

REQUEST FOR LEGAL SERVICES

D a t e: March 27, 2018
F r o m: Robert Carroll, Chair
Land Use Committee

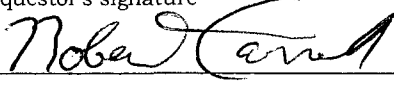
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: David Galazin, Esq.

Subject: AMENDING ORDINANCE 3554 (2008), RELATING TO KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING FOR APPROXIMATELY 670 ACRES ALSO KNOWN AS THE HONUA'ULA PROJECT DISTRICT SITE (PALAUEA, MAUI) (LU-55)

Background Data: Please review and, if appropriate, approve as to form and legality, the attached revised proposed bill, which incorporates nonsubstantive revisions to the title and text of the bill, and adds the word "Light" into the phrase "Kaonoulu Industrial Subdivision" in Exhibit "B," Condition 5. A hard copy of the revised proposed bill is requested with your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Robert Carroll	Contact Person Carla Nakata (Telephone Extension: 7659)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): March 27, 2018, 4:30 p.m.
REASON: To submit for posting on the agenda for the April 6, 2018 Council meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3554 (2008),
ESTABLISHING KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING
(CONDITIONAL ZONING) FOR APPROXIMATELY 670 ACRES SITUATED AT
PAEAHU, PALAUEA, KEAUHOU, MAUI, HAWAII, BY AMENDING CONDITION 5,
RELATING TO WORKFORCE HOUSING UNITS

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

SECTION 1. Pursuant to Chapter 19.510, Maui County Code, Ordinance No. 3554, which became effective April 8, 2008, is hereby amended for those certain parcels of land located at Paeahu, Palauea, Keauhou, Maui, Hawaii, identified for real property tax purposes as tax map keys (2) 2-1-008:056 and (2) 2-1-008:071, comprising approximately 670 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by Ordinance No. 3554 is hereby subject to the Revised Conditions of Zoning set forth in Exhibit "B," which includes a revised Condition 5, attached hereto and made a part hereof, which shall replace all conditions previously imposed. The Unilateral Agreement and Declaration for Conditional Zoning for property situated at Kihei-Makena Project District 9 (Wailea 670), attached hereto and made a part hereof as Exhibit "C," shall supersede that certain Unilateral Agreement and Declaration for Conditional Zoning dated February 18, 2008, and recorded on March 10, 2008, with the Bureau of Conveyances, State of Hawaii, as Document No. 2008-036711.

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

APPROVED AS TO FORM
AND LEGALITY:

DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui
lu:misc:055abill01

EXHIBIT "A"

DESCRIPTION
TAX MAP KEY:(2) 2-1-008: PARCEL 56
PORTIONS OF ROYAL PATENT GRANT 548 TO J.Y. KANEHOA AND
LAND COMMISSION AWARD-11,216, APANA-21 TO M. KEKAUONOHI
(CERTIFICATE OF BOUNDARIES NO. 66)

All of that certain parcel of land, being Parcel 56 of Tax Map Key:(2) 2-1-008, being portions of Royal Patent Grant 548 to J.Y. Kanehoa and Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66), situated at Paeahu, Palaucau, Honuaula, Makawao, Island and County of Maui, State of Hawai'i and being more particularly described as follows:

Beginning at a found 3 ¼-inch aluminum boundary monument disc at the northeast corner of this parcel of land, on the west boundary of Parcel 1 of said Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch Inc.), said disc also being the southeast corner of Lot 101 of the Maui Meadows Subdivision - Unit III, File Plan 1236, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OLAI" being:

20,066.74 feet North
9,405.32 feet East

and running by azimuths measured clockwise from true South:

1. 3° 16' 20" 8314.36 feet along said Parcel 1 of Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch Inc.), along the remainders of said Royal Patent Grant 548 to J.Y. Kanehoa and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) to a found 3 ¼-inch aluminum boundary monument disc on the northerly boundary of Land Patent 8213, Land Commission Award 6715 to Hoomanawanui, said disc being the northwest corner of Lot 1 of the Ulupalakua-Seibu Subdivision and the northeast corner of Parcel 71 of Tax Map Key:(2) 2-1-008, being a portion of said Land Patent 8213, Land Commission Award 6715 to Hoomanawanui;
2. 93° 17' 00" 3274.44 feet along said Parcel 71 of Tax Map Key:(2) 2-1-008, being a portion of Land Patent 8213, Land Commission Award 6715 to Hoomanawanui, to a point on the easterly boundary of Lot 321-A-1 of Land Court Application 1804;
3. 185° 34' 57" 6784.74 feet along Lots 321-A-1, 315, 460, 657, 308 and 656 of said Land Court Application 1804, along the remainders of said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) and said

Royal Patent Grant 548 J.Y. Kanehoa to a found ¾-inch pipe on the southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way;

4. 346° 09' 17" 698.94 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
5. 76° 09' 17" 15.60 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
6. 346° 09' 17" 312.75 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
7. 76° 09' 17" 20.00 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
8. 346° 09' 17" 470.00 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
9. 256° 09' 17" 25.60 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
10. 346° 09' 17" 250.00 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
11. 256° 09' 17" 4.40 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
12. 346° 09' 17" 550.00 feet along said southwesterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
13. 256° 09' 17" 140.60 feet along the southeasterly end of said Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
14. 166° 09' 17" 100.00 feet along the northeasterly boundary of said Piilani

- Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
15. 256° 09' 17" 20.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 16. 166° 09' 17" 300.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 17. 256° 09' 17" 30.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 18. 166° 09' 17" 400.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 19. 76° 09' 17" 30.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 20. 166° 09' 17" 300.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 21. 256° 09' 17" 12.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 22. 166° 09' 17" 120.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 23. 76° 09' 17" 22.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 24. 166° 09' 17" 530.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
 25. 256° 09' 17" 10.00 feet along said northeasterly boundary of the Piilani

Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;

26. 166° 09' 17" 150.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
27. 256° 09' 17" 10.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
28. 166° 09' 17" 610.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
29. 76° 09' 17" 20.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
30. 166° 09' 17" 390.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
31. 256° 09' 17" 50.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
32. 166° 09' 17" 150.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
33. 76° 09' 17" 30.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
34. 166° 09' 17" 200.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
35. 76° 09' 17" 40.00 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
36. 166° 09' 17" 599.49 feet along said northeasterly boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way, along the

remainder of said Royal Patent Grant 548 J.Y. Kanehoa same to a found 3 1/4-inch aluminum boundary monument at the southwest corner of Lot 233 of the Maui Meadows Subdivision - Unit I, File Plan 1022;

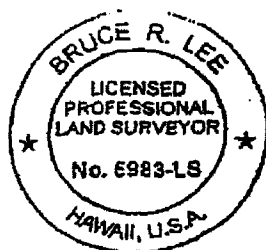
37. 273° 17' 00" 3342.93 feet along said Lot 233 of the Maui Meadows Subdivision - Unit I, File Plan 1022, along the south end of Akala Drive, along Lots 232 and 219 of said Maui Meadows Subdivision - Unit I, File Plan 1022, along the south end of Hoala Drive, along Lot 218 of said Maui Meadows Subdivision - Unit I, File Plan 1022, along Lots 91 to 95 of the Maui Meadows Subdivision - Unit II, File Plan 1107, along Lots 121, 120, 119, 118, 117, 116, 115, 114, 113, 111, 110, 109, 103, 102 and 101 of said Maui Meadows Subdivision - Unit III, File Plan 1236, along the remainder of said Royal Patent Grant 548 to J.Y. Kanehoa to the point of beginning and containing a Gross Area of 588.067 Acres, Less Exclusion "D" (1.033 Acres) and Less Portion Highway Exclusion (18.676 Acres), Leaving a Net Area of 568.358 Acres, more or less.

SUBJECT, HOWEVER to a restriction of vehicle access rights along the entire length of courses 4 to 12 inclusive, 14 to 27 inclusive, the first 432.00 feet and the last 48.00 feet of course 28 and the entire length of courses 29 to 36, inclusive.

EXCEPTING AND EXCLUDING there from Exclusion "D" (1.033 Acres) as recorded in Liber 11770 at Pages 306 and 307; and a Portion of the Highway Exclusion (Future Piilani Highway) as recorded in Liber 11770 at Pages 308 to 317.

Prepared by:

NEWCOMER-LEE
LAND SURVEYORS, INC., a Hawai'i Corporation



This description was prepared from a survey on the ground performed by me or under my supervision.

Bruce R. Lee 04/08

BRUCE R. LEE

Licensed Professional Land
Surveyor Certificate No. 5983-LS

10-17-07
WAILEA 670/ZONING
File 07-7647
07-7647 Wailea 670 Parcel 36

DESCRIPTION
TAX MAP KEY:(2) 2-1-008: PARCEL 71
PORTION OF LAND PATENT 8213, LAND COMMISSION
AWARD 6715 TO HOOMANAWANUI

All of that certain parcel of land, being Parcel 71 of Tax Map Key:(2) 2-1-008, being a portion Land Patent 8213, Land Commission Award 6715 to Hoomanawanui, situated at Keaunohu, Honuaula, Makawao, Island and County of Maui, State of Hawai'i and being more particularly described as follows:

Beginning at a found 3 ¼-inch aluminum boundary monument disc at the southwest corner of this parcel of land, on the easterly boundary of Lot 321-A-1 of Land Court Application 1804, said disc also being the northwest corner of Lot B of the Makena Mauka Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OLAJ" being:

10,639.15 feet North
5,533.22 feet East

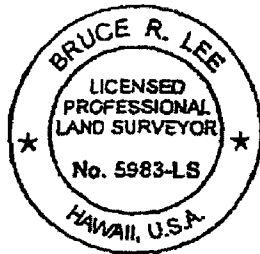
and running by azimuths measured clockwise from true South:

1. 185° 34' 57" 1320.59 feet along said Lot 321-A-1 of Land Court Application 1804, along the remainder Land Patent 8213, Land Commission Award 6715 to Hoomanawanui to a ¼-inch pipe at the southwest corner of Parcel 56 of Tax Map Key:(2) 2-1-008, said pipe being on the southerly boundary of Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
2. 273° 17' 00" 3274.44 feet along said Parcel 56 of Tax Map Key:(2) 2-1-008, along said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) to a ¼-inch pipe at the northwest corner of Lot 1 of the Ulupalakua-Seibu' Subdivision, said pipe also being the southwest corner of Parcel 1 of said Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch, Inc.);
3. 3° 16' 20" 1319.53 feet along said Lot 1 of the Ulupalakua-Seibu Subdivision and along the remainder of said Land Patent 8213, Land Commission Award 6715 to Hoomanawanui to a found 3 ¼-inch aluminum boundary monument disc;
4. 93° 17' 00" 3327.67 feet along said Lot 1 of the Ulupalakua-Seibu Subdivision, along said Lot B of the Makena Mauka Lots, along the remainder of said Land Patent 8213, Land Commission Award 6715 to Hoomanawanui to the point of beginning and containing an area of 99.996 Acres, more or less.

Page 1 of 2

Prepared by:

**NEWCOMER-LEE
LAND SURVEYORS, INC., a Hawai'i Corporation**



This description was prepared from a survey on the ground performed by me or under my supervision.

Bruce R. Lee exp. 04/08

BRUCE R. LEE
Licensed Professional Land
Surveyor Certificate No. 5983-LS

10/17/07
WAILEA 670/ZONING
File 07-7647
07-7647 Wailea 670 Parcel 71

**DESCRIPTION
PORTION OF HIGHWAY EXCLUSION
LIBER 11770, PAGE 308 TO 317
(FUTURE PIILANI HIGHWAY)
KALAMA PARK TO PIILANI HIGHWAY, F.A.P. NO. F-031-1(2)
[PORTION OF TAX MAP KEY:(2) 2-1-008: PARCEL 56]**

All of that certain parcel of land, being a Portion of the Highway Exclusion as recorded in Liber 11770 at Pages 308 to 316 (Future Piilani Highway), being a portion of Parcel 56 of Tax Map Key:(2) 2-1-008, also being a portion of Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) and a portion of Royal Patent Grant 548 to J.Y. Kanehoa, situated at Paeha, Palaueau, Honuaula, Makawao, Island and County of Maui, State of Hawai'i and being more particularly described as follows:

Beginning at a found 3 1/4-inch aluminum boundary monument disc at the southeast corner of this parcel of land, on the north boundary of Land Patent 8213, Land Commission Award 6715 to Hoomanawanui, said disc also being the southwest corner of Parcel 1 of Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch, Inc.), the northwest corner of Lot 1 of the Ulupalakua-Seibu Subdivision and the northeast corner of Parcel 71 of Tax Map Key: (2) 2-1-008, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OLAI" being:

11,765.93 feet North
8,930.74 feet East

and running by azimuths measured clockwise from true South:

1. 93° 17' 00" 1.65 feet along said Parcel 71 of said Tax Map Key:(2) 2-1-008, along said Land Patent 8213, Land Commission Award 6715 to Hoomanawanui;
2. 139° 52' 33" 277.77 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
3. 49° 52' 33" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
4. 139° 52' 33" 450.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

5. 229° 52' 33" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
6. 139° 52' 33" 400.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
7. 49° 52' 33" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);
8. 139° 52' 33" 133.92 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the right, concave northeasterly with a radius of 3080.07 feet, the chord azimuth and distance being:

9. 142° 25' 00.1" 273.09 feet;
10. 54° 57' 27.2" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the right, concave northeasterly with a radius of 3100.07 feet, the chord azimuth and distance being:

11. 145° 26' 06.1" 51.67 feet;
12. 235° 54' 45" 30.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the right, concave northeasterly with a radius of 3070.07 feet, the chord azimuth and distance being:

- 13. 147° 20' 41.5" 153.48 feet;
- 14. 238° 46' 38" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the right, concave northeasterly with a radius of 3060.07 feet, the chord azimuth and distance being:

- 15. 151° 09' 52.1" 254.92 feet;
- 16. 63° 33' 06.2" 110.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the right, concave northeasterly with a radius of 3170.07 feet, the chord azimuth and distance being:

- 17. 154° 59' 02.7" 158.48 feet;
- 18. 246° 24' 59.2" 90.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008, said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) and said Royal Patent Grant 548 to J.Y. Kanehoa on the arc of a curve to the right, concave northeasterly with a radius of 3080.07 feet, the chord azimuth and distance being:

- 19. 160° 42' 48.7" 461.57 feet;
- 20. 75° 00' 38.2" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa on the arc of a curve to the right, concave northeasterly with a radius of 3100.07 feet, the chord azimuth and distance being:

21. 165° 34' 57.6" 61.90 feet;
22. 166° 09' 17" 390.09 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
23. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
24. 166° 09' 17" 100.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
25. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
26. 166° 09' 17" 150.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
27. 76° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
28. 166° 09' 17" 250.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
29. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
30. 166° 09' 17" 250.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
31. 76° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;

32. 166° 09' 17" 400.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
33. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
34. 166° 09' 17" 350.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
35. 76° 09' 17" 15.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
36. 166° 09' 17" 100.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
37. 76° 09' 17" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
38. 166° 09' 17" 250.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
39. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
40. 166° 09' 17" 350.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa to a point on the south boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way;
41. 256° 09' 17" 130.00 feet along said southeast boundary of the Piilani Highway, F.A.P. No. F-031-1(2) right-of-way;
42. 346° 09' 17" 50.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;

43. 256° 09' 17" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
44. 346° 09' 17" 150.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
45. 76° 09' 17" 15.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
46. 346° 09' 17" 300.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
47. 256° 09' 17" 40.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
48. 346° 09' 17" 100.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
49. 76° 09' 17" 40.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
50. 346° 09' 17" 530.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
51. 256° 09' 17" 20.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
52. 346° 09' 17" 770.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
53. 76° 09' 17" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;

54. 346° 09' 17" 500.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
55. 256° 09' 17" 60.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
56. 346° 09' 17" 50.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
57. 76° 09' 17" 60.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;
58. 346° 09' 17" 140.09 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Royal Patent Grant 548 to J.Y. Kanehoa;

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008, said Royal Patent Grant 548 to J.Y. Kanehoa and along the remainder of said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66), on the arc of a curve to the left, concave northeasterly with a radius of 2930.07 feet, the chord azimuth and distance being:

59. 343° 40' 22.3" 253.76 feet;
60. 251° 11' 27.6" 10.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the left, concave northeasterly with a radius of 2920.07 feet, the chord azimuth and distance being:

61. 337° 36' 36.3" 364.76 feet;
62. 244° 01' 45" 80.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the

arc of a curve to the left, concave north-easterly with a radius of 2840.07 feet, the chord azimuth and distance being:

63. 333° 18' 46.8" 71.00 feet;
64. 242° 35' 48.6" 70.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the left, concave northeasterly with a radius of 2770.07 feet, the chord azimuth and distance being:

65. 331° 24' 11.5" 115.41 feet;
66. 60° 12' 34.4" 150.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the left, concave northeasterly with a radius of 2920.07 feet, the chord azimuth and distance being:

67. 327° 57' 55.9" 228.67 feet;
68. 235° 43' 17.4" 130.00 feet along the remainders of said Parcel 56 of Tax Map - Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the left, concave northeasterly with a radius of 2790.07 feet, the chord azimuth and distance being:

69. 325° 14' 38.6" 46.50 feet;
70. 54° 45' 59.8" 130.00 feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66);

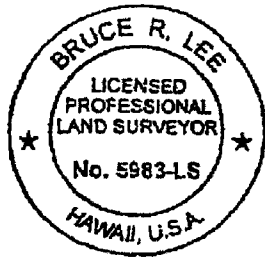
Thence along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) on the arc of a curve to the left, concave northeasterly with a radius of 2920.07 feet, the chord azimuth and distance being:

- | | | | |
|-----|----------------|--------|--|
| 71. | 322° 19' 16.4" | 249.18 | feet; |
| 72. | 229° 52' 33" | 30.00 | feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66); |
| 73. | 319° 52' 33" | 133.92 | feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66); |
| 74. | 49° 52' 33" | 40.00 | feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66); |
| 75. | 319° 52' 33" | 982.11 | feet along the remainders of said Parcel 56 of Tax Map Key:(2) 2-1-008 and said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) to a ¾-inch pipe on the west boundary of said Parcel 1 of Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch, Inc.); |
| 76. | 3° 16' 20" | 202.03 | feet along said Parcel 1 of Tax Map Key:(2) 2-1-008 (land owned by Ulupalakua Ranch, Inc.), along the remainder of said Land Commission Award 11,216, Apana 21 to M. Kekauonohi (Certificate of Boundaries No. 66) to the point of beginning and containing an area of 18.676 Acres, more or less. |

SUBJECT, HOWEVER to proposed restriction of abutter's rights of vehicle access, appurtenant to the remainder of the land of which the above-described parcel of land is a part, into and from Piilani Highway, Kalama Park to Piilani Highway, Federal Aid Project No. F-031-1(2), over and across the entire length of courses 1 to 8 inclusive, the first 43.84 feet and the last 149.34 feet of course 9, the entire length of courses 10 to 31 inclusive, the first 334.94 feet of course 32, the entire length of course 33, the last 295.06 feet of course 34, the entire length of courses 35 to 40 inclusive and 42 to 49 inclusive, the first 395.06 feet and the last 14.94 feet of course 50, the entire length of courses 51 to 75 inclusive of the above described Highway Exclusion.

Prepared by:

**NEWCOMER-LEE
LAND SURVEYORS, INC.**, a Hawai'i Corporation



This description was prepared from a survey on the ground performed by me or under my supervision.

Bruce R. Lee 04/08

BRUCE R. LEE
Licensed Professional Land
Surveyor Certificate No. 5983-LS

10/17/07
WAILEA 670/ZONING
File 07-7647
07-7647 Wailea 670 Highway Exclusion

**DESCRIPTION
EXCLUSION "D"
(MAUI ELECTRIC COMPANY, LIMITED SUBSTATION LOT)
TAX MAP KEY:(2) 2-1-008: PARCEL 43**

All of that certain parcel of land, being Parcel 43 of Tax Map Key:(2) 2-1-008 (Maui Electric Company, Limited Substation Lot), being a portion of Royal Patent Grant 548 to J.Y. Kanehoa, situated at Paeehu, Palaueau, Honuaula, Makawao, Island and County of Maui, State of Hawai'i and being more particularly described as follows:

Beginning at the northwest corner of this parcel of land, said point being 0° 28' 25" 1390.88 feet from a (found) ¾-inch pipe on the southwesterly boundary of the Piihahi Highway, F.A.P. No. F-031-1(2) right-of-way, said pipe also being the northeast corner of Lot 656 as shown on Map 84 of Land Court Application 1804, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OLAI" being:

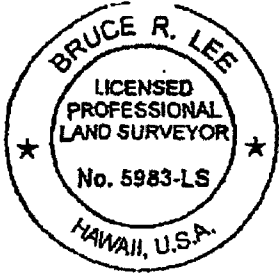
17,314.59 feet North
6,311.37 feet East

and running by azimuths measured clockwise from true South:

1. 283° 39' 37" 207.05 feet along Parcel 56 of Tax Map Key: (2) 2-1-0-08, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
2. 5° 34' 57" 205.00 feet along said Parcel 56 of Tax Map Key: (2) 2-1-0-08, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
3. 95° 34' 57" 205.00 feet along said Parcel 56 of Tax Map Key: (2) 2-1-0-08, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa;
4. 185° 34' 57" 234.09 feet along said Parcel 56 of Tax Map Key: (2) 2-1-0-08, along the remainder of said Royal Patent Grant 548 J.Y. Kanehoa to the point of beginning and containing an Area of 1.033 Acres, more or less.

Prepared by:

**NEWCOMER-LEE
LAND SURVEYORS, INC., a Hawai'i Corporation**



This description was prepared by me or
under my supervision.

Bruce R. Lee sep 04/08

BRUCE R. LEE

Licensed Professional Land
Surveyor Certificate No. 5983-LS

11/15/07
WAILEA 670/ZONING
File 07-7647
07-7647 Wailea 670 Exclusion "D" MECo Substation

EXHIBIT "B"

REVISED CONDITIONS OF ZONING

1. That Honua`ula Partners, LLC, its successors and permitted assigns, shall, at their own cost and expense, develop, maintain, and operate, or cause to be developed, maintained, and operated, a private water source, storage facilities, and transmission lines for the Wailea 670 project in accordance with Department of Water Supply standards and all applicable community plans. Honua`ula Partners, LLC, its successors and permitted assigns, shall comply with all reporting requirements of the State Commission on Water Resource Management.

In addition, Honua`ula Partners, LLC, its successors and permitted assigns, shall comply with applicable water ordinances that pertain to the supply and transmission of water from the island of Maui when such ordinances are enacted.

At the time the project water system is completed, Honua`ula Partners, LLC, its successors and permitted assigns, shall offer to the County the right to purchase the project water system at the cost of development of such system.

The water rates for the residential workforce housing units shall be no higher than the general water consumer rates set by the County in its annual budget, for as long as the units are subject to Chapter 2.96, Maui County Code.

2. That Honua`ula Partners, LLC, its successors and permitted assigns, shall implement the following traffic improvements:
 - a. Upgrade Piilani Highway, from Kilohana Drive to Wailea Ike Drive, to four lanes of traffic. The improvements shall be completed prior to the commencement of any construction on the site, with the exception of grading.
 - b. Extend Piilani Highway for two lanes of traffic from Wailea Ike Drive to Kaukahi Street. The improvement shall be constructed at or prior to the completion of 50 percent of the project. Said improvement shall be maintained by Honua`ula Partners, LLC, its successors and permitted assigns.
 - c. Signalize the Piilani Highway/Okolani Drive/Mikioi Place intersection and provide an exclusive left-turn lane on Okolani

Drive prior to occupancy of the first unit in Kihei-Makena Project District 9.

- d. Modify the Piilani Highway/Wailea Ike Drive intersection into a signalized intersection and provide a free right-turn lane from Piilani Highway to Wailea Ike Drive and a second right-turn lane from Wailea Ike Drive to northbound Piilani Highway prior to occupancy of the first unit in Kihei-Makena Project District 9.
 - e. Modify the Wailea Alanui/Wailea Ike Drive intersection to add a signalized double right-turn movement from northbound to eastbound turning traffic and provide two left-turn lanes for southbound traffic from Wailea Ike Drive prior to occupancy of the first unit in Kihei-Makena Project District 9.
 - f. Modify the Piilani Highway/Kilohana Drive/Mapu Place intersection to provide an exclusive left-turn lane, and the southbound Piilani Highway approach to provide an exclusive right-turn lane into Mapu Place prior to occupancy of the first unit in Kihei-Makena Project District 9.
 - g. Signalize the Wailea Ike Drive/Kalai Waa Street intersection in coordination with Wailea Resort and Makena Resort when warranted.
 - h. Signalize the Wailea Alanui/Kaukahi Drive/Kaukahi Street intersection in coordination with Wailea Resort and Makena Resort when warranted.
3. That, as represented, Honua`ula Partners, LLC, its successors and permitted assigns, shall make a contribution to the County for traffic improvements in an amount equal to \$5,000 per unit. The contribution shall be paid to the County prior to issuance of a building permit. Upon adoption of a traffic impact fee ordinance, Honua`ula Partners, LLC, its successors and permitted assigns, shall comply with the ordinance in lieu of this voluntary contribution. Should a traffic impact fee ordinance be adopted prior to the collection of this contribution, the applicable amount shall be the greater of the two. Such contributions or fees shall not be a substitute for any other traffic infrastructure requirements related to the Change in Zoning.
4. That Honua`ula Partners, LLC, its successors and permitted assigns, shall be responsible for all required infrastructural improvements for the project, including water source and system improvements for potable and nonpotable use and fire protection, drainage improvements, traffic-related improvements, wastewater system improvements and utility

upgrades, as determined by the appropriate governmental agencies and public utility companies. Except as otherwise provided by more specific conditions of zoning, said improvements shall be constructed and implemented concurrently with the development of each phase of Kihei-Makena Project District 9, and shall be completed prior to issuance of any certificate of occupancy or final subdivision approval, unless improvements are bonded by Honua`ula Partners, LLC, its successors and permitted assigns. Honua`ula Partners, LLC shall execute appropriate agreements with governmental agencies regarding participation in improvements of infrastructure and public facilities as determined by the agencies.

5. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide workforce housing in accordance with Chapter 2.96, Maui County Code (the "Residential Workforce Housing Policy"); provided that, 250 of the required workforce housing units shall be located either within Project District No. 9/Wailea 670 or at the Kaonoulu Light Industrial Subdivision, or a combination of those locations, as determined by Honua`ula Partners, LLC, its successors and permitted assigns, and provided that each workforce housing unit shall have a certificate of occupancy [and completed] prior to the sale of any market-rate unit, and further provided that 125 of those workforce housing units shall be ownership units, and that 125 of those units shall be rental units. [In addition, construction of those workforce housing units shall be commenced within two years, provided all necessary permits can be obtained within that timeframe.] In the event that the 250 workforce housing units, or any portion thereof, are constructed at the Kaonoulu Light Industrial Subdivision, then Honua`ula Partners, LLC, its successors and permitted assigns, shall provide a minimum two-acre park at the Kaonoulu Light Industrial Subdivision, which shall be credited toward the requirements of Section 18.16.320, Maui County Code, for that subdivision.
6. That a Drainage Master Plan and Phasing Plan of improvements shall be submitted for review and approval during Project District Phase II processing. Said plan shall include the recommended drainage improvements as represented in the Preliminary Drainage Report. The County may require periodic updates of the Drainage Master Plan and Phasing Plan.
7. That Honua`ula Partners, LLC, its successors and permitted assigns, shall prepare an animal management plan that shall be submitted during Project District Phase II processing and approved by the Department of Land and Natural Resources prior to submittal of Project District Phase III processing. Said plan shall include procedures for the management of animal intrusions including, but not limited to,

construction of boundary or perimeter fencing, wildlife control permits, and rodent and feral cat control. Honua`ula Partners, LLC, its successors and permitted assigns, shall implement the approved animal management plan. The Department of Land and Natural Resources may require periodic updates of the plan.

8. That Honua`ula Partners, LLC, its successors and permitted assigns, shall inform owners within Kihei-Makena Project District 9 that the area is subject to the intrusion of mammals such as axis deer, pigs, and rodents, and the impacts and management plan associated with such intrusions.
9. That Honua`ula Partners, LLC, its successors and permitted assigns, shall prepare an assessment of the owl (Pueo or Hawaiian Short-eared Owl) and the Hawaiian Hoary Bat in coordination with the Department of Land and Natural Resources, and, if appropriate, mitigative measures shall be incorporated into Kihei-Makena Project District 9. Said assessment shall be prepared prior to submittal of Project District Phase II processing.
10. That, in lieu of the dedication of a Little League Field and related amenities as originally specified in Ordinance No. 2171 (1992), Exhibit "B", Condition No. 8, and based on current land and construction cost estimates for the Little League Field, not less than \$5,000,000 shall be paid to the County upon Project District Phase II approval for the development of the South Maui Community Park. Said amount shall not be credited against future park assessments.
11. That Honua`ula Partners, LLC is proposing to develop 6 acres of private parks and 84 acres of open space within the development. Said private parks shall be open to the public and privately maintained. Furthermore, said private parks and open space shall not be used to satisfy the park assessment requirements under Section 18.16.320, Maui County Code, or for future credits under said subdivision ordinance. The Director of Parks and Recreation and Honua`ula Partners, LLC agree that the park assessment shall be satisfied with an in-lieu cash contribution for the entire project. The amounts and timing of payment of said in-lieu fees shall be subject to the provisions of Section 18.16.320, Maui County Code.
12. That, as represented by Honua`ula Partners, LLC, the golf course shall be subject to the following conditions:
 - a. Honua`ula Partners, LLC, its successors and permitted assigns, shall permit one nonprofit organization per quarter of the calendar year, other than Maui Junior Golf Association ("Maui Junior Golf"),

the use of the golf course and the clubhouse for a fund-raising activity upon terms mutually agreed upon with said nonprofit organization.

- b. Honua`ula Partners, LLC, its successors and permitted assigns, shall: (1) develop an organized instructional program for junior golfers at its facility from September to January each year; (2) permit Maui Junior Golf the use of the golf course in accordance with Honua`ula Partners, LLC's instructional program; and (3) sponsor one Maui Junior Golf fund-raising tournament per year. The terms of the Junior Golf Program by Honua`ula Partners, LLC shall be as follows:

The instructional program will be developed to teach youngsters ages 12 to 18 years of age the fundamentals of golf and how to play the game, while also providing quality instruction/training three days a week from September 1 through January 31, with some blackout dates. This program will support the overall efforts of Maui Junior Golf.

Private lessons will also be available at a discounted rate of 50 percent of the regular rate based on two lessons per junior golfer for a maximum of 50 lessons per month from February through August on a space-available basis.

For the annual fund-raising event for the Maui Junior Golf, the rate per player shall be 50 percent of the regular rate with the number of golfers limited to no more than 144 players per event.

- c. Honua`ula Partners, LLC, its successors and permitted assigns, shall permit the Maui Interscholastic League ("MIL") and the Hawaii High School Athletic Association ("HHSAA") to each use the golf course once per year for an official MIL golf tournament or an official HHSAA golf tournament if requested by the MIL or the HHSAA, or for regular season play-offs if requested by the MIL.
 - d. Honua`ula Partners, LLC, its successors and permitted assigns, shall permit Maui residents to play at the golf course on Tuesday of each week. The charge for Maui residents for green fees, including golf cart rental fees, shall not exceed 40 percent of the average market rate for green fees and golf cart rental fees in South Maui, and shall exclude all membership fees.
13. That Honua`ula Partners, LLC, its successors and permitted assigns, shall prepare a Cultural Resources Preservation Plan ("CRPP"), in consultation with: Na Kupuna O Maui; lineal descendents of the area;

other Native Hawaiian groups; the Maui County Cultural Resources Commission; the Maui/Lanai Island Burial Council; the Office of Hawaiian Affairs; the State Historic Preservation Division, Department of Land and Natural Resources; the Maui County Council; Na Ala Hele; and all other interested parties. Prior to initiating this consultation process, Honua`ula Partners, LLC, its successors and permitted assigns, shall publish a single public notice in a Maui newspaper and a State-wide newspaper that are published weekly. The CRPP shall consider access to specific sites to be preserved, the manner and method of preservation of sites, the appropriate protocol for visitation to cultural sites, and recognition of public access in accordance with the Constitution of the State of Hawaii, the Hawaii Revised Statutes, and other laws, in Kihei-Makena Project District 9.

Upon completion of the CRPP, Honua`ula Partners, LLC, its successors and permitted assigns, shall submit the plan to the State Historic Preservation Division, Department of Land and Natural Resources, and the Office of Hawaiian Affairs for review and recommendations prior to Project District Phase II approval. Upon receipt of the above agencies' comments and recommendations, the CRPP shall be forwarded to the Maui County Cultural Resources Commission for its review and adoption prior to Project District Phase II approval.

14. That a nonpotable water supply system shall be utilized for all irrigation purposes.
15. That, during construction, all dust control shall utilize nonpotable water or effluent, which may be obtained from the Kihei Wastewater Reclamation Facility when available.
16. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide a Sewage Disposal Analysis that has been reviewed and commented on by the State Department of Health, the State Department of Land and Natural Resources, the County Department of Environmental Management, and the County Department of Water Supply prior to Project District Phase II approval. The Sewage Disposal Analysis, along with reviews and comments, shall be submitted to the Maui County Council for review and the project shall be subject to additional conditions or amendments by the Maui County Council if warranted by the Sewage Disposal Analysis.
17. That Honua`ula Partners, LLC, its successors and permitted assigns, shall construct, maintain, and/or participate in the operation of a private wastewater treatment facility and system that accommodate the needs of the entire Kihei-Makena Project District 9. All reclaimed water from the private wastewater treatment facility shall be utilized for irrigation, dust

control, or other nonpotable purposes, and none of the reclaimed water shall be placed into injection wells.

The sewer rates for the residential workforce housing units shall be no higher than the residential sewer rates set by the County in its annual budget, for as long as the units are subject to Chapter 2.96, Maui County Code.

18. That Honua`ula Partners, LLC, its successors and permitted assigns, shall address in their Project District Phase II application the following:
 - a. Condition 1 of the Department of Health's "Twelve Conditions Applicable To All New Golf Course Development" ("12 Conditions") relating to an approved sampling plan, establishment of the baseline groundwater/vadose zone water quality, and if appropriate, nearshore water quality, has been met to the satisfaction of the Director of Health;
 - b. Conditions 2 and 3 of the Department of Health's "12 Conditions" relating to groundwater monitoring have been satisfied by the Director of Health;
 - c. Condition 4 relating to the preliminary proposal of the individual treatment system meets the requirements of the Department of Health, and final design shall be approved at the time of Project District Phase III;
 - d. Condition 5 of the Department of Health's "12 Conditions" relating to use of effluent has been satisfied;
 - e. Condition 6 of the Department of Health's "12 Conditions" relating to golf carts and storage of petroleum has been addressed and incorporated in the design and layout of the buildings;
 - f. Conditions 7, 8, and 11 of the Department of Health's "12 Conditions" relating to fertilizers, biocides, and pesticides and the Integrated Golf Course Management Plan have been reviewed, and comments from the Department of Agriculture and the Department of Health have been incorporated in the design and layout of the golf courses;
 - g. Condition 9 of the Department of Health's "12 Conditions" relating to noise from maintenance facilities has been addressed through the location and design of the maintenance activities and facilities;

- h. Condition 10 of the Department of Health's "12 Conditions" and the County Department of Environmental Management's concerns and recommendations relating to solid waste disposal management activities and facilities are identified and designed;
 - i. Condition 12 of the Department of Health's "12 Conditions" relating to soil runoff during construction and concerns of the State Department of Transportation; the County Department of Public Works; the State Department of Health; and the Natural Resources Conservation Service of the United States Department of Agriculture relating to drainage are addressed and incorporated in the design and layout of the plans, and a preliminary erosion control and drainage report is included in the application;
 - j. Confirmation from Maui Electric Company, Ltd. ("MECO") that the proposal to relocate and/or landscape MECO facilities is incorporated in the application and site plan; and
 - k. Roadway improvements to the satisfaction of the State Department of Transportation and the County Department of Public Works and proposed agreements are incorporated in the application and site plan and finalized as part of Project District Phase II approval.
19. That Honua`ula Partners, LLC, its successors and permitted assigns, shall execute appropriate agreements with the State of Hawaii and County of Maui agencies regarding participation in improvements of infrastructure and public facilities where such improvements are reasonably related to Honua`ula Partners, LLC 's project.
20. That marine monitoring programs shall be conducted which include monitoring and assessment of coastal water resources (groundwater and surface water) that receive surface water or groundwater discharges from the hydrologic unit where the project is located. Monitoring programs shall include both water quality and ecological monitoring.

Water Quality Monitoring shall provide water quality data adequate to assess compliance with applicable State water quality standards at Hawaii Administrative Rules Chapter 11-54. Assessment procedures shall be in accordance with the current Hawaii Department of Health ("HIDOH") methodology for Clean Water Act Section 305(b) water quality assessment, including use of approved analytical methods and quality control/quality assurance measures. The water quality data shall be submitted annually to HIDOH for use in the State's Integrated Report of Assessed Waters prepared under Clean Water Act Sections 303(d) and 305(b). If this report lists the receiving waters as impaired and requiring a Total Maximum Daily Load ("TMDL") study, then the monitoring

program shall be amended to evaluate land-based pollutants, including: (1) monitoring of surface water and groundwater quality for the pollutants identified as the source of the impairment; and (2) providing estimates of total mass discharge of those pollutants on a daily and annual basis from all sources, including infiltration, injection, and runoff. The results of the land-based pollution water quality monitoring and loading estimate shall be submitted to the HDOH Environmental Planning Office, TMDL Program.

The ecological monitoring shall include ecological assessment in accordance with the Coral Reef Assessment and Monitoring Program protocols used by the Department of Land and Natural Resources. The initial assessment shall use the full protocol. Subsequent annual assessments can use the Rapid Assessment Techniques. Results shall be reported annually to the Aquatic Resources Division, Department of Land and Natural Resources.

21. That all exterior lighting shall be shielded from adjacent residential properties and near shore waters. Lighting requirements in force at the time of building permit application shall be applied.
22. That Honua`ula Partners, LLC, its successors and permitted assigns, shall pay the Department of Education \$3,000 per dwelling unit upon issuance of each building permit to be used, to the extent possible, for schools serving the Kihei-Makena Community Plan area; provided that, should the State pass legislation imposing school impact fees that apply to Kihei-Makena Project District 9, Honua`ula Partners, LLC, its successors and permitted assigns, shall from that point forward comply with the State requirements, or contribute \$3,000 per dwelling unit, whichever is greater.
23. That Honua`ula Partners, LLC, its successors and permitted assigns, shall fund and construct adequate civil defense measures as determined by the State and County of Maui civil defense agencies.
24. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide to the County two acres of land with direct access to the Piilani Highway extension for the development of fire control facilities within the village mixed-use sub-district at the time 50 percent of the total unit/lot count has received either a certificate of occupancy or final subdivision approval. The acreage provided shall have roadway and full utility services provided to the parcel.

That Honua`ula Partners, LLC, its successors and permitted assigns, shall contribute \$550,000 to the County for the development of a police

station in South Maui, to be paid at the time a contract is entered into for the construction of that police station.

25. That no transient vacation rentals or time shares shall be allowed within Kihei-Makena Project District 9; and further, no special use permit or conditional permit for such accommodations shall be accepted by the Department of Planning.
26. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide a preservation/mitigation plan pursuant to Chapter 6E, Hawaii Revised Statutes, that has been approved by the State Historic Preservation Division, Department of Land and Natural Resources, and the Office of Hawaiian Affairs prior to Project District Phase II approval.
27. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide the report "Remnant Wiliwili Forest Habitat at Wailea 670, Maui, Hawaii by Lee Altenberg, Ph.D.", along with a preservation/mitigation plan, to the State Department of Land and Natural Resources, the United States Fish and Wildlife Service, and the United States Corps of Engineers for review and recommendations prior to Project District Phase II approval. The Maui Planning Commission shall consider adoption of the plan prior to Project District Phase II approval.

Such plan shall include a minimum preservation standard as follows: That Honua`ula Partners, LLC, its successors and permitted assigns, shall establish in perpetuity a Conservation Easement (the "Easement"), entitled "Native Plant Preservation Area", for the conservation of native Hawaiian plants and significant cultural sites in Kihei-Makena Project District 9 as shown on the attached map. The Easement shall comprise the portion of the property south of latitude 20°40'15.00"N, excluding any portions that the State Department of Land and Natural Resources, the United States Fish and Wildlife Service, and the United States Corps of Engineers find do not merit preservation, but shall not be less than 18 acres and shall not exceed 130 acres.

The scope of the Easement shall be set forth in an agreement between Honua`ula Partners, LLC and the County that shall include:

- a. A commitment from Honua`ula Partners, LLC, its successors and permitted assigns, to protect and preserve the Easement for the protection of native Hawaiian plants and significant cultural sites worthy of preservation, restoration, and interpretation for public education and enrichment consistent with a Conservation Plan for the Easement developed by Honua`ula Partners, LLC and approved by the State Department of Land and Natural Resources, the

United States Geological Survey, and the United States Fish and Wildlife Service; and with a Cultural Resource Preservation Plan, which includes the management and maintenance of the Easement, developed by Honua`ula Partners, LLC and approved by the State Department of Land and Natural Resources (collectively, the "Conservation/Preservation Plans").

- b. That Honua`ula Partners, LLC, its successors and permitted assigns, shall agree to confine use of the Easement to activities consistent with the purpose and intent of the Easement.
 - c. That Honua`ula Partners, LLC, its successors and permitted assigns, shall be prohibited from development in the Easement other than erecting fences, enhancing trails, and constructing structures for the maintenance needed for the area, in accordance with the Conservation/Preservation Plans.
 - d. That title to the Easement shall be held by Honua`ula Partners, LLC, its successors and permitted assigns, or conveyed to a land trust that holds other conservation easements. Access to the Easement shall be permitted pursuant to an established schedule specified in the Conservation/Preservation Plans to organizations on Maui dedicated to the preservation of native plants, to help restore and perpetuate native species and to engage in needed research activities. These organizations may enter the Easement at reasonable times for cultural and educational purposes only.
 - e. Honua`ula Partners, LLC, its successors and permitted assigns, shall be allowed to receive all tax benefits allowable under tax laws applicable to the Easement at the time that said Easement is established in Kihei-Makena Project District 9, which will be evidenced by the recordation of the Easement in the Bureau of Conveyances, State of Hawaii.
28. That, prior to the commencement of any construction activity, Honua`ula Partners, LLC, its successors and permitted assigns, shall develop and submit a Transportation Management Plan ("TMP"), to be reviewed and approved by the State Department of Transportation, the County Department of Public Works, and the County Department of Transportation. The purpose of the TMP shall be to reduce traffic generated by construction activity related to the Kaonoulu Light Industrial Subdivision and Kihei-Makena Project District 9, including traffic generated by the improvements to Piilani Highway between Kilohana Drive and Wailea Ike Drive. The TMP shall provide for programs such as park and ride, shuttles, and/or restrictions on worker access to ongoing construction activity during peak hour traffic. Upon

approval, project contractors shall implement the TMP during construction activities. Honua`ula Partners, LLC, its successors and permitted assigns, shall submit an annual report to the State Department of Transportation, the County Department of Public Works, the County Department of Transportation, and the Maui County Council to document the success of the TMP in meeting its benchmarks of reducing traffic during project construction.

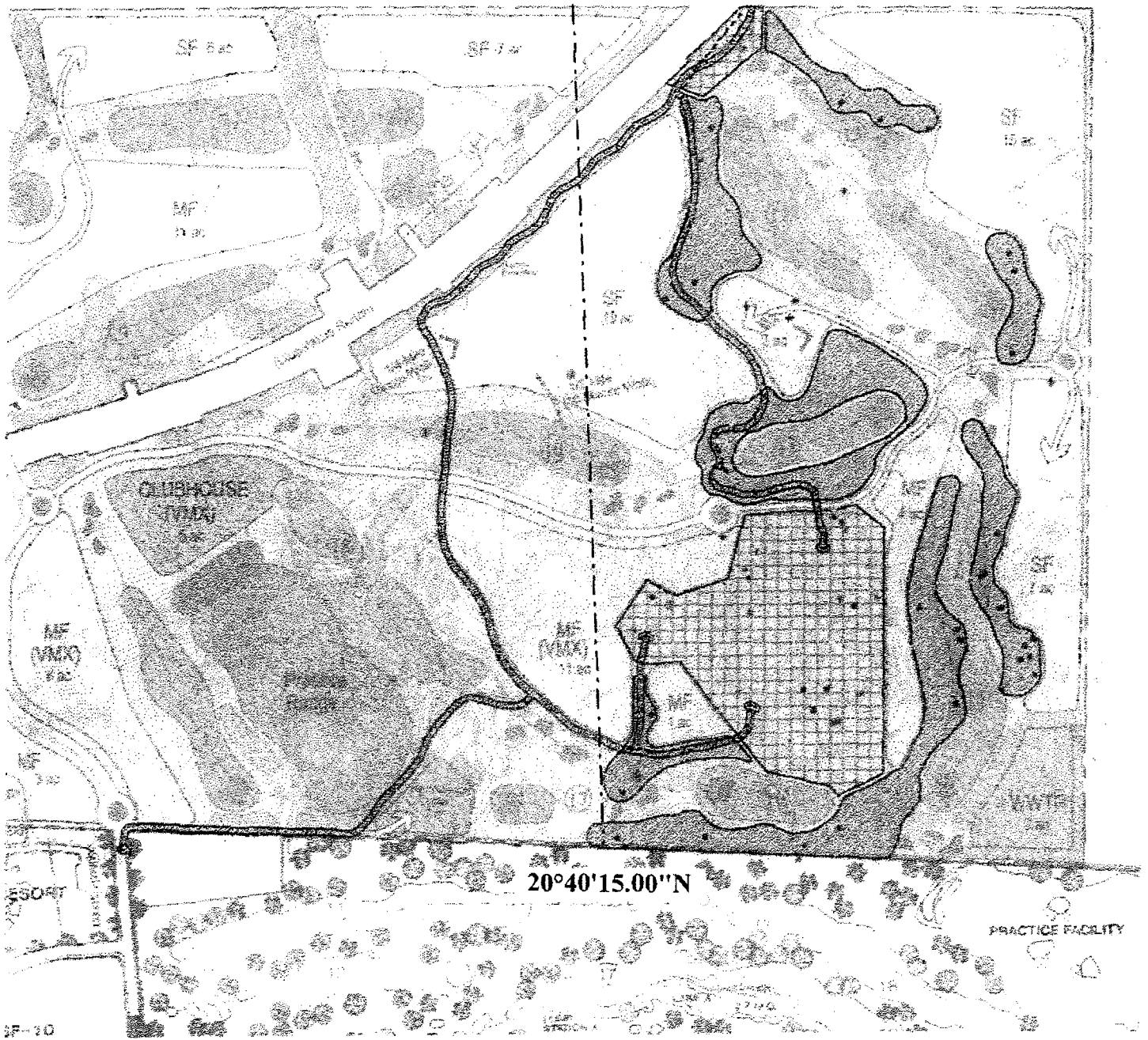
That as part of the Project District Phase II application, Honua`ula Partners, LLC, its successors and permitted assigns, shall submit a TMP to reduce the dependency on individual vehicular transportation modes. The TMP shall be reviewed and approved by the State Department of Transportation, the County Department of Public Works, and the County Department of Transportation prior to Project District Phase II approval.

29. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.
30. All energy systems for all residential units shall be designed and constructed to meet all applicable ENERGY STAR requirements established by the Climate Protection Division of the United States Environmental Protection Agency in effect at the time of construction. For purposes of this condition, energy systems shall include all hot water systems, roof and attic areas, outside walls, windows, air cooling systems, and heating systems.

All residential units shall be equipped with a primary hot water system at least as energy efficient as a conventional solar panel hot water system, sized to meet at least 80 percent of the hot water demand for the respective units.

All air cooling systems and all heating systems for laundry facilities, swimming pools, and spa areas shall make maximum use of energy-efficient construction and technology.

20°40'15.00"N



Legend

- Existing Native Plants (Field Surveyed)
- *Canavalia Pubescens* (awikiwiki)
 - *Erythrina Sandwicensis* (wiliwili)
 - *Lipochaeta Rockii* (nehe)
- ⊗ Archaeological Sites (To Be Preserved)

	Approx. Area (Acres)
Native Plant Preservation Area	+/- 18 ac
Native Plant Management / Enhancement Area	+/- 23 ac
Interpretive Trail (min. 4-foot wide cinder trail with interpretive signs)	+/- 2 ac

TOTAL : +/- 43 ac

NOTE: All areas need to be field located and surveyed to establish appropriate boundaries that relate to the existing topographic and geological features with native plants located. Field adjustments for golf course, roadways and infrastructure will be necessary.
 ⊕ Only 5 out of 96 native plants may not be preserved.

BOTANICAL HABITAT PRESERVATION PLAN

