

## RESOLUTION

WHEREAS, the Department of Land Utilization (DLU) on May 23, 1986 accepted the application of the Kuilima Development Company, herein referred to as the APPLICANT, for a Special Management Area Use Permit (SMP) and Shoreline Setback Variance (SV) to expand the Turtle Bay (Kuilima) resort to develop a master-planned resort community including hotels, dwellings, commercial areas, golf courses, parks, roadways, utilities and other facilities; and to replace two drainage culverts with open channels and to conduct a desilting operation at Kawela Bay, located at Kahuku, in Koolauloa, Oahu, and identified as Tax Map Keys 5-6-03: 37, Por. 40, Por. 41, Por. 42, 43, Por. 44; 5-7-01: 1, Por. 13, Por. 16, Por. 17, 20, Por. 22, 30, Por. 31, Por. 33; 5-7-03: 1-25, Por. 26, 27-35, 66, Por. 72, 73-75; and 5-7-06: 1-17, 19, 21; Reference Number 86/SMA-45 and 86/SV-3; and

WHEREAS, on July 9, 1986, the DLU held a public hearing, in conjunction with the City Council, which was attended by about 200 people; and

WHEREAS, on July 23, 1986, within ten (10) working days after the close of the public hearing, the DLU, having duly considered all evidence, reports, testimony, and information received on the matter, the guidelines established in Ordinance No. 84-4, as amended, Chapters 205 and 205A of the Hawaii Revised Statutes, as amended, and the Shoreline Setback Rules and Regulations, completed its report and transmitted its findings and recommendations to the Council; and

WHEREAS, the City Council having received the findings and recommendation of DLU on July 23, 1986 and having reviewed APPLICANT'S plans to replace the drainage culverts and to desilt Kawela Bay, as those plans affect the shoreline area, or the area 1,000 feet seaward from the shoreline, or the area in water 30 feet or less in depth in the territorial sea, the City Council finds that:

1. As approved with the condition for the issuance of this SMP and SV, the proposed development will not have any substantial adverse environmental or biological effect, or if there is such an adverse effect, the effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interests;

2. The proposed development, implemented pursuant to the conditions of this SMP and consistent with the objectives, policies and special management area guidelines in Chapter 205A, Hawaii Revised Statutes as amended;

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3. The proposed development is consistent with the county general plan and zoning;

4. The proposed structures and activities will be in the public interest, or hardship will be caused to APPLICANT if the proposed structures and activities are not allowed;

5. The proposed project, structures and activities are consistent with the objectives and policies set forth in Chapters 205 and 205A of the Hawaii Revised Statutes, as amended, the guidelines established in Ordinance No. 84-4, as amended, and the Shoreline Setback Rules and Regulations.

WHEREAS, the City Council's Planning and Zoning Committee at its meetings of September 23, 1986, having duly considered all findings, reports, and testimony received on the matter, approved the subject application for an SMP and an SV with the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that pursuant to the authority of Chapters 205 and 205A, Hawaii Revised Statutes, as amended, Ordinance 84-4, as amended, and the Shoreline Setback Rules and Regulations of the City and County of Honolulu, an SMP and SV be issued to the APPLICANT with the following conditions:

A. APPLICANT shall provide four parks--a four and eight-tenths (4.8) acre park fronting Kawela Bay (Park P-1 on APPLICANT'S master plan); a thirty-seven (37) acre park located from Kahuku Point to the eastern boundary of Hanakailic Beach (Park P-2 on APPLICANT'S master plan); a six (6) acre park abutting Punahoolapa Marsh (Park P-3 on APPLICANT'S master plan); and a two (2) acre park located in the area surrounding the outlet for East Main Drain (Park P-4 on APPLICANT'S master plan). The shoreline park areas shall be linked, with the exception of the shoreline by the existing Turtle Bay Hilton, by a continuous shoreline easement, which will be linked to the five pedestrianway easements and the easement to Kalokoiki Beach (Kuilima Cove), referred to in Condition E herein. A continuous shoreline pathway, set back at least forty feet from the shoreline, shall be provided.

B. Public park sites shall be dedicated to the City in compliance with park dedication requirements. The park to be located at Kawela Bay shall be graded, grassed, and provided with a sprinkler system and all related off-site improvements. In addition to the minimum park dedication requirements, APPLICANT, at its cost, shall also provide public parking facilities and a comfort station containing restrooms and showers, at the Kawela Bay park site, in coordination with the Department of Parks and Recreation.

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Upon APPLICANT'S receipt of its first building permit for development of the first hotel to be built at the resort, APPLICANT shall record a document with the Bureau of Conveyances of the State of Hawaii which dedicates the Kawela Bay park site to the City and County of Honolulu. The document dedicating the park site shall provide that public use of the park area shall become effective, and improvement of the park shall be completed, upon the issuance of a certificate of occupancy by the Building Department of the City and County of Honolulu for the first hotel to be constructed at the resort as a result of this zoning action; and shall reserve APPLICANT'S right to manage and control the park site in the time period prior to issuance of the certificate of occupancy.

C. Upon APPLICANT'S receipt of its first building permit for development of the first hotel to be built at the resort, APPLICANT shall record a document with the Bureau of Conveyances of the State of Hawaii which dedicates park P-2, said park being located at Kahuku Point as designated on APPLICANT'S master plan, to the City and County of Honolulu. The document dedicating the park site shall provide that: (1) off-site improvements leading to the park will not be improved or provided until final subdivision approval for the condominiums to be built in Phase III is granted; (2) public use of this park site shall become effective upon said subdivision approval; and (3) APPLICANT reserves the right to control and manage the park site prior to said subdivision approval.

Prior to said subdivision approval, APPLICANT shall also: (1) record a document with the Bureau of Conveyances of the State of Hawaii which provides permanent access for the public to park P-2. APPLICANT shall obtain and provide this access at its own cost; and (2) provide the following improvements for the park site--one full comfort station with shower facilities; full improvements up to the boundary of the park; a coral surface parking lot providing parking for a minimum of thirty automobiles.

D. The parks to be located adjacent to Punahoolapa Marsh and the East Main Drain outlet shall be privately owned and maintained. These parks shall be open for use by the general public. APPLICANT will work with the U. S. Fish and Wildlife Service to implement improvements to the marsh that will enhance the marsh ecosystem. APPLICANT shall improve and manage the marsh as a wildlife refuge in substantial compliance with the design and management concepts set forth in the SMP application.

E. A series of publicly-owned and privately-maintained easements encompassing a minimum of twenty-six (26) acres of land shall be provided along and to the shoreline and shall

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be open to use by the general public. These easements shall be established in the public's favor, in perpetuity, in the following manner:

(1) Upon APPLICANT'S receipt of its first building permit for development of the first hotel to be built at the resort, APPLICANT shall record a document with the Bureau of Conveyances of the State of Hawaii which establishes easements in the public's favor, running with the land, covering: the land area extending one hundred (100) feet inland from the certified shoreline (hereinafter "shoreline easement area"), in the general areas designated on the map identified as Exhibit I attached hereto and incorporated herein; the right-of-way connecting a parking lot that will be located adjacent to the existing parking lot at the Turtle Bay Hilton to Kalokoiki Beach (hereinafter "Kalokoiki easement"); and the right-of-way connecting Turtle Bay and Kaihalulu Beach through the existing Turtle Bay Hilton site (hereinafter "Turtle Bay Hilton easement");

(2) Upon APPLICANT'S receipt of its first building permit for major building development on a parcel that is adjacent to or that contains the following easements, APPLICANT shall record a document with the Bureau of Conveyances of the State of Hawaii which establishes easements in the public's favor, running with the land, covering: the five rights-of-way that extend from adjacent parking areas to the shoreline easement area, in the general locations designated on Exhibit I attached hereto, providing one pedestrianway to Kawela Bay, two pedestrianways to Turtle Bay, and two pedestrianways to Kaihalulu Beach (Kuulima Bay) (hereinafter "pedestrianway easements");

(3) The document establishing the shoreline easement area shall contain the following provision--"The one hundred (100) foot wide shoreline easement area is to maintain open space along the shoreline for the use and enjoyment of the general public, guests at the resort and resort condominium owners. Management of the use of this area will make no distinctions between resort guests and resort condominium owners, and the general public, and shall at a minimum, allow sunbathing, picnicking, swimming and walking in this area, except where not permitted for safety purposes";

(4) The documents establishing the shoreline easement area and the pedestrianway easements shall provide that public use of each easement shall become effective, and improvement of each easement area shall be completed, upon the issuance of a certificate of occupancy by the Building Department of the City and County of Honolulu for a parcel that is adjacent to or that contains one of these easements;

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(5) The documents establishing the Kalokoiki easement and the Turtle Bay Hilton easement shall provide that public use of these easement areas shall become effective, and improvement of these easement areas shall be completed, upon development of the portion of the resort's major internal roadway that fronts the Turtle Bay Hilton area;

(6) The documents establishing the easements referred to herein shall also establish a means for APPLICANT, its successors and assigns, and subsequent grantees to maintain the easement areas encumbered therein, with said maintenance to be required at the time that public use of each of the easement areas becomes effective;

(7) The five pedestrianway easements shall be at least fifteen feet wide, and shall contain restroom and shower facilities. Each pedestrianway easement shall be located adjacent to a public parking area containing eighteen (18) parking stalls, which shall provide parking free of charge to the public;

(8) Improvements in the easement areas shall accommodate public access, and signage shall be installed to facilitate such access.

F. Public parking at each of the parking areas for the public pedestrianway easements shall be free of charge. Employees shall be prohibited from parking in these public parking areas. Each of the hotel/condominium areas shall contain parking areas for its employees.

G. The primary sand dunes, in their approximate locations as shown in Exhibit II attached hereto and incorporated herein, shall be retained as natural areas, limited to passive uses. Upon the approval of the Director of the Department of Land Utilization, encroachment of structures on these dune areas may be allowed if there is a finding by the Director that such encroachment is necessary and that the denial of the encroachment would cause undue hardship to APPLICANT. Where allowed, said encroachment shall be as minimal as is practicable, and structures shall be designed to prevent destabilization of the dunes. Vehicular traffic in the primary sand dune areas shall be confined to pathways and shall be limited to necessary maintenance activities.

H. At the proposed park site P-2, no structures of any kind, except for those associated with the public beach park, such as showers and comfort stations, shall be built on the primary sand dune areas. Prior to issuance of grading or building permits for improvements at the park, park plans shall be submitted to and approved by DLU.

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1. An overall Urban Design Plan for the resort shall be submitted to and approved by the Department of Land Utilization prior to tentative subdivision approval or issuance of building permits. The Urban Design Plan shall establish criteria for review of projects by the DLU as provided in Condition N herein. The Plan shall include the Urban Design Principles and Controls for Kahuku Point - Kawela Bay contained in the Koolauloa Development Plan, and the additional guidelines given below. These guidelines are intended to supplement the Urban Design Principles and to give additional direction for sites outside of the Kawela Bay area.

(1) General height limits shall be as provided in Section 2.1.c. of the Koolauloa Development Plan, as amended (Ordinance 85-50).

(2) All structures shall generally be set back a minimum distance of three hundred (300) feet inland from the certified shoreline. Structures located between one hundred (100) feet and three hundred (300) feet inland from the certified shoreline will be subject to design review and approval by the Department of Land Utilization.

(3) No structure shall be located between the certified shoreline and one hundred (100) feet inland of the certified shoreline, with the following exceptions: pedestrian bridges, pedestrian walkways, or other access improvements; drainage-related improvements; park benches, showers or other structures that may be required by State or Federal agencies. In no event shall any concession or comfort station be located between the certified shoreline and one hundred (100) feet inland of the certified shoreline.

(4) Structures in the parcels fronting Kawela Bay and Kawela Point fronting Turtle Bay over fifty (50) feet in height shall be set back a minimum distance of three hundred (300) feet inland from the certified shoreline.

(5) For each increment fronting Kawela Bay and Kawela Point fronting Turtle Bay that is located between one hundred (100) feet and three hundred (300) feet from the shoreline, there shall be a maximum building to land coverage ratio of ten percent (10%) of the land area makai of the three hundred (300) foot line to the property line, and buildings shall have staggered heights with a maximum height of fifty (50) feet. The percentage of any given section shall not be clustered.

(6) At a minimum, structures shall be designed and built in compliance with the applicable Land Use Ordinance standards and in compliance with the setbacks shown in the Building Envelope Plan attached and incorporated herein as

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Exhibit III. Parcel configurations reflected on said Building Envelope Plan may be modified from time to time with the approval of the Director of the Department of Land Utilization, provided that any modification shall follow the general spirit and intent of the original plan set forth in Exhibit III and that setbacks shall in no event be less than the setbacks set forth in the APPLICANT'S Unilateral Agreement and in other provisions of this Resolution. Additional setbacks may be required along primary view corridors, as designated in the View Corridor Plan attached and incorporated herein as Exhibit IV.

(7) Site plans should concentrate the greatest densities and heights at the center of each site, stepping up from lower and less dense structures at the perimeters. Building scale should be generally compatible with surrounding landforms and trees. In some cases, it may not be appropriate to achieve the maximum building height.

(8) Site plans should avoid creating a wall of structures lateral to the shoreline or to the main resort boulevard.

(9) Structures that are adjacent to the shoreline easement area, Punahoolapa Marsh and the Kahuku Point-Hanakailio Beach park site P-2, with the exception of structures in the parcels fronting Kawela Bay and Kawela Point which are regulated by Sections I(4) and I(5) of this Resolution, shall rise no higher than tree tops provided that the maximum height shall be no higher than fifty feet at the setback line fronting the shoreline or the marsh. Any portion of a structure that is located in these areas that is over fifty feet in height shall be set back an additional two feet for each one foot of additional height over fifty feet. Structure heights in these areas shall be limited to the height restrictions provided in Section 2.1.c. of the Koolauloa Development Plan, as amended (Ordinance 85-50).

J. A landscape plan for the resort shall be submitted to and approved by the Department of Land Utilization prior to tentative subdivision approval or issuance of building permits. The landscape plan shall also cover the primary dune areas and the shoreline easement area. Trees and coastal vegetation within the shoreline easement area shall be maintained in substantially the same density as currently exists. The plan shall show existing trees and vegetation as well as proposed landscaping improvements. Plantings shall be selected to stabilize the sand dunes. In areas of expected high pedestrian traffic, turf-forming species resistant to trampling, such as Bermuda grass or seashore paspalum shall be utilized.

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K. General architectural and design goals that the resort will strive to achieve include the following:

(1) The general architectural character of the resort will be similar to that of a "kamaaina estate"--displaying hospitality and elegance, overlaid with fundamental simplicity and timelessness.

(2) The resort will strive to implement extensive, lush landscaping to enhance the estate-like quality of the low density buildings, and to provide a sense of visual continuity throughout the resort. Existing ironwood trees, and other existing vegetation will be preserved and incorporated into the landscaping scheme where possible.

(3) The public walkway that provides access throughout the shoreline easement area will be configured in an undulating line throughout the easement area.

(4) Each of the public pedestrianways to the shoreline, with the exception of the pedestrianway to Kalokoiki Beach, will be approximately fifteen (15) feet wide, and will contain a slightly undulating walkway to allow for plantings of coconut trees.

L. Historic and archaeological sites located within the subject property which are identified by the State and/or subsequent archaeological assessment shall be treated in accordance with recommendations made by the State Historic Preservation Officer of the Department of Land and Natural Resources.

Prior to the issuance of grading permits, the APPLICANT shall submit a Data Recovery Plan to the State Historic Preservation Officer, and shall obtain approval of the plan. The State Historic Preservation Officer shall also be made aware of sites not yet identified on the property, which may be discovered during grading and construction. The Officer shall determine whether these sites require preservation, relocation, mitigation, or further study.

APPLICANT shall submit its completed archaeological findings to the State Historic Preservation Officer for review and comment before commencing with the proposed development of the property. APPLICANT shall comply with the State Historic Preservation Officer's recommendations in implementing APPLICANT'S archaeological plan.

Above-ground archaeological features present within the project area will be relocated by the APPLICANT to site(s) within the resort. Human remains that have been uncovered or

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that may be uncovered during the course of this project shall be disinterred, relocated to an alternative site(s) within the resort, and reinterred in accordance with the relevant provisions of Chapter 338, Hawaii Revised Statutes, as amended, and in compliance with requirements of the State Department of Health.

M. Outdoor illumination fixtures at sites fronting Kawela Bay shall be directed in such a manner as to minimize disturbances to Green Sea Turtles which utilize the bay and to minimize interference to residences across the bay. Illumination of beach and ocean areas shall be regulated by the Building Department of the City and County of Honolulu.

N. Prior to building permit approval for any major structure within the project area, architectural and parking plans shall be submitted to the DLU for approval, in order to insure adherence to the Urban Design Plan and the public access requirements.

O. The APPLICANT shall complete all required archaeological mitigation work for each of the individual park sites to be dedicated to the City in compliance with the recommendations of the State Historic Preservation Officer. Said mitigation work for each park site shall be completed prior to obtaining any grading or building permit to implement improvements to the respective park.

P. Turbidity and water quality measurements shall be made at least annually as prescribed by the Department of Health and the Army Corps of Engineers before, during development, and for a period of at least three years after completion of the resort. Reports shall be submitted to the Department of Health, the Army Corps of Engineers, the Department of Land Utilization, and shall be made available to the public for examination and inspection.

Q. Prior to implementation of the project, the APPLICANT must meet the requirements and obtain approval of all governmental agencies required for such projects.

R. The APPLICANT shall use its best efforts to promote the creation of a Marine Life Conservation District at Kawela Bay.

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that the Clerk be, and he is, hereby directed to transmit copies of this Resolution to Mr. John P. Whalen, Director of the Department of Land Utilization; Mr. Herbert K. Muraoka, Director and Building Superintendent, Building Department; Mr. Tom T. Nekota, Director, Department

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of Parks and Recreation; Mr. Russell L. Smith, Jr., Director and Chief Engineer, Department of Public Works; Mr. Susumu Ono, Chairperson and State Historic Preservation Officer, Board of Land and Natural Resources, Post Office Box 621, Honolulu, Hawaii 96809; Mr. Leslie S. Matsubara, Director, State Department of Health, Post Office Box 3378, Honolulu, Hawaii 97801; Mr. Ernest Kosaka, U. S. Department of the Interior, Fish and Wildlife Service, Post Office Box 50167, Honolulu, Hawaii 96850; Mr. Everette A. Flanders, Chief, Construction Operations Division, Department of the Army, U. S. Army Engineer District, Honolulu, Fort Shafter, Hawaii 96858-5440; Mr. Norman Quon, Kuilima Development Company, 1001 Bishop Street, Suite 1980, Honolulu, Hawaii 96813; Ms. Jan Sullivan, Takeyama & Sullivan, 1188 Bishop Street, Suite 3404, Honolulu, Hawaii 96813; and Mr. Francis S. Oda, Group 70, 924 Bethel Street, Honolulu, Hawaii 96813.

INTRODUCED BY:

*High-Wa Doo*

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DATE OF INTRODUCTION:

OCT 1 1986  
Honolulu, Hawaii

Councilmembers

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## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
 HONOLULU, HAWAII

I hereby certify that the foregoing RESOLUTION was adopted by the COUNCIL OF THE CITY AND COUNTY OF HONOLULU on the date and by the vote indicated to the right.

ATTEST:

*Raymond K. Pua*  
 RAYMOND K. PUA  
 CITY CLERK

*Marilyn Borkhorst*  
 MARILYN BORKHORST  
 CHAIR AND PRESIDING OFFICER

Dated OCT 1 1986

ADOPTED MEETING HELD		
OCT 1 1986		
	AYE	NO / A/E
DOO	X	
FAWCETT	X	
IWASE	X	
KAHANU	X	
KIHA	X	
MINK	X	
MORGADO	X	
NARVAES	X	
BCRNHORST	X	
	900	

Reference: CC 371

Report No. P&ZCR-718

Resolution No.

**86-308**