

**DOCKET NO. A92-686**  
**KLMC/HHFDC**  
**(Pu'ukoli'i Mauka and Pu'ukoli'i Triangle)**

**Status Report**

***STAFF REPORT***

Hearing  
May 8, 2024



**Daniel E. Orodenker, Executive Officer**

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Submitted: March 28, 2024

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## **1. EXPLANATION OF PROCEEDING**

Status and Progress Report hearings provide the Petitioner an opportunity to update the Commission on progress or problems in complying with the representations and conditions of the decision and order.

### **Legal precedent and obligation**

Pursuant to HAR 15-15-90(c) “The Commission may require the petitioner to submit periodic reports indicating what progress has been made in complying with any conditions that may have been imposed by the commission.”

Pursuant to HRS 205 and HAR 15-15-79(a): “Petitioners granted district boundary amendments shall make substantial progress within a reasonable period, as specified by the commission, from the date of approval of the boundary amendment, in developing the property receiving the boundary amendment. The Commission may act to amend, nullify, change, or reverse its decision and order if the petitioner fails to perform as represented to the Commission within the specified time period.”

Condition 28 of the 1993 Decision and Order Relating to Annual Reports “Petitioner shall provide annual reports to the Commission, the Office of 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.”

After hearing from the Petitioner and other parties, the Commission may decide whether they are satisfied with Petitioner’s progress and report; or, whether additional information may be needed from the Petitioner and hold further hearings on the matter; or, that there is a reason to believe that Petitioner is non-compliant with representations and conditions in the D&O and set an Order to Show Cause hearing pursuant to HAR 15-15-79 and 15-15-93(b).

## **2. BACKGROUND INFORMATION**

The proceeding before the Land Use Commission (“LUC”) is to hear a status report by Petitioners currently involved in Docket A92-686 AMFAC Property Investment Corp. (“APIC”) and Housing Finance & Development Corporation (“HFDC”), State

of Hawai'i.<sup>1</sup> Now recognized as Ka'anapali Land Management Corp. ("KLMC") and HHFDC.

On January 20, 1993, HFDC certified the Pu'ukoli'i Village project under Act 15 (Session Laws of Hawai'i 1988) and entered into a development agreement with APIC that contemplated the two entities would petition the LUC to reclassify the Petition Area to facilitate development and that the project would include an affordable housing component as addressed in the development agreement. Act 15 certification exempted the project from the requirements of the County of Maui's Lahaina Community Plan and comprehensive zoning and subdivision ordinances.

Thirty-one years ago, in 1993, the original Docket involved the reclassification of approximately 298.993 acres of land from the State Land Use Agricultural District to the State Land Use Urban District at Hanaka'ō'ō, Lahaina, Island of Maui, Hawai'i, TMK Nos. 4-4-02: Portion of 02 and 4-4-06: Portion of 01. The District Boundary Amendment ("DBA") was granted on May 5, 1993, subject to 31 conditions ([1993 Decision and Order](#)).

At that time, the original project (Pu'ukoli'i Village) was split between two discrete areas called Pu'ukoli'i Mauka (approx.. 220 acres) and Pu'ukoli'i Triangle (approx. 40 acres); lying above and below the proposed Lahaina Bypass Highway, respectively. The project proposed to develop backbone infrastructure, and 1,700 single and multi-family residential units, which included sixty percent (60%) affordable units in accordance with HFDC guidelines per a development agreement. Development of the project and infrastructure was anticipated to occur over a 12-year period starting in 1994 and ending in 2005; dependent on construction of the Lahaina Bypass Highway.

In 1999, independent of the Pu'ukoli'i Village project, APIC (and later assumed by KLMC) sought to develop an economically feasible and community-endorsed plan to develop approximately 4,325 acres of land in Ka'anapali referred to as the Ka'anapali 2020 Plan, which included Pu'ukoli'i Mauka and Pu'ukoli'i Triangle.

APIC transferred the Petition Area to KLMC sometime between 1999 and 2007. According to KLMC (2022 Annual Report, pg. 2, para. 3) HHFDC and KLMC determined that the project was no longer feasible as "...estimated development

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<sup>1</sup> In 2009, the Commission amended its Decision and Order to recognize and substitute parties. At that time Ka'anapali Land Management Corp. ("KLMC") was substituted for AMFAC and Hawai'i Housing Finance and Development Corporation ("HHFDC") was substituted for Housing Finance and Development Corporation, State of Hawai'i, respectively.

costs were expected to far exceed anticipated revenues from the sale of developed units.” Thereafter, KLMC and HHFDC entered into a new Affordable Housing Agreement dated April 7, 2008, which revised certain requirements of the original development agreement for Pu’ukoli’i Mauka (only) and it further contemplated amendments to the 1993 Decision and Order.

On March 5, 2009, the Commission amended its Decision and Order to recognize the sale of the Petition Area to Ka’anapali Land Management Corp. (“KLMC”) and the change in name of the Hawai’i Housing Finance and Development Corporation (“HHFDC”). Additionally, the Commission amended conditions and clarified which of the conditions applied to the separate, distinct areas within the Petition Area ([see the 2009 Amended Decision and Order](#)) and ([KLMC 2022 Status Report pgs. 3-14](#)).

Petitioner provided regular annual reports between 1994-2002. In 2007 an annual report covering 2005-2006 was received. A 2007 annual report was then followed by eight years of no reporting until 2015. In 2015, an annual report covering 2008-2015 was received. Annual reports were received until 2019 and then there was another lapse in reporting. On July 14, 2023, Petitioner KLMC filed its 2022 annual report.

On June 9, 2011, HHFDC approved the decertification of Pu’ukoli’i Triangle from Act 15.

Staff reviewed the 2022 annual report and raised the following questions or additional information requests in a response letter dated August 28, 2023 ([LUC Response Letter](#)): specifics regarding the Ka’anapali 2020 Master Plan; expected conveyance date of school site pursuant to Condition 22; expected development date for Pu’ukoli’i Triangle; and information on any required regulatory approvals obtained or expected.

On September 29, 2023, Petitioner KLMC provided a [Supplemental Annual Report for 2022](#) to address questions from LUC staff. This included a [Ka’anapali 2020 Master Plan Map](#) only. The Supplemental Report raised further questions with LUC staff regarding the status and progress with the Petition.

- The Ka’anapali 2020 Master Plan (dated June 26, 2012) appears to reflect work done over a decade ago. All that has been provided is a map without any background text describing the process and participants. The Supplemental Report does indicate that KLMC will need to seek additional entitlements, including seeking reclassification of some lands to the Urban District from the LUC, County Community Plan changes and rezoning, along with “...confirming or clarifying affordable housing requirements...” with

HHFDC and the County.

- Conveyance of a school site to the State Department of Education (“DOE”) pursuant to Condition 22 appears to now be dependent upon development of Pu’ukoli’i Mauka through third-party developers and other development approvals not identified.
- HHFDC’s decertification of Pu’ukoli’i Triangle from Act 15 needs additional information to explain whether this part of the project is bound by any affordable housing requirements under the 1993 Decision and Order or the 2009 Amended Decision and Order.
- The recently updated West Maui Community Plan (effective January 31, 2022) appears to have established land use designations for the K2020 planning area that includes the Pu’ukoli’i Triangle. However, as noted in Petitioner’s letter, the land use designations are not entirely consistent with the K2020 Master Plan and that additional efforts will take place to continue with revised planning and permitting and other regulatory approvals.
- And finally, as stated by Petitioner “...no regulatory approvals relating to the Project have been obtained or are pending. Due to uncertainties in the regulatory environment and planning processes, an expected development date for Pu’ukoli’i Triangle cannot yet be provided.”

### 3. **PETITIONER FILINGS**

[KLMC 2022 Annual Report](#) (dated August 4, 2023)

[KLMC Supplemental Annual Report](#) (dated September 29, 2023)

[KMLC Letter to Executive Officer](#) (dated April 29, 2024) and attachments

[Ka’anapali 2020 Expanded Aerial with Lahaina Bypass](#)

[Ka’anapali 2020 Master Plan](#)

[Pu’ukoli’i Village Mauka Subdivision](#)

### 4. **OPSD POSITION**

The OPSD is responsible for representing the State’s interest in dockets before the LUC. As of 5/1/2024 no filings or position statement has been received from OPSD.

### 5. **COUNTY OF MAUI, PLANNING DEPARTMENT POSITION**

As of 5/1/2024 no filings or position statements have been received from the County. The County did respond on July 31, 2023 to KMLC’s 2022 Annual Report submittal with a [no objections letter](#).

## **6. WHY A STATUS REPORT?**

Consistent with messaging from the Governor’s office and State Legislature the provision of housing, particularly affordable housing, is a highest priority. Therefore, the LUC is actively looking at past dockets where housing was promised to better understand what progress has been made or the obstacles encountered.

This project was intended to provide up to 1,700 housing units in West Maui which is experiencing a housing crisis exacerbated by the recent wildfires. The Pu’ukoli’i Village project is over thirty-years old and has not produced any housing units to date.

The Status Report provides the Petitioner, OPSD, the County, other government agencies, and the general public an opportunity to share information about this project, steps needing to be taken to move it forward, and whether and which government agencies might be able to provide assistance.

Conclusion:

Any decisions by the Commission should be based on good cause (or lack of) shown by the Petitioner for its progress (or lack of ) and evidence put on the record:

- Should the Commission find that the responses regarding these issues are adequate it need not take any action.
- Should the Commission find that it is not satisfied with the responses received it may;
  1. Ask Petitioner to provide additional information and schedule further proceedings on this matter; or
  2. Request staff to schedule an Order to Show Cause hearing.