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February 15, 2022

VIA U.S. MAIL

Mr. Daniel E. Orodener, Executive Officer
Land Use Commission, State of Hawai`i
P.O. Box 2359
Honolulu, Hawai`i 96804



Re: LUC Docket No. A16-800/Island School
TMK: (4) 3-8-002:016
Puhi, Lihu`e, Island of Kaua`i, State of Hawai`i

Dear Mr. Orodener:

This constitutes Island School's ("Island School" or "Petitioner") 2021 Annual report for the subject Island School Project ("Project").

Project Background and Status

The Project obtained zone change on July 19, 2019 with the approval of Ordinance No. PM-2019-412, changing the zoning from Agriculture and Open to University. The Project has completed the site work for the new classroom building and construction of the building is anticipated to start by the third quarter of this year.

Status of Compliance/Activities Relating to Imposed Conditions

1. ***Stormwater Management and Drainage Improvements.*** *The Petitioner shall maintain existing drainage patterns. To the extent feasible, Petitioner shall implement Best Management Practices and incorporate Low Impact Development ("LID") practices for onsite stormwater capture and reuse into Petition Area's site design and landscaping to control water quality and mitigate nonpoint sources of pollution.*

Petitioner is complying with this condition as development of the Project progresses.

Mr. Daniel E. Orodener, Executive Officer
Land Use Commission, State of Hawai'i
February 15, 2022
Page Two (2)

2. **Lihue Airport.** *Petitioner shall conduct a glint and glare analysis for the PV facility. Petitioner shall submit the analysis to the State Department of Transportation for its comment and approval. If glint and glare from the PV system is determined to create a hazardous condition, the Petitioner shall immediately mitigate the hazard at Petitioner's expense.*

A Glare analysis was conducted on January 11, 2021 and concluded that there was no "yellow" glare for any flight path from threshold to 2 miles and there was no glare of any kind for Air Traffic Control Towers at cab height.

3. **Archaeological and Historic Preservation.** *The Petitioner shall prepare and implement an archaeological monitoring plan approved by SHPD. A report of monitoring activities shall be submitted to SHPD upon completion of fieldwork.*

Petitioner is complying with this condition as development of the Project progresses.

4. **Previously Unidentified Burials and Archaeological/Historic Sites.** *In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, Kaua'i Island Section, and the Kaua'i/Ni'ihau Islands Burial Council, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.*

Petitioner is complying with this condition as development of the Project progresses.

5. **Endangered Species.** *Petitioner shall complete the following:*

- A. *During the construction phase of the Project, an endangered species awareness program shall be developed which includes general information on the endangered species act and protected species, specific restrictions on the Project site to protect endangered species, and protocols on how Project site personnel will respond to any downed or injured endangered species that may occur on the Petition Area. All construction personnel shall be required to be familiar with the program, guidelines, restrictions and protocols that will need to be followed.*
- B. *If construction activity is planned to occur during the Nēnē nesting season, from October through March on Kaua'i, the Project site should be surveyed by a qualified biologist before the commencement of construction to determine if any active nesting activity is occurring on the Petition Area. If active Nēnē nesting does occur during construction, a biological monitor shall be on-site to ensure that no harm befalls the birds.*
- C. *For any nighttime work required during construction, and for long term operation of the proposed Project, all exterior lighting shall be shielded so as to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.*
- D. *To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area shall not occur between June 1 to September 15 when bats may be carrying young and potentially could be at risk by such clearing activities.*

Petitioner will comply with this condition as development of the Project progresses.

6. **Hazardous Substances.** *Petitioner shall conduct a phase I Environmental Site Assessment and site investigation Project site to the review and approval of the State Department of Health.*

A Phase I Environmental Site Assessment was conducted on February 27, 2020 and found no evidence of recognized environmental conditions and concluded that no further assessment is required.

Mr. Daniel E. Orodener, Executive Officer
Land Use Commission, State of Hawai'i
February 15, 2022
Page Four (4)

7. **Compliance with Representations.** *The Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.*

Petitioner is proceeding with development of the Project in substantial compliance with representation made to the SLUC.

8. **Notice to Commission.** *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.*

Petitioner will comply with this condition in the event of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property, prior to development of the Property.

9. **Annual Reports.** *Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Kaua'i Planning Department in connection with the status of the subject 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.*

This annual report is being submitted in compliance with this condition.

10. **Release of Conditions.** *The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.*

No release of conditions is currently contemplated.

11. **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 Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area; and (b) shall file a copy of such recorded statement with the Commission.*

Mr. Daniel E. Orodener, Executive Officer
Land Use Commission, State of Hawai'i
February 15, 2022
Page Five (5)

This condition has been satisfied. On August 21, 2017, a "Notice of Imposition of Conditions by the Land Use Commission" was recorded (copy previously provided) with the State Bureau of Conveyances (Document No. A-64420885)

12. **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.*

This condition has been satisfied. On September 26, 2017, the conditions imposed by the SLUC were recorded (copy previously provided) with the State Bureau of Conveyances under the "Declaration of Conditions" applicable to that petition for district boundary amendment in Docket No. A16-800 of the SLUC (Document No. A-64780400)

Please contact me should you require any further information regarding this report. An email .pdf version of this report will also be transmitted to your office for your use.

Very truly yours,

MATSUBARA, KOTAKE & TABATA



Curtis T. Tabata

cc: Island School
Ms. Mary Alice Evans, Director.
Office of Planning and Sustainable Development, State of Hawai'i
Alison Kato, Esq., Deputy Attorney General
Mr. Ka'āina S. Hull, Director
Planning Department, County of Kaua'i
Matthew M. Bracken, Esq., Kaua'i County Attorney