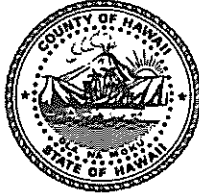


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL

OCT 28 1994

Mr. Sidney Fuke
Sidney Fuke and Associates
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 94-1)
Applicant: 'Alohi Kai Partnership
Request: Development of a 16-Lot Single-Family Residential
Subdivision and Related Improvements
Tax Map Key 7-7-4:3

The Planning Commission at its duly held public hearing on October 20, 1994, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 347 is hereby issued to establish a 16-lot subdivision and related improvements on approximately 5.3 acres of land. The project site is located on the makai side of Alii Drive adjacent to the State Keolonahihi Park (formerly Kamo Point), Kaunamalu, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended 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 area. Therefore, special controls on development within an area within the SMA are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving the proposed development within the SMA is that it is consistent with the General Plan and Zoning Code. The project site is situated in the Resort Hotel (V-1.25) District which would allow a maximum density of 184 hotel or condominium units to be built. Single family residential dwellings which are permitted uses in the Resort

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Hotel District., are being proposed at a maximum number of 16 units. This request is well within the density limit allowable by zoning.

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 interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse ecological effects." The area between Kailua and Keauhou is already developed with infrastructural improvements, residences, apartment and condominium complexes, as well as hotels. The project site is adjacent to single family residences and has already be grubbed and rough graded. The proposed subdivision will be situated mauka of the certified shoreline, will not require a shoreline setback variance and will not interfere with the shoreline processes. All fill/construction must comply with existing legal requirements and 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 constructions phases can be adequately mitigated through compliance with existing regulations. Therefore, no significant adverse impact to coastal ecosystems in anticipated. There are no records of endangered or threatened plant or animal species being associated with the site.

A third finding is that "the development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines." More specifically the recreational, historic, scenic, coastal environmental, and economic aspects of the project need to be considered. The visual impacts of project will be that of a single family residential complex having a frontage of roughly 340 feet along Alii Drive. The 6-foot high rock wall along the front property lines of the three lots along Alii Drive will have additional roof-top heights which will break the view plane from Alii Drive to the ocean as opposed to a possible building mass of a condominium or hotel complex of similarly zoned parcels along Alii Drive. The State Historic Preservation Division believes there will be "no adverse effect" on two historic properties if two conditions they recommend are attached to an approved permit, thus, their recommendation has been included as a condition of approval. An archaeological mitigation plan for shall be required as a condition of approval for the proper management of the historical resources identified on the subject

property. This management program shall be reviewed by the Planning Department in consultation with the Department of Land and Natural Resources. All recommendations of the management and preservation program shall be completed and approved by the DLNR, State Historic Preservation Division and Island of Hawaii Burial Council, prior to the issuance of a permit for any construction activity on the subject property. Further, on-site construction monitoring by an archaeologist will be required due to the sensitivity of the site. Impacts to the coastal processes will be minimized by allowing construction activity to be in conformance with Chapter 27, Flood Control, of the Hawaii County Code, which regulates the fill/construction activity in the VE and AE zones proposed by the developer. Access to the shoreline area can be provided to meet the recreational needs of those using the area for surfing and other water activities.

According to Section 9-7(C) of the Planning Commission's Rules, all development permitted in the Special Management Area shall be subject to reasonable terms and conditions as necessary in order to ensure that:

1. Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
2. Adequate and properly located public recreation areas and wildlife preserves are reserved;
3. Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon Special Management Area resources;
4. Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake;
5. Adverse environmental or ecological impacts are minimized to the extent practicable; and
6. The proposed development is consistent with the goals, policies, and standards of the General Plan.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. The applicant, its successors or assigns shall secure approval of a Planned Unit Development (PUD) within one year from the effective date of this Special Management Area Permit. Within one year of obtaining an approved PUD, the applicant, its successors, or assigns shall submit an application to the Planning Department for Subdivision Approval and shall complete the construction of the Subdivision within five years thereafter. The submittal of plans for the PUD and Subdivision shall also include the recommendations of the DLNR, State Historic Preservation Division for buffers, fencing, etc. for pre-construction, construction, and post-construction phases of the proposed improvements.
4. Within this proposed subdivision, a 20-foot wide open space easement measured from the historic wall located along the northern property boundary shared with the State Keolonahihi Park shall be established from Alii Drive to the property line along the seaward edge of this existing parcel. This open space easement shall be designated on the approved Subdivision Plan for public access to the shoreline and for the protection of the historic rock wall shared with the State Keolonahihi Park complex. No structures including walls and fences shall be allowed to encroach into this public access and open space easement.
5. No heavy machinery shall be allowed to operate within 20 feet of the wall, nor should any trees or shrubs be planted within this setback without approval of the State Historic Preservation Division, State Parks and the County Planning Department. When land alteration occurs in the parcel, a bright construction fence shall be erected along the 20 foot line and construction crews shall be briefed of the importance of the wall and setback. Additionally, the applicant shall develop a plan to maintain this 20-foot wide buffer zone in perpetuity. Should stabilization or

- restoration of the wall be needed, the applicant, its successors, or assigns, shall allow State Parks and its contractors entry into the 20-foot setback to conduct this work. Any stabilization or restoration plans must be approved by the State Historic Preservation Division, State Parks, and the County Planning Department.
6. The treatment of the burial located on this existing parcel shall be resolved prior to any land alteration in the vicinity of the burial. Should the applicant, its successors, or assigns wish to proceed with construction, a protection plan with buffer zones shall be approved by the State Historic Preservation Division and County Planning Department, and this plan shall be implemented prior to any land alteration.
 7. 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.
 8. All construction activity must be in conformance with Chapter 27, Flood Control, of the Hawaii County Code. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent property in accordance with the requirements administered by the Department of Public Works. Any construction activity that may result in the discharge of storm water to the waters of the State shall require compliance with the National Pollutant Discharge Elimination System (NPDES) requirements administered by the State Department of Health.
 9. All lots shall be served with connections to the County sewer line.
 10. There shall be no vehicular access to the individual lots directly off of Alii Drive. The parcel's frontage on Alii Drive shall be paved with a full width shoulder meeting the approval of the Department of Public Works.
 11. All other applicable Federal, State and County Rules, Regulations and Requirements shall be complied with.
 12. An 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

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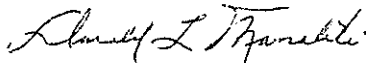
is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of 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).

13. 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.

Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
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xc: Mr. Phillip Gray-'Alohi Kai Partnership
Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Plan Approval Section