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County of Hawaii

PLANNING COMMISSION
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JUL 7 2002

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

Dear Mr. Fuke:

Use Permit No. 74 (USE 74)
Re: Condition No. 4 (Complete Construction)
Applicant: Big Island Country Club Estates
Tax Map Keys: 7-1-5:9, 10, 22, 26, 28-34, 39-41, 58 & 59

The Planning Commission at its duly held public hearing on July 3, 2002, voted to approve the above-referenced request to amend Condition No. 4 (complete construction of the community park, recreational center and fire station facilities) of Use Permit No. 74, which allowed the establishment of a 27-hole golf course and related improvements. The property is located on the northwest (makai) side of Māmalahoa Highway opposite the Pu'u Lani Ranch Subdivision at Pu'uanahulu Homesteads, North Kona, Hawaii.

The approval recommendation is based on the following findings:

Use Permit No. 74 was approved by the Planning Commission on March 13, 1990 and amended on April 1, 1999, March 3, 2000, July 7, 2000, and May 4, 2001, subject in part, to the following Condition No. 4(b) and 4(d): "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 recreational needs determination, shall be as follows:

(b) As represented by and committed to by the applicant, the construction of the community park and community recreation center shall commence no later than December 1, 2000 and be completed no later than November 30, 2001, and the construction of the volunteer fire station shall commence no later than September 1, 2001 and be completed no later than February 1, 2002. A maximum six (6) month time extension for completion of the required improvements may be granted by the Planning Director provided that an agreement is entered into between

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the Planning Director and the applicant, its assigns or successors, accompanied by a surety bond (other than personal surety), certified check or other security acceptable to the Director, in the sum equal to the cost of all the work required to complete the required improvements with the extended period.

(d) The golf course or any related facilities thereto may continue to remain open. Should any of the above conditions and improvements not be completed by November 30, 2001 for the community park and community recreational center, and not be completed by February 1, 2001 for the volunteer fire station, the Planning Director shall close the golf course until said conditions and improvements have been completed."

Approval of this request would not be contrary to the General Plan or the Zoning Code. The proposed use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a 27-hole golf course and related improvements are permitted within the State Land Use Agricultural District; and within the County's Agricultural-1 acre zoned district, they may be permitted through the Use Permit review process. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the General Plan goals and policies. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

The amendment to Condition No. 4(b) and 4(d) would not be contrary to the original reasons for granting the Use Permit.

The inability of the applicant to comply with the requirements of Condition No. 4(b) and 4(d) of Use Permit No. 74 are the result of conditions which could not have been foreseen or are beyond the control of the applicant. On January 10, 2002, Intrawest Corporation completed its acquisition of Big Island Country Club. When the most recent time extension was granted, the new owner, Intrawest, did not own Big Island Country Club and was therefore not in a position to assure the timely completion of the park. Upon assuming control in January, there was less than 4 months to complete the community center.

Approval of this amendment request would not be contrary to the original reasons for granting the use permit. The applicant has continually worked to secure the necessary approvals from the various departments for the required improvements within and beyond the boundaries of the project site.

Therefore, an approval recommendation of the amendment request to Condition No. 4 (b) and 4(d) will be consistent with the original reasons for granting the Use Permit.

Based on the above considerations, it is recommended that the request for an amendment to the recreational impact requirement be granted subject to the following revised changes (Material to be deleted is bracketed and material to be added is underscored):

1. 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 recreational needs determination shall be as follows:

   (a) Subdivide and convey in fee, approximately 10 + acres of land within the project site, to the Pu'uanahulu Community Association or its designee for development as a community park, within four (4) months from the effective date of this amendment. The applicant shall be responsible for payment of the park's real property taxes and liability insurance for a two-year period from the effective date of this amendment.

   (b) As represented by and committed to by the applicant, the construction of the community park and community recreational center shall commence no later than December 1, 2000 and be completed no later than [November 30, 2001] <u>November 30, 2002</u>, and the construction of the volunteer fire station shall commence no later than September 1, 2001 and be completed no later than [February 1, 2002]<u>January 31, 2003</u>. A maximum six (6) month time extension for completion of the required improvements may be granted by the Planning Director provided that an agreement is entered into between the Planning Director and the applicant, its assigns or successors, accompanied by a surety bond (other than personal surety), certified check or other security acceptable to the Director, in the sum equal to the cost of all the work required to complete the required improvements within the extended period.

   (c) The balance (i.e., the difference between the cost of the community park and $3 million) would be paid to the County within a year after completion of the park. In determining the balance, the developer shall submit documents (such as building permit valuation, estimates from contractor's, estimates from architects and/or engineers of record, and the like) to help determine the cost of this project.

   (d) The golf course or any related facilities thereto may continue to remain open.

Should any of the above conditions and improvements not be completed by [November 30, 2001]November 30, 2002 for the community park and community recreational center, and not be completed by [February 1, 2002]January 31, 2003 for the volunteer fire station, the Planning Director shall close the golf course until said conditions and improvements have been completed.

Should you have any questions, please contact Alice Kawaha of the Planning Department at 961-8288 or Daryn Arai of the Kona Office at 327-3510.

Sincerely,

Geraldine M. Giffin, Chairman
Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division - Kona
Planning Department-Kona
Brian Minaai, Director/DOT-Highways, Honolulu