

LAND USE COMMISSION  
STATE OF HAWAII

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HALE MUA PROPERTIES, LLC

## **PETITION FOR DISTRICT BOUNDARY AMENDMENT**

**DOCKET NO. A05-755**  
**HALE MUA PROPERTIES, LLC**

**In the Matter of the Petition of  
Hale Mua Properties, LLC To Amend the Land Use District Boundary  
Of Certain Lands Situated at Waiehu, Island of Maui, State of Hawaii,  
Consisting Of 240.087 Acres from the Agriculture and Rural Districts  
to the Urban District, Tax Map Key No. 3-3-002:001 (portion)**

## TABLE OF CONTENTS

	Page
PETITION FOR DISTRICT BOUNDARY AMENDMENT .....	1
PETITION IN SUPPORT OF DISTRICT BOUNDARY AMENDMENT .....	2
I. STANDING .....	2
II. AUTHORIZED REPRESENTATIVES .....	2
III. AUTHORITY FOR RELIEF SOUGHT.....	2
IV. DESCRIPTION OF PROPERTY .....	2
V. RECLASSIFICATION SOUGHT AND PRESENT USE OF THE PROPERTY .....	3
A. Conformity of the Reclassification to the Standards for Determining the Boundaries of the Urban District .....	3
1. Lands Characterized by "city-like" Concentrations of People, Structures, Streets, Urban Level of Services and Other Related Land Uses.....	3
2. Proximity to Centers of Trading and Employment Except Where the Development Would Generate New Centers of Trading and Employment.....	4
3. Availability of Basic Services such as Schools, Parks, Wastewater Systems, Solid Waste Disposal, Drainage, Water, Transportation Systems, Public Utilities, and Police and Fire Protection.....	4
4. Sufficient Reserve Areas for Foreseeable Urban Growth.....	7
5. Lands with Satisfactory Topography, Drainage, and Reasonably Free from the Danger of any Flood, Tsunami, Unstable Soil Condition, and Other Adverse Environmental Effects .....	7
6. Land Contiguous with Existing Urban Areas Shall be Given More Consideration than Non-Contiguous Land, and Particularly when Indicated for Future Urban Use on State or County General Plans.....	7
7. Lands in Appropriate Locations for New Urban Concentrations and Consideration to Areas of Urban Growth as Shown on State and County General Plans.....	8
8. May Include Lands Which Do Not Conform to the Standards in Paragraphs (1) to (5) of LUC Rules § 15-15-18: (A) When Surrounded by or Adjacent to Existing Urban Development; and (B) Only When Those Lands Represent a Minor Portion of this District.....	8

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
9. Shall Not Include Lands, the Urbanization of Which Will Contribute Toward Scattered Spot Urban Development, Necessitating Unreasonable Investment in Public Infrastructure or Support Services .....	8
10. May Include Lands with a General Slope of Twenty Percent or More if the Commission Finds that those Lands are Desirable and Suitable for Urban Purposes and that the Design and Construction Controls, as Adopted by any Federal, State or County Agency, are Adequate to Protect the Public Health, Welfare and Safety, and the Public's Interest in the Aesthetic Quality of the Landscape.....	9
VI. PETITIONER'S PROPERTY INTEREST .....	9
VII. PROPOSED DEVELOPMENT.....	9
VIII. PETITIONER'S FINANCIAL CONDITION.....	10
IX. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREAS .....	10
X. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE ENVIRONMENT .....	12
A. Environment.....	12
B. Flora and Fauna.....	12
C. Groundwater or Other Resources.....	13
D. Scenic Resources .....	13
E. Agriculture .....	13
F. Recreational Resources.....	14
G. Culture and History.....	14
XI. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES .....	14
XII. LOCATION OF THE PROPOSED DEVELOPMENT TO ADJACENT LAND USE DISTRICTS AND CENTERS OF TRADING AND EMPLOYMENT .....	16
XIII. ECONOMIC IMPACTS OF THE PROPOSED RECLASSIFICATION OR DEVELOPMENT .....	16
XIV. HOUSING NEEDS.....	17
XV. NEED FOR RECLASSIFICATION .....	17
XVI. CONFORMANCE WITH THE HAWAII STATE PLAN.....	18
A. Goals of the Hawaii State Plan .....	18
B. Objectives and Policies of the Hawaii State Plan .....	18

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
C. Priority Guidelines of the Hawaii State Plan .....	20
D. Functional Plans.....	21
1. State Agriculture Functional Plan.....	22
2. State Housing Functional Plan.....	22
3. State Recreational Functional Plan .....	22
4. State Transportation Functional Plan.....	22
<b>XVII. CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM.....</b>	<b>23</b>
A. Recreational Resources.....	23
B. Historic Resources .....	25
C. Scenic and Open Space Resources .....	25
D. Coastal Ecosystems.....	26
E. Economic Uses.....	27
F. Coastal Hazards .....	28
G. Managing Development.....	28
H. Public Participation.....	29
I. Beach Protection .....	30
J. Marine Resources.....	30
<b>XVIII. CONFORMANCE WITH COUNTY GENERAL PLAN, COMMUNITY PLAN, AND ZONING.....</b>	<b>31</b>
A. General Plan.....	31
B. Wailuku-Kahului Community Plan .....	35
C. County Zoning .....	39
<b>XIX. DEVELOPMENT OF THE PROPERTY.....</b>	<b>39</b>
<b>XX. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS .....</b>	<b>39</b>
<b>XXI. WRITTEN COMMENTS FROM AGENCIES AND ORGANIZATIONS .....</b>	<b>40</b>
<b>XXII. SERVICE OF PETITION.....</b>	<b>40</b>
<b>XXIII. CONCLUSION.....</b>	<b>40</b>
 <b>VERIFICATION</b>	
 <b>CERTIFICATE OF SERVICE</b>	

- Exhibit "1": Letter of Authorization
- Exhibit "2": Regional Location Map
- Exhibit "3": Tax Map
- Exhibit "4": Preliminary Subdivision Plan
- Exhibit "5": Metes and Bounds Description and Map of Subject Property
- Exhibit "6": Quitclaim Warranty Deed
- Exhibit "7": Financial Statement for Hale Mua Properties, LLC
- Exhibit "8": Letter from Central Pacific Bank dated September 30, 2004
- Exhibit "9": Flood Insurance Rate Map
- Exhibit "10": Agricultural Lands of Importance to the State of Hawaii (ALISH) Map
- Exhibit "11": Letter from County of Maui, Department of Housing and Human Concerns
- Exhibit "12": Draft Environmental Assessment
- Exhibit "13": Map of Proposed Phases of Development
- Exhibit "14": Affidavit of Service of Petition for District Boundary Amendment

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Attorney for Petitioner  
HALE MUA PROPERTIES, LLC

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A05-755
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HALE MUA PROPERTIES, LLC	)	HALE MUA PROPERTIES, LLC
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To Amend the Land Use District Boundary	)	
Of Certain Lands Situated at Waiehu,	)	
Island of Maui, State of Hawaii, Consisting	)	
Of 240.087 Acres from the Agriculture and	)	
Rural Districts to the Urban District, Tax Map	)	
Key No 3-3-002:001 (por.).	)	
	)	
	)	
	)	

**PETITION FOR DISTRICT BOUNDARY AMENDMENT**

COMES NOW, HALE MUA PROPERTIES, LLC (hereafter "Petitioner"), a Hawaii limited liability company, by and through its attorney, Blaine J. Kobayashi, and the law firm of CARLSMITH BALL LLP, and respectfully requests this Honorable Land Use Commission of the State of Hawaii (hereafter "Commission") to amend the land use district boundary to effect a district reclassification of approximately 240.087 acres of land from the Agricultural and Rural Districts to the Urban District (hereafter "Property") situated at Waiehu, Maui, Hawaii.

This request is submitted pursuant to Section 205-4 of the Hawaii Revised Statutes (hereafter "HRS"), the Land Use Commission Rules of the State of Hawaii found in Title 15, Subtitle 3, Chapter 15 of the Hawaii Administrative Rules (hereafter "LUC Rules"), and the attached Petition in Support of District Boundary Amendment (hereafter "Petition").

**PETITION IN SUPPORT OF DISTRICT BOUNDARY AMENDMENT**

**I. STANDING**

As owner of the Property, Petitioner has standing to file this Petition pursuant to HRS § 205-4(a), and LUC Rules § 15-15-46(3).

**II. AUTHORIZED REPRESENTATIVES**

Mr. Blaine J. Kobayashi and the law firm of CARLSMITH BALL LLP, have been appointed to represent Petitioner pursuant to LUC Rules § 15-15-35(b). See Letter of Authorization, attached hereto as Exhibit "1". Pursuant to LUC Rules § 15-15-50(c)(2), all correspondence and communications in regard to this Petition shall be addressed to, and served upon, Blaine J. Kobayashi, CARLSMITH BALL, LLP, One Main Plaza, Suite 400, 2200 Main Street, Wailuku, Hawaii 96793, and Sterling Kim, Manager of HALE MUA PROPERTIES, LLC, whose business and mailing address is 187 Haulani Street, Pukalani, Hawaii 96768.

**III. AUTHORITY FOR RELIEF SOUGHT**

The Commission is authorized to grant the relief sought herein pursuant to HRS § 205, and Chapter 15 of the LUC Rules.

**IV. DESCRIPTION OF PROPERTY**

The Property is located in Waichu, Maui, Hawaii, and consists of approximately 240.087 acres, inclusive of all existing easements, and is identified by Tax Map Key No.

(2) 3-3-002:001 (por.). A location map and tax map of the Property on the Island of Maui are attached to this Petition as Exhibits "2" and "3" and incorporated herein by reference.

A preliminary Subdivision Plan is attached to this Petition as Exhibit "4" and incorporated herein by reference. A metes and bounds description and map of the Property is attached to this Petition as Exhibit "5" and incorporated herein by reference.

**V. RECLASSIFICATION SOUGHT AND PRESENT USE OF THE PROPERTY**

Petitioner is respectfully requesting that the Commission amend the present classification of 240.087 acres of land from the Agricultural and Rural Districts to the Urban District.

The Property is currently vacant and has not been used for agriculture or any other purpose for the last several years. The Property was previously used for sugar cane and macadamia nut cultivation, with the last macadamia nut harvest occurring in 1999.

**A. Conformity of the Reclassification to the Standards for Determining the Boundaries of the Urban District**

LUC Rules § 15-15-18 sets forth the standards used by the Commission for determining urban district boundaries. The proposed reclassification conforms to those standards as shown by the following analysis:

**1. Lands Characterized by "city-like" Concentrations of People, Structures, Streets, Urban Level of Services and Other Related Land Uses.**

The Property is located in close proximity to the existing Oceanview Estates, Waiehu Heights, Waiehu Terraces, and Waiehu Kou residential subdivisions. The town of Wailuku is located a short distance (0.6 mile) from the Property. Wailuku contains a variety of single-family residential, commercial, and recreational uses.

The Property is also in close proximity to the town of Waihee, which consists primarily of single-family residences, the County's Waiehu Golf Course, and Waihee Elementary School. The undeveloped Piihana Project District 3 property, which will eventually consist of a residential community, is located across Kahekili Highway, immediately east of the Property.

The town of Kahului is also located a relatively short distance (3.0 miles) from the Property. Similar to Wailuku, Kahului contains a variety of single-family residences, commercial, and recreational uses.

**2. Proximity to Centers of Trading and Employment Except Where the Development Would Generate New Centers of Trading and Employment.**

The Property is located adjacent to Wailuku, which is the County of Maui's seat of government. Wailuku is also a center of trading and employment, with numerous professional and business services located therein. In addition, the main federal, state, and county offices are all centrally located in Wailuku.

Kahului, which is also a center of commerce and includes a broad range of commercial, service, and governmental offices and activities, is located approximately 3.0 miles from the Property.

**3. Availability of Basic Services such as Schools, Parks, Wastewater Systems, Solid Waste Disposal, Drainage, Water, Transportation Systems, Public Utilities, and Police and Fire Protection.**

Basic infrastructure and public services will be available to service the Property. Petitioner will be constructing onsite and offsite infrastructure improvements to address issues relating to drainage and transportation. As part of the Project, Petitioner will be extending Imi Kala Street from its current terminus at Eha Street to Kahekili Highway to address regional

roadway capacity issues. This will serve to alleviate traffic demands on Market Street and Waiehu Beach Road.

With respect to solid waste, the County of Maui currently provides single-family residences with solid waste disposal service on a once-per-week basis. The Central Maui Landfill is currently in the process of being expanded and has the necessary capacity to accommodate the proposed development.

The Preliminary Engineering Report and Preliminary Drainage Report note that Petitioner will be providing major drainage improvements in connection with development of the Property. A broad grass overflow swale will be constructed along the Spreckels Ditch. This swale will serve as a safety measure should the ditch overflow from any excess runoff which will be channeled to a detention pond located on the Property. Additionally, the Preliminary Drainage Report provides that a series of catch basins, drainage pipes, and culverts will be utilized to direct runoff to four major drainage areas on the Property.

The State Department of Education's public school system serves the Wailuku-Kahului region. Schools in the Wailuku region include Waihee Elementary School (Grades K to 5), Wailuku Elementary School (Grades K to 5), Iao Intermediate School (Grades 6 to 8), and Baldwin High School (Grades 9 to 12). Schools in the Kahului area include Lihikai and Kahului Schools (Grades K to 5), Maui Waena Intermediate School (Grades 6 to 8), and Maui High School (Grades 9 to 12).

Police protection for the Wailuku-Kahului area is provided by the Maui County Police Department, with its main headquarters located in Wailuku. Likewise, fire protection for the Wailuku-Kahului area, which encompasses fire prevention, suppression, rescue, and

emergency services, is provided by the Maui County Fire Department, with a station located in Wailuku on Kinipopo Street, and another in Kahului on Dairy Road.

There are several parks in close proximity to the Property. The County-owned 1.9-acre Waihee Park, which consists of a ball field, basketball court, restroom facilities, picnic tables, and a barbecue area, is located in the town of Waihee. The County's Waiehu Golf Course, accessible through the town of Waihee, is an 18-hole golf course open to the public.

Other parks and recreational activities and facilities in the area include Wells Park, Papohaku Park (including the Wailuku Community Center), Iao Valley State Park, the War Memorial Athletic Complex, Sakamoto Pool, and Keopuolani Park (an approximately 140-acre regional park complete with soccer fields, baseball fields, playground equipment, pedestrian and bike ways, and an outdoor amphitheatre).

Petitioner will also be including three (3) parks as part of the proposed development. An approximate 6.8 acre park will be situated along Kahekili Highway at the northern access point. This park, which will be dedicated to the County, will include parking, a comfort station, and an athletic field. The second and third parks, which will be owned and maintained by the development's homeowners' association, are smaller in size, 0.46-acre and 1.14 acres, respectively, and will be located at the northern and southern ends of the proposed development.

Water for the proposed development will be provided from the Central Maui System. The main sources of water for this system are the Iao and Waihee aquifers, the Iao tunnel, and the Iao-Waikapu Ditch.

**4. Sufficient Reserve Areas for Foreseeable Urban Growth.**

The proposed development will utilize 240.087 acres of land for single-family residential purposes. Development of the Property will address a portion of the significant demand for affordable housing in the County of Maui without significantly affecting reserve areas for foreseeable urban growth.

**5. Lands with Satisfactory Topography, Drainage, and Reasonably Free from the Danger of any Flood, Tsunami, Unstable Soil Condition, and Other Adverse Environmental Effects.**

The Property slopes gently in a west to east direction, with elevations ranging from 80 to 250 feet. As indicated by the Flood Insurance Rate Map for the County of Maui, the majority of the Property is located within Zone C, which is an area of minimal flooding according to the Federal Emergency Management Agency.

The northerly portion of the Property is located within Zones A and A3, which are affected by 100-year flood events. However, residential units will not be located in this area. Instead, this area will be designated for open space and incorporated into an overall drainage detention plan to control runoff from the Property.

The Property is not subject to tsunami, unstable soil conditions or other adverse environmental effects that would render it unsuitable or inappropriate for the proposed development.

**6. Land Contiguous with Existing Urban Areas Shall be Given More Consideration than Non-Contiguous Land, and Particularly when Indicated for Future Urban Use on State or County General Plans.**

The Property is contiguous to existing Urban district lands to the east. Across the street from the Property is the Piihana Project District, which contains urbanized lands for future

residential development. The residential subdivisions of Oceanview Estates, Waiehu Heights, and Waiehu Terraces are also located in close proximity to the Property.

**7. Lands in Appropriate Locations for New Urban Concentrations and Consideration to Areas of Urban Growth as Shown on State and County General Plans.**

Given the Property's location in close proximity to Wailuku, the adjacent Piihaha Project District, and the Wailuku-Kahului Community Plan's "Single-Family" designation of properties in the surrounding area, the Property is in an appropriate location for new urban concentration.

**8. May Include Lands Which Do Not Conform to the Standards in Paragraphs (1) to (5) of LUC Rules § 15-15-18: (A) When Surrounded by or Adjacent to Existing Urban Development; and (B) Only When Those Lands Represent a Minor Portion of this District.**

While Petitioner believes the Property conforms with the standards in paragraphs (1) to (5) of LUC Rules § 15-15-18, it should be noted that the Property is in a general area of existing and planned urban development. Further, the Property represents a minor portion of the Agriculture District (0.1 percent of the 245,777 acres) on the island of Maui.

**9. Shall Not Include Lands, the Urbanization of Which Will Contribute Toward Scattered Spot Urban Development, Necessitating Unreasonable Investment in Public Infrastructure or Support Services.**

Urbanization of the Property will not contribute to scattered spot urban development. The Property is located adjacent to the towns of Waiehu and Wailuku, and in close proximity to the existing residential subdivisions of Oceanview Estates, Waiehu Heights, Waiehu Terraces, and Waiehu Kou. The proposed development will not necessitate unreasonable public investment in infrastructure facilities or public services.

10. **May Include Lands with a General Slope of Twenty Percent or More if the Commission Finds that those Lands are Desirable and Suitable for Urban Purposes and that the Design and Construction Controls, as Adopted by any Federal, State or County Agency, are Adequate to Protect the Public Health, Welfare and Safety, and the Public's Interest in the Aesthetic Quality of the Landscape.**

The Property is relatively flat, with slopes ranging from approximately 0 to 15 percent.

#### **VI. PETITIONER'S PROPERTY INTEREST**

HALE MUA PROPERTIES, LLC, is the fee simple owner of the Property and will develop the Property. A true copy of the deed conveying the Property to HALE MUA PROPERTIES, LLC, is attached hereto as Exhibit "6".

#### **VII. PROPOSED DEVELOPMENT**

Petitioner proposes to develop the Property into an approximate 466-lot single-family residential subdivision. Approximately 51% (238) of the 466 units will be set aside for affordable house-lot packages, with the remaining 209 lots and 19 large lots to be sold at market price. The proposed development will provide much needed affordable housing in the Central Maui region.

Petitioner intends to subdivide the 240.087 acres of land, creating lots of approximately 5,000 square feet with a zero-lot line concept for the affordable homes. The affordable homes will provide approximately 1,100 to 1,200 square feet of living area.

The 209 market-priced lots will be approximately 10,000 square feet in size while the 19 large lots will be approximately 2 to 25 acres in size.

Under the proposed development's preliminary marketing concept, affordable house and lot packages are anticipated to be sold in the range of \$170,000.00 to \$180,000.00, which will be affordable to families earning up to 120% of the County's annual median income.

Sales prices for the market lots are anticipated to be sold in the range of \$300,000.00 to \$800,000.00, depending upon the size and location of the lots.

Three (3) parks will form a part of the proposed development. An approximate 6.8 acre park will be situated along Kahekili Highway at the northern access point. This park, which will be dedicated to the County, will include parking, a comfort station, and an athletic field. The second and third parks, which will be owned and maintained by the development's homeowners' association, are smaller in size, 0.46-acre and 1.14 acres, respectively, and will be located at the northern and southern ends of the proposed development.

Subdivision improvements are anticipated to commence upon securing of all necessary land entitlements. The estimated cost for the subdivision improvements, including house construction on the affordable lots, is \$47,000,000.00. The estimated cost for the Imi Kala Street extension is \$10,000,000.00

#### **VIII. PETITIONER'S FINANCIAL CONDITION**

Evidence of Petitioner's financial condition is reflected in the financial statement attached as Exhibit "7" to the Petition. Petitioner intends to finance the proposed development through a local lending institution. See Exhibit "8".

#### **IX. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREAS**

Located just outside of the town of Wailuku, the Property slopes gently in a west to east direction, with elevations ranging from 80 to 250 feet. The Property is currently fallow having previously been used for sugar cane and macadamia nut cultivation. Existing vegetation includes macadamia nut trees, common grasses, and weeds.

The Property is bordered to the east by Kahekili Highway, to the north/northwest by Waiehu Stream, and to the south/southwest by Spreckel's Ditch. The extreme northeastern boundary of the Property meets the intersection of Kahekili Highway and Waiehu Beach Road.

In terms of surrounding areas, to the north of the Property lies the Oceanview Estates residential subdivision. To the east of the Property are the existing Waiehu Heights and Waiehu Terraces residential subdivisions. The Wailuku Country Estates agricultural subdivision is located to the immediate south of the Property. To the west lies the slopes of the West Maui Mountains.

As indicated by the Flood Insurance Rate Map for the County of Maui, the majority of the Property is located within Zone C, which is an area of minimal flooding according to the Federal Emergency Management Agency. See Exhibit "9".

The Property is listed as "Prime Agricultural Land" according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) map. See Exhibit "10".

The University of Hawaii Land Study Bureau's Detailed Classification has classified the productivity of the land underlying the proposed project site as "B82i" and "C83i". This classification system rates lands on a scale of "A" to "E," reflecting land productivity characteristics. Lands designated "A" are considered to be of highest productivity, with "E" rated lands ranked the lowest. The "B82i" and "C83i" classifications are reflective of irrigated, well-drained land with a non-stony, finely textured soil.

More specifically, the Property is characterized by the Pulehu-Ewa-Jaucas association of soil, which is characterized as deep, nearly level to moderately sloping, and well drained that have a moderately fine to coarse texture. Iao silty clay, 0 to 3 percent slopes (IaA)

underlies the northern and eastern portions of the Property. This soil provides for slow runoff and slight erosion hazard.

The northern and western extent of the Property contains Wailuku silty clay, 7 to 15 percent slopes (WvC) soil. This soil provides for slow to medium runoff and a slight to moderate erosion hazard.

**X. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE ENVIRONMENT**

**A. Environment.**

The proposed development is not expected to have significant adverse impacts on the environment. While air quality and noise levels will be impacted to a certain extent during the course of development such as exhaust emissions from on-site construction equipment, construction vehicle traffic, and construction noise, the impact will be short-term. In addition, best management practices that include performing construction-related activities in strict compliance with all applicable air and noise regulations will mitigate any temporary impacts.

**B. Flora and Fauna.**

The Property has been extensively used for sugar cane and macadamia nut cultivation for many years. The Property is currently fallow and was last cultivated for macadamia in 1999. There are no known rare, endangered, or threatened species located within or in the vicinity of the Property.

Vegetation in the area is characterized by introduced grass species. Other plant species typically found in the area include sandbur, lantana, fingergrass, and bristly foxtail. The Property also contains vegetation such as koa haole, monkey pod, and banana trees.

The area includes introduced species of terrestrial fauna such as cats, mice, rats, and mongoose. Some of the avifauna introduced to the area include the Spotted Dove, Barred Dove, Japanese white-eye, Cardinal, Red-Crested Cardinal, and Mynah.

**C. Groundwater or Other Resources.**

Waiehu Stream, along with Spreckels Ditch, serve as the two water bodies that combine with Kahekili Highway to structure the Property's boundary lines. The extension of Imi Kala Street includes a bridge across Iao Stream, a perennial stream with substantial aquatic resources. Likewise, Waiehu Stream is a perennial stream with substantial aquatic resources. Spreckels Ditch is a plantation irrigation facility.

The proposed development is not anticipated to have significant adverse impacts as no work will be performed in the streams or ditch. Spreckels Ditch will be crossed with a conspan bridge.

**D. Scenic Resources.**

The Property is located along the West Maui Mountain's foothills. Mount Haleakala and the Pacific Ocean are visible to the east of the Property, with the West Maui Mountains to the west. The Property is not part of a scenic corridor and will not impact views from inland vantage points.

**E. Agriculture.**

Approximately 240.087 acres of land would be removed from agriculture. This acreage, however, represents a very minor portion of the Agriculture District (0.1 percent of the 245,777 acres) on the island of Maui. Although the land was previously used for sugar cane and macadamia nut cultivation, it is presently fallow, undeveloped, and predominantly vegetated with macadamia nut trees and introduced grass species.

In addition, based on the Wailuku Agribusiness Company Inc.'s liquidation of properties in the Central Maui area, the viability of large scale agricultural operations in this area has been reduced. Further, given the Property's location immediately adjacent to existing, and future residential areas, as well as the demand for affordable housing, the conversion of the Property from agricultural and rural to urban use is reasonable and appropriate.

**F. Recreational Resources.**

In addition to the numerous recreational resources in the area, Petitioner will be including three (3) parks as part of the proposed development. The three parks will be interspersed throughout the subdivision to address park and playground assessment requirements.

**G. Culture and History.**

In ancient times, Waiehu was among the largest continuous areas of wet taro cultivation. Tales of Waiehu go back to the mythological periods of Hawaiian culture, with Waiehu being the site of many battles. Sugar cane later replaced the taro patches. A comprehensive cultural impact assessment was carried out by CKM Cultural Resources. See Appendix "D" of the Draft Environmental Assessment, Exhibit "12" to the petition.

Based on the extensive research into Waiehu's history, which included interviews of several long-time residents that have lived in the area, the proposed development will not adversely impact any cultural beliefs, practices, resources or gathering rights.

**XI. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES**

The Preliminary Engineering and Drainage Reports prepared by Wayne I. Arakaki includes an assessment of existing infrastructure and the various proposed infrastructure

improvements that will be carried out to support the proposed development. See Appendix "F" and "G" of the Draft Environmental Assessment, Exhibit "12" to the petition.

Petitioner will be constructing several major drainage improvements to address drainage for the Project. In addition, Petitioner will be constructing a new road extending Imi Kala Street to Kahekili Highway. A new bridge will also be constructed replacing an existing bridge over Iao Stream. This new road will help to alleviate traffic on various roads in the area.

With respect to water, the anticipated average daily demand for the proposed development is 415,000 gallons per day ("gpd"). The Preliminary Engineering Report notes that according to the Department of Water Supply ("DWS"), there is existing water source and storage to meet the demands of the proposed development.

It should be noted that in a recent docket (Docket A04-746), a DWS representative noted that DWS has a number of future new water sources for the Central Maui area. Some of those future new water sources include the expansion of the existing Iao Treatment Plant that would add approximately 800,000 gpd, and the Hamakuapoko Wells and East Maui source development which would add approximately 640,000 gpd.

With respect to wastewater, Petitioner will be installing a new sewer pump station in the northwest corner of the Property. This pump station will be privately maintained and will be used to convey wastewater from the pump station to the existing sewer line located along Imi Kala Street.

The proposed development will generate an increase in student enrollment at the schools in the area. The State Department of Education ("DOE") has indicated that the proposed development is anticipated to generate the following increases: Elementary School - 154 students, Intermediate School - 75 students, and High School - 87 students. Petitioner will

coordinate with the DOE to ensure that the DOE's facility assessment policy provisions are appropriately addressed.

**XII. LOCATION OF THE PROPOSED DEVELOPMENT TO ADJACENT LAND USE DISTRICTS AND CENTERS OF TRADING AND EMPLOYMENT**

The Property is located in close proximity (0.6 mile) to the town of Wailuku, which is the County's seat of government, and a center of trading and employment with numerous professional and business services. The Property is also in close proximity (3.0 miles) to the town of Kahului, which is also a center of trading and employment.

The proposed development is situated in an area of existing and planned residential subdivisions, which are located in the Urban district.

**XIII. ECONOMIC IMPACTS OF THE PROPOSED RECLASSIFICATION OR DEVELOPMENT**

With continued stability in the local economy, housing demand has exhibited a significant upward trend over the last several years. Sales information for single-family subdivisions indicates very high demand, with continuing strength in demand anticipated. The proposed development will benefit the social and economic welfare of the community by providing additional housing inventory, especially in the area of quality affordable housing.

On a short-term basis, the proposed development will have a direct beneficial impact on the local economy during construction through construction and construction-related employment. Over the long term, the residential homeowners will require various services related to home maintenance and improvement that will further support the local economy.

The proposed development will have minimal impact in terms of agriculture. Although the Property was previously used as a part of large-scale agricultural activities, it is presently fallow, undeveloped, and predominantly vegetated with macadamia nut trees and

introduced grass species. With the liquidation of Wailuku Agribusiness' properties in the area, close proximity to existing residential areas, and demand for affordable housing, large-scale agricultural operations were not deemed feasible.

#### **XIV. HOUSING NEEDS**

Recent market studies have indicated a current shortage of single-family housing in the Central Maui area. The forecast is that demand for housing will continue to increase, especially in the area of affordable housing. The proposed development will not only provide residents with the opportunity to purchase an affordable house and lot package, it will also provide opportunities for residents to purchase a lot to allow for the construction of a home that best fits their needs. In doing so, the project will assist in alleviating some of the current supply-and-demand pressures on Maui's current housing market by providing a variety of additional housing products and opportunities for long-term local residents. Petitioner will work closely with the County regarding the affordable housing requirements and policies as they pertain to this proposed development.

#### **XV. NEED FOR RECLASSIFICATION**

Reclassification is necessary in order for Petitioner to develop the Property. The Property's "Agricultural" zoning and "Agricultural" and "Rural" designations by the Wailuku-Kahului Community Plan do not allow for the proposed subdivision. However, because the proposed development has been certified by the County of Maui, Department of Housing and Human Concerns as an HRS 201G-118 affordable housing project (See Exhibit "11"), Petitioner will be filing a separate application with the Maui County Council to exempt the proposed development from the County's change in zoning and community plan amendment processes.

## **XVI. CONFORMANCE WITH THE HAWAII STATE PLAN**

The Hawaii State Plan, found in HRS § 226, is a comprehensive guide for the future long-range development of the State. Among other things, the Hawaii State Plan's purposes are to identify the goals, objectives, policies, and priorities for the State, provide a basis for allocating limited resources, and improve coordination between federal, state, and county agencies.

### **A. Goals of the Hawaii State Plan**

The Hawaii State Plan sets forth goals, several of which the proposed project is consistent with. Those goals are:

- A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.
- A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.
- Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life.

### **B. Objectives and Policies of the Hawaii State Plan**

The Hawaii State Plan also provides numerous objectives and policies for the State. In particular, the proposed reclassification conforms to the following objectives and policies:

#### **HRS § 226-5, HRS, Objectives and Policies for Population**

HRS § 226-5(a): It shall be the objective in planning for the State's population to guide population growth to be consistent with the achievement of physical, economic, and social objectives contained in this chapter.

HRS § 226-5(b)(1): Manage population growth statewide in a manner that provides increased opportunities for Hawaii's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.

HRS § 226-5(b)(3): Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.

**HRS § 226-6, Objective and Policies for the Economy - in General**

HRS § 226-6(b)(b): Strive to achieve a level of construction activity responsive to, and consistent with, State growth objectives.

**HRS § 226-11, Objectives and Policies for the Physical Environment - Land-Based, Shoreline, and Marine Resources.**

HRS § 226-11(a)(2): Effective protection of Hawaii's unique and fragile environmental resources.

HRS § 226-11(b)(3): Take into account the physical attributes of areas when planning and designing activities and facilities.

HRS § 226-11(b)(8): Pursue compatible relationships among activities, facilities, and natural resources.

**HRS § 226-12, Objective and Policies for the Physical Environment - Scenic, Natural Beauty, and Historic Resources.**

HRS § 226-12(b)(5): Encourage the design of developments and activities that complement the natural beauty of the islands.

**HRS § 226-13, Objectives and Policies for the Physical Environment - Land, Air, and Water Quality.**

HRS § 226-13(b)(2): Promote the proper management of Hawaii's land and water resources.

HRS § 226-13(b)(6): Encourage design and construction practices that enhance the physical qualities of Hawaii's communities.

HRS § 226-13(b)(7): Encourage urban developments in close proximity to existing services and facilities.

**HRS § 226-19, Objectives and Policies for Socio-Cultural Advancement - Housing.**

HRS § 226-19(a)(2): The orderly development of residential areas sensitive to community needs and other land uses.

- HRS § 226-19(b)(1): Effectively accommodate the housing needs of Hawaii's people.
- HRS § 226-19(b)(3): Increase home ownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- HRS § 226-19(b)(5): Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
- HRS § 226-19(b)(7): Foster a variety of lifestyles traditional to Hawaii through the design and maintenance of neighborhoods that reflect the culture and values of the community.

**HRS § 226-23, Objective and Policies for Socio-Cultural Advancement - Leisure.**

- HRS § 226-23(b)(4): Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values while ensuring that their inherent values are preserved.

**C. Priority Guidelines of the Hawaii State Plan**

Priority guidelines are other important elements of the Hawaii State Plan. By prioritizing major areas of statewide concern, the quality of life for Hawaii's present and future population is improved and enhanced. The proposed project is in keeping with the following priority guidelines of the Hawaii State Plan:

**HRS § 226-103, Economic Priority Guidelines:**

- HRS § 226-103(1): Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.
- a. Encourage investments which:
- (i) Reflect long term commitments to the State;
  - (ii) Rely on economic linkages within the local economy;
  - (iii) Diversify the economy;
  - (iv) Reinvest in the local economy;

- (v) Are sensitive to community needs and priorities; and
- (vi) Demonstrate a commitment to management opportunities to Hawaii residents.

**HRS § 226-104, Population Growth and Land Resources Priority Guidelines**

- HRS § 226-104(a)(1): Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawaii's people.
- HRS § 226-104(b)(1): Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.
- HRS § 226-104(b)(2): Make available marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.
- HRS § 226-104(b)(12): Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline conservation lands, and other limited resources for future generations.

**HRS § 226-106, Affordable Housing Priority Guidelines**

- HRS § 226-106(1): Seek to use marginal or nonessential agricultural land and public land to meet housing needs of low- and moderate-income and gap-group households.
- HRS § 226-106(8): Give higher priority to the provision of quality housing that is affordable for Hawaii's residents and less priority to development of housing intended primarily for individuals outside of Hawaii.

**D. Functional Plans**

The State Functional Plans implement the Hawaii State Plan by identifying needs, problems and issues, and by recommending policies and priority actions which address the

identified areas of concern. The proposed reclassification request is consistent with the following State Functional Plans:

**1. State Agriculture Functional Plan**

Petitioner seeks to have the Commission reclassify approximately 240.087 acres of land from the Agricultural and Rural Districts to the Urban District. While the Property was formerly used for sugar cane and macadamia nut cultivation, it is currently fallow. The proximity of the Property to existing and planned urban land uses coupled with the demand for affordable housing provide a reasonable nexus and an appropriate foundation for the proposed reclassification request.

**2. State Housing Functional Plan**

Recent market studies indicate a current shortage of single-family housing in the Central Maui area with the demand for housing increasing. The demand for affordable housing is also significant. The proposed development's 466-lot single-family residential subdivision will not only address a critical community need, it will also provide residents with a chance to purchase an affordable house and lot, as well as provide residents with a unique opportunity to purchase a lot and construct a home that best fits their needs on the proposed development's market-priced lots.

**3. State Recreational Functional Plan**

The provision of three (3) parks within the proposed development will provide residents with an opportunity for leisurely recreational activities.

**4. State Transportation Functional Plan**

Petitioner will be extending Imi Kala Street across Iao Stream to connect to Kahekili Highway. This major roadway expansion will not only relieve traffic congestion

currently confined to Waiehu Beach Road and Market Street, it will also improve the overall roadway infrastructure in the Wailuku region. All internal subdivision roads will be constructed in accordance with County of Maui standards.

## **XVII. CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM**

Hawaii's Coastal Zone Management Program ("CZM"), found in HRS § 205A, establishes numerous objectives, policies, and standards to guide and regulate public and private uses in the coastal zone management area. Although the Property involved in this Petition is not located within the County of Maui's Special Management Area ("SMA"), the proposed development's relationship to the following applicable CZM considerations have been reviewed and assessed:

### **A. Recreational Resources**

HRS § 205A-2(b)(1)(A) provides that the CZM's stated objective is to "[p]rovide coastal recreational opportunities accessible to the public." The statute provides several policies to achieve this objective. Those policies are:

1. Improve coordination and funding of coastal recreational planning and management, and
2. Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
  - i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
  - ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when

such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the state for recreation when replacement is not feasible or desirable;

iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;

iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;

v) Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;

vi) Adopting water quality standards and regulating point and non-point sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;

vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoon, artificial beaches, and artificial reefs for surfing and fishing; and

viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of Section 46-6, HRS.

The proposed project will not affect coastal zone recreational opportunities.

Accessibility to shoreline areas will not be impacted by the proposed project.

## **B. Historic Resources**

HRS § 205A-2(b)(2)(A) provides that the CZM's objective is to "[p]rotect, preserve and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture." In furtherance of this objective, the statute states several policies. These policies are to:

1. Identify and analyze significant archeological resources;
2. Maximize information retention through preservation of remains and artifacts or salvage operations; and
3. Support state goals for protection, restoration, interpretation, and display of historic resources.

The Property has been extensively altered due to previous agricultural activities. The archaeological inventory survey carried out by Scientific Consultant Services, Inc. noted that there were no sites of cultural or archaeological importance associated with the Property. With respect to the area designated for the Imi Kala Street extension, Spreckels Ditch (State Site Number 50-50-07-1508) is noted as being located in the area and will be preserved as recommended by the State Historic Preservation Division.

## **C. Scenic and Open Space Resources**

HRS § 205A-2(b)(3)(A) states that the CZM's objective is to "[p]rotect, preserve and, where desirable, restore or improve the quality of coastal scenic and open space resources."

The policies to achieve this objective are as follows:

1. Identify valued scenic resources in the coastal zone management area;

2. Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;

3. Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and

4. Encourage those developments which are not coastal dependent to locate in inland areas.

The proposed project will not adversely impact scenic or open space resources. The proposed project will not involve significant alteration of the existing topographic character of the site and will not affect public views to and along the shoreline.

#### **D. Coastal Ecosystems**

HRS § 205A-2(b)(4)(A) provides that the CZM's objective is to "[p]rotect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems." The policies set forth in the statute are:

1. Improve the technical basis for natural resource management;

2. Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;

3. Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and

4. Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.

Petitioner will ensure that appropriate erosion control measures are implemented during construction of the project to prevent significant impacts upon coastal water ecosystems.

**E. Economic Uses**

HRS § 205A-2(b)(5)(A) states that the CZM's objective is to "[p]rovide public or private facilities and improvements important to the State's economy in suitable locations." The policies to achieve this objective are:

1. Concentrate coastal dependent development in appropriate areas;
2. Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
3. Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
  - i) Use of presently designated locations is not feasible;
  - ii) Adverse environmental effects are minimized; and
  - iii) The development is important to the State's economy.

The proposed project is not a coastal dependent development. No adverse economic impacts will be generated as a result of the project.

## **F. Coastal Hazards**

HRS §205A-2(b)(6)(A) states that the CZM's objective is to "[r]educe hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution." The policies toward achieving this objective are to:

1. Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
2. Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint pollution hazards;
3. Ensure that developments comply with requirements of the Federal Flood Insurance Program;
4. Prevent coastal flooding from inland projects; and
5. Develop a coastal point and nonpoint source pollution control program.

As previously stated, the majority of Property is located within Zone C, which is an area of minimal flooding. Moreover, tsunami inundation parameters do not apply to the proposed project.

## **G. Managing Development**

HRS §205A-2(b)(7)(A) states that the CZM's objective is to "[i]mprove the development review process, communication, and public participation in the management of coastal resources and hazards." Stated policies are:

1. Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
2. Facilitate timely processing of applications for development permits and resolve overlapping of conflicting permit requirements; and

3. Communicate the potential short and long term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.

The instant Petition, as well as the processes that are involved in the environmental assessment review and HRS 201G-118 processes, involve comprehensive review by various governmental agencies and the Maui County Council. Participation is afforded at public hearings for these processes. All applicable state and county requirements will be adhered to both in the design and construction of the project.

#### **H. Public Participation**

HRS §205A-2(b)(8)(A) states that the CZM's objective is to "[s]timulate public awareness, education, and participation in coastal management." The various policies set forth toward this objective are:

1. Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;
2. Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal related issues, developments, and government activities; and
3. Organize workshops, policy dialogues and site-specific mediations to respond to coastal issues and conflicts.

As noted above, ample opportunity for agency and public review of the proposed development is provided through the various processes that are required before the project can proceed.

**I. Beach Protection**

HRS §205A-2(b)(9)(A) states that the CZM's objective is to "[p]rotect beaches for public use and recreation." The CZM's stated policies are:

1. Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;
2. Prohibit construction of private erosion protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
3. Minimize the construction of public erosion protection structures seaward of the shoreline.

The proposed project does not involve any construction work near the shoreline and will not have any effect on beaches in the region.

**J. Marine Resources**

HRS §205A-2(b)(10)(A) states that the CZM's objective is to "[i]mplement the State's ocean resources management plan." The statute provides several policies to achieve this objective. These policies are:

1. Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
2. Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
3. Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;

4. Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
5. Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
6. Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

The proposed project is not anticipated to have any adverse effects upon marine and coastal resources. While the project site is located in an inland area, and away from any marine or coastal resources, Petitioner will utilize appropriate best management practices to ensure that construction runoff is appropriately handled, thus minimizing any impacts to coastal waters.

Based on the foregoing analysis, the project will not have any impact on the SMA and is consistent with the objectives and policies of the CZM.

#### **XVIII. CONFORMANCE WITH COUNTY GENERAL PLAN, COMMUNITY PLAN, AND ZONING**

##### **A. General Plan**

The General Plan of the County of Maui ("General Plan") was adopted in 1980, and updated in 1990. The General Plan is a statement of the long-range social, economic, environmental, and design objectives for the general welfare and prosperity of the people of Maui County. Section 8-8.5 of the Revised Charter of the County of Maui states:

*The general plan shall indicate desired population and physical development patterns for each island within the county; shall address the unique problems and needs of each island and region within the county; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.*

The General Plan contains over 20 different objectives, each with various policies for implementation. These objectives advance the following five (5) major themes stated in the General Plan:

1. Protect Maui County's agricultural land and rural identity;
2. Prepare a directed and managed growth plan;
3. Protect Maui County's shoreline and limit visitor industry growth;
4. Maintain a viable economy that offers diverse employment opportunities for residents; and
5. Provide for needed residential housing.

In particular, the proposed reclassification of the Property responds and conforms to Theme No. 5. Market studies have shown that the population growth and correlating need and demand for housing is extremely high on Maui. The proposed reclassification, which will allow residents to purchase an affordable house and lot as well as allow other residents to purchase a lot to design and build their own homes, will present an opportunity to address the critical community need for residential housing. It should also be noted that the proposed development will assist in maintaining a viable economy as construction-related employment opportunities for residents would be generated.

The proposed reclassification is also consistent with the following objectives and policies of the General Plan:

### **POPULATION**

#### **Objective**

To plan the growth of resident and visitor population through a directed and managed growth plan so as to avoid social, economic and environmental disruptions.

#### **Policies**

- a. Manage population growth so that the County's economic growth will be stable and the development of public and private infrastructures will not expand beyond growth limits specified in the appropriate community plans or negatively impact our natural resources.
- b. Balance population growth by achieving concurrence between the resident employee work force, the job inventory created by new industries, affordable resident/employee housing, constraints on the environment and its natural resources, public and private infrastructure, and essential social services such as schools, hospitals, etc.

### **LAND USE**

#### **Objective**

1. To preserve for present and future generations existing geographic, cultural and traditional community lifestyles by limiting and managing growth through environmentally sensitive and effective use of land in accordance with the individual character of the various communities and regions of the County.

#### **Policy**

- b. Provide and maintain a range of land uses districts sufficient to meet the social, physical, environmental and economic needs of the community.

#### **Objective**

2. To use the land within the County for the social and economic benefit of all the County's residents.

### **Policies**

- a. Encourage land use patterns that foster a pedestrian oriented environment to include such amenities as bike paths, linear parks, landscaped buffer areas and mini-parks.
- b. Encourage land use methods that will provide a continuous balanced inventory of housing types in all price ranges.
- c. Encourage programs to stabilize affordable land and housing prices.

### **ECONOMIC ACTIVITY (General)**

#### **Objective**

Utilize an equitable growth management program which will guide the economic well-being of the community.

#### **Policy**

- a. Encourage the adoption of a resource allocation program which gives a high priority to affordable residential projects.

### **HOUSING**

#### **Objective**

To provide a choice of attractive, sanitary and affordable homes for all our residents.

#### **Policies**

- a. Provide or require adequate physical infrastructure to meet the demands of present and planned future affordable housing needs.
- b. Encourage the construction of housing in a variety of price ranges and geographic locations.
- c. Encourage the use of innovative performance standards and building methods to reduce housing costs to the consumer.
- d. Streamline or "fast-track" the governmental review process for affordable single-family housing projects.
- e. Make full use of State and Federal programs that provide financial assistance to renters and homebuyers.

f. Ensure that each community plan region contains its fair share of affordable housing.

## **URBAN DESIGN**

### **Objective**

2. To encourage developments which reflect the character and the culture of Maui County's people.

### **Policies**

- a. Encourage community design which establishes a cohesive identity.
- b. Encourage the establishment of continuous green areas, bike paths, active and passive recreation areas and mini-parks in new subdivision development.

## **B. Wailuku-Kahului Community Plan**

The Wailuku-Kahului Community Plan, one of nine (9) community plans for Maui County, is mandated by the Revised Charter of the County of Maui and the General Plan. Each region's growth and development is guided by a community plan, which contains goals, objectives, and policies drafted in accordance with the General Plan.

The purpose of the community plan is to provide a relatively detailed agenda for implementing the objectives and policies of the General Plan. Included within the community plans are the desired sequence, patterns, and characteristics of future developments for the particular region, as well as statements of standards and principles with respect to development and sequencing of future developments.

It is significant to point out that the Wailuku-Kahului Community Plan identified the lack of affordable housing as one of its major problems. As the cost of residential housing has dramatically increased over recent years, the Community Plan recognized that providing affordable housing opportunities for residents must be aggressively pursued. The proposed development intends to address that very point.

The Wailuku-Kahului Community Plan's current "Agricultural" and "Rural" designations of the Property do not allow for the proposed subdivision. Accordingly, a community plan amendment would be required to move forward with the proposed development. However, in this case, since the County of Maui, Department of Housing and Human Concerns has certified that the proposed development is an HRS 201G-118 affordable housing project, Petitioner will file a separate application with the Maui County Council to exempt the proposed development from the County's community plan amendment processes.

Since the proposed development includes off-site infrastructure improvements, including drainage, waterline, and sewerline installation within Kahekili Highway, which is a County-owned roadway, an environmental assessment has been prepared in accordance with HRS § 343, and is attached to this Petition as Exhibit "12".

HRS § 343(c) states, in relevant part, "[w]henver an applicant proposes an action specified by subsection (a), which requires approval of an agency . . . the agency receiving the request for approval shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required." (Emphasis added).

The administrative rules ("HAR") for HRS § 343, found in Title 11, Department of Health, Chapter 200, has similar language. Specifically, HAR § 11-200-9(b) states, in pertinent part "[f]or applicant actions . . . the approving agency shall: (1) Require the applicant, at the earliest practicable time, to seek the advice and input of the lead county agency responsible for implementing the county's general plan . . . ." (Emphasis added). The term "approving agency" is defined in HAR § 11-200-2 as "an agency that issues an approval prior to actual implementation of an action."

Due to recent litigation in Maui County involving the above-captioned sections and interpretation thereto, there has been some confusion concerning which county or state agency is the "approving agency" for purposes of HRS § 343 and HAR § 11-200 compliance. In a recent case, the Circuit Court of the Second Circuit ruled that the Commission was the appropriate "approving agency" for purposes of HRS § 343 compliance.

Based on the foregoing provisions, and in particular, the recent circuit court ruling, Petitioner believes that the Commission can, and should be, the approving agency for the environmental assessment prepared in the instant case.

The proposed project is consistent with the following goals, objectives, and policies of the Wailuku-Kahului Community Plan:

**Goal (Housing):**

A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for the broad cross section of residents, including the elderly.

**Objectives and Policies:**

- Provide sufficient land areas for new residential growth which relax constraints on the housing market and afford variety in type, price, and location of units. Opportunities for the provision of housing are presently constrained by a lack of expansion areas. This condition should be relieved by a choice of housing in a variety of locations, both rural and urban in character.
- Seek alternative residential growth areas within the planning region, with high priority given to the Wailuku and Kahului areas. This action should recognize that crucial issues of maintaining important agricultural lands, achieving efficient patterns of growth, and providing adequate housing supply and choice of price and location must be addressed and resolved.
- Promote efficient housing designs in order to reduce residential home energy and water consumption.
- Coordinate the planning, design and construction of public infrastructure improvements with major residential projects that have an affordable housing component.

- Plan, design and construct off-site public infrastructure improvements (i.e. water, roads, sewer, drainage, police and fire protection, and solid waste) in anticipation of residential, commercial and industrial developments defined in the Community Plan.

**Goal (Social Infrastructure):**

Develop and maintain an efficient and responsive system of public services which promotes a safe, healthy and enjoyable lifestyle, accommodates the needs of young, elderly, disabled and disadvantaged persons, and offers opportunities for self-improvement and community well-being.

**Objectives and Policies:**

- Ensure that adequate regional/community park facilities are provided to service new residential developments.
- Provide park and recreation areas as an integral part of project district specifications which will accommodate the needs of population growth.

**Goal (Urban Design):**

An attractive and functionally integrated urban environment that enhances neighborhood character, promotes quality design, defines a unified landscape planting and beautification theme along major public roads and highways, watercourses and at major public facilities and recognizes the historic importance and traditions of the region.

**Objectives and Policies for the Wailuku - Kahului Region in General:**

- Maintain shrubs and trees at street intersections for adequate sight distance.
- Incorporate drought tolerant plant species and xeriscaping in future landscape planting.

**Implementing Actions:**

- Develop a comprehensive housing strategy for low and moderate income groups involving government and private industry cooperation that provides an adequate supply of housing for the various strata of income. This approach would combine resources of Federal, State, County and private enterprise to improve the availability of rental and ownership housing targeted to various need groups. Anti-speculation and specification of a percentage of low and

moderate income units in major projects are tools which should be considered as part of an overall housing program.

- Develop procedures and regulations to streamline government review and approval of housing projects. This should result in cost reductions by expediting the time required for implementation.

**C. County Zoning**

The Property is currently zoned "Agricultural" by Maui County zoning. This zoning does not allow for the proposed subdivision. However, as previously stated, since the proposed development is a HRS § 201G-118 project, an application to exempt the project from the change in zoning process will be filed with the Maui County Council which would allow for the proposed development.

**XIX. DEVELOPMENT OF THE PROPERTY**

Development of the Property will be accomplished in advance of ten (10) years after the date of the Commission's approval. Based on the size of the proposed project and various economic factors, Petitioner intends to develop the Property, including the Imi Kala Street extension, in three (3) phases. See Exhibit "13".

Phases 1 and 2 of the development will each take approximately eighteen (18) months with a six (6) month overlap. Phase 3 of the development, which is the Imi Kala Street extension, will take approximately six (6) months and will be completed prior to Phase 2. Phase 1 would encompass a portion of the market-priced lots. Phase 2 will include the 238 affordable house and lot packages, and the remainder of the market-priced lots.

**XX. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS**

Petitioner is aware of, and sensitive to, the existence and practice of native Hawaiian customary and traditional rights that are protected by Article XII, section 7 of the Hawaii State Constitution. Based on research into the history of the area which included

interviewing several long-time residents living in the area, and the Archaeological Inventory Survey of the Property, there are no known traditional gathering activities or cultural practices affecting the Property. See Appendix "B", "C", and "D" of the Draft Environmental Assessment.

## **XXI. WRITTEN COMMENTS FROM AGENCIES AND ORGANIZATIONS**

Written comments from the various agencies and organizations that were consulted, including responses thereto, are included with the environmental assessment in Chapter VIII.

## **XXII. SERVICE OF PETITION**

Pursuant to LUC Rules § 15-15-48, copies of this Petition must be served upon the County of Maui Planning Department and Planning Commission, the State of Hawaii Office of Planning, and all persons with a property interest in the Property.

Copies of this Petition will be served upon the above-named parties. An affidavit of compliance with this section is attached as Exhibit "14". In accordance with LUC Rules § 15-15-48(b), copies of this Petition will also be served upon potential intervenors upon receipt of a notice of intent to intervene pursuant to LUC Rule § 15-15-52(b).

## **XXIII. CONCLUSION**

In light of the continued rise in the cost of housing and pressing need for affordable housing, the proposed development presents an excellent opportunity for residents to purchase an affordable house and lot in an area of existing and planned residential development. The proposed development will also provide an opportunity for residents to purchase of a lot to design a unique home that best fits their needs and lifestyles. The proposed development will complement the existing urban uses in the immediate area, and given the Property's location in

close proximity to Wailuku and Kahului, the proposed development is a reasonable and appropriate use of the Property.

Based on the foregoing, Petitioner respectfully requests that the Commission find that the Petition complies with the necessary requirements of a petition for boundary amendment pursuant to LUC Rules § 15-15-50. Petitioner also respectfully requests that the Commission find that the proposed development meets the standards for determining urban district boundaries pursuant to LUC Rules § 15-15-18, and therefore, grant the reclassification of the Property from the Agricultural and Rural Districts to the Urban District.

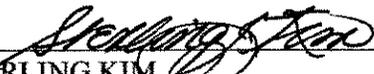
DATED: Wailuku, Hawaii, January 5, 2005.

  
\_\_\_\_\_  
BLAINE J. KOBAYASHI  
Attorney for Applicant  
HALE MUA PROPERTIES, LLC

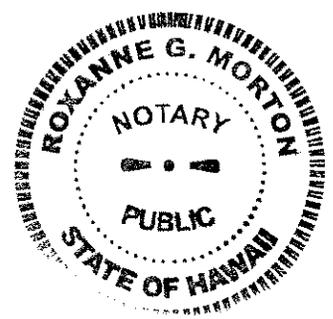
VERIFICATION

STATE OF HAWAII                    )  
  ) ss.  
COUNTY OF MAUI                 )

STERLING KIM, being duly sworn on oath, deposes and says that he is the Manager of HALE MUA PROPERTIES, LLC, a Hawaii limited liability company, and as such is authorized to make this verification on behalf of HALE MUA PROPERTIES, LLC; that he has read the foregoing petition and knows the contents thereof; and that the same are true to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
STERLING KIM

Subscribed and sworn before me  
this 4th day of January, 2005.  
  
\_\_\_\_\_  
Name: Roxanne G. Morton  
Notary Public, State of Hawaii  
My commission expires: 10-16-07





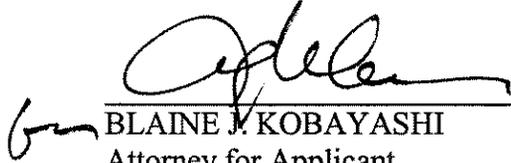
VERIZON HAWAII INC.  
P. O. Box 2200  
Honolulu, Hawaii 96816

BY MAIL

HO'OMALU LIMITED PARTNERSHIP  
P. O. Box 351  
Kula, Maui, Hawaii 96790

BY MAIL

DATED: Wailuku, Hawaii, January 5, 2005.

  
BLAINE J. KOBAYASHI  
Attorney for Applicant  
HALE MUA PROPERTIES, LLC

# **Exhibit "1"**

Authorization of Hale Mua Properties, LLC

**AUTHORIZATION**

TO WHOM IT MAY CONCERN:

This will certify that HALE MUA PROPERTIES, LLC, a Hawaii limited liability company, is the owner of certain real property situate at Wailuku, Maui, State of Hawaii, more particularly described hereinbelow.

HALE MUA PROPERTIES, LLC hereby authorizes BLAINE J. KOBAYASHI and CARLSMITH BALL LLP, its attorneys, and/or their respective designated representatives, to apply for all necessary permits and approvals relative to the development of said real property, including but not limited to applying for a Land Use District Boundary Amendment of said property.

Dated: January 4, 2005

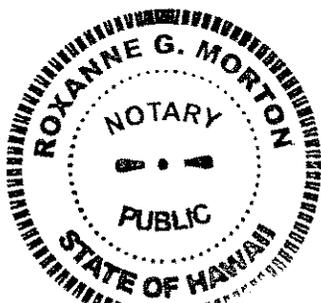
HALE MUA PROPERTIES, LLC

By *Sterling Kim*  
STERLING KIM  
Its Manager

TMK (2) 3-3-002:001 (portion)

STATE OF HAWAII            )  
  ) SS.  
COUNTY OF MAUI         )

On this 4 day of JANUARY, 2005, before me personally appeared STERLING KIM, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Manager of HALE MUA PROPERTIES, LLC, a Hawaii limited liability company, and 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.



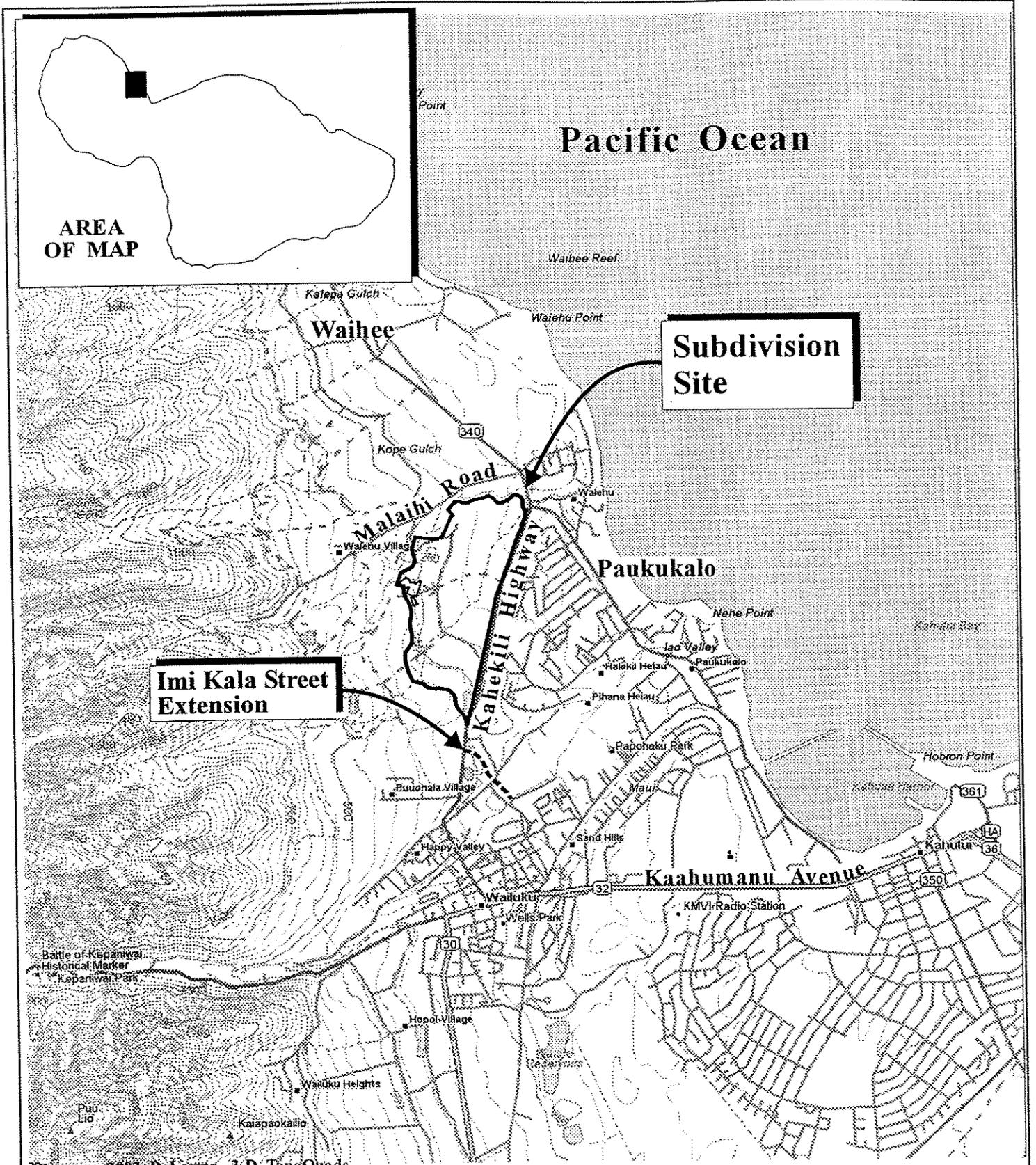
4825-2705-5104, 1.057165-00001

*Roxanne G. Morton*  
Name: Roxanne G. Morton  
Notary Public, State of Hawaii  
My commission expires: 10-12-07

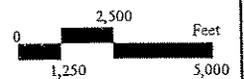
**EXHIBIT "1"**

# **Exhibit "2"**

Regional Location Map



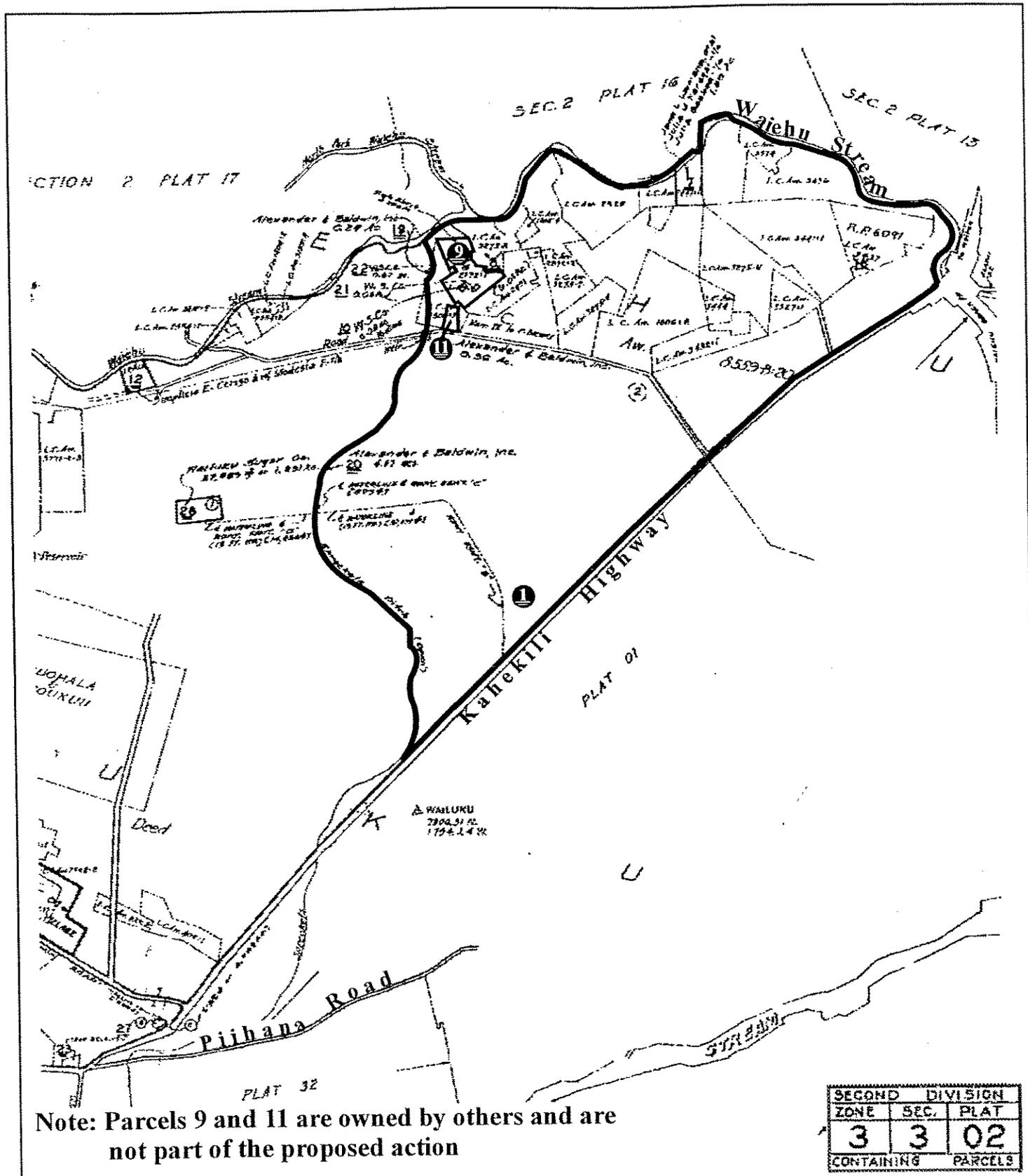
**Figure 1 Proposed Hale Mua Affordable Housing Subdivision Regional Location Map**



**EXHIBIT "2"**

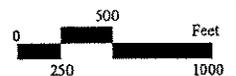
# **Exhibit "3"**

Tax Map



Note: Parcels 9 and 11 are owned by others and are not part of the proposed action

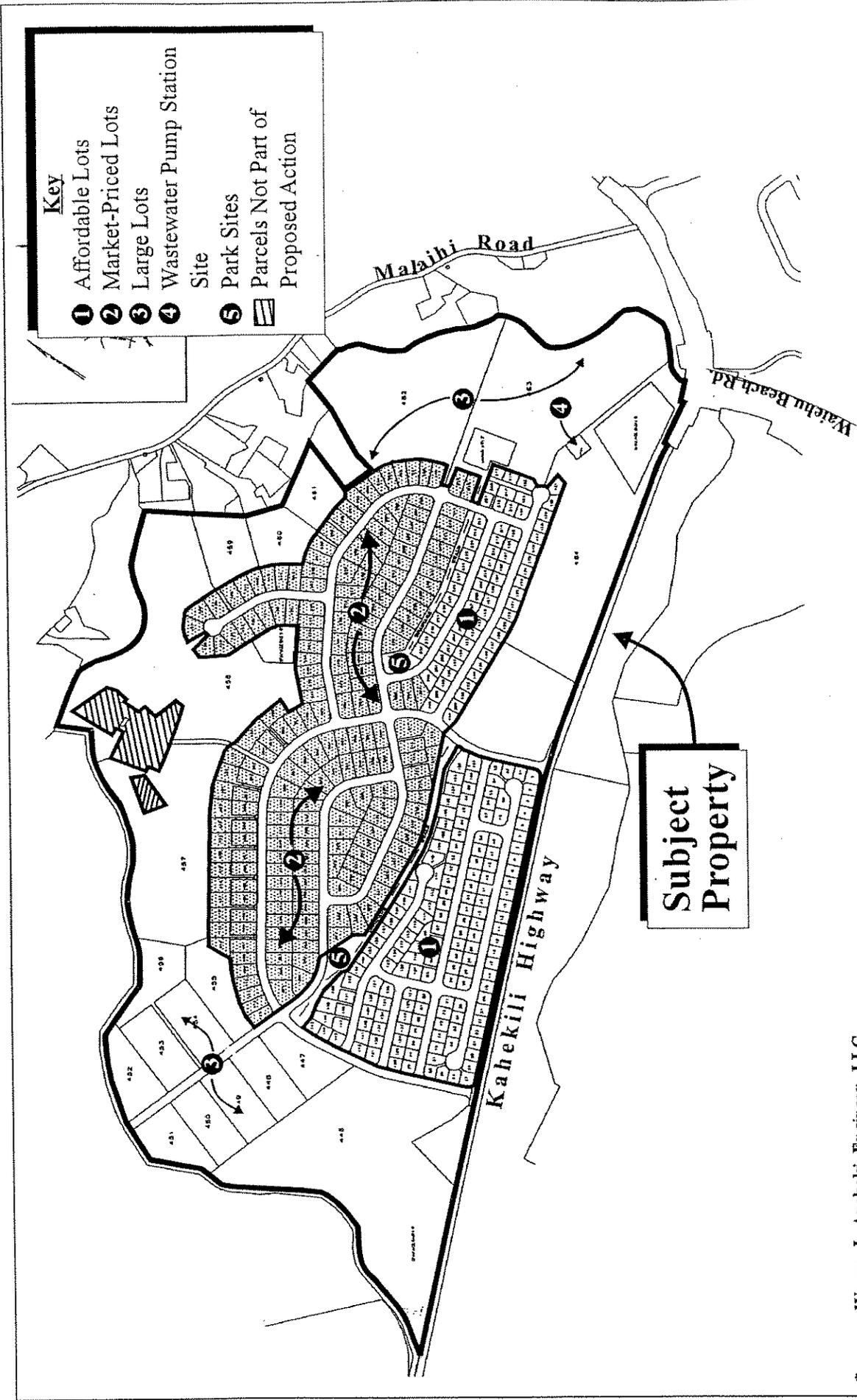
Figure 2 Proposed Hale Mua Affordable Housing Subdivision Tax Map for Proposed Subdivision



**EXHIBIT "3"**

# **Exhibit "4"**

Preliminary Subdivision Plan



Source: Wayne L. Arakaki Engineer, LLC

Figure 4



Proposed Affordable Housing  
Subdivision  
Preliminary Subdivision Plan

NOT TO SCALE

Prepared for: Hale Mua Properties, LLC



# **Exhibit "5"**

Metes and Bounds Description and Map of Property  
(To be submitted separately)

# **Exhibit "6"**

Quitclaim Deed



R-400 STATE OF HAWAII  
 BUREAU OF CONVEYANCES  
 RECORDED  
 MAY 21, 2004 08:01 AM  
 Doc No(s) 2004-102439



20 214 23

Isl CARL T. WATANABE  
 REGISTRAR OF CONVEYANCES  
 CONVEYANCE TAX: \$2700.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup (X) To:

Central Pacific Bank  
 220 S. King St. 2nd Floor  
 Honolulu Hawaii 96813

TG: 200400359 - 5

TGE: A4-201-0009  
 Doris Ann Schoepner

RS-2

Tax Key: (2) 3-3-002-001 (Por.) Total No. of Pages: 10

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That WAILUKU AGRIBUSINESS CO., INC., successor in interest to Wailuku Sugar Company, a Hawaii corporation, whose address is 255 East Waiko Road, Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantor," for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by HALE MUA PROPERTIES, LLC, a Hawaii limited liability company, whose address is 187 Haulani St., Pukalani, Maui, Hawaii 96768, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, does

hereby give, grant, convey, release and forever quitclaim unto the said Grantee, as a tenant in severalty, all of Grantor's right, title and interest in and to the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A".

TO HAVE AND TO HOLD the same, together with all buildings and other improvements, rights, easements, privileges and appurtenances thereon or thereunto belonging or in anywise appertaining or held and enjoyed therewith, unto the said Grantee, forever.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each of their respective successors, heirs, personal representatives, and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall for all purposes be joint and several.

IN WITNESS WHEREOF, the Grantor and the Grantee have  
executed these presents on this 12th day of May, 2004.

APPROVED AS TO FORM:  
MANCINI, WELCH & GEIGER

By Peter A. Horovitz

WAILUKU AGRIBUSINESS CO., INC.

By [Signature]  
Its ANNE B. Chumley  
president

By W.K. Tallett  
W.K. TALLETT  
Its Vice President

Successor in interest to Wailuku  
Sugar Company

Grantor

HALE MUA PROPERTIES, LLC

By [Signature]  
STERLING H. KIM  
Its MANAGER

By \_\_\_\_\_  
Its \_\_\_\_\_

Grantee

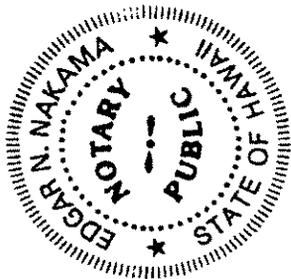
STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 12th day of May, 2004, before me personally appeared Avery B. Chumbley, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

*Edgar N. Nakama*

Print Name: Edgar N. Nakama  
Notary Public, State of Hawaii.

My commission expires: 6-17-2004



STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI- HAWAII )

*N.S.*

On this 13th day of May, 2004, before me personally appeared W.K. TALLETT, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

*N. Rosario*

*L.S.*

Print Name: Nora Rosario  
Notary Public, State of Hawaii.

My commission expires: 12-13-2006

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 14<sup>th</sup> day of May, 2004, before me personally appeared STERLING KIM, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

*Edgar N. Nakama*

Print Name: Edgar N. Nakama  
Notary Public, State of Hawaii.

My commission expires: JUN 17 2004

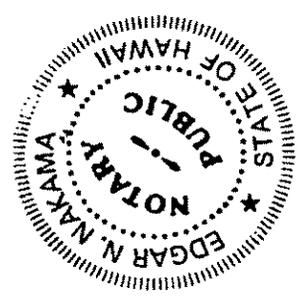


EXHIBIT "A"

All of that certain parcel of land situate, lying at Waiehu and Wailuku, Island and County of Maui, State of Hawaii, being LOT C of the IAO VALLEY LARGE-LOT SUBDIVISION, shown on subdivision map prepared by Erik S. Kaneshiro, Land Surveyor, LUCA File No. 3.1865, approved August 6, 2002, containing an area of 240.087 acres more or less, and bearing Tax Key designation (2) 3-3-002-portion 001. Said LOT C may be made up of all or portions of the following historical lots referenced below:

Portion(s) of the lands described in and covered by Deed of Kamehameha IV to C. Brewer and Company, James Robinson and Company, Thomas Cummins and Josiah Fuller, dated April 21, 1863 and recorded in Liber 16 at Page 374; Royal Patent Number \_\_\_\_\_, Land Commission Award Number 8559-B, Apana 20 (Boundary Certificate No. 204) to Wm. C. Lunailo; Land Commission Award 1806, Royal Patent 6073, Apana 1, to Makalawelawe; Land Commission Award 1806, Royal Patent 6073, Apana 3, to Makalawelawe; Land Commission Award 1806, Royal Patent 6073, Apana 4, to Makalawelawe; Land Commission Award 2426, Royal Patent 6362, to Kaiwi; Land Commission Award 2447, Royal Patent 6164, Apana 1, to Kaawa; Land Commission Award 2451, Royal Patent 5978, Apana 1, to Kaelepulu; Land Commission Award 2526, Royal Patent 6167, Apana 1, to Makanui; Land Commission Award 2572, Royal Patent 8051, Apana 2 & 3, to Naheana; Land Commission Award 3275-T, Royal Patent 5178, to Kahookano; Land Commission Award 3275-U, Royal Patent 6126, to Kaiolani; Land Commission Award 3275-X, Royal Patent 6327, to Puula; Land Commission Award 3275-V, Royal Patent 6758, to Keaole; Land Commission Award 3327, Royal Patent 5444, Apana 1, to Naialoalao; Land Commission Award 3374, Royal Patent 6756, to Paele; Land Commission Award 3432, Royal Patent 5171, Apana 1 & 2, to Kula; Land Commission Award 3436, Royal Patent 6094, to Kapahi; Land Commission Award 3437, Royal Patent 6091, Apana 1 & 2, to Kailiula; Land Commission Award 3441, Royal Patent 6092, Apana 1, to Kapaula; Land Commission Award 3444, Royal Patent 6757, Apana 2, to Kalopa; and Poalima).

Together with a strip of land 10.00 feet wide easement being more particularly described in Exchange Deed dated October 24, 1973, recorded in Liber 9654 at Page 326, to wit:

An easement through Parcels 3 and 4 for the operation, maintenance and repair of a concrete culvert: being A strip of land 10.00 feet wide and extending 5.00 feet on each side of the following described centerline:

Beginning at the west end of this easement, and on the west boundary of Parcel 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 7,948.98 feet north and 2,132.58 feet west, thence running by azimuths measured clockwise from the true south:

1. 271° 53' 40.79 feet through Parcels 3 and 4 to the east boundary of Parcel 4 and containing an area of 408 square feet."

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated June 23, 1924, and recorded in the said Bureau of Conveyances in Liber 740 on Page 134, as amended by Agreement dated March 24, 1937, recorded in Liber 1371 on Page 227, including but not limited to water rights, easements and other rights.
3. Restrictions of abutter's rights of vehicle access into and from Waiehu Beach Road, Federal Aid Secondary Project No. S-0341 (2), (Kahekili Highway Realignment) as condemned by the State of Hawaii, by Final Order of Condemnation dated March 12, 1974, filed in the Circuit Court of the Second Circuit, State of Hawaii, Civil No. 879 on March 12, 1974, recorded in the said Bureau of Conveyances in Liber 9903 on Page 379.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement dated March 29, 1976, recorded in the said Bureau of Conveyances in Liber 11357 on Page 584, by and between Alexander & Baldwin, Inc., a Hawaii corporation, "Licensor", and Board of Water Supply of the County of Maui, a board duly created and existing under the laws of the State of Hawaii, "Licensee", re: granting a perpetual right and easement to construct, reconstruct, repair, maintain, operate and remove

an 8" diameter pipeline for purposes of carrying overflow from and cleanout of that certain water storage tank to within the Spreckels Ditch right of way etc.

5. Grant to Board of Water Supply of the County of Maui dated January 19, 1977, recorded in the said Bureau of Conveyances in Liber 12285 on Page 50, granting a nonexclusive easement for waterline and road purposes to construct, reconstruct, maintain, operate, repair and remove a water pipeline or pipelines, pressure break tanks, pressure reducers and regulators and manholes with equipment and appurtenances, over, under across and through Easement B, for waterline and road, etc.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Right of Entry and Agreement dated September 27, 1977, recorded in the said Bureau of Conveyances in Liber 12815 on Page 281, by and between Wailuku Sugar Company, a Hawaii corporation, "Owner", and Board of Water Supply of the County of Maui, "Grantee", re: non-exclusive right, power and privilege, for a period of three (3) years from the date hereof, to enter upon, occupy and use for all purposes relating to the construction and installation of a water transmission line, as shown on map attached thereto.

7. Any and all existing trails, roads, easements, rights of way, flume and irrigation ditches, heiaus, grave sites and other historic sites that may exist.

8. Any and all existing transmission lines in favor of Maui Electric Company, Limited, and Hawaiian Telephone Company, now known as Verizon Hawaii, Inc. and distribution lines in favor of Maui Electric Company, Limited.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement to Defer the Construction of Subdivision Improvements dated October 3, 1988, recorded in the said Bureau of Conveyances in Liber 22626 on Page 32.

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Farm Dwelling Agreement dated December 5, 1988, recorded in the said Bureau of Conveyances in Liber 22650 on Page 96.

11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Memorandum Concerning Grant of Various Properties (acknowledged August 18, 1999 and August 19, 1999), recorded in the said Bureau of Conveyances as Document No. 99-189645.

12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Covenants at Closing Between Wailuku Agribusiness Co., Inc. and CGM, LLC, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-146580.

13. Grant to Ho'omalulu Limited Partnership, a Hawaii limited partnership, dated November 26, 2003, recorded in the said Bureau of Conveyances as Document No. 2003-259899, granting perpetual non-exclusive easement over and across Easement B-1, for pedestrian and vehicular ingress and egress and for utility purposes, more particularly described therein.

14. Grant to Maui Electric Company, Limited and Verizon Hawaii Inc. dated March 23, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-068719, granting an easement for utility purposes over Easement "3" described therein.

15. Water rights, claims or title to water, whether or not shown by the public records.

16. Matters arising out of, including but not limited to any utility and access rights in favor of, any Kuleana located within the subject land.

17. Matters arising out of the failure of a patent to have issued on Land Commission Award 8559-B, Apana 20 to W.C. Lunaliilo.

18. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

19. Any unrecorded leases and matters arising from or affecting the same.

20. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

21. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions dated between Grantor and Grantee and dated and recorded concurrently herewith.

Note: A current survey, with metes and bounds description, should be made of said premises.

END OF EXHIBIT "A"

Tax Key: (2) 3-3-002-001 (Por.)

# **Exhibit "7"**

Financial Statement for Hale Mua Properties, LLC

**Hale Mua Properties LLC  
Balance Sheet  
September 28, 2004  
(UNAUDITED)**

**Assets:**

Current Assets:

American Savings Money Market	\$ 436,844
Central Pacific Bank	540
Central Pacific Bank – Checking	601
Central Pacific Bank – IMMA Account	67,592
American Savings Checking	345,710

-----  
**Total Current Assets** **\$ 851,287**

Fixed Assets:

248 Acres – Hale Mua Subdivision – at Market Value	\$5,100,000 *
--	---------------

-----  
**Total Fixed Assets** **\$5,100,000**

**Total Assets** **\$5,951,287**  
=====

**Liabilities and Net Worth:**

Liabilities:

Central Pacific Bank	\$1,890,000
Prepayment Liability for Land Purchase	1,410,000

-----  
**Total Liabilities** **\$3,300,000**

Net Worth: \$2,651,287  
-----

**Total Liabilities and Net Worth** **\$5,951,287**  
=====

\* See Attached Schedule of Detail on Cost Basis of Purchase and Improvements

Prepared without Audit or other Independent Verification  
For Internal Use Only

**EXHIBIT "7"**

**Hale Mua Properties, LLC**  
**Detail on Property Cost and Improvements**  
**Addition to Balance Sheet**  
**September 28, 2004**

**Fixed Assets:**

Property		
Cost Basis		\$2,710,281
Improvements		
Hard Construction Costs		
Waiehu Well	50,000	
Hard Construction Costs- Other	86,240	
	-----	
Total Hard Construction Costs		\$ 136,240
Soft Construction Costs		
Permits	25	
Professional Fees		
Archaeological	53,880	
Engineering	45,000	
Project Studies/Assessments	10,515	
Professional Fees – Other	54,865	
	-----	
Total Professional Fees		\$ 164,260
	-----	
Total Soft Construction Costs		\$ 164,285
	-----	
Total Improvements		\$ 300,525
Other Project Costs		
Bank Service Charges	76	
Insurance	1,127	
Interest		
Loan Fees	18,900	
Interest – Other	32,468	
	-----	
Total Interest		\$ 51,368
Office Expense	151	
Printing and Reproduction	45	
Professional Fees	131,192	
Property Tax	164	
Travel	17,804	
Other Project Costs – Other	-373	
	-----	
Total Other Project Costs		\$ 201,554
Total Property		3,212,360
<b>Total Fixed Assets</b>		<b>\$3,212,360</b>
		=====

# **Exhibit "8"**

Letter from Central Pacific Bank  
dated September 30, 2004



P.O. Box 3590  
Honolulu, HI 96811-3590  
Telephone (808) 544-0500

**COPY**

September 30, 2004

State of Hawaii  
Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804

Re: Hale Mua Subdivision  
TMK: (2) 3-3-2-Portion 1

Gentlemen:

I am writing on behalf of Hale Mua Properties, LLC, whose Manager is Sterling Kim, with whom Central Pacific Bank has an existing banking relationship, regarding its proposed 466-lot development to be known as Hale Mua Subdivision.

With the combination of existing assets including cash currently held in accounts with our Bank and other financial institutions, and financing to be provided by Central Pacific Bank, Hale Mua Properties, LLC should be able to meet all financial requirements of the proposed development.

This letter is not to be construed as a loan commitment for the development of the subject project. A loan commitment letter will be issued separately following a detailed review of the proposed development and approval by the Bank's loan committee.

Sincerely,

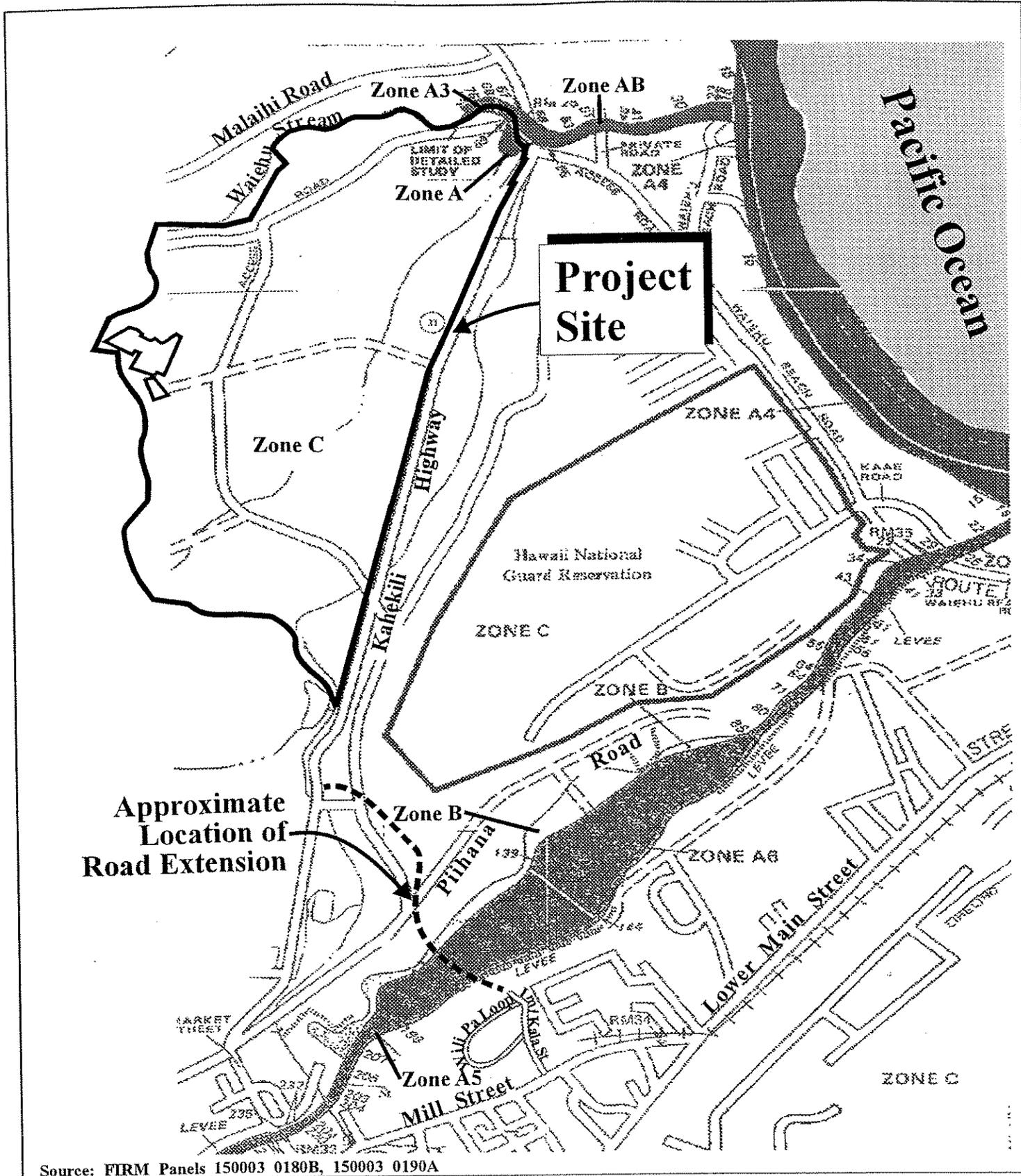
A handwritten signature in black ink, appearing to read 'Clifford K. Fujiwara', with a long horizontal line extending to the right.

Clifford K. Fujiwara  
Senior Vice President & Manager  
Real Estate Loan Division

**EXHIBIT "8"**

# **Exhibit "9"**

Flood Insurance Rate Map



Source: FIRM Panels 150003 0180B, 150003 0190A

Figure 14 Proposed Hale Mua Affordable Housing Subdivision Flood Insurance Rate Map

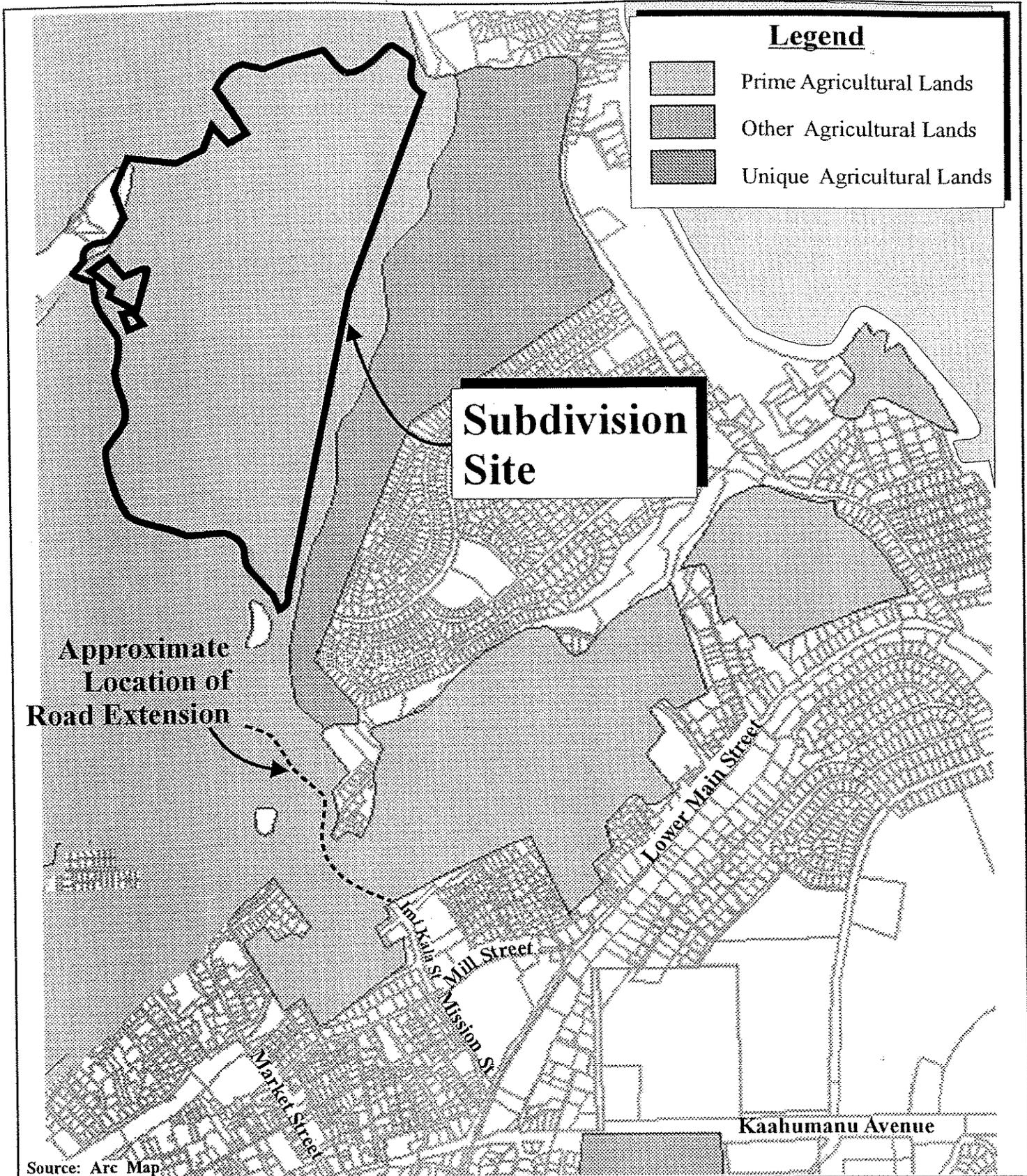
NOT TO SCALE



**EXHIBIT "9"**

# **Exhibit "10"**

Agricultural Lands of Importance to the State of Hawaii  
(ALISH) Map



**Figure 13 Proposed Hale Mua Affordable Housing Subdivision** NOT TO SCALE  
 ALISH Map **EXHIBIT "10"**



# **Exhibit "11"**

Certification of HRS §201G-118 Project



DEPARTMENT OF  
**HOUSING AND HUMAN CONCERNS**  
COUNTY OF MAUI

ALAN M. ARAKAWA  
Mayor

ALICE L. LEE  
Director

HERMAN T. ANDAYA  
Deputy Director

---

200 SOUTH HIGH STREET • WAILUKU, HAWAII 96793 • PHONE (808) 270-7805 • FAX (808) 270-7165

December 20, 2004

Anthony Ching, Executive Director  
State of Hawaii  
Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

SUBJECT: Proposed Hale Mua Affordable Housing Subdivision at TMK (2) 3-3-2:001 (por), in Waiehu, Maui, Hawaii

Dear Mr. Ching:

The County of Maui, Department of Housing and Human Concerns hereby certifies that the proposed Hale Mua Affordable Housing Subdivision by Hale Mua Properties, LLC has been reviewed and accepted as an affordable housing project by the County of Maui, in compliance with Section 201G-118, Hawaii Revised Statutes.

The 238 affordable single-family residences (51 percent of the total 466 lots) will provide much needed affordable housing options for Maui residents. With a proposed price range of \$170,000.00 to \$180,000.00 and a current, average interest rate of 5.72 percent on a 30-year, fixed mortgage, the project will serve those earning approximately 70 percent of the area median income. The Hale Mua Affordable Housing Subdivision will also feature three (3) parks totaling approximately eight (8) acres, extend Imi Kala Street from its current terminus to intersect with Kahekili Highway, and improve Kahekili Highway in the vicinity of the subdivision with acceleration and deceleration lanes.

Should you have any questions, please do not hesitate to contact me at (808) 270-7805.

Very truly yours,

Alice L. Lee, Director  
Department of Housing and Human Concerns

**EXHIBIT "11"**

# **Exhibit "12"**

Draft Environmental Assessment  
(Bound Booklet Attached at the End)

# **Exhibit "13"**

Map of Proposed Phases of Development

# HALE MUA SUBDIVISION 466 LOTS

DEVELOPER - HALE MUA PROPERTIES, LLC

1177 HAULANI STREET  
PULKANI, MAUI, HAWAII 96748



## WASTEWATER SYSTEM

1" = 100'

SEWER MANHOLE

SEWER LINE

PREPARED BY:  
WAYNE J. ANAGNONETTI, LLC  
1005 SANDERSON AVENUE, SUITE 200  
EAST WINDY HILLS, MAUI, HAWAII 96741  
PHONE: 748-2886 FAX: 748-2886

# **Exhibit "14"**

Affidavit of Service of Petition for  
District Boundary Amendment

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A05-755
	)	
HALE MUA PROPERTIES, LLC	)	
	)	HALE MUA PROPERTIES, LLC
	)	
To Amend the Land Use District Boundary	)	
Of Certain Lands Situated at Waiehu,	)	
Island of Maui, State of Hawaii, Consisting	)	
Of 240.087 Acres from the Agriculture	)	
and Rural Districts to the Urban District,	)	
Tax Map Key No. 3-3-002:001 (portion).	)	
	)	

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**AFFIDAVIT OF SERVICE OF PETITION**  
**FOR DISTRICT BOUNDARY AMENDMENT**

STATE OF HAWAII            )  
  ) ss.  
COUNTY OF MAUI         )

BLAINE J. KOBAYASHI, being first duly sworn on oath, deposes and says:

1.       Affiant is the attorney for HALE MUA PROPERTIES, LLC, the Petitioner for a State of Hawaii Land Use District Boundary Amendment from Agricultural and Rural Districts to Urban District, identified as Docket No. A05-755, for land situated at Waiehu, Maui, Hawaii, and identified as TMK No. (2) 3-3-002:001 (portion).

2.       In compliance with §15-15-48(a), Hawaii Administrative Rules, Affiant will on January 5, 2005, deposit in the United States mail, post paid, or by hand delivery, a copy of the Petition for District Boundary Amendment filed on January 5 2005, to the following:

MARY LOU KOBAYASHI  
Acting Director  
Office of Planning  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

ABE MITSUDA  
Planning Program Administrator  
Office of Planning , Land Use Division  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

MICHAEL W. FOLEY  
Director, Planning Department  
County of Maui  
250 South High Street  
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

PLANNING COMMISSION  
County of Maui  
250 South High Street  
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

BRIAN T. MOTO  
Corporation Counsel  
Office of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

MAUI ELECTRIC COMPANY, LIMITED  
Attention: Neal Shinyama  
P.O. Box 398  
Kahului, Maui, Hawaii 96733-6898

BY MAIL

VERIZON HAWAII INC.  
P. O. Box 2200  
Honolulu, Hawaii 96816

BY MAIL

HO'OMALU LIMITED PARTNERSHIP  
P. O. Box 351  
Kula, Maui, Hawaii 96790

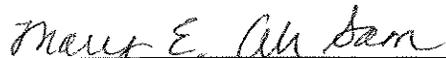
BY MAIL

This Affidavit is provided in compliance with §15-15-50(c)(5)(C), HAR.

That further Affiant sayeth naught.

  
BLAINE J. KOBAYASHI

Subscribed and sworn to before me  
this 5th day of January, 2005.

L. S.   
Name: Mary E. Ah Sam

Notary Public, State of Hawaii

My commission expires: 4/24/07

4845-7656-2688.1.057165-00001