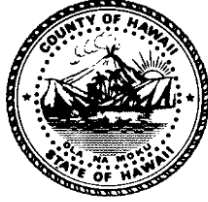


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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

January 4, 2023

Winton Nicholson
c/o Nicholson LLC
P. O. Box 5500
Kailua-Kona, HI 96745
VIA EMAIL

Dear Mr. Nicholson:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000137)**

Applicant(s): Kerie & Tim Dinehart

Landowner(s): Kerie & Tim Dinehart

Project: Single Family Residence and Related Improvements

Tax Map Key: (3) 7-7-024:002

Location: Alohi Kai Subdivision, N. Kona District, Island of Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000137), submitted to this office on November 23, 2022. The 0.4-acre subject parcel is zoned resort-hotel (V-1.25) by the County and designated Urban by the State Land Use Commission (LUC). The subject parcel is designated as "Open" (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

The subject parcel is within the County Special Management Area (SMA) as well as located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS). The Applicant has submitted a shoreline survey to the State of Hawai'i in order to be certified (Ref. No. HA-631), Planning staff notes that per the conditions of the Planned Unit Development (PUD) No. 53, the applicant will be required to complete the shoreline certification process prior to obtaining Building Permits.

Special Management Area Determination:

Pursuant to Chapter 205A-22, Hawai'i Revised Statutes (HRS) and Planning Commission (PC) Rule 9-4(e)(2)(A) relating to Special Management Area, "development" does not include "Construction or reconstruction of a single-family residence that is less than seven thousand five

Winton Nicholson
c/o Nicholson LLC
January 4, 2023
Page 2

hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development". However, SMA No. 347 allowed for the development of a 16-lot residential subdivision, including portions of a roadway lot, and related improvements. After review of the subject request, the proposed single family residence and related improvements are covered under SMA Permit No. 347. Additionally, Planned Unit Development (PUD) No. 53 was also approved for this subdivision, which has conditions that the applicants are responsible to adhere to.

Please note that any increase in the proposed floor area may require another SMA Use Permit Assessment Application be submitted. In addition, any construction, enlargement, or reconstruction of the single-family dwelling that increases the floor area to greater than 7,500 square feet will require an SMA (Major) Use permit. It is further noted that any future developments of the parcel will require a review against SMA rules and regulations.

The 'Alohi Kai Subdivision is a gated, private community, but public access to the shoreline is available from a public shoreline access trail along the northern edge of the 'Alohi Kai development known as '*Alohi Kai Subdivision Shoreline Access* or "*Conservation and Shoreline Access Easement 2*". Staff notes that no sections of the easement are located on the subject parcel and the proposed work will not impede access along this easement, nor will it restrict access along the shoreline.

Please note that it is the landowner's responsibility to adhere to all conditions set forth by SMA Permit No. 347 and PUD No. 53, particularly ensuring that the construction activities shall not block, disturb, or impede the public access currently in use.

Lastly, exhibit 1 indicates the proposed residence will be set back a minimum of 60 feet from the shoreline, which is over the minimum 40-foot setback required by current SMA rules and regulations.

If you have questions regarding this document, please contact Alex J. Roy of this office at (808) 961-8140 or via email at alex.roy@hawaiicounty.gov

Sincerely,


Zendo Kern (Jan 4, 2023 13:21 HST)

ZENDO KERN
Planning Director

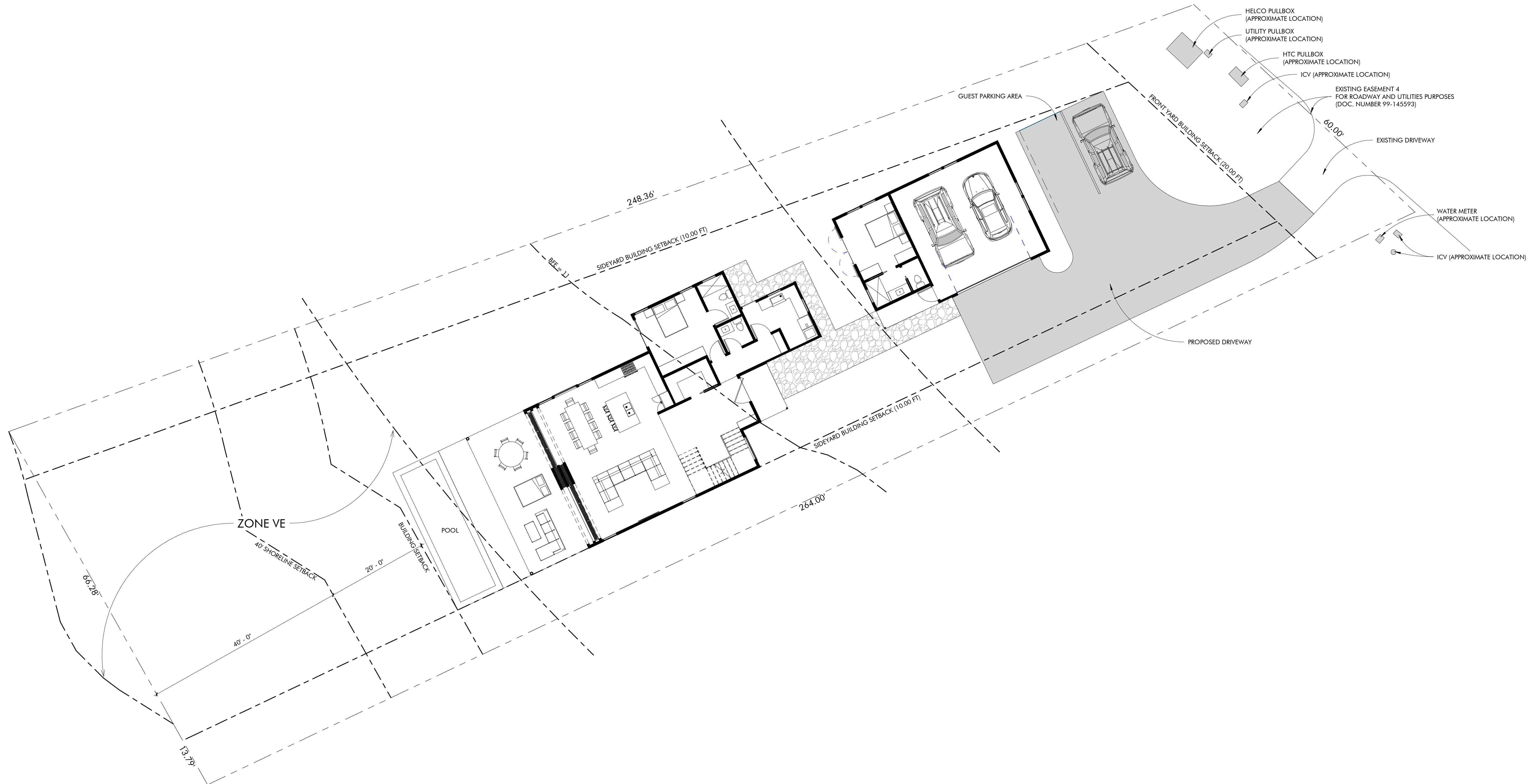
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Winton Nicholson
c/o Nicholson LLC
January 4, 2023
Page 3

Enclosures: Exhibit 1 - Site Plan
Exhibit 2 – SMA 347
Exhibit 3 – PUD 53

cc w/encls: Kerie Dinehart
SMA 347 File



NICHOLSON
 DESIGN • BUILD • MANAGE
 P.O. BOX 5500, KAILUA-KONA, HAWAII 96745
 808-331-1511 OFFICE
 808-331-1522 FAX

This work was prepared by me or under my supervision and construction of this project will be under my observation

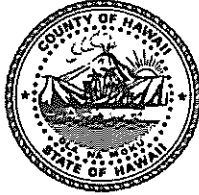
A PROPOSED NEW CONSTRUCTION FOR:
TIMOTHY & KERIE DINEHART
 KE-ALOHI KAI ESTATES, LOT 2
 77-222 KE ALOHI KAI PLACE, KAILUA-KONA, HI 96740
 T.M.K. (3) 7-7-024-002-0000

REVISIONS:	NO.	DATE

SCALE BAR:

SITE PLAN
 SHEET: **A01.1**
 ISSUED: 08/11/2022
 PRELIMINARY PLANS

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

OCT 28 1994

Mr. Sidney Fuke
Sidney Fuke and Associates
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 94-1)
Applicant: 'Alohi Kai Partnership
Request: Development of a 16-Lot Single-Family Residential
Subdivision and Related Improvements
Tax Map Key 7-7-4:3

The Planning Commission at its duly held public hearing on October 20, 1994, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 347 is hereby issued to establish a 16-lot subdivision and related improvements on approximately 5.3 acres of land. The project site is located on the makai side of Alii Drive adjacent to the State Keolonahihi Park (formerly Kamoia Point), Kaunamalu, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii is to preserve, protect, and where possible, to restore the natural resources of the coastal zone area. Therefore, special controls on development within an area within the SMA are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving the proposed development within the SMA is that it is consistent with the General Plan and Zoning Code. The project site is situated in the Resort Hotel (V-1.25) District which would allow a maximum density of 184 hotel or condominium units to be built. Single family residential dwellings which are permitted uses in the Resort

1.358.3

OCT 28 1994

Hotel District., are being proposed at a maximum number of 16 units. This request is well within the density limit allowable by zoning.

Another criteria in reviewing an SMA Use Permit Application is that "The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse ecological effects." The area between Kailua and Keauhou is already developed with infrastructural improvements, residences, apartment and condominium complexes, as well as hotels. The project site is adjacent to single family residences and has already be grubbed and rough graded. The proposed subdivision will be situated mauka of the certified shoreline, will not require a shoreline setback variance and will not interfere with the shoreline processes. All fill/construction must comply with existing legal requirements and any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Negative impacts on the local water resulting from soil erosion and runoff during site preparation and constructions phases can be adequately mitigated through compliance with existing regulations. Therefore, no significant adverse impact to coastal ecosystems in anticipated. There are no records of endangered or threatened plant or animal species being associated with the site.

A third finding is that "the development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines." More specifically the recreational, historic, scenic, coastal environmental, and economic aspects of the project need to be considered. The visual impacts of project will be that of a single family residential complex having a frontage of roughly 340 feet along Alii Drive. The 6-foot high rock wall along the front property lines of the three lots along Alii Drive will have additional roof-top heights which will break the view plane from Alii Drive to the ocean as opposed to a possible building mass of a condominium or hotel complex of similarly zoned parcels along Alii Drive. The State Historic Preservation Division believes there will be "no adverse effect" on two historic properties if two conditions they recommend are attached to an approved permit, thus, their recommendation has been included as a condition of approval. An archaeological mitigation plan for shall be required as a condition of approval for the proper management of the historical resources identified on the subject

property. This management program shall be reviewed by the Planning Department in consultation with the Department of Land and Natural Resources. All recommendations of the management and preservation program shall be completed and approved by the DLNR, State Historic Preservation Division and Island of Hawaii Burial Council, prior to the issuance of a permit for any construction activity on the subject property. Further, on-site construction monitoring by an archaeologist will be required due to the sensitivity of the site. Impacts to the coastal processes will be minimized by allowing construction activity to be in conformance with Chapter 27, Flood Control, of the Hawaii County Code, which regulates the fill/construction activity in the VE and AE zones proposed by the developer. Access to the shoreline area can be provided to meet the recreational needs of those using the area for surfing and other water activities.

According to Section 9-7(C) of the Planning Commission's Rules, all development permitted in the Special Management Area shall be subject to reasonable terms and conditions as necessary in order to ensure that:

1. Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
2. Adequate and properly located public recreation areas and wildlife preserves are reserved;
3. Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon Special Management Area resources;
4. Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake;
5. Adverse environmental or ecological impacts are minimized to the extent practicable; and
6. The proposed development is consistent with the goals, policies, and standards of the General Plan.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. The applicant, its successors or assigns shall secure approval of a Planned Unit Development (PUD) within one year from the effective date of this Special Management Area Permit. Within one year of obtaining an approved PUD, the applicant, its successors, or assigns shall submit an application to the Planning Department for Subdivision Approval and shall complete the construction of the Subdivision within five years thereafter. The submittal of plans for the PUD and Subdivision shall also include the recommendations of the DLNR, State Historic Preservation Division for buffers, fencing, etc. for pre-construction, construction, and post-construction phases of the proposed improvements.
4. Within this proposed subdivision, a 20-foot wide open space easement measured from the historic wall located along the northern property boundary shared with the State Keolonahihi Park shall be established from Alii Drive to the property line along the seaward edge of this existing parcel. This open space easement shall be designated on the approved Subdivision Plan for public access to the shoreline and for the protection of the historic rock wall shared with the State Keolonahihi Park complex. No structures including walls and fences shall be allowed to encroach into this public access and open space easement.
5. No heavy machinery shall be allowed to operate within 20 feet of the wall, nor should any trees or shrubs be planted within this setback without approval of the State Historic Preservation Division, State Parks and the County Planning Department. When land alteration occurs in the parcel, a bright construction fence shall be erected along the 20 foot line and construction crews shall be briefed of the importance of the wall and setback. Additionally, the applicant shall develop a plan to maintain this 20-foot wide buffer zone in perpetuity. Should stabilization or

- restoration of the wall be needed, the applicant, its successors, or assigns, shall allow State Parks and its contractors entry into the 20-foot setback to conduct this work. Any stabilization or restoration plans must be approved by the State Historic Preservation Division, State Parks, and the County Planning Department.
6. The treatment of the burial located on this existing parcel shall be resolved prior to any land alteration in the vicinity of the burial. Should the applicant, its successors, or assigns wish to proceed with construction, a protection plan with buffer zones shall be approved by the State Historic Preservation Division and County Planning Department, and this plan shall be implemented prior to any land alteration.
 7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
 8. All construction activity must be in conformance with Chapter 27, Flood Control, of the Hawaii County Code. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent property in accordance with the requirements administered by the Department of Public Works. Any construction activity that may result in the discharge of storm water to the waters of the State shall require compliance with the National Pollutant Discharge Elimination System (NPDES) requirements administered by the State Department of Health.
 9. All lots shall be served with connections to the County sewer line.
 10. There shall be no vehicular access to the individual lots directly off of Alii Drive. The parcel's frontage on Alii Drive shall be paved with a full width shoulder meeting the approval of the Department of Public Works.
 11. All other applicable Federal, State and County Rules, Regulations and Requirements shall be complied with.
 12. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance

Mr. Sidney Fuke
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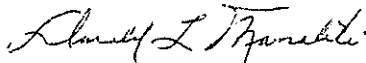
is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) 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).

13. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval 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, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LAlohi01.PC

xc: Mr. Phillip Gray-'Alohi Kai Partnership
Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Plan Approval Section

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z416 228 882

June 26, 1995

Mr. Sidney Fuke
100 Pauahi Street, Suite 100
Hilo, Hawaii 96720

Dear Mr. Fuke:

PLANNED UNIT DEVELOPMENT APPLICATION WH(PUD95-01)
APPLICANT: ALOHI KAI PARTNERSHIP
15 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION
AGENT: SIDNEY FUKU
Tax Map Key: 7-7-004: 003

After reviewing the information submitted with the Planned Unit Development, the Planning Director certifies the approval of the Planned Unit Development (PUD) application to allow the development of a 15 unit Single Family Residential Subdivision Development on a 5.3 acre parcel situated within the Resort (V-1.25) zone district with variances from Chapter 25 (Zoning Code), Article 10 (Resort), Section 25-170 (Minimum Building Site Area) and Chapter 23 (Subdivision Code), Article 3 (Design Standards), Division 4 (Street Design), Section 23-41 (Minimum Right-of-Way and Pavement Widths).

The subject property is situated on the west (makai) side of Alii Drive on the south side of the Keolonahihi State Park site, Kaunalumalu, North Kona, Hawaii, TMK: 7-7-004: 003.

FINDINGS:

1. In accordance with Section 25-247 of the Zoning Code, the proposed single family residential uses are permitted by the existing Resort zoning of the property.
2. In accordance with requirements of Section 25-251 (Finding by planning department to approve P.U.D.)
The construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.
The proposed development timetable for the Planned Unit development will begin construction immediately upon issuance of all required permits.

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The projected goal is to have final subdivision approval by mid-1995. Condition No. 3 of SMA Major Use Permit No. 347 states "THE APPLICANT, ITS SUCCESSORS OR ASSIGNS SHALL SECURE APPROVAL OF A PLANNED UNIT DEVELOPMENT (PUD) WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF THIS SPECIAL MANAGEMENT AREA PERMIT. WITHIN ONE YEAR OF OBTAINING AN APPROVED PUD, THE APPLICANT, ITS SUCCESSORS, OR ASSIGNS SHALL SUBMIT AN APPLICATION TO THE PLANNING DEPARTMENT FOR SUBDIVISION APPROVAL AND SHALL COMPLETE THE CONSTRUCTION OF THE SUBDIVISION WITHIN FIVE YEARS THEREAFTER. THE SUBMITTAL OF PLANS FOR THE PUD AND SUBDIVISION SHALL ALSO INCLUDE THE RECOMMENDATIONS OF THE DLNR, STATE HISTORIC PRESERVATION DIVISION FOR BUFFERS, FENCING, ETC. FOR PRE-CONSTRUCTION, CONSTRUCTION, AND POST CONSTRUCTION PHASES OF THE PROPOSED IMPROVEMENTS.

3. The proposed development substantially conforms to the General Plan.

The following General Plan elements goals, policies and standards of action are in conformance with the proposed Planned Unit Development.

- **HOUSING ELEMENT:**

GOALS: Attain safe, sanitary and livable housing for the residents of the County of Hawaii. Attain a diversity of socio-economic housing mix throughout the different parts of the County. Maintain a housing supply which allows a variety of choice. Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people. Improve and maintain the quality and affordability of the existing housing stock. Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals. Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background, and income. The cornerstone of the County's Housing programs and activities shall continue to be the encouragement and expansion of appropriate home ownership opportunities for our residents.

- **POLICIES:** The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies. The County shall initiate and participate in activities with the private sector including the provision of leadership and expertise to neighborhoods and nonprofit organizations in the development of housing and community development projects.
- **LAND USE ELEMENT**
GOALS: Designate and allocate land use in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
POLICIES: Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities. The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- **LAND USE ELEMENT (SINGLE FAMILY RESIDENTIAL)**
GOALS: To maximize choices of single family residential lots and/or housing for residents of the County. To provide single family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers. The County shall encourage more innovative uses of land with respect to geologic and topographic conditions through the use of residential cluster and planned unit developments. The clustering of residential units in sloping areas is a means of minimizing grading and drainage problems, preserving the natural appearance of the topography, preventing strip development, and making optimum uses of the terrain for buildings and open space. The County shall incorporate flexibility in codes and ordinances to achieve a diversity of socio-economic housing mix and to permit aesthetic balance between single family residential structures and open spaces.
- **RECREATION ELEMENT:**
GOALS: Provide a variety of recreational opportunities for the residents and visitors of the County. Maintain the natural beauty of recreation areas. Provide a diversity of environments for active and passive pursuits.
POLICIES: The use of land adjoining recreation areas shall be compatible with community values, physical

resources and recreational potential. The proposed Planned Unit Development will implement the above goals and policies of the applicable element of the General Plan, in particular with the above cited elements.

4. All residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood, and shall result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.

The applicant's design concept for the proposed Planned Unit Development is to provide a low-key residential subdivision. The applicant proposes to develop a 15-lot single family residential subdivision. The project proposes to have an entry gate with a rock wall along the boundary fronting Alii Drive. No ohana units would be allowed and individual lot owners would be required to have their structures meet certain design covenants. The maximum allowable density under the present zoning is 184 units.

The access to the subdivision will be from Alii Drive with a proposed 40 foot right-of-way with a 20 foot wide pavement. All utilities will be placed underground within this right-of-way. Also proposed are two 20-foot wide roads to service the makai lots. There will be 8 lots that are below the minimum 15,000 square foot requirement in the Resort zone district. In all, the remaining 7 lots will exceed 10,000 square feet in size. The lot frontages will range between 60 feet to 72.48 feet. The lot depths along the makai side of the proposed subdivision will range between 222 feet to 276 feet.

There will be a 10 foot wide landscaping buffer and screen along the north side of the property between the proposed dwellings and the public access easement. A condition of approval is being included to ensure that this landscaping screen be installed prior to any issuance of any building permits for those lots facing the north property line. A condition of approval is also being included to ensure that the improvements for the public access, especially from the front and

seaward wall which are to be breached are approved by the Planning Director and the Department of Land and Natural Resources, Historic Sites Preservation Division prior to its installation. With the PUD approach, the houses are controlled in size, to reduce the impact of development and small lot size appearance. The PUD will have the standard 20 foot front and rear yard setbacks with the exception of the lots facing the north side property line. Landscaping will play a central role in this PUD to provide an inviting residential atmosphere with open spaces as well as protecting the integrity of the archaeological features to the north.

5. The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of the Zoning and Subdivision Codes, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

The proposed PUD will maintain the single family residential character of the area. The surrounding area is generally characterized by existing single family residential development. Furthermore, the adjoining State Historic Park to the north will be essentially kept in some form of open space. The proposed single family residential subdivision would have less of a development and/or visual impact than would other types of higher density uses allowed within the Resort zone district. As such, only 8 of the lots would be under the 15,000 square foot lot requirement, but all 15 lots would exceed the 10,000 square foot lot size. This would foster and ensure the character of the single family residential community.

The proposed 15 lot subdivision will have no other street connections other than that from Alii Drive, which is the main access to the proposed subdivision. All utilities are to be placed underground and a 20 foot wide pavement, adequate for two way traffic will be provided for within this subdivision. In short it offers the residents a safer, more enjoyable, and socially rewarding community to live in. Therein, the proposed Planned Unit Development is a development of a harmonious, integrated whole which justifies

exceptions to the normal requirements of this chapter, as the contemplated arrangements and single family residential use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

6. In accordance with Section 25-252 (Actions permitted on application), the planning department may conditionally approve an application for a P.U.D.. In accordance with Section 25-253 (Imposition of conditions upon approval). Any conditions imposed by the planning department upon approval of an application for P.U.D. may include but are not limited to the time within which the project shall begin and be completed, changed boundaries of the project, uses permitted, specification of minimum development standards, specified street dedication and improvement, utilities to be furnished, and a list or limit of variances permitted. In accordance with Section 25-555 (Effect of P.U.D. application approval) Any P.U.D., as approved, shall be subject to all conditions imposed and shall be excepted from other provisions of this chapter only to the extent specified in said approval.

Based on the above, the following list of variances are approved for this Planned Unit Development:

ZONING CODE:

1. Variance from the minimum lot size requirement for 8 lots as represented in the PUD application.

SUBDIVISION CODE:

1. Variance from the minimum 50 foot right-of-way requirement as represented in the PUD application. Based on the above findings, the Planning Director has approved the Planned Unit Development Application subject to the following conditions:
 - A. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
 - B. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of

the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

- C. Final subdivision approval shall be secured within five (5) years from the effective date of the Planned Unit Development (PUD). The proposed subdivision shall not exceed the 15 lots as represented in the PUD application.
- D. The subdivision plans shall show an additional 10 foot wide landscaping planting screen to be provided for each lot adjoining the north property line.
- E. The 10-foot wide landscaping screen shall be included in the covenants for all lots fronting the 20 foot wide public access easement. The covenants shall also include a provision which states No Ohana Dwellings will be permitted within this PUD. These covenants shall be prepared and a copy of the recorded covenants shall be submitted to the Planning Director within 1 year from the effective date of final subdivision approval.
- F. Prior to receipt of final subdivision approval a detailed landscaping plan for the 20-foot wide open space/public access easement along the north property line shall be submitted for review and approval by the Planning Director and the State Department of Land and Natural Resources-Historic Preservation Division. The approved landscaping improvements shall be installed prior to the issuance of any building permits for any lots adjoining the historic wall and public access easement.
- G. The plans for the improvements for the public access, including the breaching of the front and seaward walls; and Signage shall be submitted for review and approval by the Planning Director, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to or in conjunction with submitting plans for subdivision review. These improvements shall be installed and completed prior to the issuance of any Final Subdivision approval.
- H. The wall line of all main and accessory structures shall be no closer than 10 feet from the 20 foot wide easement with a maximum of 3 foot overhangs into the 10 foot wide landscaping easement.
- G. The single family dwellings along Alii Drive will comply with the minimum 20 foot front yard setback.


- H. For all lots fronting the shoreline, new certified shoreline surveys will be required prior to approval of any building permit applications in accordance with the requirements of Department of Land and Natural Resources, Chapter 222 (Shoreline Certifications) and Planning Commission's Rule no. 8 (Shoreline Setback)
- I. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- J. Access to the property from Alii Drive shall include improvements as required by the Department of Public Works and the Police Department. The interior roadways shall be constructed in compliance with the roadway variance as approved in the Planned Unit Development application. Any deviations from roadway standards for which the Department of Public Works has sole jurisdiction shall be applied for and secured through the proper appeal process whether it be an administrative or an appeal from the Board of Appeals.
- K. An overall landscaping master plan, which includes landscaping along the property's frontages along Alii Drive, the interior roadways, and individual lots and a program for the maintenance of the landscaping shall be submitted to the Planning Director for review and approval, in consultation with the Chief Engineer prior to the issuance of final subdivision approval. All other lots frontage and park landscaping improvements shall be installed prior to the occupancy of the units of the Planned Unit Development.
- L. The applicant shall comply with the Integrated Solid Waste Management Plan as approved by the County Council.
- M. The applicant shall construct all on site sewer, drainage, roadway and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health. In addition, all utilities for the proposed development shall be placed underground.
- N. Comply with all applicable laws, rules, regulations and requirements.

Mr. Sidney Fuke
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June 26, 1995

- O. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the Planned Unit Development (PUD) permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- P. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the Planned Unit Development Permit; d) 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 an additional 5 years); and e) if the applicant should require an additional extension of time, the applicant may submit a request for further time extension pursuant to Section 25-256 (Extensions and Amendments). Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development Permit.

Should you have any questions, please feel welcome to contact our office.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office
DPW Engineering
DLNR
Subdivision Section