

ORIGINAL



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition of

HILUHILU DEVELOPMENT, LLC

To amend the State Land Use
Agricultural and Conservation Districts to
the State Land Use Urban District for
approximately 725.2 acres of land at
ahupua`a of Kau, North Kona Judicial
District, Island and State of Hawai`i, Tax
Map Key No. (3) 7-2-005: 001

DOCKET NO. A03-744

ORDER GRANTING PETITIONER'S
MOTION TO AMEND CONDITION 7
(Open Space) IN THE FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
DECISION AND ORDER FOR A STATE
LAND USE DISTRICT BOUNDARY
AMENDMENT, TO ALLOW AN ENTRY
FEATURE FOR THE PALAMANUI
PROJECT

ORDER GRANTING PETITIONER'S MOTION TO AMEND CONDITION 7 (Open Space) IN
THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR
A STATE LAND USE DISTRICT BOUNDARY AMENDMENT, TO ALLOW AN ENTRY
FEATURE FOR THE PALAMANUI PROJECT

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LAND USE COMMISSION



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FEATURE FOR THE PALAMANUI PROJECT

On October 10, 2008, Palamanui Global Holdings, LLC, a Delaware limited liability company, ("Palamanui"), successor to Petitioner Hiluhilu Development, LLC, a Hawaii limited liability company ("Hiluhilu") filed a motion to amend Condition 7 in the Findings Of Fact, Conclusions Of Law, And Decision And Order For A State Land Use District Boundary Amendment dated June 13, 2005, to allow an entry feature for the Palamanui Project, pursuant to sections 15-15-70 and 15-15-94, Hawaii Administrative Rules ("HAR").

Condition No. 7 of the Decision and Order originally read as follows:

- " 7. **Open Space Buffer.** Petitioner shall maintain an open space buffer on the Petition Area along Queen Kaahumanu Highway with a minimum width of 800 feet. The only man-made structures allowed in this open space buffer shall be the Northern Project Access Road, the Project's wastewater treatment plant, limited portions of the Project's golf course, and a groundwater monitoring well as represented by the Petitioner to the

Commission. Petitioner shall appropriately screen such uses to maintain the visual continuity of such buffer."

Palamanui wishes to install an entry feature within the open space buffer to identify the Palamanui Project. The entry feature would be placed along the access road from Queen Kaahumanu Highway. The entry feature is a stone wall with a sign identifying "Palamanui" and would be approximately 200 feet mauka from the edge of Queen Kaahumanu Highway. Palamanui will apply for a building permit for the entry feature.

The entry feature will not impact upon the view planes that were discussed in the Final Environmental Impact Statement, Vol. 1, Section 6.2.13 "Visual Resources." At its highest point the feature will be 18 feet high and will following the current topography of the land.

Palamanui proposed to amend Condition No. 7 to read as follows:

"7. **Open Space Buffer.** Petitioner shall maintain an open space buffer on the Petition Area along Queen Kaahumanu Highway with a minimum width of 800 feet. The only man-made structures allowed in this open space buffer shall be the Northern Project Access Road, the Project's wastewater treatment plant, limited portions of the Project's golf course, and a groundwater monitoring well as represented by the Petitioner to the Commission. Petitioner shall appropriately screen such uses to maintain the visual continuity of such buffer. In addition, Petitioner shall be allowed to add an entry feature with a stone wall with a sign identifying "Palamanui" located approximately 200 feet mauka from the edge of Queen Kaahumanu Highway."

On January 8, 2009, the Commission held an action meeting on this docket in Waikoloa, Hawaii. There were no public witnesses providing oral testimony on this matter. The County of Hawaii Planning Department submitted a letter supporting the motion. The State Office of Planning had no objections to the motion.

After discussion and deliberation by the Commissioners, a motion was made and seconded to grant Petitioner's motion to amend Condition 7 to allow an entry feature for the

Palamanui Project. There being a vote tally of 7 ayes, 1 absent, and 1 excused, the motion carried.

ORDER

Having duly considered Petitioner's motion to amend Condition 7 to allow an entry feature for the Palamanui Project, the supporting document from the County of Hawaii Planning Department, the oral and written arguments presented by the parties, and further representations made during the hearing, and a motion having been made and seconded at a hearing on January 8, 2009, in Waikoloa, Hawaii, and the motion having received the affirmative votes required by §15-15-13, HAR, and good cause appearing therefor, this Commission GRANTS Petitioner's motion and ORDERS that Condition No. 7 of the Findings of Fact, Conclusions of Law, and Decision and Order dated June 13, 2005, be amended to read as follows:

- “7. **Open Space Buffer.** Petitioner shall maintain an open space buffer on the Petition Area along Queen Kaahumanu Highway with a minimum width of 800 feet. The only man-made structures allowed in this open space buffer shall be the Northern Project Access Road, the Project's wastewater treatment plant, limited portions of the Project's golf course, and a groundwater monitoring well as represented by the Petitioner to the Commission. Petitioner shall appropriately screen such uses to maintain the visual continuity of such buffer. In addition, Petitioner shall be allowed to add an entry feature with a stone wall with a sign identifying “Palamanui” located approximately 200 feet mauka from the edge of Queen Kaahumanu Highway.”

As so amended, the Findings of Fact, Conclusions of Law, and Decision and Order dated June 13, 2005, are affirmed and continue in full force and effect.

This ORDER shall take effect upon the date this ORDER is certified and filed by the Commission.

Makena, Maui,
Dated: ~~Honolulu~~, Hawaii, January 22, 2009

APPROVED AS TO FORM

Diane Duckin
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By Ransom Piltz
RANSOM PILTZ
Vice Chair and Presiding Officer

Filed and effective on
January 27, 2009

Certified by:
Orlando Davidson
Orlando Davidson, Executive Officer



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CERTIFICATE OF SERVICE

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I hereby certify that a certified copy of the ORDER GRANTING PETITIONER'S
MOTION TO AMEND CONDITION 7 (Open Space) IN THE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR A STATE LAND USE
DISTRICT BOUNDARY AMENDMENT, TO ALLOW AN ENTRY FEATURE FOR THE
PALAMANUI PROJECT was served upon the following by either hand delivery or depositing
the same in the U. S. Postal Service by regular or certified mail as noted:

DEL. ABBEY MAYER, Director
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawai`i 96804-2359

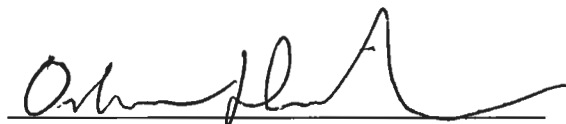
REGULAR BRYAN C. YEE, Esq.
MAIL: Deputy Attorney General
 425 Queen Street
 Honolulu, Hawai`i 96813

REGULAR MAIL: LINCOLN ASHIDA, Esq.
Corporation Counsel
County of Hawaii
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

REGULAR MAIL: DARYN ARAI, Acting Director
County of Hawaii, Planning Department
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

CERTIFIED MAIL: ALAN M. OKAMOTO, Esq.
ROY K. NAKAMOTO, Esq.
JEREL I. YAMAMOTO, Esq.
187 Kapiolani Street
Hilo, Hawaii 96720

Dated: Honolulu, Hawaii, January 27, 2009.

A handwritten signature in black ink, appearing to read 'Orlando Davidson', written over a horizontal line.

ORLANDO DAVIDSON
Executive Officer