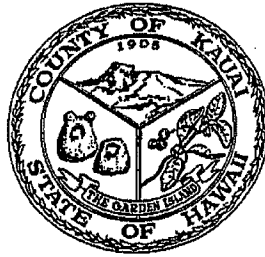


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September 15, 2006

Kiahuna Poipu Golf Resort LLC
c/o Greg Kamm
P.O. Box 1200
Köloa, Kauai, Hawaii 96756

SCANNED

SUBJECT: Project Development Use Permit P.D. U-2006-25
Use Permit U-2006-26
Class IV Zoning Permit Z-IV-2006-27

At its meeting held on August 22, 2006, the Planning Commission approved the subject permits. Approval is subject to the following conditions, as recommended by the Planning Department and as amended by the Planning Commission:

1. The Applicant is advised that the property is subject to the conditions of LUC Decision and Order A76-418 (D&O) and County of Kauai Ordinances No. PM-31-79, PM-148-87 and PM-334-97 ("the Ordinances"), which shall run with the land. All conditions of the Ordinances are enforceable against any party seeking to use the entitlement. The following conditions are deemed complete, ongoing or to be resolved with LUC, or not applicable to the subject property: LUC Docket A76-418 #1-6, 17, 19-22; PM-31-79, PM -148-87 and PM-334-97 #1, 3, 4, 9, 15, 17, 19(c), 25.
2. Prior to building permit approval:
 - (a) The Applicant shall provide clearance from SHPD that data recovery is complete for any non-significant sites on the parcel prior to any grading or grubbing on the site.
 - (b) Prior to building permit approval, the Applicant shall provide to the Planning Department evidence that the subject parcel is clear of habitats for the Kauai cave amphipod or cave spiders worthy of preservation.

AN EQUAL OPPORTUNITY EMPLOYER

EXHIBIT	
25	
DEPONENT NAME:	DATE:
CUA, D.	08/30/22

3. Prior to building permit approval, the applicant shall provide documentation substantiating compliance with LUC Condition #8 and County Ordinance Condition #7, relating to employment of Kauai residents in construction and permanent hotel related jobs. "Hotel related jobs" shall mean any sales, operations, management or maintenance job associated with the operation or transient vacation rentals conducted on the property.
4. Prior to building permit approval:
 - (a) as recommended by the Count Housing Agency, "Prior to building permit application, the Applicant shall resolve with the County Housing Agency and the Planning Department the satisfaction of the employee housing requirement in Condition No. 2 of Ordinance No. PM-31-79 for employee housing in the Kōloa-Po'ipū area," and
 - (b) the Applicant shall provide a preferential rate schedule or purchase price for employees.
5. The Applicant is advised that lands rezoned by the Ordinance Nos. PM-31-79, PM-148-87 and PM-334-97 are responsible for continued provision of a public pedestrian access between Po'ipū Road and the Ho'onani cul-de-sac as a condition of their zoning. Signage shall be maintained and replaced as needed. The sidewalk and crosswalk from Po'ipū Road to the shopping center sidewalk shall be provided prior to building permit approval for the project.
6. The Applicant is advised that should the maintenance agreement for the comfort station at the Ho'onani Road cul-de-sac be terminated, the Applicant and other rezoned parcels within the Moana project shall be required to fund the comfort station maintenance and liabilities, pursuant to Condition #8 of the Ordinances.
7. Prior to certificate of occupancy, KMP project sidewalks along Kiahuna Plantation Drive shall be developed to connect to and integrate with the Hapa Road path, at SHPD and Planning Department approved locations.
8. The Applicant shall resolve any improvements required for the extension of Kiahuna Plantation Drive for access to the subject project and to the KMP5 project subdivision with the Department of Public Works. Internal driveways shall be a minimum of 20' wide for two-way traffic, and landscaping maintained to provide adequate clearance for fire vehicle access. Parking areas shall meet County standards. No parking for the project shall be allowed along Kiahuna Plantation Drive, except for public parking stalls as represented for Hapa Trail users. An emergency vehicular connection shall be made from the Kiahuna Plantation Drive extension to Hapa Road or a future roadway which connects to Hapa Road as resolved with the Planning Department and the Department of Public Works.

9. The Applicant shall resolve fire protection, drainage, grading, water, and wastewater treatment requirements directly with the applicable agencies. Wastewater handling shall be provided through connection to and expansion of the private wastewater treatment plant on TMK 2-8-14: 27, as required by the Health Department. Easements shall be created in the subdivision for any sewer, irrigation or utility lines associated with this or other KMP projects, and granted to appropriate parties. Additional easements shall be dedicated if required by the Fire Department, Departments of Public Works or Water.
10. In order to address traffic circulation issues relating to the Kōloa-Po'ipū area:
 - (a) Prior to building permit application, the Kōloa-Po'ipū Area Circulation Plan shall be completed, and the Applicant shall enter into a non-occupancy agreement with the Planning Department which shall expire when the improvements are accepted or approved as complete by the County Department of Public Works. Prior to the County's issuance of certificate of occupancy, construction of the required improvements, and dedication to the County if applicable, shall be completed.

For KMP related improvements, circulation improvements as recommended by the final Kōloa-Po'ipū Area Circulation Plan shall be resolved with the Department of Public Works (DPW) Engineering Division, the Planning Department, and the County Transportation Agency, and constructed, or construction plans and a performance bond be posted for such construction, prior to any building permit application (except for temporary sales offices) on any adjoining Kiahuna Mauka Partners project phase parcel. If a bond is posted, improvements shall be completed prior to certificate of occupancy of such buildings. Such circulation improvements to be resolved shall include but not be limited to:

- (1) A sidewalk within the Po'ipū Road mauka right-of-way from Kiahuna Plantation Drive west to the Po'ipū Road-Kapili Road intersection;
- (2) A sidewalk within the Kiahuna Plantation Drive right-of-way from Po'ipū Road mauka to the western edge of the KMP4 project;
- (3) Improvements to the intersection of Po'ipū Road and Kiahuna Plantation Drive; and
- (4) Crosswalks on Po'ipū Road, and Kiahuna Plantation Drive at locations appropriate to the intersection improvements approved to be constructed; and
- (5) location and detail of any other sidewalks, bus turnout, road and access improvements, landscaping, and bikeways adjacent to KMP properties.

- (b) Prior to building permit application, the Applicant shall execute with the County of Kauai (Planning Department, Department of Public Works, and OCA Transportation Agency, the Mayor, County Attorneys and the County Council) and record with the Bureau of Conveyances on the deed for the subject property, an agreement as herein described:
- (1) As represented, the Applicant or its successors in interest to the property shall contribute its reasonable and fair share of funding, in conjunction with other developers and government agencies, of any Kōloa-Po'ipū-Kukui'ula transportation or circulation measures and/or improvements which may include but shall not be limited to construction plans and environmental studies for and construction of Capital Improvements such as roads, intersection improvements, traffic signals, sidewalks, bike paths, off-street parking areas or structures, and traffic calming devices, and may include Traffic Demand Management measures such as increased bus service, shuttles, car-pooling, ride-sharing, flex-time work hours, bus/shuttle use incentives, car-pooling incentives and other measures, as approved, adopted or designated by the County of Kaua'i within seven years of approval of the subject zoning permit. As represented, prior to building permit approval the Applicant shall participate in and seek approval of a Community Facilities District (CFD) for implementation and cost-sharing of the foregoing improvements.
 - (2) The share attributable to each development shall be determined at the time of adoption of any implementing funding ordinance adopted, including but not limited to a Community Facilities District (CFD), Impact Fee, and Improvement District. Such commitment and responsibility to contribute shall run with the land.
11. In conjunction with the KMP projects and in compliance with an Ordinance condition, a landscaped buffer is proposed within the Po'ipū Road right-of-way from Waikomo Stream to Kiahuna Plantation Drive. Prior to building permit approval, landscaping construction plans for the proposed Po'ipū Road landscape buffer shall be submitted to the Planning Department and the Department of Public Works for review and approval. Landscaped buffers within the rights of way shall be installed prior to completion and acceptance of any road improvements. Offsite landscaping improvements shall be installed either prior to building permit approval of buildings within adjacent Kiahuna Mauka Partners projects (excepting temporary sales office) or a performance bond posted for the construction. If a bond is posted, offsite landscaping improvements shall be completed prior to issuance of certificate of occupancy for those buildings.
12. Prior to certificate of occupancy for project buildings, civil defense measures shall be installed within the KMP4 project area as represented in the KMP Implementation Plan addendum, and as resolved with State Civil Defense. Such improvements shall be adjacent to but not within the Hapa Road right-of-way.

13. The project shall be served by private solid waste collection. A construction waste diversion plan shall be developed for the project for diversion of at least 80% of the waste generated by the project from the Kekaha landfill. Approval of the plan shall be obtained from the Department of Public Works prior to building permit approval, and the remainder of the waste may be accepted at the Kekaha Landfill.

14. The following uses are deemed permitted in the project:

- (a) in the Residential (R-10) district, a maximum of 280 multi-family residential dwelling units; a front desk, rental and administrative management offices; a maintenance building and restrooms; and a Hapa Road shelter as represented in the Open District;
- (b) designed for guest use, the following: a pool bar/snack bar of a maximum of 1,600 s.f.; business center; fitness center, game room, retreat center, outdoor recreational facilities as represented including a tennis court, sand volleyball courts, nine-hole executive putting course and putting shack, two swimming pools, keiki playground and activity center; and
- (c) two single-family dwellings may be constructed in the Open District, subject to design review by the Planning Department.

Any other uses not specifically listed above shall require Planning Department review and approval.

15. The project shall comply with County and State codes, laws, ordinances, rules and regulations, except for the uses allowed in Condition #14 above and the following:

- (a) minimum distance between residential buildings may vary from the applicable standard only for the third floor covered lanais as represented; and
- (b) provided that the total lot coverage allowed for the combined zoning districts, including impervious surfaces within the road easement, is not exceeded and uses are generally allowed in the Open District, lot coverage may be transferred from the Residential District into the Open District through the Project Development Use Permit.
- (c) The clubhouse shall meet the building height and setback requirements of CZO Section 8-3.11(a) for single-family dwellings.

16. The project shall provide parking for residential uses in accordance with CZO Section 8-3.7(a). The Applicant shall also provide a minimum of one parking stall adequate for maintenance vehicles at each building. Parking shall be provided for the pool bar/snack bar and offices in accordance with commercial standards designated in CZO Section 8-5.5.

17. The temporary sales offices shall be limited to "on-site" properties and shall not be used as general real estate brokerage offices. The driveway approach shall be paved to reduce transport of gravel onto the roadway. Any temporary sales facilities shall be included and indicated on the building permit application for the overall project.
18. Prior to building permit approval, the Applicant or other entity shall prepare and obtain construction plan approvals for undergrounding of electrical, street light wiring, communication and cable utilities abutting KMP projects in the Po'ipū Road right-of-way and construct the same or post a performance bond for completion.
19. The Applicant shall submit a landscaping plan at the time of building permit application, subject to Planning Department review and approval, and is encouraged to use endemic, indigenous or Polynesian introduced plant species common to the area in project landscaping and landscaped buffers.
20. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following types: shielded lights, cut-off luminaires, or indirect lighting. Spotlights aimed upward or spotlighting of structures shall be prohibited.
21. The applicant shall resolve and comply with all applicable conditions as recommended by the Water, Fire, and Public Works Departments, and with the State Departments of Health, Transportation and DLNR Historic Preservation Division.
22. The Applicant shall submit annual status reports documenting compliance with conditions of the permits until final completion of buildings and all conditions are completed.
23. The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or to revoke the subject permits through proper procedures should the applicant fail to comply with the conditions of approval or if unforeseen problems are generated by the proposed use at the project site.
24. The applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).
25. The Applicant shall incorporate and integrate this project with any master plan to be developed for the Poipu area, where feasible.

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26. Prior to building permit approval, the Applicant shall submit a master drainage plan for all lands mauka of Poipu Road rezoned under Moana Corporation Ordinance No. PM-31-79 for Planning Commission review and approval, including Kaneiolouma Heiau.
27. The Applicant shall demonstrate marketable title of the project premises to the Planning Department prior to building permit application.



IAN K. COSTA
Planning Director

cc: DPW Engineering Div.; DPW Solid Waste Div.; Water Dept.; State Dept. of Health; DLNR
Historic Preservation Div.; Fire Dept.; State DOT Highways Div.; Finance Dept. Real
Property Div.