

REQUEST FOR LEGAL SERVICES

Date: November 2, 2018
From: Robert Carroll, Chair
Land Use Committee

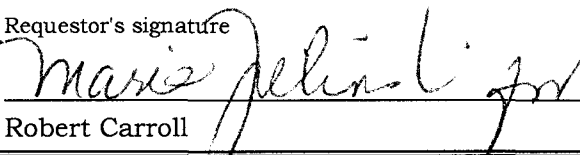
TRANSMITTAL

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

Subject: COUNCIL-INITIATED CHANGE IN ZONING FOR TAX MAP KEY (2) 3-9-004:141
(KIHEI) (LU-72)

Background Data: Please revise proposed resolution in accordance with attached marked-up copy and approve it as to form and legality. A signed hard copy is requested with your response.

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

Requestor's signature  Robert Carroll	Contact Person <u>Carla Nakata or James Krueger</u> (Telephone Extension: <u>7659 or 7761, 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): November 7, 2018
REASON: Single word correction.

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:072acc01:jgk

Attachment

Resolution

No. _____

REFERRING TO THE MAUI PLANNING
COMMISSION A PROPOSED BILL TO CHANGE
THE ZONING FOR 6.943 ACRES ON SOUTH
KIHEI ROAD, KIHEI, MAUI, HAWAII,
TAX MAP KEY (2) 3-9-004:141

WHEREAS, the Council is considering a proposed bill to change the zoning from Open Zone to R-1 Residential District for that certain real property situated at South Kihei Road, Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-9-004:141, comprised of approximately ~~of~~ 6.943 acres; and

WHEREAS, the Change in Zoning would facilitate the development of an affordable housing project on the property; and

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 thereto, 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 CHANGE THE ZONING FROM OPEN ZONE TO R-1 RESIDENTIAL DISTRICT FOR 6.943 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEY (2) 3-9-004:141," 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; and
2. That it respectfully requests the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and

Resolution No. _____

3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Maui Planning Commission.

APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

| [lu:misc:072areso01:jgkpa:jgk:18-278b](#)

Resolution

No. _____

REFERRING TO THE MAUI PLANNING
COMMISSION A PROPOSED BILL TO CHANGE
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Resolution No. _____

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APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

lu:misc:072areso01:jgk

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE TO CHANGE THE ZONING FROM OPEN ZONE TO R-1 RESIDENTIAL DISTRICT FOR 6.943 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEY (2) 3-9-004:141

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

SECTION 1. Pursuant to Chapters 19.08 and 19.510, Maui County Code, a change in zoning from Open Zone to R-1 Residential District is hereby granted for that certain real property situated at South Kihei Road, Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-9-004:141, as more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Zoning Map No. L-_____, attached hereto as Exhibit "B" and 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

paf:jgk:18-278c

EXHIBIT " 1 "

EXHIBIT "A"

All of that certain parcel of land (being all of the land(s) described in and covered by Land Patent Grant Number S-15,636 issued to Seibu Hawaii, Inc., a Hawaii corporation) situate, lying and being at Kamaole, Wailuku (Kula), Island and County of Maui, State of Hawaii, being PARCEL 7, same being a portion of the government land of Kamaole and thus bounded and described:

Beginning at the southwest corner of this parcel of land, the northwest corner of Grant A-14699 to Robert H. and Nadine Hughes and on the east side of Kihei Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 9982.31 feet south and 19,955.43 feet west, thence running by azimuths measured clockwise from true South:

1. Along the east side of Kihei Road on a curve to the right with a radius of 1879.86 feet, the chord azimuth and distance being: 172° 38' 25" 80.47 feet;
2. 265° 23' 100.00 feet along Sewerage Pump Station No. 8;
3. 175° 23' 99.51 feet along Sewerage Pump Station No. 8;
4. 85° 23' 100.00 feet along Sewerage Pump Station No. 8;
5. Thence along the east side of Kihei Road on a curve to the right with a radius of 1879.86 feet, the chord azimuth and distance being: 180° 00' 30" 203.87 feet;
6. 183° 07' 696.26 feet along the east side of Kihei Road;
7. Thence along the remainder of Government Land of Kamaole on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being: 215° 00' 21.13 feet;
8. 246° 53' 197.85 feet along remainder of the Government Land of Kamaole;
9. 354° 54' 1292.80 feet along Grant 5008 to Henry Waterhouse Trust Co., Ltd.;

- | | | | | |
|-----|------|-----|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10. | 65° | 52' | 63.47 | feet along Grant 548 to J. Y. Kanehoa; |
| 11. | 174° | 54' | 164.06 | feet along Grant 10297 to H. F. Rice; |
| 12. | 84° | 54' | 257.09 | feet along Grant 10297 to H. F. Rice and Grant S-14699 to Robert H. and Nadine Hughes to the point of beginning and containing an area of 6.943 acres, more or less. |

BEING THE PREMISES ACQUIRED BY WARRANTY DEED

GRANTOR : SEIBU HAWAII, INC., a Hawaii corporation

GRANTEE : GEORGE P. FERREIRA, JR. and ELEANOR B. FERREIRA, husband and wife, as Tenants by the Entirety

DATED : September 6, 1990

RECORDED : Document No. 90-139471

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : LAND PATENT GRANT NUMBER S-15,636

The foregoing includes, but is not limited to, matters relating to reservation in favor of State of Hawaii of all minerals, surface and ground waters and prehistoric and historic remains

3. Perpetual non-exclusive access and utility easements as shown on plan attached to Land Patent Grant Number S-15,636.

4. Reserving to the State of Hawaii, its successors and assigns, perpetual non-exclusive access and utility easements as shown on plan attached to Land Patent Grant Number S-15,636.

5. GRANT

TO : JEROME S. KATZIN, as Trustee of Tower Development Corporation Liquidating Trust

DATED : January 14, 1988

RECORDED : Liber 21527 Page 650

GRANTING : a perpetual and non-exclusive easement in, over, under and across that certain parcel of land, being more particularly described as follows:

PERPETUAL NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT

Kamaole, Wailuku (Kula), Maui, Hawaii

Being a portion of Government Land of Kamaole.

Beginning at the northwest corner of this easement and on the east side of South Kihei Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being 8,792.90 feet south and 19,929.79 feet west, thence running by azimuths measured clockwise from true South:

1. Along the remainder of the Government Land of Kamaole, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:

305° 00'	33.96	feet;
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2. 246° 53' 168.09 feet along the remainder of the Government Land of Kamaole;

3. 354° 54' 503.09 feet along Grant 5008 to Henry Waterhouse Trust Company, Limited;

4. 84° 54' 44.00 feet along the remainder of the Government Land of Kamaole;

5. 174° 54' 384.39 feet along the remainder of the Government land of Kamaole;

6. Thence along the remainder of the Government Land of Kamaole, on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being;

120° 53' 30" 48.55 feet;

7. 66° 53' 110.28 feet along the remainder of the Government Land of Kamaole;

8. Thence along the remainder of the Government Land of Kamaole, on a curve to the left with a radius of 20.0 feet, the chord azimuth and distance being;

35° 00' 21.13 feet;

9. 183° 07' 111.48 feet along the east side of South Kihei Road to the point of beginning and containing an area of 32,016 square feet, more or less.

ABOVE GRANT BY MESNE ASSIGNMENTS WAS ASSIGNED

TO : KILOHANA MAUKA ASSOCIATION, INC., a Hawaii non-profit corporation

DATED : January 9, 2003

RECORDED : as Document No. 2003-228679

CONSENT : Given by the STATE OF HAWAII, by its Board of Land and Natural Resources, by instrument dated October 16, 2003, recorded as Document No. 2003-228680

6. GRANT

TO : WAILEA IKI SUBDIVISION PARTNERSHIP, a Hawaii Limited Partnership

DATED : July 14, 1993

RECORDED : Document No. 93-136165

GRANTING : non-exclusive and perpetual easement for access and utility purposes, in, over, under and across Part B, being more particularly described as follows:

Being a portion of Grant S-15636 to Seibu Hawaii, Inc.

Being also portion of the perpetual non-exclusive access and utility easement and on the west boundary of Grant 5008 to Henry Waterhouse Trust Company, Limited, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" BEING 8,809.23 feet south and 19,741.77 feet west, thence running by azimuths measured clockwise from true South:

1. 354° 54' 191.09 feet along Grant 5008 to Henry Waterhouse Trust Company, Limited;
2. 84° 54' 44.00 feet along the remainder of Grant S-15636 to Seibu Hawaii, Inc.;
3. 174° 54' 135.48 feet along the remainder of Grant S-15636 to Seibu Hawaii, Inc.;
4. Thence along the remainder of Grant S-15636 to Seibu Hawaii, Inc., on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being;

 120° 53' 30" 48.55 feet;
5. 246° 53' 87.57 feet along the Government Land of Kamaole to the point of beginning and containing an area of 8,484 square feet, more or less.

ABOVE GRANT WAS MESNE ASSIGNMENTS ASSIGNED

TO : KEAWAKAPU VIEWS COMMUNITY ASSOCIATION, a Hawaii non-profit corporation

DATED : November 1, 1994

RECORDED : Document No. 95-088722

CONSENT : Given by the STATE OF HAWAII, by its Board of Land and Natural Resources, by instrument dated March 31, 1995

7. Pending Civil No. 98-0863 filed in the Circuit Court of the Second Circuit, State of Hawaii; COUNTY OF MAUI, by and through its Director of Finance, "Plaintiff", vs. GEORGE P. FERREIRA, JR. and ELEANOR B. FERREIRA, ET AL, "Defendant"; re: Foreclosure.

8. GRANT

TO : TOWNE BROWN LLC, a Hawaii limited liability company
DATED : July 16, 2001
RECORDED : Document No. 2001-122656
GRANTING : an easement for roadway and utility purposes

ABOVE GRANT AMENDED BY INSTRUMENT

DATED : May 10, 2002
RECORDED : Document No. 2002-088790
RE : description of easements

ABOVE GRANT AMENDED BY INSTRUMENT

DATED : March 26, 2003
RECORDED : Document No. 2003-066248
RE : adding to the Roadway Easement area

9. GRANT

TO : MAUI ELECTRIC COMPANY, LIMITED and VERIZON HAWAII INC.
DATED : March 18, 2003
RECORDED : Document No. 2003-088355
GRANTING : an easement for utility purposes

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : WATERLINE EASEMENT AGREEMENT

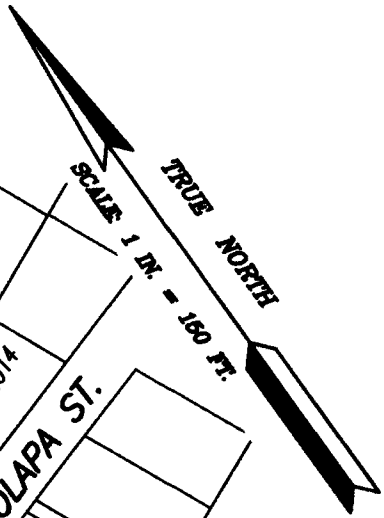
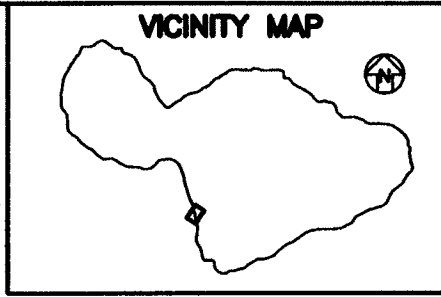
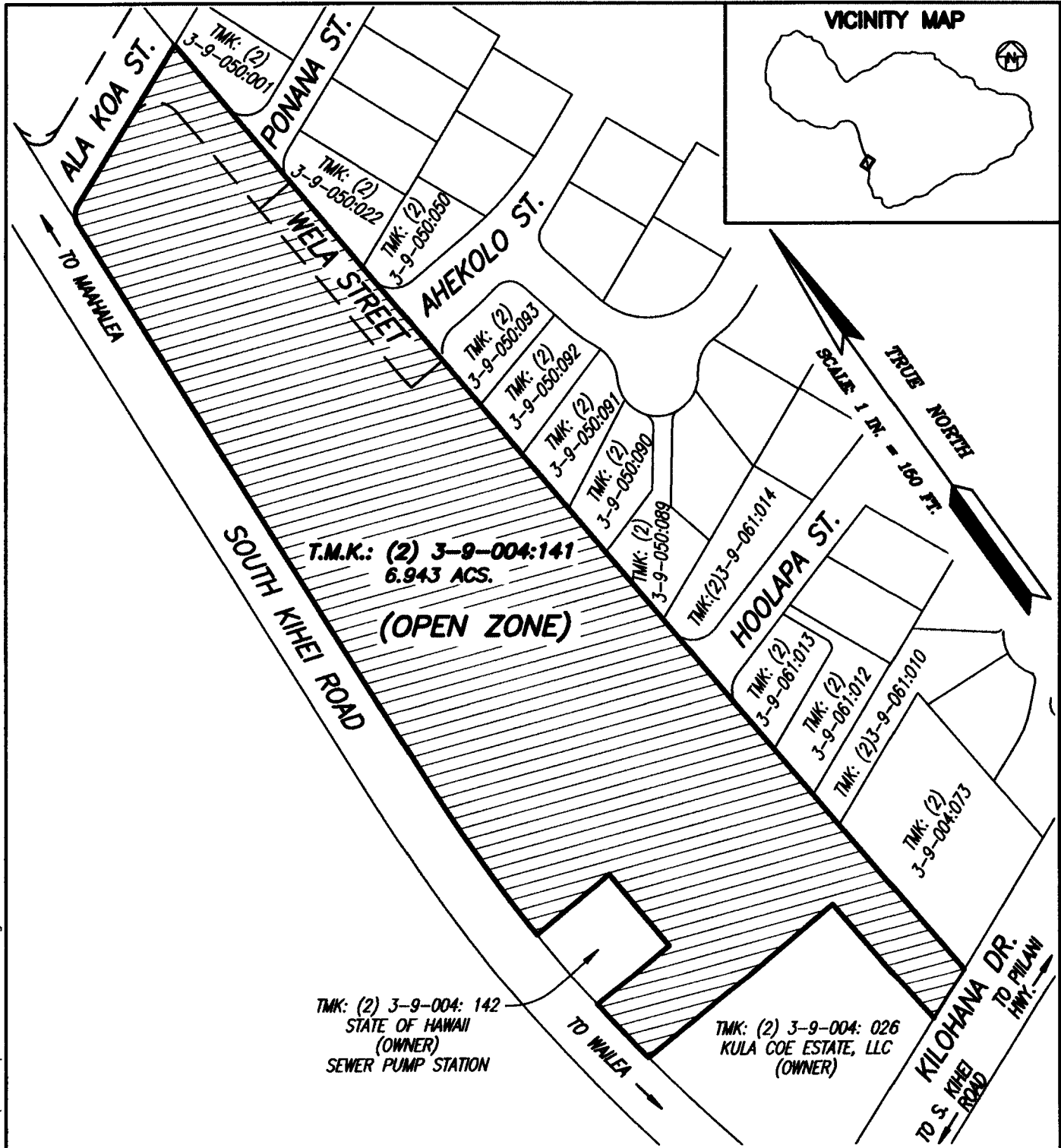
DATED : June 17, 2003
RECORDED : Document No. 2003-137108
PARTIES : TOWNE BROWN LLC, a Hawaii limited liability company and COUNTY OF MAUI

11. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described herein.

(Note: The death of George P. Ferreira, Jr. on November 6, 2000 at Wailuku, Maui, Hawaii)

END OF EXHIBIT "A"

G:\2016 PROJECTS\2016-43\DWG\MAPS\ZONING-MAP.dwg Oct. 12, 2018 - 9:43am



TAX MAP KEY:
 T.M.K.: (2) 3-9-004:141

LAND ZONING MAP NO. L-
 CHANGE IN ZONING - KIHEI, MAUI, HAWAII
 FROM OPEN ZONE
 TO R-1 RESIDENTIAL DISTRICT

EXHIBIT "B"