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December 4, 2000

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LAND USE COMMISSION
STATE OF HAWAII
2000 DEC -7 P 2:40

To: Esther Ueda, Executive Officer
Land Use Commission

From: Sharyn L. Miyashiro, Acting Executive Director
Sharyn Miyashiro

Subject: Docket No. A90-660 - Annual Report for 2000
Villages of La'i'opua
Kealakehe, Hawaii

Respond by
12/21/00

Pursuant to the Land Use Commission's (LUC) Order in Docket No. A90-660, transmitted herewith is an original and two copies of an annual report on the status of the Villages of La'i'opua development and our progress in complying with conditions imposed by the Commission.

Land Use Commission Action

Reclassification of approximately 727 acres from Agricultural District and Conservation District into Urban District, situated at Kealakehe, North Kona, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key: 7-4-8; portion of 17, now known as Tax Map Keys: 7-4-20: 01 to 07; 7-4-21: 01 to 19, for the development of Villages of La'i'opua was approved by LUC on December 18, 1990.

Project Status

Effective July 1, 1998, the Housing Finance and Development Corporation (HFDC) merged with the Hawaii Housing Authority to form the Housing and Community Development Corporation of Hawaii (HCDCH).

The Department of Land and Natural Resources (DLNR) is the landowner and HCDCH is the master developer of the Villages of La'i'opua project in Kealakehe, Hawaii. A copy of the Villages of La'i'opua site map is attached to this annual report for reference. HCDCH completed the first two components of backbone infrastructure (roadways and utility systems) and dedicated such infrastructure to the State of Hawaii, Department of Transportation (DOT), or the County of Hawaii during 1997 and 1998. Completed

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infrastructure is sufficient to service the high school site, Kealakehe golf course, commercial site, and six residential villages.

The high school construction is on-going, and the first phase was completed in July 1997. The school welcomed its first class of about 400 students on September 2, 1997.

The golf course property was set aside to the County of Hawaii for Kealakehe Wastewater Reclamation Field and North Kona Golf Course purposes, by Governor's Executive Order No. 3665 dated July 18, 1995. No development has occurred pending resolution of a disagreement between the County of Hawaii and its golf course developer, Kealakehe Associates, Inc.

Pursuant to Act 95, Session Laws of Hawaii 1996, HFDC transferred the 51-acre Village 3 property to the Department of Hawaiian Home Lands (DHHL) by Land Patent Grant No. S-15,900 dated May 12, 1997. DHHL completed the development of 225 single-family homes for qualified native Hawaiians in the fall of year 2000. Construction of site improvements began in the first calendar quarter of 1998.

HCDCH is currently negotiating with DHHL and the Department of Land and Natural Resources (DLNR) for the transfer of Village 4 to DHHL for additional residential development. On September 18, 1998 and July 9, 1999, the HCDCH Board of Directors consented to the transfer of Village 4 from DLNR to DHHL pursuant to the terms of draft Village 4 Transfer Agreement. The Village 4 Transfer Agreement was executed by DLNR, DHHL and HCDCH on April 20, 2000. The conveyance documents are being reviewed and approved by the parties. Under the Village 4 Transfer Agreement, DHHL is required to submit annual reports on the status of compliance with the conditions of LUC Docket No. A90-660, directly to the LUC, with a copy to HCDCH.

HCDCH is in discussion with the Department of Accounting and General Services (DAGS) for the development of a State Civic Center project on the adjacent Queen Liliuokalani Trust property, in conjunction with a possible land exchange with property from the Villages of La'i'opua project. The State Civic Center is projected to include a detention facility, judiciary building and a State office building.

On October 16, 1998, the HCDCH Board of Directors approved a right of entry to McClean Honokohau Properties (McClean) for the design, construction and dedication of Road "G" to the County of Hawaii, subject also to necessary approvals by DLNR. Road "G" is a 410' long, 60' wide roadway within the Villages of La'i'opua project which will connect the DOT's Kealakehe Parkway within the Villages of La'i'opua development

to the McClean property to the north. As part of the project, Road "G" will be subdivided out and dedicated to the County of Hawaii. Construction of Road "G" commenced in August 1999 and was completed in the summer of 2000. McClean is in the process of working with DLNR to dedicate the roadway to the County of Hawaii.

On April 19, 2000, McClean submitted a request to HCDCH for a right of entry for the design, construction and dedication of Main Street to the County of Hawaii. Main Street is parallel to, and located mauka of Road "G," and would connect McClean's property with Kealakehe Parkway as does Road "G." HCDCH is reviewing this request.

On July 9, 1999, the HCDCH Board of Directors approved negotiations with Hawaii Youth Patrons (HYP) for the development and leasing of approximately 38 acres of Village 6 for a Youth Center, YMCA and neighborhood park (Hawaii Youth Center), subject to specified conditions including the raising of sufficient funds for such development to the satisfaction of HCDCH by July 9, 2002. On July 19, 2000, the HCDCH Board approved the execution of a development agreement with HYP for the development and operation of the Hawaii Youth Center, subject to approval by DLNR and satisfactory assurances that HYP has sufficient funding to undertake the development and operation of the project.

Development of residential fee simple for-sale housing is on hold pending resolution of the Office of Hawaiian Affairs' (OHA) claim that ceded land cannot be alienated. The OHA claim is being adjudicated in a lawsuit filed against HCDCH on transfer of ceded land for the Villages of Leialii on Maui; trial has been postponed until August 2001. Meanwhile, OHA has not completed its statutory obligations pursuant to Act 318 in order to effect conveyance of the Kealakehe ceded land acreage from the DLNR to HCDCH.

On August 21, 2000, HCDCH filed a motion with the LUC to amend Condition No. 1 of the Decision and Order for this project. The motion sought to amend the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Hawaii, to a requirement that would be mutually agreeable between HCDCH and the County of Hawaii. This matter came up for hearing before the LUC on October 18, 2000 and was continued until February 2001.

In our last status report, it was noted that HCDCH was strictly limiting further land development investment, pending settlement of land title problems. These controls continue, although public uses and expenditures necessary to support public uses approved by the HCDCH Board of Directors are proceeding.

Land Use Conditions

The following is a progress report on conditions imposed by the LUC for the Villages of La'i'opua development:

Condition No. 1:

Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by offering for sale or rent on a preferential basis a number of residential units equal to sixty (60) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes up to 120 percent of the median family income for the County of Hawaii as determined by the U.S. Department of Housing and Urban Development (HUD), based on family size and a number of residential units equal to forty (40) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes greater than 120 percent of the median income for the County of Hawaii.

Status: *In August 2000, HCDCH filed a motion with the LUC to amend the Decision and Order for this project, together with its other master planned projects on Maui (Villages of Leiali'i) and Oahu (Villages of Kapolei), to replace the existing requirement for affordable housing with language that affordable housing be provided under terms which are mutually agreeable between HCDCH and the County of Hawaii. This motion was heard by the LUC on October 18, 2000, and continued until February 2001.*

In the absence of a revision of this LUC requirement for affordable housing, HCDCH plans to offer housing opportunities for low and moderate income residents of the State of Hawaii to purchase or lease a minimum of 60% of all units and/or lots developed at prices which families with incomes of up to 120 percent of the HUD median income for the County of Hawaii can afford. Based on reports from DHHL, approximately 83% of the homes in DHHL's Village 3 development were sold to families with incomes at 120% or below the HUD area median income, even though DHHL has no maximum income restrictions for its buyers.

Condition No. 2:

Petitioner shall design and construct all structures and buildings in compliance with County, State, and Federal codes and standards.

Status: *HCDCH will design and construct all structures and buildings to comply with the County, State, and Federal codes and standards.*

Condition No. 3:

Petitioner shall submit to the County of Hawaii, Department of Public Works (DPW), all master plans for roadways, water, wastewater, drainage, and utilities for review prior to submittal of the individual construction plans for the various villages and non-residential uses.

Status: *All master plans for roadways, water, wastewater, drainage, and utilities have been submitted to the County of Hawaii, DPW for review and approval.*

Condition No. 4:

Petitioner shall coordinate with the State of Hawaii, DLNR, DHHL, and OHA to address the issue of ceded lands.

Status: *HCDCH is attempting to coordinate negotiations in addressing the issue of ceded lands. DHHL is not a party in settlement of ceded lands claims for the Kealakehe site. OHA has not been willing to commence negotiations on compensation, and filed suit on conveyance of public trust lands to HCDCH for the Villages of Leialii ceded lands on Maui.*

Condition No. 5:

There shall be no occupancy of any structures on the property until a permanent solution to the smoke, fumes, and other health hazards associated with the Kealakehe landfill is in place.

Status: *The Kealakehe landfill is closed, and a system of berms and gas exhaust measures have been installed pursuant to an approved closure plan.*

Condition No. 6:

Petitioner shall disclose in its deeds to all initial purchasers of residential units on the property the possible odor, air, noise, and dust pollution resulting from the Kealakehe landfill, and from Queen Kaahumanu Highway, Kealakehe Parkway, Palani Road, and any other roadways which are within or adjacent to the site.

Status: *HCDCH is planning to disclose in its deeds to all initial purchasers of residential units on the property the possible odor, air, noise, and dust pollution resulting from the Kealakehe landfill, and from Queen Kaahumanu Highway, Kealakehe Parkway, Palani Road, and any other roadways which are within or adjacent to the site. DHHL will provide similar disclosures to Village 3 and the proposed Village 4 buyers.*

Condition No. 7:

In residential areas, Petitioner shall be responsible for implementing sound attenuation measures to reduce vehicular traffic noise levels in the petition area, including along Kealakehe Parkway, Palani Road, and other roadways, to levels acceptable to the State of Hawaii, Department of Health (DOH) and DOT.

Status: *Noise attenuating improvements such as landscaping, earth berms, walls, etc. will be incorporated as required along existing and proposed highways.*

Condition No. 8:

Petitioner shall participate in an air quality monitoring program as specified by DOH.

Status: *HCDCH is planning to participate in air quality monitoring program as specified by DOH.*

Condition No. 9:

Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

Status: *Dust control measures such as watering and dust screens, and erosion control measures such as retention basins and diversion channels will be employed as required by law during construction.*

Condition No. 10:

Petitioner shall coordinate with the County of Hawaii, DLNR, other appropriate landowners, and/or other Federal, State, or County agencies regarding measures designed to obtain the required water for the project. Petitioner shall provide the necessary water source, storage, and transmission facilities to service the proposed project.

Status: *The Division of Water and Land Development (DOWALD) is spearheading the coordination of all State agencies requiring water in North Kona to provide the necessary facilities. HFDC signed an interagency Memorandum of Understanding (MOU) to jointly fund water improvements, along with Natural Energy Lab of Hawaii, Department of Transportation - Airports and Harbors, Department of Agriculture, the University of Hawaii - West Hawaii and other agencies. The proportionate share for the Villages of La'i'opua is estimated to be \$16.7 million for water source, storage, and transmission facilities. State CIP funding will be needed to implement the water program outlined in the MOU.*

HCDCH has deferred water source development expenditures until ceded land title and conveyance issues have been resolved.

Condition No. 11:

Petitioner shall connect the wastewater system for the proposed development on the property to the Kealakehe Wastewater Treatment Plant. Construction of the structures within the property shall not commence until the Petitioner has obtained assurances from the County of Hawaii that capacity at this plant and the effluent disposal system has been reserved for the property; provided that, if the capacity at the Kealakehe Wastewater Treatment Plant and effluent disposal system is not sufficient for the

proposed development on the property, Petitioner may utilize other alternatives acceptable to DOH.

Status: *A Wastewater Treatment Facilities Agreement with the County of Hawaii was executed on March 19, 1992, and HCDCH contributed \$5.1 million for assurance of sufficient sewer treatment capacity to service the project. Sewer lines to connect to the County plant were constructed as part of the Phase 2-A backbone infrastructure program. HCDCH advanced more than \$741,000 to construct sewer lines across the proposed golf course, which the golf course developer is legally required to reimburse, but has not yet done so.*

Condition No. 12:

Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified and deemed necessary by DOT and in consultation with the County of Hawaii, DPW. Petitioner shall set aside land for a park and ride facility, transit stop facility and other regional traffic improvements as proposed by applicable transportation agencies. Petitioner shall also participate on a fair share basis in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development of the property and in designs and schedules coordinated with and accepted by the State of Hawaii, DOT, and in consultation with the County of Hawaii, DPW, provided that the extent of Petitioner's participation shall not exceed its fair share of the increased community impacts in the region, and provided further that in the event the County of Hawaii adopts an impact fee for transportation improvements, the foregoing funding requirement may be modified or deleted to the extent that the cost of any specific traffic improvement is also included in the County of Hawaii's impact fee computation.

Status: *HCDCH will work with DOT and the County of Hawaii-DPW to meet transportation needs. HCDCH constructed the Kealakehe Parkway through the project site with CIP funds. Under the Phase 2-A backbone infrastructure program, HCDCH funded and constructed segments of all County-standard roadways required to service six villages and the high school site. Kealakehe Parkway was dedicated to DOT and the balance of the existing roadways were dedicated to the County during 1997 and 1998. Installation of a traffic signal at the intersection of Kealakehe Parkway and Queen Kaahumanu Highway was completed by DOT in September 1997.*

Condition No. 13:

Petitioner shall undertake periodic monitoring of traffic conditions within and adjacent to the property throughout the project's development period with the approval of DOT and in consultation with the County of Hawaii, DPW. Petitioner shall implement highway and other transportation improvements as required by DOT and in consultation with the County of Hawaii, DPW.

Status: *Traffic studies were prepared in conjunction with the Phase 2-A backbone infrastructure program, and will be revised as conditions dictate. All planned transportation improvements have been coordinated with DOT and the County of Hawaii.*

Condition No. 14:

Petitioner shall appoint a transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems.

Status: *HCDCH is in general conformance with the County of Hawaii's regional development (Keahole to Kailua) plan. HCDCH will appoint a transportation manager as needed.*

Condition No. 15:

Petitioner shall dedicate sufficient frontage to allow for a 300-foot right-of-way along Queen Kaahumanu Highway. Petitioner shall also dedicate sufficient frontage as determined by the State of Hawaii, DOT to allow for a right-of-way at the Kealakehe Parkway interchange of Queen Kaahumanu Highway.

Status: *This condition was met by subdivision of the additional right-of-way in 1993. The property was transferred to DOT by Executive Order No. 3702 dated April 3, 1997.*

Condition No. 16:

Petitioner shall ensure that a buffer area along the boundary of the property be constructed to maintain the visual integrity from Queen Kaahumanu Highway. Petitioner shall further ensure that the proposed community shopping center or any other proposed use abutting Queen Kaahumanu Highway be screened from passing motorists and the Kaloko-Honokohau National Historic Park by landscaping improvements.

Status: *Necessary landscaping improvements will be installed to maintain visual integrity.*

Condition No. 17:

Petitioner shall preserve 19 historic sites and archaeological data recovery from 60 historic sites, as agreed previously in writing with the Historic Preservation Division, DLNR, in compliance with Chapter 6E, Hawaii Revised Statutes. The applicant shall submit to the State Historic Preservation Division a detailed historic preservation mitigation plan in two parts, a preservation plan portion and an archaeological data recovery plan option. This mitigation plan must be approved by the State Historic Preservation Division, prior to any field work and prior to any construction in the vicinity of historic sites. Also, Petitioner must obtain verification by the state Historic Preservation Division that successful execution of the mitigation plan has been completed prior to any construction in the vicinity of historic sites.

Status: *An Archaeological Inventory Survey Report and subsequent Addendum addressing revisions to the main text was submitted to DLNR, State Historic Preservation Division (DLNR-SHPD) for their review and approval.*

The Mitigation Program Plan (Phase I): Mitigation Plan for Data Recovery and Interim Site Preservation) was approved by DLNR-SHPD in 1994.

A Phased Archaeological Mitigation Program, Kealakehe Planned Community, Phase II: Archaeological Data Recovery, dated June 1994, was completed and submitted to DLNR-SHPD on July 11, 1994.

By letter dated May 15, 1996, SHPD indicated that fieldwork for the Phased Archaeological Mitigation Plan: Archaeological Data Recovery (1994) was adequate, however, revisions to the report were needed. This report has not been finalized since the Villages of La'i'opua project is on hold. Any on-going public uses receiving HCDCH approval are being required to work with SHPD and satisfy SHPD's specific requirements for the particular project involved.

Condition No. 18:

Petitioner shall immediately stop work on the impacted area and contact the DLNR-Historic Preservation Division should any significant archaeological resources such as artifacts, shell, bones or charcoal deposits, human burial, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the property.

Status: *HCDCH will comply with Condition No. 18 during the development of the property.*

Condition No. 19:

Petitioner shall establish plant reserves for the uhiuhi plant (*Caesalpinia kavaiensis*). There shall be one five-acre preserve and one half-acre preserve around each remaining uhiuhi plant. In addition, Petitioner shall formulate a fire contingency plan prior to construction in the project area. The fire contingency plan shall be approved by DLNR, Division of Forestry and Wildlife.

Status: *A fire contingency plan and other protective measures have been approved by DLNR, Division of Forestry and Wildlife and have been implemented for on-site construction. Preserve areas have been established for endangered uhiuhi and aupaka plants. A draft of the mitigation plan was submitted to DLNR in February 1994 and comments received and reviewed.*

A revised draft of the mitigation plan was submitted to DLNR and the U. S. Fish and Wildlife Service on October 29, 1999 and comments from FWS received and reviewed.

Condition No. 20:

Petitioner shall coordinate with the County of Hawaii and DOH to establish appropriate systems to contain spills and prevent materials such as petroleum products, chemicals, solvents or other pollutants from leaching into the storm drainage system and adversely affecting the groundwater and coastal waters.

Status: *HCDCH will comply with Condition No. 20 during the development of the property.*

Condition No. 21:

Petitioner shall develop and maintain on-site facilities to ensure that the nearshore, offshore and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring program with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park.

Status: *HCDCH will comply with Condition No. 21.*

Condition No. 22:

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 satisfaction of DOH. Petitioner shall, to the extent necessary as determined by the County of Hawaii, coordinate off-site improvements with adjoining landowners and developers, and/or other Federal, State, or City agencies.

Status: *HCDCH will comply with Condition No. 22.*

Condition No. 23:

Petitioner shall comply with "The Eight (8) Conditions Applicable to This Golf Course Development," prepared by DOH dated April 1990 (Version), introduced as the Office of State Planning Exhibit No. 5.

Status: *The golf course property was set aside to the County of Hawaii by Governor's Executive Order No. 3665 dated July 18, 1995, and is being developed by Kealakehe Associates, Inc., under a Development Agreement and Lease Agreement with the County of Hawaii. HCDCH is not a party to agreements with the golf course developer.*

Condition No. 24:

Petitioner shall engage the services of a qualified golf course manager to oversee the irrigation of the golf course and application of fertilizers and pesticides to the golf course within the Property and who shall be qualified in the application of fertilizers and pesticides on those areas.

Status: *The golf course is being developed by Kealakehe Associates, Inc., under a Development Agreement and Lease Agreement with the County of Hawaii. HCDCH is not a party to agreements with the golf course developer.*

Condition No. 25:

Petitioner shall make available adequate golf tee times at affordable rates for public play by residents of the State of Hawaii.

Status: *The golf course is being developed by Kealakehe Associates, Inc., under a Development Agreement and Lease Agreement with the County of Hawaii. HCDCH is not a party to agreements with the golf course developer.*

Condition No. 26:

Petitioner shall fund and install, to the specifications and satisfaction of the State Office of Civil Defense, the necessary number of emergency siren units (including infrastructure within the project area and a siren paging encoder in the Kona Police Department substation).

Status: *HCDCH will comply with Condition No. 26.*

Condition No. 27:

Petitioner shall provide at no cost to the State of Hawaii, DOE, the school sites with infrastructure, and facilities as may be required by DOE.

Status: *Roadways and utilities to the Kealakehe High School were constructed as part of Phase 2-A backbone infrastructure. Construction of the high school's first phase was completed in July, 1997 and remains on-going.*

Condition No. 28:

Petitioner shall work with the County of Hawaii to ensure that police, fire, park, and solid waste disposal facilities are in place.

Status: *HCDCH is working with the County of Hawaii to comply with Condition No. 28.*

Condition No. 29:

Petitioner shall complete the development on the property in substantial compliance with the representations made before the LUC. Failure to develop may result in the reversion of the property to its former land use classifications or a change to a more appropriate classification.

Status: *HCDCH will comply with Condition No. 29.*

Condition No. 30:

Petitioner shall give notice to LUC of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property.

Status: *HCDCH will comply with Condition No. 30 in any case that could materially affect compliance with these conditions. Once the housing development phase of the project begins, HCDCH expects to be actively involved in land sale, lease or assignment of individual lots, development sites or villages. It is HCDCH's understanding that notice to the Commission of land sale, lease or assignment would be required only if the transaction could materially affect compliance with the conditions.*

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Condition No. 31:

Petitioner shall provide annual reports to LUC, Office of State Planning, and the County of Hawaii, Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

Status: *HCDCH will comply with Condition No. 31.*

Condition No. 32:

The Commission may fully or partially release these conditions as to all or any portion of the petition area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner. Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of State Planning will certify for itself and all State departments and agencies, and the Planning Department will certify for itself and all County departments and agencies.

Status: *HCDCH is fully aware of Condition No. 32.*

Condition No. 33:

Conditions requiring County agency review, coordination or approval are subject to the powers of HCDCH as expressed in Act 15, Session Laws of Hawaii, 1988.

Status: *Act 15 is no longer in effect.*

Should there be any questions or comments regarding this Annual Report, please contact Stan S. Fujimoto, Project Manager, at 587-0541.

Attachment: Site Map

c: Office of State Planning, w/attachment
County of Hawaii, Planning Department, w/attachment

