

REQUEST FOR LEGAL SERVICES

RECEIVED CORPORATION COUNSEL

Date: June 7, 2017
From: Robert Carroll, Chair
Land Use Committee

2017 JUN -7 PM 3: 33

TRANSMITTAL
Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeff Ueoka, Esq.

Subject: DISTRICT BOUNDARY AMENDMENT FOR PROPERTY SITUATED AT POLANUI, LAUNIUPOKO (INDEPENDENT DEVELOPMENT OF MAKILA KAI, LAHAINA) (LU-35)

Background Data: Please review and, if appropriate, approve as to form and legality the attached revised proposed bill. Your coding on the first bill was 2016-1639 2017-05-04 Ordinance DBA. An original, signed copy of the bill and attachments are required. The unilateral agreement will be separately transmitted for review and approval upon receipt.

Work Requested: [x] FOR APPROVAL AS TO FORM AND LEGALITY
[] OTHER:

Requestor's signature: Robert Carroll
Robert Carroll
Contact Person: Gary Saldana
(Telephone Extension: 7137)

RECEIVED
OFFICE OF THE COUNTY COUNCIL
2017 JUN -8 PM 1: 52

[] ROUTINE (WITHIN 15 WORKING DAYS) [] RUSH (WITHIN 5 WORKING DAYS)
[] PRIORITY (WITHIN 10 WORKING DAYS) [X] URGENT (WITHIN 3 WORKING DAYS)
[X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): June 8, 2017
REASON: Posting for Council meeting scheduled for June 16, 2017.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: JTU ASSIGNMENT NO. 2017-0095 BY:

TO REQUESTOR: [X] 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 6/8/17

By [Signature]

(Rev. 7/03)

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

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

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

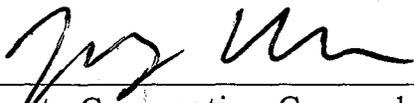
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

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

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

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

APPROVED AS TO FORM  
AND LEGALITY:



Deputy Corporation Counsel  
County of Maui

## EXHIBIT "A"

### Makila Kai Proposed Workforce Housing Area

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

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

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

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

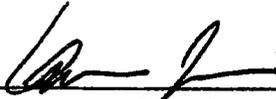
3. 316° 30' 330.24 feet along same to a point;
4. 46° 09' 188.72 feet along same to a point;
5. 136° 01' 58.27 feet along same to a point;
6. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 290° 28' 14", and the point of tangency azimuth from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

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



WARREN S. UNEMORI ENGINEERING, INC.

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

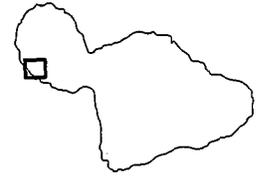
BY:  04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 10008

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

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

**EXHIBIT "B"**

**VICINITY MAP**



TRUE NORTH  
SCALE: 1 IN. == 400 FT.

PUNAKEA STREET

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

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

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

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

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

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

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

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

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

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

**TAX MAP KEY**

**AREA:**

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

14.594 ACRES

**DISTRICT BOUNDARY AMENDMENT MAP NO. DB-818**

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

EXHIBIT "C"  
CONDITIONS

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