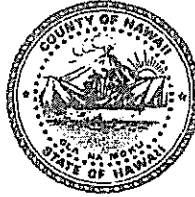


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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APR 03 2003

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

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 02-007)
Applicant: Kamehameha Investment Corporation
Request: 200 Multiple Family Residential Units and Related Improvements
Tax Map Key: 7-8-10:portion of 35 and 93

The Planning Commission at its duly held public hearing on March 7, 2003, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 428 is hereby issued to allow the development of 200 multiple family residential units and related improvements. The property is located at the intersection and bordering Ali'i Drive and the proposed Kahului-Keauhou Parkway, west of the Keauhou Village Shopping Center and northeast of Keauhou Kona Surf & Racquet Club and Keauhou Gardens condominium project, Kahalu'u and Keauhou 1st, North Kona, Hawai'i.

Approval of this request 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.

The proposed 200-unit multiple family residential development and related improvements 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 is proposing to develop a

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200-unit multiple-family residential development and related improvements on approximately 14.47 acres. A culturally significant portion of the property located makai of the Great Wall of Kuakini will be subdivided and consolidated with the archaeological preserve and cultural complex located within a portion of TMK: 7-8-10: 35.

The proposed development will not have an adverse impact to coastal recreational or visual resources to the shoreline and coastal ecosystems. The property will not adversely affect views to and along the shoreline due to the integration of the sloping property with the residential development. Therefore, the proposed development will not negatively impact the scenic and open space resources of the area. There are no public recreational resources being affected by the project. The project site is located approximately 700 feet inland from the coastline, is not directly tied with the recreational resources of the coastal areas, and will not reduce the size of the coastline or other areas used for public recreational uses. There will be no disruption of existing public access to the shoreline.

The proposed project will not create significant adverse impacts upon immediately adjacent properties as the project site is located adjacent to and makai of the Keauhou Shopping Center. The property is undeveloped, with open scrub grassland and kiawe thickets. The project area is located on the corner of the proposed Kahului-Keauhou Parkway (formerly Alii Highway) alignment to the east (mauka). The surrounding area encompasses the master-planned Keauhou Resort lands. The Ohana Keauhou Beach Resort (former Kona Lagoon Hotel) and the Keauhou Kona Surf & Racquet Club are located west (makai) across Alii Drive. The Kona Gardens botanical and cultural garden is located within Parcel 35. Southeast of the site, across Alii Drive are the Keauhou Gardens Resort condominiums and the Kona County Club Golf Course.

The proposed project 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 Keauhou-Kona sewer system consists of gravity lines, force mains, pumping facilities and the Heeia Waste Water Treatment Plant near Heeia Bay, and is sufficient to handle the proposed project. The existing 8-inch sanitary sewer force main connection to the project site is located at Alii Drive and is linked to the expanded Kahaluu Park pump station and the Kahaluu pump station, as well as the Heeia Waste Water Treatment Plant.

The project site is located entirely within the Kahaluu Historic District which was included in the National Register of Historic Places in December, 1974. The Historic Preservation Mitigation Plan for the Archaeological Preserve within Parcel 35 was accepted by the Department of Land and Natural Resources, SHPD by letter dated

October 4, 1989. The applicant intends to subdivide and consolidate the culturally significant portions of Parcels 35 and 93 located makai of the Great Wall of Kuakini with the archaeological preserve and cultural complex located with a portion of Parcel 35. A number of archaeological studies have been conducted within the project site and surrounding areas, and significant historic sites have been located.

The proposed development is consistent with the County General Plan and Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Medium Density Urban, which allows Village and Neighborhood commercial and residential and related functions (3-story commercial; residential - up to 35 units per acre). The County zoning is Multiple Family Residential (RM-3) mauka of the Great Wall of Kuakini, and Open makai of the wall. The RM district provides for medium and high density residential use. It covers areas with full community facilities and services, and may occupy transition areas between commercial or industrial areas and other districts of less intense land use. The Open district, located makai of the Great Wall of Kuakini, will remain as open space.

This proposed development will complement the goals, policies and standards of the Economic, Land Use and Housing (Multiple Residential) Elements of the General Plan. The proposed multiple family residential development will add to the housing inventory for the district of North Kona. Thus, it is determined that the purpose and provision of this type of housing development in this district will implement the General Plan's Housing Element. This multiple family residential development will be in harmony with the character of the surrounding neighborhood and result in an intensity of land utilization no higher than as permitted or as otherwise specified for the district in which this proposed development occurs.

While the proposed development will not have a direct impact upon coastal recreational resources, review of developments within the Special Management Area must also consider the cumulative impacts of such developments upon these resources. In this particular situation, there is concern regarding the impact of a 200-unit multiple-family residential development upon traffic in the area. The Police Department anticipates that there will be an increase in traffic as well as calls for service as a result of this development. Based on a Traffic Impact Analysis Report (TIAR) for various Keauhou Resort parcels dated July 29, 1998 prepared by The Traffic Management Consultant, the traffic generated by the proposed development is estimated at 106 vehicles per hour during the A.M. peak hour of traffic and 130 vehicles per hour during the P.M. peak hour of traffic.

The primary access to the site will be from Alii Drive at the southern end of the project. Alii Drive fronting the subject property is a County road with an approximate 20-foot wide pavement with paved shoulders in a 65-foot to 95-foot right-of-way. Secondary access is proposed via a full access unsignalized intersection at the proposed Kahului-Keauhou Parkway, including appropriate turning, acceleration and deceleration lanes and appurtenant improvements to allow traffic to exit from the project. The Kahului-Keauhou Parkway is a proposed arterial, currently designed with two 12-foot wide lanes, 6-foot paved shoulders, drainage swales, landscaping and multi-use pathways. The TIAR by The Traffic Management Consultant recommends that access on the proposed Kahului-Keauhou Parkway be located as far north as the site development constraints allow. The location of the full access intersection is proposed about 800 feet north of the intersection of the Kahului-Keauhou Parkway and Alii Drive. Secondary roadways within the project will consist of asphalt-concrete paved roadways to be held in private ownership and maintained by unit owners in the project. The Department of Public Works recommends that the access requirements study dated July 29, 1998 be updated for the current design of the Kahului to Keauhou Parkway. The comments will be incorporated as part of the conditions of approval.

Based on the above findings, it is determined that the proposed development and related improvements 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 foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed development shall be completed within five (5) years from the date of this permit. Prior to construction, the applicant shall secure Final Plan Approval from the Planning Director in accordance with Sections 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans in accordance with the requirements of the Planning Department's Rule No. 17 (Landscaping Requirements).

3. A drainage study of the property shall be prepared and submitted to the Department of Public works for review and approval prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
4. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
5. Detailed water use calculations for both domestic use and irrigation needs shall be submitted to the Department of Water Supply.
6. Sewer lines shall be installed within the development, in a manner meeting with the approval of the Department of Environmental Management prior to the issuance of a certificate of occupancy.
7. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
8. The Traffic Impact Analysis Report by The Traffic Management Consultant dated July 29, 1998, shall be updated and submitted to the Department of Public Works.
9. For the proposed access to Alii Drive, a left turn lane shall be provided, and a sight distance study shall be submitted to the Department of Public Works. Concrete curb, gutter and sidewalk shall be provided for the Alii Drive frontage. The applicant shall widen the paved shoulder, where required by the Department of Public Works. Improvements to the project site's Ali'i Drive and Kahului-Keauhou Parkway access roadway intersection, including the provision of adequate sight distance, shall meet with the requirements of the Department of Public Works. A left turn lane on the Kahului-Keauhou Parkway shall be provided, and shall be paid for by the applicant, unless otherwise agreed to by the Department of Public Works, at any proposed entry to the development. Should additional intersection improvements be required by the Department of Public Works, the applicant shall provide said improvements. The vehicular security gates at the entries shall be recessed a minimum of 40 feet from the County right-of-way with provision for turning around on the County road side of the gate. All driveway connections to the County road shall conform to Chapter 22, Streets and

Sidewalks, of the Hawaii County Code. The applicant shall install street lights, signs and markings in a location and in a manner meeting with the approval of the Department of Public Works.

10. A Data Recovery Plan and Historic Preservation Plan shall be prepared for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources State Historic Preservation Division (DLNR-SHPD) prior to the submittal of plans for Plan Approval Review. Proposed mitigation treatment (preservation in place or disinterment/reinterment) 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 prior to submitting plans for Plan Approval Review or for any land alteration permits.
11. An Emergency Response Plan shall be submitted to the Hawaii County Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.
12. 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 State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
13. Comply with all applicable laws, rules, regulations and requirements of other affected agencies.
14. 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 compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
15. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

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- 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 original reasons for the granting of the permit.
- C. 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.

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

Sincerely,



Fred Galdones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu
Ms. Alice Kawaha
Mr. Jeffrey Darrow
Plan Approval Section
Kamehameha Investment Corporation