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COUNTY OF HAWAII
LAND USE COMMISSION
STATE OF HAWAII
County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
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September 10, 2008

Mr. Dan Davidson, Executive Officer
Land Use Commission
PO Box 2359
Honolulu, HI 96804

Dear Mr. Davidson:

**SUBJECT: 2008 Annual Report, LUC Docket No. A90-660,
Villages of Laiopua, North Kona, Hawaii**

Pursuant to the Land Use Commission's (LUC) Order in Docket No. A90-660, transmitted is the County of Hawaii's ("County") 2008 annual report on the status of Village 8 of the Villages of Laiopua development and our progress in complying with conditions imposed by the LUC.

Land Use Commission Action

The LUC in Docket No. A90-660 (approved on December 18, 1990) reclassified approximately 727 acres from the Agricultural and Conservation Districts into the Urban District, situated at Kealakehe, North Kona, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key: 7-4-8; portion of 17, now known as Tax Map Keys: 7-4-20: 01 to 07; 7-4-21: 01 to 19, for the development of Villages of Laiopua.

Project Status

The original petitioner was the Housing Finance and Development Corporation (succeeded by the Housing and Community Development Corporation of Hawaii (HCDCH), which in turn was succeeded by the Hawaii Housing Finance and Development Corporation (HHFDC)), the master developer of the Villages of Laiopua

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(VOLA) project in Kealahou, Hawaii. A copy of the VOLA site map is attached to this annual report for reference. HCDCH (through DLNR) transferred the entire petition area to DHHL, except the golf course site (E.O. to the County of Hawaii) and a portion of Village 8 ("Subject Property"). By E.O. 3952 (dated October 25, 2002), the State transferred the Subject Property (TMK 7-4-20:25), consisting of 7.00 acres, to the County of Hawaii for purposes of the West Hawaii Civic Center office building (the "Project"). E.O. 3952 conditioned the transfer upon compliance with the Villages of Laiopua Village 8 Transfer Agreement dated October 3, 2002 (attached as Exhibit A) ("Transfer Agreement"). The Transfer Agreement obligated HCDCH to notify the LUC of the transfer (Transfer Agreement, paragraph 37). The County plans to break ground in November 2008.

The Transfer Agreement includes two conditions that reference the Land Use Commission:

- Paragraph 12 requires the County to verify with the LUC "whether revisions to the VOLA Decision and Order would be required." Upon review of the Decision and Order, the County believes that no revisions are necessary as substantiated in this annual report. The County hereby requests such verification.
- Paragraph 37 binds the County to the conditions imposed in Docket No. A90-660 and requires the County to file with the LUC the standard annual report update as related to the Subject Property.

Compliance with Land Use Conditions

The following is a progress report on conditions for the VOLA development on the Subject Property.

Condition No. 1: Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by offering for sale or rent on a preferential basis a number of residential units equal to sixty (60) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes up to 120 percent of the median family income for the County of Hawaii as determined by the U.S. Department of Housing and Urban Development (HUD), based on family size and a number of residential units equal to forty (40) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes greater than 120 percent of the median income for the County of Hawaii.

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Status: The overall intent of the original master plan was to provide affordable housing with a mix of other uses. Finding of Fact No. 20 described the VOLA project as a "mixed-use, master planned community." Finding of Fact No. 21 described the mix of uses as follows: ". . . Approximately 2,684 residential units are proposed for the 727 acres which constitute the Property. In addition, land is to be set aside for an elementary school, a high school, parks, churches, day-care facilities and a golf course." DHHL, as the successor master developer to HHCDH, will address the delivery of affordable units in relation to the requirements of Condition 1. HHCDH transferred the Subject Property to the County for a civic center consistent with the master plan intent to provide a convenient mix of uses.

Condition No. 2: Petitioner shall design and construct all structures and buildings in compliance with County, State, and Federal codes and standards.

Status: The County's design/build contract will ensure that the design and construction of the Project complies with all applicable County, State, and Federal codes and standards.

Condition No. 3: Petitioner shall submit to the County Department of Public Works (DPW), all master plans for roadways, water, wastewater, drainage, and utilities for review prior to submittal of the individual construction plans for the various villages and non-residential uses.

Status: As the developer of the Project, DPW will review and approve all construction plans for roadways, water, wastewater, drainage, and utilities.

Condition No. 4: Petitioner shall coordinate with the DLNR, DHHL, and the Office of Hawaiian Affairs (OHA) to address the issue of ceded lands.

Status: Since the Project is a public use, the issue of ceded lands does not apply.

Condition No. 5: There shall be no occupancy of any structures on the property until a permanent solution to the smoke, fumes, and other health hazards associated with the Kealakehe landfill is in place.

Status: Subsequent to the Decision and Order, the County closed the Kealakehe landfill, and a system of berms and gas exhaust measures have been installed pursuant to an approved closure plan.

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Condition No. 6: Petitioner shall disclose in its deeds to all initial purchasers of residential units on the property the possible odor, air, noise, and dust pollution resulting from the Kealakehe landfill, and from Queen Kaahumanu Highway, Kealakehe Parkway, Palani Road, and any other roadways which are within or adjacent to the site.

Status: This condition does not apply since the Project is not a residential use.

Condition No. 7: In residential areas, Petitioner shall be responsible for implementing sound attenuation measures to reduce vehicular traffic noise levels in the petition area, including along Kealakehe Parkway, Palani Road, and other roadways, to levels acceptable to the State Department of Health (DOH) and DOT.

Status: This condition does not apply since the Project is not a residential use.

Condition No. 8: Petitioner shall participate in an air quality monitoring program as specified by DOH.

Status: The County will participate in an air quality monitoring program as specified by the DOH, although none has been specified to date.

Condition No. 9: Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

Status: As a standard measure in the County's construction contract, dust and erosion control measures will be employed as required by law during construction.

Condition No.10: Petitioner shall coordinate with the County of Hawaii, DLNR, other appropriate landowners, and/or other Federal, State, or County agencies regarding measures designed to obtain the required water for the project. Petitioner shall provide the necessary water source, storage, and transmission facilities to service the proposed project.

Status: DPW is coordinating with the DWS to provide necessary water for the Project.

Condition No. 11: Petitioner shall connect the wastewater system for the proposed development on the property to the Kealakehe Wastewater Treatment Plant. Construction of the structures within the property shall not commence until the Petitioner has obtained assurances from the County of Hawaii that capacity at this plant and the effluent disposal system has been reserved for the property; provided that, if the capacity at the Kealakehe

Wastewater Treatment Plant and effluent disposal system is not sufficient for the proposed development on the property, Petitioner may utilize other alternatives acceptable to DOH.

Status: The Project will connect to the County sewer system. The Project benefitted from HCDCH's prior actions including a Wastewater Treatment Facilities Agreement with the County executed on March 19, 1992 in which HCDCH contributed \$5.1 million for assurance of sufficient sewer treatment capacity to service the project, and construction of sewer lines to connect to the County plant as part of the Phase 2-A backbone infrastructure program.

Condition No. 12: Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified and deemed necessary by DOT and in consultation with the County of Hawaii, DPW. Petitioner shall set aside land for a park and ride facility, transit stop facility and other regional traffic improvements as proposed by applicable transportation agencies. Petitioner shall also participate on a fair share basis in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development of the property and in designs and schedules coordinated with and accepted by the DOT, and in consultation with the County of Hawaii DPW, provided that the extent of Petitioner's participation shall not exceed its fair share of the increased community impacts in the region, and provided further that in the event the County of Hawaii adopts an impact fee for transportation improvements, the foregoing funding requirement may be modified or deleted to the extent that the cost of any specific traffic improvement is also included in the County of Hawaii's impact fee computation.

Status: HCDCH, DHHL, DOT, and the County have participated or will participate in several transportation improvements benefitting the region: 1) HCDCH constructed the Kealakehe Parkway through the VOLA project site with CIP funds, 2) DOT completed installation of a traffic signal at the intersection of Kealakehe Parkway and Queen Kaahumanu Highway in September 1997; 3) the County will soon complete the preliminary engineering and EA for the segment of the Mid-Level Road (Ane Keohokalole) from Palani Road to Kealakehe Parkway, and is working with DHHL and HHFDC to fund the construction of this segment; 4) the County and DHHL have partnered to construct the extension of Keanalehu and Manawalea streets, key links for a connected street network; 5) DOT is constructing Phase 1 of the Queen Kaahumanu Highway widening (Henry Street to Kealakehe Parkway) and is soon awarding the contract for Phase 2 (Kealakehe Parkway to the airport); 6) the design for the extension of Kamanu Street to connect with Kealakehe is complete and the County is working with

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the developer to fund the construction; and 7) the Subject Property will include a transit stop and the parking facility may be available for park and ride.

Condition No. 13: Petitioner shall undertake periodic monitoring of traffic conditions within and adjacent to the property throughout the project's development period with the approval of DOT and in consultation with the DPW. Petitioner shall implement highway and other transportation improvements as required by DOT and in consultation with the DPW.

Status: Traffic studies have been prepared for the Project and coordinated with traffic studies done for DHHL, HHFDC (Keahuolu project) and the Mid-Level Road. The Kona Community Development Plan will provide a framework to proactively coordinate necessary multi-modal transportation improvements to concurrently meet the transportation needs for this growing area.

Condition No. 14: Petitioner shall appoint a 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. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems.

Status: The Kona Community Development Plan provides a regional program to reduce dependence on the automobile (through mixed use walkable villages and multimodal alternatives) and increase connectivity (so that all traffic is not forced to funnel onto the major arterials). The County will also prepare a transit-oriented design (TOD) village master plan for this area for a more focused understanding on how to do this.

Condition No. 15: Petitioner shall dedicate sufficient frontage to allow for a 300-foot right-of-way along Queen Kaahumanu Highway. Petitioner shall also dedicate sufficient frontage as determined by the DOT to allow for a right-of-way at the Kealakehe Parkway interchange of Queen Kaahumanu Highway.

Status: Although this condition is not applicable since the Subject Property does not front Queen Kaahumanu Highway, HHFDC/DLNR met this requirement by subdivision of the additional right-of-way in 1993. The property was transferred to DOT by Executive Order No. 3702 dated April 3, 1997.

Condition No. 16: Petitioner shall ensure that a buffer area along the boundary of the property be constructed to maintain the visual integrity from Queen Kaahumanu Highway. Petitioner shall further ensure that the proposed community shopping center or any other proposed use abutting Queen Kaahumanu Highway be screened from passing motorists and the Kaloko-Honokohau National Historic Park by landscaping improvements.

Status: Not applicable since the Subject Property does not abut Queen Kaahumanu Highway.

Condition No. 17: Petitioner shall preserve 19 historic sites and archaeological data recovery from 60 historic sites, as agreed previously in writing with the DLNR State Historic Preservation Division (SHPD), in compliance with Chapter 6E, Hawaii Revised Statutes. The applicant shall submit to the SHPD a detailed historic preservation mitigation plan in two parts, a preservation plan portion and an archaeological data recovery plan option. This mitigation plan must be approved by the SHPD, prior to any field work and prior to any construction in the vicinity of historic sites. Also, Petitioner must obtain verification by the SHPD that successful execution of the mitigation plan has been completed prior to any construction in the vicinity of historic sites.

Status: Paul H. Rosendahl, Ph.D., Inc. (PHRI) conducted an archaeological inventory survey (Donham 1990a) for the Kealakehe Planned Community in September 1989, with addendums in 1990 (Donham 1990b) and 1992 (Burgett and Rosendahl 1992). The 1989 survey included approximately 950 acres of land in the Kealakehe ahupua'a, between Queen Ka'ahumanu Highway and Palani Road, along the western slope of Hualalai.

Although the PHRI's 1989 archaeological inventory survey identified 53 sites in the Kealakehe ahupua'a, only two of those sites were found in the Subject Property. Based on PHRI's mitigation plan for data recovery in 1992 (Jensen et al. 1992) and 1994 (O'Hare and Goodfellow 1994), the mitigation for the two sites were as follows:

- *Site 13180: This site was initially identified in 1989 as a land division/ranching wall and required detailed recording. A second assessment in 1992 identified this site as a complex of three features; Feature A was a wall, Feature B was a trail, and Feature C was a modified outcrop with planting areas. In 1992, the site was recorded in detail and was determined to be significant solely for information content. As such, the site required no further archaeological work.*
- *Site 16010: This site was initially identified in 1992 as a complex of three features; Feature A was a terrace, Feature B was a modified outcrop, and*

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Feature C was a rock mound. The site was recorded in detail and was determined to be significant solely for information content. As such, the site required no further archaeological work.

Condition No. 18: Petitioner shall immediately stop work on the impacted area and contact the SHPD should any significant archaeological resources such as artifacts, shell, bones or charcoal deposits, human burial, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the property.

Status: The County included this requirement in the design/build contract for the Project.

Condition No. 19: Petitioner shall establish plant preserves for the uhiuhi plant (*Caesalpinia kavaiensis*) and aupaka (*Isodendron pyriform*). There shall be one five-acre preserve and one half-acre preserve around each remaining uhiuhi plant. In addition, Petitioner shall formulate a fire contingency plan prior to construction in the project area. The fire contingency plan shall be approved by DLNR, Division of Forestry and Wildlife (DOFAW).

Status: The Preserves are not on the Subject Property. These Preserve areas have been established in the mitigation plan for the endangered uhiuhi and aupaka plants adjacent to Villages 4 and 5. A fenced mini-preserve was established for uhiuhi in Village 3 as required in the plan. A revised draft of the mitigation plan was submitted to DLNR and the U.S. Fish and Wildlife Service (FWS) on October 29, 1999. HCDCH received comments from FWS dated May 25, 2000. On May 28, 2002 and June 13, 2002, the FWS published proposed rules designating a large portion of the VOLA project as critical habitats for endangered plant species and the Blackburn's sphinx moth, respectively. HCDCH submitted comments opposing the designations dated June 26 and July 23, 2002. In FWS final rules published on June 10, 2003 and July 2, 2003, the VOLA project was not included as critical habitats for the moth and endangered plant species, respectively.

Condition No. 20: Petitioner shall coordinate with the County of Hawaii and DOH to establish appropriate systems to contain spills and prevent materials such as petroleum products, chemicals, solvents or other pollutants from leaching into the storm drainage system and adversely affecting the groundwater and coastal waters.

Status: DPW will coordinate with the DOH to establish appropriate spill and drainage systems.

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Condition No. 21: Petitioner shall develop and maintain on-site facilities to ensure that the nearshore, offshore and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring program with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park.

Status: The County will contribute its share to any regional water quality and monitoring program.

Condition No. 22: Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements and maintain ocean water quality to the satisfaction of DOH. Petitioner shall, to the extent necessary as determined by the County of Hawaii, coordinate off-site improvements with adjoining landowners and developers, and/or other Federal, State, or City agencies.

Status: The County will contribute its share to any regional water quality and monitoring program.

Condition No. 23: Petitioner shall comply with "The Eight (8) Conditions Applicable to This Golf Course Development," prepared by DOH dated April 1990 (Version), introduced as the Office of State Planning Exhibit No. 5.

Status: Although not applicable to the Project, the County has decided to forego the golf course. The Kona Community Development Plan proposes a regional park for that site (for which the County will seek an amendment to Executive Order No. 3665 dated July 18, 1995).

Condition No. 24: Petitioner shall engage the services of a qualified golf course manager to oversee the irrigation of the golf course and application of fertilizers and pesticides to the golf course within the Property and who shall be qualified in the application of fertilizers and pesticides on those areas.

Status: Not applicable to the Project. County will not proceed with the golf course.

Condition No. 25: Petitioner shall make available adequate golf tee times at affordable rates for public play by residents of the State of Hawaii.

Status: Not applicable to the Project. County will not proceed with the golf course.

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Condition No. 26: Petitioner shall fund and install, to the specifications and satisfaction of the State Office of Civil Defense, the necessary number of emergency siren units (including infrastructure within the project area and a siren paging encoder in the Kona Police Department substation).

Status: The County will coordinate with DHHL and Civil Defense.

Condition No. 27: Petitioner shall provide at no cost to the DOE, the school sites with infrastructure, and facilities as may be required by DOE.

Status: Although not applicable to the Project, HHFDC constructed roadways and utilities to the Kealakehe High School as part of Phase 2-A backbone infrastructure. Construction of the high school's first phase was completed in July 1997 and construction of the final phase was completed in December 2003.

Condition No. 28: Petitioner shall work with the County of Hawaii to ensure that police, fire, park, and solid waste disposal facilities are in place.

Status: Current CIP plans adequately provide for police, fire, park, and solid waste disposal facilities.

Condition No. 29: Petitioner shall complete the development on the property in substantial compliance with the representations made before the LUC. Failure to develop may result in the reversion of the property to its former land use classifications or a change to a more appropriate classification.

Status: The term "substantial compliance" recognizes that the details of conceptual plans evolve, but certain core policies underlying the plan should remain constant. The core policies of the master plan are threefold: 1) provide affordable housing (by using reasonably priced land and subsidies from market-priced homes) in the urban core area close to employment and daily services; 2) provide a mix of affordable units in terms of for-sale and for-rent targeting the income group from 120% of median and below; and 3) create a dynamic community with a mix of uses (e.g., day care, schools, churches, commercial, civic buildings). Although the land uses and density of each village may change, the aggregate buildout pattern of all the villages should be evaluated in terms of the core policies. HHCDH changed the specific plan for Village 8 through the Transfer Agreement from residential to civic center. The master plan did include a 30-acre civic center located in the vicinity of the existing police station. Although the Subject Property is 7 acres instead of 30-acres, it is a better location at the intersection of two major

roadways, Kealakehe Parkway and the future Mid-Level Road (Ane Keohokalole). This location is consistent with the recently adopted Kona Community Development Plan which proposes transit-oriented mixed-use walkable villages along the Mid-Level Road to move the gravity of future development away from the congested Queen Kaahumanu Highway. At the village scale, the plans for Village 8 changed. However, the Project is in substantial compliance with the core policies of the master plan represented before the LUC.

Condition No. 30: Petitioner shall give notice to LUC of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property.

Status: By E.O. 3952 (dated October 25, 2002), the State transferred the Subject Property (TMK 7-4-20:25), consisting of 7.00 acres, to the County of Hawaii for purposes of the West Hawaii Civic Center office building. E.O. 3952 conditioned the transfer upon compliance with the Villages of Laiopua Village 8 Transfer Agreement. The Transfer Agreement obligated HCDCH to notify the LUC of the transfer (Transfer Agreement, paragraph 37).

Condition No. 31: Petitioner shall provide annual reports to LUC, Office of State Planning, and the County Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

Status: Acknowledging that the County received the Subject Property in 2002 and this is the County's first annual report, the County will be prompt in subsequent submittals.

Condition No. 32: The Commission may fully or partially release these conditions 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 the Petitioner. Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of State Planning will certify for itself and all State departments and agencies, and the Planning Department will certify for itself and all County departments and agencies.

Status: Upon completion of the Project, the County may request full or partial release of these conditions as they pertain to the Subject Property.

Condition No. 33: Conditions requiring County of Hawaii agency review, coordination or approval are subject to the powers of HCDCH as expressed in Act 15, Session Laws of Hawaii, 1988.

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Status: Act 15 was automatically repealed on April 19, 1993, five years from the effective date of the Act (April 20, 1988) and is no longer in effect.

We hope the above satisfies your reporting requirements. If you have any questions, please call me at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

RT:pak
Wpwin60/Chris 08 – LUC Annual Report

Attachments

cc: Mayor Harry Kim, Hawaii County
Office of Planning
Mr. Micah Kane, Director, DHHL
Ms. Karen Seddon, Director, HHFDC
Mr. Bruce McClure, Director, Department of Public Works

