

REQUEST FOR LEGAL SERVICES

Date: August 18, 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 THE KAHANA SUNSET CONDOMINIUM AT 4909 LOWER HONOAPIILANI ROAD (LU-19)

Background Data: Please revise the attached proposed bill by: (1) substituting the new Exhibit "B" containing two conditions for the existing Exhibit "B" containing a single condition; and (2) revising the reference in Section 2 of the bill so that it reads "conditions" rather than "condition." Then, if appropriate, approve as to form and legality.

Please include the revised hard copy.

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, August 24, 2016
REASON: For possible posting on the September 2, 2016 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)

ORDINANCE NO. _____

BILL NO. _____ (2016)

**A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
R-3 RESIDENTIAL DISTRICT TO H-M HOTEL DISTRICT
(CONDITIONAL ZONING) FOR PROPERTY SITUATED AT LAHAINA, MAUI,
HAWAII, AND IDENTIFIED AS TAX MAP KEY (2) 4-3-003:015,
FOR THE KAHANA SUNSET AOAO**

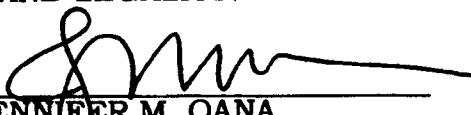
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.14 and 19.510, Maui County Code, a change in zoning from R-3 Residential District to H-M Hotel District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Lahaina, Maui, Hawaii, and identified for real property tax purposes by tax map key (2) 4-3-003:015, comprising approximately 4.467 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-871, 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. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the condition set forth in Exhibit "B", attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

**APPROVED AS TO FORM
AND LEGALITY:**



JENNIFER M. OANA
Deputy Corporation Counsel
County of Maui
2015-5327

TAX MAP KEY: (2) 4-3-003:015

ALL of that certain parcel of land, being all of R. P. 4697, L. C. Aw. 4807:3 to Nika 2, all of R. P. 4697 L. C. Aw. 4807:4 to Nika 2, and a portion of R. P. 1663 L. C. Aw. 5524 to L. Konia, situate at Alaaloa, Lahaina, Island and County of Maui, State of Hawaii, and more particularly described as follows:

Beginning at a one inch pipe on the Southerly corner of this parcel of land, on the Westerly side of Honoapiilani Highway, being also the Southerly corner of Allotment 16 of the Mailapai Hui Partition, the coordinate of the point of beginning referred to the Government Survey Triangulation Station "Malo" being:

13,873.95 feet South

11,352.02 feet West

and running by azimuths measured clockwise from true South:

1. 119° 51' 00" 268.00 feet along Allotment 44-B of the Mailapai Hui Partition to seashore and a 1/2 inch pipe;

Thence along high water mark of seashore the direct azimuth and distance being:

2. 191° 15' 10" 464.83 feet to a 1/2 inch pipe;
3. 314° 21' 30" 73.69 feet along Exception 19 of the Mailapai Hui Partition owned by Ralph Coatsworth and wife Hilda K. to a 1 inch pipe in concrete;

4. 274° 07' 00" 199.13 feet along Allotment 19-B of the Mailapai Hui Partition owned by the Door of Faith Church to a pipe;

Thence along the Westerly side of Honoapiilani Highway and along an arc of a curve to the left with a radius of 177.80 feet, the direct chord distance and azimuth being:

5. 331° 07' 30" 124.78 feet to a pipe;
6. 310° 35' 00" 154.84 feet along the westerly side of Honoapiilani Highway to a pipe;

Thence along the Westerly side of Honospillani Highway and along an arc of a curve to the right with a radius of 71.10 feet, the direct chord azimuth and distance being:

7. 349° 27' 30" 89.25 feet to a pipe;

Thence along the Westerly side of Honospillani Highway and along an arc of a curve to the right with a radius of 246.10 feet, the direct chord azimuth and distance being:

8. 48° 25' 00" 169.02 feet to a pipe;

Thence along the Westerly side of Honospillani Highway and along an arc of a curve to the left with a radius of 521.13 feet, the chord azimuth and distance being:

9. 59° 17' 30" 166.79 feet to a pipe;

10. 50° 05' 00" 44.23 feet along the Westerly side of Honospillani Highway to the point of beginning and containing an area of 4.467 acres.

EXHIBIT "B"

CONDITION OF ZONING

1. That all current and future structures on the Kahana Sunset property shall be limited in height to no more than three (3) stories, with roof, including the ventilation compartments, as currently configured, as of July 22, 2014, excepting alternate energy devices approved by the Board of Directors of the Kahana Sunset AOA and by the County of Maui (County), if required, and excepting any new configurations as may be required by the County.

EXHIBIT "B"

CONDITIONS OF ZONING

1. No building shall exceed 45 feet in height, except that vent pipes, fans, elevator and stairway shafts, chimneys, cell or antennae, and equipment used for small scale energy systems on roofs may extend an additional 10 feet above the building roof.
2. The public shoreline access shall be available at a minimum between 7:30 a.m. and 7:30 p.m., seven days a week.