

LINDA LINGLE
Mayor

DAVID W. BLANE
Director

LISA M. NUYEN
Deputy Director

CLAYTON I. YOSHIDA
Planning Division

AARON H. SHINMOTO
Zoning Administration and
Enforcement Division

COUNTY OF MAUI
DEPARTMENT OF PLANNING

February 17, 1998

Ms. Esther Ueda
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Dear Ms. Ueda:

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

The Maui Planning Department has reviewed the annual report submitted by the Petitioner, Kaonoulu Ranch, and finds that it adequately represents the actions of the Maui County Council with regard to the Kihei-Makena Community Plan. We anticipate the applicant filing a change in zoning application upon the adoption of the Community Plan. The Petitioner's compliance with the remaining conditions are dependent on future land use and development approvals.

If further clarification is required, please contact Ms. Ann Cua, Staff Planner, of this office at 243-7735.

Very truly yours,

Lisa M. Nuyens

for DAVID W. BLANE
Director of Planning

DWB:ATC:cmh

c: B. Martin Luna, Esq.
Gary Zakian, Deputy Corporation Counsel
Clayton Yoshida, AICP, Planning Program Administrator
Aaron Shinmoto, Planning Program Administrator
Ann Cua, Planner
Project File
General File s:\all\ann\kaonoulu.luc

1998 FEB 19 A 10: 27
LAND USE COMMISSION
STATE OF HAWAII

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 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

February 11, 1998

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

Dear Mr. Luna:

Subject: Filing of 1998 Annual Report for LUC Docket No.
A94-706/Kaonoulu Ranch

This letter is to acknowledge receipt of the 1998 annual report for the subject docket as transmitted by your letter dated February 4, 1998. 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 Planning and the County of Maui Planning Department to review and comment on the annual report. Any comments that they may have will be provided to you.

We wish to inform you that in the future, we request that an original and two (2) copies of the annual report be submitted to our office. Additional copies of the annual report may be requested as needed. Service of the annual report upon the County of Maui Planning Department and the Office of Planning shall continue.

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.
Office of Planning



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

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

February 11, 1998

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 February 6, 1998, the Land Use Commission received Petitioner Kaonoulu Ranch's 1998 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 conditions, we understand that the Office of Planning and the respective County Planning Department have been served with a copy of the annual report.

We request your assistance in reviewing the 1998 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 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 April 17, 1998.

In regards to Petitioner's representations on the date on which the County Council is to act on the Kihei-Makena Community Plan, we request clarification from your office that the date anticipated by Petitioner is correct. Please transmit your confirmation as soon as possible.

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 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

February 11, 1998

Mr. Rick Egged, Director
Office of Planning
Department of Business, Economic Development
and Tourism
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Dear Mr. Egged:

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

On February 6, 1998, the Land Use Commission received Petitioner Kaonoulu Ranch's 1998 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 conditions, we understand that the Office of Planning and the respective County Planning Department have been served with a copy of the annual report.

We request your assistance in reviewing the 1998 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 April 17, 1998.

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
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WAILUKU, MAUI, HAWAII 96793-1086

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

February 4, 1998

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

1998 FEB -6 A 10:31
LAND USE COMMISSION
STATE OF HAWAII

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

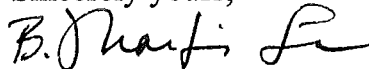
Dear Ms. Ueda:

We have enclosed herein the Third Annual Report of Kaonoulu Ranch
(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
5015864.1.013212-3

Enclosure

cc: Mr. Henry Rice

ORIGINAL

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

Attorneys for Petitioner Kaonoulu Ranch

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
1998 FEB -6 A.D. 21

In the Matter of the Petition of)	
)	Docket No. A94-706
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)	
_____)	

THIRD ANNUAL REPORT OF KAONOULU RANCH

AND

CERTIFICATE OF SERVICE

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
) Docket No. A94-706
 KAONOULU RANCH)
)
 To Amend the Agricultural Land Use)
 District Boundary into the Urban)
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 approximately 88 acres at)
 Kaonoulu, Makawao-Wailuku,)
 Maui, Hawaii; Tax Map Key Nos.)
 2-2-02:por. of 15 and 3-9-01:16)
 _____)

THIRD ANNUAL REPORT OF KAONOULU RANCH

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW KAONOULU RANCH, a Hawaii limited partnership,
Petitioner herein, and pursuant to Condition No. 17 of the Findings of Fact,
Conclusions of Law, and Decision and Order issued on February 10, 1995, hereby
submits its third annual report of compliance with the conditions established by said
approval as follows:

General Progress of the Project

On September 9, 1993, the Maui Planning Commission recommended to
the Maui Council to designate 88 acres of the Petitioner's property as "Light Industrial"
on the Kihei-Makena Community Plan ("KMCP"). Based on information received on

or about May 1994 that the Maui County Council may be processing the KMCP some time in August or September of 1994, Petitioner filed a request for Change in Zoning with the County of Maui on July 13, 1994. Thereafter, Petitioner was informed by the Maui County Planning Department that it would be unable to process the Change in Zoning until the KMCP 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 KMCP by the County Council was imminent and therefore decided not to submit a separate application for the Community Plan Amendment.

As stated in the first and second annual reports, the KMCP has been pending in the Maui County Council Planning Committee ("CPC") since April 1996. Numerous meetings or site inspections have been scheduled and held following the filing of our Second Annual Report as follows:

February 18, 1997 - CPC meeting in Council Chambers

March 4, 1997 - CPC meeting in Council Chambers

March 24, 1997 - CPC site inspection scheduled and postponed

May 13, 1997 - CPC site inspection

June 17, 1997 - CPC meeting in Council Chambers

7/1/97 - CPC meeting in Council Chambers

7/1/97 - CPC meeting in Kihei

7/15/97 - CPC meeting in Council Chambers
7/15/97 - CPC meeting in Kihei
7/29/97 - CPC meeting in Council Chambers
7/29/97 - CPC meeting in Kihei
9/2/97 - CPC meeting in Council Chambers
9/3/97 - continuation of CPC meeting in Council Chambers
9/16/97 - CPC meeting in Council Chambers
10/17/97 - Council meeting to schedule public hearing
11/12/97 - Council public hearing in Kihei, referred back to CPC
11/20/97 - CPC meeting in Council Chambers
12/2/97 - continuation of CPC meeting in Council Chambers
1/13/98 - CPC meeting in Council Chambers

On January 13, 1998, the CPC completed its work on the KMCP and voted to move the KMCP to the full Council. The KMCP is scheduled for first reading by the full Council on February 6, 1998, and if approved will be scheduled on the February 20 agenda for second and final reading. Once the KMCP is adopted by the Council, the Petitioner may thereafter apply for a Change in Zoning.

Petitioner intends to resubmit its application for Change in Zoning as soon as the KMCP is adopted. In fact, Petitioner has begun updating the petition and supporting material which had previously been submitted to the Maui Planning

Commission and subsequently withdrawn because of the lengthy processing of the KMCP.

Report on Compliance with Conditions Imposed by Commission

Due to unforeseen circumstances, the Petitioner has been unable to file 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 found, 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 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.

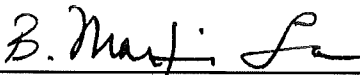
Petitioner has recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.

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.

As stated above, the responses to Conditions 1 to 20 of the second annual report are still correct and remain unchanged. Efforts to comply with these conditions shall begin after the community plan amendment is approved.

Dated: Wailuku, Hawaii, February 4, 1998.



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 February ____, 1998, addressed to:

RICK EGGED, JR., Director
Office of Planning
State of Hawaii
P. O. Box 2359
Honolulu, HI 96804-2359

BY MAIL

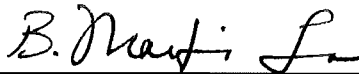
ABE MITSUDA, Administrator
Land Use Division
Office of Planning
State of Hawaii
P. O. Box 2359
Honolulu, HI 96804-2359

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, February 4, 1998.



B. Martin Luna
Attorney for Petitioner KAONOULU
RANCH