Maui Land & Pineapple Company, Inc.

LAND USE COMMISSION
STATE OF HAWAII

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June 29, 2020

Mr. Daniel Orodenker, Executive Director
State Land Use Commission
Department of Business, Economic Development & Tourism
State of Hawaii
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Ms. Mary Alice Evans, Director
Office of Planning
Department of Business, Economic Development & Tourism
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Ms. Michele Chouteau McLean, Director
Department of Planning
County of Maui
2200 Main St., Suite 315
Wailuku, Hawaii 96793

Re: **Annual Report** for LUC Docket No. A03-741
Petition of Maui Land & Pineapple Company, Inc.
Honokahua and Napili, Maui, Hawaii

Dear Mr. Orodenker, Ms. Evans, and Ms. McLean,

Pursuant to Condition No. 24 in the Decision and Order for the referenced docket, Maui Land & Pineapple Company, Inc. ("MLP") is pleased to provide this 15th annual report regarding the current status of compliance with the conditions of approval.

General Project Progress:

The Land Use Commission of the State of Hawaii ("LUC") approved MLP's petition to reclassify approximately 790 acres of land at Honokahua and Napili, Maui, Hawaii from Agricultural District to Urban and Rural Districts for the Kapalua Mauka project, by order dated June 29, 2004. The Decision and Order sets forth 27 conditions of approval regarding the reclassification.

MLP submitted an application for Project District 2 (Kapalua Mauka) Phase II for the first construction phase of the project, which includes a 51-lot rural subdivision, an 18-hole golf course and offsite infrastructure. The Phase II application was approved by the Maui Planning Commission on November 15, 2006. An extension of the Phase II approval was granted by the Maui Planning Commission on August 26, 2009. Project District Phase III approvals for subdivision applications were received for the Kapalua Mauka Large Lot Subdivision No. 3 (File No. 4.912) on March 13, 2007, and for the Kapalua Mauka Large Lot Subdivision No. 4 (File No. 4.932) on May 18, 2011.

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As previously reported, MLP sold a 124.98-acre parcel, known as "Mahana Estates," to SMC Mahana LLC. MLP gave notice of the sale of the parcel to the Land Use Commission on August 21, 2009, as required under Condition 23 below. The sale of the parcel to SMC Mahana LLC was finalized on September 23, 2009. SMC Mahana submits an annual report for Mahana Estates under separate cover. This report covers property owned by MLP.

Conditions and Compliance:

1. ***Affordable Housing.*** *Petitioner shall provide affordable housing opportunities for low, low-moderate and gap-group-income residents of the State of Hawaii to the satisfaction of the County of Maui, acting in accordance with its approved affordable housing policy. The location and distribution of the affordable housing and other provisions for affordable housing shall be under such terms and conditions as may be mutually agreeable to Petitioner and the County of Maui. Notwithstanding any affordable housing provision that may be agreed to by Petitioner and the County of Maui, Petitioner, at a minimum, shall develop no less than 125 affordable units as a part of its proposed Pulelehua project at Mahinahina.*

   Compliance: On June 23, 2006, the LUC approved MLP's petition filed with the LUC in Docket No. 04-751 to reclassify approximately 310 acres of land (current Tax Map Keys (TMK) (2) 4-3-001-082 & 083; previous TMK (2) 4-3-001: 031 portion) at Mahinahina and Kahana, Lahaina, Maui, Hawaii from the Agricultural District to the Urban District for the Pulelehua affordable housing project. The decision and order filed in that docket contained a condition requiring MLP to develop no less than 125 affordable rental units in Pulelehua to satisfy this condition.

   MLP filed a Community Plan Amendment, Change in Zoning from Agricultural to Project District and Project District Phase I applications to County of Maui for land use approvals for Pulelehua. The County approved the land use approvals for Pulelehua on November 18, 2011.

   On June 3, 2016, MLP sold and transferred its ownership interests in Pulelehua to Maui Oceanview LP. As required under LUC Docket No. A04-751 Condition 28, MLP gave the LUC notice of the: 1) intent to Pulelehua on May 20, 2016; and 2) sale of Pulelehua on April 18, 2017.

   As part of the sale, MLP and Maui Oceanview LP entered into an agreement whereby Maui Oceanview LP shall be responsible for satisfying the condition to provide 125 affordable housing units as part of the Pulelehua project. Under this agreement, Maui Oceanview LP shall designate the first 125 affordable housing rental units it builds in Pulelehua in satisfaction of this condition. Further, Maui Oceanview LP shall satisfy this condition as soon as reasonably practical, but not later than 10 years from June 3, 2016.

   Mahana Estates Subdivision Residential Workforce Housing Agreement, dated December 14, 2006, was executed by MLP and the County of Maui and recorded by memorandum, dated May 31, 2007. Additional housing credits for Mahana Estates are summarized in the SMC Mahana annual report

2. ***Public School Facilities.*** *Petitioner shall contribute to the development, funding, and/or construction of public school facilities, on a fair-share basis, pursuant to an Education Contribution Agreement for Kapalua Mauka, dated July 10, 2003, between Kapalua Land Company, Ltd. and the State of Hawaii Department of Education.*

Compliance: MLP will contribute pursuant to the Education Contribution Agreement, dated July 10, 2003, between Kapalua Land Company, Ltd. and the State of Hawaii Department of Education. No action has been taken to date.

3. ***Wastewater Treatment and Disposal Facilities.*** *Petitioner has paid the County of Maui the Petitioner's agreed-upon share to fund the construction of wastewater treatment and disposal facilities to serve the Property. Petitioner shall receive wastewater treatment service for wastewater from the Property pursuant to the Lahaina Wastewater Reclamation Facility ("LWWRF") Expansion Agreement dated January 20, 1994, among the County of Maui, Petitioner and Kapalua Wastewater Treatment Company. Petitioner shall construct, operate and maintain wastewater transmission facilities to transport wastewater from the Property to appropriate County wastewater transmission facilities.*

Compliance: MLP deducted 17,850 gallons pursuant to the LWWRF Expansion Agreement, pursuant to the letter dated October 4, 2006 to satisfy Mahana Estates.

4. ***Transportation Improvements.*** *Petitioner shall implement traffic mitigation measures for project generated traffic, at no cost to the State of Hawaii. All roadway improvements shall be designed to Department of Transportation standards, and shall include, but not be limited to, right-turn deceleration lanes, left-turn deceleration and storage lanes, signage, pavement markings, and streetlights. Petitioner shall also provide signalization at the Honoapi'ilani Highway Office Road intersection when warranted.*

Compliance: When warranted, MLP shall implement traffic mitigation measures for project-generated traffic at no cost to the State of Hawaii. All roadway improvements shall be designed to DOT standards.

5. ***Traffic Impact Fee.*** *Petitioner shall in the order specified below: (a) pay an impact fee pursuant to Chapter 14.62, Maui County Code, Impact Fees for Traffic and Roadway Improvements in West Maui, Hawai'i; however, if there is a written agreement between the County of Maui and the State of Hawai'i specified by section 14.62.080, the County shall share the funds collected from the Petitioner with the State in accordance with this written agreement; or (b) make a voluntary contribution to the County of Maui upon issuance of building permit for the first dwelling or final subdivision approval, whichever comes first; or (c) pay the impact fee to the State pursuant to the enactment of State legislation authorizing such payment.*

The impact fee is established as a function of an agreement reached amongst the Petitioner, the County of Maui and the State Office of Planning and will be applied towards the funding, design, and construction of local and regional transportation improvements and programs necessitated by the proposed development of the Property, but in any event will not exceed $3,500 per unit or lot developed on the Property.

   a. ***Traffic Impact.*** *Requests for new or any changes to existing highway accesses (including use, location and size), shall be submitted in writing to and approved by the Highways Division Right of Way Branch. Administrative costs and consideration for any enhance value of vehicular access rights to the State highway shall be paid as required by the Highways Division Right of Way Branch.*

Compliance: MLP has entered into written agreement with the County of Maui to provide a voluntary contribution to the County of Maui for traffic and roadway improvements. The agreement was recorded on October 31, 2006 (Document No. 2006-198468).

A Use and Occupancy Agreement was finalized with the State Department of Transportation on March 3, 2008 to provide a utility crossing on Honoapi'ilani Highway. Administration costs and enhancement fees have been paid to DOT.

6. ***Civil Defense.*** *Petitioner shall fund and construct adequate solar-powered civil defense measures serving the Property as determined by the State of Hawai'i Department of Defense, Office or Civil Defense and County Civil Defense Agency.*

Compliance: MLP received approval of siren location from the State Department of Defense, in a letter dated January 18, 2008. As part of the Mahana Estates project, SMC Mahana constructed the siren at the approved location. The State Department of Defense inspected and tested the siren on September 22, 2016 and the siren is currently in operation.

7. ***Archaeological Inventory Survey and Historic Preservation Mitigation Plan.*** *Petitioner shall comply with the conditions recommended by the State of Hawai'i Department of Land ad Natural Resources, Historic Preservation Division on January 27, 2003, regarding revision s to Petitioner's archaeological inventory surveys and approval of an acceptable Preservation Plan for any historic sites on the Kapalua Mauka Community Site prior to commencement of any ground altering activities. Petitioner shall confirm in writing to the Commission that the Historic Preservation Division has found Petitioner's mitigation commitments, if any, to be acceptable and has determined that any historic preservation mitigation plan and archaeological date recover sub-plan has been successfully implemented.*

Compliance: The State Historic Preservation Division has reviewed and accepted a preservation plan prepared by Cultural Surveys Hawaii, Inc. for the documented historic properties (Log No: 2006.2002/ Doc No: 0606MK29) on the site. Additionally, the State Historic Preservation Division has reviewed and approved a burial treatment and preservation plan for possible burial features located on the project area (Xamanek Researches, LLC 2005, revised June 7, 2006) by letter dated January 11, 2007.

8. ***Unidentified Finds.*** *Petitioner shall stop work in the immediate vicinity should any previously unidentified human burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, paving, or lo'i walls be found. Petitioner shall immediately notify the Historic Preservation Division, and comply with requirements of Chapter 6E, HRS, and applicable rules. The Historic Preservation Division shall determine and approve the significance of these finds, and shall permit subsequent work to proceed with an archaeological clearance after appropriate mitigative measures have been implemented.*

Compliance: Should any previously unidentified human burials, archaeological or historic sites be found, MLP will stop work in the immediate vicinity and immediately notify the State Historic Preservation Division and comply with requirements of Chapter 6E, HRS, and all applicable rules.

9. ***Quality Monitoring.*** *Petitioner shall participate in an air quality-monitoring program as specified by the State Department of Health.*

Compliance: MLP will participate in an air quality-monitoring program as specified by the State Department of Health. No specific action has been taken to date.

10. ***Notification of Potential Aircraft Noise.*** *Petitioners shall notify all prospective buyers and/or lessees of the Property of potential noise from the over flight of aircraft using Kapalua West Maui Airport.*

Compliance: MLP has and will continue to notify all prospective buyers and/or lessees of the Property of potential noise from the over flight of aircraft using Kapalua West Maui Airport.

11. ***Notification of Potential Nuisances.*** *Petitioner shall notify all prospective buyers and/or lessees of the Property of potential odor, noise and dust pollution resulting from adjacent agricultural uses.*

Compliance: MLP has and will continue to notify all prospective buyers and/or lessees of the Property of potential odor, noise, and dust pollution resulting from any adjacent agricultural uses.

12. ***The Hawai'i Right to Farm Act.*** *Petitioner shall notify all prospective buyers and /or lessees of the Property that the Hawai'i Right to Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance.*

Compliance: MLP has and will continue to notify all prospective buyers and/or lessees of the Property that the Hawai'i Right to Farm Act, Chapter 165, HRS, which limits the circumstances under which pre-existing farm activities may be deemed a nuisance.

13. ***Drainage Improvements.*** *Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of appropriate State and County agencies.*

Compliance: MLP will fund the design and construction of drainage improvements required as a result of development of the Property to the satisfaction of appropriate State and County agencies. No action has been taken to date.

14. ***Integrated Solid Waste Management Plan.*** *Petitioner shall cooperate with the State of Hawai'i Department of Health and County of Maui Department of Environmental Services to conform to the program goals and objectives of Chapter 342G, HRS, and the County of Maui's approved integrated solid waste management plan in accordance with a schedule and timeframe satisfactory to the State of Hawai'i Department of Health. Petitioner shall, in coordination with the appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities, including bins in public places, such as schools and parks, if any, within the proposed development.*

Compliance: MLP will cooperate with the State of Hawai'i Department of Health and County of Maui Department of Environmental Services to conform to the program goals and objectives of Chapter 342G, HRS, and the County of Maui's approved integrated solid waste management plan in accordance with a schedule and timeframe satisfactory to the State of Hawai'i Department of Health. MLP will, in coordination with the appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities, including bins in public places, such as schools and parks, if any, within the proposed development. No action has been taken to date.

15. ***Water Resources Allocation.*** *Petitioner shall provide adequate potable and non-potable water source, storage and transmission facilities and improvements to accommodate the proposed development on the Property. Water transmission facilities shall be approved by appropriate State agencies.*

Compliance: MLP will provide adequate potable and non-potable water source, storage and transmission facilities and improvements to accommodate the proposed development on the Property. All water transmission facilities shall be approved by appropriate State agencies. No action has been taken to date.

16. ***Access Rights.*** *Petitioner shall preserve access rights of native Hawaiians who customarily and traditionally have used the Property for access to other areas for subsistence, cultural and religious practices.*

Compliance: MLP will preserve access rights of Native Hawaiians who customarily and traditionally have used the Property for access to other areas for subsistence, cultural and religious practices. No requests for access have been received to date.

17. ***Best Management Practices.*** *Petitioner shall implement applicable best management practices applicable to each proposed land use to reduce or eliminate soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the State Department of Health guidelines.*

Compliance: MLP has prepared and will implement best management practices applicable to each proposed land use to reduce or eliminate soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the State Department of Health guidelines.

18. ***Water Conservation Measures.*** *Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and turf, and incorporate such measures into common area landscape planting.*

Compliance: MLP will implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and turf, and incorporate such measures into common area landscape planting. No action has been taken to date.

19. ***Energy Conservation Measures.*** *Petitioner shall implement energy conservation measures such as use of solar energy and solar heating and incorporate such measures into the proposed development on the Property.*

Compliance: MLP will implement energy conservation measures, such as use of solar energy and solar heating and incorporate such measures into the proposed development on the Property. No action has been taken to date.

20. ***Wellhead Protection Area (WPA).***

    a. *Any golf course green within the two-year time of travel of any County of Maui Department of Water Supply (DWS) well will be located outside a 500 feet radius from any such well.*

b. *Petitioner will install an impervious liner beneath any green Mauka or up gradient of the DWS wells within the two-year time of travel, including the Honokohua A and Napili C wells. The design and construction of the greens will include a drainage system that could collect all water and percolate and pipe it to discharge away and down gradient of the DWS wells.*

c. *Petitioner will pursue organic management practices for greens that may be constructed Mauka or up gradient of DWS wells within the two-year time of travel.*

Compliance: MLP will comply with all requirements described above. No action has been taken to date.

21. ***Golf Course Guidelines.*** *Petitioner shall comply with the recommendations of the State of Hawaii Department of Health's Guidelines Applicable to Golf Courses in Hawai'i (July 2002).*

Compliance: MLP will comply with the recommendations of the State of Hawaii Department of Health's Guidelines Applicable to Golf Courses in Hawai`i (July 2002). No action has been taken to date.

22. ***Compliance with Representations to the Commission.*** *Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.*

Compliance: All permit applications and development submittals to date have been in substantial compliance with the representations made during the reclassification process.

23. ***Notice of Change to Ownership Interests.*** *Petitioner shall give notice to the commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property. This condition shall be satisfied by the giving of notice only, and shall not require approval by the Commission.*

Compliance: Notice has been made to the Commission, letter dated August 21, 2009, of the sale of a 124.98-acre parcel known as Mahana Estates to SMC Mahana LLC. The sale was finalized on September 23, 2009. At this time, MLP has no intent to sell, lease, assign, place in trust, or otherwise alter the ownership interest in the remaining Property covered in the Petition. Notice will be given to the Commission if any additional transfers are intended.

24. ***Annual Reports.*** *Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning and the County of Maui Planning Department in connection with the status of the development proposed for the Property, and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the executive officer of the Commission. The annual report shall be due prior to or on the anniversary date of the Commission's approval of the Petition.*

Compliance: This letter represents the 15th annual report submitted in compliance with Condition 24.

25. ***Release of Conditions Imposed by the Commission.*** *Petitioner shall seek from the Commission full or partial release of these conditions as to all or any portion of the Property upon assurance acceptable to the Commission of satisfaction of these conditions.*

Compliance: MLP will seek from the Commission full or partial release of these conditions as to all or any portion of the Property only upon assurance that such full or partial release is acceptable to the Commission and MLP is in satisfaction of these conditions.

26. ***Statement of Imposition of Conditions.*** *Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.*

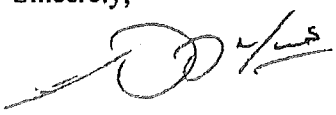
Compliance: MLP has recorded the Statement of Impositions of Conditions by Land Use Commission, dated June 16, 2004, with the Bureau of Conveyances as Document 2004-153380.

27. ***Recording of Conditions.*** *Petitioner shall record the conditions imposed by the Commission within the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.*

Compliance: MLP has recorded the Declaration of Conditions, dated July 20, 2004, as Document No. 2004-153381.

Please contact me at 808-757-2666 or psubrata@mlpmaui.com should you have any questions or require additional information. Thank you for taking the time to review this annual report.

Sincerely,



Paul Subrata,
Vice President
Maui Land & Pineapple Company, Inc.