

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720

Phone (808) 961-8288 • Fax (808) 961-8742

April 28, 2004

Mr. Steven S.C. Lim, Esq.  
Carlsmith Ball, LLP  
P.O. Box 1720  
Kailua-Kona, HI 96745

Dear Mr. Lim:

**PLANNED UNIT DEVELOPMENT APPLICATION (PUD 03-04)**  
**Applicant and Landowner: Surf and Land, LLC**  
**Landowner: Steven S.C. Lim, Esq, Carlsmith Ball, LLP**  
**Tax Map Key: (3) 7-6-017: 068; Holualoa 1<sup>st</sup> & 2<sup>nd</sup>, North Kona, Hawaii**

After reviewing the information submitted with the Planned Unit Development Application, the Planning Director hereby approves Planned Unit Development (PUD) No. 70 to allow the development of a 14-lot single family residential subdivision (*Kahakai Place* Subdivision) and related improvements within the Single Family Residential (RS-7.5) zoned district. Approval of PUD No. 70 includes the granting of Variances from various roadway standards of the Subdivision Code, Chapter 23 and minimum building site area and average width of the Zoning Code, Chapter 25, Hawaii County Code. The subject property is located within the Holualoa Partition Lots (Beach Series), approximately 450 feet southwest (Keauhou side) of Kahakai Elementary School and adjacent to Alii Kai Subdivision at Holualoa 1<sup>st</sup> and 2<sup>nd</sup>, North Kona, Hawaii, TMK: 7-6-017: 068.

#### **Project Objectives**

According to the PUD Application, the design concept for the proposed subdivision will:

- “a. Provide a neighborhood environment that foster’s(sic) a ‘Sense of Community’ and promotes social interaction.

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- b. Provide for a safe, pedestrian oriented environment.
- c. Develop a master plan that fits harmoniously into the local context with housing designs that respect local building vernacular and landscaping that blends well with the natural environment.
- d. Provide housing at a reasonable cost for the 'Gap Group' segment of our local residents – those whose income is too high to qualify for affordable housing but not enough to buy the market price home in Hawaii.”

The PUD proposes smaller lot sizes to compensate for two road widening actions imposed as a condition of SMA No. 327 that total 22,288 s.f.: 1) 50'-wide future road widening for Alii Highway, and 2) 7.5'-wide future road widening along Stardust Lane.

### **Project Details**

Authorized Agent. Surf and Land, LLC, owner of the subject property and applicant of this PUD application, has authorized Steven S.C. Lim of Carlsmith Ball, LLP to file this PUD application.

Permitted Uses and Density. In accordance with Section 25-5-3(5) of the Zoning Code, single-family residential uses within the subject property is a permitted use under the existing Single Family Residential (RS-7.5) zoning of the subject property. The total land area of this PUD is 2.43 acres. Therefore, the proposed 14-lot residential subdivision will not exceed the maximum residential unit density permitted by the Zoning Code. The proposed single-family residential lots will maintain a minimum lot size of no less than 5,189 square feet, which is less than the minimum 7,500 square foot minimum lot size required by the Zoning Code. Deviation from the minimum lot size requirements is made a part of the PUD application.

Access. Access to the project site from Alii Drive is provided via Stardust Lane, a private roadway maintaining a pavement width of 20 feet within a 25-foot wide right-of-way. Access servicing each of the proposed 14-lots will be provided by a 16-foot wide paved roadway within a 32-foot wide roadway easement. Rolled curbs and a 4-foot wide sidewalk will be provided on only one side of the proposed access roadway. Deviations from the minimum roadway standards of the Subdivision Code are also being made a part of the PUD application.

Site Plan. Other details of the proposed 14-lot residential community include:

- a. Offering all of the 14 proposed lots as complete house and lot packages with homes ranging in size from 684 square feet (1-story) to 1,279 square feet (2-story);

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- b. A private 16-foot wide roadway terminating in a cul de sac (35' radius to easement boundary) with a 4-foot wide sidewalk only on the mauka side of the roadway. Grassed shoulders will promote the applicant's desire to improve the visual aesthetics of the proposed subdivision.

Development Schedule. The applicant hopes to commence with the development of individual homes within the *Kahakai Place* subdivision immediately upon securing Final Subdivision Approval. The applicant anticipates that the entire 14-lot community will be completed within 2 years from the date of issuance of Final Subdivision Approval.

**Requested Deviations from Requirements of County Zoning Code & Subdivision Code**

Zoning Code, Section 25-5-5 (Minimum Building Site Area) - Applicant requests a minimum lot size of 5,189 square feet in lieu of the minimum 7,500 square feet required within the RS-7.5 zoned district.

Zoning Code, Section 25-5-6 (Minimum Building Site Average Width) - Applicant requests a minimum building site average width of 55 feet in lieu of the minimum building site average width of 60 feet as required by the Zoning Code.

Subdivision Code, Section 23-22 (Compliance with Design Standards) - Applicant request general relief from compliance with minimum design standards.

Subdivision Code, Section 23-41 (Minimum Right-of-way & Pavement Width) - Applicant requests that proposed streets maintain a minimum pavement width of 16 feet within a minimum 32-foot wide roadway easement in lieu of the minimum pavement width of 20 feet within a minimum 50-foot wide right-of-way as required by the Subdivision Code.

Subdivision Code, Section 23-89 (Sidewalks) and Section 23-91 (Curbs & Gutters) - Applicant is requesting that 4-foot wide sidewalks be provided on only one side of the proposed roadway with 2.5-foot wide rolled curbs and gutters along both sides of the roadway. These sections of the code state that the director shall have the authority to recommend and that the Council may require the construction of sidewalks and curbs and gutters.

Subdivision Code, Section 23-95 (Right-of-way Improvement) - To allow for the construction of 16-foot wide pavement with 2.5-foot cast-in-place rolled curbs within a 32-foot wide roadway easement in lieu of the minimum 20-foot wide pavement within a minimum 50-foot wide right-of-way. The requested deviations will also include the provision of a 4-foot wide sidewalk and

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1.5-foot wide grassed shoulders along the mauka side of the roadway and a 5.5-foot wide grassed shoulder along the makai side of the roadway. These requested relief are from Standard Detail R-32 that requires, at a minimum, 2-foot wide curbing and 7-foot wide sidewalks along both sides of the roadway that is further defined in Standard Detail R-34.

### **Findings**

1. Surf and Land, LLC, landowner, has authorized the law firm of Carlsmith Ball, LLP, represented by Steven S.C. Lim, Esq., as its authorized representative to apply, execute and process any and all applications and to participate in proceedings related to this application.
2. In accordance with Section 25-5-3 of the Zoning Code, the proposed single-family residential lots" is a permitted use under the existing Single Family Residential (RS-7.5) zoning of the property. The total land area affected by this PUD is 2.43 acres. Therefore, the proposed 14-lot residential subdivision will not exceed the maximum residential unit density permitted by the Zoning Code.
3. In order to fit 14 lots into the developable land area excluding the road widening land area, the lots sizes must be less than the minimum of 7,500 square feet allowed by the Zoning Code. The proposed lot sizes range from approximately 5,500 square feet to 7,765 square feet. However, the net lot sizes exclusive of the roadway easement based on the preliminary subdivision plan (Exhibit B) range from 4,143 square feet to 6,825 square feet. Assuming a building footprint shown in Exhibit E of the application, the lot sizes and configuration shown in Exhibit B of the application are adequate to meet the setback requirements measured from the roadway easement boundary instead of the property line, however the proposed floor plan would need to be oriented in an east-west direction for Lots 1, 5, and 9. The Applicant's designer has certified that the proposed lot sizes and building footprint has adequate area for the proposed septic leach fields given the soil conditions of the site.
4. This PUD complies with SMA Use Permit No. 327 which was issued by the Planning Commission on December 19, 1991 to allow the development of a 14-unit single family residential project on the subject property subject to, in part, the following conditions:
  - "3. Final Plan Approval for the construction of 14 single family dwellings shall be secured within one year from the effective date of the permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, required

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archaeological preservation areas (if any), driveway circulation, parking areas and fire protection measures associated with the proposed residential development. The applicant shall delineate on plans submitted a 50-foot future road widening setback along the property's eastern boundary (Kahakai School Access Road) and a 7-1/2-foot future road widening setback along the property's southern boundary. Building setbacks and separation distances shall comply with the requirements of Chapter 25 (Zoning Code).

5. The applicant shall construct a minimum 20-foot wide paved access within the existing 25-foot wide right-of-way located along the southern boundary of the subject property. This roadway improvement shall be constructed from Alii Drive up to the future Alii Highway road widening, including the proposed development portion along the property's southern boundary, prior to approval of a building permit by the Planning Department for the first dwelling to be constructed on the subject property. The roadway connection to Alii Drive shall meet with the approval of the Department of Public Works.”
5. This PUD meets the time requirements of the SMA permit. On January 4, 1996, the Planning Commission approved an amendment to Condition No. 3 of SMA Use Permit No. 327, granting an extension of time until January 4, 1999 by which to secure Final Plan Approval for the proposed 14-unit single family residential project. On December 2, 1999, the Planning Commission approved an amendment to Condition No. 3 of SMA Use Permit No. 327, granting an extension of time until December 2, 2004 by which to secure Final Plan Approval for the proposed 14-unit single family residential project.
6. Access to the property from Alii Drive is via Stardust Lane, a 25-foot wide privately-maintained roadway with an approximately 20-foot wide concrete pavement that was constructed in satisfaction of the requirements of Special Management Area (SMA) Use Permit No. 327, which was issued by the Planning Commission in 1991 to allow the development of a proposed 14-unit residential development within the County's Special Management Area. Kahakai School Road, which maintains a 20-foot wide pavement within a 50-foot wide right-of-way, also provides access to the proposed subdivision. Since Kahakai School Road will eventually be expanded to become the Alii Highway, the connection of Stardust Lane to Kahakai School Road is temporary and will be blocked when Alii Highway is constructed with access permitted only for emergency evacuation. The improvements to Stardust Lane did not include any intersection improvements at Alii Drive. Such intersection improvements are conditions of approval of this PUD (as well as SMA Use Permit No. 327).



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7. Access to the proposed lots from Stardust Lane will be provided by a 16-foot wide paved roadway within a 32-foot wide access easement. The paved roadway will have 2-1/2-foot wide rolled curbs and a 4-foot wide sidewalk with 1-1/2-foot wide grassed shoulder on the east (mauka) side of the roadway. The makai side of the roadway will have a 2-1/2-foot wide rolled curb and 5-1/2-foot wide grassed shoulder. The 16-foot pavement width does not provide adequate space for onstreet parking. Because onstreet parking is not available, adequate front yard setbacks become important to ensure that guest parking can be provided on each lot. Hence, the yards fronting the roadway easement shall be considered front yards and shall be measured from the easement boundary rather than the property line, which shall have the same result if the Applicant decides to delineate the road as a roadway lot rather than an easement at the time of subdivision. The cul de sac as shown in Exhibit B of the application has a radius of 35', which needs to be increased to 45' to meet the Subdivision Code and Fire Code requirements. This increase will reduce certain lot sizes which could be critical for the proposed Lots 5 and 9, but seems to still result in adequate building area without any variances from setback requirements.
8. A total of 14 single-family residences will be constructed, one home for each of the 14 proposed lots. Ohana dwellings will not be permitted as a result of this PUD (see §25-6-32(c)).
9. The following agencies have provided comments regarding the subject application:
  - a. Department of Parks and Recreation (July 23, 2003 memo)

“Given the location of the subject property, the relatively small lot sizes and the general need in the district for more active recreation facilities it is our request that the appropriate ‘Fair Share Contribution’ be assessed [upon] the applicant. The Department of Parks and Recreation would use these funds to either develop new or upgrade existing park facilities in the applicant’s district where it could be of benefit to the future residents of these properties.”
  - b. Department of Water Supply (August 12, 2003 memo, in part-see Exhibit A)

“Water can be made available from an existing 8-inch waterline along Kahakai School Access Road approximately 190 feet to the center of the lot along the 25-foot wide road fronting the property.

In accordance with the Department’s ‘Water Commitment Guidelines Policy,’ a water commitment for the proposed development in the amount of 7,800 gallons

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per day, or 13 additional units of water at 600 gallons per day, per unit, is in effect until October 31, 2003...”

c. Department of Public Works-Wastewater Division (July 2, 2003 memo)

“Wastewater Division has received notice of the subject PUD application and recommends the following:

- Require extension of the sewer system to service the proposed development.
- Require connection of all existing or proposed structures to the public sewer.”

d. Department of Public Works-Building Division: (July 8, 2003 memorandum)

“Approval of the application shall be conditioned on the comments as noted below.

All new building construction shall conform to current code requirements.

The minimum setbacks shall be maintained as follows:

Residential structures – 3 ft. side, 3 ft. rear

Commercial structures – 5 ft. side, 5 ft. rear

e. Fire Department: (July 8, 2003 memorandum)

See attached Exhibit B

f. Department of Public Works-Engineering Division: (July 16, 2003 memorandum)

See attached Exhibit C

g. Applicant's Response to DPW-Engineering July 16, 2003 memorandum:

"In your Departmental Memo dated July 16, 2003 to the Planning Department on the above-referenced Planned Unit Development application, item no. 5 states that 'The project consultant, R.M. Towill, reported to us that a 60 foot width will be acquired, rather than (sic) the 50 feet shown on the preliminary plat map dated April 22, 2003.' We have discussed this matter with Craig Luke of R.M. Towill, and they have evaluated this additional 10 feet future road widening requirement on our client's property and have agreed that this additional 10 feet will not be required for the area fronting the subject property and the proposed subdivision project. However, they would like to have an easement of approximately 1 to 2 feet in width to allow work in the construction of the retaining wall fronting the subject property. Our client has agreed to such an easement and will provide this easement, during the processing of the subdivision application.

As such, we are writing you to inform and confirm with you, our discussion with Craig Luke of R.M. Towill Corporation.

By copy of this letter, we shall also inform the Planning Department of this change so that they may proceed with the processing of the PUD and subdivision application that has been under review by their office."

h. The Department of Environmental Management and the Police Department had no comments or objections to the subject PUD application.

10. i. Comments from the General Public:

A number of letters have been submitted from area residents expressing concerns about the proposed subdivision. These concerns generally revolve around the following issues:

- a. safety and condition of Stardust Lane, especially at its approach to Alii Drive. The roadway is said to be deteriorating, only to be accelerated by traffic generated by the proposed subdivision.
- b. request that a sewer line be installed to service the proposed subdivision.
- c. increase in density of project and traffic generated.
- d. concerns regarding change in lifestyle and aesthetics. Maintenance of existing trees along Holualoa Beach Road and use of low street lighting to preserve aesthetics.



- e. opposition to any widening of Stardust Lane beyond its existing 25-foot wide right-of-way.
- f. concerns regarding additional vehicles parking along the narrow Stardust Lane.

While these are legitimate concerns, the zoning of the subject property to accommodate 14 single family residential units have been in place since the late 1960's, no different than the single family residential parcels within the surrounding area. The Zoning Code does allow the applicant to construct these 14 single family dwellings as it will allow any other landowner in the immediate area to similarly construct their own home. A reduction in the total number of units cannot be imposed upon the applicant without infringing upon the basic rights afforded to the applicant by the Zoning Code. The single family residential character of the area will be maintained by the development of this property into a single family residential subdivision. Its master-planned approach is expected to provide for a visually attractive and cohesive development. The proposed subdivision and the approval of this PUD permit will not result in the increase of unit density beyond that permitted by the property's existing RS-7.5 zoning.

Some residents cited concerns about the approach of Stardust to Alii Drive. A condition of this approval will require the applicant to provide the proper approach design meeting with the approval of the Department of Public Works. Stardust Lane will not be widened as part of this PUD Permit.

The Department of Environmental Management and some public comments recommended the installation of a sewer line servicing the proposed subdivision and its extension to Alii Drive. The Subdivision Code (§23-85) requires the subdivision to connect to the sewer system if one exists within 300' of the subdivision.

11. 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's projected schedule is to begin construction of the proposed subdivision as soon as Final Subdivision Approval of the proposed 14-lot subdivision is granted. Completion of the proposed subdivision is anticipated

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within two years from the date of issuance of Final Subdivision Approval. We find that this development timeframe is reasonable.

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

Currently, the site of this PUD Application, zoned Single Family Residential (RS-7.5) is consistent with the General Plan LUPAG Map designation of Low Density Urban.

In addition, the following General Plan element goals, policies and standards of action are in conformance with the proposed Planned Unit Development:

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o Zone urban- and rural- types of uses in areas with ease of access to community services and employment centers and with adequate public utilities and facilities.
- o Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.
- o The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o Zoning requests shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access and public need.

Approval of this request would also complement the following goals and policies of the Single Family Residential Element of the General Plan:

- o To maximize choices of single-family residential lots and/or housing for residents of the County.
- o To ensure compatible uses within and adjacent to single-family residential zoned areas.

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- o To provide single-family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers.
- o The County shall designate and allocate single-family residential zoned lands at varying densities for future use in accordance with the needs of the communities and the stated goals, policies and standards.
- o Areas shall have basic improvements and amenities necessary for immediate use.

Approval of this request would also contribute to a diverse socio-economic housing mix within the region. In this manner, the request would also complement the following goals and policies articulated in the Housing Element of the General Plan:

- o Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.
- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.

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**

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**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.**

With the approval of a PUD, the applicant wishes to provide a neighborhood environment that fosters a 'Sense of Community' and promotes a social interaction while providing for a safe, pedestrian oriented environment. Approval of this PUD will allow the applicant to implement a master plan that fits harmoniously into the local context with housing designs that respect local building vernacular and landscaping that blends well with the natural environment. Finally, the applicant wishes to provide housing at a reasonable cost for the 'Gap Group' segment of our local residents – those whose income is too high to qualify for affordable housing but not enough to buy the market price home in Hawaii.”

Approval of the requested PUD will allow the Applicant to maintain a minimum lot size of 5,189 square feet in lieu of the minimum 7,500 square feet and a minimum building site average width of 55 feet in lieu of the minimum 60 feet as required within the RS-7.5 zoned district. These requested deviations are necessary to maintain the number of residential units permitted by the Zoning Code while accommodating a 50-foot wide strip of land for a portion of the proposed Alii Highway alignment as well as the future widening of Stardust Lane by 7.5 feet. All told, approximately 23,413 square feet of land within the existing 2.43-acre parcel will be encumbered by road widening easements. While this will allow for parcels smaller than the absolute minimum lot size of 7,500 square feet, it is not atypical of parcels found within this section of North Kona. Existing parcels within this particular area of North Kona and makai of the subject property can be found as small as 3,100 square feet. Many parcels within the immediate vicinity of the subject property are only 4,000 square feet in size. The proposed subdivision and PUD, if approved, will allow for lots no smaller than 5,189 square feet. Therefore, approval of this PUD will not create an environment that is out of character with the surrounding residential neighborhood.

The applicant is also requesting relief from the Subdivision Code to allow the construction of an access roadway with a minimum pavement width of 16 feet within a minimum 32-foot wide roadway easement in lieu of the minimum pavement width of 20 feet within a minimum 50-foot wide right-of-way. Again, this configuration is necessary due to preserve the 14 residential units permitted on the subject property while accommodating over ½-acre in future road widening

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easements. Startdust Lane itself has a pavement width of only 20 feet wide within a 25-foot wide right-of-way. Servicing only 14 lots, the proposed access road will still provide for reasonable two-way access with a 4-foot wide sidewalk along one side of the roadway. Structurally, the proposed subdivision access roadway will provide for a combination of vehicular and pedestrian movement that is not offered by other roadways within the immediate area. Relief is also being requested to allow for curb and sidewalk along one side of the subdivision access road instead of straddling both sides of a typical roadway with grassed shoulders. Servicing only 14 parcels, the proposed roadway improvements are deemed sufficient for the level of traffic, both vehicular and pedestrian, anticipated to be generated. By permitting the smaller pavement width and shoulders and limiting the amount of concrete curbs and sidewalks, the applicant will be able to emphasize the project's aesthetic elements instead of vast stretches of paved surfaces. Such a reduction in extent of roadway improvements may not be desirable in a high-traffic area, but can be more aesthetically and socially rewarding in a subdivision servicing only a few lots. Having a sidewalk at least on one side would accommodate strollers and wheelchairs.

- 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 surrounding community. Relief from requirements of the Subdivision Code applicable to minimum right-of-way and pavement widths, private non-dedicable street standards, sidewalks, curbs and gutters will minimize the physical and visual impact on the existing character of the area. The proposed PUD 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.

The proposed lots will maintain a minimum width of no less than 55 feet, 5 feet less than the 60 feet width required by the Zoning Code. The applicant intends to provide for a building site that will still comply within the minimum yard setbacks of 15 feet for the front and rear and 8 feet from side property boundaries. Given the combination of minimum yard setbacks and reduced roadway profiles,

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a reduction in minimum building site width of only 5 feet is seen as having no appreciable impact to the character of the area or maintaining the harmony of a single family residential neighborhood desired by the Zoning Code.

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:**

Private access easement width of 32 feet in width is planned. Access road pavement to be 16-foot wide with 2.5-foot wide rolled curbs and gutters. A 4-foot wide sidewalk will be provided along one side of the access roadway. A 1.5-foot wide grass shoulder will be provided along the mauka side of the roadway with a 5.5-foot wide grass shoulder along the makai side. Variances to the minimum requirements of the Subdivision Code are hereby granted to include:

- a. Section 23-22 – Compliance with Design Standards
- b. Section 23-41 - Minimum right-of-way and pavement widths
- c. Section 23-89 - Sidewalks
- d. Section 23-91 - Curbs & Gutters
- e. Section 23-95 - Right-of-way improvement

2. **ZONING CODE**

Minimum building site area of 5,198 square feet in lieu of minimum 7,500 square feet. Minimum building site average width of 55 feet in lieu of minimum 60 feet. Variances to the minimum requirements of the Zoning Code are hereby granted to include:

- a. Section 25-5-5 - Minimum Building Site Area
- b. Section 25-5-6 – Minimum Building Site Average Width



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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 proposed 14-lot Planned Unit Development shall be developed in a manner as substantially represented within the Planned Unit Development application dated May 2, 2003, including a mix of 1- and 2-story homes.
- D. The applicant shall secure final subdivision approval by February 4, 2006.
- E. Plans submitted for subdivision review shall provide, at a minimum, a 2-foot wide easement along the project site's northeastern (mauka) boundary to accommodate a retaining wall structure supporting the proposed Alii Highway as well as a no-access planting screen easement to prohibit future access to Kahakai Access Road or the proposed Alii Highway. The market valuation for any compensation paid for land taken for Alii Highway shall consider the offsetting value from this PUD that enables the landowner to maintain the same development density before and after the taking.
- F. Access to the subject property from Stardust Lane shall be constructed in a manner meeting with the approval of the Department of Public Works and in accordance with the roadway details permitted by this PUD Permit. If this roadway is created as a roadway easement, setbacks shall be measured from the easement boundary as front yards. No parking shall be allowed on the road. Vehicular security gates, if installed, shall be recessed at a minimum distance of 40 feet from the Stardust Lane right-of-way with a provision for a turn-around on the subject property on the Stardust Lane side of the security gate in a manner meeting with the approval of the Department of Public Works. As required by the Fire Code and per Section 23-48 of the Subdivision Code, a 45-foot radius turnaround shall be provided at the end of the proposed cul-de-sac.

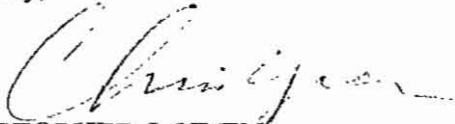
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- G. As required by Condition No. 5 of SMA Use Permit No. 327, the applicant has constructed a minimum 20-foot wide paved access within the existing 25-foot wide right-of-way located along the southern boundary of the subject property (Stardust Lane). The roadway connection to Alii Drive shall meet with the approval of the Department of Public Works. The roadway connection improvements shall be constructed, prior to approval of a building permit by the Planning Department for the first dwelling to be constructed on the subject property. Applicant shall provide evidence of easement rights over Stardust Lane at the time of subdivision approval.
- H. All vehicular parking shall be accommodated within the proposed subdivision and shall be prohibited along Stardust Lane. Applicant shall install no parking signs along Stardust Lane fronting the property.
- I. The provision of any sound attenuation barrier along the future Alii Highway will be the responsibility of the applicant, its successors or assigns.
- J. If a sewer line along Alii Drive is within 300 linear feet of the project at the time of subdivision, the project shall connect to the sewer system pursuant to the requirements of the Subdivision Code.
- K. The applicant shall comply with all other applicable rules, regulations and requirements, including those requirements specified by Special Management Area Use Permit No. 327.
- 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. 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).

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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,



CHRISTOPHER J. YUEN  
Planning Director

DSA:pak  
P:\PUD Permits\2003\PUD03-04(Surf&Land)\PUD03-04Surf&Land.doc

Attachments: Exhibit A - Department of Water Supply-August 12, 2003 memo  
Exhibit B - Fire Department-July 8, 2003 memo  
Exhibit C - DPW-Engineering Division-July 16, 2003 memo

xc: Department of Public Works, Building Division  
Department of Public Works, Engineering (Hilo and Kona)  
Department of Water Supply  
Subdivision Section - Subdivision No. 2003-0083 (Kjer)  
West Hawaii Planning Office  
SMA No. 327