

CARLSMITH BALL LLP

B. MARTIN LUNA 0865
One Main Plaza, Suite 400
2200 Main Street
Wailuku, Maui, Hawaii 96793-1691
Tel. No.: (808) 242-4535
Facsimile: (808) 244-4974

GREGORY K. SCHLAIS 9042
ASB Tower, Suite 2200
1001 Bishop Street
Honolulu, Hawaii 96813
Tel. No.: (808) 523-2500
Facsimile: (808) 523-0842

Attorneys for Petitioner
WAIKO INDUSTRIAL INVESTMENT, LLC

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

**DOCKET NO. A12-796
WAIKO INDUSTRIAL INVESTMENT, LLC**

**In the Matter of the Petition of
Waiko Industrial Investment, LLC To Amend
the Land Use District Boundary of Certain Lands Situated at
Waikapu, Wailuku, Island of Maui, State of Hawaii, Consisting of
Approximately 31.22 Acres from the Agricultural District to the
Urban and Rural Districts, Tax Map Key No. 3-8-007:102**

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VERIFICATION

CERTIFICATE OF SERVICE

EXHIBITS

- Exhibit “1” Final Environmental Assessment (FEA)
- Exhibit “2” July 16, 2012 Letter from Maui County Department of Planning to
Mr. Gary Hooser, Director, Office of Environmental Quality Control
- Exhibit “3” Authorization of Waiko Industrial Investment, LLC
- Exhibit “4” Warranty Deed dated December 24, 2009
- Exhibit “5” Chapter 19.24, Maui County Code
- Exhibit “6” Current Balance Sheet and Income Statement
- Exhibit “7” Affidavit of Service of Petition for District Boundary Amendment
- Exhibit “8” Notification of Petition Filing

CARLSMITH BALL LLP

B. MARTIN LUNA 0865
One Main Plaza, Suite 400
2200 Main Street
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Tel. No.: (808) 242-4535
Facsimile No.: (808) 244-4974

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Attorneys for Petitioner
WAIKŌ INDUSTRIAL INVESTMENT, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

DOCKET NO. A12-796

WAIKŌ INDUSTRIAL INVESTMENT, LLC

To Amend the Land Use District Boundary of
Certain Lands Situated at Waikapu, Wailuku,
Island of Maui, State of Hawai'i, Consisting of
approximately 31.222 Acres, from the
Agricultural District to the Urban District, Tax
Map Key No. (2) 3-8-007:102.

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

Petitioner WAIKŌ INDUSTRIAL INVESTMENT, LLC (“**Petitioner**”), a Washington limited liability company, whose mailing address is P.O. Box 220, Kihei, Hawai'i 96753, by and through its legal counsel, CARLSMITH BALL LLP, hereby respectfully petitions this Honorable Land Use Commission of the State of Hawai'i (the “**Commission**”) to amend the land

use district boundary classification of certain lands consisting of approximately 31.222 acres, situated at Waikapu, Wailuku, Island of Maui, State of Hawai‘i, Tax Map Key No.

(2) 3-8-007:102 (the “**Petition Area**”), from the State Land Use Agricultural District (“**Agricultural**”) to the State Land Use Urban District (“**Urban**”).

The Commission is authorized to grant the relief sought herein pursuant to Chapter 205 of the Hawai‘i Revised Statutes (“**HRS**”) and the Land Use Commission Rules of the State of Hawaii found in Title 15, Subtitle 3, Chapter 15 of the Hawai‘i Administrative Rules (“**HAR**”).

I. INTRODUCTION

Petitioner is requesting Land Use District Boundary Amendment for the development of the Petition Area as a light industrial subdivision in compliance with Chapter 19.24, Maui County Code (M-1, Light Industrial District) and as it may be amended from time to time.

Petitioner plans to subdivide the property upon receipt of all land use entitlement approvals as Light Industrial (“**LI**”) subdivision, into approximately forty-one (41) lots, consisting of thirty-eight (38) lots for sale in fee simple and three (3) other lots for use by the Project. The lot sizes are proposed to range from approximately 10,000 square feet (“**sq. ft.**”) to 78,000 sq. ft., and with one 8.5-acre parcel. Related improvements include grading, the construction of a drainage system, construction of internal roadways, utilities, a private wastewater system, and offsite roadway improvements.

The Petition Area is presently classified “Agricultural” in the State Land Use District. The Petition Area is designated “Agriculture” within the Wailuku-Kahului Community Plan and zoned Agricultural by Maui County zoning. Through an approved State Special Use Permit and Maui County Conditional Permit, approximately four (4) acres of the Project site is presently used for equipment baseyard and storage of construction materials.

To implement the proposed LI subdivision as envisioned by Petitioner, this Petition for District Boundary Amendment (this “**Petition**”) is necessary to amend the State Land Use District Boundary from “Agricultural” to “Urban”. In addition, a Maui County Community Plan amendment (“**CPA**”) from “Agriculture” to “Light Industrial” is required, triggering the preparation of an EA consistent with the provisions within Chapter 343 of the HRS. Furthermore, a Change in Zoning (“**CIZ**”) is required to establish the “M-1, Light Industrial” zoning district.

Petitioner submitted its final environmental assessment (“**FEA**”) to the Maui County Department of Planning for the proposed project’s CPA and CIZ applications, pursuant to Chapter 200 of the HRS, Environmental Impact Statement Rules of the Department of Health, Chapter 343 of the HRS, and in compliance with the requirements of the community plan district amendment with the County of Maui. Petitioner’s FEA is attached hereto as *Petitioner’s Exhibit “1”* and incorporated herein by reference. The Maui Planning Commission accepted the FEA at its July 10, 2012 meeting, and issued its Finding of No Significant Impact (“**FONSI**”), as shown by letter dated July 16, 2012 from the Maui County Department of Planning to Mr. Gary Hooser, Director, Office of Environmental Quality Control, attached hereto as *Petitioner’s Exhibit “2”*.

II. AUTHORITY FOR RELIEF SOUGHT

HAR § 15-15-50(a)(1): State clearly and concisely the authorization or relief sought; and (2) Cite by appropriate reference the statutory provision or other authority under which commission authorization or relief is sought;

The Commission is authorized to grant the relief sought pursuant to Chapter 205 of the HRS, as amended, all other statutes applicable to the Commission, and rules promulgated thereby.

A. Identification of Petitioner

HAR § 15-15-50(c)(1): The exact legal name of each petitioner and the location of the principal place of business and if applicant is a corporation, trust, or association, or other organized group, the state in which the petitioner was organized or incorporated;

Petitioner WAIKŌ INDUSTRIAL INVESTMENT, LLC is a Washington limited liability company, whose mailing address is P.O. Box 220, Kihei, Hawai'i 96753.

B. Authorized Representatives

HAR § 15-15-50(c)(2): The name, title, and address of the person to whom correspondence or communications in regard to the application are to be addressed;

B. MARTIN LUNA, a partner with the law firm of CARLSMITH BALL LLP, has been appointed to represent Petitioner in its Petition and the proceedings thereon pursuant to HAR § 15-15-35(b). Attached hereto as *Petitioner's Exhibit "3"* is Petitioner's Authorization, and incorporated herein by reference.

Pursuant to HAR § 15-15-50(c)(2), all correspondences and communications in regard to this Petition shall be addressed to, and served upon:

B. MARTIN LUNA
CARLSMITH BALL LLP
One Main Plaza, Suite 400
2200 Main Street
Wailuku, Hawai'i 96793

GREGORY K. SCHLAIS
CARLSMITH BALL LLP
ASB Tower, Suite 2200
1001 Bishop Street
Honolulu, Hawai'i 96813

MARLIN NEW MANAGEMENT, INC., Manager
WAIKŌ INDUSTRIAL INVESTMENT, LLC
P.O. Box 220
Kihei, Hawai'i 96753

III. DESCRIPTION OF THE PETITION AREA

HAR § 15-15-50(c)(3): Description of the subject property, acreage, and tax map key number, with maps, including the tax map, that identify the area under petition. If the subject property is a portion of one or more lots, or the petition proposes incremental development of the subject property on both increments of development, the petitioner shall include a map and description of the subject property and increments in metes and bounds prepared by a registered professional land surveyor.

The Petition Area is located in Waikapu, Wailuku, Island of Maui, State of Hawai'i, and consists of approximately 31.222 acres, inclusive of all existing easements, and is identified by Tax Map Key No. (2) 3-8-007:102. A regional location map, regional setting map, location map, conceptual site plan, tax key map and aerial photograph of the Petition Area are attached respectively as *Appendices A, B, C, D, E and Q* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

Additional details and description of the Petition Area and the proposed development are contained in Petitioner's FEA (*Petitioner's Exhibit "1"*).

IV. RECLASSIFICATION SOUGHT AND PRESENT USE OF THE PETITION AREA

HAR 15-15-50(c)(4): The reclassification sought and present use of property, including an assessment of conformity of the reclassification to the standards for determining the requested district boundary amendment;

As discussed above, Petitioner is respectfully requesting that the Commission amend the present classification of the Petition Area from the "Agricultural" District to the "Urban" District to implement the proposed LI subdivision as envisioned by Petitioner. The Petition Area is presently located entirely in the "Agricultural" District.

For the past years, however, the Petition Area has not been used for any agricultural cultivation, and has been made up of pastureland and abandoned farmland and has been used as storage facility for construction equipment and materials.

V. PETITIONER'S STANDING AND INTEREST IN THE PETITION AREA

HAR § 15-15-50(c)(5): (A) A true copy of the deed, lease, option agreement, development, or other document conveying to the petitioner a property interest in the subject property or a certified copy of a nonappealable final judgment of a court of competent jurisdiction quieting title in the petitioner; (B) If the petitioner is not the owner in fee simple of the subject property, or any part thereof, written authorization of all fee owners to file the petition and a true copy of the deed to the subject property; and (C) An affidavit of the petitioner or its agent attesting to its compliance with section 15-15-48;

Petitioner alleges standing to file this Petition pursuant to HAR § 15-15-46(3) and HRS § 205-4(a), which entitles any person with a property interest in the land sought to be reclassified to petition the Commission for a District Boundary Amendment. Petitioner is the fee simple owner of the approximately 31.222-acre Petition Area, identified by Tax Map Key No. (2) 3-8-007:102. A true and correct copy of the Warranty Deed conveying a fee simple interest in the Petition Area to Petitioner is attached hereto as *Petitioner's Exhibit "4"* and incorporated herein by reference. Petitioner, therefore, has the requisite standing to file this Petition pursuant to HRS § 205-4(a) and HAR § 15-15-46(3).

VI. DESCRIPTION OF THE PROPOSED DEVELOPMENT PLAN

HAR § 15-15-50(c)(6): Type of use or development being proposed, including without limitation, a description of any planned development, residential, golf course, open space, resort, commercial, or industrial one;

Petitioner plans to develop the Petition Area for a light industrial subdivision known as the "**Waikō Industrial Subdivision**" (the "**Project**"). The Project will have approximately forty-one (41) lots, consisting of thirty-eight (38) lots for sale in fee simple and three (3) other lots for use by the Project. The lot sizes are proposed to range from approximately 10,000 sq. ft. to 78,000 sq. ft., with one 8.5-acre lot. Specific uses of the lots shall be consistent with the permitted uses in Chapter 19.24, Maui County Code ("MCC"), including any commercial uses within the Project. Chapter 19.24, MCC, is attached hereto as *Petitioner's Exhibit "5"* and

incorporated herein by reference. Also planned are related infrastructure improvements required for the proposed light industrial subdivision, such as construction of internal paved roadways, drainage retention systems, grading work, utilities (e.g., water, telephone, cable, electric, private wastewater system, etc.), landscaping, and other onsite and offsite improvements.

VII. PROJECTED NUMBER OF LOTS, LOT SIZES, DENSITIES, SELLING PRICES, INTENDED MARKET AND DEVELOPMENT TIMETABLES

HAR § 15-15-50(c)(7): A statement of projected number of lots, lot size, number of units, densities, selling price, intended market, and development timetables;

A. Projected Number of Lots and Lot Sizes

The Project will have approximately forty-one (41) lots, consisting of thirty-eight (38) lots for sale in fee simple and three (3) other lots for use by the Project. The lot sizes are proposed to range from approximately 10,000 sq. ft. to 78,000 sq. ft., with one 8.5-acre lot.

B. Market Demand and Selling Price

Based on the Market Study of the Proposed Waikō Industrial Park prepared by ACM Consultants, Inc. (“ACM”), dated March 15, 2011, attached as *Appendix L* to Petitioner’s FEA (*Petitioner’s Exhibit “I”*), there is a strong market demand for reasonably-priced LI lots subdivision in Central Maui. The proposed subdivided lots will be offered for purchase in fee simple interest. ACM researched the current prevailing sales prices for similar improved lands in the Central Maui area. At this time, it is anticipated that the average sales price range will be approximately \$40 to \$50 per sq. ft. Final sales prices, however, are contingent upon market conditions at the time that the Project is completed, as well as conditions and subdivision improvements associated with land use entitlement approvals which may be imposed by the Commission and/or the County of Maui.

C. Development Timetables

HAR § 15-15-50(c)(19): Petitioners submitting applications for reclassification to the urban district shall also represent that development of the subject property in accordance with the demonstrated need therefore will be accomplished before ten years after the date of commission approval. In the event full urban development cannot substantially be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments together with a map identifying the location of each increment, each subject increment to be completed within no more than a ten-year period;

Construction of the subdivision improvements and related infrastructure improvements is anticipated to begin as soon as all permitting approvals have been received. Petitioner anticipates that the completion of the subdivision improvements will take approximately twelve (12) months to complete, barring no unanticipated delays. Depending on market demands for such development and economic conditions, the Project may be completed in phases to respond appropriately to market conditions. Full urban development of the Petition Area, however, is anticipated to be complete well within ten (10) years of the Commission's approval of the reclassification.

VIII. PETITIONER'S FINANCIAL CONDITION AND FINANCING

HAR § 15-15-50(c)(8): A statement describing the financial condition together with a current balance sheet and income statement, and a clear description of the manner in which the petitioner proposes to finance the proposed use or development.

The estimated cost of the subdivision improvements intended by Petitioner is approximately \$8 million to \$10 million. Petitioner's financial condition is sound. Evidence of Petitioner's financial condition is reflected in the balance sheet and income statement as of December 31, 2011, prepared on March 27, 2012, attached hereto as *Petitioner's Exhibit "6"* and incorporated herein by reference. Petitioner intends to finance infrastructure improvements

through a variety of sources, including, but not limited to, private investment sources and banking institutions.

IX. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

HAR § 15-15-50(c)(9): Description of the subject property and surrounding areas including the use of the property over the past two years, the present use, the soil classification, the agricultural lands of importance to the State of Hawaii classification (ALISH), the productivity rating, the flood and drainage conditions, and the topography of the subject property;

Urban districts surround the Petition Area. The Petition Area is located at Waikō Road, Waikapu, Wailuku, Island of Maui, Hawai'i in two sections. See ***Petitioner's Exhibit "I" (Appendices A, B, C, E and Q)***. The eastern section of the Petition Area which is about nine acres, is adjacent on its west side to an existing light industrial subdivision known as Consolidated Baseyards, LLC Subdivision ("Consolidated Baseyards"). East Waikō Road is on its south side, Kūihelani Highway on its east side and on its north side by undeveloped pasture lands. The western section of the Petition Area, which is about 20.6 acres, is bordered by Consolidated Baseyards to the east, Waiko Road to the south, pasture lands to the north and west. The eastern and western sections of the Petition Area are joined by a long rectangular lot of about 1.6 acres along the north border of Consolidated Baseyards.

The Petition Area has not been used for any agricultural cultivation in recent years. Approximately four (4) acres of the Petition Area is presently used as storage facility for construction equipment and materials through an approved State Special Use Permit ("SUP") and an approved Maui County Conditional Permit, Ordinance No. 3735, Bill No. 23 (2010) ("CP"), attached as ***Appendix W*** to Petitioner's FEA (***Petitioner's Exhibit "I"***). The remaining acreage (approximately 27.222 acres) is presently vacant and fallow with overgrown buffelgrass, guinea grass, and kiawe tress, and is used for pastureland (horse pasture, with a small portion

used as cattle feedlot under a month-to-month license agreement). Photographs of the Petition Area and adjacent properties are attached as *Appendix R* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

A. Soil Classification

According to the *Soil Survey of Islands of Kaua'i, Oahu, Maui, Moloka'i, and Lāna'i, State of Hawai'i* (August, 1972), prepared by the United States Department of Agriculture Soil Conservation Service ("SCS"), the soil within the Petition Area is classified entirely as Pu'uone sand ("PZUE") series which is Loose Sandy soil over subsurface lithified sand layers. It is characterized as having rapid permeability above the cemented layer, slow runoff and a moderate to severe wind erosion hazard where vegetation has been removed. The Petition Area also consists of Ewa silty clay loam. A Soil Association Map is attached as *Appendix F* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

The productivity of the soil within the Petition Area is poor. *See University of Hawaii Land Study Bureau Detailed Land Classification, Island of Hawai'i* (1965). Soil within the Petition Area is classified as "E", under and "A" to "E" rating system, with "A" being the highest and "E" being the lowest class of productivity.

B. Agricultural Lands of Importance to the State of Hawai'i ("ALISH")

The State Department of Agriculture has established three (3) categories of Agricultural Lands of Importance to the State of Hawai'i ("ALISH"). These categories are: (1) "Prime" agricultural lands, which have soil quality, growing season, and moisture supply needed to produce sustained high yield of crops economically when treated and managed according to farming methods; (2) "Unique" agricultural lands, which have the special combination of soil quality, location, growing season, and moisture used to produce sustained high quality and of

high yields of specific crop when treated and managed according to modern farming methods; and, (3) “Other” important agricultural lands, which are lands other than Prime or Unique agricultural lands that are also of statewide or local importance for agricultural use.

As indicated by the ALISH Map, attached as *Appendix G* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*), the Petition Area falls within the “Other” agricultural lands category. As noted earlier, the Petition Area is undeveloped and not presently used in any agricultural cultivation.

C. Flood and Tsunami Hazard

The Petition Area is located near the eastern base of the West Maui Mountains. According to Panel Numbers 1500030393E and 1500030394E of the Flood Insurance Rate Map (“**FIRM**”), dated September 25, 2009, prepared by the United States Federal Emergency Management Agency (“**FEMA**”), the Petition Area is located in Flood Zone “X”. See *Appendix H* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*). Flood Zone “X” represents areas outside of the 0.2 percent annual chance of flood plain and in an area of minimal flooding. The classification of the Petition Area as Flood Zone X is further confirmed by the Maui County Planning Department’s Zoning and Flood Confirmation Form. See *Appendix T* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*). Further, the Petition Area is not located within the tsunami inundation zone. Best Management Practices (“**BMPs**”) will be implemented to mitigate any future or potential flooding on the site.

D. Climate

Like most areas of Hawai‘i, Maui’s climate is relatively consistent throughout the year. The island’s climate varies from terrain. Characteristic of most of Maui’s climate, the Petition

Area experiences mild and uniform temperatures year-round, moderate humidity and consistent northeasterly trade winds.

Average temperatures at the Petition Area (based on temperatures recorded at the nearby Kahului Airport) range from low 60 to high 80 degrees Fahrenheit. August is historically the warmest month, while January and February are the coolest.

Based on rainfall data from the Maui County Data Book (2010), annual precipitation rainfall average is 20 to 30 inches per year. Winds blow predominantly out of the north-northeasterly direction.

E. Drainage

Minimum grading will be undertaken within the Petition Area. The Project's drainage system will be designed to accommodate the increase in runoff generated by the proposed development of the Project. Drainage patterns of proposed improvements will be maintained to ensure impacts to downstream properties are minimized. With the proposed drainage improvements, any adverse impacts to topography and landforms resulting from minimum grading activities are not expected. The adjoining downstream properties will not have any additional increase of runoff due to this proposed Project. Detailed information regarding drainage plans are included in the Preliminary Engineering Report prepared by Otomo Engineering, Inc., dated May 2011, attached as *Appendix J* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

F. Topography

The 31.222-acre Petition Area is U-shaped with a 60-foot wide strip connecting the western and eastern sections of the Petition Area. The western section of the Petition Area slopes down in the west to east direction ranging in elevation from approximately 272 feet to 232

feet above mean sea level, with an average slope of approximately 3 percent. The eastern section of the Petition Area slopes down in a west to east direction ranging in elevation from approximately 208 feet to 198 feet above mean sea level, with an average slope of approximately 2 percent. The 60-foot wide strip separating the western and eastern sections of the Petition Area slopes down in a west to east direction ranging in elevation from approximately 232 feet to 208 feet above mean sea level, with an average slope of approximately 2 percent. A Topographic Map of the Project site is attached as *Appendix Z* of Petitioner's FEA (*Petitioner's Exhibit "1"*).

X. LOCATION OF THE PROPOSED DEVELOPMENT TO ADJACENT LAND USE DISTRICTS AND CENTERS OF TRADING AND EMPLOYMENT

HAR § 15-15-50(c)(12): Location of the proposed use or development in relation to adjacent land use districts and any centers of trading and employment;

Kūihelani Highway, a State of Hawai'i four-lane highway, is located immediately to the east of the Petition Area. Kūihelani Highway provides transportation access to West Maui by connecting Kahului with Honoapi'ilani Highway. Kūihelani Highway also provides access to Central, East and South Maui communities. Honoapi'ilani Highway located west, or *mauka*, of the Petition Area provides access to Wailuku town, Waiehu and Waihe'e communities.

Wailuku town is approximately 1.2 miles north from the Petition Area. Wailuku is Maui's center of governmental activities as well as a focal point of professional and business services. Combined with neighboring Kahului, approximately 1.5 miles from the Petition Area, the Wailuku-Kahului region's economic character includes a wide range of commercial, professional and business services, and governmental activities. In addition, the harbor and airport transportation systems are important and critical to the Kahului region. Also contributing significantly to the island's economy, and are within the Kahului region, are the University of Hawai'i Maui College and the Maui Arts and Cultural Center. Moreover, healthcare-related

businesses such as the Maui Medical Group, Kaiser Permanente, and the 231-bed State-owned Maui Memorial Medical Center Hospital are located within the region.

In addition, tourism-related activities are within the surrounding region, such as the Maui Ocean Center located at Mā'alaea (south of the Petition Area) and the Maui Tropical Plantation located at the base of Waikapū Valley at West Maui Mountain. Both of these tourist attractions are located 1 to 2 miles south and southwest of the Petition Area.

The towns of Waiehu and Waihe'e are approximately three and four miles away, respectively, from the Petition Area. These towns are primarily established residential communities.

XI. CONFORMITY OF THE RECLASSIFICATION TO THE STANDARDS FOR DETERMINING THE BOUNDARIES OF THE URBAN DISTRICT

HAR § 15-15-18 sets forth the standards used by the Commission for determining “Urban” District boundaries. The proposed reclassification of the 31.222-acre Petition Area conforms to those standards as described and shown by the following analysis:

A. Lands Characterized by “City-Like” Concentrations of People, Structures, Streets, Urban Level of Services and Other Related Land Uses.

HAR § 15-15-18(1): It shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other related land uses;

The 31.22-acre Petition Area is located in close proximity to “city-like” land uses. Schools are located in Wailuku and Kahului to the north of the Petition Area. Restaurants and grocery stores are also located to the north of the Petition Area, and there are single-family homes located to the west or *mauka* of the Petition Area. Existing structures, streets and services in proximity of the Petition Area can all be characterized as urban in nature.

The Waikapū community is located approximately half a mile west of the Petition Area and 1.2 miles south of Wailuku town. The Waikapū community is an old plantation community that was originally developed as a sugar plantation village. Today, Waikapū is primarily a residential community with limited lands allocated for commercial use.

There are newer residential subdivisions that have been developed immediately west or *mauka* of the Petition Area. Such residential projects include: Waiolani subdivision; Waikapū Gardens (developed as an affordable housing project); north boundary of the property is A&B Properties, Inc.'s proposed 545-acre Wai'ale community master plan project consisting of approximately 2,500 residential units, parks, and 16-acre LI; and Wailuku Heights subdivision located about 1.0 mile west of the Petition Area. The Maui Tropical Plantation is located at the southern extent of Waikapū, approximately 1.0 mile south west of the Petition Area.

Waikō Road borders the Petition Area to the south. Waikō Road, connecting Honoapi'ilani Highway with Kūihelani Highway, is bordered with commercial subdivisions including existing LI baseyard complexes known as ABC Development, Consolidated Baseyards and Rojac Trucking Baseyard. Additionally, there are agricultural uses on the lands to the north, east and south of the Petition Area. Lands surrounding Waikapū to the south are presently cultivated in sugar cane.

B. Proximity to Centers of Trading and Employment Except Where the Development Would Generate New Centers of Trading and Employment.

HAR § 15-15-18(2): It shall take into consideration the following specific factors: (A) Proximity to centers of trading and employment except where the development would generate new centers of trading and employment;

As previously mentioned, Kūihelani Highway, a State of Hawai'i four-lane highway, is located immediately to the east of the Petition Area. Kūihelani Highway provides transportation access to West Maui by connecting Kahului with Honoapi'ilani Highway. Kūihelani Highway

also provides access to Central, East and South Maui communities. Honoapi'ilani Highway located west or *mauka* of the Petition Area provides access to Wailuku town, Waiehu and Waihe'e communities.

Wailuku town is approximately 1.2 miles north from the Petition Area. Wailuku is Maui's center of governmental activities as well as a focal point of professional and business services. Combined with neighboring Kahului, approximately 1.5 miles from the Petition Area, the Wailuku-Kahului region's economic character includes a wide range of commercial, professional and business services, and governmental activities. In addition, the harbor and airport transportation systems are important and critical to the Kahului region. Kahului Airport ("OGG"), which is located approximately 5.8 miles to the north-east of the Petition Area, will ensure the area's continued reputation as the commercial and employment center of Central Maui.

C. **Availability of Basic Services such as Schools, Parks, Wastewater Systems, Solid Waste Disposal, Drainage, Water, Transportation Systems, Public Utilities, and Police and Fire Protection.**

HAR § 15-15-18(2): It shall take into consideration the following specific factors: . . . (B) Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection;

1. **Public Services**

Public services and facilities, together with improvements to be constructed, are adequate to support the proposed Project, and are not anticipated to be unreasonably burdened or impacted by the proposed development or reclassification of the 31.222-acre Petition Area.

a. **Schools**

The State Department of Education ("DOE") operates 8 schools in the Wailuku-Kahului region. There are also several privately-operated schools serving elementary, intermediate, and

high school students. Public school facilities within the Wailuku-Kahului region include:

H. Perrine Baldwin High School (grades 9-12), 'Īao Intermediate School (grades 6-8), Wailuku Elementary School (grades K-5), Waihe'e Elementary School (grades K-5), Maui High School (grades 9-12), Pōmaika'i Elementary School (grades K-5), Kahului Elementary School (grades K-5), Lihikai Elementary School (grades K-5), and Maui Waena Intermediate School (grades 6-8). Privately-operated schools serving the Wailuku-Kahului region include: St. Anthony School (grades K-12), Ka'ahumanu Hou Christian School (grades K-12), Emmanuel Lutheran School (grades K-6), and Maui Adventist School (grades 1-8).

University of Hawai'i Maui College, which is part of the University of Hawai'i system, located at Ka'ahumanu Avenue, Kahului, serves the college needs of Maui residents and offers three baccalaureate degrees.

b. **Recreational Facilities and Parks**

There are several parks and numerous recreational facilities within the Wailuku-Kahului region, including shoreline and boating activities at the Kahului Harbor and adjoining beach parks, organized recreational activities provided or offered at County-owned Parks. Within close proximity of the Project is the Waikapū Community Center located about half a mile west of the Petition Area. Other Maui County-owned parks and recreational facilities within the Wailuku-Kahului region are the Pāpōhaku Park and Wailuku Community Center, War Memorial Athletic complex, Wailuku Little League baseball fields, Sakamoto Swimming Pool and Keōpūolani Regional Park. All of these County-owned parks and recreational facilities are located within approximately 2 to 3 miles north of the Petition Area. A nearby park adjacent to the Hale Makana O Wai'ale Affordable Housing complex contains a baseball field, basketball court, and a playground equipment. This nearby park is located approximately 1 mile north of the Petition

Area. Other recreational facilities in the Wailuku area include ‘Īao Park, Wells Park, Wailuku Pool, Wailuku Gym, and Wailuku Elementary School Park.

In addition, there are several golf courses in the Wailuku-Kahului region located within close proximity to the Petition Area, namely: Kāhili and Kamehameha golf courses, Dunes at Maui Lani Golf Course, and the Maui County-owned Waiehu Golf Course. These golf courses are all within approximately 1 to 4 miles from the Petition Area.

c. **Police and Fire Protection**

Police protection for the Wailuku-Kahului region is provided by the Maui Police Department (“**MPD**”) located at Wailuku Station, headquartered at its main station on Mahalani Street in Wailuku, located approximately 2 miles north of the Petition Area. In addition, a satellite substation of MPD is located at Market Street, Wailuku, approximately 2 miles north of the Petition Area.

Fire protection, which encompasses fire prevention, suppression, rescue, and emergency services, for the Wailuku-Kahului region is provided by the Maui County Department of Fire and Public Safety (“**Maui Fire Department**”). The Maui Fire Department has 2 stations to service the Wailuku-Kahului region that is in close proximity to the Petition Area. The Wailuku station is located in Wailuku town approximately 2 miles north of the Petition Area and the Kahului station is located at Dairy Road, Kahului, approximately 1.5 miles east of the Petition Area.

d. **Medical Facilities**

As previously noted, the State-owned Maui Memorial Medical Center (“**MMMC**”), the only major medical facility on the island, services the Wailuku-Kahului region. Acute, general, and emergency care services are provided by the 231-bed MMMC facility, located on Mahalani

Street, Wailuku, which is about 2 miles north of the Petition Area. In addition, the State-owned Kula Hospital, located approximately 20 miles east of the Petition Area, provides emergency and long-term care services. Kaiser Permanente, Maui Medical Group, Maui Medical Clinic, and Liberty Dialysis Clinic serve healthcare needs for the Island of Maui, all of which are located in Wailuku and Kahului, approximately 2 miles north of the Petition Area. Dental and other medical offices are also located within the Wailuku-Kahului region to serve its residents and visitors, and are within 2 miles or less from the Petition Area. There are also elderly long-term residential facilities within the Wailuku-Kahului region, such as the Hale Mahaolu and Roselani residential complexes, both of which are located within 2 miles north of the Petition Area.

2. Infrastructure

With respect to infrastructure, Petitioner's Preliminary Engineering Report found that any Project-related impacts on existing infrastructures can be readily addressed and/or mitigated by the implementation of anticipated infrastructure improvements. *See Petitioner's Exhibit "1" (Appendix J)*. Specific infrastructures are discussed in more detail below.

a. Wastewater

According to Maui County, there is an existing 8-inch sewerline crossing East Waikō Road, approximately 3,000 feet west of the Petition Area. This existing 8-inch sewerline is located east, or *makai*, of Waikapū Town and connects to the existing sewer system on Wai'ale Road. Wastewater collected from the Waikapū area is transported to the Kahului-Wailuku Wastewater Treatment Plant located in Kahului, or east of the Petition Area. Due to its distance and upstream direction from the Petition Area, it is unfeasible to connect to the Maui County's existing sewer system.

A private master sewer system will be installed within the Waikō Industrial Subdivision's roadways, and a sewer lateral will be provided for each lot. The master plan sewer system will outlet into a community leach field, which will require review and approval of the State Department of Health ("DOH"). Individual wastewater systems ("IWS") will be used for the treatment of wastewater for each lot. It is estimated that the average daily wastewater contribution from the proposed Project will be 16,436 gallons per day ("gpd"). The proposed wastewater improvements will meet the projected wastewater flow for the proposed Project and will adhere strictly to the requirements set forth by the DOH. For further discussions and detailed information, please refer to the Preliminary Engineering Report, attached as *Appendix J* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

b. **Solid Waste Disposal**

Solid waste collection services for residential areas are provided by Maui County Department of Environmental Management ("DEM"). For commercial areas, solid waste is collected by private waste disposal companies. Collected solid waste is disposed at the Maui County's 55-acre Central Maui Landfill, located approximately 3 to 4 miles east of the Petition Area. This County-owned landfill is managed and operated by DEM.

Private commercial haulers will be used to dispose any construction materials during the subdivision and development of the Project. Once construction is completed, it is anticipated that solid waste collection and disposal will be provided by private commercial haulers. After the subdivision is completed, lot owners and tenants will be encouraged to implement waste recycling programs to reduce the amount of solid waste hauled to the Maui County's Central Maui Landfill.

c. **Drainage**

The on-site surface runoff sheet flows across the western and eastern sections of the Petition Area in a west to east direction. Runoff from the Petition Area eventually sheet flows onto Kūihelani Highway right-of-way where it is intercepted by the highway drainage facilities into a designated outlet.

It is estimated that the present 50-year, 1-hour runoff from the Petition Area is 15.16 cubic feet per second (“cfs”) (West section), plus 1.27 cfs (Middle section), plus 8.24 cfs (East section) for a total of 24.67 cfs. The corresponding runoff volume is 27,293 cubic feet (“cu. ft.”) (West section), plus 2,286 cu. ft. (Middle section), plus 12,355 cu. ft. (East section), totaling, 41,934 cu. ft.

The Project’s drainage system will be designed to accommodate the increase in runoff generated by the development of the entire Petition Area. Subdivision drainage improvements will include a master drainage system within the roadway, including curb-inlet catch basins, manholes, drainage lines and a drain stubout to each lot. The master drainage system will be sized to accommodate runoff from the roadways and developed lots. According to the Preliminary Engineering Report, attached as *Appendix J* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*), there will be no increase in runoff from the Petition Area after completion of the development and drainage system. The drainage improvements will be in accordance with Chapter 4, Rules for the Design of Storm Drainage Facilities in the County.

d. **Water**

There is no Maui County Department of Water Supply system currently servicing the Petition Area or adjacent properties. There are two (2) registered groundwater wells listed for the adjacent property at Consolidated Baseyards (State Department of Land and Natural

Resources (“DLNR”) Well Nos. 5129-02 and 5129-03). These wells are owned by Consolidated Baseyards, LLC, and were drilled in 2001 (State DLNR Well No. 5129-02) and in 2005 (State DLNR Well No. 5129-03) for distributing potable water, municipal water for Consolidated Baseyards. All DLNR permitting requirements are complete for both groundwater wells. According to DOH, Safe Drinking Water Branch, these two wells are sampled for analysis required by the U.S. Environmental Protection Agency (“EPA”) for drinking water standards, and no violations have been cited for these two (2) groundwater wells exceeding EPA limits.

The proposed Project will be served by these existing groundwater wells that are approved potable private water system. Petitioner is in negotiations with the owner/operator of the Consolidated Baseyards’ private water system, as evidenced in the Proposal Letter to David Ward of Consolidated Baseyards, LLC, dated July 5, 2011, attached as *Appendix V* of Petitioner’s FEA (*Petitioner’s Exhibit “1”*).

Based on the preliminary site plan for the Project, the domestic water demand, as determined by the Domestic Consumption Guidelines set forth by the Department of Water Supply (“DWS”), the average daily domestic water demand for the Project is calculated to be approximately 142,920 gpd. Using the analysis for Consolidated Baseyards, however, it is estimated that the average domestic water demand will be less, at 139,890 gpd. In accordance with DWS standards, the fire flow demand for a LI or commercial development is 2,000 gallons per minute (“gpm”) for a 2-hour duration. Petitioner will modify or upgrade the existing water system to meet DWS standards for domestic water and fire flow requirements.

A water system analysis of the existing water system at Consolidated Baseyards, titled “Capability of the Two Consolidated Baseyard Wells to Supply the Proposed Waikō Industrial Park”, dated March 1, 2011, was prepared by Tom Nance Water Resources Engineering,

attached as *Appendix U* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*). The analysis confirmed that the existing water system will be adequate to supply the domestic water demand for the proposed Project. In addition, according to the analysis, the existing 350,000-gallon water storage tank is adequate to meet the fire flow requirements for the proposed Project.

e. **Transportation System**

As described above, the Petition Area is in close proximity to existing major roadways, such as Kūihelani Highway, a State of Hawai‘i four-lane highway located immediately to the east of the Petition Area, and Honoapi‘ilani Highway, located west or *mauka* of the Petition Area. Petitioner also intends to construct necessary internal roadways.

Access to the proposed Project will be from Waikō Road. From Waikō Road, there will be access to Honoapi‘ilani Highway to the west and Kūihelani Highway to the immediate east. The interior subdivision streets will have 56-foot right-of-ways and will be improved according to Maui County standards. The two north-south subdivision roadways will terminate at the northern boundary of the Petition Area. These proposed roadways are master-planned to provide future connections to A&B Properties, Inc.’s Wai‘ale master-planned project. Both roadways will connect to Waikō Road.

Waikō Road, fronting the Petition Area, has an existing right-of-way of 60 feet. The portion of the Petition Area adjacent to Waikō Road will be improved to County standards.

A Traffic Impact Analysis Report (“**TIAR**”) for the Project was completed in May, 2011 by Phillip Rowell and Associates, attached as *Appendix P* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*). The TIAR made the following key finding:

The level-of-service (“LOS”) analysis concluded that the signalized intersections (Honoapi‘ilani Highway at Waikō Road and Kūihelani Highway at Waikō Road) will operate at acceptable LOS without additional improvements.

f. **Public Utilities**

There is an existing electrical transmission system traversing through the Petition Area. This existing electrical transmission system is located approximately 1,000 feet to the west of the Petition Area, on land owned by A&B Properties, Inc. The proposed electrical and telephone distribution systems to the Project will be installed overhead from the existing overhead facilities located approximately 1,000 feet to the west of the Petition Area.

Within the Project, the electric, telephone and cable systems will be installed underground in accordance with the rules and regulations of the utility companies. Electrical, telephone, and cable television services are available through Maui Electric Company, Ltd., Hawaiian Telcom Inc., and Oceanic Time Warner Cable, respectively.

Street lights will be installed along the streets of the proposed Project in accordance with Maui County standards.

D. Sufficient Reserve Areas for Foreseeable Urban Growth.

HAR § 15-15-18(2): It shall take into consideration the following specific factors: . . . and (C) Sufficient reserve areas for foreseeable urban growth;

As noted earlier, the proposed Project is located within proximity of existing and planned residential development. The area around the Petition Area is well developed and/or slated for future development. Additionally, there are agricultural uses on the lands to the north, east and south of the Petition Area. Lands surrounding Waikapū to the south are presently cultivated in sugar cane. In addition, the Petition Area is designated within the urban growth boundary in the proposed Maui Island Plan.

E. **Lands with Satisfactory Topography, Drainage, and Reasonably Free from the Danger of any Flood, Tsunami, Unstable Soil Condition, and Other Adverse Environmental Effects.**

HAR § 15-15-18(3): It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects;

Topography, drainage and other natural, environmental factors make the Petition Area suitable for development. Average slopes within the Petition Area average 2 to 3 percent. The Petition Area is not subject to tsunami, unstable soil conditions, or other adverse environmental effects which would render it unsuitable or inappropriate for the proposed Project. As previously noted above, according to the FEMA FIRM, the Petition Area is Zone X, meaning that it is outside of the 500-year flood plain and in an area of minimal flooding. Further, the Petition Area is not located within the tsunami inundation zone.

F. **Land Contiguous with Existing Urban Areas Shall be Given More Consideration than Non-Contiguous Land, and Particularly when Indicated for Future Urban Use on State or County General Plans.**

HAR § 15-15-18(4): Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;

The Petition Area is contiguous with Urban District land between the eastern and western sections of the Petition Area. The area surrounding the Petition Area are designated Urban Growth Boundary on the Land Use/Directed Growth IRC Urban/Rural Growth Boundaries Map, Proposed General Plan Map, attached as *Appendix I* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

G. Lands in Appropriate Locations for New Urban Concentrations and Consideration to Area of Urban Growth as Shown on State and County General Plans.

HAR § 15-15-18(5): It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans;

Reclassification of the Petition Area, and subsequent change in zoning by Maui County, will permit the Petition Area to be developed in conformity with the surrounding urban land uses. The 31,222-acre Petition Area is adjacent to and surrounded by other urban uses. As noted earlier, there are newer residential subdivisions that have been developed or slated immediately west or *mauka* of the Petition Area. Such residential projects include: Waiolani subdivision; Waikapū Gardens (developed as an affordable housing project); north boundary of the Petition Area is A&B Properties, Inc.'s proposed 545-acre Wai'ale community master plan project consisting of approximately 2,500 residential units, parks, and 16-acre LI; and Wailuku Heights subdivision located about 1 mile west of the Petition Area. The Maui Tropical Plantation is located at the southern extent of Waikapū, approximately 1 mile southwest of the Petition Area. To the south of the Petition Area, Waikō Road is bordered with commercial subdivisions including the existing LI baseyard complexes known as ABC Development, Consolidated Baseyards and Rojac Trucking Baseyard. The Project is therefore in an appropriate location for new urban concentration and growth.

H. May Include Lands Which Do Not Conform to the Standards in Paragraphs (1) to (5) of HAR § 15-15-18: (A) When Surrounded by or Adjacent to Existing Urban Development; and (B) Only When Those Lands Represent a Minor Portion of this District.

HAR § 15-15-18(6): It may include lands which do not conform to the standards in paragraphs (1) to (5) [of HAR § 15-15-18]: (A) When surrounded by or adjacent to existing urban development; and (B) Only when those lands represent a minor portion of this district;

Petitioner believes the 31.222-acre Petition Area conforms with standards (1) to (5) of HAR § 15-15-18 because the Petition Area is adjacent to existing urban developments and activities.

I. Shall Not Include Lands, the Urbanization of Which Will Contribute Toward Scattered Spot Urban Development, Necessitating Unreasonable Investment in Public Infrastructure or Support Services.

HAR § 15-15-18(7): It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services;

Urbanization of the 31.222-acre Petition Area will not contribute to scattered spot urban development given the urban lands nearby. As mentioned several times earlier, the Petition Area is surrounded by Urban District lands and has been designated for additional urban growth under the Maui Island Plan and Wailuku-Kahului Community Plan. Development of the Project will not necessitate an unreasonable investment in public infrastructure or support services.

J. May Include Lands with General Slope of Twenty Percent or More if the Commission Finds that those Lands are Desirable and Suitable for Urban Purposes and that the Design and Construction Controls, as Adopted by any Federal, State or County Agency, are Adequate to Protect the Public Health, Welfare and Safety, and the Public's Interests in the Aesthetic Quality of the Landscape.

HAR § 15-15-18(8): It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.

Average slope within the Petition Area range from 2 percent to 3 percent. The lowest elevation of any subdivided lot will be located approximately 198 feet above mean sea level, in the easterly section of the Petition Area.

XII. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE ENVIRONMENT

HAR § 15-15-50(c)(10): An assessment of the impacts of the proposed use or development upon the environment, agriculture, recreational, cultural, historic, scenic, flora and fauna, groundwater, or other resources of the area;

HAR § 15-15-50(c)(10) specifies certain resources that must be considered by the Commission prior to granting a reclassification. The development of the Project is not expected to result in any significant, long-term negative impacts to environmental or cultural resources. An assessment of the impacts to various resources, if any, from the development of the Project is provided below.

A. Environmental Resources

The proposed development of the Project is not expected to have any significant adverse impacts on the environment. While air quality and noise levels will be impacted to a certain extent during the course of development, such as exhaust emissions from on-site construction equipment, construction vehicle traffic and construction noise, the impact will be short-term. In addition, BMPs that include performing construction-related activities in strict compliance with all applicable air and noise regulations will mitigate any temporary, short-term adverse impacts.

An Environmental Site Assessment: Phase I Investigation was prepared by Malama Environmental dated January 2010, attached as *Appendix K* to Petitioner's FEA (*Petitioner's Exhibit "1"*). The assessment shows no hazardous or regulated substances found on the Petition Area. In addition, it is further noted that the Petition Area is not in any state or federal data listings.

1. Air

Construction at the Petition Area should result in short-term impacts from fugitive dust, and possibly from exhaust emissions from construction vehicles. These temporary air quality

effects, however, will be conducted in accordance with the fugitive dust measures required under HAR § 11-60.1-33. These temporary air quality effects will be minimized by instituting BMPs during the Project construction. Dust controls will be instituted, including dust barriers, watering graded areas, and/or sprinklers to control dust during construction of the Project. On a long-term basis, after completion of the proposed Project, the Project is not anticipated to generate adverse impact on air quality on or in close proximity of the Petition Area.

2. Noise

Ambient noise conditions may be temporarily affected during construction activities at the Petition Area. Construction equipment machinery will likely be the dominant noise-generating source during construction period. BMPs will be instituted, including equipment maintenance and vehicle maintenance. BMPs are anticipated to reduce noise levels. In addition, construction will be limited to daytime working hours. Heavy trucks, dump trucks, and material transport vehicles will be advised not to use upper Waikō Road and Wai‘ale Drive to minimize noise in the residential area of Waikapū.

Construction-period noise will be mitigated in accordance and strict adherence with Title 11, HAR, Chapter 46, Community Noise Control of the State Department of Health. All construction equipment and on-site vehicles will be equipped with mufflers as required in HAR § 11-46(b)(1)(A). Required permit conditions for construction activities may include the following, where appropriate:

- No permit shall allow construction activities creating excessive noise before 7:00 A.M. and after 6:00 P.M. of the same day.
- No permit shall allow construction activities which emits noise in excess of ninety-five dB(A) except between 9:00 A.M. and 5:30 P.M. of the same day.

Once the Project is completed, the proposed Project is not anticipated to generate significant long-term adverse noise conditions. These conclusions were drawn based on the existing and surrounding light and heavy industrial uses in the surrounding areas. There are no existing residential uses immediately surrounding the Petition Area.

B. Agricultural Resources

Based upon the historical uses of the land within the Petition Area, the development of the Project is not expected to have an adverse impact on agriculture. As previously noted, the Petition Area has not been used for agricultural cultivation in recent years, and is not presently used in any agricultural cultivation. Further, the Petition Area does not contain soils well suited for agricultural production. As noted earlier, the Petition Area has a soil productivity rating of “E”, the lowest rating possible. As indicated by the ALISH Map, *Petitioner’s Exhibit “1” (Appendix G)*, the Petition Area falls within the “Other” agricultural lands category. Use of the Petition Area for LI purposes is not anticipated to adversely impact agricultural productivity.

C. Recreational Resources

As previously discussed, the Petition Area is located in a region with existing recreational resources. Development of the Project will not have any significant effect on recreational resources. The proposed Project will not generate or increase the demand on recreational resources.

D. Cultural and Historical Resources

Petitioner’s cultural impact assessment conducted for the Project by Erik Fredericksen of Xamanek Researches LLC (“**Xamanek**”) concluded that there are no specific ongoing traditional cultural practices being exercised at the Petition Area. See “Cultural Impact Assessment for a 31.222-Acre Parcel Located Along Waiko Road Waikapu Ahupua‘a, Wailuku District Maui

Island (TMK (2) 3-8-007:102)” (the “CIA”), dated September 20, 2011, is attached as *Appendix N* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*).

Based on archival research and oral testimonies obtained from various individuals and government agencies interviewed as part of the CIA, there are no specific traditional Hawaiian cultural uses or practices in or around the Petition Area. Because there are no cultural or historical activities found in or around the Petition Area, development of the Project is not expected to have an adverse impact on the current exercise of traditional cultural practices.

E. Archaeological Resources

An archaeological assessment survey was also conducted on the Petition Area by Xamanek during the months of May and June of 2011, attached as *Appendix O* to Petitioner’s FEA (*Petitioner’s Exhibit “1”*). Archaeological field work consisted of both surface and subsurface investigations throughout the Petition Area. To help assess the surface and subsurface conditions throughout the Petition Area, a complete surface inspection occurred and twenty (20) mechanical backhoe test trenches were excavated in order. No significant surface or subsurface cultural remains or historic properties were found or identified during the archaeological assessment survey by Xamanek. Given the results of the archaeological assessment survey, no further archaeological work beyond the assessment level was recommended by Xamanek. Precautionary archaeological monitoring is recommended for any future development or earthmoving activities on the Petition Area.

F. Scenic and Open Space Resources

The Waikapū Valley and West Maui Mountains, including Mount Haleakalā, to the east of the Petition Area, define the scenic resources of the Petition Area. Surrounding the Petition Area to the east, south and west of the Project site are sugarcane lands. Immediately to the north

of the Petition Area is the site of A&B Properties, Inc.'s 545-acre proposed mixed-use development project. Approximately 2 miles southwest of the Project site is Keālia Pond. The Petition Area has an unobstructed view of the West Maui Mountains and Mount Haleakalā with the exception of the Hawaiian Commercial & Sugar Company's sugar factory smoke stack. The Petition Area is not part of a scenic corridor and will not affect views from inland vantage points. Based on the foregoing, the proposed development of the Project is not anticipated to have an adverse impact upon the visual character of the surrounding areas.

G. Flora and Fauna

A Biological Resources Survey of the Petition Area was carried out on December of 2010 by Robert W. Hobdy, Environmental Consultant, attached as *Appendix M* to Petitioner's FEA (*Petitioner's Exhibit "1"*). According to the Biological Resources Survey, the vegetation throughout the Petition Area is totally dominated by just three (3) plant species: buffelgrass, guinea grass, and kiawe trees. The Biological Resources Survey reported sightings of non-native fauna such as rats, mice, mongoose, feral cats and dogs, axis deer, domestic cattle confined in a feedlot, and domestic horses confined in fenced pasture. There are no native birds found on the Petition Area; namely, the following non-native birds were encountered during the Biological Resources Survey: common myna, zebra dove, spotted dove, chickens, house sparrow, northern cardinal, peacock, gray francolin, guinea fowl, red-crested cardinal, cattle egret, and northern mockingbird.

As a result of the flora and fauna inventory field survey, it was confirmed that there are no federally-listed threatened or endangered species of flora or fauna, nor any proposed as candidates for such status, occur within or in the vicinity of the Petition Area. Given that there are no known significant habitats or rare, endangered, or threatened species of flora and fauna

located within or in the vicinity of the Petition Area, the proposed improvements on the Petition Area are not anticipated to impact wetland areas and wildlife habitats. It was also determined through the Biological Resources Survey that removal of vegetation from the Petition Area is not considered an adverse impact on these components of the natural environment.

H. Groundwater or Other Resources

There is no anticipated short-term or long-term impact to groundwater as a result of construction activities on the Project site.

According to the Biological Resources Survey, there are no identified wetlands within or in the immediate vicinity of the Petition Area. Nothing remotely approaching the three (3) essential criteria that define a federally-recognized wetland (namely, hydrophytic vegetation, hydric soils, and wetland hydrology) occur within this dry Project site.

Waikapū Stream on the south will not be affected by the proposed Project. Drainage generated from the Petition Area will not be discharged into Waikapū Stream.

XIII. IMPACTS OF THE PROPOSED DEVELOPMENT ON AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES

HAR § 15-15-50(c)(11): Availability or adequacy of public services and facilities such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, police and fire protection, civil defense, emergency medical service and medical facilities, and to what extent any public agency would be impacted by the proposed development or reclassification;

A. Educational and Recreational Resources

On both short-term and long-term bases, the proposed reclassification and Project should not affect population parameters. The proposed Project is not considered a population generator because most potential commercial users are expected to come from existing LI complexes. This Project will neither affect nor increase population parameters within the Wailuku-Kahului

Community Plan region. Given that the proposed action is not a population generator that will affect or increase population parameters within the Wailuku-Kahului Community Plan region, the proposed Project is not expected to impact existing educational or recreational resources.

B. Wastewater Systems

As previously noted, the nearest Maui County sewer system is located approximately 3,000 feet west of the Project site. Due to its distance and upstream direction from the Petition Area, it is unfeasible to connect to the Maui County's existing sewer system. A private master sewer system will be installed within the subdivision roadways and a sewer lateral will be developed provided for each lot. The master plan sewer system will outlet into a community leach field. IWS will be used for the treatment of wastewater for each lot. The proposed wastewater improvements will meet the projected wastewater flow for the proposed Project and will adhere strictly to the requirements set forth by DOH.

C. Solid Waste Disposal

Privately-owned commercial haulers will be used to dispose of any construction materials during the subdivision and development of the Project. Once construction is completed, it is anticipated that the Project's solid waste collection and disposal will be provided by private commercial haulers. After subdivision is completed, lot owners and tenants will be encouraged to implement waste recycling programs to reduce the amount of solid waste to the County's Central Maui Landfill.

D. Drainage

The Project's drainage system will be designed to accommodate the increase in runoff generated by the development of the entire Petition Area. Subdivision improvements will include a master drainage system within the roadways, including curb-inlet catch basins,

manholes, drainlines, and a drain stubout to each lot. The master drainage system will be sized to accommodate runoff from the roadways and developed lots.

It is estimated that the post-development runoff will be 75.23 cfs (West section), 6.3 cfs (Middle section), and 41.96 cfs (East section). Accordingly, the developed runoff volume is 67,705 cu. ft. (West section), 5,671 cu. ft. (Middle section), and 27,692 cu. ft. (East section), resulting in net increase of 59,134 cu. ft.

As each subdivided lot is developed, the building permit applicant will be required to construct an onsite storm runoff collection system and connect to the drainline stubout that was provided to the lot. There will be no increase runoff sheet flowing from the Project site after completion of the development. The drainage improvements will be in strict compliance with Chapter 4, Rules for the Design of Storm Drainage Facilities in the County of Maui. Petitioner's preliminary drainage assessment is included in the Preliminary Engineering Report, attached as **Appendix J** to Petitioner's FEA (*Petitioner's Exhibit "1"*). Based on the proposed master drainage improvements, there are no anticipated impacts on downstream properties.

E. Water

As discussed earlier, the proposed Project will be served by the same existing water system servicing the Consolidated Baseyards. The existing storage tanks at Consolidated Baseyards are adequate to meet the Project's fire flow demand. Fire hydrants will be installed within the Project with a maximum spacing of 250 feet and pursuant to DWS standards. With minor modifications, the existing water systems will be adequate to supply the water demand for the proposed Project. In addition, Nance's report concluded that there are no anticipated impact on the Kahului Aquifer. As previously mentioned, Petitioner is in negotiation with the

owner/operator of the Consolidated Baseyards' private water system. See *Petitioner's Exhibit "I" (Appendix V)*.

The private water system, including wells, pumps and storage tank has been sized in accordance with the Department of Water Supply's System Standards. The system takes into account the required fire protection and the maximum daily demand. The existing storage tank is sized to provide maximum daily use - i.e. storage for a 24-hour period during peak summertime. One of the existing wells provides redundancy and a backup well in the event that one well is out of service. Using conservative assumptions, it requires 1.70 kilowatt-hours (kwh) to pump 1000 gallons from the wells into the storage tank. The cost would be approximately \$0.60 per 1000 gallons, based upon a rate of \$0.35/kwh.

F. Transportation Systems

As previously mentioned, a detailed TIAR was completed for the proposed Project by Phillip Rowell and Associates, attached as *Appendix P* to Petitioner's FEA (*Petitioner's Exhibit "I"*). Based upon the TIAR, the following findings and recommendations were provided to mitigate potential traffic concerns as a result of the development of the Project:

- The level-of-service ("LOS") analysis concluded that the signalized intersections (Honoapi'ilani Highway at Waikō Road and Kūihelani Highway at Waikō Road) will operate at acceptable LOS without additional improvements.
- The southbound approach of Wai'ale Road at Waikō Road will operate at LOS C during the morning peak hour and LOS F during the afternoon peak hour. An assessment of potential improvements concluded that installation of a left turn refuge lane for left turns from southbound Wai'ale Road to eastbound Waikō Road would result in LOS D and is therefore recommended. However, since the projected traffic volumes that result in the unacceptable LOS reflect full build out of the project, it would be prudent to defer the improvements until the left turn refuge lane is required. It is possible that the traffic procedures, which are based on Institute of Transportation Engineers trip generation data, may not be realized. The intersection should be monitored and re-assessed when the proposed industrial park is approximately 50% occupied.

- The current site plan for the proposed industrial park indicates two separate parcels: the first parcel located along the north side of Waikō Road between Kūihelani Highway and the east property line of the Consolidated Baseyard Subdivision and the second parcel located west of the Consolidated Baseyard Subdivision. The LOS analysis determined that access to and egress from the Project should be provided by a major driveway (unsignalized) along Waikō Road along the west boundary of the Project site. The main driveway, Drive A, should have separate left turn lanes along each approach and a left turn refuge lane along Waikō Road for left turns from the Project. It is recommended that this driveway be monitored as the first parcel is developed to determine if additional improvements are required. As with the previous intersection, the reassessment should be performed when the retail portion of the Project is approximately 50% occupied.
- Access to and egress from the second parcel will be provided by another driveway, Drive B, which will be unsignalized.

Further, street lights will be installed along the streets of the proposed Project in accordance with County standards.

G. Public Utilities

The proposed electrical, cable, and telephone systems to the subject Project will be installed overhead from the existing overhead facilities located approximately 1,000 feet to the west of the Petition Area. Within the proposed Project, the electric, cable, and telephone systems will be installed underground in accordance with the utility companies' rules and regulations.

There are no anticipated impacts on public utility systems.

Petitioner will promote energy efficiency and reduce energy use of the proposed Project by encouraging lot owners within the proposed Project to utilize to the extent feasible, both solar water heating and photovoltaic technologies.

H. Police, Fire, Emergency Medical Services

The proposed reclassification and Project are not anticipated to impact the service capacity and capability of police, fire, and emergency medical operations. The Project will not expand nor extend the existing service area limit of emergency medical services. There are

existing police, fire, and medical facilities in very close proximity of the Project site.

Additionally, internal roadways within the proposed Project will be constructed in accordance with Maui Fire Department standards.

I. Public Agencies

Since the proposed action should not affect population parameters on both long- and short-terms, the proposed Project is not anticipated to have any adverse impacts on public agencies. Due to the nature of the proposed Project and other projects in the area, such as the Consolidated Baseyards, Waikō Baseyard Subdivision (Rojac), in reviewing the cumulative impact on public services, it was concluded that their collective effects would be minimal since these industrial projects do not generate the need for recreational and educational facilities and services. Other services such as police, fire and emergency medical services are currently servicing the Waikapū Town and would not extend the current limits of service.

XIV. ECONOMIC IMPACTS OF THE PROPOSED RECLASSIFICATION OR DEVELOPMENT

HAR § 15-15-(c)(13): Economic impacts of the proposed reclassification, use, or development including, without limitation, the provisions of any impact on employment opportunities, and the potential impact to agricultural production in the vicinity of the subject property, and in the county of and State;

The proposed development will benefit the social and economic welfare of the community. The proposed Project is expected to create immediate, short-term benefits as a result of design, construction and construction-related employment during the build out and development phases of the Project. This projected employment will have a multiplier effect, particularly on local material suppliers and retail businesses that can be expected to benefit from the proposed Project.

In the long-term, the proposed Project will support local businesses and provide needed reasonably-priced LI lots that are centrally-located for commercial uses. The proposed Project is being developed based on the future expanding demand for additional industrial space on Maui, hence, the Project will offer new employment opportunities for local residents. For example, the development of the Project should result in significant, on-going economic and fiscal benefits for County residents, as well as State and County governments. Positive fiscal impacts will come from new jobs and increases in income and real property tax bases. The development of the Project will generate new County government revenues, primarily in the form of real property taxes on the subdivided lots and commercial facilities. Tax revenues from non-real property sources include fuel taxes, licenses, permits and various charges for County services.

Other potential direct economic impacts of the Project were reviewed and identified in an economic forecasting study for the Project, prepared by ACM Consultants, Inc., which is attached hereto as *Appendix L* to Petitioner's FEA (*Petitioner's Exhibit "1"*).

The development of the Project will also generate new State government revenues and expenses. The main source of the revenues will be general excise taxes and individual income taxes related to development expenditures. In addition to the revenues generated for the subdivision improvements, it is anticipated that the vertical construction of buildings for the individual lots would also support the local design and construction industry, with an estimate of over \$75 million of Project build out.

As previously discussed, the proposed development will have minimal impact in terms of agriculture because the Petition Area has poor soil and has not been used for agricultural cultivation in recent years and historically. In addition, the approximately 31.222-acre Petition Area is situated in a region of existing and ongoing urban development. The Petition Area is not

presently used in any agricultural cultivation, but a four-acre portion of the Petition Area is presently used as a construction equipment baseyard storage per an SUP and CP.

XV. ASSESSMENT OF NEED FOR RECLASSIFICATION

HAR § 15-15-50(c)(15): An assessment of need for the reclassification based upon the relationship between the use or development proposed and other projects existing or proposed for the area and consideration of other similarly designated land in the area;

Reclassification of the Petition Area to the Urban District is necessary for Petitioner to develop the Project. The need for the LI subdivision has been shown in the Market Study of the Proposed Waikō Industrial Park prepared by ACM Consultants, Inc., dated March 15, 2011, which is attached as *Appendix L* to Petitioner’s FEA (*Petitioner’s Exhibit “I”*). According to the Market Demand Study, there is a strong demand for a subdivision that addresses the needs of small local businesses that may be in need of fee simple, reasonably-priced properties that are centrally located. A proposed commercial use of 100,000 sq. ft. is mentioned in this Market Demand Study for the 8.5-acre lot. While the proposed Project is being developed based on the future expanding demand for additional industrial space on Maui, Chapter 19.24, MCC, provides Petitioner with flexibility for the development of the Project. Given the proposed Project’s unique central location between the Wailuku-Kahului Community Plan region and Kīhei-Mākena Community Plan region, as well as its proximity to the Paia-Haiku Community Plan and the Makawao-Pukalani-Kula Community Plan regions, the proposed Project will be a convenient place to serve the expected population growth in these community plan regions.

Further, being within the Wailuku-Kahului Community Plan region, the proposed Project is close to the governmental, economic and population center of Maui. In the 1990s, this area

saw significant increase in trade, transportation, communications and utilities, and government jobs. Kahului Harbor is the port through which most cruise ship visitors reach Maui. According to the Maui Island Plan, the socio-economic forecast suggests the Wailuku-Kahului region will grow faster than other parts of Maui because former C. Brewer & Company's sugarlands and large acreages of A&B Properties, Inc.'s lands are expected to be developed into residential subdivisions. The Wailuku-Kahului region is expected to continue to be a home to over one-third of Maui's households.

Due to the Project's central location and a strong market demand for a competitively-priced fee simple LI lots that meets the needs of the local small businesses within the Wailuku-Kahului Community Plan region, the proposed land use reclassification will allow this unmet market demand for LI lots to be realized.

XVI. CONFORMITY OF THE RECLASSIFICATION TO THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAII STATE PLAN, PRIORITY GUIDELINES AND FUNCTIONAL PLANS POLICIES

HAR § 15-15-50(c)(16): An assessment of conformity of the reclassification to applicable goals, objectives, and policies of the Hawaii state plan, chapter 226, HRS, and applicable priority guidelines and functional plans policies;

The Hawaii State Planning Act (the "HSP"), found in Chapter 226 of the HRS, is a comprehensive guide for the future long-range development of the State of Hawai'i. Among other things, the HSP's purposes are to identify the goals, objectives, policies, and priorities for the State of Hawai'i, provide a basis for allocating limited resources, and improve coordination between Federal, State and County agencies.

The three (3) themes underlying the HSP are: (1) individual and family self-sufficiency; (2) social and economic mobility; and (3) community or social well-being. See HRS § 226-3. The HSP also provides numerous State goals and specific objectives and policies to achieve

those goals. The State goals include a strong, viable, stable and diverse economy, the development of physical environments that are beautiful, clean and unique, and that enhance the mental and physical well-being of the residents, and the physical, social, and economic well-being for the people of Hawai‘i that nourishes a sense of community responsibility and participation. *See* HRS § 226-4. The development of the Project will further the above-described goals of the HSP.

The proposed reclassification is consistent with the goals, objectives, and policies of the HSP. During the development and subdivision stages, the Project will provide direct employment opportunities in the fields of construction and construction-related services, land-use related professional services, sales and related services. Once developed, the Project will provide business and employment opportunities on-site.

A point-by-point analysis of the proposed Project’s conformance with the numerous objectives, policies, priority guidelines and functional plans of the HSP, is provided in **Section IV.C.** of Petitioner’s FEA (*Petitioner’s Exhibit “1”*). An analysis of the Project’s conformance with specific HSP objectives and policies is also provided below.

A. Objectives and Policies of the Hawaii State Plan

In particular, the propose reclassification conforms to the following objectives and policies:

1. HRS § 226-4 - State Goals

(1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.

(2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.

2. HRS § 226-5 - Population

(b)(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.

(b)(3) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.

3. HRS § 226-6 - Economy in General

(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor islands where employment opportunities may be limited.

(a)(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

(b)(3) Seek broader outlets for new or expanded Hawaii business investments.

(b)(5) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.

(b)(6) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

(b)(8) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.

(b)(10) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.

(b)(14) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy, particularly with respect to emerging industries in science and technology.

4. HRS § 226-10 - Potential Growth Activities

(b)(5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State;

(b)(6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives;

Discussions and Responses:

The proposed Project conforms with the above-quoted objectives and policies of the HSP, HRS §§ 226-4, 5, 6 and 10. The proposed 31.222-acre Waikō Industrial Subdivision will provide a wide-range of economic activities and opportunities within the Waikapū area as well as the Wailuku-Kahului Community Plan region. The variety of activities envisioned by Petitioner for the proposed Project include commercial retail and LI development. The proposed Project will allow for the expansion and possible creation of new businesses to employ Maui Island residents. It is anticipated that the development of the Project will generate significant expenditures by the developer of the Project and the secondary owners of the industrial lots. With the infusion of new capital expenditures on this Project, these investments are expected to favorably impact the Maui economy on a broad scale and in a multitude of ways. According to ACM's report, with the capital investment during the initial phase of the subdivision development, significant direct new job opportunities are expected to be created. Based on State economic multipliers of capital infusion for the initial construction of the subdivision, it is expected that the forecasted annual jobs average directly related to the construction of the subdivision is approximately 44 jobs.

In addition, construction of the individual buildings on the 38 subdivided LI lots will add substantial new construction jobs. It is forecasted based on State economic multipliers that the annual jobs average directly related to the construction of vertical improvements within the proposed subdivision will be approximately 280 jobs.

Furthermore, the increase in construction will also create the need for supplementary companies to strengthen their labor force. These additional jobs may be from building supply companies, hardware stores, equipment rental companies, and shipping and warehouse companies. These are just some of the indirect employment opportunities that are anticipated as a result of this proposed LI and commercial Project.

5. HRS § 226-11 - Physical Environment (Land-Based, Shoreline, and Marine Resources)

(a)(2) Effective protection of Hawaii's unique and fragile environmental resources.

(b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

(b)(8) Pursue compatible relationships among activities, facilities, and natural resources.

6. HRS § 226-12 - Physical Environment (Scenic, Natural Beauty, and Historical Resources)

(b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

Discussions and Responses:

The proposed Project meets the stated objectives and policies outlined in HRS §§ 226-11 and 12, quoted above. Scenic and topographic features will be maintained and highlighted in the Project design. The proposed commercial component of the proposed Project will reflect a rural sense of Waikapū Town and as envisioned by the Wailuku-Kahului Community Plan region.

The historical settings of the region will be reflected in the proposed Project's traditionally-based planning and design of the subdivision. The Project's design concept will meet the intent of the objectives of the community plan within the district and stated objectives of HRS §§ 226-11 and 12.

The proposed Project will be consistent with the light industrial district development standards and with its existing light industrial subdivision neighbors.

7. HRS § 226-13 - Physical Environment (Land, Air, and Water Quality)

(b)(2) Promote the proper management of Hawaii's land and water resources.

(b)(6) Encourage design and construction practices that enhance the physical qualities of Hawaii's communities.

(b)(7) Encourage urban developments in close proximity to existing services and facilities.

Discussions and Responses:

The Project meets the stated objectives and policies of HRS § 226-13, quoted above. The proposed Project will be designed to be complimentary with the existing industrial and commercial developments bordering or in close proximity of the Project site, and will serve residents of the Wailuku-Kahului Community Plan region. The proposed Project is located along the main thoroughfare to west and central Maui and is a short driving distance from the Makawao-Pukalani-Kula, Pā‘ia-Haiku and South Maui regions. The Project is inland and will not have any impact on shoreline resources. In addition, the Project is in close proximity to existing services and facilities in the Wailuku-Kahului region critical to the success of the Project.

8. HRS § 226-15 - Facility Systems (Solid and Liquid Wastes)

(b)(2) Promote re-use and recycling to reduce solid and liquid wastes and employ a conservation ethic.

(b)(3) Promote research to develop more efficient and economical treatment and disposal of solid and liquid wastes.

Discussions and Responses:

The proposed Project meets the stated objectives and policies of HRS § 226-15, quoted above. The proposed Project will be designed to meet BMPs with respect to reducing and recycling solid and liquid wastes. Privately operated IWS will be constructed to meet the wastewater demand for the Project. Individual lot owners will be encouraged to recycle solid waste to the extent possible. Drought tolerant plants will be used to minimize the use of landscape irrigation.

9. HRS § 226-16 - Facility Systems (Water)

(b)(1) Coordinate development of land use activities with existing and potential water supply.

(b)(2) Support research and development of alternative methods to meet future water requirements well in advance of anticipated needs.

Discussions and Responses:

The proposed Project meets the stated objectives and policies of HRS § 226-16, quoted above. The domestic water demand and fire flow requirements for the 31.222-acre Waikō Industrial Subdivision will be provided by the existing Consolidated Baseyards' private water system located near the Project site. Consolidated Baseyards' private water system has two (2) groundwater wells and a 350,000-gallon water storage tank that are adequate to meet the domestic water and fire flow demand for the proposed Project. Petitioner is in negotiations with the owner/operator of the Consolidated Baseyards' private water system. *See Appendix V* to Petitioner's FEA (*Petitioner's Exhibit "I"*).

B. Priority Guidelines of the Hawaii State Plan

The proposed Project is also consistent with the following specific priority guidelines of the HSP:

1. **HRS § 226-103 - Economic Priority Guidelines**

(a)(1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.

(A) Encourage investments which:

- (i) Reflect long term commitments to the State;*
- (ii) Rely on economic linkages within the local economy;*
- (iii) Diversify the economy;*
- (iv) Reinvest in the local economy;*
- (v) Are sensitive to community needs and priorities; and*
- (vi) Demonstrate a commitment to provide management opportunities to Hawaii residents.*

Discussions and Responses:

The proposed Project is in keeping with the above-quoted priority guidelines of the HSP, HRS § 226-103. As noted earlier, the proposed Project will provide a variety of economic activities for the Waikapū Town and in the Wailuku-Kahului Community Plan regions. Because of the anticipated large capital that will be infused in the development of this Project, both short-term and long-term employment opportunities will be created as a result. As noted earlier, the anticipated direct new job opportunities during the initial construction phase of the subdivision, based on the State economic multipliers, is approximately 44 jobs. In addition, based on the State economic multipliers, construction of the individual buildings on the 38 lots is forecasted to create an annual average of 280 jobs directly related to the construction of vertical improvements within the proposed Project. The proposed Project is designed to reflect the rural character of the area and is anticipated to attract residents from within the Waikapū Town and the Wailuku-Kahului Community Plan regions. The Project is anticipated to contribute to the growth of Maui's economic base because of the Project's infusion of capital investment and creation of new businesses.

2. **HRS § 226-104 - Population Growth and Land Resources Priority Guidelines**

(a)(1) Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawaii's people.

(b)(2) Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.

(b)(12) Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

Discussions and Responses:

The proposed Project is in keeping with the above-quoted priority guidelines of the HSP, HRS § 226-104. The economy will diversify with this proposed Project, and the anticipated infusion of investment capital, because the proposed Project will provide for the expansion and creation of the LI businesses and will provide reinvestment in the local economy through the expansion or development of local businesses. The Project will meet the above-quoted priority guidelines by encouraging urban growth in an existing urban area. In addition, the proposed Project site is designated as an Urban Growth Boundary District within the proposed Maui Island Plan as recommended by the Maui Planning Commission.

As noted earlier, the proposed Project design will be complimentary to existing LI subdivision in the area. The proposed Project will serve the current residents of the area and will meet the projected growth as stated in the Wailuku-Kahului Community Plan region and the proposed Maui Island Plan. As previously noted, there are existing other light and heavy industrial uses currently operating in close proximity of the Petition Area and immediately adjacent to the proposed Project site. The proposed Project is not a population generator and will

not have a significant impact on the population in the regions. The reclassification of the Petition Area from Agricultural to Urban will make available lands for LI uses.

C. State Functional Plans

The HSP called for the creation of functional plans to further define and implement the Statewide goals, objectives and policies set forth under the HSP. *See* HRS § 226-56. Developed in the late 1980s and early 1990s, the State Functional Plans (the “SFP”) are the primary guidance tools for implementing the HSP. While the HSP establishes long-term objectives for the State of Hawai‘i, the SFP are intended to identify major state-wide concerns, define current strategies, identify major relationships and provide strategies for departmental policies, programs, and priorities. *Section IV.D.* of Petitioner’s FEA (*Petitioner’s Exhibit “1”*) addresses the relationship of the proposed Project to the various SFP. The reclassification requested by Petitioner is consistent with the following specific SFP:

1. State Agricultural Functional Plan

Petitioner seeks to have the Commission reclassify approximately 31.222 acres of land from the Agricultural to the Urban District. Currently, a portion of the 31.222-acre Petition Area is used for pasture and cattle feedlot and a construction equipment baseyard under a SUP and a CP. The Petition Area is designated within the Urban Growth District Boundary in the proposed Maui Island Plan pending approval of the Maui County Council. The close proximity of the Petition Area to existing and planned urban land uses along with the proposed Urban Growth District Boundary designation under the draft General Plan provides a reasonable foundation for the proposed reclassification.

2. State Employment Functional Plan

As previously discussed, a market analysis and economic impact analysis of the Project prepared by ACM using State economic multipliers found that in the short-term, it is estimated that the Project will generate approximately 44 jobs during the subdivision development phase of the Project. In addition, according to this market analysis and economic impact analysis, on a long-term basis, the Project is forecasted to generate approximately 280 jobs directly related to the construction of vertical improvements within the proposed Project.

3. State Transportation Functional Plan

Based on the TIAR prepared for the Project by Phillip Rowell and Associates, there are no anticipated significant impacts on the State's highway system from the proposed Project. Recommended road improvements fronting the proposed Project will be implemented to ensure compliance with State and County requirements.

XVII. CONFORMITY OF THE RECLASSIFICATION TO THE OBJECTIVES AND POLICIES OF THE COASTAL ZONE MANAGEMENT PROGRAM

HAR § 15-15-50(c)(17): An assessment of the conformity of the reclassification to objectives and policies of the coastal zone management program, chapter 205A, HRS;

Hawaii's Coastal Zone Management Program, found in Chapter 205A of the HRS, establishes numerous objectives, policies, and standards to guide and regulate public and private uses in the coastal zone management area. Although the Petition Area that is the subject of this Petition is *not* located within the coastal zone management area or the County of Maui's Special Management Area, the proposed Project's relationship to the following applicable CZM objectives and policies have nevertheless been reviewed and assessed:

A. Historic Resources:

Objective: Protect, preserve and, where desirable, restore those natural and man-made historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

Policies:

- (a) Identify and analyze significant archaeological resources;
- (b) Maximize information retention through preservation of remains and artifacts or salvage operations; and
- (c) Support state goals for protection, restoration, interpretation, and display of historic resources.

Discussion and Response: The proposed Project does not have an adverse effect on historical or cultural resources. Xamanek Researchers LLC, project's archaeological and cultural consultant conducted an archaeological assessment survey on site to assess any presence and/or absence of any historical and archaeological resources on the proposed Project site. Based on the archaeological consultant's survey (refer to *Appendix O* to Petitioner's FEA, *Petitioner's Exhibit "1"*) there are no surface and subsurface archeological and historical resources on the Project site. Given the results of the archaeological survey, no further archaeological work beyond the assessment level is recommended by the Consultant for the Petition Area.

Cultural impact assessment was also conducted for the Project by Xamanek Researchers LLC. The scope of the said cultural assessment study is to compile summary based on various historical, cultural, and topographical accounts and facts regarding the proposed Project. Information of the cultural assessment was acquired by consultant through archival research, literature searches and oral interviews with persons knowledgeable with the immediate project

area as well as the Waikapu Town village. Discussion and details of the cultural impact assessment report is attached and identified as *Appendix N* to Petitioner's FEA (*Petitioner's Exhibit "I"*).

B. Economic Uses

Objective: Provide public or private facilities and improvements important to the State's economy in suitable locations.

Policies:

- (a) Concentrate coastal dependent development in appropriate areas;
- (b) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
- (c) Direct the location and expansion of coastal dependent developments to areas presently designated and use for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
 - (i) Use of presently designated locations is not feasible;
 - (ii) Adverse environmental effects are minimized; and
 - (iii) The development is important to the State's economy.

Discussion and Response: The proposed Project is not a coastal dependent development. The Petition Area is miles inland from the shoreline. The proposed Project will stimulate the economy through the generation of good permanent jobs and the creation of construction-related job opportunities from the proposed light industrial development. The proposed Project is consistent with the objective and policy for economic use.

C. Coastal Hazards

Objectives: Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

Policies:

- (a) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and non-point source pollution hazards;
- (b) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, point and non-point pollution hazards;
- (c) Ensure that developments comply with requirements of the Federal Flood Insurance Program;
- (d) Prevent coastal flooding from inland projects; and
- (e) Develop a coastal point and non-point source pollution control program.

Discussion and Response: As noted earlier, the Petition Area is in Flood Zone “X”, which represents areas outside of the 0.2% annual chance flood plain, according to FEMA. In addition, tsunami inundation parameters do not apply to the Petition Area.

Drainage improvements for the Project will be designed in accordance with the Drainage Standards of the County of Maui to ensure that the Project will not adversely affect downstream properties from the effects to flooding and erosion.

D. Beach Protection

Objective: Protect beaches for public use and recreation.

Policies:

- (a) Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion.
- (b) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and

- (c) Minimize the construction of public erosion-protection structures seaward of the shoreline.

Discussion and Response: The Petition is located miles inland, away from the shoreline and as a result, there is no impact on beaches.

E. Marine Resources

Objective: Implement the State's ocean resources management plan.

Policies:

- (a) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
- (b) Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
- (c) Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;
- (d) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
- (e) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (f) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

Discussion and Response: As previously stated, the Petition Area is located miles inland, away from the ocean and therefore has no impact on marine or coastal resources.

Appropriate BMPs will be utilized to ensure that construction runoff is appropriately captured, minimizing any impact on coastal waters.

F. Public Participation

Objective: Stimulate public awareness, education, and participation in coastal management.

Policies:

- (a) Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management;
- (b) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concern with coastal-related issues, developments, and government activities; and
- (c) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.

Discussion and Response: The Project will meet county public awareness, education and participation objectives. A community meeting with the Waikapu Community Association was held on May 16, 2011 to solicit input from the public regarding the proposed Project.

XVIII. CONFORMITY OF THE RECLASSIFICATION TO THE COUNTY GENERAL PLAN, COMMUNITY PLANS, AND ZONING DESIGNATIONS AND POLICIES

HAR § 15-15-50(c)(18): An assessment of conformity of the reclassification to the applicable county general plans, development or community plans, zoning designations and policies, and proposed amendments required;

Chapter 2.80B, MCC, relating to the General Plan and Community Plans, calls for a Countywide Policy Plan and a Maui Island Plan (“MIP”). The Countywide Policy Plan was adopted as Ordinance No. 3732 on March 24, 2010. The MIP and MIP Supplement are currently in the process of review and adoption by the Maui County Council.

A. General Plan (Countywide Policy Plan)

With regard to the Countywide Policy Plan, Section 2.80B.030 F., MCC, states the following:

The countywide policy plan shall provide broad policies and objectives which portray the desired direction of the County’s future. The countywide policy plan shall include:

- 1. *A vision for the County;*
- 2. *A statement of core themes or principles for the County; and*

3. *A list of countywide objectives and policies for population, land use, the environment, the economy, and housing.*

Core themes or principles, set forth in the Countywide Policy Plan are listed as follows:

1. *Excellence in the stewardship of the natural environment and cultural resources;*
2. *Compassion for and understanding of others;*
3. *Respect for diversity;*
4. *Engagement and empowerment of Maui County residents;*
5. *Honor for all cultural traditions and histories;*
6. *Considerations of the contributions of past generations as well as the needs of future generations;*
7. *Commitment to self-sufficiency;*
8. *Wisdom and balance in decision making;*
9. *Thoughtful, island-appropriate innovation; and*
10. *Nurturance of the health and well-being of our families and our communities.*

Congruent with these core principles, the Countywide Policy Plan identifies goals, objectives, policies, and implementing actions for pertinent functional planning categories, which are identified as follows:

- A. *Protect the Natural Environment*
- B. *Preserve Local Cultures and Traditions*
- C. *Improve Education*
- D. *Strengthen Social and Healthcare Services*
- E. *Expand Housing Opportunities for Residents*
- F. *Strengthen the Local Economy*
- G. *Improve Parks and Public Facilities*
- H. *Diversify Transportation Options*
- I. *Improve Physical Infrastructure*
- J. *Promote Sustainable Land Use and Growth Management*
- K. *Strive for Good Governance*

Discussions and Responses:

Conformance with the objectives and policies of the Countywide Policy Plan are achieved by the proposed Project as it will provide industrial growth opportunities through the expansion of an existing industrial center which has existing transportation routes to the airport and harbor in Kahului. The proposed Project meets the objectives and policies of the

Countywide Policy Plan as it conforms to the Project's designation with the General Plan Advisory Committee's and the Council's nine-member General Plan Committee's urban district growth area.

The proposed Project will be designed to be in harmony with the environment and consistent with existing light industrial subdivisions adjacent and near the proposed Project site.

A more complete analysis of the proposed Project's conformance with the numerous goals, objectives, policies and implementing actions of the Countywide Policy Plan is provided in *Section IV.I.* of Petitioner's FEA (*Petitioner's Exhibit "1"*).

B. Maui Island Plan

The second component of the Maui County General Plan 2030 is the MIP. The MIP sets forth an islandwide land use strategy for Maui and encompasses a managed and directed growth plan which includes the delineation of Urban and Rural Growth boundaries. The MIP has undergone review by the General Plan Advisory Committee and the Maui Planning Commission, and is currently under review by the Maui County Council. Once approved, the MIP will be used by the Maui County Council, Maui Planning Commission, County staff and the community as a policy foundation for day-to-day decision making.

The Maui Planning Commission recommended the inclusion of the Petition Area within the Urban Growth boundaries for Kahului-Waikapu. The Planning Department's revised draft map for Kahului-Waikapu issued in December 2010 includes a proposed Urban Growth boundary for the Petition Area. This revised map of the MIP has been submitted to the Maui County Council and the Council's General Plan Committee, which is tasked to formulate a MIP that it can recommend to the Council, approved the revised map of the MIP on May 22, 2012. The committee's plan is to recommend the MIP for action by the Council later this year. It is

noted that the respective regional community plans will be updated following the adoption of the MIP.

The Petition Area conforms to an island growth strategy that encourages development of land in proximity to major work and employment centers and existing infrastructure.

C. Wailuku-Kahului Community Plan

The Project site is located within the Wailuku-Kahului Community Plan region, which is one (1) of nine (9) community plan regions established by the County of Maui. Planning for each region is guided by the respective community plans, which are designed to implement the Maui County General Plan. Each community plan contains recommendations and standards which guide the sequencing, patterns and characteristics of future development in the region.

The Wailuku-Kahului Community Plan was adopted by the County of Maui through Ordinance No. 3061, Bill No. 29, and became effective June 5, 2002. The proposed Project is consistent with the following goals, objectives and policies of the Wailuku-Kahului Community Plan:

Economic Activity

Goal

A stable and viable economy that provides opportunities for growth and diversification to meet long-term community and regional needs and in a manner that promotes agricultural activity and preserves agricultural lands and open space resources.

Objectives and Policies

- Provide industrial growth opportunities through the expansion of existing industrial centers associated with the airport and harbor, and in Wailuku and Kahului. Encourage the fee simple ownership of lots provided by private developers.
- Recognize the importance of small businesses to the region's economy.

Land Use

Goal

An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources and traditional towns and villages.

Objectives and Policies

- Establish an adequate supply of urban land use designations to meet the needs of the community over the next 20 years.

Discussions and Responses:

The proposed Project is in conformance with the above goals, objectives and policies of economic activity for the Wailuku-Kahului region as it will provide industrial growth opportunities through the expansion of an existing industrial center which has existing transportation routes to the nearby airport and harbor in Kahului. As noted earlier, the proposed Project will provide the opportunity to encourage the creation of new local small businesses for Maui. The proposed Project will create needed employment opportunities for island residents. The Project will contribute significantly to Maui's economy with the Project's large infusion of capital investments. The Project will also increase the availability and variety of LI and commercial services to provide for regional needs because of its unique, central and strategic location, prominently in close proximity to the core residential areas of Wailuku-Kahului region.

D. Maui County Zoning

The Petition Area is zoned "Agricultural" according to Maui County zoning. Since the current zoning, community plan and State land use district boundary designations do not allow the proposed LI subdivision, a Change In Zoning ("CIZ") application, Community Plan Amendment ("CPA") application, and petition for Land Use District Boundary Amendment

(“DBA”) are required. The CIZ and CPA applications were filed on or about September 28, 2011 with the Maui Planning Department for review and action by the Maui Planning Commission and the County Council. The CIZ and CP applications seek to change the land use designations from “Agriculture” to “M-1, Light Industrial”, which would allow for the utilization of the Petition Area for the proposed LI subdivision.

As previously mentioned, the Maui Planning Commission accepted the FEA on July 10, 2012 and issued its FONSI on July 16, 2012. Petitioner anticipates that the Maui Planning Commission will resume its review and action on the CIZ and CP after the 30-day response period has expired.

XIX. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

HAR § 15-15-50(c)(20): A statement addressing Hawaiian customary and traditional rights under Article XII, section 7 of the Hawaii State Constitution;

Petitioner is aware of, and is sensitive to, the protections afforded to Native Hawaiian customary and traditional rights under Article XII, section 7 of the Hawai‘i State Constitution. There are no Native Hawaiian traditional and customary practices currently being practiced at the Project site. Based on research into the history of the area which included an archaeological field survey and inspection and cultural impact analysis, there are no known customary and traditional activities or practices within and in the proximity of the Petition Area. In addition, Petitioner intends to follow the recommendations provided in the CIA and Archaeological Inventory Survey in the development of the proposed Waikō Industrial Subdivision.

XX. WRITTEN COMMENTS

HAR § 15-15-50(c)(21): Any written comments received by the petitioner from governmental, non-governmental agencies, organizations, or individuals in regards to the proposed reclassification;

A list of the various governmental and non-governmental agencies and organizations contacted in regards to the proposed Project and responses thereto, are included in Petitioner's FEA (*Petitioner's Exhibit "1"*). In addition, as the accepting authority for the FEA, the Maui Planning Commission received public testimony related to the environmental review process for the proposed Project. Also, the FEA which was accepted by the Maui Planning Commission, was published in The Environmental Notice of the Office of Environmental Quality Control on August 8, 2012. The public comment period expired on September 7, 2012. To date, no letters from the public or governmental agencies have been received since the Environmental Notice containing the FEA was published.

XXI. SERVICE AND NOTIFICATION OF PETITION FILING

HAR § 15-15-48(a): The petitioner shall serve copies upon the county planning department and planning commission within which the subject land is situated, the office of planning, and all persons with a property interest in the subject property as record in the county's real property tax records at the time the petition is filed.

HAR § 15-15-48(b): The petitioner shall serve copies of the petition upon any potential intervenor upon receipt of a notice of intent to intervene pursuant to section 15-15-52(b).

HAR § 15-15-50(c)(5): (C) An affidavit of the petitioner or its agent attesting to its compliance with section 15-15-48; . . .

HAR § 15-15-50(c)(23): A copy of the notification of petition filing pursuant to subsection (d).

Pursuant to HAR § 15-15-48, copies of this Petition must be served upon the County of Maui Planning Department and Planning Commission, the State of Hawai'i Office of Planning, and all persons with a property interest in the Petition Area as recorded in the County's real property tax records at the time this Petition is filed.

Copies of this Petition will be served upon the above-named parties. An affidavit of compliance with HAR § 15-15-48(a) is attached hereto as *Petitioner's Exhibit "7"* and incorporated herein by reference. In accordance with HAR § 15-15-48(b), copies of this Petition will also be served upon any potential intervenors upon receipt of a notice of intent to intervene pursuant to HAR § 15-15-52(b).

Attached hereto as *Petitioner's Exhibit "8"* and incorporated herein by reference, is a true and correct copy of the Notification of Petition Filing pursuant to HAR § 15-15-50(d).

XXII. CONCLUSION

The proposed Waikō Industrial Subdivision will be located in an area that is adjacent to existing urban uses and in close proximity to other existing or planned urbanized areas. The Project will address a portion of the significant demand for LI subdivision lots. A portion of the Petition Area is already being used as construction equipment baseyard storage facility pursuant to SUP and CIP permits. In light of the need for LI subdivision lots as planned by Petitioner, the central location of the Project site, proximity of the Project to existing urbanized areas, and the negligible impact on the availability of agricultural lands on the Island of Maui, the proposed development of Waikō Industrial Subdivision is a reasonable and appropriate use of the Petition Area.

Based on the foregoing, Petitioner respectfully requests that the Commission finds that this Petition complies with the necessary requirements of a petition for boundary amendment pursuant to HAR § 15-15-50. Petitioner also respectfully requests that the Commission find that the proposed development of the Petition Area meets with the standards for determining the Urban District boundaries pursuant to HAR § 15-15-18, and therefore grant the reclassification

of the approximately 31.222-acre Petition Area from the Agricultural District to the Urban District.

DATED: Wailuku, Hawaii, September 13, 2012.



B. MARTIN LUNA
GREGORY K. SCHLAIS

Attorneys for Petitioner
WAIKŌ INDUSTRIAL INVESTMENT, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the petition of
WAIKŌ INDUSTRIAL INVESTMENT, LLC

DOCKET NO. A12-796

To Amend the Land Use District Boundary of
Certain Lands Situated at Waikapu, Wailuku,
Island of Maui, State of Hawaii, Consisting of
approximately 31.222 Acres, from the
Agricultural District to the Urban District, Tax
Map Key No. (2) 3-8-007:102.

VERIFICATION

I, B. MARTIN LUNA, declare that:

1. I am an attorney for Petitioner WAIKŌ INDUSTRIAL INVESTMENT, LLC in the above-captioned matter;
2. I have read the Petition for District Boundary Amendment dated September 13, 2012; know the contents thereof; and that the contents therein contained are true to the best of my knowledge, information and belief; and
3. I declare under penalty of law that the foregoing is true and correct.

DATED: Wailuku, Hawaii, September 13, 2012.



B. MARTIN LUNA

Attorney for Petitioner
WAIKŌ INDUSTRIAL INVESTMENT, LLC

HAWAIIAN TELCOM INC.
Attention: Legal Department
P. O. Box 2200
Honolulu, Hawaii 96816

BY MAIL

FONG CONSTRUCTION COMPANY,
LIMITED
405 Hukilike Street, Bay 4
Kahului, Hawaii 96732

BY MAIL

NOBRIGA'S RANCH, INC.
P. O. Box 1170
Wailuku, Hawaii 96793

BY MAIL

DATED: Wailuku, Hawaii, September 13, 2012.



B. MARTIN LUNA
GREGORY K. SCHLAIS

Attorneys for Petitioner
WAIKŌ INDUSTRIAL INVESTMENT, LLC