

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

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Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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March 2, 2000

Steven S. C. Lim, Esq.
Carlsmith Ball
P. O. Box 686
Hilo, HI 96721

Dear Mr. Lim:

PLANNED UNIT DEVELOPMENT APPLICATION (PUD 00-1)

Applicant: Lester D. Oshiro, Chief Clerk of the Third Circuit Court, State of Hawaii

Consultant: Steven S. C. Lim.

Tax Map Key: (3) 6-5-03:12, 13, 14, 15, 16, & 17

After reviewing the information submitted with the Planned Unit Development Application, the Planning Director certifies the approval of Planned Unit Development (PUD) No. 62 to allow the creation of 7-lot subdivision with a roadway lot with existing single-family dwellings within the Village Commercial (CV-7.5) and Single Family Residential (RS-10) Districts. This application has been filed pursuant to an Order of the Third Circuit Court (Civil No. 97-536) to Partition Said Properties. This application seeks formal approval of lots, which were recorded at the Bureau of Conveyances in 1950 prior to receipt of Final Subdivision Approval from the County Traffic and Planning Commission. Approval of PUD No. 62 includes the granting of Variances from Subdivision Code Sections 23-41(a) and (b), 23-48, 23-89, and 23-91 relating to Roadway Requirements and Section 23-84 relating to Water System Improvements as well as Zoning Code Sections 25-5-7 Relating to Yards in the Single Family Residential District and Section 25-5-16 Relating to Yards in the Village Commercial District. The project site is situated on the east (Hamakua) side of Opelu Road approximately 500 feet south (Kona) side of its intersection with Kawaihae Road, Waimea, South Kohala, Hawaii, TMK: (3) 6-5-003:12-17.

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FINDINGS:

1. Lester D. Oshiro, Chief Clerk of the Third Circuit Court, State of Hawaii, is the developer pursuant to Order of the Third Circuit Court to execute the necessary applications to obtain subdivision of the real property described in this application.
2. In accordance with Section 25-5-5 and 25-5-124 of the Zoning Code, the proposed 7 lot subdivision is permitted under the existing Single Family Residential (RS) and Village Commercial (CV) zoning of the property. The total land area of this PUD is 4.59 acres.
3. In accordance with requirements of Section 25-6-10(Criteria for granting a PUD):
 - 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 seeks approval the lots and roadway which had been constructed and conveyed as early as 1955. Essentially, these lots, the roadway and the one of the three existing residences have existed for 45 years, while two residences have existed for 37 years.

- b) **the proposed development substantially conforms to the General Plan.**

Currently, the site of this PUD Application, zoned Single Family Residential and Village Commercial are consistent with the Medium Density classification of the Waimea area on the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map.

In addition, the following General Plan element 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 socioeconomic 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.

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) **the proposed 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 design concept for the proposed Planned Unit Development is to provide a 7 lots. The maximum number of lots allowable under the present zoning is

23, 5 lots each 10,000 square feet in area for the portion zoned Single Family Residential (RS-10), and 18 lots each 7,500 square feet in area for the portion zoned Village Commercial (CV-7.5) The access to the subdivision will be from Opelu Road. The surrounding land uses in the general vicinity of the subject property consist of single family residential and multiple family residential and commercial uses. Thus, the land utilization will be no higher than the general vicinity and that which has been permitted for the development.

- 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 PUD fosters the existing character of the community. The variance from the requirements of Section 23-41, Minimum right-of-way and pavement widths and Section 23-48, Cul-de-sacs will minimize the physical and visual impact on the existing character of the area. 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 make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

In accordance with Section 25-6-6:

- the planning director may conditionally approve an application for a PUD.
- Any conditions imposed by the planning department upon approval of an application for PUD 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.
- Any PUD, 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:

1. SUBDIVISION CODE:

- a. The existing Right-of-Way, 30 feet in width with the existing gravel roadway with no turn-around at its end opposite Opelu Road, no sidewalks, no gutters and no curb shall service the proposed 7 lot subdivision. In the review of the subsequent application for this proposed 7 lot Subdivision, Variances (including but not limited to) from Section 23-41 (Minimum right-of-way and pavement widths), 23-48 (Cul-de-sacs), 23-89 (Sidewalks), 23-91 (Curbs & Gutters) are hereby granted.
- b. The existing facilities and water meters serving the "existing subdivision" shall continue to provide service for this Planned Unit Development. A Variance from Section 23-84 is hereby granted.

2. ZONING CODE

- a. To allow the retention of existing buildings with front yard (setbacks) less than the required fifteen (15) feet from the front property lines along Opelu Road and the interior Roadway Lot (proposed Lot 8) in the Village Commercial (CV-7.5) District. A Variance from Section 25-5-126 (Minimum Yards) is hereby granted.
- b. To allow the retention of the existing buildings with rear yard (setback) less than twenty feet in the Single Family Residential (RS-10) district. A Variance from Section 25-5-7 (Minimum Yards) is hereby granted.

The Planning Director approves the Planned Unit Development 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 applicant shall secure final subdivision approval within 5 years from the effective date of the PUD, except as otherwise conditioned.
- D. 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-

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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 mitigative measures have been taken.

- E. The applicant shall comply with all other applicable rules, regulations and requirements.
- F. 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.
- G. If the applicant should require an extension of time, the applicant may request for time extension pursuant to Section 25-6-14 (Time extensions and amendments).

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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xc: Department of Public Works, Building Division
Department of Public Works, Engineering
Department of Water Supply
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