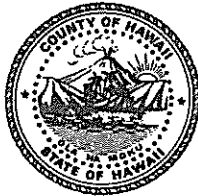


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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OCT 25 2000

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

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 00-012)

Applicant: SunStone Realty Partners IX, LLC

Request: To Establish a 137-Unit Multiple Family Residential Development and
Related Recreational Amenity Improvements

Tax Map Key: 7-5-19:44 and 45

The Planning Commission at its duly held public hearing on October 6, 2000, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 409 is hereby issued to allow a 137-unit multiple family residential development, recreational amenity and related improvements. The property is located on the mauka side of Alii Drive and across Sea Village, Alii Villas and Kona Shores condominium developments, Kahului 2nd, 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 a maximum of 137 multiple family dwelling units, recreational amenities and related improvements upon the project site 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

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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, consisting of 137 multiple family dwelling units, recreational amenities and other related improvements, will be situated on the mauka side of Alii Drive, approximately 500 to 800 feet from the shoreline. This distance from the shoreline is sufficient to mitigate any direct impact the project may have upon the nearshore coastal resources. Current vegetation on the property is dominated by non-native plants. There are no known rare or endangered plant life or animal species within the project site or its immediate vicinity nor were such special habitats identified. The proposed development will not have a significant adverse impact upon coastal recreational or visual resources within the immediate area. Situated along the mauka side of Alii Drive, the proposed project will not restrict access to coastal recreational resources along the shoreline nor will it restrict visual viewplanes from Alii Drive. Conditions of this approval are included relating to wastewater, solid waste and public safety to ensure that any such impacts upon coastal resources are minimized.

The proposed subdivision will not create any significant adverse impacts upon immediately adjacent properties as the project site is surrounded by various resort uses, condominiums, single family residences and vacant lands. On June 2, 2000, the Planning Commission approved Special Management Area Use Permit No. 365 that allowed the construction of 59 multiple family residential units and related improvements on a parcel located adjacent to the south of the project site.

The proposed subdivision 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 connected to a sewer line fronting the project site along Alii Drive that is part of the Kealakehe Wastewater Treatment 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.

An archaeological inventory survey and subsurface testing of the project site was conducted by Lloyd Soehren in June 1976. A letter dated February 9, 1999, from the Department of Land and Natural Resources Historic Preservation Division states that the survey conducted in 1976 identified five (5) archaeological sites still present in the

parcels. Site 6 located on Parcel 45 is described as a large enclosure built over a habitation site. The remaining sites occur in Parcel 44 and include site 9 (platform, possible burial), site 11 (papamu on bedrock), site 12 (platform, possible burial) and site 13 (habitation site). The letter also states that Soehren's survey report is not up to current inventory survey standards and recommends that prior to any land altering activity, sites 6, 9, 11, 12, and 13 be documented to provide sufficient information to allow for significant evaluations. Should sites 9 and 12 be confirmed as burials, a burial treatment plan would have to be prepared and presented to the Hawaii Island Burial Council for approval. The preparation of an archaeological inventory survey, historic preservation plan and the establishment of buffer zones, interim protection measures and remaining archaeological data recovery still needs to be completed. Therefore, a condition of approval will be included stating that the applicant shall prepare an archaeological inventory survey and historic preservation plan to comply with the requirements of the Department of Land and Natural Resources Historic Preservation Division prior to securing Final Plan Approval of the proposed development. The implementation of this mitigation plan 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 urban uses which includes activities such as multiple family residential developments. This proposed development will also compliment the following goals, policies and standards of the Land Use and Housing Elements of the General Plan:

LAND USE

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

MULTIPLE RESIDENTIAL

- To provide for multiple residential developments that maximize convenience for its occupants.
- To provide for suitable living environments which accommodate the physical, social and economic needs of the island residents.
- Appropriately zoned lands shall be allocated as the demand for multiple residential dwellings increases. These areas shall be allocated with respect to places of employment, shopping facilities, educational, recreational and cultural facilities, and public facilities and utilities.
- The County shall encourage flexibility in the design of residential sites, buildings and related facilities to achieve a diversity of socio-economic housing mix and innovative means of meeting the market requirements.
- Recreational area and/or facilities shall be considered in multiple residential development.

HOUSING

- Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.
- Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- Maintain a housing supply which allows a variety of choice.
- Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- Improve and maintain the quality and affordability of the existing housing stock.
- 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.

- Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

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

- 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.
- 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 multiple family residential 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 multiple family residential development will be in harmony with the character of the surrounding neighborhood and will 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 proposed development will also conform to the following element of the General Plan:

RECREATION

- Provide a wide variety of recreational opportunity for the residents and visitors of the County of Hawaii.
- Provide a diversity of environments for active and passive pursuits.

To address the recreational needs of the project, the applicant will be providing recreational amenities such as swimming pools, pedestrian walkway, outdoor barbecues, open spaces gazebos, open picnic pavilions and recreational center for active or passive recreational uses within the multiple family dwelling unit project area.

The applicant's overall objective is to develop a high quality residential community while protecting the important cultural and environmental resources of the area. The applicant has recognized the benefits of planning and designing a project in a manner that is sensitive to the natural features and unique historical heritage of the land.

Based upon preliminary studies, the applicant believes that these objectives can be obtained in an economically viable manner.

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. In this particular situation, there is concern regarding impacts of a 137-unit multiple family residential development upon traffic, both vehicular and pedestrian, along Alii Drive. As the primary collector roadway within the coastal area of this portion of Kailua-Kona, Alii Drive provides residents and visitors with the only means of access to the coastal regions of Kailua-Kona. This roadway is heavily traveled both by vehicular and pedestrian traffic. As development along its alignment increases, it places an increasing strain upon the ability of traffic to access the coastal recreational resources. Therefore, it is recommended that conditions of this approval require the applicant to provide for intersection improvements at the project's access driveway connection to Alii Drive if required by the Department of Public Works; providing a paved shoulder along the mauka side of Alii Drive at its frontage with the project site; and the construction of an emergency access breakaway gate at the mauka end of the internal project roadway leading to the land abutting the proposed Kahului-Keauhou Parkway (Alii Highway) alignment if required by the Department of Public Works.

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 amended 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. The applicant, its successor or assigns shall be responsible for complying with all applicable conditions of approval of Ordinance No. 87-47.
3. Construction of the proposed development shall be completed within five (5) years from the date of this approval. Actions taken during this time period shall include the consolidation of the subject properties and securing Final Plan Approval from the Planning Director in accordance with the Zoning Code

Sections 25-2-72 and 25-5-117 and the Planning Department's Rule 17 (Landscaping Requirements) for the development within the subject property. Plans shall identify structures, fire protection measures, landscaping and maintenance plan, parking stalls and driveways and other improvements associated with the proposed uses.

4. 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.
5. Sewer lines shall be installed within the development to tie in with the Kealakehe Wastewater Treatment Plant in a manner meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
6. A solid waste management plan shall be submitted for review and approval from the Department of Public Works prior to the issuance of a certificate of occupancy.
7. Improvements to the project site's Alii Drive-access roadway intersection, including the provision of adequate sight distance, shall meet with the requirements of the Department of Public Works. Should additional intersection improvements such as channelization be required by the Department of Public Works, the applicant shall provide said improvements at no cost to the County of Hawaii. All driveway connections to the County road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code. The applicant shall install street lights, signs and markings in a location and in a manner meeting with the approval of the Department of Public Works.
8. The applicant shall provide a paved shoulder along the subject properties' entire Alii Drive frontage in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed project.
9. If deemed feasible by the Department of Public Works, the applicant shall construct an emergency breakaway gate at the mauka end of the internal project roadway leading to the land abutting the proposed Kahului-Keauhou Parkway (Alii Highway) in a manner meeting with the approval of the Department of Public Works. All improvements associated with this emergency breakaway gate,

if required, shall be completed prior to the issuance of a certificate of occupancy for the proposed development.

10. A Traffic Impact Analysis Report shall be prepared by a licensed professional traffic engineer and submitted to the Department of Public Works for their review and approval, prior to the submittal of plans to the Planning Department for Plan Approval Review.
11. A Data Recovery Plan and Historic Preservation Plan shall be prepared for the review and approval by the Planning Director in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) prior to the submittal of plans for Plan Approval Review. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for Plan Approval Review or for any land alteration permits.
12. Should any 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.
13. 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.
14. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Water Supply.
15. 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,

Steven S. C. Lim, Esq.

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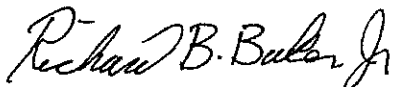
and that are not the result of their fault or negligence.

- 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 contact Daryn Arai of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Richard B. Baker, Jr., Chairman
Planning Commission

Lsunstone01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section