

Russell

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

June 23, 2000

Mr. John L. Higham
Vice President
Amfac Land Company, Limited
700 Bishop Street, Suite 501
Honolulu, Hawaii 96813

Dear Mr. Higham:

Subject: Filing of the 2000 Annual Report for LUC Docket No. A94-703
The Lihue Plantation Company, Limited

This is to acknowledge receipt of the 2000 annual report for the subject docket as transmitted by your letter dated May 8, 2000.

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

Based on our review of the subject annual report, we have the following comments:

- 1) In regards to the project progress, please clarify the status of the 55 acres planned to be conveyed to the Department of Transportation – Airports Division as mentioned in the 1999 annual report and in your letter dated July 23, 1999.
- 2) In regards to Condition No. 1, we have noticed in the annual reports submitted for 1997, 1998, 1999, and 2000, Petitioner reported that an agreement was drafted with the County of Kauai Housing Agency in determining affordable housing requirements pursuant to this condition. Please provide us with a copy of the affordable housing agreement.
- 3) In regards to Condition No. 2, please clarify the status of the extension provided to determine the dedication of approximately 12 acres to the Department of Education.

Please submit the requested information to our office by July 7, 2000.

Mr. John L. Higham
June 23, 2000
Page 2

If you have any questions in regards to this matter, please contact me or Russell Kumabe of my staff at 587-3822.

Sincerely,



ESTHER UEDA
Executive Officer

EU:aa

c: Office of Planning
County of Kauai Department of Planning

Russell

BENJAMIN J. CAYETANO
GOVERNOR



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June 23, 2000

Mr. Dee Crowell, Director
Planning Department
County of Kauai
Suite 473, Building A
4444 Rice Street
Lihue, Hawai'i 96766

Dear Mr. Crowell:

Subject: Filing of the 2000 Annual Report for LUC Docket No. A94-703
The Lihue Plantation Company Limited

On May 10, 2000, the Land Use Commission received from Petitioner The Lihue Plantation Company, Limited, their 2000 annual report filed pursuant to Condition No. 21 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on January 4, 1996, for the above-referenced docket. As required by said conditions, we understand that the Office of Planning and the County of Kauai Department of Planning has been served with a copy of the annual report.

We request your assistance in reviewing the 2000 annual report and in providing us with any comments you may have regarding the Petitioner's compliance with conditions.

We request that any comments your agency may have be submitted to our office with a copy to the Petitioner by July 21, 2000.

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

Sincerely,

ESTHER UEDA
Executive Officer

EU:aa

c: Office of Planning
County of Kauai Department of Planning

Comments on annual report filed in LUC Docket A94-703/The Lihue Plantation Company, Ltd.

General Progress. What is the status of the 55 acres that were planned to be conveyed to DOT-Airports?

Compliance with Conditions.

Condition No. 2. The deadline to evaluate and resolve the desired school site issue is a couple of days away (expires May 13, 2000). Clarification should be provided as to the status of the issue. Has it been resolved? Has there been another extension request?

Given the size of the project, progress on the project is, not surprisingly, slow. Petitioner has made an effort to comply with some of the substantive conditions. At this stage, Petitioner is focused on completing and/or obtaining the approvals of the necessary reports/plans and agreements with the various governmental agencies. At this time, there is no reason to request Petitioner to appear before the LUC. In a couple of years, however, it may be appropriate if progress appears to be stagnating.



Amfac Land Company, Limited

700 Bishop Street, Suite 501 • Honolulu, Hawaii 96813

May 8, 2000

Ms. Esther Ueda
Executive Officer, Land Use Commission
Dept. of Business, Economic Development and Tourism
State of Hawaii
P. O. Box 2359
Honolulu, HI 96804-2359

LAND USE COMMISSION
STATE OF HAWAII
2000 MAY 10 A 10:09

*Respond
by 5/24/00*

Re: Filing of the 2000 Annual report of LUC Docket No. A94-703/The Lihue Plantation Company, Limited

Dear Ms. Ueda:

Please find enclosed for your review one (1) original and two (2) copies of the 2000 Annual Report in accordance with Condition No. 21 of the January 4, 1996 Decision and Order for the above-captioned docket. If you should have any questions or need additional information, please call me at 543-8929.

Very truly yours,

AMFAC LAND COMPANY, LIMITED,
as agent for The Lihue Plantation Company, Limited

John L. Higham
Vice President

Enclosures

cc: Mr. Abe Mitsuda, Office State Planning (with enclosure)
Mr. Keith Nitta, County of Kauai Planning Department (with enclosure)
Mr. Tom Witten (with enclosure)

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

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

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April 4, 2000

Mr. John L. Higham
Vice President
Amfac Land Company, Limited
700 Bishop Street, Suite 501
Honolulu, Hawaii 96813

Dear Mr. Higham:

Subject: LUC Docket No. A94-703/The Lihue Plantation
Company Limited

This is to acknowledge receipt of your letter dated March 28, 2000, providing clarification regarding certain items contained in the annual report filed in the subject docket.

Thank you for your cooperation in this matter.

Should you have any questions, please feel free to call me or Bert Saruwatari of our office at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

EU:aa

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

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April 4, 2000

Mr. Dennis Tulang, Branch Chief
Wastewater Branch
Department of Health
919 Ala Moana Blvd., Room 309
Honolulu, Hawaii 96814

Dear Mr. Tulang:

Subject: LUC Docket No. A94-703/The Lihue Plantation
Company Limited

We are transmitting for your information a copy of a letter from John L. Higham, Vice President, Amfac Land Company, Limited, dated March 28, 2000, regarding Petitioner's plans for the provision of wastewater facilities for its Lihue-Hanamaulu Master Plan project approved in the subject docket.

Should you have any questions, please feel free to call me or Bert Saruwatari of our office at 587-3822.

Sincerely,

A handwritten signature in cursive script, appearing to read "Esther Ueda".

ESTHER UEDA
Executive Officer

EU:aa

Enclosure



Amfac Land Company, Limited

700 Bishop Street, Suite 501 • Honolulu, Hawaii 96813

March 28, 2000

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

2000 MAR 30 A 10:53
LAND USE COMMISSION
STATE OF HAWAII

Dear Ms. Ueda:

Re: LUC Docket No. A94-703 / The Lihue Plantation Company Limited

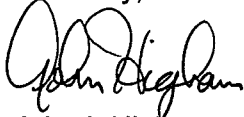
We received your letter dated February 9, 2000 requesting "clarification as to how the Petitioner plans to provide wastewater facilities for the proposed development of the Molokoa area." I would first like to clarify that the statement in my letter to you, dated January 17, 2000, that "this condition is not related to the alternatives that were described in the LUC Docket No. A94-703 Findings of Fact, Conclusion of Law and Decision and Order ..." was merely to point out that our discussions with the County of Kauai (the "County"), relating to the construction of an additional injection well for disposal of effluent from the existing Lihue Wastewater Treatment Plant (the "Lihue WWTP") was not one of the alternatives listed on page 34 of the Findings of Facts (see attached copy of page 34).

As to how the Petitioner plans to provide wastewater facilities for the proposed development of the Molokoa area, we hope to be able to reach an agreement with the County to convey the wastewater from the Molokoa area to the Lihue WWTP. That agreement may include the construction of an injection well, or other improvements requested by the County. We believe that such an agreement could be beneficial to both the County and the Petitioner. If we are unable to reach an agreement with the County to allow wastewater from the Molokoa area to flow to the Lihue WWTP, then facilities to accommodate those flows would be provided via one of the other alternatives, or combinations thereof, listed in the Findings of Facts, subject to the approval of the State Department of Health and the County.

Ms. Ester Ueda
Page 2
March 28, 2000

We hope this provides you with the information that you requested. If there are any further questions please call me at 543-8929.

Sincerely,



John L Higham
Vice President

Enclosure

cc: Tamara Edwards
Dottie Bekeart
Ivan Nakatsuka, ATA
Harry Funamura, Kauai PW

WK000324

disposed of off-site, with the liquid stream being returned back to the existing WWTP.

94. At the present time, there are five alternatives being evaluated for the disposal and reuse of the treated effluent. All alternatives are currently being evaluated, and are being closely coordinated with the County.

- a. Alternative No. 1: Pumping of the treated effluent for reuse to irrigate Petitioner's sugarcane fields;
- b. Alternative No. 2: Pastureland irrigation;
- c. Alternative No. 3: Landscape irrigation along roadways and/or public areas within the Property;
- d. Alternative No. 4: Landscape irrigation along Lihue airport Terminal and/or runways; and
- e. Alternative No. 5: Golf course landscaping, if available in the future, within close proximity to the Property.

Drainage

95. Petitioner's consultant, Kodani & Associates, Inc., prepared a drainage requirement study for the Project, dated January 6, 1995. To determine the impact that the Project may have on flooding downstream of the Project, the runoff peak flows generated under existing and developed conditions for the 100-year 24-hour storm were calculated using the Soil Conservation Services TR-55 Method (Urban Hydrology for Small Watersheds). In the Molokoa and Ahukini Mauka areas, the runoff was also routed through proposed combination park/detention basins. The impact,

2000 ANNUAL REPORT
LUC DOCKET NO. A94-703
The Lihue Plantation Company, Limited
Decision and Order, January 4, 1996
(as amended on April 12, 1996)
Lihue-Hanamaulu Master Plan Project ("Project")

2000 MAY 10 A 10:00
LAND USE COMMISSION
STATE OF HAWAII

I. PROJECT PROGRESS

Concurrent with the processing of the above-captioned Petition for Boundary Amendment for the Project by the State Land Use Commission ("Commission"), the Petitioner submitted a Petition for a Zoning Amendment (Bill No. 1775) to the County of Kauai ("County") on August 25, 1995 (hereinafter "County Zoning Amendment"). Upon review and public hearings, the County Planning Commission recommended approval and the County Council approved the request on May 8, 1996 and the Mayor of Kauai signed the County Zoning Amendment into law on May 13, 1996 (Ordinance No. PM-326-96).

Petitioner is continuing to work on satisfying the conditions of approval for both the Petition for Boundary Amendment and the County Zoning Amendment that must be resolved prior to applying for County Zoning Permits and/or receiving final approval of any subdivision.

Petitioner has also had discussions with several community groups and government agencies as to the possible inclusion or relocation of certain sites into the Project Area. As we disclosed in our previous annual reports and letters dated September 29, 1997 and October 17, 1997 the following agreements have been reached.

1. Sale of approximately 4.4 acres to the UH for a Tropical Fruit Disinfestation Facility
2. Sale of approximately 6.5 acres to the State of Hawaii for a Judiciary Complex
3. Sale of approximately 10.0 acres to the County of Kauai for a police station, civil defense and transportation facility.

Petitioner is continuing with the design of roadway improvements (the extension of Kaana St. from Kapule Highway) to serve the Judiciary Complex and County's police station site. Subject to receiving all governmental approvals on the construction plans, construction of roadway improvements should start later this year.

II. COMPLIANCE WITH COMMISSION'S CONDITIONS

Compliance with the conditions of the Commission's approval referred to and incorporated in the Decision and Order dated January 4, 1996, as amended on April 12, 1996, are summarized below.

1. Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawaii to the satisfaction of the County of Kauai Housing Agency. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between the Petitioner and the County of Kauai.

Agreement between the Petitioner and the County of Kauai shall be obtained prior to the Petitioner applying for county zoning permits.

Status:

Petitioner has met with the County of Kauai Housing Agency and drafted an agreement that determines how Petitioner shall satisfy the provision of providing affordable housing opportunities for low, low-moderate, and gap group income residents. This agreement will be finalized and executed prior to Petitioner applying for county zoning permits.

2. Petitioner shall provide its fair-share contribution for school facilities necessitated by the proposed Lihue-Hanamaulu Project, and for the benefit of the State Department of Education ("DOE"), as follows: Petitioner shall donate in fee simple, twelve (12) acres of off-site land in the Lihue district at Puhi, Kauai in an "as is" condition for an elementary school site. Agreement between Petitioner and the DOE as to the time of the conveyance(s) of the land(s) and the specific location of the twelve (12) acre site shall be obtained prior to the Petitioner applying for county zoning permits.

Status:

Petitioner has met with the Facilities Branch, State Department of Education ("DOE") and the County Planning Department ("Planning Department") to review the DOE's desired location of the twelve (12) acre elementary school site. Pursuant to the County Zoning Amendment, the Petitioner agreed to a condition of approval that provided the Planning Department and DOE a one-year time period to evaluate and resolve the desired school site. The original one-year

time period expired on May 13, 1997 (one year after the date zoning was signed by Mayor). DOE has requested extensions and Petitioner has agreed to extensions, extending the time period to resolve the desired school site till May 13, 2000.

3. Petitioner shall participate in the pro rata funding and construction of adequate civil defense measures as determined by the State of Hawaii and County of Kauai civil defense agencies.

STATUS:

At such time that the detailed planning and engineering is substantially completed, Petitioner will participate in resolving its pro rata funding and construction of civil defense measures as determined by the State and County civil defense agencies.

4. Petitioner shall participate in the funding and developing of water source, storage, and transmission facilities to serve the proposed development.

STATUS:

Petitioner has prepared and submitted a Preliminary Engineering Report for the Water Requirements to the County of Kauai, Department of Water. Petitioner is finalizing a Water Master Plan that will be submitted to the County of Kauai, Department of Water for their review and approval.

5. Petitioner shall participate in the funding and construction of adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Kauai.

STATUS:

Petitioner has met with and is working with the County of Kauai, Department of Public Works ("DPW"), to finalize a Wastewater System Preliminary Engineering Report for the Project. The Wastewater System Preliminary Engineering Report was submitted to the County of Kauai on 3/18/98. The County, in consultation with the State Department of Health ("DOH"), will require acceptance of this report prior to approving the subdivision of the Project.

6. Should any human burials or any historic sites such as 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 Division ("Division"). 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.

STATUS:

The Petitioner will comply with this condition.

7. Petitioner shall participate in the pro rata funding and construction of local and regional transportation improvements and programs including dedication of rights-of-way as determined by the State Department of Transportation ("DOT") and the County of Kauai. Agreement between the Petitioner and the DOT as to the level of funding and participation shall be obtained prior to the Petitioner applying for county zoning permits or receiving final approval of any subdivision, whichever comes first.

STATUS:

Petitioner has discussed the satisfaction of this condition with the State Department of Transportation ("DOT") and the County, and is working with the DOT to identify the level of pro rata funding and participation that Petitioner is required to provide. This agreement will be completed prior to applying for county zoning permits or receiving final subdivision approval, whichever comes first.

8. Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of the appropriate State of Hawaii and County of Kauai agencies.

STATUS:

Petitioner has prepared a drainage master plan which was attached to the Environmental Impact Statement. Petitioner is working with the DPW to resolve details relating to the design of the required detention basins. Petitioner is also continuing to coordinate certain off-site drainage improvements with the DOT, Airports Division and with the Kauai Lagoons Resort.

9. Petitioner shall not construct single or multi-family residential, hotels, or transient lodging, and other noise sensitive public use structures (schools, day care centers, libraries, churches, health care facilities, nursing homes, or hospitals) within areas exposed to aircraft noise levels of 60 Ldn or

greater as indicated on the 1994 and 2010 aircraft noise contours within the Petitioner's January 1995 EIS. Other public use structures (government services and office buildings serving the public, transportation facilities, and parking areas), commercial facilities, government facilities not normally accessible to the public, industrial and agricultural facilities, and recreational facilities (except for outdoor music shells, amphitheaters, professional/resort sport facilities, medial event facilities, etc.) are permitted within areas exposed to aircraft noise levels of 60 Ldn or greater. The State of Hawaii will not be responsible for mitigation of facilities developed within areas exposed to aircraft noise levels of 60 Ldn or greater.

STATUS:

The Petitioner will comply with this condition.

10. Petitioner shall grant to the State of Hawaii an aviation (right to flight) easement in the form prescribed by the State of Department of Transportation ("DOT") and such easement and form shall be mutually acceptable to the DOT and the Petitioner.

STATUS:

Petitioner will comply with this condition.

11. Petitioner shall not construct any object that would constitute a hazard to air navigation at Lihue Airport as defined in Title 14, Code of Federal Regulations Part 77, (14 C.F.R. 77) and Title 19, Hawaii Administrative Rules Chapter 12 (19 H.A.R. 12), provided that this requirement shall be applicable to the construction of those improvements set forth in Petitioner's Exhibit 54, 55 and 56.

STATUS:

Petitioner will comply with this condition.

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

STATUS:

Petitioner has contacted the DOH and the DOH determined that there is no existing or planned air quality monitoring program for the subject Project area.

13. Petitioner shall cooperate with the State Department of Health and the County of Kauai Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes, and the County of Kauai's approved integrated solid waste management plans in accordance with a schedule and timeframe satisfactory to the State Department of Health.

STATUS:

Petitioner will comply with this condition.

14. Petitioner shall implement efficient soil erosion and dust control measures to the satisfaction of the State Department of Health and County of Kauai.

STATUS:

Petitioner will comply with this condition.

15. Petitioner shall notify all prospective buyers of property that the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, limits the circumstances under which pre-existing activities may be deemed a nuisance.

STATUS:

Petitioner will comply with this condition.

16. Petitioner shall maintain the alignment of existing cane haul roads or shall provide alternative cane haul roads at its expense to serve any continuing sugarcane cultivation within the Property.

STATUS:

Petitioner will comply with this condition.

17. Petitioner shall initiate and fund a stream biological monitoring program. The monitoring program shall include quarterly monitoring as warranted, and be reviewed by the U.S. Fish and Wildlife Service, and approved by the State Division of Aquatic Resources, Department of Land and Natural Resources. Mitigation measures necessitated by this Project shall be implemented by the Petitioner if the results of the monitoring program warrant them. Mitigation measures, if necessary, shall be reviewed by the U.S. Fish and Wildlife Service, and approved by the State Division of Aquatic Resources, Department of Land and Natural Resources.

STATUS:

Petitioner has prepared a stream biological monitoring program plan that has been reviewed by the U.S. Fish and Wildlife Service and has received approval from the Division of Aquatic Resources (“DAR”), Department of Land and Natural Resources. Stream biological monitoring will be conducted in accordance with the plan.

18. Petitioner shall initiate and fund a nearshore and stream water quality monitoring program. The monitoring program shall be approved by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources. Mitigation measures shall be implemented by the Petitioner if the results of the monitoring program warrant them. Mitigation measures shall be approved by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

STATUS:

Petitioner has prepared a nearshore and stream water quality monitoring program plan and has revised the plan in accordance with reviewing agency comments. The monitoring program plan has been approved by the DOH, DAR, and the National Marine Fisheries Service. The Petitioner is currently working with the State Office of Planning and the U.S. Fish and Wildlife Service to address their concerns and obtain their approval. Monitoring will be conducted in accordance with the approved plan.

19. 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.

STATUS:

Petitioner will comply with this condition during the course of the development of the Project.

20. 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.

STATUS:

Petitioner will continue to comply with this condition.

21. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Kauai 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 be submitted in a form prescribed by the Executive Officer of the Commission.

STATUS:

Petitioner has and will continue to comply with this condition.

22. 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 Petitioner.

STATUS:

Petitioner is fully aware of this condition.

23. Within 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.

STATUS:

Petitioner has complied with this condition.

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

Status:

Petitioner has complied with this condition.