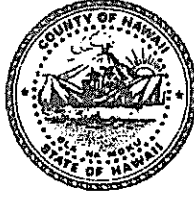


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

JUN 23 2003

Mr. Robin Ledson
Ledson Construction Co., Inc.
P.O. Box 2759
Kailua-Kona, HI 96745

Dear Mr. Ledson:

Special Management Area Use Permit Application (SMA 03-002)
Applicant: 2-Unit Apartment Building and Related Improvements
Request: Ledson Construction, Inc.
Tax Map Key: 7-7-15:84

The Planning Commission at its duly held public hearing on June 6, 2003, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 431 is hereby issued to allow the construction of a 2-story, 2-unit apartment building and related improvements. The property is located at the southeast corner of Sea View Circle and Noelani Place within the Kona Sea View Lots Subdivision, Holualoa 4th, 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 proposed two-unit multiple-family residential development and related improvements 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 applicant proposes to construct a two-story, two-unit multi-family residential development and related improvements. The development will consist of two units, both with one bedroom on the ground level and the remaining bedrooms on the second level. The proposed exterior stairwell to access the second floor will be located on the north and south ends of the building. The

0368139

JUN 23 2003

development will include six (6) parking stalls on the ground floor, consisting of four standard stalls and two compact stalls.

The proposed project will not create significant adverse impacts upon immediately adjacent properties as the properties have been developed with apartments and condominiums. Single family residences are located to the west of the subject property. The proposed development will not substantially affect scenic vistas or viewplanes of nearby residents nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The subject property is located approximately 1.5 miles from the shoreline; therefore, the proposed project will not restrict access to coastal recreational resources along the shoreline nor will it restrict existing visual viewplanes. The viewplane from the shoreline towards the property will not be impacted as surrounding properties are developed with multi-family and/or single family residences.

Air quality in the area of the subject property is most affected by emissions from natural and vehicular sources. The principal source of both short-term air and noise quality impacts associated with the construction of 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 proposed project 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. County water is available to the site. According to the applicant, a septic tank will be installed for this project. 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. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

According to the applicant, the Department of Land and Natural Resources State Historic Preservation Division (SHPD) has indicated that there are no known historic sites on the property. As the site has been previously grubbed and filled, the probability of any burials or other historic sites is low. The applicant has stated that should any

archaeological resources be discovered during development, all activity will cease and the SHPD will be contacted. The subject property is not listed in the General Plan Historic element or the State and Federal Register of Historic Places. According to the applicant, there are no rare or endangered plant or animal species on the subject property.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. Therefore, at this time, no action is necessary to protect these rights. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. The property is located approximately 1.5 miles from the shoreline and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area.

The proposed development is consistent with the County General Plan and Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Medium Density Urban, which allows village and neighborhood commercial and residential and related functions (3-story commercial; residential - up to 35 units per acre). The subject property is zoned Multiple Family Residential (RM-1.5) by the County.

This proposed development will complement the goals, policies and standards of the Land Use and Housing (Multiple Residential) Elements of the General Plan. The proposed multiple family residential development will add to the housing inventory for the district of North Kona. Thus, the provision of this type of housing development in this district will implement the General Plan's Housing Element. This multiple-family residential development will be in harmony with the character of the surrounding neighborhood and 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.

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. According to the applicant, the traffic generated by the proposed project will create a minor increase in current traffic. The property is located on the corner of Noelani Way and Seaview Circle. The proposed access is from Noelani Way, a County roadway with a 20-foot wide pavement within an approximate 40-foot wide right-of-way. Because Noelani Way and Seaview Circle are not graded to the full right of way width, the Department of Public Works requires the applicant to grade and provide an improved shoulder extending to the right-of-way along the entire subject frontage with Noelani Way and Seaview Circle, meeting with the approval of the Department of Public Works.

The Department of Public Works further states that adequate sight distances shall be provided for access to Noelani Way or Seaview Circle. Conditions of approval will be included to require the applicant to comply with the Department of Public Works' requirements.

According to the site plan of the proposed development, there is no interior circulation in the proposed two-unit multi-family apartment building. Instead, plans indicate two exterior stairwells connecting the first and second levels of the structure. To assure that the two units will not be converted into additional units, a condition of approval will be included to require the applicant to enter into an agreement with the Planning Director stating that the two units will not be converted into additional units without proper land use approvals.

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. Construction of the proposed development shall be completed within five (5) years from the date of this permit. Prior to construction, the applicant shall secure Final Plan Approval from the Planning Director in accordance with Sections 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and proposed structures, landscaping, paved driveway access and parking stalls associated with the proposed development. Landscaping shall be provided as required by Planning Department Rule 17 (Landscaping Requirements).
3. Prior to receipt of Final Plan Approval, the applicant shall enter into an agreement with the Planning Director that the two units will not be converted into additional units without proper land use approvals.
4. Access to Noelani Way, including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works. The driveway shall

conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code and County Standards Details R-37 and R-38.

5. The applicant shall grade and provide an improved shoulder extending to the right-of-way property line along the entire property frontage with Noelani Way and Seaview Circle, meeting with the approval of the Department of Public Works.
6. A drainage study of the property, if required, shall be prepared and submitted to the Department of Public works for review and approval prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
7. 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.
8. Septic tank(s) shall be installed, meeting the standards and requirements of the State Department of Health, prior to the issuance of a Certificate of Occupancy.
9. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
10. 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 mitigation measures have been taken.
11. An Emergency Response Plan shall be submitted to the Hawaii County Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.
12. 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 compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of

Mr. Robin Ledson
Page 6

approval have been satisfied and the Planning Director acknowledges that further reports are not required.

13. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Water Supply, relative to the provision of potable water.
14. 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 original reasons for the granting of the permit.
 - C. 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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lledson01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning - Kona
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Long-Range Planning
Plan Approval Section