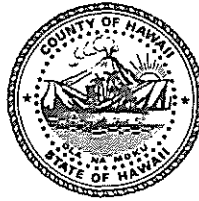


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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Z 179 517 406

APR 24 1998

Robert G. Nespor, AIA
P.O. Box 9003
Kailua-Kona, HI 96745

Dear Mr. Nespor:

Special Management Area Use Permit Application (SMA 98-1)
Applicant: Kahalu'u Beach Partnership
Request: Allow the Development of a 27-Unit Condominium and Related Uses
Tax Map Key: 7-8-14:86 and 87

The Planning Commission at its duly held public hearing on April 17, 1998, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 382 is hereby issued to allow the development of a 27-unit condominium project and related uses. The property is located on the southeast corner of the Ali'i Drive and Makolea Street intersection, across from Kahalu'u Beach Park, Kahalu'u, 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 development of the approximately 27-unit condominium project 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 project consists of a three story building, approximately 27-unit condominium and other related facilities. The proposed project is located mauka of

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Alii Drive approximately 400 feet from the shoreline. The property was graded and bulldozed. The flora on the subject property is sparse, consisting of one monkey pod tree, (samanea saman), koa-haole (leucaena leucocephala), castor bean (ricinus communis) and various weeds. There are no known rare or endangered plant life or animal species on the property or in its immediate vicinity. Therefore, there would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems. The proposed development would not impact the immediate adjacent properties as the subject property is surrounded by resort, condominiums, single family residences and vacant lands.

The proposed development 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. According to the applicant, the proposed project will be hooked up to the County of Hawaii's Keauhou Wastewater Treatment Plant. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment. Likewise, the potential of finding rare or endangered animal life is not anticipated.

An archaeological reconnaissance survey was conducted by Paul Rosendahl, in September 1986. "The archaeological reconnaissance survey revealed the project area had previously been entirely bulldozed, as evidenced by large uprooted tree trunks and scraped and scarred basalt boulders mounded together. A sparse surface scatter of weathered marine shell midden was present, but this material was disturbed, or secondary, context as a result of the bulldozing activity....Based on the findings of the reconnaissance survey, it is our opinion that the limited archaeological remains identified within the Keauhou Circle K Project Site of minimal significance in terms of potential scientific research, interpretive, and/or cultural value. We believe that the data recovered constitutes adequate and sufficient recovery of archaeological data present, and that no additional archaeological field work is necessary or justified." On January 20, 1995, a site visit was conducted by the Historic Preservation Division. The site inspection revealed, "Past developments along Alii Drive (makai) and Makolea Road (north), and a condominium mauka of the parcels have encroached on the parcels. In the past, some grading and placing of fill in the parcels has occurred. In Parcel 86 there is the collapsed remains of a historic house and what appears to be a community rubbish dump. No other structures or features were noted in the subject parcels. However, across Makolea Road, in parcel TMK: 7-8-14:47, a lava tube containing stacked stone features and human remains, has been recorded. The lava tube had been sealed by ceiling fall in Parcel 47, so the run of the lava tube could not be mapped. It appeared however, that the tube may run under Makolea Road towards the two subject parcels. We request that if a lava tube is encountered during any grubbing or grading work on the subject parcels, that work in the area of the exposed tube be halted and the Historic Preservation Division office be contacted immediately." Conditions of approval to ensure the review and approval of the Department of Land and Natural Resources, Historic Preservation Division have been included. The establishment of buffer zones, interim protection measures needs to be established. These mitigative

measures will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

The proposed development is consistent with the County 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 Urban Expansion. This designation allows for high and medium density uses which includes activities such as those proposed. The proposed development will compliment the following goals, policies and standards of the Land Use and Housing Elements of the General Plan:

LAND USE

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

HOUSING

- o Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.
- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.
- o Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.
- o Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

ECONOMIC

- o Provide residents with opportunities to improve their quality of life.

- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The proposed development would also compliment the following Courses of Action in North Kona:

- o Since the lands in this district are sloped, the County shall encourage the use of cluster and planned unit developments which can take advantage of the topography.
- o Aid and encourage the development of a wide variety of housing for this area to attain a diversity of socio-economic housing mix.

The proposed condominium 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 be implementing the General Plan's Housing Element. This condominium will be in harmony with the character of the surrounding neighborhood, and will result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this proposed condominium development occurs.

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 and related improvements shall be completed within five (5) years from the effective date of this permit. This time period shall include the securing of Final Plan Approval from the Planning Director for the proposed development. Plans shall identify structures, fire protection measures, paved and striped parking stalls and driveway, landscaping and other improvements associated with the proposed use.
3. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
4. Sewer lines shall be constructed to connect to the Keauhou Wastewater Treatment Plant system in a manner meeting with the approval of the Department of Public Works.

5. A scaled and detailed buffering plan shall also be included in the plans to be submitted for Final Plan Approval to ensure that construction activity will not disturb the Makolea Trail. Plans shall show the location and details of the construction barrier (including height and type of materials) and any other proposed mitigating measures. This plan shall also be reviewed and approved by the Department of Land and Natural Resources, Historic Preservation Division, with a copy of such approval submitted with the plans for Final Plan approval.
6. Should any lava tube, or 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 mitigative measures have been taken.
7. Before construction or any land alteration activities occurs within the subject property, the property boundary adjacent to the historic Makole'a Trail shall be measured, staked, and roped with a continuous flagline by a registered surveyor in accordance with the approved buffering plan by DLNR-HPD. The Planning Department shall be notified to conduct a site inspection of the subject property to verify the location of the flagline prior to commencing any construction or land alteration activities and subsequently, after completion of the development. The flagline shall be left in place for the duration of construction activities within the subject property.
8. 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 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.
9. An initial 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 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.

- 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).

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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

Lkahal01.PC

cc: Kahalu'u Beach Partnership
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
Kazu Hayashida, Director/DOT-Highways, Honolulu
Corporation Counsel
Ms. Susan R. C. Johnson