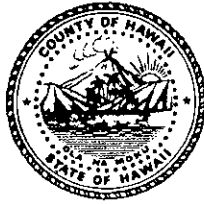


William P. Kenoi
Mayor



Bobby Jean Leithead Todd
Planning Director

Margaret K. Masunaga
Deputy Planning Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

March 30, 2011



Chrystal Thomas Yamasaki, LPLS
Wes Thomas Associates
75-5749 Kalawa Street
Kailua-Kona, HI 96740-1818

Dear Ms. Yamasaki:

TENTATIVE APPROVAL

SUBDIVIDER: LA VEREDA NEVADA INC.

"Lands of Kalihi Planned Unit Development" (PUD-07-000005)

Proposed Subdivision of a portion of Grant 3037,
Into Lots 1 through 27, Inclusive and Road Lot,
Kalihi, South Kona, Island of Hawai'i, Hawai'i
TMK: 8-9-003:005 (SUB-10-001036)

The subdivider is reminded that compliance with the conditions of approval of Planned Unit Development Permit PUD-07-000005 is required. This will include, but not be limited to, archaeological mitigation as required and generation of a public access plan.

Please be informed that Tentative Approval of the preliminary plat map dated November 2, 2010, is hereby granted with modifications and conditions.

The subdivider is now authorized to prepare detailed drawings of the subdivision plan in accordance with Chapter 23, Subdivision Control Code, County of Hawai'i, as modified. Before final approval can be granted, the following conditions must be met:

- 1) Water System
 - a) Provide a water system that is "functionally equivalent" to the Department of Water Supply (DWS) standards. Water system engineer to certify that this condition has been met.
 - b) Construct a private water system, which shall include, but not be limited to, required source, storage, and transmission systems, to service all lots within the proposed subdivision.
 - c) Water system to be designed to deliver water at adequate pressure and volume under peak-flow and fire-flow conditions in accordance with the Water System Standards, State of Hawai'i, and the Rules and Regulations of the DWS.

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- d) Service laterals that will accommodate the appropriately-sized meters to each lot.
 - e) Provide appropriate fire protection devices at each building site accessible to fire fighting apparatus. This shall be approved by the Hawai'i County Fire Department.
 - f) Submit water system construction plans and design calculations prepared by a professional engineer, registered in the State of Hawai'i, for review and approval.
 - g) Submit proposed deed conditions, covenants and restrictions encumbering each of the resultant lots stating that this is a private water system and that each lot owner will participate in a cooperative water company for operation and maintenance of the water system. This cooperative shall establish connection and water usage fees. Moneys collected shall be deposited in a secure account and be used for the repair and maintenance of the water system.
- 2) Drainage
- a) Identify all watercourses and drainage ways and designate areas within as "approximate areas of flood inundation."
 - b) Additional storm runoff due to development shall be disposed within the subdivision and shall not be discharged onto adjacent properties or roadways. For planned drywells, satisfy Department of Health (DOH) drywell requirements, including issuance of an underground injection control (UIC) permit to the subdivider.
- 3) Access and Roadway Improvements
- a) Access to the subdivision from County-maintained roads is via existing easements over nearby private properties. Verify the subdivision's rights of access over the private properties.
 - b) For primary access through easements over private properties (TMK's 8-9-003:009, 8-9-015:001, 002 & 003), construct minimum 20-ft. wide nondedicable agricultural pavement with 10-ft. wide stabilized grassed shoulders within the minimum 60-ft. wide right-of-way conforming to Department of Public Works (DPW) Standard Detail (Std. Det.) R-39.
 - c) The proposed subdivision Road Lot must terminate at the boundary of the Conservation District, and convert to a future road alignment with no right-of-way being established. No improvements will be permitted within the State Land Use Conservation District unless approvals are secured from the Office of Conservation and Coastal Lands.
 - d) For the interior subdivision Road Lot, construct minimum 20-ft. wide nondedicable agricultural pavement with 10-ft. wide stabilized grassed shoulders within the minimum 40-ft. wide right-of-way conforming to DPW Std. Det. R-39.
 - e) For all roadways where grades are 8% or greater, the roadway section shall be paved per DPW Std. Det. R-34.
 - f) All roadways 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 road should be based on the ASSHTO Guidelines for Geometric Design of Low Volume Roads.
 - g) Roadway design, including allowable street grades and minimum sight distance requirements, shall conform to the standards of the code.

- h) Subdivision Roadways shall remain in private ownership and be privately maintained, including streetlights/signs/pavement markings.
 - i) For all roadways, the project engineer shall certify the stability of the road shoulders and drainage system.
 - j) Install streetlights/signs/pavement markings as required by the Traffic Division, DPW or the State Department of Transportation (DOT).
 - k) Submit proposed street name conforming to the adopted street naming policy of the County of Hawai'i.
 - l) Submit construction plans and drainage report for review and comment. These plans shall also be reviewed by the Hawai'i County Fire Department.
 - m) Submit proposed deed conditions, covenants and restrictions encumbering each of the resultant lots stating that this is a private roadway system and that each lot owner will participate in a road maintenance or homeowner association. This association shall establish road maintenance fees. Moneys collected shall be deposited in a secure account and be used for the repair and maintenance of the roadway system.
 - n) Submit a Pedestrian Public Access plan for review and approval by the Planning Director. This access shall be a minimum 10-ft. wide, preferably within the 60-ft. wide access easements and within the 40-ft. wide Road Lot and future alignment and extend to the makai boundary of the property. The subdivider may wish to contact planner Larry Brown of this department for technical requirements of the plan.
- 4) Provide the State Department of Land and Natural Resources' Historic Preservation Division (DLNR-HPD) with mitigation plans for review and approval. Provide metes and bounds descriptions for any required preservation easements. These shall be shown on the final plat map.
- 5) All easements affecting proposed lots shall be identified for its purpose and to which proposed lot(s) and/or grantee(s) the easement is in favor of. This shall be shown on the final plat map.
- 6) Wastewater Improvements. All wastewater systems shall meet with the approval of the DOH.
- 7) Comply with all conditions of approved Planned Unit Development permit PUD-07-000005, particularly the following:
- a) Restrictive covenants in the deeds of all proposed agricultural lots within the Planned Unit Development shall give notice:
 - i) Of the private roads and water systems and that these were not constructed to County standards and are not maintained by the County.
 - ii) Of the prohibition of the construction of a second dwelling unit (additional farm dwelling) on each lot.
 - iii) The Planning Department, through its Director, shall be a party to the document.
- A copy of the proposed covenants to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. This written agreement shall be recorded at the Bureau of Conveyances of

the State of Hawai'i by the Planning Department at the cost and expense of the subdividers/owners. Upon our approval of the document, duly endorse it and return to this department with a check in the amount of \$30.00 payable to the Bureau of Conveyances for the recordation fee.

- 8) Property Tax Certification. Submit written proof that all taxes and assessments on the properties are paid to date.
- 9) Surveyor's Certification. Place property markers in accordance with the final plat map. Surveyor shall submit certification upon completion.
- 10) Final Plat Map. Submit **ten (10)** copies of the final plat map prepared in conformity with Chapter 23, Subdivisions, within one year from the date of tentative approval, on or before **March 30, 2012**. If not, tentative approval to the preliminary plat map shall be deemed null and void. Only upon written request from the subdivider and for good cause, the director may grant to the subdivider an extension of time within which the subdivider may file the final plat. As part of final plat map submittal, the director request an additional copy of the final plat map be submitted as a ".dwg" or ".dxf" diskette file prepared by CAD software.
- 11) Time Limit. Subdivider shall complete all requirements specified as conditions for tentative approval of the preliminary plat map within three (3) years of said tentative approval, on or before **March 30, 2014**. An extension of not more than two (2) years may be granted by the director upon timely request of the subdivider.

Please be aware that if at any time during the fulfillment of the foregoing conditions, should concerns emerge such as environmental problems or other problems which were earlier overlooked or not anticipated/accounted for in data/reports available to date, this could be sufficient cause to immediately cease and desist from further activities on the proposed subdivision, pending resolution of the problems. The Planning Director shall confer with the listed officers to resolve the problems and notify you accordingly.

No final approval for recordation shall be granted until all the above conditions have been met.

Land shall not be offered for sale, lease or rent until final approval for recordation of the subdivision is granted by the Planning Director or the proposed subdivision has been issued a preliminary order of registration by the Department of Commerce and Consumer Affairs (DCCA) in accordance with the requirements of Chapter 484, Hawai'i Revised Statutes (HRS).

There has been considerable legal controversy over subdivisions in the agricultural district, including the recent Kelly, et.al. v. 1250 Oceanside Partners, et.al., Civil No. 00-1-0192K. Because of the state of the law at this time, we recommend that subdividers in the State Land Use Agricultural district consult with, and rely on, independent legal counsel in deciding whether their subdivisions comply with the requirements of

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Chapter 205, HRS. We also recommend that you advise lot purchasers to consult with, and to rely on, independent legal counsel regarding permissible uses and the effect of Land Use Commission Rule 15-15-25(b), HRS Section 205-4.5, and Hawai'i County Planning Department Rule No. 13, on the requirements to build and occupy dwellings on lots within the subdivision.

Should you have any questions, please do not hesitate to contact Jonathan Holmes of this department.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:Inm

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Encs.: PPM (11-02-10)
Public Access Plan Guidelines

xc: Manager, DWS
Director, DPW
District Environmental Health Program Chief, DOH
District Engineer, DOT
DLNR-HPD, Hilo
L. Brown, Long Range Planning-Hilo
La Vereda Nevada Inc. w/Public Access Plan Guidelines

What should be included in a Public Access Plan

Each situation will be different, depending on permit conditions, the type of access it is, and its location. This list is intended to guide the applicant in creating a Public Access Plan that is consistent with intent of Chapter 34 (H.C.C.) and Chapter 205-A (H.R.S.). The applicant is responsible for the creation and submittal of a comprehensive and complete Public Access Plan acceptable to the Planning Director.

Location –

- A required public access easement must be sufficiently described by metes and bounds and encumbered to ensure accessibility from a public right-of-way. Metes and bounds descriptions and formal easements are not always necessary for SMA permits.
- In Subdivision maps, the easements should be clearly noted as “Public Access.” Any public access plan required by condition of a permit that does not require the granting of an easement shall include a map or site plan that clearly delineates the Public Access.
- When recordation is required, the Applicant shall provide the Planning Department with a copy of the recorded document.

Construction –

- The plan shall include a timeframe for completion of any required construction of the access as well as specifics on the type and width of surfacing, landscaping, accessory amenities, etc.

Parking –

- The plan must address the need for parking, including, but not limited to, the number of spaces, surfacing, and ADA accessibility.

Hours –

- The plan must specify the hours of availability for the Public Access.

Signage & sign replacement –

- The plan shall identify what Shoreline Public Access signage, if any, shall be installed and who will be responsible for its purchase installation, maintenance and replacement. Basic SPA signs may be purchased from the County via the Planning Department depending on availability. Otherwise, the Planning Department will provide the applicant with appropriate signage specifications and provider information so the applicant may acquire signage independently.

Rules –

- Any special or site specific rules the applicant deems necessary shall be clearly articulated in the plan and approved by the Planning Director

Maintenance responsibility –

- The plan shall clearly identify who is responsible for any maintenance requirement to ensure the required Public Access and any required amenities remain in a suitable condition for use as they are intended.