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February 14, 2019

LAND USE COMMISSION
STATE OF HAWAII

2019 FEB 19 A 8: 36

Daniel E. Orodenker, Executive Officer
Land Use Commission, State of Hawaii
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Re: Annual Report for 2018
Docket No. A92-686 – Pu'ukoli'i Mauka and Pu'ukoli'i Triangle

Dear Mr. Orodenker:

We are the attorneys for Ka'anapali Land Management Corp. ("KLMC"), a petitioner in the above referenced docket (the "Docket").

On behalf of KLMC and pursuant to Condition 28 of those certain Findings Of Fact, Conclusions Of Law, And Decision And Order, entered on May 5, 1993 (collectively, the "Original Decision and Order"), as amended by that certain Order Granting Motion To Substitute Parties And Modify Certain Conditions And Other Matters In The Findings Of Fact, Conclusions Of Law, And Decision And Order Dated May 5, 1993, entered on March 5, 2009 (the "Order of Amendment") (the Original Decision and Order, as amended by the Order of Amendment, is referred to herein as the "Amended Decision and Order"), we submit the following annual report for the year 2018.

I. General Status of the Project

The Petition Area consists of approximately 298 acres of land in Ka'anapali, Maui, Hawaii and was to comprise a project originally known as "Pu'ukoli'i Village." The corridor for the future Lahaina Bypass Highway bisects the Petition Area. The portion of the Petition Area located mauka of the future highway is referred to as "Pu'ukoli'i Mauka" and the portion located makai of the future highway is referred to as "Pu'ukoli'i Triangle."

On January 20, 1993, the Housing Finance and Development Corporation ("HFDC") certified the Pu'ukoli'i Village project under Act 15 (1988 Haw. Sess. Laws) (the "Act 15 Certification"). In accordance with the Act 15 Certification, on March 4, 1993, HFDC and Amfac Property Investment Corp. ("APIC"), the owner of the Petition Area at the time, entered into that certain Pu'ukoli'i Village Development Agreement (the "Development Agreement"). The Development Agreement contemplated, among other things, that HFDC and APIC (collectively, the

"Original Petitioner") would petition the Land Use Commission (the "Commission") to reclassify the Petition Area to the urban land use district in order to facilitate the development of the Pu'ukoli'i Village project, and that the project would include an affordable housing component as addressed in the Development Agreement.

Pursuant to the Development Agreement, the Original Petitioner petitioned the Commission to reclassify the Petition Area to the urban land use district. On May 5, 1993, the Commission issued the Original Decision and Order.

APIC subsequently transferred the Petition Area to KLMC, an affiliated entity and the current owner of the Petition Area. KLMC and the Hawaii Housing Finance and Development Corporation ("HHFDC"), the successor agency to HFDC, subsequently determined that it was no longer feasible to proceed with the development of the Pu'ukoli'i Village project in the form contemplated by the Development Agreement and Original Decision and Order because the estimated development costs were expected to far exceed anticipated revenues from the sale of developed units. Accordingly, KLMC, HHFDC and the County of Maui (the "County") entered into that certain Pu'ukoli'i Mauka Affordable Housing Agreement dated April 7, 2008 (the "Affordable Housing Agreement") which, among other things, revised certain requirements of the Development Agreement in order to facilitate the development of the Pu'ukoli'i Mauka portion of the Petition Area. In addition, the Affordable Housing Agreement contemplated that KLMC and HHFDC would request the Commission's approval to substitute themselves for the Original Petitioners as the petitioner of record in the Docket, and to amend the Original Decision and Order in order to facilitate the development of Pu'ukoli'i Mauka.

On June 12, 2008, KLMC and HHFDC filed their motion with the Commission to substitute themselves in the Docket for the Original Petitioner, and to amend the Original Decision and Order. On March 5, 2009, the Commission entered the Order of Amendment approving the substitution of KLMC and HHFDC (collectively, the "Petitioner") for the Original Petitioners as the petitioner of record in the Docket, and amending the Original Decision and Order.

As a result of the Order of Amendment, certain conditions of the Amended Decision and Order now apply only to Pu'ukoli'i Mauka, other conditions apply only to Pu'ukoli'i Triangle, and a third category of conditions apply to both Pu'ukoli'i Mauka and Pu'ukoli'i Triangle.

KLMC is continuing with its efforts to develop Pu'ukoli'i Mauka and to satisfy the conditions of the Amended Decision and Order that relate to Pu'ukoli'i Mauka as summarized below.

With respect to Pu'ukoli'i Triangle, as explained in more detail below, KLMC intends to incorporate Pu'ukoli'i Triangle into the Ka'anapali 2020 master plan (the "K2020 Master Plan") which KLMC began formulating in 1999.

II. Status of Compliance with Conditions of Amended Decision and Order

The following table summarizes the status of compliance with the conditions of the Amended Decision and Order as of the date of this letter.

No.	Condition	Status
1.	As to Pu'ukoli'i Mauka only: As to the Pu'ukoli'i Mauka portion of the Petition Area, Petitioner shall comply with the terms, covenants and conditions of that certain Pu'ukoli'i Mauka Affordable Housing Agreement (the "Affordable Housing Agreement"), dated April 7, 2008, among KLMC, HHFDC, and the County of Maui.	The County's Residential Workforce Housing Policy (Maui County Code Ch. 2.96) (the "Policy") has been amended several times since April 7, 2008, the effective date of the Affordable Housing Agreement. Accordingly, KLMC may engage HHFDC and the County in discussions to amend the Affordable Housing Agreement to conform to current requirements of the Policy.
1.	As to Pu'ukoli'i Triangle only: As to the Pu'ukoli'i Triangle portion of the Petition Area, Petitioner shall comply with Act 15, 1988 Session Laws of Hawaii, all rules and regulations promulgated thereunder, and all amendments and successor legislation thereto.	Act 15 sunsetted in April 1993. In 1999, APIC began formulating the K2020 Master Plan for its lands in Ka'anapali including the Petition Area. KLMC will need to obtain various entitlements in order to implement the K2020 Master Plan, including changing the State land use classification of certain of the lands covered by the K2020 Master Plan to the urban land use district, obtaining appropriate County of Maui community plan and zoning designations, and confirming affordable housing requirements with HHFDC. KLMC intends to incorporate Pu'ukoli'i Triangle into the K2020 Master Plan. In order to facilitate the integration of Pu'ukoli'i Triangle into the K2020 Master Plan, and to allow for consistency across the various future entitlements that will apply to the K2020 Master Plan lands, KLMC requested, by letter dated May 25, 2011, that HHFDC cancel the Act 15 Certification with respect to Pu'ukoli'i Triangle. On June 9, 2011, HHFDC approved the decertification of Pu'ukoli'i Triangle from Act 15 subject to amending the Development

No.	Condition	Status
		Agreement. However, as of the date of this annual report, the Development Agreement has not been amended as to Pu'ukoli'i Triangle. KLMC intends to clarify the requirements of the Development Agreement, if any, with HHFDC in connection with the approval and implementation of the K2020 Master Plan.
2.	As to Pu'ukoli'i Triangle only: The Project contains a unit mix such that not less than sixty percent (60%) of the Project provides housing opportunities for families earning less than one hundred and forty percent (140%) of the median income in accordance with the State Affordable Housing Guidelines. The sixty percent (60%) affordable requirement shall be in addition to any units built to satisfy affordable housing requirements of any other projects.	As described above in the status update for Condition 1 pertaining to Pu'ukoli'i Triangle, KLMC intends to incorporate Pu'ukoli'i Triangle into the K2020 Master Plan, and to comply with any affordable housing requirements and obligations imposed in connection with the approval and implementation of the K2020 Master Plan.
3.	Petitioner shall provide housing opportunities as represented in the Petition and during hearings for low, low-moderate, and moderate income residents of the State of Hawaii.	With respect to Pu'ukoli'i Mauka, as required by Condition 1 pertaining to Pu'ukoli'i Mauka, KLMC will comply with the Affordable Housing Agreement as it may be amended. With respect to Pu'ukoli'i Triangle, as described above in the status update to Condition 1 pertaining to Pu'ukoli'i Triangle, KLMC intends to incorporate Pu'ukoli'i Triangle into the K2020 Master Plan, and to comply with any affordable housing requirements and obligations imposed in connection with the approval and implementation of the K2020 Master Plan.
4.	As to Pu'ukoli'i Triangle only: Petitioner shall work with the County of Maui and State Department of Transportation to resolve the issues detailed in the final Environmental	KLMC and its affiliates have complied with this condition in the following respects: (a) Working with the Department of Transportation of the State of Hawaii (the "DOT"), KLMC and its affiliates funded the

No.	Condition	Status
	Impact Report (January 1993) through intersection improvements and/or re-routing of existing traffic flow to reduce projected Level of Service.	design of significant improvements to that portion of Honoapiʻilani Highway fronting then existing Kaʻanapali Beach Resort. These improvements, all of which are completed and have significantly improved the Level of Service on Honoapiʻilani Highway, included the following: (i) Widened Honoapiʻilani Highway to four (4) lanes; (ii) Installed a left turn storage lane and a separate right turn lane on the south bound approach of Honoapiʻilani Highway at its intersection with Kaʻanapali Parkway; and (iii) Installed improved signalization at the intersection of Honoapiʻilani Highway and Kaʻanapali Parkway. (b) KLMC completed the construction of Kakaʻalaneo Drive which extends from Honoapiʻilani Highway to Puʻukoliʻi Mauka and nearby properties and runs parallel and near to the long-existing Puʻukoliʻi Road. Kakaʻalaneo Drive will be the sole access to Puʻukoliʻi Mauka until portions of the Lahaina Bypass Highway abutting the Petition Area are completed. (c) In order to provide substantial traffic mitigation measures for the future development of the Puʻukoliʻi Village project and the adjacent K2020 Master Plan lands, the DOT and APIC entered into the Lahaina Bypass Highway Development Agreement on June 16, 1993, as amended on March 10, 2008 (the "Bypass Agreement"). The Bypass Agreement contemplates the construction of the Lahaina Bypass Highway by the DOT. KLMC and its affiliates have timely complied with all terms and conditions of the Bypass Agreement and have expended approximately $2.4 million to comply with its requirements including, among

No.	Condition	Status
		other things, the following: (i) The research, preparation and regulatory approval of an environmental impact statement for the entire Lahaina Bypass Highway which extends from Launiupoko (south of Lahaina town) to Honokowai (north of the Kaʻanapali Beach Resort); (ii) The civil and geotechnical engineering work to initiate construction of the first phase of the bypass highway; (iii) The surveying and engineering work to determine the corridor and possible right of way for almost the entire length of the bypass highway; (iv) The surveying, engineering, and archaeological work to establish the right of way for the second phase of the bypass highway; and (v) The surveying and engineering work to subdivide KLMC's and its affiliates' lands mauka of the Kaʻanapali Beach Resort for the creation of a corridor for the bypass highway.
5.	<u>As to Puʻukoliʻi Triangle only</u>: Petitioner shall commence construction of the mauka parcel of the Project only upon completion of the Bypass Highway.	By its terms, this condition is inapplicable to Puʻukoliʻi Triangle.
6.	If any archaeological resources such as artifacts, shell, bones or charcoal deposits, human burials, or rock or coral alignments, paving or walls of historic or prehistoric significance are encountered during development of the Project, Petitioner shall immediately stop work on the impacted area, and contact the	This condition is acknowledged.

No.	Condition	Status
	State Historic Preservation Division of the State Department of Land and Natural Resources.	
7.	Petitioner shall inform all prospective occupants of: (1) possible odor, noise, and dust pollution resulting from surrounding agricultural operations; and (2) the Hawaii Right-to-Farm Act, Chapter 165, HRS, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.	This condition is acknowledged.
8.	As to Puʻukoliʻi Triangle only: Petitioner shall participate in the funding (on a proportionate share basis), design and construction of off-site roadway improvements necessitated by the Project identified by and to the satisfaction of the State Department of Transportation, with the exception of the Proposed Roadway, which shall be funded as set forth below.	See status update to Condition 4.
8a.	As to Puʻukoliʻi Mauka only: Petitioner shall improve the intersection of Honoapiʻilani Highway and Kakaʻalaneo Road including traffic signalization when warranted to be established by a traffic study provided by Petitioner and approved by the Department of Transportation ("DOT").	8a. This condition is acknowledged. In 2014, KLMC sold and conveyed certain property adjacent to Kakaʻalaneo Drive (i.e., "Lot 17") to Newport Hospital Corporation ("NHC") for development of a hospital and related medical facilities on Lot 17. As a condition to the sale of Lot 17, NHC has agreed to complete the improvements required by this condition, subject to reimbursement by KLMC of a portion of the costs thereof.
8b.	As to Puʻukoliʻi Mauka only: Petitioner shall prepare a Preliminary Engineering (plan and profile) for the section of the Lahaina Bypass Road	8b. Preliminary Engineering plans were prepared and submitted by KLMC to DOT in 2013. KLMC is awaiting a response from DOT.

No.	Condition	Status
	which intersects with Kakaʻalaneo Drive. The preliminary engineering shall be subject to review and acceptance by the DOT to ensure that conflicts between the proposed Puʻukoliʻi Mauka development and the proposed four-lane Lahaina Bypass Road are minimized.	
9.	Petitioner shall fund, design, and construct all roadway improvements necessitated by the proposed project. Kakaʻalaneo Drive shall be the Proposed Roadway and the main access road from Honoapiʻilani Highway to the Petition Area.	See status updates to Conditions 4, 8, 8a, and 8b. In addition, with respect to Puʻukoliʻi Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
10.	As to Puʻukoliʻi Mauka only: Petitioner shall comply with the Lahaina Bypass Highway Development Agreement dated June 16, 1993, as amended on March 10, 2008.	Compliance is ongoing. See status update to Condition 4 for more information.
10.	As to Puʻukoliʻi Triangle only: Petitioner shall participate (on a proportionate share basis) in the funding for the construction of local and regional transportation improvements and programs necessitated by the proposed project, including dedication of rights-of-way as determined by the State Department of Transportation and the County of Maui Department of Public Works.	See status update to Condition 4. In addition, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
11.	Petitioner shall comply with applicable provisions of the State Department of Health Administrative Rules, and Title 11, Chapter 20 concerning Potable Water Systems. Petitioner shall also provide the necessary water source,	Hawaii Water Service Company ("HWSC"), a private water utility company regulated by the State of Hawaii Public Utility Commission, provides potable water (and the necessary source, storage and transmission facilities) to the Petition Area. To the best of KLMC's

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	storage, transmission facilities, and improvements to accommodate the Project.	knowledge, HWSC's potable water source, storage and transmission systems comply with the applicable rules of the Department of Health of the State of Hawaii (the "DOH") (Title 11, Chapter 20, Hawaii Administrative Rules).
12.	As to Pu'ukoli'i Triangle only: Petitioner shall work out its agreement with the County of Maui to ensure that there is adequate capacity at the existing Lahaina Wastewater Treatment Plant for the Project. Should it be required, Petitioner shall fund its proportionate share to expand or improve the existing Lahaina Wastewater Treatment Plant to the satisfaction of the State Department of Health and the County of Maui. In addition, Petitioner shall fund and construct transmission facilities to service the Project.	The requirements set forth in the first two sentences of this condition have been satisfied. The County and an affiliate of KLMC have entered into an agreement that reserves sufficient capacity at the Lahaina Wastewater Treatment Plant for various KLMC and affiliated properties, including Pu'ukoli'i Triangle, among others. In addition, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
13.	KLMC shall fund and construct wastewater transmission facilities to service the Project to the extent necessary to connect to the nearest existing County wastewater transmission lines.	This condition is acknowledged. With respect to Pu'ukoli'i Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
14.	As to Pu'ukoli'i Triangle only: KLMC shall also fund and construct transmission facilities as necessary for the disposal of treated effluent as generated by the development, on lands owned by KLMC.	KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
15.	Petitioner shall submit a final detailed drainage and erosion control plan to the State Department of Health and County of Maui Department of Public Works	This condition is acknowledged. KLMC has commenced the preliminary engineering to develop the drainage plan for Pu'ukoli'i Mauka. With respect to Pu'ukoli'i Triangle, KLMC will

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	for review and approval, and fund and construct the necessary drainage improvements. Petitioner shall provide verification that the grading and runoff water generated by the Project shall not have an adverse effect on adjacent and downstream properties.	comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
16.	KLMC shall construct offsite drainage improvements for the subject project to accommodate a 100 year storm. Appropriate mitigation measures shall be taken to reduce impacts on the adjacent and downstream properties.	This condition is acknowledged. With respect to Puʻukoliʻi Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
17.	All infrastructure improvements and the construction thereof for the Project shall be developed in compliance with County of Maui standards in accordance with the terms of the Development Agreement between KLMC and HHFDC.	With respect to Puʻukoliʻi Mauka, the Affordable Housing Agreement superseded the Development Agreement. In connection with the development of Puʻukoliʻi Mauka, KLMC will comply with the Affordable Housing Agreement as it may be amended. With respect to Puʻukoliʻi Triangle, as explained in the status summary to Condition 1 pertaining to Puʻukoliʻi Triangle, KLMC intends to clarify the requirements of the Development Agreement, if any, with HHFDC in connection with the approval and implementation of the K2020 Master Plan.
18.	The County of Maui has concerns that pursuant to Act 15 insufficient review time will be available to the various County agencies to review the infrastructure master plans and construction plans should they be submitted simultaneously. The County is required to complete its review within 30 days of submittal by KLMC or the plans are deemed approved. This condition is subject to the Development	With respect to Puʻukoliʻi Mauka, the Affordable Housing Agreement superseded the Development Agreement. With respect to Puʻukoliʻi Triangle, this condition is acknowledged.

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	Agreement.	
19.	Petitioner shall implement effective soil erosion and dust control measures both during and after construction of the Project to the satisfaction of the State Department of Health.	This condition is acknowledged. With respect to Pu'ukoli'i Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
20.	Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.	The DOH has advised KLMC and its affiliates that it does not have an air quality monitoring program specific to the West Maui area. KLMC will comply with all applicable DOH rules relating to air quality, including those rules requiring the use of "best management practices" to control fugitive dust during construction.
21.	Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, HRS.	This condition is acknowledged. With respect to Pu'ukoli'i Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
22.	Petitioner shall donate to the State of Hawaii a not less than eight (8) acre site for a school in satisfaction of Department of Education requirements (the "School Site"). The School Site shall be adjacent to a not less than four (4) acre public park (the "Park Site"), subject to the following conditions: a) The common border between the School Site and the Park Site shall be as close to a straight line as possible as agreed to by the Department of Education and the Director of the Department of Parks and Recreation of the County of Maui (the "Parks Director").	The location and configuration of the School Site have been approved by the State of Hawaii Department of Education (the "DOE") and HHFDC. The School Site is adjacent to the Park Site and has been subdivided. KLMC expects to complete the conveyance of the School Site, as required by this condition, in coordination with the DOE and development of Pu'ukoli'i Mauka.

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	b) The School Site shall be conveyed to the State of Hawaii free and clear of all materially adverse liens and encumbrances. c) Petitioner shall seek reapproval of the concept plan for the School Site from HHFDC, with the Department of Education, having the added opportunity to meet with Petitioner regarding any changes in the School Site. d) The School Site should be relatively square.	
23.	<u>As to Pu'ukoli'i Triangle only</u>: As permitted by law, Petitioner shall provide affordable housing opportunities in the Project to give preference for rental or purchase to those persons who are the lessees of record of Wainee Village housing units according to the records of Pioneer and who are eligible to purchase affordable housing units under HFDC guidelines, and who have been or will be displaced from the Wainee Village.	As there are no remaining lessees of Wainee Village housing units, this condition is no longer applicable.
24.	Petitioner shall participate in the funding and construction of appropriate civil defense measures related to the Project as determined by the State and County of Maui civil defense agencies.	This condition is acknowledged. With respect to Pu'ukoli'i Triangle, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan.
25.	Petitioner shall comply with the park dedication requirements under § 18.16.320, Maui County Code.	This condition is acknowledged.
26.	Petitioner shall develop the Property in substantial compliance with the representations made to the	With respect to Pu'ukoli'i Mauka, this condition is acknowledged. With respect to Pu'ukoli'i Triangle, as explained

No.	Condition	Status
	Commission. Failure to so develop the Property may result in the reversion of the Property to its former classification, or change to a more appropriate classification.	above in the status response to Condition 1 pertaining to Pu'ukoli'i Triangle, KLMC intends to incorporate Pu'ukoli'i Triangle into the K2020 Master Plan. Accordingly, KLMC will comply with any requirements imposed in connection with the approval and implementation of the K2020 Master Plan, including necessary and appropriate decisions and orders of the Commission obtained to facilitate the implementation of the K2020 Master Plan.
27.	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 the development of the Property.	This condition is acknowledged.
28.	Petitioner shall provide annual reports to the Commission, the Office of State Planning, and the County of Maui, Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed.	Compliance is ongoing.
29.	The Land Use Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.	This condition is acknowledged.
30.	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 to the effect that the Property is subject to conditions imposed by the Land Use Commission	This condition has been satisfied by the recording in the Bureau of Conveyances of the State of Hawaii (the "Bureau") of the following instruments, copies of which have been filed with the Commission: a. Certificate recorded as Document No. 93-

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	in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.	106910; b. Amendment to Certificate recorded as Document No. 93-136094; and c. Second Amendment to Certificate recorded as Document No. 2009-048854.
31.	Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Title 15, Section 92, Hawaii Administrative Rules.	This condition has been satisfied. See status update to Condition 30.

Please do not hesitate to contact us if you have any questions.

Very truly yours,

SCHNEIDER TANAKA RADOVICH
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Scott D. Radovich
Joel D. Kam

SDR/JDK:kmm

cc: Hawaii Housing Financing & Development Corporation (*via U.S. Mail*)
State of Hawaii, Office of Planning (*via U.S. Mail*)
County of Maui, Planning Department (*via U.S. Mail*)
Chad Fukunaga, Ka'anapali Land Management Corporation (*via E-mail*)