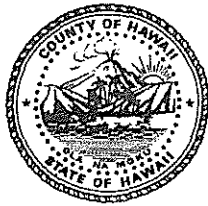


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy Planning Director

County of Hawai'i

PLANNING DEPARTMENT

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August 12, 2009

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

Dear Mr. Riehm:

PLANNED UNIT DEVELOPMENT PERMIT NO. 08-000013 (PUD 08-000013)

"ML Golf Vistas Two at Mauna Lani"

Applicant: Riehm Owensby Planners Architects

Landowner: ML Golf Vistas, LLC

TMK: 6-8-022: 003; Kalahuipua'a, South Kohala, Hawai'i

After reviewing the information submitted with the Planned Unit Development application, the Planning Director hereby approves Planned Unit Development Permit No. 08-000013 to allow the development of a master-planned community of 43 single family residential lots on land consisting of a total of approximately 17.081 acres. This PUD addresses variances for guest houses, height limits, roadways improvements and design, minimum yard setbacks, and lot configuration.

BACKGROUND

Project Location

The subject property (TMK: 6-8-022: 003), hereinafter referred to as "Property", and consisting of approximately 17.081 acres, is located within the district of South Kohala within the Mauna Lani Resort complex that is situated along the makai side of the Queen Ka'ahumanu Highway, approximately 18 miles to the west from the town of Waimea and 25 miles to the north of Kailua-Kona. The Property is located along the mauka side of North Pauoa Road, a private resort roadway. There is a smaller, 12-acre property located on the opposite side of North Pauoa Road that will accommodate ML Golf Vistas One, a similar project to ML Golf Vistas Two, but involving the development of a 30-lot residential subdivision on approximately 12.7 acres of

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land. The variances being requested are identical between these two components of the same project. A Planned Unit Development (PUD) permit application has been filed for this second component of the Golf Vistas at Mauna Lani.

Land Use Designations

The Property is situated within the State Land Use Urban District and currently designated as Resort by the County General Plan, Land Use Pattern Allocation Guide (LUPAG) Map. The County zoning designation for the property is Multiple Family Residential-3,000 square feet of land area per dwelling unit (RM-3). Based on the simple application of a required 7,500 square foot minimum lot size against the total land area of 17.081 acres for a total of 99 lots, the maximum unit density that its zoning designation will permit. However, anticipating that roughly 20 percent of the subject property must be dedicated to supporting roadway and drainage systems, a more realistic total lot count is probably in the neighborhood of 80 lots. Through this PUD application, the Applicant is proposing a total of 43 lots to be accomplished by the applications of the requested variances, or roughly half the density permitted by the Property's Multiple Family Residential (RM) zoning. Each proposed lot will maintain a minimum lot size ranging from 10,646 square feet to 25,016 square feet. The Project, with the approval of this PUD, will be consistent with the requirements of the Zoning Code and the land use policies of the General Plan since it does not exceed the overall maximum density permitted by the respective zoning designations.

Description of Property

The roughly 17-acre Property is currently vacant of any use or structure. The Property has been previously graded and remains relatively flat with an elevation above sea level of approximately 19 feet at its northern end and 29 feet at its southern end. The Property is surrounded on almost all sides by the Mauna Lani golf course.

Second Component of ML Golf Vistas at Mauna Lani project

As previously mentioned, the Applicant has filed a similar PUD application for a proposed 30-lot single family residential subdivision (ML Golf Vistas One) on approximately 12 acres of land situated immediately west of this Project on the other side of its primary access, North Pauoa Road. The PUD application for the ML Golf Vistas One project is essentially identical in concept to this PUD application for the 43-lot ML Golf Vistas Two subdivision. Both PUD applications are being processed concurrently.

Proposed Subdivision Improvements

The proposed ML Golf Vistas Two subdivision, as permitted by this PUD Permit, will allow the Applicant to create a 43-lot single family residential subdivision that will be serviced primarily with privately owned and maintained infrastructural system given its location within the Mauna Lani Resort complex. Access to the Property is via the existing, privately-maintained roadway system that services the Mauna Lani Resort. Mauna Lani Drive provides primary access from the Queen Kaahumanu Highway. From Mauna Lani Drive, access to the Property is provided by North Pauoa Road. The travelways of both roadways are compliant with minimum County standards for Resort Subdivision roadways. The Applicant, through this PUD Permit, will be allowed to create internal roadways off of North Pauoa Road to service its proposed 43-lot subdivision. These internal subdivision roadways will be permitted to have a minimum pavement width of 22 feet with 6-foot wide grassed shoulders within a minimum 34-foot wide right-of-way, in lieu of the minimum 20-foot wide pavement with curbs, gutters and sidewalks within a 50-foot wide right-of-way required by the Subdivision Code and specified by Department of Public Works Standard Detail R-33. All utilities will be installed underground to minimize its visual impact.

The Applicant indicates that water to support the proposed subdivision will be provided by an existing 12-inch waterline located within North Pauoa Road. A 1-inch water meter will be provided to each lot, in excess of the typical 5/8-inch water meter that normally services a residential lot. Wastewater will be disposed of by a separate sewer collection system via the private Mauna Lani Resort sewer treatment plant or by individual wastewater disposal systems that will meet applicable State Department of Health requirements.

An archaeological survey of the Property was conducted and proper archaeological data recovery have been conducted in a manner meeting with the approval of the State Department of Land and Natural Resources by its letter dated August 27, 1996, which declared that "All historic preservation concerns for the project have been met."

Compatibility with Neighboring Uses

The Property is situated within an area primarily designated for resort and related uses by both the State Land Use Commission and the County. The Property resides in the middle of the approximately 780-acre Mauna Lani Resort complex, in close proximity to the 343-room Mauna Lani Resort and surrounded by other elements of this resort complex, such as two golf courses, a shopping complex, condominiums and residential lots. This Property itself is surrounded on most sides by the Mauna Lani golf course. Inasmuch as the proposed Project will configure lots that are consistent with zoning, the development of the Project will remain consistent with resort land uses that prevail within the surrounding area.

PROJECT OBJECTIVES AND DESCRIPTION

According to the Applicant, the objectives for ML Golf Vistas Two (“Project”) include the following:

- Historically, there were specific design qualities or characteristics that contributed to create a “sense of place” and promote feeling of community within our residential communities. Some of these characteristics are as follows:
 - They are compact and identifiable, and their boundaries are recognizable. This provides a sense of arrival and departure from the boundaries of these older neighborhoods.
 - They are visually coherent. This is achieved through the use of a consistent architectural language and formal organizing principles. The setbacks of the homes from the streets, the use of front porches, architectural style, materials, and details all contributed to this coherent image.
 - They possess a strong degree of spatial hierarchy. There is a variety of public open spaces in different sizes, shapes, and physical treatments that allowed for social interaction.
 - Their street corridors are visually bounded, layered and intimate in feeling. A variety of elements are used to enhance the quality of the streetscape and to provide for this layering of public space. Some of these elements include; street trees, fences, steps, and front porches.
 - Their street blocks can be understood as comprising their component neighborhoods, suggesting the role of the street as a “social channel” of neighborly interaction.
 - The neighborhoods convey a strong “sense of place”.
- Using a planned unit development approach to allow more design flexibility, the master plan integrates some of these traditional neighborhood elements into the design to create a more viable community and enhance the lifestyle of its local residents. The goal of the planning strategy is to provide a residential environment that is safe, encourages a strong sense of community and promotes social interaction among its residents.

The Project, as covered by this PUD application, will be developed in a single phase consisting of 43 residential lots.

The Applicant’s project schedule anticipates site work to be completed within 12 months from the date of approval of this PUD application and issuance of Tentative Subdivision Approval and completion of sales of all lots within 4 years from the date of issuance of Final Subdivision Approval.

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AGENCIES' REVIEW

Department of Public Works: Memorandum dated November 13, 2008

(See Memorandum attached to this report)

Fire Department: Memorandum dated October 27, 2008

Fire Department recommends that fire apparatus access roads comply with Uniform Fire Code (UFC) Section 10.207 and that water supply conform to UFC Section 10.301(c).

Police Department: Memorandum dated October 27, 2008

“Staff has reviewed the above-referenced application and has no comments or objections to offer at this time.”

Department of Environmental Management: Memorandum dated October 9, 2008

DEM confirms that area not serviced by a County sewer system. The area is served by a private wastewater system that accommodates the entire Mauna Lani Resort complex.

Recommends the following regarding solid waste:

- Submit solid waste management plan.
- Commercial operations may not use transfer stations for disposal.
- Aggregates and any other construction/demolition waste should be responsibly reused to its fullest extent. Prohibited at County transfer stations.
- Amy and equal room should be provided for rubbish and recycling.
- Greenwaste may be transported to the greenwaste sites located in Kailua and Hilo transfer stations, or other suitable diversion programs.

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Department of Water Supply: Memorandums dated November 3 & November 30, 2008 & March 2, 2009. (attached)

Water to support the proposed Project is available from an existing 12-inch waterline within North Pauoa Road fronting the subject property. Pursuant to a Tri-Party Agreement between Mauna Lani Service, Mauna Kea Properties and the Water Board, water will be made available to the project upon completion of water system improvements set forth within the Agreement. Estimated water usage calculations for the project, projected as 97 units of water with a maximum daily usage of 600 gallons per day, per unit, is acceptable. A water commitment for 128-units of water was formally issued by the Department of Water Supply in its memorandum dated March 2, 2009.

Office of Housing and Community Development: Memorandum dated October 29, 2008

“The Office of Housing and Community Development has reviewed the PUD application and we have no comments at this time.”

State Department of Health: Memorandum dated October 31, 2008 (attached)

In summary, the State Department of Health offers the following comments:

1. Underground injection systems that receive wastewater or storm runoff need to address requirements of Chapter 23, Hawaii State Department of Health Administrative Rules, Title 11, “Underground Injection Control”.
2. Army Corps of Engineers should be contacted pursuant to Federal Water Pollution Control Act (“Clean Water Act”), Paragraph 401(a)(1), a Section 401 Water Quality Certification is required to conduct any activities or construct any facilities that may discharge into navigable waters.
3. Director of Health may require submittal of an individual permit application or Notice of Intent for a general permit coverage authorized under the National Pollutant Discharge Elimination System (NPDES).
4. HRS Section 342D-50(a) requires that no person, including any public body, shall discharge any water pollutants into state waters, or cause or allow any water pollutant to enter state waters except in compliance with Chapter 342, rules adopted pursuant to this chapter, or a permit or variance issued by the Director of Health.

PUBLIC COMMENTS

Letter dated October 19, 2008 from Mark and Anne Kuechenmeister of 299 West Tietan Street, Walla Walla, Washington

“My wife and I are owners of property at 68-1025 N. Kaniku Dr. on the Big Island.

We are writing to oppose variances requested by a project entitled ML Golf Vistas Two PUD #08-000013. We believe that zoning ordinances (sic) and codes are in place to protect the interests of both present and future owners and that they should be enforced.

The developer in our view presents absolutely no good reason for the variances other than presumably to save money. We urge you to reject the request for variances in all instances.”

APPROVED VARIANCES

The following variances are hereby approved:

Variances to the Zoning Code

- **Guest Houses** (Hawaii County Code §25-4-9). Allow for single family residential designs with multiple structural components or elements that will take advantage of tropical climate. These component designs may conflict with current policy and code restrictions typical of a guest house, which is limited to only one guest house not exceeding a maximum floor area of 500 square feet and twenty feet in height. This variance will allow for a guest house with a maximum height limit of 35 feet, the same as permitted for the main dwelling structure, with no limit on maximum floor area to allow for grouping of a guest house with garages and other miscellaneous living and service components. A maximum of one guest house per building site will still be enforced.
- **Accessory Structure Height Limitations** (Hawaii County Code §25-4-23). Allow for accessory structures, like a guest house, to have a maximum height of 35 feet, the same as for the main dwelling structure for the sake of accommodating a multiple component design for the single family residential complex anticipated by the Applicant’s tropical architectural design. Due to the comprehensive design principles being applied to the master-planned project within a resort community, we have no objections to this request.
- **General Requirements for Yards and Open Spaces** (Hawaii County Code §25-4-40). This variance will allow the application of only one front yard setback on corner lots, which typically have two front yards. As shown on Applicant’s Exhibit 1, in lieu of two front

yards, a front and side yard setback will be applied. In addition, the minimum yards of those lots that border or front North Pauoa Road will be designated as side yards, with minimum yards of 8 feet for a one-story building, plus an additional 2 feet for each additional story as measured from the property boundary as it abuts North Pauoa Road. Since the roadway system is privately owned and maintained, and due to the comprehensive design applied to the subdivision layout, we have no objection to this request.

Variances to the Subdivision Code

- **Block sizes** (Hawaii County Code §23-29). The Subdivision Code limits the lengths of blocks to 1,300 feet, but with a length no less than 400 feet. Due to the constricted configuration of the project site and the internal roadway layout, this variance will allow for block sizes to be less than 400 feet in length, but no less than 2 lots in overall length. Anything less will be considered a through-lot, which is prohibited by the Subdivision Code.
- **Lot Side Lines** (Hawaii County Code §23-35). Applicant is requesting that lot side lines, which should run at right angles to the street as far as practicable, be waived to maintain a more rectangular shape to the proposed lots, thereby accommodating a better building site configuration.
- **Minimum Right-of-Way and Pavement Widths** (Hawaii County Code §23-41(a)). The Applicant is requesting a variance from the minimum pavement and rights-of-way widths and shoulder/swale details for its private internal subdivision roadway. We support the issuance of these variances for these internal subdivision roadways which are considered minor streets.
 - **Minor Street (34' wide road right-of-way in lieu of 50' ROW-Exhibits 9 & 10)**. The proposed standards for the 34-foot wide minor street-type roadway with 22 feet of pavement will deviate from the minimum 50-foot wide ROW specified by DPW Standard Detail R-39. The Applicant is proposing a minimum pavement width of 22 feet with 6-foot wide grassed shoulders on each side with no curb, gutters or sidewalks. The small number of lots and resulting lower volume and speed of vehicles typically carried by these minor streets affords the opportunity to reduce the pavement width. The proposed 22-foot wide pavement will provide opportunities for a landscaped shoulder/drainage swale while still accommodating two-way vehicular traffic.
 - **Special Pavement treatment within roadway easement (Figure 8)**. We approve of the Applicant's request to install security gates and associated fixtures at the subdivision entrance to visually define the entrance to the subdivision.
- **Intersection Angles; Corner radius** (Hawaii County Code §23-45). Applicant requests that intersections within the private roadway easements have a minimum corner radius of 14 feet, subject to sight distance requirements at the pavement line with the actual pavement having a radius of no less than 20 feet. This variance is approved on the basis that these reduced

corner radiuses will occur only at those intersections within the subdivision internal access road system and not its intersection with North Pauoa Road.

- **Cul-de-sacs** (Hawaii County Code §23-48(b)). Applicant requests that the requirement for a circular turn-around be reduced to a radius of 40 feet with a 23-foot radius pavement in lieu of the required 45-foot radius turnaround. We have no objections to this variance as the short distance of these cul-de-sacs and curbless shoulders should provide ample opportunities for any vehicle to turn around if additional turning space is necessary. However, the Applicant shall consult with the Fire Department to ensure that this alternative cul-de-sac design will meet with their approval. No variance from the maximum 18-lot limit along cul-de-sacs is necessary since the Applicant's subdivision layout is compliant with this requirement.
- **Grades and curves** (Hawaii County Code §23-50). Applicant requested a variance from the minimum requirements for vertical and horizontal curves. This variance is approved on the basis that the proposed subdivision roads will be constructed to accommodate very low volumes and low speeds. *In those instances where the vertical or horizontal curves do not meet the minimum requirements, the Applicant shall present alternate standards at the time of construction plan review, as provided for in §23-50(b), with lower design speeds assigned in order to meet the roadway safety standards as specified within the AASHTO Policy on Geometric Design of Highways and Streets, 2001.* The geometric design of the streets should be based on the AASHTO Guidelines for Geometric Design of Low Volume Roads (average daily traffic volume of less than 400 vehicle trips per day).
- **Street lights** (Hawaii County Code §23-93). Applicant requested design flexibility in the placement and type of street lights permitted within the internal subdivision road rights-of-way. The Applicant proposes the use of custom street lighting fixtures along the minor-type roadway (see Exhibit No. 7). Due to the limited number of lots to be serviced by the internal subdivision roadway, a reduction in the number of lights would help to impart a more consistent feel with the surrounding resort environment while having sufficient lighting primarily at critical points for traffic safety considerations. *This variance is approved subject to the condition that a licensed engineer certify the safety of the lighting plan for the minor streets is in compliance with the applicable standards of Chapter 14, Article 9, Hawaii County Code.*
- **Street names & traffic signs** (Hawaii County Code §23-94). Approved to allow use of custom street name and traffic signs that will reinforce the desired character of the proposed resort residential neighborhood and its design goals (see Exhibit No 8). While this variance will allow these signs to deviate from standard specifications, it must still meet AASHTO specifications.
- **Right of way Improvement** (Hawaii County Code §23-95). The plans submitted by the Applicant indicate that the entire roadway easement will be improved with a paved travelway and grassed shoulders. These improvements, as permitted by this PUD, satisfies this

particular requirement, therefore, this request is deemed compliant with the requirements of the Subdivision Code.

FINDINGS

The following findings are made in accordance with Section 25-6-10 (Criteria for granting a PUD):

- 1) The construction of 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 is ready to start development as soon as final subdivision approval is issued, with infrastructural improvements and basic grading done to accommodate home construction within 12 months from the issuance of final subdivision approval. The Applicant anticipates that sales for the entire development will be completed within 4 years after the lots are made available, subject to market conditions.

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

The proposed residential lots are consistent with the General Plan LUPAG Map designation for the Property as Resort. The proposed residential lots are consistent with the General Plan Land Use and Housing goals and policies by providing a diversity of housing choices to meet a range of housing needs and designing in accordance with the environment. The Property is currently designated to accommodate multiple family residential use with a maximum residential unit count of 248 multiple family dwelling units or 99 single family residential lots. The Applicant is proposing a much lower density project consisting of 43 single family residential lots.

- 3) 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 proposed 43-lot resort residential subdivision will provide a density that will not exceed the maximum density permitted by zoning, which is calculated at 99 lots or 248 multiple family residential units. With the approval of this PUD, it will allow the Applicant to configure its proposed lots and roadways to realize the type of resort residential use that is consistent with its location within the Mauna Lani Resort complex. This PUD will allow the Applicant this opportunity, which we believe is reasonable and will not compromise the

resort-related activities already being conducted within the surrounding area.

- 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.**

The location of this project within an existing resort complex justifies the variances to the minimum yards, lot configuration and streetscape requirements. As indicated by the Applicant, this Project hopes to establish a sense of place within the Mauna Lani Resort complex. A resort area typically attempts to preserve its unique identity by promoting the characteristics that makes such a place special; such as its wonderful climate and recreational opportunities. The granting of this PUD will allow for greater flexibility in the design of homes that will take advantage of its tropical location. A roadway system that promotes a landscaping and casual pedestrian movements rather than the more efficient, but visually unappealing, system of widely paved roadways and constructed sidewalks. Within a resort area, the County is not as concerned about moving traffic and people as quickly an efficiently as possible. Therefore, we tend to defer to the designers to create a residential environment that promotes the character of their resort oasis. As a private roadway, the community association will assume maintenance responsibility of the landscaped areas, street signs and street lighting fixtures located within the right-of-way.

CONDITIONS OF APPROVAL

The Planning Director approves the Planned Unit Development subject to the following conditions:

1. *Permit Runs with the Land.* The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. *Master Plan and Street Layout.* The proposed Planned Unit Development shall be developed in a manner as substantially represented within exhibits and figures attached to this Planned Unit Development Permit.
3. *Roadway design guidelines.* All roadways shall follow the guidelines incorporated in the Hawaii Statewide Uniform Design Manual for Streets and Highways or the applicable AASHTO design guide for the appropriate design speed. The geometric design of the interior subdivision access road should be based on the AASHTO Guidelines for Geometric Design of Low Volume Roads Utility poles within these subdivision roads shall conform to DPW Standard Detail R-35 (revised).
 - a. Along with construction drawings for the subdivision roadways utilizing grassed drainage swales and shoulders, or prior to submitting full construction drawings, the Applicant

shall submit an engineer's report showing that the grassed shoulders and drainage swales will be stable and not erode or wash out during stormwater flow conditions considering the grades and soil conditions within the Property. The report shall be reviewed by the Department of Public Works. The Planning Director, in consultation with the Department of Public Works, may require paving, stabilization, or alternative shoulder and swale treatment to take care of any erosion problems. A road maintenance association or equivalent shall be responsible for the continual maintenance and upkeep of the shoulders and drainage swales.

4. *Construction Plan Review by Fire Department.* The Applicant shall consult with the Fire Department to ensure that its conformance with the minimum requirements of the Fire Code. Besides the Department of Public Works and Department of Water Supply, construction plans shall also be submitted to the Fire Department for review.
5. *No Additional Dwellings.* The Applicant shall record a declaration affecting all proposed lots within the Planned Unit Development which shall give notice that the terms of this Planned Unit Development Permit shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed declaration to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
6. *Compliance with other rules and conditions.* The applicant shall comply with all other applicable rules, regulations and requirements. Other applicable conditions set forth under the "Approved Variances" section of this letter are incorporated herein as conditions of approval.
7. *Time Extension.* 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,



BJ LEITHEAD TODD
Planning Director

DSA:mad

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xc: Department of Public Works, Building Division
Department of Public Works, Engineering (Hilo and Kona)
Department of Water Supply
Fire Department
West Hawaii Planning Office
Carlsmith Ball, LLP