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ATTORNEYS FOR PETITIONER
MAUI OCEANVIEW LP

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

IN THE MATTER OF THE PETITION OF

MAUI LAND & PINEAPPLE COMPANY,
INC., a Hawaii corporation,

TO AMEND THE AGRICULTURAL
DISTRICT BOUNDARY INTO THE
URBAN LAND USE DISTRICT FOR
APPROXIMATELY 310.440 ACRES OF
LAND AT MAHINAHINA AND KAHANA,
DISTRICT OF LAHAINA, MAUI, HAWAII,
TAX MAP KEY NO. 4-3-01; POR. 31 AND
79

DOCKET NO. A04-751

THIRD SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
MOTION OF PETITIONER MAUI
OCEANVIEW LP TO AMEND DECISION
AND ORDER; EXHIBITS M-2, U-V;
CERTIFICATE OF SERVICE

THIRD SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION OF PETITIONER MAUI OCEANVIEW LP
TO AMEND DECISION AND ORDER

MAUI OCEANVIEW LP, Successor Petitioner (“Petitioner”) to Maui Land & Pineapple Company, Inc. in the above-captioned docket, by and through its attorneys, moved the LAND USE COMMISSION of the State of Hawaii (the “Commission”) to amend the decision and order of June 22, 2006 (“2006 D&O”) pursuant to Hawaii Administrative Rules §§15-15-70 and 15-15-94.

On July 24, 2019, July 29, 2019, and July 31, 2019, the Land Use Commission staff wrote to Petitioner, provided comments, and requested additional information. Petitioner, through counsel, responded by letter on July 29, 2019 (Exhibit U) and August 19, 2019 (Exhibit V) to the LUC staff with the following additional information and clarifications:

		Maui Oceanview LP is the successor in interest to Maui Land & Pineapple Company, Inc.
	EXHIBITS I, J	Limited Warranty Deed with Reservations and Covenants from Maui Land and Pineapple Company, Inc., recorded in the Bureau of Conveyances of the State of Hawai'i on June 3, 2016 as Document No. A-59980843 (for TMK 4-3-01-82); and Limited Warranty Deed with Reservations and Covenants from Maui Land and Pineapple Company, Inc., recorded in the Bureau of Conveyances of the State of Hawai'i on June 3, 2016 as Document No. A-59980844 (for TMK 4-3-01-83) Attached to Exhibit V are Print Outs of the Maui County Parcel History for TMK 4-3-01-82 and TMK 4-3-01-83) which indicate the re-assigned TMKs from TMK 4-3-01-31 (por.).
	EXHIBIT M-2	UPDATED and REVISED Traffic Impact Analysis Report (TIAR) (August 13, 2019) Attached to Exhibit V are copies of Sections 6 and 7 of the updated and revised TIAR (August 13, 2019).
	EXHIBIT U	Letter from G. Keith-Agaran to B. Saruwatari dated July 29, 2019.
	EXHIBIT V	Letter from G. Keith-Agaran to B. Satuwatari dated August 19, 2019 (w/ attached copies of Maui County Parcel History Print Outs for TMK 4-3-01-82 and TMK 4-3-01-83 (which indicate the re-assigned TMKs from TMK 4-3-01-31 (por.)), and copies of Sections 6 and 7 of the updated and revised TIAR (August 13, 2019).

Additional information responding to the LUC staff comments will be submitted.

MAUI OCEANVIEW LP seeks the following relief from the Land Use Commission: amendment of the Findings of Fact, Conclusions of Law, and Decision and Order

(D&O) to reflect that MAUI OCEAVIEW LP will provide 280 affordable multi-family workforce housing units for rent (inclusive of MLP's Kapalua Mauka commitment to provide 125 workforce housing units) in the Pulelehua development consistent with the Residential Workforce Housing Policy, Chapter 2.96, Maui County Code, and the Residential Workforce Housing Agreement executed between MAUI OCEANVIEW LP and the County of Maui Department of Housing and Human Concerns dated March 7, 2019, acknowledgement of MAUI OCEANVIEW LP's revised layout and unit mix that includes 800 affordable and market multi-family rental units and 100 single family for sale lots, and recognition of MAUI OCEANVIEW LP's standing to seek and obtain the amendment of the D&O as successor-in-interest to Maui Land & Pineapple Company, Inc. (MLP).

MAUI OCEANVIEW LP specifically requests the following amendments to the conditions of the 2006 D&O to reflect plans for its predominantly rental housing project:

1.a. Petitioner shall develop and offer for rent not less than 125 affordable housing units to qualified families or individuals to satisfy a condition imposed by the Commission in its approval of Petitioner's Kapalua Mauka development in LUC Docket No. A03-741. **Maui Oceanview LP acknowledges that it will fulfill this obligation of original Petitioner MLP.**

1.b. ~~In addition, Petitioner~~ **Maui Oceanview LP** shall develop and offer for ~~sale~~ **rent** not less than ~~325~~ **280** affordable housing units, **which total includes the 125 Kapalua Mauka units,** to low, low-moderate, and moderate income residents of Maui as a feature of Pulelehua **in accordance with the Residential Workforce Housing Policy, Chapter 2.96, Maui County Code and the executed Residential Workforce Housing Agreement Pulelehua Multi-Family Dwelling Units-Rental with Maui DHHC dated March 7, 2019.**

1.c. To ensure continued ~~owner occupancy, rental and resale~~ **rental** to qualified low, ~~low-moderate~~ and moderate income residents and maintain the affordable **rental** housing inventory within Pulelehua, **Petitioner Maui Oceanview LP** shall prior to the rental ~~or sale~~ of any affordable housing unit **comply establish with** County approved restrictions governing the rental, ~~sale~~ or transfer of all affordable housing units **as set out in the Residential Workforce Housing Agreement Pulelehua Multi-Family Dwelling Units-Rental with Maui DHHC.**

1.d. Subject to applicable laws, **Petitioner Maui Oceanview LP** shall establish at a minimum, qualifications for rental ~~or purchase~~ which specify that a renter ~~or buyer~~ must be currently employed in Maui, **be retired from employment in Maui; be a full-time student residing in Maui; be a disabled person residing in Maui and previously employed in Maui; be the parent or guardian of a disabled person residing in Maui; be the spouse or dependent of**

any such employee, retired person, student or disabled person, in the event of death of an employee retired person, student or disabled person the spouse or dependent of any such person residing in Maui, attain a minimum age of 18 years, demonstrate evidence of sufficient income, agree to physically reside in the affordable housing unit, and not already own a housing unit or other real property.

...

~~3. Wastewater Facilities. Petitioner shall, upon connection, pay a fair share contribution to fund improvements to wastewater treatment facilities to serve the Petition Area if such facilities are approved and developed by the County of Maui prior to the issuance of building permits, and Petitioner shall receive wastewater treatment service for wastewater from the Petition Area from the County of Maui at the LWWRF. In the event connection is made to the LWWRF, Petitioner shall construct wastewater transmission facilities to transport wastewater from the Petition Area to appropriate County wastewater transmission facilities leading to the LWWRF. Maui Oceanview LP shall develop and construct a wastewater treatment facility for Pulelehua.~~

..

~~20. Water Resources Allocation. Petitioner Maui Oceanview LP shall provide adequate potable and non-potable water source, storage and transmission facilities and improvements to the satisfaction of the DWS to accommodate the proposed development on the Petition Area.~~

MAUI OCEANVIEW LP also requests the following additional condition as requested by the Maui County Department of Public Works:

29. While the drainage basin owned by the Maui County Department of Public Works is included in the Project acreage covered by this Petition, the conditions set out in this order shall not be applicable to the Maui County Department of Public Works.

MAUI OCEANVIEW LP's Pulelehua Project is a mixed-use community with 100 Single Family Lots, 800 rental units and some commercial/retail space. Maui Oceanview LP will construct the multi-family rental buildings and units and commercial buildings and offer for sale the 100 Single-Family Lots. Live/Work spaces will be included in certain of the multi-family rental buildings. The rental units will include 280 workforce housing units and 520 market priced rental units. The 280 workforce housing rental units includes MLP's Kapalua Mauka commitment of 125 workforce rentals. The project will include a site selected by the Hawaii Department of Education

for a proposed new elementary school, a 10-acre County community park, smaller pocket parks and open space areas, and a trail and walking path system which connects different areas of the community.

CONCLUSION

Maui Oceanview LP requests the relief requested.

DATED: Wailuku, Maui, Hawaii, _____.



GILBERT S.C. KEITH-AGARAN
DAVID M. JORGENSEN

Attorneys for Petitioner MAUI OCEANVIEW LP

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CERTIFICATE OF SERVICE RE: THIRD
SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF MOTION OF PETITIONER
MAUI OCEANVIEW LP TO AMEND
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CERTIFICATE OF SERVICE RE: THIRD SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF MOTION OF PETITIONER MAUI OCEANVIEW LP TO AMEND DECISION
AND ORDER; EXHIBITS M-2, U-V

I certify that a copy of the THIRD SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF MOTION OF PETITIONER MAUI OCEANVIEW LP TO AMEND DECISION
AND ORDER; EXHIBITS M-2, U-V has been duly served on the following parties at their last
known address by hand delivery, or depositing in the U.S. mail, postage prepaid on
_____, 2019:

Rodney Funakoshi
Office of Planning
State of Hawaii
235 S Beretania Street, 6th Floor
Honolulu, Hawaii 96813

Michelle McLean, Director
Department of Planning
County of Maui
2200 Main Street, One Main Plaza Suite 315
Wailuku, Maui, Hawaii 96793

Dawn Takeuchi-Apuna, Esq.
Deputy Attorney General
Commerce and Economic Development
Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813

Moana Lutey, Corporation Counsel
Michael Hopper, Dep. Corp. Counsel
Office of the Corporation Counsel
County of Maui
200 S. High Street, 3rd Floor
Wailuku, Maui, Hawaii 96793

Rowena Dagdag, Director
Maui County Department of Public Works
200 S. High Street
Wailuku, Maui, Hawaii 96793

Jeff Pearson, Director
Maui County Department of Water Supply
200 S. High Street
Wailuku, Maui, Hawaii 96793

Maui Electric Company, Limited
ATTN: Corporate Secretary
PO Box 2750
Honolulu, Hawaii 96840
(DIGITAL COPY ONLY)

Maui Electric Company, Limited
c/o Susan A. Li
900 Richards Street, Room 414
Honolulu, Hawaii 96813
(DIGITAL COPY ONLY)

Hawaiian Telecom, Inc.
ATTN: Legal Department
1177 Bishop Street, Ste. 15
Honolulu, Hawaii 96813
(DIGITAL COPY ONLY)

Hawaiian Telecom, Inc.
c/o Owen Massiah
Legal Department
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Honolulu, Hawaii 96813
(DIGITAL COPY ONLY)

Hawaiian Airlines
c/o Corporation Service Company
1003 Bishop Street
Suite 1600 Pauahi Tower
Honolulu, Hawaii 96813
(DIGITAL COPY ONLY)

Hawaiian Airlines
3375 Koapaka St., Ste. G-350
Honolulu, Hawaii 96819
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Land Use Commission
235 S. Beretania Street #406
Honolulu, Hawaii 96813
ATTN: Riley K. Hakoda

DATED: Wailuku, Maui, Hawaii, _____.



GILBERT S.C. KEITH-AGARAN
DAVID M. JORGENSEN
Attorneys for Petitioner MAUI OCEANVIEW LP