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LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

February 16, 2018

Mr. William Spence, Director
Department of Planning
County of Maui
One Main Plaza Building
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

Dear Mr. Spence:

Subject: Community Plan Amendment (CPA) Application
Mā`alaea Agricultural Subdivision
Mā`alaea, Maui, Hawai'i
TMK: (2) 3-6-001: 018

We are in receipt of the CPA Application for the subject project forwarded your department's transmittal dated February 1, 2018.

We understand that the Applicant, MVI, LLC (MVI), proposes to amend the Community Plan designation of the project site, consisting of approximately 257 acres of land, from Project District 12 to Agriculture. We further understand that MVI intends to subdivide the project site into 21 agricultural lots, ranging in size from 3.3 acres to 44.7 acres, consistent with Maui County Code, chapter 19.30A.030.

We note that the Land Use Commission (LUC) reclassified a 20.644-acre portion of the project site from the State Land Use Conservation District to the State Land Use Agricultural District under Docket No. A91-672/C. Brewer Properties, Inc., to bring it in conformance with past and existing agricultural uses at that time. The reclassification was originally subject to nine conditions. Upon subsequent motion by Wailuku Agribusiness Co., Inc., the LUC released three of the conditions pursuant to Order Granting in Part and Denying in Part Motion to Release Conditions of Approval Due to Satisfaction of Conditions filed on April 7, 2000.¹ The remaining six conditions require (1) that the 20.644 acres continue in agricultural use; (2) that

¹ Wailuku Agribusiness Co., Inc., fka Wailuku Sugar Company, a Hawai'i corporation, was the successor-in-interest to C. Brewer Properties, Inc.

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notice of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the 20.644 acres be provided to the LUC; (3) that should any archaeological resources be encountered during crop cultivation or any subsequent development activity all work should stop and the State Historic Preservation Division should be contacted; (4) that access through the 20.644 acres be provided to the Old Lahaina Pali Trail; (5) that annual reports to the LUC, Office of Planning, and the Department of Planning be provided; and (6) that the conditions of approval may be fully or partially released by the LUC upon timely motion and upon provision of adequate assurance of satisfaction of these conditions. As you know, these conditions run with the land and continue to be in full force and effect until otherwise released, modified, or deleted by the LUC.

Maalaea Properties, LLC, and Lodi Development, Inc. (Maalaea/Lodi), subsequently acquired the project site and filed a Petition for Land Use District Boundary Amendment (Petition) with the LUC on May 22, 2006, to urbanize the site. Maalaea/Lodi eventually sold the project site and filed a motion to withdraw the Petition, which was granted by the LUC by Order filed on March 11, 2010.

According to our records, no annual report has been filed in this docket by any owner of the 20.644-acre Petition Area since August 1999 as required by Condition No. 6. As the current landowner, MVI is bound by this condition and therefore should immediately file the required annual report in compliance with said condition.

Finally, we note that the project site was previously in sugarcane cultivation as well as used for small-scale agricultural farming and grazing. A portion of the project site is presently used for horse pasture and cattle grazing. Pursuant to Hawai'i Revised Statutes §205-4.5(4), dwellings in the State Land Use Agricultural District are required to be located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling. Agricultural activities should be actively and intensively pursued rather than be a secondary and passive endeavor. Additional information therefore should be provided on the specific agricultural uses that will be undertaken on the proposed 21 agricultural lots.

We have no further comments to offer at this time. Should you have any questions or require further clarification, please call our office at 587-3822.

Sincerely,



Daniel E. Orodenker
Executive Officer