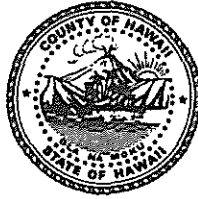


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
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CERTIFIED MAIL  
Z 179 517 347

DEC 16 1997

Mr. James Leonard  
PBR Hawaii  
101 Aupuni Street, Suite 310  
Hilo, HI 96720-4276

Dear Mr. Leonard:

Change of Zone Application (REZ 95-18)  
Request: Unplanned/A-5a to RS-10, RM-2, RM-3.5, RM-5.5 and Open  
Special Management Area Use Permit Application (SMA 95-4) ✓  
Request: Development of a Master-Planned Residential Community  
to Consist of Approximately 203 Single Family Residential Units,  
773 Multiple Family Residential Units and Related Improvements  
Applicant: Kamehameha Investment Corporation  
Tax Map Key: 7-8-10:Portion of 2

The Planning Commission at its duly held public hearing on December 4, 1997, voted to approve the above-referenced Special Management Area Use Permit application and also voted to recommend approval of the Change of Zone application to the County Council. The subject property is located directly makai of Kuakini Highway, mauka of the proposed Ali'i Highway Extension and along Kamehameha III Road at Keauhou, North Kona, Hawaii.

Special Management Area Use (SMA) Permit No. 381 is hereby issued for the development of a Master-Planned Residential Community to consist of approximately 203 single family residential units, 773 multiple family residential units and related improvements.

Approval of the **Special Management Area Use Permit application** is based on the following:

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.

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DEC 16 1997

The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each 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 203 single family detached dwellings will be constructed.
- (2) Approximately 773 condominium apartments will be constructed, all with substantial separation between the buildings to provide for view, natural ventilation and privacy. All proposed structures will not exceed the 45 feet height limit.

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 lands to the south are zoned RS-15 and RM-3, to the west is RS-7.5, RM-1, RM-3, V-4. To the north and southwest are lands zoned for single family residential. Land uses in the area include the Keauhou Estates, Hillhaven Medical Care Facility, golf course and condominiums across Kamehameha III Road; Keauhou Shopping Village and vacant lands.

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 Heeia Wastewater Treatment Plant. A condition of approval will be included that the applicant hook up to the County's sewer system. The Flood Insurance Rate Maps (FIRM) indicate that the property is located in Zone X, areas outside of the 500-year flood plain. There are no significant drainageways anticipated. While there are no indications of surface water flow on-site, the applicant will abide by all applicable County guidelines for run-off generated by the development. The Department of Public Works has recommended that a drainage study be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Therefore, a condition of approval will be included to comply with this recommendation.

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.

An archaeological inventory survey was conducted by Paul H. Rosendahl, Inc. (HPRI). The study found that the project area is located entirely within the historic Kona Field System, and nearly the entire project area is situated within the boundaries of the Kahaluu Historic District. The Kahaluu Historic District has been placed on the National Register of Historic Places (NRHP). The district was nominated to the register for several reasons, including the following: a) the district contains numerous heiaus within relatively small area; b) the unique architecture of several of the heiaus; c) the value of the petroglyphs within the area; d) the districts association with important traditional political and religious activities; and e) the regions's high scientific research value. The Kona Field System which has also been declared eligible for inclusion on the NRHP, is a complex of aboriginal Hawaiian dryland cultivation and habitation remains. This area of approximately 3 by 18 miles, extends from Kailua south to Ho'okena.

A total of 251 separate sites, comprising of 36 functional types, were identified within the project area. These sites were discovered to contain a wide range of formal feature types, which were reduced to 14 general functional categories. These general functional interpretations include habitation, possible burial, agriculture, indeterminate, boundary, ceremonial, habitation-possible burial, marker, transportation, habitation-ceremonial, habitation-refute, ceremonial-possible burial, storage, and quarry. Of the 251 identified sites, 166 have been assessed as significant solely for information content. Of these 166, 158 are recommended for further data recovery. For the eight remaining sites in this group, no further work has been recommended. Forty-nine sites are assessed significant for information content and as tentatively significant for cultural value, pending further data collection. At the present, these 49 sites are recommended for preservation "as is," pending the results of the proposed testing. Nineteen sites are assessed as significant for information content, as excellent samples of site types, and for cultural significance. These 19 sites are recommended for further data collection, to be followed by preservation with some level of interpretive development. Of the remaining 17 sites, seven are assessed for information and cultural values, with recommendation of further data collection. Five sites are assessed as significant for informational content value, pending further data collection. The preparation of a data recovery plan and 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 data recovery plan and 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 Urban Expansion and Low Density Urban Development. Urban Expansion Area 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. Within areas designated for

development as resorts, portions of the resort area may be included in the Urban Expansion Area. The Low Density Urban Development designation refers to single family residential in character, ancillary community and public uses and convenience type commercial uses.

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 Use Permit application** is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The effective date of this Special Management Area Use Permit shall be the effective date of the Change of Zone ordinance. Should the SMA boundaries be amended so that the subject property is no longer within the SMA, then this permit shall be null and void.
3. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval of the Change of Zone Ordinance.
4. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
5. The applicant, its successors or assigns shall submit a Solid Waste Management Plan for the development to the Department of Public Works for review and approval prior to securing Final Subdivision Approval. A copy of the approved Plan shall be submitted to the Planning Department for its files.
6. Sewer lines shall be installed within the development to tie in with the Heeia Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
7. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted 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 within the subject property shall 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 Archaeological Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for

subdivision review and prior to any approval for any land alteration permits. An interpretation/mitigation plan which shall include buffer zones, signage and long-range preservation concerns shall be submitted to the Planning Director prior to Final Subdivision Approval.

8. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
9. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property, including the Department of Health.
10. 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.
11. An initial extension of time for the performance of conditions within the permit 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, its 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).

The Commission voted to recommend the approval of the **Change of Zone application** to the County Council subject to the following conditions:

- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, its successors or assigns shall be responsible for complying with all of the conditions of approval of the Special Management Area Use Permit for the subject property.

- C. Within three (3) years from the enactment of this ordinance, the applicant shall provide assurance satisfactory to the Department of Water Supply and the Planning Director, upon consultation with the State Department of Health and the State Department of Land and Natural Resources, that a water source(s) of sufficient quality and quantity can be established. The effective date of the changes in district classification(s) shall be the date on which the Planning Director has certified such assurances to be satisfactory. Such satisfactory assurance can be met by the actual drilling and testing of a well site of the water source or by the submittal of a hydrological study certifying that a water source(s) of sufficient quality and quantity can be established at the designated location(s). The actual development of the water source and its water transmission and distribution system shall be developed in conjunction with the subdivision approval process. Residential building permits shall not be issued until the approved water source is developed and its transmission and distribution system for such source to the subject property has been constructed. Residential building permits may be issued for model home complexes, provided that such model homes will not be occupied until the approved water source is developed.
- D. Final Subdivision Approval for the residential subdivision and Final Plan Approval for the multiple family residential development for Phase I shall be secured within five (5) years from the effective date of the rezoning as determined in Condition C of this ordinance. Prior to commencing construction for any of the proposed multiple family residential development, Final Plan Approval shall be secured from the Planning Department in accordance with Chapter 25 Division 7 of the Zoning Code relating to Plan Approval. A master plan and development schedule of the entire proposed development within the subject property shall be submitted with plans for subdivision review for Phase I.
- E. Restrictive covenants in the deeds of all proposed residential lots within the subject property shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenants to be recorded with the Bureau of Conveyances shall be submitted with the plans for subdivision to the Planning Director for review and approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval.
- F. Access(es) and intersection roadway improvements to the subject property from Kamehameha III Road and Alii Highway and any improvements within Kamehameha III Road and Alii Highway shall be constructed meeting with the requirements and approval of the Department of Public Works. In conjunction with Final Subdivision Approval for the corresponding phases of the development within the subject property, the applicant shall complete the following roadway improvements, when warranted by traffic studies conducted in coordination with the Department of Public Works.
- (1) Traffic signalization improvements shall be installed for the intersection of Kamehameha III Road and Keali'i Street.

- (2) Left turn lanes shall be constructed within Kamehameha III Road at Mauka Access Roads I and II into the subject property.
- G. Upon the determination of the required right-of-way for the Alii Highway project and the completion of the right-of-way subdivision(s) for such roadway portion, the applicant shall dedicate such right-of-way portion in fee simple to the County upon its request. The applicant shall make its fair share contribution for the proposed Alii Highway Project.
- H. A roadway connection to the adjoining parcel of the subject property's northern boundary shall be provided meeting with the approval of the Department of Public Works and shall be delineated on the final subdivision plat map for the subject property.
- I. All roadways within the proposed subdivision shall be constructed meeting with the requirements of Chapter 23, Subdivision Code. Roadway improvements within the proposed subdivision shall include curb, gutter and sidewalks.
- J. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- K. The applicant, its successors or assigns shall submit a Solid Waste Management Plan for the development to the Department of Public Works for review and approval prior to securing Final Subdivision Approval. A copy of the approved Plan shall be submitted to the Planning Department for its files.
- L. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to Final Subdivision Approval.
- M. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted 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 within the subject property shall 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 Archaeological Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for subdivision review and prior to any approval for any land alteration permits. An interpretation/mitigation plan which shall include buffer zones, signage and long-range preservation concerns shall be submitted to the Planning Director prior to Final Subdivision Approval.

- N. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- O. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the project with respect to roads, park, fire, police and solid waste disposal facilities. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the lot counts are adjusted. The fair share contribution shall become due and payable prior to final subdivision approval of any portion of the subject property or its increments. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute improvements/facilities related to roads, park, fire, police and solid waste disposal facilities within the region impacted by the proposed development with the approval of the appropriate agency(ies). The cost of constructing the improvements required in Conditions F and G, the fair market value of land contributed pursuant to Condition G, and prior cash contributions toward the planning of the Alii Highway project, shall be credited against the road and traffic improvements. Any contributions required by this ordinance that exceed the fair share requirement of this proposed development shall, at the applicant's request be credited towards any of the applicant's future developments that require infrastructural impact contributions.
- P. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the easements of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- Q. In lieu of actual construction of infrastructural improvements as conditioned above, the applicant may enter into an agreement with the Planning Director and the Department of Public Works and the Department of Water Supply, if applicable, to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and the Corporation Counsel. Upon execution of such agreement and/or filing of the security with the County, if applicable, Final Subdivision Approval for the subject property or portions thereof may be granted prior to the actual construction of required infrastructural improvements unless otherwise restricted herein.




- R. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property, including the Department of Health.
- S. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. 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.
- T. 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, its 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).
- U. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area to its original or more appropriate designation.

The Special Management Area Use Permit application approval and Change of Zone application recommendation 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.

Mr. James Leonard  
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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

Lkic01.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  
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