by Pl. Dep't
and DPW

M: Participate in Mamalahoa By-
Pass Road construction program
and in funding and construction of
any regional roadway improvements
required by DOT

Credits given against fair share contribution for regional impacts

Recreation

N: Provide camping sites and related equestrian and nature-interpretive trail systems and a recreational and maintenance plan which is approved by PI. D'or upon consultation with Parks and Recreation D'or (camp sites may be limited to members and guests of non-profit organizations serving resident youth).

Improve Greenwell Park as approved by PI. D'or upon consultation with Parks and Recreation D'or

**Bond In Lieu
of Actual
Construction
of Items in
Conditions
F, G, J, K,
L, M and N**

O: Applicant may bond over improvements required in designated conditions *as approved by PI. D'or appropriate agencies or County Council "whichever is applicable"*

Final subdivision approval may be issued upon execution of agreement or delivery of security

**Fair Share
Contribution**

P: Applicant to pay contribution for its share of regional impacts from project on Parks, Fire, Police Solid Waste Disposal Facilities and Roads (based on formula) but with maximum combined value of \$3,619,580, adjusted annually three years after effective date of ordinance (as term is defined) based on consumer price index for Honolulu.

In lieu of contribution, applicant may construct facilities with approval of appropriate agencies.

All Laws and Rules	Q: Follow all applicable laws and rules
Ohana Dwelling Restriction	R: All deeds for all proposed lots shall contain covenant prohibiting construction of ohana dwelling unit or a second dwelling
Farm Dwelling Restriction	R: Construction of <i>farm dwellings</i> on each lot is allowed with approval from PI, D'or
Agricultural Activity Requirement	R: Covenants shall require that all lots will require <i>agricultural activity</i>
Forest Plan	S, T: 8,100 acre site zoned A-8000a shall be managed pursuant to forest management plan approved by PI, D'or upon consultation with DLNR, DOH, DOA, US DNRCS. Plan to contain state minimum terms and shall be for a period of at least 40 years
Street Lights	U: As required by DPW

**Pest Management
Weed Control
Plan**

V: Pest management and noxious weed control plan approved by PI. D'or upon consultation with DLNR

12: Use of pesticides and herbicides shall conform to applicable laws and rules

**Unified Impact
Fee Ordinance**

W: If enacted, all contributions are to be credited to impact fee assessments

**Golf Course
Construction**

13: Groundwater monitoring plan (above)

14: Fugitive dust, sedimentation control based on construction industry standards and practices used during construction of *State of Hawaii construction projects*

15: [Importation] of off-site construction material such as top soil or sand must be demonstrated to satisfaction of PI. D'or to be supplied from approved quarry or resource site

**Additional
Contributions**

16: Public play program for golf course approved by PI. D'or

17: Employee housing program approved by PI. D'or and county Housing Agency

18: Job training program approved by PI. D'or

