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April 8, 2013

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

2013 APR -9 A 8 21
LAND USE COMMISSION
STATE OF HAWAII

Re: *In re West Maui Land Company, Inc.; Docket No. A12-795*

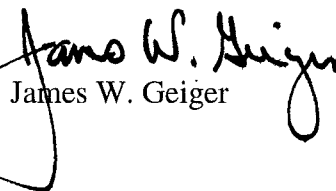
Dear Mr. Orodener:

In accordance with the Decision and Order entered in the above docket on April 5, 2013, and Hawaii Administrative Rule §15-15-92(b)(1), please find enclosed the Declaration of Conditions to be filed with the Bureau of Conveyances. Please advise of your approval, or if you have comments or requested changes, please so also advise.

I thank you in advance for your courtesies and assistance in this matter.

Very truly yours,

MANCINI, WELCH & GEIGER


James W. Geiger

JWG:tlc

Enclosure: Declaration of Conditions

cc: West Maui Land Company, Inc. (w/ encl.)
Kahoma Residential LLC (w/ encl.)

to as the "Property"), does hereby certify pursuant to Section 15-15-92, Hawaii Administrative Rules, as follows:

THAT by Findings of Fact, Conclusions of Law, Decision and Order, entered April 5, 2013, in Docket No. A12-795, the Land Use Commission reclassified approximately 16.7 acres of land in the State Land Use Agricultural District at Lahaina, Island and County of Maui, Hawaii, identified as Tax Map Key No. (II) 4-5-010:005, as shown on Exhibit "A" to the State Use Urban District.

AND THAT by Findings of Fact, Conclusions of Law, Decision and Order, entered April 5, 2013, it was further ordered that the reclassification from Agricultural District to the Urban District shall be subject to the following conditions:

1. **Education Contribution Agreement.** Petitioner shall contribute to the development, funding, and/or construction of school facilities in compliance with the *School Impact Fee Agreement for Kahoma Residential Project*, dated February 9, 2012, entered into by Kahoma Residential LLC and the DOE. Petitioner shall ensure that prospective buyers, purchasers, and subsequent owner builders of lots are given notice of the requirement to pay the West Maui School Impact Fee in accordance with the *School Impact Fee Agreement*. Such notice shall be recorded and shall run with the land.

2. **Water Conservation Measures.** Petitioner shall implement water conservation measures and best management practices such as the use of indigenous and drought-tolerant plants and turf to the extent practicable and incorporate such measures in the Project's landscape planting.

3. **Transportation.** Petitioner shall implement traffic improvements and mitigation measures, if any, as required by the State Department of Transportation and the County

of Maui, Department of Public Works.

4. **Street Lights.** Petitioner shall use fully-shielded low sodium street lights within the Project to avoid impacts to avifauna and other populations and to prevent light diffusion upward into the night sky.

5. **Affordable Housing.** Petitioner shall design and construct the Project, and provide affordable housing opportunities in substantial conformance with Maui County Council Resolution No. 11-126, dated December 2, 2011, approving the Project as an HRS Section 201H-38 affordable housing project, and the affordable housing agreement or any other agreement entered into by Petitioner and the County pursuant to said resolution.

6. **Established Access Rights Protected.** Petitioner shall preserve any established access rights of native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural and religious practices or for access to other areas for such purposes.

7. **Archaeological Monitoring.** Petitioner shall employ archaeological monitors to ensure that all ground disturbances associated with mass grading of the Petition Area, and the trenching and excavation related to the installation of utilities, do not impact any subsurface cultural remains within the Petition Area.

8. **Previously Unidentified Burials and Archaeological/Historic Sites.** In the event that historic or archaeological resources, including human skeletal remains, are found and identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, Maui Island Section, shall be contacted immediately as required by HRS Chapter 6E and its applicable regulations. Without limitation to any condition found herein, if any burials or archaeological or historic sites

or artifacts not previously identified in studies referred to herein are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.

9. **Storm Water Management and Drainage.** Petitioner shall design and construct storm water and drainage system improvements in compliance with applicable federal, State and County laws and rules, and maintain the improvements, or cause to be maintained the improvements, as designed. To the extent feasible, Petitioner shall mitigate nonpoint source pollution by incorporating low impact development practices for on-site storm water capture and reuse into the Petition Area's site design and landscaping to reduce runoff and prevent pollution of affected State highway facilities, downstream properties, receiving gulches and streams and estuaries that connect with coastal waters.

10. **Best Management Practices.** Petitioner shall implement applicable best management practices for each proposed land use to minimize infiltration and run-off from construction and vehicle operations, to reduce or eliminate soil erosion and groundwater pollution, and to formulate dust control measures to be implemented during and after the development process in accordance with the State DOH guidelines and rules and applicable County ordinances.

11. **Compliance With Exhibit 1 of Resolution 11-126.** Petitioner shall comply with all provisions of the Modifications stated in Exhibit 1 of Resolution 11-126 and any agreement entered into by Petitioner and the County of Maui in accordance with that resolution.

12. **Infrastructure Deadline.** Petitioner shall complete construction of the proposed backbone infrastructure, which consists of primary roadways and access points, internal roadways, on- and off-site water, sewer, and electrical system improvements, and storm

water/drainage improvements, within ten years from the date of the Decision and Order approving the Petition.

13. **Order to Show Cause.** If Petitioner fails to complete the construction of the proposed backbone infrastructure within ten years from the date of the Decision and Order approving reclassification of the Petition Area, the Commission may issue and serve upon Petitioner an Order to Show Cause and Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use District Agricultural Classification or be changed to a more appropriate classification.

14. **Compliance With Representations to the Commission.** Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, Decision and Order. Failure to develop the reclassified area in accordance with the representations may result in reversion of the reclassified area to its former classification or a change to a more appropriate classification.

15. **Annual Reports.** Petitioner shall timely provide, without any prior notice, annual reports to the Commission, the State Office of Planning, and the County of Maui Planning Department, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the executive officer of the Commission.

16. **Release of Conditions.** The Commission may fully or partially release conditions provided herein as to all or any part of the Petition Area upon timely motion and upon the provision of adequate assurances of satisfaction of these conditions by Petitioner or its successor assigns.

17. **Notice of Change of Ownership.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Petition Area at any time prior to completion of construction of the backbone infrastructure of the Project.

18. **Notice of Imposition of Conditions.** Petitioner shall (a) within seven (7) days of issuance of the Commission's Decision and Order reclassifying the Petition Area, record with the Bureau of Conveyances of the State of Hawaii a statement that the Petition Area is subject to the conditions imposed in this Decision and Order by the Commission and (b) promptly thereafter file a copy of such recorded statement with the Commission.

19. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances of the State of Hawaii pursuant to HAR Section 15-15-92.

Dated: Kahului, Hawaii, April _____, 2013.

WEST MAUI LAND COMPANY, INC.

By _____
James C. Riley
Its Vice President

KAHOMA RESIDENTIAL LLC

By: Kahoma Land LLC
Its Manager

By _____
James C. Riley
Its Member

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 2013, before me personally appeared JAMES C. RILEY, to me known, who, being by me duly sworn, did say that he is the Vice President of WEST MAUI LAND COMPANY, INC., and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, State of Hawaii
Printed Name: _____
My Commission Expires: _____

Doc. Date: _____	Pages: _____
Name: _____	Second Circuit
Doc. Description: _____	

_____ Notary Signature	_____ Date
NOTARY CERTIFICATION	
(Seal)	

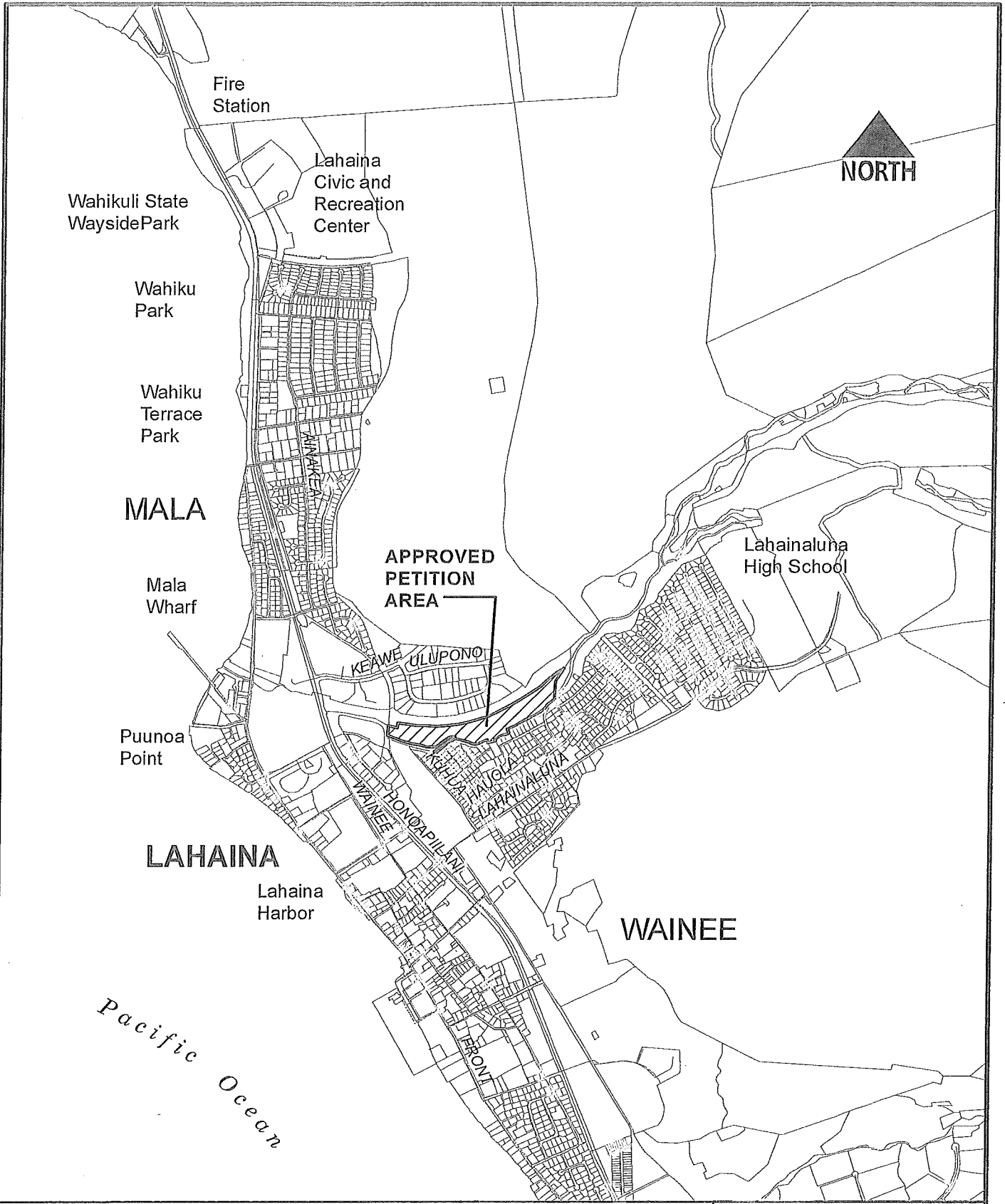
STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this _____ day of _____, 2013, before me personally appeared JAMES C. RILEY, to me known, who, being by me duly sworn, did say that he is the Manager of Kahoma Land LLC, which is the Manager of KAHOMA RESIDENTIAL LLC and that said instrument was signed on behalf of said company by authority of its Manager, and said Manager acknowledged said instrument to be the free act and deed of said company.

Notary Public, State of Hawaii
Printed Name: _____
My Commission Expires: _____

Doc. Date: _____	Pages: _____
Name: _____	Second Circuit
Doc. Description: _____	

_____ Notary Signature	_____ Date
NOTARY CERTIFICATION	
(Seal)	



A12-795 WEST MAUI LAND COMPANY, INC., a Hawaii corporation, and
 KAHOMA RESIDENTIAL LLC, a Hawaii limited liability company
LOCATION MAP
 Tax Map Key: 4-5-010: 005
 Lahaina, Island of Maui, State of Hawai'i
 SCALE: 1: 24,000
EXHIBIT "A"

