

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

December 3, 2010

**Committee**  
**Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on October 27, 2010, makes reference to County Communication No. 10-129, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 132 MAKAENA PLACE, PUKALANI, MAUI, HAWAII" (District Boundary Amendment bill). The purpose of the District Boundary Amendment bill is to grant a request from Steven J. Sadler for a District Boundary Amendment from Agricultural to Rural for approximately 2.67 acres situated at 132 Makaena Place, Kula, Maui, Hawaii (TMK: (2) 2-3-32:013) ("subject property"), to comply with its existing community plan designation, and to allow for its future subdivision.
  
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 132 MAKAENA PLACE, PUKALANI, MAUI, HAWAII" (Change in Zoning bill). The purpose of the Change in Zoning bill is to grant a request from Mr. Sadler for a Change in Zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) for the subject property, to comply with its existing community plan designation, and to allow for its future subdivision.

Your Committee notes that it considered similar requests for amendments to the State Land Use District Classification from Agricultural to Rural, and for Changes in Zoning from Agricultural District to RU-0.5 Rural District, for ten neighboring parcels, nine of which are also on Makaena Place. Those ten parcels are being processed together and have been collectively referred to as the Makaena Place Subdivision. The subject property sits directly between two of those ten parcels.

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According to the Department of Planning's report to the Maui Planning Commission, "This request is identical to the previous ten requests and would have been the eleventh parcel if not for the past owner whom declined to participate." As the current owner of the subject property, and an owner of one of the ten parcels being separately processed, Mr. Sadler has chosen to pursue the same land use entitlements.

Your Committee noted that the conditions of zoning contained in Exhibit "B" to the Change in Zoning bill should be consistent with the conditions of zoning applicable to the other 10 parcels, as recommended by the Department of Planning. Consistency in the conditions of zoning will ensure that the mitigation measures being imposed are applied equitably across the 11 parcels benefiting from the land use entitlements. Accordingly, your Committee voted to recommend that the conditions of zoning recommended for the subject property be deleted and replaced with the conditions of zoning recommended for the other 10 parcels, as follows:

1. That left turn movements shall be prohibited from Maka`ena Place during morning peak hours, as determined by the State Department of Transportation.
2. That at the time of any future improvements to Kula Highway at Maka`ena Place by the State of Hawaii, a fair share contribution shall be paid to the State of Hawaii for the design and construction of a median refuge lane.
3. That within one year from the effective date of this ordinance, a minimum 20-foot-wide paved roadway and turnaround shall be constructed on Maka`ena Place. These improvements shall be reviewed and approved by the Department of Fire and Public Safety.
4. That an emergency-only gate at the west (makai) end of Maka`ena Place shall be constructed to allow for connection to Loha Place when warranted by, and subject to the approval of, the Department of Fire and Public Safety, but in no event later than five years from the effective date of this ordinance.
5. That the improvements required by Condition Nos. 3 and 4 shall be secured by a performance bond(s) in favor of the County of Maui, pursuant to Section 19.510.050(E), Maui County Code.

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**Committee**  
**Report No.** \_\_\_\_\_

Your Committee also voted to recommend that the title and text of the District Boundary Amendment and Change in Zoning bills be amended by changing references from Pukalani to Kula, for consistency with the legal description of the properties, as recommended by the Department of Planning. Your Committee further recommended that Section 1 of the bills be amended to clarify that the subject 2.67-acre property is described as "Parcel First" in the attached legal description. Your Committee further recommended that the bills be amended by adding an okina to the street name, Makaena Place, to read, Maka`ena Place, in all instances where it appears.

Your Committee voted 7-0 to recommend passage of the revised proposed bills on first reading and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Johnson, Kaho`ohalahala, Mateo, Medeiros, and Victorino voted "aye". Committee members Nishiki and Pontanilla were excused.

Your Committee is in receipt of an agreement entitled "Unilateral Agreement and Declaration for Conditional Zoning" executed by the landowners. Your Committee is also in receipt of a revised proposed District Boundary Amendment bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 132 MAKA`ENA PLACE, KULA, MAUI, HAWAII", and a revised proposed Change in Zoning bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 132 MAKA`ENA PLACE, KULA, MAUI, HAWAII", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions. The revised proposed Change in Zoning bill also incorporates the unilateral agreement. Your Committee is further in receipt of revised maps (DB-629 and L-1081), reflecting the location of the property in Kula.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 132 MAKA`ENA PLACE, KULA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT;


COUNCIL OF THE COUNTY OF MAUI  
**LAND USE COMMITTEE**

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**Committee**  
**Report No.** \_\_\_\_\_

2. That Bill No. \_\_\_\_\_ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 132 MAKA'ENA PLACE, KULA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That the County Clerk RECORD the "Unilateral Agreement and Declaration for Conditional Zoning"; and
4. That County Communication No. 10-129 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
GLADYS C. BAISA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2010)

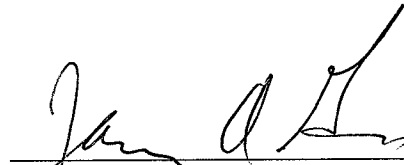
A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 132 MAKA`ENA PLACE, KULA, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 205-3.1, Hawaii Revised Statutes, and Chapter 19.68, Maui County Code, the State Land Use District classification is reclassified from the Agricultural District to the Rural District for that certain parcel of land located at Kula, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key No. (2)2-3-032:013, comprising approximately 2.67 acres, and more particularly described as Parcel First in Exhibit "A", attached hereto and made a part hereof, and in District Boundary Amendment Map No. DB-629, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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**EXHIBIT "A"**

**PARCEL FIRST:**

All of that certain parcel of land (being a portion of the land described in and covered by Land Patent Grant Number 4008 to Joe De Freitas Phillips and a portion of the lands described in DEED from Minister of Interior to W.H. Bailey, dated November 10, 1877, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 52, Page 412) situate, lying and being at Keahua, District of Kula, Island and County of Maui, State of Hawaii, being LOT 8, and thus bounded and described:

Beginning at the southeast corner of this lot, southwest corner of Lot 7, the coordinates of which point referred to Triangulation Station "PIIHOLO" are 9,184.50 feet south and 13,050.50 feet west and running by azimuths measured clockwise from true South:

1.	68°	05'	10"	238.00	feet along Lot 17 (Road)
2.	178°	56'	00"	522.97	feet along Lot 9
3.	248°	05'	10"	238.00	feet along land owned by Maria P. Felix Estate
4.	358°	56'	00"	522.97	feet along Lot 7 to the point of beginning, containing an area of 2.67 acres, more or less.

**PARCEL SECOND:**

An undivided one-twelfth (1/12) interest in Lot 17, Phillips Estate Partition, for use in common with the other owners thereof for road purposes, containing an area of 1.60 acres, described as follows:

All of that certain parcel of land (portion of Land Patent Grant Number 4008 to Joe De Freitas Phillips and a portion of the lands described in Deed from Minister of Interior to W.H. Bailey, dated November 10, 1877 and recorded in said Bureau of Conveyances in Liber 52, Page 412) situate, lying and being at Keahua, District of Kula, Island and County of Maui, State of Hawaii, being LOT 17, (Roadway), and thus bounded and described:

Beginning at the northeast corner of this lot, west side of Kula Highway, southeast corner of Lot 2, the coordinates of which point referred to Triangulation Station "PIIHOLO" are 8,945.21 feet south and 12,455.68 feet west and running by azimuths measured clockwise from true South:

1.	358°	56'	00"	42.80	feet along Kula Highway
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2.	68°	05'	10"	1338.20	feet along Lots 3, 16, 15, 14, and 13
3.	63°	07'	40"	394.97	feet along Lot 13
4.	138°	04'	10"	41.84	feet along Lot 12
5.	243°	07'	40"	408.97	feet along Lot 11
6.	248°	05'	10"	1355.16	feet along Lots 10, 9, 8, 7, and 2 to the point of beginning, containing an area of 1.60 acres, more or less.

**SAVING AND EXCEPTING THEREFROM**, that certain 765 square feet or 0.018 acre, more or less, portion thereof conveyed to the State of Hawaii by Deed dated February 2, 1962, recorded in said Bureau of Conveyances in Liber 4338, Page 377, and being more particularly described as follows:

That certain parcel of land being a portion of Deed of the Minister of Interior to William H. Bailey dated November 10, 1877, recorded in said Bureau of Conveyances in Liber 52, Page 412, and Grant 4006 to Joe De Freitas Phillippe, being PARCEL 90, same being a portion of Lot 17 (40-foot road) of Partition of Manuel F. Phillippe Estate, Judgment dated December 1, 1960, situate at Makaehu and Keahua, Kula, Makawao, Island and County of Maui, State of Hawaii, being more particularly described as follows:

Beginning at the northwest corner of this piece of land, on the west side of Lower Kula Road, Federal Aid Project No. BF-037-(1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kikalapur" being 16,531.53 feet north and 10,658.95 feet west, thence running by azimuths measured clockwise from true South:

1.	248°	05'	10"	19.40	feet along the remainder of Grant 4006 to Joe De Freitas Phillippe
2.	358°	56'		42.80	feet along the present west side of Lower Kula Road
3.	68°	05'	10"	19.21	feet along the remainder of Deed, Minister of Interior to William H. Bailey
4.	178°	40'		42.73	feet along the west side of Lower Kula Road, Project No. BF-037-(1), along the remainders of Deed, Minister of Interior to William H. Bailey and Grant 4006 to Joe De Freitas Phillippe to the point of beginning and containing an area of 765 square feet or 0.018 acre, more or less.



**TOGETHER ALSO WITH a nonexclusive easement to construct, reconstruct, maintain, operate and repair and remove a water pipeline or pipelines with equipment and appurtenances, over, across a portion of Lot 3, more fully described in Waterline Easement dated November 8, 1988, recorded in said Bureau of Conveyances in Liber 23205, Page 417.**

**Being the same premises conveyed to Grantor herein by the following:**

**1. Deed dated December 18, 1995, recorded in said Bureau of Conveyances as Document No. 96-013433.**

**2. Deed dated December 6, 2000, recorded in said Bureau of Conveyances as Document No. 2000-174236.**

**SUBJECT, HOWEVER, to the following:**

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

**2. As to Parcel Second:**

**a) Rights of others who own undivided interest in the land described herein.**

**b) Easement in favor of Board of Water Supply of the County of Maui, a political subdivision of the State of Hawaii, recorded in said Bureau of Conveyances as Document No. 2001-190146, for water pipeline purposes.**

**c) Co-Owners Agreement dated October 3, 2001, made by Upcountry Christian Fellowship Church, a Hawaii non-profit corporation, et als, recorded in said Bureau of Conveyances as Document No. 2001-190147.**



ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2010)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 132 MAKA`ENA PLACE, KULA, MAUI, HAWAII

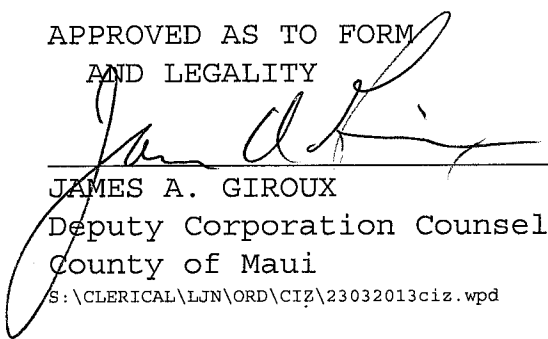
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.29 and 19.510, Maui County Code, a change in zoning from Agricultural District to RU-0.5 Rural District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Kula, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2)2-3-032:013, comprising approximately 2.67 acres, and more particularly described as Parcel First in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-1081, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions set forth in Exhibit "B", attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY

  
\_\_\_\_\_  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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**EXHIBIT "A"**

**PARCEL FIRST:**

All of that certain parcel of land (being a portion of the land described in and covered by Land Patent Grant Number 4006 to Joe De Freitas Phillippe and a portion of the lands described in DEED from Minister of Interior to W.H. Bailey, dated November 10, 1877, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 52, Page 412) situate, lying and being at Keahua, District of Kula, Island and County of Maui, State of Hawaii, being LOT 8, and thus bounded and described:

Beginning at the southeast corner of this lot, southwest corner of Lot 7, the coordinates of which point referred to Triangulation Station "PIIHOLO" are 9,184.50 feet south and 13,050.50 feet west and running by azimuths measured clockwise from true South:

- |    |      |     |     |        |   |
|----|------|-----|-----|--------|---|
| 1. | 65°  | 05' | 10" | 238.00 | feet along Lot 17 (Road)  |
| 2. | 178° | 56' | 00" | 522.97 | feet along Lot 9  |
| 3. | 248° | 05' | 10" | 238.00 | feet along land owned by Marie P. Felix Estate  |
| 4. | 358° | 56' | 00" | 522.97 | feet along Lot 7 to the point of beginning, containing an area of 2.67 acres, more or less. |

**PARCEL SECOND:**

An undivided one-twelfth (1/12) interest in Lot 17, Phillips Estate Partition, for use in common with the other owners thereof for road purposes, containing an area of 1.60 acres, described as follows:

All of that certain parcel of land (portion of Land Patent Grant Number 4006 to Joe De Freitas Phillippe and a portion of the lands described in Deed from Minister of Interior to W.H. Bailey, dated November 10, 1877 and recorded in said Bureau of Conveyances in Liber 52, Page 412) situate, lying and being at Keahua, District of Kula, Island and County of Maui, State of Hawaii, being LOT 17, (Roadway), and thus bounded and described:

Beginning at the northeast corner of this lot, west side of Kula Highway, southeast corner of Lot 2, the coordinates of which point referred to Triangulation Station "PIIHOLO" are 8,945.21 feet south and 12,455.66 feet west and running by azimuths measured clockwise from true South:

- |    |      |     |     |       |                         |
|----|------|-----|-----|-------|-------------------------|
| 1. | 358° | 56' | 00" | 42.80 | feet along Kula Highway |
|----|------|-----|-----|-------|-------------------------|

2.	68°	05'	10"	1338.20	feet along Lots 3, 16, 15, 14, and 13
3.	63°	07'	40"	394.97	feet along Lot 13
4.	136°	04'	10"	41.84	feet along Lot 12
5.	243°	07'	40"	408.97	feet along Lot 11
6.	248°	05'	10"	1355.16	feet along Lots 10, 9, 8, 7, and 2 to the point of beginning, containing an area of 1.80 acres, more or less.

**SAVING AND EXCEPTING THEREFROM, that certain 765 square feet or 0.018 acre, more or less, portion thereof conveyed to the State of Hawaii by Deed dated February 2, 1962, recorded in said Bureau of Conveyances in Liber 4338, Page 377, and being more particularly described as follows:**

**That certain parcel of land being a portion of Deed of the Minister of Interior to William H. Bailey dated November 10, 1877, recorded in said Bureau of Conveyances in Liber 52, Page 412, and Grant 4008 to Joe De Freitas Philippe, being PARCEL 90, same being a portion of Lot 17 (40-foot road) of Partition of Manuel P. Philippe Estate, Judgment dated December 1, 1960, situate at Makahu and Keehu, Kula, Makawao, Island and County of Maui, State of Hawaii, being more particularly described as follows:**

**Beginning at the northwest corner of this piece of land, on the west side of Lower Kula Road, Federal Aid Project No. BF-037-(1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kulaapua" being 16,531.53 feet north and 10,658.85 feet west, thence running by azimuths measured clockwise from true South:**

1.	248°	05'	10"	19.40	feet along the remainder of Grant 4008 to Joe De Freitas Philippe
2.	358°	58'		42.80	feet along the present west side of Lower Kula Road
3.	68°	05'	10"	19.21	feet along the remainder of Deed, Minister of Interior to William H. Bailey
4.	178°	40'		42.73	feet along the west side of Lower Kula Road, Project No. BF-037-(1), along the remainder of Deed, Minister of Interior to William H. Bailey and Grant 4008 to Joe De Freitas Philippe to the point of beginning and containing an area of 765 square feet or 0.018 acres, more or less.

**TOGETHER ALSO WITH a nonexclusive easement to construct, reconstruct, maintain, operate and repair and remove a water pipeline or pipelines with equipment and appurtenances, over, across a portion of Lot 3, more fully described in Waterline Easement dated November 8, 1988, recorded in said Bureau of Conveyances in Liber 23205, Page 417.**

**Being the same premises conveyed to Grantor herein by the following:**

- 1. Deed dated December 18, 1995, recorded in said Bureau of Conveyances as Document No. 96-013433.**
- 2. Deed dated December 6, 2000, recorded in said Bureau of Conveyances as Document No. 2000-174238.**

**SUBJECT, HOWEVER, to the following:**

- 1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.**
- 2. As to Parcel Second:**
  - a) Rights of others who own undivided interest in the land described herein.**
  - b) Easement in favor of Board of Water Supply of the County of Maui, a political subdivision of the State of Hawaii, recorded in said Bureau of Conveyances as Document No. 2001-190146, for water pipeline purposes.**
  - c) Co-Owners Agreement dated October 3, 2001, made by Upcountry Christian Fellowship Church, a Hawaii non-profit corporation, et als, recorded in said Bureau of Conveyances as Document No. 2001-190147.**





EXHIBIT "B"

CONDITIONS OF ZONING

1. That left turn movements shall be prohibited from Maka`ena Place during morning peak hours, as determined by the State Department of Transportation.
2. That at the time of any future improvements to Kula Highway at Maka`ena Place by the State of Hawaii, a fair share contribution shall be paid to the State of Hawaii for the design and construction of a median refuge lane.
3. That within one year from the effective date of this ordinance, a minimum 20-foot-wide paved roadway and turnaround shall be constructed on Maka`ena Place. These improvements shall be reviewed and approved by the Department of Fire and Public Safety.
4. That an emergency-only gate at the west (makai) end of Maka`ena Place shall be constructed to allow for connection to Loha Place when warranted by, and subject to the approval of, the Department of Fire and Public Safety, but in no event later than five years from the effective date of this ordinance.
5. That the improvements required by Condition Nos. 3 and 4 shall be secured by a performance bond(s) in favor of the County of Maui, pursuant to Section 19.510.050(E), Maui County Code.



LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail ( ) Pickup ( ): To:  
Office of the County Clerk  
County of Maui  
200 South High Street  
Wailuku, Hawai'i 96793

Total Number of Pages: 9

Affects Tax Map Key (Maui) (2) 2-3-032:013

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL  
ZONING

THIS INDENTURE, made this 22 day of NOVEMBER, 2010, by STEVEN J. SADLER, Trustee under the Steven J. Sadler Trust Agreement dated May 30, 1989, and PATTY J. SADLER, Trustee under the Patty J. Sadler Trust Agreement dated May 30, 1989, whose mailing address is 236 Makaena Place, Pukalani, Hawaii 96768, hereinafter collectively referred to as the "DECLARANT", and who are the owners of that certain parcel located at Kula, Maui, Hawai'i, comprised of approximately 2.67 acres, and identified for real property tax purposes by Tax Map Key No(s). (2) 2-3-032:013, hereinafter referred to as "PARCEL" (or "PROPERTY").

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Parcel, comprised of approximately 2.67 acres which is more particularly described as Parcel First in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. L-1081, which is on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee,


6. That the Declarant agrees to develop said Parcel in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

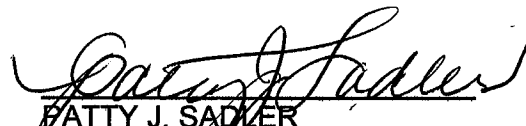
7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County, the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

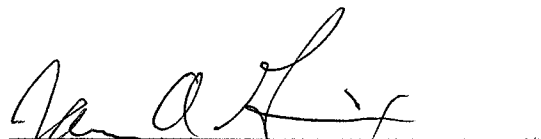
IN WITNESS WHEREOF, the undersigned has executed this Declaration the day and year first above written.

DECLARANT:

  
STEVEN J. SADLER  
Trustee under the Steven J.  
Sadler Trust Agreement dated  
May 30, 1989

  
PATTY J. SADLER  
Trustee under the Patty J. Sadler  
Trust Agreement dated May 30,  
1989

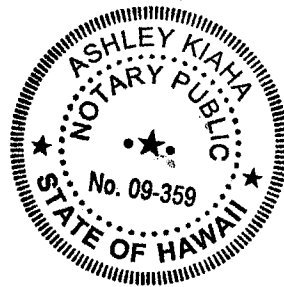
APPROVED AS TO FORM AND LEGALITY:

  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 22 day of November, 2010, before me personally appeared PATTY J. SADLER, Trustee under the Patty J. Sadler Trust Agreement dated May 30, 1989, to me personally known who being by me duly sworn, did say that she is the person described in and who executed the foregoing instrument, and acknowledged that she executed the said instrument as her free act and deed.

Ashley Kiaha Ashley Kiaha  
Notary Public, State of Hawaii  
My Commission expires: August 23, 2013



NOTARY PUBLIC CERTIFICATION

Doc. Date: 11-22-10 # Pages: 9

Notary Name: Ashley Kiaha Judicial Circuit: 2nd

Document Description: Unilateral Agreement  
And Declaration for Conditional Zoning

Notary Signature: Ashley Kiaha

Date: 11-22-10



2.	68°	05'	10"	1338.20	feet along Lots 3, 16, 15, 14, and 13
3.	63°	07'	40"	394.97	feet along Lot 13
4.	136°	04'	10"	41.84	feet along Lot 12
5.	243°	07'	40"	408.97	feet along Lot 11
6.	248°	05'	10"	1355.16	feet along Lots 10, 9, 8, 7, and 2 to the point of beginning, containing an area of 1.60 acres, more or less.

SAVING AND EXCEPTING THEREFROM, that certain 765 square feet or 0.018 acre, more or less, portion thereof conveyed to the State of Hawaii by Deed dated February 2, 1962, recorded in said Bureau of Conveyances in Liber 4338, Page 377, and being more particularly described as follows:

That certain parcel of land being a portion of Deed of the Minister of Interior to William H. Bailey dated November 10, 1877, recorded in said Bureau of Conveyances in Liber 52, Page 412, and Grant 4006 to Joe De Freitas Phillippe, being PARCEL 90, same being a portion of Lot 17 (40-foot road) of Partition of Manuel F. Phillippe Estate, Judgment dated December 1, 1960, situate at Makaeha and Keahua, Kula, Makawao, Island and County of Maui, State of Hawaii, being more particularly described as follows:

Beginning at the northwest corner of this piece of land, on the west side of Lower Kula Road, Federal Aid Project No. BF-037-(1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kikalapuu" being 16,531.53 feet north and 10,658.95 feet west, thence running by azimuths measured clockwise from true South:

1.	248°	05'	10"	19.40	feet along the remainder of Grant 4006 to Joe De Freitas Phillippe
2.	358°	56'		42.80	feet along the present west side of Lower Kula Road
3.	68°	05'	10"	19.21	feet along the remainder of Deed, Minister of Interior to William H. Bailey
4.	178°	40'		42.73	feet along the west side of Lower Kula Road, Project No. BF-037-(1), along the remainders of Deed, Minister of Interior to William H. Bailey and Grant 4006 to Joe De Freitas Phillippe to the point of beginning and containing an area of 765 square feet or 0.018 acre, more or less.

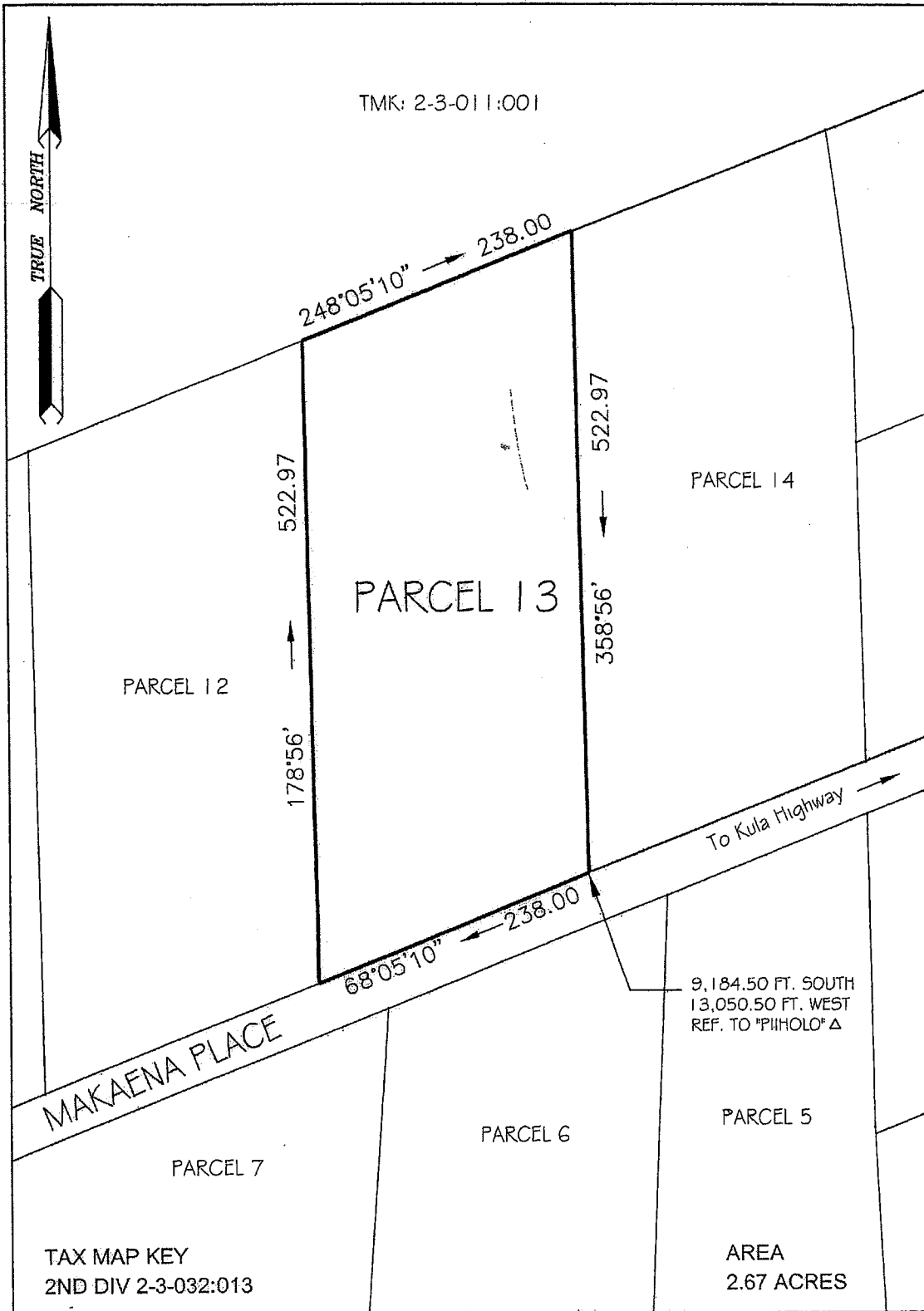
EXHIBIT "2"

CONDITIONS OF ZONING

1. That left turn movements shall be prohibited from Maka'ena Place during morning peak hours, as determined by the State Department of Transportation.
2. That at the time of any future improvements to Kula Highway at Maka'ena Place by the State of Hawaii, a fair share contribution shall be paid to the State of Hawaii for the design and construction of a median refuge lane.
3. That within one year from the effective date of this ordinance, a minimum 20-foot-wide paved roadway and turnaround shall be constructed on Maka'ena Place. These improvements shall be reviewed and approved by the Department of Fire and Public Safety.
4. That an emergency-only gate at the west (makai) end of Maka'ena Place shall be constructed to allow for connection to Loha Place when warranted by, and subject to the approval of, the Department of Fire and Public Safety, but in no event later than five years from the effective date of this ordinance.
5. That the improvements required by Condition Nos. 3 and 4 shall be secured by a performance bond(s) in favor of the County of Maui, pursuant to Section 19.510.050(E), Maui County Code.

END OF EXHIBIT "2"

TMK: 2-3-011:001



**LAND USE DISTRICT BOUNDARY** AMENDMENT MAP NO. DB- **629**  
 KULA, MAUI, HAWAII  
 FROM AGRICULTURAL TO RURAL

APPROVED \_\_\_\_\_  
 COUNTY CLERK DATE

PUBLIC HEARING: **FEBRUARY 9, 2010**  
 ADOPTED - COUNCIL:  
 ADOPTED - MAYOR:  
 ORDINANCE:

APPROVED *Kathleen Rose Clark 11/14/10*  
 PLANNING DIRECTOR DATE

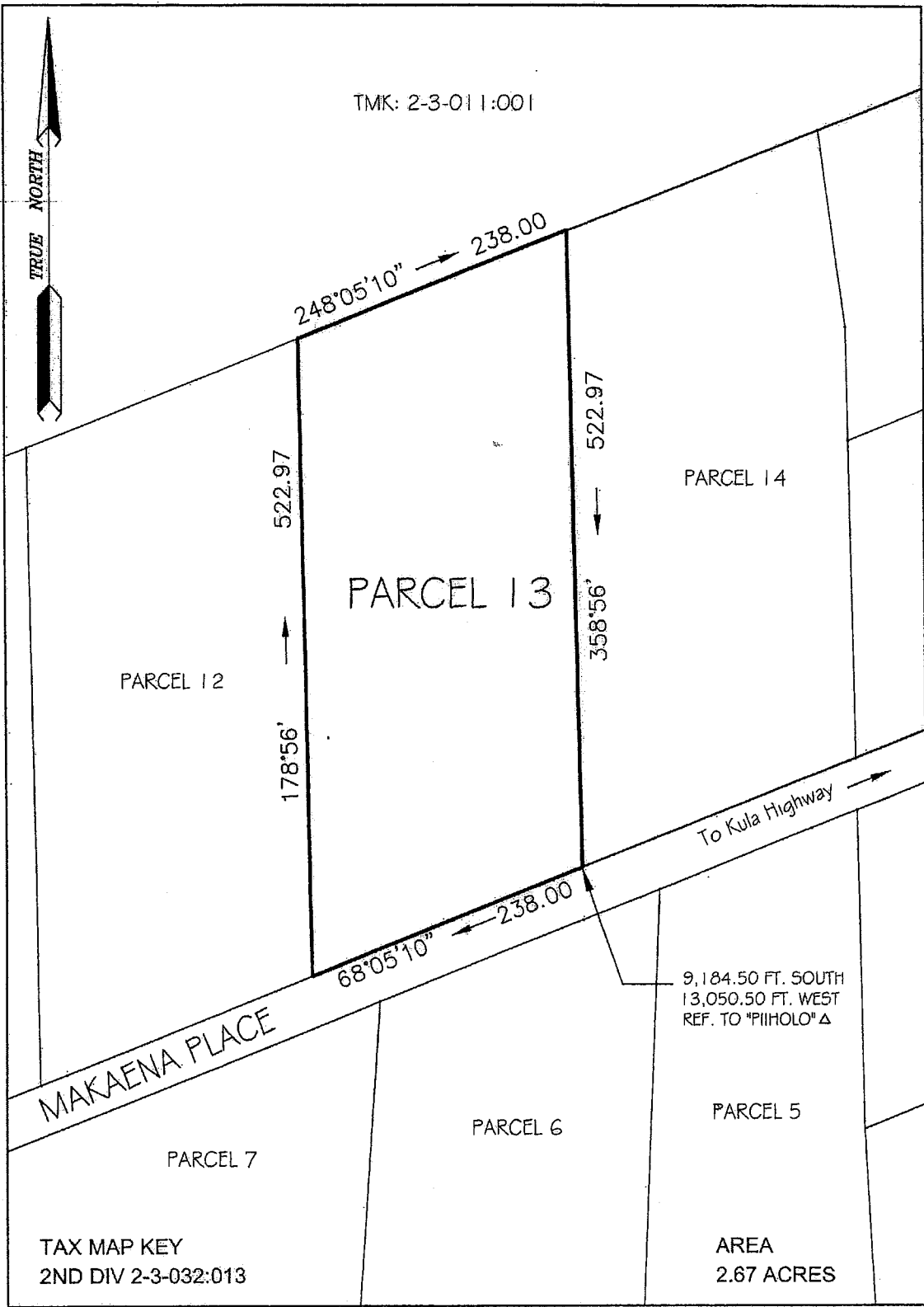
DATE:

SCALE: 1" = 100'

OFFICE OF THE COUNTY CLERK

DB- **629**





# LAND ZONING MAP NO. L-1081

CHANGE IN ZONING - KULA, MAUI, HAWAII  
FROM AGRICULTURAL TO RU-0.5 RURAL

APPROVED _____	PUBLIC HEARING: <b>FEBRUARY 9, 2010</b>	
COUNTY CLERK	DATE	ADOPTED - COUNCIL:
APPROVED <i>Kathleen Rose Aoki</i>	DATE	ADOPTED - MAYOR:
PLANNING DIRECTOR	DATE	ORDINANCE:
	DATE:	SCALE: 1" = 100'

OFFICE OF THE COUNTY CLERK

200 South High Street, Wailuku, Maui, Hawaii 96793

**L-1081**