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BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Amended Petition of:

PUKALANI ASSOCIATES, LLC, a Hawaii  
limited liability company

To Amend the Agricultural Land Use District  
Boundaries of Approximately 87.702 acres of  
land at Kula, Makawao, Maui, Hawaii, Maui  
Tax Map Key Nos. 2-3-09: 07 and 64.

DOCKET NO. A05-760

**MOTION FOR EXTENSION OF TIME  
TO COMPLETE CONSTRUCTION OF  
INFRASTRUCTURE IMPROVEMENTS;  
MEMORANDUM IN SUPPORT OF  
MOTION; DECLARATION OF JON  
GOMES; CERTIFICATE OF SERVICE**

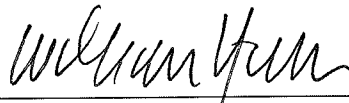
**MOTION FOR EXTENSION OF TIME TO COMPLETE CONSTRUCTION OF  
INFRASTRUCTURE IMPROVEMENTS**

COMES NOW PUKALANI ASSOCIATES, LLC, a Hawaii limited liability company,  
("Petitioner"), by and through its attorneys, Dentons US LLP, and moves the Land Use  
Commission of the State of Hawaii (the "Commission") to issue an order amending Condition  
Nos. 18 and 19 of the Commission's Findings of Fact, Conclusions of Law, and Decision and  
Order filed on June 29, 2009, as amended (the "Decision and Order"), to allow for a five-year  
extension of time from June 29, 2024, until June 29, 2029, to complete construction of backbone  
infrastructure improvements.

Petitioner requests this five year extension of time to complete construction of the backbone infrastructure, including the primary roadways and access points, internal roadways, and water supply, sewage and electrical infrastructure pursuant to Condition Nos. 18 and 19 in the Decision and Order. Conditions Nos. 18 and 19 provided that these improvements are to be completed within ten years of the filing of the Decision and Order, or by June 29, 2019. By Order Granting Motion for Extension of Time to Complete Construction of Infrastructure Improvements dated October 12, 2017, the time for completion of improvements was extended to June 29, 2024.

This Motion is made pursuant to Hawaii Revised Statutes, Chapter 205, and Hawaii Administrative Rules (“HAR”) §§ 15-15-70, 15-15-79 and 15-15-94, and is based on the Memorandum in Support of Motion, Declaration of Jon Gomes, and the pleadings, records and files of the Commission. Pursuant to HAR § 15-15-70(c), Petitioner requests a hearing on this Motion.

DATED: Honolulu, Hawai`i, May 22, 2026.



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WILLIAM W.L. YUEN  
Attorney for Petitioner

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**MEMORANDUM IN SUPPORT OF  
MOTION**

**MEMORANDUM IN SUPPORT OF MOTION**

**I. BACKGROUND**

By Findings of Fact, Conclusions of Law, and Decision and Order filed on June 29, 2009 (the “Decision and Order”), the Land Use Commission of the State of Hawaii (the “Commission”) reclassified approximately 87.702 acres of land located at Kula, Makawao, Maui, Hawaii, identified as Maui TMK No.: 2-3-09:07 and 64 (the “Petition Area”), from the State Land Use Agricultural District to the State Land Use Urban District.

Pukalani Associates, LLC, a Hawaii limited liability company (“Petitioner”), is the owner in fee simple of the Petition Area. Petitioner intends to develop the Petition Area as a master-planned residential community consisting of approximately 176 single family lots (the “Project”).

Condition No. 18 in the Decision and Order (“Condition No. 18”) states that:

Petitioner shall complete construction of the proposed backbone infrastructure, including the primary roadways and access points, internal roadways, and water supply, sewage and electrical infrastructure for the Petition Area within ten (10) years from the date of the issuance of the Decision and Order.

Condition No. 19 in the Decision and Order (“Condition No. 19”) states that:

If: (a) Petitioner fails to complete construction of the proposed backbone infrastructure as described above or furnish a bond to the County of Maui for such completion within ten (10) years from the date of the Decision and Order, or (b) prior to the approval of an ordinance changing the zoning district of the portion of the Petition Area identified as Parcel 7 to an appropriate Residential District an ordinance shall be enacted by the County of Maui pursuant to which Parcel 7 shall no longer be designated for Single Family Residential use in the Makawao-Pukalani-Kula Community Plan Land Use Map or its equivalent, or placing Parcel 7 outside of the Urban Growth Boundaries adopted by the Maui County Council as part of the Maui Island Plan, then in any of the preceding events, the Commission may, on its own motion or at the request of any party or other interested person, issue an Order to Show Cause requiring Petitioner to appear before the Commission to explain why the Petition Area should not revert to its previous Agricultural District classification or be changed to a more appropriate classification.

The ten (10) year period expired on June 29, 2019. By Order Granting Motion for Extension of Time to Complete Construction of Infrastructure Improvements dated October 12, 2017, the time for completion of improvements was extended to June 29, 2024.

The purpose of this Motion is to extend the period to complete the construction of the backbone infrastructure for the Project by an additional five (5) years, or until June 29, 2029.

## **II. APPLICABLE LAND USE COMMISSION RULES**

The Commission’s Rules applicable to this proceeding are set forth in the Hawaii Administrative Rules (“HAR”), Title 15, Chapter 15. Motions before the Commission are governed by HAR § 15-15-70 which provides in pertinent part that “Any party may make motions before, during, or after the close of a hearing.”

The Commission imposed Condition No. 18 pursuant to HAR § 15-15-79 which provides in pertinent part that: “Petitioners granted district boundary amendments shall make substantial progress within a reasonable period, as specified by the commission, from the date of approval of the boundary amendment, in developing the property receiving the boundary amendment.”

Petitioner brings this Motion to amend Conditions Nos. 18 and 19 to extend the time to complete construction of the backbone infrastructure by an additional five (5) years, until June 29, 2029. For the reasons described in Section III and in the attached Declaration of Jon Gomes, Petitioner did not complete the construction of the backbone infrastructure by June 29, 2019.

The Commission's rule regarding the modification of conditions of approval is set forth in HAR § 15-15-94, which provides in pertinent part as follows:

(a) If a petitioner, pursuant to this subsection, desires to have a modification or deletion of a condition that was imposed by the commission, or imposed pursuant to section 15-15-90(e) or (f), or modification of the commission's order, the petitioner shall file a motion in accordance with section 15-15-70 and serve a copy on all parties to the boundary amendment proceeding in which the condition was imposed or in which the order was issued, and to any person that may have a property interest in the subject property as recorded in the county's real property tax records at the time that the motion is filed.

(b) For good cause shown, the commission may act to modify or delete any of the conditions imposed or modify the commission's order.

Petitioner believes that there is good cause for the Commission to modify its Decision and Order, as more fully described in Section III.

### **III. JUSTIFICATION FOR EXTENSION**

#### **A. Delay Due to Unprecedented Financial Crisis**

The global financial crisis and recession that originated in September 2008 was the most severe recession since the Great Depression of the 1930's. The 2008 financial crisis froze capital markets and sent real estate markets into a tailspin worldwide. The effect of this strain on the real estate market reverberated through many business sectors in Hawaii. No business sector was impacted as hard by the faltering economy than real estate development.

The real estate market has since recovered and financing for real estate developments such as the Project is now available. Petitioner has renewed its efforts to develop the Petition

Area. Petitioner has the equity resources necessary to complete the land use entitlement process, and is willing to commit these resources to the development of the Petition Area. There continues to be a critical need for affordable housing and housing for the local market on Maui. Petitioner's development of the Project will help satisfy this need.

B. Petitioner's Need for Additional Time to Develop the Petition Area

Petitioner has not completed construction of the backbone infrastructure by the extended deadline of June 29, 2024. The following is a list of steps that Petitioner has taken and must take to develop the Project.

On June 16, 2010, Petitioner filed an application with the County of Maui Department of Planning (the "Planning Department") for a Change in Zoning of the Petition Area (the "Change in Zoning Application") from the Agricultural District to the R-2 Residential District. The Planning Department ceased processing this Change in Zoning Application on May 18, 2015.

Petitioner filed a new Change in Zoning Application to change the zoning of the Petition Area from the Agricultural District to the R-2 Residential District on November 8, 2019, which Application the Planning Department has also ceased processing. In order to re-file the Change in Zoning Application, Petitioner is actively engaged in completing the necessary arrangements for provision of utility service in order to complete the Change in Zoning Application.

Petitioner's project manager Jon Gomes has provided a declaration describing the difficulty Petitioner has experienced in obtaining a source of potable water for the Project. Petitioner is attempting to purchase portable water from a neighboring property owner who has successfully drilled a well on its property. Another possible alternative is use of the Piholo well that the County of Maui has recently announced it intends to purchase from Maui Land & Pineapple Company, Inc. Mr. Gomes describes his efforts to convince the County of Maui Department of Water Supply to accept that well as a source of potable water. If the County of

Maui purchases that well the Department of Water Supply could place that well in service. In either event Petitioner requires additional time to secure potable water for this Project.

Regarding wastewater, on June 17, 2010, the State of Hawaii, Public Utilities Commission (“PUC”) issued a decision and order approving the application of Petitioner and Hawaii Water Service Company, Inc. (“HWSC”) to expand HWSC’s existing service area to provide wastewater collection and treatment services to the Petition Area. Petitioner must negotiate a will-serve letter and Contribution in Aid of Construction Agreement obligating Petitioner’s to pay the cost of extending wastewater treatment service to the Petition Area.

Petitioner must also provide an archeological monitoring plan (the “Monitoring Plan”) with the Change in Zoning Application. Petitioner has retained Scientific Consultant Services, Inc. to prepare the Monitoring Plan. The Monitoring Plan must be approved by the State of Hawaii Department of Land and Natural Resources Historic Preservation Division (“SHPD”). Completion of the Monitoring Plan will depend on the time required for SHPD to review and approve the Monitoring Plan.

Petitioner anticipates that it will require approximately two to three years to complete these tasks in order that Petitioner may resubmit the Change in Zoning Application. Petitioner recognizes that demonstrating a source of potable water is key, as the Planning Department will not process a Change in Zoning Application without assurance of potable water.

For the reasons set forth in this Memorandum and the attached Declaration of Jon Gomes, Petitioner requests additional time to identify and finalize arrangements for a potable water source in order that Petitioner may complete preparation of and receive approval of the Change in Zoning Application and obtain an amendment to the Zoning Ordinance for the Petition Area.

Following approval of the Zoning Ordinance, Petitioner must prepare engineering design plans for the Petition Area in order to apply for preliminary subdivision approval. After the County of Maui Department of Public Works grants preliminary approval to the subdivision, Petitioner may then commence construction of the backbone infrastructure improvements for subdivision of the Petition Area. Petitioner estimates that at least five years will be required to obtain the necessary permits and to complete construction of the backbone infrastructure improvements for subdivision of the Petition Area.

#### IV. SUMMARY AND CONCLUSION

Based on the foregoing and the attached Declarations of Jon Gomes, HAR §§ 15-15-70, 15-15-79 and 15-15-94, and the records and files in this Docket, Petitioner respectfully requests that the Commission grant this Motion and modify Conditions Nos. 18 and 19 to extend the period allowed for completion of the construction of the backbone infrastructure by an additional five (5) years, until June 29, 2029.

DATED: Honolulu, Hawai'i, May 22, 2026.

  
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WILLIAM W.L. YUEN  
Attorney for Petitioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Amended Petition of:

PUKALANI ASSOCIATES, LLC, a Hawaii  
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To Amend the Agricultural Land Use District  
Boundaries Approximately 87.702 acres of  
land at Kula, Makawao, Maui, Hawaii, Maui  
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**DECLARATION OF JON GOMES**

**DECLARATION OF JON GOMES**

I, JON GOMES, declare as follows:

1. I make this Declaration upon my personal knowledge and belief.
2. I have served as a project consultant for Pukalani Associates, LLC, a Hawaii limited liability company (“Petitioner”).
3. I am submitting this Declaration in support of Petitioner’s Motion for Extension of Time to Complete Construction of Infrastructure Improvements.
4. I have assisted the Petitioner with the development of the land that is the subject of this Petition (the “Petition Area”) for the Kauhale Lani project (the “Project”), including assisting with the preparation of a Change in Zoning Application (the “Change in Zoning Application”) to change the zoning of the land that is the subject of this Petition (the “Petition Area”) from the Agricultural District to the R-2 Residential District.
5. Petitioner filed an application with the County of Maui Department of Planning (the “Planning Department”) in 2010 for a Change in Zoning of the Petition Area (the “Change in Zoning Application”). The Planning Department ceased processing the original Change in

Zoning Application on May 18, 2015. Petitioner filed a new Change in Zoning Application on November 8, 2019.

6. In order to complete the Change in Zoning Application, Petitioner must provide utility service to the Petition Area. Beginning in 2014, my predecessor and other Petitioner representatives have met with County of Maui Department of Planning (the “Planning Department”) and County of Maui Department of Water Supply (“DWS”) to discuss availability of water from the DWS system. The Planning Department informed Petitioner that Petitioner must provide assurance that adequate domestic water is available to the Petition Area from a source other than DWS in order for the Planning Department to process the Change in Zoning Application, as the County was not accepting new applications for water meters in Upcountry Maui, and that the County would not supply potable water to the Petition Area.

7. When Pukalani purchased the Petition Area from Maui Land & Pineapple Company, Inc. (“MLP”) in 2005, MLP had agreed to allocate water to Petitioner from a well MLP was developing at Piholo. MLP and Petitioner both attempted to have DWS accept the Piholo well as an acceptable source of potable water on separate occasions. DWS rejected that well, most recently in March 2022, on the basis that the sustainable yield from the Piholo well was insufficient, and DWS’ infrastructure was then inadequate to support activating that well.

8. Petitioner met with Pukalani Country Club (an adjacent property owner) to discuss availability of potable water, but in 2015, Pukalani Country Club determined that it did not have water to provide any domestic water to Petitioner for the Petition Area.

9. Petitioner retained Tom Nance Water Resource Engineering, a hydrological engineer, to assess the availability of water resources to serve the Petition Area. Mr. Nance evaluated proposed water demand for the Project and groundwater conditions beneath the

Petition Area. In a report prepared in April 2017, Mr. Nance opined a well could be drilled in the Petition Area on Maui Tax Map Key No. 2-3-09:64 mauka of the portion of the Petition Area designated for residential development that could possibly generate sufficient potable water to serve the Project. However, it was later determined that this well had a higher chance that the water from a well in this location would most likely be non-potable.

10. In June 2020, Pukalani executed a letter of understanding with neighboring landowner Giampaolo Paul Boschetti to share the cost of developing a well on Boschetti's land in the vicinity of the Petition Area. After reaching that understanding Mr. Boschetti on his own has drilled and tested a pilot well and is currently developing a well on that property. Mr. Boschetti is also marketing that property for sale. It is my understanding that Pukalani Associates LLC is currently discussing the purchase of water from Mr. Boschetti upon completion of the well as a potable water source for the Petition Area.

11. On October 10, 2007, Petitioner, Pukalani STP, Co., Ltd., the prior owner of a wastewater treatment plant at Pukalani, Maui, and Hawaii Water Service Company, Inc. ("HWSC"), the current owner of the wastewater treatment plant, entered into an agreement to allocate 60,000 gallons per day (gpd) of the plant's then current capacity to the Project. On June 17, 2010, the Public Utilities Commission of the State of Hawaii ("PUC") issued a decision and order approving the application of HWSC and to expand HWSC's existing service area to provide wastewater collection and treatment services to the Petition Area. PUC approval of the expansion of the service area is a prerequisite to an agreement regarding wastewater treatment service and construction of wastewater transmission and treatment improvements.

12. On August 16, 2010, Pukalani and HWSC entered into a Sewer Service Extension Agreement, which is HWSC's will-serve commitment to provide wastewater treatment service to the Petition Area. Pukalani has paid HWSC approximately \$840,000 as a contribution in aid of construction ("CIAC") for HWSC's will-serve agreement to reserve service capacity for the Petition Area.

13. Petitioner must also provide an archeological monitoring plan (the "Monitoring Plan") with the Change in Zoning Application. Petitioner has retained Scientific Consultant Services, Inc. to prepare the Monitoring Plan. The Monitoring Plan must be approved by the State of Hawaii Department of Land and Natural Resources Historic Preservation Division ("SHPD"). The completion date for the Monitoring Plan will depend on the time required for SHPD to review and approve the Monitoring Plan.

14. Once Petitioner finalizes arrangements for potable water, Petitioner can complete and file a revised Change in Zoning Application. Upon receipt of the revised Change in Zoning Application, the Planning Department will solicit comments on the Change in Zoning Application from County of Maui and State of Hawaii departments and agencies and then prepare a recommendation on the Change in Zoning Application to the Maui Planning Commission. The Planning Commission will conduct a public hearing and provide a recommendation to the Maui County Council for final decision on the Change in Zoning Application. The Council must conduct a public hearing and approve the Change in Zoning Application as an Amendment to the Zoning Ordinance. Finally, the Mayor must approve the Amendment to the Zoning Ordinance. I anticipate that approximately 18 months to two years may be required to complete the Change in Zoning process to obtain an approval of the Amendment to the Zoning Ordinance after water service is obtained for the Project.

15. Following approval of the Amendment to the Zoning Ordinance, Petitioner must prepare update engineering design plans for the Petition Area in order to apply for preliminary subdivision approval. After the County of Maui Department of Public Works grants preliminary approval to the subdivision and issues the necessary grading permits, Petitioner may commence construction of the backbone infrastructure improvements for subdivision of the Petition Area. I estimate that at least five years will be required to obtain the necessary permits and to complete construction of the backbone infrastructure improvements for subdivision of the Petition Area.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawai'i, on May 15, 2026.

  
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JON GOMES

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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DOCKET NO. A05-760

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Motion for Extension of Time to Complete Construction of Infrastructure Improvements* has been duly served on the following parties at their last known addresses by hand delivery, electronic mail or depositing in the U.S. mail, postage prepaid on May 22, 2026.

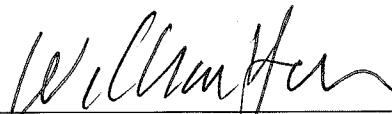
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DATED: Honolulu, Hawai'i, May 22, 2026.

  
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WILLIAM W.L. YUEN  
Attorney for Petitioner