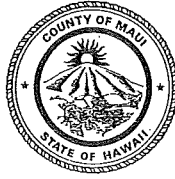


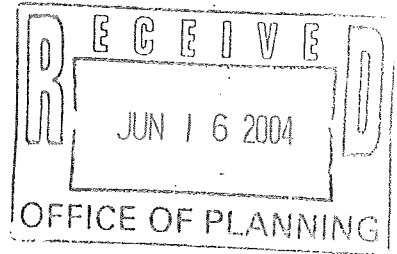
ALAN M. ARAKAWA  
Mayor

MICHAEL W. FOLEY  
Director

WAYNE A. BOTEILHO  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**



June 14, 2004

Mr. Anthony J. H. Ching, Executive Officer  
State Land Use Commission  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

Dear Mr. Ching:

RE: LUC Docket No. A94-706; Kaonoulu Ranch, 9<sup>th</sup> Annual Report,  
TMK: 2-2-002:Por of 015 and 3-9-001:016, Kihei, Maui, Hawaii

The Maui Planning Department has reviewed the above-referenced 9<sup>th</sup> annual report dated June 9, 2004, and finds that it accurately reflects the project's progress since its redistricting.

Thank you for your cooperation in this matter. If further clarification is required, please contact Ms. Ann T. Cua, Staff Planner, of this office at 270-7735.

Sincerely,

MICHAEL W. FOLEY  
Planning Director

MWF:ATC:jmu

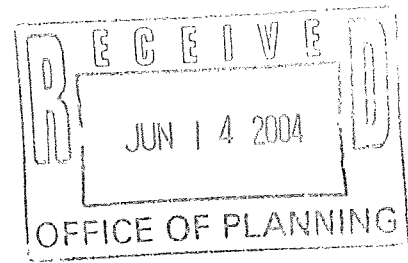
c: Clayton I. Yoshida, AICP, Planning Program Administrator  
B. Martin Luna, Esq.  
Office of Planning  
Ann T. Cua, Staff Planner  
Project File  
General File  
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Jc

Of Counsel:  
CARLSMITH BALL LLP

B. MARTIN LUNA 865  
2200 Main Street, Suite 400  
Wailuku, Maui, Hawaii 96793

Attorney for Petitioner Kaonoulu Ranch



L-3565

**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 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

**NINTH 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

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of 15 and 3-9-01:16

**NINTH 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 Ninth annual  
report of compliance with the conditions established by said approval as follows:

**General Progress of the Project**

The Petitioner has obtained its Community Plan Amendment and Change in  
Zoning. Since then, it considered developing the real property either with or without a partner  
experienced in the development of a light industrial complex. As noted below (Condition  
#14), Petitioner is currently attempting to sell said real property and has therefore, not  
proceeded to subdivide said real property as yet. It has been advised that the prospective  
seller may want to subdivide the real property in accordance with its own plans.

**Report on Compliance with Conditions Imposed by Commission**

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.

The Community Plan Amendment was approved on March 20, 1998, and the Change in Zoning application was approved by the Maui County Council and became effective on May 25, 1999.

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. It has been in contact with the Department of Water Supply to obtain further information on what specific water improvements will be required by the Department for the development of the property.

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.

As stated in the Fifth Annual Report, the Petitioner has prepared a long term preservation plan which has been approved by the State Historic Preservation Division, Department of Land and Natural Resources, State of Hawaii, a copy of which was transmitted to the Land Use Commission.

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.

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.

13. 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.

By letter dated January 5, 2001, Petitioner has informed the Commission that it has listed the Property with real estate brokers and intends to sell said Property. If the Property is sold, it will be subject to deed restrictions requiring the purchaser to comply with the terms and conditions set forth in the Commission's Decision and Order. Petitioner has received several offers to purchase, but has not yet sold said Property.

14. 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.

15. 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.

As stated in Paragraph 14 above, Petitioner has informed the Commission that it has listed the Property for sale.

16. 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.

17. 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.

18. 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.

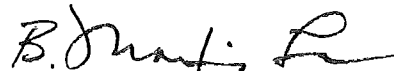
Petitioner has recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.

19. 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.

Except as stated above, the responses in the Eighth annual report are still correct and remain unchanged.

Dated: Wailuku, Hawaii, June 9, 2004.



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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 June 9, 2004, addressed to:

MARY LOU KOBAYASHI  
Planning Program Administrator  
Office of Planning  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

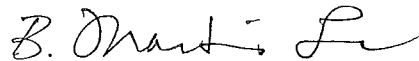
ABE MITSUDA  
Planning Program Administrator  
Office of Planning, Land Use Division  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

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

BY HAND DELIVERY

Dated: Wailuku, Hawaii, June 9, 2004.



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B. MARTIN LUNA

Attorney for Petitioner KAONOULU RANCH