

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

July 19, 2019

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on June 19, 2019 and June 26, 2019 (reconvene), makes reference to County Communication 19-198, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)" ("District Boundary Amendment bill").

The purpose of the District Boundary Amendment bill is to grant a District Boundary Amendment from Agricultural to Rural for 14.775 acres in Makawao, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, for Hui Noeau, also known as Hui No'eau Visual Arts Center.

2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-002:006 (POR.)" ("Community Plan Amendment bill").

The purpose of the Community Plan Amendment bill is to grant a Community Plan Amendment from Agricultural to

COUNCIL OF THE COUNTY OF MAUI
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Public/Quasi-Public for approximately 4.306 acres in Makawao, Maui, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 2-4-002:006, for Hui Noeau.

3. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)" ("Change in Zoning bill").

The purpose of the Change in Zoning bill is to grant a change in zoning from Interim District and Agricultural District to P-1 Public/Quasi-Public District for 14.775 acres in Makawao, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, respectively, for Hui Noeau.

According to the Planning Director's summary of the application, Hui Noeau has historically relied on a State Land Use Commission Special Permit to operate their visual arts center on their property. The requested land use entitlements would allow Hui Noeau to operate in compliance with County and State law without a permit.

Your Committee noted Hui Noeau intends to construct an event pavilion on the property. A consultant for Hui Noeau said the pavilion would be able to accommodate events held at the main building of the property. To mitigate impacts, Hui Noeau enforces strict end times and is selective of events. Hui Noeau currently hosts events such as weddings, anniversaries, and retirement parties.

Your Committee expressed an expectation for allowed events to remain consistent with what Hui Noeau has historically hosted and to not

COUNCIL OF THE COUNTY OF MAUI
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disrupt the surrounding area with noise. Your Committee did not identify specific limitations on activities.

Your Committee received a letter dated June 25, 2019, from the Executive Director of Hui Noeau. The letter describes Hui Noeau's Visiting Artists Program, in which artists from across the world are invited to Hui Noeau to share their knowledge with the community.

As part of the program, one visiting artist at a time is allowed to stay in the property's guest cottage, which features a "one-bed, small studio style room, with an attached bathroom." Furthermore, the cottage "remains uninhabited for the majority of the year in between visits." Your Committee notes overnight accommodations offered on the property should remain limited to visiting artists and should be consistent with the small scale represented.

Your Committee amended the Conditions of Zoning by adding a second condition to require future development on the property to be done in a manner that protects the rural and agricultural character of the area, supports art and cultural education, and is in substantial compliance with the submittals and representations made to the Maui County Council and your Committee by Hui Noeau.

Your Committee voted 7-0 to recommend passage of the proposed District Boundary Amendment bill, the proposed Community Plan Amendment bill, and the revised proposed Change in Zoning bill on first reading, recordation of the unilateral agreement, and filing of the communication. Committee Chair Paltin, Vice-Chair Sinenci, and members King, Lee, Molina, Rawlins-Fernandez, and Sugimura voted "aye."

Your Committee is in receipt of a revised proposed Change in Zoning bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
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Report No. _____

AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.),” approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

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

Your Planning and Sustainable Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2019), attached hereto, entitled “A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.),” be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill _____ (2019), attached hereto, entitled “A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-002:006 (POR.),” be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill _____ (2019), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006

COUNCIL OF THE COUNTY OF MAUI
**PLANNING AND SUSTAINABLE LAND
USE COMMITTEE**

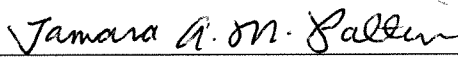
Page 5

**Committee
Report No. _____**

(POR.),” be PASSED ON FIRST READING and be ORDERED
TO PRINT;

4. That the County Clerk RECORD the unilateral agreement; and
5. That County Communication 19-198 be FILED.

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



TAMARA PALTIN, Chair

pslu:cr:19033aa:jgk/jsr

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE
DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR
PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII,
TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)

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

SECTION 1. Pursuant to Section 205-3.1, Hawaii Revised Statutes, and Chapter 19.68, Maui County Code, the State Land Use District classification is reclassified from Agricultural to Rural for that certain parcel of land situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, comprised of approximately 14.775 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Use District Boundary Amendment Map No. 625, attached hereto as Exhibit "B" and made a part hereof.

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

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
LF2019-0444
2019-04-16 Ordinance DBA Hui No'eau

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion) and 011

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393 and all of Lot 2-A-1-A of H. A. Baldwin "Kaluanui" House Lots, Subdivision File No. 2.2242, being a portion of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

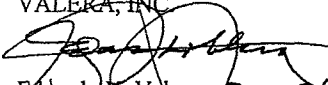
Beginning at a found 1/2point at the northernmost corner of this parcel of land, along the south side of Kaluanui Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,513.72 feet North and 4,062.59 feet West and running by azimuth measured clockwise from true South (meridian of said "PIIHOLO"),

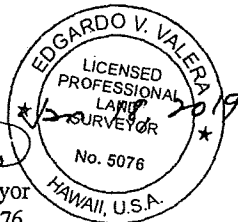
1. 301° 54' 30" 375.50 feet along Lot 2-A-1-B of H. A. Baldwin, "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
2. 309° 42' 186.00 feet along the same to a ½ inch pipe; thence,
3. 347° 40' 168.41 feet along Lot 2-A-1-C of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
4. 347° 20' 162.00 feet along the same to a ½ inch pipe; thence,
5. 358° 00' 38.07 feet along Lot 2-B-1 of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2214 to a ½ inch pipe, thence,
6. 34° 34' 300.76 feet along the same to a ½ inch pipe; thence,
7. 42° 38' 177.80 feet along the same to a ½ inch pipe; thence,
8. Along Baldwin Avenue on a curve to the left with a radius of 751.00 feet and a central angle° of 21°31' 51", the chord azimuth and distance being
131° 42' 59" 280.56 feet to a ½ inch pipe; thence,

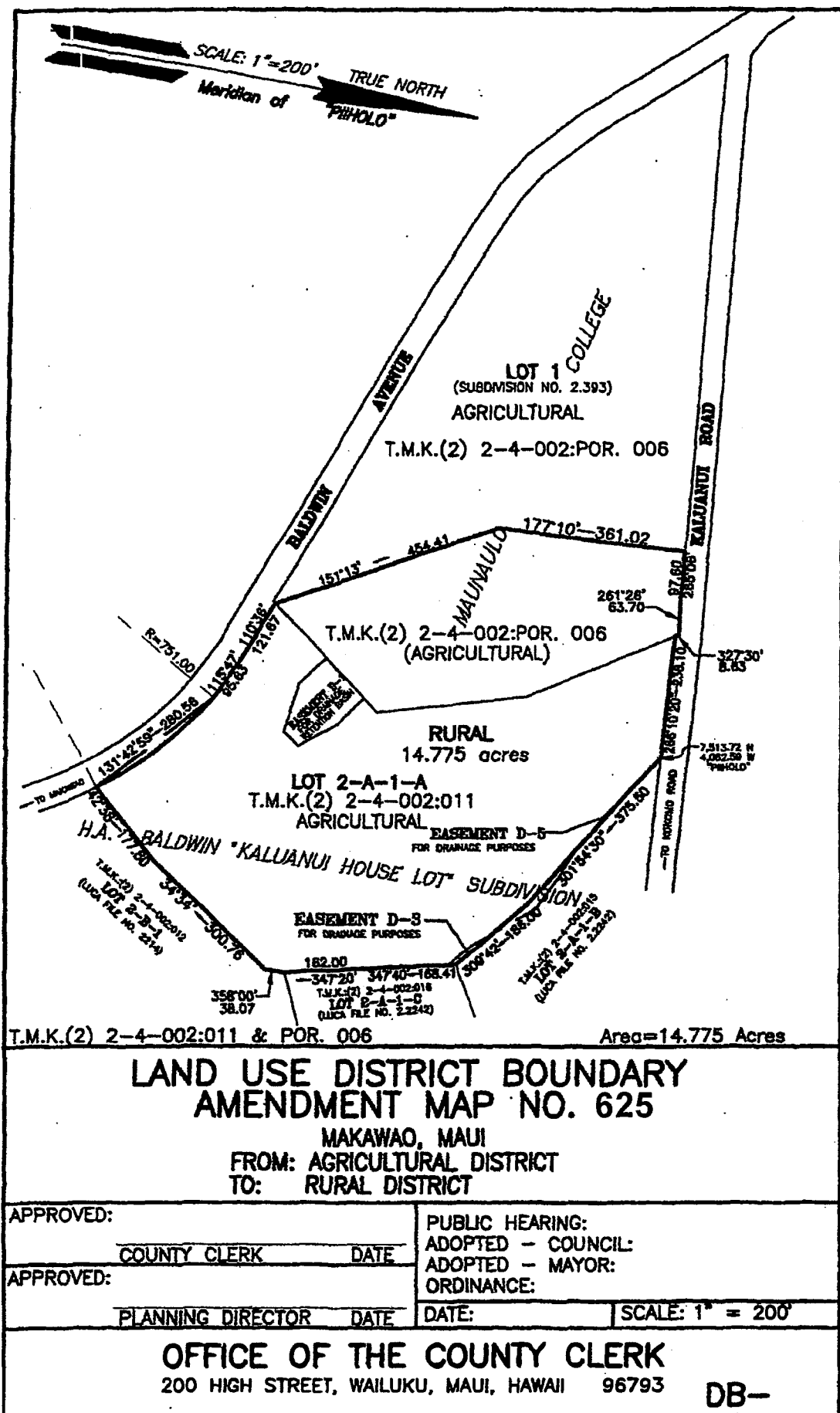
- | | | |
|-----|--------------|---|
| 9. | 115° 47' | 95.63 feet along the same to a ½ inch pipe; thence, |
| 10. | 110° 36' | 121.67 feet along the same to a ½ inch pipe; thence, |
| 11. | 151° 13' | 454.41 feet along portion of Lot 1 of Maui Pineapple Co.,
Ltd.,
Lease, LUCA File No. 2.393 to a point; thence, |
| 12. | 177° 10' | 361.02 feet along the remainder of Lot 1 of Maui Pineapple
Co., Ltd. Lease, LUCA File No. 2.393 to a point;
thence, |
| 13. | 265° 06' | 97.60 feet along the south side of Kaluanui Road to a
point; thence, |
| 14. | 261° 26' | 63.70 feet along the same to a ½ inch pipe; thence, |
| 15. | 327° 30' | 8.63 feet along the same to a ½ inch pipe; thence, |
| 16. | 266° 10' 20" | 238.10 feet along the same to the point of beginning and
containing an area of 14.775 acres, more less. |

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

This work was prepared by me
or under my direct supervision.
VALERA, INC


Edgardo V. Valera *Exp 8/22*
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 5076
End of description.
8178ACPKaluanui





ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE
TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT
MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-002:006 (POR.)

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Makawao-Pukalani-Kula Community Plan and Land Use Map is hereby amended from Agriculture to Public/Quasi-Public for that certain parcel of land situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as portion of tax map key (2) 2-4-002:006, comprised of approximately 4.306 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Community Plan Map No. 618, attached hereto as Exhibit "B" and made a part hereof.

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

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
LF2019-0444
2019-04-16 Ordinance CPA Hui No'eau

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion)

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

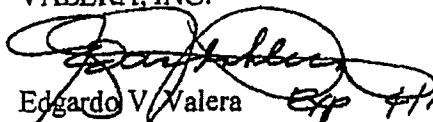
Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393, being a portion of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a point at the northeast corner of this parcel of land, along the south side of Kaluanui Road coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,505.10 feet North and 4,304.59 feet West and running by azimuths measured clockwise from true South (meridian of said "PIIHOLO"),

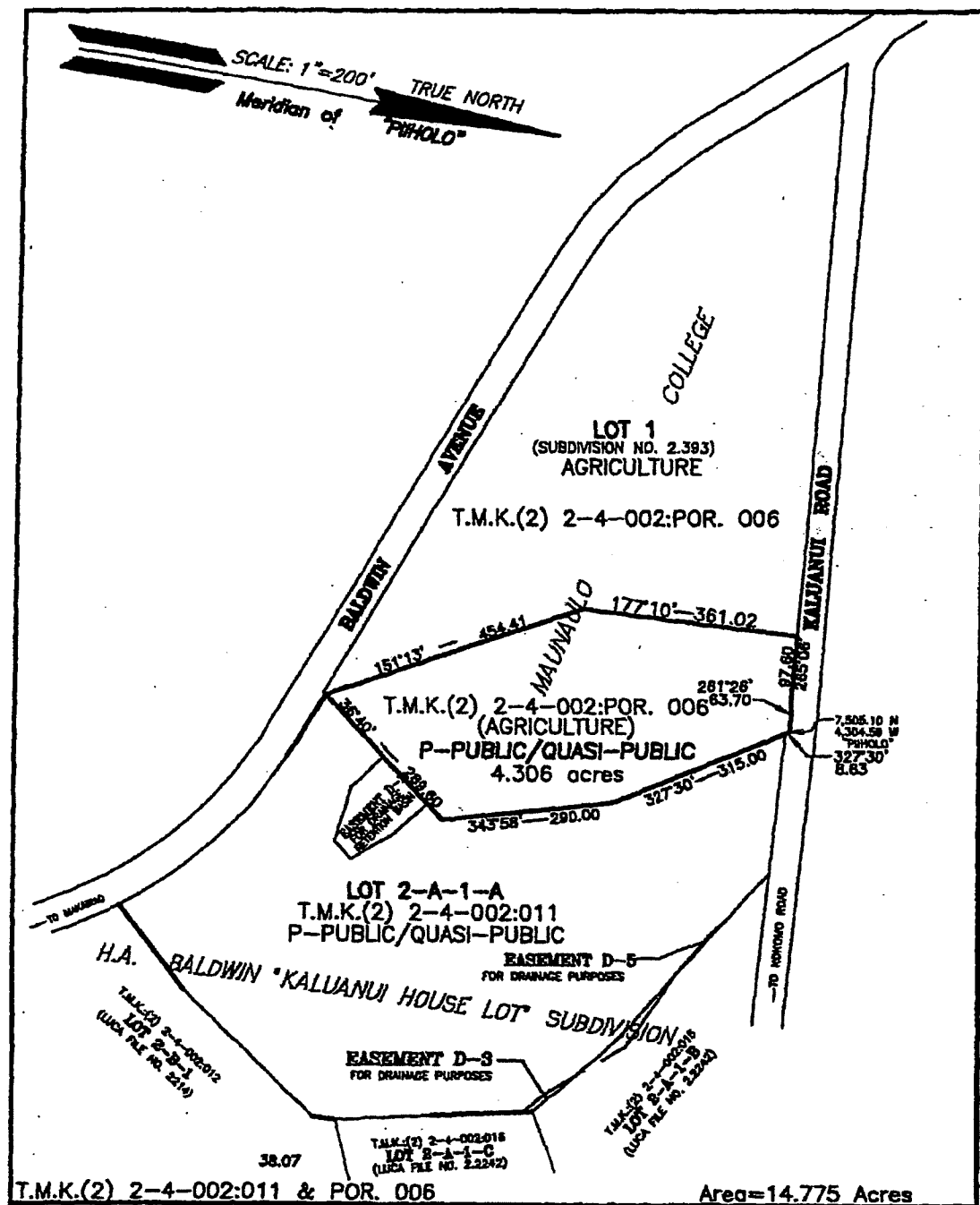
1. 327° 30' 8.63 feet along the southerly side of Kaluanui Road to a ½ inch pipe; thence,
2. 327° 30' 315.00 feet along Lot 2-A-1-B of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
3. 343° 58' 290.00 feet along the same to a ½ inch pipe; thence,
4. 36° 40' 289.60 feet along the same to a ½ inch pipe to a ½ inch pipe; thence,
5. 151° 13' 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File 2.393 to a point, thence,
6. 177° 10' 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
7. 265° 06' 97.60 feet along the south side of Kaluanui Road to the point of beginning and containing an area of 4.306 acres, more or less.

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

This work was prepared by me
or under my direct supervision.
VALERA, INC.


Edgardo V. Valera
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 5076
End of description.
8178CPKaluanui





COMMUNITY PLAN MAP NO. 618

COMMUNITY PLAN AMENDMENT—MAKAWAO, MAUI, HAWAII
FROM AG—AGRICULTURE TO P—PUBLIC/QUASI—PUBLIC DISTRICT

APPROVED:

COUNTY CLERK DATE

APPROVED:

PLANNING DIRECTOR DATE

PUBLIC HEARING:

ADOPTED — COUNCIL:

ADOPTED — MAYOR:

ORDINANCE:

DATE:

SCALE: 1" = 200'

OFFICE OF THE COUNTY CLERK

200 HIGH STREET, WAILUKU, MAUI, HAWAII 96793

CP—

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)

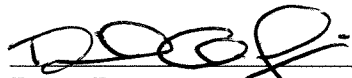
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.31 and 19.510, Maui County Code, a change in zoning from Interim District to P-1 Public/Quasi-Public District and from Agricultural District to P-1 Public/Quasi-Public District is hereby granted for that certain parcel of land situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, respectively, comprised of approximately 14.775 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-1091, attached hereto as Exhibit "B" and made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the 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:

A handwritten signature in black ink, appearing to read 'DAG', is written over a horizontal line.

DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui
2019-0101/2019-0444
PSLU-33 2019-07-09 Ord CIZ Hui No'eau

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion) and 011

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393 and all of Lot 2-A-1-A of H. A. Baldwin "Kaluanui" House Lots, Subdivision File No. 2.2242, being a portion of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a found 1/2point at the northernmost corner of this parcel of land, along the south side of Kaluanui Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,513.72 feet North and 4,062.59 feet West and running by azimuth measured clockwise from true South (meridian of said "PIIHOLO"),

1. 301° 54' 30" 375.50 feet along Lot 2-A-1-B of H. A. Baldwin, "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
2. 309° 42' 186.00 feet along the same to a ½ inch pipe; thence,
3. 347° 40' 168.41 feet along Lot 2-A-1-C of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
4. 347° 20' 162.00. feet along the same to a ½ inch pipe; thence,
5. 358° 00' 38.07 feet along Lot 2-B-1 of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2214 to a ½ inch pipe, thence,
6. 34° 34' 300.76 feet along the same to a ½ inch pipe; thence,
7. 42° 38' 177.80 feet along the same to a ½ inch pipe; thence,
8. Along Baldwin Avenue on a curve to the left with a radius of 751.00 feet and a central angle° of 21°31' 51", the chord azimuth and distance being
131° 42' 59" 280.56 feet to a ½ inch pipe; thence,

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EXHIBIT "A"

- | | | |
|-----|--------------|---|
| 9. | 115° 47' | 95.63 feet along the same to a ½ inch pipe; thence, |
| 10. | 110° 36' | 121.67 feet along the same to a ½ inch pipe; thence, |
| 11. | 151° 13' | 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd., Lease, LUCA File No. 2.393 to a point; thence, |
| 12. | 177° 10' | 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, LUCA File No. 2.393 to a point; thence, |
| 13. | 265° 06' | 97.60 feet along the south side of Kaluanui Road to a point; thence, |
| 14. | 261° 26' | 63.70 feet along the same to a ½ inch pipe; thence, |
| 15. | 327° 30' | 8.63 feet along the same to a ½ inch pipe; thence, |
| 16. | 266° 10' 20" | 238.10 feet along the same to the point of beginning and containing an area of 14.775 acres, more less. |

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

This work was prepared by me
or under my direct supervision.
VALERA, INC.

Edgardo V. Valera
Edgardo V. Valera
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 5076
End of description.
8178ACPKaluanui

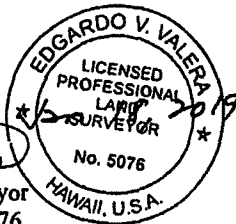


EXHIBIT “C”

CONDITIONS OF ZONING

1. Hui Noeau and any future owner or lessee must solicit from the Urban Design Review Board and the State Historic Preservation Division, and provide to the Department of Planning, comments on plans for any new building prior to the Department of Planning recommending approval of a building permit for the new building.
2. Hui Noeau and any future owner or lessee must only develop the property in a manner that protects the rural and agricultural character of the area; supports art and cultural education; and is in substantial compliance with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee on June 19, 2019, and prior to the Change in Zoning to P-1 Public/Quasi-Public District.

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail (x) Pickup () : To:

Office of the County Clerk

County of Maui

200 South High Street

Wailuku, Hawai'i 96793

Total Number of Pages: 10

Affects Tax Map Key (Maui) (2) 2-4-002:006 (portion)

(2) 2-4-002:011

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 11th day of July, 2019, hereinafter referred to as "DECLARATION" or "UNILATERAL AGREEMENT", by Hui Noeau, a Hawaii nonprofit corporation whose principal place of business and mailing address is located in 2841 Baldwin Avenue, Makawao, Hawaii 96768, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel located at Makawao, Maui, Hawai'i, comprised of approximately 14.775 acres, and identified for real property tax purposes by Tax Map Key No(s). (2) 2-4-002:006 (portion) and (2) 2-4-002:011, 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 14.775 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-1091, which is attached hereto and made a part hereof as Exhibit "2"; and

WHEREAS, the Council recommends through its Planning and Sustainable 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 P-1 Public/Quasi-Public District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of 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 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.

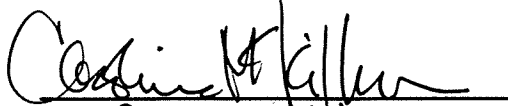
[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURE PAGES FOLLOW]


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

DECLARANT:

Hui Noeau


By Caroline M. Killhour
Its Executive Director

APPROVED AS TO FORM AND LEGALITY:



DAVID GALAZIN
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

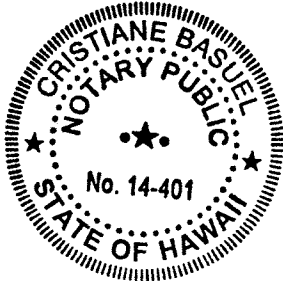
)
) SS.

COUNTY OF MAUI

)

On this 11th day of July, 2019, before me personally appeared Caroline McGlynn-Killhour, 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.



Cristiane Basuel
Notary Public, State of Hawaii

Print Name: Cristiane Basuel

My Commission Expires: 11/16/2022

NOTARY PUBLIC CERTIFICATION

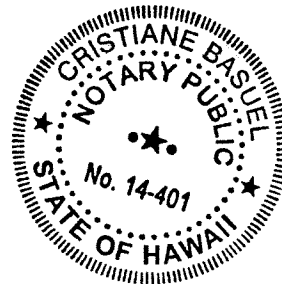
Doc. Date: 07/11/19 # Pages: 10

Notary Name: Cristiane Basuel Judicial Circuit: Second

Document Description: Unilateral Agreement and Declaration for Conditional Zoning

Notary Signature: Cristiane Basuel

Date: 07/11/19



LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion) and 011

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393 and all of Lot 2-A-1-A of H. A. Baldwin "Kaluanui" House Lots, Subdivision File No. 2.2242, being a portion of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a found 1/2point at the northernmost corner of this parcel of land, along the south side of Kaluanui Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,513.72 feet North and 4,062.59 feet West and running by azimuth measured clockwise from true South (meridian of said "PIIHOLO"),

1. 301° 54' 30" 375.50 feet along Lot 2-A-1-B of H. A. Baldwin, "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
2. 309° 42' 186.00 feet along the same to a ½ inch pipe; thence,
3. 347° 40' 168.41 feet along Lot 2-A-1-C of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
4. 347° 20' 162.00 feet along the same to a ½ inch pipe; thence,
5. 358° 00' 38.07 feet along Lot 2-B-1 of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2214 to a ½ inch pipe, thence,
6. 34° 34' 300.76 feet along the same to a ½ inch pipe; thence,
7. 42° 38' 177.80 feet along the same to a ½ inch pipe; thence,
8. Along Baldwin Avenue on a curve to the left with a radius of 751.00 feet and a central angle° of 21°31' 51", the chord azimuth and distance being
131° 42' 59" 280.56 feet to a ½ inch pipe; thence,

Page 1 of 2

EXHIBIT "1"

- | | | |
|-----|--------------|---|
| 9. | 115° 47' | 95.63 feet along the same to a ½ inch pipe; thence, |
| 10. | 110° 36' | 121.67 feet along the same to a ½ inch pipe; thence, |
| 11. | 151° 13' | 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd., Lease, LUCA File No. 2.393 to a point; thence, |
| 12. | 177° 10' | 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, LUCA File No. 2.393 to a point; thence, |
| 13. | 265° 06' | 97.60 feet along the south side of Kaluanui Road to a point; thence, |
| 14. | 261° 26' | 63.70 feet along the same to a ½ inch pipe; thence, |
| 15. | 327° 30' | 8.63 feet along the same to a ½ inch pipe; thence, |
| 16. | 266° 10' 20" | 238.10 feet along the same to the point of beginning and containing an area of 14.775 acres, more less. |

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

This work was prepared by me
or under my direct supervision.
VALERA, INC

Edgardo V. Valera
Edgardo V. Valera *Exp 7/22*
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 5076
End of description.
8178ACPKaluanui



Exhibit "3"

1. Hui Noeau and any future owner or lessee must solicit from the Urban Design Review Board and the State Historic Preservation Division, and provide to the Department of Planning, comments on plans for any new building prior to the Department of Planning recommending approval of a building permit for the new building.

2. Hui Noeau and any future owner or lessee must only develop the property in a manner that protects the rural and agricultural character of the area; supports art and cultural education; and is in substantial compliance with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee on June 19, 2019, and prior to the Change in Zoning to P-1 Public/Quasi-Public District.