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## LETTER OF TRANSMITTAL

To: Mr. Daniel E. Orodenker  
Executive Officer  
State of Hawaii  
Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

Date: February 11, 2022

From: David G. Brittin, Esq.

VIA U.S. MAIL

Re: PRW Princeville Development Company LLC

File: 28523-63

2022 FEB 15 AM 11:04  
LAND USE COMMISSION

I am transmitting to you one (1) original and two (2) copies of the following:

1. Annual Progress Report Land Use Commission Docket No.A83-557

For your information  
 For your files  
 Per our agreement  
 Per our conversation  
 Approved  
 Approved as noted

For necessary action  
 For execution and return  
 For filing  
 For payment  
 For distribution  
 Disapproved  
(XX) See remarks below

REMARKS: If you have any questions, please feel free to contact me at (808) 547-5400.  
Thank you.

By   
\_\_\_\_\_  
David G. Brittin

DGB:2022-170  
Enclosures

28523/63/3722291.1

PRW PRINCEVILLE DEVELOPMENT COMPANY LLC  
1100 Alakea Street, Suite 2500  
Honolulu, Hawaii 96813

February 9, 2022

Mr. Daniel E. Orodenker  
Executive Officer  
State of Hawaii  
Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

Re: Annual Progress Report  
Land Use Commission Docket No. A83-557

Dear Mr. Orodenker:

PRW Princeville Development Company LLC ("PRW Princeville") hereby submits its Annual Progress Report pursuant to the conditions set forth in the State Land Use Commission ("Commission") Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A83-557, dated July 1, 2011 (the "Decision and Order"). An original and two copies are being submitted to the Commission. Pursuant to the Decision and Order, copies are being submitted to the Office of State Planning, County of Kauai Department of Planning, and to Teresa Tico, Esq., the last known attorney for Intervenor Concerned Citizens of Anini.

I. Project Status

Since the last annual report, there has been no change in the project status. However, PRW Princeville hereby informs the Commission that PRW Princeville and North Shore Preserve, Inc., a Delaware corporation ("NSP") have terminated the Option Agreement with respect to Units 40-73, and in its place entered into that certain Purchase and Sale Agreement dated August 18, 2021, which permits the acquisition of Units 40-73 tranches. NSP closed on the first tranche of units consisting of Units 41, 42, and 52-59, inclusive. PRW understands NSP has commenced sales of units owned by NSP to the public.

NSP recorded (i) that certain Second Amended and Restated Declaration of Condominium Property Regime for North Shore Preserve Oceanside Ranch, dated December 16, 2021, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. A-80240641, as supplemented by that certain Supplemental Declaration of Condominium Property Regime of North Shore Preserve Oceanside Ranch, recorded in the Bureau as Document No. A-80390565, (ii) amended the Second Amended Condominium Map, and (iii) amended and restated the Community Rules. Concurrently, PRW Princeville, in its capacity as Declarant under the Master Declaration, has (i) amended and restated the Restrictive Covenants by that certain Second Amended and Restated Restrictive Covenants for the North Shore Preserve Oceanside Ranch Subdivision, dated December 16, 2021, recorded at the Bureau of

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Conveyances of the State of Hawaii as Document No. A-80240640, and (ii) amended and restated the North Shore Preserve Association, Inc. Rules and Regulations.

II. Commission Conditions.

Listed below are the conditions imposed under the Decision and Order and the status of activities pertaining to each respective condition. Many of the conditions will be addressed or complied with as further progress on the project is achieved.

1. *The Subject Area's maximum of 18 homesites will be capped by Petitioner through Housing Agreement (Doc. 2010-158386), and through Conditions, Covenants, and Restrictions ("CCRs").*

Status: This condition has been satisfied. Pursuant to the Community documents, 16 homesites were established within the Subject Area in substantially the same configuration as Exhibit "A" attached to the Decision and Order.

2. *Petitioner will implement consultant recommendations for the koai'a specimens on the Subject Area, including a program for seed collection, propagation, and outplanting in consultation with the State Department of Land and Natural Resources, Forestry and Wildlife Division.*

Status: PRW Princeville retained an expert arborist, Kevin Eckert of Arbor Global LLC, to develop the koai'a seed propagation and outplanting program. Mr. Eckert conferred with the Department of Land and Natural Resources, Forestry and Wildlife Division, and the koai'a seed propagation and outplanting program is in progress.

3. *An Endangered Species Awareness Program will be developed, which includes general information on the endangered species act and protected species, specific restrictions that will be in force on the job site to protect endangered species, and a set of protocols on who, and how job site personnel will respond to any downed or injured endangered species that may occur on the site. The Endangered Species Awareness Program will be implemented by the master developer as well as individual homesite developers.*

Status: PRW Princeville has developed an Endangered Species Awareness Program. Each purchaser will be provided a copy of the Endangered Species Awareness Program.

4. *If construction activity is planned to occur during the Nene nesting season, which typically runs from October through March on Kaua'i, the Subject Area and individual homesite areas will be surveyed by a qualified biologist before the onset of nesting, to determine if there is any active Nene nesting activity occurring on the site. If active Nene nesting does occur while construction is ongoing, a Nene monitoring protocol will be in place to ensure that no harm befalls the birds.*

Status: This restriction has been incorporated into the Restrictive Covenants. The Nene nesting protocol is included in the endangered species awareness program, which will be implemented as part of the design review process.

5. *All exterior lighting associated with the operation of the proposed development and homesites will be shielded so as to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.*

Status: This condition is included within the Design Guidelines for the Community.

6. *Although not detected, Hawaiian Hoary bats have been recorded foraging for insects over the Subject Area in the past. To the degree that any clearing of vegetation in gulches occurs, all contractors will be advised to avoid clearing and grubbing in the months of June and July to avoid disturbing female bats carrying pups as recommended by Petitioner's consultant.*

Status: This condition has been incorporated into the Restrictive Covenants and the endangered species awareness program, and will be implemented as part of the design review process.

7. *There are no federally or state listed endangered or threatened species on the Subject Area. There is also no federally designated Critical Habitat for any invertebrate species on or adjacent to the Subject Area. The homesite development activity on the Subject Area is not expected to threaten entire species or entire populations of invertebrates. Petitioner's compliance with its consultant's recommendation to discourage removing native flora environments, including on steep slopes, and in ravines should provide habitats for the few native invertebrate species.*

Status: The Design Guidelines contain provisions discouraging the removal of native flora.

8. *The development on the Subject Area will have minimal to no impacts on Hawaiian cultural beliefs, practices, resources (historic and/or cultural properties), sites, and traditions. If 'iwi or cultural resources are found during the ground disturbance and construction phases of the individual homesites, cultural and lineal descendants of the area and appropriate agencies will be notified and consulted in regard to preparation of appropriate mitigation plans, including a burial treatment plan.*

Status: This requirement has been incorporated into the Community documents.

9. *Kuhio Highway is designated as a Scenic Roadway Corridor in the North Shore Planning District Heritage Resources Map of the County General Plan. The southern border of the Subject Area borders this scenic corridor. To minimize obstruction of views along the highway and public views toward the coast from the highway, homesites will be set away from Kuhio Highway as much as possible and landscape plantings and dwelling orientation and*

*design will be used to both screen noise and traffic from the homesites and preserve view corridors from the highway to the ocean. Setbacks from the bluffs will reduce visual impacts from 'Anini Beach and Kalihi Kai Beach, and drainage valleys will separate the dwellings from the adjacent 'Anini Vista Subdivision. Portions of the dwellings' roof lines may be visible from the highway and from 'Anini Vista. The CCRs will require landscape screening to mitigate adverse visual impacts of the proposed dwellings.*

**Status:** The Community documents include setbacks, roof line restrictions, and landscape mitigation measures that have been developed in consultation with the County to address scenic resource issues.

10. *Short-term impacts from fugitive dust during construction may potentially occur. Because of this, an effective dust control plan for the period of construction will be prepared and implemented.*

**Status:** The Design Guidelines contain requirements for control of fugitive dust emissions during construction.

11. *Petitioner will implement the [traffic] recommendations [contained in the Decision and Order]. With the implementation of the recommendations in the traffic impact report, the Project, including the development on the Subject Area, is not expected to have a significant impact on traffic operations.*

**Status:** PRW Princeville will comply with this condition.

12. *Petitioner will prepare a solid waste management plan for the Project, including the development on the Subject Area, as part of its sustainable development initiatives to reduce the impact that the development will have on the County solid waste management facilities. The solid waste management plan will identify efforts to minimize waste generated by the development during construction and at build out.*

**Status:** This condition has been satisfied. A Solid Waste Management Plan has been adopted and is included in the Restrictive Covenants. Additionally, the initial Design Guidelines contain a chapter entitled "Sustainable Building Strategies" that specifically addresses waste reduction, energy demand reduction, utilization of durable local materials, as well as recycling.

13. *Petitioner will incorporate low impact development designs and practices for onsite storm water management into the design and development of backbone infrastructure and drainage systems to the extent practicable, and will promote the use of low impact development techniques by individual homesite developers. Petitioner will limit clearing of vegetation during construction of backbone infrastructure and CCRs will discourage clearing of vegetation by homeowners and occupants of dwellings to avoid the potential for non-point source pollution of surface and coastal waters due to soil erosion and debris from runoff.*

Status: PRW Princeville will address this condition during the design process. Additionally, the Design Guidelines contain provisions regarding sustainable building strategies, and discourage homeowners from clearing vegetation.

14. *In a letter to OP dated May 6, 2011, the State Civil Defense ("SCD") office requested that Petitioner fund and install at least one 121 DBC solar-powered siren to provide outdoor siren warning coverage in the new development area. A final determination on the placement of the siren will be available as soon as SCD can view the final development plans. Petitioner will consult with SCD in complying with this request.*

Status: The condition is ongoing. Petitioner will continue to work with SCD with respect to a siren for the Subject Area, if SCD determines such a siren is needed. PRW Princeville notes that a new siren was recently installed near Anini Beach, in close proximity to the Subject Area.

15. *Petitioner shall develop the Subject Area, including the implementation of mitigation measures within the Subject Area as recommended by its consultants in the Planning Report attached as Exhibit 1 to the Motion, in substantial compliance with the representations made to the Commission. Failure to so develop the Subject Area may result in reversion of the Subject Area to its former classification, or change to a more appropriate classification.*

Status: PRW Princeville is proceeding with development of the Project in substantial compliance with representations made to the Commission.

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 Subject Area, prior to development of the Subject Area.*

Status: PRW Princeville will comply with this condition. See Item #1 above.

17. *Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, the Planning Department, and Intervenor in connection with the status of the development of the Subject Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.*

Status: This annual report is being filed pursuant to this condition.

18. *The Commission may fully or partially release the conditions provided herein as to all or any portion of the Subject Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.*

Status: This condition is not currently applicable.

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19. *Within seven days of the issuance of the Commission's Decision and Order, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Subject Area is subject to conditions.*

Status: This condition has been satisfied. A Notice of Imposition of Conditions by the Land Use Commission was recorded July 8, 2011 in the Bureau as Document No. 2011-107459.

20. *Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to § 15-15-92HAR.*

Status: This condition has been satisfied. A Declaration of Conditions was recorded in the Bureau as Document No. 2011-110844.

Should you require any further information, please do not hesitate to contact me.

Regards,

PRW Princeville Development Company LLC

By: Commercial Property Advisors, Inc.  
Its Manager



By: \_\_\_\_\_  
Kendall C. Kim  
Its Treasurer