

# SMC MAHANA LLC

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June 4, 2014

Mr. Riley Hakoda, Chief Clerk

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State Land Use Commission

Department of Business, Economic Development and Tourism

State of Hawaii

PO Box 2359

Honolulu, HI 96804-2359

Mr. Jesse Souki, Director

State Office of Planning

PO Box 2359

Honolulu, HI 96804

Mr. William Spence, Director

[planning@mauicounty.gov](mailto:planning@mauicounty.gov)

County of Maui Planning Department

Kalana Pakui Building Suite 200

250 S. High Street

Wailuku, HI 96793

**Re: Annual Compliance Report PORTION OF DOCKET NO. A03-741  
Mahana Estates 51 lot portion of Kapalua Mauka (Project District 2)**

**Via: US Mail and Email**

Sirs and Madam,

The Land Use Commission of the State of Hawaii ("LUC") approved Maui Land & Pineapple Company, Inc. ("MLP") petition to reclassify approximately 790 acres of land at Honokahua and Napili, Maui, Hawaii from the Agricultural district to the Urban and Rural District for Kapalua Mauka (Project District 2) by order dated June 29, 2004, Docket No A03-741. The Decision and Order sets forth 27 conditions of approval regarding the reclassification.

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The Mahana Estates portion of Kapalua Mauka is within the State Rural Land Use District. This 124.98 acre, 51 lot parcel is now owned by SMC Mahana LLC. The following annual report details compliance with the Mahana Estates portion of the land.

### *1. Affordable Housing*

MLP and the County of Maui have executed an affordable housing agreement for the Mahana Estates portion of the land in compliance with the County of Maui's Residential Workforce Housing Policy which requires 26 workforce housing credits for the Mahana Estates portion of the land. MLP has satisfied all of the affordable housing requirements pursuant to this agreement. Please see **attached copy** of the recorded Memorandum of Mahana Estates Subdivision Residential Workforce Housing Agreement Doc. No. 2007-097329 dated May 31, 2007 and the executed Mahana Estates Subdivision Residential Workforce Housing Agreement dated December 29, 2006 which documents the acceptance of 15 credits for Mahana Estates and the requirement for 11 additional credits. The 11 additional credits have been satisfied pursuant to the Mahana Estates Subdivision Residential Workforce Housing Agreement with the County acceptance of Notice of Assignment of Act 141 Workforce Housing Credits, Assignments #4, #5, and #6 as approved by the Director of the County of Maui Department of Housing and Human Concerns. Please see **attached document dated June 23, 2010, July 13, 2010, and July 13, 2010**. The agreement for Mahana Estates requires a total of 26 affordable housing credits, which have been satisfied by the 15 from the workforce housing agreement and the additional 11 from approved credits. **This condition has been satisfied in its entirety for the Mahana Estates portion of the land. SMC Mahana, LLC requests the release of the Mahana Estates portion of this condition 1, pursuant to the requirements of condition 25. Release of Conditions Imposed by the Commission. Please let us know if the condition has been released or if there is any additional information required for this request.**

**UPDATE 06/04/14: NOTIFICATION OF RELEASE OF THE ABOVE CONDITION WAS NOT RECEIVED BY SMC MAHANA, LLC FROM THE JUNE 2013 LUC COMPLIANCE REPORT. PLEASE FORWARD RELEASE OF CONDITION OR REQUEST FOR ADDITIONAL INFORMATION.**

### *2. Public School Facilities*

Pursuant to the Educational Contribution Agreement for Kapalua Mauka dated July 10, 2003 between Kapalua Land Company, Ltd and the State of Hawaii Department of Education, the Mahana Estates portion responsibility has been assigned to SMC Mahana, LLC. Pursuant to this assigned portion of the agreement, SMC Mahana, LLC will pay \$1,011.00 to the Department of Education within 30 days of the closing and recordation for the sale of residential unit or lot with in Mahana Estates. There are a total of 51 lots planned for Mahana Estates. As of this date, the Mahana Estates portion has not been subdivided and no lots have been sold.

### *3. Wastewater Treatment and Disposal Facilities.*

MLP purchased allocations for wastewater treatment in the Lahaina Wastewater Reclamation Facility (LWRF) when the facility was constructed. In letter dated October 4, 2006, the County of Maui Department of Public Works acknowledged the allocation for Mahana Estates was deducted from the reserved wastewater allocation. A **copy of the letter is attached** for your use. A copy of this letter was submitted on February 28, 2007 attached to the compliance report for Project District

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Phase III approval for Mahana Estates, and acknowledged by letter dated March 28, 2007 from Jeff Hunt, Director of Planning, County of Maui.

SMC Mahana LLC is currently constructing a new gravity collection system to collect wastewater generated by Mahana Estates and transport it to the LWRF. The completion of this system is expected to take another six months due to weather delays.

#### *4. Transportation Improvements*

The State Department of Transportation (SDOT), per letter dated December 7, 2006, had confirmed that no intersection improvements would be necessary at the intersection of Honoapiilani Highway and the Mahana Estates access road, but later updated their requirement to include the installation of a deceleration lane at the Mahana Estates access road. The grading, drainage, pavement, striping and signage work for this deceleration lane has been completed. The DOT has accepted the improvements as completed on 12/05/2012 and has released the performance bond after the one year warranty period which ended 12/05/2013.

#### *5. Traffic Impact Fee*

Pursuant to the Traffic Impact Fee Agreement for Kapalua Mauka dated October 31, 2006 between MLP and the County of Maui, the Mahana Estates portion responsibility has been assigned to SMC Mahana, LLC. Pursuant to this assigned portion of the agreement, SMC Mahana, LLC will pay \$3,500.00 per unit or lot developed for road and traffic improvements in the West Maui Community at the time of final subdivision. There are a total of 51 lots planned for Mahana Estates. As of this date, the Mahana Estates portion has not been subdivided.

#### *5a. Traffic Impact requests for changes*

SMC Mahana, LLC will submit written requests to the SDOT Highways Division Right of Way Branch for any change to existing highway access related to Mahana Estates. To date, no such changes have been requested and none are anticipated.

#### *6. Civil Defense*

SMC Mahana, LLC has agreed to contribute 51/690<sup>th</sup> of the cost of the Civil Defense siren system to be constructed and installed by MLP. The siren has not yet been installed.

#### *7. Archaeological Inventory Survey and Historic Preservation Mitigation Plan.*

SMC Mahana, LLC and its contractors has and will continue to comply with the provisions of the approved preservation plans as it applies to the 124.98 acre Mahana Estates portion of the land.

#### *8. Unidentified Finds*

SMC Mahana, LLC and its contractors will comply with all laws and rules regarding the preservation of archaeological and historic sites should any sites be found during construction on the Mahana Estates portion of the land.

#### *9. Air Quality Monitoring*

SMC Mahana, LLC will participate in air quality monitoring program, as it relates to the Mahana Estates portion of the land, as specified by the State Department of Health.

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*10. Notification of Potential Aircraft Noise.*

Sales agreements for all individual homes or lots within Mahana Estates will contain specific notification of potential noise from the over flight of aircraft using Kapalua West Maui Airport. To date, no sales agreements have taken place.

*11. Notification of Potential Nuisances.*

Sales agreements for all individual homes or lots within Mahana Estates will contain specific notification of potential odor, noise, and dust pollution resulting from adjacent agricultural uses. To date, no sales agreements have taken place.

*12. The Hawaii Right to Farm Act*

Sales agreements for all individual homes or lots within Mahana Estates will contain specific notification regarding the Hawaii Right to Farm Act, Chapter 165, HRS, which limits the circumstances under which pre-existing farm activities may be deemed a nuisance. To date, no sales agreements have taken place.

*13. Drainage Improvements*

Pursuant to County of Maui approved Grading permit G 2011/0082 issued 09/21/2011, construction of the drainage improvements for Mahana Estates portion of the land has started. The construction is expected to take another six months due to weather delays.

Pursuant to SDOT approved Permit to Perform MA-11-32 issued 11/22/2011, construction of the drainage improvements for Mahana Estates requiring a State permit has been completed. The DOT has accepted the improvements as completed on 12/05/2012 and is has released the performance bond after the one year warranty period which ended 12/05/2013.

*14. Integrated Solid Waste Management Plan.*

SMC Mahana, LLC will cooperate with the State of Hawaii Department of Health and the County of Maui Department of Environmental Services with their program goals and objectives for solid waste management. A Solid Waste Disclosure Form was filed with the Department of Health, Solid Waste Division on November 29, 2011 for the Mahana Estates portion of the land.

*15. Water Resources Allocation*

Pursuant with PUC regulated Kapalua Water Company approved construction plans, construction of the potable and non-potable systems for Mahana Estates has started. The construction is expected to take another six months due to weather delays for the transmission and storage facilities to serve the 51 lot residential area.

*16. Access Rights*

Although there are no known historic trails within the Mahana Estates land, SMC Mahana, LLC will preserve access rights of native Hawaiians who may have customarily and traditionally used the property for access to other areas for subsistence, cultural, and religious practices.

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*17. Best Management Practices*

SMC Mahana, LLC secured permit R10C659 dated 10/21/12 from the State Department of Health and has implemented and will continue to abide by all of the requirements for BMP's as directed by DOH for the Mahana Estates land.

*18. Water Conservation Measures*

To conserve water within Mahana Estates at Kapalua Mauka (Project District 2), in compliance with Ordinance 3358 (See Unilateral Agreement, Condition 2), SMC Mahana, LLC will:

- Install low flow fixtures and devices throughout the community. No home construction has been started to date.
- Limit irrigation of turf areas. The common area landscape plan has been approved by the County of Maui and includes the use of indigenous and drought tolerant plants and turf for the Mahana Estates land. No work has been done to date on the landscape portion of the work.
- Prevent over watering by automated systems. No irrigation systems have been installed to date.
- Not allow single pass cooling pursuant to Maui Count Code Section 14.21.20. No home construction has started to date.
- Use native plants for landscaping. The common area landscape plan has been approved by the County of Maui and includes the use of indigenous and drought tolerant plants and turf for the Mahana Estates land. No work has been done to date on the landscape portion of the work.
- Install meters for both potable and non-potable systems to discourage excessive use. The water system for Mahana Estates has been designed with both potable and non-potable water meters. No meters have been installed to date.

*19. Energy Conservation Measures*

SMC Mahana LLC will implement energy conservation measures, such as the use of solar energy and solar heating within the design of Mahana Estates. No homes have been constructed to date.

*20. Wellhead Protection Area.*

Mahana Estates does not include any golf course construction. **This condition does not apply to the Mahana Estates portion of the land. SMC Mahana, LLC requests the release of the Mahana Estates portion of this condition 20, pursuant to the requirements of condition 25. Release of Conditions Imposed by the Commission. Please let us know if the condition has been released or if there is any additional information required for this request.**

**UPDATE 06/04/14: NOTIFICATION OF RELEASE OF THE ABOVE CONDITION WAS NOT RECEIVED BY SMC MAHANA, LLC FROM THE JUNE 2013 LUC COMPLIANCE REPORT. PLEASE FORWARD RELEASE OF CONDITION OR REQUEST FOR ADDITIONAL INFORMATION.**

*21. Golf Course Guidelines.*

Mahana Estates does not include any golf course construction. **This condition does not apply to the Mahana Estates portion of the land. SMC Mahana, LLC requests the release of the**

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**Mahana Estates portion of this condition 21, pursuant to the requirements of condition 25. Release of Conditions Imposed by the Commission. Please let us know if the condition has been released or if there is any additional information required for this request.**

**UPDATE 06/04/14: NOTIFICATION OF RELEASE OF THE ABOVE CONDITION WAS NOT RECEIVED BY SMC MAHANA, LLC FROM THE JUNE 2013 LUC COMPLIANCE REPORT. PLEASE FORWARD RELEASE OF CONDITION OR REQUEST FOR ADDITIONAL INFORMATION.**

*22. Compliance with Representations to the Commission.*

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.*

The Commission was notified of the change in ownership from Maui Land & Pineapple Company, Inc. to SMC Mahana LLC in letter dated August 21, 2009. Copy attached.

*24. Annual Reports*

This letter is the annual report for the Mahana Estates portion of the land.

*25. Release of Conditions Imposed by the Commission.*

When requesting release of a condition as it relates to the Mahana Estates portion of the land, SMC Mahana LLC will file the appropriate motions upon formal acknowledgment from the proper agencies of their satisfaction with compliance with specific conditions. **This report contains the request and documentation for release of conditions 1, 20, and 21. Conditions 26 and 27 have been previously released.**

**UPDATE 06/04/14: NOTIFICATION OF RELEASE OF CONDITIONS 1, 20, AND 21 WAS NOT RECEIVED BY SMC MAHANA, LLC FROM THE JUNE 2013 LUC COMPLIANCE REPORT. PLEASE FORWARD RELEASE OF CONDITION OR REQUEST FOR ADDITIONAL INFORMATION.**

*26. Statement of Imposition of Conditions.*

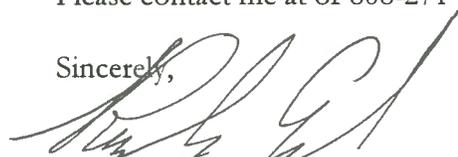
Done by Maui Land & Pineapple Company, Inc. This condition has been previously released.

*27. Recording of Conditions*

Maui Land & Pineapple Company, Inc. has recorded the Declaration of Conditions dated July 20, 2004 as Document No. 2004-153381. This condition has been previously released.

Please contact me at or 808-271-7430 if there are any questions.

Sincerely,



Pam English, Project Manager

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**Attachments:**

1. Memorandum of Mahana Estates Subdivision Residential Workforce Housing Agreement Doc. No. 2007-097329 dated May 31, 2007 (RE: Condition 1)
2. Mahana Estates Subdivision Residential Workforce Housing Agreement dated December 29, 2006 (RE: Condition 1)
3. Notice of Assignment of Act 141 Workforce Housing Credits, Assignments #4, #5, and #6 (RE: Condition 1)
4. Letter dated October 4, 2006, County of Maui Department of Public Works to MLP (RE: Condition 3)
5. Letter dated August 21, 2009 regarding change in ownership to SMC Mahana, LLC.