



**CHRIS
HART**
& PARTNERS, INC.

Landscape Architecture
City & Regional Planning

February 18, 2011

OFFICE OF THE
COUNTY CLERK

11 FEB 18 9:3:07

RECEIVED

Mr. Robert Carroll, Chairman
Council Land Use Committee
200 South High Street
Wailuku, Maui, HI 96793

Dear Chairman Carroll, and Land Use Committee Members:

Regarding: Status of Settlement Agreement and Land Use Entitlement for the Maui Oceanfront Inn and Sarento's Restaurant (MOSR), located at 2980 South Kihei Road, Kihei, Maui, Hawaii; TMK Nos.: (2) 3-9-004:029 and 149. (EA 2006/0015) (CPA 2006/0005) (CP 2006/0012) (SM1 2006/0017) (SSV 2006/0004) (OSP 2006/0002)

The following is a reply to your request for a status update on the above referenced applications via letter dated January 21, 2011 (**See Attached:** "Letter from Council Land Use Committee Chair dated 2011-01-21).

Since our meeting with the County Council Land Use Committee on August 4, 2010, regarding the above referenced Settlement Agreement and Land Use Entitlement, the Applicant has been working on the issues identified by the previous Council Land Use Committee Chair (**See Attached:** "Letter from Council Land Use Committee Chair dated 2010-08-06). The Applicant's progress on the outstanding issues is described below:

#1. Letter of Authorization:

The Applicant has worked with the Department of Planning and sought input from Council Services to identify the requirements for the Letter of Authorization. Chris Hart & Partners (CH&P) then made communication with Department of Land and Natural Resources (DLNR) on the issue and provided a template Letter of Authorization to DLNR on October 19, 2010. CH&P has continued to be in communication with the DLNR regarding the issue. The Maui Land Agent has stated that he is not opposed to issuing the letter, but to date, the Letter of Authorization has not been issued by DLNR.

#2. Area of Revocable Permit and Area of Parcel 149:

The Applicant has requested for a Conditional Use Permit for a portion of the parking lot Parcel No. 149. The Applicant proposes to use an area of 0.694 acres

for the purpose of parking, consistent with the existing Revocable Permit for use of the parcel.

#2.a Area of Conditional Permit and area of Parcel 149:

The Applicant has been in negotiation with the State DLNR for some time. As proposed above, the Conditional Use Permit will not conflict with the area that is currently covered by a Revocable Permit because the size of the existing Revocable Permit is equal to the size of the requested Conditional Use Permit.

In the event that a lease for the use of the entire parcel is obtained, the Applicant will seek an amendment to any existing County permits, at that time.

#2.b. Status of Updated Lease for Parcel 149:

The Applicant has been in negotiation with the State DLNR, and is anticipating that an updated lease will be forthcoming.

#3. Status of Mitigation Measures:

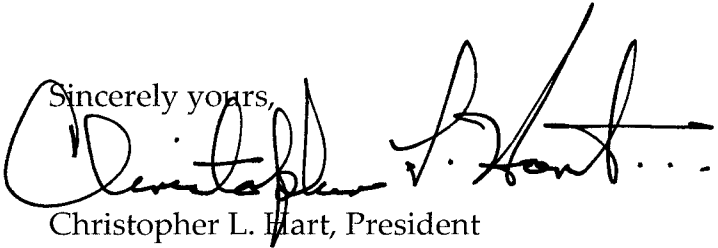
Section 2.5.2: The Applicant requested the Right of Entry (ROE) for Naupaka trimming from DLNR in October of 2010. All required information for the issuance of a ROE was provided to DLNR on November 9, 2010, including a certificate of insurance for coverage of up to \$1,000,000.00, naming the State of Hawaii, DLNR as additionally insured. CH&P continues to be in communication with the State of Hawaii for a ROE for vegetation maintenance, as referenced. To date the executed ROE has not been received.

Section 2.5.3: The Applicant has posted and maintained beach reserve signage as referenced in the Settlement Agreement. On September 19, 2010 the Applicant's attorney requested written comment from the Interested Parties, and has followed up via telephone. To date there is no written reply or documentation of an agreement or of any negative comment on the particular words used for beach signage has been received from the Interested Parties.

Section 2.5.4: The Applicant has posted and maintained public parking signage as referenced in the Settlement Agreement. On September 19, 2010 the Applicant's attorney requested written comment from the Interested Parties, and has followed up via telephone. To date there is no written reply or documentation of an agreement or of any negative comment on the particular words used for parking signage has been received from the Interested Parties.

Section 2.5.5: The Applicant has completed portions of 2.5.3 & 4 of the Settlement Agreement and has initiated completion of all other mitigation measures. The Applicant has been granted the referenced variances, contingent on completion of the Settlement Agreement. The Applicant will continue to pursue the completion of all portions of the Settlement Agreement.

Thank you for your consideration. Please contact Jordan Hart at 270-1563 or Jhart@CHPMaui.com for further information.

Sincerely yours,

Christopher L. Hart, President
ASLA Landscape Architect & Planner

Enclosures (3):

- 2011-01-21, Letter From Council Land Use Committee Chair
- 2010-08-06, Letter From Council Land Use Committee Chair
- 2010-09-20, Letter From Chris Hart & Partners

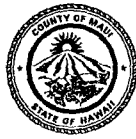
CC: Mr. Carroll Davis
Thomas R. Cole
Jonathan S. Durrett
Mr. Joseph Prutch

Project File (05-112)

Council Chair
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Vice-Chair
Joseph Pontanilla

Council Members
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Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

January 21, 2011

Mr. Christopher Hart
Chris Hart & Partners, Inc.
115 N. Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: COMMUNITY PLAN AMENDMENT AND CONDITIONAL PERMIT FOR MAUI OCEANFRONT INN AND SARENTO'S ON THE BEACH RESTAURANT (KIHEI) (LU-25)

By the enclosed correspondence dated August 6, 2010, the former Chair of the Maui County Council's Land Use Committee requested information relating to the subject applications. Your enclosed response, dated September 20, 2010, indicated that the applicant has been in communication with the State Department of Land and Natural Resources to obtain the information requested, including the required letter of authorization, updated lease, and right of entry agreement.

In the ensuing four months, the Committee has not received an update or any of the requested information.

As we embark upon the new Council term, may I please request that you provide the Committee with a written response concerning the status of your obtaining the information requested, along with copies of any of the requested documents you may have since received. I look forward to receiving your response **by Friday, February 18, 2011**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

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JAN 25 2011

CHRIS HART & PARTNERS, INC.
Landscape Architecture and Planning

CC: Jordan

05/112

Mr. Christopher Hart
Chris Hart & Partners, Inc.
January 21, 2011
Page 2

Thank you for your attention to this matter. Should you have any questions, please contact me or the Committee staff (Kirstin Hamman at 270-7134 or Pauline Martins at 270-8039).

Sincerely,


ROBERT CARROLL, Chair
Land Use Committee

lu:ltr:025a01:cmn

Enclosures

cc: Western Apartment Supply & Maintenance Co.
Joseph Prutch, Planner, Department of Planning



Landscape Architecture
City & Regional Planning
September 20, 2010

OFFICE OF THE
COUNTY COUNCIL

10 SEP 22 P 3:26

RECEIVED

Honorable Gladys C. Baisa, Chair
Council Land Use Committee
Kalana O Maui Building
200 South High St.
Wailuku, HI 96793

Dear Ms. Baisa:

Regarding: Community Plan Amendment and Conditional Permit for Maui Oceanfront Inn and Sarento's On The Beach restaurant, Kihei, Maui.
TMKs: (2) 3-9-004: 029 & 149

I apologize for the delay in replying to your inquiry. The following responses to your letter on August 6, 2010 are provided for clarification.

#1. Letter of Authorization:

The applicant has requested and continues to be in communication with the State of Hawaii, Department of Land and Natural Resources (DLNR). DLNR has made comments that they are not opposed to issuing a letter of authorization for the applications, and have referred the issue to their Maui office. We will maintain communication with the DLNR Maui office and transmit the letter of authorization to the Maui County Department of Planning, with a Cc to the Land Use Committee when it is received.

#2. Area of Revocable Permit and Area of Parcel 149:

The applicant proposes to obtain a Conditional Use Permit for a portion of the parcel no greater than 0.694 acres for parking purposes.
The applicant only proposes to use an area not greater than 0.694 acres, consistent with the existing Revocable Permit for the use of the parcel.

#2.a Area of Conditional Permit and area of Parcel 149:

In the event that a lease for the use of the entire parcel is obtained the applicant will seek an amendment to any County permits at that time.

#2.b. Status of Updated Lease for Parcel 149:

The Applicant has been in negotiation with the State DLNR, and is anticipating that an updated lease will be forthcoming.

#3. Status of Mitigation Measures:

Section 2.5.2: The applicant has been in negotiation with the State of Hawaii for a right of entry for vegetation maintenance as referenced.

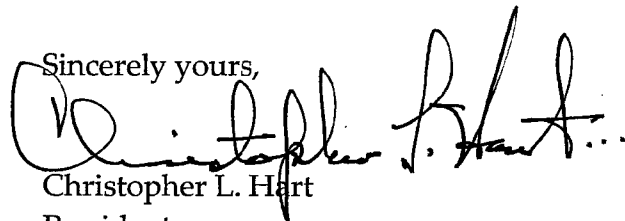
Section 2.5.3: The Applicant has posted and maintained signs as referenced. To date there is no documentation of an agreement or of any negative comment on the particular words used. The Applicant's attorney has requested comment from the Interested Parties.

Section 2.5.4: The Applicant has posted and maintained signs as referenced. To date there is no documentation of an agreement or of any negative comment on the particular words used. The Applicant's attorney has requested comment from the Interested Parties.

Section 2.5.5: The Applicant has completed portions of 2.5.3 & 4 and initiated completion of all other items. The Applicant has been granted the referenced variances contingent on the completion of Settlement Agreement. The Applicant will continue to pursue the completion of the Settlement Agreement.

Thank you for your consideration, and again, I sincerely apologize for the delay in replying. Please contact Jordan Hart at 270-1563 or Jhart@CHPMaui.com for further information.

Sincerely yours,



Christopher L. Hart
President

ASLA Landscape Architect & Planner

Enclosures (1):

2010-08-06, Letter From Council Land Use Committee Chair

CC: Mr. Carroll Davis
Mr. Joseph Prutch
Project File (05-112)

Council Chair
Danny A. Mateo

Vice-Chair
Michael J. Molina

Council Members
Gladys C. Baisa
Jo Anne Johnson
Sol P. Kaho'ohalahala
Bill Kauakea Medeiros
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Joseph Pontanilla
Michael P. Victorino



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Director of Council Services
Ken Fukuoka

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AUG 18 2010

CHRIS HART & PARTNERS, INC.
Landscape Architecture and Planning

CC: Jordan
05/112

August 6, 2010

Mr. Christopher Hart
Chris Hart and Partners, Inc.
115 N. Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: COMMUNITY PLAN AMENDMENT AND CONDITIONAL PERMIT FOR MAUI OCEANFRONT INN AND SARENTO'S ON THE BEACH RESTAURANT (KIHED) (LU-25)

May I please request your response to the following:

1. Provide a copy of the letter of authorization and any approvals required by Sections 19.40.030 and 19.510.010(D)(1), Maui County Code, and Section 2.4.1 of the Settlement Agreement,¹ which would allow Western Apartment Supply & Maintenance Co. ("Western") to proceed with the Conditional Permit and Community Plan Amendment applications.
2. Revocable Permit No. 7235, dated December 1, 2000, permits Western to occupy a portion of TMK: (2) 3-9-04:001, consisting of "0.694 acres, more or less". The acreage converts to 30,230.64 square feet. The parcel was subsequently subdivided and the property that is referenced in connection with the Conditional Permit application is now designated TMK: (2) 3-9-04:149, and consists of approximately 35,932 square feet.
 - a. Since the Revocable Permit is for an area that is approximately 5,700 square feet less than Parcel 149, should the proposed Conditional Permit be for a 30,231-square-foot portion of Parcel 149 only, or is Western seeking authorization to occupy the whole of Parcel 149? Please explain the discrepancy and how it is being resolved.

¹ The Settlement Agreement is attached as Exhibit "6" to the "Maui Planning Department's Report to the Maui Planning Commission November 25, 2008 Meeting".

Mr. Christopher Hart
Chris Hart and Partners, Inc.
August 6, 2010
Page 2

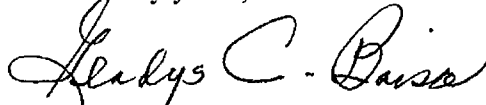
- b. The Settlement Agreement refers to Western's intent to seek a lease of Parcel 149 from the State, through its Board of Land and Natural Resources (see page 3, first full paragraph), and of certain terms that must be contained in that lease (see Section 2.5.1). What is the status of the contemplated lease?
3. What is the status of each of the mitigation measures set forth in Sections 2.5.2 through 2.5.5 of the Settlement Agreement?

I would appreciate receiving your response **by Monday, September 13, 2010.**

To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Thank you for your attention to this matter. Should you have any questions, please contact me or the Committee staff (Carla Nakata at 270-7659, or Pauline Martins at 270-8039).

Sincerely yours,



GLADYS C. BAISA, Chair
Land Use Committee

lu:ltr:025a03:cmn

cc: Ann Cua, Deputy Planning Director
Joseph Prutch, Planner, Department of Planning
Western Apartment Supply & Maintenance Co.