



RESOLUTION

REQUESTING THE DEPARTMENT OF PLANNING AND PERMITTING TO ENFORCE STRICT COMPLIANCE WITH ALL APPLICABLE LAWS AND UNILATERAL AGREEMENT AND SPECIAL MANAGEMENT AREA USE PERMIT/SHORELINE SETBACK VARIANCE CONDITIONS PRIOR TO THE ISSUANCE OF ANY PERMITS AND APPROVALS FOR THE TURTLE BAY RESORT EXPANSION PROJECT.

WHEREAS, the Ko'olaupia-North Shore region known as Turtle Bay, located in Kahuku, Oahu, represents one of the last remaining partially developed shoreline areas on Oahu; and

WHEREAS, the Turtle Bay area includes unique and irreplaceable natural cultural features, including Punahoolapa Marsh, Kawela Bay, and alluvial sand dunes; and

WHEREAS, the council, by its enactment of Ordinance 86-99 on August 14, 1986, and adoption of Resolution 86-308 on October 1, 1986, granted zoning and special management area use permit/shoreline setback variance ("SMP/SV") approvals, respectively, for the Turtle Bay Resort Expansion Project (the "Project"); and

WHEREAS, as then presented, the Project entailed the construction of thousands of new hotel and condominium units, as well as the development of a commercial complex, golf courses, parks, roadways, utilities and other facilities; and

WHEREAS, an Exhibit to the Unilateral Agreement ("U/A") for the zoning approval depicted a three-phase Project development schedule commencing in 1986 and ending in 1999; and

WHEREAS, despite the rezoning and SMP/SV approvals, there has been little or no activity on the Project for the past twenty years; and

WHEREAS, over the past twenty years significant changes have occurred in the North Shore area, as well as the rest of Oahu, such as increased traffic congestion and additional demands on beaches, recreational areas, undeveloped land, and infrastructure; and

WHEREAS, an application for subdivision approval for the Project has been filed with the department of planning and permitting ("DPP"); and



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WHEREAS, both the U/A and the SMP/SV for the Project approved in Ordinance 86-99 and Resolution 86-308 contain numerous conditions designed to mitigate environmental and other adverse impacts of the Project; and

WHEREAS, many of the conditions expressly require fulfillment prior to or at the time of subdivision or building permit approvals, including but not limited to:

- 1) Dedication of park sites and establishment of shoreline and access easements, and
- 2) Submission and approval of plans relating to water and wastewater systems, roadways, urban design, landscaping, and parking;

and

WHEREAS, furthermore, Condition 10 of the U/A requires compliance with all of the conditions set forth in the Findings of Fact, Conclusions of Law and Decision and Order of the State Land Use Commission, dated March 27, 1986, in relation to the approval of a district boundary amendment for the Project; and

WHEREAS, Condition Q of the SMP/SV requires that prior to Project implementation, the permittee must meet the requirements and obtain approval of all government agencies required; and

WHEREAS, the DPP is the agency that administers and enforces the U/A and SMP/SV conditions; and

WHEREAS, there have been allegations that some of the UA and/or SMP/SV conditions have not been complied with; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the DPP is requested to withhold the issuance of any subdivision or building permit approvals for the Project unless the development of the Project is in compliance with all applicable laws and ordinances, including but not limited to environmental protection laws, and all U/A and SMP/SV conditions applicable to the respective permit approvals have been fulfilled; and

BE IT FURTHER RESOLVED that if the DPP finds that there has been a material violation of law or a material breach of the conditions in connection with the Project, the DPP is requested to immediately take all steps necessary to bring the Project into compliance and to protect the environment and public health and safety, including, but



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not limited to, initiating proceedings to strengthen the U/A and/or revoke or modify the SMP/SV; and

BE IT FURTHER RESOLVED that the DPP report to the council on the status of the Project's compliance with all applicable laws, ordinances, and conditions prior to the DPP's issuance of any subdivision or building permit approvals for the Project; and

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the director of planning and permitting.

INTRODUCED BY:

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DATE OF INTRODUCTION:

AUG 21 2008
Honolulu, Hawaii

Councilmembers