

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 2, 2016

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 November 16, 2016, and reconvened on November 21, 2016, makes reference to County Communication 16-218, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL DISTRICT TO WAIALE PROJECT DISTRICT SOUTH FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII."

The purpose of the proposed bill is to grant a request from A&B Properties, Inc. for a Community Plan Amendment from Agricultural to Waiale Project District South for 122.6 acres at the corner of Kuihelani Highway and East Waiko Road, Waikapu, Maui, Hawaii, identified for real property tax purposes as tax map keys (2) 3-8-005:037 and a portion of (2) 3-8-005:040, to facilitate the development of a master-planned residential community of up to 950 single-family and multifamily homes, with parks, open space, and commercial uses.

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH PERMISSIBLE LAND USES, STANDARDS OF DEVELOPMENT, AND ALLOCATIONS OF LAND FOR WAIALE PROJECT DISTRICT SOUTH SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII."

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The purpose of the proposed bill is to grant a request from A&B Properties, Inc. to establish land uses and allocations and development standards for the Waiale Project District South, a proposed residential community with a mixture of residential units, a park and open space system with bike and pedestrian paths, and supportive retail and commercial facilities.

3. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO WAIALE PROJECT DISTRICT SOUTH (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII."

The purpose of the proposed bill is to grant a request from A&B Properties, Inc. for a Change in Zoning from Agricultural District to Waiale Project District South for the subject property to facilitate the development of the proposed project.

Your Committee notes the subject property is within the State Urban District and the Maui Island Plan's Urban Growth Boundary. It is owned by Alexander & Baldwin, LLC, and vacant and undeveloped.

Through these applications, the landowner has chosen to pursue entitlements for the southern portion of the proposed Waiale Project District only.

Your Committee notes the proposed Project District bill establishes the following approximate acreages for the various land use districts within the Waiale Project District South area: 98.4 acres of Residential District, 10 acres of Village Mixed Use District, and 14.2 acres of Park/Open Space District. According to the landowner, the project will provide a range of housing opportunities for Maui's working families.

None of the land is currently allocated to the Industrial District or Public/Quasi-Public District, although development standards for those

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districts are established in the proposed Project District bill. According to the bill, because the land use allocations are for the southern area of the Waiale Project District only, the allocations are anticipated to be modified when the ordinance is amended to accommodate the northern area of the Project District.

Your Committee also notes the Maui Planning Commission recommended two conditions of zoning. The first proposed condition would have required residential workforce housing units be made available for occupancy before or concurrently with market-rate units at the same ratio required of the development in accordance with Chapter 2.96, Maui County Code. Your Committee considered varying the timing requirement for construction of the residential workforce housing units, but rejected the condition as redundant and unnecessary.

The second condition recommended by the Maui Planning Commission would require an archaeological monitoring plan for the southern project area to be submitted to the State Historic Preservation Division for review and approval prior to commencement of construction work within the project area. Your Committee kept this condition.

Your Committee also added a condition to require annual compliance reports on the landowner's compliance with conditions of zoning. The condition also requires the landowner to provide to the Department of Planning and the Maui County Council copies of the annual compliance reports submitted to the State Land Use Commission.

Your Committee voted 5-0 to recommend passage of the proposed Community Plan Amendment bill, the proposed Project District bill, and the revised proposed Change in Zoning bill, and filing of the communication. Committee Chair Carroll, Vice-Chair Victorino, and members Baisa, Cochran, and Crivello voted "aye." Committee members Couch and Guzman were excused.

Your Committee is in receipt of a revised proposed Change in Zoning bill, approved as to form and legality by the Department of the

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Corporation Counsel, incorporating your Committee's recommended revisions.

Your Committee is also in receipt of a revised proposed Project District bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions to make the title of Chapter 19.95, Maui County Code, and the reference in Section 19.95.070, Maui County Code, consistent with other references to the Project District as Waiale Project District South.

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 _____ (2016), attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL DISTRICT TO WAIKALE PROJECT DISTRICT SOUTH FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill _____ (2016), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH PERMISSIBLE LAND USES, STANDARDS OF DEVELOPMENT, AND ALLOCATIONS OF LAND FOR WAIKALE PROJECT DISTRICT SOUTH SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill _____ (2016), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO WAIKALE

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PROJECT DISTRICT SOUTH (CONDITIONAL ZONING) FOR
PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI,
HAWAII", be PASSED ON FIRST READING and be ORDERED
TO PRINT;

4. That the County Clerk RECORD the unilateral agreement;
and
5. That County Communication 16-218 be FILED.

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



ROBERT CARROLL, Chair

lu:cr:16023aa:scj/cmn

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL DISTRICT
TO WAIALE PROJECT DISTRICT SOUTH FOR PROPERTY SITUATED
AT WAIKAPU, WAILUKU, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Wailuku-Kahului Community Plan and Land Use Map is hereby amended from Agricultural District to Waiale Project District South for property situated at Waikapu, Wailuku, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 3-8-005:037 and (2) 3-8-005:040 (por.), consisting of 122.6 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and as shown in Community Plan Map No. CP-424, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

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

APPROVED AS TO FORM
AND LEGALITY:



JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui
LF 2016-0253

DESCRIPTION

WAIALE PROJECT DISTRICT - SOUTH

TAX MAP KEY: (2)3-8-005:037 AND 040 (PORTION)

All of that certain parcel of land, being all of Lot 3 and a portion of Lot 4-A of the Walter K. Schenk Subdivision, being also a portion of Grant 3152 to Henry Cornwell situated at Waikapu, Wailuku, Island and County of Maui, State of Hawaii

Beginning at the northwesterly corner of this parcel of land, on the southerly side of Waiko Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 10,411.85 feet South and 136.75 feet East and running by azimuths measured clockwise from True South:

1. 276° 30' 340.00 feet along the southerly side of Waiko Road;
2. Thence along same on a curve to the right with a radius of 1,020.00 feet, the chord azimuth and distance being:
287° 15' 380.51 feet;
3. 298° 00' 498.99 feet along the southerly side of Waiko Road;
4. Thence along same on a curve to the left with a radius of 730.00 feet, the chord azimuth and distance being:
285° 45' 309.78 feet to a point of reverse curvature;
5. Thence along same on a curve to the right with a radius of 2,720.00 feet, the chord azimuth and distance being:
276° 00' 237.29 feet;
6. 278° 30' 469.65 feet along the southerly side of Waiko Road;
7. Thence along same on a curve to the right with a radius of 1,350.00 feet, the chord azimuth and distance being:
285° 07' 30" 311.50 feet;
8. 291° 45' 253.29 feet along the southerly side of Waiko Road;

9.	287° 45'	966.90 feet	along same;
10.	Thence along same on a curve to the left with a radius of 950.00 feet, the chord azimuth and distance being: 287° 13' 16" 17.54 feet;		
11.	Thence along same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being: 337° 15' 01" 46.34 feet;		
12.	27° 48' 30"	1,355.35 feet	along the westerly side of Kuihelani Highway [F.A.S.P. No. S-0380(4)];
13.	117° 48' 30"	5.00 feet	along same;
14.	27° 48' 30"	200.00 feet	along same;
15.	297° 48' 30"	5.00 feet	along same;
16.	27° 48' 30"	1,100.00 feet	along same;
17.	117° 48' 30"	10.00 feet	along same;
18.	27° 48' 30"	300.00 feet	along same;
19.	297° 48' 30"	5.00 feet	along same;
20.	27° 48' 30"	412.45 feet	along same;
21.	107° 07'	77.52 feet	along the remainder of Lot 4-A of the Walter K. Schenk Subdivision (being the remainder of Grant 3152 to Henry Cornwell);
22.	118° 45'	55.17 feet	along same;
23.	142° 21'	42.56 feet	along same;
24.	185° 32'	67.95 feet	along same;
25.	189° 02'	200.44 feet	along same;
26.	163° 25'	89.55 feet	along same;
27.	190° 55'	148.50 feet	along same;
28.	173° 16'	183.73 feet	along same;
29.	179° 36'	223.95 feet	along same;

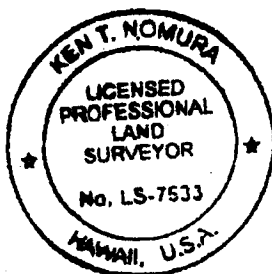
30.	167° 13'	199.83 feet	along same;
31.	157° 11'	146.91 feet	along same;
32.	124° 26'	112.05 feet	along same;
33.	154° 10'	85.83 feet	along same;
34.	173° 20'	197.01 feet	along same;
35.	142° 44'	23.99 feet	along same;
36.	113° 52'	71.52 feet	along same;
37.	116° 58'	112.02 feet	along same;
38.	174° 38'	198.93 feet	along same;
39.	163° 17'	251.92 feet	along same;
40.	148° 50'	185.28 feet	along same;
41.	153° 15'	119.97 feet	along same;
42.	141° 10'	140.68 feet	along same;
43.	129° 37'	127.19 feet	along same;
44.	150° 48'	144.58 feet	along same;
45.	140° 37'	141.05 feet	along same;
46.	152° 01'	63.16 feet	along same;
47.	162° 10'	138.88 feet	along same;
48.	149° 24'	78.67 feet	along same;
49.	137° 48'	52.02 feet	along same;
50.	125° 46'	119.73 feet	along same;
51.	133° 58'	105.22 feet	along same;
52.	163° 28'	108.03 feet	along same;
53.	133° 29'	114.74 feet	along same;
54.	104° 06'	83.47 feet	along same;

55.	102° 35'	145.60 feet	along same;
56.	122° 54'	88.55 feet	along same;
57.	128° 25'	50.07 feet	along same;
58.	145° 08'	50.48 feet	along same;
59.	155° 18'	38.31 feet	along same;
60.	171° 30'	32.31 feet	along same;
61.	175° 51'	235.74 feet	along same;
62.	140° 17'	105.18 feet	along same to the point of beginning and containing an Area of 122.635 Acres.

Prepared by: A&B Properties, Inc.
Kahului, Maui, Hawaii

August 4, 2014

This work was prepared by me or under my supervision.



Ken T. Nomura 4/30/2016
 Ken T. Nomura
 Licensed Professional Land Surveyor
 Certificate No. LS-7633
 Expiration Date: 4/30/2016

ME
 32/37-k

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO
ESTABLISH PERMISSIBLE LAND USES, STANDARDS OF DEVELOPMENT,
AND ALLOCATIONS OF LAND FOR WAIALE PROJECT DISTRICT SOUTH
SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII

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

SECTION 1. Title 19, Maui County Code, is amended by adding a new
chapter to be appropriately designated and to read as follows:

"Chapter 19.95

WAIALE PROJECT DISTRICT SOUTH

Sections:

- 19.95.010 Purpose and intent.
- 19.95.020 Residential district.
- 19.95.030 Village mixed use district.
- 19.95.040 Industrial district.
- 19.95.050 Public/quasi-public district.
- 19.95.060 Park/open space district.
- 19.95.070 Land use districts, approximate acreages,
and maximum residential density.

19.95.010 Purpose and intent. The purpose of this project district is to provide for a flexible and creative approach to development which considers physical, environmental, social, and economic factors in a comprehensive manner. The intent of the Waiale Project District is to establish a residential community with a mixture of residential unit types, including a park and open space system with bike and pedestrian paths, supportive retail and commercial facilities, as well as public and quasi-public uses.

Referenced terms have the meanings set forth in section 19.04.040, Maui County Code, or if different, then as specifically defined herein.

19.95.020 Residential district. The residential district envisions a range of multi-family and single-family housing types to meet the varied housing needs of Maui residents. The intent of the residential district is to provide the flexibility to allow for all forms of residential use and structures to meet changing market demand. The district also includes other uses that are supportive and compatible with residential use.

Permitted uses and structures. Within the residential district, the following uses shall be permitted:

A. Principal uses and structures.

Uses	Notes and exceptions
Single-family dwelling units	
Two-family dwelling units	
Multi-family dwelling units	
Parks and playgrounds, noncommercial	Certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
Resident recreational uses and structures for use by owners and their tenants	
Parking lots	
Communication equipment, antenna, or towers	
Minor utility facilities	
Major utility facilities	Limited to water and wastewater treatment facilities.
Schools	

B. Accessory uses and structures.

Uses	Notes and exceptions
Greenhouses, flower and truck gardens, and nurseries	Provided that there shall be no retailing or transacting of business on the premises.
Accessory buildings located on the same lot	
Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services	These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.
Home occupations	
Adult care homes in which residents of the home provide care for not more than six adults	
Small scale energy systems that are incidental and subordinate to a principal use or structure	
Other uses and structures that are determined by the planning director as meeting the intent of this section	

C. Special uses. The following uses shall be permitted subject to the approval of the Maui planning commission:

Uses	Notes and exceptions
Churches, together with accessory buildings	
Recycling collection and redemption centers	
Farmer's market	
Swap meet or open air market	
Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services serving more than the number of children defined in subsection B.	
Hospitals	
Nursing or convalescent homes and domiciliary facilities operated and maintained to provide nursing or supporting care	
Certain domestic type businesses in the home	Provided there will be no detrimental or nuisance effect upon the neighbors. Such businesses shall be normal functions of the home, such as baking, sewing, and piano playing.
Adult care homes for more than six adults	
Buildings or premises used by the Federal, State, or County governments for public purposes	
Uses and structures that are similar to, and compatible with, the principal uses or structures and which conform to the intent of this section may be approved by the Maui planning commission	

D. Development standards for the residential district shall be:

	Residential district	Notes and exceptions
Minimum lot area (square feet)	1,800 square feet	Lots for utility or landscape purposes shall only be used for utility and landscape purposes and shall not have a minimum lot area.
Minimum lot width (in feet)	0 feet	
Maximum building height (in feet)	60 feet	Measured by the finished grade, as specified in the approved project district phase II or III site plans. Building appurtenances, such as vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs, may extend an additional 10 feet in height above the building roof.

Minimum yard setbacks (in feet)		Notes and exceptions
Front	0 feet	The side and rear yard setback may be 0 feet for zero lot line lots and lots used only for utility and landscape purposes as identified in the project district phase II or III site plans.
Side	3 feet	
Rear	3 feet	

19.95.030 Village mixed use district. The village mixed use district envisions an area comprised of a mix of residential, commercial, recreational, and community facilities. The intent of the village mixed use district is to create community identity and character with landmark buildings and a grouping of services within a central core that includes a mix of uses.

Permitted Uses. Within the village mixed use district, the following uses shall be permitted:

A. Principal uses and structures.

Uses	Notes and exceptions
Any use or structure permitted in the residential district	
Animal boarding facility	
Animal hospital	
Art galleries	
Auditoriums and theatres	
Automobile service stations	
Bowling alleys	
Churches, together with accessory buildings	
Day care facilities	
Eating and drinking establishments	
Farmer's market	
Food and beverage, retail	
Garages	
General merchandising	
General office	
Laundromats	
Light manufacturing and processing	
Medical center, major	
Medical center, minor	
Museums	
Parking area, public	
Personal and business services	

Private clubs	
Public facility or public use	
Quasi-public use or quasi-public facility	
Recreation, indoor	
Redemption center	
Self-storage	Provided it is within a completely enclosed building
Swap meet or open air market	

B. Accessory uses and structures.

1. Accessory structures permitted in the residential district.

2. Other uses and structures as determined by the planning director as meeting the intent of this section.

C. Special uses. The following uses shall be permitted subject to the approval of the Maui planning commission: Uses that are similar to, and compatible with, the principal uses and structures and which conform to the intent of this section may be approved by the Maui planning commission.

D. Development standards for the village mixed use district shall be:

	Village mixed use district	Notes and exceptions
Minimum lot area (square feet)	1,800 square feet	Lots for utility or landscape purposes shall only be used for utility and landscape purposes and shall not have a minimum lot area.
Minimum lot width (in feet)	0 feet	
Maximum building height (in feet)	60 feet	Measured by the finished grade, as specified in the approved project district phase II or III site plans: 45 feet for all non-dwelling uses with an additional allowable 15 feet for a total of 60 feet if the area above 45 feet is exclusively used for dwelling purposes. Building appurtenances, such as vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs, may extend an additional 10 feet in height above the building roof.

Minimum yard setbacks (in feet)		Notes and exceptions
Front	0 feet	The side and rear yard setback may be 0 feet for zero lot line lots and lots used only for utility and landscape purposes as identified in the project district phase II or III site plans.
Side	3 feet	
Rear	3 feet	

19.95.040 Industrial district. The industrial district envisions an area of commercial and light industrial uses, including warehousing and distribution types of activities and the assembly or treatment of materials, with the exception of heavy manufacturing and processing. The district also includes other uses that are supportive and compatible with industrial use.

Permitted uses. Within the industrial district, the following uses shall be permitted:

A. Principal uses and structures.

Uses	Notes and exceptions
Any use or structure permitted in the VMX District	
Assembly and manufacture of electrical components and the like	
Automobile services	Including major repairs, provided all auto repairing operations are conducted in completely enclosed buildings; and provided further, that tire rebuilding or battery manufacturing shall not be permitted within this district.
Automobile upholstery shops	
Awning or canvas shops	
Cold storage plants	
Commercial laundries	
Equipment rental and sales yards	
Farm implement sales and service	
Feed stores	

General food, fruit, and vegetable processing and manufacturing plants	
Ice cream and milk producing, manufacturing, and storage	
Laboratories-experimental, photo or motion picture, film, or testing	
Light and heavy equipment and product display rooms, storage, and service	
Lumber yards	
Machine shop or other metal working shop	
Manufacture of pottery and figurines or other similar ceramic products	
Milk bottling or central distribution stations	
Mortuaries	
New and used car lots	Provided all repair and maintenance is conducted within a completely enclosed building.
Nurseries (flower or plants)	Provided that all incidental equipment and supplies, including fertilizers and empty cans, are kept within completely enclosed buildings.
Plumbing shops	
Printing, lithography, or publishing shops	
Radio transmitting and television stations	Provided that towers are of the self-sustaining type without guys.
Recycling collection and redemption centers	
Replating shop	
Retail lumber yard including mill and sash work	Except that mill and sash work shall be conducted within a completely enclosed building.
Small boat building	
Soda water and soft drink bottling and distribution plants	

The manufacture, compounding, or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco, and wood	
The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products except the rendering or refining of fats and oils	
The manufacture, dyeing, and printing of cloth fabrics and wearing apparel	
The manufacture of musical instruments, toys, novelties, and rubber and metal stamps	
Trucking and truck storage	
Warehouse and storage	
Wearing apparel manufacturing	
Any other retail businesses or commercial enterprises which are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area	Provided, however, that such uses shall be approved by the planning director as conforming to the intent of this section.

B. Accessory uses and structures. Other uses and structures as determined by the planning director as meeting the intent of this section.

C. Special uses. The following uses shall be permitted subject to the approval of the Maui planning commission: Uses and structures that are similar to, and compatible with, the principal uses and structures and which conform to the intent of this section may be approved by the Maui planning commission.

D. Development standards for the industrial district shall be:

	Industrial district	Notes and exceptions
Minimum lot area (square feet)	7,500 square feet	Lots for utility or landscape purposes shall only be used for utility and landscape purposes and shall not have a minimum lot area.
Minimum lot width (in feet)	65 feet	
Maximum building height (in feet)	60 feet	Measured by the finished grade, as specified in the approved project district phase II or III site plans. Building appurtenances, such as vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs, may extend an additional 10 feet in height above the building roof.

Minimum yard setbacks (in feet)		Notes and exceptions
Front	0 feet	Where the front, side, or rear yard of a lot abuts a lot in any residential or village mixed use district, the abutting front, side, or rear yard setbacks shall be not less than 10 feet, except that the minimum front, side, and rear yard setbacks shall be 0 feet for lots used only for utility or landscape purposes.
Side	0 feet	
Rear	0 feet	

19.95.050 Public/quasi-public district. The public/quasi-public district envisions uses supportive and compatible with the overall residential character of the Waiale residential community. The district also includes other uses that are supportive and compatible with public/quasi-public use.

Permitted Uses. Within the public/quasi-public district, the following uses shall be permitted:

A. Principal uses and structures:

Uses	Notes and exceptions
Churches	
Community and recreation centers	
Fire and police stations	
Government and quasi-public offices	
Libraries	
Major utility facilities	
Minor utility facilities	
Parking lots and structures	
Schools	

B. Accessory uses and structures. Other uses and structures as determined by the planning director as meeting the intent of this section.

C. Special uses. The following uses shall be permitted subject to the approval of the Maui planning commission: Uses and structures that are similar to, and compatible with, the principal uses and structures and which conform to the intent of this section may be approved by the Maui planning commission.

D. Development standards for the public/quasi-public district shall be:

	Public/quasi-public district	Notes and exceptions
Minimum lot area (square feet)	0 square feet	
Minimum lot width (in feet)	0 feet	
Maximum building height (in feet)	90 feet	Measured by the finished grade, as specified in the approved project district phase II or III site plans. Building appurtenances, such as vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs, may extend an additional 10 feet in height above the building roof.

Minimum yard setbacks (in feet)		Notes and Exceptions
Front	20 feet	Where the side or rear yard of a lot abuts a lot in any residential or village mixed use district, the abutting side or rear yard shall have the same yard setback as required in the residential or village mixed use district, except that the minimum front, side, and rear yard setbacks shall be 0 feet for lots used only for utility or landscape purposes.
Side	0 feet	
Rear	0 feet	

19.95.060 Park/open space district. The park/open-space district envisions park and open space uses which serve the active and passive recreational needs of the Waiale residential community. The district also includes other uses that are supportive and compatible with park/open space use.

Permitted uses. Within the park and open space district, the following uses shall be permitted:

A. Principal uses:

Uses	Notes and exceptions
Athletic courts and fields	
Community and recreation centers	
Drainage and erosion control systems	Shall be combined with open land recreation uses.
Historic and cultural sites	
Minor utility facilities	
Open land recreation	
Parks, playgrounds, and landscaped common or open space areas	
Road widening reserves and buffers	
Swimming pools	
Trails and bike-pedestrian ways	

B. Accessory Uses and Structures.

Uses	Notes and exceptions
Comfort and shelter stations	
Greenhouses and nurseries, limited to the propagation of plants	
Maintenance and storage facilities	
Park furniture and equipment	
Other uses and structures as determined by the planning director as meeting the intent of this section	

C. Special uses. The following uses shall be permitted subject to the approval of the Maui planning commission:

1. Cemeteries.
2. Uses and structures that are similar to, and compatible with, the principal uses and structures and which conform to the intent of this section may be approved by the Maui planning commission.

D. Development standards for the park and open space district shall be:

	Park and open space district	Notes and exceptions
Minimum lot area (square feet)	0 square feet	
Minimum lot width (in feet)	0 feet	
Maximum building height (in feet)	35 feet	Measured by the finished grade, as specified in the approved project district phase II or III site plans. Building appurtenances, such as vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs, may extend an additional 10 feet in height above the building roof.

Minimum yard setbacks (in feet)		Notes and exceptions
Front	20 feet	Front, side, and rear yard setbacks for lots used only for utility or landscape purposes may be 0 feet.
Side	20 feet	
Rear	20 feet	

19.95.070 Land use districts, approximate acreages, and maximum residential density.

A. The following are established as the approximate acreages for the various land use districts within the Waiale Project District South:

Residential district	98.4 acres
Village mixed use district	10 acres
Industrial district	0 acres
Public/Quasi-public district	0 acres
Park/Open space district	14.2 acres
Total	122.6 acres

B. The approximate acreages for the land use districts shall be applicable to the south area of Waiale project district and shall be modified upon the amendment of this ordinance for the north area of Waiale project district.

C. The south area of Waiale project district shall be limited to 950 residential units.

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

APPROVED AS TO FORM
AND LEGALITY:



JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui

2016-0253/2014-3084

LU-23 2016-11-22 Ordinance Adding Chapter 19.95, MCC (FINAL after LUC)

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
AGRICULTURAL DISTRICT TO WAIALE PROJECT DISTRICT SOUTH
(CONDITIONAL ZONING) FOR PROPERTY SITUATED
AT WAIKAPU, WAILUKU, 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 Waiale Project District South (Conditional Zoning) is hereby granted for those certain parcels of land situated at Waikapu, Wailuku, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 3-8-005:037 and (2) 3-8-005:040 (por.), consisting of 122.6 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and as shown in Land Zoning Map No. L-2704, 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 "B", 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 "C".

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

APPROVED AS TO FORM
AND LEGALITY:



JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui

2016-0253/2014-3084

LU-23 2016-11-22 Ord re CIZ (FINAL after LUC)

DESCRIPTION

WIALE PROJECT DISTRICT - SOUTH

TAX MAP KEY: (2)3-8-005:037 AND 040 (PORTION)

All of that certain parcel of land, being all of Lot 3 and a portion of Lot 4-A of the Walter K. Schenk Subdivision, being also a portion of Grant 3152 to Henry Cornwell situated at Waikapu, Wailuku, Island and County of Maui, State of Hawaii

Beginning at the northwesterly corner of this parcel of land, on the southerly side of Waiko Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 10,411.85 feet South and 136.75 feet East and running by azimuths measured clockwise from True South:

1. 276° 30' 340.00 feet along the southerly side of Waiko Road;
2. Thence along same on a curve to the right with a radius of 1,020.00 feet, the chord azimuth and distance being:
287° 15' 380.51 feet;
3. 298° 00' 498.99 feet along the southerly side of Waiko Road;
4. Thence along same on a curve to the left with a radius of 730.00 feet, the chord azimuth and distance being:
285° 45' 309.78 feet to a point of reverse curvature;
5. Thence along same on a curve to the right with a radius of 2,720.00 feet, the chord azimuth and distance being:
276° 00' 237.29 feet;
6. 278° 30' 469.65 feet along the southerly side of Waiko Road;
7. Thence along same on a curve to the right with a radius of 1,350.00 feet, the chord azimuth and distance being:
285° 07' 30" 311.50 feet;
8. 291° 45' 253.29 feet along the southerly side of Waiko Road;

9. 287° 45' 966.90 feet along same;
10. Thence along same on a curve to the left with a radius of 950.00 feet, the chord azimuth and distance being:
287° 13' 16" 17.54 feet;
11. Thence along same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
337° 15' 01" 46.34 feet;
12. 27° 48' 30" 1,355.35 feet along the westerly side of
Kuihelani Highway [F.A.S.P. No.
S-0380(4)];
13. 117° 48' 30" 5.00 feet along same;
14. 27° 48' 30" 200.00 feet along same;
15. 297° 48' 30" 5.00 feet along same;
16. 27° 48' 30" 1,100.00 feet along same;
17. 117° 48' 30" 10.00 feet along same;
18. 27° 48' 30" 300.00 feet along same;
19. 297° 48' 30" 5.00 feet along same;
20. 27° 48' 30" 412.45 feet along same;
21. 107° 07' 77.52 feet along the remainder of Lot 4-A of
the Walter K. Schenk
Subdivision (being the remainder
of Grant 3152 to Henry
Cornwell);
22. 118° 45' 55.17 feet along same;
23. 142° 21' 42.56 feet along same;
24. 185° 32' 67.95 feet along same;
25. 189° 02' 200.44 feet along same;
26. 163° 25' 89.55 feet along same;
27. 190° 55' 148.50 feet along same;
28. 173° 16' 183.73 feet along same;
29. 179° 36' 223.95 feet along same;

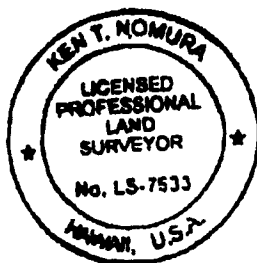
30.	167° 13'	199.83 feet	along same;
31.	157° 11'	146.91 feet	along same;
32.	124° 26'	112.05 feet	along same;
33.	154° 10'	85.83 feet	along same;
34.	173° 20'	197.01 feet	along same;
35.	142° 44'	23.99 feet	along same;
36.	113° 52'	71.52 feet	along same;
37.	116° 58'	112.02 feet	along same;
38.	174° 38'	198.93 feet	along same;
39.	163° 17'	251.92 feet	along same;
40.	148° 50'	185.28 feet	along same;
41.	153° 15'	119.97 feet	along same;
42.	141° 10'	140.68 feet	along same;
43.	129° 37'	127.19 feet	along same;
44.	150° 48'	144.58 feet	along same;
45.	140° 37'	141.05 feet	along same;
46.	152° 01'	63.16 feet	along same;
47.	162° 10'	138.88 feet	along same;
48.	149° 24'	78.67 feet	along same;
49.	137° 48'	52.02 feet	along same;
50.	125° 46'	119.73 feet	along same;
51.	133° 58'	105.22 feet	along same;
52.	163° 28'	108.03 feet	along same;
53.	133° 29'	114.74 feet	along same;
54.	104° 06'	83.47 feet	along same;

55.	102° 35'	145.60 feet	along same;
56.	122° 54'	88.55 feet	along same;
57.	128° 25'	50.07 feet	along same;
58.	145° 08'	50.48 feet	along same;
59.	155° 18'	38.31 feet	along same;
60.	171° 30'	32.31 feet	along same;
61.	175° 51'	235.74 feet	along same;
62.	140° 17'	105.18 feet	along same to the point of beginning and containing an Area of 122.635 Acres.

Prepared by: A&B Properties, Inc.
Kahului, Maui, Hawaii

August 4, 2014

This work was prepared by me or under my supervision.



Ken T. Nomura 4/30/2016
 Ken T. Nomura
 Licensed Professional Land Surveyor
 Certificate No. LS-7633
 Expiration Date: 4/30/2016

ME
 32/37-k

EXHIBIT "B"

CONDITIONS OF ZONING

1. That an archaeological monitoring plan for the Waiale South project area shall be submitted to the State Historic Preservation Division for review and approval prior to commencement of any construction work within the project area.
2. That Alexander & Baldwin, LLC shall provide annual compliance reports to the Department of Planning and the Maui County Council. The reports shall include the status of the project and Alexander & Baldwin, LLC's progress in complying with the conditions of zoning, commencing within one year of the effective date of the ordinance and continuing until such time as the conditions have been fully satisfied, as determined by the Department of Planning and the Department of Public Works. Alexander & Baldwin, LLC shall also provide to the Department of Planning and the Maui County Council a copy of its annual compliance report to the State Land Use Commission, relating to the conditions set forth in the Decision and Order for the development.

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

Total Number of Pages: 11

Affects Tax Map Keys (Maui) (2)3-8-005:037 and (2)3-8-005:040 (portion),
Waikapu, Wailuku, Maui, Hawai'i

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 21st day of November, 2016, hereinafter referred to as "DECLARATION" or "UNILATERAL AGREEMENT", by Alexander & Baldwin, LLC, a Hawai'i limited liability company, whose principal place of business is located in Honolulu, Oahu, Hawai'i, and whose mailing address is P.O. Box 3440, Honolulu, Hawai'i 96801-3440, hereinafter referred to as "DECLARANT", and who is the owner of those certain parcels located at Waikapu, Wailuku, Maui, Hawai'i, comprised of approximately 122.6 acres, and identified for real property tax purposes by Tax Map Key Nos. (2)3-8-005:037 and (2)3-8-005:040 (portion), hereinafter referred to as "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 122.6 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-2704, which is 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. _____, 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 Waiale Project District South 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 "2", 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 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 Declaration the day and year first above written.

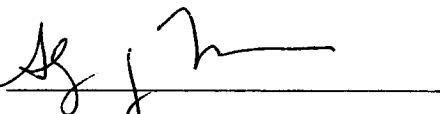
DECLARANT:

ALEXANDER & BALDWIN, LLC

By: 

Name: MEREDITH J. CHING


Title: SENIOR VICE PRESIDENT

By: 

Name: ALYSON J. NAKAMURA

Title: SECRETARY

APPROVED AS TO FORM AND LEGALITY:

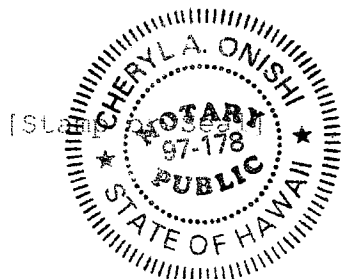


JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 21st day of November, 2016, before me personally appeared MEREDITH J. CHING, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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



Cheryl A. Onishi
Notary Public, State of Hawaii

Print Name: CHERYL A. ONISHI

My Commission Expires: APR 17 2017

NOTARY PUBLIC CERTIFICATION

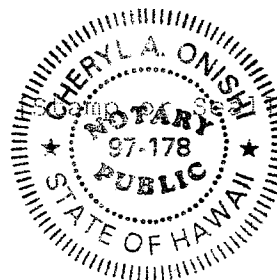
Doc. Date: Undated # Pages: 6

Notary Name: CHERYL A. ONISHI Judicial Circuit: First

Document Description: Unilateral Agreement
And Declaration For Conditional Zoning

Notary Signature: Cheryl A. Onishi

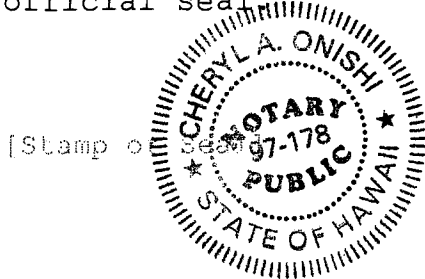
Date: 11/21/16



STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 21st day of November, 2016, before me personally appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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



Cheryl A. Onishi
Notary Public, State of Hawaii

Print Name: CHERYL A. ONISHI

My Commission Expires: APR 17 2017

NOTARY PUBLIC CERTIFICATION

Doc. Date: Undated # Pages: 6

Notary Name: CHERYL A. ONISHI Judicial Circuit: First

Document Description: Unilateral Agreement
And Declaration For Conditional Zoning

Notary Signature: Cheryl A. Onishi

Date: 11/21/16



EXHIBIT "1"

DESCRIPTION

WAIALE PROJECT DISTRICT - SOUTH

TAX MAP KEY: (2)3-8-005:037 AND 040 (PORTION)

All of that certain parcel of land, being all of Lot 3 and a portion of Lot 4-A of the Walter K. Schenk Subdivision, being also a portion of Grant 3152 to Henry Cornwell situated at Waikapu, Wailuku, Island and County of Maui, State of Hawaii

Beginning at the northwesterly corner of this parcel of land, on the southerly side of Waiko Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 10,411.85 feet South and 136.75 feet East and running by azimuths measured clockwise from True South:

1. 276° 30' 340.00 feet along the southerly side of
Waiko Road;
2. Thence along same on a curve to the right with a radius of 1,020.00 feet, the
chord azimuth and distance
being:
287° 15' 380.51 feet;
3. 298° 00' 498.99 feet along the southerly side of
Waiko Road;
4. Thence along same on a curve to the left with a radius of 730.00 feet, the chord
azimuth and distance being:
285° 45' 309.78 feet to a point
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5. Thence along same on a curve to the right with a radius of 2,720.00 feet, the
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6. 278° 30' 469.65 feet along the southerly side of
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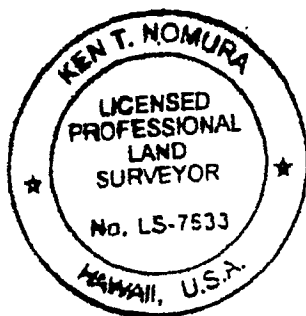
- | | | | |
|-----|--|---------------|---|
| 9. | 287° 45' | 966.90 feet | along same; |
| 10. | Thence along same on a curve to the left with a radius of 950.00 feet, the chord azimuth and distance being:
287° 13' 16" 17.54 feet; | | |
| 11. | Thence along same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
337° 15' 01" 46.34 feet; | | |
| 12. | 27° 48' 30" | 1,355.35 feet | along the westerly side of Kuihelani Highway [F.A.S.P. No. S-0380(4)]; |
| 13. | 117° 48' 30" | 5.00 feet | along same; |
| 14. | 27° 48' 30" | 200.00 feet | along same; |
| 15. | 297° 48' 30" | 5.00 feet | along same; |
| 16. | 27° 48' 30" | 1,100.00 feet | along same; |
| 17. | 117° 48' 30" | 10.00 feet | along same; |
| 18. | 27° 48' 30" | 300.00 feet | along same; |
| 19. | 297° 48' 30" | 5.00 feet | along same; |
| 20. | 27° 48' 30" | 412.45 feet | along same; |
| 21. | 107° 07' | 77.52 feet | along the remainder of Lot 4-A of the Walter K. Schenk Subdivision (being the remainder of Grant 3152 to Henry Cornwell); |
| 22. | 118° 45' | 55.17 feet | along same; |
| 23. | 142° 21' | 42.56 feet | along same; |
| 24. | 185° 32' | 67.95 feet | along same; |
| 25. | 189° 02' | 200.44 feet | along same; |
| 26. | 163° 25' | 89.55 feet | along same; |
| 27. | 190° 55' | 148.50 feet | along same; |
| 28. | 173° 16' | 183.73 feet | along same; |
| 29. | 179° 36' | 223.95 feet | along same; |

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31.	157° 11'	146.91 feet	along same;
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44.	150° 48'	144.58 feet	along same;
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57.	128° 25'	50.07 feet	along same;
58.	145° 08'	50.48 feet	along same;
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60.	171° 30'	32.31 feet	along same;
61.	175° 51'	235.74 feet	along same;
62.	140° 17'	105.18 feet	along same to the point of beginning and containing an Area of 122.635 Acres.

Prepared by: A&B Properties, Inc.
Kahului, Maui, Hawaii

August 4, 2014



This work was prepared by me or under my supervision.

Ken T. Nomura 4/20/2016
 Ken T. Nomura
 Licensed Professional Land Surveyor
 Certificate No. LS-7633
 Expiration Date: 4/30/2016

ME
 32/37-k

EXHIBIT "2"

CONDITIONS OF ZONING

1. That an archaeological monitoring plan for the Waiale South project area shall be submitted to the State Historic Preservation Division for review and approval prior to commencement of any construction work within the project area.
2. That Alexander & Baldwin, LLC shall provide annual compliance reports to the Department of Planning and the Maui County Council. The reports shall include the status of the project and Alexander & Baldwin, LLC's progress in complying with the conditions of zoning, commencing within one year of the effective date of the ordinance and continuing until such time as the conditions have been fully satisfied, as determined by the Department of Planning and the Department of Public Works. Alexander & Baldwin, LLC shall also provide to the Department of Planning and the Maui County Council a copy of its annual compliance report to the State Land Use Commission, relating to the conditions set forth in the Decision and Order for the development.