

**WAINANI 42, LLC**  
**c/o Clark Realty Corporation**  
**75-5722 Kuakini Highway, Suite 203**  
**Kailua-Kona, HI 96740**  
**Telephone: (808) 329-5255**  
**Telefax: (808) 930-5276**

June 30, 2017

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

Re: LUC Docket No. A89-645

LAND USE COMMISSION  
STATE OF HAWAII  
2017 JUL - 2 A 10:32

Dear Mr. Orodener:

Enclosed are two copies of Wainani 42, LLC's Annual Progress Report, bringing matters up to date from our last filed report dated July 1, 2016. This report covers only that portion of the original site, now known as TMK: (3) 7-3-62: Parcels 1 through 53, which was originally owned by Wainani 42, LLC. Other parties maintain responsibility for reporting and compliance respecting their space portions of the original 125.041 acre site.

Please do not hesitate to contact me should any additional information be required.

Very truly yours,



Frank Goodale  
Manager

Enclosure: Two copies of 2017 Annual Progress Report LUC Docket NO. A89-645  
cc w/ Enclosure: County of Hawai'i Planning Department  
State of Hawai'i, Office of State Planning  
D.R. Horton – Schuler Homes, LLC

## I. GENERAL PROGRESS OF THE PROJECT

**This Report is intended to bring up to date and to include those activities after the last filed Annual Report by Wainani 42, LLC.**

This report is intended to address only those activities within the parcels owned or developed and sold by Wainani 42, LLC, specifically TMK: (3) 7-3-62: parcels 1 through 53. This 43.335 acre portion of the original 125.041 acre parcel consists of two subdivisions, the first of which has been completed and the second of which is being developed currently.

The first phase of this project, Wainani Estates "Akahi" Phase 1 (formerly known as Wainani Akahi Estates), which comprises an area of 22.715 acres, was granted final subdivision approval by the County of Hawai'i on December 19, 2007. This approval resulted in the subdivision of Lot 11-B (TMK: (3) 7-3-10:55) into Lots 1-49, Inclusive; Designation of Easements 1, 2-A, 2-B, 3-A, 3-B, 4 to 24, Inclusive; Buffer Zones 1 and 2; No Access Planting Screen (10-foot wide); and Future Road Widening Setback (5-foot wide). The lots resulting from the subdivision are now identified as TMK: (3) 7-3-62: parcels 1 through 51. All rezoning conditions have previously been satisfied for Wainani Estates "Akahi" Phase, as noted in the Planning Department's letter dated March 6, 2015

The second phase of this project, Wainani Estates "Elua" Phase II (formerly known as Wainani Elua Estates), which comprises an area of 20.620 acres that was formerly identified as Lot 11-A (TMK: (3) 7-3-10:27) and is now identified as Lot 11-A-1 (TMK: (3) 7-3-62:53) and Lot 11-A-2 (TMK: (3) 7-3-62:52), is currently being improved to meet conditions of tentative subdivision approval originally granted by the County of Hawai'i on April 19, 2005. On November 27, 2007, Wainani 42, LLC conveyed Lot 11-A-2 (TMK: (3) 7-3-62:52), the reservoir site, to the Water Board of the County of Hawai'i.

As the result of several time extensions requested by the developer and granted by the County, the developer has until April 19, 2017, to comply with the stated conditions of subdivision approval.

On July 7, 2016, Wainani 42, LLC conveyed Lot 11-A-1 (TMK: (3) 7-3-62:53) to WP2 Ventures, LLC ("WP2"). On October 6, 2016, WP2 conveyed an undivided 50% interest in Lot 11-A-1 (TMK: (3) 7-3-62:53) to D.R. Horton – Schuler Homes, LLC ("DRH", and, together with WP2, the "Phase II Developer").

On February 3, 2017, the County of Hawai'i granted final subdivision approval of Wainani Estates "Elua" Phase II. This approval resulted in the subdivision of Lot 11-A-1 (TMK: (3) 7-3-62:53) into Lots 1 to 50, Inclusive; Roadway and Utility Lots R-4 to R-6, Inclusive; and Designation of Easements 4 to 21, Inclusive.

Site construction of Wainani Estates "Elua" Phase II began in November 2016 and is anticipated to be completed by August 2017. The 50 residential lots created by this subdivision will be offered for sale by DRH commencing July 2017.

## II. PROGRESS IN COMPLYING WITH THE LUC CONDITIONS OF THE DECISION AND ORDER

**Condition 1 (As amended)** Petitioner shall provide affordable housing opportunities for low, low-moderate, and moderate-income residents in the State of Hawaii to the satisfaction of the County of Hawaii. The County of Hawaii shall consult with the State Housing and Community Development Corporation of Hawaii prior to its approval of the Petitioner's affordable housing plan. 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 the Petitioner and the County of Hawaii.

As reported in prior annual reports, Condition 1 (Amended) has been satisfied as to the subject property.

**Condition 2** Petitioner shall participate in the funding and construction of transportation improvements at the intersection of Kaiminani street and the Queen Kaahumanu Highway as deemed necessary by the State Department of Transportation, provided that the extent of the Petitioner's participation shall not exceed the project's share of the increased community traffic impacts in the region. A schedule for the implementation of the Petitioner's participation on any regional transportation improvement, including the total costs paid by Petitioner for such improvements, shall be provided to the Petitioner by the State Department of Transportation within a reasonable time period after the effective date of this Decision and Order.

As reported in prior annual reports, Condition 2 has been satisfied as to the subject property.

**Condition 3** Petitioner shall fund and construct the necessary water source and transmission facility improvements for the Property as are required by the County Department of Water Supply.

As reported in prior annual reports, Condition 3 has been satisfied as to the subject property.

**Condition 4** Petitioner shall fund and construct the necessary sewage treatment facilities for the Property as required by the State Department of Health.

Under the tentative subdivision approval for Wainani Estates "Elua" Phase II, the County authorized installation and use of individual wastewater disposal systems, subject to approval of the State Department of Health. The Phase II Developer plans to install individual wastewater disposal systems that meet the approval of the State Department of Health.

**Condition 5** Petitioner shall pay for its pro rata share for police, park, fire, and solid waste facilities as may be required by the County of Hawaii.

The developer understands and will comply.

**Condition 6** Petitioner shall pay for its pro rata share for school facilities as may be required by the State Department of Education. A schedule for the implementation of Petitioner's participation in any school facilities, including the total cost to be paid by petitioner for such facilities, shall be provided to the Petitioner by the State Department of Education within a reasonable time period after the effective date of this Decision and Order.

An agreement between the Petitioner and the State Department of Education was made on October 29, 1998 for its pro rata share for school facilities. Wainani 42, LLC paid \$18,700 to the State Department of Education for 22 lots in Phase 1, Increment 1, on August 28, 2008. The \$22,950 fee for the remaining 27 lots in Phase 1, Increment II were paid on July 29, 2016. The \$42,500 fee for the 50 lots in Phase II will be paid once this subdivision is completed and sales begin.

**Condition 7** Petitioner shall develop and implement a plan to mitigate the impact of the Project on the endangered and threatened botanical species located on the Property in accordance with Federal and State Guidelines. The plan shall be developed by the Petitioner prior to submission of a change of zone application of the Property to the County of Hawaii.

As reported in prior annual reports, Condition 7 has been satisfied as to the subject property.

**Condition 8** Petitioner shall develop and implement a plan to mitigate the adverse impact on the air quality caused by the fugitive dust during the construction on the Property. The plan shall include, among other dust control measures, a provision for early landscaping of the Property. The plan shall be developed by the Petitioner prior to submission of a change of zone application of the Property to the County of Hawaii.

As reported in prior annual reports, Condition 8 has been satisfied as to the subject property, and the developers will continue to comply.

**Condition 9** Petitioner shall prepare a preservation and data recovery plan for all the significant historic sites on the Property, which plan shall be submitted to the Department of Land and Natural Resources, State Parks Historic Sites Division and the County of Hawaii Planning Department for their review and approval.

As reported in prior annual reports, Condition 9 has been satisfied as to the subject property.

**Condition 10** Petitioner shall immediately stop work on the impacted area and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, paving or walls be encountered during the construction of the Project.

This condition is acknowledged and the developers will comply.

**Condition 11** Petitioner shall pay for its pro rata share for a baselined study monitoring program regarding the impact of the proposed development upon the nearshore waters as may be required by NELH and HOST Park. A schedule for the implementation of petitioner's participation including the total cost to be paid by Petitioner shall be provided to the Petitioner by NELH and HOST Park within a reasonable period of time after the effective date of this Decision and Order

Discussions with NELH and the developer's consultants resulted in an agreement in the amount of \$1,000 annually for its fair share contribution until the completion of the project.

**Condition 12** Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Property prior to the development of the Property.

The changes in ownership have been discussed in the General Progress section of this Report.

**Condition 13** Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

The developer understands and will comply.

**Condition 14** Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning 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 in this Decision and Order.

This subject Report is being submitted to satisfy this condition. Also, copies of this report will be sent to the Office of State Planning and the County of Hawai'i Planning Department.

**Condition 15** The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The developer understands and will comply.