

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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CERTIFIED MAIL

December 16, 1994

Mr. Steven S.C. Lim
Carlsmith Ball Wichman Murray
Case Mukai & Ichiki
121 Waianuenue Avenue
Hilo, Hawaii 96720

Dear Mr. Lim:

PLANNED UNIT DEVELOPMENT APPLICATION WH(PUD 94-02)
APPLICANT: WHITE HAT DEVELOPMENT CORPORATION
PROJECT: UNIVERSITY HEIGHTS SUBDIVISION, A 108 LOT
SINGLE FAMILY RESIDENTIAL SUBDIVISION
Tax Map Key: 7-3-003: 007 and 017

After reviewing the information submitted with the Planned Unit Development, the Planning Director certifies the approval of the Planned Unit Development (PUD) application to allow the construction of a 108 unit Single Family Residential Subdivision Development on a 23.926 acre parcel situated within the Single Family Residential 7,500 square feet (RS-7.5) zone district with requested variances from the Front, Rear and Side Yard Setback, Minimum Building Site Average Width, Minimum Building Site Area and Minimum Yards between Accessory and Main Structure requirements of the Zoning Code and the Maximum number of lots on a Private Roadway, Private Roadway, Right-of-Way Width, Road Grade, Sidewalks, Curves, Private Driveways, Water Tank and Sewer/Drainage Easements of the Subdivision Code, Pursuant to the Requirements of Chapter 25 (Zoning Code), Article 21 (PUD, Planned Unit Development).

The subject property is situated approximately 460 feet west (makai) of the Mamalahoa Highway adjacent to the west of Makaula Subdivision, Makaula, North Kona, Hawaii, TMK: 7-3-003: 007 & 017.

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FINDINGS:

1. In accordance with Section 25-247 of the Zoning Code, the proposed single family residential uses are permitted by the existing single family residential zoning of the property.
2. In accordance with requirements of Section 25-251(Finding by planning department to approve P.U.D.):
 - a. The construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.

The applicant's design concept for the proposed Planned Unit Development is to develop approximately 108 single family house-lot units ranging in size from approximately 5,000 square feet to 8,750 square feet, to be adjusted upon the final roadway layout for the project. The University Heights Subdivision will also include three (3) areas for park and open space purposes totalling approximately 3.5 acres, a private wastewater treatment plant and leach field, a private drainage/drywell system, easements for drainage, sewer, utility and pedestrian access purposes, and landscaping throughout the project common areas.

The proposed "University Heights" planned residential community will be developed pursuant to the State of Hawaii's Housing Finance and Development Corporation and County of Hawaii's County Agency and Office of Housing and Community Development guidelines for affordable housing. The planned residential community will incorporate a traditional neighborhood setting for approximately 108 single-family detached house lots in a planned unit development.

It is anticipated that development of the project in accordance with demonstrated need will be substantially completed by late Fall, 1995, or within five years after the date of final County of Hawaii zoning approval, whichever is applicable.

- b. The proposed development substantially conforms to the General Plan.

The following General Plan elements goals, policies and standards of action are in conformance with the proposed Planned Unit Development.

HOUSING ELEMENT:

GOALS: Attain safe, sanitary and livable housing for the residents of the County of Hawaii. Attain a diversity of socio-economic housing mix throughout the different parts of the County. Maintain a housing supply which allows a variety of choice. Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people. Improve and maintain the quality and affordability of the existing housing stock. Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals. Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background, and income. The cornerstone of the County's Housing programs and activities shall continue to be the encouragement and expansion of appropriate home ownership opportunities for our residents.

POLICIES: The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies. The County shall initiate and participate in activities with the private sector including the provision of leadership and expertise to neighborhoods and nonprofit organizations in the development of housing and community development projects.

LAND USE ELEMENT

GOALS: Designate and allocate land use in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.

POLICIES: Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities.

The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

LAND USE ELEMENT (SINGLE FAMILY RESIDENTIAL)

GOALS: To maximize choices of single family residential lots and/or housing for residents of the County. To provide single family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers. The County shall encourage more innovative uses of land with respect to geologic and topographic conditions through the use of residential cluster and planned unit developments. The clustering of residential units in sloping areas is a means of minimizing grading and drainage problems, preserving the natural appearance of the topography, preventing strip development, and making optimum uses of the terrain for buildings and open space. The County shall incorporate flexibility in codes and ordinances to achieve a diversity of socio-economic housing mix and to permit aesthetic balance between single family residential structures and open spaces.

RECREATION ELEMENT

GOALS: Provide a variety of recreational opportunities for the residents and visitors of the County. Maintain the natural beauty of recreation areas. Provide a diversity of environments for active and passive pursuits.

POLICIES: The use of land adjoining recreation areas shall be compatible with community values, physical resources and recreational potential. The proposed Planned Unit Development will implement the above goals and policies of the applicable element of the General Plan, in particular with the above cited elements.

- c. All residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood, and shall result in an intensity of land utilization no higher than, and

standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.

The applicant's design concept for the proposed Planned Unit Development is to develop approximately 108 single family house-lot units ranging in size from approximately 5,000 square feet to 8,750 square feet, to be adjusted upon the final roadway layout for the project. The University Heights Subdivision will also include three (3) areas for park and open space purposes totalling approximately 3.5 acres, a private wastewater treatment plant and leach field, a private drainage/drywell system, easements for drainage, sewer, utility and pedestrian access purposes, and landscaping throughout the project common areas.

The University Heights subdivision will offer three (3) and two (2) bedroom single family homes with an emphasis on quality and value, to include large living areas, cool lanais, and open green space with centralized landscaping. Because of the sloping nature of the property, it is anticipated that many of homes within the project will be afforded excellent views of the Kona coastline. All homes will be pre-sited on each lot by the Applicant and sold as a package to all purchasers.

There will be four (4) different house models within the project to include:

1. Honokohau II - A two (2) bedroom, one (1) bath home approximately 855 square feet;
2. Honokohau - A three (3) bedroom, two (2) bath home approximately 1,075 square feet;
3. Keahole Makai - A three (3) bedroom, two (2) bath home approximately 1,075 square feet;
4. Keahole Mauka - A three (3) bedroom, two (2) bath home approximately 1,075 square feet (See Exhibits J-Q in Applicant's Planned Unit Development Application document).

Each of the four (4) different model types include an attached carport to accommodate one vehicle. Within the University Heights Subdivision, recreational amenities and project landscaping will be developed by the Applicant, to include one basketball court, a mini-soccer field, one tot lot and a combination volleyball/biddy basketball court.

Access to the project will be from a channelized intersection with Mamalahoa Highway at what is sometimes known as "Road E" for the Kalaoa View Estates project located to the south at TMK: 7-3-003: 012. Road "E" will be dedicated to, and accepted by the County of Hawaii as a public roadway. The access road for the project will then continue across parcel TMK: 7-3-003: 010 to enter into the property. The access road across parcel 10 and the University Heights spine road within the project will be designed initially as private roadways, with the applicant reserving the option to request that the County of Hawaii accept the dedication of the project spine road as a public roadway.

- d. The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of the Zoning and Subdivision Codes, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

The proposed "University Heights" planned residential community will be developed pursuant to the State of Hawaii's Housing Finance and Development Corporation and County of Hawaii's County Agency and Office of Housing and Community Development guidelines for affordable housing. The planned residential community will incorporate a traditional neighborhood setting for approximately 108 single-family detached house lots in a planned unit development.

The single family structures will consist of three (3) bedroom detached houses with a street oriented lanai that will foster development of a neighborhood

community through increased social interaction. The University Heights development will also consist of modified sidewalks, curb and gutters, private sewage treatment facilities, partial underground utilities, and park and green space areas distributed equally throughout the community to create an overall sense of continuity within the subdivision. The applicant proposes to develop the project to be equivalent to a Planned Unit Development utilizing RS-7.5 zoning density, resulting in lots of approximately 5,000 square feet to 8,750 square feet in size. It promotes social communication through the use of lanais facing the main street and its park system. In short it offers the residents a safer, more enjoyable, and socially rewarding community to live in. Therein, the proposed Planned Unit Development is a development of a harmonious, integrated whole which justifies exceptions to the normal requirements of this chapter, as the contemplated arrangements and single family residential use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

3. In accordance with Section 25-252 (Actions permitted on application), the planning department may conditionally approve an application for a P.U.D. In accordance with Section 25-253 (Imposition of conditions upon approval) any conditions imposed by the planning department upon approval of an application for P.U.D. may include but are not limited to the time within which the project shall begin and be completed, changed boundaries of the project, uses permitted, specification of minimum development standards, specified street dedication and improvement, utilities to be furnished, and a list or limit of variances permitted. In accordance with Section 25-555 (Effect of P.U.D. application approval) any P.U.D., as approved, shall be subject to all conditions imposed and shall be excepted from other provisions of this chapter only to the extent specified in said approval.

Based on the above, the following list of variances are approved for this Planned Unit Development:

ZONING CODE:

1. Variances from Chapter 25 (Zoning Code), Article 4 (Single Family Residential), Section 25-122 (Minimum Building Site Area), Section 25-123 (Minimum Building Site Average Width), Section 25-124 (Minimum Yards) (a) (1)(A)(B) and Article 1 (General Provisions), Division 10 (Supplementary Yard and Open Space Regulations), Section 25-66 (a) (Projections into required yards and open spaces) as described in attached Exhibit 1.

SUBDIVISION CODE:

1. Variances from Chapter 23 (Subdivision Code), Article 3 (Design Standards), Division 2 (Blocks), Section 23-29(b) (Block Sizes), Division 4 (Street Design), Section 23-41(a) (Minimum right-of-way and pavement widths), Section 23-50(a) (Grades and Curves), Article 6 (Improvements), Division 2 (Improvements Required), Section 23-88(a) (Non-dedicable street; private dead-end street), Section 23-89 (Sidewalks) as described in attached Exhibit 2.

DEPARTMENT OF WATER SUPPLY REQUIREMENTS:

1. Any variances if necessary shall be secured from the County of Hawaii Water Commission or the Department of Water Supply rules and regulations.

DEPARTMENT OF PUBLIC WORKS, STANDARD DETAILS:

1. Any variances, if necessary shall be secured from the Department of Public Works or the Board of Appeals, whichever is applicable.

Based on the above findings, the Planning Director has approved the Planned Unit Development Application subject to the following conditions:

- a. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.

- b. The applicant shall **indemnify** and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
- c. The effective date of the PUD shall be upon receipt of the official acceptance from the Department of Water Supply, that the applicant has paid for the water commitment deposit to secure the 108 water commitments for the proposed Planned Unit Development.
- d. The plans for the proposed subdivision shall be submitted to the Planning Director within five (5) years from the effective date of the Planned Unit Development (PUD). The proposed subdivision shall not exceed a maximum limit of 108 lots and may be accomplished in phases.
- e. If necessary, the applicant shall prepare a data recovery and mitigation/preservation program for the subject area which shall be submitted to be reviewed and approved by the Planning Department, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for subdivision review. This Plan shall consist of a detailed archaeological data recovery plan (scope of work with research design) and a detailed mitigation/preservation plan. The Planning Department and the State of Hawaii's Historic Preservation Division shall verify in writing the successful execution of the plan, prior to land altering activities in the area of historic sites. Proposed mitigation treatment (preservation in place or disinterment/reinterment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are

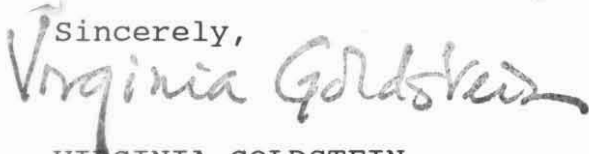
finalized for these sites. This action if applicable, must be submitted and mitigation measures taken prior to issuance of any construction permits for the development of the subject Planned Unit Development.

- f. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- g. Access to the property from Mamalahoa Highway shall include improvements as required by the Department of Transportation, Highways Division and the interior roadways shall be constructed in compliance with the roadway variances as approved in the Planned Unit Development application. Any deviations from roadway standards for which the Department of Public Works has sole jurisdiction shall be applied for and secured through the proper appeal process whether it be an administrative or an appeal from the Board of Appeals.
- h. An overall landscaping master plan, which includes landscaping along the property's frontages, the interior roadways, parks and individual lots and a program for the maintenance of the landscaping shall be submitted to the Planning Director for review and approval, in consultation with the Chief Engineer prior to the issuance of final subdivision approval. All other lots frontage and park landscaping improvements shall be installed prior to the occupancy of the units in each subdivision phase of the Planned Unit Development.
- i. The applicant shall comply with the Integrated Solid Waste Management Plan as approved by the County Council.

- j. The applicant shall construct all on site sewer, drainage, roadway and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health. In addition, all utilities for the proposed development shall be placed underground.
- k. Comply with all applicable laws, rules, regulations and requirements.
- l. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the Planned Unit Development (PUD) permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- m. An initial extension of time for the performance of conditions within the ordinance 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 applicants, 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 general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the Planned Unit Development Permit; d) 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 (1) one year may be extended for an additional 5 years); and e) if the applicant should require an additional extension of time, the applicant may submit a request for further time extension pursuant to Section 25-256 (Extensions and Amendments).

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Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development Permit.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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Enclosures

xc: West Hawaii Office
Department of Public Works, Building Division
Department of Public Works, Engineering
Department of Water Supply
Department Of Transportation, Highways