

Pre-decisional Document

**DOCKET NO. A83-549 Kona
Vistas
f.k.a Gamrex**

**STATUS REPORT
STAFF REPORT**

Hearing
February 7, 2024



Daniel E. Orodenker, Executive Officer
Submitted: Feb 1, 2024

A83-549 Kona Vistas LLC. f.k.a Gamrex
Staff Report – Status Report

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1. EXPLANATION OF THE PROCEEDING AND AUTHORITY

Status and Progress Report hearings provide the Petitioner an opportunity to update the Commission on progress or problems in compliance with the representations and conditions of the decision and order.

Any decisions by the Commission should be based on good cause (or lack of) shown by the Petitioner for its lack of progress and evidence put on the record. If the Commission finds that the petitioner is not going to or is not capable of capable of compliance with the Original 1983 Decision and Order and the 1993 Order to Approve Redistricting of 49 Acres in Increment II, they may request staff to schedule a hearing for Order to Show Cause proceedings.

2. BACKGROUND INFORMATION

In 1983, the Commission granted the District Boundary Amendment for Increment One, which consists of approximately 173.66 acres. The [1983 Decision and Order](#) ordered that the reclassification and incremental districting of the subject property subject to the four conditions.

1. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring (except by way of mortgage or assignment as 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 Hawaii Housing Authority or the County of Hawaii, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii 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; and
2. 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; and

3. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and Hawaii County Planning Department as to its progress in satisfying these conditions; and
4. 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.

In 1989, the Commission approved the original Petitioners Motion to [Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Redistricting of Increment II](#).

In 1993, the Commission [approved the redistricting of Increment II \(49 acres\)](#), and the Commission amended the Original Decision to reflect the addition of Increment II and include the Conditions for both increments.

In 2006, the Commission granted the [Motion to Change Petitioner's Name to Kona Vistas LLC and Amend Caption](#).

Since 2006, the Land Use Commission had to request annual reports for the years 2006-2014, subsequently the Petitioner has provided annual reports without prior notice.

The most recent annual report the Commission received was the [2022 Annual Report](#), along with the [Transmittal Letter](#), and the following attachments: [Attachment A](#), [Attachment B](#), [Attachment C](#), [Attachment D](#), [Attachment E](#), [Attachment F](#), and [Attachment G](#).

The 2022 Annual report raised questions regarding:

1. The status of Condition A relating to affordable housing, there are questions regarding the agreement with the County of Hawai'i Office of Housing and Community Development.
2. The number of existing single family lots in relationship with the to-be-built 450 multifamily housing units, and the number of affordable units is unclear and may exceed the original housing allotment. It is also unclear as to where the affordable units are or will be located.

3. SUMMARY OF PETITIONERS SUBMITAL

On January 30, 2024, Petitioner submitted:

- [Report to the State Land Use Commission on Docket A83-549 Focused on Affordable Housing and Residential Density](#)
- [Affordable Housing Exhibits](#)

The filing by Petitioner provides their perspective and timeline on efforts to comply with the Commission's 1984 and 1993 Decision and Orders. The timeline spans about 40 years

4. SUMMARY OF OPSD POSITION

OPSD has not provided a position statement.

5. SUMMARY OF COUNTY POSITION

The County has not provided a position statement.

6. STAFF NOTES

Based off the Petitioner's filing, staff has the following concerns:

Affordable housing

Is there a current affordable housing agreement between the Petitioner and the County?

How does the County allow the trade/ brokerage of affordable housing credits without units being built?

Where will the affordable housing units be built?

Why is the Petitioner avoiding building affordable housing on the Petition area, as required by the Conditions in the Decision and Order?

Environmental Assessment
(“EA”)

The EA completed for the flood control and drainage control seems to have missed a number of issues, that were pointed out by Petitioner in the filing.

The issues that were not identified include cultural sites, SMA, drainage issues, and the established railroad right of way.