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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A15-798
of:)	
)	AMENDED PETITION FOR LAND USE
WAIKAPU PROPERTIES, LLC; MTP)	DISTRICT BOUNDARY AMENDMENT;
LAND PARTNERS, LLC; WILLIAM S.)	PETITIONERS' EXHIBITS "19" -
FILIOS, Trustee of the William)	"24"; VERIFICATION OF MICHAEL
S. Filios Separate Property)	ATHERTON; AFFIDAVIT OF
Trust dated APRIL 3, 2000; and)	MAILING; CERTIFICATE OF
WAIALE 905 PARTNERS, LLC,)	SERVICE
)	
To Amend the Agricultural Land)	
Use District Boundaries into)	
the Rural Land Use District for)	
certain lands situate at)	
Waikapu, District of Wailuku,)	
Island and County of Maui,)	
State of Hawaii, consisting of)	
92.394 acres and 57.454 acres,)	
bearing Tax Map Key No. (2) 3-)	
6-004:003 (por) and to Amend)	
the Agricultural Land Use)	
District Boundaries into the)	
Urban Land Use District for)	
certain lands situate at)	
Waikapu, District of Wailuku,)	
Island and County of Maui,)	
State of Hawaii, consisting of)	
236.326 acres, 53.775 acres,)	
and 45.054 acres, bearing Tax)	
Map Key No. (2) 3-6-002:003)	
(por), (2) 3-6-004:006 and (2))	
3-6-005:007 (por).)	

LAND USE COMMISSION
STATE OF HAWAII
2017 MAY - 1 P 1:06

AMENDED PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

WAIKAPU PROPERTIES, LLC, a Hawaii limited liability company, MTP LAND PARTNERS, LLC, a Hawaii limited liability company, WILLIAM S. FILIOS, Trustee of the William S. Filios Separate Property Trust dated APRIL 3, 2000, and WAIALE 905 PARTNERS, LLC, a Hawaii limited liability company (collectively "Petitioners"), by and through their counsel, Mancini, Welch & Geiger, LLP, respectfully petition this honorable Land Use Commission of the State of Hawaii (the "Commission") to amend the land use district boundaries of certain lands consisting of about 149.848 acres within Tax Map Key No. (2) 3-6-004:003 (por), from State Land Use Agricultural District ("Agricultural District") to State Land Use Rural District ("Rural District") and to amend the land use district boundaries of certain lands consisting of about 335.155 acres within Tax Map Key No. (2) 3-6-002:003 (por), (2) 3-6-004:006 and (2) 3-6-005:007 (por) from the Agricultural District to the State Land Use Urban District ("Urban District"). All of the lands which consist of about 485.003 acres shall be referred to as the "Petition Area."

The Petition Area surrounds a 14 acre parcel which was placed in the Urban District by the Maui County Council pursuant to HRS § 205-3.1 in October 1992.

Amendment of the district boundary is not required for the 14 acre parcel.

On May 1, 2015, this Commission became the accepting authority for an Environmental Impact Statement and authorized the Petitioner to proceed directly to preparation of an Environmental Impact Statement. An Environmental Impact Statement Preparation Notice was published on May 23, 2015. The Draft Final Environmental Impact Statement was published on December 16, 2016 and this Commission accepted the Final Environmental Impact Statement by Decision and Order dated January 20, 2017.

I. INTRODUCTION

Having addressed the Environmental Impacts of the Waikapu Country Town Project ("Project") and identified the measures to mitigate those impacts, Petitioners now seek from this Commission a land use district boundary amendment to allow development of the Petition Area as a self-sufficient small town in a walkable community. In January, 2009, Petitioners took the first steps to develop a new master-planned community in Central Maui. Surrounding the Maui Tropical Plantation, the vision of Petitioners was to develop a "complete community" in which people could live, work, shop and play in a friendly, healthy, and sustainable

environment. As a result of presentations, meetings and workshops, the Project came into being.

Upon receipt of all land use entitlement approvals, Waikapu Country Town will be located in Central Maui between Wailuku and Maalaea on the slopes of the West Maui Mountains. Waikapu Country Town will include lands on both the mauka and makai sides of Honoapiilani Highway in an area just south of the town of Waikapu. Providing the urban character of a traditional small town, the Project will have a mix of single-family, multi-family and rural residences, park land, open space, commercial uses, an elementary school, integrated agricultural and commercial uses, and an agricultural park. Waikapu Country Town will embody the principles and policies of the Maui Island Plan while respecting and implementing the Waikapu Community Association's statement of vision for the Waikapu area.

To implement the Project, Petitioners seek a land use district boundary amendment to reclassify a portion of the Petition Area from the Agricultural District to the Urban District and to reclassify another portion of the Petition Area from the Agricultural District to the Rural District. In addition, Petitioners will seek an amendment to the Wailuku-Kahului Community Plan designation of the Petition Area from Agriculture to Project District

(including an amendment of the Wailuku-Kahului Project District No. 5) (Maui Tropical Plantation)), a change in zoning from Agricultural to Rural and Project District, and a change in project district zoning for project district 5 of the Wailuku-Kahului Community Plan.

The need for a community plan amendment, as well as anticipated uses of state land, triggered the requirement to comply with Hawaii Revised Statutes ("HRS") Chapter 343. The Final Environmental Impact Statement Preparation for Waikapu Country Town, as approved by this Commission is a part of this Docket and is incorporated by reference in this Amended Petition; reference in this Amended Petition to the Final EIS shall mean that document that was filed in this Docket on December 23, 2016.

The Petition Area is located within the Rural and Small Town Growth Boundaries as shown on Maui Island Plan Map No. C3 attached as Petitioners' Exhibit "2" to the Petition and is incorporated by reference. The Maui Island Plan, enacted into law on December 28, 2012, by Maui Ordinance No. 4004, is a blueprint that provides direction for future growth, the economy and social environmental decisions for the island of Maui through 2030. Inclusion of the Petition Area within Rural and Small Town Growth

Boundaries reflects the view of Maui residents on the location of future growth.

Petitioners seek the approval of the Commission for a similar change in the state land use classification of the Petition Area.

II. AUTHORITY FOR RELIEF SOUGHT, IDENTITY OF PETITIONERS, AUTHORIZED REPRESENTATIVE, PETITIONERS' PROPERTY INTEREST, COMPLIANCE WITH SERVICE AND NOTIFICATION

A. Authority for Relief Sought.

All petitions [for boundary amendment] shall: (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. HAR § 15-15-50(a).

The Commission is authorized to change the land use classification of the Petition Area pursuant to HRS Chapter 205, and specifically, HRS § 205-4 which authorizes the Commission to find that the proposed boundary is reasonable, does not violate HRS § 205-2 and HRS §§ 205-41 to 205-52 and is consistent with policies and criteria established pursuant to HRS §§ 205-16 and 205-17. Authorization for the Commission to act is further found in HAR § 15-15-77.

B. Identification of Petitioners.

[The petition shall state] the exact legal name of each petitioner and the

location of the principal place of business and if an applicant is a corporation, trust, or association, or other legal entity, the state in which the petitioner is organized or incorporated. HAR § 15-15-50(c)(1).

The Petitioners are:

1. WAIKAPU PROPERTIES, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793, and whose mailing address is P.O. Box 1870, Manteca, CA 95336.
2. MTP LAND PARTNERS, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793, and whose mailing address is P.O. Box 1870, Manteca, CA 95336.
3. WILLIAM S. FILIOS, Trustee of the William S. Filios Separate Property Trust dated April 3, 2000, an individual whose principal place of business and mailing address is 1463 Moffatt Boulevard, Suite 5, Manteca, CA 95336.
4. WAIALE 905 PARTNERS, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793,

and whose mailing address is P.O. Box 1870, Manteca, CA 95336.

C. Authorized Representative.

[The petition shall provide] the name, title, and address of the person to whom correspondence or communication in regard to the petition ought to be addressed. HAR § 15-15-50(c)(2).

The law firm of Mancini, Welch & Geiger, LLP, has been engaged to represent Petitioners in this matter. Attached as Petitioners' Exhibit "3" to the Petition and incorporated by reference is Petitioners' authorization for Paul R. Mancini and James W. Geiger to act for Petitioners. Accordingly, all correspondence and communications in regard to this Petition shall be addressed to and served upon:

Paul R. Mancini
James W. Geiger
Mancini, Welch & Geiger, LLP
305 East Wakea Avenue, Suite 200
Kahului, HI 96732

and

Michael Atherton
Waikapu Properties, LLC
1670 Honoapiilani Highway
Wailuku, HI 96793

D. Petitioners' Property Interest.

[The petition shall state] the petitioner's property interest in the subject property. Petitioner shall attach as exhibits to the petition the

following: (a) a true copy of the deed, lease, option agreement, development agreement or other document conveying to the petitioner a property interest in the subject property or a certified copy of a non-appealable final judgment of a court of competent jurisdiction quieting title in the petitioner; . . . HAR § 15-15-50(c)(5)(A).

Petitioners are the fee simple owners of the Petition Area. The instrument of conveyance by which Petitioner Waikapu Properties, LLC received title to Tax Map Key No. (2) 3-6-004:003 (por) and (2) 3-6-004:006 is attached as Petitioners' Exhibit "4" to the Petition and is incorporated by reference. The instrument of conveyance by which Petitioners MTP Land Partners, LLC and William S. Filios, Trustee of the William S. Filios Separate Property Trust dated April 4, 2000, received title to Tax Map Key No. (2) 3-6-005:007 is attached as Petitioners' Exhibit "5" to the Petition and is incorporated by reference. William S. Filios, Trustee holds an undivided interest of about $\frac{1}{4}$ of Parcel 7 and MTP Land Partners, LLC holds the remaining interest as the majority owner of the parcel. The instrument of conveyance by which Petitioner Waiale 905 Partners, LLC received title to Tax Map Key No. (2) 3-6-002:003 (por) is attached as Petitioners' Exhibit "6" to the Petition and is incorporated by reference.

E. Affidavit of Compliance With Service of Petition.

[The petition shall attach as an exhibit] an affidavit of the petitioner or its agent attesting to its compliance with [HAR § 15-15-48] [service of petition]. HAR § 15-15-50(c) (5) (C).

An affidavit of James W. Geiger, an authorized representative of Petitioners, to attest to compliance with HAR § 15-15-48 is attached as Petitioners' Exhibit "19". Copies of the Amended Petition and supporting documents were served upon the Maui County Department of Planning, the Maui Planning Commission, the State Office of Planning, and all persons with a property interest in the Petition Area as recorded in the County of Maui's real property tax records as of the time of service.

After the Amended Petition is deemed complete, Petitioners' authorized representative also will serve copies of the Petition and the Amended Petition, and documents attached as exhibits to both, on any potential intervenor upon receipt of notice of intent to intervene. Additionally, Petitioners' authorized representative shall serve copies of all documents filed by Petitioner after the filing of the Amended Petition upon the Maui County Department of Planning, the Maui Planning Commission, the

State Office of Planning, and any other person admitted to this proceeding as a party.

F. Notice of Petition Filing.

[The petition shall include] a copy of the notification of petition filing pursuant to [HAR § 15-15-50] subsection (d). HAR § 15-15-50(c) (23).

A true and correct copy of the notification of Amended Petition filing is attached as Petitioners' Exhibit "20". Copies of said notification were sent to all persons included on the mailing list provided by the Commission's Chief Clerk.

III. DESCRIPTION OF PETITION AREA

A. Acreage and Metes and Bounds.

[Each petition shall provide a] description of the subject property, acreage, and tax map key number, with maps, including the tax map, that identify the area stated in the petition. If the subject property is a portion of one or more tax map key parcels, 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 in each increment in metes and bounds prepared by a registered professional land surveyor. HAR § 15-15-50(c) (3).

The Petition Area is located in Waikapu, District of Wailuku, Island and County of Maui, State of Hawaii. The Petition Area consists of about 485 acres. A portion of

the Petition Area consisting of about 150 acres (located within TMK No. (2) 3-6-004:003 (por)) is sought to be included within the Rural District. The remainder of the Petition Area of about 335 acres (which bears TMK Nos. (2) 3-6-002:003 (por), (2) 3-6-004:006 and (2) 3-6-005:007 (por)), is sought to be included within the Urban District. A location map showing the entire Petition Area is attached as Petitioners' Exhibit "9" to the Petition and is incorporated by reference.

Tax maps which show the portions of the Petition Area which are to be included within the Rural District are attached as Petitioners' Exhibit "10" to the Petition and is incorporated by reference. Tax maps showing the portions of the Petition Area which are sought to be included within the Urban District are attached as Petitioners' Exhibit "11" to the Petition and are incorporated by reference.

Metes and bounds descriptions of the two parcels to be included within the Rural District and of the three parcels to be included within the Urban District prepared by a registered professional land surveyor are attached as Petitioners' Exhibits "12" through "13" to the Petition and are incorporated by reference.

Petitioners intend to develop the Petition Area in two phases. A map showing the locations of the phases is attached as Petitioner's Exhibit "14" of the Petition and is incorporated by reference. While it is not Petitioners' intent to change the location of the phases of development, it is possible that an adjustment will happen as a result of the entitlement and marketing process. At this time, the anticipated phasing is shown on Petitioners' Exhibit "21".

B. Easements and Other Ownership Interests.

*[The petition shall include] a description of any easements on the subject property, together with identification of the owners of the easements; the description of any other owner interest shown on the tax maps.
HAR § 15-15-50(c)(6).*

The Petition Area is made up of 5 separate parcels.

Easements and other ownership interests (as shown on tax maps) for each of the parcels follow:

1. Lot 6, Waikapu Hema Large-Lot Subdivision (92.394 acres) - Agricultural to Rural.

This parcel is at the southern end of the Petition Area and runs mauka from Honoapiilani Highway and is a part of a larger parcel over which there were several easements. As to the parcel in question, the following easements exist: Waihee Ditch as shown on the tax map; water

transmission pipeline easement as reserved in the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions filed as Document No. 2004-245134 in the Bureau of Conveyances of the State of Hawaii. No ownership interests beyond those transferred to and held by Petitioners are shown on the tax maps or on the real property tax records. See Petitioner's Exhibit "10" attached to the Petition and incorporated by reference.

2. Lot 6, Waikapu Hema Large-Lot Subdivision (57.454 acres) - Agricultural to Rural.

This parcel is located mauka of the Maui Tropical Plantation and is part of a larger parcel over which there are several easements. As to the portion of the parcel for which a boundary amendment is being sought, the following easements exist: reservoir as shown on the tax map; water transmission pipeline and ditch easements as reserved in the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions filed as Document No. 2004-245134 in the Bureau of Conveyances of the State of Hawaii. No ownership interests beyond those transferred to and held by Petitioners are shown on the tax maps or on the real property tax records. See, Petitioners' Exhibit "10" attached to the Petition and incorporated by reference.

3. Lot 2, Waiale Park Large-Lot Subdivision (236.326 acres) - Agricultural to Urban.

This parcel is located makai of Honoapiilani Highway and runs from the south to the north end of the Petition Area. As to the portion of this parcel for which a boundary amendment is being sought, there are several easements which include: electrical easement in favor of Maui Electric Company in instrument filed in Book 18128, Page 729; and easements for utility purposes in favor of Maui Electric Company and GTE Hawaiian Telephone Company in instruments filed in Book 20331, Page 23 and as documents no. 90-054813 and 98-162980. No ownership interests beyond those transferred to and held by Petitioners are shown on the tax maps or on the real property tax records. See, Petitioners' Exhibit "11" attached to the Petition and incorporated by reference.

4. Lot 2 of the Hawaii Tropical Plantation Subdivision (53.775 acres) - Agricultural to Urban.

This parcel is located mauka of Honoapiilani Highway and is adjacent to the Maui Tropical Plantation property, which is Lot 1 of the Hawaii Tropical Plantation Subdivision. There are several easements that affect this parcel which include: Waihee Ditch as shown on tax map; reservoir as shown on tax map; easement for access and

utilities in favor of Clayton Suzuki as granted in instruments recorded in the Bureau of Conveyances of the State of Hawaii as Documents No. 2003-081211 and 2003-081212; easement for vehicular and pedestrian access to Donna Ting and Allen Ting III as granted in instrument recorded in the Bureau of Conveyances of the State of Hawaii as Document 2003-005885; and easements for waterline and water transmission purposes in favor of Petitioners as owners of the Maui Tropical Plantation parcel as reserved in instrument recorded in the Bureau of Conveyances of the State of Hawaii as Document 90-174768. No easements or other owners are shown on the real property tax records. Documents obtained from the Bureau of Conveyances purport to assert that the heirs of Napailoi could be possible owners of L.C.Aw. 10481, Apana 1, Mahele 1, Royal Patent 3131 and that the heirs of Kaai may be possible owners of L.C.Aw. 5774, Apana 2, Royal Patent 4014. See, Petitioners' Exhibit "11" attached to the petition and incorporated by reference.

5. Lot 1 of Hawaii Tropical Plantation Subdivision (por) (45.045 acres) - Agricultural to Urban.

This parcel runs in an arc with the base of the arc beginning and ending on Honoapiilani Highway. The parcel is not subject to recorded easements. No other

ownership interests are shown on the tax maps or the real property tax records. See, Petitioners' Exhibit "11" attached to the Petition and incorporated by reference. While MTP Land Partners, LLC and William S. Filios, Trustee, own this parcel as tenants in common, MTP Land Partners, LLC holds over 75 % of the ownership interest, making it the majority owner of the parcel.

C. Use, Soil Classification, Productivity, Flood, Drainage and Topography.

[The petition shall include] a 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 Land Study Bureau productivity rating, the flood and drainage conditions, and the topography of the subject property.
HAR § 15-15-50(c)(10).

The Petition Area is located in the central Maui isthmus which is between Haleakala and the West Maui mountains. Located on the slopes of the West Maui mountains just south of the town of Waikapu, the Petition Area slopes from northwest to southeast. Most of the Petition Area has a slope of three to five percent.

Historically the Petition Area was used for cultivation of sugar cane. In the early 1980s the Maui Tropical Plantation was developed on a property which is

planned to be the crown jewel of the Petition Area. Sugar cane production has been phased out since that time so that by the time Petitioners' became the owners of the Petition Area, the mauka portions of the Petition Area were used for livestock grazing and the production of organic and non-organic crops and vegetables. The makai portions of the Petition Area were used for production of sugar cane until 2016 when that use stopped. Petitioners' have entered into leases with persons who will grow vegetables and similar crops while Petitioners pursue the entitlements on the Petition Area. Petitioners may enter into leases with other persons or entities for other agricultural uses such as the growth of bio-fuel crops while the entitlements are being pursued.

There are three soil series and five soil types within the Petition Area. The soil series are: Puluheu; Iao; and Wailuku. Each of the series consists of well drained soils on alluvium fans formed from weathered basalt igneous rock. The soil series are highly suited for both agricultural and urban development.

The soil types are: Iao clay, 3 to 7% slopes (IcB), Puluheu cobbly silt loam, 3 to 7% slopes (PrB), Puluheu cobbly clay loam, 3 to 7% slopes (PtB), Wailuku silty clay, 3 to 7% slopes (WvB), and Wailuku silty clay, 7

to 15% slopes (WvC). A map showing the Petition Area and the soil types is attached as Petitioners' Exhibit "15" to the Petition which is incorporated by reference.

The Petition Area lands principally are rated A and B under the Land Study Bureau Detailed Land Classification system. A map showing those classifications is attached as Petitioners' Exhibit "16" to the Petition which is incorporated by reference. Ratings of A and B lands indicate that the land is productive for agricultural pursuits.

The bulk of the Petition Area is classified as "prime" land under the Agricultural Lands of Importance of the State of Hawaii ("ALISH"). A map showing the Petition Area and its ALISH designations is attached as Petitioners' Exhibit "17" to the Petition and incorporated by reference.

Almost all the Petition Area lies in Flood Zone X. Flood Zone X is an area of low to moderate flood risk. Areas of special flood zone hazard exist within the Petition Area that is makai of Honoapiilani Highway in the land that adjoins the Waikapu Stream. These zones are principally zones AE and AEF. The properties identified as being within zones AE and AEF will require flood insurance purchase. However, the portions of the Petition Area that

are zoned AE and AEF will not be developed for residential use.

Runoff from the Petition Area mauka of Honoapiilani Highway sheet flows in a west to east direction, which runoff is diverted under Honoapiilani Highway through six culverts that discharge the runoff into existing agricultural fields makai of Honoapiilani Highway. Runoff from the portion of the Petition Area makai of Honoapiilani Highway, combined with the diverted runoff from the portion of the Petition Area mauka of Honoapiilani Highway, sheet flows towards Kuihelani Highway and eventually discharges into Kealia Pond in North Kihei.

IV. DESCRIPTION OF PROJECT

A. General Description of Waikapu Country Town.

[The petition shall state] the 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 use. HAR § 15-15-50(c)(7).

The Waikapu Country Town Project (the "Project") is expected to be a complete community where its residents can live, work, shop and play in a friendly, healthy, and sustainable environment. The master-planned community is proposed to include affordable and market priced housing in a mixture of types such as live-work, single-family, multi-

family and rural-residential. Supporting commercial, employment and civic uses are intended to form the complete community. Higher density housing and mixed uses are proposed for a Village Center and along a pedestrian oriented Main Street. Facilitation of walking and biking between different land uses will be a major objective of the Project. About eight miles of greenways, walking and hiking trails, and mountain biking trails will be used to achieve travel times of five minutes if walking, and 10 minutes if biking, to schools, shopping, park and transit stops.

The Project as conceived will incorporate public transportation through the strategic location of bus stops to facilitate the use of public transit to job rich areas in Wailuku/Kahului and South and West Maui.

Petitioners envision that the Project will include about 1,433 residential units. The Petition Area adjoins agricultural land owned by Petitioners, a portion of which agricultural land will be preserved in perpetuity for agricultural use. The Project will utilize design practices to preserve additional rural land for farming, open space and open land recreation.

The Project is proposed to be centered on the existing Maui Tropical Plantation. The Maui Tropical

Plantation, located on a 14 acre portion of TMK No. (2) 3-6-005:007, is presently zoned and classified as Urban. The Maui Tropical Plantation was developed to be a visitor destination based upon a tropical agricultural theme. The facility integrates ongoing agricultural activities with daily tours, restaurants, gift shops, farm stands and adventure tours.

Existing buildings and grounds of the Maui Tropical Plantation are planned for incorporation into a village center providing commercial uses that may include a town grocery, farmers market, specialty and boutique retail stores, professional offices, personal service businesses, restaurants, cafes, and light craft making such as artist and craft studios.

Conceptually the lands that lie mauka of Honoapiilani Highway and the village center will be single-family residential neighborhoods of mixed-lot sizes. These neighborhoods will be designed to provide convenient vehicular, pedestrian and bicycle access to the village center.

Beyond the single-family residential neighborhoods will be rural lands. The rural lots are proposed for between one-half acre and one and one-half

acres in size. Conceptually, the rural lots will allow for a more open-spaced lifestyle.

Outside the Petition Area in the lands owned by Petitioners, agricultural pursuits will be fostered. Petitioners presently plan to dedicate the bulk of those lands for use for agriculture purposes in perpetuity.

Development of the Petition Area makai of Honoapiilani Highway will focus on a pedestrian-oriented "main street" together with a nearby school and parks. This focus will support development of a community where walking and biking are the preferred modes of transportation for short commutes and for recreation, which is a primary objective of the Project.

B. Number of Lots, Size of Lots, Number of Units, Density, Marketing and Development Timetables.

[The petition shall include] a statement of projected number of lots, lot size, number of units, densities, selling price, intended market, and development timetables. HAR § 15-15-50(c)(8).

While local market conditions ultimately will determine the types of units sold and the densities of development within the Project, Petitioners intend that at full build out the overall character of the Project, the mix of uses, and the development pattern will be consistent with the master plan

vision, design guidelines and zoning ordinances. The conceptual master plan and development program is shown in Petitioners' Exhibit "18" attached to the Petition and incorporated by reference.

Petitioners will implement the Project in two, five-year phases. At the completion of the Project, Petitioners expect that there will be about 970 single-family residences built on about 131 acres (for a density of about 7.4 units per acre), about 256 multi-family/town homes built on about 21 acres (for a density of about 12 units per acre), about 80 dwellings built on about 125 acres (for a density of about 0.64 units per acre), and about 127 multi-family and/or live-work units, together with about 58,000 square feet of commercial use, constructed on about 20 acres for country town/mixed use. In addition, the Project will have about 12.9 acres dedicated to commercial use which is expected to add about 140,000 square feet of commercial space, about 12 acres on which a school is built, about 80 acres of park and open space, and about 80 acres of roadway.

Conceptually the first phase of the Project is planned to achieve construction of about one-third of the proposed single-family units, about one-fifth of the proposed rural units, about 35% of the proposed multi-

family units, all of the proposed country town/mixed-use units, and all of the proposed commercial space.

The second phase of the Project is conceptually planned to develop the remainder of the single-family units, the remainder of the rural units, and the remainder of the multi-family units.

Sales prices will be set as indicated in the marketing plan which is attached to the Final EIS. These prices may be subject to adjustment as market conditions may change. However, if any residential units are developed as residential workforce housing units, the sales prices for those units will be set in accordance with the provisions of MCC Chapter 2.96, as amended.

V. ASSESSMENT OF THE PROJECT

A. Environmental Assessment of the Project.

[The petition shall include] an assessment of the impacts or 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)(11).

Petitioners submitted, and the Commission accepted, a Final EIS. The impacts of the Project upon the environment can be appropriately mitigated by the actions identified in the Final EIS. A summary of the provisions of the Final EIS

applicable to the Commission's assessment for purposes of the boundary amendment of the Petition Area follows.

1. Physical environment.

Preliminary Engineering Reports and Preliminary Drainage Reports were attached to the Final EIS and are incorporated by reference. In general, the impacts on the physical environment include an analysis of the change in use, storm runoff, grading, seismic conditions and flooding.

The Petition Area adjoins Waikapu Town. Waikapu Town is comprised mostly of single-family residences constructed from the early 1900's through the 1950's. In addition, the Project will adjoin a development proposed by A&B Properties known as the Waiale Community Project that will be primarily residential in use. A district boundary amendment was sought by A&B Properties for the Waiale Project which was granted by this Commission in June 2012 in Docket No. A10-989. While some existing agricultural land will be converted to residential use by the Project, the conversion from agricultural to residential use is consistent with existing and approved adjoining land uses.

During development of the Project, grading for roads, parks and lots will be required. Storm runoff during the construction of the infrastructure for the

Project might have an impact on the environment, accordingly National Pollutant Discharge Elimination System permits will be obtained before any grading activities. Additionally, storm runoff from the Petition Area will be controlled in compliance with County of Maui standards as stated in MCC Chapter 20.08, as amended.

To the extent practical, improvements such as roadways will conform to the contours of the land to reduce the need for extensive grading of the Petition Area.

The Petition Area is generally not subject to the effect of tsunamis, volcanic hazards, earthquake or flooding. To the extent any portion of the Petition Area is subject to flooding, areas will be set aside for parks, open space and agriculture to prevent the construction of structures within any flood zones.

2. Flora and fauna.

A botanical and faunal survey was conducted of the Petition Area was a part of Petitioners' Exhibit "1" attached to the Petition and incorporated by reference. Only three native species of plants were found in the Petition Area, which species are found naturally in Hawaii and are commonly found throughout the tropics nearly worldwide. No endangered Hawaiian hoary bats were detected during the survey. Bird life was dominated by widespread

introduced species. The three native insects recorded during the survey are widespread and common in Hawaii and elsewhere. Two tree tobacco plants, hosts for the Blackburn's Sphinx moth, were found in the Petition Area. The tree tobacco plants were examined for the presence of eggs, larvae or other signs of feeding of the moth. One plant was found to have two mature eggs on separate leaves.

Mitigation measures will include the shielding of outdoor lighting to direct the light downward and the protection and management of the two tree tobacco plants in accordance with guidelines provided by the United States Fish & Wildlife Service.

3. Air quality.

An Air Quality Study for the Petition Area was a part of the Final EIS and is incorporated by reference. In general, the Petition Area experiences relatively strong trade winds blowing from north to south. While air quality during construction will be impacted by fugitive dust and exhaust emissions from construction vehicles, no long-term impacts to air quality are expected other than a possible impact from the Project's water reclamation facility. During construction related activities, best management practices such as watering of active work areas, using wind screens, keeping adjacent roads clear and covering loads on

open bodied trucks will be implemented to control dust and decrease other sources of air pollution. The mitigation measures for the water reclamation facility will include locating the facility on lands that will be preserved for agricultural use, creating a buffer between the facility and the Petition Area, and requiring the facility's designer to commit to provide a design that will limit emission of hydrogen sulfide from facility to the odor threshold for sensitive persons at the closest boundary of the parcel on which the facility is built to the Petition Area.

4. Noise quality.

A Noise Assessment Report for the Petition Area was a part of the Final EIS and is incorporated by reference. Other than noise from traffic on Honoapiilani Highway, no significant noise generators exist within or in close proximity to the Petition Area. With regard to the traffic noise, Petitioners will establish a minimum setback distance for residential housing of 60 feet from Honoapiilani Highway to mitigate the impact from traffic generated noise.

During construction, construction vehicles, machinery and equipment will create some increase in noise. Mitigation efforts for construction generated noise will

include limiting grading and construction related activities to daylight hours, requiring the contractor to incorporate noise mitigation measures into the construction plan, and, if necessary, using temporary noise barriers.

The water reclamation facility is not expected to generate high noise levels at or beyond the boundary lines of the parcel on which the facility is built.

5. Historic and archeological resources.

An Archeological Inventory Survey was a part of the Final EIS and is incorporated by reference. The Archaeological Inventory Survey was based on a walking survey of the Petition Area and the excavation of about 150 trenches. Historical structures were found at five sites. Three of the sites were related to sugar cane cultivation such as The Waihee Ditch, concrete lined ditches, sluice gates and concrete headwalls for dirt ditches. One site was a World War II bunker. The remaining site, located in an area at the very edge of the Petition Area, was a disturbed L-shaped retaining wall. The Survey noted that the identified sites that might be adversely affected by development activities could be removed or altered during construction. The retaining wall site is not in an area which is expected to be adversely affected by development activities.

Before construction, Petitioners will submit an archaeological monitoring plan for approval by the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources. Any archeological features found during construction of the infrastructure will be preserved in accordance with the monitoring plan, Petitioners' archeological consultant's directives and in consultation with the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources.

6. Cultural impacts.

A Cultural Impact Assessment was a part of the Final EIS and is incorporated by reference. In addition, a history of the Petition Area was attached to and a part of Petitioner's Exhibit "1" to the Petition which is incorporated by reference. Further, a Ka Paakai Cultural Analysis was prepared based on the results of the Archaeological Inventory Survey and the Cultural Impact Assessment, which was a part of the Final EIS and is incorporated by reference.

In general, the Petition Area was used for agricultural purposes since the 1870's. Before that time, lands along the Waikapu Stream and in and around the existing Waikapu Town were used for cultivation of wetland taro and other traditional crops.

Some cultural practices were conducted in the area of the Waikapu Stream, although it is not known whether those were conducted within the Petition Area. It is known that the upper regions of the Waikapu Stream watershed had an abundance of endemic and indigenous plants and trees used for various cultural practices, construction of housing, cordage, medicinal purposes and surfboards.

The Assessment and Analysis identified seven areas of cultural concern which Petitioners have addressed. Petitioners modified the development plan to remove three kuleana parcels from areas being developed. Sedimentation of Waikapu Stream was addressed by diversion of storm water runoff away from Waikapu Stream. Petitioners will work with kuleanas farmers who are cultivating taro to achieve access to surface and ground water for that practice. Petitioners have leased lands outside the Petition Area to Hui Malama o Waikapu for the restoration of taro loi and the restoration of native dryland forests. Petitioners will submit an archaeological monitoring plan for approval by the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources. Any archeological features found during construction of the infrastructure will be preserved in accordance with the monitoring plan, Petitioners' archeological consultant's

directives and in consultation with the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources.

7. Visual resources.

There are largely unobstructed views of Haleakala, the West Maui Mountains, the central Maui isthmus and Pacific Ocean from the mid to upper elevations of the Petition Area. At higher elevations, Wailuku and Kahului, as well as East and South Maui are visible. From lower elevations, largely unobstructed views are available of the West Maui Mountains and Haleakala. To mitigate the impact of the Project on visual resources, one or more of the following urban design strategies may be employed: (a) setbacks will be utilized on each side of Honoapiilani Highway to separate the development from the public right-of-way in which large canopy Monkey pod trees, tropical shrubs, bushes and grass will be maintained to create a sense of separation and definition; (b) buildings will be set back and heights will be limited, which coupled with alignment of roadways to capture mauka to makai view corridors should mitigate the impact of views of Haleakala and the West Maui Mountains; (c) the view of open space resources such as the adjoining agricultural lands owned by Petitioners will be maintained by a dedication to preserve

in perpetuity approximately 800 acres of prime agricultural lands, which, coupled with a transformation of the Maui Tropical Plantation from a visitor-oriented attraction to a park-like town center, should mitigate the impact on visual spaces.

8. Agricultural resources.

An Agricultural Impact Assessment for the Petition Area was prepared and is a part of Petitioner's Exhibit "1" to the Petition which is incorporated by reference. While agriculture dominated Hawaii's economy from the late 1800's through the 1950's, the overall significance of agriculture declined since the advent of mass-market tourism. Hawaii farmers face stiff competition in local, national and international markets but remain competitive in niche product markets. While the Project will result in the urbanization of about 485 acres, this represents a small percentage of agricultural lands on Maui. Petitioners own, in addition to the Petition Area, about 1,000 acres of land that will remain in agricultural use, 800 acres of which they propose to permanently dedicate to agricultural use. Possible uses of the remaining 300+ acres are subdivision into large agricultural lots or development into a private agricultural park.

9. Groundwater and surface water resources.

A Preliminary Engineering Study was a part of the Final EIS and is incorporated by reference. In general, it is expected that the Project will receive water service from a private water system with groundwater as a source. The private water system, which will be a dual system having potable and non-potable water lines, will be designed and constructed in accordance with State of Hawaii and County of Maui rules and standards.

Petitioners have six wells, three of which will be used for potable water, two of which will be used for non-potable water and one of which will be a monitoring well. Test pumping of the three potable wells indicate that the wells are capable of producing potable water of excellent quality. The two non-potable wells showed low salinity levels; water pumped from those wells will be discharged into the Waihee Ditch or lined onsite reservoirs for use for irrigation purposes for residential lots, agricultural activities, parks and open areas within the Petition Area.

The Waikapu Aquifer, from which the six wells draw groundwater, has a sustainable yield of 3,000,000 gallons per day. The estimated maximum daily potable water

demand for the Petition Area is about 970,000 gallons per day. Although the draw on the Waikapu Aquifer should be less than its sustainable yield, Petitioners will obtain the permits required for the operation of the wells from the Commission on Water Resource Management which will monitor the water draws to ensure that use will not exceed sustainable yield.

Design criteria for the water system suggest that storage volume for the system should be about 970,000 gallons. Accordingly Petitioners will incorporate 1,000,000 gallons of storage capacity in the system through one or more storage reservoirs constructed mauka of the Petition Area. Constructed at an elevation of about 800 feet, the storage reservoirs will allow the Petition Area to be serviced by gravity flow.

Petitioners will incorporate water conservation measures such as low flow toilets and shower heads to decrease potable water demand.

Petitioners have applied for surface water use permits of about 3,540,000 gallons per day to use waters from the Na Wai Eha surface water management area. These water sources will be the primary source of water for the non-potable water system. Additionally, Petitioners expect to use water from the non-potable wells however the amounts

of such use are not known at this time. Finally, Petitioners expect that the water reclamation facility, at full operational capacity, should generate around 650,000 gallons per day for the non-potable water system.

Both of the systems will be operated by companies formed to manage, maintain and operate the systems. These companies will be subject to oversight by the Public Utilities Commission.

While Petitioners pursue entitlement of the Petition Area, Petitioners will continue communications with the County of Maui concerning interconnection with the public water system operated by the County of Maui. At this point, Petitioners believe that interconnection will not occur while the Project is being developed but desire to reserve the ability to interconnect in the event that such action would be economically viable.

B. Public Services.

[The petition shall address] the 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 boundary amendment. HAR § 15-15-50(c)(12).

1. Schools.

Maui schools are organized into complex-areas. Groups of two to four complexes form a complex-area that is under the supervision of a complex-area superintendent. A complex consists of a high school and all the intermediate/middle and elementary schools that flow into it. The Project is located within the Baldwin-Kekaulike-Maui Complex-Area.

The State of Hawaii Department of Education developed student generation rates developed to project the number of students that a residential development will add to the existing student population. Using those generation rates, the Project is expected to result in an increase of about 290 elementary students, about 130 middle school students and about 180 high school students.

The Department of Health also adopted construction cost impact fees and land dedication requirements for the development of educational facilities that would be necessary for the about 600 new students resulting from the Project. Petitioners will have a construction cost impact fee of about \$2,607,000. Additionally Petitioners will have a land dedication requirement of about 11.4 acres.

Petitioners identified a 12 acre site for a proposed school. Additionally Petitioners reached agreement with the Department of Education concerning an Educational Contribution Agreement. A copy of the Educational Contribution Agreement is attached as Petitioners' Exhibit "22".

2. Parks.

The Project is located within the Central Maui region. The Central Maui region has 186 acres of sub-regional park land and 377 acres of regional parks. There are 10 active recreation parks in the region, two regional parks and two beach parks. The County of Maui acquired 209 acres in Waikapu near the Petition Area for a regional park and a Central Maui sports complex is being planned in Waikapu on 65 acres owned by the State of Hawaii.

The County of Maui requires a park dedication of 500 square feet of park land to each housing unit. This would place a requirement of 18 acres of land within the Project to be dedicated for park use. Petitioners propose to dedicate about 32.5 acres of sub-regional park land to be spread among a community park, neighborhood parks and min-parks. Additionally the Project will have about 50 acres of greenways and open-space which will have pedestrian and bicycle paths.

3. Wastewater systems.

A Preliminary Engineering Report was attached as a part of the Final EIS which is incorporated by reference. The Preliminary Engineering Report indicates that the Project will generate about 698,000 gallons per day of wastewater on the average with a maximum wastewater flow of about 2,450,000 gallons per day.

While the Draft Environmental Impact Statement was being reviewed, the County of Maui notified Petitioners that the Kahului Wastewater Reclamation Facility did not have the capacity to accept flows from outside the current service area and that the current collection system would not be able to accept wastewater flows from the Project without significant upgrades.

As a result of the notification, Petitioners caused two studies to be conducted on the planning and development of a private wastewater reclamation facility. One study analyzed the design and construction of a conventional wastewater reclamation facility. The other study analyzed the design and construction of a wastewater reclamation facility using newer technology. The reports generated from the two studies were attached as a part of the Final EIS and are incorporated by reference.

Based on the studies, Petitioners are proposing a wastewater reclamation facility that is based on Food Chain Reactor treatment technology. The treatment takes wastewater and passes the flow through a series of different reactors. Each reactor is based on a different ecology made up of plants and other natural microorganisms. The ecologies in the reactors break down the wastewater components using the nutrients in the wastewater stream as food. The system will use less energy and produce less sludge than a conventional wastewater reclamation facility. The facility will act as a water reclamation facility and about 650,000 gallons per day will be reclaimed to R-1 standards and available for use on the adjacent agricultural lands as irrigation water.

The water reclamation facility will be located on land classified as agricultural that is adjacent to the Petition Area. While the Final EIS examined the impacts and mitigation measures of the facility, together with the transmission lines for the facility, Petitioners are not seeking a land use classification change for the proposed site of the facility.

While Petitioners pursue entitlement of the Petition Area, Petitioners will continue communications with the County of Maui and developers of property in the

vicinity of the Petition Area concerning a shared wastewater treatment facility. At this point, Petitioners believe that construction of a shared wastewater treatment facility will not occur while the Project is being developed but desire to reserve the ability to participate in and connect to a shared wastewater treatment facility in the event that such action would be economically viable.

4. Solid waste disposal.

The Project is serviced by the Central Maui Landfill which provides residential waste disposal for Central Maui. A privately owned and operated landfill services the island of Maui's construction and demolition waste stream. In 2009, the County of Maui adopted an integrated solid waste management plan. The County of Maui projects that in 2030, the total solid waste generated on Maui will be about 500,000 tons annually, of which about 150,000 tons would be recycled. The County of Maui projects that the planned capacity for the existing landfills is sufficient to accommodate demand through the year 2026. Additionally, the County of Maui is assessing the feasibility of developing a waste-to-energy facility that potentially could divert up to 80% of the solid waste with the byproduct used as a renewable fuel.

The Project will generate solid waste during the construction phase and after completion. Petitioners estimate that the total solid waste generated during construction will be about 4,718 tons of solid waste. After the Project is complete, it is expected that the residents will generate about 2,795 tons of solid waste annually.

Petitioners will support the County of Maui's recycling, reuse and composting activities. Additionally, Petitioners will explore establishing a community composting facility which would make the resultant compost available to persons engaged in agriculture on the Petition Area and the adjacent agricultural lands.

5. Drainage.

A Preliminary Engineering and Drainage Report was attached as a part of the Final EIS and is incorporated by reference. Generally onsite runoff sheet flows in a west to east direction.

Seven diversion berms along the adjacent property that is mauka of the Petition Area intercept the sheet flow for diversion. The diversion historically was toward Waikapu Stream. Petitioners, in connection with and response to discussions with residents and farmers in the area, modified the diversion so that sheet flow now runs

away from Waikapu Stream and toward retention basins on the southern edges of the Petition Area.

The Report indicates that the Project will cause existing runoff to increase by about 510 cubic feet per second.

Based on the Report, Petitioners will design and construct a drainage system that will accommodate the increase in surface runoff volume from a 100-year, 24-hour storm with sufficient retention capacity to meet Maui County Water Quality Goals and Standards as stated in MCC Chapter 18.20. Petitioners believe that the drainage system will include the development of eight detention basins.

The design of the system components will incorporate the storm water best management practices of the County of Maui which include the use of grassed swales, open space and parks maintained with pervious surfaces to promote infiltration of storm waters, and storm water detention to allow suspended solids to settle. Additionally, Petitioners will explore incorporation of low impact development techniques such as rain barrels, green roofs, and permeable paving surfaces.

6. Water.

Water service in the vicinity of the Project is provided by the County of Maui through a 12 inch waterline from a 300,000 gallon tank near the mauka terminus of Waiko Road. The waterline crosses Honoapiilani Highway and terminates to the east of Waikapu Town. A 4-inch waterline runs south from the 12-inch waterline and provides service to the Maui Tropical Plantation.

Fire protection for the Maui Tropical Plantation is provided by a private system that consists of a gravity fed fireline from a lagoon located immediately to the west of the Maui Tropical Plantation restaurant.

Petitioner will develop dual private water systems to service the Petition Area. The systems and their components were described in Paragraph V.A.9 above (pp. 35 - 37), which is incorporated by reference.

7. Transportation systems.

Primary access to the Petition Area is provided by Honoapiilani Highway which bisects the Petition Area and by Kuihelani Highway which is on the eastern boundary of the Petition Area. Honoapiilani Highway links West Maui (Lahaina/Kapalua) with Central Maui (Wailuku/Kahului). As a two-lane undivided roadway, Honoapiilani Highway provides two travel lanes (one in each direction) with turn lanes at many intersections. Parking is not permitted on most

sections of Honoapiilani Highway and sidewalks are not provided. While the posted speed limit ranges between 30 and 45 miles per hour, the posted speed limit of the highway within in the Petition Area is 30 miles per hour.

Kuihelani Highway is a four-lane (two lanes in each direction) divided highway with posted speed limits of 45 and 55 miles per hour. This roadway allows traffic to go between the airport and West Maui by bypassing Wailuku and most of Kahului.

Waiko Road is located just north of the Waikapu Stream and runs in an east-west direction between Honoapiilani Highway and Kuihelani Highway. Having two travel lanes (one in each direction), this roadway allows access to residential and light industrial areas from either Honoapiilani Highway or Kuihelani Highway.

The Maui Bus service provides public transportation around Maui. The Lahaina Islander Route (#20) serves the Petition Area, providing hourly service between Lahaina, Maalaea, Waikapu and Kahului. The bus stop is located at the intersection of Honoapiilani Highway and Waiko Road.

Petitioners caused a Traffic Impact Analysis Report to be prepared that is a part of the Final EIS and which is incorporated by reference. The Traffic Impact

Analysis Report assumed that the Waiale Bypass would be constructed.

During the review of the Draft Environmental Impact Statement, the County of Maui commented that the timing of construction of the Waiale Bypass was uncertain and that Petitioners should assume that the Waiale Bypass might not be constructed. Accordingly, Petitioners caused an updated analysis of traffic to be conducted and the resultant report which assumed that Waiale Bypass was not constructed was prepared and attached as a part of the Final EIS which report also is incorporated by reference.

The reports analyzed typical morning and afternoon traffic conditions under three cases: existing conditions; the condition at partial buildout in 2022; and the condition at full buildout in 2026. Eight existing and six future intersections were evaluated for existing and projected levels of service.

The reports projected that the Project will contribute to cumulative impacts on traffic at five intersections by 2022 with one of the five intersections having a Project specific impact. Upon full buildout in 2026, the Project will contribute to cumulative impacts on traffic at six intersections by 2026 with two of the six intersections having a Project specific impact.

Impacts resulting from increased traffic related to the Project are mitigated by construction of necessary roadway and signal improvements or by funding of such improvements. In certain instances, it is appropriate for a developer to enter into an agreement with the County of Maui that establishes the fair share that a developer should contribute for the construction of the necessary improvements and the event or condition that will trigger the contribution. Petitioners contacted the County of Maui to determine whether the County of Maui would entertain entry into an agreement concerning the improvements. The County of Maui indicated that such an agreement would be considered. Petitioners expect to finalize an agreement concerning traffic mitigation cost sharing before the Commission completes action on this Docket.

8. Public utilities.

Power, telephone and cable television transmission facilities exist along Honoapiilani Highway. In addition, a 69 kv utility line traverses the Petition Area along the Waihee Ditch.

Petitioners will provide the onsite and offsite improvements to support the Project as required by the utility companies. It is anticipated that power lines will

be underground. The total electrical demand for the Project is projected to be 10 megawatts. To the extent reasonably practicable use of renewable energy such as photovoltaic systems will be encouraged in the Project.

9. Police and fire protection.

The Petition Area falls within the Maui Police Department's District 1. District 1 is served by the Wailuku (Central) Station which houses the Maui Police Department headquarters for the entire County.

Upon final buildout, the Project is expected to generate a need for about 11 additional police personnel. Based on the projected fiscal impact of the Project, the cost of the additional personnel will be more than covered by the revenues received by the County of Maui from the Project.

The Department of Fire and Public Safety has two fire stations within a five mile service area of the Petition Area. These include the Wailuku Station and the Kahului Station.

Upon final buildout, the Project is expected to generate a need for about 8 additional fire personnel. Based on the projected fiscal impact of the Project, the cost of the additional personnel will be more than covered

by the revenues received by the County of Maui from the Project.

10. Civil defense.

The Emergency Management Agency of the County of Maui administers and operates civil defense programs for the County of Maui. Included in those duties are planning, preparing and coordinating civil defense operations to meet disaster situations and coordination of post-disaster event recovery operations. The State of Hawaii Department of Defense administers civil defense programs for the State of Hawaii. While the County of Maui Emergency Management Agency did not make recommendations concerning the Project, the State of Hawaii Department of Defense recommended that three (3) omni-directional solar-powered sirens be added to the Petition Area. Petitioners will work with the Hawaii Emergency Management Agency to locate the three sirens. No other impacts were noted concerning civil defense.

11. Emergency medical service and medical facilities.

The island of Maui is serviced by a single hospital, Maui Memorial Medical Center ("MMMC"). MMC is located about four miles from the Petition Area. Private medical offices and other facilities are located throughout Wailuku and Kahului. These facilities provide non-

emergency medical care. Two out-patient surgical centers exist in the Kahului area. In addition, Kaiser Permanente has clinics in Wailuku and Maui Lani (Kahului) and the Maui Medical Group has offices in Wailuku.

Upon final buildout, the Project is expected to generate a need for about 3.3 additional acute and critical care beds and less than one-fourth of an additional ambulance with staffing. The Project is not expected to have an impact on emergency medical service and a very minimal impact on medical facilities.

C. Location of Project in Relation to Adjacent Land Use Districts and Centers of Trading and Employment.

[The petition shall state the] location of the proposed use or development in relation to adjacent land use districts and any centers of trading and employment. HAR § 15-15-50(c)(13).

The Petition Area is bounded on the north by the Waikapu Stream. The existing town of Waikapu, the Maui Lani development, and the Waiale Community Project generally lie in close proximity to the northern boundary of the Petition Area. Each of these developments is urban in nature.

The Petition Area is bounded on the east by Kuihelani Highway. Adjacent to Kuihelani Highway is agricultural land.

The southern portion of the Petition Area will adjoin agricultural land owned by one or more of the Petitioners. The agricultural land to the south will be placed into perpetual agricultural use by a dedication for such purposes.

On the westerly boundary of the Petition Area is a golf course and agricultural lands. The agricultural lands are controlled by Petitioners who expect to keep the lands in agricultural use. The golf course is owned by other individuals. In sum, the Petition Area will be adjacent to urban uses to the north and agricultural uses to the east, south and west.

As to centers of trading and employment, as noted the town of Waikapu is just north of and adjacent to the Petition Area. The town of Wailuku, which represents the seat of county government for the County of Maui, is located 2.5 miles to the north of the Petition Area. Kahului, which is the principal trading center on the island of Maui, is located 5.5 miles northeast of the Petition Area. The town of Maalaea which includes the Maui Ocean Center, the Maalaea Village Triangle Shops, and the Maalaea Small Boat Harbor is located 8 miles south of the Petition Area. The Kihei/Wailea area which has retail and tourism is located 10 miles southeast of the Petition Area.

Presently the Maui Bus, which provides public transportation for the island of Maui, goes through the Petition Area via Honoapiilani Highway. Transfer stations for the Maui Bus exist in Kahului at Queen Kaahumanu Center and in Maalaea at the Maalaea Triangle Shopping Center. Residents of the Project will have easy access to public transportation which will allow them to access readily the trading and employment centers of Waikapu, Wailuku, Kahului, Kihei, Maalaea and Wailea. Access to the Maui Bus will also allow residents of the Project to engage in employment in the Lahaina area and in the Upcountry area of Makawao/Pukalani.

D. Economic Impacts Including Employment Opportunities and Agricultural Production.

[The petition shall address] economic impacts of the proposed boundary amendment, use, or development including, without limitation, the provision of any impact on employment opportunities, and the potential impact to agricultural production in the vicinity of the subject property, and in the county and state. HAR § 15-15-50(c)(14).

The economy of Maui County is predominated by tourism. The accommodation and food service industry account for the greatest percentage of jobs on Maui. Of about 63,000 jobs on Maui, over 18,000 jobs are in that sector. Federal, state and county government employment is the second

largest sector of employment with about 8,800 jobs. The retail trade, which is dependent upon tourism, has about 8,100 jobs. Professional and business services make up about 6,300 jobs while agriculture has about 1,250 jobs.

The Project will have both short and long-term economic impacts. The short-term impact will be in the form of construction related matters. Both construction jobs and the purchase of materials for use in construction will add to Maui's economy. On a longer term basis, the Project concept is to add about 150,000 square feet of commercial space and about 50,000 square feet of retail space to existing inventories. This additional space will translate into additional jobs for the owners and occupants of the businesses in the space and will result in additional retail sales of goods and services.

With regard to agricultural production, the Petition Area is presently utilized for livestock grazing and diversified agriculture. The Petition Area represents about 0.6% of the agricultural lands rated by the Land Study Bureau as A, B or C in the County of Maui and about 0.24% of the total of the lands located within the Agricultural District. While the Project is expected to result in a reduction of the lands available for growing crops, about 800 acres of adjoining land, which are owned

by one or more of the Petitioners, is proposed for dedication to agricultural production and made available for diversified agriculture.

An Economic Impact Assessment Report was prepared and is a part of the Final EIS which is incorporated by reference. The report indicates that the development of the Project, among other things, will add about \$644,000,000 of new capital investment on Maui, that about 165 full time employment positions for construction per year will be created for each year of the build out of the Project, that the proposed commercial space in the Project will create about 530 full time employment positions. The Project is projected to have a base economic impact of about \$817,000,000 in new monies with an annual financial benefit of about \$32,000,000.

The Economic Impact Assessment Report is more conservative than the economic impact model used by the State. Using the State model, the Project impacts would be about double that of the Economic Impact Assessment Report.

In addition to the impact on the private sector, the Economic Impact Assessment Report analyzed the impact of the Project on the public sector. The County of Maui is projected to receive about \$27,700,000 in property taxes and about \$47,900,000 in secondary receipts and impact fees

over the build out of the Project. After build out, the County of Maui is projected to receive about \$4,200,000 annually from the Project.

The State of Hawaii is projected to receive about \$95,000,000 in taxes, revenues and fees during the build out of the Project and about \$4,400,000 annually from the Project after build out is complete.

The economic impact of the Project on the public and private sectors is positive.

E. Relationship Between the Project and Other Projects Existing or Proposed for the Area.

*[The petition shall provide] an assessment of need for the boundary amendment based upon the relationship between the use or development proposed and other projects existing or proposed for the area in consideration of other similarly designated land in the area.
HAR § 15-15-50(c)(16).*

In December 2012, the County of Maui adopted the MIP. The MIP establishes goals, objectives, policies and actions to direct growth and development in Maui through the year 2030. The MIP was based upon a comprehensive analysis of population growth, economic conditions, development capacity of existing lands, and extensive community outreach.

To guide development of future urban lands, the MIP set forth policies regarding urban densities, balance

between single and multi-family housing types, mixed use development, vehicular and pedestrian connectivity between land uses, and incorporation of parks, schools, open space, and affordable housing into future developments.

The MIP placed the Petition Area (and an additional 20 acres) into urban and rural growth boundaries. In describing the Waikapu Country Town Planned Growth Area, the MIP stated:

The Waikapu Tropical Plantation Town Planned Growth Area is situated in the vicinity of the Maui Tropical Plantation, and includes lands on both the mauka and makai sides of Honoapiilani Highway. Providing the urban character of a traditional small town, this area will have a mix of single-family and multi-family rural residences, park land, open space, commercial uses, and an elementary or intermediate school developed in and coordination with the Waiale Project. The area is located south of Waikapu along Honoapiilani Highway and it will incorporate the integrated agricultural and commercial uses of the existing tropical plantation complex. This area is proximate to the Waiale Planned Growth Area, providing additional housing in Central Maui within the Wailuku-Kahului Community Plan region. As part of this Project, parcels to the south of the Project (identified as agricultural preserve on Figure 8-1) shall be protected in perpetuity for agricultural use through a conservation easement. A portion of this area may be dedicated to the county as an agricultural park administered pursuant to county regulations. Alternatively,

this area can be developed as a private agricultural park available to Maui farmers, and executed through a unilateral agreement between the land owner and Maui County. The rural lots mauka of Honoapiilani Highway are intended to be developed using a CSD plan. The CSD plan shall provide access to uninterrupted and bicycling trails and will preserve mauka and makai views while protecting environmentally sensitive lands both along Waikapu Stream and mauka of the subdivision.

Planned Growth Area Rationale: Keeping the Waikapu Tropical Plantation as the town core, this area will become a self-sufficient small town with a mix of single-family and multi-family housing units in a walkable community that includes affordable housing in close proximity to Wailuku's employment centers. Schools, park, police and fire facilities, transit infrastructure, wastewater, water supply resources, and other infrastructure should be developed efficiently, in coordination with the neighboring developments including Maui Lani, Kehalani, Puunani and Waiale. The Waikapu Tropical Plantation Town Planned Growth Area is located on Directed Growth Map #C3.

Ordinance 4004, MIP at p. 8-22 to 8-23.

As noted, other projects in the area include Maui Lani, Kehalani, Puunani and the Waiale Community Project. Maui Lani is a planned mixed use community. Partially complete, this master planned community is a mixture of seven residential neighborhoods that total about 1,000

single-family and multi-family households. In addition to residential use, the project includes the Maui Lani Village Center which will have about 540,000 square feet of space available for commercial, business, or medical office use. The project is assumed to be fully completed by 2026.

The Kehalani development is a partially complete master planned community of about 2,400 homes. The project is assumed to be fully complete by 2026.

Puunani Residences is a 600 unit residential community. Petitioners do not know when the project is expected to be fully completed.

The Waiale Community Project is a planned mixed-use community. In addition to the 2,550 single-family and multi-family dwellings, the project will include commercial and light industrial land uses. A middle school is projected for development in the Waiale Community Project. Development of the project is expected to be complete by 2022.

The boundary amendment would be consistent with the MIP. As noted, significant effort went into development of the MIP so that small town and rural growth boundaries could be identified. The Petition Area is within identified the small town and rural growth boundaries in the MIP.

Further, the Petition Area is in proximity to other urban developments. Specifically, Maui Lani, Kehalani, Puunani and the Waiale Community Project all represent urban developments in the Central Maui area. The County of Maui in its planning determined that single and multi-family residential development should occur in the Petition Area. As such, the Project is consistent with existing or proposed projects in the area and has been reviewed and approved by the County of Maui in its long-range planning which resulted in adoption of the MIP and inclusion of the Petition Area within its small town and rural growth boundaries.

F. Conformity to Hawaii State Plan.

[The petition shall provide] an assessment of conformity of the boundary amendment to applicable goals, objectives, and policies of the Hawaii State Plan, Chapter 226, HRS, and applicable priority guidelines and functional plan policies. HAR § 15-15-50(c)(17).

The Hawaii State Planning Act (the "Planning Act") is a comprehensive guide for future long-range development in Hawaii. HRS Chapter 226. The purpose of the Planning Act is to identify the goals, objectives, policies and priorities for the State of Hawaii. Three themes underlie the Planning Act: 1) individual and family

self-sufficiency; 2) social and economic mobility; and 3) community or social well-being. HRS § 226-3.

1. Goals of the Planning Act.

The goals identified by the Planning Act include sustaining a strong, viable, stable and diverse economy, developing physical environments that are beautiful, clean and unique, enhancing the mental and physical well-being of Hawaii residents, enhancing the physical, social and economic well-being of Hawaii residents, and nourishing a sense of community responsibility and participation of Hawaii residents. HRS § 226-4.

The Project serves these goals by creating both housing and employment for Maui residents that will result, in turn, in a greater opportunity for self-reliance and self-determination. The Project, which is a complete community, will provide a diverse range of housing types, commercial and civic uses. Petitioners envision the Project as a cohesive, livable and environmentally sustainable community which meets the goals of the Planning Act.

2. Objectives and Policies of the Planning Act.

Specific to the Project, the Planning Act provides objectives and policies for population (HRS § 226-

5), economy (HRS §§ 226-6 and 226-7), physical environment (HRS §§ 226-10 to 226-12), facility systems (HRS §§ 226-14, 226-16 and 226-17), and socio-cultural advancement (HRS §§ 226-19, 226-21 and 226-23).

The County of Maui adopted a County-Wide Policy Plan and the Maui Island Plan to address goals, objectives policies and priority actions in areas of population growth, housing, economic development, public infrastructure and facilities, cultural resources and the environment. Within the Maui Island Plan the Project was designated as a Planned Growth Area which supported the management of population growth, an increase in economic activity and employment opportunity, and the coordinated development of land and water resources.

From an economic standpoint, the Planning Act seeks to increase and diversify employment opportunities, to grow and develop diversified agriculture and to support and assist the visitor industry. The Project will increase employment activity as it is expected to generate about 165 employment positions on an annual basis during the build out of the Project and about 745 employment positions on an annual basis following completion of the build out.

Additionally, the Project will help to grow and develop diversified agriculture. About 70 rural lots will

be created ranging in size from about ½ acre to about two acres. The lots will provide the opportunity for growth of vegetables, herbs, fruits and other diversified crops. Adjacent to the Petition Area are large parcels of land that will be dedicated to agricultural use. Petitioners have leased those lands to individuals and businesses that are engaged in diversified agriculture.

The Project is located in an area that was designated for urban growth by the County of Maui in its long range planning efforts, is in proximity to existing public services and infrastructure, will provide housing for a range of income groups to meet the varied housing needs on the island of Maui, will provide commercial space to allow for the expansion of commerce, and will provide greenways together with biking and hiking paths that will promote recreation and sustainability. As such, the Project complies with the objectives and policies of the Planning Act.

2. State Functional Plans.

The Planning Act required the creation of functional plans to define and implement statewide goals, objectives and policies. HRS § 226-56. The functional plans are primary guidance tools for implementation of the

Planning Act. A review of the applicable functional plans follows.

a. Agricultural Functional Plan. The State Functional Plan for Agriculture identifies two fundamental objectives: (1) continued viability in Hawaii's sugar and pineapple industries; and (2) continued growth and development of diversified agriculture throughout the state.

The Petition Area was not in pineapple production for many years, if at all. Accordingly, the Project will have no impact on continued viability of Hawaii's pineapple industry.

With regard to the continued viability of Hawaii's sugar industry, the Project will not impact adversely that objective. The last sugar producer in Hawaii stopped growth and production of sugar in 2016. As such, the Project will not impact the sugar industry.

The Project will support and enhance the second objective of the State Agricultural Fundamental Plan which is to continue the growth and development of diversified agriculture. Approximately 1,100 acres adjacent to the Petition Area is owned by one or more of the Petitioners. The bulk of those adjacent lands are proposed for dedication to agricultural use and specifically diversified

agriculture such as organic crops, cattle grazing and biofuel crops.

The Petition Area was placed into the rural and small town growth boundaries by the County of Maui in adoption of the Maui Island Plan in 2012. Overriding factors that supported removing the Petition Area from agricultural use included the forecasted demand for additional urban lands to accommodate projected population growth, the development suitability of the Petition Area, the proximity of the Petition Area to existing employment, infrastructure, public facility systems and existing urban development, and the enhancement of diversified agriculture on the Petition Area and adjacent lands. As such, the Project will conform to the Agricultural Functional Plan

b. Housing Functional Plan. The State Functional Plan for Housing seeks to increase home ownership, expand rental housing opportunities, and to designate land suitable for residential development. The shortage of housing units on Maui suggests that the Project will address implementing actions under the Housing Functional Plan by increasing the ownership of homes and expanding rental opportunities on land that the County of Maui in its long range plans deemed to be suitable for

residential development. As such, the Project would conform to the Housing Functional Plan.

c. Recreation Functional Plan. The State Functional Plan for Recreation has as its objectives to provide recreation facilities and programs and to assure public access to recreation areas. Among other ways, those objectives are met by development of local and community parks and of biking, walking and hiking trails. The Project will incorporate greenspace, biking, walking and hiking paths to promote the availability of recreation areas and to assure that the public will have access to those paths. As such, the Project would conform to the Recreation Functional Plan.

d. Transportation Functional Plan. The State Functional Plan for Transportation has as an objective providing a viable bikeway program. The Project will incorporate biking paths to encourage travel from housing to shops and work by bike. As such, the Project would conform to this objective of the Transportation Functional Plan.

3. Sustainability.

Act 181, Session Laws of Hawaii, established sustainability as a State priority by incorporating the Hawaii 2050 Sustainability Plan definitions, guiding

principles and goals into HRS Chapter 226. Consistent with the sustainability guidelines, Petitioners sustainability plan is based on the *Healthy Community Design Smart Growth Checklist* prepared by the Hawaii State Department of Health, Built Environment Working Group. The Sustainability Plan is attached as Petitioners' Exhibit "23".

To summarize the plan, the Project's incorporation of biking and walking trails which allow for ready access to commercial uses, the incorporation of commercial uses in a village center and main street, and the Project's location adjacent to existing urban areas is seen as supporting sustainable design principles by shortening necessary trips for everyday needs, and minimizing petroleum fueled car and truck use. The establishment of connectivity with bikeways and hiking and walking trails encourages non-vehicular travel and promotes fitness through safe walking, biking and other active transportation. The Project is expected to be designed to respect the existing natural topography resulting in relatively minor topographical changes through excavation or fill activities which, in turn, will lessen energy needs and costs during construction. Incorporation of rural lots for agricultural uses is expected to enhance sustainability

by allowing production of crops and fruits by small farmers.

G. Conformity to the Coastal Zone Management Program.

[The petition shall provide] an assessment of the conformity of the boundary amendment to objectives and policies of the Coastal Zone Management Program, Chapter 205A, HRS. HAR § 15-15-50(c) (18).

The Petition Area is not within the Special Management Area to which the Coastal Zone Management Program is applicable. Accordingly, the Project and the Petition Area will have no impact on the objectives and policies of the Coastal Zone Management Program. Nevertheless, the Coastal Zone Management Program Objectives and Policies were considered and fully analyzed in the Final EIS. A general analysis of the conformity of the Project to the Coastal Zone Management Program follows.

1. Recreational Resources.

Objective: *Provide coastal recreational opportunities accessible to the public.*

Policies:

- (A) *Improve coordination and funding of coastal recreational planning and management; and*
- (B) *Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:*
 - (i) *Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;*

- (ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
- (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
- (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
- (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
- (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
- (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
- (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of section 46-6.

Petitioners propose for inclusion in the Project recreational facilities suitable for public recreation, implementation of best management practices and erosion-

control measures during construction. Additionally, the proposed drainage system design will minimize the possibility of non-point source pollution from entering the native environment. Further, the drainage system will be designed to comply with Maui County storm water runoff water quality standards. As such, the Project conforms to the Recreational Resources Objectives and Policies.

2. Historic Resources.

Objective: *Protect, preserve, and, where desirable, restore those natural and manmade 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;*

The Archaeological Inventory Survey attached as a part of the Final EIS showed that no historical features or structures will be within the area to be developed. Any archaeological features found during construction of the infrastructure will be preserved in accordance with Petitioners' archaeological consultant's directives and in consultation with the Hawaii State Historic Preservation

Division. As such, the Project conforms to the Historic Resources Objectives and Policies.

3. Scenic and Open Space Resources.

Objective: *Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.*

Policies:

- (A) *Identify valued scenic resources in the coastal zone management area;*
- (B) *Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;*
- (C) *Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and*
- (D) *Encourage those developments that are not coastal dependent to locate in inland areas*

Petitioners propose that impacts on visual resources will be mitigated by the employment of urban design strategies. These mitigation efforts will include establishing a setback of at least 60 feet along each side of Honoapiilani Highway and a setback of at least 100 feet from Waikapu Stream in those areas where the Petition Area is adjacent to Waikapu Stream. Additionally, Petitioners will establish building heights and setbacks as necessary to establish view corridors from Honoapiilani Highway to the West Maui Mountains. As such, the Project conforms to

the Scenic and Open Space Resources Objectives and Policies.

4. Coastal Ecosystems.

Objective: *Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

Policies:

- (A) *Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;*
- (B) *Improve the technical basis for natural resource management;*
- (C) *Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;*
- (D) *Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and*
- (E) *Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures*

Petitioners propose for inclusion in the Project implementation of best management practices and erosion-control measures during construction. Additionally, the drainage system will be designed in accordance with drainage standards to insure that the project will not adversely affect downstream and adjoining properties.

Storm water runoff will be directed away from Waikapu Stream and toward retention basins. Finally the drainage system will be designed to comply with Maui County water quality standards for storm water runoff. As such, the Project complies with the Coastal Ecosystems Objectives and Policies.

5. 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 industry 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 used 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*

While the policies for economic uses are not

applicable, the Project will have impact on the economy of Maui. The Project will provide about \$644,000,000 in new capital investment and provide about 680 full time employment positions after build out is completed. The base economic impact will be about \$817,000,000 during build out and about \$32,000,000 annually after completion of build out. County and State governments will be positively impacted by significant revenues during the build out and about \$8,000,000 in annual revenues following build out. As such, the Project complies with the Economic Use Objectives and Policies.

6. Coastal Hazards.

Objective: 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 nonpoint source pollution hazards;
- (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
- (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
- (D) Prevent coastal flooding from inland projects

Petitioners propose for inclusion in the Project implementation of best management practices and erosion-

control measures during construction. Additionally, the drainage system will be designed in accordance with drainage standards to insure that the project will not adversely affect downstream and adjoining properties. Storm water runoff will be directed away from Waikapu Stream and toward retention basins. Finally the drainage system will be designed to comply with Maui County water quality standards for storm water runoff. As such, the Project complies with the Coastal Hazards Objectives and Policies.

7. Managing Development.

Objective: *Improve the development review process, communication, and public participation in the management of coastal resources and hazards*

Policies:

- (A) *Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;*
- (B) *Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and*
- (C) *Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process*

While the policies for managing development are not applicable, the Project has gone, and will continue to

go, through a development review process. Petitioners have actively engaged the community, and especially the Waikapu Community, in dialogue concerning the Project. Petitioners have modified the Project in response to such dialogue. By way of example, input from the community concerning storm water runoff resulted in Petitioners revision of drainage structures to prevent storm water runoff from entering Waikapu Stream. As such, the Project complies with the Managing Development Objective and Policies.

8. Public Participation.

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

Policies:

- (A) *Promote public involvement in coastal zone management processes;*
- (B) *Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and*
- (C) *Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;*

While neither the objective nor the policies for public participation in coastal zone management are applicable to the Project, Petitioners have been active in seeking public participation. Petitioners began the

process in 2009 by meeting with the community and County and State agencies. From that date to the present, Petitioners continue to meet with the community, and particularly with the Waikapu Community, to discuss the Project. A listing of the meetings and participation is attached as a part of the Final EIS which is incorporated by reference. As such, the Project complies with the Public Participation Objective and Policies.

9. Beach Protection.

Objective: *Protect beaches for public use and recreation*

Policies:

- (A) *Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and 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;*
- (C) *Minimize the construction of public erosion-protection structures seaward of the shoreline;*
- (D) *Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and*
- (E) *Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon*

a beach transit corridor

As the Petition Area is located about three miles from the coastline, neither the objective nor the policies for beach protection in coastal zone management are applicable to the Project.

10. Marine Resources.

Objective: Promote the protection, use, and development of marine and coastal resources to assure their sustainability

Policies:

- (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
- (B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;
- (C) 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;
- (D) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources

The Petition Area is located about three miles from the coastline making neither the objective nor the

policies for marine resources in coastal zone management applicable to the Project. Nevertheless, Petitioners have complied with the policies by proposing a water reclamation facility that uses new, innovative technology that will protect marine and coastal resources by use of less energy and generation of less sludge than conventional wastewater reclamation facilities. As such, the Project complies with the Marine Resources Objective and Policies.

H. Conformity to Applicable General Plans, Community Plans, Zoning Designations and Policies.

[The petition shall provide] an assessment of conformity of the boundary amendment to the applicable County general plans, development or community plans, zoning designations and policies, and proposed amendments required. HAR § 15-15-50(c)(19).

The Maui County General Plan refers to a hierarchy of planning documents that together set forth future growth and policy direction for the County of Maui. The components of the general plan are a County-Wide Policy Plan, the Maui Island Plan, and nine community plans.

The County-Wide Community Plan was adopted in March 2010 and is a broad policy document identifying a vision for the future of Maui County. The policy plan contains a set of guiding principles, provides comprehensive goals, objectives, policies and implementing

actions, and provides the policy framework for the development of the Maui Island Plan and the nine community plans.

The County-Wide Policy Plan establishes a list of county-wide goals, objectives, policies and implementing actions around the following core themes:

- protect the natural environment
- preserve local cultures and traditions
- improve education
- strengthen social and healthcare services
- expand housing opportunities for residents
- strengthen the local economy
- improve parks and public facilities
- diversify transportation options
- improve physical infrastructure
- promote sustainable land use and growth management
- strive for good governance

The Maui Island Plan functions as a regional plan and addresses policies and issues that are not confined to one community plan area. Combined with the community plans, the Maui Island Plan develops strategies with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewer systems, visitor destinations, and urban design.

The Maui Island Plan serves as the regional plan for the island of Maui. Ten elements make up the Maui Island Plan:

- population
- heritage resources
- natural hazards
- economic development
- housing
- infrastructure and public facilities
- land use
- directed growth plan
- monitoring and evaluation
- implementation

Each of these sections contains goals, objectives, policies and implementing actions. The directed growth plan section is intended to guide the location and general character of future urban development and should direct future zoning changes and guide the development of the County's short-term and long-term capital improvement plan budgets.

The Maui Island Plan, which represents community review and Maui County Council approval, determined that the Project was desirable in terms of future development and in terms of location of urban and rural development within the County of Maui, and particularly the Central Maui area. As such, the Project is in conformance with the Maui Island Plan and in turn in conformance with the County-Wide Policy Plan.

As noted, there are nine separate community plan regions. Each region is governed by a different community plan which sets forth desired land use patterns together

with goals, objectives, policies, and implementing actions for a number of functional areas including infrastructure-related parameters.

The Petition Area is located within the Wailuku-Kahului Community Plan region. The Wailuku-Kahului Community Plan was last updated in 2002. This update was before both the County-Wide Policy Plan adopted in March 2010 and the Maui Island Plan adopted in December 2012.

The Project is not in conformance with the Wailuku-Kahului Community Plan in full. The Wailuku-Kahului Community Plan acknowledges that the Maui Tropical Plantation Project District was a desired development. However, the Petition Area, which surrounds the Maui Tropical Plantation, is not in conformance with the Wailuku-Kahului Community Plan map. Accordingly, Petitioners will seek a community plan amendment of the existing Wailuku-Kahului Community Plan. When that amendment is achieved, the Project will be in compliance with the Wailuku-Kahului Community Plan.

Nevertheless, a general analysis of conformity with the existing community plan goals, objectives and policies follows.

1. Economic activity.

Goal: *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:

- (1) *Support agricultural production so agriculture can continue to provide employment and contribute to the region's economic well-being.*
- (5) *Recognize the importance of small business to the region's economy.*
- (8) *Accommodate mixed-use residential/commercial development as a "transition" between residential districts and the civic center in business/commercial districts compatible with a residential scale and character and subject to a new zoning classification. Lands intended for this use shall be designated service business/residential (SBR) on the community plan and land use map.*
- (9) *Support the establishment of agricultural parks for truck farming, piggery operations, bee keeping, and other diversified agricultural operations within larger, unsubdivided agricultural parcels and in locations that are compatible with residential uses.*

The Project can support agricultural production through its rural lots and a private agricultural park, recognizes the importance of small businesses to the region's economy by the addition of commercial space, establishes a centralized business district within the

region to minimize the migration of commercial projects into light industrial developments, accommodates mixed-use residential/commercial development as a transition between residential districts and the business/commercial district, and supports the establishment of agricultural parks for diversified agricultural operations. Therefore, the Project is consistent with the goal, objectives and policies for economic activity.

2. Environment.

Goal: A clean and attractive physical and natural environment in which man-made developments or alterations to the natural environment relate to sound environmental and ecological practices, and important scenic and open space resources are maintained for public use and enjoyment.

Objectives and Policies:

- (1) Preserve agricultural lands as a major element of the open space setting that which [sic] borders the various communities within the planning region. The close relationship between open space and developed areas is an important characteristic of community form.
- (2) Protect near shore waters by ensuring that discharges from waste disposal meet water quality standards. Continuous monitoring of existing and future waste disposal systems is necessary to ensure there efficient operation.
- (6) Encourage the use of siltation basins and other erosion control features in the design of drainage systems.
- (8) Minimize noise, water and air pollution from industrial uses, electric power

- generating facilities and wastewater treatment plants.*
- (10) Monitor air quality in the planning district and enforce applicable standards with regular public reporting.*
 - (13) Support energy conservation measures, including the use of solar heating and photovoltaic systems, in conjunction with urban uses.*
 - (14) Promote the planting and maintenance of trees and other landscape planting to enhance the streetscapes and the built-in environment.*

Some of the objectives and policies relate to shoreline development and shoreline resources. The Petition Area is located about three miles from the shoreline, and will not impact those of the objectives and policies. For those objectives and policies not related directly to the shoreline, the Project will encourage the use of erosion control features in the design of the drainage system, will monitor air quality during construction, will promote recycling programs to reduce solid waste disposal, will support energy conservation measures including the use of solar heating, and will promote the planting and maintenance of trees and other landscape to enhance the streetscapes and built-in environment. As such, the Project is consistent with the goal and those objectives and policies which apply to non-shoreline areas.

3. Cultural resources.

Goal: Identification, protection, preservation, enhancement, and where appropriate, use of cultural practices and sites, historic sites and structures, in cultural landscapes and view plains that: (1) provide a sense of history and define a sense of place for the Wailuku-Kahului region; and (2) preserve and protect native Hawaiian rights and practices, customarily in traditional exercise for subsistence, cultural and religious purposes in accordance with Article XII, Section 7, of the Hawaii State Constitution, and the Hawaii Supreme Court's PASH Opinion, 79 HAW. 425 (1995).

Objectives and policies:

- (2) Recognize the important of historically and archeologically sensitive sites and encourage their preservation through development project review.
- (3) Protect and preserve historic, cultural and archeological sites and resources through on-going programs to identify and register important sites, and encourage their restoration. This shall include structures and elements that are a significant and functional part of Hawaii's ethnic and cultural heritage.
- (4) Ensure that the proposed projects are compatible with neighboring historic, cultural and archeological sites or districts. Such projects should be reviewed by the Cultural Resources Commission, where appropriate.
- (5) Require development projects to identify all cultural resources located within the project area as part of initial project studies. Further, require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources.

An Archaeological Inventory Survey, Cultural Impact Assessment and Ka Paakai Cultural Analysis were attached as parts of the Final EIS and are incorporated by

reference. The Archaeological Inventory Survey showed no historical features or structures in the area of development that could not be removed. The Cultural Impact Assessment and Ka Paakai Cultural Analysis revealed some impacts that were mitigated by revising drainage structures to prevent storm water runoff from entering Waikapu Stream, revision of the Petition Area to remove certain kuleanas parcels from the developable area, and entry into leasing of adjacent property for the restoration of dryland forest and taro lois. Petitioners will continue to comply with the recommendations of both the Cultural Impact Assessment and Archeological Inventory Survey to ensure that the Project is consistent with the objectives and policies for cultural resources.

4. Indigenous architecture.

Goal: Reserve for future implementation provisions for indigenous architecture as may be adopted from time-to-time by the County Council and/or the County Cultural Resources Commission.

Objective and policies:

- (1) To legitimize and amend county building codes to allow indigenous architecture as viable spaces for living, work, and recreation.

Petitioners will comply with all building codes applicable to the Petition Area at the time Petitioners

construct structures within the Petition Area. As such, the Project is consistent with the goal, objective and policy for indigenous architecture.

5. Housing.

Goal: A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for the broad cross-section of residents, including the elderly.

Objectives and policies:

- (1) Utilize a project district planning approach for major housing expansion areas which will allow flexibility and project planning. This will provide for flexible development standards and a mix of housing types which can result in more efficient site utilization and potential reduction in housing development costs.
- (2) Provide sufficient land areas for new residential growth which relax constraints on the housing market and afford variety and type, price, and location of units. Opportunities for the provision of housing are presently constrained by a lack of expansion areas. This condition shall be relieved by a choice of housing and a variety of locations, both rural and urban in character.
- (3) Seek alternative residential growth areas within the planning region, with high priority given to the Wailuku and Kahului areas. This action should recognize crucial issues of maintaining important agricultural lands, achieving efficient patterns of growth, and providing adequate housing supply and the choice of price and location must be addressed and resolved.
- (6) Coordinate the planning, design and construction of public infrastructure improvements with major residential

projects that have an affordable housing component.

- (7) Plan, design and construct off-site public infrastructure improvements (i.e. water, roads, sewer, drainage, police and fire protection, and solid waste) in anticipation of residential, commercial and industrial developments defined in the community plan.
- (8) Promote efficient housing designs in order to reduce residential home energy and water consumption.

The Project expects to utilize a project district planning approach with a mix of housing types, including single-family, multi-family, and rural dwellings. The master plan conceives a choice of housing which is both rural and urban in character. Affordable housing component and the off-site public infrastructure improvements will be planned, designed and constructed in accordance with the master plan. To the extent practicable, solar heating and solar power generation will be encouraged as will recycling. As such, the Project is consistent with the goal, objectives and policies for housing.

5. Social infrastructure.

Goal: Develop and maintain an efficient and responsive system of public services which promotes a safe, healthy and enjoyable lifestyle, accommodates the needs of young, elderly, disabled and disadvantaged persons, and offers opportunities for self-improvement and community well-being.

The Project will include a new school; a police station and a fire station are being developed on adjacent property. In addition, the Project may incorporate stops for the public transportation system. Likewise, the Project may incorporate bike trails and walking trails. The intent is that the Project will encourage the residents to interact based upon the infrastructure that will allow for such interaction. As such, the Petition Area complies with the goal for social infrastructure.

7. Recreation.

Objectives and policies:

- (1) Provide park and recreation areas as an integral part of project district specifications which will accommodate the needs of population growth.*
- (3) Provide access for persons with disabilities at all park facilities.*
- (16) Ensure that adequate regional/community park facilities are provided to service new residential developments.*

A number of the objectives and policies are area-specific and do not involve the Petition Area. The Petition Area will provide park and recreation areas as an integral part of its design specifications to accommodate the needs of population growth, will provide access for persons with disabilities to the facilities, and ensure that adequate regional/community park facilities are provided to service the Project. As such, and to the

extent that the goals, objectives and policies apply to the Petition Area, the Project is consistent with the objectives and policies for recreation.

8. Social services/health.

The objectives and policies for social services/health deal with providing medical services, medical facilities, and community services. These services and facilities are not within the purview of Petitioners and not an objective of the Project. As such, the Project neither conforms to, nor deviates from, the objectives and policies for social services/health.

9. Public safety.

Objectives and policies:

- (1) *Maintain adequate police and fire protection services in the region.*

The Project is adjacent to county land upon which a fire station and police sub-station are expected to be constructed. As such, the Project is consistent with the objectives and policies for public safety.

10. Education.

Objectives and policies:

- (1) *Allocate sufficient land areas as part of residential project district specifications to meet future school site needs.*
- (3) *Coordinate the development of school facilities with the State Department of*

Education in conjunction with planned residential projects.

The Project master plan incorporates a 12 acre site for a school. As such, the Project is consistent with the objectives and policies for education to the extent those objectives and policies apply to the Project.

11. Government.

Goal: *Government that demonstrates the highest standards of fairness; responsiveness to the needs of the community; fiscal integrity; effectiveness in planning and implementation of programs or projects; a fair and equitable approach to taxation and regulation; and efficient, results-oriented management.*

Objectives and policies:

- (5) *Ensure that adequate infrastructure is or will be available to accommodate planned development.*

The Project is proposed to have adequate infrastructure available to accommodate the development and will comply with the community plan. The remainder of the objectives and policies are not applicable to the Project. As such, the Project is consistent with the relevant objectives and policies for government.

12. Land use.

Goal: *An attractive, well-planned community with a mixture of compatible land uses and 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 in traditional towns and villages.

Objectives and policies:

- (1) Ensure that adequate lands are available to support the region's present and future agricultural activities.
- (2) Identify prime or productive agricultural lands and develop appropriate regulations for their protection.
- (3) The direct and cumulative impacts of agricultural subdivisions and the impacts on the community shall be assessed and considered.
- (5) Encourage traditional Hawaiian agricultural such as taro cultivation, within the agricultural district, and in areas which have been historically associated with this cultural practice.
- (6) Establish an adequate supply of urban land use designations to meet the needs of the community over the next 20 years.
- (7) The community plan map shall define the urban growth limits for the region.
- (8) Maintain a project district approach for major residential growth areas adjacent to Wailuku, Kahului and Waiehu to allow flexibility and master planning. These project districts may contain a variety of residential unit types as well as supporting community services, including business, public, recreational and educational facilities.
- (14) Maintain physical separation between traditional towns and villages in the region. Where possible provide specific design or landscape elements, such as open space buffers or changes in street scape, to clearly delineate the boundary between Kahului and Wailuku. Maintain open space around traditional rural areas, such as Waikapu and Waihee, to provide a sense of community and to present envelopment of these areas by urban expansion.

- (15) *Provide a substantial greenway or green belt to serve as a buffer zone, line of demarcation, or definition between Wailuku and Waikapu and between Waikapu and Maalaea in order to prevent the continuation of urban sprawl. Changes in street scapes could include landscaping and agricultural planting materials that reflect the character of each community and are utilized to delineate a substantial boundary between Kahului and Wailuku.*

The Project contains some agricultural land which was used for farming, including diversified agriculture. A project district approach is being used to allow flexibility in master planning and to provide for a variety of residential unit types, as well as supporting community services. The Project was subject to public review as a part of the Maui Island Plan. The Project is within the urban growth boundaries as established by the Maui Island Plan. The master plan proposes that design and/or or landscape elements will be used to maintain open space around traditional rural areas, to provide a sense of community, and to prevent envelopment of the areas by urban expansion. As such, the Project meets several of the objectives and policies for land use.

13. Infrastructure.

Goal: *Timely and environmentally sound planning, development and maintenance of infrastructure systems which serve to protect and preserve the safety and health of the region's residents,*

commuters, and visitors through the provision of clean water, effective waste disposal and drainage systems, and efficient transportation systems which meet the needs of the community.

The Project is proposed to have timely and environmentally sound infrastructure to protect and preserve the safety and health within the Petition Area. As such, the Project is in conformance with the goals for infrastructure.

14. Water and utilities.

Objectives and policies:

- (1) Coordinate water system improvement plans with growth areas to ensure adequate supply and a program to replace deteriorating portions of the distribution system. Future growth should be phased to be in concert with the service capacity of the water system.*
- (3) Promote water conservation and education programs.*
- (4) Protect water resources in the region from contamination, including protecting ground and water recharge areas, and well head protection areas within a 1.25-mile radius from the wells.*
- (5) Coordinate the construction of all water and public roadway and utility improvements to minimize construction impacts and inconvenience to the public.*
- (6) Coordinate expansion of and improvements to the water system to coincide with the development of residential expansion areas.*

The Project will have private water systems serviced by five wells that Petitioners have developed on adjacent properties and by surface waters as allowed by

surface water use permits issued by the Commission on Water Resource Management. As such, the Project will have an adequate supply of water.

Additionally, the Project will have a dual water system to supply potable and non-potable water. The non-potable system will service park lands, open space and landscape plantings of individual residential and commercial lots. Use of a non-potable system is expected to reduce potable water use by about one-third. Additional water conservation measures will be encouraged such as low flow toilets and shower heads. Water from the water reclamation facility also will be used to further reduce water demands.

While Petitioners pursue entitlement of the Petition Area, Petitioners will continue communications with the County of Maui concerning interconnection with the public water system operated by the County of Maui. At this point, Petitioners believe that interconnection will not occur while the Project is being developed but desire to reserve the ability to interconnect in the event that such action would be economically viable.

As such, the Project is in conformance with the water and utilities objectives and policies.

15. Liquid and solid waste.

Objectives and policies:

- (1) Coordinate sewer system improvement plans with future growth requirements, as defined in the community plan.*
- (3) Reduce the disposal of solid waste in landfills for reducing the amount of material for disposal at the source (i.e. home composting of lawn or tree trimmings, re-use and recycling programs, bioconversion (i.e. composting), and the provision of convenient drop-off facilities).*

The Project will have a private water reclamation facility. The facility, using new technology, will be able to receive and process the demands of the Project. Using less energy and generating less sludge, the water reclamation facility will comply with the policies for liquid waste.

While Petitioners pursue entitlement of the Petition Area, Petitioners will continue communications with the County of Maui and developers of property in the vicinity of the Petition Area concerning a shared wastewater treatment facility. At this point, Petitioners believe that construction of a shared wastewater treatment facility will not occur while the Project is being developed but desire to reserve the ability to participate in and connect to a shared wastewater treatment facility in the event that such action would be economically viable.

Petitioners will support a reduction of solid waste by providing options for recycling and promoting recycling practices. The feasibility of a community compost facility will be examined and incorporated into the Project if favorable. As such, the Project complies with the policies for solid waste.

16. Drainage.

Objectives and policies:

- (1) Establish a storm drain improvement program to alleviate existing problems; implement a continuing maintenance program, and ensure that improvements to the system will meet growth requirements. This addresses safety and property concerns as well as the need for comprehensive flood control planning.
 - (a) design drainage systems to protect coastal water quality by incorporating best management practices to remove pollutants from runoff. Construct and maintain, as needed, sediment retention basins and other best management practices to remove sediments and other pollutants from runoff.
 - (b) Construct necessary drainage improvements in flood-prone areas. Where replacement drainage is required for probe detection, these systems shall be designed, constructed, and maintained using structural controls and best management practices to preserve the functions of the natural system that are beneficial to water quality. These functions include infiltration, moderation of flow velocity, reduced erosion, uptake of nutrients and pollutants by plants, filtering and

settlement of sediment particles.
The use of landscaped swales and
unlined channels shall be urged.

- (2) Respect natural drainage ways as part of good land development.
- (3) Construct and maintain, as needed, desilting basins along major drainage channels.
- (4) Ensure that storm water run-off and siltation from proposed development will not adversely affect the marine environment and near-shore and off-shore water quality. Minimize the increase and discharge of storm water run-off to coastal waters by preserving flood storage capacity in low-lying areas, and encouraging infiltration of run-off.
- (5) Encouraging incorporation of drainage ways, setbacks, and flood protection areas into green waste consisting of open space, pedestrian way and bike way networks.

The Project will comply with County, State and Federal laws and regulations in the handling of storm water discharges. A drainage system that will direct storm water runoff into retention basins is proposed. The system will be designed to comply with County of Maui water quality standards for storm water runoff. As such, the Project complies with applicable drainage objectives and policies.

17. Energy.

Objectives and policies:

- (1) Promote the use of alternative energy sources such as biomass, wind and solar.
- (2) Develop efficient circulation systems, public transportation and promote bicycle and pedestrian travel to reduce energy expenditures for travel.

- (3) *Promote energy conservation and awareness programs.*
- (4) *Reduce domestic energy consumption.*
- (5) *Expand efforts to utilize environmentally and cost effective renewable resources for energy production, such as solar, biomass and wind energy.*
- (6) *Encourage energy efficient building design and site development practices.*
- (7) *Support energy conservation measures, including the use of solar heating and photovoltaic systems, in conjunction with urban uses.*
- (8) *Promote recycling programs to reduce solid waste disposal in landfills.*
- (9) *Promote competition among energy providers to increase options and decrease costs to Maui County residents and government facilities.*

The Project will have design guidelines that promote the use of energy efficient technology such as solar hot water heating, photovoltaic systems and energy efficient lighting and air conditioning systems. Additionally New Urbanism best planning practices will be used to minimize automobile trips by providing employment, retail and housing within walking and biking distance. A unified bikeway and pedestrian walkway system throughout the Project will provide an alternative to the use of automobiles for travel within the Project. As such, the Project complies with applicable energy objectives and policies.

18. Transportation.

Objectives and policies:

- (5) *For future residential development provide direct lot access from primary roads.*
- (6) *Accommodate bicycle and pedestrian ways within planned roadway improvements.*

The Project will provide a variety of traffic related improvements that will address direct lot access from primary roads. The Project, by having compact and mixed-use development, pedestrian oriented streets, bike lanes, and bicycle and pedestrian walkway systems complies with applicable transportation objectives and policies.

19. Urban design.

Goal: *An attractive and functionally integrated urban environment that enhances neighborhood character, promotes quality design, defines a unified landscaping planting and beautification theme along major public roads and highways, water courses and at major public facilities, and recognizes the historic importance and traditions of the region.*

Objectives and policies:

- (1) *Enhance the appearance of major public roads and highways in the region.*
- (2) *Maintain a design quality for commercial and public projects and large-scaled master plan developments.*
- (3) *Improve pedestrian and bicycle access within the region.*
- (4) *Establish, expand and maintain parks, public facilities and public shoreline areas.*
- (5) *Integrate stream channels and gulches into the region's open space system for the purposes of safety, open space relief, green waste for public use, and visual separation. Drainage channels and*

- siltation basins should not be used for building sites but rather for public open space. Drainage channel rights-of-way and easements may also be used for pedestrian and bikeway facilities.*
- (8) Maintain shrubs and trees at street intersections for adequate site distance.*
 - (9) Save and incorporate healthy mature trees in the landscape planting plans of subdivisions, roads and other developments.*
 - (10) Incorporate drought-tolerant plant species and xeriscaping and future landscaping planting.*
 - (12) Existing and future public rights-of-way along roads and parks shall be planted with appropriate trees, turf grass and ground covers.*

The Project will have wide setbacks along Honoapiilani Highway to allow for pedestrian and bike pathways as well as landscaping. Roadways will be aligned to provide mauka and makai view corridors where feasible. The existing Maui Tropical Plantation will be transformed to create a park-like town center with gardens, open spaces, shops and restaurants to create a unique sense of place. Height limitations and setbacks will be incorporated where necessary to preserve views of the summits of Haleakala and the West Maui Mountains. The Project is expected to compliment the country-town architecture that exists in Waikapu through design guidelines that will also seek to preserve views and maintain the aesthetic character of the community.

As to county zoning, Title 19 of the Maui County Code provides the comprehensive zoning ordinance for the County of Maui. The purpose and intent of a comprehensive zoning ordinance is to regulate the utilization of land in a manner that encourages orderly development while protecting the health, safety and welfare of the people. Petitioners will process a change in zoning with the County of Maui to change the zoning of the majority of the Petition Area to Project District and a portion of the Petition Area to Rural.

VI. CONFORMANCE WITH STANDARDS TO DETERMINE BOUNDARY AMENDMENT

[The petition shall address] the boundary amendment sought and present use of the property, including an assessment of conformity of the boundary amendment to the standards for determining a requested district boundary amendment. HAR § 15-15-50(c)(4).

Chapter 205, HRS, establishes four land use districts in which all lands of the state have been placed. The districts are designated urban, rural, agricultural and conservation. The Petition Area is classified as agricultural. A portion will be placed within the urban district and another portion will be placed within the rural district.

A. Urban District Standards.

Section 15-15-18, HAR, sets forth the standards for lands to be contained within the Urban District. In general, lands within the urban district should be characterized by city-like concentrations of people, structures, streets, urban and other related land uses and urban level of services. The proximity of the lands to centers of training and employment (except where the development would generate new centers of training and employment) and the availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection are to be considered. Finally, the Commission must consider whether there are sufficient reserve areas for foreseeable urban growth. To be within the urban area, lands must be satisfactory from topography and drainage standpoints and must be reasonably free from the danger of any flood, tsunami, unstable soil condition or adverse environmental consequences. Lands that are contiguous to existing urban areas will be given more consideration than non-contiguous land and particularly when such lands are indicated for further urban use on state or county general plans. Lands within the urban district shall be in appropriate locations for new urban concentrations and shall give consideration to

areas of urban growth as shown on state and county general plans. Lands within the urban district shall not contribute towards scattered spot urban development which would necessitate unreasonable investment in public infrastructure or support services.

While the Final EIS analyzed the criteria in detail, a general analysis follows.

- (1) *It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses;*

The Petition Area is adjacent to lands that are classified as urban. Urban level services exist on adjacent lands. The Project will have a city-like concentration of people, structures and streets.

- (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;*
 - (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; and*
 - (C) *Sufficient reserve areas for foreseeable urban growth;*

The Project is in close proximity to Wailuku/Kahului, a center of trading and employment. In addition, the village

center of the Project will provide opportunities for trading and employment. Basic services such as wastewater systems, water, transportation and public utilities are on properties adjacent to the Petition Area. Police and fire protection, solid waste disposal, schools and parks exist either on the Petition Area or on properties in close proximity to the Petition Area. The Maui Island Plan included the Petition Area (and the Project) within future small town and rural growth areas.

- (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;*

The Petition Area slopes at three to five percent in a northwest to southeast direction. A slope of this nature is satisfactory for urban and rural uses. The majority of the Petition Area is in Flood Zone X which is an area of low to moderate flood risk, making it satisfactory for urban and rural uses. No portion of the Petition Area is located within the tsunami evacuation zone, again making the Petition Area suitable for urban and rural uses. The soils are well drained and highly suited for rural and urban uses.

- (4) *Land contiguous with existing urban areas shall be given more consideration*

than non-contiguous land, particularly when indicated for future urban use on state or county general plans or county community plans or development plans;

The Petition Area is adjacent to urban uses, including the town of Waikapu and is within the small town and rural growth areas identified in the Maui Island Plan. The Project was identified in the Maui Island Plan as being appropriate for development.

- (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 or county community plans or development plans;*

The Petition Area is located within the small town and rural growth boundaries identified by the County of Maui in its Maui Island Plan. The Project was deemed appropriate for inclusion within the rural and small town grown boundaries of the Maui Island Plan.

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

In addition to conforming to the standards in paragraphs 1 through 6 of HAR § 15-15-18, the Petition Area is located adjacent to existing or approved urban development.

- (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;*

The Petition Area will not result in spot urban development, having been included within the small town and rural growth boundaries of the Maui Island Plan and being located adjacent to existing public infrastructure. Additionally, the Petition Area is within existing support service areas, including fire protection, police services, and emergency medical services.

- (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.*

The slope of the Petition Area is between three and five percent, which is suitable for rural and urban use.

B. Rural District Standards.

Section 15-15-21, HAR, sets forth the standards for lands to be contained within the Rural District. In general, these lands would consist of small farms, uses

characterized by low density residential lots of not less than one-half acre and density of not more than one single-family dwelling per one-half acre, and parcels of land surrounded by or contiguous to rural districts which are not suited to low density residential uses for small farms or agricultural uses.

- (1) *Areas consisting of small farms; provided that the areas need not be included in this district if their inclusion will alter the general characteristics of the areas;*

The portion of the Petition Area which would be designated as rural will consist of acreages that are expected to be used for diversified agriculture. Regardless of the name given to these lots, the use is expected to be similar to that of a small farm on which agricultural production will be pursued.

- (2) *Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single family dwelling per one-half acre in areas where "city-like" concentrations of people, structures, streets, and urban levels of services are absent, and where small farms are intermixed with the low-density residential lots;*

The portion of the Petition Area designated as rural will lie between housing on urban lands and farming on agricultural lands. It is expected that the lots will

have no more than one single family dwelling per one-half acre and that a number of the lots will be used for diversified agricultural production.

- (3) *It may also include parcels of land which are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses.*

The portion of the Petition Area designated as rural will be suited for low-density residential uses, for diversified agricultural uses and for small farming.

VII. FINANCIAL CONDITION OF PETITIONERS

[The petition shall provide] a statement describing the financial condition together with a current certified balance sheet and income statement as of the end of the last calendar year, or if the petitioner is on a fiscal year basis, as of the end of the petitioner's last fiscal year, and a clear description of the manner in which the petitioner proposes to finance the proposed use or development. HAR § 15-15-50(c)(9).

The three entity Petitioners are single-purpose entities formed solely for the purpose of acquiring the Petition Area (and adjacent properties) and development of those properties. Financial statements of the Petitioners are attached as Petitioners' Exhibit "24".

Petitioners own the Petition Area free from debt. The members of the Petitioners have the ability to provide

capital infusion either by the way of capital contribution or loans to the Petitioners sufficient to cover the infrastructure costs under the proposed phased development. Although Petitioners and their members have the ability to fund the Project, Petitioners expect to seek financing at commercially reasonable rates to fund the initial costs of the development. Once the Project has lots available for sale, Petitioners expect to sell such lots and fund future improvements from the proceeds from such sales.

VIII. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

[The petition shall provide] a statement addressing Hawaiian customary and traditional rights under Article XII, Section 7, of the Hawaii State Constitution. HAR § 15-15-50(c)(21).

This aspect was fully in the Cultural Impact Assessment and Ka Paakai Cultural Analysis which were a part of the Final EIS and are incorporated by reference. Moreover, Petitioners are aware of, and sensitive to, the protections afforded to native Hawaiian customary and traditional rights under Article XII, Section 7, of the Hawaii State Constitution. Petitioners understand that the Petition Area was not used for traditional cultural practices within recent times. It is reasonable to assume that development of the Project will not affect the exercise of any native Hawaiian rights, or any ethnic

groups related to gathering, access or other customary activities. Nevertheless, Petitioners have met with and will continue to meet with persons who are connected to the Waikapu ahupuaa to establish and preserve access and cultural practice rights in the area of the Waikapu Stream on or over lands owned by the Petitioners.

IX. WRITTEN COMMENTS REGARDING PROJECT

[The petition shall provide] any written comments received by the Petitioner from governmental and non-governmental agencies, organizations, or individuals in regards to the proposed boundary amendment. HAR § 15-15-50(c)(22).

Petitioners began the Project in January 2009. Petitioners consulted with state and county agencies and the Waikapu community regarding the Project. Meetings were conducted with the County of Maui Department of Planning, the County of Maui Department of Public Works, the County of Maui Department of Environmental Management, the County of Maui Department of Parks and Recreation, and the County of Maui Department of Water Supply. In addition, meetings were conducted with the State Department of Education, State Department of Transportation, the State Office of Planning, and staff of the State Land Use Commission.

Petitioners also held meetings with the Waikapu community and appeared before the General Plan Advisory

Committee, the Maui Planning Commission and the Maui County Council. Petitioners' Exhibit "1" and the Final EIS document community meetings conducted through December, 2016. In general, the Project has been favorably received by governmental agencies and the Waikapu community.

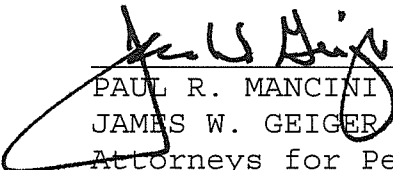
X. CONCLUSION

The Project will be located in an area identified for future small town and rural use under the Maui Island Plan. The Project will meet a portion of the significant need for single-family and multi-family residential units in Maui County and especially in the Central Maui area. While portions of the Petition Area were used for production of sugar cane in the past, facilitating the growth of diversified agriculture and preserving for perpetuity the use of adjacent lands for agricultural uses suggests that the Project will not adversely impact agricultural pursuits in the area. The Project is a reasonable and appropriate use for the Petition Area, was reviewed by the community and the Maui County Council, included within the Maui Island Plan, and is a reasonable and appropriate use of the Petition Area.

Based upon the foregoing, Petitioners respectfully request that the Commission, upon the Petition being deemed complete, find that the Petition complies with

the necessary requirements of a petition for district boundary amendment pursuant to HAR § 15-15-50. Petitioners further request that the Commission find the proposed development of the Petition Area meets the standards for determining urban district boundaries pursuant to HAR § 15-15-18 and meets the standards for determining rural district boundaries pursuant to HAR § 15-15-21. Finally, Petitioners request that the Commission grant the reclassification of about 335.155 acres of the Petition Area from Agricultural District to Urban District and about 149.848 acres of the Petition Area from Agricultural District to Rural District.

DATED: Kahului, Hawai'i, APR 28 2017.



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