

MANCINI, WELCH & GEIGER LLP

LAND USE COMMISSION  
STATE OF HAWAII

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PAUL R. MANCINI 1198-0  
JAMES W. GEIGER 4684-0  
305 East Wakea Avenue, Suite 200  
Kahului, Hawaii 96732  
Telephone: (808) 871-8351  
Facsimile: (808) 871-0732

Attorneys for Petitioners

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A15-798
of:	)	
	)	PETITION FOR LAND USE DISTRICT
WAIKAPU PROPERTIES, LLC; MTP	)	BOUNDARY AMENDMENT;
LAND PARTNERS, LLC; WILLIAM S.	)	PETITIONERS' EXHIBITS "1"-
FILIOS, Trustee of the William	)	"18"; VERIFICATION OF MICHAEL
S. Filios Separate Property	)	ATHERTON; AFFIDAVIT OF
Trust dated APRIL 3, 2000; and	)	MAILING; CERTIFICATE OF
WAIALE 905 PARTNERS, LLC,	)	SERVICE
	)	
To Amend the Agricultural Land	)	
Use District Boundaries into	)	
the Rural Land Use District for	)	
certain lands situate at	)	
Waikapu, District of Wailuku,	)	
Island and County of Maui,	)	
State of Hawaii, consisting of	)	
92.394 acres and 57.454 acres,	)	
bearing Tax Map Key No. (2) 3-	)	
6-004:003 (por) and to Amend	)	
the Agricultural Land Use	)	
District Boundaries into the	)	
Urban Land Use District for	)	
certain lands situate at	)	
Waikapu, District of Wailuku,	)	
Island and County of Maui,	)	
State of Hawaii, consisting of	)	
236.326 acres, 53.775 acres,	)	
and 45.054 acres, bearing Tax	)	
Map Key No. (2) 3-6-002:003	)	
(por), (2) 3-6-004:006 and (2)	)	
3-6-005:007 (por).	)	

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

WAIKAPU PROPERTIES, LLC, a Hawaii limited liability company, MTP LAND PARTNERS, LLC, a Hawaii limited liability company, WILLIAM S. FILIOS, Trustee of the William S. Filios Separate Property Trust dated APRIL 3, 2000, and WAIALE 905 PARTNERS, LLC, a Hawaii limited liability company (collectively "Petitioners"), by and through their counsel, Mancini, Welch & Geiger, LLP, respectfully petition this honorable Land Use Commission of the State of Hawaii (the "Commission") to amend the land use district boundaries of certain lands consisting of about 149.848 acres within Tax Map Key No. (2) 3-6-004:003 (por), from State Land Use Agricultural District ("Agricultural District") to State Land Use Rural District ("Rural District") and to amend the land use district boundaries of certain lands consisting of about 335.155 acres within Tax Map Key No. (2) 3-6-002:003 (por), (2) 3-6-004:006 and (2) 3-6-005:007 (por) from the Agricultural District to the State Land Use Urban District ("Urban District"). All of the lands which consist of about 485.003 acres shall be referred to as the "Petition Area."

The Petition Area surrounds a 14 acre parcel which was placed in the Urban District by the Maui County Council pursuant to HRS § 205-3.1 in October 1992.

Amendment of the district boundary is not required for the 14 acre parcel.

Petitioners are filing with this Petition a Motion in which they will ask the Commission to determine that the proposed action should proceed directly to publication of an Environmental Impact Statement Preparation Notice without being first considered under an Environmental Assessment. This action, authorized under HRS § 343-5(c), is appropriate as the proposed action, if constructed without appropriate mitigating features, may have the following significant effects on the environment:

1. Results in an irrevocable loss of a natural resource;
2. Curtails the range of beneficial uses of the environment;
3. Substantially affects the economy of the community;
4. Involves secondary impacts such as population changes and effects on public facilities;
5. While individually limited, involves a commitment for larger action;
6. Detrimentally affects water quality;
7. Substantially affects scenic vistas and view planes; and
8. Requires substantial energy consumption.

Based on the number of significance criteria that must be reviewed and addressed, the proposed action will have a significant environmental impact and thus will require the Commission to adopt an Environmental Impact Statement for the proposed action. Such determination is being requested of the Commission at the time of the filing of this

Petition as this is the earliest practicable time at which it can be determined that an Environmental Impact Statement is likely to be required.

I. INTRODUCTION

Petitioners request a land use district boundary amendment to allow development of the Petition Area as a self-sufficient small town in a walkable community. In January, 2009, Petitioners took the first steps to develop a new master-planned community in Central Maui.

Surrounding the Maui Tropical Plantation, the vision of Petitioners was to develop a "complete community" in which people could live, work, shop and play in a friendly, healthy, and sustainable environment. As a result of presentations, meetings and workshops, the Waikapu Country Town Project (the "Project") came into being.

Upon receipt of all land use entitlement approvals, Waikapu Country Town will be located in Central Maui between Wailuku and Maalaea on the slopes of the West Maui Mountains. Waikapu Country Town will include lands on both the mauka and makai sides of Honoapiilani Highway in an area just south of the town of Waikapu. Providing the urban character of a traditional small town, the Project will have a mix of single-family, multi-family and rural residences, park land, open space, commercial uses, an

elementary school, integrated agricultural and commercial uses, and an agricultural park.

To implement the Project, Petitioners seek a land use district boundary amendment to reclassify a portion of the Petition Area from the Agricultural District to the Urban District and to reclassify another portion of the Petition Area from the Agricultural District to the Rural District. In addition, Petitioners will seek an amendment to the Wailuku-Kahului Community Plan designation of the Petition Area from Agriculture to Project District (including an amendment of the Wailuku-Kahului Project District No. 5) (Maui Tropical Plantation)), a change in zoning from Agricultural to Rural and Project District, and a change in project district zoning for project district 5 of the Wailuku-Kahului Community Plan.

The need for a community plan amendment, as well as anticipated uses of state land, triggered the requirement to comply with Hawaii Revised Statutes ("HRS") Chapter 343. The Environmental Assessment/Environmental Impact Statement Preparation Notice for Waikapu Country Town which Petitioners will seek to have published at the direction of the Commission is attached as Petitioners' Exhibit "1".

The Petition Area is located within the Rural and Small Town Growth Boundaries as shown on Maui Island Plan Map No. C3 attached as Petitioners' Exhibit "2". The Maui Island Plan, enacted into law on December 28, 2012, by Maui Ordinance No. 4004, is a blueprint that provides direction for future growth, the economy and social environmental decisions for the island of Maui through 2030. Inclusion of the Petition Area within Rural and Small Town Growth Boundaries reflects the view of Maui residents on the location of future growth.

Petitioners seek the approval of the Commission for a similar change in the state land use classification of the Petition Area.

II. AUTHORITY FOR RELIEF SOUGHT, IDENTITY OF PETITIONERS, AUTHORIZED REPRESENTATIVE, PETITIONERS' PROPERTY INTEREST, COMPLIANCE WITH SERVICE AND NOTIFICATION

A. Authority for Relief Sought.

*All petitions [for boundary amendment] shall: (1) state clearly and concisely the authorization or relief sought; and (2) cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought. HAR § 15-15-50(a).*

The Commission is authorized to change the land use classification of the Petition Area pursuant to HRS Chapter 205, and specifically, HRS § 205-4 which authorizes the

Commission to find that the proposed boundary is reasonable, does not violate HRS § 205-2 and HRS §§ 205-41 to 205-52 and is consistent with policies and criteria established pursuant to HRS §§ 205-16 and 205-17. Authorization for the Commission to act is further found in HAR § 15-15-77.

B. Identification of Petitioner.

*[The petition shall state] the exact legal name of each petitioner and the location of the principal place of business and if an applicant is a corporation, trust, or association, or other legal entity, the state in which the petitioner is organized or incorporated. HAR § 15-15-50(c)(1).*

The Petitioners are:

1. WAIKAPU PROPERTIES, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793, and whose mailing address is P.O. Box 1870, Manteca, CA 95336.

2. MTP LAND PARTNERS, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793, and whose mailing address is P.O. Box 1870, Manteca, CA 95336.

3. WILLIAM S. FILIOS, Trustee of the William S. Filios Separate Property Trust dated April 3, 2000, an individual whose principal place of business and mailing address is 1463 Moffatt Boulevard, Suite 5, Manteca, CA 95336.

4. WAIALE 905 PARTNERS, LLC, a Hawaii limited liability company, whose principal place of business is located at 1670 Honoapiilani Highway, Wailuku, HI 96793, and whose mailing address is P.O. Box 1870, Manteca, CA 95336.

C. Authorized Representative.

*[The petition shall provide] the name, title, and address of the person to whom correspondence or communication in regard to the petition ought to be addressed. HAR § 15-15-50(c)(2).*

The law firm of Mancini, Welch & Geiger, LLP, has been engaged to represent Petitioners in this matter. Attached as Petitioners' Exhibit "3" is Petitioners' authorization for Paul R. Mancini and James W. Geiger to act for Petitioners. Accordingly, all correspondence and communications in regard to this Petition shall be addressed to and served upon:

Paul R. Mancini  
James W. Geiger  
Mancini, Welch & Geiger, LLP  
305 East Wakea Avenue, Suite 200  
Kahului, HI 96732



and

Michael Atherton  
Waikapu Properties, LLC  
1670 Honoapiilani Highway  
Wailuku, HI 96793

D. Petitioners' Property Interest.

*[The petition shall state] the petitioner's property interest in the subject property. Petitioner shall attach as exhibits to the petition the following: (a) a true copy of the deed, lease, option agreement, development agreement or other document conveying to the petitioner a property interest in the subject property or a certified copy of a non-appealable final judgment of a court of competent jurisdiction quieting title in the petitioner; . . . HAR § 15-15-50(c) (5) (A).*

Petitioners are the fee simple owners of the Petition Area. The instrument of conveyance by which Petitioner Waikapu Properties, LLC received title to Tax Map Key No. (2) 3-6-004:003 (por) and (2) 3-6-004:006 is attached as Petitioners' Exhibit "4". The instrument of conveyance by which Petitioners MTP Land Partners, LLC and William S. Filios, Trustee of the William S. Filios Separate Property Trust dated April 4, 2000, received title to Tax Map Key No. (2) 3-6-005:007 is attached as Petitioners' Exhibit "5". The instrument of conveyance by which Petitioner Waiale 905 Partners, LLC received title to Tax Map Key No.

(2) 3-6-002:003 (por) is attached as Petitioners' Exhibit "6".

E. Affidavit of Compliance With Service of Petition.

*[The petition shall attach as an exhibit] an affidavit of the petitioner or its agent attesting to its compliance with [HAR § 15-15-48] [service of petition]. HAR § 15-15-50(c) (5) (C).*

An affidavit of James W. Geiger, an authorized representative of Petitioners, to attest to compliance with HAR § 15-15-48 is attached as Petitioners' Exhibit "7".

Copies of the Petition and supporting documents were served upon the Maui County Department of Planning, the Maui Planning Commission, the State Office of Planning, and all persons with a property interest in the Petition Area as recorded in the County of Maui's real property tax records as of the time of service.

After the Petition is deemed complete, Petitioners' authorized representative also will serve copies of the Petition and supporting documents to any potential intervenor upon receipt of notice of intent to intervene. Additionally, Petitioners' authorized representative shall serve copies of all documents filed by Petitioner after the filing of the Petition upon the Maui County Department of Planning, the Maui Planning

Commission, the State Office of Planning, and any other party admitted to this proceeding.

F. Notice of Petition Filing.

*[The petition shall include] a copy of the notification of petition filing pursuant to [HAR § 15-15-50] subsection (d). HAR § 15-15-50(c) (23).*

A true and correct copy of the notification of petition filing is attached as Petitioners' Exhibit "8". Copies of said notification were sent to all persons included on the mailing list provided by the Commission's Chief Clerk.

III. DESCRIPTION OF PETITION AREA

A. Acreage and Metes and Bounds.

*[Each petition shall provide a] description of the subject property, acreage, and tax map key number, with maps, including the tax map, that identify the area stated in the petition. If the subject property is a portion of one or more tax map key parcels, or the petition proposes incremental development of the subject property on both increments of development, the petitioner shall include a map and description of the subject property in each increment in metes and bounds prepared by a registered professional land surveyor. HAR § 15-15-50(c) (3).*

The Petition Area is located in Waikapu, District of Wailuku, Island and County of Maui, State of Hawaii. The Petition Area consists of about 485 acres. A portion of the Petition Area consisting of about 150 acres (located

within TMK No. (2) 3-6-004:003 (por)) is sought to be included within the Rural District. The remainder of the Petition Area of about 335 acres (which bears TMK Nos. (2) 3-6-002:003 (por), (2) 3-6-004:006 and (2) 3-6-005:007 (por)), is sought to be included within the Urban District. A location map showing the entire Petition Area is attached as Petitioners' Exhibit "9".

Tax maps which show the portions of the Petition Area which are to be included within the Rural District are attached as Petitioners' Exhibit "10". Tax maps showing the portions of the Petition Area which are sought to be included within the Urban District are attached as Petitioners' Exhibit "11".

Metes and bounds descriptions of the two parcels to be included within the Rural District and of the three parcels to be included within the Urban District prepared by a registered professional land surveyor are attached as Petitioners' Exhibits "12" through "13".

Petitioners intend to develop the Petition Area in two phases. A map showing the locations of the phases is attached as Petitioner's Exhibit "14". While it is not Petitioners' intent to change the location of the phases of development, it is possible that an adjustment will happen as a result of the HRS Chapter 343 review process.

Accordingly, upon completion of the HRS Chapter 343 review process, this Petition may be supplemented to provide a more complete description of the phases of the development.

B. Easements and Other Ownership Interests.

*[The petition shall include] a description of any easements on the subject property, together with identification of the owners of the easements; the description of any other owner interest shown on the tax maps. HAR § 15-15-50(c)(6).*

The Petition Area is made up of 5 separate parcels.

Easements and other ownership interests (as shown on tax maps) for each of the parcels follow:

1. Lot 6, Waikapu Hema Large-Lot Subdivision (92.394 acres) - Agricultural to Rural.

This parcel is at the southern end of the Petition Area and runs mauka from Honoapiilani Highway and is a part of a larger parcel over which there were several easements. As to the parcel in question, the following easements exist: Waihee Ditch as shown on the tax map; water transmission pipeline easement as reserved in the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions filed as Document No. 2004-245134 in the Bureau of Conveyances of the State of Hawaii. No ownership interests beyond those transferred to and held

by Petitioners are shown on the tax maps or on the real property tax records. See Petitioner's Exhibit "10".

2. Lot 6, Waikapu Hema Large-Lot Subdivision (57.454 acres) - Agricultural to Rural.

This parcel is located mauka of the Maui Tropical Plantation and is part of a larger parcel over which there are several easements. As to the parcel in question, the following easements exist: reservoir as shown on the tax map; water transmission pipeline and ditch easements as reserved in the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions filed as Document No. 2004-245134 in the Bureau of Conveyances of the State of Hawaii. No ownership interests beyond those transferred to and held by Petitioners are shown on the tax maps or on the real property tax records. See, Petitioners' Exhibit "10".

3. Lot 2, Waiale Park Large-Lot Subdivision (236.326 acres) - Agricultural to Urban.

This parcel is located makai of Honoapiilani Highway and runs from the south to the north end of the Petition Area. A part of a larger parcel, there are several easements which include: electrical easement in favor of Maui Electric Company in instrument filed in Book 18128, Page 729; and easements for utility purposes in

favor of Maui Electric Company and GTE Hawaiian Telephone Company in instruments filed in Book 20331, Page 23 and as documents no. 90-054813 and 98-162980. No ownership interests beyond those transferred to and held by Petitioners are shown on the tax maps or on the real property tax records. See, Petitioners' Exhibit "11".

4. Lot 2 of the Hawaii Tropical Plantation Subdivision (53.775 acres) - Agricultural to Urban.

This parcel is located mauka of Honoapiilani Highway and is adjacent to the Maui Tropical Plantation property. There are several easements that affect this parcel which include: Waihee Ditch as shown on tax map; reservoir as shown on tax map; easement for access and utilities in favor of Clayton Suzuki as granted in instruments recorded in the Bureau of Conveyances of the State of Hawaii as Documents No. 2003-081211 and 2003-081212; easement for vehicular and pedestrian access to Donna Ting and Allen Ting III as granted in instrument recorded in the Bureau of Conveyances of the State of Hawaii as Document 2003-005885; and easements for waterline and water transmission purposes in favor of Petitioners as owners of the Maui Tropical Plantation parcel as reserved in instrument recorded in the Bureau of Conveyances of the State of Hawaii as Document 90-174768. No easements or

other owners are shown on the real property tax records. Documents obtained from the Bureau of Conveyances purport to assert that the heirs of Napailoi could be possible owners of L.C.Aw. 10481, Apana 1, Mahele 1, Royal Patent 3131 and that the heirs of Kaai may be possible owners of L.C.Aw. 5774, Apana 2, Royal Patent 4014. See, Petitioners' Exhibit "11".

5. Lot 1 of Hawaii Tropical Plantation Subdivision (por) (45.045 acres) - Agricultural to Urban.

This parcel runs in an arc with the base of the arc beginning and ending on Honoapiilani Highway. The parcel is not subject to recorded easements. No other ownership interests are shown on the tax maps or the real property tax records. See, Petitioners' Exhibit "11".

C. Use, Soil Classification, Productivity, Flood, Drainage and Topography.

*[The petition shall include] a description of the subject property and surrounding areas including the use of the property over the past two years, the present use, the soil classification, the agricultural lands of importance to the State of Hawaii classification (ALISH), the Land Study Bureau productivity rating, the flood and drainage conditions, and the topography of the subject property.*  
*HAR § 15-15-50(c)(10).*

The Petition Area is located in the central Maui isthmus which is between Haleakala and the West Maui mountains.



Located on the slopes of the West Maui mountains just south of the town of Waikapu, the Petition Area slopes from northwest to southeast. Most of the Petition Area has a slope of three to five percent.

Historically the Petition Area was used for cultivation of sugar cane. In the 1960s the Maui Tropical Plantation was developed on a property which is planned to be the crown jewel of the Petition Area. During the past two years, the lower portions of the Petition Area remained in sugar cane production while the mauka portions of the Petition Area were used for livestock grazing and the production of organic and non-organic crops and vegetables.

There are three soil series and five soil types within the Petition Area. The soil series are: Puluheu; Iao; and Wailuku. Each of the series consists of well drained soils on alluvium fans formed from weathered basalt igneous rock. The soil series are highly suited for both agricultural and urban development.

The soil types are: Iao clay, 3 to 7% slopes (IcB), Puluheu cobbly silt loam, 3 to 7% slopes (PrB), Puluheu cobbly clay loam, 3 to 7% slopes (PtB), Wailuku silty clay, 3 to 7% slopes (WvB), and Wailuku silty clay, 7 to 15% slopes (WvC). A map showing the Petition Area and the soil types is attached as Petitioners' Exhibit "15".

The Petition Area lands principally are rated A and B under the Land Study Bureau Detailed Land Classification system. A map showing those classifications is attached as Petitioners' Exhibit "16". Ratings of A and B lands indicate that the land is productive for agricultural pursuits.

The bulk of the Petition Area is classified as "prime" land under the Agricultural Lands of Importance of the State of Hawaii ("ALISH"). A map showing the Petition Area and its ALISH designations is attached as Petitioners' Exhibit "17".

Almost all the Petition Area lies in Flood Zone X. Flood Zone X is an area of low to moderate flood risk. Areas of special flood zone hazard exist within the Petition Area that is makai of Honoapiilani Highway in the land that adjoins the Waikapu Stream. These zones are principally zones AE and AEF. The properties identified as being within zones AE and AEF will require flood insurance purchase. However, the portions of the Petition Area that are zoned AE and AEF will not be developed for residential use.

Runoff from the Petition Area mauka of Honoapiilani Highway sheet flows in a west to east direction, which runoff is diverted under Honoapiilani

Highway through six culverts that discharge the runoff into existing agricultural fields makai of Honoapiilani Highway. Runoff from the portion of the Petition Area makai of Honoapiilani Highway, combined with the diverted runoff from the portion of the Petition Area mauka of Honoapiilani Highway, sheet flows towards Kuihelani Highway and eventually discharges into Kealia Pond in North Kihei.

#### IV. DESCRIPTION OF PROJECT

##### A. General Description of Waikapu Country Town.

*[The petition shall state] the type of use or development being proposed, including without limitation, a description of any planned development, residential, golf course, open space, resort, commercial, or industrial use. HAR § 15-15-50(c)(7).*

The Waikapu Country Town Project (the "Project") is expected to be a complete community where its residents can live, work, shop and play in a friendly, healthy, and sustainable environment. The master-planned community is proposed to include affordable and market priced housing in a mixture of types such as live-work, single-family, multi-family and rural-residential. Supporting commercial, employment and civic uses are intended to form the complete community. Higher density housing and mixed uses are proposed for a Village Center and along a pedestrian oriented Main Street. Facilitation of walking and biking

between different land uses will be a major objective of the Project. About eight miles of greenways, walking and hiking trails, and mountain biking trails will be used to achieve travel times of five minutes if walking, and 10 minutes if biking, to schools, shopping, park and transit stops.

The Project as conceived will incorporate public transportation through the strategic location of bus stops to facilitate the use of public transit to job rich areas in Wailuku/Kahului and South and West Maui.

Petitioners envision that the Project will include about 1,433 residential units. The Petition Area adjoins agricultural land owned by Petitioners, a portion of which agricultural land will be preserved in perpetuity for agricultural use through a conservation easement. The Project will utilize conservation subdivision design practices to preserve additional rural land for farming, open space and open land recreation.

The Project is proposed to be centered on the existing Maui Tropical Plantation. The Maui Tropical Plantation, located on a 14 acre portion of TMK No. (2) 3-6-005:007, is presently zoned and classified as Urban. The Maui Tropical Plantation was developed to be a visitor destination based upon a tropical agricultural theme. The

facility integrates ongoing agricultural activities with daily tours, restaurants, gift shops, farm stands and adventure tours.

Existing buildings and grounds of the Maui Tropical Plantation are planned for incorporation into a village center providing commercial uses that may include a town grocery, farmers market, specialty and boutique retail stores, professional offices, personal service businesses, restaurants, cafes, and light craft making such as artist and craft studios.

Conceptually the lands that lie mauka of Honoapiilani Highway and the village center will be single-family residential neighborhoods of mixed-lot sizes. These neighborhoods will be designed to provide convenient vehicular, pedestrian and bicycle access to the village center.

Beyond the single-family residential neighborhoods will be rural lands. The rural lots are proposed for between one-half acre and one and one-half acres in size. Conceptually, the rural lots will allow for a more open-spaced lifestyle.

Outside the Petition Area in the lands owned by Petitioners, agricultural pursuits will be fostered. Petitioners presently plan to place the bulk of those lands

into a conservation easement in which the lands will continue to be used for agriculture for perpetuity.

Development of the Petition Area makai of Honoapiilani Highway will focus on a pedestrian-oriented "main street" together with a nearby school and parks. This focus will support development of a community where walking and biking are the preferred modes of transportation for short commutes and for recreation, which is a primary objective of the Project.

B. Number of Lots, Size of Lots, Number of Units, Density, Marketing and Development Timetables.

*[The petition shall include] a statement of projected number of lots, lot size, number of units, densities, selling price, intended market, and development timetables. HAR § 15-15-50(c)(8).*

While local market conditions ultimately will determine the types of units sold and the density of development within the Project, Petitioner intends that at full build out the overall character of the Project, the mix of uses, and the development pattern will be consistent with the master plan vision, design guidelines and zoning ordinances. The conceptual master plan and development program is shown in Petitioners' Exhibit "18".

Petitioners will implement the Project in two, five-year phases. At the completion of the Project, Petitioners expect that there will be about 970 single-family residences built on about 131 acres (for a density of about seven units per acre), about 256 multi-family/town homes built on about 21 acres (for a density of about 12 units per acre), about 80 dwellings built on about 125 acres (for a density of about 0.64 units per acre), and about 127 multi-family and/or live-work units, together with about 58,000 square feet of commercial use, constructed on about 20 acres for country town/mixed use. In addition, the Project will have about 12.9 acres dedicated to commercial use which is expected to add about 140,000 square feet of commercial space, about 12 acres on which a school is built, about 80 acres of park and open space, and about 80 acres of roadway.

Conceptually the first phase of the Project is planned to achieve construction of about one-third of the proposed single-family units, about one-fifth of the proposed rural units, about 35% of the proposed multi-family units, all of the proposed country town/mixed-use units, and all of the proposed commercial space.

The second phase of the Project is conceptually planned to develop the remainder of the single-family

units, the remainder of the rural units, and the remainder of the multi-family units.

Sales prices will be set as indicated in the marketing plan which will be a part of the Environmental Impact Statement. As such, Petitioners reserve the right to supplement this portion of the Petition to reflect the conditions existing at the time this Petition is presented to the Commission for final determination.

V. ASSESSMENT OF THE PROJECT

A. Environmental Assessment of the Project.

*[The petition shall include] an assessment of the impacts or the proposed use or development upon the environment, agriculture, recreational, cultural, historic, scenic, flora and fauna, groundwater, or other resources of the area. HAR § 15-15-50(c)(11).*

Petitioners are submitting an Environmental Impact Statement Preparation Notice for Waikapu Country Town with this Petition. See, Petitioners' Exhibit "1." Petitioners will submit an Environmental Impact Statement to the Commission for review and handling as the receiving agency. Petitioners believe that the impacts of the Project upon the environment can be appropriately mitigated. This portion of the Petition will be supplemented when the Environmental Impact Statement, together with the



supporting reports, surveys and assessments are completed. A general overview of the environmental assessment follows.

1. Physical environment.

Preliminary Engineering Reports and Preliminary Drainage Reports have not been completed and will be a part of the Environmental Impact Statement. In general, the impacts on the physical environment will include an analysis of the change in use, storm runoff, grading, seismic conditions and flooding.

The Petition Area adjoins Waikapu Town. Waikapu Town is comprised mostly of single-family residences constructed from the early 1900's through the 1950's. In addition, the Project will adjoin a development proposed by A&B Properties known as the Waiale Community Project that will be primarily residential in use. A district boundary amendment was sought by A&B Properties for the Waiale Project which was granted by this Commission in June 2012 in Docket No. A10-989. While some existing agricultural land will be converted to residential use by the Project, the conversion to such use is consistent with adjoining land uses.

During development of the Project, grading for roads, parks and lots will be required. Storm runoff during the construction of the infrastructure for the

Project might have an impact on the environment, accordingly National Pollutant Discharge Elimination System permits will be obtained before any grading activities. Additionally, storm runoff from the Petition Area will be controlled in compliance with County of Maui standards.

To the extent practical, improvements such as roadways will conform to the contours of the land to reduce the need for extensive grading of the Petition Area.

The Petition Area is generally not subject to the effect of tsunamis, volcanic hazards, earthquake or flooding. To the extent any portion of the Petition Area is subject to flooding, areas will be set aside for parks, open space and agriculture to prevent the construction of structures within any flood zones.

Petitioners reserve the right to supplement this portion of the Petition to reflect the impacts and mitigation measures identified in the Preliminary Engineering Report and the Preliminary Drainage Report.

## 2. Flora and fauna.

A botanical and faunal survey was conducted of the Petition Area. See, Petitioners' Exhibit "1." Only three native species of plants were found in the Petition Area, which species are found naturally in Hawaii and are commonly found throughout the tropics nearly worldwide. No

endangered Hawaiian hoary bats were detected during the survey. Bird life was dominated by widespread introduced species. The three native insects recorded during the survey are widespread and common in Hawaii and elsewhere. Two tree tobacco plants, hosts for the Blackburn's Sphinx moth, were found in the Petition Area. The tree tobacco plants were examined for the presence of eggs, larvae or other signs of feeding of the moth. One plant was found to have two mature eggs on separate leaves.

Mitigation measures will include the shielding of outdoor lighting to direct the light downward and the protection and management of the two tree tobacco plants.

### 3. Air quality.

An Air Quality Study for the Petition Area will be a part of the Environmental Impact Statement. In general, the Petition Area experiences relatively strong trade winds blowing from north to south. While air quality during construction will be impacted by fugitive dust and exhaust emissions from construction vehicles, no long-term impacts to air quality are expected. During construction related activities, best management practices will be implemented to control dust and decrease other sources of air pollution. Petitioner reserves the right to supplement

this Petition to reflect the impacts and the mitigation measures that will be identified in the Air Quality Study.

4. Noise quality.

A Noise Assessment Report for the Petition Area will be attached to the Environmental Impact Statement. Petitioner does not believe that significant noise generators exist within or in close proximity to the Petition Area. During construction, construction vehicles, machinery and equipment will create some increase in noise. Grading and construction related activities during construction of the infrastructure will be limited to daylight hours to reduce noise impacts. Petitioner reserves the right to supplement this portion of the Petition to reflect the impacts and the mitigation measures that will be identified in the Noise Assessment Report.

5. Historic and archeological resources.

An Archeological Inventory Survey will be attached to the Environmental Impact Statement. Any archeological features found during construction of the infrastructure will be preserved in accordance with Petitioners' archeological consultant's directives and in consultation with the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources. Petitioner reserves the right to supplement this portion of

the Petition to reflect the impacts and the mitigation measures that will be identified in the Archaeological Inventory Survey.

6. Cultural impacts.

A Cultural Impact Assessment will be attached to the Environmental Impact Statement. In addition, a history of the Petition Area is attached to and a part of the Environmental Impact Statement Preparation Notice. See, Petitioner's Exhibit "1." In general, the Petition Area was used for agricultural purposes since the 1870's. Some cultural practices were conducted in the area of the Waikapu Stream, although it is not known whether those were conducted within the Petition Area. Petitioner reserves the right to supplement this portion of the Petition Area to reflect the impacts and mitigation measures identified in the Cultural Impact Assessment.

7. Visual resources.

There are largely unobstructed views of Haleakala, the West Maui Mountains, the central Maui isthmus and Pacific Ocean from the mid to upper elevations of the Petition Area. At higher elevations, Wailuku and Kahului, as well as East and South Maui are visible. From lower elevations, largely unobstructed views are available of the West Maui Mountains and Haleakala. To mitigate the

impact of the Project on visual resources, one or more of the following urban design strategies may be employed: (a) setbacks will be utilized on each side of Honoapiilani Highway to separate the development from the public right-of-way in which large canopied Monkey pod trees, tropical shrubs, bushes and grass will be maintained to create a sense of separation and definition; (b) buildings will be set back and heights will be limited, which coupled with alignment of roadways to capture mauka to makai view corridors should mitigate the impact of views of Haleakala and the West Maui Mountains; (c) the view of open space resources such as sugar cane land will be maintained by conservation easements to preserve in perpetuity approximately 800 acres of prime agricultural lands, which, coupled with a transformation of the Maui Tropical Plantation from a visitor-oriented attraction to a park-like town center, should mitigate the impact on visual spaces.

#### 8. Agricultural resources.

An Agricultural Impact Assessment for the Petition Area was prepared and is a part of and attached to the Environment Impact Study Preparation Notice.

Petitioner's Exhibit "1". While agriculture dominated Hawaii's economy from the late 1800's through the 1950's,

the overall significance of agriculture declined since the advent of mass-market tourism. Hawaii farmers face stiff competition in local, national and international markets but remain competitive in niche product markets. While the Project will result in the urbanization of about 485 acres, this represents a small percentage of agricultural lands on Maui. Petitioners own, in addition to the Petition Area, about 1,000 acres of land that will remain in agricultural use, 800 acres of which they propose to permanently dedicate to agricultural use through conservation easements. Possible uses of the remaining 300+ acres are subdivision into large agricultural lots or development into a private agricultural park.

9. Groundwater and surface water resources.

A Preliminary Engineering Study will be attached to the Environmental Impact Statement. In general, it is expected that the Project will receive water service from a private water system with groundwater as a source. Petitioner reserves the right to supplement this portion of the Petition to reflect the impacts and mitigation measures identified in the Preliminary Engineering Study.

B. Public Services.

*[The petition shall address] the availability or adequacy of public*

*services and facilities such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, police and fire protection, civil defense, emergency medical service and medical facilities, and to what extent any public agency would be impacted by the proposed development or boundary amendment. HAR § 15-15-50(c)(12).*

1. Schools.

Maui schools are organized into complex-areas. Groups of two to four complexes form a complex-area that is under the supervision of a complex-area superintendent. A complex consists of a high school and all the intermediate/middle and elementary schools that flow into it. The Project is located within the Baldwin-Kekaulike-Maui Complex-Area. The Environmental Impact Statement will more thoroughly analyze the impact of the Project on schools. However, Petitioner expects that the increase in population resulting from the Project will result in an increase in the need for school facilities. Accordingly, Petitioner included within the master plan a site for the construction of a school to mitigate the impact on existing school facilities.

2. Parks.

The Project is located within the Central Maui region. The Central Maui region has 186 acres of sub-



regional park land and 377 acres of regional parks. There are 11 active recreation parks in the region, two regional parks and two beach parks. The County of Maui acquired 309 acres in Waikapu near the Petition Area for a regional park and a Central Maui sports complex is being planned in Waikapu on 65 acres owned by the State of Hawaii. The impact of the Project will be analyzed in the Environmental Impact Statement and Petitioners reserve the right to supplement this portion of the Petition to reflect the impacts and mitigation measures as found in the Environmental Impact Statement.

### 3. Wastewater systems.

Sewerlines from the County of Maui wastewater system exist on the north side of Waikapu Stream. The existing Maui Tropical Plantation is serviced by a private sewer system that connects to the County of Maui wastewater sewer system on Waiko Road near Waikapu Town. The impact of the Project will be analyzed in the Preliminary Engineering Study which will be a part of the Environmental Impact Statement. Petitioner reserves the right to supplement this portion of the Petition to reflect the impacts and the mitigative measures identified in the Preliminary Engineering Study and the Environmental Impact Statement.

4. Solid waste disposal.

The Project is serviced by the Central Maui Landfill which provides residential waste disposal for Central Maui. A privately owned and operated landfill services the island of Maui's construction and demolition waste stream. In 2009, the County of Maui adopted an integrated solid waste management plan. The County of Maui projects that the planned capacity for the existing landfills is sufficient to accommodate demand through the year 2026. The impact of the Project on solid waste collection facilities and services will be analyzed in the Environmental Impact Statement. Petitioner will supplement this portion of the Petition to reflect the impacts and mitigative measures that are identified in the Environmental Impact Statement.

5. Drainage.

A Preliminary Engineering Study will be attached to the Environmental Impact Statement. The study will address the impact of the Project on drainage and mitigation measures to effect compliance with applicable federal, state and county law. Petitioner will supplement this portion of the Petition to reflect the impacts and mitigative measures that are identified in the Preliminary Engineering Study and the Environmental Impact Statement.

6. Water.

Water service in the vicinity of the Project is provided by the County of Maui through a 12 inch waterline from a 300,000 gallon tank near the mauka terminus of Waiko Road. The waterline crosses Honoapiilani Highway and terminates to the east of Waikapu Town. A 4-inch waterline runs south from the 12-inch waterline and provides service to the Maui Tropical Plantation.

Fire protection for the Maui Tropical Plantation is provided by a private system that consists of a gravity fed fireline from a lagoon located immediately to the west of the Maui Tropical Plantation restaurant.

Petitioner has existing wells that could be the source for domestic water and fire protection systems. However, it also is possible that the Project might be served by the County of Maui systems. The impacts and mitigative measures for water service will be analyzed in the Preliminary Engineering Report and Environmental Impact Statement. Petitioner will supplement this part of the Petition to reflect the impacts and mitigative measures identified in the Preliminary Engineering Report and Environmental Impact Statement.

## 7. Transportation systems.

Primary access to the Petition Area is provided by Honoapiilani Highway which bisects the Petition Area and by Kuihelani Highway which is on the eastern boundary of the Petition Area. Honoapiilani Highway links West Maui (Lahaina/Kapalua) with Central Maui (Wailuku/Kahului). As a two-lane undivided roadway, Honoapiilani Highway provides two travel lanes (one in each direction) with turn lanes at many intersections. Parking is not permitted on most sections of Honoapiilani Highway and sidewalks are not provided. While the posted speed limit ranges between 30 and 45 miles per hour, the posted speed limit of the highway within in the Petition Area is 30 miles per hour.

Kuihelani Highway is a four-lane (two lanes in each direction) divided highway with a posted speed limits of 45 and 55 miles per hour. This roadway allows traffic to go between the airport and West Maui by bypassing Wailuku and most of Kahului.

Waiko Road is located just north of the Waikapu Stream and runs in an east-west direction between Honoapiilani Highway and Kuihelani Highway. Having two travel lanes (one in each direction), this roadway allows access to residential and light industrial areas from either Honoapiilani Highway or Kuihelani Highway.

The Maui Bus service provides public transportation around Maui. The Lahaina Islander Route (#20) serves the Petition Area, providing hourly service between Lahaina, Maalaea, Waikapu and Kahului. The bus stop is located at the intersection of Honoapiilani Highway and Waiko Road.

A Traffic Impact Analysis Report will be attached to the Environmental Impact Statement. Petitioner will supplement this portion of the Petition to reflect the impacts and mitigative measures that are identified in the Traffic Impact Analysis Report and the Environmental Impact Statement.

8. Public utilities.

Power, telephone and cable television transmission facilities exist along Honoapiilani Highway. In addition, a 69 kv utility line traverses the Petition Area along the Waihee Ditch. The impact to utilities will be evaluated in the Environmental Impact Statement. Petitioners will supplement this portion of the Petition to reflect the impacts and mitigative measures that are identified in the Environmental Impact Statement.

9. Police and fire protection.

The Petition Area falls within the Maui Police Department's District 1. That police district is served by

the Wailuku (Central) Station which houses the Maui Police Department headquarters for the entire County. The impact of the Project on police services will be analyzed in the Environmental Impact Statement and Petitioners will supplement this portion of the Petition to reflect the impacts and mitigative measures which concern police services.

The Department of Fire and Public Safety has two fire stations within a five mile service area of the Petition Area. These include the Wailuku Station and the Kahului Station. The impact of the Project on fire protection will be analyzed in the Environmental Impact Statement. Petitioners will supplement this portion of the Petition to reflect the impacts and mitigative measures which concern fire protection.

10. Civil defense.

The Civil Defense Agency of the County of Maui administers and operates civil defense programs for the County of Maui. Included in those duties are planning, preparing and coordinating civil defense operations to meet disaster situations and coordination of post-disaster event recovery operations. The impact of the Project on civil defense programs will be analyzed in the Environmental Impact Statement and Petitioners will supplement the

Petition to reflect the impacts and mitigative measures which concern civil defense.

11. Emergency medical service and medical facilities.

The island of Maui is serviced by a single hospital, Maui Memorial Medical Center ("MMMC"). MMMC is located about four miles from the Petition Area. Private medical offices and other facilities are located throughout Wailuku and Kahului. These facilities provide non-emergency medical care. Two out-patient surgical centers exist in the Kahului area. In addition, Kaiser Permanente has clinics in Wailuku and Maui Lani (Kahului) and the Maui Medical Group has offices in Wailuku. The impact of the Project will be analyzed in the Environmental Impact Statement. Petitioners will supplement this portion of the Petition to reflect the impacts and mitigative measures on medical facilities and emergency medical services.

C. Location of Project in Relation to Adjacent Land Use Districts and Centers of Trading and Employment.

*[The petition shall state the] location of the proposed use or development in relation to adjacent land use districts and any centers of trading and employment. HAR § 15-15-50(c)(13).*

The Petition Area is bounded on the north by the Waikapu Stream. The existing town of Waikapu, the Maui Lani

development, and the Waiale Community Project generally lie in close proximity to the northern boundary of the Petition Area. Each of these developments is urban in nature.

The Petition Area is bounded on the east by Kuihelani Highway. Adjacent to Kuihelani Highway is agricultural land.

The southern portion of the Petition Area will adjoin agricultural land owned by one or more of the Petitioners. The agricultural land to the south will be placed into perpetual agricultural use by the granting of a conservation easement for such purposes.

On the westerly boundary of the Petition Area is a golf course and agricultural lands. The agricultural lands are controlled by Petitioners who expect to keep the lands in agricultural use. The golf course is owned by other individuals. In sum, the Petition Area will be adjacent to urban uses to the north and agricultural uses to the east, south and west.

As to centers of trading and employment, as noted the town of Waikapu is just north of and adjacent to the Petition Area. The town of Wailuku, which represents the seat of county government for the County of Maui, is located 2.5 miles to the north of the Petition Area. Kahului, which is the principal trading center on the



island of Maui, is located 5.5 miles northeast of the Petition Area. The town of Maalaea which includes the Maui Ocean Center, the Maalaea Village Triangle Shops, and the Maalaea Small Boat Harbor is located 8 miles south of the Petition Area. The Kihei/Wailea area which has retail and tourism is located 10 miles southeast of the Petition Area. Presently the Maui Bus, which provides public transportation for the island of Maui, goes through the Petition Area via Honoapiilani Highway. Transfer stations for the Maui Bus exist in Kahului at Queen Kaahumanu Center and in Maalaea at the Maalaea Triangle Shopping Center. Residents of the Project will have easy access to public transportation which will allow them to access readily the trading and employment centers of Waikapu, Wailuku, Kahului, Kihei, Maalaea and Wailea. Access to the Maui Bus will also allow residents of the Project to engage in employment in the Lahaina area and in the Upcountry area of Makawao/Pukalani.

D. Economic Impacts Including Employment Opportunities and Agricultural Production.

*[The petition shall address] economic impacts of the proposed boundary amendment, use, or development including, without limitation, the provision of any impact on employment opportunities, and the potential impact to agricultural production in the vicinity of the subject property, and*

*in the county and state. HAR § 15-15-50(c)(14).*

The economy of Maui County is predominated by tourism. The accommodation and food service industry account for the greatest percentage of jobs on Maui. Of about 63,000 jobs on Maui, over 18,000 jobs are in that sector. Federal, state and county government employment is the second largest sector of employment with about 8,800 jobs. The retail trade, which is dependent upon tourism, has about 8,100 jobs. Professional and business services make up about 6,300 jobs while agriculture has about 1,250 jobs.

The Project will have both short and long-term economic impacts. The short-term impact will be in the form of construction related matters. Both construction jobs and the purchase of materials for use in construction will add to Maui's economy. On a longer term basis, the Project concept is to add about 150,000 square feet of commercial space and about 50,000 square feet of retail space to existing inventories. This additional space will translate into additional jobs for the owners and occupants of the businesses in the space and will result in additional retail sales of goods and services.

With regard to agricultural production, the Petition Area is presently utilized for sugar cane

production, livestock grazing and diversified agriculture. The Petition Area represents about 0.6% of the agricultural lands rated by the Land Study Bureau as A, B or C in the County of Maui and about 0.24% of the total of the lands located within the Agricultural District. While the Project is expected to result in a reduction of the lands available for sugar cane crops, about 800 acres of adjoining land, which are owned by one or more of the Petitioners, is proposed for dedication to agricultural production and made available to smaller farmers for diversified agriculture.

With these general comments in mind, the economic impact of the Project will be fully analyzed in the Environmental Impact Statement. Petitioner will supplement this portion of the Petition to reflect the economic impacts identified in the Environmental Impact Statement.

E. Relationship Between the Project and Other Projects Existing or Proposed for the Area.

*[The petition shall provide] an assessment of need for the boundary amendment based upon the relationship between the use or development proposed and other projects existing or proposed for the area in consideration of other similarly designated land in the area. HAR § 15-15-50(c)(16).*

In December 2012, the County of Maui adopted the MIP. The MIP establishes goals, objectives, policies and actions to

direct growth and development in Maui through the year 2030. The MIP was based upon a comprehensive analysis of population growth, economic conditions, development capacity of existing lands, and extensive community outreach.

To guide development of future urban lands, the MIP set forth policies regarding urban densities, balance between single and multi-family housing types, mixed use development, vehicular and pedestrian connectivity between land uses, and incorporation of parks, schools, open space, and affordable housing into future developments.

The MIP placed the Petition Area (and an additional 20 acres) into urban and rural growth boundaries. In describing the Waikapu Country Town Planned Growth Area, the MIP stated:

The Waikapu Tropical Plantation Town Planned Growth Area is situated in the vicinity of the Maui Tropical Plantation, and includes lands on both the mauka and makai sides of Honoapiilani Highway. Providing the urban character of a traditional small town, this area will have a mix of single-family and multi-family rural residences, park land, open space, commercial uses, and an elementary or intermediate school developed in and coordination with the Waiale Project. The area is located south of Waikapu along Honoapiilani Highway and it will incorporate the integrated agricultural and commercial uses of the existing

tropical plantation complex. This area is proximate to the Waiale Planned Growth Area, providing additional housing in Central Maui within the Wailuku-Kahului Community Plan region. As part of this Project, parcels to the south of the Project (identified as agricultural preserve on Figure 8-1) shall be protected in perpetuity for agricultural use through a conservation easement. A portion of this area may be dedicated to the county as an agricultural park administered pursuant to county regulations. Alternatively, this area can be developed as a private agricultural park available to Maui farmers, and executed through a unilateral agreement between the land owner and Maui County. The rural lots mauka of Honoapiilani Highway are intended to be developed using a CSD plan. The CSD plan shall provide access to uninterrupted and bicycling trails and will preserve mauka and makai views while protecting environmentally sensitive lands both along Waikapu Stream and mauka of the subdivision.

Planned Growth Area Rationale: Keeping the Waikapu Tropical Plantation as the town core, this area will become a self-sufficient small town with a mix of single-family and multi-family housing units in a walkable community that includes affordable housing in close proximity to Wailuku's employment centers. Schools, park, police and fire facilities, transit infrastructure, wastewater, water supply resources, and other infrastructure should be developed efficiently, in coordination with the neighboring developments including Maui Lani, Kehalani, Puunani and Waiale. The Waikapu Tropical Plantation Town

Planned Growth Area is located on  
Directed Growth Map #C3.

Ordinance 4004, MIP at p. 8-22 to 8-23.

As noted, other projects in the area include Maui Lani, Kehalani, Puunani and the Waiale Community Project. Maui Lani is a planned mixed use community. Partially complete, this master planned community is a mixture of seven residential neighborhoods that total about 1,000 single-family and multi-family households. In addition to residential use, the project includes the Maui Lani Village Center which will have about 540,000 square feet of space available for commercial, business, or medical office use. The project is assumed to be fully completed by 2026.

The Kehalani development is a partially complete master planned community of about 2,400 homes. The project is assumed to be fully complete by 2026.

Puunani Residences is a 600 unit residential community. Petitioners do not know when the project is expected to be fully completed.

The Waiale Community Project is a planned mixed-use community. In addition to the 2,550 single-family and multi-family dwellings, the project will include commercial and light industrial land uses. A middle school is projected for development in the Waiale Community Project.

Development of the project is expected to be complete by 2022.

The boundary amendment would be consistent with the MIP. As noted, significant effort went into development of the MIP so that small town and rural growth boundaries could be identified. The Petition Area is within identified the small town and rural growth boundaries in the MIP.

Further, the Petition Area is in proximity to other urban developments. Specifically, Maui Lani, Kehalani, Puunani and the Waiale Community Project all represent urban developments in the Central Maui area. The County of Maui in its planning determined that single and multi-family residential development should occur in the Petition Area. As such, the Project is consistent with existing or proposed projects in the area and has been reviewed and approved by the County of Maui in its long-range planning which resulted in adoption of the MIP and inclusion of the Petition Area within its small town and rural growth boundaries.

F. Conformity to Hawaii State Plan.

*[The petition shall provide] an assessment of conformity of the boundary amendment to applicable goals, objectives, and policies of the Hawaii State Plan, Chapter 226, HRS, and*

*applicable priority guidelines and functional plan policies. HAR § 15-15-50(c) (17).*

The Hawaii State Planning Act (the "Planning Act") is a comprehensive guide for future long-range development in Hawaii. HRS Chapter 226. The purpose of the Planning Act is to identify the goals, objectives, policies and priorities for the State of Hawaii. Three themes underlie the Planning Act: 1) individual and family self-sufficiency; 2) social and economic mobility; and 3) community or social well-being. HRS § 226-3.

The goals identified by the Planning Act include sustaining a strong, viable, stable and diverse economy, developing physical environments that are beautiful, clean and unique, enhancing the mental and physical well-being of Hawaii residents, enhancing the physical, social and economic well-being of Hawaii residents, and nourishing a sense of community responsibility and participation of Hawaii residents. HRS § 226-4.

The Environmental Impact Study will analyze the Project's conformance with the goals, objectives and policies of the Planning Act. A general commentary on the conformance of the Project to the Planning Act follows.



1. Objectives and Policies of the Planning Act.

Specific to the Project, the Planning Act provides objectives and policies for population (HRS § 226-5), economy (HRS §§ 226-6 and 226-7), physical environment (HRS §§ 226-10 to 226-12), facility systems (HRS §§ 226-14, 226-16 and 226-17), and socio-cultural advancement (HRS §§ 226-19, 226-21 and 226-23). The Project is located in an area that was designated for urban growth by the County of Maui in its long range planning efforts, is in proximity to existing public services and infrastructure, will provide housing for a range of income groups to meet the varied housing needs on the island of Maui, will provide commercial space to allow for the expansion of commerce, and will provide greenways together with biking and hiking paths that will promote recreation and sustainability. The conformance of the Project to the objectives and policies of the Planning Act will be fully analyzed in the Environmental Impact Statement.

2. State Functional Plans.

The Planning Act required the creation of functional plans to define and implement statewide goals, objectives and policies. HRS § 226-56. The functional plans are primary guidance tools for implementation of the

Planning Act. The Environmental Impact Study will fully analyze the Project's conformance with various functional plans, a summary of the applicable functional plans follows.

a. Agricultural Functional Plan. The State Functional Plan for Agriculture identifies two fundamental objectives: (1) continued viability in Hawaii's sugar and pineapple industries; and (2) continued growth and development of diversified agriculture throughout the state.

The Petition Area was not in pineapple production for many years, if at all. Accordingly, the Project will have no impact on continued viability of Hawaii's pineapple industry.

With regard to the continued viability of Hawaii's sugar industry, the Project will impact adversely that objective. Lands that were in sugar cane production will be taken out of production.

Nevertheless, the Project will support and enhance the second objective of the State Agricultural Fundamental Plan which is to continue the growth and development of diversified agriculture. Approximately 1,100 acres adjacent to the Petition Area is owned by one

or more of the Petitioners. The bulk of those adjacent lands are proposed for dedication to agricultural use.

The Petition Area was placed into the rural and small town growth boundaries by the County of Maui in adoption of the MIP in 2012. Overriding factors that supported removing the Petition Area from agricultural use included the forecasted demand for additional urban lands to accommodate projected population growth, the development suitability of the Petition Area, the proximity of the Petition Area to existing employment, infrastructure, public facility systems and existing urban development, and the enhancement of diversified agriculture on the Petition Area and adjacent lands.

b. Housing Functional Plan. The State Functional Plan for Housing seeks to increase home ownership, expand rental housing opportunities, and to designate land suitable for residential development. The shortage of housing units on Maui suggests that the Project will address implementing actions under the Housing Functional Plan by increasing the ownership of homes and expanding rental opportunities on land that the County of Maui in its long range plans deemed to be suitable for residential development. As such, the Project would conform to the Housing Functional Plan.

c. Recreation Functional Plan. The State Functional Plan for Recreation has as its objectives to provide recreation facilities and programs and to assure public access to recreation areas. Among other ways, those objectives are met by development of local and community parks and of biking, walking and hiking trails. The Project will incorporate greenspace, biking, walking and hiking paths to promote the availability of recreation areas and to assure that the public will have access to those paths. As such, the Project would conform to the Recreation Functional Plan.

d. Transportation Functional Plan. The State Functional Plan for Transportation has as an objective providing a viable bikeway program. The Project will incorporate biking paths to encourage travel from housing to shops and work by bike. As such, the Project would conform to this objective of the Transportation Functional Plan.

3. Sustainability.

Act 181, Session Laws of Hawaii, established sustainability as a State priority by incorporating the Hawaii 2050 Sustainability Plan definitions, guiding principles and goals into HRS Chapter 226. Consistent with the sustainability guidelines, Petitioner will submit a

sustainability plan based on the *Healthy Community Design Smart Growth Checklist* prepared by the Hawaii State Department of Health, Built Environment Working Group.

To summarize the plan, the Project's incorporation of biking and walking trails which allow for ready access to commercial uses, the incorporation of commercial uses in a village center and main street, and the Project's location adjacent to existing urban areas is seen as supporting sustainable design principles by shortening necessary trips for everyday needs, and minimizing petroleum fueled car and truck use. The establishment of connectivity with bikeways and hiking and walking trails encourages non-vehicular travel and promotes fitness through safe walking, biking and other active transportation. The Project is expected to be designed to respect the existing natural topography resulting in relatively minor topographical changes through excavation or fill activities which, in turn, will lessen energy needs and costs during construction. Incorporation of rural lots for agricultural uses is expected to enhance sustainability by allowing production of crops and fruits by small farmers.

G. Conformity to the Coastal Zone Management Program.

*[The petition shall provide] an assessment of the conformity of the boundary amendment to objectives and policies of the Coastal Zone Management Program, Chapter 205A, HRS. HAR § 15-15-50(c)(18).*

The Petition Area is not within the Special Management Area to which the Coastal Zone Management Program is applicable. Accordingly, the Project and the Petition Area will have no impact on the objectives and policies of the Coastal Zone Management Program. Nevertheless, the Coastal Zone Management Program Objectives and Policies will be considered and fully analyzed in the Environmental Impact Statement. A general analysis of the conformity of the Project to the Coastal Zone Management Program follows.

1. Recreational Resources.

**Objective:** *Provide coastal recreational opportunities accessible to the public.*

**Policies:**

- (A) *Improve coordination and funding of coastal recreational planning and management; and*
- (B) *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 uses 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 nonpoint 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 lagoons, 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, and county authorities; and crediting such dedication against the requirements of section 46-6.

Petitioners propose for inclusion in the Project recreational facilities suitable for public recreation, implementation of best management practices and erosion-control measures during construction, and designing the project in accordance with drainage standards to insure

that the project will not adversely affect downstream and adjoining properties. Petitioners may supplement this section of the Petition to reflect conformity with the objective and policies relating to recreational resources identified in the Environmental Impact Statement.

2. Historic Resources.

**Objective:** *Protect, 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.*

**Policies:**

- (A) *Identify and analyze significant archaeological resources;*
- (B) *Maximize information retention through preservation of remains and artifacts or salvage operations; and*
- (C) *Support state goals for protection, restoration, interpretation, and display of historic resources;*

An archaeological inventory survey will be attached to the Environmental Impact Statement. Any archaeological features found during construction of the infrastructure will be preserved in accordance with Petitioners' archaeological consultant's directives and in consultation with the Hawaii State Historic Preservation Division. Petitioners may supplement this section of the Petition to reflect conformity with the objective and policies relating to historic resources identified in the Environmental



Impact Statement.

3. Scenic and Open Space Resources.

**Objective:** *Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.*

**Policies:**

- (A) *Identify valued scenic resources in the coastal zone management area;*
- (B) *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;*
- (C) *Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and*
- (D) *Encourage those developments that are not coastal dependent to locate in inland areas*

Petitioners will propose that impacts on visual resources will be mitigated by the employment of urban design strategies. Petitioners may supplement this section of the Petition to reflect conformity to the objective and policies relating to scenic and open space resources identified in the Environmental Impact Statement.

4. Coastal Ecosystems.

**Objective:** *Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

**Policies:**

- (A) *Exercise an overall conservation ethic, and practice stewardship in the*

- protection, use, and development of marine and coastal resources;
- (B) Improve the technical basis for natural resource management;
  - (C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
  - (D) 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
  - (E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures

Petitioners propose for inclusion in the Project implementation of best management practices and erosion-control measures during construction, and designing the project in accordance with drainage standards to insure that the project will not adversely affect downstream and adjoining properties. Petitioners may supplement this section of the Petition to reflect conformity with the objectives and policies relating to the coastal ecosystems identified in the Environmental Impact Statement.

#### 5. Economic Uses.

**Objective:** Provide public or private facilities and improvements important to the State's economy in suitable locations

**Policies:**

- (A) Concentrate coastal dependent development in appropriate areas;
- (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry 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
- (C) 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

While the policies for economic uses are not applicable, Petitioners proposed project will have impact on the economy of Maui. The impacts will be assessed in the Environmental Impact Statement. Petitioners may supplement this section of the Petition to reflect the project's conformity to the objective relating to economic use identified in the Environmental Impact Statement.

6. Coastal Hazards.

**Objective:** Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution

**Policies:**

- (A) *Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;*
- (B) *Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;*
- (C) *Ensure that developments comply with requirements of the Federal Flood Insurance Program; and*
- (D) *Prevent coastal flooding from inland projects*

Petitioners propose for inclusion in the Project implementation of best management practices and erosion-control measures during construction, and designing the project in accordance with drainage standards to insure that the project will not adversely affect downstream and adjoining properties. Petitioners may supplement this section of the Petition to reflect conformity with the objectives and policies relating to the coastal hazards identified in the Environmental Impact Statement.

7. Managing Development.

**Objective:** *Improve the development review process, communication, and public participation in the management of coastal resources and hazards*

**Policies:**

- (A) *Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;*

- (B) *Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and*
- (C) *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*

While the policies for managing development are not applicable, Petitioners proposed project will go through a development review process. The objective will be assessed in the Environmental Impact Statement. Petitioners may supplement this section of the Petition to reflect the project's conformity to the objective relating to managing development identified in the Environmental Impact Statement.

8. Public Participation.

**Objective:** *Stimulate public awareness, education, and participation in coastal management*

**Policies:**

- (A) *Promote public involvement in coastal zone management processes;*
- (B) *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 issues, developments, and government activities; and*
- (C) *Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;*

While neither the objective nor the policies for public participation in coastal zone management are applicable to the Project, the topic will be assessed in the Environmental Impact Statement. Petitioners may supplement this section of the Petition to reflect the project's conformity to the objectives and policies relating to public participation identified in the Environmental Impact Statement.

9. Beach Protection.

**Objective:** *Protect beaches for public use and recreation*

**Policies:**

- (A) *Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;*
- (B) *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;*
- (C) *Minimize the construction of public erosion-protection structures seaward of the shoreline;*
- (D) *Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and*
- (E) *Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained*

*vegetation to interfere or encroach upon  
a beach transit corridor*

While neither the objective nor the policies for beach protection in coastal zone management are applicable to the Project, the topic will be assessed in the Environmental Impact Statement. Petitioners may supplement this section of the Petition to reflect the project's conformity to the objectives and policies relating to beach protection identified in the Environmental Impact Statement.

10. Marine Resources.

**Objective:** *Promote the protection, use, and development of marine and coastal resources to assure their sustainability*

**Policies:**

- (A) *Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;*
- (B) *Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;*
- (C) *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;*
- (D) *Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and*
- (E) *Encourage research and development of new, innovative technologies for*

*exploring, using, or protecting marine  
and coastal resources*

While neither the objective nor the policies for marine resources in coastal zone management are applicable to the Project, the topic will be assessed in the Environmental Impact Statement. Petitioners may supplement this section of the Petition to reflect the project's conformity to the objectives and policies relating to marine resources identified in the Environmental Impact Statement.

H. Conformity to Applicable General Plans, Community Plans, Zoning Designations and Policies.

*[The petition shall provide] an assessment of conformity of the boundary amendment to the applicable County general plans, development or community plans, zoning designations and policies, and proposed amendments required. HAR § 15-15-50(c)(19).*

The Maui County General Plan refers to a hierarchy of planning documents that together set forth future growth and policy direction for the County of Maui. The components of the general plan are a County-Wide Policy Plan, the MIP, and nine community plans.

The County-Wide Community Plan was adopted in March 2010 and is a broad policy document identifying a vision for the future of Maui County. The policy plan contains a set of guiding principles, provides comprehensive goals, objectives, policies and implementing



actions, and provides the policy framework for the development of the MIP and the nine community plans.

The County-Wide Policy Plan establishes a list of county-wide goals, objectives, policies and implementing actions around the following core themes:

- protect the natural environment
- preserve local cultures and traditions
- improve education
- strengthen social and healthcare services
- expand housing opportunities for residents
- strengthen the local economy
- improve parks and public facilities
- diversify transportation options
- improve physical infrastructure
- promote sustainable land use and growth management
- strive for good governance

The MIP functions as a regional plan and addresses policies and issues that are not confined to one community plan area. Combined with the community plans, the MIP develops strategies with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewer systems, visitor destinations, and urban design.

The MIP serves as the regional plan for the island of Maui. Ten elements make up the MIP:

- population
- heritage resources
- natural hazards
- economic development

- housing
- infrastructure and public facilities
- land use
- directed growth plan
- monitoring and evaluation
- implementation

Each of these sections contains goals, objectives, policies and implementing actions. The directed growth plan section is intended to guide the location and general character of future urban development and should direct future zoning changes and guide the development of the County's short-term and long-term capital improvement plan budgets.

The MIP, which represents community review and Maui County Council approval, determined that the Project was desirable in terms of future development and in terms of location of urban and rural development within the County of Maui, and particularly the Central Maui area. As such, the Project is in conformance with the MIP and in turn in conformance with the County-Wide Policy Plan.

As noted, there are nine separate community plan regions. Each region is governed by a different community plan which sets forth desired land use patterns together with goals, objectives, policies, and implementing actions for a number of functional areas including infrastructure-related parameters.

The Petition Area is located within the Wailuku-Kahului Community Plan region. The Wailuku-Kahului Community Plan was last updated in 2002. This update was before both the County-Wide Policy Plan adopted in March 2010 and the MIP adopted in December 2012.

The Project is not in conformance with the Wailuku-Kahului Community Plan in full. The Wailuku-Kahului Community Plan acknowledges that the Maui Tropical Plantation Project District was a desired development. However, the Petition Area, which surrounds the Maui Tropical Plantation, is not in conformance with the Wailuku-Kahului Community Plan map. Accordingly, Petitioners will seek a community plan amendment of the existing Wailuku-Kahului Community Plan. When that amendment is achieved, the Project will be in compliance with the Wailuku-Kahului Community Plan.

Nevertheless, conformity with the Wailuku-Kahului Community Plan goals, objectives and policies will be assessed in the Environmental Impact Statement and Petitioners may update this Petition to reflect the assessment of conformity of the Project to those goals, objectives and policies of the existing community plan as identified in the Environmental Impact Statement. A

general analysis of conformity with the existing community plan goals, objectives and policies follows.

1. Economic activity.

**Goal:** *Stable and viable economy that provides opportunities for growth and diversification to meet long-term community and regional needs and in a manner that promotes agricultural activity and preserves agricultural lands and open space resources.*

**Objectives and Policies:**

- (1) *Support agricultural production so agriculture can continue to provide employment and contribute to the region's economic well-being.*
- (5) *Recognize the importance of small business to the region's economy.*
- (8) *Accommodate mixed-use residential/commercial development as a "transition" between residential districts and the civic center in business/commercial districts compatible with a residential scale and character and subject to a new zoning classification. Lands intended for this use shall be designated service business/residential (SBR) on the community plan and land use map.*
- (9) *Support the establishment of agricultural parks for truck farming, piggery operations, bee keeping, and other diversified agricultural operations within larger, unsubdivided agricultural parcels and in locations that are compatible with residential uses.*

The Project can support agricultural production through its rural lots and a private agricultural park, recognizes the

importance of small businesses to the region's economy by the addition of commercial space, establishes a centralized business district within the region to minimize the migration of commercial projects into light industrial developments, accommodates mixed-use residential/commercial development as a transition between residential districts and the business/commercial district, and supports the establishment of agricultural parks for diversified agricultural operations. Therefore, the Project is consistent with the goal, objectives and policies for economic activity.

## 2. Environment.

**Goal:** *A clean and attractive physical and natural environment in which man-made developments or alterations to the natural environment relate to sound environmental and ecological practices, and important scenic and open space resources are maintained for public use and enjoyment.*

### **Objectives and Policies:**

- (1) *Preserve agricultural lands as a major element of the open space setting that which [sic] borders the various communities within the planning region. The close relationship between open space and developed areas is an important characteristic of community form.*
- (2) *Protect near shore waters by ensuring that discharges from waste disposal meet water quality standards. Continuous monitoring of existing and future waste disposal systems is necessary to ensure there efficient operation.*

- (6) *Encourage the use of siltation basins and other erosion control features in the design of drainage systems.*
- (8) *Minimize noise, water and air pollution from industrial uses, electric power generating facilities and wastewater treatment plants.*
- (10) *Monitor air quality in the planning district and enforce applicable standards with regular public reporting.*
- (13) *Support energy conservation measures, including the use of solar heating and photovoltaic systems, in conjunction with urban uses.*
- (14) *Promote the planting and maintenance of trees and other landscape planting to enhance the streetscapes and the built-in environment.*

Some of the objectives and policies relate to shoreline development and shoreline resources. As noted, the Petition Area is located miles inland, away from the shoreline, and as a result will not impact those of the objectives and policies. Further, for those objectives and policies not related directly to the shoreline, the Project will encourage the use of erosion control features in the design of drainage systems, will monitor air quality during construction, will promote recycling programs to reduce solid waste disposal, will support energy conservation measures including the use of solar heating, and will promote the planting and maintenance of trees and other landscape to enhance the streetscapes and built-in environment. As such, the Project is consistent with the

goal and those objectives and policies which apply to non-shoreline areas.

3. Cultural resources.

**Goal:** Identification, protection, preservation, enhancement, and where appropriate, use of cultural practices and sites, historic sites and structures, in cultural landscapes and view plains that: (1) provide a sense of history and define a sense of place for the Wailuku-Kahului region; and (2) preserve and protect native Hawaiian rights and practices, customarily in traditional exercise for subsistence, cultural and religious purposes in accordance with Article XII, Section 7, of the Hawaii State Constitution, and the Hawaii Supreme Court's PASH Opinion, 79 HAW. 425 (1995).

**Objectives and policies:**

- (2) Recognize the important of historically and archeologically sensitive sites and encourage their preservation through development project review.
- (3) Protect and preserve historic, cultural and archeological sites and resources through on-going programs to identify and register important sites, and encourage their restoration. This shall include structures and elements that are a significant and functional part of Hawaii's ethnic and cultural heritage.
- (4) Ensure that the proposed projects are compatible with neighboring historic, cultural and archeological sites or districts. Such projects should be reviewed by the Cultural Resources Commission, where appropriate.
- (5) Require development projects to identify all cultural resources located within the project area as part of initial project studies. Further, require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources.

Petitioner will submit both a Cultural Impact Assessment and an Archeological Inventory Survey as a part of the Environmental Impact Statement. Petitioners will comply with the recommendations of both the Cultural Impact Assessment and Archeological Inventory Survey to ensure that the Project is consistent with the objectives and policies for cultural resources.

4. Indigenous architecture.

**Goal:** *Reserve for future implementation provisions for indigenous architecture as may be adopted from time-to-time by the County Council and/or the County Cultural Resources Commission.*

**Objective and policies:**

- (1) *To legitimize and amend county building codes to allow indigenous architecture as viable spaces for living, work, and recreation.*

Petitioners will comply with all building codes applicable to the Petition Area at the time Petitioners construct structures within the Petition Area. As such, the Project is consistent with the goal, objective and policy for indigenous architecture.

5. Housing.

**Goal:** *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:**

- (1) Utilize a project district planning approach for major housing expansion areas which will allow flexibility and project planning. This will provide for flexible development standards and a mix of housing types which can result in more efficient site utilization and potential reduction in housing development costs.
- (2) Provide sufficient land areas for new residential growth which relax constraints on the housing market and afford variety and type, price, and location of units. Opportunities for the provision of housing are presently constrained by a lack of expansion areas. This condition shall be relieved by a choice of housing and a variety of locations, both rural and urban in character.
- (3) Seek alternative residential growth areas within the planning region, with high priority given to the Wailuku and Kahului areas. This action should recognize crucial issues of maintaining important agricultural lands, achieving efficient patterns of growth, and providing adequate housing supply and the choice of price and location must be addressed and resolved.
- (6) Coordinate the planning, design and construction of public infrastructure improvements with major residential projects that have an affordable housing component.
- (7) 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.
- (8) Promote efficient housing designs in order to reduce residential home energy and water consumption.

The Project expects to utilize a project district planning approach with a mix of housing types, including single-family, multi-family, and rural dwellings. The master plan conceives a choice of housing which is both rural and urban in character. Affordable housing component and the off-site public infrastructure improvements will be planned, designed and constructed in accordance with the master plan. To the extent practicable, solar heating and solar power generation will be encouraged as will recycling. As such, the Project is consistent with the goal, objectives and policies for housing.

5. Social infrastructure.

*Goal: 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.*

The Project may include new public services such as a school, police station and fire station. In addition, the Project may incorporate stops for the public transportation system. Likewise, the Project may incorporate bike trails and walking trails. The intent is that the Project will encourage the residents to interact based upon the infrastructure that will allow for such interaction. As

such, the Petition Area complies with the goal for social infrastructure.

7. Recreation.

**Objectives and policies:**

- (1) *Provide park and recreation areas as an integral part of project district specifications which will accommodate the needs of population growth.*
- (3) *Provide access for persons with disabilities at all park facilities.*
- (16) *Ensure that adequate regional/community park facilities are provided to service new residential developments.*

A number of the objectives and policies are area-specific and do not involve the Petition Area. The Petition Area will provide park and recreation areas as an integral part of its design specifications to accommodate the needs of population growth, will provide access for persons with disabilities to the facilities, and ensure that adequate regional/community park facilities are provided to service the Project. As such, and to the extent that the goals, objectives and policies apply to the Petition Area, the Project is consistent with the objectives and policies for recreation.

8. Social services/health.

The objectives and policies for social services/health deal with providing medical services, medical facilities, and community services. These services

and facilities are not within the purview of Petitioners and not an objective of the Project. As such, the Project neither conforms to, nor deviates from, the objectives and policies for social services/health.

9. Public safety.

**Objectives and policies:**

- (1) *Maintain adequate police and fire protection services in the region.*

The Project is adjacent to county land upon which a fire station and police sub-station are expected to be constructed. As such, the Project is consistent with the objectives and policies for public safety.

10. Education.

**Objectives and policies:**

- (1) *Allocate sufficient land areas as part of residential project district specifications to meet future school site needs.*
- (3) *Coordinate the development of school facilities with the State Department of Education in conjunction with planned residential projects.*

The Project master plan incorporates a 12 acre site for a school. As such, the Project is consistent with the objectives and policies for education to the extent those objectives and policies apply to the Project.

11. Government.

**Goal:** *Government that demonstrates the highest standards of fairness; responsiveness to the needs of the community; fiscal integrity; effectiveness in planning and implementation of programs or projects; a fair and equitable approach to taxation and regulation; and efficient, results-oriented management.*

**Objectives and policies:**

- (5) *Ensure that adequate infrastructure is or will be available to accommodate planned development.*

The Project is proposed to have adequate infrastructure available to accommodate the development and will comply with the community plan. The remainder of the objectives and policies are not applicable to the Project. As such, the Project is consistent with the relevant objectives and policies for government.

12. Land use.

**Goal:** *An attractive, well-planned community with a mixture of compatible land uses and appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources in traditional towns and villages.*

**Objectives and policies:**

- (1) *Ensure that adequate lands are available to support the region's present and future agricultural activities.*
- (2) *Identify prime or productive agricultural lands and develop appropriate regulations for their protection.*

- (3) *The direct and cumulative impacts of agricultural subdivisions and the impacts on the community shall be assessed and considered.*
- (5) *Encourage traditional Hawaiian agricultural such as taro cultivation, within the agricultural district, and in areas which have been historically associated with this cultural practice.*
- (6) *Establish an adequate supply of urban land use designations to meet the needs of the community over the next 20 years.*
- (7) *The community plan map shall define the urban growth limits for the region.*
- (8) *Maintain a project district approach for major residential growth areas adjacent to Wailuku, Kahului and Waiehu to allow flexibility and master planning. These project districts may contain a variety of residential unit types as well as supporting community services, including business, public, recreational and educational facilities.*
- (14) *Maintain physical separation between traditional towns and villages in the region. Where possible provide specific design or landscape elements, such as open space buffers or changes in street scape, to clearly delineate the boundary between Kahului and Wailuku. Maintain open space around traditional rural areas, such as Waikapu and Waihee, to provide a sense of community and to prevent envelopment of these areas by urban expansion.*
- (15) *Provide a substantial greenway or green belt to serve as a buffer zone, line of demarcation, or definition between Wailuku and Waikapu and between Waikapu and Maalaea in order to prevent the continuation of urban sprawl. Changes in street scapes could include landscaping and agricultural planting materials that reflect the character of each community and are utilized to delineate a substantial boundary between Kahului and Wailuku.*

The Project contains some agricultural land which was used for farming, including diversified agriculture. A project district approach is being used to allow flexibility in master planning and to provide for a variety of residential unit types, as well as supporting community services. The Project was subject to public review as a part of the MIP. The Project is within the urban growth boundaries as established by the MIP. The master plan proposes that design and/or or landscape elements will be used to maintain open space around traditional rural areas, to provide a sense of community, and to prevent envelopment of the areas by urban expansion. As such, the Project meets several of the objectives and policies for land use.

13. Infrastructure.

*Goal: Timely and environmentally sound planning, development and maintenance of infrastructure systems which serve to protect and preserve the safety and health of the region's residents, commuters, and visitors through the provision of clean water, effective waste disposal and drainage systems, and efficient transportation systems which meet the needs of the community.*

The Project is proposed to have timely and environmentally sound infrastructure to protect and preserve the safety and health within the Petition Area. As such, the Project is in conformance with the goals for infrastructure.

14. Water and utilities.

**Objectives and policies:**

- (1) *Coordinate water system improvement plans with growth areas to ensure adequate supply and a program to replace deteriorating portions of the distribution system. Future growth should be phased to be in concert with the service capacity of the water system.*
- (3) *Promote water conservation and education programs.*
- (4) *Protect water resources in the region from contamination, including protecting ground and water recharge areas, and well head protection areas within a 1.25-mile radius from the wells.*
- (5) *Coordinate the construction of all water and public roadway and utility improvements to minimize construction impacts and inconvenience to the public.*
- (6) *Coordinate expansion of and improvements to the water system to coincide with the development of residential expansion areas.*

The Project as proposed is expected to coordinate the water system improvements with the County of Maui. Additional items of compliance with these objectives and policies will be addressed in the Environmental Impact Statement.

15. Liquid and solid waste.

**Objectives and policies:**

- (1) *Coordinate sewer system improvement plans with future growth requirements, as defined in the community plan.*
- (3) *Reduce the disposal of solid waste in landfills for reducing the amount of material for disposal at the source (i.e. home composting of lawn or tree trimmings, re-use and recycling programs,*



*bioconversion (i.e. composting), and the provision of convenient drop-off facilities).*

The Project as proposed is expected to coordinate installation of sewer system with the County of Maui. Additional items of compliance with these objectives and policies will be provided in the Environmental Impact Statement.

16. Drainage.

**Objectives and policies:**

- (1) *Establish a storm drain improvement program to alleviate existing problems; implement a continuing maintenance program, and ensure that improvements to the system will meet growth requirements. This addresses safety and property concerns as well as the need for comprehensive flood control planning.*
  - (a) *design drainage systems to protect coastal water quality by incorporating best management practices to remove pollutants from runoff. Construct and maintain, as needed, sediment retention basins and other best management practices to remove sediments and other pollutants from runoff.*
  - (b) *Construct necessary drainage improvements in flood-prone areas. Where replacement drainage is required for probe detection, these systems shall be designed, constructed, and maintained using structural controls and best management practices to preserve the functions of the natural system that are beneficial to water quality. These functions include infiltration, moderation of flow velocity, reduced*

*erosion, uptake of nutrients and pollutants by plants, filtering and settlement of sediment particles. The use of landscaped swales and unlined channels shall be urged.*

- (2) Respect natural drainage ways as part of good land development.*
- (3) Construct and maintain, as needed, desilting basins along major drainage channels.*
- (4) Ensure that storm water run-off and siltation from proposed development will not adversely affect the marine environment and near-shore and off-shore water quality. Minimize the increase and discharge of storm water run-off to coastal waters by preserving flood storage capacity in low-lying areas, and encouraging infiltration of run-off.*
- (5) Encouraging incorporation of drainage ways, setbacks, and flood protection areas into green waste consisting of open space, pedestrian way and bike way networks.*

The Project will comply with County, State and Federal laws and regulations in the handling of storm discharges.

Additional items of compliance will be detailed in the Environmental Impact Statement.

17. Energy.

**Objectives and policies:**

- (1) Promote the use of alternative energy sources such as biomass, wind and solar.*
- (2) Develop efficient circulation systems, public transportation and promote bicycle and pedestrian travel to reduce energy expenditures for travel.*
- (3) Promote energy conservation and awareness programs.*
- (4) Reduce domestic energy consumption.*

- (5) *Expand efforts to utilize environmentally and cost effective renewable resources for energy production, such as solar, biomass and wind energy.*
- (6) *Encourage energy efficient building design and site development practices.*
- (7) *Support energy conservation measures, including the use of solar heating and photovoltaic systems, in conjunction with urban uses.*
- (8) *Promote recycling programs to reduce solid waste disposal in landfills.*
- (9) *Promote competition among energy providers to increase options and decrease costs to Maui County residents and government facilities.*

Compliance with these objectives and policies will be analyzed in the Environmental Impact Statement. Petitioner will supplement this section in accordance with the Environmental Impact Statement.

18. Transportation.

**Objectives and policies:**

- (5) *For future residential development provide direct lot access from primary roads.*
- (6) *Accommodate bicycle and pedestrian ways within planned roadway improvements.*

Compliance with these objectives and policies will be analyzed in the Environmental Impact Statement. Petitioner will supplement this section in accordance with the Environmental Impact Statement.

19. Urban design.

**Goal:** *An attractive and functionally integrated urban environment that enhances neighborhood*

character, promotes quality design, defines a unified landscaping planting and beautification theme along major public roads and highways, water courses and at major public facilities, and recognizes the historic importance and traditions of the region.

**Objectives and policies:**

- (1) Enhance the appearance of major public roads and highways in the region.
- (2) Maintain a design quality for commercial and public projects and large-scaled master plan developments.
- (3) Improve pedestrian and bicycle access within the region.
- (4) Establish, expand and maintain parks, public facilities and public shoreline areas.
- (5) Integrate stream channels and gulches into the region's open space system for the purposes of safety, open space relief, green waste for public use, and visual separation. Drainage channels and siltation basins should not be used for building sites but rather for public open space. Drainage channel rights-of-way and easements may also be used for pedestrian and bikeway facilities.
- (8) Maintain shrubs and trees at street intersections for adequate site distance.
- (9) Save and incorporate healthy mature trees in the landscape planting plans of subdivisions, roads and other developments.
- (10) Incorporate drought-tolerant plant species and xeriscaping and future landscaping planting.
- (12) Existing and future public rights-of-way along roads and parks shall be planted with appropriate trees, turf grass and ground covers.

Compliance with these objectives and policies will be analyzed in the Environmental Impact Statement. Petitioner

will supplement this section in accordance with the Environmental Impact Statement.

As to county zoning, Title 19 of the Maui County Code provides the comprehensive zoning ordinance for the County of Maui. The purpose and intent of a comprehensive zoning ordinance is to regulate the utilization of land in a manner that encourages orderly development while protecting the health, safety and welfare of the people. Petitioners will process a change in zoning with the County of Maui to change the zoning of the majority of the Petition Area to Project District and a portion of the Petition Area to Rural.

VI. CONFORMANCE WITH STANDARDS TO DETERMINE BOUNDARY AMENDMENT

*[The petition shall address] the boundary amendment sought and present use of the property, including an assessment of conformity of the boundary amendment to the standards for determining a requested district boundary amendment. HAR § 15-15-50(c)(4).*

Chapter 205, HRS, establishes four land use districts in which all lands of the state have been placed. The districts are designated urban, rural, agricultural and conservation. The Petition Area is classified as agricultural. A portion will be placed within the urban

district and another portion will be placed within the rural district.

A. Urban District Standards.

Section 15-15-18, HAR, sets forth the standards for lands to be contained within the Urban District. In general, lands within the urban district should be characterized by city-like concentrations of people, structures, streets, urban and other related land uses and urban level of services. The proximity of the lands to centers of training and employment (except where the development would generate new centers of training and employment) and the availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection are to be considered. Finally, the Commission must consider whether there are sufficient reserve areas for foreseeable urban growth. To be within the urban area, lands must be satisfactory from topography and drainage standpoints and must be reasonably free from the danger of any flood, tsunami, unstable soil condition or adverse environmental consequences. Lands that are contiguous to existing urban areas will be given more consideration than non-contiguous land and particularly when such lands are indicated for further

urban use on state or county general plans. Lands within the urban district shall be in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on state and county general plans. Lands within the urban district shall not contribute towards scattered spot urban development which would necessitate unreasonable investment in public infrastructure or support services.

While the Environmental Impact Statement will analyze the criteria in detail, a general analysis follows.

- (1) *It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses;*

The Petition Area is adjacent to lands that are classified as urban. Urban level services exist on adjacent lands.

The Project will have a city-like concentration of people, structures and streets.

- (2) *It shall take into consideration the following specific factors:*
  - (A) *Proximity to centers of trading and employment except where the development would generate new centers of trading and employment;*
  - (B) *Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and*

*(C) Sufficient reserve areas for  
foreseeable urban growth;*

The Project is in close proximity to Wailuku/Kahului, a center of trading and employment. In addition, the village center of the project will provide opportunities for trading and employment. Basic services such as wastewater systems, water, transportation and public utilities are on properties adjacent to the Petition Area. Police and fire protection, as well as solid waste disposal, schools and parks will be addressed by the Environmental Impact Statement. The MIP included the Petition Area (and the Project) within future small town and rural growth areas.

*(3) It shall include lands with  
satisfactory topography, drainage, and  
reasonably free from the danger of any  
flood, tsunami, unstable soil  
condition, and other adverse  
environmental effects;*

The Petition Area slopes at three to five percent in a northwest to southeast direction. A slope of this nature is satisfactory for urban and rural uses. The majority of the Petition Area is in Flood Zone X which is an area of low to moderate flood risk, making it satisfactory for urban and rural uses. No portion of the Petition Area is located within the tsunami evacuation zone, again making the Petition Area suitable for urban and rural uses. The



soils are well drained and highly suited for rural and urban uses.

- (4) *Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, particularly when indicated for future urban use on state or county general plans or county community plans or development plans;*

The Petition Area is adjacent to urban uses, including the town of Waikapu and is within the small town and rural growth areas identified in the MIP. The Project was identified in the MIP as being appropriate for development.

- (5) *It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans or county community plans or development plans;*

The Petition Area is located within the small town and rural growth boundaries identified by the County of Maui in its MIP. The Project was deemed appropriate for inclusion within the rural and small town growth boundaries of the MIP.

- (6) *It may include lands which do not conform to the standards in paragraphs (1) to (5):*
  - (A) *When surrounded by or adjacent to existing urban development; and*
  - (B) *Only when those lands represent a minor portion of this district;*

In addition to conforming to the standards in paragraphs 1 through 6 of HAR § 15-15-18, the Petition Area is located adjacent to existing or approved urban development.

- (7) *It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services;*

The Petition Area will not result in spot urban development, having been included within the small town and rural growth boundaries of the MIP and being located adjacent to existing public infrastructure. Additionally, the Petition Area is within existing support service areas, including fire protection, police services, and emergency medical services.

- (8) *It may include lands with a general slope of twenty per cent 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 interests in the aesthetic quality of the landscape.*

The slope of the Petition Area is between three and five percent, which is suitable for rural and urban use.

B. Rural District Standards.

Section 15-15-21, HAR, sets forth the standards for lands to be contained with the Rural District. In general, these lands would consist of small farms, uses characterized by low density residential lots of not less than one-half acre and density of not more than one single-family dwelling per one-half acre, and parcels of land surrounded by or contiguous to rural districts which are not suited to low density residential uses for small farms or agricultural uses.

- (1) *Areas consisting of small farms; provided that the areas need not be included in this district if their inclusion will alter the general characteristics of the areas;*

The portion of the Petition Area which would be designated as rural will consist of acreages that are expected to be used for diversified agriculture. Regardless of the name given to these lots, the use is expected to be similar to that of a small farm on which agricultural production will be pursued.

- (2) *Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single family dwelling per one-half acre in areas where "city-like" concentrations of people, structures, streets, and urban levels of services are absent, and*

*where small farms are intermixed with the low-density residential lots;*

The portion of the Petition Area designated as rural will lie between housing on urban lands and farming on agricultural lands. It is expected that the lots will have no more than one single family dwelling per one-half acre and that a number of the lots will be used for diversified agricultural production.

- (3) *It may also include parcels of land which are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses.*

The portion of the Petition Area designated as rural will be suited for low-density residential uses, for diversified agricultural uses and for small farming.

#### VII. FINANCIAL CONDITION OF PETITIONERS

*[The petition shall provide] a statement describing the financial condition together with a current certified balance sheet and income statement as of the end of the last calendar year, or if the petitioner is on a fiscal year basis, as of the end of the petitioner's last fiscal year, and a clear description of the manner in which the petitioner proposes to finance the proposed use or development. HAR § 15-15-50(c)(9).*

The three entity Petitioners are single-purpose entities formed solely for the purpose of acquiring the Petition Area (and adjacent properties) and development of those

properties. Financial statements will be provided in a supplement to this Petition for each of the Petitioners when the HRS Chapter 343 process is nearing completion so that current financial statements can be provided to the Commission. Petitioners own the Petition Area free from debt. The members of the Petitioners have the ability to provide capital infusion either by the way of capital contribution or loans to the Petitioners sufficient to cover the infrastructure costs under the proposed phased development. Although Petitioners and their members have the ability to fund the Project, Petitioners expect to seek financing at commercially reasonable rates to fund the initial costs of the development. Once the Project has lots available for sale, Petitioners expect to sell such lots and fund future improvements from the proceeds from such sales.

VIII. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

*[The petition shall provide] a statement addressing Hawaiian customary and traditional rights under Article XII, Section 7, of the Hawaii State Constitution. HAR § 15-15-50(c)(21).*

This aspect will be analyzed fully in the Environmental Impact Statement. Moreover, Petitioners are aware of, and sensitive to, the protections afforded to native Hawaiian customary and traditional rights under

Article XII, Section 7, of the Hawaii State Constitution. Petitioner understands that the Petition Area was not used for traditional cultural practices within recent times. It is reasonable to assume that development of the Project will not affect the exercise of any native Hawaiian rights, or any ethnic groups related to gathering, access or other customary activities.

Should the Environmental Impact Statement show the existence of persons exercising traditional or customary rights or the existence of additional archeological features, Petitioners will protect such sites, features or practices to reflect the impacts of the Project on such sites, features or practices and apply any mitigative measures suggested in the Environmental Impact Statement for such sites, features or practices.

IX. WRITTEN COMMENTS REGARDING PROJECT

*[The petition shall provide] any written comments received by the Petitioner from governmental and non-governmental agencies, organizations, or individuals in regards to the proposed boundary amendment. HAR § 15-15-50(c) (22).*

Petitioners began the Project in January 2009. Petitioners consulted with state and county agencies in the Waikapu community regarding the Project. Meetings were conducted with the County of Maui Department of Planning,

the County of Maui Department of Public Works, the County of Maui Department of Environmental Management, the County of Maui Department of Parks and Recreation, and the County of Maui Department of Water Supply. In addition, meetings were conducted with the State Department of Education, State Department of Transportation, the State Office of Planning, and staff of the State Land Use Commission. Petitioners held meetings with the Waikapu community and appeared before the General Plan Advisory Committee, the Maui Planning Commission and the Maui County Council. Petitioners' Exhibit "1" documents community meetings conducted through April, 2015. To the extent that any written comments are received from governmental or non-governmental agencies, organizations or individuals, such comments will be a part of the Environmental Impact Statement. In general, the Project has been favorably received by governmental agencies and the Waikapu community.

X. CONCLUSION

The Project will be located in an area identified for future small town and rural use under the MIP. The Project will meet a portion of the significant need for single-family and multi-family residential units in Maui County and especially in the Central Maui area. While

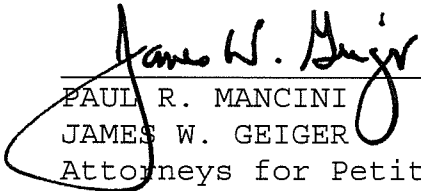
portions of the Petition Area were used for production of sugar cane in the past, facilitating the growth of diversified agriculture and preserving for perpetuity the use of adjacent lands for agricultural uses suggests that the Project will not adversely impact agricultural pursuits in the area. The Project is a reasonable and appropriate use for the Petition Area, was reviewed by the community and the Maui County Council, included within the MIP, and is a reasonable and appropriate use of the Petition Area.

Based upon the foregoing, Petitioners respectfully request that the Commission, upon the Petition being deemed complete after the acceptance of a Final Environmental Impact Statement, find that the Petition complies with the necessary requirements of a petition for district boundary amendment pursuant to HAR § 15-15-50. Petitioners further request that the Commission find the proposed development of the Petition Area meets the standards for determining urban district boundaries pursuant to HAR § 15-15-18 and meets the standards for determining rural district boundaries pursuant to HAR § 15-15-21. Finally, Petitioners request that the Commission grant the reclassification of about 335.155 acres of the Petition Area from Agricultural District to Urban District



and about 149.848 acres of the Petition Area from  
Agricultural District to Rural District.

DATED: Kahului, Hawai'i, APR 15 2015.

  
\_\_\_\_\_  
PAUL R. MANCINI  
JAMES W. GEIGER  
Attorneys for Petitioners

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

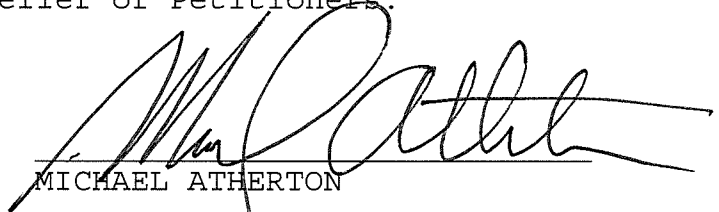
In the Matter of the Petition ) DOCKET NO. A15-798  
of: )  
) VERIFICATION OF MICHAEL  
WAIKAPU PROPERTIES, LLC; MTP ) ATHERTON  
LAND PARTNERS, LLC; WILLIAM S. )  
FILIOS, Trustee of the William )  
S. Filios Separate Property )  
Trust dated APRIL 3, 2000; and )  
WAIALE 905 PARTNERS, LLC, )  
)  
To Amend the Agricultural Land )  
Use District Boundaries into )  
the Rural Land Use District for )  
certain lands situate at )  
Waikapu, District of Wailuku, )  
Island and County of Maui, )  
State of Hawaii, consisting of )  
92.394 acres and 57.454 acres, )  
bearing Tax Map Key No. (2) 3- )  
6-004:003 (por) and to Amend )  
the Agricultural Land Use )  
District Boundaries into the )  
Urban Land Use District for )  
certain lands situate at )  
Waikapu, District of Wailuku, )  
Island and County of Maui, )  
State of Hawaii, consisting of )  
236.326 acres, 53.775 acres, )  
and 45.054 acres, bearing Tax )  
Map Key No. (2) 3-6-002:003 )  
(por), (2) 3-6-004:006 and (2) )  
3-6-005:007 (por). )

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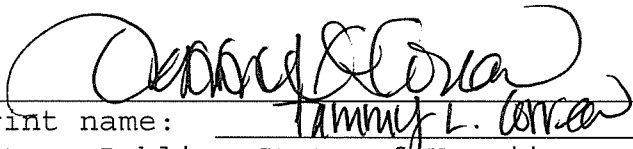
VERIFICATION OF MICHAEL ATHERTON

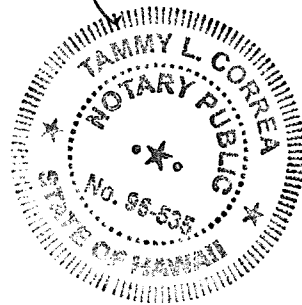
MICHAEL ATHERTON, the person named, being duly sworn on oath, deposes and says that he is an authorized representative of Petitioners WAIKAPU PROPERTIES, LLC, MTP LAND PARTNERS, LLC, WILLIAM S. FILIOS, Trustee of the

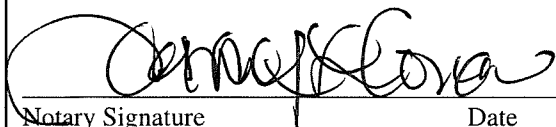
William S. Filios Separate Property Trust dated APRIL 3, 2000, and WAIALE 905 PARTNERS, LLC, and as such is authorized to make this verification on behalf of Petitioners that he has read the foregoing Petition for Land Use District Boundary Amendment and knows the contents thereof, and that the same are true to the best of the knowledge, information and belief of Petitioners.

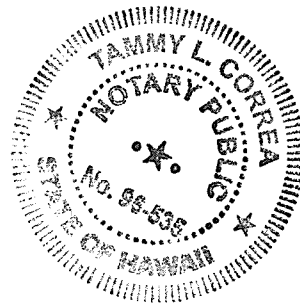
  
MICHAEL ATHERTON

Subscribed and sworn to before me this 15<sup>th</sup> day of April, 2015.

  
Print name: Tammy L. Correa  
Notary Public, State of Hawaii  
My commission expires: 9/20/2016



Doc. Date: <u>April 15, 2015</u>	Pages: <u>2</u>
Name: <u>Tammy L. Correa</u>	Second Circuit
Doc. Description: <u>Verification of Michael Atherton</u>	
	
Notary Signature	Date: <u>4.15.15.</u>
NOTARY CERTIFICATION	



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition ) DOCKET NO. A15-798  
of: )  
) AFFIDAVIT OF MAILING  
WAIKAPU PROPERTIES, LLC; MTP )  
LAND PARTNERS, LLC; WILLIAM S. )  
FILIOS, Trustee of the William )  
S. Filios Separate Property )  
Trust dated APRIL 3, 2000; and )  
WAIALE 905 PARTNERS, LLC, )  
)  
To Amend the Agricultural Land )  
Use District Boundaries into )  
the Rural Land Use District for )  
certain lands situate at )  
Waikapu, District of Wailuku, )  
Island and County of Maui, )  
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bearing Tax Map Key No. (2) 3- )  
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certain lands situate at )  
Waikapu, District of Wailuku, )  
Island and County of Maui, )  
State of Hawaii, consisting of )  
236.326 acres, 53.775 acres, )  
and 45.054 acres, bearing Tax )  
Map Key No. (2) 3-6-002:003 )  
(por), (2) 3-6-004:006 and (2) )  
3-6-005:007 (por). )

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AFFIDAVIT OF MAILING

STATE OF HAWAI'I )  
) SS.:  
COUNTY OF MAUI )

JAMES W. GEIGER, being first duly sworn on oath,  
deposes and says:

1. My name is James W. Geiger. I am over the age of 21 and am competent to make this affidavit. I have personal knowledge of the facts contained in this affidavit which are true and correct.

2. I am an attorney for Petitioners in the above-captioned matter to amend land use district boundaries.

3. I make this affidavit pursuant to Hawaii Administrative Rules §§ 15-15-50(c)(5)(C) and 15-15-50(d).

4. Pursuant to Hawaii Administrative Rule § 15-15-48(a), I will serve a copy of the following documents:

(a) Petition for Land Use District Boundary Amendment;

(b) Verification; and,

(c) Exhibits "1"- "18"

on the Maui County Planning Department and the Maui County Planning Commission and the following parties with a property interest in the property that is the subject of this Petition as recorded in the Maui County real property tax records at their last known addresses by depositing the same in the U.S. Mail, postage prepaid.

Copies mailed to:  
(at last known address)

Leo R. Asuncion  
Acting Director  
State of Hawaii  
Office of Planning  
235 Beretania Street  
Honolulu, HI 96813

County of Maui Planning Commission  
c/o County of Maui  
Department of Planning  
One Main Plaza, Suite 335  
2200 Main Street  
Wailuku, HI 96793

William R. Spence  
Planning Director  
County of Maui  
Department of Planning  
One Main Plaza, Suite 335  
2200 Main Street  
Wailuku, HI 96793

Maui Electric Company, Limited  
P.O. Box 398  
Kahului, HI 96732

Hawaiian Telcom, Inc.  
c/o Gwen Massiah  
1177 Bishop Street  
Honolulu, HI 96813

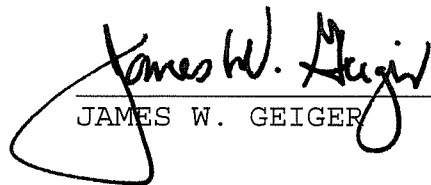
Patrick K. Wong, Esq.  
County of Maui  
Department of Corporation Counsel  
200 South High Street  
Wailuku, HI 96793

Mayor Alan Arakawa  
County of Maui  
200 South High Street  
Wailuku, HI 96793

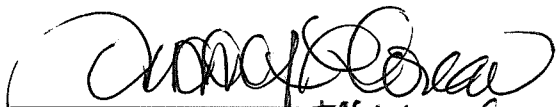
A file-marked copy of the Petition will be served  
on each of the above upon receipt of same from the Land Use  
Commission.

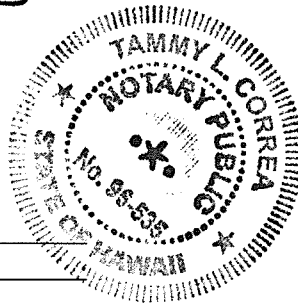
5. Pursuant to Hawaii Administrative Rule § 15-15-50(d), I will give the notification of the petition filing to persons on the mailing list provided by the Executive Officer of the Land Use Commission. A supplemental certificate of service for such service will be filed with the Land Use Commission.

FURTHER AFFIANT SAYETH NAUGHT.

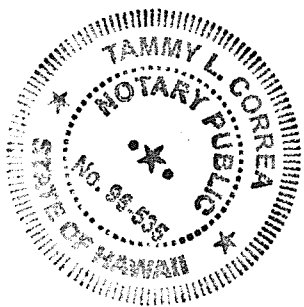
  
\_\_\_\_\_  
JAMES W. GEIGER

Subscribed and sworn to before me this 15<sup>th</sup> day of April, 2015.

  
\_\_\_\_\_  
Print name: Tammy L. Correa  
Notary Public, State of Hawaii  
My commission expires: 9/24/2016



Doc. Date: <u>April 15, 2015</u>	Pages: <u>4</u>
Name: <u>Tammy L. Correa</u>	Second Circuit
Doc. Description: <u>Affidavit of Mailing</u>	
_____ Notary Signature	<u>4.15.15</u> Date
NOTARY CERTIFICATION	

  
Seal

CERTIFICATE OF SERVICE

I hereby certify that on the date hereof I caused a copy of the foregoing to be duly served by depositing same in the United States mail, postage prepaid, to the following at their last known address:

Leo R. Asuncion  
Acting Director  
State of Hawaii  
Office of Planning  
235 Beretania Street  
Honolulu, HI 96813

County of Maui Planning Commission  
c/o County of Maui  
Department of Planning  
One Main Plaza, Suite 335  
2200 Main Street  
Wailuku, HI 96793

William R. Spence  
Planning Director  
County of Maui  
Department of Planning  
One Main Plaza, Suite 335  
2200 Main Street  
Wailuku, HI 96793

Maui Electric Company, Limited  
P.O. Box 398  
Kahului, HI 96732

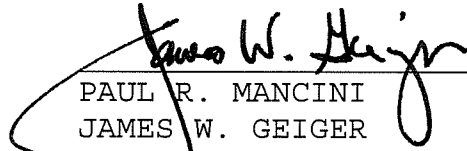
Hawaiian Telcom, Inc.  
c/o Gwen Massiah  
1177 Bishop Street  
Honolulu, HI 96813

Patrick K. Wong, Esq.  
County of Maui  
Department of Corporation Counsel  
200 South High Street  
Wailuku, HI 96793



Mayor Alan Arakawa  
County of Maui  
200 South High Street  
Wailuku, HI 96793

DATED: Kahului, Hawai'i, APR 15 2015.

  
\_\_\_\_\_  
PAUL R. MANCINI  
JAMES W. GEIGER  
Attorneys for Petitioners