

October 28, 2024

MEMO TO: DRIP-2(24) File

F R O M: Tamara Paltin, Chair *Tamara A.M. Paltin*
Disaster, Resilience, International Affairs, and Planning Committee

SUBJECT: **DISCUSSION ON PROPOSED CHANGE IN ZONING FOR
PULELEHUA** (DRIP-2(24))

The attached informational document pertains to Item 2(24) on the Committee's agenda.

drip:ltr:002(24)afile02:jpp

Attachment

RECEIVED
2024 OCT 28 AM 10:02
OFFICE OF THE
COUNTY COUNCIL

ORDINANCE NO. 3889

BILL NO. 64 (2011)
DRAFT 1

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
AGRICULTURAL DISTRICT TO WEST MAUI PROJECT
DISTRICT 5 (PULELEHUA) (CONDITIONAL ZONING) FOR PROPERTY
SITUATED AT MAHINAHINA, KAHANA, LAHAINA, MAUI, HAWAII

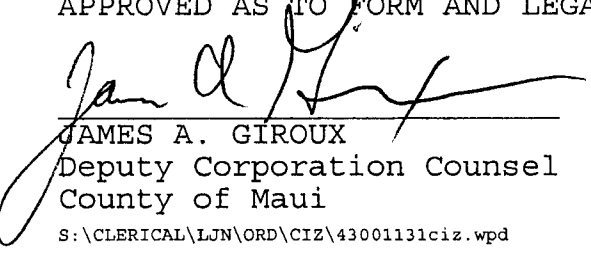
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.45 and 19.510, Maui County Code, a change in zoning from Agricultural District to West Maui Project District 5 (Pulelehua) (Conditional Zoning) is hereby granted for that certain parcel of land situated at Mahinahina, Kahana, Lahaina, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 4-3-001:082, of which 153.207 acres are contained in Lot 1, more particularly described in Exhibit "A", attached hereto and made a part hereof, and Tax Map Key Number (2) 4-3-001:083, of which 151.048 acres are contained in Lot 2, more particularly described in Exhibit "B", attached hereto and made a part hereof, comprising approximately 304 acres, and as shown in Land Zoning Map No. L-992, which is on file at the Office of the County Clerk of the County of Maui, and by reference 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 conditions 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


JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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**Mahinahina Mauka Subdivision
Description of Lot 1**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3
and 4, Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 9,575.26 feet North and
11,525.11 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the left, with the point of
curvature azimuth from the
radial point being:
285° 29' 23", and the point of
tangency azimuth from the
radial point being:
283° 20', having a radius of
6,075.00 feet, the chord
azimuth and distance being:
194° 24' 41.5" 228.63 feet to
a point;
2. 193° 20' 703.87 feet along same to a point;
3. 187° 37' 22" 100.50 feet along same to a point;
4. 194° 13' 16" 1,597.25 feet along same to a point;
5. 195° 47' 40" 393.60 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:
109° 49' 56", and the point of tangency azimuth from the radial point being:
111° 05' 09", having a radius of 4,925.00 feet, the chord azimuth and distance being:
200° 27' 32.5" 107.76 feet to a point;
7. 289° 40' 48" 100.00 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
8. 21° 33' 50.00 feet along Lot P-22 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
9. 291° 33' 55.00 feet along same to a point;
10. 201° 33' 51.80 feet along same to a point;
11. 289° 40' 48" 151.35 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
12. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being:
201° 33', and the point of tangency azimuth from the radial point being:
202° 37', having a radius of 1,970.00 feet, the chord azimuth and distance being:
292° 05' 36.67 feet to a point;

13. 292° 37' 1,052.33 feet along same to a point;
14. 308° 00' 241.47 feet along Lot P-24 of Kapalua -
West Maui Airport Subdivision,
being also along the remainder
of Grant 1166 to D. Baldwin,
J.F. Pogue and S.E. Bishop to a
point;
15. 298° 00' 205.00 feet along same to a point;
16. 208° 00' 15.00 feet along same to a point;
17. 298° 00' 380.00 feet along Lot 1 of Kapalua West -
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point;
18. 28° 00' 470.00 feet along same to a point;
19. 32° 10' 300.00 feet along Lot P-4 of Kapalua - West
Maui Airport Subdivision, being
also along the remainder of
Grant 1166 to D. Baldwin, J.F.
Pogue and S.E. Bishop to a
point;
20. 19° 40' 150.40 feet along same to a point;
21. 28° 00' 251.98 feet along Lot 1 of Kapalua - West
Maui Airstrip, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point;
22. 298° 00' 400.00 feet along same to a point;
23. 25° 08' 500.00 feet along Lot 3 of Mahinahina Mauka
Subdivision, being also along
the remainder of Grant 1166 to
D. Baldwin, J.F. Pogue and S.E.
Bishop to a point;
24. 268° 40' 180.00 feet along same to a point;
25. 329° 52' 430.00 feet along same to a point;

26. 340° 14' 620.00 feet along same to a point;
27. 15° 13' 237.41 feet along same to a point;
28. 105° 13' 2,369.72 feet along the Mahinahina 4 and Honokowai boundary to a point;
29. 101° 42' 638.81 feet along same to the point of beginning and containing a Gross Area of 159.388 Acres and excluding therefrom Exclusion No. 1 (6.181 Acres) as described below, for a Net Area of 153.207 Acres.

Exclusion No. 1:

Being Lot 2-B-2 of M.L. & P.-N.H.L.C. Subdivision, being also a portion of Grant 1166 to D. Baldwin J.F. Pogue and S.E. Bishop at Mahinahina 1, 2 & 3, Lahaina, Maui, Hawaii as described by Newcomer - Lee Land Surveyors, Inc., a Hawaii Corporation as described in Document Number 2001-200459, dated November 12, 2001 and recorded in the State of Hawaii, Bureau of Conveyances as follows:

Beginning at a ¾-inch pipe at the northeast corner of this parcel of land, the record coordinates (Honoapiilani Highway) of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 10,800.03 feet North and 10,293.01 feet West and running by azimuths measured clockwise from True South:

1. 0° 00' 00" 180.00 feet along Lot 2-B-1 of said M.L. & P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 to D. Baldwin, J.F. Pogue and E. Bishop to a ¾-inch pipe;
2. 68° 35' 54" 417.50 feet along said same to a ¾-inch pipe;
3. 104° 13' 16" 418.65 feet along same to a steel rebar with plastic cap;
4. 113° 30' 00" 94.16 feet along same to a ¾-inch pipe;

Thence along same on the arc of a curve to the right, concave northeasterly with a radius of 50.00 feet, the chord azimuth and distance being:

5. 152° 10' 00" 62.48 feet to a ¾-inch pipe;
6. 190° 50' 00" 62.06 feet along said Lot 2-B-1 of the M.L. & P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 D. Baldwin, J.F. Pogue and E. Bishop to a ¾-inch pipe;
7. 271° 14' 20" 69.10 feet along same to a steel rebar with plastic cap;
8. 193° 20' 00" 76.70 feet along same to a steel rebar with plastic cap;
9. 91° 14' 20" 72.49 feet along same to a ¾-inch pipe;
10. 190° 50' 00" 41.94 feet along same to a ¾-inch pipe;

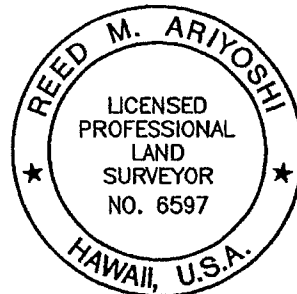
Thence along same on the arc of a curve to the right, concave southeasterly with a radius of 125.00 feet, the chord azimuth and distance being:

11. 243° 14' 30" 198.09 feet along said Lot 2-B-1 of the M.L. & P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 to D. Baldwin, J.F. Pogue and E. Bishop to a steel rebar with plastic cap;
12. 295° 39' 00" 298.78 feet along same to a ¾-inch pipe;
13. 270° 00' 00" 430.00 feet along same to the point of beginning and containing an area of 6.181 Acres, more or less.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 2 in favor of the State of Hawaii. (unrecorded)

2. A portion of an existing Access Easement "A" in favor of Lot A of the Gorilla Foundation Subdivision and the County of Maui. (unrecorded)
3. A portion of an existing Access Easement "B" in favor of Lot A of the Gorilla Foundation Subdivision. (unrecorded)
4. An existing Drainage Easement "A" in favor of the State of Hawaii.
5. An existing Access Easement "D" in favor of the County of Maui.
6. A portion of an existing Pedestrian and Vehicular Access Easement "A-1" in favor of the County of Maui.
7. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
8. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).
9. An existing utility lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

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Mahinahina Mauka Subdivision
Description of Lot 2

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3,
Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 12,692.88 feet North and
10,722.23 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the right, with the point of
curvature azimuth from the
radial point being:
112° 07' 58", and the point of
tangency azimuth from the
radial point being:
121° 09', having a radius of
4,925.00 feet, the chord
azimuth and distance being:
206° 38' 29" 774.30 feet to a
point;
2. 208° 36' 112.43 feet along same to a point;
3. 211° 09' 300.00 feet along same to a point;
4. 208° 53' 126.46 feet along same to a point;

5. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being:
301° 09', and the point of tangency azimuth from the radial point being:
297° 52' 31", having a radius of 5,065.00 feet, the chord azimuth and distance being:
209° 30' 45.5" 289.45 feet to a point;
6. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being:
297° 52' 31", and the point of tangency azimuth from the radial point being:
297° 25' 22", having a radius of 5,065.00 feet, the chord azimuth and distance being:
207° 38' 56.5" 40.00 feet to a point;
7. 293° 16' 1,464.20 feet along Lots 15, 14, 13, 10 and 9 of Kahana Hui Subdivision (File Plan 1708) to a point;
8. 208° 13' 40" 904.79 feet along Lots 9, 8, and 7 of Kahana Hui Subdivision (File Plan 1708) to a point;
9. 122° 44' 30" 484.71 feet along Lots 7 and 6 of Kahana Hui Subdivision (File Plan 1708) to a point;
10. 200° 00' 20" 2,077.79 feet along Lots 42 to 36, inclusive, 200 and 35 to 12, inclusive, of Kahana Ridge Subdivision (File Plan 2209) to a point;
11. 294° 36' 420.00 feet along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;

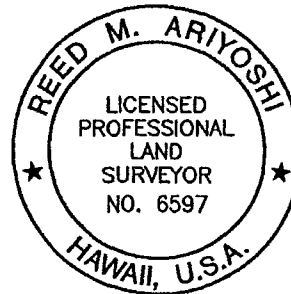
Thence along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop, and along the centerline of gulch for the next four (4) courses, the direct azimuth and distance between points along said centerline being:

- | | | | |
|-----|----------|---------------|---|
| 12. | 331° 22' | 545.00 feet; | |
| 13. | 341° 56' | 810.00 feet; | |
| 14. | 318° 50' | 330.00 feet; | |
| 15. | 296° 04' | 198.76 feet; | |
| 16. | 31° 20' | 758.43 feet | along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 17. | 118° 00' | 400.00 feet | along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 18. | 28° 00' | 300.00 feet | along same to a point; |
| 19. | 47° 20' | 105.72 feet | along Lot P-7 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 20. | 28° 00' | 1,700.06 feet | along Lots P-7, P-13 and P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |
| 21. | 86° 20' | 152.74 feet | along Lot P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point; |

22. 118° 00' 420.00 feet along Lot 1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
23. 28° 00' 112.44 feet along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
24. 52° 50' 71.43 feet along Lot P-23 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
25. 28° 00' 515.00 feet along same to a point;
26. 96° 30' 182.73 feet along same to a point;
27. 112° 37' 1,095.94 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
28. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 202° 37', and the point of tangency azimuth from the radial point being: 201° 33', having a radius of 2,030.00 feet, the chord azimuth and distance being: 112° 05' 37.79 feet to a point;
29. 115° 17' 12" 306.78 feet along same to the point of beginning and containing an Area of 151.048 Acres.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 3 in favor of the State of Hawaii. (unrecorded)
2. Existing Drainage Easements "B" and "C" in favor of the State of Hawaii.
3. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
4. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

Exhibit "C"

CONDITIONS OF ZONING

1. That Maui Land & Pineapple Company, Inc. shall comply with the affordable housing provisions of Chapter 2.96, Maui County Code. In addition, Maui Land & Pineapple Company, Inc. shall construct the 125 units required by the State Land use Commission Order filed on June 30, 2006, for Kapalua Mauka.
2. That Maui Land & Pineapple Company, Inc. shall provide potable and non-potable water source, storage and transmission improvements necessary to serve Pulelehua in accordance with the requirements of the County of Maui Department of Water Supply.
3. That Maui Land & Pineapple Company, Inc. shall notify potential lot owners of the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which normal farming activities may be considered a nuisance.
4. That Maui Land & Pineapple Company, Inc. shall construct a 400 square-foot police substation in the Center Neighborhood District that includes a restroom, or provide an in-lieu cash contribution for the construction of a new West Maui Police Station, as determined by the Maui County Police Department.
5. That Maui Land & Pineapple Company, Inc. shall contribute land for the development of a public elementary school to the State of Hawaii Department of Education ("DOE") along with a cash contribution as determined by the DOE on a fair share basis, pursuant to the education contribution agreement for Pulelehua executed on June 16, 2006 by DOE and Maui Land & Pineapple Company, Inc. In addition to the education contribution agreement, Maui Land & Pineapple Company, Inc. shall: 1) dedicate an additional amount of land, contiguous with the land provided for in the educational contribution agreement, so that the DOE will receive a total of 13 acres; and 2) include the land dedicated in the contribution agreement, to be used toward the development of one (1) elementary school within the project to serve the region.
6. That Maui Land & Pineapple Company, Inc. shall pursue alternatives with the DOE for the design and construction of the elementary school in Pulelehua. Such alternatives shall include, but not be limited to, a design-build

arrangement whereby Maui Land & Pineapple Company, Inc., or a third party on Maui Land & Pineapple Company, Inc.'s behalf, may undertake the design and construction of public school facilities, subject to approval and reimbursement by the State of Hawaii, in order to expedite the delivery of school facilities.

7. That, as represented by Maui Land & Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan area shall be provided by Maui Land & Pineapple Company, Inc. to the County of Maui for all non-affordable dwelling units or lots developed at Pulelehua, at the rate of \$3,500 for each single family market unit or lot and gap group unit and \$1,500 for each multi-family market unit and gap group unit in the West Maui Project District 5 (Pulelehua), or the then prevailing County rate, whichever is higher. This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land & Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval.
8. That Maui Land & Pineapple Company, Inc. shall: (1) resolve the issue of the number of approved access points from Pulelehua to Honoapiilani Highway with the State Department of Transportation ("DOT") prior to public hearing on any Project District Phase II application for Pulelehua; and (2) execute an agreement with the DOT Airports Division to utilize Akahahele Street prior to Project District Phase II approval by the Maui Planning Commission.
9. That Maui Land & Pineapple Company, Inc. shall comply with requirements of the DOT to mitigate impacts associated with the development of Pulelehua, which may include, but not be limited to, traffic mitigation measures, roadway and intersection improvements, including roundabouts or signalization and pedestrian facilities, road widening for access to and use of Honoapiilani Highway and dedication of land within Pulelehua to accommodate the right-of-way for the Lahaina bypass as determined by and to the satisfaction of the DOT.
10. That whenever a 4-way stop or traffic signal is considered as a means of traffic control at an intersection within the project, roundabouts that meet current federal standards must be deemed unwarranted

prior to installing either a 4-way stop or traffic signal.

11. That Maui Land & Pineapple Company, Inc. shall notify all prospective buyers and/or lessees of the property of potential adverse impacts of aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations. Maui Land & Pineapple Company, Inc., shall provide covenants in the deed to initial purchasers releasing the County of Maui, State of Hawaii and the United States Government from all liability related to aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations.
12. That Maui Land & Pineapple Company, Inc., shall plan and prepare for lateral roadway connections from the Property to adjoining lands in cooperation with the respective neighboring landowners to provide potential alternate roadway routes to improve transportation capabilities in the area.
13. That the two 5-acre parks within Pulelehua shall be privately owned, maintained and dedicated for public use. The two 5-acre parks shall be developed to the satisfaction of the Department of Parks and Recreation in fulfillment of the Park Dedication ordinance.
14. That all other park sites within Pulelehua serving community, recreational, and neighborhood use shall be privately owned and maintained.
15. That Maui Land & Pineapple Company, Inc. designate and offer for sale to the County of Maui, at agricultural land rates, a 50-acre park site presently identified in the West Maui Community Plan at an alternate site mauka of the Honoapiilani Highway and along the Honoapiilani Highway in the vicinity of residential uses. The 50-acre park site shall be determined during the Community Plan Update process, provided that the park site not be located mauka of the Kapalua West Maui Airport.
16. That Maui Land & Pineapple Company, Inc. shall construct a private wastewater treatment plant, as approved by the Department of Health in the event the County of Maui's Lahaina Wastewater Reclamation Facility ("LWWRF") does not have the capacity or cannot be expanded to service Pulelehua. If Maui Land & Pineapple Company, Inc.

connects to the LWWRF, it shall pay a fair-share contribution, as determined by the County, to fund improvements at the LWWRF necessary to accommodate the additional flow, and construct wastewater transmission facilities to transport wastewater from Pulelehua to the appropriate County wastewater transmission facilities leading to the LWWRF. The fair-share contribution shall be paid prior to the issuance of the first building permit requiring a connection to the LWWRF for Pulelehua.

17. That Maui Land & Pineapple Company, Inc. shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.

This is a copy of Bureau of Conveyances
Document No. 2011-176094, and / or
Land Court Document No. _____
affecting Certificate of Title No. _____
recorded on 10.26.11 at 8:01 o'clock am.
TITLE GUARANTY OF HAWAII, INCORPORATED

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail () Pickup (): To:

Office of the County Clerk

County of Maui

200 South High Street

Wailuku, Hawai'i 96793

TITLE GUARANTY OF HAWAII HAS
FILED THIS DOCUMENT FOR RECORD
AS AN ACCOMMODATION ONLY. THIS
DOCUMENT HAS NOT BEEN
REVIEWED OR IN ANY WAY EXAMINED
AS TO ITS EFFECT ON REAL PROPERTY.

Total Number of Pages: 19

Affects Tax Map Key Nos. (Maui) 4-3-01:82 & :83

**UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL
ZONING**

THIS INDENTURE, made this 12th day of October 2011, by MAUI LAND & PINEAPPLE COMPANY, INC., a Hawai'i corporation, whose principal place of business is located in Makawao, Maui, Hawai'i, and whose mailing address is 870 Haliimaile Rd., Makawao, HI 96768, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel of land located at Lahaina, Maui, Hawai'i, comprised of approximately 153.207 acres, and identified for real property tax purposes by Tax Map Key No. (2) 4-3-01:82 (hereinafter, "Lot 1"), and also that certain parcel of land located at Lahaina, Maui, Hawai'i, comprised of approximately 151.048 acres, and identified for real property tax purposes by Tax Map Key No. (2) 4-3-01:83 (hereinafter, "Lot 2"). Collectively, Lot 1 and Lot 2 shall be referred to herein as the "PROPERTY".

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Property, comprised of approximately 304.255 acres in total, which is more particularly described in Exhibit "1" (Description of Lot 1) and Exhibit "2" (Description of Lot 2), which are attached hereto and made a part hereof, and which are more particularly identified in Land Zoning Map No. L-992 and in Community Plan Map No. CP-818, which are on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 11-113, 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 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 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 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 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 zoning ordinance approving the establishment of West Maui Project District 5 (Pulelehua) conditional zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

6. That the Declarant agrees 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 zoning 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 change in zoning.


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

DECLARANT:

MAUI LAND & PINEAPPLE COMPANY, INC.

By 

Ryan Churchill
Its President & COO

By 

Adele Sumida
Its Controller & Secretary

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 12th day of October, 2011, before me appeared Ryan Churchill and Adele Sumida, satisfactorily proven to me, who, by me duly sworn, did say that they are the President & COO and Controller & Secretary, respectively, of MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation, and that the instrument was signed in behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

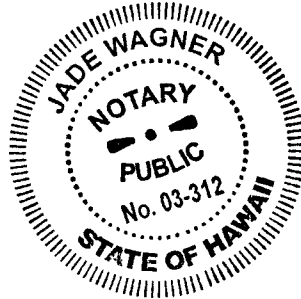


Jade Wagner

Notary Public, State of Hawai'i

My Commission expires: June 1, 2015

Doc. Date: undated at time of notarization # Pages: -19-
Name: JADE WAGNER Second Circuit
Doc. Description: Unilateral Agreement and Declaration for Conditional Zoning
Jade Wagner Oct 12, 2011
Notary Signature Date



NOTARY CERTIFICATION

**Mahinahina Mauka Subdivision
Description of Lot 1**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3
and 4, Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 9,575.26 feet North and
11,525.11 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the left, with the point of
curvature azimuth from the
radial point being:
285° 29' 23", and the point of
tangency azimuth from the
radial point being:
283° 20', having a radius of
6,075.00 feet, the chord
azimuth and distance being:
194° 24' 41.5" 228.63 feet to
a point;
2. 193° 20' 703.87 feet along same to a point;
3. 187° 37' 22" 100.50 feet along same to a point;
4. 194° 13' 16" 1,597.25 feet along same to a point;
5. 195° 47' 40" 393.60 feet along same to a point;

EXHIBIT "1"

6. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being:
109° 49' 56", and the point of tangency azimuth from the radial point being:
111° 05' 09", having a radius of 4,925.00 feet, the chord azimuth and distance being:
200° 27' 32.5" 107.76 feet to a point;
7. 289° 40' 48" 100.00 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
8. 21° 33' 50.00 feet along Lot P-22 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
9. 291° 33' 55.00 feet along same to a point;
10. 201° 33' 51.80 feet along same to a point;
11. 289° 40' 48" 151.35 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
12. Thence along same on a curve to the right, with the point of curvature azimuth from the radial point being:
201° 33', and the point of tangency azimuth from the radial point being:
202° 37', having a radius of 1,970.00 feet, the chord azimuth and distance being:
292° 05' 36.67 feet to a point;

13.	292°	37'	1,052.33 feet	along same to a point;
14.	308°	00'	241.47 feet	along Lot P-24 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
15.	298°	00'	205.00 feet	along same to a point;
16.	208°	00'	15.00 feet	along same to a point;
17.	298°	00'	380.00 feet	along Lot 1 of Kapalua West - Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
18.	28°	00'	470.00 feet	along same to a point;
19.	32°	10'	300.00 feet	along Lot P-4 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
20.	19°	40'	150.40 feet	along same to a point;
21.	28°	00'	251.98 feet	along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
22.	298°	00'	400.00 feet	along same to a point;
23.	25°	08'	500.00 feet	along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
24.	268°	40'	180.00 feet	along same to a point;
25.	329°	52'	430.00 feet	along same to a point;

- | | | | | |
|-----|------|-----|---------------|--|
| 26. | 340° | 14' | 620.00 feet | along same to a point; |
| 27. | 15° | 13' | 237.41 feet | along same to a point; |
| 28. | 105° | 13' | 2,369.72 feet | along the Mahinahina 4 and
Honokowai boundary to a point; |
| 29. | 101° | 42' | 638.81 feet | along same to the point of
beginning and containing a
Gross Area of 159.388 Acres and
excluding therefrom Exclusion
No. 1 (6.181 Acres) as
described below, for a Net Area
of 153.207 Acres. |

Exclusion No. 1:

Being Lot 2-B-2 of M.L. & P.-N.H.L.C. Subdivision, being also a portion of Grant 1166 to D. Baldwin J.F. Pogue and S.E. Bishop at Mahinahina 1, 2 & 3, Lahaina, Maui, Hawaii as described by Newcomer - Lee Land Surveyors, Inc., a Hawaii Corporation as described in Document Number 2001-200459, dated November 12, 2001 and recorded in the State of Hawaii, Bureau of Conveyances as follows:

Beginning at a ¾-inch pipe at the northeast corner of this parcel of land, the record coordinates (Honoapiilani Highway) of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 10,800.03 feet North and 10,293.01 feet West and running by azimuths measured clockwise from True South:

- | | | | | | |
|----|------|-----|-----|-------------|--|
| 1. | 0° | 00' | 00" | 180.00 feet | along Lot 2-B-1 of said
M.L. & P.-N.H.L.C. Subdivision
and along the remainder of
said Grant 1166 to D. Baldwin,
J.F. Pogue and E. Bishop to a
¾-inch pipe; |
| 2. | 68° | 35' | 54" | 417.50 feet | along said same to a ¾-inch
pipe; |
| 3. | 104° | 13' | 16" | 418.65 feet | along same to a steel rebar
with plastic cap; |
| 4. | 113° | 30' | 00" | 94.16 feet | along same to a ¾-inch pipe; |

Thence along same on the arc of a curve to the right, concave northeasterly with a radius of 50.00 feet, the chord azimuth and distance being:

5. 152° 10' 00" 62.48 feet to a ¾-inch pipe;
6. 190° 50' 00" 62.06 feet along said Lot 2-B-1 of the M.L.& P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 D. Baldwin, J.F. Pogue and E. Bishop to a ¾-inch pipe;
7. 271° 14' 20" 69.10 feet along same to a steel rebar with plastic cap;
8. 193° 20' 00" 76.70 feet along same to a steel rebar with plastic cap;
9. 91° 14' 20" 72.49 feet along same to a ¾-inch pipe;
10. 190° 50' 00" 41.94 feet along same to a ¾-inch pipe;

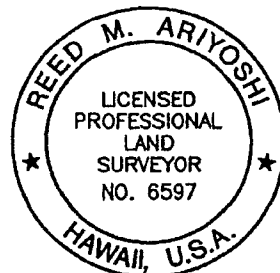
Thence along same on the arc of a curve to the right, concave southeasterly with a radius of 125.00 feet, the chord azimuth and distance being:

11. 243° 14' 30" 198.09 feet along said Lot 2-B-1 of the M.L.&P.-N.H.L.C. Subdivision and along the remainder of said Grant 1166 to D. Baldwin, J.F. Pogue and E. Bishop to a steel rebar with plastic cap;
12. 295° 39' 00" 298.78 feet along same to a ¾-inch pipe;
13. 270° 00' 00" 430.00 feet along same to the point of beginning and containing an area of 6.181 Acres, more or less.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 2 in favor of the State of Hawaii. (unrecorded)

2. A portion of an existing Access Easement "A" in favor of Lot A of the Gorilla Foundation Subdivision and the County of Maui. (unrecorded)
3. A portion of an existing Access Easement "B" in favor of Lot A of the Gorilla Foundation Subdivision. (unrecorded)
4. An existing Drainage Easement "A" in favor of the State of Hawaii.
5. An existing Access Easement "D" in favor of the County of Maui.
6. A portion of an existing Pedestrian and Vehicular Access Easement "A-1" in favor of the County of Maui.
7. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
8. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).
9. An existing utility lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

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**Mahinahina Mauka Subdivision
Description of Lot 2**

Land situated on the easterly side of Honoapiilani Highway,
Federal Aid Project Number RF-030-1(5), at Mahinahina 1, 2 & 3,
Kahana, Lahaina, Maui, Hawaii

Being a portion of Grant 1166 to D. Baldwin, J.F. Pogue and
S.E. Bishop

Beginning at a point at the southwesterly corner of this lot,
the coordinates of said point of beginning referred to Government
Survey Triangulation Station "MANINI" being 12,692.88 feet North and
10,722.23 feet West and running by azimuths measured clockwise from
True South:

1. Thence along the easterly side of Honoapiilani Highway, F.A.P.
No. RF-030-1(5) on a curve to
the right, with the point of
curvature azimuth from the
radial point being:
112° 07' 58", and the point of
tangency azimuth from the
radial point being:
121° 09', having a radius of
4,925.00 feet, the chord
azimuth and distance being:
206° 38' 29" 774.30 feet to a
point;
2. 208° 36' 112.43 feet along same to a point;
3. 211° 09' 300.00 feet along same to a point;
4. 208° 53' 126.46 feet along same to a point;

EXHIBIT "2"

5. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 301° 09', and the point of tangency azimuth from the radial point being: 297° 52' 31", having a radius of 5,065.00 feet, the chord azimuth and distance being: 209° 30' 45.5" 289.45 feet to a point;
6. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 297° 52' 31", and the point of tangency azimuth from the radial point being: 297° 25' 22", having a radius of 5,065.00 feet, the chord azimuth and distance being: 207° 38' 56.5" 40.00 feet to a point;
7. 293° 16' 1,464.20 feet along Lots 15, 14, 13, 10 and 9 of Kahana Hui Subdivision (File Plan 1708) to a point;
8. 208° 13' 40" 904.79 feet along Lots 9, 8, and 7 of Kahana Hui Subdivision (File Plan 1708) to a point;
9. 122° 44' 30" 484.71 feet along Lots 7 and 6 of Kahana Hui Subdivision (File Plan 1708) to a point;
10. 200° 00' 20" 2,077.79 feet along Lots 42 to 36, inclusive, 200 and 35 to 12, inclusive, of Kahana Ridge Subdivision (File Plan 2209) to a point;
11. 294° 36' 420.00 feet along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;

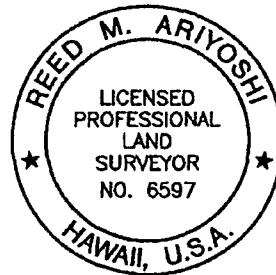
Thence along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop, and along the centerline of gulch for the next four (4) courses, the direct azimuth and distance between points along said centerline being:

12.	331° 22'	545.00 feet;	
13.	341° 56'	810.00 feet;	
14.	318° 50'	330.00 feet;	
15.	296° 04'	198.76 feet;	
16.	31° 20'	758.43 feet	along Lot 3 of Mahinahina Mauka Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
17.	118° 00'	400.00 feet	along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
18.	28° 00'	300.00 feet	along same to a point;
19.	47° 20'	105.72 feet	along Lot P-7 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
20.	28° 00'	1,700.06 feet	along Lots P-7, P-13 and P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
21.	86° 20'	152.74 feet	along Lot P-6 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;

22. 118° 00' 420.00 feet along Lot 1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
23. 28° 00' 112.44 feet along Lot 1 of Kapalua - West Maui Airstrip, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
24. 52° 50' 71.43 feet along Lot P-23 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
25. 28° 00' 515.00 feet along same to a point;
26. 96° 30' 182.73 feet along same to a point;
27. 112° 37' 1,095.94 feet along Lot P-1 of Kapalua - West Maui Airport Subdivision, being also along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop to a point;
28. Thence along same on a curve to the left, with the point of curvature azimuth from the radial point being: 202° 37', and the point of tangency azimuth from the radial point being: 201° 33', having a radius of 2,030.00 feet, the chord azimuth and distance being: 112° 05' 37.79 feet to a point;
29. 115° 17' 12" 306.78 feet along same to the point of beginning and containing an Area of 151.048 Acres.

SUBJECT, HOWEVER, to the following:

1. An existing Aviation Easement 3 in favor of the State of Hawaii. (unrecorded)
2. Existing Drainage Easements "B" and "C" in favor of the State of Hawaii.
3. An existing Utility Lease in favor of Maui Electric Company, Ltd. and GTE Hawaiian Telephone Company, Inc.
4. An existing Restriction of Vehicular Access Rights along Honoapiilani Highway, F.A.P. No. RF-030-1(5).



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center
2145 Wells Street, Suite 403
Wailuku, Maui, Hawaii 96793
September 19, 2011

By: Reed M. Ariyoshi 04/30/12 Exp.
Licensed Professional Land Surveyor
Certificate No. 6597

CONDITIONS OF ZONING

1. That Maui Land & Pineapple Company, Inc. shall comply with the affordable housing provisions of Chapter 2.96, Maui County Code. In addition, Maui Land & Pineapple Company, Inc. shall construct the 125 units required by the State Land use Commission Order filed on June 30, 2006, for Kapalua Mauka.
2. That Maui Land & Pineapple Company, Inc. shall provide potable and non-potable water source, storage and transmission improvements necessary to serve Pulelehua in accordance with the requirements of the County of Maui Department of Water Supply.
3. That Maui Land & Pineapple Company, Inc. shall notify potential lot owners of the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which normal farming activities may be considered a nuisance.
4. That Maui Land & Pineapple Company, Inc. shall construct a 400 square-foot police substation in the Center Neighborhood District that includes a restroom, or provide an in-lieu cash contribution for the construction of a new West Maui Police Station, as determined by the Maui County Police Department.
5. That Maui Land & Pineapple Company, Inc. shall contribute land for the development of a public elementary school to the State of Hawaii Department of Education ("DOE") along with a cash contribution as determined by the DOE on a fair share basis, pursuant to the education contribution agreement for Pulelehua executed on June 16, 2006 by DOE and Maui Land & Pineapple Company, Inc. In addition to the education contribution agreement, Maui Land & Pineapple Company, Inc. shall: 1) dedicate an additional amount of land, contiguous with the land provided for in the educational contribution agreement, so that the DOE will receive a total of 13 acres; and 2) include the land dedicated in the contribution agreement, to be used toward the development of one (1) elementary school within the project to serve the region.
6. That Maui Land & Pineapple Company, Inc. shall pursue alternatives with the DOE for the design and construction of the elementary school in Pulelehua. Such alternatives shall include, but not be limited to, a design-build

EXHIBIT "3"

arrangement whereby Maui Land & Pineapple Company, Inc., or a third party on Maui Land & Pineapple Company, Inc.'s behalf, may undertake the design and construction of public school facilities, subject to approval and reimbursement by the State of Hawaii, in order to expedite the delivery of school facilities.

7. That, as represented by Maui Land & Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan area shall be provided by Maui Land & Pineapple Company, Inc. to the County of Maui for all non-affordable dwelling units or lots developed at Pulelehua, at the rate of \$3,500 for each single family market unit or lot and gap group unit and \$1,500 for each multi-family market unit and gap group unit in the West Maui Project District 5 (Pulelehua), or the then prevailing County rate, whichever is higher. This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land & Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval.
8. That Maui Land & Pineapple Company, Inc. shall: (1) resolve the issue of the number of approved access points from Pulelehua to Honoapiilani Highway with the State Department of Transportation ("DOT") prior to public hearing on any Project District Phase II application for Pulelehua; and (2) execute an agreement with the DOT Airports Division to utilize Akahale Street prior to Project District Phase II approval by the Maui Planning Commission.
9. That Maui Land & Pineapple Company, Inc. shall comply with requirements of the DOT to mitigate impacts associated with the development of Pulelehua, which may include, but not be limited to, traffic mitigation measures, roadway and intersection improvements, including roundabouts or signalization and pedestrian facilities, road widening for access to and use of Honoapiilani Highway and dedication of land within Pulelehua to accommodate the right-of-way for the Lahaina bypass as determined by and to the satisfaction of the DOT.
10. That whenever a 4-way stop or traffic signal is considered as a means of traffic control at an intersection within the project, roundabouts that meet current federal standards must be deemed unwarranted

prior to installing either a 4-way stop or traffic signal.

11. That Maui Land & Pineapple Company, Inc. shall notify all prospective buyers and/or lessees of the property of potential adverse impacts of aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations. Maui Land & Pineapple Company, Inc., shall provide covenants in the deed to initial purchasers releasing the County of Maui, State of Hawaii and the United States Government from all liability related to aircraft and airport activity from the adjacent Kapalua-West Maui Airport, including but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations.
12. That Maui Land & Pineapple Company, Inc., shall plan and prepare for lateral roadway connections from the Property to adjoining lands in cooperation with the respective neighboring landowners to provide potential alternate roadway routes to improve transportation capabilities in the area.
13. That the two 5-acre parks within Pulelehua shall be privately owned, maintained and dedicated for public use. The two 5-acre parks shall be developed to the satisfaction of the Department of Parks and Recreation in fulfillment of the Park Dedication ordinance.
14. That all other park sites within Pulelehua serving community, recreational, and neighborhood use shall be privately owned and maintained.
15. That Maui Land & Pineapple Company, Inc. designate and offer for sale to the County of Maui, at agricultural land rates, a 50-acre park site presently identified in the West Maui Community Plan at an alternate site mauka of the Honoapiilani Highway and along the Honoapiilani Highway in the vicinity of residential uses. The 50-acre park site shall be determined during the Community Plan Update process, provided that the park site not be located mauka of the Kapalua West Maui Airport.
16. That Maui Land & Pineapple Company, Inc. shall construct a private wastewater treatment plant, as approved by the Department of Health in the event the County of Maui's Lahaina Wastewater Reclamation Facility ("LWWRF") does not have the capacity or cannot be expanded to service Pulelehua. If Maui Land & Pineapple Company, Inc.

connects to the LWWRF, it shall pay a fair-share contribution, as determined by the County, to fund improvements at the LWWRF necessary to accommodate the additional flow, and construct wastewater transmission facilities to transport wastewater from Pulelehua to the appropriate County wastewater transmission facilities leading to the LWWRF. The fair-share contribution shall be paid prior to the issuance of the first building permit requiring a connection to the LWWRF for Pulelehua.

17. That Maui Land & Pineapple Company, Inc. shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions imposed, commencing within one year of the effective date of the ordinance.

WE HEREBY CERTIFY that the foregoing BILL NO. 64 (2011), Draft 1

RECEIVED

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 4th day of November, 2011, by the following vote:

2011 NOV -4 PM 1:41
OFFICE OF THE MAYOR

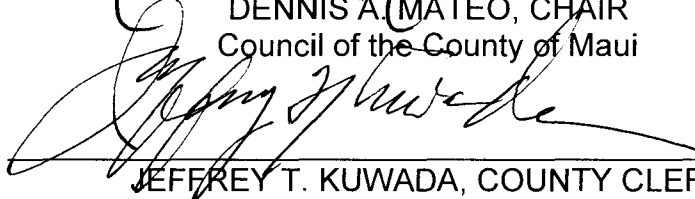
Dennis A. MATEO Chair	Joseph PONTANILLA Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 4th day of November, 2011.

DATED AT WAILUKU, MAUI, HAWAII, this 4th day of November, 2011.




DENNIS A. MATEO, CHAIR
Council of the County of Maui



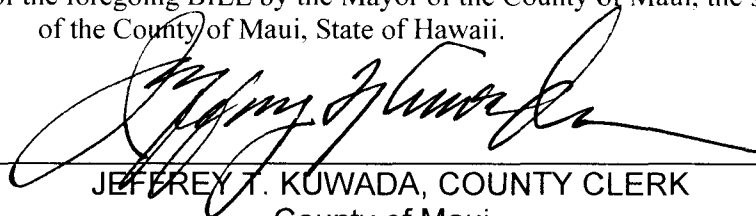
JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 18 DAY OF November, 2011.



ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3889 of the County of Maui, State of Hawaii.



JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on October 21, 2011.

Effective date of Ordinance November 18, 2011

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3889, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED

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OFFICE OF THE
COUNTY CLERK