

DIGITAL ZONING MAP (2) FOR MAUI ISLAND (PSLU-40)

October 2, 2019

County Communication 19-346, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING DIGITAL ZONING MAP (2) AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI." The purpose of the proposed bill is to adopt Digital Zoning Map (2) as the official zoning map for the island of Maui. Map (2) includes 13 corrections to the first map.

Amendment:

Amend Digital Zoning Map (2) to include 14 corrections to the first map.
Shall include 266 Dickenson Street, Lahaina, TMK(s) (2) 4-6-011:011 & 028
Zoning to "A-2 Apartment"

Property history:

1965 A-2 Duplex by Ordinance 410 (formerly R-2)
 A-2 Duplex Noted on Dead Sea Scrolls
 Historically D-2, Duplex District referred to as A-2 so it was A-2 Duplex

2013 Council changed D-2 Duplex on all maps,
 A-2 Duplex and A-2 Apartment (formerly from R-2)

Property owner history:

August 2013 A-2 Apartment District
 Zoning Confirmation from Planning Department
 Sellers discloser report – Arcangel and Pangilinan trust

November 2016 Purchase property

December 2016 A-2 Apartment District
 Zoning Confirmation from Planning Department
 Melissa Countryman and Chris Ondatje

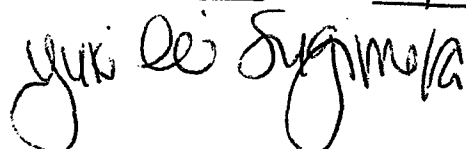
 A-2 Apartment District
 Proceeded to hire consultants

October 2, 2019 D-2 Duplex, zoning
 Amend to A-2 Apartment

He bought the property with three zoning confirmation forms saying it was A-2 Apartment. He went through his plans, he hired an architect, they came to the County and someone told him, Oh, it was a mistake, you gotta go through a zoning change.

May 21, 2019, PSLU committee meeting *Rory Frampton the planner presentation. Pages 38 and 39.*

RECEIVED AT PSLU MEETING ON 10/2/19



From: Rory Frampton <rory@roryframpton.com>
Date: October 1, 2019 at 4:42:53 PM HST
To: Yuki Lei Sugimura <yukilei.sugimura@gmail.com>
Subject: Re: 266 Dickenson Street, Lahaina

Yuki

Thanks for the email. I can't make it tomorrow, need to be at a meeting at 8:30 that will last about an hour.

Here's a quick recap.

Chris Ondatge and his partner purchased the property AFTER reviewing:

- the sellers disclosure report which included a official signed Zoning Confirmation form dated 2013 from the County indicating A-2 Apartment
- County's KIVA site which said the property was A-2 Apartment
- a second Zoning Confirmation form in 2016 showing A-2 Apartment

It was only after the purchase that the County told him it was not A-2 but rather D-2 duplex. As a result he overpaid for the property and then spent a ton of money on a re-zoning effort.

Rory

August 2013 Zoning Confirmation Form

FORM NO. ZC-01 (REV. 12/10) COUNTY OF MAUI

7/30/2013 13:19 8898778627
 COUNTY OF MAUI
 DEPARTMENT OF PLANNING
 Kalaheo Petrol Building
 230 South High Street
 Wailuku, Hawaii 96793

C21 ALL ISLANDS
 Zoning Administration and Enforcement Division (ZAED)
 Telephone: (808) 270-7233
 Facsimile: (808) 270-7634
 E-mail: planning@mauicounty.gov

Mick
 2 Pages

ZONING AND FLOOD CONFIRMATION FORM

APPLICANT NAME Theodor J. ANDRADE TELEPHONE 808 287-2438
 PROJECT NAME _____ E-MAIL thandrade@yahoo.com
 PROPERTY ADDRESS 266 Dickerson & Lahaina TAX MAP KEY II-4-6-011-011

Yes No Will this Zoning & Flood Confirmation Form be used with a Subdivision Application?
 If "Yes", answer questions A and B below:
 A) Will it be processed under one of the consistency exemptions of Section 16.04.030(B), MCC? Yes No
 If "Yes", which exemption?
 B) Provide the purpose of subdivision and the proposed land uses below:

NOTE: 1) Use a separate Zoning & Flood Confirmation Form for each Tax Map Key (TMK) number.
 2) If this will be used with a subdivision application AND if the zoning information for the subject property contains multiple State Land Use Districts, Community Plan Designations, or County Zoning, a signed and dated Land Use Designations (LUD) Map, prepared by a licensed surveyor showing all the various districts, designations, zoning, and any subdivisions, shall be submitted for review and approval.
 3) If this will be used with a subdivision application AND if there are available State Land Use District designations, the applicant shall procure a District Boundary Interpretation from the State Land Use Commission.

STATE LAND USE DISTRICT(S) URBAN
 COMMUNITY PLAN DESIGNATION(S) MC MAUI ZONING
 COUNTY ZONING(S) A-2 RESIDENTIAL DISTRICT
 OTHER DESIGNATION(S)/COMMENTS NHLD - NEIGHBORHOOD HISTORIC LANDMARK DISTRICT

Yes No (SMA) SPECIAL MANAGEMENT AREA
 Yes No (PH) PLANNED DEVELOPMENT
 Yes No (PD) PROJECT DISTRICT

FLOOD HAZARD AREA ZONE(S) N For Flood Zone AO, FLOOD DEPTH _____
 BASE FLOOD ELEVATION(S) N/A feet mean sea level, local Tidal Datum.
 *FLOODWAY Yes No *FLOOD DEVELOPMENT PERMIT REQUIRED Yes No
 * For flood hazard area zones X or X2, a flood development permit would be required if any work is done in any drainage facility or stream area that would reduce the capacity of the drainage facility, river, or stream, or adversely affect downstream property.
 * For subdivisions in ALL FLOOD HAZARD AREA ZONES (including zones X or X2) that involve streams, gutches, low areas, or any type of drainage, a subdivision of the 100 year flood boundary limits or a change reserve may be required.
 N/A (Not Applicable)

The Land Use Designations (LUD) align and a unilateral agreement is not required.
 The LUDs do not align and the available or proposed land uses appear to be:
 Consistent with a Department of Public Works / Planning unilateral agreement.
 Not Consistent Comments:

All proposed subdivisions will be further reviewed during the subdivision application process to verify consistency, unilateral agreement requirements, and the conditions associated with a unilateral agreement (Section 16.04.030(D), Maui County Code).

For: AARON SHINMOTO, Planning Program Administrator, Zoning Administration and Enforcement Division
 Date: 8/7/13

2:ALLFORMS\ZAED\Forms\Facilities\Zoning\Zoning_Confirmation_Form_11.docx

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10 3/18/2016

Dec. 2016 Zoning Confirmation Form

RECEIVED

COUNTY OF MAUI
DEPARTMENT OF PLANNING
One Main Plaza Building
2200 Main Street, Suite 335
Wailuku, Hawaii 96793

Zoning Administration and Enforcement Division (ZAED)
Telephone: (808) 270-7253
Facsimile: (808) 270-7634
E-mail: planning@mauicounty.gov

ZONING AND FLOOD CONFIRMATION FORM

(This section to be completed by the Applicant)

APPLICANT NAME Melissa Countryman for Chris Ondatje TELEPHONE 808-640-5721
PROJECT NAME 266 Dickenson E-MAIL melann@gmail.com
PROPERTY ADDRESS 266 Dickenson TAX MAP KEY 460110110000

Yes No Will this Zoning & Flood Confirmation Form be used with a Subdivision Application?
IF YES, answer questions A and B below and comply with instructions 2 & 3 below.

A) Yes No Will it be processed under a consistency exemption from Section 18.04.030(B), MCC?
IF YES, which exemption? (No. 1, 2, 3, 4 or 5) 4

B) State the purpose of subdivision and the proposed land uses (*is 1-lot into 2-lots for all land uses allowed by law*):
Combine 2 lots into 1 lot for construction of a new multifamily apartment building

INSTRUCTIONS:

- 1) Please use a separate Zoning & Flood Confirmation Form for each Tax Map Key (TMK) number.
- 2) If this will be used with a subdivision application AND the subject property contains multiple districts/designations (1) State Land Use Districts, (2) Maui Island Plan Growth Boundaries, (3) Community Plan Designations, or (4) County Zoning Districts; submit a signed and dated Land Use Designations Map, prepared by a licensed surveyor, showing the metes & bounds of the subject parcel and of each district/designation including any subdistricts.
- 3) If this will be used with a subdivision application AND the subject property contains multiple State Land Use Districts; submit an approved District Boundary Interpretation from the State Land Use Commission.

(This section to be completed by ZAED)

LAND USE DISTRICTS/DESIGNATIONS (LUD) AND OTHER INFORMATION:¹

STATE DISTRICT: Urban Rural Agriculture Conservation (SMA) Special Management Area

MAUI ISLAND Growth Boundary: Urban Small Town Rural Planned Growth Area Outside Growth Boundaries

PLAN Protected Area: Preservation Park Greenbelt Greenway Sensitive Land Outside Protected Areas

COMMUNITY PLAN:² multifamily residential

COUNTY ZONING: A-2 Apartment District

OTHER/COMMENTS: National Historic Landmark District

FEMA FLOOD INFORMATION:

FLOOD HAZARD AREA ZONES³ & BASE FLOOD ELEVATIONS: Zone X

FEMA DESIGNATED FLOODWAY For Flood Zone AO, FLOOD DEPTH: See Additional Comments (Pg.2)

FLOOD DEVELOPMENT PERMIT REQUIRED (Zones V, VE, A, AO, AE, AH, D, & Floodways) Attached LUD Map See

SUBDIVISION LAND USE CONSISTENCY: Not Consistent, (LUDs appear to have NO permitted uses in common).
 Not Applicable, (Due to processing under consistency exemption No. 1, 2, 3, 4, 5).
 Interim Zoning, (The parcel or portion of the parcel that is zoned interim shall not be subdivided).

⁴Consistent, (LUDs appear to have ALL permitted uses in common).
 ⁴Consistent, upon obtaining an SMA, PD, or PH subdivision approval from Planning.
 ⁴Consistent, upon recording a permissible uses unilateral agreement processed by Public Works (See Pg.2).

NOTES:

- 1 The conditions and/or representations made in the approval of a State District Boundary Amendment, Community Plan Amendment, County Change in Zoning, SMA Permit, Planned Development, Project District and/or a previous subdivision, may affect building permits, subdivisions, and uses on the land.
- 2 Please review the Maui Island Plan and the Community Plan document for any goals, objectives, policies or actions that may affect this parcel.
- 3 Flood development permits might be required in zones X and XS for any work done in streams, gulches, low-lying areas, or any type of drainageway; Flood development permits are required for work in all other zones. Subdivisions that include/adjoin streams, gulches, low-lying areas, or any type of drainageway might require the following designations to be shown on the subdivision map: 100-year flood inundation limits; base flood elevations; drainage reserves.
- 4 Subdivisions will be further reviewed during the subdivision application process to verify consistency, unilateral agreement requirements, and the conditions associated with a unilateral agreement [Section 18.04.030 D, Maui County Code].

REVIEWED & CONFIRMED BY:
John S. Rapacz (Signature) 12/14/16 (Date)
For: John S. Rapacz, Planning Program Administrator, Zoning Administration and Enforcement Division

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(This section to be completed by ZAED)

LAND USE DISTRICTS/DESIGNATIONS (LUD) AND OTHER INFORMATION:¹

(SMA)
Special
Management Area

STATE DISTRICT: Urban Rural Agriculture Conservation

MAUI
SLAND Growth Boundary:² Urban Small Town Rural Planned Growth Area Outside Growth Boundaries

PLAN Protected Area:² Preservation Park Greenbelt Greenway Sensitive Land Outside Protected Area

COMMUNITY PLAN:² multi-family Residential

COUNTY ZONING: A-2 Apartment District

OTHER/COMMENTS: National Historic Landmark District

(PD)
Planned
Development
 (PH)
Project District

Dec. 2016 Zoning Confirmation Form
During Due Diligence -Prior to Purchase



Portion of Official County Zoning Map

266 Dickenson Street Apartments



**PLANNING AND SUSTAINABLE LAND USE
COMMITTEE MEETING**

May 21, 2019

Required Permits/Approvals

- Within National Historic District triggers HRS Chapter 343: Final Environmental Assessment published in OEQC Notice on 5/8/18
- Within Special Management Area: Special Management Area Use Permit (SM1)
- Currently zoned “D-2 Duplex” and “R-2 Residential” by County of Maui: Change in Zoning to “A-2 Apartment”

Project Description

- 8-unit apartment building:
 - seven (7) 2-bedroom units and
 - one (1) single-bedroom unit
- Four (4) units on 1st floor, three (3) units on 2nd floor, and one (1) unit on 3rd floor
- Parking: Two (2) parking stalls per unit = 16
 - “Grasscrete” for the four (4) parking stalls fronting Dickenson Street
- Safe: Fire sprinklers in the building, perimeter fencing, building and parking/outdoor lighting and hurricane safe building construction
- Walking distance from Lahaina commercial center and employment hub

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

May 21, 2019

West Maui Senior Center

CONVENE: 5:05 p.m.

PRESENT: VOTING MEMBERS:
Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura

EXCUSED: VOTING MEMBERS:
Councilmember Kelly T. King
Councilmember Alice L. Lee

STAFF: David Raatz, Legislative Attorney
Leslee Matthews, Legislative Attorney
Julie Reed, Legislative Analyst
Clarita Balala, Committee Secretary

Angela Lucero, Executive Assistant to Councilmember Tamara Paltin

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: David A. Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Paul Fasi, Planner, Department of Planning
Stephen Welling, Deputy Director, Department of Public Works

OTHERS: Jen Mather
Robin Ritchie
Lyndsey Miller
Luke Hoffseth
Jon Wheeler
Sheri Thibaut
Timi Gilliom
William Cross
Alan Dickar
Bill Green
Chris Welsh
Robin Welsh
Dylan Payne

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 21, 2019

Paka Tucker
LaurieLei DeGama
Ke`eaumoku Kapu
Uilani Kapu
(14) additional attendees

Christopher Ondatje, Applicant
Rory Frampton, Rory Frampton Consulting Inc.

**PSLU-19 CHANGE IN ZONING FOR 266 DICKENSON STREET
APARTMENTS (LAHAINA) (CC 18-351)**

CHAIR PALTIN: ...*(gavel)*... The Planning and Sustainable Land Use Committee will come to order. The time is about 5:05 on May 21st, Tuesday, here at Kaunoa Senior Center in West Maui. I'm Councilmember Tamara Paltin, the Chair of the Council's Planning and Sustainable Land Use Committee, and I'd like to introduce our voting Committee members. We have the Vice-Chair of this Committee, Mr. Shane Sinenci, all the way from East Maui.

VICE-CHAIR SINENCI: Good afternoon, Chair.

CHAIR PALTIN: Good afternoon. Our Council Chair, Kelly King, is excused tonight and our Councilmember Alice Lee is also excused. And I just wanted to let everybody know this is an off-meeting week for us, yeah. Usually we meet every other week so I requested to the Council Chair if we could have an additional meeting with a site inspection on the West Side because this was a West Side issue. So for the Members that are excused it's not like this is a regularly scheduled meeting. It's a additional meeting so don't hold it against them. We also have Councilmember Michael Molina all the way from Makawao.

COUNCILMEMBER MOLINA: Aloha, Chair. Aloha, everyone.

CHAIR PALTIN: Aloha. And we have Council Vice-Chair with us, Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha. Aloha auinalā, Chair.

CHAIR PALTIN: Aloha auinalā. And Councilmember Yuki Lei Sugimura from Upcountry.

COUNCILMEMBER SUGIMURA: Good afternoon.

CHAIR PALTIN: Good afternoon. So our non-voting Members on this Committee are Riki Hokama and Tasha Kama. For Committee Staff, we have Committee Secretary, Clarita Balala, at the end over there. Our Legislative Attorney is Ms. Leslee Matthews.

MS. MATTHEWS: Aloha, Chair.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 21, 2019

CHAIR PALTIN: Maybe the one by the door...maybe just in case somebody has to use the restroom during the presentation or something. Thank you so much. Okay. Mr. Frampton, it's all you. Take it away.

MR. FRAMPTON: Okay. Thank you very much, Chair, and thank you to the Committee Members for traveling out to the West Side to hear this project. My name is Rory Frampton. I'm a land use planning consultant and I've been retained by Mr. Ondatje to assist with this project. So I'll try to go some of these...through some of these slides. I thought I was gonna go quickly through some of 'em, but I'm glad I have some of them in there because we can address some of the points that came up earlier. So the project description that we've heard already. It's a eight unit apartment building, seven two-bedroom units and one single bedroom unit. There's four units on the first floor, three on the second, and one on the third. As was noted, two parking stalls per unit so 16 total and four of 'em along the street will be grasscrete. And the building is designed to be safe and that's one of Chris' main objectives is to have a safe building for people to rent in Lahaina, which is not the case for a lot of our young people in Lahaina right now. And it's, you know, it's walking distance as we heard from Lahaina's commercial center and employment hub. So the required permits and approvals it's in the National Historical Landmark District. That's different than the Historic zoning districts and I'll get into that a little bit later. The Landmark District is just for the whole town, but that does trigger Chapter 343. We did go through the draft EA and the final EA was published in...on May 8th last year. It's within the Special Management Area Permit. We'll need to go back to the Planning Commission after obtaining the change in zoning. It's currently zoned D-2 Duplex and R-2 Residential by the County and the change in zoning is why we're here today to the A-2 Apartment. There's change in zoning criteria in Title 19 that I'll get into later, but it talks about meeting the intent of the General Plan needs to meet...be consistent with the Community Plan, needs to be consistent with the Zoning District. You need to...you guys need to consider impacts to basically infrastructure services and the environment...social, cultural environment, ecological character of the area. So there's a lot of criteria that I'll hit on later that we addressed thoroughly going through the environmental assessment process. Now, this is a zoning confirmation form and as one of the testifiers noted earlier, the County of Maui, this was done in 2013, this was done by the seller of the property which was the...I think it was a trust for the Arcangel family. It was the Arcangel family, yeah. And they got this and it says in that red box, A-2 Apartment. In 2016, there was another zoning confirmation firm that the buyer got. Again, it said A-2 Apartment District. So while he...before he got the property he got official, official notice from the County I think it was at least three times that said it was A-2 Apartment. He was notified after he purchased the property that it was actually D-2 Duplex. And I'll show you what the map looks like that the finding...what the Planning Department was looking at and they affectionately refer to these maps as the Dead Sea Scrolls because they're so old. And so this is the property. This is the area that was actually it was R-2 changed to A-2 Duplex by an Ordinance 410 in 1965. So when the planners looked at this...three separate planners, they only looked at the A-2. They didn't understand the other notations and they said, oh, it's A-2...A-2 Apartment. Well, historically, the D-2, the Duplex District was referred to as A-2 so it was A-2 Duplex. In 2013, the Council changed that and so

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 21, 2019

now to not have the confusion, it's now called D-2 Duplex on all the maps. But at the time it was A-2 and apparently these planners didn't know that there was an A-2 Duplex and there was an A-2 Apartment. So anyways, Chris bought the property with three zoning confirmation forms saying it was Apartment. He went through his plans, he hired his architect, they came to the County and someone told him oh, that was a mistake, you gotta go through a zoning change. That was two years ago. It was over two years ago when he contacted me. It took a while to get the application turned into the County. I'll go through the timeline later. Anyways, it's a long process to go through a change in zoning. It was not something that Chris expected to do. The objective and the need, I think you've heard the main objective is to have safe, convenient, clean, and reliable place to live within Lahaina town. And the needs, we've heard about the needs. You know, the rental market in Lahaina is crazy. It's a...we have an employment center and all the people that commute from West Maui...from Central Maui to West Maui daily is just a burden of the highway and it's not good for anybody. This is a project timeline. We did the draft EA, went through a formal 30-day review and comment period in 2018 in March and April. The Planning Commission reviewed the draft EA in March. The Urban Design Review Board was in April and the Urban Design Review Board is board of professionals that are concerned with the architectural character of the island. They're architects, they're engineers, and there's people with cultural experience, and they reviewed this project and they gave it a unanimous approval and support. They were very supportive of the design. They liked the architecture. They like the fact that it had a three-story element. I'll get into some renderings later where we can see how it's nestled into the site as well. They liked the detail and it had a lot of residential components to it so that was our official Urban Design Review Board's comments on this. The Planning Director accepted the Final EA or the FONSI in April. There was a Planning Commission public hearing on the SMA and the change in zoning in June of last year, June 26. Prior to that hearing there was a mail out notice to everybody within 500 feet so the neighbors were notified of that public hearing. There were also notified before the application was submitted. There was notification that went out to everybody within 500 feet asking for comments or concerns or anything. Didn't get any from the neighbors really. We did have meetings with the church and the school. There was an initial meeting before the preparation of the application and then after the Planning Commission hearing, Chris and I both went and met with the school twice and with the church once. And the school's principal, Dr. Solis, is very much in support of the project. The...where we are now, it took almost a year to get the materials from the Planning Commission to you guys. It actually went to the Council in September and because of scheduling here we are now. Anyways, so after the change in zoning there will be a Planning Commission...will go back to the Planning Commission for decision making on the SMA, and then if everything works out quickly, he could be under construction within say nine months after the SMA permit is approved. And the construction will probably take about a year, maybe a year and a half. But it's about...the construction is like constructing a large residential dwelling. The total square footage is about 6,000 square feet. So here are the location maps. We know it's on the corner of Dickenson and Honoapiilani Highway. Some of the surrounding uses bordering the property to the south is the Aina Nalu Lahaina Vacation Condos. Of course, there's the school, the church, and across the street is the Aloha gas

