

REQUEST FOR LEGAL SERVICES

RECEIVED

By Corporation Counsel at 1:38 pm, Feb 27, 2024

Date: February 27, 2024
From: Tasha Kama, Chair
Housing and Land Use Committee

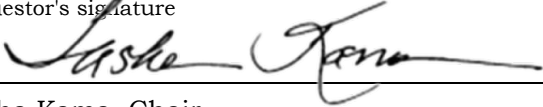
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Kristin Tarnstrom, Esq.

Subject: BILL 27 (2024), CHANGE IN ZONING FOR MIKI 200 INDUSTRIAL PARK (LĀNA'I)
(HLU-25)

Background Data: Please see revised bill. Please submit your response to hlu.committee@mauicounty.us with a reference to HLU-25.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY
☐ OTHER:

Requestor's signature  Tasha Kama, Chair	Contact Person <u>Carla Nakata or Ana Lillis</u> (Telephone Extension: <u>5519 or 7659, respectively</u>)
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☐ 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): March 5, 2024
REASON: Possible posting for a special committee meeting on March 13, 2024 (polling request pending)

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>KKT</u>	ASSIGNMENT NO. <u>2023-141</u>	BY: <u>maa</u>
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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 2/28/2024

By Kristin K. Tarnstrom
(Rev. 7/03)

hlu:ltr:025acc01:cmn

Attachment

ORDINANCE NO. _____

BILL NO. 27, CD1 (2024)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL AND INTERIM DISTRICTS TO M-1 LIGHT INDUSTRIAL AND M-2 HEAVY INDUSTRIAL DISTRICTS (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT LANAI CITY, LANAI, HAWAII, PORTIONS OF TAX MAP KEY (2) 4-9-002:061 (MIKI 200 INDUSTRIAL PARK)

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

SECTION 1. In accordance with Chapters 19.26 and 19.510, Maui County Code, a change in zoning from Agricultural District to M-2 Heavy Industrial District is granted for that certain real property situated at Lanai City, Lanai, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 4-9-002:061, comprising 95.848 acres, and more particularly described in and attached as Exhibit “A,” and in Land Zoning Map L-2634, attached as Exhibit “B.”

SECTION 2. In accordance with Chapters 19.26 and 19.510, Maui County Code, a change in zoning from Interim District to M-2 Heavy Industrial District is granted for that certain real property situated at Lanai City, Lanai, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 4-9-002:061, comprising 4.152 acres, and more particularly described in and attached as Exhibit “C,” and in Land Zoning Map L-2635, attached as Exhibit “D.”

SECTION 3. In accordance with Chapters 19.24 and 19.510, Maui County Code, a change in zoning from Agricultural District to M-1 Light Industrial

District is granted for that certain real property situated at Lanai City, Lanai, Hawaii, identified for real property tax purposes as a portion of tax map key (2) 4-9-002:061, comprising 100.000 acres, and more particularly described in and attached as Exhibit “E,” and in Land Zoning Map L-2636, attached as Exhibit “F.”

SECTION 4. In accordance with Section 19.510.050, Maui County Code, the zoning granted by this Ordinance is subject to the conditions established in Exhibit “G,” and the Unilateral Agreement and Declaration for Conditional Zoning attached as Exhibit “H.”

SECTION 5. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

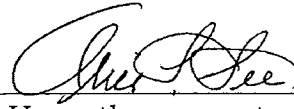


Kristin K. Tarnstrom

Department of the Corporation Counsel
County of Maui

hlu:misc:025abill01:cmn

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", is written over a horizontal line.

Upon the request of the Mayor.

**HEAVY, LIGHT INDUSTRIAL PARCELS
MIKI BASIN**

**M-2 Heavy Industrial
Area 1**

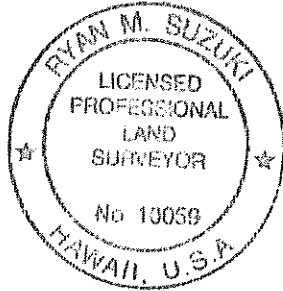
Being a Portion of Lot 13-A-1-A-1-A-1 (Subdivision File No. 6.185)
Same Being a Portion of a Subdivision of Lot 13-A-1-A (Map 15) of Land Court Consolidation 170

Situated on the Island of Lanai, State of Hawaii

Beginning at the Northeast corner of this piece of land, being the North corner of Lot 12 (Map 5) of Land Court Consolidation 170, the coordinates referred to Government Survey Triangulation Station "POHOULA" being 19,767.16 feet South and 4,274.56 feet West and thence running by azimuths measured clockwise from true South:

- | | | |
|-----|----------|---|
| 1. | 59° 42' | 615.20 feet along Lot 12 (Map 5) of Ld. Ct. Cons. 170; |
| 2. | 298° 44' | 530.63 feet along Lot 12 (Map 5) of Ld. Ct. Cons. 170; |
| 3. | 59° 42' | 707.83 feet along Lot 13-A-1-A-2 (Subdivision File No. 6.180); |
| 4. | 329° 42' | 865.75 feet along Lot 13-A-1-A-2 (Subdivision File No. 6.180); |
| 5. | 76° 20' | 1471.05 feet; |
| 6. | 119° 30' | 189.09 feet; |
| 7. | 149° 30' | 1435.88 feet; |
| 8. | 231° 15' | 1954.36 feet; |
| 9. | 240° 12' | 635.07 feet; |
| 10. | 330° 12' | 981.31 feet to the point of beginning and containing an area of 95.350 Acres. |





R. M. TOWILL CORPORATION

Description Prepared by:

A handwritten signature in black ink, appearing to read "Ryan M. Suzuki", written over a horizontal line.

Ryan M. Suzuki Exp: 4/30/2024

Licensed Professional Land Surveyor

Certificate Number 10059

February 22, 2024

Note:

Tax Map Key: (2) 4-9-002: Por. 061

Reference: Map No. L-2634

-2-

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



R. M. TOWILL CORPORATION
SINCE 1930

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

**HEAVY, LIGHT INDUSTRIAL PARCELS
MIKI BASIN**

**M-2 Heavy Industrial
Area 2**

Being a Portion of Lot 13-A-1-A-1-A-1 (Subdivision File No. 6.185)
Same Being a Portion of a Subdivision of Lot 13-A-1-A (Map 15) of Land Court Consolidation 170

Situated on the Island of Lanai, State of Hawaii

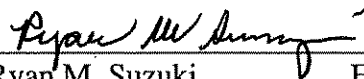
Beginning at the Northeast corner of this piece of land, being 329° 42', 231.43 feet from the East corner of Lot 13-A-1-A-2 (Subdivision File No. 6.180), the coordinates referred to Government Survey Triangulation Station "POHOULA" being 21,076.17 feet South and 3,509.63 feet West and thence running by azimuths measured clockwise from true South:

1. 329° 42' 118.31 feet;
2. 76° 20' 382.41 feet;
3. 238° 19' 366.51 feet to the point of beginning and containing an area of 0.498 Acre.

R. M. TOWILL CORPORATION

Description Prepared by:




Ryan M. Suzuki Exp: 4/30/2024
Licensed Professional Land Surveyor
Certificate Number 10059

February 22, 2024



Note:

Tax Map Key: (2) 4-9-002: Por. 061

Reference: Map No. L-2634

-2-

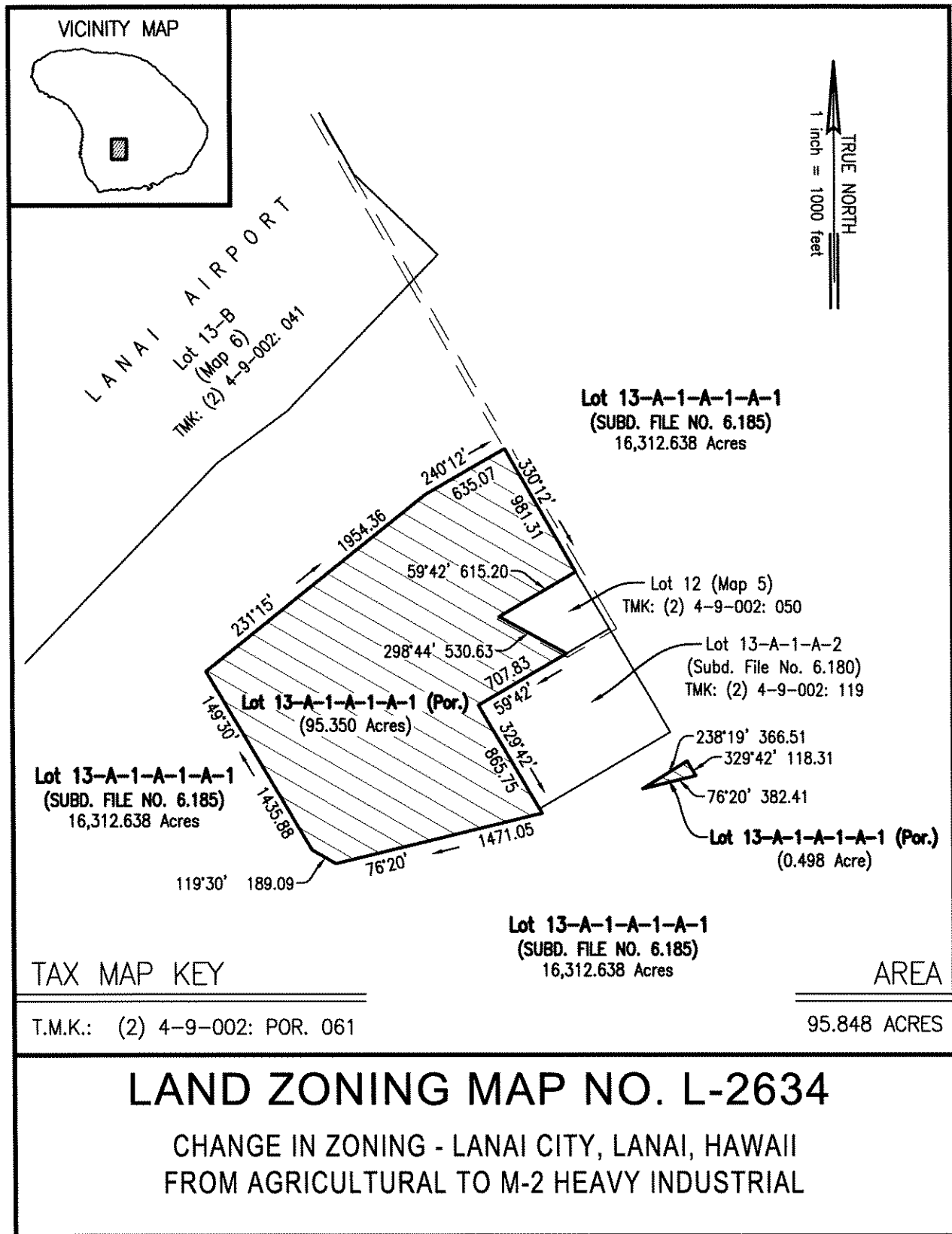
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EXHIBIT "B"



**HEAVY, LIGHT INDUSTRIAL PARCELS
MIKI BASIN**

**M-2 Heavy Industrial
Area 3**

Being a Portion of Lot 13-A-1-A-1-A-1 (Subdivision File No. 6.185)
Same Being a Portion of a Subdivision of Lot 13-A-1-A (Map 15) of Land Court Consolidation 170

Situated on the Island of Lanai, State of Hawaii

Beginning at the Northeast corner of this piece of land, being the East corner of Lot 13-A-1-A-2 (Subdivision File No. 6.180), the coordinates referred to Government Survey Triangulation Station "POHOULA" being 20,876.36 feet South and 3,626.39 feet West and thence running by azimuths measured clockwise from true South:

- | | | |
|----|----------|---|
| 1. | 329° 42' | 231.43 feet; |
| 2. | 58° 19' | 366.51 feet; |
| 3. | 76° 20' | 713.44 feet; |
| 4. | 149° 42' | 36.05 feet; |
| 5. | 239° 42' | 1050.00 feet along Lot 13-A-1-A-2 (Subdivision File No. 6.180),
to the point of beginning and containing an area of 4.152 Acres. |





R. M. TOWILL CORPORATION

Description Prepared by:

Ryan M. Suzuki

Exp: 4/30/2024

Licensed Professional Land Surveyor

Certificate Number 10059

February 22, 2024

Note:

Tax Map Key: (2) 4-9-002: Por. 061

Reference: Map No. L-2635

-2-

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EXHIBIT "D"

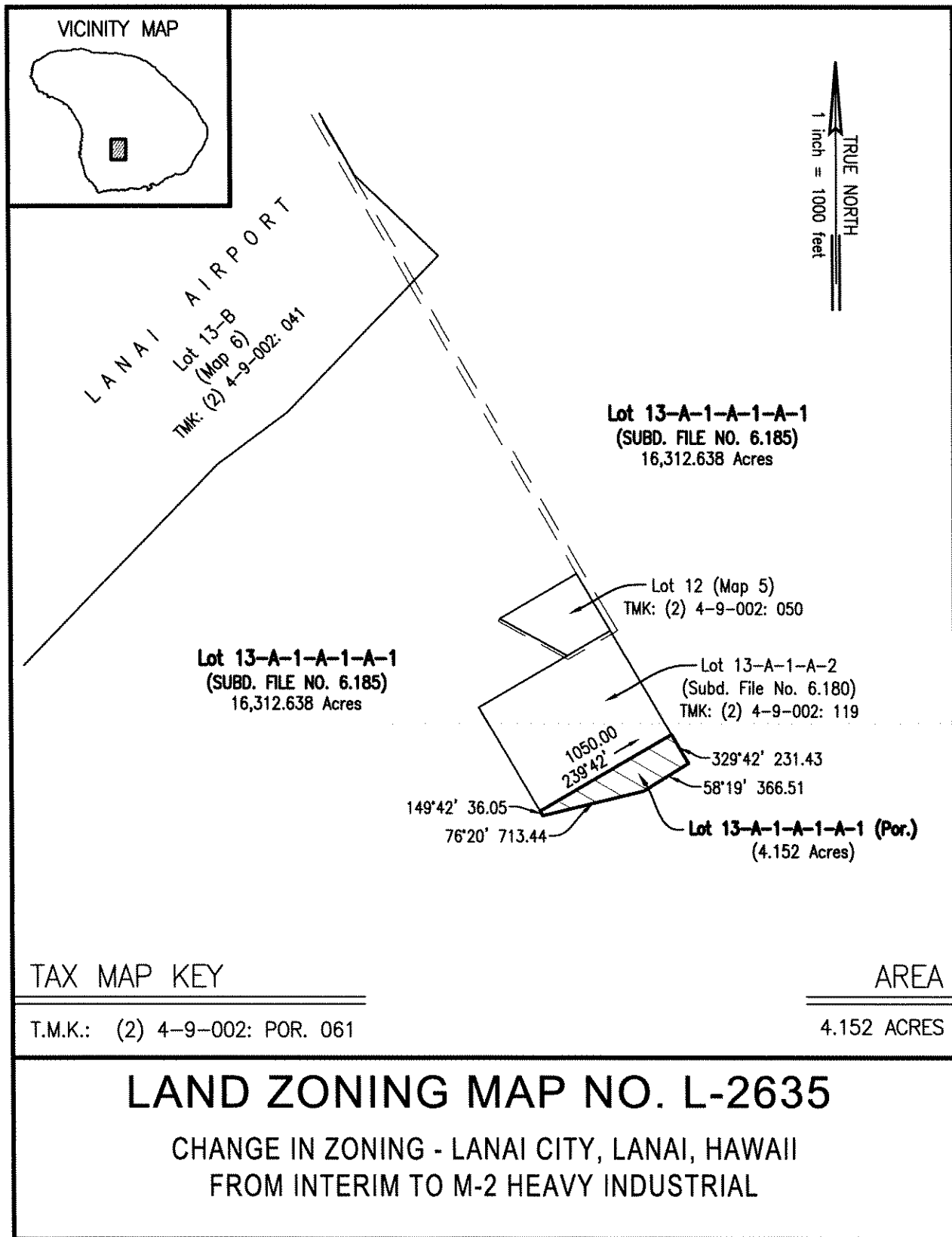


EXHIBIT "E"

HEAVY, LIGHT INDUSTRIAL PARCELS
MIKI BASIN

M-1 Light Industrial
Area 1

Being a Portion of Lot 13-A-1-A-1-A-1 (Subdivision File No. 6.185)
Same Being a Portion of a Subdivision of Lot 13-A-1-A (Map 15) of Land Court Consolidation 170

Situated on the Island of Lanai, State of Hawaii

Beginning at the Northeast corner of this piece of land, being 282.46 feet from the Northeast corner of Lot 13-B (Map 6) of Land Court Consolidation 170, the coordinates referred to Government Survey Triangulation Station "POHOULA" being 17,775.36 feet South and 5,415.27 feet West and thence running by azimuths measured clockwise from true South:

- | | | |
|----|----------|--|
| 1. | 330° 12' | 1314.01 feet; |
| 2. | 60° 12' | 635.07 feet; |
| 3. | 51° 15' | 1954.36 feet; |
| 4. | 149° 30' | 975.83 feet; |
| 5. | 224° 03' | 836.95 feet along Lanai Airport, being Lot 13-B (Map 6) of Ld. Ct. Cons. 170; |
| 6. | 233° 31' | 608.00 feet along Lanai Airport, being Lot 13-B (Map 6) of Ld. Ct. Cons. 170; |
| 7. | 224° 03' | 1217.82 feet along Lanai Airport, being Lot 13-B (Map 6) of Ld. Ct. Cons. 170, to the point of beginning and containing an area of 65.000 Acres. |





R. M. TOWILL CORPORATION

Description Prepared by:

A handwritten signature of Ryan M. Suzuki in black ink.

Ryan M. Suzuki Exp: 4/30/2024
Licensed Professional Land Surveyor
Certificate Number 10059

February 22, 2024

Note:

Tax Map Key: (2) 4-9-002: Por. 061

Reference: Map No. L-2636

-2-

2024 North King Street,
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**HEAVY, LIGHT INDUSTRIAL PARCELS
MIKI BASIN**

**M-1 Light Industrial
Area 2**

Being a Portion of Lot 13-A-1-A-1-A-1 (Subdivision File No. 6.185)
Same Being a Portion of a Subdivision of Lot 13-A-1-A (Map 15) of Land Court Consolidation 170

Situated on the Island of Lanai, State of Hawaii

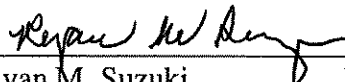
Beginning at the West corner of this piece of land, being 323° 54' 28", 435.99 feet from the East corner of Lot 12 (Map 5) of Land Court Consolidation 170, the coordinates referred to Government Survey Triangulation Station "POHOULA" being 20,512.31 feet South and 3,788.16 feet West and thence running by azimuths measured clockwise from true South:

1. 239° 42' 1662.28 feet;
2. 345° 20' 1280.42 feet;
3. 79° 30' 1400.00 feet;
4. 149° 42' 758.82 feet to the point of beginning and containing an area of 35.000 Acres.

R. M. TOWILL CORPORATION

Description Prepared by:




Ryan M. Suzuki Exp: 4/30/2024
Licensed Professional Land Surveyor
Certificate Number 10059

February 22, 2024



Note:

Tax Map Key: (2) 4-9-002: Por. 061

Reference: Map No. L-2636

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EXHIBIT "F"

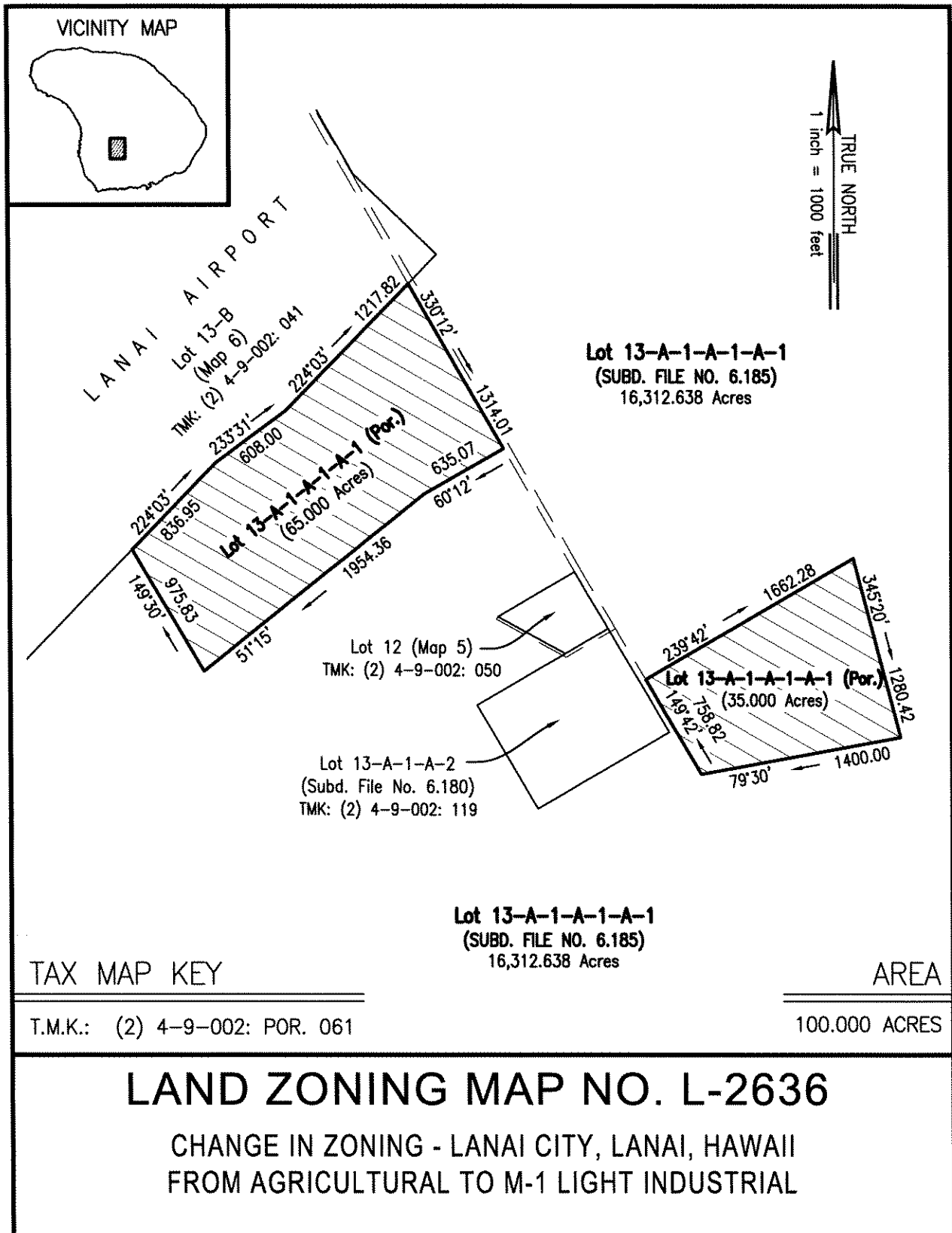


EXHIBIT “G”

CONDITIONS OF ZONING

1. The permitted uses for the 100.000 acres zoned M-1 Light Industrial District under section 3 of this Ordinance are limited to the uses outlined in the following table:

M-1 Light Industrial Permitted Uses
Any use permitted in a B-1, B-2, or B-3 business district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals
Dwelling units located in the same building as any non-dwelling permitted use
Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like
Carpet cleaning plants
Cold storage plants
Commercial laundries
Craft cabinet and furniture manufacturing
Education, specialized
Farm implement sales and service
General food, fruit and vegetable processing and manufacturing plants
Ice cream and milk producing, manufacturing and storage
Laboratories – experimental, photo or motion picture, film or testing
Light and heavy equipment and product display rooms, storage and service
Machine shop or other metal working shop
Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products. (except the rendering or refining of fats and oils)
Manufacture, dyeing and printing of cloth fabrics and wearing apparel
Manufacture of musical instruments, toys, novelties and rubber and metal stamps
Manufacture of pottery and figurines or other similar ceramic products
Milk bottling or central distribution stations
Plumbing shops
Production facility, multimedia
Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys
Replating shop
Retail lumberyard including mill and sash work (Mill and sash work shall be conducted within a completely enclosed building)
Small boat building
Soda water and soft drink bottling and distribution plants
Solar energy facilities
Tire repair operation including recapping and retreading
Utility facilities, minor, and substations up to, and including 69 kV transmission
Warehouse, storage and loft buildings
Wearing apparel manufacturing
Wholesale business, storage buildings, nonexplosive goods and warehouses

2. The permitted uses and special uses for the 100.000 acres zoned M-2 Heavy Industrial District under sections 1 and 2 of this Ordinance are limited to the permitted uses and special uses outlined in the following table:

M-2 Heavy Industrial Permitted Uses
Any use permitted in a B-1, B-2, and B-3 business district and M-1 light industrial district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals and apartments (Except for living quarters used by security/watchmen or custodians of an industrially-used property)
Automobile wrecking, if conducted within a building
Boiler and steel works
Concrete or cement products manufacture
Factories
Junk establishment used for storing depositing, or keeping junk or similar goods for business purposes (Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls)
Lumber yard
Machine shops
Material recycling and recovery facilities
Oil storage plants
Petroleum products manufacture or wholesale storage of petroleum
Planing mill
Utility facilities, major
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district; provided, however, that any use not specified in this condition shall not be permitted unless approved by the planning director as conforming to the intent of this condition
M-2 Heavy Industrial Special Uses
Asphalt manufacture of refueling and asphaltic concrete plant
Rock, sand, gravel, or earth excavation, crushing or distribution

3. The conditions associated with the Decision & Order for Docket No. A19-809 approved by the State Land Use Commission apply to the portions of tax map key (2) 4-9-002:061 that are the subject of this Ordinance.
4. Lāna‘i Resorts, LLC must provide the State Land Use Commission and Department of Planning with an annual report regarding occupancy of the Miki 200 Industrial Park. Information must include the number of inquiries and number of executed leases. Without disclosing private and proprietary information, Lāna‘i Resorts, LLC should include whether the inquiry was made or the executed lease is held by a resident of Lāna‘i. Annual reports must be provided as long as the State Land Use Commission deems necessary.
5. Lāna‘i Resorts, LLC must provide the State Land Use Commission and Department of Planning with semi-annual water usage reports for each category of water, including drinking, brackish, and R-1, for the Miki 200 Industrial Park for as long as the State Land Use Commission deems necessary.