

REQUEST FOR LEGAL SERVICES

Date: July 14, 2016
From: Robert Carroll, Chair
Land Use Committee

RECEIVED

By Corporation Counsel at 9:49 am, Jul 15, 2016

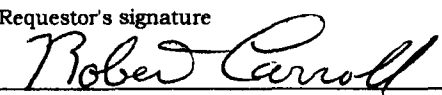
TRANSMITTAL

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: Please revise the attached proposed resolution by replacing the second WHEREAS clause with the following: "WHEREAS, in order to create a contiguous public beach park at the northern end of the Kaanapali North Beach Resort, Charles James Nunes, Jr. and Angela Marie Nunes, trustees of their respective 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 said trusts; and".

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

Requestor's signature  Robert Carroll	Contact Person <u>Scott Jensen</u> (Telephone Extensions: 7662)
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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): Wednesday, July 27, 2016
REASON: For posting on the August 5, 2016 Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>JMO</u>	ASSIGNMENT NO. <u>2014-3084</u>	BY: <u>LUV</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):
See additional change to para #4: took out trust names, as the names are still not yet confirmed.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 7/20/16

By 

(Rev. 7/03)

lu:ltr:020acc03:scj
Attachment

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. and Angela Marie Nunes, trustees of their respective 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 said 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 Nunes' 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

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

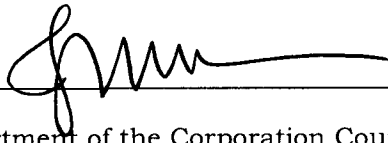
Resolution No. _____

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
4. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Maui Planning Commission, Charles James Nunes, Jr., and Angela Marie Nunes.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui
2014-3084

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"



801 BURNER STREET, SUITE 221
HONOLULU, HAWAII 96817-6031

AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS
1871 WILJ PA 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

801 CLAMOR STREET, SUITE 201
HONOLULU, HAWAII 96817-5001

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

108 PALIAR STREET, SUITE 210
HILTI, HAWAII 96720

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.

599 SILVERMAN STREET, SUITE 221
HONOLULU, HAWAII 96817-3831

CIVIL ENGINEERS • SURVEYORS
1871 WILPA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793

100 PALMS 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-



801 KALANANĀ'ĀHELE STREET, SUITE 801
HONOLULU, HAWAII 96817-3851

AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS - SURVEYORS

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

100 PALLOA STREET, SUITE 213
W.L.D. HAWAII 96720

Resolution

No. _____

*Scott - also
see deletions
on p. 2 + 3.*

Jen

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, 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 said 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 Nunes' trusts; and

WHEREAS, a Community Plan Amendment from Park to Business and a Change in Zoning from PK General Park District to B-2

Resolution No. _____

Community Business District are being requested for an approximately six-foot-wide area totaling 0.049 acre; 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 to the General Plan and provide findings and recommendations to the Council; now, therefore,

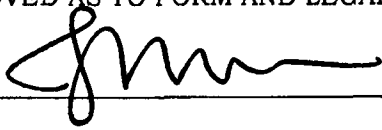
BE IT RESOLVED by the Council of the County of Maui:

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
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~~

Resolution No. _____

~~under that certain unrecorded Revocable Trust of Angela
Marie Nunes dated March 12, 1989.~~

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be 'Jm', written over a horizontal line.

Department of the Corporation Counsel
County of Maui

2014-3084