

CERTIFIED MAIL

February 27, 1989

Mr. Joseph Marcelin, Principal  
Kamaaina Corp.  
76-952F Hualalai Road  
Kailua-Kona, HI 96740

Dear Mr. Marcelin:

Special Management Area Use Permit  
and Change of Zone Applications  
Kamaaina Corp./Kathryn & Chris Medeiros  
Tax Map Key 7-8-14:90, 91 & 92

The Planning Commission at its duly held public hearing on February 22, 1989 voted to send a favorable recommendation on the change of zone application to the County Council and, also, to approve the special management area use permit application, Special Management Area Use Permit No. 282, with conditions.

The findings are as follows:

CHANGE OF ZONE APPLICATION

The requested change of zone conforms to the General Plan designation which lists Keauhou-Kahaluu as a Major Resort Area. It should be noted that the General Plan LUPAG Map designates the area for Medium Density Urban Development, which could allow multiple residential uses at a density of 35 to 11.6 units per acre.

An evaluative corollary to the LUPAG Map is the policy analysis approach. In order to consider an area for any type of zoning designation, the applicable goals, policies and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions can be made to better time or stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and decisions must also be considered as they may have an impact on other similar areas in the County.

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The Land Use Element of the General Plan states that "Zoning requests shall be reviewed with respect to General Plan designation, district goals, State Land Use District, compatibility with adjacent zoned uses, availability of public service and utilities, access and public need." The proposed apartment development would be compatible with the neighboring Kahale Kahaluu and Kahaluu Bay Villas housing projects and a proposed condominium immediately makai of the project site. While the adjacent zoned districts are RM-3, it is felt that an increase in density on these particular parcels are of such a small scale that any impacts generated can be appropriately mitigated through conditions of approval. Essential infrastructural systems, such as water, wastewater treatment plants and roadways, are or will be in place. A major consideration in this approval recommendation to an RM-1 zoned district is the applicant's proposal to provide rental housing units to "moderate" and "gap" income households. Such a goal is supportive of the County's goals and policies relative to providing affordable housing to its population. Therefore, this approval is conditioned upon assurances that the applicant will continue to work with the County Office of Housing and Community Development and the Planning Department towards achieving a common goal in assuring the availability of housing for these need groups.

The role of the Kona Regional Plan is to serve as an implementing tool for the General Plan. However, while the Kona Regional Plan is intended to be used as a guide to help shape the nature of future land use actions by both the public and private sectors, it is not intended to function in a regulatory manner mandating compliance. Although it assists in zoning decisions, it is not the zoning map. The Kona Regional Plan Zoning Guide Map designates this area for residential uses at a density of 15 units per acre. While the request represents an increase over the recommended density, significant weight is being placed on the applicant's proposal to provide affordable rental housing to a group, which is not a target in the general market. Furthermore, the requested change of zone is not inconsistent with other zoning densities applied to the Keauhou Beach, Kona Lagoon and Kona Surf Hotels and the Kanaloa at Keauhou Condominium Development.

The rezoning action will also complete the following Housing Goals and Policies articulated in the General Plan:

- \* Maintain a housing supply which allows a variety of choice.

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- \* It shall be the policy of the County of Hawaii to assure that safe, sanitary, and livable housing is available to persons of all ages, income and ethnic groups and to provide a variety of choice as to location and types.
- \* Corporations and non-profit organizations shall be encouraged to participate in Federal programs to provide new and rehabilitated housing for low and moderate income households and the elderly.
- \* Public and private programs intended to increase the supply of housing and to create a variety of choice shall be encouraged.

The reclassification action conforms to the following goals, objectives, and/or policies articulated in The Hawaii State Plan:

- \* (Provide) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals.
- \* (Provide for) The orderly development of residential areas sensitive to community needs and other land uses.
- \* Effectively accommodate the housing needs of Hawaii's people.
- \* Increase home ownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- \* Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
- \* Facilitate the use of available, developable, and underutilized urban lands for housing.

As previously mentioned, the subject area is conveniently located to public and private services and employment centers

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such as the Keauhou Resort Area and Kailua. Public utilities and services are available as evidenced in various agencies' comments. The applicant has obtained adequate water commitments to service the project. Further, as a condition of approval, Makole'a Street will be improved with curbs, gutters and sidewalk. While the Makole'a Street-Ali'i Drive intersection will be affected by the increase in traffic, the eventual construction of the Ali'i Drive realignment will mitigate the traffic congestion presently experienced. It is determined that the request conforms to the General Plan Multiple Family Residential Element which states that "Appropriately zoned lands shall be allocated as the demand for multiple residential dwellings increases. These areas shall be allocated with respect to places of employment, shopping facilities, educational, recreational and cultural facilities, and public facilities and utilities."

There are no severe geological or topographical problems which would render the land unusable for Multiple-Family Residential purposes.

Based on the above, it is determined that the change of zone would result in an appropriate land use pattern that will further the public necessity and convenience and the general welfare.

#### SPECIAL MANAGEMENT AREA USE PERMIT PETITION

The proposed development will consist of a 32 unit apartment complex and related improvements. These are not anticipated to have any substantial adverse environmental or ecological effects.

The proposed development is consistent with the objectives, guidelines and policies of the Special Management Area. These were established by Chapter 205-A, HRS, to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational/scenic resources, coastal ecosystems, economic use and coastal hazards.

The project site has received a full archaeological reconnaissance survey. According to the reconnaissance report and recommendations, the four identified sites are considered significant only for their informational content and would require an intensive survey. The Department of Land and Natural Resources concurs that an intensive survey and report would be

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sufficient mitigation. Additionally, the Kahalu'u Historic District has already been subjected to incursions into the district. Various resort developments, which have been under construction since 1969, have substantially impacted the context and meaning of the District. With regards to the Great Wall of Kuakini, the designation of an eight-foot wide public easement along the western property line immediately mauka of Parcel 89 will be made a condition of this approval. Interpretive signage shall also be reviewed and approved by the Planning Department. In this manner, access and public informational opportunities to a significant historic site will be facilitated.

Since the subject properties are located over 900 feet from the shoreline, there will be negligible interference with natural shoreline processes, public accesses or publicly owned or used recreational areas.

It is not anticipated that the proposed development will have significant adverse impacts upon biological resources or the geological features of the area, as no unique species or features have been located on the project area.

Ambient noise and air quality levels will increase during the construction phase. However, these will be of a temporary nature and can be properly controlled through the use of approved construction methods.

The project will be slightly terraced and will be constructed within the 45-foot height limit allowed under the RM zoned district. Viewplanes should not be adversely affected by the project. The conceptual plans submitted with the applications will need to be revised to accommodate the following General Plan Density ratios as closely as possible: Ground Cover Ratio-20%; Parking Ratio-35%; and Open Space Ratio-45% of total land area. With the application of the density standards, it is felt that the proposed development will be visually and aesthetically more balanced.

There is unlikely to be significant affects to the coastal ecosystem due to the lateral and vertical distance of the project from the shoreline. Sewage disposal will be by connection to the Keauhou sewage treatment plant or by a private sewage system approved by the Department of Health.

As stated previously, the 32-unit apartment complex is consistent with the Medium Density Urban Development

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designation, the Keauhou Resort Area and applicable goals and policies of the General Plan. If the change of zone application is approved, the project would be consistent with the Zoning Code. Consequently, the Special Management Area Use Permit would be effective simultaneous with the effective date of the change of zone ordinance.

Based upon the foregoing, it is determined that the granting of the request for the proposed 32-unit apartment complex will not create a significant adverse effect on the environment; and, therefore, will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management; Rule No. 9 of the Planning Commission relating to the Special Management Area; the General Plan and the Zoning Code of the County of Hawaii.

The approval recommendation to the County Council and approval of the special management area use permit are subject to the following conditions:

CHANGE OF ZONE

- A. The applicant, successors or its assigns shall comply with the stated conditions of approval.
- B. Final consolidation approval shall be secured within one year from the effective date of the change of zone.
- C. Final Plan Approval for the entire development shall be secured within one year from the effective date of consolidation approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.
- D. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
- E. Access(es) shall meet with the approval of the Department of Public Works. Further, curbs, gutters and sidewalk shall be installed along the south side of Makole'a Street fronting the subject properties in a manner meeting with the approval of the Department of Public Works prior to issuance of an occupancy permit.

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- F. Two copies of an intensive archaeological survey report shall be submitted for review and approval by the Planning Department with concurrence from the Department of Land and Natural Resources-Historic Sites Section at the time of plan approval review and/or prior to any land preparation activity being conducted on the properties.
- G. An eight-foot wide public pedestrian easement traversing the western boundary of Parcel 90 and immediately east (mauka) of Parcel 89 shall be depicted on the consolidation plans. The purpose of the easement shall be to provide access to the Great Wall of Kuakini for viewing purposes. The easement shall be described by metes and bounds and recorded with the Bureau of Conveyances prior to issuance of an occupancy permit. A copy of the metes and bounds description shall be filed with the Planning Department. Interpretive signage shall be reviewed and approved by the Planning Department together with plans for plan approval.
- H. Should any unanticipated 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 affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- I. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented as proposed, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development to assure it addresses the affordable housing needs of the community. This housing plan shall be approved by the County Housing Agency prior to the issuance of an occupancy permit for the project.
- J. A drainage system shall be installed in accordance with the requirements of the Department of Public Works.
- K. Method of sewage disposal shall meet with the approval of the appropriate governmental agencies.
- L. An emergency preparedness and response plan shall be submitted to the Planning Department and Hawaii County

Civil Defense Agency for review and approval prior to occupancy of any of the proposed units.

- M. All applicable County and State laws, rules, regulations and requirements shall be complied with.
- N. Should the Council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.
- O. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of zone change. The report shall address the status of the development and the compliance with the conditions of approval. 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: 1) 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; 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 change of zone; 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); and 5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

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SMA USE PERMIT

1. The permit shall become effective simultaneous with the effective date of the accompanying change of zone.
2. The applicant, successors or its assigns shall be responsible for complying with all of the stated conditions of approval, including those of the accompanying change of zone.
3. Two copies of an intensive archaeological survey report shall be submitted for review and approval by the Planning Department with concurrence from the Department of Land and Natural Resources-Historic Sites Section at the time of plan approval review and/or prior to any land preparation activity being conducted on the properties.
4. An eight-foot wide public pedestrian easement traversing the western boundary of Parcel 90 and immediately east (mauka) of Parcel 89 shall be depicted on the consolidation plans. The purpose of the easement shall be to provide public access to the Great Wall of Kuakini for viewing purposes. The easement shall be described by metes and bounds and recorded with the Bureau of Conveyances prior to issuance of an occupancy permit. A copy of the metes and bounds description shall be filed with the Planning Department. Interpretive signage shall be reviewed and approved by the Planning Department together with plans for plan approval.
5. Should any unanticipated 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 affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
6. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this permit. The report shall address the status of the development and the compliance with the conditions of approval. 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.

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7. The Planning Director may administratively grant extensions to the foregoing conditions subject to any of the following circumstances occurring: A) the need for an extension is the result of either unforeseen conditions or are circumstances beyond the control of the applicant, successors or assigns; 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). Further, should any of the foregoing conditions not be met or substantially complied with in a timely fashion after the Planning Director has given the permittee notice, this permit may be voided by the Planning Commission.

Should you have any questions regarding the above, please feel free to contact the Planning Department at 961-8288.

Sincerely,

Gary Mizuno  
Chairman, Planning Commission

Real Property Tax Division  
xc: Mr. James H. Pedersen  
Department of Public Works  
Department of Water Supply  
Planning Office - Kona  
DLNR  
DBED, CZM Program w/background  
bcc: Plan Approval Section