KULA RIDGE, LLC

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KULA RIDGE, LLC

LAND USE COMMISSION
STATE OF HAWAII

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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of The Petition Of KULA RIDGE, LLC To Amend The Land Use District Boundaries Of Approximately 34.516 Acres Of Land From The Agricultural Land Use District Into The Urban Land Use District And Approximately 16.509 Acres Of Land From The Agricultural Land Use District Into The Rural Land Use District At Kula, Makawao, Maui Hawaii, Tax Map Key: 2-3-01: Por. 23 And 174	DOCKET NO. A11-790 ANNUAL REPORT OF KULA RIDGE, LLC

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TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW KULA RIDGE, LLC. ("Petitioner"), a Hawaii limited liability company, and pursuant to Condition No. 19 of the Findings Of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment issued on February 21, 2012, hereby submits to the State Land Use Commission ("Commission") its annual report of compliance with the conditions established by said approval as follows:

General Progress of the Project.

Petitioner is continuing its work towards complying with Condition No. 10, Water System Improvements and Condition No. 11, Water Supply Plan, with the Department of Water Supply (DWS), County of Maui. Terms and conditions of a water system and water supply plan are being worked on in cooperation with the DWS.

Report on Compliance with Conditions Imposed by Commission.

With respect to Petitioner's compliance with the conditions of the Commission's approval, we offer the following:

1. **Affordable Housing**. Petitioner shall design and construct, or have constructed, for occupancy, 70 affordable housing units within the Petition area. Fifty-nine of the affordable units will be constructed as set forth in Resolution No. 10-57, dated October 19, 2010, and the Residential Workforce Housing Agreement, as approved by the Maui County Council and shall satisfy in full the affordable housing requirements under Resolution No. 10-57. Petitioner shall construct the 59 affordable units at a rate of two single-family homes or one senior duplex for each market rate home built, or market lot sold, as required by Resolution No. 10-57.

The remaining 11 affordable housing units to be constructed on the Petition Area are not required under Resolution No. 10-57, and may be available as affordable housing credits to satisfy affordable housing requirements for other property, if permitted by County law.

To the extent practicable, the 70 affordable units shall be sold for less than the maximum amounts established by the DHHC's Sales Price Guidelines matrix.

Response: Petitioner understands its obligation, and will comply with this condition.

2. **'Ohana Units.** Except for the four Rural District lots, no *'ohana* units or accessory dwelling (as this term is defined in section 19.04.040 of the MCC) shall be allowed in the Project. The initial deed for each unit sold in the Project and the Project CC&Rs shall include this restriction.

Response: Petitioner understands its obligation, and will comply with this condition.

3. **Wastewater Facilities.** Petitioner shall design and install IWS for all housing units in the Project in accordance with DOH Variance Application No. WW 242 granted on June 20, 2007. Each IWS shall be required to have an active and continuous O&M service program, to include annual inspection and reporting to DOH, provided through a single entity for all Project IWSs, to ensure optimal, safe, successful, and long-term use of IWS. The O&M service program requirement shall be written into each initial deed for each unit sold in the Project and into the Project CC&Rs.

Response: Petitioner understands its obligation, and will comply with this condition.

4. **Traffic Impact Mitigation.** Petitioner shall mitigate all Project-generated transportation impacts in accordance with a TIAR, and any updates thereto, that has been reviewed and approved by the DOT and the County of Maui Department of Public Works ("DPW"). Petitioner shall fund, construct, and implement all transportation improvements and other measures recommended and/or required in the approved TIAR, or any updated TIARs, as determined by DOT and the DPW. Petitioner shall submit an updated TIAR for DOT review and acceptance which must be accepted by DOT. The accepted TIAR shall be submitted to the DPW for review and acceptance prior to final subdivision approval. Upon request by DOT and the DPW, additional updates to the TIAR shall be submitted every five years after the date of this Decision and Order approving the Petition, until the mitigation measures have been completed.

Petitioner shall submit the updated TIAR to the DOT and the DPW for their review and approval within six months of the effective date of the Decision and Order approving the Petition.

Response: Petitioner submitted the updated TIAR to the DOT and the DPW for their review and approval within six months of the effective date of the Decision and Order approving the Petition.

5. Civil Defense. Petitioner shall fund and install an outdoor warning siren, as specified by the SCD to serve the Petition Area Prior to the completion of the first residential unit. The location of the siren shall be determined in consultation with SCD.

Response: Petitioner understands its obligation, and will comply with this condition.

6. **Archaeological Monitoring Plan.** Petitioner shall comply with an archaeological monitoring plan accepted by the SHPD, in consultation with the Maui/Lana`i Islands Burial Council, including the employment of archaeological monitors to ensure that all ground disturbances associated with the mass grading of the Petition Area, and trenching and exaction related to the installation of utilities, do not impact an subsurface cultural remains within the Petition Area.

Response: Petitioner understands its obligation, and will comply with this condition.

7. **Unidentified Archaeological Finds.** Petitioner shall comply with all State of Hawa`i and County of Maui laws and rules regarding the preservation of archaeological and historic sites should any archaeological remains or cultural materials be encountered during construction and /or earth altering activities. Petitioner shall stop work in the immediate vicinity of the find, and appropriate protocols shall be followed in coordination with SHPD and the Maui/Lana`i Islands Burial Council. Petitioner shall immediately notify the SHPD, and comply with the requirements of all applicable regulations, including chapter 6E, HRS. The SHPD, in consultation with the Maui/Lana`i Islands Burial Council, shall determine the significance of these finds and permit subsequent work to proceed with an archaeological clearance after appropriate measures have been implemented.

Response: Petitioner understands its obligation, and will comply with this condition.

8. **Stormwater Management and Drainage Improvements.** Petitioner shall construct and maintain, or cause to be maintained, stormwater and drainage system improvements as designed, in compliance with applicable Federal, State, and County laws and rules. To the extent feasible, petitioner shall mitigate nonpoint source pollution by incorporating low impact development practices for onsite stormwater capture and reuse into the Petition Area's site design and landscaping to prevent runoff onto affect State highway facilities, downstream properties, and receiving gulches, streams, and estuaries that connect with coastal waters.

Response: Petitioner understands its obligation, and will comply with this condition.

9. **Compliance with Section 205-3.5, HRS, Related to Agricultural Uses on Adjacent Agricultural Land.** For all land in the Petition Area or any portion thereof that is adjacent to land in the State Land Use Agricultural District, Petitioner shall comply with the following:

a. Petitioner and its successors and assigns shall not take any action that would interfere with or restrain farming operations conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the State Land Use Agricultural District. For the purpose of these conditions, "farming operations" shall have the same meaning as provided in section 165-2, HRS; and

b. Petitioner shall notify all prospective developers or purchasers of land or interest in land in the Petition Area, and provide or require subsequent notice to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under chapter 165, HRS, the Hawai`i Right to Farm Act. The notice shall disclose to all prospective buyers, tenants, or lessees of the Petition Area that potential nuisances from noise, odors, dust, fumes, spray smoke, or vibration may result from agricultural uses on adjacent lands. The notice shall be included in any disclosure required for the sale of transfer of real property or any interest in real property.

Response: Petitioner understands its obligation, and will comply with this condition.

10. **Water System Improvements.** Petitioner shall provide adequate drinking and non-drinking water source, storage, and transmission facilities and improvements to the satisfaction of the DWS to accommodate the development of the Petition Area.

Response: Petitioner understands its obligation, and will comply with this condition.

11. **Water Supply Plan.** Petitioner shall comply with all provisions of MCC, chapter 14.12, relating to water availability, including obtaining written verification of a long-term, reliable supply of water for the Project from the County of Maui prior to the submittal of subdivision construction plans.

Response: Petitioner understands its obligation, and will comply with this condition.

12. **BMPs.** Petitioner shall implement BMPs to protect surface and groundwater resources. The BMPs shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and groundwater pollution, and implement dust control measures during the development process in accordance with DOH guidelines and the County of Maui's grading ordinance.

Response: Petitioner understands its obligation, and will comply with this condition.

13. **Water Conservation Measures.** Petitioner shall implement water conservation measures and BMPs, such as use of endemic, indigenous and drought-tolerant plants and turf, and incorporate such measures into the Petition Area's site design and landscape planting, and shall incorporate low flow fixtures into the construction of all units.

Response: Petitioner understands its obligation, and will comply with this condition.

14. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as installation and use of solar water heaters and implementation of designs that

accommodate photo-voltaic energy systems should the buyer decide to purchase this option. All units shall be equipped with Energy Star appliances.

Response: Petitioner understands its obligation, and will comply with this condition.

15. **Established Access Rights Protected.** Pursuant to Article XII, section 7, of the Hawai`i State Constitution, Petitioner shall preserve any established access rights of Native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, and religious practices, or for access to other areas.

Response: Petitioner understands its obligation, and will comply with this condition.

16. **Solid Waste Management Plan.** Petitioner shall consult with the County of Maui to ensure the Project conforms to the program goals and objectives of chapter 342G, HRS, and the County's approved integrated solid waste management plan.

Response: Petitioner understands its obligation, and will comply with this condition.

17. **Sidewalk Improvements.** Petitioner shall fund and construct a sidewalk and crosswalks between Kula Community Center and the Haleakalā Waldorf School. The proposed design shall incorporate traffic-calming and other safety measures, such as raised crosswalks, speed humps, warning lights, or other measures deemed appropriate by the DPW to support the objective of creating a safer pedestrian environment along this segment of roadway. The specific alignment of the sidewalk, mauka or makai, shall be defined by Petitioner in coordination with the neighboring property owners, and must be approved by the DPW.

Response: Petitioner understands its obligation, and will comply with this condition.

18. **Infrastructure Deadline.** Petitioner shall complete construction of the proposed backbone infrastructure, which consists of the primary roadways and access points, internal roadways, on- and offsite water and electrical system improvements, and stormwater/drainage and other utility system improvements, within ten years from the effective date of this Decision and Order granting the requested reclassification.

Response: Petitioner understands its obligation, and will comply with this condition.

19. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the MPD in connection with the status of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual reports shall be due prior to or on the anniversary of the approval of the petition. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission, and shall be due on or before the anniversary date of this Decision and Order granting the reclassification of the Petition Area.

Response: Petitioner understands its obligation, and will comply with this condition. The second Annual Report is respectfully submitted.

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

Response: Petitioner understands its obligation, and will comply with this condition.

21. 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 interest in the Petition Area, prior to the development of the Petition Area.

Response: Petitioner understands its obligation, and will comply with this condition.

22. Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Response: Petitioner understands its obligation, and will comply with this condition.

23. Notice of Imposition of Conditions. Within seven days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances of the State of Hawai`i a statement that the Petition Area is subject to the conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

Response: Petitioner understands its obligation, and has complied with this condition.

24. Recordation of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

Response: Petitioner understands its obligation, and has complied with this condition.

DATED: Wailuku, Maui, Hawai`i, February 12, 2014.

CLAYTON NISHIKAWA
Managing Member
KULA RIDGE, LLC