

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

March 9, 2018

**Committee**  
**Report No.** \_\_\_\_\_

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

Chair and Members:

Your Land Use Committee, having met on January 31, 2018, makes reference to County Communication 18-15, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT FOR PROPERTIES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-008:041 and (2) 2-4-008:001 (por.)" ("District Boundary Amendment bill"). The purpose of the proposed bill is to grant a District Boundary Amendment from Agricultural District to Urban District for approximately 14.95 acres in Makawao, Maui, Hawaii, upon which the portion of Seabury Hall's campus that includes its creative arts center and grassed parking lot are situated ("Property"), to establish consistency with the Property's existing uses.
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-008:041 AND (2) 2-4-008:001 (POR.)" ("Community Plan Amendment bill"). The purpose of the proposed bill is to grant a Community Plan Amendment from Agriculture to Public/Quasi-Public for the Property, to establish consistency with the Property's existing uses.
3. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

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**Committee**  
**Report No. \_\_\_\_\_**

P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-008:041 AND (2) 2-4-008:001 (POR.)” (“Change in Zoning bill”). The purpose of the proposed bill is to grant a Change in Zoning from Agricultural District to P-1 Public/Quasi-Public District for the Property, to establish consistency with the Property’s existing uses.

Your Committee notes the Council’s Land Use Committee (2015-2017 Council term) previously reported on this matter through Committee Report 16-206, which recommended the proposed resolution, entitled “REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION, ENACT A COMMUNITY PLAN AMENDMENT, AND CHANGE THE ZONING FOR 14.950 ACRES AT 305 MEHA ROAD (PORTION) AND 480 OLINDA ROAD, MAKAWAO, HAWAII,” be adopted. At its meeting of December 16, 2016, the Council adopted Resolution 16-172.

Your Committee also notes use of the parcel identified as tax map key (2) 2-4-008:001 for a creative arts center and grassed parking lot was previously approved by a Conditional Permit granted to Seabury Hall by Ordinance 3808 (2010). The Maui Planning Commission also granted Seabury Hall a State Special Use Permit for those uses.

Your Committee further notes Condition 6 of Ordinance 3808 required Seabury Hall to submit applications for a District Boundary Amendment, Community Plan Amendment, and Change in Zoning prior to the expiration of the Conditional Permit on May 31, 2020.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted the following revised proposed bills, approved as to form and legality, incorporating nonsubstantive revisions and attaching the respective land use maps as exhibits:

1. A revised proposed bill entitled “A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

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**Committee**  
**Report No. \_\_\_\_\_**

URBAN DISTRICT FOR PROPERTIES SITUATED AT  
MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041  
AND A PORTION OF TAX MAP KEY (2) 2-4-008:001”;

2. A revised proposed bill entitled “A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001”; and
3. A revised proposed bill entitled “A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001.”

Your Committee noted written testimony dated June 9, 2017, from neighbors adjacent to Seabury Hall to the Department of Planning, stating concerns about potential devaluation of their property because of possible future development on the Meha Road boundary of the Property. Your Committee received correspondence dated January 22, 2018, from Rory Frampton, Rory Frampton Consulting Inc., stating Seabury Hall’s Board of Trustees was able to negotiate with these neighbors for an agreed-upon building setback of 50 feet.

Your Committee discussed the minimum setback required by the Maui County Code along the Meha Road boundary of the parcel, which the Planning Director said appears to be 15 feet for the oddly shaped lot. Mr. Frampton said there are currently no structures on the Property within 50 feet of Meha Road. He said Seabury Hall would support a condition of zoning requiring a 50-foot building setback from the Meha Road boundary. Your Committee recommended the condition be added to the proposed Change in Zoning bill.

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

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**Committee**  
**Report No.** \_\_\_\_\_

The Planning Director said the facility has been serving the community for a long time and the Department is in support of the proposed land use entitlements, which will allow the continued use of the creative arts center and grassed parking lot.

Your Committee voted 7-0 to recommend passage of the revised proposed bills on first reading, recordation of the unilateral agreement, and filing of the communication. Committee Chair Carroll, Vice-Chair Hokama, and members Atay, Crivello, Guzman, Sugimura, and White voted "aye." Committee members Cochran and King were excused.

Your Committee is in receipt of a further revised proposed Change in Zoning bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Committee is also in receipt of an agreement entitled "Unilateral Agreement and Declaration for Conditional Zoning," executed by the landowner, and approved as to form and legality by the Department of the Corporation Counsel.

Your Land Use Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2018), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT FOR PROPERTIES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001," be PASSED ON FIRST READING and be ORDERED TO PRINT;

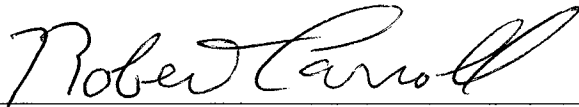
**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

Page 5

**Committee**  
**Report No.** \_\_\_\_\_

2. That Bill \_\_\_\_\_ (2018), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill \_\_\_\_\_ (2018), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND A PORTION OF TAX MAP KEY (2) 2-4-008:001," be PASSED ON FIRST READING and be ORDERED TO PRINT;
4. That the County Clerk RECORD the unilateral agreement; and
5. That County Communication 18-15 be FILED.

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

  
\_\_\_\_\_  
ROBERT CARROLL, Chair

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

BILL NO. \_\_\_\_\_ (2018)


A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT  
CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT  
FOR PROPERTIES SITUATED AT MAKAWAO, MAUI, HAWAII,  
TAX MAP KEY (2) 2-4-008:041 AND  
A PORTION OF TAX MAP KEY (2) 2-4-008:001

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 Agricultural District to Urban District for property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-008:041 and a portion of tax map key (2) 2-4-008:001, collectively comprising approximately 14.95 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Use District Boundary Amendment Map No. DB-631, attached hereto as Exhibit "B" and made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui  
lu:misc:051adbabill01

**Description of Tax Map Key (2) 2-4-08:41 and Portion of 01**

Land situated on the westerly side of Olinda Road, the northerly side of Hanamu Road and the easterly side of Meha Road at Maluhia, Makawao, Maui, Hawaii.

Being portions of Grant 327 to Aneru and Grant 102 to Uwe

Beginning at a point at the southwesterly corner of this land, being also southeasterly corner of Lot 1B of Seabury Hall Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being: 5,022.97 feet South and 5,784.03 feet West and running by azimuths measured clockwise from True South:

1. 224° 52' 265.96 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
2. 140° 00' 320.00 feet along Lot 1B of Seabury Hall Subdivision being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
3. 127° 15' 30" 320.00 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
4. 90° 30' 125.00 feet along same to a point;
5. 34° 51' 118.17 feet along same to a point;
6. 124° 51' 176.14 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
7. 214° 51' 123.52 feet along Lot B of Marciel Subdivision, being also along Grant 322 to Keakaikawai to a point;

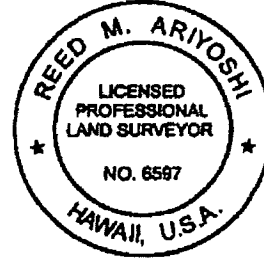
8. 270° 30' 389.10 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
9. 307° 15' 30" 503.42 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe to a point;
10. 206° 02' 113.96 feet along remainder of Lot 1A of Seabury Hall Subdivision and along Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
11. 178° 08' 285.66 feet along Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
12. 298° 25' 29.47 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
13. Thence along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe on a curve to the left, having a radius of 187.50 feet, the chord azimuth and distance being:  
270° 23' 176.24 feet to a point;
14. 242° 21' 169.25 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;



15. Thence along Lot 6-A-4 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
281° 20' 30" 37.75 feet to a point;
16. 320° 20' 97.36 feet along same to a point;
17. 46° 00' 378.91 feet along Lot 7-A of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
18. 314° 50' 247.59 feet along same to a point;
19. 236° 00' 154.03 feet along same to a point;
20. 217° 00' 206.38 feet along same to a point;
21. 320° 20' 178.07 feet along Lot 6-A-5 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
22. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
1° 31' 30" 39.51 feet to a point;
23. 42° 43' 401.21 feet along same to a point;
24. 126° 07' 50" 1.52 feet along the remainder of Grant 102 to Uwe to a point;
25. 43° 05' 586.04 feet along Lot 1C of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
26. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
88° 58' 30" 43.08 feet to a point;

27. 134° 52'

413.72 feet along same to the point of beginning and containing an Area of 14.950 Acres.

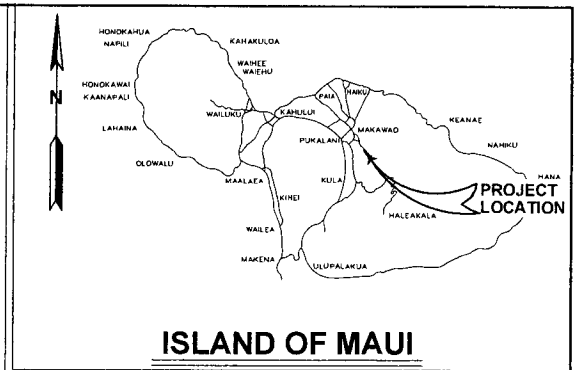


WARREN S. UNEMORI ENGINEERING, INC.  
Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
October 20, 2016

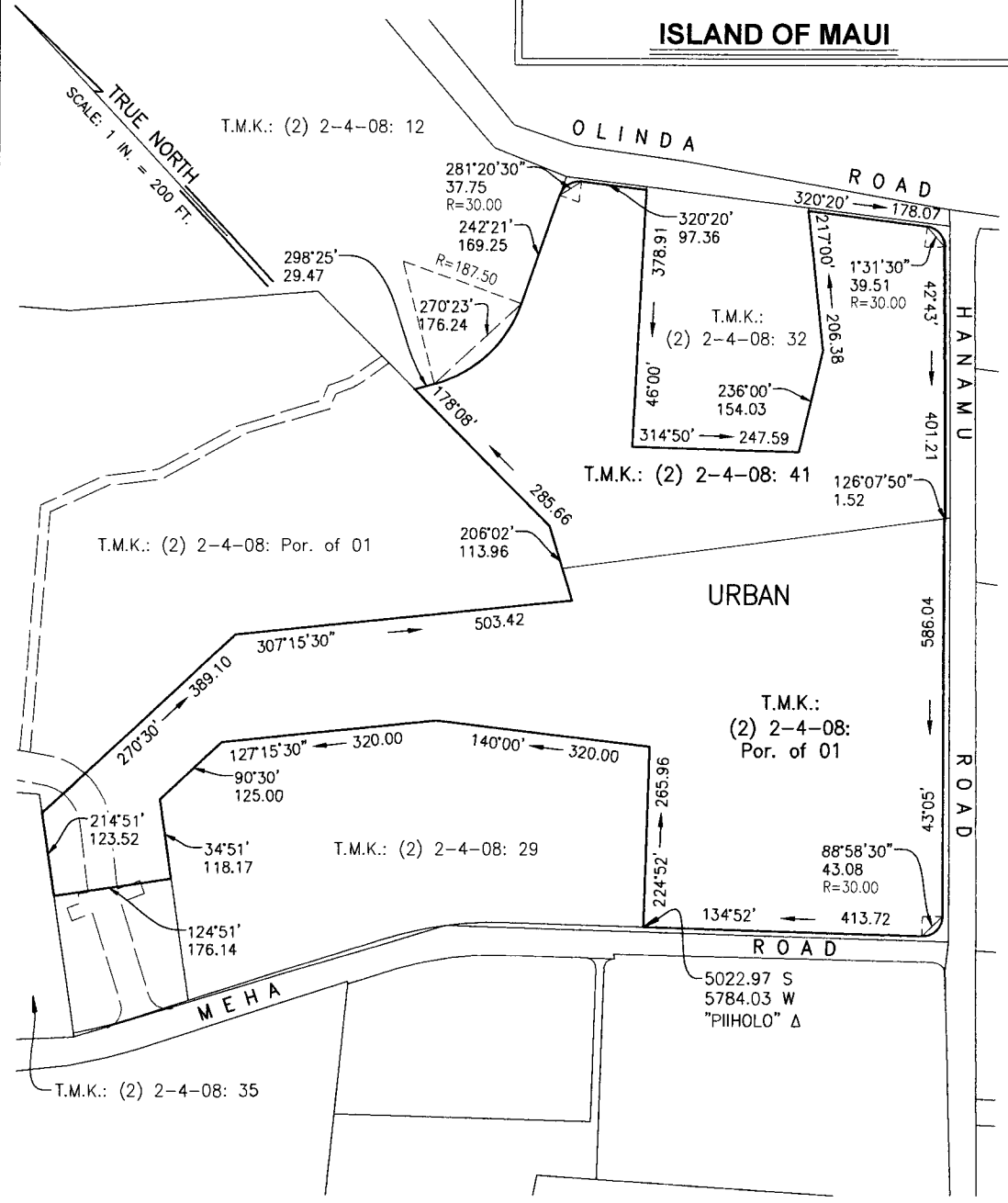
BY: Reed M. Ariyoshi 04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 6597

Note: This metes and bounds description has been prepared for change in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only.

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**ISLAND OF MAUI**



LAND: T.M.K.: (2) 2-4-08 : 41 & POR. OF 01 AREA: TOTAL AREA: 14.950 ACRES

**LAND USE DISTRICT BOUNDARY AMENDMENT MAP NO. DB-631**

MAKAWAO, MAUI, HAWAII  
 FROM: AGRICULTURAL DISTRICT  
 TO: URBAN DISTRICT

**EXHIBIT "B"**

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

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA  
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO  
PUBLIC/QUASI-PUBLIC FOR 14.95 ACRES SITUATED AT MAKAWAO, MAUI,  
HAWAII, TAX MAP KEY (2) 2-4-008:041 AND  
A PORTION OF TAX MAP KEY (2) 2-4-008:001

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Makawao-Pukalani-Kula Community Plan and Land Use Map is hereby amended from Agriculture to Public/Quasi-Public for property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-008:041 and a portion of tax map key (2) 2-4-008:001, collectively comprising approximately 14.95 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Community Plan Map CP-617, attached hereto as Exhibit "B" and made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui  
lu:misc:051acpabil01

**Description of Tax Map Key (2) 2-4-08:41 and Portion of 01**

Land situated on the westerly side of Olinda Road, the northerly side of Hanamu Road and the easterly side of Meha Road at Maluhia, Makawao, Maui, Hawaii.

Being portions of Grant 327 to Aneru and Grant 102 to Uwe

Beginning at a point at the southwesterly corner of this land, being also southeasterly corner of Lot 1B of Seabury Hall Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being: 5,022.97 feet South and 5,784.03 feet West and running by azimuths measured clockwise from True South:

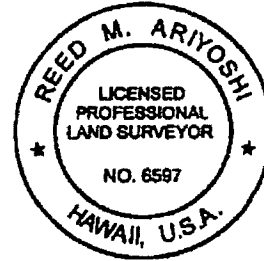
1. 224° 52' 265.96 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
2. 140° 00' 320.00 feet along Lot 1B of Seabury Hall Subdivision being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
3. 127° 15' 30" 320.00 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
4. 90° 30' 125.00 feet along same to a point;
5. 34° 51' 118.17 feet along same to a point;
6. 124° 51' 176.14 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
7. 214° 51' 123.52 feet along Lot B of Marciel Subdivision, being also along Grant 322 to Keakaikawai to a point;

8. 270° 30' 389.10 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
9. 307° 15' 30" 503.42 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe to a point;
10. 206° 02' 113.96 feet along remainder of Lot 1A of Seabury Hall Subdivision and along Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
11. 178° 08' 285.66 feet along Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
12. 298° 25' 29.47 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
13. Thence along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe on a curve to the left, having a radius of 187.50 feet, the chord azimuth and distance being:  
270° 23' 176.24 feet to a point;
14. 242° 21' 169.25 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;

15. Thence along Lot 6-A-4 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
281° 20' 30" 37.75 feet to a point;
16. 320° 20' 97.36 feet along same to a point;
17. 46° 00' 378.91 feet along Lot 7-A of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
18. 314° 50' 247.59 feet along same to a point;
19. 236° 00' 154.03 feet along same to a point;
20. 217° 00' 206.38 feet along same to a point;
21. 320° 20' 178.07 feet along Lot 6-A-5 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
22. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
1° 31' 30" 39.51 feet to a point;
23. 42° 43' 401.21 feet along same to a point;
24. 126° 07' 50" 1.52 feet along the remainder of Grant 102 to Uwe to a point;
25. 43° 05' 586.04 feet along Lot 1C of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
26. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
88° 58' 30" 43.08 feet to a point;

27. 134° 52'

413.72 feet along same to the point of beginning and containing an Area of 14.950 Acres.



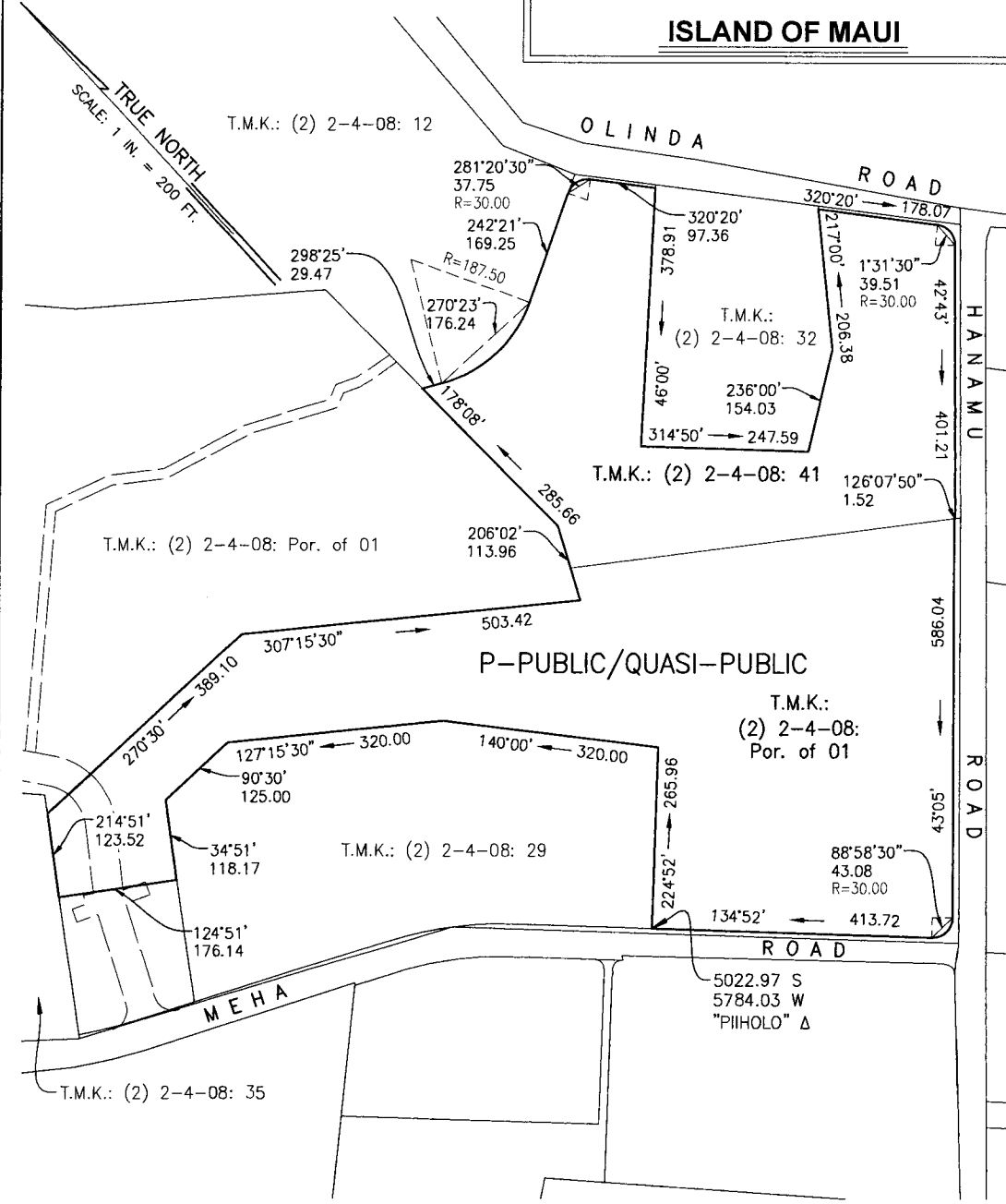
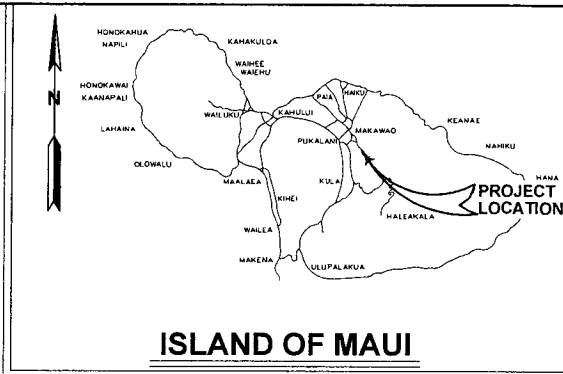
WARREN S. UNEMORI ENGINEERING, INC.  
Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
October 20, 2016

BY: Reed M. Ariyoshi 04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 6597

Note: This metes and bounds description has been prepared for change in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only.

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LAND: T.M.K.: (2) 2-4-08 : 41 & POR. OF 01 AREA: TOTAL AREA: 14.950 ACRES

COMMUNITY PLAN MAP NO. CP-617  
 COMMUNITY PLAN AMENDMENT - MAKAWAO, MAUI, HAWAII  
 FROM AGRICULTURE TO P-PUBLIC/QUASI-PUBLIC

**EXHIBIT "B"**

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

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM  
AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT  
(CONDITIONAL ZONING) FOR 14.95 ACRES SITUATED AT  
MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-008:041 AND  
A PORTION OF TAX MAP KEY (2) 2-4-008:001

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

SECTION 1. Pursuant to Chapters 19.31 and 19.510, Maui County Code, a change in zoning from Agricultural District to P-1 Public/Quasi-Public District is hereby granted for property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-008:041 and a portion of tax map key (2) 2-4-008:001, collectively comprising approximately 14.95 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Zoning Map L-1090, attached hereto as Exhibit "B" and made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the condition set forth in Exhibit "C," attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning attached hereto and made a part hereof as Exhibit "D."

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

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
DAVID GALAZIN  
Deputy Corporation Counsel  
County of Maui  
lu:misc:051acizbill02

Description of Tax Map Key (2) 2-4-08:41 and Portion of 01

Land situated on the westerly side of Olinda Road, the northerly side of Hanamu Road and the easterly side of Meha Road at Maluhia, Makawao, Maui, Hawaii.

Being portions of Grant 327 to Aneru and Grant 102 to Uwe

Beginning at a point at the southwesterly corner of this land, being also southeasterly corner of Lot 1B of Seabury Hall Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being: 5,022.97 feet South and 5,784.03 feet West and running by azimuths measured clockwise from True South:

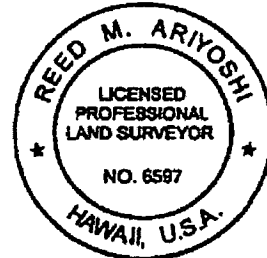
1. 224° 52' 265.96 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
2. 140° 00' 320.00 feet along Lot 1B of Seabury Hall Subdivision being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
3. 127° 15' 30" 320.00 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
4. 90° 30' 125.00 feet along same to a point;
5. 34° 51' 118.17 feet along same to a point;
6. 124° 51' 176.14 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
7. 214° 51' 123.52 feet along Lot B of Marciel Subdivision, being also along Grant 322 to Keakaikawai to a point;

8. 270° 30' 389.10 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
9. 307° 15' 30" 503.42 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe to a point;
10. 206° 02' 113.96 feet along remainder of Lot 1A of Seabury Hall Subdivision and along Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
11. 178° 08' 285.66 feet along Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
12. 298° 25' 29.47 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
13. Thence along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe on a curve to the left, having a radius of 187.50 feet, the chord azimuth and distance being:  
270° 23' 176.24 feet to a point;
14. 242° 21' 169.25 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;

15. Thence along Lot 6-A-4 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
281° 20' 30" 37.75 feet to a point;
16. 320° 20' 97.36 feet along same to a point;
17. 46° 00' 378.91 feet along Lot 7-A of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
18. 314° 50' 247.59 feet along same to a point;
19. 236° 00' 154.03 feet along same to a point;
20. 217° 00' 206.38 feet along same to a point;
21. 320° 20' 178.07 feet along Lot 6-A-5 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
22. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
1° 31' 30" 39.51 feet to a point;
23. 42° 43' 401.21 feet along same to a point;
24. 126° 07' 50" 1.52 feet along the remainder of Grant 102 to Uwe to a point;
25. 43° 05' 586.04 feet along Lot 1C of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
26. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
88° 58' 30" 43.08 feet to a point;

27. 134° 52'

413.72 feet along same to the point of beginning and containing an Area of 14.950 Acres.



WARREN S. UNEMORI ENGINEERING, INC.  
Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
October 20, 2016

BY: Reed M. Ariyoshi 04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 6597

Note: This metes and bounds description has been prepared for change in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only.

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Exhibit "C"

Condition of Zoning

1. That Seabury Hall shall maintain a 50-foot building setback along the Meha Road boundary of the property identified for real property tax purposes as tax map key (2) 2-4-008:001.



LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

Office of the County Clerk  
County of Maui  
200 S. High Street  
Wailuku, Hawaii 96793

Tax Keys: (2) 2-4-008:041  
(2) 2-4-008:001 (por.)

Total No. of Pages: 11

UNILATERAL AGREEMENT AND  
DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 20<sup>th</sup> day of February, 2018, by SEABURY HALL, a Hawaii non-profit corporation, whose principal place of business and mailing address is 480 Olinda Road, Makawao, Hawaii 96768, hereinafter referred to as "Declarant", and who is the owner of that certain land located at Maluhia, Makawao, Maui, Hawaii, comprised of approximately 14.950 acres and identified for real property tax purposes by Tax Map Key Nos. (2) 2-4-008:041 and (2) 2-4-008:001 (por.), hereinafter referred to as the "Property".

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering the establishment of zoning for the Property, comprised of approximately 14.950 acres, which is more particularly described

in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. L-1090 which is attached hereto as Exhibit "2" and made a part hereof; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. \_\_\_\_\_, that said establishment of zoning be approved for passage on first reading subject to certain conditions, pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to the conditional zoning;

2. That, until written release by the County of Maui, the Property, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions which are set forth on Exhibit "3" attached hereto and which shall be effective as to and shall run with the land as to 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 thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

3. That this Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until

the Declarant notifies the appropriate County Department that any of said covenants, conditions and restrictions are satisfied by the Declarant, and the appropriate County Department verifies the satisfaction and provides a written release of the covenant, condition or restriction;

4. That the term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", the Declarant's heirs, devisees, executors, administrators, personal representatives, successors and assigns;

5. That the Declaration shall become fully effective on the effective date of the ordinance approving the establishment of P-1 Public/Quasi-Public District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii;

6. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that, until released in writing by the County, the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

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

Each person signing this Unilateral Agreement represents and warrants that he or she is duly authorized and

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


IN WITNESS WHEREOF, the undersigned has executed this Agreement the day and year first above written.

DECLARANT:

SEABURY HALL

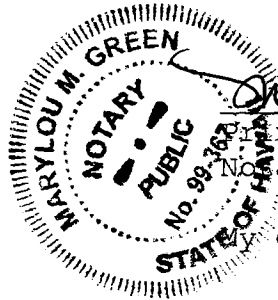
By   
\_\_\_\_\_  
R. CLAY SUTHERLAND  
President of the Seabury Hall  
Board of Trustees

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
DAVID GALAZIN  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On February 20, 2018, before me personally appeared R. CLAY SUTHERLAND, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed this 11-page Unilateral Agreement and Declaration for Conditional Zoning, dated February 20, 2018, in the Second Circuit of the State of Hawaii, as the free act and deed of such person(s), and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).



Marylou M. Green  
Name: Marylou M. Green  
Notary Public, State of Hawaii.  
commission expires: July 31, 2021

EXHIBIT "1"

Description of Tax Map Key (2) 2-4-08:41 and Portion of 01

Land situated on the westerly side of Olinda Road, the northerly side of Hanamu Road and the easterly side of Meha Road at Maluhia, Makawao, Maui, Hawaii.

Being portions of Grant 327 to Aneru and Grant 102 to Uwe

Beginning at a point at the southwesterly corner of this land, being also southeasterly corner of Lot 1B of Seabury Hall Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being: 5,022.97 feet South and 5,784.03 feet West and running by azimuths measured clockwise from True South:

1. 224° 52' 265.96 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
2. 140° 00' 320.00 feet along Lot 1B of Seabury Hall Subdivision being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
3. 127° 15' 30" 320.00 feet along Lot 1B of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
4. 90° 30' 125.00 feet along same to a point;
5. 34° 51' 118.17 feet along same to a point;
6. 124° 51' 176.14 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
7. 214° 51' 123.52 feet along Lot B of Marciel Subdivision, being also along Grant 322 to Keakaikawai to a point;

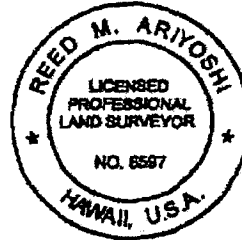
8. 270° 30' 389.10 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
9. 307° 15' 30" 503.42 feet along the remainder of Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe to a point;
10. 206° 02' 113.96 feet along remainder of Lot 1A of Seabury Hall Subdivision and along Lot 1A of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
11. 178° 08' 285.66 feet along Lot 1A of Seabury Hall Subdivision, being also along the remainders of Grant 102 to Uwe and Grant 327 to Aneru to a point;
12. 298° 25' 29.47 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 327 to Aneru to a point;
13. Thence along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainders of Grant 327 to Aneru and Grant 102 to Uwe on a curve to the left, having a radius of 187.50 feet, the chord azimuth and distance being:  
270° 23' 176.24 feet to a point;
14. 242° 21' 169.25 feet along Lot 6-A-1 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;

15. Thence along Lot 6-A-4 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
281° 20' 30" 37.75 feet to a point;
16. 320° 20' 97.36 feet along same to a point;
17. 46° 00' 378.91 feet along Lot 7-A of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
18. 314° 50' 247.59 feet along same to a point;
19. 236° 00' 154.03 feet along same to a point;
20. 217° 00' 206.38 feet along same to a point;
21. 320° 20' 178.07 feet along Lot 6-A-5 of Asa F. Baldwin Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
22. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
1° 31' 30" 39.51 feet to a point;
23. 42° 43' 401.21 feet along same to a point;
24. 126° 07' 50" 1.52 feet along the remainder of Grant 102 to Uwe to a point;
25. 43° 05' 586.04 feet along Lot 1C of Seabury Hall Subdivision, being also along the remainder of Grant 102 to Uwe to a point;
26. Thence along same on a curve to the right, having a radius of 30.00 feet, the chord azimuth and distance being:  
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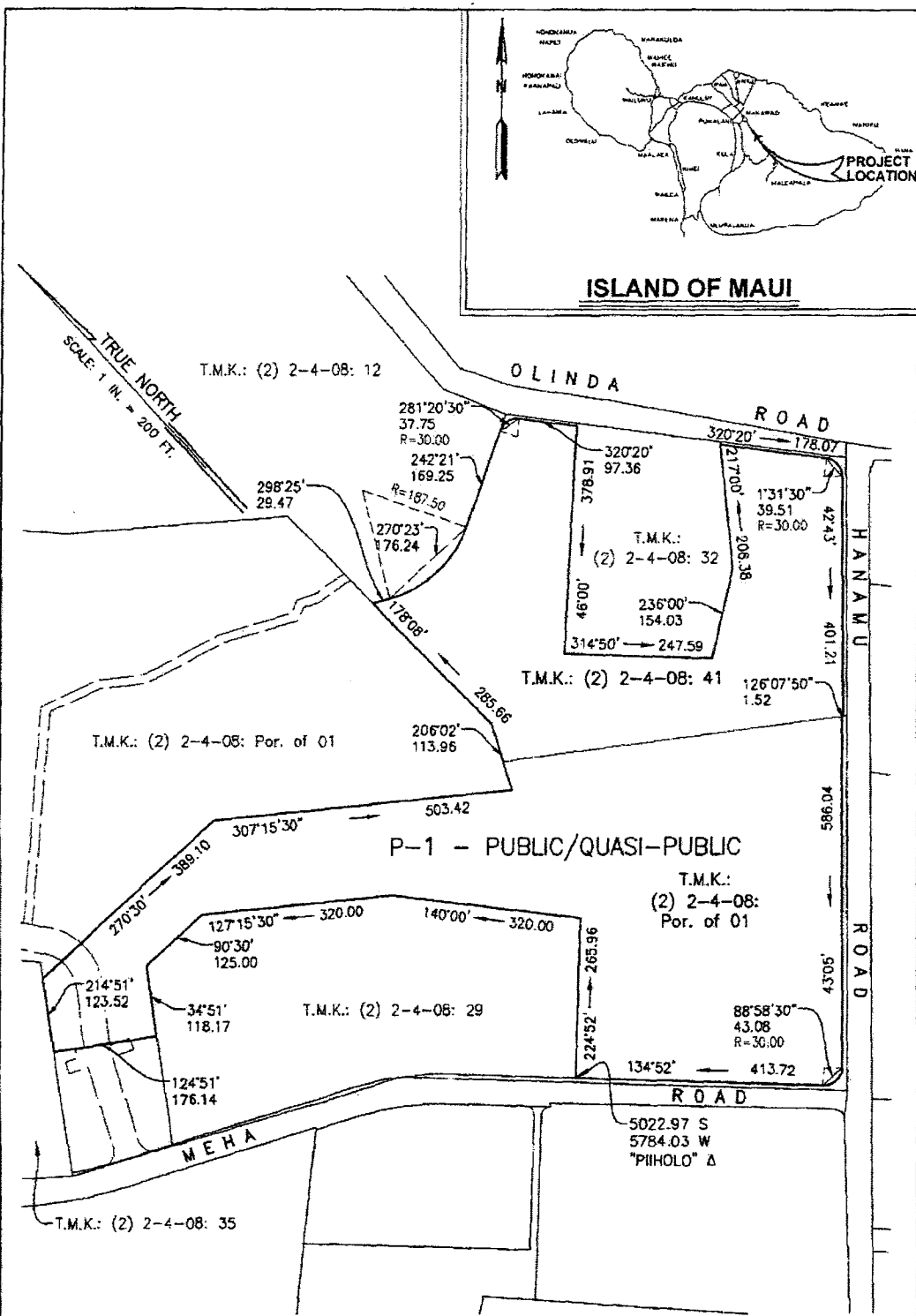
WARREN S. UNEMORI ENGINEERING, INC.  
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2145 Wells Street, Suite 403  
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October 20, 2016

BY: Reed M. Ariyoshi 04/30/18 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 6597

Note: This metes and bounds description has been prepared for change in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only.

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EXHIBIT "2"



LAND: T.M.K.: (2) 2-4-08 : 41 & POR. OF 01 AREA: TOTAL AREA: 14.950 ACRES

LAND ZONING MAP NO. L-1090  
 CHANGE IN ZONING - MAKAWAO, MAUI, HAWAII  
 FROM AGRICULTURAL TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT

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EXHIBIT "3"

Condition of Zoning

1. That Seabury Hall shall maintain a 50-foot building setback along the Meha Road boundary of the property identified for real property tax purposes as Tax Map Key (2) 2-4-008:001.