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LAND USE COMMISSION
STATE OF HAWAII
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STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
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HONOLULU, HAWAII 96805

October 31, 2018

To: Mr. Daniel E. Orodenker, Executive Officer
Land Use Commission

From: Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Subject: Department of Hawaiian Home Lands
2014 Annual Report for East Kapolei
LUC Docket No. A99-728, Kapolei, Oahu

The following is the annual report for the calendar year ending December 31, 2014 on the Department of Hawaiian Home Lands (DHHL) activities regarding the conditions imposed by the Land Use Commission (LUC) for East Kapolei developments. The Department of Land and Natural Resources (DLNR) conveyed 159.365 acres of the subject lands, Tax Map Key (1) 9-1-016:por. 108 to DHHL in September 2005 ("East Kapolei I" and "East Kapolei Commercial"). The Board of Land and Natural Resources also approved the conveyance of portions of Tax Map Key (1) 9-1-017:071 and 088 ("East Kapolei II"). These parcels are collectively referred to as the "Property".

The Land Use Commission created a new docket number, DOCKET NO. A99-728(c), by that Order Amending Findings of Fact, Conclusions of Law and Decision and Order, entered January 14, 2013, (January 14, 2013 Decision and Order), that applies solely to the 67.184 acres commercial parcel ("Petition Area C"). Petition Area C was released from the conditions set forth in the Findings of Fact, Conclusions of Law, and Decision and Order dated September 8, 1999 in Docket No. A99-728. Petition Area C will retain its classification to the State Land Use Urban District and will file its own annual report.

The remaining approximately 715 acres of lands within the Petition Area in Docket No. A99-728 and not part of Docket Nos. A99-728(a) or A99-728(b), will continue to be subject to the conditions in the 1999 Decision and Order, as amended.

Project Status.

DHHL has received Subdivision Approval for East Kapolei I creating 403 single-family residential lots, the DHHL office parcel, two commercial/community purpose lots, and a five-acre park. Construction

of the on-site roads and utilities has been completed. As of December 31, 2013, 341 of 403 homes have been constructed and occupied. The Kanehili Residential Subdivision is substantially completed.

The East Kapolei II master-planned community consists of approximately 1,000 single family lots, 1,000 multi-family units, two school parcels, and the Salvation Army Kroc Community Center. Five parcels will not be conveyed to DHHL, and subdivision of those lots has been approved by the City and County and recorded at Land Court. Those parcels have been or will be conveyed by DLNR to the Salvation Army, Department of Education, and Hawaii Housing Finance and Development Corporation (Attachment 2). Within the DHHL lands, a lot has been designated for the Special Olympics facility. Construction of off-site drainage and sewer systems was completed in November 2011. Construction of the East-West Road was completed in August 2012. Mass grading of 60 acres for the first 289 residential lots was completed in September 2011. Construction of the Road E Extension started in November 2012, and was completed in November 2013. Subdivision and construction plans for the first 160 residential lots (Increment II-B) have been approved by the City and an Invitation for Bids will be issued in early 2014.

Condition 1: Petitioner, its successors, and assigns shall provide affordable housing opportunities for residents of the State of Hawaii in accordance with applicable affordable housing requirements of the City and County of Honolulu. 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, its successors, and assigns, and the City and County of Honolulu.

Status: East Kapolei will be developed for the purpose of providing affordable housing in accordance with the requirements of the Hawaiian Homes Commission Act (HHCA), as amended.

Condition 2: Petitioner, its successors, and assigns shall coordinate and/or participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by appropriate State and County agencies.

Status: DHHL coordinated the development of a 4.0 million gallon reservoir and water transmission main with the City and County Board of Water Supply (BWS) and these two projects were completed in November 2010 and January 2010 respectively. The 4.0 million gallon reservoir was accepted by BWS in February 2011. The system provides water services to the

DHHL projects as well as portions of the University of Hawaii West Oahu Campus (UHWOC).

Condition 3: Petitioner shall contribute to the development, funding, and/or construction of public schools as determined by, and to the satisfaction of, the State Department of Education (DOE). Any construction by the Petitioner for the development, funding, and/or construction of University of Hawaii facilities shall be made in accordance with Section 6 of Act 277, 1996 Session Laws of Hawaii, and the University of Hawaii - West Oahu special fund set forth in Section 304-1.5, HRS, as such laws may be amended. The Petitioner and the DOE shall enter into written agreements on this matter prior to Petitioner obtaining approval for City and County of Honolulu zoning. In the event the University of Hawaii is a party to any agreement between Petitioner and the DOE or is a party to any agreement between Petitioner and the DOE or is a party to any separate agreement with the Petitioner, such agreement particular to the University of Hawaii shall be consistent with the requirements of Session 6 of Act 277, 1996 Session Laws of Hawaii, and Section 304-1.5, HRS, as such laws may be amended.

Status: Two parcels in East Kapolei II (approximately 12 acres and 18 acres) have been reserved for an elementary school and middle school, respectively. DHHL and DOE have executed a letter agreement that the DHHL Kapolei projects are not subject to the school impact fees.

Condition 4: Petitioner, its successors, and assigns shall coordinate and/or fund and construct adequate wastewater transmission and disposal facilities, as determined by the City and County of Honolulu and State Department of Health, to include the planning design, construction, and scheduling of the proposed Kapolei Interceptor Sewer.

Status: DHHL, UHWOC, and D.R. Horton have executed an Assessment Agreement to fund and construct a wastewater transmission trunk line to connect to the Kapolei Interceptor Sewer. The wastewater trunk line from the Kapolei Interceptor Sewer to the Kapolei Parkway was completed in 2007 and the trunk line within the North-South Road was completed in January 2010. The system provides wastewater services to the DHHL projects as well as portions of UHWOC.

Condition 5: Petitioner, its successors, and assigns shall grant to the State of Hawaii an avigation (right of flight) and noise easement in a form prescribed by the State Department of Transportation on any portion of the Property subject to noise level exceeding 55 Ldn.

Status: By letter dated June 23, 2005, the DOT, Airports Division determined that: "The project is outside the 55 DNL noise contour line (aircraft noise) of Kalaeloa Airport."

Condition 6: Petitioner, its successors, and assigns shall not construct residential components within areas exposed to noise levels of 60 Ldn or greater.

Status: DHHL will not construct residential components within areas exposed to noise levels of 60 Ldn (day-night average sound level) or greater.

Condition 7: Petitioner, its successors, and assigns shall be responsible for implementing sound attenuation measures to bring noise levels from sporting events, vehicular and air traffic in and within the Property down to levels acceptable to the State Department of Health.

Status: DHHL will plan for sound attenuation measures to bring noise level from sporting events, vehicular and air traffic in and within the Property down to levels acceptable to the State Department of Health.

Condition 8: Petitioner shall attenuate the noise sensitive areas within commercial components of the Property that are exposed to exterior noise levels of 60 Ldn by a minimum of 25 decibels.

Status: DHHL will plan for noise attenuation, if applicable, in commercial areas of the Property that are exposed to exterior noise levels of 60 Ldn (day-night average sound level) by a minimum of 25 decibels.

Condition 9: Petitioner, its successors, and assigns shall participate in the pro-rata funding and construction of local and regional transportation improvements and programs necessitated by the proposed development in designs and schedules accepted and determined by the State Department of Transportation and the City and County of Honolulu. Petitioner and/or the State Department of Transportation shall submit the construction plans as they relate to drainage issues for the North-South Road to the City for review and approval.

Status: DHHL will comply with Chapter 33A, Revised Ordinances of the City and County of Honolulu, "Impact Fees for Traffic and Roadway Improvements in Ewa" which requires all new developments to pay an impact fee or construct a portion of one of the Ewa highway master plan Year 2010 highway improvements. Specifically, DHHL completed the construction

of the Kapolei Parkway Extension between the former terminus at the Kapolei Golf Course and the North-South Road Intersection. Kapolei Parkway extension opened to traffic on February 2010.

DHHL has also designed and constructed the roadway improvements, storm drainage, sewer, water and street lights for the East-West Road within the East Kapolei II development. Construction of the East-West Road commenced May 2010 and was completed in November 2012.

Condition 10: Petitioner, its successors, and assigns of the affected properties shall fund and construct adequate civil defense measures as determined by the City and County of Honolulu and State Civil Defense agencies.

Status: DHHL will participate in Civil Defense measures as determined by the City and County of Honolulu and State Civil Defense agencies.

Condition 11: Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner, its successors, and assigns of the affected properties shall stop work in the immediate vicinity and the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD) shall be notified immediately. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it finds that mitigative measures have been implemented to their satisfaction.

Status: DHHL will stop work and notify the SHPD if previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found. Subsequent work will proceed upon proper approvals.

Condition 12: Petitioner, its successors, and assigns shall coordinate the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of Federal, State, and County agencies with the goal of executing an agreement on the interim and ultimate regional drainage plan as soon as possible. Petitioner, its successors, and assigns shall participate in the planning and coordination of off-site improvements with the Estate of James Campbell, the Barbers Point Navel Air Station, adjoining landowners and developers, the intervener, and other Federal, State and County agencies. Funding for these improvements may be obtained from a combination of

State, Federal, and/or private sources to be determined by Petitioner, its successors, and assigns.

Status: DHHL will plan for and coordinate the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of Federal, State and County agencies.

Condition 13: Petitioner, its successors, and assigns agrees to work with the City to implement interim and long-range regional drainage solutions as follows:

a. Petitioner shall submit a drainage master plan for the Property to the City for its review and approval prior to any subdivision approvals other than for minor matters, such as easements.
b. Drainage solutions for the Property shall be compatible with the Ewa Villages Drainage Master Plan and drainage designs for other developments in the Kaloi Gulch drainage basin.
c. Drainage improvements for the Property shall be consistent with the policies and principles in the Ewa Development Plan.
d. Petitioner shall be responsible for implementing interim drainage improvements that will limit channelized runoff to 2,500 cubic feet per second (cfs) at the Properties' southern boundary (specifically at the Ewa Villages Golf Courses Kaloi Gulch Inlet structure) for events up to a 100-year storm. Petitioner shall also take reasonable measures to minimize non-channelized flows from the Property by construction of berms, detention basins, or other appropriate methods. All flows and drainage patterns that cross the southern boundary of the Property shall remain as conceptually described in the Ewa Villages Drainage Master Plan. These requirements shall remain in force until long-range regional drainage improvements are in place in accordance with the approved drainage master plan for the Project.
e. Should Petitioner sell various residential or commercial components prior to the completion of the construction of the master infrastructure, any such sale shall be conditioned upon the completion of the appropriate master infrastructure improvements for that portion of the residential or commercial component.

Status: DHHL is working with the City to implement interim and long-range regional drainage solutions as follows:

a. The Drainage Master Plan for East Kapolei I Development was submitted to the City in November 2006 to satisfy a requirement for Tentative Subdivision Approval. The master plan was accepted by the City on November 20, 2006.
b. The drainage master plan for East Kapolei II was accepted by the City in August 2008.
c. DHHL has participated in the Kaloi Gulch Regional Drainage meetings convened by the City and County Department of Planning and Permitting, and intends to develop drainage solutions for the Property which shall be compatible with the Ewa Villages Drainage Master Plan and drainage designs for other developments in the Kaloi Gulch drainage basin.
d. DHHL intends to implement interim drainage improvements that will limit channelized runoff to 2,500 cubic feet per second (cfs) at the Properties' southern boundary.
e. DHHL has not sold, and does not intend to sell any residential or commercial property.

Condition 14: Petitioner shall apply for City zoning approval after the State Land Use Commission reclassifies the Project site from Agricultural to the Urban District. Said zone change application shall be accompanied by a conceptual master plan with land use information sufficient to satisfy county zoning and development plan requirements.

Status: DHHL is not subject to the City zoning authority and jurisdiction. Notwithstanding the foregoing, DHHL has declared its intention with the City to develop East Kapolei in conformance with City and County standards for R-5 for the residential components, B-2 for the DHHL office parcel, and P-2 for the park site. DHHL has designated the zoning classification for the 67-acre commercial site under the BMX-3 and BMX-4 standards. DHHL intends to declare its intention to develop the commercial/community use parcels under either the B-2 or BMX standards.

Condition 15: Petitioner shall comply with County zoning requirements. This condition is not intended to delay the construction of public uses or infrastructure to service the Property.

Status: DHHL intends to comply with the zoning requirements in accordance with the zoning districts that DHHL has declared for the various uses within the Property.

Condition 16: Prior to construction of any residential or commercial uses within the Petition Area, Petitioner, its successors, and assigns,

shall submit a Regional Park, Open Space and Pedestrian/Bikeway Master Plan to the City for its review and approval.

Status: DHHL will coordinate with adjacent developers, specifically, the UHWOC and D.R. Horton, and the City to develop a regional plan to address park, open space and pedestrian/bikeway issues.

Condition 17: Prior to construction of any residential or commercial uses within the Petition Area, Petitioner, its successors, and assigns, shall submit a conceptual Urban Design Plan to the City for its review and approval. The Urban Design Plan shall depict the overall design theme and architectural character of streetscapes, residential neighborhoods and town centers. The Plan shall also include a conceptual landscape plan showing treatment of Project entries, major roadways, and common areas.

Status: DHHL will submit its urban design plans to county agencies as appropriate.

Condition 18: Petitioner, its successors, and assigns, where feasible, shall use indigenous and water conserving plants and turf and incorporate the same into common area landscape planting.

Status: DHHL will use indigenous plants and xeriscaping where feasible.

Condition 19: Petitioner, its successors, and assigns shall facilitate an air quality monitoring program as specified by the State Department of Health. Petitioner, its successors, and assigns shall notify all prospective buyers of property, and buyers of individual lots or homes of the potential odor, noise and dust pollution resulting from surrounding agricultural and other uses, said notification to include a reference to potential odors emanating from the Honouliuli Wastewater Treatment Plant.

Status: DHHL will plan for and coordinate with the Department of Health regarding air quality monitoring. Further, DHHL lessees will be notified of the potential odor, noise and dust pollution resulting from surrounding agricultural and other uses, said notification to include a reference to potential odors emanating from the Honouliuli Wastewater Treatment Plant.

Condition 20: Petitioner shall fund an approved Habitat Conservation Plan to facilitate the propagation of the *abutilon mensiesii* in

accordance with Department of Land and Natural Resources and US Fish and Wildlife requirements.

Status: DHHL has contributed its pro-rata share toward a contingency fund as part of the approved Habitat Conservation Plan. In addition, DHHL received its certificate of inclusion on the DOT's taking permit and has moved plants in accordance with the agreement.

Condition 21: Residential and commercial components of the Project will not be developed and major site work for those areas shall not be undertaken until master drainage and infrastructure improvements for these components are completed.

Status: Construction of the required off-site infrastructure improvements (Kapolei Parkway Extension, off-site trunk sewer, 4.0 million gallon water reservoir, and water transmission line) have all been completed.

The Kapolei Parkway extension was completed in February 2008 and open to traffic in February 2010; Phase 2 of the off-site sewer trunk infrastructure was completed in January 2010; construction of the 4.0 million gallon water reservoir was completed in November 2010; the water transmission line within the North-South Road was completed in January 2010; and the 20-foot deep detention basin to contain storm run-off from Kaloi and Hunehune Gulches on UHWO was completed in February 2012.

Condition 22: Petitioner or landowner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to do so may result in reversion of the Petition Area to its former classification, or a change to a more appropriate classification.

Status: With the exception of the following, the development proposed by DHHL is generally in conformance with the East Kapolei Master Plan Final Environmental Impact Statement (July 1998): DHHL has notified the City and County Department of Planning and Permitting on the designation of the changing the use of the site previously designated for the Kapolei Sports Complex to a retail commercial complex.

Condition 23: Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily

alter the ownership interest in the Petition Area, prior to the development of the Petition Area.

Status: DHHL will lease residential and commercial parcels in accordance with the HHCA.

Condition 24: Petitioner shall timely provide without any prior notice, annual reports to the Commission, the State Office of Planning, and the City and County of Honolulu Department of Planning and Permitting in connection with the status of the subject Project and Petitioners progress in complying with conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Status: Noted.

Condition 25: The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

Status: Noted.

Condition 26: Within 7 days of the issuance of the Commissions Decision and Order for the subject classification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area, and (b) shall file a copy of such recorded statement with the Commission.

Status: Noted.

Condition 27: Petitioner or landowners shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, Hawaii Administrative Rules.

Status: The Notice of Imposition of Conditions dated September 16, 1999 was recorded September 20, 1999 in the Regular System of the Bureau of Conveyances of the State of Hawaii as Document No. 99-151800. That document was cancelled upon recordation of the Certificate and Authorization dated December 4, 2000 filed as Land Court Document No. 2682016.

The foregoing status report has been provided as a courtesy to the Commission on the ongoing and planned activities of DHHL on lands that

were made subject to certain conditions as set forth in that certain Decision and Order dated September 8, 1999 in Docket No. A99-728. This status report shall not constitute a waiver or acquiescence of jurisdiction as between DHHL and the Commission.

Should you have any questions, please call Darrell Ing of our Land Development Division at 808.620.9276.

c: Mr. Leo R. Asuncion, Jr., Office of Planning
Ms. Kathy K. Sokugawa, Department of Planning and Permitting