

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
Wayne K. Nishiki
Joseph Pontanilla
Michael P. Victorino



Director of Council Services
Ken Fukuoka

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

August 26, 2010

Ms. Kathleen Aoki, Director
Department of Planning
County of Maui
Wailuku, Hawaii 96793

Dear Ms. Aoki:

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

At its meeting of August 4, 2010, the Land Use Committee discussed County Communication No. 09-246, from the Planning Director, transmitting a request from Western Apartment Supply & Maintenance Co. ("Western") for a Community Plan Amendment from Single-Family to Hotel to reflect the existing hotel use on approximately 1.119 acres of State-owned property situated at 2980 South Kihei Road, Kihei, Maui, Hawaii (TMK: (2) 3-9-04:029); and a two-year Conditional Permit to allow for the construction and use of an offsite parking lot on approximately 35,932 square feet of State-owned property within the County Park District, on South Kihei Road, Kihei, Maui, Hawaii (TMK: (2) 3-9-04:149).

By a settlement agreement dated November 25, 2005, Western and Sarento's on the Beach, LLC ("Sarento's") agreed, among other things, to follow certain procedures and use their best efforts to obtain government permits or approvals ("Settlement Agreement"). Your Department transmitted the Settlement Agreement to the Maui Planning Commission in connection with the Commission's review of Western's several applications.¹ Your Department also referenced the Settlement Agreement in the Report (see, for example, pages 12 and 14).

Condition No. 5 of the Conditional Permit states:

That Western Apartment Supply & Maintenance Co. shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

¹ See Exhibit "6" to the "Maui Planning Department's Report to the Maui Planning Commission November 25, 2008 Meeting".

Ms. Kathleen Aoki, Director
Department of Planning
August 26, 2010
Page 2

The Committee requested your Department's written response to the following: Would Western's breach of the settlement agreement be a violation of Condition No. 5?

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 assistance with this matter. Should you have any questions, please contact me or the Committee staff (Carla Nakata at ext. 7659, or Pauline Martins at ext. 8039).

Aloha and mahalo,

A handwritten signature in black ink, appearing to read "Gladys C. Baisa". The signature is fluid and cursive, with the first name "Gladys" being more prominent.

GLADYS C. BAISA, Chair
Land Use Committee

lu:ltr:025apl02:cmn

cc: Mayor
Joseph Prutch, Planner, Department of Planning
Western Apartment Supply & Maintenance Co.
Christopher Hart, Chris Hart and Partners, Inc.