

F&W LAND LLC

REAL ESTATE CONSULTING • DEVELOPMENT • PROJECT MANAGEMENT

November 6, 2019

Mr. Daniel E. Orodener
Executive Officer
Land Use Commission
PO Box 2359
Honolulu, HI 96804-2359
VIA HAND DELIVERY

Re: Final Report for A04-748 Consolidated Baseyards LLC

Dear Mr. Orodener,

We were informed recently that the Land Use Commission agenda for November 7, 2019 includes a Status Update for A04-748 Consolidated Baseyards, LLC. On behalf of Consolidated Baseyards, LLC, please accept the attached status report as a final report for this project. The project was completed sometime around 2008 in substantial compliance with all of the conditions of the decision and order from the Land Use Commission. Further, the company filed its final tax return and dissolved around 2011.

We hope the attached information is acceptable to you and the Land Use Commission. We apologize for the delinquency of the annual reports.

Sincerely,



David Ward

Cc: Roderick Fong – Via email

Consolidated Baseyards LLC, LUC Docket A04-748	
Condition	Status, Questions
<p>Preliminary subdivision approval of the Project was granted by the County of Maui ("County") on June 19, 2004. Final approval of all subdivision improvements was completed on December 18, 2008 with the acceptance of the new regulated public water system by the Department of Health. Bonded final subdivision approval was granted by the County of Maui on September 13, 2006. All 33 lots within the subdivision were sold to private parties/companies from 2006-2007. Substantially all lots have completed construction of improvement to their lots and are operating out of the Consolidated Baseyards subdivision.</p>	
<p>1. Affordable Housing. Within 180 days of this decision and order or prior to the Petitioner's presentation to the appropriate county council committee for a change in zoning, whichever is sooner, <u>Petitioner shall complete and submit to the Commission for its approval</u>, with copies to the County of Maui's Department of Planning and State Office of Planning, a housing study that addresses the following:</p> <ul style="list-style-type: none"> i. The impact the Project will have on the current labor force; ii. The type of employee housing demands that will be created by the Project, if any; iii. Any employee housing policy adopted and in place by the County of Maui for commercial and industrial developments; iv. The proposed mitigation measures to alleviate the impact on the employee housing situation; and v. Recommendations and timeframe for implementing any applicable County of Maui housing policy (in place at the time of this study) or requirements and/or Petitioner's proposed mitigation measures. <p>Within 150 days of approval of the housing study by the Commission, Petitioner shall submit to the Commission a copy of an executed affordable housing agreement entered into with the DHHC or appropriate agency or department.</p> <p>Said agreement shall include the terms and</p>	<p>Petitioner submitted an affordable housing study to the Commission for review and approval on July 6, 2005. By Order effective December 6, 2005, the Commission approved the Petitioner's affordable housing study. A draft affordable housing agreement was submitted to the DHHC on April 10, 2006 for review and approval. On May 5, 2006, the Petitioner filed a Motion to Amend the Findings of Fact, Conclusions of Law and Decision and Order for a State Land Use District Boundary Amendment Filed May 24, 2005, to request an extension for the submittal of the executed affordable housing agreement. The Petitioner and DHHC executed the affordable housing agreement and recorded the same with the Bureau of Conveyances on July 5, 2006 being Doc. 2006-123452.</p>

<p>conditions concerning implementation of the mitigation measures and timeline approved by the Commission.</p>	
<p>2. Traffic Impact Mitigation. Petitioner shall fund up to 50 percent of the cost for improvements for the signalization of Honoapi'ilani Highway at East Waiko Road as determined by the State Department of Transportation. As a condition of the Commission's district boundary amendment approval for Spencer Homes, Inc., Docket No. A04-750, Spencer Homes, Inc. is responsible for the remaining 50 percent of the cost for improvements for the signalization. Specific cost share arrangements shall be determined between Petitioner and Spencer Homes, Inc. Petitioner's funding of the foregoing improvements shall be deemed satisfactory mitigation for the Project's local and regional traffic impacts.</p>	<p>Petitioner executed a Memorandum of Agreement with Spencer Homes, Inc. (Docket No. A04-750), regarding the funding of 50 percent of the construction cost for the installation of a traffic signal at the Honoapiilani Highway and East Waiko Road intersection. Petitioner met with the State Department of Transportation (SDOT) Maui Office personnel to review the draft of the Memorandum of Agreement for the Honoapiilani Highway and East Waiko Road traffic signal installation. Memorandum of Agreement was finalized and signed in 2006. The Honoapiilani Highway and East Waiko Road traffic signal was installed and operational as of 2007.</p>
<p>3. Hawai'i Right to Farm Act. Petitioner shall notify all prospective buyers and/or lessees of the Property that the Hawai'i Right to Farm Act, chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance.</p>	<p>Petitioner understands its obligation and has included language to this effect in the covenants, conditions and restrictions (CC&Rs) for the project recorded on title October 18, 2006 as Doc. No. 2006-190083.</p>
<p>4. Notification of Potential Nuisances. Petitioner shall notify all prospective buyers and/or lessees of the Property of potential odor, noise, and dust pollution resulting from adjacent agricultural uses. The notification shall be included in the covenants, conditions, and restrictions for the Property which shall run with the land.</p>	<p>Petitioner understands its obligation and has included language to this effect in the CC&Rs for the project recorded on title October 18, 2006 as Doc. No. 2006-190083.</p>
<p>5. Drainage Improvements. Petitioner shall comply with drainage improvements as required by appropriate State and County agencies. To the extent possible, storm and surface water runoff shall be captured on the Property. <u>Petitioner shall be subject to and prepare covenants, conditions, and restrictions for the Property and each lot into which the Property may be subdivided,</u> to contain spills and prevent materials associated with industrial uses attributable to the operations of the Property, including petroleum products, chemicals or other pollutants from leaching or draining into the ground or subsurface storm drain collection areas. <u>Said covenants, conditions, and</u></p>	<p>Petitioner submitted a draft copy of the CC&Rs for the Project to the State Department of Health for review and approval. The said CC&Rs for the Project include the Pollution Prevention Plan ("PPP"). In conjunction with the approval of the PPP and other DOH items, the State Department of Health approved the construction plans for the project on August 28, 2006. Bonded final subdivision approval was granted by the County of Maui on September 13, 2006 approving acceptable drainage improvement plans. The PPP is included in the CC&R's for the project recorded on title October 18, 2006 as Doc. No.</p>

<p><u>restrictions shall be subject to approval by the State Department of Health, and documented in the Pollution Prevention Plan ("PPP").</u> Petitioner shall fund the design and construction of the centralized drainage system required as a result of the development of the Property to the satisfaction of appropriate State and County agencies.</p>	<p>2006-190083.</p>
<p>6. Best Management Practices. Petitioner shall implement Best Management Practices ("BMPs"), including a PPP, to protect surface and groundwater resources. The BMPs and PPP shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and groundwater pollution, and implement dust control measures during and after the development process in accordance with State Department of Health guidelines.</p>	<p>Petitioner understands its obligation and has complied with this condition. Petitioner submitted a draft copy of the CC&Rs for the Project to the State Department of Health for review and approval. As previously noted, the State Department of Health approved the CC&Rs via approval of the construction plans for the project on August 28, 2006. The CC&R's for the project were recorded on title October 18, 2006 as Doc. No. 2006-190083.</p>
<p>7. Hazardous Materials. Storage and/or disposal of hazardous materials shall be approved by the State Department of Health prior to their establishment on the Property.</p>	<p>Petitioner understands its obligation and has complying with this condition. The language related to the storage and/or disposal of hazardous materials was included in the CC&Rs. The State Department of Health approved the CC&Rs via approval of the construction plans for the project on August 28, 2006. The CC&R's for the project were recorded on title October 18, 2006 as Doc. No. 2006-190083.</p>
<p>8. Water Service. A private water system shall be developed for the Property which shall be approved by the State Department of Health, Safe Water Drinking Division, and the State Department of Land and Natural Resources for well drilling and pump installation requirements. Petitioner shall construct internal water lines in accordance with County of Maui standards and will include a stub out for future connection if and when County of Maui water service becomes available to the Property. At such time, Petitioner and/or its successors shall apply to the County of Maui, Department of Water Supply, for connection and service.</p>	<p>Petitioner understands its obligation and has complied with this condition. To this effect, Petitioner received approval for well completion reports for Well 1 and Well 2 from the Department of Land and Natural Resources. Further, Petitioner submitted required documents (Preliminary Engineering Report, final capacity submittal, plans, etc.) to the State Department of Health, Safe Drinking Water Branch. Petitioner received approval of said water system from Department of Land and Natural Resources (wells) via letters dated October 1, 2002 and March 22, 2006 and from the State Department of Health, Safe Drinking Water Branch via letter dated December 18, 2008. Said water system is built to County of Maui standards and includes infrastructure for connection to the County water system, should it</p>

	become available in the future.
<p>9. Wastewater Facilities. Petitioner shall comply with wastewater system improvements as required by the State Department of Health. Petitioner shall construct a centralized leach field and internal sewer lines to dispose of effluent from the aerobic individual wastewater system servicing each lot on the Property. Petitioner shall construct internal sewer lines in accordance with County of Maui standards and will include a stub out to allow for future connection to the County of Maui wastewater system if the DOH does not approve the proposed centralized leach field and aerobic IWS during the subdivision process or when such service becomes available at the subject property.</p>	<p>Petitioner understands its obligation and has complied with this condition. Plans for the centralized leach field and internal sewer lines for the disposal of effluent were submitted to the State Department of Health Wastewater Division for review and approval. Petitioner received approval for said wastewater improvements from the State Department of Health, Wastewater Division via approval of the construction plans for the project on August 28, 2006. The approved wastewater improvements were constructed and completed in 2007.</p>
<p>10. Solid Waste. Petitioner shall comply with solid waste disposal as required by the County of Maui Department of Public Works and Environmental Management.</p>	<p>Petitioner understands its obligation and has complied with this condition. Maui County Department of Public Works and Environmental Management acknowledged compliance with the issuance of bonded final subdivision approval that was granted by the County of Maui on September 13, 2006.</p>
<p>11. Energy Conservation Measures. Petitioner and its successors, where feasible, shall implement energy conservation measures such as use of solar energy and solar heating and incorporate such measures into the Project.</p>	<p>Petitioner understands its obligation and has complied with this condition. The CC&R's for the subdivision included design standards and criteria. The design standards and criteria encourage energy conservation measures where feasible. The CC&R's for the project recorded on title October 18, 2006 as Doc. No. 2006-190083. Most of the improved properties within the project have implemented energy conservation measures.</p>
<p>12. Civil Defense. Petitioner shall fund and construct or provide its fair share of the cost of adequate civil defense measures serving the Property as determined by the State of Hawai 'i Department of Defense, Office of Civil Defense, and County Civil Defense Agency.</p>	<p>Petitioner understands its obligation and has complied with this condition. Petitioner initiated discussions with the State Civil Defense Agency during the subdivision review process to determine what civil defense measures may be needed in the area. State Civil Defense Agency did not identify any necessary measures. Maui County Department of Public Works and Environmental Management acknowledged compliance with the issuance of bonded final subdivision approval that was granted by the County of Maui on September 13, 2006.</p>

<p>13. Unidentified Archaeological Finds. In accordance with the existing monitoring plan for the Property, Petitioner and/or its successors shall stop work in the immediate vicinity should any archaeological or burial sites be found. Petitioner and/or its successors shall immediately notify the Historic Preservation Division, and comply with the requirements of chapter 6E, HRS, and applicable regulations.</p>	<p>Petitioner understands its obligation and has complied with this condition. All ground altering work in the subdivision was monitored in accordance with the approved monitoring plan. Two inadvertent burial discoveries were found during construction of the sitework improvements. The State Historic Preservation Division in conjunction with the Maui Island Burial Council reviewed and approved burial treatment plans for the inadvertent burial discoveries. Petitioner complied with all requirements of Chapter 6E, HRS and applicable regulations.</p>
<p>14. Withdrawal of Special Use Permit. Petitioner shall file a request with the County of Maui Planning Department to withdraw the Land Use Commission Special Use Permit issued under LUC Docket No. SP94-387/Fong Construction within one year from the issuance of this Decision and Order.</p>	<p>Petitioner understands its obligation and has substantially complied with this condition. A letter to the County of Maui Planning Department was submitted on June 22, 2006, requesting the withdrawal of the Land Use Commission Special Use Permit for Fong Construction.</p>
<p>15. Compliance with Representations to the Commission. Petitioner shall develop the Property in substantial compliance with 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.</p>	<p>Petitioner understands its obligation and has complied with this condition. The property was developed in substantial compliance with the representations made to the Commission.</p>
<p>16. Annual Reports. 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 Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.</p>	<p>Petitioner understands its obligation to comply with this condition and submits this final report in compliance therewith.</p>
<p>17. Notice of Change to Ownership Interests. 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.</p>	<p>Petitioner understands its obligation and complied with this condition. There was no change in ownership to the property prior to the development of the subdivision. The Petitioner filed its final tax return in 2011 and the company is no longer in existence.</p>
<p>18. Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon</p>	<p>Petitioner understands that the Commission may fully or partially release the conditions provided herein.</p>

<p>timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.</p>	
<p>19. Notice of Imposition of Conditions. 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.</p>	<p>Petitioner has recorded a Notice of Imposition of Conditions with the Bureau of Conveyances of the State of Hawaii pursuant to Section 15-15-92 Hawaii Administrative Rules and has filed a copy of the recorded document with the Commission.</p>
<p>20. Recordation of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.</p>	<p>Petitioner has recorded a Declaration of Conditions with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.</p>