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BEFORE THE LAND USE COMMISSION
STATE OF HAWAII

2011 SEP 26 P 1:43
LAND USE COMMISSION
STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A76-418
)	
of)	2011 ANNUAL REPORT OF
)	THE ERIC A. KNUDSEN TRUST
MOANA CORPORATION)	ON CONDITIONS TO DECISION
)	AND ORDER OF THE LAND
To Amend the Agricultural Land Use)	USE COMMISSION;
District Boundary into the Urban Land Use)	CERTIFICATE OF SERVICE
District for Approximately 457.54 Acres of)	
Land Situated at Poipu, Island of Kauai,)	
State of Hawaii, TMK: 2-8-14: 05, 07, 08,)	
POR. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29:)	
1-94.)	
)	

2011 ANNUAL REPORT OF THE ERIC A. KNUDSEN TRUST ON
CONDITIONS TO DECISION AND ORDER OF THE LAND USE COMMISSION

Comes now STACEY T. J. WONG, as Successor Trustee of the Eric A. Knudsen Trust (the "EAK Trust"), by and through its undersigned counsel, and submits the following Annual Report to the Land Use Commission for the period from May 15, 2009, to August 31, 2011, in compliance with Condition 9a of the Order Granting First Hawaiian Bank, Trustee of the Eric A. Knudsen Trust's Amendment to Motion to Modify Condition Imposed by Land Use Commission issued on August 5, 1997, and entered in Docket No. A76-418 (the "1997 Order"), as amended by Order Granting Kiahuna Mauka Partners, LLC's Motion to Amend or Modify Condition No. 9 of Decision and Order, as Amended in August 5, 1997; and Eric A. Knudsen Trust's Motion to Modify Condition 9a of Decision and Order, issued March 25, 2004 and entered in Docket No. A76-418 (the "2004 Order"). As required by said Condition 9a, this report relates to the undeveloped portions of the approximately 63 acre portion of TMK No. (4) 2-8-14-19 (the "Knudsen Property") that is the subject of the above-referenced docket.

As was explained in the last Annual Report filed by the EAK Trust, the EAK Trust is the owner of the entire fee simple interest in the Knudsen Property, having acquired the same as part of a partition of lands among the prior co-owners of the Knudsen Property. Following the partition action, the EAK Trust proceeded to undertake its own development of the Knudsen Property, which is discussed in further detail hereinafter.

I. GENERAL PROGRESS OF THE PROJECT

As noted above, the EAK Trust acquired the Knudsen Property as part of the partitioning of lands among the prior co-owners of the Knudsen Property. Since then, and upon the decision by the EAK Trust to develop the Knudsen Property as its own project, the EAK Trust has been pursuing the same in accordance with a master plan for the project known as Village at Poipu, herein referred to as the "Project". The Project was planned to encompass approximately 210 acres of land, including the Knudsen Property. Phase I of the Project would be a 50-lot subdivision within the Knudsen Property.

The EAK Trust proceeded to develop approximately 10.4 acres of the Knudsen Property into 50 single family residential lots as Phase I of the Village at Poipu. The EAK Trust obtained tentative subdivision approval for its Phase I from the County of Kauai Planning Commission on January 13, 2004.

The EAK Trust also filed a Petition for Land Use District Boundary Amendment with the Land Use Commission in or about July 2005, seeking district boundary reclassification of approximately 127.4 acres from the "Agricultural" District to the "Urban" District as part of its masterplanned Project. It also undertook the preparation of a Environmental Impact Statement, required under Chapter 343, Hawaii Revised Statutes.

Due to adverse economic conditions, the request for the boundary reclassification was withdrawn by the EAK Trust. However, the withdrawal of the request for boundary reclassification did not affect the efforts of the EAK Trust to develop the 50-lot Phase I of the Project.

The EAK Trust was finally granted final subdivision approval by the Kauai Planning Commission on January 13, 2009 for Phase I. Construction commenced in March 2009 and on-site improvements were completed by December 2009.

II. STATUS OF COMPLIANCE WITH CONDITIONS

Condition Nos. 1, 2, 3, 4 and 6

Current Status: As previously reported, each of these conditions have been previously satisfied as confirmed by (a) the Commission's Order Granting In Part Movant Knudsen's Motion To Confirm Satisfaction Of And To Partially Delete Or Modify Condition

Imposed By The Land Use Commission, dated October 16, 1995, and (b) The Commission's Order Granting In Part Movant Sports Shinko's Motion To Confirm Satisfaction Of And To Partially Delete Or Modify Condition Imposed By The Land Use Commission, dated October 16, 1995.

Condition No. 5

5. *That the Petitioner make the recreational and other amenities of the development such as the golf course, clubhouse, swimming facilities, tennis courts, and theater and cultural center available for public use at reasonable usage fees.*

Current Status: The existing recreational amenities on the reclassified lands, including the Kiahuna Golf Club and Kiahuna Swim and Tennis Club, which includes the swimming pool, are available for public use at reasonable usage fees. The Kiahuna Golf Club's eighteen-hole course is also available for public use at reasonable competitive green fees. Although these facilities are not owned nor controlled by the EAK Trust, the EAK Trust does not anticipate any change in this practice.

Condition No. 7

7. *That Petitioner commission and complete a comprehensive archaeological and biological study with actual inventories of archaeological sites and flora and fauna on the subject property, and that the Petitioner preserves any archaeological sites which archaeologist conducting such archaeological study believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers which the biologist conducting the biological study believes to be worthy of preservation. The Petitioner may commission such archaeological and biological study to any archaeologist and biologist or firm connected therewith who is qualified to conduct such a study to satisfy the foregoing condition. The Petitioner may apply to the County of Kauai for rezoning of the subject property before the completion of the archaeological and biological study; provided that no actual work on any portion of the subject property begins until the archaeological and biological study for that portion to be worked on has been completed. Actual work on any portion of the subject property may be commenced by Petitioner upon certification by the archaeologist and biologist that the area for which work is to commenced does not contain any archaeological sites deemed significant and worthy of preservation, nor contains any habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers deemed worthy of preservation.*

Current Status: The EAK Trust has completed many archaeological and biological studies for the Knudsen Property and the Project site. Beginning in 1991, Hallett Hammatt, et al, of Cultural Surveys Hawaii prepared an Archaeological Inventory Survey and a Data Recover and Preservation Plan for the Knudsen Property and the Village at Poipu Project site. Further

studies by Cultural Surveys Hawaii include (1) a May 2005 Archaeological Inventory Survey For the Makai Portion of Parcel 19 of the Eric A. Knudsen Trust Lands; (2) a June 2005 Cultural Impact Assessment; (3) a September 2005 Archaeological Inventory Survey for An 8.633 Acre Parcel at Koloa; (4) a December 2005 Archaeological Inventory Survey of an Approximately 2.8-Acre Knudsen Trust Parcel; (5) a Data Recovery and Preservation Plan for the Poipulani Development Area, revised July 1991; (6) a November 2004 Archaeological Data Recovery of a Portion of the Eric A. Knudsen Trust Lands; (7) a September 2004 Data Recovery Plan for the Knudsen Trust Land, Village at Po`ipu, State Site 50-30-10-947 Railroad Berm; (8) an October 2004 Interim Protection Plan for the Knudsen Trust Lands Phase 1 Portion of the Village at Po`ipu Project; (9) a September 2008 Hapa Road as an Historic Property; (10) a November 2008 Draft Documentation of Rock Walls along Hapa Road; and (11) a January 2009 Draft Archaeological Data Recovery Plan for an Approximately 60 Ft. Wide Portion of Hapa Road.

In 2002, Char & Associates and Philip Bruner, respectively, completed flora and fauna studies for the Knudsen Property and other lands of EAK Trust's proposed Village at Poipu Project. The flora and fauna reports were attached as Exhibits 5 and 6, respectively, to EAK Trust's Amended Motion to Modify Condition No. 9a of Decision and Order, filed with the Commission on January 7, 2004. In addition, an updated botanical survey was done in April 2006 by LeGrande Biological Surveys, Inc. Such studies, which are incorporated by reference herein, did not find any threatened or endangered species or species of concern as listed by the U.S. Fish and Wildlife Service.

Condition No. 8

8. *That to whatever extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Petitioner hire Kauai contractors so long as they are reasonably competitive with other contractors, and employ residents of Kauai in the temporary construction and permanent hotel related jobs. The Commission understands that the Petitioner may have to employ non-Kauai residents for particular skilled jobs when no Kauai resident possess such skills. However, the Petitioner shall cooperate with, and utilize, whatever government training programs may be available so that Kauai residents can be trained to fill such jobs. For the purposes of this condition, the Commission relieves the Petitioner of this requirement if he is subjected to anti-competitive restraints on trade or other monopolistic practices.*

Current Status: Pursuant to the foregoing conditions, the EAK Trust has used a number of Kauai businesses as much as reasonably possible. Where the needed services were not available from Kauai based firms, businesses doing work in the State of Hawaii were utilized, with Kauai-based personnel used as much as possible.

The Kauai businesses, or firms using Kauai personnel, used by the EAK Trust to date include, but are not limited to Cultural Surveys Hawaii; Goodfellow Brothers; Law Offices of Walton D. Y. Hong; No Ka Oi Landscape Services; and Kodani and Associates. Where non-Kauai contractors were used, these contractors employed Kauai based sub-contractors where available, supplemented by Hawaii based sub-contractors, as much as possible.

The EAK Trust will endeavor to meet this condition on a continuing basis by using Kauai firms or Hawaii based firms with Kauai personnel as much as such firms are available and able to provide the required work and are competitive in pricing.

Condition No. 9

9. *As of the effective date of this amendment, Petitioner has completed 90 single-family residential homesites, 48 multi-family residential units, an appropriate portion of the convenience commercial complex and the recreational and other amenities planned for the development, as well as all off-site and on-site improvements and landscaping servicing the same as provided by the original Condition No. 9.*

a. *“The Eric A. Knudsen Trust and the other Knudsen Entities or any subsequent owner of the properties (the “Knudsen Property”) identified by TMK Nos. (4) 2-8-14: 19 (por.) as shown on the map attached hereto as Exhibit “A” and made a part hereof, and consisting in the aggregate of approximately 63 acres, will substantially commence the development and construction on or before or “not later than” August 5, 2009, of not less than fifty (50) single-family homesites and/or multi-family residential units on the currently undeveloped portions of the Knudsen Property or on other property owners by the Eric A. Knudsen Trust and the other Knudsen Entities in the urban district immediately adjacent to the Knudsen Property as evidenced by the issuance by the County of Kauai of a final subdivision approval (in the case of single-family homesites) or the initial building permit for such construction (in the case of multi-family residential units), and in accordance with the terms and conditions of the Agreement Regarding Conditions of Approval dated December 24, 2003 by and among Kiahuna Mauka Partners, LLC, Stacey T.J. Wong, as and in the capacity of the Successor Trustee of the Eric A. Knudsen Trust, and the County of Kauai. The Eric A. Knudsen Trust and the other Knudsen Entities shall report to the Commission annually on the progress of the development and their compliance with these conditions as they relate to such Knudsen Property. The annual report of the Eric A. Knudsen Trust and the other Knudsen Entities to the Commission on the progress of their development and compliance with conditions will cover the undeveloped portions of the Knudsen Property only.*

Current Status: This condition has been satisfied by the granting of final subdivision approval by the County of Kauai Planning Department for a 50-lot single family lot subdivision. A copy of the letter granting the final subdivision approval was attached to the 2009 Annual Status Report. Construction on the subdivision began in March 2009 and on-site improvements were completed in late 2009.

Condition No. 10

10. *If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated water master plan covering the then remaining undeveloped portions of the Knudsen Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Knudsen Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Knudsen Property, if rezoning is not required.*

Current Status: This condition has been satisfied. A Potable Water Master Plan for the Village at Poipu, dated July 2004 and last revised October 2005, was prepared by Tom Nance Water Resource Engineering. The plan was approved by the County of Kauai Department of Water by its letter of November 17, 2005. Copies of the plan and the approval letter were attached as exhibits to the 2009 Annual Status Report.

Condition No. 11

11. *If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated master drainage plan covering the then remaining undeveloped portions of the Knudsen Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Knudsen Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Knudsen Property, if rezoning is not required.*

Current Status: A Preliminary Engineering Report, dated August 15, 2005 and revised November 25, 2005, was prepared by Kodani and Associates, and attached as Appendix "P" to the Final Environmental Impact Statement for the Village at Poipu, copies of which were provided to the Commission in Land Use Commission Docket No. A05-761 for the proposed reclassification of approximately 127.4 acres, and which is incorporated herein by reference. In addition, specific drainage concerns regarding the 50-lot Phase I of the Village at Poipu were appropriately addressed, failing which the County of Kauai would not have granted final subdivision therefor.

Additional engineering studies and plans will address drainage concerns to the satisfaction of the County as the remainder of the Village at Poipu Project area is developed.

Condition No. 12

12. *If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated traffic impact analysis and report covering the remaining undeveloped portions of the Knudsen Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Knudsen Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Knudsen Property, if rezoning is not required. A copy of any such updated traffic impact analysis and report shall be submitted to the State Department of Transportation for comment prior to approval by the County of Kauai, and following approval by the County of Kauai, a copy of the approved traffic, impact analysis and report shall be filed with the State Department of Transportation.*

Current Status: The EAK Trust participated and shared in the costs of the Koloa Poipu Area Circulation Plan conducted by Charlier & Associates, Inc., in cooperation with the Koloa Community Association, the collective development community in Koloa and Poipu, and the County of Kauai. The Koloa Poipu Area Circulation Plan was completed in early 2007 by Charlier & Associates, Inc., submitted to, and accepted by the County.

In addition, the EAK Trust retained Austin, Tsutsumi & Associates, Inc., to update a traffic impact analysis. The final Traffic Impact Analysis Report, Village at Poipu, 2005 Update, dated September 13, 2005, was completed, and was attached as Appendix "L" to the said Final Environmental Impact Statement for the Village at Poipu, and which is incorporated herein by reference.

Condition No. 13

13. *Wastewater treatment for the future development upon the currently undeveloped portions of the Knudsen Property will be handled and processed by one or more of the following: (a) the expansion of the existing Kiahuna Wastewater Treatment Plant, (b) the development and construction upon the Knudsen Property of private sewage treatment facilities, or (c) a satisfactory agreement to connect into the private sewage treatment facility to be developed and constructed by Alexander & Baldwin upon adjoining property. The Eric A. Knusen Trust and the Augustus F. Knudsen Entities and Interests and any subsequent owner of the Knudsen Property will not look to the County of Kauai for the provision of wastewater treatment facilities.*

Current Status: Agreement was reached with HOH Utilities, LLC, whereby it reserved and would provide wastewater treatment capacity of 20,000 gallons per day at its Poipu Water Reclamation Facility. A copy of the letter of confirmation of payments made by the EAK Trust for the reserved capacity was attached to the 2009 Annual Status Report.

Condition No. 14

14. *All of the internal roadways within the future developments on the remaining undeveloped portions of the Knudsen Property will be private and therefore private, not County of Kauai, trash collection will be used for any future development on the currently undeveloped portions of the Knudsen Property.*

Current Status: The EAK Trust will honor this condition, with all roads within the project on the Knudsen Land and the Project area planned to remain private. Trash collection will be by private collectors and not by County of Kauai personnel.

Condition No. 15

15. *Effective soil erosion and dust control measures will be implemented during future construction upon any currently undeveloped portions of the Knudsen Property to the satisfaction of the County of Kauai and the Department of Health, State of Hawaii.*

Current Status: The EAK Trust intends to comply with this condition, as well as the County Grading Ordinance. Best Management Practices will be employed during the various development phases as required by the respective grading permits.

Condition No. 16

16. *The Eric A. Knudsen Trust and the August F. Knudsen Entities and Interests or any subsequent owner of the Knudsen Property, shall fund and construct adequate civil defense measures as determined by the County of Kauai and the State Civil Defense Agency as part of the future development upon the currently undeveloped portions of the Knudsen Property.*

Current Status: This condition is attributable to that portion of the former Sports Shinko Property under the control of Kiahuna Mauka Partners, LLC, which has installed the civil defense siren at the northeastern corner of the KMP Project 4 site. The civil defense siren is currently available for use by the State Civil Defense Agency. The EAK Trust contributed its 29% pro-rata share of the cost of the siren. As such, this condition has been satisfied.

Condition No. 17

17. *The Eric A. Knudsen Trust and the August F. Knudsen Entities and Interests or any subsequent owner of the Knudsen Property, shall notify all prospective buyers of the Knudsen Property of the potential odor, noise and dust pollution which may result from surrounding agricultural district lands and that the Hawaii-Right-to-Farm Act, Chapter*

165, Hawaii Revised Statutes, limited the circumstances under which pre-existing farm activities may be deemed a nuisance.

Current Status: This condition will be complied with by the EAK Trust on subsequent transfers of interests in the Knudsen Land.

Condition No. 18

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

Current Status: The EAK Trust has met a number of the conditions of approval and may file, at an appropriate time, a motion for release thereof by the Commission with appropriate documentation in support thereof.

Condition No. 19

19. The noncompliance with or nonperformance of any remaining conditions of the Decision and Order by the Eric A. Knudsen Trust and the Augustus F. Knudsen Entities and Interests with respect to the Knudsen Property will not constitute nonperformance of or noncompliance with the remaining conditions of the Decision and Order as it may concern or relate to the Sports Shinko Property (TMK No. (4) 2-8-14:8, 28, 32, 33 and 35, and 2-8-15:77).

Current Status: The EAK Trust acknowledges the condition that it has no responsibility as to compliance with the conditions which are applicable to the Sports Shinko Property (TMK No. (4) 2-8-14:8, 28, 32, 33 and 35, and 2-8-15:77).

Condition No. 20

20. The obligations and liability of First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust under the Decision and Order are not personally binding upon nor shall resort be had to the private property of First Hawaiian Bank, or any other trustee of the Eric A. Knudsen Trust, but only the trust estate shall be bound.

Current Status: This Condition is and will continue to be observed by the trustee of the EAK Trust.

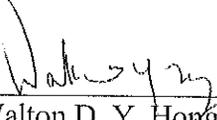
Condition No. 21

21. *A copy of this amendment and modification to the Decision and Order shall be recorded against the subject properties with the Bureau of Conveyances of the State of Hawaii in accordance with Section 15-15-92 of the Hawaii Administrative Rules.*

Current Status: Condition 21 has been satisfied in full by recordation of that certain Certificate of Amendment and Modification of Conditions in the Bureau of Conveyances of the State of Hawaii as Document No. 98-183117. A copy of the recorded Certificate was previously transmitted to the Land Use Commission.

Dated: Kauai, Hawaii, this 23rd day of September, 2011.

Respectfully submitted,



Walton D. Y. Hoag
Attorney for Stacey T. J. Wong, Trustee
of the Eric A. Knudsen Trust

CERTIFICATE OF SERVICE

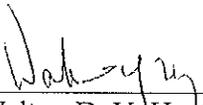
I hereby certify that copies of the foregoing were served on the following by depositing the same in the United States Postal Service, postage prepaid, addressed as follows, on this date:

OFFICE OF PLANNING
Attention: Jesse K. Souki, Director
235 South Beretania Street, 6th Floor
Honolulu, HI 96813

PLANNING DEPARTMENT
COUNTY OF KAUAI
Attention: Michael Dahilig, Planning Director
4444 Rice Street, Suite A473
Lihue, HI 96746

KIAHUNA MAUKA PARTNERS, LLC
c/o Mr. Greg Kamm
P. O. Box 1200
Koloa, HI 96756

Dated: Lihue, Hawaii, this 23rd day of September, 2011.



Walton D. Y. Hong
Attorney for Stacey T. J. Wong, Trustee
of the Eric A. Knudsen Trust