

November 15, 2010

Mr. Orlando Davidson
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804-2359

LAND USE COMMISSION
STATE OF HAWAII
2010 NOV 16 A 7:26

Dear Mr. Davidson:

2010 Annual Report
Docket No. A06-763
Kapolei Harborside

Kapolei Property Development LLC, an affiliate of the James Campbell Company LLC, submits this third annual progress report to the Land Use Commission (“LUC”), the State of Hawaii Office of Planning, and the City and County of Honolulu Department of Planning and Permitting pursuant to Condition 20 of the November 20, 2007 LUC Decision and Order in Docket No. A06-763.

The subject of this annual report is the reclassification of approximately 344 acres of land located in Honouliuli, Ewa, Island of Oahu, State of Hawaii (“Property”) from the Agricultural District to the Urban District.

I. Status of Compliance with Conditions

These conditions to reclassification are reproduced boldface followed by a description of the progress being made to comply with them.

1. **Wastewater Facilities. Petitioner shall provide wastewater system improvements on the Petition Area as required by the DOH and appropriate City and County agencies.**

Petitioner will comply with this condition.

2. **Transportation. Petitioner shall reach an agreement with the DOT and the DPP for the construction of a four-lane divided highway meeting applicable state highway standards from the anticipated Palailai Interchange extension to Kalaeloa Harbor. This agreement shall be executed prior to the submittal of Petitioner’s application for subdivision for development of the Petition Area.**

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Petitioner will comply with this condition.

5. **Solid Waste Management Plan.** Petitioner shall develop a Solid Waste Management Plan for the Petition Area in conformance with the Integrated Solid Waste Management Act, chapter 342G, HRS. Petitioner's Solid Waste Management Plan shall be approved by the City and County Department of Environmental Services. The Plan shall address and encourage awareness of the need to divert the maximum amount of waste material caused by developments away from the City and County's landfills.

Petitioner will comply with this condition.

6. **Air Quality Monitoring.** Petitioner shall implement soil erosion and dust control measures and participate in an air quality monitoring program for the Petition Area as specified by the DOH.

Petitioner will comply with this condition.

7. **Notification of Potential Harbors Nuisances.** Petitioner shall notify and disclose to all prospective buyers and/or lessees of the Project, in the accordance with State law, of the potential adverse impacts of Kalaeloa Harbor operation, such as but not limited to noise, lights, truck and car traffic, dust fumes, odor, temporary construction activities, operations that occur 24 hours per day, seven days per week, and other incidences of harbor operations.

Petitioner will comply with this condition.

8. **Notification of Potential Airports Nuisances.** Petitioner shall notify and disclose to all prospective buyers and/or lessees of the Project, in accordance with State law, of the potential adverse impacts of aircraft and airport activity from the adjacent airfields at Kalaeloa and Honolulu International Airport, such as but not limited to noise, right of light, emissions, vibrations and other incidences of aircraft operations.

Petitioner shall implement procedures and provide covenants in any grant or transfer of interest in the Petition Area, or portion thereof, to buyers and lessees and to other future owners, lessees or occupants, to release claims against the State of nuisance relating to aircraft and airport operations.

Petitioner will comply with this condition.

- 15. Energy Conservation Measures. Petitioner shall, to the extent possible, incorporate energy conservation measures and sustainable design measures, such as the standards and guidelines promulgated by the Building Industry Association of Hawaii, the U.S. Green Building Council, the Hawaii Commercial Building Guidelines for Energy Efficiency, the Guidelines for Sustainable Building Design in Hawaii, and the applicable City and County building codes for Energy Efficiency, the Guidelines for Sustainable Building Design in Hawaii, and the applicable City and County building codes, as amended, into the design and construction of the Project and the structures within the Petition Area.**

To the extent possible, Petitioner will incorporate energy conservation measures and sustainable design measures, as set forth in Condition 15, into the design of buildings within the Petition Area.

- 16. Sinkhole Preserve. Petitioner shall implement measures to protect and preserve the coral sinkholes within the Petition Area.**

In 2008, the Sinkhole Preserve area was rezoned to P-2 General Preservation City and County of Honolulu zoning. Petitioner has also installed a new chain-link fence to protect and preserve the sinkholes within the identified preservation area. Petitioner will continue to take steps, as necessary, to ensure the preservation of the identified sinkholes. Petitioner intends to transfer ownership of the sinkhole preserve at a future date to the State of Hawaii.

- 17. Completion of the Project. Petitioner shall complete build out of the Project, including completion of the backbone infrastructure consisting of Hanua Street improvements, drainage improvements, and sewer improvements, by December 31, 2018.**

Petitioner will comply with this condition.

- 18. Compliance with Representations to the Commission. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.**

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II. Other Significant Milestones

Other recent milestones are:

On September 29, 2008, Mayor Mufi Hannemann signed Bill 46, which rezoned the Property to various City and County of Honolulu zoning categories, including IMX-1, I-2 and P-2.

If you have any questions, please call me at 674-3289.

Sincerely,



Steve Kelly
Vice President, Development

ga: :04001300\K10131

Attachment

cc: Abbey Seth Mayer, Office of Planning (w/Attachment)
David Tanoue, Department of Planning & Permitting (w/Attachment)

Agreement No. A02125800

MASTER KAPOLEI HIGHWAY AGREEMENT

THIS MASTER KAPOLEI HIGHWAY AGREEMENT ("Agreement") is entered into as of this 1ST day of JUNE, 2010, by and among KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company ("Kapolei Property Development LLC"), and AINA NUI CORPORATION, a Hawaii corporation ("Aina Nui Corporation"), MAKAIWA HILLS, LLC, a Delaware limited liability company ("Makaiwa Hills, LLC"), (collectively, Kapolei Property Development LLC, Aina Nui Corporation and Makaiwa Hills LLC being sometimes referred to as the "Kapolei Group"), JAMES CAMPBELL COMPANY LLC, a Delaware limited liability company ("James Campbell Company LLC"), CAMPBELL HAWAII INVESTOR LLC, a Hawaii limited liability company ("Campbell Hawaii Investor LLC") (James Campbell Company LLC and Campbell Hawaii Investor LLC being sometimes referred to as the "Landowner Group") and the DEPARTMENT OF TRANSPORTATION, State of Hawaii (the "Department of Transportation" or the "DOT");

WHEREAS, there is a need for the Kapolei Group and DOT to regularly coordinate fair share transportation improvements that serve the Kapolei area;

WHEREAS, the intent of this Agreement is to address transportation planning and improvement participation and funding for the Kapolei area including the master planned projects owned by the Kapolei Group;

WHEREAS, there are State of Hawaii Land Use Commission ("LUC") conditions of approval ("LUC Conditions") related to transportation planning, participation and coordination with the DOT that are required of the following projects (collectively, the "Projects") that are being undertaken by individual members of the Kapolei Group: City of Kapolei ("City of Kapolei Project"), Kapolei West project ("Kapolei West Project"), Kapolei Harborside project ("Kapolei Harborside Project"), and the Makaiwa Hills project ("Makaiwa Hills Project");

WHEREAS, there are also City and County of Honolulu ("City") conditions of approval ("Zoning Conditions") relating to transportation, planning and coordination with the DOT that are required for the Projects;

WHEREAS, the Kapolei Group, and the DOT agree that this Agreement, as amended, modified or supplemented from time to time, is intended to enhance transportation improvement planning and implementation and fulfill the requirements set forth in the LUC Conditions (defined below) and the Zoning Conditions (defined below), and wish to memorialize their understandings; and

WHEREAS, members of the Landowner Group own lands in the vicinity of the Projects that are necessary for the construction of the transportation improvements set forth in the LUC Conditions and the Zoning Conditions, and the Landowner Group is entering into this Agreement to memorialize their understandings with regard to the use of such lands;

NOW THEREFORE, the parties do here by agree as follows:

1. Purpose. This Agreement is intended to create a framework to coordinate State (defined below) transportation improvements in the Kapolei area and a framework for the complete satisfaction of the following conditions (the conditions referenced in subsections a

in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788456 for the Makaiwa Hills Project;

i. Condition No. 6.a of that certain Unilateral Agreement and Declaration for Conditional Zoning dated September 11, 2008, made by Aina Nui Corporation and Kapolei Property Development LLC, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788915 for the Kapolei West Project;

j. Condition No. 4.a of that certain Unilateral Agreement and Declaration for Conditional Zoning dated September 11, 2008, made by Aina Nui Corporation, Kapolei Property Development LLC and James Campbell Company LLC, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788916 for the Harborside Project;

2. Regional Traffic Study. The Kapolei Group has retained Wilson Okamoto Corporation, traffic consultants, to prepare traffic projections for the Kapolei region, and has provided to DOT the Kapolei Comprehensive Traffic Analysis Report dated December, 2008 prepared by such consultants. DOT has reviewed this Report and acknowledges that it satisfies the LUC Condition for the preparation of a regional traffic study. The Kapolei Group agrees to periodically update this Report to reflect any changes in the traffic projections for the Kapolei region, upon the written request of DOT. This Report, as amended, is referred to as "**CTAR**". The Kapolei Group shall be responsible for the implementation of the transportation mitigation measures for DOT facilities, recommended in the CTAR and in the Traffic Impact Assessment Reports ("**TIAR**") conducted for the Projects.

3. Kapolei Interchange Complex. The Kapolei Interchange Complex ("**KIC**") is comprised of the following general Phases: (i) at grade Kapolei Makakilo Interchange ramps ("**Phase I**"); (ii) grade separated Kapolei Interchange ("**Phase II**"); (iii) at grade Palailai Interchange ramps ("**Phase III**"); and (iv) grade separated Palailai Interchange ("**Phase IV**"). The final compositions of the Phases are to be defined by DOT prior to the commencement of their design. The respective obligations of the Kapolei Group, DOT and the Landowner Group for each Phase of the KIC are set forth below.

a. Phase I. The respective responsibilities of the Kapolei Group, DOT and the Landowner Group with regard to Phase I are fully set forth in that certain Memorandum of Understanding dated July 9, 2007, by and among James Campbell Company LLC, Kapolei Property Development LLC, Aina Nui Corporation, Campbell Hawaii Investor LLC and DOT (the "**Phase I MOU**"), which remains in full force and effect, and which shall continue to be the operative agreement with regard to Phase I.

b. Phase II.

(1) Configuration. The conceptual configuration of Phase II is shown in (i) the Final Environmental Assessment for Interstate H-1 Addition and Modification of Highway Access, Palailai Interchange/Makakilo Interchange (Kapolei Interchange Complex). Federal Aid Interstate Project No. IM-H1-1(257) dated November, 2006, prepared for the DOT ("**EA**"), and (ii) the Updated I-H1 Addition and Modification of Highway Accesses Palailai Interchange/Makakilo Interchange dated May 3, 2006 ("**FHWA Report**"). The specific right-of-way maps will be finalized prior to the execution of the Phase II MOU (defined below).

(5) Land. The Kapolei Group, and the Landowner Group agree to donate the land necessary for the Phase III right-of-ways in the same manner as the donation for the Phase I right-of-ways is treated in the Phase I MOU. The Kapolei Group, the Landowner Group and DOT shall agree upon the value of the rights-of-way being contributed prior to the execution of the Phase III MOU.

(6) Timing. Construction of Phase III will start when DOT obtains the federal funds necessary for the construction of Phase III and when the Impact Fee Ordinance is amended as set forth in Section 3.c.(3) above. Prior to DOT commencing construction of Phase III, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for Phase III ("**Phase III MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

d. Phase IV.

(1) Configuration. The conceptual configuration of Phase IV is shown in the EA and the FHWA Report. The specific right-of-way maps will be finalized prior to the execution of the Phase IV MOU (defined below).

(2) Design. The Kapolei Group shall be responsible for the design and engineering services for Phase IV, with the intent that (i) such services shall qualify for a "soft match" under federal law, in the same way as the similar services that it provided on Phase I are treated in the Phase I MOU, and (ii) DOT shall be solely responsible for overseeing the design and construction of Phase IV, in the same way that it is responsible for overseeing the design and construction of Phase I in the Phase I MOU.

(3) Funding. The Kapolei Group shall be responsible for funding the design and engineering of Phase IV. DOT shall be responsible for funding the construction of Phase IV subject to the availability of federal funds. In addition, as set forth in Section 8 below, DOT agrees to join with the Kapolei Group in requesting the City to amend the Impact Fee Ordinance to add Phase IV, so that DOT can use Impact Fee Ordinance funds to construct Phase IV, and the Kapolei Group can receive impact fee credits for costs incurred in designing Phase IV.

(4) Construction. DOT shall be responsible for the construction of Phase IV, in the same way as provided for in the Phase I MOU.

(5) Land. The Kapolei Group, and the Landowner Group agree to donate the land necessary for the Phase IV right-of-ways in the same manner as the donation for the Phase I right-of-ways are treated in the Phase I MOU. The Kapolei Group, the Landowner Group and DOT shall agree upon the value of the rights-of-way being contributed prior to the execution of the Phase IV MOU.

(6) Timing. Construction of Phase IV will start when DOT obtains the federal funds necessary for the construction of Phase IV and when the Impact Fee Ordinance is amended as set forth in Section 3.c.(3) above. Prior to DOT commencing construction of Phase IV, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for Phase IV ("**Phase IV MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

c. Funding. The Kapolei Group shall be responsible for funding the cost to design, engineer and construct the Harbor Access Road. Nothing herein shall prevent the Kapolei Group from seeking federal funding, the creation of a CFD or other alternative financing mechanisms to fund the cost to design, engineer and construct the Harbor Access Road. DOT agrees to join with the Kapolei Group: (i) in seeking to obtain federal funding for the Harbor Access Road; and (ii) in requesting the City to amend the Impact Fee Ordinance to add the Harbor Access Road, so that DOT can use Impact Fee Ordinance funds to construct the Harbor Access Road, and the Kapolei Group can receive impact fee credits for costs incurred in designing and constructing the Harbor Access Road.

d. Construction. The Kapolei Group shall be responsible for the construction of the Harbor Access Road. In the event that federal funding becomes available for construction of the Harbor Access Road, DOT may assume construction responsibility for the Harbor Access Road.

e. Dedication. Upon completion of construction of all or a portion of the Harbor Access Road, the Kapolei Group agrees to dedicate portions of the Harbor Access Road as it is completed to DOT. The Landowner Group agrees to dedicate any land owned by it that is necessary for the completed portions of the Harbor Access Road right-of-ways. All lands dedicated by the Kapolei Group and the Landowner Group under this subsection e shall be free and clear of liens and encumbrances, excepting those imposed by governmental authorities. Upon such dedication, DOT may request the United States Congress to designate Harbor Access Road as part of the National Highway System, and to delete Kalaeloa Boulevard and Malakole Road from the National Highway System at that time.

f. Timing. The Kapolei Group shall complete design and commence construction of the Harbor Access Road, so as to complete construction by the date that DOT completes construction of Phase III of the KIC. Prior to the Kapolei Group commencing construction of the Harbor Access Road, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for the Harbor Access Road ("**Harbor Access Road MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

6. Satisfaction of Fair Share Requirement. DOT acknowledges and agrees that the undertakings by the Kapolei Group under this Agreement, fully satisfy the obligations of the members of the Kapolei Group under the LUC Conditions to pay their "fair share" or "equitable share" of the cost of the additional transportation improvements that are under the jurisdiction of DOT, and that are necessary to mitigate the impacts of the Projects they are developing, as more fully set forth in the LUC Conditions. DOT acknowledges that the members of the Kapolei Group have advised it that they will internally allocate the costs imposed on the Kapolei Group by this Agreement amongst themselves.

7. Waiver of Access and Connection Payments. DOT agrees not to assess any access or connection payments in connection with: (i) the construction of the Road D Interchange including its connection to Farrington Highway; (ii) the Harbor Access Road including, without limitation the construction of the intersections shown on Exhibit B; or (iii) any crossings of the OR&L right-of-way that are necessary for the development of the Projects.

8. Ewa Highway Impact Fee Ordinance Revisions. The Kapolei Group and DOT agree to join in requesting that the City amend the Impact Fee Ordinance to (i) add the portions of the KIC, not currently covered by the Impact Fee Ordinance, to the Ordinance, and

Landowner Group shall have the right to assign their respective interests and responsibilities in this Agreement to a buyer of the lands subject to conveyance to DOT under this Agreement.

13. Force Majeure. In the event that a party's performance of any of its obligations under this Agreement is delayed due to Force Majeure, then the time for the completion of such performance shall be extended by a time period equal to the duration of such delay. For purposes of this Agreement, "**Force Majeure**" is defined as an act of God (such as tsunamis, earthquakes or other natural disasters), war, strike in the State of Hawaii or on the Island of Oahu, national emergencies or civil disturbances, general transportation or shipping strikes, or strikes which affect the delivery of materials critical to construction of the improvements in question, or any act (or failure to act) of the United States, the State of Hawaii, or the City or any department thereof, due to conditions that are not within a party's control and that could not reasonably be avoided by such party.

14. Notices. All communications hereunder will be in writing and shall be deemed duly communicated when delivered in person, sent by facsimile transmission or four (4) days after being sent by certified or registered mail, postage prepaid, addressed to:

If to the Kapolei Group:

Kapolei Property Development LLC
James Campbell Building, Suite 250
1001 Kamokila Boulevard
Kapolei, HI 96707
Attention: Steve Kelly

Makaiwa Hills, LLC
7727 Herschel Avenue
La Jolla, California 92037
Attention: Rodney F. Stone

If to the DOT:

State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813
Attention: Director

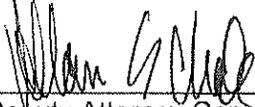
If to the Landowner Group:

James Campbell Company LLC
James Campbell Building, Suite 200
1001 Kamokila Boulevard
Kapolei, HI 96707
Attention: Chief Financial Officer

or, in each case, to such address as may hereunder have been designated most recently. The parties agree that any written notice given by DOT to Kapolei Property Development LLC and Makaiwa Hills LLC shall be deemed given to all members of the Kapolei Group, and that written

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

APPROVED AS TO FORM:



Deputy Attorney General

DOT:

STATE OF HAWAII

By 

BRENNON MORIOKA
Its Director of Transportation

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

Makaiwa Hills, LLC:

MAKAIWA HILLS, LLC, a Delaware limited liability company

By  _____
Name: Rodney F. Stone
Its Manager

By  _____
Name:
Its Manager

EXHIBIT A

Source: Road D Interchange Memo dated September 3, 2008 prepared by Wilson Okamoto Corporation.

