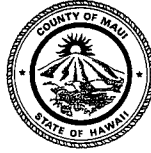


DANNY A. MATEO  
County Clerk



JOSIAH K. NISHITA  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.mauicounty.gov/county/clerk

July 31, 2017

RECEIVED  
2017 JUL 31 PM 4:33  
OFFICE OF THE  
COUNTY COUNCIL

Honorable Robert Carroll, Chair  
Land Use Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

Dear Chair Carroll:

SUBJECT: BILL NO. 67 (2017), "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII, TAX MAP KEY NOS. (2) 4-7-013:004 (POR.) AND (2) 4-7-013:005 (POR.), CONTAINING A TOTAL OF 14.594 ACRES"

Respectfully transmitted is a copy of Bill No. 67 (2017) which was recommitted to your Committee by the Council of the County of Maui at its meeting of July 28, 2017.

Please note that Bill No. 67 (2017) was passed on first reading on June 16, 2017, pursuant to the adoption of Committee Report No. 17-85.

Also attached are the following: 1) memo dated July 19, 2017, from Jeffrey Ueoka, Deputy Corporation Counsel; and 2) letter dated July 21, 2017, from Tom Schnell, PBR Hawaii.

Respectfully,

A handwritten signature in cursive script, appearing to read "Danny A. Mateo".

DANNY A. MATEO  
County Clerk

/jym

Enclosures

cc: Director of Council Services

ORDINANCE NO. \_\_\_\_\_

BILL NO. 67 (2017)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII, TAX MAP KEY NOS. (2) 4-7-013:004 (POR.) AND (2) 4-7-013:005 (POR.), CONTAINING A TOTAL OF 14.594 ACRES

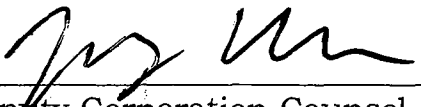
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Section 205-3.1, Hawaii Revised Statutes, and Chapter 19.68, Maui County Code, the State Land Use District Classification is reclassified from the Agricultural District to the Rural District (Conditional Boundary Amendment) for that certain land situated at Polanui, Launiupoko, Lahaina, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Nos. (2) 4-7-013:004 (por.) and (2) 4-7-013:005 (por.), containing a total of 14.594 acres, and more particularly described in Exhibit "A" attached hereto and made a part hereof, and in District Boundary Amendment Map No. DB-818, attached hereto as Exhibit "B" and made a part hereof, which is on file in the Office of the County Clerk of the County of Maui.

SECTION 2. Pursuant to Section 19.68.040, Maui County Code, the State Land Use District classification granted by this ordinance is subject to the conditions set forth in Exhibit "C" hereto and in the Unilateral Agreement and Declaration of Conditions for State Land Use District Boundary Amendment, attached hereto and made a part hereof as Exhibit "D," which shall be executed and recorded in the Bureau of Conveyances of the State of Hawaii.

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

APPROVED AS TO FORM  
AND LEGALITY:



Deputy Corporation Counsel  
County of Maui

## EXHIBIT "A"

### Makila Kai Proposed Workforce Housing Area

Land situated on the westerly side of Hāniu Street at Polanui, Launiupoko, Lahaina, Maui, Hawaii

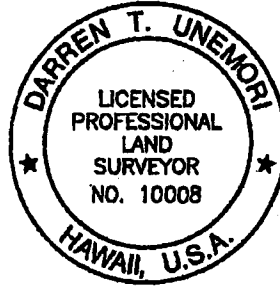
Being portions of Lots 4 and 5 of Makila Ranches - Phase 1, being also portions of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) and Royal Patent 1358, Land Commission Award 82 to Thomas Phillips

Beginning at a point at the northeasterly corner of this land, the azimuth and distance from the northwesterly corner of Lot 4 of the Makila Ranches - Phase 1 being: 248° 58' 255.24 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAUNIUPOKO" being: 5,911.65 feet North and 7,136.02 feet West and running by azimuths measured clockwise from True South:

1. 321° 30' 951.37 feet along the remainder of Lot 4 of Makila Ranches - Phase 1, being also along the remainders of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) and Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
2. Thence along the remainder of Lot 4 of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips on a curve to the left, having a radius of 1,793.00 feet, the chord azimuth and distance being: 319° 00' 156.42 feet to a point;

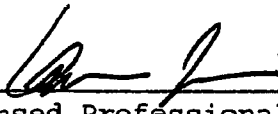
3. 316° 30' 330.24 feet along same to a point;
4. 46° 09' 188.72 feet along same to a point;
5. 136° 01' 58.27 feet along same to a point;
6. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 290° 28' 14", and the point of tangency azimuth from the radial point being: 321° 47' 42", having a radius of 47.00 feet, the chord azimuth and distance being: 36° 07' 58" 25.38 feet to a point;
7. 316° 01' 99.51 feet along same to a point;
8. 44° 31' 190.77 feet along the remainders of Lots 4 and 5 of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
9. 136° 00' 498.25 feet along the remainder of Lot 5 of of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
10. Thence along same on a curve to the right having a radius of 3,350.00 feet, the chord azimuth and distance being: 139° 45' 438.20 feet to a point;

11. 143° 30' 709.97 feet along the remainder of Lot 5 of Makila Ranches - Phase 1, being also along the remainders of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips and Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) to a point;
12. Thence along the southerly side of Lot 12 (Punakea Street) of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10), on a curve to the right with the point of curvature azimuth from the radial point being: 145° 01' 38", and the point of tangency azimuth from the radial point being: 158° 58', having a radius of 230.00 feet, the chord azimuth and distance being: 241° 59' 49" 55.82 feet to a point;
13. 248° 58' 360.26 feet along same to the point of beginning and containing an Area of 14.594 Acres.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
November 10, 2016

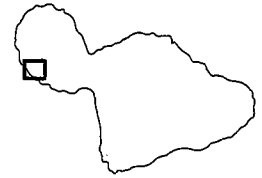
BY:  04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 10008

Note: This metes and bounds description has been prepared for the Makila Kai 201H Application; therefore, described courses do not necessarily reflect boundaries of existing land parcels.

V: \Projdata\16proj\16039\Survey\Desc-Workforce-Housing-Area\_rev03.wpd

# EXHIBIT "B"

## VICINITY MAP



TRUE NORTH

SCALE: 1 IN. == 400 FT.

PUNAKEA STREET

T.M.K.: (2)  
4-7-013 : 012

T.M.K.: (2)  
4-7-013 : 003

T.M.K.: (2) 4-7-013  
: 004

T.M.K.: (2)  
4-7-013 : 005

T.M.K.: (2)  
4-7-014 : 004

T.M.K.: (2)  
4-7-013 : 007

T.M.K.: (2)  
4-7-014 : 005

T.M.K.: (2)  
4-7-014 : 006

T.M.K.: (2)  
4-7-013 : 008

T.M.K.: (2)  
4-7-014 : 007

### TAX MAP KEY

- T.M.K.: (2) 4-7-013 : PORTION OF 004 (10.320 ACRES)
- T.M.K.: (2) 4-7-013 : PORTION OF 005 (4.274 ACRES)

### AREA:

14.594 ACRES

## DISTRICT BOUNDARY AMENDMENT MAP NO. DB-818

DISTRICT BOUNDARY AMENDMENT - POLANUI, LAUNIUPOKO,  
LAHAINA, MAUI, HAWAII  
FROM AGRICULTURAL (A) TO RURAL (R)

## EXHIBIT "C"

### CONDITIONS

1. This ordinance is conditional upon the Council's passage of a resolution approving, with modifications, the independent development of Makila Kai, pursuant to Section 201H-38, Hawaii Revised Statutes (the "201H Resolution").
2. If the 201H Resolution shall expire due to the developer's failure to start physical construction on the Property by the time deadline set forth in the 201H Resolution, this ordinance shall also terminate concurrently with the expiration of the 201H Resolution.
3. Developer shall act in good faith and with its reasonable best efforts to complete all of the 25 residential workforce housing units on the Property with all related roads and infrastructure not later than the fifth anniversary of the effective date of the 201H Resolution.
4. The Property shall be developed as a residential workforce housing project in accordance with the 201H Resolution.
5. The Property shall be developed in strict compliance with the representations made to the Council in obtaining approval of the State District Boundary Amendment.
6. There shall be a prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.
7. There shall be notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the Agricultural District are protected under Chapter 165, the Hawaii Right to Farm Act, and the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.



THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS:  
STATE OF HAWAII

BUREAU OF CONVEYANCES

DOCUMENT NO.  
Doc A - 63810826

DATE - TI/  
June 21, 2017 3:29 PM

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

Office of the County Clerk  
County of Maui  
200 S. High Street  
Wailuku, Hawaii 96793

Tax Key: (2) 4-7-013:004 (por.) Total No. of Pages: 11  
Tax Key: (2) 4-7-013:005 (por.)

UNILATERAL AGREEMENT AND DECLARATION OF CONDITIONS  
FOR STATE LAND USE DISTRICT BOUNDARY AMENDMENT

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by MAKILA KAI LLC, a Hawaii limited liability company, whose principal place of business is located in Lahaina, Maui, Hawaii, and whose mailing address is P. O. Box 1060, Lahaina, Hawaii 96761, hereinafter referred to as "Declarant", and who is the owner of that certain land located at Polanui, Launiupoko, Lahaina, Maui, Hawaii, comprised of approximately 14.594 acres and identified for real property tax purposes by Tax Map Key Nos. (2) 4-7-013:004 (por.) and (2) 4-7-013:005 (por.), hereinafter referred to as the "Property".

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering the Declarant's Petition for a State land use district boundary amendment for the Property, comprised of approximately 14.594

acres, which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and is shown on the map attached hereto as Exhibit "2"; and

WHEREAS, Declarant proposes to develop a residential workforce housing project on the Property under the name "Makila Kai"; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 17-85, that the State Land Use District Boundary Amendment be approved for passage on first reading subject to certain conditions, pursuant to Section 19.68.040, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the State land use district boundary amendment provisions of Section 19.68.040, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.68.040, Maui County Code, relating to State land use district boundary amendments;

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 are set forth on Exhibit "3" attached hereto and 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 Hawaii, 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 ordinance approving the establishment of the Rural State land use district boundary amendment and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii;

6. That the Declarant agrees to develop the 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 State land use district boundary amendment 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 State land use district boundary amendments.

This Declaration may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Declaration.


Each person signing this Unilateral Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Unilateral Agreement. Each party represents and warrants to the other that the execution and delivery of this Unilateral Agreement and the performance of such party's obligations hereunder have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

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

DECLARANT:

MAKILA KAI LLC

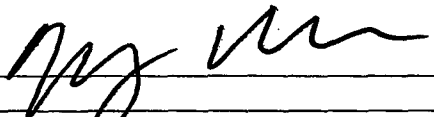
By

  
\_\_\_\_\_  
Gregory E. Brown

Its

  
\_\_\_\_\_

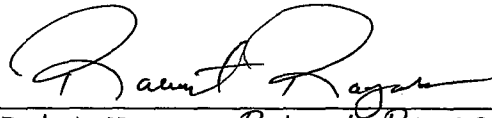
APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
Corporation Counsel  
County of Maui

STATE OF HAWAII )  
                  *Hawaii* ) SS.  
*an* COUNTY OF ~~MAUI~~ )

On June 06, 2017, before me personally appeared Gregory E Brown, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed this 11-page Unilateral Agreement and Declaration of Conditions for State Land Use District ~~Second~~ <sup>Third</sup> Boundary Amendment, dated undated, in the ~~Second~~ <sup>Third</sup> Circuit of the State of Hawaii, as the free act and deed of such person(s), and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

LS

  
Print Name: Robert Ragasa  
Notary Public, State of Hawaii.

My commission expires: 02/21/2020

EXHIBIT "1"

**Makila Kai  
Proposed Workforce Housing Area**

Land situated on the westerly side of Hāniu Street at Polanui, Launiupoko, Lahaina, Maui, Hawaii

Being portions of Lots 4 and 5 of Makila Ranches - Phase 1, being also portions of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) and Royal Patent 1358, Land Commission Award 82 to Thomas Phillips

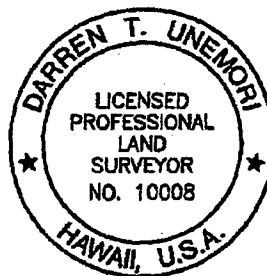
Beginning at a point at the northeasterly corner of this land, the azimuth and distance from the northwesterly corner of Lot 4 of the Makila Ranches - Phase 1 being: 248° 58' 255.24 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAUNIUpoko" being: 5,911.65 feet North and 7,136.02 feet West and running by azimuths measured clockwise from True South:

1. 321° 30' 951.37 feet along the remainder of Lot 4 of Makila Ranches - Phase 1, being also along the remainders of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) and Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
2. Thence along the remainder of Lot 4 of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips on a curve to the left, having a radius of 1,793.00 feet, the chord azimuth and distance being: 319° 00' 156.42 feet to a point;

3. 316° 30' 330.24 feet along same to a point;
4. 46° 09' 188.72 feet along same to a point;
5. 136° 01' 58.27 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: 290° 28' 14", and the point of tangency azimuth from the radial point being: 321° 47' 42", having a radius of 47.00 feet, the chord azimuth and distance being: 36° 07' 58" 25.38 feet to a point;
7. 316° 01' 99.51 feet along same to a point;
8. 44° 31' 190.77 feet along the remainders of Lots 4 and 5 of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
9. 136° 00' 498.25 feet along the remainder of Lot 5 of of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips to a point;
10. Thence along same on a curve to the right having a radius of 3,350.00 feet, the chord azimuth and distance being: 139° 45' 438.20 feet to a point;


11. 143° 30' 709.97 feet along the remainder of Lot 5 of Makila Ranches - Phase 1, being also along the remainders of Royal Patent 1358, Land Commission Award 82 to Thomas Phillips and Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10) to a point;
12. Thence along the southerly side of Lot 12 (Punakea Street) of Makila Ranches - Phase 1, being also along the remainder of Royal Patent 8395, Land Commission Award 8559-B, Apana 25 to Wm. C. Lunalilo (Certificate of Boundaries No. 10), on a curve to the right with the point of curvature azimuth from the radial point being: 145° 01' 38", and the point of tangency azimuth from the radial point being: 158° 58', having a radius of 230.00 feet, the chord azimuth and distance being: 241° 59' 49" 55.82 feet to a point;
13. 248° 58' 360.26 feet along same to the point of beginning and containing an Area of 14.594 Acres.





WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
November 10, 2016

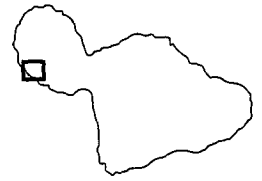
BY:  04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 10008

Note: This metes and bounds description has been prepared for the Makila Kai 201H Application; therefore, described courses do not necessarily reflect boundaries of existing land parcels.

V:\Projdata\16proj\16039\Survey\Desc-Workforce-Housing-Area\_rev03.wpd

EXHIBIT "2"

VICINITY MAP



TRUE NORTH

SCALE: 1 IN. == 400 FT.

PUNAKEA STREET

T.M.K.: (2)  
4-7-013 : 012

T.M.K.: (2)  
4-7-013 : 003

T.M.K.: (2) 4-7-013  
: 004

T.M.K.: (2)  
4-7-013 : 005

T.M.K.: (2)  
4-7-014 : 004

T.M.K.: (2)  
4-7-013 : 007

T.M.K.: (2)  
4-7-014 : 005

T.M.K.: (2)  
4-7-014 : 006

T.M.K.: (2)  
4-7-013 : 008

T.M.K.: (2)  
4-7-014 : 007

TAX MAP KEY

AREA:

T.M.K.: (2) 4-7-013 : PORTION OF 004 (10.320 ACRES)

14.594 ACRES

T.M.K.: (2) 4-7-013 : PORTION OF 005 (4.274 ACRES)

DISTRICT BOUNDARY AMENDMENT MAP NO. DB-818

DISTRICT BOUNDARY AMENDMENT - POLANUI, LAUNIUPOKO,  
LAHAINA, MAUI, HAWAII  
FROM AGRICULTURAL (A) TO RURAL (R)

EXHIBIT "3"

CONDITIONS

1. This ordinance is conditional upon the Council's passage of a resolution approving, with modifications, the independent development of Makila Kai, pursuant to Section 201H-38, Hawaii Revised Statutes (the "201H Resolution").
2. If the 201H Resolution shall expire due to the developer's failure to start physical construction on the Property by the time deadline set forth in the 201H Resolution, this ordinance shall also terminate concurrently with the expiration of the 201H Resolution.
3. Developer shall act in good faith and with its reasonable best efforts to complete all of the 25 residential workforce housing units on the Property with all related roads and infrastructure not later than the fifth anniversary of the effective date of the 201H Resolution.
4. The Property shall be developed as a residential workforce housing project in accordance with the 201H Resolution.
5. The Property shall be developed in strict compliance with the representations made to the Council in obtaining approval of the State District Boundary Amendment.
6. There shall be a prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.
7. There shall be notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the Agricultural District are protected under Chapter 165, the Hawaii Right to Farm Act, and the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

DIGEST

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 67 (2017)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII, TAX MAP KEY NOS. (2) 4-7-013:004 (POR.) AND (2) 4-7-013:005 (POR.), CONTAINING A TOTAL OF 14.594 ACRES

This bill proposes to grant Makila Kai LLC a State Land Use District Boundary Amendment from Agricultural District to Rural District for approximately 14.594 acres situated along Haniu Street, Polanui, Launiupoko, Lahaina, Maui, Hawaii, identified for real property tax purposes as portions by Tax Map Key Nos. (2) 4-7-013:004 (por.) and (2) 4-7-013:005 (por.), to facilitate the development of a Chapter 201H, Hawaii Revised Statutes, affordable housing project.

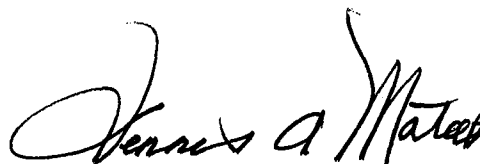
I, DENNIS A. MATEO, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 67 (2017) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 16th day of June, 2017, by the following vote:

AYES: Councilmembers Alika Atay, S. Stacy Crivello, G. Riki Hokama, Kelly T. King, Yuki Lei K. Sugimura, Vice-Chair Robert Carroll, and Chair Michael B. White.

NOES: Councilmember Eleanora Cochran.

EXCUSED: Councilmember Donald S. Guzman.

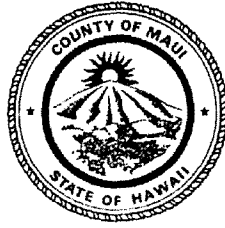
DATED at Wailuku, Maui, Hawaii, this 19th of June, 2017.



DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.

ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel


EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
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MEMO TO: Robert Carroll, Chair  
Land Use Committee

FROM: Jeffrey Ueoka   
Deputy Corporation Counsel

DATE: July 19, 2017

SUBJECT: **BILL 67 (2017), AMENDING THE DISTRICT BOUNDARY  
FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO,  
LAHAINA, MAUI, HAWAII** (PAF 17-159)

We are in receipt of your request dated July 18, 2017 relating to Bill 67 (2017) and provide the following brief responses.

- 1. In the event the Council decides not to approve Bill 67 (2017), what legal effect, if any, would that have on the related Chapter 201H, Hawaii Revised Statutes, Makila Kai project, and Resolution 17-108 (adopted on June 16, 2017)?**

In accordance with Modification 1(a) of Exhibit "B" to Resolution 17-108, all exemptions provided for by Chapter 201H, Hawaii Revised Statutes, to the Makila Kai project shall lapse and become void if the State Land Use District Boundary Amendment contemplated in Bill 67 (2017) is not approved within 180 days of the effective date of the Resolution.

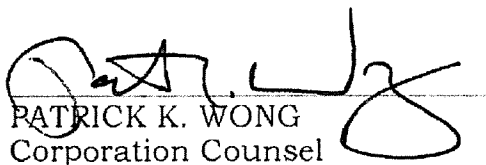
Robert Carroll, Chair  
Land Use Committee  
July 19, 2017  
Page 2

**2. What options, if any, are available to the developer of the HRS Chapter 201H project without a district boundary amendment?**

We would prefer not to speculate on the options that are available to the developer, however as stated above, all exemptions provided for by Chapter 201H, Hawaii Revised Statutes, to the Makila Kai project shall lapse and become void if the State Land Use District Boundary Amendment contemplated in Bill 67 (2017) is not approved within 180 days of the effective date of Resolution 17-108.

Please contact us if any further clarification is required.

APPROVED FOR TRANSMITTAL:

  
PATRICK K. WONG  
Corporation Counsel

2017-0913

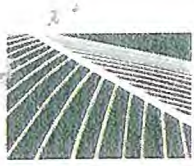
2017-07-19 Memo

## LU Committee

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**From:** Linda Kimura <Linda.Kimura@co.maui.hi.us>  
**Sent:** Wednesday, July 19, 2017 2:02 PM  
**To:** Maui\_County Council\_mailbox; LU Committee  
**Cc:** Tammy Frias  
**Subject:** BILL 67 (2017), AMENDING THE DISTRICT BOUNDARY FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII (PAF 17-159)  
**Attachments:** 2017-07-19 Memo to Carroll.pdf

See attached. Transmitted via email only. Thank you



RECEIVED

2017 JUL 24 PM 3:59

OFFICE OF THE  
COUNTY COUNCIL

July 21, 2017

Councilmember Robert Carroll, Chair  
Land Use Committee  
Maui County Council  
200 South High Street, 8th Floor  
Wailuku, Hawaii 96793

**SUBJECT: BILL 67 (2017) AMENDING THE DISTRICT BOUNDARY FOR  
PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA,  
MAUI, HAWAII (PAF 17-159)**

Dear Councilmember Carroll:

Thank you for your letter dated July 18, 2017 regarding Bill 67, pertaining to the District Boundary Amendment (DBA) necessary for Makila Kai (PAF 17-159). As the planning consultant for the developer, Makila Kai LLC, we are responding to your requests for information (copied below, along with our response):

1. *What impact, if any, does the quiet title decision have on the developer's ability to provide water for the Makila Kai project?*

**Response:** The quiet title decision has no impact on Makila Kai LLC's ability to provide water for the Makila Kai project. As part of the 201-H Resolution (Resolution 17-108) adopted by the Council on June 16, 2017, Makila Kai LLC proposed and agreed to a modification (i.e. condition) that requires Makila Kai to provide its own non-potable water source to alleviate dependence on Kauaula Stream water. This is Modification # 5 in Exhibit B of the resolution, which states:

*"The Developer shall develop a well for non-potable water for irrigation with a yield sufficient to meet the non-potable water demand of all 49 lots. Market-rate lots shall absorb the costs of the non-potable water system. Said yield shall serve the project either directly or by dedication to Launiupoko Irrigation Co. in order to alleviate any project impact in Kauaula Stream flows. The County of Maui shall have the right to deny the issuance of building permits for homes on the market-rate lots if and as long as the Developer is in breach of this modification."*

Launiupoko Irrigation Company (LIC) provides non-potable irrigation water to the Launiupoko area. Our understanding is that there is a LIC water line that traverses a portion of the property subject to the quiet title decision.

At the June 7, 2017 Council hearing on Bill 67, several testifiers mentioned that the quiet title decision may impact LIC's ability to continue using the water line because LIC may need to seek easements or other solutions to continue using the line.

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HONOLULU OFFICE



Councilmember Robert Carroll

SUBJECT: BILL 67 (2017) AMENDING THE DISTRICT BOUNDARY FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII (PAF 17-159)

July 21, 2017

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If LIC is impacted by the quiet title decision and can no longer continue to use the water line, then Makila Kai LLC will develop its own non-potable distribution system from the non-potable well it is required to develop. Makila Kai's distribution system would serve Makila Kai directly and be independent from the LIC system.

Launiupoko Water Company (LWC) provides potable (drinking) water to the Launiupoko area and will provide potable water for Makila Kai. The source of LWC's potable water is three potable groundwater wells. The wells and the LWC distribution system are completely independent from the LIC water system and there are no LWC water lines that transverse property subject to the quiet title decision. Thus, the quiet title decision has no impact on the ability of LWC to provide potable water to Makila Kai.

2. *Since the quiet title decision was rendered, have representatives of Makila Kai LLC met with the Defendants or their representatives, or do you plan on meeting with them, to discuss potential water availability issues for the project? If so, please explain.*

**Response:** As the quiet title decision will have no impact on Makila Kai LLC's ability to provide water for the Makila Kai project, Makila Kai LLC representatives have not met with the Defendants or their representatives since the quiet title decision. However, previous to the decision, Makila Kai LLC representatives meet with the Defendants or their representatives to understand their concerns regarding water, particularly their concerns regarding Kauaula Stream flows. To address their concerns, Makila Kai LLC proposed and agreed to the above condition that requires Makila Kai to provide its own non-potable water source to alleviate dependence on Kauaula Stream water. Makila Kai LLC looks forward to continued dialog as the Makila Kai project moves forward.

We understand that some Councilmembers recently met with LIC representatives to physically see the LIC water system in Kauaula Valley. However, since Makila Kai LLC is not involved in any way with the control, management, or operation of the LIC water system, Makila Kai LLC representatives did not attend this meeting.

3. *In the event the Council decides not to pass Bill 67 (2017) on second and final reading, what effect would that have on the developer's plans for the property?*

**Response:** The Makila Kai project could not proceed if the Council does not to pass Bill 67. Bill 67 pertains to the State Land Use District Boundary Amendment (DBA) necessary for Makila Kai LLC to subdivide and build-out the 25 half-acre workforce lots and homes. Without the DBA, the workforce lots could not be subdivided, as currently the entire Makila Kai property is within the State Land Use Agricultural District, which does not permit half-acre lots and workforce homes. Thus, for the Makila Kai project to proceed, the 14.594-acre workforce housing area must be reclassified to the State Land Use Rural District, which permits half-acre lots and workforce homes. The attached Makila Kai Conceptual Master Plan shows the area subject to the DBA. In addition, Bill 67 contains the detailed DBA Map showing the 14.594-acre DBA area.

Councilmember Robert Carroll

SUBJECT: BILL 67 (2017) AMENDING THE DISTRICT BOUNDARY FOR PROPERTY  
SITUATED AT POLANUI, LAUNIUPOKO, LAHAINA, MAUI, HAWAII (PAF 17-159)

July 21, 2017

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Resolution 17-108, Exhibit B, Modification #9 requires Makila Kai to be “developed in strict compliance with the representations made to the Maui County Council in obtaining approval of this Resolution.” Thus, Makila Kai LLC is obligated to develop Makila Kai as proposed with the half-acre workforce lots homes, and could not simply redesign the project with larger workforce housing lots.

We look forward to the Council passing Bill 67 and then being able to complete the Makila Kai project. Please contact me if you have any questions or need any additional information.

Sincerely,

PBR HAWAII

A handwritten signature in black ink, appearing to read 'Tom Schnell', written in a cursive style.

Tom Schnell, AICP  
Principal

cc: Makila Kai LLC  
County of Maui Department of Housing and Human Concerns

Summary	
Workforce Homes (0.5+ ac Lots)	25
Market Lots (1.5+ ac Lots)	24
<b>Total :</b>	<b>49</b>

Open Space Summary	
Green Belt Along Bypass Highway	+/-22.5 acres
Neighborhood Park	+/-1.3 acres
Gulch Open Space	+/-2.9 acres
Lot Setbacks	+/-14.9 acres
<b>Total Open Space :</b>	<b>+/-41.2 acres</b>
<b>Total Land Area</b>	<b>+/-79.5 acres</b>
<b>Percentage of Open Space :</b>	<b>52%</b>

Proposed Trail System	
	Pedestrian Trail
	Emergency Access Fire Lane
	Sidewalk



# Conceptual Master Plan Makila Kai

Makila Kai, LLC  
North

Island of Maui

Linear Scale (in feet)

0 250 500 1,000

PBR LAW FIRM  
SOUTH BEACH, FL

\* As a portion of this drainage basin is conceptually shown in the Lahaina Bypass Highway ROW, MKL will work with the State DOT to either:  
 (1) coordinate the sizing and design of the basin to also accommodate drainage from the Lahaina Bypass Highway; or (2) relocate the basin so that it is not within the ROW.