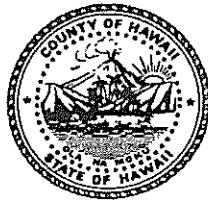


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL  
7000 0600 0024 2905 3301

MAR 19 2001

Steven S. C. Lim, Esq.  
Carlsmith Ball LLP  
121 Waianuenue Avenue  
Hilo, HI 96720

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 01-01)  
Applicant: Kamehameha Investment Corporation  
Request: To Allow the Development of an Approximate 2-Lot Subdivision to be  
Incorporated into the Bayview Estates at Keauhou, Phase II, Subdivision  
Tax Map Key: 7-8-11:Portion of 8

The Planning Commission at its duly held public hearing on March 2, 2001, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 414 is hereby issued for the development of a 2-lot residential subdivision. The property is located to the east and adjoining the proposed Bayview Estates at Keauhou Phase II Subdivision, Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

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. The applicant states that: "The Keauhou Resort lands were master-planned in the 1960's and 1970's to allow for the orderly development of residential communities within a resort setting. Over the years, residential sales within the Keauhou Resort area have been relatively strong, due in large part to the well-planned resort-residential community environment, the range and quality of residential products being offered, and the wealth of nearby commercial and recreational

002325  
MAR 19 2001

amenities. The Project is intended to help meet the growing demand for residential lots in the Keauhou Resort area and allow for the expansion of an existing subdivision in an orderly and cost-effective manner.

“Being in close proximity to the existing Bayview Estates at Keauhou subdivision and adjacent to the proposed Bayview Estates at Keauhou, Phase II subdivision offers the Project the advantage of being close to existing infrastructure and supportive public services. The Project has also been planned with a sensitivity to the environmental and cultural considerations of the site. Development of the Project will be consistent with the existing residential subdivision with a high level of site amenities will be complementary to the development in the area.

“The roadway within the Project will be built to existing roadway standards, which include minimum-required pavement and right-of-way widths, curbs, gutters and sidewalk, and underground utilities such as water, sewer, electricity, telephone and cable television. The subdivision roadway will remain in private ownership, and there is a security gate at Bayview Estates entrance.

“The Project will require lot purchasers to be responsible for grading their own lots and building their own homes. The design of the homes will be monitored by a homeowner's design committee to assure quality house design and construction. Design guidelines and restrictive covenants will be used by the design committee as a basis for the design review and approval.”

The proposed development is located mauka of Ali'i Drive, approximately 1,900 feet from the shoreline, and approximately 2,000 feet makai of Kuakini Highway, at an elevation of approximately 700 feet above mean sea level. The subject property is a .990-acre portion of a 1.95-acre rectangular-shaped parcel. The subject property is currently vacant and heavily vegetated. Annual rainfall averages approximately 75 inches, with most falling in the summer months. The proposed development is adjacent to and immediately east and south of the proposed Bayview Estates at Keauhou Phase II development, a 45-lot single-family residential (RS-15) subdivision. Phase II in turn is adjacent to the existing 54-lot Bayview Estates at Keauhou Phase I development. Nearby lands to the east and south are vacant. Lands further to the north and west are the 135-lot Keauhou Estates (RS-15), 58-unit The Villas (RM-3.5) and 29-unit Hale Kehau condominiums (RM-3). Lands in the area are zoned RS-7.5, RS-15, RM-1, RM-3, V-4. 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. 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, 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 (DOH) requires that underground injection systems that receive wastewater or storm run-offs from development need to address DOH requirements. 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.

According to the applicant's Environmental Report, the property is almost entirely covered with grass and stands of koa haole. Plant species found in the area are common, mostly alien, species: (1) trees such as kiawe, kukui, African tulip, noni and monkeypod; (2) shrubs such as koa-haole, Christmas berry, klu, castor bean and sodom apple; and (3) common herbs such as bermuda grass, spiny pigweed, four-o'clock, beggar's tick, Sacramento bur, goose grass, heliotrope, sow thistle, rattle pod, finger grass, crab grass, and sand bur. Bindweed, coccinea, and koali awahi'a represent the vine types. Of the native plant species found in the vicinity, many are weedy varieties and are able to compete in the face of disturbance or invasion of other weeds. None of the plant species are classified as rare or endangered.

According to the applicant's Environmental Report, faunal studies conducted in the project vicinity have observed no resident endemic or indigenous bird species. Species observed in the area include the Japanese White-Eye, Yellow-Billed Cardinal, Zebra Dove, Common Myna, House Sparrow, and House Finch. Mammals common to the area are Mongoose and feral cats and dogs. No endangered species were observed. The Hawaiian Hoary Bat, a species listed by both the Federal and State governments as endangered, has been observed offshore in the Kona area a number of times but its presence has not been observed or documented in or around the project site.

An archaeological inventory survey with subsurface testing report was conducted by Archaeological Consultants of the Pacific, Inc., dated July, 2000. The inventory survey states that, "Two sites of significance to the interests of historic preservation, Sites 22078 and 14652, were present on the current subject property. Site 22078 consisted of

twenty-nine features. Based on investigations conducted at these features, it is believed that they were utilized for historic and possible pre-Contact habitation, historic burial, and agricultural functions which likely continued from the pre-Contact period through the post-Contact period. This site qualifies to be considered significant under Criterion D (site has yielded, or is likely to yield, information important in prehistory or history) of the National Register of Historic Places criteria and Criterion E (site has cultural significance) of the Hawai'i Register of Historic Places (refer to Table 6). A portion of Site 14652, an historic wall network originally recorded by Jones et al. (1993), extended onto the subject property. Significance assessments were previously made by Sweeney and Burtchard (1995) for this site, wherein the site qualified to be significant under Criterion A (site associated with events contributing to broad patterns in history) and D. Archaeological Consultants of the Pacific, Inc., recommends that a determination be made that future construction activities would have an "adverse effect" on significant historic properties at Sites 22078 and 14652 under the Advisory Council Regulations, 36 CFR 800. Data Recovery and a Burial Treatment Plan are recommended for Site 22078."

The applicant subsequently submitted a burial treatment plan to the Hawaii Island Burial Council for the subject property as well as the adjacent parcels identified as TMK: 7-8-11:10 & 13, and a data recovery plan to Department of Land and Natural Resources (DLNR-HPD) for its review and approval. While the Burial Treatment Plan identifies a total of six burials, the applicant points out that only one is on the subject property and it is located on the mauka portion of the property which is not included as part of the subject requests. It is the wish of the applicant to preserve these burials in place. According to the plan, the burials will be protected by temporary 70-foot buffer zones marked by high-visibility fences during initial grubbing and grading of the properties, and ultimately, by permanent 25-foot buffer zones marked by low stone walls constructed from existing rock walls on the property. The applicant states that it will comply with all conditions of the Hawaii Island Burial Council review and requirements. By letter dated January 18, 2001, Don Hibbard, Administrator of the State Historic Preservation Division of the Department of Land and Natural Resources, states that the archaeological inventory survey has been approved by his office. He further states, "With the understanding that the burial treatment and data recovery plans are found acceptable and implemented, we believe that the proposed development will have "no adverse effect" on the two historic sites located on the subject parcel." The specific treatment for the archaeological features designated for preservation and data recovery will be determined as part of the archaeological approval process in conjunction with the requirements of DLNR-HPD and other applicable agencies.

A portion of the Keauhou Trail is located along the north boundary of the subject property. The applicant proposes to relocate the trail to the south side of the subject property, pursuant to DLNR-HPD requirements. In cooperation with its Cultural Advisory Committee, the applicant is developing a Keauhou Resort trail system that incorporates and connects the ancient trails, cultural and archaeological sites and historic railroad right-of-way with contemporary access ways. According to the applicant, the Cultural Advisory Committee has reviewed and concurred with the proposed relocation of the Keauhou Trail. To address the cultural and archaeological resources of the area, a condition is included that an interpretation/mitigation plan for the subject property and specifically the Keauhou Trail shall include buffer zones, a system for perpetual public access, signage and long-range preservation concerns shall be submitted to the Planning Department.

The property is located mauka of Ali'i Drive approximately 1,900 feet from the shoreline and 2,000 feet makai of Kuakini Highway. The project will not impact views of the shoreline from Kuakini Highway as the topography and vegetation of the property would largely screen the development from mauka to makai view. While the development will be visible from the shoreline as part of the larger regional view of the Keauhou mauka lands, it will not be easily distinguishable. Given its distance from the shoreline, the proposed development will not adversely impact any recreational resources, including access to and along the shoreline, or visual resources to the shoreline and coastal ecosystems.

Air quality in the area of the subject property is most affected by emissions from natural and vehicular sources. Volcanic haze is the dominant form of natural emissions, while windblown dust may also contribute to air pollution. The existing noise generated in the area is coming primarily from the vehicular traffic on Ali'i Drive, Kamehameha III Road and Kuakini Highway. The principal source of both short-term air and noise quality impacts associated with the proposed improvements is expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

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 uses. 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.

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 this request 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 (SMA) 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. Sewer lines shall be installed within the development to connect with the He'eia Wastewater Treatment Plant, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
6. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted for the review and approval of 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 the burial site 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 final subdivision approval and/or prior to any approval for any land alteration permits.

An interpretation/mitigation plan for the subject property and specifically the Keauhou Trail shall include buffer zones, a system for perpetual public access, signage and long-range preservation concerns shall be submitted to the Planning Department prior to Final Subdivision Approval.

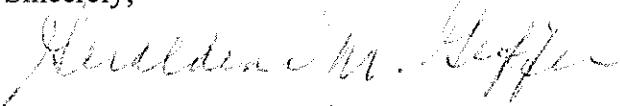
7. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified.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

Steven S. C. Lim, Esq.  
Page 8

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 contact Daryn Arai of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

LKIC SMA01-001#2PC

cc: 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  
Mr. Jeffrey Darrow  
Subdivision Section  
Kamehameha Investment Corporation