

HONUA'ULA

November 9, 2020

Honorable Alice Lee, Chair
And Members of the Maui County Council
200 S. High Street
Wailuku, Hawaii 96793

OFFICE OF THE
COUNTY COUNCIL

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Dear Chair Lee and Councilmembers:

Subject: Supplement to Honua'ula Annual Compliance Report to Maui County Council, CIZ 2000/009 and Ph1 2000/0001

By letter dated May 26, 2020, Honua'ula Partners, LLC (HPL) submitted its Annual Compliance Report as required by Condition No. 29 under Ordinance No. 3554, entitled "A BILL FOR AN ORDINANCE TO REPEAL ORDINANCE NO. 2171 (1992) AND TO ESTABLISH KIHEI-MAKENA PROJECT DISTRICT 9 (W AILEA 670) ZONING (CONDITIONAL ZONING), FOR APPROXIMATELY 670 ACRES SITUATED AT PAEHU, PALAUEA, KEAUKOU, MAUI, HAWAII." Condition No. 29 reads as follows:

29. That Honua'ula Partners, LLC, its successors and permitted assigns, shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.

This supplement replaces the Annual Compliance Report with respect to the entry in the timeline for November 2019 (mistakenly reported as November 2020) and the updates regarding Condition Nos. 26 and 27.

Timeline:

November 2019:

United States Fish and Wildlife Service (USFWS) provides notice to Honua'ula Partners that it now finds that USFWS has not fully completed the federal Section 106 process under the National Historic Preservation Act as it relates to the issuance of a Federal Permit (Incidental Take Permit) associated with the approval of the Habitat Conservation Plan (HCP) for the project. Previously, both USFWS and SHPD had concluded that the 106 process was completed. USFWS reinitiated consultation with Honua'ula Partners, LLC and other consulted parties, such as the

County of Maui, OHA, and the interested community, with the first meeting held at the Kealia Wildlife Sanctuary on January 31, 2020. Subsequent consultation meetings were planned but did not happen due to Covid 19 restrictions put in force by the State of Hawai'i.

Conditions:

26. That Honua'ula Partners, LLC, its successors and permitted assigns, shall provide a preservation/mitigation plan pursuant to Chapter 6E, Hawaii Revised Statutes, that has been approved by the State Historic Preservation Division, Department of Land and Natural Resources, and the Office of Hawaiian Affairs prior to Project District Phase II approval.

Status: With the receipt of the AIS acceptance letter from SHPD, a draft Historic Resource Preservation Plan (HRPP) was completed and transmitted to both SHPD and OHA for review and approval. SHPD issued a letter of acceptance for the document. Since then, HPL has continued to work with OHA to revise the document. In particular, HP and OHA have met and have exchanged comments and revisions. Meetings were conducted in person and letters were exchanged in 2018 and 2019. In the spring of 2020, HPL and OHA began a series of productive video conference meetings. As a result of these efforts, mutually acceptable changes have been made to the HRPP. We also agreed on a review protocol for the HRPP. We anticipate submitting the revised HRPP to Maui County pursuant to that protocol. This condition has been partially satisfied.

27. That Honua'ula Partners, LLC, its successors and permitted assigns, shall provide the report "Remnant Wiliwili Forest Habitat at Wailea 670, Maui, Hawaii by Lee Altenberg, Ph.D.", along with a preservation/mitigation plan, to the State Department of Land and Natural Resources, the United States Fish and Wildlife Service, and the United States Corps of Engineers for review and recommendations prior to Project District Phase II approval. The Maui Planning Commission shall consider adoption of the plan prior to Project District Phase II approval.

Such plan shall include a minimum preservation standard as follows: That Honua'ula Partners, LLC, its successors and permitted assigns, shall establish in perpetuity a Conservation Easement (the "Easement"), entitled "Native Plant Preservation Area", for the conservation of native Hawaiian plants and significant cultural sites in Kihei-Makena Project District 9 as shown on the attached map. The Easement shall comprise the portion of the property south of latitude 20°40'15.00"N, excluding any portions that the State Department of Land and Natural Resources, the United States Fish and Wildlife Service, and the United States Corps of Engineers find do not merit preservation, but shall not be less than 18 acres and shall not exceed 130 acres.

The scope of the Easement shall be set forth in an agreement between Honua'ula Partners, LLC and the County that shall include:

a. A commitment from Honua'ula Partners, LLC, its successors and permitted assigns, to protect and preserve the Easement for the protection of native Hawaiian plants and significant cultural sites worthy of preservation, restoration, and interpretation for public education and enrichment consistent with a Conservation Plan for the Easement developed by Honua'ula Partners, LLC and approved by the State Department of Land and Natural Resources, the United States Geological Survey, and the United States Fish and Wildlife Service; and with a Cultural Resource Preservation Plan, which includes the management and maintenance of the Easement, developed by Honua'ula Partners, LLC and approved by the State Department of Land and Natural Resources (collectively, the "Conservation/Preservation Plans").

b. That Honua'ula Partners, LLC, its successors and permitted assigns, shall agree to confine use of the Easement to activities consistent with the purpose and intent of the Easement.

c. That Honua'ula Partners, LLC, its successors and permitted assigns, shall be prohibited from development in the Easement other than erecting fences, enhancing trails, and constructing structures for the maintenance needed for the area, in accordance with the Conservation/Preservation Plans.

d. That title to the Easement shall be held by Honua'ula Partners, LLC, its successors and permitted assigns, or conveyed to a land trust that holds other conservation easements. Access to the Easement shall be permitted pursuant to an established schedule specified in the Conservation/Preservation Plans to organizations on Maui dedicated to the preservation of native plants, to help restore and perpetuate native species and to engage in needed research activities. These organizations may enter the Easement at reasonable times for cultural and educational purposes only.


e. Honua'ula Partners, LLC, its successors and permitted assigns, shall be allowed to receive all tax benefits allowable under tax laws applicable to the Easement at the time that said Easement is established in Kihei-Makena Project District 9, which will be evidenced by the recordation of the Easement in the Bureau of Conveyances, State of Hawaii.

HPL submitted to DLNR/DOFAW and USFWS a draft and a revised Habitat Conservation Plan (HCP) and meetings were held with the agencies and Endangered Species Review Committee (ESRC). The revised HCP plan addressed the provisions of this condition including the size and location of the Native Plant Preservation Area, Conservation Plan and easement. Final review with a recommendation for acceptance from the ESRC was expected in the fourth quarter

of 2020. In addition, an associated NEPA EA was completed and transmitted to the USFWS for posting in the Federal Register for public review and comment. Finalization of this process was also expected in the fourth quarter of 2020. In satisfaction of this condition, the Maui Planning Commission adopted the draft Habitat Conservation Plan. Adoption of the document by the Commission was completed in July of 2018. This condition has been satisfied. In moving to a conservation plan focused on the NPPA because obtaining an Incidental Take Permit and Incidental Take License is no longer necessary or appropriate, HPL has retained the attributes of the plan that satisfied Condition 27. Accordingly, this condition remains satisfied.

Honua'ula Partners, LLC
A Delaware limited liability company

By: Silverwood, LLC
A Delaware limited liability company,
its authorized representative

By: 
Rick Arambulo, Authorized Signatory