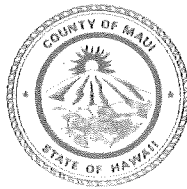


MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

March 11, 2020

Mr. Daniel E. Orodener
Executive Officer
State Land Use Commission
P.O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Orodener:

**SUBJECT: LUC DOCKET NO. A89-642 2019 ANNUAL REPORT FOR
WAILUKU PROJECT DISTRICT, WAILUKU, MAUI,
HAWAII; TMK(S): (2) 3-5-001:001 (POR.) AND 017 (POR.),
(2) 3-4-007:002 (POR.)**

The Department of Planning (Department) has reviewed the above-referenced 2019 Annual Report (Report) dated September 12, 2019. The Report represents the general progress of the Wailuku Project District, known as Kehalani, since its redistricting and this Report was submitted solely on behalf of RCFC Kehalani, LLC and solely with respect to the Wailuku Project District. Previously the Petitioner's affiliate, RCFC Piihana, LLC held an ownership interest in certain lands which were a part of the Piihana Project District; however, all such interests have since been sold to a third party.

The Department acknowledges that this Report reflects continuing fulfillment of Condition No. 12 requiring the Petitioner to provide Reports on an annual basis reflecting the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

As part of the analysis, the Department annually reviews the project for compliance with conditions of the State Land Use Commission (LUC) District Boundary Amendment (DBA) in tandem with the project's progress.

At the November 2, 1989 LUC hearing for the DBA (Docket A89-642) under review in this letter, C. Brewer Properties, Inc. (Petitioner) through its witness's testimony stated that it would provide the land for and develop a community center; the DBA approval obligates the Petitioner to fulfill that representation. Consequently, the Department at this time cannot issue further Project District Phase III approvals until the Petitioner makes sufficient progress towards developing the community center at Kehalani. Also as stated in their Report, the Petitioner notes

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that 25 of the 28 planned neighborhoods at Kehalani have received Phase III approvals. With only three planned neighborhoods left, timely progress towards developing the community center is essential in complying with representations made at the LUC hearing in 1989.

During the November 2, 1989 LUC hearing regarding the Petitioner's request to reclassify approximately 624 acres of land from agriculture to urban to develop a residential community, the issue of a community center on the Wailuku portion was discussed. This discussion led to Finding of Fact No. 85 on page 22 of the Decision and Order, which states: *"85. Petitioner proposed to develop and dedicate approximately 110 acres of parks and open space as well as a community center within the Wailuku Project District."*

That representation became a binding obligation through Condition No. 10 on page 50 of the Decision and Order, which states: *"10. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property."*

Consequently, the development of a community center remains an unfulfilled condition which needs to be addressed prior to any further Phase III application approvals.

Furthermore, the change of zoning approval granted by the Maui County Council for the Project District requires compliance with Condition No. 7 which addresses the lands that the Applicant is required to dedicate as public lands and which states: *"7. The applicant shall provide its fair and equitable share of park improvements generated by the project as is deemed necessary by the Director of Parks and Recreation of the County of Maui. The applicant's participation shall include, but shall not be limited to, the dedication of land in fee simple, free and clear of all encumbrances, for park use and a community center site for use by the community."*

The 2012 Park Assessment Agreement between Kehalani Holdings Company, Inc. and the County of Maui does not include land for a "community center" or "community center site"; consequently the Department does not believe that Condition No. 7 of the zoning has been met as to providing the required land for public use, nor has Condition No. 10 of the LUC decision been met as to developing the community center on that land. The Parks Assessment Agreement did not and cannot supersede or eliminate obligations imposed by the LUC or the County Council.

Furthermore, the Department requests an updated Wailuku Project District Land Use Map with districts and subdistricts to reflect development progress as of 2020.

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The Department also requests an updated roadway master plan listing of streets within the Kehalani Project District and the progress made to date in dedicating these roadways to the County of Maui as part of its work with the Department of Public Works in meeting the Petitioner's obligations for transportation improvements, especially as the project nears completion. Additionally, the Department would like to review plans and timetables for the dedication of sewer/wastewater lines.

Additionally, the Department notes in the Report on page 5 that "*the mauka drainage system is substantially completed.*" Further explanation is needed as to what additional improvements are required to complete the mauka drainage system, especially as the mauka developments are nearing completion.

For the reasons stated above, the Department believes that the Petitioner is not in compliance with the conditions of the DBA approval for Docket No. A89-642, nor is in compliance with the conditions of the change of zoning approval, and the Petitioner/Current Project Owner must either fulfill those conditions or request amendments to the DBA and change of zoning. Should you have any further questions on this matter, please contact the Department by email at planning@mauicounty.gov or by phone at (808) 270-8205.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
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Kurt F. Wollenhaupt, Staff Planner (PDF)
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Rowena Dagdag-Andaya, Department of Public Works (PDF)
Department of Environmental Management, Wastewater Division (PDF)
Brian Ige, RCFC Kehalani LLC (PDF)
Gwen Ohasi Hiraga, Munekiyo Hiraga (PDF)
State Office of Planning
Rasmi Agrahari, Land Use Commission (PDF)
Land Use Commission (PDF)
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