

REQUEST FOR LEGAL SERVICES

Date: November 19, 2019
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael J. Hopper, Esq.

Subject: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR MAALAEA AGRICULTURAL SUBDIVISION (PSLU-41)

Background Data: Please review the attached revised proposed bills, and if appropriate, approve them as to form and legality. Please send signed hard copies with your response.

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

Requestor's signature <u>Tamara A.M. Paltin</u> Tamara Paltin	Contact Person <u>James Krueger</u> (Telephone Extension: 7761)
---	---

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): November 25, 2019
REASON: For the Committee's consideration at its November 26, 2019 Committee meeting

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

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)

pslu:ltr:041acc01:jgk

Attachments

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM PROJECT DISTRICT 12 TO AGRICULTURE FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-6-001:018

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

SECTION 1. In accordance with Chapter 2.80B, Maui County Code, the Kihei-Makena Community Plan and Land Use Map is amended from Project District 12 to Agriculture for real property situated at Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-6-001:018, comprised of approximately 257 acres, and more particularly described in Exhibit "A," which is a land description, and Exhibit "B," which is Community Plan Map CP-432.

SECTION 2. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pslu:misc:041abill01a:jgk

Land situated on the westerly side of Honoapiilani Highway (N.R.H. 13-C and F.A.P. 13-G) at Ukumehame, Waikapu, Wailuku, Maui, Hawaii.

Being all of Grant S-13975 to Wailuku Sugar Company, Grant 11067 to Wailuku Sugar Company, Grant 10962 to Wailuku Sugar Company, Grant 10745 to Wailuku Sugar Company, Grant 10497 to Wailuku Sugar Company, Grant 10294 to Wailuku Sugar Company and Grant 9794 to Wailuku Sugar Company, and a portion of Grant 3152 to Henry Cornwell.

Beginning at a point at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 23,709.07 feet South and 3,760.16 feet West and running by azimuths measured clockwise from true South:

1. Thence along the westerly side of Honoapiilani Highway (F.A.P. 13-G) on a curve to the right, with the point of curvature azimuth from the radial point being: 275° 52' 12.4" and the point of tangency azimuth from the radial point being: 278° 14' 56", having a radius of 34,342.50 feet, the chord azimuth and distance being: 7° 03' 34.2" 1,425.71 feet to a point;
2. 8° 14' 56" 1,823.79 feet along same to a point;
3. Thence along same on a curve to the right, having a radius of 34,342.50 feet, the chord azimuth and distance being: 9° 22' 41" 1,353.53 feet to a point;
4. 10° 30' 26" 504.25 feet along same to a point;
5. 14° 07' 22" 743.00 feet along the westerly side of Honoapiilani Highway (F.A.P.

1054-2/jmc/10/16/08

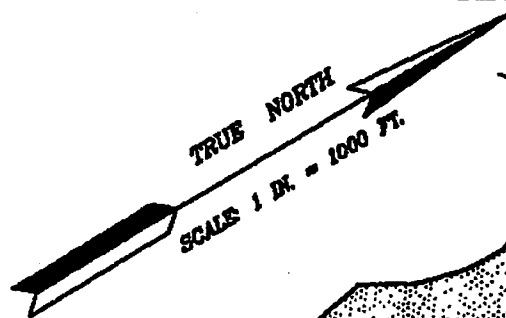
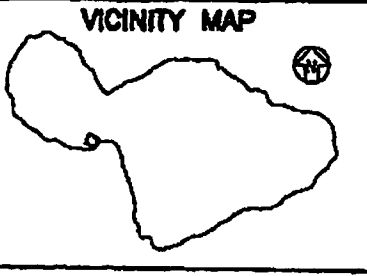
EXHIBIT "A"

13-G and N.R.H. 13-C) to a point;

6. 105° 46' 29" 10.00 feet along the westerly side of Honoapiilani Highway (N.R.H. 13-C) to a point;
7. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 285° 46' 29" and the point of tangency azimuth from the radial point: 296° 19' 59", having a radius of 5,647.97 feet, the chord azimuth and distance being: 21° 03' 14" 1,039.32 feet to a point;
8. 296° 16' 56" 18.00 feet along same to a point;
9. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 296° 19' 59" and the point of tangency azimuth from the radial point being: 297° 44' 17", the chord azimuth and distance being: 27° 02' 08" 138.94 feet to a point;
10. 117° 47' 19" 18.00 feet along same to a point;
11. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 297° 44' 17" and the point of tangency azimuth from the radial point being: 299° 21' 03", having a radius of 5,647.97, the chord azimuth and distance being: 28° 32' 40" 158.98 feet to a point;
12. 299° 18' 18.00 feet along same to a point;

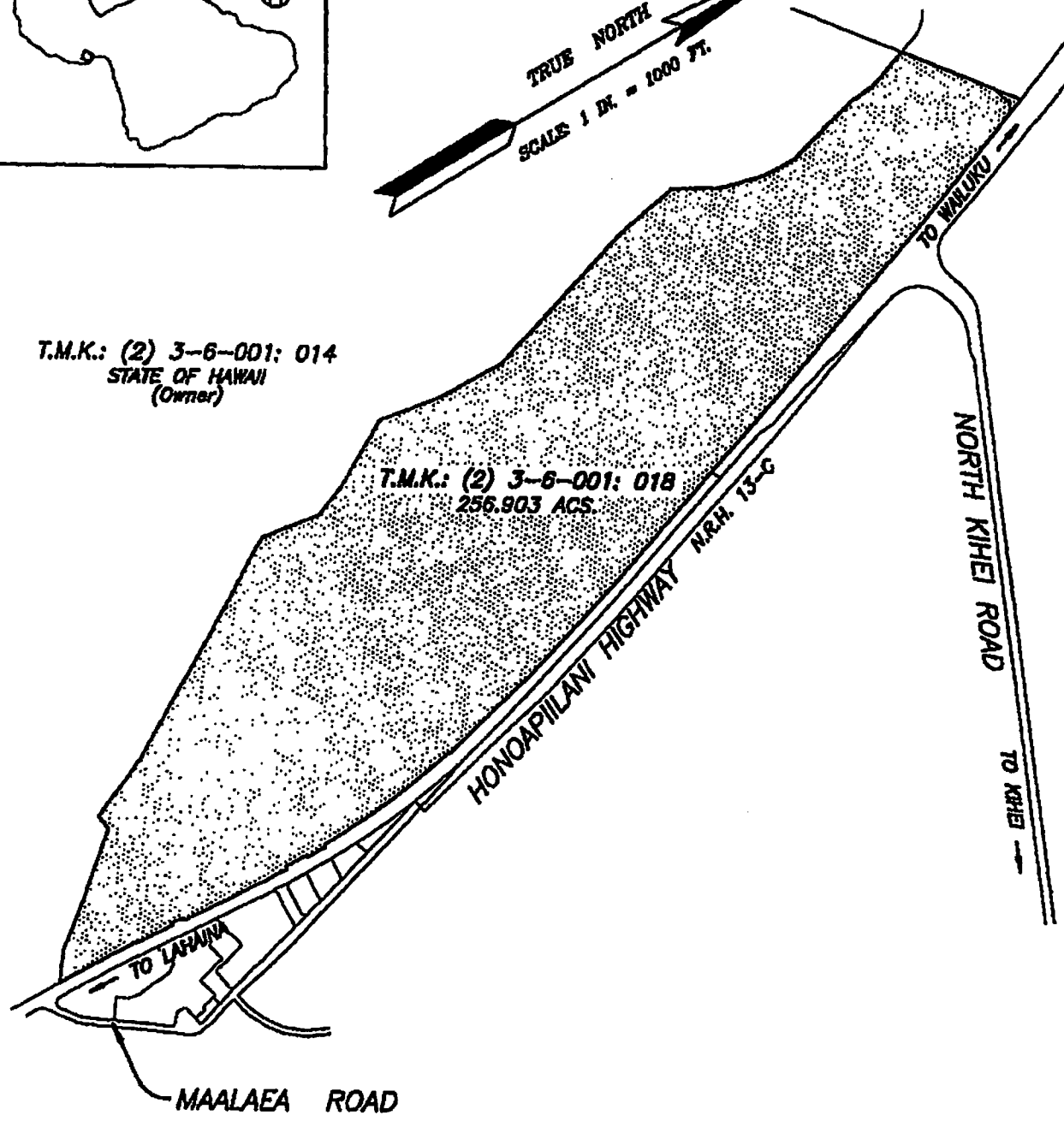
13. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 299° 21' 02" and the point of tangency azimuth from the radial point being: 301° 05' 41", having a radius of 5,665.97 feet, the chord azimuth and distance being: 30° 13' 21.5" 172.47 feet to a point;
14. 31° 05' 41" 603.65 feet along same to a point;
15. 121° 05' 41" 15.00 feet along same to a point;
16. 31° 05' 41" 75.00 feet along same to a point;
17. 301° 05' 41" 15.00 feet along same to a point;
18. 31° 05' 41" 286.00 feet along same to a point;
19. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 121° 05' 41" and the point of tangency azimuth from the radial point being: 118° 20' 52.6", having a radius of 11,539.55 feet, the chord azimuth and distance being: 29° 43' 16.8" 553.16 feet to a point;
20. 153° 40' 17" 209.46 feet along portion of Government Land of Ukumehame to a point;
21. 169° 48' 47" 376.44 feet along same to a point;
22. 165° 07' 47" 112.44 feet along same to a point;
23. 167° 31' 47" 394.87 feet along same to a point;
24. 105° 51' 47" 103.85 feet along same to a point;

25.	184°	08'	47"	400.00 feet along same to a point;
26.	176°	24'	47"	1,520.00 feet along same to a point;
27.	177°	16'	47"	246.00 feet along same to a point;
28.	216°	09'	47"	413.00 feet along same to a point;
29.	185°	14'	47"	254.00 feet along same to a point;
30.	177°	22'	47"	506.00 feet along same to a point;
31.	217°	16'	47"	437.00 feet along same to a point;
32.	210°	02'	47"	470.00 feet along same to a point;
33.	190°	15'	17"	1,179.70 feet along same to a point;
34.	197°	01'	47"	467.15 feet along same to a point;
35.	235°	55'	47"	349.70 feet along same to a point;
36.	220°	15'	47"	280.20 feet along same to a point;
37.	208°	33'	47"	216.10 feet along same to a point;
38.	193°	09'	47"	570.10 feet along same to a point;
39.	203°	49'	47"	164.90 feet along same to a point;
40.	187°	16'	47"	301.10 feet along same to a point;
41.	258°	57'	41"	864.14 feet along Grant 3152 to Henry Cornwell and along the remainder of Grant 3152 to Henry Cornwell, being also along Lot 6 of Waikapu Hema Large Lot Subdivision to the point of beginning and containing an area of 256.903 acres.



T.M.K.: (2) 3-6-001: 014
STATE OF HAWAII
(Owner)

T.M.K.: (2) 3-6-001: 018
256.903 ACS.



6:\2017 PROJECTS\10-7-90\cmnp\2005\COMMUNITY PLAN Map Job 30 30 2016 - 152.dwg

TAX MAP KEY:
T.M.K.: (2) 3-6-001: 018

AREA:
256.903 ACRES

COMMUNITY PLAN MAP NO. CP-432
COMMUNITY PLAN AMENDMENT - UKUMEHAME, WAIKAPU, WAILUKU, MAUI, HAWAII,
FROM PROJECT DISTRICT 12 TO AGRICULTURE

EXHIBIT "B"

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM OPEN ZONE, R-3 RESIDENTIAL DISTRICT, AND PROPOSED ROAD TO AGRICULTURAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-6-001:018 (POR.)

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

SECTION 1. In accordance with Chapters 19.30A and 19.510, Maui County Code, a change in zoning from Open Zone to Agricultural District is granted for real property situated at Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-6-001:018 (por.), comprised of approximately 14.7 acres, as more particularly described in Exhibits "A-1" and "A-2," which are land descriptions, and Exhibit "B," which is Land Zoning Map L-603.

SECTION 2. In accordance with Chapters 19.30A and 19.510, Maui County Code, a change in zoning from R-3 Residential District to Agricultural District is granted for real property situated at Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-6-001:018 (por.), comprised of approximately 0.06 acre, as more particularly described in Exhibit "A-3," which is a land description, and Exhibit "B," which is Land Zoning Map No. L-603.

SECTION 3. In accordance with Chapters 19.30A and 19.510, Maui County Code, a change in zoning from Proposed Road to Agricultural District is granted for real property situated at Maalaea, Wailuku, Maui, Hawaii, identified

for real property tax purposes as tax map key (2) 3-6-001:018, comprised of approximately 0.8 acre, as more particularly described in Exhibit "A-4," which is a land description, and Exhibit "B," which is Land Zoning Map L-603.

SECTION 4. In accordance with Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions stated in Exhibit "C," which is the list of conditions of zoning. The conditions of zoning must be stated in a Unilateral Agreement and Declaration for Conditional Zoning that is recorded with the Bureau of Conveyance. The conditions of zoning encumber the property described in Exhibit "D," which is Community Plan Map CP-432, and Exhibit "E", which describes the entire project area. The conditions of zoning run with the land and bind all future owners. Exhibit "F" is the Unilateral Agreement and Declaration for Conditional Zoning.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pslu:misc:041abill02a:jgk

LAND DESCRIPTION

Open Zone 1

All that certain parcel of land known as Open Zone 1 of a portion of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) being portion(s) of Grant S-13975 to Wailuku Sugar Company and Grant 3152 to Henry Cornwell.

Situate at
Ukumehame, Wailuku, Maui, Hawaii

Beginning at the Northwesterly corner of this parcel of land, being a point on the Southwesterly property boundary line of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) and the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "LUKE" being 31,733.18 feet South and 6,194.89 feet West and running by azimuths measured clockwise from True South; thence,

1. 228° 49' 30" 393.12 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
2. Following along the same, along the arc of a curve concave to the right, having a radius of 200.00 feet, the chord azimuth and distance being 254° 07' 30" for 170.94 feet, to a point; thence,
3. 279° 25' 30" 88.56 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a ½" pipe (set); thence,
4. 301° 05' 41" 15.00 feet along the Northwesterly right-of-way line of Honoapiilani Highway (N.R.H. 13-C) and Lot 1-A of the Maalaea Triangle-Honoapiilani Highway Widening Subdivision (Subdivision File No. 3.1976) to a ½" pipe (set); thence,
5. 31° 05' 41" 286.00 feet along the same, to a ½" pipe (set); thence,
6. Following along the same, along the arc of a curve concave to the left, the azimuth of a radial line passing through the point of curvature from the radius point being 121° 05' 41", and the point of tangency from the radius point being 118° 20' 52.6", having a radius of 11,539.55 feet, the chord azimuth and distance being 29° 43' 16.8" for 553.16 feet, to a ½" pipe (set); thence,
7. 153° 40' 17" 209.46 feet along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] to a ½" pipe (set); thence,
8. 169° 48' 47" 258.31 feet along the same, to the point of beginning and containing an area of 4.250 acres.

This work was done by me or
under my direct supervision.

AKAMAI LAND SURVEYING, INC.



Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
218245(5/03/19)



LAND DESCRIPTION
Open Zone 2

All that certain parcel of land known as Open Zone 2 of a portion of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) being portion(s) of Grant S-13975 to Wailuku Sugar Company, Grant 11067 to Wailuku Sugar Company, Grant 10962 to Wailuku Sugar Company and Grant 3152 to Henry Cornwell.

Situate at
Ukumehame, Wailuku, Maui, Hawaii


Beginning at a Westerly corner of this parcel of land and Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) being a point on the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "LUKE" being 31,005.12 feet South and 6,423.34 feet West and running by azimuths measured clockwise from True South: thence,

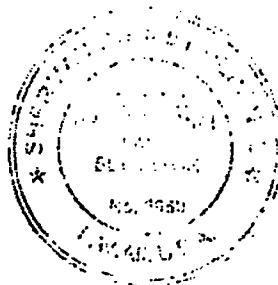
1. 184° 08' 47" 310.59 feet along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] to a point; thence,
2. 176° 24' 47" 504.60 feet along the same, to a point; thence,
3. 266° 24' 47" 82.22 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
4. Following along the same, along the arc of a curve concave to the right, having a radius of 40.00 feet, the chord azimuth and distance being 299° 34' 53.5" for 43.77 feet, to a point; thence,
5. 332° 45' 00" 123.21 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
6. Following along the same, along the arc of a curve concave to the right, having a radius of 400.00 feet, the chord azimuth and distance being 345° 36' 00" for 177.92 feet, to a point; thence,
7. 358° 27' 00" 315.91 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
8. Following along the same, along the arc of a curve concave to the left, having a radius of 100.00 feet, the chord azimuth and distance being 331° 47' 30" for 89.73 feet, to a point; thence,
9. 305° 08' 00" 744.33 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
10. 31° 05' 41" 84.50 feet along the Southwesterly right-of-way line of Honoapiilani Highway (N.R.H. 13-C) Lot 1-A of the Maalaea Triangle-Honoapiilani Highway Widening Subdivision (Subdivision File No. 3.1976) to a ½" pipe (set); thence,

11. 121° 05' 41" 15.00 feet along the same. to a ½" pipe (set); thence.
12. 31° 05' 41" 21.20 feet along the same. to a point; thence.
13. 99° 25' 30" 108.43 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence.
14. Following along the same. along the arc of a curve concave to the left. having a radius of 250.00 feet. the chord azimuth and distance being 74° 07' 30" for 213.68 feet. to a point; thence.
15. 48° 49' 30" 363.09 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence.
16. 184° 08' 47" 59.81 feet along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] to a ½" pipe (set); thence.
17. 165° 07' 47" 112.44 feet along the same. to a ½" pipe (set); thence.
18. 167° 31' 47" 394.87 feet along the same. to a ½" pipe (set); thence.
19. 105° 51' 47" 58.03 feet along the same. to a point; thence.
20. Following along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) along the arc of a curve concave to the left. the azimuth of a radial line passing through the point of curvature from the radius point being 266° 44' 51", and the point of tangency from the radius point being 232° 39' 52", having a radius of 185.00 feet. the chord azimuth and distance being 159° 42' 21.5" for 108.43 feet. to the point of beginning and containing an area of 10.488 acres.

This work was done by me or
under my direct supervision.

AKAMA LAND SURVEYING, INC.


Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
218245(5/3/19)



LAND DESCRIPTION

R-3 Zone

All that certain parcel of land known as R-3 Zone of a portion of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) being a portion of Grant 11067 to Wailuku Sugar Company.

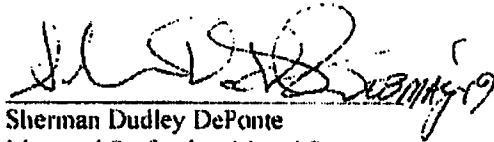
Situate at
Ukumehame, Wailuku, Maui, Hawaii

Beginning at the Northerly corner of this parcel of land being a point of the Northwesterly property boundary line of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) and the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "LUKE" being 31,005.12 feet South and 6,423.34 feet West and running by azimuths measured clockwise from True South; thence,

1. Following along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) along the arc of a curve concave to the right, the azimuth of a radial line passing through the point of curvature from the radius point being $232^{\circ} 39' 52''$, and the point of tangency from the radius point being $266^{\circ} 44' 51''$, having a radius of 185.00 feet, the chord azimuth and distance being $339^{\circ} 42' 21.5''$ for 108.43 feet, to a point; thence.
2. $105^{\circ} 51' 47''$ 45.82 feet along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] to a $\frac{1}{2}$ " pipe set; thence.
3. $184^{\circ} 08' 47''$ 89.41 feet along the same, to the point of beginning and containing an area of 0.060 acre.

This work was done by me or
under my direct supervision.

AKAMA LAND SURVEYING, INC.



Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
218245(5/03/19)

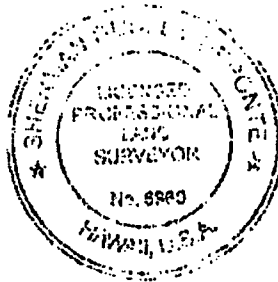


EXHIBIT "A-3"

LAND DESCRIPTION
Road/Street Reserve Zone

All that certain parcel of land known as the Road/Street Reserve Zone of a portion of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) being portion(s) of Grant S-13975 to Wailuku Sugar Company and Grant 3152 to Henry Cornwell.

Situate at
Ukumehame, Wailuku, Maui, Hawaii

Beginning at the Southwesterly corner of this parcel of land, being a point on the Southwesterly property boundary line of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) and a point along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "I.U.K.I." being 31,733.18 feet South and 6,194.89 feet West and running by azimuths measured clockwise from True South; thence,

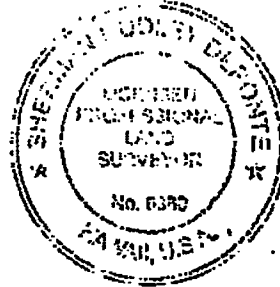
1. 169° 48' 47" 58.32 feet along the Southeasterly property boundary line of a portion of Government Land of Ukumehame [T.M.K.: (2)3-6-01:14] to a point; thence,
2. 228° 49' 30" 363.09 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
3. Following along the same, along the arc of a curve concave to the right, having a radius of 250.00 feet, the chord azimuth and distance being 254° 07' 30" for 213.68 feet, to a point; thence,
4. 279° 25' 30" 108.43 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
5. 31° 05' 41" 53.80 feet along the Northwesterly right-of-way line of Honoapiilani Highway (N.R.H. 13-C) and Lot 1-A of the Maalaea Triangle-Honoapiilani Highway Widening Subdivision (Subdivision File No. 3.1976) to a ½" pipe (set); thence,
6. 99° 25' 30" 88.56 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to a point; thence,
7. Following along the same, along the arc of a curve concave to the left, having a radius of 200.00 feet, the chord azimuth and distance being 74° 07' 30" for 170.94 feet, to a point; thence,
8. 48° 49' 30" 393.12 feet along the remainder of Lot 21 of the Maalaea Plantation Subdivision (Subdivision File No. 3.2385) to the point of beginning and containing an area of 0.775 acre.

This work was done by me or
under my direct supervision.

AKAMAI LAND SURVEYING, INC.



Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
218245(5/03/19)



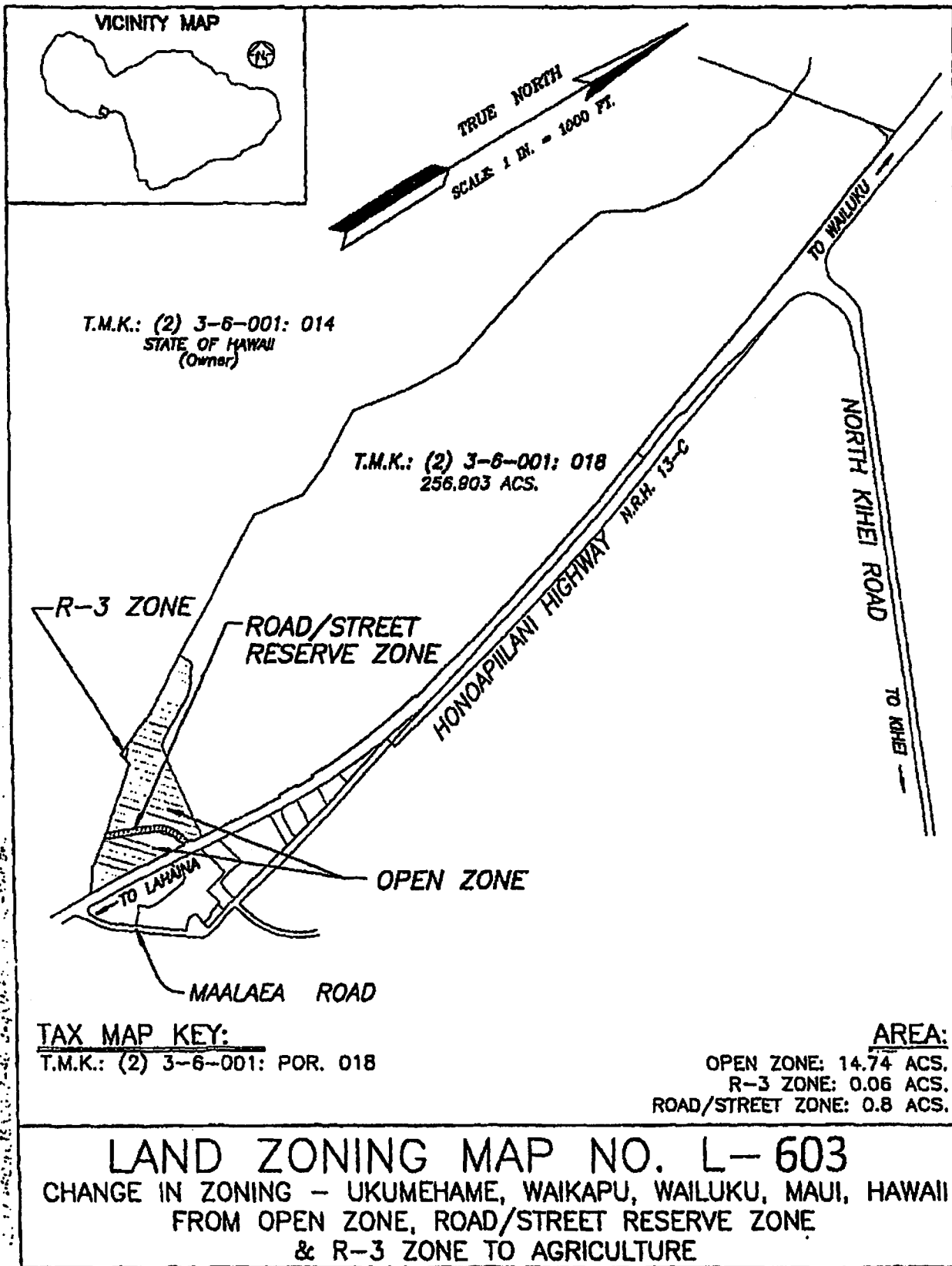


EXHIBIT "B"

EXHIBIT "C"

CONDITIONS OF ZONING

1. MVI, LLC and any future owner or lessee must not operate Short-Term Rental Homes, Bed and Breakfast Homes, or any other transient accommodations on the property.
2. MVI, LLC and any future owner or lessee must construct and maintain firebreaks on all perimeter property boundaries as approved by the Maui County Fire Department.
3. To provide safe continued access to the existing Pali Trail and continued vehicle access to the existing Pali Trail parking lot, MVI, LLC and any future owner or lessee must provide the following items as shown on Exhibit "I" prior to final subdivision approval:
 - a. A 24-foot wide trail and roadway lot between proposed lots 5 and 6. This lot must be dedicated to the State Department of Land and Natural Resources.
 - b. A 10-foot wide trail lot adjoining a subdivision roadway lot starting at Honoapi'ilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This 10-foot wide trail lot must be improved with a multiuse path paved with asphalt, concrete, or any other material approved by the State Department of Land and Natural Resources. This trail lot must be dedicated to the State Department of Land and Natural Resources.
 - c. A roadway access easement over a subdivision roadway lot starting at Honoapi'ilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This easement must remain open to the public 24 hours a day in perpetuity and must be dedicated to the State Department of Land and Natural Resources.
 - d. A pedestrian crosswalk across Honoapi'ilani Highway at the Honoapi'ilani Highway and North Kihei Road intersection. Walk signaling must not be on demand.
4. MVI, LLC and any future owner or lessee must maintain a 50-foot buffer zone on either side along a subdivision roadway starting at Honoapi'ilani

Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. The 50-foot buffer zone must also be along the 24-foot wide trail and roadway lot described in Condition 3a. Only Agricultural District uses that do not involve structures are allowed in this buffer zone.

5. MVI, LLC and any future owner or lessee must maintain a 200-foot buffer zone along the Honoapi'ilani Highway. Only Agricultural District uses that do not involve structures are allowed in this buffer zone.
6. Prior to final subdivision approval, MVI, LLC and any future owner or lessee must provide a 10-foot wide bikeway and pedestrian lot starting at the end of a subdivision roadway lot near the mauka end of the lot line between proposed lots 20 and 21 depicted on the map attached as Exhibit "I" and ending at the Honoapi'ilani Highway and Kapoli Street intersection. This 10-foot wide bikeway and pedestrian lot must be improved with a multiuse path paved with asphalt, concrete, or a similar material.
7. MVI, LLC and any future owner or lessee are responsible for traffic and roadway improvements necessary to mitigate the project's impacts. The necessary traffic and roadway improvements must be specified to the satisfaction of the State Department of Transportation, the County Department of Transportation, and the County Department of Public Works, and documented in a Memorandum of Agreement. The improvements must be completed prior to final subdivision approval.
8. MVI, LLC and any future owner or lessee must leave the area subject to the Change in Zoning undeveloped, without any structures, because of drainage concerns, to provide a buffer for cultural sites in the area, and to preserve views.
9. MVI, LLC and any future owner or lessee must not create a condominium property regime on the property.
10. MVI, LLC, and any future owner or lessee must not pursue approvals under Chapter 201H, Hawaii Revised Statutes, or any other similar law or regulation. MVI, LLC and any future owner or lessee are informed that the Council's approval of the Change in Zoning to Agricultural District is based on this commitment.
11. The County of Maui will have the right of first refusal to purchase for the purposes of a transportation transfer hub a parcel of at least 40 acres that results from subdivision of the property.

12. MVI, LLC and any future owner or lessee must develop the property in substantial compliance with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee in obtaining the Change in Zoning to Agricultural District.
13. MVI, LLC and any future owner or lessee must provide water for the property through private wells and must not draw water from any water source that would diminish the availability of water for other properties.
14. MVI, LLC and any future owner or lessee must receive from the Department of Water Supply a "will serve" letter to confirm reliable long-term water supply for the property prior to final subdivision approval.
15. Under Docket A91-67, 20.644 acres of the property were reclassified by the State Land Use Commission from Conservation to Rural. MVI, LLC and any future owner or lessee must adhere to the following conditions placed on the 20.644 acres as a result of that reclassification:
 - a. The 20.644 acres must continue in agricultural use, in compliance with the representations made to the State Land Use Commission.
 - b. The landowner must notify the State Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property.
 - c. The landowner must immediately stop work and contact the State Historic Preservation Division should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, pavings, or walls be encountered during crop cultivation or any subsequent development activity.
 - d. The landowner must provide annual reports to the State Land Use Commission, the State Office of Planning, and the County Department of Planning in connection with the status of the subject project in the Petitioner's progress in complying with the conditions imposed by the State Land Use Commission.
 - e. The State Land Use Commission may fully or partially release the conditions it imposed as to all or any portions of the 20.644 acres upon timely motion and upon the provision of adequate assurance of satisfaction of the conditions by the landowner.

EXHIBIT "A"

All of that certain parcel of land (being all of the land(s) described in and covered by Land Patent Grant S-13975 to Wailuku Sugar Company; Land Patent Grant 11067 to Wailuku Sugar Company; Land Patent Grant 10962 to Wailuku Sugar Company; Land Patent Grant 10745 to Wailuku Sugar Company; Land Patent Grant 10497 to Wailuku Sugar Company; Land Patent Grant 10294 to Wailuku Sugar Company; and Land Patent Grant 9794 to Wailuku Sugar Company; and portion(s) of the land (s) described in and covered by Land Patent Grant Number 3152 to H. Cornwell) situate, lying and being at Ukumehame, District of Lahaina, Island and County of Maui, State of Hawaii, containing an area of 256.903 acres, more or less, and being more particularly described in Exhibit "B" attached hereto and made a part hereof.

Being the premises acquired by Limited Warranty Deed from Lodi Development, Inc., a California corporation, as Grantor, to the Grantor herein, as Grantee, dated July 31, 2006, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. Document No. 2006-161641.

SUBJECT, HOWEVER, to the following:

1. Roadway, as shown on Land Patent Grant No. 9794.
2. Notice of Imposition of Conditions By the Land Use Commission dated December 9, 1992, recorded as Document No. 92-200449.
3. The terms and provisions contained in the Declaration dated January 25, 1993, recorded in the said Bureau of Conveyances as Document No. 93-014788.
4. Grant to Maui Electric Company, Limited, a Hawaii corporation, dated November 1, 1995, recorded in the said Bureau of Conveyances as Document No. 95-161279, granting a perpetual right and easement for utility purposes as shown on the map attached thereto.

Said Grant was amended by instrument dated July 1, 1998, recorded as Document No. 98-101152 and more particularly described as follows:

EASEMENT B

For Overhead Electrical Transmission Purposes
In Favor of Maui Electric Company
Affecting Portions of Grant 3152 to Henry Cornwell and
Grant 9794 to Wailuku Sugar Co.
Situated at Waikapu, Ukumehame, Wailuku, Maui, Hawaii

Beginning at the Northeast corner of this easement, on the West side of Honoapiilani Highway (F.A.P. No. 13-G), being also the southeast corner of Lot 2 of "Waikapu Hema Large Lot Subdivision", the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAINA" being 29,405.90 feet South and 54,921.88 feet East, and thence running by azimuths measured clockwise from True South:

1. Along the West side of Honoapiilani Highway (F.A.P. No. 13-G), on a curve to the right, with a radius of 34,342.50 feet, the chord azimuth and distance being:

5°	56'	34.98"	126.15 feet;
----	-----	--------	--------------
2. 157° 51' 71.11 feet;
3. 98° 26' 30" 149.08 feet;
4. 258° 36' 53" 191.10 feet along Lot 2 of the "Waikapu Hema Large Lot Subdivision" to the point of beginning and containing an area of 6949 square feet.

5. The terms and provisions contained in Agreement for Allocation of Future Subdivision Potential dated January 3, 2002, recorded in the said Bureau of Conveyances as Document No. 2003-059347, by and between Wailuku Agribusiness Company, Inc. ("Subdivider") and County of Maui, through its Department of Public Works and Waste Management, a political subdivision of the State of Hawaii ("County").

6. The terms and provisions contained in Limited Warranty Deed dated August 10, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-165726.

7. The terms and provisions contained in the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions dated effective as of August 10, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-165727.

The foregoing includes, but is not limited to, matters relating to water reservation, farming reservation; easements.

Assignment of In Gross Reservations effective October 1, 2005, recorded as Document No. 2005-229077, by and between Wailuku Agribusiness Co., Inc., a Hawaii corporation, "Assignor", and Wailuku Water Company, LLC, a Hawaii limited liability company, doing business as Wailuku Water Company, "Assignee".

8. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

9. Any unrecorded leases and matters arising from or affecting the same.

10. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

END OF EXHIBIT "A"

Tax Key: (2) 3-6-001-018

EXHIBIT "B"

Land situated on the westerly side of Honoapiilani Highway (N.R.H. 13-C and F.A.P. 13-G) at Ukumehame, Waikapu, Wailuku, Maui, Hawaii.

Being all of Grant S-13975 to Wailuku Sugar Company, Grant 11067 to Wailuku Sugar Company, Grant 10962 to Wailuku Sugar Company, Grant 10745 to Wailuku Sugar Company, Grant 10497 to Wailuku Sugar Company, Grant 10294 to Wailuku Sugar Company and Grant 9794 to Wailuku Sugar Company, and a portion of Grant 3152 to Henry Cornwell.

Beginning at a point at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 23,709.07 feet South and 3,760.16 feet West and running by azimuths measured clockwise from true South:

1. Thence along the westerly side of Honoapiilani Highway (F.A.P. 13-G) on a curve to the right, with the point of curvature azimuth from the radial point being: $275^{\circ} 52' 12.4''$ and the point of tangency azimuth from the radial point being: $278^{\circ} 14' 56''$, having a radius of 34,342.50 feet, the chord azimuth and distance being: $7^{\circ} 03' 34.2''$ 1,425.71 feet to a point;
2. $8^{\circ} 14' 56''$ 1,823.79 feet along same to a point;
3. Thence along same on a curve to the right, having a radius of 34,342.50 feet, the chord azimuth and distance being: $9^{\circ} 22' 41''$ 1,353.53 feet to a point;
4. $10^{\circ} 30' 26''$ 504.25 feet along same to a point;
5. $14^{\circ} 07' 22''$ 743.00 feet along the westerly side of Honoapiilani Highway (F.A.P.

13-G and N.R.H. 13-C) to a point;

6. 105° 46' 29" 10.00 feet along the westerly side of Honoapiilani Highway (N.R.H. 13-C) to a point;
7. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 285° 46' 29" and the point of tangency azimuth from the radial point: 296° 19' 59", having a radius of 5,647.97 feet, the chord azimuth and distance being: 21° 03' 14" 1,039.32 feet to a point;
8. 296° 16' 56" 18.00 feet along same to a point;
9. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 296° 19' 59" and the point of tangency azimuth from the radial point being: 297° 44' 17", the chord azimuth and distance being: 27° 02' 08" 138.94 feet to a point;
10. 117° 47' 19" 18.00 feet along same to a point;
11. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 297° 44' 17" and the point of tangency azimuth from the radial point being: 299° 21' 03", having a radius of 5,647.97, the chord azimuth and distance being: 28° 32' 40" 158.98 feet to a point;
12. 299° 18' 18.00 feet along same to a point;

13. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being: 299° 21' 02" and the point of tangency azimuth from the radial point being: 301° 05' 41", having a radius of 5,665.97 feet, the chord azimuth and distance being: 30° 13' 21.5" 172.47 feet to a point;
14. 31° 05' 41" 603.65 feet along same to a point;
15. 121° 05' 41" 15.00 feet along same to a point;
16. 31° 05' 41" 75.00 feet along same to a point;
17. 301° 05' 41" 15.00 feet along same to a point;
18. 31° 05' 41" 286.00 feet along same to a point;
19. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 121° 05' 41" and the point of tangency azimuth from the radial point being: 118° 20' 52.6", having a radius of 11,539.55 feet, the chord azimuth and distance being: 29° 43' 16.8" 553.16 feet to a point;
20. 153° 40' 17" 209.46 feet along portion of Government Land of Ukumehame to a point;
21. 169° 48' 47" 376.44 feet along same to a point;
22. 165° 07' 47" 112.44 feet along same to a point;
23. 167° 31' 47" 394.87 feet along same to a point;
24. 105° 51' 47" 103.85 feet along same to a point;

- | | | | | |
|-----|------|-----|-----|---|
| 25. | 184° | 08' | 47" | 400.00 feet along same to a point; |
| 26. | 176° | 24' | 47" | 1,520.00 feet along same to a point; |
| 27. | 177° | 16' | 47" | 246.00 feet along same to a point; |
| 28. | 216° | 09' | 47" | 413.00 feet along same to a point; |
| 29. | 185° | 14' | 47" | 254.00 feet along same to a point; |
| 30. | 177° | 22' | 47" | 506.00 feet along same to a point; |
| 31. | 217° | 16' | 47" | 437.00 feet along same to a point; |
| 32. | 210° | 02' | 47" | 470.00 feet along same to a point; |
| 33. | 190° | 15' | 17" | 1,179.70 feet along same to a point; |
| 34. | 197° | 01' | 47" | 467.15 feet along same to a point; |
| 35. | 235° | 55' | 47" | 349.70 feet along same to a point; |
| 36. | 220° | 15' | 47" | 280.20 feet along same to a point; |
| 37. | 208° | 33' | 47" | 216.10 feet along same to a point; |
| 38. | 193° | 09' | 47" | 570.10 feet along same to a point; |
| 39. | 203° | 49' | 47" | 164.90 feet along same to a point; |
| 40. | 187° | 16' | 47" | 301.10 feet along same to a point; |
| 41. | 258° | 57' | 41" | 864.14 feet along Grant 3152 to Henry
Cornwell and along the
remainder of Grant 3152 to
Henry Cornwell, being also
along Lot 6 of Waikapu Hema
Large Lot Subdivision to the
point of beginning and
containing an area of 256.903
acres. |

END OF EXHIBIT "B"

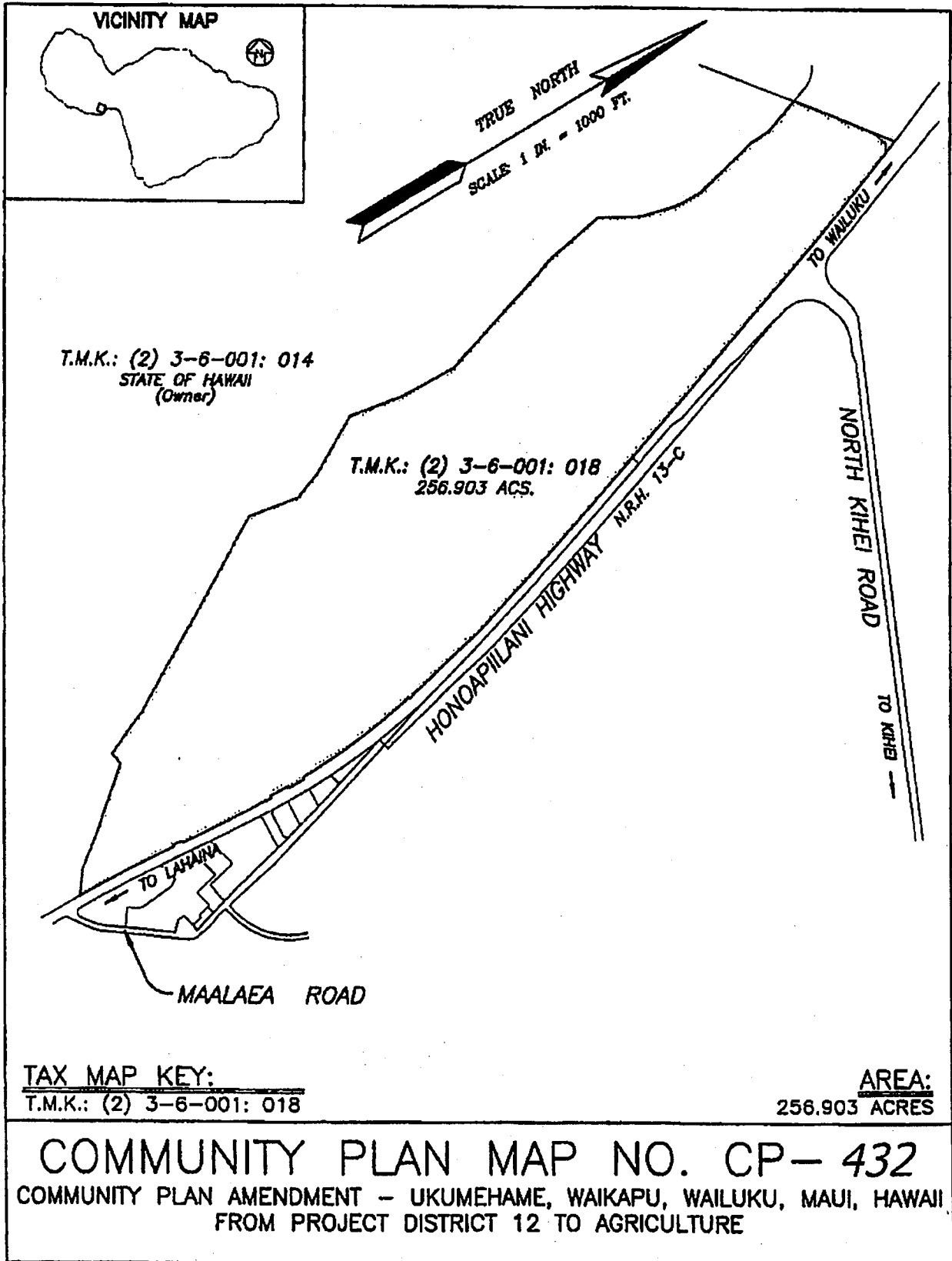


EXHIBIT " E "