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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

October 11, 2017

Mr. William Spence, Director  
Department of Planning  
County of Maui  
Wailuku, Hawaii 96793

Dear Mr. Spence:

**SUBJECT: DISTRICT BOUNDARY AMENDMENT FOR 4356  
HANA HIGHWAY, HANA (LU-46)**

The Land Use Committee is in receipt of correspondence dated October 6, 2017, from the Director of Housing and Human Concerns, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT FOR PROPERTY SITUATED AT 4356 HANA HIGHWAY, HANA, MAUI, HAWAII, TAX MAP KEY NO. (2) 1-3-004:001 (POR.), CONTAINING A TOTAL OF 7.226 ACRES." A copy of the transmittal is enclosed.

The Committee has also received correspondence dated October 5, 2017, from the Director of Housing and Human Concerns, transmitting the related application for an affordable housing project, pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"), called the "100 Percent Affordable Hana Housing Project"; that matter is separately identified as item LU-2(2).

May I please request you review and provide comments on the proposed conditions attached as Exhibit "C" to the proposed bill? I am particularly interested in your comments on proposed Condition 2, which appears to provide for an automatic termination of an ordinance, without enactment of another ordinance, should the 201H resolution expire.

Please note I have separately requested the Department of the Corporation Counsel revise the proposed bill to incorporate the two Hawaii Right-to-Farm Act

Mr. William Spence  
October 11, 2017  
Page 2

conditions required by Section 205-3.5(a), HRS. A copy of that request is also attached for your information.

I would appreciate receiving your response by **Monday, October 16, 2017**. I apologize for the shortness of time for response. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Thank you in advance for your assistance. Should you have any questions, please contact me or the Committee staff (Carla Nakata at ext. 7659, or Clarita Balala at ext. 7668).

Sincerely,



ROBERT CARROLL, Chair  
Land Use Committee

lu:ltr:046apl01:cmn

Attachments

cc: Mayor Alan M. Arakawa  
Jeffrey Ueoka, Deputy Corporation Counsel  
Brett Davis, Chris Hart & Partners, Inc.  
Paul Fasi, Planner, Department of Planning



DEPARTMENT OF  
**HOUSING AND HUMAN CONCERNS**  
COUNTY OF MAUI

ALAN M. ARAKAWA  
Mayor

CAROL K. REIMANN  
Director

JAN SHISHIDO  
Deputy Director

RECEIVED

2200 MAIN STREET • SUITE 546 • WAILUKU, HAWAII 96793 • PHONE (808) 270-7805 • FAX (808) 270-7165  
MAILING ADDRESS: 200 SOUTH HIGH STREET • WAILUKU, HAWAII 96793 • EMAIL: director.bhc@mauicounty.gov

October 6, 2017

Honorable Alan M. Arakawa  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Robert Carroll, Chair  
Land Use Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Carroll:

**SUBJECT: DISTRICT BOUNDARY AMENDMENT FOR 4356 HANA HIGHWAY,  
HANA (LU-46)**

I am transmitting a proposed bill for an ordinance entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT FOR PROPERTY SITUATED AT 4356 HANA HIGHWAY, HANA, MAUI, HAWAII, TAX MAP KEY NO. (2) 1-3-004:001 (POR.), CONTAINING A TOTAL OF 7.226 ACRES".

The purpose of the proposed bill for an ordinance is to authorize the reclassification of certain land situated at 4356 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes by Tax Map Key No. (2) 1-3-004:001 (Por.) from the Agricultural District to the Rural District, pursuant to Section 205-3.1, Hawaii Revised Statues, and Chapter 19.68, Maui County Code.

The proposed bill for an ordinance would be conditional upon the Council's passage of a resolution approving, with modifications, the independent development of the 100% Affordable Hana Housing Project pursuant to Section 201H-38, Hawaii Revised Statutes.

Thank you for your attention to this matter. Should you have any questions, please feel free to call me at Ext. 7805.

Sincerely,

CAROL K. REIMANN  
Director of Housing and Human Concerns

Attachment

2017 OCT - 6 PM 3:29  
OFFICE OF THE MAYOR

2017 OCT - 9 AM 9:44  
OFFICE OF THE  
COUNTY COUNCIL

RECEIVED

APPROVED FOR TRANSMITTAL

*Alan Arakawa* 10/9/17  
Mayor Date

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

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

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT FOR PROPERTY SITUATED AT 4356 HANA HIGHWAY, HANA, MAUI, HAWAII, TAX MAP KEY NO. (2) 1-3-004:001 (POR.), CONTAINING A TOTAL OF 7.226 ACRES

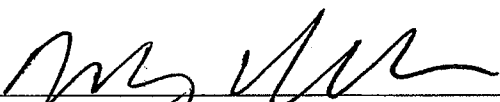
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Section 205-3.1, Hawaii Revised Statutes, and Chapter 19.68, Maui County Code, the State Land Use District Classification is reclassified from the Agricultural District to the Rural District for that certain land situated at 4356 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes by Tax Map Key No. (2) 1-3-004:001 (por.), containing a total of 7.226 acres, and more particularly described in Exhibit "A" attached hereto and made a part hereof, and shown on the map attached hereto as Exhibit "B".

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

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

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
JEFF UEOKA

Deputy Corporation Counsel  
County of Maui

S:\ALL\JTU\HOUSING\201H\Hana\DBA\Ordinance.docx  
2017-0623

EXHIBIT "A"

LAND DESCRIPTION

Tax Map Key (2) 1-3-004:006(Portion)  
(Fist Parcel)

Land situated at Kawaipapa, Hana ~~Island~~ and County of Maui, State of Hawaii.

Being a portion of Grant 2579 to Paele and Kuihanui.


Beginning at the northeast corner of this parcel of land, along the west side of Hana Highway the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUIKI" being 5,408.15 feet North and 5,425.22 feet West and running by azimuths measured clockwise from true South:

1. 327° 30' 247.86 feet along the west side of Hana Highway to a point; thence,
2. 327° 30' 253.84 feet along Government Land designated as Tax Map Key : (2) 1-3-004::022 to a point; thence,
3. 339° 45' 195.36 feet along the same to a point; thence,
4. 315° 00' 136.49. feet along the same to a point; thence,
5. 51° 00' 164.81 feet along Grant 4534 to Ulunaele to a point, thence,
6. 332° 48' 53" 118.98 feet along the same to a point; thence,
7. 88° 18' 53" 161.12 feet along portion of Grant 2579 to Paele and Kuihanui being portion of Tax Map Key : (2) 1-3-004:001 a point; thence,
8. 146° 00' 981.65 feet along the same to a point; thence,
9. 253° 32' 30" 364.96 feet along Government Land to the point of beginning and containing an area of 6.986 acres, more or less.

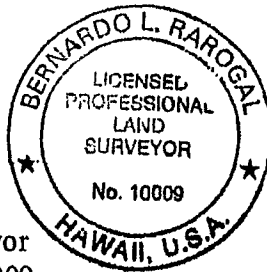
Note: This metes and bounds description has been prepared for Land Use District Boundary Amendment purposes only.

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

DMC, ENGINEERING

 7/6/17

Bernardo L. Rarogal  
Licensed Professional Land Surveyor  
State of Hawaii Certificate No. 10009  
License Expire: 4/18  
End of description.



LAND DESCRIPTION

Tax Map Key (2) 1-3-004:006(Portion)  
(Second Parcel)

Land situated at Kawaipapa, Hana ~~Island~~ and County of Maui, State of Hawaii.

Being a portion of Grant 2579 to Paele and Kuihanui.

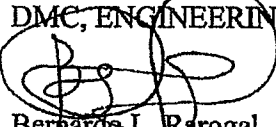
Beginning at the northeast corner of this parcel of land, along the west side of Hana Highway, (Federal Aid Project F58(1)) the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUIKI" being 4,593.72 feet North and 4,873.89 feet West and running by azimuths measured clockwise from true South:

Along the west side of Hana Highway (Federal Aid Project F58(1)) on a curve to the right a radius of 2,242.52 feet and a central angle of 3° 15' 15" the chord azimuth and distance being:

1. 325° 33' 53.1" 126.04 feet to a point; thence,
2. 90° 00' 199.65 feet along portion of Grant 2579 to Paele and Kuihanui being portion of Tax Map Key :(2) 1-3-004:001 to a point; thence,
8. 231° 00' 165.19 feet along Grant 4534 to Ulunaele to the point of beginning and containing an area of 0.240 acre, more or less.

Note: This metes and bounds description has been prepared for Land Use District Boundary Amendment purposes only.

This work was prepared by me  
or under my direct supervision  
DMC, ENGINEERING

 7/6/17  
Bernardo L. Rarogal  
Licensed Professional Land Surveyor  
State of Hawaii Certificate No. 10009  
License Expire:4/18  
End of description.



(First Parcel)  
6.986 acres  
or 304,293 sq.ft.

T.M.K.(2) 1-3-04:POR. 001  
(AGRICULTURAL)

T.M.K.(2) 1-3-04:POR. 001  
(RURAL)

TRUE NORTH  
Scale: 1" = 200'

AGRICULTURAL

(Second Parcel)  
T.M.K.(2) 1-3-04:POR. 001  
(RURAL)  
0.240 Acre  
or 10,450 sq.ft.

LOT 2-B  
T.M.K.(2) 1-4-03:80  
Edward M. Smith  
(owner)

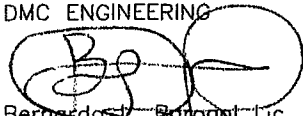
Grant

HANA SUBSTATION SUBDIVISION

LOT 1  
T.M.K.(2) 1-4-03:52  
Mouli Electric Co.

KAWAI OLA PLACE

This work was prepared by me  
or under my direct supervision.  
DMC ENGINEERING



7/6/17

Bernardo L. Rarogal Lic. Exp. 4/18  
Licensed Professional Land Surveyor  
State of Hawaii Certificate No. 10009



First Parcel=6.986 acres  
Second Parcel=0.240 acre  
Total Area=7.226 Acres

T.M.K.(2) 1-3-004: PORTIONS 001

# LAND USE DISTRICT BOUNDARY AMENDMENT MAP NO.

HANA, MAUI  
FROM: AGRICULTURAL DISTRICT  
TO: RURAL DISTRICT

APPROVED: \_\_\_\_\_  
COUNTY CLERK DATE

APPROVED: \_\_\_\_\_

PUBLIC HEARING:  
ADOPTED - COUNCIL:  
ADOPTED - MAYOR:  
ORDINANCE:



EXHIBIT "C"  
CONDITIONS

1. This ordinance is conditional upon the Council's passage of a resolution approving, with modifications, the independent development of Hana Housing Development, pursuant to Section 201H-38, Hawaii Revised Statutes (the "201H Resolution").
2. If the 201H Resolution shall expire due to the developer's failure to start physical construction on the Property by the time deadline set forth in the 201H Resolution, this ordinance shall also terminate concurrently with the expiration of the 201H Resolution.
3. Developer shall act in good faith and with its reasonable best efforts to complete all of the 25 residential workforce housing lots on the Property with all related roads and infrastructure not later than the fifth anniversary of the effective date of the 201H Resolution.
4. The Property shall be developed as a residential workforce housing project in accordance with the 201H Resolution.
5. The Property shall be developed in strict compliance with the representations made to the Council in obtaining approval of the State District Boundary Amendment.

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
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COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

October 9, 2017

MEMO TO: Patrick K. Wong  
Corporation Counsel

F R O M: Robert Carroll, Chair  
Land Use Committee

Handwritten signature of Robert Carroll.

SUBJECT: **DISTRICT BOUNDARY AMENDMENT FOR 4356 HANA HIGHWAY, HANA** (LU-46)

The Land Use Committee is in receipt of the attached proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT FOR PROPERTY SITUATED AT 4356 HANA HIGHWAY, HANA, MAUI, HAWAII, TAX MAP KEY NO. (2) 1-3-004:001 (POR.), CONTAINING A TOTAL OF 7.226 ACRES."

According to pages 5-6 of the related application submitted on October 5, 2017, pursuant to Chapter 201H, Hawaii Revised Statutes, for the "100% Affordable Hana Housing Project," the property is bordered to the south and west by lands with an Agricultural State Land Use District classification. (See attached.)

Section 205-3.5(a), Hawaii Revised Statutes, provides:

Any decision approving a petition for a boundary amendment pursuant to this chapter where lands in the petition area are contiguous or adjacent to lands in the agricultural district, shall include the following conditions in the decision granting approval:

- (1) A prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and

Patrick K. Wong  
October 9, 2017  
Page 2

management practices on adjacent or contiguous lands in the agricultural district; and

- (2) Notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the agricultural district are protected under chapter 165, the Hawaii right to farm act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

Because these two conditions appear to be mandated by State law, please incorporate them into Exhibit "C" to the proposed bill. Please also revise Section 2 of the proposed bill to read as follows:

Pursuant to Section 19.68.040, Maui County Code, and Section 205-3.5, Hawaii Revised Statutes, the State Land Use District classification granted by this ordinance is subject to the conditions set forth in Exhibit "C," attached hereto and made a part hereof, and the Unilateral Agreement and Declaration of Conditions for State Land Use District Boundary Amendment, attached hereto and made a part hereof as Exhibit "D."

I am also enclosing for your reference a printout from the County's real property tax database, reflecting Thomas A. Hoeffken and Nancy M. Hoeffken as the fee owners of the property. Please confirm whether they are the current owners of the property and would be the signatories on any unilateral agreement attached to the proposed bill.

May I please request you transmit the revised proposed bill with your written response by **Monday, October 16, 2017**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Carla Nakata at ext. 7659, or Clarita Balala at ext. 7668).

lu:ltr:046acc01:cmn

Attachments

cc: Jeffrey Ueoka, Deputy Corporation Counsel  
Carol Reimann, Director of Housing and Human Concerns  
Brett Davis, Chris Hart & Partners, Inc.

## I. Exemption from Section 237-29, Hawaii Revised Statutes (HRS)

1. An exemption from Section 237-29, HRS, State General Excise Tax, shall be granted to exempt the project from State General Excise Tax (GET) during development and construction. The County of Maui does not object to the Developer seeking an exemption under Section 201H-37, HRS. Section 201H-37, HRS allows for exemption from Section 237-29 HRS for affordable housing projects.

These exemptions are provided in Appendix I of the FEA.

## B. Description of the Existing Environment

### 1. Physical Environment

#### a. Surrounding Land Use

Identified by TMK (2) 1-3-04:01, the subject property is located in Hana, Maui and occupies an area of 72.81 acres and is located to the west of Kawaipapa Stream and mauka of Hana Highway. The proposed 201H affordable housing project is located on a 7.220 acre portion of the parcel. (See: Figures 5, State Land Use District Map, 6, Maui County Zoning Map, 7, Hana Community Plan Map, & 8 Maui Island Plan Map.) The State land use, zoning, Maui Island Plan and Hana Community Plan designations for surrounding properties are summarized below:

**North:**                    Community Plan: Rural and Agriculture  
State Land Use: Rural  
Zoning: Interim  
Maui Island Plan: Rural Growth Boundary  
**Existing Uses:** Rural Single Family Subdivision

**South:**                    Community Plan: Rural  
State Land Use: Agricultural  
Zoning: Ru -0.5 and Interim  
Maui Island Plan: Rural Growth Boundary  
**Existing Uses:** Kawaipapa Stream, AG land

**East:**                    Community Plan: Agriculture  
State Land Use: Rural  
Zoning: Interim

Maui Island Plan: Rural Growth Boundary  
**Existing Uses**: Rural single family Subdivision

**West:** Community Plan: Agricultural  
State Land Use: Agricultural  
Zoning: Agricultural  
Maui Island Plan: Agricultural  
**Existing Uses**: Applicant owned land for Mining and resource extraction

## **b. Climate**

Hana is located on the eastern edge of the Island of Maui and experiences a hot and wet climate year typical of a tropical rainforest. Annual average temperatures range from 68-82 degree and the region averages over 75 inches of rain a year, with some areas receiving more.

## **c. Flood and Tsunami Zone**

The flood insurance rate map (Map Number 1500030670E, Revised September 25, 2009) prepared by the Federal Emergency Management Agency, reveals that the majority of the subject parcel is located in Zone "X". Zone X is area determined to be outside the 0.2% annual chance floodplain (i.e., a low risk flood hazard area). A small portion of the property along the Kawaipapa Stream is situated in Flood A. Zone A is a flood zone with no Base Flood Elevation determined. (See: **Figure 10, Flood Hazard Assessment Map.**)

## **d. Topography and Soils**

The parcel slopes down in a north to south direction from an elevation of approximately 180 feet above mean sea level to approximately 160 feet above mean seal level, averaging approximately 4%.

According to the *Soil Survey of the Islands of Kauai, Oahu, Maui, Moloka`i, and Lana`i, State of Hawai`i, April 1972*, prepared by the United States Department of Agriculture, the soil associated with the subject parcel is MYD. This soil is comprised entirely of the Malama extremely stony muck, 3-25% slope (MYD). Permeability is very rapid. Runoff is very slow, and the erosion hazard rate is no

**[§205-3.5] Reclassification of land contiguous to an agricultural district; approval conditions.** (a) Any decision approving a petition for a boundary amendment pursuant to this chapter where lands in the petition area are contiguous or adjacent to lands in the agricultural district, shall include the following conditions in the decision granting approval:

(1) A prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the agricultural district; and

(2) Notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the agricultural district are protected under chapter 165, the Hawaii right to farm act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

(b) For purposes of this section, "farming operation" shall have the same meaning as provided in section 165-2. [L 2008, c 124, §1]

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**Owner and Parcel Information**

<b>Owner Name</b>	HOEFFKEN, THOMAS A Fee Owner HOEFFKEN, NANCY M Fee Owner <a href="#">Show All Owners and Addresses</a>	<b>Today's Date</b>	October 6, 2017
<b>Mailing Address</b>	651 PAPIPI RD KULA HI 96790	<b>Parcel Number</b>	130040010000
<b>Location Address</b>	0 HANA HWY	<b>Parcel Map</b>	<a href="#">Show Parcel Map</a>
<b>Neighborhood Code</b>	1341-5	<b>Land Area</b>	72.81 Acres
<b>Legal Information</b>	SITUATE AT KAWAIPAPA, HANA POR OF GR 2579	<b>Parcel Note</b>	

[Generate Owner List By Radius](#)

**Assessment Information** [Show Historical Assessments](#)

Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land Value	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2017	AGRICULTURAL	\$ 597,000	\$ 0	\$ 597,000	\$ 20,300	\$ 617,300	\$ 0	\$ 617,300

**Current Tax Bill Information** [2017 Tax Payments](#) [Show Historical Taxes](#)

Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
No Tax Information available on this parcel.									

**Improvement Information**

No improvement information available for this parcel.

**Accessory Information**

Building Number	Description	Dimensions/Units	Year Built	Percent Complete	Value
1	FRAME UTILITY SHED	0x0 352 / 1	2000	100 %	\$ 20,300

**Sales Information**

Sale Date	Price	Instrument #	Instrument Type	Valid Sale or Other Reason	Document Type	Record Date	Land Court #	Land Court Cert
09/15/2004	\$ 1,025,000	04-202280	Fee conveyance	Valid Sale	Warranty deed	10/01/2004		
09/15/1999	\$ 0	9900151058	Fee conveyance			09/20/1999		

**Permit Information**

Date	Permit Number	Reason	Permit Amount
02/27/2013	SHED	No permit	\$ 0

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