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WAIKOLOA MAUKA, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land
Use District Boundaries into the
Rural Land Use District for
Approximately 731.581 Acres in
South Kohala District, Island of
Hawaii, Tax Map Key No. (3) 6-8-
02:016 (por.)

DOCKET NO. A06-767

PETITION FOR LAND USE DISTRICT
BOUNDARY AMENDMENT;
VERIFICATION; EXHIBITS "1" TO
"12"; CERTIFICATE OF SERVICE

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

VERIFICATION

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and

CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

BEFORE THE LAND USE COMMISSION

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In the Matter of the Petition of
WAIKOLOA MAUKA, LLC

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PETITION FOR LAND USE DISTRICT
BOUNDARY AMENDMENT

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

COMES NOW, WAIKOLOA MAUKA, LLC, a Delaware limited liability company, whose principal place of business is 120 Aspen Oak Lane, Glendale, California 91207 ("Petitioner"), and respectfully requests the Land Use Commission of the State of Hawaii ("Commission"), to amend the land use district classification of certain lands, hereinafter described, consisting of approximately 731.581 acres of land from the Agricultural district to the Rural district.

In support of Petitioner's request to amend the land use district classification of approximately 731.581 acres of land, Petitioner respectfully alleges and presents the following:

I
STANDING

Petitioner alleges standing to file this Petition for a Land Use District Boundary Amendment pursuant to section 15-15-46(3), Hawaii Administrative Rules ("HAR") and Section 205-4(a), Hawaii Revised Statutes ("HRS"), which entitles any person with a property interest in the land sought to be reclassified to petition the Commission for a district boundary amendment. Petitioner is the fee simple owner of the property subject to this Petition. See Article VI, Petitioner's Proprietary Interest in the Petition Area.

II
AUTHORIZED REPRESENTATIVES

The law firm of IMANAKA KUDO & FUJIMOTO has been appointed and is hereby authorized to represent Petitioner in its Petition for a Land Use District Boundary Amendment and the proceedings thereon pursuant to HAR § 15-15-35(b). Pursuant to HAR § 15-15-50(c)(2), all correspondence and communication with regard to this Petition shall be addressed to:

1. IMANAKA KUDO & FUJIMOTO
Attention: Benjamin A. Kudo, Esq./Naomi U. Kuwaye,
Esq./Stephanie G. Uechi, Esq.
Topa Financial Center, Fort Street Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813
Telephone: (808) 521-9500

2. Mr. Kevin C. Kellow, Manager
Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, California 91207
Telephone: (310)451-3700

III
AUTHORITY FOR RELIEF SOUGHT

This Petition is filed pursuant to HRS Chapter 205, as amended, and HAR Title 15, Chapter 15, as may be amended from time to time, and all other applicable statutes and rules. The Commission is authorized to grant the relief sought herein pursuant to the provisions of HRS Chapter 205, as amended, and all applicable statutes and rules promulgated and governing the Commission.

IV
COMMUNICATIONS AND SERVICE OF PROCESS

All papers, notices and pleadings required to be served upon Petitioner in this proceeding shall be addressed to and served upon Petitioner and the law firm of Imanaka Kudo & Fujimoto, as Petitioner's representative.

V
DESCRIPTION OF THE PETITION AREA

The land affected by this Petition consists of approximately 731.581 acres, which is a portion of one (1) tax map key ("TMK") parcel comprised of 2,443.734 acres. The TMK is situated in the Agricultural District in the South Kohala District, County of Hawaii, Island of Hawaii, State of Hawaii.

Specifically, the area to be reclassified is designated as TMK(3) 6-8-02:016 (por.) ("Parcel A"), ("Petition Area") as illustrated by the TMK map attached hereto as Exhibit "2" and incorporated herein by reference. It should be noted that a 0.689-acre parcel designated as TMK (3) 6-8-02:025 located in the northern region of Parcel A is the site of a Hawaii Electric Light Company, Inc. ("HELCO") substation. This parcel will be excluded from the Petition Area and will remain within the Agricultural district ("Exclusion"). The acreage of this Exclusion is not included in the Petition Area's approximate total acreage for purposes of this petition.

The Petition Area is located in the South Kohala District, on the west coast of the island of Hawaii. Located between Mamalahoa Highway and Queen Kaahumanu Highway, the Petition Area is approximately 36 miles north of Kailua-Kona and 18 miles south of Kawaihae. The site is south of the existing Waikoloa Village and bordered by Waikoloa Road on the east, Pua Melia Road to the north, Auwaiakeakua Gulch on the west, and undeveloped lands to the southeast. See Exhibit "1", Project Location Map, attached hereto and incorporated herein by reference. The Petition Area, indicated as Parcel A, is further described on the survey map, attached hereto as Exhibit "3" and incorporated herein by reference. Additionally, the metes and

bounds description of the Petition Area is attached hereto as Exhibit "4" and incorporated herein by reference.

Further detail and description of the Petition Area is contained in Petitioner's Environmental Impact Statement Preparation Notice ("EISPN"), which is attached hereto as Exhibit "5" and is incorporated herein by reference. Additional detail and description of the Petition Area will also be included in Petitioner's Environmental Impact Statement ("EIS").

VI

PETITIONER'S PROPRIETARY INTEREST IN THE PETITION AREA

The Petition Area is owned in fee simple, as a tenant in severalty, by the Petitioner. A true copy of the deed for the Petition Area is attached hereto as Exhibit "6" and is incorporated herein by reference. In addition, attached hereto as Exhibit "7" and incorporated herein by reference, pursuant to HAR § 15-15-50(c)(5)(C), is the affidavit of the Petitioner's authorized representative attesting to its compliance with the service of process requirements for HAR § 15-15-48(a).

VII

EXISTING USE OF THE PETITION AREA; ADJACENT LAND USES

A. Existing Use of the Petition Area

The Petition Area is currently within the Agricultural district and is zoned by the County of Hawaii ("County") as RA-1a (Residential-Agriculture) and Open (O). A map showing the

County zoning designations is attached hereto as Exhibit "8" and incorporated herein by reference.

The Petition Area is vacant and undeveloped and is currently utilized as a grazing area for livestock. A quarry site is in operation adjacent to but not within the Petitioned Area.

B. Adjacent Land Uses

The majority of adjacent lands that surround the Petition Area are within the Agricultural district. The only area designated Urban district is generally located to the northwest and west of the Petition Area in the vicinity of Waikoloa Village. These adjacent lands are currently zoned A-5a (Agriculture), O (Open), CV-10 (Village Commercial), RS-10 (Single-Family Residential), and RM-1.5, 2.5, and 3 (Multiple-Family Residential).

Land uses adjacent to the Petition Area include the residential and commercial uses of Waikoloa Village to the northwest. Surrounding areas to the east, south, and west of the Petition area are presently vacant and undeveloped.

VIII
RECLASSIFICATION SOUGHT AND PROPOSED USE AND DEVELOPMENT

A. Reclassification Sought

Petitioner respectfully requests the Commission to amend the present classification of the Petition Area from the Agricultural district to Rural district ("Proposed Action").

B. Proposed Action

The Proposed Action is being sought to allow for the development of the Waikoloa Highlands ("Project").

The Petitioner is proposing to subdivide the Petition Area into approximately 400 low-density, rural, residential lots, each a minimum of one (1) acre. The Project will also construct support infrastructure for the subdivision, including major access and circulation roadways, and provide water and electrical service. Existing water courses through the Project will remain unchanged.

The character of the Project will be complementary to and compatible with the existing residential and commercial uses at Waikoloa Village. Projected uses in the Petition Area include: low-density residential uses, open space recreational areas that provide for hiking, biking trails and paths, and other outdoor activities, or, in the alternative, a proposed golf course and related amenities. A Master Plan is attached hereto as Exhibit "9" and incorporated herein by reference.

IX
PROJECT TIMETABLE

Project development and implementation is scheduled to begin immediately following approvals of necessary land use amendments, subdivision, permits, and available funding. Petitioner proposes to develop the infrastructure improvements for the residential lots in two (2) phases. The first phase would consist of construction of roads, along with support infrastructure and utilities for approximately 149 residential lots, and the second phase would construct the infrastructure improvements for the remaining lots. Petitioner anticipates the first phase to commence in 2007, with an approximate one-(1)-year completion date. Improvements for the second phase are scheduled to begin upon completion of the first phase, with an approximate completion date of 2009. Full buildout of the Project is estimated to occur within a ten-(10)-year period.

X
IMPACTS ON RESOURCES OF THE AREA

At this time, Petitioner anticipates the customary impacts associated with development projects, including those relating to, but not limited to including noise and air quality impacts associated with increased vehicular traffic and construction activities, visual resources, traffic, and public infrastructure and services. A preliminary discussion of the resources in the

Petition Area is contained in the EISPN. See Exhibit "5", Sections 3.2 through 3.8.

The Project is not likely to adversely impact resources such as archaeological and cultural resources, biological resources (flora and fauna), and agricultural capability.

Additional details regarding the Project's impacts on the resources of the area will be provided as such information becomes available through studies conducted in conjunction with the preparation of the Petitioner's EIS.

XI

AVAILABILITY OF INFRASTRUCTURE AND PUBLIC SERVICES

The Project would generate additional demand on existing transportation infrastructure and systems (e.g. potable water, wastewater, drainage, electrical power, and solid waste disposal), as well as public facilities and services (e.g., police, fire, and emergency services). The Project will include mitigation measures such as improvements to roadways and intersections in the vicinity of the Petition Area.

Additional details regarding the Project's impacts on the availability of infrastructure and public services in the area will be provided as such information becomes available through studies conducted in conjunction with the preparation of the Petitioner's EIS.

XII
ECONOMIC IMPACTS

The Project can be expected to generate additional county and state revenues due to increases in the levels of real property, gross excise and personal income taxes collected. Additionally, the Project can be expected to have beneficial impacts on employment during the development and operational phases of the Project.

Additional details regarding the Project's economic impacts will be provided as such information becomes available through studies conducted in conjunction with the preparation of Petitioner's EIS.

XIII
OTHER PROPOSED PROJECTS

On-going projects in the immediate vicinity of the Petition Area include: Castle & Cooke's Wehilani Project, consisting of 733 townhouses and lots; Waikoloa Ma Lai's proposed 570- to 650-residential lot subdivision; Waikoloa Homesites Ventures' proposed 195-lot subdivision; and the County/UniDev's workforce housing project consisting of a projected 1,000 to 2,000 homes. Of these, Castle & Cooke's project is the only one that has commenced construction. All of the proposed projects are located west and northwest of the Petition Area in Waikoloa Village.

XIV
PETITIONER'S FINANCIAL CONDITION

Evidence of Petitioner's financial condition in the form of its Financial Statement is attached hereto as Exhibit "10", and incorporated herein by reference. The Petitioner intends to use four (4) million dollars in funds held by Morgan Stanley for pre-development costs for the Project. In addition, the Petitioner plans to use proceeds from sales of its properties to fund the Project. In conjunction with sale proceeds, Petitioner will also obtain funding from Arch, Ltd., one of the Petitioner's members.

XV
AFFORDABLE HOUSING

Petitioner intends to meet its obligation of providing affordable housing according to the standards required under Hawaii's affordable housing policy, codified as Chapter 11, Article 1 of the Hawaii County Code, prior to receipt of final subdivision approval, pursuant to County of Hawaii Ordinance No. 95-157.

XVI
STANDARDS FOR DETERMINING THE
BOUNDARIES OF A "RURAL" DISTRICT

The Proposed Action is consistent with the standards for determining boundaries of the Rural district pursuant to HAR § 15-15-21. These standards are as follows:

- (1) Areas consisting of small farms; provided that the areas need not be included in this district if their inclusion will alter the general characteristics of the areas;
- (2) Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single-family dwelling per one-half acre in areas where "city-like" concentration of people, structures, streets and urban level of services are absent, and where small farms are intermixed with the low-density residential lots; and
- (3) It may also include parcels of land which are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses

Legislative intent behind the creation of Rural districts is also a valuable interpretive tool to determine what type, nature and other aspects of development are appropriate for the Rural district. In 1963, it appeared that the legislature first created Rural districts for lands that could not technically "fit" within Urban or Agricultural designations. See JOHN M. DEGROVE, LAND GROWTH & POLITICS 15-16 (1984). The legislative intent behind the creation of Rural districts was to prevent urban sprawl by establishing low-density residential areas that contrasted from the concentrations of people and structures found in urban centers. Further, the requisite minimum lot size of one-half ($\frac{1}{2}$) acre was imposed to discourage the urbanization of these Rural districts. Sen. Conf. Comm. Rep. No. 839, in 1977 Senate Journal, at 1218-19.

Overall, it appears that Rural districts are separate and distinct from Urban areas as they grant relief from the concentration of people, structures, infrastructure, and service levels in urban centers; as well as Agricultural districts in that single-family dwellings need not be connected in any way to agriculture.

The proposed Project meets the aforementioned criteria and legislative intent behind Rural districts and is appropriate for the district. The Project is conceptualized as a low-density residential community of approximately 400 lots that are no less than one (1) acre in size. The rural feel of the Petition Area will be characterized by its low-residential densities, preservation of natural systems through minimizing and avoiding alteration of natural drainageways and contours, and open spaces allowing for a variety of recreational uses and scenic vistas.

As mentioned above, the Petition Area is nestled between lands classified as Urban at its northwest and west borders, with the remaining lands in the Agricultural district. The Petition Area will serve as an appropriate transitional area between the Urban and Agricultural districts and corresponding uses. Even with the future development of Waikoloa Village and other surrounding areas, these rural districts can remain as pockets of low-density residential communities, granting relief from bordering high-density Urban districts.

In addition, the Petition Area is suited for a rural development as it is not highly productive agricultural land, according to the Land Study Bureau ("Bureau"). Specifically, the Petition Area falls within lands classified "E", meaning they are only marginally suitable for agricultural use. As such, a low-density residential development would be a suitable blend with surrounding residential and commercial areas.

Reclassification of the Petition Area to the Rural district would permit the Petition Area to conform to the surrounding land uses and would permit the proposed rural development. A detailed discussion of the conformity of the Petition Area to the Rural district standards (as set forth in HAR § 15-15-21) will be contained in the Petitioner's EIS.

XVII
CONFORMANCE WITH THE HAWAII STATE PLAN

Based upon the facts, data and information contained in this Petition and the exhibits attached hereto, and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the Project is consistent with the Hawaii State Plan ("State Plan") as set forth in HRS Chapter 226, as amended, which is a guide for future long-range development for the state.

The Project generally conforms to the applicable goals, objectives and policies of the State Plan, and applicable

priority guidelines and functional plan policies. A preliminary discussion of the Project's conformance with the State Plan is included in the Petitioner's EISPN. See Exhibit "5", Sections 4.2 and 4.2.1. Further explanations and a more detailed description of the conformance of the Project will be contained in Petitioner's EIS.

XVIII
CONFORMANCE WITH COUNTY OF HAWAII
GENERAL PLAN

Based upon the facts, data and information contained in this Petition and the exhibits attached hereto, and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the Proposed Action is consistent with the applicable goals, policies and standards of the County of Hawaii General Plan (2005).

A preliminary discussion of the Project's conformance with the above-mentioned plans is included in the Petitioner's EISPN. See Exhibit "10", Sections 4.3.1 and 4.3.2. Further explanations and a more detailed description of the conformance of the Project will be contained in Petitioner's EIS.

XIX
CONFORMITY WITH CHAPTER 205A

The purpose of the Hawaii Coastal Zone Management Program ("HCZMP") is to establish guidelines for the use, protection and development of resources within the coastal zone. Development

activities in the coastal zone must conform to the HCZMP objectives and policies, as outlined in HRS Chapter 205A. The HCZMP is supplemented by the County's Special Management Area ("SMA") that controls development along the shoreline and generally requires a permit from the County for activities in the SMA. The Petition Area is not located within the County SMA.

A preliminary discussion of the Project's conformance with the above-mentioned HCZMP is included in Petitioner's EISPN. See Exhibit "5", Section 4.3.4. Further explanations and a description of the conformance of the Proposed Action with the HCZMP and HRS Chapter 205A will be discussed in Petitioner's EIS.

XX

IMPACTS ON NATIVE HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

The Project is expected to have little or no impact on Hawaiian culture, practices and traditions. Furthermore, the Project would not adversely impact established rights of native Hawaiians who have customarily and traditionally used the Petition Area for (1) subsistence, cultural and religious practices or (2) access to other areas in order to exercise those practices.

As part of the Petitioner's EIS, a cultural impact assessment study will be conducted to assess the current situation and to ensure compliance with HRS Chapter 343.

XXI

NOTIFICATION OF PETITION FILING

Attached as Exhibits "11" and "12", respectively, and incorporated herein by reference, are the true and correct copies of the notification of the filing of this Petition and the affidavit attesting to Sending of the Notification of Petition Filing required by HAR § 15-15-50(d).

XXII

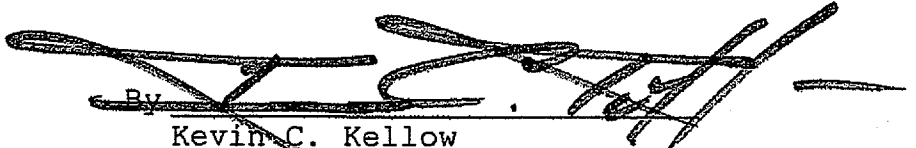
**REASONABLENESS OF AND COMPLIANCE WITH
REQUIREMENTS FOR BOUNDARY AMENDMENTS**

In accordance with HAR § 15-15-77 and HRS § 205-4(h), and based upon the facts, data and information submitted herein and contained in this Petition and Exhibits "1" to "12" and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the land use district boundary amendment requested in this Petition is reasonable, not violative of HRS § 205-2, as amended, and is consistent with the provisions of HRS §§ 205-16, 205-17 and 205A-2 and Chapter 226, as amended.

Petitioner prays for an Order Amending the Land Use District Boundary of the Petition Area from the Agricultural district to the Rural district.

DATED: Honolulu, Hawaii, June 28, 2006.

WAIKOLOA MAUKA, LLC, a Delaware
limited liability company

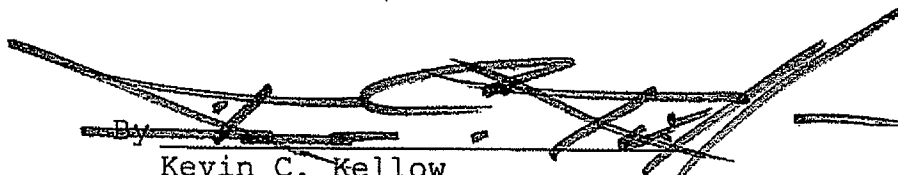

By _____
Kevin C. Kellow
Manager

VERIFICATION


STATE OF California)
) SS.
COUNTY OF Los Angeles)

I, KEVIN C. KELLOW, being duly sworn on oath depose and say that I am the Manager of WAIKOLOA MAUKA, LLC, and as such am authorized to make this verification on behalf of the Company, that I have read the foregoing Petition and have full knowledge of the contents thereof, and that the same are true to the best of my knowledge, information and belief.

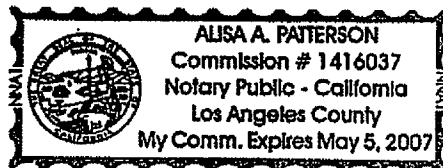
WAIKOLOA MAUKA, LLC


By _____
Kevin C. Kellow
Its Manager

Subscribed and sworn to before me this 27th day of June, 2006, by Kevin Kellow, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me, ALISA A. PATTERSON


Notary Public, State of California

ALISA A. PATTERSON
Printed Name



My commission expires: 5/5/07

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that the foregoing PETITION FOR LAND USE
DISTRICT BOUNDARY AMENDMENT; VERIFICATION; EXHIBITS "1" TO "12";
CERTIFICATE OF SERVICE were duly served by certified mail or
personally served to each of the following persons on the 28th
day of June, 2006 addressed as follows:

State of Hawaii
Department of Business, Economic
Development and Tourism
OFFICE OF PLANNING
Attn: Ms. Laura Thielen, Director
State Office Tower, 6th Floor
235 South Beretania Street
Honolulu, Hawaii 96813

HAND DELIVERY

Department of Business, Economic
Development and Tourism
OFFICE OF PLANNING
Attn: Mr. Abe Mitsuda
State Office Tower, 6th Floor
235 South Beretania Street
Honolulu, Hawaii 96813

HAND DELIVERY

State of Hawaii
DEPARTMENT OF THE ATTORNEY GENERAL
Attn: Mark Bennett, Esq.
Hale Auhau
425 Queen Street
Honolulu, Hawaii 96813

CERTIFIED MAIL

County of Hawaii
PLANNING DEPARTMENT
Attn: Mr. Chris Yuen
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

CERTIFIED MAIL

County of Hawaii
PLANNING COMMISSION
Attn: Mr. Norman Hayashi
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

CERTIFIED MAIL

County of Hawaii
DEPARTMENT OF THE CORPORATION COUNSEL
Attn: Bobby Jean Leithead-Todd, Esq.
Hilo Lagoon Centre
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

CERTIFIED MAIL

Mr. Kevin C. Kellow
Manager
Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, California 91207

CERTIFIED MAIL

Parker Ranch, Inc.
P.O. Box 458
Kamuela, Hawaii 96745

CERTIFIED MAIL

Time Warner Entertainment Company, L.P.,
dba Sun Cablevision
74-5605 Luhia Street
Kailua-Kona, Hawaii 96745

CERTIFIED MAIL

Edwin DeLuz Trucking & Gravel, L.L.C.
P.O. Box 406
Pauuilo, Hawaii 96776

CERTIFIED MAIL

Hawaii Electric Light Company, Inc. CERTIFIED MAIL
P.O. Box 1027
Hilo, Hawaii 96720

Transcontinental Development Co. CERTIFIED MAIL
Pauahi Tower, Suite 2610
1001 Bishop Street
Honolulu, Hawaii 96813

Waikoloa Village Association CERTIFIED MAIL
P.O. Box 3008
Waikoloa, Hawaii 96738

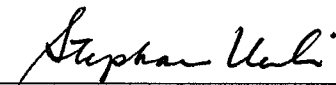
GTE Hawaiian Telephone Company CERTIFIED MAIL
Incorporated
P.O. Box 2200
Honolulu, Hawaii 96841

Waikoloa Water Co., Inc., CERTIFIED MAIL
dba West Hawaii Water Company
150 Waikoloa Beach Drive
Waikoloa, Hawaii 96743

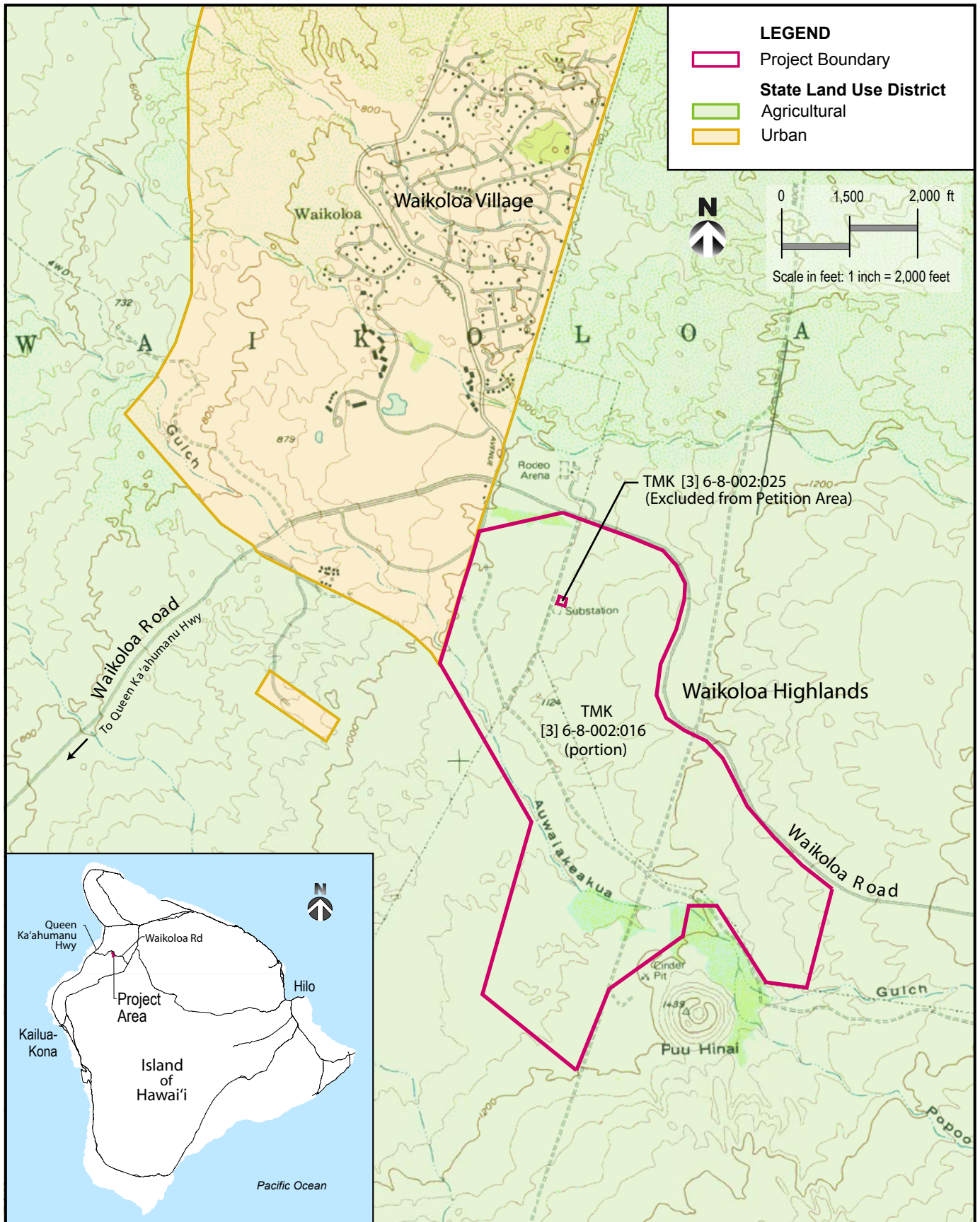
Waikoloa Sanitary Sewer Co., Inc., CERTIFIED MAIL
dba West Hawaii Sewer Company
150 Waikoloa Beach Drive
Waikoloa, Hawaii 96743

Waikoloa Development Co. CERTIFIED MAIL
Suite 2880, Pacific Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Of Counsel:
IMANAKA KUDO & FUJIMOTO
A Limited Liability Law Company



BENJAMIN A. KUDO
NAOMI U. KUWAYE
STEPHANIE G. UECHI
Attorneys for Petitioner
WAIKOLOA MAUKA, LLC



**Waikoloa Highlands
Project Location Map**

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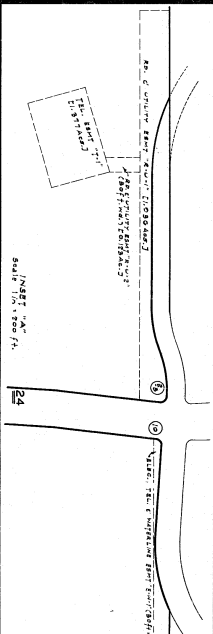
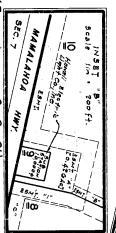
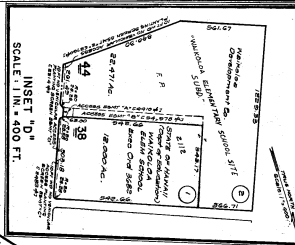
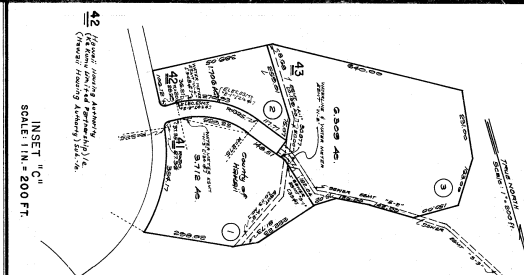
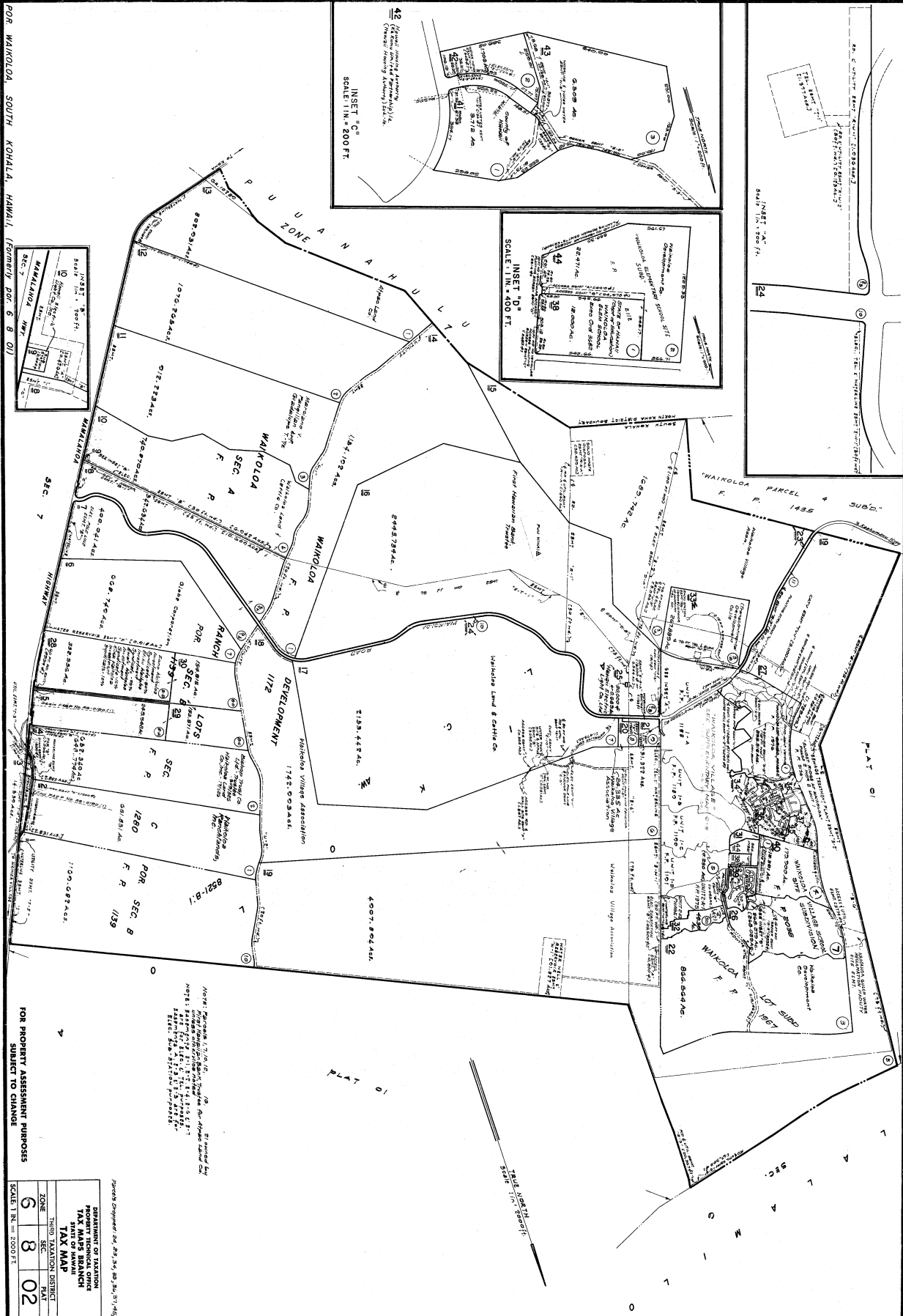
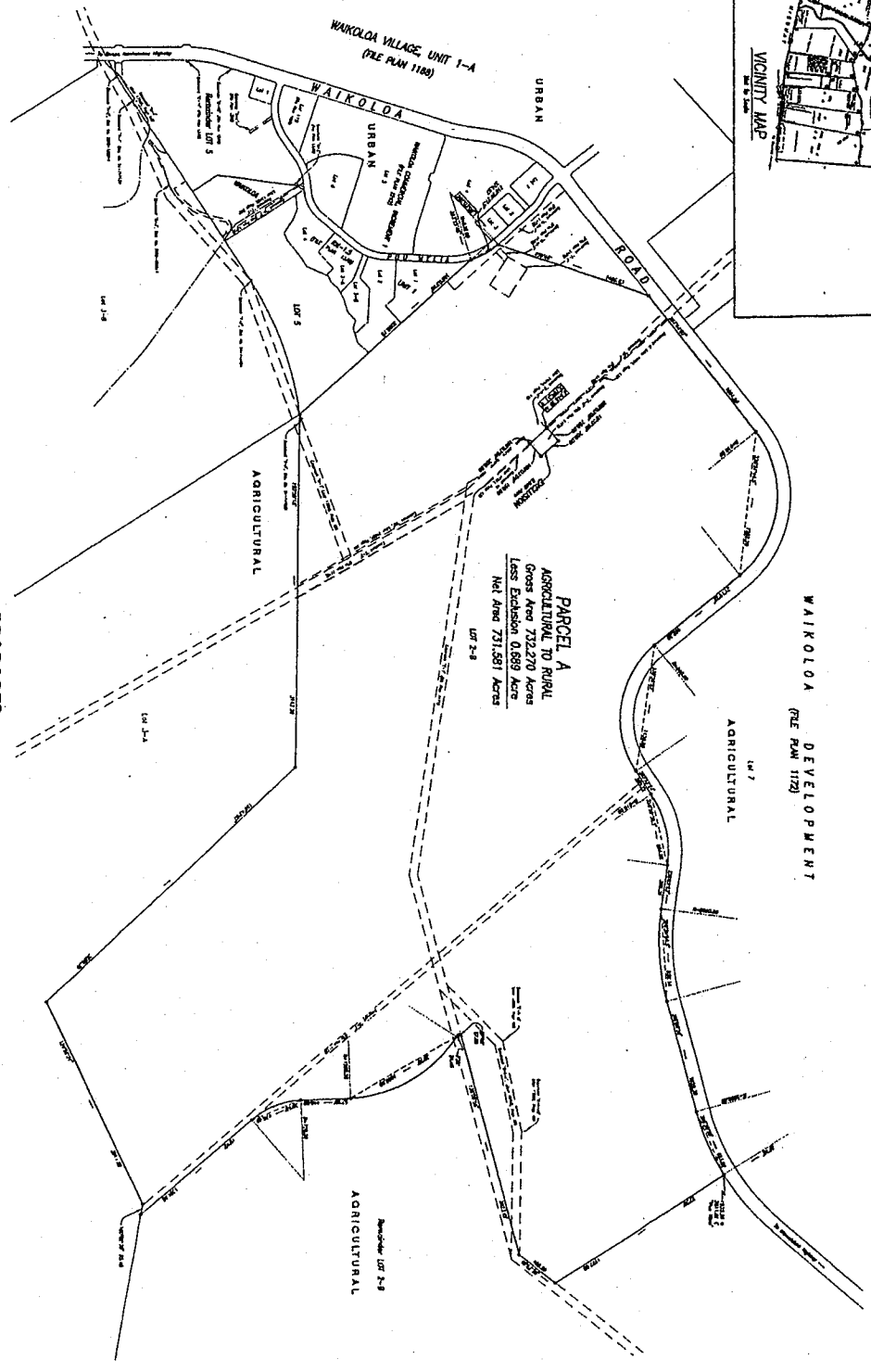
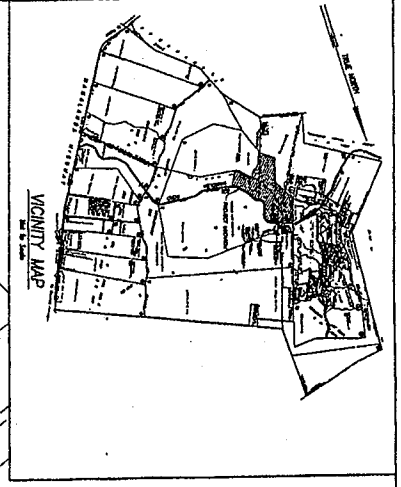


Exhibit "2"

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

SCALE 1 IN. = 2000 FT.
DEPARTMENT OF TAXATION PROPERTY ASSESSMENT DIVISION TAX MAPS BRANCH TAX MAP
ZONE 6 8 02

Revised September 17, 1970. (S) 34-340-34-34-145



**PROPOSED
AMENDMENT TO LAND USE BOUNDARY**
BEING A PORTION OF ROYAL PATENT 5671, LAND COMMISSION AWARD 8521-8,
APNAL 1 TO G. D. HUEI

At Waikoloa, State of Hawaii, County of Hawaii, Hawaii

Owner: Waikoloa Hotel, LLC
Address: 120 Airport Circle, Suite 100
Waikoloa, HI 96791

For Map Paper (See Division) 6-4-22718



SEA TOWELL CORPORATION
1000 Kalia Road, Suite 1000
Honolulu, Hawaii 96813
Phone: (808) 955-1111
Fax: (808) 955-1112

Exhibit "3"

**PREPARATION NOTICE
FOR AN ENVIRONMENTAL IMPACT STATEMENT**

Prepared in Accordance with Requirements of Chapter 343, Hawai'i Revised Statutes

**WAIKOLOA HIGHLANDS
State Land Use Boundary Amendment
South Kohala District, Island of Hawaii**

TMK (3) 6-8-002: 016 (por.)

June 27, 2006

Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, CA 91207

Exhibit "5"

**PREPARATION NOTICE
FOR AN ENVIRONMENTAL IMPACT STATEMENT**

**WAIKOLOA HIGHLANDS
State Land Use Boundary Amendment
South Kohala District, Island of Hawaii
TMK (3) 6-8-002: 016 (por.)**

June 27, 2006

APPLICANT:
Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, CA 91207

PREPARED FOR:
State Land Use Commission
State of Hawai'i

PREPARED BY:
R.M. Towill Corporation
420 Waiakamilo Road, Suite 411
Honolulu, Hawai'i 96817-4941
1-20709-0P

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1. Introduction

1.1 Project Summary Information

Project Name	Waikoloa Highlands
Applicant/Petitioner	Waikoloa Mauka, LLC Kevin C. Kellow, Manager 120 Aspen Oak Lane Glendale, CA 91207
EIS Preparer	R.M. Towill Corporation Chester T. Koga, Project Manager 420 Waiakamilo Road, Suite 411 Honolulu, Hawaii 96817-4950
Request to State Land Use Commission	Petition for Land Use District Boundary Amendment from the Agricultural District to the Rural District
EIS Accepting Authority	State of Hawaii Land Use Commission
Tax Map Key	TMK (3) 6-8-002:016 (por.)
Size of Project Area	731.581 acres
Project Location	South Kohala District, Island of Hawaii
Landowner	Waikoloa Mauka, LLC
Project Description	Infrastructure improvements and subdivision of property into approximately 400 low-density, rural residential lots. Each lot will be a minimum of one-acre in size.
Existing Uses	Undeveloped
Zoning Designation	Residential-Agriculture (RA-1a); Open (O)
Special Management Area/Shoreline Setback Area	No
Flood Zone	Zone X, areas outside of 500-year flood plain

1.2 Proposed Action

The proposed action is to subdivide and construct infrastructure improvements for a new 731.581-acre property in the South Kohala District, Island of Hawai'i (Figure 1). The property is located southeast of Waikoloa Village, an existing residential and commercial area. The proposed subdivision will create approximately 400 low-density, rural residential lots, each a minimum of one-acre in size. The project will also construct major roadways within the subdivision and provide water and electrical service to the property. Existing water courses through the subdivision will remain unchanged. Increases in surface runoff due to increased impervious areas will be addressed on-site through detention basins.

Access to the subdivision will be from two points along Waikoloa Road. An internal spine road will connect the two access points, and connect to smaller collector roads within the subdivision. All roads will be designed to applicable County standards. The proposed residential lots are oriented in relation to site topography, the open space element and views to the mountains and shoreline (Figure 2).

1.3 Purpose and Need for Action

The purpose of the proposed action is to create a low-density, rural subdivision in the Waikoloa Village area of South Kohala. The proposed residential development is compatible with, and a logical extension of the nearby residential and commercial uses at Waikoloa Village.

In order to create this rural subdivision, the landowner is seeking a State Land Use District Boundary Amendment, from the Agricultural District to the Rural District. According to the State Land Use Commission ("Commission") Rules, the Agricultural District designation is intended for lands "with a high capacity for agricultural production" with "significant potential for grazing" or "surrounded by or contiguous to agricultural lands." Hawaii Administrative Rules ("HAR") §15-15-19. By comparison, standards for the Rural District include "areas consisting of small farms," "activities or uses as characterized by low-density residential lots...and where small farms are intermixed with the low-density residential lots." HAR §15-15-21.

The subject property is not considered high-capacity agricultural land typical of the Agricultural District. Surrounding land uses are those of Waikoloa Village and are commercial and residential in nature, rather than active agricultural areas. As such, a Rural District Designation would be more appropriate for the proposed low-density subdivision, and would be compatible with existing uses in the Waikoloa area.

1.4 Purpose of the EISPN and Environmental Impact Statement

An Environmental Impact Statement (“EIS”) is being prepared in support of the Land Use District Boundary Amendment petition submitted by the Waikoloa Mauka, LLC (“Petitioner”) to the Commission.

The State of Hawaii environmental review procedures and requirements are delineated in Chapter 343, Hawaii Revised Statutes (“HRS”), Act 241, Session Laws of Hawaii (“SLH”) 1992, and Chapter 200 of Title 11, Department of Health (“DOH”) Administrative rules, “Environmental Impact Statement Rules.”

The EIS is being prepared pursuant to HRS Chapter 343-5(a)(1) as the project will involve the use of State or County lands, which include, but is not limited to connection of planned roadways to existing (County/State) roads.

Although the proposed subdivision would be rural in character, there is the potential for significant environmental impacts because of the number of residential lots (approximately 400 lots) envisioned. The Petitioner will prepare an EIS in accordance with Chapter 343, HRS, as part of its petition. This EIS Preparation Notice (“EISPN”) defines the scope of analysis that will be covered in the subsequent Draft Environmental Impact Statement (“DEIS”).

Waikoloa Highlands

EIS Preparation Notice

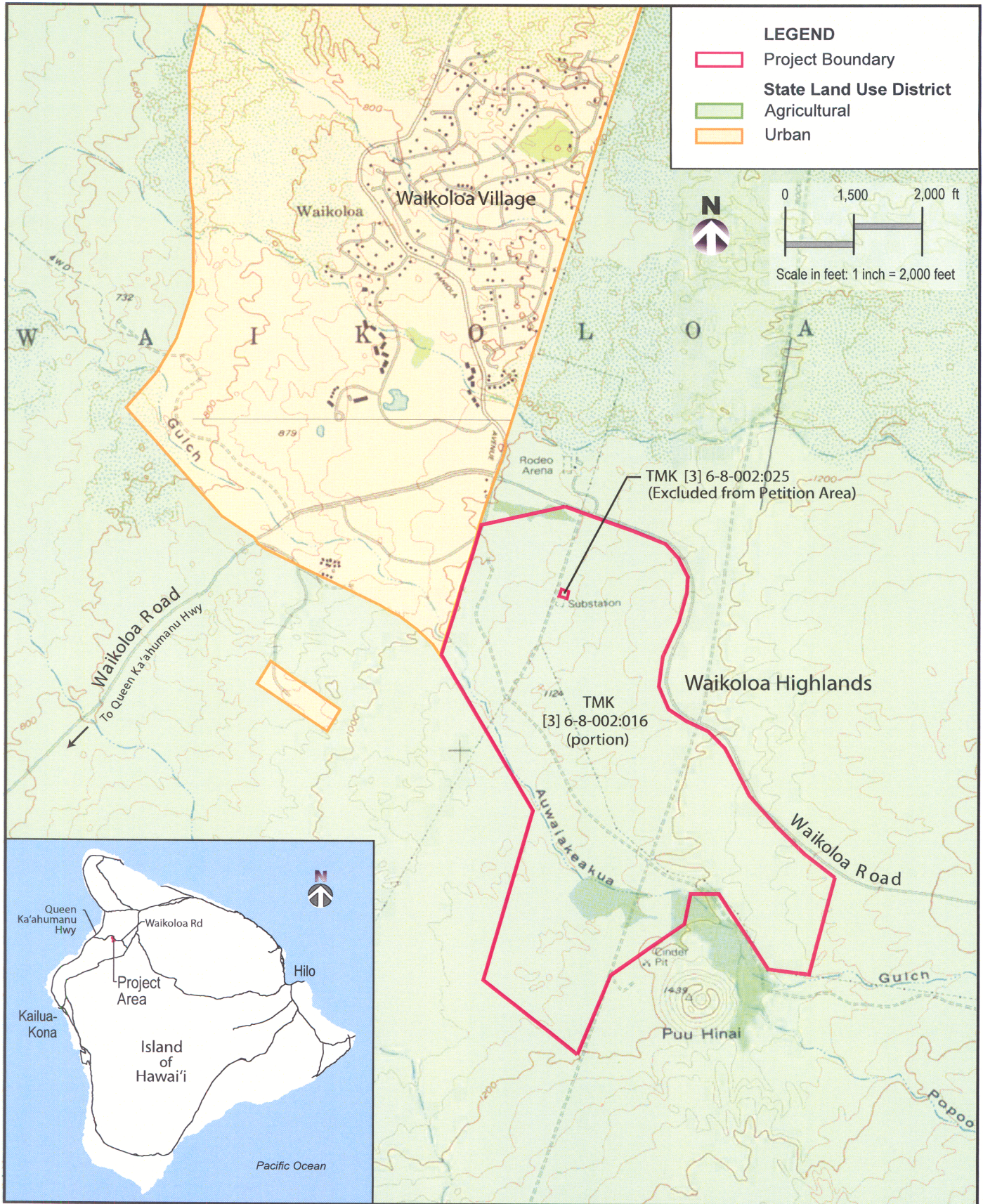


Figure: 1
LOCATION

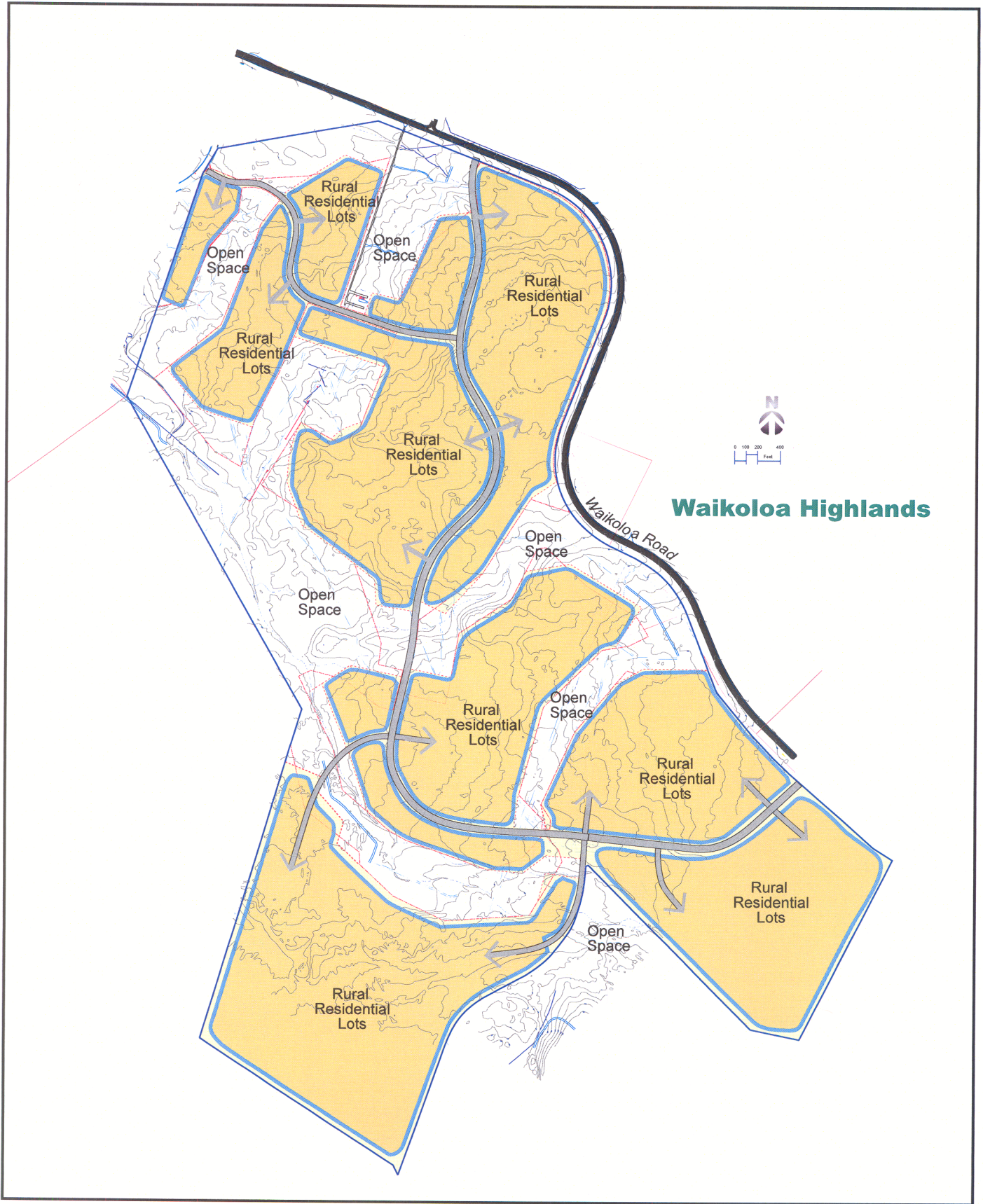


Figure: **2**
SITE PLAN

This EISPN is being filed with the Hawaii State Office of Environmental Quality Control ("OEQC"). All stakeholders and interested parties are invited to come forth with ideas for purpose and need, alternatives, alternative selection criteria, environmental concerns, suggestions for outreach, and other information relevant to the planning process. All comments received will be addressed in the DEIS.

Those who wish to be involved in the planning process and kept informed of its progress and planning-related events may ask to be placed on the project mailing list. Please contact:

Mr. Chester T. Koga, Project Manager
R.M. Towill Corporation
420 Waiakamilo Road, Suite 411
Honolulu, Hawaii 96817-4950
(808) 842-1133
ChesterK@rmtowill.com

1.5 Draft and Final Environmental Impact Statements

The DEIS to be prepared for this project will describe the alternatives being considered and discuss potential impacts of the preferred alternative.

Upon completion of the DEIS, a Notice of Availability ("NOA") will be published and a 45-day public review period will commence. Written review comments will be solicited and incorporated into a Final Environmental Impact Statement ("FEIS"). Upon completion of a FEIS, an NOA of the FEIS will be published in the OEQC *Environmental Notice*, initiating a 30-day public review period. The FEIS will be submitted to the Commission as part of the project's Petition for a Land Use District Boundary Amendment.

1.6 List of Possible Permits, Approvals, and Requirements for Regulatory Compliance

The permits, processes, reviews and approvals that may be required for the project include:

State of Hawaii

- Land Use District Boundary Amendment
- Chapter 343 HRS, environmental review process
- Department of Health
 - Noise permit during construction
 - National Pollutant Discharge Elimination System (“NPDES”) Permit
- Chapter 6E, HRS consultation, State Historic Preservation Division
- Act 50 (April 26, 2000), Cultural Impact Assessment

County of Hawaii

- Subdivision Approvals
- Grading Permits
- Building Permits

2. Alternatives Considered

The DEIS will discuss a full range of reasonable alternatives that would meet the project objectives, as well as the no action alternative. The alternatives to be discussed include:

1. No Action
2. Proposed Action: Low-Density Residential Lots
3. Low Density Residential Lots (alternative layouts)
4. Golf Course with Residential Estate Lots

The No Action alternative would retain the project in its current undeveloped state. It would not meet the project objective to develop a high quality, low-density, rural residential subdivision in the Waikoloa area.

The proposed action would subdivide the property and provide infrastructure improvements for development of approximately 400 rural residential lots, a minimum one-acre in size. The proposed action also includes construction of project roadways and provision of utility connections.

Alternatives layouts for a similar rural residential subdivision will be discussed, including options with smaller (half-acre) and larger minimum lot sizes. Another alternative is development of a golf course (allowed by the existing zoning) with residential estates surrounding the golf course.

These alternatives will be discussed in more detail in the DEIS.

3 Existing Environment, Impacts and Mitigation

3.1 Introduction

This chapter identifies the resource areas that will be addressed in the DEIS, describes the scope of the DEIS analysis and identifies some of the anticipated environmental issues. Because much of the environmental analysis has not yet been completed, this document does not discuss project impacts, whether the impacts will be significant, or potential mitigation.

In addition to describing existing conditions, the DEIS will evaluate the environmental impacts of the alternatives on the various resource areas. The resource areas to be covered are organized into five categories: 1) physical environment, 2) biological environment, 3) archaeological, historic and cultural environment, 4) socio-economic environment and 5) public facilities and services.

Input on additional issues and concerns, as well as on the study methodologies proposed in this chapter, is requested.

3.2 Physical Environment

3.2.1 Location

The Waikoloa Highlands site is located adjacent and mauka of Waikoloa Village, in the South Kohala District, on the west coast of the Island of Hawaii. The site is located between Mamalahoa Highway and Queen Kaahumanu Highway, approximately 36 miles north of Kailua-Kona and 18 miles south of Kawaihae. It is mauka of Waikoloa Village and defined by Waikoloa Road on the east, by Pua Melia Road to the north, Auwaiakeakua Gulch on the west, and undeveloped lands to the southeast.

The project site is 731.581 acres in size, and designated as TMK 6-8-02:016 (por.). It is a portion of a 2,443.734-acre parcel designated as TMK 6-8-02:016, which is owned in fee by Waikoloa Mauka, LLC.

The DEIS will provide information on major landowners in the area, and existing and future land uses.

3.2.2 Topography, Geology, and Soils

The site is currently vacant and undeveloped. The site terrain is characterized by gentle, rolling, grass-covered hills cut by several dry stream beds with occasional kiawe, wiliwili, and castor bean trees. The slopes on the property generally range from 5 to 10

percent, with the exception of the steeper slopes of the drainage gulches. Elevations range from 900 feet above mean sea level near the northwestern boundary to 1,150 feet near the southeastern boundary.

3.2.3 Hydrology

Existing drainage conditions at the project site consist of several natural drainageways, which connect with Auwaiakeakua Gulch, the main drainageway transporting storm runoff from the area above the project site to the Puako flats downstream. Although the annual rainfall at the project site is relatively low, 10 to 15 inches, the 100-year flood flows for Auwaiakeakua Gulch and one of the natural drainageways are significant because of their large tributary areas. The area is currently designated Zone X, areas outside of the 500-year flood plain) according to the Federal Emergency Management Agency ("FEMA") Flood Insurance Rate Map ("FIRM") (Panel 1551661NDOA, April 2004).

A drainage study is currently being updated for the project by R.M. Towill Corporation. The drainage study will assess existing drainage conditions and recommend drainage improvements for the proposed subdivision. The study determines the design 100-year storm flows and the floodplain limits for the major flood routes that originate off-site and pass through the project site. The drainage basin that the proposed project is in encompasses approximately 54 square miles. The DEIS will include flood and drainage information, identify how the proposed development will impact area hydrology, and discuss proposed drainage improvements.

3.2.4 Climate and Air Quality

The Waikoloa area is dry and sunny, with a mean annual temperature of 78 degrees Fahrenheit, with relatively small daily and seasonal fluctuations. Daily highs generally range from 77 to 85 degrees and daily lows from 65 to 70 degrees Fahrenheit. Average annual rainfall is approximately 10 to 15 inches, with the majority of rain falling during the winter months.

The closest Department of Health air quality monitoring station is in Captain Cook, south of Kailua-Kona. This station measures sulfur dioxide (SO₂) only. Volcanic eruptions are the most significant factor affecting air quality on the island. In addition to particulates, volcanic emissions contain substantial amounts of mercury and sulfur dioxide. In addition, volcanic haze and gas can accumulate on the leeward side of Mauna Kea when winds are light and variable.

The development of an approximately 400 lot subdivision in the Waikoloa area has the potential for localized air quality impacts—during construction due to grading and earth moving activity, and long-term due to vehicle emissions. These localized impacts will be discussed in the DEIS.

3.2.5 Natural Hazards

Natural hazards that could occur in the project area include volcanic eruptions, earthquakes, hurricanes and floods.

The U.S. Geological Survey ("USGS") has prepared volcanic hazard maps that divide the island into zones that are ranked from 1 through 9 based on the probability of coverage by lava flows. Zone 1 is the area of greatest hazard, and Zone 9 the area of least hazard. The project site is located in Lava Hazard Zone 3.

The volcanic hazard map does not account for other direct hazards from eruptions, such as tephra fallout and ground cracking and settling, but these hazards also tend to be greatest in the areas of highest hazard from lava flows.

According to the USGS, defining hazard zones for the effects of earthquakes is more difficult than for eruptions and has not been attempted for the Island of Hawaii. The island experiences thousands of earthquakes each year; most so small that they are only detectable by instruments. Most of Hawaii's earthquakes are directly related to volcanic activity and are caused by magma moving beneath the earth's surface. These earthquakes tend to be concentrated beneath Kilauea and Mauna Loa, the island's active volcanoes, particularly their south flanks and in the region between them.

The DEIS will discuss natural hazards in the area and their impact on the proposed project.

3.2.6 Man-Made Hazards

The project site is within a former U.S. military training camp and artillery range in West Hawaii that is known to have remaining unexploded ordnance ("UXO"). During and after World War II, the military utilized approximately 123,000 acres in and around Waikoloa, Waimea/Kawaihae, and the Kohala Coast resort area. The area today remains littered with related debris including UXO, which has resulted in civilian deaths and injuries.

In 2002, the U.S. Army Corps of Engineers conducted a study that estimated the total clean-up cost in excess of \$600 million. The areas of highest potential risk were identified as those immediately adjacent to Waikoloa and parts of Waimea on down to Kawaihae. A comprehensive plan for cleaning up those high-risk areas has been completed and submitted to the Secretary of the Army. Cleanup by the Army is underway, although only a portion has so far been completed.

There is a potential that UXO and other military debris could be found on the property during on-site work. More detail on the Army's findings and proposed clean-up activities will be provided in the DEIS.

3.2.7 Noise

Noise impact associated with the project includes short-term impact associated with the construction of roadways and installation of utilities. Long-term impacts associated with the project are generally attributed to increased traffic volumes. These impacts will be discussed in the DEIS.

3.3 Biological Resources

3.3.1 Flora and Terrestrial Fauna

A botanical and terrestrial fauna survey of the project site is being conducted by Rana Productions, Inc. and the results will be included in the DEIS. Previous botanical and terrestrial fauna surveys of the project area were conducted by Char and Associates and Philip L. Bruner in 1988. The botanical study found that none of the plant species noted in the general area is listed as endangered or threatened, on or proposed for endangered status. Vegetation varies from rolling grasslands with widely scattered trees to savannah scrubland. Nearly 90 percent of 46 species of vascular plants found growing in the area were exotic or non-native weeds.

The terrestrial fauna survey likewise found no threatened or endangered species. Avian species included a typical array of exotic species such as the ring-necked pheasant, California quail, Japanese quail, and the house sparrow. No native birds were recorded. The only mammals observed in the area were small Indian mongoose, dogs and goats.

The results of the updated flora and terrestrial fauna surveys are expected to be similar to the earlier studies.

3.4 Archaeological, Historical, and Cultural Resources

3.4.1 Archaeological

An Evaluation of Archaeological Potential at the subject site was conducted in April 2006 (Cultural Surveys Hawaii). That study cited two previous archaeological inventory surveys of the project area—one conducted by Peter Jensen of Paul H. Rosendahl, Ph.D., Inc. in 1990, and another by Robert F. Bevacqua in 1972. A letter from Mr. Don Hibbard of the State Historic Preservation Division (“SHPD”) dated 4/17/1990 stated that the Jensen (1990) study “adequately documents the survey findings.” Cultural Surveys Hawaii followed up with Ms. Mary Anne Maigret, Hawaii Island archaeologist with the SHPD, who confirmed that additional work was not necessary, and that the SHPD could maintain its earlier acceptance of the Jensen report.

The Jensen study involved a low level aerial reconnaissance of the entire project area, during which one site was identified. Subsequent pedestrian sweeps were carried out in three portions of the project area deemed particularly sensitive.

The Jensen study identified one archaeological feature, a wall segment identified as Site T-1. The wall of unknown function was 2.5 meters long with a maximum height of 1.21 meters. The T-1 feature was so modest that no State Inventory of Historic Places number was given, and "no further treatment of any kind" was recommended. There was no other evidence of either pre or post-contact use within the entire project area.

The earlier, 1972 Robert F. Bevacqua study involved archaeological studies in a number of areas of Waikoloa, including an area that the Jensen study concluded "roughly corresponds to the present project area." This area was designed by Bevacqua as Survey Area G.

Bevacqua identified one site, designated as Site 22, within his Survey Area G, described as a complex of walls, portions of which protrude above the flood plain. The field crew on the 1990 Jensen study looked for Bevacqua's Site 22, even examining lands 250 meters beyond the perimeter of the project area, but concluded that it was probably destroyed sometime during the preceding 5 to 10 years. Cultural Surveys Hawaii notes that "It seems odd that a site nearly 150 feet long that presumably had been around for many decades could disappear in the course of 18 years. It also, however, seems unlikely the Jensen crew would have missed Site 22. Perhaps it lies farther a field."

In their concluding remarks, Cultural Resources Hawaii reiterates that the previous Archaeological Inventory Survey (Jensen 1990) was accepted by the SHPD, and that the SHPD has reconfirmed that no further work is required. They note that in the event that human remains or any other significant finds are encountered during development, all work in the area should cease and the SHPD should be promptly notified.

3.4.2 Cultural Resources

Cultural Surveys Hawaii is currently preparing a cultural impact assessment to gather information about cultural practices and features that may be impacted by the project. The cultural impact assessment will meet the requirements outlined by the OEQC. The following tasks will be conducted:

- Conduct background research with the goal of identifying traditional Hawaiian activities including gathering of plant, animal and other resources or agricultural pursuits as may be indicated in the historic record.

- Review the existing archaeological information pertaining to the sites in the study area as they may allow one to reconstruct traditional land use activities and describe the cultural resources, practices and beliefs associated with the parcel and identify present uses, if appropriate.
- Conduct oral interviews with persons knowledgeable about the historic and traditional practices in the project area and region.

A report will be prepared summarizing the information gathered related to traditional practices and land use. The report will be included in the DEIS.

3.5 Socio-economic Environment

A socio-economic impact study is being conducted by SMS Research and the results will be included in the DEIS. The DEIS will provide a demographic and housing profile of the project region, and evaluate the impact of the approximately 400 unit subdivision. The impact of the project on housing demand, short and long-term employment, and the development's fiscal impact will be discussed. SMS will perform the following research tasks of the Social and Economic Impact Analysis:

- Describe existing socio-economic conditions in West Hawaii and Hawaii Island, and emerging trends that serve as the context for the project.
- Interview up to 20 members of the West Hawaii community to identify and understand local sensitivities, expectations, hopes and fears associated with residential development in Kohala.
- Analyze community responses to recent housing proposals to identify social and economic concerns about development in Waikoloa.
- Estimate economic and demographic impacts of the project, including
 - Construction employment and wages;
 - Operations employment and wages;
 - Population supported by project-related jobs;
 - Impacts on tax revenues for both the County of Hawaii and the State of Hawaii.
- Assess project impact on the housing situation in West Hawaii, taking into account additions to both supply and demand.
- Assess the social impacts of traffic movements associated with the project.

- Analyze the data collected thus far to identify impacts on issues identified by West Hawaii residents.

If needed, identify mitigation processes that can minimize any adverse impacts.

- A market study is also being prepared for the project by The Hallstrom Group, Inc., and will be included in the DEIS.

3.6 Visual and Scenic Impacts

The DEIS will discuss potential impacts of the project on visual resources, including mauka views from the coastline, and views of the site from the adjacent Waikoloa Village area.

3.7 Transportation/Traffic

The proposed Waikoloa Highlands subdivision will include an internal spine road providing access to the residential parcels. The spine road will have two access points off Waikoloa Road, which is accessible from both Mamalahoa Highway and Queen Kaahumanu Highway.

A traffic impact analysis for the project is being prepared by Julian Ng, Inc., and findings will be included in the DEIS. Traffic generated by the project is expected to require traffic improvements to mitigate the impact on the surrounding roadway network. These recommended improvements will be presented in the DEIS.

3.8 Utilities, Public Facilities and Services

The proposed site is accessible to water and electrical lines which extend along Waikoloa Road. The residential lots will be served by individual waste water treatment units which will likely be constructed by each homeowner. Water would be provided by the Waikoloa Water Company. Provision for electrical, gas, telephone and cable TV service would be coordinated with the local energy and telecommunication companies. The DEIS will provide information on existing utilities and the anticipated impact of the proposed residential development.

The residential units are being targeted primarily at a market of retirees and those looking for second homes. As such, it is not expected to have a significant impact on the area school population, but is likely to impact the demand for medical and recreational facilities. The proposed development is also likely to require additional police and fire protection.

Existing services and the anticipated impact of the project will be discussed.
Recommendations to mitigate the impact of the project will also be presented.

4 Relationship of the Project to Land Use Plans, Policies, and Controls

4.1 Introduction

The DEIS will discuss the relationship of the project to federal, State, and local land use plans, policies and controls. This chapter of the EISPN describes some of the applicable statutes and regulations that will be discussed in the DEIS. Public input is requested on other land use policy issues that should be considered.

4.2 State of Hawaii

Various State plans, policies, and land use controls provide guidelines for development within the State of Hawaii, including the Hawaii State Plan, State Functional Plans, and the State Land Use Plan.

4.2.1 Hawaii State Plan

The 1996 Hawaii State Plan is the umbrella document in the statewide planning system. It serves as a written guide for the long-range development of the State by describing a desired future for the residents of Hawaii and providing a set of goals, objectives, and policies that are intended to shape the general direction of public and private development.

State plan objectives for “socio-cultural advancement-housing” include “the orderly development of residential areas sensitive to community needs and other land uses”.

Applicable policies to achieve the plan’s housing objectives are to:

- Effectively accommodate the housing needs of Hawaii’s people
- Increase homeownership and rental opportunities and choices in terms of quality, location, cost densities, style and size of housing
- Promote design and location for housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas
- Facilitate the use of available vacant, developable, and underutilized urban lands for housing

The DEIS will include further discussion on the project’s conformity to the goals, objectives and policies of the Hawaii State Plan (Chapter 226, HRS) and the Functional Plans adopted pursuant to the State Plan.

4.2.2 State Land Use Classification

The Commission, pursuant to Chapter 205 and 205A, HRS, and Chapter 15-15, HAR is empowered to classify all lands in the State into one of four land use districts: Urban, Rural, Agricultural, and Conservation. The project area is currently in the Agricultural District.

A petition for a Land Use District Boundary Amendment for the property is being filed with the Commission. The petition will request a redesignation from the Agricultural District to the Rural District.

The Commission's rules define standards for determining an Agricultural District in HAR § 15-15-19:

1. It shall include lands with a high capacity for agricultural production;
2. It may include lands with significant potential for grazing or other agricultural uses; and
3. It may include lands surrounded by or contiguous to agricultural lands or which are not suited to agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Although the property is currently in the Agricultural District, it is not highly productive agricultural land as defined in the standards. The Land Study Bureau has classified the area as "E" lands, meaning it is only marginally suitable for agricultural use. The surrounding land uses are primarily low-scale residential and commercial areas, and not in active agricultural production.

On the other hand, the Commission's standards for determining a Rural District (HAR §15-15-21) are:

1. Areas consisting of small farms; provided that the areas need not be included in this district if inclusion will alter the general characteristics of the areas;
2. Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single-family dwelling per one-half acre in areas where "city-like" concentration of people, structures, streets and urban level of services are absent, and where small farms are intermixed with the low-density residential lots; and
3. It may also include parcels of land which are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses.

Overall, the standards for a Rural District are more appropriate for the proposed use, and compatible with the surrounding Waikoloa area.

There are three significant differences between the Rural District and the existing Agricultural District designation:

1. Homes can be single-family dwellings
2. Minimum lot size is one-half acre
3. Golf courses are permitted in the Rural District, but not in the Agricultural District (per a recent 2005 law change)
4. Agricultural activities are optional in the Rural District, not mandated.

The Waikoloa Highlands residential lots will typically be one acre in size, larger than the half-acre allowed in the Rural District, but consistent with the existing County zoning (RA-1a). A golf course may be proposed in appropriately-zoned areas of the property.

4.2.3 Coastal Zone Management Act

The federal Coastal Zone Management Act of 1972 (16 U.S.C. §1451), as amended, requires federal agencies to conduct their planning, management, development and regulatory activities which affect the coastal zone in a manner consistent to the maximum extent practicable with the State's Coastal Zone Management ("CZM") program. The State CZM program, implemented by the Office of Planning, makes a consistency determination on projects conducted in the coastal zone. In Hawaii, the "coastal zone" encompasses all lands and waters (except for areas under federal ownership or exclusive control). The Hawaii CZM program will be consulted regarding consistency of the proposed project alternatives with the State's CZM program. The DEIS will include documentation of this consultation.

4.3 County of Hawaii

4.3.1 County General Plan

The County General Plan is a policy document which provides direction for the future growth of the County. The General Plan is an ordinance enacted by the County Council. The current General Plan was enacted in February 2005. The General Plan consists of a written portion, which has a set of goals, policies, standards, and courses of action, and maps. The text also includes a list of the urban, industrial, and resort areas. The maps include the "Land Use Pattern Allocation Guide Map" or "LUPAG" map, which gives the general location of land uses in the county.

The project area is identified as “Medium Density Urban” on the current General Plan LUPAG map (Map 3). The proposed low-density residential development is consistent with this designation.

4.3.2 Community Development Plans

According to the General Plan, a Community Development Plan is intended to “translate the broad General Plan statements to specific actions” as they apply to a region. The Plan “may contain detailed land use and zoning guide maps, plans for roadways, drainage, parks, and other infrastructure and public facilities, architectural design guidelines, planning for watersheds and other natural features, and any other matters relating to the planning area.”

Although the General Plan has called for community development plans since 1971, these plans have not been prepared for all areas or updated regularly over the years. In 1992, a draft report for a Northwest Hawaii Open Space and Community Development Plan (which included the Waikoloa area) was released to the public. The plan included the following recommendation for future residential development:

The plan identifies a “Mauka Development Zone” (MDZ)—a zone of land mauka of the coastal highways that would be the most suitable area for future large-scale residential development...By providing for large-scale residential development opportunities in mauka areas, the concept seeks to reduce development pressures on the visually and ecologically sensitive coastal zone, as well as on the views from the major roadways (Northwest Hawaii Open Space and Community Development Plan, Public Draft Report, November 1992).

However, the Northwest Hawaii Open Space and Community Development Plan was never finalized or adopted.

The 2005 General Plan has called for a revival of the community development plan process, and includes a mandate that the plans be adopted by ordinance. The General Plan outlines a process for updating community development plans, which includes the formation of a steering committee to work with the County Planning Department in developing the plan, review of the plan by the Planning Commission, and enactment by ordinance by the County Council.

4.3.3 County Zoning

In 1995, the project area was rezoned from the Unplanned (U) and Multi-Family residential (RM-1.5) zoning districts to Open (O) and Residential-Agricultural (RA-1a) (County of Hawaii, Ordinance No. 95-51).

At that time, the property owners had envisioned development of residential development surrounding a proposed golf course. The current subdivision plan is consistent with the approved RA-1a zoning. The areas zoned Open (O) will remain undeveloped as open space and drainage. The inclusion of a golf course in the area zoned O is also a possibility.

Ordinance No. 95-51 included a condition that the RA zoned area be subdivided in three increments.

The first and second increment shall consist of a maximum of 175 one-acre lots each and the third increment, the remaining area. Subdivision plans shall be submitted for successive increments only after development has occurred in the preceding increment as determined by the Planning Director... (Ordinance No. 95-51, Condition B)

The proposed subdivision plan will be phased in accordance with this condition.

The ordinance also included the following condition:

Access shall meet with the requirements of the Department of Public Works. Direct access to Waikoloa Road shall be limited to one roadway from the project site. Waikoloa Road-Pua Melia Street-Paniolo Avenue intersection shall be channelized and signalized meeting with the requirements of the Department of Public Works... (ibid., Condition C)

Ordinance No. 95-157 further amended Ordinance No. 95-51 by requiring:

1. *Compliance with Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing,*
2. *State Land Use Boundary Amendment from Agriculture to Rural; and*
3. *Make fair share contribution to mitigate potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal, and roads.*

The DEIS will discuss the project's compliance with the conditions of this zoning ordinance in more detail.

4.3.4 Special Management Area

Coastal Zone Management objectives and policies (Section 205A-2, HRS) have been developed to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. The County is given the authority to establish Special Management Areas ("SMAs") and place controls on development occurring within these areas. SMAs encompass critical coastal lands immediately adjacent the shoreline

requiring special management attention because of its unique coastal values or characteristics. The project site is not within the County's SMA. The project is not expected to have a direct or indirect impact on the coastal zone.

5 Findings and Reasons Supporting the Anticipated Determination

5.1 Determination Criteria

The DEIS will be prepared and distributed for review in accordance with the consultation process in Chapter 343, HRS. In considering the significance of potential environmental effects, the sum of effects on the quality of the environment, the overall and cumulative effects of an action are to be considered. HAR § 11-200-11.2 establishes procedures for determining if an EIS should be prepared for actions that may have a significant effect on the environment. HAR § 11-200-12 establishes the following criteria for making such a determination:

1. Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;
2. Curtails the range of beneficial uses of the environment;
3. Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders;
4. Substantially affects the economic welfare, social welfare, and cultural practices of the community or State;
5. Substantially affects public health;
6. Involves substantial secondary impacts, such as population changes or effects on public facilities;
7. Involves a substantial degradation of environmental quality;
8. Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions;
9. Substantially affects a rare, threatened, or endangered species, or its habitat;
10. Detrimentially affects air or water quality or ambient noise levels;
11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters;
12. Substantially affects scenic vistas and view planes identified in county or state plans or studies; or,
13. Requires substantial energy consumption.

5.2 Determination

The proposed improvements and actions proposed in this project have the potential to affect the environment in significant ways, based on the criteria above, and will result in connection to State/County roads. A DEIS is being prepared in accordance with Chapter 343, HRS, EIS content requirements. The DEIS will examine all relevant features of the physical, biological, and man-made environment, evaluate potential impacts associated with the proposed project, and describe mitigation measures.

6 Distribution

This EISPN is being distributed to the individuals and organizations listed in the table below, with a request for comments on the proposed scope of the analysis.

Federal Agencies

Army Corps of Engineers, Honolulu Engineer District
Environmental Protection Agency
Federal Highway Administration
Natural Resources Conservation Service
Fish and Wildlife Service
U.S. Geological Survey

State Agencies

Department of Agriculture
Department of Accounting and General Services
Department of Business, Economic Development & Tourism, Office of Planning
Resources and Technology Division
Planning Office
State Land Use Commission
Department of Education
Department of Hawaiian Home Lands
Department of Land and Natural Resources (4 copies)
State Historic Preservation Division
Department of Health
Environmental Management Division
Office of Environmental Quality Control (4 copies)
Department of Public Safety
Department of Transportation
Office of Hawaiian Affairs
University of Hawaii, Environmental Center
University of Hawaii, Marine Programs
University of Hawaii, Water Resources Research Center

County of Hawaii

Fire Department
Department of Parks and Recreation
Planning Department
Police Department
Department of Public Works
Department of Water Supply

Elected Officials, Community Organizations, and Other Organizations

Elected Officials

County Councilmember Pete Hoffman, County Council District 9
Representative Cindy Evans, State House District 7
Senator Paul Whalen Senate, State Senate District 3

Utility Companies

Hawaii Electric Light Company, Inc.
Hawaiian Telcom, Inc.
Oceanic Time Warner Cable
Waikoloa Water Company

Libraries

Hawaii Documents Center, Hawaii State Library
Bond Memorial Public Library
Thelma Parker Memorial Library
Kailua-Kona Public Library

Newspapers

Hawaii Tribune Herald
West Hawaii Today

Other

Waimea Community Development Plan Committee
Waikoloa Village Association
Waikoloa Outdoor Circle
Waikoloa Community Development Corporation
Hawaii Leeward Planning Council
West Hawaii Economic Development Council
Chamber of Commerce

7 References

- Cultural Surveys Hawaii. *Evaluation of Archaeological Potential at a 702.28-Acre Parcel at Waikoloa, South Kohala District, Hawaii Island, TMK 93) 6-8-002:016*. April 2006.
- Hirata, Ernest and Associates, Inc. *Soils Investigation, Highland Golf Estates, Waikoloa, Kona, Hawaii*. January 1990.
- M&E Pacific, Inc. *Traffic Impact Analysis Report, Highlands Golf Estates*. December 1989.
- Nance, Tom, Water Resources Engineering. *Waikoloa Water Master Plans*. February 1991.
- Paul H. Rosendahl, Ph.D. Inc. *Archaeological Inventory Survey Waikoloa Mauka Lands, Land of Waikoloa, South Kohala District, Island of Hawaii*. March 1990.
- R.M. Towill Corporation. *Floodway Limits and Flood Control for the Highlands Golf Estates at Waikoloa*. July 1991.
- U.S. Army Corps of Engineers, Honolulu District. *Final Environmental Impact Statement U.S. Department of the Army Permit Application, Waikoloa Beach Resort*. September 1985.
- Waikoloa Development Company. *Highlands Golf Estates, Change of Zone Application*. March 1990.



R-307 STATE OF HAWAII
 BUREAU OF CONVEYANCES
 RECORDED
 SEP 20, 2005 08:01 AM
 Doc No(s) 2005-188908



/s/ CARL T. WATANABE
 REGISTRAR OF CONVEYANCES

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CTax (30): \$44274.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup (X) To:

ROBERT SCHNEIDER
 SCHNEIDER TANAKA RADOVICH ANDREW &
 TANAKA
 1100 ALAKEA ST., STE 2100
 HONOLULU, HI 96813

TG: 200537526 -5
 TGE: A5-101-2471
 GLEN Y AJIMINE

Total Pages: 41

Tax Map Key No.: (3) 6-8-002-016; (3) 6-8-003-036; (3) 6-8-002-002;
 (3) 6-8-003-029; (3) 6-8-003-037; and (3) 6-8-003-031.

**DEED WITH COVENANTS AND RESERVATION
 OF EASEMENTS AND OTHER RIGHTS**

THIS INDENTURE, made this _____ day of **'SEP 20** _____, 2005, by **WAIKOLOA DEVELOPMENT CO.**, a Hawaii limited partnership, whose post office address is Suite 2880, Pacific Tower, 1001 Bishop Street, Honolulu, Hawaii 96813, hereinafter called the "Grantor", and **WAIKOLOA MAUKA, LLC**, a Delaware limited liability company, whose address is 120 Aspen Oak Lane, Glendale, California 91207, hereinafter called the "Grantee",

WITNESSETH:

That the Grantor, in consideration of TEN DOLLARS (\$10.00) and other valuable consideration to it paid by the Grantee, receipt whereof is hereby acknowledged by the Grantor, and of the terms, covenants and agreements hereinafter set forth does hereby grant and convey unto the Grantee, as a tenant in severalty, and the Grantee's successors

and assigns, forever, the property described in Exhibit A attached hereto and hereby made a part hereof (the "Property").

EXCEPTING AND RESERVING, HOWEVER, unto the Grantor, and its successors and assigns, perpetual, non-exclusive easements for ingress and egress purposes, easements for electrical, gas, telephone, cable television and other utility purposes, easements for sanitary sewer, drainage and drainline, waterline and flowage purposes, and easements for all other utility purposes over, under, across, along, upon and through all designated easements described in Exhibit B attached hereto (the "Non-Exclusive Easement Areas"), TOGETHER WITH rights of reasonable access to the Non-Exclusive Easement Areas in connection with the exercise of said non-exclusive easement rights and to use and to make, construct, repair, remove, relocate, renovate and replace improvements reasonably related to the foregoing described purposes within the Non-Exclusive Easement Areas, AND TOGETHER ALSO with the right to grant to the State of Hawaii, the County of Hawaii, the United States of America, the Waikoloa Village Association, Waikoloa Water Company, Waikoloa Sanitary Sewer Co., Inc., Waikoloa Resort Utilities Co., Inc., the owners of property in the Waikoloa Village or the Waikoloa Beach Resort, or in the vicinity thereof, any appropriate governmental agency, public or private utility, and/or any other corporation, partnership, limited liability company, entity, individual, or unincorporated association, non-exclusive easement(s) for any such purposes within the Non-Exclusive Easement Areas, which grant shall be by way of recorded instrument on customary terms for similar types of easements in the State of Hawaii; provided, however, that (i) the exercise of the non-exclusive easement rights reserved to Grantor in this paragraph shall not unreasonably interfere with the Grantee's rights to develop and use the Property, (ii) any party exercising any of the non-exclusive easement rights reserved hereunder shall maintain any improvement constructed by such party and shall indemnify the Grantee from any liability incurred by the Grantee, including reasonable attorneys' fees, arising from such party's exercise of the non-exclusive easement rights reserved to Grantor hereunder or the use by such party of the Non-Exclusive Easement Areas, (iii) the Grantee, at its sole cost and expense, shall have the right to relocate any such easement to a reasonable alternate location that is suitable for the purpose of the easement as reasonably determined by the Grantee, and (iv) the Grantee shall have the right to dedicate for public use any roadway that runs on or across any of the Non-Exclusive Easement Areas to any governmental entity or association of owners without the joinder or approval of the Grantor.

EXCEPTING AND RESERVING, ALSO, HOWEVER, unto the Grantor, and its successors and assigns, perpetual, exclusive easements for well sites, water reservoir sites, water storage facilities, sewage treatment facilities, and utility base yard purposes over, under, across, along, upon and through all designated easements described in Exhibit C attached hereto (the "Exclusive Easement Areas"), TOGETHER WITH rights of reasonable access to the Exclusive Easement Areas in connection with the exercise of said exclusive easement rights and to use and to make, construct, repair, remove, relocate,

renovate and replace improvements reasonably related to the foregoing described purposes within the Exclusive Easement Areas, AND TOGETHER ALSO with the right to grant to the State of Hawaii, the County of Hawaii, the United States of America, the Waikoloa Village Association, Waikoloa Water Company, Waikoloa Sanitary Sewer Co., Inc., Waikoloa Resort Utilities Co., Inc., any appropriate governmental agency, public or private utility, and/or any other corporation, partnership, limited liability company, entity, individual, or unincorporated association, exclusive or non-exclusive easement(s) for any such purposes within the Exclusive Easement Areas, which grants shall be by way of recorded instruments on customary terms for similar types of easements in the State of Hawaii; provided, however, that the Grantor, its successors and assigns, shall (i) comply with all laws applicable to the Exclusive Easement Areas, (ii) maintain the Exclusive Easement Areas, (iii) upon the written request of the Grantee, reimburse the Grantee for real property taxes paid by the Grantee, which real property taxes are allocable to the Exclusive Easement Areas and the improvements thereon, as reasonably determined by the Grantee, the Grantee agreeing to provide the Grantor with a written explanation of such allocation, (iv) indemnify the Grantee from any liability incurred by the Grantee, including reasonable attorneys' fees, arising from Grantor's exercise of the exclusive easement rights reserved hereunder or the Grantor's use of the Exclusive Easement Areas, and (v) maintain, at the Grantor's expense, a policy or policies of comprehensive general liability insurance covering the Exclusive Easement Areas and naming the Grantee as an additional insured, which insurance shall be on such terms and for such amounts that are customary in the State of Hawaii for properties similar to the Exclusive Easement Areas, the Grantor agreeing to provide the Grantee, upon the Grantee's written request, with current certificates of such insurance.

EXCEPTING AND RESERVING ALSO, HOWEVER, unto the Grantor, its successors and assigns, all water and water rights within and/or appurtenant to the granted premises, including, without limitation, all surface and subterranean waters on and under the granted premises, and all rights, if any, to wells, springs, streams, and percolating waters located on or under the granted premises, and also including any rights to underground water under or appurtenant to any adjoining property, which rights are appurtenant to the granted premises, with the right to assign and transfer any such water and/or water rights to the State of Hawaii, the County of Hawaii, Waikoloa Water Company, Waikoloa Resort Utilities Co., Inc., Waikoloa Village Association, or other appropriate governmental agency, or any public or private utility or other corporation, partnership, individual or entity; provided, however, that in the exercise of said rights, the Grantor, its successors and assigns, shall not have the right to drill for water or otherwise disturb the surface of the land of the granted premises or any improvements thereon except as provided above; and provided further that any water rights acquired by the Grantee, its successors and assigns, after the date of this instrument shall not be affected by this exception and reservation.

TO HAVE AND TO HOLD the same, together with the rents, issues and profits thereof, the improvements thereon, and the tenements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith unto the Grantee, according to the tenancy and estate hereinabove set forth, forever, but subject to the terms of this Indenture.

AND the Grantor does hereby for itself and its successors, covenant with the Grantee, and the Grantee's successors and assigns, that the Property is free and clear of all encumbrances made by, through or under the Grantor, except as shown on Exhibit A or as herein set forth and real property taxes for the current year which are to be prorated as of the date of closing; and that it will and its successors shall WARRANT AND DEFEND the same unto the Grantee, and the Grantee's successors and assigns, forever, against the lawful claims and demands of all persons claiming by, through or under the Grantor, except as aforesaid.

Grantee's Covenants

AND ALSO, in consideration of the foregoing, the Grantee, for the Grantee, the Grantee's successors and assigns does hereby covenant and agree as follows:

1. The Waikoloa Village and the Waikoloa Beach Resort. The Grantee acknowledges that the Property is in the vicinity of the Waikoloa Village and the Waikoloa Beach Resort. The master plans for development of the Waikoloa Village and the Waikoloa Beach Resort include component commercial, residential, recreational, resort, community and related developments and uses. The Grantee hereby consents to all such developments and uses. The Grantor, however, makes no representations or warranties that all or any portion of the land within the Waikoloa Village, the Waikoloa Beach Resort or surrounding areas will be developed, or that any use or development of the lands adjacent to or in the vicinity of the Property will be in accordance with any master plan or any other plan or depiction.

2. Ongoing Construction and Sales Activities. The Grantee understands, acknowledges and agrees to the following (collectively the "Development Effects"):
(a) that construction activity by the Grantor and related entities or others may continue near or adjacent to the Property after the Grantee has occupied the Property, and that this activity may result in noise, dust, dirt, vibration, interference with access and other nuisances, disturbances or hazards to the Grantee and to persons or property on or within the Property; (b) that sales activities, including the use of model homes, signs and extensive sales displays and activities will continue near or adjacent to the Property; (c) that any proposals or plans for the future development of the surrounding and adjacent properties are subject to change in the sole and absolute discretion of the Grantor and its affiliates and their successors and assigns; (d) that when completed, the development of surrounding and adjacent properties may result in traffic, lights, noise or other nuisances

or hazards to the Grantee and persons or property on or within the Property; and (e) that the Grantor and its affiliates make no representations or warranties regarding the view from the Property or any view easements or rights, and that views from the Property are not guaranteed and may be altered, diminished, impaired or blocked by future development of adjacent and surrounding properties. The Grantee hereby irrevocably agrees to suffer and permit all actions and consequences incidental to the Development Effects. The Grantee and anyone occupying the Property will avoid the Grantor's construction or landscaping installation areas, and the Grantee knows and agrees that the Grantor and its affiliates may continue to sell lots, houses and other property in the Waikoloa Village and the Waikoloa Beach Resort after such projects are completed.

3. Waiver and Release. The Grantee represents and warrants to the Grantor and its affiliates that the Grantee, in the Grantee's sole discretion, has determined that the benefits of owning and enjoying the Property outweigh the Development Effects. The Grantee hereby covenants and agrees to assume all risks of impairment of the Grantee's use and enjoyment of the Property, arising from the Development Effects and similar nuisances. The Grantee, for the Grantee, the Grantee's successors and assigns, and on behalf of any person using or occupying the Property, hereby (i) releases and agrees to release the Grantor, its affiliates and their respective partners, officers, directors, employees, agents, successors and assigns (collectively "Grantor's Group"), from any and all actions (whether brought in nuisance, trespass, or any other area of law or equity), and waives and agrees to waive all claims against Grantor's Group for damages and costs, including attorneys' fees, arising directly or indirectly out of or from the Development Effects; and (ii) covenants to disclose the Development Effects to the Grantee's occupants and transferees of the Property.

4. Grant of Easements. The Grantee consents and agrees, without necessity of the Grantee's joinder or execution of any instrument, to the grant by the Grantor, its successors or assigns, to the State of Hawaii, the County of Hawaii, the United States of America, Waikoloa Water Company, Waikoloa Sanitary Sewer Co., Inc., Waikoloa Resort Utilities Co., Inc., Waikoloa Village Association, the owners of property in the Waikoloa Village and the Waikoloa Beach Resort or in the vicinity thereof, any other appropriate governmental agency, public or private utility and/or other corporation, partnership, limited liability company, entity, individual or unincorporated association of the easements as hereinbefore provided, and to the exercise by the Grantor, its successors and assigns, of the easement rights as hereinabove provided. Notwithstanding the foregoing, the Grantee agrees and covenants to, at no cost to the Grantor, to promptly execute and deliver any and all applications, documents, and other instruments and take such other actions as the Grantor may reasonably request in order to effectuate such grants of easement rights and to carry out the terms hereof.

5. Condition of Property. Except for any express written warranties provided by the Grantor in connection with the Grantee's purchase of the Property, including but

not limited to the Grantor's title warranties set forth in this instrument, the Grantee understands and acknowledges that the Grantee is acquiring the Property "AS IS", in its present state and condition, and the Grantor expressly disclaims any other representation or warranties whatsoever concerning the Property, including without limitation, its condition or fitness or suitability for its intended use.

6. Other Encumbrances. The Grantee hereby accepts and approves all of the encumbrances described in Exhibit A attached hereto. The Grantee further covenants and agrees that the Grantee shall not suffer or perform any act or condition within, upon or related to the granted premises which would constitute a breach of said encumbrances or cause the Grantor to be in breach thereof.

7. The Grantor's Easement Rights. The Grantee shall not unreasonably interfere with the Grantor's use of and access to the Non-Exclusive Easement Areas. Without limitation of the foregoing, Grantee shall not at any time erect any building foundation or building on, over or across any of the reserved easements described in Exhibit B ("Reserved Easements") or plant any trees with an aggressive root system within twenty (20) feet of any of the Reserved Easements unless approval has been received in writing from Grantor. Without the prior written consent of the Grantor, the Grantee shall not enter or use the Exclusive Easement Areas, except as may be necessary in the case of an emergency.

8. Remedies. The violation or breach of any of the covenants, conditions or agreements contained herein shall give the Grantor the right to prosecute a proceeding at law or in equity against the Grantee to prevent or enjoin the Grantee from violating or breaching any of the covenants, conditions, or agreements, or to cause said violation or breach to be remedied, or to recover damages or other remedies available for such violation or breach. The Grantor shall be entitled to recover such attorneys' fees and costs as may have been incurred by the Grantor in enforcing its rights hereunder.

9. Covenants Running with the Land; Duration. Except as otherwise expressly provided herein, each and all of the Grantor's reservations and the Grantee's covenants, agreements and conditions contained above are perpetual and intended to run with the land in favor of the Grantor, its successors and assigns, and are expressly binding upon the Property, and each portion thereof, and each successive owner of the Property and each person having any right, title or interest in the Property or any portion thereof, unless and until the Grantor shall relinquish and permanently waive any of its rights, but only with respect to the specific rights waived, as evidenced by the recordation of a written notice of such waiver in the Bureau of Conveyances of the State of Hawaii.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, partnerships, limited liability companies and their and each of their respective successors, and assigns, according to the context thereof. All covenants

and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

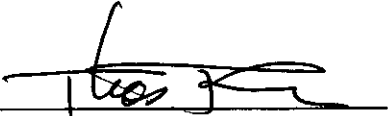
[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Indenture as of the day and year first above written.

WAIKOLOA DEVELOPMENT CO.
a Hawaii limited partnership

By Waikoloa Management Co.
Its Managing General Partner

By Waikoloa Land Company, Inc.
Its General Partner

By 
Thos Rohr
Its President

Grantor

WAIKOLOA MAUKA, LLC
a Delaware limited liability company

By *Martirosian*
Stefan Martirosian
Its Manager

Grantee

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 12th day of September, 2005, before me appeared THOS ROHR, to me personally known, who, being by me duly sworn, did say that he is the President of WAIKOLOA LAND COMPANY, INC., a Hawaii corporation, is the General Partner of WAIKOLOA MANAGEMENT CO., a Hawaii limited partnership; that WAIKOLOA MANAGEMENT CO. is the Managing General Partner of WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership; that the foregoing instrument was signed in behalf of said corporation by authority of its Board of Directors in behalf of said partnerships by authority of the respective Partnership Agreements of said partnerships; and said officer acknowledged the instrument to be the free act and deed of said corporation and said partnerships.

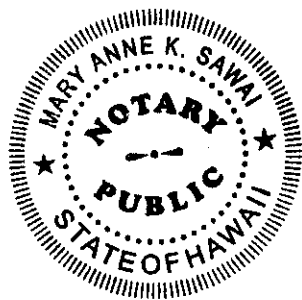


Print Name: **Camille D. Adams** L.S.
Notary Public, State of Hawaii

My Commission expires: APR - 9 2006

STATE OF HAWAII)
) SS.
CITY-COUNTY OF HONOLULU)

On this _____ day of SEP 15 2005, 2005, before me personally appeared STEFAN MARTIROSIAN, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



M. Sawai
Print Name:
Notary Public, in and for the
Above-named State

My Commission expires: _____

MARY ANNE K. SAWAI
Expiration Date: April 29, 2009

EXHIBIT A

1. That certain parcel of land covered by TMK (3) 6-8-002-016 described in Exhibit A-1 attached hereto.
2. That certain parcel of land covered by TMK (3) 6-8-003-036 described in Exhibit A-2 attached hereto.
3. That certain parcel of land covered by TMK (3) 6-8-002-002 described in Exhibit A-3 attached hereto.
4. That certain parcel of land covered by TMK (3) 6-8-003-029 described in Exhibit A-4 attached hereto.
5. That certain parcel of land covered by TMK (3) 6-8-003-037 described in Exhibit A-5 attached hereto.
6. That certain parcel of land covered by TMK (3) 6-8-003-031 described in Exhibit A-6 attached hereto.

EXHIBIT A-1

TMK: (3) 6-8-002-016

All of that certain parcel of land (being portion of the land described in and covered by Royal Patent Number 5671, Land Commission Award Number 8521-B, Apana 1 to G. D. Hueu) situate, lying and being at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 2-B, same being a portion of Lot 2 of the "WAIKOLOA DEVELOPMENT", File Plan 1172, and thus bounded and described:

Beginning at the east corner of this parcel of land and on the southerly side of Waikoloa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 932.80 feet north and 12,004.94 feet east, thence running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|----------|--|
| 1. | 37° | 58' | 48" | 8,376.77 | feet along Lot 1 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu; |
| 2. | 82° | 24' | 19" | 4,388.50 | feet along Lot 1 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu; |
| 3. | 122° | 34' | 54" | 3,584.03 | feet along Lot 1 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu; |
| 4. | 160° | 02' | 36" | 3,691.68 | feet along Lot 3 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu; |
| 5. | 124° | 52' | 31" | 2,011.22 | feet along Lot 3 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu; |
| 6. | 196° | 43" | 02" | 3,059.30 | feet along Lot 3 of Waikoloa Development (File Plan 1172), along the remainder of R. |

P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;

7. 150° 55" 16" 3,143.20 feet along Lot 3 of Waikoloa Development (File Plan 1172), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;
8. 198° 03' 09" 2,055.15 feet along Lots 5, 2 and 1 of Waikoloa RM 1.5-Unit 1 (File Plan 1378), along the remainder of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;
9. Thence along the easterly side of Puu Melia Street on a curve to the left with a radius of 630.00 feet, the chord azimuth and distance being:
- 210° 39' 27.5" 274.97 feet;
10. 198° 03' 09" 430.10 feet along the easterly side of Puu Melia Street;
11. Thence along the easterly side of Puu Melia Street on a curve to the left with a radius of 430.00 feet, the chord azimuth and distance being:
- 189° 01' 34.5" 134.92 feet;
12. 180° 00' 48.24 feet along the easterly side of Puu Melia Street;
13. Thence along the easterly side of Puu Melia Street on a curve to the right with a radius of 370.00 feet, the chord azimuth and distance being:
- 190° 23' 02" 133.38 feet;
14. Thence along the easterly side of Puu Melia Street on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
- 246° 15' 05.5" 28.52 feet;

15. 291° 44' 07" 8.56 feet along the southerly side of Waikoloa Road;
16. 293° 41' 56" 350.27 feet along the southerly side of Waikoloa Road;
17. 291° 44' 07" 2,477.90 feet along the southerly side of Waikoloa Road;
18. Thence along the southwesterly side of Waikoloa Road on a curve to the right with a radius of 910.00 feet, the chord azimuth and distance being:
- 336° 31' 44.5" 1,282.29 feet;
19. 21° 19' 22" 982.30 feet along the westerly side of Waikoloa Road;
20. Thence along the southwesterly side of Waikoloa Road on a curve to the left with a radius of 840.00 feet, the chord azimuth and distance being:
- 338° 36' 23" 1,139.66 feet;
21. 295° 53' 24" 250.22 feet along the Southwesterly side of Waikoloa Road;
22. Thence along the southwesterly side of Waikoloa Road on a curve to the right with a radius of 910.00 feet, the chord azimuth and distance being:
- 316° 58' 38.5" 654.82 feet;
23. 338° 03' 53" 399.34 feet along the southwesterly side of Waikoloa Road;
24. Thence along the southwesterly side of Waikoloa Road on a curve to the left with a radius of 2,090.00 feet, the chord azimuth and distance being:
- 326° 34' 54.5" 832.14 feet;
25. 315° 05' 56" 1,029.38 feet along the southwesterly side of Waikoloa Road;

26. Thence along the southwesterly side of Waikoloa Road on a curve to the left with a radius of 2,090.00 feet, the chord azimuth and distance being:
- 298° 06' 1,222.04 feet;
27. 281° 06' 04" 2,738.18 feet along the southerly side of Waikoloa Road;
28. Thence along the southerly side of Waikoloa Road on a curve to the left with a radius of 1,590.00 feet, the chord azimuth and distance being:
- 265° 36' 21" 849.57 feet;
29. 250° 06' 38" 545.65 feet along the southerly side of Waikoloa Road;
30. Thence along the southerly side of Waikoloa Road on a curve to the right with a radius of 1,410.00 feet, the chord azimuth and distance being:
- 276° 07' 33" 3,546.02 feet along the southerly side of Waikoloa Road;
31. 276° 07' 33" 3,546.02 feet along the southerly side of Waikoloa Road;
32. Thence along the southerly side of Waikoloa Road on a curve to the right with a radius of 1,410.00 feet, the chord azimuth and distance being:
- 289° 29' 04.5" 651.55 feet to the point of beginning and containing a gross area of 2,444.423 acres, more or less, and a net area of 2,443.734 acres, more or less, after excluding and deducting the following described parcel:

Exclusion

Being a portion of R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueue, being also a portion of Lot 2 of Waikoloa Development (File Plan 1172), situated at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii.

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 6,948.38 feet north and 2,104.51 feet west, thence running by azimuths measured clockwise from true South:

1. 288° 03' 09" 150.00 feet along the remainders of Lot 2 of Waikoloa Development (File Plan 1172) and R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;
2. 18° 03' 09" 200.00 feet along the remainders of Lot 2 of Waikoloa Development (File Plan 1172) and R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;
3. 108° 03' 09" 150.00 feet along the remainders of Lot 2 of Waikoloa Development (File Plan 1172) and R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu;
4. 198° 03' 09" 200.00 feet along the remainders of Lot 2 of Waikoloa Development (File Plan 1172) and R. P. 5671, L. C. Aw. 8521-B, Apana 1 to G. D. Hueu to the point of beginning and containing an area of 30,000 square feet or 0.689 acre, more or less.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : PACTEX L.P., a Hawaii limited partnership
GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership
DATED : April 25, 1989
RECORDED : Liber 23110 Page 1

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. DESIGNATION OF EASEMENT "E-1" (75 feet wide)

PURPOSE : electrical and telephone
SHOWN : on File Plan No. 1172

3. DESIGNATION OF EASEMENT "R-1" (50 feet wide)

PURPOSE : access road
SHOWN : on File Plan No. 1172

4. DESIGNATION OF EASEMENT "E-2" (75 feet wide)

PURPOSE : electrical and telephone
SHOWN : on File Plan No. 1172

5. DESIGNATION OF EASEMENT "E-3"

PURPOSE : electric sub-station
SHOWN : on File Plan No. 1172

6. DESIGNATION OF EASEMENT "E-4" (75 feet wide)

PURPOSE : electrical and telephone
SHOWN : on File Plan No. 1172

7. DESIGNATION OF EASEMENT "R-U-1"

PURPOSE : roadway and utility
SHOWN : on File Plan No. 1172

8. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.

DATED : April 27, 2976

RECORDED : Liber 11411 Page 135

GRANTING : easements for utility purposes over Easements "8", "E-4-A"
and "18" described therein

9. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.
DATED : August 14, 1979
RECORDED : Liber 13956 Page 491
GRANTING : an easement for access and electric utility purposes over
Easement "U-3" described therein

10. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.
DATED : August 14, 1979
RECORDED : Liber 13956 Page 499
GRANTING : easements for access and electric utility purposes over
Easements "E-T-1A", "E-T-1B" and "E-T-1C" described
therein

11. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.
DATED : October 6, 1980
RECORDED : Liber 15112 Page 268
GRANTING : an easement for utility purposes over Easement "E-T-1"
described therein

12. GRANT

TO : TRANSCONTINENTAL DEVELOPMENT CO.
DATED : December 31, 1985
RECORDED : Liber 21447 Page 630
GRANTING : easements over portions of said Easements "E-4" and "R-
1", together with the right to grant said easement unto others

13. GRANT

TO : WAIKOLOA VILLAGE ASSOCIATION
DATED : December 31, 1985
RECORDED : Liber 21447 Page 697
GRANTING : an easement over portions of said Easement "R-1"

14. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.
DATED : March 15, 1988
RECORDED : Liber 21857 Page 361
GRANTING : an easement for utility purposes over Easement "9B"
described therein

15. GRANT

TO : GTE HAWAIIAN TELEPHONE COMPANY
INCORPORATED now known as HAWAIIAN TELCOM,
INC. and HAWAII ELECTRIC LIGHT COMPANY, INC.
DATED : June 20, 1991
RECORDED : Document No. 91-111121
GRANTING : an easement for electrical purposes over Easement "T-3"
described therein

16. GRANT

TO : GTE HAWAIIAN TELEPHONE COMPANY
INCORPORATED now known as HAWAIIAN TELCOM,
INC.
DATED : December 3, 1996
RECORDED : Document No. 96-175204
GRANTING : easements for utility purposes over Easements "E-T-1" and
"9-B" described therein and Easement "U-3" as shown on
the map attached thereto

17. Triangulation Survey Station "PUU HINAI" located within the land described herein, as shown on the Tax Map. Attention is invited to the provisions of Section 172-13 of the Hawaii Revised Statutes, relative to destruction, defacing or removal of survey monuments.

EXHIBIT A-2

TMK: (3) 6-8-003-036

All of that certain parcel of land (being a portion of the land described in and covered by Royal Patent Number 5671, Land Commission Award Number 8521-B, Apana 1 to G. D. Hueu) situate, lying and being at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 109-B, same being a portion of Lot 109 of the "WAIKOLOA VILLAGE UNIT 1-A", File Plan Number 1188, and thus bounded and described:

Beginning at the northernmost corner of this parcel of land, being also the northernmost corner of Lot 109 and on the easterly boundary of Lot 110 of Waikoloa Village, Unit 1-A (File Plan 1188), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 12,023.00 feet north and 5,400.00 feet west and running by azimuths measured clockwise from true South:

1. 314° 11' 55" 202.25 feet along Lots 31, 30 and 29 of Waikoloa Village, Unit 1-A (File Plan 1188);
2. 280° 16' 38" 184.97 feet along Lot 27 of Waikoloa Village, Unit 1-A (File Plan 1188);
3. 212° 47' 33" 22.21 feet along Lot 27 of Waikoloa Village, Unit 1-A (File Plan 1188);
4. Thence, following along the westerly side of Lua-Kula Street, on a curve to the left with a radius of 330.00 feet, the chord azimuth and distance being:

 315° 19' 19.5" 163.23 feet;
5. Thence, following along the westerly side of Lua-Kula Street, on a curve to the right with a radius of 470.00 feet, the chord azimuth and distance being:

 337° 35' 48" 560.37 feet;
6. 125° 15' 145.00 feet along Unit I of Waikoloa Villas, along remainder of Lot 109 of Waikoloa Village, Unit 1-A (File Plan 1188);

- | | | | | |
|-----|------|---------|--------|---|
| 7. | 180° | 00' | 85.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 8. | 152° | 00' | 55.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 9. | 139° | 30' | 130.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 10. | 129° | 30' | 100.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 11. | 116° | 25' | 120.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 12. | 132° | 25' | 160.00 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 13. | 78° | 24' 48" | 83.28 | feet along Unit I of Waikoloa Villas, along the remainder of Lot 109 of Waikoloa Village Unit 1-A (File Plan 1188); |
| 14. | 168° | 24' 48" | 270.70 | feet along Lot 110 of Waikoloa Village Unit 1-A (File Plan 1188) to the point of beginning and containing an area of 3.276 acres, more or less. |

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : WAIKOLOA MANAGEMENT CO., a Hawaii limited partnership

GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership

DATED : April 25, 1989

RECORDED : Liber 23109 Page 669

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. DESIGNATION OF EASEMENT "D-9"
PURPOSE : storm drain
SHOWN : on File Plan No. 1188
3. Drainage channel, as shown on the map prepared by Chrystal D. Thomas, Land Surveyor, dated November 7, 1978.
4. EASEMENT "S-1-A" (15 feet wide) for sanitary sewer purposes, as shown on the map attached to instrument recorded in Liber 13767 at Page 572.

EXHIBIT A-3

TMK: (3) 6-8-002-002

All of that certain parcel of land situate at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 1 of the "WAIKOLOA RANCH LOTS", SECTION "C", as shown on File Plan Number 1280, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 652.328 acres, more or less.

Together with non-exclusive easements for the construction, laying, operation, maintenance and removal from time to time of water, sewer and drainage pipe lines, and telephone and other communication and power facilities, and other utilities, through, under, over, across and along the following easements:

1. Easement "E" (50 feet wide) as shown on File Plan 1139.

-Note:- Said Easement "E" lying within Lot 9 of File Plan 1139 is now known as Easement "A" affecting the remaining portion of Lot 1 of File Plan 1280 (TMK 6-8-002-002 (3)) and Easement "B" affecting Lot 2 of File Plan 1280.

2. An easement (20 feet wide) within Lots 7, 8, 9 and 10, as shown on said File Plan No. 1139, along and adjoining the westerly boundary lines of said Lots and running from the southerly boundary of said Lot 7 to the southerly boundary of the property and from the northerly boundary of the property to the northerly boundary of said Lot 10;

-Note:- Lot 8 of File Plan 1139 is now known as Lots 8-A, 8-B, 8-C and 8-D and Lot 9 of File Plan 1139 is now known as Lots 1 and 2 of File Plan 1280.

3. An easement (10 feet wide) within the remainder of Lot 9 as shown on said File Plan 1139, along the northerly boundary line thereof and running from Mamalahoa Highway to the westerly boundary line thereof; and
4. An easement (10 feet wide) within said Lot 10 along the southerly boundary line thereof and running from Mamalahoa Highway to the westerly boundary thereof.

Excepting and reserving from Lot 1 that certain parcel of land acquired by the State of Hawaii by Final Order of Condemnation dated and filed on May 20, 1986, in the Circuit

Court of the Third Circuit, State of Hawaii, Civil No. 4667, recorded in Liber 19649 at Page 467, being PARCEL 6, and described as follows:

All of that certain parcel of land (portion of the land described in and covered by Royal Patent Number 5671, Land Commission Award Number 8521-B, Apana 1 to G. D. Hueu) situate, lying and being at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being PARCEL 6, same being portion of Lot 1, Section "C", of the "WAIKOLOA RANCH LOTS", File Plan 1280, and thus bounded and described:

Beginning at the southwest corner of this piece of land, on the northwest side of Hawaii Belt Road, Federal Aid Secondary Project No. RS-0190 (1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 29,546.38 feet south and 263.74 feet west, thence running by azimuths measured clockwise from true South:

1. Along the northwest side of Hawaii Belt Road, Project No. RS-0190 (1), along the remainder of Lot 1, Section "C" of Waikoloa Ranch Lots, File Plan 1280, on a curve to the right with a radius of 1578.15 feet, the chord azimuth and distance being 208° 52' 47" 17.80 feet;
2. 209° 12' 10" 638.81 feet along the northwest side of Hawaii Belt Road, Project No. RS-0190 (1), along the remainder of Lot 1, Section "C" of Waikoloa Ranch Lots, File Plan 1280;
3. 299° 12' 10" 35.60 feet along the north end of Hawaii Belt Road, Project No. RS-0190 (1), along the remainder of Lot 1, Section "C" of Waikoloa Ranch Lots, File Plan 1280;
4. 28° 57' 05" 342.50 feet along the northwest side of Government Road (30.00 feet wide);
5. 32° 03' 05" 314.31 feet along same;
6. 118° 42' 16" 21.40 feet along Lot 2, Section "C" of Waikoloa Ranch Lots, File Plan 1280 to the point of beginning and containing an area of 21,647 square feet or 0.497 acre, more or less.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : WAIKOLOA MANAGEMENT CO., a Hawaii limited partnership

GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership

DATED : April 25, 1989

RECORDED : Liber 23109 Page 669

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DEED

DATED : April 24, 1972

RECORDED : Liber 8285 Page 174

The foregoing includes, but is not limited to, matters relating to reservation of easements described as follows:

Reserving and excepting, however, non-exclusive easements appurtenant to Lots 7, 8 and 10 and the remainder of Lot 9 as shown on said File Plan, for the construction, laying, operation, maintenance and removal from time to time of water, sewer and drainage pipe lines, and telephone and electric power lines, transformer sites and other communication and power facilities, and other utilities, through, under, over, across and along the following:

1. Easement "E" (50 feet wide) as shown on said File Plan 1139.

-Note:- Said Easement "E" is now known as Easement "A" affecting the remaining portion of Lot 1 of File Plan 1280.

2. An easement (20 feet wide) along and adjoining the westerly boundary of the property and running from the northerly boundary thereof to the southerly boundary thereof.
3. Easements (10 feet wide) along the southerly and northerly boundaries of the property and running from Mamalahoa Highway to the westerly boundary of the property.

3. GRANT

TO : FIRST HAWAIIAN BANK, Trustee under unrecorded Trust Agreement dated December 12, 1968, between it, Richard Smart and Boise Cascade Home & Land Corporation

DATED : July 19, 1973

RECORDED : Liber 9331 Page 167

GRANTING : an easement for utility purposes over said Easement "E"

4. DESIGNATION OF EASEMENT "A" (50 feet wide)

PURPOSE : water line

SHOWN : on File Plan No. 1280

5. GRANT to WAIKOLOA WATER CO., INC., dated December 20, 1978, recorded as Document No. 13374 at Page 441, as amended by instrument dated February 4, 1981, recorded in Liber 15498 at Page 103; granting an easement over said Easement "E" of File Plan 1139 and said Easement "A" of File Plan 1280.
6. DRAINAGE EASEMENT "E" acquired by the STATE OF HAWAII by AMENDED FINAL ORDER OF CONDEMNATION dated August 26, 1985, filed in the Circuit Court of the Third Circuit, State of Hawaii, Civil No. 5355, on August 26, 1985, recorded in Liber 18902 at Page 278, said easement being described therein.
7. Restriction of vehicle access into and from Hawaii Belt Road, Federal Aid Secondary Project No. S-0190(1), Keamuku towards Waimea, except where access is permitted, which rights of access were acquired by the STATE OF HAWAII by FINAL ORDER OF CONDEMNATION dated and filed in the

Circuit Court of the Third Circuit, State of Hawaii, Civil No. 4667, on May 20, 1986, recorded in Liber 19649 at Page 467.

EXHIBIT A-4

TMK: (3) 6-8-003-029

All of that certain parcel of land situate at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 2 of the "WAIKOLOA RM 1.5 – UNIT I", as shown on File Plan Number 1378, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 4.60 acres, more or less.

Together With, but subject to, those certain rights, terms and conditions contained in that certain Deed dated July 11, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17260 at Page 611.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : PACTEX L.P., a Hawaii limited partnership
GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership
DATED : April 25, 1989
RECORDED : Liber 23110 Page 1

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. DESIGNATION OF EASEMENT "WM-3"
PURPOSE : water meter
SHOWN : on File Plan No. 1378
3. GRANT to WAIKOLOA WATER CO., INC., dated December 20, 1978, recorded as Document No. 13374 at Page 441, as amended by instrument dated February 4, 1981, recorded in Liber 15498 at Page 103; granting an easement over said Easement "WM-3".

EXHIBIT A-5

TMK: (3) 6-8-003-037

All of that certain parcel of land situate at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 3-B, same being a portion of Lot 3 of the "WAIKOLOA RM 1.5 - UNIT I", as shown on File Plan Number 1378, filed in the Bureau of Conveyances of the State of Hawaii, bearing tax key designation (3) 6-8-003-037, and containing an area of 2.301 acres, more or less.

Together With, but subject to, those certain rights, terms and conditions contained in that certain Deed dated July 11, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17260 at Page 611.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : PACTEX L.P., a Hawaii limited partnership
GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership
DATED : April 25, 1989
RECORDED : Liber 23110 Page 1

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

EXHIBIT A-6

TMK: (3) 6-8-003-031

All of that certain parcel of land situate at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 4 of the "WAIKOLOA RM 1.5 - UNIT I", as shown on File Plan Number 1378, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 3.71 acres, more or less.

Together With, but subject to, those certain rights, terms and conditions contained in that certain Deed dated July 11, 1983, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17260 at Page 611.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : PACTEX L.P., a Hawaii limited partnership
GRANTEE : WAIKOLOA DEVELOPMENT CO., a Hawaii limited partnership
DATED : April 25, 1989
RECORDED : Liber 23110 Page 1

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. DESIGNATION OF EASEMENT "WM-1"
PURPOSE : water meter
SHOWN : on File Plan No. 1378
3. GRANT to WAIKOLOA WATER CO., INC., dated December 20, 1978, recorded as Document No. 13374 at Page 441, as amended by instrument dated February 4, 1981, recorded in Liber 15498 at Page 103; granting an easement over said Easement "WM-1".

EXHIBIT B

WDC		
<u>NON-EXCLUSIVE RESERVED EASEMENTS LIST</u>		
LOT	FILE PLAN	EASEMENT
2-B	1172	E-1
		R-1
		E-2
		E-3
		E-4
		R-U-1
		8, E-4-A and 18, as described in Grant dated April 27, 1976, recorded in Liber 11411 at Page 135
		U-3, as described in Grant dated August 14, 1979, recorded in Liber 13956 at Page 491
		E-T-1, as described in Grant dated October 6, 1980 recorded in Liber 15112 at Page 268
		9B, as described in Grant dated March 15, 1988, recorded in Liber 21857 at Page 361
		T-3, as described in Grant dated June 20, 1991, recorded as Document No. 91-111121
		E-T-1A, E-T-1B and E-T-1C, as described in Grant dated August 14, 1979, recorded in Liber 13956 at Page 499
		T-2, as described in Exhibit B-1, attached hereto and made a part hereof
		E-T-1, as described in Exhibit B-2, attached hereto and made a part hereof
U-3, as described in Exhibit B-3, attached hereto and made a part hereof		
109B	1188	D-9
		S-1-A, as shown on the map attached to instrument recorded in Liber 13767 at Page 572
1	1280	A E, as described in instrument dated August 26, 1985, recorded in Liber 18902 at Page 278
2	1378	WM-3
3B	1378	(none)
4	1378	WM - 1

EASEMENT T-2
(50 FEET WIDE)
FOR TELEPHONE PURPOSES

LAND SITUATED AT WAIKOLOA, SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
BEING A PORTION OF ROYAL PATENT 5671, LAND COMMISSION AWARD 8521-B,
APANA 1 TO G.D. HUEU

AFFECTING LOT 2-B, BEING A PORTION OF ROYAL PATENT 5671,
LAND COMMISSION AWARD 8521-B, APANA 1 TO G.D. HUEU

Beginning at the northwest corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 7,976.21 feet North and 3,426.05 feet West and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|---------|---|
| 1. | 273° 03' 46" | 168.68 | feet; |
| 2. | 334° 59' 02" | 1957.94 | feet; |
| 3. | 18° 03' 09" | 73.22 | feet; |
| 4. | 154° 59' 02" | 1981.43 | feet; |
| 5. | 93° 03' 46" | 152.07 | feet; |
| 6. | 198° 03' 09" | 51.76 | feet along Lot 1 of Waikoloa RM 1.5, Unit 1 (File Plan 1378) to the point of beginning and containing an area of 2.245 Acres. |

-1-

420 Waiakamilo Road
Suite 411
Honolulu Hawaii 96817-4941
Telephone 808 842 1133
Fax 808 842 1937
eMail rmtowill@i-one.com



R. M. TOWILL CORPORATION
SINCE 1930

EXHIBIT B-1
1 of 2

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

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The description is based on a plat prepared by William Hee & Associates, entitled "Cancellation of Easement "E-1" as shown on "Waikoloa Development, File Plan 1172 and Designation of Easements "W-2A", "E-T-1", "T-2", "U-3" and "R-4", dated November 20, 1972.

Description Prepared by:

R. M. TOWILL CORPORATION

420 Waiakamilo Road, Suite 411
Honolulu, Hawaii 96817
August 25, 2005



Ross K. Tanaka 4/30/06
Ross K. Tanaka Expiration Date
Licensed Professional Land Surveyor
Certificate Number 10744

-2-

420 Waiakamilo Road
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R. M. TOWILL CORPORATION
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EXHIBIT B-1
2 of 2

Planning
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Environmental Services
Photogrammetry
Surveying
Construction Management

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EASEMENT E-T-1
(75 FEET WIDE)
FOR ELECTRIC AND TELEPHONE PURPOSES

LAND SITUATED AT WAIKOLOA, SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
BEING A PORTION OF ROYAL PATENT 5671, LAND COMMISSION AWARD 8521-B,
APANA 1 TO G.D. HUEU

AFFECTING LOT 2-B, BEING A PORTION OF ROYAL PATENT 5671,
LAND COMMISSION AWARD 8521-B, APANA 1 TO G.D. HUEU AND
LOT 1 OF WAIKOLOA DEVELOPMENT (FILE PLAN 1172)

Beginning at the east corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 3,469.93 feet South and 11,039.26 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|---------|-------|
| 1. | 121° 38' 26" | 5900.04 | feet; |
| 2. | 98° 52' 20" | 4741.87 | feet; |
| 3. | 150° 48' 27" | 1131.56 | feet; |
| 4. | 138° 16' 59" | 790.77 | feet; |
| 5. | 106° 13' 54" | 715.82 | feet; |
| 6. | 135° 05' 56" | 1063.06 | feet; |
| 7. | 158° 36' 23" | 3475.08 | feet; |
| 8. | 198° 03' 09" | 692.25 | feet; |

-1-

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R. M. TOWILL CORPORATION
SINCE 1930

EXHIBIT B-2
1 of 3

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

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- | | | | |
|-----|---|-------------|--|
| 9. | 288° 03' 09" | 75.00 | feet; |
| 10. | 18° 03' 09" | 665.36 | feet; |
| 11. | 338° 36' 23" | 3432.58 | feet; |
| 12. | 315° 05' 56" | 1028.11 | feet; |
| 13. | 286° 13' 54" | 718.07 | feet; |
| 14. | 318° 16' 59" | 820.55 | feet; |
| 15. | 330° 48' 27" | 1103.28 | feet; |
| 16. | 278° 52' 20" | 4720.44 | feet; |
| 17. | 301° 38' 26" | 5923.55 | feet; |
| 18. | 314° 26' 32" | 12.24 | feet; |
| 19. | Thence along Lot 5-A of Waikoloa Ranch Lots, Section A (File Plan 1139), on a curve to the right with a radius of 1800.00 feet, the chord azimuth and distance being: | | |
| | | 47° 03' 56" | 45.05 feet; |
| 20. | 47° 46' 57" | 30.05 | feet long Lot 4 of Waikoloa Ranch Lots, Section A (File Plan 1139) to the point of beginning and containing an area of 31.799 Acres. |

The description is based on a plat prepared by William Hee & Associates, entitled "Cancellation of Easement "E-1" as shown on "Waikoloa Development, File Plan 1172 and Designation of Easements "W-2A", "E-T-1", "T-2", "U-3" and "R-4", dated November 20, 1972.



420 Waiakamilo Road, Suite 411
Honolulu, Hawaii 96817
August 25, 2005



Description Prepared by:

R. M. TOWILL CORPORATION

Ross K. Tanaka 4/30/06
Ross K. Tanaka Expiration Date
Licensed Professional Land Surveyor
Certificate Number 10744

-3-

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R. M. TOWILL CORPORATION
SINCE 1930

EXHIBIT B-2
3 of 3

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

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**EASEMENT U-3
FOR UTILITY PURPOSES**

LAND SITUATED AT WAIKOLOA, SOUTH KOHALA, ISLAND OF HAWAII, HAWAII
BEING A PORTION OF ROYAL PATENT 5671, LAND COMMISSION AWARD 8521-B,
APANA 1 TO G.D. HUEU

AFFECTING LOTS 5 AND 11 OF WAIKOLOA DEVELOPMENT (FILE PLAN 1172) AND
LOTS 3-A, 3-B AND 2-B, BEING PORTIONS OF ROYAL PATENT 5671,
LAND COMMISSION AWARD 8521-B, APANA 1 TO G.D. HUEU

Beginning at the southeast corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 5,108.85 feet North and 3,054.60 feet West and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|---|--------------|-----------------------|
| 1. | 30° 41' 45" | 76.07 | feet; |
| 2. | 130° 19' 05" | 2623.36 | feet; |
| 3. | 109° 10' 59" | 1029.89 | feet; |
| 4. | 126° 57' 22" | 922.53 | feet; |
| 5. | Thence on a curve to the right with a radius of 4475.00 feet, the chord azimuth and distance being: | | |
| | | 128° 16' 22' | 1654.49 feet (calc.); |
| 6. | 138° 55' 36" | 2198.36 | feet; |
| 7. | 225° 18' 53" | 572.05 | feet; |

- 1 -

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SINCE 1930

EXHIBIT B-3
1 of 3

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

8. Thence on a curve to the left with a radius of 2075.00 feet, the chord azimuth and distance being;
217° 43' 02" 546.68 feet;
9. 127° 08' 58" 752.71 feet;
10. 220° 00' 50.06 feet;
11. 307° 08' 58" 819.62 feet (calc);
12. Thence along Lot 5 of Waikoloa Development (File Plan 1172), on a curve to the right with a radius of
4650.00 feet, the chord azimuth and distance being:
29° 38' 42" 29.55 feet (calc.);
13. Thence along Lot 5 of Waikoloa Development (File Plan 1172), on a curve to the right with a radius of
2150.00 feet, the chord azimuth and distance being:
37° 33' 45.5" 580.01 feet;
14. 45° 18' 53" 501.63 feet along Lot 5 of Waikoloa Development (File Plan
1172);
15. 318° 55' 36" 2127.94 feet along Lot 5 of Waikoloa Development (File Plan
1172);
16. Thence feet along Lots 5 and 11 of Waikoloa Development (File Plan 1172), on a curve to the left with
a radius of 4400.00 feet, the chord azimuth and
distance being:
308° 13' 59" 1632.76 feet (calc.);
17. 306° 57' 22" 916.96 feet (calc.);
18. 289° 10' 59" 1032.16 feet;
19. 310° 19' 05" 2624.64 feet to the point of beginning and containing an area
of 17.270 Acres (calc).

-2-

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R. M. TOWILL CORPORATION
SINCE 1930

EXHIBIT B-3
2 of 3

Planning
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Environmental Services
Photogrammetry
Surveying
Construction Management

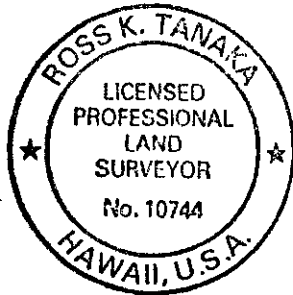
39

The description is based on a plat prepared by William Hee & Associates, entitled "Cancellation of Easement "E-1" as shown on "Waikoloa Development, File Plan 1172 and Designation of Easements "W-2A", "E-T-1", "T-2", "U-3" and "R-4", dated November 20, 1972.

Description Prepared by:

R. M. TOWILL CORPORATION

420 Waiakamilo Road, Suite 411
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Ross K. Tanaka 4/30/06
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- 3 -

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R. M. TOWILL CORPORATION
SINCE 1930

EXHIBIT B-3
3 of 3

Planning
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Environmental Services
Photogrammetry
Surveying
Construction Management

40

EXHIBIT C

**WDC
Exclusive Reserved Easements List**

None.

406857.2

Of Counsel:

IMANAKA KUDO & FUJIMOTO

A Limited Liability Law Company

BENJAMIN A. KUDO 2262-0

NAOMI U. KUWAYE 6648-0

STEPHANIE G. UECHI 8184-0

745 Fort Street, 17th Floor

Honolulu, Hawaii 96813

Telephone: (808) 521-9500

Attorneys for PETITIONER

WAIKOLOA MAUKA, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of
WAIKOLOA MAUKA, LLC

DOCKET NO. A06-767

To Amend the Agricultural Land
Use District Boundaries into the
Rural Land Use District for
Approximately 731.581 Acres in
South Kohala District, Island of
Hawaii, Tax Map Key No. (3) 6-8-
02:016 (por.)

AFFIDAVIT OF BENJAMIN A. KUDO
ATTESTING TO SERVICE OF
PETITION FOR LAND USE DISTRICT
BOUNDARY AMENDMENT

**AFFIDAVIT OF BENJAMIN A. KUDO ATTESTING TO
SERVICE OF PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT**

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

SS:

BENJAMIN A. KUDO, being first sworn on oath, deposes and
says that:

1. Affiant is one of the attorneys for Petitioner,
WAIKOLOA MAUKA, LLC ("Petitioner"), is licensed to practice law

in the State of Hawaii, is duly authorized to make this affidavit, and does so upon personal knowledge and belief.

2. This affidavit is made to comply with section 15-15-50 (c)(5)(C), Hawaii Administrative Rules ("HAR") for the State of Hawaii, Land Use Commission ("Commission").

3. On June 28, 2006, Petitioner filed with the Commission a petition for a boundary amendment ("Petition") in Docket No. A06-767.

4. The foregoing Petition and Exhibits "1" to "12", pursuant to HAR § 15-15-48(a), were duly served by certified mail or personally served to each of the following persons on June 28, 2006, addressed as follows:

State of Hawaii
Department of Business, Economic
Development and Tourism
OFFICE OF PLANNING
Attn: Ms. Laura Thielen, Director
State Office Tower, 6th Floor
235 South Beretania Street
Honolulu, Hawaii 96813

HAND DELIVERY

Department of Business, Economic
Development and Tourism
OFFICE OF PLANNING
Attn: Mr. Abe Mitsuda
State Office Tower, 6th Floor
235 South Beretania Street
Honolulu, Hawaii 96813

HAND DELIVERY

State of Hawaii
DEPARTMENT OF THE ATTORNEY GENERAL
Attn: Mark Bennett, Esq.
Hale Auhau
425 Queen Street
Honolulu, Hawaii 96813

CERTIFIED MAIL

County of Hawaii
PLANNING DEPARTMENT
Attn: Mr. Chris Yuen
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

CERTIFIED MAIL

County of Hawaii
PLANNING COMMISSION
Attn: Mr. Norman Hayashi
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

CERTIFIED MAIL

County of Hawaii
DEPARTMENT OF THE CORPORATION COUNSEL
Attn: Bobby Jean Leithead-Todd, Esq.
Hilo Lagoon Centre
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

CERTIFIED MAIL

Mr. Kevin C. Kellow
Manager
Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, California 91207

CERTIFIED MAIL

Parker Ranch, Inc.
P.O. Box 458
Kamuela, Hawaii 96745

CERTIFIED MAIL

Time Warner Entertainment
Company, L.P., dba Sun Cablevision
74-5605 Luhia Street
Kailua-Kona, Hawaii 96745

CERTIFIED MAIL

Edwin DeLuz Trucking & Gravel, L.L.C.
P.O. Box 406
Pauuilo, Hawaii 96776

CERTIFIED MAIL

Hawaii Electric Light Company, Inc.
P.O. Box 1027
Hilo, Hawaii 96720

CERTIFIED MAIL

Transcontinental Development Co.
1001 Bishop Street, Pauahi Tower
Suite 2610
Honolulu, Hawaii 96813

CERTIFIED MAIL

Waikoloa Village Association
P.O. Box 3008
Waikoloa, Hawaii 96738

CERTIFIED MAIL

GTE Hawaiian Telephone Company
Incorporated
P.O. Box 2200
Honolulu, Hawaii 96841

CERTIFIED MAIL

Waikoloa Water Co., Inc.,
dba West Hawaii Water Company
150 Waikoloa Beach Drive
Waikoloa, Hawaii 96743

CERTIFIED MAIL

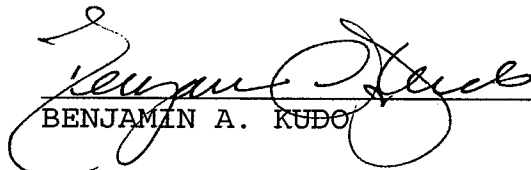
Waikoloa Sanitary Sewer Co., Inc.,
dba West Hawaii Sewer Company
150 Waikoloa Beach Drive
Waikoloa, Hawaii 96743

CERTIFIED MAIL

Waikoloa Development Co.
Suite 2880, Pacific Tower
1001 Bishop Street
Honolulu, Hawaii 96813

CERTIFIED MAIL

Further affiant sayeth naught.


BENJAMIN A. KUDO

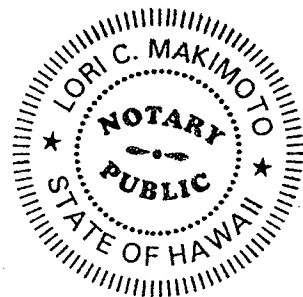
Subscribed and sworn to before me
this 28th day of June, 2006.


Notary Public, State of Hawaii

Lori C. Makimoto

Printed Name

My commission expires: 03-30-2007



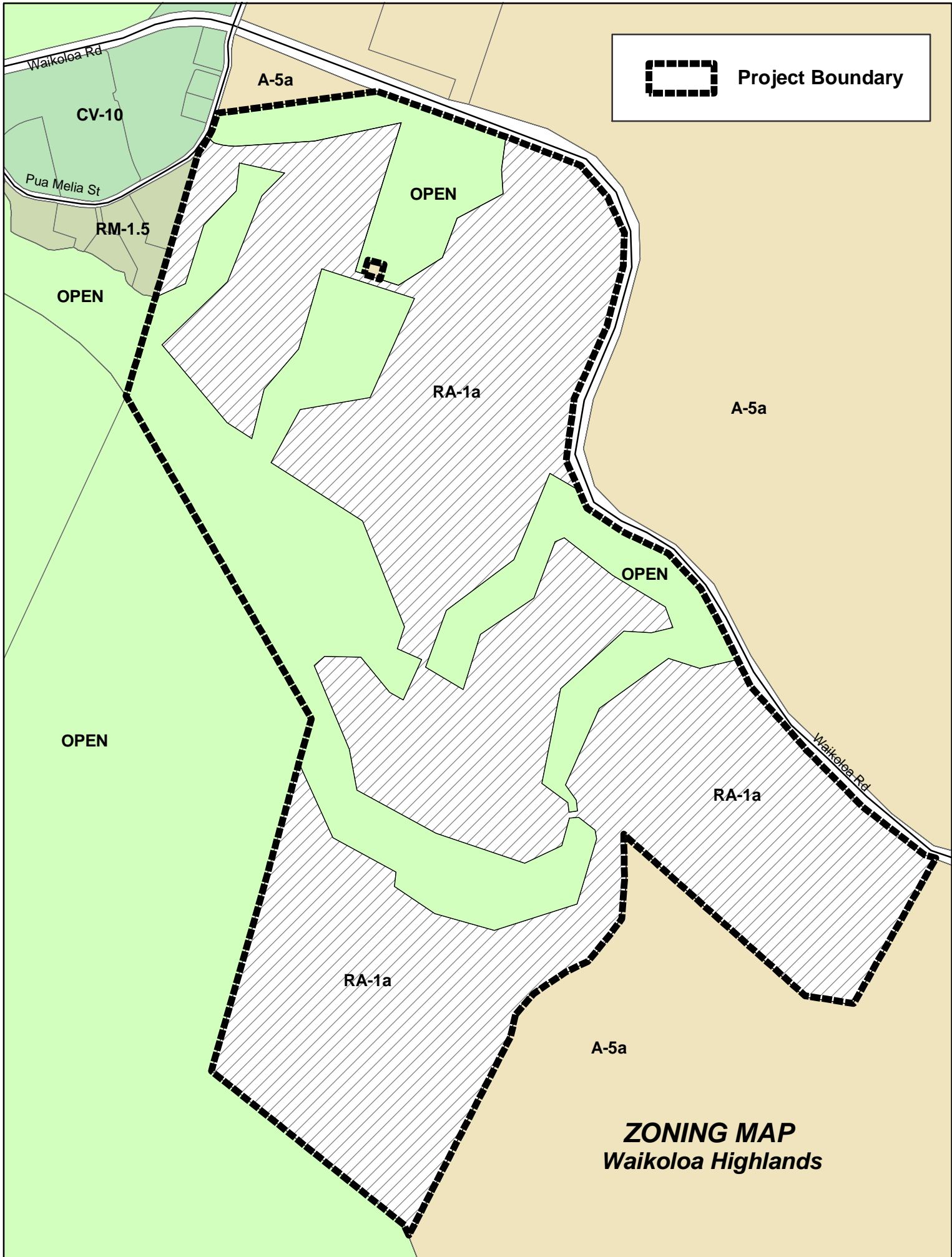
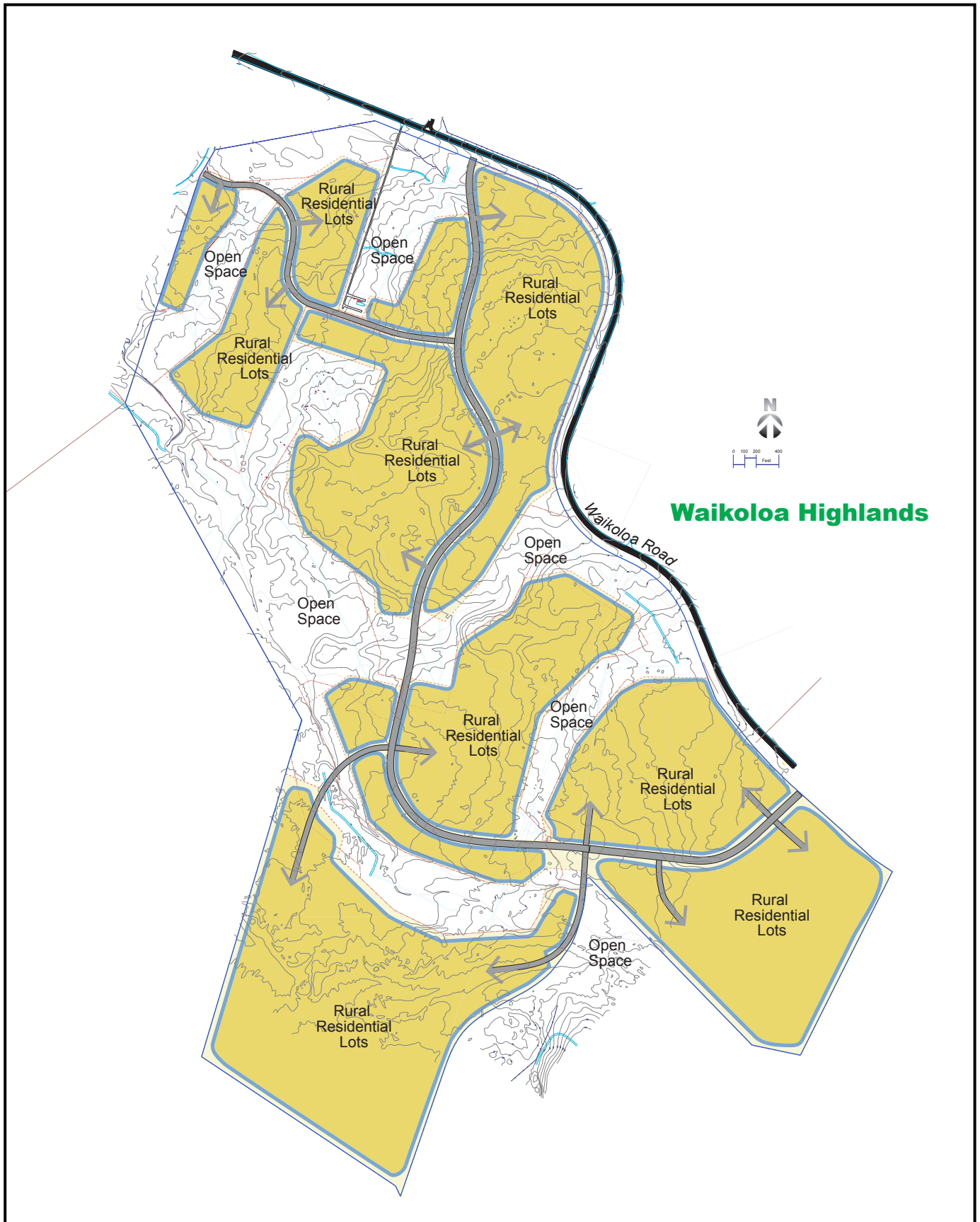


Exhibit "8"



**Waikoloa Highlands
Project Master Plan**

Exhibit "9"

WAIKOLOA MAUKA, LLC

Financial Statements

August 18, 2005 through December 31, 2005

(Note: Portions of the documents have been redacted)

1065

U.S. Return of Partnership Income

Form Department of the Treasury Internal Revenue Service

For calendar year 2005, or tax year beginning AUG 18 2005, and ending DEC 31 2005

OMB No. 1545-0099

2005

EXTENSION GRANTED TO 10/16/06

Form header section containing: A Principal business activity (REAL ESTATE DEVELOPMENT), B Principal product or service (REAL ESTATE), C Business code number (237210), D Employer identification number, E Date business started (08/18/2005), F Total assets (\$61,365,680), G Check applicable boxes, H Check accounting method, I Number of Schedules K-1 (2).

Caution: include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

Main table with 22 rows. Columns include line number, description, and amount. Rows 1-8 are grouped as 'Income' and rows 9-21 as 'Deductions (see instructions for limitations)'. Row 22 is 'Ordinary business income (loss)'. Total income is 241,208 and total deductions is 248,912, resulting in an ordinary business income of <7,704.>

Signature and preparer information section. Includes: Sign Here (Signature: Max Firozi), Date (JUN 21 2006), Preparer's signature, Firm's name (GREEN HASSON & JANKS LLP), Address (10990 WILSHIRE BLVD., 16TH FLOOR, LOS ANGELES, CA 90024-3929), Phone no. (310) 873-1600, and checkboxes for self-employed and discussion with preparer.

Schedule A Cost of Goods Sold (see the instructions)

1	Inventory at beginning of year	1	
2	Purchases less cost of items withdrawn for personal use	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	

- 9 a Check all methods used for valuing closing inventory:
- (i) Cost as described in Regulations section 1.471-3
 - (ii) Lower of cost or market as described in Regulations section 1.471-4
 - (iii) Other (specify method used and attach explanation) ▶
- b Check this box if there was a writedown of "subnormal" goods as described in Regulations section 1.471-2(c)
- c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)
- d Do the rules of section 263A (for property produced or acquired for resale) apply to the partnership? Yes No
- e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No
If "Yes," attach explanation.

Schedule B Other Information

	Yes	No
1 What type of entity is filing this return? Check the applicable box:		
a <input type="checkbox"/> Domestic general partnership		
b <input type="checkbox"/> Domestic limited partnership		
c <input checked="" type="checkbox"/> Domestic limited liability company		
d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership		
f <input type="checkbox"/> Other ▶		
2 Are any partners in this partnership also partnerships?		X
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations sections 301.7701-2 and 301.7701-3? If yes, see instructions for required attachment		X
4 Did the partnership file Form 8893, Election of Partnership Level Tax Treatment, or an election statement under section 6231(a)(1)(B)(ii) for partnership-level tax treatment, that is in effect for this tax year? See Form 8893 for more details		X
5 Does this partnership meet all three of the following requirements? a The partnership's total receipts for the tax year were less than \$250,000; b The partnership's total assets at the end of the tax year were less than \$600,000; and c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return. If "Yes," the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item N on Schedule K-1		X
6 Does this partnership have any foreign partners? If "Yes," the partnership may have to file Forms 8804, 8805 and 8813. See the instructions	X	
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?		X
8 Has this partnership filed, or is it required to file, a return under section 6111 to provide information on any reportable transaction?		X
9 At any time during calendar year 2005, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country. ▶		X
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the partnership may have to file Form 3520. See the instructions		X
11 Was there a distribution of property or a transfer (for example, by sale or death) of a partnership interest during the tax year? If "Yes," you may elect to adjust the basis of the partnership's assets under section 754 by attaching the statement described under Elections Made By the Partnership in the instructions		X
12 Enter the number of Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return ▶		X

Designation of Tax Matters Partner (see the instructions)

Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP ▶ **VITOIL CORPORATION** Identifying number of TMP ▶

Address of designated TMP ▶ **120 ASPEN OAK LANE**
GLENDAL, CA 91207

Schedule K Partners' Distributive Share Items

		Total amount	
Income (Loss)	1 Ordinary business income (loss) (page 1, line 22)	1	<7,704.>
	2 Net rental real estate income (loss) (attach Form 8825)	2	
	3a Other gross rental income (loss)	3a	
	b Expenses from other rental activities (attach statement)	3b	
	c Other net rental income (loss). Subtract line 3b from line 3a	3c	
	4 Guaranteed payments	4	90,000.
	5 Interest income	5	6,699.
	6 Dividends: a Ordinary dividends	6a	
	b Qualified dividends	6b	
	7 Royalties	7	
	8 Net short-term capital gain (loss) (attach Schedule D (Form 1065))	8	
9a Net long-term capital gain (loss) (attach Schedule D (Form 1065))	9a		
b Collectibles (28%) gain (loss)	9b		
c Unrecaptured section 1250 gain (attach statement)	9c		
10 Net section 1231 gain (loss) (attach Form 4797)	10		
11 Other income (loss) (see instructions) Type ▶	11		
Deductions	12 Section 179 deduction (attach Form 4562)	12	
	13a Contributions	13a	
	b Investment interest expense	13b	
	c Section 59(e)(2) expenditures: (1) Type ▶ (2) Amount ▶	13c(2)	
d Other deductions (see instructions) Type ▶	13d		
Self-Employment	14a Net earnings (loss) from self-employment	14a	
	b Gross farming or fishing income	14b	
	c Gross nonfarm income	14c	
Credits & Credit Recapture	15a Low-income housing credit (section 42(j)(5))	15a	
	b Low-income housing credit (other)	15b	
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	15c	
	d Other rental real estate credits (see instructions) Type ▶	15d	
	e Other rental credits (see instructions) Type ▶	15e	
	f Other credits and credit recapture (see instructions) Type ▶	15f	
Foreign Transactions	16a Name of country or U.S. possession ▶	16a	
	b Gross income from all sources	16b	
	c Gross income sourced at partner level	16c	
	Foreign gross income sourced at partnership level		
	d Passive ▶ e Listed categories (attach stmt.) ▶ f General limitation ▶	16f	
	Deductions allocated and apportioned at partner level		
	g Interest expense ▶ h Other ▶	16h	
	Deductions allocated and apportioned at partnership level to foreign source income		
	i Passive ▶ j Listed categories (attach stmt.) ▶ k General limitation ▶	16k	
	l Total foreign taxes (check one): Paid <input type="checkbox"/> Accrued <input type="checkbox"/>	16l	
m Reduction in taxes available for credit (attach statement)	16m		
n Other foreign tax information (attach statement)			
Alternative Minimum Tax (AMT) Items	17a Post-1986 depreciation adjustment	17a	
	b Adjusted gain or loss	17b	
	c Depletion (other than oil and gas)	17c	
	d Oil, gas, and geothermal properties - gross income	17d	
	e Oil, gas, and geothermal properties - deductions	17e	
	f Other AMT items (attach statement)	17f	
Other Information	18a Tax-exempt interest income	18a	
	b Other tax-exempt income	18b	
	c Nondeductible expenses	18c	
	19a Distributions of cash and marketable securities	19a	
	b Distributions of other property	19b	
	20a Investment income	20a	6,699.
	b Investment expenses	20b	
c Other items and amounts (attach statement)			

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 11. From the result, subtract the sum of Schedule K, lines 12 through 13d, and 16i	1	88,995.				
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other
a General partners						
b Limited partners	88,995.					

Note: Schedules L, M-1 and M-2 are not required if Question 5 of Schedule B is answered "Yes."

Schedule L Balance Sheets per Books

Assets	Beginning of tax year		End of tax year	
	(a)	(b)	(c)	(d)
1 Cash				
2a Trade notes and accounts receivable				
b Less allowance for bad debts				
3 Inventories				
4 U.S. government obligations				
5 Tax-exempt securities				
6 Other current assets (attach statement)	STATEMENT 3			61,365,680.
7 Mortgage and real estate loans				
8 Other investments (attach statement)				
9a Buildings and other depreciable assets				
b Less accumulated depreciation				
10a Depletable assets				
b Less accumulated depletion				
11 Land (net of any amortization)				
12a Intangible assets (amortizable only)				
b Less accumulated amortization				
13 Other assets (attach statement)				
14 Total assets		0.		61,365,680.
Liabilities and Capital				
15 Accounts payable				
16 Mortgages, notes, bonds payable in less than 1 year				
17 Other current liabilities (attach statement)	STATEMENT 4			11,685.
18 All nonrecourse loans				
19 Mortgages, notes, bonds payable in 1 year or more				
20 Other liabilities (attach statement)				
21 Partners' capital accounts				61,353,995.
22 Total liabilities and capital		0.		61,365,680.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

1 Net income (loss) per books	<1,005.>	6 Income recorded on books this year not included on Schedule K, lines 1 through 11 (itemize):	
2 Income included on Schedule K, lines 1, 2, 3c, 5, 6a, 7, 8, 9a, 10, and 11, not recorded on books this year (itemize):		a Tax-exempt interest \$	
3 Guaranteed payments (other than health insurance)	90,000.	7 Deductions included on Schedule K, lines 1 through 13d, and 16i, not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 13d, and 16i (itemize):		a Depreciation \$	
a Depreciation \$		8 Add lines 6 and 7	
b Travel and entertainment \$		9 Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	88,995.
5 Add lines 1 through 4	88,995.		

Schedule M-2 Analysis of Partners' Capital Accounts

1 Balance at beginning of year		6 Distributions: a Cash	
2 Capital contributed: a Cash	61,355,000.	b Property	
b Property		7 Other decreases (itemize):	
3 Net income (loss) per books	<1,005.>	8 Add lines 6 and 7	
4 Other increases (itemize):		9 Balance at end of year. Subtract line 8 from line 5	61,353,995.
5 Add lines 1 through 4	61,353,995.		

**Application for Automatic 6-Month Extension of Time To File
 Certain Business Income Tax, Information, and Other Returns**

OMB No. 1545-0233

► File a separate application for each return.

Type or Print	Name WAIKOLOA MAUKA, LLC	Taxpayer identification number [REDACTED]
File by the due date for the return for which an extension is requested. See instructions.	Number, street, and room or suite no. if P.O. box, see instructions. 120 ASPEN OAK LANE	
	City, town, state, and ZIP code (if a foreign address, enter city, province or state, and country (follow the country's practice for entering postal code)). GLENDALE, CA 91207	

Caution: Carefully complete all items. Incorrect information may cause delay or rejection.

- 1 Enter only one code for type of return that this automatic 6-month extension is for (see below) **09**
- 2 If the foreign corporation does not have an office or place of business in the United States, check here ►
- 3 If the organization qualifies under Regulations section 1.6081-5 (see instructions), check here ►
- 4 a For calendar year _____, or other tax year beginning **AUG 18 2005**, and ending **DEC 31 2005**
- b Short tax year. If this tax year is less than 12 months, check the reason:
 Initial return Final return Change in accounting period Consolidated return to be filed
- 5 If the organization is a corporation and is the common parent of a group that intends to file consolidated, check here ►
 Also, you must attach a schedule, listing the name, address, and EIN for each member covered by this extension.

6 Tentative total tax (see instructions)	6	
7 Total payments and credits (see instructions)	7	
8 Balance due. Subtract line 7 from line 6. Generally, you must deposit this amount using the Electronic Federal Tax Payment System (EFTPS), a Federal Tax Deposit (FTD) Coupon, or Electronic Funds Withdrawal (EFW) (see instructions for exceptions)	8	

Extension Is For:	Form Code	Extension Is For:	Form Code
Form 706-GS(D)	01	Form 1120-L	18
Form 706-GS(T)	02	Form 1120-ND	19
Form 990-C	03	Form 1120-ND (section 4951 taxes)	20
Form 1041 (estate)	04	Form 1120-PG	21
Form 1041 (trust)	05	Form 1120-POL	22
Form 1041-N	06	Form 1120-REIT	23
Form 1041-QFT	07	Form 1120-RIC	24
Form 1042	08	Form 1120-S	25
Form 1065	09	Form 1120-SF	26
Form 1065-B	10	Form 3520-A	27
Form 1066	11	Form 8612	28
Form 1120	12	Form 8613	29
Form 1120 (subchapter T cooperative)	13	Form 8725	30
Form 1120-A	14	Form 8804	31
Form 1120-F	15	Form 8831	32
Form 1120-FSC	16	Form 8876	33
Form 1120-H	17		

LHA For Paperwork Reduction Act Notice, see instructions.

Form 7004 (Rev. 12-2005)



FORM 1065 OTHER DEDUCTIONS STATEMENT 1

DESCRIPTION	AMOUNT
FORFEITED LOAN DEPOSIT	20,000.
CONSULTANTS	29,372.
LEGAL FEES	70,586.
TELEPHONE	1,116.
ACCOUNTING	4,279.
DUES	100.
OFFICE	197.
INSURANCE	13,984.
TRAVEL	5,920.
PARKING	17.
OUTSIDE SERVICES	13,341.
TOTAL TO FORM 1065, LINE 20	158,912.

SCHEDULE K INTEREST INCOME STATEMENT 2

DESCRIPTION	U.S. BONDS	OTHER
TITLE GUARANTEE ESCROW SERVICES		6,699.
TOTAL TO SCHEDULE K, LINE 5		6,699.

SCHEDULE L OTHER CURRENT ASSETS STATEMENT 3

DESCRIPTION	BEGINNING OF TAX YEAR	END OF TAX YEAR
AND FOR DEVELOPMENT		61,365,680.
TOTAL TO SCHEDULE L, LINE 6		61,365,680.



SCHEDULE L	OTHER CURRENT LIABILITIES	STATEMENT	4
<u>DESCRIPTION</u>		BEGINNING OF TAX YEAR	END OF TAX YEAR
DUE TO VITOIL			11,685.
TOTAL TO SCHEDULE L, LINE 17			11,685.

FORM 1065	PARTNERS' CAPITAL ACCOUNT SUMMARY				STATEMENT	5
PARTNER NUMBER	BEGINNING CAPITAL	CAPITAL CONTRIBUTED	SCHEDULE M-2 LNS 3, 4 & 7	WITH- DRAWALS	ENDING CAPITAL	
1	0.	12,271,000.	<201.>		12,270,799.	
2	0.	49,084,000.	<804.>		49,083,196.	
TOTAL	0.	61,355,000.	<1,005.>		61,353,995.	

Schedule K-1 (Form 1065)

2005

Final K-1 Amended K-1 OMB No. 1545-0099

Department of the Treasury Internal Revenue Service

For calendar year 2005, or tax year beginning AUGUST 18, 2005 ending DECEMBER 31, 2005

Partner's Share of Income, Deductions, Credits, etc.

See separate instructions.

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

Table with 15 columns for income and deduction items. Includes rows for Ordinary business income (loss), Net rental real estate income (loss), Other net rental income (loss), Guaranteed payments, Interest income, Ordinary dividends, Qualified dividends, Royalties, Net short-term capital gain (loss), Net long-term capital gain (loss), Collectibles (28%) gain (loss), Unrecaptured sec 1250 gain, Net section 1231 gain (loss), Other income (loss), Section 179 deduction, Other deductions, Self-employment earnings (loss), Credits & credit recapture, Foreign transactions, Alternative min tax (AMT) items, Tax-exempt income and nondeductible expenses, Distributions, Other information.

*See attached statement for additional information.

For IRS Use Only

Part I Information About the Partnership

Form with fields A-F: Partnership's employer identification number, Partnership's name, address, city, state, and ZIP code, IRS Center where partnership filed return, Check if this is a publicly traded partnership (PTP), Tax shelter registration number, Check if Form 8271 is attached.

Part II Information About the Partner

Form with fields G-K: Partner's identifying number, Partner's name, address, city, state, and ZIP code, General partner or LLC member-manager, Limited partner or other LLC member, Domestic partner, Foreign partner, What type of entity is this partner?

Table for Partner's share of profit, loss, and capital. Columns: Beginning, Ending. Rows: Profit, Loss, Capital.

Table for Partner's share of liabilities at year end. Rows: Nonrecourse, Qualified nonrecourse financing, Recourse.

Table for Partner's capital account analysis. Rows: Beginning capital account, Capital contributed during the year, Current year increase (decrease), Withdrawals & distributions, Ending capital account.

Form with checkboxes: Tax basis, GAAP, Section 704(b) book, Other (explain).

Schedule K-1 (Form 1065)

2005

For calendar year 2005, or tax year beginning AUGUST 18, 2005 ending DECEMBER 31, 2005

Department of the Treasury Internal Revenue Service

Partner's Share of Income, Deductions, Credits, etc.

See separate instructions.

Final K-1 Amended K-1 OMB No. 1545-0099

Partner's Share of Current Year Income, Deductions, Credits, and Other Items

Table with 2 columns: Item description and Amount. Rows include: 1 Ordinary business income (loss) <6,163.>, 2 Net rental real estate income (loss), 3 Other net rental income (loss), 4 Guaranteed payments, 5 Interest income 5,359., 6a Ordinary dividends, 6b Qualified dividends, 7 Royalties, 8 Net short-term capital gain (loss), 9a Net long-term capital gain (loss), 9b Collectibles (28%) gain (loss), 9c Unrecaptured sec 1250 gain, 10 Net section 1231 gain (loss) A 5,359., 11 Other income (loss), 12 Section 179 deduction, 13 Other deductions, 14 Self-employment earnings (loss), 15 Credits & credit recapture, 16 Foreign transactions, 17 Alternative min tax (AMT) items, 18 Tax-exempt income and nondeductible expenses, 19 Distributions, 20 Other information.

*See attached statement for additional information.

For IRS Use Only

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code

WAIKOLOA MAUKA, LLC 120 ASPEN OAK LANE GLENDALE, CA 91207

C IRS Center where partnership filed return OGDEN, UT

D Check if this is a publicly traded partnership (PTP)

E Tax shelter registration number, if any

F Check if Form 8271 is attached

Part II Information About the Partner

G Partner's identifying number

H Partner's name, address, city, state, and ZIP code

ARCH LTD. 120 ASPEN OAK LANE GLENDALE, CA 91207

I General partner or LLC member-manager Limited partner or other LLC member

J Domestic partner Foreign partner

K What type of entity is this partner? CORPORATION

L Partner's share of profit, loss, and capital:

Table with 3 columns: Category, Beginning, Ending. Rows: Profit 80.0000000%, Loss 80.0000000%, Capital 80.0000000%

M Partner's share of liabilities at year end:

Table with 2 columns: Liability type, Amount. Rows: Nonrecourse, Qualified nonrecourse financing 0, Recourse 0

N Partner's capital account analysis:

Table with 2 columns: Description, Amount. Rows: Beginning capital account, Capital contributed during the year 49,084,000, Current year increase (decrease) <804, Withdrawals & distributions, Ending capital account 49,083,196

X Tax basis GAAP Section 704(b) book Other (explain)

STATE OF HAWAII-DEPARTMENT OF TAXATION
PARTNERSHIP RETURN OF INCOME

For calendar year 2005 or other tax year
beginning • AUG 18, 2005, and ending • DEC 31, 2005

DO NOT WRITE OR STAPLE IN THIS SPACE

PRINT OR TYPE	Partnership Name WAIKOLOA MAUKA, LLC	PNT	INT
	Oba or C/O	A Federal Employer I.D. No. [REDACTED]	
	Address (number and street) 120 ASPEN OAK LANE	B Business Code No. (from federal Form 1065) • 237210	
	City or town, State, and ZIP Code. If foreign address, see Instructions. GLENDALE, CA 91207	C Principal business activity REAL ESTATE	

E Check applicable boxes: (1) Initial Return (2) Final Return (3) Change in Address (4) Amended Return

FOR LINES 1 - 9, ENTER AMOUNTS FROM COMPARABLE LINES ON FEDERAL FORM 1065

ORDINARY INCOME (LOSS) FROM TRADE OR BUSINESS ACTIVITIES	1 a Gross receipts or sales	1a•	241,208.	1c	241,208.
	b Minus returns and allowances	1b•		2•	
	2 Cost of goods sold			3	241,208.
	3 Gross profit (line 1c minus line 2)			4	
	4 Ordinary income (loss) from other partnerships, estates, and trusts			5	
	5 Net farm profit (loss) (attach federal Schedule F)			6	
	6 Net gain (loss) from federal Form 4797, Part II, line 17			7•	
	7 Other income (loss)			8•	241,208.
	8 TOTAL income (loss)			9•	248,912.
	9 TOTAL deductions			10	<7,704.>
	10 Ordinary income (loss) from trade or business activities before Hawaii adjustments (line 8 minus line 9)				
	ADD:				
	11 a Deductions allowable for federal tax purposes but not allowable or allowable only in part for Hawaii tax purposes (attach schedule)	11a			
	b Net gain or (loss) from Schedule D-1, Part II, line 19	11b•			
	c The portion of the Hawaii jobs credit claimed applicable to current year new employees	11c			
	d Other additions (attach schedule)	11d			
12 Total of lines 11a, 11b, 11c, and 11d			12		
13 Total of lines 10 and 12			13	<7,704.>	
DEDUCT:					
14 a Net gain or (loss) from federal Form 4797, Part II, line 17 (line 6 above)	14a				
b Federal employment credits	14b				
c Other deductions (attach schedule)	14c				
15 Total of lines 14a, 14b, and 14c			15		
16 Ordinary income (loss) from trade or business activities for Hawaii tax purposes (line 13 minus 15)			16	<7,704.>	

If you don't need Hawaii income tax forms mailed to you next year, check here to receive a preprinted label only

DECLARATION I declare, under the penalties set forth in section 231-38, HRS, that this return (including any accompanying schedules or statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Hawaii Inc Tax Law, Chapter 235, HRS.

Signature of general partner or limited liability company member: *Martirosian* Date: *06-21-06*

May the Hawaii Department of Taxation discuss this return with the preparer shown below? (See page 2 of the Instructions) Yes No

Please Sign Here	Paid Preparer's Information	Preparer's signature and date, Print Preparer's Name <i>[Signature]</i> JUN 21 2006	Preparer's identification no. [REDACTED]	Check if self-employed <input type="checkbox"/>
	Firm's name (or yours, if self-employed) Address and ZIP Code	GREEN HASSON & JANKS LLP 10990 WILSHIRE BLVD., 16TH FLOOR LOS ANGELES, CA 90024-3929		Federal E.I.No. [REDACTED] Phone no. (310) 873-1600

Schedule K - PARTNERS' SHARE OF INCOME, CREDITS, DEDUCTIONS, ETC. (See Instructions)

		a. Distributive share items		b. Attributable to Hawaii		c. Attributable Everywhere	
Income (Losses) and Deductions	1	Ordinary income (loss) from trade or business activities		<7,704.>	1	<7,704.>	
	2	Net income (loss) from rental real estate activities (attach federal Form 8825)			2		
	3 a	Gross income from other rental activities			3a		
		b Expenses from other rental activities(attach schedule)			3b		
		c Net income (loss) from other rental activities (line 3a minus line 3b)			3c		
	4	Portfolio income (loss):					
		a Interest income		6,699.	4a	6,699.	
		b Ordinary dividends			4b		
		c Royalty income			4c		
		d Net short-term capital gain (loss) (Schedule D (Form N-20))			4d		
		e Net long-term capital gain (loss) (Schedule D (Form N-20))			4e		
5	Guaranteed Payments to Partners		90,000.	5	90,000.		
6	Net gain (loss) under IRC section 1231 (other than due to casualty or theft) (attach Schedule D-1)			6			
7	Other income (loss) (attach schedule)			7			
Deductions	8	Charitable contributions (attach schedule)			8		
	9	IRC section 179 expense deduction (attach federal Form 4562)			9		
	10	Deductions related to portfolio income (loss) (attach schedule)			10		
	11	Other deductions (attach schedule)			11		
Credits	12	Total cost of qualifying property for the Capital Goods Excise Tax Credit			12		
	13	Fuel Tax Credit for Commercial Fishers (attach Form N-163)			13		
	14	Amounts needed to claim the Enterprise Zone Tax Credit (attach Form N-756)		See Instructions	14		
	15	Hawaii Low-Income Housing Tax Credit (attach Form N-586)			15		
	16	Credit for Employment of Vocational Rehabilitation Referrals (attach Form N-884)			16		
	17 a	Total production costs qualifying for a 4% Motion Picture and Film Production Income Tax Credit			17a		
		b Total transient accommodations costs qualifying for a 7.25% Motion Picture and Film Production Income Tax Credit			17b		
	18	High Technology Business Investment Tax Credit (attach Form N-318)			18		
	19	Tax Credit for Research Activities (attach Form N-319)			19		
	20	Technology Infrastructure Renovation Tax Credit			20		
	21	Total construction or renovation costs qualifying for the Hotel Construction and Remodeling Tax Credit			21		
	22	Individual Development Account Contribution Tax Credit (attach Form N-320)			22		
	23	Total qualifying costs for the Drought Mitigating Water Storage Facility Tax Credit			23		
	24	Credit for School Repair and Maintenance			24		
	25	Ethanol Facility Tax Credit (attach Form N-324)			25		
	26	Renewable Energy Technologies Income Tax Credit (attach Form N-334)			26		
	27	Ko Olina Resort and Marina Attractions and Educational Facilities Tax Credit (attach Form N-335)			27		
	28	Credit for income tax withheld on Form N-288 (net of refunds)			28		
Investment Interest	29 a	Interest expense on investment debts			29a		
	b	(1) Investment income included on lines 4a, 4b, and 4c, Schedule K		6,699.	29b(1)	6,699.	
(2) Investment expenses included on line 10, Schedule K			29b(2)				
Other Items	30	Attach schedule for other items and amounts not reported above (e.g., credit recapture amounts). See Instructions. Check box if schedules attached <input type="checkbox"/>			30		
Analysis	31 a	Income (loss). Combine lines 1 through 7 in column c. From the result, minus the sum of lines 8 through 11 and 29a			31a	88,995.	
		b Analysis by type of partner:					
		(a) Corporate	(b) Individual		(c) Partnership	(d) Exempt organization	(e) Nominee/Other
			i. Active	ii. Passive			
1.	General Partners						
2.	Limited Partners	88,995.					

SCHEDULE K-1
FORM N-20
(REV. 2005)

STATE OF HAWAII - DEPARTMENT OF TAXATION
**PARTNER'S SHARE OF INCOME, CREDITS,
DEDUCTIONS, ETC. - 2005**
For calendar year 2005 or other tax year
beginning **AUG 18, 2005** and ending **DEC 31, 2005**

PREPARE IN TRIPLICATE
1 File with N-20
2 For partnership
3 For partner

Partner's Soc. Sec. No. or Federal Employer I.D. No. ██████████	Partnership's Federal Employer Identification No. ██████████
Partner's name, address, and ZIP code VITOIL CORPORATION 120 ASPEN OAK LANE GLENDALE, CA 91207	Partnership's name, address, and ZIP code WAIKOLOA MAUKA, LLC 120 ASPEN OAK LANE GLENDALE, CA 91207

A This partner is a general partner limited partner
 LLC member-manager other LLC member

B What type of entity is this partner? **CORPORATION**

C Enter partner's percentage of:

	(i) Before decrease or termination	(ii) End of year
Profit sharing	20.0000000%	20.0000000%
Loss sharing	20.0000000%	20.0000000%
Ownership of capital	20.0000000%	20.0000000%

D Partner's share of liabilities:

Nonrecourse	\$	
Qualified nonrecourse financing	\$	
Other	\$	0.

E Federal Tax Shelter
Registration Number **██████████**

F Check here if this partnership is a publicly traded partnership as defined in IRC section 469(k)(2)

G Check applicable boxes: (1) Final K-1 (2) Amended K-1

H Reconciliation of partner's capital account:		(c) Income included in column (c) below, plus nontaxable income	(d) Deductions included in col. (c), below plus unallowable deductions	(e) Withdrawals and distributions	(f) Capital account at end of year (combine columns (a) through (e))
(a) Capital account at beginning of year	(b) Capital contributed during year				
	12,271,000.	<201.>			12,270,799.

Caution: Refer to Partner's Instructions for Schedule K-1 (N-20) before entering information from this schedule on your tax return.

	(a) Distributive share items	(b) Attributable to Hawaii	(c) Attributable Everywhere	(d) Form N-11, N-12 & N-15 filers enter the amount in column (b) and/or column (c) on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	<1,541.>	<1,541.>	See Partner's Instructions for Schedule K-1 (Form N-20). Interest Worksheet See Partner's Instructions for Sch. K-1 (Form N-20). Capital Gain/Loss Worksheet Capital Gain/Loss Worksheet See Partner's Instructions for Schedule K-1 (Form N-20).
	2 Net income (loss) from rental real estate activities			
	3 Net income (loss) from other rental activities			
	4 Portfolio income (loss):			
	a Interest	1,340.	1,340.	
	b Ordinary Dividends			
	c Royalties			
5 Guaranteed payments to partners	90,000.	90,000.	See Partner's Instructions for Schedule K-1 (Form N-20). Enter on applicable line of your return.	
6 Net gain (loss) under IRC section 1231 (other than due to casualty or theft)				
7 Other income (loss) (attach schedule)				
8 Charitable contributions (attach schedule)				
Deductions	9 Expense deduction for recovery property (IRC section 179) (attach schedule)			See Partner's Instructions for Schedule K-1 (Form N-20). Enter on applicable line of your return.
	10 Deductions related to portfolio income (attach schedule)			
	11 Other deductions (attach schedule)			
Credits	12 Total cost of qualifying property for the Capital Goods Excise Tax Credit			Form N-312 Form N-163 Form N-756 Form N-586 Form N-884 Form N-316
	13 Fuel Tax Credit for Commercial Fishers			
	14 Amounts needed to claim the Enterprise Zone Tax Credit	See attached Form N-756A		
	15 Hawaii Low-Income Housing Tax Credit			
	16 Credit for Employment of Vocational Rehabilitation Referrals			
	17 a Total production costs qualifying for a 4% Motion Picture and Film Production Income Tax Credit			
	b Total transient accommodations costs qualifying for a 7.25% Motion Picture and Film Production Income Tax Credit			



	(a) Distributive share items	(b) Attributable to Hawaii	(c) Attributable Everywhere	(d) Form N-11, N-12 & N-15 filers enter the amount in column (b) and/or column (c) on:
Credits (cont.)	18 High Technology Business Investment Tax Credit			Form N-318
	19 Tax Credit for Research Activities			Form N-319
	20 Technology Infrastructure Renovation Tax Credit			Form N-326
	21 Total construction or renovation costs qualifying for the Hotel Construction and Remodeling Tax Credit			Form N-314, Part II
	22 Individual Development Account Contribution Tax Credit			Form N-320
	23 Total qualifying costs of the Drought Mitigating Water Storage Facility Tax Credit			Form N-328
	24 Credit for School Repair and Maintenance			Form N-330
	25 Ethanol Facility Tax Credit			Form N-324
	26 Renewable Energy Technologies Income Tax Credit	See attached Form N-334A		
27 Ko Olina Resort and Marina Attractions and Educational Facilities Tax Credit			Form N-335	
28 Credit for income tax withheld on Form N-288 (net of refunds)			Sch. CR, line 22a	
Investment Interest	29 a Interest expense on investment debts			Form N-158, line 1
	b (1) Investment inc included on Sch K-1, lines 4a, 4b, and 4c	1,340.	1,340.	} See Partner's instructions for Schedule K-1 (Form N-20).
	(2) Investment expenses included in Schedule K-1, line 10			
Recapture of Tax Credits	30 Recapture of Hawaii Low-Income Housing Tax Credit			} Form N-586, Part III
	a From IRC section 42(j)(5) partnerships			
	b Other than on line 30a			
	31 Capital Goods Excise Tax Credit Properties	See attached N-312, Part II		Form N-312, Part II
	32 Recapture of High Technology Business Investment Tax Credit			Form N-318, Part III
Other	33 List below other items and amounts not included on lines 1 through 32 that are required to be reported separately to each partner			See Partner's instructions for Schedule K-1 (Form N-20).

Other Information Provided by Partnership:

Annual Return for Partnership Withholding Tax (Section 1446)

▶ See separate instructions for Forms 8804, 8805, and 8813.

▶ Attach Form(s) 8805.

For calendar year 2005 or tax year beginning **AUG 18**, 2005, and ending **DEC 31**, 2005

Check this box if the partnership keeps its records and books of account outside the United States and Puerto Rico

Part I Partnership

1 a Name of partnership WAIKOLOA MAUKA, LLC	b U.S. employer identification number [REDACTED]	
c Number, street, and room or suite no. If a P.O. box, see instructions. 120 ASPEN OAK LANE	For IRS Use Only	
	CC	FD
	RD	FF
	CAF	FP
	CR	I
d City, state, and ZIP code. If a foreign address, see instructions. GLENDAL, CA 91207	EDC	

Part II Withholding Agent

2 a Name of withholding agent. If partnership is also the withholding agent, enter "SAME" and do not complete lines 2b-d.	b Withholding agent's U.S. employer identification number
c Number, street, and room or suite no. If a P.O. box, see instructions.	
d City, state, and ZIP code	

Part III Section 1446 Tax Liability and Payments

3 Enter number of foreign partners	1			
4 Total effectively connected taxable income allocable to foreign partners (see instructions for effective dates before completing these lines):				
a Net ordinary income	4a			
b Reduction to line 4a for valid partner certificates under Regulations section 1.1446-6T (see instructions)	4b			
c Subtract line 4b from line 4a			4c	
d 28% rate gains allocated to non-corporate partners	4d			
e Reduction to line 4d for valid partner certificates under Regulations section 1.1446-6T (see instructions)	4e			
f Subtract line 4e from line 4d			4f	
g Unrecaptured section 1250 gains allocated to non-corporate partners			4g	
h Qualified dividend income and net long-term capital gains (including net section 1231 gains) allocable to non-corporate partners	4h			
i Reduction to line 4h for valid partner certificates under Regulations section 1.446-6T (see instructions)	4i			
j Subtract line 4i from line 4h			4j	
5 Gross section 1446 tax liability:				
a Multiply line 4c by 35% (.35)	5a	0.		
b Multiply line 4f by 28% (.28)	5b	0.		
c Multiply line 4g by 25% (.25)	5c	0.		
d Multiply line 4j by 15% (.15)	5d	0.		
e Add lines 5a through 5d			5e	0.

6a Payments of section 1446 tax made by the partnership identified on line 1a during its tax year (or with a request for an extension of time to file) and amount credited from 2004 Form 8804	6a	7	0.
b Section 1446 tax paid or withheld by another partnership in which the partnership identified on line 1a was a partner during the tax year (attach Form(s) 1042-S or 8805)	6b	8	0.
c Section 1445(a) or 1445(e)(1) tax withheld from or paid by the partnership identified on line 1a during the tax year for a disposition of a U.S. real property interest. Attach Form(s) 1042-S or 8288-A. See the instructions	6c	9	0.
7 Total payments. Add lines 6a through 6c			
8 Estimated tax penalty (attach Schedule A (Form 8804))			
9 Add lines 5a and 8			
10 Balance due. If line 7 is smaller than line 9, enter balance due. Attach a check or money order for the full amount payable to the "United States Treasury." Write the partnership's U.S. employer identification number, tax year, and Form 8804 on it			
11 Overpayment. If line 7 is more than line 9, enter amount overpaid			
12 Amount of line 11 you want refunded to you			
13 Amount of line 11 you want credited to next year's Form 8804			

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner, limited liability company member, or withholding agent) is based on all information of which preparer has any knowledge.

Sign Here Martino Diaz agent

Signature of general partner, limited liability company member, or withholding agent Title Date

Paid Preparer's Use Only

Preparer's signature [Signature] Date JUN 21 2006 Check if self-employed Preparer's SSN or PTIN [Redacted]

Firm's name (or yours if self-employed), address, and ZIP code GREEN HASSON & JANKS LLP EIN [Redacted]

10990 WILSHIRE BLVD., 16TH FLOOR Phone no. (310) 873-1600

LOS ANGELES, CA 90024-3929

JWA

Form **8805**

Foreign Partner's Information Statement of Section 1446 Withholding Tax

OMB No. 1545-1119

2005

▶ See separate instructions for Forms 8804, 8805, and 8813.

Department of the Treasury
Internal Revenue Service

For partnership's calendar year 2005, or tax year beginning **AUG 18, 2005**, and ending **DEC 31, 2005**

Copy A for Internal Revenue Service
Attach to Form 8804.

1 a Foreign partner's name ARCH LTD.		b U.S. identifying number [REDACTED]	5 a Name of partnership WAIKOLOA MAUKA, LLC	b U.S. EIN [REDACTED]
c Address (if a foreign address, see instructions) 120 ASPEN OAK LANE GLENDALE, CA 91207		c Address (if a foreign address, see instructions) 120 ASPEN OAK LANE GLENDALE, CA 91207		
2 Account number assigned by partnership (if any)		6 Withholding agent's name. If partnership is also the withholding agent, enter "SAME" and do not complete line 7.		
3 Type of partner (specify - see instructions) ▶ CORPORATION		7 Withholding agent's U.S. employer identification number		
4 Country code of partner. See the instructions for a listing of codes ▶				
8 a Check if the partnership identified on line 5a owns an interest in one or more partnerships <input type="checkbox"/>				
b Check if the partnership income is exempt from U.S. tax for the partner identified on line 1a <input type="checkbox"/>				
9 Partnership's effectively connected taxable income (ECTI) allocable to partner for the tax year (see inst.)				9 0.
10 Total tax credit allowed to partner under section 1446 (see instructions). Individual and corporate partners: Claim this amount as a credit against your U.S. income tax on Form 1040NR, 1120-F, etc.				10 0.

Schedule T - Beneficiary Information (see instructions)

11 a Name of beneficiary		c Address (if a foreign address, see instructions)		
b U.S. identifying number of beneficiary				
12 Amount of ECTI on line 9 to be included in the beneficiary's gross income (see instructions)				12
13 Amount of tax credit on line 10 that the beneficiary is entitled to claim on its return (see instructions)				13

For Paperwork Reduction Act Notice, see separate instructions for Forms 8804, 8805, and 8813.
JWA

Form 8805 (2005)

June 28, 2006

Notification of Petition Filing

This is to advise you that a petition to amend the State Land Use District Boundaries with the following general information has been submitted to the State of Hawaii Land Use Commission:

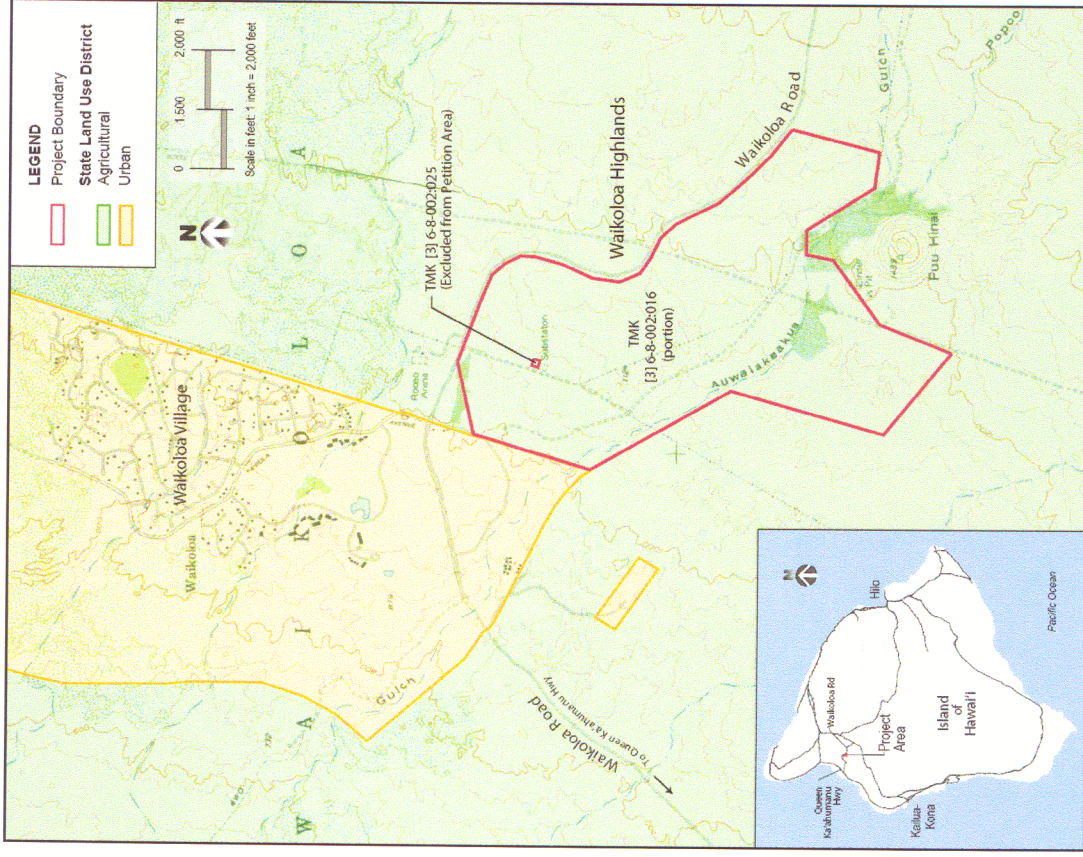
Docket Number: A06-767
Petitioner/Address: Waikoloa Mauka, LLC
120 Aspen Oak Lane
Glendale, California 91207
Waikoloa Mauka, LLC
(3) 6-8-02:016 (por.)
Location: South Kohala District,
Island of Hawaii, Hawaii
Request Reclassification: Agricultural to Rural
Acreage: Approximately 731.581 acres
Proposed Uses: Low-density residential subdivision

You may review detailed information regarding the petition at the Land Use Commission ("Commission") office or the County of Hawaii, Planning Department.

The Commission's office is located at 235 S. Beretania Street, Room 406, Honolulu, Hawaii. Office hours are from 7:45 a.m. to 4:30 p.m., Mondays through Fridays.

A hearing on this petition will be scheduled at a future date. If you are interested in participating in the hearing as a public witness, please write or call the Commission office at P.O. Box 2359, Honolulu, Hawaii 96804-2359; telephone (808) 587-3822.

If you intend to participate in the hearing as an intervenor, pursuant to § 15-15-52, Hawaii Administrative Rules, you should file a Notice of Intent to Intervene with the Commission within 30 days of the date of this notice. Please contact the Commission office for further information.



**Waikoloa Highlands
Project Location Map**

406863.2

Of Counsel:

IMANAKA KUDO & FUJIMOTO

A Limited Liability Law Company

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NAOMI U. KUWAYE 6648-0

STEPHANIE G. UECHI 8184-0

745 Fort Street, 17th Floor

Honolulu, Hawaii 96813

Telephone: (808) 521-9500

Attorneys for PETITIONER

WAIKOLOA MAUKA, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District Boundaries into the Rural Land Use District for Approximately 731.581 Acres in South Kohala District, Island of Hawaii, Tax Map Key No. (3) 6-8-02:016 (por.)

DOCKET NO. A06-767

AFFIDAVIT OF BENJAMIN A. KUDO ATTESTING TO SENDING OF THE NOTIFICATION OF PETITION FILING

AFFIDAVIT OF BENJAMIN A. KUDO ATTESTING TO SENDING OF THE NOTIFICATION OF PETITION FILING

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

SS:

BENJAMIN A. KUDO, being first sworn on oath, deposes and says that:

1. Affiant is one of the attorneys for Petitioner, WAIKOLOA MAUKA, LLC ("Petitioner"), is licensed to practice law

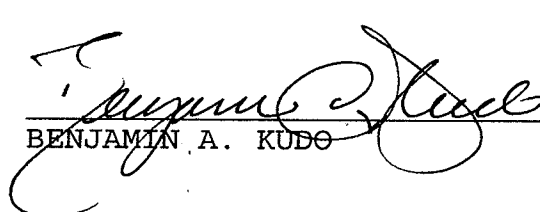
in the State of Hawaii, is duly authorized to make this affidavit, and does so upon personal knowledge and belief.

2. This affidavit is made to comply with section 15-15-50(d), Hawaii Administrative Rules ("HAR") for the State of Hawaii, Land Use Commission ("Commission").

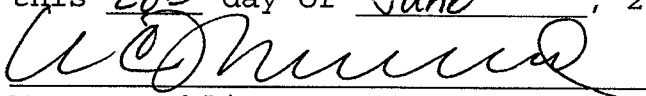
3. On June 28, 2006, Petitioner filed with the Commission a petition for a boundary amendment ("Petition") in Docket No. A06-767.

4. On June 28, 2006, the same day that the Petition was submitted to the Commission and pursuant to HAR § 15-15-50(d), Petitioner sent a Notification of Petition Filing to persons included on the statewide and Hawaii mailing lists provided to Petitioner by the Commission on or about June 28, 2006 (attached hereto as Attachments "A" and "B", respectively).

Further affiant sayeth naught.


BENJAMIN A. KUDO

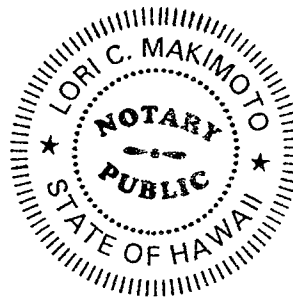
Subscribed and sworn to before me
this 28th day of June, 2006.


Notary Public, State of Hawaii

Lori C. Makimoto

Printed Name

My commission expires: 03-30-2007



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UH Director of Capital Improvements
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Millilani, HI 96789

STATEWIDE LIST 2006
Last Updated: 5/22/06

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Honolulu Star Bulletin
500 Ala Moana Boulevard, Unit 210
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150 Waikoloa Beach Drive
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1001 Kamokila Boulevard
Kapolei HI 96707

United States Marine Corps
Commander, Marine Forces Pacific
Box 61439
Camp H.M. Smith, Hawaii 96861-4028

David Kimo Frankel
Chair, Sierra Club, Hawai'i Chapter
P. O. Box 1185
Volcano HI 96785

U.S. Fish and Wildlife Service
300 Ala Moana Blvd., Rm. 3-122
Honolulu HI 96813

Department of the Army
Directorate of Public Works
Attn: Planning Division
Schofield Barracks, Hawaii 96857-5013

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C&C Department of Planning & Permitting
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Hawaii's Thousand Friends
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Kailua HI 96734

Jacqui Hoover, President
Hawaii Leeward Planning Conference
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Hawai'i Operating Eng Stabilization Fund
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Honolulu HI 96819

Mr. Norman Hayashi
563 West Kawaihani Street
Hilo HI 96720

Mrs. Jan Higa & Company
3171 Waiialae Avenue
Honolulu HI 96816

Department of the Navy
Commander in Chief, U.S. Pacific Fleet
Commander in Chief
250 Makalapa Drive
Pearl Harbor, HI 96860-3131

Attachment "A"

U.S. Pacific Command
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Camp H.M. Smith, Hawaii 96861-4028

Commander
Navy Region Hawaii
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PBR Hawaii
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Honolulu, HI 96841

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KHON
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Cheryl Izuka, Senior Title Officer
Title Guaranty of Hawaii, Inc.
235 Queen Street
Honolulu, Hawaii 96813

Attn.: Ms. Wanda Wehr
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801 S. King Street
Honolulu HI 96813

West Hawaii Today
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P. O. Box 789
Kailua-Kona HI 96745-0789

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Land Use Research Foundation of Hawaii
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Kaneohe HI 96744

League of Women Voters
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Attachment "A"

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Princeville HI 96722-3040

Life of the Land
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Sue White
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County of Hawaii
101 Aupuni Street, Suite 4
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Frances Mossman
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