Planning Commission

Bernard K. Akana
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

March 13, 1990

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Use Permit Application
Royal Vista Estates and Country Club
TMK: 7-1-05:9, 10, 26, 28-34, 39-41, 58, and 59

The Planning Commission at its duly held public hearing on March 1, 1990, voted to approve the above application, Use Permit No. 74, to allow the establishment of a 27-hole golf course and related improvements within the County's Unplanned (U) zoned district on the northwest (makai) side of the Mamalahoa Highway and across from the Puu Lani Ranch Subdivision, Puuanahulu Homesteads, North Kona, Hawaii.

Approval of this request is based on the following:

The establishment of a 27-hole golf course and related facilities within the Unplanned (U) zoned district will not be inconsistent with the general purpose of that zoned district, the intent and purpose of the Zoning Code, and the General Plan, provided adequate mitigating conditions are met.

The granting of this proposal would complement the goals of the General Plan's Recreation element which states to, "Provide a diversity of environments for active and passive pursuits" and to "Provide a wide variety of recreational opportunities . . . ." Since the proposal will be a private recreational facility and open to only members and their guests, a condition of approval to require the provision of a pro rata contribution towards public recreational facilities and/or improvements within the impacted region is being proposed to assure that the public recreational benefit is also balanced against the implementation of these recreational goals.

MAR 13 1990

The subject request will also provide a form of perpetual open space, thus, maintaining the current open character of the surrounding area along with its natural and scenic qualities. The proposed development would, therefore, be consistent with the policies of the Recreation and Open space elements of the General Plan which state that recreational facilities in the County shall reflect the natural, historic, and cultural character of the area, and that the recreational use should be compatible with the adjacent areas. To further ensure that these General Plan elements are implemented, mitigating conditions relative to visual impact analysis, archaeological/historic investigation, and biological habitat preservation will also be imposed.

Golf courses are permitted uses within the State Land Use Agricultural District provided that the affected lands are not classified either A and B soils by the Land Study Bureau. The Land Study Bureau's overall master productivity ratings for agricultural use of the subject property are Classes D (poor) and E (very poor); therefore, consideration of a golf course within these State land use parameters is permissible.

The County Unplanned (U) zoned district applies to areas not subjected to sufficient studies to adopt specific district classifications. Among the permitted uses in this zoned district are single family dwellings, agricultural uses and activities, home occupations, hunting and fishing preserves or lodges, aquaculture activities, and accessory uses or structures. Since golf courses are not permitted uses in the Unplanned County zoned district, a Use Permit must be approved by the Planning Commission before the use can be established. Golf courses are permitted uses within the County Agricultural, Residential, and Open zoned districts.

The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties.

The character of land use in the immediate area is pasture, open space, and clustered single family residential homesteads. With the exception of cattle grazing, the area under consideration and immediately surrounding lands are basically in open space and not in intensive agricultural pursuits. It is, therefore, determined that impacts to the agricultural resources

of the area are negligible. This finding is consistent with the Land Study Bureau's classification for the soils in the area.

The project area is generally isolated from privately held parcels of land; in fact, aside from the adjacent individually owned parcels and other surrounding properties held under the ownership and/or control of the Puuwaawaa Ranch, the remaining lands are predominantly large vacant parcels owned by the State of Hawaii.

The proposed golf courses and associated large lot rural/residential development will continue to change the character of the Puuanahulu area. This pattern of transformation, however, is already evident in the land use patterns adjacent to and abutting the subject property. Older, nonconforming parcels contain existing single family residences, while surrounding areas are already zoned for smaller, one-acre sized lots for residential use.

Given the economic inertia that golf courses and their related amenities generate, impacts to surrounding communities are usually substantial. However, given the support that this particular proposal has generated from the immediately impacted community, it is difficult to conclude that adverse impacts to the surrounding properties would be substantial.

In furtherance of that support, the petitioner has represented that commitments with respect to mitigation of property tax increases, long-term water availability, treatment of on-site burial sites, and community input on final design plans have been made to affected residents in the area. It is expected that these commitments will be honored even if it not provided for as conditions of approval in this Use Permit.

The potential long-term expansion of similar type uses to areas adjacent to Puuanahulu would be removed because of the present land tenure patterns and lack of essential utilities such as available water sources and transmission systems.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region. As indicated previously, there are no similar or related land uses within the immediate surrounding area. These areas have already been committed to large lot rural residential type development which would essentially be compatible with the proposed golf course use.

Waikoloa, a major, self-contained master planned community situated approximately 15 miles to the north, is the closest project which provides similar recreational-type facilities and ancillary uses.

The granting of the proposed golf course will not unreasonably burden public agencies to provide the necessary utilities and services.

All essential utilities and services required for the development of a golf course and related facilities, including water from the private Puuwaawaa Water Works, are or will be made available to the subject property. Although public services such as police, fire, and medical assistance are only available from either Kailua or Waimea, those services should not be unreasonably burdened by the proposal itself. Additionally, conditions of approval relative to the provision of such services, if necessary, off-site roadway improvements, and Plan Approval requirements to accommodate the need for building safety and accessibility standards are being proposed.

A series of government "paper" roads are located within the project area. In the event the applicant is unsuccessful in having these roadways abandoned or acquired, the golf course and access roadways will be designed around them.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval, provided that this Use Permit and all rights conveyed therefrom shall not be wholly transferable or assignable without prior notification to the Planning Commission.

2. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Department within one year from the effective date of the permit. Prior to the submittal of said plans, the applicant shall solicit the input of the immediately impacted residents. To assure adequate time for Plan Approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which Plan Approval must be secured. The Planning Department shall

determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of Plan Approval review.

3. Construction of the golf course and related improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within three (3) years thereafter.

4. To ensure that the goals and policies of the recreational element of the General Plan are implemented as proposed, the Department of Parks and Recreation, upon consultation with the County Council, and with the concurrence of the Planning Department, may require the provision of public recreational facilities and/or improvements within the project area or the affected districts as appropriate. The preliminary recreational needs determination, if any, shall be established prior to the granting of Final Plan Approval for the proposed golf course and related improvements, and shall be based upon the estimated cost of a similar public facility and/or improvements, less any credits for direct or indirect recreational benefits to impacted community members, compared to an overall regional assessment of existing and proposed public recreational facilities. The applicant shall provide its required pro rata share in a method not inconsistent with the requirements and criteria found in Chapter 8, Article 1 (Park Dedication Code) of the County Code prior to the opening of the proposed golf course or any related facility thereto, whichever occurs first.

5. In the design of the golf course, the County of Hawaii Planning Department's Guidelines for Golf Course Design (November 1989, as amended) shall be utilized. The Planning Department shall determine appropriate setback requirements, e.g. building and property line, at the time of Plan Approval review. Easements for golf course purposes over and across abutting lots, either existing or proposed, shall not be permissible. Existing public rights-of-way shall not be extinguished in favor of golf course purposes unless other equitable public rights of access are provided for.

6. All structures shall be sited to minimize any potential visual impact to the highway and surrounding areas.

7. No individual fee interest, ownership, or title to any portion of the golf course shall be permitted without prior compliance with the Subdivision Code. Covenants or other assurances to prospective purchasers of membership(s) in the golf course, its facilities, or related developments shall include notification that a public landfill facility and rifle range are planned for the adjacent area.

8. An intensive archaeological and cultural interpretative survey shall be conducted and a report be submitted to the State Department of Land and Natural Resources, Historic Sites Program, and the Planning Department for review prior to receipt of Final Plan Approval and/or prior to the issuance of any grading or grubbing permit, whichever occurs first. Should any significant sites be found, a data recovery plan outlining appropriate mitigation measures shall be submitted to both agencies for review and approval.

9. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall immediately cease and the State Department of Land and Natural Resources, Historic Sites Program, notified. No work within the affected area shall resume until clearance is obtained from the Planning Department based upon recommendations from the Historic Sites Program.

10. A complete biological survey shall be conducted and a recommended mitigation plan, if necessary, shall be submitted for review and approval by the U.S. Fish and Wildlife Service and the State Department of Land and Natural Resources prior to issuance of any land development permit for the property.

11. The use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of appropriate governmental agencies.

12. During construction, best effort measures shall be taken to minimize the potential of both fugitive dust and runoff

sedimentation. Such best effort measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.

13. Prior to construction, the applicant shall demonstrate to the satisfaction of the Planning Director that all proposed off-site construction material such as topsoil or sand are being supplied from an approved quarry or resource site.

14. Access(es) to the proposed development from Mamalahoa Highway, including channelized intersection improvements with left turn storage lanes and acceleration and decelerations lanes, shall meet with the approval of the State Department of Transportation, Highways Division.

15. All interior roadways shall be constructed to County dedicable standards. Public access to the makai State lands shall be provided for hunting and other recreational uses meeting with the approval of the Department of Land and Natural Resources, Wildlife Division.

16. The applicant shall provide adequate water service and back-up facilities or assurances to meet the demands for fire protection and all domestic related facilities prior to the issuance of any occupancy permit.

17. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

18. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension

would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

Mike Luce

Mike Luce
Vice Chairman, Planning Commission

xc: Mr. Scott Turney
Alan Maeda, Esq. (via facsimile 544-8399)
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
DLNR

bcc: Plan Approval Section