

HONUA`ULA PARTNERS, LLC
P.O. BOX 880267
PUKALANI, HAWAII 96788

December 30, 2023

VIA EMAIL
DANIEL.E.ORODENKER@HAWAII.GOV



Mr. Daniel Orodener
Executive Director
Land Use Commission
State of Hawaii
P.O. Box 2359
Honolulu, HI 96804-2359

Subject: Annual Report of Honua'ula Partners, LLC, Docket No.: A93-689

Dear Mr. Orodener:

The following 2023 annual report is sent to the Commission in compliance with Condition #18 of the Decision and Order (the "D&O") entered in the above-referenced docket on September 20, 1994. This report is provided as an update from the last report provided to the Commission in 2022. Although the conditions and their individual status have not changed significantly since the previous report, there has been substantial progress toward other approvals, namely the Phase II approval by the Maui Planning Commission.

As the Commission is aware, the county zoning for this project is "Kihei-Makena Project District 9 (Wailea 670)", under §19.90A of the Maui County Code. As a project district, there are three phases of approval before construction can begin: Phase I establishes the project within the County Code; Phase II involves the approval of a "preliminary site plan" along with a report how the applicant is complying with the conditions of zoning; and Phase III which involves the review of construction documents and additional evidence of complying with conditions.

On September 27, 2022, the Maui Planning Commission voted to approve Phase II of the project. This approval opens the door toward Phase III, and the implementation of many of the LUC conditions, as well as zoning conditions, and ultimately to the construction of the project.

The following summarizes the current status of compliance with conditions of the subject D&O.

1. Condition #1 of the D&O states:

“1. Petitioner shall provide affordable housing opportunities for low-low/moderate and gap group residents of the State of Hawaii to the satisfaction of the State Housing Finance and Development Corporation in accordance with the Affordable Housing Guidelines, adopted by the Housing Finance Development Corporation, effective July 1, 1992, with an addendum dated January 1, 1994, and as periodically amended. The location, distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between the petitioner and the State Housing Finance and Development Corporation and the County of Maui, pursuant to Section 19.45.050.A. of the Maui County Code.”

Response: The Maui County Council enacted in December 2006 the Residential Workforce Housing Ordinance, Chapter 2.96, Maui County Code, amended in 2014, establishing requirements for affordable housing in Maui County. Additionally, Condition #5 of Ordinance No. 3554 specifies the affordable housing requirements for the Project. The Owner will comply with Chapter 2.96 and Ordinance No. 3554 as it is or as it may be amended.

2. Condition #2 of the D&O states:

“2. Petitioner shall implement effective soil erosion and dust control measures during construction and compliance with the rules and regulations of the State Department of Health and the County of Maui.”

Response: The Owner will comply with this condition. In addition, the Hawaii State Department of Health (“DOH”) and Maui County’s Department of Public Works (“DPW”) which regulates soil erosion and dust control, previously reviewed plans and commented. The Owner agrees to comply with those comments as related to Condition #2.

Also, the Owner shall comply with Condition #14 of Ordinance No. 3554 which requires non-potable water or effluent for dust control.

3. Condition #3 of the D&O states:

“3. Petitioner shall cooperate with the State Department of Health and the County Department of Public Works and Environmental Management to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.”

Response: The Owner will cooperate with the DOH and the Maui County Department of Environmental Management, Solid Waste Division during Phase III review, approval, and implementation to ensure that the project conforms to the program goals and objectives of the Solid Waste Management Act.

4. Condition #4 of the D&O states:

“4. Petitioner shall contribute its pro rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Environmental Management. When feasible, Petitioner shall contribute its pro-rata share and be required to connect to the County wastewater system and the Petitioner's temporary Sewage Treatment Plant shall be abandoned and dismantled.”

Response: Condition #17 of Ordinance No. 3554 requires the Owner to provide a private wastewater treatment facility and system for the Project. The Owner will consult with the Department of Environmental Management (“DEM”) and the DOH to review project compliance during Phase III. The Owner fully discussed with the DEM, Wastewater Division-and the DOH its compliance with Condition #4 and Condition #17.

Additionally, Condition #16 of Ordinance No. 3554 required a Sewer Disposal Study (the “Study”) to be prepared by the Owner. The Study was prepared and submitted to the DEM, the DOH, the Department of Water Supply (collectively, the “Government Agencies”) and the County Council for review and comment. The Government Agencies acknowledged that the Study satisfied their respective requirements. The County Council accepted the Study and filed it pursuant to its rules on November 29, 2010.

5. Condition #5 of the D&O states:

“5. Petitioner shall comply with the environmental health conditions from the State Department of Health, dated January, 1992 (Version 4), and entitled “Twelve (12) Conditions Applicable to all New Golf Course Development.”

Response: Condition #18 of Ordinance No. 3554 also requires Owner to comply with the DOH's Twelve Conditions Applicable to all New Golf Course Development. The Owner has elected to not proceed with construction of the golf course. As such, LUC Condition #5 and Maui Ordinance No 3554, Condition 18 (specifically, a.–i.) are no longer applicable. The owner may elect to amend Condition 18 to reflect the same.

6. Condition #6 of the D&O states:

“6. Petitioner shall participate in an air quality monitoring program, under such terms as may be mutually agreeable between the Petitioner and the State Department of Health.”

Response: The Owner will comply with Condition #6.

7. Condition #7 of the D&O states:

“7. Petitioner shall fund and construct adequate civil defense measures, as determined by the State and County of Maui, Civil Defense Agencies.”

Response: Condition #23 of Ordinance No. 3554 incorporates LUC Condition #7. The Owner will comply with Condition #7 and Condition #23 of Ordinance No. 3554. The final location and construction of these measures will come with Maui County Phase III approvals and consultation with State and County civil defense agencies.

8. Condition #8 of the D&O states:

“8. Pursuant to the agreement with the Department of Education (DOE), Petitioner shall contribute to the development, funding and/or construction of school facilities, by paying \$850.00 per unit (based on 2,000 proposed units) to the DOE as the developer's school facilities fair share contribution, with 20 percent paid at the time the building permit is obtained, and 80 percent paid, through escrow, at the time of closing on each unit. A quarterly report will be provided to the DOE by developers' escrow company listing the units sold and total amount of funds transferred to the DOE during that period. No monies paid to the DOE under this condition are to revert to the petitioner or developer.”

Response: The Owner will comply with Condition #8. The Owner proposed to the State Department of Education (DOE), and the DOE accepted, an offer to increase the project contribution from the previously approved \$850 per unit to \$3000 per unit based upon the same payment schedule as previously set forth by the LUC. A letter from DOE to the LUC confirms this offer, and the formal agreement setting forth this change in contribution has been accepted by the Owner. This contribution of \$3000 per unit has been incorporated in Condition #22 of Ordinance No. 3554.

9. Condition #9 of the D&O states:

“9. Petitioner shall fund, design and construct its pro rata share of the necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall revise the traffic study to re-examine the required mitigation measures if the roadway improvements cited and predecessors were not assumed to be place. The revised report shall also specify the improvements the developer will be committed to provide. The petitioner shall contribute its pro-rata share to the traffic improvements, as determined by the State Department of Transportation and the County of Maui.”

Response: The Owner is complying with all requirements of SLUC Condition #9 and Condition #2 and Condition #3 of Ordinance No. 3554. The Owner prepared a draft EA for the widening of Piilani Highway from Kilohana Drive south to Wailea Ike Drive and received a Finding of No Significant Impact (FONSI) from the State Department of Transportation. Further, the owners have initiated the submittal process with this agency. Also, Condition #2 of Ordinance No. 3554 specifies additional traffic requirements for the Project and Condition #3 incorporates the voluntary traffic impact contribution of \$5,000.00 per unit.

10. Condition #10 of the D&O states:

“10. Petitioner shall make available adequate golf tee times at affordable rates for public play to State of Hawaii residents.”

Response: The Owner has elected to not proceed with construction of the golf course. As such, Condition #10 is no longer applicable.

11. Condition #11 of the D&O states:

“11. Petitioner shall fund and construct its pro rata share for adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.”

Response: The Owner has been working diligently to address the current shortfall of domestic water supply in Maui County as it relates to the successful development of the subject project. As stated in the Planning Commission Conditions of approval dated November 30, 2001, the successor must develop a private water system

to serve the subject project. In response to this condition, the Owner has accomplished both a private water source development agreement and water transmission easement agreements with adjacent private landowners. With these agreements in place, the Owner has drilled four (4) groundwater wells and is commencing design now that Phase II approval has been completed.

Condition #1 of Ordinance No. 3554 specifies requirements for development of a water source for the Project. The work done thus far by the Owner is in compliance with this ordinance. The Owner will update the commission on the water system as it is developed and permitted for use and as the County condition may be amended.

12. Condition #12 of the D&O states:

“12. Petitioner shall fund the design and construction of its pro rata share of the drainage improvements required as a result of the development of the property in compliance with appropriate State and County agency requirements.”

Response: The Owner will comply with Condition #12. Further, various departments of the County of Maui and the State of Hawaii (including without limitation the Public Works Department and the Health Department) offered comments during the Phase II approval, those comments will be implemented with Phase III design.

13. Condition #13 of the D&O states:

“13. Petitioner shall contribute its pro rata share to a near shore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.”

Response: The Owner will comply with Condition #13. Further, the Owner has completed, updated and provided to the State Department of Health baseline water quality reports in compliance with Condition #20 of ordinance No. 3554.

14. Condition #14 of the D&O states:

“14. Prior to filing of an amendment to the Project District Zoning Ordinance for Project District 9, an archeological inventory survey of the southern portion of the Property which was covered with a‘a (labeled as very stony land in Figure 7 of the Petition) shall be conducted to identify significant historic sites. A final report shall be submitted to the Department of Land and Natural Resources, State Preservation Division, for review and comments. If significant historic sites are identified, an acceptable mitigation plan shall

be submitted to the Historic Preservation Division for approval and shall be implemented prior to any construction activities.”

Response: The Owner commissioned an Archaeological Inventory Survey (AIS) by Scientific Consultant Services (SCS) in 2013. The updated AIS was accepted by the State Historic Preservation Division (SHPD) of DLNR in December of 2015.

In compliance with Condition #26 of Ordinance No. 3554, the ownership commissioned development of a Historic Resource Preservation Plan (HRPP) pursuant to the condition and HRS 6E. Vol 21 of the plan was accepted by SHPD and the Office of Hawaiian Affairs in October 2021. In compliance with Condition #13 of Ordinance No. 3554, the Owner also commissioned a Cultural Resource Preservation Plan (CRPP), which was adopted by the Maui County Cultural Resource Commission in March of 2018.

15. Condition #15 of the D&O states:

“15. Petitioner shall provide at no cost to the County one (1) acre of land along Piilani Highway for a future fire station at a location satisfactory to the County.”

Response: The Owner will coordinate with the County to comply with Condition #15.

16. Condition #16 of the D&O states:

“16. Petitioner shall develop the property in substantial compliance with the representations made to the Commission. Failure to develop the property may result in reversion of the property to its formal classification or change to a more appropriate classification.”

Response: The Owner will comply with Condition #16.

17. Condition #17 of the D&O states:

“17. Petitioner shall give notice to the Commission of any intent to sell, lease or assign, place in trust or otherwise voluntarily modify the ownership interest in the property prior to development of the Property.”

Response: The Owner will comply with Condition #17.

18. Condition #18 of the D&O states:

“18. Petitioner shall timely provide, without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the subject project and petitioner's progress in complying with the conditions imposed therein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.”

Response: The Owner submits this Annual Report in compliance with Condition #18.

19. Condition #19 of the D&O states:

“19. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances, pursuant to Section 15-15-92, Hawaii Administrative Rules.”

Response: The Original Petitioner complied with Condition #19 by its recordation on January 20, 1995, of the document listing conditions to Reclassification of lands (the “Recorded Conditions”) with the Bureau of Conveyances of the State of Hawaii as Document No. 95-009365.

20. Condition #20 of the D&O states:

“20. Within seven (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 that the Property is subject to conditions imposed herein by the Land Use Commission and the reclassification of the property; and (b) shall file a copy of such recorded statement with the Commission.”

Response: Recorded conditions and the recorded copy thereof were filed with the LUC by the Original Petitioner on February 13, 1995.

21. Condition #21 of the D&O states:

“21. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon a provision of adequate assurance and satisfaction of these conditions by the Petitioner.”

Response: Pursuant to the Successor Petitioner's motion and adequate assurance of the reason for deleting Conditions #10 and #15, the LUC deleted

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Conditions #10 and #15 at its meeting on January 21, 2003. A new Condition #10 was substituted as noted above, but no new provision was inserted for Condition #15. The Owner will continue complying with Condition #21.

On behalf of Honuaua Partners, LLC, I respectfully request your acknowledgement that this annual report satisfies Condition No. 18 for this reporting period. Should you have any questions or require additional information, please feel free to contact me at 808-280-2724 or via email at mauiwill@gmail.com.

Sincerely,

HONUUA'ULA PARTNERS, LLC

A handwritten signature in cursive script, appearing to read "William Spence".

By William Spence
It's Authorized Representative

cc: Ms. Mary Alice Evans, Administrator, State Office of Planning
Ms. Kathleen Aoki, Planning Director, or
Acting Planning Director, County of Maui