

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

September 18, 2015

Committee
Report No. _____

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

Chair and Members:

Your Budget and Finance Committee, having met on June 15, 2015, August 3, 2015, and September 1, 2015, makes reference to County Communication 15-76, from the Director of Parks and Recreation, transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF A DONATION FROM MAUI TIMESHARE VENTURE, LLC TO THE DEPARTMENT OF PARKS AND RECREATION, COUNTY OF MAUI, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE."

The purpose of the proposed resolution is to accept \$468,000 from Maui Timeshare Venture, LLC, for the construction of three tennis courts in the West Maui area.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, entitled "AUTHORIZING ACCEPTANCE OF A CONTRIBUTION FROM MAUI TIMESHARE VENTURE, LLC, TO THE DEPARTMENT OF PARKS AND RECREATION, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE," approved as to form and legality, incorporating revisions recommended by your Committee and nonsubstantive revisions.

Your Committee notes the Council may accept gifts or donations by resolution pursuant to Section 3.56.030, Maui County Code.

Your Committee notes the contribution is related to Condition 67 of Special Management Area Use Permit SM1 2006/0001, which requires, in part, Hyatt Regency Maui or its subsidiaries to contribute the value of three tennis courts eliminated from their property as a result of the

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permit's approval. The contribution is for the construction of three replacement tennis courts in West Maui.

The Director of Parks and Recreation informed your Committee that Maui Timeshare Venture, LLC, a subsidiary of Hyatt Regency Maui, seeks to partially satisfy Condition 67 by contributing \$468,000. The contribution amount was established through negotiations between the Department and Maui Timeshare Venture, LLC, and is comparable to the cost of tennis courts constructed at the Lahaina Civic Center in 2009.

Your Committee revised the proposed resolution by directing the contributed funds into the West Maui park assessment fund to ensure the funds benefit the West Maui community, as required by Condition 67.

Your Committee notes an appropriation for the contribution was included in the Fiscal Year 2016 Budget, so a budget amendment is not required to recognize the contribution.

Your Committee voted 9-0 to recommend adoption of the further revised proposed resolution and filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino voted "aye."

Your Budget and Finance Committee **RECOMMENDS** the following:

1. That Resolution _____, as revised herein and attached hereto, entitled "AUTHORIZING ACCEPTANCE OF A CONTRIBUTION FROM MAUI TIMESHARE VENTURE, LLC, TO THE DEPARTMENT OF PARKS AND RECREATION, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE," be ADOPTED; and
2. That County Communication 15-76 be FILED.

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



RIKI HOKAMA, Chair

bf:cr:15032aa:mmy/jkm

Resolution

No. _____

AUTHORIZING ACCEPTANCE OF A CONTRIBUTION FROM MAUI TIMESHARE VENTURE, LLC, TO THE DEPARTMENT OF PARKS AND RECREATION, PURSUANT TO SECTION 13-8, REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AND CHAPTER 3.56, MAUI COUNTY CODE

WHEREAS, Maui Timeshare Venture, LLC, seeks to satisfy Condition 67 of that certain Special Management Area Permit approval dated April 10, 2008 (SM1 2006/0001), as further described in Exhibit "A," attached hereto and incorporated herein by reference; and

WHEREAS, Maui Timeshare Venture, LLC, desires to contribute \$468,000 to the Department of Parks and Recreation for the construction of three tennis courts in the West Maui area to fulfill Condition 67, as further described in Exhibit "B," attached hereto and incorporated herein by reference; and

WHEREAS, Section 13-8, Revised Charter of the County of Maui (1983), as amended, and Chapter 3.56, Maui County Code, authorize, among other things, the Council to accept gifts or donations of money, securities, or other personal property on behalf of the County of Maui; now, therefore,

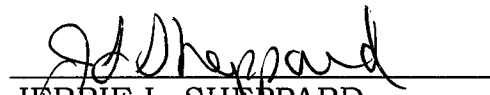
BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby accepts the contribution of \$468,000 for the construction of three tennis courts in the West Maui area on behalf of the County of Maui;
2. That the funds shall be deposited into the park assessment fund benefitting the West Maui area; and

Resolution No. _____

3. That certified copies of this Resolution be transmitted to the Mayor; the Budget Director; the Director of Finance; the Director of Parks and Recreation; the Planning Director; and Maui Timeshare Venture, LLC.

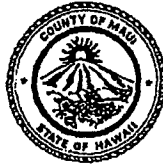
APPROVED AS TO FORM
AND LEGALITY:



JERRIE L. SHEPPARD
Deputy Corporation Counsel
County of Maui

bf:misc:032areso01

CHARMAINE TAVARES
Mayor
JEFFREY S. HUNT
Director
COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

April 10, 2008

CERTIFIED MAIL/RETURN RECEIPT #: 7005 1820 0000 9082 2411

Mr. Matt Slepín
Chris Hart and Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Slepín:

SUBJECT: Application For A Special Management Area Use Permit and an Offsite Parking Approval For The Proposed Hyatt Regency Maui Addition, located in Lahaina, Maui, Hawaii TMK(s): 4-4-013:003, 4-4-013:004, 4-4-013:005, 4-4-013:008, (SM1 2006/0001)(OSP 2006/0007)

At the regular meetings on December 11, 2007, January 8, 2008, February 12, 2008, and March 25, 2008, the Maui Planning Commission (Commission) reviewed applications for the Special Management Area Use Permit and the Offsite Parking Approval, accepted testimony and exhibits, and after due deliberation, hereby orders approval of said applications, subject to the following listed conditions.

Special Management Area Use Permit

STANDARD CONDITIONS:

1. That construction of the proposed project shall be initiated by March 31, 2011. Initiation of construction shall be determined as construction of on-site and/or offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Failure to comply within this three (3) year period will automatically terminate this Special Management Area Use Permit unless a time extension is requested no later than ninety (90) days prior to the expiration of said three (3) year period. The Planning Director shall review and approve a time extension request but may forward said request to the Commission for review and approval.

EXHIBIT " A "

2. That the construction of the project shall be completed within five (5) years after the date of its initiation. Failure to complete construction of this project will require unfinished portions of the project to obtain a new Special Management Area Permit. A time extension shall be requested no later than ninety (90) days prior to the completion deadline. The Planning Director shall review and approve a time-extension request but may forward said request to the Commission for review and approval
3. The permit holder or any aggrieved person may appeal to the Commission any action taken by the Planning Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.
4. That, except as otherwise required pursuant to these conditions of approval, final construction shall be in accordance with preliminary site and architectural plans variously dated, but as found in the exhibits to the Maui Planning Department's Report to the Maui Planning Commission for its December 11, 2007, meeting, regarding this subject project.
5. That appropriate measures shall be taken during construction to mitigate the short term impacts of the project relative to dust and soil erosion from wind and water, ambient noise levels, traffic disruptions, and construction waste.
6. That the subject Special Management Area Use Permit shall not be transferred without prior written approval in accordance with Sections 12-202-17(d) of the Special Management Area Rules of the Maui Planning Commission. However, in the event that a contested case hearing preceded issuance of said Special Management Area Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

7. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Special Management Area Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Special Management Area Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.
8. That full compliance with all applicable governmental requirements shall be rendered.
9. That the applicant shall submit plans regarding the location of any construction related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase to the Department for review and approval.
10. That the applicant shall submit to the Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Special Management Area Use Permit. A preliminary compliance report shall be reviewed and approved by the Department prior to issuance of a grading or building permit. A final compliance report shall be submitted to the Department for review and approval prior to issuance of a certificate of occupancy.
11. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the Special Management Area Use Permit. Failure to so develop the property may result in the revocation of the permit.

12. That appropriate energy conservation measures shall be incorporated into the project, which may include but are not limited to, energy conserving building materials, solar water heaters, state of the art air conditioning systems, photo voltaic systems, etc.
13. That low level lighting shall be used on the building and within the landscaped areas and further parking lot lighting shall be fully shielded.
14. That appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be maintained regularly per manufacturer's specifications, with the contaminant residuals from stormwater treatment to be properly disposed of. Records of the disposal shall be kept by the applicant and made available for inspection by county and state agencies upon request. Plans for the filtration measures shall be submitted to the Department together with the preliminary compliance report. Evidence of appropriate mechanisms to comply with this condition after filtration measures have been installed shall be submitted to the Department as part of the final compliance report

PROJECT SPECIFIC CONDITIONS:

Multi-Agency

15. That the applicant shall be responsible for all required infrastructural improvements as required by Title 18, Maui County Code, as amended, and other County Codes and Rules and Regulations, including but not limited to water source and system improvements for both domestic and fire protection, drainage improvements, traffic related improvements, wastewater system improvements, and utility upgrades. Said improvements shall be constructed concurrently with the development and shall be completed prior to issuance of a certificate of occupancy unless improvements are bonded by the developer, with evidence in the final compliance report.
16. That, to the satisfaction of the Department and/or other agencies as appropriate, and except as otherwise provided in or pursuant to these conditions of project approval, the applicant shall fulfill all the various mitigations as stated in the "Final Environmental Impact Statement, Hyatt Regency Maui Addition, Hyatt Regency Maui Resort, Kaanapali, Maui, Hawaii" prepared by Chris Hart and Partners, Inc., dated

November, 2006, and accepted by the Maui Planning Commission on December 12, 2006. The mitigations listed in Section III-D., Transportation, of the FEIS are superseded by mitigations to be carried out pursuant to conditions nos. 22. and 23.

17. That, to the satisfaction of either the Department of Public Works, the Department of Environmental Management, and/or other agency as appropriate, and as offered by the applicant, the applicant shall provide their pro-rata contribution for public infrastructure improvements in accordance with any project related development fees and/or assessments that are required by the County of Maui, with evidence in the final compliance report.
18. That, to the satisfaction of the Department of Public Works, the Department of Planning, or the U.S. Natural Resources Conservation Service, and as offered by the applicant, parking lots and driveways shall be designed to capture and direct surface water runoff to landscaped areas to the greatest practicable extent, with evidence in the preliminary compliance report.
19. That, to the satisfaction of either the Department of Public Works or the U.S. Department of Agriculture Natural Resources Conservation Service, and as offered by the applicant, in addition to Best Management Practices the applicant shall carry out regularly scheduled inspection of temporary drainage and erosion control features during the construction of the project to ensure the integrity of the function of these features, and all cleared and grubbed materials shall be promptly removed so that runoff does not enter the ocean due to an altered drainage pattern, with evidence in the final compliance report.
20. That, to the satisfaction of either the Department of Public Works or the U.S. Natural Resources Conservation Service, and as offered by the applicant, the landscape planting plan shall be coordinated with construction activities to minimize potential runoff and erosion in areas proposed for new or replacement landscape planting, with evidence in the preliminary compliance report.
21. That, to the satisfaction of either the Department of Planning or the U.S. Natural Resources Conservation Service, and as offered by the applicant, the use of appropriate native plants and drought tolerant species shall be given primary consideration for new or replacement planting, with evidence in the preliminary compliance report.

22. That, prior to the Department of Planning's approval of a preliminary compliance report, the Department of Planning, in coordination with other County agencies as deemed appropriate, shall have approved a transportation demand management (TDM) program which shall include, at a minimum, the TDM measures of the "TDM Program" and the elements of the "Monitoring Plan" contained within the "Hyatt Regency Maui Addition Traffic Management Plan" (the "Plan"), dated November, 2007, produced by Nelson/Nygaard Consulting Associates. However, the details of said measures and elements may be modified in the future from those in the November, 2007 Plan with the mutual consent and approval of the County and applicant if the parties determine that such modifications will better serve the overall TDM program's purpose, which is to reduce the number of motor vehicle trips (principally at peak hour) equal to/or below the level of trips associated with the Hyatt Regency Maui Resort's contribution prior to the construction or operation of the proposed 131 unit Hyatt Regency Timeshare addition. It is encouraged that the approved transportation demand management plan also incorporates the other aspects of the November, 2007, Plan. Also, the final Plan shall not include a cap on total monetary penalties and, when applied under the terms of the final Plan, the penalty shall be the greater of \$2,000 per day or the percentage of the shortfall of trips multiplied by the full annual cost of carrying out the employee and guest mitigations. Prior to the Department of Planning's approval of a preliminary compliance report, the applicant or successors shall execute a unilateral agreement (UA) with the County of Maui providing that the applicant and successors shall carry out this condition and the approved transportation demand management (TDM) program. The terms and conditions of the UA shall be to the satisfaction of the Department of Planning. Further, all applicable TDM measures of the latest approved transportation demand management program shall be in effect prior to the issuance of a certificate of occupancy, with evidence in the final compliance report.
23. That a TDM program and/or plan approved by the County pursuant to condition no. 22. may be amended by the mutual consent of the applicant or its successors and the Department of Planning in coordination with other County and State agencies as deemed appropriate, if parties determine that said amendment is warranted within the context of the overall TDM program and/or plan's purpose to reduce the number of motor vehicle trips (principally at peak hour) to or below the level of trips associated with the Hyatt Regency Maui Resort prior to the construction or operation of the proposed 131 unit

Hyatt Regency Maui Addition.

24. That, as may be required by the Department of Public Works, an annual report shall be reviewed by an independent third party to be proposed by the applicant, which shall be selected by the Department of Public Works. The third party review is intended to ensure objective interpretation and presentation of relevant information and data in the annual report. The cost of third party review shall be paid by the applicant, its assigns and/or successors.

Department of Public Works

25. That conditions 26 through 29 shall all be met to the satisfaction of Department of Public Works (DPW).
26. That all private infrastructure, including but not limited to, roads, utilities, drainage systems, etc., shall be regularly maintained by the applicant, the Ka'anapali Operation Association, other responsible entities, and/or their successors. These restrictions shall be recorded with the deed of each lot, with evidence in the final compliance report.
27. That in order to minimize windborne particulate matter from reaching the ocean during construction, exposed soils shall be watered frequently and areas of exposed soils shall be revegetated as quickly as possible, with evidence in the final compliance report.
28. That the applicant shall participate in any applicable future impact fee for traffic and roadway improvements in the West Maui area which is in effect at the time that a Certificate of Occupancy is granted. Said fee shall be established and implemented in accordance with Chapter 14.62 of the Maui County Code, except that the fees shall be paid to the county upon issuance of the Certificate of Occupancy. However, the applicant shall receive credit against such future fees in the amount of any voluntary contribution of traffic impact fees paid pursuant to a TDM program and/or plan approved by the County pursuant to condition no. 22.

29. That, as offered by the applicant, the drainage improvements shall capture all of the project generated increase in storm water plus an extra 30% of the cumulative increase, with evidence in the preliminary compliance report regarding how this will be accomplished.

Department of Environmental Management

30. That conditions 31. through 33. shall all be met to the satisfaction of the Department of Environmental Management (DEM).
31. That, as offered by the applicant, the applicant, its assigns or successors shall participate to the extent of its fair share in the construction of the reclaimed water system from the Lahaina wastewater reclamation facility to the project site and shall connect to and utilize the county's reclaimed water system, for irrigation purposes, once it becomes available, with evidence in the final compliance report.
32. That the applicant shall include a plan for construction/waste disposal/recycling, with evidence in the preliminary compliance report.
33. That non-contact cooling water, condensate, and similar fluids shall not drain to the wastewater system, with evidence in the preliminary compliance report.

Department of Water Supply

34. That, to the satisfaction of Department of Water Supply (DWS), and as offered by the applicant, during the project's detailed design phase the applicant shall carefully consider the use of a series of water conservation measures listed within the February 7, 2006, project comment letter from the DWS, with evidence in the final compliance report, which may be demonstrated by DWS approval of the building plans.
35. That, to the satisfaction of Department of Water Supply (DWS), and as offered by the applicant, proper allocation of water from a private water source shall be acquired and evidence submitted to the Department of Water Supply prior to issuance of building permits, with evidence in the final compliance report.

DPW and DWS

36. That an appropriate Best Management Practices (BMPs) plan shall be prepared and implemented for the project to the satisfaction of the Department of Water Supply (DWS) and the Department of Public Works (DPW), except that the DWS may decline review for approval or acceptance by the transmittal of notification of such a decline by email, fax, memo or similar transmittal to DPW and the Department of Planning. Said plan shall address impacts associated with erosion, contaminants from infiltration and runoff of construction and vehicle operations, and precautionary measures during construction to prevent construction materials and debris and eroded soils from entering coastal waters. Along with the earlier of grading or building plans, the BMP plan and a detailed and final drainage report shall be submitted to the DPW for review and approval prior to the issuance of grading or building permits. The drainage report shall include hydrologic and hydraulic calculations and the scheme for disposal of runoff waters. It must comply with the provisions of the "Rules and Design of Storm Drainage Facilities in the County of Maui" and must provide written verification that the grading and runoff water generated by the project will not have an adverse effect on adjacent and downstream properties. The BMP plan shall show the location and details of structural and non-structural measures to control erosion and sedimentation to the maximum extent practicable. The BMP plan and evidence of its acceptance or approval by the DPW and the DWS (unless DWS review for approval has been declined) shall be filed with the Department as part of the preliminary compliance report. Evidence of BMP plan acceptance or approval by the DWS may be demonstrated by the incorporation of the BMP plan into the project's building plans followed by DWS approval of the building plans. Evidence of its proper implementation shall be filed with the Department as part of the final compliance report.

Hawaii Department of Health

37. That conditions 38. through 41. shall all be met to the satisfaction of Department of Health (DOH).
38. That, as offered by the applicant, the water system for the project shall be designed and constructed in accordance with Department of Water Supply and statewide water system standards, with evidence in the final compliance report.

39. That the Director of Health may require an individual permit application or a Notice of Intent for general permit coverage authorized under the National Pollutant Discharge Elimination System (NPDES) for the project. As offered by the applicant, the applicant shall comply with all appropriate procedures, with evidence in the final compliance report.
40. That the applicant shall comply with the applicable State Water Quality Standards as specified in HAR, Chapter 11-54, with regards to any discharges related to project construction or operation activities, with or without a Section 401 WQC or NPDES permit coverage, with evidence in the final compliance report.
41. That, as applicable, and to the satisfaction of the Maui District Health Office of the Hawaii Department of Health, the applicant shall work with the Maui District Health Office to determine if a noise permit is required, and if so required, obtain one from the District Health Office prior to the first activity which would trigger the need for a noise permit, with evidence of compliance with this condition to be filed with the Department prior to the issuance of building permits.

Police

42. That, to the satisfaction of the Police Department, and as offered by the applicant, the applicant shall work with the Police Department and the Ka'anapali Operators Association, to promote driver education and awareness as a means of accident prevention, with evidence in the final compliance report.
43. That, to the satisfaction of the Police Department, the applicant shall use best practices in Crime Prevention Through Environmental Design (CPTED), whenever possible, in developing the project, with evidence in the final compliance report. In CPTED the design and building of structures, landscaping, and lighting are interwoven to increase surveillance, limit accessibility, and increase opportunities for apprehension resulting in a decrease in the likelihood of crime.

Fire and Public Safety

44. That, to the satisfaction of the Department of Fire and Public Safety, and as offered by the applicant, the applicant shall employ primarily grass-cell paving for the fire lane between the proposed timeshare tower and the Napili Tower, with the exception of one or two-foot wide concrete walkways that would cross the fire lane, with evidence in the preliminary compliance report.

Department of Housing and Human Concerns

45. That, to the satisfaction of the Department of Housing and Human Concerns, the applicant shall execute an agreement regarding residential workforce housing toward fulfillment of its obligations under Chapter 2.96 of the Maui County Code, with evidence in the final compliance report.

State Historic Preservation Division (SHPD) of the Hawaii Department of Land and Natural Resources

46. That, to the satisfaction of the Historic Preservation Division of the Hawaii Department of Land and Natural Resources (SHPD), a qualified archaeological monitor or monitors shall be present during all ground-altering activities conducted in the project area in order to document any historic properties which may be encountered during the proposed undertaking and to provide mitigation measures as necessary. An archaeological monitoring plan will need to be submitted to the State Historic Preservation Division for review and acceptance, prior to the commencement of any ground-altering activities. An archaeological monitoring plan must contain the following nine specifications: (1) The kinds of remains that are anticipated and where in the construction area the remains are likely to be found; (2) How the remains and deposits will be documented; (3) How the expected types of remains will be treated; (4) The archaeologist(s) conducting the monitoring has (have) the authority to halt the construction in the immediate area of the find in order to carry out the plan; (5) A coordination meeting between the archaeologist and construction crew is scheduled, so that the construction team is aware of the plan; (6) What laboratory work will be done on remains that are collected; (7) A schedule of report preparation; (8) Details concerning the archiving of any collections that are made; and (9) An acceptable report documenting the findings of the monitoring activities shall be submitted to the State Historic Preservation Division (SHPD)

for review upon 180 days following the completion of the proposed undertaking. Evidence of SHPD acceptance of an archaeological monitoring plan shall be filed with the Maui Planning Department as part of the preliminary compliance report.

47. That the SHPD (Maui and O'ahu offices) shall be notified via facsimile upon the on-set and completion of the project and monitoring program, with evidence in the final compliance report.

Department of Planning

48. That conditions 49. through 67. shall all be met to the satisfaction of Current Division of the Department of Planning.
49. That, as offered by the applicant, prior to the preparation of electrical construction drawings for the project, the applicant shall consult with the Maui Electric Company (MECO), to discuss energy efficient practices and technologies and opportunities for demand-side management rebates for emergency efficiency, with evidence in the preliminary compliance report.
50. That, as offered by the applicant, the use of various energy saving devices and energy saving design measures, including those suggested in the January 13, 2006, comment letter from the Strategic Industries Division of the Department of Business, Economic Development and Tourism, shall be carefully considered during the project's detailed design phase for inclusion in the project, and that the applicant shall obtain Leadership in Energy-Efficiency and Design (LEED) Certification, with evidence in the preliminary compliance report.
51. That, as offered by the applicant, solid waste recycling measures and the use of materials with recycled content, including the use of recycled glass in paving materials, shall be considered for implementation during project construction and demolition, to the extent practicable. Copies of "Guidelines for Sustainable Building Design in Hawaii: A Planner's Checklist", as referred to in the January 13, 2006, comment letter from the Strategic Industries Division of the Department of Business, Economic Development and Tourism, shall be referred to the project's design consultants to promote an awareness of energy efficient design for inclusion in the project, with evidence in the preliminary compliance report.

52. That, as offered by the applicant, the wastewater disposal systems for the new swimming pools and water features shall be designed and operated so there is no wastewater discharge into the ocean, with evidence in the preliminary compliance report.
53. That all water used in the new swimming pools and water features shall be designed to be recirculated or reclaimed water, which shall also meet Department of Health Standards, with evidence in the preliminary compliance report.
54. That, the applicant, its assigns or successors shall participate with other Kaanapali area developers in the bi-annual water quality monitoring surveys for construction projects in the Kaanapali area. Said bi-annual surveys shall continue until 18 months after the completion of construction. Thereafter, the monitoring shall continue annually for two (2) years. After that time, the department may determine whether there is any basis for the monitoring to continue. Further, the applicant will take corrective measures, as necessary, to mitigate impacts it causes to ocean water quality.
55. That, as offered by the applicant, the applicant shall use appropriately designed or shielded light fixtures for exterior hallways and stairways to attenuate light spillage or overflow, with evidence in the final compliance report.
56. That, as offered by the applicant, the employee parking Lot on Parcel 4 shall be converted from the existing surface to compacted gravel, a permeable surface, with evidence in the final compliance report.
57. That, as in part offered by the applicant, at least 20 public beach access parking spaces shall be provided at the north end of Parcel 8 adjoining the proposed new timeshare building, on Parcel 5 at least 32 of the current resort parking spaces closest to Nohea Kai Drive shall be converted to public beach access parking spaces, and the 20 public beach access parking spaces now located at the southerly end of Parcel 8 shall be relocated to be within the set of parking spaces in the southerly, or "Lahaina", parking lot which are closest to the beach. All such spaces shall be designed and maintained such that: a) the spaces and the public access, as well as directions to them, shall be clearly signed and/or labeled, b) the spaces shall be clearly signed and/or labeled for use by only the public for beach access and not for hotel or timeshare customers; and c) that the hotel and/or timeshare managers shall aggressively manage the use of these spaces to

regularly maintain their use by only the public and not hotel or timeshare customers. Furthermore, the applicant shall work with the Department to prepare a plan for, and then implement, a shuttle service from the 22 spaces on Parcel 5 to the beach by means of a golf cart or similar and shall relocate the Lahaina lot public beach access parking stalls to be the nearest stall to the beach. Evidence of compliance shall be provided in the preliminary compliance report.

58. That, as offered by the applicant, the applicant shall implement and maintain a program of Kama'aina rental rates within the new structure, such as through the offer of discounted rental rates to the local market consistent with that of first-class hotel properties on Maui.
59. That, as offered by the applicant, the applicant shall coordinate with parties preparing and/or in the future implementing a beach management plan for the Kaanapali area with regards to the possible adaptive reuse of sand to be excavated from the project site in order to try to help address possible concerns raised in such a beach management plan, and shall make available core sampling data (from geotech drilling) to facilitate data collecting and research, with evidence in the final compliance report.
60. That should the applicant excavate any high quality or beach quality sand, the sand shall be utilized for the project; and any excess sand beyond that utilized for the project shall be stored within the general project area as a future resource for beach nourishment or provided to the County or other public or non-profit entity to be available for publicly beneficial beach nourishment, with evidence in the final compliance report.
61. That the applicant shall solicit recommendations from a qualified archeological and cultural assessment consulting firm and/or with other experts and subsequently install interpretive signage and/or monumentation at one or more prominent location(s) on the grounds of Parcel 8 to recognize significant historical events and/or site features which have been credibly reported to be associated with the project site and/or surrounding area, with evidence in the final compliance report.
62. That the existing hardscape material on that portion of the "Existing Hotel Group Venue Area" which lies within the shoreline setback area shall be removed and may be replaced with softer materials so as to not impede natural processes of coastal erosion which may occur

within the area, with evidence in the final compliance report.

63. That the use of grassed parking spaces is encouraged to the maximum extent which may be permitted through administrative actions by County officials, with evidence in the preliminary compliance report.
64. That the usage of drought tolerant landscape materials shall be increased from that proposed at the time of the preparation of the project Draft EIS, with evidence in the preliminary compliance report.
65. That no staging operations for trash removal shall be allowed to impede the use of the beach access parking area, with evidence in the final compliance report.
66. That the applicant shall work with the Department to provide some greenway connections within and between the areas of Parcels 4 and 5 and other adjoining land as possible and appropriate.
67. That the applicant shall retain three tennis courts on Parcel 5 and contribute the value of the three eliminated courts to be donated for construction elsewhere in West Maui.

The conditions of the Special Management Area Use Permit shall be enforced pursuant to Section 12-202-23 and Section 12-202-25 of the Special Management Area Rules for the Maui Planning Commission.

Offsite Parking Approval

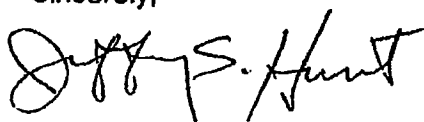
1. That signage, limited to four (4) square feet shall be posted at the Hyatt Regency Maui Hotel and the Hyatt Regency Maui Addition parking lot directing customers to additional parking at the off-street parking lot at TMK 4-4-013:005.
2. That full compliance with all other applicable governmental requirements shall be rendered.
3. That all parking lot illumination shall consist of fully shielded downward lighting throughout the project.

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Furthermore, Commission adopted the Department of Planning's Report and Recommendation Report prepared for the December 11, 2007, meeting, the Addendum Report and Recommendation Memoranda prepared for the January 8, 2008, meeting and the revised Addendum Report and Recommendation Memoranda prepared for March 25, 2008, meeting as its Findings of Fact, Conclusions of Law, Decision and Order, attached hereto and made a part hereof. Parties to proceedings before the Commission may obtain judicial review of decision and orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes.

Thank you for your cooperation. If additional clarification is required, please contact Jeffrey Dack, AICP, Staff Planner, at jeffrey.dack@mauicounty.gov or at 270-6275.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

JSH:JPD:bg

c: Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, P.E., Planning Program Administrator (2)
John Summers, Planning Program Administrator
Jeffrey P. Dack, Staff Planner
Department of the Army, U.S. Army Corps of Engineers, Civil Works Technical Branch
U.S. Department of Agriculture Natural Resources Conservation Service
Department of Accounting and General Services
Department of Business, Economic Development and
Department of Education
Department of Health, Clean Water Branch
Department of Health, Environmental Planning Office
Department of Health, Maui
Department of Land and Natural Resources, State Historic Preservation
Department of Transportation
Office of Environmental Quality Control
Office of Hawaiian Affairs
University of Hawaii at Manoa, Environmental Center
University of Hawaii at Manoa, Sea Grant College Program
Department of Environmental Management
Department of Fire and Public Safety
Department of Housing and Human Concerns

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April 10, 2008
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Department of Parks and Recreation
Police Department
Department of Public Works
Development Services Administration
Department of Water Supply
Maui Electric Company
Hawaii Water Service Company
Project File
General File

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Maui Timeshare Venture, LLC.

January 5, 2015

The Honorable Mayor Alan Arakawa
County of Maui
200 South High Street
Wailuku, Hawaii 96793

SUBJECT: Contribution to the County of Maui in support of and in compliance with the Special Management Area Use Permit for the Proposed Hyatt Regency Maui Addition, located in Lahaina, Maui, Hawaii.
(SM1 2006/0001)

Dear Mayor Arakawa:

Pursuant to the approval of the above referenced Special Management Area (SMA) Use Permit application by the Maui Planning Commission on March 25, 2008, it is our intention to convey a \$468,000.00 contribution for the construction of Tennis Courts in the West Maui Area.

We note that the contribution of these funds was also specified by Condition No. 67 of the SMA Permit approval for the above referenced project.

We have been in communication with the Department of Parks and Recreation, who in cooperation with the Department of Corporation Counsel has proceeded to draft a Council Resolution to accept the contribution.

It is our intent to have these funds prepared to be disbursed in a timely manner. Upon approval of the resolution by the Council, Maui Timeshare Venture, LLC. is prepared to provide the entire \$468,000.00 in the form of a check, for use by the County.

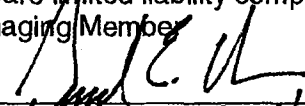
Thank you for your consideration. Should you have any questions, please feel free to contact me at (240) 744-5316 or our planning consultants, Chris Hart & Partners, Inc., at 242-1955.

Sincerely,
Maui Timeshare Venture, LLC,
A Delaware limited liability company
By: HTS-Maui, L.L.C.,
a Delaware limited liability company
Its: Managing Member

By:

Name:

Title:


Gordon E. Haseman

Cc:

Mr. Ka'ala Buenconsejo, Department of Parks and Recreation
Gary Siracusa, Cumming
Jordan E. Hart, Chris Hart & Partners, Inc.

EXHIBIT " B "