

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 MAUI LAND & PINEAPPLE COMPANY,)
 INC., A Hawai'i Corporation)
)
 To Amend the Agricultural Land Use)
 District Boundaries into the State Urban and)
 Rural Land Use Districts for approximately)
 790 Acres of land at Honokahua and Napili,)
 Maui, Hawai'i, Maui Tax Map Key Nos.:)
 4-2-01: por. 01, 38 and 39, 4-2-05: por. 50 and)
 por. 51 and 4-3-01: por. 06 and por. 08)
 _____)

DOCKET NO. A03-741

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

June 29 2004 by Anthony Miller
 Date Executive Officer

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AND DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

MAUI LAND & PINEAPPLE COMPANY, INC., a Hawai'i corporation ("Petitioner"), filed a Petition for Land Use District Boundary Amendment ("Petition") on August 26, 2003, pursuant to chapter 205, Hawai'i Revised Statutes ("HRS"), and chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the State Land Use District boundary to reclassify approximately 790.3 acres of land at Honokahua, Napili 2 and 3 and Napili 4 and 5, Maui, Hawai'i, identified as Maui Tax Map Key Nos.: 4-2-01: por. 01, 38, and 39; 4-2-05: por. 50 and por. 51; and 4-3-01: por. 06 and por. 08 (collectively the "Property"), from the State Land Use Agricultural District to the State

Land Use Rural District and the State Land Use Urban District for a master-planned resort residential, rural residential, and recreational community.

The Land Use Commission of the State of Hawai`i (“Commission”), having heard and examined the testimony, evidence, and arguments of counsel presented during the hearings and the partial stipulated proposed findings of fact, conclusions of law, and decision and order filed by Petitioner, the Office of Planning of the State of Hawai`i (“OP”), and the Planning Department of the County of Maui (“Planning Department”), hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On August 26, 2003, Petitioner filed the Petition.
2. Petitioner is a Hawai`i corporation.
3. By letter dated October 2, 2003, the Executive Officer of the Commission (“Executive Officer”) deemed the Petition a proper filing as of September 18, 2003.
4. On October 10, 2003, the Commission took a field trip to the Property. On November 5, 2003, the Commission held a pre-hearing conference on the Petition, which was attended by all parties. The Commission did not issue a pre-hearing order.

5. The Commission was not required to approve an environmental impact statement for Kapalua Mauka as the County of Maui accepted a final environmental impact statement for Kapalua Mauka on October 25, 2002.

6. On November 20-21, 2003, and on February 19, 2004, the Commission conducted a hearing on the Petition pursuant to a public notice published on October 10, 2003, in the Honolulu Star-Bulletin and the Maui News.

7. The following individuals testified as public witnesses on November 20, 2003: Pua Aiu, Zandra Souza-Amaral, Diane Shepherd, Ann Fielding, Mahealani Ventura Oliver, DeGray Vanderbilt, Lucienne deNaie, and Sally Raisbeck. On November 20, 2003, the Commission entered into evidence a report by Dr. Eric Benbow entitled "Endemic Amphidromis Postlarval Recruitment and Migration Patterns in West Maui Streams," submitted by Diane Shepherd.

8. On April 22, 2004, the parties filed Stipulated Findings of Fact, Conclusions of Law and Decision and Order. On April 28, 2004, Petitioner filed Petitioner's Comments on Stipulated Findings of Fact, Conclusions of Law and Decision and Order.

DESCRIPTION OF PROPERTY

9. The Property is located at Honokahua, Napili 2 and 3 and Napili 4 and 5, Maui, Hawai'i, and consists of 790.3 acres of land in three separate areas, which are referred to as "Rural Lot "1", "Rural Lot "2", and "Urban Lot" respectively, and identified by Maui Tax Map Key Numbers as follows:

Lot No.:	Area	Former Maui Tax Map Key No.:
Rural Lot 1	124.98A	4-2-01:por. 01
		4-2-05:por. 50
		4-2-05:por. 51
Rural Lot 2	150.34A	4-2-01:por. 01
		4-3-01:por. 06
		4-3-01:por. 08
Total Rural	275.3A	
Urban Lot	515.0A	4-2-01:por. 01
		4-2-01:38
		4-2-01:39
		4-3-01:por. 08
Total Reclassification	790.3A	

10. The Property is a portion of the Kapalua Mauka Community Site, consisting of approximately 925 acres, which in addition to the Property includes approximately 137 acres of land intended to remain in the Agricultural District. The Kapalua Mauka Community Site is the planning area proposed for inclusion within Project District 2 in an application to the Planning Department for purposes of an amendment to the West Maui Community Plan.

11. Petitioner is the owner in fee simple of the portion of the Property identified as Lot 3¹ of the Kapalua Mauka Large Lot Subdivision, an area of

¹ Lot 3 was created by the consolidation and resubdivision of Maui Tax Map Key Nos.: 4-2-01:01 and 4-2-05:48, 50 and 51 into Lots 1, 2, 3 and 4, approved as the Kapalua Mauka Large Lot Subdivision, Subdivision No.: LUCA File No.: 4.844 in December 2002. The County of Maui has not yet assigned new tax map key numbers to the lots comprising the Kapalua Mauka Large Lot Subdivision. Therefore Lot 3 is identified with reference to the tax map key numbers assigned to the former parcels which comprise Lot 3.

approximately 864.756 acres, which is composed of portions of former Maui Tax Map Key Nos.: 4-2-01:01 and 4-2-05:48, 50, and 51.

12. Petitioner's title to the Property is derived from a chain of conveyances from the heirs of Henry P. Baldwin, who founded Petitioner's predecessor over 100 years ago. Petitioner's Mortgagees Bank of Hawai`i, First Hawaiian Bank and Central Pacific Bank have obtained an ALTA loan policy of title insurance to the Property and other lands of Petitioner.

13. The State of Hawai`i is the owner of the portion of the Property identified as Maui Tax Map Key Nos.: 4-3-01:por. 06 and por. 08. Petitioner is finalizing an agreement with the State of Hawai`i to obtain fee simple title to this portion of the Property together with adjoining State-owned lands through a land exchange. On July 7, 2001, the State of Hawai`i Board of Land and Natural Resources ("BLNR") authorized Petitioner to include this portion of the Property in the Petition.

14. A parcel that is indirectly affected by the development of Kapalua Mauka is another State-owned parcel located outside of the Property that is also the subject of the land exchange between Petitioner and the State of Hawai`i. This parcel, identified as Maui Tax Key No.: 4-3-01: 5, is makai of Honoapi`ilani Highway, adjacent to the Kapalua Bay Golf Course and is a continuation of the Napili 4 and 5 gulch. Originally, this parcel was proposed to be included as a portion of the Napili Regional Park in the *West Maui Community Plan*.

15. The last parcel potentially affected by Kapalua Mauka is located at the western/makai end of the Napili 4 and 5 gulch, and identified as Maui Tax Key No.: 4-3-01: 03. This small parcel was transferred to the County under Executive Order 3277 for use as a County-maintained sediment basin. Before the construction of this sediment basin, runoff from the gulch (Maui Tax Map Key Nos.: 4-3-01:05, 06, 07, and 08) originally emptied directly into Napili Bay.

16. The County of Maui Board of Water Supply ("BWS") owns Lot 1, Napili Well C, area 14,907 square feet, and Lot 2, Honokahua Well A, area 5,600 square feet, identified as Maui Tax Map Key Nos.: 4-2-01: 38 and 39, respectively. These well sites within the Property will remain under the ownership of BWS. Use of the well sites will not be affected by the reclassification of the Property. BWS has authorized Petitioner to include this portion of the Property in the Petition for administrative convenience.

17. The Property is located mauka of the existing Kapalua Resort, on the mauka side of Honoapi`ilani Highway. Three access points to the Property have been identified and installed on Honoapi`ilani Highway, which is a limited access highway.

18. The Kapalua West Maui Airport is mauka of the Highway, approximately three miles south of the Property, and approximately eight miles north of Lahaina.

19. Approximately 160 acres of the Property proposed to be reclassified to the Urban District was developed in 1984 for 16 holes of the Kapalua Village Golf Course. The remaining two holes are located makai of the Highway within the existing resort. Approximately 169 acres of the Property is presently in pineapple cultivation. The remainder of the Property includes open space, gulches, and fallow agricultural areas.

20. The Property is bordered by gulches along its northeastern and southeastern boundaries. Honokahua Gulch bisects the proposed development of Rural Lot 1 from the developments contemplated for Rural Lot 2 and the Urban Lot. An unnamed gulch in State-owned land runs along the southeastern border of the Property and two shallow gullies run through the Property. Access to the Property is presently restricted, and is obtained using pineapple field roads and golf course cart paths.

21. The climate of the Property is generally mild. Temperatures in the area are generally very consistent and moderate with an average daily range of approximately 66° to 85° Fahrenheit. Average annual rainfall in the vicinity of the Property ranges from 20-30 inches per year, depending on elevation. Rainfall occurs primarily between November and April.

22. Elevations within the Property range from 100 feet mean sea level (“MSL”) at the northeasterly corner adjacent to fairways 7 and 8 of the Kapalua

Plantation Golf Course to approximately 1,250 feet MSL at the southeasterly corner.

The grade of the Property, exclusive of gulches, varies between 10% to 15%.

23. The U.S. Department of Agriculture Natural Resources

Conservation Service classifies the soils of the Kapalua Mauka Community Site into two soil associations: the Waiakoa-Keahua-Moloka'i association and the Honolua-Olelo association. Soil types within these associations on the Property are: `Alaeloa silty clays (AeB, AeC, AeE), Honolua silty clays (HwC, HwD), Kahana silty clays (KbB, KbC, KbD, KcC), Rough Broken Land (rRR), and Rough Broken and Stony Land (rRS). A description of each soil type follows:

a. The `Alaeloa Silty Clay (AeB, AeC, AeE) Series consists of well-drained soils located in the upland regions of Maui. Elevations range from 100 feet to 1,500 feet above sea level with slopes ranging from 3% to 70%. On slopes greater than 15%, annual rainfall is approximately 36 inches to 60 inches. In areas not previously eroded, the subsoil is approximately 48 inches thick, medium acidic in the surface layer and strongly acidic in the subsoil. These soils are typically used for pineapple cultivation, pasture, wild life habitat, homesites, and water supply.

b. The Honolua Silty Clay (HwC, HwD) Series consists of well-drained soils found on the uplands of Maui between elevations of 500 feet to 1,500 feet. Slopes range from 7% to 25%. The average annual rainfall is approximately 50 inches to 80 inches. These soils are used for pineapple cultivation, pasture, woodland, wildlife habitat, and water supply.

c. The Kahana Silty Clay (KbB, KbC, KbD, KcC) Series consists of well-drained soils found in upland locations on Maui between the 100 feet and 1,200 feet elevations. Slopes range from 3% to 25%. Annual rainfall is approximately 30 inches to 45 inches. The typical uses for lands with these soils are sugarcane production, pineapple cultivation, and homesites.

d. The Rough Broken Land (rRR) Series consists of very steep land broken by numerous intermittent drainage channels. In most places this soil is not stony. It occurs in gulches and on mountainsides. Slope ranges from 40% to 70%. Runoff is rapid and the annual rainfall ranges from 25 inches to more than 200 inches. Land within this series is primarily used for watershed and wildlife habitat.

e. The Rough Broken and Stony Land (rRS) Series consists of very steep, stony gulches. Elevations range from nearly sea level to 3,000 feet. Runoff is rapid and the annual rainfall amounts to 20 inches to 40 inches. Land within series is used for pasture, wildlife habitat, and watershed.

24. The U.S.D.A. Soil Conservation Service's Land Capability Grouping rates the above soil types according to eight levels, ranging from the highest classification level, I, to the lowest level, VIII. Approximately 25 acres (2.7%) of the Kapalua Mauka Community Site are rated IIe (AeB and KbB), indicating that they have moderate limitations that reduce the choice of plants or require moderate conservation practices. The sub classification "e" indicates that the soils are subject to erosion. Approximately 475 acres (51.3%) are rated IIIe (AeC, HwC, KbC, and KcC). Class III

soils have severe limitations that reduce the choice of plants, require special service conservation practices, or both. About 74 acres (8%) are rated IVe (HwD and KbD). Class IV soils have very severe limitations that reduce the choice of plants and require very careful management practices.

25. The University of Hawai`i Land Study Bureau's *Detailed Land Classification for the Island of Maui* classifies the lands of the Kapalua Mauka Community Site as ranging from "C" to "E" in productivity rating. Soils rated A represent the highest class of productivity and soils rated E represent the lowest. The "E" rated soils of the site are primarily within gulches and are considered as having little or no suitability for soil based agricultural production. Within the gulches, much of the suitable topsoil has eroded or is held to the steep slopes by a thick layer of vegetation. These steep slopes will not be disturbed by the development of Kapalua Mauka Community. The "C" and "D" rated soils are suitable for pineapple production; however, these fields do not contain the overall agronomic characteristics required for continued production. Approximately 584 acres (63.1%) of the soils of Kapalua Mauka Community Site are rated "C," 17 acres (1.8%) are rated "D," and 324 acres (35.1%) are rated "E." Of the lands rated "C," portions could be rated "A" or "B" under irrigated conditions.

26. The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawai`i ("ALISH") classification system classifies approximately 413 acres of Kapalua Mauka Community Site as "prime agricultural

land” and approximately 172 acres of Kapalua Mauka Community Site "as other important agricultural land." The remainder of the Property, including most of the gulch areas, is not rated.

27. The U.S. Federal Emergency Management Agency’s flood insurance rate maps designate the entire Property in Zone C, which indicates an area of minimal flooding.

PROPOSAL FOR RECLASSIFICATION

28. Petitioner proposes to develop this community, named "Kapalua Mauka," as a master-planned upscale resort residential, rural residential, and recreational community on the 925-acre Kapalua Mauka Community Site, which includes the Property. Kapalua Mauka represents the next phase of expansion of the Kapalua Resort.

29. Kapalua Mauka was originally conceived as a 450-acre, 750-unit resort community as presently approved in the West Maui Community Plan. Petitioner's current master plan for Kapalua Mauka envisions an expansion of the planning area and a reduction of the maximum number of housing units from 750 to 690 in order to reduce the project’s density.

30. Kapalua Mauka will include a reconfiguration and expansion of the existing 16 holes of the Kapalua Village Golf Course to a full 18-hole golf course mauka of Honoapi`ilani Highway, and a secondary clubhouse site which will include a

restaurant, pro shop, and other commercial activities. The community will be designed with a mixture of housing types; higher density urban uses in the interior of the Property will transition to larger rural lots on the exterior of the Property. Honokahua Gulch bisects Kapalua Mauka Community Site; portions of this gulch will remain in the Agricultural District.

31. Petitioner intends to develop the Property as an integrated part of the Kapalua Resort. The primary land uses proposed for the Property are:

Type of Development	Approximate Area	Units
Rural District	275.3 acres	
Single-Family Lots		180
Urban District	515 acres	
Residential (SF and MF)	213.5 acres	510
Golf Course, Open Space, Roadways	296 acres	
Commercial, Clubhouse	5 acres	
Public (BWS)	0.5 acres	
Total	790.3 acres	690

32. Petitioner intends to develop communities that include an agricultural component. Petitioner intends to develop Kapalua Mauka in a sustainable and environmentally sensitive manner.

33. Petitioner intends to develop approximately 180 rural residential lots in the portion of the Property to be classified to the State Land Use Rural District and approximately 510 single-family lots and multi-family units in the portion of the Property to be reclassified to the State Land Use Urban District. Petitioner contemplates developing a maximum of 690 housing units on the Property.

34. The lots to be developed in the State Land Use Rural District will range in size from at least one-half acre to three acres. Single-family lots to be developed in the State Land Use Urban District will be smaller in size. Petitioner intends to offer a variety of housing types ranging from low-density townhouses (with many being detached condominium residences) to large rural lots in order to attract a broad spectrum of resort residential purchasers.

35. Petitioner proposes to address the housing needs of low income, low – moderate income, and gap groups in a manner consistent with an approved affordable housing policy of the County of Maui or in the absence of such policy, under such terms and conditions as may be mutually agreeable to Petitioner and the County of Maui. Petitioner intends to satisfy this requirement off-site, on other lands owned by Petitioner. In addition to the recently completed 45-lot Kapua Village subdivision sold exclusively to employees at below market prices, Petitioner is proposing to develop affordable rental housing units as a part of its proposed Pulelehua project at Mahinahina, approximately two miles south of the Property. The total number of these affordable units would exceed the County of Maui's present 10% affordable housing requirement.

36. The Pulelehua project is intended to include a mix of market rate and affordable rental and for-sale multi-family housing, with a minimum of 125 affordable units. Petitioner desires to give some priority to employees in the rental and sale of affordable housing units. The project may also include an elementary school, a

neighborhood shopping center, parks, and open space. Petitioner is presently in the planning stages for the project..

37. Petitioner has demonstrated a history of providing affordable housing for its employees, and has complied with all affordable housing and employee housing requirements previously imposed as conditions of developing the existing Kapalua Resort. Petitioner has completed the following affordable housing projects in West Maui: Napilihau Planned Development (174 units in partnership with the State), Honokeana Subdivision Phase I (38 units), Hale Noho Subdivision (dedication of 13.5 acres to the County which built 72 homes), and Kapua Village subdivision, a new 45-lot employee subdivision sold at below market prices. Upcountry Maui projects include affordable employee housing in Hali`imaile (191 units) and the Pu`u Koa Subdivision (47 units) at Makawao. In total, Petitioner has developed independently or in partnership with the State or County, 495 affordable housing and employee housing units and lots on Maui.

38. Petitioner anticipates that development of Kapalua Mauka will be a 20-year process, including processing of development permits. In addition to filing this Petition, Petitioner has applied to the Planning Department for a Community Plan amendment, a Change in Zoning and Project District Phase I approval. Petitioner contemplates commencing design and construction of Kapalua Mauka as soon as all discretionary permits have been obtained.

39. The cost of infrastructure for Kapalua Mauka as well as the cost for proposed golf course improvements, clubhouse, and other major recreational amenities would exceed \$470 million. This cost does not include construction of the residential units.

40. The estimated sales prices of the residential and rural lots and residential units and homes to be developed on the Property are:

Type	Price Range
Residential/Rural Lots	\$500,000 and up
Condominium Units/Homes	\$750,000 - \$1,500,000
Single-family Homes	\$1,000,000 and up

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

41. Petitioner and its predecessor companies have been operating on Maui for over 100 years. Petitioner is the largest employer on Maui. Petitioner is committed to promoting the health and vitality of Maui's unique cultural and environmental heritage.

42. Petitioner's wholly-owned operating subsidiary Kapalua Land Company, Ltd. and its subsidiaries are responsible for the development and sale of real estate, property management, and operation of vacation rental, golf, other recreational and retail facilities at the Kapalua Resort.

43. A consolidated balance sheet for Petitioner showed that Petitioner had \$184.32 million in assets, \$120.3 million in total liabilities, and \$62.7 million in

shareholders' equity as of December 31, 2002. Petitioner's balance sheet demonstrates Petitioner has the necessary economic ability to carry out the development proposed for the Property. Petitioner intends to finance Kapalua Mauka using bank financing or internal corporate funds.

STATE AND COUNTY LAND USE PLANS AND PROGRAMS

44. The Property is currently designated in the State Land Use Agricultural District, as reflected on the Commission's official maps, M-1 Honolua and M-2 Lahaina.

45. The West Maui Community Plan Map identifies a 450-acre portion of the Property as Project District 2-Kapalua. Petitioner has applied to the County of Maui to amend the West Maui Community Plan Map to add 475 acres to the project district area. The project district description is also proposed to be amended. The 475-acre area is currently designated Agricultural and Open Space on the Community Plan Map. The intent of a project district development is to provide for a flexible and creative planning approach rather than specific land use designations, for quality developments.

46. On July 21, 2003, the County of Maui Planning Commission ("Planning Commission") approved the Planning Department's recommendation to approve an amendment to the West Maui Community Plan to enlarge the area of Project District 2 from 425 acres to 925 acres to include all of Kapalua Mauka

Community Site. The Planning Commission has recommended that the Maui County Council approve this amendment.

47. The Property is not within the County of Maui's Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

48. The Hallstrom Group, Inc., prepared a market study, economic impact analysis, and public cost/benefit assessment of the proposed Kapalua Mauka project. This study analyzed among other factors, the cumulative midpoint demand for high-end neighbor island resort/residential condominiums and high-end neighbor island resort/single-family homesites. Over the twenty-year period 2002-2021, a total of 4,850 new resort/residential condominium units will be needed in order to meet market demand levels for residential condominiums at high-end neighbor island destination resorts. These destination resort communities are Kapalua, Ka`anapali, and Wailea on Maui and North Kona and South Kohala in West Hawai`i.

49. Assuming that 55% of this demand will be satisfied on Maui, the total midpoint demand for new high-end units on Maui over the twenty-year period is anticipated to be approximately 2,500 units. The total number of additional units to be developed at Ka`anapali and Wailea destination resorts during this period is approximately 1,850, leaving an unfilled demand of approximately 650 units. This

estimated demand demonstrates that the residential condominium units at Kapalua Mauka should be absorbed in a timely manner.

50. A total of 4,100 single-family resort residential homesites will be needed over the same 2002-2021 period, in order to meet projected market demand for high-end neighbor island properties. The mid-point demand for new high-end resort homesites on Maui over the same period is anticipated to be approximately 1,750 lots. The total number of additional homesites to be developed at the Ka`anapali and Wailea destination resorts will be approximately 1,350, leaving an unfulfilled demand of 400 units. This estimated demand demonstrates that all of the homesites to be constructed at Kapalua Mauka should be absorbed in a timely manner.

51. Currently the residential community within the Kapalua Resort has 190 single-family homes and lots and 564 multi-family units. Kapalua Mauka at build-out will nearly double the residential units and meet the demand for low-density upper scale homes.

SOCIO-ECONOMIC IMPACTS

52. West Maui in general and Kapalua in particular are among the most desirable resort/residential areas in Maui, with an exceptional and diverse visitor industry, a historic town with modern services and a variety of recreational resources. Kapalua Mauka will be designed to blend into the existing Kapalua Resort and to maintain the low-density and rural character of the resort.

53. Although the homes in Kapalua Mauka will be both primary and second/vacation home residences, it is anticipated that the majority of buyers will be purchasing vacation homes. The full-time resident population of Kapalua Mauka is estimated to reach 341 persons after build-out, and the estimated non-resident population will be approximately 499 persons for a total of 840 at any given time. This projected population is less than half the projected population a community of similar size would generate if it were a typical housing project oriented to full-time residents.

54. The single-family homes and condominiums proposed for Kapalua Mauka will be affordable to 10% to 15% of the resident population. This segment of the population will require approximately 465 to 724 new units over the next 20 years. Kapalua Mauka will meet the demand for a market that has been under-served in West Maui.

55. Development and construction of Kapalua Mauka are anticipated to generate approximately \$1.14 billion in direct new capital investment and spending into the Maui economy over its twenty-year development and sales period. On a stabilized basis after construction, it is estimated that the payroll of the employees serving Kapalua Mauka will exceed approximately \$6.2 million in wages each year, and residents and guests at Kapalua Mauka will spend approximately \$49.4 million annually in the local economy.

56. State tax revenue for the twenty-year build-out and sales period should exceed \$101.9 million from income and general excise taxes and will stabilize at

\$5.2 million annually following completion of construction. State costs associated with delivering services to Kapalua Mauka are estimated to be \$56.7 million during the build-out period and \$4.4 million a year thereafter. The State will experience a net revenue benefit of \$45.2 million during the build-out period and a stabilized benefit of approximately \$0.82 million per year after completion.

57. It is anticipated that the County of Maui will receive \$72.9 million in real property tax revenue from Kapalua Mauka over the twenty-year build-out and sales period and an estimated \$5.6 million a year thereafter. The County government operating costs associated with providing services to Kapalua Mauka on a per capita basis is estimated to total approximately \$18.9 million for the twenty year build-out and sales period and approximately \$1.5 million thereafter on a stabilized basis. The County will enjoy a net revenue benefit of \$53.9 million during the twenty-year build-out period and sales period and approximately \$4.1 million a year thereafter.

IMPACT ON RESOURCES OF THE AREA

Agricultural Resources

58. Petitioner's subsidiary Maui Pineapple Company, Ltd. ("Maui Pine"), presently cultivates approximately 169 acres of the Property in pineapple for canned pineapple products. Development of the Property would remove approximately 169 acres from pineapple cultivation, approximately 1.9% of the approximately 9,100 acres being farmed by Maui Pine. This portion of the Property is a

part of Maui Pine's Honolua Plantation, which presently consists of less than 2,000 net acres in pineapple cultivation ("Net Pine Acres"). Maui Pine is in the process of downsizing its pineapple operations by approximately 2,200 acres, including reducing its Net Pine Acres in West Maui to less than 200 acres. The Honolua Plantation lands are Maui Pine's highest cost producing lands, and the company cannot earn a profit cultivating canned pineapple products in this location. Maui Pine is concentrating on pineapple production for the fresh product market. This variety of fruit grows better in Maui Pine's higher elevation central Maui fields. Central Maui fields have higher productivity and are closer to Maui Pine's processing plant at Hali`imaile.

59. Using a plantation-wide formula of 19.2 tons per acre per year and average yield projections, 169 acres would yield approximately 3,245 tons of pineapple a year. Using an estimated rate of \$491 per ton, revenue generated from the estimated 3,245 tons of pineapple a year is estimated to be approximately \$1,600,000.

Approximately 20 workers receiving an annual payroll of \$560,000 would be required for the cultivation and processing of the pineapple. The withdrawal of 169 acres on the Property from pineapple production, as well as the withdrawal of another 31 acres for a project in Pukalani, Maui, are a part of Petitioner's scheduled downsizing of approximately 2,200 acres from its pineapple plantations.

60. Reclassification of the Property will not adversely affect Maui Pine's business operations, as Maui Pine will continue to grow pineapple for fresh product processing in central Maui.

61. The Property has access to irrigation water supplied from Honolua/Honokohau Ditch. While the three soil indices (ALISH, LSB, Soil Survey) commonly used to estimate the suitability of land for agricultural use all report that significant portions of the Property may be suitable for growing low-elevation crops, with irrigation water, the existing designation of 450 acres of the project area (Project District 2) for development effectively diminishes the utility of the entire Kapalua Mauka Community Site for agricultural production.

62. There is ample land available on the island of Maui in general and in West Maui in particular for diversified agriculture due to the closure of sugar cane cultivation at Pioneer Mill in Lahaina and Wailuku Agribusiness outside of Wailuku.

63. Petitioner is committed to continuing its primary business of agriculture on Maui. Petitioner is planning to transition its Honolua Plantation lands from pineapple cultivation to a combination of diversified agriculture crops and livestock operations. Petitioner is presently conducting a soil analysis and testing program to determine the crops that are best suited for its lands, given the variety of soil profiles and topography. Petitioner is analyzing potential crops, marketing, and partnership opportunities. Among the options Petitioner is considering is partnerships with row crop farmers, beef cattle for local consumption, and bio-diesel crops. Thus reclassification of the Property will not be contrary to the mandate in Article XI, Section 3, of the State Constitution to promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

Flora and Fauna

64. Under the direction of PBR Hawai`i, Kenneth M. Nagata conducted a survey of flora and fauna on a 450-acre portion of the Property corresponding generally to the Urban Lot. Native plants were observed in abundance in certain portions of the Property. No plant, bird, or mammal species classified as an endangered or threatened species, nor any plant, bird or mammal species proposed for listing by either the U.S. Fish and Wildlife Service ("USFWS") or the State of Hawai`i was observed growing naturally on the Property. Two federally listed endangered plant species were observed being cultivated in a garden of native plants maintained near the second hole of the Village Golf Course, which will be preserved.

65. Under the direction of PBR Hawai`i, Winona P. Char conducted a survey of flora on portions of the Property corresponding to Rural Lot 1, Rural Lot 2, and upper portions of the Urban Lot. The gulches support a mixed flora of native and exotic tree species. One relatively intact native plant community was found on the upper slopes of Honokahua Gulch, an area that will remain within the Agricultural District.

66. No plant species classified as an endangered or threatened species by the USFWS on the Property, nor any plant species proposed as a candidate for listing as an endangered or threatened species was detected on the Property. Development of the project is not expected to have a significant adverse impact on the botanical resources of the Property.

67. Under the direction of PBR Hawai`i, Phil Bruner, environmental consultant, conducted two faunal surveys of the Property in March 2001 and August 2003. Two native land birds, the Pueo, or Hawaiian owl (*Asio flammeus sandwichensis*), and Nene, or Hawaiian goose (*Branta sandvicensis*), were observed on the Property. The Pueo is listed by the State of Hawai`i as an endangered species on the island of O`ahu but not elsewhere. The Nene is listed as an endangered species by the USFWS. Captive propagated Nene have been released in recent years in the Ka`anapali area, and have been observed throughout West Maui. The Property is not believed to be a critical habitat for either species.

68. A Black-crowned Night Herron (*Nycticorax nycticorax*), a non-endangered native water bird was observed on the Property, as were two species of non-migratory shore birds. Other common species of introduced birds and mammals were observed on the Property. The Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) was not observed on the Property, despite a search using an ultrasound detector.

69. Petitioner actively manages the Pu`u Kukui Preserve, an 8,661-acre rainforest and watershed on Mauna Kahalawai in the West Maui Mountains, which is the largest private nature preserve in Hawai`i. It is the home of 20% of the state's native plant species. Native natural plant communities in the Pu`u Kukui Preserve include: Koa-`ohi`a (*Acacia-Metrosideros*) lowland wet forest; `ohi`a-uluhe (*Metrosideros-Dicranopteris*) lowland wet forest; uluhe lowland wet shrub-land; and mamaki

(*Pipturus spp.*) lowland wet shrub-land. Petitioner actively manages this resource.

Development of the Property would have no adverse effect on the Pu`u Kukui Preserve.

Archaeological, Historical, and Cultural Resources

70. Under the direction of PBR Hawai`i, Cultural Surveys Hawai`i, Inc., and Xamanek Researches conducted archaeological inventory surveys and a cultural survey of Kapalua Mauka Community Site. Cultural Surveys Hawai`i, Inc., identified three significant historic sites on a portion of the Property corresponding to the Urban Lot. These sites, a rock overlay, a platform and petroglyph, and the Honokahua Camp Cemetery, were documented and will be preserved in place. Petitioner presently allows visitor access to the cemetery, and intends to continue this practice. Four other sites, including a plantation era bridge, were evaluated and recorded for information content but are not required to be preserved. There is a single plantation era house on the Property that has been extensively remodeled. This house, which is identified as a part of the Honokahau Historic District, is on neither the State nor National register of historic places.

71. Xamanek Researches located 37 previously unidentified historic sites, including possible burial sites, possible religious sites, rock shelters, and agricultural sites as well as sites associated with ranching or pineapple plantation era agriculture. With one exception all sites are located within either the Honokahua Gulch or the Napili 2 and 3 Gulch in areas that will remain within the Agricultural District. All sites have been inventoried. Petitioner intends to preserve all sites passively by

leaving them in their present condition. The State of Hawai'i Department of Land and Natural Resources Historic Preservation Division concurs with this recommendation.

72. The development of Kapalua Mauka will not take place in the gulches, and therefore should not directly impact the archaeological sites. The Honokahua Camp Cemetery and the plantation era house are the only historical/archaeological sites that are located outside of the gulches, on the wider slopes of the Property. The 2,600-square-foot cemetery is located on the northern side of the Village Golf Course. Visitors are afforded access to the Honokahua Camp Cemetery.

73. The plantation era house is part of a group of structures connected to the area's pineapple plantation history, identified as the Honokahua Historic District. The Honokahua Historic District is listed on the State Inventory of Historic Places, but is not on the State or National historic place registries. Petitioner has no immediate plans for the structure.

74. Xamanek Researches conducted oral interviews for the Cultural Impact Study. Individuals interviewed as a part of the cultural survey all stated that use of the valleys for cultivation of lo'i or dry land crops such as sweet potatoes had long since ceased. All individuals recalled that the upland plains between the valleys have been in pineapple cultivation since the mid-nineteenth century. Although there is some use of mauka trails by pig hunters, no persons interviewed were aware of access for gathering or other cultural purposes.

75. Petitioner has afforded access to its West Maui mauka lands under a permit system. In 2001, Petitioner issued approximately 150 access permits for all of its West Maui lands. Hunting was the primary purpose of requests for access. There were a small number of requests for access for cultural purposes and gathering, but no one requested access to any portion of the Property for such purposes.

Groundwater Resources

76. Petitioner is a member of the West Maui Watershed Partnership that was organized in 1998 to encourage cooperative measures for protection and maintenance of the approximate 47,000 acres of watershed to ensure the quality of West Maui's groundwater.

77. The Property overlies the Honolua Aquifer, which has a sustainable and developable yield of potable water of eight million gallons per day ("MGD"). The Honolua Aquifer is outside of any groundwater management area, and development of wells is not regulated by the Commission on Water Resource Management ("COWRM").

78. The Property is located outside of the County of Maui Department of Water Supply's ("DWS") service area boundary. Petitioner's subsidiary Kapalua Water Company, Ltd. ("Kapalua Water"), owns and operates a dual water system which will serve the Property. Kapalua Water is regulated by the Public Utilities Commission. Potable water is obtained from two operating deep wells, each with a capacity of 1.0 MGD, located at approximately the 768-foot and 798-foot elevation, outside of the

Property. The Kapalua Resort presently uses between approximately 0.5 MGD and 0.6 MGD of potable water. At full build-out Kapalua Mauka's 690 units are expected to generate a potable water demand of between 0.25 to 0.35 MGD. There is ample potable water in this aquifer to satisfy the anticipated demand.

79. A third well also owned by Petitioner, Kapalua 3B, Well No. 5938-04, also located at approximately 800-foot elevation, has been drilled and tested and will become operational upon the installation of a pump. All three wells are located outside of the Property, but within Maui Tax Map Key No. 4-2-01:01. COWRM must issue a pump installation permit for Kapalua 3, Well No. 5938-04.

80. There are four County wells in the vicinity of the Property. DWS operates two wells (Honokahua Well A and Napili Well C) within the Property, one well (Honokohua Well B) adjacent to the Honokahua boundary of the Property, and one well (Napili Well B) adjacent to the Napili boundary of the Property. Several of these wells have been contaminated by chemicals formerly used in pineapple cultivation, and are not in service.

81. Two of the proposed new golf course greens are located within the zone of capture or wellhead protection zone of several County wells. There is no indication that development of the Property would adversely affect water recharge of the Honolua Aquifer.

82. DWS is concerned that fertilizers and pesticides used on the greens could leach into the water source. Petitioner has agreed with DWS that Petitioner will

install: (1) any golf course green located within the two-year time of travel of any County well outside a 500 feet radius from such well, (2) an impervious liner under any golf course greens mauka or up-gradient of County wells within the two year time of travel, and (3) a drainage system to collect and discharge water away from the wells. In addition, Petitioner will pursue organic management practices for any greens mauka or up-gradient of any well within the two-year time of travel. Petitioner will also comply with State of Hawai'i Department of Health ("DOH") Guidelines Applicable to Golf Courses in Hawai'i, and will perform any required testing or monitoring at Petitioner's cost.

83. The Kapalua golf courses are the only three golf courses in Hawai'i certified by the Audubon Cooperative Sanctuary System for environmentally responsible golf course management practices.

Surface Water Resources

84. There are several intermittent streams and gulches within Kapalua Mauka Community Site. The County of Maui's objectives for streams, gulches and other areas unsuitable for development include integrating these areas into the region's open space system for purposes of safety, open space relief, greenways for public use, and visual separation. Of the 14 major streams and gulches listed in the West Maui Community Plan two, Honokahua Stream/Gulch and Napili Stream 2-3, are within Kapalua Mauka Community Site.

85. The Honolua Ditch (also known as the Honokohau Ditch) is the source of non-potable irrigation water for the Property and the Kapalua Resort. This ditch was built in 1913 to collect surface water from Honokohau Stream, Honolua Stream, and Kaluanui Stream. Honokohau Stream is the primary source of this ditch, as the other streams do not flow perennially. Water development tunnels add up approximately 4 MGD to Honokohau Stream immediately mauka of the Honolua Ditch intake. Petitioner's historic record of water flows in the Honolua Ditch ranges from a low of 5 MGD to a high of 60 MGD, with an average daily flow of 26 MGD.

86. A study prepared by the U.S. Geological Survey in cooperation with the Office of Hawaiian Affairs, *Availability and Distribution of Base Flow in Lower Honokohau Stream, Island of Maui, Hawai'i Water-Resources Investigations Report 03-4060*, focused on base-flow conditions in Honokohau Stream. Additional data describing the availability and distribution of base flow in lower Honokohau Stream and how base flow is affected by stream-flow diversion and return-flow practices is needed to improve management of the stream resource.

87. In addition to providing non-potable irrigation and fire protection water for the Kapalua Resort, the Honolua Ditch furnishes irrigation water for Petitioner's fields south of the Property, and Pioneer Mill's agricultural operations, and is a source of potable water to the County DWS's treatment facility at Mahinahina. The DWS draws approximately 2.5 MGD of water from the Honolua Ditch.

88. The main intake for the Honolua Ditch is a diversion dam on Honokohau Stream located at approximately the 825-foot elevation. The dam diverts almost the entire flow from Honokohau Stream into the Honolua Ditch at normal base stream flow conditions. There is a dry reach of the streambed during normal stream flow conditions for approximately a mile. Below the diversion dam stream flow is renewed by springs at approximately the 600-foot elevation. Petitioner presently restores approximately one MGD into the stream at the Taro Gate at approximately the 400-foot elevation. Below that level there is approximately 2 to 3 MGD base flow in the Honokohau Stream. An additional release is made at the McDonald hydroelectric plant dam at approximately the 340-foot elevation. At the base of Honokohau Stream approximately 3 to 4 MGD of water flows into the ocean daily.

89. Petitioner had previously determined that approximately five acres of land in Honokohau Valley was being cultivated in taro. Utilizing the standard adopted by COWRM in the Waiahole Ditch case of 50,000 gallons of water a day required to irrigate an acre of land cultivated in taro, it appears that the 3 to 4 MGD per day flowing through Honokohau Stream at its terminus is sufficient to accommodate any additional requests for water for new taro farmers. Petitioner's representatives continue to meet with Honokohau Valley residents to determine whether there is an adequate flow of water in Honokohau Stream.

90. Petitioner has recently commenced release of water from the Honolua Ditch at the Aotaki Gate, located immediately below the Honolua Ditch

diversion dam, in order to restore a continuous flow in the Honokohau Stream to the ocean. Petitioner is considering installation of an adjustable flow release device at the Aotaki Gate, and intends to conduct studies to determine the quantity of water necessary to restore continuous flow to the dry reach of the Honokohau Stream.

91. Petitioner retained John I. Ford of SWCA Environmental Consultants, Inc., to conduct a biological assessment of Honokohau Stream. Native amphidromous species (o`opu and o`pae) are present both above and below the dry reach of Honokohau Stream between the 825-foot and 600-foot elevation. Two non-native invasive species of concern are present in the lower reaches of the stream, but not above the dam at the 825-foot elevation.

92. The potential benefit from perennial restoration of a given volume of water below the Honokohau Ditch intake may include: (1) a relatively small increase in habitat area and maintenance of a migratory pathway; (2) a correspondingly greater contribution of larvae to the oceanic pool; and (3) potential habitat enhancement for rare endemic damsel flies.

93. Restoration of the dry reach of Honokohau Stream will not necessarily result in an increase in the population of native species in Honokohau Stream. Restoration of stream flow from the lower section of Aotaki Gate could benefit native species living within the stream, provided that measures are taken to control invasive species. A program to remove or control poeciliid fishes in Honokohau Stream should accompany any restoration. Further study and monitoring is recommended to

be undertaken should an adjustable flow release device be installed at Aotaki Gate to determine the optimal level of flow to be restored to Honokohau Stream.

94. Microscopic larvae of native species from a stream on Kaua`i and entering the ocean via stream flow may be carried around for a period of up to 150 days in marine plankton and could end up inhabiting a stream on Maui and vice versa.

95. The average existing demand for non-potable water at the Kapalua Resort was approximately 1.7-1.9 MGD in 2001-2002. Petitioner expects that usage of non-potable water for irrigation, landscaping, fire protection, and other residential related requirements at Kapalua Mauka and by the reconfiguration of the golf course will be approximately 1 MGD. The increased demand for non-potable water due to Kapalua Mauka will be approximately 0.5 MGD. This increased usage takes into account current use by the Village Golf Course of 0.3 MGD, and that irrigation of pineapple fields of 0.3 MGD may be discontinued.

Coastal/Marine Resources

96. The Honolua Bay-Mokuleia Bay Marine Life Conservation District is approximately two miles northeast of the Property.

97. Petitioner retained Dr. Steven Dollar of Marine Research Consultants to conduct quality and marine biological assessment in Honokahua Bay and Napili Bay, which are the drainages for potential runoff from Kapalua Mauka.

98. Since the mid-1980s, Dr. Dollar has studied the effect of resort development and golf course nutrient input on ocean water quality on all of the major Hawaiian Islands. Golf courses and resorts have a minimal impact on near shore ocean water quality. Nutrients such as nitrogen and phosphorus are found in high quantities in natural groundwater that flows into the ocean through underground streams. It is impossible to distinguish in the ocean any nitrogen and phosphorus contributed by fertilizers from that contributed by groundwater. In addition, there is a high degree of mixing in near shore waters in Hawai`i.

99. The amount of nitrogen and phosphate expected to enter the ocean following development of golf courses will be significantly reduced from the amounts discharged from pineapple cultivation. In addition, former pineapple fields will no longer be subject to erosion.

100. Similarly, algae proliferation in Maui near shore waters could not be directly attributed to either the resort development or underground injection of sewage treatment effluent.

101. Projected consumption of potable water for Kapalua Mauka will result in reduction of approximately 2% of the groundwater flux to the near shore area of Honokahua Bay and Napili Bay. Pumpage of this small percentage of groundwater (and the nutrients contained in the groundwater) may serve to lower nutrient delivery to the near shore area.

Recreational Resources

102. Sixteen of the eighteen holes of the Village Golf Course are presently on the Property. There are no parks or other recreational facilities presently within the Property and access to the Property is restricted.

103. In addition to expanding the Village Golf Course, Petitioner proposes to develop pedestrian and bicycle trails within the Property. Petitioner intends to provide on gulch land makai of Honoapi`ilani Highway to be acquired from the State of Hawai`i at Napili 4 and 5, an off-site recreational facility open to the public, including walking trails and bicycle trails. This parcel, identified as Maui Tax Map Key No.: 4-3-01:05, is part of the proposed land exchange between Petitioner and the State. The pedestrian and bicycle trails would connect to existing trails in the adjacent Napili Park. This makai parcel would also serve as an open space buffer between the Kapalua Resort and the Napilihau Planned Unit Development.

Scenic Resources

104. The Property will offer numerous scenic viewpoints. Kapalua Mauka can be viewed from various locations along the Honoapi`ilani Highway. Kapalua Mauka will be developed in such a manner to minimize the impact on existing views from makai portions of the Kapalua Resort to the West Maui Mountains. The low-density rural character of Kapalua Mauka will provide considerable open space.

New landscaping will increase the botanical diversity of the area and existing trees will be preserved and integrated into community landscaping to the extent possible.

105. The more densely developed areas of single and multi-family housing will be developed around the reconfigured Village Golf Course in the center of Kapalua Mauka. These residential areas will be master planned communities that will follow site design and landscaping standards that will keep the dominant views of the area green and vegetated. The homes and the Village Golf Course will be designed to preserve mauka to makai views.

ENVIRONMENTAL QUALITY

Noise

106. Under the direction of PBR Hawai'i, D.L. Adams & Associates, Ltd., prepared noise assessments for the project. The Property is generally exposed to daytime ambient noise levels of 54-67 decibels ("dBA") with the dominant noise sources being traffic, wind, and occasional distant aircraft flybys. The dominant noise sources during project construction will be earth moving and other equipment. Following completion of the project, the main noise source will be due to vehicular traffic entering and exiting the project. The maximum traffic noise level increase is predicted to be less than 1 dBA, which is below the threshold of perceptible change in noise level.

107. The State of Hawai'i Department of Transportation ("DOT") states that the Property may be exposed to noise due to aircraft activity at Kapalua Airport,

having an ambient daily noise level below 55 dBA. Prospective homeowners at Kapalua Mauka should be made aware of the potential for overflights and aircraft noise.

108. There will be increased noise during the construction of Kapalua Mauka, but the noise will be monitored to comply with DOH noise regulations. When construction noise is expected to exceed State limits, a DOH permit will be obtained.

Air Quality

109. Under the direction of PBR Hawai'i, B.D. Neal & Associates prepared an air quality study of the project. Ambient air quality of the Property and the surrounding communities is anticipated to be adversely affected from fugitive dust during the construction phase. An effective dust control plan, which will include watering of active work areas and the use of windscreens in sensitive areas, will be implemented to ensure compliance with DOH regulations. Following construction, motor vehicles entering, exiting, and transiting the Property will result in a long-term increase in air pollution emissions on the Property. To assess the impact of emissions, an air quality modeling study was undertaken to estimate current ambient concentrations of carbon monoxide at several intersections near the Property and to predict future levels both within and without the Property. During worst-case conditions, model results indicated that 1-hour and 8-hour carbon monoxide concentrations would be within both state and federal ambient air quality standards.

Due to the very small impact development of Kapalua Mauka is expected to have, implementing mitigation measures for traffic related air quality impacts is unnecessary.

110. There will be short-term, construction dust-related impacts to air quality, and long-term impacts due to increased traffic related exhaust emissions after construction is completed. However, these impacts are not expected to change air quality conditions to levels that would exceed State or Federal air quality standards.

111. Prospective homeowners at Kapalua Mauka will be made aware that the Hawai`i Right-to-Farm Act (chapter 165, Hawai`i Revised Statutes) limits the circumstance under which normal farming activities might be considered a nuisance.

Water Quality

112. Development of Kapalua Mauka is not expected to have an adverse impact on either groundwater quality or ocean water quality, provided Petitioner complies with the DOH's Guidelines Applicable to Golf Courses in Hawai`i and other protective measures suggested by the DWS. Use of Honolua Ditch water for irrigation purposes will not have an adverse impact on the Honolua Aquifer, as the concentration of nitrates is lower in surface water than in groundwater.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Transportation and Traffic

113. Parsons, Brinckerhoff, Quaid & Douglas ("PBQD") prepared a Traffic Impact Analysis Report ("TIAR") for the entire Kapalua Resort, including

Kapalua Mauka, in December 2001. The purpose of this study was to identify the long-range traffic impacts of development of the Property as well as additional developments in the existing Kapalua Resort makai of Honoapi`ilani Highway and in the Plantation Estates area north of the Property.

114. Honoapi`ilani Highway is a limited access arterial highway that provides the primary access between west Maui and the rest of Maui. From Nakalele Point to Honokawai, it is a two-lane, undivided roadway. Between Honokawai and South Lahaina, it is a four-lane undivided roadway. From South Lahaina to Wailuku, it is again a two-lane undivided roadway.

115. The TIAR evaluated present level of service conditions at six intersections from the intersection of Honoapi`ilani Highway and Office Road, the main mauka-makai circulator roadway that serves the Kapalua Resort, to the intersection of Honoapi`ilani Highway and Lower Honoapi`ilani Road at Honokawai. The other Honoapi`ilani Highway intersections studied were Site 19, Napilihau Street, Ho`ohui Street, and Akahahele Street.

116. The TIAR characterized Kapalua Mauka as a resort residential community. However, PBQD used a higher rate of trip generation characteristics of a hotel in preparing the TIAR.

117. Existing Honoapi`ilani Highway could accommodate traffic projected to be generated from Kapalua Mauka at full build-out. Existing peak hour

traffic conditions at the six intersections studied, as well as projected future traffic conditions at these six intersections in year 2020, with and without construction of Kapalua Mauka, is anticipated to be at level of service C or better.

118. Two major State highway projects in the region that should positively impact the subject project are the widening of Honoapi`ilani Highway to four lanes from Lahainalua Road to Aholo Street and the proposed Lahaina Bypass Road. DOT projects that the Honoapi`ilani Highway widening will begin construction in 2007 and the Lahaina Bypass Road is scheduled to be completed by 2020.

119. Petitioner has agreed to provide at no cost to the State of Hawai`i the following recommended improvements approved by the DOT: median left-turn lanes on Honoapi`ilani Highway, and appropriate right-turn deceleration lanes at each of the three proposed intersections of roadways to the Property from Honoapi`ilani Highway, i.e., at Office Road, near the existing Site 19/Pineapple Hill Service Access Road and near Napilihau Street. Petitioner has also agreed to install appropriate signage and pavement markings at each of the three intersections, and to signalize the Honoapi`ilani Highway-Office Road intersection when warranted.

120. Petitioner has also accepted the Planning Commission's recommended condition to the amendment of the West Maui Community Plan that Petitioner shall either: (1) pay an impact fee pursuant to chapter 14.62, Maui County Code, *Impact Fees for Traffic and Roadway Improvements in West Maui, Hawai`i*, or (2) make a voluntary contribution to the County of Maui or State of Hawai`i towards the

funding, design, and construction of local and regional transportation improvements and programs necessitated by the proposed development of the Property, on a fair-share basis. Under either alternative Petitioner's contribution shall be an amount not exceeding \$3,500 per unit or lot developed on the Property.

121. OP proposes that Petitioner mitigate the impact of traffic resulting from the development and build-out of Kapalua Mauka through implementation of the following measures: (1) Payment of the pro-rata share of the costs of regional improvements to Honoapi`ilani Highway; and (2) Payment for all improvements for access to Honoapi`ilani Highway at the Property.

122. DOT provided the following comments:

1. Petitioner should be responsible for mitigating project generated traffic impacts at no cost to the State. All required roadway improvements must be designed to current State standards. These improvements include, but are not limited to right turn deceleration lanes, left turn deceleration and storage lanes, signage, pavement markings and streetlights. Petitioner should also provide signalization of the Honoapi`ilani Highway/Office Road intersection, when warranted.

2. Requests for new or any changes to existing highway accesses, including use, location, size, etc., must be submitted in writing to and approved by the Highways Division Right of Way Branch. Administrative costs and consideration for any enhanced value of vehicular access rights to the State highway must be paid as required by the Highways Division Right of Way Branch.

3. Petitioner must pay its fair share of regional transportation improvements to the DOT for Honoapiʻilani Highway and/or the Lahaina Bypass.

4. The TIAR is based on resort residential trip generation rates. However, should traffic congestion result from the development exhibiting trip generation characteristics more akin to standard single-family dwelling units rather than resort residential, Petitioner should be responsible for providing additional measures necessary to mitigate project-generated impacts.

5. Concurrent with the subdivision application, a master drainage report must be submitted to the Highways Division for review and approval.

Potable Water Service

123. Petitioner's subsidiary Kapalua Water will use the dual water system presently serving the Kapalua Resort to provide potable and non-potable water to the Property. Kapalua Water's potable water source is three deep wells located at approximately the 800-foot elevation, approximately 1-1/2 mile southeast of the Property. Each well has a capacity of approximately 1.0 MGD. Kapalua Water will satisfy federal and state water quality standards. Petitioner anticipates building two new 0.5 MGD capacity storage tanks at the 820-foot and 1310-foot elevations to serve Kapalua Mauka Community. At full build-out Kapalua Mauka is expected to use 0.25-0.35 MGD of potable water. There is ample potable water supply to serve the anticipated demand for potable water.

124. One of the objectives for water and utilities listed in the West Maui Community Plan includes: “*Study the feasibility for integration of all regional water systems into a public water system to be managed and operated by the County.*” Towards this objective, DWS seeks the cooperation of major landowners and private water system providers in the development of an acceptable framework for system integration.

125. COWRM recommended that Petitioner coordinate development of Kapalua Mauka with the County of Maui to incorporate Kapalua Mauka into the County’s Water Use and Development Plan.

Non-Potable Water Service

126. The Honolua/Honokohau Ditch is the source of non-potable irrigation water for the Kapalua Resort, including the Village Golf Course on the Property. Water is pumped to a 5.5 million gallon open reservoir on the Property. This reservoir serves as the source of fire protection and irrigation water for both the Property and the Kapalua Resort. Petitioner intends to construct an additional reservoir at the 1,200-foot elevation and a new non-potable water distribution system to serve the higher elevation portions of the Property.

127. At full build-out, Kapalua Mauka will use approximately one million gallons of non-potable water per day from the Honolua/Honokohau Ditch for irrigation purposes.

Wastewater

128. Petitioner's subsidiary Kapalua Waste Treatment Co., Ltd., ("Kapalua Waste") owns, operates, and maintains a wastewater collection system in the Kapalua Resort. Wastewater is directed through two 15-inch-wide sewer interceptor lines to the County of Maui's sewer pump station No. 6 west of Kapalua Bay, and from this point is transported to the County's Lahaina Wastewater Reclamation Facility ("LWWRF") located north of Ka`anapali for processing and disposal. The LWWRF has an average daily flow capacity of approximately 9.0 MGD, and currently processes approximately 6.38 MGD. Petitioner intends to construct a new sewage collection system within the Property to connect to existing gravity interceptors and the County operated pump station.

129. Petitioner, Kapalua Waste, and the County of Maui have entered into a LWWRF Expansion Agreement (the "Expansion Agreement"). Petitioner has paid its full share of the cost to expand the LWWRF as required by the Expansion Agreement. The Expansion Agreement affords Petitioner and Kapalua Waste the right to dispose approximately 0.68 MGD of wastewater from the Kapalua Resort at the LWWRF. As of January 20, 1994, the date of the Expansion Agreement, Kapalua Waste was disposing approximately 0.46 MGD, including wastewater projected to flow from developed land not then in use, and had available approximately 0.22 MGD of capacity remaining for use. Since that time Petitioner has used approximately 0.04 MGD of additional capacity, and the County's Division of Wastewater Management indicates

that Petitioner has a remaining capacity of approximately 0.184 MGD left in its allocation. Kapalua Waste believes it pumps only 0.25 MGD of wastewater to the LWWRF, leaving additional capacity. At full build-out, Kapalua Mauka is expected to generate approximately 0.176 MGD of wastewater. There is sufficient capacity to treat wastewater to be generated by Kapalua Mauka under either calculation.

130. If the Housing and Community Development Corporation of Hawai'i does not use its allocated capacity for the Villages at Leiali'i by 2006 that allocation may revert to the County and also be available for use by Petitioner.

Drainage

131. The Property is divided into three drainage areas which cover approximately 1,750 acres. Surface runoff generated from these drainage areas sheet flows across the Property and is conveyed under Honoapi'ilani Highway via existing culverts into grassed channels and detention and retention basins before being discharged into the Pacific Ocean. Development of the Property will not result in significant change to the natural drainage pattern. Current onsite peak runoff is expected to increase from 873 cubic feet per second to 1,934 cubic feet per second following completion of development.

132. Petitioner will minimize impermeable surfaces in order to limit the increase in surface runoff. Increase in surface runoff will be mitigated by new on-site detention/desalting basins which will be designed to suppress peak flows and to minimize transmission of silt and debris to downstream properties.

Solid Waste

133. Petitioner anticipates that it will collect solid waste generated by the golf course, clubhouse, and commercial operations, and that homeowners associations will contract with private refuse collection companies to dispose of solid waste generated by residents of Kapalua Mauka. All solid waste will be disposed at the County Central Maui landfill at Pu`unene. Following build-out, Kapalua Mauka is estimated to generate approximately 18.9 tons of solid waste per week. Petitioner will encourage recycling, and will continue and expand its green waste recycling program for all green waste generated on the Property.

Schools

134. Following build-out, approximately 17 school age children are expected to reside in Kapalua Mauka. The low school age population is due to the resort/residential focus of the community. Only 20% of the units/homes are expected to be used by full-time residents, many of whom will be senior citizens without school age children.

135. Children living in Kapalua Mauka would attend either Kamehameha III Elementary School or Nahienaena Elementary School, and Lahaina Intermediate School and Lahainaluna High School. All of these schools are located in Lahaina.

136. The Department of Education ("DOE") would prefer a cash contribution in lieu of land dedicated for public school purposes. Petitioner's subsidiary Kapalua Land Co., Ltd., and the DOE have entered into an education contribution agreement for Kapalua Mauka which provides for a cash contribution of \$697,590 to be made to DOE pursuant to the conditions set forth in the agreement.

Police and Fire Protection

137. The Property is located within the County of Maui Police Department's West Maui division. The closest police station is at the Lahaina Civic Center. Development of Kapalua Mauka is not expected to significantly impact the need for public police services. In addition, the Kapalua Resort operates a private security service which patrols on a 24-hour basis. This private security service would be extended to the Property.

138. The County of Maui Fire Department provides fire protection service to Kapalua from the Napili Fire Station located approximately one half mile from the western boundary of the Property and from the Lahaina Fire Station located at the Lahaina Civic Center, approximately 10 minutes away. Development of Kapalua Mauka is not expected to significantly impact the need for fire protection services in West Maui.

Emergency Medical Services

139. Emergency medical services to the Property are provided from the Maui Memorial Medical Center in Kahului, located approximately 25 to 35 miles away, which is outside the time recommended for emergency treatment. Maui is the only major Hawaiian island with only one hospital. A land-donation agreement dated August 1, 2003, between Ka`anapali Development Company and West Maui Improvement Foundation provides a site for development of West Maui's first 24-hour acute-care emergency hospital. The site is within the Kaanapali 2020 community development area.

Electrical Power and Telecommunications Services

140. Main electrical, telephone, and CATV overhead transmission lines are located on the mauka side of Honoapi`ilani Highway. Electrical and telecommunications capacity is adequate to serve the Property. Maui Electric Company, Ltd. has a substation adjacent to the Property west of Honokaena Gulch. Power demand from Kapalua Mauka is estimated to range between 4,500 kilowatts and 6,900 kilowatts upon completion of project build-out. The increased demand will be accommodated by the upgraded substation. Verizon Hawai`i, Inc., is planning to construct a universal equipment facility in Kapalua to increase the number of customers it may serve in the area.

COMMITMENT OF STATE FUNDS AND RESOURCES

141. Government costs expected to be incurred to provide services to Kapalua Mauka Community are expected to be less than the revenues derived. Government costs associated with development will consist primarily of roadway improvement. Petitioner is expected to contribute its fair share for the costs for roadway improvements and to pay for other infrastructure and community services required for the project.

142. Because the majority of Kapalua Mauka's resident population will consist of second homeowners and visitors, the demand for government services will be less than the level of service required to serve families occupying a community of full-time residents, as visitors typically do not rely on the full range of government services. Property owners will pay property tax on a full-time basis and general excise tax when they purchase goods and services on the island. The de facto population growth of 840 persons will represent a relatively insignificant portion of less than 0.5% in the expansion of the island's person and car population. A maximum of 20% of the single-family homes in Kapalua Mauka Community and 15% of the multi-family homes in Kapalua Mauka will be expected to house full-time residents.

CONFORMANCE TO URBAN AND RURAL DISTRICT STANDARDS

Urban District Standards

143. Kapalua Mauka satisfies the standards applicable to establishing the boundaries of the State Land Use Urban District set forth in section 15-15-18, HAR, in the following respects:

a. Characterized by "city-like" concentrations of people, structures, streets, services, and land uses, the Kapalua Resort is a center of trade and employment, which includes the Kapalua Bay Hotel and the Ritz-Carlton Kapalua, single-family homes, homesites, and condominiums, two ten-court tennis facilities, three 18-hole championship golf courses, a 22,000-square-foot (gross leaseable area) shopping village, an art center, and several freestanding retail, restaurant, and administrative buildings.

b. With its location adjacent to the existing Kapalua Resort, which is presently in the Urban District, development of the Urban Lot would not contribute to scattered spot urban development. Reclassification of the Urban Lot would provide a sufficient reserve area for foreseeable urban growth.

c. Basic services such as schools, parks, wastewater systems, drainage, potable water, irrigation water, transportation systems, public utilities and police and fire protection are either already available to the Property or will be provided by Petitioner.

d. The Urban Lot is contiguous to lands within the Urban District.

Approximately 450 acres of the Urban Lot is designated as Project District 2 in the West

Maui Community Plan. The Planning Department and Planning Commission have recommended an amendment to the West Maui Community Plan to reclassify of the entire Urban Lot to Project District 2.

e. The Urban Lot is reasonably free from danger of flood, tsunami, unstable soil condition, and other adverse environmental effects. The Urban Lot does not include land with a general slope of 20% or more, except for portions characterized as gulches. Design and construction controls to be imposed on gulch areas will be adequate to protect the public health, welfare, and safety and the public's interests in the aesthetic quality of the landscape.

f. Kapalua Mauka will be designed to complement the Property's natural attributes, mitigate environmental conflicts, enhance scenic amenities, and protect historic resources. Although the topography is gently rolling in some areas, the portions of the community planned for the residential uses and reconfigured golf course are located on relatively flat areas currently cultivated in pineapple. To the extent possible, improvements will conform to the contours of the land, limiting the need for extensive grading. Gulch areas with steeper slopes will remain in the Agricultural District.

Rural District Standards

144. Kapalua Mauka satisfies the standards applicable to establishing the boundaries of the State Land Use Rural District set forth in section 15-15-21, HAR, in the following respects:

a. Rural Lot 1 and Rural Lot 2 will contain approximately 180 low-density residential lots comprised of at least one-half acre. Rural Lot 1 and Rural Lot 2 will be on the north and east perimeter of Kapalua Mauka Community Site to provide a transition from lands in the adjacent Urban District to surrounding lands in the Agricultural District.

b. Lands in the Rural District will not contain “city-like” concentrations of people, structures, streets, or urban levels of services. Small-scale agricultural activities will be allowed on the larger parcels including orchards, plant nurseries, and other horticultural activities.

CONFORMANCE WITH THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAII'S STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

Hawai`i State Plan

145. Reclassification of the Property generally conforms to the following applicable goals, objectives, policies, and guidelines of the Hawai`i State Plan.

HRS §226-5 Objectives and policies for population

Policies: *5(b)(1) Manage population growth statewide in a manner that provides increased opportunities for Hawai`i's people to pursue their physical, social and economic aspirations while recognizing the unique needs of each County.*

5(b)(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.

5(b)(3) Promote increased opportunities for Hawai`i's people to pursue their socio-economic aspirations throughout the islands.

5(b)(7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

Kapalua Mauka will provide increased opportunities for Maui's people to pursue their physical, social, and economic aspirations by providing employment and other economic benefits to Maui. Kapalua Mauka will not contribute to growth beyond the density that is currently anticipated in the West Maui Community Plan.

Petitioner has planned for the use of land and water resources required in a coordinated manner through the community plan process. There is adequate capacity of both potable and non-potable water to accommodate projected growth.

HRS §226-6 Objectives and policies for the economy-in general

Policies: *6(b)(3) Seek broader outlets for new or expanded Hawai'i investments.*

6(b)(6) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

HRS §226-8 Objectives and policies for the economy-visitor industry

Policies: *8(b)(2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawai'i's people.*

8(b)(3) Improve the quality of existing visitor destination areas.

8(b)(4) Encourage cooperation and coordination between government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities.

8(b)(5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawai'i's people.

Development of Kapalua Mauka will expand one of the Hawai`i's leading destination resorts, thereby facilitating increased employment opportunities, income and living standards for Hawai`i's people. It will also contribute to the growth of Maui's visitor industry and diversified economic base by providing a range of stable employment opportunities in areas such as tourism, resort management, recreation, and property management. During the buildout period, Kapalua Mauka community will also provide employment opportunities for a range of labor-intensive and highly skilled workers in the construction and building trades. The economic benefits of the community include:

- \$291.6 million in total wages generated over build-out of Kapalua Mauka
- 4,990 “worker years” of direct on-site employment and an additional 2,495 “worker years” of off-site employment during build out (A “worker year” is the amount of time one full-time worker can work in one year)
- \$49.6 million per year in discretionary expenditures infused into the island economy from community residents and guests
- 226 permanent jobs and \$6.2 million in annual wages
- \$101.9 million in taxes for the State of Hawai`i during the 20-year build-out and sales period
- \$72.9 million in taxes for the County of Maui during the 20-year build-out and sales period
- \$5.2 million in annual taxes for the State after build-out and sales period
- \$5.6 million in annual taxes for the County after build-out and sales period.

HRS §226-11 Objectives and policies for the physical environment—land based, shoreline, and marine resources

- Policies:**
- 11(b)(1) Exercise an overall conservation ethic in the use of Hawai`i's natural resources.*
 - 11(b)(2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.*
 - 11(b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.*
 - 11(b)(4) Manage natural resources and environs to encourage their beneficial and multiple use without generating costly or irreparable environmental damage.*

HRS §226-12 Objectives and policies for the physical environment—scenic, natural beauty, and historic resources

- Policies:**
- 12(b)(1) Promote the preservation and restoration of significant natural and historic resources.*
 - 12(b)(2) Provide incentives to maintain and enhance historic, cultural, and scenic amenities.*
 - 12(b)(3) Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features.*
 - 12(b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.*

HRS §226-13 Objectives and policies for the physical environment-land, air and water quality

- Policies:**
- 13(b)(2) Promote the proper management of Hawai`i's land and water resources.*
 - 13(b)(3) Promote effective measures to achieve desired quality in Hawai`i's surface, ground, and coastal waters.*
 - 13(b)(7) Encourage urban developments in close proximity to existing services and facilities.*

Kapalua Mauka will be designed in a manner that will be sensitive to the environment and scenic beauty, and will complement the Property's natural attributes, mitigate environmental conflicts, enhance scenic amenities, and protect historic resources. Although the topography is gently rolling in some areas, the portions of the Property planned for residential and rural uses are located on relatively flat areas currently cultivated in pineapple. To the extent possible, improvements will conform to the contours of the land, limiting the need for extensive grading.

Approximately 135 acres of Kapalua Mauka Community Site consists primarily of gulches which will remain in permanent open space in the Agricultural District. The Village Golf Course will also provide additional open space. When practical, existing trees will be preserved and integrated into the community landscaping.

Petitioner's conservation programs based on the Hawaiian *ahupua`a* model of caring for resources from the mountains to the sea, include: (1) partnership arrangements with the State of Hawai`i, The Nature Conservancy of Hawai`i, and Audubon International to preserve the slopes of Pu`u Kukui; (2) the development of an environmental code of ethics; (3) marketing enrichment travel packages with a contribution going to benefit The Nature Conservancy; and (4) resort-wide goal of preserving the unique Hawaiian environment and cultural heritage of which Kapalua is a part.

In addition, all three of the Kapalua Resort's golf courses are certified with the Audubon Cooperative Sanctuaries System. To receive this designation the courses must meet stringent environmental standards set forth by Audubon International for environmental planning, water conservation, habitat enhancement, public involvement, integrated pest management, and water quality management. The proposed expansion of the Village Golf Course is expected to meet the same high standards.

Looking mauka from Honoapi`ilani Highway, the open space character of Kapalua Mauka will remain intact, but visually change from pineapple fields to low-density residential and golf course land uses. Homesites will be visible, but because of the relatively large lot sizes and the golf course, there will be substantial open space between homes.

Kapalua Mauka is not expected to have a significant adverse effect on either the existing watershed, downstream properties, or coastal marine waters. Napili 2 and 3 Gulch, Napili 4 and 5 Gulch, Honokahua Stream, Mokupea Gulch, and other natural drainageways will be preserved and maintained as open space. Post-development runoff is expected to increase. However, detention and desilting basins within Petitioner's adjoining lands will maintain the exiting flows and there will be no increase in runoff flowing from the Property.

HRS §226-15 Objectives and policies for facility systems—solid and liquid wastes

Policies: *15(b)(1) Encourage the adequate development of sewerage facilities that complement planned growth.*

15(b)(2) Promote re-use and recycling to reduce solid and liquid wastes and

employ a conservation ethic.

Petitioner and its subsidiary Kapalua Waste will build, operate, and maintain a sewer collection system in Kapalua Mauka that will transmit wastewater to the LWWRF at Ka`anapali. Petitioner is entitled, under a LWWRF Expansion Agreement, to have all wastewater to be generated by Kapalua Mauka treated at the LWWRF. Petitioner will encourage recycling, including recycling of all green waste, on-site.

HRS §226-16 Objectives and Policies for Facility Systems—Water.

Policies: 16(b)(1) *Coordinate development of land use activities with existing and potential water supply.*

 16(b)(4) *Assist in improving the quality, efficiency, service, and storage capabilities of water systems for domestic and agricultural use.*

Petitioner and its subsidiary Kapalua Water will provide potable water for Kapalua Mauka through an existing privately-owned potable water system and irrigation water through the privately-owned and operated Honolua/Honokohau Ditch.

HRS §226-17 Objectives and policies for facility systems—transportation.

Policies: 17(b)(3) *Encourage a reasonable distribution of financial responsibilities for transportation among participating governmental and private parties.*

 17(b)(6) *Encourage transportation systems that serve to accommodate present and future development needs of communities.*

The existing Honoapi`ilani Highway can accommodate traffic anticipated to be generated from Kapalua Mauka. Petitioner has agreed to provide the intersection

improvements to Honoapi`ilani Highway requested by the DOT. Petitioner has also accepted the Planning Commission's recommended condition to amendment of the West Maui Community Plan to pay an impact fee or make a voluntary contribution towards local and regional transportation improvements necessitated by the proposed development of the Property in an amount not exceeding \$3,500 per unit.

HRS §226-19 Objectives and policies for socio-cultural advancement-housing

- Policies:**
- 19(b)(3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.*
 - 19(b)(5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.*

Kapalua Mauka is consistent with the intent of the West Maui Community Plan, which is a reflection of the community's desires to direct and manage growth. Kapalua Mauka will help to satisfy the demand for market rate and upscale resort residences in West Maui.

With its physical setting adjacent to the existing Kapalua Resort and bordering Honoapi`ilani Highway, Kapalua Mauka is accessible to public facilities and services. Design guidelines for Kapalua Mauka will reflect the high standards of the Kapalua Resort.

HRS §226-23 Objectives and policies for socio-cultural advancement-leisure

- Policies:**
- 23(b)(2) Provide a wide range of activities and facilities to fulfill the cultural, artistic, and recreational needs of all diverse and special groups effectively and efficiently.*

23(b)(3) Enhance the enjoyment of recreational experiences through safety and security measures, educational opportunities, and improved facility design and maintenance.

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

23(b)(5) Ensure opportunities for everyone to use and enjoy Hawai`i's recreational resources.

The Kapalua Village Golf Course and related recreational amenities will provide open space, scenic vistas, and opportunities for both active and passive uses of portions of Kapalua Mauka.

As part of the land exchange with the State of Hawai`i, Petitioner is proposing to acquire a State-owned parcel between Honoapi`ilani Highway and Lower Honoapi`ilani Road. Petitioner intends to maintain this area as open space and create a mauka-makai pedestrian and bicycle trail on the Kapalua side of the gulch. The open space and pedestrian and bicycle trail would supplement the adjacent Napili Park.

HRS §226-104 Population growth and land resources priority guidelines

Policies: *104(a)(1) Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawai`i's people.*

104(a)(2) Manage a growth rate for Hawai`i's economy that will parallel future employment needs for Hawai`i's people.

Kapalua Mauka is consistent with the intent of the West Maui Community Plan, which reflects the community's desires to direct destination resort growth in West Maui to Kapalua and Ka'anapali.

Policies: *104(b)(1) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.*

104(b)(12) Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

Kapalua Mauka is a logical expansion of the Kapalua Resort, which is presently classified in the Urban District. Development of Kapalua Mauka will help accommodate future demand for resort/residential homes and assist in job creation. Environmentally sensitive measures will be taken in the design and construction of Kapalua Mauka to ensure that downstream coastal resources are not degraded as a result of development. Detention and desilting basins within or adjacent to the Property will maintain the existing storm water flow and there will be no increase in runoff flowing from the Property.

Functional Plans

146. Reclassification of the Property generally conforms to the functional plans in the following program areas: employment, housing, recreation, tourism, and transportation.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

147. The proposed reclassification of the Property generally conforms to the policies and objectives of the Coastal Zone Management Program as defined in chapter 205A, HRS, as follows:

(1) *Recreational Resources*

(A) *Provide coastal recreational opportunities accessible to the public.*

Development of Kapalua Mauka will not adversely affect coastal recreational opportunities. The Property is on the mauka uplands and not on the coastline. Access to popular shoreline recreation areas such as Fleming Beach and Honolua Bay will not be adversely affected by development of Kapalua Mauka.

(2) *Historic Resources*

(A) *Protect, preserve, and where desirable, restore those natural and man-made historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.*

All significant historical and cultural sites that are on portions of Kapalua Mauka Community Site will remain undeveloped in the Agricultural District and be preserved in place.

(3) *Scenic and Open Space Resources*

- (A) *Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.*

Kapalua Mauka will be integrated into the contours of the Property to blend with the existing Kapalua Resort community and to maintain the rural attributes of the mauka area. The low-density, rural character of much of the Property will provide considerable open space.

(4) *Coastal Ecosystems*

- (A) *Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

Environmentally sensitive measures will be taken in the design and construction of Kapalua Mauka to ensure that downstream coastal resources are not degraded as a result of development. Detention and desilting basins within or adjacent to the Property will maintain the existing storm water flows and there will be no increase in runoff flowing from the Property.

(5) *Economic Uses*

- (A) *Provide public or private facilities and improvements important to the State's economy in suitable locations.*

Kapalua Mauka represents a major upgrading and expansion of one of Hawai'i's premier destination resorts. Kapalua is one of two resort areas designated on the West Maui Community Plan.

(6) *Coastal Hazards*

- (A) *Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.*

(7) *Managing Development*

- (A) *Improve the development review process, communication and public participation in the management of coastal resources and hazards.*

The potential short and long-term impacts of Kapalua Mauka have been described in the Kapalua Mauka Final Environmental Impact Statement ("EIS"), which was accepted by the Planning Department in October 2002. The EIS process included two public comment periods, and all comments received were addressed. In addition, Petitioner held two public meetings to discuss Kapalua Mauka with Maui residents. Kapalua Mauka has been the focus of a workshop held by the Planning Commission and also received the approval of the Planning Commission at a public hearing.

(8) *Public Participation*

- (A) *Stimulate public awareness, education, and participation in coastal management.*

Through the Kapalua Mauka EIS process, opportunities for public awareness, education, and participation with respect to the project's potential impact upon coastal management issues were provided.

(9) *Beach Protection*

- (A) *Protect beaches for public use and recreation.*

Kapalua Mauka is not located near the coastline. Therefore it will not have an adverse impact on the region's beaches for public use and recreation.

(10) *Marine Resources*

- (A) *Promote the protection, use, and development of marine and coastal resources to assure their sustainability.*

While Kapalua Mauka is not on the coastline, environmental measures will be taken in the design and construction of the community. Appropriate engineering measures will be undertaken to preserve existing drainageways and retain site runoff at existing levels. Post-development runoff is expected to increase slightly; however, detention and desilting basins adjacent to the Property will maintain the exiting flows and there will be no increase in runoff flowing from the site.

CONFORMANCE WITH THE COUNTY'S GENERAL PLAN

148. Development of the Urban Lot is consistent with Project District 2 on the West Maui Community Plan Land Use Map. The Planning Department has recommended and the Planning Commission has approved an amendment to the West Maui Community Plan for the expansion of Project District 2 to include the entire Property for expansion of the Kapalua Resort.

PROJECT PHASING

149. Permitting, development, and build-out and sale of Kapalua Mauka are proposed to occur over a twenty-year period. Permitting is anticipated to require at least three years, and design and construction would commence as soon as all discretionary permits have been obtained. Petitioner is planning to develop

infrastructure for the project as a single integrated system. Therefore incremental redistricting would be inappropriate for Kapalua Mauka.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or any other party not already ruled upon by the Commission by adoption, or rejected by clearly contrary findings of fact, are hereby denied and rejected.

Any conclusion of law improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. Pursuant to chapter 205, HRS, and the Hawai`i Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the portion of the Property designated as the Urban Lot, consisting of approximately 515.0 acres of land at Honokahua, Napili 2 and 3 and Napili 4 and 5, Maui, Hawai`i, and identified as Maui Tax Map Key Nos.: 4-2-01: por. 01, 38 and 39 and 4-3-01: por. 08 from the State Land Use Agricultural District to the State Land Use Urban District for development of portions of Kapalua Mauka as a residential and resort community, subject to the conditions in the Order below, conforms to the standards for establishing the Urban District

boundaries, is reasonable, is not violative of section 205-2, HRS, and is consistent with the Hawai`i State Plan as set forth in chapter 226, HRS, and with the policies and criteria established pursuant to sections 205-17 and 205A-2, HRS.

2. Pursuant to chapter 205, HRS, and the Hawai`i Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the portion of the Property designated as the Rural Lot 1, consisting of approximately 124.98 acres of land at Honokahua, Maui, Hawai`i, and identified as Maui Tax Map Key Nos.: 4-2-01: por. 01, and 4-2-05: por. 50 and por. 51, and designated as Rural Lot 2, consisting of approximately 150.34 acres of land at Honokahua, and Napili 2 and 3 and Napili 4 and 5 Maui, Hawai`i, and identified as Maui Tax Map Key No: 4-2-01: por. 01 and 4-3-01: por. 06 and por. 08 , all from the State Land Use Agricultural District to the State Land Use Rural District for development of a rural resort community, subject to the conditions in the Order below, conforms to the standards for establishing the Rural District boundaries, is reasonable, is not violative of section 205-2, HRS, and is consistent with the Hawai`i State Plan as set forth in chapter 226, HRS, and with the policies and criteria established pursuant to sections 205-17 and 205A-2, HRS.

3. Article XII, Section 7, of the Hawai`i Constitution requires the Commission to protect native Hawaiian traditional and customary rights: The State reaffirms and shall protect all rights, customarily and traditionally exercised for

subsistence, cultural and religious purposes and possessed by ahupua`a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

4. All archaeological sites encountered during the archaeological inventory surveys of the Property were inventoried, and will be preserved in place.

5. The Property is set well back from the coast, has no surface water, and no unique topographic features. There were no commoner land claims within the Property. There is no evidence that native Hawaiians utilized the Property for gathering or any cultural or religious purposes.

6. Article XI, Section 1, of the Hawai`i Constitution requires the State to conserve and protect Hawai`i's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

7. There is no naturally growing endangered or threatened species of flora nor any proposed as a candidate for listing as an endangered or threatened species on the Property.

8. There is no critical habitat of any endangered or threatened species of bird, mammal or insect nor any critical habitat of any species of fauna proposed as a candidate for listing as an endangered or threatened species on the Property.

9. The ambient air quality of the Property, and the surrounding communities is anticipated to be adversely impacted from fugitive dust during the construction phase of the development. A dust control plan that would include watering of active work areas and the use of wind screens in sensitive areas will be employed to minimize the potential for fugitive dust emissions.

10. Based on the relatively small increases in predicted concentrations from the development's traffic and continued compliance with national standards, air quality mitigation measures for long-term traffic related impacts from the development are unnecessary.

11. The development will alter the existing views from the makai portions of the Kapalua Resort. However, most distant views of the Property and Pu'u Kukui ridgelines as well as makai views of the ocean from the Property will not be impeded. Portions of Kapalua Mauka located mauka of the Honoapi'ilani Highway, which provide an exceptional open space view, will remain in the Agricultural District.

12. Article XI, Section 3, of the Hawai'i Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

13. Development of the Property will eliminate the possibility of using the Property for diversified agriculture, but will not adversely impact growth of diversified agriculture on Maui as a whole, or in West Maui in particular. The Property

has constraints on farming, such as its topography and expense of transporting produce to Kahului. There is ample agricultural land available on Maui for diversified agriculture because of the closure of sugar plantations. Petitioner is presently conducting a comprehensive program of testing and analysis to determine appropriate crops for adjoining lands remaining in the Agricultural District.

14. Article XI, Section 7, of the Hawai`i Constitution states that the State has an obligation to protect the use of Hawai`i's water resources for the benefit of its people.

15. There is no indication that development of the Property would adversely affect water recharge of the Honolua Aquifer. Petitioner will draw potable water from existing wells and non-potable water from the Honolua Ditch, both of which have adequate sustainable yield to satisfy the potable water and non-potable water requirements of the proposed development.

16. Development of the Property will not adversely affect Honokohau Stream. Honokohau Stream generates ample stream flow to support Kapalua Mauka's projected increase in consumption of non-potable water of 0.5 MGD. Petitioner is undertaking voluntary efforts to restore a continuous flow in Honokohau Stream to the ocean.

DECISION AND ORDER

IT IS HEREBY FURTHER ORDERED that the portion of the Property being the subject of Docket A03-741 filed by Petitioner and designated as the Urban Lot, consisting of approximately 515.0 acres of land in the State Land Use Agricultural District located at Honokahua and Napili 2 and 3 and Napili 4 and 5, Maui, Hawai`i, identified as Maui Tax Map Key No: 4-2-01: por. 01, 38 and 39 and 4-3-01: por. 08 and approximately shown on Exhibit "A" attached hereto and incorporated by reference shall be and hereby is reclassified to the State Land Use Urban District, and the portions of the Property designated as Rural Lot 1, consisting of approximately 124.98 acres of land in the State Land Use Agricultural District located at Honokahua, Maui, Hawai`i, identified as Maui Tax Map Key No: 4-2-01: por. 01 and 4-2-05: por. 50 and por. 51, and Rural Lot 2, consisting of approximately 150.34 acres of land in the State Land Use Agricultural District located at Honokahua and Napili 2 and 3 and Napili 4 and 5, Maui, Hawai`i, and identified as Maui Tax Map Key No: 4-2-01: por. 01 and 4-3-01: por. 06 and por. 08, and approximately shown on Exhibit "A" attached hereto and incorporated by reference shall be and hereby are reclassified to the State Land Use Rural District, and the State Land Use District Boundaries shall be amended accordingly, subject to the following conditions.

1. Affordable Housing. Petitioner shall provide affordable housing opportunities for low, low-moderate and gap-group-income residents of the State of Hawai`i to the satisfaction of the County of Maui, acting in accordance with its

approved affordable housing policy. The location and distribution of the affordable housing and other provisions for affordable housing shall be under such terms and conditions as may be mutually agreeable to Petitioner and the County of Maui.

Notwithstanding any affordable housing provisions that may be agreed to by Petitioner and the County of Maui, Petitioner, at a minimum, shall develop no less than 125 affordable units as a part of its proposed Pulelehua project at Mahinahina.

2. Public School Facilities. Petitioner shall contribute to the development, funding, and/or construction of public school facilities, on a fair-share basis, pursuant to an Education Contribution Agreement for Kapalua Mauka dated July 10, 2003, between Kapalua Land Company, Ltd. and the State of Hawai`i Department of Education.

3. Wastewater Treatment and Disposal Facilities. Petitioner has paid the County of Maui Petitioner's agreed-upon share to fund the construction of wastewater treatment and disposal facilities to serve the Property. Petitioner shall receive wastewater treatment service for wastewater from the Property pursuant to the Lahaina Wastewater Reclamation Facility ("LWWRF") Expansion Agreement dated January 20, 1994, among the County of Maui, Petitioner and Kapalua Wastewater Treatment Company. Petitioner shall construct, operate and maintain wastewater transmission facilities to transport wastewater from the Property to appropriate County wastewater transmission facilities.

4. Transportation Improvements. Petitioner shall implement traffic mitigation measures for project generated traffic, at no cost to the State of Hawai`i. All roadway improvements shall be designed to Department of Transportation standards, and shall include, but not be limited to, right-turn deceleration lanes, left-turn deceleration and storage lanes, signage, pavement markings, and streetlights. Petitioner shall also provide signalization at the Honoapi`ilani Highway Office Road intersection when warranted.

5. Traffic Impact Fee. Petitioner shall in the order specified below:

(a) pay an impact fee pursuant to Chapter 14.62, Maui County Code, Impact Fees for Traffic and Roadway Improvements in West Maui, Hawai`i; however, if there is a written agreement between the County of Maui and the State of Hawai`i specified by section 14.62.080, the County shall share the funds collected from the Petitioner with the State in accordance with this written agreement; or (b) make a voluntary contribution to the County of Maui upon issuance of building permit for the first dwelling or final subdivision approval, whichever comes first; or (c) pay the impact fee to the State pursuant to the enactment of State legislation authorizing such payment.

The impact fee is established as a function of an agreement reached amongst the Petitioner, the County of Maui and the State Office of Planning and will be applied towards the funding, design, and construction of local and regional transportation improvements and programs necessitated by the proposed development of the Property, but in any event will not exceed \$3,500 per unit or lot developed on the

Property. In the event a change in circumstance proves that a fee of up to \$3,500 is inadequate, the State or the County may seek to amend this Order.

5a. Traffic Impact. Requests for new or any changes to existing highway accesses (including use, location, and size), shall be submitted in writing to and approved by the Highways Division Right of Way Branch. Administrative costs and consideration for any enhanced value of vehicular access rights to the State highway shall be paid as required by the Highways Division Right of Way Branch.

6. Civil Defense. Petitioner shall fund and construct adequate solar-powered civil defense measures serving the Property as determined by the State of Hawai'i Department of Defense, Office of Civil Defense and County Civil Defense Agency.

7. Archaeological Inventory Survey and Historic Preservation Mitigation Plan. Petitioner shall comply with the conditions recommended by the State of Hawai'i Department of Land and Natural Resources, Historic Preservation Division on January 27, 2003, regarding revisions to Petitioner's archaeological inventory surveys and approval of an acceptable Preservation Plan for any historic sites on the Kapalua Mauka Community Site prior to commencement of any ground altering activities. Petitioner shall confirm in writing to the Commission that the Historic Preservation Division has found Petitioner's mitigation commitments, if any, to be acceptable and has determined that any historic preservation mitigation plan and archaeological data recovery sub-plan has been successfully implemented.

8. Unidentified Finds. Petitioner shall stop work in the immediate vicinity should any previously unidentified human burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, or loci walls be found. Petitioner shall immediately notify the Historic Preservation Division, and comply with requirements of Chapter 6E, HRS, and applicable rules. The Historic Preservation Division shall determine and approve the significance of these finds, and shall permit subsequent work to proceed with an archaeological clearance after appropriate mitigative measures have been implemented.

9. Air Quality Monitoring Petitioner shall participate in an air quality-monitoring program as specified by the State Department of Health.

10. Notification of Potential Aircraft Noise. Petitioner shall notify all prospective buyers and/or lessees of the Property of potential noise from the over flight of aircraft using Kapalua West Maui Airport.

11. Notification of Potential Nuisances. Petitioner shall notify all prospective buyers and/or lessees of the Property of potential odor, noise and dust pollution resulting from adjacent agricultural uses.

12. The Hawai`i Right to Farm Act. Petitioner shall notify all prospective buyers and/or lessees of the Property that the Hawai`i Right to Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance.

13. Drainage Improvements. Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of appropriate State and County agencies.

14. Integrated Solid Waste Management Plan. Petitioner shall cooperate with the State of Hawai'i Department of Health and County of Maui Department of Environmental Services to conform to the program goals and objectives of Chapter 342G, HRS, and the County of Maui's approved integrated solid waste management plan in accordance with a schedule and timeframe satisfactory to the State of Hawai'i Department of Health. Petitioner shall, in coordination with appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities, including recycling bins in public places, such as schools and parks, if any, within the proposed development.

15. Water Resources Allocation. Petitioner shall provide adequate potable and non-potable water source, storage and transmission facilities and improvements to accommodate the proposed development on the Property. Water transmission facilities shall be approved by appropriate State agencies.

16. Access Rights. Petitioner shall preserve access rights of native Hawaiians who customarily and traditionally have used the Property for access to other areas for subsistence, cultural, and religious practices.

17. Best Management Practices. Petitioner shall implement applicable best management practices applicable to each proposed land use to reduce or eliminate

soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the State Department of Health guidelines.

18. Water Conservation Measures. Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and turf, and incorporate such measures into common area landscape planting.

19. Energy Conservation Measures. Petitioner shall implement energy conservation measures such as use of solar energy and solar heating and incorporate such measures into the proposed development on the Property.

20. Wellhead Protection Area (WPA).

(a) Any golf course green within the two-year time of travel of any County of Maui Department of Water Supply (DWS) well will be located outside a 500 feet radius from any such well.

(b) Petitioner will install an impervious liner beneath any green mauka or up-gradient of the DWS wells within the two-year time of travel, including the Honokahua A and Napili C wells. The design and construction of the greens will include a drainage system that could collect all water and percolate and pipe it to discharge away and down-gradient of the DWS wells.

(c) Petitioner will pursue organic management practices for greens that may be constructed mauka or up-gradient of DWS wells within the two-year time of travel.

21. Golf Course Guidelines. Petitioner shall comply with the recommendations of the State of Hawai'i Department of Health's Guidelines Applicable to Golf Courses in Hawai'i (July 2002).

22. Compliance with Representations to the Commission. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

23. Notice of Change to Ownership Interests. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property. This condition shall be satisfied by the giving of notice only, and shall not require approval by the Commission.

24. Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning and the County of Maui Planning Department in connection with the status of the development proposed for the Property, and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the executive officer of the

Commission. The annual report shall be due prior to or on the anniversary date of the Commission's approval of the Petition.

25. Release of Conditions Imposed by the Commission. Petitioner shall seek from the Commission full or partial release of these conditions as to all or any portion of the Property upon assurance acceptable to the Commission of satisfaction of these conditions.

26. Statement of Imposition of Conditions. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.


27. Recording of Conditions. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 24th day of June, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

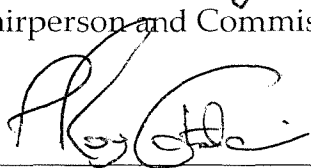
Done at Makena, Maui, Hawai'i, this 29th day of June, 2004, per motion on June 24, 2004.

APPROVED AS TO FORM


Deputy Attorney General

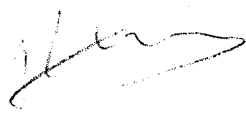
LAND USE COMMISSION
STATE OF HAWAII

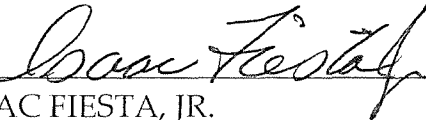
By 
LAWRENCE N.C. ITO
Chairperson and Commissioner

By 
P. ROY CATALANI
Vice-Chairperson and Commissioner

By 
BRUCE A. COPPA
Vice-Chairperson and Commissioner

By ABSENT
PRAVIN DESAI
Commissioner

By 
KYONG-SU IM
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

By 
STEVEN LEE MONTGOMERY
Commissioner

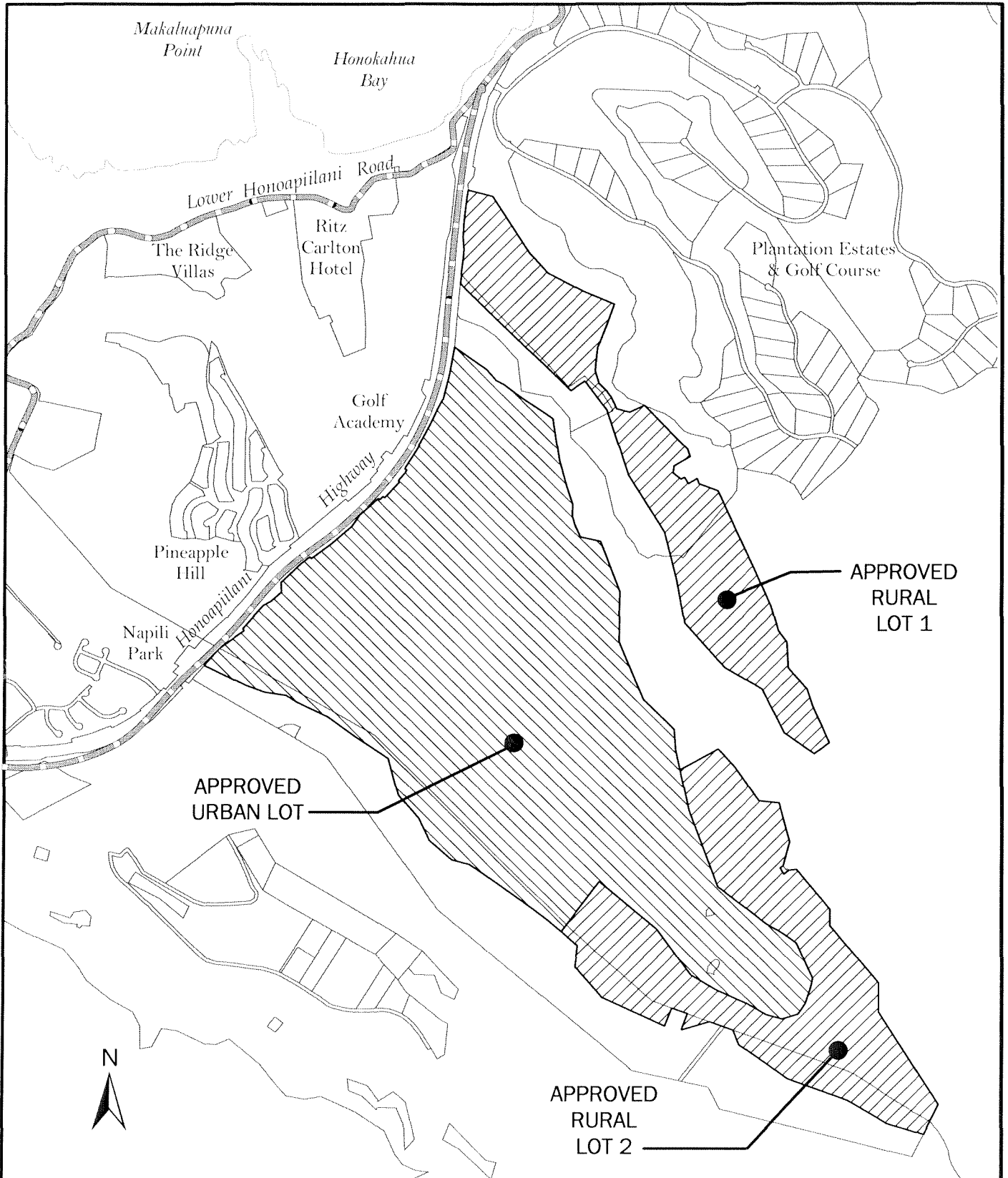
Filed and effective on
June 29, 2004

By 
RANDALL F. SAKUMOTO
Commissioner

Certified by:


ANTHONY CHING

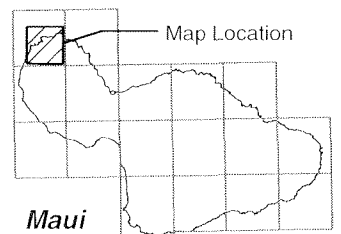
By ABSENT
PETER YUKIMURA
Commissioner



A03-741 MAUI LAND & PINEAPPLE COMPANY, INC.,
 A Hawai'i Corporation
Map Location

Tax Map Key Nos: 4-2-01: por. 1, 38, and 39; 4-3-01: por. 6 and por. 8;
 and 4-2-05: por. 50 and por. 51
 Honokahua and Napili, Maui, Hawai'i
 Scale : 1" = 2,000 ft.

EXHIBIT "A"



Maui

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	
)	
MAUI LAND & PINEAPPLE COMPANY,)	DOCKET NO. A03-741
INC., A Hawai`i Corporation)	
)	
To Amend the Agricultural Land Use)	CERTIFICATE OF SERVICE
District Boundaries into the State Urban and)	
Rural Land Use Districts for approximately)	
790 Acres of land at Honokahua and Napili,)	
Maui, Hawai`i, Maui Tax Map Key Nos.:)	
4-2-01: por. 01, 38 and 39, 4-2-05: por. 50 and)	
por. 51 and 4-3-01: por. 06 and por. 08)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Stipulated Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

DEL. OFFICE OF PLANNING
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

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 Deputy Attorney General
 Hale Auhau, Third Floor
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 Honolulu, Hawaii 96813

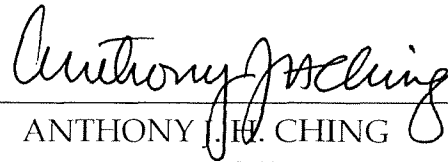
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Kapalua, Hawaii 96761

Dated: Honolulu, Hawaii, June 29, 2004.



ANTHONY J. H. CHING
Executive Officer