

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of ) DOCKET NO. A04-751  
)  
MAUI LAND & PINEAPPLE COMPANY, ) FINDINGS OF FACT,  
INC., a Hawai'i corporation ) CONCLUSIONS OF LAW, AND  
) DECISION AND ORDER  
To Amend The Agricultural Land Use )  
District Boundary Into The Urban Land Use )  
District For Approximately 310.440 Acres )  
Of Land At Māhinahina And Kahana, )  
Lahaina, Maui, Hawai'i, Tax Map Key: 4-3- )  
01: Por. 31 And 79 )

---

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

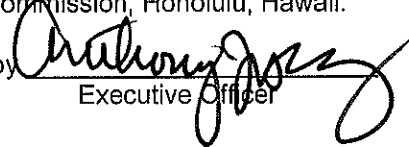
This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

JUN 30 2006

Date

by

Executive Officer



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A04-751
	)	
MAUI LAND & PINEAPPLE COMPANY,	)	FINDINGS OF FACT,
INC., a Hawai'i corporation	)	CONCLUSIONS OF LAW, AND
	)	DECISION AND ORDER
To Amend The Agricultural Land Use	)	
District Boundary Into The Urban Land Use	)	
District For Approximately 310.440 Acres	)	
Of Land At Māhinahina And Kahana,	)	
Lahaina, Maui, Hawai'i, Tax Map Key: 4-3-	)	
01: Por. 31 And 79	)	

---

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

MAUI LAND & PINEAPPLE COMPANY, INC., a Hawai'i corporation ("Petitioner")<sup>1</sup>, filed a Petition For Land Use District Boundary Amendment ("Petition") on June 28, 2004, and an Amended Petition For Land Use District Boundary Amendment ("Amended Petition") on July 27, 2005, 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 310.440 acres of land at Māhinahina and Kahana, Lahaina, Maui, Hawai'i, identified as Tax Map Key ("TMK"): 4-3-01: por. 31 and 79 ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban

---

<sup>1</sup> Petitioner's address and principal place of business is 120 Kane Street, Kahului, Hawai'i, 96732.

District for the master-planned Pulelehua residential community ("Pulelehua" or "Project").

The State of Hawai'i Land Use Commission ("Commission" or "LUC"), having heard and examined the testimony, evidence, and arguments of counsel presented during the hearings; the Stipulated Findings Of Fact, Conclusions Of Law, And Decision And Order ("Stipulated D&O") entered into by Petitioner and the County of Maui Planning Department ("Planning Department"); the Exceptions To The Stipulated D&O ("Exceptions") filed by the State of Hawai'i Office of Planning ("OP"); the Comments On The Stipulated D&O And Exceptions filed by Petitioner; and the Supplement To The Stipulated D&O To Support OP's Condition Nos. 4, 10, 11 And 13 filed by the OP, hereby makes the following findings of fact, conclusions of law, and decision and order:

### FINDINGS OF FACT

#### PROCEDURAL MATTERS

1. On June 28, 2004, Petitioner filed the Petition. The Petition included an Environmental Impact Statement Preparation Notice pursuant to sections 343-5(a)(1) and 343-5(a)(6), HRS, and sections 11-200-6(b)(1)(A), 11-200-6(b)(2)(A), and 11-200-6(b)(2)(B), HAR. On July 27, 2005, Petitioner filed the Amended Petition<sup>2</sup> (hereinafter collectively referred to as "Petition").

---

<sup>2</sup> The Amended Petition, among other things, revised the acreage of the Petition Area from approximately 312 acres to approximately 310.440 acres.

2. On July 8, 2004, and by a written Order dated September 1, 2004, the Commission (i) agreed to be the accepting authority pursuant to chapter 343, HRS; and (ii) determined that the proposed action may have a significant effect on the environment to warrant the preparation of an Environmental Impact Statement ("EIS").

3. On July 12, 2004, Majesty Akahi Nui, Trustee, Kingdom of Hawaii Nation Ministry Trust, filed a Motion For Intervention.

4. On July 22, 2004, the Commission took a field trip to the Petition Area.

5. On July 13, 2005, and by a written Order dated August 18, 2005, the Commission accepted the Final EIS.

6. On July 29, 2005, Petitioner filed an Errata To Amended Petition For Land Use District Boundary Amendment.

7. By letter dated August 18, 2005, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing as of July 29, 2005.

8. On August 26, 2005, and by a written Order dated September 15, 2005, the Commission denied the Motion For Intervention.

9. On October 12, 2005, the Commission held a pre-hearing conference on the Petition in Honolulu, Hawai'i, which was attended by all parties. At this time, the OP and the Planning Department filed their respective Statements

Of Position conditionally supporting the Petition. A PreHearing Order was issued on October 20, 2005.

10. On November 17 and 18, 2005, the Commission opened the hearing on the Petition at the Sheraton Maui Kā`anapali Beach Resort in Lahaina, Maui; pursuant to a public notice published on September 21, 2005, in the Honolulu Star-Bulletin, the Maui News, the Hawaii Tribune-Herald, West Hawaii Today, and The Garden Island.

11. On November 17, 2005, the following individuals testified as public witnesses and/or provided written testimony: William Kennison, Nell Woods, Terry Eoff, Lehua Kalua, Chloe Okada, Sharyn Matin, Dick Mayer, Lucienne DeNaie, Vicki McCarty, Don Gerbig, Dennis Harmon, June N. Higa, Greg Hansen, and Giovanni Rosati. On November 18, 2005, the Commission adjourned the hearing until its next meeting on Maui on December 2, 2005.

12. On December 2, 2005, the Commission resumed the hearing on the Petition at the Maui Arts and Cultural Center in Kahului, Maui. The following individuals testified as public witnesses and/or provided written testimony: Joe Bertram, III; May Fujiwara; John Rizzo; Loren Shim; Greg Hansen; Giovanni Rosati; and several residents of the Kahana Ridge Subdivision, including Danny Chin, Lisa Carts, Debbie Bozlee, Cal Lewin, Warren Montoya, Diane Stanislaw, Steven Bronson, and Dena Jackson. The Commission continued the hearing to February 16, 2006.

13. On February 16, 2006, the Commission resumed the hearing on the Petition at the Kapalua Bay Hotel in Kapalua, Maui. The following individuals testified as public witnesses and/or provided written testimony: Dick Mayer, Hans Michel, Cosco Carlbom, Darice Garcia, Amy Kahula, Nell Woods, Marika Zimmerman, Daniel San Miguel, Elaine Waldow, Masamichi Hattori, Rhonda Pang, and several residents of the Kahana Ridge Subdivision, including Danny Chin, Lisa Carts, Debbie Bozlee, Cal Lewin, Warren Montoya, Steven Bronson, Dena Jackson, Ron Boudreaux, Pam Higginbotham, Don Gerbig, and Stanley Zajac. The Commission continued the hearing on February 17, 2006. The Commission subsequently adjourned the hearing until its next meeting on Maui on April 7, 2006.

14. On April 7, 2006, the Commission resumed the hearing on the Petition at the Maui Beach Hotel in Kahului, Maui. The following individuals testified as public witnesses and/or provided written testimony: Dick Mayer, Robin Knox, Lindsay Ball, Carmen Schillaci, Sharyn Matin, William and Courtney Noye, and Tom Muromoto. Following the conclusion of the parties' respective cases-in-chief, the Commission closed the hearing.

15. On June 22, 2006, the Commission met to consider the Petition at the Maui Prince Hotel in Makena, Maui.

#### DESCRIPTION OF THE PETITION AREA

16. The Petition Area is located at Māhinahina and Kahana, Lahaina, Maui, Hawai'i, and consists of approximately 310.440 acres.

17. Petitioner is the owner in fee simple of that portion of the Petition Area, identified as TMK: 4-3-01: por. 31, having acquired it by deed dated June 21, 1978, recorded in the Bureau of Conveyances of the State of Hawai'i in Liber 13012, Page 652. Petitioner's fee simple interest in the Petition Area was confirmed by Judgment and Decree, filed January 31, 1985, in State of Hawai'i v. Pioneer Mill Company, Ltd., et al., Civil No. 3673 (1), Second Circuit Court, State of Hawai'i, recorded in Liber 18447, Page 6, as amended by First Amended Judgment and Decree filed on October 21, 1986, recorded in Liber 19979, Page 731, and Second Amended Judgment and Decree filed on August 3, 1987, recorded in Liber 20993, Page 48.

18. The County of Maui, through its Department of Public Works and Environmental Management ("DPWEM"), is the owner of Lot 2-B-2 of the ML&P-NHLC Subdivision (Subdivision File No. 4.823), an area of approximately 6.18 acres ("Lot 2-B-2"). Lot 2-B-2 is the location of certain drainage improvements constructed for the Honolua Watershed Project. The Petition Area completely surrounds Lot 2-B-2. At the time the Petition was filed, the County of Maui had not yet assigned a tax map key number to Lot 2-B-2. Lot 2-B-2 has since been designated as TMK: 4-3-01: 79

19. By letter dated February 8, 2005, the DPWEM authorized Petitioner to include Lot 2-B-2 as a portion of the Petition Area in this Petition.

20. The Petition Area currently contains cultivated pineapple fields and fallow fields formerly cultivated in pineapple.

21. The Petition Area is located makai of the existing Kapalua-West Maui Airport, and borders the mauka side of Honoapi`ilani Highway. The primary access point to the Petition Area is Akahahele Street, which intersects Honoapi`ilani Highway, a limited access State highway. An agricultural road at the northern end of the Petition Area also provides access to Honoapi`ilani Highway.

22. The Petition Area is bordered by Kahanaiki Gulch along its northern boundary. Shallow Pōhaku-Kā`anapali Gulch bisects the Petition Area at the approximate midpoint. Māhinahina Gulch traverses the Petition Area at approximately 1,000 feet from its southern boundary.

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

24. Elevations within the Petition Area range from 75 feet above mean sea level ("MSL") along its western boundary to approximately 240 feet above MSL along its eastern boundary. The grade of the Petition Area, exclusive of gulches, is gently sloping.



25. The U.S. Department of Agriculture, Natural Resources Conservation Service (“USDA, NRCS”), classifies the soils of the Petition Area as follows: Lahaina Silty Clays (LaB and LaC), Rough Broken and Stony Land (rRS), and Ewa Silty Clay Loam (EaA). A description of each soil type follows:

a. The Lahaina Silty Clay (LaB) Series, 3 to 7 percent slopes, consists of soils whose permeability is moderate, runoff is slow, and the erosion hazard is slight. Cobblestones are common on the surface in places, and near coastal plains the soils contain fragments of coral, stones, gravel, or sand. These soils are used for sugarcane and pineapple as well as homesites.

b. The Lahaina Silty Clay (LaC) Series, 7 to 15 percent slopes, consists of soils whose runoff is medium and the erosion hazard is moderate. These soils are used for sugarcane and pineapple. Small acreages are used for truck crops, pasture, and wildlife habitat.

c. The Rough Broken and Stony Land (rRS) Series consists of steep, stony gulches. Runoff is rapid and geologic erosion is active. These soils share severe limitations that restrict their use. Land within this series is used for pasture, wildlife habitat, and watershed.

d. The Ewa Silty Clay (EaA) Series, 0 to 3 percent slopes, consist of soils whose runoff is very slow and whose erosion hazard is slight. These soils are used for sugarcane and homesites.

26. The Land Capability Grouping of the USDA, NRCS, rates the above soil types according to eight levels, ranging from the highest classification, level I, to the lowest, level VIII.<sup>3</sup> Approximately 156.7 acres (50 percent) of the Petition Area contain LaB soils rated IIe if irrigated, IIIc if non-irrigated. Class II soils have moderate limitations that reduce the choice of plants or require moderate conservation practices. Subclass IIe soils are subject to moderate erosion if they are cultivated and not protected. Approximately 86.9 acres (27.7 percent of the Petition Area) contain LaC soils rated IIIe. Class III soils have severe limitations that reduce the choice of plants, require special conservation practices, or both. Subclass IIIc soils have severe limitations because of climate. Subclass IIIe soils are subject to severe erosion if they are cultivated and not protected. Approximately 67.1 acres (21.4 percent) contain rRS soils rated VIIs. Class VII soils have very severe limitations that make them unsuited to cultivation, and restrict their use largely to pasture woodland and wildlife habitat. Subclass VIIs soils are extremely rocky, stony, or steep. Approximately 2.1 acres (0.7 percent) contain EaA soils rated Class I if irrigated, and IVc if non-irrigated. Class I soils have few limitations that restrict use. Class IV soils have very severe limitations that reduce the choice of plants, require very careful management practices, or both. Subclass IVc soils have very severe limitations because of climate.

---

<sup>3</sup> The figures under the respective levels of the Land Capability Grouping system reflect the larger acreage of the Petition Area prior to being revised in the Amended Petition.

27. The University of Hawai`i Land Study Bureau's ("LSB")

*Detailed Land Classification for the Island of Maui* classifies the lands of the Petition Area from "A" and "B" to "E" in productivity rating.<sup>4</sup> Soils rated A represent the highest class of productivity, and soils rated E represent the lowest. The "E" rated soils of the Petition Area are primarily within gulches and are considered as having little or no suitability for soil based agricultural production. The "A" and "B" rated soils are suitable for pineapple production with irrigation. Approximately 246 acres (78 percent) of the soils of the Petition Area are rated "A" and 12.7 acres (4 percent) are rated "B" under irrigated conditions. The remaining approximately 53.3 acres (17 percent) are rated "E." The lands rated "A" and "B" would be rated "D," the second lowest productivity rating, without irrigation.

28. The State Department of Agriculture's Agricultural Lands of

Importance to the State of Hawai`i ("ALISH") classification system<sup>5</sup> classifies approximately 252.8 acres (81 percent) of the Petition Area as "Prime Agricultural Land" and approximately 60 acres (19 percent) of the Petition Area as "Unclassified Land." When treated and managed using modern farming methods, Prime Agricultural Land has the soil quality, growing season, and moisture supply needed

---

<sup>4</sup> The figures under the rating system of the LSB reflect the larger acreage of the Petition Area prior to being revised in the Amended Petition.

<sup>5</sup> The figures under the ALISH classification system reflect the larger acreage of the Petition Area prior to being revised in the Amended Petition.

to produce sustained high yields of crops economically. Unclassified Lands have no value for soil-based agriculture.

29. The U.S. Federal Emergency Management Agency's flood insurance rate maps designate the entire Petition Area in Zone C, which indicates an area determined to be outside the 500-year floodplain.

#### PROPOSAL FOR RECLASSIFICATION

30. Petitioner proposes to develop Pulelehua as a master-planned "sustainable" or "traditional neighborhood design" residential and mixed-use community. The 310-acre community will include a mix of residential, commercial, and public uses. Parks, open space, a public elementary school, biking and walking paths, a town center, pedestrian friendly streets, community gardens, and accessible public spaces will be incorporated in the design. Pulelehua will be designed for lower vehicle speeds, and to encourage pedestrian and bicycle circulation throughout the community.

31. Pulelehua will be designed as a compact community with three distinct neighborhoods: Central, Kahanaiki, and Māhinahina. Other design principles of Pulelehua include an identifiable town center, where development is more intense, neighborhoods with an edge, a mix of land uses and building types, an integrated network of walkable streets, and sites reserved for civic purposes, including view corridors.

32. The neighborhood center will combine commercial and residential uses. Live/work units are intended to be allowed to change over time to reflect the needs of the residents. Thus, a residential building could be converted to a building with a small shop or office on the first floor.

33. Petitioner selected the Petition Area as the site for Pulelehua because it is centrally located between West Maui's two primary employment bases, Kapalua to the north and Kā'anapali to the south. The Petition Area is readily accessible to Honoapi'ilani Highway, is adjacent to existing infrastructure and is adjacent to existing urban uses. It is also not one of Petitioner's core lands for continuing pineapple cultivation.

34. Petitioner intends to develop approximately 882 residential units in Pulelehua. A variety of housing types, including mixed use apartments above commercial spaces, apartment houses, townhouses and detached terrace houses, detached single-family residences, and large estate edge lots on the boundaries and along gulches of the Petition Area will be offered to attract a broad spectrum of residential purchasers and tenants.

35. Single-family residences in Pulelehua will range in area from detached terrace houses on zero-lot line lots having a land area of approximately 2,200 square feet in area to traditional single-family lots ranging from 5,000 square feet to 7,500 square feet in area to estate edge lots over an acre in size. The gross density for residential areas will average 2.8 dwelling units per acre. The proposed

distribution of unit types for each of the three principal neighborhoods is shown in the table below:

Pulelehua - Unit Count				
(based on Conceptual Lot Layout)				
Unit Type	Neighborhood			Total
	Central	Kahanaiki	Māhinahina	
Main Street Apartment	20	0	0	20
Live/Work	22	21	0	43
Apartment	77	31	43	151
Terrace House	74	17	44	135
Sideyard/Cottage House	144	73	49	266
Front Lana`i House	101	57	86	244
Estate House	0	17	6	23
<b>Residential Units</b>	<b>438</b>	<b>216</b>	<b>228</b>	<b>882</b>

36. Petitioner contemplates selling market price homes as house and lot packages, with the exception of the edge lots that border on gulches or other open space. Estate edge lots will range in size from one-third of an acre to over an acre in size, and will be sold as finished lots. Market price units will be sold at a range of prices, depending upon unit type, location, and market conditions at the time units are offered for sale. Petitioner anticipates that the range of housing prices for market price units at Pulelehua will reflect the range of housing prices for market price homes throughout the island of Maui. At 2005-2006 market conditions, the range of prices for market price homes will start at \$500,000. The median home sales price of market price homes at Pulelehua will be at or below Maui's median home

sales price, which in May 2005 was \$780,000. The median sales price for estate edge lots could exceed \$700,000.

37. The construction of accessory `ohana units may be permitted. Petitioner will not build any `ohana units. The construction of `ohana units, where permitted, will be at the discretion of the individual homebuyers.

38. One of the design principles of Pulelehua is affordable housing with dignity. Pulelehua is intended to include an integrated mix of market price and affordable rental and for-sale single-family and multi-family housing. Street-oriented, privacy-protecting buildings will be made affordable by design without diminishing their quality.

39. Petitioner proposes to address the housing needs of low income, low-moderate income, 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 by offering at least 325 units, or 36.8 percent, of the residential units in Pulelehua as "affordable housing" for sale to low, low-moderate, and moderate income residents of Maui.

40. Petitioner proposes to offer approximately 125 additional residential units as affordable rentals. The affordable rental units will be utilized to

satisfy a condition imposed by the Commission in its approval of Petitioner's Kapalua Mauka development in LUC Docket No. A03-741.

41. The maximum sales prices of the affordable units will conform to County of Maui guidelines at the time the units are offered for sale. If the affordable units were to be offered for sale in 2005, the maximum sales price of a single-family home for families in each income bracket, using 2005 U.S. Department of Housing and Urban Development ("HUD") guidelines and assuming a 6.5 percent interest rate with 5 percent of the sales price paid as a down payment, is described in the following table:

Percentage of Units in Project	Type	Percentage of HUD Median Family Income	Maximum Price
10	Low	50 to 80	\$193,500
21	Low-Moderate	81 to 100	\$245,600
20	Moderate	101 to 140	\$359,800

42. The HUD median income for the County of Maui has increased from \$62,350 in 2005 to \$65,700 in 2006. Maximum sales prices for affordable units would be expected to increase if the median income continues to increase and other factors remain the same.

43. To qualify to buy an affordable home at Pulelehua, a buyer must: (i) currently be employed in Maui; (ii) attain a minimum age of 18 years; (iii) demonstrate evidence of sufficient income; (iv) agree to physically reside in the



home; and (v) not already own a home or other real property. Additional qualifications may be imposed. It is intended that all affordable homes within Pulelehua will be affordable in perpetuity. Petitioner will place County-approved restrictions on the transfer of affordable homes to assure continued owner occupancy and resale to qualified low and moderate income buyers. Petitioner will establish a trust or other entity to administer the affordable housing program in Pulelehua.

44. Petitioner proposes to give preferences to the following categories of affordable buyers and renters in the sale and rental of affordable units:

- a. Employees of Petitioner and its subsidiaries.
- b. Employees of Kapalua Nui Partners, which includes related business and organizations, affiliated with Petitioner, for example, employees of businesses operating within Kapalua Resort.
- c. Maui residents employed as police officers, public school teachers, and firefighters.
- d. Maui residents who work in West Maui but do not live in West Maui.
- e. West Maui residents.

45. In addition to the residential units which will be priced as affordable to low, low-moderate, and moderate income Maui residents, Petitioner intends to offer approximately an additional 100 of the residential units in Pulelehua

for sale to “gap group” income families. These families may earn more than 140 percent of median income (\$91,980 in 2006) but less than 180 percent of median income, which is not enough to afford a home at Maui’s median home sales price in May 2005 of \$780,000. These gap group homes would be sold at prices ranging between \$300,000 and \$600,000 if offered in 2005.

46. Petitioner is currently in discussions with the Hawai`i Health System Corporation (“HHSC”) to provide up to 15 acres in Pulelehua’s south Māhinahina neighborhood to support a medical facility as well as other ancillary medical related uses. These facilities could include a 30 to 50-bed long-term care facility, an urgent/emergency care center, and a medical clinic. The urgent/emergency care facility would address critically injured or sick patients to provide stabilization and diagnostic services. The development of such facilities within Pulelehua would reduce the residential unit count by 90 units (evenly split between affordable and market rate units). Petitioner also plans to develop a cultural center that will offer wellness programs in the center of Pulelehua.

47. Petitioner intends to commence construction of Pulelehua after all necessary permits and approvals have been issued. Petitioner anticipates receiving County of Maui permits by the end of 2006, and starting construction of the major backbone infrastructure. Construction of the first homes is anticipated in 2007. The first homes could be completed in late 2008. Once construction has

commenced, Petitioner intends to develop Pulelehua in a single continuous phase, to be substantially completed over a ten-year period.

#### PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

48. Costs to develop the Pulelehua community are preliminary and will be better defined during the detailed site engineering phase. The order of magnitude costs for the development of onsite infrastructure and final subdivision layout for Pulelehua is expected to exceed \$65 million.

49. Residential construction costs are estimated to be at least \$201 million. Commercial construction costs are estimated to be approximately \$34 million. In total, costs for Pulelehua are estimated to exceed \$301 million.

50. A consolidated balance sheet for Petitioner showed that Petitioner had \$160.9 million in assets, \$89.3 million in liabilities, and \$71.6 million in shareholders' equity as of December 31, 2004. Petitioner intends to finance the Project using a combination of bank loans and equity. Petitioner's balance sheet demonstrates Petitioner has the necessary economic ability to carry out the development of the Project.

#### STATE AND COUNTY LAND USE PLANS AND PROGRAMS

51. The Petition Area 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).

52. The West Maui Community Plan Land Use Map currently designates portions of the Petition Area for Park and Open Space Uses, and the remainder of the Petition Area for agricultural use. The Petition Area is classified in the AG Agricultural zoning district. Petitioner has applied for an amendment to the West Maui Community Plan Land Use Map to designate the Petition Area as Project District 5. The purpose of the project district designation is to provide for a flexible and creative planning approach to a large-scale urban development, which would feature customized zoning district standards and specified uses to be determined in a project district ordinance.

53. The Petition Area is not within the County of Maui's special management area.

#### NEED FOR THE PROPOSED DEVELOPMENT

54. The Hallstrom Group, Inc., prepared a market study and economic impact analysis report and a public cost/benefit assessment of the Project. The market study and economic impact analysis report analyzed the West Maui housing sector. The West Maui housing sector is currently undersupplied by between 470 to 1,168 units, and will require some additional 3,447 to 5,400 new housing units for the period 2004 thru 2020. Approximately 31 percent of the unit

demand during the next two decades will be at prices (or rental equivalents) of under \$205,000 in current 2005 dollars, 25 percent of the demand will be for units priced between \$205,000 and \$380,000, 25 percent for homes ranging between \$380,000 to \$550,000, and 18 percent for homes priced above \$550,000.

55. Single-family homes presently comprise over 60 percent of the offered inventory in West Maui. Projections are for multi-family units to take an increasing role, reaching approximately 48 percent of total new product in West Maui by 2020. Virtually all new “residential” product recently offered in West Maui has either been resort oriented (within Kapalua or Kā’anapali), estate-sized agricultural lots (Launiupoko), or homesites beyond the affordability of most local households (Kahana Ridge). Even so, all offered product has been rapidly absorbed, with most developments having waiting lists.

56. There have been proposals and discussion for approximately 10,664 potential additional units within major proposed West Maui developments over the past two decades. Only a fraction of these units, approximately 1,265 units (excluding Pulelehua) have a likely chance of being built in the mid to near term. Approximately 8,500 units are in developments in the earliest planning stages, or face meaningful community opposition, or are for native Hawaiians only, or have been halted by interminable litigation and thus are unlikely to be developed within the next 10 years. The approximately 1,265 units which may be completed in the near future would satisfy less than 1/3 of projected demand through the year 2020.

57. Total demand for neighborhood and airport-oriented commercial-mixed use space at Pulelehua would be approximately 175,000 square feet of leaseable floor space. Pulelehua residents would generate the need for approximately 96,000 square feet of neighborhood and supporting commercial and light industrial floor space. Secondary consumer groups, including guests, workers, specialty shoppers, and airport users, are anticipated to support demand for an additional 40,300 square feet of floor space. Retail uses will be limited and oriented towards meeting the direct daily consumer demands of the community. Airport-related businesses will generate a demand for approximately 39,000 square feet of floor space.

#### SOCIO-ECONOMIC IMPACTS

58. West Maui is 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. Pulelehua is intended to create opportunities for homeownership among local working class families on Maui. It is anticipated that employees at Kapalua and Kā`anapali resorts who currently commute from Central Maui to West Maui will buy homes closer to work. As such, Pulelehua is not anticipated to cause a significant increase in the population of the island.

59. During the construction and sales period for Pulelehua, the number of jobs created by construction and related activities is expected to range

from 260 to 1,331 positions annually. On a stabilized basis following the construction and sales period, Pulelehua will generate approximately 960 permanent full-time equivalent and/or enhanced employment opportunities: 705 directly related to onsite activities and 255 indirect positions throughout the island.

60. Development and construction of Pulelehua is anticipated to generate approximately \$996 million in direct new capital investment and spending into the Maui economy over the ten year construction and sales period. On a stabilized basis after construction, Petitioner estimates that Pulelehua's overall impact in wages and spending would be approximately \$132 million annually.

#### IMPACT ON RESOURCES OF THE AREA

##### Agricultural Resources

61. Petitioner's subsidiary Maui Pineapple Company, Ltd. ("Maui Pineapple"), has recently cultivated approximately 150 acres of the Petition Area in pineapple. This portion of the Petition Area is a part of Maui Pineapple's Honolua Plantation, which presently consists of less than 2,000 net acres in pineapple cultivation ("Net Pine Acres").

62. Maui Pineapple has reversed its prior decision to reduce its Net Pine Acres in West Maui. Previously abandoned Honolua Plantation fields have been replanted. Maui Pineapple is using larger trucks to transport fruit to Maui Pineapple's processing plant at Hāli`imaile.

63. Reclassification of the Petition Area will not adversely affect Maui Pineapple's business operations, as the portion of the Petition Area withdrawn from cultivation represents 2.5 percent of the 5,800 Net Pine Acres on which Maui Pineapple will continue to cultivate pineapple in West Maui and Central Maui.

64. Maui Pineapple has identified approximately 2,000 Net Pine Acres in the Honolua Plantation that it considers Petitioner's "core lands" in West Maui. Petitioner considered different factors, such as elevation, availability of water, cost to farm, and topography in determining the relative productivity of its lands. The core lands are the highest productivity lands that are necessary for Maui Pineapple to maintain a profitable pineapple operation. The Petition Area is not considered to be part of Petitioner's core lands. The Petition Area is bisected by gulches and Akahele Street, and cultivation and harvesting activities within the runway obstacle free areas ("ROFA"), the runway protection zones ("RPZA"), and the runway safety areas ("RSA") of the Kapalua-West Maui Airport must be conducted at night.

65. If Petitioner were to designate its own lands as important agricultural lands pursuant to Act 183, SLH 2005, Petitioner would designate the core lands as its important agricultural lands in West Maui. Petitioner would not include the Petition Area as part of its important agricultural lands. Petitioner has considered but has not made a determination to voluntarily designate its important agricultural lands on Maui.



66. Petitioner has organized a new subsidiary, Maui Agricultural Partners, to conduct its diversified agriculture operations. Maui Agricultural Partners will be pasturing cattle at the northern end of Honolua Plantation on land formerly cultivated in pineapple. Maui Agricultural Partners is also working on a composting operation and will develop a plant nursery emphasizing native plants near its Honolua Plantation headquarters. Development of the Petition Area will not adversely affect Maui Agricultural Partners' agricultural operations as Petitioner has sufficient land to devote to agriculture at Honolua.

#### Flora and Fauna

67. Winona P. Char of Char & Associates conducted a survey of flora on the Petition Area. Gulch vegetation consists primarily of koa haole and guinea grass. Seven native plant species were observed scattered about the Petition Area. All are widespread throughout the Hawaiian Islands in lowland and dry to mesic environments.

68. There were no plant species detected in the Petition Area that are classified as an endangered or threatened species by the U.S. Fish and Wildlife Service ("USFWS") nor any plant species of concern in the Petition Area. Development of Pulelehua is not expected to have an adverse impact on the botanical resources of the Petition Area.

69. Phillip L. Bruner, Environmental Consultant, conducted an avifaunal and feral mammal survey of the Petition Area. No native water birds or

land birds were observed on the Petition Area. Two native birds, the Pueo, or Hawaiian owl (*Asio flammeus sandwichensis*), and Nene, or Hawaiian goose (*Branta sandvicensis*), have been observed on lands similar in character to the Petition Area. 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. The Petition Area is not believed to be a critical habitat for either species. Two migratory plover and eleven introduced birds were observed on the Petition Area. The Small Indian Mongoose (*Herpestes auro punctatus*) and the Roof Rat (*Rattus rattus*), both introduced species, were the only mammals observed in the Petition Area. Development of Pulelehua is not expected to have an adverse impact on the faunal resources of the Petition Area.

#### Archaeological, Historical, and Cultural Resources

70. In *Ka Pa`akai O Ka`Aina v. Land Use Commission*, 95 Haw. 31, 46, 7 P. 3d 1068 (2000) the Hawai'i Supreme Court held that Article XII, Section 7, of the Hawai'i State Constitution obligates the Commission to protect the reasonable exercise of native Hawaiian customary and traditional practices *to the extent feasible* when granting a petition for district boundary amendment. The Court established the following three-prong test:

In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, the LUC, in its review of a petition for reclassification of district boundaries,

must--*at a minimum*--make specific findings and conclusions as to following: (1) the identity and scope of “valued cultural, historical, or natural resources” in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area; (2) the extent to which those resources-including traditional and customary native Hawaiian rights-will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

71. Jeffrey Pantaleo of Archaeological Services of Hawai`i, LLC, conducted an archaeological inventory survey of the Petition Area. The remains of a historic flume in the Māhinahina 1, 2, 3 Gulch constructed in the nineteenth century by Pioneer Mill Company, Ltd., and abandoned in 1917 and three isolated surface artifacts were identified. The State of Hawai`i Department of Land and Natural Resources, Historic Preservation Division (“DLNR, SHPD”), concurred with Archaeological Services Hawai`i, LLC’s, conclusion that these sites are significant under criteria D for the potential to yield information, and recommended that monitoring be conducted in the vicinity of the artifacts as mitigation against adverse impacts to historic properties. No other preservation actions are required.

72. Petitioner will prepare an archaeological monitoring plan for approval by the DLNR, SHPD, prior to the commencement of any construction activities.

73. Maria Ka`imipono Orr conducted a cultural impact study and assessment of the Petition Area. At one time, the gulch areas may have been inhabited and other areas may have been used for cultivation of sweet potatoes and

dry land taro. Other than a few kukui trees in the gulches, there are no traces of any native plants that were used for food, medicine, crafts, and lumber within the Petition Area. To the extent that the gulches will not be developed, there will be no adverse impact to any cultural resources.

74. Kama`āina 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 kama`āina recalled that the upland plains between the valleys have been in pineapple cultivation since the mid-nineteenth century. Although pig hunters use mauka trails in areas adjacent to the Petition Area intermittently, no kama`āina was aware of access over the Petition Area for gathering or other cultural purposes. The most significant cultural practices in the general vicinity are fishing and sea gathering along the Māhinahina and Kahana shoreline outside of the Petition Area.

#### Groundwater Resources

75. In the Lahaina region, the Honolua and Honokōwai Aquifers serve as a source of water for area wells. Each aquifer has a sustainable yield of 8 million gallons per day (“MGD”). The current pumpage from the aquifers by area wells is substantially below their sustainable yield. The Commission on Water Resource Management has not designated either aquifer as groundwater management areas.

#### Recreational Resources

76. The Lahaina area has over 10.3 acres of sub-regional and special-use park land per 1,000 residents. The sub-regional park system consists of 23 neighborhood parks. The West Maui community has access to two tennis courts, two sports fields, a gym, and a community center. The resorts in the area also offer supplemental recreational facilities.

77. Pulelehua will increase the number of recreational facilities available to Maui residents. Pulelehua will contain approximately 100 acres of parks and recreation areas. Recreation areas will include two 5-acre neighborhood parks with ball fields, community gardens, passive recreational areas, and an extensive trail system. Gulch areas will provide an additional 33 acres of open space. Petitioner intends to develop all parks and dedicate larger neighborhood parks and ball fields to the County of Maui. Petitioner intends to have the homeowner association maintain the trail system and the parks.

#### Scenic Resources

78. The Petition Area is gently sloping and primarily characterized by active pineapple fields and fallow fields. Beyond the adjacent Kapalua-West Maui Airport are pineapple fields, most in active cultivation. Forested areas rise to the mountain peaks beyond the pineapple fields. An earthen berm and ironwood trees along Honoapi`ilani Highway block most mauka views, although such views are available where the highway crosses Māhinahina Gulch. From the highway in front of the Kahana Ridge Subdivision, the high retaining walls and houses block all

mauka views. Within the Petition Area in the makai direction, there are panoramic views of the Pailolo Channel, Lāna`i, and Moloka`i from most areas.

79. A theme of Pulelehua is to preserve surrounding agricultural lands and open space vistas by creating a compact community in an appropriate setting. Development of Pulelehua would change existing mauka views from Honoapi`ilani Highway and Akahahele Street from fallow agricultural fields to urban uses. A key design element of Pulelehua is a landscaped greenway along the length of Honoapi`ilani Highway. This greenway, as well as biking and walking trails, will be located where the existing earthen berm and ironwood trees are currently found.

80. Petitioner represents that all common area exterior lighting within Pulelehua will be shielded from adjacent residential properties to the extent possible. In addition, street lighting and common area lighting will be designed to minimize night sky light pollution to the extent possible. Petitioner will incorporate a combination of properly selected light fixture shades, bulb types and wattages, reflectors, and lens used within each fixture. To further reduce the visual impacts of Pulelehua, Petitioner will bury all utility lines underground.

#### Coastal/Marine Resources

81. Dr. Steven J. Dollar of Marine Research Consultants, Inc., conducted an assessment of the marine environment in the nearshore areas off the Petition Area. 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 nearshore ocean water quality compared to large-scale sugarcane and pineapple cultivation. Nutrients such as nitrogen and phosphorus are found in high quantities in natural groundwater that flow into the ocean through underground streams. It is impossible to distinguish any nitrogen and phosphorus contributed by fertilizers from that contributed by groundwater entering the ocean. In addition, there is a high degree of mixing in nearshore waters in Hawai`i.

82. Development of housing at Pulelehua would have a positive rather than a negative effect on nearshore ocean water quality. All drainage will be retained on land. The amount of nitrogen and phosphate expected to enter the ocean will be significantly reduced from the amounts used in pineapple cultivation. In addition, former pineapple fields presently lying fallow will no longer be subject to erosion, reducing sedimentation discharge to the ocean and consequently the impact to any potential cultural practices along the shoreline.

## ENVIRONMENTAL QUALITY

### Noise

83. D.L. Adams & Associates, Ltd., prepared non-aircraft noise assessments for Pulelehua. The dominant noise sources in the vicinity of the Petition Area are traffic from Honoapi`ilani Highway and aircraft from the Kapalua-West Maui Airport. Other noise sources include wind and birds. Existing agricultural operations can also contribute to noise in the area depending on field operations,

such as harvesting and plowing. The dominant short-term noise sources during construction of Pulelehua will be earth moving and other equipment. Petitioner will incorporate mitigative measures to minimize the level of noise and comply with all Federal and State noise control regulations. Following completion of construction, vehicular traffic volumes will increase due to the Project. Traffic noise predictions for the year 2011 including Pulelehua and other planned West Maui developments will increase ambient noise levels less than 3 decibels ("Db") over existing conditions. The noise impact due to Pulelehua traffic is less than 2 Db over future predictions of ambient noise levels without Pulelehua. The landscaped greenway along Honoapi'ilani Highway will act as a sound barrier to mitigate noise. A 3 Db increase is not perceptible to most people.

84. The Kapalua-West Maui Airport currently has approximately 25 operations per day. Under zoning and other rules currently in effect, airport operations could increase to a maximum of 140 operations per day. These restrictions preclude jet aircraft, helicopters, night flights, and general aviation. Mestre Greve Associates developed Day Night Noise Level ("DNL") Contours for the Kapalua-West Maui Airport using both the current level of operations and maximum level of operations. These models show that residential development at Pulelehua will not be significantly impacted by airport noise under the current level of operations or at maximum level of operations at Kapalua-West Maui Airport.



85. Petitioner is proposing the following mitigation measures to ensure compatibility of the residential portion of Pulelehua with the Kapalua-West Maui Airport:

- Notification to buyers of the proximity of the Kapalua-West Maui Airport and the presence of aircraft noise.
- No homes will be located within the 65 DNL contour (existing or on maximum operations).
- The residential units, if any, that are within the maximum operations 60 DNL will be built using noise reduction measures.
- No single-wall residential construction.

#### Air Quality

86. B.D. Neal & Associates prepared an air quality study of the Petition Area. Air quality in the region is relatively good. Existing impacts include distant volcanic emissions and possibly occasional localized impacts from traffic congestion. Emissions of fugitive dust can occur during periods where agricultural operations and field activity expose soils. Ambient air quality of the Petition Area and the surrounding communities is anticipated to be adversely affected from fugitive dust during the construction phase of Pulelehua. An effective dust control plan, which would include watering of active work areas and the use of windscreens in sensitive areas, will be implemented to ensure compliance with the State of Hawai'i Department of Health ("DOH") regulations. Following construction, motor vehicles entering, exiting, and transiting the Petition Area will result in a long-term

increase in air pollution emissions on the Petition Area. 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 Petition Area and to predict future levels both within and outside the Petition Area. During worst-case conditions, model results indicated that 1-hour and 8-hour carbon monoxide concentrations will be within both State and Federal ambient air quality standards. Any impact development of Pulelehua is expected to have on ambient air quality will not be significant; therefore, implementing mitigation measures for traffic related air quality impacts is both unnecessary and unwarranted.

#### Soil Quality

87. Since approximately 1985, Petitioner's subsidiary, Maui Pineapple, has cultivated portions of the Petition Area in pineapple. In connection with its pineapple cultivation operations, Maui Pineapple has applied various fertilizers, pesticides, and plant growth regulators. Petitioner will conduct appropriate assessment and soils analyses to determine the possible impact to human habitation of the Petition Area due to potential residues of fertilizers and pesticides that may be present in the soil of former pineapple fields. If necessary, Petitioner will undertake measures to abate and remove any hazardous materials identified.

### ADEQUACY OF PUBLIC SERVICES AND FACILITIES

#### Highway and Roadway Facilities

88. Hall Planning and Engineering, Inc., prepared a Traffic Impact Analysis Report (“TIAR”) for Pulelehua in March 2005 to identify the long-range traffic impacts of development of the Petition Area on the West Maui regional transportation system at peak hour traffic conditions at full buildout in the year 2011.

89. Honoapi`ilani Highway is a State highway with limited access that is designed primarily for regional circulation. It is intended to accommodate travel from one region to another as quickly and safely as possible and provides the primary access between West Maui and the rest of Maui. From Nākālele Point to Honokōwai, it is a two-lane, undivided roadway. Between Honokōwai and South Lahaina it is a four-lane, undivided roadway. From South Lahaina to Mā`alaea, it is again a two-lane, undivided roadway.

90. The TIAR evaluated present and projected 2011 level of service conditions at 11 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 Aholo Street, south of Lahaina.

91. At all 11 intersections, Honoapi`ilani Highway could accommodate traffic projected to be generated from Pulelehua at full buildout. Existing peak hour traffic conditions at these 11 intersections, as well as projected future traffic conditions at these 11 intersections in year 2011, with and without

construction of Pulelehua, are anticipated to be at level of service C or better, which is the optimal level of service. The TIAR projections assume that there will be five access points to Pulelehua but do not assume completion of the Lahaina Bypass Road described below, a reduction in school traffic as the number of elementary school students commuting to school in Lahaina will be reduced, or a reduction in commuter traffic as a number of people commuting to West Maui for work will move to Pulelehua.

92. The State of Hawai'i Department of Transportation ("DOT"), Highways Division, is proposing to construct a Honoapi'ilani Highway realignment. Phase I of the Honoapi'ilani Highway realignment is the Lahaina Bypass Road from Launiupoko to Māhinahina. Phase I is to be constructed in three parts. Phase IA, the first part, will run from the Keawe Street extension to Lahainaluna Road. The design-build contract for Phase IA is scheduled to be awarded in late 2006. Phase IA is estimated to cost \$45 million. Phase IB, the second part, will run from Lahainaluna Road to Launiupoko. Phase IB is estimated to cost between \$45 million to \$60 million. Phase IC, the final part of the first phase, will be construction of the portion of the Bypass Road from Māhinahina to the Keawe Street extension. Phase IC is estimated to cost between \$70 million to \$90 million. Phase II, the larger phase of the Honoapi'ilani Highway realignment, is estimated to cost between \$150 to \$180 million and will run from Launiupoko to Mā'alaea. Construction of the Lahaina Bypass Road may start in 2007 and be completed in seven to eight years.

Completion of the entire Honoapi`ilani Highway realignment will take at least 20 years.

93. At the present time, there are two existing and approved access points on Honoapi`ilani Highway from the Petition Area: Akahele Street and the North Road.

94. Akahele Street will serve as both the principal access to Pulelehua as well as to the Kapalua-West Maui Airport. Petitioner has proposed an additional three non-signalized intersections on Honoapi`ilani Highway from Pulelehua. In addition to Akahele Street and the North Road, the DOT, Highways Division, supports a third access point at South Street and is willing to consider a fourth, right-turn in and out movements at Middle Street. The DOT, Highway Division's, approval of a fourth access point will depend on the results of a revised TIAR that will evaluate Honoapi`ilani Highway as a two-lane highway and as a four-lane highway for three access points and for four access points. The four-lane analyses are required because Honoapi`ilani Highway is on the verge of being warranted as a four-lane highway. The TIAR will be revised after the final development plan and internal circulation is set.

95. Petitioner would construct the access improvements, including acceleration and deceleration lanes on Honoapi`ilani Highway, and may be required to contribute land for the Lahaina Bypass Road. The DOT, Highways Division, will

also encourage interconnecting points between adjacent or adjoining subdivisions for internal circulation.

96. The County of Maui encourages more access points to Pulelehua to facilitate emergency access and discourage speeding on Honoapi`ilani Highway. The County of Maui also prefers to split traffic over many access points rather than concentrate it at only two or three locations. The County of Maui also recommends an access point near the proposed Pulelehua elementary school. The DOT, Highways Division, opposes multiple access points, and considers an access point near the Pulelehua elementary school to be an unsafe condition that would allow school children access to a high-speed highway. It supports extending Ho`ohui road, a private road originally intended to provide access from Honoapi`ilani Highway to the mauka subdivision, to provide the fourth access to Pulelehua.

97. The Federal government will make only \$160 million per year available statewide over the next six years for highway projects. The Federal fuel tax revenues that make up the Federal Highway Trust Fund are projected to decrease as people purchase more fuel efficient cars. The DOT, Highways Division, does not have enough funds to build needed new infrastructure using only public funds. The Federal Highway Administration is encouraging states and counties to use public-private partnerships for funding alternatives, including dedication of land for rights-

of-ways, privately-funded planning and design, and tollways. Such partnering speeds up the planning and design process. The Lahaina Bypass is a public-private partnership between the Kaanapali Development Group and the DOT.

#### Kapalua-West Maui Airport

98. The Kapalua-West Maui Airport borders the Petition Area to the east. The Kapalua-West Maui Airport was privately built in 1987 and was subsequently acquired by DOT, Airports Division, which presently operates the Kapalua-West Maui Airport. There is an average of 25 aircraft operations a day at the Kapalua-West Maui Airport. Operations at the Kapalua-West Maui Airport are subject to a number of acquisition, zoning, and other restrictions which preclude operation of helicopters, jet aircraft, air tours, or general aviation. The limited size of the terminal, lack of fuel facilities, and topography of adjacent gulches as well as economics are other limiting factors to expansion of the airport or aircraft operations.

99. The Federal Aviation Administration ("FAA") has determined that the design and operating standards for the Kapalua-West Maui Airport must meet the specification for operation of the DeHavilland Canada-8. These design requirements include an 800-foot-wide ROFA, a trapezoidal-shaped RPZA, and RSA extending 600 feet from each end of the runway. Petitioner will not develop any structures within the ROFA, the RPZA, or the RSA. The DOT, Airports Division, has requested that Petitioner dedicate avigation easements over the ROFA, the RPZA,

and the RSA. Petitioner requires that the DOT condemn aviation easements. The FAA has determined that proposed buildings and improvements in Pulelehua present no hazard to air navigation.

100. There is a rise in the terrain at the approach (south) end of the runway that extends down the runway for about 1,500 feet. This rise in terrain penetrates the imaginary surface (transitional surface) within the ROFA. This obstruction is a discrepancy resulting in the Kapalua-West Maui Airport not being in compliance with the requirements of Title 14 CFR Part 139 of the FAA's Airport Certification Manual. This discrepancy is related to development of the Kapalua-West Maui Airport but is not caused by and has no relationship to Petitioner's development of Pulelehua.

#### Potable Water Service

101. Petitioner intends to use treated surface water from its Honolua Ditch to provide potable water to Pulelehua. Honolua Ditch collects water from Honolua and Honokōhau Streams. The County of Maui Department of Water Supply ("DWS") presently draws approximately 2.5 MGD of water from the Honolua Ditch at its treatment facility at Māhinahina to supply domestic water to West Maui. Petitioner and the DWS are presently negotiating an agreement pursuant to which the DWS will expand its Māhinahina water treatment facility and Petitioner will permit the DWS to draw up to an additional 2.0 MGD from the



Honolua Ditch for treatment. Petitioner would then be entitled to potable water service from the DWS for Pulelehua.

102. Pulelehua is expected to use approximately 0.72 MGD potable water at full buildout. The required quantity of potable water could be furnished either using the DWS Māhinahina Treatment Facility or a private treatment facility built by Petitioner. As an alternative, Petitioner could provide potable water service through wells drilled mauka of the Petition Area in the Honolua or Honokōwai Aquifers.

#### Non-Potable Water Service

103. Petitioner intends to use recycled R-1 water from the Lahaina Wastewater Reclamation Facility (“LWWRF”) located approximately 3,500 feet south of the Petition Area to irrigate landscaping for the community parks, neighborhood parks, open spaces, and the common areas for the multi-family units and the proposed school site, as well as to satisfy fire flow requirements. Irrigation requirements are estimated to be 0.2 MGD. R-1 water is presently pumped from the LWWRF to a 5.5 million-gallon open reservoir above the Kapalua-West Maui Airport where it is mixed with surface water and used for plantation irrigation. Use of R-1 water for irrigation will reduce the average daily potable water demand of Pulelehua by approximately 22 percent to 0.72 MGD of water per day.

#### Wastewater

104. All existing County wastewater facilities in the vicinity of the Petition Area are located makai of Honoapi`ilani Highway, along Lower Honoapi`ilani Road. These facilities include gravity sewer lines, sewer force mains, and sewer pump stations. In addition, there is a private wastewater collection for Kahana Ridge in the north area of the subdivision. The Kahana Ridge wastewater system connects to the County's sewer system at Ho`ohui Road. All sewage from the area is transported to the LWWRF.

105. Petitioner intends to construct a new sewage collection system within the Petition Area to transport wastewater to the LWWRF for processing and disposal.

106. When fully builtout, Pulelehua is expected to generate approximately 0.346 MGD of wastewater. The LWWRF has sufficient capacity to treat wastewater to be generated by Pulelehua if the Project were developed today. The LWWRF is permitted to inject approximately 9.0 MGD of treated effluent into the onsite injection wells, and currently processes approximately 5.2 MGD. While the County of Maui has the capacity to process an additional approximately 4.0 MGD, or sufficient capacity to serve an additional 11,000 homes, the LWWRF does not currently have the manpower or equipment to process the additional wastewater. The County of Maui has a plan to upgrade capacity to 7 MGD to serve an additional 1,000 to 2,000 homes with minimal staffing and infrastructure improvements. Major improvements will be required to enable the LWWRF to

increase processing capacity to 9 MGD. Petitioner and the DPWEM, Wastewater Division, have been discussing collection system and LWWRF expansion improvements to accommodate Pulelehua.

### Drainage

107. There are three drainageways which traverse through or bound the Petition Area. To the north, Kahanaiki Gulch traverses the northern boundary. It joins Kahana Stream before it crosses Honoapi`ilani Highway. The shallow Pōhaku-Kā`anapali Gulch traverses approximately midway through the Petition Area. The Kapalua-West Maui Airport intercepts drainage from the upper limits of this gulch so that it is primarily dry within the Petition Area. Māhinahina Gulch traverses the Petition Area at approximately 1,000 feet from its southern boundary.

108. The existing drainage pattern is generally in the east to west (mauka-makai) direction toward Honoapi`ilani Highway. There are three large existing drainage basins within or adjacent to the Petition Area which collect runoff and remove silt and debris before the runoff discharges into the ocean. These basins are: (i) the Kahana Basin located immediately to the north of the Petition Area; (ii) the Pōhaku-Kā`anapali Basin located approximately in the middle of the Petition Area; and (iii) the Māhinahina Basin located at the southwest corner of the Petition Area. Two smaller detention basins are located to the north and south of the intersection of Akahahele Street and Honoapi`ilani Highway.

109. There are two 144-inch culverts where Honoapi`ilani Highway crosses Māhinahina Gulch that were designed to accommodate a 100-year flow of 4,275 cubic feet per second ("cfs"). A 120-inch culvert diverts runoff from Pōhaku-Kā`anapali Gulch under Honoapi`ilani Highway with a 100-year design flow of 674 cfs. A bridge (Kahana Kai Bridge) along Honoapi`ilani Highway diverts the 100-year discharge flow of 7,540 cfs from Kahanaiki Stream and Kahana Stream. Runoff from all three drainageways eventually discharges into the ocean.

110. Development of Pulelehua is expected to generate a fifty-year storm runoff of 878 cfs, an increase of 544 cfs over existing conditions. The increase in onsite runoff will be diverted to onsite detention basins located within greenways located mauka of Honoapi`ilani Highway. The greenways will also serve as a landscape buffer between Honoapi`ilani Highway and Pulelehua. There will be no increase in runoff from Pulelehua sheet flowing onto Honoapi`ilani Highway, makai properties, or the ocean for a 50-year storm.

#### Solid Waste

111. The DPWEM provides residential refuse collection in the Māhinahina area. Refuse is collected and taken to the County's Central Maui Sanitary Landfill, located four miles southeast of the Kahului Airport on Pūlehu Road. The Olowalu transfer station is located about four miles southeast of Lahaina and accepts self-haul waste from West Maui residents for transfer to the landfill.

The landfill is projected to have sufficient capacity to accommodate residential and commercial waste through 2020.

112. Significant levels of solid waste are not currently being generated on the Petition Area.

113. After buildout and sales of all Pulelehua homes, total waste from all households is estimated to be approximately 10,827 pounds per day. This estimate includes the waste from all potential `ohana units. The DPWEM, Solid Waste Division, does not have an established method or formula to estimate the amount of solid waste generated from commercial and light industrial uses. There are also no established methods or formulae established by the State of Hawai`i or at the national level. This is likely due to the fact that, unlike residential uses, the type and amount of solid waste generated by commercial and light industrial uses can vary widely, and is therefore difficult to accurately project.

114. Petitioner anticipates that it will collect solid waste generated by the commercial operations, and the homeowners associations will contract with private refuse collection companies to dispose of solid waste generated by residents of Pulelehua. All solid waste will be disposed at the landfill. Petitioner will encourage recycling, and will continue and expand its green waste recycling program for all green waste generated on the Petition Area. The development of Pulelehua is not expected to adversely impact the County of Maui's solid waste facilities.

## Schools

115. Educational facilities in West Maui include four public schools and two private schools. The public schools include King Kamehameha III Elementary (grades K-5), Princess Nahienaena Elementary (grades K-5), Lahaina Intermediate (grades 6-8), and Lahainaluna High (grades 9-12). The private schools include Sacred Hearts School (grades K-8) and West Maui Carden Academy.

116. Kamehameha III Elementary School is the designated public elementary school for students from Honokōhau Valley to Kā'anapali (which includes the Petition Area). All Kamehameha III Elementary School students must be transported to and from school, either by school buses, or by other means. The State of Hawai'i Department of Education ("DOE") operates six school buses to transport 254 students to Kamehameha III Elementary School from Honokōhau Valley to the Kā'anapali area. Many of these students reside in the vicinity of the Petition Area.

117. Petitioner has designated a 13-acre site in Pulelehua for development of a public elementary school ("School Site"). The DOE is willing to accept the School Site and construct a public school on the School Site, subject to legislative approval and appropriation of funds. Petitioner and the DOE estimate that at full buildout, Pulelehua will generate approximately 239 elementary school students, 115 middle school students, and 136 high school students for a total of 490 public school students.

118. Children living in Pulelehua would attend either Pulelehua's new elementary school, Lahaina Intermediate School, or Lahainaluna High School. Pulelehua's school would also serve many of the approximately 495 of Kamehameha III School's 750 students who live north of Kā'anapali.

119. Petitioner and the DOE have entered into an education contribution agreement for Pulelehua which provides for dedication of approximately 5.8 acres of land as well as a cash contribution of \$2.38 million which will be used to acquire the remainder of the School Site. These contributions will be made to the DOE pursuant to the conditions set forth in the agreement.

120. It is critical that construction of the public elementary school at the School Site be timed to coincide with occupancy of the housing.

#### Police and Fire Protection

121. The Petition Area is located within the County of Maui Police Department's Lahaina District. The closest police station is at the Lahaina Civic Center. Petitioner is willing to include a police substation in the Pulelehua Town Center. Availability of affordable housing at Pulelehua may ameliorate the Police Department's difficulty in retaining officers to serve in the Lahaina District. Development of Pulelehua is not expected to significantly impact the need for public police services.

122. Two fire stations cover the Lahaina region: the Lahaina Fire Station and the Nāpili Fire Station. The Lahaina Fire Station is responsible for the

Lahaina, Olowalu, and Kā`anapali areas. The Nāpili Fire Station is responsible for the Honokōwai, Nāpili, and Kapalua areas and is approximately two miles from the Petition Area.

123. The proposed street widths of Pulelehua are sufficient to accommodate fire equipment in an emergency.

124. The Nāpili Fire Station is adequate to provide the level of service that is needed for Pulelehua.

#### Emergency Medical Services

125. Emergency medical services to the Petition Area are presently provided from the Maui Memorial Medical Center in Kahului. Petitioner has offered the HHSC a 15-acre site in Pulelehua for the development of a medical facility in West Maui that could include urgent care and long-term care services.

#### Electrical Power and Telecommunications Services

126. Main electrical, telephone, and cable television overhead transmission lines are located on the mauka side of Honoapi`ilani Highway. Maui Electric Company, Ltd., has a substation adjacent to the Petition Area above the Kapalua-West Maui Airport. Electrical and telecommunications capacity is adequate to serve the Petition Area. All utility lines and distribution systems serving Pulelehua will be underground.

#### COMMITMENT OF STATE FUNDS AND RESOURCES



127. Government costs to provide services are expected to exceed State and County tax revenues derived from Pulelehua on a long-term basis, which follows the normal trend of residential housing subdivisions. Government costs will include public education, fire, emergency medical service, and police service. Although Petitioner is expected to contribute its fair share for the capital cost of constructing government improvements, the cost of delivering public services to a housing development with a substantial affordable component will exceed anticipated tax revenues.

128. State tax revenue for the ten-year construction and sales period should exceed \$26.8 million from income tax and \$37.7 million from general excise tax, and will stabilize at \$5.8 million annually from income tax and \$6.9 million annually from general excise tax following completion of construction. State costs associated with delivering services to Pulelehua are estimated to be \$58.1 million during the construction and sales period and \$14.7 million a year thereafter. The State will experience a net revenue benefit of \$6.4 million during the buildout and sales period and a stabilized loss of approximately \$2.0 million a year thereafter.

129. The County of Maui should receive \$8 million in real property tax revenue from Pulelehua over the ten-year construction and sales period and an estimated \$1.5 million a year thereafter. The County government operating costs associated with providing services to Pulelehua on a per capita basis is estimated to total approximately \$23.0 million for the construction and sales period and

approximately \$5.8 million thereafter on a stabilized basis. The County should expect a net revenue loss of \$15.0 million during the construction and sales period and a loss of approximately \$4.3 million a year thereafter. Property tax revenue is anticipated to be substantially lower for an affordable housing development than for a market price development, and the cost of delivering services higher for an affordable housing development than for a market price development.

#### CONFORMANCE TO URBAN DISTRICT STANDARDS

130. Pulelehua generally conforms to 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. Pulelehua is bordered by the Kapalua-West Maui Airport, and the Kahana Ridge Subdivision, and urban development makai of Honoapi`ilani Highway, all of which are in the Urban District, and is characterized by “city-like” concentrations of people, structures, streets, urban level of services, and other related land uses.

b. The in-fill location of Pulelehua - between the Kapalua Resort and the Kā`anapali Resort in the existing Urban District - is an appropriate location for the new community and is in accord with widely accepted planning principles of placing new urban uses contiguous to existing urban uses. Once development occurs on the Department of Hawaiian Home Lands properties to the south, the entire Petition Area will be effectively surrounded by urban development.

c. Pulelehua is located between Kā'anapali and Kapalua, two of West Maui's primary centers of trading and employment.

d. 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 Petition Area or can readily be provided to the Petition Area.

e. Reclassification of the Petition Area is reasonably necessary for urban growth.

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

g. Pulelehua will be designed to complement the Petition Area's natural attributes, mitigate environmental conflicts, enhance scenic amenities, and protect historic resources. The portions of the Petition Area planned for the residential and other uses are located on relatively flat areas formerly cultivated in pineapple. To the extent possible, improvements will conform to the contours of the land, limiting the need for extensive grading.

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

Hawai`i State Plan

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

**HRS §226-4 State goals**

*Goal: (3) Physical, social, and economic well-being, for individuals and families in Hawai`i, that nourishes a sense of community responsibility, of caring, and of participation in community life.*

**HRS §226-5 Objective 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)(3) Promote increased opportunities for Hawai`i`s people to pursue their socio-economic aspirations throughout the islands.*

As a function of conditions imposed on Petitioner`s Kapalua Mauka development in LUC Docket No. A03-741 and representations by Petitioner in this docket, Pulelehua will promote increased opportunities for Hawai`i`s people to pursue their physical, social, and economic aspirations by:

- Helping to satisfy the housing demand of a growing population and expanding job base by providing 882 homes in West Maui, at least 51 percent of which will be for sale or rent to families earning less than 140 percent of the County of Maui median income;

- Creating a community that fosters an authentic sense of place, respects the land, and provides a vital and sustaining life experience;
- Providing affordable and moderately priced housing for the working families of Maui, and specifically for residents who work in West Maui;
- Providing homes near employment centers, thereby increasing quality of life by decreasing commuting; and
- Creating “affordable housing with dignity,” by providing a variety of affordable housing options integrated into a complete community rather than an affordable housing development.

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

*Policies:*

*6(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai`i's people.*

Pulelehua will contribute to Hawai`i's economy by:

- Providing homes for sale and rent to Maui's primary workers who earn less than 140 percent of the median income. These workers, including resort employees, teachers, police, firefighters, and others, fill necessary positions and provide essential services crucial to keeping Maui's economy stable and growing; and
- Creating approximately:
  - 8,399 “worker years” of employment on Maui over the initial construction and sales period (a “worker year” is the amount of time one full-time worker can work in one year);
  - 634 permanent full-time equivalent jobs onsite (businesses within Pulelehua) with annual wages of \$16 million;
  - permanent full-time equivalent jobs in the regional economy with annual wages of \$1.7 million (maintenance, landscaping, and upgrading of the Pulelehua homes and buildings); and \$30.9 million per year in discretionary expenditures infused into the island economy from community residents.

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

*Policies:*

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.*

- The Petition Area is not a known habitat for any threatened or endangered plant species.
- The Petition Area is not a known habitat for any threatened or endangered species of bird or mammal.
- Pulelehua has the potential to improve conditions in the marine environment as sedimentation discharge to the ocean will be significantly less with Pulelehua compared to agricultural uses, and there is likely to be a decrease in the flux of nutrients (e.g., fertilizers) to the ocean. Any cultural practices along the Māhinahina and Kahana shoreline will not be adversely impacted.

**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)(7) *Encourage urban developments in close proximity to existing services and facilities.*

Pulelehua's design will be sensitive to the environment and scenic beauty, and will complement the Petition Area's natural attributes. The portions of the Petition Area planned for residential use are located on gently sloping areas formerly cultivated in pineapple. To the extent possible, improvements will conform to the contours of the land, limiting the need for extensive grading.

Development of Pulelehua will have a positive rather than an adverse effect on coastal marine waters. Detention and desilting basins within Pulelehua

will maintain the exiting flows and there will be no increase in runoff flowing from the Petition Area.

The Petition Area is located between West Maui's primary employment areas of Kapalua and Kā'anapali. The Petition Area is also bordered by existing urban uses makai of Honoapi'ilani Highway, Kapalua-West Maui Airport, and the Kahana Ridge Subdivision.

**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 will build a sewer collection system in Pulelehua that will transmit wastewater to the LWWRF. Petitioner will utilize R1 water to irrigate common area landscaping and for fire protection.

Petitioner will encourage recycling, including recycling of all green waste onsite. Petitioner will also encourage low flow water fixtures and water efficient appliances.

**HRS §226-16 Objective and Policies for Facility Systems—Water**

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

                         16(b)(3)      *Reclaim and encourage the productive use of runoff water and wastewater discharges.*

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

The DWS will provide potable water for Pulelehua by treating water from the privately-owned and operated Honolua Ditch, without increasing the amount of water diverted from the Honokōhau Stream. Petitioner will use a mixture of R-1 water and surface water for non-potable irrigation and fire requirements.

### **HRS §226-17 Objectives and policies for facility systems-transportation**

- Policies:**
- 17(a)(1) *An integrated multi-modal transportation system that services statewide needs and promotes the efficient, economical, safe, and convenient movement of people and goods.*
  - 17(b)(6) *Encourage transportation systems that serve to accommodate present and future development needs of communities.*
  - 17(b)(10) *Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawai`i 's natural environment.*

- Pulelehua's homes near employment will allow workers more transportation options to travel to work, such as walking and bicycling, and will make public transportation more feasible by clustering populations and destinations within in a defined area along a practical route.
- Providing homes near employment centers will decrease commuting time, thereby increasing quality of life.
- The traditional neighborhood design of Pulelehua will serve to minimize trips onto Honoapi`ilani Highway as many essential services needed by Pulelehua residents will be within walking and biking distance, such as stores, restaurants, parks, and a school.

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



- Policies:**
- 19(b)(1) *Effectively accommodate the housing needs of Hawai`i's people.*
  - 19(b)(2) *Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.*
  - 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.*
  - 19(b)(7) *Foster a variety of lifestyles traditional to Hawai`i through the design and maintenance of neighborhoods that reflect the culture and values of the community.*

As a function of conditions imposed on Petitioner's Kapalua Mauka development in LUC Docket No. A03-741 and representations by Petitioner in this docket, Pulelehua implements objectives and policies for socio-cultural advancement by:

- Helping to satisfying the housing demand of a growing population and expanding job base by providing 882 homes in West Maui, at least 51 percent of which will be for sale or rent to families making less than 140 percent of the County of Maui median income;
- Creating "affordable housing with dignity," by providing a variety of affordable housing options integrated into complete neighborhoods, and not segregated into an affordable "project;"
- Creating a community that fosters an authentic sense of place, respects the land, and provides a vital and sustaining life experience;
- Providing affordable and moderately priced housing for the working families of Maui, and specifically for those who work in West Maui;

- Providing homes near employment centers, thereby increasing quality of life by decreasing commuting;
- Creating genuine neighborhoods by design where residents can walk and interact with their neighbors; and
- Creating traditional neighborhoods with a mix of uses and housing types that embrace a diversity of people and activities.

### **HRS §226-23 Objective and policies for socio-cultural advancement-leisure**

***Policies:***

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

- Pulelehua will include neighborhood parks, ball fields, community gardens, and an extensive trail system of linked paths and trails to allow pedestrians and bicyclists to have another option for movement through the neighborhood.
- Pulelehua’s parks will be open to all Maui residents.

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

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.*

- Maui County’s population is projected to increase from 139,573 people in 2005 to 175,136 people in 2020, a 25.5 percent increase. West Maui’s population is expected to increase from 19,779 people in 2005 to 25,431 people in 2020, a 28.5 percent increase. The increase in West Maui’s population results in projected housing demand of approximately 3,447 to 5,440 additional homes in West Maui by 2020. The majority of this demand will be for homes affordable to families making between 80 to 140 percent of the County of Maui median income.
- Pulelehua will help to satisfy the housing demand of a growing population and expanding job base, thus contributing to the stable social and economic well-being of residents.

### **HRS §226-106 Affordable Housing**

- 226-106(4) *Create incentives for development which would increase home ownership and rental opportunities for Hawaii's low- and moderate-income households, gap group households, and residents with special needs.*
- 226-106(6) *Encourage public and private sector cooperation in the development of rental housing alternatives.*
- 226-106(8) *Give higher priority to the provision of quality housing that is affordable for Hawai'i's residents and less priority to development of housing intended primarily for individuals outside of Hawai'i.*

As a function of conditions imposed on Petitioner's Kapalua Mauka development in LUC Docket No. A03-741 and representations by Petitioner in this docket, Pulelehua implements these affordable housing guidelines by:

- Helping to satisfy the housing demand of a growing population and expanding job base by providing 882 homes in West Maui, at least 51 percent of which will be for sale or rent to families making less than 140 percent of the County of Maui median income;
- Creating traditional neighborhoods with a mix of uses and housing types that embrace a diversity of people and activities;
- Creating "affordable housing with dignity," by providing a variety of affordable housing options integrated into complete neighborhoods, and not segregated into an affordable "project;"
- Creating genuine neighborhoods by design where residents can walk and interact with their neighbors; and
- Providing homes near employment centers, thereby increasing quality of life by decreasing commuting.

### Functional Plans

132. Reclassification of the Petition Area generally conforms to the functional plans in the following program areas: employment, housing, recreation, and transportation.

### CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

133. Reclassification of the Petition Area generally conforms to the objectives and policies of the Coastal Zone Management Program as defined in chapter 205A, HRS, as follows:

*(1) Recreational resources*

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

While not on the coast, Pulelehua will include neighborhood parks, ball fields, community gardens, and an extensive trail system, which will be open to the public.

*(2) Historic resources*

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

No significant archaeological resources have been identified on the Petition Area. Petitioner will comply with all laws and rules regarding the preservation of archaeological, cultural, and historic sites should any sites be found during construction of Pulelehua.

*(3) Scenic and open space resources*

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

Pulelehua is located mauka of Honoapi`ilani Highway and will not impede the coastal scenic and open resources of the area. Pulelehua will be a compact community designed to preserve and enhance open space areas. It will

feature a landscaped greenway along the length of Honoapi`ilani Highway.

Moreover, all common area exterior lighting will be shielded from adjacent residential properties and designed to minimize night sky light pollution to the extent possible.

*(4) Coastal ecosystems*

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

Development of Pulelehua has the potential to improve conditions in the marine environment. With the change from agricultural use to residential use, there is likely to be a decrease in the flux of nutrients (e.g., fertilizers) to the ocean. It is likely that sedimentation discharge to the ocean will be significantly less following development of Pulelehua.

*(5) Economic uses*

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

With the increase in West Maui's population, forecasts of housing demands, and the creation of additional jobs in West Maui, Pulelehua will provide homes to workers, including resort employees, teachers, police, firefighters, and others who provide essential services that keep Maui's economy stable and growing. Pulelehua is an in-fill community between existing urban areas and is not located along the coast.

*(6) Coastal hazards*

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

- Pulelehua is not in a tsunami zone or flood zone.
- All additional runoff due to the community will be retained on site with no increased flow to downstream properties (including Honoapi`ilani Highway, and the Kahana Hui and Kahana Ridge Subdivisions).
- Pulelehua will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream marine environment and nearshore and offshore water quality.

*(7) Managing development*

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

*(8) Public participation*

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

Petitioner conducted a week-long public charrette in March 2004 to solicit public participation in the design of Pulelehua. The potential short-term and long-term impacts of Pulelehua have been described in the Final EIS for Pulelehua which the Commission accepted on July 13, 2005. In addition, the Maui County Planning Commission is currently conducting public hearings on Pulelehua.

*(9) Beach protection*

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

Pulelehua will not be located along the shoreline, and is therefore not expected to interfere with the public's use of the beaches in the area.

*(10) Marine resources*

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

Development of Pulelehua has the potential to improve conditions in the marine environment. With the change from agricultural use to residential use, there is likely to be a decrease in the flux of nutrients to the ocean. It is likely that sedimentation discharge to the ocean will be less following development of Pulelehua.

#### CONFORMANCE WITH THE COUNTY OF MAUI GENERAL PLAN

134. Petitioner has filed an application to amend the West Maui Community Plan Land Use Map to designate Project District 5. Development of Pulelehua is consistent with the following objectives and policies of the Maui County General Plan and the West Maui Community Plan.

The following are General Plan objectives and policies that are applicable to Pulelehua:

#### Land Use

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

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

*Policy d: Formulate a directed land use growth strategy that will encourage the redevelopment and infill of existing communities allowing mixed land uses, where appropriate.*

*Policy b. Encourage land use patterns that foster a pedestrian oriented environment to include such amenities as bike paths, linear parks, landscape buffer areas, and mini parks.*

*Policy d. Encourage land use methods that will provide a continuous balanced inventory of housing types in all price ranges.*

*Policy e. Encourage programs to stabilize affordable land and housing prices.*

Pulelehua will be developed as an affordable community between existing urban areas in accordance with widely accepted planning principles of placing new urban uses contiguous to existing urban uses. Pulelehua will include housing in all price ranges. Pulelehua's traditional neighborhood design, with homes, neighborhood businesses, and recreation areas all within walking distance, will encourage pedestrian and bicycle access and minimize use of the automobile. Pulelehua's compact design will encourage preservation of surrounding productive agricultural lands.

### Housing

*Objective 1: To provide a choice of attractive, sanitary, and affordable homes of all our residents.*

*Policy b. Encourage the construction of housing in a variety of price ranges and geographic locations.*

*Policy f. Encourage large land owners in the context of new projects to provide land and/or housing for their employees.*

*Policy i. Ensure that each community plan region contains its fair share of affordable housing.*



To satisfy affordable housing requirements imposed on Petitioner's Kapalua Mauka development in LUC Docket No. A03-741 and on this docket, Petitioner proposes to provide 450 affordable housing units for sale or rent to families making less than 140 percent of the County of Maui's median income. Plans for the affordable housing units include integrating affordable units with market price units. Pulelehua is expected to include such services as neighborhood commercial, parks, civic uses, and trails. The community has been designed to encourage walking which will decrease the need for commuting and reduce traffic impacts. The design of the affordable units is proposed with the same quality and materials as the market units. Pulelehua, with its affordable component and gap group housing, is planned to fill a critical need for the working families of West Maui.

#### West Maui Community Plan

The West Maui Community Plan designates the Petition Area as Agricultural, Open Space, and Park. The Community Plan includes a lateral Open Space designation along Honoapi'ilani Highway to accommodate a landscape buffer. The proposed development plan for Pulelehua includes a landscaped greenway along the length of Honoapi'ilani Highway that has a width ranging from 100 to 200 feet. The width of this greenway exceeds the area specified in the Community Plan for the buffer area.

The West Maui Community Plan also includes a 50-acre District Park site in Pulelehua. Although Petitioner proposes to remove this designation from the Community Plan, Pulelehua will contain approximately 100 acres of useable parks and trails, including two 5-acre park sites. Petitioner will also cooperate with the County to designate a 60-acre site mauka of the Kapalua-West Maui Airport and to the north of Pulelehua for development of a district park for West Maui. The County's Parks Department supports the parks plans for Pulelehua.

### Land Use

#### Goal:

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

#### *Objectives and Policies.*

4. *Establish an appropriate supply of urban land within the region to meet the needs of the community over the next 20 years. The Community Plan and its map shall define the urban growth limits for the region and all zoning requests and/or proposed land uses and developments shall be consistent with the West Maui Community Plan and its land use.*

### Housing

#### Goal:

*A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for a broad cross section of residents.*

#### *Objectives and Policies.*

2. *Provide a variety of affordable housing opportunities including improved lots and self help projects and special needs housing for the elderly, single parent families, homeless and disabled.*

6. *Promote efficient housing designs in order to reduce residential home energy consumption.*

7. *Maintain acceptable standards for affordable housing projects, including but not limited to the installation of sidewalks and provision for off-street parking.*

To satisfy affordable housing requirements imposed on Petitioner's Kapalua Mauka development in LUC Docket No. A03-741 and on this docket, Petitioner will offer a variety of housing options to families of various income levels. Petitioner proposes to offer 450 of the 882 units for sale or rent to families earning less than 140 percent of the County of Maui's median income. Speculation in the resale of homes will be discouraged with strong buy backs and shared appreciation provisions.

### PROJECT PHASING

135. Permitting, development, buildout, and sale of Pulelehua are proposed to occur over a ten-year period. Permitting is anticipated to require at least two 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 Pulelehua.

## **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 Commission Rules under chapter 15-15, HAR, and upon consideration of the Commission decision-making criteria under section 205-17, HRS, this Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 310,440 acres of land at Māhinahina and Kahana, Lahaina, Maui, Hawai`i, and identified as TMK: 4-3-01: por. 31 and 79, from the State Land Use Agricultural District to the State Land Use Urban District for the development of Pulelehua, 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 policies and criteria established pursuant to sections 205-16, 205-17, and 205A-2, HRS.

2. Article XII, Section 7, of the Hawai`i State 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.

3. No significant archaeological sites were encountered during the archaeological inventory surveys of the Petition Area.

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

5. Article XI, Section 1, of the Hawai`i State 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.

6. There are no naturally growing endangered or threatened species of flora nor any species of concern on the Petition Area.

7. 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 Petition Area.

8. The ambient air quality of the Petition Area and the surrounding communities is anticipated to be adversely impacted from fugitive dust during the construction phase of Pulelehua. 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.

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

10. The development of Pulelehua will alter the existing views from lands makai of the Petition Area. However, most distant views of the Petition Area and the West Maui mountains as well as makai views of the ocean from the Petition Area will not be impeded.

11. Article XI, Section 3, of the Hawai'i State 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.

12. Development of the Petition Area will eliminate continuation of plantation agriculture on the Petition Area or the possibility of using these areas

for diversified agriculture but will not adversely impact growth of diversified agriculture in West Maui in particular, or on Maui, as a whole. Petitioner is presently continuing cultivation of pineapple in West Maui. Through Maui Agricultural Partners, Petitioner is working to expand diversified agriculture on Maui. There is ample agricultural land available on Maui for diversified agriculture because of the closure of the sugar plantations.

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

14. Development of the Petition Area will not adversely affect stream flows of Honokōhau Stream. There is presently sufficient water flowing through Honolua Ditch to accommodate the additional 2.0 MGD proposed to be treated by the DWS, including water to serve the potable water requirements of Pulelehua, without diverting additional water from Honokōhau Stream. In the alternative, if Petitioner elects to draw potable water from new wells, the potable water requirements of Pulelehua will not adversely affect recharge of the Honolua or Honokōwai Aquifers. Petitioner will use R-1 water for non-potable requirements.

#### DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area in Docket No. A04-751, consisting of approximately 310.440 acres of land in the State Land Use Agricultural District located at Māhinahina and Kahana, Lahaina, Maui, Hawai'i,

identified as TMK: 4-3-01: por. 31 and 79, and approximately shown on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State Land Use District boundary shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS HEREBY FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Affordable Housing.** Petitioner shall do the following to provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawaii in accordance with the affordable housing policies and guidelines of the County of Maui and its representations in this docket:
  - a. Petitioner shall develop and offer for rent not less than 125 affordable housing units to qualified families or individuals to satisfy a condition imposed by the Commission in its approval of Petitioner's Kapalua Mauka development in LUC Docket No. A03-741.
  - b. In addition, Petitioner shall develop and offer for sale not less than 325 affordable housing units to low, low-moderate, and moderate income residents of Maui as a feature of Pulelehua.



- c. To ensure continued owner occupancy, rental, and resale to qualified low and moderate income residents and maintain the affordable housing inventory within Pulelehua, Petitioner shall prior to the rental or sale of any affordable housing unit establish County-approved restrictions governing the rental, sale, or transfer of all affordable housing units.
- d. Subject to applicable laws, Petitioner shall establish at a minimum, qualifications for rental or purchase which specify that a renter or buyer must: be currently employed in Maui; attain a minimum age of 18 years; demonstrate evidence of sufficient income; agree to physically reside in the affordable housing unit; and not already own a housing unit or other real property.

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 Pulelehua executed between Petitioner and the DOE. The Education Contribution Agreement shall provide for the dedication of land and/or other consideration to be applied to the construction of a public elementary school in Pulelehua. Petitioner shall file the Education Contribution Agreement and any subsequent amendments with the Commission after it has been executed by Petitioner and the DOE. Petitioner shall also submit copies of all executed Education Contribution Agreements to the County of Maui prior to the Council approving an ordinance amending the West Maui Community Plan Land Use Map designation for Pulelehua.

Petitioner shall pursue alternatives with the DOE to expedite the design and construction of the public elementary school in Pulelehua. Such

alternatives may include a design-build agreement whereby Petitioner would agree to design and build public school facilities for a sum to be paid by the DOE.

3. **Wastewater Facilities.** Petitioner shall, upon connection, pay a fair-share contribution to fund improvements to wastewater treatment facilities to serve the Petition Area if such facilities are approved and developed by the County of Maui prior to the issuance of building permits, and Petitioner shall receive wastewater treatment service for wastewater from the Petition Area from the County of Maui at the LWWRF. In the event connection is made to the LWWRF, Petitioner shall construct wastewater transmission facilities to transport wastewater from the Petition Area to appropriate County wastewater transmission facilities leading to the LWWRF.

4. **Akahele Street.** Petitioner shall enter into an agreement with the DOT, Airports Division, under terms and conditions acceptable to the DOT, for access to and use of Akahele Street. Petitioner acknowledges, understands, and agrees that Petitioner's obligation and responsibilities in an agreement can extend to, but not be limited to, design and construction of the roadway improvements and intersections, compliance with Kapalua-West Maui Airport security programs, and upkeep and maintenance of Akahele Street.

5. **Transportation Improvements.** Petitioner shall submit a revised TIAR for Pulelehua to the DOT for their review and approval no later than the completion date of the final development and internal circulation plan for Pulelehua.

Petitioner shall implement traffic mitigation measures and roadway and intersection improvements, including signalization and pedestrian facilities, for access to and use of Honoapi`ilani Highway, as determined by and to the satisfaction of the DOT, including those improvements and mitigation measures as recommended or required by the TIAR approved by the DOT. Petitioner shall obtain the DOT's prior written approval of Petitioner's TIAR and Petitioner may not proceed with the development of Petitioner's Project until the DOT approves the TIAR.

6. **Roadway Connectivity and Regional Circulation.** Petitioner shall plan and prepare for lateral (in general parallel to the coastline and fronting the highway) roadway connections from the Petition Area to adjoining lands in cooperation with the respective neighboring landowner(s) to provide potential alternate roadway routes to improve transportation capabilities in the area. Petitioner shall facilitate and promote the need for a Regional Traffic Circulation Plan from the County government to assist Petitioner and the DOT in determining roadway connections from the Petition Area to other adjoining lands and to existing roads and highways.

7. **Traffic Fair-Share Contribution.** Petitioner and the County of Maui shall enter into an agreement which establishes a Traffic Fair-Share or Voluntary Contribution to be paid by Petitioner to mitigate the traffic-related impact generated by the development of Pulelehua. A copy of the executed agreement shall be filed with the Commission prior to the occupancy of any unit within Pulelehua. The agreement shall provide that Petitioner shall in the order specified below:

- a) pay the fee calculated pursuant to chapter 14.62, Maui County Code (“MCC”), 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 MCC, the County shall share the funds collected from Petitioner with the State in accordance with this written agreement; or
- b) make a voluntary contribution to the County of Maui in an amount equivalent to the above referenced fee upon issuance of a building permit for each dwelling; or
- c) pay the above referenced fee to the State pursuant to the enactment of State legislation authorizing such payment.

The above referenced fee or voluntary contribution will be applied towards the funding, design, and construction of local and regional transportation improvements and programs necessitated by the proposed development of the Petition Area, but in any event neither the traffic fair-share nor the voluntary contribution will exceed the greater of (a) \$3,500 per market priced and gap group priced single-family unit or lot developed on the Petition Area, and \$1,500 per market priced and gap group priced multi-family unit developed on the Petition Area, or (b) the traffic impact fee established for a market priced and gap group priced single-family and multi-family unit pursuant to Maui County Code chapter 14.62 at the time a building permit is issued.

8. **Civil Defense.** Petitioner shall, on a fair-share basis, fund and construct adequate solar-powered civil defense measures serving the Petition Area

as determined by the State of Hawai'i Department of Defense, Office of Civil Defense, and the County of Maui Civil Defense Agency.

9. **Archaeological Inventory Survey and Historic Preservation**

**Mitigation Plan.** Petitioner shall comply with the conditions recommended by the DLNR, SHPD, on March 3, 2005, regarding revisions to Petitioner's archaeological inventory survey and approval of an acceptable monitoring plan in the general vicinity of historic sites on the Petition Area prior to commencement of any ground altering activities.

10. **Previously Unidentified Burial/Archaeological/Historic Sites.**

Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the DLNR, SHPD, that mitigative measures have been implemented to its satisfaction.

11. **Air Quality Monitoring.** Petitioner shall participate in an air

quality-monitoring program if required by the DOH.

12. **Notification of Noise.** Petitioner shall notify and disclose to all

prospective buyers and/or lessees of the Petition Area, in accordance with State law, the potential adverse impacts of aircraft and airport activity from the adjacent Kapalua-

West Maui Airport, such as but not limited to noise, right of flight, emissions, vibrations, and other incidences of aircraft operations. Petitioner shall implement procedures and provide covenants in any grant or transfer of interest in the Petition Area, or portion thereof, whereby buyers and lessees and other future owners, lessees, or occupants will release the State of Hawai'i from and against all claims, liability, and losses resulting from aircraft and airport operations, provided that the State of Hawai'i shall not be released from its negligence.

13. **Airport Infrastructure.** Petitioner shall provide and be responsible at its costs for any relocation, change, repair, or alteration to existing airport utility, service, and related infrastructure lines and equipment affected by Petitioner's Project, located in or surrounded by the Petition Area, to the satisfaction of the DOT.

14. **Sound Attenuation.** Petitioner shall employ the following noise mitigation measures: Petitioner shall follow the Maximum Operation Scenario in its noise study and place residential units and similar noise sensitive uses outside the 60 DNL (toward lesser DNL) noise contour. Residential units and similar noise sensitive uses located in between the 55 to 60 DNL noise contours should be properly designed and constructed to meet, at a minimum, Federal EPA residential interior noise standards. Industrial commercial-business type uses, if located in the 60-65 or higher noise contours, containing noise sensitive uses (e.g., rest area, offices, etc.) should have the noise sensitive area properly designed and constructed to meet, at a minimum, applicable Federal EPA interior noise standards.

15. **Runway Safety, Protection, and Use.** Petitioner acknowledges that portions of the Petition Area lay within, or are subject to, the airport runway safety and protection areas (the RPZ, the RSA, and the ROFA) required by the FAA at the Kapalua-West Maui Airport. Petitioner agrees to comply with FAA requirements and cooperate with the DOT for the documentation and recordation of the safety and protection areas. Petitioner agrees to provide the DOT access in order that the DOT may undertake mitigation measures (grading, lengthening, alteration, or improvement) to bring the safety and protection areas up to FAA standards. Petitioner will sell an aviation easement on the affected lands in favor of the State of Hawai'i.

16. **Hazards to Aircraft Operations.** Petitioner shall take appropriate measures to fund and implement a program to control any bird nesting or gathering and any insect, pest, or wildlife infestation, especially in any drainage retention basins serving the Petition Area and in any portion of the Petition Area in the RSA, RPZ, and ROFA, or abutting the Kapalua-West Maui Airport to minimize the hazards to aircraft operations, as deemed necessary by the DOT, Airports Division.

17. **Drainage.** Petitioner shall fund the design and construction of drainage system improvements to prevent runoff resulting from the development of the Petition Area from adversely affecting State airport and highway facilities to the satisfaction of appropriate State and County agencies, based on one hour of runoff from a 50-year storm.

18. **Notification of Potential Nuisances.** Petitioner shall disclose to all prospective buyers and/or lessees of the Petition Area that potential odor, noise, and dust pollution may result from agricultural uses on adjacent lands.

19. **Provisions of the Hawai'i Right to Farm Act.** Petitioner shall notify all prospective buyers and/or lessees of the Petition Area 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 if there are any lands in the Agricultural District adjacent to the Petition Area.

20. **Integrated Solid Waste Management Plan.** Petitioner shall cooperate with the DOH and the DPWEM 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 DOH. 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.

21. **Water Resources Allocation.** Petitioner shall provide adequate potable and non-potable water source, storage, and transmission facilities and improvements to the satisfaction of the DWS to accommodate the proposed development on the Petition Area.



22. **Established Access Rights Protected.** Petitioner shall preserve any established access rights of native Hawaiians who have customarily and traditionally used the Petition Area for access to other areas to exercise subsistence, cultural, and religious practices.

23. **Best Management Practices.** Petitioner shall implement applicable best management practices applicable to each proposed land use to reduce or eliminate soil erosion and groundwater pollution, and effect dust control measures during and after the development process in accordance with the DOH guidelines.

24. **Soil Analysis.** Petitioner shall conduct a soil analysis study of the Petition Area to determine the impact of the Project from fertilizer and pesticide residue that may be present on the Petition Area and undertake measures to abate and remove any hazardous materials identified.

25. **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.

26. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as use of solar energy and solar heating and incorporate such measures into the Project.

**27. Compliance with Representations to the Commission.**

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

**28. 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 Petition Area, prior to development of the Petition Area.

**29. Annual Reports.** Petitioner shall provide timely and without

any prior notice, annual reports to the Commission, the OP, and the Planning Department in connection with the status of the development proposed for the Petition Area, and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

**30. Release of Conditions Imposed by the Commission.** The

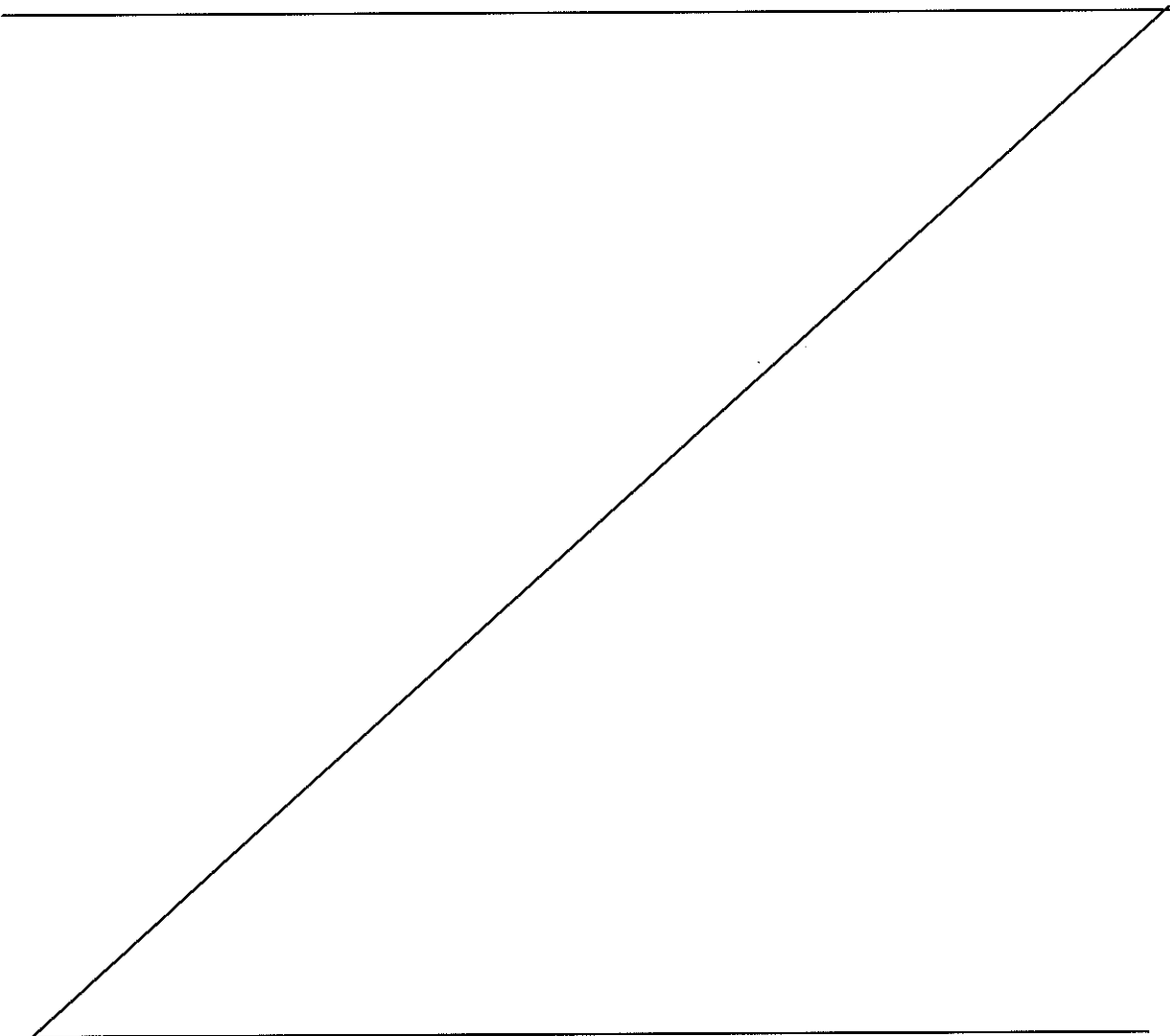
Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

**31. Statement of Imposition of Conditions.** Within seven 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 Petition Area is subject to conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) shall file a copy of such recorded statement with the Commission.

32. **Recording of Conditions.** Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.



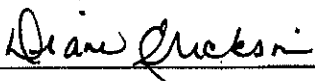
ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 22nd day of June, 2006, as conforming to the vote taken on Maui on June 22, 2006. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Any person aggrieved by this decision and order may seek judicial review in accordance with the provisions of HRS section 91-4.

Done at Maui, Hawai'i, this 22nd day of June, 2006, per motion on June 22, 2006.

APPROVED AS TO FORM

  
Deputy Attorney General

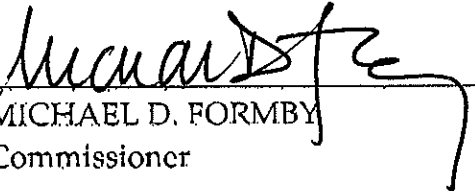
LAND USE COMMISSION  
STATE OF HAWAII

By   
RANDALL F. SAKUMOTO  
Chairperson and Commissioner

By   
STEVEN LEE MONTGOMERY  
Vice-Chairperson and Commissioner


By (absent):  
LISA M. JUDGE  
Vice-Chairperson and Commissioner

By \_\_\_\_\_ (absent)  
THOMAS CONTRADES  
Commissioner

By   
MICHAEL D. FORMBY  
Commissioner

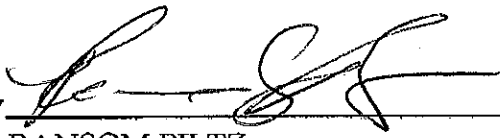
By \_\_\_\_\_ (absent)  
KYONG-SU IM  
Commissioner

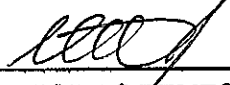
Filed and effective on  
JUN 30 2008

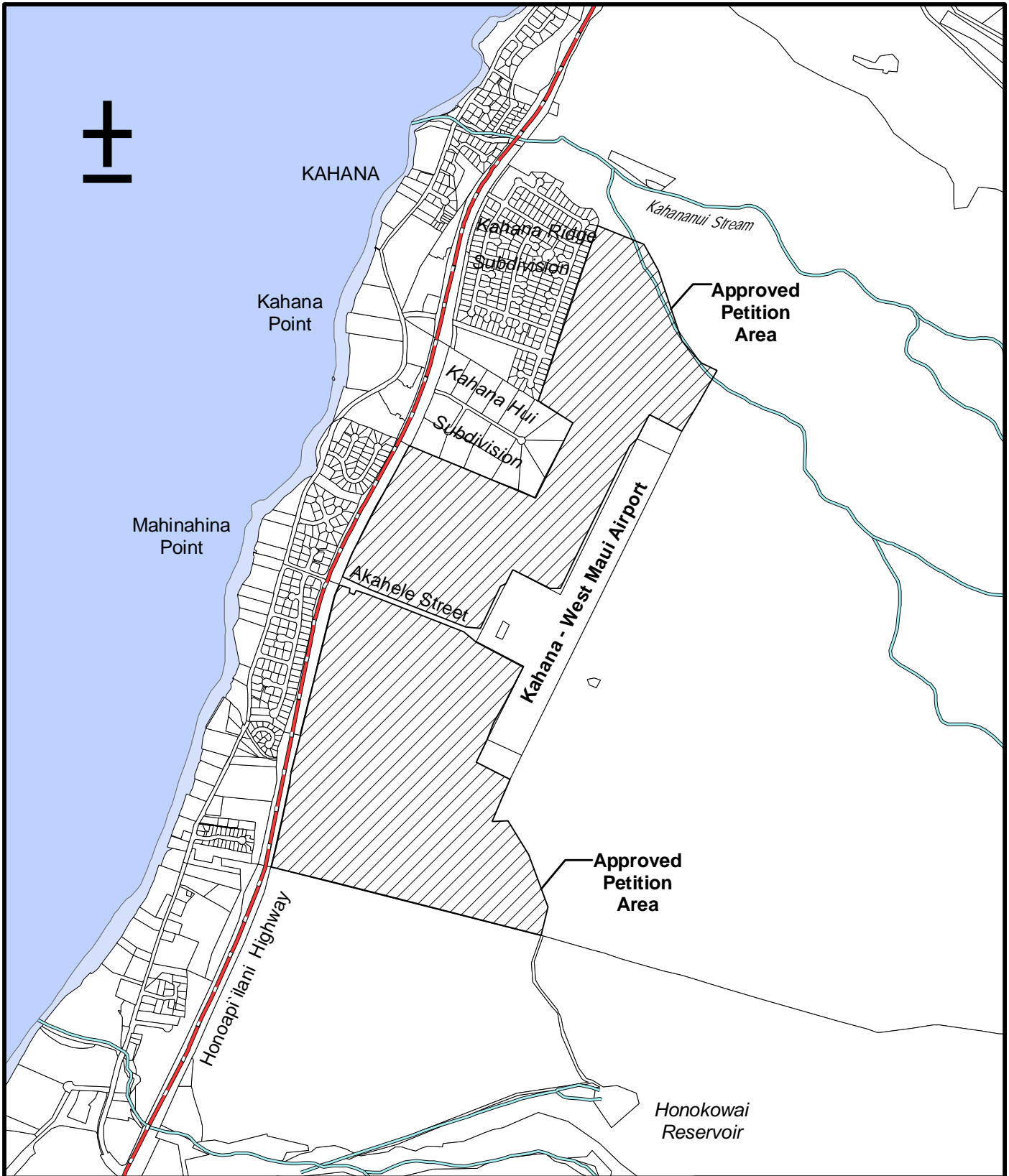
By   
DUANE KANUHA  
Commissioner

Certified by:

  
ANTHONY J. H. CHING

By   
RANSOM PILTZ  
Commissioner

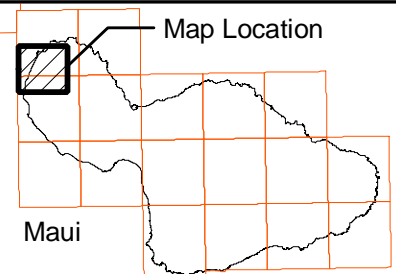
By   
NICHOLAS TEVES  
Commissioner



A04-751 MAUI LAND & PINEAPPLE COMPANY, INC.,  
 a Hawai'i corporation

LOCATION MAP  
 TAX MAP KEY: 4-3-01: por. 31 and 79  
 Mahinahina and Kahana, Lahaina, Maui, Hawai'i  
 Scale: 1: 18,000

Exhibit "A"



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A04-751
	)	
MAUI LAND & PINEAPPLE COMPANY,	)	CERTIFICATE OF SERVICE
INC., a Hawai'i corporation	)	
	)	
To Amend The Agricultural Land Use	)	
District Boundary Into The Urban Land Use	)	
District For Approximately 310.440 Acres	)	
Of Land At Māhinahina And Kahana,	)	
Lahaina, Maui, Hawai'i, Tax Map Key: 4-3-	)	
01: Por. 31 And 79	)	

---

CERTIFICATE OF SERVICE

I hereby certify that a copy of the 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.           LAURA H. THIELEN, Director  
                  Office of Planning  
                  P. O. Box 2359  
                  Honolulu, Hawaii 96804-2359

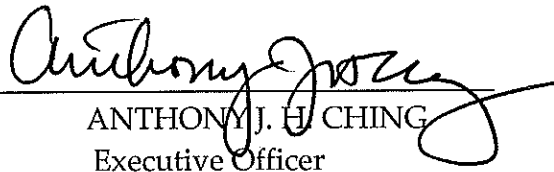
BRYAN YEE, Esq.  
Deputy Attorney General  
Hale Auhau, Third Floor  
425 Queen Street  
Honolulu, Hawaii 96813

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

BRIAN MOTO, Esq.  
JANE LOVELL, Esq.  
Corporation Counsel  
County of Maui  
250 South High Street  
Wailuku, Hawaii 96793

CERT. WILLIAM W. L. YUEN, Esq.  
1001 Bishop Street  
ASB Tower, Suite 2700  
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, JUN 30 2006.

  
ANTHONY J. H. CHING  
Executive Officer