



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
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April 17, 1996

MEMORANDUM

TO: Land Use Commission
FROM: Staff *Esther Ueda*
SUBJECT: LUC Docket No. A89-645/Haseko (Hawaii), Inc.:
Background Summary Report

The following background summary on the subject docket is provided for your information.

CHRONOLOGY

July 21, 1989

Haseko (Hawaii), Inc. ("Petitioner"), filed a petition to reclassify approximately 125.041 acres from the Agricultural District to the Urban District for residential, commercial, and park uses, and a sewage treatment plant at Kalaoa, North Kona, Hawai'i.

The development included a 479-unit residential community consisting of single-family lots (7,500, 10,000, and 15,000 sq. ft.), multi-family townhouses, a 40,000-50,000 sq. ft. neighborhood shopping center, a 2-acre passive park, a sewage treatment plant, and related infrastructure.

The development was a portion of the 140-acre Pu'uhoonua Subdivision ("Project"). As part of the overall Project, Petitioner also proposed to develop 24 single-family lots of 20,000 sq. ft. each on the adjoining 15-acre parcel that was previously reclassified by the County of Hawai'i from the Agricultural District to the Urban District, pursuant to section 205-3.1, Hawai'i Revised Statutes.

November 17, 1989 The Commission completed its hearings on the petition.

January 23, 1990 The Commission approved the petition subject to 15 conditions.

February 6, 1990 The Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order.

March 19, 1991 Petitioner filed its 1991 annual report. Petitioner informed the Commission that it submitted a change of zone application to the Planning Department. The Planning Commission subsequently recommended approval of the zone change request to the County Council, which adopted the change of zone ordinance on March 6, 1991, subject to 14 conditions. The change of zone ordinance was pending the approval of the Mayor.

Petitioner also reported that it had reached a tentative agreement with a neighboring landowner regarding the development of a water well, with the necessary transmission system, mauka of the project site. Petitioner stated that it then obtained a well drilling permit for a test well on the proposed site.

February 7, 1992 Petitioner filed its 1992 annual report. Petitioner reported that by Ordinance No. 91-22, adopted on March 15, 1991, the petition area was rezoned from Unplanned to Single Family Residential, Multiple Family Residential, and Neighborhood Commercial.

The effective date of the zoning was conditioned upon Petitioner entering into a water agreement to develop a groundwater source for its Project with the County Department of Water Supply ("DWS"). The agreement was consummated on September 9, 1991.

Petitioner reported that it retained consultants to develop a comprehensive master plan for the development. Petitioner noted that subdivision of the petition area would only be commenced

after the master plan was completed and the water source was developed.

June 16, 1993

Petitioner filed its 1993 annual report. As part of developing a potable groundwater source to service its Project, Petitioner reported that it had drilled and tested a well off-site of the petition area. Petitioner submitted a report on the well to the Commission on Water Resource Management ("CWRM") and DWS. Petitioner was awaiting approval from DWS for the well.

March 11, 1994

Petitioner filed its 1994 annual report. Petitioner noted that CWRM issued a pump installation permit for its off-site well.

March 17, 1995

Petitioner filed its 1995 annual report. Petitioner informed the Commission that since its 1994 annual report, it had not moved forward with its Project due to the depressed state of the real estate market.

March 18, 1996

Petitioner filed its 1996 annual report. Petitioner reported that in light of the continuing slump in real estate, it has been examining the feasibility of modifying its master plan to meet new market conditions.

BACKGROUND ON DEVELOPMENT

The following background on the development to date is based upon review of the annual reports submitted by Petitioner and will be presented in order of the conditions imposed.

1. Affordable Housing

Petitioner is required to provide a 60/40 mix of housing units, of which 60 percent is to be affordable and 40 percent market. Thirty percent of the Project's units is required to be constructed for sale or rent at prices which families within an income range up to 120 percent of the County of Hawai'i's median income could afford. Another 30 percent is required to be for sale or rent to families with an income range of 120 to 140 percent of the median income.

In the event Petitioner does not obtain the necessary permit approvals from the County of Hawai'i to comply with construction of the affordable housing, Petitioner could also satisfy the affordable housing requirement by constructing on-site or off-site housing units or cash payments, or a combination of both, as approved by the Housing Finance and Development Corporation and the County of Hawai'i.

Petitioner represents that due to the depressed state of the real estate market, it is re-evaluating the development to determine the feasibility of modifying its master plan to meet the current market conditions. Petitioner also represents that it is actively looking to engage other developers in a joint venture for the development. Petitioner notes that the cost of meeting this condition has been one of the factors which has prevented it from proceeding with the development in light of present market conditions.

2. Transportation Improvements

Petitioner is required to fund and construct transportation improvements at the intersection of Ka'imani Street and Queen Ka'ahumanu Highway, as determined by the Department of Transportation ("DOT"). Petitioner is also required to submit a schedule for the implementation of Petitioner's participation in any regional transportation improvements to DOT.

Petitioner represents that it has not made any progress in meeting this condition, although it has had discussions with the Hawai'i District Office of DOT. According to Petitioner, DOT has not provided it with a schedule for the implementation of Petitioner's participation in regional transportation improvements. Petitioner further notes that the cost of meeting this condition is being considered in Petitioner's assessment of the feasibility of the development in light of present market conditions.

3. Water Source and Transmission Facility

Petitioner is required to fund and construct water source and transmission facility improvements as required by DWS.

To date, Petitioner has drilled and tested a potable water well to service the development. No further work has been done to complete the well.

4. Sewage Treatment Facilities

Petitioner is required to fund and construct sewage treatment facilities as required by the Department of Health.

Petitioner represents that no action has been taken to satisfy this condition. Petitioner points out that such facilities are anticipated to be designed and constructed in conjunction with the subdivision of the petition area. Petitioner notes that the cost of the facilities is being reassessed by Petitioner's consultants.

5. Police, Park, Fire and Solid Waste Facilities

Petitioner is required to pay its pro rata share for police, park, fire, and solid waste facilities as may be required by the County of Hawai'i.

Petitioner represents that no action has been taken to satisfy this condition. Although Petitioner notes that the County's rezoning ordinance requires it to provide an area within the Project site for a park site, the County did not specifically require a payment from Petitioner for the other facilities and has not adopted an impact fee ordinance.

6. School Facilities

Petitioner is required to pay its pro rata share for school facilities as required by the Department of Education ("DOE"). Petitioner is also required to submit a schedule for the implementation of Petitioner's participation in any school facilities to DOE.

Petitioner represents that no progress has been made to satisfy this condition. Petitioner further notes that the cost of meeting this condition has been one of the factors which has prevented it from proceeding with the development in light of present market conditions.

7. Botanical Species

Petitioner is required to develop and implement a mitigation plan for endangered and threatened botanical species located on the petition area in accordance with federal and State guidelines. Petitioner is required to develop the plan prior to filing a change of zone application for the petition area to the County of Hawai'i.

Petitioner represents that it prepared the mitigation plan as required, but the implementation of the plan has not occurred because there is no development on the petition area.

8. Air Quality

Petitioner is required to develop and implement an air quality mitigation plan to address the impacts from fugitive dust during construction. Petitioner is required to develop the plan prior to filing a change of zone application for the petition area to the County of Hawai'i.

Petitioner represents that it prepared the mitigation plan as required, but the implementation of the plan has not occurred because there is no development on the petition area.

9. Historic Sites

Petitioner is required to prepare a preservation and data recovery plan for all significant historic sites on the petition area and submit said plan to the Department of Land and Natural Resources, State Parks Historic Sites Division, and the County of Hawai'i Planning Department for their review and approval.

Petitioner represents that this condition was satisfied several years ago with the preparation, submission, and approval of said plan.

10. Archaeological Resources

Petitioner is required to stop work and contact the Historic Preservation Office should any archaeological resources be encountered during construction.

Petitioner notes that since construction of the petition area has not commenced, no new archaeological resources have been encountered.

11. Nearshore Waters

Petitioner is required to pay its pro rata share for a baseline study and monitoring program to address impacts to nearshore waters as may be required by the Natural Energy Laboratory of Hawai'i ("NELH") and the HOST Park. Petitioner is also required to submit a schedule for the implementation of Petitioner's participation to NELH and the HOST Park.

Petitioner represents that no progress has been made to satisfy this condition, although Petitioner has had discussions with NELH and the HOST Park. Petitioner further notes that the cost of meeting this condition is a factor in assessing the feasibility of the development in light of present market conditions.

12-15. Standard Conditions

Condition Nos. 12 through 15 are standard conditions imposed by the Commission regarding the provision of notice to the Commission of any intent to voluntarily alter the ownership of the petition area, development of the petition area in substantial compliance with representations, submission of annual reports, and release of conditions.

Petitioner has submitted the required annual reports to the Commission, and to date has not altered the ownership of the petition area or sought the release of any of the conditions imposed. With respect to substantial compliance with representations, Petitioner points out that under its change of zone ordinance granted by the County, the number of residential units permitted is slightly less than what was proposed before the Commission.



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April 15, 1996

Sandra Pechter Schutte, Esq.
101 Aupuni Street, Suite 1014A
Hilo, Hawaii 96720

Dear Ms. Schutte:

Subject: LUC Docket No. A89-645/Haseko (Hawaii), Inc.

This letter is to acknowledge receipt of your letter dated April 9, 1996, providing the Commission with information regarding the status of the subject docket.

We request that the Petitioner appear before the Commission to present its status report on the proposed project at the next Commission meeting tentatively scheduled for April 25, 26, 1996 in Honolulu. An agenda indicating the date, time, and location of the meeting will be sent to you shortly.

If you have any questions in regards to this matter, please feel free to contact me or Leo Asuncion of my staff at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

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cc: County of Hawaii Planning Dept.
OSP
Mr. Alan Suwa