



KAMEHAMEHA SCHOOLS®



May 9, 2022
Daniel E. Orodener, Executive Officer
Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, Hawaii 96813

Subject: **Docket No. A87-610, Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools, Successor Petitioner to Tom Gentry and Gentry-Pacific, Ltd.**

Dear Mr. Orodener:

On behalf of successor Petitioner, Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools ("KS"), we hereby submit this 2022 Annual Report to the State of Hawai'i Land Use Commission ("Commission").

By Findings of Fact, Conclusions of Law and Decision and Order filed May 17, 1988, the Commission reclassified approximately 1,395 acres of land situate at Waiawa, Ewa, Oahu (the "KS Property"), from the State Land Use Agricultural District to the State Land Use Urban District, subject to 10 conditions of approval. By Order dated November 30, 1990, the Commission amended Condition No. 6, and reaffirmed all other conditions to the 1988 Decision and Order (the 1988 D&O, as amended in 1990, shall hereinafter be referred to as the "Waiawa Order").¹ On November 26, 2014, the Commission issued its *Order Granting Motion for Order Amending Findings of Fact, Conclusions of Law and Decision and Order Dated May 17, 1988*, subject to 16 conditions of approval (the "2014 Order") amending the Waiawa Order to: (1) expressly authorize the use of portions of the KS Property (an area of approximately 387 acres in the northern/makai portion of the KS Property (the "Phase 1 Site"), and an area of approximately 268 acres in the mauka portion of the KS Property approximately within the Zone of Contribution (the "Phase 2 Site")) for solar farm development for an interim period not to exceed 35 years from the issuance of the 2014 Order, i.e., a period terminating as of November 26, 2049, and (2) recognize KS as the successor Petitioner in this Docket.

KS sought the Commission's approval, as granted under the 2014 Order, so that it could have time to reevaluate the development proposal that had originally been presented to the Commission at the time of the reclassification in 1988, while at the same time, for an interim period, pursue a means of obtaining some financial return on the KS Property in a manner consistent with KS' five values of: (1) culture; (2) environment; (3) education; (4) economics; and (5) community. At that time, KS determined that development of renewable energy on the KS Property would be consistent with the values, vision,

¹ After the Commission approved the Urban District reclassification in 1988, rezoning approvals were sought from the Honolulu City Council. In 1998 the City Council passed Ordinance 98-55, amending a portion of the Development Plan Land Use Map to support the Waiawa project. Next, the City Council approved the rezoning of approximately 1,049 acres within the KS Property. Ordinance Nos. 98-01, effective January 15, 1998 (as amended by Ordinance 98-69, effective December 17, 1998) rezoned 874 acres within the KS Property from Restricted Agriculture (AG-1) to Neighborhood Business District (B1), Community Business District (B2), Low Density Apartment District (A1), Industrial-Commercial Mixed Use District (IMX1), Residential (RS) and General Preservation (P-2). Ordinance No. 03-01, effective February 12, 2003, rezoned 175.43 acres within the KS Property from AG-1 to R-5, A-1, Medium Density Apartment District (A-2) and P-2. Copies of these zoning ordinances were previously transmitted for your files.

mission, guiding principles and strategic goals set forth in the KS Strategic Plan 2000 - 2015, and the 2009 KS Strategic Agricultural Plan.

As previously reported, SunEdison, the intended solar developer for the solar farms approved under the 2014 Order, faced difficulty obtaining the necessary approvals from the Hawai'i Public Utilities Commission for its power purchase agreement with Hawaiian Electric Company, Inc. and shortly thereafter went bankrupt. Accordingly, KS cancelled its agreements with SunEdison. However, KS remained on the lookout for new renewable energy opportunities to be developed on an interim basis and would be located in the same areas approved by the Commission under the 2014 Order.

To that end, on July 24, 2019, KS submitted a Motion for Modification and Time Extension, requesting approval of certain amendments to the 2014 Order so that a new renewable energy developer, Waiawa Solar Power LLC, could complete the project approved under the 2014 Order located within the Phase 2 Site. In response to that Motion, on February 11, 2020, the Commission issued its *Findings of Fact, Conclusions of Law, and Decision and Order Granting with Modification Motion for Modification and Time Extension* ("2020 Order").

As mentioned in the 2021 LUC Annual Report (and in KS' 2019 Motion and the 2020 Order), KS had also identified a second renewable energy developer (Waiawa Phase 2 Solar, LLC, a subsidiary of The AES Corporation), to pursue the solar farm the Commission already approved for the Phase 1 Site. As such, shortly after submitting the 2021 LUC Annual Report, KS filed a Motion for Modification, Time Extension, and Release and Modification of Conditions, on December 10, 2021, requesting approval of certain amendments to the 2014 Order as it relates to the Phase 1 Site, for the solar farm as proposed by Waiawa Phase 2 Solar, LLC (the "2021 Motion"). The Commission held hearings on the 2021 Motion on March 23 and April 14, 2022, and the matter has been continued to May 25, 2022.

A matrix of all of the Commission's conditions of approval in this Docket, and the status of those conditions, is enclosed. We acknowledge that there are certain redundancies between the Waiawa Order, and the conditions imposed under the 2014 Order, and the 2020 Order. The 2014 Order addressed both the Phase 1 Site and the Phase 2 Site solar farms, whereas the 2020 Order addresses the Phase 2 Site solar farm and therefore amended in part certain of the conditions imposed under the 2014 Order.² In the interest of clarity and completeness, the enclosed matrix address all conditions under the Waiawa Order, and separately addresses those conditions under the 2014 Order that were amended under the 2020 Order for the Phase 2 Site, and those conditions under the 2014 Order that remain applicable for the Phase 1 Site. Please feel free to contact me at (808) 523-6200 if you have any questions regarding this report.

Very truly yours,



Michelle Swartman
KAMEHAMEHA SCHOOLS
Planning & Development Manager, Commercial Real Estate

Enclosure

cc:

Mary Alice Evans, Director, Office of Planning and Sustainable Development
Dean Uchida, Director, Honolulu Department of Planning and Permitting
Mike McCartney, Director of Business, Economic Development and Tourism (DBEDT)

² The 2020 Order granted an amendment to the 2014 Order to permit Waiawa Solar Power LLC to use 200 acres in the Phase 2 Site for a solar farm to include all related utility and other infrastructure. It also ordered that the use of the Phase 2 Site was subject to conditions "which shall replace all other conditions imposed relative to SunEdison's former Phase 2 site in the Order Granting Motion for Order Amending D&O filed on November 26, 2014."