

REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL

Date: December 9, 2019

From: Tamara Paltin, Chair

2019 DEC -9 PM 2: 54

Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL

Attention: Michael J. Hopper, Esq.

Subject: **CHANGE IN ZONING FOR THE SOUTH MAUI GARDENS DEVELOPMENT AT 30 ALAHELE PLACE AND 33 AUHANA ROAD (KIHEI)** (PSLU-36)

Background Data: Please review the attached further revised proposed bill and if appropriate, approve it as to form and legality. Please send a signed hard copy with your response.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature

Tamara Paltin
Tamara Paltin

Contact Person

James Krueger

(Telephone Extension: 7761)

☐ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): Wednesday, December 11, 2019

REASON: For posting on December 13 for the December 20 Council meeting

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:

MJH

ASSIGNMENT NO.

2019.0101

BY:

maa

TO REQUESTOR: ☒ 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

DEC 10 2019

By

MICHAEL J. HOPPER

(Rev. 7/03)

pslu:ltr:036acc02:jgk

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTIES IDENTIFIED AS TAX MAP KEYS (2) 3-9-003:003 AND (2) 3-9-003:005, LOCATED AT 30 ALAHELE PLACE AND 33 AUHANA ROAD, KIHAI, MAUI, HAWAII


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

SECTION 1. In accordance with Chapter 19.510, Maui County Code, a change of zoning from R-2 Residential District to B-2 Community Business District is granted for properties situated at Kihei, Maui, Hawaii, identified for real property tax purposes as tax map keys (2) 3-9-003:003 and (2) 3-9-003:005, comprising approximately 2.5 acres, as more particularly described in Exhibit "A," which is a land description, and Exhibit "B," which is Land Zoning Map L-5124.

SECTION 2. In accordance with Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions stated in Exhibit "C," which is the list of conditions of zoning, and Exhibit "D," which is the Unilateral Agreement and Declaration for Conditional Zoning.

SECTION 3. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

pslu:misc:036abill01a2:jgk

LAND DESCRIPTION

Lot 38

All that certain parcel of land known as Lot 38 of the Kihei Farm Subdivision, being a portion of Lot 20A of the Kamaole Homesteads, being also a portion of Land Patent Grant 8265 to Dora Von Tempsky.

Situate at
Kihei, Maui, Hawaii

Beginning at a ¾" pipe (found) at the Southeasterly corner of this parcel of land, being the Southwesterly corner of Lot A-1 of the Resubdivision of the Consolidation of Lots A & B of a portion of Land Patent Grant 5598 to Akuna Akina, [Tax Map Key:(2)3-9-17: 23] and a point along the Northerly right-of-way of Auhana Road, the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "PUU-O-KALI" being 368.14 feet South and 21,678.91 feet West and running by azimuths measured clockwise from True South; thence,

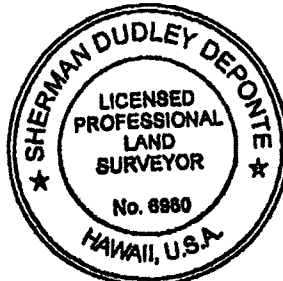
- | | | | |
|----|--------------|---------|--|
| 1. | 102° 40' 00" | 140.55 | feet along the Northerly right-of-way line of Auhana Road, to a ½" pipe (set); thence, |
| 2. | 160° 05' 00" | 224.600 | feet along the Northeasterly property boundary line of Lot 36 of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03:01] to a mag nail on tile wall footing (set); thence, |
| 3. | 250° 05' 00" | 201.52 | feet along the Southeasterly property boundary line of Lot 37 and Lot 39-D of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03: 03 and 49] passing over a ½" pipe (set) at 166.00 feet to a ½" pipe (set); thence, |
| 4. | 355° 33' 00" | 311.57 | feet along the Westerly property boundary line of Lot A-1 of the Resubdivision of the Consolidation of Lots A & B of a portion of Land Patent Grant 5598 to Akuna Akina, [Tax Map Key:(2)3-9-17: 23] to the point of beginning and containing an area of 43,557 square feet. |

This work was done by me or
under my direct supervision.

AKAMAI LAND SURVEYING, INC.

 15 SEP 18

Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
218246(9/13/18 WN)



LAND DESCRIPTION

Lot 37

All that certain parcel of land known as Lot 37 of the Kihei Farm Subdivision, being a portion of Lot 20A of the Kamaole Homesteads, being also a portion of Land Patent Grant 8265 to Dora Von Tempsky.

Situate at
Kihei, Maui, Hawaii

Beginning at a ¾" pipe (found) at the Northwestern corner of this parcel of land, being the Northeasterly corner of Lot 35 of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03:02] and a point on the Southerly right-of-way line of Alahele Place, the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "PUU-O-KALI" being 250.86 feet North and 22,029.15 feet West and running by azimuths measured clockwise from True South; thence,

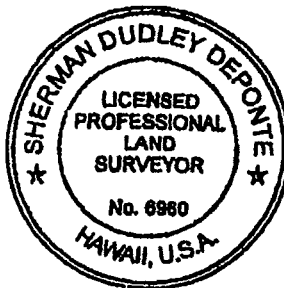
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|----|--------------|--------|--|
| 1. | 254° 50' 00" | 166.57 | feet along the Southerly right-of-way line of Alahele Place, to a ½" pipe (set); thence, |
| 2. | 340° 05' 00" | 387.20 | feet along the same and the Southwesterly property boundary line of Lots 39-E and 39-D of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03: 21 and 49] to a ½" pipe (set); thence, |
| 3. | 70° 05' 00" | 166.00 | feet along the Northwestern property boundary line of Lot 38 of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03:05] to a ½" pipe (set); thence, |
| 4. | 160° 05' 00" | 401.00 | feet along the Northeasterly property boundary line of Lots 36 and 35 of the Kihei Farm Subdivision [Tax Map Key:(2)3-9-03:01 and 02] to the point of beginning and containing an area of 1.502 acres. |

This work was done by me or
under my direct supervision.

AKAMAI LAND SURVEYING, INC.



Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960
Expires: April 30, 2020
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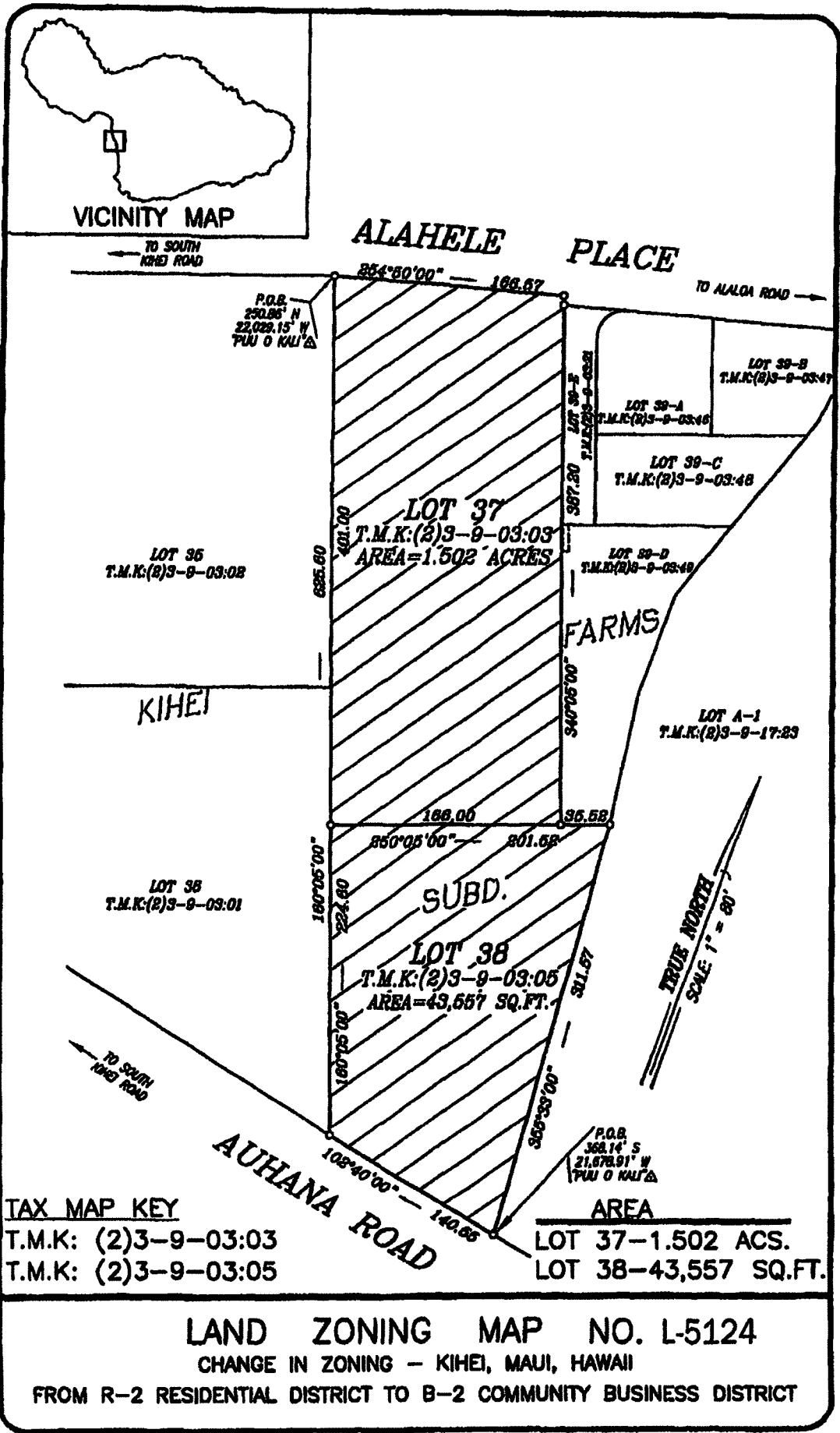


EXHIBIT "B"

EXHIBIT "C"

CONDITIONS OF ZONING

1. Nation Land Company, LLC and any future owner or lessee must not operate Short-Term Rental Homes, Bed and Breakfast Homes, or any other transient accommodations on the property.
2. Nation Land Company, LLC and any future owner or lessee may only conduct the following B-2 Community Business District uses on the property:
 - a. Permitted uses:
 - i. Catering establishments.
 - ii. Eating and drinking establishments.
 - iii. Education, specialized.
 - iv. Educational institutions.
 - v. Farmers markets.
 - vi. General merchandising.
 - vii. General office.
 - viii. Nurseries (flowers or plants), provided, that all incidental equipment and supplies, including fertilizers and empty cans, are kept within enclosed buildings.
 - ix. Parking lots, which may include solar energy facilities that are installed on overhead canopies or structures, and may provide power to other lots.
 - x. Personal and business services.
 - xi. Other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area, provided that such uses shall be approved by the appropriate planning commission as conforming to the intent of the B-2 Community Business District.
 - b. Accessory uses:
 - i. One or more dwelling units located above or below the first floor of a permitted use.
 - c. Special uses:
 - i. None.
3. The maximum height of any structure on the property is 45 feet.