County of Hawai'i

LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

APR - 4 2016

John Baldwin
Bridge 'Āina Le'a, LLC
c/o Bridge Capital LLC
PMB 29 Box 10001
Saipan, MP 96950

Robert Wessels
'Āina Le'a, Inc. et al
201 Waikoloa Beach Drive #2F17
Waikoloa, HI 96738

Dear Sirs:

SUBJECT: Planning Director Initiated
Revocation of Use Permit No. 90 (USE 90)
Applicants: Bridge 'Āina Le'a, LLC and 'Āina Le'a, Inc.
Tax Map Key: 6-8-001:025, 036-040 and 069

The Leeward Planning Commission, at its duly held public hearing on March 17, 2016, voted to revoke Use Permit No. 90 for the subject properties. Revocation of the permit is based on the reasons given in the attached findings report. At the hearing, Mauna Lani Resort Association withdrew its petition for standing in a contested case hearing and took no position with respect to the revocation.

Should you have any questions please contact Daryn Arai at (808) 961-8142 or Maija Jackson at (808) 961-8159.

Sincerely,

Brandi K. Beaudet, Chairman
Leeward Planning Commission

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Enclosures: PC Findings Report

cc w/enclosures: William Brilhante Esq., Corporation Counsel
State Land Use Commission
State Office of Planning
Alan Okamoto Esq., Nakamoto, Okamoto, Yamamoto
Vincent Bidez, Bridge Āina Lea LLC (via email)
Sidney Fuke, Planning Consultant
James Leonard, JM Leonard Planning LLC
Roy A. Vitousek, III. Esq., Cades Schutte LLP
Department of Public Works
Department of Water Supply
Real Property Tax Office
Gilbert Bailado, GIS Section
Kona Planning Office
REZ 734, LUC 682, SUB 11-001070

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

INITIATOR: PLANNING DIRECTOR
REVOCATION OF USE PERMIT NO. 90

The application for revocation of Use Permit No. 90 came on for hearing before the Leeward Planning Commission ("Planning Commission"), County of Hawai'i, on March 17, 2016. Present at the hearing was the Planning Director, Department of Planning, County of Hawai'i, and Randy A. Vitousek III, appearing on behalf of Mauna Lani Resort Association, who filed a petition for standing to intervene in this matter. Neither the landowners nor their representatives were present.

For the following reasons, **the Planning Commission adopts the Planning Director's findings and recommendation** as stated in the Planning Director's background and recommendation report, **and hereby revokes Use Permit No. 90**.

Use Permit No. 90 was originally issued to Puakō Hawai'i Properties by the Planning Commission on December 19, 1991 to allow the construction of six, 18-hole championship golf courses, a golf teaching academy and related improvements on 3,000 acres. The property is located on the mauka side of the Queen Ka'ahumanu Highway between the Mauna Lani Resort and Waikoloa Village, Waikoloa, South Kohala, Hawai'i, TMK: 6-8-001:025, 036-040, and 069.

The Planning Director requested the revocation of Use Permit No. 90 ("USE 90") for two reasons: 1) conditions of the permit were not met because the golf courses have not been constructed; and 2) golf courses are no longer a permitted use in the State Land Use Agricultural District ("Agricultural District"). Specifically, Condition 3 of the permit required construction of three of the six golf courses be completed by September 30, 2011. To date, construction of the golf courses has not begun. Further, in 2005 the State Land Use law was changed to prohibit golf courses on lands in the Agricultural District. Approximately 1,940 acres of the subject properties is situated in the Agricultural District.

Condition 21 of USE 90 states in part, "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." Further, Section 25-2-67 of the Hawai'i County Zoning Code and Rule 7-11 of the Planning Commission's Rules of Practice and Procedure provide the Planning Commission the authority to revoke any use permit, upon request of the Director, if any one of the following criteria is met:

(1) There have been continual violations of the use permit; or
(2) The use authorized under the use permit is creating a threat to the health or safety of the community; or
(3) The use authorized under the use permit has been abandoned for a continuous period of two years.

Accordingly, the Commission revokes USE 90 based upon the third criterion stated above. It is clear the golf courses that were permitted twenty-five (25) years ago in 1991, have not been established within the prescribed time period. Further, Bridge 'Āina Le'a, LLC has indicated in writing that they have no plans to develop their 1,940 acres in the near future. Although 'Āina Le'a, Inc. has communicated to the Planning Department that they intend to construct one golf course on their 1,060 acres, it is unclear if and when this will occur.

Additionally, the State land use law changed in 2005 to prohibit golf courses in the Agricultural District. Although the change in State law included a 'grandfather' clause that permits golf courses and golf driving ranges within the Agricultural District if approved by a county before July 1, 2005, USE 90 was approved subject to 21 conditions that have not been satisfied.

Neither 'Āina Le'a, Inc. nor Bridge 'Āina Le'a, LLC objected to the revocation of Use Permit No. 90.

Subsequent to the Planning Director's filing of the background and recommendation report, by letter dated March 11, 2016, 'Āina Le'a, Inc. confirmed that they will submit an application for a new Use Permit at the appropriate time in the future in order to establish a golf course on the lands in the Urban district, and took no position with respect to the revocation concerning the lands in the Agricultural district owned Bridge 'Āina Le'a, LLC.

Bridge 'Āina Le'a, LLC was notified by the Planning Department, and confirmed receipt via email, of the revocation action, Director's recommendation, and hearing agenda but did not respond to that information.

Mauna Lani Resort Association withdrew its Petition for Standing in a Contested Case Hearing, and took no position with respect to the revocation.