

Grant Yoshimori
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Kaneohe, HI 96744

08/22/2022



Daniel E. Orodener, Executive Officer **(VIA E-MAIL)**
Land Use Commission, State of Hawai`i
235 South Beretania Street, Suite 406
Honolulu, Hawai`i 96813

Re: Hawaiian Memorial Life Plan, Ltd.; LUC Docket No. A17-804

Dear Mr. Orodener,

As Intervenors in Land Use Commission (LUC) Docket No. A17-804, **we would like to thank you, the LUC Staff, and the Land Use Commission** for requesting that Hawaiian Memorial Park (HMP) provide a status update on the docket.

Unfortunately, like the LUC, we have had little updates from HMP on progress. The only information we've received from HMP has been from HMP's October 13, 2021 LUC Annual Report, and from HMP's <https://hmpfacts.com> website.

SUMMARY OF DOCUMENT

In the October 13, 2020 LUC Decision and Order (DO) for Docket A17-804, DO #1 states "Petitioner shall take and complete the actions described, **including but not limited to**, those described in Findings of Fact (FF) Nos. 324-370 as represented to the Commission"

This document highlights Intervenor's understanding of Petitioner's progress on key DOs and Findings of Facts (FF). We've grouped the DO's and FF's under major requirements, and have added a short summary of our understanding of HMP's status for each major requirement.

Overall, there are two major requirements which we are especially concerned with:

- **Construct Drainage Improvements:** We have been waiting for the LUC required "Detention Basin Analysis" and "Grading Plan", so that we can have our engineering expert confirm HMP's compliance with the LUC mandated detention design handling a "10-year, 24-hour rainfall event at a minimum." We have been periodically checking with the DPP, but as yet have not received the analysis, grading plan, nor a target-date for delivery.

- **Construction and Timetables:** Per the LUC requirement for Community Outreach, we expected to have a clearer schedule of when we can expect design approval, and development. We have not received any information on the construction and timetables.

What follows are our understanding of Major Requirements, the DO's and FF's which support the requirement, and our understanding of HMP's status on the Major Requirement.

MAJOR REQUIREMENT: CREATE COMMUNITY OUTREACH

Requirement Details

- Hawaiian Memorial Park, Ltd., will establish an ongoing construction-related community outreach program to inform area residents and businesses regarding milestones and activities occurring on the Property. Including, but not limited to, provision of a hotline and a robust communication plan for the neighbors to call and obtain response to impacts and concerns during construction. (FF 338 and DO 15)

Our Understanding of Status

- Per Petitioner's October 2021 Annual Report to the LUC, "A community outreach program for construction activity is being developed and this program will have a dedicated website for the community to access. A hotline and email address for the community would be established. However, the program would be initiated closer to when construction work actually starts"
- On March 10, 2022, HMP sent a letter ("Notification to Residents") to residents stating creation of a website <https://hmpfacts.com/> and a contact-us page.
- On March 9, 2022, HMP posted a notice of "Commencement of Project" (<https://www.hmpfacts.com/post/commencement-of-project>), notifying residents that initial tree-clearing would begin from March 14 for three to four weeks.
- Outside of the above, we have not had other community outreach from HMP.

MAJOR REQUIREMENT: CONSTRUCT DRAINAGE IMPROVEMENTS

Requirement Details

- Petitioner's proposed retention/detention basins are designed for a 100-year, one-hour duration storm event of 4.5 inches. This design is not reasonable. Design should plan for a 10-year, 24-hour rainfall event at a minimum. (FF 273)

- Hawaiian Memorial Park, Ltd. will prepare a detailed “Detention Basin Analysis”, to determine the size of the detention basins. The inflow will be calculated based on at least a 10-year, 24-hour rainfall event and the basins will be designed so that outflow from each basin will be limited to the capacity of the existing downstream drainage improvements. The Detention Basin Analysis will be submitted to DPP for approval. (FF 277)
- To comply with the Federal Clean Water Rule, A Department of Army Permit from the USACE survey would be prepared for submission to the USACE for review and a jurisdictional determination as part of the project's design phase. (FF 362)
- NOTE: The USACE completed the Jurisdictional Determination on 5/10/2021, and has determined that seep channel (i.e. the Damsely habitat seep) is “jurisdictional Waters of the U.S. and therefore the discharge of fill in the Seep Channel does require Corps authorization.”
(<https://www.poh.usace.army.mil/Portals/10/docs/jurisdictionaldeterminations/2021/2008-00189.pdf?ver=hrtPQD9hMEm16VUvSN5RIw%3D%3D> – pg 7)

Our Understanding of Status

- Per a call to the DPP, the DPP stated Petitioner has not yet done the Detention Basin Analysis nor the Grading Plan. HMP says the initial geotechnical exploration analysis must first be done before the petitioner can develop the Detention Basin Analysis, and grading plan.

MAJOR REQUIREMENT: CONSTRUCTION AND TIMETABLES

Requirement Details

- A Design and Grading Plan will be reviewed and approved by City and County of Honolulu. (FF 185)
- Prior to the issuance of a grading permit, the Petitioner shall submit a landscape plan and schedule of planting to the City Department of Planning and Permitting (DPP). (FF 129)
- In consideration of the potential impacts to and from climate change, within the Petition Area, the loss of mature trees, defined as having a trunk diameter of six inches or greater, shall be replaced on a one-for-one basis, at a minimum (DO 4)
- HMP shall provide the Commission with a development timetable prior to obtaining grading permits from the City. (DO 16)
- HMP shall complete construction of the proposed backbone infrastructure, which consists of the primary roadways and access points, internal roadways, on- and offsite water and electrical system improvements, and stormwater/drainage and other utility system improvements, within ten (10) years from the date of the Decision and Order approving the Petition (DO 17)

Our Understanding of Status

- Per Petitioner's October 2021 Annual Report Response to DO 16, "Petitioner anticipates that construction plans will be completed by the first quarter of 2022, and permitting will be completed by the end of 2022. Development of the project should be completed by the end of 2024."
- Per Intervenor's Call to the DPP:
 - Petitioner has not yet filed a grading plan, nor landscape plan.
 - Petitioner filed a Geotechnical exploration-only grading plan. The plan indicated which trees would be removed to allow for initial core sampling. The plan was approved by DPP; however **DPP noted that Petitioner did not specify where the required replacement trees would be planted for the already removed existing trees.**
- Intervenor observes that outside of the Petitioner's Annual Report, no other timetable has yet been posted LUC's website (and we infer that the Petitioner has not filed a timetable with the LUC.)
- Intervenor observes that the timeline (reported in the October 2021 Annual Report) is not being met.

MAJOR REQUIREMENT: EXECUTE A CONSERVATION EASEMENT AND RESTRICTIVE COVENANT

Requirement Details

- HMP will execute a conservation easement. (FF 325)
- The Conservation Easement will be held by a land trust accredited by the Land Trust Accreditation Commission. (FF 342)
- Conservation Easement and Restrictive Covenant will be recorded with the State of Hawai'i Bureau of Conveyances and/or the State of Hawai'i Land Court (DO 3)
- 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 ("DPP"), prior to the issuance of any grading permit or any other permit which involves ground disturbance (DO 3)

Our Understanding of Status

- Per Petitioner's October 2021 Annual Report to the LUC, a conservation easement has been drafted and submitted to the Hawaii Island Land Trust (HILT) for consideration at HILT's October 2021 board meeting.
- We have not heard if progress has been made on the conservation easement establishment, nor have we heard if the Conservation Easement and restrictive Covenant has been filed with the Bureau of Conveyance, LUC, or DPP.

MAJOR REQUIREMENT: CREATE A CULTURAL PRESERVE

Requirement Details

- Hawaiian Memorial will create the cultural preserve (FF 325).
- Access to the Cultural Preserve will be ****THROUGH THE MAIN ENTRANCE OF HAWAIIAN MEMORIAL PARK**** (FF327)
- Access from Lipalu Street will be managed (gated and restricted) (FF 368)
- HMP shall execute the agreement with the Ko’olaupoko Hawaiian Civic Club. (DO 11)
- In the event the Ko’olaupoko Hawaiian Civic Club does not execute the agreement, then with another local Native Hawaiian Organization, to manage and steward the Cultural Preserve (DO 11)
- 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 for all on-going maintenance of the preserve. Petitioner shall cover reasonable expenses incurred by the Group associated with the management of the preserve, including rockfall hazard mitigation and liability (DO 11)

Our Understanding of Status

- Per Petitioner’s October 2021 Annual Report to the LUC, “Petitioner is preparing an agreement for the consideration of the Ko’olaupoko Hawaiian Civic Club”, and “hopes to present the proposed agreement to the Civic Club immediately after the execution and recordation of the Conservation Easement”.
- We have not heard if progress has been made on the Cultural Preserve establishment, nor have we seen a draft of the agreement.

MAJOR REQUIREMENT: PROTECT BLACKLINE DAMSELFLY

Requirement Details

- HMP shall undertake the following (partial list – limited to pre-earth-moving requirements):
 - Before earth moving activities begin, a minimum 50-meter buffer area above seep will be established and a temporary water line shall be extended to the well (DO 12c)
 - Habitat boundaries shall be reviewed during project final design based on more accurate data and consultation with the State Dept of Land and Natural Resources (DLNR), and the US Fish and Wildlife Service (FWS) (DO 12f)
 - Regular inspection of the seep (DO 12g)
 - Establish an education and outreach program to inform visitors to HMP and adjacent community (DO 12n)

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- Provide for a 164-foot buffer area around the well and seep (FF 151)

Our Understanding of Status

- Per Petitioner's October 2021 Annual Report Response to DO 17, "Petitioner has installed a well monitoring gauge and monitoring has commenced."
- Intervenors observe that no formal educational and outreach program has been done with the adjacent community.
- Intervenors note that Petitioner has **not** stated how frequently "monitoring" is being done and has not stated who is monitoring.

That concludes our summary. Once again, we'd like to thank you, the LUC Staff, and the Land Use Commission for requesting that Hawaiian Memorial Park (HMP) provide a status update on the docket.

Sincerely,



Grant Yoshimori
Intervenor

cc: Curtis Tabata (via email)
Benjamin Matsubara (via email)
Brian Yee (via email)
Dana Viola (via email)