

# Jon Gomes Development, LLC

LAND USE COMMISSION  
STATE OF HAWAII

REAL ESTATE DEVELOPMENT

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January 23, 2016

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

**Status Report on Compliance with State Land Use Commission's Decision and Order  
re the Urban District Boundary Amendment for Tax Map Key 9-  
1-075: 050, Kalaeloa, O'ahu (Docket No. BR94-711)**

This is a status report on the Declarant's compliance with the conditions of approval for the above land use district boundary change. Please note that this report is on behalf of only the successor in interest to Tax Map Key 9-1-075: 050, which is AG/CW Raceway Owner I, LLC, and AG/CW Raceway Owner II, LLC. The smaller of the two lots, Tax Map Key 9-1-075: 044, was sold to Webco in 2010, which is now responsible for its own compliance.

Enclosed is a table that summarizes the steps towards compliance to the conditions of approval for the subject land use district boundary amendment.

If you have any questions on this matter, please contact me. Sincerely,



Jon Gomes

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**STATUS OF COMPLIANCE WITH CONDITIONS OF LAND USE ENTITLEMENTS**

<b>Conditions To Be Satisfied</b>	<b>Status Of Satisfaction</b>
<b>STATE LAND USE COMMISSION CONDITIONS (Docket No. BR94-711, 2/26/1996)</b>	
1. The developer and/or landowner of the subject Property shall fund and construct adequate civil defense measures as determined by the County and State Civil Defense agencies.	PENDING City and State Civil Defense agencies requested in 2007 that a siren be installed near the east-southeast corner of the property. This portion of the property has been sold to another party, which is now responsible for satisfying this requirement.
2. The developer and/or landowner of the subject Property shall participate in the funding and construction of adequate wastewater transmission and disposal facilities, on a pro-rata basis, as determined by the State Department of Health and the County Department of Public Works.	IN PROGRESS The former owner (Estate of James Campbell) participated in the development of a relief sewer line extending from Ko Olina to the Honouliuli Sewage Treatment Plan along the OR&L right-of-way and developed a sewer mainline from the OR&L right-of-way through an existing industrial subdivision and a proposed industrial subdivision and along Kalaeloa Boulevard fronting the property to a sewage pump station. The Estate of James Campbell (now James Campbell Properties) has committed certain sewer connection credits to this property, subject to payment for the sewer connection credits. The amount that the property owner pays for these credits are, in

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	turn, applied to the payment to the City for the Wastewater Facilities Charge.
<p>3. The developer and/or landowner of the subject Property shall have an archaeological inventory survey conducted by a professional archaeologist prior to submitting an application to the City and County of Honolulu for rezoning or prior to applying for a building permit if county rezoning is not required. The findings of this survey shall be submitted to the State’s Historic Preservation Division in report format for adequacy review. This Division must verify that the survey report is acceptable, must approve significance evaluations, and must approve mitigation commitments for significant historic sites prior to the landowner and/or developer submitting an application to the county for rezoning or prior to applying for a building permit if county rezoning is not required.</p>	<p>COMPLETED  The archeological survey report was submitted in February 2007 and approved by the State Historic Preservation Division as having fulfilled this condition by letter dated March 21, 2007.</p>
<p>4. If significant historic sites are present, then the developer and/or landowner of the subject Property shall agree to develop and execute a detailed historic preservation mitigation plan prior to any ground altering construction in the area. The State’s Historic Preservation Division must approve this plan, and that Division must verify in writing to the Land Use Commission that the plan has been successfully executed.</p>	<p>IN PROGRESS  The archaeological survey found no cultural or paleontological remains in the single documented sinkhole on the property and the report recommended no further historic preservation work. The State Historic Preservation Division (SHPD) concurred with this recommendation, but with the following caveat:</p>
<p>5. Should any human burials or any historic sites such as artifacts, charcoal deposits, or stone platforms, pavings or walls be found, the developer and/or landowner of the subject Property shall stop work in the immediate vicinity and contact the State’s Historic Preservation Division. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division (if needed). The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.</p>	<p>“We are concerned about the possibility of future construction impacting undocumented sinkholes that are presently buried under fill sediments, and request that the SHPD be immediately contacted if any subterranean sinkholes are exposed during future construction activities in the project area.”</p>
<p>6. The developer and/or landowner of the subject Property shall conduct a flora and fauna survey and prepare and agree to execute a mitigation plan which meets the</p>	<p>COMPLETED  The flora and fauna survey report was</p>

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<p>requirements of the Department of Land and Natural Resources prior to the developer and/or landowner applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required. The Department of Land and Natural Resources must approve the plan and a copy of the approved plan must be submitted to the Land Use Commission prior to the developer and/or landowner applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required.</p>	<p>submitted by biologist Phillip L. Bruner on February 24, 2007, and its findings were approved by the Department of Land and Natural Resources on April 4, 2007. No rare or endangered plants were found and no mitigation is necessary.</p>
<p>7. The developer and/or landowner of the subject Property shall conduct a site characterization of the Property prior to submitting an application to the City and County of Honolulu for rezoning or prior to applying for a building permit if county rezoning is not required. Before conducting the site characterization, the Office of Hazard Evaluation and Emergency Response of the State Department of Health shall be consulted to develop the scope of investigation and determine the type of analysis to be conducted. Findings of the site characterization shall be submitted to the Office to determine if further action is required. If the Office determined that the site poses a threat, the developer and/or landowner, prior to development, shall implement measures to mitigate the threat. Such measures shall be acceptable to the Office.</p>	<p>COMPLETED            After reviewing a Phase II Environmental Site Assessment (site characterization), the Hawaii Department of Health, Hazard Evaluation and Emergency Response (HEER) Office wrote in a November 9, 2006, letter:            “The HEER Office has determined that the Phase II ESA was sufficient in scope and design to adequately address our outstanding concerns and that no contaminants remain on State at levels of concern. Therefore, no further environmental action is necessary at this time.”</p>
<p>8. The developer and/or landowner of the subject Property shall prepare a Traffic Impact Analysis Report prior to applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required. The developer and/or landowner shall also participate in the funding and construction of local and regional transportation improvements and programs including dedication of rights-of-way as determined by the State Department of Transportation (DOT) and County Department of Transportation Services (DTS). Agreement by the State Department of Transportation on the level of funding and participation shall be obtained prior to the developer and/or landowner applying for</p>	<p>COMPLETED            Traffic Impact Analysis Report (TIAR) submitted on 9/14/2006 and approved by DOT and DTS. Based on the TIAR, the previous owner (Irongate) entered into a Memorandum of Agreement (MOA) to implement various roadway improvements and transportation management measures. The key provisions of the MOA are found in the later part of this</p>

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county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required.	table.
9. The developer and/or landowner of the subject Property shall monitor the traffic attributable to the proposed project at on-site and off-site locations and shall undertake subsequent mitigative measures that may be reasonably required. These activities shall be coordinated with and approved by DOT and DTS.	<p>COMPLETED / PENDING</p> <p>The MOA with DOT (cited above) requires two updates of the TIAR: one at the submittal of off-site improvement plans for Kalaeloa Boulevard and Malakole Street.</p> <p>A TIAR was submitted on 9/14/2006.</p> <p>An updated TIAR was submitted on August 20, 2010.</p> <p>The third update occurs when building permits are issued for development of 80% of the land area of the property. This event has not yet occurred.</p>
10. The developer and/or landowner of the subject Property shall appoint a permanent transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. This shall be done at no cost to the State if the developer and/or landowner is not the State of Hawaii. In the alternative, the developer and/or landowner of the subject Property may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the transportation opportunities that would optimize the use of existing and proposed transportation systems. Either option will continue to be in effect unless otherwise directed by the State Department of Transportation. The program for either option shall be reviewed by the State Department of Transportation and the County Department of Transportation Services prior to implementation. The transportation manager or developer and/or landowner of the subject Property shall conduct periodic evaluations of the program's effectiveness and shall make reports of these evaluations available to the State Department of Transportation for program review and modification, if necessary.	<p>COMPLETED</p> <p>The MOA with DOT includes a provision for the creation of a lot owners' association to fulfill this function (see below.)</p>

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<p>11. The landowner/developer of the subject Property shall provide drainage improvements for the Property which are needed as a result of development of the Property and shall, to the extent necessary as determined by the City and County of Honolulu, coordinate off-site improvements with the Estate of James Campbell, the Barber's Point Naval Air Station, adjoining landowners and developers, and/or other Federal, State and County agencies.</p>	<p><b>COMPLETED</b> Former owner, Estate of James Campbell, prepared a regional drainage master plan that included the property and was coordinated and reviewed with surrounding landowners and relevant public agencies. The current owner has prepared and submitted a more site-specific drainage master plan for the property when the application grading approval was given.</p>
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<p>12. The developer and/or landowner of the subject Property shall participate in an air quality monitoring program as specified by the State Department of Health.</p>	<p><b>IN PROGRESS</b>            In an April 20, 2007, letter to the previous owner (Irongate), the Department of Health (DOH) stated that "Hawaii is in attainment with the National Ambient Air Quality Standards for the criteria air pollutants and since a monitoring station is located in Kapolei, no further action is required of you." DOH recommends that a dust control management plan be prepared for all phases of construction activities. This is normally required as part of the grading permit application to DPP.</p>
<p>13. The developer and/or landowner of the subject Property shall cooperate with the State Department of Health and City and County of Honolulu Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes, and the County's approved integrated solid waste management plans in accordance with a schedule and timeframe satisfactory to the Department of Health.</p>	<p><b>COMPLETED/PENDING</b>            This has and will take effect when specific uses of the property are identified.</p>
<p>14. The developer and/or landowner of the subject Property shall be responsible for implementing sound attenuation measures to bring noise levels from vehicular traffic on the Property down to levels acceptable to the State Department of Health and the State Department of Transportation.</p>	<p><b>NOT COMPLETED</b>            This refers to conditions that were present when the Hawaii Raceway Park (HRP) was in operation. Since the lease for HRP expired on April 30, 2006, the owner may petition the SLUC for a release from this condition (see item #18, below.)</p>

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<p>15. The developer and/or landowner of the subject Property shall develop the Property in substantial compliance with the representations made to the Land Use Commission. Failure to do so may result in reclassification of the Property to its former classification, or change to a more appropriate classification.</p>	<p>NO SPECIFIC ACTION NECESSARY</p>
<p>16. The developer and/or landowner of the subject Property 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 Property.</p>	<p>COMPLETED The present landowner notified the LUC about the ownership change by letter dated March 12, 2010 (see attached.)</p>
<p>17. The developer and/or landowner of the subject Property shall timely provide without any prior notice, annual reports to the Land Use Commission, the Office of State Planning, and the City and County of Honolulu Planning Department in connection with the status of the existing development and the developer's and/or landowner's progress made in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.</p>	<p>PARTIALLY COMPLETED The most recent annual status report to the State Land Use Commission is dated February 28, 2013.</p>
<p>18. The Land Use Commission may fully or partially release these conditions provided herein 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 developer and/or landowner of the subject Property.</p>	<p>NO ACTION NECESSARY</p>
<p>19. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, the developer and/or landowner shall a) record with the Bureau of Conveyances a Statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property, and b) shall file a copy of such recorded statement with the Commission.</p>	<p>COMPLETED</p>
<p>20. The developer and/or landowner of the subject Property shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawaii Administrative Rules.</p>	<p>COMPLETED</p>



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<p><b>MEMORANDUM OF AGREEMENT WITH DEPARTMENT OF TRANSPORTATION (9/17/2007, as amended in 2010)</b></p> <p>1. [Developer] shall construct the following improvements recommended by the Traffic Impact Study:</p> <ul style="list-style-type: none"> <li>a. Kalaeloa Boulevard at Malakole Street               <ul style="list-style-type: none"> <li>i. Add a second (double) left-turn lane on the makai-bound Kalaeloa Boulevard approach. The dual left turn lanes shall provide 300 feet of full storage width per lane with appropriate taper.</li> <li>ii. Widen Malakole Street to accommodate the dual makai-bound left-turn lanes. Widening is proposed to extend from Kalaeloa Boulevard to Oihana Street.</li> <li>iii. Construct an exclusive left turn lane on the westbound approach of Malakole Street. The turn lane shall provide 250 feet of full storage with appropriate taper.</li> <li>iv. Extend the westbound right turn lane on Malakole Street to provide 300 feet of full storage with appropriate taper.</li> </ul> </li> <li>b. Revise the traffic signal phasing and timing to reflect the recommended geometric changes.               <ul style="list-style-type: none"> <li>i. In conjunction with the Malakole Street widening to accommodate the dual left turn lanes, construct a left turn lane of the eastbound approach of Malakole Street at Access 1. The left-turn lane shall be a continuation of the widening of Malakole Street based on the dual southbound left-turn lanes proposed for the Malakole Street/Kalaeloa Boulevard intersection. In effect, the through lane adjacent to the centerline would end as the left-turn lane at the Oihana Street intersection.</li> <li>ii. Construct a westbound right-turn lane on Malakole Street at Access 1. The turn lane shall provide 100 feet of storage with appropriate taper.</li> <li>iii. Construct separate left- and right-turn lanes on the Access 1 approach to Malakole Street.</li> <li>iv. Monitor and give consideration to installing a traffic signal if warranted</li> </ul> </li> </ul>	<p>COMPLETED.</p> <p>Malakole Frontage/Kalaeloa Improvements for Phase I have been completed &amp; Phase II work on Malakole has been approved by DPP and completed</p>

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<p>in the future.</p> <p>c. Malakole Street at Komohana Street / Access 2</p> <ul style="list-style-type: none"> <li>i. Construct a left turn-lane on eastbound Malakole Street at Access 2. The turn lane shall provide 100 feet of storage with appropriate taper.</li> <li>ii. Construct a right turn-lane on westbound Malakole Street at Access 2. The turn lane shall provide 100 feet of storage with appropriate taper.</li> <li>iii. Construct separate left-and right-turn lanes on the Access 1 approach to Malakole Street.</li> </ul> <p>The improvements noted in parts a through c of this paragraph 1 may be modified by [the Developer], subject to the prior written consent of DOT, based on the updates to the Traffic Impact Study discussed in paragraph 2 below.</p>	
<p>2. [Developer] shall provide two updates of the Traffic Impact Study. An update of the Traffic Impact Study shall be done at the time that off-site improvements plans (widening of Kalaeloa Boulevard and/or Malakole Street) are submitted to the City for review, and a second update to the Traffic Impact Study shall be submitted at the time that building permits are issued for Lots totaling eighty percent (80%) of the land area of developable Lots on the Property. [Developer] shall undertake subsequent mitigative measures that may be reasonably required and recommended by the updates to the Traffic Impact Study. These updates to the Traffic Impact Study and subsequent reasonable mitigative measures shall be coordinated with and approved by DOT and the City's Department of Transportation Services ("DTS").</p>	
<p>3. [Developer] shall establish an association which shall include all owners of the proposed Lots ("Association") that will have as one of its responsibilities the promotion of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. The Association shall either: (1) designate a transportation manager who shall facilitate the coordination of actions and promotions with DOT and DTS; or (2) join the Leeward Oahu Transportation Management Agency which serves to provide transportation management services to its members.</p>	