

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 January 28, 2015, makes reference to County Communication 14-161, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM URBAN RESERVE DISTRICT TO B-CT COUNTRY TOWN BUSINESS DISTRICT FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII, FOR THE PROPOSED OLD LANAI POLICE STATION/COURTHOUSE BUILDING". The purpose of the proposed bill is to grant a request from Lanai Resorts, LLC, for a Change in Zoning from Urban Reserve District to B-CT Country Town Business District for approximately 15,000 square feet located at TMK: (2) 4-9-006:004, on the corner of Eighth Street and Fraser Avenue, Lanai City, Lanai, Hawaii (the site of the Old Lanai Police Station and Courthouse).

Your Committee notes the subject property contains four one-story buildings: the former police station and courthouse, a jail cell, a single-family residence, and a garage and laundry building. All four buildings are eligible for listing on the National Register of Historic Places.

According to the County Communication, the Lanai Planning Commission reviewed the application on December 18, 2013, and recommended approval.

The applicant's representative, Gwen Hiraga of Munekiyo & Hiraga, Inc., now also known as Munekiyo Hiraga, stated the applicant seeks a Change in Zoning to allow commercial, office, or retail use on the property. She further stated only minor improvements are anticipated.

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To ensure the property's historic nature is preserved and the land use complements Lanai's country-town environment, your Committee added three conditions to the proposed bill, pursuant to Section 19.510.050, Maui County Code. The conditions allow only certain permitted uses while prohibiting certain accessory and special uses; require maintenance of the buildings' historic character; and require maintenance of signage identifying the property's history nature, respectively.

Your Committee voted 7-0 to recommend passage of the proposed bill, as revised, on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Victorino, and members Baisa, Cochran, Couch, Crivello, and Guzman voted "aye".

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM URBAN RESERVE DISTRICT TO B-CT COUNTRY TOWN BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII, FOR THE PROPOSED OLD LANAI POLICE STATION/COURTHOUSE BUILDING", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

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

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM URBAN RESERVE DISTRICT TO B-CT COUNTRY TOWN BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII, FOR THE PROPOSED OLD LANAI POLICE

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STATION/COURTHOUSE BUILDING”, be PASSED ON FIRST
READING and be ORDERED TO PRINT;

2. That the County Clerk RECORD the unilateral agreement;
and
3. That County Communication 14-161 be FILED.

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



ROBERT CARROLL, Chair

lu:cr:15027aa:scj

ORDINANCE NO. _____

BILL NO. _____(2015)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
URBAN RESERVE DISTRICT TO B-CT COUNTRY TOWN BUSINESS
DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT
LANAI CITY, LANAI, HAWAII, FOR THE PROPOSED
OLD LANAI POLICE STATION/COURTHOUSE BUILDING


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

SECTION 1. Pursuant to Chapters 19.15 and 19.510, Maui County Code, a change in zoning from Urban Reserve District to B-CT Country Town Business District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Lanai City, Lanai, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 4-9-006:004, comprised of approximately 15,000 square feet, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-2620, 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

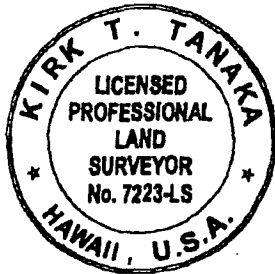


MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
2014-3084

COURTHOUSE AND JAIL LOT
EXCLUSION 24 OF LAND COURT APPLICATION 862
AT KAMOKU, LANAI, MAUI, HAWAII
BEING A PORTION OF GRANT SOIL TO WALTER M. GIFFARD

Beginning at the Westerly corner of this Lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "POHOULA" being 7,534.10 feet South and 178.10 feet East and running by azimuths measured clockwise from True South:

1. 247° 00' 125.00 feet along Eighth Street (Lot 21, Land Court Application 862);
2. 337° 00' 120.00 feet along Gay Street (Lot 134, Land Court Application 862);
3. 67° 00' 125.00 feet along Lot 80, Land Court Application 862;
4. 157° 00' 120.00 feet along Fraser Avenue (Lot 20, Land Court Application 862) to the point of beginning and containing an area of 15,000 Square Feet.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in black ink, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Surveyor
Certificate No. 7223-LS
License Expires: April 30, 2014

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

February 12, 2014
Revised: March 25, 2014

EXHIBIT "A"

EXHIBIT "B"

CONDITIONS OF ZONING

1. That the permitted uses shall be limited to the following B-CT country town business district uses: art and music studios; buildings and premises used, owned, or operated by government agencies, including community centers; educational institutions; specialized education; general merchandising; general office; and museums. That the following B-CT country town business district accessory uses shall be prohibited: energy systems, small-scale; and food and agricultural product manufacturing and processing. That the following B-CT country town business district special uses are prohibited: public utility substations; telecommunication offices and facilities; transient vacation rentals; and vehicle bodywork, frame or body parts straightening, steam cleaning, painting, welding, storage of non-operating vehicles, and tire recapping or regrooving.
2. That the four existing historic buildings on the subject property shall be adequately maintained to preserve their historic character and integrity.
3. That signage identifying the historic nature of the property site be installed and maintained.

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: 7

Affects Tax Map Key (Lanai) (2) 4-9-006:004

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 5TH day of May 2015, by Lanai Resorts, LLC, a Hawaii limited liability company doing business as Pūlama Lāna`i, whose principal place of business is located in Honolulu, Hawaii, and whose mailing address is 733 Bishop Street, Suite 2000, Honolulu, Hawaii 96813, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel located at Lanai City, Lanai, Hawaii, comprised of approximately 15,000 square feet, and identified for real property tax purposes by Tax Map Key No. (2) 4-9-006:004, hereinafter referred to as "PARCEL" (or "PROPERTY").

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering the establishment of zoning for the Parcel, comprised of approximately 15,000 square feet, 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-2620, 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 Hawaii, 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 B-CT Country Town Business District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii;

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;

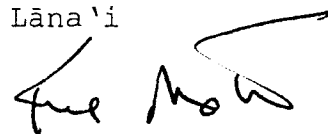
7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

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:

LANAI RESORTS, LLC, a Hawaii
Limited Liability Corporation
doing business as Pūlama
Lānaʻi



Kurt Matsumoto
Chief Operating Officer

APPROVED AS TO FORM AND LEGALITY:

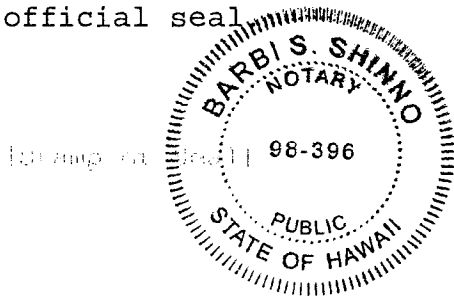


MICHAEL HOPPER
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
CITY and COUNTY of HONOLULU)

On this 5th day of May, 2015, before me personally appeared Kurt Matsumoto, 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



[Signature]
Notary Public, State of Hawaii
Print Name: Barbi S. Shinno
My Commission Expires: 03-11-18

NOTARY PUBLIC CERTIFICATION

Doc. Date: May 5, 2015 # Pages: 1
Notary Name: Barbi S. Shinno Judicial Circuit: First
Document Description: Unilateral Agreement
+ Declaration for Conditional Zoning - Old
Police Station TMK (2) 4-9-006:004
Notary Signature: [Signature]
Date: 5/5/15

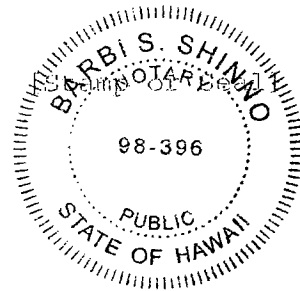


EXHIBIT "1"

COURTHOUSE AND JAIL LOT

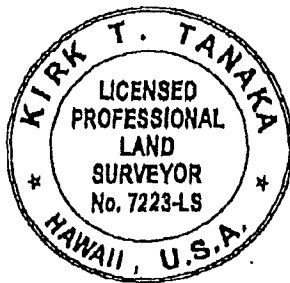
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Licensed Professional Surveyor
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License Expires: April 30, 2014

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February 12, 2014
Revised: March 25, 2014

EXHIBIT "2"

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