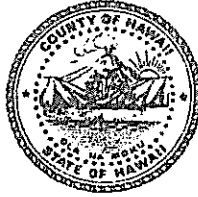


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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NOV 18 2002

Mr. Gregory Mooers
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

Special Management Area Use Permit Application (SMA 02-004)
Applicant: Sunstone Realty Partners X, LLC
Request: 200-Unit Multiple Family Residential Project and Related
Recreational Improvements
Tax Map Key: 7-5-18:8

The Planning Commission at its duly held public hearing on October 17, 2002, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 426 is hereby issued for the establishment of a 200-unit multiple family residential development and related recreational improvements. The property is bordered by Ali'i Drive and Walua Road, north of Lunapule Road and just east of Wai'aha Bay, Wai'aha 1st, North Kona, Hawai'i.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, 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 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

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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 located on the mauka side of Ali'i Drive, approximately 75 to 1,000 feet from the shoreline, at an elevation of approximately 12 feet above mean sea level along Ali'i Drive to approximately 100 feet above sea level along Walua Road. The project site is also situated within an area designated for Medium Density Urban uses by the General Plan and High Density Residential uses by the Master Plan for Kailua-Kona. The proposed Ali'i Cove multiple family residential project will not exceed the maximum unit densities recommended by these two land use planning documents. As part of the favorable recommendation for both this permit application and accompanying change of zone request, conditions of approval are being recommended to ensure that activities or uses that could adversely impact the coastal ecology or environment are properly mitigated. Examples of these mitigative measures include the physical location of the project site on the mauka side of Ali'i Drive at least 75 feet away from the shoreline. In addition to the physical distance, the applicant will be required to comply with governmental requirements regarding erosion and sedimentation controls, wastewater disposal, construction practices, and runoff. Wastewater generated by this project will be accommodated by the County's existing sewer facilities located along Ali'i Drive.

The Department of Health (DOH) requires that underground injection systems that receive wastewater or storm run-offs from development need to address DOH requirements. 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.

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. The Flood Insurance Rate Maps (FIRM) indicate that the property is located in Zone "X," area outside of the 500-year flood plain. There are no significant drainage ways anticipated within the project site. While there are no indications of surface water flow on-site, the applicant will abide by all applicable County guidelines for run-off generated by the development. The Department of Public Works has recommended that a drainage study be prepared for review and approval, prior to submittal of plans for subdivision review. Therefore, a condition of approval will be included to comply with this recommendation.

As previously mentioned, the Department of Health (DOH) requires that underground injection systems that receive wastewater or storm run-offs from development need to address DOH requirements. 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.

A biological reconnaissance of the project site was conducted in May 2002 by Ron Terry, Ph.D. and Patrick Hart, Ph.D.. The study concludes that *"No rare, threatened or endangered species as listed by the U.S. Fish and Wildlife Service are present on the parcel, nor are there unique or valuable wildlife habitats. The history of continuous disturbance coupled with the lowland context indicates that the property has little value in terms of conserving native species. No impact on native species or habitat is expected to result from human activity on the site."*

An Archaeological inventory survey of the project site was conducted by Rechtman Consulting in March 2000. During the survey, 27 sites were recorded within the project site, although the high degree of past ground disturbance on the property have impacted many of the archaeological sites and completely erased others. These sites consist of temporary and permanent habitations sites, ranch and boundary walls, agricultural features, a heiau and two burials. Four (4) of these sites, including the burials and heiau, are recommended for preservation. An additional eight (8) sites are recommended for data recovery, with the remaining fifteen (15) sites not recommended for any additional work. The applicant states that a preservation and treatment plan will be developed for approval by the State Department of Land and Natural Resources-Historic Preservation Division. In addition, the applicant concluded that *"No valued cultural, historical or natural resources existing on the subject property and no gathering is taking place. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights, therefore no action is necessary to protect those rights."*

A Visual Impact Assessment for the proposed project was conducted by the applicant. According to the study, *"The project developer is committed to fulfilling the Kailua-Kona Village Design goals and objectives. These goals are focused on preserving the 'Kona Way of Life' and maintaining the continued role of Kailua Village as a tourist destination and retailing center. The objectives call for emphasis on natural features, such as shoreline, bay and trees, improvement of pedestrian experience, and diversity and interest of building types. In terms of visual design, Alii Cove's emphasis on moderate-density, moderate-height layout, the prominence of landscaping, and the provision of public restrooms and showers are all in harmony with the Kailua-Kona*

Village Design goals and objectives.” The study concluded that the proposed development will have little, if any adverse impact upon the following viewplanes:

- a: views from Ali‘i Drive looking mauka through project site;
- b: views from Ali‘i Drive and Walua Road looking makai towards ocean;
- c: views of coastline from Queen Kaahumanu Highway.

The study concluded that “*The proposed multi-family project will have no effect on views from Alii Drive to the coastline. However, the structures will be somewhat visible from Alii Drive looking mauka, and landscaping is recommended. Existing residences and businesses on Lunapule and Walua Roads will have their views of the kiawe scrubland replaced by views of the structures, but little or no interference with shoreline views is expected. As there is essentially no view corridor from Queen Kaahumanu Highway in Waiaha to the shoreline directly below the proposed structures because of topography, vegetation, and existing structures, little or no visual impact to views of the shoreline from the highway is expected.*”

Air quality in the area of the subject property is most affected by emissions from natural and vehicular sources. Volcanic haze is the dominant form of natural emissions, while windblown dust may also contribute to air pollution. The existing noise generated in the area is coming primarily from the vehicular traffic on Ali‘i Drive and Walua Road. The principal source of both short-term air and noise quality impacts associated with the proposed improvements is expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

The property has no severe geological or topographical problems which cannot be properly rectified or which would render the land unusable. The U.S. Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) designates the property as Zone X, area outside of the 500-year flood plain. Any improvements to the property must comply with Chapter 27 of the Hawai‘i County Code relating to Flood Hazard Control. As recommended by the Department of Public Works, a condition of this favorable recommendation will require the applicant to prepare a drainage study for the project. Furthermore, the Master Plan for Kailua-Kona identifies a proposed storm sewer alignment through the project site. Again, a condition of this favorable recommendation will include a requirement that the applicant consult with the Department of Public Works regarding the location of the proposed storm sewer. The Civil Defense Agency has noted that they cannot support this project due to its location within the “tsunami zone” and the impact this project will have upon Ali‘i Drive and Walua Road during

times of emergency. The Planning Department is not aware of a "tsunami zone" as may be designated by any governmental agency. As previously mentioned, the subject property is situated within Zone X, an area situated beyond coastal flooding. This favorable recommendation will require the applicant to make the project's mauka-makai access driveway available to the general public during emergency evacuations. This project also has access to Walua Road, so evacuation of this proposed development will not dump traffic upon Ali'i Drive but instead direct traffic onto Walua Road, then onto Kuakini Highway in a direction leading away from coastal areas. While the proposed project itself will generate additional traffic along area roadways, an additional mauka-makai emergency access route through the project site will provide an additional measure of safety during times of emergency.

The proposed multiple family residential development is not anticipated to have a significant adverse impact upon coastal recreational facilities within the immediate area. Waiaha Bay, located makai of the subject property, is a popular surfing spot. Currently, people who surf at this spot park along the shoulders of Ali'i Drive and walk haphazardly across the road to enter the bay. While it is recognized that the proposed 200-unit multiple family residential development may place additional user demands upon the resources of Waiaha Bay, the applicant is compensating for this impact with the construction of a public parking area and restroom facility adjacent to the existing Waiaha Sewer Pump Station. These proposed public improvements will provide the many users of Waiaha Bay with a formal and safe parking area and proper restroom facilities, both of which are improvements that are sorely needed in this area. Therefore, we conclude that approval of the proposed residential development will have a beneficial impact to recreational resources in the area by providing a much needed parking and restroom facilities that benefit not only the residents of this residential complex but for all those users of Waiaha Bay.

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 Medium Density Urban uses. Areas designated Medium Density Urban are described as "Village and neighborhood commercial and residential uses and related functions (3-story commercial; residential up to 35 units per acre)." The requested change of zone, if approved, will have a maximum unit density of 10 units per acre and will therefore be consistent with the General Plan LUPAG Map designation for this section of North Kona. The Master Plan for Kailua Kona identifies the project site for High Density Residential uses with maximum residential unit densities of 20 units per acre, or twice the density as that being requested by the applicant.

The subject property is situated within the project area identified as the Kailua Village Special District. On August 27, 2002, the Kailua Village Design Commission

voted to recommend the denial of the project. The denial recommendations were based on concerns regarding the density of the project, the need for increased yard setbacks from Ali'i Drive and additional open space throughout the project site, and consistency with the requirements of Chapter 205A, Hawai'i Revised Statutes, regarding the Special Management Area. Other concerns raised during the public hearing included:

- a: potential significant impact upon traffic along Ali'i Drive and Walua Road;
- b: consistency with The Master Plan for Kailua-Kona; especially as it relates to the use of greenbelts and open spaces;
- c: continuation of "cookie cutter" design similar to other developments along this section of Ali'i Drive;
- d: anticipated impacts upon Waiaha Bay significant without known mitigation measures to be provided by applicant;
- e: overall density of project deemed too high.

Traffic impacts will be mitigated in accordance with the recommendation of the traffic impact analysis report and the Department of Public Works. Tentative recommendations of the Department of Public Works include improving that portion of Ali'i Drive fronting the subject property with various improvements such as street widening, street lighting, appropriate signage, drainage and markings. Along its frontage with Walua Road, recommended improvements consistent with a collector street shall be provided including the installation of curbs, gutters and sidewalks. With these roadway improvements in place, adverse impacts to traffics are expected to be minimal. Overall density is consistent with existing County land use policies and plans. Direct impacts of the project upon Waiaha Bay are anticipated to be minimal due to the project location on the mauka side of Ali'i Drive. Appropriate construction practices and improvements to contain runoff, sedimentation and erosion will be implemented in accordance with applicable governmental requirements. Secondary impacts due to increased user demands placed upon the recreational resources of Waiaha Bay are likely. The applicant is providing a parking area and restrooms adjacent to the sewer pump station for users of Waiaha Bay. These amenities alone will provide much in the way of relief for users of Waiaha Bay by finally providing an appropriate parking area for vehicles instead of parking along the shoulders of Ali'i Drive and restroom facilities in lieu of alternatives. While the proposed development will generate additional user demands upon Waiaha Bay, these additional demands are offset by the provision of public parking and restrooms that will benefit all recreational users of Waiaha Bay and not only the residents of the proposed Ali'i Cove project. Finally, this favorable recommendation will require the applicant to work with the Planning Department to try to incorporate additional design

concepts, as provided by the Master Plan for Kailua-Kona, within plans to be submitted for Final Plan Approval Review; the most important of which is the use of greenbelts and open spaces.

Based on the above findings, it is determined that the proposed development 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 conditions not be met or substantially complied with in a timely fashion, the Director may initiate to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit and the accompanying change of zone ordinance.
2. The effective date of this Special Management Area (SMA) Use Permit shall be the effective date of the accompanying Change of Zone ordinance.
3. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
4. An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment for the burial sites within the subject property shall be approved by the Historic Preservation Division's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits.
5. 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.

6. The applicant shall ensure that the mauka-makai interior access roadway through the project site shall be available to the general public for emergency evacuation purposes. This requirement shall be incorporated within an evacuation plan for the proposed residential development that shall be approved by the Civil Defense Agency prior to the issuance of a certificate of occupancy for any portion of the proposed multiple family residential development.
7. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies, including those of the Departments of Health and Public Works.
8. 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, its 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.

Mr. Gregory Mooers
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Should you have any questions, please contact Alice Kawaha of the Planning Department Hilo office at 961-8288 or Daryn Arai of the Kona office at 327-3510.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

LsunstonesmaPC

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
Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Subdivision Section
Sunstone Realty Partners X, LLC