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Attorney for Petitioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of:)	DOCKET NO. A12-795
)	
WEST MAUI LAND COMPANY, INC., a)	PETITION FOR LAND USE DISTRICT
Hawaii corporation, and KAHOMA)	BOUNDARY AMENDMENT;
RESIDENTIAL LLC, a Hawaii limited)	VERIFICATION; EXHIBITS "1"-“15”;
liability company,)	AFFIDAVIT OF MAILING;
)	CERTIFICATE OF SERVICE
To Amend the Land Use District Boundary of)	
certain land situated at Lahaina, Island of)	
Maui, State of Hawaii, consisting of 16.7 acres)	
from the agricultural district to the urban)	
district, Tax Map Key No. (2) 4-5-010:005.)	
_____)	

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

VERIFICATION

EXHIBITS "1"-“15”

AFFIDAVIT OF MAILING

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PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII:

Petitioner, WEST MAUI LAND COMPANY, INC., a Hawaii corporation (“Petitioner”), whose address is 33 Lono Avenue, Suite 450, Kahului, Hawaii 96732, and Land Owner KAHOMA RESIDENTIAL LLC, a Hawaii limited liability company (“Land Owner”), whose address is 33 Lono Avenue, Suite 450, Kahului, Hawaii 96732, by and through their attorneys, Mancini, Welch & Geiger L.L.P., submits this Petition For Land Use District Boundary Amendment under Hawaii Revised Statutes Chapters 205 and under Hawaii Administrative Rules Chapter 15, Title 15 and for the same shows:

I. RELIEF SOUGHT

Petitioner seeks a Land Use District Boundary Amendment for about 16.7 acres located at Lahaina, Maui, Hawaii, from State Land Use Agricultural District to State Land Use Urban District for the planned Kahoma Residential Subdivision Affordable Housing Project (“Project”).

II. AUTHORITY FOR PETITION

This Petition is made pursuant to Sections 205-4, Hawaii Revised Statutes (“HRS”), as amended, and Section 15-15-50, Hawaii Administrative Rules (“HAR”), as amended.

III. INFORMATION IN SUPPORT OF PETITION

Petitioner submitted an Environmental Assessment for the Project to the County of Maui through its Department of Housing and Human Concerns (“DHHC”) pursuant to HRS

Chapter 343. The DHHC accepted the Final Environmental Assessment for the Project and found that there was no significant impact (“FONSI”). Notice of the FONSI was published in the QEQC Bulletin on September 23, 2011. On October 24, 2011, Petitioner’s filed an application for affordable housing development (“Application”) with the Maui County Council (“Council”). The Application was supported by the DHHC. The Council approved the Application on December 2, 2011 (Resolution No. 11-126), attached as Exhibit “11.”

A. Identity of Petitioner.

Petitioner is a Hawaii corporation whose principal place of business is located at 33 Lono Avenue, Suite 450, Kahului, Maui, Hawaii.

B. Authorized Representatives.

James W. Geiger and the law firm of Mancini, Welch & Geiger L.L.P. have been appointed to represent Petitioner pursuant to HAR § 15-15-35(b). Petitioner’s authorization of such representation is attached as Exhibit “1.”

Pursuant to HAR § 15-15-50(c)(2), all correspondence and communication with regard to this Petition shall be addressed to and served upon:

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-and

West Maui Land Company, Inc.
33 Lono Avenue, Suite 450
Kahului, Hawaii 96732
Attention: Heidi Bigelow
Telephone: (808) 877-4202
Facsimile: (808) 877-9409
E-mail: heidi@westmauland.com

C. Description of the Petition Area.

The property that is the subject of this Petition is located in Lahaina, Maui, Hawaii and consists of about 16.7 acres (the "Petition Area"). The Petition Area is identified by Tax Map Key No. (2) 4-5-010:005. The Petition Area includes all or part of 11 kuleana parcels; title to two of the kuleana parcels was not clear. Land Owner's predecessor in title cleared title to the two kuleana parcels by judicial proceedings which were completed on March 9, 2006. The Final Judgment in that proceeding was recorded in the Bureau of Conveyances of the State of Hawaii on March 15, 2006. See, Exhibit "12." Attached as Exhibits "2," "3," "4," and "5" respectively are a regional location map, a tax map key map, an aerial photograph and a conceptual site plan of the Petition Area and incorporated by reference. A metes and bounds description of the Petition Area is attached as Exhibit "6." A map and description of the Petition Area prepared by a registered professional surveyor is attached as Exhibit "15."

Additional details and description of the Petition Area and the Project are contained in Petitioner's Application which includes the Final Environmental Assessment, attached as Exhibit "7" and incorporated by reference.

D. Reclassification Sought and Present Use of Petition Area.

The present classification of the Petition Area is agricultural district. Petitioner seeks a reclassification of the Petition Area to urban district.

For a number of years, the Petition Area was used for sugar cane cultivation together with other parcels which adjoined the Petition Area. In the late 1980's, the Kahoma Stream Flood Control Channel was constructed along the northerly boundary of the Petition Area, severing the connection between the Petition Area and the adjoining parcels. From that time to the present, the Petition Area has lain dormant and was not cultivated.

Most of the properties adjoining the Petition Area or in the vicinity of the Petition Area have either been classified as urban or reclassified as urban.

1. **Conformity of the Reclassification of the Standards for Determining Boundaries of the Urban District.**

Section 15-15-18, HAR, sets forth the standards used by the Commission for determining urban district boundaries. The proposed reclassification of the Petition Area conforms to those standards as shown by the following analysis:

- a. Lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

The makai and southern boundaries of the Petition Area adjoin lands classified as urban. Single family residences exist on the lands mauka and to the south of the Petition Area. Multi-family properties are located on the land makai of the Petition Area. On the north of the Petition Area is the Kahoma Stream Flood Control Channel. Just north of the Kahoma Stream Flood Control Channel lies the Lahaina Business Park which consists of light industrial and commercial properties and is also designated urban. The existing structures, streets and services adjoining or in the proximity of the Petition Area are all characterized as urban in nature. See, Exhibit "4" (aerial photograph).

- b. Proximities to centers of trading and employment except where development would generate new centers of trading and employment.

The Lahaina Business Park, located across the Kahoma Stream Flood Control Channel, is a commercial development in which businesses are located. In addition, the Lahaina Gateway Shopping Center is located about one-fourth mile from the Petition Area. The Lahaina Cannery Mall is located about one-half mile from the Petition Area. In addition, the Lahaina central business district, including Front Street, is located less than 1 mile from the Petition Area. Each of these commercial areas includes professional and business services. The properties mauka, makai and to the south contain single-family residential homes and multi-family residential homes in established residential communities.

- c. Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities and police and fire protection.

Public services and facilities, together with improvements to be constructed, are adequate to support the Project. Existing water and wastewater systems are located in close proximity to the Petition Area. It is not expected that the existing public services and facilities will be unreasonably burdened or impacted by the proposed development of the Petition Area or its reclassification.

The Petition Area is located near major roadways such as Honoapiilani Highway, the Lahaina by-pass (presently under construction), Keawe Street and Lahainaluna Road. Recommended roadway improvements to accommodate traffic will be implemented in the Project. Three schools administered by the State Department of Education are located in the

area. Healthcare facilities as well as police and fire protection services are available in Lahaina. Bicycle paths and walking paths will be provided by the Project. In addition, a park of about 43,000 square feet will be included within the Petition Area.

The Project's drainage needs will be accommodated through use of an on-site detention basin. Any overflow from the detention basin will be directed into the Kahoma Stream Flood Control Channel at a rate which is less than the street flow from the Petition Area in its present condition.

Electrical, telephone and cable television services are available through Maui Electric Company, Ltd., Hawaiian Telcom, Inc., and Oceanic Time Warner Cable, respectively.

Police protection is provided by the Maui County Police Department with its main headquarters located in Wailuku, approximately 20 miles from the Petition Area. A police substation is located in Lahaina about 1.5 miles from the Petition Area.

Fire protection, which encompasses fire prevention, suppression, rescue and emergency services, will be provided by the Maui County Department of Fire and Public Safety. The Lahaina Fire Station is located about 1.5 miles away from the Petition Area. The Project will not result in any extension of existing service areas for police or fire emergency services.

In addition to the park within the Project, several parks and numerous recreational opportunities are available. The Lahaina Aquatic Center, the West Maui Youth Center, the Lahaina Recreation Center, the Lahaina Civic Center and Wainee Park are close to the Petition Area.

d. Sufficient reserve areas for foreseeable urban growth.

A significant increase in affordable housing units will be needed to accommodate

the region's anticipated growth. The Project will provide housing opportunities to West Maui residents that involve a range of housing units or lots, the result of which is to provide a more balanced housing market in West Maui, specifically, and in Maui in general. The Project will be constructed as a single phase over a period of about two years. Completion of the Project will address partially the shortage of affordable housing units in West Maui.

As the Project is located within close proximity of existing residential developments and was not identified as an area reserved for urban growth, the Project will not significantly affect reserve areas for foreseeable urban growth.

- e. Lands with satisfactory topography, drainage and reasonably free from danger of any flood, tsunami, unstable soil condition and other adverse environmental effects.

The Petition Area has an average slope of about 4.5% and is suitable for the planned uses as a residential area. The Project is situated within Zone X, an area of minimal flood hazard. The site is not situated within any tsunami inundation zone. Drainage improvements will be designed in consultation with appropriate governmental agencies to mitigate potential run-off. No foreseeable adverse environmental effects are anticipated in conjunction with the Project.

- f. Land contiguous with existing urban areas should be given more consideration than non-contiguous land, and particularly where indicated for future urban use on state or county general plans.

The Petition Area is contiguous with urban district lands to the south and makai. Although the West Maui Community Plan designates the property as open space, the adjacent lands are designated for residential land uses. The isolation of the Petition Area from other

agricultural uses resulting from the Kahoma Stream Flood Control Channel and the lack of an irrigation source for the Petition Area makes it difficult to continue agriculture on the Petition Area. The close proximity of the Petition Area to existing urban uses makes the Petition Area ideal for future urban expansion.

- g. Lands and appropriate locations for new urban concentrations and consideration to areas of urban growth as shown on state and county general plans.

The Petition Area is designated Open Space by the West Maui Community Plan. Kuhua Village and Kelaweia Subdivision are in the vicinity of the Petition Area. The West Maui Community Plan designates lands adjacent to the Petition Area for residential use. The Petition Area is therefore located within an area suitable for new urban growth as evidenced by the existing urban uses in the vicinity of the Petition Area.

The County of Maui is in the process of adopting a Maui Island Plan which will include a map that delineates future urban and rural growth areas. The Petition Area is included in the urban growth boundary in the version of the Maui Island Plan that is supported by the General Plan Advisory Committee, the Maui Planning Commission, and the Maui Planning Department.

- h. May include lands which do not conform to the standards in paragraphs (1) to (5) of HAR § 15-15-18: (A) when surrounded by or adjacent to existing urban development; and (B) only when those lands represent a minor portion of this district.

The Petition Area is located adjacent to areas of exiting urban development. Urban designated lands lie to the south, which lands are the Kuhua Village and Kelaweia Subdivision (which is also mauka of the Petition Area). The Opukea Condominiums lie to the

makai of the Petition Area. To the north of the Petition Area lies the Kahoma Stream Flood Control Channel and the Lahaina Business Park. As such, the Petition Area is effectively surrounded by existing urban development.

The impacts of reclassification from agriculture to urban is not significant. The size of the Petition Area (16.7 acres) represents a very minor percentage of the estimated 244,088 acres of land designated as agricultural on the island of Maui. The reclassification will result in a reduction of 0.00007 percent of land within the agricultural district. This is equivalent to removing four drops from a gallon of water.

- i. Shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services.

Urbanization of the Petition Area will not contribute to scattered spot urban development as it is surrounded by urban development. The proposed Project will not necessitate unreasonable public investment infrastructure facilities or public services.

- j. May include lands with a general slope of 20% or more if the Commission finds that the lands are desirable and suitable for urban purposes and that the design and construction controls as adopted by any federal, state or county agency are adequate to protect the public health, welfare and safety and the public's interest in aesthetic quality of the landscape.

The Petition Area has an average slope of 4.5%. As such, it is suitable and desirable for the planned use.

E. Petitioner's Property Interest in Petition Area.

Land Owner is the owner of Tax Map Key No. (2) 4-5-010:005 which consists of

about 16.7 acres (the "Petition Area"). The Petition Area includes all or part of 11 kuleana parcels; title to two of the kuleana parcels was clouded. Land Owner's predecessor in title cleared title to the two kuleana parcels by judicial proceedings. Land Owner gave written authorization to Petitioner to file this Petition pursuant to HAR § 15-15-50(c)(5)(B). Attached as Exhibit "8" is Petitioner's authorization from Landowner.

Petitioner is a Hawaii corporation whose principal place of business is in Kahului, Maui, Hawaii. While Petitioner and Land Owner are separate and distinct legal entities, some individuals hold an ownership interest in both legal entities. The ownership of Petitioner and Land Owner is not identical.

As Petitioner was authorized to file this Petition by Land Owner, Petitioner has the requisite standing to bring this action for Boundary Amendment pursuant to HRS § 205-4(a) and HAR § 15-15-46(3).

Petitioner has an agreement with Land Owner to purchase the Petition Area. Attached as Exhibit "9" is a true and correct copy of the Deed by which Land Owner holds title to the property.

F. Proposed Development.

Petitioner proposes to develop the Petition Area into 68 single-family housing units with on-site infrastructure improvements. A 43,000 square foot park site is proposed as a part of the Project.

G. Number of Lots, Lot Size, Number of Units, Sales Price and Timing.

The lots will range in size from 5,000 to 12,000 square feet.

Ten of the 68 lots will be developed under the direction of Habitat for Humanity.

These ten lots range from approximately 5,000 to 9,000 square feet in area. Habitat for Humanity has a number of single-family home designs which received approval from the County of Maui. The selected homeowner will be able to choose from those designs based upon site topography and geometry of the lot.

Habitat for Humanity is a non-profit organization whose mission is to eliminate poverty housing and homelessness from the world and to make decent shelter a matter of conscience in action. Through volunteer labor and donations of money and materials, Habitat for Humanity builds houses with the help of the homeowner (partner) and families. Houses are sold to partner families at no profit and are financed with affordable loans. Target families will be those earning less than 80% of the household median income of households in Maui County, Hawaii.

Petitioner will retain 58 lots for sale either as lot only or house-lot packages. The 58 lots range in size from about 5,000 to 12,000 square feet. All lots will be priced to be affordable to individuals and families between 80% and 160% of the household median income range of Maui County, Hawaii. Sale as lot only or as house-lot packages will allow prospective homeowners independence in home design. Petitioner may also contract with a builder and offer a house-lot package for one or more lots, depending on community needs.

Owners of the 31 lots which are 7,500 square feet or greater in area will have the option of constructing an ohana unit (which will either be attached or detached). A two-car garage is required for each residence. In addition, two parking spaces will be required on-site for each lot within the subdivision. For those lots that elect to construct an ohana, an additional on-site parking space will be required for a total of three on-site parking spaces for those lots.

The Project will be serviced internally by a road located within a 58' right-of-way that will be dedicated to the County of Maui. The mauka portion of the Project will connect to Lui Street while the makai portion will connect to an existing cane haul road (known as the proposed Kuhua Street extension). The proposed Kuhua Street extension will connect to Keawe Street. Traffic calming structures will be constructed on the road within the Petition Area.

In addition to lots and housing units, Petitioner will develop a neighborhood park to promote recreation within the Project. The 43,000 square foot neighborhood park will be grassed and located near the center of the Project. Petitioner will work with the County of Maui to establish a public path along the Kahoma Stream Flood Control Channel for additional recreational use.

Development of the Petition Area will be accomplished within 10 years after the date of the Commission's approval.

H. Petitioner's Financial Condition.

Evidence of Petitioner's financial condition is reflected in the balance sheet and profit and loss statement attached as Exhibit "10." Improvements will be funded by bank or private financing.

I. Description of the Petition Area and Surrounding Areas.

The Petition Area is currently undeveloped. For the past 20 years, the Petition Area was abandoned sugar cane land. To the north of the Petition Area is the Kahoma Stream Flood Control Channel. Mauka, to the south and makai are residential areas.

As indicated by the Flood Insurance Rate Map for the County of Maui, the Petition Area is located within Zone X which is an area of minimal flooding according to the

Federal Emergency Management Agency.

The Petition Area is listed as other important agricultural lands according to the Agricultural Lands of Importance to the State of Hawaii ("ALISH") map as shown on Figure 7 of the Final Environmental Assessment.

The productivity of the land underlying the Project was classified as B72i by the University of Hawaii Land Study Bureau. The Bureau's classification system rates lands on the scale of "A" to "E" reflecting land productivity characteristics. Lands designated "A" are considered to be of highest productivity with "E" rated lands ranked as the lowest in productivity. The B72i designation means that the land is productive with irrigation.

The soils underlying the Petition Area are of the Pulehu-Ewa-Jancas association. The soils within the Petition Area are classified as WdB (very stony silty clay), EaA (silty clay loam) and rRk (rock land). Used primarily for sugar cane cultivation, soils with these classifications are also used for home sites and pasture. A Soils Investigation Report is attached as Appendix B to Exhibit "7."

The Petition Area slopes away from Lui Street toward the old cane haul road (the proposed Kuhua Street extension) in a westerly direction at an average slope of 4.5%. Elevations at the Petition Area range from 145 feet to 32 feet above sea level.

J. Assessment of Impacts of the Project.

1. Environment Resources.

The Project is not expected to have significant adverse impacts on the environment. While air quality and noise levels will be impacted to a certain extent during the course of development (such as exhaust emissions from on-site construction equipment,

construction vehicle traffic, and construction noise), the impact will be short-term. In addition, use of best management practices that include performing construction-related activities in strict compliance with all applicable noise and air regulations will mitigate any temporary impacts.

2. Agriculture Resources.

The Petition Area lies within the State Agricultural District. However, the adjacent residential uses which lie along the southern, makai and mauka borders of the Petition Area render many agricultural uses incompatible with the neighboring properties.

The geometry of the Petition Area likewise is not conducive to agriculture. The Petition Area is narrow. There is a lack of agricultural infrastructure. Both the narrowness of the site and the surrounding residential areas are in large part the reason why the Petition Area remained out of active agriculture use for over 20 years.

The agricultural impact of this Project is near negligible when taken in context of recent trends occurring in Maui. In the last 30 years, the closures of Wailuku Sugar, Pioneer Mill and Maui Land and Pineapple Company have taken significant acreage out of active sugar cane and pineapple cultivation. These actions greatly increased the supply of agricultural lands available for use for other agricultural purposes. When taken in the context of the need for affordable housing along with the scarcity of properly entitled undeveloped residential lands in West Maui, the conversion of the Petition Area from unusable agricultural land to a useable residential development presents a beneficial opportunity.

3. Recreational Resources.

West Maui has numerous recreation facilities offering diverse opportunities to the residents of the region. These facilities include county and state parks and beach parks. About

one-third of all Maui County parks are situated along the shoreline and offer excellent swimming, diving and snorkeling areas. In addition, Kaanapali and Kapalua Resorts operate world class golf courses available for public use in the vicinity of the Petition Area.

Recreational facilities in Lahaina town include the Lahaina Aquatic Center, the West Maui Youth Center, the Lahaina Recreation Center and the Lahaina Civic Center. The Lahaina Aquatic Center contains an olympic sized swimming pool, a children's wading pool, a paved parking lot and office and storage space as well as shower, restroom and changing room facilities. The 15 acre Wainee Park includes fields, parking and washroom facilities. The West Maui Youth Center has a building for youth activities as well as paved parking, an outdoor playground and a basketball court. The Lahaina Recreation Center has baseball fields and other play fields for soccer and football as well as restrooms with paved parking facilities. The Lahaina Civic Center includes a gymnasium, amphitheater and tennis court complex, as well as restrooms and paved parking facilities.

The clear ocean waters and well developed reef systems along the Lahaina and Kaanapali shorelines offer many recreational activities for residents. Fishing, both shore casting and netting, is practiced in the waters near the outlet of Kauaula Stream and Makila Point. Edible seaweed collecting, octopus diving and spear fishing occur on the adjacent reef flat fronting Kaanapali. During periods of wave activity, the area is a good location for surfing.

An inventory of Maui's coral reefs, published by the U.S. Army Corps of Engineers, documents excellent visibility in deeper waters off Makila Point with extensive coral cover.

Petitioner will develop a grass neighborhood park of about 43,000 square feet near

the center of the Project. The park will benefit the residents of the Project, as well as those in the surrounding community who may utilize the park for recreational pursuits. The closest public park to the Petition Area is the Lahaina Recreation Center which is about one mile from the Petition Area. The Project is not anticipated to increase the demand on recreational resources significantly given the quantity and quality of existing residential resources.

4. Culture and Historic Resources.

The Lahaina district was described historically as a rich agricultural oasis fed by water from nearby valleys. (Handy and Handy 1972). This oasis “extended about three leagues in length (about nine miles along the coast) and about one (three miles) in breadth.” Id. The name Lahaina (“cruel sun”) likely refers to the droughts that affected the surrounding areas from time to time. (Pukui, et al., 1974). In pre-contact times, Lahaina itself was apparently a garden-like area with taro loi, ditches (auwai), and separating embankments creating a verdant landscape. Brackish water and fresh water ponds (loko) were also present. At lower elevations, dry land cultivation took place in areas around alluvial fans (a fan-shaped deposit where a fast flowing stream slows), while at higher elevations, loi and auwai systems were constructed within valleys for taro production. In coastal settlement areas, marine resources were utilized for subsistence.

In Lahaina several fish ponds existed, of which two were most prominent, Loko O Mokuhinia and the smaller Loko Puako. Taro and breadfruit cultivation occurred around these ponds. In addition, the presence of a possible fish pond named Alamihī was reported. This possible fish pond extended from the south bank of Kahoma Stream in the proximity of Mala Wharf which is about one-half mile from the Petition Area. Scattered around the fish ponds and

taro loi, and situated on higher ground, were the homes of laborers who worked the land. By late pre-contact times, the fairly sizable population dwelling in the region utilized coastal fishing areas and inland garden plots for subsistence and cultivated sweet potatoes near shore or taro in loi on wetter valleys inland.

By the time of contact, the Lahaina region had become an important socio political center and the residences of several powerful chiefs, most notably Kahekili, one of the highest ranking chiefs on Maui. Lahaina was considered by high chiefs to be a favorable place due to the abundance of natural resources and its close proximity to the islands of Lanai and Molokai.

In 1789, Kamehameha I invaded Maui and defeated Kahekili at the battle of Kepaniwai O Iao.

In post-contact times, Lahaina became the center of the Hawaiian monarchy. Kamehameha I spent time there between his battles of conquest while his son Kamehameha III resided in Lahaina in preference to Honolulu. Many high status individuals connected with the monarchy lived in Lahaina, even after the official capital of the kingdom was moved to Honolulu in 1845.

In 1820, about 40 years after Captain James Cook's discovery of the Hawaiian Islands, the islands transitioned from the traditional Hawaiian social system to one influenced by New England whaling ships and missionaries. The population of West Maui declined in the second half of the 19th century as a result of the collapse of the Pacific whaling industry and disease. The Pacific whaling industry collapse in the 1860's was hastened by the discovery of oil in Pennsylvania a decade or so earlier. In the Lahaina area, sugar production developed in the

mid-1800's, while further north different crops were tried including coffee and pineapple.

With the introduction of sugar cane cultivation and the importation of foreign labor to work in the sugar cane fields, the character of Lahaina changed. Combined with the industrialization of the local sugar industry, Lahaina emerged as a plantation town with residential camps surrounding the downtown commercial area. Although now reliant on the visitor industry, Lahaina town's present character reflects a blend of its whaling and plantation era past.

Based upon interviews conducted on the use of the land, the Project will not adversely impact any cultural beliefs, practices, resources or gathering rights. Nevertheless, Petitioner will employ appropriate management and coordination practices to ensure that impacts to cultural values and practices are appropriately mitigated. These practices include work stoppage in the immediate vicinity of any encounter of significant cultural deposits or human skeletal remains. Appropriate mitigation protocol will be implemented in coordination with the SHPD should an encounter occur.

5. Scenic Resources.

The Project is located mauka of Honoapiilani Highway with the West Maui Mountains visible to the east and the island of Lanai visible to the west. The Petition Area is not located within a scenic view corridor. The Project would be developed as an architecturally integrated area with low-rise residential structures. Landscaping will be established as part of the development improvements to ensure visual buffering. Adverse impacts to scenic and open space resources resulting from the Project are not anticipated.

6. Flora and Fauna Resources.

A Biologic Resources Survey of the Project was conducted by Robert Hobby, Environmental Consultant, in August 2005. See, Appendix "C" to Final Environmental Assessment. The study noted that the area had been intensively cultivated for agricultural crops during the Hawaiian government period but has since been repeatedly plowed, planted, burned and harvested by Pioneer Mill Company until its sugar operations ceased in the Petition Area in the 1980's. The parcel was further disturbed during the construction of the Kahoma Stream Flood Control Channel in the late 1980's. Since that time, grass and shrub species have grown in this area.

Buffelgrass was the only species of vegetation listed as abundant in the Petition Area and best defined the botanical landscape. Spiny amaranth and koa haole were also common on-site. Only two native plants, uhaloa (*Waltharia indica*) and ilima (*Sida fallax*) were found. Both are common indigenous plants and widespread on Maui.

No federally endangered or threatened plant species were identified.

A single small tree tobacco was observed; the tree tobacco is a known host plant of the Blackburn's sphinx moth. The tree was carefully examined and no sphinx moth or larvae were seen.

Avifauna and mammals expected to be common in the Petition Area and surrounding areas are typical species found near other development areas in Lahaina. Although only a single cat was observed during two visits to the Petition Area, it is likely that rats, mice, mongoose, and dogs frequent the area given it's proximity to domestic habitation. There is no evidence of the native Hawaiian hoary bat.

Given that the flora and fauna at the Petition Area are generally limited to non-

native, abundant species, the Project is not anticipated to have a significant negative impact on the biological resources in the region.

7. Groundwater and Other Resources.

The Kahoma Stream Flood Control Channel forms the northern boundary of the Petition Area. There is no flow in the Kahoma Stream Flood Control Channel except during periods of moderate to heavy rains. The drainage characteristics within the Kahoma Stream Flood Control Channel will not be altered.

There are no wetlands in the vicinity of the Petition Area. Mitigation measures such as best management practices for erosion and sediment control will be implemented to ensure that functional integrity of the Kahoma Stream Flood Control Channel is not affected.

K. Impacts of the Proposed Development on the Availability or Adequacy of Public Services and Facilities.

1. Schools.

The West Maui region is served by four public schools (Lahainaluna High School, Lahaina Intermediate School, Princess Nahienaena Elementary School and Kamehameha III Elementary School) operated by the State of Hawaii, Department of Education. Two smaller private schools (Sacred Hearts School and Maui Preparatory Academy) also serve the region. The four public schools are located within Lahaina town and three of the schools are located along Lahainaluna Road, mauka of Honoapiilani Highway. Present enrollment of the four schools is about 3,000 students.

The University of Hawaii Maui College is located in Kahului and is a branch of the University of Hawaii system. In addition, there is a Lahaina Education Center of the

University of Hawaii Maui College that opened in 2007 providing non-credit, personal development classes.

The Petition Area is located within the West Maui School Impact Fee District, adopted by the Board of Education on November 18, 2010, pursuant to HRS §§ 302A-1601 to 1612, which requires an impact fee payment for all new dwellings within the district. Petitioner will pay an impact fee to satisfy the Land and Construction components of the impact fee requirements. The current fee is \$5,778.00 per unit which totals \$392,904.00 for the Project's 68 units. Impact fees for the 31 secondary units (Ohana dwellings) will be the responsibility of the owners of the lots on which Ohana dwellings are constructed under the School Impact Fee Agreement which Landowner has with the Department of Education.

2. Parks.

The closest public park to the Petition Area is the Lahaina Recreation Center which is about 1 mile to the south. The Lahaina Recreation Center has baseball fields and playfields for soccer and football. In the Lahaina area, there are also the Lahaina Aquatic Center, the 15-acre Wainee Park, and the Lahaina Civic Center.

Petitioner will develop within the Petition Area a grassed neighborhood park of about 43,000 square feet near the center of the Project. It is expected that the neighborhood park, combined with the existing parks in the vicinity of the Petition Area will provide adequate park facilities for the Project.

3. Wastewater System.

The County of Maui, Department of Environmental Management Wastewater Reclamation Division provides sanitary sewer service for the West Maui region. Wastewater

from the Kaanapali and Lahaina areas is treated at the Lahaina Wastewater Reclamation Facility located at about 5 miles to the north of the Project. The Wastewater Treatment Plant has a total capacity of 9 million gallons per day with 6 million gallons for secondary treatment and 3 million gallons for R-1 treatment. The facility presently treats about 5.4 million gallons per day of wastewater. About 1.2 million gallons per day of the R-1 treated effluent is used to irrigate the golf courses which exist within the Kaanapali Resort, the landscaped areas along Honoapiilani Highway, and the landscape median of Kaanapali Parkway. The remaining treated effluent of about 4.2 million gallons per day is disposed through use of 4 injection wells located within the facility permitted by the State of Hawaii and the Environmental Project Agency. A maximum flow of 6.7 million gallons per day is permitted in the injection wells.

The Preliminary Civil Engineering and Drainage and Soil Erosion Control Report prepared by R.T. Tanaka Engineers, Inc. for the Project contains information regarding anticipated wastewater demands and is attached as Appendix G to the FEA. The estimated average daily wastewater flow generated by the Project is 23,800 gallons per day.

Based on the average daily wastewater demand, the on-site wastewater system will consist of 6 inch and 8 inch PVC sewer pipes and sewer manholes. Each proposed lot will be served by a single sewer service lateral as required by the County of Maui Department of Environmental Management. The system will discharge into the existing sanitary sewer system. Off-site improvements provide the connection to the sanitary sewer system will be by way of an 8 inch PVC sewer pipe connecting to an existing 10 inch sewer line on Keawe Street. This connection may require approval from the U.S. Army Corps of Engineers as it will cross the Kahoma Stream Flood Control Channel, however, the pipe will be connected to an existing

bridge and will not affect or impact the flood control channel.

4. Solid Waste Disposal.

Single family residential refuse collection is provided in Lahaina by the County of Maui, Department of Environmental Management's Solid Waste Division on a weekly basis. Private refuse collectors provide solid waste disposal services from multi-family, commercial and institutional accounts. The solid waste will be transported to the Central Maui Landfill located near Puunene. A refuse transfer station in Olowalu accepts household and green waste, as well as used oil for transport to the Central Maui Landfill in Puunene.

The Project will be served by the County of Maui's Solid Waste Disposal Facilities. It is not anticipated that the Project will affect significantly the service capabilities of the County.

5. Drainage.

The Project is largely undeveloped at present. The Petition Area is vegetated by grasses, weeds, shrubs and trees. The Petition Area is situated within the limits of the 2,140 acre Lahaina sub-watershed, one of two sub-watersheds that make up the 4,920 acre Lahaina watershed.

The Lahaina sub-watershed rises from the Pacific Ocean to an elevation of 2,561 feet above sea level. The coastal area of the Lahaina sub-watershed is relatively flat and has been developed for residential and commercial uses. The area above the developed flat land to about the 1,400 foot elevation is gently sloping and was used for growing sugar cane historically. The remaining upper area of the Lahaina sub-watershed is steep and was used for sugar cane cultivation or pasturing.

Run off generated from the former sugar cane fields above Lahaina Town is conveyed by numerous small drainage ways through the former sugar cane fields and cane haul roads, through culverts under Honoapiilani Highway, and into Lahaina Town where the run off drains into the ocean or ponds and dissipates through infiltration or evaporation. The storm drainage system within Lahaina consists of short limited capacity culverts which outlet into the ocean.

A Preliminary Civil Engineering and Drainage and Soil Erosion Control Report was prepared by R.T. Tanaka Engineers, Inc. for the Project. The Project is anticipated to increase existing one hour runoff rates as follows:

	<u>Expected Rate</u>	<u>Current Rate</u>	<u>Change in Rate</u>
10-year run off rate	26.6 CFS	14.0 CFS	12.6 CFS
50-year run off rate	33.3 CFS	17.5 CFS	15.8 CFS
50-year run off volume	84,885 CF	44,675 CF	40,210 CF

In compliance with the County of Maui drainage standards, the Project will incorporate drainage features to retain the 50-year one hour storm run off volume increase anticipated to be generated by the Project. An open-cut retention basin (drainage pond) will be located on-site near the west end of the Project with an overflow outlet connecting to the Kahoma Stream flood control structure. Approvals to connect to the structure will be obtained from the County of Maui and the U.S. Army Corps. of Engineers, as applicable.

In addition to the drainage pond, the Project will include catch basins and/or graded drain inlets to collect runoff, non-perforated pipes to convey runoff to the drainage pond, drain manholes, and the rerouting of existing 30 inch and 36 inch drain lines between Lui Street and Kahoma Stream Flood Control Channel.

During construction, best management practices will be implemented for erosion and sedimentation control.

6. Water.

The West Maui region is served by the County of Maui, Department of Water Supply, Domestic Water System. The County system serves coastal areas from Launiupoko to Kaanapali and from Honokowai to Napili. The system includes both surface and groundwater sources.

The sources of water for the Lahaina portion of the system are four deep wells referred to as Napili Wells 1, 2 and 3 and Honokohau Well A. The wells are supplemented by water treatment plants above Honokowai and Lahainaluna High School that draw surface water from the Honolua Ditch and Kanaha Valley. Several miles of 12 and 16 inch main lines and 2 inland booster stations convey water from these sources to consumers in Lahaina. Storage of water from the system is provided by a 1.5 million gallon tank above Wahikuli, a 1 million gallon tank on Lahainaluna Road and a 500,000 gallon tank on Lahainaluna Road.

In the area adjacent to the Project, existing waterlines serve the residential subdivisions. The systems consist of water mains of sizes ranging from 2 inch to 12 inches.

The Preliminary Civil Engineering and Drainage and Soil Erosion Control Report prepared by R.T. Tanaka Engineers, Inc. for the Project in October, 2007 (and updated in November 2010) is attached as Appendix G to the FEA and contains information regarding anticipated domestic use and fire flow water demands. Based on the County of Maui Department of Water Supply standards, average daily demand for single family residences is 600 gallons per unit. Therefore, estimated average daily demand for the Project is 40,800 gallons per day.

The size of the distribution line for the Project will be governed by fire flow requirements. Fire flow demand of 1,000 gallons per minute was used for the design for the

main distribution line. An 8 inch waterline capable of delivering 1,565 gallons per minute will be utilized to provide for the required fire flow.

The water system for the Project will consist of an 8 inch water line with fire hydrant and service lateral connections. The single family units will be served by 5/8 inch water meters while the neighborhood park area will be served by larger water meters for domestic and irrigation purposes. Both ends of the on-site water system will be connected to the existing waterline network servicing the area. The upper end of the water system will be tied to the existing 8 inch and 4 inch waterlines at the intersection of Kahena and Kalena Streets through Lui Street. The lower end of the system will be connected to an existing 12 inch waterline on Keawe Street by way of an 8 inch line running across the Kahoma Stream channel and along the old cane haul road (proposed Kuhua Street extension). This connection will require approval from the County of Maui and the U.S. Army Corps of Engineers as it will cross Kahoma Stream flood control channel.

7. Transportation Systems.

Access to the Lahaina region is provided by Honoapiilani Highway from central (Wailuku/Kahului) and south (Kihei/Wailea), Maui. The principal arterial, which is state-owned and maintained, is Honoapiilani Highway. That highway provides north/south mobility and access to communities in the region. For most of its length, Honoapiilani Highway is a two-lane, two-way roadway with median left turn lanes provided at major intersections. From Lahaina town at Aholo Road to the Honokowai Stream Bridge, Honoapiilani Highway functions in a four-lane, two-way roadway.

Lahainaluna Road is a collector roadway owned and maintained by the County of

Maui. This roadway provides east/west circulation from mauka residential areas to Honoapiilani Highway as well as the commercial areas of Lahaina. Three public schools are located on this collector roadway. The intersection of Lahainaluna Road and Honoapiilani Highway is signalized.

Kuhua Street, county owned and maintained, is a 20' wide easement adjacent to the former Pioneer Mill property. The County of Maui, in conjunction with Kaanapali Land and Management Corporation, is planning an upgrade of Kuhua Street to a two-lane, two-way public roadway from Aholo Road to Keawe Street. Petitioner will improve the access roadway between the Project and Keawe Street to the north to provide a minimum of 22' of pavement width to accommodate two travel lanes.

Ikena Street/Lahaina bypass is a local roadway maintained by the County of Maui serving residents of the Kelaweia Mauka Subdivision. The two-lane, two-way roadway was selected to be the alignment for the eventual Lahaina bypass highway and will connect Kaewe Street to the northwest in the first phase of the bypass highway. The first phase is currently in construction with a target completion by the middle of 2012.

Keawe Street is a local roadway owned and maintained by the County of Maui originating at Honoapiilani Highway across from Lahaina Cannery Mall. This two-lane, two-way roadway will connect to the first phase of the Lahaina bypass highway as its eastern terminus. From the Lahaina Cannery Mall, Keawe Street begins at Honoapiilani Highway, a signalized intersection, and serves the Lahaina Gateway Center, Lahaina Business Park, and Opukea Condominium, located east of the Honoapiilani Highway.

Kalena Street is a local roadway with speed bumps maintained by the County of

Maui which serves the residence of the Kelaweia Mauka Subdivision. This street will provide access to the Project via Lui Street.

Lui Street is a local roadway with speed bumps owned and maintained by the County of Maui. This street serves residents of the Kelaweia Mauka Subdivision and provides access to the Project.

Front Street is a two lane, two-way collector roadway owned and maintained by the County of Maui. Front Street stretches the entire span of Lahaina from Puamana on the south to Wahikuli on the north. Running parallel to Honoapiilani Highway throughout its length, residential neighborhoods lie on the north and south ends of Front Street with commercial properties in the middle.

A traffic impact analysis report was developed for the Project in October 2007 by Wilson Okamoto Corporation. The TIAR is attached as Appendix F to the FEA. The report assumed that the Project would include 25 multi-family units and 70 single-family units.

A supplemental TIAR was prepared by Austin, Tsutsumi & Associates, Inc. in January, 2011 to assess the reduction in unit count to 68 lots. The supplemental TIAR analyzed existing conditions based upon current land use, population and existing road network using updated roadway counts.

The 2007 TIAR predicted that in the year 2011 traffic improvements would be necessary to accommodate the baseline condition. An assumption of the 2007 TIAR was that projects then proposed would be completed by 2011. Many of those projects have not been initiated as of this date.

The supplemental TIAR prepared in January 2011 determined that fewer than 100

peak hour trips will be generated as a result of the Project. While a TIAR is not required as the Project does not meet the minimum trip generation criteria of 100 new trips in the peak direction as recommended by the Institute of Transportation Engineers, Petitioner will implement as part of the subdivision development the full recommendations of the TIAR which are:

- (1) Maintain sufficient driveway width to accommodate safe vehicle ingress and egress;
- (2) Maintain adequate turning radii at project driveways to avoid or minimize vehicle encroachments to oncoming traffic lanes; and,
- (3) Maintain adequate site distances for motorists to safely enter and exit all project driveways.

Implementation of these recommendations as part of the development will minimize impacts caused by the increase in traffic. As a whole, the Project will not have a significant impact on traffic operations in the area. The location of the Project adjacent to existing urban areas presents an opportunity to encourage alternative modes of transportation. Incorporation of bicycle routes, pedestrian paths, and bus stops further reduces the dependence on the automobile for transportation needs.

8. Public Utilities.

Electrical, telephone and cable television services for the West Maui region are provided by Maui Electrical Company Limited, Hawaiian Telcom, and Oceanic Timewarner Cable. Petitioner has been in consultation with Maui Electric Company, Hawaiian Telcom, and Oceanic Timewarner to provide services for the Project. Service providers did not identify significant issues in providing service as they already serve the adjacent Kuhua Village and Kelaweia Subdivision. The Project will not have significant impacts on electrical, telephone, or cable television services.

9. Police and Fire Protection.

The Petition Area is within the Lahaina Police Station service area which includes the entire Lahaina district. The Lahaina police substation, built in the early 1970's, is located in the Lahaina Civic Center at Wahikuli, about 1.5 miles north of the Petition Area. The Lahaina patrol includes 54 full-time personnel including management, level officers and field police officers. Additional personnel consists of public safety aids and administrative support staff.

Fire prevention, suppression and protection facilities for the Lahaina district are provided by personnel housed in the Lahaina Fire Station, also located at the Lahaina Civic Center, and the Napili Fire Station, located about nine miles north of the Petition Area. The Lahaina Fire Station includes an engine and ladder company and is staffed by about 30 full-time personnel. The Napili Fire Station consists of an engine company, including about 15 full-time personnel.

While the Project will create a need for additional police and fire protection, it is expected that real property tax revenues generated from the Project will be considered for allocation of these public services in the form of additional personnel and/or supporting equipment and technologies. The service area for emergency response for both police and fire will not be significantly impacted by the Project.

L. Location of the Proposed Development to Adjacent Land Use Districts in Centers of Trading and Employment.

The Petition Area is in close proximity to Lahaina Town which is an area of commercial activity and employment. Lahaina includes professional and business services, as well as established residential communities.

The Lahaina Business Park, located across the Kahoma Stream Flood Control Channel, is a commercial development in which businesses are located. In addition, the Lahaina Gateway Shopping Center is located about one-fourth mile from the Petition Area. The Lahaina Cannery Mall is located about one-half mile from the Petition Area. In addition, the Lahaina central business district, including Front Street, is located less than 1 mile from the Petition Area. Each of these commercial areas include professional and business services. The properties mauka, makai and to the south contain single-family residential homes and multi-family residential homes in established residential communities.

M. Economic Impacts of the Proposed Reclassification on Employment Opportunities and Agricultural Production.

The Project will benefit the social and economic welfare of the community by providing construction and construction related employment during the build-out of the Project. As noted, increased housing supplies are needed to accommodate the existing and expected population in West Maui. The Project will provide much needed affordable housing and provide a more balanced housing market.

The proposed development will have minimal impact in terms of agriculture. There will be a minimal loss of agricultural land. No agricultural infrastructure presently is available to provide service to the Petition Area. Accordingly, agricultural use of the Petition Area is not practical or appropriate.

N. Description of Manner in Which Housing Needs of Low Income Groups are Addressed.

The Project is an affordable housing project. Each of the 68 lots will be developed to provide housing for individuals and families whose income is between 80% and

160% of the household median income range of Maui County, Hawaii. Ten of the lots will be developed by Habitat for Humanity. The target families for those ten lots will be those whose household income is less than 80% of the household median income for Maui County, Hawaii. The Project was designed to partially address the demand for affordable housing units in West Maui and will target the housing needs of low income, low-moderate income, and gap groups.

O. Need for Reclassification Based on Relationship Between Project and Other Projects in Vicinity.

Reclassification of the Petition Area from its current “agricultural” designation to “urban” designation is necessary in order for the Petitioner to develop the Petition Area. The land uses around the Petition Area are either residential or commercial in nature, both of which uses are contemplated within the urban district. Thus, use of the Petition Area for residential purposes would be consistent with the use of the lands surrounding the Petition Area.

As noted in Section III above, Petitioner submitted its application for affordable housing development to the Maui County Council on October 24, 2011 pursuant to HRS § 201H-38. The application was approved by the Maui County Council on December 2, 2011 by Resolution No. 11-126. Attached as Exhibit “11” is a copy of Resolution No. 11-126.

P. Conformance With the Goals, Objectives and Policies of the Hawaii State Plan.

The Hawaii State Plan, found in Chapter 226, HRS, is a comprehensive guide for the future long-range development of the State. The plan identifies goals, objectives, policies and priorities, as well as implementation mechanisms. Specific to the Project, the Hawaii State Plan provides 1) objectives and policies for population (HRS § 226-05); 2) objectives and policies for the physical environment (HRS § 226-13); 3) objectives and policies for facility

systems in general (HRS § 226-14); 4) objectives and policies for solid and liquid waste facility systems (HRS § 226-15); 5) objectives and policies for water facility systems (HRS § 226-16); 6) objectives and policies for transportation facility systems (HRS § 226-17); and, 7) objectives and policies for housing (HRS § 226-19).

The Project is located in close proximity to existing public services and infrastructure. The Project will provide housing for a range of income groups which will serve to meet the varied housing needs of the region at an attractive and central location in Lahaina. Additional housing choices will provide healthy competition and allow for a more balanced housing market. To this end, the Project is in conformance with the above-noted objectives and policies of the Hawaii State Plan.

1. The State Functional Plans.

The State Functional Plans define actions for implementation of the Hawaii State Plan through the identification of needs, problems and issues, and recommendations on policies and priority actions which address the identified areas of concern. The proposed reclassification request is consistent with the following State Functional Plans:

a. State Agricultural Functional Plan.

The Project will reclassify approximately 16.7 acres of land from the State Agricultural district to the State Urban district. While the Petition Area was formerly used for sugar cane cultivation, the site is now fallow. The proximity of the Petition Area to existing urban land uses provides a reasonable nexus and an appropriate foundation for the proposed reclassification request, particularly in the context of meeting affordable housing needs of the community.

b. State Housing Functional Plan.

The growing public demand for affordable housing indicates a current shortage of single-family affordable housing units on Maui. The 68 residential units within the Project will help address a critical community need.

c. State Recreational Functional Plan.

Outdoor recreation is recognized as an important part of life for Hawaii's residents. As the population rises and residential land use increases, creating areas dedicated to outdoor recreation becomes increasingly vital. The State Functional Plan for Recreation urges the improvement and expansion of recreational facilities in urban areas and local communities. The Project will address recreational needs through the provision of an approximately 43,000 square foot park within the Project, bicycle paths, and walking paths.

d. State Transportation Functional Plan.

The role of transportation, particularly in light of population increases and community growth, is vital. The Project's roadway system will be developed in consultation with the County Department of Public Works (DPW) to ensure consistency with the objectives of the State Transportation Functional Plan. The internal subdivision road will be constructed to County of Maui design standards.

e. State Historic Preservation Functional Plan.

The preservation of historic properties, the collection and preservation of historic records, artifacts and oral histories, and the provision of public information and education on the ethnic and cultural heritages and history of Hawaii are important. An archaeological assessment report has been completed for the project by Scientific Consultant Services, Inc. in compliance

with applicable historic preservation requirements. The report is attached as Appendix D to Exhibit “7.” The archaeological assessment report has been reviewed and approved by the SHPD. See, Appendix “D-1” to Exhibit “7.” The Project thus is consistent with the objectives outlined under the State Historic Preservation Functional Plan.

2. Sustainability.

Act 181, Session Laws of Hawaii, establishes sustainability as a State priority by incorporating the Hawaii 2050 Sustainability Plan definitions, guiding principles and goals into HRS Chapter 226. Consistent with the sustainability guidelines, Petitioner has a sustainability plan based on the *Healthy Community Design Smart Growth Checklist* prepared by the Hawaii State Department of Health, Built Environment Working Group. See, Exhibit “13.”

To summarize the plan, the Project’s location adjacent to existing urban areas is seen as supporting sustainable design principles by shortening necessary trips for everyday needs, and minimizing petroleum fueled car and truck use. The establishment of connectivity with surrounding neighborhoods with bikeways and sidewalks encourages non-vehicular travel and promotes fitness through safe walking, biking and other active transportation. The provision of a neighborhood park encourages recreation and healthy lifestyles. The Project design respects the existing natural topography resulting in relatively minor topographical changes through excavation or fill activities which, in turn, lessens energy needs and costs during construction. Proximity to existing infrastructure and utilities also lessens the construction costs and energy consumption and provides for an efficient means of meeting future needs of the Project. Lastly, the size of the single family lots will allow for incorporation of home gardens.

Q. Conformance With Coastal Zone Management Program.

The Coastal Zone Management Program, found in Chapter 205A, HRS, establishes numerous objectives, policies and standards to guide and regulate public and private uses in the Coastal Zone Management Area (“CZMA”). The Petition Area is within the CZMA but not within the County of Maui’s Special Management Area. Nevertheless, the coastal zone objectives and policies were considered by Petitioner which will implement those policies through the development of a neighborhood park located within the Project, following appropriate measures should historic finds be uncovered during construction activities, implementing best management practices and erosion-control measures during construction, designing the Project in accordance with drainage standards of the County of Maui to insure that the Project will not adversely affect the downstream and adjoining properties, and adopting a lighting plan to insure that no lighting is directed across property boundaries towards the shoreline. A more complete discussion of the implementation of policies in response to the Coastal Zone Management Program is found in Section G of Exhibit “7.”

R. Conformance With the Maui County General Plan, the West Maui Community Plan and Maui County Zoning.

1. Maui County General Plan.

As indicated by the Maui County Charter, the purpose of the general plan is to:

indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns and characteristics of future

developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density; land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

Chapter 2.80B of the MCC, relating to the General Plan and Community Plans, implements the foregoing Charter provision through enabling legislation which calls for a Countywide Policy Plan and a Maui Island Plan.

The Countywide Policy Plan was adopted as Ordinance No. 3732 on March 24, 2010. The Maui Island Plan is currently in the process of review and formulation by the Maui County Council. With regard to the Countywide Policy Plan, Section 2.80B.030 of the Maui County Code states the following.

The countywide policy plan shall provide broad policies and objectives which portray the desired direction of the County's future.

The countywide policy plan shall include:

- 1. A vision for the County;*
- 2. A statement of core themes or principles for the County;
and*
- 3. A list of countywide objectives and policies for population, land use, the environment, the economy, and housing.*

Core principles set forth in the Countywide Policy Plan are:

1. Excellence in the stewardship of the natural environment and cultural resources;
2. Compassion for and understanding of others;
3. Respect for diversity;
4. Engagement and empowerment of Maui County residents;
5. Honor for all cultural traditions and histories;
6. Consideration of the contributions of past generations as well as the needs of future generations;
7. Commitment to self-sufficiency;

8. Wisdom and balance in decision making;
9. Thoughtful, island appropriate innovation; and
10. Nurturance of the health and well-being of our families and our communities.

Congruent with these core principles, the Countywide Policy Plan identifies goals objectives, policies and implementing actions for pertinent functional planning categories, which are identified as follows:

1. Natural environment
2. Local cultures and traditions
3. Education
4. Social and healthcare services
5. Housing opportunities for residents
6. Local economy
7. Parks and public facilities
8. Transportation options
9. Physical infrastructure
10. Sustainable land use and growth management
11. Good governance

With respect to the Project, the following goals, objectives, policies and implementing actions are illustrative of compliance with the Countywide Policy Plan.

Goal: Quality, island-appropriate housing will be available to all residents.

Objective: Reduce the affordable housing deficit for residents.

Policies:

- Seek innovative methods to secure land for the development of low and moderate income housing.
- Ensure residents are given priority to obtain affordable housing units developed in their communities, consistent with all applicable regulations.

Objective: Increase the mix of housing types in towns and neighborhoods to promote sustainable land use planning, expand consumer choice, and protect the County’s rural and small town character.

Policy: Promote infill housing in urban areas at scales that capitalize on existing infrastructure, lower development costs, and are consistent with existing or desired patterns of development.

Objective: Increase and maintain the affordable housing inventory.

Policies:

- Recognize housing at a basic human need and work to fulfill that need.
- Improve communication, collaboration and coordination among housing providers and social-service organizations.
- Develop public-private and non-profit partnerships that facilitate the construction of quality affordable housing.
- Streamline the review process for high quality, affordable housing developments that implement the goals, objectives and policies of the General Plan.
- Encourage long-term residential use of existing and future housing to meet residential needs.

In summary, the proposed Kahoma Residential Subdivision is consistent with the themes and principles of the Countywide Policy Plan.

B. West Maui Community Plan.

Within Maui County, there are nine (9) community plan regions. From a General Plan implementation standpoint, each region is governed by a community plan which sets forth desired land use patterns, as well as goals, objectives, policies, and implementing actions for a number of functional areas including infrastructure-related parameters.

The Project is located within the West Maui Community Plan region and is currently designated “Open Space” in the community plan. See Figure 11 in Exhibit “7.” Petitioner submitted a Section 201H-38, HRS application seeking an exemption from Chapter 2.80B of the MCC to enable project implementation without the filing and processing of a CPA application. The application was approved on December 2, 2011. See Exhibit “11.” The Project

will provide affordable housing opportunities to the residents of Maui County. In this context, the proposed use of the Petition Area for residential use offers significant benefits to the community and addresses the need for affordable housing on the island.

The Project is in keeping with the goals, objectives, and policies of the West Maui Community Plan as it consists of 68 housing units in an area that is an infill location, between an existing residential area and a significant engineered structure (Kahoma Stream Flood Control Channel). Necessary infrastructure systems and services are within close proximity to serve the Project. Drainage basins constructed at the Petition Area will capture post-development increases in surface runoff. Recreational needs for the Project will be addressed through the provision of a neighborhood park, bicycle paths, and sidewalks along the subdivision roadway. In addition, the site will be appropriately landscaped to soften the built environment. The Project is in conformance with the goals, objectives, and policies of the West Maui Community Plan.

C. County Zoning.

The lands underlying the Petition Area are zoned "Agricultural" by Maui County Zoning. See Figure 12 of Exhibit "7." As with the community plan land use designation, Petitioner sought an exemption from Chapter 19.510 of the MCC to allow the Project to proceed without the filing and processing of a change in zoning application.

According to Chapter 19.30A.020 of the MCC, agricultural lands that meet at least two (2) of the following criteria should be given the highest priority for retention in the agricultural district:

1. Agricultural Lands of Importance to the State of Hawaii (ALISH);

2. Lands not classified by the ALISH system whose agricultural land suitability, based on soil, topographic, and climatic conditions, supports the production of agricultural commodities, including but not limited to coffee, taro, watercress, ginger, orchard and flower crops, and non-irrigated pineapple. In addition, these lands shall include lands used for intensive husbandry, and lands in agricultural cultivation in five of the ten years immediately preceding the date of approval of this chapter; and
3. Lands which have seventy-five percent or more of their boundaries contiguous to lands within the agricultural district.

While portions of the Petition Area partially meet Criteria “1” and Criteria “2” above, there are a number of factors which limit feasibility of the Project for active agriculture use.

The Petition Area is designated as “Other Important” agricultural lands and the Kahoma Stream Flood Control Channel effectively isolates these lands from other lands farther north.

The geometry of the Petition Area, with its relatively narrow configuration defined by the Kahoma Stream Flood Control Channel to the north and Kuhua Village and the Kelaweia Subdivision to the south, poses logistical and compatibility challenges to long-term productive agricultural use. With the Project, the Kahoma Stream Flood Control Channel would become the natural buffer between light-industrial lands farther to the north and existing residential development to the south.

The agricultural impact of the Project is near negligible when taken in the context of the recent trends occurring on Maui. In the last 30 years, the closures of Wailuku Sugar and Pioneer Mill have taken significant acreages out of active sugar cane cultivation, as well as the cessation of pineapple cultivation by Maui Land & Pineapple Company. These actions have

greatly increased the supply of agricultural lands. In fact, much of the lands of these former plantations and pineapple operations are still fallow. The Project will ultimately involve the use of approximately 16.7 acres of land, which represents 0.00007 percent of the roughly 245,000 acres of State Agricultural district lands on the island of Maui.

When evaluated based on the affordable housing shortage that exists on Maui, coupled with the scarcity of entitled, undeveloped residential lands in West Maui, the conversion of the Petition Area's agricultural lands to residential development presents a beneficial opportunity. This Project will supply additional affordable housing units at a site deemed less than optimal for long-term agricultural use.

In terms of Criteria "3", the boundaries of the 16.7-acre Petition Area border both Urban and Agricultural designated lands. Less than 75 percent of the Petition Area's boundaries are contiguous to lands within the Agricultural district.

S. Time for Development of the Petition Area.

Development of the Petition Area will be accomplished within 10 years after the date of the Commission's approval.

T. Hawaiian Customary and Traditional Rights.

Petitioner is aware of, and sensitive to, the existence and practice of Native Hawaiian Customary and Traditional Rights that are protected by Article XII, Section 7 of the Hawaii State Constitution. Based on research and the history of the area which included an archaeological field inspection, there are no known traditional gathering events or cultural practices affecting the Petition Area. See Appendix E of Exhibit "7."

U. Written Comments From Agencies and Organizations.

Written comments from the various agencies and organizations in regards to the proposed reclassification were included in the FEA attached as Exhibit “7.”

V. Service of Petition.

Pursuant to HAR, § 15-15-48, copies of this Petition will be served on the County of Maui Planning Department and Planning Commission, State of Hawaii Office of Planning, and all persons with an interest in the Petition Area. An affidavit in compliance with this Section is attached as Exhibit “14.” In accordance with HAR, §15-15-48(b), copies of the Petition will also be served upon potential intervenors upon receipt of a notice of intent to intervene pursuant to HAR, § 15-15-52(b).

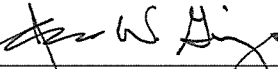
XXI. CONCLUSION

The Project is located in an existing urbanized area and will address a portion of the significant need for affordable housing that exists in West Maui. In light of the need for affordable housing, the proximity of the Petition Area to urban areas, the existence of urban areas surrounding the Petition Area, and the negligible impact on the availability of agricultural lands on the island of Maui, the proposed development is a reasonable and appropriate use for the Petition Area.

Based on the foregoing, Petitioner respectfully requests that this Commission find that the Petition complies with the necessary requirements for boundary amendment pursuant to HAR, § 15-15-50. Petitioner also respectfully requests that the Commission find that the proposed development meets the standards for determining urban district boundaries pursuant to HAR, §15-15-18 and therefore grant the reclassification of 16.7 acres of the Petition Area from

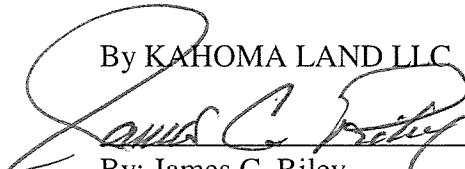
agricultural district to urban district.

DATED: Kahului, Hawaii, APR - 4 2012.



JAMES W. GEIGER
Attorney for Petitioner
WEST MAUI LAND COMPANY, INC.,
a Hawaii corporation

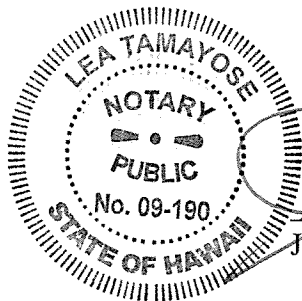
KAHOMA RESIDENTIAL LLC,
a Hawaii limited liability company

By KAHOMA LAND LLC


By: James C. Riley
Its Manager

VERIFICATION

James C. Riley, the person named, being duly sworn on oath, deposes and says that he is the Manager of Kahoma Land LLC which is the manager of Kahoma Residential LLC, a Hawaii limited liability company, and as such is authorized to make this verification on behalf of Kahoma Residential LLC; that he has read the foregoing Petition for Land Use District Boundary Amendment, Verification and Certificate of Service and knows the contents thereof; and that the same are true to the best of the knowledge, information and belief of Kahoma Residential LLC.



James C. Riley
JAMES C. RILEY

Subscribed and sworn to before me
this 2nd day of April, 2012.

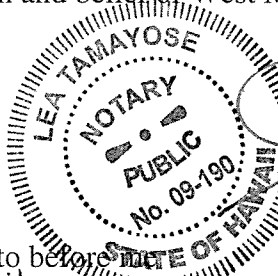
Lea Tamayo
Print Name: Lea Tamayo
Notary Public, State of Hawaii.
My commission expires: 17 May 2013

Doc. Date: <u>undated</u>	# Pages: <u>54 4080</u>
Name: <u>Lea Tamayo</u>	Second Circuit
Doc. Description: <u>Petition For Land Use District Boundary Amendment</u>	
<u>Lea Tamayo</u> Notary Signature	<u>2 Apr 12</u> Date

NOTARY CERTIFICATION

VERIFICATION

JAMES C. RILEY, the person named, being duly sworn on oath, deposes and says that he is the Vice-President of West Maui Land Company, Inc. a Hawaii corporation, and as such is authorized to make this verification on behalf of West Maui Land Company, Inc.; that he has read the foregoing Petition for Land Use District Boundary Amendment, Verification and Certificate of Service and knows the contents thereof; and that the same are true to the best of the knowledge, information and belief of West Maui Land Company, Inc.



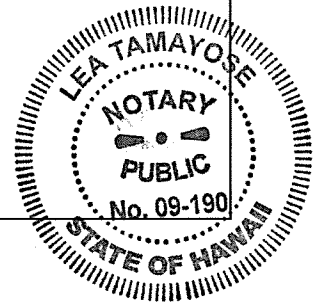
James C. Riley
JAMES C. RILEY

Subscribed and sworn to before me
this 2nd day of April, 2012.

Lea Tamayose
Print Name: Lea Tamayose
Notary Public, State of Hawaii.
My commission expires: 17 May 13

Doc. Date: <u>undated</u>	# Pages: <u>54 4080</u>
Name: <u>Lea Tamayose</u>	Second Circuit
Doc. Description: <u>Petition for Land Use District Boundary Amendment</u>	
<u>Lea Tamayose</u> Notary Signature	<u>2 April 12</u> Date

NOTARY CERTIFICATION



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of:)	DOCKET NO. A12-795
)	
WEST MAUI LAND COMPANY, INC., a)	CERTIFICATE OF SERVICE
Hawaii corporation, and KAHOMA)	
RESIDENTIAL LLC, a Hawaii limited)	
liability company,)	
)	
To Amend the Land Use District Boundary of)	
certain land situated at Lahaina, Island of)	
Maui, State of Hawaii, consisting of 16.7 acres)	
from the agricultural district to the urban)	
district, Tax Map Key No. (2) 4-5-010:005.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the following documents:

- (a) Petition for Land Use District Boundary Amendment
- (b) Verification
- (c) Exhibits "1" - "15"
- (d) Affidavit of Mailing

have been duly served upon the following parties at their last known addresses by hand delivery or depositing in the United States Mail, postage prepaid on the date hereof.

Planning Program Administrator
 State of Hawaii
 Office of Planning
 235 Beretania Street, 6th Floor
 Honolulu, HI 96813

County of Maui Planning Commission
c/o County of Maui Planning Department
250 South High Street
Wailuku, HI 96793

County of Maui Planning Department
250 South High Street
Wailuku, HI 96793-7109

Maui Electric Company, Limited
P.O. Box 398
Kahului, HI 96733

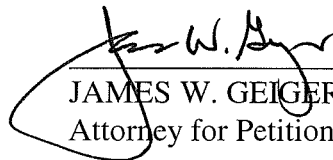
Hawaiian Telcom, Inc.
c/o Gwen Massiah
1177 Bishop Street
Honolulu, HI 96813

Mr. Russell Tsuji
Administrator
Land Division
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

Michele Lincoln
452 Aki Street
Lahaina, HI 96761

Routh Bolomet
P. O. Box 37371
Honolulu, HI 96837

DATED: Kahului, Hawaii, APR - 4 2012



JAMES W. GEIGER
Attorney for Petitioner