

CARLSMITH BALL LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY LAW PARTNERSHIP

LAND USE COMMISSION
STATE OF HAWAII

2001 JAN -8 A 10:09

ONE MAIN PLAZA, SUITE 400
2200 MAIN STREET, P.O. BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086
TELEPHONE (808) 242-4535 FAX (808) 244-4974
WWW.CARLSMITH.COM
E-MAIL BML@CARLSMITH.COM

January 5, 2001

Ms. Esther Ueda
Executive Officer
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Re: Kaonoulu Ranch/Docket No. A94-706

Dear Ms. Ueda:

In accordance with the requirements of paragraphs 14 and 16 on page 30 of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order amending the Agricultural Land Use Boundary for 88 acres of Kaonoulu Ranch, we hereby inform you that the owner has listed the 88 acres with real estate brokers and intends to sell that property. If and when a sale closes, the property will be subjected to deed restrictions requiring the owner's successors and assigns to comply with the terms and conditions set forth in the Land Use Commission's Decision and Order.

Sincerely,



B. Martin Luna

BML:mea

5059882.1.013212-3

Subject

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

April 14, 2000

B. Martin Luna, Esq.
Carlsmith Ball
P.O. Box 1086
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: LUC Docket No. A94-706/Kaonoulu Ranch

This is to acknowledge receipt of your letter dated April 10, 2000, transmitting a copy of the zoning ordinance and providing additional clarification to the annual report filed in the subject docket.

Thank you for your cooperation in this matter.

Should you have any questions, please feel free to call me or Bert Saruwatari of our office at 587-3822.

Sincerely,

A handwritten signature in cursive script, appearing to read "Esther Ueda".

ESTHER UEDA
Executive Officer

EU:aa

CARLSMITH BALL

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

ONE MAIN PLAZA, SUITE 400
2200 MAIN STREET, P.O. BOX 1086
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TELEPHONE (808) 242-4535 FAX (808) 244-4974
WWW.CARLSMITH.COM
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April 10, 2000

2000 APR 11 A 9:27
LAND USE COMMISSION
STATE OF HAWAII

Ms. Esther Ueda
Executive Officer
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Re: Petition for Land Use Commission District Boundary
Amendment for Property situated at Kaonoulu, Makawao-
Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02:por. of 15
and 3-9-01:16; LUC Docket No. A94-706

Dear Ms. Ueda:

This will acknowledge receipt of your letter dated March 21, 2000. Although our client would like to proceed with the development of the commercial and light industrial subdivision, it is experiencing difficulty obtaining financing and/or partners to develop said property due to the economic situation during the last several years. Once the economy has improved and there is a demand for commercial and light industrial lots, our client intends to proceed with the project. However, it may take approximately three to five years before any work may commence.

Enclosed herein is the Ordinance regarding the change in zoning.

Ms. Esther Ueda
April 10, 2000
Page 2

Thank you for your consideration in this matter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "B. Martin Luna".

B. Martin Luna

BML:mea

Enclosure

cc: Mr. Henry Rice
5050536.1.013212-3

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

March 21, 2000

B. Martin Luna, Esq.
Carlsmith Ball,
Attorneys At Law
One Main Plaza, Suite 400
2200 Main Street
Post Office Box 1066
Wailuku, Maui, Hawaii 96793-1086

Dear Mr Luna:

Subject: Filing of 2000 Annual Report for LUC Docket No. A94-706
Kaonoulu Ranch

This is to acknowledge receipt of the 2000 annual report for the subject docket transmitted by your letter dated February 10, 2000.

In the future, we request that an original and two (2) copies of the annual report be submitted to our office. Additional copies of the annual report may be requested as needed. Service of the annual report upon the Office of Planning and County of Maui Planning Department shall continue.

Please note that we have requested the Office of Planning to review and comment on the annual report. The County of Maui Planning Department have already provided comments to us. Any comments that they may have will be provided to you.

Based upon our review of the 2000 annual report, please clarify when development will commence on the commercial and light industrial subdivision proposed in the subject docket. Also, please provide us with a copy of the ordinance relating to the change in zoning.

Please provide us with the requested information by April 14, 2000.

B. Martin Luna, Esq.

March 21, 2000

Page 2

Thank you for your cooperation in this annual reporting requirement to the Commission.

If you have any questions in regards to this matter, please feel free to contact me or Russell Kumabe of my staff at 587-3822.

Sincerely,

A handwritten signature in black ink, appearing to read "Esther Ueda", with a long horizontal flourish extending to the right.

ESTHER UEDA
Executive Officer

EU:aa

cc: Office of Planning
County of Maui Planning Department

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

March 21, 2000

Mr. David W. Blane, Director
Office of Planning
Department of Business, Economic Development
and Tourism
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Dear Mr. Blane:

Subject: Filing of 2000 Annual Report for LUC Docket No. A94-706
Kaonoulu Ranch

On February 11, 2000, the Land Use Commission received Petitioner Kaonoulu Ranch, 2000 annual report filed pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on February 10, 1995 for the above-referenced docket. As required by said condition, we understand that the Office of Planning has been served with a copy of the annual report.

We request your assistance in reviewing the 2000 annual report and provide us with any comments you may have regarding the Petitioner's compliance with conditions.

If you have not done so already, please submit any comments that your agency may have to our office with a copy to the Petitioner by April 21, 2000.

Mr. David W. Blane.
March 21, 2000
Page 2

If you have any questions in regards to this matter, please feel free to contact me or Russell Kumabe of my staff at 587-3822.

Sincerely,

A handwritten signature in black ink, appearing to read "Esther Ueda", with a stylized flourish at the end.

ESTHER UEDA
Executive Officer

EU:aa

CARLSMITH BALL

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

LAND USE COMMISSION
STATE OF HAWAII

2000 FEB 11 A 9:40

ONE MAIN PLAZA, SUITE 400
2200 MAIN STREET, P.O. BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086
TELEPHONE (808) 242-4535 FAX (808) 244-4974
WWW.CARLSMITH.COM
E-MAIL BML@CARLSMITH.COM

February 10, 2000

Ms. Esther Ueda
Executive Officer
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Re: Petition for Land Use Commission District Boundary Amendment
for Property situated at Kaonoulu, Makawao-Wailuku, Maui,
Hawaii; Tax Map Key Nos. 2-2-02:por. of 15 and 3-9-01:16; LUC
Docket No. A94-706

Dear Ms. Ueda:

We have enclosed herein the Fifth Annual Report of Kaonoulu Ranch (original
and three copies).

We would appreciate receiving a file stamped copy of the above for our files.
Enclosed is a stamped self-addressed envelope for your use.

Thank you for your consideration and assistance in this matter.

Sincerely yours,



B. Martin Luna

BML:mea

Enclosure

5050536.1.013212-3

*Mailed file stamp
copy Yuleo
Jibara*

JAMES "KIMO" APANA
Mayor

JOHN E. MIN
Director

CLAYTON I. YOSHIDA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

LAND USE COMMISSION
STATE OF HAWAII

2000 FEB 24 A 9:02

February 22, 2000

Ms. Esther Ueda, Executive Officer
State Land Use Commission
Department of Business, Economic Development & Tourism
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Dear Ms. Ueda:

RE: LUC Docket No. A94-706; Kaonoulu Ranch, TMK: 2-2-02: Por of
015 and 3-9-001:016, Kihei, Maui, Hawaii

The Maui Planning Department has reviewed the above-referenced Annual Report dated February 10, 2000 and finds that it accurately represents the general progress of the project since its redistricting.

Thank you for your cooperation in this matter. If further clarification is required, please contact Ms. Ann T. Cua, Staff Planner, of this office at 270-7735.

Very truly yours,

A handwritten signature in black ink, appearing to read "John E. Min", is written over a large, stylized circular flourish.

JOHN E. MIN
Planning Director

JEM:ATC:cmb

c: B. Martin Luna, Esq.
Clayton Yoshida, AICP, Deputy Director of Planning
Office of Planning
Ann T. Cua, Staff Planner
Project File
General File
(s:\all\ann\kaonoul2.luc)

ORIGINAL

Of Counsel:
CARLSMITH BALL

B. MARTIN LUNA 865
2200 Main Street, Suite 400
Wailuku, Maui, Hawaii 96793

Attorney for Petitioner Kaonoulu Ranch

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2000 FEB 11 A 9:45

In the Matter of the Petition of)	
)	Docket No. A94-706
KAONOULU RANCH)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban)	
Land Use District for)	
approximately 88 acres at)	
Kaonoulu, Makawao-Wailuku,)	
Maui, Hawaii; Tax Map Key Nos.)	
2-2-02:por. of 15 and 3-9-01:16)	
_____)	

FIFTH ANNUAL REPORT OF KAONOULU RANCH

AND

CERTIFICATE OF SERVICE

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	
)	Docket No. A94-706
KAONOULU RANCH)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban)	
Land Use District for)	
approximately 88 acres at)	
Kaonoulu, Makawao-Wailuku,)	
Maui, Hawaii; Tax Map Key Nos.)	
2-2-02;por. of 15 and 3-9-01:16)	
_____)	

FIFTH ANNUAL REPORT OF KAONOULU RANCH

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW KAONOULU RANCH, a Hawaii limited partnership,
Petitioner herein, and pursuant to Condition No. 17 of the Findings of Fact,
Conclusions of Law, and Decision and Order issued on February 10, 1995, hereby
submits its fifth annual report of compliance with the conditions established by said
approval as follows:

General Progress of the Project

The Petitioner has obtained its Community Plan Amendment and Change
in zoning.

Report on Compliance with Conditions Imposed by Commission

The following states whether the conditions in the approval have been met:

1. The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.

The Community Plan Amendment was approved on March 20, 1998, and the Change in Zoning application was approved by the Maui County Council and became effective on May 25, 1999.

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

Petitioner intends to cooperate with the State Department of Health and the Department of Public Works and Waste Management.

3. Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.

Petitioner understands its obligation to contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

Petitioner understands its obligation to fund and construct adequate civil defense measures.

5. Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.

Petitioner understands its obligation to comply with this condition.

6. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

Petitioner understands its obligation to fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project.

7. Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.

Petitioner intends to participate in an air quality monitoring program if required by the Department of Health.

8. Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:

a. All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.

The Petitioner understands its obligation to comply with this condition.

b. All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.

The Petitioner understands its obligation to comply with this condition.

c. Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)

The Petitioner understands its obligation to comply with this condition.

9. Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be found, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed

prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.

The Petitioner understands its obligation to comply with this condition.

10. A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.

As stated in the Fourth Annual Report, the Petitioner has prepared a long term preservation plan which has been approved by the State Historic Preservation Division, Department of Land and Natural Resources, State of Hawaii, a copy of which was transmitted to the Land Use Commission.

11. Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

Petitioner understands its obligation to contribute its pro-rata share to a nearshore water quality monitoring program as it is determined.

12. Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

Petitioner understands its obligation to implement effective soil erosion and dust control methods during construction.

13. Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to mitigate impacts between future residential activities and the proposed industrial development.

The Petitioner understands its obligation to comply with this condition.

14. In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

Petitioner has not sold its interest in the Project, and understands its obligation to comply with this condition.

15. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

Petitioner understands its obligation to comply with this condition.

16. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

The Petitioner understands its obligation to comply with this condition.

17. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Petitioner understands its obligation to comply with this condition, and submits this annual report in compliance therewith.

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

Petitioner has recorded a Notice of Imposition of Conditions with the Bureau of Conveyances of the State of Hawaii pursuant to Section 15-15-92 Hawaii Administrative Rules.

19. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property; and (b) shall file a copy of such recorded statement with the Commission.

Petitioner has recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.

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

The Petitioner understands that the Commission may fully or partially release the conditions provided herein.

Except as stated above, the responses in the fourth annual report are still correct and remain unchanged.

Dated: Wailuku, Hawaii, February 10, 2000.

A handwritten signature in dark ink, appearing to read "B. Martin Luna", is written over a horizontal line.

B. Martin Luna
Attorney for KAONOULU RANCH

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the within document was made by depositing the same with the U.S. mail, postage prepaid, or by hand delivery, on February 10, 2000, addressed to:

DAVID BLANE, Director
Office of State Planning
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL


ABE MITSUDA, Administrator
Land Use Division
Office of State Planning
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL

JOHN MIN, Director
Planning Department
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

Dated: Wailuku, Hawaii, February 10, 2000.



B. Martin Luna
Attorney for Petitioner KAONOULU
RANCH

ORDINANCE NO. 2772

BILL NO. 27 (1999)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
THE AGRICULTURAL DISTRICT TO THE M-1 LIGHT INDUSTRIAL
DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED
AT KAONOULU, MAKAWAO-WAILUKU, MAUI, HAWAII

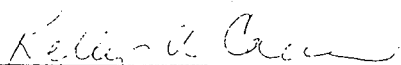
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.510, Maui County Code, a change in zoning from the Agricultural District to the M-1 Light Industrial District is hereby granted for property situated at Kaonoulu, Makawao-Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Nos. 3-9-1:16 and 2-2-02:portion of 15, comprised of approximately 88 Acres, and as more particularly described in Exhibit "A", which is attached hereto and made a part hereof, and by Land Zoning Map No. L-573, which is on file in the Office of the County Clerk of the County of Maui, and which is by this reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning established by this ordinance is subject to the conditions set forth in Exhibit "B", which is attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, which is attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui

SYNCLERICAL\JUN\ORD\3-9-1-16.C12

LAND USE COMMISSION
STATE OF HAWAII
1000 APR 11 A 9:27

"EXHIBIT A"

KAONOULU INDUSTRIAL PARK
Description of Perimeter Boundary

Land situated on the easterly side of the Piilani Highway
(F.A.P. Number RF-031-1(5)) at Kaonoulu, Makawao-Wailuku,
Maui, Hawaii

Being a portion of Royal Patent 7447, Land Commission
Award 3237 Part 2 to H. Hewahewa, Certificate of Boundaries
No. 56

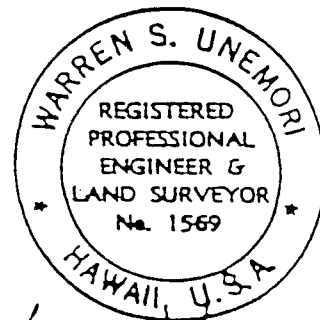
Beginning at a point at the southwesterly corner of this
parcel of land, the coordinates of said point of beginning
referred to Government Survey Triangulation Station "PUU-O-KALI"
being 12,410.49 feet North and 21,916.43 feet West and running by
azimuths measured clockwise from True South:

1. 166° 48' 805.00 feet along the easterly side of
Piilani Highway (F.A.P. Number
RF-031-1(5)) to a point;
2. 256° 48' 50.00 feet along same to a point;
3. 166° 48' 120.00 feet along same to a point;
4. 76° 48' 25.00 feet along same to a point;
5. 166° 48' 1,365.55 feet along same to a point;
6. 97° 30' 26.72 feet along same to a point;
7. 166° 48' 64.27 feet along same to a point;
8. 270° 04' 30" 1,766.86 feet along the Waiakoa-Kaonoulu
Boundary, being also along
Grant 11400 to Ernest K.
Naeole to a point;
9. 344° 25' 1,722.13 feet along the remainder of Royal
Patent 7447, Land Commission
Award 3237 Part 2 to H.
Hewahewa, Certificate of
Boundaries No. 56, to a point;
10. Thence along same on a curve to the right having a radius of
346.00 feet, the chord azimuth
and distance being:
35° 12' 536.13 feet to a
point;

- | | | |
|-----|---------|--|
| 11. | 85° 59' | 280.13 feet along same to a point; |
| 12. | 83° 30' | 300.00 feet along same to a point; |
| 13. | 80° 58' | 379.00 feet along same to a point; |
| 14. | 78° 19' | 408.00 feet along same to a point; |
| 15. | 76° 48' | 30.00 feet along same to the point of
beginning and containing an
Area of 88.00 acres. |

SUBJECT, HOWEVER to the following:

1. A restriction of vehicle access rights along Piilani Highway.
2. A portion of Existing Waterline Easement No. 1 Central Maui Water Transmission System in favor of the Department of Water Supply, County of Maui.



Warren S. Unemori

Registered Land Surveyor
Certificate No. 1569, ES

EXHIBIT "B"

CONDITIONS

1. That the applicant shall participate in intersection improvements, which includes but is not limited to, traffic signals and turning lanes to the satisfaction of the Department of Transportation (DOT). The applicant is encouraged to explore opportunities of cost share arrangements with adjacent developers.
2. That water conservation measures shall be incorporated into the design and operations of the industrial project.
3. That the applicant shall design its landscape irrigation system to accommodate future connection to the County's effluent reuse system.
4. That the design guidelines for this project be reviewed by the Planning Department.

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS
STATE OF HAWAII

BUREAU OF CONVEYANCES

APR 1999

DATE..... TIME
DOCUMENT NO. 99-065049

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ☒ Pickup ☐ To:
Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

PARTIES TO DOCUMENT:

Declarant: KAONOULU RANCH
P. O. Box 390
Kula, Maui, Hawaii 96790

County of Maui: County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Affects Tax Map Key: (2) 3-9-01:16 and 2-2-02: portion (This document consists of 8 pages.)
of 15

EXHIBIT "C"

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 1st day of April, 1999, by KAONOULU RANCH, a Hawaii limited partnership, whose principal place of business is located in Kula, Maui, Hawaii, and whose mailing address is P.O. Box 390, Kula, Maui, Hawaii 96790, hereinafter referred to as "DECLARANT", and who is the owner of those certain parcels of land located at Kaonoulu, Makawao-Wailuku, Island and County of Maui, State of Hawaii, comprised of approximately 88 acres, and identified for real property tax purposes by Tax Map Key Nos. (2) 3-9-01:16 and 2-2-02: portion of 15, hereinafter referred to as "PARCEL",

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering the establishment of zoning for the Parcel, comprised of approximately 88 acres, which is more particularly described in Exhibit "1", attached hereto and made a part hereof, and more particularly identified in Land Zoning Map No. 573, which is on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 99-78, that said establishment of zoning be approved for passage on first reading subject to certain conditions pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code relating to conditional zoning;
2. That until written release by the County of Maui, hereinafter referred to as the "County", the Parcel, and all parts thereof, are and shall be held subject to covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Parcel, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or

with respect to the Parcel by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Parcel the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

3. That this Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the Declarant notifies the appropriate County Department that any said covenants, conditions and restrictions are satisfied by the Declarant, and the appropriate County Department verifies the satisfaction and provides a written release of the covenant, condition or restriction;

4. That the term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", the Declarant's heirs, devisees, executors, administrators, personal representatives, successors, and assigns;

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of M-1 Light Industrial District Zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii;

6. That the Declarant agrees to develop said Parcel in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

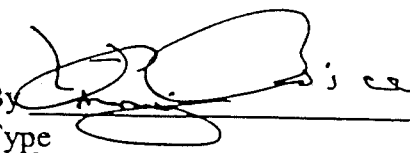
7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County, the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

IN WITNESS WHEREOF, the undersigned has executed this Declaration the day and year first above written.

DECLARANT:

KAONOULU RANCH

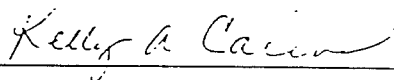
By 

Type

Name: Henry Rice

Its Managing General Partner

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

)

) SS.

COUNTY OF MAUI

)

On this 1st day of April, 1999, before me appeared HENRY RICE, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Managing General Partner of KAONOULU RANCH, a Hawaii limited partnership, and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Mary E. Ah Sam

Print/Type

Name: Mary E. Ah Sam

Notary Public, State of Hawaii

My commission expires: 4/24/99

KAONOULU INDUSTRIAL PARK

Description of Perimeter Boundary

Land situated on the easterly side of the Piilani Highway
(F.A.P. Number RF-031-1(5)) at Kaonoulu, Makawao-Wailuku,
Maui, Hawaii

Being a portion of Royal Patent 7447, Land Commission
Award 3237 Part 2 to H. Hewahewa, Certificate of Boundaries
No. 56

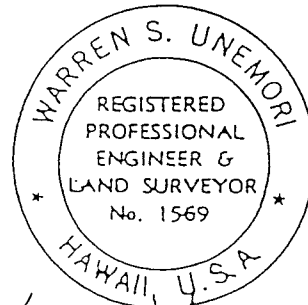
Beginning at a point at the southwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 12,410.49 feet North and 21,916.43 feet West and running by azimuths measured clockwise from True South:

1. 166° 48' 805.00 feet along the easterly side of Piilani Highway (F.A.P. Number RF-031-1(5)) to a point;
2. 256° 48' 50.00 feet along same to a point;
3. 166° 48' 120.00 feet along same to a point;
4. 76° 48' 25.00 feet along same to a point;
5. 166° 48' 1,365.55 feet along same to a point;
6. 97° 30' 26.72 feet along same to a point;
7. 166° 48' 64.27 feet along same to a point;
8. 270° 04' 30" 1,766.86 feet along the Waiakoa-Kaonoulu Boundary, being also along Grant 11400 to Ernest K. Naeole to a point;
9. 344° 25' 1,722.13 feet along the remainder of Royal Patent 7447, Land Commission Award 3237 Part 2 to H. Hewahewa, Certificate of Boundaries No. 56, to a point;
10. Thence along same on a curve to the right having a radius of 346.00 feet, the chord azimuth and distance being:
35° 12' 536.13 feet to a point;

11. 85° 59' 280.13 feet along same to a point;
12. 83° 30' 300.00 feet along same to a point;
13. 80° 58' 379.00 feet along same to a point;
14. 78° 19' 408.00 feet along same to a point;
15. 76° 48' 30.00 feet along same to the point of beginning and containing an Area of 88.00 acres.

SUBJECT, HOWEVER to the following:

1. A restriction of vehicle access rights along Piilani Highway.
2. A portion of Existing Waterline Easement No. 1 Central Maui Water Transmission System in favor of the Department of Water Supply, County of Maui.



Warren S. Unemori

Registered Land Surveyor
Certificate No. 1569, ES

EXHIBIT "2"

Conditions

Pursuant to Section 19.510.050 of the Maui County Code, the zoning established for the Parcel described herein shall be subject to the following conditions:

1. That the Declarant shall participate in intersection improvements, which includes, but is not limited to traffic signals and turning lanes to the satisfaction of the Department of Transportation (DOT). The Declarant is encouraged to explore opportunities of cost share arrangements with adjacent developers.
2. That water conservation measures shall be incorporated into the design and operations of the industrial project.
3. That the Declarant shall design its landscape irrigation system to accommodate future connection to the County's effluent reuse system.
4. That the design guidelines for this project be reviewed by the Planning Department.

5027854.2.013212-3

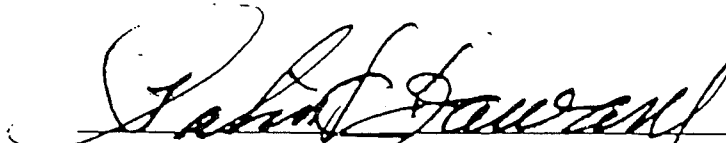
WE HEREBY CERTIFY that the foregoing BILL NO. 27 (1999)

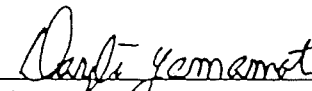
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 21st day of May, 1999, by the following votes:

Patrick S. KAWANO Chair	Dain P. KANE Vice-Chair	Michael A. DAVIS	J. Kalani ENGLISH	John Wayne ENRIQUES	G. Riki HOKAMA	Dennis Y. NAKAMURA	Wayne K. NISHIKI	Charmaine TAVARES
Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye	Aye


2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 21st day of May, 1999.

DATED AT WAILUKU, MAUI, HAWAII, this 21st day of May, 1999.

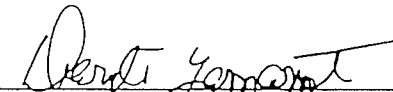

PATRICK S. KAWANO, CHAIR
Council of the County of Maui


DARYL T. YAMAMOTO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 25 DAY OF MAY, 1999.


JAMES H. APANA JR., MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 2772 of the County of Maui, State of Hawaii.


DARYL T. YAMAMOTO, COUNTY CLERK
County of Maui

Passed First Reading on April 16, 1999.
Effective date of Ordinance May 25, 1999.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2772, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED

MAY 25 1999

