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LAND USE COMMISSION
STATE OF HAWAII

2018 JUN -4 A 9:23

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June 1, 2018

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

Re: **2018 Annual Progress Report**

Docket Nos. A81-524 and A93-701

Original Petitioner: Kaupulehu Developments

Successor Petitioner for Lot 4-B: Hualalai Investors, LLC

Tax Map Key Nos.: (3) 7-2-010:020, 028 to 030, (3) 7-2-029: 001-020, 022 to 025, 027 to 048, 050 to 058, (3) 7-2-030:001 to 035

(Formerly (3) 7-2-003: Portion of 001) (collectively "**Lot 4-B**")

Dear Mr. Orodenker:

By Findings of Fact, Conclusions of Law, and Decision and Order filed on June 17, 1996, in Docket No. A93-701, the State Land Use Commission ("Commission") reclassified approximately 1,009.086 acres¹ of land from the "Conservation District" to the "Urban District"² located in Kaupulehu, North Kona, Island of Hawaii, formerly a portion of TMK No.: (3) 7-2-003:001.

¹ Approximately 37.064 acres within portions of TMK: (3) 7-2-010:022 and 023 at Kaupulehu were left in the Conservation District, as this area comprises an existing archaeological preserve.

² The original Findings of Fact, Conclusions of Law, and Decision and Order entered on June 17, 1996 were revised on October 18, 2001 after the Hawaii Supreme Court in *Ka Pa'akai O Ka'Aina v. Land Use Commission*, 94 Haw. 31, 7 P.3d 1068, 1083 (2000), vacated the Commission's Decision and Order and remanded the case for the limited purpose of entering specific findings and conclusions regarding the rights of native Hawaiians and valued native Hawaiian resources.

A portion of Kaupulehu Lot 4-A was previously reclassified from Conservation to Urban in Docket No. A81-524.

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The area reclassified by Docket No. A93-701 was divided into two (2) development areas, namely "Lot 4-A" and "Lot 4-B", and these development areas are now controlled by two (2) separate entities (*See "Exhibit A"* - Location Map). KD Acquisition, LLLP ("KD") is the current developer of Lot 4-A and they file separate annual progress reports with the Commission regarding their development activities within Lot 4-A. Hualalai Investors, LLC ("HILLC"), the successor-in-interest to Kaupulehu Makai Venture, is the current developer of Lot 4-B.

On behalf of our client HILLC, we submit this 2018 Annual Progress Report in compliance with Condition 22 of Docket No. A93-701, covering development area Lot 4-B. We acknowledge HILLC has inadvertently not filed Annual Progress Reports with the Commission for some time, and we apologize for not providing the Commission with a recent update on the development activities within Lot 4-B.

Attached for your reference is a chart that outlines the Commission's various conditions of approval and the status of HILLC's compliance with these conditions. The following summary provides a brief history of the entitlements within Kaupulehu.

I. ENTITLEMENTS HISTORY FOR LOT 4-B

The original Petitioner under Docket No. A93-701 (Kaupulehu Developments), proposed to develop a residential community consisting of 530 single-family homes and 500 low-rise multiple-family units to complement the adjacent resort development along the coast, 36 holes of golf, a golf clubhouse, an 11-acre neighborhood commercial center with 45,000 sq.ft. of leasable space, a 3-acre residents/members recreation club, and a 70-acre area abutting the north boundary of Lot 4-A for public shoreline access facilities, other recreational uses and cultural activities.

On December 11, 1998, the County of Hawaii Planning Commission approved Special Management Area Use Permit No. 389 ("SMA 389"), which allowed the development of a resort residential community comprising a resident's beach club, golf course and clubhouse, a Hawaiian interpretive center, and other related facilities. SMA 389 was ratified and reaffirmed by the County Planning Commission on December 30, 1999.

On April 10, 1999, the County of Hawaii approved Project District Ordinance No. 99-42 ("PDO 99-42") rezoning the Petition Area from the "*Open*" zone to "*Project District*" covering the same lands subject to Docket No. A93-701 and SMA 389, and proposing a similar number of dwellings/units and elements proposed under Docket No. A93-701.

Although PDO 99-042 was granted on April 10, 1999, as noted above, the State Land Use Boundary Amendment entered on June 17, 1996 was appealed and under review by the Hawai'i Supreme Court, until it rendered its decision in *Ka Pa'akai O Ka'Aina v. Land Use Com'n, State of Hawai'i*, 94 Hawai'i 31, 7 P.3d 1068 (2000), on September 11, 2000, which remanded the case back to the LUC. Thereafter, the LUC entered its Findings of Fact, Conclusions of Law, and Decision and Order on October 18, 2001, which amended the district classification of Lot 4-A and Lot 4-B from the "*Conservation District*" to the "*Urban District*".

SMA 389, which was originally approved by the Planning Commission on December 4, 1998, was also subject to an appeal. Upon remand to the Planning Commission, SMA 389 was ratified and reaffirmed on December 30, 1999. Thus, it wasn't until after October 18, 2001 that the original Petitioner could proceed with their development plans, having received the final decisions on its LUC and SMA entitlements.

The County of Hawaii Planning Department subsequently approved SUB-7571-Revised on September 18, 2002, which subdivided the Petition Area covered by the subject entitlements into the two (2) development areas for Kaupulehu, Lot 4-A and Hualalai Resort, Lot 4-B as it exists today.

HILLC acquired the rights to develop Lot 4-B from Kaupulehu Makai Venture on June 1, 2006, and thus became the successor Petitioner / Applicant for Lot 4-B.

II. CURRENT STATUS OF DEVELOPMENT

HILLC has remained steadfast and fully committed to implementing the development plans for Lot 4-B, and has made substantial progress toward this goal. HILLC has developed 217.394 acres of the 238.609 acres that comprise Lot 4-B³ by creating fifteen (15) separate development areas within Lot 4-B, comprised of seventy-six (76) single-family lots, twenty (20) multiple-family residential units, Keolu Golf Course holes 10 through 18, and two (2) vacant bulk lots.

As evidenced by the development of Lot 4-B to date, and although the development and full build out of Lot 4-B has been somewhat challenged due to the volatile real estate market conditions, HILLC is committed to satisfy the conditions of Docket No. A93-701. HILLC has continued to allocate resources with the goal of fully developing Lot 4-B. HILLC will continue to develop Lot 4-B in compliance with Docket No. A93-701, commits to timely file its annual reports in the future, and will provide a final report to the Commission upon conclusion of the development activities within Lot 4-B.

We trust that the foregoing and the attached charts satisfy the annual reporting requirements of Docket No. A93-701, Condition 22. If you require any additional information or clarification on any parts of this submittal, please feel free to contact me or my paralegal Jason Knable at 808-935-6644 at any time. Thank you.

³ The total acreage accounts for the development of the completed subdivision improvements, including roadways and utilities, in addition to the back 9 golf holes of the Keolu Golf Course.

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Sincerely,

Steven S.C. Lim

SSL/jkk1

Attachment(s)

cc: Hualalai Investors, LLC
County of Hawaii Planning Department

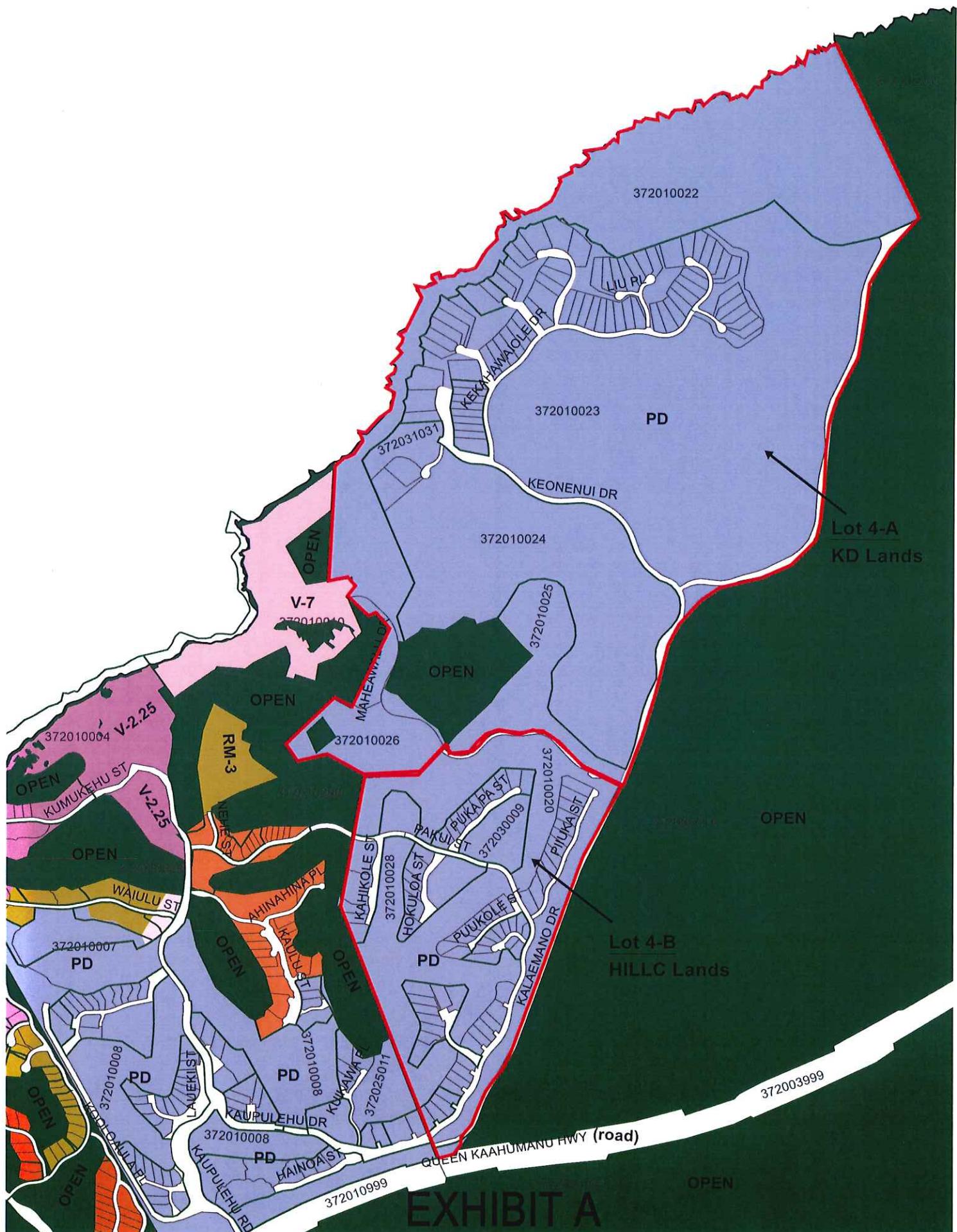


EXHIBIT A

2018 Condition Compliance Matrix - State Land Use Commission Docket No.: A93-701

Successor Applicant: Hualalai Investors, LLC ("HILLC")

Effective Date: October 18, 2001

No.	Condition	Status	Comments
1a.	<p>Petitioner shall initially establish and annually provide reasonable operating and capital expenditure costs through revenues from the Project and assessments, a Kaupulehu Development Monitoring Committee (KDMC) composed of: (1) person of native Hawaiian ancestry who is knowledgeable regarding the type of cultural resources and practices within the Petition Area, as selected by the LUC from a list of three names submitted by each of the parties based on review of their resumes and a formal interview process; and (2) a management member knowledgeable regarding the type of cultural resources and practices within the Petition Area, as selected by Petitioner and landowner. The individuals making up the KDMC shall operate on an equal vote basis. In the event that the individuals making up the KDMC cannot agree on specific decision, they shall jointly select a third person to break the tie.</p>	Satisfied	<p>This condition was satisfied for Lot 4-B.</p> <p>Hannah Kihalani Springer was selected to be the native Hawaiian representative on the KDMC pursuant to the D&O Approval Selection of Native Hawaiian Committee Member to the KDMC dated 05/13/02. Leina'ala Keakealani Lightner was selected as the Successor Petitioner's appointee to the KDMC. Pursuant to the KDMC Operational Plan, each KDMC member shall serve a 5-year term.</p>
1b.	<p>The KDMC shall be established by Petitioner no later than six months from the issuance of this decision and order. Upon establishment of the KDMC, Petitioner shall provide a written report to the Land Use Commission, the Office of Planning, and the County of Hawaii with details as to its composition, structure, operating costs and compensation for members and staff, procedures, and plan of action to be approved by the Land Use Commission.</p>	Satisfied	<p>This condition was satisfied for Lot 4-B.</p> <p>The KDMC was established and commenced operations on 04/25/02. The KDMC Operational Plan was filed with the Commission on 05/13/02.</p>
1c.	<p>The KDMC shall jointly decide on an equal vote basis monitoring and dispute resolution decisions related to the protection of native Hawaiian practitioner's exercise of customary and traditional practices and rights as described above; the availability of natural and cultural resources for present and future generations; and appropriate access in the subject areas to the extent that these rights are protected by PASH vs. Hawaii County Planning Commission, 79 Haw. 425, (1995), in perpetuity. In the event that the two person KDMC cannot agree on a specific decision, they shall jointly select a third person to break the tie. A certified description of any action requiring section of a third member of the KDMC shall be filed with the Land Use Commission.</p>	Satisfied	<p>This condition was satisfied for Lot 4-B.</p> <p>The KDMC Operational Plan outlines monitoring and dispute resolution decisions. Pursuant to the charter of duties established in the KDMC Operational Plan, the KDMC continues to monitor and make recommendations relating to the maintenance and or preservation of traditional and customary native Hawaiian practices and cultural resources.</p>
1d.	<p>The KDMC shall monitor the quality of the salt gathering resource and the effectiveness of the Petitioner's actions to provide access to and/or preserve and maintain traditional and customary native</p>	Satisfied	<p>This condition was satisfied for Lot 4-B.</p> <p>The KDMC continues to monitor the salt gathering and the Successor</p>

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	Hawaiian practices and cultural resources. The KDMC shall provide recommendations consistent with this decision and order to the Land Use Commission with respect to maintenance and/or preservation of those traditional and customary native Hawaiian practices and cultural resources.	Petitioner's actions to allow to adequate traditional and customary native Hawaiian access.	"Salt Pans and Quality of Salt from Kalaemano, Lot 4 Project Site" (March 2008; Environmental Assessment, LLC) was reviewed and approved by the KDMC and submitted to the County of Hawaii Planning Department ("PD"), LUC, DLNR and DOH Clean Water Branch on 02/10/09.
		<u>REFERENCE:</u>	
		1) The "Salt Pan Monitoring Plan" (Marine Research Consultants, 5/23/00) 2) KDMC and DOH approval (01/11/05) - "Proposed Water Quality/Salt Pan/Marine Life Monitoring Plan" (Environmental Assessment, LLC, 4/26/04) 3) Reviewed and approved by the KDMC; and submitted to the PD, LUC, DLNR, and DOH Clean Water Branch (02/10/09) - "Salt Pans and Quality of Salt from Kalaemano, Lot 4 Project Site" (Environmental Assessment, LLC, March 2008)	

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			within the resource management area: Subzone A: 104.221; Subzone B1 = 31.961 acres; Subzone B2 = 19.660 acres; Subzone B3 = 47.656 acres.
2b.	The resource management area shall contain five subzones. The delineation of the five subzones shall be based upon the resources and activities within each respective subzone and the management and preservation measures to be employed with regard to those resources as set forth in the decision and order. All five subzones will be linked by public access way consisting of portions of the historic coastal trail and new pedestrian paths. Petitioner shall provide metes and bounds map and description of boundaries of each of the subzones to the Land Use Commission within six months of the issuance of this decision and order.	Satisfied	<p>This condition has been satisfied for Lot 4-B.</p> <p>The metes and bounds map and description of the boundaries of each of the five (5) subzones was submitted to the SLUC on 11/14/02, and recorded with the State Bureau of Conveyances on 11/10/04 by way of Declaration of Coastal Planning Area (Document No.: 2004-228042).</p>
2c.	Subzone A shall be designated for preservation of salt gathering, the coastal trail, coastal views, and archaeological sites. Petitioner shall prohibit any ground-disturbing activity within the subzone except for pedestrian paths or other public access improvements that may be required by the State of County. Public access will be provided to and within this subzone over the shoreline, historic coastal trail, and other onsite pedestrian pathways.	Satisfied	<p>This condition has been satisfied for Lot 4-B.</p> <p>The provisions for restricted activity and public access within Subzone A are addressed in the following documents on file with the Commission.</p>
2d.	Subzone B shall be divided into three components, B1, B2, and B3. Subzone B1 shall include approximately 30 acres, and will be designated as an activity-oriented area for public access parking. Subzone B2 shall include approximately 15 acres and traverse the coastal edge of the 1800-1801 lava flow over a distance of approximately 3,900 feet along the coast and at least 100 feet inland from the certified shoreline, and in some instances 300 feet. It will preserve the coastal trail and the shoreline resources. Subzone B3 shall include approximately 49 acres surrounding Kona Village Resort, and will provide a buffer to reduce visual and other impacts to the Kona Village Resort. This buffer are will be restricted to open space uses such as golf course and related improvements, landscaping, infrastructure, existing heliport, and other uses which may be acceptable to Kona Village Resort.	Satisfied	<p>This condition has been satisfied for Lot 4-B.</p> <p>The provisions for restricted activity and public access within Subzones B1, B2, and B3 are addressed in the following documents on file with the Commission.</p>
2e.	Subzone C shall consist of approximately 37 acres just inland of Kona Village Resort and will be an archaeological preserve for 38	Satisfied	<p>This condition has been satisfied for Lot 4-B.</p>

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	archaeological sites containing 191 separate features, as identified in the archaeological inventory level survey conducted by Paul H. Rosendahl, Inc. Improvements in this subzone will be limited to interpretive signage and trail maintenance.	The provisions for restricted activity and public access within Subzone C are addressed in the following documents on file with the Commission. <u>REFERENCE:</u> 1) Kaupulehu Lot 4-A CPAP (September 2004) 2) Declaration of CC&Rs' regarding Restricted Parcels (Recorded on 12/23/05; Document No.: 2004-262407) 3) Declaration of Coastal Planning Area (Recorded on 11/10/04; Document No.: 2004-228042) [C = 37.064 acres]
3a.	Petitioner shall preserve and protect the gathering and access rights of native Hawaiians by providing appropriate access to the salt gathering resource at Kalaemano and fund adequate security and maintenance to maintain trails and salt gathering areas in accordance with traditional and customary native Hawaiian practices located within Subzone A as decided and monitored by the KDMC.	Satisfied The access provisions of this condition are included and addressed in the IRMP and the Kaupulehu Lot 4-A CPAP.
3b.	Petitioner shall preserve and protect the gathering for cultural purposes including religious practice by providing appropriate access to burial sites and other archaeological sites within the Petition area consistent with this decision and order. Petitioner shall adhere to prevailing and/or published protocols of the Hawaii County Burial Council and/or State Historic Preservation Division where these sites are found to exist as monitored by the KDMC.	Satisfied The funding of the maintenance and security of the resources management areas have been budgeted through the KCA and will be developed in consultation with and monitored by the KDMC.
3c.	Pele worship shall be allowed to continue however, it shall not be further allowed in the portion of the 1800-1801 Hualalai lava flow to be developed. There is no reference in the record to a specific site on the flow that has been utilized for such worship. Therefore, the Land Use Commission is not designating a specific site. However, if the	On-going This condition has been satisfied for Lot 4-B. To date, the KDMC has not observed Pele worship activities occurring on within the development, therefore, the KDMC has not identified a specific site for Pele worship.

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	KDMC should identify a specific site in the course of their monitoring of Petitioner's efforts to maintain and/or preserve traditional native Hawaiian cultural resources, it shall forward its recommendation to the Land Use Commission for its approval that such site be designated for Pele worship.	N/A	Lot 4-B is not located near or along the shoreline. This condition is being satisfied through on-going monitoring by the owners of Lot 4-B.
3d.	Petitioner shall initiate and fund a nearshore water quality monitoring program. The parameters of the monitoring program shall be approved by the State Department of Health (DOH). Petitioner shall provide regular reports to the Land Use Commission and the KDMC as to the findings of this water quality monitoring program.	Satisfied	This condition has been satisfied for Lot 4-B.
4	Petitioner shall to the extent feasible inventory non-renewable resources such as Pele's Tears found at the makai edge of the 1800-1801 Hualalai lava flow located in Subzones A, B2, and B3. The KDMC shall review this inventory and recommend to the Land Use Commission methods to preserve, protect, exhibit, or provide appropriate access to any such resource in its six-month plan for the LUUC approval.	Satisfied	The described locations have been surveyed and no Pele's Tears were found.
5	Petitioner shall provide appropriate access to the shoreline of the Petition Area to preserve and protect access rights of native Hawaiians and the general public to Kupe'e shells that may be found along the shoreline as monitored by the KDMC.	Satisfied	HILLC has satisfied this condition for Lot 4-B development area. HILLC completed all public access improvements, pursuant to the Public Access Plan. Recently, HILLC by letter dated 04/06/18, submitted to the Planning Department an update to reflect the total number of public access parking stalls at 77.
6a.	At a minimum, to preserve and protect mauka and makai view planes and the shoreline as a site for spiritual meditation and educational	N/A	REFERENCE: 1) Final Comprehensive Public Access Plan for Hualalai at Historic Kaupulehu (November 1997) 2) Final Comprehensive Public Access Plan for Hualalai at Historic Kaupulehu (updated November 2000), approved by the Planning Department (12/01/01) 3) Letter update (07/12/04), approved by the Planning Department (08/25/04) 4) Letter update (05/19/16), acknowledged by the Planning Department (06/16/16) 5) Letter update (04/06/18), pending acknowledgment by the Planning Department HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B, as the subject development area is not located along

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	<p>practices, Petitioner shall cause to be established a setback zone of 75 feet from the certified shoreline within which there shall be no improvements of any kind other than improvements which may be reasonably necessary for purposes of public safety, and where the property will be left in its natural state; provided that certain golf holes may be allowed within the setback subject to mutual agreement between Petitioner, the Department of Land and Natural Resources, and the Office of Planning.</p>		the certified shoreline.
6b.	<p>At a minimum, to preserve and protect mauka and makai view plans and the shoreline as a site for spiritual meditation and education practices, Petitioner shall prohibit any residential development or vertical improvements, other than landscaping and improvements allowed by County ordinance or variance, to be constructed or erected within 150 feet of the certified shoreline.</p>	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B, as the subject development area is not located along the certified shoreline.
7a.	<p>The proposed mitigation commitments for all identified sites with burials must be submitted to the State Historic Preservations Division's Hawaii Island Burial Council for vote on the mitigation proposals. Once a decision is made by the Council, then the mitigation commitments for those sites will be finalized. A burial treatment plan for the mitigation treatment for those sites must then be approved by the State Historic Preservation Division, in consultation with their Hawaii Island Burial Council, and a certified copy of said plan shall be filed with the LUC prior to any land alteration in the vicinity of these sites as monitored by the KDMC. Mitigation commitments shall be monitored by the KDMC.</p>	Satisfied	<p>HILLC has satisfied this condition, as evidenced by the numerous Grading and Grubbing Permits approved by the County and the State Historic Preservation Division, which cover the completed development within Lot 4-B. HILLC has also implemented all the required mitigation protocols and preservation measures, in compliance with the approved archaeological plans referenced below</p> <p>The KDMC continues to monitor the mitigation protocols for the identified burial sites.</p> <p><u>REFERENCE:</u></p> <p>1) Burial Treatment Plan, Hualalai Resort Phase II Expansion Area Project, Kaupulehu Makai - Lot 4 (July 2000; Rosendahl, Ph.D)</p>
7b.	<p>For all sites approved by the State Historic Preservation Division (SHPD) to undergo archaeological data recovery, an archaeological data recovery plan (scope of work) must be prepared by Petitioner. This plan must be approved by the SHPD and a certified copy of said plan shall be filed with the LUC prior to any land alteration in the vicinity of these sites. The approval plan will be monitored by the KDMC.</p>	Satisfied	<p>HILLC has satisfied this condition, as evidenced by the numerous Grading and Grubbing Permits approved by the County and the State Historic Preservation Division, which cover the completed development within Lot 4-B.</p> <p>The KDMC no longer needs to monitor the sites that were subject to the completed Data Recovery.</p> <p><u>REFERENCE:</u></p> <p>1) SHPD approval (8/14/03) - "Archaeological Data Recovery and Interim Site Preservation Plans, Remainder of Lot 4, Kaupulehu Makai"</p>

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				2) DLNR-SHPD submittal on 2/12/08 - "Archaeological Data Recovery, Kaupulehu Makai, Remainder of Lot 4" (January 2008)
7c.	For all sites approved for preservation by the State Historic Preservation Division (SHPD), a preservation plan must be prepared by Petitioner. (Burial sites may be covered under the burial treatment plan.) This plan must include buffer zones/interim protection measures during construction, and long-range preservation (including public access and interpretation, where appropriate). The plan must include input from the local native Hawaiian community and relevant Hawaiian groups. The plan must be approved by the SHPD and a certified copy of said plan shall be filed with the LUC prior to any land alteration in the vicinity of these sites. The approval plan will be monitored by the KDMC.	Satisfied	HILLC has also implemented all the required mitigation protocols and preservation measures, in compliance with the approved archaeological plans referenced below.	The KDMC continues to monitor the mitigation protocols for the identified burial sites. <u>REFERENCE:</u> 1) Archaeological Data Recovery and Interim Site Preservation Plans, Hualalai Resort Phase II Expansion Project (July 2002; Rosendahl, Ph.D) 2) A Revised Archaeological Preservation Plan for Five Sites on Development Parcel 19 in Hualalai Resort (October 2015, ASM Affiliates) and DLNR-SHPD approval letter dated 03/03/16)
7d.	Petitioner shall immediately stop work and contact the SHPD should any previously unidentified archaeological resources such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered during Project development. Mitigation and preservation shall be monitored by the KDMC.	On-going	HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area.	
8	Petitioner shall preserve and protect the coastal trail in its entirety and portions of the mauka-makai trail located within the Resource Management Area and Petition Area with interpretive development, pursuant to the recommendations of Paul H. Rosendahl, Inc., and as approved by the State Historic Preservation Division to manage this cultural resource. Preservation and protection shall be monitored by the KDMC.	Satisfied	This condition has been satisfied.	The KDMC monitors the coastal and mauka-makai trails and collaborates with National Park Service ("NPS") Ala Kahakai Trail Program on trail preservation and interpretation. <u>REFERENCE:</u> 1) PD approval (09/29/04) - Kaupulehu Lot 4-A CPAP 2) SHPD approval (8/08/08) - "Archaeological Site Preservation Plan"(January 2008)
9	Petitioner shall initiate and fund a program to monitor the populations of threatened and endangered green sea turtles, hawksbill turtles, and humpback whales, as required by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Division of Aquatics Resources. Mitigation measures shall be implemented by Petitioner if the results of the monitoring program	Satisfied	This condition has been satisfied.	As recommended by the U.S. Fish & Wildlife Service in its 12/16/02 letter, the Successor Petitioner will continue to monitor two (2) shoreline sites that show characteristics of turtle nesting beaches.

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	warrant them. Mitigation measures shall be approved by the US Fish and Wildlife Service, the National Marine Fisheries Service, and Department of Land and Natural Resources.	<u>REFERENCE:</u> 1) DLNR Letter (06/19/02) 2) National Ocean and Atmospheric Administration ("NOAA")/National Marine Fisheries Service ("NMFS") Letter (09/18/02) 3) U.S. Fish and Wildlife Service ("USFWS") Letter (12/16/02)
10	Petitioner shall conduct biological survey for terrestrial invertebrates, the Hawaiian Hoary bat, and Kona Nightingale (feral donkey), prior to submitting an application for rezoning to the County of Hawaii. Petitioner shall consult with the U.S. Fish and Wildlife Service prior to initiating the study, regarding the content and completeness. The study shall be accepted and approved by the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service must also verify in writing the successful execution of the study, and the implementation of the mitigation/preservation plan.	Satisfied <u>REFERENCE:</u> 1) USFWS Letter (09/11/98) - "Avifaunal and Feral Mammal Survey of Kaupulehu Phase 2 Expansion Project, North Kona, Hawaii" (Belt Collins, 02/9/94)
11	Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents in the State of Hawaii to the satisfaction of the County of Hawaii. 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 Petitioner and the County of Hawaii.	Satisfied <u>REFERENCE:</u> The County Housing Agency adopted Resolution 133 effective 12/02/03, which demonstrated HILLC's satisfaction of the subject condition.
12	Petitioner shall implement effective soil erosion and dust control measures during and after construction to ensure that the development activities of the Petitioner shall not impact the salt gathering resources at Kalaemano located within subzone A of the Resources Management Area and other resources. Such measures shall be to the satisfaction of the State Department of Health and the County of Hawaii.	On-going <u>REFERENCE:</u> HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area. During construction, soil erosion and fugitive dust are mitigated through implementation of Best Management Practices that HILLC and all individual contractors must observe.
13	Petitioner shall develop a solid waste management plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes. Petitioner's solid waste management plan shall be approved by the County of Hawaii Department of Public Works.	Satisfied <u>REFERENCE:</u> 1) DPW Solid Waste Management Division approval (04/30/01) - " <i>Solid Waste Management Plan for the Hualalai Resort Phase II Development</i> " (prepared by Belt Collins Hawaii; December 2000).
14	Petitioners shall fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Hawaii.	Satisfied <u>REFERENCE:</u> HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area. HILLC developed the Hualalai private waste water treatment plant

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		HILLC has complied with the subject condition by constructing wastewater disposal systems pursuant to the County approved construction plans for the multiple subdivision phases within Lot 4-B, which are referenced below. As further evidence of compliance with the subject condition, the Planning Department also issued Final Subdivision Approval ("FSA") for these same subdivisions, in connection within the development of the existing single-family and multiple-family residential uses, commercial uses, and the completed 9-hole golf course.
		<p>REFERENCE:</p> <ol style="list-style-type: none"> 1) Hualalai Resort Phase 2-C Subdivision No. 1 (SUB-7835-Revised) - FSA (10/19/04) 2) Hualalai Resort Phase 2-C Subdivision No. 2 (SUB-04-00219) - FSA (09/12/05) 3) Hualalai Resort Phase 2-C Subdivision No. 3 (SUB-05-000222) - FSA (02/21/07) 4) Hualalai Resort Parcel 20 Subdivision (SUB-07-000564) - FSA (01/09/14) 5) Kulanaikauhale (SUB-14-001426-Revised) - FSA (05/01/15) 6) Halipua Villas (FPA 04/25/06) 7) Na Hale at Kahikole Phase I - Project District Site Plan approval covering development Parcel 17 (07/16/02) 8) Na Hale at Kahikole Phase II - Project District Site Plan approval covering development Parcel 17 (07/16/02)
15	Petitioner shall participate in air quality monitoring program as specified by the State Department of Health.	<p>Satisfied</p> <p>HILLC has satisfied this condition for Lot 4-B, as the Department of Health has not specified an air quality monitoring program for Lot 4-B and/or the surrounding areas.</p>
16	Petitioner shall fund and construct adequate civil defense measures as determined by the State and County of Hawaii civil defense agencies.	<p>On-going</p> <p>HILLC shall continue to comply with this condition.</p> <p>County of Hawaii Civil Defense Agency and Fire Dept., and the State of Hawaii, Department of Defense ("DOD") were consulted on the appropriate civil defense measures. By letter dated 09/9/04, the DOD identified the coverage area and civil defense equipment to be installed as part of the development. HILLC is currently coordinating with KD and the County of Hawaii Civil Defense Agency on implementation of the civil siren.</p>

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			<u>REFERENCE:</u>
17	Petitioner shall provide a fair-share contribution for school facilities as mutually agreed upon with the Department of Education. The contribution may be combination of land and/or cash required to address the impact on school facilities.	Satisfied	HILLC has satisfied this condition for the Lot 4-B development area. The County Housing Agency adopted Resolution 133 effective 12/02/03, which demonstrated HILLC's satisfaction of the subject condition. <u>REFERENCE:</u> 1) Office of Housing and Community Development condition compliance letter (03/15/04)
18	Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Hawaii.	Satisfied	HILLC shall continue to comply with this condition. <u>REFERENCE:</u> 1) Carlsmith Ball transmittal to DOT (04/15/10); Updated Traffic Signal Warrants and Traffic Monitoring Program (11/25/09, PB Americas, Inc.)
19	Petitioner shall fund and construct adequate water source, storage and transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.	On-going	HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area. The Lot 4-B development area is currently serviced by a private water, owned and operated by the Kaupulehu Water Co., which is a PUC regulated utility. There is sufficient capacity within the existing water system to support the remaining development within the Lot 4-B development area.
20	Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of the appropriate State and County agencies.	On-going	HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area. HILLC has complied with the subject condition by implementing the applicable drainage improvements described within the County approved construction plans for the multiple subdivision phases within Lot 4-B, which are referenced below. As further evidence of compliance with the subject condition, the Planning Department also issued Final Subdivision Approval ("FSA") for these same subdivisions, in connection within the development of the existing single-family and multiple-family residential uses, commercial uses, and the completed 9-hole golf course. An approved Drainage Plan was also required before the issuance of Final Plan Approval for all the completed multiple-family units within Lot 4-B. <u>REFERENCE:</u>

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	maintained.		
24b.	In operating the golf course and any future residential development in the Kaupulehu Development Petition Area, Petitioner shall maintain and protect the public's right of access along the shoreline especially at the 1800-1801 'a'a lava flow where the existing trail is near the same level as the proposed dwelling units.	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B, as the completed Keolu Golf Course is not located along the certified shoreline.
24c.	Petitioner shall work with the Department of Land and Natural Resources to incorporate mauka pathways which may be tied to golf course and residential area pathways which will provide alternative access routes to the accessible coastline areas.	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B, as the completed Keolu Golf Course is not located along the certified shoreline.
24d.	Petitioner shall adopt golf course rules and provide mutually agreeable signage which may protect the access along the public access areas and pathways.	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B.
24e.	Petitioner shall provide the plans for golf course layout, location of holes, access pathways, and signage to OP and the appropriate governmental agencies in advance of any final approval of such plans.	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B.
24f.	Petitioner shall record with the appropriate governmental agency all necessary and appropriate instruments to accomplish the purpose of this paragraph.	N/A	HILLC acknowledges this condition, however, this condition is not applicable to Lot 4-B.
25	Petitioner shall complete the Project in substantial compliance with the representations made before the Land Use Commission. Failure to so develop the Property may result in reversion of the Property to its former land use classification, or change to a more appropriate classification.	On-going	The Successor Petitioner shall continue to comply with this condition for the Kaupulehu Project. The Successor Petitioner provided the Commission with a status report on compliance with LUC Docket No. A93-701 on 6/21/07. The Commission acknowledged the Successor Petitioner's "substantial compliance" on 10/12/07.
26	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 covered by the approved Petition prior to the visible commencement of construction of the Property.	Satisfied	HILLC acquired the rights to develop Lot 4-B from Kaupulehu Makai Venture on June 1, 2006, and thus became the successor Petitioner / Applicant for Lot 4-B. Construction activities commenced shortly after HILLC acquired control of Lot 4-B.
27	Petitioner shall provide annual reports to the Land Use Commission, the Office of Planning, and the County of Hawaii in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission and shall also include written documentation from each State and County agency responsible, indicating that the terms of the	On-going	HILLC submits this 2018 Annual Progress Report in compliance with this condition. HILLC shall continue to comply with this condition until full build-out of the Lot 4-B development area and the Planning Department notifies HILLC that now further Annual Progress Reports are required.

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	condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency.		
28	The Commission may fully or partially release the 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 Petitioner.	On-going	HILLC acknowledges this condition.
29	Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property, and (b) shall files a copy of such recorded statement with the Commission.	Satisfied	<p>This condition has been satisfied.</p> <p><u>REFERENCE:</u></p> 1) Notice of Imposition of Conditions by the Commission - BOC recordation 10/26/01 (Document No. 2001-169466).
30	Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawaii Administrative Rules.	Satisfied	<p>This condition has been satisfied.</p> <p><u>REFERENCE:</u></p> 1) Certificate of Conditions Imposed by the Commission in LUC Docket No. A93-701 - BOC recordation 8/19/96 (Document No. 96-118872).