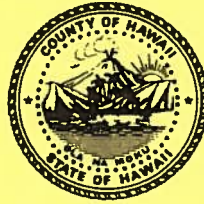


William P. Kenoi
Mayor



Daryn S. Arai
Acting Planning Director

County of Hawai'i

PLANNING DEPARTMENT

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January 26, 2009

Michael J. Matsukawa, Esq.
General Counsel
Hökūli'a
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Kailua-Kona, HI 96740-2440

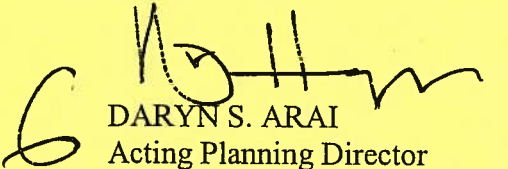
Dear Mr. Matsukawa:

2009 Annual Report
Development Agreement No. 1
Change of Zone Ordinance No. 96-7
Change of Zone Ordinance No. 96-8
Special Management Area Use Permit No. 356

This is to acknowledgement receipt your comprehensive 2009 Annual Report relating to the above-mentioned Development Agreement, Change of Zone Ordinances, and Special Management Area Use Permit. The submission of the report and the information provided within the report satisfies the reporting requirements of the Development Agreement, Change of Zone Ordinances, and the Special Management Area Use Permit.

We look forward to receiving the 2010 Annual Report.

Sincerely,


DARYN S. ARAI
Acting Planning Director

cc: Mr. Claude Onizuka, Hōkūli'a

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**Hokuli`a
Special Management Area Use Permit No. 356 (September 14, 1995)
To Allow Development of the Agricultural Subdivision and Related Improvements
2009 Annual Report
January 14, 2009
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SMA 356 1.	The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.	On Going	Hokuli`a agrees that it will comply with all stated conditions of approval.
SMA 356 2.	The applicant shall indemnify and hold the County harmless and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees arising under this permit.	Complied	Indemnification has been incorporated into project CC&R's.
SMA 356 3.	The effective date of this Special Management Area Use Permit shall be the effective date of the Change of zone.	Complied	Effective date of Ord. 96-7 is January 15, 1996.
SMA 356 4	<p>An Archaeological Mitigation and Interpretation Plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for plan approval review.</p> <p>The plan shall consist of three subplans:</p> <p>(A) An archaeological data recovery plan for the sites to undergo data recovery,</p> <p>(B) A detailed interim protection/preservation plan for the sites to under preservation, and</p> <p>(C) An interpretation plan which shall include buffer zones, signage, and long-range preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to or in conjunction with any land alteration activity within the project area.</p> <p>The Plan shall also include a detailed map of known lava tube/cave systems located within the project site and mitigative measures to ensure that the proposed development does not impact these cave systems.</p>	<p>Complied</p> <p>Complied</p> <p>In Process</p> <p>In Process</p> <p>In Process</p>	<p>Letters dated 9/7/99 and 9/15/99 from SHPD approved the Data Recovery Plan and the Preservation and Interpretive and Monitoring Plans, respectively.</p> <p>Hokuli`a will comply with the requirements of the approved mitigation plan prior to or in conjunction with any land alternation.</p> <p>Shoreline Park Mitigation Plan (Phase 1) and Project Preservation Plan (Non-Burials) approved in 2008.</p>
SMA 356 5.	Should any unidentified sites or remains, such as lave tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral	On Going	Hokuli`a will comply with requirement.

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	alignments, pavings or wall be encountered, work in the affected area shall cease, and the Planning Director immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.		
SMA 356 6.	A Natural Resource Management Plan shall be submitted for review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources, prior to securing Final Subdivision Approval.	Complied	NRM was approved by the County on July 9, 1999.
SMA 356 7.	A detailed drainage study shall be prepared by the Applicant for review and approval by the Department of Public Works prior to submittal of plans for Subdivision Approval review of the agricultural subdivision. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to securing Final Subdivision Approval.	Complied	Flood and Drainage Study for Phase 1 and 2 areas were submitted August 4, 1999. Hokuli'a will comply with this requirement.
SMA 356 8.	Use of pesticides and herbicides in conjunction with all phases of operation shall conform with the applicable regulations of the appropriate government agencies.	On Going	Hokuli'a agrees to comply with this condition.
SMA 356 9.	During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.	On Going	Hokuli'a will continue to comply with this condition.
SMA 356 10.	Prior to Final Subdivision Approval of any lands within the project site, an overall monitoring plan on the potential pollution of groundwater and coastal waters shall be submitted to the Planning Director for approval in consultation with the State Department of Health.	Complied	Water Quality Monitoring Plan was approved by the County on July 14, 1999.
SMA 356 11.	All electrical and communication utilities and systems within the Project site shall be placed underground, with the exception of the main 69 KV transmission line from the Mamalahoa Highway to the proposed electrical substation site.	In Process	Hokuli'a will comply with this requirement. Utility improvements for Phase 1 and 2 were bonded and Phase I is currently under construction.

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SMA 356 12.	A wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.	In Process	Hokuli'a will comply with this requirement. Wastewater disposal system was bonded as part of subdivision improvements for Phase 1 and 2 of Hokuli'a and is currently under construction.
SMA 356 13.	An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.	In Process	Hokuli'a will provide annual reports to the County in accordance with this requirement.
SMA 356 14.	An extension of time for the performance of conditions within this permit may be granted by the Planning Director upon the following circumstances: (A) the non performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; (B) granting of the time extension would not be contrary to the General Plan or Zoning Code; (C) granting of the time extension would not be contrary to the original reasons for the granting of this permit; (D) the time extension granted shall not be for period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).	On Going	Hokuli'a acknowledges that a time extension for compliance with the conditions of approval may be granted by the Director
	Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.		