

**Kohala Ranch, LLC**  
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November 3, 2010

Mr. Dan Davidson  
Executive Officer  
Land Use Commission  
State of Hawai`i  
Post Office Box 2359  
Honolulu, Hawai`i 96804-2359

LAND USE COMMISSION  
STATE OF HAWAII  
2010 NOV - 8 A 7:33

Re: Annual Status Report  
Docket No. A88-620, Kohala Joint Venture

Dear Mr. Davidson:

In accordance with the conditions of approval of Docket No. A88-620, submitted herein is the original and two (2) copies of the annual status report.

Following is a brief description of the development history and the status of Petitioner's compliance with respective conditions, as contained in the Land Use Commission's Decision and Order dated November 10, 1988.

#### **I. Development History and Status**

As previously reported, project development was considerably delayed because of litigation relating to the County of Hawai`i's rezoning of the Petition Area. The initial Petitioner, Kohala Joint Venture ("KJV"), obtained zoning approval from the County of Hawai`i by way of Ordinance No. 92-40, which was adopted on April 29, 1992. Ordinance No. 92-40 rezoned 1,288 acres of land within the urban district from agricultural to single-family and multiple-family residential, commercial and open zoned districts.

Litigation challenging the validity of that ordinance continued from 1992 to 2000 and included two appeals to the Hawai`i Supreme Court. Ultimately, the Court upheld the validity of Ordinance No. 92-40.

As previously reported, Petitioner has completed rough-grading of its 27-hole golf course. Petitioner has also completed the drilling and initial testing of its fourth well in Kohala Ranch and submitted its findings to the County of Hawai`i Department of Water Supply. There are currently two wells in operation to provide potable water to the Kohala Ranch Water

Company service area. The pump and related facilities necessary to bring the third well into operation have been designed and will be brought into service when demand warrants. The Public Utilities Commission has approved KRWC's ability to secure a loan to finance these improvements. The fourth well will be brought into production as demand warrants.

In 2005, Kohala Ranch, LLC, received final subdivision approval for the first increment of Project IV. An Application for Subdivision for the second increment of Project IV has been submitted to the County of Hawai'i Planning Department. Such application is still under review.

## **II. Compliance with Conditions of the Decision and Order**

1. The affordable housing requirement shall be satisfied as follows:
  - A. The Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by offering for sale at least ten percent (10%) of the units at prices which families with an income range below 80% of Hawaii County median income can afford, twenty percent (20%) of the units at prices which families with an income range of 80 to 120 percent of Hawaii County's median income can afford and thirty percent (30%) of the units at prices which families with an income range of 120 to 140 percent of Hawaii County's median income can afford. This condition may be fulfilled with the approval of the State Housing Finance and Development Corporation and the County of Hawaii through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation and the County of Hawaii through the construction of rental units to be made available at rents which families in the specified income ranges can afford.
  - B. The affordable housing requirement may also be satisfied in a manner that meets with the approval of the County of Hawaii and the State Housing and Finance and Development Corporation. Said requirement shall take into consideration affordable on-site and off-site housing units or cash payments or other in-lieu contributions that satisfy the then current housing needs, or other necessary or desirable community or infrastructure facilities as determined above.

**Status: Petitioner has satisfied Paragraph B of Condition 1. On August 29, 2002, the County Housing Agency approved Kohala Ranch, LLC's, housing plan to provide in-lieu payments, one half of which would be to the County of Hawai'i and one half to the**

**Department of Hawaiian Home Lands (“DHHL”). In an August 21, 2002 letter, the Housing and Community Development Corporation concurred that the in-lieu payment based on 119 affordable units at the prevailing fee at the time of payment will satisfy the affordable housing condition. These payments were made to DHHL on October 5, 2004 and to the County of Hawai‘i on October 8, 2004.**

**Receipt of the second half of the in-lieu payment was acknowledged by the County Office of Housing and Community Development by letter dated January 26, 2005.**

2. Petitioner shall coordinate its project with the Department of Hawaiian Home Lands (DHHL) and County of Hawaii Planning Department with respect to urban design, as well as infrastructural and service systems.

**Status: Kohala Ranch, LLC, continues to coordinate its project planning with DHHL. Based upon an agreement with DHHL regarding the provision of potable water to DHHL to serve its 196-lot homestead subdivision at Kawaihae, water has been provided to the subdivision. In addition, Kohala Ranch, LLC, has provided \$280,840 for affordable housing development as well as \$100,000 for the development of park resources within the homestead subdivision.**

3. The Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified by the State Department of Transportation (DOT). The Petitioner shall also participate in the funding and construction of other on-site and of-site transportation improvements necessitated by the proposed development and in designs and schedules accepted and coordinated with the DOT and DHHL, provided that the extent of the Petitioner’s participation shall not exceed Project IV’s share of the increased community traffic impacts in the region; and provided further, that in the event the County adopts an impact fee for transportation improvements, the foregoing requirements shall not include or double-count the cost of any specific traffic improvements which may also be included in the County’s impact fee computation.

**Status: Petitioner has agreed to provide its fair share for regional infrastructure including highway improvements according to Condition R, sub-section c, of Ordinance No. 92-40. On January 11, 2005, Willocks Construction completed construction of the improvements at the Kohala Mountain Road/Kohala Ranch Road intersection in accordance with the plan**

**approved by the State Department of Transportation (“DOT”) on April 2, 2004.**

**In addition, a traffic monitoring plan for the Akoni-Pule Highway/Kohala Ranch Road intersection was submitted to the DOT on January 21, 2005. This plan indentified the need for a turning lane for traffic existing Kohala Ranch Road at full build-out of Project IV. On January 2, 2008, DOT approved the construction plans for the turning lane improvements. The improvements were completed in July, 2008.**

4. The Petitioner shall fund and develop the necessary measures to obtain the required water for the proposed Project IV development.

**Status: The Petitioner has completed the drilling of its fourth well at Kohala Ranch and the testing of the water source. This information has been provided to the County Department of Water Supply. There are currently two wells in operation to provide potable water to the Kohala Ranch Water Company service area. The pump and related facilities to bring the third well into operation have been designed. The fourth well will be brought into production as demand warrants.**

5. A drainage study, acceptable to the County of Hawaii shall be provided by the Petitioner to assess both off-site and on-site drainage impacts associated with the proposed project.

**Status: A drainage study was approved by the County of Hawai`i in conjunction with the grading permits for the golf course, the approval of the first residential subdivision, and the Heathers II subdivision. Drainage improvements will be constructed as part of ongoing development of the property in accordance with County and State requirements.**

6. The Petitioner shall provide at no cost a site or sites for police, park, and fire facilities, to the satisfaction of the County of Hawaii, and shall also provide at no cost, a site for an elementary school as may be required by and to the satisfaction of the State Department of Education (DOE).

**Status: An agreement was reached between the Petitioner and the State Department of Education. Pursuant to the agreement, Petitioner has completed construction of two classrooms at Kohala Middle School at Halaula, North Kohala. These classrooms were turned over to the school in**

**January of 2006 and are currently in use. The County Police Department does not require a site for facilities at Kohala Ranch. The Petitioner and the County Fire Department have established a volunteer fire station within Kohala Ranch. A five-acre park site has also been established within the project area. As required by Ordinance No. 92-40, Petitioner has also made fair share payments to address future impacts on fire, police and park services.**

7. The Petitioner shall provide an archaeological survey acceptable to the State Historic Preservation Division of the Department of Land and Natural Resources (DLNR-SHPD) and the County of Hawaii Planning Department. This survey shall include an assessment of how the proposed drainage system will impact archaeological sites known to exist within the proposed project boundaries, and on adjacent properties as applicable. The Petitioner shall also provide professional archaeological monitoring of the project site during all grading, digging, or other earthworking phases of project development. Should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development, the Petitioner shall immediately stop work and contact the State Historic Site Section and the County of Hawaii Planning Department.

**Status: This condition has been satisfied to the extent that an Archaeological Mitigation Plan and Burial Treatment Plan have been approved by the State Historic Preservation Division of the Department of Land and Natural Resources.**

8. The Petitioner shall inform all prospective occupants of possible odor, noise and dust pollution resulting from surrounding agricultural operations, and that the Hawaii Right-To-Farm Act, Chapters 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

**Status: Petitioner has complied with this condition. Conditions, Covenants and Restrictions ("CC&Rs") were submitted to the County Planning Department on March 8, 2005 and recorded with the Bureau of Conveyances on January 12, 2006.**

9. The Petitioner shall provide analysis of commercial and office park proposals as they relate to proposed commercial and industrial uses at Kawaihae and the DHHL master plan for the area. The analysis shall be submitted with any

subsequent application for County land use approvals for the proposed commercial and office park uses.

**Status: Petitioner has provided to the County Planning Department an analysis of the proposed commercial and office park uses as they relate to the proposed commercial and industrial uses at Kawaihae. This analysis was submitted with the change of zone application, which was later approved by the adoption of Ordinance No. 92-40.**

10. The Petitioner shall submit an application for approval of the proposed project through the County of Hawaii's rezoning process.

**Status: Petitioner has obtained rezoning for Project IV by way of Ordinance No. 92-40, which became effective on April 29, 1992.**

11. Petitioner shall give notice to the LUC of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interesting the property covered by the approved petition, prior to development of the property.

**Status: Petitioner commenced physical development of the property with the grading of the golf course in 1990. A large lot subdivision was processed in order to create development parcels. Original Petitioner, Kohala Joint Venture, conveyed ownership of the property to Kohala Ranch, LLC, on March 7, 2000, as previously reported by letter dated April 5, 2000.**

12. Petitioner shall develop the property in substantial compliance with representations made to the LUC in obtaining the reclassification of the property.

**Status: Petitioner will comply. The Project's components are and will be consistent with the representations made to the LUC, including information provided to the Commission in Petitioner's previous annual status reports.**

13. Petitioner shall provide annual reports to the LUC, the Department of Business and Economic Development 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.

**Status: Petitioner will comply.**

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14. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

**Status: Petitioner has not sought any full or partial release from the above conditions. At some later date, Petitioner may request such full or partial release with regard to particular conditions.**

Please contact me, if you have any questions or require any further information regarding these matters.

Very truly yours,



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William L. Moore, Authorized Agent  
Kohala Ranch, LLC

cc: Yeh & Moore  
State of Hawai'i Office of Planning  
County of Hawai'i Planning Department