

REQUEST FOR LEGAL SERVICES

RUSH

Date: November 20, 2018
From: Kelly King, Chair
Planning Committee

RECEIVED
CORPORATION COUNSEL
2018 NOV 20 AM 11:12

TRANSMITTAL
Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael Hopper, Esq.

Subject: COMMUNITY PLAN AMENDMENT AND CONDITIONAL PERMIT FOR MAUI
OCEANFRONT INN AND SARENTO'S ON THE BEACH RESTAURANT (KIHEI) (PC-22)

Background Data: Please review revised proposed bills and, if appropriate, approve them as to
form and legality. With respect to the revised proposed Conditional Permit bill, please see
new Condition 6. Signed, hard copies are requested with your response.

Work Requested: [ ] FOR APPROVAL AS TO FORM AND LEGALITY
[X] OTHER:

Requestor's signature: Kelly King
Contact Person: Traci Fujita/Leslee Mathews
(Telephone Extension: 7687 or 7662)

[ ] ROUTINE (WITHIN 15 WORKING DAYS) [ ] RUSH (WITHIN 5 WORKING DAYS)
[ ] PRIORITY (WITHIN 10 WORKING DAYS) [ ] URGENT (WITHIN 3 WORKING DAYS)
[X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 20, 2018, 4:30 p.m.
REASON: For reconvened PC meeting on November 21, 2018

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: MJH ASSIGNMENT NO. 2017-0016 BY: MM

TO REQUESTOR: [X] APPROVED [ ] DISAPPROVED [ ] OTHER (SEE COMMENTS BELOW)
[ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date NOV 20 2018

By MICHAEL J. HOPPER

(Rev. 7/03)

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

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM SINGLE-FAMILY TO HOTEL FOR 1.119 ACRES SITUATED AT KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEY (2) 3-9-004:029

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

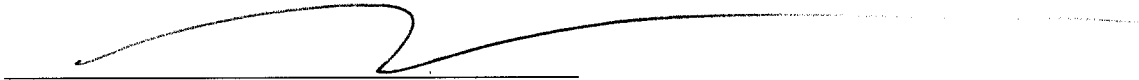
SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Kihei-Makena Community Plan and Land Use Map is hereby amended from Single-Family to Hotel for property situated at Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-9-004:029, comprising 1.119 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Community Plan Map No. CP-531, attached hereto as Exhibit "B" and made a part hereof.

SECTION 2. Part III.C.1. of the Kihei-Makena Community Plan, adopted by Ordinance 2641 (1998), relating to Planning Standards, Land Use Standards, is amended by adding a new paragraph g, to read as follows:

"g. The hotel located on the property situated at Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-9-004:029, shall not increase its current capacity, density, height, or footprint from what is in existence as of the date of this ordinance."

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

APPROVED AS TO FORM AND LEGALITY:



**MICHAEL J. HOPPER**

Department of the Corporation Counsel  
County of Maui

pc:misc:022acpabill01:tntf

EXHIBIT "A"

GOVERNMENT LOT

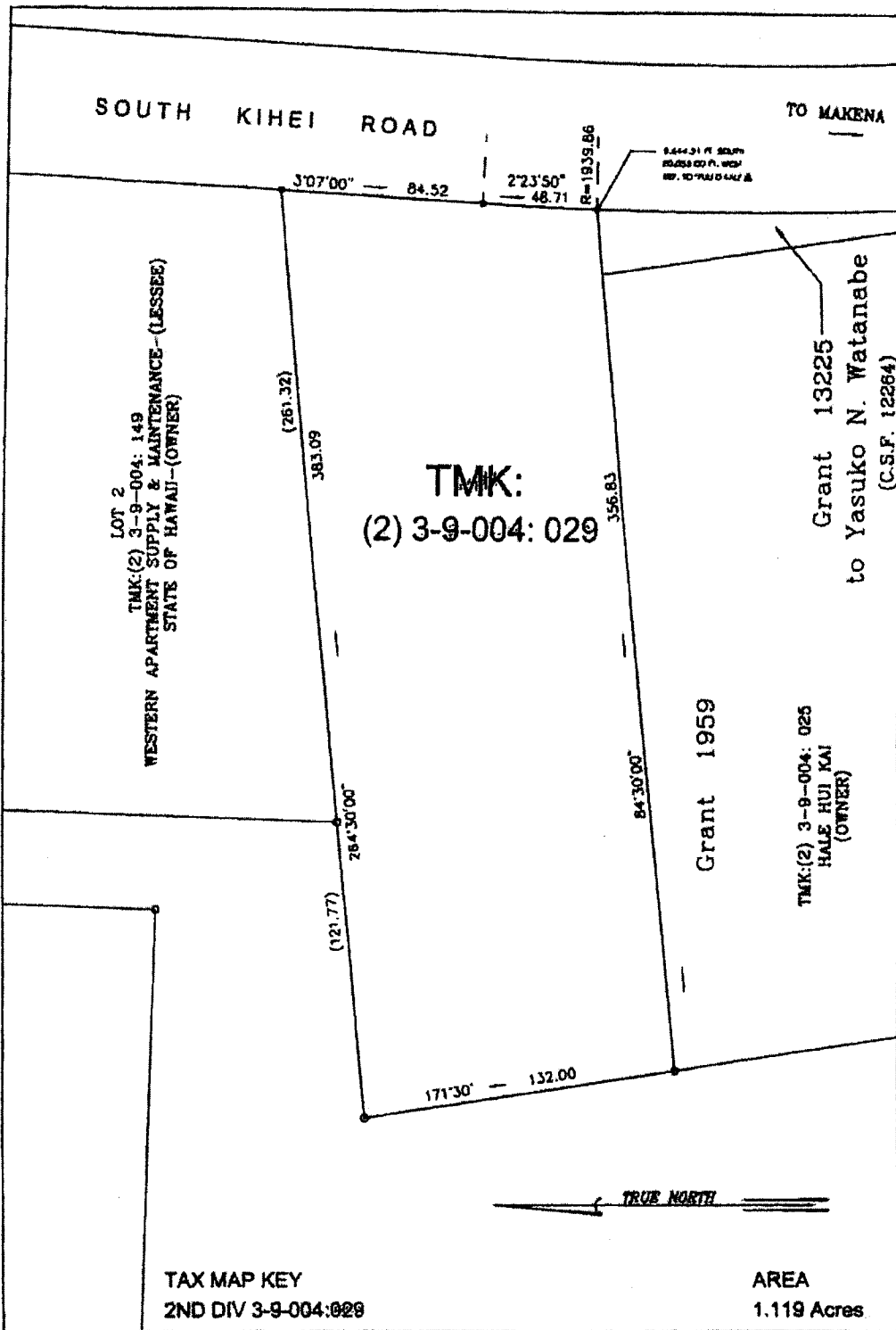
Situate on the west side of Piilani Highway,  
adjoining Grant 13225 to Yasuko N. Watanabe  
and Grant 1959 to Mahi

Kamaole, Wailuku (Kula), Maui, Hawaii

Being portion of the Government Land of Kamaole

Beginning at the southeast corner of this parcel of  
land at the northeast corner of Grant 13225 to Yasuko N.  
Watanabe and on the west side of Piilani Highway, the coordi-  
nates of said point of beginning referred to Government Survey  
Triangulation Station "PUU O KALI" being 9644.91 feet South  
and 20,033.00 feet West, as shown on Government Survey Regis-  
tered Map 3005 and running by azimuths measured clockwise from  
True South:-

1. 84° 30' 356.83 feet along Grant 13225 to Yasuko N.  
Watanabe and Grant 1959 to  
Mahi;
2. 171° 30' 132.00 feet along Government Beach Reserve;
3. 264° 30' 383.09 feet along Government Beach Reserve;
4. 3° 07' 84.52 feet along the west side of Piilani  
Highway;
5. Thence along the west side of Piilani Highway, on a curve  
to the left having a radius of  
1939.86 feet, the chord azimuth  
and distance being: 2° 23' 50"  
48.71 feet to the point of  
beginning and containing an  
AREA OF 1.119 ACRES.



**COMMUNITY PLAN MAP NO. 531**

COMMUNITY PLAN AMENDMENT - KIHAI, MAUI, HAWAII  
FROM SINGLE FAMILY (SF) RESIDENTIAL TO HOTEL (H)

APPROVED \_\_\_\_\_  
COUNTY CLERK DATE

PUBLIC HEARING: **NOVEMBER 25, 2008**

APPROVED *Kathleen Bernhardt* 9-28-09  
PLANNING DIRECTOR DATE

ADOPTED - COUNCIL  
ADOPTED - MAYOR  
ORDINANCE:

DATE:

SCALE: 1" = 50'

OFFICE OF THE COUNTY CLERK

300 South High Street, Wailea, Maui, Hawaii 96753

**CP-531**

EXHIBIT " B "

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

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO RUBY & SONS HOSPITALITY, LLC, FOR THE CONSTRUCTION AND USE OF AN OFF-SITE PARKING LOT WITHIN THE COUNTY PARK DISTRICT FOR PROPERTY SITUATED AT KIHEI, 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 Ruby & Sons Hospitality, LLC for the construction and use of an off-site parking lot within the County Park District. The site is identified for real property tax purposes as tax map key (2) 3-9-004:149, comprised of approximately 35,932 square feet of land situated at Kihei, Maui, Hawaii.

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

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the Conditional Permit shall be valid for a period of two (2) years from the effective date of this ordinance; provided, that an extension of this Conditional Permit beyond this two-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the subject Conditional Permit shall not be transferred unless the Maui County Council approves a transfer by ordinance.
4. That Ruby & Sons Hospitality, LLC, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the subject 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 ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending Ruby & Sons Hospitality, LLC, and 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 Ruby & Sons Hospitality, LLC of said rights; and (2) all actions, suits, damages and claims by whomever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance. 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 Ruby & Sons Hospitality, LLC shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That Ruby & Sons Hospitality, LLC shall provide at least fifty-one (51) parking stalls designated for public beach access parking and no more than thirty-four (34) parking stalls designated for hotel and restaurant parking on tax map key (2) 3-9-004:149.

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

APPROVED AS TO FORM AND LEGALITY:

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**MICHAEL J. HOPPER**

Department of the Corporation Counsel  
County of Maui

pc:misc:022acpbill03:ldm