

Harry Kim
Mayor



Christopher J. Yuen
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County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
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March 28, 2007

Mr. Michael J. Riehm, A.I.A.
Riehm Owensby Planners Architects
P.O. Box 390747
Kailua-Kona, HI 96739

Dear Mr. Riehm:

SUBJECT: Denial of Planned Unit Development Permit Application No. 07-000004
Applicant: Riehm Owensby Planners Architects
Landowner: Turtle Bay Enterprises
Project: "Holualoa Inn"
TMK: 7-6-008:005, 008,030; Holualoa 1st & 2nd Makai, North Kona

After reviewing the information submitted with the subject Planned Unit Development (PUD) Application, the Planning Director hereby denies the applicant's request for a PUD Permit to allow for the development of a 14-lot agricultural subdivision and a 11.16-acre bulk lot on a total of approximately 28.997 acres of land in Holualoa. This denial is based on drainage concerns within the affected area and the need to resolve these concerns through comprehensive drainage studies, before a determination can be made regarding this PUD application. The reasons for this denial are discussed in further detail below.

The subject properties (hereinafter referred to as "Property"), consisting of three individual parcels which have a combined land area of 28.997 acres, are located in Holualoa 1st and 2nd, makai portion, within the district of North Kona. The Property maintains State Land Use district classifications of Urban along the makai side of the Old Mamalahoa Highway and Agricultural for the remaining makai lands. The Property is designated for Medium and Low Density Urban uses by the County General Plan. The County zoning designation for the entire Property consists of Commercial (CV-1a, CV-10), Resort-Hotel (V-1.25) along the makai side of the old Mamalahoa Highway with a zoning designation of Agricultural-1 acre (A-1a) for the balance of the Property.

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PROJECT OBJECTIVES AND DESCRIPTION

The objectives for "Holualoa Inn" ("Project") include the following:

According to the Applicant, the purpose of this PUD application is "To better preserve and maintain the economic viability and rural environment of the existing agricultural lands and to mitigate the potential, driven by market demand, for other land uses not in keeping with the local lifestyle and rural character of the area. In order to accomplish the objectives set forth, the Petitioner is requesting approval of a Planned Unit Development since it affords the best flexibility in addressing land planning and aesthetic issues."

The plan is to subdivide the Property into 14 one (1) acre agricultural lots and retain approximately 11.16 acres in a bulk lot along the northern portion of the project site.

PHYSICAL CHARACTERISTICS OF PROPERTY

Drainage: The PUD application notes that portion of the project site is situated within the "AE" flood zone as well as contain maps showing the location of this floodway relative to the project boundaries and the proposed lots. However, there is no discussion on how the proposed Planned Unit Development will accommodate and mitigate the flooding concerns associated with the development of the project site and use of the proposed lots. For example, the floodway travels along the proposed subdivision access road. Yet, there is no discussion on how access to these lots may be compromised during flooding events or how development of this particular area will not adversely affect properties situated downstream of the Property should flooding events occur.

North Kona Flood Plain Management Study (Dec 1984): This study was developed to provide the state and county governments with the basic hydrologic and hydraulic data concerning the flooding problems and possible alternatives in the rapidly growing North Kona area, within which the Property resides. Portions of the Property are clearly within the Holualoa Drainage way, containing areas subject to the 100-year frequency flood.

FINDINGS

The denial of this PUD application is based on a finding that approval of this request will not conform to several of the criteria required for approval of a PUD Permit as specified by Section 25-6-10 of the Zoning Code.

1) The proposed development does not substantially conform to the General Plan.

Approval of this PUD application will **not** be consistent with the following policies and course of action of the General Plan.

- (a) Any development within the Federal Emergency Management Agency designated flood plain must be in compliance with Chapter 27.
- (b) Development-generated runoff shall be disposed of in a manner acceptable to the Department of Public Works and in compliance with all State and Federal laws.
- (c) Develop a comprehensive program for the coordinated construction of a drainage network along a single drainage system.
- (d) Develop drainage master plans from a watershed perspective that considers nonstructural alternatives, minimizes channelization, protects wetlands that serve drainage functions, coordinates the regulation of construction and agricultural operation, and encourages the establishment of floodplains as public green ways.
- (e) Where applicable, natural drainage channels shall be improved to increase their capacity with special consideration for the practices of proper soil conservation, and grassland and forestry management.
- (f) Consider natural hazards in all land use planning and permitting.

Approval of this PUD will also not be in conformance with the following courses of action for the North Kona district as specified by the General Plan:

- (c) Encourage the mapping of the floodways in North Kona to develop more effective flood control programs.
- (d) Encourage the use of natural drainage ways as greenways in the development of the region.

A more comprehensive flood study of the surrounding area is needed to further refine and define the extent and limits of the Holualoa Drainage way. The Property is situated within the upper limits of The North Kona Flood Plain Management Study which provides basic technical data on these flood areas.

The Planned Unit Development Permit application does not consider nor provide for the comprehensive design and implementation of a drainage network within the particular area of North Kona which is specified as a course of action by the General Plan. Dealing with the flooding problems will require a coordinate approach by both the public and private sectors. Approving the PUD at this time in advance of any comprehensive drainage study would be premature since the County would be giving its blessing to the design of a particular subdivision concept in the absence of a clear understanding of the drainage problems within

the area and the proper mitigating measures required, which could have a significant affect upon the design of a proposed subdivision and its drainage structures.

- 2) **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.**

While the proposed 14-lot subdivision and remaining bulk lot does not exceed the maximum permitted density for this particular area as established by its current zoned district classifications, the department cannot conclude that approval of this PUD will constitute an environment of sustained desirability and stability. The subject area has been adversely affected by past flooding events. The Holualoa Drainage way is a major floodway that is situated within the Property. What happens on this Property will have an effect upon landowners' located down-gradient, or makai, of the Property. Only through the development of a comprehensive drainage study for the area can we determine the cause and effect of development upon this major drainage way.

- 4) **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.**

For similar reasons as mentioned above, we cannot conclude that the proposed 14-lot subdivision and bulk lot, as proposed under this PUD application, represents a harmonious and integrate whole that justifies the exceptions to code requirements that are being requested. The requested deviations from the minimum required lot specifications, roadway improvements and geometrics will all be affected depending upon the effect this project may have upon the Holualoa Drainage way, and visa versa. Not knowing the possible implications of required drainage mitigations measures upon this proposed subdivision makes it impossible for this office to declare that the proposed development will be harmoniously integrated within surrounding community, a community that has historically suffered from flooding events.

For the reasons as detailed above, we hereby deny Planned Unit Development Permit Application No. 07-000004.

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Appeal: In accordance with Article 6, Division 1 of the Zoning Code regarding Planned Unit Development (PUD), any person aggrieved by my decision in the denial of this PUD Permit may, within thirty (30) days after my decision, appeal this decision to the Board of Appeals in accordance with its Rules of Practice and Procedure and accompanied by a filing fee of \$250.00.

Pursuant to Board of Appeal (BOA) Rules of Practice and Procedure, Part 8. (Appeals), Section 8-15 regarding General Standards for Appeals (Non-Zoning):

“A decision appealed from may be reversed or modified or remanded only if the Board finds that the decision is:

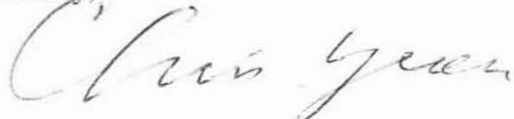
- (1) In violation of the Code or other applicable law; or
- (2) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (3) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.”

Should an appeal of my decision be contemplated, please contact this office for the proper form by writing to us at:

County of Hawaii Planning Department
Aupuni Center
101 Pauahi Street, Suite No. 3
Hilo, Hawaii 96720

The proper form for filing of an appeal is also available at our website (<http://www.co.hawaii.hi.us/forms/planforms.html>). Look for the form entitled, "BOA Planning Director", which is available for download in both MSWord and .PDF formats.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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xc: Department of Public Works, Engineering (Hilo and Kona)
West Hawaii Planning Office