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March 1, 2001

Mr. Christopher J. Yuen
Planning Director
County of Hawaii
20 Aupuni Street
Hilo, Hawaii 96720

Re: Kealakekua Development Corporation
Rezoning Ord. 798 & 98-63; Resolution 343-96
Use Permit 121 (Golf Course)
Special Permit 898 (Recreation Center)

Dear Mr. Yuen:

This is the annual report for Kealakekua Development Corporation under Rezoning Ordinance 798, as amended by Ordinance 98-63, and as clarified by Resolution 343-96. Since Use Permit 121 and Special Permit 898 are related approvals, this report will also constitute the annual report for Kealakekua Development Corporation under those permits.

Events Arising After 2000 Reports

Since the March 1, 2000 report, as supplemented on March 9, 2000 and October 31, 2000, there have been no new events to report, except as follows.

First, as noted in the October 31, 2000 report, the state Land Use Commission entered a declaratory ruling in DR00-21. I understand that some of the affected parties have challenged the ruling in court proceedings in the state and federal courts.

Second, Kealakekua Development Corporation has faced continued financial difficulties and, as a result, have not been able to make substantial progress in the execution of its development plans embodied in the ordinances, use permit and special permit in question.

Third, Kealakekua Development Corporation has been observing the progress of Oceanside 1250's development of the "Hokulia" project and the recent proposal by the Lands of Keopuka to determine the impacts/consequences (if any) therefrom on Kealakekua Development Corporation's plans.

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Should any matter arise after the date of this report, I will provide the same to you immediately. Thank you very much.

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Matsukawa", written over the closing "yours,".

Michael J. Matsukawa

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PLANNING DEPARTMENT
COUNTY OF HAWAII

October 31, 2000

Ms. Virginia Goldstein
Planning Director
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Re: Kealakekua Development Corporation
Supplemental Progress Report, Rezoning Ord. 98-63 *pg 798*

Dear Ms. Goldstein:

I am submitting this supplemental progress report on Rezoning Ordinance 98-63. On March 1, 2000, I submitted a report on the overall project, including Use Permit 121 and Rezoning Ordinance 98-63. On March 9, 2000, I prepared a correction to the time deadlines for Rezoning Ordinance 98-63.

Sierra Club Declaratory Ruling

Since then, the Sierra Club, Hawai'i Chapter, requested a declaratory ruling from the state Land Use Commission, Docket No. DR00-21, on the application of Chapter 205, HRS's provisions on allowable uses in the state Agriculture land use district (in specific reference to the Lands of Keopuka project at Keopuka, South Kona).

On or about September 28, 2000, the state Land Use Commission voted on the Sierra Club's request and I recently obtained a draft of the commission's written opinion. In Conclusion 18, the commission states:

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There must be some connection of significance between the single-family dwelling and agricultural activity on the same land if the dwelling is to be considered a permitted use on agricultural land.

In regard to the project covered by Rezoning Ordinance 98-63, agricultural use of the lands in question are secured by Condition R which provides:

(R) ... The construction of Farm Dwellings on each lot may be permitted provided approval is secured from the Planning Director. Restrictive covenants for all lots within the subject property shall require agricultural activity. A copy of the proposed covenant(s) is to be recorded with the Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to final subdivision approval for any portion of the first increment of the subject property. ...

Additional Matrix

I have enclosed a matrix of the conditions of approval put on the project by both Rezoning Ordinance 98-63 for your future use and convenience.

Update on Conditions B to W

As I had mentioned in prior reports, the applicant has not completed the water source (**Condition B**, Rezoning Ordinance 98-63), which act makes the rezoning effective and which triggers the various deadlines for performance under Rezoning Ordinance 98-63 (as well as Use Permit 121 for the golf course).

As to Conditions C to W, Rezoning Ordinance 98-63, the unexpected passing of the principal, Mr. Goto, and difficulties with project financing have

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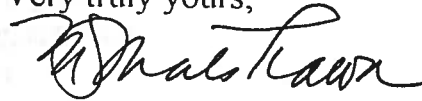
Ms. Virginia Goldstein

October 31, 2000

delayed the completion of the various tasks outlined in Conditions C to W, as well as Condition B.

The newly constituted board of directors and officers of Kealakekua Development Corporation have been working on a plan of action which I hope can be reported to you by the due date of the next annual progress report in March of 2001. Thank you very much.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matsukawa", written over a horizontal line.

Michael J. Matsukawa

ENC: Table of Conditions

COMPARATIVE TABLE FOR CONDITIONS OF APPROVAL
UNDER REZONING ORD. 95-70 (amended 98-63) AND USE PERMIT 121 (1994)

	<u>Rezoning Ord.</u>	<u>Use Permit</u>
Securing a Water Source	B: Provide assurance to DWS and Pl. Dep't upon consultation with DLNR and DOH that a water source of sufficient quality and quality has been established within 5 years	3: Provide assurance to Pl. D'or upon consultation with DLNR-COWRM that a water source of sufficient quality and quantity to support the total <i>irrigation needs of the golf course</i> has been established prior to certificate of occupancy or opening of golf course

* COWRM has issued a well construction permit for Well 1, No. 2952-01.

**Submission of
Subdivision Plans**

C: Increment I -- 300 lots zoned A-1a and A-3a.

Increment II - 202 lots; but subject to condition that Mamalahoa By Pass Road has been built from Keauhou to Napoopoo Road intersection

D: After Increment II, Pl. D'or to initiate further rezoning of the golf course area to an appropriate zoning district to ensure that land on which the golf course is built is not subdivided.

E: 200 feet reserve easement to be placed along west (makai) boundary and TMK 8-2-01: 42, 43, 44, 45, 46, 47, 98, 99, 100, 101 (150 ft. setback, plus 50 feet

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landscape buffer)

E: Koa Road "corridor alignment" to be located south of shopping center

Waste Water

F: System shall be approved by DOH *and/or* DPW

Pesticide and Herbicide Use

12: Use shall comply with all applicable government regulations

Monitoring Plan for Groundwater Pollution

13: Overall monitoring plan on potential pollution of groundwater shall meet approval of PI. D'or upon consultation with DOH

Drainage

G: Study of entire project area shall be approved by DPW

Drainage improvements and flood mitigation measures required by Chief Engineer shall be constructed and/or installed in a manner approved by DPW.

6: Study shall be approved by DPW and shall consider the drainage system, retention basin and "reduced turf" design to be incorporated in golf course.

Drainage system to be installed in a manner approved by DPW.

Historical Review, Endangered Species

H: Archaeological mitigation plan shall be approved by the PI. D'or upon consultation with DLNR-SHPD and Hawaiian community organizations.

Two subplans: (1) data recovery plan for data recovery sites;

10: -- same --

(2) detailed interim protection preservation plan for preservation sites

-- same --

Third subplan: (3) interpretation plan, including buffer zones, signage and long-range mitigation

Approved mitigation measures shall be implemented prior to or in conjunction with land alteration.

Plan shall include detailed map of known lava tube/cave systems in project area and mitigation measures to ensure that golf course and related drainage systems do not impact these tube/cave systems

I: Encounters with *unidentified* artifacts, deposits, burials, etc. will result in cessation of all work and notice to Pl. D'or

11: Encounters with *unanticipated* archaeological sites or features will result in cessation of all work and notice to Pl. D'or

Work may continue when Pl. D'or approves mitigation measures

Work may continue when Pl. D'or gives "clearance"

Solid Waste

J: Solid waste management plan shall be approved by DPW, including management of construction solid waste and operating and domestic solid waste

Roads

K: Road improvements and access shall be approved by DOT and/or DPW.

In addition, subject to determination of Pl. D'or upon consultation with Chief Engineer, road improvements shall include:

8: Koa Road shall be built to *county dedicable standards* approved by DPW. Koa Road shall allow for perpetual public use by easement or shall be dedicated to the county.

No golf cart path shall cross over Koa Road, except as approved by Pl. D'or and Chief

Engineer

No direct access from *residential* lots adjoining this alignment shall be allowed

(1) Intersection improvements at Koa Road/Mamalahoa Hiway intersection, including signalization and channelization approved by DOT and DPW

9: -- same --

(2) Improvements for shoulder, widening and restriping for a two-way left turn lane along Mamalahoa Hiway from Kamigaki Market to Keekee Street

(3) Improvements for shoulder, widening, restriping and drainage for a south bound, left-turn pocket at Haukapila Street, two-way left turn land between Halekii Street and Haukapila Street and signalization at Mamalahoa Hiway and Haukapila Street intersection

(4) Widening of shoulder areas for maximum of five southbound and five northbound bus pullouts along Mamalahoa Hiway between Koa Road and Kuakini Hiway

L: Roads shall stub out to north and south boundaries below 3,500 foot elevation as approved by Pl. Dep't and DPW

M: Participate in Mamalahoa By-Pass Road construction program and in funding and construction of any regional roadway improvements required by DOT

Credits given against fair share contribution for regional impacts

Recreation

N: Provide camping sites and related equestrian and nature-interpretive trail systems and a recreational and maintenance plan which is approved by PI. D'or upon consultation with Parks and Recreation D'or (camp sites may be limited to members and guests of non-profit organizations serving resident youth).

Improve Greenwell Park as approved by PI. D'or upon consultation with Parks and Recreation D'or

Bond In Lieu of Actual Construction of Items in Conditions F, G, J, K, L, M and N

O: Applicant may bond over improvements required in designated conditions *as approved by PI. D'or appropriate agencies or County Council "whichever is applicable"*

Final subdivision approval may be issued upon execution of agreement or delivery of security

Fair Share Contribution

P: Applicant to pay contribution for its share of regional impacts from project on Parks, Fire, Police Solid Waste Disposal Facilities and Roads (based on formula) but with maximum combined value of \$3,619,580, adjusted annually three years after effective date of ordinance (as term is defined) based on consumer price index for Honolulu.

In lieu of contribution, applicant may construct facilities with approval of appropriate agencies.

All Laws and Rules

Q: Follow all applicable laws and rules

Ohana Dwelling Restriction

R: All deeds for all proposed lots shall contain covenant prohibiting construction of ohana dwelling unit *or* a second dwelling

Farm Dwelling Restriction

R: Construction of *farm dwellings* on each lot is allowed with approval from PI. D'or

Agricultural Activity Requirement

R: Covenants shall require that all lots will require *agricultural activity*

Forest Plan

S, T: 8,100 acre site zoned A-8000a shall be managed pursuant to forest management plan approved by PI. D'or upon consultation with DLNR, DOH, DOA, US DNRCS. Plan to contain state minimum terms and shall be for a period of at least 40 years

Street Lights

U: As required by DPW

**Pest Management
Weed Control
Plan**

V: Pest management and noxious weed control plan approved by PI. D'or upon consultation with DLNR

12: Use of pesticides and herbicides shall conform to applicable laws and rules

**Unified Impact
Fee Ordinance**

W: If enacted, all contributions are to be credited to impact fee assessments

**Golf Course
Construction**

13: Groundwater monitoring plan (above)

14: Fugitive dust, sedimentation control based on construction industry standards and practices used during construction of *State of Hawaii construction projects*

15: [Importation] of off-site construction material such as top soil or sand must be demonstrated to satisfaction of PI. D'or to be supplied from approved quarry or resource site

**Additional
Contributions**

16: Public play program for golf course approved by PI. D'or

17: Employee housing program approved by PI. D'or and county Housing Agency

18: Job training program approved by PI. D'or