

# PACIFIC RIM LAND INC.

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LAND USE COMMISSION  
STATE OF HAWAII

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January 15, 2020

Land Use Commission  
State of Hawaii  
PO Box 2359  
Honolulu, HI 96804-2359

**RE: 2005 – 2019 Annual Report for LUC Docket No. A94-710  
West Maui Venture Group**

Dear Commission:

Pursuant to Condition No. 22 in the Decision and Order of Docket No. A94-710, this letter is submitted as the annual report for the years 2005 to 2019 on the status of this Docket. The last annual report was submitted for 2004, and no annual reports have been submitted since. We apologize for this oversight.

The property associated with this Docket has been fully constructed and all the lots are sold or conveyed with a long-term lease.

The following lists all of the conditions set forth in the Decision and Order accompanied by a response describing the efforts by the Petitioner in order to comply with each condition.

1. *Petitioner shall implement effective soil erosion and dust control measures during construction to the satisfaction of the State Department of Health and County of Maui.*

Response: Petitioner complied with this condition.

2. *Petitioner shall cooperate with State Department of Health and the County of Maui to conform to the program goals and objectives of the Integrated Solid Waste Management Act Chapter 342G, Hawaii Revised Statutes.*

Response: Petitioner complied with this condition.

3. *Petitioner shall participate in the funding and construction of adequate wastewater transmission and disposal facilities on a pro-rata basis, as determined by the State Department of Health and the County Department of Public Works and Waste Management.*

Response: As noted above, the property is fully constructed. Wastewater service is provided by the County of Maui. The Petitioner met all requirements relative to wastewater transmission and disposal facilities as part of the subdivision and construction of the property.

4. *Petitioner shall fund and construct adequate civil defense as measures determined by the State and County civil defense agencies.*

Response: The civil defense siren coverage area extends over the property, therefore adequate civil defense measures are provided in the area.

5. *Petitioner shall fund, design and construct necessary local regional roadway improvements necessitated by the proposed development in designs and schedules coordinated with HFDC, and accepted by the State Department of Transportation and the County of Maui.*

*Petitioner shall work with HFDC and submit a traffic master plan, including a scenario with the connector roadway and necessary roadway setbacks in relation to the Petition Area and the HFDC property (Villages of Leiali'i), for the review and approval by the State Department of Transportation and the County of Maui. Petitioner shall coordinate and consult with HFDC on the location and road right-of-way for the proposed connector road.*

Response: Petitioner has complied with this condition. Petitioner was responsible for providing the right of way and building out a portion of the Keawe Street extension to the Bypass within the property boundaries. In coordination with State Department of Transportation (SDOT) and HHFDC (formerly HFDC), a connector road lot to HHFDC's remnant parcel was created.

6. *In the event HFDC and Petitioner agree on the relocation of the connector road through the Property, Petitioner shall provide and dedicate the ultimate road right of way width on the subject Property for the connector roadway leading to the Lahaina Bypass Highway as determined by the State Department of Transportation and the County Department of Public Works and Waste Management.*

Response: See response to Condition No. 5.

7. *In the event that the connector road is relocated through the Property, Petitioner shall prepare an amended traffic impact analysis, as may be deemed appropriate by the State Department of Transportation and the County of Maui.*

Response: See response to Condition No. 5.

8. *Petitioner shall fund and construct adequate potable and non-potable water source, storage and transmission facilities and improvements to accommodate the proposed project as determined by the appropriate State and County agencies, or shall be subject to the assessments for the same by the County.*

Response: As noted above, the property is fully constructed. Water service is provided by the County of Maui. The Petitioner met all requirements relative to water infrastructure and improvements as part of the subdivision and construction of the property.

9. *Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.*

Response: Petitioner has included an Emissions Control statement in the Declaration of Protective Covenants, Conditions, and Restrictions (CC&Rs) and requires a certification of no emissions from each lot developed with an appropriate consultant providing for assurance of mitigation if emissions are anticipated including methods of mitigation. See Exhibit A Section 1.08 Control of Emissions.

10. *Petitioner shall fund the design and construction of its pro-rata share of the drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and through covenants running with the land, shall require implementation of other best management practices as necessary to minimize non-point source pollution into Kahoma Flood Control Channel, in coordination with appropriate state and county agencies, such as the following:*

- a. *All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc. shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from this concrete floor, if necessary, shall pass through a separator sump before being discharged.*
- b. *All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.*
- c. *Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)*

Response: Petitioner constructed a drainage system for the project.

Pursuant to the request of the State Department of Health, the Petitioner has included the following provision in the Final Conditions, Covenants and Restrictions:

“runoff from buildings and parking lots shall be contained onsite in subsurface infiltration facilities designed for a 2 year 24-hour storm or 50 year 1-hour storm.”

Furthermore, Petitioner has included 10(a), 10(b) and 10(c) of the Land Use Commission’s Decision and Order within the CC&Rs. See Exhibit A Section 7.09 Drainage Improvements.

11. *Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation Division. The significance of these finds shall then be determined and approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, HRS.*

Response: During construction of the subdivision, Petitioner did not find any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls.

12. *Petitioner shall contribute pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the Division of Aquatic Resources, State Department of Land and Natural Resources.*

Response: Petitioner was not required by the State Department of Health and the State Department of Land and Natural Resources Division of Aquatic Resources to contribute to a nearshore water quality monitoring program.

13. *Petitioner shall insure that the proposed project will not negatively impact the use of the cane haul road or the Kaanapali Railroad.*

Response: Kaanapali Railroad is no longer an entity. The sugarcane train has limited service, only providing a short train ride during November to December that does not operate in this location. Nonetheless, Petitioner dedicated a separate railroad crossing easement for the sugarcane train.

14. *Petitioner shall initiate sound attenuation measures as determined by the State Department of Health.*

Response: Petitioner has included a provision in the CC&Rs as follows:

“No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Lot and improvements thereon, shall be placed or used upon any Lot. No sound shall be permitted to be emitted on any Lot which is unreasonably loud or annoying.”

See Exhibit A Section 7.10 Noise.

15. *A landscape buffer shall be established along the north and east boundaries of the Property abutting the Leiali'i residential project and along the south boundary of the Property abutting the Kahoma Stream to aid in the control of litter and general aesthetics of the surrounding area.*

Response: The Petitioner has incorporated this condition in the CC&Rs as part of the Design Standards. See Exhibit B Section 3.3 Landscape Buffer Areas.

16. *Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui prior to development of the Property.*

Response: In 1996, Community Plan Amendment and Change in Zoning was approved.

17. *Petitioner shall develop covenants, conditions and restrictions (“CC&Rs”) to run with the finished lots which include, but are not limited to the following:*
- a. requirements and standards to mitigate noise, dust and impacts related to various chemical disposal, oil disposal, hazardous waste disposal (especially with regard to small quantity generators), and other such mitigative measures;*
  - b. urban design standards minimize the visual/aesthetic impact of the development through landscaping, color schemes, lighting, building setbacks/staggering, and other such mitigative measures;*
  - c. and, if appropriate, standards for the construction of drainage structures on individual lots, which also include, but are not limited to oil/water separators.*

Response: The above items a, b and c are incorporated in the project’s CC&Rs as part of the Design Standards. See Exhibit B.

18. *Petitioner shall work with the appropriate state, county and federal agencies to remove a 55-gallon drum of unidentified contents and any unidentified white powder/ash from the Property prior to the commencement of development.*

Response: During Pioneer Mill's final harvest of the sugar on the subject property in c. 1996, the 55-gallon drum was removed from the development site.

19. *A mixture of retail, commercial and light industrial uses shall be proposed for each phase of development.*

Response: The property is substantially built out with a mixture of retail, commercial and light industrial uses. Any future uses are governed by Maui County Zoning Light Industrial M-1.

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

Response: Petitioner complied with this condition.

21. *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.*

Response: As noted above, the property is fully constructed and the Petitioner did not sell, lease, assign, place in trust or alter the ownership prior to development. As such, this condition is no longer applicable.

22. *Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.*

Response: Petitioner failed to prepare timely submittals from 2005 to 2019. Petitioner is complying with this condition for this oversight by submitting this status report for years 2005 to 2019.

23. *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 herein by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.*

Response: Petitioner complied with this condition.

24. *The Commission may fully or partially release the conditions provided here in as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.*

Response: Petitioner acknowledges this condition.

25. *Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawaii Administrative Rules.*

Response: Petitioner has complied with this condition.

If you have any questions or require additional information, please contact Leilani Pulmano at 270-5936.

Sincerely,

**WEST MAUI VENTURE GROUP**



**Ryan Churchill**

cc: Kurt Wollenhaupt, County of Maui, Department of Planning  
Office of State Planning  
John M. Kean