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December 11, 2024



Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Re: **2022-2023 Annual Progress Report**
Docket No.: A81-525
Original Petitioner: Y-O Limited Partnership
Successor Petitioner: RCFC Kaloko Heights, LLC
TMK Nos: (3) 7-3-009:019, 32, 57, 58, 59, 60, 61 and 62

Dear Mr. Orodener:

This annual progress report is submitted on behalf of RCFC Kaloko Heights, LLC ("RCFC Kaloko"), Successor Petitioner in Land Use Commission (the "Commission") Docket No. A81-525. By Findings of Fact, Conclusions of Law and Decision and Order filed on January 19, 1983, amended, the Commission reclassified approximately 213.473 acres of land from the Agricultural District to the Urban District ("Increment I"), and granted incremental Urban redistricting to approximately 195.246 acres of land designated as TMK (3) 7-3-003:019 ("Phase II"), all of which are located in Kaloko and Kohanaiki, North Kona, Island of Hawaii. Increment I and Phase II are hereinafter referred to as the "Subject Property."

Since its acquisition of the Subject Property on January 22, 2013, RCFC Kaloko has been involved in preparing development and phasing options for the proposed development. As part of this phased development plan, on April 15, 2016, RCFC conveyed TMK (3) 7-3-009:019, consisting of the Phase II lands located on the south side of Hina Lani Street, to an affiliate entity, Kaloko Heights Investors, LLC, a Delaware limited liability company ("KHI").

As an initial component of its phased development approach, RCFC Kaloko has submitted a subdivision application for a 50-lot subdivision (inclusive of a road lot) for lots consistent with the RS-15 zoning for the area comprising a portion of TMK (3) 7-3-009:062 ("Parcel 62").

In mid-December of 2017, RCFC Kaloko conveyed TMK (3) 7-3-009:059 ("Parcel 59") to an affiliate development entity, Kaloko Heights B1A Holdings, LLC, a Delaware limited liability company ("B1A"), for the development of said parcel consistent with its RS-10 zoning. On December 22, 2017, a subdivision application for a 49-lot subdivision was submitted to the Planning Department for Parcel 59 by B1A. The subdivision applications were submitted in

Law Offices of Yeh & Kim

Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
December 11, 2024
Page 2

conjunction with the Planning Department's September 8, 2017 approval of a revised master plan for Increment I of the project.

As to compliance with the affordable housing condition of said Decision and Order ("Condition 1"), RCFC Kaloko entered into an agreement with the Hawaii Island Housing Community Development Corporation ("HICDC"), a Hawaii non-profit corporation with substantial experience in the development of affordable housing projects on Hawaii Island, to develop a minimum of eighty (80) affordable housing units on Increment I of the Subject Property, primarily consisting of rental and "self-help" units. In conjunction with this plan and in recognition of the need for affordable rental housing in West Hawaii, on October 13, 2016, the Commission approved an amendment to Condition 1 which expressly authorizes the development of such rental units to satisfy the affordable housing condition. HICDC has reported that the units are to receive its first occupants in December of 2024.

Given the approved amendment to Condition 1, in April of 2017, RCFC Kaloko dedicated TMK (3) 7-3-009:032 (approximately 10.755 acres) to HICDC for the affordable housing project. RCFC Kaloko also assigned a total of 100 water units for HICDC's project, which assignment has been recognized by the Department of Water Supply of the County of Hawaii. As of October 24, 2024, HICDC has completed the development of the affordable rental project and was issued a certificate of occupancy for its 100 unit affordable housing development on the land, of which 99 units are for affordable housing occupants, with the remaining unit to be used for its resident manager.

As to infrastructure development, RCFC Kaloko has now completed the design of the entrance and first section of the road serving the initial Increment I development. In addition, as of June 2014, the County of Hawaii Department of Water Supply confirmed that the prevailing facilities charge for 1,494 water units to serve both the Increment I and Phase II projects had been satisfied, and the total amount of payments and credits with DWS is now \$9,090,990.

Upgrades to an existing water tank and pump system located on the water tank site previously dedicated to the County were also completed, and the water tank system components together with water lines were dedicated to the Department of Water Supply of the County on August 8, 2017, following flow tests on the system for inclusion and operation as part of the DWS' integrated water system for the area. On June 27, 2017, the Board of Water Supply had approved acceptance of the tank and pump system for dedication.

In more recent developments RCFC Kaloko has now completed the installation and connection of wastewater transmission lines from the project area, including the HICDC lands, to the County's wastewater treatment plant at Kealakehe ("WWTP"). The entire system was approved by the County of Hawaii as of October 16, 2024, and wastewater from HICDC's affordable housing project and the development at Kaloko Heights can now be treated at the

Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
December 11, 2024
Page 3

WWTP or at a future treatment plant as the need arises. The funding for the wastewater connection was completed through community facilities district (“CFD”) financing coordinated by the County of Hawaii, as previously reported in the November 22, 2022 annual progress report.

In compliance with Condition 4 of the Decision and Order, as amended, RCFC Kaloko hereby submits this annual report to provide the Commission with an update since RCFC Kaloko’s progress report dated November 22, 2022, and represents the current status of the project through the date of this report.

Regarding compliance with the conditions of the Decision and Order, as amended, RCFC Kaloko offers the following, listing in order the governmental “Condition” and RCFC Kaloko’s “Response.”

Compliance with Conditions of Approval in Docket No. A81-525

Condition 1 (as amended by the Commission on November 22, 2016): **Petitioner shall provide housing opportunities for low- and moderate-income residents, by offering for sale or rental, on a preferential basis, on its own or in cooperation with both the Hawaii Housing Finance and Development Corporation (“HHFDC”) and the County of Hawaii, affordable housing units equivalent to ten percent (10%) of the lots and residential units to be developed in the Petition Area, to residents of the State of Hawaii of low- and moderate-income as determined by HHFDC and County of Hawaii Office of Housing and Community Development (“OHCD”) from time to time (the “Affordable Housing Requirement”). The affordable housing units shall be offered for sale or rent at prices or rents not exceeding prices or rents (“Affordable Prices”) that enable such purchasers and renters to qualify for and obtain state-assisted financing (e.g., Hula Mae) or federally-insured or assisted financing (e.g., FHA Section 245 Program) intended to encourage home ownership by low and moderate income families, or that provide affordable rental housing opportunities to such families. This affordable housing condition shall be implemented to the satisfaction of OHCD.**

Response: Petitioner has partially satisfied this Condition as to 990 units to be developed in the petition area. As discussed above, RCFC Kaloko has dedicated land in Increment I for development of the affordable housing project to HICDC and has also transferred a total of 100 water commitments necessary for the development of the affordable housing project to HICDC in accordance with its agreements with HICDC. With the recent completion of the sewer line improvements, HICDC has secured its Occupancy Permit for completed project, of which there are a total of 99 affordable rental units and 1 manager’s unit on the affordable

Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
December 11, 2024
Page 4

housing project site. The sewerline improvements now serve the HICDC project as well as the Kaloko Heights development area.

Condition 2: Petitioner shall afford lot purchasers public access from the subject property to Queen Kaahumanu Highway and to Mamalahoa Highway by participating in the construction of a roadway connecting the two highways and running through the subject property, the location and standard of design and construction of such roadway to be approved and accepted by the County of Hawaii. The Petitioner shall be responsible for constructing such portions of the roadway within the subject property. The Petitioner's participation for the portions of the roadway outside the subject property may be by way of loans, loan guarantees, purchase of county obligations or otherwise.

Response: This Condition has been satisfied. As indicated in previous annual reports, Hina Lani Street, which extends beyond the Subject Property and runs from Queen Kaahumanu Highway to Mamalahoa Highway, was constructed and accepted by the County for dedication and has since been used by the public. In addition, the street lighting system and water transmission lines within the Subject Property have been completed and dedicated to the County. The channelized intersections at Mamalahoa Highway and Hina Lani Street, and at Queen Kaahumanu Highway and Hina Lani Street, are complete and have been accepted for dedication by the State Department of Transportation, Highways Division. The \$9,000,000 bond that was put up to construct the aforementioned roadway improvements along Hina Lani Street was satisfied in full as of September 2010.

Condition 3: Petitioner shall dedicate to appropriate State and County Agencies sufficient land for the provision of necessary public facilities.

Response: Petitioner will continue to satisfy this Condition. On July 29, 2001, Y-O delivered to the Department of Water Supply ("DWS") a dedication deed, which was accepted by the Department, for an approximately 1.5875-acre parcel of land at TMK (3) 7-4-026:031 to be used as a water reservoir site. As discussed above, RCFC Kaloko has now dedicated the water tank and related infrastructure to complete the conveyance of a 1.0 MG water reservoir to the County of Hawaii Department of Water Supply. Over \$3,000,000 has been spent to build, maintain, upgrade and test the reservoir and its operating components before dedication was accepted by DWS. RCFC Kaloko will also dedicate certain project roadways to the County upon completion.

A 10MVA Substation has also been constructed, including transformer and switchgear, and installed underground 12KV feeder cables and vacuum switch (all of which was energized by HELCO as of December 2006). Total cost of the substation and feeder improvements was approximately \$515,000.

Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
December 11, 2024
Page 5

With the recent completion of the construction of the sewer lines from the project area to the County's Kealakehe wastewater treatment plant, the sewer line and related improvements will also be dedicated to the County, and Petitioner has transmitted the required documentation to the County of Hawaii for acceptance.

Condition 4: Petitioner shall submit annual progress reports to the Commission, Office of State Planning and Hawaii County Planning Department as to its progress in satisfying these conditions.

Response: Petitioner submits this annual report to satisfy Condition 4 for the latter portion of 2022 through the date of this report.

Condition 5: The conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provisions of adequate assurance of satisfaction of these conditions by the Petitioner.

Response: Petitioner will comply with this Condition.

Condition 6: 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.

Response: Petitioner will comply with this Condition. The Subject Property will be developed in substantial compliance with the representations made to the Commission. A revised Master Plan approved by the Planning Department was submitted with the progress report dated January 18, 2018, and is in substantial compliance with the LUC's Decision and Order, as amended, as well as the County of Hawaii's zoning for Increment I of the Project. Petitioner continues to make efforts to develop necessary infrastructure to serve the Project.

Petitioner and its subsidiary has also now received tentative subdivision approval for the initial phases or increments of two subdivisions within the project, being a 22-lot increment for minimum 15,000-square foot lots, and a 24-lot increment for minimum 10,000-square foot lots. Petitioner is making preparations to develop these subdivision increments together with related infrastructure, including primary and secondary access roads, water, electrical and sewer lines, etc., subject to market conditions.

Condition 7: 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.

Law Offices of Yeh & Kim

Daniel Orodener, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
December 11, 2024
Page 6

Response: Petitioner will comply with this Condition. As discussed above, Parcel 19 was conveyed to the KHI entity, and Parcel 59 was recently conveyed to the B1A development entity which is now seeking the County's approval of a subdivision for that parcel under RS-10 zoning.

Thank you for the opportunity to present Petitioner's annual report for 2022 through the date of this report. RCFC Kaloko trusts that this annual report sufficiently apprises the Commission of the present status of the Subject Property. RCFC Kaloko is pleased to report this substantial progress towards developing Increment I and completion of all required offsite infrastructure to develop the increment as intended, and it remains committed to satisfying the conditions of the LUC approval. Should you need more information, please do not hesitate to contact me.

Very truly yours,

LAW OFFICES OF YEH & KIM



THOMAS L. H. YEH

cc: Office of State Planning
Hawaii County Planning Department
ec: RCFC Kaloko Heights, LLC
Kaloko Heights Investors, LLC
Kaloko Heights B1A Holdings, LLC