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By e-mail

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
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**BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII**

In the Matter of the Petition of:	)	Docket No. A05-775
	)	
HALE MUA PROPERTIES, LLC	)	DEPARTMENT OF PLANNING COUNTY OF
	)	MAUI'S POSITION STATEMENT ON LAND
To Amend the Land Use District Boundary	)	USE COMMISSION'S ORDER TO SHOW
of Certain Lands Situated at Waiehu,	)	CAUSE; CERTIFICATE OF SERVICE
Island of Maui, State of Hawaii, Consisting	)	
of 240.087 Acres from the Agricultural and	)	
Rural Districts to the Urban District Tax	)	
Map Key No. 3-3-002:031 (portion)	)	
	)	
	)	

**THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S POSITION STATEMENT ON  
ORDER TO SHOW CAUSE**

In accordance with §15-15 of the State Land Use Commission Rules, the Maui County Planning Department (Department) is not opposed to the Land Use Commission (LUC) reverting a total of 116.177 acres, as noted in the metes and bounds map prepared by land surveyor Edgardo V. Valera, Licensed Professional Land Surveyor, of the approximately 240.087 acres of land of the Subject Area back to its former land use classification. The 116.177 acres was reclassified by the LUC on February 12, 2007 from the State Land Use Agricultural District to the State Land Use Urban District for the construction of 238 affordable housing units and 209 market-priced units; the Petitioner's requested reclassification of the remaining acreage, approximately 120.888 acres, was denied by the LUC. The property is situated in Waiehu, Maui, Hawaii, identified by Tax Map Key (2) 3-3-002:031.

### **Summary of Support for Reversion**

Condition 23 called for the Petitioner to develop the property in substantial compliance with representations to the LUC. The condition states that failure to so develop the property could result in the reversion of the Reclassified Area to its former classification, or change to a more appropriate classification. The Department notes that most of the conditions of the Decision and Order (D&O) have not been fulfilled, as construction was never initiated. Because there has not been substantial compliance with the representations made to the LUC, as detailed below, the Department has no objection to the reversion of the Reclassified Area to its former classification, instead of another land reclassification.

In addition to Condition 23, the following conditions are currently out of compliance:

Condition 1 states that the Petitioner shall provide affordable housing within five (5) years of the issuance of the D&O. The last compliance report that the Department received was the First Annual Report, received on February 13, 2008. At that time, it was stated that the Petitioner submitted a draft Affordable Housing Agreement to the Department of Housing and Human Concerns (DHHC) on March 14, 2007. The Department has been informed by DHHC that it does not have a record of a completed agreement. In any case, no affordable housing has been constructed to date.

Condition 19 was for the Petitioner to provide without prior-notice, annual reports to the LUC, Office of Planning and Department on the status of compliance with conditions. The Department is only aware that the Petitioner only provided the First Annual Report in 2008.

Condition 21 is for the Petitioner to provide a title report to the LUC, Office of Planning and Department showing clear title to the Reclassified Area, the Department has not received anything to date.

In addition, the Department is uncertain about the status of the Applicant's fulfillment of the following conditions:

Condition 5, the implementation of traffic mitigation measures and roadway and intersection improvements, as recommended or required by the Traffic Impact Assessment Report (TIAR), was unfulfilled. The Petitioner was to submit a revised TIAR to the Department of Transportation for review and approval within six (6) months of the issuance of the D&O. The First Compliance Report noted that the Petitioner submitted a revised TIAR on November 13, 2007; however, it was still under review.

Condition 25 was for the Petitioner to record conditions imposed by the LUC with the Bureau of Conveyances. In the First Annual Report, the Petitioner indicated a draft Declaration of Conditions was submitted to the LUC on January 31, 2008 for review and comment. Once approved, the Declaration was to have been recorded with the Bureau of Conveyances and a certified copy was to be filed with the Commission. The Department is unaware of whether this was accomplished.

The Department notes that conditions 18 and 24 have been met. Condition 18 was to provide the LUC with metes and bounds map and description of the Reclassified Area prepared by a registered professional land surveyor. As previously indicated, this was fulfilled. Condition 24 was for the Petitioner to record a statement that the Reclassified Area is subject to conditions imposed by the LUC with the Bureau of Conveyances, and file a copy of the recorded statement with the LUC within seven (7) days of issuance of the D&O. The First Annual Report revealed that this was condition was fulfilled.

Many other conditions are directly related to the physical development of the Reclassified Area, such as the provision of wastewater facilities, protection of archaeological and cultural resources, air quality monitoring and so forth. Because development has not yet occurred, compliance with these conditions has not yet been triggered, though they technically remain unfulfilled.

**Conclusion**

This Position Statement does not in any way address all concerns the Department may have. As previously mentioned, the Department is unaware of whether certain conditions were fulfilled, and reserves its right to comment at a later time.

DATED: Wailuku, Hawaii, July 10, 2018.



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MICHELE CHOUTEAU MCLEAN  
Planning Director  
Department of Planning

xc: Parties Served on Certificate of Service for A05-755  
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Rural Districts to the Urban District Tax	)	
Map Key No. 3-3-002:031 (portion)	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing position statement was served on the following on the date indicated below:

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DATED: Wailuku, Hawaii, July 10, 2018.



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