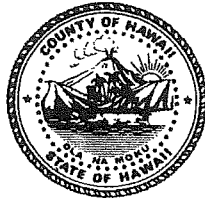


William P. Kenoi  
Mayor



Duane Kanuha  
Director

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**County of Hawai'i**  
PLANNING DEPARTMENT

Bobby Command  
Deputy Director  
LAND USE COMMISSION  
STATE OF HAWAII  
2016 FEB -4  
East Hawai'i Office  
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February 2, 2016

Mr. Alan M. Okamoto  
Nakamoto, Okamoto, Yamamoto  
Attorneys at Law  
187 Kapiolani Street  
Hilo, HI 96720-2687

Dear Mr. Okamoto:

**Change of Zone Ordinance No. 96 153 (REZ 734)**  
**Applicant: Bridge 'Āina Le'a, LLC and 'Āina Le'a, LLC et al**  
**(formerly Puakō Hawai'i Properties)**  
**Subject: 2015 Annual Progress Report**  
**Tax Map Keys: (3) 6-8-001:025, 036 through 040, and 069**

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This is to acknowledge receipt of your letter dated December 11, 2015 containing the annual progress report for the above referenced ordinance. Upon review of this report we have the following comments:

The fifth paragraph on page 2 of your letter includes an incomplete sentence related to the initial phase of the Aina Lea Project. Please clarify the sentence and describe the number and type of units and infrastructure that will be included in the Initial Phase or Phase 1 development.

Condition B- Water Supply

The 2006 Water Development Agreement between Bridge Aina Lea LLC and the Department of Water Supply contains specific performance deadlines related to providing a hydraulic analysis, construction cost estimate and well pump testing confirming sufficient well production. What is the status of performing the requirements of the Water Development Agreement?

Please clarify whether potable water from the Hawai'i Water Service Company (HWSC) will be provided to the Phase 1 development on a temporary or permanent basis. The 2010 EIS indicated it would be temporary until the improvements outlined in the Water Development Agreement are constructed, whereas your report implies it would be on a permanent basis. Provide a copy of any water purchase agreements between your client and HWSC.

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In their letter dated July 2, 2010, HWSC stated approval by the Hawai'i Public Utilities Commission (PUC) is needed to expand their service area before permanent water and wastewater services can be provided to the development. Please clarify whether PUC approval is required for the temporary use of water from HWSC.

Condition B states in part, "*Notwithstanding the provisions of Condition R, final inspection of the residential or commercial structures shall not be issued until the approved water source to the subject property and its transmission and distribution system for such source to the subject property has been constructed.*" The "approved water source" referred to in this condition is from the County Department of Water Supply's Lalamilo System through the terms of the water allocation arrangement described in the Water Development Agreement. Additionally, when the zoning ordinance was approved in 1992 and amended in 1996, the proposed potable water source for the development was from the Ouli Wells and Lalamilo System rather than the private Waikoloa Water Company. Thus the proposed use of potable water from HWSC for the Phase I development to service Lots D-1-B-1 and D-1-B-2 does not appear to meet the terms of this portion of Condition B. The condition would need to be amended in order to allow the use of potable water from Hawai'i Water Service Company.

#### Condition C- Final Subdivision Approval and Master Plan

In a letter dated March 9, 2009 to Sidney Fuke, the Planning Department confirmed that the Master Plan requirement of Condition C had been satisfied. However, Condition C also required that Final Subdivision Approval be granted for the first residential subdivision by September 21, 2009. Your report indicates that this condition was satisfied when a two bulk-lot subdivision (SUB 12-001178) received final approval on June 26, 2012. A previous subdivision (SUB 09-000860) was granted on April 28, 2009 for a five-lot consolidation and resubdivision.

Neither of these subdivisions are considered a "residential subdivision" since they did not create individual residential lots. Related to SUB 12-001178, in a letter dated June 15, 2012 the applicant's representative Sidney Fuke wrote, "We trust that final subdivision approval per Section 23-13 can be secured, as this action is intended purely for financing and not development reasons." Related to SUB 09-000860, in a letter dated February 19, 2009 Mr. Fuke wrote, "While the aforementioned condition requires the channelized intersection be completed prior to final subdivision, the proposed affordable multiple-family residential project is not a residential subdivision." Therefore, it seems that Condition C has not been satisfied by the September 21,

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2009 deadline. Since an administrative time extension has already been granted, your client will need to request a time extension for this condition from the County Council before the Planning Department can issue future approvals based on the zoning ordinance.

Condition E- Wastewater

The August 8, 2011 letter of approval to construct from the State Department of Health Wastewater Branch (DOH) was to locate the “interim” wastewater treatment plant (WWTP) for Phase 1 on parcels 25, 39 and 40. According to the recent master plan provided to the Planning Department and the design plans submitted to DOH, the interim WWTP will be constructed adjacent to the affordable housing on parcel 38. Before the Planning Department can approve grading or landscape plans for the new location, your client will need to provide a revised approval letter from DOH for the new interim WWTP location.

Condition G- Park Improvements

A Park Plan was supposed to be submitted prior to receipt of Final Plan Approval, which was issued for a 432-townhouse unit (385 affordable units) project on December 7, 2009. Thus the plan is past due and needs to be completed and approved by the Planning Director prior to issuance of any occupancy permits for these residential units.

Condition I- Preservation of Sites 15033 and 22514

The Burial Treatment Plan approved by SHPD in 2004 indicates that the plan is to be implemented within one year of its approval date or by 2005. What is the status of placing a temporary buffer around Site 15033 as required by the Burial Treatment Plan? Provide a recorded copy of the deed for Parcel 37 showing the restrictive covenants related to Site 15033. In a letter dated October 27, 2005, the SHPD requested a Preservation Plan be completed for Site 22514. What is the status of completing this Plan? What measures have been taken since 2005 to protect this site?

Condition N- Botanical Resources

Thank you for providing letters from the US Fish and Wildlife Service and DLNR acknowledging Dr. Evangeline Funk’s findings and recommendation that the endangered *Abutilon menziesii* had likely succumbed to severe drought and the area where it had been found should be set-aside to allow any viable seeds to re-establish. Although the approved 2009

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Master Plan does not show a set-aside, the proposed master plan submitted with the 2010 FEIS included a 5-acre botanical reserve for this species. We assume your client will continue to preserve this area.

Condition S- School Facilities

A pro rata share for school facilities was supposed to be determined and implemented prior to receipt of Final Plan Approval. Thus this requirement is past due and needs to be completed prior to issuance of occupancy permits for any residential units.

Condition T- Private Internal Infrastructure and Community Facilities

Provide a copy of the disclosures required by this condition that were provided to the fractional owners, shown in Real Property Tax Office records, of Parcels 36 and 69.

If you have any questions, please feel free to contact Daryn Arai at (808) 961-8142 or Maija Jackson at (808) 961-8159.

Sincerely,



DUANE KANUHA  
Planning Director

MJJ:mad

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cc: ✓ State Land Use Commission  
State Office of Planning  
Department of Water Supply  
Office of Housing and Community Development  
Department of Parks and Recreation  
Department of Public Works  
William Brilhante, Esq. - Corporation Counsel  
Kona Planning Office  
REZ 734, LUC 692, SUB 11-001070