



HASEKO

HASEKO CONSTRUCTION, INC.

91-919 Kuhina Street, #102 • Ewa Beach, Hawaii 96706-2232
Telephone (808) 689-7772 • Fax (808) 689-7982
Contractors License BC-14397

September 9, 1999

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

1999 SEP 10 PM 1:00
LAND USE COMMISSION
STATE OF HAWAII

Re: 1999 Annual Report for LUC Docket No.
A89-645/Haseko (Hawaii), Inc.

Dear Ms. Ueda:

By this letter, I am providing the Land Use Commission with an annual progress report regarding the status of the above referenced boundary amendment pursuant to Condition No. 14 of the Findings of Fact, Conclusions of Law, and Decision and Order issued on February 6, 1990. Copies of this report have also been sent to the Office of Planning and the County of Hawaii Planning Department as required.

GENERAL PROGRESS OF THE PROJECT

Depressed housing market conditions over the years and the need to comply with time constraints for a number of Hawaii County zoning conditions have caused Haseko to seek extensions of its development schedule. As mentioned in our last report, Haseko submitted a package of amendments to the original Change of Zone Ordinance No. 91-92 on January 5, 1998. Since rezoning for the project occurred back in 1991, Hawaii County has articulated new policies affecting development issues such as no "ohana" covenants, incremental development, more flexible infrastructure requirements, revisions to affordable housing policies and the like through subsequent rezoning actions for other projects. Haseko felt that rather than seek only the necessary time extensions, it would be more prudent to submit for more comprehensive changes which address the prevailing development and zoning practices. On July 2, 1998, the Hawaii County Council voted to approve Ordinance No. 98-66 which included a number of zoning amendments relating to the preparation of a new master plan, revised development schedule, a reduction in

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affordable housing units, and clarifying the timing of infrastructure requirements. Details of these approved changes are contained in the attached Annual Report prepared for the Hawaii County Planning Department dated September 8, 1998 which was previously sent to you.

On May 3, 1998, Haseko submitted a request to the Land Use Commission to modify Condition No. 1 of its Decision and Order relating to affordable housing policies. The intent was to make the State's position remain consistent with updated County policies governing affordable housing. The modification essentially called for deferral of State affordable housing requirements to the County for implementation. In efforts to stimulate economic conditions, the Hawaii County Council had previously adopted Ordinance No. 98-1 on January 7, 1998, which effectively reduced the number of units required for the project from 60% down to 10% while providing more flexibility in the location of units and methods for satisfying requirements.

The Commission voted to approve the changes on August 27, 1998 with the condition that the State be consulted on any affordable housing plan reviewed by the County for the project. These revisions have been recorded with the State Bureau of Conveyances.

In efforts to expedite development, Haseko is attempting to obtain sufficient water for immediate use, which is necessary to attract new investment and obtain project financing. The developer began negotiations with the County of Hawaii Department of Water Supply to revise the existing water agreement that called for drilling and completion of water well to meet long term needs. The developer is now seeking water credits "up front" in exchange for work already completed in drilling the well. In return, Haseko would immediately transfer ownership of the well to the County, who could then outfit the well for production. The County of Hawaii Water Commission, at its December 1998 board meeting, approved an agreement in concept. The County is working to finalize the agreement.

On October 29, 1998, Haseko and the State Department of Education reached agreement for an impact fee/fair-share contribution to satisfy Condition 6 of this Decision and Order. The DOE formula calls for a fair share contribution of \$850 per unit to help fund construction of school facilities. The terms allow the developer to make incremental payments tied to actual subdivision and construction of housing units.

PROGRESS IN COMPLYING WITH THE LUC CONDITIONS OF THE DECISION AND ORDER

Most of the conditions of LUC Docket No. A89-645 will be performed when Haseko moves forward with construction on the property. The following information is provided where changes in status have occurred since Haseko's last annual report.

***Condition 1.** Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by constructing and offering for sale or rent a number of residential units equivalent to at least thirty percent (30%) of the total residential units within the Project at prices which families with an income range up to 120 percent of Hawaii County's median income can afford and at least thirty percent (30%) of the total residential units within the Project at prices which families with an income range of 120 to 140 percent of Hawaii County's median income can afford. The "Project" includes the Property and the adjoining 15 acres. This affordable housing condition shall be satisfied by construction of housing units on-site. In the event that Petitioner does not receive all the required land use permit approvals from the County of Hawaii which would allow construction in substantial compliance with representations made before the Land Use Commission, then this condition shall be satisfied by the Petitioner by either the construction of on-site or off-site housing units or cash payments, or a combination thereof, that satisfy the then current housing needs, as approved by the State Housing Finance and Development Corporation and the County of Hawaii..*

***Condition 1. (As amended)** Petitioner shall provide affordable housing opportunities for low, low-moderate, and moderate-income residents in the State of Hawaii to the satisfaction of the County of Hawaii. The County of Hawaii shall consult with the State Housing and Community Development Corporation of Hawaii prior to its approval of the Petitioner's affordable housing plan. 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 Hawaii.*

This original condition has been amended to be consistent with recent changes in State and County policies governing affordable housing requirements. Prior State and County policies called for up to 60% of new homes to be sold at below market rates. In order to boost the housing market, the Hawaii County Council adopted Ordinance No. 98-1, effective January 7, 1998 which in effect reduced the number of units required down to 10% when applied to the project. As previously mentioned, the County Council voted to amend the project's zoning ordinance to reflect the change in County policies on July 2, 1998.

On May 3, 1998, Haseko submitted a request to the Land Use Commission to modify this Condition No. 1 to reflect similar changes in the State's position on affordable housing and to make it consistent with new Hawaii County policies. The Commission voted to approve the change on August 27, 1998 with the condition that the State be consulted on any affordable housing plan reviewed by the County for the project. The revisions have been recorded with the Bureau of Conveyances.

Condition 2. *Petitioner shall participate in the funding and construction of transportation improvements at the intersection of Ka'iminani Street and the Queen Kaahumanu Highway as deemed necessary by the State Department of Transportation, provided that the extent of the Petitioner's participation shall not exceed the project's share of the increased community traffic impacts in the region. A schedule for the implementation of the Petitioner's participation on any regional transportation improvement, including the total costs paid by Petitioner for such improvements, shall be provided to the Petitioner by the State Department of Transportation within a reasonable time period after the effective of this Decision and Order.*

No progress has been made on the performance of this condition during this reporting period.

Condition 3. *Petitioner shall fund and construct the necessary water source and transmission facility improvements for the Property as are required by the County Department of Water Supply.*

The developer began negotiations with the County Department of Water Supply to revise the existing water agreement dated September 9, 1992 in efforts to expedite the completion of the existing off-site well at Keopu, North Kona. The intent is to provide enough water for portions of the property to make development more viable under current economic conditions. The Hawaii County Water Commission at its December 1998 meeting approved a draft agreement in concept. We are currently awaiting final execution of the agreement.

Condition 4. *Petitioner shall fund and construct the necessary sewage treatment facilities for the Property as required by the State Department of Health.*

No progress has been made on the performance of this condition during this reporting period.

Condition 5. *Petitioner shall pay for its pro rata share for police, park, fire, and solid waste facilities as may be required by the County of Hawaii.*

No progress has been made on the performance of this condition during this reporting period.

Condition 6. *Petitioner shall pay for its pro rata share for school facilities as may be required by the State Department of Education. A schedule for the implementation of Petitioner's participation in any school facilities, including the total cost to be paid by*

petitioner for such facilities, shall be provided to the Petitioner by the State Department of Education within a reasonable time period after the effective date of this Decision and Order.

On October 29, 1998, Haseko and the State Department of Education reached an agreement for an impact fee/fair-share contribution for the project. The DOE formula calls for a fair share contribution of \$850 per unit to go toward construction of school facilities. The terms allow the developer to make incremental payments tied to actual subdivision and construction of housing units. The legal documents will be submitted to the LUC when Haseko files a motion for partial release of this Condition 6 in accordance with Condition 15.

Condition 7. *Petitioner shall develop and implement a plan to mitigate the impacts of the Project on the endangered and threatened botanical species located on the Property in accordance with Federal and State guidelines. The plan shall be developed by the Petitioner prior to submission of a change of zone application of the Property to the County of Hawaii.*

No progress has been made on the performance of this condition during this reporting period.

Condition 8. *Petitioner shall develop and implement a plan to mitigate the adverse impact on the air quality caused by the fugitive dust during the construction on the Property. The plan shall include, among other dust control measures, a provision for early landscaping of the Property. The plan shall be developed by the Petitioner prior to submission of a change of zone application of the Property to the County of Hawaii.*

There has been no progress on the performance of this condition because construction has not commenced on the project site.

Condition 9. *Petitioner shall prepare a preservation and data recovery plan for all the significant historic sites on the Property, which plan shall be submitted to the Department of Land and Natural Resources, State Parks Historic Sites Division and the County of Hawaii Planning Department for their review and approval.*

No progress has been made on the performance of this condition during this reporting period.

Condition 10. *Petitioner shall immediately stop work on the impacted area and contact the State Historic Preservation Office should any archaeological resources such as*

artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, paving or walls be encountered during the construction of the Project.

Since construction of the project has not commenced, no new archaeological resources have been discovered on the property.

Condition 11. *Petitioner shall pay for its pro rata share for a baseline study and monitoring program regarding the impact of the proposed development upon the nearshore waters as may be required by NELH and HOST Park. A schedule for the implementation of petitioner's participation including the total cost to be paid by Petitioner shall be provided to the Petitioner by NELH and HOST Park within a reasonable period of time after the effective date of this Decision and Order.*

No progress has been made on the performance of this condition during this reporting period.

Condition 12. *Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Property prior to the development of the Property.*

Haseko has not actively marketed the property during this reporting period.

Condition 13. *Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.*

No progress has been made on the performance of this condition during this reporting period.

Condition 14. *Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning and the County of Hawaii Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed in this Decision and Order.*

This report is being submitted to the LUC to satisfy this subject condition.

Condition 15. *The Commission may fully or partially release these conditions 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.*

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Haseko has not yet filed a motion with the LUC to release any of the written conditions.

If you have any questions about the subject report, please feel free to contact me at 689-4400 on Oahu.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Alan Suwa".

Alan Suwa
Project Manager

cc: Office of planning w/ enclosures
County of Hawaii Planning Department w/o enclosures