

REQUEST FOR LEGAL SERVICES

Date: July 5, 2016
From: Robert Carroll, Chair
Land Use Committee


TRANSMITTAL
Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jennifer Oana, Esq.

Subject: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR 0.049 ACRE;
CHARLES JAMES NUNES, JR., AND ANGELA MARIE NUNES (LAHAINA) (LU-20)

Background Data: The attached proposed resolution has been revised to reflect the names of the trust entities owning the affected properties, consistent with the attached Deed provided by the owners' consultant, recorded on December 29, 1989.

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

Requestor's signature  Robert Carroll	Contact Person <u>Carla Nakata</u> (Telephone Extension: 7659)
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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): July 6, 2016, if feasible
REASON: Posting for Land Use Committee meeting on July 13, 2016.

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)

lu:ltr:020acc02:cmn

Attachments

Resolution

No. _____

REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL TO AMEND THE WEST MAUI COMMUNITY PLAN DESIGNATION FROM PARK TO BUSINESS AND A PROPOSED BILL TO CHANGE THE ZONING FROM PK GENERAL PARK DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT FOR PORTIONS OF PROPERTIES SITUATED AT TAX MAP KEYS (2) 4-4-001:010 AND (2) 4-4-014:006, LAHAINA, MAUI, HAWAII

WHEREAS, the Council is considering a Community Plan Amendment to the West Maui Community Plan from Park to Business and a Change in Zoning from PK General Park District to B-2 Community Business District for properties collectively consisting of 0.049 acre situated at Lahaina, Maui, Hawaii, identified for real property tax purposes as portions of tax map keys (2) 4-4-001:010 and (2) 4-4-014:006; and

WHEREAS, in order to create a contiguous public beach park at the northern end of the Kaanapali North Beach Resort, Charles James Nunes, Jr., Trustee under that certain unrecorded Revocable Trust of Charles James Nunes, Jr. dated March 12, 1989, and Angela Marie Nunes, Trustee under that certain unrecorded Revocable Trust of Angela Marie Nunes dated March 12, 1989 (collectively the "Trusts"), agreed to a land exchange with the developers of the Kaanapali North Beach Resort Park involving the transfer of unencumbered land area equal to the original property owned by the Trusts; and

WHEREAS, during a 2008 Community Plan Amendment and Change in Zoning for the properties, a five-foot-wide easement for utility purposes was anticipated and accommodated in the land area, but during the subdivision process the required utility easement was increased to approximately ten feet wide, resulting in less unencumbered land area to be transferred to the Trusts; and

WHEREAS, a Community Plan Amendment from Park to Business and a Change in Zoning from PK General Park District to B-2 Community Business District are being requested for an approximately six-foot-wide area totaling 0.049 acre; and

Resolution No. _____

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and amendments to the General Plan and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE TO AMEND THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP FROM PARK TO BUSINESS FOR 0.049 ACRE SITUATED AT LAHAINA, MAUI, HAWAII," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Maui Planning Commission for appropriate action pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM PK GENERAL PARK DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT FOR 0.049 ACRE SITUATED AT LAHAINA, MAUI, HAWAII," a copy of which is attached hereto as Exhibit "2" and made a part hereof, to the Maui Planning Commission for appropriate action pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
3. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and

Resolution No. _____

4. That certified copies of this resolution be transmitted to the Mayor; the Planning Director; the Maui Planning Commission; Charles James Nunes, Jr., Trustee under that certain unrecorded Revocable Trust of Charles James Nunes, Jr. dated March 12, 1989; and Angela Marie Nunes, Trustee under that certain unrecorded Revocable Trust of Angela Marie Nunes dated March 12, 1989.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

lu:misc:020areso02:scj

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE TO AMEND THE WEST MAUI COMMUNITY PLAN
AND LAND USE MAP FROM PARK TO BUSINESS FOR 0.049 ACRE SITUATED
AT LAHAINA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the West Maui Community Plan and Land Use Map is hereby amended from Park to Business for property situated at Lahaina, Maui, Hawaii, and identified for real property tax purposes as portions of tax map keys (2) 4-4-001:010 and (2) 4-4-014:006, comprising approximately 0.049 acre, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Community Plan Map CP-_____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:020acpabill01

EXHIBIT " 1 "

COMMUNITY PLAN MAP CP-___

COMMUNITY PLAN AMENDMENT FROM PARK TO BUSINESS

Being a portion of Lot D-1-A-1 of the North Beach Subdivision IIA, being also portions of Royal Patent 6297, Land Commission Award 6601 to Piimoku, Royal Patent 7817, Land Commission Award 5005-B to John White and Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd. Situate at Honokowai, Lahaina (Kaanapali), Maui, Hawaii.

Beginning at the Northeast corner of this parcel of land, along the south side of Roadway Lot 11 (Kaanapali Place) of Land Court Application 485 (Map 4), being also an azimuth and distance of 94°25' and 161.12 feet from the Northeast corner of Lot D-1-A-1 of the North Beach Subdivision II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI", being 7,188.41 feet North and 13,529.09 feet West and running by azimuths measured clockwise from true South:

1. 16° 10' 357.06 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainders of Royal Patent 6297, Land Commission Award 6601 to Piimoku, Royal Patent 7817, Land Commission Award 5005-B to John White and Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd;
2. 100° 20' 6.01 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainder of Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd;
3. 196° 10' 356.43 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainders of Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd., Royal Patent 7817, Land Commission Award 5005-B to John White and Royal Patent 6297, Land Commission Award 6601 to Piimoku;

EXHIBIT "A"



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS

501 SUMNER STREET, SUITE 521
HONOLULU, HAWAII 96817-5031

1871 WILJ PA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793

100 PALUAKI STREET, SUITE 207
HILO, HAWAII 96720

4. 274° 25'

6.11 feet along Roadway Lot 11 (Kaanapali Place) of Land Court Application 485 (Map 4) to the point of beginning and containing an area of 0.049 acre.

Description Prepared By:

AUSTIN, TSUTSUMI & ASSOCIATES, INC.

ERIK S. KANESHIRO

Licensed Professional Land Surveyor
Certificate No. 9826

Honolulu, Hawaii

March 4, 2016

TMK: (2) 4-4-14: Por. 06

(2) 4-4-01: Por. 10



ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM PK GENERAL PARK DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT FOR 0.049 ACRE SITUATED AT LAHAINA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapters 19.18 and 19.510, Maui County Code, a change in zoning from PK General Park District to B-2 Community Business District is hereby granted for property situated at Lahaina, Maui, Hawaii, and identified for real property tax purposes as portions of tax map keys (2) 4-4-001:010 and (2) 4-4-014:006, comprising 0.049 acre, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Zoning Map L-____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:020acizbill01

EXHIBIT "2"

LAND ZONING MAP L-_____

CHANGE IN ZONING FROM PK GENERAL PARK DISTRICT
TO B-2 COMMUNITY BUSINESS DISTRICT

Being a portion of Lot D-1-A-1 of the North Beach Subdivision IIA, being also portions of Royal Patent 6297, Land Commission Award 6601 to Piimoku, Royal Patent 7817, Land Commission Award 5005-B to John White and Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd. Situate at Honokowai, Lahaina (Kaanapali), Maui, Hawaii.

Beginning at the Northeast corner of this parcel of land, along the South side of Roadway Lot 11 (Kaanapali Place) of Land Court Application 485 (Map 4), being also an azimuth and distance of 94°25' and 161.12 feet from the Northeast corner of Lot D-1-A-1 of the North Beach Subdivision II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI", being 7,188.41 feet North and 13,529.09 feet West and running by azimuths measured clockwise from true South:

1. 16° 10' 357.06 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainders of Royal Patent 6297, Land Commission Award 6601 to Piimoku, Royal Patent 7817, Land Commission Award 5005-B to John White and Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd;
2. 100° 20' 6.01 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainder of Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd;
3. 196° 10' 356.43 feet along the remainder of Lot D-1-A-1 of the North Beach Subdivision IIA, being also the remainders of Parcel A of Grant S-15081 to Pioneer Mill Co., Ltd., Royal Patent 7817, Land Commission Award 5005-B to John White and Royal Patent 6297, Land Commission Award 6601 to Piimoku;

EXHIBIT "A"



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS

501 SUMNER STREET, SUITE 521
HONOLULU, HAWAII 96817-5031

1871 WILJA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793

100 PALANI STREET, SUITE 207
HILO, HAWAII 96720

4. 274° 25'

6.11 feet along Roadway Lot 11 (Kaanapali Place) of Land Court Application 485 (Map 4) to the point of beginning and containing an area of 0.049 acre.

Description Prepared By:

AUSTIN, TSUTSUMI & ASSOCIATES, INC.

ERIK S. KANESHIRO
Licensed Professional Land Surveyor
Certificate No. 9826

Honolulu, Hawaii
March 4, 2016
TMK: (2) 4-4-14: Por. 06
(2) 4-4-01: Por. 10

-2-



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS

501 SUMNER STREET, SUITE 521
HONOLULU, HAWAII 96817-3631

1871 WILI PA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793

100 PALUANI STREET, SUITE 213
HILLO, HAWAII 96720

89 201893

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECEIVED FOR RECORD

1989 DEC 29 AM 8:01

24065 / 371
LIBER/PAGE
ALBERT K. VIOLA, REGISTRAR

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL (X) PICK-UP ()

FRUNZI & YEE (RMLY)
Suite 1520, Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813

①
TGA 86763
RS 9.5

TITLE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

Grantor: CHARLES J. NUNES, JR. and
ANGELA MARIE NUNES, husband and wife

Grantee: CHARLES JAMES NUNES, JR., Trustee,
and ANGELA MARIE NUNES, Trustee

PROPERTY DESCRIPTION

LIBER/PAGE: 21989/546

Royal Patent 7817, L.C. Aw.
5005-B, por. of Royal Patent
6297, L.C. Aw. 6601, Maui

DOCUMENT NO.: N/A
TRANSFER CERTIFICATE OF
TITLE NO(S): N/A

Affects Tax Map Key: (2) 4-4-1-10

WARRANTY DEED

This Deed, made this _____ day of _____, 1989,
by CHARLES J. NUNES, JR. and ANGELA MARIE NUNES, husband and
wife, whose residence address is Wailuku, Maui, Hawaii, and whose
mailing address is P.O. Box 685, Wailuku, Maui, Hawaii 96793,
hereinafter called the "Grantor", and CHARLES JAMES NUNES, JR.,

STATE OF HAWAII
BUREAU OF CONVEYANCES
HAWAII
TAX...
00.00
DEC 29 1989

1989
11/27/89

Trustee under that certain unrecorded Revocable Trust of CHARLES JAMES NUNES, JR. dated March 12, 1989, and ANGELA MARIE NUNES, Trustee under that certain unrecorded Revocable Trust of ANGELA MARIE NUNES dated March 12, 1989, both of whose residence address is Wailuku aforesaid and whose mailing address is P.O. Box 685, Wailuku aforesaid, which Trustees are empowered under paragraph 8.03 of Article VIII of each said trust to hold, develop, lease, assign, convey, sell, encumber and/or otherwise deal with and dispose of real property, hereinafter called the "Grantee".

W I T N E S S E T H:

For TEN DOLLARS (\$10.00) and other good and valuable consideration to the Grantor paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, as TENANTS IN COMMON, their respective heirs, devisees, personal representatives, successors and permitted assigns, in fee simple, forever, the property, situated on the Island of Maui, State of Hawaii, and more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held and enjoyed therewith, unto the Grantee according to the tenancy herein set forth, forever.

AND, in consideration of the premises, the Grantor does hereby covenant with the Grantee that the Grantor is seized of the property herein described in fee simple; that said property is free and clear of and from all liens and encumbrances, except for the lien of real property taxes not yet by law required to be paid, and except as may be specifically set forth herein; that the Grantor has good right to sell and convey said property, as aforesaid; and, that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

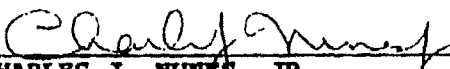
AND Grantees aver that under Article II of each said trust, the Grantee, as Grantor of each said trust, may amend said trust agreement at any time.

24065 373

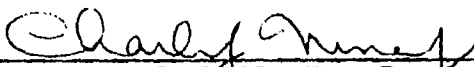
The conveyance herein set forth and the warranties of the Grantor concerning the same are expressly declared to be in favor of the Grantee, and their respective heirs, devisees, personal representatives, successors and permitted assigns.


The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place of thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

IN WITNESS WHEREOF, the undersigned executed these presents as of the day and year first above written.


CHARLES J. NUNES, JR.


ANGELA MARIE NUNES
"Grantor"


CHARLES JAMES NUNES, JR., Trustee
under that certain unrecorded
Revocable Trust of CHARLES JAMES
NUNES, JR. dated March 12, 1989


ANGELA MARIE NUNES, Trustee
under that certain unrecorded
Revocable Trust of ANGELA MARIE
NUNES dated March 12, 1989

"Grantee"

24065 374

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 2TH day of DECEMBER, 1989, before me personally appeared CHARLES J. NUNES, JR., also known as CHARLES JAMES NUNES, JR., individually and as Trustee aforesaid, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed as such individual and Trustee.

LS

William S. Sullivan
Notary Public, State of Hawaii
My Commission Expires: 4-12-93

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 2TH day of DECEMBER, 1989, before me personally appeared ANGELA MARIE NUNES, individually and as Trustee aforesaid, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed as such individual and Trustee.

LS

William S. Sullivan
Notary Public, State of Hawaii
My Commission Expires: 4-12-93

EXHIBIT "A"

24065 375

LAND DESCRIPTION

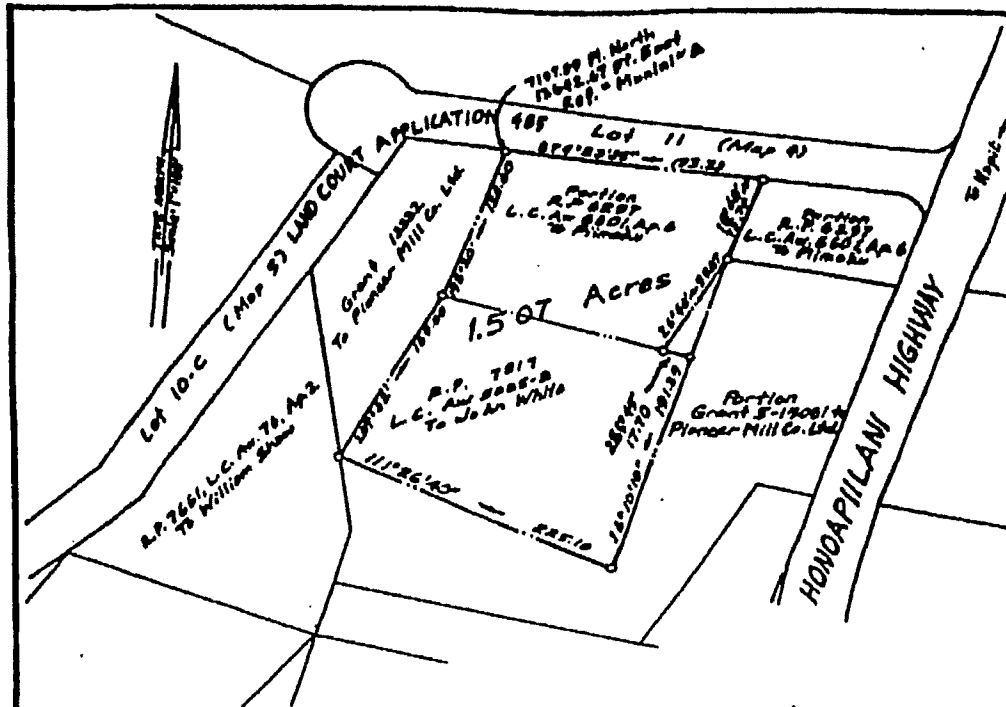
Being all of Royal Patent 7817, Land Commission Award 5005-B to John White and the westerly portion of Royal Patent 6297, Land Commission Award 6601, Apana 6 to Piinoku.

At Honokowai, Lahaina, Maui, Hawaii
TMK: 4-4-01:10

Beginning at the Northwestern corner of this parcel of land, the Northeastern corner of Grant 13,332 to Pioneer Mill Company, Limited and being also a point on the southerly side of Lot 11 (Roadway Lot) of Land Court Application 485 (Map 4), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAHINI" being 7,197.09 feet North and 13,642.67 feet West and running by azimuths measured clockwise from true South: thence,

1. 271° 23' 35" 193.83 feet along the southerly side of Lot 11 (Roadway Lot) of Land Court Application 485 (Map 4); thence,
2. 18° 40' 75.74 feet along a remaining portion of Royal Patent 6297, Land Commission Award 6601, Apana 6 to Piinoku (TMK: 4-4-01:60); thence,
3. 26° 40' 99.07 feet along land owned by AMFAC Property Investment Corp. and Toiuhina Pacific, Inc.; thence,
4. 285° 45' 17.70 feet along the same; thence,
5. 16° 10' 10" 191.39 feet along a portion of Grant S-15081 to Pioneer Mill Company, Limited; thence,
6. 111° 26' 40" 225.10 feet along the same; thence,
7. 207° 32' 169.00 feet along Grant 13,332 to Pioneer Mill Company, Limited; thence,
8. 198° 20' 138.60 feet along the same to the point of beginning and containing an area of 1.607 acres.

Said property is further described on the following map:



MAP SHOWING

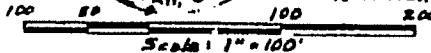
R. P. 7817, L. C. Aw. 5005-B to John White
 and a portion of
 R. P. 6297, L. C. Aw. 6601, Ap. 6 to Pilmaku
 AT
 HONOKOWAI, LAHAINA, MAUI, HAWAII

Prepared for:
 Helela Hadani
 AMPAC Properties
 Kaneohe, Maui, Hawaii



This map was prepared by me
 or under my direct supervision

Randal Sherman
 Registered Professional Land Surveyor
 State of Hawaii Certificate LS-4187



DATE: 12 August 1987

PROJECT NAME: AMPAC-Knieger
 PROJECT NUMBER: 719 DATE: 8-9-87

24065 377

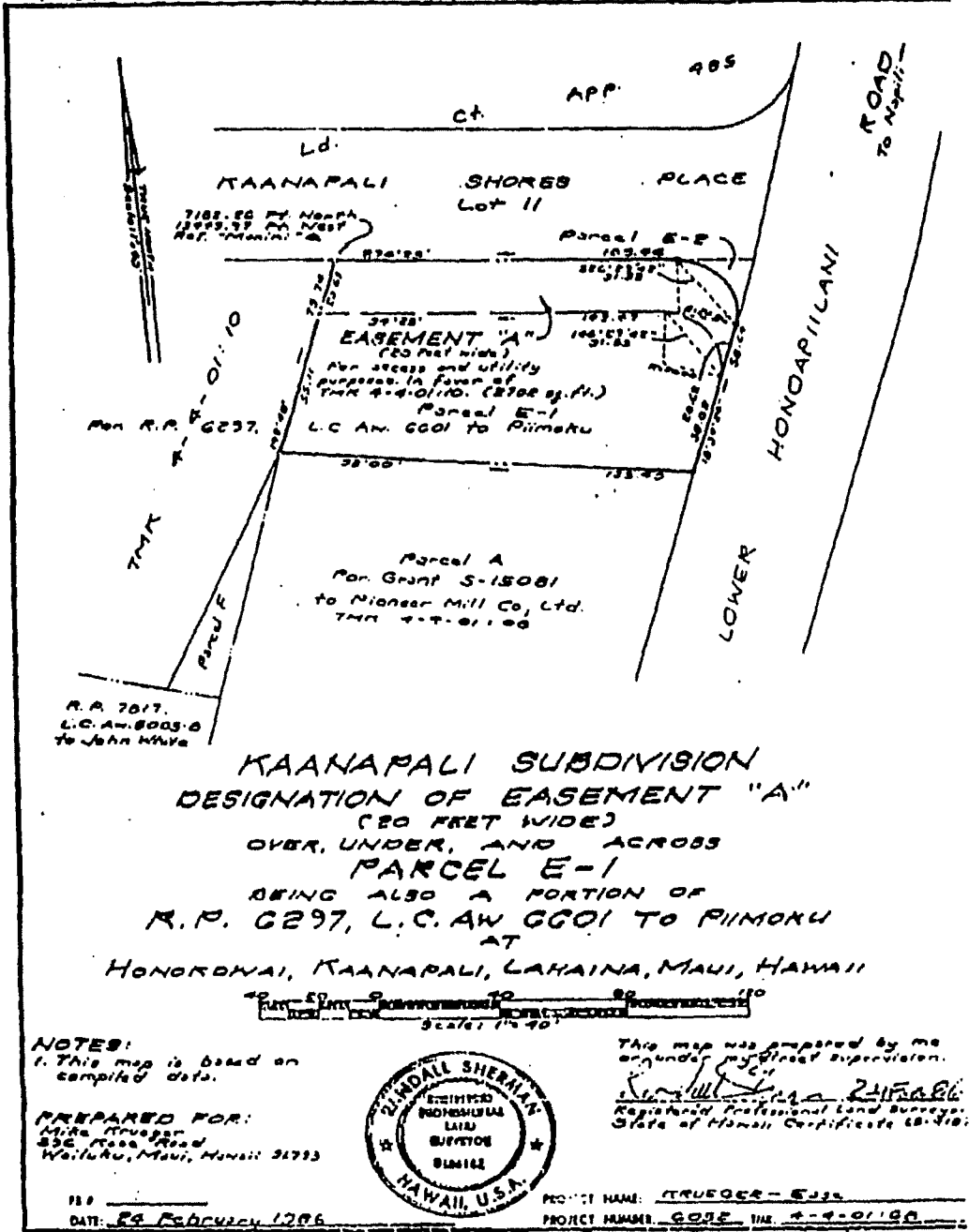
TOGETHER with an easement twenty feet in width from Lower Honoapiilani Road to the property described hereon for the purpose of ingress to and egress from said property, said easement being more particularly described on the map marked Exhibit "B" attached hereto.

Being the same premises conveyed to the Grantor herein by Deed dated May 24, 1988, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 21939, Page 546.

SUBJECT, HOWEVER, to any and all encumbrances, easements, restrictions, liens and reservations presently of record, if any.

END OF EXHIBIT "A"

Recorder's Memo: Legibility of Writing, Typing or Printing UNSATISFACTORY
in this Document when received.



END OF EXHIBIT "B"