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Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS, LLC, and
KALOKO HEIGHTS INVESTORS, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
Y-O LIMITED PARTNERSHIP

To Amend the Agricultural Land Use District
Boundary to the Urban Land Use District for
Approximately 408.719 Acres of Land at
Kaloko and Kohanaiki, North Kona, Hawaii,
Hawaii TMK Nos.: (3) 7-3-09:19, 20 and 57 to
62.

DOCKET NO. A81-525

**PETITIONER'S FOURTH
SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF MOTION FOR
EXTENSION OF TIME TO APPLY FOR
REDISTRICTING OF PHASE II;
DECLARATION OF WILLIAM W. L.
YUEN; EXHIBIT LIST; EXHIBIT 44;
CERTIFICATE OF SERVICE**

**PETITIONER'S FOURTH SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION FOR EXTENSION OF TIME TO APPLY FOR
REDISTRICTING OF PHASE II**

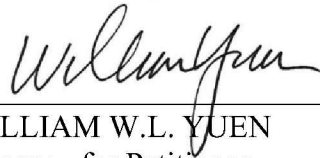
RCFC KALOKO HEIGHTS, LLC, a Delaware limited liability company, KALOKO
HEIGHTS B1A HOLDINGS, LLC, a Delaware limited liability company, and KALOKO
HEIGHTS INVESTORS, LLC, a Delaware limited liability company, Successor Petitioner
("Petitioner") to Y-O Limited Partnership ("Y-O") in the above-captioned docket, by and
through its attorneys Dentons US LLP, submits this Fourth Supplemental Memorandum in

Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present the PowerPoint presentation Petitioner intends to present at the hearing on the Motion.

On November 22, 2022, Petitioner filed a Motion for Extension of Time to Apply for Redistricting of Phase II with the State of Hawaii Land Use Commission (“**Commission**”) to extend the time for Petitioner to request redistricting of approximately 195.246 acres, immediately across Hina Lani Street now identified as Hawaii TMK (3) 7-3-09:19, comprising Phase II of the Kaloko Heights Project (the “**Project**”). On January 4, 2023, Petitioner filed a Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional information and documents to describe Petitioner’s development progress and schedule for future development. On January 6, 2023, Petitioner filed a Second Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional information and documents to describe Petitioner’s development progress and schedule for future development. On January 31, 2023, Petitioner filed a Third Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present copies of archeological studies and plans Petitioner’s predecessors prepared and submitted to the State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“**SHPD**”) that were requested by the Office of Planning and Sustainable Development.

Petitioner now submits this Fourth Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present the attached Exhibit 44, a print out of the PowerPoint presentation Petitioner’s witnesses will present at the hearing on the motion.

DATED: Honolulu, Hawaii, April 7, 2023.



WILLIAM W.L. YUEN
Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS,
LLC, and KALOKO HEIGHTS
INVESTORS, LLC

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DOCKET NO. A81-525


**DECLARATION OF WILLIAM W.L.
YUEN**

DECLARATION OF WILLIAM W.L. YUEN

I, WILLIAM W.L. YUEN, hereby declare:

1. I am a partner in the firm of Dentons US LLP, located at 1001 Bishop Street, Suite 1800, American Savings Tower, Honolulu, Hawaii, 96813, am duly admitted to practice law in the State of Hawaii, and am the attorney for Petitioner, RCFC KALOKO HEIGHTS, LLC, KALOKO HEIGHTS INVESTORS, LLC and KALOKO HEIGHTS B1A HOLDINGS, LLC (“**Petitioner**”) in the above-referenced Docket.
2. I make this Declaration upon my personal knowledge and belief, and I am competent to testify to the matters set forth in the Fourth Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II.
3. Attached as Exhibit 44 is a true copy of the print out of the PowerPoint presentation Petitioner’s witnesses will present at the hearing on the motion. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawaii, on April 7, 2023.



WILLIAM W.L. YUEN

EXHIBIT LIST

Ex. No.	Description
1	Map of Hina Lani Street
2	Agreement dated July 8, 1986 between Water Commission of the County of Hawaii and Y-O Limited Partnership
3	Agreement dated June 14, 1989 between Water Commission of the County of Hawaii and Y-O Limited Partnership
4	Letter dated September 10, 1991 from the Department of Water Supply of the County of Hawaii
5	1999 Conditions for Time Extension of Kona Source Agreement II.
6	Letter dated June 27, 2013 from the Department of Water Supply of the County of Hawaii
7	Letter dated June 30, 2014 from the Department of Water Supply of the County of Hawaii
8	Letter dated March 23, 2017 from the Department of Water Supply of the County of Hawaii
9	Letter dated August 8, 2017 and bill of sale dedicating water tank, transmission lines and easements to the Department of Water Supply of the County of Hawaii
10	Limited Warranty Deed dated April 3, 2017
11	Agreement dated April 19, 2017 between HICDC and the County of Hawaii
12	Assignment of Water Units dated August 15, 2017
13	Affidavit re Subdivision Approval dated November 14, 2019
14	Affordable Housing Agreement (Credits) dated May 14, 2020
15	Kaloko Heights site plan approved by the County of Hawaii on May 8, 1984.
16	Letter dated July 19, 2017, to County of Hawai'i transmitting revised master plan
17	Kealakaa-Holoholo Street Extension Final Report dated February 13, 2013
18	Phase I Topographic Survey
19	Phase I Revised Site Plan Submission
20	Letter dated September 8, 2017 from the County of Hawaii Planning Department
21	Current Kaloko Heights Phase I Site Plan (2019)
22	Submittal of subdivision application for proposed Lot 4 49 lot subdivision
23	Submittal of subdivision application for proposed Lot 7 49 lot subdivision
24	Tentative Approval of the Lot 7 subdivision (SUB-17-001748)
25	Tentative Approval of the Lot 4 subdivision (SUB-17-001779)
26	Final Construction Plan approval for subdivision improvements for a 22 lot increment of SUB-17-001748
27	Final Construction Plan approval for subdivision improvements for a 24 lot increment of SUB-17-001779
28	Hawaii Council Resolution 86-19 dated March 28, 2019
29	Hawaii Council Resolution 158-21 dated July 7, 2021
30	Hawaii County Ordinance 21-67 dated September 8, 2021
31	Hawaii County Ordinance 22-33 dated April 7, 2022
32	Hawaii Council Resolution 618-22 dated November 16, 2022

Ex. No.	Description
33	Letter dated October 2005 from State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“SHPD”)
34	Letter dated June 15, 2006 from SHPD approving the Revised Data Recovery Plan for Kaloko Heights
35	Letter dated June 15, 2006 from SHPD approving the Revised Final Preservation Plan for Kaloko Heights
36	Letter dated November 6, 2006 from SHPD approving the Revised Final Preservation Plan for burial sites at Kaloko Heights
37	Letter dated April 9, 2018 to SHPD confirming that interim construction buffer fencing has been installed at Kaloko Heights
38	Letter dated October 4, 2018 from SHPD determining that no historic properties would be affected by the proposed grading of approximately 57 acres in Kaloko Heights Phase I
39	Revised Archeological Survey of the North Portion of the Kaloko Heights Project
40	Revised Data Recovery Plan for Kaloko Heights
41	Date Recovery Report for Kaloko Heights
42	Preservation Plan for Kaloko Heights
43	Burial Treatment Plan for Kaloko Heights
44	Petitioner’s PowerPoint Presentation

**RCFC Kaloko Heights, LLC
Kaloko Heights B1A Holdings, LLC
Kaloko Heights Investors, LLC**

**Request for Extension of Time to Apply for Redistricting of Phase II
Land Use Commission of the State of Hawaii
Docket No. A81-525**

Request: To allow for an extension of time until January 20, 2033 within which an application for the redistricting of Phase II of the Kaloko Heights Project may be submitted.

Witnesses:

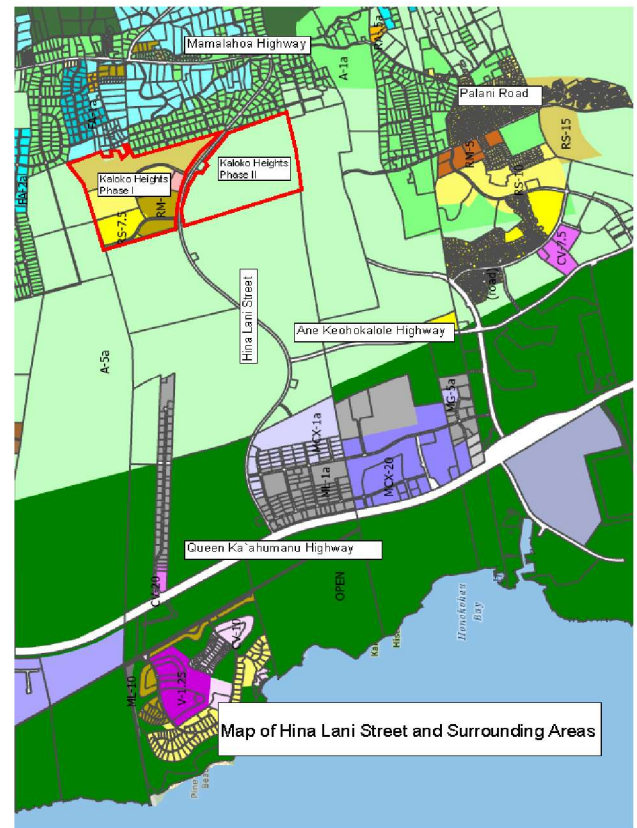
William Moore, William L. Moore Planning, Inc.
Keith Kato, Hawaii Island Community Development Corporation
Mark Meyer, Kaloko Heights Project Manager

Counsel:

William Yuen, Dentons US LLP

Exhibit 44

Kaloko Heights Location Map



State Land Use Boundary
Amendment A81-525
January 19, 1983
Project Description

Representations in Findings of
Fact No. 11 included:

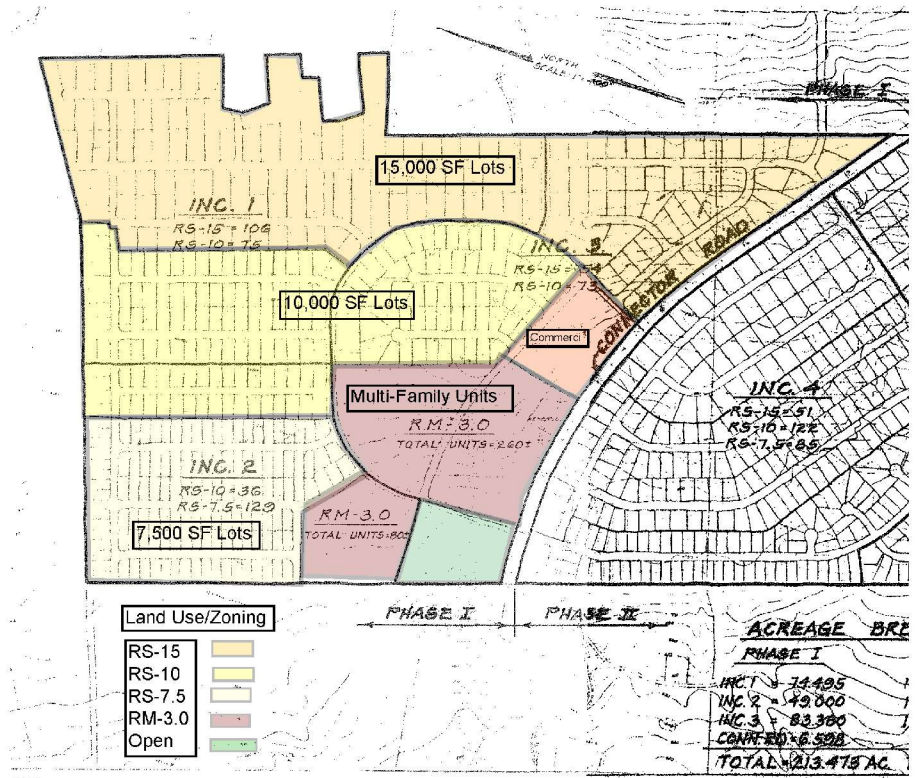
Develop Residential Subdivision
with mix of single family and
multiple family residential
units.

Maximum density of 1,433
units (1,093 RS and 340 RM
units)

5 acre commercial
development

5 Acre park site

2 Water reservoirs



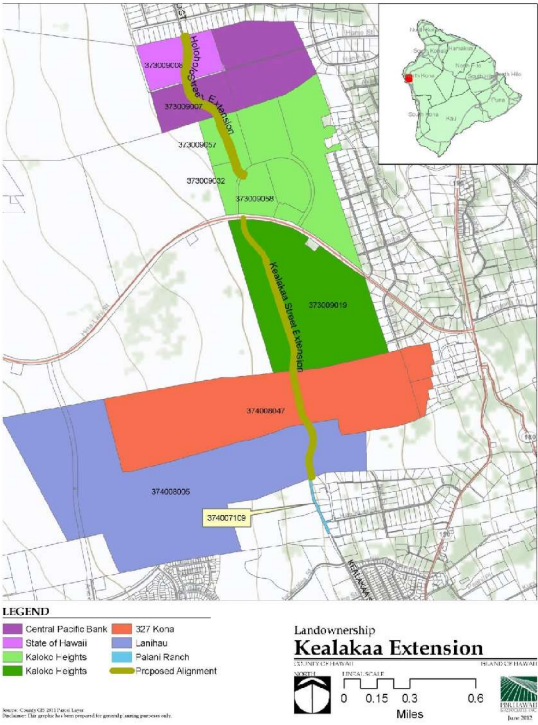
LUC Docket A81-525 Condition Compliance Status

No.	Condition	Status
1	Affordable Housing	<ul style="list-style-type: none"> Donated 10+ acre site and 100 water units to HICDC for development of a 100 unit low-income rental project. Agreed to construct sewer line serving the site at no cost HICDC, avoiding costs to provide an on-site wastewater facility.
2	Access	<ul style="list-style-type: none"> Constructed and dedicated portion of Hina Lani Street connecting Project Area to Hawaii Belt Road and Queen Kaahumanu Highway. Constructed turning lanes and traffic signal at the Hawaii Belt Road/Hina Lani Street intersection.
3	Public Facilities	<ul style="list-style-type: none"> Dedicated two water storage sites to DWS, construction and dedicated 1.0 MG reservoir and water transmission improvements. Constructed water transmission lines within Hina Lani Street and to the 1.0 MG reservoir providing improved water service to the surrounding area. Petitioner executed agreement with DWS that result in the development of a water source for the region. Petitioner has commenced construction of a new sewer line that will be dedicated to the County upon completion, providing sewer service to the Project and adjacent properties including HICDC's Affordable Project.
4	Annual Report	Petitioner has submitted annual reports as required.
5	Release of Conditions	Petitioner has not requested release of any conditions to date.
6	Substantial Compliance with Representations	Project is in substantial compliance with representations to the LUC.

In 2017, the Petitioner Revised the Phase I Site Plan with the following Objectives:

- Realign Holoholo Street to extend through the Project as a “through street” in compliance with Planning Department’s request to provide interconnectivity to the areas to the north. Holoholo Street improvements within the project area will be constructed by Petitioner as adjacent areas are developed to provide interconnectivity to areas to the north.
- Incorporate archaeological preservation areas into Site Plan
- Relocate Affordable Housing Site in accordance with HICDC’s request.
- Relocate park area to include the Road to the Sea Trail alignment and adjacent preservation sites.
- Create road network and subdivision plan that can reasonably balance grading cuts and fills.
- Conform development plans with existing zoning districts.

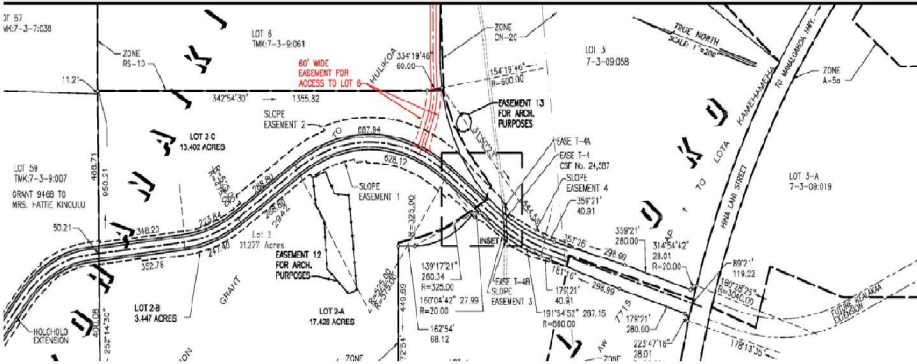
Figure 2. Landownership



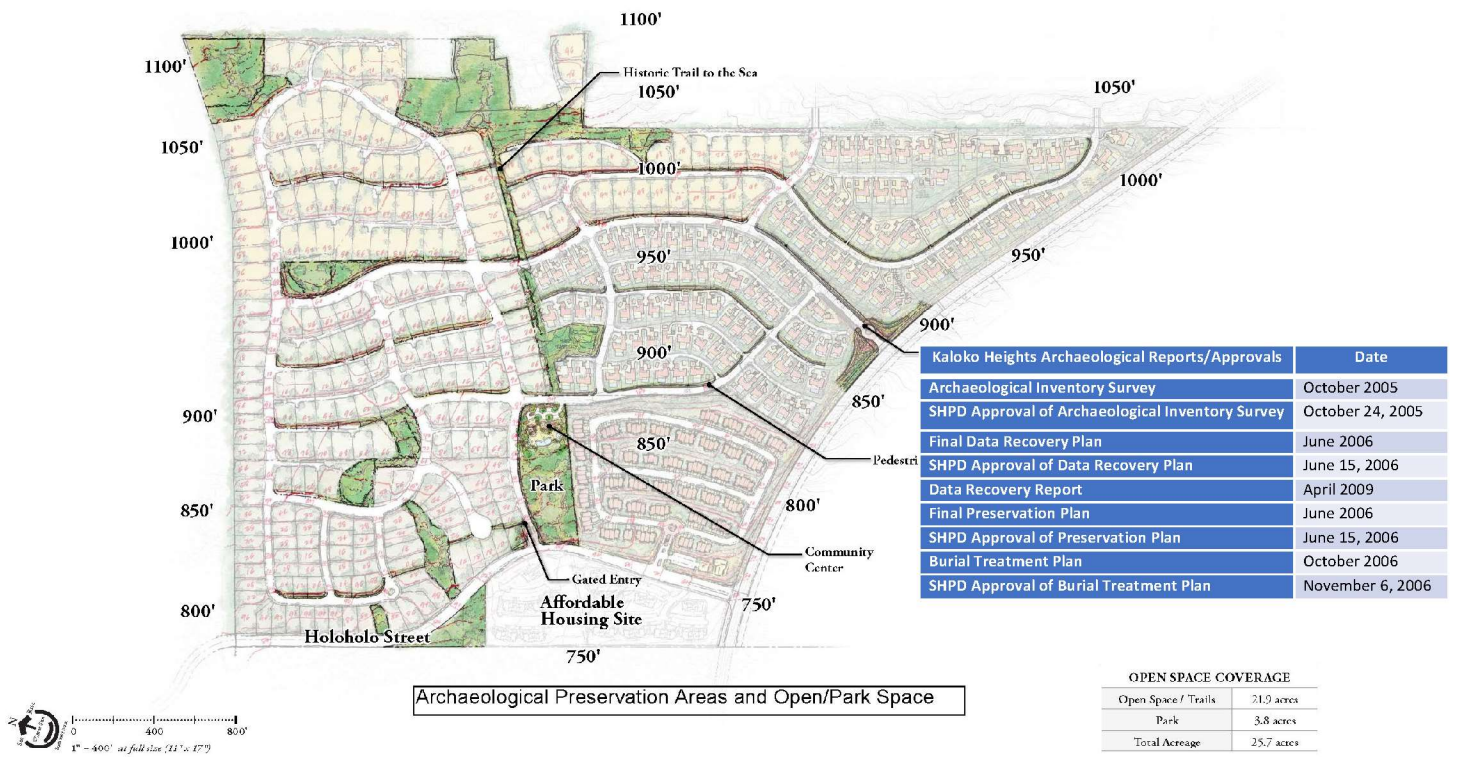
Kealakea-Holoholo Street Extension Final Report

County of Hawaii Planning Department

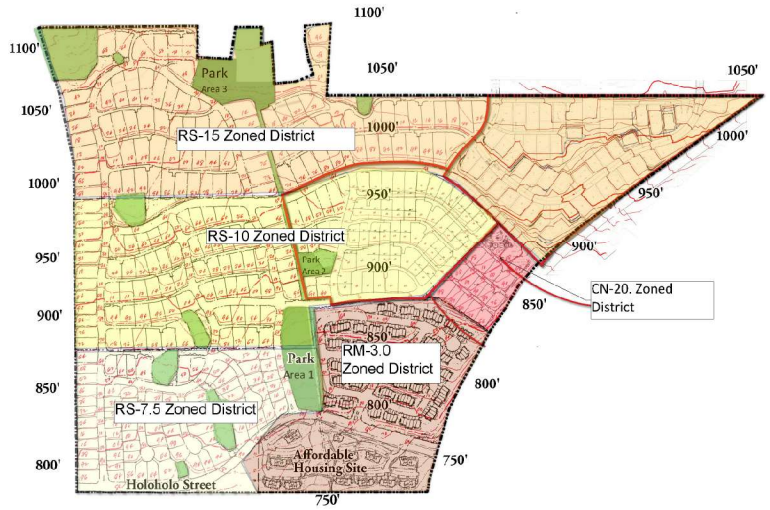
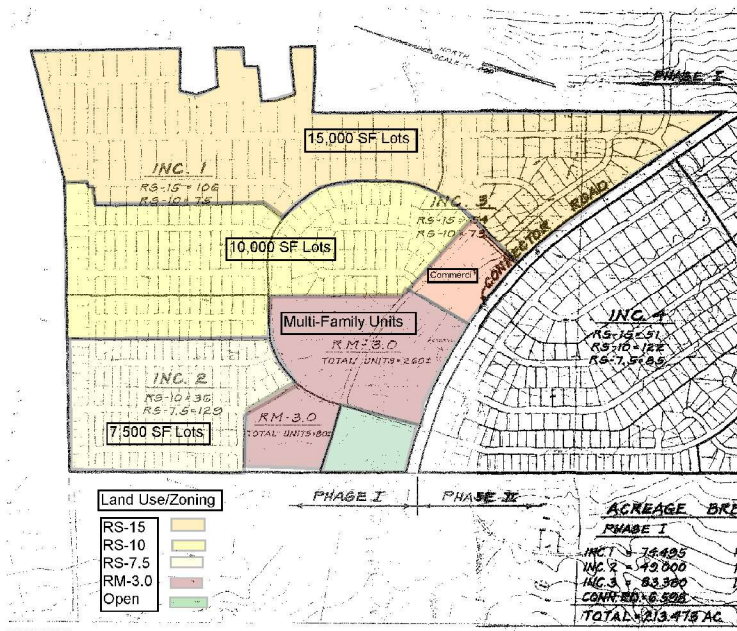
February 13, 2013



Kaloko Heights Archaeological Preservation Area and Open/Park Space



Original and Revised Phase I Master Plans with Zoning



Revised Site Plan Compliance with County Zoning Requirements

The Petitioner represents that the Revised Phase I Site Plan is in substantial compliance with the representations to the Commission based on the following:

- The Kaloko Heights project is a residential development with a mix of single family residential and multiple family units.
- The Revised Site Plan conforms to the existing zoning boundaries.
- While there has been a reduction in the projected density of Phase I from 1,433 to 1,242 units, the product mix is similar (75% single family and 25% multi-family units).
- The overall road network is consistent with the original Schematic Plan, including:
 - Hina Lani Street improvements were constructed as represented.
 - Internal Road intersections with Hina Lani Street are in the same approximate location as originally represented.
 - Internal road network has been realigned to address topographic constraints and to ensure reasonable access to the archaeological preservation sites can be accommodated.
- Two water storage tanks sites have been provided although one of the tank sites is off-site pursuant to DWS requirements.
- The Revised Plan includes a 6± park site.
- The commercial area will be developed for residential uses which is consistent with the permitted uses.

Land Ownership

- 1980-2006 Y-O Limited Partnership acquired the property in 1980.
- 2006-2012 Kaloko Heights Associates, LLC acquired the property in 2006.
- 2013-Present Petitioner acquired the property under a purchase and sale agreement as a result of a financial workout involving a prior developer following the 2008-2009 financial crisis.

Petitioner's Development Accomplishments and Investments 1980-2012

- Secured SLU Boundary Amendment and Zoning for the residential project.
- Constructed portion of Hina Lani Street connecting project area to Hawaii Belt Road which is a major Collector connecting the mauka areas of Kona with Queen Kaahumanu Highway.
- Constructed intersection improvements and traffic signals at the intersection of Hina Lani Street and Hawaii Belt Road.
- Installed water lines as part of the Hina Lani Road Improvements.
- Constructed a 1.0 million gallon reservoir and related transmission improvements.
- Dedicated a 1+ acre portion of the Project Area to DWS for a future water storage facility.
- Secured water commitments for 597,000 gallons of water which would allow the development of up to 1,501 residential units.
- Constructed a 10 MVA electrical substation.
- Secured SHDP approval of the required archaeological plans for Phase I including:
 - Archaeological Inventory Survey
 - Burial Treatment Plan
 - Preservation Plan
 - Mitigation and Monitoring Plan

Hawaii Island Community Development Corporation
Kaloko Affordable Housing Project (100 units)



Project Schedule

- Construction Start – April 2023
- Projected Completion/Initial Occupancy – 4th Quarter 2024

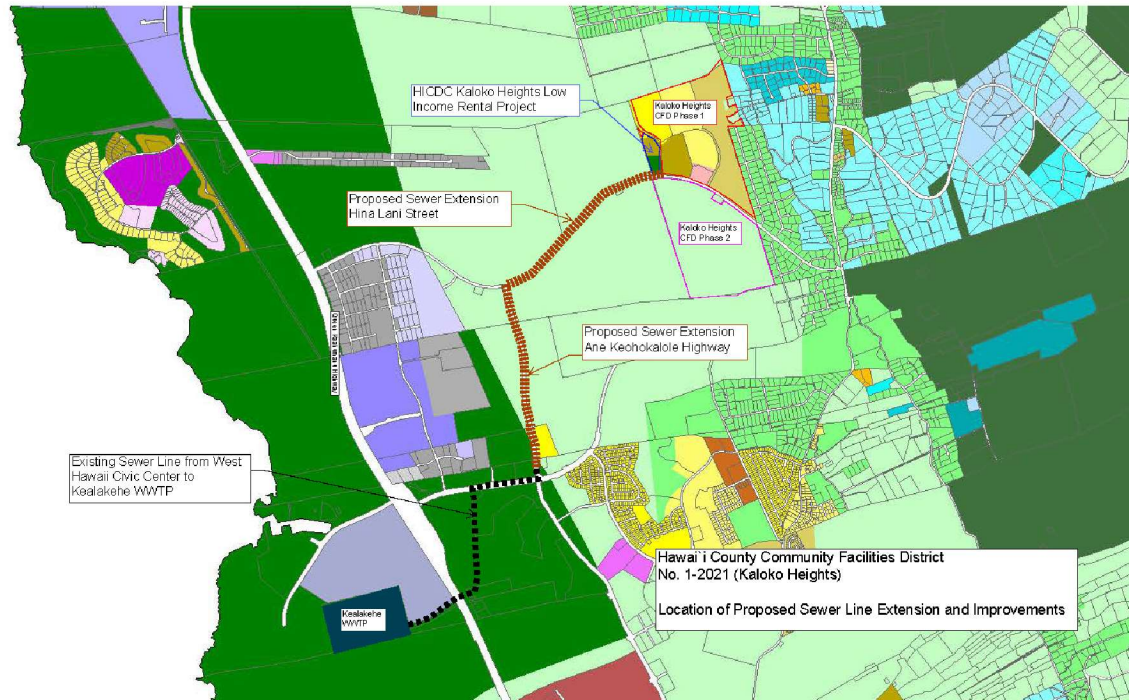
Petitioner's Planning and Development Activities between 2013-2016

- Conduct due diligence to understand status of existing entitlements and activities that were undertaken by prior owners.
- Assembled project management, legal, planning and engineering team to assess development plans.
- Address and resolve outstanding issues including:
 - Resolution of outstanding grading permit violation that was issued in 2010.
 - Completed 1 million gallon water reservoir and related improvements that were partially completed and dedicate them to DWS
 - Finalize Water Facilities Payments to DWS to secure the 1,501 water commitments.
- Completed a topographic survey of the Phase I project area.
- Initiated preliminary engineering assessments including review of drainage studies and prior engineering designs.
- Reviewed status of archaeological approvals and required work.
- Negotiated the housing agreement with the County OHCD and HICDC to provide the 10-acre site and 100 water units for a low-income residential project within the Petition Area.

Petitioner's Development Activities from 2017-Present

- Subdivided and dedicated to HICDC the 10+-acre affordable housing site for development of 100-unit affordable rental project in satisfaction of the Affordable Housing Condition with construction to start in April 2023 and be completed late 2024.
- Planned and permitted a new sewer line connecting the Project Area to the County's Kealahou Wastewater Treatment Plant. Sewer connection will be provided to the Kaloko Affordable Housing Project at no cost to HICDC.
- Executed construction contract in the amount of \$9.6 million for the sewer line improvements and issued Notice to Proceed to Contractor on March 7, 2023.
- Financed the sewer line through the creation of a Community Facilities District which will be paid for by Petitioner by way of special taxes to be assessed against the project.
- Secured approval of Revised Site Plan by the Planning Department and adjusted lot layout to accommodate road lot for future Holoholo Street right of way.
- Secured Development Permits/Approvals
 - Grading Permit to mass grade 57.3 acre area that includes initial phases of the RS-15 and RS-10 subdivision development areas.
 - Tentative Subdivision Approval for the initial development increment in the RS-15 zoned area (49 lots)
 - Tentative Subdivision Approval for the initial development increment in the RS-10 zoned area (49 lots)
 - Construction plan approval for the initial RS-15 increment (22 lots) and the RS-10 increment (24 lots).

Kaloko heights Sewer Improvements



RCFC Kaloko Heights – Initial Dev. Increment (46 Lots)
2023-2025

Action	Date
Commencement of construction of initial subdivision phases (46 lots with anticipated cost of \$15.3 million)	March 2024
Completion and Dedication of Sewer Improvements (cost of 9.66 million)	June 2024
Completion of site improvements and start of residential construction/sales	March 2025
Substantial completion of residential unit construction	March 2026

Petitioner’s Projected Phase 1 Development Activities through 2033

Action	Date
Complete initial subdivision activities	2024-2025
Subdivision and development of future increments within Phase 1	2024-2032

Anticipated Residentials Sales and Development Costs

2025-2028 2029-2032+

@180 units @340 units

Phase I Land Development Costs: \$132 million

Initiate reclassification of Phase II upon LUC concurrence of Substantial Completion of Phase 1

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly mailed via U.S. Mail, postage prepaid, or by hand delivery, or by electronic mail to the following:

Lorene Maki, Planner Office of Planning State of Hawaii, Office of Planning 235 South Beretania Street, 6th Floor Honolulu, HI 96813 Email: lorene.k.maki@hawaii.gov	Zendo Kern, Director Planning Department County of Hawaii 101 Pauahi Street, Suite 3 Hilo, HI 96720 Email: planning@hawaiicounty.gov
Alison S. Kato, Esq. Dept. of the Attorney General CED 425 Queen Street Honolulu, HI 96813 Email: alison.s.kato@hawaii.gov	Elizabeth A. Strance Corporation Counsel Office of the Corporation Counsel County of Hawaii 101 Aupuni Street, Unit 325 Hilo, HI 96720 Email: corpcounsel@hawaiicounty.gov
Keith Kato, Executive Director Hawaii Island Community Development Corporation 100 Pauahi Street Suite 204 Hilo, HI 96720 Email: Keith.hicdc@gmail.com	Nakamoto, Okamoto & Yamamoto 187 Kapiolani Street Hilo, HI 96720 Attn: Alan Okamoto Email: alan@noyhawaii.com

Dated: Honolulu, Hawaii, April 7, 2023.



WILLIAM W. L. YUEN
Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS,
LLC, and KALOKO HEIGHTS
INVESTORS, LLC