

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

December 18, 2012

William L. Moore, President
William Moore Planning, Inc.
159 Halai Street
Hilo, HI 96720

Dear Mr. Moore:

SUBJECT: Application: PLANNED UNIT DEVELOPMENT (PUD-12-000023)
Applicant: WILLIAM L. MOORE PLANNING, INC.
Owner: 1010 PUAKŌ, LLC
Request: PROPOSED PUD: 1010 PUAKŌ, LLC
Tax Map Key: 6-8-001:024, 060 & 063

Thank you for the additional time (until December 24, 2012) for our consideration of this request. After reviewing the information submitted with the Planned Unit Development application, the Planning Director hereby **approves** Planned Unit Development Permit No. PUD-12-000023 to allow the development of a master-planned community of 144 agricultural lots and an approximately 364 acre "open space" lot on land consisting of a total of approximately 810.867 acres. This PUD addresses variances for minimum building site area and average widths, roadway improvements, maximum block length, maximum cul-de-sac length, maximum number of lots served by a cul-de-sac, lot configuration, etc.

BACKGROUND

Project Location

The subject property (TMK: 6-8-001:024, 060 & 063), hereinafter referred to as "Project area", consists of a total of approximately 810.867 acres. The Property is situated within the District of South Kohala, Hawai'i, on the east (mauka) side of Queen Ka'ahumanu Highway, approximately 2.25 mile north of the Mauna Lani Resort and west-northwest of Waikoloa Village.

Land Use Designations

The property is situated within the State Land Use Agricultural District and currently designated as Urban Expansion by the County General Plan's Land Use Pattern Allocation Guide (LUPAG) map. The County zoning designation for the Property is Agricultural – 5 acres of land area per building site (A-5a). Based on

applying the required 5 acre minimum land area per building site against the total land area of 810.867 acres, a total of 162 lots would be the maximum density that is allowable by zoning.

Anticipating that roughly 10 percent of the subject project area would be dedicated to supporting roadway and drainage systems, a more realistic total unit count would be 146 lots. Through this PUD Permit, the applicant will be able to develop a total of 145 lots via the requested variances, primarily by allowing the reduction of the 5-acre minimum lot area and minimum building site average width, to maintain an overall density consistent with the property's A-5a zoning. Each proposed lot will maintain a minimum lot size of 2 acres. 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 zoning designation.

The South Kohala Community Development Plan (SKCDP), adopted by the County Council on December 1, 2008, identifies the properties as being located in the Agricultural Area. The Project is consistent with the Land Use policies in the SKCDP.

Description of Project Site

The Project area, consisting of approximately 810.867 acres, is currently vacant of any use or structure. Elevations within the Project area range from approximately 200 feet to 600 feet above sea level, providing an elevation range of approximately 400 feet. The Project area has approximately 3,850 lineal feet of frontage on the Queen Ka'ahumanu Highway. The Project area offers both Mauka and Makai view opportunities with appropriate lot orientation. The site has an average slope of 10 percent. The Project area is in a lava field in its natural state and vegetation within the Project area is virtually nonexistent. No endemic species of animals were located nor were their habitats. An archaeological assessment survey of the project area was conducted by Rechtman Consulting, LLC in 2007. An archaeological inventory survey has been completed and will be forwarded to the Department of Land and Natural Resources' Historic Preservation Division for review and approval.

Proposed Subdivision Improvements

The proposed 1010 Puakō, LLC project, as permitted by this PUD Permit, will allow the applicant to create a 144-lot and "open space" lot agricultural subdivision, with lot sizes a minimum of 2 acres and larger. Access to the Project area will be from the Queen Ka'ahumanu Highway via a mauka-makai roadway and internal roadway network consisting of minor streets with right-of-way widths varying from 32 feet to 50 feet.

The Applicant, through this PUD Permit, will be allowed to create internal subdivision roadways to service its proposed 144-lot and "open space" lot subdivision that will deviate from the minimum requirements of the Subdivision Code. The Project's internal roadway system will incorporate private streets designed to reduce road gradient and to help mitigate speeding traffic.

Interior Minor Streets with two 10-foot travel lanes and grassed shoulders and swales with varying right-of-way widths (see EXHIBITS 5 - 8) will be retained in private ownership. A Homeowner's Association (HOA) will maintain all aspects of these streets.

Corner radii at the main intersections of the internal roadway system shall be designed to accommodate emergency vehicles and will be coordinated with the Hawai'i County Fire Department (HFD) through HFD review of the subdivision construction drawings.

Compatibility with Neighboring Uses

The Property is situated within an area primarily designated for agricultural uses within the State Land Use District and County Zoning. The Property essentially resides within the agricultural area as defined in the SKCDP. Inasmuch as the proposed Project will establish agricultural lots that are consistent with permitted density allowed by zoning, the development of the Project will remain consistent with agricultural uses that prevail and/or are proposed within the surrounding area.

Project Objectives and Description

According to the Applicant, the objectives for the 1010 Puakō, LLC subdivision project include the following:

- Provide a comprehensive site design with a mix of agricultural lot sizes.
- Provide open space/recreational areas/activities.
- Develop a master plan that reduces the development footprint and infrastructure requirements.
- Maintain the rural character of the site.
- Provide solar energy production in an area ideally suited for such.

The Project site will be developed in increments, eventually totaling 144 lots and "open space" lot, provided that it is done so in conformance with the requirements of this PUD Permit and the requirements of the Subdivision Code.

The applicant's project schedule anticipates the timeline for the initial increment is approximately 5 years with initial sales in 2017.

AGENCIES' REVIEW

Department of Public Works (DPW) Engineering Division: Memorandum dated November 1, 2012.

"We reviewed the subject application with the understanding that the streets in the proposed subdivision will not be eligible for conveyance to the County and will be owned and maintained by an association of property owners. Our comments are as follows:

Drainage

1. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared, and the recommended drainage system shall be constructed meeting with the approval of DPW.
2. Identify all watercourses and drainage ways within or adjacent to the proposed subdivision lots and encumber with drainage easements.
3. Kamakoa Gulch is a known watercourse. A flood study shall be prepared by a licensed civil engineer to identify the area of potential inundation of the watercourse and determine base flood elevations. Areas of flood inundation by the base event shall be encumbered by drainage easements. Alterations within such easements and areas of inundation will be subject to DPW approval upon, reviewing plans and supporting data prepared by a licensed civil engineer and shall be subject the requirements of Chapter 27 of Hawai'i County Code and Hawai'i County Storm Drainage Standards.
4. Identify top of bank of streams and or gulches, watercourses and drainage ways within the "open space" areas and designate areas within as "approximate areas of flood inundation" on the final plat (including but not limited to the Un-named Intermittent Stream shown on the preliminary plat map for SUB. NO. 11-001094).
5. The applicant shall be informed that if they include drywells in the subject development, an Underground Injection Control (UIC) permit may be required from the Department of Health, State of Hawai'i.

Earthwork

1. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code (HCC).
2. The applicant shall comply with Chapter 11 -55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.

Roadways

1. A Master Circulation Plan proposed in the South Kohala Community Development Plan (SKCDP) should be developed for Waikoloa Village. Such plan will assist us with knowing how the subject PUD roadway system fits in the context of the overall plan for the Waikoloa community. We note a proposed second access to Queen Ka'ahumanu Highway from Waikoloa Village is shown through the subject property in the SKCDP Waikoloa Village Conceptual Plan.

2. In the interest of connectivity, roadway connections should be provided to adjoining parcels. All such connecting roadways should be open to public traffic. It is DPW's policy on larger subdivisions to recommend that an interconnection be made to adjoining parcels.
3. The proposed spine road (Road A) serves as a collector street with continuity to adjacent property as well as direct service to individual lots. Road A and any other road connecting to adjacent properties with potential to be collector streets should have a 60-foot wide right-of-way.
4. All streets within the proposed development shall follow nationally accepted AASHTO geometric design guidelines.
5. DPW recommends approval of the applicants Exhibit 6 which complies with County Standard Detail R-39 for non-dedicable agricultural standard roadways. It provides roadside swales for draining the road cuts and appropriate clear zones for roadside safety. Exhibits 7 and 8 should be allowed for the cul-de-sacs but only if certified by a licensed civil engineer, with supporting data, to be designed to provide for adequate roadside drainage (less than 1/3 traveled lane inundation), recommended sight distances and roadside clear zones for an appropriate design speed in accordance with AASHTO guidelines.
6. A variance is requested for the entirety of HCC Section 23-48 Cul-de-sacs. The applicant should be required to satisfy turnaround geometry in accordance with the Hawai'i Fire Department for access by emergency vehicles.
7. The boundaries of parcel 63 are not aligned normal to Queen Ka'ahumanu Highway nor do they align tangent to the continuation of spine Road A. Compliance with HCC Section 23-45 is required.
8. Queen Ka'ahumanu Highway, fronting the subject property, is under the jurisdiction of the Hawai'i Department of Transportation (HDOT). Comments and requirements concerning this road should be obtained from the HDOT.

Traffic

See the attached memorandum dated October 25, 2012 for comments by our Traffic Division."

DPW Traffic Division: Memorandum dated October 25, 2012.

"COMMENTS:

- 1) All interior roads are private and as such would not fall under our jurisdiction for signs, striping, and street lights.
- 2) I would however, recommend that County approved standards be followed especially if the subject roads are eventually going to be dedicated to the County — dedicating will require that roads are built to County standards.

- 3) If there are plans to install street lights at any point in the future, they should be subject to County review and approval due to the dark sky initiative (astronomy /telescope requirements)."

Fire Department (HFD): Memorandum dated November 28, 2012.

"In regards to the above mentioned PUD application, our Department offers the following comments.

1. Pg. 9: Hawai'i County Code 25 -4 -14.
The access drive connecting the building with the street shall have a minimum width of 15 feet. Exhibit 5 shows only 11 feet. HFD would allow a minimum of 15 feet. This requirement is also meant to include the clear width of any gates or barriers along the HFD access road.
2. Pg. 12: Language for HC Zoning Code 25 -5 -71.
Petitioner has 25- 45 -71?
3. Pg.13: Section 25 -5 -74.
HFD interprets the request to reduce the lot size from 5 acres to 2 acres is to form a residential lots rather than agricultural lots. With that said, the requirements for planned building groups per the Fire code shall apply.
4. Pg. 13: Section 23 -29.
Depending on our agreements for providing Fire access, we need to be cautious in allowing, this requirement to be "waived". HFD would have no objection provided they meet the minimum Fire access requirements.
5. Pg. 15: Section 23 -41. Right of way.
To assure that large HFD vehicles such as Engines and Tankers will be able to access all structures within the proposed subdivision, a minimum 20 foot wide pavement is acceptable, provided that no point of this entire roadway is less than 20 feet.

Exception: The pavement and clear width of the Fire department access at the subdivision entrance may be reduced to 15 feet.
6. Pg.19: Section 23 -48. Cul-de-sac.
The code says up to eighteen lots per Cul-de-sac, they are requesting 40. That's more than doubled. HFD would not object to this increase, provided that they meet our minimum water and access requirements and strictly adhere to Section 14 -84 (b) of the Hawai'i County Code as it pertains to address signage.
7. Same Section: Petitioner is selling this as an agricultural community and "proposing to construct an emergency access road that would connect the proposed subdivision lots to the paved driveway" on the Lalamilo lands or back to Queen K in an effort to assist your decision in allowing them to waiver the Cul-de-sac rules.

HFD has few questions:

- a) Did they secure the adjacent land owner's permission?
 - b) Is it a legal and binding agreement?
 - c) Who will maintain the minimum requirements of this access road?
 - d) Should this be a factor in your decision, what would the process be for non-compliance or refusal to repair or maintain the use of this road or easement?
 - e) Who will be liable for expenses incurred in the maintenance of this road?
 - f) The final sentence suggests that in an emergency, this road can be used. Verification of that statement is needed from the adjacent landowner.
8. Pg.19: Section 23 -50. Grades and Curves.
We are not familiar with AASHTO design standards, but the HFD's fire apparatus' has limitations on their abilities (max 15 % grade, outside turning radius of 60 feet, designed to support 25 tons, 13.5 feet height clearance throughout the entire Fire access road, a minimum of 15 feet wide at any gate or entrance that is a part of the Fire department access).
9. Pg. 20: Section 23 -84. Water Supply.
What is the process of adding a number (3)?
(3) The Hawaii State Fire Code and its amendments regarding water for firefighting shall apply for all buildings and structures. Exception: Accessory buildings and structures less than 800 square feet in size and not meant for human occupancy.
- HFD can and will work with the architect and designer to go over acceptable options and locations of minimum water supplies. An agreement must be made as so the minimum Firefighting water supply and its appurtenances be inspected and maintained by the subdivision, community and/ or association and at no cost to the AHJ.
10. Pg. 29: Minimum of two access roads required (per NFPA 1141). One of which can be restricted for emergency access only. An agreement must be made as so all Fire access roads to be maintained by the subdivision, community, and/ or association and at no cost to the AHJ.

On average, each year, approximately 85% of all fire deaths occur in residential type occupancies and dwellings.

The following are "minimal" HFD requirements that I am hopeful your department will have the developer adhere to when or if they should allow this variance.

Having an adequate water supply reduces the chance of death, injury, and property loss.

HFD cannot budge on the minimum Fire access requirements and Water for firefighting requirements as these are two priorities in our life safety efforts. HFD would entertain the idea of the developer purchasing a water Tanker for their Firefighting water need, although, this will need to be further discussed."

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Also, see the excerpts of the **NFPA 1, UNIFORM FIRE CODE, 2006 EDITION**, attached at the end of this letter.

Police Department (HPD): Memorandum dated November 7, 2012.

"The above - referenced application has been reviewed, and the following comments are being offered:

1. The applicant should consider ensuring that all signs are visible in all types of weather and that the signs should be reflective so that it is visible during low light conditions, especially with the use of headlights. The ability to be seen in low light conditions is critical to first responders who may not be intimately familiar with the area.
2. While we understand that the applicant is seeking to keep the proposed subdivision improvements in accordance with "rural character," it is critical that motorists recognize commonly used street signs and signals. As such, the applicant should consider utilizing signs that are as similar to traditional traffic signs in areas that make adherence critical to vehicle and pedestrian safety. These signs include, but are not limited to "stop," "yield" and speed limit signs.
3. While the applicant is further seeking to waive the requirement of placing streetlights in accordance with Section 23 -93 of the Hawai'i County code, the applicant may wish to consider lighting in addition to other measures to mitigate unwanted activity in and around their property."

Department of Environmental Management (DEM): Memoranda dated October 22, & 24, 2012.

The Solid Waste Division has reviewed the subject application and offers the following recommendations:

"Commercial operations, State and Federal agencies, religious entities and non-profit organizations may not use transfer stations for disposal.

Ample and equal room should be provided for rubbish and recycling."

The Wastewater Division has reviewed the subject application and offers the following recommendations:

"No Comments."

Department of Water Supply (DWS): Memorandum dated November 15, 2012.

"We have reviewed the subject application and have the following comments.

Please be informed that the Department maintains a deep well groundwater source approximately 2 miles east of the subject property. The applicant should confirm that the proposed private well will not adversely impact the Department's deep well that is being used to service its existing consumers.

We cannot comment on the applicant's proposed options for potable water as our Water System Standards and Rules and Regulations do not cover such systems. However, we recommend that the applicant consult with the State of Hawai'i, Department of Land and Natural Resources, Commission on Water Resource

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Management, to determine any permitting requirements for the development of a private well. The State of Hawai'i, Department of Health, Safe Drinking Water Branch, should also be consulted to determine any requirements regarding the use of a private well for potable water."

Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD):
Letter dated November 19, 2012.

"Thank you for the opportunity to review the subject application, received by our office on October 19, 2012. According to the application, the PUD involves the development of 142 residential lots and 12 roadways with associated infrastructure needs on this 810 acre project area. A review of our records indicates that there are known archaeological sites within the limits of this project area (SIHP Sites 50-10-05-19777 and 19778). These sites were recorded through a limited survey of a water transmission corridor by Scientific Consulting Services in 1994 (SHPD Rpt. H-01394). In addition, a 100 -foot wide survey of a road corridor was conducted by Clark & Rechtman in 2010. This survey identified five historic archaeological sites. There has been no comprehensive inventory survey of this larger project area. In August 2011, SHPD reviewed a subdivision application for this project area and requested that an archaeological inventory survey should be conducted to determine if additional archaeological remains are present in the project area and if so to outline an appropriate course of mitigation for the sites (Log 2011.1142, Doc. 1108MV05). We recommended that the inventory survey be completed before the final plat approval in order to allow for the creation of historic preservation easements if significant historic properties are identified.

The archaeological and cultural resources section on page 22 of this application indicates that the field work for this archaeological inventory survey was completed in 2012, and "no archaeological sites were found that would present an impediment to the development of the subject area." No report documenting this referenced survey has been submitted to SHPD, and we have not been afforded the opportunity to comment on site significance assessments or treatment recommendations for this project area. The impact of this project on historic properties remains unknown. Further, our office has received information from Ala Kahakai National Historic Trail that a historic trail runs through this property, and it does not appear that this trail is accounted for on the conceptual development plan presented as EXH. 3. Because considerable ground alteration will occur as a consequence of this PUD, SHPD reaffirms our request for an archaeological inventory survey. We request that no action is taken on the subject permit until SHPD is given the opportunity to review and approve a report that details the findings of this survey. In addition, we request that representatives from the Ala Kahakai National Historic Trail and DLNR's Na Ala Hele program are consulted about the potential presence of a historic trail in this project area."

State Department of Transportation (DOT): Memorandum dated July 27, 2011 in response to SUB-11-001094.

X With additional comments shown below:

MORE INFORMATION NEEDED

X Drainage and flood patterns at existing drainage structures on State highway.

- X Drawings showing existing driveways with dimensions.
- X Construction plans (for review and approval).
- X Drainage plans and calculations.
- X Traffic Impact Analysis and Report (for review -and approval).
- X NPDES Permit or DOH Letter of Determination.

ACCESS COMMENTS /CONDITIONS:

- X Channelization of access intersection.
- X Street Lighting at Intersection with Queen Kaahumanu Highway and access road
- X 10 -ft. No vehicle access and planting screen easement along Queen Kaahumanu Highway for lots 28 to 34, 85, 86, and 89.
- X Highway Improvements required from this application shall be provided at no cost to the State and shall conform to Hawaii Statewide Uniform Design Manual for Streets and Highways and the Specifications for Installation of Miscellaneous Improvements within State Highways.
- X Left Turn channelization lane on highways where speed limit is 45 mph or greater.

OTHER COMMENTS /CONDITIONS:

- X No additional storm discharge shall be allowed onto the State's right -of -way.
- X `Access may be restricted to right turn in and right turn out at the discretion of DOT.
- X Guardrails for all lots (lower ones) that require protection from highway traffic.
- X Applicant shall comply with the National Pollutant Discharge Elimination System (NPDES) permit requirements for construction activity disturbing one (1) or more acres of total land area.
- X ADA Accessible Improvements.

PUBLIC COMMENTS

(SEE COPIES OF ORIGINAL CORRESPONDENCES ATTACHED)

- a. Letter received from Roy A. Vitousek III of Cades Schutte on behalf of Mauna Lani Resort Association (MLRA) on November 13, 2012 opposing the PUD application as an inappropriate tool for the proposal. Follow-up letter dated December 6, 2012 informing of a real estate listing and web site relative to the Project area.
- b. Original letter received from Peter Hackstedde, President, Puakō Community Association on November 9, 2012 commenting on the PUD application.
- c. E-Mailed letter received from Mike Price, Chair, South Kohala Traffic Safety Committee dated November 14, 2012, commenting on the PUD application.
- d. E-mail from Terry Dunlap, County of Hawai'i Planner for the SKCDP concurring that the project is consistent with the plan.

APPROVED VARIANCES

The following variances are hereby approved:

Variations to the Zoning Code

- **Use of Streets** (Hawai'i County Code §25-4-6). Applicant's Exhibit 6 of the entrance roadway plan proposes a security/information building within the road right-of-way. This is located within an island/median area. This shall be allowed, **however, we note the comments from the HFD (No. 1 above) require that the travel ways around this structure must be a minimum of 15 feet in width.**
- **Flag Lots** (Hawai'i County Code §25-4-14). The site plan provided by the Applicant shows numerous proposed flag lots. This variance request is for flag lots below the minimum building site area of 5 acres as well as the minimum building site average width (MBSAW) of 200 feet (§25-5-74 & §25-5-75).
- **Minimum Street Frontage** (Hawai'i County Code §25-4-30). This variance request is for lots below the minimum building site area of 5 acres as well as the minimum building site average width of 200 feet (§25-5-74 & §25-5-75). In granting this request, the director acknowledges the fact that the smaller lot sizes precludes the use of fifty percent of the MBSAW.
- **Minimum Building Site Area; Minimum Average Width** (Hawai'i County Code §25-4-31). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot size required by its A-5a zoning designation. Aside from simply maximizing the number of lots that can be developed onto this Project Site, the different shaped lots, sizes and widths, allow for the unique street layout which develops the desired compact development. Therefore, this variance is approved with the understanding that a reduction in minimum building site area is necessitated by topographic and design constraints and not simply maximizing lot count. Therefore, a minimum building site average width of 140 feet is approved in lieu of the required 200 feet.
- **Reduction of Building Site below Minimum Area** (Hawai'i County Code §25-4-32). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot sizes required by its A-5a zoning designation.
- **Designation of Agricultural District** (Hawai'i County Code §25-5-71). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot sizes required by its A-5a zoning designation.
- **Minimum Building Site Area** (Hawai'i County Code §25-5-74). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot size required by its A-5a zoning designation.
- **Minimum Building Site Average Width** (Hawai'i County Code §25-5-74). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot size required by its A-5a zoning designation. Therefore, a minimum building site average width of 140 feet is approved in lieu of the required 200 feet.

Variations to the Subdivision Code

- **Block Sizes** (Hawai'i County Code §23-29). Applicant requests that maximum block lengths of 1,300 feet be waived in order to allow flexibility of lot configuration. As presented in the Conceptual Development Plan, the director finds that this is acceptable.
- **Minimum Lot Sizes** (Hawai'i County Code §23-33). This variance will allow for lots as small as 2 acres in lieu of the minimum 5-acre lot size required by its A-5a zoning designation.
- **Lot Side Lines** (Hawai'i 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 in order to maintain a more rectangular shape to the proposed lots, thereby accommodating a better building site configuration. Note that this section of code already provides flexibility for such design consideration.
- **Minimum Right-of-Way and Pavement Widths** (Hawai'i County Code §23-41). The Applicant is requesting a variance from the minimum rights-of-way widths and right-of-way improvement coverage for its internal, minor-type roadways. The requested variance is related to right-of-way widths. We support the issuance of this variance for these internal subdivision roadways, which are considered private streets. The developer should be aware that Road "A", at some future time should provide emergency egress to Waikoloa Village.
- **Cul-de-sacs** (Hawai'i County Code §23-48). Applicant requests a variance from the maximum length and number of lots served by the cul-de-sac. However, the Applicant shall consult with the HFD to ensure that this alternative cul-de-sac design will meet with their approval.
- **Grades and Curves** (Hawai'i County Code §23-50). Applicant requested a variance from the minimum requirements for vertical and horizontal curves. This variance is approved on the basis of providing design flexibility in the presence of site constraints, but in a manner as generally represented in the Applicant's master plan.

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).

- **Water Supply** (Hawai'i County Code §23-84). Applicant intends to provide potable and irrigation water through alternative methods. The variance from providing a water system meeting the minimum requirements of DWS is granted, however, regardless of the method of construction for supplying potable water to all of the lots, the system shall be extended to all lots. Provisions shall also be made

for emergency and fire fighting purposes in consultation with HFD. Individual rain water catchment systems will not be allowed as the primary source of water supply.

- **Street lights** (Hawai'i County Code §23-93). Applicant requests that no street lights be required in keeping with the rural character of the area. This variance is approved subject to the condition that, should street lighting be provided in the future, a licensed engineer certify the safety of the lighting plan in compliance with the applicable standards of Chapter 14, Article 9, Hawai'i County Code.
- **Street Names & Traffic Signs** (Hawai'i County Code §23-94). Approved to allow use of custom street name and traffic signs that will reinforce the desired character of the proposed rural/agricultural character of the neighborhood and its design goals (see Applicants Exhibit No's. 9 & 10). While this variance will allow these signs to deviate from standard specifications, it must still meet AASHTO specifications. The Homeowner's Association shall maintain the project's street name and traffic signs located on all the streets.
- **Right of way Improvement** (Hawai'i County Code §23-95). While this variance approval would allow for deviation from the County's Std. Det. regarding the improvement of the entire road right-of-way, such improvements of the right-of-way will be in conformance with the improved right-of-way detail for the approved PUD roadway as shown on Applicant's Exhibits 5 - 8. The Homeowner's Association shall maintain all of the Project's street right-of-ways.

FINDINGS

This PUD is granted in accordance with the following findings:

- 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 revised tentative subdivision approval is issued for a first increment with infrastructural improvements within five (5) years. The Applicant anticipates that sales for that increment will begin in 2017, subject to market conditions.

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

The proposed agricultural lots are consistent with the General Plan LUPAG Map designation for the Property of Urban Expansion and Extensive Agricultural. Urban Expansion allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. Thus, the proposed development would be consistent with the General Plan land use designation and will be in harmony with the character of the surrounding area and result in an intensity of land utilization no higher than as permitted or as otherwise specified for the district in which this proposed development occurs.

The South Kohala Community Development Plan (SKCDP), adopted by the County Council on December 1, 2008 identifies the property as located in the Agricultural Area. The property is consistent with the Land Use and Transportation policies in the SKCDP.

- 3. The proposed development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding area, 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 144-lot and "open space" lot agricultural subdivision will provide a density that will not exceed the maximum density permitted by zoning, which is calculated at 162 units (lots) across the entire 810.867 acre Project Site. With the approval of this PUD, it will allow the Applicant to configure its proposed lots and roadways to realize the type of agricultural use that is generally consistent with uses within this particular area of South Kohala. This PUD will allow the Applicant this opportunity, which we believe is reasonable and will not compromise existing and potential land uses 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 project is designed to address the needs and lifestyle of those residents who want to live in a rural/agricultural community that promotes social interaction, encourages outdoor activities, and is open space oriented. The project consists of 144-lot and "open space" lot development with a streetscape designed to mitigate speeding traffic.

The granting of this PUD will allow for greater flexibility in addressing development design issues. It will allow for a roadway system that promotes a safer, slower speed.

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. *Highway Access Improvements.*** The DOT requires that a TIAR be conducted and highway improvements and access intersection improvements will be designed according to the analysis of that study.

4. **Roadway Design Guidelines.** All roadways not required to be constructed to County-dedicable standards shall follow the guidelines incorporated in the Hawai'i 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. Utilities shall be underground with the exception of electrical service to the water well site and the solar photovoltaic array site.
5. **Construction Plan Review by Fire Department.** The Applicant shall consult with the HFD to ensure conformance of roads and water for emergency and fire fighting purposes within the Project Site to the minimum requirements of the Fire Code. Besides the DOT, DPW and DWS, construction plans shall also be submitted to the HFD for review.
6. **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 approval shall prohibit the construction of a second dwelling unit on each lot. The proposed declaration is to be recorded with the Bureau of Conveyances by the Planning Department at the cost and expense of the applicant/subdivider.
7. **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 as well as the requirements of the affected agencies as contained in the "Agencies' Review" section are incorporated herein as conditions of approval.
8. **Time Extension.** Pursuant to Section 25-2-7 of the Zoning Code, an application for the subdivision of the Property, or a revised preliminary plat map, in accordance with the terms and approvals granted by this PUD approval, shall be submitted to and accepted by the Planning Department within two (2) years from the date of this approval. If the applicant should require an extension of time, the applicant may request a time extension pursuant to Section 25-6-14 (Time extensions and amendments).

Should any of the conditions fail to be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development approval.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:nci

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William L. Moore, President
William Moore Planning, Inc.
Page 16
December 18, 2012

Encls: Exhibits and Correspondences

xc: Department of Public Works, Engineering (Hilo and Kona)
Department of Water Supply
Department of Environmental Management
Fire Department
Police Department

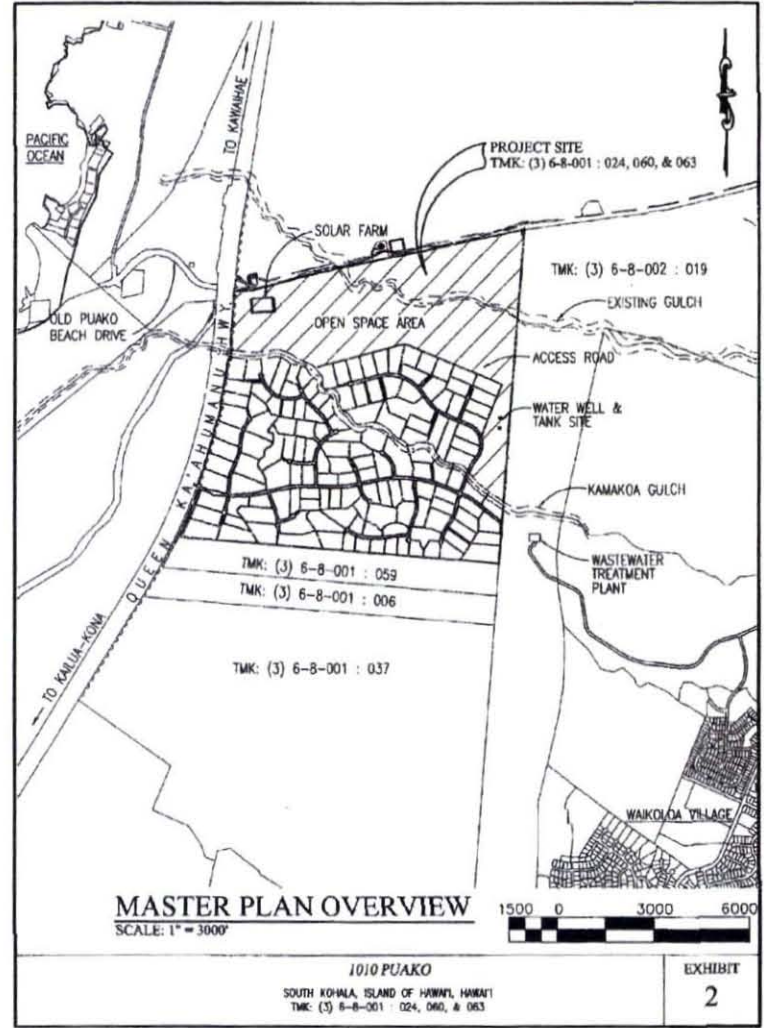
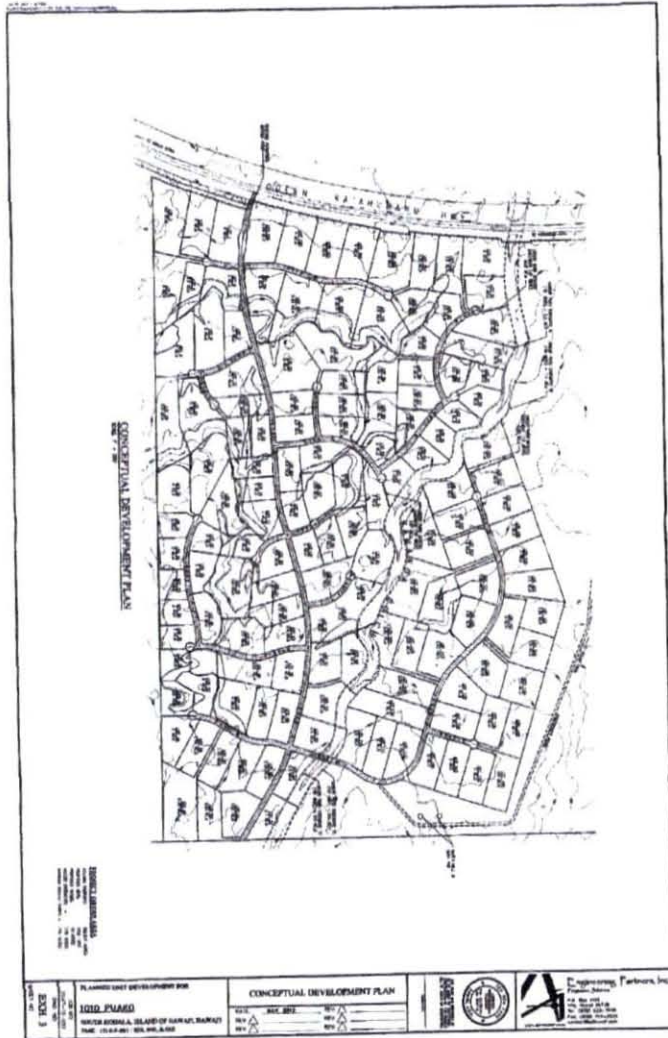
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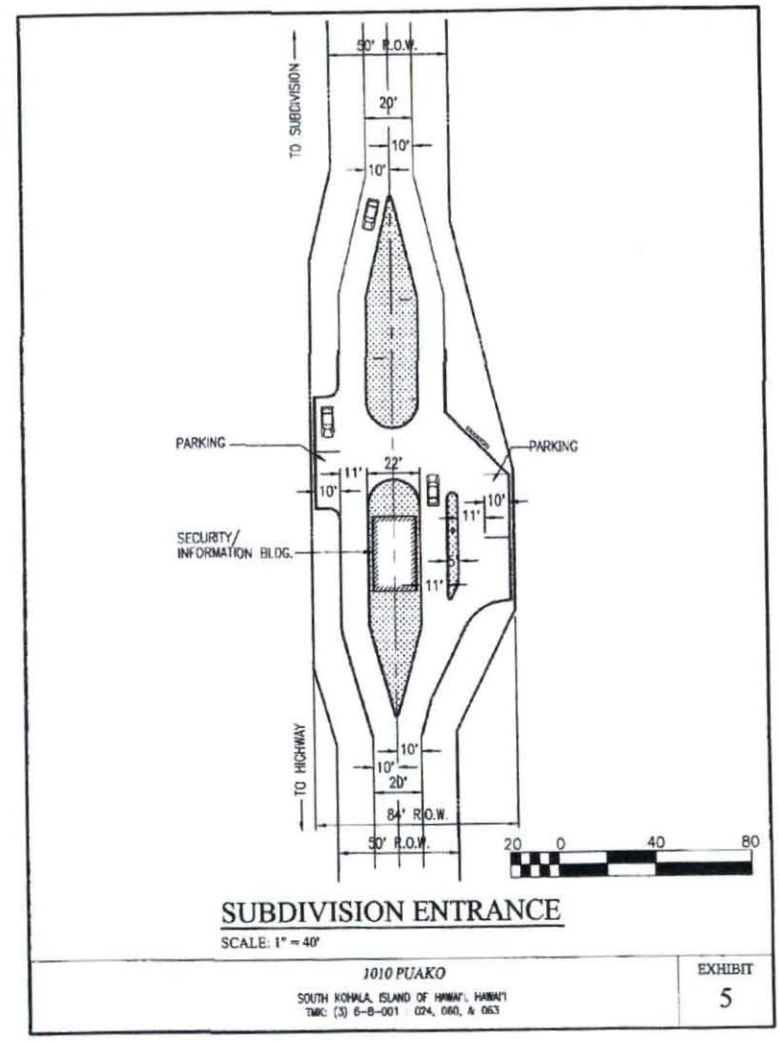
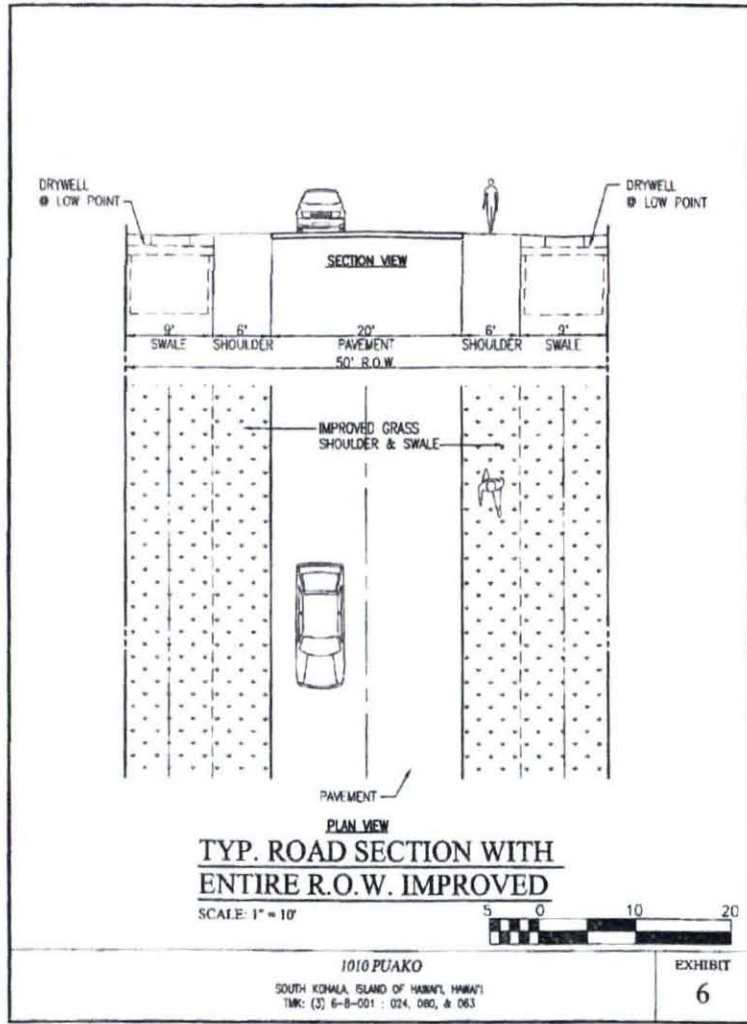
Peter Hackstedde, President
Puakō Community Association
P.O. Box 44345
Kamuela, HI 96743

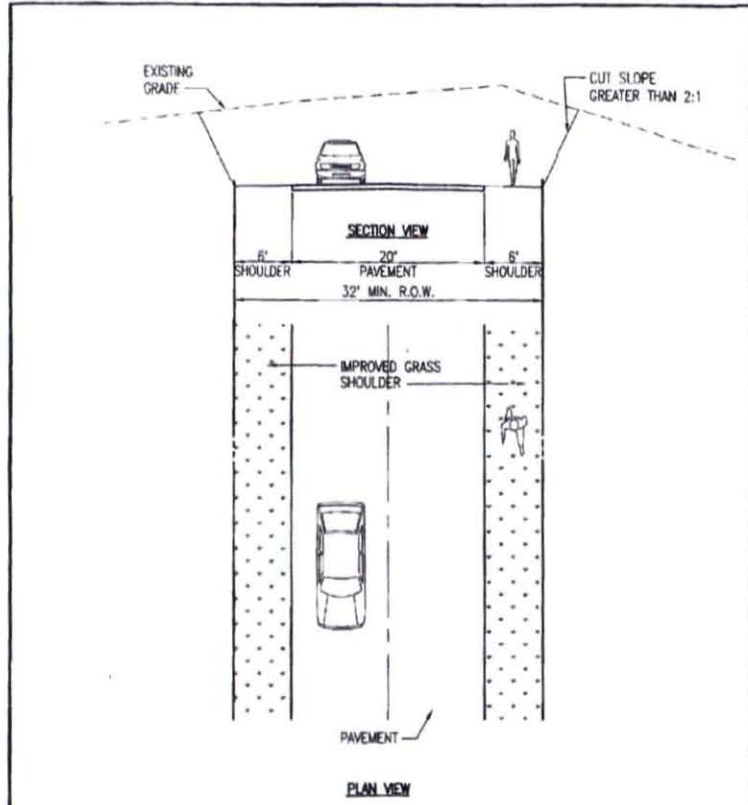
Mike Price, Chair
South Kohala Traffic Safety Committee
P.O. Box 383375
Waikoloa, HI 96738

Roy A. Vitousek III
Cades Shutte
75-170 Hualālai Road, Suite B-303
Kailua-Kona, HI 96740

xc w/encls: West Hawai'i Planning Office
SKCDP Planner (via e-mail)
GIS Section, G. Bailado (via e-mail)







TYP. ROAD SECTION WITH PARTIAL R.O.W. IMPROVED

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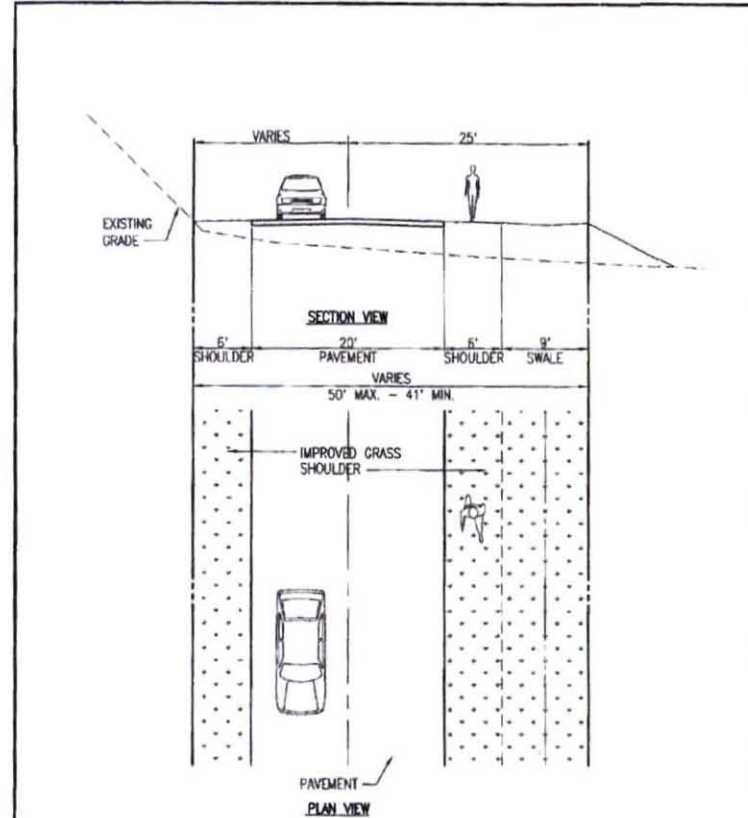


1010 PUAKO

SOUTH KOHALA ISLAND OF HAWAII, HAWAII
 TRK: (S) 6-B-001 - 024, 080, & 083

EXHIBIT

8



TYP. ROAD SECTION WITH PARTIAL R.O.W. IMPROVED

SCALE: 1" = 10'

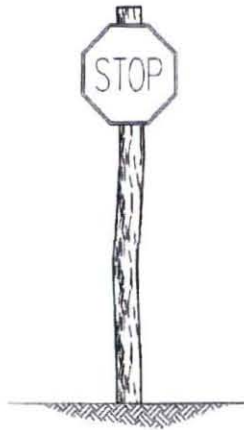


1010 PUAKO

SOUTH KOHALA ISLAND OF HAWAII, HAWAII
 TRK: (S) 6-B-001 - 024, 080, & 083

EXHIBIT

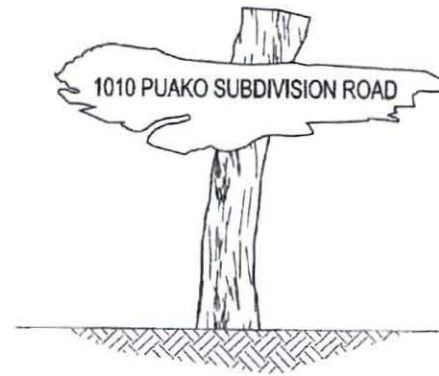
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STOP SIGN POST
SCALE: NOT TO SCALE

1010 PUAKO
SOUTH KOHOLA, ISLAND OF HAWAII, HAWAII
TMK: (3) 5-8-001 : 024, 060, & 063

EXHIBIT
10



STREET NAME SIGN & POST
SCALE: NOT TO SCALE

1010 PUAKO
SOUTH KOHOLA, ISLAND OF HAWAII, HAWAII
TMK: (3) 5-8-001 : 024, 060, & 063

EXHIBIT
9

18.2.2.3 Access Maintenance. The owner or occupant of a structure or area, with required fire department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHJ when the access is modified in a manner that could prevent fire department access.

18.2.3 Fire Department Access Roads.

18.2.3.1 Required Access.

18.2.3.1.1 Approved fire department access roads shall be provided for every facility, building, or portion of a building hereafter constructed or relocated.

18.2.3.1.2 Fire Department access roads shall consist of roadways, fire lanes, parking lots lanes, or a combination thereof.

18.2.3.1.3* When not more than two one- and two-family dwellings or private garages, carports, sheds, agricultural buildings, and detached buildings or structures 400ft² (37 m²) or less are present, the requirements of 18.2.3.1 through 18.2.3.2.1 shall be permitted to be modified by the AHJ.

18.2.3.1.4 When fire department access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades, or other similar conditions, the AHJ shall be authorized to require additional fire protection features.

18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access road shall extend to within 50 ft (15 m) of at least one exterior door that can be opened from the outside and that provided access to the interior of the building. Exception: 1 and 2 family dwellings.

18.2.3.2.1.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 300 feet.

18.2.3.2.2 Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 450 ft (137 m).

18.2.3.3 Multiple Access Roads. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

NFPA 1, UNIFORM FIRE CODE, 2006 EDITION

Note: NFPA 1, Hawaii State Fire Code with County amendments. County amendments are identified with a preceding "C" of the reference code.

Chapter 18 Fire Department Access and Water Supply

18.1 General. Fire department access and water supplies shall comply with this chapter.

For occupancies of an especially hazardous nature, or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, or areas where there is an inadequate fire flow, or inadequate fire hydrant spacing, and the AHJ may require additional safeguards including, but not limited to, additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved.

18.1.1 Plans.

18.1.1.1 Fire Apparatus Access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

18.1.1.2 Fire Hydrant Systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

C 18.1.1.2.1 Fire Hydrant use and Restrictions. No unauthorized person shall use or operate any Fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system. Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

18.2 Fire Department Access.

18.2.1 Fire department access and fire department access roads shall be provided and maintained in accordance with Section 18.2.

18.2.2* Access to Structures or Areas.

18.2.2.1 Access Box(es). The AHJ shall have the authority to require an access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security.

18.2.2.2 Access to Gated Subdivisions or Developments. The AHJ shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.

18.2.3.4.6 Grade.

C 18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

18.2.3.4.6.2* The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m) or the design limitations of the fire apparatus of the fire department, and shall be subject to approval by the AHJ.

18.2.3.4.6.3 Fire department access roads connecting to roadways shall be provided with curb cuts extending at least 2 ft (0.61 m) beyond each edge of the fire lane.

18.2.3.4.7 **Traffic Calming Devices.** The design and use of traffic calming devices shall be approved the AHJ.

18.2.3.5 Marking of Fire Apparatus Access Road.

18.2.3.5.1 Where required by the AHJ, approved signs or other approved notices shall be provided and maintained to identify fire department access roads or to prohibit the obstruction thereof of both.

18.2.3.5.2 A marked fire apparatus access road shall also be known as a fire lane.

18.2.4* Obstruction and Control of Fire Department Access Road.

18.2.4.1 General.

18.2.4.1.1 The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

18.2.4.1.2 Minimum required widths and clearances established under 18.2.3.4 shall be maintained at all times.

18.2.4.1.3* Facilities and structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations.

18.2.4.1.4 Entrances to fire departments access roads that have been closed with gates and barriers in accordance with 18.2.4.2.1 shall not be obstructed by parked vehicles.

18.2.4.2 Closure of Accessways.

18.2.3.4 Specifications.

18.2.3.4.1 Dimensions.

C 18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20ft with an approved turn around area if the FDAR exceeds 150 feet. **Exception:** FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

C 18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less than 13ft 6 in.

C 18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

18.2.3.4.1.2.2 Vertical clearances shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

C 18.2.3.4.2 **Surface.** Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

18.2.3.4.3 Turning Radius.

C 18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

18.2.3.4.3.2 Turns in fire department access road shall maintain the minimum road width.

18.2.3.4.4 **Dead Ends.** Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

18.2.3.4.5 Bridges.

18.2.3.4.5.1 When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with county requirements.

18.2.3.4.5.2 The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

18.2.3.4.5.3 Vehicle load limits shall be posted at both entrances to bridges where required by the AHJ.

18.3.4 Fire Hydrants and connections to other approved water supplies shall be accessible to the fire department.

18.3.5 Private water supply systems shall be tested and maintained in accordance with NFPA 25 or county requirements as determined by the AHJ.

18.3.6 Where required by the AHJ, fire hydrants subject to vehicular damage shall be protected unless located within a public right of way.

18.3.7 The AHJ shall be notified whenever any fire hydrant is placed out of service or returned to service. Owners of private property required to have hydrants shall maintain hydrant records of approval, testing, and maintenance, in accordance with the respective county water requirements. Records shall be made available for review by the AHJ upon request.

C 18.3.8 Minimum water supply for buildings that do not meet the minimum County water standards:

Buildings up to 2000 square feet, shall have a minimum of 3,000 gallons of water available for Firefighting.

Buildings 2001- 3000 square feet, shall have a minimum of 6,000 gallons of water available for Firefighting.

Buildings, 3001- 6000 square feet, shall have a minimum of 12,000 gallons of water available for Firefighting.

Buildings, greater than 6000 square feet, shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.

Commercial buildings requiring a minimum fire flow of 2000gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(6) of *this code*.

NOTE: In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:

- (1) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting;
- (2) Minimum pipe diameter sizes from the water supply to the Fire Department

18.2.4.2.1 The AHJ shall be authorized to require the installation and maintenance of gates or other approved barricades across roads, trails, or other accessways not including public streets, alleys, or highways.

18.2.4.2.2 Where required, gates and barricades shall be secured in an approved manner.

18.2.4.2.3 Roads, trails, and other accessways that have been closed and obstructed in the manner prescribed by 18.2.4.2.1 shall not be trespassed upon or used unless authorized by the owner and the AHJ.

18.2.4.2.4 Public officers acting within their scope of duty shall be permitted to access restricted property identified in 18.2.4.2.1.

18.2.4.2.5 Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals that have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with, or otherwise vandalized in any manner.

18.3 Water Supplies and Fire Hydrants

18.3.1* A water supply approved by the county, capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities or buildings, or portions thereof, are hereafter constructed, or moved into or within the county. When any portion of the facility or building is in excess of 150 feet (45 720 mm) from a water supply on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the AHJ. For on-site fire hydrant requirements see section 18.3.3.

EXCEPTIONS:

1. When facilities or buildings, or portions thereof, are completely protected with an approved automatic fire sprinkler system the provisions of section 18.3.1 may be modified by the AHJ.
2. When water supply requirements cannot be installed due to topography or other conditions, the AHJ may require additional fire protection as specified in section 18.3.2 as amended in the code.
3. When there are not more than two dwellings, or two private garage, carports, sheds and agricultural. Occupancies, the requirements of section 18.3.1 may be modified by AHJ.

18.3.2* Where no adequate or reliable water distribution system exists, approved reservoirs, pressure tanks, elevated tanks, fire department tanker shuttles, or other approved systems capable of providing the required fire flow shall be permitted.

18.3.3* The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on a fire apparatus access road on the site of the premises or both, in accordance with the appropriate county water requirements.

Ms. BJ Leithead Todd
November 13, 2012
Page 2

The Association's Comments on the PUD Application

I. Domestic Water

The PUD Application states that "[t]he Applicant is investigating innovating [sic] options for the provision of water to the Project [and that it] . . . has drilled a well with the potential to produce up to 1,000,000 gallons of brackish water per day." Appl. at 20-21. While the research and implementation of innovative technologies is laudable, the Association is concerned that the PUD Application does not specify the exact manner of infrastructure proposed to provide a permanent potable water supply to the Project. The preservation and appropriate management of the island's water supply is a critical issue. Therefore, the lack of a specific and concrete plan to develop a permanent water system for the Project is a major omission from the Application. It would appear that most reasonable, practical water systems would require a use of County or State lands and would trigger HRS Ch. 343. The Applicant's vague assertions about an innovative system may be an effort to avoid appropriate environmental review.

The Association is also concerned by the Applicant's request to modify the Department of Water Supply's condition to allow it to build a 300,000 gallon reservoir, instead of a reservoir with a minimum 500,000 gallon capacity. Hawai'i County Code, Section 25-6-1 provides that the purpose of the PUD is to allow for "diversification in the relationship of various uses, buildings, structures, open spaces and yards . . . while still insuring that the intent of this chapter is observed." Although PUDs permit greater flexibility in project design, the permits should not be used to avoid the construction of critical infrastructure.

2. Non-Potable Water

The Association has a significant issue with potential for adverse impacts on the Resort's current use of non-potable irrigation water from on-site wells in its Resort area. The PUD Application fails to address the issues associated with sufficiency of groundwater in the subject mauka-makai corridor to accommodate the Project and the existing uses by other developed areas, including the Mauna Lani Resort. This issue is significant because pumpage in excess of the safely developable long-term supply of groundwater within the Project's mauka-makai corridor will likely result in salinity increases in nearby wells. The Project's Water Resource Consultant, Tom Nance, highlighted this problem in his "Assessment of the Potential Impact on Water Resources of the Development of the Aina Le'a Village Project in South Kohala Hawaii." However, Mr. Nance's concerns related to the sufficiency of groundwater in the subject area are absent from the PUD Application.

The PUD Application does not adequately address the potential adverse environmental effects of on-site irrigation water wells for the Project. The Association believes that the Applicant has not considered the potential adverse effects of nutrient additions to groundwater,

ca des · schutte

ROY A. VITOUSEK III
DIRECTOR
PLANNING DEPARTMENT
COUNTY OF HAWAII
a limited liability law partnership

RECEIVED NOV 13 2012
ROY A. VITOUSEK III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvtousek@ca-des.com

November 13, 2012

**HAND DELIVERED TO COUNTY OF HAWAII
PLANNING DEPARTMENT, WEST HAWAII OFFICE**

Ms. BJ Leithead Todd
Planning Director
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

Re: Application for Planned Unit Development (PUD)
Applicant: 1010 Puako, LLC
Waikoloa, South Kohala, Hawai'i
TMK Nos. (3) 6-8-001:024, 060 and 063

Dear Ms. Leithead Todd:

The purpose of this letter is to comment on the Application for Planned Unit Development ("PUD Application") relative to the 1010 Puako Development Project ("Project") on behalf of this firm's client, the Mauna Lani Resort Association (the "Association"). Thank you for the opportunity to provide you with our input on the proposed Project.

Background

Mauna Lani Resort Association is the master association for the residential and commercial properties located within Mauna Lani Resort ("Resort"). The Association owns and maintains the roadway systems, historic reserves, public access trails, and coastal recreational areas within the Resort. The Resort is located makai and in close vicinity to proposed Project properties and has direct and immediate interest in the physical, cultural, and social environments of this area, which interests are clearly distinguishable from the interests of the general public.

The Association only recently received a copy of the Project's PUD Application that was filed at the County of Hawai'i Planning Department on October 10, 2012. The PUD Application is the subject of the following comments.

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C S

Ca des Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Tel: 808.521-9209
Fax: 808.521-9210
www.ca-des.com

Kona Office
75-170 Hukilau Road, Suite 8-301
Kailua-Kona, Hawaii 96740
Tel: 888.329-5811
Fax: 888.326-1171

7. Visual and Scenic Resources

The Association is concerned about the visual impact of the Project. The Applicant proposes to maintain an 1100' building setback along the Queen Ka'ahumanu Highway corridor. The Association requests that the Project employ a 1200' setback in order to maintain consistency with the nearby Aina Le'a project.

8. Cultural Resources

The PUD Application states that its consultant completed an archaeological assessment survey in 2012. Appl. at 22. The archaeological consultant did not identify any archaeological sites on the subject properties. *Id.* The Association is concerned that the State Historic Preservation Division has not yet approved the archaeological assessment survey and that it would be premature to approve lot and roadway configurations before SHPD completes its review. Further, the Application does not include any Cultural Impact Assessment as required by Hawaii Supreme Court Opinions. There are cultural sites and resources on the property and a Cultural Impact Assessment is mandatory before an agency can approve a permit which allows development of previously undeveloped land.

9. Existing Public and Private Community Resources

As noted above, the development of 145 dwellings will result in a substantial increase of residents in the subject area. This population increase will impact the roadways, parks, and coastal resources of the Mauna Lani Resort. The Association is concerned that the Applicant has not contacted it to discuss methods to mitigate these impacts.

10. Agricultural Use

The proposed development is not an agricultural use under HRS Ch. 205 or the Hawaii County Zoning Code. The two-acre lots are not suitable for agricultural purposes and the development is more urban or rural in character than agricultural. This is a large development of non-farm properties on land in the state and county agricultural districts. The Applicant should be pursuing a district boundary amendment before the State land Use Commission, not a PUD before the Planning Department.

11. Improper Application of the PUD Process

This is a major project in a previously undeveloped area. The PUD process is not intended to be utilized in this manner. The PUD process is intended for projects of a smaller scope and with fewer potential impacts as the process provides limited opportunities for public participation in the development planning and impact mitigation processes. The Planning

treatment and disposal of domestic wastewater, and percolation of excess landscape irrigation water into the groundwater under the Project. Any nutrient input or landscape chemicals that leach into the groundwater will contaminate the Mauna Lani Resort and near shore coastal waters.

3. Wastewater

The Association is concerned about potential impacts on the Mauna Lani Resort, which is located downslope of the Project. The Applicant proposes to utilize Individual Wastewater Systems ("IWS") that comply with the requirements of the State Department of Health. Appl. at 11. The Association questions this proposal because there is a higher risk of systems failure in more than 150 individual systems than in a modern, professionally operated and maintained wastewater treatment plant. The proposed individual systems also prevent or complicate the use of reclaimed water for irrigation purposes. The Project should be required to utilize a wastewater treatment system and should not avoid the environmental review process under Ch. 343.

4. Solid Waste

The PUD Application does not provide any details on how the Project and its putative future lot owners will dispose of solid waste. The Association encourages a requirement that the Project must employ recycling, waste stream reduction, and other mitigation measures.

5. Flooding

Kamakoa Gulch, which the Applicant describes as a "major drainage system," runs through the Project site. Appl. at 26. Kamakoa Gulch is subject to flooding which can result in damage to the property and/or cause runoff entering downstream properties in the vicinity and near shore waters. There may be significant siltation impacts associated with the development of the Project and the flooding of Kamakoa Gulch.

6. Roads and Traffic

The Association is extremely concerned about the Applicant's proposal to construct a channelized intersection between the main project road and Queen Ka'ahumanu Highway. Vehicular traffic between the proposed "Minor streets" and Queen Ka'ahumanu Highway raises serious safety concerns. Appl. at 15. The development of the Project's proposed 144 agricultural lots, with a maximum of 145 dwellings, will also result in a substantial increase in the use of roadways within the Mauna Lani Resort. The Association, however, has not been contacted by the Applicant to discuss this impact. The Association questions whether the connection to Ka'ahumanu Highway triggers HRS Ch. 343.



November 9, 2012

Ms. BJ Leithead
Planning Director
County of Hawai'i
101 Pauahi St., Suite 3
Hilo, HI 96720

Subject: Puako 1010 PUD Application

Dear Ms. Leithead:

Thank you for the opportunity to review the subject application and provide comments.

The Puako Community Association (PCA) board of directors met with Bill Moore, planning consultant to the Puako 1010 owner, on Wednesday November 8. We raised a number of concerns and want to share them with you and request your help in encouraging the developer to consider some modifications to their plan and provide us some guarantees.

1. The PCA has tried to insure that the Aina Lea project nearby would maintain their 1200' highway setback. We asked Bill to take a look at continuing this setback along their highway frontage. Since there is sufficient land available to relocate lots it should be possible. These highway lots and homes will suffer from high speed road noise and will reduce the visual sense of open space which we enjoy along the mauka side of the highway all the way from Kawaihae Road to Keahole Airport. This seems like a reasonable trade-off for reducing the 5 acre lot sizes to some as small as 2 acres.
2. We are concerned that the large "Open Space" area proposed could someday be developed into more lots and we request conditions that preclude such use in perpetuity. The South Kohala CDP indicates the Puako 1010 land is zoned for 5 acre lots and we have relied on this zoning for a number of years.
3. The Queen K -- Puako Road intersection is dangerous. We have requested from the DOT a storage lane for left turn vehicles coming out of Puako. These T-type un-signalized high speed intersections should be avoided where possible. We request that you carefully evaluate the highway access points to Puako 1010 in conjunction with the Puako Road intersection with safety as a paramount concern.
4. We are encouraged that the Puako 1010 plan includes provision for an emergency road connection to Waikoloa Village and that the development plan includes a "linear park" along Karmakoa Gulch. We request a condition that public access be allowed once this park continues on to neighboring property.

Puako Community Association, P.O. Box 44345, Kawahae, HI 96743

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Ms. BJ Leithead Todd
November 13, 2012
Page 5

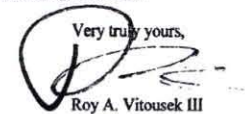
Department should reject this Application and direct the Applicant to pursue the appropriate permitting processes.

Conclusion

The Association thanks you for the opportunity to comment on the PUD Application and requests that the Planning Department provide the Association with written notice of its decision relative to the Application to the undersigned at the following address:

Roy A. Vitousek III
Cades Schutte LLP
75-170 Hualalai Road, Suite B-303
Kailua-Kona, Hawai'i 96740

As always, if you have any questions or require additional information, please contact me at (808) 329-5811 or by email at rvitousek@cades.com.

Very truly yours,


Roy A. Vitousek III
for
CADES SCHUTTE
A Limited Liability Law Partnership

RAV:tmt

PLANNING DEPARTMENT
710 KUHIO DRIVE
NOV 15 2012 1:23

South Kohala Traffic Safety Committee
P.O. Box 383375
Waikoloa, HI

Ms. Bobby Jean Leithead-Todd Director
Hawaii County Planning Department
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, HI 96720
808 961-8288 Fax
planning@hilo.hawaii.hi.us

November 14, 2012

Ref: 1010 Puako LLC Change of Zone Application A-5 to PUD with 2 Acre Lot TM# 6-8-001.24, 060, and 063 Planning Department Comment

Aloha Director Leithead-Todd,

I am Michael Price and reside at 65-1794 Auhili Loop in Waikoloa Village, HI 96738. I am the representing South Kohala Traffic Safety Committee (SKTSC) as its Chairperson. Previous documentation submitted verifies I am authorized to represent South Kohala Traffic Safety Committee as its Chair.

First we want to thank The South Kohala Community Development Plan Action Committee and some of the neighboring properties for the opportunity to provide written comment regarding this application. South Kohala Traffic Safety Committee only comments on the traffic safety portion of the Application. In that regard on November 13, 2012 the SKTSC unanimously approved endorsement and support of the Puako Community Association (PCA) comment letter dated November 9, 2012 attached, specifically item #1, #3, #4 and #5. Also the following was part of that approved motion.

The Applicant refers to the Puako Area portion of the South Kohala Community Development Plan (SKCDP) and disregards Waikoloa portion of the SKCDP. Is this to avoid responsibility for financing and construction of Waikoloa Policy #3 Second Access Road? The Second Access Road alignment is listed as Road 4, 3B, 3C, 5, or 7a and 7b on the attached Sam O. Hirota Waikoloa Alternative Road Study drawing. The road alignment appears to be located in the applicant's proposed development or the Open Space Area. Waikoloa Policy #3 states the Second Access Road is a Top Priority. Also that pedestrian and bicycle access as defined in SKCDP General Policy #2 are required and Complete Streets is defined. Fire threat is an ever-present danger for Waikoloa Community and a second access/egress road may well prove to be the difference between successful evacuation of the village, and injuries and even loss of life.

Referring to the Waikoloa Action Plan: Second Access Road, Strategy #3 states Financing and Construction by developer 1010 Puako LLC. Waikoloa 5.2 states circulation improvements are needed in a timely manner. SKCDP Policy # 4 calls for emergency routes to move away from life threatening hazards (fire, flood, and earthquake) and provides for mitigation measures to be taken by developments.

Is the SKCDP not a legal Ordinance of Hawaii County? Our impression is the Planning Director has a legal obligation to follow the law and implement the Policies and Action Plans of the SKCDP.

Page 1 of 2

062175

BJ Leithead
November 9, 2012
Page two

- 5. Puako has been inundated by flooding from Kamakoa Gulch. We are concerned that new roads and lots within Puako 1010 may exacerbate this problem. A comprehensive flood plan must be adopted and followed so that the gulches do not become further overloaded during heavy rains.

With Aloha,

Peter Hackstedde
President
Puako Community Association

Puako Community Association, P.O. Box 44345, Kawaihae, HI 96743

Dacayanan, Melissa

From: Holmes, Jonathan
Sent: Wednesday, November 14, 2012 12:53 PM
To: Dacayanan, Melissa
Subject: FW: PUD Application (PUD-12-000023) 1010 Puako, LLC

Mel,

For intake, etc.

From: Dunlap, Terry
Sent: Tuesday, November 13, 2012 1:06 PM
To: Holmes, Jonathan
Cc: Mark, Bennett
Subject: PUD Application (PUD-12-000023) 1010 Puako, LLC

Aloha, Jonathan,

I offer the following comments on the PUD Application (PUD-12-000023) 1010 Puako, LLC

A. Regarding the SKCDP

1. The "preservation of culture and sense of place" is consistent with SKCDP as no significant archaeology was found during the archaeological survey.
2. The project is consistent with the overall density of the Ag-5a.
3. Agricultural uses are consistent with the 2 acre lots.
4. The PUD provides:
 - Protection of environmental features (gulches)
 - Maintain rural agricultural character
 - Alternate energy production thru a solar farm
 - Project has an existing cut slope that provides 15'-20' rise along Queen Kaahumanu Highway to provide screening of the project from the Highway.
 - Provides for an approximate 364 acre site for agricultural and related uses. (It is referred to as "Open Space" on the site plan.
 - Creates an approximate 20 acre park/recreational area along Kamakoa Gulch.
 - Provides an access to Queen Kaahumanu highway on the north side of Kamakoa Gulch.
 - Reduces environmental footprint by developing less area and by not paving the shoulders of the private roads.
 - Street access towards Waikoloa Village (within 300' of the existing wastewater treatment plant.
 - Potable water system (several choices to work with brackish water) on site.
 - Fire hydrants that comply with 1-acre lot agricultural standards.

B. Consistency with SKCDP: YES, in my opinion.

My recommendation is to preserve the open space on a permanent basis and not allow that portion of the project to be developed in any manner other than preserved as open space.
I have a concern that a farm dwelling is specified for this open space and that seems to be inconsistent with the term open space. Unless that 364 acres is preserved as open space, then the plan is not consistent with the SKCDP as some other owner may continue to attempt to use the acreage for his or her personal use. I feel that we need a better understanding of what the term "Open Space" means in this project.

I do not want to see that open space come back to the County for some type of new development. The density is consistent with the current zoning, only on smaller lots. No increase in density for the entire property should be permitted.

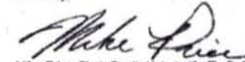
082186

The applicant specifically asks to have several Hawaii Codes Subdivision Codes waived to save money. Section 23-48 Cul De Sacs requires a short as possible cul de sac no more than 600 feet in length nor serving more than eighteen lots. The applicant requests lengths greater than 600 feet in length and the ability to serve up to 40 lots. Emergency Medical Services is 1 of the 4 Es of Traffic Safety. Long dead end roads meeting the legal requirement are difficult enough to evacuate. In the case of Waikoloa, the County Fire Department ambulance is accompanied by the fire truck as the medics serve also on the fire truck. It is a no brainer what additional risk is present when longer dead end roads are allowed that compromise response times. Section 23-48 needs to be enforced for the whole development. There needs to be 2 access/egress complete street routes for 1010 Puako. How will 1010 Puako evacuate if a Puako fire jumps the highway blocking the only access/egress? What if the additional development roofs and roads runoff creates a flooded access/egress and blocks the highway? A lot of thought, professional engineering and experience contributed to the Subdivision Code and SKCDP. Saving money should not be an excuse for avoiding ones responsibility for public safety.

We request financing and construction of the Second Access Road shown as Road 4, 3B, 3C, 5, or 7a and 7b on the attached Sam O Hirota Waikoloa Alternative Road Study drawing and defined by SKCDP. This is clearly defined as a complete street and open road. We request the developer provide a second access/egress for 1010 Puako also. We would not oppose a second 1010 Puako guard house on a mauka intersection connector to the Second Access Road. We request an adequate set back of both guardhouses from Queen Kaahumanu HWY 19 and the Second Access Road to prevent queuing on a major roadway by 1010 Puako entering vehicles. Final request is that the Second Access Road be constructed complete and dedicated to the County prior to Development Final Approval.

I can be contacted at 883-2918 or whao@hawaii.rr.com. Again thank you for this opportunity for the SKTSC membership to comment.

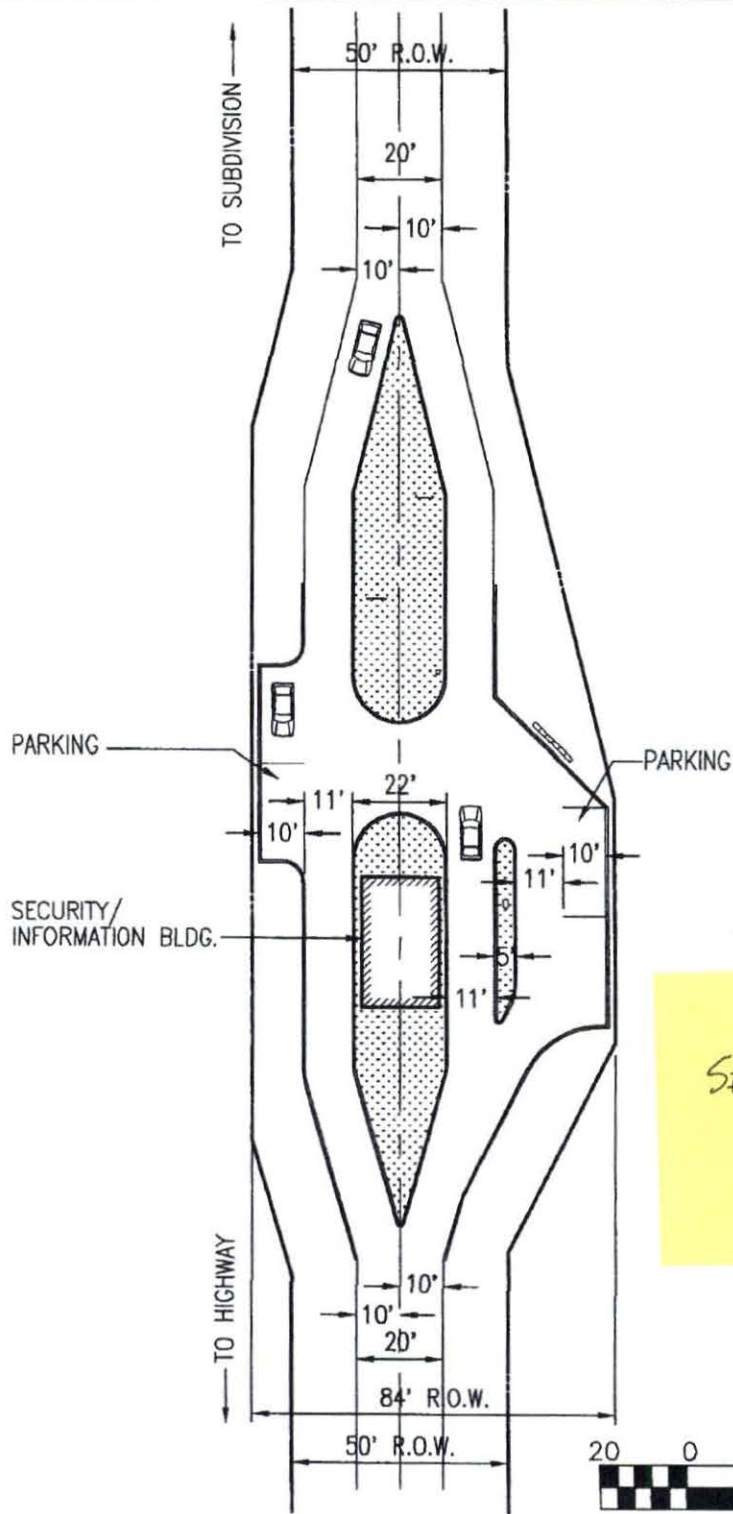
Sincerely,



Mike Price-Chair South Kohala Traffic Safety Committee

Attachment

CC: SKTSC
Councilman Pete Hoffmann Hawaii County Council
Chairman Mike Fischer - SKCDPAC
Waikoloa Leadership Council



SEE PUD 09-16
DECISION DOC

SUBDIVISION ENTRANCE

SCALE: 1" = 40'

1010 PUAKO

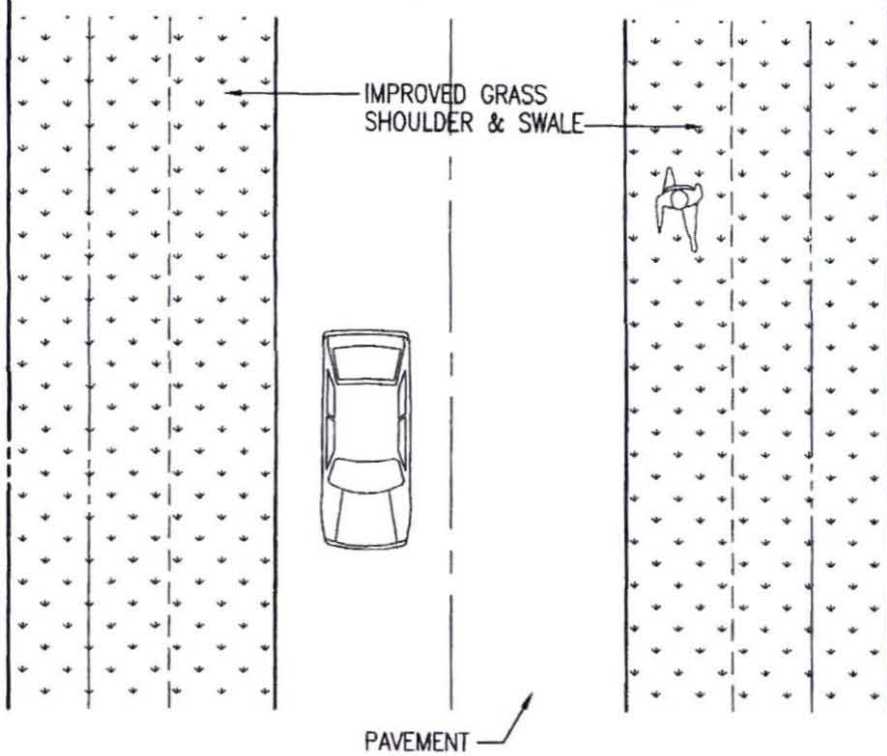
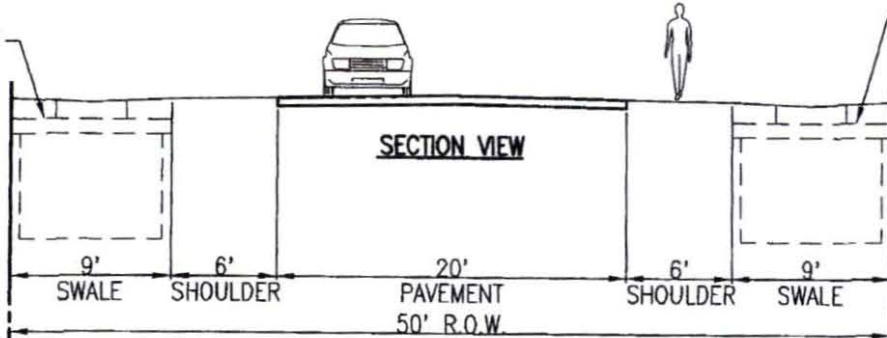
SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
TMK: (3) 6-8-001 : 024, 060, & 063

EXHIBIT

5

DRYWELL
@ LOW POINT

DRYWELL
@ LOW POINT



PLAN VIEW
TYP. ROAD SECTION WITH
ENTIRE R.O.W. IMPROVED

SCALE: 1" = 10'

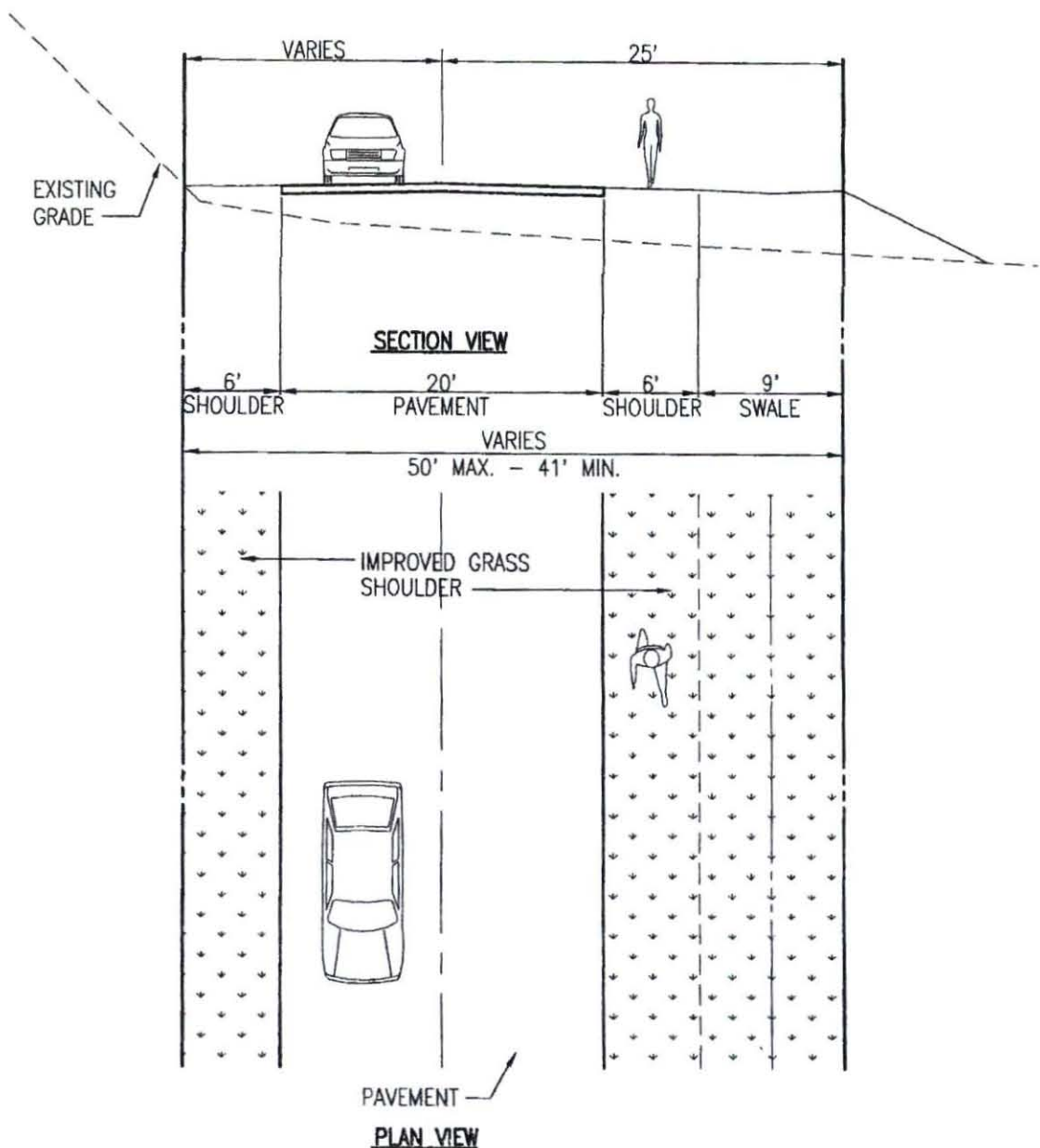


1010 PUAKO

SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
TMK: (3) 6-8-001 : 024, 060, & 063

EXHIBIT

6



**TYP. ROAD SECTION WITH
PARTIAL R.O.W. IMPROVED**

SCALE: 1" = 10'

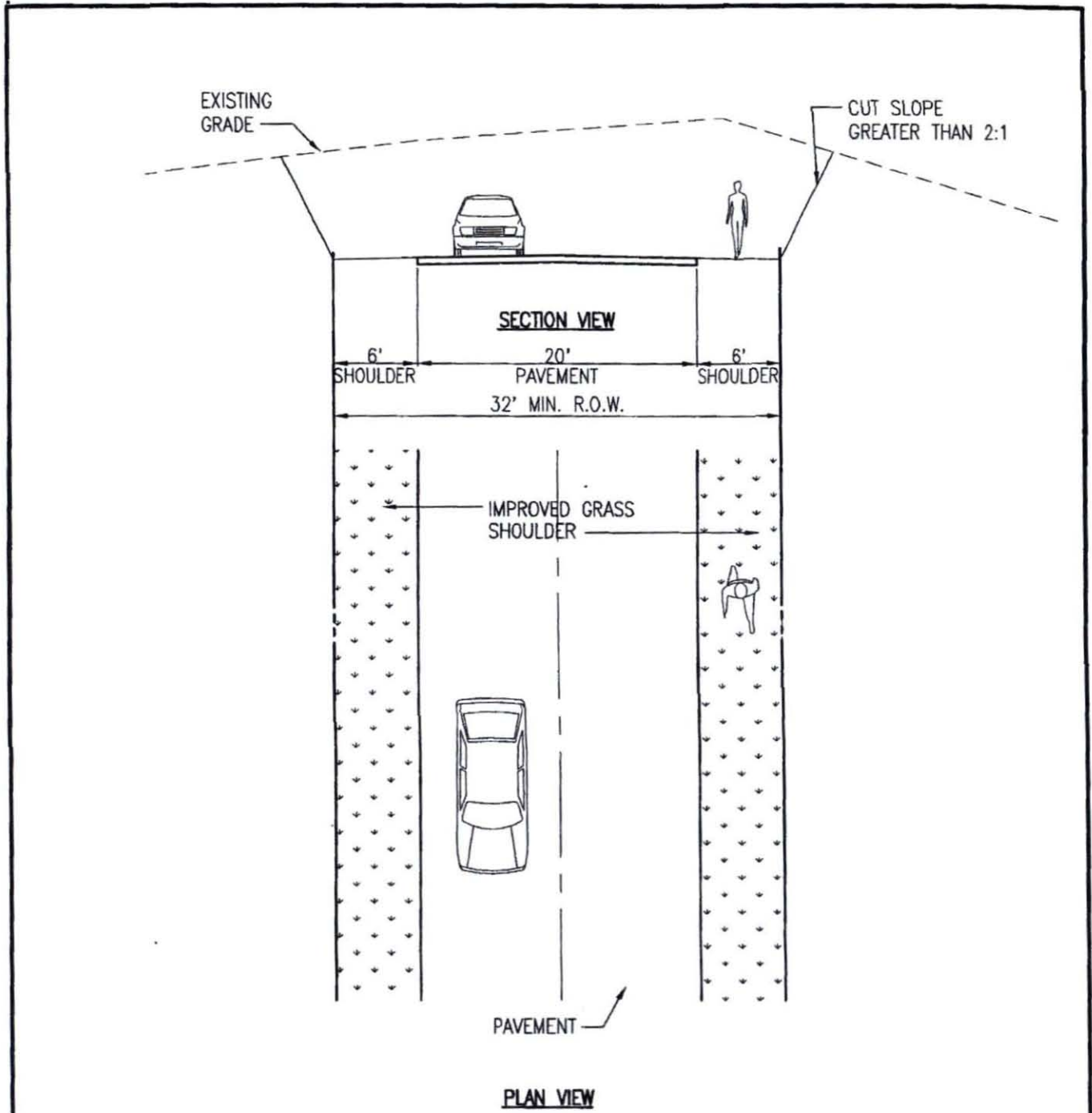


1010 PUAKO

SOUTH KOHALA, ISLAND OF HAWAI'I, HAWAI'I
TMK: (3) 6-8-001 : 024, 060, & 063

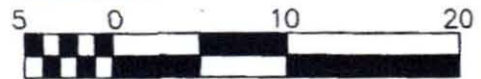
EXHIBIT

7



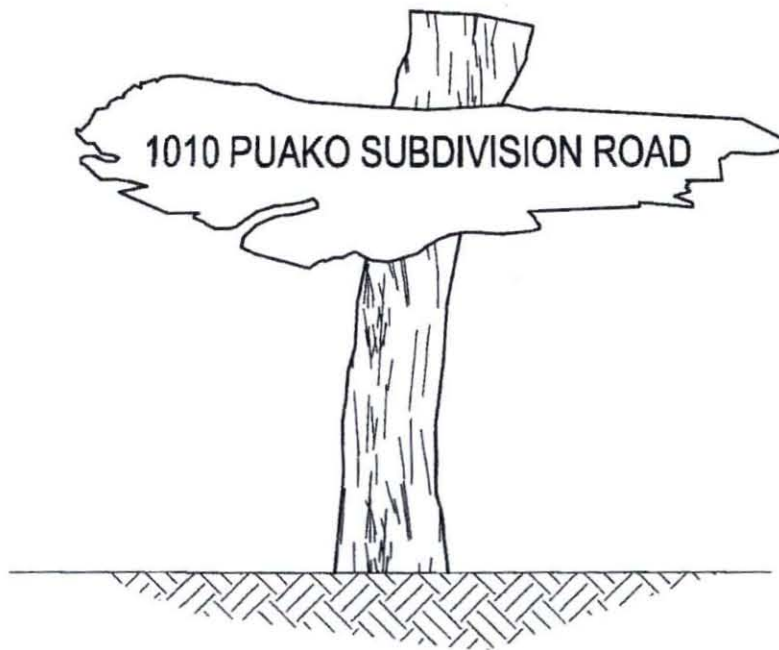
**TYP. ROAD SECTION WITH
PARTIAL R.O.W. IMPROVED**

SCALE: 1" = 10'



1010 PUAKO
SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
TMK: (3) 6-8-001 : 024, 060, & 063

EXHIBIT
8



STREET NAME SIGN & POST

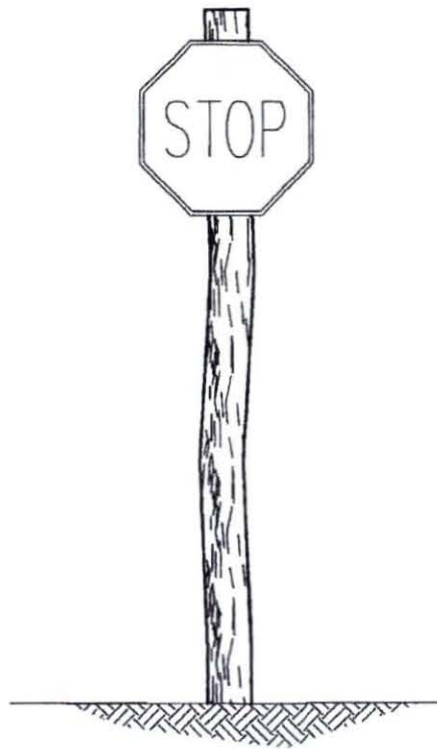
SCALE: NOT TO SCALE

1010 PUAKO

SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
TMK: (3) 6-8-001 : 024, 060, & 063

EXHIBIT

9



STOP SIGN POST
SCALE: NOT TO SCALE

1010 PUAKO
SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
TMK: (3) 6-8-001 : 024, 060, & 063

EXHIBIT
10

Ms. BJ Leithead Todd
December 6, 2012
Page 2

treatment system. The Association questions whether the County will be left to provide water service to the project should the individual treatment systems fail. The attempt to sell the subject property *and to require that many critical utilities be constructed and maintained by individual lot owners suggests that the Applicant is attempting to maximize its profit while limiting its expenditures.* While this may be a prudent project management strategy, the Association questions whether it is in the best interest of the County and nearby landowners.

In addition, the Applicant's website claims that it will be able to provide "more than enough volume for our project and the excess production may be sold to our neighbors to satisfy their water needs." The coordinated management of our groundwater resources is critical to protect them from overutilization and the resulting salinity increases that would affect the Association's nearby wells. The Association questions whether the Applicant and a future homeowner's association would be effective stewards and collaborators in the maintenance of the area's groundwater resources.

2. Cultural Resources

The Applicant has completed an archaeological assessment survey, but that survey has not been reviewed or approved by the State Historic Preservation Division ("SHPD"). Further, the Applicant did not include any information related to a cultural impact assessment of the subject property in its PUD Application. However, the Applicant states on its website that "[s]ome of the studies completed include the Archaeology Survey, [and] The Historical and Cultural Study." This statement does not reflect that SHPD has not had a chance to review the Applicant's claim that "there are no historic sites known or found on the entire 810 acres."

3. Existing Public and Private Community Resources

The Association is concerned about the impact of the 145 planned dwellings and resulting population increase on the roadways, parks, and coastal resources of the Mauna Lani Resort. The close proximity and large scale of the project is readily apparent in the Applicant's real estate listing brochure, snapshots of which have been attached as Exhibit A to this letter. The brochure highlights the "tidepools at Mauna Lani resort" and "[f]amous resorts close by." The Association is concerned that the Applicant has not contacted it to discuss potential impacts caused by the proposed Project.

4. Agricultural Use

As noted in the comment letter, the proposed development is not an agricultural use under HRS Ch 205 or the Hawaii County Zoning Code. The website and marketing brochure emphasize "green building" and recreation on the Kohala Coast, but do not discuss agriculture, except to vaguely note that it will be "preserve[d]."

ca des schutte

December 6, 2012

VIA FIRST CLASS MAIL TO:

Ms. BJ Leithead Todd
Planning Director
County of Hawai'i
101 Pauahi St., Suite 3
Hilo, Hawai'i 96720

Re: Puako 1010 PUD Application

Dear Ms. Leithead Todd:

The purpose of this letter addendum is to supplement my November 13, 2012 comment letter regarding the Application for Planned Unit Development ("PUD Application") relative to the 1010 Puako Development Project ("Project") on behalf of this firm's client, the Mauna Lani Resort Association (the "Association"). As noted in the comment letter submitted yesterday, the Association only recently received a copy of the Project's PUD Application. After submitting the comment letter we discovered a real estate sales listing and related website for the subject property. MLS #255177; http://www.puakoland.com/property_info.php. The listing and its related website both reinforce and intensify the Association's concerns regarding the Project. The comment letter discussed eleven separate areas of concern. This addendum will supplement the comment letter in five areas in particular: Domestic Water, Cultural Resources, Existing Public and Private Community Resources, Agricultural Use, and Improper Application of the PUD Process.

1. Domestic Water

The comment letter noted that the Applicant failed to provide a specific and concrete plan to develop a permanent water system in its PUD Application. In addition, most reasonable, practical water systems would require the use of County or State lands, which would trigger Hawaii Revised Statutes ("H.R.S.") Ch. 343. The MLS listing and related website, however, describe the project's water source as requiring the installation of a "reverse osmosis treatment system on each lot." The Association questions this proposal because there is a higher risk of systems failure in more than 150 individual systems than with a centralized potable water

6-8-CCF-24,60,63
Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 328-1175
E-mail: rvtousek@ca-des.com

6th Cir. W. 11/21/12
RECEIVED
U.S. DISTRICT COURT
HONOLULU, HAWAII

082615

Ca des Schutte Building
1900 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Tel: 808 321-9900
Fax: 808 321-9210
www.ca-des.com

Kona Office
75-170 Waialeale Road, Suite B-301
Kailua-Kona, Hawaii 96740
Tel: 888 329-5811
Fax: 888 329-1175

Exhibit A: snapshots and accompanying text from brochure for M.I.S. Listing #225177

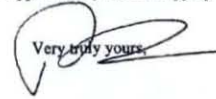


Famous resorts close by

Ms. BJ Leithead Todd
December 6, 2012
Page 3

5. Improper Application of the PUD Process

This large-scale project proposes to add 145 dwellings to a previously undeveloped area. The PUD process is not intended to and should not be used in this fashion. The Applicant boldly states on its website that "[h]aving successfully completed the necessary county approvals, 1010 Puako now has a clear path to entitlement." The Association urges the Planning Department to reject the PUD Application and encourage the Applicant to pursue the appropriate permitting processes.

Very truly yours,


Roy A. Vitousek III
for
CADES SCHUTTE
A Limited Liability Law Partnership

RAV

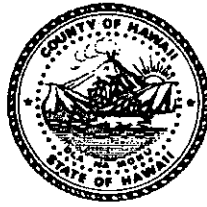
Exhibit A: snapshots and accompanying text from brochure for MLS Listing #225177

Here are the tidepools at Mauna Lani Resort



Fine dining & world class golf at the Kohala Resorts

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

October 3, 2013

Taber Anderson, Agent
Kamakoa Partners, LLC (The True Life Companies)
2555 East Camelback Road, Suite 770
Phoenix, AZ 85016

Dear Mr. Anderson:

SUBJECT: Application: PLANNED UNIT DEVELOPMENT - PUD-12-000023
Applicant: 1010 PUAKŌ
New Owner: KAMAKOA PARTNERS, LLC
Request: RESCISSION OF APPROVED PUD
Tax Map Key: 6-8-001:024, 060 & 063

This responds to your letter of August 7, 2013 and follow-up communications with staff requesting the rescission of Planned Unit Development Permit No. PUD-12-000023 which was granted approval on December 18, 2012 to the previous owner of the subject properties, 1010 Puakō, LLC.

By way of this letter, the Planning Director rescinds the approval of PUD-12-000023 and deems said approval null and void.

Sincerely,

Duane Kanuha
Planning Director

JRH:nci

P:\Admin Permits Division\PU D Permits\2012\PU D-12-000023 1010 Puako LLC\Rescission.doc

Taber Anderson, Agent
Kamakoa Partners, LLC (The True Life Companies)
Page 2
October 3, 2013

xc: Department of Public Works, Engineering (Hilo and Kona)
Department of Water Supply
Department of Environmental Management
Fire Department
Police Department
SUB-11-001094

Peter Hackstedde, President
Puakō Community Association
P.O. Box 44345
Kamuela, HI 96743

Mike Price, Chair
South Kohala Traffic Safety Committee
P.O. Box 383375
Waikoloa, HI 96738

Roy A. Vitousek III
Cades Shutte
75-170 Hualālai Road, Suite B-303
Kailua-Kona, HI 96740

West Hawai'i Planning Office
SKCDP Planner (via e-mail)
GIS Section, G. Bailado (via e-mail)
Long Range Planning Division (BOA)