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• Planning • Variance • Zoning
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February 29, 2016

Mr. Daniel Orodener, Executive Officer

Land Use Commission
STATE OF HAWAII
P.O. Box 2359
Honolulu, HI 96804

Dear Mr. Orodener:

Subject: Annual Report – Docket No. A06-767
Waikoloa Mauka, LLC, TMK: (3) 6-8-002: 016

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LAND USE COMMISSION
STATE OF HAWAII

Pursuant to Condition 21 regarding the subject matter, please find attached the subject matter. We apologize for not being able to submit one last year and intent to submit another one around this time next year.

Inasmuch as very little progress has been made since the last report, the updates are noted in bold, using the existing report. Please note that a copy of this letter with attachment has been also sent to the County of Hawai'i Planning Department and the State Office of Planning.

We trust that this fulfills the annual report requirement. If not or if there are questions on this matter, please feel free to contact this office or the Petitioner. Again, thank you very much for this reminder.

Sincerely,

SIDNEY M. FUKE
Planning Consultant

Enclosure – Annual Report

Copy – County of Hawai'i Planning Department w/ enclosure
State Office of Planning w/ enclosure
Waikoloa Mauka, LLC w/ enclosure

ANNUAL REPORT - 2016
WAIKOLOA MAUKA, LLC - DOCKET NO. A06-767

This report is being submitted pursuant to Condition 21 which requires the submittal of annual reports to the State Land Use Commission (“Commission”), Office of Planning (“OP”), and County Planning Department (“CPD”) regarding Waikoloa Mauka, LLC’s (“Petitioner”) progress in complying with the conditions imposed by the Commission as outlined in Docket No. A06-767 (“Docket”)

The last annual report was filed in a letter, dated March 18, 2014. This report is intended to cover all activities to date, with the next due on or about March 2017.

I. GENERAL BACKGROUND

A. Project Location

The subject site, consisting of approximately 731.579 acres, is located on the south side of Waikoloa Road near its intersection with Paniolo Avenue in Waikoloa, South Kohala, Island and County of Hawai`i. The Waikoloa Stables is located directly across or north of the subject site.

B. Project History and Proposed Development

In 1990, the former owners of the subject property, Waikoloa Development Company, requested and received County rezoning approval (Ordinance No. 90 160) for approximately 761 acres of land from Unplanned (U) and Multiple-family Residential (RM-1.5) to Residential-Agriculture (RA-1a) and Open (O). This action allowed the development of a golf course residential subdivision consisting of 398 1-acre sized lots. The approval was subject to a number of conditions, including development timetable.

In 1995, conditions B and C of Ordinance No. 90 160 were amended. The amendments (Ordinance No. 95 51) required that final subdivision approval of no less than 175 lots be secured within a 5-year period. It further required the construction of channelized improvements at the intersection of Waikoloa Road and Pua Melia Street/Paniolo Avenue before June 30, 1996, as well as the construction of traffic signalization improvements when the number of lots exceeded 350 or as may be required by the Department of Public Works.

Pursuant to the above ordinance and its amendment, tentative subdivision approval was initially granted in 1993 and subsequently amended on March 3, 1994. The channelization improvements were completed in 1996. As allowed by the rezoning ordinance, an administrative time extension was granted by the Planning Director on May 9, 2000 to secure final subdivision approval. This extension was to March 21, 2005.

On January 5, 2005, the former owner requested an amendment to Condition B of Ordinance No. 95 51 which would allow final subdivision approval to be secured before March 21, 2015. During the time the request was being considered by the County Council, Waikoloa Mauka, LLC ("Petitioner") purchased the subject property on or about September 2005. The Council subsequently approved the request as Ordinance No. 05 157, but added more conditions. One of these conditions required the affected area be reclassified into the State Land Use Rural district before final subdivision approval could be secured.

The applicant then proceeded to prepare an Environmental Impact Statement and submitted its request to reclassify the site into the State Land Use Rural District. This request was ultimately approved by the State Land Use Commission on June 10, 2008 in Docket No. A06-767.

While the reclassification request was being considered, the Petitioner requested further amendments to Ordinance No. 05 157 relating to the nature of the traffic improvements at the intersection of Waikoloa Road and Pua Melia Street/Paniolo Drive and allowing another access to the subject project. Relative to the intersectional improvements, at the request of the councilmember and a number of residents of the Waikoloa community, the Petitioner requested that the improvements be changed from a traffic signal to a roundabout system.

Although the requests were approved as Ordinance No. 07 127 and became effective on September 28, 2007, additional conditions were imposed. One of these required securing final subdivision approval within five (5) from the effective date of the amendment (September 28, 2012 with no allowance for an administrative time extension and not ten (10) years or March 2015 deadline as originally allowed by the former ordinance.

The Petitioner then requested additional time to address this requirement. On March 21, 2013, a rezoning time extension ordinance (Ordinance No. 13 29) became effective. This ordinance required that final subdivision approval of no less than fifty (50) lots be secured before March 21, 2018 (5 years) and that final subdivision approval for the balance be secured no later than March 21, 2023 (10 years).

Please also be informed that, to date, tentative subdivision approval was issued on April 5, 2007; the on-site infrastructure construction plans have been prepared; the construction plans for the roundabout improvements at the Waikoloa Road/Paniolo intersection have been completed; right-of-access to the site has been issued to the U.S. Army Corps of Engineers for the purpose of conducting remedial investigation and removal of any residual munitions, as is common in this area; and efforts to dedicate 10+ acres of land situated proximate to the subject site to the County of Hawai'i for a community center and park are on-going. This is to help address the County rezoning park and recreation fair share requirement for the proposed 398-lot subdivision.

Work on all of the above is still on-going. Final subdivision approval cannot be secured until all of the above, including affordable housing, can be fulfilled. The Petitioner is attempting to address these numerous requirements in a timely manner.

II. CONDITIONS OF APPROVAL (DOCKET NO. A06-767)

In addition to having to comply with the conditions of approval of the County Rezoning Ordinance affecting the subject site, the Petitioner is also required to fulfill the twenty four (24) commissions imposed by the State Land Use Commission. These conditions and status are noted herein.

A. Compliance with Representations to the Commission

The concept of the project has not changed, which is to develop 398+/- 1-acre sized lots. The area intended for a golf course will be used for both drainage ways as well as open passive recreational areas that will include walking trails.

B. Completion of Project

The Commission required that the project be completed no later than ten (10) years of the date of the Commission's decision or June 10, 2018. "Buildout" was defined as having completed the backbone infrastructure to allow for the sale of individual lots.

Notwithstanding the County's rezoning time extension of fifty (50) lots by March 21, 2018 and the balance by March 21, 2023, the Petitioner understands that the more stringent performance requirement of buildout by June 10, 2018 is binding. The basic on-site construction plans have been completed. The Petitioner will thus work towards fulfilling that performance requirement.

Although nothing physical has occurred on the ground to date, the Petitioner has been working diligently to secure a development partner, as well as trying to address other conditions of approval as will be discussed below.

C. Reversion on Failure to Complete Project

The Petitioner understands that its failure to complete buildout of the project or secure a bond will be subject to possible further review by the Commission to determine whether the property should revert to its previous Agricultural classification.

D. Water Resource Allocation

The Petitioner has been working with the private water company in this area on this

matter. Please note that the County rezoning of the property also requires provision of a potable water system that is in compliance with the Department of Water Supply's requirements prior to receipt of final subdivision approval.

E. Water Conservation Measures

~~The Petitioner will be implementing water conservation measures particularly as they~~ might relate to irrigation systems. The goal is to require drought tolerant plants as part of the covenants, conditions, and restrictions ("CCRs"). The Petitioner will provide a copy of the CCRs to the Commission within thirty (30) days after they become enforceable.

F. Transportation

To date, no agreement has been reached with the State Department of Transportation ("DOT") with respect to the intersectional improvement requirements at Waikoloa Road and Queen Ka'ahumanu Highway. This matter has to be coordinated with the time/share resort project (Hilton Grand Vacation Club) located on the *makai* side of the Queen Ka'ahumanu Highway, who also has an obligation to improve this intersection. This discussion is still on-going. **It should be noted, however, that improvements at this intersection are now being undertaken by the developers of the Hilton Grand Vacation Club. As such, the Petitioner's participation on this soon-to-be completed improvement may not be applicable.**

Likewise, no agreement with the DOT has been reached with respect to improvements to the Waikoloa Road/Mamalaho Highway intersection. The Petitioner understands that these need to be done prior to receipt of final subdivision approval and will work towards fulfilling this obligation.

G. Street Lights

The project's lighting system will be shielded or low sodium to address not only impacts to the flight of birds but astronomy activities.

H. Plant Species

The Petitioner will try to minimize destruction of wiliwili trees in this area. Over the past few years, the Petitioner has allowed the Waikoloa Outdoor Circle and the Waikoloa Dry Forest Initiative access through the project area to maintain the wiliwili trees and other dry forest trees located on Waikoloa Village Association property situated adjacent to the

subject property. The Petitioner intends to coordinate its on-site preservation efforts, wherever possible, with those organizations.

I. Affordable Housing

The Petitioner has looked at several options to address this requirement in accordance with the County Affordable Housing Code. These options include satisfying the requirements on site or off-site, particularly as it owns properties within Waikoloa Village that are zoned for multiple-family uses. There could also be a variation of on- and off-site units.

The Petitioner has been working with the County Office of Housing and Community Development in setting aside lands within the petitioned area for the development of rental units. That discussion is on-going.

In either event, before final subdivision approval for even the first 50 lots can be secured, this requirement will have to be fulfilled. This will require an agreement with the County Office of Housing and Community Development. When that is done, pursuant to this condition, a copy will be provided the Commission.

J. Previously Unidentified Burial/Archaeological Sites

The Petitioner understands that during any land disturbance activities, work will have to cease in the event inadvertent finds are made and proceed only upon clearance from the State Historic Preservation Division (“SHPD”). This condition, which is also found in concept in the County rezoning ordinance affecting the subject site, will be adhered to.

K. Archaeological Site 22

The Petitioner will consult and comply with SHPD’s recommendation regarding this site. To date, the cultural value of this site has not been definitively ascertained. As such, further work will be done by the Petitioner and, in the end, the recommendation of SHPD will be adhered to, be it for data recovery or preservation.

L. Drainage

A preliminary drainage plan was prepared and submitted to the County Department of Public Works (“DPW”) for its review and approval in conjunction with the on-site infrastructure plan. The plan may be modified, given the Petitioner’s plans of now using the former planned golf course area to accommodate potential on-site drainage. In either

event, the drainage plan and infrastructure construction plans will have to be approved before construction activities can take place.

M. Solid Waste

A Solid Waste Management Plan will be developed and submitted for the review and approval of the County Department of Environmental Management prior to receipt of final subdivision approval. Please note that this is also a requirement of the County rezoning ordinance affecting the subject site.

N. Civil Defense

Petitioner will comply with this requirement by either funding or constructing its fair share of an adequate solar-powered civil defense measure that services the subject site.

O. Established Access Rights Protected

The Petitioner will allow access through the subject area to legitimate native Hawaiian claims for the purpose of exercising their subsistence, cultural and religious practices.

P. Air Quality Monitoring

If required by the Department of Health, the Petitioner will participate, on a fair share basis, in an air quality monitoring program.

Q. Best Management Practices ("BMP")

The Petitioner intends to integrate BMP not only in its infrastructural design but in its implementation. Contractors will be required to review and comply with applicable State regulations regarding this aspect.

R. Energy Conservation Measures

The Petitioner, through its CCR's, will encourage homeowners to employ energy conservation measures, such as the use of solar and/or photovoltaic systems, placement of windows to take advantage of wind patterns, and the like.

S. Notice of Change of Ownership

There has been no change of ownership relative to the Petitioned area.

T. Annual Reports

This report is being submitted, albeit **a year** delayed, pursuant to this requirement.

U. Release of Conditions

To date, the Petitioner has not filed a request or motion to be relieved of any of the conditions. It intends to in the future as more conditions are fulfilled.

V. Notice of Imposition of Conditions

The Petitioner's then attorney submitted two letters to the Commission. One was dated June 20, 2008, wherein a copy of the recorded notice to imposition of the Commission's conditions was transmitted. The other, dated August 5, 2008, requested the review and approval of the conditions to be recorded, but also included the recorded conditions, dated August 11, 2008.

W. Recordation of Conditions

This was covered in item V above.