

HŌKŪLIʻĀ

PLANNING DEPARTMENT  
County Of Hawaii  
75-5706 Kuakini Hwy. #109  
Kailua-Kona, HI 96740

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PLANNING DEPARTMENT  
COUNTY OF HAWAII

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January 14, 2003

Mr. Christopher J. Yuen, Planning Director  
County of Hawaii Planning Department  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

**Subject: 2003 Annual Report**  
**Development Agreement No. 1**  
(Per 812) **Change of Zone Ordinance No. 96-7**  
(Per 765) **Change of Zone Ordinance No. 96-8**  
**Special Management Area Use Permit No. 356**

Dear Mr. Yuen:

*Report  
in Per 765*  
I am pleased to submit the following annual reports for Development Agreement No. 1 ("Agreement") by and between the County of Hawaii ("County") and Oceanside 1250 ("Oceanside"), in accordance with Item 24 of said Agreement, Condition No. R of Change of Zone Ordinance No. 96-7, Condition No. V of Change of Zone Ordinance No. 96-8 and Condition No. 13 of Special Management Area Use Permit No. 356.

In April of 1998, Oceanside 1250 and the Hawaii County entered a Development Agreement to identify the obligations of Oceanside, to provide assurance that these obligations are met in a timely manner, to provide assurances to Oceanside that it may complete full development of the Hokukano Project ("Project") and the Mamalahoa Highway Bypass ("Bypass"), to allow Oceanside and the County to enter a reimbursement agreement for costs associated with the Bypass and to reduce or eliminate uncertainty in the responsibilities of Oceanside and the County relating to the development of the Project and the Bypass. The scope and purpose of the Development Agreement is consistent with Ordinance 93-37, the Development Agreement Code and Rule 1, which implements procedures for the application, preparation and administration of development agreements as provided by Ordinance 93-37. The Development Agreement was executed and approved by the Mayor on April 20, 1998.

#### Golf Course

The Golf Course was completed in July of 2002. Detailed compliance with the conditions of approval of Use Permit No. 115 and SMA Permit No. 345 for the golf course will be provided in the 2003 annual reports for these permits October of 2003.

A RARE FIND IN THE PACIFIC ISLES.

1250 Oceanside Partners · 78-6831 Ali'i Drive · Suite K15 · Kailua-Kona, Hawai'i · 96740-2440

Mr. Christopher J. Yuen, Planning Director  
January 14, 2003  
Page 2 of 4

### **Mamalahoa Highway Bypass**

The Mamalahoa Highway Bypass is in part, designed to address existing traffic conditions in the area and to provide an alternative route for interregional traffic between North and South Kona in support of the County's long-range traffic plan. The Draft Environmental Impact Statement Final Environmental Impact Statement (DEI and FEIS) were both approved and accepted by Department of Public Works. The construction plans are in at the County for review and approval. SHPD approved the Archaeological Inventory Survey on November 21, 2001. Construction work began in January 2002.

Oceanside has completed a purchase agreement with each of the landowners along the Bypass Route except for several owners at the south end who are still reviewing their documents, and the owners at the Coupe/Richards property. That latter property is the subject of a Condemnation action in which the Circuit Court has currently stayed the Order of Possession. The County has appealed the court's ruling and is in the process of seeking a new Condemnation Ordinance from the County Council that is not being brought pursuant to the Development Agreement between Oceanside and the County.

### **Coastline Park**

Oceanside obtained approval of the Public Access and Shoreline Management Plan on January 29, 1999. This plan addresses the public access areas, perpetual access covenants, archaeology, marine resources and related improvement measures. Details of the provisions for historical sites were developed and will be implemented as part of the comprehensive archaeological mitigation plan that was approved by SHPD on September 7, 1999 and September 15, 1999. We are in the process of completing an Archaeology Inventory Survey for the State Parcel at Hokukano Village.

In addition, Oceanside obtained approval of both the CDUA HA-2977 and SMA Permit No. 401 that outline the proposed facilities to be developed in the Coastline Park. We are in the process of preparing the necessary documents as required and anticipate the preparation of construction plans as required by the conditions of approval of both permits to ensure that they are complied with. The annual report required by SMA Permit No. 401 will provide greater detail of our progress on this component of the Project.

The first phase of the coastline park with the required public parking stalls was opened on August 1, 2002.

Mr. Christopher J. Yuen, Planning Director  
January 14, 2003  
Page 3 of 4

### **Members' Lodge**

We have conducted various architectural and planning studies for the lodge facilities, its development, phasing and scheduling. SMA Permit No. 403 for the facility was approved by the Planning Commission on May 5<sup>th</sup>, 2000. In December of 2001, we submitted an application for Final Plan Approval to the Planning Department. An administrative time extension was granted by the Planning Director on February 18, 2002, to comply with all conditions of approval of Change of Zone Ordinance No. 97-36 by March 13, 2007. However, the Member's Lodge is the subject of on-going litigation. At this time, the Circuit Court has ruled that the zoning is invalid as "spot zoning" and has invalidated the underlined Ordinance. The Circuit Court trial with respect to Oceanside's "vested rights" in the Lodge has not been scheduled. Oceanside does not agree with the court's ruling and intends to appeal to the Hawaii Supreme Court at the appropriate time.

### **Archaeology**

Oceanside obtained approval from SHPD on September 7, 1999 and September 15, 1999 of the Archaeological Mitigation Plan that includes a data recovery plan, an interim protection/preservation plan, interpretive plan and a monitoring plan. We are currently in the process of preparing the final Preservation Plan in consultation with DLNR and Hawaiian community organizations. As required by the terms of the land use entitlements for the Project, approved mitigation measures are being implemented prior to or in conjunction with land alteration on the property. In addition, the Circuit Court has ordered Oceanside to submit another Burial Treatment Plan to the Hawaii Island Burial Council relating to a number of "inadvertent" burial sites discovered during archaeological "sweeps" of the property. While Oceanside does not agree with the court's ruling and intends to appeal, it will submit the new Burial Treatment Plan as ordered.

### **Subdivision**

On December 1, 2000, the County issued Final Subdivision approval for Phase II that includes 98 lots plus roadways and easements for the second increment of residential/agricultural lots in the project. Phase I subdivision improvements are currently under construction including all of the underground utilities and roadway improvements.

### **Other Items**

There are no other items to report that affect the status of the Project or the Bypass as it relates to the terms of the ordinances. Oceanside 1250 intends to meet all of the terms and comply with all of the conditions that are specified within each ordinance.

Mr. Christopher J. Yuen, Planning Director  
January 14, 2003  
Page 4 of 4

For your reference, we have attached a Matrix chart for the Development Agreement No. 1, Change of Zone Ordinance No. 96-7, Change of Zone Ordinance 96-8 and Special Management Area Use Permit No. 356 that indicates the status and compliance for each condition for the Development Agreement, the two change of zone ordinances and the SMA permit.

I trust the above provides a useful description of the status of development and compliance with the conditions of approval for the ordinances. Should you have any questions regarding this report, or if you require further information regarding the Project, please contact me at (808) 324-4212.

Sincerely,

**OCEANSIDE 1250**

*Jeanie Chung for Bob Stuit*

Robert A. Stuit  
Vice President of Planning and Design

Attachments

cc: Daryn Arai (County of Hawaii Planning Department, Kailua-Kona)