

DEPARTMENT OF PLANNING
 COUNTY OF MAUI
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**BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII**

In the Matter of the Petition of:)	Docket No. A04-751
)	
MAUI LAND & PINEAPPLE COMPANY)	Motion of Petitioner Maui Oceanview LP to
INC., a Hawaii Corporation,)	Amend Decision and Order
)	
To Amend the Agricultural Land Use District)	
Boundary into the Urban Land Use District)	
For approximately 310.440 acres Of Land)	
At Mahinahina and Kahana, District of)	
Lahaina, Maui, Hawai'i,)	
Tax Map Key Nos. 4-3-01: Por 31 and 79)	

**POSITION STATEMENT OF THE DEPARTMENT OF PLANNING,
 COUNTY OF MAUI**

Pursuant to Hawaii Administrative Rules Sec. 15-15-70, the Department of Planning (Department) hereby files its position on the proposed Motion to Amend the Decision and Order (D&O) of June 22, 2006.

The Department is in support of the proposed Motion to Amend. However, we note that the Motion to Amend and accompanying documents in support of the Motion are incomplete as of the date of this filing. For example, the Petitioner noted in a September 6, 2019 e-mail that the information related to Ohana units on the project still needed to be filed with the Commission, and the most recent Supplemental Memorandum in Support of the Motion setting forth proposed changes to the conditions is still in need of revision. As such, the Department reserves its right to supplement this statement with additional filings and to provide oral testimony and argument at the upcoming hearing on September 26, 2019.

The New Owner/Petitioner

Maui Oceanview LP (Petitioner) is the new owner in fee simple of the Pulelehua Petition area which it acquired from Maui Land and Pineapple Company Inc (ML&P). The property has been assigned new TMK numbers: TMK 4-3-01:082 and TMK 4-3-01:083 (the "property").

The Petitioner is proposing to amend the 2006 D&O in order to develop 800 primarily rental multi-family residential units and 100 single family lots at Pulelehua. The Petitioner will offer for rent 800 units in apartment houses and will offer for sale 99 single family residential lots and one large estate edge lot on the northern boundaries between Kahanaiki and Mahinahina gulches. Some live work units will be allowed in apartment buildings in close proximity to the proposed commercial areas. The commercial area within Pulelehua will remain at a maximum of 70,000 sq. ft.

The project proposes to address the rental housing needs of low income, low-moderate income, moderate income and “gap groups” in a manner consistent with HUD requirements, the County’s Residential Workforce Housing Policy, and Chapter 2.96 of the Maui County Code. The Petitioner has entered into a housing agreement with the County of Maui Department of Housing and Human Concerns (DHHC) dated March 7, 2019. The Petitioner proposes to develop a total of 280 workforce housing rental units (which includes the 125 rental housing units associated with ML&P’s Kapalua Mauka Project), 520 market rental units, and 100 single family house lots for sale.

The Petitioner will offer preferences for the 280 workforce housing rental units consistent with the Residential Workforce Housing Policy, Chapter 2.96, Maui County Code and the housing agreement with DHHC. According to the Petitioner, the workforce housing units will be integrated with the market rental apartment units developed throughout the Pulelehua project. It is anticipated that Pulelehua will be developed in five phases, anticipated to be completed over an 11- year period.

Phase	Single Family Lots	Workforce Rental Housing Units	Market Rental Housing Units	Total Units
Phase 1		90	150	240
Phase 2		120	230	350
Phase 3		70	140	210
Phase 4				No units – only commercial
Phase 5	100			100
Total Units	100	280	520	900

MAUI COUNTY LAND USE

Maui Island Plan and County Wide Policy Plan

Neither the Motion nor the proposed amendments to the D&O address the Maui Island Plan (MIP) and the County Wide Policy Plan. These documents were not in effect when Pulelehua was approved by the LUC in 2006. Prior to adoption, the D&O should be updated to reflect the projects consistency with both plans, pursuant to Hawaii Revised Statutes Section 205-17(5).

The MIP, adopted on December 28, 2012, provides direction for future growth, the economy, and social and environmental decisions on the island through 2030.

The County Wide Policy Plan was adopted on March 24, 2010 and provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future.

Pulelehua generally complies with the goals and objectives of the MIP and County Wide Policy Plan. Pulelehua is located within the Directed Growth area for West Maui which supports growth in a sustainable and manageable manner. Pulelehua supports the Housing objectives in the MIP and the County Wide Policy Plan by providing a mixture of affordable and market rate rental housing units (800 units) as well as for sale homes sites (100 lots) aimed at meeting the housing needs of the residents of West Maui. The 800 multi-family units expand the available rental inventory in West Maui. Pulelehua will have restrictive covenants, such as CC&R's, that will preclude vacation rentals within the project. Pulelehua has entered into a Residential Workforce Housing Agreement with the County of Maui ensuring that 280 rental units will be set aside for low, low-moderate, and moderate-income residents.

Pulelehua includes features consistent with and supportive of Land Use and Infrastructure goals and principles identified in the MIP and County Wide Policy Plan. The design and layout of the proposed project addresses Public Recreational goals and provides an integrated network of trails, sidewalks and multi-use facilities which connect residents to local retail, education and recreational opportunities reducing the number of vehicle trips within and outside of the community. Pulelehua will preserve natural gulches and waterways throughout the community and will incorporate onsite stormwater quality basins to protect and enhance the water quality and watersheds within and adjacent to the project. Approximately 40% (124 acres) of the Pulelehua community is designated as open space. Pulelehua will provide its own water and wastewater treatment facilities to meet the needs of the community. Wastewater will be reclaimed as R1 water to meet the fire and irrigation needs of the community, thus significantly reducing the community's domestic water demand. State of the art technology will eliminate the use of injection wells and offsite odors. No demand will be placed on existing County facilities for water or wastewater. The project also includes a 13-acre site for a future elementary school.

West Maui Community Plan

The property is designated "West Maui Project District 5 (Pulelehua)" in the West Maui Community Plan. The proposed D&O on Pages 71-72 has not been updated and reflects the old designations of Agriculture, Open Space and Park. The Maui County Council approved the Project District designation in 2011 by Ordinance No. 3887. The description of the project district is as follows:

PROJECT DISTRICT 5 (PULELEHUA) approximately 310 acres

This project district is within the Mahinahina region between Honoapiilani Highway and the Kapalua West Maui Airport. It is generally bound by Kahanaiki Gulch to the north and the Department of Hawaiian Home Lands property to the south.

The project district is intended to provide a mix of residential units for all income groups, commercial, civic uses, parks, and open space. "Traditional Neighborhood Design" (TND) concepts shall be incorporated to emphasize mixed uses, pedestrian friendly streets, multi-modal transportation options, traditional architecture, and urban design. The project district may contain up to 900 single family and multi-family units with the potential for an additional 300 accessory dwelling units. A 13-acre school site is included in the project district. The project district overall average residential density is approximately 2.8 units/acre.

The project district will include a range of districts. The limited Core Neighborhood District in the central area will contain the highest densities and most intense mix of uses. From the Core Neighborhood District, each subsequent district will have progressively less intense uses, with the Estate Edge District, marked by single family homes and larger lots, primarily along edges of the

project district. The Open Space District will provide for buffer areas and separation of neighborhoods. The restricted Workplace Edge District will allow for a range of appropriate uses as a buffer to the Kapalua West Maui Airport. Spatial allocations are as follows:

<i>Core Neighborhood District</i>	<i>7 acres</i>
<i>Center Neighborhood District.....</i>	<i>20 acres</i>
<i>General Neighborhood District.....</i>	<i>83 acres</i>
<i>Edge Neighborhood District.....</i>	<i>48 acres</i>
<i>Estate Edge District.....</i>	<i>23 acres</i>
<i>Workplace Edge District.....</i>	<i>5 acres</i>
<i>Open Space District.....</i>	<i>124 acres</i>

The proposed D&O states that the proposed development plan has been designed to comply with the Community Plan Description of the Project District. The Petitioner has had numerous meetings with the Department to discuss the project and its compliance with the description in the West Maui Community Plan. The current plan that is before the Land Use Commission is consistent with the above community plan description of West Maui Project District 5.

The Department’s Long Range Division (LRD) is in the process of updating the 1996 West Maui Community Plan. LRD provided the updated Draft West Maui Community Plan (Draft Plan) to the Community Plan Advisory Committee (CPAC) on July 11, 2019. Starting July 25, 2019 the CPAC has 180 days to review and provide recommendation on the Draft Plan.

Prior to the CPAC review process, LRD conducted extensive community engagement, including community design workshops and open houses to map future growth in West Maui. The Department has also updated the community plan designations used to map land uses in community plans, with West Maui being the first community plan to use the new updated designations. The new designations are generally based on the concept of “Place Types” or “Character Areas” that describe the range of uses, densities, and other characteristics. The new designations are consistent with the principles of Smart Growth and will help create complete and healthy communities that meet the needs of residents. As part of updating the community plan designations, the Department is phasing out the use of the “Project District” designation and identifying existing project districts (including Project District 5 Pulelehua) with the appropriate updated designations.

Based on feedback from the community and communication with the Petitioner, LRD has mapped Pulelehua with Residential, Neighborhood Center, Small Town Center, Public/Quasi Public, and Parks/Open Space designations on growth alternative maps. The maps and descriptions of the designations can be accessed online at <https://wearemaui.org/event/community-design-open-house-saturday>. The CPAC will review the growth alternative maps and will provide recommendations for a preferred growth alternative for West Maui. The Pulelehua project area, as mapped with the above noted designations, is consistent with the conceptual site plan and project description in the application, and provides for ample open space and parks, a mix of housing types, mixed use commercial areas, and a school. The Residential, Neighborhood Center, and Small Town Center designations stress the importance of creating communities with smaller blocks, buildings that have frontage on property lines; ample pedestrian, bicycle and bus facilities; and parks and gathering areas.

Until the West Maui Community Plan is updated, the existing designations in the Maui Island Plan and Community Plan remain in effect.

County Zoning

The property is zoned West Maui Project District 5 (Pulelehua) pursuant to Ordinance No. 3889. **(Exhibit 2)** The effective date of the ordinance was November 18, 2011. The zoning is subject to 17 conditions. The Petitioner's proposed D&O includes a discussion of how the project will comply with the 17 conditions. The Petitioner has indicated that the proposed development plan for Pulelehua has been designed to comply with the development standards as outlined in the Project District zoning ordinance.

On November 18, 2011, Ordinance No. 3888 **(Exhibit 1)** also became effective, amending Title 19, Maui County Code to establish permissible land uses, standards of development and allocations of land for West Maui Project District 5.

The Department had numerous meetings with the Petitioner as the new owner of Pulelehua to review the ordinance and determine how and if the project complies with the ordinance. After many modifications to the project plans, the Department is able to comment that the plans before the Land Use Commission comply with the Pulelehua Project District Ordinance.

If the motion to amend the 2006 D&O is approved by the Land Use Commission, the next step for the Petitioner is to file a Project District Phase II application together with a preliminary site plan for the project district development. The preliminary site plan must conform to the project district ordinance and shall include but is not limited to proposals for drainage, streets, parking, utilities, grading, landscaping, architectural design concepts and guidelines, building elevations, building sections, construction phasing, open spaces, land uses, signage and recreational and community facilities. The Phase II application requires a public hearing by the Maui Planning Commission in the affected Community Plan region. Once the Phase II Project District Approval process is complete the Petitioner will need to obtain Phase III Project District approvals from the Department, which is an administrative approval of a final site plan for the project district development.

County Agency Comments

The Department transmitted the updated information submitted by the Petitioner regarding the Motion to Amend. The County agency comments are reflected below:

1. The Maui Department of Transportation (MDOT) indicates that the Petitioner has discussed bus stops with their department and has incorporated bus stop locations in the site plan as discussed with MDOT.
2. The Department of Parks and Recreation is in agreement with the dedication of a 10-acre regional park as well as the privately owned and maintained pocket parks, and a trail system to provide connectivity within the development.

As stated in Condition 15 of Ordinance 3889, ML&P is responsible for satisfying the 50-acre park requirement. A location has been identified by the Department of Parks and Recreation and they recommended that it be incorporated as part of the draft West Maui Community Plan update. Funding has been appropriated in the FY20 Budget.

3. The Department of Water Supply (DWS) acknowledges that the Petitioner intends to supply non-potable water from the Honokohau Ditch (from water sourced from Honokohau Stream), to provide both potable and non-potable water to the community as a private system. Plans devised for this source were developed before large storms in 2018 destroyed some of the intakes from the

Honokohau stream. Current water availability from this source has been diminished. According to the Commission on Water Resource Management's Instream Flow Standard Assessment Report (IFSAR) for Honokohau, dated June 2019, current off stream uses of water diverted from the Honokohau ditch are 5.19 mgd (median flow) for non-potable uses. To meet current demand, DWS needs 2.1 mgd at the Mahinahina Water Treatment Facility. Honokohau stream flow during low flow conditions is 7.76 mgd according to the IFSAR. Instream flow standards are anticipated to restore some streamflow to Honokohau and remaining diverted streams in West Maui.

Surface water development is now considered a less reliable water source than groundwater due to projected impacts from climate change. These include diminished stream flow associated with reduced rainfall and long term droughts.

These conditions reflect issues presented in the recent Maui Island Water Use and Development Plan (WUDP) Draft March 2019, which calls for "assessing alternative ways to meet the future needs of the public trust and other local uses in the region given increased growth, climatic changes and potential decreased water supplies, while managing resources in a sustainable way". Streamflow restoration and protection is a pending matter putting the availability of Honokohau water in question. "Precautionary planning to reduce and adapt to the effects of drought and climate change on water resource availability" (also from the WUDP) suggests that this source of surface water is less reliable and proposing new surface water use is contrary to community input in to the WUDP.

DWS is also aware that the Petitioner has plans to develop a private water treatment facility for Pulelehua. Considering the factors previously mentioned and to ensure that existing public trust needs are met in consistency with the Draft WUDP, DWS strongly recommends groundwater development as a primary or supplemental source to meet project potable needs, and maximizing reclaimed water and alternative sources to meet project non-potable demand in the proposed private system.

The proposed D&O inconsistently discusses the proposed measures to address water demand for the project, ie "negotiating an agreement with the DWS" for water treatment facility expansion and "plans to develop a private water treatment facility" for Pulelehua for potable water service. The D&O should be revised to consistently reflect that a private facility will be developed.

4. The Department of Housing and Human Concerns (DHHC) has indicated that the County of Maui entered into a Residential Workforce Housing Agreement with Maui Oceanview, LP, which was recorded on April 01, 2019. The Petitioner has agreed to provide 280 affordable housing units. Affordable housing units are much needed, and the DHHC supports the effort to amend the D&O to allow this project to proceed.

5. The Department of Public Works (DPW) – The Department reserves the right to submit comments from DPW at a later date.

DATED: Wailuku, Hawaii, Sep 10, 2019.



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Electronic Mail

DATED: Wailuku, Hawaii, September 10, 2019.



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Planning Director
Department of Planning

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ORDINANCE NO. 3888

BILL NO. 63 (2011)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
TO ESTABLISH PERMISSIBLE LAND USES, STANDARDS OF DEVELOPMENT,
AND ALLOCATIONS OF LAND FOR WEST MAUI PROJECT DISTRICT 5
(PULELEHUA) FOR PROPERTY SITUATED AT
MAHINAHINA, KAHANA, LAHAINA, MAUI, HAWAII,

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

SECTION 1. Title 19, Maui County Code, is amended by adding
a new chapter to be appropriately designated and to read as
follows:

"Chapter 19.93

**WEST MAUI PROJECT DISTRICT 5
(PULELEHUA)**

Sections:

- 19.93.010 Purpose and intent.
- 19.93.020 Definitions.
- 19.93.030 Land use categories and acreage.
- 19.93.040 Districts.
- 19.93.050 Additional standards for all districts.

19.93.010 Purpose and intent. The purpose and intent of these standards is to create a compact, pedestrian-oriented, mixed use neighborhood where residential and community-related commercial and civic uses are within close proximity to each other. The planning concept is based on a study of historical Hawaiian towns and the principles of traditional neighborhood design.

19.93.020 Definitions. The following definitions shall apply to this chapter. Terms not defined below shall have the meanings set forth in section 19.04.040, Maui County Code, unless the context clearly indicates a different meaning:

"Apartment house lot" means a lot used or designated for multi-family purposes, such as an apartment house or courtyard apartment building.

"Brightfield" means property covered by a solar photovoltaic energy system.

EXHIBIT 1

"Build-to-line" means a line parallel to the property line, along which a building or front lanai shall be built.

"Build-to-zone" means the range of allowable distance from the front lot line where a building or front lanai shall be placed.

"Civic building lot" means a lot used or designated for civic or municipal purposes.

"Cottage house lot" means a lot used or designated for single-family housing of a cottage or bungalow type design.

"Estate house lot" means a lot located in the edge neighborhood or estate edge district used or designated principally for single-family housing and accessory dwellings (ohana units).

"Food processing" means facilities for the preparation of food products for distribution to retail, wholesale and eating establishments. Examples include, but are not limited to, bakeries, refrigerated storage, catering establishments, and coffee roasting and grinding.

"Fractional ownership or use" means occupancy or use of a dwelling or lodging unit by co-owners pursuant to a fractional ownership plan for a period of any length of time. Fractional ownership includes direct ownership in a property as well as indirect ownership through a company, association, or other entity holding title to the property.

"Fractional ownership plan" means an arrangement whether by tenancy in common, sale, deed, or other means, whereby the purchaser or co-owner receives an ownership interest and the right to use the property for a specific and discernable period by temporal division.

"Front lanai house lot" means a lot used or designated for single-family housing having a covered front lanai as a predominant feature.

"Front of lot" means the front property line of a lot bordering the street or closest to the street. In the case of a corner lot, it is the frontage opposite the alley. If there is no alley, it may be either frontage.

"General store building lot" means a lot used or designated for a general or corner store.

"Live/work lots" means a lot used or designated for live/work mixed use purposes.

"Lot designated" or "designated lot" means a lot identified for a particular use during the Phase III approval process.

"Mixed-use street" means a street within the neighborhood that contains a mix of uses (including commercial, residential, office, and civic uses) within close proximity or adjacent.

"Outside open air dining" means a restaurant or food service establishment with tables, dining facilities, and activities located outside in the open air on a private property, on a public property, or on the sidewalk when the open air dining facilities are used in conjunction with a restaurant or food service business located within the building or structure located along and adjacent to the open air dining facility.

"Porch" means a small platform and/or entrance stairway at a house door.

"Primary entrance" means the entrance to a structure which is located along the primary street.

"Recreational building" means facilities that are for recreational indoor, recreational active, recreation open land, and recreation passive uses such as, but not limited to, pools, auditoriums, skating rink, tennis courts, storage, restrooms, and health and fitness clubs.

"Recyclable materials" include the following discarded materials for which a market exists and which are delivered to a point where they are converted to a material for later manufacture or reprocessing: aluminum cans, batteries, corrugated cardboard, food waste, glass containers, green waste, scrap metal, office paper, paperboard, plastic containers, steel cans, and used oil.

"Recycling facility" means a facility in the workplace edge district for the processing of recyclable materials, whether owned and operated by the County or by a private interest.

"Repair, minor" means repair activities which have relatively little impact on surrounding land uses and can be compatibly located with other businesses. Examples include, but are not limited to, upholstery repair; bicycle repair; production and repair of eye glasses and hearing aids; garment repair; household appliance repair, except those with gasoline engines; shoe repair; and watch, clock, and jewelry repair.

"Setback" means minimum distance between the building face and the lot property line.

"Sideyard lanai house lot" means a lot used or designated for single-family housing having a side yard lanai as a predominant feature.

"Terrace house lot" means a lot used or designated for single-family housing of the terrace housing type design.

"Workshop/loft" means an area used or designated for warehouses and loft commercial/industrial purposes.

"Workshop/loft building lot" means a lot located within the workplace edge district used or designated for warehouses and loft commercial/industrial purposes.

19.93.030 Land use categories and acreage. The following are established as the approximate acreage for

the various land use categories within the West Maui project district:

Core neighborhood district:	7 acres
Center neighborhood district:	20 acres
General neighborhood district:	83 acres
Edge neighborhood district:	48 acres
Estate edge district:	23 acres
Workplace edge district:	5 acres
Open space district:	124 acres

Total acreage:	310 acres
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19.93.040 Districts. A. Core neighborhood district:

1. Purpose: Development is most intense in the core neighborhood district. The character is the most urban of all districts; buildings are normally attached and built along the front property line. Uses may include retail, entertainment, offices, and residential. A mix of apartment houses and dwellings where live/work mixed uses are conducted constitute the residential component of the core neighborhood district. The core neighborhood district is situated where it can be easily accessed from all residential areas in Pulelehua community.

2. Permitted uses:

- a. Assembly area;
- b. Day care facility;
- c. Church;
- d. Dwelling, single family;
- e. Dwelling unit, multi-family;
- f. Eating and drinking establishment, except nightclubs;
- g. Education, general;
- h. Education, specialized;
- i. Food and beverage retail;
- j. General merchandise;
- k. General office;
- l. Library;
- m. Live/work mixed uses:
 - i. In the core neighborhood district, live/work mixed uses may contain any of the other uses permitted in the core neighborhood district, with the following limitations:
 - (A) Assembly area: not permitted;
 - (B) Day care facility: limited to five persons cared for;

- (C) Education, specialized: limited to five students at any given time;
 - (D) Food and beverage retail: limited to 1,500 square feet;
 - (E) General merchandise: limited to 1,500 square feet;
 - (F) General office: employees that do not reside within the dwelling unit are limited to three;
 - (G) Medical center, minor: employees that do not reside within the dwelling unit are limited to three;
 - (H) Personal and business services: employees that do not reside within the dwelling unit are limited to three; and
 - (I) Recreation, indoor: limited to 1,500 square feet.
- ii. Live/work mixed uses shall be permitted on live/work lots. A maximum of twenty live/work mixed uses shall be permitted within the core neighborhood district.
- n. Medical center, minor;
 - o. Municipal;
 - p. Outside open air dining;
 - q. Parking area, public;
 - r. Personal and business services;
 - s. Recreation, indoor; and
 - t. Utilities facilities, minor.
3. Accessory uses:
- a. Energy systems, small-scale;
 - b. Garage;
 - c. Parking area, public;
 - d. Walls;
 - e. Fences; and
 - f. Storage, wholesale and distribution.
4. Permitted lot types:
- a. Main street building lot;
 - b. Live/work lot; and
 - c. Civic building lot.
5. Development standards for core neighborhood district:

a. Standards matrix:

Permitted Lot Types	Min/Max Lot Width	Min/Max Lot Area	Front Build-To-Line Minimum	Rear Setback Minimum	Side Setback Minimum	Building Height	Accessory Dwellings
Main street building lot	24ft/ no max	2,400 sq ft / no max	0 ft (from front property line)	5 ft (from rear property line)	0 ft (from side property line)	48 feet max	Not permitted
Live/work lot	18 ft/60 ft	1,800 sq ft / 7,200 sq ft	0 ft (from front property line)	5 ft (from rear property line)	0 ft* (from side property line)	48 feet max	Not permitted
Civic building lot	50ft/no max	5,000 sq ft / no max	N/A	5 ft (from rear property line)	0 ft (from side property line)	48 feet max	Not permitted

*Live/ work lot: On a corner lot, a side setback bordering a street shall be no greater than five feet.

b. Additional standards:

- i. Each building shall have separate walls to support all loads independently of any walls located on an adjacent property;
- ii. Each live/work lot shall be permitted one principal building and one accessory building. Accessory buildings shall not exceed 625 square feet; and
- iii. Building appurtenances, such as towers or cupolas, may extend an additional 10 feet in height.

B. Center neighborhood district

1. Purpose: The center neighborhood district is a place where a great range of uses is expected and encouraged. The center is compact and is to have both attached and detached buildings. Multi-story buildings in the center are well suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts (flexible spaces that can be utilized for either living or work space), live/work combinations, and buildings designed for changing uses over time are appropriate for this district. The center neighborhood district is within walking distance of the surrounding, primarily residential areas.

2. Permitted uses:

- a. Assembly area;

- b. Church;
- c. Day care facility;
- d. Dwelling, single-family;
- e. Dwelling unit, multi-family;
- f. Eating and drinking establishment, except nightclubs;
- g. Education, general;
- h. Education, specialized;
- i. Food and beverage retail;
- j. General merchandise;
- k. General office;
- l. Library;
- m. Live/work mixed uses;
 - i. In the center neighborhood district, a live/work mixed uses may contain any of the other permitted uses in the center neighborhood district, with the following limits:
 - (A) Assembly area: not permitted;
 - (B) Day care facility: limited to five persons cared for;
 - (C) Education, specialized: limited to five students at any given time;
 - (D) Food and beverage retail: limited to 1,500 square feet;
 - (E) General merchandise: limited to 1,500 square feet;
 - (F) General office: employees that do not reside within the dwelling unit are limited to three;
 - (G) Medical center, minor: employees that do not reside within the dwelling unit are limited to three;
 - (H) Personal and business services: employees that do not reside within the dwelling unit are limited to three; and
 - (I) Recreation, indoor: limited to 1,500 square feet.
 - ii. Live/work mixed uses shall be permitted on live/work lots. A

maximum of fifty live/work mixed uses shall be permitted within the center neighborhood district.

- n. Medical center, major;
 - o. Medical center, minor;
 - p. Municipal;
 - q. Outside open air dining;
 - r. Park;
 - s. Parking area, public;
 - t. Personal and business services;
 - u. Public facility or public use;
 - v. Recreation, active;
 - w. Recreation, indoor;
 - x. Recreation, open land;
 - y. Recreation, passive; and
 - z. Utility facilities, minor.
3. Accessory uses:
- a. Energy systems, small-scale;
 - b. Garage;
 - c. Parking area, public;
 - d. Recreation buildings;
 - e. Walls;
 - f. Fences, and
 - g. Storage, wholesale and distribution.
4. Permitted lot types:
- a. Main street building lot;
 - b. Live/work lot;
 - c. General store building lot;
 - d. Apartment house lot;
 - e. Terrace house lot;
 - f. Sideyard lanai house lot; and
 - g. Civic building lot.
5. Development standards for center neighborhood district:
- a. Standards matrix:

Permitted Lot Types	Min/Max Lot Width	Min/Max Lot Area	Front Build-To- Zone Minimum	Rear Setback Minimum	Side Setback Minimum	Building Height	Accessory Dwellings
Main street building lot	24 ft/ no max	2,400 sq ft / no max	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft (from side property line)	48 feet max	Not permitted
Live/work lot	18 ft/60 ft	1,800 sq ft / 7,200 sq ft	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft - 3 ft* (from side property line)	48 feet max	Not permitted

General store building lot	24 ft/60ft	2,400 sq ft / 7,200 sq ft	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft** (from side property line)	48 feet max	Not permitted
Apartment house lot	48 ft/ 145ft	4,800 sq ft / 12,000 sq ft	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft*** (from side property line)	48 feet max	Not permitted
Terrace house lot	18 ft/32 ft	1,800 sq ft / 3,840 sq ft	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft - 3 ft* (from side property line)	48 feet max	Not permitted
Sideyard lanai house lot	30 ft/44 ft	3,000 sq ft / 5,280 sq ft	0 ft - 5 ft (from front property line)	5 ft (from rear property line)	0 ft - 3 ft**** (from side property line)	48 feet max	Not permitted
Civic building lot	50 ft/no max	5,000 sq ft / no max	N/A	5 ft (from rear property line)	0 ft (from side property line)	48 feet max	Not permitted

*Live/work lot and terrace house lot: Side setback may be zero feet if the adjacent lot is a live/work lot or terrace house lot; neighboring units shall be designed to allow a zero lot line construction. Side setbacks shall be 3 feet minimum in all other instances. On a corner lot, a side setback bordering a street shall be no greater than 5 feet.

**General store building lot: On a corner lot, a side setback bordering a street shall be no greater than 6 feet.

***Apartment house lot: On a corner lot, a side setback bordering a street shall be no greater than 15 feet.

****Sideyard lanai house lot: Side setback may be zero feet on one side if the adjacent lot is a sideyard lanai house lot or if the adjacent lot type has 5 feet minimum, maintenance easement or setback in which buildings are prohibited. If side setback is zero feet on one side, the other side setback shall be 10 feet (to create a large sideyard). Side setbacks shall be a minimum of 3 feet in all other instances.

b. Additional standards:

- i. Each building shall have separate walls to support all loads independently of any walls located on an adjacent property;
- ii. Each live/work lot, terrace house lot, and sideyard lanai house lot shall be permitted one principal building and one accessory building. Accessory buildings shall not exceed 625 square feet; and
- iii. Building appurtenances, such as towers or cupolas, may extend an additional 10 feet in height.

c. General neighborhood district

1. Purpose: The general neighborhood district area is the largest area of a

neighborhood, and is primarily residential in character. A mix of housing types is found here, including single family attached and detached homes, and multi-family units. Homes located in this district are normally set back from the front property line to allow a front yard with a lanai or porch, and a private rear yard.

2. Permitted uses:
 - a. Assembly area;
 - b. Church;
 - c. Day care facility (limited to five persons cared for);
 - d. Dwelling, single family;
 - e. Dwelling unit, multi-family;
 - f. Education, general;
 - g. Educational institution;
 - h. Library;
 - i. Medical center, major;
 - j. Municipal;
 - k. Park;
 - l. Parking area, public;
 - m. Public facility or public use;
 - n. Recreation, active;
 - o. Recreation, open land;
 - p. Recreation, passive; and
 - q. Utility facilities, minor.
3. Accessory uses:
 - a. Accessory dwelling unit (only on permitted lots);
 - b. Home occupation;
 - c. Energy systems, small-scale;
 - d. Garage;
 - e. Parking area, public;
 - f. Walls;
 - g. Fences; and
 - h. Storage, wholesale and distribution.
4. Permitted lot types:
 - a. Apartment house lot;
 - b. Terrace house lot;
 - c. Cottage house lot;
 - d. Sideyard lanai house lot;
 - e. Front lanai house lot; and
 - f. Civic building lot.
5. Development standards for general neighborhood district:
 - a. Standards matrix:

Permitted Lot Types	Min/Max Lot Width	Min/Max Lot Area	Front Build-To- Zone Minimum	Rear Setback Minimum	Side Setback Minimum	Building Height	Accessory Dwellings
Apartment house lot	48 ft/145 ft	4,800 sq ft / 12,000 sq ft	6 ft - 12 ft (from front property line)	5 ft (from rear property line)	5 ft** (from side property line)	35 feet max	Not permitted
Terrace house lot	18 ft/32 ft	1,800 sq ft / 3,840 sq ft	6 ft - 12 ft (from front property line)	5 ft (from rear property line)	0 ft - 3 ft* (from side property line)	35 feet max	Not permitted
Cottage house lot	24 ft/40 ft	2,400 sq ft / 4,800 sq ft	6 ft - 12 ft (from front property line)	5 ft (from rear property line)	5 ft (from side property line)	30 feet max	Not permitted
Sideyard lanai house lot	30 ft/ 56 ft	3,000 sq ft / 6,720 sq ft	6 ft - 12 ft (from front property line)	5 ft (from rear property line)	0 ft - 5 ft*** (from side property line)	30 feet max	Not permitted
Front lanai house lot	40 ft/70 ft	4,000 sq ft / 8,400 sq ft	6 ft - 12 ft (from front property line)	5 ft (from rear property line)	5 ft (from side property line)	30 feet max	Only as permitted by the Maui County Code
Civic building lot	50 ft/no max	5,000 sq ft / no max	N/A	5 ft (from rear property line)	5 ft (from side property line)	35 feet max	Not permitted

*Terrace house lot: Side setback may be zero feet if the adjacent lot in an adjoining district is a live/work lot or terrace house lot; neighboring units shall be designed to allow a zero lot line construction in an adjoining district. Side setbacks shall be 3 feet minimum in all other instances. On a corner lot, a side setback bordering the street shall be no greater than 5 feet.

**Apartment house lot: On a corner lot, a side setback bordering the street shall be no greater than 15 feet.

***Sideyard lanai house lot: Side setback may be zero feet on one side if the adjacent lot is a sideyard lanai house lot or if the adjacent lot has a minimum 5 foot maintenance easement or setback in which building is prohibited. If side setback is zero feet on one side, the other side setback shall be 12 feet (to create a large sideyard). Side setbacks shall be 5 feet minimum in all other instances.

b. Additional standards:

- i. Each building shall have separate walls to support all loads independently of any walls located on an adjacent property.
- ii. Each terrace house lot, cottage house lot, sideyard lanai house lot, and front lanai house lot shall be permitted one principal building and one accessory building. Accessory

buildings, except accessory dwelling units, shall not exceed 625 square feet.

- iii. Building appurtenances, such as towers or cupolas, may extend an additional 10 feet in height.

D. Edge neighborhood district

1. Purpose: The edge neighborhood district areas are single family residential in character and have less activity and density than the other residential areas. Although the edge neighborhood district is the most purely residential zone, it can have civic buildings. Edge neighborhood districts are identified by a distinct change such as a natural feature like a stream, forest, gulch, greenway, or a man-made feature such as a thoroughfare. These features provide a physical change that form a boundary, giving each neighborhood identity.

2. Permitted uses:

- a. Assembly area;
- b. Church;
- c. Day care facility (limited to five persons cared for);
- d. Dwelling, single-family;
- e. Education, general
- f. Educational institution;
- g. Library;
- h. Medical center, major;
- i. Municipal;
- j. Park;
- k. Parking area, public;
- l. Public facility or public use;
- m. Recreation, active;
- n. Recreation, open land;
- o. Recreation, passive; and
- p. Utility facilities, minor.

3. Accessory uses:

- a. Accessory dwelling unit (only on permitted lots);
- b. Energy systems, small-scale;
- c. Garage;
- d. Parking area, public;
- e. Walls;
- f. Fences; and
- g. Storage, wholesale and distribution.

4. Permitted lot types:

- a. Front lanai house lot;
- b. Estate house lot; and
- c. Civic building lot.

5. Development standards for edge neighborhood district:

a. Standards matrix:

Permitted Lot Types	Min/Max Lot Width	Min/Max Lot Area	Front Build-To- Zone Minimum	Rear Setback Minimum	Side Setback Minimum	Building Height	Accessory Dwellings
Front lanai house lot	40 ft/70 ft	4,000 sq ft / 8,400 sq ft	10 ft - 16 ft (from front property line)	5 ft (from rear property line)	8 ft (from side property line)	30 feet max	Only as permitted by the Maui County Code
Estate house lot	60 ft/no max	7,200 sq ft / no max	10 ft - 16 ft (from front property line)	5 ft (from rear property line)	8 ft (from side property line)	30 feet max	Only as permitted by the Maui County Code
Civic building lot	50 ft/no max	5,000 sq ft / no max	N/A	5 ft (from rear property line)	8 ft (from side property line)	30 feet max	Not permitted

b. Additional standards:

- i. Each front lanai house lot and estate house lot shall be permitted one principal building and one accessory building. Accessory buildings, except accessory dwelling units, shall not exceed 625 square feet.
- ii. Building appurtenances, such as towers or cupolas, may extend an additional 10 feet in height.

E. Estate edge district

1. Purpose: The estate edge district borders areas of undisturbed and conserved natural lands. The intention of the estate edge district is to create a more relaxed edge of development abutting natural areas, to allow residents and visitors alike the opportunity to enjoy preserved natural areas near their residences.

2. Permitted uses:

- a. Dwelling, single-family;
- b. Park;
- c. Parking area, public;
- d. Public facilities or public use;
- e. Recreation, active;
- f. Recreation, open land;
- g. Recreation, passive; and
- h. Utility facilities, minor.

- h. General merchandise;
 - i. General office;
 - j. Light manufacturing and processing;
 - k. Parking area, public;
 - l. Personal and business services;
 - m. Recreation, active;
 - n. Recreation, indoor;
 - o. Recycling facility; and
 - p. Repair, minor.
3. Permitted lot types:
- a. Workshop/loft building lot;
4. Development standards for workplace edge district:
- a. Standards matrix:

Permitted Lot Types	Min/Max Lot Width	Min/Max Lot Area	Front Build-to-Zone Minimum	Rear Setback Minimum	Side Setback Minimum	Building Height	Accessory Dwellings
Workshop / loft building lot	24 ft/ no max	2,400 sq ft / no max	5 ft - 15 ft (from front property line)	5 ft (from rear property line)	0 ft (from side property line)	48 feet max	Not permitted

- G. Open space district
1. Purpose: The open space district is intended to provide areas for active and passive recreation, site drainage and water retention, and natural vegetation. Structures built within the open space district shall be accessory to permitted uses.
2. Permitted uses:
- a. Natural vegetative areas, including areas planted with native Hawaiian plant species;
 - b. Agricultural, including, but not limited to community gardens, orchards, and nurseries;
 - c. Recreation, open land (parks and playgrounds, playfields, bicycle paths, and pedestrian trails);
 - d. Drainage ways, retention basins, reservoirs, dry wells, and other drainage or water storage facilities; and
 - e. Accessory buildings, including but not limited to pavilions, restrooms, and utility buildings; and
 - f. Utility facilities, minor.
3. Special uses. The following uses shall be permitted, subject to the approval of the appropriate planning commission:
- a. Cemetery including memorial parks and accessory facilities.

4. Permitted lot types:
 - a. No lot types are permitted in the open space district.

19.93.050 Additional standards for all districts.

Any tract of land or project site within the Pulelehua project district for which development is sought shall be subject to conditions imposed by the department of planning, the department of public works, the department of environmental management, and the State of Hawaii departments of health, transportation, and land and natural resources, pursuant to any applicable statute, ordinance, rule or regulation, and shall be further subject to the following standards:

1. Density. No more than 1,200 dwellings or dwelling units, including accessory dwellings, shall be developed in the Pulelehua project district.

2. Design. Each building or structure within Pulelehua shall be designed to conform to the Pulelehua design guidelines which shall be approved by the urban design review board.

3. Landscaping. A landscape planting plan shall be provided to specify plant species, sizes, quantities, and locations. Drought tolerant and/or slow growing hardy grasses, native and indigenous plants, shrubs, ground covers, and trees appropriate for local conditions shall be used to minimize the need for irrigation. Each landscape planted area shall be irrigated and maintained as needed. Landscape planting and irrigation plans shall be reviewed and approved by the department of planning.

4. Signs. A comprehensive sign plan shall be submitted for Pulelehua, subject to review and approval by the department of planning. The department of planning may refer the comprehensive sign plan to the urban design review board.

5. Special building elements. Special building elements, such as awnings/marquees, balconies, colonnades/arcades, porches, and outside open air dining, may project within the right-of-way, subject to chapter 16.26, Maui County Code, as amended.

6. Live/work mixed uses may be permitted only on live/work lots.

7. A dwelling or dwelling unit shall not be used for fractional ownership or as a transient vacation rental, time-share unit or bed and breakfast home.

8. Parking requirements. The intent of these parking regulations is to encourage a balance

between compact pedestrian oriented development and necessary car storage. Notwithstanding any provision in chapter 19.36 of this Code to the contrary, the off-street parking requirements shall be as follows:

a. The mixed-use land pattern within Pulelehua fosters more pedestrian trips and fewer automobile trips than other more automobile dependant commercial districts in Maui County. Therefore, a thirty percent reduction in the required number of parking spaces stated below shall be applied to all non-residential uses.

b. When the computation of required parking spaces results in a fractional number of spaces, the number of spaces required shall be rounded up to the nearest whole number when a fraction of a space is greater than or equal to .5 and rounded down when a fraction of a space is less than .5.

Required Parking Spaces by Use

Assembly area	*Church: 1 space per 100 sq ft of floor area *Library, community center, museum: 1 space per 300 sq ft of floor area *All other types of assembly: 1 space per 75 sq ft of floor area or 1 space per 5 fixed seats, whichever is greater
Accessory dwelling units	1 on-site space per unit
Automobile services	1 space per 200 sq ft of floor area or 40% of lot area, whichever is greater
Day care facility	1 space per 10 care recipients; 4 pick-up/drop-off spaces for facilities with more than 2 care recipients
Dwelling	2 on-site spaces per unit
Dwelling unit, multifamily	Studio: 1 on-site space per unit One-bedroom: 1 on-site space per unit Two or more bedrooms: 2 on-site spaces
Eating and drinking establishment	1 space per 100 sq ft of serving and dining areas
Education, specialized	1 space per each 10 students, plus 1 space per 400 sq ft of office floor space
Food and beverage retail	1 space per 500 sq ft
Food processing	1 space per 600 sq ft or 25% of the lot area, whichever is greater

General merchandise	1 space per 500 sq ft; 1 space per 600 sq ft for appliance, furniture, plumbing supply, automobile, marine supply and machinery stores requiring large floor spaces for product display
Outside open air dining	1 space per 500 sq ft
Personal business and services	*1 space per 300 sq ft for personal services such as medical and dental clinics, beauty salons, financial institutions and health spas *1 space per 400 sq ft for business services such as photocopy shops *1 space per 500 sq ft for all other business buildings
Recreation, indoor	*1 space per 600 sq ft for swimming pool, gymnasium, Wellness Center *1 space per 300 sq ft for all other types of indoor recreation
Repair, minor	1 space per 1500 sq ft for warehousing; 1 space per 600 sq ft or 20% of the lot area, whichever is greater, for all other
Storage, wholesale and distribution	1 space per 1500 sq ft for storage facilities; 1 space per 600 sq ft all other uses
Workshop/loft	1 space per 1500 sq ft for warehousing; 1 space per 600 sq ft all other uses

c. On-site parking shall be located in the rear, accessed by an alley. If a lot is not accessible by an alley, the parking location must be 20 feet minimum beyond the front facade of the principal building.

d. Off-site parking: Parking spaces located on-street and in commonly-owned lots may be used to meet parking requirements. Parking spaces identified for a particular use shall be located on the same lot it serves or within a distance of 400 feet at the nearest point on the lot, and as approved by the department of planning.

e. Joint-use parking: The planning director may permit joint-use of required parking spaces where two or more uses on the same lot are able to jointly use the same parking spaces because their demands occur at different times. The applicant shall submit an analysis showing the peak parking times of

RECEIVED

WE HEREBY CERTIFY that the foregoing BILL NO. 63 (2011)

7.11 NOV -4 PH 1: 4 1

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 4th day of November, 2011, by the following vote: OFFICE OF THE MAYOR

Dennis A. MATEO Chair	Joseph PONTANILLA Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	G Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 4th day of November, 2011.

DATED AT WAILUKU, MAUI, HAWAII, this 4th day of November, 2011.

DENNIS A. MATEO, CHAIR
Council of the County of Maui

Alorite."

E T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 4th DAY OF NOVEMBER, 2011.

Alan Arakawa

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3888 of the County of Maui, State of Hawaii.

Jeffrey T. Kuwada
JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on October 21, 2011.
Effective date of Ordinance November 18, 2011

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3888 the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
NOV 18 AM
OFFICE OF
COUNTY CLERK

ORDINANCE NO. 3889

BILL NO. 64 (2011)
DRAFT 1

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
AGRICULTURAL DISTRICT TO WEST MAUI PROJECT
DISTRICT 5 (PULELEHUA) (CONDITIONAL ZONING) FOR PROPERTY
SITUATED AT MAHINAHINA, KAHANA, LAHAINA, MAUI, HAWAII

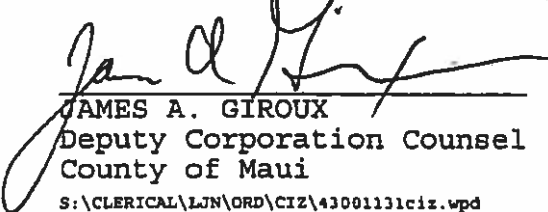
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.45 and 19.510, Maui County Code, a change in zoning from Agricultural District to West Maui Project District 5 (Pulelehua) (Conditional Zoning) is hereby granted for that certain parcel of land situated at Mahinahina, Kahana, Lahaina, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 4-3-001:082, of which 153.207 acres are contained in Lot 1, more particularly described in Exhibit "A", attached hereto and made a part hereof, and Tax Map Key Number (2) 4-3-001:083, of which 151.048 acres are contained in Lot 2, more particularly described in Exhibit "B", attached hereto and made a part hereof, comprising approximately 304 acres, and as shown in Land Zoning Map No. L-992, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

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

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

APPROVED AS TO FORM AND LEGALITY



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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EXHIBIT 2

**Mahinahina Mauka Subdivision
Description of Lot 1**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3
and 4, Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 9,575.26 feet North and
11,525.11 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the left, with the point of
curvature azimuth from the
radial point being:
285° 29' 23", and the point of
tangency azimuth from the
radial point being:
283° 20', having a radius of
6,075.00 feet, the chord
azimuth and distance being:
194° 24' 41.5" 228.63 feet to
a point;
2. 193° 20' 703.87 feet along same to a point;
3. 187° 37' 22" 100.50 feet along same to a point;
4. 194° 13' 16" 1,597.25 feet along same to a point;
5. 195° 47' 40" 393.60 feet along same to a point;

6. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 109° 49' 56", and the point of tangency azimuth from the radial point being: 111° 05' 09", having a radius of 4,925.00 feet, the chord azimuth and distance being: 200° 27' 32.5" 107.76 feet to a point;
7. 289° 40' 48" 100.00 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
8. 21° 33' 50.00 feet along Lot P-22 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
9. 291° 33' 55.00 feet along same to a point;
10. 201° 33' 51.80 feet along same to a point;
11. 289° 40' 48" 151.35 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
12. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 201° 33', and the point of tangency azimuth from the radial point being: 202° 37', having a radius of 1,970.00 feet, the chord azimuth and distance being: 292° 05' 36.67 feet to a point;

- | | | | |
|-----|----------|---------------|--|
| 13. | 292° 37' | 1,052.33 feet | along same to a point; |
| 14. | 308° 00' | 241.47 feet | along Lot P-24 of Kapalua -
West Maui Airport Subdivision,
being also along the remainder
of Grant 1166 to D. Baldwin,
J.F. Pogue and S.E. Bishop to a
point; |
| 15. | 298° 00' | 205.00 feet | along same to a point; |
| 16. | 208° 00' | 15.00 feet | along same to a point; |
| 17. | 298° 00' | 380.00 feet | along Lot 1 of Kapalua West -
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 18. | 28° 00' | 470.00 feet | along same to a point; |
| 19. | 32° 10' | 300.00 feet | along Lot P-4 of Kapalua - West
Maui Airport Subdivision, being
also along the remainder of
Grant 1166 to D. Baldwin, J.F.
Pogue and S.E. Bishop to a
point; |
| 20. | 19° 40' | 150.40 feet | along same to a point; |
| 21. | 28° 00' | 251.98 feet | along Lot 1 of Kapalua - West
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 22. | 298° 00' | 400.00 feet | along same to a point; |
| 23. | 25° 08' | 500.00 feet | along Lot 3 of Mahinahina Mauka
Subdivision, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 24. | 268° 40' | 180.00 feet | along same to a point; |
| 25. | 329° 52' | 430.00 feet | along same to a point; |

- | | | | |
|-----|----------|---------------|--|
| 26. | 340° 14' | 620.00 feet | along same to a point; |
| 27. | 15° 13' | 237.41 feet | along same to a point; |
| 28. | 105° 13' | 2,369.72 feet | along the Mahinahina 4 and
Honokowai boundary to a point; |
| 29. | 101° 42' | 638.81 feet | along same to the point of
beginning and containing a
Gross Area of 159.388 Acres and
excluding therefrom Exclusion
No. 1 (6.181 Acres) as
described below, for a Net Area
of 153.207 Acres. |

Exclusion No. 1:

Being Lot 2-B-2 of M.L.& P.-N.H.L.C. Subdivision, being also a portion of Grant 1166 to D. Baldwin J.F. Pogue and S.E. Bishop at Mahinahina 1, 2 & 3, Lahaina, Maui, Hawaii as described by Newcomer - Lee Land Surveyors, Inc., a Hawaii Corporation as described in Document Number 2001-200459, dated November 12, 2001 and recorded in the State of Hawaii, Bureau of Conveyances as follows:

Beginning at a ¼-inch pipe at the northeast corner of this parcel of land, the record coordinates (Honoapiilani Highway) of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 10,800.03 feet North and 10,293.01 feet West and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|-------------|---|
| 1. | 0° 00' 00" | 180.00 feet | along Lot 2-B-1 of said
M.L.& P.-N.H.L.C. Subdivision
and along the remainder of
said Grant 1166 to D. Baldwin,
J.F. Pogue and E. Bishop to a
¼-inch pipe; |
| 2. | 68° 35' 54" | 417.50 feet | along said same to a ¼-inch
pipe; |
| 3. | 104° 13' 16" | 418.65 feet | along same to a steel rebar
with plastic cap; |
| 4. | 113° 30' 00" | 94.16 feet | along same to a ¼-inch pipe; |

Thence along same on the arc of a curve to the right, concave northeasterly with a radius of 50.00 feet, the chord azimuth and distance being:

5. 152° 10' 00" 62.48 feet to a ¾-inch pipe;
6. 190° 50' 00" 62.06 feet along said Lot 2-B-1 of the M.L.& P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 D. Baldwin, J.F. Pogue and E. Bishop to a ¾-inch pipe;
7. 271° 14' 20" 69.10 feet along same to a steel rebar with plastic cap;
8. 193° 20' 00" 76.70 feet along same to a steel rebar with plastic cap;
9. 91° 14' 20" 72.49 feet along same to a ¾-inch pipe;
10. 190° 50' 00" 41.94 feet along same to a ¾-inch pipe;

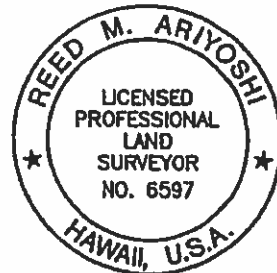
Thence along same on the arc of a curve to the right, concave southeasterly with a radius of 125.00 feet, the chord azimuth and distance being:

11. 243° 14' 30" 198.09 feet along said Lot 2-B-1 of the M.L.&P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 to D. Baldwin, J.F. Pogue and E. Bishop to a steel rebar with plastic cap;
12. 295° 39' 00" 298.78 feet along same to a ¾-inch pipe;
13. 270° 00' 00" 430.00 feet along same to the point of beginning and containing an area of 6.181 Acres, more or less.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 2 in favor of the State of Hawaii. (unrecorded)

2. A portion of an existing Access Easement "A" in favor of Lot A of the Gorilla Foundation Subdivision and the County of Maui. (unrecorded)
3. A portion of an existing Access Easement "B" in favor of Lot A of the Gorilla Foundation Subdivision. (unrecorded)
4. An existing Drainage Easement "A" in favor of the State of Hawaii.
5. An existing Access Easement "D" in favor of the County of Maui.
6. A portion of an existing Pedestrian and Vehicular Access Easement "A-1" in favor of the County of Maui.
7. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
8. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).
9. An existing utility lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

V:\Projdata\07proj\07013.00 - Pulelehua\Survey\Desc-Lot 1.docx

**Mahinahina Mauka Subdivision
Description of Lot 2**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3,
Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 12,692.88 feet North and
10,722.23 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the right, with the point of
curvature azimuth from the
radial point being:
112° 07' 58", and the point of
tangency azimuth from the
radial point being:
121° 09', having a radius of
4,925.00 feet, the chord
azimuth and distance being:
206° 38' 29" 774.30 feet to a
point;
2. 208° 36' 112.43 feet along same to a point;
3. 211° 09' 300.00 feet along same to a point;
4. 208° 53' 126.46 feet along same to a point;

5. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 301° 09', and the point of tangency azimuth from the radial point being: 297° 52' 31", having a radius of 5,065.00 feet, the chord azimuth and distance being: 209° 30' 45.5" 289.45 feet to a point;
6. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 297° 52' 31", and the point of tangency azimuth from the radial point being: 297° 25' 22", having a radius of 5,065.00 feet, the chord azimuth and distance being: 207° 38' 56.5" 40.00 feet to a point;
7. 293° 16' 1,464.20 feet along Lots 15, 14, 13, 10 and 9 of Kahana Hui Subdivision (File Plan 1708) to a point;
8. 208° 13' 40" 904.79 feet along Lots 9, 8, and 7 of Kahana Hui Subdivision (File Plan 1708) to a point;
9. 122° 44' 30" 484.71 feet along Lots 7 and 6 of Kahana Hui Subdivision (File Plan 1708) to a point;
10. 200° 00' 20" 2,077.79 feet along Lots 42 to 36, inclusive, 200 and 35 to 12, inclusive, of Kahana Ridge Subdivision (File Plan 2209) to a point;
11. 294° 36' 420.00 feet along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;

Thence along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop, and along the centerline of gulch for the next four (4) courses, the direct azimuth and distance between points along said centerline being:

- | | | | |
|-----|----------|---------------|---|
| 12. | 331° 22' | 545.00 feet; | |
| 13. | 341° 56' | 810.00 feet; | |
| 14. | 318° 50' | 330.00 feet; | |
| 15. | 296° 04' | 198.76 feet; | |
| 16. | 31° 20' | 758.43 feet | along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 17. | 118° 00' | 400.00 feet | along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 18. | 28° 00' | 300.00 feet | along same to a point; |
| 19. | 47° 20' | 105.72 feet | along Lot P-7 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 20. | 28° 00' | 1,700.06 feet | along Lots P-7, P-13 and P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 21. | 86° 20' | 152.74 feet | along Lot P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |

22. 118° 00' 420.00 feet along Lot 1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
23. 28° 00' 112.44 feet along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
24. 52° 50' 71.43 feet along Lot P-23 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
25. 28° 00' 515.00 feet along same to a point;
26. 96° 30' 182.73 feet along same to a point;
27. 112° 37' 1,095.94 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
28. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 202° 37', and the point of tangency azimuth from the radial point being: 201° 33', having a radius of 2,030.00 feet, the chord azimuth and distance being: 112° 05' 37.79 feet to a point;
29. 115° 17' 12" 306.78 feet along same to the point of beginning and containing an Area of 151.048 Acres.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 3 in favor of the State of Hawaii. (unrecorded)
2. Existing Drainage Easements "B" and "C" in favor of the State of Hawaii.
3. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
4. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).



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Exhibit "C"

CONDITIONS OF ZONING

1. That Maui Land & Pineapple Company, Inc. shall comply with the affordable housing provisions of Chapter 2.96, Maui County Code. In addition, Maui Land & Pineapple Company, Inc. shall construct the 125 units required by the State Land use Commission Order filed on June 30, 2006, for Kapalua Mauka.
2. That Maui Land & Pineapple Company, Inc. shall provide potable and non-potable water source, storage and transmission improvements necessary to serve Pulelehua in accordance with the requirements of the County of Maui Department of Water Supply.
3. That Maui Land & Pineapple Company, Inc. shall notify potential lot owners of the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which normal farming activities may be considered a nuisance.
4. That Maui Land & Pineapple Company, Inc. shall construct a 400 square-foot police substation in the Center Neighborhood District that includes a restroom, or provide an in-lieu cash contribution for the construction of a new West Maui Police Station, as determined by the Maui County Police Department.
5. That Maui Land & Pineapple Company, Inc. shall contribute land for the development of a public elementary school to the State of Hawaii Department of Education ("DOE") along with a cash contribution as determined by the DOE on a fair share basis, pursuant to the education contribution agreement for Pulelehua executed on June 16, 2006 by DOE and Maui Land & Pineapple Company, Inc. In addition to the education contribution agreement, Maui Land & Pineapple Company, Inc. shall: 1) dedicate an additional amount of land, contiguous with the land provided for in the educational contribution agreement, so that the DOE will receive a total of 13 acres; and 2) include the land dedicated in the contribution agreement, to be used toward the development of one (1) elementary school within the project to serve the region.
6. That Maui Land & Pineapple Company, Inc. shall pursue alternatives with the DOE for the design and construction of the elementary school in Pulelehua. Such alternatives shall include, but not be limited to, a design-build

arrangement whereby Maui Land & Pineapple Company, Inc., or a third party on Maui Land & Pineapple Company, Inc.'s behalf, may undertake the design and construction of public school facilities, subject to approval and reimbursement by the State of Hawaii, in order to expedite the delivery of school facilities.

7. That, as represented by Maui Land & Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan area shall be provided by Maui Land & Pineapple Company, Inc. to the County of Maui for all non-affordable dwelling units or lots developed at Pulelehua, at the rate of \$3,500 for each single family market unit or lot and gap group unit and \$1,500 for each multi-family market unit and gap group unit in the West Maui Project District 5 (Pulelehua), or the then prevailing County rate, whichever is higher. This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land & Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval.
8. That Maui Land & Pineapple Company, Inc. shall: (1) resolve the issue of the number of approved access points from Pulelehua to Honoapiilani Highway with the State Department of Transportation ("DOT") prior to public hearing on any Project District Phase II application for Pulelehua; and (2) execute an agreement with the DOT Airports Division to utilize Akahahele Street prior to Project District Phase II approval by the Maui Planning Commission.
9. That Maui Land & Pineapple Company, Inc. shall comply with requirements of the DOT to mitigate impacts associated with the development of Pulelehua, which may include, but not be limited to, traffic mitigation measures, roadway and intersection improvements, including roundabouts or signalization and pedestrian facilities, road widening for access to and use of Honoapiilani Highway and dedication of land within Pulelehua to accommodate the right-of-way for the Lahaina bypass as determined by and to the satisfaction of the DOT.
10. That whenever a 4-way stop or traffic signal is considered as a means of traffic control at an intersection within the project, roundabouts that meet current federal standards must be deemed unwarranted

prior to installing either a 4-way stop or traffic signal.

11. That Maui Land & Pineapple Company, Inc. shall notify all prospective buyers and/or lessees of the property of potential adverse impacts of aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations. Maui Land & Pineapple Company, Inc., shall provide covenants in the deed to initial purchasers releasing the County of Maui, State of Hawaii and the United States Government from all liability related to aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations.
12. That Maui Land & Pineapple Company, Inc., shall plan and prepare for lateral roadway connections from the Property to adjoining lands in cooperation with the respective neighboring landowners to provide potential alternate roadway routes to improve transportation capabilities in the area.
13. That the two 5-acre parks within Pulelehua shall be privately owned, maintained and dedicated for public use. The two 5-acre parks shall be developed to the satisfaction of the Department of Parks and Recreation in fulfillment of the Park Dedication ordinance.
14. That all other park sites within Pulelehua serving community, recreational, and neighborhood use shall be privately owned and maintained.
15. That Maui Land & Pineapple Company, Inc. designate and offer for sale to the County of Maui, at agricultural land rates, a 50-acre park site presently identified in the West Maui Community Plan at an alternate site mauka of the Honoapiilani Highway and along the Honoapiilani Highway in the vicinity of residential uses. The 50-acre park site shall be determined during the Community Plan Update process, provided that the park site not be located mauka of the Kapalua West Maui Airport.
16. That Maui Land & Pineapple Company, Inc. shall construct a private wastewater treatment plant, as approved by the Department of Health in the event the County of Maui's Lahaina Wastewater Reclamation Facility ("LWWRF") does not have the capacity or cannot be expanded to service Pulelehua. If Maui Land & Pineapple Company, Inc.

connects to the LWWRF, it shall pay a fair-share contribution, as determined by the County, to fund improvements at the LWWRF necessary to accommodate the additional flow, and construct wastewater transmission facilities to transport wastewater from Pulelehua to the appropriate County wastewater transmission facilities leading to the LWWRF. The fair-share contribution shall be paid prior to the issuance of the first building permit requiring a connection to the LWWRF for Pulelehua.

17. That Maui Land & Pineapple Company, Inc. shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.

This is a copy of Bureau of Conveyances
Document No. 2011-176094, and / or
Land Court Document No. _____,
affecting Certificate of Title No. _____,
recorded on 10.26.11 at 8:01 o'clock am.

TITLE GUARANTY OF HAWAII, INCORPORATED

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail () Pickup (): To:

Office of the County Clerk

County of Maui

200 South High Street

Wailuku, Hawai'i 96793

TITLE GUARANTY OF HAWAII HAS
FILED THIS DOCUMENT FOR RECORD
AS AN ACCOMMODATION ONLY. THIS
DOCUMENT HAS NOT BEEN
REVIEWED OR IN ANY WAY EXAMINED
AS TO ITS EFFECT ON REAL PROPERTY.

Total Number of Pages: 19

Affects Tax Map Key Nos. (Maui) 4-3-01:82 & :83

**UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL
ZONING**

THIS INDENTURE, made this 12th day of October 2011, by MAUI LAND & PINEAPPLE COMPANY, INC., a Hawai'i corporation, whose principal place of business is located in Makawao, Maui, Hawai'i, and whose mailing address is 870 Haliimaile Rd., Makawao, HI 96768, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel of land located at Lahaina, Maui, Hawai'i, comprised of approximately 153.207 acres, and identified for real property tax purposes by Tax Map Key No. (2) 4-3-01:82 (hereinafter, "Lot 1"), and also that certain parcel of land located at Lahaina, Maui, Hawai'i, comprised of approximately 151.048 acres, and identified for real property tax purposes by Tax Map Key No. (2) 4-3-01:83 (hereinafter, "Lot 2"). Collectively, Lot 1 and Lot 2 shall be referred to herein as the "PROPERTY".

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Property, comprised of approximately 304.255 acres in total, which is more particularly described in Exhibit "1" (Description of Lot 1) and Exhibit "2" (Description of Lot 2), which are attached hereto and made a part hereof, and which are more particularly identified in Land Zoning Map No. L-992 and in Community Plan Map No. CP-818, which are on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 11-113, that said establishment of zoning be approved for passage on first reading subject to certain conditions, pursuant to Section 19.510.050, Maui County Code; and

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

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning;

2. That until written release by the County of Maui, the Property, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawai'i, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

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

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

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of West Maui Project District 5 (Pulelehua) conditional zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

6. That the Declarant agrees to develop said Property in conformance with the conditions set forth in Exhibit "3", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

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

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

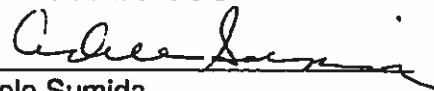
IN WITNESS WHEREOF, the undersigned has executed this Declaration the day and year first above written.

DECLARANT:

MAUI LAND & PINEAPPLE COMPANY, INC.

By 

Ryan Churchill
Its President & COO

By 

Adele Sumida
Its Controller & Secretary

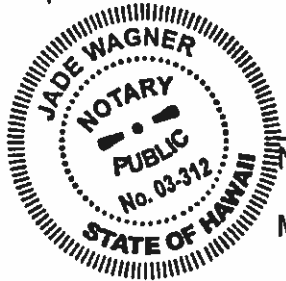
APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 12th day of October, 2011, before me appeared Ryan Churchill and Adele Sumida, satisfactorily proven to me, who, by me duly sworn, did say that they are the President & COO and Controller & Secretary, respectively, of MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation, and that the instrument was signed in behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.



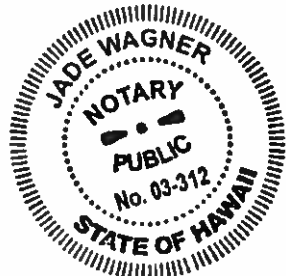
Jade Wagner

Notary Public, State of Hawaii

My Commission expires: June 1, 2015

Doc. Date: <u>undated at time of notarization</u>	# Pages: <u>-19-</u>
Name: <u>JADE WAGNER</u>	Second Circuit
Doc. Description: <u>Unilateral Agreement and Declaration for Conditional Zoning</u>	
Notary Signature: <u>Jade Wagner</u>	Date: <u>Oct 12, 2011</u>

NOTARY CERTIFICATION



**Mahinahina Mauka Subdivision
Description of Lot 1**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3
and 4, Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 9,575.26 feet North and
11,525.11 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the left, with the point of
curvature azimuth from the
radial point being:
285° 29' 23", and the point of
tangency azimuth from the
radial point being:
283° 20', having a radius of
6,075.00 feet, the chord
azimuth and distance being:
194° 24' 41.5" 228.63 feet to
a point;
2. 193° 20' 703.87 feet along same to a point;
3. 187° 37' 22" 100.50 feet along same to a point;
4. 194° 13' 16" 1,597.25 feet along same to a point;
5. 195° 47' 40" 393.60 feet along same to a point;

6. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 109° 49' 56", and the point of tangency azimuth from the radial point being: 111° 05' 09", having a radius of 4,925.00 feet, the chord azimuth and distance being: 200° 27' 32.5" 107.76 feet to a point;
7. 289° 40' 48" 100.00 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
8. 21° 33' 50.00 feet along Lot P-22 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
9. 291° 33' 55.00 feet along same to a point;
10. 201° 33' 51.80 feet along same to a point;
11. 289° 40' 48" 151.35 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
12. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 201° 33', and the point of tangency azimuth from the radial point being: 202° 37', having a radius of 1,970.00 feet, the chord azimuth and distance being: 292° 05' 36.67 feet to a point;

- | | | | |
|-----|----------|---------------|--|
| 13. | 292° 37' | 1,052.33 feet | along same to a point; |
| 14. | 308° 00' | 241.47 feet | along Lot P-24 of Kapalua -
West Maui Airport Subdivision,
being also along the remainder
of Grant 1166 to D. Baldwin,
J.F. Pogue and S.E. Bishop to a
point; |
| 15. | 298° 00' | 205.00 feet | along same to a point; |
| 16. | 208° 00' | 15.00 feet | along same to a point; |
| 17. | 298° 00' | 380.00 feet | along Lot 1 of Kapalua West -
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 18. | 28° 00' | 470.00 feet | along same to a point; |
| 19. | 32° 10' | 300.00 feet | along Lot P-4 of Kapalua - West
Maui Airport Subdivision, being
also along the remainder of
Grant 1166 to D. Baldwin, J.F.
Pogue and S.E. Bishop to a
point; |
| 20. | 19° 40' | 150.40 feet | along same to a point; |
| 21. | 28° 00' | 251.98 feet | along Lot 1 of Kapalua - West
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 22. | 298° 00' | 400.00 feet | along same to a point; |
| 23. | 25° 08' | 500.00 feet | along Lot 3 of Mahinahina Mauka
Subdivision, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point; |
| 24. | 268° 40' | 180.00 feet | along same to a point; |
| 25. | 329° 52' | 430.00 feet | along same to a point; |

- | | | | |
|-----|----------|---------------|--|
| 26. | 340° 14' | 620.00 feet | along same to a point; |
| 27. | 15° 13' | 237.41 feet | along same to a point; |
| 28. | 105° 13' | 2,369.72 feet | along the Mahinahina 4 and
Honokowai boundary to a point; |
| 29. | 101° 42' | 638.81 feet | along same to the point of
beginning and containing a
Gross Area of 159.388 Acres and
excluding therefrom Exclusion
No. 1 (6.181 Acres) as
described below, for a Net Area
of 153.207 Acres. |

Exclusion No. 1:

Being Lot 2-B-2 of M.L.& P.-N.H.L.C. Subdivision, being also a portion of Grant 1166 to D. Baldwin J.F. Pogue and S.E. Bishop at Mahinahina 1, 2 & 3, Lahaina, Maui, Hawaii as described by Newcomer - Lee Land Surveyors, Inc., a Hawaii Corporation as described in Document Number 2001-200459, dated November 12, 2001 and recorded in the State of Hawaii, Bureau of Conveyances as follows:

Beginning at a ¾-inch pipe at the northeast corner of this parcel of land, the record coordinates (Honoapiilani Highway) of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 10,800.03 feet North and 10,293.01 feet West and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|-------------|---|
| 1. | 0° 00' 00" | 180.00 feet | along Lot 2-B-1 of said
M.L.& P.-N.H.L.C. Subdivision
and along the remainder of
said Grant 1166 to D. Baldwin,
J.F. Pogue and E. Bishop to a
¾-inch pipe; |
| 2. | 68° 35' 54" | 417.50 feet | along said same to a ¾-inch
pipe; |
| 3. | 104° 13' 16" | 418.65 feet | along same to a steel rebar
with plastic cap; |
| 4. | 113° 30' 00" | 94.16 feet | along same to a ¾-inch pipe; |

Thence along same on the arc of a curve to the right, concave northeasterly with a radius of 50.00 feet, the chord azimuth and distance being:

5. 152° 10' 00" 62.48 feet to a ¼-inch pipe;
6. 190° 50' 00" 62.06 feet along said Lot 2-B-1 of the M.L. & P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 D. Baldwin, J.F. Pogue and E. Bishop to a ¼-inch pipe;
7. 271° 14' 20" 69.10 feet along same to a steel rebar with plastic cap;
8. 193° 20' 00" 76.70 feet along same to a steel rebar with plastic cap;
9. 91° 14' 20" 72.49 feet along same to a ¼-inch pipe;
10. 190° 50' 00" 41.94 feet along same to a ¼-inch pipe;

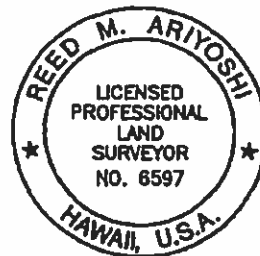
Thence along same on the arc of a curve to the right, concave southeasterly with a radius of 125.00 feet, the chord azimuth and distance being:

11. 243° 14' 30" 198.09 feet along said Lot 2-B-1 of the M.L. & P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 to D. Baldwin, J.F. Pogue and E. Bishop to a steel rebar with plastic cap;
12. 295° 39' 00" 298.78 feet along same to a ¼-inch pipe;
13. 270° 00' 00" 430.00 feet along same to the point of beginning and containing an area of 6.181 Acres, more or less.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 2 in favor of the State of Hawaii. (unrecorded)

2. A portion of an existing Access Easement "A" in favor of Lot A of the Gorilla Foundation Subdivision and the County of Maui. (unrecorded)
3. A portion of an existing Access Easement "B" in favor of Lot A of the Gorilla Foundation Subdivision. (unrecorded)
4. An existing Drainage Easement "A" in favor of the State of Hawaii.
5. An existing Access Easement "D" in favor of the County of Maui.
6. A portion of an existing Pedestrian and Vehicular Access Easement "A-1" in favor of the County of Maui.
7. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
8. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).
9. An existing utility lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

V:\Projdata\07proj\07013.00 - Pulelehua\Survey\Desc-Lot 1.docx

**Mahinahina Mauka Subdivision
Description of Lot 2**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3,
Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 12,692.88 feet North and
10,722.23 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the right, with the point of
curvature azimuth from the
radial point being:
112° 07' 58", and the point of
tangency azimuth from the
radial point being:
121° 09', having a radius of
4,925.00 feet, the chord
azimuth and distance being:
206° 38' 29" 774.30 feet to a
point;
2. 208° 36' 112.43 feet along same to a point;
3. 211° 09' 300.00 feet along same to a point;
4. 208° 53' 126.46 feet along same to a point;

EXHIBIT "2"

5. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 301° 09', and the point of tangency azimuth from the radial point being: 297° 52' 31", having a radius of 5,065.00 feet, the chord azimuth and distance being: 209° 30' 45.5" 289.45 feet to a point;
6. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 297° 52' 31", and the point of tangency azimuth from the radial point being: 297° 25' 22", having a radius of 5,065.00 feet, the chord azimuth and distance being: 207° 38' 56.5" 40.00 feet to a point;
7. 293° 16' 1,464.20 feet along Lots 15, 14, 13, 10 and 9 of Kahana Hui Subdivision (File Plan 1708) to a point;
8. 208° 13' 40" 904.79 feet along Lots 9, 8, and 7 of Kahana Hui Subdivision (File Plan 1708) to a point;
9. 122° 44' 30" 484.71 feet along Lots 7 and 6 of Kahana Hui Subdivision (File Plan 1708) to a point;
10. 200° 00' 20" 2,077.79 feet along Lots 42 to 36, inclusive, 200 and 35 to 12, inclusive, of Kahana Ridge Subdivision (File Plan 2209) to a point;
11. 294° 36' 420.00 feet along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;

Thence along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop, and along the centerline of gulch for the next four (4) courses, the direct azimuth and distance between points along said centerline being:

- | | | | |
|-----|----------|---------------|---|
| 12. | 331° 22' | 545.00 feet; | |
| 13. | 341° 56' | 810.00 feet; | |
| 14. | 318° 50' | 330.00 feet; | |
| 15. | 296° 04' | 198.76 feet; | |
| 16. | 31° 20' | 758.43 feet | along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 17. | 118° 00' | 400.00 feet | along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 18. | 28° 00' | 300.00 feet | along same to a point; |
| 19. | 47° 20' | 105.72 feet | along Lot P-7 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 20. | 28° 00' | 1,700.06 feet | along Lots P-7, P-13 and P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 21. | 86° 20' | 152.74 feet | along Lot P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |

22. 118° 00' 420.00 feet along Lot 1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
23. 28° 00' 112.44 feet along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
24. 52° 50' 71.43 feet along Lot P-23 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
25. 28° 00' 515.00 feet along same to a point;
26. 96° 30' 182.73 feet along same to a point;
27. 112° 37' 1,095.94 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
28. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 202° 37', and the point of tangency azimuth from the radial point being: 201° 33', having a radius of 2,030.00 feet, the chord azimuth and distance being: 112° 05' 37.79 feet to a point;
29. 115° 17' 12" 306.78 feet along same to the point of beginning and containing an Area of 151.048 Acres.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 3 in favor of the State of Hawaii. (unrecorded)
2. Existing Drainage Easements "B" and "C" in favor of the State of Hawaii.
3. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
4. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).



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CONDITIONS OF ZONING

1. That Maui Land & Pineapple Company, Inc. shall comply with the affordable housing provisions of Chapter 2.96, Maui County Code. In addition, Maui Land & Pineapple Company, Inc. shall construct the 125 units required by the State Land use Commission Order filed on June 30, 2006, for Kapalua Mauka.
2. That Maui Land & Pineapple Company, Inc. shall provide potable and non-potable water source, storage and transmission improvements necessary to serve Pulelehua in accordance with the requirements of the County of Maui Department of Water Supply.
3. That Maui Land & Pineapple Company, Inc. shall notify potential lot owners of the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which normal farming activities may be considered a nuisance.
4. That Maui Land & Pineapple Company, Inc. shall construct a 400 square-foot police substation in the Center Neighborhood District that includes a restroom, or provide an in-lieu cash contribution for the construction of a new West Maui Police Station, as determined by the Maui County Police Department.
5. That Maui Land & Pineapple Company, Inc. shall contribute land for the development of a public elementary school to the State of Hawaii Department of Education ("DOE") along with a cash contribution as determined by the DOE on a fair share basis, pursuant to the education contribution agreement for Pulelehua executed on June 16, 2006 by DOE and Maui Land & Pineapple Company, Inc. In addition to the education contribution agreement, Maui Land & Pineapple Company, Inc. shall: 1) dedicate an additional amount of land, contiguous with the land provided for in the educational contribution agreement, so that the DOE will receive a total of 13 acres; and 2) include the land dedicated in the contribution agreement, to be used toward the development of one (1) elementary school within the project to serve the region.
6. That Maui Land & Pineapple Company, Inc. shall pursue alternatives with the DOE for the design and construction of the elementary school in Pulelehua. Such alternatives shall include, but not be limited to, a design-build

EXHIBIT "3"

arrangement whereby Maui Land & Pineapple Company, Inc., or a third party on Maui Land & Pineapple Company, Inc.'s behalf, may undertake the design and construction of public school facilities, subject to approval and reimbursement by the State of Hawaii, in order to expedite the delivery of school facilities.

7. That, as represented by Maui Land & Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan area shall be provided by Maui Land & Pineapple Company, Inc. to the County of Maui for all non-affordable dwelling units or lots developed at Pulelehua, at the rate of \$3,500 for each single family market unit or lot and gap group unit and \$1,500 for each multi-family market unit and gap group unit in the West Maui Project District 5 (Pulelehua), or the then prevailing County rate, whichever is higher. This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land & Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval.
8. That Maui Land & Pineapple Company, Inc. shall: (1) resolve the issue of the number of approved access points from Pulelehua to Honoapiilani Highway with the State Department of Transportation ("DOT") prior to public hearing on any Project District Phase II application for Pulelehua; and (2) execute an agreement with the DOT Airports Division to utilize Akahahele Street prior to Project District Phase II approval by the Maui Planning Commission.
9. That Maui Land & Pineapple Company, Inc. shall comply with requirements of the DOT to mitigate impacts associated with the development of Pulelehua, which may include, but not be limited to, traffic mitigation measures, roadway and intersection improvements, including roundabouts or signalization and pedestrian facilities, road widening for access to and use of Honoapiilani Highway and dedication of land within Pulelehua to accommodate the right-of-way for the Lahaina bypass as determined by and to the satisfaction of the DOT.
10. That whenever a 4-way stop or traffic signal is considered as a means of traffic control at an intersection within the project, roundabouts that meet current federal standards must be deemed unwarranted

prior to installing either a 4-way stop or traffic signal.

11. That Maui Land & Pineapple Company, Inc. shall notify all prospective buyers and/or lessees of the property of potential adverse impacts of aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations. Maui Land & Pineapple Company, Inc., shall provide covenants in the deed to initial purchasers releasing the County of Maui, State of Hawaii and the United States Government from all liability related to aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations.
12. That Maui Land & Pineapple Company, Inc., shall plan and prepare for lateral roadway connections from the Property to adjoining lands in cooperation with the respective neighboring landowners to provide potential alternate roadway routes to improve transportation capabilities in the area.
13. That the two 5-acre parks within Pulelehua shall be privately owned, maintained and dedicated for public use. The two 5-acre parks shall be developed to the satisfaction of the Department of Parks and Recreation in fulfillment of the Park Dedication ordinance.
14. That all other park sites within Pulelehua serving community, recreational, and neighborhood use shall be privately owned and maintained.
15. That Maui Land & Pineapple Company, Inc. designate and offer for sale to the County of Maui, at agricultural land rates, a 50-acre park site presently identified in the West Maui Community Plan at an alternate site mauka of the Honoapiilani Highway and along the Honoapiilani Highway in the vicinity of residential uses. The 50-acre park site shall be determined during the Community Plan Update process, provided that the park site not be located mauka of the Kapalua West Maui Airport.
16. That Maui Land & Pineapple Company, Inc. shall construct a private wastewater treatment plant, as approved by the Department of Health in the event the County of Maui's Lahaina Wastewater Reclamation Facility ("LWWRP") does not have the capacity or cannot be expanded to service Pulelehua. If Maui Land & Pineapple Company, Inc.

connects to the LWWRP, it shall pay a fair-share contribution, as determined by the County, to fund improvements at the LWWRP necessary to accommodate the additional flow, and construct wastewater transmission facilities to transport wastewater from Pulelehua to the appropriate County wastewater transmission facilities leading to the LWWRP. The fair-share contribution shall be paid prior to the issuance of the first building permit requiring a connection to the LWWRP for Pulelehua.

17. That Maui Land & Pineapple Company, Inc. shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.

WE HEREBY CERTIFY that the foregoing BILL NO. 64 (2011), Draft 1

RECEIVED

2011 NOV -4 PM 1:41

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 4th day of November, 2011, by the following vote:

OFFICE OF THE MAYOR

Dennis A MATEO Chair	Joseph PONTANILLA Vice-Chair	Gladys C BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G COUCH, JR.	G Riki HOKAMA	Michael P VICTORINO	Michael B WHITE
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 4th day of November, 2011.

DATED AT WAILUKU, MAUI, HAWAII, this 4th day of November, 2011.

DENNIS A. MATEO, CHAIR
Council of the County of Maui

JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 18 DAY OF November, 2011.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3889 of the County of Maui, State of Hawaii.

JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on October 21, 2011.
Effective date of Ordinance November 18, 2011

RECEIVED
2011 NOV 18 AM 10:18
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3889, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui