

LINDA CROCKETT LINGLE
Mayor



DAVID W. BLANE
Director

GWEN OHASHI HIRAGA
Deputy Director

**COUNTY OF MAUI
PLANNING DEPARTMENT**

250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

May 10, 1996

Ms. Esther Ueda, Executive Director
State of Hawaii
Department of Business,
Economic Development and Tourism
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 96804

MAY 17 11 23 AM '96
LAND USE COMMISSION
STATE OF HAWAII

Dear Ms. Ueda:

RE: Land Use Commission (LUC) Docket No. A94-706 Kaonoulu Ranch

In response to your letter of March 22, 1996, the representations made by the Petitioner regarding compliance to the conditions of the above-referenced permit are essentially accurate. We have no further comments at this time.

Should you have any questions, please contact Staff Planner, Mr. Daren Suzuki, at 243-7735.

Very truly yours,

David W. Blane
701 DAVID W. BLANE
Director of Planning

DWB:DS:osy

xc: Clayton Yoshida, Acting Planning Program Manager-Land Use Management
Daren Suzuki, Staff Planner
B. Martin Luna, Esq.
General File
Project File (g:\planning\all\daren\A94-706.luc)

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804

Telephone: 587-3822

March 22, 1996

B. Martin Luna, Esq.
Carlsmith Ball Wichman Murray
Case & Ichiki
P.O. Box 1086
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: Filing of 1996 Annual Report for LUC Docket No.
A94-706/Kaonoulu Ranch

This letter is to acknowledge receipt of the 1996 annual report for the subject docket as transmitted by your letter dated March 5, 1996. The copies of the annual report that were provided have been forwarded to the Commission members for their information.

Please note that we have requested the Office of State Planning and the Maui County Planning Department to review and comment on the annual report. Any comments that they may have will be provided to you.

Thank you for your cooperation in this annual reporting requirement to the Commission.

If you have any questions in regards to this matter, please feel free to contact me or Leo Asuncion of my staff at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

EU:th

cc: County of Maui Planning Dept.
OSP



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804

Telephone: 587-3822

March 22, 1996

Mr. Gregory G.Y. Pai, Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

Dear Mr. Pai:

Subject: LUC Docket No. A94-706/Kaonoulu Ranch

On March 6, 1996, the Land Use Commission received Petitioner Kaonoulu Ranch's 1996 annual report filed pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on February 10, 1995 for the above-referenced docket. As required by said condition, we understand that the Office of State Planning and the respective County Planning Department have been served with a copy of the annual report.

We request your assistance in reviewing the 1996 annual report and advise us whether the representations made by the Petitioner regarding the Petitioner's compliance with conditions affecting the State are accurate, and provide any comments in regards to concerns that the State may have on Petitioner's compliance with conditions.

The County of Maui Planning Department has been requested to review the annual report in regards to County agencies.

We request that any comments that your agency may have be submitted to our office with a copy to the Petitioner by May 10, 1996.

If you have any questions in regards to this matter, please feel free to contact me or Leo Asuncion of my staff at 587-3822. Thank you for your anticipated cooperation in this matter.

Sincerely,

ESTHER UEDA
Executive Officer

EU:th



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804

Telephone: 587-3822

March 22, 1996

Mr. David W. Blane
Director of Planning
Planning Department
County of Maui
250 S. High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: LUC Docket No. A94-706/Kaonoulu Ranch

On March 6, 1996, the Land Use Commission received Petitioner Kaonoulu Ranch's 1996 annual report filed pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on February 10, 1995 for the above-referenced docket. As required by said condition, we understand that the Office of State Planning and the respective County Planning Department have been served with a copy of the annual report.

We request your assistance in reviewing the 1996 annual report and advise us whether the representations made by the Petitioner regarding the Petitioner's compliance with conditions affecting the County are accurate, and provide any comments in regards to concerns that the County may have on Petitioner's compliance with conditions.

The Office of State Planning has been requested to review the annual report in regards to State agencies.

We request that any comments that your agency may have be submitted to our office with a copy to the Petitioner by May 10, 1996.

If you have any questions in regards to this matter, please feel free to contact me or Leo Asuncion of my staff at 587-3822. Thank you for your anticipated cooperation in this matter.

Sincerely,

ESTHER UEDA
Executive Officer

EU:th

CARLSMITH BALL WICHMAN CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086

TELEPHONE (808) 242-4535
FAX (808) 244-4974

March 5, 1996

MAR 6 10 39 AM '96
LAND USE COMMISSION
STATE OF HAWAII

Ms. Esther Ueda
Executive Officer
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

RE: Petition for Land Use Commission District Boundary
Amendment for Property situated at Kaonoulu, Makawao-
Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02:por.
of 15 and 3-9-01:16; LUC Docket No. A94-706

Dear Ms. Ueda:

On behalf of Kaonoulu Ranch, Petitioner in the above-referenced matter, we hereby submit its Annual Report (original and thirteen copies).

We would appreciate receiving a file stamped copy of the above for our files. Enclosed is a self-addressed envelope for your use.

Thank you for your consideration and assistance in this matter.

Sincerely yours,



B. MARTIN LUNA

BML:mea

Enclosures

cc: Mr. Henry Rice

m1332

Of Counsel:
CARLSMITH BALL WICHMAN
CASE & ICHIKI

B. MARTIN LUNA 865
GRANT Y. M. CHUN 4212
2200 Main Street, Suite 400
Wailuku, Maui, Hawaii 96793

ORIGINAL

MAR 6 10 40 AM '96
LAND USE COMMISSION
STATE OF HAWAII

Attorneys for Petitioner Kaonoulu Ranch

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 KAONOULU RANCH)
)
 To Amend the Agricultural Land Use)
 District Boundary into the Urban)
 Land Use District for)
 approximately 88 acres at)
 Kaonoulu, Makawao-Wailuku,)
 Maui, Hawaii; Tax Map Key Nos.)
 2-2-02:por. of 15 and 3-9-01:16)
 _____)

Docket No. A94-706

ANNUAL REPORT OF KAONOULU RANCH
AND
CERTIFICATE OF SERVICE

by the Maui County Planning Department that it would be unable to process the Change in Zoning until the Kihei-Makena Community Plan has been adopted by the Council or a Community Plan Amendment is filed by Petitioner to be considered concurrently with the Change in Zoning request. Petitioner, in reliance of information received, understood that the processing of the proposed Kihei-Makena Community Plan by the County Council was imminent and therefore decided not to submit a separate application for the Community Plan Amendment.

Since its initial timetable for acting on the community plan, the Council has not yet scheduled the Kihei-Makena Community Plan review on its agenda. Three primary factors have caused this delay. First, the West Maui Community Plan took a longer time to process than initially anticipated. Second, the Council Planning Committee Chair accommodated a request of the Kihei Community Association to postpone its review of the Kihei-Makena Community Plan until January 1996. Third, the Council substituted another community plan to process after the West Maui Community Plan was completed and consideration of this regional community plan has not yet been completed. Thus, the most current timetable for the Council to commence the review of the Kihei-Makena Community Plan is April 1996.

On January 24, 1996, the Planning Department returned Petitioner's application for Change in Zoning and requested that the application be resubmitted when the community plan designation is adopted by the County Council. Petitioner intends to resubmit its application for Change in Zoning as soon as the Kihei-Makena Community Plan is adopted.

Report on Compliance with Conditions Imposed by Commission

Due to unforeseen circumstances, the Petitioner has been unable to progress in processing its Change in Zoning application. The following states whether the conditions in the approval have been met:

1. The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.

Petitioner was unable to obtain a Change in Zoning of its property because the Maui County Council has not yet adopted the Kihei-Makena Community Plan as recommended by the Planning Department to designate the property to "Light Industrial".

2. Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works and Waste Management to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

Petitioner intends to cooperate with the State

Department of Health and the Department of Public Works and Waste Management.

3. Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.

Petitioner understands its obligation to contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

Petitioner understands its obligation to fund and construct adequate civil defense measures.

5. Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department

of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.

Petitioner understands its obligation to comply with this condition.

6. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

Petitioner understands its obligation to fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project.

7. Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.

Petitioner intends to participate in an air quality monitoring program if required by the Department of Health.

8. Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property,

including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:

a. All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.

The Petitioner understands its obligation to comply with this condition.

b. All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.

The Petitioner understands its obligation to comply with this condition.

c. Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)

The Petitioner understands its obligation to comply with this condition.

9. Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be founds, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.

The Petitioner understands its obligation to comply with this condition.

10. A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.

The Petitioner understands its obligation to comply with this condition.

11. Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

Petitioner understands its obligation to contribute its pro-rata share to a nearshore water quality monitoring program as it is determined.

12. Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

Petitioner understands its obligation to implement effective soil erosion and dust control methods during construction.

13. Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to

mitigate impacts between future residential activities and the proposed industrial development.

The Petitioner understands its obligation to comply with this condition.

14. In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

Petitioner has not sold its interest in the Project, and understands its obligation to comply with this condition.

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

Petitioner understands its obligation to comply with this condition.

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

The Petitioner understands its obligation to comply with this condition.

17. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Petitioner understands its obligation to comply with this condition, and submits this annual report in compliance therewith.

18. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawaii Administrative Rules.

Petitioner has recorded a Notice of Imposition of Conditions with the Bureau of Conveyances of the State of Hawaii pursuant to Section 15-15-92 Hawaii Administrative Rules.

19. Within seven (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 that the Property is subject to

conditions imposed herein by the Land Use Commission in the reclassification of the Property; and (b) shall file a copy of such recorded statement with the Commission.

Petitioner has recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.

20. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The Petitioner understands that the Commission may fully or partially release the conditions provided herein.

Dated: Wailuku, Hawaii, March 5, 1996.



B. Martin Luna
Attorney for KAONOULU RANCH

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the within document was made by depositing the same with the U.S. mail, postage prepaid, or by hand delivery, on March 5, 1996, addressed to:

NORMA WONG, Director
Office of State Planning
State of Hawaii
P. O. Box 3540
Honolulu, Hawaii 96811-3540

BY MAIL

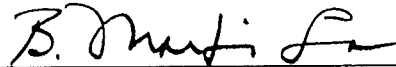
ABE MITSUDA, Administrator
Land Use Division
Office of State Planning
State of Hawaii
P. O. Box 3540
Honolulu, Hawaii 96811-3540

BY MAIL

DAVID W. BLANE, Director
Planning Department
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

Dated: Wailuku, Hawaii, March 5, 1996.



B. Martin Luna
Attorney for Petitioner KAONOULU
RANCH



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96813
Telephone: 587-3822

February 27, 1996

B. Martin Luna, Esq.
Carlsmith Ball Wichman Murray
Case & Ichiki
P.O. Box 1086
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: Filing of 1996 Annual Report for LUC Docket No.
A94-706/Kaonoulu Ranch

Please be apprised that according to our records, the required annual report for the subject docket has not been filed with the Commission. The annual report is required to be filed with the Commission pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order issued on February 10, 1995. An annual report covering the period from February 10, 1995 to February 10, 1996 was due on February 10, 1996.

YOU ARE HEREBY INFORMED that unless we receive your annual report covering the above-mentioned period by March 15, 1996, the Petitioner will be scheduled to appear before the Commission to provide testimony regarding the status of the development proposed under the subject docket. Additionally, pursuant to §15-15-93, Hawaii Administrative Rules, the Commission may initiate an Order to Show Cause proceeding if there is reason to believe that there has been a failure to comply with the Commission's Decision and Order according to the conditions imposed therein.

The format of the annual report should be composed of two sections: the first section should briefly discuss the general progress of the project, including any regulatory approvals pending/obtained; the second section should state verbatim, all conditions imposed by the Commission and followed by a brief report on all efforts to comply with each stated condition.

Please include, when possible, the dates of any required regulatory approval obtained or expected, the specific areas of the redistricted lands to which the compliance activity relates (maps may be helpful), and any other new information regarding the project (i.e., photos, future plans, etc.).

B. Martin Luna, Esq.
February 27, 1996
Page 2

We require that an original and twelve copies of the annual report be filed with the Commission. We also note that Findings of Fact, Conclusions of Law, and Decision and Order requires the annual report to be served upon the County of Maui Planning Department and the Office of State Planning. Please note that we will be asking these agencies to review and comment on the annual report.

You are further informed that this is the final reminder letter to be transmitted for the filing of this annual report and subsequent annual reports in this docket, as responsibility for the submission of annual reports by the anniversary due date lies with the Petitioner. In the event that subsequent annual reports are not submitted in a timely manner, the Commission will require the Petitioner to appear before the Commission to present its status report.

Please note that effective March 5, 1996, our mailing address and office location will be the following:

Mailing Address

State Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804

Office Location

Leiopapa A Kamehameha Building
(State Office Tower)
235 South Beretania Street
4th Floor
Honolulu, Hawaii

If you have any questions on this matter, please feel free to contact me or Leo Asuncion of my staff at 587-3822.

Sincerely,



ESTHER UEDA
Executive Officer

EU:th

cc: County of Maui Planning Dept.
OSP
Henry Rice