



Planning Commission

Lorraine R. Inouye
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

October 24, 1991

Mr. Steve Nelson
PO Box 2267
Kealahou, HI 96750

Dear Mr. Nelson:

Special Management Area Use Permit Application (91-9)
Applicant: Steve Nelson
Request: Construction of a 5-unit Multi-family
Residential Complex and Related Improvements
TMK: 7-6-17:19 & 79

The Planning Commission at its duly held public hearing on October 10, 1991, voted to approve your application, Special Management Area (SMA) Use Permit No. 320, to allow for the construction of a 5-unit multi-family residential complex and related improvements. The property is situated on the mauka side of Alii Drive approximately 245 feet north of the Alii Drive-Royal Poinciana Drive intersection in Holualoa Beach Section, North Kona, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 9, 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.

One of the criteria for approving a development within the SMA is that it is consistent with the 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 Medium Density Urban development. Further, the Double Family Residential zoning designation allows for the proposed use.

Another criteria in reviewing an SMA Use Permit application is that "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

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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 proposed development is not anticipated to have substantial adverse ecological effects. The property, which is located within an area that has been extensively developed, is not known to contain any unique ecological systems nor provide habitats for any endangered plant or animal species. No adverse impacts on air and water quality are expected to be generated by the proposed development. Air emissions generated during the construction phase can be mitigated by existing regulations.

The property is located approximately 245 feet from the nearest shoreline. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Negative impacts on the local water resulting from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. The petitioner is proposing individual wastewater systems for the project. However, the Department of Health is requiring a wastewater treatment works system. A condition of approval is being included that the petitioner satisfy all of the wastewater requirements of the Department of Health for this project. As such, with this in place, the proposal should be satisfactory to avoid any significant impacts to coastal ecosystems. Therefore, no significant adverse impact to coastal ecosystems is anticipated.

The proposed development is not expected to have adverse impact on public access to or along the shoreline since the development is located approximately 245 feet from the nearest shoreline. However, to improve conditions for pedestrian use along Alii Drive as well as provide a separation between the vehicular and pedestrian traffic in this area, a condition of approval is being included for the applicant to extend the pavement of Alii Drive fronting the property to the boundary line.

Viewplanes will not be significantly affected by the proposed development. The building will be situated approximately 245 feet from the nearest shoreline. Because of the relatively level topography of the area, mauka views from the shoreline should not be affected. The development is mauka

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of Alii Drive and the height of buildings is consistent with surrounding uses. No significant impact on makai viewplanes is anticipated.

Negative impact to historical or archaeological resources is not anticipated. The property has been grubbed in the past and has been in residential use. It is recommended, however, that all work cease and the Planning Department be notified should any historic remains be discovered.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all stated conditions of approval.
2. Consolidation approval of the subject properties shall be secured from the Planning Department within six (6) months from the date of approval of this permit. Plans for Final Plan Approval shall not be processed until consolidation approval has been secured.
3. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of approval of the consolidation approval of the subject properties. Plans to be submitted for Final Plan Approval shall include all conditions of approval as required by the consolidation approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and parking stalls associated with the proposed development. The construction of walls and fences along the Alii Drive frontage shall be reviewed and approved at the time of plan approval. The height and mass of the wall/fence shall be evaluated in terms of its cumulative effect on view perspectives along Alii Drive. The applicant shall delineate on plans submitted a 5-foot and 12.5-foot wide future road widening setback along the Alii Drive and private road boundary, respectively.
4. Construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.

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5. Sewage treatment facilities shall meet with the approval of the Department of Health.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
7. Access to the subject property from Alii Drive, including sight distance, shall meet with the approval from the Department of Public Works. Access shall be limited to two driveways onto Alii Drive. The applicant shall extend the pavement of that portion of Alii Drive fronting the property to its front property line meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.
8. An emergency preparedness and response plan shall be filed with the Hawaii County Civil Defense Agency and the Planning Department prior to issuance of a certificate of occupancy for any portion of the development.
9. The applicant shall provide fire protection measures meeting with the approval of the Fire Department prior to the issuance of a certificate of occupancy.
10. Comply with all other applicable laws, rules, regulations and requirements.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date 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.
12. An initial extension of time for the performance of conditions within the permit may be granted by the Planning

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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 petitioner, successors or assigns, and that are not the result of their fault or negligence; (b) the 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; and (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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall 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.

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

Sincerely,



Mike Luce, Chairman
Planning Commission

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jdk

xc: Department of Public Works
Department of Water Supply
Fire Department
Dept. of Health
Civil Defense Agency
County Real Property Tax Division
West Hawaii Office
OSP, CZM Program w/background
DLNR
Plan Approval Section