

LAND USE COMMISSION
STATE OF HAWAII

June 22, 2015

2015 JUN 26 A 8:59

Mr. Daniel E. Orodenker
Executive Officer
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, HI 96804-2359

Subject: 2015 Annual Report for the State Land Use Commission
Docket No. A07-772/A&B Properties, Inc.- Kihei Residential

Dear Mr. Orodenker:

This constitutes A&B Properties, Inc.'s ("A&B" or "Petitioner") 2015 annual report for the subject Kihei Residential project ("Project").

Project Background and Status

By its Decision and Order dated February 20, 2009, the State Land Use Commission (SLUC) granted approval of A&B's petition to reclassify approximately 94.352 acres from the "Agricultural" to the "Urban" land use district at Waiakoa, Maui. Approval of the petition was subject to 28 conditions. The development of the subject property is for a planned residential community.

As noted in the petition, additional land use approvals, including a community plan amendment and change in zoning from the County of Maui were required for the Project. In deference to the County of Maui Planning Department's January 10, 2008 policy of not supporting applications for community plan amendment while the Maui General Plan Update process was ongoing, A&B withheld the filing of County land use applications after the SLUC's approval in February 2009. However, on November 24, 2009, the Planning Department rescinded this policy, citing in part the progress made regarding the Maui General Plan Update. As a result of this change in policy, Project applications for community plan amendment and change in zoning were filed with the County of Maui in April 2010. The applications were subsequently processed for agency and public review. The applications received the support of the Maui Planning Department who recommended approval with conditions. On December 14, 2010, the Maui Planning Commission conducted a public hearing on the applications and after due deliberation voted to recommend the Maui County Council's approval of the community plan amendment and change in zoning applications with conditions. The applications and recommendation of the Maui Planning Commission were forwarded to the Maui County Council by the Planning Department in March 2011. In December 2012, after years of review and public comment, the County of Maui adopted the Maui Island Plan. As a result, the subject property is now appropriately situated within the Maui Island Plan's designated urban growth boundary.

Public hearings on the applications were conducted by the Maui County Council's Land Use Committee on December 18, 2013, February 5, 2014, March 19, 2014 and July 2, 2014. The applications subsequently passed first reading before the Maui County Council on July 22, 2014. Second/final reading and approval of Mayor Arakawa was attained on August 1, 2014. Zoning for the Project was granted subject to 16 conditions. Copies of both ordinances were previously provided. The receipt of community plan and zoning approval came nearly five and one half years after SLUC approval.

Petitioner is now proceeding with the design and engineering of the Project. Subdivision plans for the initial increment of the Project have been filed with the County. Plans for the Project's initial increment include affordable residential units as prescribed by the County's residential workforce housing policy. As previously noted, the master plan seeks to provide a range of housing types to meet a range of price points and market segments, all geared toward primary housing for Maui families. Toward that end, the plan includes a mix of multi family attached and single family detached units, including stacked flats, townhomes, motor court homes and single family detached homes under condominium ownership. To provide for that mix of housing types within the R-1 zoned area, the Petitioner sought and received a Cluster Housing permit from the County of Maui (Attachment 1). This permit allows for a mix of single family detached housing types to meet a wider range of market segments and price points. As part of that review process the Applicant provided the County with a statement regarding compliance with previous representations made to the SLUC regarding its housing plans (Attachment 2). The County concurred and approved the Cluster Housing permit on May 27, 2015. The Project is proceeding and construction is anticipated to commence in late 2015. The Project has also been given a new name and is now referred to as "Kamalani".

Status of Activities Relating to Imposed Conditions

Listed below are each of the conditions imposed under the Decision and Order and the status of activities pertaining to each respective condition.

1. *Affordable Housing. Petitioner shall provide affordable housing opportunities for residents of the State of Hawai'i in accordance with the applicable affordable housing requirements of the County of Maui. 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 Petitioner and the County of Maui.*

In compliance with the County's Residential Workforce Housing Policy, the Petitioner prepared a draft affordable housing agreement for the County's review. The agreement is currently under review by the County.

2. *Notification of Potential Nuisances. Petitioner shall disclose to all prospective buyers of the Petition Area that potential odor, noise, and dust pollution may result from agricultural uses on adjacent lands or noise from general aviation overflights in the vicinity.*

Petitioner will incorporate this disclosure into applicable sales materials and legal documents.

3. *Provisions of the Hawai'i Right to Farm Act.* Petitioner shall notify all prospective buyers of the Petition Area that the Hawai'i Right to Farm Act, HRS chapter 165, limits the circumstances under which pre-existing farm activities may be deemed a nuisance if there are any lands in the Agricultural District adjacent to the Petition Area.

Petitioner will incorporate this notice into all applicable legal documents.

4. *Integrated Solid Waste Management Plan.* Petitioner shall cooperate with the DOH and the County of Maui to conform to the program goals and objectives of HRS chapter 342G, and the County of Maui's approved integrated solid waste management plan in accordance with a schedule and timeframe satisfactory to the DOH. Petitioner shall, in coordination with appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities, including recycling bins in public places, such as schools and parks, if any, within the proposed development.

Petitioner will comply with this condition as development of the Project progresses.

5. *Water Resources Allocation.* Petitioner shall provide a long-term drinking water source, storage, and transmission facilities and improvements to accommodate development of the Petition Area to the satisfaction of the DWS and other applicable State and County agencies.

Petitioner, in partnership with other parties, including the County DWS, is undertaking the development of new potable groundwater wells to serve the project.

6. *Water Conservation Measures.* Petitioner shall implement water conservation measures and BMPs, such as use of endemic, indigenous and drought-tolerant plants and turf, and incorporate such measures into the landscape planting. Petitioner shall also coordinate with Maui County in the utilization of R-1 recycled water and other non-drinking water sources, where feasible.

Petitioner is incorporating water conservation measures, including the use of drought tolerant plants, into the Project's landscaping plans. Petitioner is also pursuing the use of non-potable water for landscape irrigation purposes, which will reduce the use of potable water by the Project.

7. *Wastewater.* Petitioner shall develop a wastewater collection and transmission system and other sewer improvements in the Petition Area, as required by the DOH and the DEM. Petitioner shall also pay a fair-share contribution to fund improvements to wastewater treatment facilities to serve the Petition Area as determined by the County of Maui.

Petitioner is coordinating its wastewater plans with the DEM and will contribute its fair share contribution toward system improvements.

8. *Soil Analysis.* Petitioner, in consultation with the DOH, HEER, shall undertake a soil analysis study of the Petition Area to determine the impact to the Project from fertilizer and pesticide residue that may be present on the Petition Area and undertake reasonable measures to abate and/or remove hazardous materials identified.

Petitioner commissioned applicable studies of the property in May and June of 2014. Bureau Veritas North America conducted a Phase I Environmental Site Assessment and a Phase II Site Investigation of the property. This analysis included appropriate soil testing of the property in consultation with the State DOH. Analytical testing reported that no detectable concentrations of contaminants were present or that such concentrations were well below the State DOH Tier 1 Environmental Action Levels. These findings and reports were transmitted to the State DOH via letter dated June 20, 2014. The DOH acknowledged the findings of the reports by letter dated April 15, 2015 (Attachment 3).

9. *Civil Defense.* Petitioner shall, on a fair-share basis, fund and construct adequate solar-powered civil defense measures serving the Petition Area if required by and as determined by the State of Hawai'i, Department of Defense, Office of Civil Defense, and the County Of Maui, Civil Defense Agency.

Petitioner met with the County Civil Defense agency and will work with it and other applicable agencies to comply with this condition as development of the Project progresses.

10. *Air Quality.* Petitioner will comply with and implement all required and applicable statutes, ordinances, rules, and regulations to mitigate the effects of fugitive dust and exhaust emissions. In addition, Petitioner shall participate in an air quality monitoring program if required by the DOH.

Petitioner's construction plans will incorporate best management practices to mitigate fugitive dust. Any requirements for air quality monitoring will be complied with as development of the Project progresses.

11. *Drainage.* Petitioner shall fund the design and construction of drainage system improvements based on applicable standards, to prevent runoff resulting from the development of the Petition Area from adversely affecting State and County highway and roadway facilities to the satisfaction of applicable State and County agencies.

Petitioner is coordinating its drainage plans with the County DPW and will comply with this condition as development of the Project progresses.

12. *Highways.* Petitioner shall implement traffic improvements and mitigation measures as recommended or required by the TIAR and as approved by the DOT. Petitioner shall not

proceed with the development of the Project until the DOT reviews and agrees with the proposed traffic improvements and mitigation measures, including any modifications to the existing bikeway along Pi'ilani Highway. Petitioner shall contribute its fair share of the cost of State highway planned improvements and/or traffic mitigation measures that will alleviate the impacts generated by the proposed development and uses, as agreed to by Petitioner and the DOT, in accordance with the findings of the TIAR and any required updates. Within the Petition Area, bike paths and accommodations to support public bus transportation services (bus stop) shall be provided as determined by the applicable governmental agencies.

In August 2014, an updated traffic analysis was submitted to the State DOT for review. This traffic analysis supplemented the Updated/Revised TIAR dated January 22, 2013, which was accepted by the DOT in May 2013. On May 26, 2015, the DOT accepted the updated traffic analysis including the timing of the improvements at the Piilani Highway/Kaiwahine Street intersection. A copy of that letter is attached (Attachment 4).

13. *TDM Plan. Petitioner shall submit a TDM plan to the County of Maui together with any future land use applications, including but not limited to any application for a Community Plan Amendment and/or Change in Zoning.*

In fulfillment of this condition, the TDM plan was prepared and submitted with the project applications for County community plan amendment and change in zoning in April 2010.

14. *Public School Facilities. Petitioner shall contribute to the development, funding and/or construction of school facilities, on a fair-share basis on the market units only, as determined by, and to the satisfaction of, the DOE. Terms of any contribution shall be agreed upon in writing by Petitioner and the education agency.*

Petitioner and the DOE have executed an educational contribution agreement for the Project. A copy of the educational contribution agreement, dated December 22, 2014, is attached. (Attachment 5)

15. *Previously Unidentified Burials and Archaeological/Historic Sites. In the event that historic resources, including human skeletal remains, lava tubes, and lava blisters/bubbles are identified during the construction activities, all work shall cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance, and the DLNR, SHPD, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, Petitioner shall comply with all applicable statutes and rules of the DLNR, SHPD. In addition, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological*

clearance from the DLNR, SHPD, that mitigative measures have been implemented to its satisfaction.

Petitioner will comply with this condition as development of the Project progresses.

16. *Established Access Rights Protected.* *Petitioner shall preserve any established access rights of Native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, and religious practices, or for access to other areas.*

The archaeological inventory survey and cultural impact assessment prepared for the Project disclosed no access or use of the property by Native Hawaiians for subsistence, cultural or religious practices.

17. *Recreational Facilities.* *Petitioner shall comply with the Park Dedication requirements of the County of Maui as approved by the Director of Parks and Recreation.*

Petitioner is coordinating its plans with the County Parks Department to meet the park dedication requirements for the Project. Active and passive parks are planned at locations within the Project.

18. *BMPs.* *Petitioner shall implement BMPs applicable to each proposed land use in order to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and groundwater pollution, and formulate dust control measures to be implemented during and after the development process in accordance with the DOH guidelines.*

Petitioner is coordinating its plans with applicable governmental agencies and will comply with this condition as development of the Project progresses.

19. *Seabirds.* *Petitioner shall implement BMPs as recommended by the USFWS during construction of the Project to mitigate potential impacts to threatened and endangered seabirds whose flight corridor includes the Petition Area.*

Petitioner will comply with the recommendations of the USFWS as development of the Project progresses.

20. *Energy Conservation Measures.* *Petitioner shall implement to the extent feasible and practicable measures to promote energy conservation, sustainable design, and environmental stewardship, such as the use of solar energy and solar heating, consistent with the standards and guidelines promulgated by the Building Industry Association of Hawai'i, the USGBC, the Hawai'i Commercial Building Guidelines for Energy Star, and Green Communities into the design and construction of the Project and the structures within the Petition Area. Petitioner shall also provide information to home purchasers regarding energy conservation measures that may be undertaken by the individual homeowner.*

Petitioner is evaluating various energy conservation measures and will comply with this condition as development of the Project progresses.

21. *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.

Petitioner is proceeding with development of the Project in substantial compliance with representations made to the SLUC. As noted earlier, the Petitioner received a Cluster Housing permit for the R-1 portion of the Project to allow for a mix of single family detached housing types to meet a wider range of market segments and price points.

22. *Infrastructure Deadline.* Petitioner shall complete construction of the proposed backbone infrastructure, including the primary roadways and access point, residential internal roadways, and water supply, sewage and electrical infrastructure within ten years from the date of the decision and order.

As noted previously, it took approximately 5 and one half years after SLUC approval to attain County zoning for the Project. Petitioner's efforts during that time were focused on the attainment of community plan and zoning approvals from the County of Maui. These approvals took significantly longer than anticipated and have potentially adversely impacted Petitioner's ability to comply with this condition. Nonetheless, Petitioner is proceeding as quickly as possible with the design, engineering and subdivision processes necessary to commence construction of the Project and to meet the requirements of this condition. Petitioner requests that the SLUC acknowledge this material fact in any subsequent review of compliance with this condition.

23. *Order to Show Cause.* If Petitioner fails to complete proposed backbone infrastructure within ten years from the date of the decision and order, the Commission may issue and serve upon Petitioner an Order to Show Cause and the Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use Agricultural District classification or be changed to a more appropriate classification.

Petitioner acknowledges this condition, however, as noted above, the attainment of County community plan and zoning approvals took significantly longer than anticipated. Nonetheless, Petitioner is moving ahead with the design, engineering and subdivision processes necessary to commence construction of the Project and to meet the requirements of this condition. Petitioner requests that the SLUC acknowledge this material fact in any subsequent review of compliance with this condition.

24. Notice of Change of Ownership. *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 Petition Area, at any time prior to completion of development of the Petition Area.*

By letter dated April 16, 2015, Petitioner notified the SLUC of the transfer of the Petition Area from Alexander & Baldwin, LLC to its affiliate, Kamalani Ventures LLC. A&B Properties, Inc. is the manager and agent of Kamalani Ventures LLC.

25. Annual Reports. *Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the County, and their respective successors, in connection with the status of the development of the Petition Area 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.*

This annual report is being submitted in compliance with this condition.

26. Release of Conditions. *The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.*

This condition is not currently applicable.

27. Notice of Imposition of Conditions. *Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances of the State of Hawai'i a statement that the Petition Area is subject to the conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.*

This condition has been satisfied. On February 26, 2009 a "Notice of Imposition of Conditions by the Land Use Commission" was recorded with the State Bureau of Conveyances (Document No. 2009-028710) and copies were filed with the SLUC.

28. Recordation of Conditions. *Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HAR section 15-15-92.*

This condition has been satisfied. On April 6, 2009 the conditions imposed by the SLUC were recorded with the State Bureau of Conveyances under the "Declaration of Conditions" applicable to that petition for district boundary amendment in Docket No. A07-772 of the SLUC (Document No. 2009-051059).

Please contact me should you require any further information regarding this report. An email pdf version of this report will also be transmitted to your office for your use.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Y. Yasui". The signature is fluid and cursive, with a prominent initial "D" and "Y".

Daniel Y. Yasui, AICP
Vice President

cc: State Office of Planning
County of Maui Planning Department

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 27, 2015

Ms. Marisa Fujimoto, Senior Associate
Munekiyo Hiraga
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Ms. Fujimoto:

SUBJECT: CLUSTER HOUSING APPROVAL FOR THE KIHEI RESIDENTIAL PROJECT, LOCATED IN NORTH KIHEI AT THE INTERSECTION OF PIILANI HIGHWAY AND KAIWAHINE STREET, ISLAND OF MAUI, HAWAII; TMK: (2) 3-8-004:030 (POR.) (CL1 2015/0001) (CL2 2015/0001)

The Department of Planning (Department) has reviewed the plans for the Kihei Residential Project including modified design standards for the "Spine Road" and hereby grants Cluster Housing Approval based upon revised drawings submitted on May 15, 2015, subject to the project complying with the zoning standards identified in Chapter 19.83, Maui County Code, 1980 as amended, and subject to all conditions of approval stated in Land Use Commission Docket for Decision & Order A 07-772, County Ordinance No. 4145 (Bill No. 51), County Ordinance No. 4146 (Bill No. 52). The original submission of March 11, 2015, also contains pertinent information that is included in this approval. Final review of the project in accordance with the zoning standards shall be conducted during the building permit review by the Department of Public Works and Zoning Administration and Enforcement Division of the Department as applicable.

The Department understands that a new entity was formed to oversee the Kihei Residential Project development and ownership for the subject property has changed from Alexander & Baldwin, LLC to Kamalani Ventures, LLC.

The Department agrees to the Applicant's request to maintain flexibility with regard to model types, and that any such changes will be compliant with the County of Maui Building Code requirements and Cluster Housing Design Standards.

Substantive amendments to this approved Cluster Housing Development Permit would be subject to administrative review and approval by the Directors of Planning and Public Works. The Directors will determine what changes may be construed as "substantive."

The Applicant will submit updates on this project to the State Land Use Commission and to the County of Maui Council through Annual Compliance Reports as noted in the applicable conditions of approval for this project.

Ms. Marisa Fujimoto, Senior Associate
May 27, 2015
Page 2

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Kurt Wollenhaupt at kurt.wollenhaupt@mauicounty.gov or at (808) 270-1789.

Sincerely,



WILLIAM SPENCE
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Kurt F. Wollenhaupt, Staff Planner (PDF)
State Land Use Commission
Department of Public Works
Project File
General File
WRS:KFW:nt
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Kihei Residential Project- Cluster Housing Application
Compliance with State Land Use Commission Representations

4/23/2015

Background

The conceptual master plan presented to the SLUC in 2007 sought to provide a range of housing types to meet a range of price points and market segments, all geared toward primary housing for Maui families. This remains the intent of the project today.

The conceptual master plan has continued to evolve over the past eight years as the project continued through the County entitlement process (CPA & CIZ approval processes) and through more detailed engineering and architectural design phases. This is part of the normal review and approval process, wherein the project undergoes additional agency review and the master plan is further refined.

Substantial Compliance with SLUC Representations

Condition No. 21 of the SLUC order, in part states:

Compliance with Representations to the Commission. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission.

We firmly believe that the project is being developed in substantial compliance with prior representations. With regard to the specific area defined by our Cluster Application, the area continues to be proposed for single family residential use consistent with prior representations. Subsequent to the SLUC approval, more detailed planning, engineering and architectural design has been undertaken to determine the siting of home sites while accounting for topography, drainage, roadway and utility system improvements. The resulting cluster housing plan reflects this.

While single family homes on subdivided lots (minimum of 6,000 sf) were analyzed, the higher per unit costs associated with such a development would not meet the range of price points and target market segments intended for the project, and would result in only one product type. The proposed plan has sought to include more product variety and innovation and has purposefully stayed away from the traditional subdivision of lots in typical "cookie cutter" fashion. We believe this plan meets the intent of the original plan and allows for more innovative design and the opportunity for homeownership to a wider range of households.

The overall Kihei Residential project remains consistent in two primary regards. The planned residential use remains unchanged, with a mixture of single family and multi family product types. The overall project residential density remains at approximately 600 units (current total unit count is projected at about 630 units) as previously represented. Use and density are key factors as these relate to potential impacts of the project (i.e. impacts to infrastructure and resources remain unchanged).

It should also be noted that the master plan provided in the SLUC petition was specifically labeled as a "Conceptual Master Plan", with the understanding that through the subsequent County permitting and design processes, the plan would continue to evolve.

For the above reasons, we believe that the proposed plan is substantially compliant with representations made to the SLUC.

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:
15-162-JP

April 15, 2015

Sean O'Keefe, Director, Environmental Affairs
Alexander & Baldwin, Inc.
PO Box 266
Pu'unēnē, Maui, HI 96784
sokeefe@hcsugar.com

Facility/Site: A&B Properties Former Agricultural Land, Kīhei, Maui, TMK (2)-3-8-004:
Parcel 030, Parcel 002 (portion) and Parcel 022(portion).

Subject: General Agreement with Recommendations of Phase II Site Investigation, former agricultural land, 92 acres, Kīhei, Maui, TMK (2)-3-8-004: Parcel 030, Parcel 002 (portion), and Parcel 022 (portion).

Dear Mr. O'Keefe:

The Hawai'i Department of Health (HDOH) Hazard Evaluation and Emergency Response Office (HEER Office) has reviewed the Phase II Site Investigation for the Subject site prepared by Bureau Veritas North America, dated June 20, 2014. Based on review of the soil sampling testing information for metals, organochlorine pesticides, and organophosphorous pesticides, the HEER Office is in general agreement with the findings that it appears the site has not been significantly impacted by historical agricultural land use.

The chemical residue data collected from 15 decision units that ranged from 3-9 acres in size across this 92-acre parcel showed that all contaminants examined, with the exception of heptachlor epoxide in 5 of the 15 Decision Units, were either below lab reporting limits or so far below applicable HEER Office Environmental Action Levels (EALs) that they were not a significant potential exposure concern. The levels of heptachlor epoxide in 5 of the 15 decision units were also low, just 2 to 11% of the EAL, and based on additional rationale regarding both how the samples were collected and how this chemical was likely to have been used on the site in the past, the HEER Office agrees it is unlikely that heptachlor epoxide would exceed the EALs, even if tested on a statistical proportion of the actual residential lots sizes that may be located on the property in the future (e.g. tested on a number of 5000 sq. ft. lots).

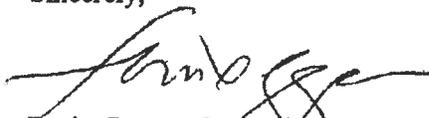
That said, please note that the level (scale) of testing conducted to date does not meet current HEER Office Technical Guidance for issuance of a No Further Action (NFA) letter for unrestricted use, though it does provide assurance of no shallow surface soil contamination over HDOH EALs at the "neighborhood" scale, and as noted the likelihood that there are significant heptachlor epoxide soil contamination issues on a portion of the property at the smaller

Letter to Sean O'Keefe
April 15, 2015
Page 2

"residential lot" scale appears to be very low. The testing conducted is sufficient to issue a NFA letter for areas of the project site that will be limited to commercial or industrial land use.

Thank you. Should you have any questions concerning this letter or site, please contact John Peard, Remediation Project Manager at 808-933-9921 in Hilo, john.peard@doh.hawaii.gov.

Sincerely,



Fenix Grange, Supervisor
Site Discovery, Assessment and Remediation Section
Hawai'i Department of Health
Hazard Evaluation and Emergency Response Office

DAVID Y IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:
HWY-PS 2.9934

May 26, 2015

The Honorable Robert Carroll
Chairman
Land Use Committee
Maui County Council
200 S. High Street
Wailuku, Maui, Hawaii 96793

Dear Councilmember Carroll:

Subject: Community Plan Amendment and Change in Zoning for a Residential Community Project for A & B Properties, Inc. (LLU-7) Kihei Residential Development Piilani Highway/Kaiwahine Street Intersection Improvements Kihei, Maui, Hawaii, TMK: (2) 3-8-004: portions of 002, 022, and 030

The State Department of Transportation has reviewed additional information provided by A & B Properties, Inc. (A & B) on August 18, 2014 to update the previously accepted January 22, 2013 Traffic Impact Analysis Report and is agreeable to allow A & B to: 1) submit design plans, and 2) construct the Piilani Highway/Kaiwahine Street Intersection improvements prior to the certificate of occupancy for the 175th and 275th dwelling units in the Kihei Residential Development, respectively.

If there are any questions, please contact Ken Tatsuguchi, Engineering Program Manager, Highways Division, Planning Branch at (808) 587-1830. Please reference file review number PS 2013-039B in all contacts and correspondence regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ford N. Fuchigami", written over a horizontal line.

FORD N. FUCHIGAMI
Director of Transportation

c: Mr. David Goode, Maui County Department of Public Works
Mr. Alan K. Arakawa, A & B Properties, Inc.

Educational Contribution Agreement for
KIHEI RESIDENTIAL PROJECT

THIS INDENTURE, made this 22nd day of December, 2014, by and between A&B PROPERTIES, INC., (hereinafter referred to as "A&B"), whose principal place of business and mailing address is 822 Bishop Street Honolulu Hawaii 96813 and the State of Hawai'i DEPARTMENT OF EDUCATION (hereinafter referred to as "DOE") whose mailing address is Department of Education, Facilities Development Branch, 4680 Kalaniana'ole Highway, Honolulu, Hawai'i 96821.

WHEREAS A&B is the developer of that certain parcel of land comprised of approximately 94.3 acres and identified as Tax Map Keys (2) 3-8-04: 02 (portion), 22 (portion) and 30 (portion), also known as the "Kihei Residential Project" (hereinafter referred to as "Kihei"). The location of Kihei is shown on the map attached hereto and referenced herein as Exhibit "A".

WHEREAS A&B is in the process of securing required governmental approvals to allow the development of Kihei;

WHEREAS Kihei is anticipated to contain a total of approximately 600 residential units in the entire project;

WHEREAS pursuant to Hawai'i Revised Statutes Chapter 302A-1601 to 1612, the DOE is authorized to collect impact fees from all new residential development in designated areas or enter into education contribution agreements to satisfy its fair-share requirements;

WHEREAS Kihei is located within the DOE's Central Maui School Impact District;

WHEREAS A&B and DOE have mutually agreed that the educational contribution set forth in this Agreement will satisfy all DOE fair-share requirements for Kihei, based on a total of approximately 600 residential units, less any units that prohibit school age children;

NOW THEREFORE, A&B and DOE agree as follows:

1. A&B's Cash Contribution

- a. The Cash Contribution shall be paid out of Escrow and made payable to the "State of Hawai'i, Department of Education" in accordance with the following schedule:
 - i. Five thousand three hundred seventy three dollars (\$ 5,373.00) payable upon the closing and recordation of each single family unit within the Kihei project (\$2,153 Construction Fee and \$3,220 Fee-in-Lieu of Land).
 - ii. Two thousand three hundred seventy one dollars (\$ 2,371.00) payable upon the closing and recordation of each multi family unit within the Kihei project (\$913 Construction Fee and \$1,458 Fee-in-Lieu of Land).

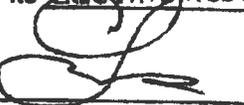
- b. The amount of the fee shall be adjusted from the effective date of this agreement to the date it is paid, so that it is always equal to the Central Maui District Impact Fee that is in effect at the time of payment.
- c. The total estimated cash contribution for Kihei based on a total of 600 residential units, including an estimated 400 single family units and estimated 200 multi family units, is approximately \$2,623,400. However, the actual total cash contribution for Kihei will be based on the actual number of single family and multi family units developed.

2. This Agreement shall be binding upon DOE and A&B, or its successor in interest.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement the day and year first above written.

A&B PROPERTIES, INC.

By  Date: 12/01/2014
[Name of Individual] PAUL W. HALLIN
Its EXECUTIVE VICE PRESIDENT

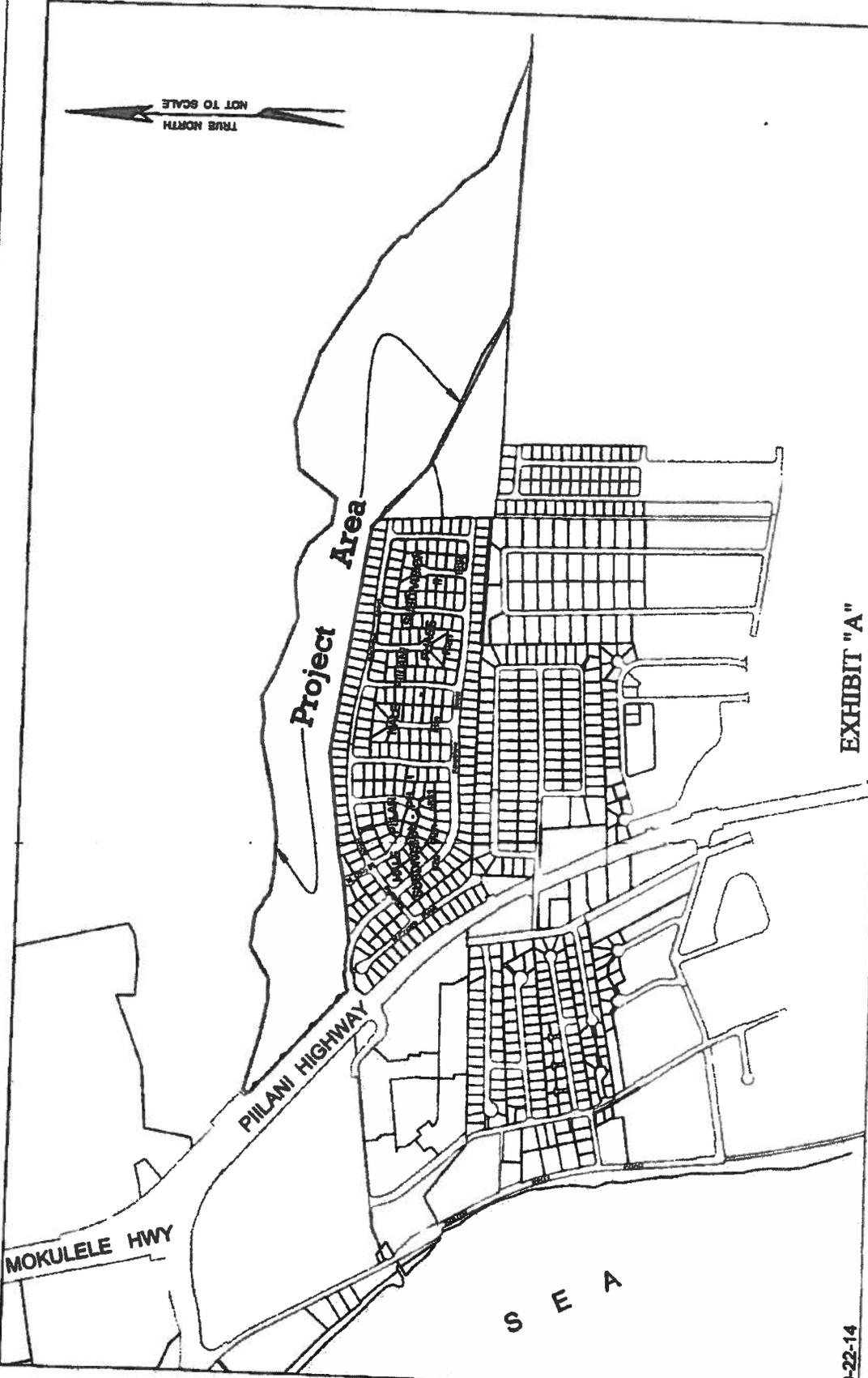
By  Date: 12/01/2014
[Name of Individual] CHARLES W. LOOMIS
Its ASST. SECRETARY

DEPARTMENT OF EDUCATION

By  _____
[Name of Superintendent]

DEC 2 2 2014

Date: _____



11" x 17"

EXHIBIT "A"

KIHEI RESIDENTIAL PROJECT

9-22-14

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU)

ss.

Please see notary page attached

The attached document:

dated _____, which consist of _____ page(s), was subscribed and sworn to me by _____ on this _____ day of _____ in the First Circuit of the State of Hawaii by _____.

[Notary Signature]

Printed Name: _____

My commission expires: _____

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU)

ss.

The attached document:

Educational Contribution Agreement for Kihai Residential Project
dated undated @ notary, which consist of 5 page(s), was subscribed and sworn to me by Kathryn S. Matayoshi on this 22nd day of December, 2014, in the First Circuit of the State of Hawaii by Sharon K.M. Tong.

Sharon K.M. Tong
[Notary Signature]

Printed Name: Sharon K. M. Tong

My commission expires: November 27, 2018

LS.

Undated
Doc. Date: @ notary # Pages: 5
Notary Name: Sharon K.M. Tong 1st Circuit
Doc. Description: Edu Contribution Agmt for Kihai Residential Project
Sharon K.M. Tong 12/22/2014
Notary Signature Date

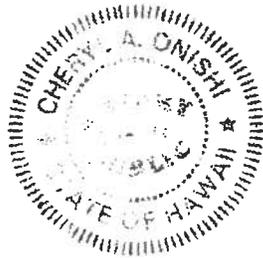
NOTARY CERTIFICATION

LS.

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU) SS:
)

On this 1st day of December, 2014, before me appeared PAUL W. HALLIN and CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacities shown, has been duly authorized to execute such instrument in such capacities.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Signature: *Cheryl A. Onishi*
Print Name: CHERYL A. ONISHI
Notary Public, State of Hawaii

My commission expires: NOV 17 2017

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: Educational Contribution Agreement
for Kaha Residential Project Doc. Date: Updated

No. of Pages: 5 Jurisdiction: First Circuit

Signature of Notary: *Cheryl A. Onishi* Date of Certificate: 12/1/14

Printed Name of Notary: CHERYL A. ONISHI

