

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**



In the Matter of the Petition of

KAONOULU RANCH To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawai‘i; Tax Map Key Nos. 2-2-02:por. of 15 and 3-9-01:16

Docket No. A94-706

TWENTY-SEVENTH ANNUAL REPORT OF PIILANI PROMENADE SOUTH, LLC AND PIILANI PROMENADE NORTH, LLC, SUCCESSOR PETITIONERS TO KAONOULU RANCH (2022); CERTIFICATE OF SERVICE

**TWENTY-SEVENTH ANNUAL REPORT OF
PIILANI PROMENADE SOUTH, LLC AND
PIILANI PROMENADE NORTH, LLC,
SUCCESSOR PETITIONERS TO KAONOULU RANCH (2022)**

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW Piilani Promenade South, LLC (“PPS”), and Piilani Promenade North, LLC (“PPN”) (hereinafter collectively “Piilani”),¹ successors-in-interest to MAUI INDUSTRIAL PARTNERS, LLC, a Delaware limited liability company (“MIP”), in regards to the real property which is the subject matter of Docket No. A94-706, as referenced above (the “Petition Area”), and pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order issued by the State of Hawai‘i Land Use Commission (the “Commission”) on February 10, 1995 (the “D&O”), hereby submits its Twenty-Seventh Annual Report of compliance with the conditions established by the D&O, for the year 2022, as follows:

¹ PPS and PPN are Delaware limited liability companies and the current owners of six of the seven parcels encumbered by the D&O. The parcels owned by Piilani are comprised of the following tax map key parcels: (2) 3-9-001:016 and 170-174 and are referred to collectively hereinafter as the “Piilani Parcels.” The seventh parcel encumbered by the D&O is owned by Honua‘ula Partners, LLC (“Honua‘ula”). Honua‘ula owns tax map key parcel (2) 3-9-001:169, referred to hereinafter as the “Honua‘ula Parcel.” This Annual Report only addresses the Piilani Parcels. Piilani understands that Honua‘ula will file its own separate annual report.

Report on Compliance with Conditions Imposed by Commission

The following states Piilani’s progress in complying with the conditions imposed by the D&O:

- 1. The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.**

The Kihei Makena Community Plan incorporating the required change and designating the Petition Area as Light Industrial was approved on March 20, 1998, and the Change in Zoning application for Light Industrial was approved by the Maui County Council and became effective on May 25, 1999.

- 2. Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works and Waste Management to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.**

Piilani will cooperate with the State Department of Health and the County of Maui Department of Environmental Management, formerly a part of the County of Maui Department of Public Works and Waste Management, when applicable, to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

- 3. Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.**

Piilani will contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Environmental Management.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on

August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of adequate wastewater transmission and disposal facilities, among other items. A copy of the final subdivision approval was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "A"**. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani's predecessors-in-interest was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "B"**, and a copy of the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "C"**.

Piilani's pro-rata share for wastewater treatment will be addressed through assessment paid to the County of Maui at the time building permits are issued.

Plans for the construction of these items were included in the civil construction plans that were submitted to the County of Maui. The County of Maui Department of Environmental Management Wastewater Reclamation Division ("WWRD") is the contemporary successor to the County of Maui Department of Public Works and Waste Management and has jurisdiction over the wastewater treatment, transmission and disposal facilities cited in Condition 3 above. WWRD approved the plans that were submitted. Such approval permits Piilani to construct the sanitary sewer improvements under East Kaonoulu Street that WWRD has deemed necessary for further development of the Petition Area.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

Piilani will fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

5. **Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition Area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.**

Piilani will fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Piilani has obtained design approval of its construction plans from the County of Maui Department of Public Works for the required roadway improvements.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of traffic signal improvements and landscaping/irrigation, among other items. A copy of the final subdivision approval was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "A"**. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani's predecessors-in-interest was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "B"**, and a copy of the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "C"**.

Piilani will provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street. Piilani has received State Department of Transportation approval for its warrant study, and for the installation of a fence and appropriate screening, i.e., landscaping, etc., along the highway right-of-way.

Piilani has also received State Department of Transportation approval for three intersections on East Kaonoulu Street to accommodate future north and southward extensions of the frontage road and connector streets depicted on Exhibit N to the Stipulation and Order filed with the Commission on July 7, 2020 (the “Stipulation”).

6. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

Piilani will fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Piilani has obtained design approval of its construction plans from the County of Maui Department of Water Supply for the required water system improvements.

Piilani received final subdivision approval for Subdivision File No. 2.2995 from the County of Maui Department of Public Works, Development Services Administration on August 14, 2009. A condition of the final subdivision approval was that Piilani deposit a subdivision bond, to be held by the County of Maui, for an amount totaling \$22,058,826.00, to secure the completion of construction of adequate potable and non-potable water source, storage, and transmission facilities and improvements, among other items. A copy of the final subdivision approval was attached to Piilani’s Twenty-Fifth Annual Report as Exhibit “A”. A copy of the Agreement for Subdivision Approval and the Subdivision Bonds filed by Piilani’s predecessors-in-interest was attached to Piilani’s Twenty-Fifth Annual Report as Exhibit “B”, and a copy of

the Assignment and Assumption of Agreement for Subdivision Approval executed by Piilani was attached to Piilani's Twenty-Fifth Annual Report as **Exhibit "C"**.

Plans for the construction of these items were included in the civil construction plans that were submitted to, and approved by, the County of Maui. Among other improvements that will be constructed within and outside of the Petition Area, Piilani has committed to construct and dedicate a 1,000,000-gallon water tank to serve the needs of the Kihei-Makena community.

7. Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.

Piilani will participate in an air quality monitoring program if required by the State Department of Health.

8. Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:

- a. **All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.**

Piilani has obtained design approval of its construction plans from the County of Maui Department of Public Works for the required storm drainage improvements.

- b. **All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.**

Piilani will comply with this condition.

- c. **Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)**

Piilani will comply with this condition.

9. **Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be found, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.**

Piilani will comply with this condition.

10. **A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.**

A long-term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area was reviewed and approved by the State Historic Preservation Division (SHPD Doc. No. 9801BD53). A site inspection was conducted by a staff archeologist from the State Historic Preservation Division on February 10, 1998, and the placement of the boulder (the recommended long term preservation measure pursuant to the preservation plan) met the staff archaeologist's approval.

11. **Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.**

Piilani will contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

12. **Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.**

Piilani will implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

13. **Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to mitigate impacts between future residential activities and the proposed industrial development.**

Piilani will comply with this condition.

14. **In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.**

Piilani will comply with this condition.

15. **Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.**

Piilani will develop the Property in substantial compliance with the representations made to the Commission by the original Petitioner, Kaonoulu Ranch, as set forth in the D&O. Piilani recently amended its construction plans for the Petition Area to make them conform to the new site plan that is Exhibit "N" to the Stipulation. It is currently working with State and County

regulatory agencies to obtain re-approval of these construction plans and the permits needed to construct:

- a) the wastewater improvements referenced in Condition 3;
- b) the roadway improvements referenced in Conditions 5;
- c) the potable water improvements referenced in Condition 6; and
- d) the storm drainage improvements referenced in Condition 8.

Piilani also met with the Maui County Planning Director and Planning Department staff to establish an administrative framework for the processing of development permits within the Petition Area.

- 16. 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.**

Piilani will comply with this condition.

- 17. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Maui 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 include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.**

Piilani will comply with this condition and submits this Twenty-Seventh Annual Report in compliance therewith.

- 18. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawaii Administrative Rules.**

The original Petitioner, Kaonoulu Ranch, recorded that certain Document Listing Conditions to Reclassification of Land, dated April 11, 1995, with the Bureau of Conveyances of

the State of Hawai'i as Document No. 95-049920, pursuant to Section 15-15-92 Hawai'i Administrative Rules.

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

The original Petitioner, Kaonoulu Ranch, recorded that certain Document Listing Conditions to Reclassification of Land, dated April 11, 1995, with the Bureau of Conveyances of the State of Hawai'i as Document No. 95-049920, and has filed a copy of the recorded document with the Commission.

- 20. 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 the Petitioner.**

Piilani acknowledges that the Commission may fully or partially release the conditions provided herein.

DATED: Honolulu, Hawai'i, September 21, 2023.



RANDALL F. SAKUMOTO

Attorney for PIILANI PROMENADE
SOUTH, LLC and PIILANI
PROMENADE NORTH, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I



In the Matter of the Petition of) Docket No. A94-706
)
KAONOULU RANCH to Amend the) CERTIFICATE OF SERVICE
Agricultural Land Use District Boundary)
into the Urban Land Use District for)
Approximately 88 acres at Kaonoulu,)
Makawao-Wailuku, Maui, Hawai'i; Tax)
Map Key Nos. (2) 2-2: por. 15 and)
3-9-01:16)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the following persons by electronic mail ("**EM**"), or by mailing said copy, postage prepaid, first class, in a United States post office ("**M**") or by hand delivery ("**HD**") in the manner indicated, addressed as set forth below:

DANIEL ORODENKER, Executive Officer) Daniel.E.Orodenker@hawaii.gov (M, EM)
Land Use Commission, State of Hawai'i
235 South Beretania Street
Room 406, Leiopapa A Kamehameha Bldg.
Honolulu, Hawai'i 96813

ALISON S. KATO, Esq.) alison.s.kato@hawaii.gov (M, EM)
Deputy Attorney General
State of Hawai'i
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813

MARY ALICE EVANS, Director
Office of Planning and Sustainable
Development, State of Hawai'i
235 South Beretania Street
Room 600, Leiopapa A Kamehameha Bldg.
Honolulu, Hawai'i 96813

(M)

KATHLEEN AOKI, Director
ANN CUA, Planning Supervisor
Planning Department, County of Maui
One Main Plaza
2200 Main Street, Suite 315
Wailuku, Maui, Hawai'i 96793

(M)

VICTORIA J. TAKAYESU, Esq.,
Corporation Counsel
MICHAEL HOPPER, ESQ.
KRISTIN TARNSTROM, ESQ.
Department of Corporation Counsel
200 South High Street, Room 322
Wailuku, Hawai'i 96793

(M)

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CALVERT G. CHIPCHASE, Esq.
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813

cchipchase@cades.com (M, EM)

DATED: Honolulu, Hawai'i, September 21, 2023.



RANDALL F. SAKUMOTO

Attorney for PIILANI PROMENADE
SOUTH, LLC and PIILANI
PROMENADE NORTH, LLC