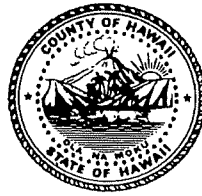


Harry Kim
Mayor

Roy Takemoto
Managing Director



Nancy Carr Smith, Chair
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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

NOV 30 2020

Attn: Paul Kay
Palamanui Global Holdings
737 Bishop Street, Suite 2750
Honolulu, HI 96813

2020 DEC - 4 P 1:41
LAND USE COMMISSION
STATE OF HAWAII

Dear Mr. Kay:

SUBJECT: Amendment for a Change of Zone Ordinance No. 09-131 (REZ 09-000094)
Request: Time Extension to Condition E (Secure Final Subdivision Approval)
Applicant: Palamanui Global Holdings, LLC
Tax Map Key: 7-2-005:001 (por.)

The Leeward Planning Commission, at its meeting on November 19, 2020, reviewed and considered the above-referenced request for a time extension to Condition E (Secure Final Subdivision Approval) of Ordinance No. 09-131, which rezoned 29.92 acres from the Project District (PD) to Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district in 2009. The property is part of the proposed Palamanui development located northeast of the Kona International Airport at Keāhole, between Queen Ka'ahumanu Highway and Makalei Estates Subdivision, Ka'ū, North Kona, Hawai'i.

The Commission voted to forward a favorable recommendation to the County Council subject to the following conditions (new material is underscored and material to be deleted is struck through and bracketed).

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall comply with all conditions of approval of the State Land Use Commission's Decision and Order (Docket No. A03-744) dated May 19, 2005.
- C. The applicant shall comply with the applicable conditions of Ordinance No. [06 ~~105 effective July 17, 2006~~] 09 132 effective November 4, 2009, and any applicable amendments thereof.

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- D. The applicant shall submit a revised water system master plan for review and approval by the Department of Water Supply, and comply with the requirements of the Water Agreement including completion and dedication of necessary water system improvements, prior to the issuance of Final Subdivision Approval.
- E. Final Subdivision Approval shall be secured within [~~five (5)~~] ten (10) years from the effective date of this amended ordinance. Construction of the Queen Ka'ahumanu Highway-University Drive intersection and University Drive from Queen Ka'ahumanu Highway to Ane Keohokālole Highway shall be completed prior to Final Subdivision Approval.
- F. Prior to construction on each of the lots, the applicants, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai'i County Code.
- G. Access to the [~~property~~] rezone area shall meet with the approval of the Department of Transportation and the Department of Public Works.
- H. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to receipt of Final Subdivision Approval. Drainage improvements shall be constructed, meeting with the approval of the Department of Public Works, prior to the [~~receipt of~~] issuance of a certificate of occupancy for any buildings[~~, or final subdivision approval for any subdivision creating single family residential lots~~].
- I. The existing Solid Waste Management Plan with the Department of Environmental Management shall be followed. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Environmental Management.
- J. A wastewater treatment system shall be constructed, meeting the approval of the State Department of Health and/or Department of Environmental Management, whichever is applicable. All wastewater shall be treated at an approved wastewater treatment plant, to a minimum of secondary treatment, with R-1

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effluent, unless a greater level of treatment is required by the Department of Health. Wastewater shall be used for irrigation of landscaping or other beneficial reuse to the maximum extent feasible.

- K. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval, prior to the issuance of a certificate of occupancy.
- L. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code, relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to receipt of Final Subdivision Approval; in addition, any affordable housing credits earned from the industrial-commercial mixed zone shall be applied to the original and remaining project district from which this zoning was removed and shall be constructed on-site in the original project district defined in Ordinance No. [_____] 09 132, as amended.
- M. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigation measures have been taken.
- N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- ~~[O. Total retail space (not including restaurants) shall not exceed 75,000 square feet under roof until the construction of the Queen Ka'ahumanu Highway, Phase II widening improvements to four lanes from Kealakehe Parkway to the Kona International Airport at Keāhole has been secured by the state entering into a construction contract for the improvements. The square footage of improvements leased to the University of Hawai'i shall not count against this limit.]~~
- ~~[P.]~~O. Comply with all other applicable County, State and Federal laws, rules, regulations and requirements.
- ~~[Q.]~~P. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this ordinance ~~[Project District Ordinance]~~. The report shall include, but not be limited to, the status of the development and

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the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Director acknowledges that further reports are not required.

~~[R.]Q. [An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:~~

- ~~1. 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.~~
- ~~2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.~~
- ~~3. Granting of the time extension would not be contrary to the original reasons for the granting of the Project District.~~
- ~~4. 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).~~
- 5.] If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

R. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

This recommendation 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.

Should you have any questions regarding the above, please contact Jeff Darrow of the Planning Department at 961-8158.

Sincerely,

DocuSigned by:

Nancy Carr Smith 11/30/2020 | 7:13 PM HAST

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NANCY CARR SMITH, CHAIR
Leeward Planning Commission

Attn: Paul Kay
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LPalamanuiAmendREZ09-094ipc

cc: Sidney Fuke
Roger Harris
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State Department of Transportation
State DLNR-HPD
State Department of Health
Department of Environmental Management
Plan Approval Section & Subdivision Section
West Hawaii Division