

7210-03
February 25, 2015

LAND USE COMMISSION
STATE OF HAWAII

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Mr. Daniel E. Orodener, Executive Officer
State Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804-2359

2015 MAR -2 A 6:41

**Subject: 2015 Annual Report
Land Use Commission Docket A05-758
Pupukea Ridge Preservation Project
Tax Map Key: 5-9-23: 001; 5-9-24: 001, and 6-1-02: 022**

Dear Mr. Orodener:

In accordance with Condition No. 8 of the "Findings of Fact, Conclusions of Law, and Decision and Order" for the subject project granted by the State Land Use Commission (LUC) on April 24, 2006, transmitted herewith is a report on the progress and status of the project and compliance with the conditions of the Stand Land Use Boundary Amendment. The status of the conditions imposed from the April 21, 2006 approval is as follows:

- 1. **Conveyance of Lands for a State Park Reserve.** Petitioner shall, upon receiving all necessary entitlements and governmental approvals, proceed with the consolidation, re-subdivision, and conveyance of approximately 79.031 acres of land, which shall include Petition Area A and adjacent Conservation District land, to the DLNR for a State Park Reserve, to be kept in perpetuity for the public good in maintenance and preservation of the view planes, open space, recreational values, and the cultural, historical, and natural qualities of Pupukea Ridge.*

The Petitioner, A Charitable Foundation (ACF), is continuing to obtain the necessary approvals needed to consolidate and re-subdivide the subject lands to be conveyed.

In the 2014 Annual Report we stated the subdivision application (2011/SUB-161) was deferred pending submission of additional information and the Petitioner lapsed on the deadline date, November 3, 2012.

Since then, ACF obtained legal title to a fractionalized, undivided interest in Maulukua Road and executed a Private Road Certification required by the Subdivision Rules & Regulations.

A subdivision application was submitted on September 18, 2014 and Tentative Approval was received on December 26, 2014 (2014/SUB-161) (see Attachment A). It is anticipated that the construction of access improvements will be completed by the end of 2015 to permit conveyance to DLNR.



7210-03

Letter to Mr. Daniel E. Orodener, Executive Director

Page 2 of 4

February 25, 2015

2. **Farm Dwelling.** *Farm dwelling(s) on Petition Area B, if any, shall be consistent with the DOH's sewage disposal rules and regulations. Any single-family dwelling on the lot shall be a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.*

The Petitioner, its successors or assigns will comply with this condition in the event that any farm dwellings are proposed for development.

3. **Agricultural Uses.** *Any future use of the retained 15.144 acres of land, which include Petition Area B, shall be consistent with City and County zoning, and Petitioner or any future owner shall not subdivide the retained 15.144 acres into more than two zoning or subdivided lots.*

The subdivision application in process with the City (2014/SUB-161) would subdivide the agricultural portion of Pupukea Ridge into two separate parcels (Lots B and C) with road access (Lot D) to comply with this condition (See Subdivision Map – Exhibit B). Any future use of the retained agricultural land, including Lot C encompassing 15.144 acres that includes Petition Area B will be consistent with the City and County zoning and Lot C will not be further subdivided into more than two lots.

4. **Maintenance of Trail System.** *With the approval of DLNR, Petitioner shall be responsible for maintaining the existing trail system as currently configured in Petition Area A and the adjacent Conservation District land at its own cost following the conveyance of Petition Area A and the adjacent Conservation District land to the DLNR until such time as the DLNR decides to accept responsibility for the maintenance, or ten years from the date of this Decision and Order, whichever occurs first.*

ACF is maintaining the existing trail system with assistance from Happy Trails, a horseback riding operation. ACF, its successors or assigns will continue to maintain the trails within the parcel conveyed to DLNR (Lot A) for ten years from the date of the Decision and Order or until such a time as the DLNR decides to accept responsibility for the maintenance.

5. **Previously Unidentified Burial/Archaeological/Historic Sites.** *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 development of the Petition Areas, then all*



7210-03

Letter to Mr. Daniel E. Orodener, Executive Director

Page 3 of 4

February 25, 2015

development activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.

This condition is acknowledged and will be complied with should such situations occur. If any burial, archaeological, or historic sites are discovered during the course of development of the area, all development activity will stop until the issuance of an archaeological clearance from the State Historic Preservation Division.

6. ***Compliance with Representations to the Commission.*** *Petitioner shall comply with the representations made to the Commission. Failure to so comply may result in reversion of the Petition Areas to their former classification, or change to a more appropriate classification.*

ACF, its successors or assigns will comply with the representations made to the Commission.

7. ***Notice of Change to Ownership Interest.*** *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 Areas, prior to any development of the Petition Areas.*

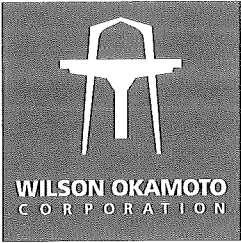
The condition is acknowledged and will be complied with should this situation arise.

8. ***Annual Reports.*** *Petitioner shall timely provide without any prior notice, annual reports to the Commission, the OP, and the DPP in connection with the status of the Petition Areas and the 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 report constitutes the annual report submittal for the year 2014. A copy of this annual report will be sent to the Office of Planning and the City and County of Honolulu Department of Planning & Permitting.

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

Acknowledged.



7210-03
Letter to Mr. Daniel E. Orodenker, Executive Director
Page 4 of 4
February 25, 2015

10. Recording of Conditions. Within seven days of the issuance of the Commissioner's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Areas are subject to conditions imposed herein by the Commission in the reclassification of the Petition Areas, and (b) shall file a copy of such recorded statement with the Commission.

A statement that the Petition areas are subject to conditions imposed by the Commission, along with the Commission's Decision and Order, were recorded with the Bureau of Conveyances on June 7, 2006, and a copy of the recorded statement was filed with the Commission.

11. Recording of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

The Commission's Decision and Order was recorded with the Bureau of Conveyances on June 7, 2006.

Please feel free to call me if you should have any questions regarding the status of any of the items above.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Fukuda", written in a cursive style.

Tracy Fukuda
Project Manager

Attachment

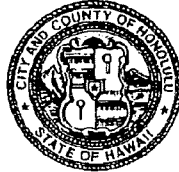
cc: Mr. Dave Druz, A Charitable Foundation
Mr. Leo R. Asuncion, Jr., Office of State Planning
Mr. George Atta, Department of Planning and Permitting
Mr. Curtis Tabata, Matsubara & Kotake Attorneys at Law

ATTACHMENT A
Subdivision Tentative Approval Letter (2014/SUB-161) from
City & County of Honolulu Department of Planning &
Permitting
Letter dated December 26, 2014

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET * HONOLULU, HAWAII 96813
Phone: (808) 768-8000 * Fax: (808) 768-4950

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR
ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

| SUBDIVISION | |
|--------------------|---|
| File Number | : 2014/SUB-161 |
| Project | : SUB / Pupukea -- Maulukua Rd. (Pupukea Ridge Preservation Project) / TM |
| Location | : |
| Tax Map Key | : 5-9-023:001 (various) |
| Owner | : A Charitable Foundation Corporation |
| Surveyor | : Towill, Shigeoka & Associates, Inc. |
| Agent | : WILSON OKAMOTO & ASSOCIATES |

Description of the Proposal: Consolidation and resubdivision of Lot 179 of File Plan 860, being portions of Grant 5159 to L.B. Nevin and Grant 5236 to Earl K. Ellsworth, and Lot 1-B-2 as shown on Map 8 of Land Court Application 561, into three lots: Lot A of 79.031 acres (for State Park Reserve), and Lots B of 9.237 acres and C of 5.691 acres (for agricultural purposes); together with a 50-foot wide private right-of-way (Lot D) for Maulukua Road turnaround.

The existing water system is not designed for agricultural demands. The proposed subdivision does not increase the existing number of zoning lots for agricultural uses. However, no further subdivision of Lots B and C to create additional agricultural lots will be permitted.

Tentative Approval was granted to the proposal. Final action will be subject to the following:

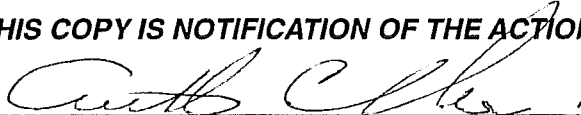
1. Construction of improvements, utilities and drainage facilities in accordance with City standards.
2. Submission of a certified copy of the recorded declaration of restrictive covenants for agricultural uses with the Bureau of Conveyances and/or the Land Court of the State of Hawaii.
3. Submission of the final subdivision map information via email in a DXF file and DWG file, or ARC/INFO format to dppsubdivision@honolulu.gov.

4. Filing of 15 copies of the final survey maps without showing the sub-areas in parenthesis for Lot A and Lot C (Enlargement), and with a note indicating that Lot D is a private road.

The digital information and final maps shall only be submitted when all of the other conditions have been met.

Section 3-302(a) of the Subdivision Rules and Regulations states that the tentative approval shall be for a period of one year from the date of this action, unless a written request for an extension of time is submitted to the Director of Planning and Permitting prior to the expiration of the one-year period. The subdivision application will automatically expire and become null and void if the one-year period passes without a request for an extension of time. Any further action will require the submission of a new application including 20 prints of the map, a new filing fee and necessary documents.

THIS COPY IS NOTIFICATION OF THE ACTION TAKEN AND THE DATE IT WAS SIGNED.

| | | |
|---|----------|-------------------|
|  | DIRECTOR | December 26, 2014 |
| SIGNATURE | TITLE | DATE |

This action does not constitute approval of any other required permits, such as building or sign permits. Should you have any questions, please call the Subdivision Branch at 768-8100 or 768-8099.