



**Lili'uokalani
Trust**

LAND USE COMMISSION
STATE OF HAWAII

E'ONIPA'A KĀKOU
Let us all be steadfast.

2020 SEP -8 P 1:02

August 28, 2020

Mr. Daniel E. Orodener, Executive Officer
State of Hawai'i
Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawai'i 96804-2359

**Subject: 2020 Annual Progress Report
LUC Docket No. A89-646
Lili'uokalani Trust
Keahuolū, North Kona, Island of Hawai'i**

Dear Mr. Orodener,

Please find enclosed an annual progress report in compliance with Condition 22 of LUC Docket No. A89-646. This report addresses the status of the development and compliance with the conditions of approval for the current year.

If you have any questions or comments, please feel free to contact me at (808) 203-6150.

Sincerely,

Michael Shibata
Director of Real Estate

Enclosure

ANNUAL REPORT TO THE STATE LAND USE COMMISSION
Lili'uokalani Trust Keahuolū Lands
LUC Docket No. A89-646
Decision and Order, August 28, 1991

Submitted in Compliance with Condition 22

August 28, 2020

Introduction

This is a report on the status of development for the Lili'uokalani Trust Keahuolū Land in Kailua-Kona, Hawai'i, and the extent to which conditions of approval are being complied with. The report is submitted in compliance with Condition 22 of LUC Docket No. A89-646, Decision and Order, dated August 28, 1991. This report addresses the status of the development and compliance with the conditions of approval for the current year.

Status of Conditions

***Condition 1.** Petitioner shall generate one (1) non-tourism related job, or the equivalent thereof, for each hotel unit Petitioner is allowed to build. As used herein, "non-tourism related" means not related to hotels or residential condominiums intended for use as transient accommodations, or recreational, entertainment or other facilities and services used primarily by tourists. The equivalent value of one (1) non-tourism related job will be determined by the Office of State Planning.*

The Petitioner continues to explore opportunities to develop a hotel with potential developers. Should a developer be selected and a hotel developed this condition shall be complied with.

***Condition 2.** Petitioner shall design and construct all structures and buildings in compliance with County, State, and Federal codes and standards.*

The Kmart, Macy's and Makalapua Stadium Cinemas projects within Phase I of the project complied with this condition at the time of their completion in 1994, 1997 and 2000, respectively. The Petitioner and its developers will continue to comply with this condition for all future structures and buildings. The Kona Judiciary Complex (now referred to as the Keahuolū Courthouse) is also within Phase I of the project. The Petitioner has required that the State of Hawai'i (State) Department of Accounting and General Services (DAGS) and Judiciary comply with this condition as part of the conditions of purchase. The Keahuolū Courthouse parcel was subdivided on January 25, 2018 and conveyed to the State, Board of Land and Natural Resources on July 27, 2018. The Keahuolū Courthouse was completed in September 2019.

Condition 3. *There shall be no occupancy of any structures within a 1,300-foot buffer zone surrounding the Kealakehe Landfill until a permanent solution to smoke, fumes and other health hazards from the Landfill is in place.*

It is our understanding that the County has implemented a permanent solution to the smoke, fumes and other health hazards emanating from the Kealakehe Landfill site by covering the site with an impermeable seal. In addition, the landfill facility was permanently closed in 1993. The Petitioner intends on requesting a modification to the Decision and Order to reflect an update to the conceptual master plan for the Petition Area, which will include changes to the 1,300 foot buffer zone adjacent to the landfill.

Condition 4. *The Landowner shall participate in an air quality monitoring program as specified by the State Department of Health.*

The State Department of Health (DOH) did not specify or require that the Petitioner participate in an air quality monitoring program for the Kmart, Macy's or Makalapua Stadium Cinemas projects. The Trust, through its consultant, Belt Collins Hawaii, was advised by the DOH that air quality monitoring is not required at this time. The Petitioner will participate in an air quality program if and when specified by the DOH.

Condition 5. *The Landowner shall implement effective soil erosion and dust control measures during all phases of the development.*

The Petitioner will continue to comply with this condition in future developments in the Petition Area.

Condition 6. *Petitioner shall provide or cause to provide the necessary water source, storage, and transmission facilities to service the Project. Petitioner shall coordinate and explore joint development with the County of Hawaii, Department of Water Supply, the State Department of Land and Natural Resources, adjoining landowners, and/or other State or County agencies regarding measures designed to obtain the required water for the Project.*

The Keahuolū well, reservoir, and transmission system to service the 49.9-acre first increment of Phase I, has been constructed, completed, and dedicated to the County of Hawai'i (County). The County accepted the system on August 27, 1996.

The Petitioner continues to work with the County Department of Water Supply (DWS) on the planning and development of a water system which will service regional and Petitioner's water needs. Both the Petitioner and County have engaged consultants to jointly plan the source development and transmission system to provide water in a timely manner. The Keahuolū Lands Water Resource Development Agreement was signed by the Petitioner and DWS on February 23, 2010 which describes the Petitioner's participation in the Palani Transmission Line and storage facilities on Trust land adjacent

to the Queen Lili'uokalani Village. Additionally, the Petitioner participated in the construction of a water transmission line within the Ane Keohokālole Highway.

Condition 7. *The Landowner shall connect the wastewater system for the proposed development of the Property to the Kealakehe Wastewater Treatment Plant. Construction of structures within the Property shall not commence until the Landowner has obtained assurances from the County of Hawaii that capacity at this plant has been reserved or will be available at the time occupancy occurs of structures within the Property; provided that, if the capacity at the Kealakehe Wastewater Treatment Plant is not sufficient for the proposed development of the Property, the Landowner may utilize other alternatives acceptable to the State Department of Health and County of Hawaii.*

The Petitioner has obtained the necessary approvals for connecting existing structures within the Property to the County wastewater system. The Petitioner will continue to comply with this condition in future developments in the Petition Area.

Condition 8. *Petitioner shall fund and construct highway improvements, including but not limited to the dedication of rights-of-way, necessitated by the proposed phased development and in designs and schedules accepted by and coordinated with the State Department of Transportation and the County of Hawaii.*

The necessary highway improvements for Makalapua Center (accepted by and coordinated with the State DOT and the County of Hawai'i) were completed as part of the earlier Kmart and Macy's projects. The Petitioner conveyed the necessary right-of-way to the State to widen Queen Ka'ahumanu Highway in satisfaction of the condition. The transaction was memorialized in a Purchase and Sale Agreement (PSA) entered into between the State DOT and the Trust dated September 12, 2003, as amended. The PSA transaction transferred nine parcels of Petitioner's lands to the State DOT and two highway boundaries in favor of the State DOT for highway improvements. As part of the PSA transaction, the State Director of Transportation, Rodney K. Haraga sent a letter to Robert Ozaki, Trust Administrator, dated September 17, 2003 stating that the State DOT released the Trust from further obligations related to highway improvements under Condition 8.

Condition 9. *Petitioner shall work with the appropriate departments of the State and County on the designs and construction of all roadway improvements within the Property. Petitioner shall work with the appropriate departments of the State and County on regional traffic improvements necessitated by the proposed phases of the development. Petitioner's participation shall not at any time exceed its pro rata share of roadway improvements made necessary by the increased traffic resulting from each phase of the development. In the event that the County of Hawaii adopts an impact fee for transportation improvements, the foregoing funding requirements 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.*

All of the currently required roadway improvements within the property were completed earlier as a part of the Kmart and Macy's projects in 1994 and 1997, respectively. The State DOT acquired the necessary Trust lands for the right-of-way to widen Queen Ka'ahumanu Highway. This acquisition satisfied the pro rata share of state roadway improvements necessary for traffic resulting from the total development of the 315 acres (Phase I).

As part of the roadway improvements for the Kona Commons Shopping Center development makai of Queen Ka'ahumanu Highway, the Petitioner received approvals from the appropriate departments and widened Makala Boulevard immediately mauka and makai of Queen Ka'ahumanu Highway to a width of 100 feet. The Petitioner dedicated the makai roadway improvements of Makala Boulevard to the County on December 18, 2013.

The Petitioner has and will continue to work with the County in the development and implementation of regional and local roadways that could be directly or indirectly affected by the subject area as well as the other properties owned by the applicant. Roadways are needed to facilitate the safe and efficient movements of vehicles in this region.

Condition 10. *Petitioner shall undertake periodic monitoring of the traffic conditions within and adjacent to the Property throughout the Project's development period to the satisfaction of and with the approval of the State Department of Transportation and the County of Hawaii.*

The Petitioner will continue to monitor traffic conditions within the reclassified area and adjacent areas throughout development to the satisfaction of and with the approval of the State DOT and County. As development occurs in the subject areas and in conformance with conditions attached to the relevant County zoning approvals, the Petitioner will prepare additional traffic monitoring studies and submit the reports to the State DOT and County.

Condition 11. *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.*

The Petitioner has indicated to the State DOT its willingness to participate in a regional program for transportation in West Hawai'i. The County's Kona Community Development Plan includes a regional transit-oriented development plan; however there is no formal regional program for transportation management. If one is created, the Petitioner will participate in a regional transportation program.

The Petitioner will collaborate with the appropriate State and County agencies, as well as neighboring landowners including the State's Department of Hawaiian Home Lands, Hawaii Housing Finance & Development Corporation, and Department of Land and Natural Resources on a regional program for transportation management, as needed.

Condition 12. *Petitioner shall work with the County to establish a reasonable buffer area along the boundary of the Property to maintain the visual integrity from Queen Kaahumanu Highway.*

A plan for landscaping of a buffer area along the boundary of the property with Queen Ka'ahumanu Highway was submitted to the County in October 1993. Plans for new projects along Queen Ka'ahumanu Highway will include consideration of a buffer along the highway.

Condition 13. *Petitioner shall preserve those historic sites, as agreed to in writing with the Historic Preservation Division, State Department of Land and Natural Resources, in compliance with Chapter 6E, Hawaii Revised Statutes. The Petitioner shall submit to the State Historic Preservation Division a detailed historic preservation mitigation plan in two parts, a preservation plan and an archaeological data recovery plan. This mitigation plan must be approved by the State Historic Preservation Division, prior to any field work and prior to any construction in the vicinity of historic sites. Also, the Petitioner must obtain verification by the State Historic Preservation Division that successful execution of the mitigation plan has been completed prior to any construction in the vicinity of the historic sites.*

In a letter dated June 5, 1998, State DLNR Historic Preservation Division (SHPD) approved a proposal on behalf of the Petitioner; 1) ensuring that the preservation plan for the preserve would be completed "before the adjacent parcels are developed," and 2) that the detailed "archaeological inventory survey of the preserve area is completed before the preservation plan is developed." The Petitioner worked with the County in the development of the Ane Keohokālole Highway. As part of the project the County contracted Pacific Legacy, Inc. and performed data recovery at selected sites within the highway corridor; completed an archaeological inventory survey within the 25-acre historic preserve area (HPA); as well as a preservation plan. All of this work has been done in conjunction with and approved by the State Historic Preservation Division.

Together with local community organizations and public agencies, the Petitioner's Kona-based staff continues to develop short- and long-range plans to coordinate the planning, management, and maintenance of the 25-acre HPA.

In 2009, related to the Ane Keohokālole Highway project, SHPD stated that newly acquired information has indicated that the previous archaeological report did not accurately reflect the nature, distribution or significance of historic properties. As a result, the Petitioner hired Pacific Legacy Inc. to provide a new archaeological inventory survey for the Property. A draft Archaeological Inventory Survey (AIS) for Phases I and II was submitted to SHPD on December 20, 2015 for its review and approval. A draft AIS for Phase III was submitted to SHPD on January 13, 2016 for its review and

approval. The Petitioner is awaiting SHPD comments and/or approval for the draft AIS for Phases I and II. SHPD accepted the final AIS for Phase III on September 9, 2019.

Condition 14. *Petitioner shall immediately stop work in the impacted area and contact the Historic Preservation Division, State Department of Land and Natural Resources, should any archaeological resources such as artifacts, shell, bones, or charcoal deposits, human burial, or rock or coral alignments, pavings or walls of historic or prehistoric origin be encountered during the development of the Property.*

The Petitioner and its developers will continue to comply with this condition.

Condition 15. *Petitioner shall formulate a fire contingency plan prior to construction in the project area. The fire contingency plan shall be approved by the State Department of Land and Natural Resources, Division of Forestry and Wildlife.*

The fire contingency plan was completed and approved by the Division of Forestry and Wildlife. Future projects will comply with this requirement.

Condition 16. *Petitioner shall coordinate with the County of Hawaii and the State Department of Health 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.*

The Petitioner has coordinated with the County and the DOH to establish appropriate systems to contain spills and prevent materials from leaching into the storm drainage system and adversely affecting the groundwater and coastal waters. Spill prevention measures were developed and will be incorporated into construction plans and specifications in future projects.

Condition 17. *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 the State Department of Health. 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.*

The Petitioner will comply with this condition by incorporating this requirement into construction plans and specifications for future projects.

Condition 18. *Petitioner shall fund and install, to the specifications and satisfaction of the State Office of Civil Defense, the necessary facilities within the Property and a siren paging encoder in the Kona Police Department substation.*

As reported earlier, the State Office of Civil Defense deferred to County jurisdiction on this matter, and the County does not require a siren paging encoder.

Condition 19. *Petitioner shall develop and maintain on-site facilities to insure that the nearshore, offshore, and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring program in accordance with the methods and procedures approved by the State Department of Health.*

As part of the water quality monitoring program, Dr. Steve Dollar conducted sampling in June 1996, while earthwork for the Liberty House (now Macy's), Makala Blvd. and Luhia Street extension projects were in progress. No changes in water quality attributable to the project were noticed. The report was submitted to DOH in September 1996 and approved by the DOH, with the need for additional monitoring to be determined on a project-by-project basis. The Petitioner informed DOH of the grading for the Makalapua Stadium Cinemas project and received DOH's concurrence that no water quality monitoring was necessary, based on the results of the earlier study. The Trust will continue to inform DOH of future projects in the subject area.

Condition 20. *Petitioner shall complete the development on the Property in substantial compliance with the representations made before the Land Use Commission. Failure to so develop may result in the reversion of the Property to its former land use classifications or a change to a more appropriate classification.*

The Petitioner is currently reviewing the urbanized lands under this docket in context of its other land holdings in North Kona and updating its conceptual land plan in order to address changes in market demand and community needs. This process is anticipated to be completed in 2022. If there are any changes made to the permitted land uses earlier represented in this docket, the Petitioner will seek an amendment to the decision and order of the Commission.

Condition 21. *Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property, provided that individual tenant leases may not be reported.*

The Petitioner will continue to comply with this condition.

Condition 22. *Petitioner shall provide annual reports to the Commission, the Office of State Planning and the County of Hawaii Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.*

The Petitioner will continue to comply with this condition, and the next annual report will be due August 28, 2021.

Condition 23. *The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.*

The Petitioner believes it is substantially in compliance with all conditions.

Condition 24. *Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to title 15, chapter 15, section 92, Hawaii Administrative Rules.*

This condition has been completed.

Condition 25. *Petitioner shall submit to the Commission, OSP and the County a metes and bounds map and description of the reclassified portions of the property.*

This condition has been completed.