



LAND USE COMMISSION
STATE OF HAWAII

2021 JUN -3 A 7:57

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

KULA RIDGE, LLC

To Amend The Land Use District
Boundaries Of Approximately 34.516
Acres Of Land From The Agricultural
Land Use District Into The Urban Land
Use District And Approximately 16.509
Acres Of Land From The Agricultural
Land Use District Into The Rural Land
Use District At Kula, Makawao, Maui,
Hawai'i, Tax Map Key: 2-3-01: Por. 23
And 174

DOCKET NO. A11-790

ORDER TO SHOW CAUSE AND
CERTIFICATE OF SERVICE

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TO: Trustees of the Raymond M. Von Tempsky Marital Trust Dated May 14, 1979, As
Amended April 11, 1983 and Amended by the Declaration dated January 22, 1983, Successor
Petitioner to Kula Ridge, LLC ("Petitioner"),

YOU ARE HEREBY COMMANDED, under the authority of section 205-4, Hawai'i Revised Statutes ("HRS"), and section 15-15-93, Hawai'i Administrative Rules ("HAR"), to appear before the Land Use Commission, State of Hawai'i ("Commission"), via ZOOM video conferencing technology or depending on the status of the Governor's Emergency Proclamation, at the State of Hawai'i Department of Transportation District Office, 650 Palapala Dr., Kahului, Hawai'i, 96732 **(Interested parties should look to the LUC Meeting Notice Agenda for July 14-15, 2021 posted on the LUC website [luc.hawaii.gov] for a final determination of location)** on July 14-15, 2021, at 9:00 a.m., to show cause as to why that certain land at Kula, County of Maui, State of Hawai'i, Tax Map Key No. (2) 2-3-001-023 (por.) and 174, covering approximately 34.516 acres of land in the Urban Land Use District and approximately 16.509 acres of land in the Rural Land Use District referred to as the Subject Area, and identified on Exhibit "A", attached hereto and incorporated herein, should not revert to its former land use classification or be changed to a more appropriate classification.

The Commission has reason to believe that you have failed to perform according to the conditions imposed and to the representations and commitments made to the Commission in obtaining reclassification of the Subject Area. The conditions of the Decision and Order which may have been violated or not been met include, but may not be limited to the following:

1. Condition 1 Affordable Housing
2. Condition 2 `Ohana Units;
3. Condition 3 Wastewater Facilities;
4. Condition 4 Traffic Impact Mitigation
5. Condition 5 Civil Defense;
6. Condition 6 Archaeological Monitoring Plan;
7. Condition 7 Unidentified Archaeological Finds;
8. Condition 8 Stormwater Management and Drainage Improvements;

9. Condition 9 Compliance with Section 205-3.5, HRD, Related to Agricultural Uses on Adjacent Agricultural Land ;
10. Condition 10 Water System Improvements;
11. Condition 11 Water Supply Plan;
12. Condition 12 BMPs
13. Condition 13 Water Conservation Measures;
14. Condition 14 Energy Conservation Measures;
15. Condition 15 Established Access Rights Protected;
16. Condition 16 Solid Waste Management Plan;
17. Condition 17 Sidewalk Improvements;
18. Condition 18 Infrastructure Deadline
19. Condition 20 Compliance with Representations to the Commission,

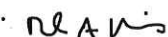
Section 205-4, HRS, authorizes the Commission to impose conditions necessary to “assure substantial compliance with representations made by the petitioner in seeking a boundary change” and that “absent substantial commencement of use of the land in accordance with such representations, the [C]ommission shall issue and serve upon the party bound by the condition an order to show cause why the property should not be reverted to its former land use classification or be changed to a more appropriate classification.”

Accordingly, the Commission will conduct a hearing on this matter in accordance with the requirements of Chapter 91, HRS, and subchapters 7 and 9 of chapter 15-15, HAR. All parties in this docket shall present testimony and exhibits to the Commission as to whether Petitioner has failed to perform according to representations made in seeking the land use reclassification.

Any party may retain counsel if the party so desires.

Dated: Honolulu, Hawai'i, this 3rd day of June, 2021, per Motion on April 14, 2021.

APPROVED AS TO FORM



Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

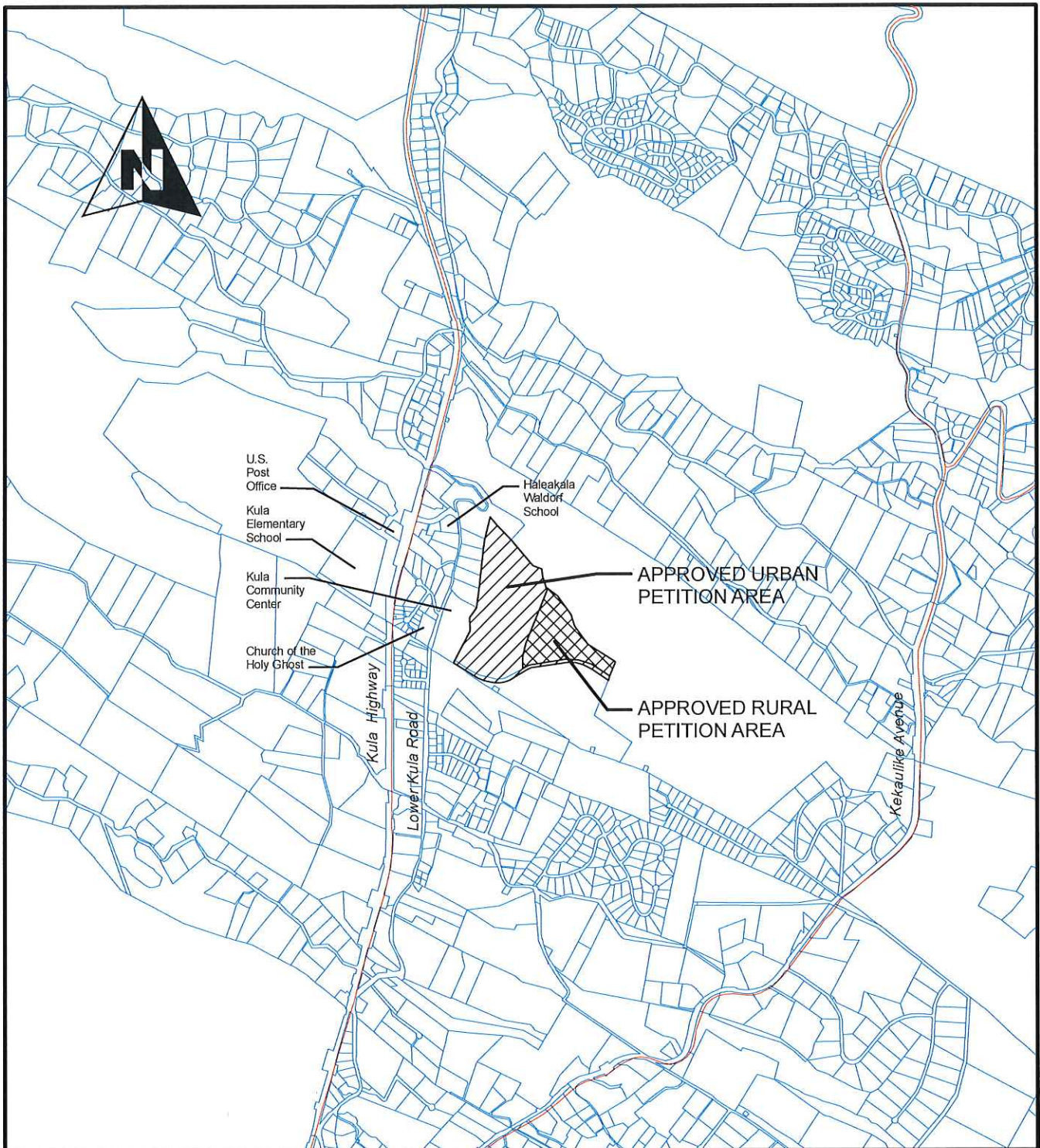
By 
JONATHAN LIKEKE SCHEUER
Chairperson and Commissioner

Filed and effective on: June 3, 2021

Certified by:

A handwritten signature in black ink, consisting of several loops and a trailing horizontal line.

DANIEL E. ORODENKER
Executive Officer

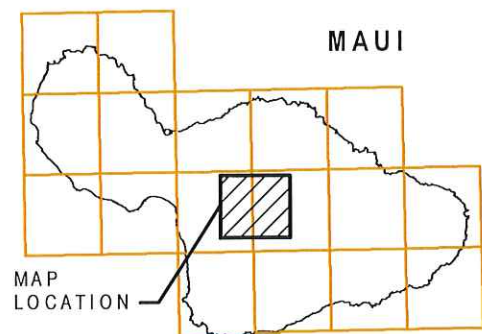


A11-790 KULARIDGE, LLC

LOCATION MAP

Tax Map Key: 2-3-001: por. 023 & 174
Kula, Makawao, Maui, Hawai'i
Scale: 1: 24, 000

EXHIBIT "A"





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In The Matter Of The Petition Of

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DOCKET NO. A11-790

CERTIFICATE OF SERVICE

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I hereby certify that a certified copy of the ORDER TO SHOW CAUSE, was served upon the following by depositing the same in the U. S. Postal Service by registered or certified mail as noted:

DEL. MARY ALICE EVANS, Director
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawai'i 96804-2359

DEL. ALISON KATO, Esq.
Deputy Attorney General
425 Queen Street
Honolulu, Hawai'i 96813
Attorney for State Office of Planning

CERT. THOMAS D. WELCH, Jr., Esq.
MANCINI, WELCH & GEIGER LLP
305 E. Wakea Ave. Suite 200, Kahului, HI 96732
Attorney for Petitioner
VON TEMPSKY TRUST

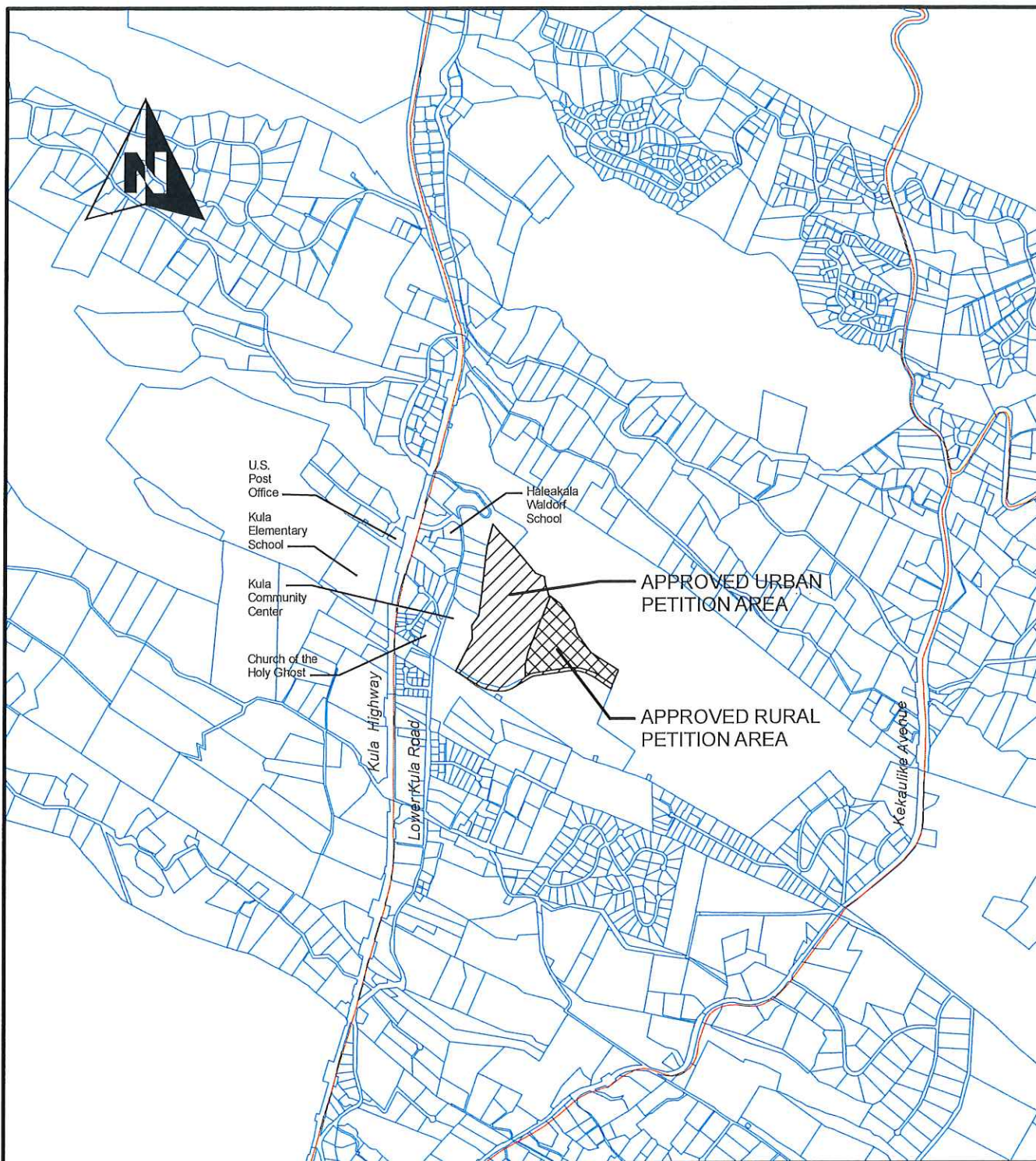
REG. MICHEL MCLEAN, Director
County of Maui Planning Department
250 South High Street
Wailuku, Hawaii 96793

REG. MICHAEL HOPPER, Esq.
Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793
Attorney for County of Hawai'i
Department of Planning

Dated: Honolulu, Hawai'i, June 3, 2021



DANIEL E. ORODENKER
Executive Officer



A11-790 KULA RIDGE, LLC

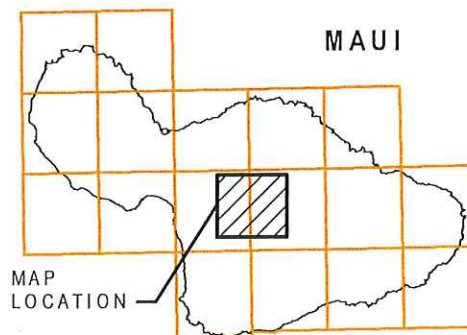
LOCATION MAP

Tax Map Key: 2-3-001: por. 023 & 174

Kula, Makawao, Maui, Hawai'i

Scale: 1: 24, 000

EXHIBIT "A"



NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that pursuant to chapter 91, Hawai'i Revised Statutes ("HRS"), and sections 15-15-51 and 15-15-93, Hawai'i Administrative Rules ("HAR"), the Land Use Commission ("Commission") will conduct a hearing on an Order to Show Cause as to why certain lands described below should not revert to its former agricultural land use classification, or be changed to a more appropriate classification based on the Commission's belief that there has been a failure to perform according to the conditions imposed or to the representations or commitments made to the Commission in obtaining the reclassification of the Petition Area.

DATE, TIME AND PLACE:

July 14-15, 2021 – 9:00 a.m.

Via ZOOM Virtual Video Conferencing Technology or depending on the status of the Governor's Emergency Proclamation, at the State of Hawai'i Department of Transportation District Office, 650 Palapala Dr., Kahului, Hawai'i, 96732 on July 14-15, 2021, at 9:00 a.m. **(Interested parties should look to the LUC Meeting Notice Agenda for July 14-15, 2021 posted on the LUC website (luc.hawaii.gov) for a final determination of location)**

Docket Number

and Petitioner: **A11-790 Kula Ridge, LLC (Maui)**

Tax Map Keys: (2) 2-3-01:Por. 23 and 174

Maps showing the area of the Petition Area; the Order to Show Cause; the Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated February 21, 2012; and copies of the Commission's rules governing the above matter may be inspected at the offices of the County of Maui -Department of Planning, 250 South High Street, Wailuku, Hawai'i, 96793, and the Commission, Room 406, Leiopapa

A Kamehameha Building, 235 S. Beretania Street, Honolulu, Hawai'i, 96813, during the office hours of 7:45 a.m. to 4:30 p.m., Monday through Friday.

All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the above matter that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention.

All other persons may apply to the Commission for leave to intervene as parties. Leave to intervene shall be freely granted, provided that the Commission or its hearings officer, if one is appointed, may deny an application to intervene when in the Commission's or hearings officer's sound discretion it appears that: (1) the position of the applicant for intervention concerning the above matter is substantially the same as the position of a party already admitted to the proceeding; and (2) the admission of additional parties will render the proceedings inefficient and unmanageable. A person whose application to intervene is denied may appeal such denial to the circuit court pursuant to section 91-14, HRS.

Petitions to intervene shall be in conformity with section 15-15-53, HAR. The petition for intervention with proof of service on all parties shall be filed with the Commission within fifteen (15) days after the publication of this notice.

All persons or individuals wishing to present testimony, orally or in writing, are requested to notify the Commission prior to the commencement of the

hearing. Together with other witnesses that the Commission may desire to hear at the hearing, a representative of a citizen or a community group wishing to express the views of such citizen or community group concerning the above matter is requested to notify the Commission prior to the commencement of the hearing and may be requested to submit written evidence of authorization to represent the citizen or community group. It is suggested that such notification be submitted to the Commission by June 23, 2021.

Any party to the proceeding may be represented by legal counsel. An individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

For persons requesting special accommodations due to disabilities, please contact the Commission at 587-3822 or notify the Commission in writing at P. O. Box 2359, Honolulu, Hawai'i, 96804-2359, at least 10 days before the scheduled meeting.

LAND USE COMMISSION

JONATHAN LIKEKE SCHEUER, Chairperson

By DANIEL E. ORODENKER, Executive Officer

(Legal Ad – 2 columns)
(to appear by June 6, 2021)
(Honolulu Star-Advertiser)
(Hawai'i Tribune Herald)
(West Hawai'i Today)
(The Maui News)
(Kaua'i Publishing Company dba The Garden Island)