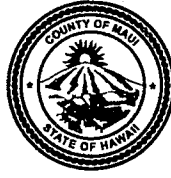


ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

February 14, 2017

**RECEIVED**

2017 FEB 14 AM 10:05

OFFICE OF THE MAYOR

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

For Transmittal to:

Honorable Mike White, Chair  
and Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

OFFICE OF THE  
COUNTY CLERK

2017 FEB 22 PM 2:20

RECEIVED

APPROVED FOR TRANSMITTAL

*[Signature]* 2/17/17

Mayor

Date

Dear Chair White and Members:

**SUBJECT: CONDITIONAL PERMIT TO ALLOW TRANSIENT VACATION RENTALS AND CONDUCT SPECIAL EVENTS ON A PROPERTY LOCATED AT 355 HAIKU ROAD, HAIKU, ISLAND OF MAUI, HAWAII; TMK: (2) 2-7-003:087 POR. (CP 2015/0007)**

The Department of Planning (Department) is transmitting for your review and action the (CP) application filed by Barry Helle on behalf of 355 Haiku Road LLC.

| APPLICATION SUMMARY |   |
|---------------------|---|
| Application         | The CP will permit special events, including retreats, corporate events, weddings and receptions on the property, as well as transient vacation rentals of less than 180 days in ten (10) bedrooms in the main dwelling and the one (1) bedroom accessory dwelling. |
| Applicant           | 355 Haiku Road LLC  |
| Owner               | 355 Haiku Road LLC  |
| Tax Map Key         | (2) 2-7-003: 087 (por.),  |
| Address             | 355 Haiku Road, Haiku, Island of Maui, Hawaii   |
| Area                | Approximately 13.9 acres of land  |

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
February 14, 2017  
Page 2

| APPLICATION SUMMARY   |  |
|-----------------------|--|
| Land Use Designations | State Agricultural District<br>Haiku-Paia Community Plan: Agriculture<br>Title 19, Zoning: Agriculture<br>Other: NOT located within the Special Management Area (SMA)  |
| Brief Description     | The Applicant is requesting a CP in order to conduct special events, including retreats, corporate events, weddings and receptions on the property, as well as transient vacation rentals of less than 180 days in ten (10) bedrooms in the main dwelling and the one (1) bedroom accessory dwelling.  |
| Public Hearing        | Held by the Maui Planning Commission (Commission) on June 14, 2016.  |
| Testimony             | At the meeting, there was one (1) testifier in support of the project. There were two (2) testifiers who spoke in opposition of the application.   |
| Recommendation        | The Commission voted to recommend approval of the CP subject to a total of thirty-three (33) conditions as recommended by the Department, with the following amendments by the Commission: Condition 11 was amended to require notification of property owners within 1,000 feet (previously 500) upon approval, Condition 21 b. was amended to allow up to 200 guests, and Condition 29 was amended to prohibit pyrotechnics. |

As Council approval is required for the CP, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII,"
2. Letter from William Spence, Planning Director, to Barry Helle, 355 Haiku Road LLC, dated July 6, 2016, with the Commission's recommendation for Council approval of the CP with thirty-three (33) conditions and Commission's approval of the State Land Use Commission SUP with the same thirty three (33) conditions;
3. Department's Recommendation to the Commission, dated June 14, 2016;
4. Department's Report and Agency Comments to the Commission, dated June 14, 2016;

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
February 14, 2017  
Page 3

5. Testimony received after the Staff Report was distributed;
6. Adopted Minutes of the June 14, 2016 Commission meeting; and
7. A copy of the PowerPoint presentation given by the Barry Helle at the Commission meeting.

Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



WILLIAM SPENCE  
Planning Director

Attachments

xc: Clayton I. Yoshida, Planning Program Administrator (PDF)  
Gina M. Flammer, Staff Planner (PDF)  
Maui Planning Commission Members (PDF)

WRS:GMF:rma

Project File  
General File

K:\WP\_DOCS\PLANNING\CP\2015\0007\_355HaikuRd\Staff Report to Final Decision\Council\_transmittal.doc

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

BILL NO. \_\_\_\_\_ (2017)

A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC  
A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL  
AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL  
DISTRICT, FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND  
IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087,  
HAIKU, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to 355 Haiku Road LLC to operate a transient vacation rental and to conduct special events within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 2-7-003:087, comprising approximately 13.9 acres of land situated at Haiku, Maui, Hawaii and generally shown on Exhibit "A", attached hereto and incorporated herein by reference.

SECTION 2. The granting of the Conditional Permit is subject to the following conditions:

1. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
2. That the Conditional Permit shall be valid for a period of one year from the effective date of this ordinance; provided, that an extension of the Conditional Permit beyond this one-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the Conditional Permit shall be nontransferable unless the Maui County Council approves a transfer by ordinance.
4. That 355 Haiku Road LLC shall exercise reasonable due care as to third parties with respect to all areas affected by the Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of the Conditional Permit, a policy or policies of comprehensive



liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending 355 Haiku Road LLC and the County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of the Conditional 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 355 Haiku Road LLC of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of the Conditional Permit. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department of Planning within 90 calendar days from the effective date of this ordinance, or prior to starting operations, whichever occurs first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department of Planning and shall include the applicable tax map key and permit numbers.

5. That prior to starting transient vacation rental (TVR) home operations and special event operations, including any advertising, and with the submittal of any renewal request, 355 Haiku Road LLC shall submit to the Department of Planning a detailed report addressing compliance with the conditions of the Conditional Permit. The compliance report shall be reviewed and approved by the Department of Planning prior to the start of operations and prior to any renewal of the Conditional Permit. The report shall be in a format where the condition is listed followed by a response from 355 Haiku Road LLC. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.
6. That 355 Haiku Road LLC shall hold no more than one conditional permit for a TVR home operation or a short-term rental home permit.
7. That 355 Haiku Road LLC shall have a current transient accommodations tax license and general excise tax license for the TVR home operations and a general excise tax license for the special events. The same general excise tax license may

be used for all uses on the property, including agricultural sales, TVR home operations, and special event revenues.

8. That 355 Haiku Road LLC shall develop and use the property in substantial compliance with the representations made to the Maui Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to so develop and use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
9. That a manager or managers shall be designated for the TVR home operations and the special events. The manager name(s) and contact information shall be provided to the Department of Planning prior to starting TVR home operations or special events and when a change in the manager or contact information occurs.
10. That a manager shall:
  - a. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR or special event guest, a neighbor, or a County agency.
  - b. Be onsite for all special events, including clean-up, when there is amplified sound or more than 50 guests.
11. That within 30 days from the effective date of this ordinance, 355 Haiku Road LLC shall provide all owners of record within 1,000 feet of the subject property with a copy of the Conditional Permit approval, and with the manager name(s) and contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department of Planning within 45 days from the effective date of this ordinance.
12. That 355 Haiku Road LLC shall notify the Department of Planning and all owners of record within 500 feet of the subject property of any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to or within one business day after the change in contact information occurs.

13. That 355 Haiku Road LLC shall display a two square foot sign along the main access road, identifying the establishment name (if any) and the manager's 24-hour telephone number prior to starting TVR home operations or conducting special events. The sign shall meet the requirements of Section 16.13.090, Maui County Code.
14. That house policies stating a quiet time of 10:00 p.m. to 8:00 a.m. shall be prominently displayed in the dwellings and shall be included in the rental agreement, which shall be signed by each registered adult guest.
15. That all TVR home operations and special events advertising shall include the permit number. TVR home reservation websites shall include the house policies or a working link to the house policies. TVR home reservation websites shall also include the maximum occupancy as no more than two persons per bedroom, including children over the age of two years old.
16. That each TVR dwelling shall be rented to only one group at a time.
17. That the maximum occupancy for the TVR home shall be no more than two persons per bedroom, including children over the age of two years old.
18. That all parking for the TVR home operations and special events shall be provided onsite. Street parking is prohibited.
19. That appropriate lighting shall be provided for parking and walkways used for events held during the evening. The Department of Planning shall approve the lighting plan as part of the compliance report required prior to starting operations.
20. That all exterior lighting shall be downward shielded. Evidence of compliance with this condition shall be submitted to the Department of Planning with the compliance report.
21. That special events shall be limited as follows:
  - a. Events with 80 or less invited guests or attendees, such as photo shoots, movie filming, fashion shows, receptions, retreats, workshops, classes, farm-to-table culinary events or other similar events may be held up to five times per calendar week. These events shall be

concluded by 8:00 p.m., including event clean-up, provided that noise shall not be heard beyond the property boundaries after 8:00 p.m.

- b. Events with up to 200 invited guests or attendees shall be limited to one event per calendar week and shall be concluded by 10:00 p.m. with clean-up concluded by 10:30 p.m., provided that noise shall not be heard beyond the property boundaries after 10:00 p.m.
- c. Events with up to 500 guests or attendees may be held two times per calendar year on a Friday, Saturday, or Sunday. Events held on a Friday or Saturday shall conclude by 10:00 p.m. Events held on a Sunday shall conclude by 6:00 p.m.

Events with over 150 guests or attendees shall have traffic and safety measures as recommended by the Maui Police Department. A copy of the correspondence with the Maui Police Department and the traffic and safety measures for events shall be provided in the compliance reports.

Evidence of compliance with these conditions shall be submitted to the Department of Planning with the compliance report.

- 22. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plans shall be unique to each bedroom and shall include, at a minimum, a complete floor plan of the TVR home with the following:
  - a. "You are here" marked on the exit plan;
  - b. Arrows indicating the exit path for only that sleeping room;
  - c. Meeting place to assemble after exiting the building; and
  - d. Location(s) of all fire extinguishers.
- 23. That fire extinguisher(s) with a minimum rating of 2A:10B:C shall be installed within a 75-foot travel distance of all interior portions of the facility. The fire extinguisher(s) shall be

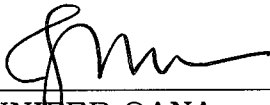
mounted in a clearly visible and accessible location to potential users.

24. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes, if applicable, shall be submitted as part of any renewal request.
25. That the TVR home operation shall be available for bi-annual fire inspections.
26. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
27. That 355 Haiku Road LLC shall provide written verification of tax payments when filing a conditional permit renewal request. The written verification shall be the State of Hawaii Department of Taxation Form A-6, "Tax Clearance Application".
28. That with regard to event set-ups, tents, canopies, open flame, and cooking, generators and light towers shall be in compliance with the Department of Fire and Public Safety Fire Prevention Bureau requirements. Compliance shall be determined by the Department of Fire and Public Safety Fire Prevention Bureau.
29. That use of pyrotechnics shall be prohibited and the use of open flame at any event shall require Department of Fire and Public Safety Fire Prevention Bureau approval.
30. That a fire extinguisher with a minimum rating of 2A:10B:C shall be located within a 75-foot travel distance for event set-ups. Compliance shall be determined by the Department of Fire and Public Safety Fire Prevention Bureau.
31. That any event open to the public requires site plan review and approval by the Department of Fire and Public Safety Fire Prevention Bureau. Compliance shall be determined by the Department of Fire and Public Safety Fire Prevention Bureau.

32. That the property be classed as "commercial" for real property tax purposes.
33. That the State of Hawaii Department of Health approval of the wastewater disposal method shall be obtained prior to the start of the TVR home operations and special events.

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

APPROVED AS TO FORM  
AND LEGALITY:



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JENNIFER OANA  
Deputy Corporation Counsel  
County of Maui  
2016-1697



# EXHIBIT "A"

7-000 PORTION OF B2  
18,877 ACRES

7-000 PORTION OF B2  
18,877 ACRES

7-000 PORTION OF B2  
18,877 ACRES

SURVEY  
TWO PORTIONS OF GRANT  
SHOWING BUILDINGS, CESS  
AND BOUNDARY MONUMENTS  
Being Parcels 62 and 67 of  
SITUATED AT HAIKU, MAUI

HAIKU ROAD LLC.  
355 Haiku Road  
4050 Kalai Waa St.  
Wailea, Hawaii 96753

EXHIBIT - 1. ADDENDUM  
This document is a supplement to the original survey and is not a part of the original survey. It is subject to the same terms and conditions as the original survey.

| NO. | DATE | FROM | TO |
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REVISION  
ORIGINAL SURVEY PROVIDED BY  
HAIKU ROAD LLC. LAND SURVEYORS INC.  
10/15/2015  
PARCELS 62 AND 67 of the Haiku Rd. L1

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- 12

EXHIBIT NOTES  
1. All dimensions are in feet and inches.  
2. All bearings are in degrees, minutes and seconds.  
3. All distances are in feet and inches.  
4. All areas are in acres.  
5. All monuments are in feet and inches.  
6. All boundaries are in feet and inches.  
7. All easements are in feet and inches.  
8. All rights of way are in feet and inches.  
9. All other rights are in feet and inches.

PREPARED BY  
HAIKU HOUSE

| DATE       | BY          |
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| 10/15/2015 | HAIRU HOUSE |
| 10/15/2015 | HAIRU HOUSE |
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L1 ↑





ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

July 6, 2016

Mr. Barry Helle  
355 Haiku Road LLC  
100 Wailea Ike Drive, Suite 4  
Wailea, Hawaii 96753

Dear Mr. Helle:

**SUBJECT: APPROVAL OF STATE LAND USE COMMISSION SPECIAL USE PERMIT BY THE MAUI PLANNING COMMISSION AND RECOMMENDATION OF APPROVAL TO MAUI COUNTY COUNCIL BY MAUI PLANNING COMMISSION FOR A CONDITIONAL PERMIT (CP) TO ALLOW TRANSIENT VACATION RENTALS AND CONDUCT SPECIAL EVENTS ON A PROPERTY LOCATED AT 355 HAIKU ROAD, HAIKU, ISLAND OF MAUI, HAWAII; TMK: (2) 2-7-003:087 (SUP2 2015/0012) (CP 2015/0007)**

At its regular meeting on June 14, 2016, the Maui Planning Commission (Commission) took public testimony and reviewed the above requests and, after due deliberation, the Commission voted to approve the State Land Use Commission SUP and to recommend approval of the CP to the Maui County Council (Council) subject to the conditions listed below. The Council has the final review and approval authority for the CP.

**CONDITIONAL PERMIT CONDITIONS**

1. That the CP shall be valid for a period of one (1) year from the effective date of this ordinance; provided, that an extension of this permit beyond this one (1) year period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the subject CP shall not be transferred without the prior written approval of the Commission. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission SUP, 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.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject land use commission special permit and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional 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 CP, 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 CP. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning (Department) within ninety (90) calendar days from the date of approval of this CP, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That prior to starting transient vacation rental operations and special event operations, including any advertising, and with the submittal of a renewal request, the applicant shall submit to the Department a detailed report addressing compliance with the conditions established with the subject State Land Use Commission SUP. The compliance report shall be reviewed and approved by the Department prior to start of operations and prior to renewal of the special use permit. The report shall be in the format where the condition is listed followed by a response from the Applicant. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.
5. That the Applicant shall hold no more than one CP for Transient Vacation Rental (TVR) home use or a short-term rental home permit.
6. The permit holder shall have a current transient accommodations tax license and general excise tax license for TVR use and a general excise tax license for the special events. The same general excise tax license may be used for all uses on the property, including agricultural sales, TVR, and special event revenues.
7. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the State Land Use SUP. Failure to so use the property as represented may result in the revocation of the CP pursuant to Section 19.40.080, Maui County Code (MCC).
8. That full compliance with all applicable governmental requirements shall be rendered.

9. That a manager or managers shall be designated for transient vacation rentals and the special events. The manager name(s) and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
10. That a manager shall:
  - a. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR or special events guest, a neighbor, or a County agency.
  - b. Be onsite for all special events, including clean-up, when there is amplified sound or more than fifty (50) guests.
11. That within thirty (30) days of approval of the CP, the Applicant shall provide all owners of record within 1,000 feet of the subject property with a copy of the State Land Use Commission SUP and CP approvals, and with the manager's name(s), contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department within forty-five (45) days of approval of the CP.
12. That the permit holder shall notify the Department and all owners of record within 500 feet of the subject property any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to, or with-in one business day after the change in contact information occurs.
13. That the permit holder shall display a two square foot (2 sq. ft.) sign along the main access road, identifying the establishment name (if any) and the manager's twenty-four (24) hour telephone number prior to starting TVR home operations or conducting special events. The sign shall meet the requirements of MCC 16.13.090.
14. The House policies stating a quiet time of 10:00 p.m. to 8:00 a.m. shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.
15. That all TVR and special events advertising shall include the permit number. TVR home reservation websites shall include the house policies or a working link to the house policies. TVR home reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
16. That each TVR dwelling shall be rented to only one (1) group at a time.

17. That the maximum occupancy for the transient vacation rentals shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.
18. That all parking for the transient vacation rentals and special events be provided onsite; no street parking is allowed.
19. That appropriate lighting shall be provided for parking and walkways used for events held during the evening. The Department shall approve the lighting plan as part of the compliance report required prior to starting operations.
20. That all exterior lighting shall be downward shielded.
21. That as represented by the applicant, special events shall be limited as follows:
  - a. Events with eighty (80) or less invited guests or attendees, such as photo shoots, movie filming, fashion shows, receptions, retreats, workshops, classes, farm to table events or other similar events may be held up to five (5) times per calendar week. These events shall be concluded by 8:00 P.M, including event clean-up and shall not have amplified sound that can be heard beyond the property boundaries.
  - b. Events with up to 200 invited guests or attendees shall be limited to one (1) event per calendar week and shall be concluded by 10:00 P.M. with clean-up concluded by 10:30 P.M, provided that noise shall not be heard beyond the property boundaries after 10:00 P.M.
  - c. Events with up to 500 guests or attendees may be held two (2) times per calendar year on a Friday, Saturday or Sunday; events on a Friday or Saturday shall be conclude by 10:00 P.M. and on a Sunday by 6:00 P.M.

Events with over 150 attendees or guests shall have traffic and safety measures as recommended by the Maui Police Department. A copy of the correspondence with the Maui Police Department and the traffic and safety measures for events shall be provided in the compliance reports.
22. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plans are unique to each bedroom and shall include, at a minimum, a complete floor plan of TVR home with the following :
  - a. "You are here" marked on the exit plan;
  - b. Arrows indicating the exit path for only that sleeping room;
  - c. Meeting place to assemble after exiting building; and
  - d. Location(s) of all fire extinguishers.

23. That fire extinguisher(s) with a minimum rating of 2A10B:C shall be installed within a seventy-five foot (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
24. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes if applicable shall be submitted as part of the renewal request.
25. That the TVR home operation shall be available for bi-annual fire inspections.
26. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
27. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."
28. That in regards to event set-ups, tents, canopies, open flame and cooking, generators and light towers shall be in compliance with Fire Department Fire Prevention Bureau requirements. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
29. That use of pyrotechnics shall be prohibited and the use of open flame at any event requires Fire Prevention approval.
30. That a fire extinguisher with a minimum rating of 2A-10BC shall be located within seventy-five foot (75') travel distance for event set-ups. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
31. That any event open to the public requires site plan review and approval by the Fire Department Fire Prevention Bureau. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
32. That as recommended by the Department of Finance Real Property Tax Division, the property be classed as "commercial" for real property tax purposes.
33. That the State Department of Health approval of the wastewater disposal method shall be obtained prior to the start of TVR home operations and special events.

**STATE LAND USE COMMISSION SPECIAL PERMIT**

1. That the State Land Use Commission SUP shall be valid for a period of one (1) year from the effective date of this ordinance; provided, that an extension of this permit beyond this one (1) year period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the State Land Use Commission SUP shall not be transferred without the prior written approval of the Commission. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission SUP, 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.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject State Land Use Commission SUP and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this CP, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional 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 CP, 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 CP. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of approval of this CP, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.
4. That prior to starting TVR operations and special event operations, including any advertising, and with the submittal of a renewal request, the Applicant shall submit to the Department a detailed report addressing compliance with the conditions established with the subject State Land Use Commission SUP. The compliance report shall be reviewed and approved by the Department prior to start of operations and prior to renewal of the State Land Use Commission SUP. The report shall be in the format where the condition is listed followed by a response from the Applicant. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.

5. That the Applicant shall hold no more than one State Land Use Commission SUP for TVR home use or a short-term rental home permit.
6. The permit holder shall have a current transient accommodations tax license and general excise tax license for TVR use and a general excise tax license for the special events. The same general excise tax license may be used for all uses on the property, including agricultural sales, transient vacation rentals, and special event revenues.
7. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the State Land Use Commission SUP. Failure to so use the property as represented may result in the revocation of the CP pursuant to Section 19.40.080, Maui County Code (MCC).
8. That full compliance with all applicable governmental requirements shall be rendered.
9. That a manager or managers shall be designated for transient vacation rentals and the special events. The manager name(s) and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
10. That a manager shall:
  - a. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one (1) hour following a request by a TVR or special events guest, a neighbor, or a County agency.
  - b. Be onsite for all special events, including clean-up, when there is amplified sound or more than fifty (50) guests.
11. That within thirty (30) days of approval of the State Land Use Commission SUP, the Applicant shall provide all owners of record within 1,000 feet of the subject property with a copy of the State Land Use Commission SUP and CP approvals, and with the manager's name(s), contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department within forty-five (45) days of approval of the State Land Use Commission SUP.

12. That the permit holder shall notify the Department and all owners of record within 500 feet of the subject property any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to, or within one (1) business day after the change in contact information occurs.
13. That the permit holder shall display a two square foot (2 sq. ft.) sign along the main access road identifying the establishment name (if any) and the manager's twenty-four (24) hour telephone number prior to starting TVR home operations or conducting special events. The sign shall meet the requirements of MCC 16.13.090.
14. The House policies stating a quiet time of 10:00 p.m. to 8:00 a.m. shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.
15. That all TVR and special events advertising shall include the permit number. TVR home reservation websites shall include the house policies or a working link to the house policies. TVR home reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
16. That each TVR dwelling shall be rented to only one (1) group at a time.
17. That the maximum occupancy for the transient vacation rentals shall be no more than two (2) guests per bedroom, including children over the age of two (2) years old.
18. That all parking for the TVR and special events be provided onsite; no street parking is allowed.
19. That appropriate lighting shall be provided for parking and walkways used for events held during the evening. The Department shall approve the lighting plan as part of the compliance report required prior to starting operations.
20. That all exterior lighting shall be downward shielded.
21. Special events shall be limited as follows:
  - a. Events with eighty (80) or less invited guests or attendees, such as photo shoots, movie filming, fashion shows, receptions, retreats, workshops, classes, farm to table culinary events or other similar events may be held up to five (5) times per calendar week. These events shall be concluded by 8:00 P.M., including event clean-up and shall not have amplified sound that can be heard beyond the property boundaries.

- b. Events with up to 200 invited guests or attendees shall be limited to one (1) event per calendar week and shall be concluded by 10:00 P.M. with clean-up concluded by 10:30 P.M., provided that noise shall not be heard beyond the property boundaries after 10:00 P.M.
- c. Events with up to 500 guests or attendees may be held two (2) times per calendar year on a Friday, Saturday or Sunday; events on a Friday or Saturday shall be conclude by 10:00 P.M. and on a Sunday by 6:00 P.M.

Events with over 150 attendees or guests shall have traffic and safety measures as recommended by the Maui Police Department. A copy of the correspondence with the Maui Police Department and the traffic and safety measures for events shall be provided in the compliance reports.

- 22. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plans are unique to each bedroom and shall include, at a minimum, a complete floor plan of TVR home with the following :
  - a. "You are here" marked on the exit plan;
  - b. Arrows indicating the exit path for only that sleeping room;
  - c. Meeting place to assemble after exiting building; and
  - d. Location(s) of all fire extinguishers.
- 23. That fire extinguisher(s) with a minimum rating of 2A10B:C shall be installed within a seventy-five foot (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
- 24. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes if applicable shall be submitted as part of the renewal request.
- 25. That the TVR home operation shall be available for bi-annual fire inspections.
- 26. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
- 27. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."



28. That in regards to event set-ups, tents, canopies, open flame and cooking, generators and light towers shall be in compliance with Fire Department Fire Prevention Bureau requirements. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
29. That use of pyrotechnics shall be prohibited and the use of open flame at any event requires Fire Prevention approval.
30. That a fire extinguisher with a minimum rating of 2A-10BC shall be located within seventy-five foot (75') travel distance for event set-ups. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
31. That any event open to the public requires site plan review and approval by the Fire Department Fire Prevention Bureau. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
32. That as recommended by the Department of Finance Real Property Tax Division, the property be classed as "commercial" for real property tax purposes.
33. That the State Department of Health approval of the wastewater disposal method shall be obtained prior to the start of TVR home operations and special events.

A record of proceedings including Staff Report, minutes, and testimony will be forwarded to the County of Maui Corporation Counsel for the drafting of an ordinance for the CP, and upon receipt of that ordinance by the Department a copy of the record of proceedings will be forwarded to the Council for deliberation at a future date. You shall be contacted regarding the time and place for such deliberations.

Thank you for your cooperation and understanding. If you have any questions, please contact Staff Planner Gina Flammer at [gina.flammer@mauicounty.gov](mailto:gina.flammer@mauicounty.gov) or at (808) 270-5780.

Sincerely,



 WILLIAM SPENCE  
Planning Director

Mr. Barry Helle  
July 6, 2016  
Page 11

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)  
John S. Rapacz, Planning Program Administrator (PDF)  
Gina M. Flammer, Staff Planner (PDF)  
State Land Use Commission  
Project File  
General File

WRS:GMF:lk

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BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

MR. BARRY HELLE  
on behalf of  
ANNE TAKABUKI, MANAGER and  
ERICA CHAN, MANAGER of  
355 HAIKU ROAD LLC

To obtain a State Land Use Commission  
Special Permit and a Conditional Permit in  
order to operate a transient vacation rental  
and conduct special events in the State and  
County Agricultural Districts on approximately  
13.9 acres of land located at 355 Haiku Road,  
Haiku, Maui TMK: 2-7-003: 087 (Por.), Haiku,  
Island of Maui. (SUP2 2015/0012) (CP  
2015/0007)

DOCKET NOs. SUP2 2015/0012  
CP 2015/0007

Barry Helle on behalf of  
Anne Takabuki, Manager and  
Erica Chan, Manager of  
355 Haiku Road LLC  
(G. Flammer)

MAUI COUNTY PLANNING DEPARTMENT'S RECOMMENDATION  
TO THE MAUI PLANNING COMMISSION  
JUNE 14, 2016 MEETING

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HI. 96793

State Special Permit  
Conditional Permit

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BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

MR. BARRY HELLE  
on behalf of  
ANNE TAKABUKI, MANAGER and  
ERICA CHAN, MANAGER of  
355 HAIKU ROAD LLC

To obtain a State Land Use Commission Special Permit and a Conditional Permit in order to operate a transient vacation rental and conduct special events in the State and County Agricultural Districts on approximately 13.9 acres of land located at 355 Haiku Road, Haiku, Maui TMK: 2-7-003: 087 (Por.), Haiku, Island of Maui. (SUP2 2015/0012) (CP 2015/0007)

DOCKET NOs. SUP2 2015/0012  
CP 2015/0007

Barry Helle on behalf of  
Anne Takabuki, Manager and  
Erica Chan, Manager of  
355 Haiku Road LLC  
(G. Flammer)

**CONCLUSIONS OF LAW**

The application complies with the applicable standards for a State Land Use Commission Special Permit and a County Conditional Permit as established in the Planning Department's Report to the Maui Planning Commission, June 14, 2016, Docket Nos. SUP2 2015/0012 and CP 2015/000 7. Based on the analysis provided in the Department's Report, the applications comply with the applicable standards as follows:

**STATE LAND USE COMMISSION SPECIAL PERMIT**

- (1) The use is not contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.
- (2) The desired use will not adversely affect surrounding property;
- (3) The use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;
- (4) Unusual conditions and needs have arisen since the district boundaries and rules were established;
- (5) The land upon which the proposed uses are planned contains low soil ratings and is not suited for agriculture.

## **CONDITIONAL PERMIT**

A Conditional Permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the Conditional Permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Upon finding that reasons justifying granting of a Conditional Permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a Conditional Permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

Should the Commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the Commission shall recommend denial of the request and may instruct the Applicant to seek a change in zoning should the facts warrant such an application.

Every Conditional Permit shall be conditioned upon the proposed development fully complying with all requirements of Title 19 and other applicable governmental requirements.

The Planning Department finds that the proposed use meets the criteria for the issuance of a Conditional Permit based upon the analysis provided in the Department's Staff Report dated June 14, 2016.

## **RECOMMENDATION**

### **State Land Use Commission Special Permit**

The Maui County Planning Department recommends that the Maui County Planning Commission approve of the State Land Use Commission Special Permit to the Maui County Council, subject to the following conditions:

1. That the state land use commission special permit shall be valid for a period of one (1) year from the effective date of this ordinance; provided, that an extension of this permit beyond this one (1) year period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the state land use commission special permit shall not be transferred without the prior written approval of the Maui Planning Commission. However, in the event that a contested case hearing preceded issuance of said land use commission special 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.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject land use commission special permit and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of

comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional 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 Conditional 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 Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That prior to starting transient vacation rental operations and special event operations, including any advertising, and with the submittal of a renewal request, the applicant shall submit to the Department of Planning a detailed report addressing compliance with the conditions established with the subject land use commission special use permit. The compliance report shall be reviewed and approved by the Department of Planning prior to start of operations and prior to renewal of the special use permit. The report shall be in the format where the condition is listed followed by a response from the applicant. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.
5. That the Applicant shall hold no more than one state land use commission special permit for transient vacation rental home use or a short-term rental home permit.
6. The permit holder shall have a current transient accommodations tax license and general excise tax license for transient vacation rental use and a general excise tax license for the special events. The same general excise tax license may be used for all uses on the property, including agricultural sales, transient vacation rentals, and special event revenues.
7. That the Applicant shall develop the property in substantial compliance with the representations made to the Maui Planning Commission in obtaining the state land use special permit. Failure to so use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
8. That full compliance with all applicable governmental requirements shall be rendered.
9. That a manager or managers shall be designated for transient vacation rentals and the special events. The manager name(s) and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.

10. That a manager shall:
  - a. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR or special events guest, a neighbor, or a County agency.
  - b. Be onsite for all special events, including clean-up, when there is amplified sound or more than 50 guests.
11. That within 30 days of approval of the conditional permit, the applicant shall provide all owners of record within 500 feet of the subject property with a copy of the SUP2 and CP approvals, and with the manager's name(s), contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department within 45 days of approval of the conditional permit.
12. That the permit holder shall notify the Department and all owners of record within 500 feet of the subject property any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to, or with-in one business day after the change in contact information occurs.
13. That the permit holder shall display a two square foot (2 sq. ft.) sign along the main access road identifying the establishment name (if any) and the manager's twenty-four (24) hour telephone number prior to starting TVR home operations or conducting special events. The sign shall meet the requirements of MCC 16.13.090.
14. The House policies shall be prominently displayed in the dwelling and shall be included in the rental agreement, which shall be signed by each registered adult guest.
15. That all TVR and special events advertising shall include the permit number. TVR home reservation websites shall include the house policies or a working link to the house policies. TVR home reservation websites shall also include the maximum occupancy as no more than two (2) persons per bedroom, including children over the age of two (2) years old.
16. That each TVR dwelling shall be rented to only one (1) group at a time.
17. That the maximum occupancy for the transient vacation rentals shall be no more than two guests per bedroom, including children over the age of two (2) years old.
18. That all parking for the transient vacation rentals and special events be provided onsite; no street parking is allowed.
19. That appropriate lighting shall be provided for parking and walkways used for events held during the evening. The Department shall approve the lighting plan as part of the compliance report required prior to starting operations.
20. That all exterior lighting shall be downward shielded.
21. That as represented by the applicant, special events shall be limited as follows:
  - A) Events with 80 or less invited guests or attendees, such as photo shoots, movie

filming, fashion shows, receptions, retreats, workshops, classes, farm to table culinary events or other similar events may be held up to five (5) times per calendar week. These events shall be concluded by 8:00 P.M., including event clean-up and shall not have amplified sound that can be heard beyond the property boundaries.

- B) Events with between 80 and 150 invited guests or attendees shall be limited to one (1) event per calendar week and shall be concluded by 10:00 P.M. with clean-up concluded by 10:30 P.M., provided that noise shall not be heard beyond the property boundaries after 10:00 P.M.
- C) Events with up to 500 guests or attendees may be held two (2) times per calendar year on a Friday, Saturday or Sunday; events on a Friday or Saturday shall be conclude by 10:00 P.M. and on a Sunday by 6:00 P.M.

Events with over 150 attendees or guests shall have traffic and safety measures as recommended by the Maui Police Department. A copy of the correspondence with the Maui Police Department and the traffic and safety measures for events shall be provided in the compliance reports.

- 22. That a fire escape plan shall be posted in the interior of each sleeping room. The exit plans are unique to each bedroom and shall include, at a minimum, a complete floor plan of TVR home with the following :
  - a. "You are here" marked on the exit plan;
  - b. Arrows indicating the exit path for only that sleeping room;
  - c. Meeting place to assemble after exiting building; and
  - d. Location(s) of all fire extinguishers.
- 23. That fire extinguisher(s) with a minimum rating of 2A10B:C shall be installed within a seventy-five foot (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
- 24. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes if applicable shall be submitted as part of the renewal request.
- 25. That the TVR home operation shall be available for bi-annual fire inspections.
- 26. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
- 27. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."
- 28. That in regards to event set-ups, tents, canopies, open flame and cooking, generators and light towers shall be in compliance with Fire Department Fire Prevention Bureau



requirements. Compliance shall be determined by the Fire Department Fire Prevention Bureau.

29. That use of pyrotechnics or open flame at any event requires Fire Prevention approval.
30. That a fire extinguisher with a minimum rating of 2A-10BC shall be located within 75 feet travel distance for event set-ups. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
31. That any event open to the public requires site plan review and approval by the Fire Department Fire Prevention Bureau. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
32. That as recommended by the Department of Finance Real Property Tax Division, the property be classed as "commercial" for real property tax purposes.
33. That the State Department of Health approval of the wastewater disposal method shall be obtained prior to the start of TVR home operations and special events.

#### **Conditional Permit**

The Maui County Planning Department recommends that the Maui County Planning Commission recommend approval of the Conditional Permit to the Maui County Council, subject to the following conditions:

1. That the conditional permit shall be valid for a period of one (1) year from the effective date of this ordinance; provided, that an extension of this permit beyond this one (1) year period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the subject conditional permit shall not be transferred without the prior written approval of the Maui Planning Commission. However, in the event that a contested case hearing preceded issuance of said land use commission special 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.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject land use commission special permit and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional 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 Conditional 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 Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent

certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That prior to starting transient vacation rental operations and special event operations, including any advertising, and with the submittal of a renewal request, the applicant shall submit to the Department of Planning a detailed report addressing compliance with the conditions established with the subject land use commission special use permit. The compliance report shall be reviewed and approved by the Department of Planning prior to start of operations and prior to renewal of the special use permit. The report shall be in the format where the condition is listed followed by a response from the applicant. A copy of the original approval shall also be submitted with this report. Evidence of compliance with permit conditions shall be included with the compliance report where applicable.
5. That the applicant shall hold no more than one conditional permit for transient vacation rental home use or a short-term rental home permit.
6. The permit holder shall have a current transient accommodations tax license and general excise tax license for transient vacation rental use and a general excise tax license for the special events. The same general excise tax license may be used for all uses on the property, including agricultural sales, transient vacation rentals, and special event revenues.
7. That the Applicant shall develop the property in substantial compliance with the representations made to the Maui Planning Commission in obtaining the state land use special permit. Failure to so use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
8. That full compliance with all applicable governmental requirements shall be rendered.
9. That a manager or managers shall be designated for transient vacation rentals and the special events. The manager name(s) and contact information shall be provided to the Department prior to starting TVR operations or special events and when a change in the manager or contact information occurs.
10. That a manager shall:
  - a. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being physically present at the property within one hour following a request by a TVR or special events guest, a neighbor, or a County agency.
  - b. Be onsite for all special events, including clean-up, when there is amplified sound or more than 50 guests.
11. That within 30 days of approval of the conditional permit, the applicant shall provide all owners of record within 500 feet of the subject property with a copy of the SUP2 and CP approvals, and with the manager's name(s), contact information, including telephone numbers. Evidence of compliance with this condition shall be submitted to the Department within 45 days of approval of the conditional permit.

12. That the permit holder shall notify the Department and all owners of record within 500 feet of the subject property any changes in a manager's name and contact information, including telephone numbers. Such notification shall be sent prior to, or with-in one business day after the change in contact information occurs.
13. That the permit holder shall display a two square foot (2 sq. ft.) sign along the main access road, identifying the establishment name (if any) and the manager's twenty-four (24) hour telephone number prior to starting TVR home operations or conducting special events. The sign shall meet the requirements of MCC 16.13.090.
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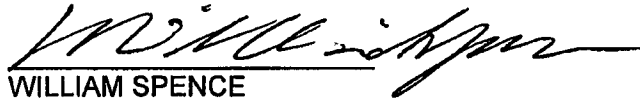
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  - c. Meeting place to assemble after exiting building; and
  - d. Location(s) of all fire extinguishers.
23. That fire extinguisher(s) with a minimum rating of 2A10B:C shall be installed within a seventy-five foot (75') travel distance of all interior portions of the facility. The fire extinguisher(s) shall be mounted in a clearly visible and accessible location to potential users.
24. That all smoke detectors shall be operable and tested monthly with batteries changed at least annually with documentation of each test and battery change noted in a log. A smoke detector shall be installed in each sleeping area and in areas leading to sleeping areas. A log of the monthly testing and battery changes if applicable shall be submitted as part of the renewal request.
25. That the TVR home operation shall be available for bi-annual fire inspections.
26. That the TVR home operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
27. That the Applicant shall provide written verification of tax payments when filing a Conditional Permit renewal request. The written verification shall be the State of Hawaii Department of Taxation, Form A-6, "Tax Clearance Application."
28. That in regards to event set-ups, tents, canopies, open flame and cooking, generators and light towers shall be in compliance with Fire Department Fire Prevention Bureau requirements. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
29. That use of pyrotechnics or open flame at any event requires Fire Prevention approval.
30. That a fire extinguisher with a minimum rating of 2A-10BC shall be located within 75 feet travel distance for event set-ups. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
31. That any event open to the public requires site plan review and approval by the Fire Department Fire Prevention Bureau. Compliance shall be determined by the Fire Department Fire Prevention Bureau.
32. That as recommended by the Department of Finance Real Property Tax Division, the property be classed as "commercial" for real property tax purposes.

33. That the State Department of Health approval of the wastewater disposal method shall be obtained prior to the start of TVR home operations and special events.

That Conditional Permit conditions will be enforced pursuant to the provisions of Chapter 19.530, §19.530.030 of the Maui County Code, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.

In consideration of the forgoing, the Maui County Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendations prepared for the June 14, 2016 meeting as its Findings of Fact, Conclusions of Law, and Recommendation and to authorize the Director of Planning to transmit said Recommendation to the Maui County Council on behalf of the Maui Planning Commission.

APPROVED:

  
WILLIAM SPENCE  
Planning Director  
County of Maui

February 3, 2017

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

For Transmittal to:

Honorable Mike White, Chair  
and Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair White and Members:

**SUBJECT: CONDITIONAL PERMIT TO ALLOW TRANSIENT VACATION  
RENTALS AND CONDUCT SPECIAL EVENTS ON A  
PROPERTY LOCATED AT 355 HAIKU ROAD, HAIKU, ISLAND  
OF MAUI, HAWAII; TMK: (2) 2-7-003:087 POR. (CP 2015/0007)**

The Department of Planning (Department) is transmitting for your review and action the (CP) application filed by Barry Helle on behalf of 355 Haiku Road LLC.

| APPLICATION SUMMARY |   |
|---------------------|---|
| Application         | The CP will permit special events, including retreats, corporate events, weddings and receptions on the property, as well as transient vacation rentals of less than 180 days in ten (10) bedrooms in the main dwelling and the one (1) bedroom accessory dwelling. |
| Applicant           | 355 Haiku Road LLC  |
| Owner               | 355 Haiku Road LLC  |
| Tax Map Key         | (2) 2-7-003: 087 (por.),  |
| Address             | 355 Haiku Road, Haiku, Island of Maui, Hawaii   |
| Area                | Approximately 13.9 acres of land  |

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
February 3, 2017  
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| APPLICATION SUMMARY   |  |
|-----------------------|--|
| Land Use Designations | State Agricultural District<br>Haiku-Paia Community Plan: Agriculture<br>Title 19, Zoning: Agriculture<br>Other: NOT located within the Special Management Area (SMA)  |
| Brief Description     | The Applicant is requesting a CP in order to conduct special events, including retreats, corporate events, weddings and receptions on the property, as well as transient vacation rentals of less than 180 days in ten (10) bedrooms in the main dwelling and the one (1) bedroom accessory dwelling.  |
| Public Hearing        | Held by the Maui Planning Commission (Commission) on June 14, 2016.  |
| Testimony             | At the meeting, there was one testifier in support of the project. There were two (2) testifiers who spoke in opposition of the application.   |
| Recommendation        | The Commission voted to recommend approval of the CP subject to a total of thirty-three (33) conditions as recommended by the Department, with the following amendments by the Commission: Condition 11 was amended to require notification of property owners within 1,000 feet (previously 500) upon approval, Condition 21 b. was amended to allow up to 200 guests, and Condition 29 was amended to prohibit pyrotechnics. |

As Council approval is required for the CP, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE GRANTING 355 HAIKU ROAD LLC A CONDITIONAL PERMIT TO OPERATE A TRANSIENT VACATION RENTAL AND TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT 355 HAIKU ROAD AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 2-7-003:087, HAIKU, MAUI, HAWAII";
2. Letter from William Spence, Planning Director, to Barry Helle, 355 Haiku Road LLC, dated July 6, 2016, with the Commission's recommendation for Council approval of the CP with thirty-three (33) conditions and Commission's approval of the State Land Use Commission SUP with the same thirty three (33) conditions;
3. Department's Recommendation to the Commission, dated June 14, 2016;
4. Department's Report and Agency Comments to the Commission, dated June 14, 2016;

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
February 3, 2017  
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5. Testimony received after the Staff Report was distributed;
6. Adopted Minutes of the June 14, 2016 Commission meeting; and
7. A copy of the PowerPoint presentation given by the Barry Helle at the Commission meeting.

Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,

WILLIAM SPENCE  
Planning Director

Attachments

xc: Clayton I. Yoshida, Planning Program Administrator (PDF)  
Gina M. Flammer, Staff Planner (PDF)  
Maui Planning Commission Members (PDF)

WRS:GMF:xx

Project File  
General File

K:\WP\_DOCS\PLANNING\CP\2015\0007\_355HaikuRd\Staff Report to Final Decision\Council\_transmittal.doc



BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

MR. BARRY HELLE  
on behalf of  
ANNE TAKABUKI, MANAGER and  
ERICA CHAN, MANAGER of  
355 HAIKU ROAD LLC

To obtain a State Land Use Commission  
Special Permit and a Conditional Permit in order  
to operate a transient vacation rental and  
conduct special events in the State and County  
Agricultural Districts on approximately 13.9  
acres of land located at 355 Haiku Road, Haiku,  
Maui TMK: 2-7-003: 087 (Por.), Haiku, Island of  
Maui. (SUP2 2015/0012) (CP 2015/0007)

DOCKET NOS. SUP2 2015/0012  
CP 2015/0007

Barry Helle on behalf of  
Anne Takabuki, Manager and  
Erica Chan, Manager of  
355 Haiku Road LLC  
(G. Flammer)

MAUI COUNTY PLANNING DEPARTMENT'S REPORT  
TO THE MAUI PLANNING COMMISSION  
JUNE 14, 2016 MEETING

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HI. 96793

Land Use Special Permit  
Conditional Permit

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BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

MR. BARRY HELLE  
on behalf of  
ANNE TAKABUKI, MANAGER and  
ERICA CHAN, MANAGER of  
355 HAIKU ROAD LLC

To obtain a State Land Use Commission Special Permit and a Conditional Permit in order to operate a transient vacation rental and conduct special events in the State and County Agricultural Districts on approximately 13.9 acres of land located at 355 Haiku Road, Haiku, Maui TMK: 2-7-003: 087 (Por.), Haiku, Island of Maui. (SUP2 2015/0012) (CP 2015/0007)

DOCKET NOS. SUP2 2015/0012  
CP 2015/0007

Barry Helle on behalf of  
Anne Takabuki, Manager and  
Erica Chan, Manager of  
355 Haiku Road LLC  
(G. Flammer)

**DESCRIPTION OF THE PROJECT**

This matter arises from applications for a State Land Use Commission Special Permit (SUP2) and a County Conditional Permit (CP) filed on September 28, 2015 by Mr. Barry Helle on behalf of Anne Takabuki and Erica Chan, Managers of the 355 Haiku Road LLC, the "Applicant". The property is located at 355 Haiku Road, on a 13.9 acre portion of the property. The property has two existing dwellings: a main residence with ten (10) bedrooms and a one (1) bedroom cottage. In the future the Applicant is proposing to build additional restrooms, a kitchen facility and a pool house with restrooms and a multi-use room; these additions will require building permits. The property also contains a swimming pool and a botanical garden. The Applicant is requesting permits in order to conduct special events, including retreats, corporate events, weddings and receptions, as well as transient vacation rentals of less than 180 days. Maps are provided in **Exhibits 1- 4**, satellite images, a site and parking plan, photos and floor plans are included as **Exhibits 5-9**.

**Description of the Proposed Rentals and Events**

The applicant is requesting permits to allow transient vacation rental of the main house and one bedroom cottage and to allow special events on the property as follows:

*"355 Haiku Road LLC plans to preserve the existing structures while maintaining the historical elegance that it presents. 355 Haiku Road LLC desires to utilize the main dwelling and the cottage for short term rentals. Rentals would be limited to one cohesive group of people. Renting of individual rooms is not planned.*

*In addition to using the dwellings for short term rentals, a specified area of the property will be utilized for weddings and/or or special events. The special ambiance generated by the existing botanical garden is ideal for these types of events.*

*An area of approximately 5,000 square feet (50' X 100') will be converted to a hard surface by installing concrete pavers. This area will be covered by a large tent as needed for special events. All food and beverage service will be provided by third party catering firms. Portable restrooms will be provided as needed for these events."*

The Applicant is proposing to hold up to one large special event per week. Events would have up to 150 guests, except that twice a year they would like to hold events with up to 500 guests. Larger events with more than 150 guests would be held on a Friday, Saturday or on a Sunday afternoon. The events and music, if any, would end at 10:00 p.m. Quiet clean-up would be allowed to go on until 10:30; however no sound would be heard beyond the property boundaries during this time.

The Applicant is also proposing to hold smaller events, such as photo shoots, filming, fashion shows, retreats, workshops, classes, farm to table culinary events and other similar events up to five (5) times a week with up to 80 participants. These events would be completed by 8:00 p.m., including the event clean-up.

Events may take place on the grounds or inside the main dwelling. All parking for both the transient vacation rentals and the special events will be provided on site.

### **Applicant Background**

According to the Applicant:

*"355 Haiku Road LLC is a subsidiary of Wailea Golf LLC, which owns and operates three golf courses and other operations in Wailea. Wailea Golf LLC is managed by its president, Anne Takabuki. Prior to joining Wailea Resort Company Ltd. in 1991, Ms. Takabuki served as the Managing Director of the County of Maui under Mayor Hannibal Tavares. Also providing direction for 355 Haiku Road LLC is Barry Helle, General Manager of the Wailea Blue course. Mr. Helle grew up on Maui and was also a member of Mayor Tavares' administration in the 1980s. He has been with Wailea for more than 25 years and is well known as the voice of local sports, having broadcast Maui sports events for more than 30 years. Support and historical assistance for 355 Haiku Road LLC is provided by Michelle Fujimoto and Ed White. Both Ms. Fujimoto and Mr. White have a long history with the Haiku property, with a combined 47 years of affiliation with the property.*

*Erica Chan and Peter de Zwager represent the family that owns the parent company of Wailea Golf LLC and provide the vision and overall direction for 355 Haiku Road LLC. Erica and Peter have maintained a residence on Maui for many years and are very involved in developing the plan that will preserve the legacy of Haiku House. The Chan family members are experienced hospitality owner/operators having hotel businesses in Lake Tahoe, California and Whistler, British Columbia, in addition to several restaurant and golf course operations in Canada and Hawaii. The Chan*

*family continues to be involved, since its founding in 1998, with Friends of Hawaii Charities, Inc. whose focus is to provide support for local non-for-profit programs that serve and benefit Hawaii's women, children, youth and those in need. "*

## **Parking**

All parking is proposed to be provided on the property. A parking plan, included as **Exhibit 7**, provides for grass parking for 250 stalls.

## **History of the Property**

According to the book The Evolution of Paradise A History of the Baldwin Estate:

*"In 1858, amidst all of his other work, Richard Armstrong also launched the Haiku Sugar Company. The office and dwelling of the first manager of the company was located on his property (what later became the Baldwin Estate). The sugar mill was built across the road (originally part of his land parcel as well). (page 34)*

*"Henry Perrine Baldwin purchased the Haiku property in 1910 from the Haiku Sugar Company and it remained in the Baldwin family until 1978. It was during this period that the property became widely known as the Baldwin Estate..."*

*The Baldwin Estate was a fully operational farm for the first half of the 20<sup>th</sup> century, growing pineapple, and avocado, among other crops. There was also a herd of cattle and chicken coops. In fact, the farm provided eggs (and other goods) for marines stationed on the island during World War II. Over the years, former marines have returned to Maui and shared memories of coming to the Baldwin Estate for Christmas parties...." (page 53)*

*"Between 1940 and 1970, the Baldwin family sold off a number of acres to Charles Burnett, Billie Sowers, William Eby, and Milton King. In 1978, Athalie Irvine Clarke of California purchased what was left of the Baldwin property in Haiku...Athalie visited the old Baldwin Estate in 1978 and she felt an immediate connection with the place. "When I came to see the house and walked the grounds, I had such a feeling of peace," she said to a reporter.... There was a lot of work that needed to be done to the house and the grounds when Athalie Clarke purchased it...The team spent six months reconstructing and fortifying the foundation of the great house. Ceilings made out of cane fibers were replaced and crumbling walls were ripped out...Athalie Clarke employed Tom Kelly to oversee the extensive remodel and additions to the property: kitchen and lanai upgrades; a new fence and main gate; a new gazebo for the property; a new roof for Wendy's playhouse; restoring that landscaping; a porte-cochere; new windows throughout the house.*

*When Athalie Clarke purchased the Baldwin Estate the cottage was also in need of renovations. Originally the office for the manager of the Haiku Sugar Company, the cottage had become completely covered in vines from the roof to ground level...) (page 67-69) Included as **Exhibit 10** is a copy of a newspaper article printed by the Maui Sun in their November 20 – December 4, 1977 edition.*

*"In 1985, Athalie Clarke made a trade. She acquired a condo in Kahala owned by Reverend Robert Schuller's Ministry. In return she gave the Baldwin Estate to the ministry as a donation..." (page 67)*

According to the book, the Reverend Schuller extensively remodeled and upgraded the house and the landscape. An outdoor "chapel", essentially a raised roofless deck, was built under the banyan trees. This is the area proposed for outdoor events. A new wing of five bedrooms was also added during this time.

In 1989, the property was put on the market again and William E. Simon purchased the property sight unseen. William E. Simon was the 63<sup>rd</sup> Secretary of the Treasury and served under Presidents Richard Nixon and Gerald Ford. In 1991, the Simon's remodeled the home and hired renowned architect Hans Reicke. Once completed, the home once again became a place for special events.

*"With its magnificent grounds and generously sized home, the Baldwin Estate had been an obvious location for gatherings or events. The Simons extended their philanthropic activities to Maui, hosting charitable events for the American Heart Foundation, the Pacific Cancer Society, the Zonta Club, and the Maui Historical Society. The property has also been used as a location for photo shoots by such companies as Guess Jeans, the clothing catalogue Lilly and Hanna Andersonn, and Blue Ginger. Throughout the years there have been luaus, magic shows and even tours organized for horticultural societies." (page 84)*

In April 2015, the Applicant purchased the property and an adjacent parcel from the Simon family. The two parcels total approximately 39 acres, however the project area for the proposed uses are less than 14 acres of this total area.

## **Agriculture**

According to the book The Evolution of Paradise A History of the Baldwin Estate:

*Many of the trees on the property are older than the house. The sheer variety of these trees (more than 120 species) is striking. The first planting was in the 1860s when the original house was built. The largest, a banyan tree, is a sight to behold, with tangles of roots descending down from the branches...Bringing new and exotic species of trees and flowers to the island was once something of a competition for many of Hawaii's wealthiest men. From California to Madagascar, trees were brought from similar climates in the hopes they would flourish. D.T. Fleming, a famed horticulturalist on Maui, was responsibility for bringing many new species to the Baldwin Estate...There was another planting in about 1900 or 1910, according to the property's caretakers. This included Cook Pines, which were introduced to Hawaii from New Caledonia....*

*The third planting, which included many of the trees on the southern end of the property near the gazebo, was taken up at the beginning of World War II. There was a fear among many on the island that the Japanese would use any large open field they could find to land their planes, and the most practical way to stop this was to plant trees there. Wendy Baldwin, granddaughter of Henry Perrine Baldwin recalled how her father Dwight Holbrook Baldwin (1905 – 67) planted many of the palm trees*

*on the island. "We used to go to Oahu to the Botanical garden and he would pick up the seeds and then germinate them." She recalls, "We had a golden shower tree and when it was in bloom you could see it from Baldwin High School.) (page 54)*

Under the care of Reverend Schuller, a landscaping project focused on the botanical garden was undertaken with the help of plant identification by Maui landscaper artist Chris Curtis. "To enhance the natural beauty of the grounds, some of the newer trees were removed to offer unobstructed views of the older, grander trees." (Page 72)

After the Simons bought the property in 1989, a landscaping improvement project began and

*"Soon the property was transformed from overgrown shrubs into two stunning and flourishing separate areas, one populated with pasturing goats, sheep and cattle, and the other planted with rows of thriving fruit trees. The Baldwin Estate now hosted vibrant, biodiverse life on its land, reflecting the nature of the property that the Baldwins first inhabited so many years before. Just as neighbors enjoyed coconuts from the trees from the property when H.P. Baldwin first lived there, today neighbors of Haiku House visit the Simons and can sample varieties of sweet oranges and other citrus that flourish in the properties expansive groves." (page 83)*

According to the Applicant in their application:

*"Currently the property at 355 Haiku Road is maintained by a staff of two full time employees and one part time employee. Their responsibilities include the harvesting of fruits which is grown on about 12% of the property, the overall care of the trees and other vegetation within the botanical gardens, maintaining the botanical garden water feature and other grounds maintenance as needed. The harvested fruit is currently consumed by staff and the owners of the property. Upon receipt of the Conditional Use Permit the fruit will primarily be utilized by the guests staying on property and by those attending onsite special events. Excess production will be sold to third party vendors. There are currently approximately 75 mature, fruit producing orange trees on the property. There are currently over 120 varieties of trees on the property. They include fruit trees such as sapodilla, mango, avocado, lemon, tangerine and orange trees. There are many types of palm trees ranging from areca to windmill palms. There are also many exotic varieties such as baobab, jatropha and Queensland Kauri. Any future structures will be accessories to the agricultural endeavor, the special events or the main dwelling. They will be added so as to not encroach on the planted areas." (Exhibit 13).*

## **Farm Plan**

The property has an implemented farm plan (FRMP 2006 /0111). Included as **Exhibits 11-13** is the farm plan, list of over 120 plants and trees on the property, and a description of the farm plan. In response to the subject applications, the Department requested an updated farm plan and approved it for the proposed uses by letter dated February 9, 2016 (**Exhibit 14**). A site visit conducted on April 28, 2016 verified that the plan is implemented.

## **DESCRIPTION OF THE PROPERTY**

1. The Project area is approximately 13.9 acres of land is located at 355 Haiku Road, Haiku, Maui. TMK: (2) 2-7-003: 087. The entire TMK parcel is 18.963 acres. The property has one main dwelling with ten bedrooms and one accessory dwelling with one bedroom. The property's main access is located off Haiku Road. The northern border of the property is Kalanikahua Road where a secondary driveway exists. (See attached Maps and satellite images, **Exhibits 1- 6**)
2. Land Use Designations:

|                                |                            |
|--------------------------------|----------------------------|
| a. State Land Use District --  | Agriculture                |
| b. Maui Island Plan --         | Not in any growth boundary |
| c. West Maui Community Plan -- | Agriculture                |
| d. County Zoning --            | Agriculture                |
| e. Other --                    | None                       |

3. Surrounding Uses:

|        |  |
|--------|--|
| North: | 26 acre parcel of pasture with a home site and 3 acre parcel of pasture and home site.   |
| South: | Approximately 2 acre agricultural residential parcel and 2 acre parcel of pasture.   |
| East:  | 20 acre parcel: pastureland owned by Applicant   |
| West:  | Across Haiku Road: 18 acre parcel of pasture land owned by A&B and 1.2 acre agricultural residential parcel and 5.8 acre agricultural residential lot. |

Haiku Mill, an event venue, located at 250 Haiku Road north-west of the subject property is also in the process of obtaining permits to conduct special events. (**Exhibit 5**)

4. The property is not listed on the U.S. National Register of Historic Places or on the Hawaii State Register of Historic Places due to the extensive renovations made by previous owners.
5. The project site is located within Zone X, an area of minimal flooding. The parcel is not in a flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, or estuary. The soil's drainage ability is classified as well-drained and mean annual rainfall is 30 to 50 inches.

## **APPLICABLE REGULATIONS**

### **State Land Use Special Use Permit**

Pursuant to Section 205-6 Special permit, Hawaii Revised Statutes, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Special permits for land the area of which is greater than fifteen acres shall be subject to approval by the land use commission.

Standards for reviewing a Land Use Commission Special Use Permit are found under Title 15 Department of Business, Economic Development, and Tourism; Subtitle 3 State Land Use Commission, Chapter 15 Land Use Commission Rules, Subchapter 12 Special Permits, § 15-15-95 of the Hawaii Administrative Rules.

Certain "unusual and reasonable" uses within agricultural and rural districts other than those for which the district is classified may be permitted. The following guidelines are established in determining an "unusual and reasonable use":

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.
- (2) The desired use would not adversely affect surrounding property;
- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;
- (4) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;
- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The county planning commission may impose such protective conditions as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, and if appropriate, a time limit for the duration of the particular use, which shall be a condition of the special permit. If the permitted use is not substantially established to the satisfaction of the county planning commission within the specified time, it may revoke the permit. The county planning commission, with the concurrence of the commission, may extend the time limit if it deems that circumstances warrant the granting of the extension.

Pursuant to HRS Section 205-6 (C), the Commission must also find that the use would promote the objectives and effectiveness of Chapter 205 HRS.

#### **Maui County Code 19.04.040 – Definitions**

"Lot" means a parcel of land considered as a unit and enclosed within defined boundaries, or a building site having the required area for certain use, or occupied or intended to be occupied, by a building or group of buildings and accessory buildings in compliance with the requirements in each zone.

"Short-term rental home" means a residential use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, excluding bed and breakfast homes. Each short-term rental home shall include bedrooms, one kitchen, and living areas. Each lot containing a short-term rental home shall include no more than two detached single-family dwelling units used for short-term rental home use, with no more than a total of six bedrooms for short-term rental home use, as specified within the zoning district provisions of this title.



"Transient" or "transients" means any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor. This definition shall not apply to nonpaying guests of the family occupying the unit and to patients or clients in health care facilities, full-time students, employees who receive room and/or board as part of their salary or compensation, military personnel, low-income renters receiving rental subsistence from state or federal governments whose rental periods are for durations shorter than sixty days, or lodging provided by nonprofit corporations or associations for religious, charitable or education purposes; provided, that no rental income is produced.

"Transient vacation rentals or use" means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.

### **Conditional Permit**

Conditional permits are reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. Below are listed relevant sections of the code.

### **Maui County Code Chapter 19.40 - CONDITIONAL PERMITS**

**19.40.010 - Intent.** The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

**19.40.020 - General.** The commission shall hear and review an application for a conditional permit and provide a recommendation to the council.

### **19.40.070 - Establishment.**

- A. Upon finding by the appropriate planning commission that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.
- B. Should the commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change of zoning should the facts warrant such an application.
- C. Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of this title and other applicable governmental requirements.
- D. Approval of a conditional permit application shall be through enactment of an ordinance by the council, in accordance with the provisions of the charter.

**19.40.080 - Conditions, amendments, modifications.**

- A. Conditional permits may be issued subject to such terms and conditions deemed reasonable and necessary to fulfill the intent and purposes of this title. All changes in the use or appearance of land or buildings allowed by the permit shall be in accordance with the specified conditions and the proposal as approved. Such permit shall be issued subject to compliance with and/or fulfillment of such terms and conditions and shall so state.
- B. Any person who has been issued a conditional permit may request the commission to review a request to amend or delete any terms and conditions imposed upon such permit.
- C. The commission on request or on its own initiative may recommend action to revoke any conditional permit or amend or delete any terms, conditions, and time stipulations of such conditional permit if such action is deemed necessary to effectuate the purpose and intent of this chapter. The commission shall provide due notice in writing to the applicant/permittee and an opportunity for a hearing.
- D. The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review.

**19.40.090 – Extensions.**

- A. Conditional permits shall not be extended unless the terms of the initial issuance explicitly provide for same. In any case, extensions must be applied for no later than ninety days prior to expiration; however, the director may waive this requirement if the director finds that unusual circumstances prevented an applicant from filing a timely extension request.
- B. An applicant for a time extension shall provide by certified mail a notice of application for time extension to the owners and lessees of record located within five-hundred feet of the parcel on which the conditional permit use is located. The notice of application for time extension shall:
  - 1. Describe the uses permitted by the conditional permit and include a map showing the subject parcel and all other lots within a five-hundred foot distance; and
  - 2. State that owners and lessees of record may file a written protest against the proposed extension with the planning director within forty-five days of the mailing of the notice of application for time extension.
- C. The planning director may approve the application for time extension provided the following criteria are met:
  - 1. The permit holder is in compliance with the conditions of approval;
  - 2. The permitted use has not been substantially changed and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit;
  - 3. Agencies have not identified new matters of concern that require mitigation; and

4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met.
- D. If the application for time extension does not qualify for review and approval by the planning director, the application for time extension shall be processed in the same manner as the original application.

### **PROCEDURAL MATTERS**

1. On April 27, 2016, 48 days prior to the hearing, the Maui County Planning Department mailed a notice to the applicant and appropriate state and county agencies notifying them of the scheduled public hearing.

2. On May 13, 2016, 31 days prior to the hearing, the applicant mailed a letter of notification and location map to all owners and recorded lessees within 500 ft. of the subject property describing the conditional permit application and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt (return receipt requested for land use amendments). Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts are on file in the Planning Department.

3. On May 13, 2016, 31 days prior to the hearing, the applicant mailed a letter of notification and location map to all owners and recorded lessees adjacent to the subject property describing the State Land Use Special Use Permit application and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt. Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts are on file in the Planning Department.

4. On May 13, 2016 a notice of hearing on the applications was published in the Maui News by the Maui Planning Department.

5. The subject application does not involve an action that triggers compliance to Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.

### **REVIEWING AGENCIES**

| County Agencies:                                 | Comment | Exhibit Number |
|--|---------|----------------|
| Department of Environmental Management           | No      | 15             |
| Department of Finance Real Property Tax Division | Yes     | 16             |
| Department of Fire and Public Safety             | Yes     | 17             |
| Applicant Response                               | Yes     | 17a            |
| Department of Public Works                       | Yes     | 18             |
| Department of Water Supply                       | No      | 19             |
| Applicant Response                               | Yes     | 19a            |
| Maui County Police Department                    | No      | 20             |

| State Agencies:   | Comment | Exhibit Number |
|---|---------|----------------|
| Department of Health Honolulu Environmental Planning Office | Yes     | 21             |
| Department of Health Maui District Office                   | Yes     | 22             |
| Applicant Response  |         | 22a            |
| State Office of Planning                                    | Yes     | 23             |
| Applicant Response  | Yes     | 23a            |

## ANALYSIS

### LAND USE

1. The proposed use of the main house and cottage for transient vacation and special event use is in conformance with the goals, objectives and policies of the **Hawaii State Plan**. It will provide additional opportunities for employment and economic growth.
2. The subject property is in the **State Agriculture District**. The proposed uses would be consistent with the Agricultural District designation of the property with the issuance of a State Land Use Special Use Permit.
3. The **Countywide Policy Plan**. As stated in the Maui County Charter, as amended in 2002:

*"The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development."*

*The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:*

1. *A vision statement and core values for the County to the year 2030*
2. *An explanation of the plan-making process*
3. *A description and background information regarding Maui County today*
4. *Identification of guiding principles*
5. *A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:*

- A. *Protect the Natural Environment*
- B. *Preserve Local Cultures and Traditions*
- C. *Improve Education*
- D. *Strengthen Social and Healthcare Services*
- E. *Expand Housing Opportunities for Residents*
- F. *Strengthen the Local Economy*
- G. *Improve Parks and Public Facilities*
- H. *Diversify Transportation Options*
- I. *Improve Physical Infrastructure*
- J. *Promote Sustainable Land Use and Growth Management*
- K. *Strive for Good Governance*

The proposed project is in keeping with the following Countywide Policy Plan goals, objectives and policies:

**F. *Strengthen the Local Economy***

**GOAL:** *Maui County's economy will be diverse, sustainable, and supportive of community values.*

**Objective 1.** *Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.*

**Policy: b.** *Support and promote locally produced products and locally owned operations and businesses that benefit local communities and meet local demand.*

4. **The Maui Island Plan (MIP)** was adopted by the County Council on December 28, 2012. The Plan provides direction for future growth, the economy, and social and environmental decisions through the year 2030. The Plan looks comprehensively at many factors that influence the physical, social and economic development of the island. In addition to establishing a directed growth strategy to identify areas appropriate for future urbanization and revitalization, the Plan also identifies and addresses key environmental, housing, and economic development issues relevant to Maui's current and future generations. The Plan is intended by the County Council, Planning Department, and Maui Planning Commission as a policy foundation for day to day decisions and is specifically intended to be used to assist in reviewing discretionary permits.

The subject parcel is not located with-in any MIP Growth Boundary: Urban, Rural or Small Town. The proposed project is in keeping with the following MIP goals, objective, and policies:

**Population**

**GOAL:** **1.1** *Maui's people, values, and lifestyles thrive through strong, healthy, and vibrant island communities.*

**Objective:** 1.1.1 *Greater retention and return of island residents by providing viable work, education, and lifestyle options.*

**Heritage Resources**

**GOAL:** 2.1 *Our community respects and protects archaeological and cultural resources while perpetuating diverse cultural identities and traditions.*

**Objective:** 2.1.1 *An island culture and lifestyle that is healthy and vibrant as measured by the ability of residents to live on Maui, access and enjoy the natural environment, and practice Hawaiian customs and traditions in accordance with Article XII, Section 7, Hawai'i State Constitution, and Section 7-1, Hawai'i Revised Statutes (HRS)*

**Policy** 2.1.2.c *Ensure that cultural, historic, and archaeological resources are protected for the benefit of present and future generations.*

2.1.3.d *Promote the rehabilitation and adaptive reuse of historic sites, buildings, and structures.*

2.2.3.a *Reduce the amount of impervious surface and devise site plan standards that aim to minimize storm runoff and NPS pollution.*

**Economic Development**

**GOAL** 4.1 *Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.*

**Objective:** 4.1.1 *A more diversified economy*

**Objective** 4.1.2: *Increase activities that support principles of sustainability.*

4.1.2.a *Support industries that are sustainable, and culturally and environmentally sensitive.*

**Policy:** 4.1.2.b: *Encourage and support local businesses.*

4.1.2.c: *Substitute imports with locally-produced services and products where practicable.*

4.1.2.d *Support the development of economic development clusters in targeted industry sectors.*

4.1.3.d *Encourage, nurture, and reward entrepreneurship and innovation.*

**GOAL** 4.2 *A healthy visitor industry that provides economic well-being with stable and diverse employment opportunities.*

- Objective:** 4.2.1 *Increase the economic contribution of the visitor industry to the island's environmental well-being for the island's residents' quality of life.*
- Policy:** 4.2.1.a *Engage the visitor industry in the growth of emerging sectors where practicable.*
- Policy:** 4.2.1.c *Focus economic growth in the visitor industry through enhanced visitor experiences and an emphasis on attracting higher-spending.*
- Policy:** 4.2.1.d *Provide a rich visitor experience, while protecting the island's natural beauty, culture, lifestyles, and aloha spirit.*
- Policy:** 4.2.1.e *Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, ag-tourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate locations.*
- Policy:** 4.2.1.f *Recognize the important economic contributions that the visitor industry makes and support a healthy and vibrant visitor industry*
- GOAL:** 4.3 *Maui will have a diversified agricultural industry contributing to greater economic, food, and energy security and prosperity.*
- Objective:** 4.3.1 *Strive for at least 85 percent of locally-consumed fruits and vegetables and 30 percent of all other locally-consumed foods to be grown in-State.*
- Policy:** 4.3.1.a *Strive to substitute food/agricultural product imports with a reliable supply of locally-produced food and agricultural products.*
- Policy:** 4.3.1.b *Facilitate and support the direct marketing/sale of the island's agricultural products to local consumers, through farmers markets and similar venues.*
- Policy:** 4.3.1.c *Encourage growing a diverse variety of crops and livestock to ensure the stewardship of our land while safeguarding consumer safety*
- GOAL:** 4.5 *Small businesses will play a key role in Maui's economy.*
- Objective:** 4.5.1 *Increase the number of and revenue generated by small businesses and decrease the percentage of small business failures.*
- Policy:** 4.5.1.a *Provide incentives and support for small businesses and entrepreneurs that incorporate sustainable technologies and*

*practices into their operations, utilize local materials, or produce and sell locally-made goods or services.*

*Policy: 4.5.1.b Assist traditional "mom and pop" business establishments.*

*Policy: 4.5.1.c Reduce barriers to small business development.*

*Policy: 4.5.1.e Support community markets and venues that sell locally-made produce, goods, and services.*

5. The subject property is located within the **Paia-Haiku Community Plan Region**. The Community Plan was adopted in 1995. According to the Paia-Haiku Community Plan the property is identified as Agricultural and is consistent with the land use map of the Community Plan.

The proposed action is in keeping with the following Community plan recommendations:

**PART II: DESCRIPTION OF THE REGION AND ITS PROBLEMS AND OPPORTUNITIES**

**B. Identification of Major Problems and Opportunities of the Region**

**2. Opportunities:**

- b. Preserve significant archaeological and cultural resources in the region.*
- e. Expand opportunities for diversified agriculture, "rural light industry," "cottage-scale" businesses and other small-scale, owner-operated businesses.*

**PART III: POLICY RECOMMENDATIONS, IMPLEMENTING ACTIONS AND STANDARDS FOR THE PA'IA-HA'IKU REGION**

**Land Use Objectives and Policies**

**Goal:** *A well-planned community that preserves the region's small town ambiance and rural character, coastal scenic vistas, and extensive agricultural land use, and accommodates the future needs of residents at a sustainable rate of growth and in harmony with the region's natural environment, marine resources, and traditional uses of the shoreline and mauka lands.*

- 3.** *Prohibit hotel/resort development within the region*
- 10.** *Discourage approvals of Special Permits in State Agricultural and Rural Districts unless: (a) necessary to serve the immediate community in remote areas; (b) supportive of agricultural uses; or (c) needed for the use or distribution of locally produced products and services that otherwise do not adversely affect the environment, surrounding agricultural uses, or public safety.*
- 13.** *Limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character. Any proposed "bed and breakfasts" should not be situated near the shoreline so as to avoid the proliferation of this use and subsequent changes in the character of the region's coast.*

**Cultural Resources**



*Goal: Identification, protection, preservation, enhancement and appropriate use of cultural resources, cultural practices and historic sites that provide a sense of history and define a sense of place for the Pa`ia - Ha`iku region*

*Economic Activity*

*Goal: A stable economy that complements the rural character of the region and provides opportunities for economic diversification and community needs.*

**GOVERNMENT**

*Goal: Government that demonstrates the highest standards of fairness and is responsive to the needs of the community, fiscally responsible and prudent, effective in planning and implementing programs to accommodate anticipated growth, fair and equitable in taxation, strict in the implementation of the Community Plan, and managed efficiently to provide coordinated and timely responses and the delivery of necessary services and programs to the public.*

- 4. Continue to investigate and pursue ways to streamline the permit process through means such as consolidated public hearings and concurrent processing of applications.*
- 9. Determine whether applications for government action within the region are in conformance with the goals, objectives and policies of the Community Plan, as well as the land use map, prior to decision making.*
- 10. Require that actions taken by public officials, boards or commissions of the County of Maui be in compliance with the goals, objectives and policies of the Community Plan.*

The land use commission special permit process allows for review of special uses on a case by case basis by the Planning Department and the Planning Commissions to assure conformance with the goals, objectives and policies of the Community Plan for the specific region in which the project is located. The use of the historic botanical garden for special events is supportive of the existing agricultural use of the property. The use of special the historic botanical gardens for special events ensure that the garden will be maintained to an ideal standard. In addition, the food produced on the property is to be served to guests with the surplus planned to be sold commercially.

The conditional permit process allows the establishment of uses not specifically permitted in the County code and, as such allows the opportunity for the Maui Planning Department, Planning Commissions , and Maui County Council to review proposed uses on a case by case basis to assure conformance with the goals, objectives and policies of the Community Plan. The proposed use of the main house and cottage for transient vacation rental use and the property, including the main house, for special events is in keeping with the community policy prohibiting hotel/resort development within the region because the proposed uses are not considered resort or hotel development. The property is not open to the public, nor will it have a lobby, front desk, restaurant, shopping or other associated resort amenities or services. The guests provide their own food, as neither the main dwelling nor the accessory dwelling have a Department of Health Certified kitchen or currently meet the conditions of a commercial food establishment. As such,

guests will need to procure their own food offsite and/or prepare their own meals. The Commission and Council are encouraged to limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character. To retain the character of the region's coast, proposed "bed and breakfasts" should not be situated near the shoreline. With the exception of the number of rooms (limited to six), the rental of the home and cottage meets the definition of a "short-term rental home" as having bedrooms, one kitchen per dwelling, and living areas. The proposed transient vacation rental of the house and cottage is limited to a single-family home and an accessory dwelling. The proposed project is residential in nature in both character and scale. The dwellings are both residential buildings and are not open to the public. The property is not located near the shoreline. During the permit review adequate opportunity is provided to consider limitations on the project to ensure that it is in keeping with the Community plan policies and objectives.

The smaller scale use of the property for limited transient vacation rental use and special events is not anticipated to alter the agricultural rural character of the region. The proposed uses are an appropriate use of a historic and cultural site and rely upon the sense of history associated with the property to provide a unique setting that differentiates it with other visitor accommodations and event venues on the island. The proposed uses also provide opportunities for economic diversification and community needs. There are very few venues on Maui that provide a rich historic and rural backdrop and can physically accommodate a large number of guests.

6. **Maui County Zoning.** The project area is located in the County Agricultural District. The proposed actions would be allowed with the issuance of a conditional permit. The intent of a conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. The requirements for a conditional permit are as follows: reasons justifying granting of a Conditional Permit must exist; the proposed use can not be significantly detrimental to the public interest, convenience and welfare; and the proposed use must be in harmony with the area in which it is to be located.

The issuance of a Conditional Permit is subject to such terms and conditions and for such period of time as the facts may warrant. The terms and conditions of the permit are designed to mitigate any potential impacts so that the proposed use in harmony with the local neighborhood and is not detrimental to the public interest, convenience and welfare.

Maui County Code 19.30A allows as a permitted use the retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance. There are also similar or related accessory and special uses, including open land recreation, arboretums; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours. Short-term rentals for dwellings with six or less bedrooms are allowed with a short-term rental home permit.

The proposed use is unlikely to be significantly detrimental to the public interest, convenience and welfare. The limited frequency of events and the use of onsite parking will limit any traffic impacts. The Department is recommending an initial permit period of one year. Pursuant to 19.40.090 all owners and lessees of properties located within 500 feet are notified when a

renewal request is made and if one protest is received within 45 days of that notification, then the permit renewal is reviewed by the Maui Planning Commission and County Council who must reaffirm that the use has not become detrimental to the public interest, convenience and welfare

As of the date of this report, there have been no letters of protests received by the Department.

#### **STATE LAND USE COMMISSION SPECIAL USE PERMIT**

Chapter 205-6, HRS allows for the establishment of "unusual and reasonable" uses in the State Agricultural District through the approval of an SUP2. The following guidelines are established in determining an "unusual and reasonable use" and the response to these guidelines is indicated as such:

- A. The use shall not be contrary to the objectives sought to be accomplished by Chapter 205, HRS, and the rules of the Land Use Commission.

RESPONSE: The proposed use is not considered contrary to the objectives of Chapter 205, HRS, and rules of the Land Use Commission, because the opportunity to operate "unusual and reasonable" uses is provided for by the issuance of Special Use Permits. In addition, the existing agricultural uses of the property support the objective of maintaining agricultural activities in the Agricultural District. The subject parcel currently operates under the existence of an approved Farm Plan (FRMP 2013-0092). The applicant proposes to continue the agricultural use of the property.

- B. The desired use will not adversely affect surrounding property;

RESPONSE: The Police Department had no objections to the project and stated that "all parking is onsite and should not affect area residents." (**Exhibit 20**) The entire property is almost 19 acres and the Applicant also owns the adjacent property which is 20 acres. A&B owns a 20 acre parcel across the street which is used for open pasture land. As of the date of this report, there have been no letters of objection received by the Department. The applicant sent a letter to all property owners located within 500 feet inviting them to a gathering and tour of the property on May 28, 2016. (**Exhibit 24**)

Haiku Mill, an event venue located at 250 Haiku Road is also in the process of obtaining permits to conduct special events. A state land use special permit was approved by the Maui Planning Commission on March 8, 2016 and allows the property owner, Sylvia Hamilton Kerr to hold events with up to 200 guests once a week until 10:00, as well as farm to table culinary events, historical and botanical tours, photo shoots, workshops, retreats, wellness and exercise classes, and to allow event preparation space in an existing agricultural building. O Maui County Council still has to needs to approve a conditional permit. The Council may impose stricter conditions limiting the operations. In **Exhibit 5** is a Pictometry satellite image showing the location of this property.

- C. The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;

RESPONSE: There is no indication that the proposed use would place a demand on public

agencies to provide excessive additional services. The special use and conditional use of the land will not unreasonably burden public agencies to provide any additional public services or facilities. "

The Department of Public Works did not comment on the roadways and the Department of Fire and Public Safety had no objections to the proposed uses. (Exhibits 17-18)

- D. Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;

RESPONSE: The district boundaries and regulations were established in the 1960's when agriculture was still the most important industry and the foundation of Hawaii's economy. In recent years, the state's the tourism industry has grown, while large scale agriculture has declined as evidenced by the pending closure of HC&S sugar operations and the closures of Pa'ia Sugar Mill, the Pioneer Mill, and the shutdown of Maui Land & Pineapple Company's pineapple production. Agri-tourism, transient vacation rentals and special events on agricultural lands have become more popular in recent years. The use of the property for transient vacation rental and special events is an adaptive reuse of a historic cultural site.

- E. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

RESPONSE: The property is current a botanical and fruit garden and the use of the gardens for special events will not conflict with the existing agricultural uses.

The State Office of Planning commented that they:

*"question the reasonableness of this use in the Agricultural District. The Special Permit Guidelines in Hawaii Administrative Rules 15-15-95 provide that the proposed use shall not be contrary to the objectives of HRS 205. A major objective of HRS 205 is to protect agricultural lands and ensure their continued availability for agricultural use. The proposed special events venue constitutes a commercial visitor-oriented use that could result in increasing agricultural land values to the detriment of farmers to acquire agricultural lands and pursue agricultural activities. In addition, OP is concerned about related adverse impacts caused by the proposed use in terms of increased traffic in the area, increased noise in the area, and thee establishment of other non-agricultural visitor serving uses such as bed and breakfasts, short0term vacation rentals, restaurants and retail shops within the Agricultural District. (Exhibit 23)*

The Applicant responded that they:

*"have received approval of our farm pan from the County of Maui. While we desire to utilize the rental of existing dwellings and some of our open space for special events, our property is an approved functioning farm. It is not our intent to replace our existing farming activity for "visitor-serving uses". We are actually exploring opportunity to expand our farm operation....*

*We have carefully looked at the impacts of noise and traffic. The actual area that we have designated for special events is in the center of our property, as far away from the road and neighboring properties as possible....we have many mature trees that line the perimeter of our property that will significantly reduce noise...In summary, our business plan is to operate and expand our farm operations while also utilizing the dwellings and grounds as an additional revenue source. As the former manager's residence of Maui's primary sugar plantation, there is much significance and community interest in seeing this property maintained. Our plan will afford us the ability to do this." (Exhibit 23a)*

## **AGRICULTURE**

1. The property is the site of the former Haiku Plantation Sugar Plantation Manager's home, was a fully operational farm during the first half of the 20<sup>th</sup> Century, and then became a private botanical garden and fruit orchard.
2. The Property is classified with a overall productivity ratings of C-1. Detailed Land Classification – Island of Maui, Land Study Bureau, University of Hawaii, Hawaii, May 1967. The classification indicates productivity ratings of land with "A" representing the highest rating and "E" the lowest. Soil classified as C-1 is best suited for primarily used for pineapple and grazing purposes.. The soil is classified as non with a deep soil depth of over 30 inches and fine soil texture. The drainage is classified as well-drained and mean annual rainfall is 30 to 50 inches.
3. The property has an implemented farm plan approved by the Department (FRMP 2006 /0111). (Exhibit 14). The farm plan has been confirmed as implemented by the Department.
4. The farm plan consists of a historical botanical garden and fruit trees. (Exhibits 11-13)

## **ARCHAEOLOGICAL, HISTORIC AND CULTURAL RESOURCES**

Many Maui County policies support the adaptive reuse of historic sites such as the Haiku Mill. In particular, the Maui Island Plan states in Chapter 2: Heritage Resources that goals of the plan are to:

*"Ensure that cultural, historic, and archaeological resources are protected for the benefit of present and future generations and promote the rehabilitation and adaptive reuse of historic sites, buildings, and structures."*

The Paia-Haiku Community Plan also states that a major opportunity of the region is to:

*"Preserve significant archaeological and cultural resources in the region."*

A goal listed in the Cultural Resources Chapter is the:

*" Identification, protection, preservation, enhancement and appropriate use of cultural resources, cultural practices and historic sites that provide a sense of history and define a sense of place for the Pa`ia - Ha`iku region."*

The Community Plan's policy to:

*"Identify, protect, preserve, and, where appropriate, restore significant archaeological and cultural sites and resources unique to the State of Hawaii and Island of Maui.*

## **INFRASTRUCTURE AND PUBLIC FACILITIES AND SERVICES**

1. **Water** – The project area overlies the Haiku aquifer, with a sustainable yield of 27 million gallons per day according to the Commission on Water Resource Management. The applicant states that the property is serviced by a ¾-inch meter, and is on the waiting list for meter expansion. Fire hydrants are located on Haiku Road and Kalanikahua Roads and an additional pipe stand is located along the southern portion of the property on Haiku Road.

The Applicant also owns an adjacent property that has an existing well and 20,000 gallon storage tank. In consultation with the department of Water Supply, a plan is being developed for the entire property to be served by the private water system until the water meter expansion allows the property to be converted back to the County system. The Department of Water Supply recommended that a backflow preventer be installed, however the property already has one. (Exhibits 19-19a).

It is not anticipated that the proposed use will impact the county's water system given the limited water usage for the proposed activities.

2. **Sewers** -- The main dwelling is currently served by a septic system and the cottage is served by a cesspool. The Applicant is currently working with an engineer to upgrade and expand the individual waste water systems. Department of Health approval is required prior to starting operations.

The Department of Environmental Management Waste Water Division had no comments on the application as it is serviced by private individual waste water systems (Exhibit 15). The State of Hawaii Department of Health Maui District Office will need to approve the private waste water system prior to the start of TVR and special event operations. The Applicant has indicated that they are in the process of developing additional private waste water systems and will obtain approval prior to commencing any of the proposed activities on the property. (Exhibits 22-22a)

It is not anticipated that the proposed use will impact the county's sewer system given the private individual waste water systems to be used for the proposed activities.

3. **Drainage** -- The subject property is located in Zone X as indicated by the Flood Insurance Rate Map. Zone X is an area of minimal flooding and no flood permits are required. The property is relatively flat and has a lot of vegetation. The drainage is classified as well-drained and mean annual rainfall is 30 to 50 inches.

The use of the property for transient vacation rental and special event use has no construction associated with it. Any future construction, including a future restroom and pool house, requires building permits and additional drainage review. Adverse impacts to downstream properties are not anticipated from the proposed transient vacation rental and special events use of the property.

4. **Roadways, Curbs, Gutters and Sidewalks** – Haiku Road is a paved two lane road, which fronts the property. Kalankahua Road is a paved two-lane road that borders the northern portion of the property.

The Department of Public Works commented that all parking needs to be provided onsite. (**Exhibit 18**). The applicant has agreed to provide all parking onsite and can provide 250 parking stalls as shown in the proposed parking plan included as **Exhibit 7**. It is not anticipated that there will be any negative impacts to roadway infrastructure as a result of the proposed actions.

5. **Electrical and Telephone** -- Electrical power and telephone service are provided to the property area by Maui Electric Company, Ltd. (MECO) and Hawaiian Telcom.

No impacts to electrical and telephone are anticipated as a result of the proposed actions.

6. **Solid Waste** – The County landfill site is Central Maui Sanitary Landfill in Puunene. The Department of Environmental Management did not have any comments on the proposed actions. (**Exhibit 15**)

Adverse impacts to the County landfill are not anticipated.

7. **Public Services** – Police, Fire and Medical – Police protection is provided by the Maui Police Department. A police substation is located at the Haiku Community Center.

The Paia Fire Station is located approximately 5 miles from the project site. The Makawao Fire Station is located approximately 8 miles from the Project Site. The Department of Fire and Public Safety did not have any objections to the proposed uses provided prior approval is obtained for certain events. (**Exhibit 17**)

Maui Memorial Medical Center located in Wailuku provides acute, general, and emergency care services from its 231 bed facility.

No adverse impacts on police, fire protection services and medical services are anticipated with the proposed uses.

### **SOCIO-ECONOMIC IMPACTS**

As with other special event venues, positive employment opportunities are anticipated for service providers needed to prepare and carry out events as follows in no particular order:

- Invitations& place card calligraphers
- Catering
- Wedding and special event bakeries
- Specialty beverage services
- Florists
- Entertainment – musicians, dancers, etc.
- Tent, table, chairs and linens rentals
- Photographers and videographer

- Transportation – Shuttles, limousine and valet services
- Officiates
- Decorations& Gift Bags
- Hair & Makeup
- Wedding Coordinators, Designers & Planners

The transient vacation rental will also provide jobs for cleaning, private concierge, and other related areas.

### **OTHER GOVERNMENTAL APPROVALS**

Fire Prevention approval is required for individual events that are open to the public, 50 or more persons and/or when tents or canopies in excess of 400 square feet are used.

Building permits will need to be obtained when tents are erected for more than one day.

Any additional uses of the property that are not permitted or accessory uses and that are not approved by the subject State Land Use Special Permit and Conditional require an amendment to the subject permits.

### **TESTIMONY**

As of May 31, 2016, the Planning Department has received 1 letter of support and no protest letters for these applications. (**Exhibit 25**).

### **COMPLAINTS OR VIOLATIONS**

There have been no complaints filed regarding this property, nor have there been any Notices of Warning or Notices of Violation.

### **STATE LAND USE SPECIAL USE PERMIT ALTERNATIVES**

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the request.
2. Approve With No Conditions. The Commission may take action to approve the permit request without imposing any conditions.
3. Approve With Conditions. The Commission may take action to approve the permit request with conditions.
4. Denial. The Commission may take action to deny the permit requests

### **CONDITIONAL PERMIT ALTERNATIVES**

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberations on the request.



2. Recommend Approval with no Conditions. The Commission may take action to recommend to the Maui County Council approval of the Conditional Permit without imposing any conditions.
3. Recommend Approval with Conditions. The Commission may take action to recommend to the Maui County Council approval of the Conditional Permit with conditions.
4. Denial. The Commission may take action to recommend to the Maui County Council denial of the Conditional Permit.

APPROVED:

A handwritten signature in black ink, appearing to read 'William Spence', written in a cursive style.

WILLIAM SPENCE  
Planning Director

# Regional Map

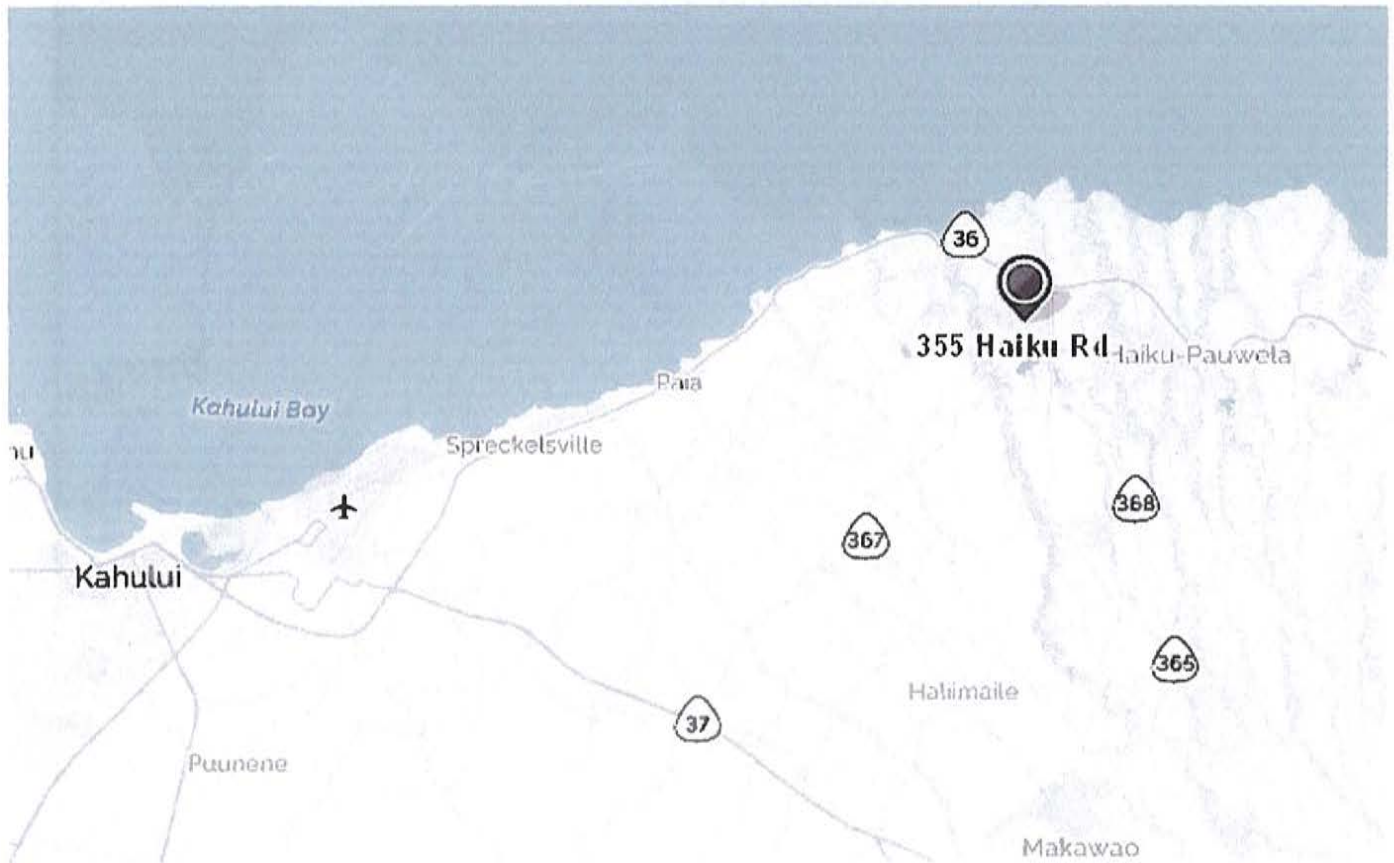
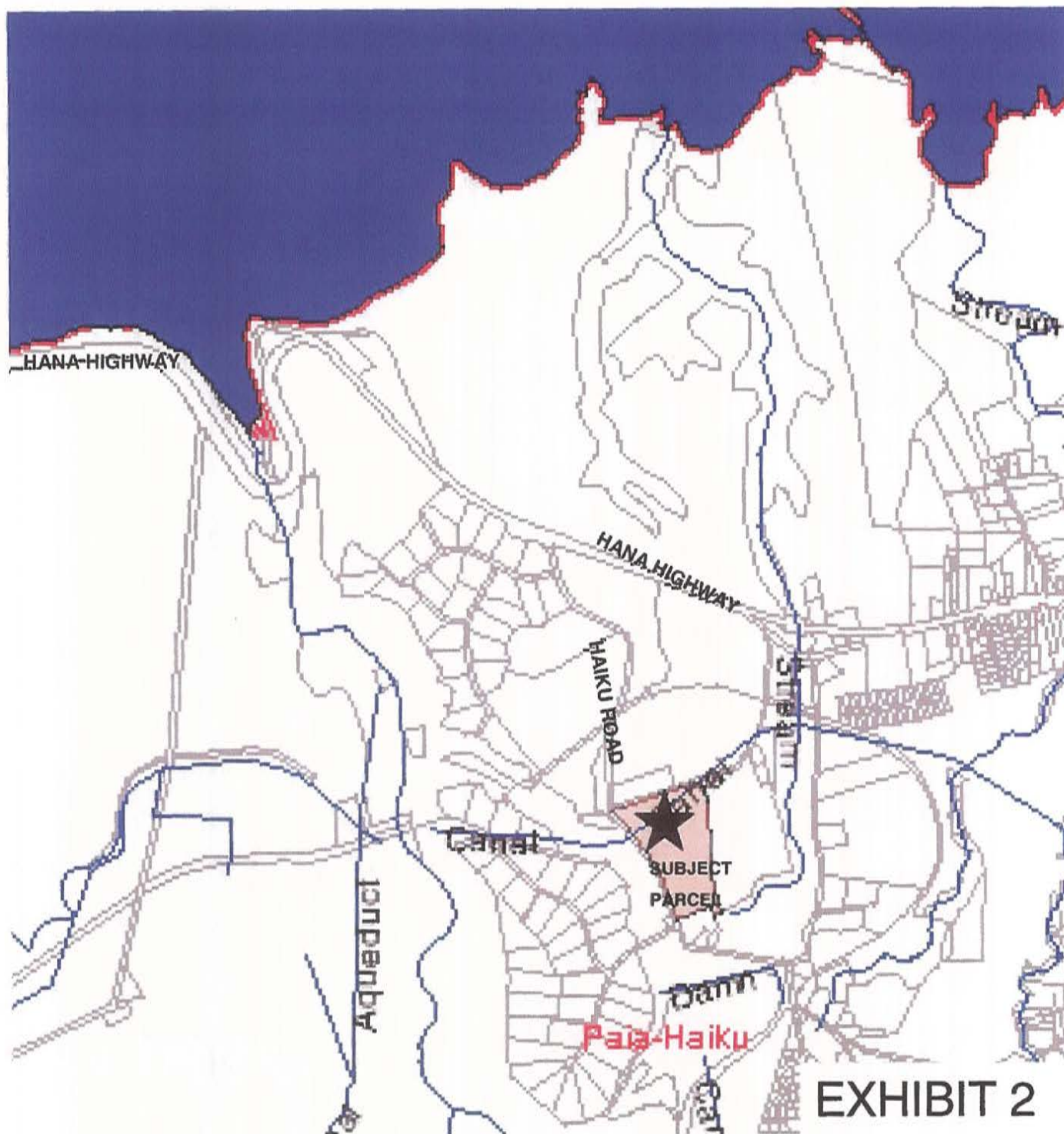


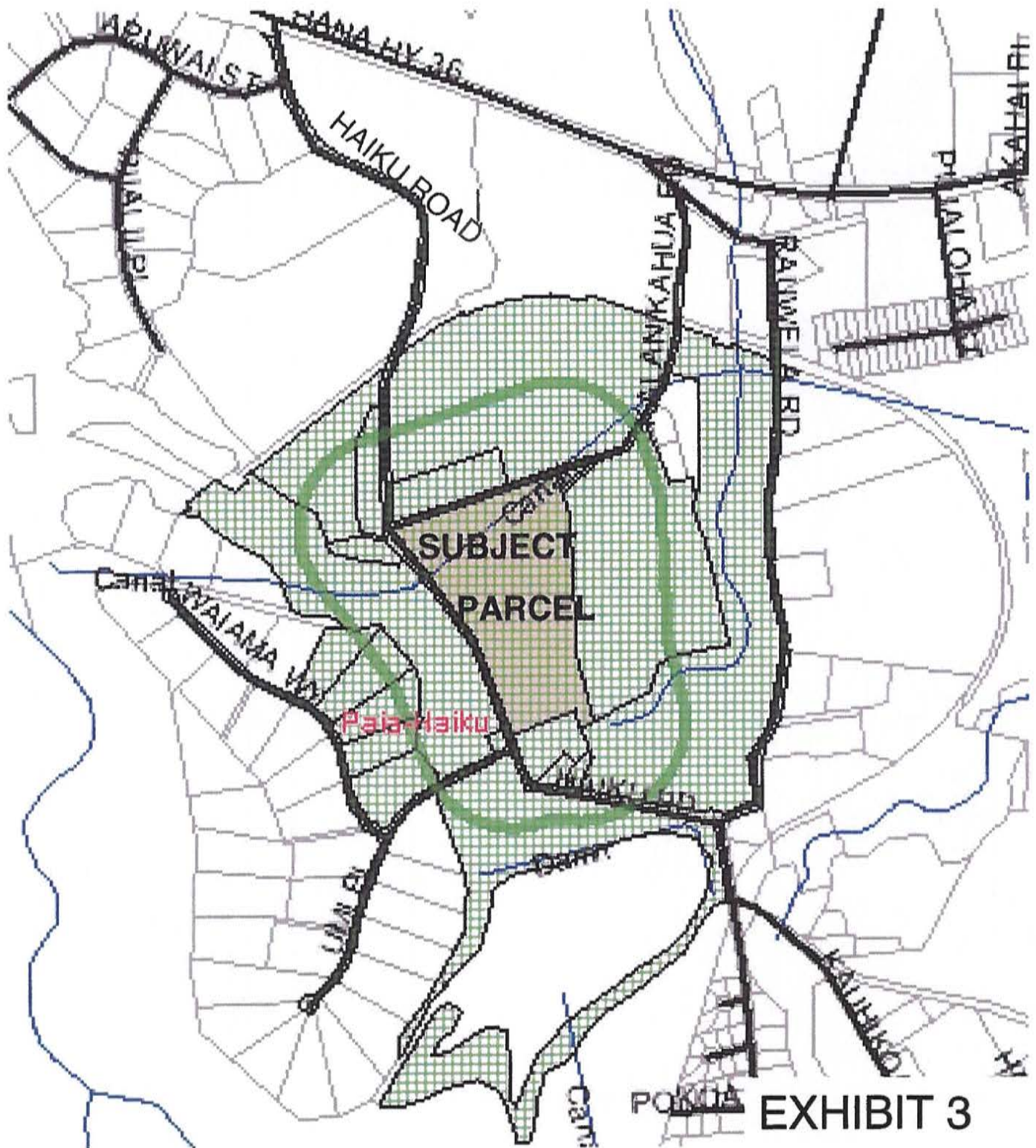
EXHIBIT 1

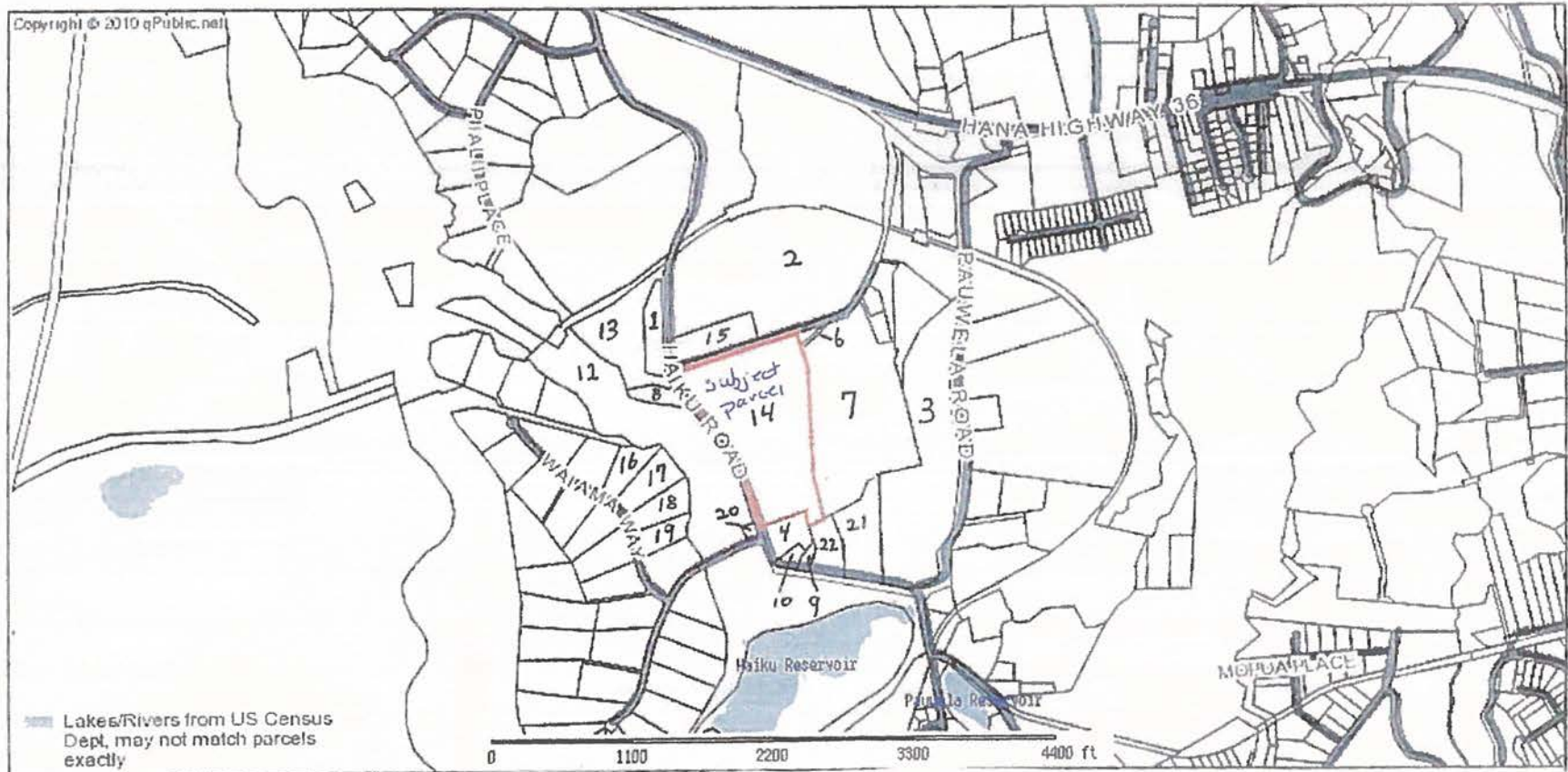
# Regional TMK Map





# 500 Foot Map: Notification Area



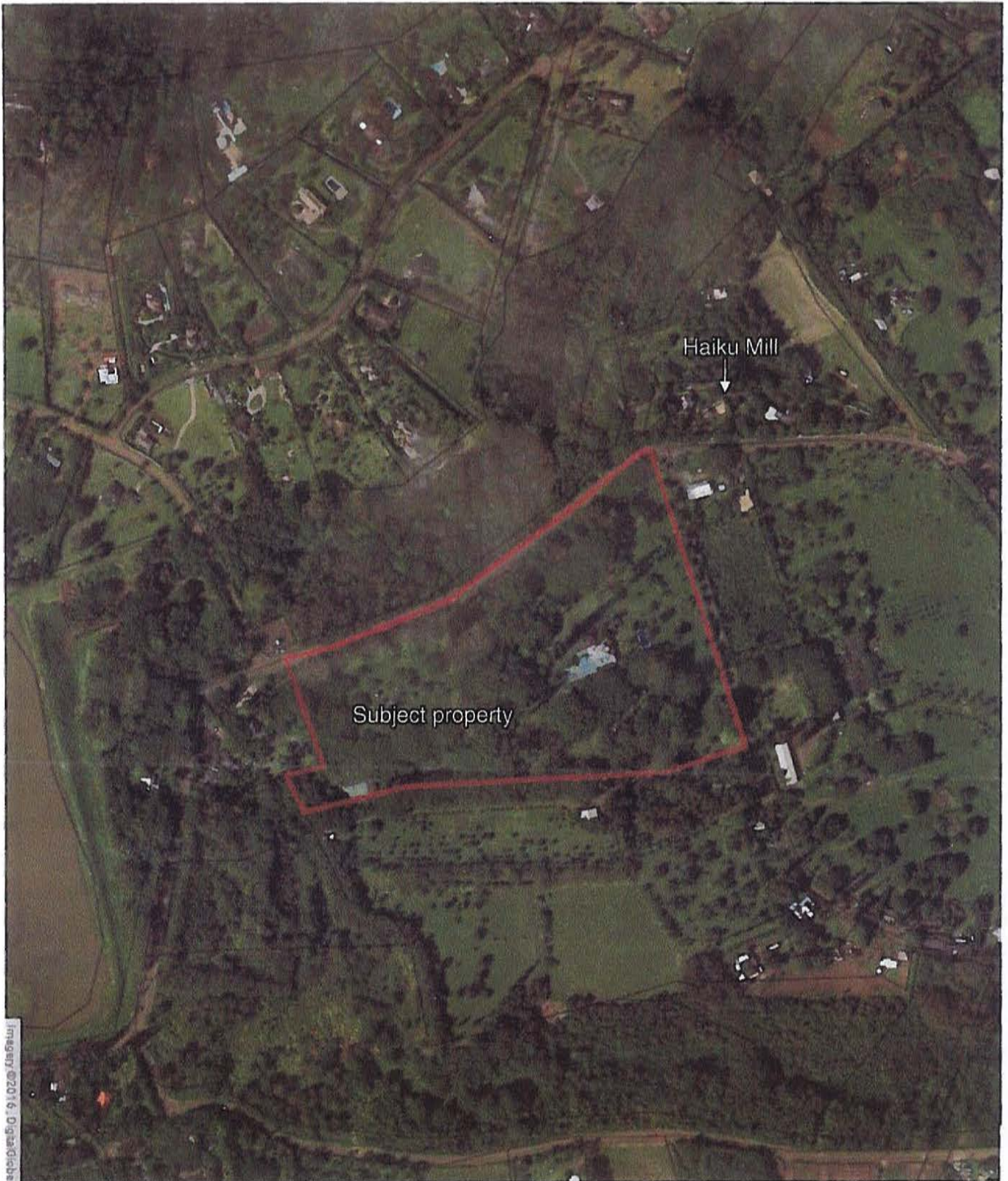


1. Ho'okahi Palama Ali'i LLC
2. Aura North Shore LLC
3. Angela Decoite Trust
4. Bertram A. Weeks Jr.
5. Patricia J Weeks Trust
6. East Maui Irrigation
7. 355 Haiku Road LLC
8. Billie F. Strother  
Gandchildren's Trust

9. Albert Maggi
10. Gregory Smith
11. Alexander & Baldwin LLC
12. A & B Hawaii Inc.
13. Mark and Barbara Sowers  
Family Trust
14. 355 Haiku Road LLC
15. Bernadette L Franco Trust

16. Kenny Ray Malott
17. Robert Teriitehau
18. Adrienne Gaedeke
19. Aina LLC
20. A & B Hawaii LLC
21. Angela Decoitte L Trust
22. Angela Decoitte L Trust





Source: Google Earth Maps

EXHIBIT 5

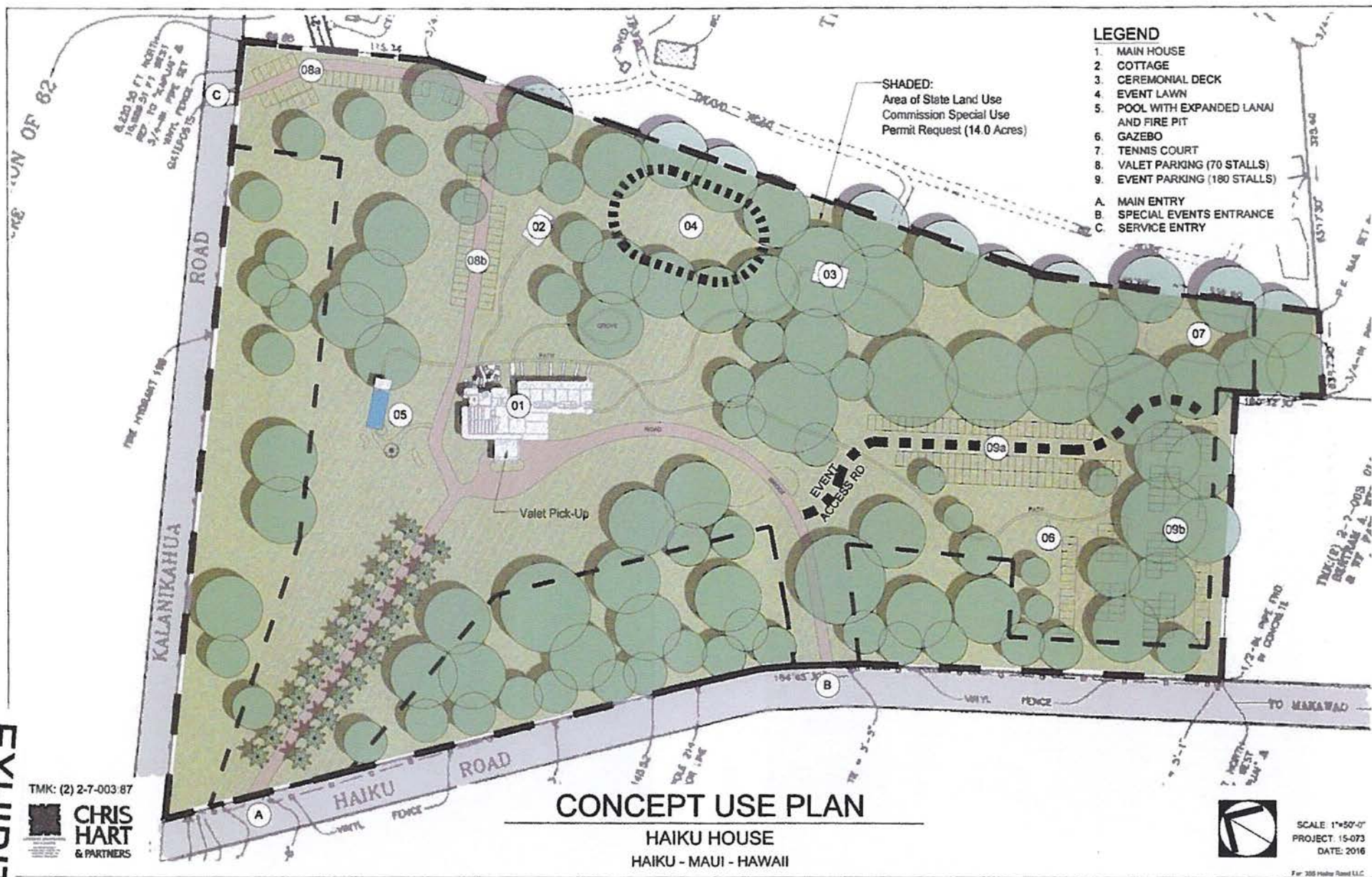




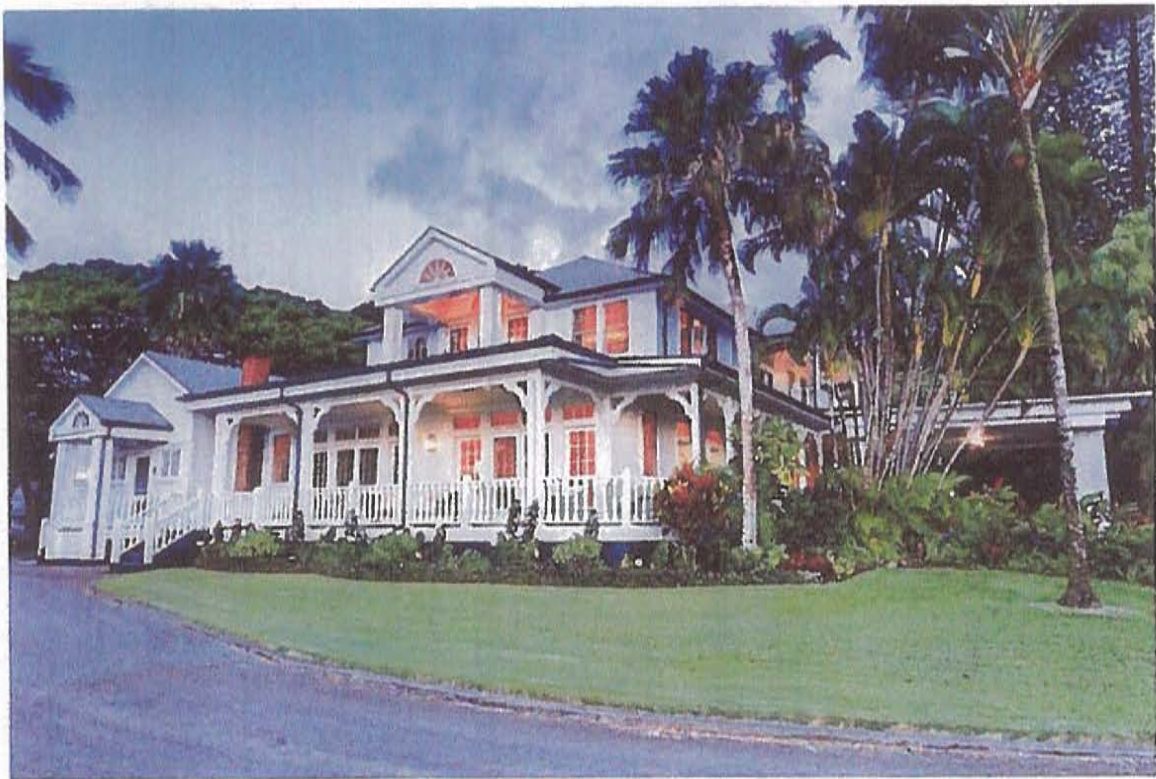
## EXHIBIT 6

Source:  
Pictometry









Main Dwelling



Main Dwelling

EXHIBIT 8





Port Cachere



Main Dwelling Entry





Foyer



Foyer





Foyer



Dining Room





Dining Room





Kitchen Dining Area



Kitchen





Kitchen and Dining Area



Lanai





Lanai



Lanai





Lanai Seating



Lanai





Lanai



Library





Library Seating



Library





Living Room

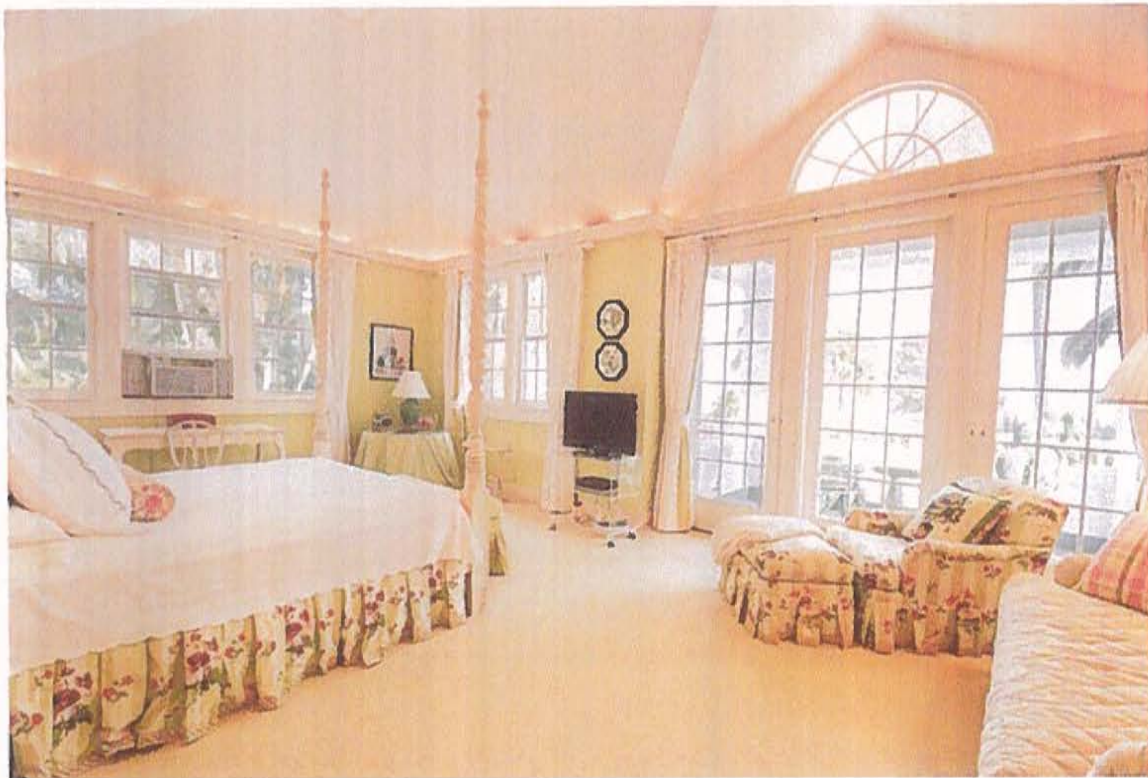


Living Room

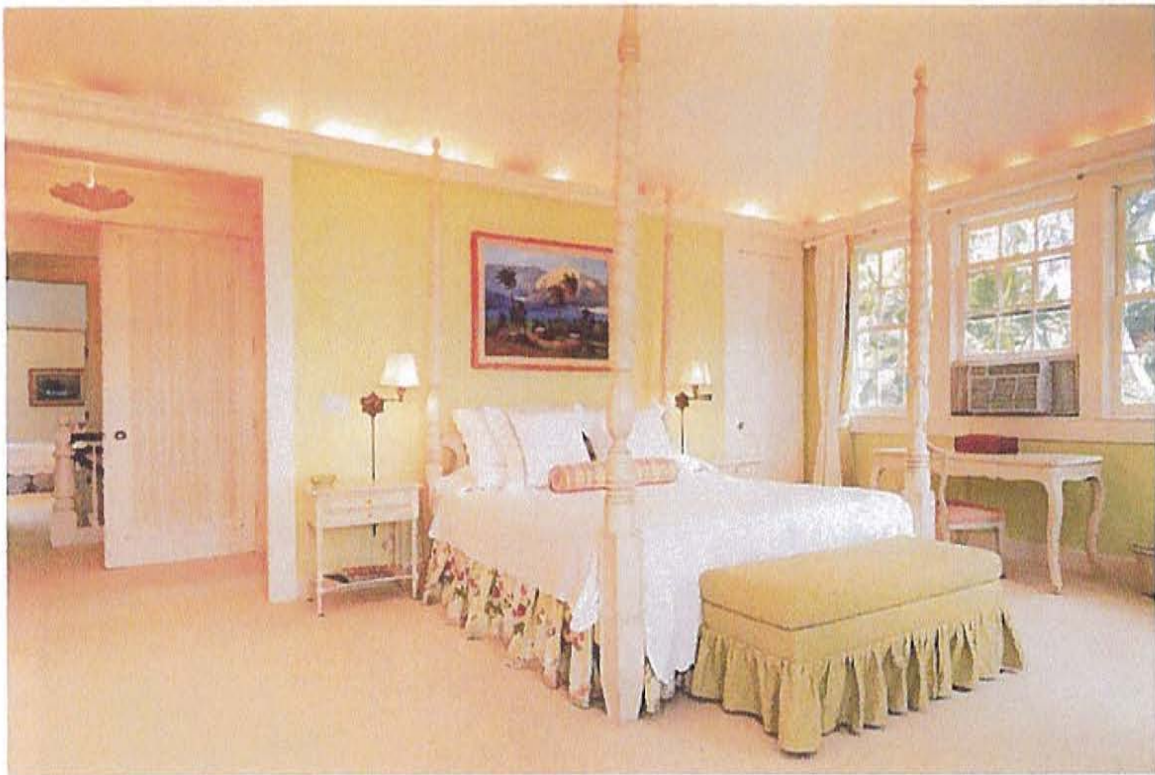




Living Room



Master Bedroom



Master Bedroom



Master Bedroom





Master Bedroom Sitting Area



Master Bathroom



Master Bathroom



Upstairs Bedroom





Upstairs Bedroom



Upstairs Bedroom





Downstairs Office / Bedroom



Pool





Pool Looking Makai



Pool Looking Mauka





Lawn Area



Lawn Looking Makai





Cottage



Cottage Living Room





Cottage Living Room



Cottage Kitchen





Cottage Bedroom



Cottage Bedroom





**The existing cathedral will be utilized for weddings and special events.**



**Directly makai of the existing cathedral lies an open area that is the future site of the special events area.**





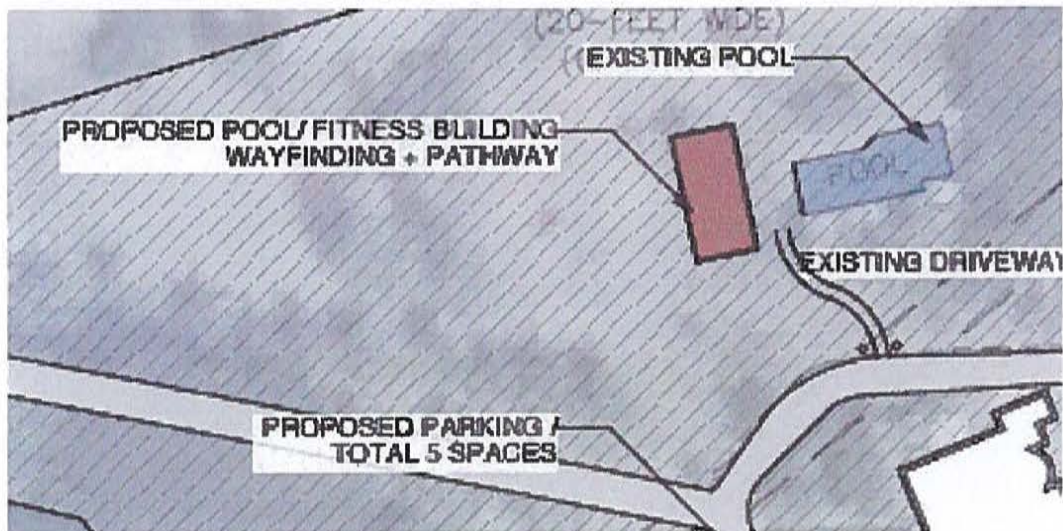
**EVENT LOCATION LOOKING MAUKA**



**A GROOMED PATHWAY WILL LEAD GUESTS FROM THE  
NEW PARKING AREA TO THE FUTURE EVENT SITE.**



# **FUTURE POOL HOUSE SITE EXHIBIT "E"**



**Pool House location adjacent to the pool and makai of the main dwelling.**



# MAIN HOUSE PARKING



**The front entrance area of the main dwelling has room for ample parking.**

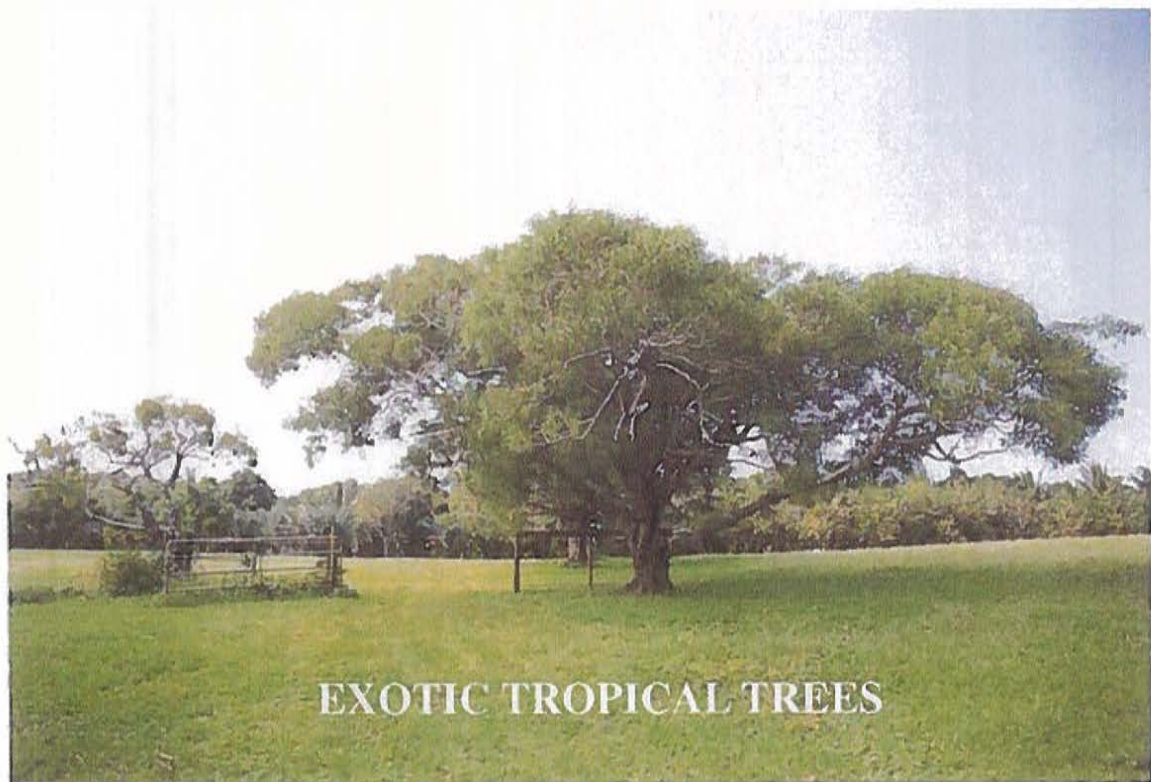
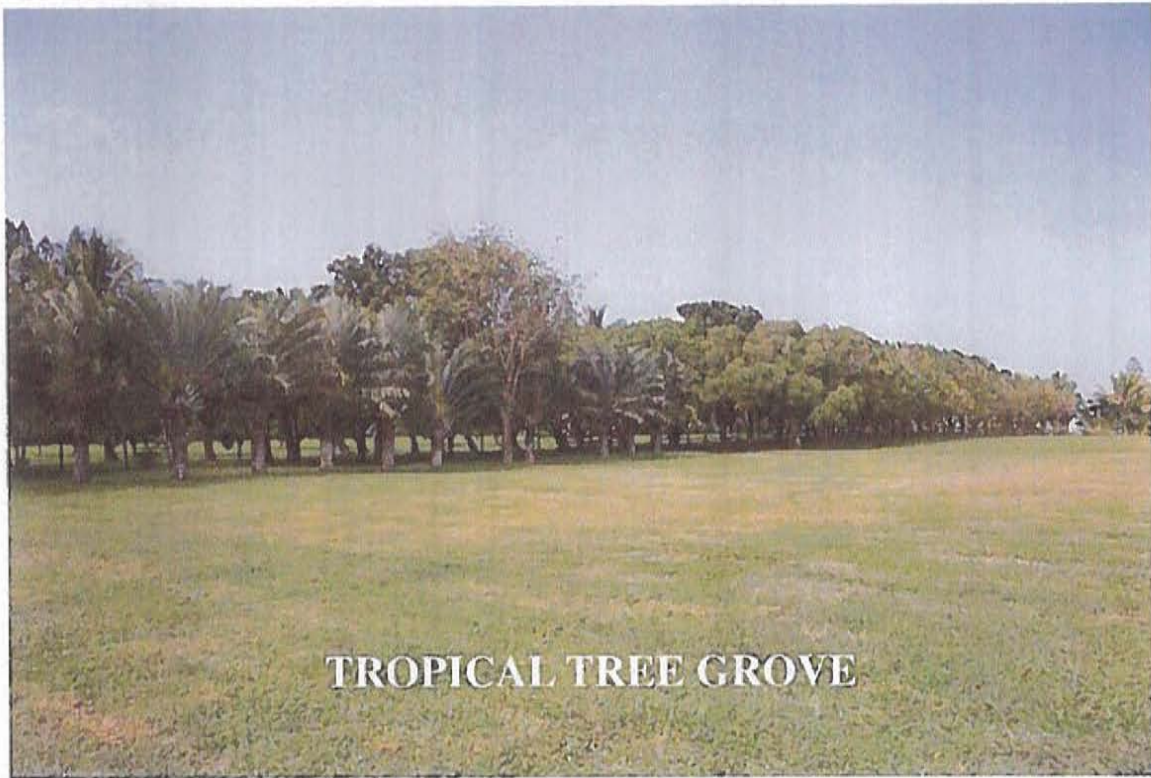


**Additional parking can be accommodated just beyond the entrance to the main dwelling.**

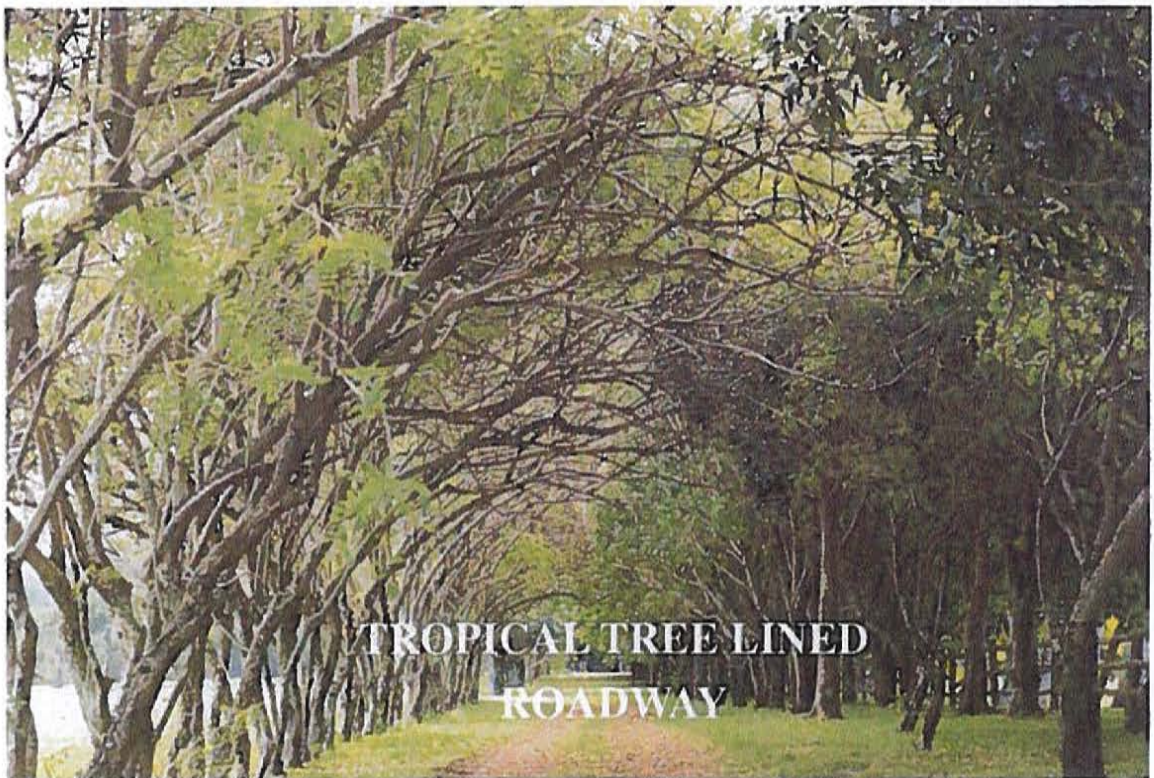
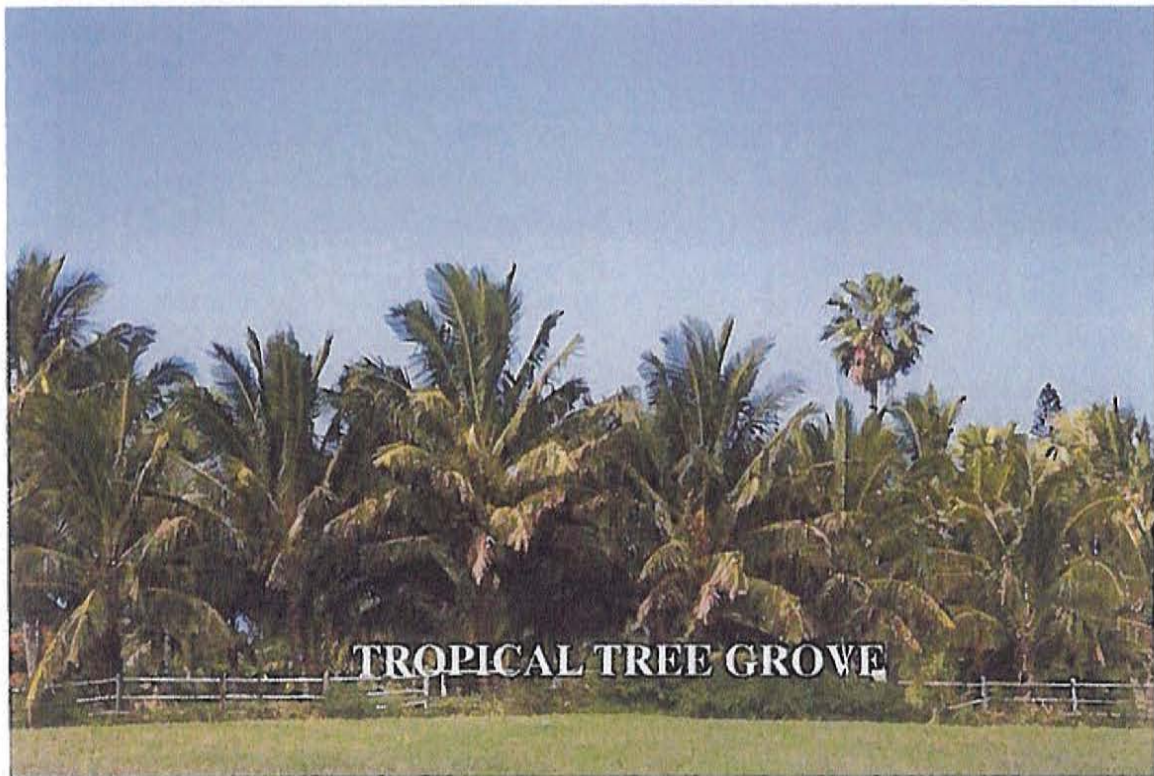




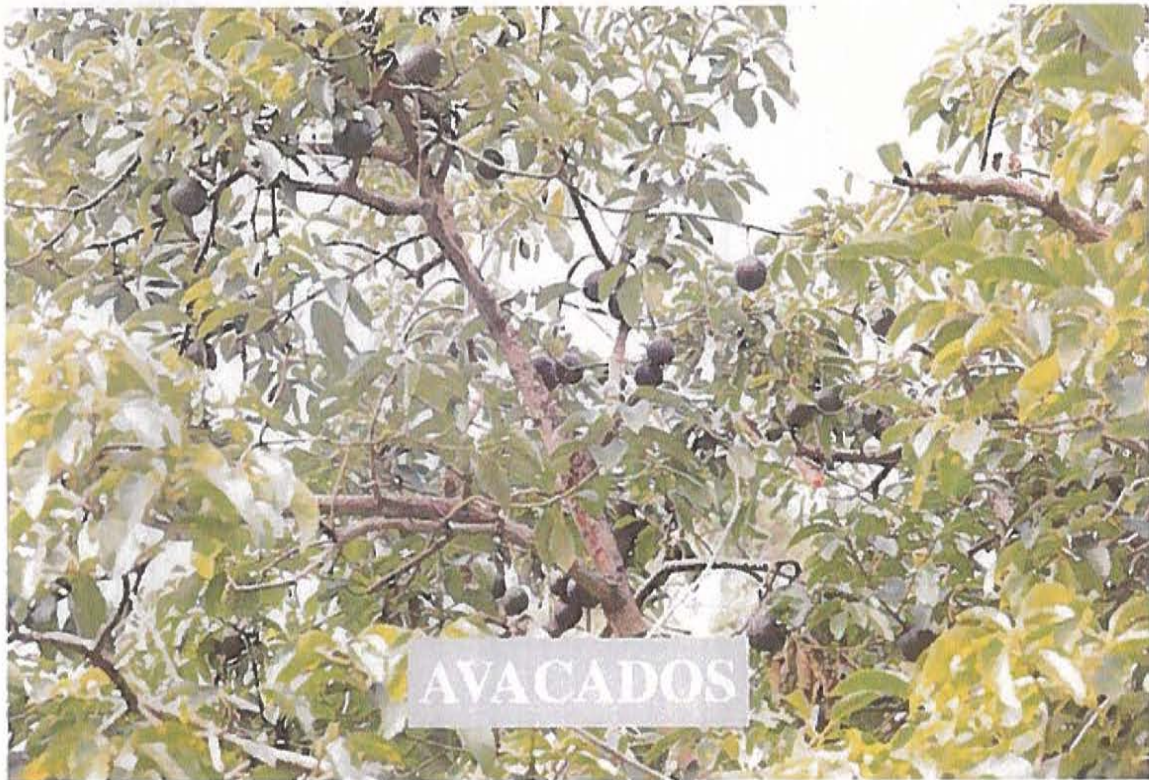
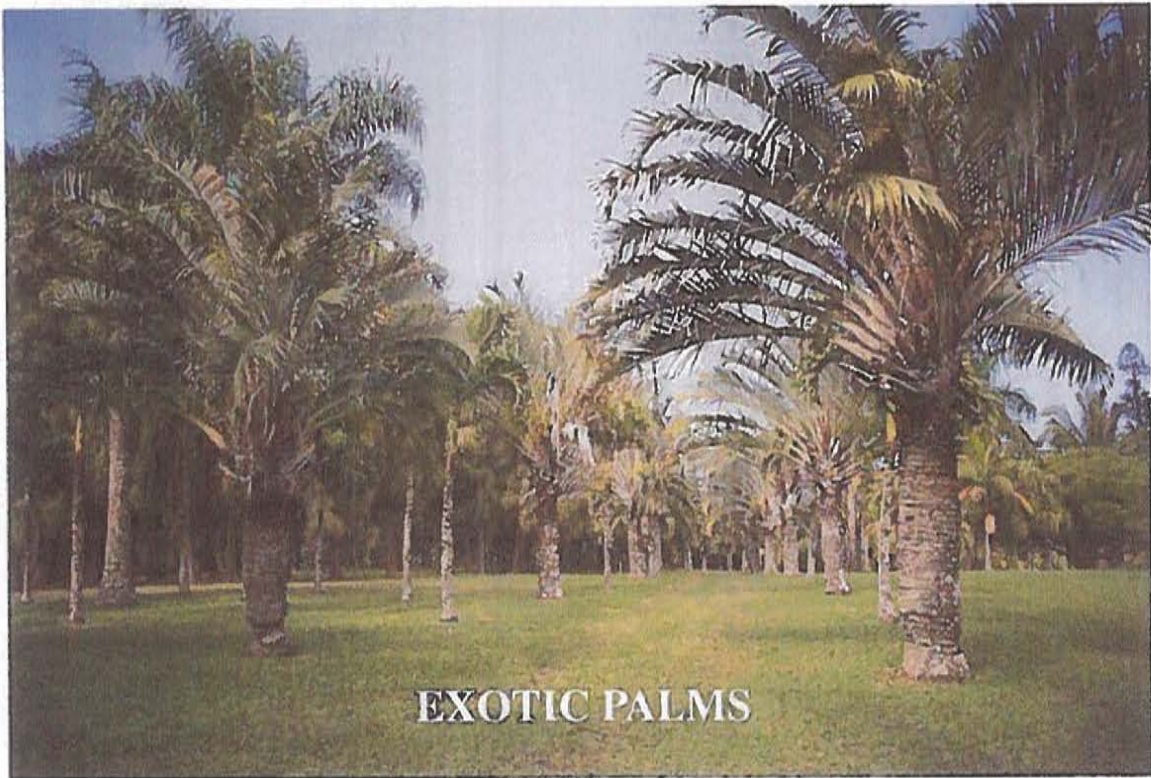








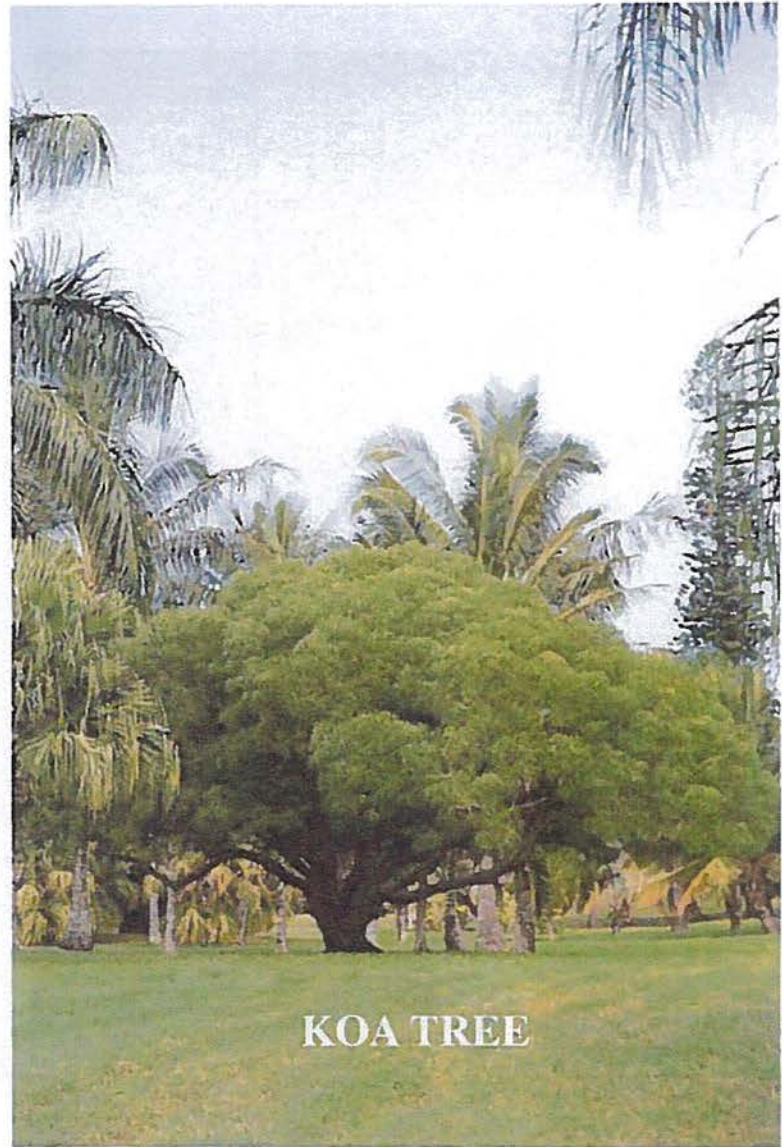






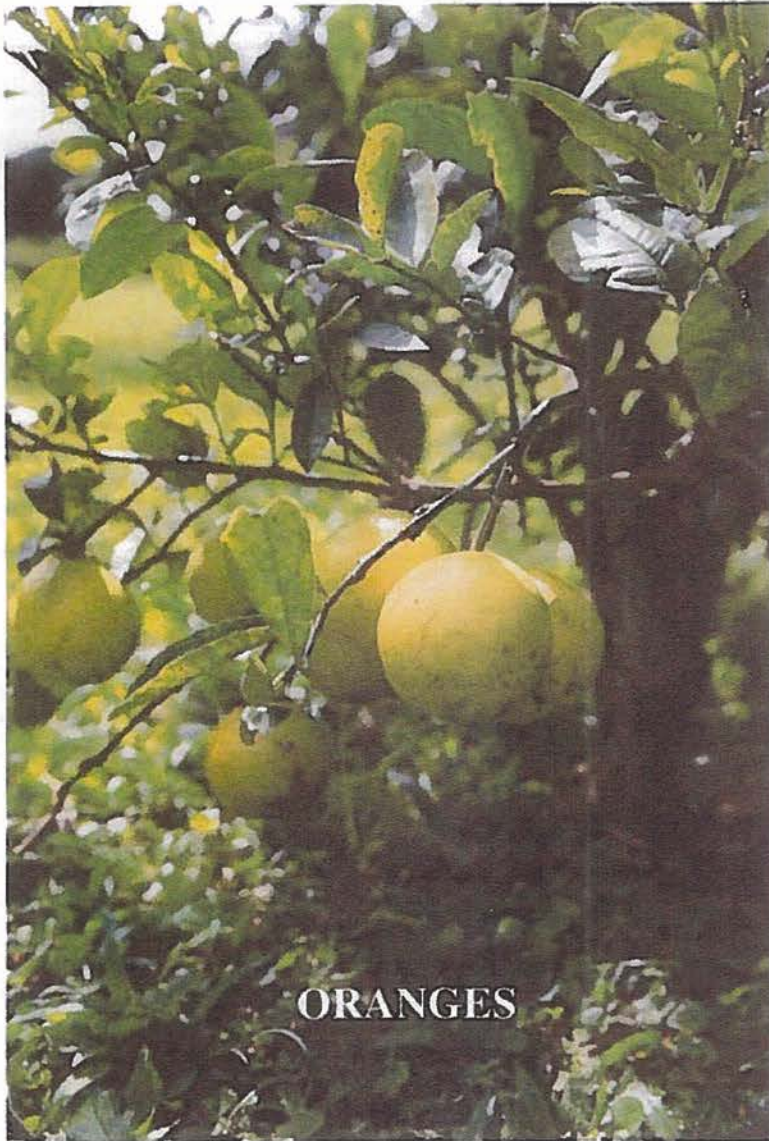


BANANAS

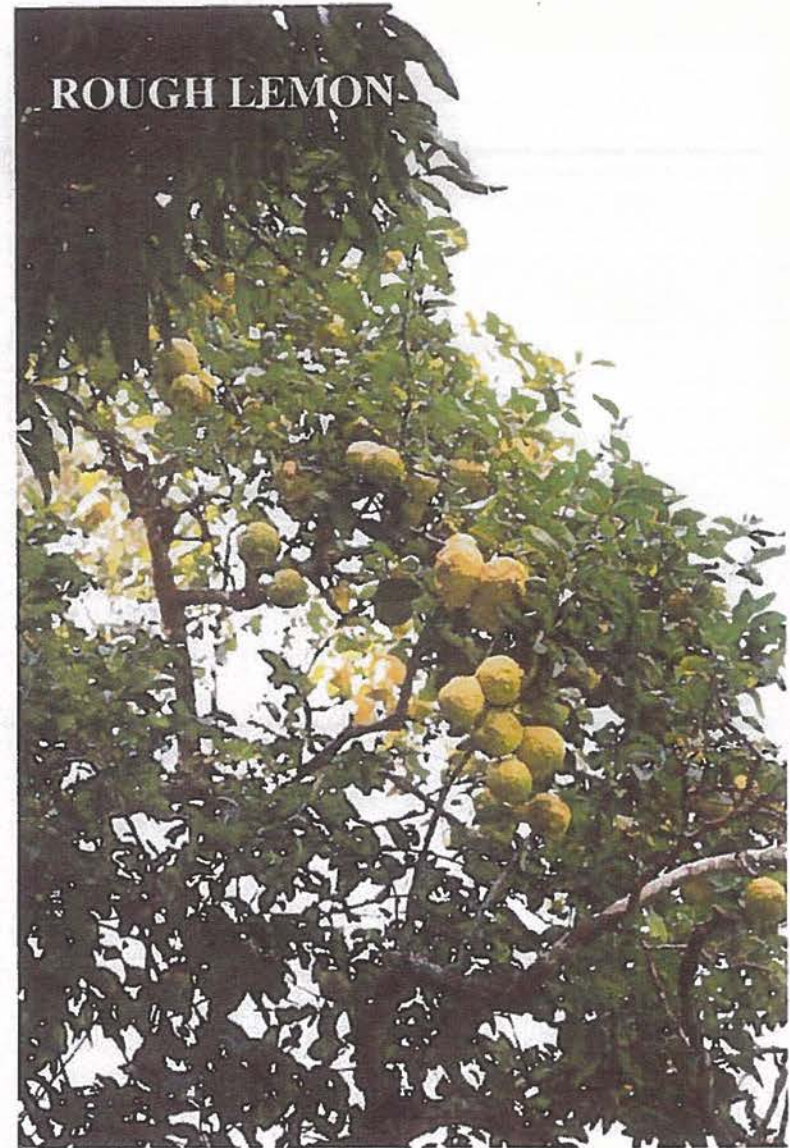


KOA TREE



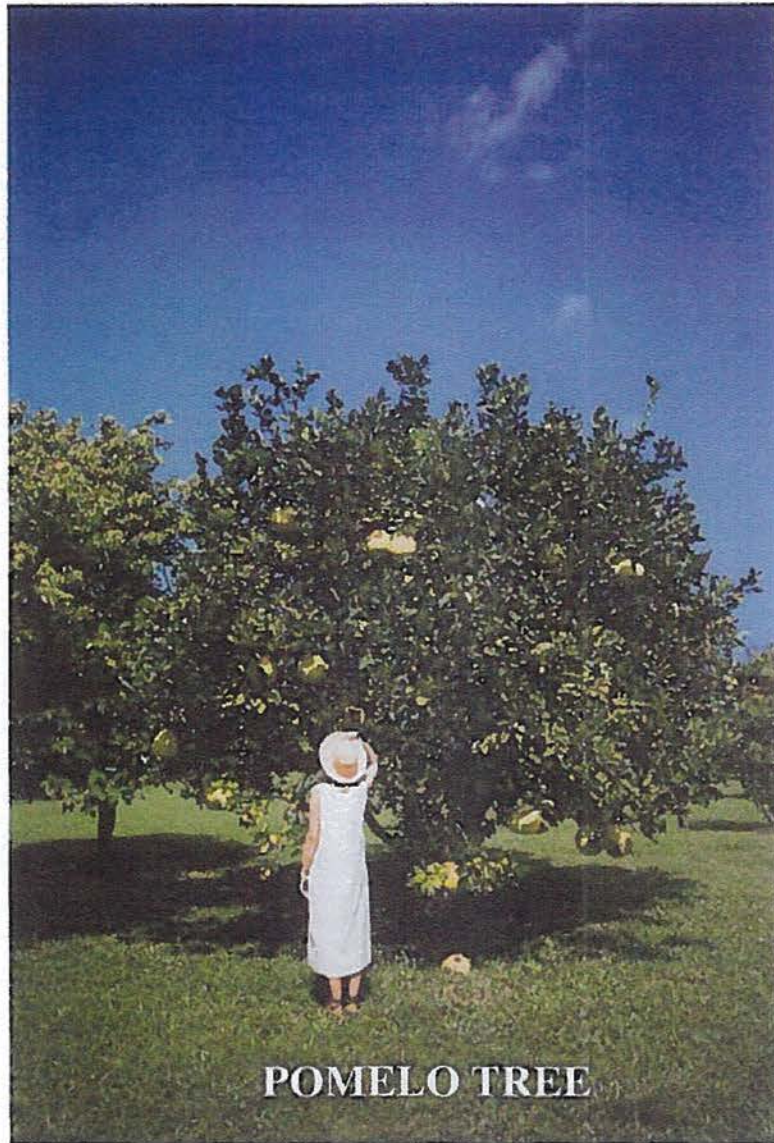


ORANGES



ROUGH LEMON





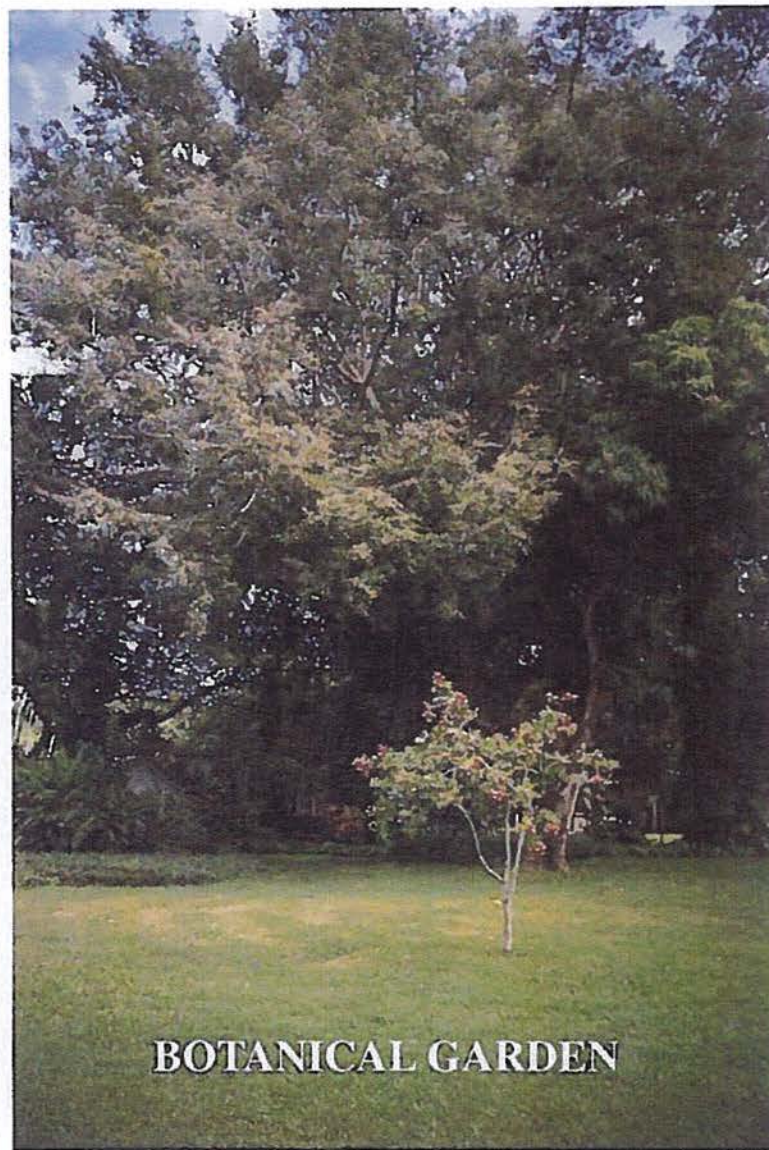






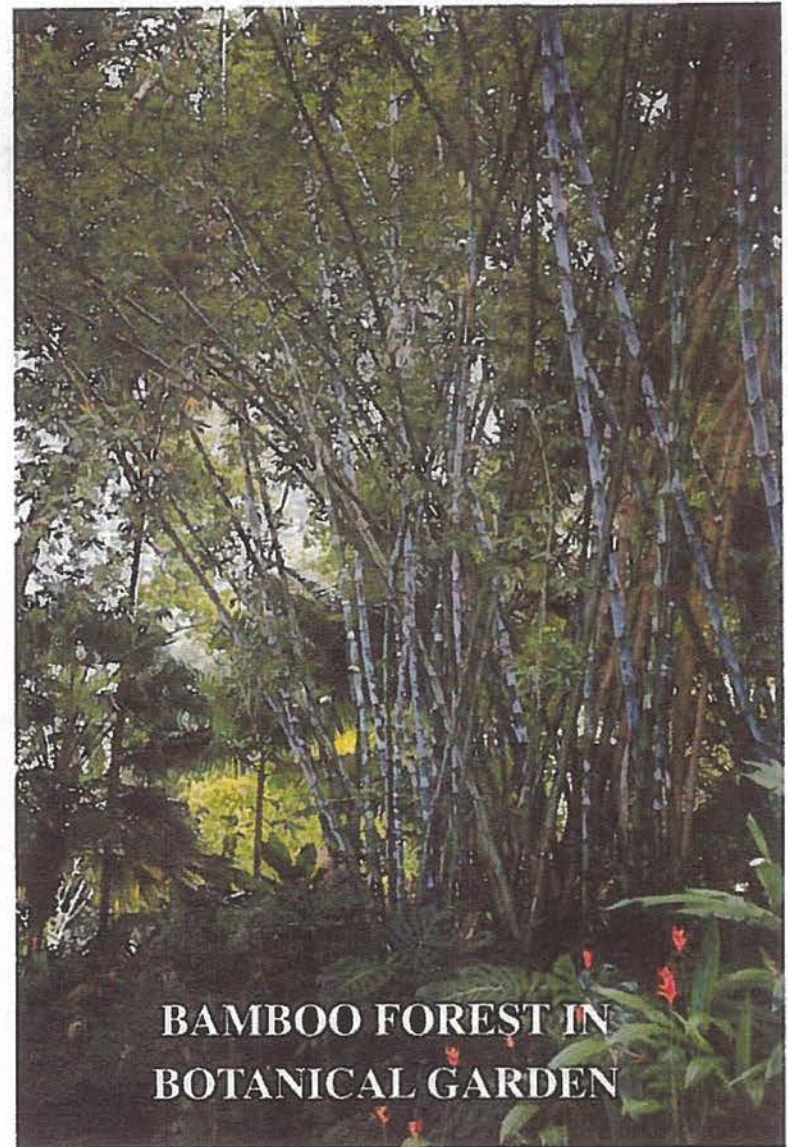


**TROPICAL FOLIAGE**



**BOTANICAL GARDEN**







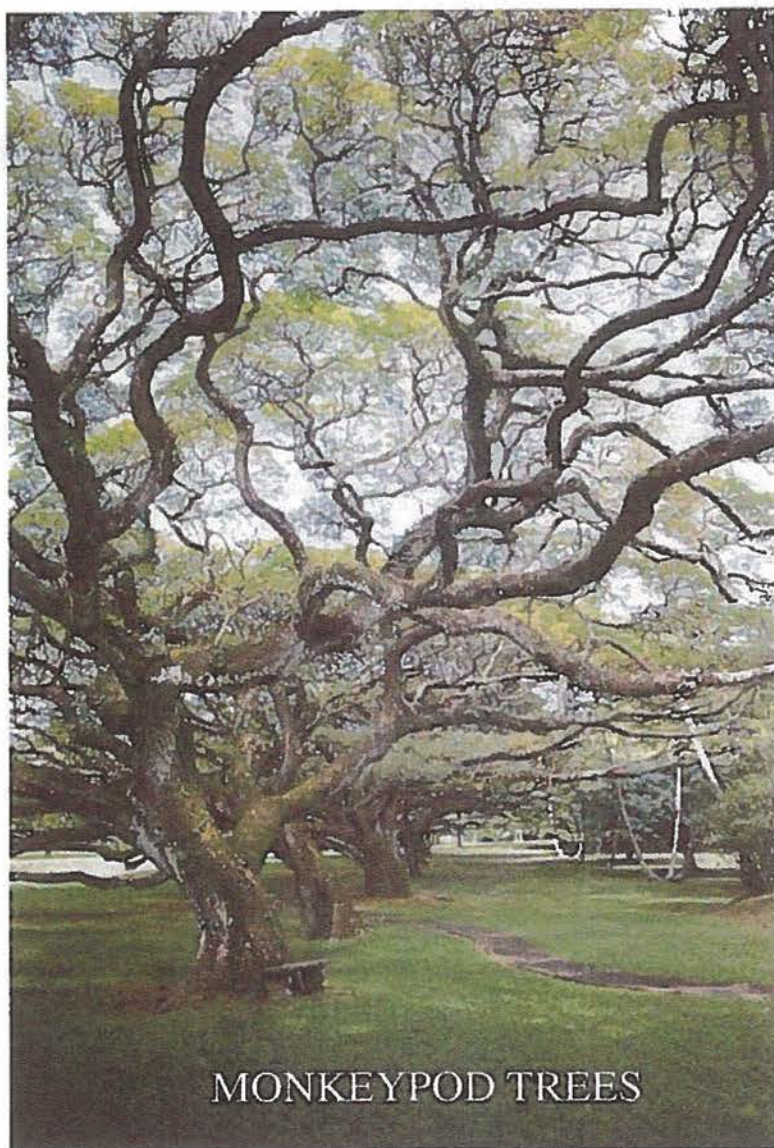


MAHOGANY TREE



TROPICAL EXOTIC TREES  
IN BOTANICAL GARDEN





MONKEYPOD TREES

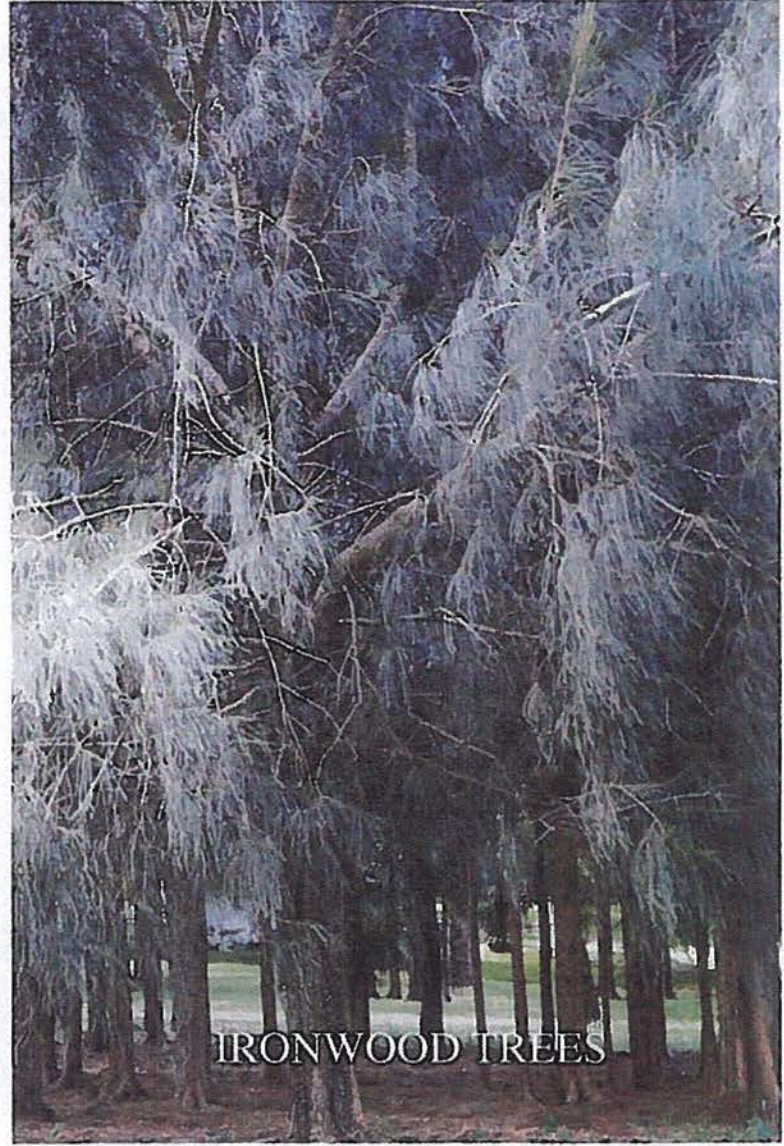


KOA TREES



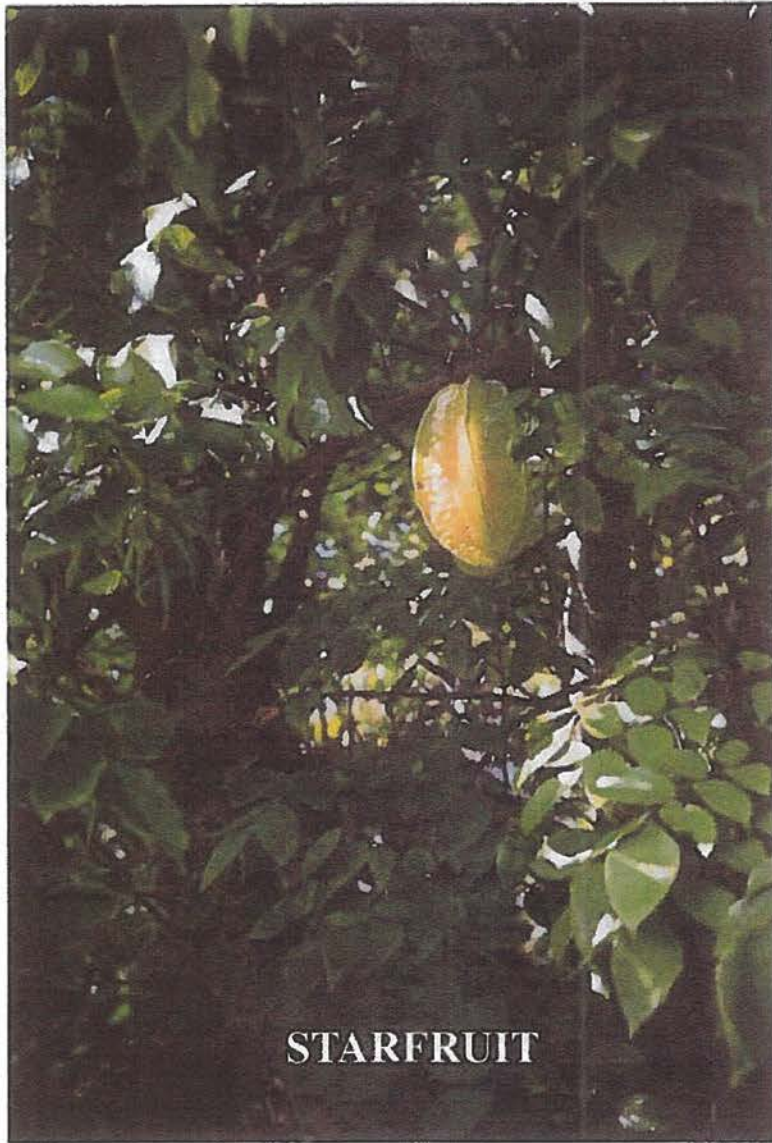


BIRD OF PARADISE

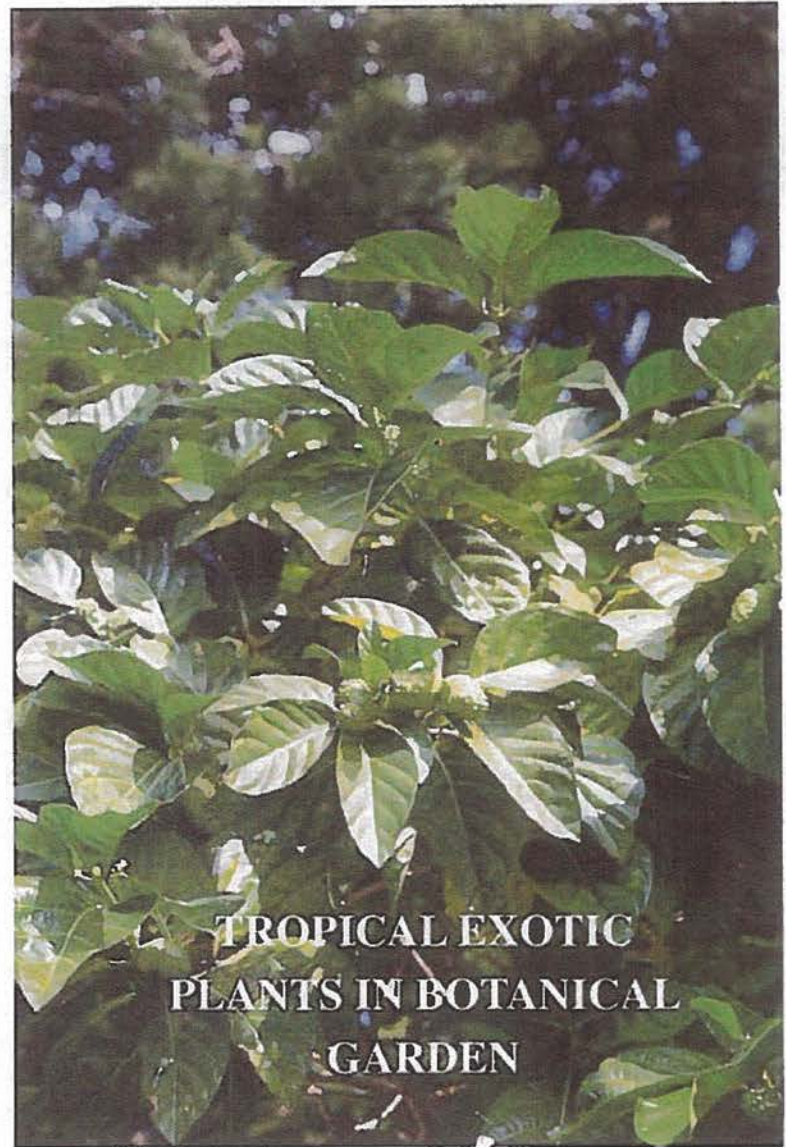


IRONWOOD TREES



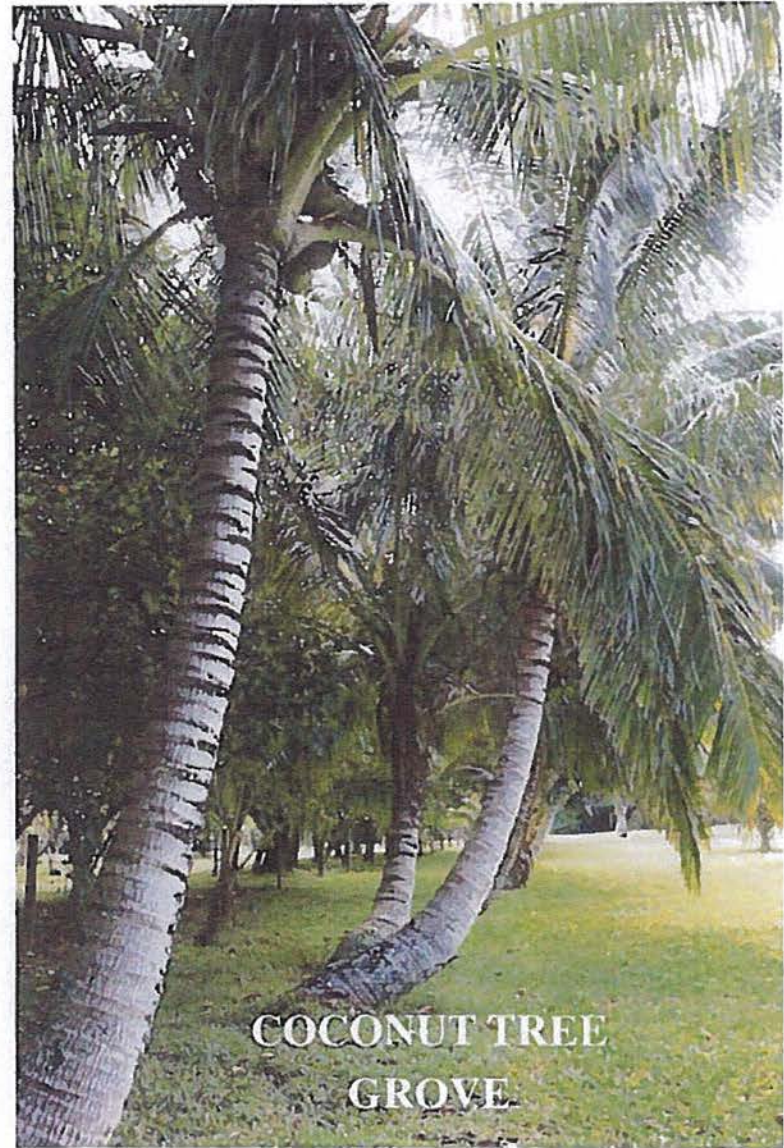


STARFRUIT



TROPICAL EXOTIC  
PLANTS IN BOTANICAL  
GARDEN









**08a**  
VALET PARKING & SERVICE  
ENTRY "C" - FACING NORTH



**08a**  
VALET PARKING FACING NORTH



**08a**  
VALET PARKING FACING SOUTH



**08b**  
VALET PARKING AREA FACING EAST



**B**  
SPECIAL EVENTS ENTRANCE "B"



**09b**  
SPECIAL EVENTS PARKING AREA



**06**  
GAZEBO FACING WEST



**09a**  
SPECIAL EVENTS PARKING AREA

TMK: (2) 2-7-003.B7



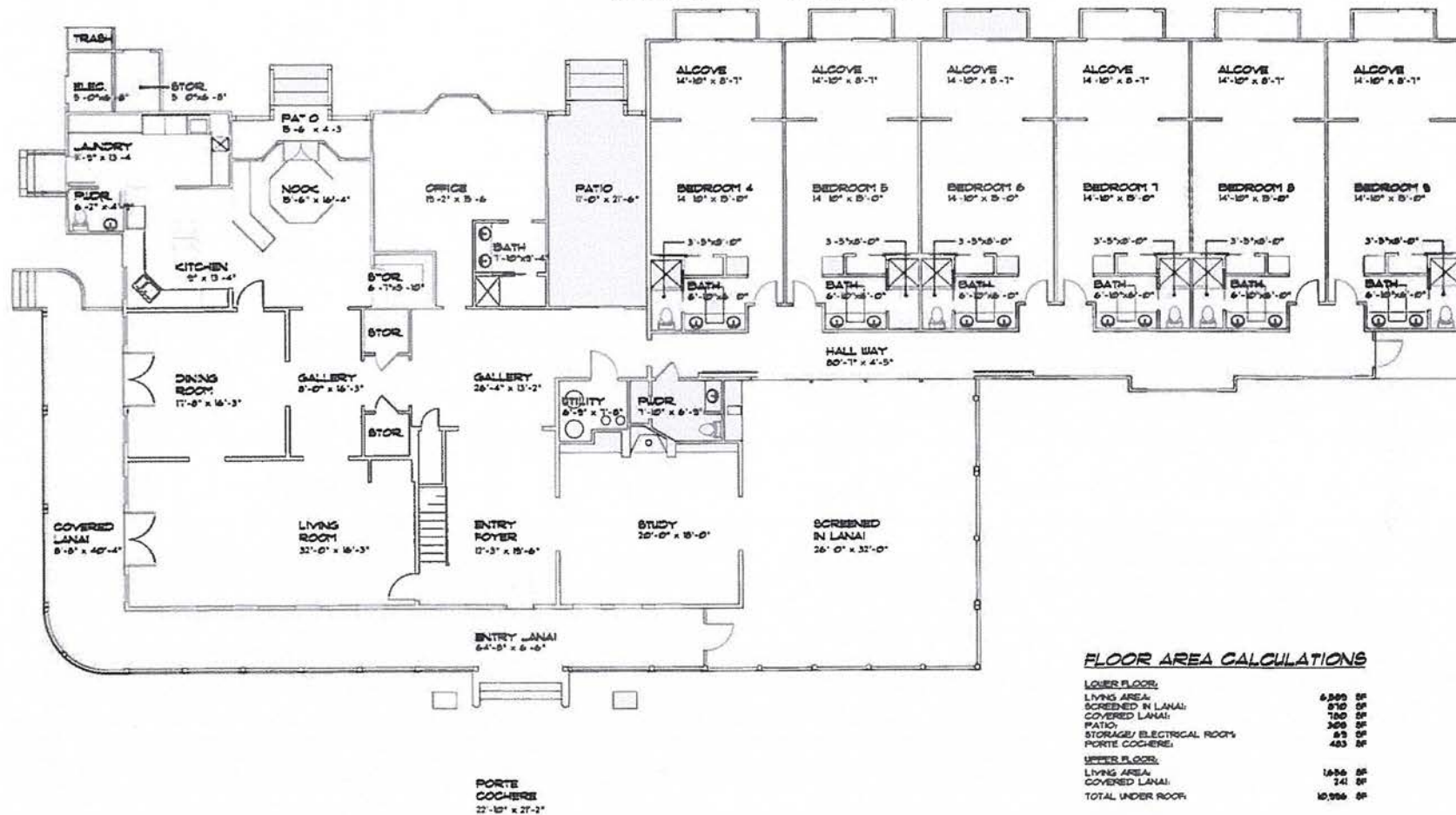
## SITE PHOTOS

HAIKU HOUSE  
HAIKU - MAUI - HAWAII

SCALE: 1"=50'-0"  
PROJECT: 15-073  
DATE: 2016

For 305 Mahe Road LLC

355 HAIKU ROAD  
HAIKU, MAUI, HAWAII  
TMK : 2 - 3 - 003 : 087



EXISTING LOWER FLOOR PLAN

| LOWER FLOOR:             |           |
|--------------------------|-----------|
| LIVING AREA              | 6,800 SF  |
| SCREENED IN LANAI        | 810 SF    |
| COVERED LANAI            | 780 SF    |
| PATIO                    | 360 SF    |
| STORAGE/ ELECTRICAL ROOM | 81 SF     |
| PORTE COCHERE            | 483 SF    |
| UPPER FLOOR:             |           |
| LIVING AREA              | 16,860 SF |
| COVERED LANAI            | 241 SF    |
| TOTAL UNDER ROOF         | 10,986 SF |
| COTTAGE FLOOR AREA:      |           |
| LIVING AREA              | 830 SF    |
| COVERED LANAI            | 236 SF    |
| TOTAL UNDER ROOF         | 815 SF    |



**MAIN HOUSE  
FLOOR PLAN**

EXISTING CONDITIONS AT:  
355 HAIKU ROAD LLC  
355 HAIKU ROAD  
HAIKU, MAUI, HAWAII  
TEL: 2 - 7 - 0073 : 087

|        |                 |
|--------|-----------------|
| DATE:  | DEC. 23, 2008   |
| SCALE: | NOTED           |
| DRAIN: | BY              |
| JOB:   | Peter de Zwager |
| SHEET: |                 |

# A1





DATE: DEC. 23, 2011

SCALE: \_\_\_\_\_

DRAWN: \_\_\_\_\_

BY: Peter de Zeeuw

REVISION: \_\_\_\_\_

NOTES: \_\_\_\_\_

\_\_\_\_\_

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EXISTING CONDITIONS AT:

**355 HAIKU ROAD LLC**

355 HAIKU ROAD  
HAIKU, MAUI, HAWAII

TRK. 1, 2 - 7 - 003 : 081

**COTTAGE FLOOR PLAN**

△ △ △ △ △ △ △

**CWA**



# Ornament on history: \$800,000

## The house was built in 1860, Queen Liliuokalani was a visitor, and now the estate is for sale

By Jeanette Foster

I drive past the luxurious, rambling old Baldwin estate on Haku Road every day. I've always known it was a Baldwin estate, but which Baldwin I didn't know. All I could spot was the wonderful sweet smell of the mock orange trees in the spring and late fall, the stunning gold tree in full bloom, the swaying royal palms.

Whoever owned it not only had excellent taste, but a sense of beauty to keep the grounds of the estate so grand as this.

Then a few weeks ago I found out the 19-acre estate (the house) is for sale for \$800,000. If history can have a price tag, this is the deal of the decade.

The history of the house starts on May 31, 1858, when the first plans for creating a sugar company on Haku were discussed at a meeting at Anson Starr Cooke's store.

From that meeting came the Haku Sugar Co. and the hiring of George Beckwith as the company's first manager. Even then they were concerned with employee housing, and a house was built for Beckwith in 1860.

That house still stands today—the Baldwin estate on Haku Road. Of course it has been remodeled and rooms have been added and taken away. But the lumber that was shipped around Cape Horn can still be found in the old house.

Beckwith wasn't the only manager who lived in the house. After him, Warren Goodale moved in from 1866 to 1870. The next plantation manager was Samuel Alexander, from 1871 to August 1883.

When Alexander moved out, Henry Perrine Baldwin moved in and stayed for 17 years. In his book, *A Memoir of Henry Perrine Baldwin* by Arthur D. Baldwin, the house is remembered fondly: "More of the family memories and history are connected with the beautiful old home at Haku than even at Sunnyside, its earliest home, or Maluhia, its latest."

It was these two fellows, Alexander and Baldwin, who changed the history of Maui. Baldwin married Alexander's sister, Emily, in 1870. The men were partners in the Alexander and Baldwin Plantation, which later became the Pala Plantation and which later became Alexander and Baldwin Ltd. of Honolulu in 1900.

Henry Perrine Baldwin gave a luau for Queen Liliuokalani at the estate in the early 1890s. In 1964 a *Maui News* reporter interviewed Auntie May Fantom, who was there when the queen visited. According to the reporter's account, "the queen arrived in a carriage drawn by a pair of spirited horses which had been sent to meet her ship at Kahului. A hush fell over onlookers

as she alighted, then there was a murmur of approval. She was wearing black with gold trim, the longest anyone had seen, and her train swept gracefully behind her as Mr. Baldwin escorted her to a position of prominence before the assembled guests."

Baldwin, who bought the house, passed it to his son, Dr. William Baldwin. William started the Haku farm in 1920 and collected avocados. Later he became interested in mango trees, particularly the Fulu and the Hayden. Then he took a liking to rubber and trees, then lychees, and soon the grounds of the estate had exotic trees from all over.

William passed the estate to his son, Douglas, who not only lived with his family at the estate (nearly for the next 40 years, Douglas Chapman), but he also owned and ran the Kaupo Ranch.

During the 1930s, Douglas would sometimes travel his estate to the ranch in his 1940 Ford, but he also owned a car when the roads were impassable.

Douglas and his wife opened up their beautiful estate in 1964 for the Maui Historic Society's annual Maluhia Garden Party.

The estate now has passed to Wendy Baldwin Meekhof, Baldwin's daughter, who was adopted at six days old and raised in the estate.

"What a place to grow up," said the 29-year-old mother of two who now lives in Kihiti. "We had a full-time maid, two gardeners, a lifestyle that is totally impossible now."

Meekhof says her memories of childhood aren't of important dignitaries visiting, but of a peaceful, quiet country lifestyle.

"The house was furnished with a lot of the furniture Dad got in China," Meekhof said. "And a lot of Grandma's old furniture, too."

But the house is not what Meekhof loved best. Rather, it was the lush grounds with hundreds of different kinds of trees planted by three generations of Baldwins and carefully cared for.

"But the estate is impractical for me now," she said, as her nine-month-old son crawled around the living room looking for things to get into. "I like living on the beach, and we still have the Kaupo Ranch for a country house. It is just impractical to think about living in it now."

So reluctantly she has put the old estate on the market through Bishop Trust Co. But she is concerned about who will buy it.

"I don't want to see it subdivided," she said. "I hope that it becomes a botanical garden and is saved for everyone to see."

As it looked in the early 1890s, decorated for a luau for Queen Liliuokalani.





**SITE DATA**

APPROX. TOTAL SITE AREA 826,000.00 SQ. FT - 45,000.00 SQ. FT BUILDINGS, ROAD AND OTHER = 781,000.00 SQ. FT  
 APPROX. TOTAL FARMING AREA - 699,500.00 SQ. FT = 89% SITE COVERAGE

HAIKU ROAD LLC.  
 355 Haiku Road  
 4050 Kalai Waa St.  
 Wailea, Hawaii 96753

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| REV | DATE | CHG | BY |
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|     |      |     |    |

# FARM PLAN

ORIGINAL SURVEY PROVIDED BY  
 BOKA & SONS, INC.  
 1000 S. KALANIKAHUA RD.  
 SUITE 100  
 HAULEA, HAWAII 96721

PROJECT TITLE:  
 FARM PLAN

|                      |                                      |
|----------------------|--------------------------------------|
| DATE<br>Nov 30, 2015 | SHEET TITLE:<br><b>FARM PLAN</b><br> |
| SCALE<br>1:2000      |                                      |
| Drawn By:<br>ch      |                                      |
| Checked By:<br>r     |                                      |

## 355 Haiku Road Botanical Garden Tree List

| Common Name          | Family        | Latin Name                 | Origin            |
|----------------------|---------------|----------------------------|-------------------|
| Mango                | Anacardiaceae | Manifer Indica             | Burma             |
| Fangipani            | Apocynaceae   | Plumeria Singapore         | Indonesia         |
| Temple Tree          | Apocynaceae   | Plumeria rubra             | Central America   |
| Cerman               | Araceae       | Manstera deliciosa         | Guatemala         |
| Spathe               | Araceae       | Spathiphyllum commutatum   | Philippines       |
| Tall Flower          | Araceae       | Anthurium Andraeanum       | Columbia          |
| Octopus Tree         | Araliaceae    | Brassaia Actinophylla      | New Guinea        |
| Bunya Bunya          | Araucariaceae | Araucaria Bidwillii        | Queensland        |
| Cook Pine            | Araucariaceae | Araucaria Columnaris       | New Caledonia     |
| Hoop Pine            | Araucariaceae | Araucaria Cunninghamii     | New South Wales   |
| Norfolk Pine         | Araucariaceae | Araucaria Heterophylla     | Norfolk Island    |
| Queensland Kauri     | Araucariaceae | Agathis Robusta            | Queensland        |
| Kauri Pine           | Araucariaceae | Agathis Australis          | New Zealand       |
| African Tulip        | Bignoniaceae  | Spathodea Compunulata      | Tropical Africa   |
| Gold Tree            | Bignoniaceae  | Cyblastax Donnell-smithii  | Mexico            |
| Golden Bell          | Bignoniaceae  | Tabebuia Argentea          | Paraguay          |
| Pink Tecoma          | Bignoniaceae  | Tabebuia Tentphylla        | Central America   |
| Sausage Tree         | Bignoniaceae  | Kigelia Pinnata            | Tropical Africa   |
| Boabab               | Bombacaceae   | Adansonia Digitata         | Tropical Africa   |
| Drunken Tree         | Bombacaceae   | Chorisia Insignis          | Peru              |
| Floss Silk Tree      | Bombacaceae   | Chorisia Speciosa          | Brazil            |
| Maiabar Chestnut     | Bombacaceae   | Pachira Aquatica           | South America     |
| Geiger Tree          | Boraginaceae  | Cordia Sebestena           | West Indies       |
| Ironwood             | Casuarinaceae | Casuarina Stricta          | Western Australia |
| False Kamani         | Combretaceae  | Terminalia Catappa         | East Indies       |
| Blue Ginger          | Commelinaceae | Dichorisandra Thyrsoiflora | Brazil            |
| Creeping Daisy       | Compositae    | Wedelia Trilobata          | West Indies       |
| Queen Sago           | Cycadaceae    | Cycas Circinalis           | India             |
| Sago Palm            | Cycadaceae    | Cycas Revoluta             | South Japan       |
| Australian Tree Fern | Dicksoniaceae | Atsophila Cooperi          | Australia         |
| Hapu'u               | Dicksoniaceae | Cibotium Chamissoi         | Hawaii            |
| Candlenut Kukui      | Euphorbiaceae | Aleurites Moluccana        | South Pacific     |
| Coral Plant          | Euphorbiaceae | Jatropha Multitida         | Brazil            |
| Croton               | Euphorbiaceae | Codiaeum Pictum            | Ceylon            |
| Jatropha             | Euphorbiaceae | Jatropha Hastata           | West Indies       |
| Camboe Tree          | Guttiferae    | Garcinia Xanthochymus      | India             |
| Kamani               | Guttiferae    | Calophyllum Inophyllum     | Western Pacific   |
| Avacado              | Lauraceae     | Persea Americana           | Mexico            |
| Camphor Tree         | Lauraceae     | Cinnamomum Camphora        | China             |
| Butterfly Orchid     | Leguminosae   | Bauhinia Manondra          | Burma             |
| Elephant's Ear       | Leguminosae   | Enterolobium Cyclocarpum   | Venezuela         |
| Golden Shower        | Leguminosae   | Cassia Fistula             | India             |
| Monkeypod            | Leguminosae   | Samanea Saman              | West Indies       |
| Orchid Tree          | Leguminosae   | Bauhinia Blakeana          | Hong Kong         |



## 355 Haiku Road Botanical Garden Tree List

| Common Name          | Family        | Latin Name                 | Origin              |
|----------------------|---------------|----------------------------|---------------------|
| Rosewood             | Leguminosae   | Tipuana Tipu               | Brazil              |
| Royal Poinciana      | Leguminosae   | Delonix Regia              | Madagascar          |
| Tiger's Claw         | Leguminosae   | Erythrina Indica           | India               |
| Woman's Tongue       | Leguminosae   | Albizia Lebbeck            | Old World Tropics   |
| Dragon Tree          | Liliceae      | Dracaena Marginata         | Madagascar          |
| Chinese Hibiscus     | Malvaceae     | Hibiscus Rosa-Sinensis     | China               |
| Mahogany             | Meliaceae     | Swietenia Mahgoni          | West Indies         |
| Pride of India       | Meliaceae     | Melia Azedarach            | North India         |
| Banyan Tree          | Moraceae      | Ficus Benghalensis         | India               |
| Black Fig            | Moraceae      | Ficus Carica               | Asia Minor          |
| Breadfruit           | Moraceae      | Artocarpus Altilis         | Tahiti              |
| Fiddleleaf Fig       | Moraceae      | Ficus Lyrata               | West Africa         |
| Indian Laurel        | Moraceae      | Ficus Nitida               | Malaya              |
| Morton Bay Fig       | Moraceae      | Ficus Macrophylla          | Queensland          |
| Sacred Bo            | Moraceae      | Ficus Religiosa            | India               |
| Weeping Fig          | Moraceae      | Ficus Benjamina            | India, Burma        |
| Traveller's Palm     | Musaceae      | Ravenala Madagascariensis  | Madagascar          |
| Allspice             | Myrtaceae     | Pimenta Officinalis        | Central America     |
| Lava Plum            | Myrtaceae     | Syzygium Jambos            | Southeast Asia      |
| Pineapple Guava      | Myrtaceae     | Feijoa Sellowiana          | Argentina           |
| Queen's Crape Myrtle | Myrtaceae     | Lagerstroemia Speciosa     | Australia           |
| Rainbow Eucalyptus   | Myrtaceae     | Eucalyptus Deglupta        | Indonesia           |
| Ribbon Gum           | Myrtaceae     | Eucalyptus Viminalis       | Southeast Australia |
| Surinam Cherry       | Myrtaceae     | Eugenia Uniflora           | Guayana             |
| Bougainvillea        | Nyctaginaceae | Bougainvillea Spectabilis  | Brazil              |
| Star Jasmine         | Oleaceae      | Jasminum Gracillimum       | Borneo              |
| Starfruit            | Oxalidaceae   | Averrhoa Caramboia         | China               |
| Areca Palm           | Palmae        | Chrysalidocarpus Lutescens | Madagascar          |
| Australian Fan Palm  | Palmae        | Livistona Mariae           | Australia           |
| Bamboo Palm          | Palmae        | Chamaedorea Costaricana    | Central America     |
| Betelnut Palm        | Palmae        | Areca Catechu              | Malaysia            |
| Bismarckia           | Palmae        | Bismarckia Nobilis         | Madagascar          |
| Blue Lantan Palm     | Palmae        | Lantania Loddigesii        | Mauritius           |
| Bottle Palm          | Palmae        | Mascarena Lagenicaulis     | Mascarene Island    |
| Canary Island Date   | Palmae        | Phoenix Canariensis        | Canary Islands      |
| Chinese Fan Palm     | Palmae        | Livistona Chinensis        | South China         |
| Coconut Palm         | Palmae        | Cocos Nucifera             | Polynesia           |
| Date Palm            | Palmae        | Phoenix Dactylifera        | Arabia              |
| Fishtail Palm        | Palmae        | Caryota Urens              | Ceylon              |
| Fishtail Palm        | Palmae        | Caryota Mitis              | Burma               |
| Fountain Palm        | Palmae        | Livistona Australis        | Queensland          |
| King Palm            | Palmae        | Archontophoenix Alexandrae | Queensland          |
| Loulu Palm           | Palmae        | Prichardia Globata         | Hawaii              |
| MacArthur Palm       | Palmae        | Ptycosperma Macarthurii    | New Guinea          |

### 355 Haiku Road Botanical Garden Tree List

| Common Name       | Family        | Latin Name                     | Origin              |
|-------------------|---------------|--------------------------------|---------------------|
| Manila Palm       | Palmae        | Vietachia Merrillii            | Philippines         |
| Oil Palm          | Palmae        | Elaeis Guineensis              | Central Africa      |
| Paradise Palm     | Palmae        | Howeia Forsteriana             | Lord Howe Island    |
| Petticoat Palm    | Palmae        | Washingtonia Filitera          | Southern California |
| Piccabeen Palm    | Palmae        | Archontophoenix Cunninghamiana | Australia           |
| Pigmy Date        | Palmae        | Phoenix Roebelenii             | Vietnam             |
| Pinanga           | Palmae        | Pinanga Patula                 | Sumatra             |
| Princess Palm     | Palmae        | Dictyosperma Album             | Mauritius Island    |
| Queen Palm        | Palmae        | Arecastrum Romanzoffianum      | Bolivia             |
| Royal Palm        | Palmae        | Roystonea Regia                | Cuba                |
| Royal Palm        | Palmae        | Roystonea Elata                | Florida             |
| Ruffled Fan Palm  | Palmae        | Licuala Grandis                | New Britain Island  |
| Sealing Wax Palm  | Palmae        | Cyrtostachys Lakka             | Borneo              |
| Sintinel Palm     | Palmae        | Washingtonia Robusta           | Mexico              |
| Triangle Palm     | Palmae        | Neodypsis Decaryi              | Madagascar          |
| Wild Date         | Palmae        | Phoenix Sylvestris             | India               |
| Windmill Palm     | Palmae        | Trachycarpus Fortunei          | Japan               |
| Screw Pine        | Pandanaceae   | Pandanus Rockii                | Hawaii              |
| African Fern Pine | Podocarpaceae | Podocarpus Gracilior           | Kenya               |
| Bird's Nest Fern  | Podocarpaceae | Asplenium Nidus                | Hawaii              |
| Lychee            | Proteaceae    | Litchi Chinensis               | South China         |
| Macadamia Nut     | Proteaceae    | Macadamia Tetrphylla           | Queensland          |
| Loquat            | Rosaceae      | Eriobotrya Japonica            | China               |
| Gardenia          | Rubiaceae     | Gardenia Jasminoides           | China               |
| King Ixora        | Rubiaceae     | Ixora Macrothyrsa              | Sumatra             |
| Lemon             | Rutaceae      | Citris Limon                   | China               |
| Orange            | Rutaceae      | Citris Sinensis                | Spain               |
| Tangerine         | Rutaceae      | Citris Reliculata              | South East Asia     |
| Fern Tree         | Sapindaceae   | Filicium Decipiens             | Australia           |
| Puas              | Sapindaceae   | Harpullia Arborea              | Philippines         |
| Sapodilla         | Sapotaceae    | Manilkara Zapota               | Central America     |
| Mock Orange       | Saxifragaceae | Philadelphus Virginalis        | North America       |
| Teak              | Verbanaceae   | Tecfona Grandis                | Java                |
| Red Ginger        | Zingiberaceae | Alpinia Purpurata              | South Pacific       |

## **TMK (2) 2-7-3:87**

### **Farm Plan**

The Farm Plan for this property continues to meet the requirements as permitted by MCC Section 19.30A.050A(2) and (7).

Consisting of just under 20 acres, the property was historically the manager's home for the Haiku Sugar Company dating back to 1860. In 1910 the property was purchased from the sugar plantation by Henry Perine Baldwin and it remained in the Baldwin family until 1978. In the late 1800's and the early part of the last century, the owners collected and planted many rare species of tropical trees from around the world. These trees were brought from Africa, China, Malaysia, Indonesia, South America and other parts of the world. Today this rare collection creates a botanical garden covering much of the property. A list of the trees and their origins is attached.

The first major tree planting occurred in the 1860's making many of the trees older than the onsite dwellings. Through the Baldwin family's ownership and each subsequent owner, these exotic trees have been professionally cared for and nurtured. One of the dominant trees on the property is a banyan tree that is well over 130 years old. Cook Island pine trees planted around 1900 tower over much of the property's perimeter. These pines were originally planted with hopes of making them into masts for sailing ships but when they did make it to sea, it was found that they warped significantly.

The third major planting occurred at the beginning of World War II on the southern end of the property. An open field was feared to be a good landing place for Japanese airplanes so more trees were added to the gardens.

Maintaining the land as a botanical garden flush with this significant number of trees fully meets the goal of "agricultural land conservation" as noted in 19.30A.050A(2). This collection of tree species has been, and continues to be, preserved as a site of cultural landscape with historical and botanical significance within the meaning of Section 19.30A.050A (7).

Currently the property at 355 Haiku Road is maintained by a staff of two full time employees and one part time employee. Their responsibilities include the harvesting of fruits which is grown on about 12% of the property, the overall care of the trees and other vegetation within the botanical gardens, maintaining the botanical garden water feature and other grounds maintenance as needed.

The harvested fruit is currently consumed by staff and the owners of the property. Upon receipt of the Conditional Use Permit the fruit will primarily be utilized by the guests staying on property and by those attending onsite special events. Excess production will be sold to third party vendors. There are currently approximately 75 mature, fruit producing orange trees on the property.



There are currently over 120 varieties of trees on the property. They include fruit trees such as sapodilia, mango, avocado, lemon, tangerine and orange trees. There are many types of palm trees ranging from areca to windmill palms. There are also many exotic varieties such as baobab, jatropha and Queensland Kauri.

Any future structures will be accessories to the agricultural endeavor, the special events or the main dwelling. They will be added so as to not encroach on the planted areas.

ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

February 9, 2016

Mr. Barry Helle  
100 Wailea Ike Drive, Suite 4  
Wailea, Hawaii 96753

Dear Mr. Helle:

RE: FARM PLAN NO. FRMP 2006/0111, FOR THE PROPERTY LOCATED  
AT 355 HAIKU ROAD, HAIKU, MAUI, HAWAII, TMK:(2)2-7-003:087

We have received the subject farm plan update including the complete list of plants/trees and the written description of the agricultural uses on the property. We find this update complete and acceptable on paper.

If you have any questions regarding this letter, please call Ms. Rulan Waikiki, Land Use and Building Plans Examiner, via email at [Rulan.Waikiki@mauicounty.gov](mailto:Rulan.Waikiki@mauicounty.gov) or by calling 270-7507.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Rapacz".

JOHN S. RAPACZ  
Planning Program Administrator


xc: Rulan Waikiki, Land Use and Building Plans Examiner (PDF)  
Gina Flammer, Staff Planner (PDF)  
Project File  
16/ZAED TMK File  
General File

JSR:RW

K:\WP\_DOCS\PLANNING\Farmplans\2006\0111\alga\2016\FRMPB&BAppLetter.doc

**EXHIBIT 14**

**AGENCY TRANSMITTAL RESPONSE e-FORM**  
**FOR DEPARTMENT OF PLANNING, COUNTY OF MAUI**  
**3/16/2016**

|  |   |              |                      |
|--|---|--------------|----------------------|
| <b>AGENCY NAME</b>   | Department of Environmental Mgmt.   | <b>PHONE</b> | 270-8230             |
| <b>PROJECT:</b>  | 355 Haiku Road  |              |                      |
| <b>APPLICANT:</b>  | Barry Hele on Behalf of 355 Haiku Road LLC  |              |                      |
| <b>PERMIT NO:</b>  | SUP2 2015/0012 & CP 2015/0007   |              |                      |
| <b>TMK:</b>  | (2) 2-7-003:087   |              |                      |
| <b>STREET ADDRESS:</b>   | 355 Haiku Road, Haiku, Maui, Hawaii   |              |                      |
| <b>PROJECT DESCRIPTION:</b>  | Special events and rentals of less than 180 days                                    |              |                      |
| <b>SECURITY CODE:</b>  |   |              |                      |
| <input type="checkbox"/> COMMENTS/RECOMMENDATIONS <input checked="" type="checkbox"/> NO COMMENTS  |   |              |                      |
| <b>WASTEWATER RECLAMATION DIVISION COMMENTS</b>  |   |              |                      |
|  |   |              |                      |
| <input checked="" type="checkbox"/> COMMENTS/RECOMMENDATIONS <input type="checkbox"/> NO COMMENTS  |   |              |                      |
| <b>SOLID WASTE DIVISION COMMENTS</b>   |   |              |                      |
| <p>If and when construction occurs, the contractor must apply to the Central Maui Landfill to dispose of construction waste and obtain a project number. Information is available at <a href="http://www.mauicounty.gov">www.mauicounty.gov</a> or from the web with the inquiry, "Maui County C&amp;D."</p> |   |              |                      |
|  |   |              |                      |
| <b>Signed:</b>   |  |              |                      |
| <b>Print Name:</b>   | Michael M. Miyamoto, Deputy Director  |              | <b>Date</b> 03/16/16 |

**EXHIBIT 15**



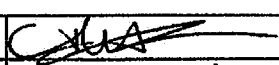
|                    |                                    |              |          |
|--------------------|------------------------------------|--------------|----------|
| <b>AGENCY NAME</b> | Finance / Real Property Assessment | <b>PHONE</b> | 463-3155 |
|--------------------|------------------------------------|--------------|----------|

Agency Transmittal - 355 Haiku Road SUP2 2015/0012 and CP 2015/0007

February 24, 2016

Page 2

| NO COMMENT  |  |        |  |
|-------------|--|--------|--|
| Signed:     |  | Dated: |  |
| Print Name: |  | Title: |  |

| RECOMMENDED CONDITIONS BOX   |   |        |                            |
|--|---|--------|----------------------------|
| <p>That it be classed as 'commercial' like STRH's, NOT 'commercial residential' as TVR/BB's.</p> |   |        |                            |
| Signed:  |  | Dated: | 3-21-16                    |
| Print Name:  | Marcy Martin  | Title: | Property Technical Officer |

| GENERAL COMMENTS BOX |  |        |  |
|----------------------|--|--------|--|
|                      |  |        |  |
| Signed:              |  | Dated: |  |
| Print Name:          |  | Title: |  |

EXHIBIT 16

**From:** Paul Haake  
**To:** Gina Flammer  
**Date:** 4/25/2016 10:35 AM  
**Subject:** 355 Haiku Road – Special Events and Rentals - SUP2 2015/0012 & CP 2015/0007

Hi Gina,

Comments from our office regarding the referenced subject provided below. Let me know if there are any questions or comments.

Thanks,

Paul

\*\*\*\*\*

April 25, 2016

Department of Planning  
Attn: Gina Flammer  
2200 Main Street, Suite 315  
Wailuku, HI 96793

Re: 355 Haiku Road – Special Events and Rentals  
355 Haiku Road, Maui Hawaii  
(2) 2-7-003: 087  
SUP2 2015/0012 & CP 2015/0007

Dear Gina:

Thank you for the opportunity to provide comment on this subject. At this time, our office provides the following comments:

- Our office reserves the right to comment on any building permit associated with this parcel or use. At that time, fire protection, access, and life safety concerns will be addressed.
- In regards to private event set-ups, the following are recommendations: tents and canopies in excess of 700 square feet in size shall be of flame-retardant material; open flame and cooking operations should be 20 feet from tents; and generators and light towers should be at least 5 feet from tents or canopies and isolated from contact by event attendees by fencing.
- Use of pyrotechnics at any event requires Fire Prevention Bureau approval.
- Fire extinguishers with a minimum rating of 2A-10BC should be within 75 feet travel distance for event set-ups.
- Any event open to the general public will require a site plan review and approval by the Fire Prevention Bureau.
- In regards to the short-term rental of existing buildings on the parcel, the following recommendations are provided: working smoke alarms shall be provided in all sleeping rooms, on every level, and in areas leading to sleeping rooms; smoke alarms shall be tested monthly and batteries changed at least annually with documentation of each test and battery-change noted in a log; an evacuation plan shall be provided for all sleeping rooms; and fire extinguishers with a minimum 2A-10BC rating shall be provided with 75 feet travel distance.

If there are any questions or comments, please feel free to contact me at 876-4693. Thank you for your attention to fire prevention and public safety.

**EXHIBIT 17**

Sincerely,

Paul Haake  
Captain - Fire Prevention Bureau  
Dept. of Fire & Public Safety  
County of Maui

313 Manea Place Wailuku, HI 96793  
876-4690 office  
876-4693 direct line  
244-1363 fax



**355 HAIKU ROAD LLC  
4050 KALAI WAA STREET  
WAILEA, MAUI, HAWAII 96753**

Paul Haake, Captain  
Fire Prevention Bureau  
Dept. of Fire & Public Safety  
County of Maui  
313 Manea Place  
Wailuku, Hawaii 96793

**Re: 355 Haiku Road – Special  
355 Haiku Road, Maui, Hawaii  
(2) 2-7-003: 087  
SUP2 2015/0012 & CP 2015/0007**

Dear Captain Haake:

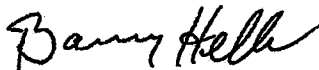
I want to thank you very much for your correspondence to Gina Flammer of the Maui County Planning Department regarding our application for Conditional and Special Use Permits for our property in Haiku.

Please know that I am in receipt of the correspondence and acknowledge each of your comments regarding any future building permit application and special events on the property.

We also acknowledge and pledge to provide the required fire extinguishers, smoke alarms and evacuation plans for our short term rental dwellings.

Again, thank you for your correspondence.

Sincerely,



Barry Helle  
Applicant

**EXHIBIT 17a**

ALAN M. ARAKAWA  
Mayor

DAVID C. GOODE  
Director

ROWENA M. DAGDAG-ANDAYA  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**

200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

March 17, 2016

GLEN A. UENO, P.E., P.L.S.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

Highways Division

COUNTY OF MAUI  
DEPT OF PLANNING - CURRENT

MAR 24 2016

RECEIVED

MEMO TO: WILLIAM R. SPENCE, PLANNING DIRECTOR

FROM: 8 DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS

SUBJECT: **CONDITIONAL PERMIT APPLICATION FOR 355 HAIKU ROAD**  
**TMK: (2) 2-7-003:087**  
**SUP2 2015/0012; CP 2015/0007**

We reviewed the subject application and have the following comment:

Comment from the Highways Division:

1. Provide adequate off-street parking to accommodate up to 500 guests. On-street parking should be avoided for traffic and safety considerations.

If you have any questions regarding this memorandum, please call Rowena M. Dagdag-Andaya at 270-7845.

DCG:RMDA:da

xc: Highways Division

Engineering Division

S:\DSA\Engr\CZM\Draft Comments\27003087\_355\_haiku\_road\_sup2\_cp.wpd

EXHIBIT 18

ALAN M. ARAKAWA  
Mayor



DAVID TAYLOR, P.E.  
Director

PAUL J. MEYER  
Deputy Director

**DEPARTMENT OF WATER SUPPLY**  
**COUNTY OF MAUI**  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793-2155  
[www.mauewater.org](http://www.mauewater.org)

March 30, 2016

Ms. Gina Flammer, Staff Planner  
Department of Planning  
County of Maui  
250 South High Street  
Wailuku HI 96793

Re: I.D.: SUP2 2015/0012, CP 2015/0007  
TMK: (2) 2-7-003:087  
Project Name: 355 Haiku Road  
Special Use Permit and Conditional Permit Applications

Dear Ms. Flammer:

Thank you for the opportunity to comment on these applications. We understand that if approved, the proposed use will be for short term rental of main dwelling and cottage, as well as hosting special events.

**Source Availability and System Infrastructure**

The project area overlies the Haiku aquifer, with a sustainable yield of 27 million gallons per day (MGD) according to the Commission on Resource Management (CWRM). The applicant states that the property is served by a 3/4-inch meter, and is on the waiting list for meter expansion. 355 Haiku Road LLC also owns an adjacent property that has an existing well and 20,000 gallon storage tank. In consultation with the Department of Water Supply (DWS), a plan is being formulated that the entire property will be serviced by the private water system until the water meter expansion allows the property to be converted back to DWS. Granting of the conditional and special use permits should be conditioned upon installation of a backflow preventer, if not already installed on site.

**Conservation and Pollution Prevention**

Please consider using climate-adapted native plants for future landscaping. Native plants adapted to the area

*"By Water All Things Find Life"*

1

**EXHIBIT 19**



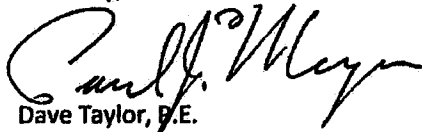
Gina Flammer  
355 Haiku Road

conserve water and protect the watershed from degradation due to invasive alien species. Implementing Best Management Practices (BMPs) protects groundwater resources. The mitigation measures below will alleviate adverse impacts on water quality during construction:

- Prevent cement products, oil, fuel, and other toxic substances from falling onto the ground as they can reach the water table.
- Evaluate the site for the best grading method that will create the least amount of debris and sediment loss.
- Minimize disturbance to the smallest area possible.
- Retain natural ground cover until the last possible date. Stabilize denuded areas by sodding or planting native species as soon as possible. Use high seeding rates to ensure rapid stand establishment.
- Use appropriate methods to minimize soil erosion and trap sediments.
- Avoid fertilizers and biocides, or apply only during periods of low rainfall to minimize chemical run-off.
- Keep run-off on site.

Should you have any questions, please contact Marti Buckner of the Water Resources and Planning Division at 463-3104 or [marti.buckner@mauicounty.gov](mailto:marti.buckner@mauicounty.gov).

Sincerely,



Dave Taylor, P.E.

Director

mlb

cc: engineering division

**355 Haiku Road LLC  
4050 Kalai Waa Street  
Wailea, Maui, Hawaii 96753**

April 12, 2016

Dave Taylor, Director  
Maui County Department of Water  
200 South High Street  
Wailuku, Hawaii 96793

Dear Director Taylor:

Subject: 355 Haiku Road LLC  
(2) 2-7-003:87  
SUP2 2015/0012 & CP 2015/0007

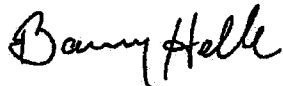
Thank you very much for your letter dated March 30, 2016 to Gina Flammer of the Maui County Planning Department providing comments on our project at 355 Haiku Road. I have reviewed your comments and am pleased to say that we will be in full compliance with your comments.

In regards to a backflow preventer, we have verified that one has been installed on the water system.

While our plans for future construction are minimal, we agree to follow the Best Management Practices (BMP's) if and when construction does occur. We recognize the importance of controlling any potential pollution, conserving water and avoiding the introduction of alien species.

Again, I appreciate your comments and pledge our adherence to them.

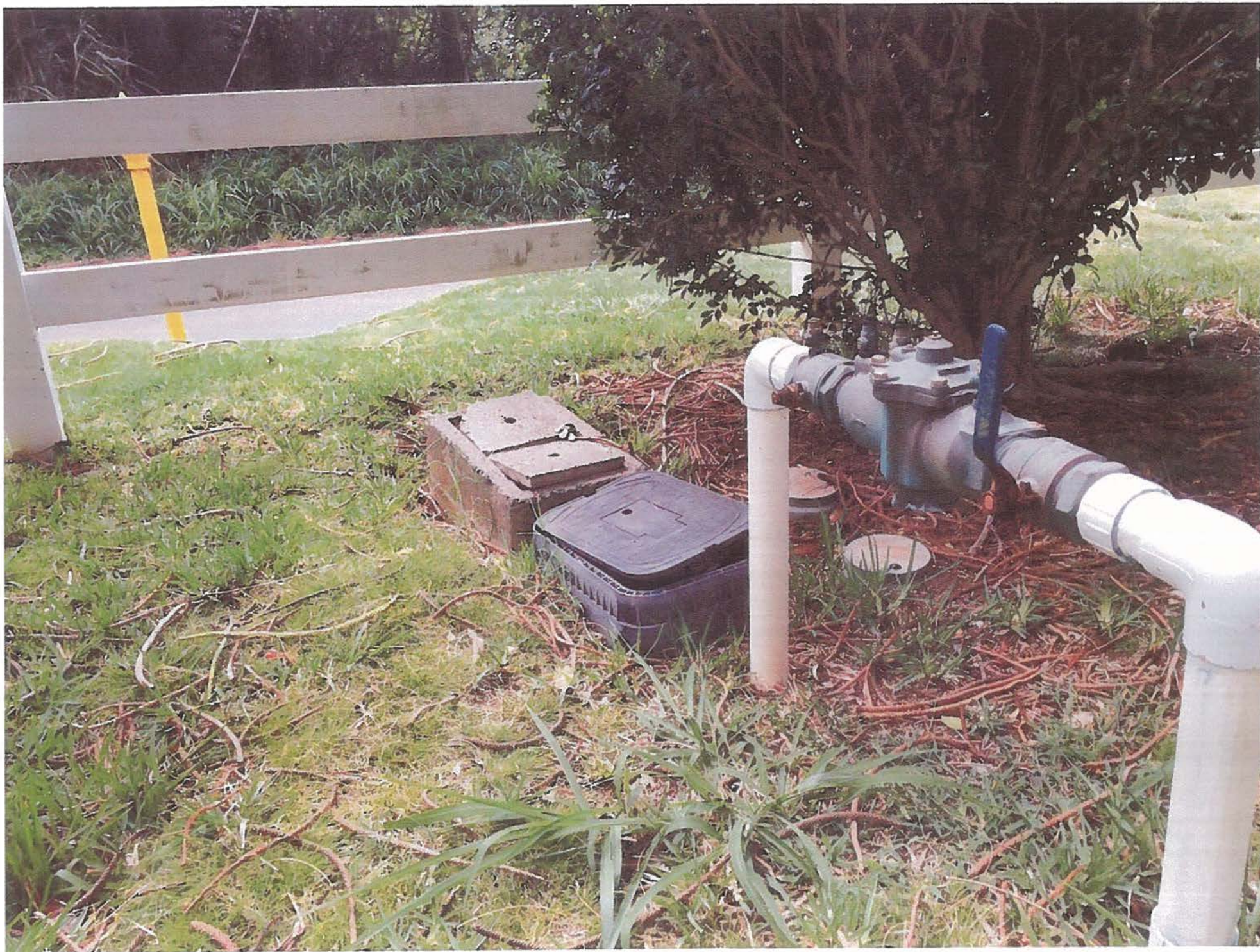
Sincerely,



Barry Helle  
Applicant

**EXHIBIT 19a**









ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
FAX (808) 244-6411



TIVOLI S. FAAUMU  
CHIEF OF POLICE

DEAN M. RICKARD  
DEPUTY CHIEF OF POLICE

March 8, 2016

COUNTY OF MAUI  
DEPT OF PLANNING - CURRENT

MAR 09 2016

RECEIVED

### MEMORANDUM

TO : GINA M. FLAMMER, STAFF PLANNER  
DEPARTMENT OF PLANNING

FROM : TIVOLI S. FAAUMU, CHIEF OF POLICE

SUBJECT : PERMIT NO. : SUP2 2015/0012 & CP 2015/007  
TMK : (2) 2-7-003:087  
Project  
Name : 355 Haiku Road  
Applicant : Barry Helle on behalf of 355 Haiku Road LLC,  
Special events and rentals of less than 180  
days

☐ No recommendation or comment to offer.

☒ Refer to enclosed comments and/or recommendations.

Thank you for giving us the opportunity to comment on this project.

Assistant Chief Victor K. Ramos  
For: TIVOLI S. FAAUMU  
Chief of Police

Enclosure

EXHIBIT 20

*Oruen*

**TO : TIVOLI FAAUMU, CHIEF OF POLICE, COUNTY OF MAUI**

**VIA : CHANNELS** *SUBMIT APPROVAL*  
*CAPT. [Signature] 03/24/16*

**FROM : MIGUEL MUNOZ, POLICE OFFICER III, COMMUNITY OFFICER**

**SUBJECT : SPECIAL USE PERMIT APPLICATION FOR THE PROPOSED PROJECT '355 HAIKU ROAD'**

**Victor K. Ramos**  
**Assistant Chief**  
*3/7/16*

This communication is submitted as a response to a request for comments for the Special Use Permit Application for the proposed project 355 Haiku Road located at 355 Haiku Road in Haiku. The request for comments was sent by Gina Flammer, Staff Planner, Department of Planning regarding:

PROJECT : 355 Haiku Road  
TMK # : (2) 2-7-003: 087  
APPLICANT : Barry HELLE on behalf of 355 Haiku Road LLC  
  
PERMIT # : SUP2 2015/0012 & CP 2015/0007

**PROJECT INFORMATION:**

The proposed 355 Haiku Road project calls for short term rentals and special events. The project will be situated on a private 13.9 acre parcel of land located at 355 Haiku Road in Haiku. The plan calls for short term rental of the main dwelling and cottage and to host weddings and special events in designated areas on the property. There will be construction of additional restrooms and kitchen facility to accommodate special events. A pool house will also be constructed with restrooms and a multi-use room.

**RESPONSE:**

In review of the submitted documents, concerns from the police perspective are upon the safety of pedestrian and vehicular movement.

For any construction occurring, there should be consideration for noise levels in regards to any neighboring or area residents. Noise levels for special events should also be taken into account. All parking for events is on site and should not affect area residents. Proper lighting will enhance safety, and deter crime on the property.

**CONCLUSION:**

There are no objections to the progression of this project at this time.

Respectfully Submitted,



Ofc. Miguel MUNOZ, E#15096  
P.O.III, Community Policing, Wailuku Patrol  
03/01/2015 at 1530 Hours

Private property location, all parking  
within the private land. Recommend  
approval.

Heather M. GILROY E # 1268  
03/02/16 @ 1530 hours



DAVID Y. IGE  
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HI 96801-3378

In reply, please refer to:  
File:

EPO 16-073

March 9, 2016

Ms. Gina Flammer, Staff Planner  
County of Maui  
Department of Planning  
One Main Plaza Building  
2200 Main Street, Suite 315  
Wailuku, Hawaii 96793  
Email: gina.flammer@mauicounty.gov

Dear Ms. Flammer:

**SUBJECT: Pre-Assessment Consultation (PAC) for a Conditional Use Permit Application  
Special Events and Rentals of Less than 180 Days  
355 Haiku Road, Haiku, Maui  
TMK: (2) 2-7-003:087**

The Department of Health (DOH), Environmental Planning Office (EPO), acknowledges receipt of your PAC to our office on March 1, 2016. Thank you for allowing us to review and comment of the proposed project. The PAC was routed to the District Health Office on Maui and Clean Water Branch. They will provide specific comments to you if necessary. EPO recommends that you review the standard comments and available strategies to support sustainable and healthy design provided at: <http://health.hawaii.gov/epo/landuse>. Projects are required to adhere to all applicable standard comments.

EPO suggests you review guidance maps and viewers available on the Environmental Planning GIS website:  
<http://health.hawaii.gov/epo/egis>

EPO also encourages you to examine and utilize the Hawaii Environmental Health Portal. The portal provides links to our e-Permitting Portal, Environmental Health Warehouse, Groundwater Contamination Viewer, Hawaii Emergency Response Exchange, Hawaii State and Local Emission Inventory System, Water Pollution Control Viewer, Water Quality Data, Warnings, Advisories and Postings. The Portal is continually updated. Please visit it regularly at: <https://eha-cloud.doh.hawaii.gov>.

We request that you utilize all of this information on your proposed project to increase sustainable, innovative, inspirational, transparent and healthy design.

Mahalo nui loa,

A handwritten signature in black ink, appearing to read "Laura Leialoha Phillips McIntyre".

Laura Leialoha Phillips McIntyre, AICP  
Program Manager, Environmental Planning Office

Attachments: OEQC Viewer: <http://eha-web.doh.hawaii.gov/oeqc-viewer>  
U.S. EPA EJScreen Report: <http://www2.epa.gov/ejscreen>

c: DOH: DHO Maui, CWB (via email only)

EXHIBIT 21

355 Haku Road, Haku, Maui

0 sites found

Filter

Map Location

355 Haku Rd, Haku, HI 96703, USA

Show sites with no location

OEBC viewer

Hybrid



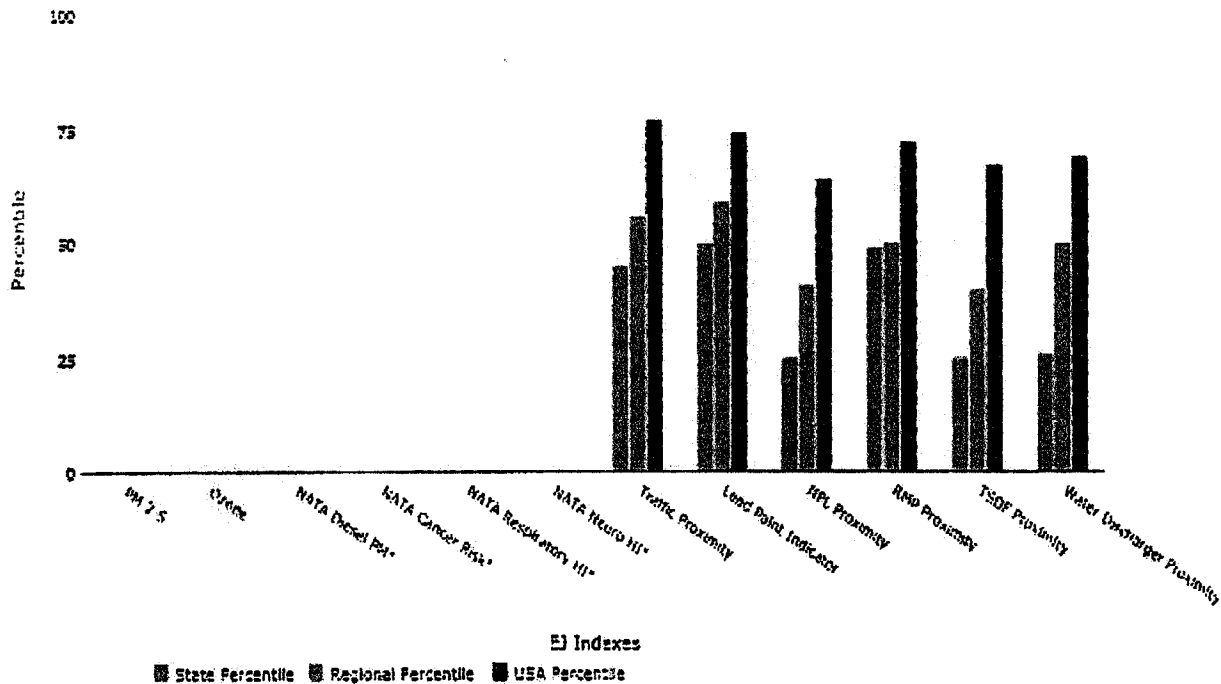


1 mile Ring Centered at 20.790545,-156.336911  
HAWAII, EPA Region 9  
Approximate Population: 515



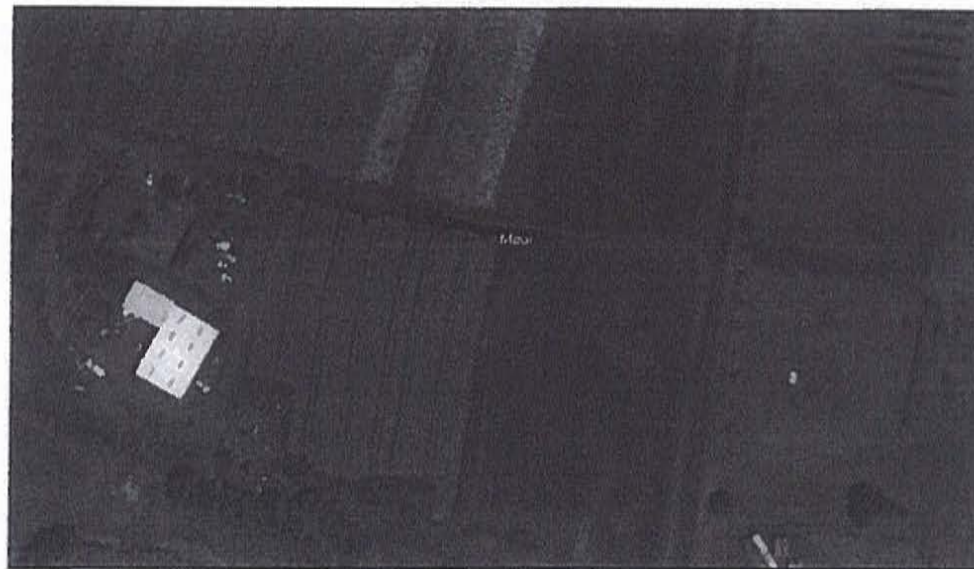
| Selected Variables                           | Percentile in State | Percentile in EPA Region | Percentile in USA |
|--|---------------------|--------------------------|-------------------|
| <b>EJ Indexes</b>                            |                     |                          |                   |
| EJ Index for Particulate Matter (PM 2.5)     | N/A                 | N/A                      | N/A               |
| EJ Index for Ozone                           | N/A                 | N/A                      | N/A               |
| EJ Index for NATA Diesel PM*                 | N/A                 | N/A                      | N/A               |
| EJ Index for NATA Air Toxics Cancer Risk*    | N/A                 | N/A                      | N/A               |
| EJ Index for NATA Respiratory Hazard Index*  | N/A                 | N/A                      | N/A               |
| EJ Index for NATA Neurological Hazard Index* | N/A                 | N/A                      | N/A               |
| EJ Index for Traffic Proximity and Volume    | 45                  | 56                       | 77                |
| EJ Index for Lead Paint Indicator            | 50                  | 59                       | 74                |
| EJ Index for NPL Proximity                   | 25                  | 41                       | 84                |
| EJ Index for RMP Proximity                   | 49                  | 50                       | 72                |
| EJ Index for TSD Proximity                   | 25                  | 40                       | 67                |
| EJ Index for Water Discharger Proximity      | 28                  | 50                       | 69                |

EJ Index for the Selected Area Compared to All People's Block Groups in the State/Region/US



This report shows environmental, demographic, and EJ indicator values. It shows environmental and demographic raw data (e.g., the estimated concentration of ozone in the air), and also shows what percentile each raw data value represents. These percentiles provide perspective on how the selected block group or buffer area compares to the entire state, EPA region, or nation. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the US population has a higher block group value than the average person in the location being analyzed. The years for which the data are available, and the methods used, vary across these indicators. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJSCREEN documentation for discussion of these issues before using reports.





March 6, 2016

Updated Point

Scale: 1:10,000  
 0 1 2 3 4 5 6 7 8 9 10  
 0 1 2 3 4 5 6 7 8 9 10  
 Miles Kilometers

| Selected Variables  | Raw data | State Average | %ile in State | EPA Region Average | %ile in EPA Region | USA Average | %ile in USA |
|---|----------|---------------|---------------|--------------------|--------------------|-------------|-------------|
| <b>Environmental Indicators</b>                                     |          |               |               |                    |                    |             |             |
| Particulate Matter (PM <sub>2.5</sub> in $\mu\text{g}/\text{m}^3$ ) | N/A      | N/A           | N/A           | 9.95               | N/A                | 9.78        | N/A         |
| Ozone (ppb)   | N/A      | N/A           | N/A           | 49.7               | N/A                | 46.1        | N/A         |
| NATA Diesel PM (count/m <sup>3</sup> )                              | N/A      | N/A           | N/A           | N/A                | N/A                | N/A         | N/A         |
| NATA Air Toxics Cancer Risk (max cancer)                            | N/A      | N/A           | N/A           | N/A                | N/A                | N/A         | N/A         |
| NATA Respiratory Hazard Index*                                      | N/A      | N/A           | N/A           | N/A                | N/A                | N/A         | N/A         |
| NATA Neurological Hazard Index*                                     | N/A      | N/A           | N/A           | N/A                | N/A                | N/A         | N/A         |
| Traffic Proximity and Volume (city traffic count/stance to road)    | 44       | 280           | 37            | 190                | 35                 | 110         | 55          |
| Lead Paint Indicator (% pre-1960s housing)                          | 0.089    | 0.17          | 44            | 0.25               | 43                 | 0.3         | 33          |
| NPL Proximity (site count/km distance)                              | 0.0051   | 0.002         | 14            | 0.11               | 5                  | 0.006       | 1           |
| RMP Proximity (facility count/km distance)                          | 0.085    | 0.18          | 42            | 0.41               | 17                 | 0.31        | 28          |
| TSDF Proximity (facility count/km distance)                         | 0.0054   | 0.002         | 15            | 0.12               | 1                  | 0.054       | 11          |
| Water Discharger Proximity (count/km)                               | 0.05     | 0.33          | 12            | 0.10               | 13                 | 0.25        | 12          |
| <b>Demographic Indicators</b>                                       |          |               |               |                    |                    |             |             |
| Demographic Index   | 45%      | 51%           | 27            | 48%                | 50                 | 35%         | 70          |
| Minority Population   | 66%      | 77%           | 23            | 67%                | 57                 | 36%         | 76          |
| Low Income Population   | 24%      | 25%           | 65            | 36%                | 38                 | 34%         | 38          |
| Linguistically Isolated Population                                  | 0%       | 6%            | 25            | 0%                 | 20                 | 5%          | 45          |
| Population with Less Than High School Education                     | 8%       | 10%           | 48            | 18%                | 32                 | 14%         | 30          |
| Population under Age 5  | 9%       | 6%            | 81            | 7%                 | 75                 | 7%          | 79          |
| Population over Age 64  | 10%      | 14%           | 30            | 12%                | 51                 | 13%         | 40          |

\*The National-Scale Air Toxics Assessment (NATA) environmental indicators and EJ indexes, which include cancer risk, respiratory hazard, neurodevelopment hazard, and diesel particulate matter will be added into EJSCREEN during the first full public update after the soon-to-be-released 2011 dataset is made available. The National-Scale Air Toxics Assessment (NATA) is EPA's ongoing, comprehensive evaluation of air toxics in the United States. EPA developed the NATA to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that NATA provides broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. More information on the NATA analysis can be found at: <https://www.epa.gov/national-air-toxics-assessment>.

For additional information, see: [www.epa.gov/environmentaljustice](http://www.epa.gov/environmentaljustice)

EJSCREEN is a screening tool for pre-decisional use only. It can help identify areas that may warrant additional consideration, analysis, or research. It does not provide a basis for decision-making, but it may help identify potential areas of EJ concern. Users should keep in mind that screening tools are subject to substantial uncertainty in their demographic and environmental data, particularly when looking at small geographic areas. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJSCREEN documentation for discussion of these issues before using reports. This screening tool does not provide data on every environmental impact and demographic factor that may be relevant to a particular location. EJSCREEN outputs should be supplemented with additional information and local knowledge before taking any action to address potential EJ concerns.

16/1451

DAVID Y. IGE  
GOVERNOR OF HAWAII



COUNTY OF MAUI  
DEPT OF PLANNING  
CURRENT DIV-RECEIVED

VIRGINIA PRESSLER, M.D.  
DIRECTOR OF HEALTH

LORRIN W. PANG, M.D., M.P.H.  
DISTRICT HEALTH OFFICER

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
MAUI DISTRICT HEALTH OFFICE  
54 HIGH STREET  
WAILUKU, HAWAII 96793-3378

MAR 28 08:44

March 24, 2016

Mr. William R. Spence  
Director  
Department of Planning  
One Main Plaza Building  
2200 Main Street, Suite 315  
Wailuku, Hawai'i 96793

Attn: Gina M. Flammer

Dear Mr. Spence:

**Subject:** 355 Haiku Road  
**Applicant:** Barry Helle on behalf of 355 Haiku Road LLC  
**Permit No.:** SUP2 2015/0012 & CP 2015/0007  
**TMK:** (2) 2-7-003:087  
**Project Location:** 355 Haiku Road, Haiku Maui, Hawaii  
**Project Description:** Special events and rentals of less than 180 days

Thank you for the opportunity to review this project. We have the following comments to offer:

1. Please provide wastewater disposal method for the special events and a site plan for the current wastewater system serving the existing structure(s) on the property in order for us to provide comments. If you have any questions, please contact Roland Tejano, Environmental Wastewater Engineer at 808 984-8232.
2. Some special events may require a Temporary Food Establishment Permit per Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code." Please call our office for more details at 808 984-8230.
3. If a private well is to be utilized, please contact the Safe Drinking Water Branch at 808 586-4351.

EXHIBIT 22

Mr. William R. Spence  
March 24, 2016  
Page 2

It is strongly recommended that the Standard Comments found at the Department's website: <http://health.hawaii.gov/epo/home/landuse-planning-review-program/> be reviewed and any comments specifically applicable to this project should be adhered to.

Should you have any questions, please contact me at [patricia.kitkowski@doh.hawaii.gov](mailto:patricia.kitkowski@doh.hawaii.gov) or 808 984-8230.

Sincerely,

A handwritten signature in blue ink that reads "Patti Kitkowski". The signature is fluid and cursive, with the first name "Patti" and last name "Kitkowski" clearly distinguishable.

Patti Kitkowski  
District Environmental Health Program Chief

c EPO



**355 HAIKU ROAD LLC  
4050 KALAI WAA STREET  
WAILEA, MAUI, HAWAII 96753**

May 11, 2016

State of Hawaii  
Department of Health  
Maui District Health Office  
54 High Street  
Wailuku, Hawaii 96793

Dear Ms. Kitkowski:

Subject: 355 Haiku Road LLC  
Permit Application SUP2 2015/0012 & CP 2015/0007

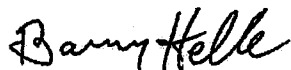
Thank you for your letter dated March 24, 2016 to Mr. William Spence, Maui County Planning Director, providing comments on our application for a County Conditional Use Permit and a State Special Use Permit. I want to acknowledge your comments and let you know that we will follow up on your requirements and recommendations.

As for the wastewater disposal plan for special events we are in the process of reviewing a proposal from a local engineering firm to work with us in developing the plan. Once we receive approval to hold such events, we will move forward with this firm to develop the plan and submit it for approval.

Your other comments have also been reviewed and will be followed up on prior to any events being held on the property.

Thank you again for your consideration.

Sincerely,



Barry Helle  
Applicant for 355 Haiku Road LLC

**EXHIBIT 22a**



## OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

NEIL ABERCROMBIE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

Telephone: (808) 587-2846  
Fax: (808) 587-2824  
Web: <http://hawaii.gov/dbed/op/>

Ref. No. P-15093

March 31, 2016

Mr. William Spence, Director  
County of Maui Department of Planning  
2200 Main Street, Suite 315  
Wailuku, Hawaii 96793

Attention: Ms. Gina M. Flammer

Dear Mr. Spence:

Subject: 355 Haiku Road  
Barry Helle on Behalf of 355 Haiku Road LLC  
355 Haiku Road, Haiku, Maui, Hawaii  
Special Events and rentals of less than 180 days  
(2) 2-7-003: 087  
SUP2 2015/0012 & CP 2015/0007  
Lot size: 18.92 acres

The Office of Planning (OP) has reviewed the subject application and offers the following comments.

The applicant requests a Special Use Permit and a Conditional Permit to allow for the establishment of a special event venue for weddings and other types of special events, which could include yoga classes, and other types of catered events. The applicant is also requesting to utilize the existing 10-bedroom dwelling, and one-bedroom cottage for short term rentals. The main dwelling was formerly known as the Baldwin Estate.

According to the application, the short term rentals would be limited to one cohesive group, with a minimum stay of five (5) to seven (7) nights. The property also contains a swimming pool, gazebo, and a large deck constructed as a cathedral. There is a botanical garden on site. The application proposes additional uses and structures, such as a 50 foot by 100 feet paved with concrete pavers. This area may be covered by a large tents for special events. A pool house containing restrooms, and a multi-purpose room will be built next to the swimming pool. Parking for about 66 vehicles will also be provided. The current septic system will be upgraded to a certified septic system, and all the additional uses will also be serviced by a septic system. Potable water is provided by the County of Maui. The expansion of the uses is

EXHIBIT 23

proposed to be serviced by a privately developed water system on a temporary basis, until the County of Maui can allow water service to be expanded to accommodate the additional uses and structures.

The application also indicates that the public use of the property will be limited to an area of 13.9 acres in size. See applicant's exhibit A. The applicant also notes that the botanical garden plan was submitted to the Maui Department of Planning as a farm plan. The application includes a letter from the Department of Planning, dated February 9, 2016, that the plan is complete and acceptable on paper.

1. The proposed site is within the State Agricultural District, and is zoned Agriculture. Although soils on the property are classified as c by the Land Study Bureau's Overall Master Productivity Rating System, they are classified as Prime agricultural lands by the Agricultural Lands of Importance to the State of Hawaii (ALISH) system. The property is within flood zone "X."
2. The permitting of this special events venue in the State Land Use Agricultural District through the Special Permit process warrants careful consideration of impacts to agricultural lands. Pursuant to HRS § 205-6, county planning commissions may permit certain "unusual and reasonable" uses not otherwise allowed in the State Land Use Agricultural District. Accordingly, applicants must demonstrate what special circumstances exist to justify approval through the Special Permit process.
3. OP questions the reasonableness of this use within the State Agricultural District. The Special Permit guidelines in Hawaii Administrative Rules (HAR) § 15-15-95 provide that the proposed use shall not be contrary to the objectives of HRS Chapter 205. A major objective of HRS Chapter 205 is to protect agricultural lands and ensure their continued availability for agricultural use. The proposed special events venue constitutes a commercial visitor-oriented use that could result in increasing agricultural land values to the detriment of farmers seeking to acquire agricultural lands and pursue agricultural activities. In addition, OP is concerned about related adverse impacts caused by the proposed use in terms of increased traffic in the area, increased noise levels in the area, and the establishment of other non-agricultural, visitor-serving uses such as bed and breakfasts, short-term vacation rentals, restaurants, and retail shops within the Agricultural District.
4. OP would also question the application's assertion that the area for the Special Permit is limited to 13.9 acres, and thus less than the 15 acre threshold for County of Maui approval. The boundary for the Special Permit area delineated in the applicant's Exhibit A does not appear to have any specific characteristic, such as topography, that would warrant the deletion of that area for the purposes of the Special Permit.



Mr. William Spence  
Page 3  
March 31, 2016

Therefore, unless there is a unique circumstance that would preclude the remainder 5.02 acres, OP would strongly recommend that the County Department of Planning process this Special Permit for the entire 18.92 acres.

If you have any questions, please contact Ms. Lorene Maki of our Land Use Division, at (808) 587-2888.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Asuncion', with a stylized flourish at the end.

Leo R. Asuncion  
Acting Director

c: Land Use Commission

**355 Haiku Road LLC  
4050 Kalai Waa Street  
Wailua, Maui, Hawaii 96753**

April 11, 2016

Mr. Leo R. Asuncion, Acting Director  
State of Hawaii  
Office of Planning  
235 S. Beretania Street, 6<sup>th</sup> Floor  
Honolulu, Hawaii 96804

Dear Mr. Asuncion:

Subject: 355 Haiku Road  
(2) 2-7-003:87  
SUP2 2015/0012 & CP 2015/0007  
Lot Size 18.92 acres

Thank you for providing your comments regarding our application to William Spence, Maui County Planning Director. As the applicant, I also received a copy of your comments.

The summary of what we are proposing to do with the property is accurate except that our plans are to rent the main dwelling and cottage for as short as one night. This was corrected in an amended application and unfortunately the copy you received listed it as 5 to 7 nights. I apologize for this confusion.

I would like to emphasize that we have submitted, and received approval, of our farm plan from the County of Maui. While we desire to utilize the rental of the existing dwellings and some of our open space for special events, our property is an approved, functioning farm. It is not our intention to reduce or replace our farm activity for "visitor-serving uses". We are actually exploring opportunities to expand our farm operation.

In regards to the area for the Special Permit to be used for the rental activity and special events, we purposely excluded the boundary areas along the two adjoining roads and neighboring properties. The area adjacent to Haiku Road was not included due to the fact that it is heavily covered with trees and a small stream. The trees are a major buffer for noise and the stream excludes the area from special events activities.

The area along Kalanikahua Road was excluded because it is significantly away from our proposed activity area and it is currently a sloped yard with some trees and not suitable for activities.

**EXHIBIT 23a**

State of Hawaii  
Office of Planning  
April 11, 2016  
Page 2

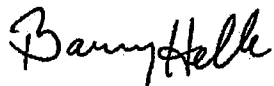
I would also like to address some issues raised in comment #3. We have carefully looked at the impacts of noise and traffic. The actual area that we have designated for special events is in the center of our property, as far away from the road and neighboring properties as possible. As mentioned above, we have many mature trees that line the perimeter of our property that will significantly reduce noise. We also expect the Maui County Planning Commission to require us to abide by the same curfew of 10pm as the neighboring Haiku Mill, which is an approved wedding site.

We also plan to handle traffic in a similar fashion as to the Haiku Mill. For the occasional large group, we will bus them to the site. Our nightly rental activity will have very little traffic impact as we will not be renting individual rooms.

In summary, our business plan is to operate and expand our farm operations while also utilizing the dwellings and grounds as an additional revenue source. As the former manager's residence of Maui's primary sugar plantation, there is much significance and community interest in seeing this property maintained. Our plan will afford us the ability to do this.

Thank you again for your comments and I hope I have been able to address your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Barry Helle".

Barry Helle  
Applicant



May 13, 2016

Aloha Neighbor:

My name is Barry Helle and I represent the ownership of 355 Haiku Road which you may know as the former Baldwin Estate. Please find enclosed a notice and map indicating that we will be appearing before the Maui County Planning Commission on June 14 as part of our application process to receive a Maui County Conditional Use Permit and a State of Hawaii Special Use Permit.

As the notice indicates we are seeking permission to rent the main dwelling and our cottage on a short term basis. We also would like to use our property for occasional special events such as weddings.

We recognize that Haiku is a special community and that our own property has some historical significance here on Maui. We believe our plans will allow for the preservation of the property while allowing for a special experience for those who visit.

As an immediate neighbor, we feel it is important that you are aware and comfortable with our plans. So that we can fully share our intentions with you, we would like to invite you to a small gathering at our home on Saturday May 28<sup>th</sup>.

**Please join us at 355 Haiku Road from 3pm to 6pm on May 28<sup>th</sup>.**

We will present our plans for the property, answer any questions that you may have, and of course, listen to any and all comments.

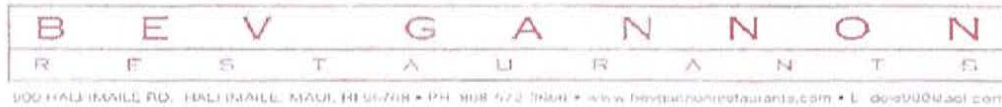
I want to thank you in advance for your consideration. If you have any immediate questions or comments, I can be reached at 875-5140. I would appreciate your letting me know if you will be able to join us on May 28<sup>th</sup> by calling me or via email at [bhelle@waileablue.com](mailto:bhelle@waileablue.com).

Thank you again, and I look forward to meeting you on Saturday May 28<sup>th</sup>.

Sincerely,

Barry Helle

**EXHIBIT 24**



May 25, 2016

Mr. William Spence, Planning Director  
And Members of the Maui Planning Commission  
2200 Main Street  
Wailuku, Hawaii 96793

SUBJECT: 355 Haiku Road LLC Application for a Conditional Permit to Conduct Special Events and to Permit  
Transient Vacation Rentals on property located at 355 Haiku Road, Haiku, Maui

Dear Mr. Spence and Members of the Maui Planning Commission:

I am writing on behalf of Bev Gannon Restaurants dba Celebrations Catering, to express our support of the application by 355 Haiku Road LLC for a conditional permit to conduct special events and allow transient vacation rentals on the property located at 355 Haiku Road (the Haiku Estate).

The Haiku Estate is a magnificent property which provides an exceptional venue for special celebrations, such as wedding receptions and family gatherings. With its spacious garden setting, it is also a perfect setting for larger events. In the past, our catering company has provided services to some charitable organizations for their functions the Haiku Property, including the American Heart Association and the Pacific Cancer Foundation. The applicant intends to once again open up the Haiku Estate to such charitable events in the future.

Upon the granting of the permits, both our Maui community and visitors to Maui will be able to experience the unique beauty and rich history of the Haiku Estate. Permitting special events to be held at the Haiku Estate will be beneficial to our local economy providing businesses like ours the opportunity to showcase our Maui cuisine as well as jobs to photographers, florists, musicians and many other small businesses. Allowing transient vacation rentals will complement the special event, allowing the participants to continue to relax and enjoy their stay on Maui before and after the event.

Bev Gannon Restaurants/Celebrations Catering fully supports the granting of the permits and asks the commission to act favorably upon this application. Thank you for your consideration of our comments.

Very truly yours,

A handwritten signature in cursive script, reading 'Rebecca Schillachi', is written over the typed name.

Rebecca Schillachi

Bev Gannons Restaurants/Celebrations Catering

EXHIBIT 25

# Post-Report Testimony



16/2837  
May 20, 2016

William Spence, Director  
Maui County Planning Department  
2200 Main St.  
One Main Plaza Bldg  
Ste 315  
Wailuku, HI 96793

COUNTY OF MAUI  
DEPT. OF PLANNING - CURRENT

JUN - 8 2016

RECEIVED

Dear Director Spence:

Subject: 355 Haiku Road LLC  
(2)2-7-003:87  
SUP2 2015/0012 & CP 2015/0007

My name is Ed White and I have been the caretaker for the property at 355 Haiku Road for 26 years. I previously worked for the Simon family who owned the property for many years and have now worked for 355 Haiku Road LLC for just over a year. Through my work, I have grown to know this property very well.

I am writing in support of the permit applications submitted by 355 Haiku Road LLC. I believe their plan to use the property for weddings, while maintaining the farm aspect, is a good one. The mature botanical garden will offer a perfect setting for these events. Located in the heart of the property, the area proposed for the weddings is very private. I do not believe that noise will be an issue since the area is surrounded by all the trees.

Having people rent the home is also part of the plan. This makes sense to me as having families or small groups of people staying on the property will have no impact on the neighborhood, but will assure that the house is utilized, which from my perspective is good for the home.

I support the permit applications because I think the weddings and home rental is a good fit for this property.

Sincerely,



Ed White

10/2835  
May 20, 2016

William Spence, Director  
Maui County Planning Department  
2200 Main St.,  
One Main Plaza Bldg  
Ste 315  
Wailuku, HI 96793

Dear Director Spence:

Subject: 355 Haiku Road LLC  
(2) 2-7-003:87  
SUP2 2015/0012 & CP 2015/0007

I have lived in the Haiku community for many years and am quite familiar with the property at 355 Haiku Road. My relationship with this property goes all the way back to my younger days when I was employed by the Baldwin family helping with the daily chores of maintaining their home. I have fond memories of my time at the former Baldwin Estate and I have a deep appreciate of this property.

My husband and I have been blessed to have our home adjacent to the estate where our relationship with the property has continued.

We are in support of the plans proposed by the current owners of 355 Haiku Road. Their desire is to preserve the elegance of the property while allowing others to experience this special place through short term rental of the home and cottage and by hosting special events such as weddings.

We believe the property offers an ideal setting for such events. The property is large and heavily planted with trees and other vegetation, so this will offer the attendees their needed seclusion while having very little, if any, impact on us neighbors.

On behalf of my husband and I, we support the permit application of 355 Haiku Road LLC.

Sincerely,

*Mr & Mrs Calvin A. Zumbach*

COUNTY OF MAUI  
DEPT OF PLANNING - CURRENT

JUN - 8 2016

RECEIVED



16/2830  
June 3, 2016

William Spence, Director  
Maui County Planning Department  
2200 Main St.  
One Main Plaza Bldg  
Ste 315  
Wailuku, HI 96793

COUNTY OF MAUI  
DEPT. OF PLANNING - CURRENT

JUN - 8 2016

RECEIVED

Subject: 355 Haiku Road  
(2) 2-7-003:87  
SUP2 2015/0012 & CP 2015/0007  
Lot Size 18.92 acres

I would like to comment on the proposed Special Use Permit for the former Baldwin Estate at 355 Haiku Road. I am unable to testify in person.

My name is Dr. Bertram Weeks Jr, and my family has lived on at 435 Haiku Road since 1962. Our property directly adjoins the Baldwin Estate, on the south side of their property. Although I currently live on Oahu, other family members are living in the house and I return to Maui frequently. I grew up in Haiku, graduated from Baldwin High School and am planning to permanently retire in this home in the near future. My family enjoy the peace, tranquility and rural nature of our home and the community.

We have always had good relationships with our neighbors, and hope to continue the aloha with the new owners. The current owner is requesting: Short term rental of the main dwelling and cottage; Host weddings and special events; Construct additional restrooms and kitchen facility to accommodate special events; Construct pool house with restrooms and multi-use room. My concerns are the following:

**Short term rental of main dwelling and cottage:** We do not have an issue with short term rental of the property, as long as it is one group, not individual renters.

**Special events:**

Events with a limit of 150 guests is OK with us, if they hold the events on the northeast side of their property, away from our house. We support the idea of guests being transported to the property, to minimize the amount of traffic on the road. We encourage some rules on noise, such as stopping amplified music at 10 pm. We also encourage limiting the numbers of these events. Having a large party next door every weekend would significantly affect the quality of our life in our home.

We do not support the proposal of holding twice yearly large events with 500 guests. Events that size would create much more traffic and noise and would also require substantial parking. The current owners are proposing using the southern part of their property for parking, which happens to be adjacent to our lot. This would intrude on our privacy with increased chance of guests wandering on our property. Although there is some tree line that indicates our property line, there is no fence separating our properties, and we do not wish to erect a fence.

We worry that giving a variance for twice yearly events would lead to more frequent large events in the future. **Construction:** We do not have an issue with construction of additional restrooms and a kitchen facility, provided that those additional facilities are built near the main structures. The pool is on the opposite side of the property from our home, so a pool house would not affect us.

From our talk with the current property owners, it seems they wish to preserve the history and character of the neighborhood and property. We are not against all of the developments, but are most concerned with the impact that increased people, traffic and noise will have on us personally and also to our rural community. We are concerned that this conditional permit may pave the way for further, more disruptive development, especially with future owners. We hope you take this points under consideration when you make your decision about a conditional permit.

Sincerely,

Dr. Bertram A Weeks, Jr

435 Haiku Rd

Haiku, HI 96708

[weeklyupdate@hawaii.rr.com](mailto:weeklyupdate@hawaii.rr.com)

98-1941 F Kaahumanu St

Aiea, HI 96701

808-291-1195



June 13, 2016

David Deleon  
335 Waiama Way  
Haiku, Hawaii 96708

Dear Dave:

Thank you for your letter to the Maui County Planning Department regarding our application for a Conditional Use Permit for our property at 355 Haiku Road. I appreciate your support of the short term rental of the home.


I also want you to know that your concerns about noise from special events are something we take very seriously. We have given this much thought and have specifically identified a portion of our property for these events that we feel will naturally alleviate much of the noise. The area we selected is in the center of our overall property and heavily surrounded by mature trees and vegetation. We feel this will provide a natural buffer for the surrounding area.

It has been my experience, and that of others who have stayed at our property, that noise from Haiku Mill is barely noticeable as the heavy landscaping on our property filters the noise out. It is our hope that the same will be true of noise originating on our property.

We also anticipate working closely with Haiku Mill and at times sharing clientele. This will help create the scenario you request in your letter of not having events on two properties at the same time.

Again, I thank you for your letter.

Sincerely,



Barry Helle

Applicant for 355 Haiku Road LLC

HAIKU HOUSE  
355 HAIKU RD

June 9, 2016

Dr. Bertram A Weeks, Jr  
435 Haiku Rd  
Haiku, HI 96708

Aloha Bert and Chris,

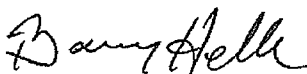
Thank you for your letter dated June 3, 2016 to Maui County Planning Director, William Spence, regarding our permit application for 355 Haiku Road. We want to thank you for your support of our plans to rent the home and cottage and for supporting special events for small to medium size groups.

Your concern about larger groups is understandable. It is not our desire to negatively impact the neighboring community. We will work towards measures that will minimize any traffic and parking impacts such as requiring bus shuttles and/or valet service when appropriate. We can also look towards maximizing the parking on the opposite side of our property as our first option before parking any cars in the area of our common property line.

Please know that the larger events would most likely be community based in nature such as a fundraiser for a local non profit.

Your support and feedback is very important to us as we go through this planning process. I want to thank you and we look forward to a long neighborly relationship.

Sincerely,



Barry Helle  
Applicant

H A I K U H O U S E  
3 5 5 H A I K U R D

**TESTIMONY**  
**IN OPPOSITION TO AN APPLICATION FOR A CONTINUAL USE PERMIT**  
**FOR AN OUTDOOR SPECIAL EVENTS VENUE AT 355 HAIKU ROAD**  
**JUNE 14, 2016**

SUBMITTED BY DAVID DELEON, 335 WAIAMA WAY, HAIKU

This testimony is opposition to the proposal for a special events venue at the old Baldwin Estate on Haiku Road. I support the proposed Short-term Rental request.

And if taken by itself, with modifications, I could support the proposal for a special events venue on this special property. However, this proposal is coming in tandem with another proposal for an existing special events entity nearly directly across Haiku Road from this proposal. We have been living with and putting up with the sound that comes from the Haiku Mill venue for the last decade. The idea of two such entities generating their music independently of each other at the same time makes my head hurt to just think about it. I see nothing in the Director's report about a condition to require that the two entities somehow coordinate their events so that they are not both pouring sound out of their grounds and jamming up Haiku Road with traffic at the same time.

This is Haiku we are talking about. It is quiet. That is why we live here. When there is a special event at the Haiku Community Center – nearly a mile away, we hear it. We live roughly 700 feet from the Baldwin Estate and maybe 800 feet from the Haiku Mill property. We hear the Mill events loud and clear. Besides the occasional outburst from the attendees, the Mill's music is at least distinct. My fear is that these two venues, if both are approved, will be filling the night with competing sounds that when combined will just become unacceptable noise.

Please note that the code's 500-foot rule is meaningless when applied to land uses that will send night-time noise into otherwise quiet communities. Such sound does not stop at 500 feet.

Property owners should be given the opportunity to use their property in the matter that they see fit – *as long as those uses do not have undue impacts on their neighbors*. This use will have an impact, and especially when combined with the Mill's functions. The only way I see around this problem is that the two events agree to a schedule so that they are not putting out amplified sound simultaneously on the same night.

It is ironic and should be taken into consideration that this is a quiet, rural community. This is not the Maui Arts and Cultural Center or Wailea, or for that matter, Central Park, New York. We have been living with one noisy special events business in our neighborhood. Why do we have to put up with two? Would you accept having two noisy, outdoors events centers that pour amplified music into the night's quiet in your neighborhood?



If the Commission decides to recommend approval in any case, please amend the condition for two large special events annually to allow only 250 persons, and not the requested 500. The reason for the requested change is a matter of scale. This is Haiku we are talking about, not the MACC or Wailea. Haiku Road is a narrow, rural road. It is not designed for such mass events.

Mahalo for your consideration of this testimony.

Submitted by David DeLeon, 335 Waiama Way, Haiku 96708, 575-9711,  
[dpdeleon@hawaiiantel.net](mailto:dpdeleon@hawaiiantel.net)

16-2870

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Thursday 06/09/2016

JUN 09 - 9 12:48

COUNTY OF MAUI  
DEPT. OF PLANNING  
ADMINISTRATION

**Bernadette Franco**  
**2511 Kalanikahua Road**  
**Haiku, Maui, HI 96708**

Mr. William Spence  
Director of Planning  
2200 Main St.  
One Main Plaza, Suite 315  
Wailuku, HI 96793  
Email: [planning@mauicounty.gov](mailto:planning@mauicounty.gov)

**RE: Support for Docket No. SUP2 2015/0012, CP 2015/0007**

Dear Mr. Spence:

I am the adjoining property owner (TMK: 2-2-7-003-088-0000) to the Baldwin Estate in Haiku. I am writing to express my support for the approval of the pending state Special Use Permit and Conditional Use Permit to operate transient vacation rentals and to conduct special events at 355 Haiku Road. The vision by my adjoining property owner, in my opinion will benefit Maui and bring needed jobs to our Island. It will also compliment the current properties in the area that support special events.

With all the potential that this project offers, I am truly excited to see what is to come in the near future.

My Sincerest Regards,  
Bernadette Franco  
2511 Kalanikahua Road  
Haiku, HI 96708

cc: Roy A. Franco, Esq.

116/2928  
June 10, 2014

William Spence, Director  
Maui County Planning Department  
2200 Main St.  
One Main Plaza Bldg  
Ste 315  
Wailuku, HI 96793

Subject: 355 Haiku Road  
(2) 2-7-003:87  
SUP2 2015/0012 & CP 2015/0007  
Lot Size 18.92 acres

Dear Mr. Spence,

I received an email from Barry Helle in response to the letter I sent to you last week. The owner's proposal is to maximize parking to the side of their property opposite our property line. They also propose bus/shuttles or valet parking.

I want to reiterate my position on hosting large events with 500 guests on the property. I STRONGLY oppose such large events. Whether the events are for community fund-raising, charity or just as a commercial venture, they will have a highly negative impact on the Haiku community and my family's personal peace and quiet. 500 guests will add significantly more noise, traffic and people to our quiet, rural community. My family is willing to support events limited to 150 guests, but NOT more than tripling that number to 500 guests.

While we appreciate the owners trying to decrease our concerns about parking next to our property line, the amount of people on the property will still be a problem. Just the number of vendors needed for such an event would be substantial and would add to the number of vehicles and people. We worry that setting a precedent to hold such large events will pave the way for more commercialization of the property.

There are several venues on the island that are available for large events. Please do not start changing the character of our neighborhood by allowing such large, commercial events.

Thank you for your consideration.

Sincerely,  
Dr. Bertram A Weeks, Jr.  
435 Haiku Rd  
Haiku, HI 96708  
[weeklyupdate@hawaii.rr.com](mailto:weeklyupdate@hawaii.rr.com)



98-1941 F Kaahumanu St  
Aiea, HI 96701  
808-291-1195

COUNTY OF MAUI  
DEPT. OF PLANNING - CURRENT

JUN 14 2016

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Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Hudson. Discussion regarding the motion? Director, can you repeat the motion, please?

Mr. Spence: The motion's to approve as recommended by Staff.

Chair Tsai: Okay, call for a vote. All in favor?

Mr. Spence: That's seven ayes.

Chair Tsai: Motion passes. Thank you.

**It was moved by Mr. Hedani, seconded by Mr. Hudson, then**

**VOTED: To Approve the Special Management Area Use Permit and Shoreline Setback Variance as Recommended by the Department.  
(Assenting – W. Hedani, L. Hudson, K. Robinson, L. Carnicelli,  
S. Duvauchelle, S. Castro, R. Higashi)  
(Excused – J. Medeiros)**

Chair Tsai: We're gonna take a 10-minute break. We'll return at 10 after 10:00.

A recess was called at 10:03 a.m., and the meeting was reconvened at 10:16 a.m.

Chair Tsai: Director, next item on the agenda?

Mr. Spence: Commissioners, we are on Item, public hearing item C-3. This is for Mr. Barry Helle on behalf of 355 Haiku Road LLC requesting a State land Use Commission Special Permit and a Conditional Permit in order to operate a vacation rental and have special events in their property in Haiku and our Staff Planner this morning is Gina Flammer.

**3. MR. BARRY HELLE on behalf of 355 HAIKU ROAD LLC requesting a State Land Use Commission Special Permit and a Conditional Permit in order to operate a transient vacation rental and special events in the State and County Agricultural Districts on a lot located at 355 Haiku Road, Haiku, Maui on TMK: 2-7-003:087 (Por.), Haiku, Island of Maui. (SUP 2015/0012) (CP 2015/0007) (G. Flammer)**

Ms. Gina Flammer: Okay, good morning Commissioners. I did wanna say with this project when the property went on the market for sale I got a number of calls about it and it was really interesting to hear what people wanted to do with it. I had one person that wanted to turn it into an American Butchart Gardens that it could get about a 1,000 people a day through there. And then I had somebody else that wanted to turn it into a full scale hotel and restaurant and I was concerned that our community plan policies don't really support that kind of development so I was relieved when I got this application with the project scope. I had worked with Wailea Group in 2010 on permits for their special events at the golf course so I was familiar with them.

I did wanna say before I turn it over to the applicant who's gonna give a presentation as we talked about during the training public notice only goes out 30 days prior to the hearings and the staff reports are due about three weeks. So you often get a lot of testimony. I know it came really disjointed. I just wanna go over partly for the record when we get to Council and also make sure you have all the testimony. So there is one letter of support in the application or in the staff report itself and then there were four letters that came in during the time between the report and you, one from Mr. and Mrs. Calvin which we think is Yamashita an adjacent neighbor, Ed White who's here today, who's an adjacent neighbor and also works on the property. Then we had two neighbor letters one adjacent to the south letter with concerns in it. And then testimony also with concerns in it from David DeLeon. You got all via email. And then the applicant responded to both the two people that had concerns and you should have those too as well.

So what I'd like to do now is I'm gonna turn it over to the applicant. We have Barry Helle who represents the Wailea Group. We also have Ann Takabuki who's the manager for the Wailea Group and then we have Ed White who's the groundskeeper. I'm gonna come back when they're done and I'm gonna talk a little bit about the project analysis, the department's recommendation and then we'll turn it over to you. So here I have Barry.

Mr. Barry Helle: Good morning, and it's a pleasure to be here with you today everybody. Representing...my name is Barry Helle and I represent 355 Haiku Road LLC which most recently people might know it as the Simon Estate and then for those of us who have been around Maui long time, were born here probably know it as the Baldwin Estate and currently...it is currently...355 Haiku Road LLC is subsidiary of Wailea Golf. We purchased this property about a little over a year ago. Ann Takabuki is our president. She's here as Gina said. I'm actually the general manager of the Blue Course but also help handle some of the special projects that our company has. We have a couple of onsite supervisors that kinda came to us with the purchase of the property. One is Michele Fujimoto unfortunately she couldn't be here today, but we have Ed White who is our property maintenance supervisor and Michele is our property manager. Between Ed and Michele they've got over 47 years of experience with this property. They've been with the previous owners prior to that. And Michele's mom who is also sent a letter in she worked for the...in her teens worked for the Baldwins when they owned this property so they have a long history with this property also.

Our parent company is actually out of Vancouver, British Columbia and it's a family-owned business and representing the family and working with us on this project is Erica Chan and Peter Juiswager. Peter and Erica are married. They've had a residence here on Maui for many, many years. The family has a long history with Maui. And Erica and Peter have been very instrumental in identifying this property and providing some of the vision as what we would like to do with it moving forward.

Again, we are here for a Conditional Use Permit and first of all let me just show you where exactly this is at. This right in here is Hookipa Beach Park, the big turn in the road obviously is Maliko Gulch. You come out of Maliko and you're gonna take the first right turn, you're gonna go up Haiku Road just about a mile, and so 355 Haiku Road is right in here about 10-minute drive Paia Town.

Again, we're here for a Conditional Use Permit, what we're asking to do is use the existing main two dwellings on the property, one is the house and then the cottage for short-term rentals. And then we're also asking for permission via the permit to provide and do special events on the property primarily weddings, corporate retreats and possibly charitable fundraisers. 355 Haiku Road is just under 19 acres in total. So it's a big parcel and would be perfect for these kinds of events.

Before I talk a little bit about what we really want to do I think it's important to understand the history of the property. Its roots are in agriculture, recorded history takes it all the way back to the 1849 when a early missionary, Richard Armstrong purchased 530 acres for King Kamehameha III. Richard Armstrong was actually the ministry of education for the monarchy. Was very instrumental in the fact that the Hawaiian people at that time were some of the most literate people in the world. They really took a big effort in educating the Hawaiian people. Mr. Armstrong was instrumental and so King Kamehameha III really rewarded him by selling him basically a good chunk of Haiku during that time. And in 1858 Mr. Armstrong along with some investors created Haiku sugar mill. The actual mill again is just across the street from us. In 1871 he brought in Samuel Alexander as the general manager of the property. And then in 1884 Samuel Alexander and his partner Henry Perrine Baldwin purchased outright Haiku sugar mill. They had previously partnered up to Paia mill and so they expanded with the purchase of Haiku sugar mill in 1884. Henry Perrine Baldwin was basically the general manager of the property throughout his, most of his career and in 1910 just a year before he passed away he actually purchased this parcel which is now 355 Haiku Road from the mill for his...as his personal residence. The property itself served as the residence for the general manager of the sugar plantation for many years and so I think as he was coming down to the end of his career he wanted to make sure that property stayed with his family so he purchased the assets from the sugar mill. I mentioned that he passed away in 1911 and his son, Dwight Coldbrook Baldwin took over the estate and then throughout the years for most of the last century it was known as the Baldwin Estate as it stayed within their family. In 1978, H.P. Baldwin's granddaughter and the son of Dwight Baldwin decided for whatever reason to sell the property and so that started a kind of a short chain of property being sold over the years. First to Athalie Irvine Clarke, she was a wealthy lady from Southern California. Her family was agriculture in California and actually a lot of what...their ag land became Irvine, California and she started a process of remodeling the main home and the cottage. Throughout the years it has some need for repair and so she actually started the process. The cottage that's on the property was actually Mr. Baldwin's office and over the years it was grown over with vines and she did a great job of starting the process of revitalizing the two main homes or dwellings on the property. In 1985, Mrs. Clarke traded the property, the Reverend Robert Schuller. She traded for a oceanfront condominium on Kahala over on Oahu and so Mr. Schuller started to utilize the property. He had a vision of doing religious retreats of the property and did some things and I'll talk about in second as far as what he did to accommodate that. Mr. Schuller only had it for about four years. Things weren't working out the way he wanted and so he looked to sell it and right about that time William Simon who was the Treasury Secretary, 63<sup>rd</sup> Treasury Secretary in the history of the United States, he was under Richard Nixon and Gerald Ford, he had just purchased Honolulu Savings and Loan, was looking for a home in the State of Hawaii, identified this property and basically bought it sight unseen and it stayed with their family up until the time that we purchased. Mr. Simon unfortunately passed away in the year 2000, a couple years before that he sold it or his estate sold it to two of his children who kept it as a second home all



the way up until last year when it went on the market and it was purchased by Wailea Golf. So that's when we got. And I kinda go through the history 'cause I think it's important that we as the current stewards understand the history of this property and what's meant throughout pine here on Maui and the relevance of it and I think it's important for you as the decision makers to understand that we understand that there's a lot of history with this property and it means something to the people of Maui.

Significant events, again the property has always been tied to agriculture starting with the sugar plantation and during, you know, going back to the late 1800's. Mr. Baldwin was...he had a lot of wealthy friends, they traveled the world and one of the things that his friends would do for him is bring back exotic trees from around the world. To this date there's over a 120 different varieties of exotic trees that have been brought to Maui and he planted and nourished on this property. So he really started the beginnings of what is a botanical garden and surrounded the property with just magnificent trees. One of the most notable is a banyan tree that just covers the central part of the property. It's magnificent.

Another major planting of trees occurred right after the turn of the century. There's a lot of Cook Island Pines that were planted there. The desire, the reason for planting those was they thought that they would make a good tree to be used as a mast for sailing ships. It didn't work out. Some of the early trees, the pine was too soft. I think it broke so the trees were never harvested. They were intended to be harvested for the sailing ships but they never were so they still stand there today. Many of those trees are still in place today. And then one last major time where a lot of trees were planted on the property, a lot of fruit trees actually were planted right at the beginning of World War II. There was open pastures on the property and there was always a fear that the Japanese would come back and try to land airplanes and so they wanted to kinda fill in the pastures so that you couldn't land an airplane there. So that was the last time that there was some major plantings on the property. But again, it truly is a botanical garden on this property. It's just magnificent mature trees throughout.

Other significant events is it was always kind of a gathering place. You go back to in the early days of the Haiku sugar mill. A typical Sunday was for all the employees to come over and have picnics with their families. It was a real...you know, the one day they get off this is where they came. So it's always had, always been a place where people would congregate. Henry Perrine Baldwin once threw a huge luau in honor of Queen Liliuokalani. She came to Maui, they brought her up to Haiku and the whole community came out for that. And throughout the years there's been charitable events for local organizations and other parties. So it's agriculture but it's also been used for special events throughout the years, all these time.

The renovation side of it, again for the home itself was started by Mrs. Clarke. The Reverend Schuller again going back to his desire to do religious retreats he added a six-bedroom wing onto the property so that, you know, people come in and they'd have a...you could house a lot of people. He also built an outdoor cathedral so he could actually have sermons there for his people. And the buildings and the modifications that have gone on over the years is one reason the house really doesn't qualify for any kind of historical registry. It's been modified. It's been, you know, remodeled over the years so it doesn't really qualify as any kind of historical facility but there's still a lot of history there. And then the Simons did a great job. They brought in

landscapers and whatnot and really regroomed the property too during their time to make it into what it is today.

It's always been a farm. It's always been, it's been going on as an active farm. When we purchased it it did have a approved farm plan and we reapplied for that again just to update it and so it does have a fully approved farm plan. This right through here is the main botanical garden area. We have a waterway down through here. A lot of the exotic trees and everything grow all around it. This is the main house. This is the cottage. This upper area here is more fruit trees and such and then this is like palm trees and different trees. They're flood resistant down in here although we really don't have much of a flooding problem.

These are just some of the pictures of the trees. You can see the vast maturity of it and a lot of this just encloses the property quite a bit. A lot of threes have been marked. You see the little name plate over here. One of the things that we're planning on doing is going back through the property again bringing a botanist. We tried to work with Ernest Rezents but he was quite busy last fall. We're hoping to get him out there again and help us reidentify all of the trees in there so that we can properly mark them and know exactly what is there.

Again, we're going for a Conditional Use Permit to rent the home out, to rent the home and cottage out and to use the property for special events. This is a site plan of the property. Basically we've carved out...the whole property right here is 14 is actually just under 19 acres, 18.9 acres. The shaded area is about 14.9 just for where our special events and things go. This is the house. This is a pool. One thing we wanna do eventually is build a pool house so we'll either build it here or over there. We haven't quite identified the exact spot. This is the cathedral that Reverend Schuller built on the property amongst all the trees and everything here. You can see the vastness of the property. We actually also own this side of it here, but it's a different TMK and so our focus here today is strictly on this property.

The main house is 10 bedrooms with the addition of the wing that Reverend Schuller built on. It is 10 bedrooms. The cottage is just one bedroom. Our plan as far as renting it is to rent to one contiguous group. We're not interested in doing single room bed and breakfast type of thing. Well if somebody's gonna rent it they're gonna rent the entire facility. We're not interested in renting to multiple parties at a given time. It be nightly rental. We expect most of the rentals might be, you know, three, five, seven nights, somewhere in that range and the typical people that we're marketing to, I think it will be you know families would come in, maybe multi-generational with grandmas and families and the grandkids and things like that and enjoy the entire property. Wedding parties would be cause we wanna have the weddings there and you could have the whole wedding party stay within the house. And then of course, Corporate retreats. I think this would be good. We actually had our corporate retreat. We brought in some of our own staff and had them stay there for a few days and it worked out perfectly for that. You can kind of sequester them away. We got, you know, places where they can meet and do strategic planning and things like that. So it's ideal for something of that nature.

Just some photos of the property to get an idea of the expanse of it and how heavily vegetated it is. This is from just in front of the main house looking makai. The white fence is bordering Kalanikahua Road which is right below us. This is over just a little bit also looking makai just out

in front of the house overlooking the pool it's onsite. This is the cottage, the sidewalk leading from the main house over to the cottage and then the cottage has been fully renovated.

Interior shots of the house. Definitely old plantation style. This is the living room. This is the master bedroom. Everybody from Merle Streep to Newt Gingrich stayed there under the Simon family. The six bedroom wing all the bedrooms are identical. There's two photos there and they're basically...the six bedrooms are identical. Every bedroom has its own bathroom and then you have the sleeping area and then you also have kind of a at the end of each room is kind of a seating area where you can read and things like that. This is the kitchen area. This is not the main dining area. There's another dining room right adjacent to that. But again, old plantation style. This is probably the most popular room in the house which is actually just an enclosed lanai, screened in, great if you just wanna chill out, read, just kick back and relax. It's very therapeutic. This is an interior shot of the cottage living room.

The special events that we wanna do on the area, on the property, we've identified an area that's in the center of the property as far away from Haiku Road as you can get and most of the neighbors. It's about 5,000 square feet and so it's an ideal spot and it's heavily vegetated around it and that's where we would do...designate as area for special events. It's basically adjacent to where the cathedral's at and it's basically this is a Google Earth shot and I know it's not real clear and everything but this is the main house here and the 5,000 square feet that I'm talking about is right in here. You can see it's encircled by mature trees, these are the banyan trees. This building here is a barn. It's a maintenance facility that Ed uses. That is not a house. The nearest, let's see I think it's like over 400 feet down to the road, this way is about 600 feet and actually to the nearest homes up in here which there are some homes right in here is about 850 feet. So there's some good distance between each of the neighbors and again, the special events section that we would use for weddings and receptions is here. And again, we own this parcel so that's not an issue with any neighbors on that side, but it's totally enclosed by vegetation. This is kinda at the top of the...of that grass lawn looking towards the ocean and you can see it's heavily vegetated. This is from the opposite side looking back up the hill. So we really think that if there's noise generated here through, you know, at a wedding reception, you know the vast majority of it is gonna get absorbed by the heavy trees.

I think this is pretty close to what I think was what was in the staff report is what is being recommended. Smaller groups, 80 people or less, five times a week, Sunday to Thursday and 8:00 p.m. curfew, 10:00 p.m. on Friday and Saturday. Once the groups get a little bit bigger we can only do them twice a week again with the 8 o'clock, 10 o'clock sound curfews and then up to 500 people a couple of times a year. And in the report there was a bunch of other conditions and we have no problem with any of the conditions that the Department has presented in that report.

Parking is an issue that we have to address. This again is our special events area here. If you go to 500 people the requirement is 2.5 cars...or 2.5...one stall per 2.5 people is what I should say. So if you do go to 500 people that's 100 and ...no 200 stalls are required. We have identified and we've worked with Chris Hart and Associates identifying parking all along that road. We have three entrances into the property. This is the main entrance here. We have another one up off of Haiku Road and then one off of Kalanikahua. In this area alone is about 80 parking stalls and then we could easily fit...this actually shows up the 250, but we wouldn't



really need that much. You could fit the balance of it probably much in this area right in here. This a grass lawn. If we ever did that kind of a event we probably would valet the cars. We're not gonna have people drive up in there themselves. We would control it. We would problem either have them valet over in this area where the guests could drop their car and just walk a short walkway to the event site or maybe even at the main entrance or right in front of the main house we could do that then valet them over. For smaller groups we would let them park but this area for smaller groups would easily handle the parking requirements that have been identified. That's pretty much it as far as the presentation goes as far as what we got. Thank you for your consideration.

Chair Tsai: Thank you, Barry.

**a) Public Hearing**

Chair Tsai: At this time I'd like to open the floor for public testimony.

Ms. Adrienne Gadica: Good morning. My name is Adrienne Gadica and I have to picture you right now as eighth graders because I teach at Kalama and I'm really nervous about this so it helps when I think you're eighth graders.

I live right where the ...(inaudible)...of the concept use plan is. And even though it's across Haiku Road and it's across a gulch I'm within the noise that parties from the Simons have generated. And I'm very, very concerned especially because of it being rented like, like you know, these concept, these adventure weddings from the mainland. On Maui we go to bed, the party ends often at 10 o'clock. On the mainland it doesn't. So if you rent for many dollars a whole house, and a pool house and everything would you stop partying at 10 o'clock? I'm not from Hawaii. You can hear my accent. I'm from Germany originally so we would not ever have stopped at 10 o'clock if we paid that much money. Where I live I have lived there since 1993 in my house. We build it and I really enjoy the rural quietness that's part of why I moved from Haliimaile to Haiku much quieter, fewer Halloween children too, trick or treaters, but it's just very rural, very quiet even though the Coqui frogs are trying to destroy that right now on one side. But now I'm worried about the other side. We already have one event place very close at the corner where Chris Hart is right across there. But the difference is the owner of this event site lives there and nobody spends the night there so it's much easier to enforce 10 o'clock lights out. How are you going to do that if you have people 10 bedrooms staying there having a...I mean, I feel sorry almost for them if they to stop at 10 o'clock because that's just not what party people do. And I also don't understand why this property wouldn't be held to all the other properties who have short-term rentals where you can have a maximum of 12 people staying there. Why is this different? It is a beautiful, gorgeous property but it should be held to same rules as all the other short-term rentals in the neighborhood. And I think that's it.

So if the permit for special events is given then I really would look for the following of restrictions like no amplified music. The parking should be onsite although I'm worried about all the gorgeous trees that was pointed out. Strict quiet hours but I don't know how they will be enforced. Their numbers of events should be restricts and the numbers of attendees also. Thank you very much.

Chair Tsai: Thank you.

Ms. Josie Malott: Good morning. My name is Josie Malott and I also live in the neighborhood near the proposed event site. I have lived in Hawaii 20 plus years. I remember a Maui that had nothing but two-lane roads, one traffic light on island. It has changed tremendously. I lived in Wailuku for many years and when my husband and I saw the expansion of Wailuku we decided to move to Haiku to rural residential area. We have two acres and the goal is to have a quiet home life. My husband and I work Monday thru Friday. Our home is our sanctuary. We enjoy our quiet time. There is another location across the street from the proposed location that already has a special use permit for events. Again, Adrienne mentioned that they are responsible that they have the owners onsite and they are. It's also located kind of in a gulch area so and it is protected by old buildings so the noise level isn't that high although we can hear events fairly often but they do respect the 10 o'clock curfew. I don't understand why a mainland company with no interest in residential rural community wants to have this area opened up for a commercial event site where we already have plenty of traffic on Haiku Road. There are two shopping centers and a post office, the Haiku Cannery. Nearby there's plenty of traffic and here they wanna open up the traffic to hundreds of cars. That road is also fairly dangerous. The property across the street from the proposed site is already missing a few palm trees from accidents at that turn which is supposed to be a 20 miles per hour turn and you know I've heard and seen a fair share of accidents already at that area. We moved from Wailuku to have our peace and quiet, you know will be forced to move from Haiku? Where will we go to? So it is a big impact. We've lived on our property now for close to 15 years and yes, it's a beautiful site. There are other sites nearby to have events. There's Haiku Community, theirs is Plumeria and Baldwin Street. There is the Hui No'eau. There's Seabury Hall. There is Paia Community Center. There's Baldwin Beach. There are a lotta places where people can have events in that area.

Ms. Takayama-Corden: Three minutes.

Ms. Malott: Thank you.

Chair Tsai: Anyone else wish to testify at this moment? Seeing none, public—oh, come forward please?

Ms. Sylvia Hamilton Kerr: Good morning everybody. My name is Sylvia Hamilton Kerr and I am just here to testify in support of this project. These people are my neighbors and I know them. I'm friends with them. I have history and I just know them to be very thoughtful, kind people and reasonable people and I think that there won't be...I think they'll be very respectful of the neighbors just knowing who they are and the kind of people that they are. I really hear the two people who just testified on their concerns and I think that that the owners and the people that run the place would be very sensitive to those concerns and really keep those things in mind. Noise is definitely a concern I think. I think there's any getting around that. And I think you know, as the owner of a property in a business like that myself I know that if you...from my point of view, your business depends on being sensitive to neighbors because if you're not sensitive to neighbors you're not gonna really have a business for long I think. So that would be one point. I have a very good friend that actually did get married at that site 27 years ago one of my

best friends on the island and so if there's some precedent for that and really that's all I have to say. Thanks very much. Thank all of you for being here and volunteering your time.

Chair Tsai: Thank you. Public testimony is now closed. Questions from the Commission?

Ms. Flammer: Did you want the Department's analysis before you launch into that effort?

Chair Tsai: After yeah.

Mr. Hudson: Question?

Chair Tsai: Yeah?

Mr. Hudson: Recommendation first?

Chair Tsai: No, I do it after.

Mr. Hudson: I have a question might be for you Director. There isn't an exception to this, right if they're staying there...80 people aren't staying there overnight, right?

Chair Tsai: Mic?

Mr. Hudson: I'm sorry. Is a short-term home rental is two persons per bedroom correct?

Mr. Spence: Correct.

Mr. Hudson: So you have, you have a limited amount of 20 to 22 people that should be there after 2200 hours is that correct?

Mr. Spence: If I could go by military time.

Mr. Hudson: Ten o'clock.

Mr. Spence: It doesn't qualify as a short-term rental home because those are limited to six bedrooms. This has 10 bedrooms. So that's why they're going for the extra permit, for the Conditional Permit. So yes, it's normally limited two per bedroom but you wanna add something Gina?

Ms. Flammer: Yeah, it actually might be useful for me to go through the analysis and the conditions to better understand the scope of the project. How the Department is putting limitations on it. Would you be okay with me doing that?

Chair Tsai: Yeah, that's fine.

Ms. Flammer: Okay. So what I wanna do first is there's a lot in the report. I just wanna remind you of the two permits that we're looking at. We're looking at the State Special Permit because it's zoned Agricultural and then we're looking at a Conditional Permit because it's County zoned



Agriculture. So with the State Land Use Special Permit, it starts on Page 7, but the actual criteria for evaluating that permit are on Page 8. There's five that are listed but I just wanna talk about what's really relevant to today and to special events types of...and transient vacation rental types of projects. Number 2, the desired use will not affect, adversely affect the surrounding property. That's probably the most important. And then when you look at the Conditional Permit and you go to Page 9, and you're looking at kind of the two-thirds of the way down under establishment, under A, the Code specifically talks that the proposed use needs to not be significantly detrimental to the public interest, convenience and welfare and will be in harmony with the area in which it is located. So I think what you know now from being on the Commission a while, and I'll just remind the two new commissioners how it works, we typically use the conditions to mitigate the project so that it meets those particular criteria. But what I mentioned earlier is when the public notice goes out only 30 days in advance and the report gets prepared, you don't always get the neighbor testimony. So we rely really strongly on mana'o, your review today and your comments and your conditions that you kinda craft in today's hearing. So the special events permit is something that you have the authority on. The conditions that you place on that will stay. The Conditional Permit goes to the County Council for a final review. However, they don't have the ability to expand on the limitations that you put on. They can actually have further limiting conditions but they can't grant something that is more broad than what you, what you put on today. So you have a lot of ability to really shape the project to how you think it should fit in this area.

Next I just wanna let you know in the staff report it looks good up there but it's a little easier to see, we have in the exhibits, if you look at Exhibit 4, the applicant was really good about putting together a plan that shows who the neighbors are, so it's Exhibit 4. Today we had Lot No. 16 and Lot No. 18 testify. So it gives you a chance to see where they're located on there. No. 1 by the way is Haiku Mill. And then if you turn the page to Exhibit 5, again, it shows you a Pictometry, a satellite photo so you can see where Haiku Mill is located, you can get a sense of where those two lots are that are here today, and then you see where the subject property is.

And then if you keep going, again the Pictometry picture on Exhibit 6. But Exhibit 7 is this site plan that's up here. It shows the parking just a little bit better so you can see where the parking's gonna be. One of the letters did come from a neighbor that was concerned about the parking down in the south which is the top of the page up here. So I just wanted you to be able to know where to access those maps.

I also wanted to let you know with the parking plan as you discuss it all the stalls are provided on there. However, because it's grassed parking it does have to come into the Department to the Zoning Division, actually it will come to the Current Division for a special parking approval and at that point they're gonna have to show us what kind of surface they're gonna be using. I don't know if there were any concerns about mud or if there is, but it's gonna have to come in for a separate approval and I know they're working with Jordan Hart & Partners on that and they, too, wanna protect the trees, wanna protect the grass and all of that. So that's a whole other separate process that's gonna happen.

And I just wanted to real briefly go through the conditions. I know you have copies, but I also wanted members of the audience to hear what the conditions are. The conditions on the Special Use Permit are the same on the Conditional Permit so I'm not gonna go through them

twice. And again, this is a starting point for today for you to discuss. That's how we've done our other permits. So starting on Page 3 of the green sheet. The permit is...we're recommending that it be issued for one-year. That's often what we do with Conditional Permits. Extensions, there is notice that goes to everybody within 500 feet. If even one complaint comes in it gets sent through the same process. It comes back to you and then it goes back to the County Council for review. So that's important to understand how that process works.

Number 2, it can't be transferred without prior written approval. And I did put the permit in the names of the two managers of the LLC so they need stay with that or at least one of them. They're required to have an insurance policy that's Number 3. Number 4, they need to submit compliance reports to us before they start operating to show us that they are...they have done everything in here. And again, when they apply for the renewal. Number 5, they can only have one permit for this type of use and that's because the Short-Term Rental Home Permits typically it's only issued to one person. Number 6, they need to have a TAT and GET License and make sure that they're...understand the taxes that are owed. Number 7, any representations they make today including the power point are actually attached to the project. Number 8, any kind of government requirements they need to adhere to those. Number 9, we are in our recommendation we're recommending that a manager be designated for not only the then if you go to Number 10 here on Page 5, the manager has to...for the vacation rental they have to be accessible to guests and neighbors and the County at all times. They have to vacation rentals but also for the special events and that the neighbors need to know who that is. And answer a phone, they have to be there within an hour. You might remember this from the Short-Term Rental Home Permits. It's the same requirement. However, for the special events when there's amplified sound or more than 50 guests we're recommending that that manager be actually on site for the special events. There had been some talk about maybe having a different wedding planners from around the community come in. The Department spoke with the applicant. They were fine with it to actually having somebody there monitoring it at the time. Number 11, we'd like them to notify all the neighbors again once the permit is approved. And then if anything changes this is Number 12, that they again notify everybody. Number 13, like the short-term rentals we're requesting that they have a two-foot sign along the main access with a phone number so they don't actually have to knock or interrupt something. They can just call the manager with that phone number. They have to house policies in there and they have to let people know ahead of time what the house policies are and those house policies talk about quiet time. That the...when they're advertising they have to have their permit number.

And they have to let people know that the maximum occupancy is no more than two persons per bedroom and that each dwelling shall be rented to only one group at a time but what I heard today is they're gonna rent the entire property for one group at a time and then we specifically state in Number 17 that that maximum occupancy again is only two guests per bedroom so you're looking at a total of 22 guests on the property. All the parking needs to be on site and you can see the plan that's up here. They need to have appropriate lighting and by Maui County Code that lighting has to be downward shielded.

And then we talked with the applicant quite a bit about what type of special events and how frequently should they be. So A, B, and C talk about what that is so up to 80 guests can happen on a regular basis so long as those events are done before 8 o'clock at night similar to the Haiku Mill where we called them daytime events. So they have them up to five times a week.

Events with between 80 and 150 guests or attendees can on until 10 o'clock at night. All the cleaning needs to be done by 10:30 and that clean up time has to be quiet. And then twice a year they're asking for events with guests up to 500 people and those again would be held either on a Friday or Saturday night till 10:00. If they're gonna do it on a Sunday everything has to be done by 6:00. Any event that has a 150 or more guests they need to work with the Maui Police Department on traffic and safety measures and we need to see that upfront what those measures are gonna be.

And then Number 22 on are Fire Department requirements. So just briefly they have to have a fire exit in each room. They have to have the proper fire extinguisher which is a larger commercial size fire extinguisher. They need to have working smoke detectors and those need to be tested monthly. They have to be available for inspections. And then starting with 27 we ask for written verification of tax payments. 28 we go back to Fire Department rules about open flame and cooking. They have to be in compliance with the Fire Department regulations. They're not allowed of any open flame or pyrotechnics without a prior approval. Any events open to the public require approval by the Fire Department ahead of time.

And then the Department of Finance, Real Property Tax recommended that it be classified as Commercial for real property tax. And they do have to comply with Department of Health for their wastewater disposal method. I know they're working with them now to find out what those requirements are, but they're not gonna be able to start operations until they have that. So I wanted you to know how we're looking at the project. Of course you have the full ability to add anything else on that you think.

And then the process. This will go onto the County Council when you're done for the Conditional Permit. However, like I said earlier the conditions you put on today will stay. Any questions with all of that?

Chair Tsai: Thank you, Gina.

Mr. Robinson: Just 33, huh?

Chair Tsai: Actually not too bad. Questions from the Commission?

Mr. Robinson: I have a question.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: This is for Gina or for Barry. I notice that you guys have only asking for 500 people only twice a year so nothing between...so anything over 150 is gonna be considered you can only do it twice a year?

Ms. Flammer: Yeah, that would be correct.

Mr. Robinson: Yeah, wow okay. Thank you.

Mr. Carnicelli: I have a question.



Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I'm looking at the testimony put in and there's a Mr. DeLeon who lives in Haiku Hill says that he gets noise, you know, he hears the noise from the Mill. So I guess I'm just...and he also suggested that if it's going to be one of those larger parties could it not be on the same night that Mill is, is also you know, to say coordinate to where it's like there's not two events at the same night.

Mr. Helle: Yeah, I talked to Dave about that. I've known Dave for many years and I called him after that. We did have a discussion about that and I assured him, you know, we know Sylvia very well, it's a family friend of the owners and the line of communication is there and we would do our best to make that happen. There may be some times when it, when it does you know do that, but we would work with her to minimize. It doesn't do either of us either good for our own businesses. So we would work together with Sylvia to make that happen as little as possible.

Mr. Carnicelli: If I could as a follow up then? So the notice here within 30 days of approval you're gonna give out notice to the people within 500 feet?

Mr. Helle: Yeah.

Mr. Carnicelli: Could we expand that because obviously Haiku Hills is further than 500 feet? You know just, noise doesn't stop at 500 feet.

Mr. Helle: I have no problem with letting more people know. You tell me what the number is and we can do that. I don't think that's a problem.

Mr. Carnicelli: Okay.

Mr. Helle: The County system identifies it, right off of KIVA? Yeah, okay.

Mr. Carnicelli: Yeah, okay.

Mr. Helle: Yeah, and I just wanna reiterate too going back to what one of the testifiers said about you know, cutting it off at 10:00 and I know Gina made the point that there is a condition there that we have somebody onsite and that is something we're definitely going to do. And if somebody is renting the home, as part of the rental agreement is they're gonna be signing documents that state that they understand the house rules. So that is something that we're very cognizant of.

And also on the parking side of it. For most of the smaller groups, yeah I mean you got people that would be staying there up to 22 people but beyond that, we anticipate a lot of these people would be coming out of Wailea or Kaanapali. You know the destination weddings type of things and we would shuttle them up. We're not gonna expect to see for most events a lot of cars there. We want to keep that to a minimum. So we would require from our side as much as possible that the people be shuttled up there. We can handle onsite.

Mr. Carnicelli: On other follow up question Barry it would be it mentions in here that the condition would be that if you're going to use pyrotechnics you're gonna get Fire Prevention approval. I think if I lived in Haiku if there was a fireworks show I don't think I'd be real happy you know.

Mr. Helle: You know, they put that in as a condition. We've never discussed that on our side. That's not something that we even thought of, so...

Mr. Carnicelli: Would you be willing to say none?

Mr. Helle: If you want to put that down as a condition I don't think we would have a problem with that.

Mr. Carnicelli: Okay.

Mr. Helle: We're not into disrupting the neighborhood like that. No, I think we'd be totally okay with that.

Mr. Carnicelli: Okay, thank you.

Mr. Castro: I have a question.

Chair Tsai: Commissioner Castro?

Mr. Castro: Having sat in the Board of Variances and Appeals before there's always been an issue of...with the Fire Department, the fire truck. Is the road going into the property wide enough for the fire trucks?

Mr. Helle: To my knowledge, yeah. I mean, it's a full gate. I think all three entrances you could get a fire truck through. I haven't measured it. I can't say for certain but I'm pretty sure it would that the fire truck would fit on property.

Mr. Castro: Do you know if there's hydrants in close proximity?

Mr. Helle: There's a hydrant right by the corner. I'm pretty sure there's one...I think there's one like right in here and then I think there's another one right in here and then they go down what are they...every 300 feet, 200 feet? I forget how they are, but I know there's one like right in here and then they kinda go down that way through the property. A pipe stand, oh up in here? Okay, there's another one up here too. And I know if we go for building permits, I talked about a pool house I know we would have to go to the Fire Department and meet all of their requirements. I've had discussions with Scott English before he retired about that when we were looking at the property.

Mr. Castro: Thank you.

Chair Tsai: Director?

Mr. Spence: And Commissioners, if you would look at Exhibit 17 the Fire Department does comment on it. Probably the applicable comment with regard to accesses any event open to the general public will require a site plan review and approval by the Fire Prevention Bureau. So...and I see the pyrotechnics comment from them nobody else, so...

Mr. Helle: Yeah, also Ed who is our property manager he just assured me...the fire trucks have been on property. I don't know hopefully nothing serious, but...to check the hydrants, okay. So yeah, they have fit through the gate. They have access, yeah.

Mr. Castro: Thank you.

Chair Tsai: No more questions? Okay, can I get a recommendation from the Department, please?

**b) Action**

Ms. Flammer: So in consideration of the foregoing which is the analysis and recommendations I read to you the Maui County Planning Department recommends that the Planning Commission adopt the Planning Department's report and recommendations prepared for today, June 14, 2016 as its findings of fact, conclusions of law and recommendation to authorize the Director to transmit said recommendation to the County Council on behalf of the Maui Planning Commission.

And for the State Special Permit we recommend approval of that permit.

Mr. Castro: I move that recommend as presented.

Chair Tsai: Okay, moved by Commissioner Castro.

Mr. Carnicelli: I'd like to...I'm not gonna second it. We haven't gotten a second to even discuss it?

Chair Tsai: Yeah, do I hear a second?

Ms. Duvauchelle: Second.

Chair Tsai: Second by Commissioner Duvauchelle. Discussion on the motion?

Mr. Carnicelli: I'd like to make a motion to amend the current motion to include in Item 11 that the applicant provide owners a record within one mile of the subject property or half a mile...let's say a half a mile? I don't know, I mean it's gotta be more than 500 feet.

Chair Tsai: Director?

Mr. Carnicelli: What's reasonable to you?



Mr. Spence: Well, I'm trying to think of how many...I know a mile is over a...yeah, if you say, 1,000.

Mr. Carnicelli: A thousand, okay, yeah.

Mr. Spence: That's like a quarter mile, right around there.

Mr. Carnicelli: Okay, so I'd like to amend it to read, so Item No. 11, and then on the special conditional permit it would be what, Item No. 12 to both read a 1,000 feet instead of 500 feet. And then I would also like Item No. 29 to amend it to say that there is...the use of pyrotechnics or open flame...I'm not...I'll just say the use of pyrotechnics at events are prohibited and then also the No. 29 on the Conditional to also say the same. That the use of pyrotechnics is prohibited but open flame at any events requires Fire Prevention approval.

Chair Tsai: Okay, so I have an amendment to the original motion. Do I hear a second on the amendment?

Mr. Robinson: Second.

Chair Tsai: Okay, so I have an amendment by Commissioner Carnicelli, second by Commissioner Robinson. Will the maker of the original motion be okay with the amendment?

Mr. Spence: And just for clarity for the record I'm assuming that candles would not be considered open flames?

Mr. Carnicelli: I would assume the same.

Mr. Spence: Okay, you're talking like bon fires or...

Mr. Carnicelli: Sure.

Mr. Spence: ...or something? Okay. Something significant?

Mr. Carnicelli: Yes. Well, whatever, I mean what was the original intent. I'm just...is the use of pyrotechnics is my intention, my thought is just to take pyrotechnics out.

Mr. Spence: Okay.

Mr. Carnicelli: And whatever was the original intent we leave for open flame.

Mr. Spence: Okay.

Chair Tsai: Second, motion are you okay with that too?

Ms. Duvauchelle: I am. I agree.

Mr. Murai: Well, actually so if there's a consensus of the commission, in other words, basically if you're voting in favor of the amendment then by I guess by a claim or consensus it's amended, the original motion is amended.

Chair Tsai: Right. You don't need to take a vote on that.

Mr. Murai: Unless there's any objections?

Chair Tsai: No objections? Okay. All right, so we have an amendment motion that's been agreed to. Any more discussion?

Mr. Spence: Just do we want to ask the applicant on the...do the applicant want to comment on the—

Chair Tsai: Oh yes.

Mr. Helle: On the amendments?

Mr. Spence: Yes.

Mr. Helle: Totally okay with the 1,000-foot to notify everybody. That's totally fine.

Chair Tsai: Barry, can you identify yourself for the record again?

Mr. Helle: Sure Barry Helle with 355 Haiku Road. And no pyrotechnics we have no problem with that.

Chair Tsai: Thank you, Barry. By the way, a mile is over 5,000 feet so...

Mr. Spence: The thousand foot is more than enough. More than we've ever done for any other permit.

Chair Tsai: All right, any more discussion on the motion and the amendment? Commissioner Hedani?

Mr. Hedani: I kinda hear where Mrs. Malott and Mr. DeLeon are coming from. Haiku is a quiet area and when I look at the application I'm kind of confused as to whether or not they're trying to do a transient vacation rental operation which can be controlled in terms of the sound or a full on commercial event scenario where they're doing it ...(inaudible)... less, 52 times a year plus 2 times a year on a commercialized event basis. And I guess my question would be to the applicant as to whether or not the proposal can fly as a TVR without special events as recommended by the testifier, from Dave DeLeon?

Chair Tsai: Good point. Let's ask the applicant.

Mr. Helle: I gotta say that throughout or planning process and reviewing the property we've always tied the two together. We definitely feel the ability to do at least the small groups and

then the small parties. I think property can handle it. I don't think that it's gonna be that detrimental. I see the two, you know, at...(inaudible)...some special events as part of our plan for the property.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Barry, if I want to rent the property as a TVR for my family, pay \$10,000 a night for 10 days, \$100,000 in order to occupy the residence how can that happen when you have special events five days a week?

Mr. Helle: Oh okay, I'm sorry I misunderstood your question. In our discussion and what we intend is we're not gonna have somebody renting the home not affiliated with the special event. We see the special event would be tied to whoever is renting the property. We're not gonna have me and my family there renting the home and then you come in and throw a wedding out in the backyard that's not gonna happen. If we're gonna be renting the home it's gonna be...and having a special event it's gonna be you know, one party primarily, one tenant or one client I guess that the way we would say that. Does that answer your question? I wanna make sure we answered the question.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I guess I'm just not understanding what the proposal is. It's like commercial events venue, oh plus we'll throw in the rooms as a bonus so that you can actually occupy units while you're on the site is that what it is?

Mr. Helle: I'm not sure that that would...that's the way we would formulate...I see people renting the house and if let's say it's a, you know, a family that somebody's gonna get married while they're here. They're gonna rent the house, headquarter there and then while they're there one night out of their stay they're gonna have, they're gonna have a wedding and ceremony and a reception.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I'm having a major problem with this application from the standpoint that although the property is a very beautiful property it sounds like it's a quasi-hotel venue with a lotta activity taking place. And the thing that concerns me we already just approved a property which is adjacent to your property which means that there's gonna be a major conflict between having simultaneously having these activities occur at the same...and I don't know what kind of communication gonna take place. For me personally, I would like to request a postponement on the action on this particular application until we have more time to digest quite a few points on it. One in particular I see is this comment about the parking and in the application it says that the parking will be installed and it hasn't been installed yet and that's one of the requirements that's supposed to be added onto it. So I'm kinda, I'm kinda confused as to how am I gonna react to an application that actually is pending upon another application that we just approved on which is adjacent to yours.

Chair Tsai: Director?



Mr. Spence: Improvements to the parking are not dependent on any kind of commission action. That administrative action that they're going to just undertake it for the protection of the property. I mean you don't...until you get permits in place you don't wanna go expend exorbitant amounts of money to do something that...to accommodate something that you don't have permission to do. So these permits come first then they would go expend the funds to help with the parking and what not.

Mr. Higashi: The reason why I brought up this up is I'm familiar with another application that's coming up and according to the Planning Department in order for the permit to be proposed it needs concrete parking and on this particular project it's all grassed parking. So what's the difference between one that doesn't have paved and one that has grass parking?

Chair Tsai: Yeah, Gina?

Ms. Flammer: Actually that other application we just recently got approval to do grass parking or got approval to have the applicant submit a grassed...a plan that includes grass parking. So how grass parking works in the parking section of the Maui County Code, 19-36(a) is the Director has the authority to allow grass parking at his or her discretion provided that they're comfortable with it. So in this particular case we wanna see something down on the surface that would 'cause it's rainy there, that's gonna keep it from getting muddy and it's gonna protect the existing botanical garden that's there. So we wouldn't do grass parking on a slope. So we look at every case individually. But how it works is it's the Director that has the discretion to grant that otherwise they have to adhere to the regular parking code and all of those requirements, but the only leeway we really have with that is special approval for special events for grass.

Mr. Higashi: Okay, well that's a side issue. I still have some problems with the application with the amount of conditions that are put on.

Ms. Flammer: Would it, would it help to understand what their plan was for the mitigation for the grass ahead of time?

Mr. Higashi: Well, it's basically a multiple issue. One is you have a 10-bedroom building that's almost like a quasi-hotel that you have in this particular...and the other part is we have two applications on special events that's adjacent to each other and to what extent are we gonna mitigate getting these things done? It's not to say that the estate cannot accommodate what they're asking for. What I'm concerned about is you have two activities in the same surrounding area requesting similar types of activity and I agree with the neighbors saying noise will become a factor even though you might be out in the country. So anyway that's my feeling about the application. It's not that the applicant is not qualified in getting what they would like to get. It's just that the situation is such where we have two activities adjacent to each other.

Ms. Flammer: So it sounds like you're looking for something to mitigate the cumulative impacts as well as the just separate noise concerns.

Chair Tsai: Commissioner Higashi, I appreciate your comments just...and this is for all the other commissioners too, if we have questions please keep it specific directly to the application. I don't think we wanna speculate on anything that may come up, any other issues that's not in discussion.

Mr. Higashi: I thought we were in discussion.

Chair Tsai: We are, but I think you're just...it's a motion on the floor so we're discussing you know, items regarding the motion. So, Commissioner Robinson?

Mr. Robinson: I'm actually in support of this permit. I agree with you it's a little...10 bedrooms is a little different. You know, it's kind of that little bit out of what we normal 20 would be a lodge, you know. And that does have reservations, but what we don't have today is we don't have all the people that we had that were here for the Mill a couple months ago, about the jobs, about the work Upcountry, about the benefit of Upcountry people being able to work Upcountry in a facility like that and I don't see this as that different than the Mill. In fact, I see this as a compliment you know, when I saw this application, I was like wow, these guys are smart. The Mill's gonna have weddings, now you got a 10-bedroom place, people don't have to go stay in Wailea. The wedding party can now stay across the street. They can have mini parties, they can have their predinners with the family, you know, they can make it a whole weekend which I think is gonna help both which to me means if they're gonna have that kind of functions and that centralization that the people that do work for that and do work for both I see Barry and the Mill sharing employees. You know, I see it as a benefit and at the same point it also restricts them more because now there's two companies that have to be quiet. And if either one of them mess up, the complaint would be good and it's a one-year, one-year term. I guess because of the company that bought the company, and I don't know somebody said it's a foreign company. I've known the Wailea Company and they've always been, you know, they've always been upfront and they've been in front of us a couple of times. I wanna give them the benefit of the doubt. And if they don't, I'm pretty sure the people who testified will be calling the Department and they can go through their procedures to get their permit pulled.

Parking, yeah, I can't see...I can't see, you know, the events only twice a year which I was surprised. I thought they would want more for more that people but I would, I would think that they're gonna bus 'em. I mean, you know, my wedding was a couple hundred and I already bussed them because just to have to deal with parking and cars and people trying to find the place. You know, and that's how I imagine. I imagine like the Mill but you know, kind of as an addition to it. And I think these conditions you know protect the public. Of course, I am like you, you know, 10 is a little, is little large and I think if anything it might hurt them because of the sound level. I think if it was less rooms it would be easier for them to control it. I think that's gonna be something that they're gonna have to decide, but this permit isn't that they're gonna do an event five times a week if they're allowed to. But really they're allowed to do whatever their neighbors allow them to because they're going have to follow these conditions and be good neighbors. And you know, it's really up to them, if they mess up I see their neighbors stepping in and asking the Director to pull their permit. I'm hoping they don't. I'm hoping that they work together and I'm hoping that this is a good function and hopefully I can attend an event up there. Thank you.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: You know, I'd like to kinda just piggyback on what Commissioner Robinson just said. I mean, I, too am support of this. I've been in love with property since I got to Maui and the first time I drove by it, it's like it's fantastic. You know, does that mean that it needs to be a hotel? No. But when I read the application too, I thought it's like this is the perfect spot for something like this. I mean, it's like the perfect property in my estimation. And so I kinda wish I would have gotten married there, you know what I mean, it's just like it's fantastic.

I'm a little bit concerned about five days a week, you know 80...groups of 80, you know, a couple of times, you know, 150. The big, big groups limited to twice a year. I can see that as being okay, that's...it just in my mind it seems like okay, it's kind of doable. But like Commissioner Robinson said, this is a one-year application. So for to me it's kinda like, okay let's give 'em a go for a year and if they come back and the room's filled with everybody going... Then they're done. So anyways I'm in favor of it. If somebody's, you know, if one of the commissioners wants to amend, you know, to lower the number of times that they can do whatever it is that they want to do I would be okay with that. You know, to just limit the number of the frequency with which they can do what they can do. Okay, but I think for now, I think I understand the intent of what they're trying to do. But like, what Commissioner Hedani said is it a special events place that happens to have rooms or is it a TVR that happens to also be able to do special events? Time will tell.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I think my concern is with special events occurring five days a week. It doesn't make sense to me to have special events five days a week at this location. You cannot run a TVR with special events happening five days a week. This one party gonna rent the property and have an event every night of their stay or 10 days. I mean it's a recipe for making the neighborhood crazy. I think the property is a beautiful property. There's already some dispute as to whether we're talking about 13 acres or 18 acres in which case it shouldn't be here. It should be at the State Land Use Commission is a question. But five days a week special events really bothers me.

Chair Tsai: Do you propose an alternative?

Mr. Hedani: One suggestion would be to eliminate special events five days a week and say, events up to 150 people shall be limited to one a week. And then adjust the timeframe from 10 o'clock to say 9 o'clock and then say no amplified music to be heard outside of the property boundaries like we have in other cases. That would be my suggestion.

Chair Tsai: Well, Commissioner Hedani you know the ropes if you're willing to make an amendment and see how that flies.

Mr. Hedani: Okay, I'll move to amend the motion to eliminate conditional or Condition 21A and to amend Condition 21B to read, events up to 150 guests shall be limited to one event per calendar week and shall be concluded by 9:00 p.m. with cleanup concluded by 9:30 p.m. provided that noise shall not be heard beyond the property boundaries.



Chair Tsai: Are you keeping the ...(inaudible)...the same, 500 guests.

Mr. Hedani: Right.

Chair Tsai: Okay. We have a motion. We need a second.

Mr. Hudson: Second.

Chair Tsai: Okay, we have a second from Commissioner Hudson. Discussion?

Mr. Robinson: Commissioner Hedani, where does the 9 o'clock come from when we've...this board has 10 o'clock at least the whole last year I've been here. Is there a reason for 9 o'clock at this instance?

Mr. Hedani: I think what we're dealing with is noise impact to the surrounding community. And the frequency that's being proposed is very high. The higher the frequency I think the less time they should be, the less the length should be allowed to go on. It should end earlier if it's more frequent is the way I look at it. I'm not sure if this will work from a numbers standpoint with the applicant and I'd like to actually hear if it would work from them.

Mr. Helle: Thank you. I appreciate letting me speak on that.

Chair Tsai: Please identify yourself just for the record.

Mr. Helle: Oh, Barry Helle. I would like to have pretty much what Haiku Mill got as far as the time limits go. I don't see the type of music that we would have any different than what they had. And I believe they got 10 o'clock twice a week and I think that would be acceptable to us. I understand your concerns about five times a week. If you wanted to bring it down two times a week I think we could live with that. But I think the 10 o'clock is...would be reasonable especially on a Friday and Saturday night.

Chair Tsai: Commissioner Hedani? Thank you, Barry.

Mr. Hedani: Barry, the motion that I made is for one event per week not two.

Mr. Helle: I understand. I would prefer two.

Mr. Hedani: I understand, but that's not the motion.

Mr. Helle: You said you wanted to hear from the applicant and I would prefer two. And the reason I'm saying that is if you got a wedding on Saturday night and you do a dress rehearsal dinner type party on Friday night, I see, you know that's two in a calendar week. So I think two would be easier for us to accept than one and I would appreciate your consideration on that.

Chair Tsai: Thank you. Director?

Chair Tsai: Director?

Mr. Spence: My experience with event sites is that you give permission...if a company has permission to do something or a private party has permission to do something that's just permission to do it. It doesn't necessarily mean it's gonna happen. It's just that it's okay, it's within our bounds to do this. If it happens...it seldom actually happens, but that's my experience anyway. I can't...I'm not trying to speak for the applicant.

Mr. Helle: I totally agree with what you're saying. Even at five I don't really foresee it being five. You know, I think that would be very unusual, but I think two would be, you know, a good compromise.

Chair Tsai: I'm just going to make a quick comment. Thank you, Barry. I would think based on everybody's discussion two seems more reasonable based on given conditions of events and so forth. And I think that...not sure if we have what we...Gina did you work on that project for the Haiku Mill? Do you know what conditions we gave them hours wise? I think that's reasonable also.

Mr. Helle: I think it was 10 o'clock, but I'll let Gina...

Ms. Flammer: We've done a number of special events. We did Kaanapali Golf Course, we did Dragon Fruit Farm, we did Haiku Mill. Most recently we did Haiku Mill who had one event...they asked for one event up till 10 o'clock at night. In the other cases, I don't remember what time you did Dragon Fruit until. It was pretty early because it was right in the middle of lots, no vegetation and we had a lotta neighbor concerns. It was before 9 o'clock I recall and there was no amplified sound on that one. Kaanapali Golf Course we came in originally at 9:00 and then there was support from the condominium boards adjacent to the property for 10 o'clock so you granted them till 10 o'clock. So that's what I remember from recent cases.

I do know with Haiku Mill they did ask to do smaller events during the daytime. This one's worded a little different. Hers were broken up into nighttime and daytime and daytime was more like it says here, farm to table culinary events, retreats, workshops. I think in this case having it till 8 o'clock at night which is what theirs said also it just reads a little bit different.

Chair Tsai: Thank you, Gina. Commissioner Robinson?

Mr. Robinson: I think that makes a big different what the Haiku Mill did and having events earlier instead of trying to get the you know, 10 o'clock five times a week and I think that's maybe what the commission is kind of struggling with thinking oh my God they're gonna do this every night, but having a balance of you know, of something lower. I'm comfortable with whatever the Haiku Mill got. You know, that they would have the same ability to do and you might have to, you might have to have that pre wedding dinner a little bit earlier.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: And I think I mentioned it before, before 2200, I mean, I'm good with 10 o'clock. I think we should develop some kind of consistent standard. I realize what Mr. Hedani is saying.

There's certain exceptions to the existing standard but we should have a standard. If you're gonna have a wedding by 10 o'clock you're done. If there's other things if you're in a heavily populated area that we can put on other exceptions but those are exceptions and not the standard. For me, my own opinion the standard is 10 o'clock for weddings or similar events. I think 10 o'clock is reasonable because if you shut down at 10 o'clock 10:30 everybody gotta be out of there, we're good to go. My opinion.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Yeah, I would have to agree I think that whatever conditions were put on the Mill would, you know, reasonable to do here, and I guess the question for me is Corp. Counsel do we expose ourselves by saying okay, we just gave one to these guys, you know, a couple of parcels over and these guys come and we're inconsistent, do we get exposed on that at all?

Mr. Murai: I'm not sure what you mean by exposed? Certainly you're going to review each application on its own merits.

Mr. Carnicelli: Yeah, okay.

Mr. Murai: Although you do consider, I have...(inaudible)...you do consider things like density and conflicts, you know, in the uses.

Mr. Carnicelli: Yeah so for me, I think whatever the Mill got if it was twice, you know twice a week at 10 o'clock that to me sounds very reasonable.

Chair Tsai: Gina, I think you said, once a week, but there's also a—

Ms. Flammer: I did. I brought the letter. I thought this might come up. Special events are limited to wedding, corporate, nonprofit benefit receptions, musical hula performances, film screening and farm to table events up to 200 guests and shall be concluded at 10:00 p.m. That is once a week. Up to five times a week, they can have wellness retreats, workshops, classes and yoga, Pilates, meditation, and tai chi, farm to table breakfast or lunch with up to 80 participants and shall be concluded by 8 o'clock.

Chair Tsai: We get all that? Okay, so for logistics we do have a amendment to the amendment to the amendment. So there's a motion that we need to vote on. So you want to repeat the motion?

Mr. Spence: So there was a motion to amend, it was seconded and it was to eliminate Condition 21A and then limit 21B up to 150 people one time a week ending at 9 o'clock, everybody gone by 9:30 with no noise going past the property boundaries. Is that correct?

Mr. Hedani: Correct.

Chair Tsai: Okay, so let's take a vote on this amendment. All in favor of this amendment say, "aye"?



Commission Members: Aye.

Chair Tsai: Show of hands please. All in favor? Richard you do? Two.

Mr. Spence: I saw Richard raise his hand.

Chair Tsai: We're voting right now.

Mr. Spence: All in favor of the amendment? That's two.

Chair Tsai: So we have two. All opposed?

Mr. Spence: One, two, three, four, five opposed.

**It was moved by Mr. Hedani, seconded by Mr. Hudson and**

**The Motion to Delete Condition No. 21A and Amend Condition 21B to limit up to 150 people one time a week ending at 9 o'clock, everyone gone by 9:30 with no noise going past the property boundaries, FAILED.**

**(Assenting – W. Hedani, R. Higashi)**

**(Dissenting – L. Hudson, K. Robinson, L. Carnicelli, S. Duvauchelle, S. Castro)**

**(Excused – J. Medeiros)**

Chair Tsai: Motion fails. Can I hear a new amendment?

Mr. Robinson: I have a question Chair? Since we're gonna pare down the time and the business aspect of our applicant are we able to give them some time to absorb it and talk to Gina too so they can review what actually we're proposing after this so they can reply or do we have to defer to allow them to let them think about it for a couple minutes?

Chair Tsai: I guess I would direct to applicant see if they wanna discuss this or you guys want to...what do you think about what, you wanna take a five-minute recess and discuss? Okay, let's take five minutes.

Mr. Robinson: Let's do the motion first and then let's take a five-minute recess for him to hear what our motion is.

Chair Tsai: Yeah, so you have a new motion?

Mr. Murai: Well, we have a motion pending on the floor.

Chair Tsai: Right, we still do.

Mr. Carnicelli: So an amendment to the motion that's on the—

Chair Tsai: Anybody wanna do another amendment that's gonna pare down the—

Mr. Carnicelli: So I will then make a motion to amend the current motion on the floor which was already amended to include the same exact language that the Haiku Mill has. So 21A, B, and C or A and B will read—

Ms. Flammer: That's what's already in there. It just slightly—

Mr. Carnicelli: Oh it's the same thing?

Ms. Flammer: It is. I just didn't call it daytime events because they thought with an 8 o'clock they thought it was confusing so we just pulled out the word, "daytime".

Mr. Carnicelli: Okay, okay.

Ms. Flammer: And they are asking to do...we didn't limit farm to table culinary events just to brunch and breakfast and they're asking for a fashion show. Other than that it's a little—

Mr. Carnicelli: Okay.

Ms. Flammer: I could, I could replace it with the exact wording if you felt more comfortable. I don't know if—

Mr. Carnicelli: I guess I'll remove —

Ms. Flammer: I don't know if they wanna offer Tai Chi.

Mr. Carnicelli: -- I'll remove what I was gonna say. I'll just...I'm not gonna make a motion.

Chair Tsai: So you guys understand Commissioners that we're still at five events a week that's the current—

Mr. Carnicelli: Till 8 o'clock.

Ms. Flammer: It's in there. The Mill was a little more specific in calling them actually brunch, lunch and breakfast. So it wouldn't be a reception dinner that was concluded at 8:00 for them. They actually just called it brunch and lunch events and daytime events, wellness retreats.

Chair Tsai: I thought we had a concern about the five times a week thing?

Mr. Spence: That was ...(inaudible)...event.

Chair Tsai: Yes, you guys okay with not addressing that.

Mr. Hudson: Just for clarification. Only once a week for weddings and/or similar type events is that correct?

Ms. Flammer: Once a week we'll allow amplified music and guests up to 150.

Mr. Hudson: So only once a week you'll be able to go to 10 o'clock?

Ms. Flammer: Only once a week can you go to 10:00 and only once a week can you have amplified music. Anything that is up to 80 people during up till 8 o'clock cannot have amplified sound or any noise that's heard beyond the property boundaries.

Chair Tsai: Okay, let's get some clarification here because I believe that motion that...

Ms. Flammer: That's what's on the table now.

Mr. Murai: It failed.

Chair Tsai: It failed. So we are going back to the original which still says you can have five times a week.

Mr. Hudson: No. Five times a week? We're talking weddings five times a week?

Mr. Spence: No, no, no, hold on.

Mr. Hudson: Okay.

Mr. Murai: We should probably clarify for the record exactly what the motion pending on the floor is.

Chair Tsai: Director please?

Mr. Spence: What's on the floor right now. There's no motion to change Condition No. 21 is what is proposed. There's three parts to that condition. The first part of it is events with 80 or less invited guests or attendees such as photo shoots, movies, filming, et cetera, up to five times per calendar week, the events shall conclude by 8 o'clock in the evening including event cleanup and shall not have amplified sound that can be heard beyond the property boundaries. Then B, events with between 80 and 150 invited guests shall be limited to one event per week and shall be concluded by 10 o'clock with cleanup concluded by 10:30 provided that no noise shall be heard beyond the property boundaries after 10 o'clock. And then the third one, third part of this is two events up to 500 guests or attendees two times per calendar year on a Friday, Saturday or Sunday. Events on Friday or Saturday shall be concluded by 10:00 and on a Sunday shall be concluded by 6:00.

Ms. Flammer: I'm just gonna make one small tweak and say, events with up to a 150 people for B. I think maybe that's where some of the...I don't want them to feel like if they have 70 that doesn't qualify for that, but I think it's what we're talking about in here.

Mr. Spence: And so that's exactly what...Gina, that's exactly what Haiku Mill has?

Ms. Flammer: Actually this commission gave them up to 200 people.



Mr. Spence: Okay, 200.

Ms. Flammer: For the once a week event.

Mr. Spence: Oh okay.

Chair Tsai: So that's the motion we have on the floor. Commissioners, do you guys wanna make any more amendments or do you wanna vote?

Mr. Murai: Sorry Mr. Chair for the record there's still the first motion to amend which was your motion, Commissioner Carnicelli was adopted.

Chair Tsai: Right.

Mr. Carnicelli: Right.

Mr. Murai: So the motion on the floor is to recommend approval as amended by Commissioner Carnicelli.

Mr. Hudson: So we gotta take a vote on that?

Mr. Murai: No, it's already voted on.

Mr. Spence: It's already voted on.

Chair Tsai: Unless there's any more we can just vote on—

Mr. Spence: It's a 1,000 foot notification and no pyrotechnics.

Chair Tsai: So if that's all good with you guys we can vote on...call for the vote.

Mr. Robinson: Going to have the Planning Director read?

Mr. Helle: Noting that Haiku Mill got 200 once a week, instead of the 150, our property is much bigger I would prefer if we got up to 200 instead of the 150 whichever one it's just once a week.

Chair Tsai: So Barry you're saying you would rather get what...going back to what exactly Haiku Mill got?

Mr. Helle: Pretty much yeah. Yeah, I mean they got 200. I think we can handle the 200. I would prefer to do 200 over 150, but with the same you know, frequency and time limits.

Chair Tsai: Okay, thank you. You wanna make a motion just to give them the exact same?

Mr. Robinson: I make a motion to replicate the Haiku Mill and amend it to 200 people, up to, up to 200 people.

Mr. Murai: For the record, I'm sorry, just so the record's clear, Paragraph E Commissioner Robinson would now, would now read, events with up to 200 invited guests and we'll be striking the words, between 80 and 150?

Mr. Robinson: Correct.

Mr. Murai: And inserting up to 200?

Mr. Robinson: And that's the two permits right? There's two times.

Mr. Murai: No, that's for one, for once a week.

Mr. Robinson: No, but I'm saying it's on, it's on

Mr. Carnicelli: It's on both places, here and the Conditional Permit as well.

Mr. Robinson: The two permits.

Ms. Flammer: Yeah, thank you for that clarification. I made note of the wording and also that it's on both the Conditional and the State Special Use. Thanks.

Chair Tsai: Okay, so we have a motion of amend by Commissioner Robinson. Do I hear a second.

Mr. Castro: Second by Commissioner Castro. Discussion regarding this. We're making the same so...oh, Commissioner Hedani?

Mr. Hedani: Just for clarity, my clarity can we understand what the amendment is at this point?

Chair Tsai: Yes. Director?

Mr. Spence: The amendment is when we're...we're talking about the frequency of events and the number of attendees at the event. Looking at for the Special Use Permit and corresponding condition for the Conditional Permit for Special Use Permit...excuse me, Condition 21, that as represented by the applicant special events shall be limited to A, no change there. The change comes to B, events with up to 200 invited guests or attendees shall be limited et cetera, et cetera. So you're really just changing...you're eliminating the words, "between 80 and 150" and you're changing it to "events up to 200 invited guests".

Chair Tsai: Okay, that's on Page 6 and Page 9. Any other question, discussion? Call for a vote for the amendment. All in favor of the amendment signify raise your hand?

Mr. Spence: One, two, three...that's six ayes.

Chair Tsai: Opposed? One. Motion carries.

**It was moved by Mr. Robinson, seconded by Mr. Castro, then**

**VOTED: To Amend Condition 21B to delete the words, “between 80 and 150” and amend to “events up to 200 invited guests”.  
(Assenting – K. Robinson, S. Castro, L. Hudson, L. Carnicelli,  
S. Duvauchelle, R. Higashi)  
(Dissenting – W. Hedani)  
(Excused – J. Medeiros)**

Chair Tsai: So we have an amendment to amend the original motion. Any other discussion? Seeing none...

Mr. Spence: The motion is approve by staff, amended by the 1,000-foot notification requirement, no pyrotechnics, and to change the No. 21B events up to 200 invited guests.

Chair Tsai: All in favor of the motion raise your hand?

Mr. Spence: That's five ayes.

Chair Tsai: Opposed?

Mr. Spence: Two opposed.

Chair Tsai: Motion carries. Congratulations.

**It was moved by Mr. Castro, seconded by Mr. Duvauchelle, then**

**VOTED: To Approve the State Land Use Commission Special Permit and Conditional Permit as Recommended by the Department as Amended.  
(Assenting – S. Castro, S. Duvauchelle, L. Hudson, K. Robinson,  
L. Carnicelli)  
(Dissenting - W. Hedani, R. Higashi)  
(Excused – J. Medeiros)**

Chair Tsai: We're gonna go break for lunch and come back at 1 o'clock.

A recess was called at 11:51 a.m., and the meeting was reconvened at 1:07 p.m.

Chair Tsai: Maui Planning Commission is called back to order. Next agenda item, Director?

Mr. Spence: Commissioners, we are on Agenda Item C-4, Mr. Phillip Collins McGain requesting a Land Use Commission Special Use Permit for a bed and breakfast in Haiku and our Staff Planner this afternoon is Tara Furukawa.



# Haiku House

## 355 Haiku Road LLC



## 355 Haiku Road LLC

- Subsidiary of Wailea Golf LLC
  - Anne Takabuki, President
  - Barry Helle, General Manager of the Blue Course
- Local On-Site Supervisors
  - Michelle Fujimoto
  - Ed White
- Parent Company is from Vancouver, British Columbia
  - Represented by Erica Chan and Peter de Zwager





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# Conditional Use Permit

- 1. Short Term Rental of the Home and Cottage
- 2. Use Property for Special Events
  - Weddings
  - Charitable Fund Raisers
  - Corporate Retreats



# History of Haiku House

- 1849 Richard Armstrong purchased 530 acres from Kamehameha III
- 1858 Armstrong founded the Haiku Sugar Mill
- 1871 Samuel Alexander was named General Manager of Haiku Sugar Company
- 1884 Alexander and his Partner, HP Baldwin purchased Haiku Sugar Mill
- 1910 HP Baldwin purchased the home from Haiku Sugar Mill

# History of Haiku House

- 1911 HP Baldwin died and son Dwight Holbrook Baldwin took over the estate – The Baldwin Estate
- 1978 The Home was sold to Athalie Irvine Clark who remodeled the home and cottage.
- 1985 Clarke traded the property to The Reverend Robert Schuller of the Chrystal Cathedral Ministry for a place of spiritual retreat.

# History of Haiku House

- 1989 Property purchased by Mr. & Mrs. William Simon.
- 1998 Two of Mr. Simon's children purchased the property.
- 2015 Wailea Golf LLC Purchased from the Simons

# Significant Events

- History is tied to Agriculture
- Exotic trees from around the world first planted in the 1860's. Most notable is the Banyan trees.
- 1900 to 1910 more plantings including Cooke Island Pines
- 1942 Additional trees to fill in pastures so the Japanese couldn't land there



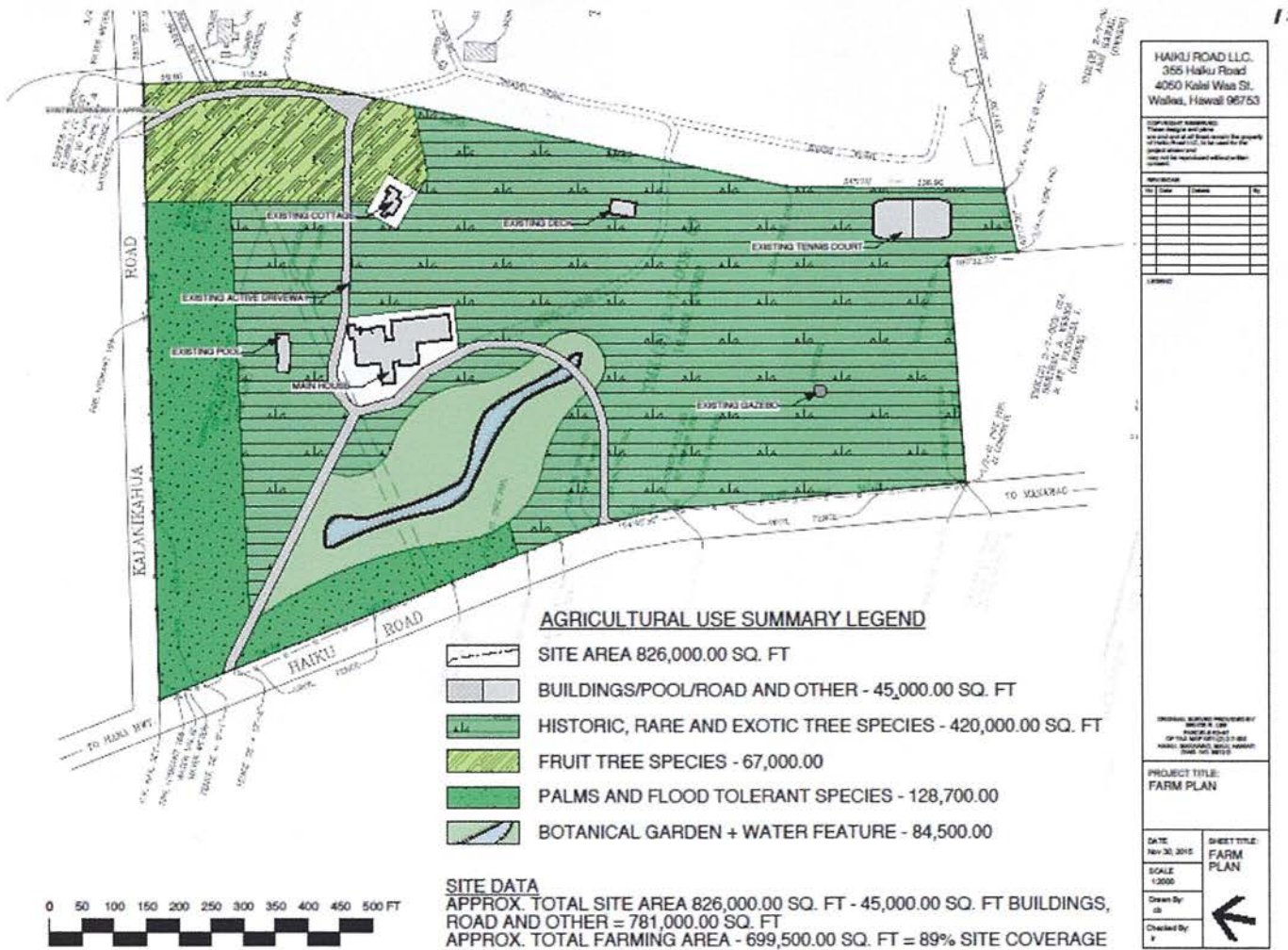
# Significant Events

- As the plantation manager's home it has always been a place for large gatherings.
  - Picnics for employees
  - A Luau in honor of Queen Lili'uokalani
  - Charitable events for local organizations
  - Parties for guests and friends

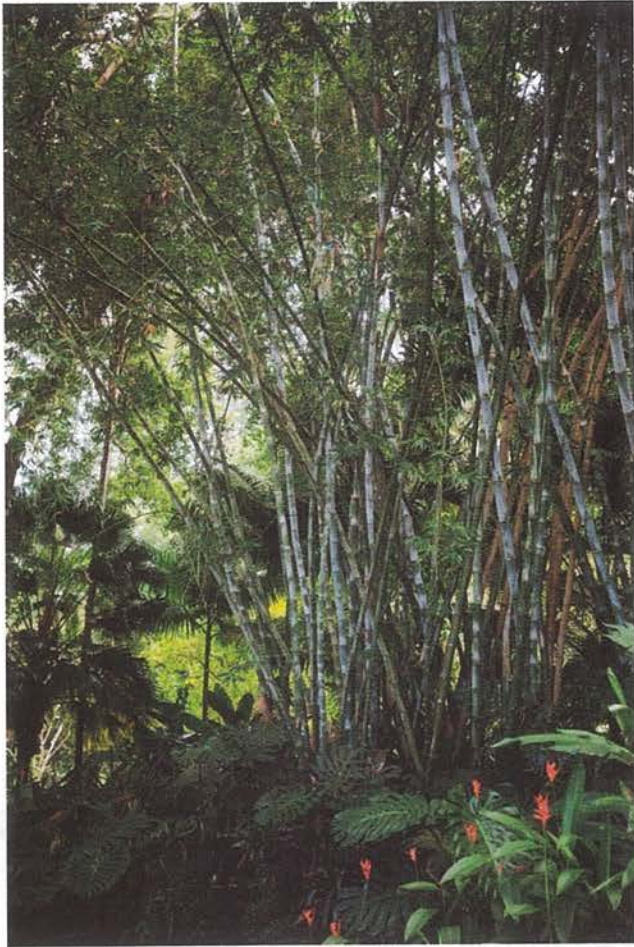
# Significant Events

- Home and cottage renovations by Mrs. Clarke
- Reverend Schuller building the additional wing of bedrooms and the outdoor cathedral
- Preservation of the homes and grounds by the Simon Family

# Farm Plan



# Botanical Garden





# Botanical Garden

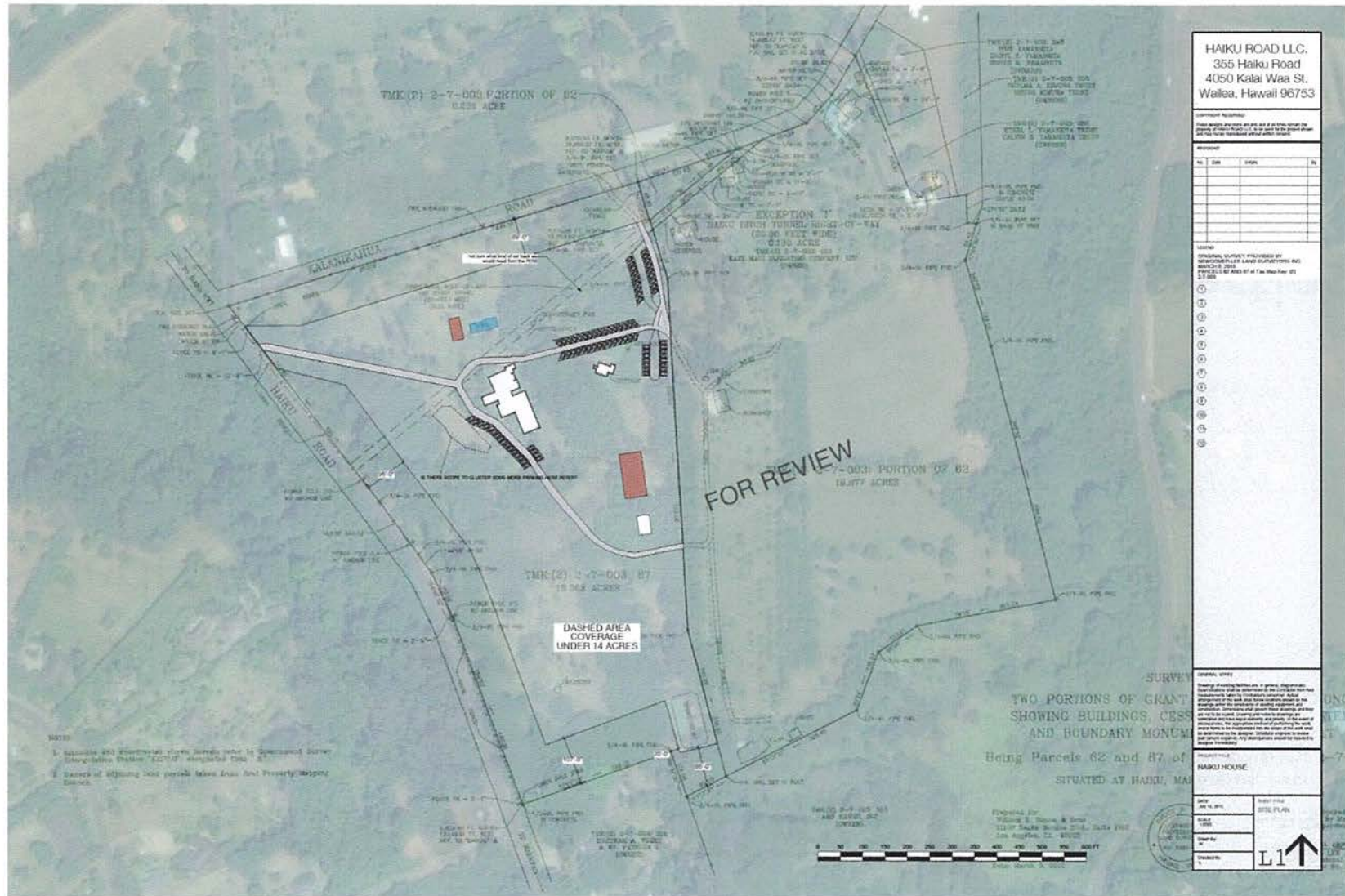


# Conditional Use Permit

- 1. Short Term Rental of the Home and Cottage
- 2. Use Property for Special Events
  - Weddings
  - Charitable Fund Raisers
  - Corporate Retreats



# Site Plan



# Home and Cottage Rental

- House is 10 Bedrooms & Cottage One Bedroom
- Rentals to be to one group only
- Rental to be nightly
- Typical Renter to be Families, Wedding Parties and Corporate Retreats



# Front Lawn





# Front Lawn and Pool





# Cottage





# Living Room





# Master Bedroom



# Downstairs Bedrooms





# Kitchen



# Lanai





# Cottage Living Room



# Special Events

- Designated area of approximately 5000 square feet as the primary location.
- Area to have pavers installed for floor.
- Tenting is a possibility on per event basis.



le Maps



Imagery ©2016 Google, Map data ©2016 Google 100 ft



# Event Site Facing Makai





# Event Site Facing Mauka



# Planning Department Event Recommendations

- Up to 80 people five (5) times per week
  - 8pm sound curfew Sunday to Thursday
  - 10pm sound curfew Friday and Saturday
- 80 to 150 people two (2) times per week
  - 8pm Sound Curfew Sunday to Thursday
  - 10pm Sound Curfew Friday and Saturday
- Up to 500 people two (2) times per year
- All Other Conditions Related to Special Events will be adhered to.



# Parking Plan

