

COUNCIL OF THE COUNTY OF MAUI

DISASTER, RESILIENCE, INTERNATIONAL AFFAIRS, AND PLANNING COMMITTEE

December 23, 2024

**Committee
Report No. _____**

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Disaster, Resilience, International Affairs, and Planning Committee, having met on May 10, 2023, and August 7, 2024, makes reference to Bill 21 (2023), entitled “A BILL FOR AN ORDINANCE TO AMEND ORDINANCE 2924 (CONDITIONAL ZONING) FOR EMERGENCY AIRSTRIP OPERATIONS AT KAPALUA AIRPORT.”

Bill 21’s purposes are to: 1) allow after-hours emergency airstrip operations at Kapalua Airport by amending the Conditions of Zoning under Section 19.510.050, Maui County Code; and 2) correct the tax map keys, property description, and acreage for Kapalua Airport.

Your Committee notes that the Council’s Planning and Sustainable Land Use Committee (2021-2023 Council term) met on October 6, 2022. At its meeting of November 4, 2022, the Council adopted Resolution 22-213 which referred a proposed bill to the Maui Planning Commission for their findings and recommendations (Committee Report 22-118).

Your Committee further notes that the proposed bill was reviewed by the Maui Planning Commission at its meeting of February 28, 2023, and received unanimous support.

A State Department of Transportation representative noted Kapalua Airport was built, owned, and operated by Hawaiian Airlines in the 1980s, before being acquired by the State of Hawaii in 1993.

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**Committee
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Because of community concerns and input, the Council imposed zoning conditions on Kapalua Airport under Ordinance 1535 (1986). Kapalua Airport is the only airport in the State that does not qualify for Federal funding because of the conditions.

By correspondence dated June 21, 2024, the State Director of Transportation requested additional language in the seventeenth zoning condition to clarify that the Department is not responsible for funding the installation of runway lights. Your Committee supported the Director's request.

By correspondence dated November 27, 2024, the Director noted the estimated cost for runway lighting is \$8.4 million.

The State Department of Transportation representative recommended a joint funding effort among the State, County, and West Maui Taxpayers Association for the installation of lights.

The representative said air ambulance services, transportation of emergency supplies during road blocks, and the ability to transport people to and from Molokai would positive outcomes if Bill 21 were enacted.

By correspondence dated September 11, 2024, the Deputy Director of Finance noted Kapalua Airport is composed of three parcels totaling 57.296 acres. Your Committee further amended Bill 21 to update the tax map keys and total acreage for Kapalua Airport.

Your Committee notes an amendment to Section 19-13-8.1, Hawai'i Administrative Rules, is necessary before Bill 21 takes effect.

COUNCIL OF THE COUNTY OF MAUI

DISASTER, RESILIENCE, INTERNATIONAL AFFAIRS, AND PLANNING COMMITTEE

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**Committee
Report No. _____**

Your Committee expressed support for Bill 21, CD1, which would enhance emergency and medical services to West Maui when rockslides, wildfires, or challenging traffic conditions occur.

Your Committee voted 6-0 to recommend passage of Bill 21, CD1 (2023), on first reading. Committee Chair Paltin, Vice-Chair U‘u-Hodgins, and members Cook, Kama, Sinenci, and Sugimura voted “aye.” Committee member Rawlins-Fernandez was excused.

Your Committee is in receipt of Bill 21, CD1 (2023), incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Disaster, Resilience, International Affairs, and Planning Committee RECOMMENDS the following:

1. That Bill 21, CD1 (2023), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE TO AMEND ORDINANCE 2924 (CONDITIONAL ZONING) FOR EMERGENCY AIRSTRIP OPERATIONS AT KAPALUA AIRPORT,” be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That the County Clerk RECORD the Unilateral Agreement.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



TAMARA PALTIN, Chair

ORDINANCE NO. _____

BILL NO. 21, CD1 (2023)

A BILL FOR AN ORDINANCE TO AMEND ORDINANCE 2924
(CONDITIONAL ZONING) FOR EMERGENCY AIRSTRIPO
OPERATIONS AT KAPALUA AIRPORT

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

SECTION 1. This Ordinance’s purpose is to allow after-hours emergency airstrip operations at Kapalua Airport by amending the property’s Conditional Zoning under Section 19.510.050, Maui County Code. This Ordinance also updates the tax map keys, property description, and acreage for the Kapalua Airport.

SECTION 2. Ordinance 2924’s SECTION 1 is amended to read as follows, with new material underscored and repealed material in brackets:

“SECTION 1. [Pursuant to] Under Chapter 19.510, Maui County Code, Ordinance [No.] 1535 (Conditional Zoning) is [hereby] amended for [that certain parcel of land] real property located at Kahana and Mahinahina, Lahaina, Maui, Hawaii, identified for real property tax purposes [by Tax Map Key Nos. 4-3-001:068, 073, 074, and 075 (formerly 4-3-001:por. of 031),] as tax map keys (2) 4-3-001:068, (2) 4-3-001:073, and (2) 4-3-001:075, [comprised of approximately 50] comprising 57.296 acres, and more particularly described in the attached Exhibit [“A”, attached hereto and by this reference made a part hereof.] “1” (“Property”).”

SECTION 3. Ordinance 2924’s SECTION 2 is amended by amending Condition 4 to read as follows:

“4. That the airstrip operations [shall be] are limited to one-half hour after sunrise to 6:30 p.m., unless extended for emergency airstrip operations. “Emergency airstrip operations” are defined as any occasion or instance that

warrants action to save lives and protect property and public health.”

SECTION 4. Ordinance 2924 is amended by adding a new condition, Condition 17, to read as follows:

“17. That installation and use of runway lights at Kapalua Airport are permitted for emergency airstrip operations only. The State Department of Transportation is not responsible for providing funding for the installation of runway lights.”

SECTION 5. The amendment to Condition 4 and the addition of Condition 17 are reflected in the consolidated amended set of conditions attached as Exhibit “2.”

SECTION 6. In accordance with Section 19.510.010, Maui County Code, the zoning granted by this Ordinance is subject to the conditions in Exhibit “2” and the Unilateral Agreement and Declaration for Conditional Zoning attached as Exhibit “3.”

SECTION 7. Material to be repealed is bracketed. New material is underscored.

SECTION 8. This Ordinance takes effect on the effective date of an amendment to Section 19-13-8.1, Hawaii Administrative Rules, allowing the hours of operation at Kapalua Airport to be extended for emergency airstrip operations.

drip:misc:003abill02:jpp

INTRODUCED BY:

Tamara A. M. Paltin

TAMARA PALTIN

EXHIBIT "1"

C.S.F. 25,646

(REVISED - JANUARY 2018)
KAPALUA-WEST MAUI AIRPORT

PARTS A AND B

Mahinahina 1, 2, 3 and Keahana, Lahaina, Maui, Hawaii

Governor's Executive Order 4552, Flar 62

see CSF 26014

DLNR
143(1a)
1/12/18



**STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU**

C.S.F. No. 25,646
H.S.S. Plat 1114-A

January 12, 2018

**(REVISED – JANUARY 2018)
KAPALUA-WEST MAUI AIRPORT**

PARTS A AND B

Mahinahina 1, 2, 3 and Kahana, Lahaina, Maui, Hawaii

Being portions of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop covered by the following:

- A. Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521.**
- B. Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.**

PART A: Being also Lot 1 of Kapalua-West Maui Airstrip and Lots P-1, P-4, P-6 to P-10, inclusive, P-13, P-22 to P-24, inclusive of Kapalua-West Maui Airport Subdivision.

Beginning at the west corner of this parcel of land and on the east side of Honoapiilani Highway, Federal Aid Project No. RF-030-1(5), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 12,609.22 feet North and 10,755.37 feet West, thence running by azimuths measured clockwise from True South:-

1. Along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 12' 07" 19.96 feet;
2. Thence along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 33' 03" 40.02 feet;
3. Thence along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 57' 30" 30.01 feet;
4. 295° 17' 12" 306.78 feet along Lot 2 of Mahinahina Mauka Subdivision;
5. Thence along Lot 2 of Mahinahina Mauka Subdivision on a curve to the right with a radius of 2030.00 feet, the chord azimuth and distance being:
292° 05' 37.79 feet;
6. 292° 37' 1095.94 feet along Lot 2 of Mahinahina Mauka Subdivision;
7. 276° 30' 182.73 feet along Lot 2 of Mahinahina Mauka Subdivision;
8. 208° 00' 515.00 feet along Lot 2 of Mahinahina Mauka Subdivision;
9. 232° 50' 71.43 feet along Lot 2 of Mahinahina Mauka Subdivision;
10. 208° 00' 112.44 feet along Lot 2 of Mahinahina Mauka Subdivision;
11. 298° 00' 420.00 feet along Lot 2 of Mahinahina Mauka Subdivision;
12. 266° 20' 152.74 feet along Lot 2 of Mahinahina Mauka Subdivision;

13.	208° 00'	1700.06	feet along Lot 2 of Mahinahina Mauka Subdivision;
14.	227° 20'	105.72	feet along Lot 2 of Mahinahina Mauka Subdivision;
15.	208° 00'	300.00	feet along Lot 2 of Mahinahina Mauka Subdivision;
16.	298° 00'	400.00	feet along Lot 2 of Mahinahina Mauka Subdivision;
17.	28° 00'	400.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
18.	352° 15'	123.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
19.	11° 50'	208.50	feet along Lot 3 of Mahinahina Mauka Subdivision;
20.	38° 20'	305.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
21.	48° 35'	213.92	feet along Lot 3 of Mahinahina Mauka Subdivision;
22.	28° 00'	579.98	feet along Lot 3 of Mahinahina Mauka Subdivision;
23.	17° 35'	121.63	feet along Lot 3 of Mahinahina Mauka Subdivision;
24.	28° 00'	500.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
25.	23° 25'	100.11	feet along Lot 3 of Mahinahina Mauka Subdivision;
26.	28° 00'	302.65	feet along Lot 3 of Mahinahina Mauka Subdivision;
27.	108° 30'	30.42	feet along Lot 3 of Mahinahina Mauka Subdivision;

28.	28° 00'	15.21	feet along Lot 3 of Mahinahina Mauka Subdivision;
29.	288° 30'	32.19	feet along Lot 3 of Mahinahina Mauka Subdivision;
30.	22° 15'	83.52	feet along Lot 3 of Mahinahina Mauka Subdivision;
31.	30° 10'	399.82	feet along Lot 3 of Mahinahina Mauka Subdivision;
32.	42° 00'	103.34	feet along Lot 3 of Mahinahina Mauka Subdivision;
33.	28° 00'	799.73	feet along Lot 3 of Mahinahina Mauka Subdivision;
34.	118° 00'	400.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
35.	208° 00'	251.98	feet along Lot 1 of Mahinahina Mauka Subdivision;
36.	199° 40'	150.40	feet along Lot 1 of Mahinahina Mauka Subdivision;
37.	212° 10'	300.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
38.	208° 00'	470.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
39.	118° 00'	380.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
40.	28° 00'	15.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
41.	118° 00'	205.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
42.	128° 00'	241.47	feet along Lot 1 of Mahinahina Mauka Subdivision;

43. 112° 37' 1052.33 feet along Lot 1 of Mahinahina Mauka Subdivision;
44. Thence along Lot 1 of Mahinahina Mauka Subdivision on a curve to the left with a radius of 1970.00 feet, the chord azimuth and distance being:
112° 05' 36.67 feet;
45. 109° 40' 48" 151.35 feet along Lot 1 of Mahinahina Mauka Subdivision;
46. 21° 33' 51.80 feet along Lot 1 of Mahinahina Mauka Subdivision;
47. 111° 33' 55.00 feet along Lot 1 of Mahinahina Mauka Subdivision;
48. 201° 33' 50.00 feet along Lot 1 of Mahinahina Mauka Subdivision;
49. 109° 40' 48" 100.00 feet along Lot 1 of Mahinahina Mauka Subdivision to the point of beginning and containing an AREA OF 57.239 ACRES.

Vehicle access shall not be permitted into and from Honoapiilani Highway, Federal Aid Project No. RF-030-1(5) over and across Courses 1 and 3 of the above-described Part A of Kapalua-West Maui Airport.

PART B: Being also Parcel 21 of Kapalua-West Maui Airstrip.

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 11,314.89 feet North and 7243.29 feet West, thence running by azimuths measured clockwise from True South:-

1. 18° 30' 50.00 feet along Lot 3 of Mahinahina Mauka Subdivision;

- | | | | |
|----|----------|-------|--|
| 2. | 108° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision; |
| 3. | 198° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision; |
| 4. | 288° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision to the point of beginning and
containing an AREA OF 0.057 ACRE. |

SUMMARY OF AREAS

PART A

Lot 1	-	49.983 Acres
Lot P-1	-	2.361 Acres
Lot P-4	-	0.112 Acre
Lot P-6	-	0.726 Acre
Lot P-7	-	0.824 Acre
Lot P-8	-	1.426 Acre
Lot P-9	-	0.552 Acre
Lot P-10	-	0.394 Acre
Lot P-13	-	0.040 Acre
Lot P-22	-	0.064 Acre
Lot P-23	-	0.511 Acre
Lot P-24	-	<u>0.246 Acre</u>
PART A TOTAL	=	57.239 Acres

PART B (Lot P-21)	=	<u>0.057 Acre</u>
TOTAL AREA	=	57.296 Acres

TOGETHER WITH, the right over and across Lot 2 of Kapalua-West Maui Airstrip for ingress and egress to and from the above-described Parts A and B of Kapalua-West Maui Airport and easements described herein, to inspect and service said parcels and easements outside of Lot 1 of Kapalua-West Maui Airstrip as covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.

TOGETHER ALSO WITH, the following easements as shown on plan attached hereto and made a part hereof:


- A. Easements 2, 3, 18, 19, 20, 25 and 26 covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.
- B. Easements 18, 19, 20, 25 and 26 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Maui Electric Company, Ltd. dated February 12, 1987 and recorded in Liber 20401, Page 402.

SUBJECT HOWEVER, to the following easements as shown on plan attached hereto and made a part hereof:

- A. Easements 11, 14, 15, 16, 17, 27 and any other encumbrance covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.
- B. Easements 1, 14, 15, 16, 17 and 27 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Maui Electric Company, Ltd. dated February 12, 1987 and recorded in Liber 20401, Page 402.
- C. Easements 15, 16, 17 and 27 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Hawaiian Telephone Company dated April 20, 1987 and recorded in Liber 20870, Page 106.
- D. Portion of Easement 3 (25 ft. wide) for Electric Purposes covered by Grant of Easement: Maui Land & Pineapple Company, Inc. and Pioneer Mill Company, Ltd. to Maui Electric Company, Ltd. and Hawaiian Telephone Company dated February 15, 1983 and recorded in Liber 16997, Page 654.

E. Portion of Easement A for Access Purposes.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: 
Gerald Z. Yonashiro
Land Surveyor rk

Compiled from maps furn. by
Sam O. Hirota, Inc. and R. T.
Tanaka Engineers, Inc. Said
maps have been examined and
checked as to form and mathematical
correctness but not on the ground
by the Survey Division.

EXHIBIT “2”

1. That the Council’s approval is based on revised plans, as amended December 1985, and identified as Amended Exhibits 1 through 5, and upon all other documentation submitted with the subject application (including, but not limited to the “Petition for District Boundary Amendment for Hawaiian Airlines, Inc.”). No material or substantive changes shall be made without the approval of the Maui County Council.
2. That the runway, runway apron, and other facilities shall not be expanded, nor shall any portion of the runway safety area be paved or utilized for displaced landing or takeoff thresholds.
3. That the concession area shall be limited to the 5040 square feet designated in the revised plans and shall not contain more than one cocktail lounge, one snack bar, one restaurant, and one newsstand.
4. That the airstrip operations [shall be] are limited to one-half hour after sunrise to 6:30 p.m., unless extended for emergency airstrip operations. “Emergency airstrip operations” are defined as any occasion or instance that warrants action to save lives and protect property and public health.
5. That there shall not be more than three car rental booths.
6. That onsite parking or storage of rental cars shall not be allowed.
7. That the Mayor of the County of Maui or his designated representative shall be designated a member of any Users’ Committee which may be established to oversee flight scheduling, operations, and management of the facility.
8. That the applicant shall submit and enforce a comprehensive sign program subject to review and approval by the Planning Department. In addition, the applicant shall provide street and highway directional signs as may be required by the State or County.
9. That a final landscape planting plan shall be submitted to the Planning Department for review and approval.

10. That the applicant shall comply with all requirements of the State Department of Transportation, Highways Division.
11. That construction of the project shall be initiated within one year of the final approval of said Change in Zoning.
12. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the projects relative to soil erosion from wind and rain, and increased ambient noise levels.
13. That the applicant, its successors and assigns, shall protect, defend, indemnify and hold harmless the County of Maui from and against any loss, liability, claim, or demand arising out of this ordinance.
14. That full compliance with all federal, state, and county requirements shall be rendered.
15. That all aircraft operated at the airstrip, including without limitation applicant's aircraft, and aircraft of licensees of applicant, shall have a current "Aircraft Type" or "Airworthiness" certificate or its equivalent issued by the Federal Aviation Administration ("FAA") certifying that such aircraft generates noise levels no greater than the following:

(1) For propeller-driven aircraft of 12,500 pounds or less maximum FAA-certificated takeoff weight only: The maximum allowable noise levels for "propeller-driven small airplanes" under Appendix F to Part 36, "Noise Standards: Aircraft Type Airworthiness Certifications," Title 14, Code of Federal Regulations (January 1, 1978), as the same may be amended from time to time, with noise levels measured and corrected as provided in such appendix, but in no event in excess of a noise level of 80dB(A) measured pursuant to said Appendix F; and

(2) For all other aircraft: The "Effective Perceived Noise Levels," as that term is defined in said Part 36, under conditions of "Takeoff," "sideline," and "approach," as those terms are defined in said Part 36, in units of "EPNdB," as that term is defined in said Part 36, measured as provided in said Part 36, as follows:

- (a) for takeoff: 80.5 EPNdB;
- (b) for sideline: 84 EPNdB; and
- (c) for approach: 91.6 EPNdB.

16. That if, and only to the extent such changes to the intersection of Lower Honoapiilani Road and Akahele Street are required to be made as a result of applicant's airstrip operations, applicant will participate with the County of Maui in (a) the signalization of the intersection and (b) the design and planning of any required street widening of Akahele Street within 100 feet of the intersection.
17. That installation and use of runway lights at Kapalua Airport are permitted for emergency airstrip operations only. The State Department of Transportation is not responsible for providing funding for the installation of runway lights.

EXHIBIT "3"

LAND COURT

REGULAR SYSTEM

Return by Mail to:

OFFICE OF THE COUNTY CLERK
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

TOTAL NUMBER OF PAGES ____

Affects Tax Map Keys (Maui) (2) 4-3-001:068, (2) 4-3-001:073, and (2) 4-3-001:075

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS AGREEMENT, referred to as “Declaration” or “Unilateral Agreement,” is made on _____, 20__, by the following “Declarant,” who is the owner of real property located at Mahinahina, Maui, Hawai‘i, referred to as “the Property,” comprised of 57.296 acres, and identified for real property tax purposes as tax map keys (2) 4-3-001:068, (2) 4-3-001:073, and (2) 4-3-001:075.

The Declarant is the STATE OF HAWAII, through its DIRECTOR OF TRANSPORTATION, whose principal address is 869 Punchbowl Street, Honolulu, Hawaii 96813, and whose authorized contact person is Edwin Sniffen, and any of their successors.

WITNESSETH:

WHEREAS, in and under that certain Unilateral Agreement and Declaration for Conditional Use, dated December 16, 1985, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19309, Page 785; and the Amendment to Unilateral Agreement and Declaration for Conditional Use, dated October 18, 2000, and recorded in the State of Hawaii Bureau of Conveyances on December 1, 2000, as Document 2000-168906, the Declarant agreed to 16 zoning conditions applicable to the Change in Zoning from Agricultural District to Airport District for the Kapalua Airport; and

WHEREAS, the Council is considering the establishment of zoning for the Property described in Exhibit “3-A”; and

WHEREAS, the Council’s Disaster, Resilience, International Affairs, and Planning Committee recommended passage on first reading of a Conditional Zoning bill in accordance with Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant now agrees to amend the fourth zoning condition to read as follows:

- “4. That the airstrip operations are limited to one-half hour after sunrise to 6:30 p.m., unless extended for emergency airstrip operations. “Emergency airstrip operations” are defined as any occasion or instance that warrants action to save lives and protect property and public health.”; and

WHEREAS, the Declarant now agrees to a seventeenth zoning condition, to read as follows:

“17. That installation and use of runway lights at the Kapalua Airport are permitted for emergency airstrip operations only. The State Department of Transportation is not responsible for providing funding for the installation of runway lights.”; and

WHEREAS, the consolidated amended set of conditions of zoning is attached as Exhibit “3-B”; and

WHEREAS, the Declarant intends that this Unilateral Agreement and Declaration for Conditional Zoning replace and supersede the Unilateral Agreement and Declaration for Conditional Use, dated December 16, 1985, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19309, Page 785; and the Amendment to Unilateral Agreement and Declaration for Conditional Use, dated October 18, 2000, and recorded in the State of Hawaii Bureau of Conveyances on December 1, 2000, as Document 2000-168906; and

WHEREAS, the Declarant has agreed to execute this Unilateral Agreement and Declaration for Conditional Zoning in accordance with the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. In accordance with Maui County Code. That this Declaration is made in accordance with the provisions of Section 19.510.050, Maui County Code, relating to Conditional Zoning;

2. Binding until Maui County written release. That until written release by the County of Maui, (a) the Property, and all its parts, are held subject to this Declaration's covenants, conditions, and restrictions, which are effective as to and run with the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery, or recordation of any further deed, instrument, document, agreement, declaration, covenant, or the like with respect to the Property by the Declarant, the County of Maui, or any successor or assign; (b) the acquisition of any right, title, or interest in or with respect to the Property by any person or entity constitutes acceptance of all of the covenants, conditions, and restrictions of this Declaration by the person or entity; and (c) upon any transfer of any right, title, or interest in or with respect to the Property, the transferee assumes, is bound by, and is obligated to observe and perform all of the covenants, conditions, and restrictions of this Declaration;

3. Running with the Land. That this Declaration and all of its covenants, conditions, and restrictions contained are effective as to and run with the land in perpetuity, or until the Declarant notifies the County Department of Planning that any of the covenants, conditions, and restrictions

are satisfied by the Declarant, and the Department verifies the satisfaction and provides a written release of the covenant, condition, or restriction;

4. STATE OF HAWAII as Declarant. That the term “Declarant” and any pronoun in reference to it, wherever used in this Declaration, means the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, includes any corporation or any other entity, and means and includes the STATE OF HAWAII, as Declarant, and the Declarant’s successors and assigns;

5. Effective as of date Section 19-13-8.1, Hawaii Administrative Rules, is amended. That this Declaration is valid only if Section 19-13-8.1, Hawaii Administrative Rules, is amended to allow the hours of operation at Kapalua Airport to be extended for emergency airstrip operations, and the amendments in this Declaration are effective as of the date the amendment to the administrative rule is effective.

6. Develop consistent with Conditional Zoning conditions. That the Declarant agrees to develop the Property in conformance with the conditions stated in Exhibit “3-B” and in the Conditional Zoning ordinance;

7. Conditions reasonable and rationally related to public health, safety, and welfare. That the conditions imposed are reasonable and rationally related to the objective of preserving the public health, safety, and general welfare and fulfill the need for the public service demands created by the Property's proposed use;

8. Conditions enforceable by County of Maui. AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County of Maui, the conditions imposed in this Declaration run with the land identified in this Declaration and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Property. The Declarant further understands and agrees that the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, with the understanding the Declarant or its successors and assigns may at any time file a petition with the County Department of Planning for the removal of the conditions and termination of this Unilateral Agreement, which will be processed in the same manner as petitions for Change in Zoning.

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

Any persons signing this Unilateral Agreement represent that they are duly authorized and have legal capacity to execute and deliver this Unilateral

Agreement. Each party represents to the other that the execution and delivery of this Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year indicated on the following notary public certification pages.

DECLARANT:

STATE OF HAWAII

DEPARTMENT OF TRANSPORTATION

By _____

Its _____

APPROVED AS TO FORM AND
LEGALITY:

Deputy Attorney General
State of Hawaii

APPROVED AS TO FORM AND
LEGALITY:

Department of the Corporation Counsel
County of Maui

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STATE OF _____)
)
) SS.
_____)

On this ____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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

[Stamp or Seal]

Notary Public, State of _____

Print Name: _____

My Commission Expires: _____

NOTARY PUBLIC CERTIFICATION

Doc. Date: _____ # Pages: _____

Notary Name: _____ Judicial Circuit: _____

Document Description: _____

Notary Signature: _____

Date: _____

[Stamp or Seal]

EXHIBIT "3-A"

C.S.F. 25,646

(REVISED - JANUARY 2018)
KAPALUA-WEST MAUI AIRPORT

PARTS A AND B

Mahinahina 1, 2, 3 and Keahana, Lahaina, Maui, Hawaii

Governor's Executive Order 4552, Flar 62

see CSF 26014

DLNR
143(1a)
1/12/18



**STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU**

C.S.F. No. 25,646
H.S.S. Plat 1114-A

January 12, 2018

**(REVISED – JANUARY 2018)
KAPALUA-WEST MAUI AIRPORT**

PARTS A AND B

Mahinahina 1, 2, 3 and Kahana, Lahaina, Maui, Hawaii

Being portions of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop covered by the following:

- A. Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521.**
- B. Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.**

PART A: Being also Lot 1 of Kapalua-West Maui Airstrip and Lots P-1, P-4, P-6 to P-10, inclusive, P-13, P-22 to P-24, inclusive of Kapalua-West Maui Airport Subdivision.

Beginning at the west corner of this parcel of land and on the east side of Honoapiilani Highway, Federal Aid Project No. RF-030-1(5), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 12,609.22 feet North and 10,755.37 feet West, thence running by azimuths measured clockwise from True South:-

1. Along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 12' 07" 19.96 feet;
2. Thence along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 33' 03" 40.02 feet;
3. Thence along the east side of Honoapiilani Highway, F.A.P. No. RF-030-1(5) on a curve to the right with a radius of 4925.00 feet, the chord azimuth and distance being:
201° 57' 30" 30.01 feet;
4. 295° 17' 12" 306.78 feet along Lot 2 of Mahinahina Mauka Subdivision;
5. Thence along Lot 2 of Mahinahina Mauka Subdivision on a curve to the right with a radius of 2030.00 feet, the chord azimuth and distance being:
292° 05' 37.79 feet;
6. 292° 37' 1095.94 feet along Lot 2 of Mahinahina Mauka Subdivision;
7. 276° 30' 182.73 feet along Lot 2 of Mahinahina Mauka Subdivision;
8. 208° 00' 515.00 feet along Lot 2 of Mahinahina Mauka Subdivision;
9. 232° 50' 71.43 feet along Lot 2 of Mahinahina Mauka Subdivision;
10. 208° 00' 112.44 feet along Lot 2 of Mahinahina Mauka Subdivision;
11. 298° 00' 420.00 feet along Lot 2 of Mahinahina Mauka Subdivision;
12. 266° 20' 152.74 feet along Lot 2 of Mahinahina Mauka Subdivision;

13.	208° 00'	1700.06	feet along Lot 2 of Mahinahina Mauka Subdivision;
14.	227° 20'	105.72	feet along Lot 2 of Mahinahina Mauka Subdivision;
15.	208° 00'	300.00	feet along Lot 2 of Mahinahina Mauka Subdivision;
16.	298° 00'	400.00	feet along Lot 2 of Mahinahina Mauka Subdivision;
17.	28° 00'	400.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
18.	352° 15'	123.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
19.	11° 50'	208.50	feet along Lot 3 of Mahinahina Mauka Subdivision;
20.	38° 20'	305.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
21.	48° 35'	213.92	feet along Lot 3 of Mahinahina Mauka Subdivision;
22.	28° 00'	579.98	feet along Lot 3 of Mahinahina Mauka Subdivision;
23.	17° 35'	121.63	feet along Lot 3 of Mahinahina Mauka Subdivision;
24.	28° 00'	500.00	feet along Lot 3 of Mahinahina Mauka Subdivision;
25.	23° 25'	100.11	feet along Lot 3 of Mahinahina Mauka Subdivision;
26.	28° 00'	302.65	feet along Lot 3 of Mahinahina Mauka Subdivision;
27.	108° 30'	30.42	feet along Lot 3 of Mahinahina Mauka Subdivision;

28.	28° 00'	15.21	feet along Lot 3 of Mahinahina Mauka Subdivision;
29.	288° 30'	32.19	feet along Lot 3 of Mahinahina Mauka Subdivision;
30.	22° 15'	83.52	feet along Lot 3 of Mahinahina Mauka Subdivision;
31.	30° 10'	399.82	feet along Lot 3 of Mahinahina Mauka Subdivision;
32.	42° 00'	103.34	feet along Lot 3 of Mahinahina Mauka Subdivision;
33.	28° 00'	799.73	feet along Lot 3 of Mahinahina Mauka Subdivision;
34.	118° 00'	400.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
35.	208° 00'	251.98	feet along Lot 1 of Mahinahina Mauka Subdivision;
36.	199° 40'	150.40	feet along Lot 1 of Mahinahina Mauka Subdivision;
37.	212° 10'	300.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
38.	208° 00'	470.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
39.	118° 00'	380.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
40.	28° 00'	15.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
41.	118° 00'	205.00	feet along Lot 1 of Mahinahina Mauka Subdivision;
42.	128° 00'	241.47	feet along Lot 1 of Mahinahina Mauka Subdivision;

43. 112° 37' 1052.33 feet along Lot 1 of Mahinahina Mauka Subdivision;
44. Thence along Lot 1 of Mahinahina Mauka Subdivision on a curve to the left with a radius of 1970.00 feet, the chord azimuth and distance being:
112° 05' 36.67 feet;
45. 109° 40' 48" 151.35 feet along Lot 1 of Mahinahina Mauka Subdivision;
46. 21° 33' 51.80 feet along Lot 1 of Mahinahina Mauka Subdivision;
47. 111° 33' 55.00 feet along Lot 1 of Mahinahina Mauka Subdivision;
48. 201° 33' 50.00 feet along Lot 1 of Mahinahina Mauka Subdivision;
49. 109° 40' 48" 100.00 feet along Lot 1 of Mahinahina Mauka Subdivision to the point of beginning and containing an AREA OF 57.239 ACRES.

Vehicle access shall not be permitted into and from Honoapiilani Highway, Federal Aid Project No. RF-030-1(5) over and across Courses 1 and 3 of the above-described Part A of Kapalua-West Maui Airport.

PART B: Being also Parcel 21 of Kapalua-West Maui Airstrip.

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 11,314.89 feet North and 7243.29 feet West, thence running by azimuths measured clockwise from True South:-

1. 18° 30' 50.00 feet along Lot 3 of Mahinahina Mauka Subdivision;

- | | | | |
|----|----------|-------|--|
| 2. | 108° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision; |
| 3. | 198° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision; |
| 4. | 288° 30' | 50.00 | feet along Lot 3 of Mahinahina Mauka
Subdivision to the point of beginning and
containing an AREA OF 0.057 ACRE. |

SUMMARY OF AREAS

PART A

Lot 1	-	49.983 Acres
Lot P-1	-	2.361 Acres
Lot P-4	-	0.112 Acre
Lot P-6	-	0.726 Acre
Lot P-7	-	0.824 Acre
Lot P-8	-	1.426 Acre
Lot P-9	-	0.552 Acre
Lot P-10	-	0.394 Acre
Lot P-13	-	0.040 Acre
Lot P-22	-	0.064 Acre
Lot P-23	-	0.511 Acre
Lot P-24	-	<u>0.246 Acre</u>
PART A TOTAL	=	57.239 Acres

PART B (Lot P-21)	=	<u>0.057 Acre</u>
TOTAL AREA	=	57.296 Acres

TOGETHER WITH, the right over and across Lot 2 of Kapalua-West Maui Airstrip for ingress and egress to and from the above-described Parts A and B of Kapalua-West Maui Airport and easements described herein, to inspect and service said parcels and easements outside of Lot 1 of Kapalua-West Maui Airstrip as covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.

TOGETHER ALSO WITH, the following easements as shown on plan attached hereto and made a part hereof:


- A. Easements 2, 3, 18, 19, 20, 25 and 26 covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.
- B. Easements 18, 19, 20, 25 and 26 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Maui Electric Company, Ltd. dated February 12, 1987 and recorded in Liber 20401, Page 402.

SUBJECT HOWEVER, to the following easements as shown on plan attached hereto and made a part hereof:

- A. Easements 11, 14, 15, 16, 17, 27 and any other encumbrance covered by Deed: Hawaiian Airlines, Inc. to the State of Hawaii dated August 15, 1995 and recorded as Document No. 95-107521 and by Final Order of Condemnation, Civil No. 92-0701(2) dated July 1, 1999 in favor of the State of Hawaii and recorded as Document No. 2000-051518.
- B. Easements 1, 14, 15, 16, 17 and 27 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Maui Electric Company, Ltd. dated February 12, 1987 and recorded in Liber 20401, Page 402.
- C. Easements 15, 16, 17 and 27 covered by Grant of Easement: Maui Land & Pineapple Company, Inc. to Hawaiian Telephone Company dated April 20, 1987 and recorded in Liber 20870, Page 106.
- D. Portion of Easement 3 (25 ft. wide) for Electric Purposes covered by Grant of Easement: Maui Land & Pineapple Company, Inc. and Pioneer Mill Company, Ltd. to Maui Electric Company, Ltd. and Hawaiian Telephone Company dated February 15, 1983 and recorded in Liber 16997, Page 654.

E. Portion of Easement A for Access Purposes.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: 
Gerald Z. Yonashiro
Land Surveyor rk

Compiled from maps furn. by
Sam O. Hirota, Inc. and R. T.
Tanaka Engineers, Inc. Said
maps have been examined and
checked as to form and mathematical
correctness but not on the ground
by the Survey Division.

EXHIBIT “3-B”

1. That the Council’s approval is based on revised plans, as amended December 1985, and identified as Amended Exhibits 1 through 5, and upon all other documentation submitted with the subject application (including, but not limited to the “Petition for District Boundary Amendment for Hawaiian Airlines, Inc.”). No material or substantive changes shall be made without the approval of the Maui County Council.
2. That the runway, runway apron, and other facilities shall not be expanded, nor shall any portion of the runway safety area be paved or utilized for displaced landing or takeoff thresholds.
3. That the concession area shall be limited to the 5040 square feet designated in the revised plans and shall not contain more than one cocktail lounge, one snack bar, one restaurant, and one newsstand.
4. That the airstrip operations are limited to one-half hour after sunrise to 6:30 p.m., unless extended for emergency airstrip operations. “Emergency airstrip operations” are defined as any occasion or instance that warrants action to save lives and protect property and public health.
5. That there shall not be more than three car rental booths.
6. That onsite parking or storage of rental cars shall not be allowed.
7. That the Mayor of the County of Maui or his designated representative shall be designated a member of any Users’ Committee which may be established to oversee flight scheduling, operations, and management of the facility.
8. That the applicant shall submit and enforce a comprehensive sign program subject to review and approval by the Planning Department. In addition, the applicant shall provide street and highway directional signs as may be required by the State or County.
9. That a final landscape planting plan shall be submitted to the Planning Department for review and approval.

10. That the applicant shall comply with all requirements of the State Department of Transportation, Highways Division.
11. That construction of the project shall be initiated within one year of the final approval of said Change in Zoning.
12. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the projects relative to soil erosion from wind and rain, and increased ambient noise levels.
13. That the applicant, its successors and assigns, shall protect, defend, indemnify and hold harmless the County of Maui from and against any loss, liability, claim, or demand arising out of this ordinance.
14. That full compliance with all federal, state, and county requirements shall be rendered.
15. That all aircraft operated at the airstrip, including without limitation applicant's aircraft, and aircraft of licensees of applicant, shall have a current "Aircraft Type" or "Airworthiness" certificate or its equivalent issued by the Federal Aviation Administration ("FAA") certifying that such aircraft generates noise levels no greater than the following:

(1) For propeller-driven aircraft of 12,500 pounds or less maximum FAA-certificated takeoff weight only: The maximum allowable noise levels for "propeller-driven small airplanes" under Appendix F to Part 36, "Noise Standards: Aircraft Type Airworthiness Certifications," Title 14, Code of Federal Regulations (January 1, 1978), as the same may be amended from time to time, with noise levels measured and corrected as provided in such appendix, but in no event in excess of a noise level of 80dB(A) measured pursuant to said Appendix F; and

(2) For all other aircraft: The "Effective Perceived Noise Levels," as that term is defined in said Part 36, under conditions of "Takeoff," "sideline," and "approach," as those terms are defined in said Part 36, in units of "EPNdB," as that term is defined in said Part 36, measured as provided in said Part 36, as follows:

- (a) for takeoff: 80.5 EPNdB;
- (b) for sideline: 84 EPNdB; and
- (c) for approach: 91.6 EPNdB.

16. That if, and only to the extent such changes to the intersection of Lower Honoapiilani Road and Akahele Street are required to be made as a result of applicant's airstrip operations, applicant will participate with the County of Maui in (a) the signalization of the intersection and (b) the design and planning of any required street widening of Akahele Street within 100 feet of the intersection.
17. That installation and use of runway lights at Kapalua Airport are permitted for emergency airstrip operations only. The State Department of Transportation is not responsible for providing funding for the installation of runway lights.

drip:misc:003abill02_conditions01_clean:jpp