

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

May 26, 2015

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 February 2, 2015, makes reference to County Communication 14-262, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO HEAVY INDUSTRIAL FOR PROPERTY SITUATED AT PULEHUNUI, DISTRICT OF WAILUKU, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 3-8-008:019, FOR THE PROPOSED PUUNENE HEAVY INDUSTRIAL SUBDIVISION" ("Community Plan Amendment bill"). The purpose of the Community Plan Amendment bill is to grant a request from CMBY 2011 Investment, LLC, for a Community Plan Amendment from Agriculture to Heavy Industrial for an 86.03-acre parcel located at Pulehunui, District of Wailuku, Maui, Hawaii (TMK: (2) 3-8-008:019) ("subject property"), to facilitate development of the Puunene Heavy Industrial Subdivision ("project").
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO M-3 RESTRICTED INDUSTRIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PULEHUNUI, DISTRICT OF WAILUKU, MAUI, HAWAII, TAX MAP KEY NUMBER: (2) 3-8-008:019" ("Change in Zoning bill"). The purpose of the Change in Zoning bill is to grant a request from CMBY 2011 Investment, LLC, for a Change in Zoning from Agricultural District to M-3 Restricted Industrial District (Conditional Zoning), for the subject property, to facilitate development of the project.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

Page 2

Committee
Report No. _____

As noted in documents from the Department of Planning and the Maui Planning Commission, transmitted with the County Communication, the project's proposed development plan calls for subdividing the parcel to provide lots that accommodate "pure industrial uses," such as manufacturing from raw materials, warehousing, and secure baseyard activities. The project is centrally located, with convenient access to Kahului Harbor and Kahului Airport.

As noted in the County Communication, there has not been any heavy industrial development in Central Maui for over a decade. The Maui Island Plan references the subject property as within the Urban Growth Boundary to be used primarily for heavy industrial, public/quasi-public, and recreational purposes.

Your Committee noted the Maui Planning Commission recommended approval of the bills. Your Committee further noted the Change in Zoning bill requires CMBY 2011 Investment, LLC, as a condition of zoning, to submit annual reports to the Council and Department of Planning. The reports will include updates on the project's status and copies of compliance reports submitted to the State Land Use Commission.

The proposed bills will establish appropriate, permanent land use designations for the long-term industrial use of the property.

Your Committee voted 5-0 to recommend passage of the revised proposed bills on first reading and filing of the communication. Committee Chair Carroll and members Baisa, Cochran, Couch, and Crivello voted "aye". Committee Vice-Chair Victorino and member Guzman were excused.

Your Committee is in receipt of revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

Page 3

Committee
Report No. _____

Your Committee is also in receipt of an agreement, entitled "Unilateral Agreement and Declaration for Conditional Zoning", executed by CMBY 2011 Investment, LLC, and approved as to form and legality by the Department of the Corporation Counsel.

Your Committee notes that, subsequent to its meeting, CMBY 2011 Investment, LLC, requested it be allowed to update the property description attached to the proposed bills. The update does not impact the acreage or metes and bounds of the property. The Department of the Corporation Counsel advised the revisions are nonsubstantive.

Your Committee is in receipt of further revised proposed bills incorporating the updated property description.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO HEAVY INDUSTRIAL FOR PROPERTY SITUATED AT PULEHUNUI, DISTRICT OF WAILUKU, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 3-8-008:019, FOR THE PROPOSED PUUNENE HEAVY INDUSTRIAL SUBDIVISION", be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill _____ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO M-3 RESTRICTED INDUSTRIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PULEHUNUI, DISTRICT OF WAILUKU, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 3-8-008:019, FOR THE PROPOSED PUUNENE HEAVY INDUSTRIAL SUBDIVISION", be PASSED ON FIRST READING and be ORDERED TO PRINT;

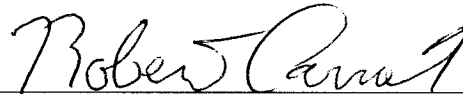
COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

Page 4

Committee
Report No. _____

3. That the County Clerk RECORD the unilateral agreement;
and
4. That County Communication 14-262 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:15030aa:scj

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO
HEAVY INDUSTRIAL FOR PROPERTY SITUATED AT PULEHUNUI,
DISTRICT OF WAILUKU, MAUI, HAWAII,
TAX MAP KEY NUMBER (2) 3-8-008:019, FOR THE
PROPOSED PUUNENE HEAVY INDUSTRIAL SUBDIVISION

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Kihei-Makena Community Plan and Land Use Map is hereby amended from Agriculture to Heavy Industrial for property situated at Pulehunui, District of Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 3-8-008:019, comprising approximately 86.03 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Community Plan Map No. CP-422, 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:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
LU-30 Kihei-Makena CPA 2014-3084

EXHIBIT "A"

All of that certain parcel of land (being portion of the land(s) described in and covered by Land Patent Number 8140, Land Commission Award Number 5230 to Keaweamahi) situate, lying and being at Pulehunui, District of Wailuku, Island and County of Maui, State of Hawaii, being LOT 2 of the PUA'A SUBDIVISION, per survey dated March 8, 2011, to wit:

Beginning at a pipe at the northeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 2,265.99 feet north and 17,073.08 feet east and running by azimuths measured clockwise from true South:

1. 199° 00' 428.45 feet along Lot 3 of the Pua'a Subdivision to a pipe;
2. 179° 00' 180.00 feet along same to a pipe;
3. 260° 00' 50.00 feet along same to a pipe;
4. 315° 00' 200.00 feet along same to a pipe;
5. Thence along same on a curve to the left with a radius of 515.00 feet, the chord azimuth and distance being:
299° 00' 283.91 feet along same to a pipe;
6. 283° 00' 170.00 along Lot 3 of the Pua'a Subdivision to a pipe;
7. 296° 00' 390.00 feet along same to a pipe;
8. Thence along same on a curve to the right with a radius of 362.00 feet, the chord azimuth and distance being:
345° 00' 455.63 feet to a pipe;
9. 24° 00' 240.00 feet along Lot 3 of the Pua'a Subdivision to a pipe;
10. Thence along same on a curve to the left with a radius of 410.00 feet, the chord azimuth and distance being:
348° 30' 476.18 feet to a pipe;
11. 313° 00' 225.00 feet along Lot 3 of the Pua'a Subdivision to a pipe;

12.			Thence along same on a curve to the right with a radius of 380.00 feet, the chord azimuth and distance being:
	348° 00'	435.92	feet to a pipe;
13.	23° 00'	40.00	feet along same to a pipe;
14.	289° 00'	70.00	feet along same to a pipe;
15.	346° 00'	400.00	feet along same to a pipe;
16.	10° 00'	130.00	feet along same to a pipe;
17.	320° 00'	130.00	feet along same to a pipe;
18.	350° 00'	200.00	feet along same to a pipe;
19.	20° 00'	160.00	feet along same to a pipe;
20.	350° 00'	170.00	feet along same to a pipe;
21.	268° 00'	130.00	feet along same to a pipe;
22.	347° 00'	230.00	feet along same to a pipe;
23.	67° 00'	620.00	feet along same to a pipe;
24.	79° 00'	470.00	feet along same to a pipe;
25.	147° 02'	378.30	feet along Lot 2-B-3 of the Subdivision of Lot 2-B of the Land of Pulehunui to a pipe;
26.	190° 00'	223.81	feet along Lot 1 of the Pua'a Subdivision to a pipe;
27.	179° 00'	470.00	feet along same to a pipe;
28.	140° 00'	185.00	feet along same to a pipe;
29.	167° 00'	220.00	feet along same to a pipe;
30.	178° 00'	157.00	feet along same to a pipe;
31.	164° 00'	236.18	feet along same to a pipe;
32.	189° 00'	220.00	feet along same to a pipe;
33.	168° 00'	340.00	feet along same to a pipe;
34.			Thence along same on a curve to the left with a radius of 306.26 feet, the

chord azimuth and distance being:

- 145° 00' 239.33 feet to a pipe;
35. Thence along same on a curve to the right with a radius of 420.00 feet, the chord azimuth and distance being:
- 139° 19' 250.03 feet to a pipe;
36. 173° 11' 30" 663.31 feet along Lot 2-B-2 of the Subdivision of Lot 2-B of the Land of Pulehunui to the point of beginning and containing an area of 86.030 acres, more or less.

Being all of the property conveyed by the following:

Limited Warranty Deed With Reservation of Easements, Covenants, Reservations and Restrictions

Grantor: Alexander & Baldwin, Inc., a Hawaii corporation
Grantee: CMBY 2011 Investment, LLC, a Washington limited liability company
Dated: March 17, 2011
Recorded: March 17, 2011 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2011-044566.

The Estate in the Land is Fee Simple.

SUBJECT TO:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Claims arising out of rights customarily and traditionally exercise for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii revised Statutes.
3. EASEMENT (GRANT)

In Favor Of: MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, and GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as Hawaiian Telcom, Inc., a Hawaii corporation
Dated: July 9, 1991
Recorded: October 18, 1991, in the Bureau of Conveyances of the State of Hawaii, Document No. 91-142658
Purpose: granting an easement of utility and incidental purposes over, under, across and through a portion of the land herein described, designated as Easement "3",

containing an area of 1.768 acres, more or less.

4. Declaration of Conditions by and between CMBY 2011 Investment, LLC, a Washington limited liability company, and the State of Hawaii Land Use Commission

Dated: December 3, 2013

Recorded: December 6, 2013 in the Bureau of Conveyances of the State of Hawaii, as Document No. A-50880606.

5. Any facts, rights, interests or claims which a correct survey would disclose and which are not disclosed by the public records.
6. Any and all unrecorded Leases, Subleases and Tenancy Agreements demising a portion of the land herein described, and encumbrances appurtenant thereto, if any.
7. Any rights or interest which may exist or arise by reason of the following facts shown on survey map prepared by Ken T. Nomura, Land Surveyor, dated March 7, 2011:
 - (A) Portions of Existing 10 foot wide Concrete Irrigation Ditch encroaches onto Lot 2.
 - (B) Various Existing Fencelines cross over boundaries.
 - (C) Portion of Lot 2 falls in Cane Field.

as disclosed in the Deed dated March 17, 2011 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2011-044566.

END OF ITEMS

TMK: (2) 3-8-008:019

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
AGRICULTURAL DISTRICT TO M-3 RESTRICTED INDUSTRIAL
DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT
PULEHUNUI, DISTRICT OF WAILUKU, MAUI, HAWAII,
TAX MAP KEY NUMBER (2) 3-8-008:019, FOR THE
PROPOSED PUUNENE HEAVY INDUSTRIAL SUBDIVISION

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

SECTION 1. Pursuant to Chapters 19.25 and 19.510, Maui County Code, a change in zoning from Agricultural District to M-3 Restricted Industrial District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Pulehunui, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 3-8-008:019, comprising approximately 86.030 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-212, 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. 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:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

LU-30 2015-05-05 Ord cond zoning 2014-3084

EXHIBIT "A"

All of that certain parcel of land (being portion of the land(s) described in and covered by Land Patent Number 8140, Land Commission Award Number 5230 to Keaweamahi) situate, lying and being at Pulehunui, District of Wailuku, Island and County of Maui, State of Hawaii, being LOT 2 of the PUA'A SUBDIVISION, per survey dated March 8, 2011, to wit:

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2. 179° 00' 180.00 feet along same to a pipe;
3. 260° 00' 50.00 feet along same to a pipe;
4. 315° 00' 200.00 feet along same to a pipe;
5. Thence along same on a curve to the left with a radius of 515.00 feet, the chord azimuth and distance being:
299° 00' 283.91 feet along same to a pipe;
6. 283° 00' 170.00 along Lot 3 of the Pua'a Subdivision to a pipe;
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Being all of the property conveyed by the following:

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Grantor: Alexander & Baldwin, Inc., a Hawaii corporation
Grantee: CMBY 2011 Investment, LLC, a Washington limited liability company
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The Estate in the Land is Fee Simple.

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1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Claims arising out of rights customarily and traditionally exercise for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii revised Statutes.
3. EASEMENT (GRANT)

In Favor Of: MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, and GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as Hawaiian Telcom, Inc., a Hawaii corporation
Dated: July 9, 1991
Recorded: October 18, 1991, in the Bureau of Conveyances of the State of Hawaii, Document No. 91-142658
Purpose: granting an easement of utility and incidental purposes over, under, across and through a portion of the land herein described, designated as Easement "3",

containing an area of 1.768 acres, more or less.

4. Declaration of Conditions by and between CMBY 2011 Investment, LLC, a Washington limited liability company, and the State of Hawaii Land Use Commission

Dated: December 3, 2013

Recorded: December 6, 2013 in the Bureau of Conveyances of the State of Hawaii, as Document No. A-50880606.

5. Any facts, rights, interests or claims which a correct survey would disclose and which are not disclosed by the public records.
6. Any and all unrecorded Leases, Subleases and Tenancy Agreements demising a portion of the land herein described, and encumbrances appurtenant thereto, if any.
7. Any rights or interest which may exist or arise by reason of the following facts shown on survey map prepared by Ken T. Nomura, Land Surveyor, dated March 7, 2011:
 - (A) Portions of Existing 10 foot wide Concrete Irrigation Ditch encroaches onto Lot 2.
 - (B) Various Existing Fencelines cross over boundaries.
 - (C) Portion of Lot 2 falls in Cane Field.

as disclosed in the Deed dated March 17, 2011 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2011-044566.

END OF ITEMS

TMK: (2) 3-8-008:019

EXHIBIT "B"

CONDITIONS OF ZONING

1. That CMBY 2011 INVESTMENT, LLC, shall provide, in a timely manner, to the County of Maui Department of Planning and the Maui County Council, without any written prior notice, copies of annual reports sent to the State of Hawaii Land Use Commission in connection with the status of the development of the Petition area and Petitioner's progress in complying with the conditions imposed under Decisions and Orders for Land Use Commission Docket A13-797 approved as to form on November 22, 2013.
2. That CMBY 2011 INVESTMENT, LLC, shall provide, in a timely manner, to the Department and the Council, copies of annual compliance reports outlining the status of the project and progress in complying with the conditions of zoning, commencing one (1) year from the effective date of the ordinance and continuing until such time as the conditions have been fully satisfied, as determined by the Department and the Department of Public Works.

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: 10

Affects Tax Map Key (Maui) (2) 3-8-008: 019

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 27 day of APRIL 2015, by CMBY 2011 Investment, LLC, a Washington limited liability company, whose principal place of business is located in Kihei, Maui, Hawai`i, and whose mailing address is 1300 North Holopono Street, Suite 201 (mailing address: P.O. Box 220), Kihei, Hawai`i 96753, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel located at Pulehunui, Maui, Hawai`i, comprised of approximately 86.03 acres, and identified for real property tax purposes by Tax Map Key No(s). (2) 3-8-008:019, 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 86.03 acres, which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. L-212, 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, Committee Report No. _____, that said establishment of zoning be approved for passage on first reading subject to certain conditions, pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning;

2. That until written release by the County of Maui, the Parcel, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Parcel, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawai'i, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or with respect to the Parcel by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Parcel the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

3. That this Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the Declarant notifies the appropriate County Department that any of said covenants, conditions and restrictions are satisfied by the Declarant, and the appropriate County Department verifies the satisfaction and provides a written release of the covenant, condition or restriction;

4. That the term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", the Declarant's heirs, devisees, executors, administrators, personal representatives, successors, and assigns;

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of M-3 Restricted Industrial District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

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:

CMBY 2011 Investment, LLC
a Washington limited liability
company

By: JSGNE Investments, Inc.
a Washington corporation
Its Manager

By: 
Its PRESIDENT

APPROVED AS TO FORM AND LEGALITY:

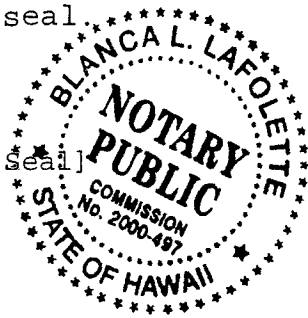


MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 27 day of APRIL, 2015, before me personally appeared J. STEPHEN GOODFELLOW, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Stamp or Seal]

Blanca L. Lafolette
Notary Public, State of Hawaii

Print Name: Blanca L. Lafolette

My Commission Expires: 10/15/16

NOTARY PUBLIC CERTIFICATION

Doc. Date: APRIL 27, 2015 # Pages: 10

Notary Name: BLANCA L. LAFOLETTE Judicial Circuit: SECOND

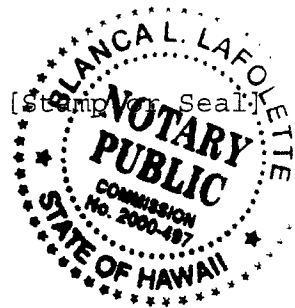
Document Description: _____

UNILATERAL AGREEMENT AND

DECLARATION FOR CONDITIONAL ZONING

Notary Signature: Blanca L. Lafolette

Date: APRIL 27, 2015



[Stamp or Seal]

EXHIBIT 1

All of that certain parcel of land (being portion of the land(s) described in and covered by Land Patent Number 8140, Land Commission Award Number 5230 to Keaweamahi) situate, lying and being at Pulehunui, District of Wailuku, Island and County of Maui, State of Hawaii, being LOT 2 of the PUA'A SUBDIVISION, per survey dated March 8, 2011, to wit:

Beginning at a pipe at the northeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 2,265.99 feet north and 17,073.08 feet east and running by azimuths measured clockwise from true South:

- | | | | |
|-----|----------|--------|---------------------------------------------------------------------------------------------------------------|
| 1. | 199° 00' | 428.45 | feet along Lot 3 of the Pua'a Subdivision to a pipe; |
| 2. | 179° 00' | 180.00 | feet along same to a pipe; |
| 3. | 260° 00' | 50.00 | feet along same to a pipe; |
| 4. | 315° 00' | 200.00 | feet along same to a pipe; |
| 5. | | | Thence along same on a curve to the left with a radius of 515.00 feet, the chord azimuth and distance being: |
| | 299° 00' | 283.91 | feet along same to a pipe; |
| 6. | 283° 00' | 170.00 | along Lot 3 of the Pua'a Subdivision to a pipe; |
| 7. | 296° 00' | 390.00 | feet along same to a pipe; |
| 8. | | | Thence along same on a curve to the right with a radius of 362.00 feet, the chord azimuth and distance being: |
| | 345° 00' | 455.63 | feet to a pipe; |
| 9. | 24° 00' | 240.00 | feet along Lot 3 of the Pua'a Subdivision to a pipe; |
| 10. | | | Thence along same on a curve to the left with a radius of 410.00 feet, the chord azimuth and distance being: |
| | 348° 30' | 476.18 | feet to a pipe; |
| 11. | 313° 00' | 225.00 | feet along Lot 3 of the Pua'a Subdivision to a pipe; |

12. Thence along same on a curve to the right with a radius of 380.00 feet, the chord azimuth and distance being:
- | | | |
|--------------|--------|----------------------------------------------------------------------------------------|
| 348° 00' | 435.92 | feet to a pipe; |
| 13. 23° 00' | 40.00 | feet along same to a pipe; |
| 14. 289° 00' | 70.00 | feet along same to a pipe; |
| 15. 346° 00' | 400.00 | feet along same to a pipe; |
| 16. 10° 00' | 130.00 | feet along same to a pipe; |
| 17. 320° 00' | 130.00 | feet along same to a pipe; |
| 18. 350° 00' | 200.00 | feet along same to a pipe; |
| 19. 20° 00' | 160.00 | feet along same to a pipe; |
| 20. 350° 00' | 170.00 | feet along same to a pipe; |
| 21. 268° 00' | 130.00 | feet along same to a pipe; |
| 22. 347° 00' | 230.00 | feet along same to a pipe; |
| 23. 67° 00' | 620.00 | feet along same to a pipe; |
| 24. 79° 00' | 470.00 | feet along same to a pipe; |
| 25. 147° 02' | 378.30 | feet along Lot 2-B-3 of the Subdivision of Lot 2-B of the Land of Pulehunui to a pipe; |
| 26. 190° 00' | 223.81 | feet along Lot 1 of the Pua'a Subdivision to a pipe; |
| 27. 179° 00' | 470.00 | feet along same to a pipe; |
| 28. 140° 00' | 185.00 | feet along same to a pipe; |
| 29. 167° 00' | 220.00 | feet along same to a pipe; |
| 30. 178° 00' | 157.00 | feet along same to a pipe; |
| 31. 164° 00' | 236.18 | feet along same to a pipe; |
| 32. 189° 00' | 220.00 | feet along same to a pipe; |
| 33. 168° 00' | 340.00 | feet along same to a pipe; |
| 34. | | Thence along same on a curve to the left with a radius of 306.26 feet, the |

chord azimuth and distance being:

145° 00' 239.33 feet to a pipe;

35. Thence along same on a curve to the right with a radius of 420.00 feet, the chord azimuth and distance being:

139° 19' 250.03 feet to a pipe;

36. 173° 11' 30" 663.31 feet along Lot 2-B-2 of the Subdivision of Lot 2-B of the Land of Pulehunui to the point of beginning and containing an area of 86.030 acres, more or less.

Being all of the property conveyed by the following:

Limited Warranty Deed With Reservation of Easements, Covenants, Reservations and Restrictions

Grantor: Alexander & Baldwin, Inc., a Hawaii corporation
Grantee: CMBY 2011 Investment, LLC, a Washington limited liability company
Dated: March 17, 2011
Recorded: March 17, 2011 in the Bureau of Conveyances of the State of Hawaii, as Document No. 2011-044566.

The Estate in the Land is Fee Simple.

SUBJECT TO:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. Claims arising out of rights customarily and traditionally exercise for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii revised Statutes.
3. EASEMENT (GRANT)

In Favor Of: MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, and GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as Hawaiian Telcom, Inc., a Hawaii corporation
Dated: July 9, 1991
Recorded: October 18, 1991, in the Bureau of Conveyances of the State of Hawaii, Document No. 91-142658
Purpose: granting an easement of utility and incidental purposes over, under, across and through a portion of the land herein described, designated as Easement "3",

containing an area of 1.768 acres, more or less.

4. Declaration of Conditions by and between CMBY 2011 Investment, LLC, a Washington limited liability company, and the State of Hawaii Land Use Commission

Dated: December 3, 2013

Recorded: December 6, 2013 in the Bureau of Conveyances of the State of Hawaii, as Document No. A-50880606.

5. Any facts, rights, interests or claims which a correct survey would disclose and which are not disclosed by the public records.
6. Any and all unrecorded Leases, Subleases and Tenancy Agreements demising a portion of the land herein described, and encumbrances appurtenant thereto, if any.
7. Any rights or interest which may exist or arise by reason of the following facts shown on survey map prepared by Ken T. Nomura, Land Surveyor, dated March 7, 2011:
 - (A) Portions of Existing 10 foot wide Concrete Irrigation Ditch encroaches onto Lot 2.
 - (B) Various Existing Fencelines cross over boundaries.
 - (C) Portion of Lot 2 falls in Cane Field.

as disclosed in the Deed dated March 17, 2011 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2011-044566.

END OF ITEMS

TMK: (2) 3-8-008:019

END OF EXHIBIT 1

EXHIBIT 2

CONDITIONS OF ZONING

1. That CMBY 2011 INVESTMENT, LLC, shall provide, in a timely manner, to the County of Maui Department of Planning and the Maui County Council, without any written prior notice, copies of annual reports sent to the State of Hawaii Land Use Commission in connection with the status of the development of the Petition area and Petitioner's progress in complying with the conditions imposed under Decisions and Orders for Land Use Commission Docket A13-797 approved as to form on November 22, 2013.
2. That CMBY 2011 INVESTMENT, LLC, shall provide, in a timely manner, to the Department and the Council, copies of annual compliance reports outlining the status of the project and progress in complying with the conditions of zoning, commencing one (1) year from the effective date of the ordinance and continuing until such time as the conditions have been fully satisfied, as determined by the Department and the Department of Public Works.