

LAND USE COMMISSION
STATE OF HAWAII
BEFORE THE LAND USE COMMISSION

2020 JUN 26 A 10:48
OF THE STATE OF HAWAII

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

PETITIONERS' EXHIBITS "36" – "38"

Evidentiary Hearing:
Date: Tentatively July 8, 2020
Time: TBD

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Attorneys for Petitioners
PIILANI PROMENADE SOUTH, LLC and
PIILANI PROMENADE NORTH, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	Docket No. A94-706
)	
KAONOULU RANCH to Amend the)	SUPPLEMENTAL
Agricultural Land Use District Boundary)	DECLARATION OF
into the Urban Land Use District for)	ROBERT D. POYNOR; EXHIBITS
Approximately 88 acres at Kaonoulu,)	"M" - "N"
Makawao-Wailuku, Maui, Hawai'i; Tax)	
Map Key Nos. (2) 2-2-02; por. 15 and)	
3-9-01:16)	
)	
)	
)	
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)	

SUPPLEMENTAL DECLARATION OF ROBERT D. POYNOR

I, ROBERT D. POYNOR, hereby declare that:

1. I am the Vice President of Sarofim Realty Advisors.
2. This declaration is submitted in reference to the above-captioned case.
3. Unless otherwise indicated, all statements made herein are based on personal knowledge.
4. I am an individual over eighteen (18) years of age and under no legal or mental disability, and I am competent to testify, having personal knowledge of the matters set forth herein.
5. Piilani Promenade South, LLC ("PPS") and Piilani Promenade North, LLC ("PPN") (PPN and PPS are collectively, "Piilani") are wholly owned subsidiaries of an entity managed by Sarofim Realty Advisors. Sarofim Realty Advisors is a registered investment advisor founded in 1982 and provides real estate investment management services which include entitlements, development, construction and asset management.

Exhibit 36

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6. The State of Hawaii, Land Use Commission reclassified certain lands described in that certain Findings of Fact, Conclusions of Law, and Decision and Order, filed on February 10, 1995, in Docket No. A94-706 (the "D&O"). The lands reclassified pursuant to the D&O are referred to therein (and defined herein) as the "Petition Area" or the "Property".

7. Piilani and Honua'ula Partners, LLC ("HPL") are collectively the "Petitioner" under the D&O. Piilani collectively owns that portion of the Petition Area designated by the following Tax Map Key parcel numbers: (2) 3-9-001:016, 170, 171, 172, 173, and 174 (collectively, the "Piilani Parcels"). Honua'ula Partners, LLC ("HPL") owns that portion of the Petition Area designated by Tax Map Key parcel number (2) 3-9-001:169 (the "HPL Parcel").

8. Condition 15 of the D&O requires that Petitioner "... develop the Property in substantial compliance with the representations made to the Commission. ..."

9. The findings of fact ("FOF") and conclusions of law set forth in the D&O define the representations made to the Commission (collectively, the "Representations Made to the Commission"). In Docket No. A94-706, the Representations Made to the Commission consist of the items listed in this Section 9 hereinbelow. Unless otherwise defined herein, capitalized terms used herein and defined in the D&O shall have the meanings ascribed thereto in the D&O:

- a. Petitioner propose to develop the Property as the Kaonoulu Industrial Park, a 123-lot commercial and light industrial subdivision. Improved lots are proposed to be sold in fee simple or leased on a long-term basis. The size of the lots will range from approximately 14,000 square feet to 54,000 square feet. See FOF 21.
- b. The Project would conform with the proposed Light Industrial designation for the Property. Light industrial uses include warehousing, light assembly, and service and craft-type industrial operations. See FOF 32.
- c. Petitioner has represented that the Property presents a convenient location for future commercial and light industrial development, resulting in the reduction of transportation and other costs. See FOF 37.

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- d. On a short-term basis, the Project will support construction and construction related employment. Over the long term, the Project will provide light industrial and commercial employment opportunities for Maui residents. FOF 39.
- e. Petitioner has represented that the Project will not adversely affect adjoining properties and sedimentation hazards to coastal waters and downstream properties will be minimized. See FOF 44.
- f. Petitioner will work with the Historic Preservation Division on a long-term preservation plan. See FOF 53.
- g. The landscaping plan proposed for the Project will minimize the visual impacts of the proposed development on the Project's relatively long frontage along Piilani Highway. Design controls for setbacks will be imposed within the Project to further foster mitigation of visual impacts. See FOF 54.
- h. Petitioner has represented that site planning, architecture, landscape designs, signage and lighting will be addressed during the zoning process. See FOF 54.
- i. Landscaping materials and the irrigation system for the Project will apply County xeriscape principles and take into account Kihei's environs and water conditions. See FOF 56.
- j. Heavy manufacturing and processing of raw materials will not be allowed in the Project. Mitigation measures include limiting construction activities to daylight working hours, and maximum setbacks. See FOF 57.
- k. Petitioner has represented that dust control measures will be implemented during construction to minimize expected wind-blown emissions. See FOF 58.
- l. Petitioner has represented that it will develop a solid waste management plan in coordination with the Solid Waste Division of the County's Department of Public Works and Waste Management ("DPWWM"), that the Project will be serviced by a private refuse collection company, and that waste will be disposed of in the Central Maui landfill. See FOF 61.
- m. Electrical and telephone trunk lines will be extended underground across Piilani Highway to the Petition Area from Kaonoulu Street. The distribution system for these facilities will also be placed underground in accordance with the provisions of the Maui County Code. See FOF 67.
- n. Primary access to the Property is proposed from Piilani Highway through a new segment of East Kaonoulu Street, within an 80-foot wide right of way, designed to accommodate five (5) eleven-foot (11') lanes of traffic. The four access roadways into the Project off of East Kaonoulu Street are proposed within a 64-foot right-of-way to accommodate four (4) ten-foot (10') lanes. All other interior roadways will

have a thirty-six (36) feet wide pavement section within a 60-foot right-of-way. See FOF 69.

- o. The proposed project would change the existing T-intersection of Piilani Highway and Kaonoulu Street to a cross intersection and alter the traffic demand in the vicinity of Kaonoulu Street. Left turn storage lanes and a deceleration lane for right turns would be required to the existing two-lane Piilani Highway to accommodate the proposed industrial subdivision. Improvements to accommodate traffic would also be required on the makai side of the Kaonoulu intersection, such as a conversion of the existing right turn only lane to a right turn and through option lane. This improvement would require striping, signage, and may require the removal and/or relocation of a small traffic island. See FOF 70.
- p. A road widening strip will also be provided along the westerly boundary of the project for future widening of Piilani Highway. Widening of the highway will not affect the landscaping setback planned for the frontage along Piilani Highway. See FOF 71.
- q. The traffic generated by the Kaonoulu Industrial Park project by the year 2000 would also justify signalization at the intersection of the proposed subdivision and Piilani Highway. See FOF 73.
- r. Petitioner has represented that it will construct all streets within the industrial park to County standards in compliance with the comment by DPWWM that streets include concrete curbs and gutters, six-foot sidewalks, and four feet wide planting strips, which improvements would be dedicated to the County upon completion. See FOF 74.
- s. Petitioner has represented that water for the Project will be provided by the domestic system servicing the area and that the average daily demand for the Project is estimated to be approximately 429,500 gallons per day based on Department of Water Supply criteria of 6,000 gallons per acre per day. See FOF 77.
- t. Petitioner also represented that a new 12-inch line is proposed to be installed between Ohukai Road and the Project site. An easement would have to be obtained across land owned by Haleakala Ranch. A new distribution system would be installed within the subdivision streets to meet the required fire and domestic flow demands of the Project. Fire hydrants would be installed at appropriate intervals throughout the project. The existing 36-inch transmission line which extends diagonally across the Petition Area may be relocated within the subdivision street right-of-ways. See FOF 78.
- u. The Project when completed will generate an average flow of approximately 300,000 gallons per day of wastewater. See FOF 82.

- v. A new wastewater collection system will be installed within the subdivision streets to be connected by gravity lines to the existing sewer system located makai of Piilani Highway at the intersection of Kaiola and Kenolio Streets. Petitioner is willing to participate with the County and other users in upgrading the wastewater transmission treatment and reclamation facilities on an equitable pro-rata basis if necessary. See FOF 83.
- w. Petitioner has represented that there is a little over half a million-gallon capacity left in the existing Kihei Wastewater Treatment Facility. The County's capacity ordinance for the allocation of commercial use is presently depleted. Petitioner has the option of going to the County Council to request the release of more capacity for commercial use. However, the expansion of the County wastewater facility by another 2 million gallons per day is expected to be completed by late 1996 and will be adequate to handle the needs of the Kaonoulu Industrial Park. See FOF 84.
- x. The Project is expected to generate 228.8 cfs of on-site drainage volume, representing a net increase of approximately 168.3 cfs of surface runoff due to the proposed development. See FOF 87.
- y. Petitioner has represented that various erosion control measures will be in place during development of the Project. The Project will not adversely affect adjoining properties and sedimentation hazards to coastal waters and downstream properties will be minimized. See FOF 89.
- z. Petitioner has represented two options for on-site drainage improvements, neither of which will increase the runoff into Kulanihakoi Gulch. One option is to send all runoff generated from the individual lots to subsurface systems constructed in each lot and buried in the parking lot; while runoff from the common areas of the Project, approximately 45 cfs, would be collected into a storm drain system and directed to Kulanihakoi Gulch. The other option is to build a detention basin offsite and mauka of the Project, on other property owned by the Petitioner to retain and release offsite runoff slowly while onsite runoff will flow directly into Kulanihakoi Gulch. The detention basin will be designed in a way that does not release the runoff flowing into Kulanihakoi Gulch from both offsite and the post-development project site beyond the current levels. See FOF 90.
- aa. Petitioner proposes, as on off-site drainage improvement, construction of a concrete-lined diversion ditch along the easterly boundary of the Project site. The diversion ditch would intercept the off-site surface runoff which presently flows through the Project site and divert it around the Project site, where it will be discharged into Kulanihakoi Gulch as it is presently doing. See FOF 91.
- bb. The drainage improvements will mitigate silt and maintenance of the system will be spelled out in the Covenants and Restrictions for the Project. See FOF 92.

cc. Petitioner has represented that it is willing to discuss its participation in improvements to Kulanihakoi Gulch. See FOF 93.

dd. The Project is proposed as an industrial park which would be sold in fee simple to purchasers or leased on a long-term basis. Uses are anticipated to primarily be light industrial and commercial uses oriented to serve the Kihei-Makena community. See FOF 96.

10. On behalf of Piilani, I hereby affirm that the Piilani Parcels shall be developed in substantial compliance with the Representations Made to the Commission.


11. Attached hereto as **Exhibit "M"** is a copy of the May 1994 site plan for Kaonoulu Industrial Park, prepared by the original petitioner, Kaonoulu Ranch.

12. Attached hereto as **Exhibit "N"** is a copy of the site plan for the Petition Area, prepared by Piilani and HPL.

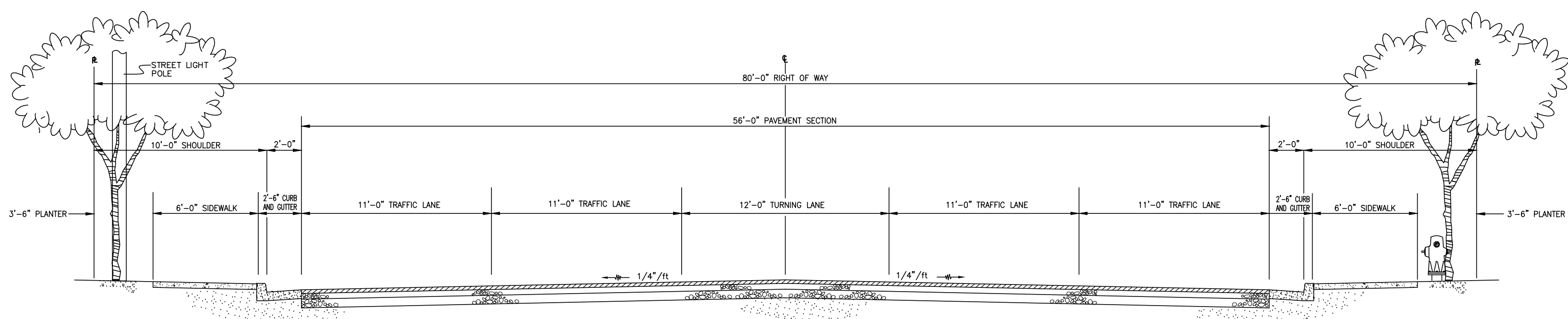
13. Construction plans for the development of the Piilani Parcels will incorporate current governmental code requirements and construction standards.

I, ROBERT D. POYNOR, declare under penalty of law that the foregoing is true and correct.

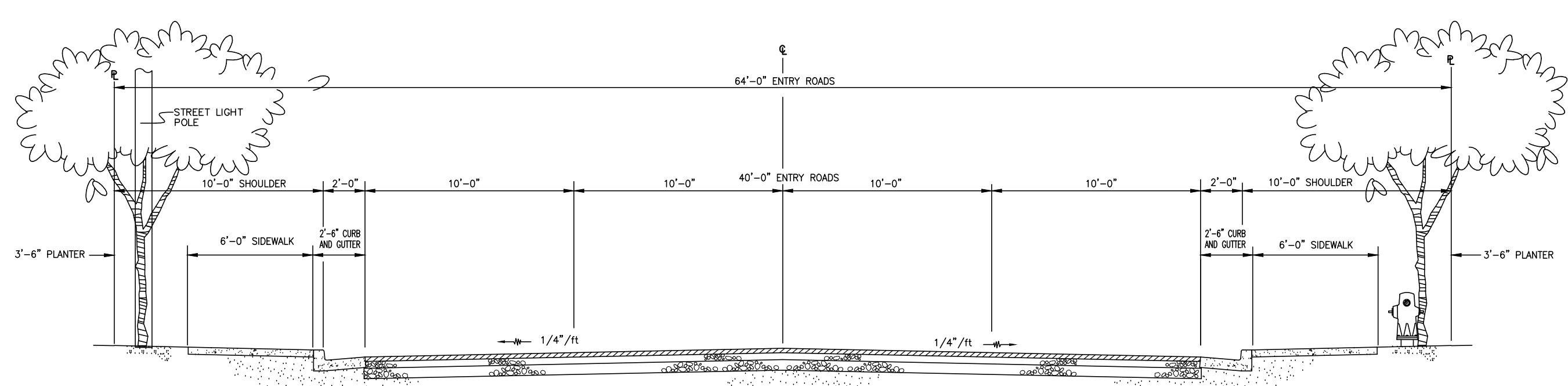
Executed this 24 day of June, 2020, at DALLAS, TEXAS.



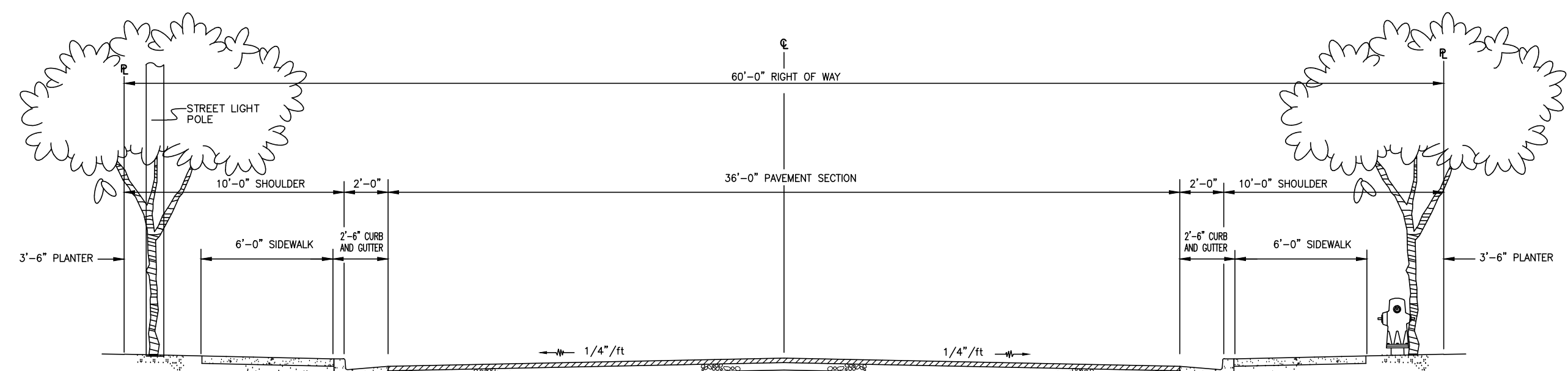
ROBERT D. POYNOR



TYPICAL ROADWAY SECTION — EAST KAONOULU STREET
SCALE: 3/16"=1'-0"



TYPICAL ROADWAY SECTION — MAIN ENTRY ROADS
SCALE: 3/16"=1'-0"



TYPICAL ROADWAY SECTION — INTERNAL ROADS
SCALE: 3/16"=1'-0"



TRUE NORTH
SCALE: 1 IN. = 100 FT.

CONCEPTUAL DEVELOPMENT PLAN KAONOULU INDUSTRIAL PARK

T.M.K. 3-9-01:16 AND
T.M.K. 2-2-02: PORTION OF 15
KIHAI, MAUI, HAWAII

SCALE: 1 IN. = 100 FT.

OWNER: KAONOULU RANCH
ADDRESS: WAILUKU, MAUI

LEGEND

- | | |
|----------------|-----------------------------|
| — BUILDING | INDEX, INTERMEDIATE CONTOUR |
| — PAVED ROAD | APPROXIMATE CONTOUR |
| — UNPAVED ROAD | SPOT ELEVATION |
| — FENCE | DEPRESSION CONTOUR |
| — WALL | TREE, TREELINE, SCRUB |
| ○ POWER POLE | PALM TREE |
| — DRAIN | HV CONTROL |

NOTES:

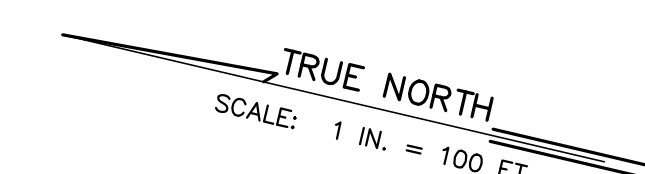
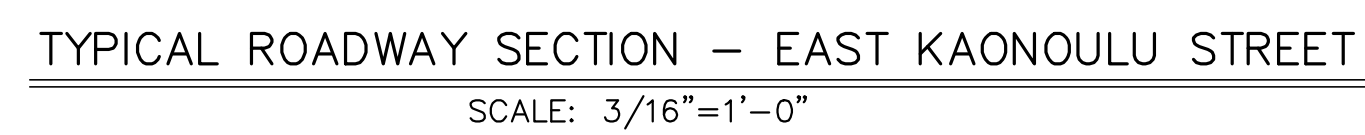
DIAMETER OF R.O.W. FOR CULDESAC = 94'
DIAMETER TO CURB FACE = 74'
DIAMETER TO EDGE PAVEMENT = 70'

Exhibit M















WARREN S. UNEMORI — ENGINEERING, INC.
Wells Street Professional Center — Suite 403
2145 Wells Street — Wailuku, Maui, Hawaii 96793
(808)242-4403 FAX: (808)244-4856

May 1994

30"x42"
WSUE #93031



OWNER: KAONOULU RANCH
ADDRESS: WAILUKU, MAUI

	BUILDING		INDEX, INTERMEDIATE CONTOUR
	PAVED ROAD		APPROXIMATE CONTOUR
	UNPAVED ROAD		SPOT ELEVATION
	FENCE		DEPRESSION CONTOUR
	WALL		TREE, TREELINE, SCRUB
	POWER POLE		PALM TREE
	DRAIN		HV CONTROL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	Docket No. A94-706
)	
KAONOULU RANCH to Amend the)	DECLARATION OF
Agricultural Land Use District Boundary)	TANYA LEE-GRIEG
into the Urban Land Use District for)	
Approximately 88 acres at Kaonoulu,)	
Makawao-Wailuku, Maui, Hawai'i; Tax)	
Map Key Nos. (2) 2-2-02: por. 15 and 3-9-)	
01:16)	
)	
)	
)	
)	

DECLARATION OF TANYA LEE-GRIEG

I, Tanya Lee-Grieg, under penalty of law attest as follows:

1. I am the Principle/Lead Investigator for Āina Archaeology, a cultural resource management organization in Hawai'i.
2. This declaration is submitted in reference to the above-captioned case.
3. Unless otherwise indicated, all statements made herein are based on personal knowledge.
4. I am an individual over eighteen (18) years of age and under no legal or mental disability, and I am competent to testify, having personal knowledge of the matters set forth herein.
5. I have over twenty years of experience working in cultural preservation, archaeology, and anthropology and have overseen a broad scope of cultural resource management projects, including archaeological monitoring programs, archaeological data recovery, and development of treatment and preservation plans for both burial and non-burial sites in Maui County. I received an M.A. in Anthropology, with an emphasis on Archaeology,

from Colorado State University. I received a B.A. in History from Western State College in Colorado.

6. At the request of Co-Petitioners Piilani Promenade North, LLC and Piilani Promenade South, LLC, Āina Archaeology completed cultural historical research related to the settlement of Ka'ono'ulu Ahupua'a, the 88-acre area that encompasses the petition area in Land Use Commission Docket No. A94-706 (the "Petition Area").

7. I conducted research into the general traditional cultural history and land use of the Petition Area overall, with a detailed focus on the cultural traditions and practices of the *makai* and *waena* (inland) zones.

8. The research materials I relied on included a review of past and present environmental conditions to understand the natural and cultural resources of the region, testimony from members of the community, as well as a study of Hawaiian history prior to and following Western contact with a focus on the marine and inland environment of the Petition Area. These materials included Hawaiian and English language newspapers and scholarly work, documents on the Māhele 'Āina, previous archeological studies, and historic maps and survey notes.

9. In an effort to preserve and protect customary and traditional Hawaiian rights and in following the guidance of the Hawai'i Supreme Court opinion in *Ka Pa'akai O Ka 'Aina v. Land Use Commission, State of Hawai'i*, 94 Hawai'i 31 (2000), my research focused on 1) the identity and scope of the Petition Area's valued cultural, historical, and natural resources, including the extent to which traditional and customary native Hawaiian rights are exercised within the Petition Area; 2) the extent to which those resources will be affected or impaired by the proposed action; and 3) what feasible action, if any, must be taken to reasonably protect native Hawaiian rights if they are found to exist.

10. Upon completion of my investigation, I identified two sites within the Petition Area that I consider to be valued cultural, historical, or natural resources. The first site is a dry streambed gully that generally runs from the northeast corner down makai through to the midsection of Petition Area. The gully has been identified as a natural resource which in the past may have contributed to the development of coastal resources in the area outside of the Petition Area makai of Piilani Highway.

11. The second site is located in the southeast corner of the Petition Area, designated as Site 8266, containing a rectangular enclosure that has been interpreted by a prior archeological survey as a possible precontact temporary habitation site.

12. I understand that Co-Petitioners Piilani Promenade North, LLC, Piilani Promenade South, LLC and Honuaula Partners, LLC, are proposing to impose conservation easements for two portions of the Petition Area, one which will generally encumber the gully and one which will generally encumber the location and view plane for Site 8266 as reflected in the site plan attached as Exhibit "N" to the Supplemental Declaration of Robert D. Poynor.

13. It is my opinion that the proposed use of the Petition Area by Petitioners in accordance with the Land Use Commission's 1995 Decision and Order in Docket No. A94-706 will not affect or impair the use of these cultural, historical, or natural resource sites so long as the proposed conservation easements or other similar protective measures are in effect.

I, Tanya Lee-Grieg, declare under penalty of law that the foregoing is true and correct.

DATED: Kihei, Hawai'i, June 26, 2020.


TANYA LEE-GRIEG



SAROFIM REALTY ADVISORS

June 24, 2020

Mr. Jonathan Scheuer, Chair
State of Hawai'i Land Use Commission
State of Office Tower
Leiopapa A Kamehameha
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

RE: Kaonoulu Ranch; Docket No. A94-706

Chair Scheuer and Land Use Commissioners,

On behalf of Piilani Promenade North, LLC and Piilani Promenade South, LLC (Piilani), I wanted to communicate to you that we understand the severe economic impacts to the State of Hawai'i and the County of Maui due to the coronavirus pandemic. We want to assure the Land Use Commission that we are unwavering in our support of the development of our property in Kihei.

Piilani is committed to the local Maui communities and wants the Land Use Commission to know our project is and will continue to be "shovel ready". Piilani has owned the property for 10 years, is financially secure and is anxious to see the subdivision improvements and future development begin to benefit the Maui communities at a time when it is needed the most by providing jobs during record unemployment; increased spending by local business; and added tax revenues which will benefit the State and County.

We appreciate the effort and the time the Land Use Commission has expended on this docket and are optimistic the current hearing results in a favorable determination, so progress on this land can commence.

Sincerely,

Scott Fitzgerald
CEO

Sarofim Realty Advisors

Manager of Piilani Promenade North, LLC and Piilani Promenade South, LLC

Cc: Daniel E. Orodener
Executive Officer, State Land Use Commission

Exhibit 38

411033.1

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A wholly owned corporate subsidiary of Faye Sarofim & Co.
www.sracco.com