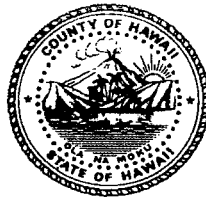


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

July 12, 2018

Mr. Ken Van Bergen
68-1122 Na Ala Hele Road, Apt. N2
Kamuela, HI 96743

Dear Mr. Bergen:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA 18-001596)
Special Management Area (SMA) Minor Use Permit (SMM 18-000393)
Applicant: Aldersgate Investments LLC
Land Owner(s): Kaupulehu Land LLC
Project: Construct a County Dedicable Access Road Through the
Subject Property on Ali'i Drive to the Adjacent Parcel Known
as TMK: (3) 7-7-008:121 as Part of Pending Subdivision
SUB 17-001732, Change of Zone Ordinance No. 09 008 and
PUD 15-000032
TMK: (3) 7-7-008:001, Kapalaalaea 2nd, North Kona, Hawai'i**

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA 18-001596), submitted on April 13, 2018. The project is to construct a county dedicable access road through the subject property on Ali'i Drive to the adjacent parcel known as TMK: (3) 7-7-008:121 as part of pending subdivision SUB 17-001732, Change of Zone Ordinance No. 09 008 and PUD 15-000032.

The subject 8.175-acre parcel is zoned Agricultural-5 acres (A-5a) by the County of Hawai'i and is situated within the State Land Use Urban and Agricultural Districts. According to the County of Hawai'i General Plan 2005 (as amended) Land Use Pattern Allocation Guide (LUPAG) map, the subject property is designated as Low Density Urban. The entire property is located in the Special Management Area (SMA) and is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes. Therefore, the requirement to submit a current certified shoreline survey is waived for the above-listed scope of work.

Special Management Area Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e)(1)(A) and 9-4(e)(1)(B), "development" includes "*Placement or erection of any solid*

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Mr. Ken Van Bergen

July 12, 2018

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material or any gaseous, liquid, or thermal waste” and “Grading, removing, dredging, mining, or extraction of any materials.” The project description is considered “development” and requires a review against the SMA rules and regulations.

The valuation for the project is approximately \$440,000. Further, we find that the construction of a county dedicable access road through the subject property on Ali‘i Drive to the adjacent parcel known as TMK: (3) 7-7-008:121 as part of pending subdivision SUB 17-001732, Change of Zone Ordinance No. 09 008 and PUD 15-000032 will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA.

In view of the above, we have determined that the proposed construction of a county dedicable access road through the subject property on Ali‘i Drive to the adjacent parcel known as TMK: (3) 7-7-008:121 as part of pending subdivision SUB 17-001732, Change of Zone Ordinance No. 09 008 and PUD 15-000032 requires a Special Management Area Minor Permit. Therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area, Minor Permit No. SMM 18-000393, is hereby issued for the project as described above. It is the applicant’s responsibility to read and comply with the conditions listed in the enclosed permit.

If you have any questions, please contact Shancy Watanabe of this office at (808) 961-8144.

Sincerely,



MC

MICHAEL YEE
Planning Director

SHW: ja

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Enclosures: Receipt No. 961910 in the amount of \$50.00 for the SAA filing fee
SMM 18-000393
Copy of site plan dated December 20, 2017

cc w/Encls.: Planning Division (via email)
Aldersgate Investments LLC (via email: ruth@aldersgatehone.com)
Kaupulehu Land LLC (via email: john@metzlercontracting.com)
Ken Van Bergen (via email: kenvanbergen@gmail.com)

cc ltr. only: Mr. Leo Asuncion, Director
Office of Planning, DBEDT
State of Hawai‘i Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

RECEIPT

DATE 4/16/18No. 961910RECEIVED FROM Nahe'ana LLC\$ 50.00US 1122 Na ala Hele Rd N2 Kamuela HI 96743 DOLLARS☐ FOR RENT SMA 7-7-008:001

ACCOUNT		
PAYMENT	<u>50</u>	<u>00</u>
BAL. DUE		

☐ CASH☒ CHECK☐ MONEY
ORDER☐ CREDIT
CARD# 802

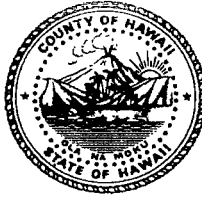
FROM

TO

BY



Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

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Special Management Area Minor Permit No. 18-000393

Project: Construct an Access Road Through the Subject Property on Ali'i Drive to
TMK: (3) 7-7-008:121 as Part of Pending Subdivision SUB 17-001732, Change of
Zone Ordinance No. 09 008 and PUD 15-000032

Applicant: Aldersgate Investments LLC

Owner: Kaupulehu Land LLC

Location: Kapalaalaea 2nd (Beach Section), North Kona, Hawai'i

TMKs: (3) 7-7-008:001 **Land Area:** 8.175 acres

Applicant's Request

1. Project Description:

The applicant is requesting to construct a county dedicable access road (.087 acres) through the subject 8.175-acre property on Ali'i Drive to the adjacent parcel known as TMK: (3) 7-7-008:121 as part of pending subdivision SUB 17-001732, Change of Zone Ordinance No. 09 008 and PUD 15-000032.

2. Purpose of Project:

According to the applicant, the objective of the subject project is to allow access to the pending subdivision for SUB 17-001732 on TMK: (3) 7-7-008:121.

3. Project Valuation: \$440,000

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule No. 9-4(e)(1)(A) and 9-4(e)(1)(B), "development" includes "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste*" and "*Grading, removing, dredging, mining, or extraction of any materials.*" The project description is considered "development" and requires a review against the SMA rules and regulations. Thus, the proposed access road improvements require a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The project area is in the State Land Use Urban and Agricultural districts.
- 2. General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designated the subject parcel as Low Density Urban.
- 3. County Zoning:** The parcel is zoned Agricultural-5 Acres (A-5a) by the County of Hawai'i.

4. **Special Management Area:** The parcel is located entirely within the Special Management Area (SMA) and is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes.
5. **Flood Zone:** X. The subject property is in the tsunami evacuation zone.

<p align="center">Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area</p>

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ 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 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - ☒ Stimulate public awareness, education, and participation in coastal management.
 - ☒ Protect beaches for public use and recreation.
 - ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

1. As discussed above, the proposed 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.
2. The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.
3. The proposed development is also consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
4. The estimated project cost of \$440,000 is not in excess of \$500,000.
5. Consultation with the Department of Public Works-Engineering Division, indicates the property is located within Zone X according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is the area determined to be outside the 500-year floodplain. The subject property is in a tsunami evacuation zone.
6. At the time of this writing, the Planning Department had not received comments from the State Historic Preservation Division currently under their review. It is strongly recommended that the applicant contact the State Historic Preservation Division.
7. Pursuant to PC Rule Section 9-10(e), the Planning Director hereby approves the construction of a county dedicable access road (.087 acres) through the subject 8.175-acre property on Ali'i Drive to the adjacent parcel known as TMK: (3) 7-7-008:121 as part of pending subdivision SUB 17-001732, Change of Zone Ordinance No. 09 008 and PUD 15-000032 as substantially presented in Special Management Area Assessment Application No. 18-001596 (SAA 18-001596).

Conditions of Approval

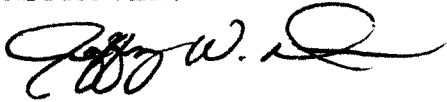
This SMA Minor Permit is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws, rules, regulations and requirements.
3. The applicant shall obtain clearance from the State Historic Preservation Division for the proposed request prior to any grading, grubbing, filling or other construction activity.
4. All construction activity related to this project description shall be completed within two (2) years from the date of this permit.
5. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
6. All waste shall be properly disposed of subject to the requirements of Chapter 20-Refuse, of the Hawai'i County Code and may require a Landfill Disposal Permit from the Department of Environmental Management, Solid Waste Division.
7. Any further grading, grubbing, filling or other construction activity including but not limited to the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.
8. In the unlikely event that any surface or subsurface historic properties and/or resources such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
9. An extension of time for the performance of the conditions contained herein 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; and
 - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

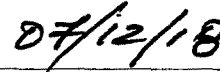
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Shancy Watanabe of this department at (808) 961-8144.

APPROVED:



Ma
MICHAEL YEE
Planning Director



Date

