

## County of Hawai'i

### LEEWARD PLANNING COMMISSION

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

MAR 06 2015

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

Dear Mr. Fuke:

Special Management Area Use Permit No. SMA 456  
Applicant: Pacifica Big Island, LLC  
Request: Revocation of Special Management Area Use Permit No. 456  
Tax Map Key: 7-8-010:090

The Leeward Planning Commission, at its duly held public hearing on February 19, 2015, considered the above-referenced request for the revocation of Special Management Area (SMA) Use Permit No. 456. Originally, SMA Use Permit No. 456 allowed the development of a 16-unit multiple family residential complex and related improvements on 3.686 acres of land. The project site is situated on the southeast side of Kamehameha III Road, immediately adjacent to and makai of the Keauhou Rehabilitation and Healthcare Center, Kahulu'u and Keauhou 1<sup>st</sup>, North Kona, Hawai'i.

The Commission voted to approve the revocation of Special Management Area Use Permit No. 456 as requested by the applicant. Thus, the permit is hereby revoked.

Should you have any questions, please contact Maija Jackson of the Planning Department at 961-8159.

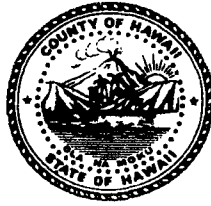
Sincerely,

Brandi K. Beudet, Chairman  
Leeward Planning Commission

LPacificabislandrevokeSMA456lpc  
cc: Pacifica Big Island, LLC  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
Department of Transportation-Highways, Honolulu  
Mr. Gilbert Bailado

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May 9, 2005

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

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 05-002)  
Request: 16 Multiple Family Residential Units & Related Improvements  
Applicant: Kamehameha Investment Corporation  
Tax Map Key: 7-8-10:90

The Planning Commission at its duly held public hearing on April 22, 2005, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 456 is hereby issued to allow the development of a 16-unit multiple family residential complex and related improvements. The property is located on the east side of Kamehameha III Road, immediately adjacent to and south (makai) of the Keauhou Rehabilitation and Healthcare Center, Kahaluu and Keauhou 1<sup>st</sup>, North Kona, Hawaii.

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 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

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effect and elimination of planning options. The proposed development of a 16-unit multiple-family residential complex and related improvements includes:

- two 3-story buildings comprising 6 units per building
- one 2-story building comprising 4 units.

The proposed units will be approximately 1,200 to 2,200 square feet in area. The 16 units proposed are substantially less than the maximum allowable density of 53 units. According to the applicant, the objective of the proposed action is to provide a broad mix of residential opportunities in the North Kona area in response to existing and projected market demands for retirement, second home and vacation rental units, as well as primary and local housing units.

The proposed project will not create significant adverse impacts upon nearby and immediately adjacent properties as the properties have been developed with commercial uses, condominiums, single family residences, and other urban uses. The surrounding areas encompass the master-planned Keauhou Resort lands and are zoned RM-3 to the south and east. Further east is the mauka course of the Kona Country Club Golf Course. The Keauhou Rehabilitation and Healthcare Center is located immediately adjacent to and mauka of the property. Across the Kamehameha III Road to the west are properties zoned Village Commercial 7,500 square feet (CV-7.5), site of the Keauhou Shopping Center. Commercial establishments in the shopping center include, among others, Wendy's Restaurant, KTA Super Stores, Long's Drugs, Bank of Hawaii and Drysdale's Two Restaurant.

The Keauhou Resort lands were master planned in the 1960's and 1970's to allow for the orderly development of a residential community within a resort setting. Keauhou lands on the makai side of Alii Drive include the Sheraton Keauhou Bay Resort and Spa and Ohana Keauhou Beach Resort, Mauna Loa Villas Condominiums, Keauhou Surf and & Racquet Club, Kanaloa at Keauhou, Keauhou Punahale Condominiums, Keauhou Akahi Condominiums, Keauhou Gardens, Kona Country Club Golf Course, and single-family residential uses. Development on Keauhou lands mauka of Alii Drive include the Keauhou Shopping Center, Keauhou Estates single-family residential development, Hale Kehau and The Villas multiple-family residential condominiums, Keauhou Rehabilitation and Healthcare Center and the mauka course of the Kona Country Club Golf Course. The subject property is a part of the Keauhou Resort Master Plan.

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. The proposed development will not substantially affect scenic vistas or viewplanes of

nearby residents nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The property is located mauka of Alii Drive and will not restrict access to coastal recreational resources along the shoreline nor will it restrict existing visual viewplanes from Alii Drive. The view plane from the shoreline towards the property will not be impacted as surrounding properties to the north and west are improved with commercial developments.

Air quality in the area is predominantly affected by emissions from natural and vehicular sources. Both short-term air and noise quality impacts associated with the construction of the proposed improvements are 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 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 project will connect to the existing 8-inch Department of Water Supply water line along Kamehameha III Road. On October 17, 1983, the applicant entered into a water commitment agreement with the County to provide the necessary water commitments required for the proposed project. According to the Department of Water Supply, these (water) units have been used or are unused but assigned to other parcels in the applicant's Keauhou Project Area; thus, all water commitments in the Agreement have been spoken for. The Department of Water Supply requests that the applicant revisit their Master Plan and develop a reallocation of water commitments to ensure that all of their development are provided with sufficient water commitments.

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. An existing 8-inch sewer connection to the site is located along Kamehameha III Road and is linked to the expanded Kahaluu Park pump station and the Kahaluu pump station, as well as the Heeia Waste Water Treatment Plant. According to the Department of Environmental Management, the project site is not serviced by a County sewer system. Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to

wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

The property is located within the Kahaluu Historic District, which was included in the National Register of Historic Places (NRHP) on December 27, 1974. The Kahaluu Historic District was placed on the NRHP because of the numerous heiaus in the area, the unique architecture of several of the heiau, the intrinsic value of petroglyphs in the area and the district's association with important traditional political and religious activities.

According to the applicant, no threatened or endangered plant species occur on the property or immediate vicinity. Vegetation in the area is typical of that in dry leeward areas, where kiawe, koa haole and exotic weeds and grasses have replaced most native species. No endangered or rare bird or mammal species were observed in the project area. The property is not located within the critical habitat for protected species. Fauna within the property consists predominantly of lowland urban birds such as common mynah (*Acridotheres tristis*), house finch (*Carpodacus mexicanus*), northern cardinal (*Cardinalis cardinalis*) and Japanese white-eye (*Zosterops japonica*).

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. There are no identified recreational resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. The property is not proximate to the shoreline and will not be impacted by coastal hazard and beach erosion. No scenic or open space resources to the shoreline or coastal view plane or coastal ecosystem will be negatively impacted by the proposed action.

The proposed development is consistent with the County General Plan and the Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map establishes the basic urban and non-urban form for areas within the County. The subject area is designated Medium Density Urban by the LUPAG map. The Medium Density Urban designation includes village and neighborhood commercial and single-family and multiple family residential and related functions (multiple family residential – up to 35 units per acre). Thus, the proposed development would be consistent with the LUPAG Map designation. The property is zoned Multiple-Family Residential 3,000 square feet (RM-3) by the County.

This proposed development would complement, among others, the goals, policies and standards of the Land Use and Housing Elements of the General Plan. The proposed project will add to the variety of housing inventory for the district of North Kona, and provide housing in areas that are appropriately located and serviced. The proposed project 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.

The primary access to the project site is from Kamehameha III Road, a channelized County roadway with a pavement width of 24 feet, with 8-foot wide gravel paved shoulders within a 100-foot right-of-way. The pavement width is approximately 36 feet at the existing roadway intersection. The project site will take access from the signalized intersection along Kamehameha III Road with the Wendy's Restaurant and Circus Shop'Us Gas Service Station located directly across and makai from the site. Secondary access will be from an existing private roadway with a 20-foot wide pavement within a 50-foot right-of-way, and internal roadways. The private roadway also serves as the main access to the Keauhou Rehabilitation and Healthcare Center.

The applicant states that the proposed project is not anticipated to have an adverse impact since improvements to the Kamehameha III Road and the private roadway are completed. The Department of Transportation has stated that "The project is part of the applicant's master planned community. As a separate project of and by itself, it will not have a significant impact on our transportation facilities. However, because the project is a part of an overall planned community development that will have an adverse cumulative impact on the transportation facilities and infrastructure in the area, the applicant should be responsible for the traffic mitigation measures attributable to the total development." The Department of Public Works (DPW) has stated that the applicant shall provide full improvements to the entire frontage along Kamehameha III Road consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any relocation of utilities, meeting with the Department of Public Works. If not required to construct the improvements, the DPW recommends that the applicant should be required to provide any right-of-entry and slope construction easements as needed for future improvements to Kamehameha III Road when requested by the Director of the Department of Public Works at no cost to the County. Although the Department of Public Works recommends road and traffic improvements, no roadway or traffic conditions will be included as a condition of approval. In reviewing a Special Management Area Use permit, traffic conditions may be imposed only if the traffic or roadway conditions are so severe as to cause a problem that affects the issues covered by the Special Management Area law i.e., blocking public access, interfering with tsunami evacuation, etc. (Topliss v. Planning Commission).

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: The property is located in the Kahaluu Historic District. A Cultural Resources Management Plan for the Keauhou Resort Area prepared by Paul H. Rosendahl, Inc. in August 1985 recommended the preservation of a site used as an animal enclosure (Site 4624). This site has been preserved in place as an archaeological easement on the adjacent property identified as TMK: 7-8-10: 91, site of the Keauhou Rehabilitation and Healthcare Center, with a small portion located on the northern corner of the project site. A FONSI declaration was published in the February 8, 2004 bulletin of the Office of Environmental Quality Control. No threatened or endangered floral or faunal species occur on the property or immediate vicinity.

The valuable cultural, historical, and natural resources found in the area: There is an archaeological easement for an animal enclosure on the adjacent property as well as the subject property. Preconsultation with the Keauhou Cultural Advisory Committee and Keauhou Outreach Group revealed no traditional and customary native Hawaiian cultural or historical resources on the site. The applicant has stated that should any previously unidentified archaeological or historic sites be found, work will stop in the immediate vicinity and the State Historic Preservation Division will be notified.

Possible adverse effects or impairment of valued resources: Native vegetation maybe destroyed by ground alteration. There is no evidence that the flora in the area are particularly desired or used for cultural practices.

Feasible actions to protect native Hawaiian rights: The property is located mauka of Ali'i Drive, and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. As stated by the applicant, no gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

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.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.

2. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
3. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the issuance of a construction permit. The drainage improvements shall be constructed, meeting with the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.
4. Comply with Chapter 11-55, Water Pollution Control, Hawaii Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.
5. 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.
6. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
7. Should any undiscovered 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 mitigation measures have been taken.
8. The sewer system for the project shall be connected to the Heeia Water Treatment Plant.
9. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of this permit. The report shall include, but not be limited to, the status of the development and extent to which the conditions of approval are being satisfied. 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.



11. An initial extension of time for the performance of conditions within this 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 this 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).
  - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

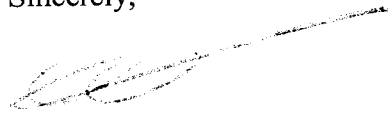
Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

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.

Steven S. C. Lim, Esq.  
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman  
Planning Commission

Lkicsma05-002PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources/HPD-Kona  
Rodney Haraga, Director/DOT-Highways, Honolulu  
Ms. Alice Kawaha  
Zoning Inspector - Kona