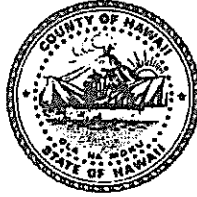


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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

JUL 18 2003

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

Dear Mr. Mooers:

Special Management Area Use Permit Application (SMA 03-003)
Applicant: Seven and Sons, LLC
Request: Establishment of a 10-Unit Multiple Family Residential
Development and Related Improvements
Tax Map Key: 7-6-14:26

The Planning Commission at its duly held public hearing on July 3, 2003, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 432 is hereby issued to allow the development of a 10-unit condominium project consisting of two 2-story buildings and related improvements. The property is located approximately 67 feet east (mauka) side of Alii Drive, at its closest point, and approximately 1,650 feet north of Holualoa Bay, Holualoa 1st and 2nd Partition, 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 ten-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 develop ten multiple-family residential units consisting of two, two-story structures with six units in

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the makai building and four units in the mauka building, and related improvements. The proposed height of the structures is approximately 28 feet from the finished grade.

The proposed project will not create significant adverse impacts upon immediately adjacent properties as the properties to the north and south have been developed with apartments and condominiums. The mauka property to the east is vacant, and the County Wastewater Station is located on the adjacent parcel to the west. 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 mauka of Alii Drive approximately 125 - 250 feet from the shoreline; therefore, the proposed project will neither 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 multiple-family residences.

Air quality in the area of the subject property is mostly 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. The applicant proposes to connect to the County's new wastewater treatment facility at Kealakehe via the existing sewer line in Alii Drive. 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.

The Department of Land and Natural Resources State Historic Preservation Division (SHPD) has indicated that previous grubbing and grading has altered the land,

and there are no known historic sites on the property. As the site has been previously grubbed, the probability of any burials or other historic sites is low. Archaeologist Dr. Robert Rechtman and Mary Ann Maignet of the State Historic Preservation Division inspected the site on January 15 and 16, 2003 and concurred that no further historic preservation work was necessary as the subject property had been disturbed due to the use of the parcel as a staging area during construction of the County Wastewater Station on the adjacent parcel. The subject property is not listed in the General Plan Historic element or the State and Federal Register of Historic Places. According to a botanical reconnaissance survey conducted in March 2003 by Dr. Ron Terry, "no adverse botanical impacts would ensue from development of the property." Accordingly, 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 mauka of Alii Drive approximately 125 - 250 feet 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 applicant states that the traffic generated by the proposed project, approximately ten vehicles per hour in peak periods, falls below the guideline suggested by the Institute of Transportation Engineers that "a traffic access/impact study be conducted whenever a proposed development will generate 100 or more new peak direction trips to or from the site during the adjacent roadways' peak hours or the development's peak hour."

Access to the property is from Alii Drive, a County roadway with a 20-foot wide pavement within an approximate 50-foot wide right-of-way, to an unnamed road (located adjacent to the Banyan Mart) on the northern boundary of the subject property. This road is a government road but not presently maintained by the County. According to the Department of Public Works, the road has a pavement width that varies from 24 feet at the Alii Drive approach to 14 feet wide, 100 feet to the east, with varying right-of-way widths.

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 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. Install street lights, signs and markings meeting with the approval of the Department of Public Works, Traffic Division.

4. A drainage study 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.
5. 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.
6. 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.
7. The applicant shall connect to the existing sewer line on Alii Drive, meeting with the approval of the Department of Environmental Management prior to the issuance of a Certificate of Occupancy.
8. 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.
9. 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.
10. 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 approval have been satisfied and the Planning Director acknowledges that further reports are not required.
11. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Water Supply relative to potable water, Department of Environmental Management Solid Waste Division and Department of Health.

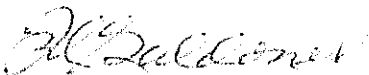
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12. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. The non-performance is the result of conditions that could not have been foreseen or 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

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu
Long-Range Planning
Mr. Robert Usagawa
Seven and Sons, LLC
Plan Approval Section