

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
P 101 317 823

JUL 14 1999

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

Dear Mr. Fuke:

Special Management Area Use Permit No. 374 (SMA 374)

Applicant: Towne Development of Hawaii, Inc.

Request: Allow for a 270-Unit Time-Share Condominium, and Amendments to Condition No. 8 (Clarifying the FEMA Map) and No. 9 (Plan Approval Relating to the Data Recovery Plan and Preservation Plan)

Tax Map Key: 7-5-19:05, 38 and 40; 7-5-18:61

The Planning Commission at its duly held public hearing on July 2, 1999, voted to approve the above-referenced request. Special Management Area (SMA) Use Permit No. 374 allowed the development of a retirement residential community, including an assisted living facility and related improvements. The proposed amendments are to allow a 270-unit time-share condominium project in lieu of the approved 300-unit retirement community, amend Condition No. 8 clarifying the FEMA Map amendment requirements, and amend Condition No. 9 relating to submittal of plans for Plan Approval relative to the Data Recovery Plan and Preservation Plan. The property is located between Kuakini Highway and Alii Drive, adjacent and to the south of Lunapule Subdivision, Waiaha 2nd and Kahului 1st, North Kona, Hawaii.

Approval of this request is based on the following:

SMA Use Permit No. 374 was approved by the Planning Commission on March 20, 1997, which allowed the development of a retirement residential community, including an assisted living facility and related improvements. However, the applicant is amending its development by proposing a 270-unit time-share condominium project in lieu of the approved 300-unit retirement community. SMA Use Permit No. 374 was also approved subject, in part, to the following conditions:

- "8. Should any improvements be proposed within the designated floodway, a drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction with the approval of the Department of Public Works.

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- "9. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits."

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to allow the development of a 270-unit time-share condominium project would not be contrary to the original reasons for granting the SMA Use Permit. According to the Zoning Code, time share unit is defined as "any multiple-family dwelling unit or hotel, which is owned, occupied or possessed, under an ownership and/or use agreement among various persons for less than a sixty-day period in any year for any occupant, and is regulated under the provisions of chapter 514E, Hawaii Revised Statutes, as amended." Time share units are permitted in the Resort and General Commercial zoned district. Further, time share units would be permitted in the Multiple Family Residential zoned district if they are situated in any of the following:

- a) Areas designated as resort under the General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- b) Areas determined by the Director to be within resort areas identified by the General Plan Land Use Element, except for retreat resort areas.
- c) Areas determined for such use by the Council, by resolution. The project site is zoned Multiple Family Residential (RM-4 and RM-7) and is considered to be within the Kailua-Kona Major Destination Area and designated as Resort by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Therefore, the proposed time-share development is consistent with the General Plan. The request would also be consistent with the Land Use Element of the General Plan which states "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for Resort, Urban Expansion and Medium Density Urban Development. Resort refers to and includes uses such as business services, hotels, restaurants, retail establishments, theaters and visitor information centers. Urban Expansion 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. Medium Density allows for village and neighborhood commercial and residential related functions (3-story commercial; residential - up to 35 units per acre.

The request to amend Condition No. 8 (clarifying the FEMA Map) and Condition No. 9 (Plan Approval relating to the Data Recovery Plan and Preservation Plan) of SMA Use Permit No. 374, will allow the property to be developed in a manner that ensures that flood and historic sites impacts and concerns are addressed in a manner that is fair to both the County and the landowner. More specifically, the proposed amendments will bring the conditions relating to the performance requirements in line with current regulations and practices.

In reference to Condition No. 8, the applicant states: "Chapter 27 of the Hawaii County Code governs construction and development standards within areas subject to flooding. It also incorporates the provision of the Federal Emergency Management Agency's (FEMA) requirements relative to improvements within areas vulnerable to various levels of flooding.

"Pursuant to this Code and the FEMA provisions, certain improvements may not require a letter of map revision (LOMR) or Physical Map Revision (PMR) of the Federal Emergency Management Agency (FEMA)'s flood insurance rate map. These improvements can range from road and related infrastructure, structures and recreational amenities. Nonetheless, the improvements must be consistent with certain construction and design standards.

Further, as presently worded, the condition requires a Letter of Map Revision (LOMR) or Physical Map Revision (PMR) for any improvements within the designated floodway, regardless of whether one is or is not needed. As such, the requested amendment is designed to require an amendment only if it is necessary; and in doing so, it would be consistent with existing regulatory requirements.

The purpose of Chapter 27 is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. In order to accomplish this, restrictions, prohibitions and controls are required. The amendment to Condition No. 8 would require the developer to comply with Chapter 27, if improvements are constructed within the floodway.

In reference to Condition No. 9 the applicant states: "This condition requires the submittal of plans for Plan Approval only after the Hawaii Island Burial Council has approved the Final Data Recovery Plan and Preservation Plan. Often times, this can take months, as the Council usually meets once a month, and none of the major project site planning and/or construction plans can reasonably occur until this plan has been approved."

The amendment to Condition No. 9 would allow for the timely and reasonable processing of plans, while providing adequate measures for the mitigation and/or preservation of archaeological sites.

Based on the above, the requests for amendments to SMA Use Permit No. 374 and Condition Nos. 8 and 9 are hereby approved.

Approval of these amendments are subject to the following conditions (new material is underscored and deleted material is bracketed):

1. The applicant, its successor 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 be responsible for complying with all conditions of approval of Change of Zone Ordinance No. 96-61.
4. Construction of the proposed development shall commence within five (5) years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed development shall be secured from the Planning Department in accordance with Chapter 25-2-70 of the Zoning Code.
5. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
6. Sewer lines shall be installed within the development to tie in with the Honokohau Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
7. A Solid Waste Management Plan for the development shall be prepared and approved by the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. A copy of the approved Plan shall be submitted to the Planning Department for its files.
8. [Should] Any improvements [be proposed] within the designated Federal Emergency Management Agency (FEMA) flood zone [,] shall be subject to the requirements of Chapter 27 of the Hawaii County Code and the approval of the Department of Public Works, which may include the submittal of a drainage study [shall be submitted] to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) [shall be issued prior to construction with the approval of the Department of Public Works].
9. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) prior to issuance of Plan Approval of the subject project. The Plan shall consist of three subplans: (1) an archaeological data recovery plan; (2) a detailed interim protection/preservation plan for the sites to undergo preservation; and (3) an interpretation plan which shall include buffer zones, signage, and long range

preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to issuance of any land use alteration permits for each phase of development within the project area.

[Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.]"

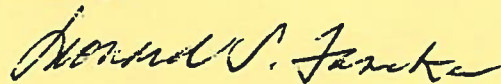
10. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
11. 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 with and the Planning Director acknowledges that further reports are not required.
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 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.
 - 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).

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.

Mr. Sidney Fuke
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Should you have any questions, please feel free to contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,

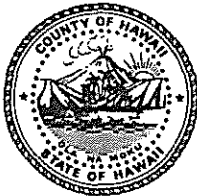


Leonard S. Tanaka, Chairman
Planning Commission

LTowne01.PC

cc: Mr. Christopher Lau
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi

Stephen K. Yamashiro
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APR 04 1997

Robert L. Brown, Managing Partner
Heritage Development Group
P.O. Box 1325
Hilo, HI 96721

Dear Mr. Brown:

Special Management Area Use Permit Application (SMA 96-13) ✓
Request: Allow the Development of a Retirement Residential Community
to Include an Assisted Living Facility and Related Improvements
Use Permit Application (USE 97-1)
Request: Construct a 100-Unit Assisted Living (Old Age) Facility
Applicant: Heritage Development Group
Tax Map Key: 7-5-19:5, 38, 40 and 7-5-18:61

The Planning Commission at its duly held public hearing on March 20, 1997, voted to approve the above-referenced applications. Special Management Area Use (SMA) Permit No. 374 is hereby issued to allow the development of a retirement residential community, including an assisted living facility and related improvements. Use Permit No. 154 is also issued to allow the development of a 100-unit assisted living (old age) facility and related improvements, on approximately 32.135 acres of land situated within the County's Multiple Family Residential (RM-4 and RM-7) zoned district. The property is located between Kuakini Highway and Alii Drive, adjacent and to the south of Lunapule Subdivision at Waiaha 2nd and Kahului 1st, North Kona, Hawaii.

Approval of these requests are based on the following:

Special Management Area (SMA) Use Permit

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS) and 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.

The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable

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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 one of which taken in itself might not have a substantial adverse effect and elimination of planning options. There are three distinct building types incorporated into the plan:

- (1) approximately sixty single family detached dwellings will be constructed in the lower region of the site, situated from a line approximately 300 feet mauka of Alii Drive for approximately 650 feet;
- (2) Next, and at the 60 foot elevation, a four-story structure with its companion two-story building will house the assisted living apartments and its dining pavilion, along with the facilities necessary to this operation;
- (3) Approximately 120 condominium apartments are located on the upper portion of the project, all with substantial separation between the buildings to provide for view, natural ventilation and privacy.

The proposed development is located mauka of Alii Drive. Therefore, there would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems. The property is presently overgrown. Current vegetation on the property is dominated by non-native plants. There are no known rare or endangered plant life or animal species on the property or in its immediate vicinity. The proposed development would not impact the immediate adjacent properties as the subject property is surrounded by vacant lands to the south. Lands to the south are zoned RM-4, RM-7, and to the west is V-1.25. To the north and southwest are lands zoned for single family residential and double family residential.

The proposed development 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. According to the Department of Public Works, the applicant should install sewer lines to tie in with the Honokohau Wastewater Treatment Plant. A condition of approval will be included that the applicant hook up to the County's sewer system. The FEMA maps indicate the property is located within the Waiaha Flood Plain and designated Zone A by the Army Corp of Engineer's Federal Flood Insurance Rate Map. Zone A is defined as areas susceptible to 100-year flooding. The Department of Public Works has recommended that a drainage study be submitted to FEMA and that a Letter of Map Revision (LOMR) or a Physical Map Revision (PMR) be issued prior to construction. Therefore, a condition of approval will be included to comply with this recommendation.

The applicant has indicated that the portions of the property which are located within the 100-year flood plain will remain as a "greenbelt" for the project. The flood plain will not be built upon; however, there will be some paved roadway crossings on it. The flood plain will be landscaped and maintained.

The Department of Health requires that if there is any type of process wastewater discharge from the project into State waters the applicant may be required to apply for an individual NPDES permit. The applicant has stated that they will file a Notice of Intent for a NPDES permit. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

Extensive archaeological assessments have been performed on the property throughout the years. Three sites are identified for preservation, site 6322, a significant "heiau"; site 6305, a crypt; and site 6302, the Great Wall of Kuakini. Additional assessment work will be performed to update the earlier archaeological work. The preparation of a historic preservation plan and the establishment of buffer zones, interim protection measures and remaining archaeological data recovery still needs to be completed. Therefore, a condition of approval will be included stating that the applicant fully implement the approved historic preservation plan prior to securing Final Plan Approval of the proposed development. The implementation of this mitigation plan will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for Medium Density Development. Medium Density allows for village and neighborhood commercial and residential related functions (3-story commercial; residential - up to 35 units per acre). Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will compliment the following goals, policies and standards of the Land Use and Residential Elements of the General Plan:

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o To maximize choices of single-family residential lots and/or housing for residents of the County.
- o To ensure compatible uses within and adjacent to single-family residential zoned areas.
- o To provide single-family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers.

- o Areas shall have basic improvements and amenities necessary for immediate use.

The proposed request would also complement the following Housing Element goals and policies by creating a mix of residential housing opportunities, maintaining a housing supply that allows a variety of choice and by providing housing units geared toward the middle income bracket.

- o Attain safe, sanitary and livable housing for the residents of the County of Hawaii.
- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.
- o 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.
- o Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

The proposed use would also conform to the following goals and policies of the Economic Element:

- o Provide residents with opportunities to improve their quality of life.
- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the above findings, 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 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of the **Special Management Area (SMA) Use Permit** request is subject to the following conditions:

1. The applicant, its successor 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 be responsible for complying with all conditions of approval of Change of Zone Ordinance No. 96-61.
4. Construction of the proposed development shall commence within five (5) years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed development shall be secured from the Planning Department in accordance with Chapter 25-2-70 of the Zoning Code.
5. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
6. Sewer lines shall be installed within the development to tie in with the Honokohau Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
7. A Solid Waste Management Plan for the development shall be prepared and approved by the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. A copy of the approved Plan shall be submitted to the Planning Department for its files.
8. Should any improvements be proposed within the designated floodway, a drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction with the approval of the Department of Public Works.
9. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinterment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its

files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.

10. 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.
11. 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 with and the Planning Director acknowledges that further reports are not required.
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 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.
 - 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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate to revoke this permit.

Use Permit

The proposed use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a 100-unit assisted living (old age) facility and related improvements, on a parcel located within the State Land Use Urban District and the County's Multiple Family Residential (RM-4 and RM-7) zoned district may be permitted through the Use Permit review process. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the General Plan goals and policies. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions

relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

Although the Kona Regional Plan designates the area for Residential Expansion, the subject property is situated within the Medium Density area of the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Medium Density allows for village and neighborhood commercial and residential related functions (3-story commercial; residential - up to 35 units per acre.) Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will compliment the following goals, policies and standards of the Land Use and Single Family Residential Elements of the General Plan.

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o To maximize choices of single-family residential lots and/or housing for residents of the County.
- o To ensure compatible uses within and adjacent to single-family residential zoned areas.
- o To provide single-family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers.
- o The County shall designate and allocate single-family residential zoned lands at varying densities for future use in accordance with the needs of the communities and the stated goals, policies and standards.
- o Areas shall have basic improvements and amenities necessary for immediate use.
- o Areas shall be limited to low-density and medium density residential uses.

The proposed request would also complement the following Housing Element goals and policies by creating a mix of residential housing opportunities, maintaining a housing supply that allows a variety of choice and by providing housing units geared toward the middle income bracket.

- o Attain safe, sanitary and livable housing for the residents of the County of Hawaii.
- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.

- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.
- o 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.
- o Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

The proposed use would also conform to the following goals and policies of the Economic Element:

- o Provide residents with opportunities to improve their quality of life.
- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The Kona Regional Plan adopted by the Planning Commission in 1984 is intended to provide short and middle range implementation strategies for the goals, policies and land use pattern presented in the General Plan. The Kona Regional Plan and its Zone Guide Map, adopted over 10 years ago, suggested a Residential Expansion, designation for the project site, and recognized the need for interim village and neighborhood commercial uses for the project site. The property is situated midway between the urban/retail/employment centers of Kailua Village and Keauhou, and the proposed use will support diversification of the economic base for the County. Approval of the subject request would be consistent with the policy direction established by the General Plan.

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The subject property is located between Kuakini Highway and Alii Drive, adjacent and to the south of Lunapule Subdivision. The lands surrounding the subject parcel are zoned Resort and Single Family Residential. The view onto the subject parcel from surrounding uses/properties in the area will be screened by the trees which will be incorporated into the landscaping. All parking for residents will be off-street and parking activities will, likewise, be screened by the surrounding landscape buffer. It is not anticipated that endangered or threatened candidate species of flora or fauna are located within the project site, nor has the area been identified as a significant botanical or biological habitat. The existing topography will be preserved where possible and a minimum amount of grading is planned for the project. Archaeological studies have identified three significant resources which will be preserved within the

project. These are a heiau (site 6322), portions of the Kuakini Wall (site 6302) and a "crypt" (site 6305).

The FEMA maps indicate the property is located within the Waiaha Flood Plain and designated Zone A by the Army Corp of Engineer's Federal Flood Insurance Rate Map. Zone A is defined as areas susceptible to 100-year flooding. The Department of Public Works has recommended that a drainage study be submitted to FEMA and that a Letter of Map Revision (LOMR) or a Physical Map Revision (PMR) be issued prior to construction. Therefore, a condition of approval will be included to comply with this recommendation.

The applicant has indicated that the portions of the property which are located within the 100-year flood plain will remain as a "greenbelt" for the project. The flood plain will not be built upon; however, there will be some paved roadway crossings on it. The flood plain will be landscaped and maintained.

The Department of Health requires that if there is any type of process wastewater discharge from the project into State waters the applicant may be required to apply for an individual NPDES permit. The applicant has stated that they will file a Notice of Intent for a NPDES permit.

The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. The project location, midway between Kailua and Keauhou, is ideally situated for an assisted living facility. The project will provide an independent way of life to those people experiencing some degree of frailty or need in the daily activities of living. The proposed structure will be four stores in height, concrete and totally protected from fire. There will be studio apartments, each with kitchenette, large ADA bathroom, and ample closet space. The four-story structure will have a "plantation" look, with colorful window awnings on the exterior, with a combination of horizontal siding and stucco finishes. The proposed project will contribute positively to the generally residential character of the neighborhood.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure. The project site is located within an area adequately served with essential services and facilities such as water, transportation systems and other utilities. Proper layout design of the parking lot, sight distances and driveway entrance will ensure safe ingress and egress to the project site while minimizing congestion associated with turning movements on Alii Drive. A Traffic Impact Analysis Report should be performed to determine the increase traffic associated with the project. In order to ensure the safety of bicyclists as well as pedestrians, the Department of Public Works stated that the applicant should provide a full width paved shoulder along the entire frontage of the property. A condition of approval will be included to ensure the public safety. Water is readily available from existing utilities. Improvements to existing utilities are necessary for the project and will be provided by the applicant. Police and fire protection services are provided by existing facilities and manpower. According to the Department of Public Works, the applicant should install

sewer lines to tie in with the Honokohau Wastewater Treatment Plant. A condition of approval will be included that the applicant hook up to the County's sewer system.

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

1. The applicant, its successor 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 be responsible for complying with all conditions of the Change of Zone Ordinance No. 96-61.
4. Construction of the proposed development shall commence within five (5) years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed improvements shall be secured from the Planning Department in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Landscaping along the project site's boundaries shall be provided to the extent that a continuous, unbroken, heavy planting screen, no less than 5 feet in height, is established prior to the issuance of a certificate of occupancy.
5. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
6. In order to ensure the safety of bicyclists and pedestrians, the applicant shall extend the paved shoulders along the entire Alii Drive frontage of the property meeting with the approval of the Department of Public Works. All these improvements shall be completed prior to the issuance of a certificate of occupancy.
7. A Traffic Impact Analysis Report to enable proper design of roadways and traffic intersections, including a left turn lane on Alii Drive, shall be prepared and approved by the Department of Public Works.

8. Sewer lines shall be installed within the development to tie in with the Honokohau Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
9. A Solid Waste Management Plan for the development shall be prepared and approved by the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. A copy of the approved Plan shall be submitted to the Planning Department for its files.
10. Should any improvements be proposed within the designated floodway, a drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction with the approval of the Department of Public Works.
11. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.
12. 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.
13. 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 with and the Planning Director acknowledges that further reports are not required.
14. 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.

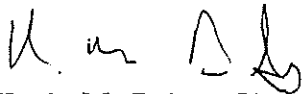
- B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted 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 Planning 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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LHerit01:PC

cc: 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
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. William L. Moore