

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

April 21, 2017

Committee
Report No. _____

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

Chair and Members:

Your Land Use Committee, having met on March 17, 2017, makes reference to County Communication 16-276, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE LANAI COMMUNITY PLAN AND LAND USE MAP FROM BUSINESS/COMMERCIAL TO SINGLE-FAMILY FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII TAX MAP KEY (2) 4-9-006:050." The purpose of the Community Plan Amendment bill is to grant a request from Lanai Resorts, LLC, dba Pulama Lanai, a Community Plan Amendment from Business/Commercial to Single-Family for property located at 605, 615, and 623 Lanai Avenue, Lanai City, Lanai, Hawaii, to construct three single-family homes on a 22,328 square foot parcel; and
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM B-CT COUNTRY TOWN BUSINESS DISTRICT TO R-1 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII TAX MAP KEY (2) 4-9-006:050." The purpose of the Change in Zoning bill is to grant a request from Lanai Resorts, LLC, dba Pulama Lanai, for a Change in Zoning from B-CT Country Town Business District to R-1 Residential District to construct three single-family homes on a 22,328 square foot parcel.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised Community Plan Amendment bill and Change in Zoning bill, approved as to form and legality, incorporating nonsubstantive revisions.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

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Committee
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Your Committee noted the three proposed dwellings are replacing three dwellings that were built in the 1920's and demolished in August of 2014. According to a structural engineering report in 2001, the former dwellings were in a dilapidated state with serious termite damage, mold infestation, and deterioration of the foundations and roof supports. The three proposed dwellings will be built in similar plantation style as the previous homes and will each consist of approximately 1,100 square feet with carports.

Your Committee also heard concerns from the community during testimony that the homes not be utilized as short-term rental homes and should be utilized as rentals for Lanai residents only.

Your Committee recommended to add a Condition of Zoning to require that the three proposed dwellings will be rented only to Lanai residents.

Your Committee voted 6-0 to recommend passage of the revised proposed bills on first reading, recordation of the unilateral agreement, and filing of the communication. Committee Chair Carroll, Vice-Chair Hokama, and members Cochran, King, Sugimura, and White voted "aye." Committee members Atay, Crivello, and Guzman were excused.

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

Your Committee is also in receipt of the following further revised proposed bills entitled:

1. "A BILL FOR AN ORDINANCE TO AMEND THE LANA'I COMMUNITY PLAN AND LAND USE MAP FROM BUSINESS/COMMERCIAL TO SINGLE-FAMILY FOR TAX MAP KEY (2) 4-9-006:050, SITUATED AT LANA'I CITY, LANA'I, HAWAII"; and

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

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2. "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM B-CT COUNTRY TOWN BUSINESS DISTRICT TO R-1 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR TAX MAP KEY (2) 4-9-006:050, SITUATED AT LANAI CITY, LANAI, HAWAII," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE LANAI COMMUNITY PLAN AND LAND USE MAP FROM BUSINESS/COMMERCIAL TO SINGLE-FAMILY FOR TAX MAP KEY (2) 4-9-006:050, SITUATED AT LANAI CITY, LANAI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM B-CT COUNTRY TOWN BUSINESS DISTRICT TO R-1 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR TAX MAP KEY (2) 4-9-006:050, SITUATED AT LANAI CITY, LANAI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That the County Clerk RECORD the unilateral agreement; and
4. That County Communication 16-276 be FILED.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

Page 4

**Committee
Report No.** _____

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



ROBERT CARROLL, Chair

lu:cr:17028aa:grs

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO AMEND THE LANA'I COMMUNITY PLAN AND
LAND USE MAP FROM BUSINESS/COMMERCIAL TO SINGLE-FAMILY
FOR TAX MAP KEY (2) 4-9-006:050,
SITUATED AT LANA'I CITY, LANA'I, HAWAII

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Lana'i Community Plan and Land Use Map is hereby amended from Business/Commercial to Single-Family for that certain parcel of land situated at Lana'i City, Lana'i, Hawaii, and identified for real property tax purposes as tax map key (2) 4-9-006:050, comprising approximately 0.51 acre, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Community Plan Map No. CP-207, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

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

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX

Department of the Corporation Counsel
County of Maui

lu:misc:028abill04:grs

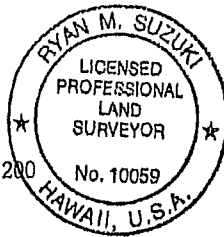
COMMUNITY PLAN AMENDMENT
COMMUNITY PLAN MAP NO. CP-207
COMMERCIAL TO SINGLE FAMILY
LOT 363
AS SHOWN ON MAP 28
OF LAND COURT APPLICATION 862
AT ISLAND OF LANAI, HAWAII

All of that certain parcel of land situate at Island of Lanai, State of Hawaii, described as follows:

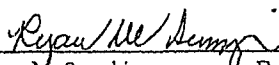
LOT 356, area 22,328 square feet, more or less, as shown on Map 24, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 862.

R. M. TOWILL CORPORATION

Description prepared by:



2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 16, 2016
Tax Map Key: (2) 4-9-006: 050


Ryan M. Suzuki Exp: 4/30/18
Licensed Professional Land Surveyor
Certificate Number 10059

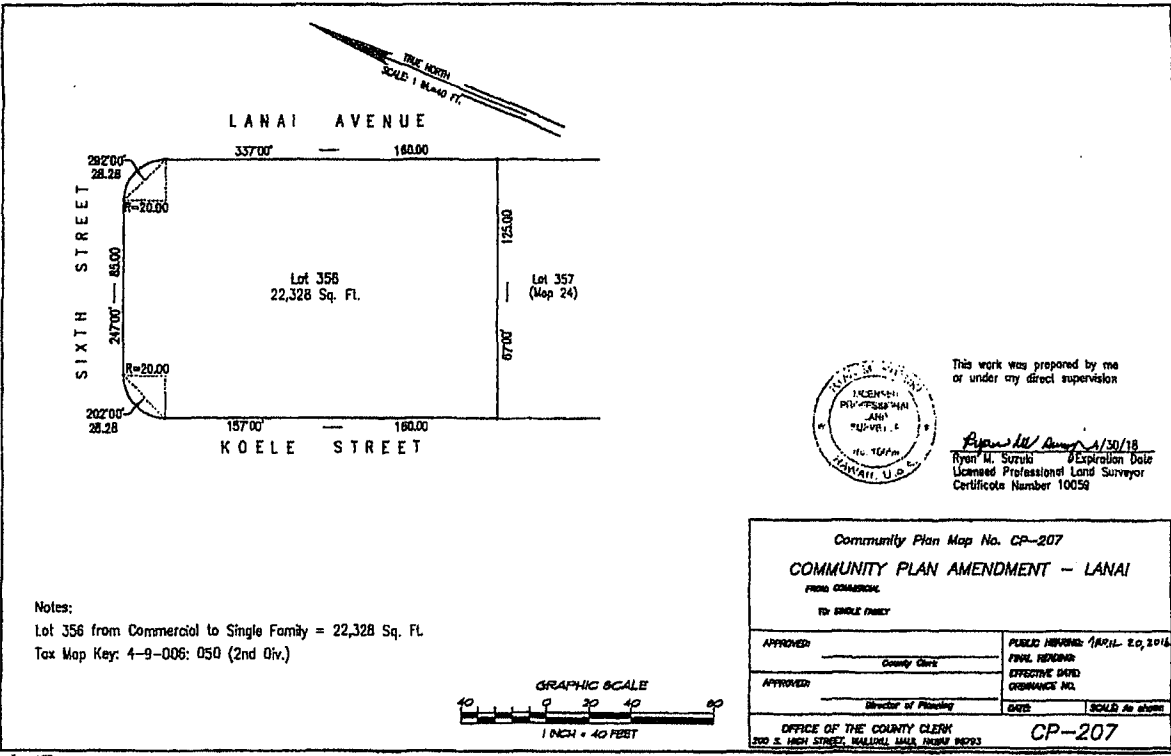
- 1 -

2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail rmtowill@hawaii.tr.com

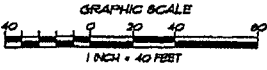

R. M. TOWILL CORPORATION
SINCE 1950

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

EXHIBIT "A"



Notes:
 Lot 356 from Commercial to Single Family = 22,328 Sq. Ft.
 Tax Map Key: 4-9-006: 050 (2nd Div.)



This work was prepared by me
 or under my direct supervision

Ryan M. Suzuki 1/30/18
 Ryan M. Suzuki Expiration Date
 Licensed Professional Land Surveyor
 Certificate Number 10059

Community Plan Map No. CP-207
COMMUNITY PLAN AMENDMENT - LANAI
 FROM COMMERCIAL
 TO SINGLE FAMILY

APPROVED: _____ County Clerk	PUBLIC HEARING: APRIL, 2014 FINAL RESOLUTION
APPROVED: _____ Director of Planning	EFFECTIVE DATE: ORDINANCE NO.:
OFFICE OF THE COUNTY CLERK 200 S. HIGH STREET, HAWAII, HAWAII 96813	DATE: _____ SCALE: As shown

CP-207

10" x 15"

R. M. TOWILL CORPORATION

2024 North King Street, Suite 200
 Honolulu, Hawaii 96819
 May 3, 2018

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
B-CT COUNTRY TOWN BUSINESS DISTRICT TO R-1 RESIDENTIAL DISTRICT
(CONDITIONAL ZONING) FOR TAX MAP KEY (2) 4-9-006:050, SITUATED AT
LANA`I CITY, LANA`I, HAWAII

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

SECTION 1. Pursuant to Chapters 19.08 and 19.510, Maui County Code, a change in zoning from B-CT Country Town Business District to R-1 Residential District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Lana`i City, Lana`i, Hawaii, and identified for real property tax purposes as tax map key (2) 4-9-006:050, comprising approximately 0.51 acre, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Zoning Map No. L-2621, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

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

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

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX

Department of the Corporation Counsel
County of Maui

lu:misc:028abill03:grs

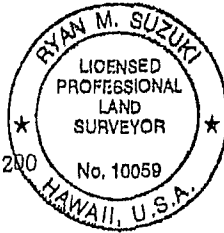
CHANGE IN ZONING
LAND ZONING MAP NO. L-2621
BUSINESS COUNTY TOWN TO R1 RESIDENTIAL
LOT 363
AS SHOWN ON MAP 28
OF LAND COURT APPLICATION 862
AT ISLAND OF LANAI, HAWAII

All of that certain parcel of land situate at Island of Lanai, State of Hawaii, described as follows:

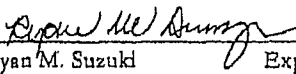
LOT 356, area 22,328 square feet, more or less, as shown on Map 24, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 862.

R. M. TOWILL CORPORATION

Description prepared by:



2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 16, 2016
Tax Map Key: (2) 4-9-006: 050


Ryan M. Suzuki Exp: 4/30/18
Licensed Professional Land Surveyor
Certificate Number 10059

-1-

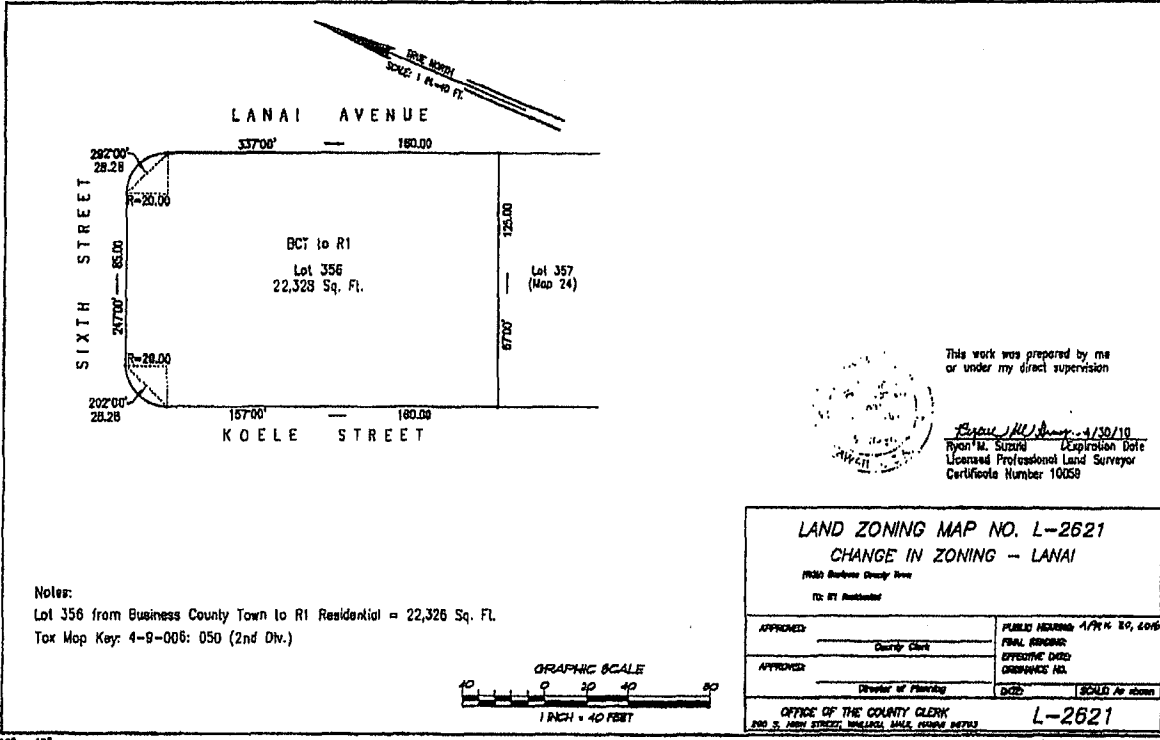
2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail rtmtowill@hawaii.tc.com



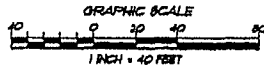
R. M. TOWILL CORPORATION
SINCE 1930

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

EXHIBIT "A"



Notes:
 Lot 356 from Business County Town to R1 Residential = 22,326 Sq. Ft.
 Tax Map Key: 4-9-006: 05D (2nd Div.)



This work was prepared by me
 or under my direct supervision

Ryan M. Suzuki 4/30/10
 Ryan M. Suzuki Expiration Date
 Licensed Professional Land Surveyor
 Certificate Number 10058

LAND ZONING MAP NO. L-2621 CHANGE IN ZONING - LANAI <small>FROM Business County Town</small> <small>TO: R1 Residential</small>	
APPROVED: _____ <small>County Clerk</small>	PUBLIC HEARING: 4/29/10, 2010
APPROVED: _____ <small>Director of Planning</small>	FINAL RESOLUTION: _____ OFFICIAL DATE: _____ ORDINANCE NO.: _____
OFFICE OF THE COUNTY CLERK <small>200 S. HIGH STREET, HONOLULU, HAWAII 96810</small>	
L-2621 <small>2021 North King Street, Suite 200 Honolulu, Hawaii 96810 May 3, 2010</small>	

10" x 15"

R. M. TOWILL CORPORATION
1111 KALANIANA'OLANI BLVD., SUITE 1000, HONOLULU, HI 96813

EXHIBIT "B"

CONDITION OF ZONING

1. The three proposed dwellings on Tax Map Key (2) 4-9-006:050 will be rented to Lanai residents only.

LAND COURT SYSTEM

REGULAR SYSTEM

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

Total Number of Pages: 8

Affects Tax Map Key (Maui) (2)4-9-006:050, Lana'i City, Lana'i,
Hawai'i

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 27th day of March, 2017, hereinafter referred to as "DECLARATION" or "UNILATERAL AGREEMENT", by Lanai Resorts, LLC, a Hawai'i limited liability company doing business as Pūlama Lāna'i, whose principal place of business is located in Honolulu, O'ahu, Hawai'i and whose mailing address is 733 Bishop Street, Suite 2000, Honolulu, Hawai'i, 96813, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel located at Lana'i City, Lana'i, Hawai'i, comprised of approximately 0.51 acre, and identified for real property tax purposes by Tax Map Key No. (2)4-9-006:050, hereinafter referred to as "PROPERTY".

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Property, comprised of approximately 0.51 acre, which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No.

1
EXHIBIT "C"

L-2621, which is on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. _____, that said establishment of zoning be approved for passage on first reading subject to certain conditions, pursuant to Section 19.510.050, Maui County Code; and

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

NOW, THEREFORE, the Declarant makes the following Declaration:

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

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

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

the satisfaction and provides a written release of the covenant, condition or restriction;

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

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of R-1, Residential District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

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

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

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

This Declaration may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Declaration.

Each person signing this Unilateral Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Unilateral Agreement. Each party represents and warrants to the other that the execution and delivery of this Unilateral Agreement and the performance of such party's obligations hereunder have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

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[SIGNATURE PAGES FOLLOW]

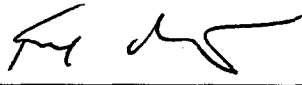
IN WITNESS WHEREOF, the undersigned has executed this Declaration the day and year first above written.

DECLARANT:

Lanai Resorts, LLC, a Hawai'i
limited liability company
doing business as Pūlama
Lāna'i

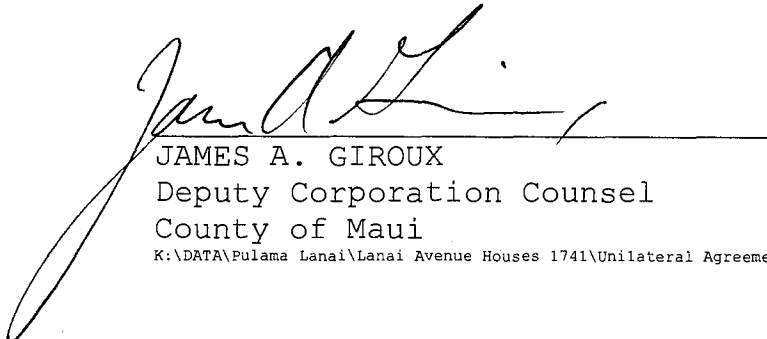
By its member, Lanai Island
Holdings, LLC

By its Manager, LIH
Corporation

By: 

Kurt Matsumoto
Its: Vice President

APPROVED AS TO FORM AND LEGALITY:



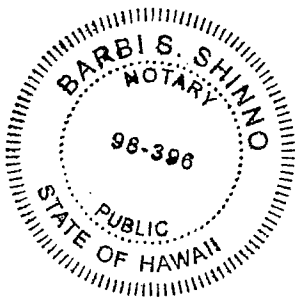
JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

K:\DATA\Pulama Lanai\Lanai Avenue Houses 1741\Unilateral Agreement.doc

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 27th day of March, 2017, before me personally appeared Kurt Matsumoto, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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



[Signature]
Notary Public, State of Hawaii
Print Name: Barbi S. Shinno
My Commission Expires: 08-11-18

NOTARY PUBLIC CERTIFICATION

Doc. Date: 3-27-17

Pages: 8

Notary Name: Barbi S. Shinno

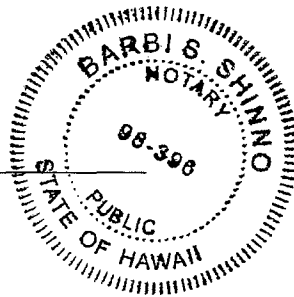
Judicial Circuit: First

Document Description: Unilateral Agreement and
Declaration for Conditional Zoning

TMK (2)4-9-006:050

Notary Signature: *[Signature]*

Date: 3-27-17



CHANGE IN ZONING
LAND ZONING MAP NO. L-2621
BUSINESS COUNTY TOWN TO R1 RESIDENTIAL
LOT 363
AS SHOWN ON MAP 28
OF LAND COURT APPLICATION 862
AT ISLAND OF LANAI, HAWAII

All of that certain parcel of land situate at Island of Lanai, State of Hawaii, described as follows:

LOT 356, area 22,328 square feet, more or less, as shown on Map 24, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 862.

R. M. TOWILL CORPORATION

Description prepared by:



Ryan M. Suzuki
Ryan M. Suzuki Exp: 4/30/18
Licensed Professional Land Surveyor
Certificate Number 10059

2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 16, 2016
Tax Map Key: (2) 4-9-006: 050

- 1 -

2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail rmtowill@hawaii.rr.com



R. M. TOWILL CORPORATION
SINCE 1930

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

EXHIBIT 1

EXHIBIT ``2``

CONDITION OF ZONING

1. The three proposed dwellings on Tax Map Key (2)4-9-006:050 will be rented to Lana'i residents only.