Larry Kim
Mayor

Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

December 22, 2006

Mr. Keith F. Unger
Alii Gardens Marketplace
P.O. Box 181
Honaunau, Hawaii 96726

Dear Mr. Unger:

Special Management Area Use Permit No. 358 (SMA 358)
Use Permit No. 142 (USE 142)
Applicant: Alii Gardens Marketplace
Subject: Time Extension to Comply with Condition No. 5 (Complete Construction)
Tax Map Key: (3) 7-5-020:070

This is in response to your letter dated December 7, 2006, requesting an administrative extension of time in accordance with provisions of Condition No. 13 to comply with Condition No. 5 (complete construction) of Special Management Area (SMA) Use Permit No. 358. Condition No. 13 allows for an administrative time extension for a period not to exceed the period originally granted. According to the approval letter dated May 6, 2002, amending Condition No. 12E, Condition No. 5 was granted a five-year time extension based on Condition No. 13 until January 6, 2006 (or 10 years from the original effective date of the permit). Therefore, to receive an additional extension of time, you will need to submit your request with reasons in writing, along with 20 copies of that request, and a $250 filing fee to the Planning Commission. Your request will be brought before the Planning Commission for a hearing.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288, ext 259.

Sincerely,

CHRISTOPHER J. YUEN
Planning Director
JWD:smn
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cc/ltr: Planning Commission
Planning Department-Kona

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PLANNING DEPARTMENT
COUNTY OF HAWAII

December 7, 2006

Mr. Chris Yuen
Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Special Management Area Use Permit No. 358
Use Permit No. 142
Applicant: Alii Gardens Marketplace
Subject: Amendment to extend construction (Condition 5)

Dear Mr. Yuen,

Alii Gardens Marketplace would like to request an extension of time to complete construction from May 6, 2007 to May 6, 2012.

Pursuant to Item 13 of Special Management Area Use Permit No. 358, the Planning Director may grant an administrative extension of time upon the following circumstances:

A. The non-performance is the result of condition that could not have been foreseen or are beyond the control of the applicant that are not the result of their fault or negligence.

Not completing Phase by May 2006 was not Alii Gardens Marketplace's fault or a case of negligence. To the contrary, applicant worked diligently for several years preparing for Phase II of the marketplace. Michael Rhiem of Rhiem Owensby Planners and Architects was the architect hired to oversee the project, Bruce Witcher of Witcher Engineering LLP was hired to design the engineering drawings, Rivera & Sons was selected as excavation contractor and bids were received from various construction contractors. Final Plan Approval was granted by the Planning Department on March 7, 2005 and AGM was prepared to break ground shortly thereafter.

Just prior to finalizing plans and committing to financing and contractors, The Alii Gardens Marketplace was severely and negatively impacted by the opening of the Kona International Marketplace. Upon opening of the Kona International Marketplace, the Alii Gardens Marketplace immediately lost 25% of our vendors, and Phase II became unfeasible.

We are just now regaining momentum and are once again planning to begin construction for

75-6129 Alii Drive • Kailua-Kona, Hawaii 96740
Phone: (808) 334-1381 • Fax: (808) 334-0478

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Phase II within the next 3 years with construction to be completed within 5 years.

B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.

The granting of a time extension for completion of Phase II is compatible with the General Plan in that the Planning Department will be encouraging growth and development within urban areas. The Alii Gardens Marketplace is an example of the Planning Department minimizing traffic within the greater Kailua-Kona area by allowing the availability of goods and services within a neighborhood community.

C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

D. The time extension requested is does not exceed the period originally granted for the build-out.

I have also included a "Special Use Management Area Use Permit Application". Please let me know if there is any other information required of the Alii Gardens Marketplace in order for you to make a discussion on our request.

Sincerely,

Keith F. Unger
Owner

SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION

COUNTY OF HAWAII
PLANNING DEPARTMENT

(Type or legibly print the requested information)

APPLICANT: Ali'i GARDENS MARKETPLACE / Keith Unger

APPLICANT'S SIGNATURE: KTUnger DATE: 12/8/06

ADDRESS: POB 181
Honaunau Hi 96726

LIST APPLICANT'S INTEREST IF NOT OWNER: OWNER

LIST PRINCIPAL(S) INCLUDING NAMES OF MAIN OFFICERS: Keith Unger
ERIC von Platen Luder

PHONE:(Bus.) 328 8246 (Res.) 328 2254 (Fax) 328 8671

LANDOWNER(S): KEITH UNGER ERIC von Platen Luder

LANDOWNER SIGNATURE(S): KTUnger Eric von Platen Luder (May be by letter) DATE: 12/8/06

LANDOWNER(S) ADDRESS: KEITH Unger
POB 181
Honaunau Hi 96726

Eric von Platen Luder
75-5828 Kahakai Rd
Kailua-Kona Hi
96740

REQUEST: EXTENSION of time to complete buildout from MAY 6, 2007 to May 6, 2012.

TAX MAP KEY: 3-7-5-20-70 ZONING: Ag-5

SIZE OF PROPERTY OR AFFECTED AREA(S): 5 acres

AGENT: Keith Unger

ADDRESS: POB 181
Honaunau Hi 96726

TELEPHONE:(Bus.) 328 8246 (Res.) 328 2254 (Fax) 328 8671

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: Keith Unger COPIES: ERIC von Platen Luder