

# REQUEST FOR LEGAL SERVICES

RECEIVED  
CORPORATION COUNSEL

**RUSH**

**Date:** November 17, 2017  
**From:** Robert Carroll, Chair  
Land Use Committee

2017 NOV 17 PM 4: 41

**TRANSMITTAL**


**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: David Galazin, Esq.

**Subject:** DISTRICT BOUNDARY AMENDMENT, COMMUNITY PLAN AMENDMENT, AND CHANGE IN ZONING FOR THE PROPOSED PAIA COURTYARD PROJECT AT 120 BALDWIN AVENUE, PAIA, MAUI (PAIA) (LU-13)

**Background Data:** Please review and, if appropriate, approve as to form and legality the attached revised proposed District Boundary Amendment bill and list of conditions (Exhibit "B"), incorporating the two Hawaii Right to Farm Act conditions required by Section 205-3.5, Hawaii Revised Statutes. A track changes version and a "clean" version of the text of the bill are attached for ease of reference. Please provide a hard copy of the bill with your response.

**Work Requested:** ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [ ] OTHER:

Requestor's signature  Robert Carroll	Contact Person  Carla Nakata or Alec Wagner (Telephone Extension: 7659 or 7662, respectively)
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☐ [ ] ROUTINE (WITHIN 15 WORKING DAYS)  
☐ [ ] PRIORITY (WITHIN 10 WORKING DAYS)

☐ [ ] RUSH (WITHIN 5 WORKING DAYS)  
☐ [ ] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 21, 2017, 10:00 a.m.  
REASON: For posting on the November 29, 2017 meeting agenda.

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO: <u>DAG</u>	ASSIGNMENT NO. <u>2017-0095</u>	BY: <u>AKW</u>
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TO REQUESTOR: ☒ [X] APPROVED ☐ [ ] DISAPPROVED ☐ [ ] OTHER (SEE COMMENTS BELOW)  
☐ [ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date 11-20-17

By  (Rev. 7/03)

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

BILL NO. \_\_\_\_\_ (2017)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE  
DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN  
(CONDITIONAL BOUNDARY AMENDMENT)  
FOR PROPERTY SITUATED AT PAIA, MAUI, HAWAII,  
TAX MAP KEY (2) 2-5-005:063 (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 Urban (Conditional Boundary Amendment) for that certain real property situated at Paia, Maui, Hawaii, and identified for real property tax purposes as a portion of tax map key (2) 2-5-005:063, comprising approximately 1.102 acres, and more particularly described as "Area A" in Exhibit "A," attached hereto and made a part hereof, and on District Boundary Amendment Map No. DB-717, 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. 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 Urban (Conditional Boundary Amendment) for that certain real property situated at Paia, Maui, Hawaii, and identified for real property tax purposes as a portion of tax map key (2) 2-5-005:063, comprising approximately 2.933 acres, and more particularly described as "Area B" in Exhibit "A," attached hereto and made a part hereof, and on District Boundary Amendment Map No. DB-717, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 3. 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 Urban (Conditional Boundary Amendment) for that certain real property situated at Paia, Maui, Hawaii, and identified for real property tax purposes as a portion of tax map key (2) 2-5-005:063, comprising approximately 5.003 acres, and more particularly described as "Area C" in Exhibit "A," attached hereto and made a part hereof, and on District Boundary Amendment Map No. DB-717, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 4. Pursuant to Section 19.68.040, Maui County Code, the State Land Use District classification granted by this ordinance is subject to the conditions set forth in Exhibit "B," attached hereto and made a part hereof, and the Unilateral Agreement and Declaration of Conditions for State Land Use District Boundary Amendment, attached hereto and made a part hereof as Exhibit "C."

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
DAVID A. GALAZIN  
Deputy Corporation Counsel  
County of Maui  
2017-0095  
LU-13 2017-11-20 DBA Ordinance

AREA A

LOT A-1-A

PAIA POST OFFICE SUBDIVISION

AT HAMAKUAPOKO AND HALIIMAILE, MAKAWAO, MAUI, HAWAII

BEING A PORTION OF THE LAND DEEDED BY THE  
BOARD OF EDUCATION TO THE TRUSTEES OF OAHU COLLEGE,

DATED: JANUARY 30, 1860 RECORDED IN LIBER 12,

PAGE 403 AND ROYAL PATENT 7512

Beginning at the West corner of this Area, being also the West corner of Lot A-1-A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU NENE 2" being 5,493.68 feet North and 5,823.42 feet East and running by azimuths measured clockwise from True South:

1.     65° 48'                   113.00 feet along Lot A-2;
2.     155° 47' 50"           461.90 feet along Area B;
3.     274° 29'               104.85 feet along Area D;
4.     Thence, along Baldwin Avenue on a curve to the right with a  
  radius of 327.10 feet, the radial  
  azimuth to the point of curve  
  being 225° 08' 50" and the radial  
  azimuth to the point of tangent  
  being 245° 47' 50", the chord  
  azimuth and distance being:  
  
  325° 28' 20"           117.25 feet;

5. 335° 47' 50" 296.22 feet along Lot A-1-D (Roadway Widening Lot) to the point of beginning and containing an area of 1.102 Acre.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka", written over a horizontal line.

Kirk T. Tanaka  
Licensed Professional Land Surveyor  
Certificate No. 7223

License Expires: April 30, 2018  
871 Kolu Street, Suite 201  
Wailuku, Hawaii 96793

February 14, 2017

AREA B

LOT A-1-A

PAIA POST OFFICE SUBDIVISION

AT HAMAKUAPOKO AND HALIIMAILE, MAKAWAO, MAUI, HAWAII

BEING A PORTION OF THE LAND DEEDED BY THE

BOARD OF EDUCATION TO THE TRUSTEES OF OAHU COLLEGE,

DATED: JANUARY 30, 1860 RECORDED IN LIBER 12,

PAGE 403 AND ROYAL PATENT 7512

Beginning at the Northwest corner of this Area, being also the Northeast corner of Area C, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU NENE 2" being 5,926.58 feet North and 5,307.35 feet East and running by azimuths measured clockwise from True South:

1. 276° 00' 116.65 feet along Lots 35 and 36, Tavares Tract;
2. 287° 00' 81.77 feet along Lot 36, Tavares Tract and Area D;
3. 37° 25' 23.18 feet along Area D;
4. 274° 29' 43.64 feet along Area D;
5. 335° 47' 50" 461.90 feet along Area A;
6. 65° 48' 277.21 feet along Lot A-2 and Area C;

7. 164° 53'

614.10 feet along Area C to the point of beginning and containing an area of 2.933 Acre.



871 Kolu Street, Suite 201  
Wailuku, Hawaii 96793

February 14, 2017

R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "K. T. Tanaka", written over a horizontal line.

Kirk T. Tanaka  
Licensed Professional Land Surveyor  
Certificate No. 7223  
License Expires: April 30, 2018

AREA C

LOT A-1-A

PAIA POST OFFICE SUBDIVISION

AT HAMAKUAPOKO AND HALIIMAILE, MAKAWAO, MAUI, HAWAII

BEING A PORTION OF THE LAND DEEDED BY THE

BOARD OF EDUCATION TO THE TRUSTEES OF OAHU COLLEGE,

DATED: JANUARY 30, 1860 RECORDED IN LIBER 12,

PAGE 403 AND ROYAL PATENT 7512

Beginning at the Northeast corner of this Area, being also the Northwest corner of Area B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU NENE 2" being 5,926.58 feet North and 5,307.35 feet East and running by azimuths measured clockwise from True South:

1. 344° 53' 614.10 feet along Area B;
2. 245° 48' 127.73 feet along Area B;
3. 335° 48' 174.70 feet along Lot A-2;
4. 115° 04' 50" 1,021.48 feet along Lot A-1-B;
5. 250° 15' 86.37 feet along Lot A-1-B;
6. 239° 39' 278.50 feet along Parcels 46 and 28 of Tax  
Map Key: (2) 2-6-03;
7. 244° 52' 167.30 feet along Lots 27 to 31, Tavares  
Tract;

8. 256° 00' 107.00 feet along Lots 31, 32 and 35, Tavares Tract to the point of beginning and containing an area of 5.003 Acres.



871 Kolu Street, Suite 201  
Wailuku, Hawaii 96793

February 14, 2017

R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

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Kirk T. Tanaka  
Licensed Professional Land Surveyor  
Certificate No. 7223  
License Expires: April 30, 2018

## **CONDITIONS**

1. That there shall be a prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the agricultural district.
2. That there shall be notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land that farming operations and practices on adjacent or contiguous land in the agricultural district are protected under Chapter 165, the Hawaii Right to Farm Act, and the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.