

October 9, 2009

Mr. Orlando Davidson
Executive Officer
Land Use Commission
State of Hawaii
P.O. Box 2359
Honolulu, HI 96804-2359

Subject: 2009 Annual Report for State Land Use Commission
Docket No. A90-657/A&B Properties, Inc. - Kuau Residential

Dear Mr. Davidson:

This constitutes A&B Properties, Inc.'s ("A&B") 2009 annual report for the subject Kuau Residential project.

Project Background

The subject property consists of approximately 71 acres located in Kuau, Maui and owned in fee simple by A&B. The property was planned for residential development in two phases:

- Phase I: 31.8 acres, to be developed into 137 single-family lots and 126 duplex units.
- Phase II: 22 acres, to be developed into 96 single-family lots.

The Land Use Commission ("Commission") granted "Urban" classification of the property in December 1990. At the time of reclassification by the Commission, the property was appropriately designated "Single Family Residential" on the County's Paia-Haiku Community Plan, consistent with its planned residential use. A County Zoning Change from "Agriculture" was the next step in the entitlement process.

In January 1992, A&B filed a Zoning Change application with the County of Maui for the following:

- "R-1" zoning for 31.8 acres, to be developed into 137 single-family residential lots,
- "R-0" zoning for 16.7 acres, to be developed into 163 zero lot-line affordable homes.
- "Park" zoning for 1.9 acres.

Shortly thereafter in May 1992, the County of Maui began its ten-year update of the Paia-Haiku Community Plan. During deliberations concerning the plan various objections to the residential project were voiced. As a result, A&B elected to place the Zoning Change application on hold while these deliberations were ongoing. Discussion concerning the Community Plan update continued for three years until May of 1995. At that time, the Maui County Council adopted the updated Paia-Haiku Community Plan; however, the new plan had changed the “Single Family Residential” designation of the property to “Agriculture”.

Current Development Plan and Ongoing Maui General Plan Update

The development timetable originally presented to the Commission did not anticipate a down-designation of the property on the County’s Paia-Haiku Community Plan. This action has effectively stifled all progress and directly contributed to the project’s delay. A Zoning Change application cannot proceed until a new amendment to the community plan is attained. Also, the County of Maui General Plan requires that a General Plan update process be undertaken prior to commencement of the next decennial Paia-Haiku community plan update. As a result, the community plan update has been delayed. Further, the Maui Planning Department, per its policy memorandum dated January 10, 2008, has indicated that no community plan amendment requests should be submitted while the General Plan update process is ongoing.

The General Plan update process involves the preparation and review of a Maui Island Plan by the General Plan Advisory Committee (GPAC), the Maui Planning Commission and the Maui County Council. The draft Maui Island Plan was issued in April 2008 by the Maui Planning Department and subsequently reviewed by the GPAC. The Maui Planning Commission recently completed its review and included the project area within the future urban growth boundary of the Maui Island Plan. The current schedule anticipates the review and approval process involving the GPAC, Planning Commission and County Council to be completed sometime in late 2010. A&B will continue to be an active participant in the General Plan update process.

A&B devoted considerable resources in attaining the “Urban” classification of the subject property and maintains that the property is suitable for residential use. This belief is in part based on A&B’s successful completion of the adjacent 92-unit Kuau Bayview single-family residential project in 1999. Kuau Bayview is situated adjacent and west of the subject property with many of the same physical characteristics as the subject property. Kuau Bayview features lots averaging about 6,800 square feet and homes ranging between 1,000-1,640 square feet in size. Initial sales commenced in 1996 and the project was completely sold out within three years.

As outlined below, the subject property remains appropriately classified “Urban” and suitable for residential use.

- The subject property is both compatible and contiguous with adjacent residential land uses and State land use district boundaries. The property is located adjacent and east of Paia

Town. Abutting lands include predominantly residential uses that are situated in the “Urban” district. The property abuts “Urban”-classified lands to the west (Paia direction) and the north (makai direction) and also surrounds two pockets of “Urban” district lands used for residential purposes. The property is a logical extension of the “Urban” district and does not contribute toward scattered spot urban development.

- The property is situated in close proximity to existing and planned services including water, sewer, schools, roads, parks, police and fire protection. Development of the property will direct urban growth to an area where public facilities are currently available or can be provided with reasonable expenditure. Adequate infrastructure either exists or can be made available with reasonable improvements and upgrades.
- The property is well-suited for residential development, being reasonably free from the dangers of flood, tsunami and unstable soil conditions. Drainage improvements, including retention basins to mitigate flood hazard and runoff, similar to that constructed for the adjacent Kuau Bayview subdivision, will be implemented. These improvements will mitigate impacts to the nearshore ocean environment.
- Residential development at the subject property is planned to include market-priced homes as well as a range of affordable housing that will result in broadened housing opportunities for Maui residents.

Although no development progress has been made since the date of the last annual report, A&B continues to believe that from a land use perspective, State “Urban” classification remains the appropriate land use designation for this area. For these reasons, A&B believes that the subject property is appropriately classified Urban for future residential use.

LUC Conditions: Listed below are each of the conditions imposed by the Commission and their status. In light of the project status described above, most of the imposed conditions will be addressed or complied with as further progress on the project is achieved.

Condition No. 1: Petitioner shall provide affordable housing opportunities for residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty (30%) of the residential units in the petition area at prices which families with an income range of up to one hundred 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 the petition area 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. Specifically, all affordable units shall be constructed in the petition area.

This condition may be fulfilled through construction and distribution of units in the petition area or through other projects under such terms as may be mutually agreeable, between the Petitioner, the Housing Finance and Development Corporation of the State of Hawaii, 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 ten percent (10%) or more 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 and the County of Maui. With the special credit, the minimum percentage of affordable housing which would be provided by the Petitioner would be fifty percent (50%).

If the special credit option is chosen, the Petitioner shall provide the affordable housing units in the following distribution as deemed to be acceptable by the County of Maui and the State Housing Finance and Development Corporation:

<u>Target Income Group</u>	<u>Percentage of Total Units</u>	
50% of median or less	3%	10%
70% of median or less	4%	
80% of median or less	3%	
90% of median or less	6%	20%
100% of median or less	8%	
120% of median or less	6%	
125% of median or less	6%	20%
130% of median or less	8%	
140% of median or less	6%	

Insofar, as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. If the project is phased as planned, then the affordable units for that phase shall be provided concurrently with the market priced units for the phase. 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 units is commenced.

This condition will be further addressed with the County of Maui at the time of County zoning.

Condition No. 2: Petitioner shall prepare, or participate in the preparation of a regional traffic impact study to address all traffic impacts resulting from this Project as well as other A&B projects in the Paia-Kuau area such as the Makana subdivision in coordination

with the State Department of Transportation and the County of Maui. The traffic impact study should specifically address the benefits if any that a collector road approximating the route of the Paia bypass road would have on the traffic flow on Hana Highway in the Kuau-Paia areas. The study should also examine the road improvements needed at Hookipa Park.

The required study will be performed at such time as the project proceeds with either a zoning change or Community Plan amendment application.

Condition No. 3: Petitioner shall participate in the funding and construction of local and regional transportation improvements on a pro rata fair share basis as determined by the regional traffic impact study and the State Department of Transportation and the County of Maui.

Such traffic improvements shall include but not be limited to:

- a. The signalization of the intersection between Hana Highway and Baldwin Avenue.*
- b. At minimum, Hana Highway should be widened to include 12-feet wide traffic lanes and 6-feet wide shoulders.*
- c. Hana Highway between Mama's Fish House and Hookipa Park should be realigned.*
- d. Installation of pedestrian walkways and bikeways should be considered.*
- e. Parcel C may have only one direct access to Hana Highway.*

In response to concerns raised regarding traffic in the Paia region, A&B worked proactively to develop an interim bypass road to help alleviate traffic during the afternoon peak period. The road allows eastbound vehicles on Hana Highway that are headed to Baldwin Avenue to bypass Paia Town. A&B provided the land and contributed in excess of \$200,000 toward the design and construction of the roadway which opened for use in July 2006. The bypass road has significantly improved eastbound rush hour traffic flow along Hana Highway. As a result, the daily hours of operation of the bypass road have been expanded. This road project was coordinated with the applicable State and County transportation agencies, as well as the surrounding community. Further requirements will be addressed as development of the project progresses.

Condition No. 4: Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements and maintain ocean water quality to the standards of the State Department of Health.

A&B has developed extensive on-site and off-site detention basins to control drainage runoff and to minimize impacts to ocean water quality for A&B's adjacent Kuau Bayview subdivision. A similar drainage system, if approved by the County, would be considered for the subject property.

Condition No. 5: Petitioner shall provide the necessary water source and transmission facilities to service the proposed project.

This condition will be addressed as development of the project progresses.

Condition No. 6: Petitioner shall pay its fair share (on a pro rata basis) to expand or improve the existing Wailuku/Kahului Wastewater Treatment Plant and/or route the wastewater to be generated by the proposed project to the proposed new Central Maui Wastewater Treatment Plant to the standards 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 Central Maui Wastewater Treatment Plant and required transmission lines.

This condition will be addressed as development of the project progresses.

Condition No. 7: 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.

This condition will be complied with as development of the project progresses.

Condition No. 8: Petitioner shall provide its pro rata fair share for school facilities as may be required by and to the satisfaction of the State Department of Education.

Petitioner will discuss measures to provide its fair-share contribution towards public school facilities with the State DOE upon submittal of its application for County zoning.

Condition No. 9: Petitioner shall provide its pro rata fair share for police, fire, park, and solid waste disposal resulting from the development as may be required by and to the satisfaction of and as agreed upon with the County of Maui.

This condition will be addressed as development of the project progresses.

Condition No. 10: Based on traffic projections of residents of planned A&B projects in the Paia-Haiku area utilizing the Hookipa Park facilities, A&B shall contribute their pro rata fair share toward the Hookipa Park expansion project as determined by the County of Maui.

This condition will be addressed as development of the project progresses.

Condition No. 11: 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. Should any sites be found, Petitioner shall formulate an archaeological mitigation plan approval by the State Historic Preservation Division.

This condition will be addressed as development of the project progresses.

Condition No. 12: Petitioner shall participate in an air quality monitoring program as may be agreed upon with the State Department of Health.

This condition will be addressed as development of the project progresses.

Condition No. 13: Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

This condition will be addressed as development of the project progresses.

Condition No. 14: Petitioner shall fund and install the necessary number of emergency siren units within the Property to the satisfaction of the Maui Civil Defense Agency and the State Department of Defense.

This condition will be addressed as development of the project progresses.

Condition No. 15: Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property prior to development of the Property.

This condition is not currently applicable.

Condition No. 16: Petitioner shall provide annual reports to the Land Use 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.

This annual report is submitted pursuant to this condition.

Condition No. 17: Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property. Failure to do so may result in reclassification of the Property to its former land use classification.

In light of the Community Plan change that occurred in 1995, it is no longer possible to develop the property in accordance with the timetable originally envisioned for the project. A Zoning Change application cannot proceed until a new amendment to the Paia-Haiku Community Plan is attained. The appropriate land use designation of the property will be addressed at the next Paia-Haiku Community Plan update process, which will occur after the General Plan update process has been completed. As previously indicated, from a land planning perspective the property continues to remain appropriately designated for urban use, due to the urbanized condition of adjacent and nearby properties, as well as its proximity to existing infrastructure.

Condition No. 18: The Land Use Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

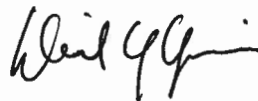
This condition is not currently applicable.

Condition No. 19: In the event that 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.

This condition is not currently applicable.

Please contact me should you require any further information regarding this project. An email .pdf version of this report will also be transmitted to your office for your use.

Sincerely,



Daniel Y. Yasui, AICP
Director, Planning and Entitlement

cc: State Office of Planning
County of Maui Planning Department