

# HONUA'ULA

LAND USE COMMISSION  
STATE OF HAWAII

2014 FEB 13 A 7:46

February 11, 2014

Mr. Daniel Orodener  
Executive Director  
Land Use Commission  
State of Hawaii  
P.O. Box 2359  
Honolulu, HI 96804-2359

Subject: Annual Report of Honua'ula Partners, LLC, Docket No.: A93-689

Dear Mr. Orodener:

The attached 2013 annual report letter was sent to the Commission in compliance with Condition 18 of the Decision and Order (the "D&O") entered in the above referenced docket on September 20, 1994. As most of the conditions and their individual status have not changed significantly since the 2012 report submitted to the Commission I am providing an update on specific conditions in the referenced D&O for which progress has been made. The following summarizes:

## **Condition 14**

Prior to filing of an amendment to the Project District Zoning Ordinance for Project District 9, an archeological inventory survey of the southern portion of the Property which was covered with a'a (labeled as very stony land in Figure 7 of the Petition) shall be conducted to identify significant historic sites. A final report shall be submitted to the Department of Land and Natural Resources, State Preservation Division, for review and comments. If significant historic sites are identified, an acceptable mitigation plan shall be submitted to the Historic Preservation Division for approval and shall be implemented prior to any construction activities."

Response: The original petitioner submitted AIS reports in 1993 receiving acceptance from SHPD on the reports with a finding of no effect on significant historic sites. Subsequent entitlement applications required additional AIS report updates that have been completed, submitted and rejected by SHPD for a lack of detail and insufficient consultation, among other reasons. The AIS reports were formally rejected by SHPD in January of 2013. The petitioner initiated a new series of AIS reports for the property which are due for completion in February of 2014. These new reports will be submitted to SHPD for processing as soon as they are completed and used to complete the processing of the Habitat Conservation Plan and Incidental Take License (HCP/ITL) in compliance with Condition 27 of the Unilateral Agreement/Conditional Zoning for the project.

Mr. Orodener, the above summarizes the significant changes from the last annual report. In addition to the above, legal challenges to the project EIS remain for the current owner. A final project EIS was delivered to the Maui Planning Commission in August of 2012, was accepted and posted for the appeal period with OEQC. A legal challenge to the EIS document was filed naming various individuals representing the County of Maui. Both the New Owner and County of Maui are responding to this legal challenge.

Action on the Project District Phase II application is anticipated later this year after further compliance with conditions imposed within Ordinance 3554 such as the preparation of a Habitat Conservation Plan

Mr. Daniel Orodener

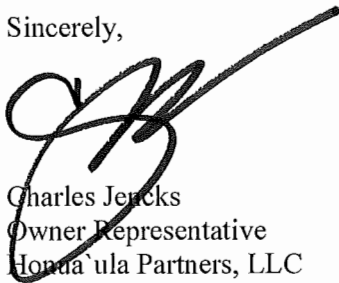
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and Incidental Take License (HCP/ITL) addressing compliance with Condition 27 of the ordinance, finalization of a National Environmental Policy Act document (NEPA) for the HCP/ITL and the processing of these documents through various County, State and Federal agencies.

Mr. Orodener, I would appreciate your acknowledging the receipt of this annual report when time permits and as always, should you have any questions regarding this annual report letter or its intended purpose as the annual report per Condition 18 of the D&O please feel free to contact me in my office at 879-5205, on my cell phone at 250-3178 or via email at [charliej@pacificrimland.com](mailto:charliej@pacificrimland.com).

Sincerely,



Charles Jencks  
Owner Representative  
Honua'ula Partners, LLC

Attachment

CC: Mr. Jesse Souki, Director, Office of Planning  
Mr. William Spence, Planning Director, County of Maui  
Honua'ula Partners, LLC

# HONUA'ULA

LAND USE COMMISSION  
STATE OF HAWAII

2014 FEB 13 A 7 46

February 19, 2013

Mr. Daniel Orodener  
Executive Director  
Land Use Commission  
State of Hawaii  
P.O. Box 2359  
Honolulu, HI 96804-2359

Subject: Annual Report of Honua'ula Partners, LLC, Docket No.: A93-689

Dear Mr. Orodener:

The attached 2012 annual report letter was sent to the Commission in compliance with Condition 18 of the Decision and Order (the "D&O") entered in the above referenced docket on September 20, 1994. As most of the conditions and their individual status have not changed significantly since the 2011 annual report submitted to the Commission I am providing an update on specific conditions in the referenced D&O for which progress has been made. The following summarizes:

## **Condition 9**

Petitioner shall fund, design and construct its pro rata share of the necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall revise the traffic study to re-examine the required mitigation measures if the roadway improvements cited and predecessors were not assumed to be place. The revised report shall also specify the improvements the developer will be committed to provide. The petitioner shall contribute its pro-rata share to the traffic improvements, as determined by the State Department of Transportation and the County of Maui.

Response: In compliance with this Condition and Condition 2a of Ordinance 3554 the processing of the Environmental Assessment (EA) for the widening of Piilani Highway has been completed with a Finding of No Significant Impact (FONSI) published by the Office of Environmental Quality Control (OEQC) on May 8, 2012. In addition, civil engineering drawings for the widening have been completed to a 35% level pending further refinement.

## **Condition 14**

Prior to filing of an amendment to the Project District Zoning Ordinance for Project District 9, an archeological inventory survey of the southern portion of the Property which was covered with a'a (labeled as very stony land in Figure 7 of the Petition) shall be conducted to identify significant historic sites. A final report shall be submitted to the Department of Land and Natural Resources, State Preservation Division, for review and comments. If significant historic sites are identified, an acceptable mitigation plan shall be submitted to the Historic Preservation Division for approval and shall be implemented prior to any construction activities."

Response: In response to this condition the project has submitted for processing a series of archaeological reports addressing the entire context of the project area to the Department of Land and Natural Resources/State Historic Preservation Division (SHPD) for review and acceptance. The original petitioner submitted AIS reports in 1993 receiving acceptance from SHPD on the reports with a finding of no effect on significant historic sites. Subsequent entitlement

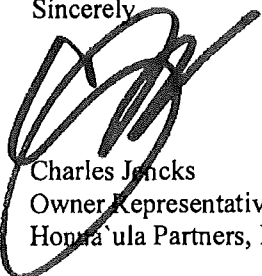
applications required additional AIS report updates that have been completed, submitted and for which the project continues to work with SHPD on receiving final acceptance.

Mr. Orodenker, the above summarizes the significant changes from the last annual report. In addition to the above, legal challenges to the 2008 zoning approvals and project EIS remain as challenges for the current owner. Subsequent to the enactment of the change in zoning and Project District 9 ordinances for the Property, a lawsuit titled Daniel K. Kanahele et al v. Maui County Council and County of Maui was filed in the Second Circuit Court by five plaintiffs. A preliminary injunction was granted initially by the Court preventing the New Owner from processing in the county any requests for permits or approvals for the Current Development. The New Owner intervened in this case on April 21, 2008. The County and New Owner were successful in having the Court dismiss the lawsuit on November 17, 2008. The ruling of the Second Circuit Court, which was filed on January 22, 2009, was appealed by the plaintiffs on February 2, 2009 to the Intermediate Court of Appeals (ICA), State of Hawaii. This appeal was denied with the plaintiffs then filing an appeal with the Hawaii State Supreme Court that was denied and then a Writ of Certiorari filed and accepted with oral arguments scheduled in late February. A final project EIS was delivered to the Maui Planning Commission in August of this last year, was accepted and posted for the appeal period with OEQC. A legal challenge to the EIS document was filed naming various individuals representing the County of Maui. Both the New Owner and County of Maui are responding to this legal challenge.

Action on the Project District Phase II application is anticipated later this year after further compliance with conditions imposed within Ordinance 3554 such as the preparation of a Habitat Conservation Plan and Incidental Take License (HCP/ITL) addressing compliance with Condition 27 of the ordinance, preparation of a National Environmental Policy Act document (NEPA) for the HCP/ITL and the processing of these documents through various County, State and Federal agencies.

Mr. Orodenker, I would appreciate your acknowledging the receipt of this annual report when time permits and as always, should you have any questions regarding this annual report letter or its intended purpose as the annual report per Condition 18 of the D&O please feel free to contact me in my office at 879-5205, on my cell phone at 250-3178 or via email at [charliej@pacificrimland.com](mailto:charliej@pacificrimland.com).

Sincerely



Charles Jencks  
Owner Representative  
Honua'ula Partners, LLC

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Mr. William Spence, Planning Director, County of Maui  
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