

October 7, 1985

Mr. Dwight Belt, Vice President
T & K Enterprises, Inc.
P. O. Box 1988
Kailua-Kona, HI 96740

Dear Mr. Belt:

Special Management Area (SMA) Use Permit No. 182
Planned Development Permit (PDP) No. 65
Petitioner: T & K Enterprises, Inc.
Effective Date: July 1, 1982
Tax Map Key: 7-5-8:9 and 19

This is to inform you that SMA Use Permit No. 182 and PDP No. 65 have been determined to be void due to non-compliance with Condition Nos. 2 (consolidation of subject lots by July 1, 1983) and 3 (submit and secure Final Plan Approval by July 1, 1983) of both permits.

The Planning Commission voted at a July 14, 1983, meeting to continue the public hearing on your request for a time extension to these conditions until July 1, 1985, or sooner, pending the outcome of the litigation regarding the title of the land. On May 7, 1985, we received an out-of-court agreement which resolved the legal dispute. As a result of this agreement, a new partnership known as Inns Investment Company was formed. Inns Investment subsequently applied for and was granted SMA Use Permit No. 226 and Shoreline Setback Variance No. 631 to allow for the demolition of Waiaka Lodge and the development of a restaurant complex on the subject parcels. The approval of these permits, therefore, nullifies the previously issued permits.

Should you have any questions on this matter, please do not hesitate to contact us.

Sincerely,



ALBERT LONO LYMAN
Planning Director

CRK:aeb

cc: Planning Commission
bcc: SMA No. 226

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CERTIFIED MAIL

July 2, 1982

T & K Enterprises, Inc.
P. O. Box 1988
Kailua-Kona, HI 96740

Gentlemen:

✓ Special Management Area (SMA) Use Permit Application
Planned Development Permit (PDP) Application
TMK: 7-5-8:9 & 19

The Planning Commission at its regular meeting on July 1, 1982, voted to approve your applications, SMA Use Permit No. 182 and PDP No. 65, to allow the demolition of the existing 44-unit Waiaka Lodge apartment/hotel and to allow the construction of an 18-unit condominium project and related improvements at Kailua Village, Hienaloli, North Kona, Hawaii.

Approval of your requests are based on the following:

It has been determined that approval of the requests for a Special Management Area (SMA) Use Permit and Planned Development Permit (PDP) to allow the demolition of the existing 44-unit Waiaka Lodge apartment/hotel and to allow the development of an 18-unit condominium project and related improvements on the subject property will not be violative of the objectives and policies stated in Chapter 205-A, Hawaii Revised Statutes nor with the intent of Rule 9, "Special Management Area Rules and Regulations of the County of Hawaii" and the Planned Development Permit (PDP) provisions of the Zoning Code.

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9 is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. As a result, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

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One (1) of the criteria for approving a development within the Special Management Area (SMA), as well as for the approval of the Planned Development Permit (PDP), is that the development is consistent with the General Plan, Zoning Code, and other applicable ordinances. The General Plan designates Kailua Village, which this subject property is a part of, as a Major Resort Area which is defined as a self-contained resort destination area which is provided with basic and support facilities. Multiple residential units, as well as other resort-related support uses, are permitted within this General Plan designation. Resort designated areas must also be provided with basic and support facilities and services such as recreational facilities, sewer, water and roads. All of these essential services are available to the subject property. In this regard, the proposed development will compliment the objectives of Rule 9 and the Land Use, Resort and Multiple Residential elements of the General Plan which encourage the development of multiple residential units in areas serviced by existing infrastructures.

The proposed development will also conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map which designates the area for resort and resort-related uses. The LUPAG Map component of the General Plan is a representation of the document's goals, policies, standards, and courses of action. It is also a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The subject property is situated within the urban form established for the Kona area as depicted on the LUPAG Map, specifically for resort-oriented uses.

Moreover, the County zoning for the subject property is Resort-Hotel 750 square feet (V-.75) or 750 square feet of land area per unit. Based on this zoning designation and density, the proposed condominium project is a permissible use. A potential maximum of 66 units are permissible on this 49,833 square foot property provided that other requirements can also be met. The petitioner proposes to demolish the existing 44-unit Waiaka Lodge and construct only 18 condominium units thus, the development will be well within the maximum allowable density.

Another criteria in the review of a project within the Special Management Area (SMA) is that "The development will not have any significant adverse environmental or ecological effect

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except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest." In reviewing the subject requests, we have concluded that the proposed development is not anticipated to have any substantial adverse environmental or ecological effects. The subject property is not known to contain any unique ecological systems, nor provide habitats for any endangered plant or animal species.

The proposed development is not expected to have any significant adverse effects on the coastal resources, nor adversely affect any access to the shoreline. In fact, the existing situation relating to the present encroachment of the Waiaka Lodge building within the 20-foot shoreline setback will be rectified. The proposed building and its improvements will be outside of the shoreline setback area.

It should be noted that any potential adverse effects, if any, on the off-shore water quality will be mitigated through compliance with existing regulations. The petitioner will be required to dispose its sewage within the existing public sewerage system. Since the sewage will be disposed of within an acceptable public system, it is determined that the impacts of coastal ecological systems will be negligible and are not anticipated to be significantly adverse.

The existing topography of the property is basically at elevation ten (10) feet above mean sea level. According to the adopted Flood Insurance Rate Map (FIRM) and Floodway Map prepared for the Federal Insurance Administration, the subject property is within the coastal high hazard area with a base flood height of ten (10) feet. To mitigate any potential flooding and to comply with adopted flood hazard requirements, the building will be constructed at least ten (10) feet above the mean sea level; thus, the potential hazards to property and life will be minimized.

Further, no adverse impacts on air and water quality are expected to be generated by the proposed development. The nature of the proposed development is such that no unusual air emissions are likely to be produced by it. Air emissions generated during the construction phase can be mitigated by existing regulations. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Further, negative impacts on the local water quality resulting from soil erosion and runoff during site

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preparation and construction phases are unlikely, but should they occur, they can be adequately mitigated through compliance with existing ordinances and regulations. With regards to hazards posed by potential tsunami inundation, these can be mitigated through existing regulations.

It should be noted that although the proposed building will be constructed approximately 9+ feet higher than the existing Waiaka Lodge buildings, the view plane from Alii Drive to the ocean will not be impeded. In fact, the siting of the proposed building will be an improvement from the existing situation. The proposed building will be sited in such a manner that the present non-existent view corridor between the Spindrifter Restaurant and Waiaka Lodge will be made available thus, providing a view to the ocean between the buildings. Further, with the proposed building being setback 72+ feet from the front property line along Alii Drive as compared to the existing setback of 8+ feet, the visual impact is expected to be less obtrusive than the present situation.

Finally, it should be noted that with the decrease in density as to the number of units, impact to traffic of the area will be lessened. Further, while parking stalls are non-existent for the existing Waiakea Lodge, the petitioner will be required to provide on-site parking stalls for the proposed 18-unit condominium building.

Based on the above discussion, it is determined that the proposed development will not have any substantial adverse impact on the surrounding area nor will its approval be contrary to the objectives and policies of Chapter 205-A or with the intent of Rule 9 and the Planned Development Permit provisions of the Zoning Code.

Approval of your SMA and PDP requests are subject to the following conditions:

1. That the petitioner or its authorized representative shall be responsible for complying with all of the stated conditions of approval.
2. That parcels 9 and 19 of TMK: 7-5-08 shall be consolidated within one (1) year from the effective date of the Special Management Area (SMA) Use Permit.

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3. That plans shall be submitted and Final Plan Approval secured within one (1) year from the effective date of the Special Management Area (SMA) Use Permit.
4. That construction of the proposed development, including the demolition of the existing Waiaka Lodge buildings, shall commence within one (1) year from the date of receipt of Final Plan Approval. Construction shall be completed within two (2) years thereafter.
5. That a drainage system in accordance with the standards of the Department of Public Works shall be provided.
6. That improvements to Alii Drive fronting the subject property as required by the Department of Public Works shall be provided.
7. That the method of sewage disposal shall meet with the requirements of the appropriate governmental agencies.
8. That all other applicable rules, regulations and requirements, including those of the Department of Water Supply shall be complied with.

Should any of the foregoing conditions not be met, the Permits shall be deemed automatically void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

Gina Whitmarsh
for
CLYDE IMADA
Chairman Pro-Tem
Planning Commission

lgv

cc: KNI Hawaii
Department of Public Works
Department of Water Supply
Kona Services Office

bcc: Plan Approval Section