



# Planning Commission

Larry S. Tanimoto  
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

## CERTIFIED MAIL

November 19, 1990

Mr. Gary Okamoto  
Wilson Okamoto & Associates  
P.O. Box 3530  
Honolulu, HI 96811

Dear Mr. Okamoto:

Change of Zone and  
Special Management Area Use Permit Applications <sup>-304</sup>  
Kahakai Associates  
Tax Map Key 7-5-20:1

The Planning Commission at its duly held public hearing on November 8, 1990, reviewed and acted on the above applications for a change of zone and special management area use permit for property located at Puapuaa 2nd, North Kona, Hawaii.

On the change of zone request to rezone 108.3+ acres of land from the Unplanned (U) to a Single Family Residential - 7,500 square foot (RS-17.5) zoned district, the Commission voted to recommend approval of the application to the County Council, based on the following findings:

The requested zone change conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map which designates the area for Urban Expansion. Such a designation may allow single-family residential uses as proposed, provided applicable goals, policies and standards of the General Plan can be met.

The LUPAG Map component of the General Plan is a representation of the document's goals, policies, standards and courses of action. An evaluative corollary of 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 a comprehensive policy analysis approach that evaluations and decisions can be made to better time or stage developments to achieve quality growth. The implication of

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these evaluations and decisions must also be considered as they may have an impact on other similar areas in the County.

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 residential subdivision is compatible with adjacent Single-Family Residential zoned areas to the south (Alii Kai and Kuakini Makai Subdivisions) and the Multiple-Family Residential zoned lands to the west and north (Alii Drive Partners and Alii Kona Ventures). The change of zone would also conform to the Kona Regional Plan's recommended density of six residential units per acre. The proposed development may create a burden to county and state agencies with regards to recreational and educational facilities. Past discussions by the Department of Education with a previous developer had resulted in an understanding that a private park area would be created adjacent and to the north of the school site. The current applicant has not proposed a park site, but would have the Department of Education purchase 1.7 acres of land for school expansion. Given the recent precedent that was set by Pualani Development Company tripled with the close proximity of the development in relation to Kahakai School and the absence of parks, it is determined that a minimum 4-acre park site be set aside for residents of the subdivision. In terms of educational facility impacts, should DOE pursue the acquisition of approximately 1.7+ acres, a condition of this approval provides for that possibility. More importantly, the development would add 90 students to the enrollment at Kahakai School, which is operating at capacity. Therefore, the applicant will be required to contribute its pro rata share of school facilities to accommodate the increased school population. In this manner, the requests would support the following goals, policies and standards of the General Plan:

- \* The County shall coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community.
- \* The County shall encourage continuous joint pre-planning of schools with the Department of Education . . . to ensure coordination with roads, water, and other support facilities and considerations such as traffic and safety, and access for vehicle, bicycle, and pedestrians.

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- \* The County shall encourage the joining of school yards with county parks and the availability of school facilities for after school use by the community for recreational, cultural, and other compatible uses.
- \* In proposed communities, sufficient acreage shall be reserved for school facilities. Sites shall be free from flooding and drainage problems, excessive slope and shall incorporate appropriate street and driveway design and location to minimize traffic interference, pedestrian hazard, and to enable safe and easy access for vehicles, bicycles and pedestrians.

While not specifically mentioned, the applicant has been working with the Office of Housing and Community Development to develop and implement an affordable housing plan. This approval is conditioned upon the establishment of an affordable housing plan, which would complement the following Housing policies articulated in the General Plan:

- \* 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.
- \* The County shall incorporate reasonable flexibility in applicable codes and ordinances to achieve a diversity of socio-economic housing mix.

The Land Use Element of the General Plan also states that residential uses shall be developed in areas adequately served by essential services and other infrastructure. In this regard, the development will be required to construct roadways with curbs, gutters and sidewalks. Besides being a residential subdivision, pedestrian traffic must be anticipated with the location of the school at the southwestern corner of the property. Thus, the provision for curbs, gutters and sidewalks would be in the interest of the public welfare and safety. It should be noted that the development's proposed interior roadways must be planned to connect to existing and proposed residential subdivisions to the north and south. With interior connection, traffic circulation on Kuakini Highway, Alii Drive and Queen Kaahumanu Highway should be improved. Based upon review of the TIAR, channelization is being required at the

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Kuakini Highway-Kahakai access road intersection. A roadway connection to Kahakai School must also be provided which meets with the approval of the Department of Public Works and Education. The County acknowledges the participation of the applicant in the preliminary planning stages of the Alii Highway. Such cooperation should facilitate development in support of the Courses of Action for North Kona which read "Construct Alii Highway from Kuakini Highway to Keauhou" and "Improve and develop roadways, water and sewerage systems, and other basic facilities necessary to encourage development of lands suitable for residential use." As with previous change of zone requests affected by the Alii Highway, dedication of that portion of the land for roadway purposes is being required.

The granting of the proposed subdivision will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. Roads will be relieved with (1) the construction of the planned Alii Highway; (2) channelization of the Kuakini Highway-Kahakai access road intersection; (3) stubout connections with adjacent properties' roadways; and (4) new roadway connection with Kahakai School. The Department of Education has expressed concerns over the location of the proposed interim sewage treatment plant. The granting of the subject requests is conditioned upon the location and design of the STP being approved by the Departments of Planning, Public Works and Health. The project is not within a defined drainageway. However, the installation of on-site drainage improvements as recommended by the Flood Hazard/Drainage Evaluation and Preliminary Drainage Plan will be refined at a more detailed level at the time of subdivision review.

The approval recommendation on the change of zone request to the County Council is subject to the following conditions:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall submit the required water commitment payment for 200 units to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone. The applicant shall consummate a water agreement for the remaining 153 units with the Departments of Water

Supply and Planning within ninety days from the date of approval of the change of zone. The zoning of the property shall not be in effect until the water commitment payment is accepted by the Department of Water Supply and the water agreement is consummated.

- C. The property shall be subdivided in two increments. The first increment shall consist of a maximum of 60 contiguous acres (exclusive of the park, school, and water tank sites and major archaeological preservation areas) and the second increment the remaining area. Subdivision plans may be submitted for the second increment after development has occurred in the first increment as determined by the Planning Director. "Development" means that building permits have been issued for dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the number of lots proposed for the first increment. In lieu of actual construction, the applicant may enter into an agreement with the Planning Department to assure the County that the dwellings will be constructed within a given period. Such agreement shall be secured by a surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department. Upon final execution of such agreement and filing of the security with the County, subdivision plans for the second increment may be submitted prior to the actual construction of the dwellings in the first increment.
- D. Subdivision plans for the first increment shall be submitted within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval. Plans for necessary infrastructural improvements, including intersection improvements, sewer collection and transmission lines and, if appropriate, an interim sewage treatment system, shall be submitted in conjunction with construction drawings for final subdivision approval of the first increment.
- E. A drainage system shall be installed meeting with the requirements of the Department of Public Works.
- F. Access(es) shall meet with the approval of the Department of Public Works. No lots shall have direct access from

Kuakini Highway. Kuakini Highway-Kahakai access road intersection shall be improved with a channelized intersection which meets with the requirements of the Department of Public Works. These improvements shall be provided prior to final subdivision approval of the first increment or as otherwise provided by Chapter 23 (Subdivision Control). A channelized intersection at the Alii Highway-main access road intersection shall be constructed.

- G. The main access road and interior subdivision roads shall be provided with curbs, gutters and sidewalk improvements and underground utilities. Interior north-south roadways shall extend to the boundaries to provide connection with existing and future roadways to adjacent properties. Roadway access to Kahakai Elementary School shall be constructed prior to occupancy of the first increment affecting lands adjacent and to the north of Kahakai School. This roadway connection shall meet with the approval of the Department of Public Works and the Department of Education.
- H. The Alii Highway right-of-way and associated easements within the property shall be dedicated to the County within six months of the date of final right-of-way determination by the Department of Public Works. That section of the Alii Highway within the property shall be constructed in accordance with the requirements of the Department of Public Works prior to issuance of final subdivision approval of the second zoning increment or upon a determination by the County that the roadway be constructed, whichever occurs first.
- I. Should an Improvement District be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in the Improvement District, provided, however, that the contribution of land and the construction of improvements can be credited towards the applicant's Improvement District assessment.
- J. An intensive archaeological survey, data recovery and mitigation/interpretation plan shall be submitted for review and approval by the Planning Department, in consultation with the Department of Land and Natural

Resources, prior to submitting preliminary subdivision plans of the first increment or prior to any land preparation activity, whichever occurs first. Mitigation shall include, but not be limited to, the preservation of Kuakini Wall with approved buffers in the form of written easements and the formulation of historic preservation area(s). Easements and preservation areas shall be delineated on maps submitted for subdivision approval. Restrictive covenants approved by the Planning Department, in consultation with the Department of Land and Natural Resources-Historic Sites Section, shall provide for continued preservation and maintenance of the sites to be preserved. The proposed subdivision shall breach Kuakini Wall at only one point approved by the Planning Department in consultation with the Department of Land and Natural Resources.

- K. A burial treatment plan and detailed mitigation measures shall be approved by the Department of Land and Natural Resources prior to submitting preliminary subdivision plans for the first increment or prior to any land preparation activity, whichever occurs first.
- L. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings 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.
- M. Sewer collection and system transmission lines shall be constructed to the Alii Drive interceptor meeting with the approval of the Department of Public Works. In the event that any portion of the development is completed prior to completion of the municipal interceptor serving the development, the applicant shall also construct an interim sewage treatment system, which location and design meets with the approval of the Departments of Public Works, Health, Planning, and Education.
- N. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community

Development and the Planning Department to formulate a housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval of the first increment provided that the applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property prior to visible commencement of construction on the property; provided, however, that Petitioner may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency.

- O. The applicant shall set aside a minimum of 4+ acres of land for active recreational park use to service the projected population of the development. The location of the park site with minimum grassing and grading shall meet with the approval of the Departments of Parks and Recreation and Planning. Further, the park site shall be dedicated to the County within one year after the date of receipt of final subdivision approval of the first increment.
- P. The applicant shall work with the State Department of Education to designate a minimum of 1.7+ acres of land for purchase by and with the concurrence of the State Department of Education. Further, the applicant shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the Planning Department in consultation with the State Department of Education. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Education prior to final subdivision approval.
- Q. As agreed to by the applicant, restrictive covenants in the deeds of all the residential lots shall prohibit the construction of ohana dwelling units. A copy of the proposed covenant(s) shall be submitted to the Planning Department for review and approval prior to final subdivision approval of the first increment. Written assurance for implementation of this condition, which has met with the approval of the Planning Department, shall be submitted to the Planning Department prior to final



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- subdivision approval of the first increment. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval of the first increment.
- R. Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, Land and Natural Resources, Public Works, and Education.
  - S. 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 developers' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.
  - T. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. 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 and the Planning Director acknowledges that further reports are not required.
  - U. An 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 permit; 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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' 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 shall

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initiate rezoning of the area to its original or more appropriate designation.

The Commission also voted to approve your SMA Use Permit application, Special Management Area Use Permit No. 304, to allow the development of a 353-lot residential subdivision, and related improvements on the subject property.

Approval of the SMA Use Permit request is based on the following:

In addition to the findings of the change of zone, the Director concludes that the Special Management Area (SMA) Use Permit to allow the development of a 353-lot residential subdivision and related improvements is also warranted based on the following additional findings:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule No. 9 of the Planning Commission is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. As a result, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving a development within the Special Management Area (SMA) is that the development is consistent with the General Plan, Zoning and Subdivision Control Code, and other applicable ordinances. As presented earlier, the request does conform to the General Plan LUPAG Map, which designates the subject area for Urban Expansion, and to applicable goals, policies, standards and courses of action.

The proposed development is also not anticipated to have any substantial adverse environmental or ecological effects. The property is not known to contain any unique ecological systems, nor provide habitats for any endangered plant or animal species.

While several archaeological surveys affecting the property have been conducted, as a condition of approval, an intensive survey and burial treatment plan will be required. In response to DLNR's concerns, the preliminary conceptual subdivision plan has been revised to show only one breach in the Great Wall of Kuakini. An inventory survey has identified several significant sites earmarked for preservation. These include multiple

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burials adjacent and to the north of Kahakai School affecting the proposed school expansion site and a heiau to the northeast. Detailed measures for the preservation and recordation of archaeological sites as well as for preservation and/or reinterment of burials will also be required.

The proposed development is not expected to have any significant adverse effects on the coastal resources, nor adversely affect any existing access to and along the shoreline. The property is situated mauka of Alii Drive and 1,000 feet at its nearest point from the shoreline. Any potential adverse effects on the off-shore water quality will be mitigated through compliance with existing regulations, including interim sewage disposal and mandatory sewage hookup when the municipal system is available.

Given the above considerations, approval of the proposed project will not result in the loss of valuable natural, cultural, or recreational resources of the shoreline and coastal area.

No adverse impacts on air and water quality are expected to be generated by the proposed development. The nature of the proposed development is such that no unusual air emissions are likely to be produced. Air emissions generated during the construction phase can be mitigated by existing regulations.

Based on the above, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be contrary to the objectives and policies of Chapter 205-A or with the intent of Rule No. 9.

Approval of this SMA Use Permit request is subject to the following conditions:

1. This permit shall have an effective date simultaneous with the effective date of the accompanying change of zone request.
2. Access(es) shall meet with the approval of the Department of Public Works. No lots shall have direct access from Kuakini Highway. Kuakini Highway-Kahakai access road intersection shall be improved with a channelized intersection which meets with the requirements of the

Department of Public Works. These improvements shall be provided prior to final subdivision approval of the first increment or as otherwise provided by Chapter 23 (Subdivision Control). A channelized intersection at the Alii Highway-main access road intersection shall be constructed.

3. The main access road and interior subdivision roads shall be provided with curbs, gutters and sidewalk improvements and underground utilities. Interior north-south roadways shall extend to the boundaries to provide connection with existing and future roadways to adjacent properties. Roadway access to Kahakai Elementary School shall be constructed prior to occupancy of the first increment affecting lands adjacent and to the north of Kahakai School. This roadway connection shall meet with the approval of the Department of Public Works and the Department of Education.
4. The Alii Highway right-of-way and associated easements within the property shall be dedicated to the County within six months of the date of final right-of-way determination by the Department of Public Works. That section of the Alii Highway within the property shall be constructed in accordance with the requirements of the Department of Public Works prior to issuance of final subdivision approval of the second zoning increment or upon a determination by the County that the roadway be constructed, whichever occurs first.
5. Should an Improvement District be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in the Improvement District, provided, however, that the contribution of land and the construction of improvements can be credited towards the applicant's Improvement District assessment.
6. An intensive archaeological survey, data recovery and mitigation/interpretation plan shall be submitted for review and approval by the Planning Department, in consultation with the Department of Land and Natural Resources, prior to submitting preliminary subdivision plans of the first increment or prior to any land preparation activity, whichever occurs first. Mitigation

shall include, but not be limited to, the preservation of Kuakini Wall with approved buffers in the form of written easements and the formulation of historic preservation area(s). Easements and preservation areas shall be delineated on maps submitted for subdivision approval. Restrictive covenants approved by the Planning Department, in consultation with the Department of Land and Natural Resources-Historic Sites Section, shall provide for continued preservation and maintenance of the sites to be preserved. The proposed subdivision shall breach Kuakini Wall at only one point approved by the Planning Department in consultation with the Department of Land and Natural Resources.

7. A burial treatment plan and detailed mitigation measures shall be approved by the Department of Land and Natural Resources prior to submitting preliminary subdivision plans for the first increment or prior to any land preparation activity, whichever occurs first.
8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings 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.
9. Sewer collection and system transmission lines shall be constructed to the Alii Drive interceptor meeting with the approval of the Department of Public Works. In the event that any portion of the development is completed prior to completion of the municipal interceptor serving the development, the applicant shall also construct an interim sewage treatment system, which location and design meets with the approval of the Departments of Public Works, Health, Planning, and Education.
10. The applicant shall set aside a minimum of 4+ acres of land for active recreational park use to service the projected population of the development. The location of the park site with minimum grassing and grading shall meet with the approval of the Departments of Parks and Recreation and Planning. Further, the park site shall be dedicated to the

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County within one year after the date of receipt of final subdivision approval of the first increment.

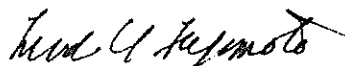
11. Comply with all laws, rules, regulations and requirements, including the change of zone ordinance.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of 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 and the Planning Director acknowledges that further reports are not required.
13. 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 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). 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.

These approvals do not, however, sanction the specific plans submitted with the applications as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

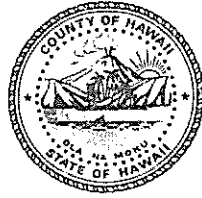


Fred Y. Fujimoto  
Chairman, Planning Commission

xc: Department of Public Works  
Department of Water Supply  
Department of Parks and Recreation  
County Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background  
DLNR-Historic Sites Section  
Department of Education  
Department of Health  
Kahakai School - Principal Claire Yoshida  
Corporation Counsel  
Office of Housing and Community Development

Enc: Plan Approval Section

Harry Kim  
Mayor



## County of Hawai'i

### PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

December 20, 2004

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

Dear Mr. Fuke:

Special Management Area Use Permit (SMA 304)  
Request: Amend from 98 to 101 Lots  
Applicant: SCD Kahakai, LLC  
Tax Map Key: 7-5-20:78 (formerly portion of 1)

The Planning Commission at its duly held public hearing on December 2, 2004, voted to approve the above-referenced request to amend Special Management Area Use Permit No. 304 by increasing the number of allowable residential lots from 98 to 101. The area involved includes the Kahakai Estates Subdivision situated along the southwest (makai) side of Kuakini Highway and north-northeast of Kahakai Elementary School, Puapuaa, North Kona, Hawaii.

Approval of this request is based on the following:

The applicant is requesting to increase the amount of allowable residential lots in the Kahakai Estates Subdivision from 98 to 101. This will be achieved by subdividing Lot 100 (TMK: 7-5-20:78), which is 2.996 acres in size, into 3 lots approximately one acre in size each.

The reasons given for the approval of the 98-lot subdivision still apply to this amended request of 3 additional lots.

The request to increase the allowable residential lots from 98 to 101 will not have a 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. Special Management Area Use Permit No. 304 was originally approved for Kahakai Associates to allow for a 353-lot residential subdivision and related improvements. SCD Kahakai later purchased the project site from the prior owner/applicant and amended SMA 304 by reducing the density from a 353-lot subdivision to a 98-lot subdivision. The applicant is requesting to increase the amount of residential lots from 98 lots to 101 lots by subdividing Lot 100, which is a 2.996 acre lot,

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into 3 separate lots. There are no coastal ecosystems present on the subject site and it is not a shoreline parcel. The increase of three (3) additional lots will not have a significant adverse effect on the coastal zone's ecology and environment. The property will be serviced by the County's sewer system, avoiding impacts to coastal water quality. The traffic generated by the additional three (3) lots will not be such as to create a substantial adverse impact. The applicant will continue to be required to comply with all previous conditions of SMA Use Permit No. 304 including Condition No. 8 (now Condition No. 9) regarding dedication of the required right-of-way width of the Alii Highway and the fair share contribution for the proposed Alii Highway project. There will be no substantial adverse cumulative impacts that will result from the increase of three (3) additional lots, as this is a minor addition to the overall subdivision and the surrounding areas are generally urbanized.

The request to increase the allowable residential lots from 98 to 101 is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The purpose of Chapter 205A, Hawaii Revised Statutes 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 areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

The request is consistent with the Coastal Zone Management ("CZM") program's objectives, policies and guidelines as contained in Chapter 205A-2, HRS, and the guidelines set forth in Rule 9-7, Planning Commission Rules, relating to the Special Management Area.

The subject property is not a shoreline parcel and, therefore, there are no requirements to attach regarding shoreline access. Further, there are no resources associated with the proposed request that will deter from any coastal recreation opportunities. The CZM historic resources objectives and policies provide for the protection of significant archaeological and historical resources through their preservation or through information retention. An archaeological inventory survey has been completed for the subject property of Kahakai Estates subdivision and according to the applicant, the entire site was previously deemed suitable for a house lot. As such, there should be no historic or cultural impacts associated by the proposed 3-lot subdivision.

The CZM scenic and open space resources objectives and policies provide for the protection of important coastal scenic and open space resources. The property is over

1,000 feet from the shoreline and also over 2,000 feet from the closest State coastal highway, which is Kuakini Highway. Due to the relative location and slopes of the subject property, the view planes from Kuakini Highway will not be significantly impacted. Thus, the proposed request is not inconsistent with the scenic and open space resources objectives and policies of the CZM program.

The request to increase the allowable residential lots from 98 to 101 is consistent with the County General Plan and Zoning Code. The request conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area as Urban Expansion Area. This designation allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. The request to allow three (3) additional single family residential lots is consistent with the General Plan.

The property site is zoned for single family residential use. Under Section 25-5-3(a)(5), Hawaii County Code, "Dwellings, single family" are permitted uses within the single family residential zoned district. Therefore, the request is consistent the Zoning Code, which allows for single family residential dwellings.

The request to increase the allowable residential lots from 98 to 101 will not have a significant adverse impact to traditional and customary Hawaiian rights. The subject site is not adjacent and/or proximate to the shoreline. As such, gathering of marine life and coastal access is not an issue. It does not appear that any native Hawaiians have been using the subject or immediate surrounding area in the recent past for the gathering of plants.

Investigation of valued resources: There has been an archaeological survey that was conducted in 1985 that included the subject parcel. In 1992, the Department of Land and Natural Resources-Historic Preservation Division approved the archaeological date recovery plan and the burial treatment plan for 19 burial sites on the larger parcel that encompasses the Kahakai Estates Subdivision. No burial sites were located on the subject property for this request.

A botanical survey was conducted in 1984. No rare or endangered species of flora were identified.

The valuable cultural, historical, and natural resources found in the permit area: Site No. 9974 was located in the area of this request. It consisted of two features. Feature A was a modified outcrop that was roughly oval in plan and was constructed of basalt boulders, piled partially on bedrock. The structure was identified as a generally rounded or sloping profile and was possibly an agricultural feature. Feature B was a

mound that was oval-shaped, and constructed of basalt boulders piled on a soil surface. The structure was identified as a generally rounded or sloping profile and was possibly an agricultural feature. The features were determined to be important for information content and no further data collection was necessary.

Possible adverse effect or impairment of valued resources: Mitigation measures have been completed as part of the subdivision process, which has mitigated any possible effects or impairment of valued resources.

Feasible actions to protect native Hawaiian rights: There has been no information submitted claiming that native Hawaiians have used the subject property or immediate surrounding area in the recent past for the gathering of plants.

Based on the above findings, it is determined that the request to increase the amount of allowable residential lots in the Kahakai Estates Subdivision from 98 to 101 will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of the amendment request is subject to the following changes to conditions (new material is underscored and deleted material is bracketed):

4. Final Subdivision Approval shall be secured [in conjunction with the time frames established by Change of Zone Ordinance No. 91-21 and any accompanying changes to the Change of Zone Ordinance.] within five (5) years of the effective date of this amendment.
8. Upon the determination of the required right-of-way of the Alii Highway by the Department of Public Works and the completion of the right-of-way subdivision by the County, the applicant shall dedicate such right-of-way and any resulting remnants of the subject property to the west of the right-of-way in fee simple to the County upon its request. The applicant shall make its fair share contribution for the proposed Alii Highway project. Upon the proposed subdivision of Lot 100, an additional road lot shall be subdivided according to the most current Kahului to Keauhou (Alii Highway) right-of-way map available from the Department of Public Works for the Kahului to Keauhou Parkway project and dedicated to the County in fee simple upon request.
14. All new lots created by this amendment shall connect to the County sewer system.

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15. The applicant shall comply with the agreement of the Joint Statement between SCD Kahakai LLC, and Richard Bosselmann and Kevin Cawley.
- 16.[14.]  
17.[15.]  
18.[16.]  
19.[17.]  
20.[18.]

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman  
Planning Commission

Lscdkahakai01PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Rodney Haraga, Director/DOT-Highways, Honolulu  
Ms. Alice Kawaha  
Mr. Robert Usagawa  
Subdivision Section  
Mr. Stanford Carr  
Mr. Richard Bosselmann  
Mr. Kevin Cawley  
Michael Matsukawa, Esq.  
Sandra Pechter Song, Esq.