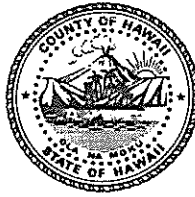


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 Fax (808) 961-9615

#### CERTIFIED MAIL

January 10, 1994

Steven S. C. Lim, Esq.  
Carlsmith Ball Wichman Murray Case Mukai & Ichiki  
121 Waiuanue Avenue  
Hilo, HI 96720

Dear Mr. Lim:

Planning Director initiated nullification of Special Permit No. 759 issued to International Assets, Ltd./Pualani Estates Inc. (Formerly Pualani Development Company Inc.) to establish a Wastewater Treatment Facility  
Tax Map Key: 7-5-17:portion of 19

The Planning Commission at its duly held public hearing on December 16, 1993 voted to nullify Special Permit No. 759 issued to International Assets, Ltd./Pualani Estates Inc. (formerly Pualani Development Co. Inc.) as requested by the applicant in its letter of October 4, 1993. Special Permit No. 759 allowed the establishment of a wastewater treatment facility on approximately 8 acres of land situated in the State Land Use Agricultural District. The project site is located west (makai) of the Hawaii Belt Road, approximately 0.5 miles north of the Hawaii Belt Road-Kuakini Highway intersection, Puapuaa 1st, North Kona, which allowed a temporary real estate site sales office. The property (portion of 'Iolani Subdivision) is located on the northeast corner of the Hualalai Road-Lako Street intersection, approximately 6 miles northwest of the Hualalai Road/Old Mamalahoa Highway intersection, Holualoa 1 & 2, North Kona, Hawaii.

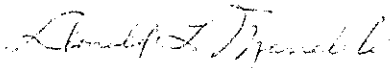
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Steven S. C. Lim, Esq.  
January 10, 1994  
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Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

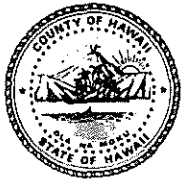
Sincerely,



Donald L. Manalili, Chairman  
Planning Commission

RKN:jdk  
LInter01.PC

xc: Honorable Stephen K. Yamashiro, Mayor  
Pualani Development Company  
Mr. Sidney Fuke  
Planning Director  
State Land Use Commission  
West Hawaii Office



# Planning Commission

Larry S. Tanimoto  
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

November 19, 1990

Mr. Sidney Fuke  
Sidney Fuke and Associates  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application  
Applicant: Pualani Development Company  
Tax Map Key: 7-5-17:Portion of 19

The Planning Commission at its duly held public hearing on November 8, 1990, voted to approve the above application, Special Permit No. 759, to allow the establishment of a wastewater treatment facility on approximately 8 acres of land situated within the State Land Use Agricultural District at Puapuaa 1st, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The project site is a portion of a 30-acre lot within the State Land Use Agricultural District. The Agricultural District may include areas which are not used for or which are not suited to agricultural and ancillary activities by reason of topography, soils, and other related characteristics. The Land Study Bureau classifies the productivity of the subject property as "Very Poor". The land is unclassified according to the ALISH Map. The applicant proposes to establish a nursery operation on the property which will use the treated effluent and composted sludge material. At the same time, the proposed wastewater treatment plant will maintain open space and agricultural use of the property. The proposed WTP will not remove valuable agricultural land from use

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and will not significantly affect agricultural potential of the region.

Construction of the secondary treatment facility will minimize potential health hazards to ground and surface water supplies. The WTP will replace at least 370 individual cesspools with secondary treatment facilities. Construction of the proposed facility is consistent with a goal set forth in the preamble of the Department of Health's rules calling for an end to depositing of untreated sewage into the environment. For the reasons stated above, it is determined that the establishment of a sewage treatment plant on the subject property will promote the effectiveness and objectives of Chapter 205, HRS, in the interest of the public health and welfare of area residents.

The desired use will not adversely affect the surrounding properties. The WTP will serve the needs of adjacent residential development by providing secondary treatment of wastewater. Thus, potential impacts of cesspool use on groundwater will be mitigated by the WTP. The Department of Transportation has expressed concern for odor and visual impacts. The project area is situated within a rapidly urbanizing area of North Kona. Urban development has been approved or proposed for lands to the east and west of the subject property. The applicant has stated that it intends to request approval for urban development on its lands to the south of the project site. Consideration should therefore be given to providing the maximum buffers between the treatment unit and neighboring properties in order to minimize potential negative odor, visual, and noise impacts. The 8-acre site is large enough to allow increased setbacks from property lines. It is therefore recommended that a minimum 150-foot setback from all property lines be established for the treatment unit, including any plant, facility, or equipment used in the treatment of wastewater, but not including effluent fields or business office.

The proposed use will not negatively impact archaeological features on the property. The State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources states that the project area has been adequately surveyed. It should be noted that the SHPD did not comment on all features within the area now proposed for development because of changes in the site plan by the applicant. The entire area has, however, been surveyed. Of the 26 historic sites in the

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vicinity of the project area, 17 sites were found to require further data collection. Two sites may contain burials. If it is determined by further research that burials are present within the project area, a preservation plan must be approved by the SHPD and its Hawaii Island Burial Council. It is recommended as a condition of approval that a detailed historic preservation mitigation plan be prepared and approved by the Planning Director in consultation with the State Historic Preservation Division prior to Plan Approval.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The applicant will be providing necessary sewage treatment facilities for residential development. The applicant has amended its proposal to avoid development within the 100-year flood plain in order to prevent potential flood hazards. All necessary services are available to the property.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The land has not been in agricultural use in some time. The subject property is situated within an area of North Kona which is rapidly being converted to urban-type use. The proposed wastewater treatment facility will facilitate the proposed urban use.

The use will not substantially alter or change the essential character of the land and the present use. Establishment of the WTP will render only a small area of the property unavailable for agricultural use. The rest of the site, including effluent fields, will remain in open space and plant nursery.

The request is not contrary to the General Plan. The project site is designated for Extensive Agriculture and an Urban Expansion Area on the LUPAG Map of the General Plan. Such a designation may allow for single-family residential development and related improvements provided applicable goals, policies and standards are met. The single-family residential development to be served by the WTP has been approved by the County Council as consistent with the General Plan. Use of a secondary treatment sewage system rather than individual cesspools to serve the proposed residential development will

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further the following goals, standards and policies of the General Plan:

ENVIRONMENTAL QUALITY

"Maintain and, if feasible, improve the existing environmental quality of the island."

SEWER

"Private systems shall be installed by land developers for major resort and other developments along shorelines and sensitive higher inland areas, except where connection to nearby treatment facilities is feasible and compatible with the County's long-range plans, and in conformance with state and county requirements."

LAND USE

"Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County."

SINGLE-FAMILY RESIDENTIAL

"To ensure compatible uses within and adjacent to single-family residential zoned areas."

Based on the above considerations, it is determined that the construction of a wastewater treatment facility is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to

the date by which plan approval must be secured. Plans shall identify structures, treatment works, flood zone, landscaping borders around treatment works, and paved driveway and parking areas associated with the wastewater treatment works. A 150-foot setback from all property lines shall be imposed for the treatment unit. Landscaping shall be designed to minimize any potential visual, odor and noise impacts to surrounding properties. Parking shall comply with the requirements of Chapter 25 (Zoning Code). For the purpose of this condition, definitions for "treatment unit" and "treatment works" shall be taken from Chapter 62, Title 11 of Department of Health Administrative Rules.

3. Construction of the wastewater treatment plant and related improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
4. No portion of the sewage treatment facility, effluent field, or related improvements shall be placed within Zones "AE" (100-year flood plain) or "X" (flood fringe) as shown on the Flood Insurance Rate Map (FIRM) prepared by the U.S. Army Corps of Engineers.
5. Access to the property and placement of the sewer transmission line across the Hawaii Belt Road shall be approved by the Department of Transportation - Highways Division.
6. An archaeological data recovery and preservation plan shall be submitted for review and approval to the Planning Director, in consultation with the Department of Land and Natural Resources Historic Preservation Division prior to submittal of plans for Plan Approval. The approved archaeological data recovery and preservation plan shall be implemented and completed prior to any land alterations on the property. Should test excavations determine that a burial is present, a burial treatment plan shall be submitted to the Department of Land and Natural Resources for approval prior to submitting plans for Plan Approval review.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or

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coral alignments, pavings, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

8. Comply with all other laws, rules and regulations, including those of the Department of Health.
9. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.
10. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.



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Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Fred Y. Fujimoto  
Chairman, Planning Commission

xc: Leon Daniell  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
State Land Use Commission  
State Department of Health  
State Department of Transportation - Highways Division  
DLNR-Historic Sites Section

**bcc:** Plan Approval Section

**bcc:** Subdivision Section