

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII



In the Matter of the Petition of ) DOCKET NO. A17-804  
)  
HAWAIIAN MEMORIAL LIFE PLAN, LTD. ) HAWAIIAN MEMORIAL LIFE  
) PLAN, LTD.  
To Amend The Conservation Land Use )  
District Boundary Into The Urban Land Use )  
District For Approximately 53.449 Acres Of )  
Land At Kāneʻohe, Island of Oahu, State of )  
Hawai`i, Tax Map Key: (1) 4-5-033: por. 001 )  
\_\_\_\_\_ )

**MEMORANDUM RE NEW CONDITIONS  
AND CHANGES DISCUSSED ON SEPTEMBER 23, 2020**

**AND**

**CERTIFICATE OF SERVICE**

BENJAMIN M. MATSUBARA, #993-0  
CURTIS T. TABATA, #5607-0  
Matsubara, Kotake & Tabata  
888 Mililani Street, Suite 308  
Honolulu, Hawai`i 96813

Attorneys for Petitioner  
HAWAIIAN MEMORIAL LIFE  
PLAN, LTD.

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A17-804  
)  
HAWAIIAN MEMORIAL LIFE PLAN, LTD. ) MEMORANDUM RE NEW  
) CONDITIONS AND CHANGES  
To Amend The Conservation Land Use ) DISCUSSED ON SEPTEMBER 23,  
District Boundary Into The Urban Land Use ) 2020  
District For Approximately 53.449 Acres Of )  
Land At Kāneʻohe, Island of Oahu, State of )  
Hawai`i, Tax Map Key: (1) 4-5-033: por. 001 )  
\_\_\_\_\_)

**MEMORANDUM RE NEW CONDITIONS  
AND CHANGES DISCUSSED ON SEPTEMBER 23, 2020**

Petitioner Hawaiian Memorial Life Plan, Ltd. offers the following to aid in drafting the Land Use Commission's Findings of Fact, Conclusions of Law and Decision and Order.

Several new proposed conditions were agreed to by the Petitioner that were not submitted in writing, and were instead read orally into the record. Those new conditions that were discussed on September 23, 2020 are as follows:

**Blackline Hawaiian Damsfly Community Outreach**

Petitioner shall establish an education and outreach program to raise awareness of the existence of the blackline damselfly and habitat area on the property. The outreach shall include informing visitors to Hawaiian Memorial Park as well as members of the adjacent community. The program shall include information on restricted activities and other best practices to avoid and minimize adverse impacts to the habitat and the species.

**Construction Related Community Outreach**

Petitioner shall establish an ongoing construction-related community outreach program to inform area residents and businesses of construction milestones and activities occurring on property. In addition, the Petitioner shall establish a hotline for immediate and prompt responses and dedicated email address to receive and respond to questions, concerns or comments from the community and other stakeholders.

### **Detention Basin Analysis**

The Petitioner shall prepare a detailed "Detention Basin Analysis", using appropriate computer modeling software, to determine the size of the detention basin to be constructed immediately upstream of each of the existing drainage inlets that will receive runoff from the project. The inflow will be calculated based on at least a 10 year, 24-hour rainfall event and the basins shall be designed so that the outflow from each basin will be limited to the capacity of the existing downstream drainage improvements. The Detention Basin Analysis shall be submitted to DPP for approval. After the Detention Basin Analysis is approved, the detention basins shall be constructed as soon as practical after the start of grading for the project.

### **Clean Fill Definition**

Clean Fill is defined as "natural materials consisting of soil, clay, sand, volcanic cinder and ash, rock, and boulders measuring more than twelve inches in diameter; or a mixture or combination of such materials, which are not suspected to contain hazardous substances or concentrations of chemical contaminants of concern above the State Department of Health's Tier I Environmental Action Levels."

### **Cultural Preserve Funding**

Petitioner shall establish the Cultural Preserve in conjunction with an appropriate Native Hawaiian group (Group). The Petitioner shall work with the community and the Ko'olaupoko Hawaiian Civic Club in order to establish a preservation and management plan for the Cultural Preserve, in perpetuity.

Petitioner shall pay for or otherwise assume financial responsibility for expenses associated with capital improvements within the preserve required to fulfill the conditions set forth by the Commission all on-going maintenance of the preserve. Petitioner shall cover reasonable expenses incurred by the Group associated with the management of the preserve.

In addition, changes were made to Petitioner's proposed conditions 2 and 15 regarding the conservation easement relating to the accreditation of the conservation easement holder and the prohibition of disposing clean fill at PVT landfill or any other construction and demolition landfill. The additions are shown below in underline and deletions are shown in strike-through, and are based on notes at the time of this filing because the official transcript was not yet available:

2. The Petitioner shall record with the State of Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, a conservation easement and related declaration of restrictive covenant on the entirety of the 156.5-acre undeveloped portion of its Pikoiloa Tract property (TMK No. 4-5-033: 001) that limits, in perpetuity, any other future development on the property, except for the 27.5-acre portion of the property that encompasses the proposed Hawaiian Memorial Park expansion site, and the 14.5-acre portion of the property that encompasses the proposed Kawaewae Heiau cultural preserve.

A copy of the recorded conservation easement and declaration of restrictive covenant shall be submitted to the City and County of Honolulu, Department of Planning and Permitting, prior to the issuance of any grading permit or any other permit which involves ground disturbance.

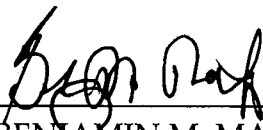
Should the Petitioner desire to make any major changes to the conservation easement or the declaration of restrictive covenant, a request to amend the Decision and Order shall be made to the LUC.

Petitioner shall formulate the easement and stewardship of the easement with an ~~Accredited~~ Land Trust that is accredited and in good standing with the Land Trust Accreditation Commission for the long-term management of the area.

15. Petitioner shall not dispose as waste material any clean fill excess soil at the PVT landfill or any other construction and demolition landfill commercially in operation on the island of Oahu as a result of grading work in the Petition Area.

DATED: Honolulu, Hawai'i, September 28, 2020.

Of Counsel:  
MATSUBARA, KOTAKE & TABATA  
A Law Corporation

  
\_\_\_\_\_  
BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
HAWAIIAN MEMORIAL LIFE PLAN, LTD.

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A17-804
	)	
HAWAIIAN MEMORIAL LIFE PLAN, LTD.	)	CERTIFICATE OF SERVICE
	)	
To Amend The Conservation Land Use	)	
District Boundary Into The Urban Land Use	)	
District For Approximately 53.449 Acres Of	)	
Land At Kāneʻohe, Island of Oahu, State of	)	
Hawai`i, Tax Map Key: (1) 4-5-033: por. 001	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that a file-marked of the foregoing document was duly served upon the following **AS INDICATED BELOW** on September 28, 2020.

DAWN TAKEUCHI-APUNA, ESQ.  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, Hawai`i 96813

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
dawn.t.apuna@hawaii.gov

MARY ALICE EVANS, DIRECTOR  
Office of Planning, State of Hawai`i  
235 South Beretania Street  
Room 600, Leiopapa A Kamehameha Bldg.  
Honolulu, Hawai`i 96813

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED

KATHY K. SOKUGAWA, ACTING DIRECTOR  
City and County of Honolulu  
Department of Planning and Permitting  
650 South King Street, 7th Floor  
Honolulu, Hawai`i 96813

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
bchong2@honolulu.gov

PLANNING COMMISSION  
City and County of Honolulu  
650 South King Street, 7th Floor  
Honolulu, Hawai'i 96813

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
bchong2@honolulu.gov

PAUL S. AOKI, ESQ.  
Acting Corporation Counsel  
DUANE W. H. PANG, ESQ.  
Deputy Corporation Counsel  
City and County of Honolulu  
Department of Corporation Counsel  
530 South King Street, Room 110  
Honolulu, Hawai'i 96813


CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
paoki@honolulu.gov  
dpang1@honolulu.gov

HUI O PIKOILOA; an unincorporated  
Association, LIANNE CHING, BETTYE  
HARRIS, RICHARD MCCREEDY, JULIANE  
MCCREEDY, JESSE REAVIS, and  
GRANT YOSHIMORI  
c/o 45-464 Lipalu Street  
Kaneohe, Hawai'i 96744

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
gyoshimo@hotmail.com  
gyoshimo@gmail.com

DATED: Honolulu, Hawai'i, September 28, 2020.

Of Counsel:  
MATSUBARA, KOTAKE & TABATA  
A Law Corporation

  
\_\_\_\_\_  
BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
HAWAIIAN MEMORIAL LIFE PLAN, LTD.