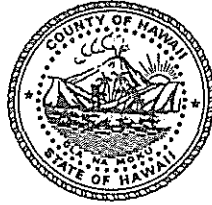


Harry Kim  
Mayor



**County of Hawaii**  
**PLANNING COMMISSION**

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

October 20, 2003

Mr. Klaus Conventz  
P.O. Box 2308  
Kailua-Kona, HI 96745-2308

Dear Mr. Conventz:

Special Management Area Use Permit Application (SMA 03-011)  
Request: 32-Unit Condominium Project  
Applicant: KOA Ventures, LLC  
Tax Map Key: 7-5-20:21

The Planning Commission at its duly held public hearing on October 3, 2003, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 437 is hereby issued to allow the construction of a 4-story, 32-unit condominium building and related improvements. The property is located along the makai side of Alii Drive, between the Casa De Emdeko condominium complex and the Kona Isle condominium complex, Puapuaa, 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 approval of this request is based on the proposed development having met the following criteria:

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The proposed development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest. The applicant proposes to develop a 32-unit condominium project consisting of one 4-story structure and related improvements with an average height of approximately 42.5 feet. The development will include the required off-street parking stalls (42 parking stalls proposed including 1 van accessible stall meeting with A.D.A requirements), that will include 18 garages, 16 carports and an uncovered parking area to accommodate 8 cars. A swimming pool, spa and cabana will be located along the southern boundary of the property. The development will be oriented to the retired and second-home market with an estimated sales price between \$450,000 to \$850,000 for the 1 to 3-bedroom units.

The property, which is located within an area that has been extensively developed, is not known to contain any unique ecological systems or provide habitats for any endangered plant or animal species. Air quality in the area of the subject property is mostly affected by emissions from natural and vehicular sources. No significant long-term impacts on air, noise or water quality are anticipated by the proposed development except those generated during the construction phase. These short-term impacts can be mitigated through the utilization of best management practices. A condition of approval will be added to require that measures be taken to minimize the potential of both fugitive dust and runoff sedimentation.

The proposed development will be located in between two other similar developments, Kona Isles and Casa de Emdeko. There are significant adverse environmental and ecological effects anticipated by the cumulative traffic impact of these combined developments to the Special Management Area on Alii Drive. These developments are located within the tsunami inundation and evacuation zone. In the event of a tsunami, the cumulative traffic impact created by the need for the occupants of these developments to evacuate would cause significant adverse effects without proper improvements to the Alii Drive. Access to and from the property is from Alii Drive, County roadway with a 20-foot wide pavement within an approximate 50-foot wide right-of-way. According to a Traffic Analysis Impact Report (TIAR) submitted by the applicant, the existing roadway system has sufficient capacity to accommodate the growth in ambient traffic and the traffic would be generated by the proposed condominium. The only action requested would be to extend the existing two-way left turn lane to service the proposed driveway. Comments from the Department of Public Works-Engineering Division agreed with this conclusion to extend the existing two-way left turn lane to accommodate northbound left turns into the project. DPW also requested that a 5-foot wide future road widening setback easement be provided along the entire frontage of the property to accommodate future road widening. Therefore, conditions of approval will be added to reflect these requests.

The proposed development will not have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The subject property is located makai of Alii Drive, abutting the shoreline. There is an established public access easement (mauka-makai and lateral access) and public access parking easement that will be improved as a result of this project. Therefore, the proposed development will enhance access to coastal recreational resources along the shoreline.

Air quality in the area of the subject property is mostly affected by emissions from natural and vehicular sources. The principal source of short-term air quality and noise impacts associated with the construction of the proposed improvements are 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 quality and noise impacts are anticipated. A condition of approval will be added to require that measures be taken to minimize the potential of both fugitive dust and runoff sedimentation.

The proposed development will not have any significant adverse impacts to historic or archaeological resources. An archaeological inventory survey of the property was conducted in October 26, 1989 by Paul H. Rosendahl, PHD. Inc. The survey identified two sites, (12911 and 12912), both of which were possible clearing mounds. Based upon the results of a test excavation of Site No. 12911, it was determined that the mounds were significant solely for information content and no further work was recommended. A comment letter from the Department of Land and Natural Resources on April 11, 1990, agreed that the parcel was adequately surveyed and concurred with the findings of the survey that both sites were significant solely for information content, making the sites "no effect" on significant historic sites. The subject property is not listed in the General Plan Historic element or the State and Federal Register of Historic Places.

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.

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. The proposed development will not have an adverse impact to the recreational resources to the shoreline and coastal ecosystems, as it will provide valuable public access to the shoreline and public access parking. A condition of approval will be added requiring the applicant to comply with conditions of the "Grant of Easement for Public Access" recorded as Document No. 91-014902 with the Bureau of Conveyances on February 4, 1991. Public access signage will also be added as a requirement.

The proposed development will not have a significant adverse impact to the viewplane as it will not substantially interfere with or detract from the line of sight toward the sea from Kuakini Highway, which is the nearest state highway to the coast.

In regards to County water, according to the applicant there are only 25 water units available. The applicant is currently in discussions with the Department of Water Supply for the needed additional 7 units. The applicant will be required to connect to the County's existing sewer line on 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 proposed development is consistent with the County General Plan and Zoning Code and other applicable ordinances. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Resort and Open along the shoreline. The County is currently conducting a comprehensive review update to the General Plan. One of the proposed amendments to the LUPAG Map involves the subject area, which is proposed to be changed from Resort to Medium Density Urban. The subject property is zoned Multiple Family Residential (RM-1.5) by the County. Therefore, the proposed development is consistent with the County General Plan and with County zoning.

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 condominium project 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. The condominium project 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.

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 may 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. A drainage study shall be prepared and submitted to the Department of Public works for review and approval prior to the issuance of a grading permit and 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.
4. A public access plan, which includes the 10-foot wide mauka-makai access, designated lateral shoreline access, and public access parking stalls as required by the "Grant of Easement for Public Access, sufficient public access signage and related improvements shall be submitted to and approved by the Planning Director prior to Final Plan Approval. The applicant shall be required to comply the conditions of the "Grant of Easement for Public Access" recorded as Document No. 91-014902 with the Bureau of Conveyances on February 4, 1991. All required improvements shall be in place prior to the issuance of a certificate of occupancy for any portion of the development.
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. The 40-foot shoreline setback line shall be staked by a registered surveyor prior to any grading or grubbing activity. A letter confirming staking shall be submitted to the Planning Department.

7. The applicant shall extend the existing two-way left turn lane on Alii Drive to accommodate northbound left turns into the proposed development in the manner specified by the Department of Public Works.
8. Install street lights, signs and markings meeting with the approval of the Department of Public Works, Traffic Division.
9. The applicant shall provide a 5-foot wide future road widening setback easement along the entire frontage of the property along Alii Drive. The road widening setback easement shall be dedicated to the County upon request at no cost to the County. A paved shoulder along the entire frontage of the property extending to the right-of-way shall be provided meeting with the approval of the Department of Public Works.
10. Any vehicular security gate shall be located a minimum of 45 feet from Alii Drive pavement. Further, a turn around on the Alii Drive side of the gate shall be provided.
- 11.[10.]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.
- 12.[11.]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.
- 13.[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 mitigation measures have been taken.
- 14.[13.]An Emergency Preparedness and 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.

15.[14.]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.

16.[15.]Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works, the Department of Water Supply relative to potable water, the Department of Environmental Management Solid Waste Division and the Department of Health.

17.[16.]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.

Mr. Klaus Conventz  
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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-HPD Kona  
Rodney Haraga, Director/DOT-Highways, Honolulu  
Long Range Planning  
Mr. Robert Usagawa  
Plan Approval Section  
Mr. Rick Oliver