

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

BILL NO. 127, FD1 (2022)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII, TAX MAP KEY NOS. (2) 3-5-002:003 (POR.), CONTAINING A TOTAL OF 14.97 ACRES

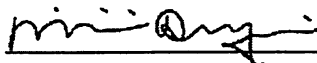
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

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 Urban District (Conditional Boundary Amendment) for that certain land situated at Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Nos. (2) 3-5-002:003 (por.), containing a total of 14.97 acres, and more particularly described in Exhibit "A" attached hereto and made a part hereof, and in the proposed District Boundary Amendment Map, attached hereto as Exhibit "B" and made a part hereof.

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", attached hereto and made a part hereof, 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

2019-2060

2020-07-08 Ordinance DBA

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", written over a horizontal line.

Upon the request of the Mayor.

# Exhibit "A"

## A PORTION OF LOT 4-A

Of the Wailuku Heights Subdivision  
(Subdivision No. 3.2099)

Being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 2007, Apana 3 to J. Richardson, Royal Patent Number 5926, Land Commission Award Number 8875 to Kanaina, Royal Patent Number 2004, Land Commission Award Number 920, Apana 2 to John Richardson & Co., Royal Patent Grant Number 2070 to John Richardson, Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys, and Royal Patent Number 4529-B and 4549, Land Commission Award Number 71 to Michael J. Nowlein

at  
Wailuku & Waikapu, Maui, Hawaii

Beginning at the Northwestern corner of this parcel. Also, being the Northeastern corner of being Lot 4-B, Of the Wailuku Heights Subdivision (Subdivision No. 3.2099), being a portion of Royal Patent 7659, Land Commission Award 326, to W. M. Humphreys. The coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 4,873.58 feet South and 5,269.27 feet West and running by azimuths measured clockwise from true South:

1. Thence along a curve to the left with a radius of 1065.74 feet, the direct azimuth and distance being:  
  
250° 22' 59.5"                      935.49 feet    along Kuikahi Drive;
2.    224° 21'                              199.91feet    along the same;
3.    4° 20'                                    10.00 feet    along a portion of Lot 4-A, being a portion of Land Commission Award Number 71 to Michael J. Nowlein;
4. Thence along a curve to the left with a radius of 50.00 feet, the direct azimuth and distance being:  
  
339° 40'                                  41.73 feet    along the same;
5.    315° 00'                                  91.86 feet    along the same;

6. Thence along a curve to the right with a radius of 200.00 feet, the direct azimuth and distance being:
 

0° 15'                      284.07 feet    along a portion of Lot 4-A, being a portion of Land Commission Award Number 71 to Michael J. Nowlein and a portion of Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys;
7. 45°30'                      3.28 feet    along a portion of Lot 4-A, being a portion of Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys;
8. Thence along a curve to the left with a radius of 190.00 feet, the direct azimuth and distance being:
 

22° 38' 47"                      147.58 feet    along the same;
9. Thence along a curve to the right with a radius of 50.00 feet, the direct azimuth and distance being:
 

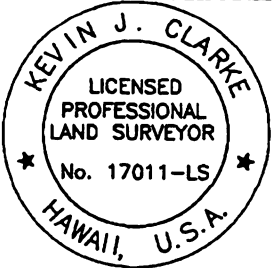
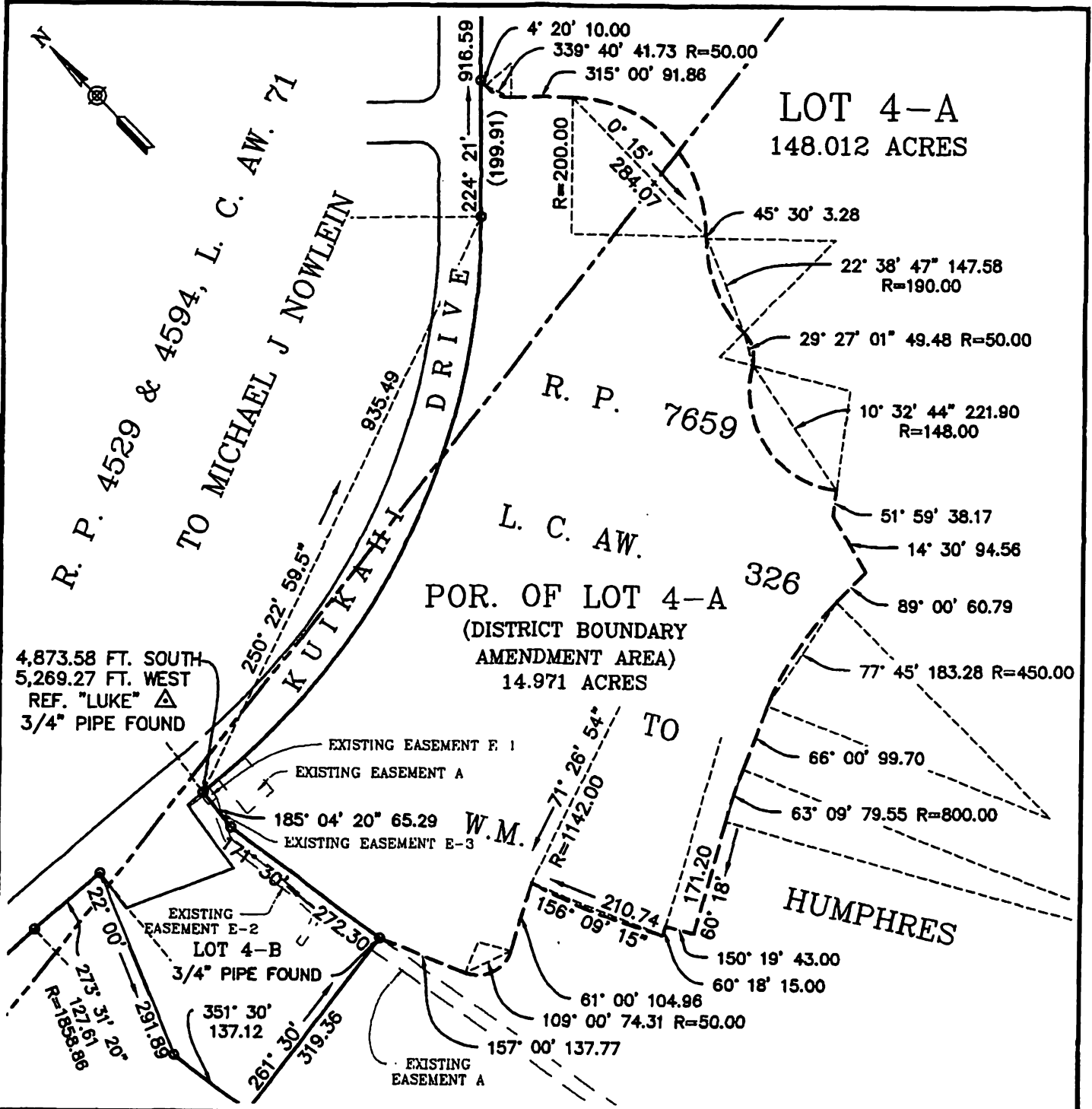
29° 27' 01"                      49.48 feet    along the same;
10. Thence along a curve to the left with a radius of 148.00 feet, the direct azimuth and distance being:
 

10° 32' 44"                      221.90 feet    along the same;
11. 51° 59'                      38.17 feet    along the same;
12. 14° 30'                      94.56 feet    along the same;
13. 89°00'                      60.79 feet    along the same;
14. Thence along a curve to the left with a radius of 450.00 feet, the direct azimuth and distance being:
 

77° 45'                      183.28 feet    along the same;

15. 66°00' 99.70 feet along the same;
  
16. Thence along a curve to the left with a radius of 800.00 feet, the direct azimuth and distance being:
  - 63° 09' 79.55 feet along the same;
  
17. 60° 18' 171.20 feet along the same;
  
18. 150°19' 43.00 feet along the same;
  
19. 60° 18' 15.00 feet along the same;
  
20. Thence along a curve to the right with a radius of 1142.00 feet, the direct azimuth and distance being:
  - 156° 09' 15" 210.74 feet along the same;
  
21. 61°00' 104.96 feet along the same;
  
22. Thence along a curve to the right with a radius of 50.00 feet, the direct azimuth and distance being:
  - 109° 00' 74.31 feet along the same;
  
23. 157° 00' 137.77 feet along the same;
  
24. 171° 30' 272.30 feet along Lot 4-B, Of the Wailuku Heights Subdivision (Subdivision No. 3.2099), being a portion of Royal Patent 7659, Land Commission Award 326, to W. M. Humphreys;
  
25. 185° 04' 20" 65.29 feet along the same to the point of beginning and containing an area of 14.971 acres more or less;

# Exhibit "B"



EXP. 04/2024

THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

T.M.K.: (2) 3-5-002: 003

**LOT SURVEY PLAT**  
**A PORTION OF LOT 4-A OF THE WAILUKU HEIGHTS**  
**SUBDIVISION (SUBDIVISION NO. 3.2099)**

**SITUATED AT WAIKAPU & WAILUKU, MAUI, HAWAII**

PREPARED FOR:  
**WAIHEE VALLEY**  
**REGENESIS LLC**  
 191 WAHEE VALLEY ROAD  
 WAILUKU, HI, 96793

PREPARED BY:  
**CLARKES LAND SURVEYING**  
 PO BOX 532423  
 KIHEL, MAUI, HAWAII 96753

SCALE: 1" = 20'

DATE: AUGUST 8, 2022

EXHIBIT "C"

CONDITIONS

1. This ordinance is conditional upon the Council's passage of a Resolution approving, with or without modifications, the independent development of Kuikahi Village Residential Workforce Housing project pursuant to Chapter 2.97, Maui County Code (the "2.97 Resolution").

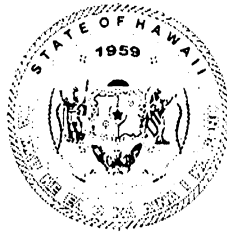
2. The Property shall be developed as a 100% residential workforce housing project in accordance with the 2.97 Resolution.

3. The Property shall be developed in substantial compliance with the representations made to the Maui County Council in obtaining the 2.97 Resolution and the State District Boundary Amendment.

EXHIBIT "D"

[Unilateral Agreement and Declaration of Conditions]





STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

April 13, 2023 10:36 AM

Doc No(s) A - 85030483

Doc 1 of 1  
Pkg 12187071 ICL

/s/ LESLIE T KOBATA  
REGISTRAR

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

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

TMK: (2) 3-5-002:003 (por.)

Total No. of Pages: 11

UNILATERAL AGREEMENT AND DECLARATION  
FOR STATE LAND USE DISTRICT BOUNDARY AMENDMENT

This UNILATERAL AGREEMENT AND DECLARATION FOR STATE LAND USE DISTRICT BOUNDARY AMENDMENT (the "Declaration"), is made this 13<sup>th</sup> day of April, 2023, by KUIKAHI PROPERTIES LLC, a Hawaii limited liability company, whose address is 191 Waihee Valley Road, Wailuku, Hawaii 96793 ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain parcel of land identified as Tax Map Key No. (2) 3-5-002:003, area approximately 148 acres, situate at Wailuku, Maui, Hawaii (the "Property");

WHEREAS, Declarant proposes to develop the Kuikahi Village Workforce Housing Project (the "Project") on approximately 14.97 acres of the Property (the "Project Site");

WHEREAS, Declarant intends to develop the Project under Chapter 2.97, Maui County Code, as approved by Maui County Council via resolution 22-193 (the "2.97 Resolution").

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of an Urban District State Land Use Designation for the Project Site, comprised of approximately 14.97 acres, which is more particularly described in Exhibit 1, which is attached hereto and made a part hereof, and which is shown on Land Use District Boundary Amendment Map No. 414, attached hereto as Exhibit 2 and made a part hereof;

WHEREAS, the Council recommends that said State Land Use District Boundary Amendment be approved for passage on first reading subject to certain conditions, pursuant to Section 19.68.040, Maui County Code;

WHEREAS, the Declarant has agreed to execute this Declaration pursuant to the State Land Use District Boundary Amendment provisions of Section 19.68.040, Maui County Code;

NOW, THEREFORE, the Declarant makes the following declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.68.040, Maui County Code, relating to State Land Use District Boundary Amendments.

2. That until written release by the County of Maui, the Project Site shall be held subject to the covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Project Site, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawai'i, 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 Project Site 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 Project Site 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 the Urban State Land Use District Boundary Classification and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i, as may be appropriate.

6. That the Declarants agree to develop said Property in conformance with the conditions set forth in Exhibit 3 which is attached hereto and made a part hereof and which shall be made a part of the State Land Use District Boundary Amendment ordinance.

7. 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 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 State Land Use District Boundary Amendments.

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.

*(SIGNATURES ON THE FOLLOWING PAGE)*

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

KUIKAHI PROPERTIES, LLC

By:

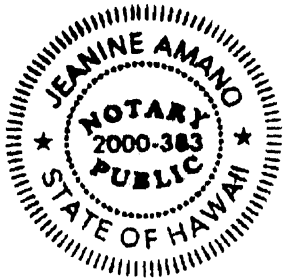


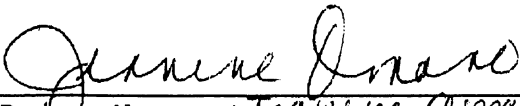
---

John Varel, Trustee of The John Varel Trust, formerly known as The J. Varel Trust dated June 13, 2008, as restated on December 18, 2012  
It's Member

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On April 13, 2023, before me personally appeared JOHN VAREL, trustee aforesaid, 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 STATE LAND USE DISTRICT BOUNDARY AMENDMENT dated April 13, 2023, 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).



  
Print Name: Jeanine Amaro  
Notary Public, State of Hawaii.  
My commission expires: 8/6/2024

**△ PORTION OF LOT 4-A**

**Of the Wailuku Heights Extension Subdivision  
(Subdivision No. 3.2099)**

**Being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 2007, Apana 3 to J. Richardson, Royal Patent Number 5926, Land Commission Award Number 8875 to Kanaina, Royal Patent Number 2004, Land Commission Award Number 920, Apana 2 to John Richardson & Co., Royal Patent Grant Number 2070 to John Richardson, Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys, and Royal Patent Number 4529-B and 4549, Land Commission Award Number 71 to Michael J. Nowlein**

**at  
Wailuku & Waikapu, Maui, Hawaii**

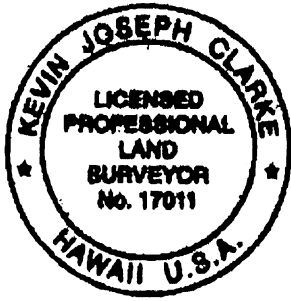
**Beginning at the Northwestern corner of this parcel. Also, being the Northeastern corner of being Lot 4-B, Of the Wailuku Heights Subdivision (Subdivision No. 3.2099), being a portion of Royal Patent 7659, Land Commission Award 326, to W. M. Humphreys. The coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 4,873.58 feet South and 5,269.27 feet West and running by azimuths measured clockwise from true South:**

1. Thence along a curve to the left with a radius of 1065.74 feet, the direct azimuth and distance being:  
  
250° 22' 59.5"                      935.49 feet    along Kuikahi Drive;
2.    224° 21'                              199.91feet    along the same;
3.    4° 20'                                    10.00 feet    along a portion of Lot 4-A, being a portion of Land Commission Award Number 71 to Michael J. Nowlein;
4. Thence along a curve to the left with a radius of 50.00 feet, the direct azimuth and distance being:  
  
339° 40'                                    41.73 feet    along the same;
5.    315° 00'                                    91.86 feet    along the same;

6. Thence along a curve to the right with a radius of 200.00 feet, the direct azimuth and distance being:
- 0° 15'                      284.07 feet    along a portion of Lot 4-A, being a portion of Land Commission Award Number 71 to Michael J. Nowlein and a portion of Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys;
7.    45°30'                      3.28 feet    along a portion of Lot 4-A, being a portion of Royal Patent Number 7659, Land Commission Award Number 326 to William Humphreys;
8. Thence along a curve to the left with a radius of 190.00 feet, the direct azimuth and distance being:
- 22° 38' 47"                      147.58 feet    along the same;
9. Thence along a curve to the right with a radius of 50.00 feet, the direct azimuth and distance being:
- 29° 27' 01"                      49.48 feet    along the same;
10. Thence along a curve to the left with a radius of 148.00 feet, the direct azimuth and distance being:
- 10° 32' 44"                      221.90 feet    along the same;
11.    51° 59'                      38.17 feet    along the same;
12.    14° 30'                      94.56 feet    along the same;
13.    89°00'                      60.79 feet    along the same;
14. Thence along a curve to the left with a radius of 450.00 feet, the direct azimuth and distance being:
- 77° 45'                      183.28 feet    along the same;

15. 66°00' 99.70 feet along the same;
16. Thence along a curve to the left with a radius of 800.00 feet, the direct azimuth and distance being:  
63° 09' 79.55 feet along the same;
17. 60° 18' 171.20 feet along the same;
18. 150°19' 43.00 feet along the same;
19. 60° 18' 15.00 feet along the same;
20. Thence along a curve to the right with a radius of 1142.00 feet, the direct azimuth and distance being:  
156° 09' 15" 210.74 feet along the same;
21. 61°00' 104.96 feet along the same;
22. Thence along a curve to the right with a radius of 50.00 feet, the direct azimuth and distance being:  
109° 00' 74.31 feet along the same;
23. 157° 00' 137.77 feet along the same;
24. 171° 30' 272.30 feet along Lot 4-B, Of the Wailuku Heights Subdivision (Subdivision No. 3.2099), being a portion of Royal Patent 7659, Land Commission Award 326, to W. M. Humphreys;
25. 185° 04' 20" 65.29 feet along the same to the point of beginning and containing an area of 14.971 acres more or less;



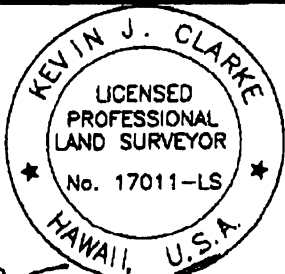
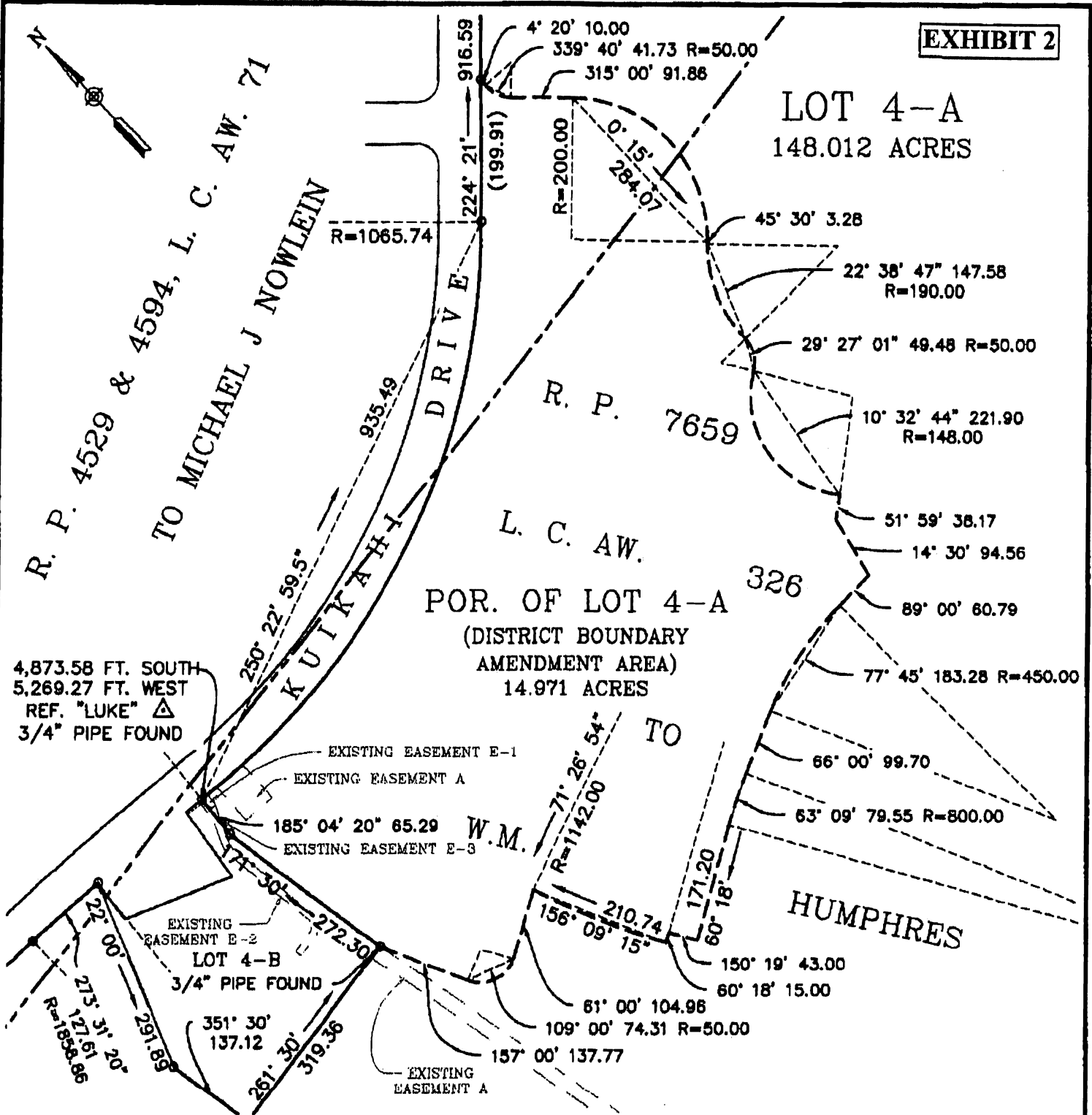


A handwritten signature in black ink, appearing to read "Kevin J. Clarke".

Kevin J. Clarke  
Licensed Professional Land Surveyor  
Certificate No. 17011-LS  
Exp. 04/2024

12/08/2022

Portion of Lot 4-A  
20-0472



EXP. 04/2024

THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

T.M.K.: (2) 3-5-002: 003

**LOT SURVEY PLAT**

A PORTION OF LOT 4-A OF THE WAILUKU HEIGHTS EXTENSION SUBDIVISION (SUBDIVISION NO. 3.2099)

SITUATED AT WAIKAPU & WAILUKU, MAUI, HAWAII

PREPARED FOR:

WAIHEE VALLEY  
REGENESIS LLC  
191 WAHEE VALLEY ROAD  
WAILUKU, HI, 96793

PREPARED BY:

CLARKES LAND SURVEYING  
PO BOX 532423  
KIHU, MAUI, HAWAII 96753

SCALE: 1" = 20'

DATE: DECEMBER 8, 2022

### **EXHIBIT 3**

#### **CONDITIONS**

1. The State Land Use District Boundary Amendment is conditional upon the Council's passage of a Resolution approving, with modifications, the Kuikahi Village Residential Workforce Housing project pursuant to Chapter 2.97, Maui County Code (the "2.97 Resolution").
2. The Project Site shall be developed as a 100% residential workforce housing project in accordance with the 2.97 Resolution.
3. The Property shall be developed in substantial compliance with the representations made to the Maui County Council in obtaining the 2.97 Resolution and the State District Boundary Amendment.

DIGEST

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 127, FD1 (2022)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII, TAX MAP KEY NOS. (2) 3-5-002:003 (POR.), CONTAINING A TOTAL OF 14.97 ACRES

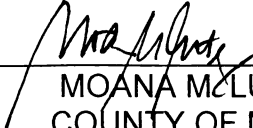
This bill proposes to amend the State Land Use District classification from Agricultural District to Urban District (Conditional Boundary Amendment) for property situated at Wailuku, Maui, Hawaii, identified for real property tax purposes by Tax Map Key No. (2) 3-5-002:003 (por.).

I, MOANA M. LUTEY, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 127, FD1 (2022) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 28th day of April, 2023, by the following vote:

AYES: Councilmembers Tom Cook, Gabriel Johnson, Natalie A. Kama, Tamara A. M. Paltin, Keani N. W. Rawlins-Fernandez, Shane M. Sinenci, Yuki Lei K. Sugimura, Nohelani U'u-Hodgins, and Chair Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 1st of May, 2023.

  
\_\_\_\_\_  
MOANA McLUTEY, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.