

DEPARTMENT OF THE CORPORATION COUNSEL 205

VICTORIA J. TAKAYESU 5481

Corporation Counsel

ANDREW V. NELSON 9783

Deputy Corporation Counsel

County of Maui

200 S. High Street

Wailuku, Hawaii 96793

Telephone: (808) 270-7740

Facsimile: (808) 270-7152

Email: andrew.v.nelson@co.maui.hi.us

Attorneys for

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,

COUNTY OF MAUI

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
)
COUNTY OF MAUI DEPARTMENT OF)
ENVIRONMENTAL MANAGEMENT)
)
For Declaratory Order to Designate)
Important Agricultural Lands)
for approximately 30 acres at)
Kula, Maui, Hawai'i,)
TMK No. (2) 2-3-002-091)
_____)

DOCKET NO. SP97-390

PETITION FOR DECLARATORY
ORDER TO DESIGNATE
IMPORTANT AGRICULTURAL
LANDS; EXHIBITS "A" – "E"



**PETITION FOR DECLARATORY ORDER
TO DESIGNATE IMPORTANT AGRICULTURAL LANDS**

Comes now, Petitioner the COUNTY OF MAUI ("Petitioner"), by and through its attorney, VICTORIA J. TAKAYESU, and respectfully petitions the Land Use Commission of the State of Hawai'i ("Commission") to issue a declaratory order designating approximately 30 acres of land at Kula, Maui, Hawai'i ("Property"), more particularly described below, as Important Agricultural Lands ("IAL") pursuant to §§ 205-44 and 45 of the Hawaii Revised Statutes ("HRS") and §§ 15-15-98 and 99 of the Hawaii Administrative Rules ("HAR"). In support of this Petition, Petitioner alleges and avers as follows:

I. Petition Content Requirements.

Contents requirement for Petition for Declaration Order pursuant to HAR § 15-15-99:

A. Name, address and telephone number of Petitioner. Petitioner the COUNTY OF MAUI is a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Maui, Hawaii 96793, and telephone number is (808) 270-7740. Victoria J. Takayesu, Andrew V. Nelson, and the Department of the Corporation Counsel have been appointed to represent the Petitioner pursuant to HAR Section 15-15-35(b). All correspondence and communications in regard to this Petition shall be addressed to, and served upon, Victoria J. Takayesu, Department of the Corporation Counsel, 200 S. High Street, 3rd Floor, Wailuku, Hawaii 96793.

B. Statement of Petitioner's interest in the subject matter, reason for the submission, and relationship to Commission docket regarding special permit. Petitioner is the owner in fee simple of those lands located on the island of Maui, Hawai'i, and more specifically identified and described on Exhibit "B" attached hereto ("Property"). Petitioner requests the Commission designate the Property as IAL pursuant to HRS §§ 205-44 and 45. This petition is submitted to

comply with Condition No. 19 of the Commission's order approving the Fourth Amendment to the Land Use Commission Special Permit filed August 13, 2020, as modified by order filed October 27, 2020, Docket No. SP97-390.

C. Designation of specific question. Whether the lands identified by Petitioner in this petition should be designated as IAL pursuant to HRS §§ 205-44 and 45.

D. Statement of Petitioner's position or contention. It is Petitioner's position that the Property meets the qualifications for designation as IAL under HRS § 205-44, and that the Commission should issue a declaratory order designating the Property as IAL pursuant to HRS § 205-45.

E. Signature of each petitioner. This petition is signed below by Petitioner's attorney who is authorized to sign and file this petition on Petitioner's behalf.

F. Memorandum of authorities, containing a full discussion of reasons and legal authorities in support of Petitioner's position. HRS § 205-45(c) provides that the petition for declaratory order designating IAL shall be submitted in accordance with subchapter 14 of the Commission's rules and the requirements contained in HRS § 205-45(c). The petition for declaratory order content requirements under subchapter 14 are found at HAR § 15-15-99 and are discussed in Sections A-F herein. The requirements of HRS § 205-45(c) include the following:

1. Tax Map Key Numbers and verification and authorization from the applicable landowners. Petitioner seeks to designate as IAL approximately 30 acres of land on the island of Maui, Hawai'i. Attached hereto and incorporated herein by reference as Exhibit "B" are documents identifying the location, Tax Map Key Number, and acreage of the Property. Ownership of the lands identified by Tax Map Key Numbers stated in Exhibit "B" is held by Petitioner, as described in Exhibit "B." Attached hereto and incorporated herein by reference as

Exhibit "C" is the Kula Agricultural Park, Phase I Subdivision Map dated July 16, 1979 and designated County of Maui, Department of Public Works, LUCA File No. 2.1204. Attached hereto and incorporated herein by reference as Exhibit "D" is a copy of the deed verifying ownership of the Property. Please note that the deed includes a property description of a larger lot that was later subdivided to create the subject Property. See Exhibit "C" (Subdivision Map).

2. Proof of qualification for designation as IAL under HRS § 205-44. HRS § 205-44(c) provides the standards and criteria to identify IAL. HRS § 205-44(a) provides that lands identified as IAL need not meet every standard and criteria listed in HRS § 205-44(c); rather, lands meeting any of the criteria in HRS § 205-44(c) shall be given initial consideration, provided that the designation of IAL shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in Article XI, Section 3, of the Hawaii Constitution and the objectives and policies for IAL in HRS §§ 205-42 and 205-43.

Attached hereto and incorporated by reference herein as Exhibit "A" is the Agricultural Lands Assessment for Petitioner's land, which describes and illustrates the characteristics of the Property.

The standards and criteria for identifying IAL pursuant to HRS § 205-44(c) are as follows:

a. Land currently used for agricultural production. Approximately 90% of the Property is actively used for the cultivation of onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra by lessee of Petitioner and farmer, Fernando T. Traje. See Figure 1 of Exhibit "A", Existing Cultivated / Farmed Land. The remaining 10% not in cultivation is an essential element of the agricultural operations as it houses ancillary structures used in the packaging and distribution of the fruits, vegetables, and herbs for off-site markets.

b. Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops. The University of Hawaii, Land Study Bureau ("LSB") developed the Overall Productivity Rating, which classified soils according to five (5) levels, with "A" representing the class of highest productivity soils and "E" representing the lowest. These letters are followed by numbers which further classify the soil types by conveying such information as texture, drainage and stoniness. The Hawaii Statewide GIS Program for the Hawaii LSB Land Class Locator shows the Property as having an LSB rating of E which is the same for the entire Kula Agricultural Park, as further described below. See Figure 2 of Exhibit "A", Agricultural Soils Productivity Ratings. Approximately 100% of the Property receives an annual average of 450 calories of solar energy per square centimeter per day, as shown in Figure 3 of Exhibit "A", Solar Radiation Map.

c. Lands identified under agricultural productivity ratings systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977. In 1977, the State Department of Agriculture developed a classification system to identify Agricultural Lands of Importance to the State of Hawaii ("ALISH"). The classification system is based primarily, though not exclusively, upon the soil characteristics of the lands. The three (3) classes of ALISH lands are: "Prime", "Unique", and "Other", with all remaining lands termed "Unclassified". When utilized with modern farming methods, "Prime" agricultural lands have a soil quality, growing season, and moisture supply necessary to produce sustained crop yields economically. "Unique" agricultural lands possess a combination of soil quality, growing season, and moisture supply to produce sustained high yields of a specific crop. "Other" agricultural lands include those that have not been rated as "Prime" or

"Unique". The ALISH system classifies all of the Property as Other, except for the gulch portion, which is unclassified. See Figure 4 of Exhibit "A", ALISH Map.

d. Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production. The Property was previously part of a larger tract of 327 acres owned by Maui Land and Pineapple Company. In 1985, that larger tract became the Kula Agricultural Park, Phase I located on Pulehu Rd. The Kula Agricultural Park was later expanded and today is comprised of approximately 445 acres divided into 31 farm lots, each 10-30 acres in size, leased to 26 farmers for \$100/acre per year for 50 years. The Property is 29.508 acres, is Lot No. 8 of the Kula Agricultural Park, and has been leased since April 1, 1985. See Figure 1 of Exhibit "A", Existing Cultivated/Farmed Land.

e. Lands with sufficient quantities of water to support viable agricultural production. Access to reliable sources of water and efficient irrigation systems are crucial to the cultivation of sugar cane, as well as other agricultural crops. The availability of adequate water is crucial to maintaining current agricultural operations. The existing agreement between County of Maui Department of Water Supply ("DWS") and the Kula Agriculture Park allows for the delivery of up to 1.5 million gallons per day to the Park. The DWS' FY 2023 annual report states that Kula Agriculture Park used 150,203,000 gallons in the fiscal year for which DWS received \$191,318 in revenue from the Park. The water source for the Park is the East Maui Irrigation ditch system which is owned, operated, and maintained by the East Maui Irrigation Company, a wholly owned subsidiary of A&B, Inc. The ditch system conveys water via tunnels and concrete ditches from East Maui to Central Maui. In FY2023 DWS purchased 2,179,747,000 gallons from EMI at the rate of \$0.06 per one thousand gallons for \$131,439. The Property has

sufficient quantities of water to support viable agricultural production. See Figure 5 of Exhibit "A", Agricultural Infrastructure and Water Resources.

f. Land whose designation as Important Agricultural Lands is consistent with general, development, and community plans of the County. The Property's agricultural classification is consistent with the County's General Plan and Community Plans. As shown on the Makawao-Pukalani-Kula Community Plan Land Use Map (Figure 7 of Exhibit "A"), the Property is designated Agriculture. The Maui Island Plan: Directed Growth Map (Figure 6 of Exhibit "A") shows the Property outside of the proposed urban growth and developed areas. Additionally, the Property is situated within the State Agricultural District as shown on Figure 8 of Exhibit A", State Land Use District Boundary Map.

g. Land that contributes to maintaining a critical land mass important to agricultural operating productivity. Petitioner seeks to designate approximately 30 acres of land as IAL, approximately 90% of which are used for the cultivation of onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra. See Figure 1 of Exhibit "A", Existing Cultivated/Farmed Land. Additional lands proposed for inclusion, which consist of essential elements of the agricultural operations, are necessary to provide the overall critical "contiguous" land mass necessary for agricultural operating productivity. The Property is part of the larger Kula Agricultural Park, which itself is surrounded by many active farms. The entire Property, including those areas that are not being actively cultivated comprised of gulches, streams, and reservoirs, constitute contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management and is consistent with the policies of HRS § 205-43(1).

h. Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. The Property has been in active agriculture for at least 30 years. Existing infrastructure include water irrigation systems, roadways, processing areas, and related facilities. See Figures 1 and 5 of Exhibit "A", Existing Cultivated/Farmed Land and Agricultural Infrastructure/Water Resources.

3. The current or planned agricultural use of the area sought to be designated as IAL. As described above, the majority of the Property is used for the cultivation of diversified crops, including onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra. See Figure 1 of Exhibit "A", Existing Cultivated/Farmed Lands.

II. Waiver of 85/15 Reclassification Incentive

Petitioner is not seeking a reclassification of land pursuant to HRS § 205-45(b) in conjunction with this petition to designate IAL. Furthermore, Petitioner hereby voluntarily waives any and all rights to assert, claim or exercise any credits pursuant to HRS § 205-45(h), as effective as of the date of this petition, that may be earned by Petitioner in the event of and as a result of this petition being granted. This waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of this petition to the Urban, Rural or Conservation Districts pursuant to HRS § 205-45(h), as effective as of the date of this petition, and shall not apply to any other credits, incentives, rights, or privileges that Petitioner may possess now or in the future, whether known or unknown, which are hereby expressly reserved.

Based on the foregoing, Petitioner respectfully requests that the Commission find that the petition meets the standards for designating Important Agricultural Lands pursuant to HRS §§ 205-44 and 45, designates the Property as Important Agricultural Lands, and acknowledges the satisfaction of Condition No. 19 of the Commission's order approving the Fourth Amendment to the Land Use Commission Special Permit filed August 13, 2020, as modified by order filed October 27, 2020, Docket No. SP97-390.

DATED: Wailuku, Maui, Hawai'i, June 04, 2024.

VICTORIA J. TAKAYESU
Corporation Counsel
Attorneys for DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,
COUNTY OF MAUI

By *Andrew Nelson*
ANDREW V. NELSON
Deputy Corporation Counsel

LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. SP97-390
)	
COUNTY OF MAUI DEPARTMENT OF)	CERTIFICATE OF SERVICE
ENVIRONMENTAL MANAGEMENT)	
)	
For Declaratory Order to Designate)	
Important Agricultural Lands)	
for approximately 30 acres at)	
Kula, Maui, Hawai'i,)	
TMK No. (2) 2-3-002-091)	
_____)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was duly served on this date on the below-named parties electronically and by U.S. Mail, postage prepaid:

ALISON S. KATO
Deputy Attorney General
State of Hawaii
425 Queen St.
Honolulu, Hawaii 96813
Alison.S.Kato@hawaii.gov
Attorney for the Office of Planning, State of Hawaii

KATE BLYSTONE
Planning Director
County of Maui
Kate.Blystone@co.maui.hi.us

MIMI DESJARDINS
First Deputy Corporation Counsel
County of Maui
Mimi.DesJardins@co.maui.hi.us
Attorney for Planning Director

DATED: Wailuku, Maui, Hawai‘i, June 04, 2024.

VICTORIA J. TAKAYESU
Corporation Counsel
Attorneys for DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,
COUNTY OF MAUI

By Andrew Nelson
ANDREW V. NELSON
Deputy Corporation Counsel

Exhibit "A"

Agricultural Lands Assessment of County of Maui Lands May 2024

Introduction/Purpose:

To support a Petition for Declaratory Order to Designate Important Agricultural Lands("IAL"), an Agricultural Lands Assessment was prepared for land owned by the County of Maui at the Kula Agricultural Park.

HRS § 205-44(c) provides the standards and criteria to identify IAL. HRS § 205-44(a) provides that lands identified as IAL need not meet every standard and criteria listed in HRS § 205-44(c); rather, lands meeting any of the criteria in HRS § 205-44(c) shall be given initial consideration, provided that the designation of IAL shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the Hawaii Constitution and the objectives and policies for IAL in HRS §§ 205-42 and 205-43. The standards and criteria of HRS § 205-44(c) are as follows:

- 1) Land currently used for agricultural production;
- 2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel-and energy-producing crops;
- 3) Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977;
- 4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- 5) Land with sufficient quantities of water to support viable agricultural production;
- 6) Land whose designation as important agricultural lands is consistent with general, development and community plans of the county;
- 7) Land that contributes to maintaining a critical land mass important to agricultural operation productivity;
- 8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power.

The following exhibits were prepared to qualify and quantify the agricultural land being proposed to be designated IAL.

Figure 1: Existing Cultivated / Farmed Land

The Kula Agriculture Park on Pulehu Rd., established in 1985, is currently comprised of 445 acres divided into 31 farm lots, each 10-30 acres, leased to 26 farmers for \$100/acre per year for

50 years.¹ Lot 8 is 29.508 acres² and has been leased since April 1, 1985.³ An additional 262 acres was purchased in 2018 from Alexander & Baldwin, Inc. (A&B) by the County (\$1M) and state (\$5M) at the Pulehu Rd. and Omaopio Rd. fork.⁴ Based on the aerial map flown in February 2024⁵ the proposed IAL land is currently utilized for active agricultural purposes. Approximately 90% of Lot 8 is actively used for the cultivation of onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra. The remaining 10% not in cultivation is an essential element of the agricultural operations as it houses ancillary structures used in the packaging and distribution of the fruits, vegetables, and herbs for off-site markets.⁶

Figure 2: Agricultural Soils Productivity Ratings

The Detailed Land Classification System and Agricultural Land Productivity Ratings by the Land Study Bureau (LSB), University of Hawaii are based on a five-class productivity rating system using the letters A, B, C, D, and E, with A representing the class of highest productivity and E the lowest.⁷ The Hawaii Statewide GIS Program for the Hawaii LSB Land Class Locator shows Lot 8 with an LSB rating of E which is the same for the entire Kula Agriculture Park.⁸

Figure 3: Solar Radiation

Based on the Sunshine Maps prepared in 1985 by the State Department of Business, Economic Development and Tourism, formerly known as the State Department of Planning and Economic Development, Energy Division,⁹ approximately 100% of the proposed IAL land receives an annual average of 450 calories of solar energy per square centimeter per day.¹⁰

Figure 4: Agricultural Lands of Importance to the State of Hawaii (ALISH)

The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system was developed in 1977 by the State Department of Agriculture. The system is based primarily, but not exclusively, on the soil characteristics of lands. There are three classes of ALISH lands – Prime, Unique, and Other.¹¹ All of the proposed IAL land is classified as Other except for the

¹ <https://mauicounty.gov/621/Kula-Agriculture-Park>

² Kula Agricultural Park, Phase 1, Subdivision of Tax Map Parcel 6 into Lots 1 to 22, Pulehunui, Kula, Maui, Hawaii, 8-10-90.

³ County of Maui Concession/Lease/License Schedule – By Departments, Appendix B-1, 3/1/2023.

⁴ “Kula Agricultural Park addition completed 262-acre addition for \$6M to grow site to 709 acres,” Lee Imada, Maui News, January 3, 2019.

⁵ Google Maps, Kula Agriculture Park, Image©2024 Airbus.

⁶ <https://worldwidefarmers.org/about/stories/fernando-traje>.

⁷ Agricultural Lands Assessment for Alexander & Baldwin, Inc. Maui Lands, PBR Hawaii & Associates, Inc., Honolulu, Hawaii 96813, April 2009.

⁸ <https://geoportal.hawaii.gov/> Hawaii Statewide GIS Program, Hawaii LSB Land Class Locator.

⁹ Agricultural Lands Assessment for Alexander & Baldwin, Inc. Maui Lands, PBR Hawaii & Associates, Inc., Honolulu, Hawaii 96813, April 2009.

¹⁰ <https://geoportal.hawaii.gov/> Hawaii Statewide GIS Program, Solar Radiation Ranges.

¹¹ Agricultural Lands Assessment for Alexander & Baldwin, Inc. Maui Lands, PBR Hawaii & Associates, Inc., Honolulu, Hawaii 96813, April 2009.

adjacent gulch which is unclassified.¹² Other is defined as other important agricultural land other than prime or unique agricultural land that is also of statewide or local importance to agriculture.¹³

Figure 5: Agricultural Infrastructure and Water Resources

The farmers and ranchers in the Kula Agricultural Park use water from three reservoirs:

Upper Kula Reservoir. This reservoir has a capacity of 3.5 million gallons. At full capacity, the reservoir can provide water to the Upcountry Kula region for 4 days.

Lower Kula Reservoir. This reservoir has a capacity of 1.5 million gallons.

Reservoir 40. Water from this reservoir is pumped 24 hours a day, 5 days a week to the Lower and Upper Kula Reservoirs.¹⁴

One pipe connects all three reservoirs that serve as the inflow and outflow. When water is pumped from Reservoir 40 to the Lower and Upper Kula Reservoirs, water may be used for irrigation in the interim. Thus, the total amount of water pumped from Reservoir 40 may not reach the higher elevation reservoirs.¹⁵

The existing agreement between Maui Department of Water Supply (DWS) and the Kula Agriculture Park allows for water pumpage of up to 1.5 million gallons per day (mgd).¹⁶ For FY 2023 the annual report for DWS states that Kula Agriculture Park used 150,203,000 gallons for which DWS received \$191,318 in revenue from the Park.¹⁷ The water source for the Park is the East Maui Irrigation (EMI) ditch system which is owned, operated and maintained by the East Maui Irrigation Company, a wholly owned subsidiary of A&B, Inc.¹⁸ The ditch system conveys water via tunnels and concrete ditches from East Maui to Central Maui.¹⁹ In FY2023 DWS purchased 2,179,747,000 gallons from EMI at the rate of \$0.06 per one thousand gallons for \$131,439.²⁰

Figure 6: Maui Island Plan

The Maui Island Plan, adopted December 28, 2012 is a part of the County's on-going effort to prepare the General Plan 2030 of the County of Maui. Intended to provide a long-term comprehensive strategic planning document for the physical, economic, environmental development and cultural identity of the county, it encompasses goals, policies, programs and actions that are recommended based on an assessment of current and future needs and available resources.²¹ According to the Maui Island Plan Directed Growth Map Oma'opio U2, the

¹² <https://geoportal.hawaii.gov/> Hawaii Statewide GIS Program, ALISH.

¹³ Ibid.

¹⁴ Field Investigation Report, FI2009062202, Commission on Water Resources Management, June 2009.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ <https://mauicounty.gov/126/Department-of-Water-Supply/> Fiscal Year 2023 Annual Report & Audit, pg. 56.

¹⁸ East Maui Irrigation Map, Hawaii State Dept. of Agriculture, Water Resources Associates, Dec. 2003.

¹⁹ Ibid.

²⁰ <https://mauicounty.gov/126/Department-of-Water-Supply/> Fiscal Year 2023 Annual Report & Audit, pg. 54.

²¹ Agricultural Lands Assessment for Alexander & Baldwin, Inc. Maui Lands, PRB Hawaii & Associates, Inc., Honolulu, Hawaii 96813, April 2009.

proposed IAL Lot 8 is outside the proposed Urban Growth Boundary, Resort Areas, and Developed Areas.²²

Figure 7: Maui Community Plans

As a more detailed land use element of the General Plan, the Community Plans are land use planning documents that guide government action and decision-making for the total of nine community planning districts within the County of Maui. The documents are district specific and include planning goals, objectives, policies and implementation considerations that provide for optimum planning effectiveness and benefits for residents in the respective community districts. The Community Plan Land Use Map for Makawao-Pukalani-Kula shows Lot 8 as Agriculture.²³

Figure 8: State Land Use District Boundary Map

According to the official State Land Use District Boundary Maps, the proposed IAL lot is within the Agricultural District. The District is Puu O Kali.²⁴

References

<https://mauicounty.gov/621/Kula-Agriculture-Park>

Kula Agricultural Park, Phase 1, Subdivision of Tax Map Parcel 6 into Lots 1 to 22, Pulehunui, Kula, Maui, Hawaii, 8-10-90.

County of Maui Concession/Lease/License Schedule -By Departments, Appendix B-1, 3/1/2023. “Kula Agricultural Park addition completed

262-acre addition for \$6M to grow site to 709 acres,” Lee Imada, Maui News, January 3, 2019.

<https://worldwidefarmers.org/about/stories/fernando-traje>.

Google Maps, Kula Agriculture Park, Image©2024 Airbus.

Agricultural Lands Assessment for Alexander & Baldwin, Inc. Maui Lands, PBR Hawaii & Associates, Inc., Honolulu Hawaii 96813, April 2009.

<https://geoportal.hawaii.gov/> Hawaii Statewide GIS Program, Geospacial Data Portal, Hawaii LSB Land Class Locator, Solar Radiation Ranges, ALISH.

Field Investigation Report, F12009062202, Commission on Water Resources Management, June 2009.

East Maui Irrigation Map, HI State Dept of Agriculture, Prepared by Water Resources Associates, Honolulu, Hawaii, December 2003.

<https://mauicounty.gov/126/Department-of-Water-Supply/> Fiscal Year 2023 Annual Report & Audit.

<https://mauicounty.gov/1503/Maui-Island-Plan/>

<https://mauicounty.gov/1523/Community-Plan-Maps/>

<https://histategis.maps.arcgis.com/apps/webappviewer/index.html?id=b843c728b4cb4333b1df015fdaa84104>

²² <https://mauicounty.gov/1503/Maui-Island-Plan/>

²³ <https://mauicounty.gov/1523/Community-Plan-Maps/>

²⁴ <https://histategis.maps.arcgis.com/apps/webappviewer/index.html?id=b843c728b4cb4333b1df015fdaa84104>

FIGURE 1
Existing Cultivated/Farmland



Legend

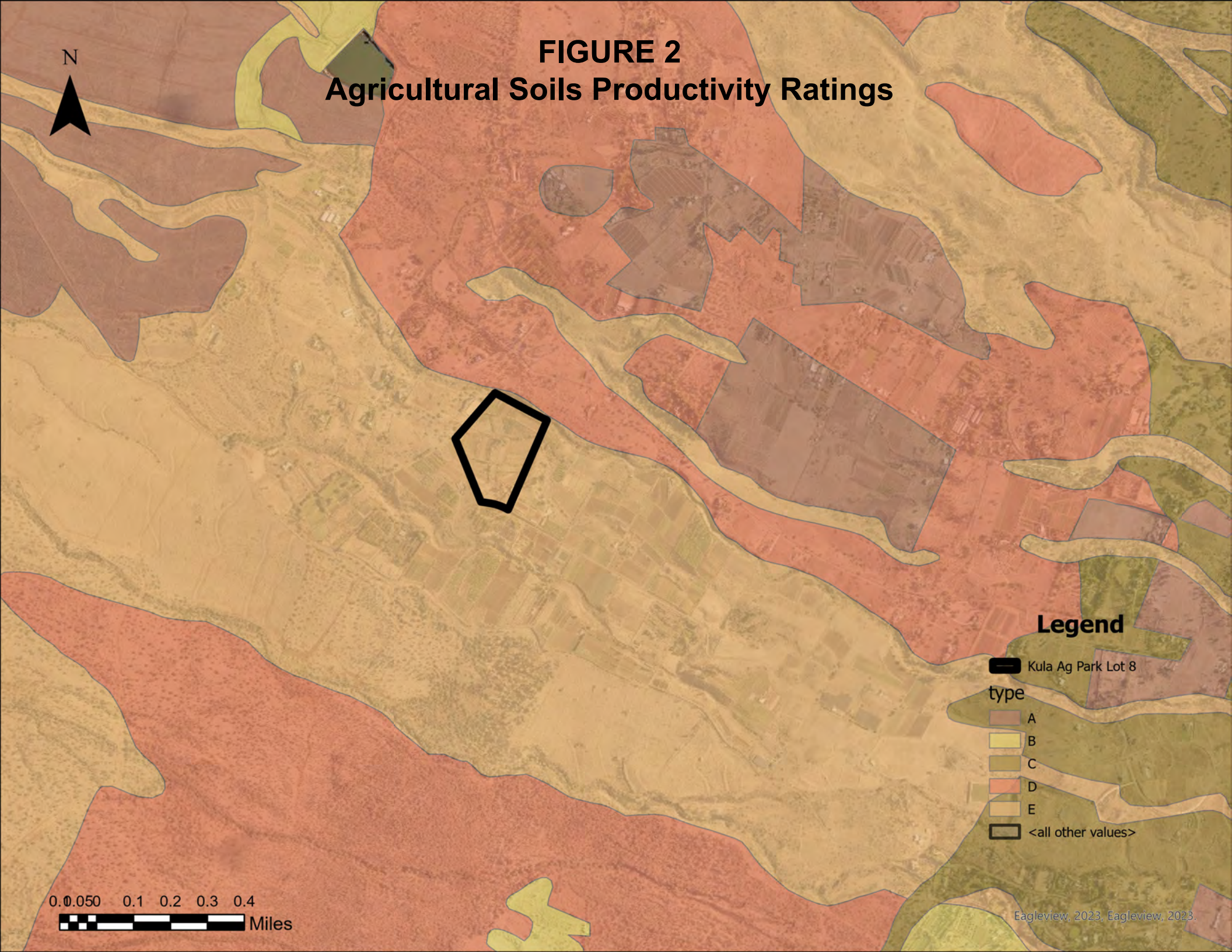
 Kula Ag Park Lot 8

0.02 0.04 0.06 0.08
 Miles


FIGURE 2

Agricultural Soils Productivity Ratings


N




Legend

 Kula Ag Park Lot 8


type


 A

 B

 C

 D

 E

 <all other values>

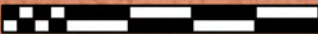








0.0 0.050 0.1 0.2 0.3 0.4
 Miles

FIGURE 3 Solar Radiation



Legend

-  Kula Ag Park Lot 8
- Solar Radiation Ranges**
-  200-250
-  250-300
-  300-350
-  350-400
-  400-450
-  450-500
-  500-550
-  550-600
-  600-650
-  <all other values>

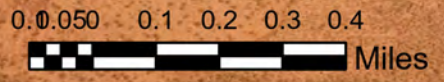
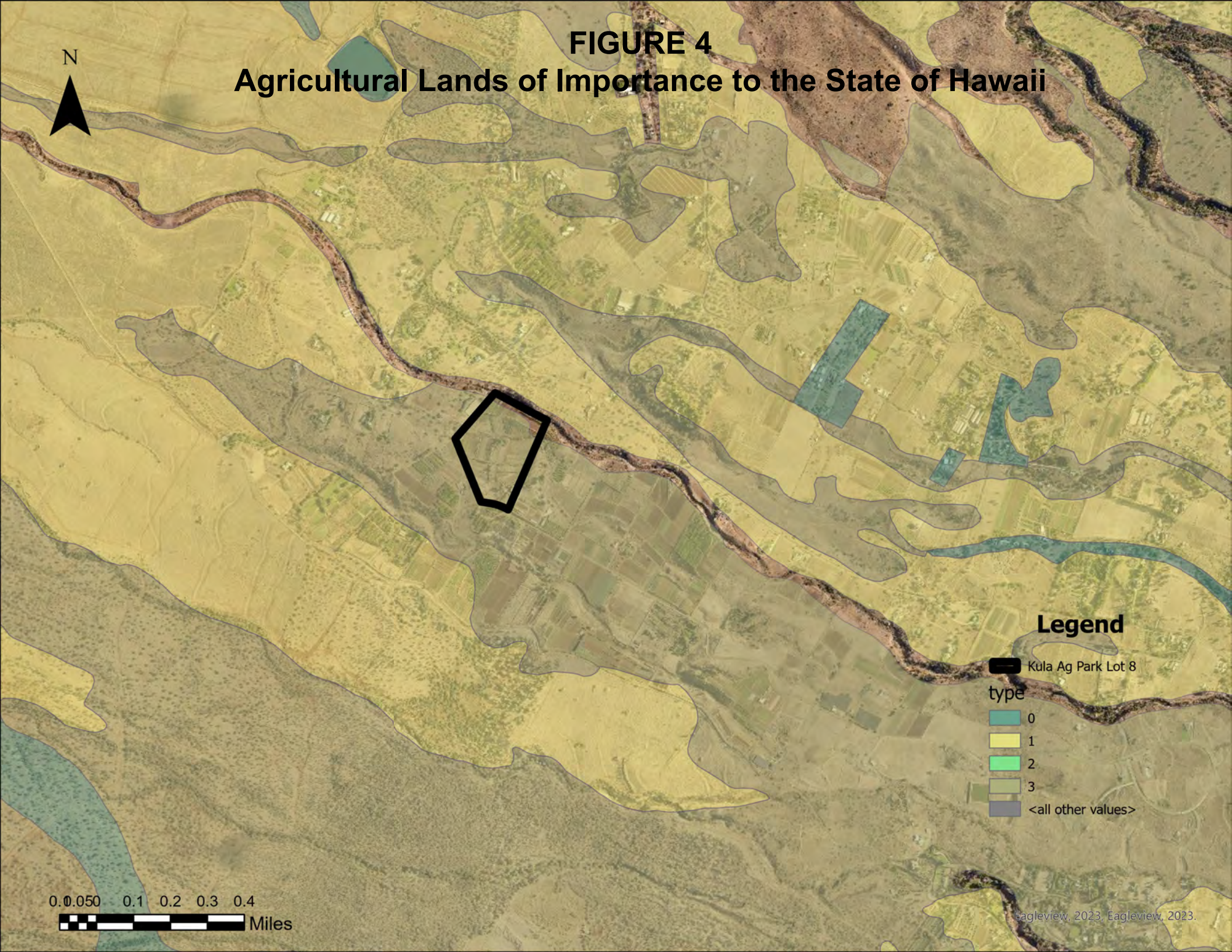


FIGURE 4

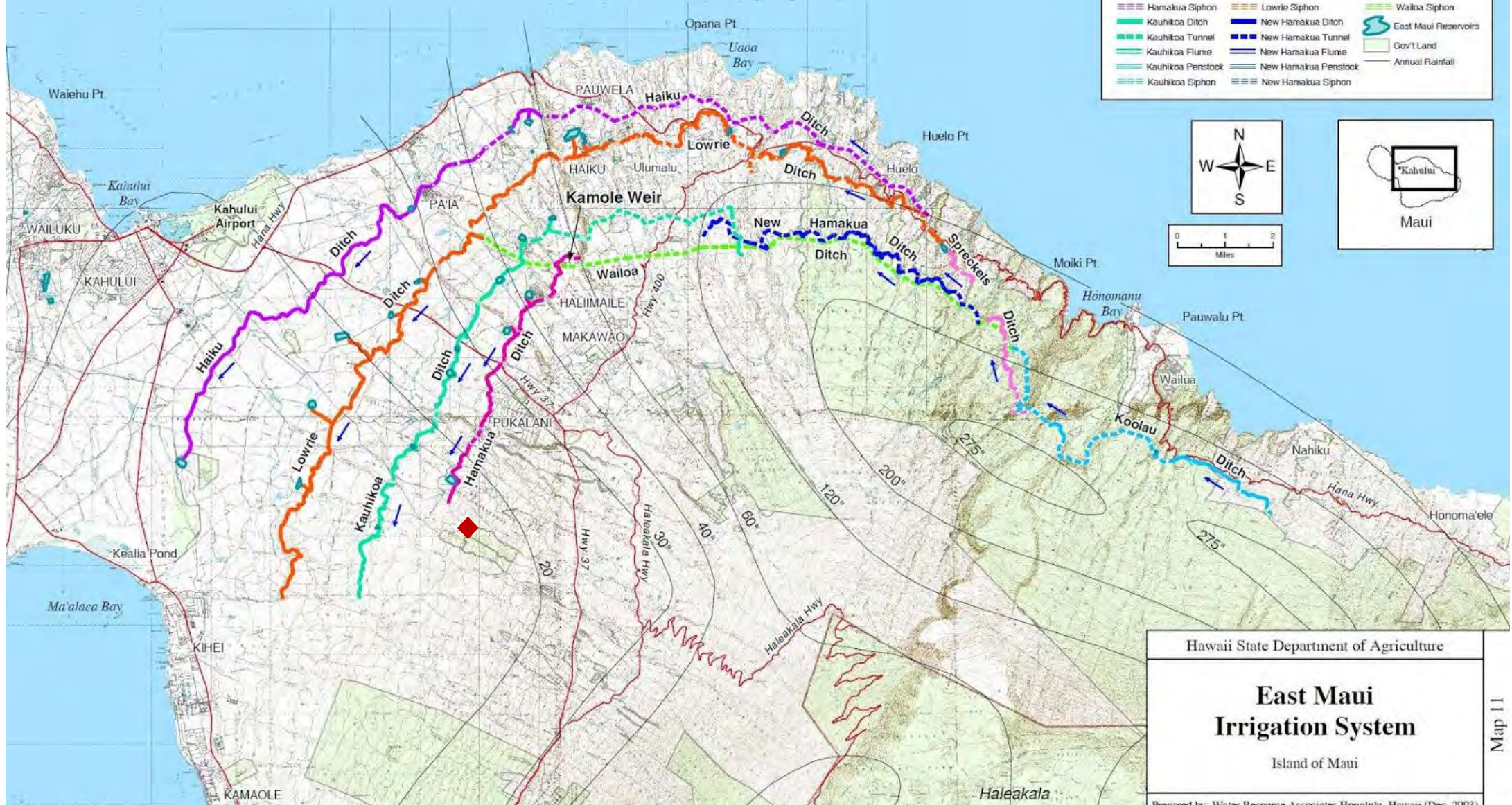
Agricultural Lands of Importance to the State of Hawaii



◆ Approximate Site Location

FIGURE 5 Agricultural Infrastructure and Water Resources

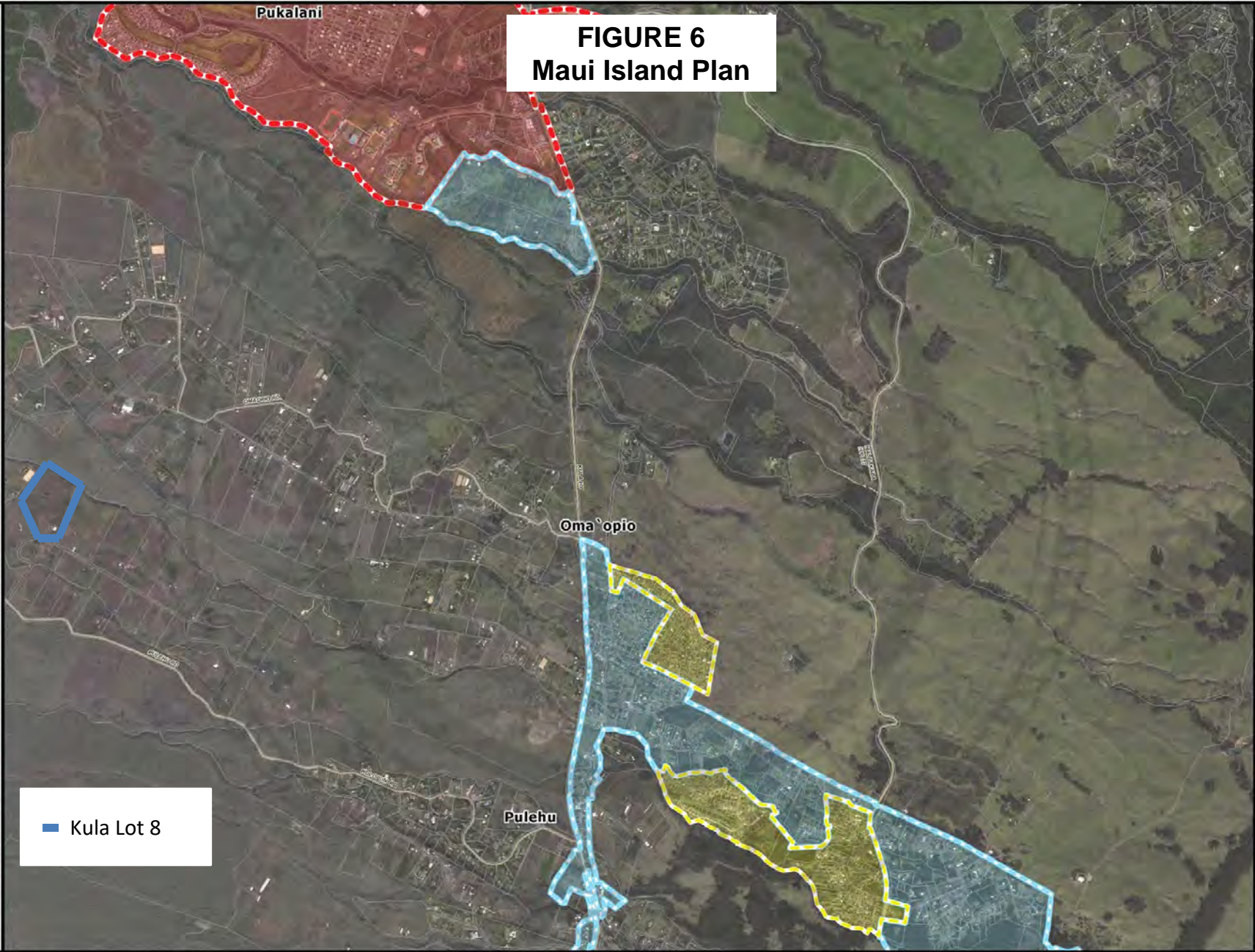
Legend		
Haiku Ditch	Koolau Ditch	Spreckels Ditch
Haiku Tunnel	Koolau Tunnel	Spreckels Tunnel
Haiku Flume	Koolau Flume	Spreckels Flume
Haiku Penstock	Koolau Penstock	Spreckels Penstock
Haiku Siphon	Koolau Siphon	Spreckels Siphon
Lowrie Ditch	Lowrie Tunnel	Lowrie Flume
Lowrie Penstock	Lowrie Siphon	Lowrie Siphon
Hamakua Ditch	Hamakua Tunnel	Hamakua Flume
Hamakua Penstock	Hamakua Siphon	Hamakua Siphon
New Hamakua Ditch	New Hamakua Tunnel	New Hamakua Flume
New Hamakua Penstock	New Hamakua Siphon	New Hamakua Siphon
Wailoa Ditch	Wailoa Tunnel	Wailoa Flume
Wailoa Penstock	Wailoa Siphon	Wailoa Siphon
East Maui Reservoirs	East Maui Reservoirs	East Maui Reservoirs
Gov't Land	Gov't Land	Gov't Land
Annual Rainfall	Annual Rainfall	Annual Rainfall



Hawaii State Department of Agriculture
**East Maui
Irrigation System**
Island of Maui
Prepared by: Water Resource Associates Honolulu, Hawaii (Dec. 2003)

Map 11

FIGURE 6
Mauisland Plan



Mauisland Plan
Directed Growth Map
Oma'opio
U2

Legend

Growth Boundaries

- Urban
- Small Town
- Rural

Reference

- 2011 Parcels
- Primary Roads



Scale: 0 500 1000 1500 2000 2500 3000 3500 4000 Feet

North Arrow

Product Code: M-CET_20121030-D2
Copyright © October 30, 2012

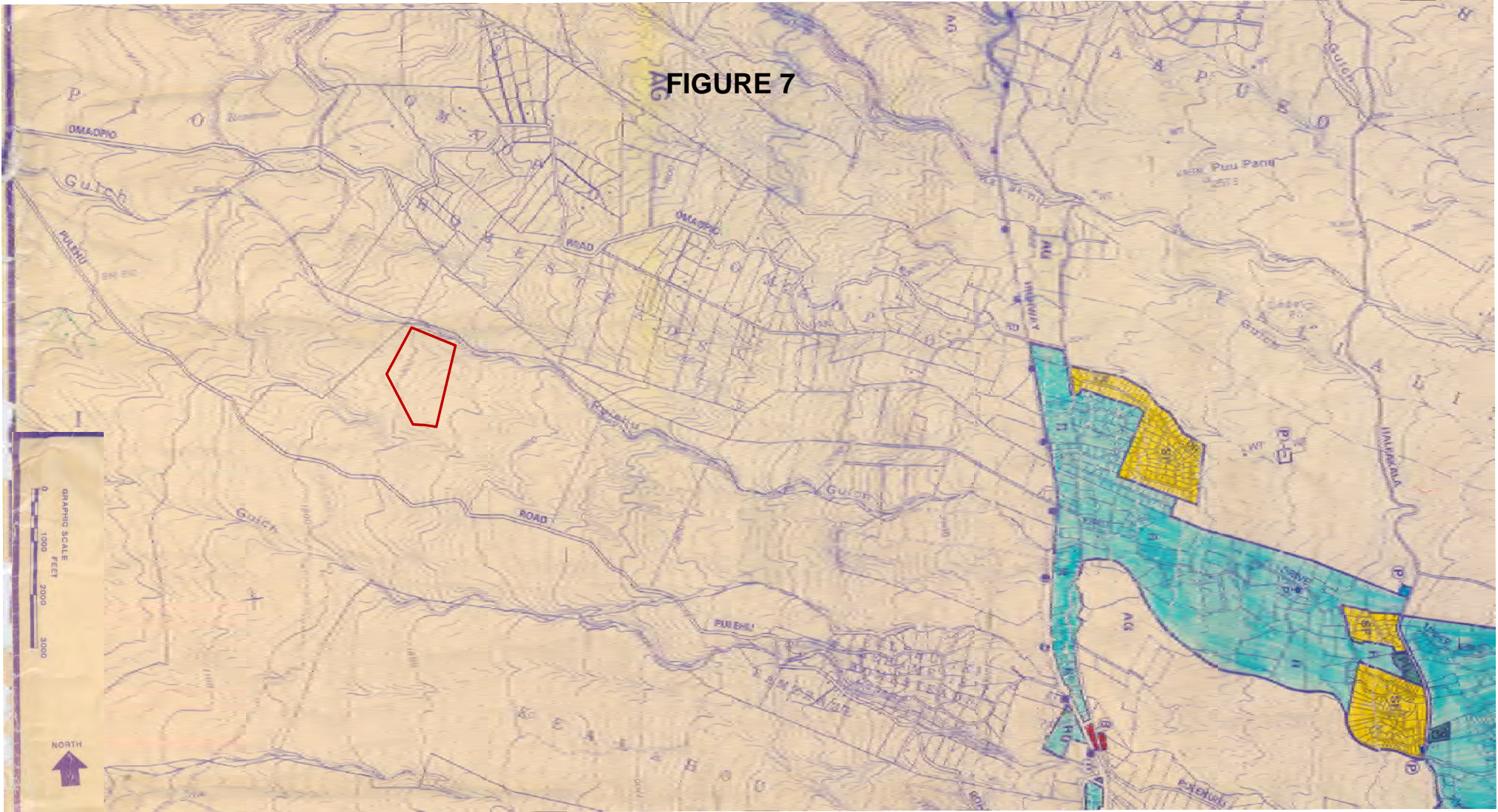
Background Image: Worldview 2 - 2010

This is not a zoning map. Please contact the Planning Department for Zoning confirmation.

PREPARED BY:

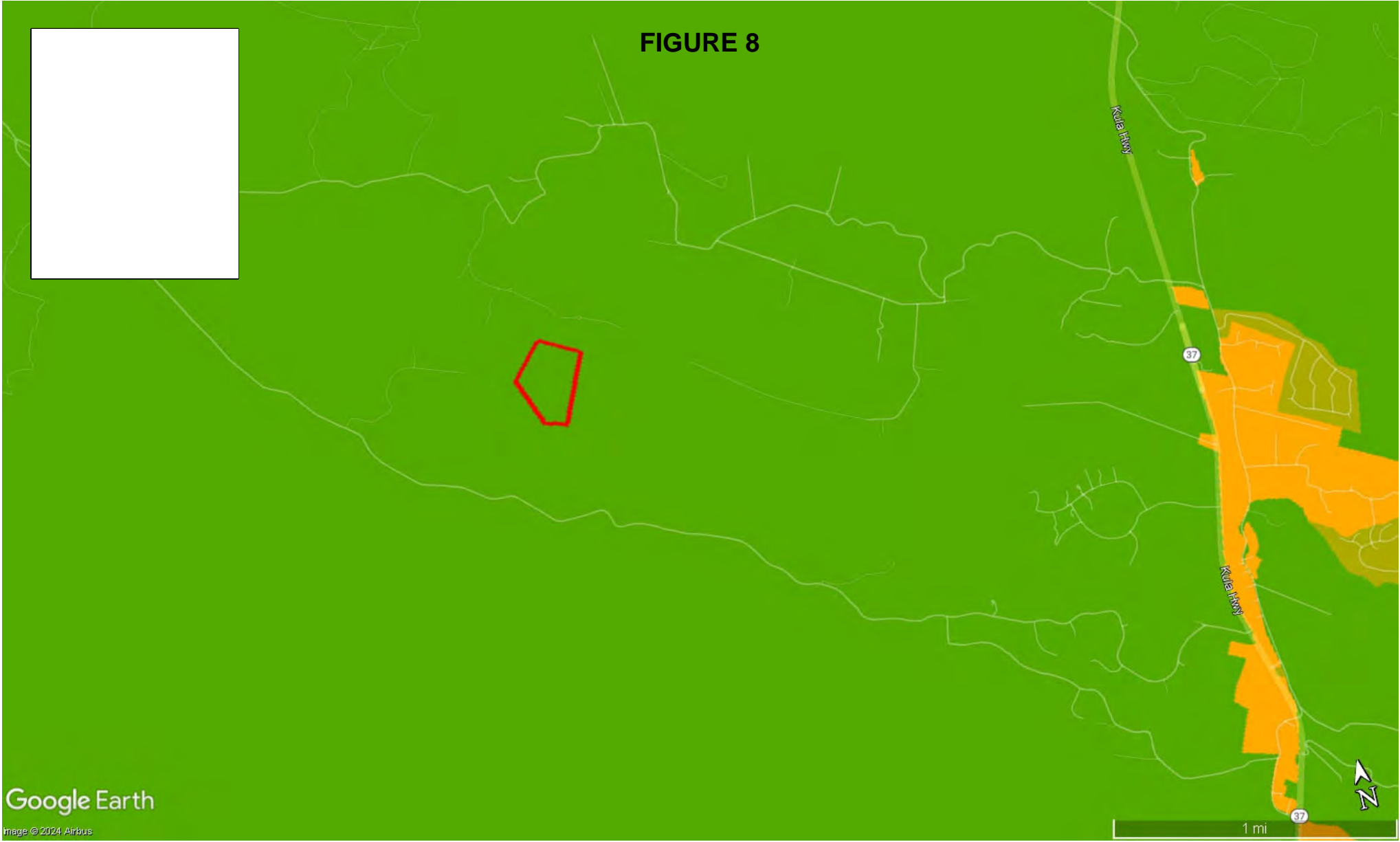
Long Range Planning Division
Department of Planning
County of Maui
250 South High Street
Wailuku, Hawaii 96793

FIGURE 7






— Approximate Kula 8 Boundary

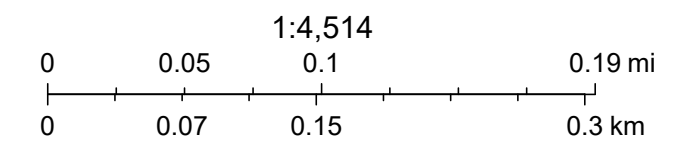
FIGURE 8





5/20/2024, 3:51:59 PM

-  Parcelinfo
-  Address
-  Road Centerlines



Eagleview, 2023.

Parcel Information

Parcel Number 230020910000
Location Address 2001 KULAKULA RD
KULA HI 96790
Neighborhood Code 2233-5
Legal Information
Land Area 29.508 Acres
Parcel Note Non taxable

View Map

Damage
Reentry Zone
Zone Color

Owner Information

Owner Names
COUNTY OF MAUI Fee Owner

Mailing Address
COUNTY OF MAUI

Assessment Information

Show Historical Assessments

Table with 9 columns: Year, Tax Class, Market Land Value, Agricultural Land Value, Assessed Land, Building Value, Total Assessed Value, Total Exemption Value, Total Net Taxable Value. Row 1: 2024, AGRICULTURAL, \$2,341,900, \$0, \$2,341,900, \$0, \$2,341,900, \$2,341,900, \$0

How to calculate real property taxes

Sales Information

Table with 9 columns: Sale Date, Price, Instrument Number, Instrument Type, Valid Sale or Other Reason, Document Type, Record Date, Land Court #, Land Court Cert. Row 1: 2/13/1996, \$0, 0000000000

Maui's Automated Planning & Permitting System

Click Here to View All Planning and Permitting Info Regarding This TMK

Recent Sales In Area

Sale date range:

From: 05/20/2021 To: 05/20/2024

Empty input box

1500 Feet

Generate Owner List by Radius

Distance: 100 Feet

Use Address From:

Owner Property

Select export file format: Address labels (5160)

Show All Owners
Show Parcel ID on Label

Skip Labels 0

International mailing labels that exceed 5 lines are not supported on the Address labels (5160). For international addresses, please use the xlsx, csv or tab download formats.

Empty input box

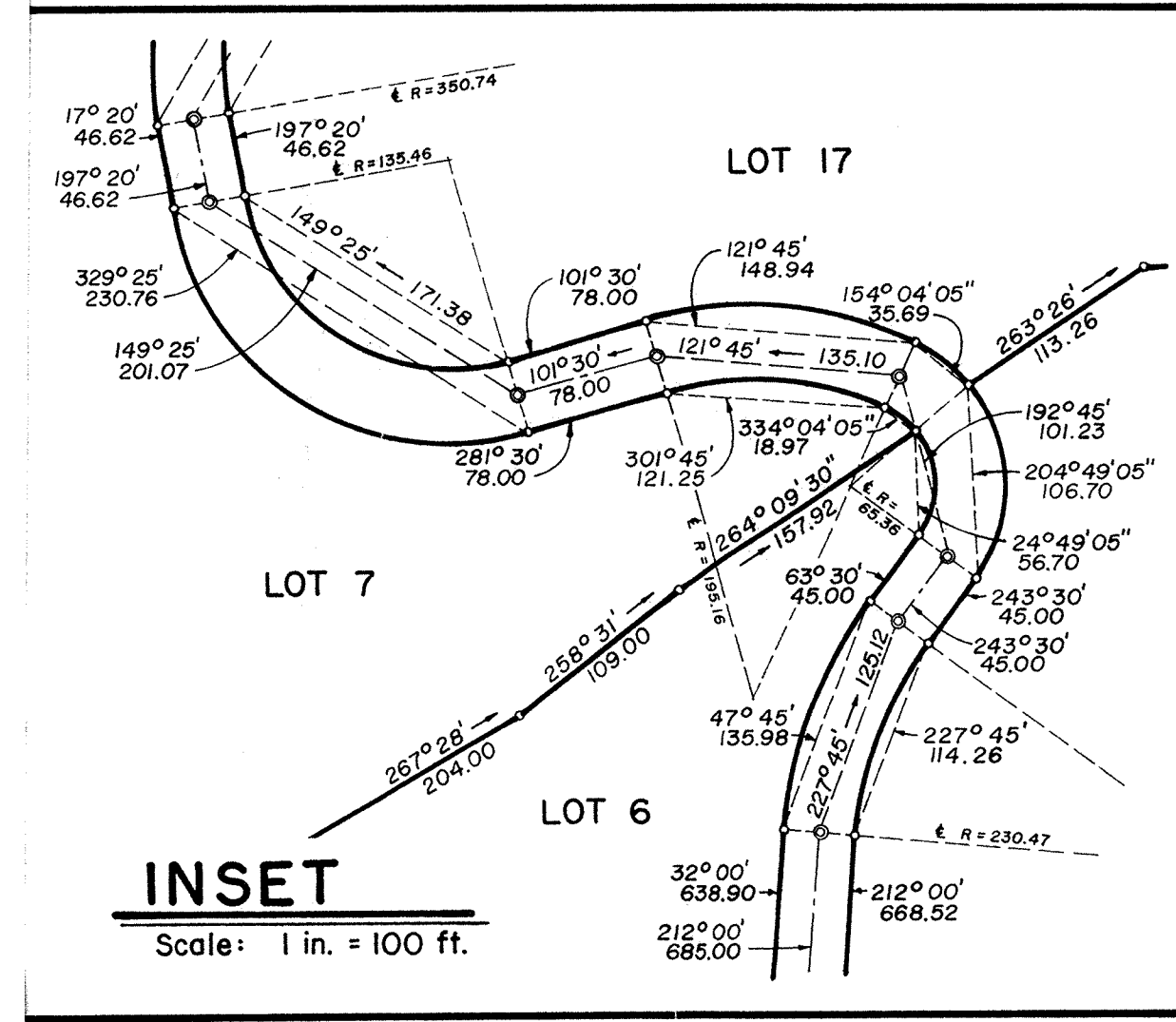
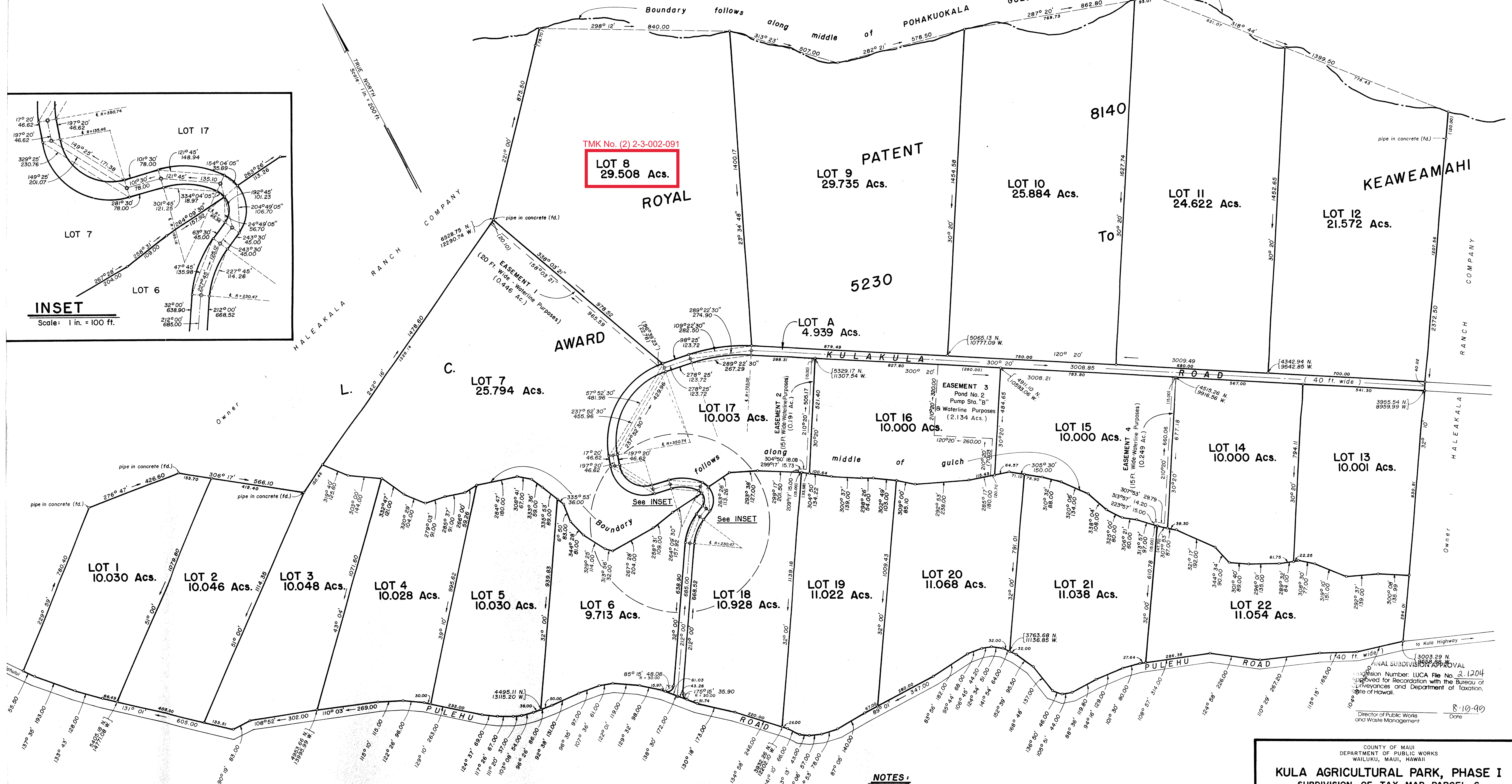
No data available for the following modules: Assessment Notices, Tax Bills, Agricultural Assessment Information, Current Tax Bill Information, Historical Tax Information, Appeal Information, Home Exemption Information, Improvement Information, Additions, Commercial Improvement Information, Accessory Information, Permit Information, Sketches.

User Privacy Policy GDPR Privacy Notice
Last Data Upload: 5/20/2024, 1:40:58 AM



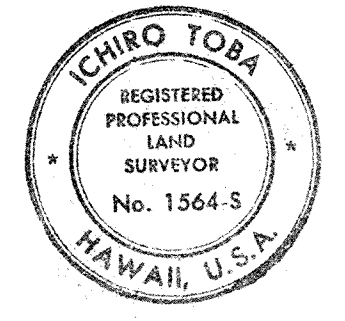
L. C. Aw. 281-B to Ali

Owner WAIALAE NUI FARM, LTD.



TMK No. (2) 2-3-002-091
LOT 8
29.508 Ac.

- NOTES:**
1. ALL COORDINATES ARE REFERRED TO "KIALAPUU" Δ.
 2. ALL LOT CORNERS ARE MARKED WITH PIPE EXCEPT BOUNDARIES ALONG MIDDLE OF GULCH, UNLESS OTHERWISE NOTED.
 3. © DENOTES CENTERLINE STREET MONUMENT.



COUNTY OF MAUI
 DEPARTMENT OF PUBLIC WORKS
 WAILUKU, MAUI, HAWAII

KULA AGRICULTURAL PARK, PHASE I
 SUBDIVISION OF TAX MAP PARCEL 6
 INTO LOTS 1 TO 22, INCLUSIVE AND ROADWAY LOT A
 BEING A PORTION OF R. P. 8140, L. C. AW. 5230 TO KEAWEAMAHI
 PULEHU, KULA, MAUI, HAWAII

Scale: 1 in. = 200 ft.
 Prepared By: *Chiro Toha*
 Registered Professional Surveyor
 Certificate Number 1564-S
 Approved By: _____
 Director of Public Works

APPROVAL
 Division Number: LUCA File No. 2.1204
 Approved for Recordation with the Bureau of
 Conveyances and Department of Taxation,
 State of Hawaii.
 8-10-90
 Date

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

RECORDATION REQUESTED BY:

86- 96595

86 AUG 8 P 2: 35

LIBER/PG. 19749 328
C. F. NEUMANN III, REGISTRAR

AFTER RECORDATION, RETURN TO:
DEPT. OF CORPORATION COUNSEL
COUNTY OF MAUI
WAILUKU, MAUI, HAWAII 96793

RETURN BY: MAIL () PICKUP ()

WARRANTY DEED

THIS INDENTURE, made this 20th day of January,
1986, by and between MAUI LAND & PINEAPPLE COMPANY, INC., a
Hawaii corporation, whose principal place of business is Kahului,
Maui, Hawaii and whose post office address is P. O. Box 187,
Kahului, Maui, Hawaii 96732, hereinafter called the "GRANTOR",
and the COUNTY OF MAUI, a body politic and corporate, and a
political subdivision of the State of Hawaii, having its
principal place of business and post office address at 200 South
High Street, Wailuku, Maui, Hawaii 96793, hereinafter called the
"GRANTEE",

W I T N E S S E T H:

WHEREAS, by and under that certain unrecorded Lease
Agreement dated August 1, 1984, made and entered into by the
parties hereto, the Grantor agreed, upon obtaining marketable
title, to convey to the Grantee by Warranty Deed, the property more
particularly described in Exhibit "A" attached hereto and by
reference made a part hereof; and

WHEREAS, the Grantor has obtained marketable title to
said property; NOW, THEREFORE,

FURTHER WITNESSETH THAT:

The Grantor, for and in consideration of the foregoing premises, and the sum of ONE AND NO/100 DOLLAR (\$1.00), lawful money of the United States of America, paid to the Grantor by the Grantee, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, does hereby grant, bargain, sell and convey unto the Grantee, its legal successors and assigns, the property described in Exhibit "A" attached hereto and by reference made a part hereof.

AND the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereon and thereunto belonging or appertaining or held and enjoyed therewith, unto the Grantee according to the tenancy and estate as hereinabove set forth, forever.

AND the Grantor hereby covenants and agrees with the Grantee, as aforesaid, that Grantor is lawfully seised in fee simple of the property described in said Exhibit "A", and has good right and lawful authority to sell and convey the same as aforesaid; that said property is free and clear of all encumbrances, subject, however, to the reservations, restrictions, and encumbrances shown on said Exhibit "A", if any, and that the Grantor will WARRANT AND DEFEND the same unto the Grantee as aforesaid, against the lawful claims and demands of all persons whomsoever, except as herein set forth.

AND the parties hereby acknowledge and agree that this conveyance is made in full settlement, accord, and satisfaction of

said unrecorded Lease Agreement dated August 1, 1984, and that said Lease Agreement, upon execution and recordation of this Warranty Deed, shall automatically terminate.

The covenants and obligations, and the rights and benefits of the Grantor and the Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, devisees, personal representatives, successors, successors in trust, and assigns, and all covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless otherwise expressly provided herein. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall mean and include the singular and the plural, and the use of any gender shall mean and include all genders.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed on the day and year first above written.

GRANTOR:

MAUI LAND & PINEAPPLE
COMPANY, INC.

By Dennis K. Iwasaki
Its Secretary

By Richard H. Cameron
Its Asst. Secretary

APPROVED AS TO FORM
AND LEGALITY:

[Signature]
DEPUTY CORPORATION COUNSEL

GRANTEE:

COUNTY OF MAUI

By Hannibal Iwama
Its Mayor

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 20th day of January, 19 86,
before me personally appeared Dennis K. Iwasaka and
RICHARD H. CAMERON, to me personally known, who,
being by me duly sworn, did say that they are the Secretary
and Asst. Secretary of MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawaii corporation, and that the seal affixed to the foregoing
instrument is the corporate seal of said corporation, and that
said instrument was signed and sealed on 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.

Stephanie J. Hall
Notary Public, State of Hawaii

My Commission expires: 9-29-89

STATE OF HAWAII)
) : SS.
COUNTY OF MAUI)

On this 4th day of February,
19 86, before me appeared HANNIBAL TAVARES, to me personally
known, who being by me duly sworn did say that he is the Mayor of
the County of Maui, a political subdivision of the State of
Hawaii, and that the seal affixed to the foregoing instrument is
the lawful seal of the said County of Maui, and that the said
instrument was signed and sealed in behalf of said County of Maui
by authority of its Charter, and the said HANNIBAL TAVARES
acknowledged the said instrument to be the free act and deed of
said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand
and official seal.

Elizabeth K. Kawana
Notary Public, State of Hawaii

My commission expires: 11-15-89

L.S.

EXHIBIT "A"

All of that certain parcel of land (portion of the land described in and covered by Land Patent Number 8140, Land Commission Award Number 5230 to Keaweamahi) situate, lying and being at Pulehunui, Kula, Island and County of Maui, State of Hawaii, and thus bounded and described:

Beginning at a concrete monument at the Southeasterly corner of this lot, the coordinates of said point of beginning being 11,767.15 feet South, 4,616.3 feet East referred to Government Survey Triangulation Station "PUU O KOHA" and running:

1.	104°	19'	212.0	feet along the Northerly side of 40 foot Kahului-Waiakoa Government Road;
2.	115°	15'	165.0	feet along same;
3.	110°	29'	267.2	feet along same;
4.	124°	58'	226.0	feet along same;
5.	108°	57'	314.0	feet along same;
6.	101°	30'	80.0	feet along same;
7.	94°	16'	129.0	feet along same;
8.	88°	36'	119.8	feet along same;
9.	105°	51'	44.0	feet along same;
10.	136°	50'	46.0	feet along same;
11.	168°	48'	137.0	feet along same;
12.	152°	39'	95.5	feet along same;
13.	141°	54'	64.0	feet along same;
14.	124°	34'	51.0	feet along same;
15.	106°	45'	44.2	feet along same;
16.	95°	44'	68.0	feet along same;
17.	83°	56'	182.0	feet along same;
18.	89°	01'	347.0	feet along same;
19.	87°	05'	140.0	feet along same;
20.	99°	53'	78.0	feet along same;
21.	111°	06'	57.0	feet along same;
22.	123°	13'	43.0	feet along same;

23.	141°	10'	66.0 feet along same;
24.	134°	58'	246.0 feet along same;
25.	130°	18'	173.0 feet along same;
26.	138°	30'	172.0 feet along same;
27.	129°	32'	98.0 feet along same;
28.	122°	01'	119.0 feet along same;
29.	107°	36'	61.0 feet along same;
30.	96°	35'	97.0 feet along same;
31.	92°	38'	131.0 feet along same;
32.	96°	26'	86.0 feet along same;
33.	103°	08'	54.0 feet along same;
34.	111°	20'	37.0 feet along same;
35.	117°	26'	67.0 feet along same;
36.	124°	37'	69.0 feet along same;
37.	129°	10'	263.0 feet along same;
38.	122°	26'	96.0 feet along same;
39.	115°	10'	115.0 feet along same;
40.	110°	03'	269.0 feet along same;
41.	108°	52'	302.0 feet along same;
42.	90°	19'	83.0 feet along same;
43.	131°	01'	605.0 feet along same;
44.	133°	43'	128.0 feet along same;
45.	137°	35'	193.0 feet along same;
46.	143°	18'	55.5 feet along same, to a concrete monument;
47.	229°	59'	780.4 feet along remaining portion of said L.C.A. 5230 to a concrete monument;
48.	276°	47'	426.6 feet along same to a concrete monument;
49.	306°	17'	566.1 feet along same to a concrete monument;

50. 242° 16' 1,478.6 feet along same to a concrete monument;
51. 221° 00' 796.8 feet along same to a concrete monument;
52. 221° 00' 78.7 feet along same to the center of Pohakuokala Stream, thence
53. Up center of said stream along L.C.A. 281-B to Ali to the Easterly corner of this lot, a traverse connecting consecutive points along this course being:
- a. 298° 12' 840.0 feet,
 - b. 313° 23' 507.0 feet,
 - c. 285° 20' 1440.0 feet,
 - d. 318° 44' 1399.5 feet,
54. 32° 10' 120.0 feet along the remaining portion of L.C.A. 5230 to a concrete monument;
55. 32° 10' 2,252.5 feet along same to the point of beginning, and containing an area of 326.6 acres, more or less.

SUBJECT, HOWEVER, to the following:

1. Lease in favor of Maui Electric Company, Limited and Hawaiian Telephone Company, dated October 9, 1961, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 4162 on Page 301; leasing and demising rights-of-way, each twenty-five (25) feet in width, over, across and under all lands owned and held by Maui Pineapple Company, Limited situate in the Island and County of Maui, State of Hawaii, for a term of 35 years from the date hereof, and thereafter from year to year until terminated.

2. Grant in favor of Maui Electric Company, Limited and Hawaiian Telephone Company, dated March 31, 1983, recorded in said Bureau of Conveyances in Liber 16997 on Page 670; granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and underground power lines, etc., over, across, through and under a portion of said parcel.

3. Any trails, easements or rights-of-way, claims to which may be predicated upon prescriptive use of ancient Hawaiian use or custom.

Being a portion of the premises conveyed to the Grantor by Exchange Deed of Haleakala Pineapple Company, Limited, dated May 3, 1932, and recorded in said Bureau of Conveyances in Liber 1161 on Page 262.

LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. SP97-390
)	
COUNTY OF MAUI DEPARTMENT OF)	DECLARATION OF
ENVIRONMENTAL MANAGEMENT)	SHAYNE AGAWA
)	
For Declaratory Order to Designate)	
Important Agricultural Lands)	
for approximately 30 acres at)	
Kula, Maui, Hawai'i,)	
TMK No. (2) 2-3-002-091)	
_____)	

DECLARATION OF SHAYNE AGAWA

I, SHAYNE AGAWA, do hereby declare as follows:

1. I am the Director of the Department of Environmental Management of the County of Maui, State of Hawai'i.
2. I make this declaration upon personal knowledge and am competent to testify to the matters stated herein.
3. Petitioner, the County of Maui, is the owner in fee simple of the approximately 30 acres at Kula, Maui, Hawai'i, identified as TMK No. (2) 2-3-002-091 ("Petition Area").
4. Approximately 90% of the Petition Area is actively used for the cultivation of onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra by lessee of Petitioner and farmer, Fernando T. Traje. The remaining 10% not in cultivation is an essential element of the agricultural operations as it houses ancillary structures used in the packaging and distribution of the fruits, vegetables, and herbs for off-site markets.
5. The Petition Area was previously part of a larger tract of 327 acres owned by Maui Land and Pineapple Company. In 1985, that larger tract became the Kula Agricultural Park, Phase

I located on Pulehu Rd. The Kula Agricultural Park was later expanded and today has approximately 445 acres divided into 31 farm lots, each 10-30 acres in size, leased to 26 farmers for \$100/acre per year for 50 years. The Petition Area is 29.508 acres, is Lot no. 8 of the Kula Agricultural Park, and has been leased since April 1, 1985.

6. The availability of adequate water is crucial to maintaining current agricultural operations. The existing agreement between County of Maui Department of Water Supply ("DWS") and the Kula Agriculture Park allows for the delivery of up to 1.5 million gallons per day to the Park. The DWS' FY 2023 annual report states that Kula Agriculture Park used 150,203,000 gallons in the fiscal year for which DWS received \$191,318 in revenue from the Park. The water source for the Park is the East Maui Irrigation ditch system which is owned, operated and maintained by the East Maui Irrigation Company, a wholly owned subsidiary of A&B, Inc. The ditch system conveys water via tunnels and concrete ditches from East Maui to Central Maui. In FY2023 DWS purchased 2,179,747,000 gallons from EMI at the rate of \$0.06 per one thousand gallons for \$131,439. The Property has sufficient quantities of water to support viable agricultural production.

7. Petitioner seeks to designate approximately 30 acres of land as IAL, approximately 90% of which are used for the cultivation of onions, eggplants, zucchini, beans, mint, basil, thyme, bananas, bitter melon, watermelon, and okra. Additional lands proposed for inclusion, which consist of essential elements of the agricultural operations, are necessary to provide the overall critical "contiguous" land mass necessary for agricultural operating productivity. The Property is part of the larger Kula Agricultural Park, which itself is surrounded by many active farms. The entire Property, including those areas that are not being actively cultivated comprised of gulches, streams and reservoirs, constitute contiguous, intact, and functional land units large enough to

allow flexibility in agricultural production and management and is consistent with the policies of HRS § 205-43(1).

8. The Petition Area has been in active agriculture for at least 30 years. Existing infrastructure include water irrigation systems, roadways, processing areas and related facilities.

9. Approval of the IAL designation will allow the County to comply with the Land Use Commission's Condition No. 19 of the Fourth Amendment to the Special Permit 97-390.

I declare under penalty of perjury under the laws of the State of Hawai'i that the foregoing is true and correct.

DATED: Wailuku, Maui, Hawai'i, May, 28, 2024.



DN: cn=Shayne R. Agawa, ou=Director of
the Dept. of Environmental Management,
email=shayne.agawa@co.maui.hi.us, c=US
Date: 2024.05.28 10:46:14 -1000

SHAYNE AGAWA