

REQUEST FOR LEGAL SERVICES

Date: June 25, 2024
From: Tasha Kama, Chair
Housing and Land Use Committee

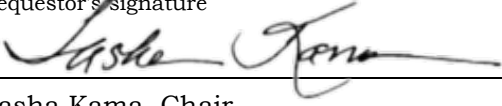
TRANSMITTAL

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

Subject: BILL 67 (2024) AND BILL 68 (2024), COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING (CONDITIONAL ZONING) FOR QUEEN KA'AHUMANU CENTER (KAHULUI) (HLU-28)

Background Data: Please see attached unilateral agreements (three originals). I have requested the Applicant provide documentation showing the signatory's authority to sign the unilateral agreements, which will be provided upon receipt. Please submit your response to hlu.committee@mauicounty.us with a reference to HLU-28.

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

Requestor's signature  Tasha Kama, Chair	Contact Person <u>Paige Greco or Carla Nakata</u> (Telephone Extension: <u>7660 or 5519, respectively</u>)
--	---

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): July 10, 2024
REASON: For posting on July 19, 2024, Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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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 _____

By _____

(Rev. 7/03)

hlu:ltr:028acc03:cmn

Attachments

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail (X) Pickup () To:

Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: 27

(Including exhibits, notary certification pages, and all other components)

Affects Tax Map Key (Maui) TMK(2) 3-7-002:020, TMK(2) 3-7-002:021, TMK(2) 3-7-002:023, TMK(2) 3-7-002:025, and TMK(2) 3-7-002:027

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, referred to as "**Declaration**" or "**Unilateral Agreement**," is made this, 21st day of June, 2024, by the following "Declarant," who is the owner of real property located at 275 West Kaahumanu Avenue, Kahului, Hawaii, referred to as "**the Property**," comprised of 33.8 acres, and identified for real property tax purposes as Tax Map Keys: (2) 3-7-002:020, 021, 023, 025, and 027.

The Declarant is GSMS 2014-GC26 WEST KAAHUMANU AVENUE, LLC, a Delaware limited liability company, whose principal address is 2340 Collins Ave., Suite 700, Miami Beach, FL 33139, and whose authorized contact person is Vice President, who is currently James Hardacre, and any of their successors.

WITNESSETH:

WHEREAS, the Council is considering the establishment of zoning for the Property, described as follows: TMK (2) 3-7-002:020 described in Exhibit "1" and more particularly identified in Exhibit "2", Land Zoning Map No. L-112; TMK (2) 3-7-002:023 described in Exhibit "3" and more particularly identified in Exhibit "4", Land Zoning Map No. L-113;

TMK (2) 3-7-002:021 described in Exhibit "5" and more particularly identified in Exhibit "6", Land Zoning Map No. L-114; TMK (2) 3-7-002:027 described in Exhibit "7" and more particularly identified in Exhibit "8", Land Zoning Map No. L-115; and TMK (2) 3-7-002:025 described in Exhibit "9" and more particularly identified in Exhibit "10", Land Zoning Map No. L-116; and

WHEREAS, the Council's Housing and Land Use Committee recommended passage on first reading of a Conditional Zoning bill in accordance with Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this Unilateral Agreement in accordance with Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. In accordance with Maui County Code. That this Declaration is made in accordance with the provisions of Section 19.510.050, Maui County Code, relating to Conditional Zoning;

2. Binding until Maui County written release. That until written release by the County of Maui, (a) the Property, and all its parts, are held subject to this Declaration's covenants, conditions, and restrictions, which are effective as to and run with the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery, or recordation of any further deed, instrument, document, agreement, declaration, covenant, or the like with respect to the Property by the Declarant, the County of Maui, or any successor or assign; (b) the acquisition of any right, title, or interest in or with respect to the Property by any person or entity constitute acceptance of all of the covenants, conditions, and restrictions of this Declaration by the person or entity; and (c) upon any transfer of any right, title, or interest in or with respect to the Property, the transferee assumes, is bound by, and is obligated to observe and perform all of the covenants, conditions, and restrictions of this Declaration;

3. Running with the Land. That this Declaration and all of its covenants, conditions, and restrictions contained are effective as to and run with the land in perpetuity, or until the Declarant notifies the County Department of Planning that any of the covenants, conditions, and restrictions are satisfied by the Declarant, and the Department verifies the satisfaction and provides a written release of the covenant, condition, or restriction;

4. GSMS 2014-GC26 WEST KAAHUMANU AVENUE, LLC as Declarant. That the term "Declarant" and any pronoun in reference to it, wherever used in this Declaration, means the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and includes any corporation or any other entity, and means and includes GSMS 2014-GC26 WEST KAAHUMANU AVENUE, LLC, as Declarant and the Declarant's successors and assigns;

5. Effective as of date Conditional Zoning ordinance approved. That this Declaration is fully effective on the effective date of the Conditional Zoning ordinance approving the establishment of a Change in Zoning from the M-2 HEAVY INDUSTRIAL DISTRICT to the B-3 CENTRAL BUSINESS DISTRICT for the Property;

6. Develop consistent with Conditional Zoning conditions. That the Declarant agrees

to develop the Property in conformance with the conditions stated in Exhibit "11" and in the Conditional Zoning ordinance;

7. Conditions reasonable and rationally related to public health, safety, and welfare. That the conditions imposed are reasonable and rationally related to the objective of preserving the public health, safety, and general welfare and fulfill the need for the public service demands created by the Property's proposed use;

8. Conditions enforceable by County of Maui. AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County of Maui, the conditions imposed in this Declaration run with the land identified in this Declaration and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Property. The Declarant further understands and agrees that the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, with the understanding the Declarant or its successors and assigns may at any time file a petition with the County Department of Planning for the removal of the conditions and termination of this Unilateral Agreement, which will be processed in the same manner as petitions for Change in Zoning.

This Declaration may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, constitute one and the same Declaration.

Any persons signing this Unilateral Agreement represent that they are duly authorized and have legal capacity to execute and deliver this Unilateral Agreement. Each party represents to the other that the execution and delivery of this Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year indicated on the following notary public certification pages.

DECLARANT:

GSMS 2014-GC26 WEST KAAHUMANU AVENUE, LLC, a Delaware limited liability company,

By: U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE, FOR THE BENEFIT OF THE REGISTERED HOLDERS OF GS MORTGAGE SECURITIES CORPORATION II, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2014-GC26, the Sole Member

By: LNR Partners, LLC, a Florida limited liability company, the Attorney-in-Fact under that certain Limited Power of Attorney dated December 3, 2014

By: 
James Hardacre / Vice President

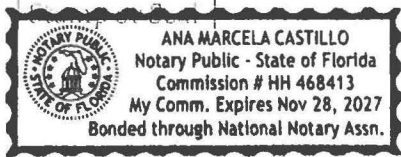
Approved as to Form and Legality:

By: _____
Print name: _____
Deputy Corporation Counsel
County of Maui

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE) SS.

On this 21st day of June, 2024 before me personally appeared James Hardacre, to me personally known, who being by me duly sworn, did say that he/she is the Vice President of LNR Partners, LLC, a Florida limited liability company, the attorney-in-fact for the DECLARANT, and that said instrument was signed on behalf of said DECLARANT, and said James Hardacre, as said Vice President, acknowledged said instrument to be the free act and deed of said DECLARANT.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Ana Marcela Castillo
Notary Public, State of Florida

Print Name: Ana Marcela Castillo

My Commission Expires: 11/28/27

NOTARY PUBLIC CERTIFICATION	
Doc Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Document Description: _____	

Notary Signature: _____	
Date: _____	

DESCRIPTION

LOT A MAUI LAND & PINEAPPLE COMPANY SUBDIVISION (SUBDIVISION FILE NO. 3.1577 AMENDED ON JUNE 3, 1993)

Being all of Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also portions of Royal Patent 4475, Land Commission Award 7713, Apana 23 to V. Kamamalu and Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Northwest corner of this lot on the Southerly side of Kaahumanu Avenue [F.A.P. No. F-032-1 (3)], the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

2,982.53 feet North

6,336.25 feet East

and running by azimuths measured clockwise from True South:

1. 270° 00' 15" 571.89 feet along the Southerly side of Kaahumanu Avenue [F.A.P. No. F-032-1 (3)], being also the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 23 to V. Kamamalu;
2. 270° 00' 15" 80.00 feet along the same;
3. 270° 00' 15" 247.47 feet along the same;
4. Thence along the Southerly side of Kaahumanu Avenue [F.A.P. No. F-032-1 (3)], being also the remainders of Royal Patent 4475, Land Commission Award 7713, Apana 23 to V. Kamamalu and Royal Patent Grant 3343 to Claus Spreckels on a curve to the left with a radius of 1,420.24 feet, the chord azimuth and distance being: 260° 09' 27.5" 485.75 feet;
5. 250° 18' 40" 213.35 feet along the Southerly side of Kaahumanu Avenue [F.A.P. No. F-032-1 (3)], being also the remainder Royal Patent Grant 3343 to Claus Spreckels;
6. 278° 36' 30" 39.22 feet along same;
7. 250° 21' 26.69 feet along same;

- | | | | | |
|-----|------|-----|-----|--|
| 8. | 340° | 21' | | 56.90 feet along the Westerly side of Kane Street, being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 9. | 70° | 17' | 30" | 256.48 feet along Lot C of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 10. | 340° | 17' | 30" | 64.62 feet along same; |
| 11. | 70° | 17' | 30" | 256.00 feet along same; |
| 12. | 340° | 17' | 30" | 8.45 feet along same; |
| 13. | 70° | 17' | 30" | 1.10 feet along same; |
| 14. | 340° | 17' | 30" | 3.00 feet along same; |
| 15. | 250° | 17' | 30" | 0.75 feet along same; |
| 16. | 340° | 17' | 30" | 248.38 feet along same; |
| 17. | 250° | 17' | 30" | 512.50 feet along same; |
| 18. | 340° | 21' | | 298.28 feet along the Westerly side of Kane Street, being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 19. | 70° | 17' | 30" | 251.69 feet along Lot E of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 20. | 160° | 17' | 30" | 243.02 feet along Lot F-2 of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.2200), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 21. | 115° | 17' | 30" | 35.35 feet along same; |
| 22. | 70° | 17' | 30" | 231.13 feet along same; |
| 23. | 63° | 30' | | 63.52 feet along same; |
| 24. | 340° | 17' | 30" | 119.64 feet along same; |
| 25. | 70° | 17' | 30" | 70.68 feet along same; |

26. 340° 17' 30" 12.01 feet along same;
27. 70° 17' 30" 53.62 feet along same;
28. 340° 17' 30" 8.17 feet along same;
29. 70° 17' 30" 86.33 feet along same;
30. 340° 17' 30" 273.01 feet along Lot F-2 and Lot F-1 of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.2200), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
31. 70° 17' 30" 620.93 feet along Lot F-1 of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.2200), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
32. 340° 17' 30" 38.69 feet along same;
33. 70° 17' 30" 158.40 feet along same;
34. 352° 30' 170.22 feet along same;
35. Thence along same on a curve to the right with a radius of 188.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 262° 30', the radial azimuth from the radius point to the end of the curve being: 272° 42' 44", and the chord azimuth and distance being: 357° 36' 22" 33.46 feet;
36. 301° 00' 60.92 feet along same;
37. Thence along same on a curve to the left with a radius of 1,330.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 31° 00', the radial azimuth from the radius point to the end of the curve being: 23° 20' 40", and the chord azimuth and distance being: 297° 10' 20" 177.58 feet;
38. 203° 20' 40" 5.00 feet along same;

39. Thence along same on a curve to the left with a radius of 1,325.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 23° 20' 40",
the radial azimuth from the radius point to the end of the curve being: 22° 54' 40",
and the chord azimuth and distance being:
293° 07' 40" 10.02 feet;
40. 22° 54' 40" 5.00 feet along same;
41. Thence along same on a curve to the right with a radius of 1,330.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 199° 30',
the radial azimuth from the radius point to the end of the curve being: 202° 54' 40",
and the chord azimuth and distance being:
291° 12' 20" 79.17 feet;
42. 19° 30' 16.00 feet along same;
43. 289° 30' 19.93 feet along same;
44. 70° 17' 30" 85.59 feet along same;
45. Thence along the Northeasterly side of South Wakea Avenue to a "T" Northeasterly of the end of Onehee Avenue on a curve to the right with a radius of 1,392.40 feet, the radial azimuth from the radius point to the beginning of the curve being: 16° 29' 36",
the radial azimuth from the radius point to the end of the curve being: 31° 04' 37",
and the chord azimuth and distance being:
113° 47' 06.5" 353.45 feet;
46. Thence along Lot G of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels on a curve to the left with a radius of 44.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 2° 12' 06",
the radial azimuth from the radius point to the end of the curve being: 286° 50',
and the chord azimuth and distance being:
234° 31' 03" 53.80 feet;

47. Thence along same on a curve to the left with a radius of 235.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 286° 50', the radial azimuth from the radius point to the end of the curve being: 262° 30', and the chord azimuth and distance being: 184° 40' 99.06 feet;
48. 172° 30' 164.27 feet along same;
49. 80° 10' 47.05 feet along same;
50. 155° 00' 111.20 feet along same;
51. 158° 00' 180.00 feet along same;
52. 248° 00' 52.98 feet along same;
53. 160° 17' 30" 75.25 feet along Lot G of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993) and Consolidation of Lots 10 & 11 into One Lot (Subdivision File No. 3.506), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
54. 250° 17' 30" 240.28 feet along Lot B of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
55. 160° 17' 30" 63.14 feet along same;
56. 250° 17' 30" 83.62 feet along same;
57. 160° 17' 30" 157.46 feet along same;
58. 250° 17' 30" 1.50 feet along same;
59. 160° 17' 30" 205.00 feet along same;
60. 70° 17' 30" 237.59 feet along same;
61. 340° 17' 30" 67.02 feet along same;
62. 70° 17' 30" 87.62 feet along same;

63. 160° 21' 491.42 feet along the East End of Kea Street, Lot 13 of Wakea Avenue Industrial Subdivision No. 2 (Subdivision File No. 3.459-15 Lots Subdivision), and Lot 1 of Merchants Enterprises Subdivision (Subdivision File No. 3.1221), being also the remainders of Grant 1819 to Kahananui and Royal Patent 4475, Land Commission Award 7713, Apana 23 to V. Kamamalu to the point of beginning and containing a gross area of 25.779 Acres excluding Lot D of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993) with 1.182 Acres described as follows for a net area of 24.597 Acres.

Being all of Lot D of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also a portion of Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Southeast corner of this lot with an azimuth and distance tie from the Southerly corner of Lot A being: 113° 17' 80.67 feet with coordinates 2,093.47 N. and 7,523.17 E., the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

2,125.36 feet North

7,449.07 feet East

and running by azimuths measured clockwise from True South:

1. 70° 17' 30" 336.00 feet along Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
2. Thence along same on a curve to the right with a radius of 5.00 feet, the chord azimuth and distance being:
115° 17' 30" 7.07 feet;
3. 160° 17' 30" 42.00 feet along same;
4. Thence along same on a curve to the right with a radius of 2.00 feet, the chord azimuth and distance being:
205° 17' 30" 2.83 feet;
5. 250° 17' 30" 28.00 feet along same;
6. Thence along same on a curve to the left with a radius of 40.00 feet, the chord azimuth and distance being:
205° 17' 30" 56.57 feet;

7. 160° 17' 30" 65.87 feet along same;
8. Thence along same on a curve to the right with a radius of 40.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 70° 17' 26", the radial azimuth from the radius point to the end of the curve being: 97° 14' 56", and the chord azimuth and distance being: 173° 46' 13" 18.65 feet;
9. 250° 17' 30" 271.65 feet along same;
10. 340° 17' 30" 168.00 feet along same;
11. Thence along same on a curve to the left with a radius of 5.00 feet, the chord azimuth and distance being: 25° 17' 30" 7.07 feet to the point of beginning and containing an area of 1.182 Acres.

Note: The metes and bounds description is prepared for changes in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only. It is based on final subdivision approved June 15, 1993 for Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 dated June 3, 1993).

Vehicular access will not be permitted into and from Kane Street, over and across Courses 1, 3, 4, 5, 6, 7, and 8 of the above described Lot A.

Vehicular access will not be permitted into and from Kane Street, over and across Course 2 of the above described Lot A.

This work was prepared by me or under my supervision.



FUKUMOTO ENGINEERING, INC.

Sharon Y. Toyama

Sharon Y. Toyama
 Licensed Professional Land Surveyor
 Certificate Number 13713
 License Expires: 4/30/24

1721 Wili Pa Loop, Suite 203
 Wailuku, Hawaii 96793
 October 18, 2023

GSMS01

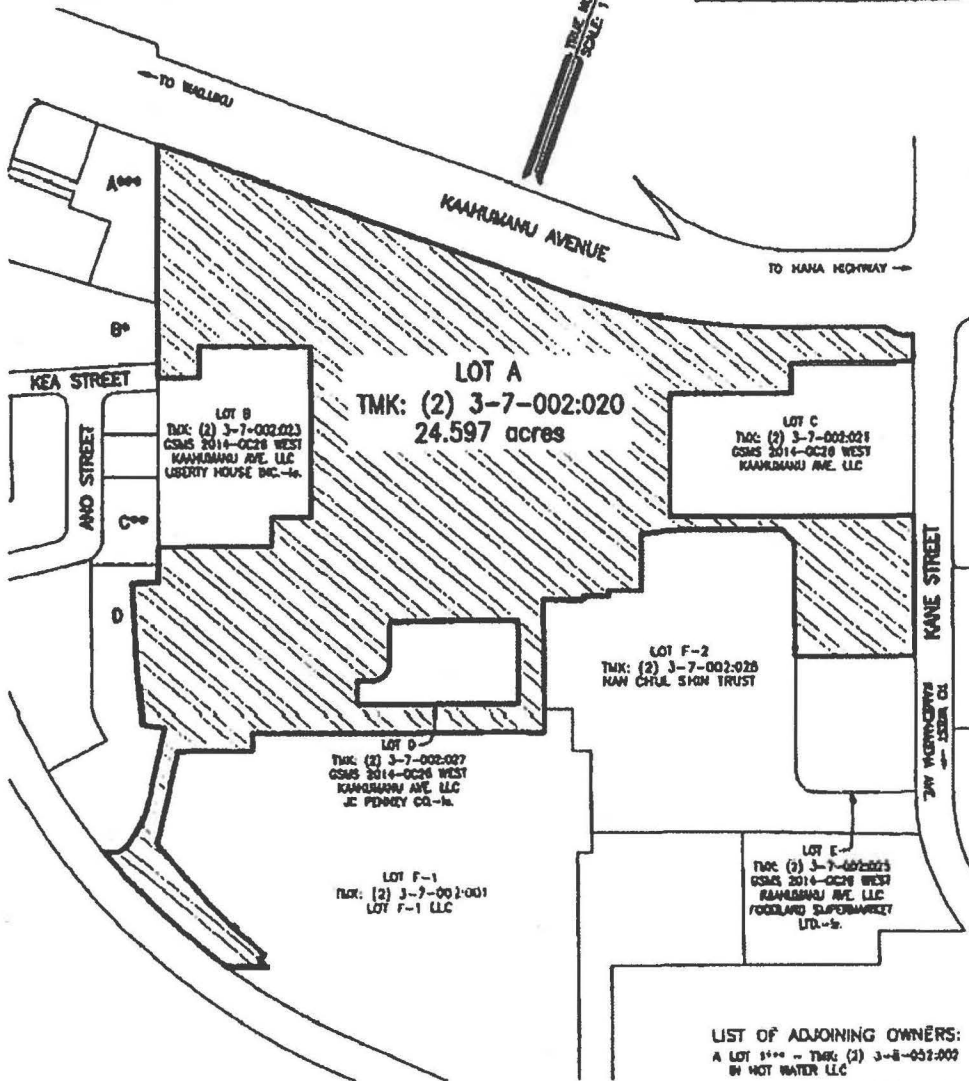
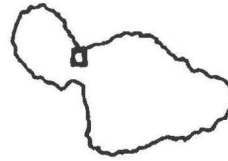
Maui Land & Pineapple Company Subdivision-Lot A

Page 7 of 7 Pages

NOTES:

1. LOTS REFER TO MAUI LAND & PINEAPPLE COMPANY SUBDIVISION UNLESS OTHERWISE NOTED.
2. * LOTS REFER TO WAKEA INDUSTRIAL SUBDIVISION NO. 2
3. ** CONSOLIDATION OF LOTS 10 & 11 INTO ONE-WAKEA INDUSTRIAL SUBDIVISION NO. 2
4. *** MERCHANTS ENTERPRISES SUBDIVISION

VICINITY MAP



- LIST OF ADJOINING OWNERS:**
- A LOT 11** - TMK: (2) 3-8-052-002 BY HOT WATER LLC
 - B LOT 13* - TMK: (2) 3-8-052-005 APS HOLDING LLC
 - C LOT 12-A** - TMK: (2) 3-8-052-008 PNG HOLDINGS INC.
 - D LOT G - TMK: (2) 3-8-052-008 EASTER SEALS HANNA MAHA CAMPUS FOR DISABILITY SERVICES CONDO

DATE: 10/31/2023

TAX MAP KEY

T.M.K.: (2) 3-7-002:020

AREA

24.597 ACRES

LAND ZONING MAP NO. L-112

CHANGE IN ZONING - KAHULUI, MAUI, HAWAII
 FROM M-2 HEAVY INDUSTRIAL DISTRICT
 TO B-3 CENTRAL BUSINESS DISTRICT

EXHIBIT "2"

DESCRIPTION

**LOT B
MAUI LAND & PINEAPPLE COMPANY SUBDIVISION
(SUBDIVISION FILE NO. 3.1577 AMENDED ON JUNE 3, 1993)**

Being all of Lot B of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also a portion of Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Northwesterly corner of this lot on the Easterly side of the end of Kea Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

2,519.73 feet North

6,501.51 feet East

and running by azimuths measured clockwise from True South:

- | | | |
|-----|--------------|---|
| 1. | 250° 17' 30" | 87.62 feet along Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 2. | 160° 17' 30" | 67.02 feet along same; |
| 3. | 250° 17' 30" | 237.59 feet along same; |
| 4. | 340° 17' 30" | 205.00 feet along same; |
| 5. | 70° 17' 30" | 1.50 feet along same; |
| 6. | 340° 17' 30" | 157.46 feet along same; |
| 7. | 70° 17' 30" | 83.62 feet along same; |
| 8. | 340° 17' 30" | 63.14 feet along same; |
| 9. | 70° 17' 30" | 240.28 feet along same; |
| 10. | 160° 17' 30" | 166.62 feet along Consolidation of Lots 10 & 11 into One Lot (Subdivision File No. 3.506), also being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |

11. 160° 21'

191.96 feet along Consolidation of Lots 10 & 11 into One Lot (Subdivision File No. 3.506), Lot 12-A and Lot 12-B of the Wakea Industrial Subdivision No. 2, Subdivision of Lot 12 into Lots 12-A and 12-B (Subdivision File No. 3.459), and the Northeasterly side of the end of Kea Street, being also the remainder of Royal Patent Grant 3343 to Claus Spreckels to the point of beginning and containing an area of 2.915 Acres.

Note: The metes and bounds description prepared for changes in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only. It is based on final subdivision approved June 15, 1993 for Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 dated June 3, 1993).

This work was prepared by me
or under my supervision.



FUKUMOTO ENGINEERING, INC.

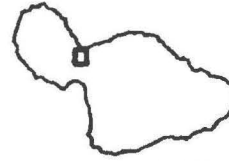
Sharon Y. Toyama

Sharon Y. Toyama
Licensed Professional Land Surveyor
Certificate Number 13713
License Expires: 4/30/24

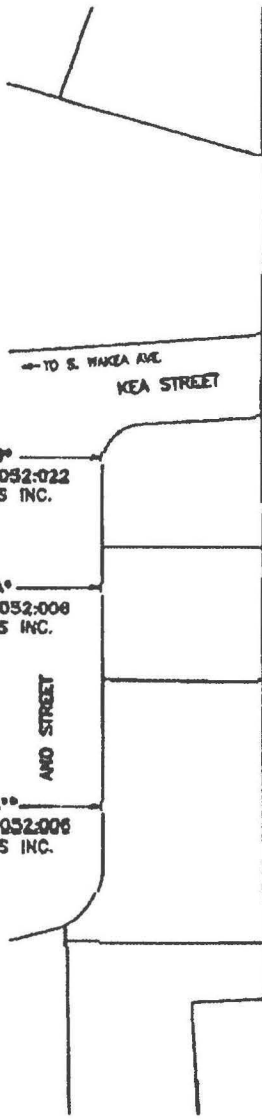
1721 Wili Pa Loop, Suite 203
Wailuku, Hawaii 96793
October 18, 2023

GSMS01

VICINITY MAP



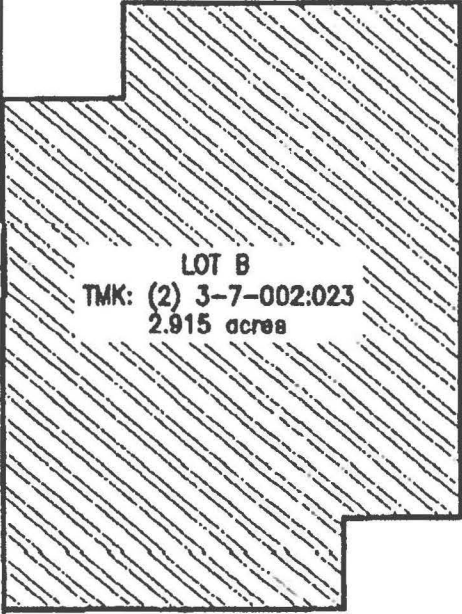
LOT A
TMK: (2) 3-7-002:020
GSMS 2014-GC28 WEST MAAMUNAHU AVE. LLC
AT&T MOBILITY LLC-OTHER EXEMPT
HAWAII USA FCU-OTHER EXEMPT



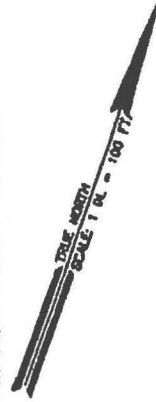
LOT 12-B*
TMK: (2) 3-8-032:022
PMG HOLDINGS INC.

LOT 12-A*
TMK: (2) 3-8-032:008
PMG HOLDINGS INC.

LOT 12-A**
TMK: (2) 3-8-032:008
PMG HOLDINGS INC.



LOT B
TMK: (2) 3-7-002:023
2.915 acres



- NOTES:
1. LOTS REFER TO MAUI LAND & PINEAPPLE COMPANY SUBDIVISION UNLESS OTHERWISE NOTED.
 2. * LOTS REFER TO WAKEA INDUSTRIAL SUBDIVISION NO. 2
 3. ** CONSOLIDATION OF LOTS 10 & 11 INTO ONE-WAKEA INDUSTRIAL SUBDIVISION NO. 2

DATE: 10/31/2023

TAX MAP KEY

T.M.K.: (2) 3-7-002:023

AREA

2.915 ACRES

LAND ZONING MAP NO. L-113

CHANGE IN ZONING - KAHULUI, MAUI, HAWAII
FROM M-2 HEAVY INDUSTRIAL DISTRICT
TO B-3 CENTRAL BUSINESS DISTRICT

EXHIBIT "4"

DESCRIPTION

**LOT C
MAUI LAND & PINEAPPLE COMPANY SUBDIVISION
(SUBDIVISION FILE NO. 3.1577 AMENDED ON JUNE 3, 1993)**

Being all of Lot C of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also a portion of Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Northeast corner of this lot on the Westerly side of the Kane Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

3,086.90 feet North

7,998.14 feet East

and running by azimuths measured clockwise from True South:

- | | | |
|-----|--------------|--|
| 1. | 340° 21' | 324.45 feet along the Westerly side of Kane Street; |
| 2. | 70° 17' 30" | 512.50 feet along Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels; |
| 3. | 160° 17' 30" | 248.38 feet along same; |
| 4. | 70° 17' 30" | 0.75 feet along same; |
| 5. | 160° 17' 30" | 3.00 feet along same; |
| 6. | 250° 17' 30" | 1.10 feet along same; |
| 7. | 160° 17' 30" | 8.45 feet along same; |
| 8. | 250° 17' 30" | 256.00 feet along same; |
| 9. | 160° 17' 30" | 64.62 feet along same; |
| 10. | 250° 17' 30" | 256.48 feet along same to the point of beginning and containing an area of 3.438 Acres. |

Note: The metes and bounds description prepared for changes in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only. It is based on final subdivision approved June 15, 1993 for Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 dated June 3, 1993).

This work was prepared by me
or under my supervision.



FUKUMOTO ENGINEERING, INC.

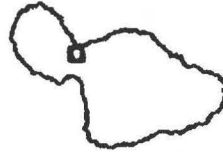
Sharon Y. Toyama

Sharon Y. Toyama
Licensed Professional Land Surveyor
Certificate Number 13713
License Expires: 4/30/24

1721 Wili Pa Loop, Suite 203
Wailuku, Hawaii 96793
October 18, 2023

GSMS01

VICINITY MAP

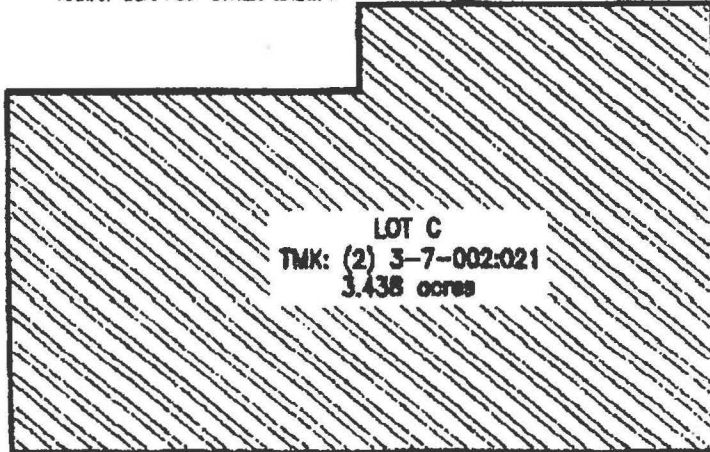


← TO HALELOU

TO MAHA KOHOLEY →

KAHULUANI AVENUE

LOT A
TMK: (2) 3-7-002:020
OSMS 2014-GC28 WEST KAHULUANI AVE. LLC
AT&T MOBILITY LLC-OTHER EXEMPT
HAWAII USA FCU-OTHER EXEMPT



LOT C
TMK: (2) 3-7-002:021
3.438 acres

LOT F-2
TMK: (2) 3-7-002:028
HAN CHUL SHIN TRUST

KANE STREET

THE
SUBDIVISION
OF
THE
LAND

NOTE: LOTS REFER TO MAUI LAND & PINEAPPLE COMPANY SUBDIVISION.

DATE: 10/31/2023

TAX MAP KEY

T.M.K.: (2) 3-7-002:021

AREA

3.438 ACRES

LAND ZONING MAP NO. L-114

CHANGE IN ZONING - KAHULUI, MAUI, HAWAII
FROM M-2 HEAVY INDUSTRIAL DISTRICT
TO B-3 CENTRAL BUSINESS DISTRICT

EXHIBIT "6"

DESCRIPTION

**LOT D
MAUI LAND & PINEAPPLE COMPANY SUBDIVISION
(SUBDIVISION FILE NO. 3.1577 AMENDED ON JUNE 3, 1993)**

Being all of Lot D of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also a portion of Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Southeast corner of this lot with an azimuth and distance tie from the Southerly corner of Lot A being: $113^{\circ} 17'$ 80.67 feet with coordinates 2,093.47 N. and 7,523.17 E., the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

2,125.36 feet North

7,449.07 feet East

and running by azimuths measured clockwise from True South:

1. $70^{\circ} 17' 30''$ 336.00 feet along Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;
2. Thence along same on a curve to the right with a radius of 5.00 feet, the chord azimuth and distance being:
 $115^{\circ} 17' 30''$ 7.07 feet;
3. $160^{\circ} 17' 30''$ 42.00 feet along same;
4. Thence along same on a curve to the right with a radius of 2.00 feet, the chord azimuth and distance being:
 $205^{\circ} 17' 30''$ 2.83 feet;
5. $250^{\circ} 17' 30''$ 28.00 feet along same;
6. Thence along same on a curve to the left with a radius of 40.00 feet, the chord azimuth and distance being:
 $205^{\circ} 17' 30''$ 56.57 feet;
7. $160^{\circ} 17' 30''$ 65.87 feet along same;

8. Thence along same on a curve to the right with a radius of 40.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 70° 17' 26",
the radial azimuth from the radius point to the end of the curve being: 97° 14' 56",
and the chord azimuth and distance being:
173° 46' 13" 18.65 feet;
9. 250° 17' 30" 271.65 feet along same;+
10. 240° 17' 30" 168.00 feet along same;
11. Thence along same on a curve to the left with a radius of 5.00 feet, the chord azimuth and distance being:
25° 17' 30" 7.07 feet to the point of beginning and containing an area of 1.182 Acres.

Note: The metes and bounds description is prepared for changes in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only. It is based on final subdivision approved June 15, 1993 for Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 dated June 3, 1993).

This work was prepared by me
or under my supervision.



FUKUMOTO ENGINEERING, INC.

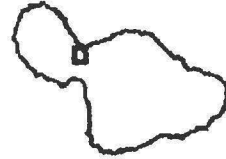
Sharon Y. Toyama

Sharon Y. Toyama
Licensed Professional Land Surveyor
Certificate Number 13713
License Expires: 4/30/24

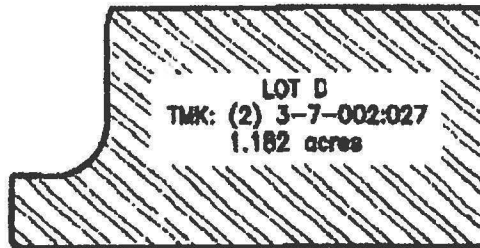
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Wailuku, Hawaii 96793
October 18, 2023

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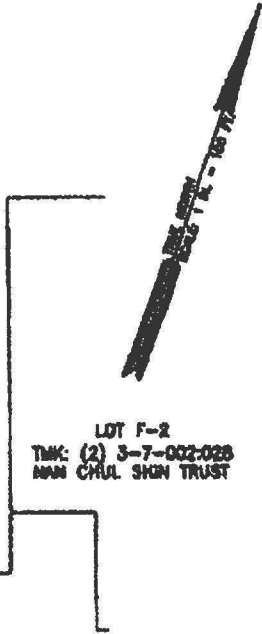
VICINITY MAP



LOT A
TMK: (2) 3-7-002:020
OSMS 2014-0026 WEST KAHULUANI AVE. LLC
AT&T MOBILITY LLC-OTHER EXEMPT
HAWAII USA FCU-OTHER EXEMPT



LOT D
TMK: (2) 3-7-002:027
1.182 acres



LOT F-2
TMK: (2) 3-7-002:028
MAN CHUL SHIN TRUST

LOT F-1
TMK: (2) 3-7-002:001
LOT F-1 LLC

NOTE: LOTS REFER TO MAUI LAND &
PINEAPPLE COMPANY SUBDIVISION.

DATE: 10/31/2023

TAX MAP KEY

T.M.K.: (2) 3-7-002:027

AREA

1.182 ACRES

LAND ZONING MAP NO. L-115

CHANGE IN ZONING - KAHULUI, MAUI, HAWAII
FROM M-2 HEAVY INDUSTRIAL DISTRICT
TO B-3 CENTRAL BUSINESS DISTRICT

EXHIBIT "8"

DESCRIPTION

LOT E
MAUI LAND & PINEAPPLE COMPANY SUBDIVISION
(SUBDIVISION FILE NO. 3.1577 AMENDED ON JUNE 3, 1993)

Being all of Lot E of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), and being also a portion of Royal Patent Grant 3343 to Claus Spreckels situated at Kahului, Island and County of Maui, State of Hawaii.

Beginning at the Southeast corner of this lot on the Westerly side of the Kane Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being:

2,232.63 feet North

8,303.17 feet East

and running by azimuths measured clockwise from True South:

1. 270° 17' 30" 206.40 feet along Lot F-2 of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;

2. Thence along same on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:
 115° 17' 30" 63.64 feet;

3. 160° 17' 30" 239.36 feet along same;

4. 250° 17' 30" 251.69 feet along Lot A of the Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 amended June 3, 1993), being also the remainder of Royal Patent Grant 3343 to Claus Spreckels;

5. 340° 17' 30" 284.36 feet along the Westerly side of Kane Street to the point of beginning and containing an area of 1.632 Acres.

Note: The metes and bounds description prepared for changes in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only. It is based on final subdivision approved June 15, 1993 for Maui Land & Pineapple Company Subdivision (Subdivision File No. 3.1577 dated June 3, 1993).

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or under my supervision.



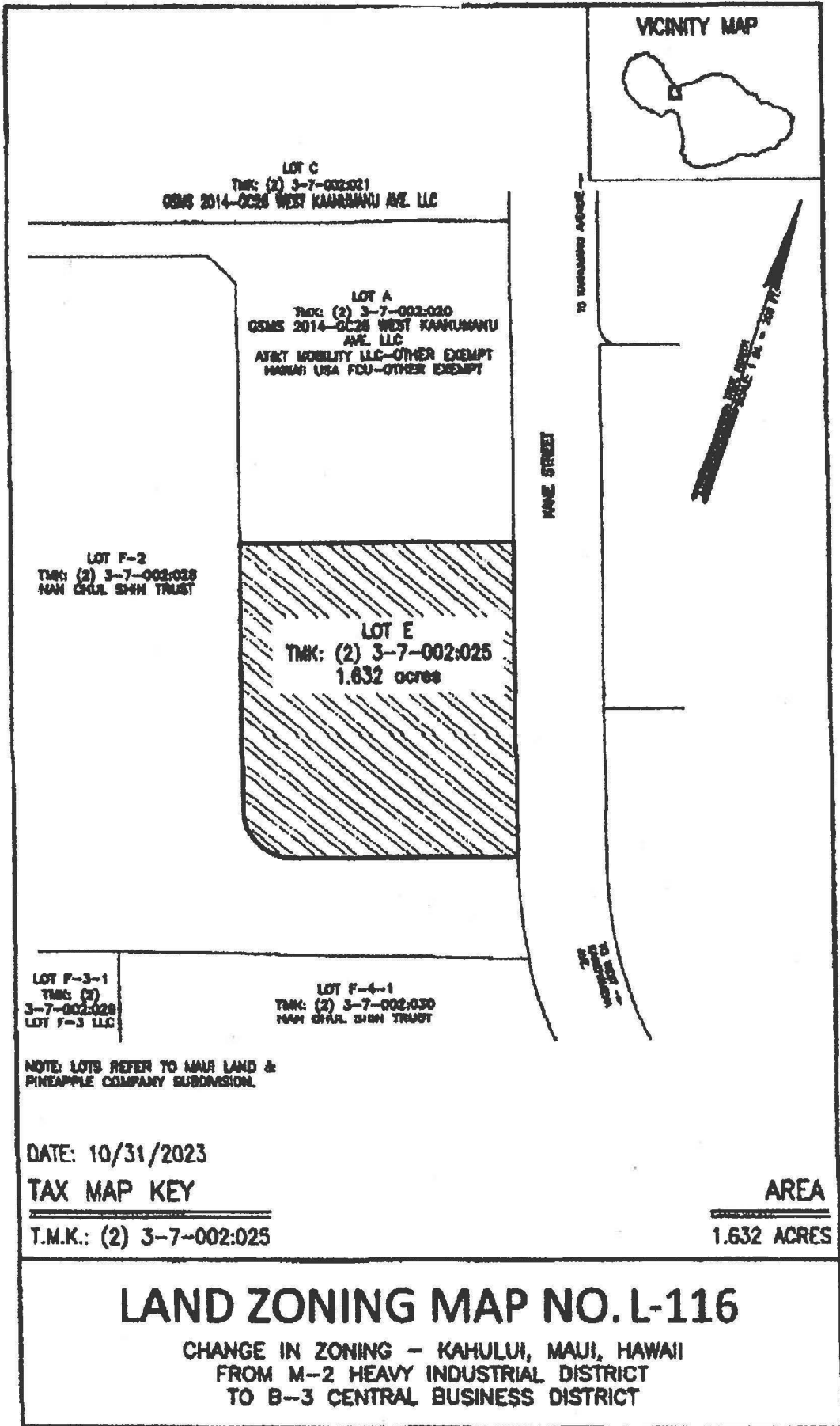
FUKUMOTO ENGINEERING, INC.

Sharon Y. Toyama

Sharon Y. Toyama
Licensed Professional Land Surveyor
Certificate Number 13713
License Expires: 4/30/24

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Wailuku, Hawaii 96793
October 18, 2023

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LAND ZONING MAP NO. L-116

CHANGE IN ZONING - KAHULUI, MAUI, HAWAII
 FROM M-2 HEAVY INDUSTRIAL DISTRICT
 TO B-3 CENTRAL BUSINESS DISTRICT

CONDITIONS OF ZONING

“Developer” means any current or future developer or owner of any property that is subject to this Change in Zoning.

1. In the B-3 Central Business District-zoned areas, building heights must not exceed 90 feet.

2. In the B-3 Central Business District-zoned areas, a minimum of one off-street parking space must be provided for each multi-family dwelling unit with less than 1,500 square feet of floor area.

3. For any development that includes residential uses, the Developer must comply with the provisions of Chapter 2.96, Maui County Code, or any other law in effect at the time of application. If the County requests residential workforce housing units beyond the number required by law or restrictions on residential workforce housing units beyond the restrictions required by the Maui County Code, the Developer must negotiate in good faith with the County on a Memorandum of Agreement that would provide the needed support to make the requests financially viable. This support may include County incentives, subsidies, financial grants, expedited project review, infrastructure, flexible parking standards, and other means of support. Through the Memorandum of Agreement, the County may permit building forms in excess of six stories so long as the building heights do not exceed 90 feet. The Developer must provide a report to the Planning Director and the Council documenting the number of meetings, participants, the outcome of meetings, and any final agreements reached to achieve the County’s requests and other communications held between the Developer and the County.

4. Prior to obtaining a Special Management Area Major permit for any redevelopment within the project area that exceeds the height of the existing development, the Developer must:

- a. Prepare a visual-simulation study to assess the impacts of alternative building form, massing, and design options on viewsheds and view corridors to the ‘Iao Valley, the West Maui Mountains, and the Pacific Ocean.
- b. Host community meetings and design workshops to inform the public in preparation for any housing project’s master plan including proposed urban design and building form.
- c. Provide comments to the Planning Director obtained from the County's Urban Design Review Board on any future housing project’s master plan, preliminary site plan, and building elevations

EXHIBIT "11"

prior to the Maui Planning Commission's action on the Special Management Area permit.

hlu:misc:028aconditions02:cmn

HLU Committee

From: HLU Committee
Sent: Tuesday, June 25, 2024 11:11 AM
To: CorpCounselRFLS@co.maui.hi.us
Cc: HLU Committee; Tasha A. Kama; Carla M. Nakata; Paige Greco; Ellen B. McKinley; Tammy Frias
Subject: OCS - HLU - BILL 67 (2024), AND BILL 68 (2024), Community Plan Amendment and CIZ for QKC (HLU-28) - Unilateral Agreement; response due 07/10/24 12:00 p.m.
Attachments: 028acc03-s-TK.pdf
Importance: High

Aloha Corporation Counsel,

Please see attached Request for Legal Services from HLU Chair Kama, dated 06/25/24, regarding the above-referenced matter.

We will be hand-delivering the original hard-copy UA's shortly.

Mahalo,
HLU Committee Staff