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• Planning • Variance • Zoning
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June 9, 2014

LAND USE COMMISSION
STATE OF HAWAII
2014 JUN 10 A 8:04

Mr. Daniel Orodener, Executive Officer
Land Use Commission
STATE OF HAWAII
P.O. Box 2359
Honolulu, HI 96804

Dear Mr. Orodener:

**Subject: Annual Report – LUC Docket No. A83-549 (Gamrex, Inc.)
Holualoa 1st and 2nd, North Kona, Hawai'i
TMK: 7-6-021: 004, 009 through 013, 015, 017**

Pursuant to your letter of May 7, 2014 relating to the subject matter, please find attached a hard copy of the current annual report. On behalf of the current owner, Kona Vistas LLC, we apologize for this delinquent submittal.

By a copy of this letter, the report is also being provided to the State Office of Planning and the County of Hawai'i Planning Department. A pdf version of this letter and report will be emailed to you. Should you find that inadequate, please let me know.

I trust that everything is in order for your acceptance of this report. If not or if there are any questions on this matter, please feel free to contact me. Thank you very much.

Sincerely,

SIDNEY M. FUKE
Planning Consultant

Enclosure

Copy – State Office of Planning w/ enclosure
County of Hawai'i Planning Department w/ enclosure

ANNUAL REPORT - 2014
KONA VISTA, LLC - DOCKET NO. A83-549

On December 13, 1983, Increment I consisting of approximately 124 acres of the subject properties was reclassified into the Urban District, with conditions by the State Land Use Commission ("LUC") located in Kailua-Kona on the island of Hawai'i. More specifically, the subject area is located generally on the north and south side of Lako Street, *mauka* side of the Kuakini Highway. Nearly 10 years later on May 10, 1993, the second increment, consisting of approximately 49 acres, was approved with additional conditions by the LUC.

In conjunction with the approval of Increment I, Condition C required the submittal of annual progress reports to the LUC, Department of Planning and Economic Development (now Office of State Planning and hereinafter referred to as "OSP"), and Hawaii County Planning Department ("CPD"). A similar annual reporting condition (Condition 3) was also attached to the approval of the second increment.

This report is being submitted pursuant to those conditions. An annual report was filed with both the CPD and the LUC in a letter, dated January 9, 2006. Because of ownership changes and other factors, no annual reports were filed since the January 2006 submittal. As such, this report is intended to cover all activities to date. Another report will be due before the anniversary date of the approval, which would be near the end of next year.

I. GENERAL BACKGROUND

A. Project Location

The subject site, originally consisting of approximately 171+/- acres, is located in Kailua-Kona on the island of Hawai'i. More specifically, the subject area is located *mauka* or east of the Kuakini Highway and, generally, bordering the north and south sides of Lako Street.

B. Project History and Proposed Development

Although the property was incrementally reclassified by the LUC, the initial County rezoning ordinance No. 84-23 covered the entire 171+ acres, subject to the incremental provisions. The rezoning ordinance allowed the development of a single-family residential subdivision on 103+ acres of land and multiple family residential projects on approximately 68 acres of lands. That ordinance was subsequently amended a number of times, the most recent occurring on November 27, 2002. The latest ordinance is referred to as Ordinance No. 02-131.

A Special Management Area Use Permit (SMA No. 430) was issued by the County Planning Commission on May 5, 2003 relating to the implementation of a drainage plan within the project site as well as to make a site *makai* of the project area conveyable to the County as part of the developer's affordable housing commitment. Please note that only the area *makai* of the project site fell within the County SMA area.

Pursuant to those basic land use entitlements, the County granted Final Subdivision approval for Units 1, 2, 3, and 4, consisting of a total of 202 residential lots.

Very briefly and relative to the multiple-family residential component, a Plan Approval was filed and approved for an affordable housing project by another developer (1250 Oceanside Partners) in 2007. However, that developer did not proceed with the project and the Plan Approval, by operation of law, became void. Hence, effectively, there are no approved or pending plans affecting this area.

It should be noted that the development of this area will require completion of significant on-site drainage improvements, which, when completed would enable the Petitioner to convey the agreed-upon 12+ acres of land to the County for affordable housing.

II. CONDITIONS OF APPROVAL (DOCKET NO. A83-549)

In addition to having to comply with the conditions of approval of the County Rezoning Ordinance affecting the subject site, the Petitioner (formerly Gamrex, Inc. and since 2006, Kona Vistas, LLC) was and is still obligated to fulfill the various conditions imposed by the LUC in conjunction with Docket No. A83-549. These conditions and status are noted herein.

Increment I

- A. *Petitioner shall provide housing opportunities for low and moderate income Hawai'i residents prior to assigning or transferring (except by way of mortgage or assignment in security) its interest in the subject property by offering for sale, on a preferential basis, on its own or in cooperation with either or both the Hawai'i Housing Authority or the County of Hawai'i, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawai'i of low and moderate family income as determined by the Hawai'i Housing Authority or County of Hawai'i from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e.,*

Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income families.

In compliance with this requirement, the former developer and its successors (Kona Vistas LLC) entered into an affordable housing agreement with the County of Hawai'i. This agreement called for the dedication of 12 acres of land to the County for affordable housing. Its conveyance, however, was subject to the completion of a flood control system that bisects the planned multiple-family project area, as well as the site to be dedicated to the County. To date, because the flood control project has not been completed, the conveyance has not occurred.

As noted earlier, the plan to develop the multiple-family site (which would have addressed the needed drainage improvements to make the affordable housing site conveyable) by 1250 Oceanside Partners did not materialize. As such, Kona Vistas, LLC is still looking for a partner or independent developer to develop the multiple-family residential project. More will be reported on that in the next annual report.

It should be noted that the Petitioner has already paid in excess of \$460,000 to secure water commitments for 256, commitments necessary to assure a project on this site can proceed. Annual payments of \$38,400 are being made to retain these commitments.

B. In making the ultimate decision as to whether a historical or archaeological site is significant enough to warrant preservation, the Petitioner shall consult with and accept the decision of the Historic Preservation Officer of the Department of Land and Natural Resources.

This was routinely done prior to and during the construction phases of this project. For example, on February 17, 2005, prior to the approval of a grading permit covering the single-family residential area, a request for SHPD determination of "No Historic Properties Affected" was filed. It was subsequently accepted and the grading permit was issued. This condition must be adhered to in all subsequent land disturbance activities affecting the development of the multiple-family residential site.

C. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and Hawai'i County Planning Department as to its progress in satisfying these conditions.

As noted earlier, the last report on file was dated January 9, 2006. As such, this report is intended to fulfill this requirement.

- D. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.*

To date, neither the former nor current Petitioner has filed any such motion.

Increment II

- 1. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to do so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.*

The concept of the project has not changed, which is to develop a series of single-family and multiple-family residential units. Essentially, the single-family residential component has been completed, and only the multiple-family residential component remains.

- 2. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, or place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.*

On July 10, 2006, the LUC approved a change in the name of the Petitioner from Gamrex, Inc. to Kona Vistas, LLC. The single-family residential areas have been essentially developed. The only undeveloped portion is the planned multiple-family residential area. Thus, in the event the Petitioner plans to sell or alter the ownership of this area, it will give notice to the Commission.

- 3. Petitioner shall provide annual progress reports to the Land Use Commission, the Office of State Planning, and the County of Hawai'i Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.*

As noted earlier, the last report on file was dated January 9, 2006. As such, this report is intended to fulfill this requirement.

4. *The Land Use Commission may fully or partially released these conditions as to all or any portion of the Property upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.*

To date, neither the former or current owner has filed a request or motion to be relieved of any of the conditions. The Petitioner intends to in the future as more conditions are fulfilled.

5. *Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.*

On March 5, 1984, the then Petitioner filed a copy of the recorded conditions with the LUC. Said conditions were recorded in the Bureau on February 21, 1984. Relative to the second Increment, a copy of the Bureau-recorded conditions was provided to the LUC on July 8, 1993.

6. *Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a Statement to the effect that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.*

Please refer to response to Condition 5.