

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

LAND USE COMMISSION
STATE OF HAWAII

2019 MAR 12 A 11:11

In the Matter of the Petition of

Docket No. A94-706

KAONOULU RANCH To Amend the
Agricultural Land Use District Boundary into
the Urban Land Use District for approximately
88 acres at Kaonoulu, Makawao-Wailuku,
Maui, Hawai'i; Tax Map Key Nos. 2-2-02:por.
of 15 and 3-9-01:16

TWENTY-THIRD ANNUAL REPORT OF
PIILANI PROMENADE SOUTH, LLC AND
PIILANI PROMENADE NORTH, LLC,
SUCCESSOR PETITIONERS TO
KAONOULU RANCH (2018); CERTIFICATE
OF SERVICE

**TWENTY-THIRD ANNUAL REPORT OF
PIILANI PROMENADE SOUTH, LLC AND
PIILANI PROMENADE NORTH, LLC,
SUCCESSOR PETITIONERS TO KAONOULU RANCH (2018)**

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW Piilani Promenade South, LLC ("PPS"), and Piilani Promenade North, LLC ("PPN") (hereinafter collectively "Piilani")¹, successors-in-interest to MAUI INDUSTRIAL PARTNERS, LLC, a Delaware limited liability company ("MIP"), in regards to the real property which is the subject matter of Docket No. A94-706, as referenced above (the "Petition Area"), and pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order issued by the State of Hawai'i Land Use Commission (the "Commission") on February 10, 1995 (the "D&O"), hereby submits its Twenty-Third Annual Report of compliance with the conditions established by the D&O, for the year 2018, as follows:

¹ PPS and PPN are Delaware limited liability companies and the current owners of six of the seven parcels encumbered by the D&O. The parcels owned by Piilani are comprised of the following tax map key parcels: (2) 3-9-001:016 and 170-174, and are referred to collectively hereinafter as the "Piilani Parcels." The seventh parcel encumbered by the D&O is owned by Honua'ula Partners, LLC ("Honua'ula"). Honua'ula owns tax map key parcel (2) 3-9-001:169, referred to hereinafter as the "Honua'ula Parcel." This Annual Report only addresses the Piilani Parcels. Piilani understands that Honua'ula will file its own separate annual report.

Report on Compliance with Conditions Imposed by Commission

The following states Piilani's progress in complying with the conditions imposed by the D&O:

1. **The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.**

The Kihei Makena Community Plan incorporating the required change and designating the Petition Area as Light Industrial was approved on March 20, 1998, and the Change in Zoning application for Light Industrial was approved by the Maui County Council and became effective on May 25, 1999.

2. **Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works and Waste Management to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.**

Piilani will cooperate with the State Department of Health and the County of Maui Department of Public Works and Environmental Management, formerly a part of the County of Maui Department of Public Works and Waste Management, when applicable, to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

3. **Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.**

Piilani will contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of adequate wastewater transmission and disposal facilities, among other items. A copy of the final subdivision approval is attached to this report as **Exhibit "A"**. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani's predecessors-in-interest are attached hereto as **Exhibit "B"**, and a copy of the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani is attached hereto as **Exhibit "C"**.

Piilani's pro-rata share for wastewater treatment will be addressed through assessment paid to the County of Maui at the time building permits are issued.

Plans for the construction of these items were included in the civil construction plans that were submitted to, and approved by, the County of Maui.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

Piilani will fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

5. **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 Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition Area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.**

Piilani will 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 Maui.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of traffic signal improvements and landscaping/irrigation, among other items. A copy of the final subdivision approval is attached to this report as **Exhibit "A"**. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani's predecessors-in-interest are attached hereto as **Exhibit "B"**, and a copy of the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani is attached hereto as **Exhibit "C"**.

Piilani will provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and will submit a warrant study in coordination with the Department of Transportation. Piilani will also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Piilani will

provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition Area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.

6. **Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.**

Piilani will fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of adequate potable and non-potable water source, storage, and transmission facilities and improvements, among other items. A copy of the final subdivision approval is attached to this report as **Exhibit "A"**. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani's predecessors-in-interest are attached hereto as **Exhibit "B"**, and a copy of the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani is attached hereto as **Exhibit "C"**.

Plans for the construction of these items were included in the civil construction plans that were submitted to, and approved by, the County of Maui. Among other improvements that will be constructed within and outside of the Petition Area, Piilani has committed to construct and dedicate a 1,000,000-gallon water tank to serve the needs of the Kihei-Makena community.

7. **Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.**
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Piilani will participate in an air quality monitoring program if required by the State Department of Health.

8. **Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:**
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- a. **All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.**

Piilani will comply with this condition.

- b. **All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.**

Piilani will comply with this condition.

- c. **Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)**

Piilani will comply with this condition.

9. **Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be founds, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. 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. 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.**
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Piilani will comply with this condition.

10. **A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.**

A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area was reviewed and approved by the State Historic Preservation Division (SHPD Doc. No. 9801BD53). A site inspection was conducted by a staff archeologist from the State Historic Preservation Division on February 10, 1998, and the placement of the boulder (the recommended long term preservation measure pursuant to the preservation plan) met the staff archaeologist's approval.

11. **Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.**
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Piilani will contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

12. **Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.**

Piilani will implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

13. **Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to mitigate impacts between future residential activities and the proposed industrial development.**

Piilani will comply with this condition.

14. **In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.**

Piilani will comply with this condition.

15. **Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.**

Piilani will develop the Property in substantial compliance with the representations made to the Commission by the original Petitioner, Kaonoulou Ranch, as set forth in the D&O.

16. **Petitioner 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, prior to development of the Property.**

Piilani will comply with this condition.

17. **Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Maui Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.**
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Piilani will comply with this condition, and submits this Twenty-Third Annual Report in compliance therewith.

18. **Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawaii Administrative Rules.**
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Former Petitioner Kaonoulou Ranch recorded a Notice of Imposition of Conditions with the Bureau of Conveyances of the State of Hawai'i pursuant to Section 15-15-92 Hawai'i Administrative Rules.

19. **Within seven (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 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.**
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Former Petitioner Kaonoulou Ranch recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawai'i, dated April 11, 1995, and has filed a copy of the recorded document with the Commission.

20. **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 the Petitioner.**
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Piilani acknowledges that the Commission may fully or partially release the conditions provided herein.

DATED: Honolulu, Hawai'i, MAR 12 2019.



RANDALL F. SAKUMOTO

Attorney for Piilani Promenade South, LLC
and Piilani Promenade North, LLC