



MUNEKIYO HIRAGA

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September 19, 2024



Land Use Commission
State of Hawai'i
235 S. Beretania Street, Suite 406
Honolulu, Hawai'i 96813

SUBJECT: 2024 Annual Report for Docket No. A-89-642
Wailuku Project District (Kehalani), Wailuku, Maui, Hawai'i

Dear Honorable Chairperson and Members:

In response to Condition 12 of the Findings of Fact, Conclusions of Law, and Decision and Order, dated January 30, 1990, we are pleased to submit the following report. Please note that this report is being submitted solely on behalf of RCFC Kehalani, LLC and solely with respect to the Wailuku Project District (also sometimes referred to as "Kehalani"). Previously the Petitioner's affiliate, RCFC Piihana, LLC held an ownership interest in certain lands which were a part of the Piihana Project District; however, all such interests have since been sold to a third party.

BACKGROUND

On January 30, 1990, the Land Use Commission (the "Commission") issued its Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A89-642, granting the reclassification of approximately 624 acres of land situated at Wailuku and Piihana, County of Maui, State of Hawai'i, comprised of approximately 545 acres of land identified on the Tax Maps of the State of Hawai'i as Tax Map Key (TMK) (2)3-5-01:01 (portion), 17 (portion), and (2)3-4-07:02 (portion) (hereinafter referred to as "Wailuku Project District"); and 79 acres identified on the Tax Maps of the State of Hawai'i as TMK (2)3-3-01:16 (portion), 33, and (2)3-4-32:10, 18, and 01 (portion) (hereinafter referred to as "Piihana Project District") from the Agricultural to the Urban Land Use District.

RCFC Kehalani, LLC (the “Petitioner”) has received approvals to develop the property pursuant to Maui County’s three-phase “Project District” zoning ordinance.

The Phase I application for the Wailuku Project District was submitted to the County of Maui in April 1990. This submittal petitioned the County to establish the Project District and define the zoning within them. The proposal was brought before the Maui County Council for review and was approved in November 1991.

The Phase II application for the Wailuku Project District was submitted to the County of Maui in December of 1991. This submittal further refined the designs of the project and the project’s impacts on the surrounding communities. This submittal also set standards for architecture, occupancy, and specific uses within the Project District. The County of Maui has approved the Phase II submittal for the Wailuku Project District.

WAILUKU PROJECT DISTRICT

In 2002, a Phase II Amendment for a 65-acre portion of the Wailuku Project District (Kehalani) was submitted. The amendment reallocated the location of certain uses within the Project District, more specifically it centralized the location of the school and community park. County approval was granted for this request on September 16, 2002.

On June 28, 2016, the Petitioner submitted an amendment to the Wailuku Project District Phase II Land Use Map identifying the residential sub-districts which was approved by the Maui Planning Commission. A copy of the revised land use map was submitted with the 2019 Annual Report.

Phase III approvals are granted by the County of Maui for each individual neighborhood or project. Each approval requires the submittal of such information as site layout, product and landscaping design and a review of compliance with the zoning and Phase II conditions. The Phase III approval process will continue throughout the life of the Project District. To date, Kehalani has received Phase III approvals on all of the 28 planned neighborhoods in the Wailuku Project District. Of the approved neighborhoods, seven (7) are east (makai) of Honoapi’ilani Highway and 21 are west (mauka) of the highway.

UPDATE ON COMPLIANCE WITH LUC CONDITIONS:

- 1. Petitioner shall provide housing opportunities for low, low-moderate, and moderate income residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty percent (30%) of the residential units in each of the Project Districts of the Property, at prices**

which families with an income range of up to one hundred and twenty percent (120%) of the County of Maui's median income can afford, and a number of units equal to at least thirty percent (30%) of the residential units in each of the Project Districts of the Property, at prices which families with an income range of one hundred twenty to one hundred forty percent (120% - 140%) of the County of Maui's median income can afford.

This condition may be fulfilled through construction and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State and the County of Maui.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation and the County of Maui, for the provision of more than ten percent (10%) of the total units of housing affordable to persons with incomes less than eighty percent (80%) of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation and the County of Maui.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income figures published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

Response: The Petitioner continues to work with the Maui County Department of Housing (DH), which was formerly the Maui County Department of Housing and Human Concerns (DHHC), to fulfill the affordable requirements associated with the Project District. As of April 18, 2022 (See DHHC letter dated July 6, 2022 provided in 2023 annual report as Exhibit "A") the Petitioner is in compliance with the affordable housing requirements with the exception for Kehalani Module 2. Kehalani Module 2 is owned by Kehalani Module 2 LLC. Kehalani Module 2 LLC obtained the parcel from Kehalani 217-Maui, LLC on June 30, 2021. The development of Kehalani Module 2 has been completed. The Ownership of Kehalani Module 2 has satisfied their affordable housing

requirements for their 60-lot development by selling lots at affordable prices and using affordable housing credits earned on other developments. The Ownership is awaiting written confirmation from DHHC that the affordable housing requirements have been fully satisfied.

- 2. Petitioner shall prepare, or participate in the preparation of, a regional traffic Impact study to address all traffic Impacts resulting from the Project in coordination with the State Department of Transportation and the County of Maui.**

Petitioner shall participate on a pro rata share basis in the funding and construction of regional transportation improvements identified by, and to the satisfaction of the State Department of Transportation and the County of Maui. The Petitioner shall also fund and construct the transportation improvements in the immediate vicinity, and necessitated by the proposed development as identified by, and to the satisfaction of, the State Department of Transportation and the County of Maui. In addition, Petitioner shall submit construction plans, traffic studies, and drainage reports associated with the Project Districts to the State Department of Transportation and the County of Maui for review and approval.

Response: On July 22, 2022, the Petitioner and the County of Maui entered into an agreement to resolve all of the traffic and roadway conditions for the Project. In accordance with the agreement, the design of the Waiale Improvements is underway. A Traffic Assessment Report and Feasibility Study for Waiale Road was completed on November 2, 2023, and submitted to the County of Maui for review. Based on the County of Maui's comments received on June 10, 2024, the traffic engineer is providing additional analysis of several intersections along Waiale Road. Once approved, the Traffic Assessment Report and Feasibility Study will be used as a basis for the Waiale Roadway improvements design.

- 3. Petitioner shall prepare drainage and erosion control plan and shall fund and construct the necessary drainage improvements.**

Response: Drainage and erosion control plans are required by the County for each phase of development at Kehalani. The Petitioner has agreements with the County of Maui to install regional onsite and offsite drainage improvements that benefit both Kehalani and the surrounding areas. Copies of these agreements were included with the Annual Report for 2009. The drainage improvements are divided into two (2) basic areas, makai (serving areas below Honoapi'ilani Highway) and mauka (serving areas above Honoapi'ilani Highway). Both the makai drainage system and mauka drainage system have been completed. On

October 22, 2014 the County of Maui executed a Satisfaction and Release of the Second Supplemental Unilateral Agreement for the makai drainage improvements. The Petitioner is currently working with the County of Maui in preparing a satisfaction and release document for mauka drainage improvement along with the necessary easement agreements to convey the mauka drainage system to the County of Maui for maintenance.

4. Petitioner shall provide the necessary water source and transmission facilities to service the Project.

Response: The Petitioner continues to work with the Maui County Department of Water Supply (DWS) to address water system needs. The Agreement for Implementation of Water Master Plan for Kehalani and First Amendment to Agreement for Implementation of Water Master Plan outlines various water storage and transmission system improvements required at Kehalani. These Agreements were submitted with the 2009 Annual Report. The Petitioner is current with the requirements under these Agreements.

Currently, the Petitioner is working with the DWS in developing the Kehalani mid-level booster pump system. This Project is currently under construction and is anticipated to be completed in 2025. This improvement will allow the DWS to pump water from the Iao Water Storage Tank to the Kehalani Mid-level Tank.

5. Petitioner shall pay its pro rata share to expand or improve the existing Kahului Wastewater Treatment Plant and/or route the wastewater to be generated by the Project to the proposed new Central Maui Wastewater Treatment Plant to the satisfaction of the County of Maui, Department of Public Works, and the State Department of Health. Petitioner shall also participate in the funding of the proposed new wastewater treatment plant and required transmission lines.

Response: In January 1990, the planned expansion of the Kahului Wastewater Treatment Plant was completed. The plant's capacity was increased from 6.0 to 7.9 million gallons per day. The increased capacity of the Kahului Wastewater Treatment Plant was anticipated to provide sufficient capacity for the Project. The Petitioner also entered into an agreement with the County of Maui to upgrade existing offsite sewer collection systems downstream of the Project. The offsite sewer collection system upgrades are completed. Petitioner has also paid impact fees on a per-unit basis to the County of Maui for the expansion of the Kahului Wastewater treatment facility from 1994 through 2017. On November 3, 2017, the County of Maui discontinued the collection of the impact fee as the fees collected repaid the costs of the treatment facility expansion.

6. **Petitioner shall inform all prospective occupants of the Hawaii Right-to-Farm act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.**

Response: Petitioner has prepared a disclosure form for its sales packages, and will include restrictive covenants on all deeds for lots to be sold or leases for occupation in the Project disclosing the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farm activities may be deemed a nuisance.

7. **Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.**

Response: The process of developing 14 acres for an elementary school site within the Wailuku Project District has been finalized. The State Department of Education (DOE) completed construction of the new elementary school and the school opened on August 4, 2013. The warranty deed to the DOE has been executed and recorded. The Educational Contribution Agreement for Wailuku Project District and related amendments document the Petitioner's satisfaction of its pro rata share requirements for education at Kehalani. Copies of these agreements and amendments were included in previous reports.

8. **Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui.**

Response: Petitioner is committed to provide its prorata share for police, fire, park, and solid waste disposal. The Wailuku Project District includes areas for private and neighborhood parks. On December 3, 2012, Petitioner entered into a new park assessment agreement with the County of Maui for the Wailuku Project District. The agreement required the development of the Mauka and Makai Parks and pocket parks within the Wailuku Project District. The agreement and associated Maui County Council Resolution 12-92 was previously submitted with the 2014 Annual Report.

Construction of the Makai Park was initiated in March 2014 and completed and conveyed to the County of Maui in May 2015. Petitioner completed construction of the Mauka Park in June 2017 and on March 5, 2018 the Mauka Park land and improvements were conveyed to the County of Maui via a warranty deed.

With respect to the pocket parks, three (3) pocket parks have been completed and are being maintained by the Kehalani Community Association.

On October 6, 2021, the County of Maui, Department of Parks and Recreation confirmed that the Petitioner was in compliance with the Parks and Open Space requirements for the Project.

On February 8, 2022, the Petitioner entered into a memorandum of agreement with the County of Maui to construct a community center for the Kehalani Community Association. Upon completion of the community center, the underlying land and community center will be conveyed to the Kehalani Community Association for its use. The subdivision of the parcel, as required by the agreement, is currently in progress. The design of the community center has been completed and plans have been submitted for permits. Upon subdivision approval and receipt of the required permits, the construction of the community center shall commence.

9. **Petitioner shall perform further subsurface testing of the Piihana Project District to the satisfaction of the State Historic Preservation Office. Petitioner shall also submit a mitigation plan to the State Historic Preservation Office for review and approval.**

Petitioner shall immediately stop work and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the Project's development.

Response: The first paragraph of this condition does not apply to the Wailuku (Kehalani) Project District. The Petitioner acknowledges paragraph two of this condition and will comply with this condition.

10. **Petitioner shall develop the Property in substantial compliance with the representations made to the Land Use Commission in obtaining the reclassification of the Property.**

Response: Project District Phase II approval has been received from the County of Maui. The Project District Phase II approval process is a public hearing process. The Maui Planning Commission reviews more specific site plans, architectural designs and imposes additional conditions to the development. Also, Project District Phase III approval has been obtained on all of the 28 planned neighborhoods within the Project. During the Phase III approval process the County of Maui Planning Director reviews plans for site and conceptual building design to ensure its compliance with representations made at the Phase I and II approval process. The plans provided to the County of Maui are substantially in keeping with the information provided to the Commission.

- 11. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property covered by the approved petition, prior to the development of the Property.**

Response:

The Commission was notified of the following conveyances for the Wailuku Project District in previous Annual Reports.

- A. All undeveloped land at Kehalani, including the Kehalani Village Center was conveyed to RCFC Kehalani, LLC on July 22, 2013.
- B. On August 11, 2014, Module 19, identified as TMK (2)3-5-001:090, was conveyed to HBT OF KEHALANI LLC on August 11, 2014.
- C. On December 23, 2015, Module 14, identified as TMK (2)3-5-001:110, was conveyed to D.R. Horton-Schuler Homes, LLC.
- D. On January 4, 2016 Lot P-2-A, identified as TMK (2)3-5-001:106, was conveyed to the County of Maui (Wailuku Well No. 1 Site).
- E. On January 4, 2016, Lot T-1, identified as TMK (2)3-5-001:091, was conveyed to the County of Maui (Iao Water Tank Site).
- F. On April 16, 2016, Modules 12 and 13, identified as TMK (2)3-5-001:108 and 109, were conveyed to Kehalani Investors, LLC.
- G. On February 7, 2017, Module 18, identified as TMK (2)3-5-001:089, was conveyed to HBT of Ilima LLC.
- H. On March 8, 2017, Module 9, identified as TMK (2)3-05-001:112, was conveyed to D.R. Horton-Schuler Homes, LLC.
- I. On April 18, 2017, Lot P-3-A, identified as TMK (2)3-5-001:117, was conveyed to the County of Maui (Wailuku Well No. 2 site).
- J. On March 5, 2018, Lot 1-J, identified as TMK (2)3-5-001:080 was conveyed to the County of Maui (Kehalani Mauka Park).

- K. The Petitioner is developing a 25-lot residential subdivision on Module 8 (La'ikeha at Kehalani) identified as TMK Nos. (2)3-5-040:001 to 0028. Petitioner has sold and conveyed six (6) lots to individual buyers in 2019.
- L. On October 12, 2020, Lot P-2-B, identified as TMK (2)3-5-001:100, was conveyed to the Kehalani Community Association. Petitioner improved this parcel as a Park and conveyed it to the Kehalani Community Association for its use.
- M. On June 30, 2021, Module 2, identified as TMK (2)3-5-001:075, was sold by Kehalani 217-Maui, LLC to Kehalani Module 2 LLC. The Petitioner was not involved in this transaction.
- N. On September 10, 2021, Petitioner completed its final sale of the 25-lot residential subdivision on Module 8 (La'ikeha at Kehalani) identified as TMK Nos. (2)3-5-040:001 to 0028.
- O. On December 8, 2023, Modules 3, 6, and 7, identified as TMK (2)3-5-001:113 was conveyed to The Residences of Kehalani LLC.

- 12. Petitioner shall provide 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 the Petitioner's progress in complying with the conditions imposed.**

Response: This report is submitted in compliance with this requirement. Copies of the report are being provided to the Office of Planning and Sustainable Development and the County Department of Planning.

- 13. C. Brewer Properties, Inc. shall enter into an agreement with the Department of Hawaiian Home Lands (DHHL) that Petitioner shall take no action within four years of the date of said Agreement, on Petitioner's Piihana and Wailuku Project Districts, which will jeopardize the ability of DHHL to apply for or obtain an allocation of sewage treatment capacity from the County. Said Agreement shall be recorded within thirty (30) days of the effective date of the Commission's Decision and Order and shall run with the land.**

Response: As noted in previous Annual Reports, DHHL has completed its developments which was not impacted by the subject Wailuku Project District.

14. **In the event that Petitioner should sell its interest in its Piihana and Wailuku Project Districts, the 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.**

Response: In the 2014 Annual Report it was noted that the Kehalani Holdings Company, Inc. conveyed the Kehalani (Wailuku Project District 3) lands to RCFC Kehalani, LLC. In addition, RCFC Kehalani, LLC conveyed property in Kehalani (Wailuku Project District), identified as TMK (2)3-5-001:090 to HBT OF KEHALANI LLC; in 2015 TMK (2)3-5-001:110 to D.R. Horton, Schuler Homes, LLC; in 2016 TMK (2)3-5-001:108 and 109 to Kehalani Investors, LLC, and TMK (2)3-5-001:091 and 106 to the County of Maui; in 2017 TMK(2)-3-5-001:089 to HBT of Ilima LLC; TMK (2)3-5-001:112 to D.R. Horton-Schuler Homes, LLC; TMK (2)3-5-001:117 to County of Maui; in 2018 TMK (2)3-5-001:080 to the County of Maui; in 2019 thru 2021, TMK (2)3-5-040:001 to 025 to individual Buyers; in 2020 TMK (2)2-5-005:100 to the Kehalani Community Association; and in 2023 TMK (2)3-5-001:113 to the Residences of Kehalani LLC. The properties are subject to the terms and conditions set forth in the Commission's Decision and Order.

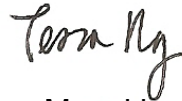
15. **The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.**

Response: At this time, the Petitioner is not requesting release from any of the conditions originally imposed.

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If you have any questions, or require further information with regard to this Annual Report, please do not hesitate to contact me at (808) 983-1233.

Very truly yours,



Tessa Munekiyo Ng, AICP
Vice President

TMN:tn

cc: Brian Ige, RCFC Kehalani, LLC
Randall F. Sakumoto, McCorriston Miller Mukai MacKinnon LLP
Department of Planning
Office of Planning and Sustainable Development

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