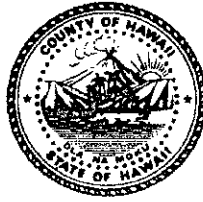


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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County of Hawai'i
PLANNING DEPARTMENT

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September 21, 2012



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

Dear Ms. Yamasaki:

TENTATIVE APPROVAL
SUBDIVIDER: RULLO, Donald S.
"Ho'omau I Mua Planned Unit Development"
Proposed Subdivision of Lot 8,
Being a Portion of Grant 2571,
Into Lots 1 through 33, Inclusive and Lot R-1 (Road Lot)
'Opihiale 1st, South Kona, Island of Hawai'i, Hawai'i
TMK: 8-7-013:006 (SUB-11-001110)

Please be informed that Tentative Approval of the preliminary plat map dated August 11, 2011, is hereby granted with modifications and conditions.

This application is being processed as a result of an approved Planned Unit Development Permit (PUD-05-000002) allowing for variances from the Subdivision and Zoning Codes. A water system Variance Permit (VAR-06-075) was also issued for this project. The subdivider is reminded that compliance with conditions of approved PUD and VAR Permits are required, especially installation of a private water system to service the lots; and public access to and along the shoreline. There are also historic sites located on the property that will require mitigative measures.

During the processing of said PUD, it was also determined that the proposed subdivision is exempt from the Planning Commission Rule No. 9 Special Management Area (SMA) and Conservation District Use Permit Application (CDUA) requirements.

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) Archaeological and Historical
 - a) Submit a Data Recovery Report to the Department of Land and Natural Resources' Historic Preservation Division (DLNR-HPD) in response to the previous Data Recovery Plan.
 - b) Prepare an Archaeological Inventory Survey of such scope as may be required by the DLNR-HPD. Contact Michael Vitousek at (808) 652-1510 or Michael.vitousek@hawaii.gov for guidance on this matter.
- 2) Public Access
 - a) In consultation with the Planning Department, Na Ala Hele Trail and Access Program and the Ala Kahakai National Historic Trail Program, prepare a Shoreline Public Access Plan that addresses all elements in our "Guide to What Should be Included in a Public Access Plan" (enclosed) and provides for lateral shoreline and mauka-makai public access through the subject property.
 - b) The Shoreline Public Access Plan shall be submitted to and approved by the Planning Director.
- 3) Water System
 - a) Provide a water system substantially as provided for in approved VAR-06-075. This will include, but not be limited to, source (single well with primary and back-up pumps), storage (two (2) minimum 30,000 gallon tanks) and distribution system to each lot (except proposed bulk Lot 33).
 - b) Submit water system construction plans for approval by affected agencies. These shall also be submitted to the Hawai'i County Fire Department (HFD).
 - c) Pay plan review, testing and inspections fees as required by the Department of Water Supply (DWS).
- 4) 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.
- 5) Access and Roadway Improvements
 - a) For Lots 2, 3 & 4, encumber the three (3) side-by-side flag poles with a common access easement. Upon development of the three (3) lots, they shall share one point of entry.
 - b) 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.
 - c) Construct minimum 20-ft. wide agricultural pavement with stabilized grass/landscaped shoulders/swales within a minimum 50-ft. right-of-way conforming to Department of Public Works (DPW) Standard Detail (Std. Det.) R-39. Where grades are 8% or greater, the paving section shall conform to Std. Det. R-34.

- d) Submit proposed street names conforming to the adopted street naming policy of the County of Hawai'i.
 - e) Install streetlights (including at the Ahe Kolo Place and Māmalahoa Highway intersection), signs and pavement markings as required by the Traffic Division, DPW and as allowed by PUD-05-000002.
 - f) Submit construction plans and drainage report for review and comment. These shall also be submitted to the HFD.
- 6) 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. These shall be shown on the final plat map.
 - 7) Property Tax Certification. Submit written proof that all taxes and assessments on the property are paid to date.
 - 8) Surveyor's Certification. Place property markers in accordance with the final plat map. Surveyor shall submit certification upon completion.
 - 9) 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 **September 18, 2013**. 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, provide an additional copy of the final plat map as a ".dwg" or ".dxf" diskette file prepared by CAD software. In the alternate, a digital copy of the final plat map may be e-mailed to the Tax Maps and Records Supervisor at planning@co.hawaii.hi.us.**
 - 10) 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 **September 18, 2015**. 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).

Chrystal Thomas Yamasaki, LPLS
Wes Thomas Associates
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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 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 feel free to contact Jonathan Holmes of this department.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:lnm

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Encs.: PPM (08-11-11)
Guide to Public Access

xc: Manager, DWS
Director, DPW
District Environmental Health Program Chief, DOH
District Engineer, DOT
Planning Department-Kona
DLNR-Historic Preservation Division (Kapolei)
DLNR-Historic Preservation Division (Hilo)
Na Ala Hele Trails & Access
Ala Kahakai National Historic Trail
Donald S. Rullo w/ **Guide to Public Access**
PD-Long Range Planning Division
PUD-05-000002; SUB 7235; VAR-06-000075

1. LARGE PPM NOT SCANNED.