

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

February 9, 2016

RECEIVED

2016 FEB -9 AM 9:56

OFFICE OF THE MAYOR

OFFICE OF THE
COUNTY CLERK

2016 FEB 16 PM 2:55

RECEIVED

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
[Signature] 2/16/16
Mayor Date

Dear Chair White and Members:

SUBJECT: KAHANA SUNSET AOA APPLICATION FOR A CHANGE IN ZONING (CIZ) AND COMMUNITY PLAN AMENDMENT (CPA), SITUATED AT 4909 LOWER HONOAPIILANI ROAD, LAHAINA, ISLAND OF MAUI, HAWAII; TMK: (2) 4-3-003:015 (CPA 2012/0003) (CIZ 2012/0007)

The Department of Planning (Department) is transmitting for your review and action the CPA AND CIZ applications filed by the Kahana Sunset AOA. A summary of the application(s) is as follows:

| SUMMARY OF APPLICATION | |
|------------------------|---|
| Application | Community Plan Amendment from Single-Family to Hotel and a Change in Zoning from R-3 Residential to H-M Hotel |
| Applicant | Kahana Sunset AOA |
| Owner | Kahana Sunset AOA |
| Tax Map Key | TMK: (2) 4-3-003:015 |
| Address | 4909 Lower Honoapiilani Road, Lahaina, Island of Maui, Hawaii; TMK: (2) 4-3-003:015 |
| Area | 4.467 acres |

COUNTY COMMUNICATION NO. **16-39**

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
February 9, 2016
Page 2

| SUMMARY OF APPLICATION | |
|------------------------|---|
| Land Use Designations | State Urban District West Maui Community Plan – Single-Family Title 19, Zoning – R-3 Residential District Other: Located in Special Management Area |
| Brief Description | APPROVED SPECIAL MANAGEMENT AREA (SMA) USE PERMIT AND SHORELINE SETBACK VARIANCE (SSV) WITH RECOMMENDATIONS FROM THE MAUI PLANNING COMMISSION TO THE MAUI COUNTY COUNCIL REGARDING COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR THE KAHANA SUNSET AOA SHORELINE AND SITE IMPROVEMENTS, LOCATED AT 4909 LOWER HONOAPIILANI ROAD, LAHAINA, ISLAND OF MAUI, HAWAII; TMK: (2) 4-3-003:015 (CPA 2012/0003) (CIZ 2012/0007) (SM1 2012/0003) (SSV 2012/0002) (EA 2012/0002) |
| Public Hearing | Held by the Maui Planning Commission on July 22, 2014 |
| Testimony | Written testimony can be found as Exhibit 35 of the Department of Planning Report. |
| Recommendation | Recommended approval subject to conditions listed below. |

The Maui Planning Commission (Commission) recommended approval to the Maui County Council (Council) subject to the following conditions:

At its regular meeting on July 22, 2014, the Commission reviewed the subject requests and, after due deliberation and receipt of testimony and exhibits, and by a unanimous vote, hereby recommends to the Council that the Council: (1) approve the CPA from Single-Family to Hotel for the subject parcel; and (2) approve the CIZ for the subject parcel, subject to the following project specific condition:

PROJECT SPECIFIC CONDITION FOR CHANGE IN 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.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
February 9, 2016
Page 3

Inasmuch as Council approval is required for the CPA from Single-Family to Hotel for the subject parcel, and the CIZ from R-3 Residential to H-M Hotel, the Department respectfully transmits the subject application(s) to the Council for consideration. Accordingly, attached for your review are the following documents, listed chronologically from the oldest to the newest documents:

1. Original draft Ordinances for CPA and CIZ;
2. Community Plan Map No. CP-822 and Land Zoning Map No. L-871. Applications for CIZ and CPA, July 29, 2012;
3. Department's Recommendation Report for the July 22, 2014 Commission meeting;
4. PowerPoint presentation and Department's Report and Agency comments for the July 22, 2014 Commission meeting; and
5. Agenda and approved Minutes for July 22, 2014 Commission meeting.

Please note that the draft Ordinance has been reviewed and approved but has not been signed by the Deputy Corporation Counsel. The Deputy Corporation Counsel has indicated that the Ordinance will be signed after the Unilateral Agreement is signed as required by the Council.

Thank you for your attention to this matter. Should you have any questions, feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



 WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
James A. Buika, Staff Planner
Maui Planning Commission Members
Kahana Sunset AOAO, Applicant, (PDF)
Raymond Cabebe, Chris Hart & Partners, Inc.
Project File
General File

WRS:JAB:sn

K:\WP_DOCS\PLANNING\SM1\2012\0003_KahanaSunset\CIZ JAN 2015 TO CORP COUNSEL\

ORDINANCE NO. _____

BILL NO. _____(2016)


A BILL FOR AN ORDINANCE TO AMEND THE WEST MAUI
COMMUNITY PLAN AND LAND USE MAP FROM SINGLE-FAMILY
TO HOTEL FOR PROPERTY SITUATED AT LAHAINA, MAUI,
HAWAII, AND IDENTIFIED AS TAX MAP KEY (2) 4-3-003:015,
FOR THE KAHANA SUNSET AOA

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 Single-Family to Hotel for property 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 Community Plan Map No. CP-822, 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:



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 Alaeloa, 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 Mailepai 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 Mailepai 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 Mailepai 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 Mailepai 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;

EXHIBIT "  "

Thence along the Westerly side of Honoapiilani 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 Honoapiilani 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 Honoapiilani 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 Honoapiilani Highway to the point of beginning and containing an area of 4.467 acres.

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 Alaeloa, 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 Mailepai 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 Mailepai 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 Mailepai 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 Mailepai 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;

EXHIBIT " A "

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

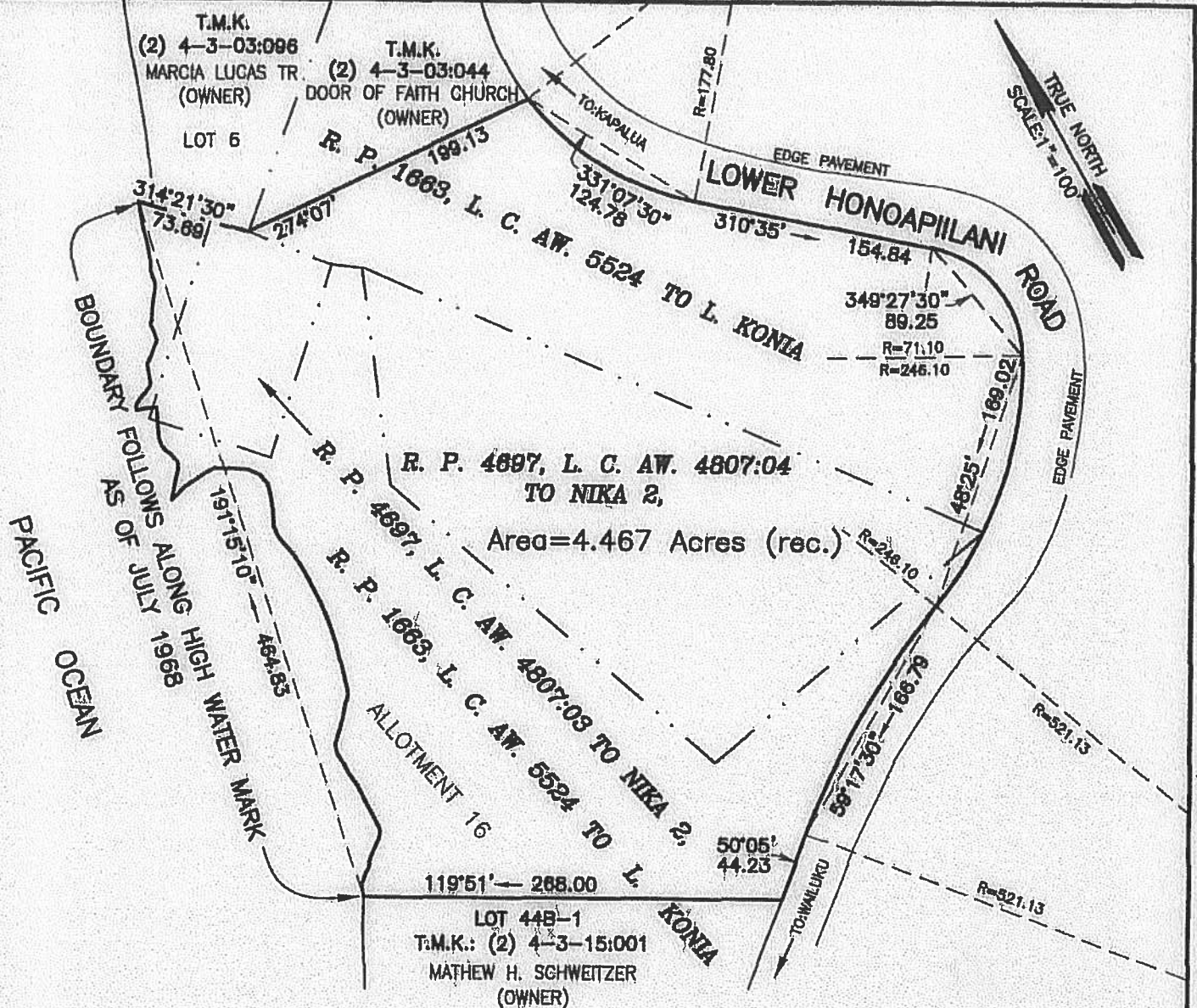
9. 59° 17' 30" 166.79 feet to a pipe;

10. 50° 05' 00" 44.23 feet along the Westerly side of Honoapiilani 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.



TAX MAP KEY
2nd DW. 4-3-03:015

COMMUNITY PLAN MAP NO. CP-822

COMMUNITY PLAN AMENDMENT-LAHAINA, MAUI, HAWAII
FROM SINGLE-FAMILY DISTRICT TO HOTEL DISTRICT

APPROVED:

COUNTY CLERK

DATE

APPROVED:

PLANNING DIRECTOR

DATE

PUBLIC HEARING: 7-22-14

ADOPTED-COUNCIL:

ADOPTED-MAYOR:

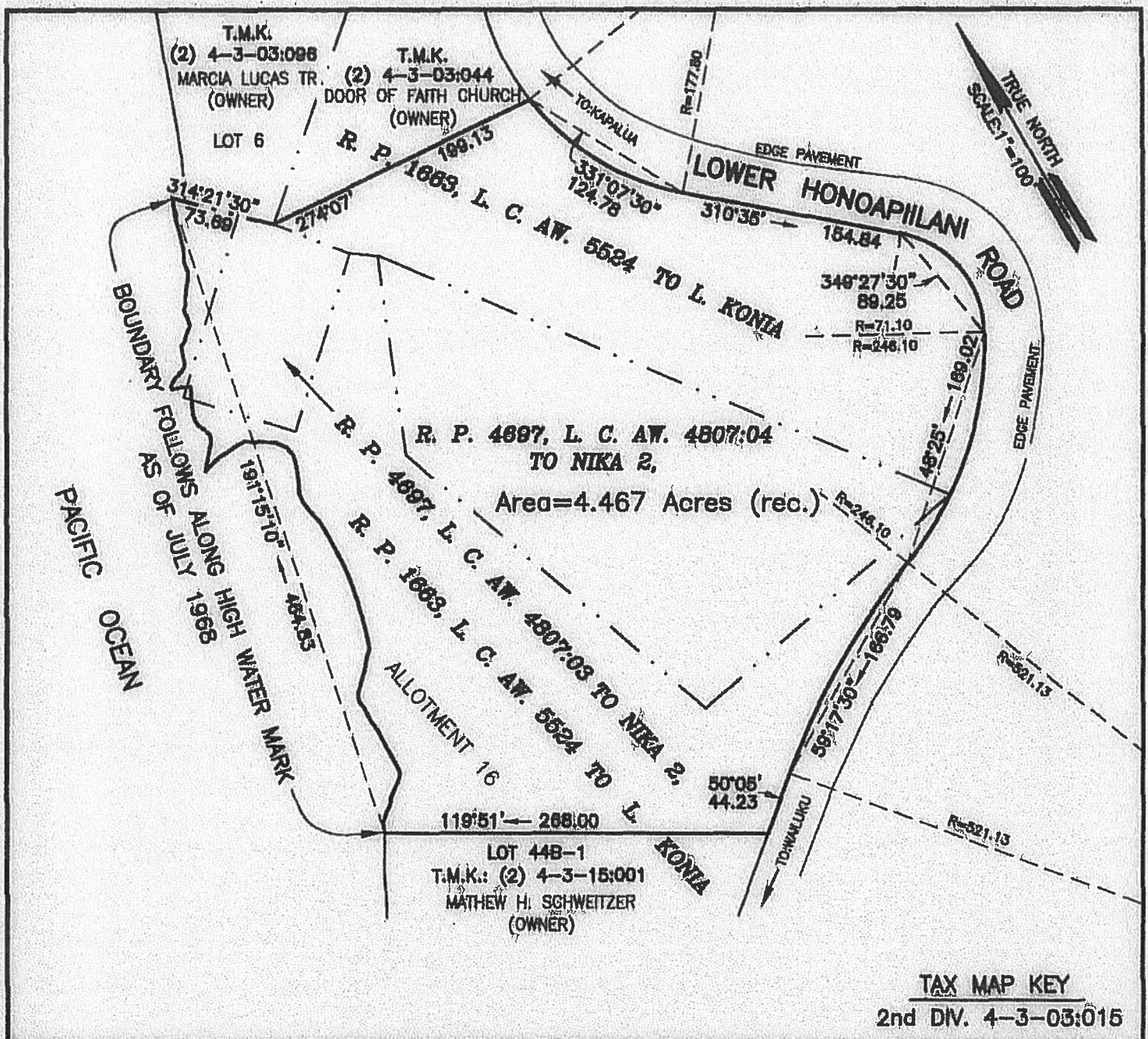
ORDINANCE:

DATE:

SCALE: 1"=100'

OFFICE OF THE COUNTY CLERK
200 High Street, Wailuku, Maui, Hawaii, 96793

CP-822



TAX MAP KEY
2nd DIV. 4-3-03:015

LAND ZONING MAP NO. L-871

CHANGE IN ZONING-LAHAINA, MAUI, HAWAII
FROM R-3 RESIDENTIAL TO H-M HOTEL

APPROVED:

COUNTY CLERK

DATE

PUBLIC HEARING: 7-22-14

ADOPTED-COUNCIL:

ADOPTED-MAYOR:

ORDINANCE:

APPROVED:

PLANNING DIRECTOR

DATE

DATE:

SCALE:1=100'

OFFICE OF THE COUNTY CLERK

200 High Street, Wailuku, Maui, Hawaii, 96793

L-871

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 Alaeloa, 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 Mailepai 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 Mailepai 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 Mailepai 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 Mailepai 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 Honoapiilani 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 Honoapiilani 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 Honoapiilani 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 Honoapiilani Highway to the point of beginning and containing an area of 4.467 acres.



THE HOMEOWNERS ASSOCIATION

4909 Lower Honoapiilani Hwy., Lahaina, Maui, Hawaii 96761

Tel: (808) 669-8011 • Fax: (808) 669-9170 • kahanasunset@hotmail.com

September 8, 2015

Mr. William Spence, Director
Department of Planning
County of Maui
2200 Main Street, Suite 315
Wailuku, Hawaii 96793

RE: Letter of Authorization for Kahana Sunset Community Plan Amendment and Change in Zoning Applications at TMK: (2) 4-3-003:015 Lahaina, Maui, Hawaii. (CPA 2012/0003; CIZ 2012/0007)

Dear Mr. Spence:

Kahana Sunset AOA, applicant for the proposed Community Plan Amendment (CPA 2012/0003) and Change in Zoning (CIZ 2012/0007), hereby authorizes the firm of Chris Hart & Partners, Inc., on our behalf, to file, process, and obtain all necessary governmental permits and approvals, including, but not limited to, a Community Plan Amendment, Change in Zoning, and amendments thereto, and any other permits or variances applicable to this project.

Sincerely,

Robert L. Scheibel
President, Kahana Sunset AOA
Board of Directors

cc: Chris Hart & Partners, Inc.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

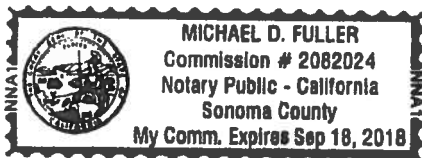
State of California)

County of Sonoma)On Sept. 9th 2015 before me, Michael D. Fuller, Notary
Date Here Insert Name and Title of the Officerpersonally appeared Robert Louis Scheibel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: Letter of Authorization Document Date: Sept. 8th 2015
Number of Pages: 1 Signer(s) Other Than Named Above: _____**Capacity(ies) Claimed by Signer(s)**Signer's Name: Robert Louis Scheibel☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☒ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____Signer Is Representing: Himself

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

KAHANA SUNSET SIGNATORS AND CONTACT INFORMATION

Association of Apartment
Owners of Kahana Sunset:

Ms. Karen Dedman, Board President
c/o Kahana Sunset AOA
4909 Lower Honoapiilani Road
Lahaina, Maui, Hawaii 96761
Phone: (808) 669-8011
Email: karendedman@gmail.com

Kahana Sunset AOA Board
Long Range Planning
Committee:

Ms. Jacque Scheibel, Co-Chair
5575 Foothill Ranch Road
Santa Rosa, California 95404
Phone: (707) 292-4691
Email: rls2744@sonic.com

Mr. Keith Meyer, Co-Chair
7650 NE Meyer Lane
Corvallis, Oregon 97330
Phone: (541) 231-8487
Email: kgm@proaxis.com

BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In The Matter Of The Applications Of

KAHANA SUNSET AOA

**To Obtain a Special Management Area Use
Permit and Shoreline Setback Variance at the
Kahana Sunset AOA for Shoreline and Site
Improvements and a Community Plan
Amendment and a Change in Zoning at 4909
Lower Honoapiilani Road, TMK: (2) 4-3-
003:015, Lahaina, Maui, Hawaii**

**DOCKET NO. CPA 2012/0003, CIZ
2012/0007, SM1 2012/0003 SSV
2012/0002**

**Kahana Sunset AOA Shoreline and Site
Improvements
(JAB)**

**MAUI COUNTY PLANNING DEPARTMENT'S RECOMMENDATION
TO THE MAUI PLANNING COMMISSION
JULY 22, 2014 MEETING**

**DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET
WAILUKU, MAUI, HI 96793**

**Community Plan Amendment, Change in Zoning, Special Management Area Use Permit, and Shoreline Setback
Variance**

**K:\WP_DOCS\PLANNING\SM1\2012\0003_KahanaSunset\MPC REPORT\MPC_Recommendations, vFINAL,
Kahana Sunset, 07.09.14.doc**

CONCLUSIONS OF LAW

Community Plan Amendment

The proposed Community Plan Amendment (CPA) action will bring the existing condominium-hotel use into conformity and consistency with County land use plans and policies, including Chapter 205A, HRS, as well as the West Maui Community Plan Land Use Map. An environmental assessment in accordance with Chapter 343, Hawaii Revised Statutes, has been accepted by the Maui Planning Commission. As such, the application complies with Chapter 2.80B.110 of the Maui County Code. The property has three-story building on it and has been used for transient vacation rentals under a variance issued in 1968.

Change in Zoning

The proposed Change in Zoning, from R-3 Residential to H-M Hotel, conditioned with height limitations to a maximum of three stories height, meets the following required criteria:

1. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county;
2. With the proposed Community Plan Amendment, the proposed request is consistent with the applicable Community plan land use map of the county;
3. The proposed request meets the intent and purpose of the district being requested;
4. The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements; and
5. The application, if granted, would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.

Shoreline Setback Variance

The Shoreline Setback Variance Application complies with the standards and criteria for development in the Shoreline Setback Area as set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission, Section 2, Purpose, and HRS chapter 205A, as amended, and as listed and addressed in the accompanying Department Report for this project under the section State And County Shoreline Rules: Analysis For Shoreline Setback Variance.

The application complies with the applicable six criteria for approval of a variance in the Shoreline Setback Area as set forth in Chapter 203, *Shoreline Rules for the Maui Planning Commission*, Sections 12-203-15, Criteria for approval of a variance: (a)(8); (b); (c); (d); (e); and (f).

Special Management Area Use Permit

The Special Management Area Use Permit Application complies with the applicable standards for the Special Management Area, as follows and as listed and addressed in the accompanying Department Report for this project and listed below:

- (A) The proposed project will have "no adverse impact" and will not involve an irrevocable commitment to loss or destruction of any natural or cultural resources.
- (B) The proposed project does not significantly curtail the range of beneficial uses of the environment.
- (C) The proposed project does not conflict with the County's or the State's long-term environmental policies or goals.
- (D) The proposed project will not adversely affect the economic welfare, social welfare and activities of the community, County or State.
- (E) The proposed project does not involve substantial secondary impacts, such as population changes and increased effects on public facilities, streets, drainage, sewage, and water systems, and pedestrian walkways.
- (F) In itself, the proposed project has no significant adverse effect nor has it a cumulative effect upon the environment or involves a commitment for larger actions.
- (G) The proposed project does not substantially affect a rare, threatened, or endangered species of animal or plant, or its habitat.
- (H) The proposed project is not contrary to the state plan, county's general plan, appropriate community plans, zoning and subdivision ordinances;
- (I) During construction, the proposed project is expected to have short-term impacts on the air quality and ambient noise levels. These impacts will be temporary and localized. These impacts are not considered permanent and will be mitigated through appropriate construction practices.
- (J) Provided that appropriate drainage and erosion control measures implemented, the proposed project will not adversely impact flood plains, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh waters or coastal waters.
- (K) The proposed project does not substantially alter natural land forms or impact existing public views to and along the shoreline.
- (L) The proposed project is not contrary to the objectives and policies of HRS chapter 205A.

The Department, based on the facts presented in the Department Report, finds that the action, as proposed, does not have a significant adverse environmental or ecological effect, since mitigation measures are incorporated into the project; and that the said action essentially

meets the objectives, policies and guidelines of the SMA Rules; and that the said actions are not restricted by or contrary to the general plan, community plan, and zoning, so the actions are consistent.

RECOMMENDATION

The Department of Planning recommends that the Maui Planning Commission (Commission) RECOMMEND APPROVAL of the Community Plan Amendment from Single-Family to Hotel to the Maui County Council.

Furthermore, the Department of Planning recommends that the Commission RECOMMEND APPROVAL of the Change in Zoning to the Maui County Council, subject to the following one (1) condition:

PROJECT SPECIFIC CONDITION:

1. That 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 and by the County of Maui, if required, and excepting any new configurations as may be required by the County of Maui.

Furthermore, the Maui County Planning Department recommends APPROVAL of the Shoreline Setback Variance Application request, subject to the following five conditions as required by Chapter 12-203-15, Criteria for approval of a variance:

REQUIRED CONDITIONS:

1. That the Applicant maintains and requires safe lateral access to and along the shoreline for public use;
2. That the Applicant minimizes risk of adverse impacts on beach processes;
3. That the Applicant minimizes risk of structures failing and becoming loose rocks or rubble on public property;
4. That the Applicant minimizes adverse impacts on public views to, from, and along the shoreline. For purposes of this section only, "adversely impacts public views" means the adverse impact on public views and open space resources caused by new building structures exceeding a one-story or thirty-foot height limitation; and
5. That the project shall comply with chapters 19.62 and 20.08, Maui County Code, relating to flood hazard districts and erosion and sedimentation control respectively.

Furthermore, the Maui Planning Department recommends APPROVAL of the Special Management Area Use Permit subject to the following standard and project specific conditions:

STANDARD CONDITIONS:

1. That, to the satisfaction of the Department of Planning (Department), construction of the proposed project shall be initiated by July 31, 2017. Initiation of construction shall be determined as construction of onsite and/or offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Evidence of the initiation of construction shall be submitted to the Department prior to the date listed immediately above. Failure to comply by that date will automatically terminate this Special Management Area (SMA) Use Permit unless a time-extension is requested no later than ninety (90) days prior to said date. A time-extension shall be processed in accordance with the provisions of Section 12-202-17 of the Special Management Area Rules for the Maui Planning Commission (SMA Rules).
2. That, to the satisfaction of the Department, the construction of the project shall be completed within five (5) years after the date of its initiation. Evidence of the date of the completion of construction shall be submitted to the Department. Any request for a time-extension shall be submitted no later than ninety (90) days prior to the completion deadline. A time-extension shall be processed in accordance with the provisions of Section 12-202-17 of the SMA Rules. Failure to complete construction of this project within this time period will require unfinished portions of the project to obtain a new SMA Use Permit.
3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by the subject permit and shall obtain, pay for, and keep in force throughout the term of the permit, comprehensive liability insurance issued (1) by an insurance company authorized to do business in the State of Hawaii ("admitted carrier"), or (2) through a general insurance agent or broker licensed in the State of Hawaii, if the company is not authorized to do business in the State of Hawaii ("non-admitted carrier"). The insurance carrier shall be rated no less than "A-" as established by "AM Best" or "Standard & Poor" ratings. The insurance policy, as evidenced by issuance of a policy endorsement, shall name the County, its officers, employees, and agents, as an additional insured. The insurance policy shall contain the following minimum requirements:
 - a. No less than a combined single limit ("CSL") of liability coverage of \$1,000,000;
 - b. No erosion of limit by payment of defense costs;
 - c. Annual aggregate limit of not less than \$1,000,000;
 - d. A duty to defend, indemnify and hold harmless the County, its officers, employees, and agents, against any loss, liability, claims, and demands for injury or damage, including, but not limited to, claims for property damage, personal injury, or wrongful death, arising out of, or in connection with, in whole or in part, the permitted uses, the County's permit review and approval process, or any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights;
 - e. Name the County, its officers, employees, and agents, as additional insureds; and

- f. Written or endorsed to state that the coverage to the additional insureds is primary and non-contributing with respect to any other insurance available to the County.

The Applicant shall furnish the Department with a copy of the insurance policy certificate and the required endorsements verifying such insurance coverage within ninety (90) days of the issuance of the subject permit. Thereafter, the Applicant shall instruct the insurance company to directly provide the Department with a copy of the insurance policy certificate and required endorsements as it is renewed on an annual basis. The proof of insurance and all subsequent certifications of insurance coverage shall include the applicable Tax Map Key and permit numbers. If the scheduled expiration date of a current insurance policy is earlier than the expiration of the subject permit, the Applicant shall, upon renewal of the insurance policy, provide the Department with a copy of the renewed insurance policy certificate and required endorsements. The insurance policy shall expressly state that the coverage provided under such policy shall not be canceled or terminated, unless the carrier has first given the Department at least thirty (30) calendar days prior written notice of the intended cancellation or termination.

The insurance policy shall remain in full force and effect until the permitted work has been completed and accepted by the County.

4. That, to the satisfaction of the Commission or the Department, the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit. Failure to so develop the property may result in the revocation of the permit and/or other enforcement.
5. That the applicant shall submit to the Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Special Management Area Use Permit. A preliminary compliance report shall be reviewed and approved by the Department prior to issuance of the Grading and Grubbing Permit. Plans regarding the location of any construction related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase shall be submitted to the Department for review and approval prior to or along with the preliminary compliance report. The preliminary compliance report shall also include evidence that final construction plans are in substantial compliance with the Concept Master Plan dated July 3, 2013, preliminary structural plans dated May 2012 and labeled as sheets S-1 through S-4 as contained in the Preliminary Structural Engineering Report, Shoreline Access Path plan dated January 2014, and representations made to the Commission in obtaining the Special Management Area Use Permit and Shoreline Setback Variance.
6. That, to the satisfaction of the Department, appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be regularly maintained per manufacturer's specifications or other Best Management Practices, with the contaminant residuals from stormwater treatment to be disposed of properly. Records of the inspection, maintenance and disposal shall be kept by the Applicant and made available for inspection by county and state agencies upon request. Plans for the filtration measures and a program and record keeping for inspection, maintenance and disposal of

contaminated residuals shall be submitted to the Department prior to or along with the preliminary compliance report.

PROJECT SPECIFIC CONDITIONS:

7. That, to the satisfaction of the Department or the State Historic Preservation Division, all ground disturbing activities shall be monitored in accordance with the Archaeological Monitoring Plan (ASH 2012). As noted in the plan, full-time monitoring will be the protocol for this project and the State Historic Preservation Division shall be notified of the onset and completion of the project. In the event that historic resources, including human skeletal remains, are identified during construction activities, work shall be halted, the site shall be secured, and procedures outlined in the Archaeological Monitoring Plan shall be followed. Evidence of the fulfillment of this condition shall be submitted with the final compliance report.
8. That, to the satisfaction of the Department, the project shall conform to Maui County Code, Chapter 19.62, pertaining to flood hazard districts. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.
9. That, to the satisfaction of the Department, no artificial light from floodlights, uplights, or spotlights be used for decorative or aesthetic purposes for illuminating the shoreline and ocean waters or is directed to travel across property boundaries toward the shoreline and ocean waters. Evidence of the fulfillment of this condition shall be submitted with the final compliance report.
10. That, to the satisfaction of the Department, best management practices shall be implemented to insure water quality and marine resources are protected. No construction materials shall be stockpiled in the aquatic environment. All construction-related materials shall be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes shall be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site shall be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions shall be curtailed to minimize the potential for adverse water quality impacts. Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.
11. That appropriate approvals shall be obtained from the Department of Public Works prior to commencement of work.
12. That, to the satisfaction of the Department, the proposed development will utilize drought tolerant plants and native trees in its landscaping scheme, where possible. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.
13. That, to the satisfaction of the Department, during construction, the following procedures will be implemented to mitigate any possible impacts to endangered or protected species:
 - a. Visual survey of the project area will be performed just prior to commencement or resumption of construction activity to ensure that no

protected species are in the project area. If protected species are detected, construction activities will be postponed until the animals voluntarily leave the area.

- b. If any listed species enter the project area during the conduct of construction activities, all activities will cease until the animals voluntarily depart the area.
- c. All on-site construction personnel will be apprised of the status of any listed species potentially present in the project area and the protections afforded to those species under Federal laws.

Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.

14. That, as recommended by and to the satisfaction of the County of Maui Department of Water Supply, during construction, the following Best Management Practices (BMP) plan will be implemented in order to protect ground and surface water sources:

- a. Prevent cement products, oil, fuel and other toxic substances from falling or leaching into the ground.
- b. Maintain vehicles and equipment to prevent oil or other fluids from leaking.
- c. Concrete trucks and tools used for construction should be rinsed off-site.
- d. Staging and storage of construction machinery and storage of debris should not take place on any sandy beach area.
- e. Properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work.
- f. Properly install and maintain erosion control barriers such as silt fencing.
- g. Disturb the smallest area possible.
- h. Retain ground cover until the last possible date.
- i. Stabilize denuded areas by sodding or planting as soon as possible.
- j. Keep run-off on site.
- k. No construction or toxic materials or debris should be placed where it may enter the ocean.
- l. Construction debris and sediment should be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris should be disposed of outside the coastal zone.

Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.

15. That a National Pollutant Discharge Elimination System (NPDES) permit will be obtained by the contractor, if required. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.

That an Erosion Control Plan will provide specific measures to mitigate erosion during construction. As such, drainage impacts are mitigated to the maximum extent by measures under the control of Kahana Sunset. Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.

16. That, to the satisfaction of the Department of Health, adequate dust control measures

that comply with the provisions of Hawaii Administrative Rules, Chapter 11-60.1, "Air Pollution Control," Section 11-60.1-33, Fugitive Dust, will be implemented during all phases of construction, to include the following measures:

- a. Providing an adequate water source on site prior to start-up of construction activities.
- b. Landscape planting and rapid covering of bare areas, including slopes, beginning with the initial grading phase.
- c. Controlling of dust from shoulders, project entrances, and access roads.
- d. Providing adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities.
- e. Controlling of dust from debris hauled away from project site.
- f. To minimize construction related impacts to the surrounding neighbors, the developer will limit construction activities to normal daylight hours, and adhere to the Department of Health's Administrative Rules, Chapter 11-46, "Community Noise Control".

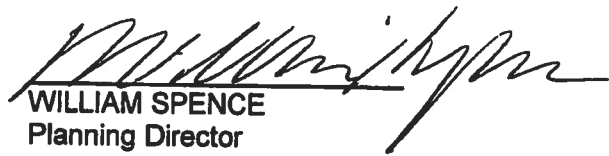
Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.

17. That, to the satisfaction of the Department, the wall construction shall be conducted during the season when tides and waves are at its lowest, which is generally during the spring and summer months. Evidence of the fulfillment of this condition shall be submitted with both the preliminary compliance report.
18. That, to the satisfaction of the Department, the public shoreline access path shall be constructed along Kahana Sunset's southern boundary, as represented by the Applicant, for public use and recreational activities along the shoreline. The Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Maui harmless from and against any and all loss, liability, claim, or demand arising out of damages in connection with the shoreline access path. This condition shall be set forth in a unilateral agreement recorded by the Applicant with the Bureau of Conveyances or land court. A copy of the recorded agreement shall be filed with the Planning Director prior to the final compliance report.
19. That, to the satisfaction of the Department, the applicant shall be responsible for any shoreline and/or ocean area restoration and associated permitting which may become necessary as a result of structures from applicant's property which may enter the shoreline setback area and/or ocean as a result of failure or any other cause. This condition shall be set forth in a unilateral agreement recorded by the Applicant with the Bureau of Conveyances or land court. A copy of the recorded agreement shall be filed with the Planning Director prior to the final compliance report.
20. That upon completion of the actions in compliance with representations made to the Commission, the Applicant shall have the shoreline surveyed and certified by the State of Hawaii. Evidence of the certified shoreline shall be submitted to the Director prior to or in conjunction with the final compliance report.

The conditions of this Special Management Area Use Permit shall be enforced pursuant to Sections 12-202-23 and 12-202-25 of the Special Management Area Rules for the Maui Planning Commission.

In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report prepared for the July 22, 2014 meeting and the Department's Recommendation Report prepared for the same meeting, as its Findings of Fact, Conclusions of Law, and Decision and Order on the SM1 and the SSV and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Planning Commission. The Planning Department also recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation documents prepared for the July 22, 2014 meeting as its proposed Findings of Fact, Conclusions of Law, and Decision and Order on the CPA and CIZ and authorize the Director of Planning to transmit the Maui Planning Commission's recommendation on the CPA and CIZ to the Maui County Council.

APPROVED:


WILLIAM SPENCE
Planning Director

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

**Applications for Special
Management Area Use Permit,
Shoreline Setback Variance,
Community Plan Amendment, &
Change in Zoning**

Mauī Planning Commision

July 22, 2014



Presentation Outline

- **Introduction**
- **Requests**
- **Existing Site**
- **Proposed Actions & Relationship to Applications**
- **Conclusion**

Project Team

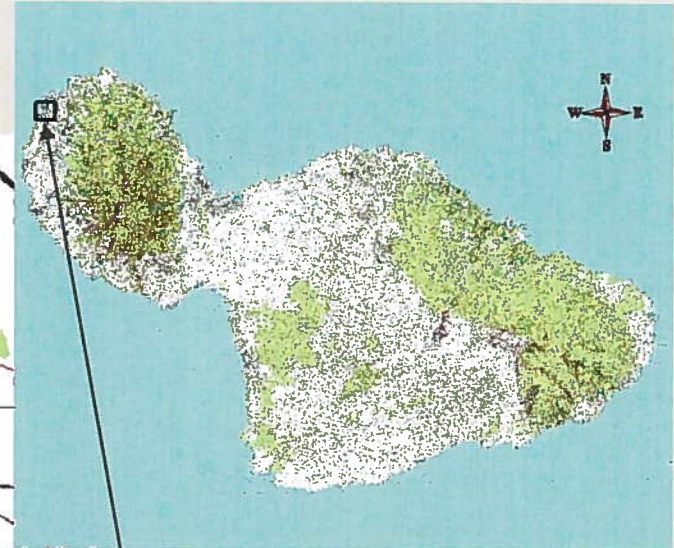
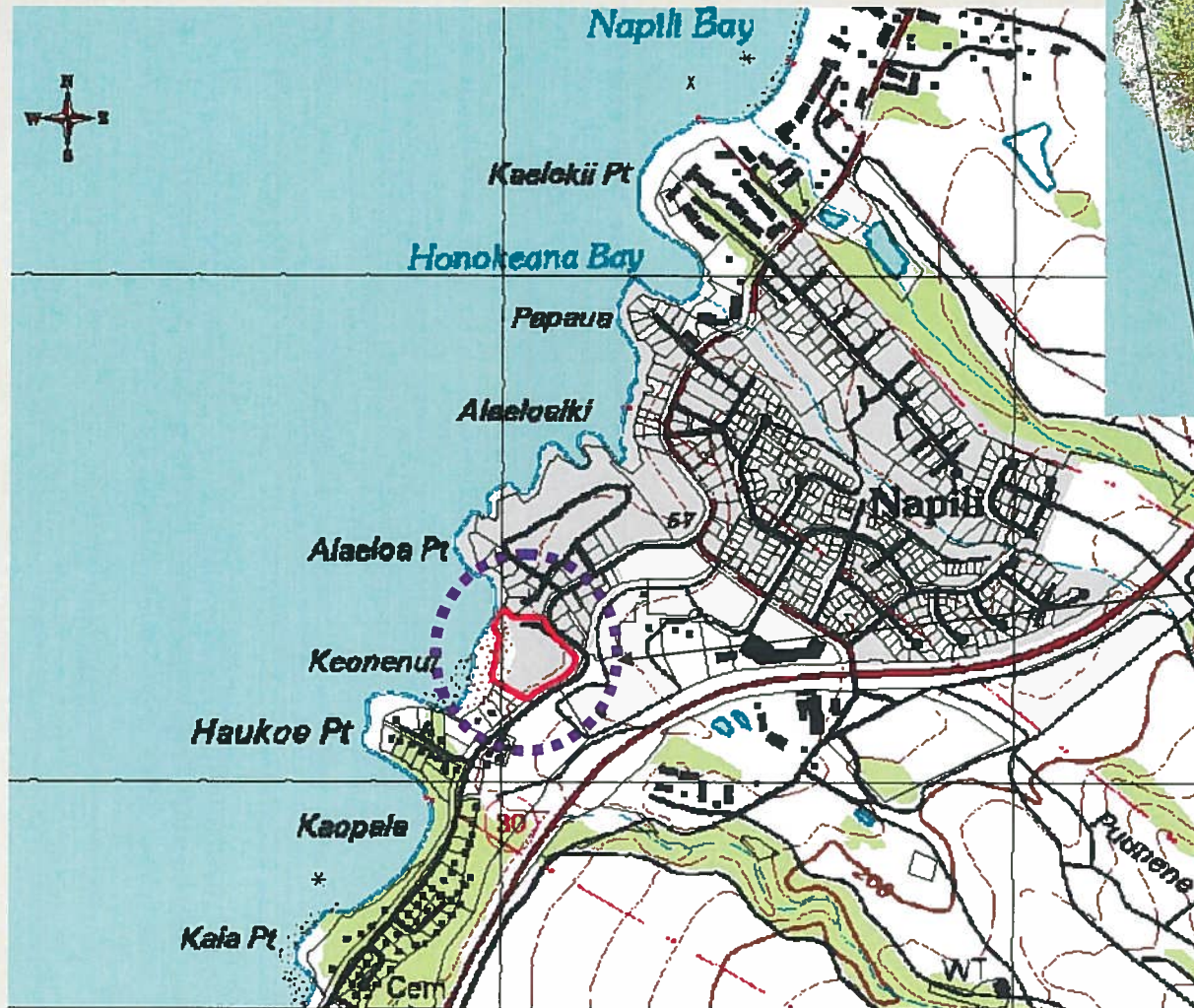
- **Kahana Sunset AOA0 – Applicant**
 - **Jacqueline Scheibel – Long Range Planning Committee**
 - **Bob Scheibel – Board President**
 - **Ken Gadicke – Board Treasurer**
- **Jordan Hart and Raymond Cabebe, Chris Hart & Partners- Planning & Landscape Design Consultant**
- **Dr. Marc Siah, Civil & Coastal Engineer**
- **Dr. Kiumars Siah, Structural Engineer**

Requests

| APPLICATIONS | APPROVING AGENCY |
|---------------------------------------|-----------------------------|
| Special Management Area Use Permit | Maui Planning Commission |
| Shoreline Setback Variance | |

| | |
|-----------------------------|---------------------|
| Community Plan Amendment | Maui County Council |
| Change in Zoning | |

Location Map



**PROJECT
LOCATION**

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Aerial Map



**PROJECT
SITE**



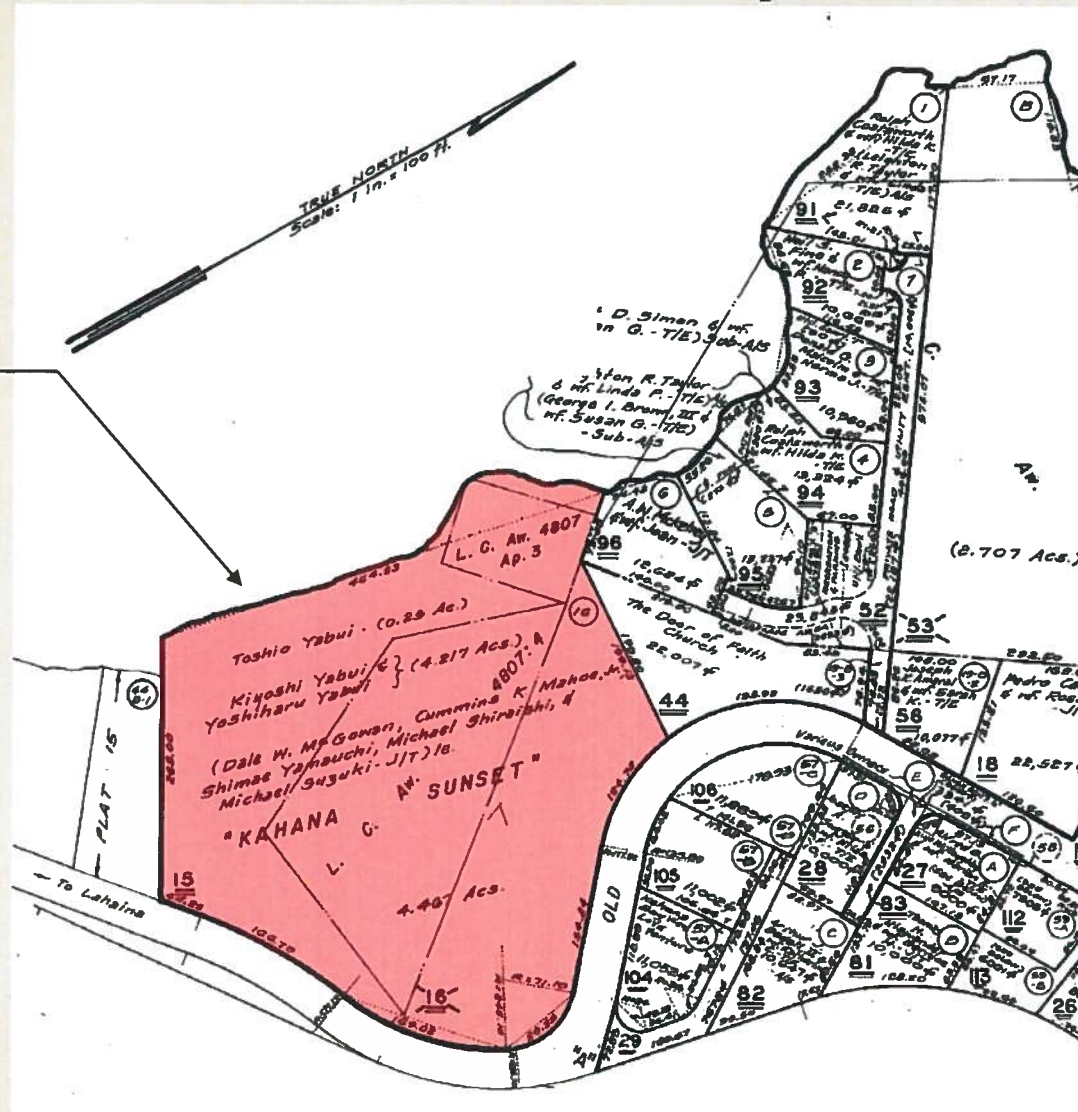
July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Tax Map

- Parcel 15
- 4.467 ac.

PROJECT
SITE



| DEPARTMENT OF TAXATION PROPERTY TECHNICAL OFFICE TAX MAPS BRANCH STATE OF HAWAII TAX MAP | | |
|--|------|------|
| SECOND TAXATION DISTRICT | | |
| ZONE | SEC. | PLAT |
| 4 | 3 | 03 |

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS



Existing Site

- **79 Unit Hotel-Condominium;**
 - **6 Apartment Buildings;**
- **4.467 acres;**
- **Constructed in 1971;**
- **Support building:**
 - **Office;**
 - **Manager's Residence;**
 - **Laundry.**
- **Amenities:**
 - **Pool;**
 - **Cabana;**
 - **Gazebos;**
 - **Barbeques;**
 - **Outdoor showers;**
 - **Parking.**



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS



Existing Site

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

History

- **Variance granted by Maui Planning Commission on 2/6/1968;**
- **Constructed in 1971;**
- **1975 - Reinforced concrete seawall constructed;**
- **1978 - Face of bank fronting Bldg A hardened;**
- **1996 & 2003 - Repair seawall;**
- **2009 & 2010 - Emergency SMA permits;**
- **2012 - Remove unstable soil, gunite top & face of bank, reconstruct retaining wall.**
- **2013 – Remove old stairs and rock & concrete buttress. Repair existing wall & construct stairs for future shoreline access path.**



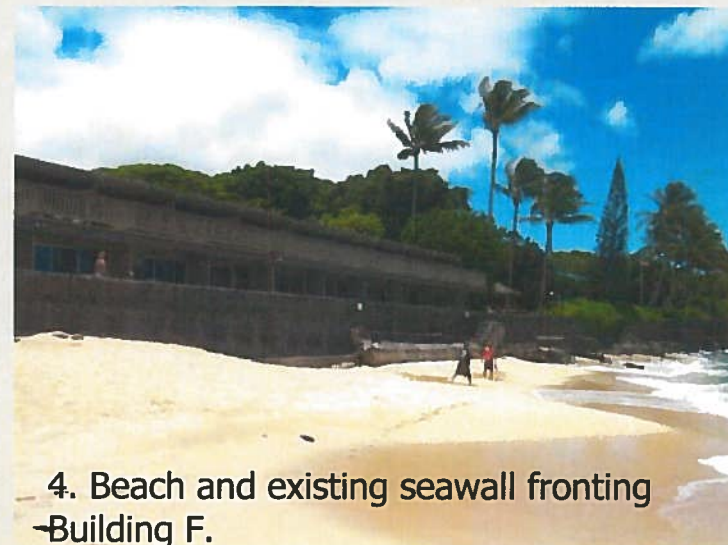
1. Bank and retaining wall fronting Building A.



2. Stairs leading from area fronting Building A to lower level.



3. Seawall around south side of Building A. Seawall section at right to be relocated.



4. Beach and existing seawall fronting Building F.

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS



5. Looking at existing drainage outfall at seawall.



6. Looking at existing stairs to beach and seawall to be removed and rebuilt.



5a. January 2014.

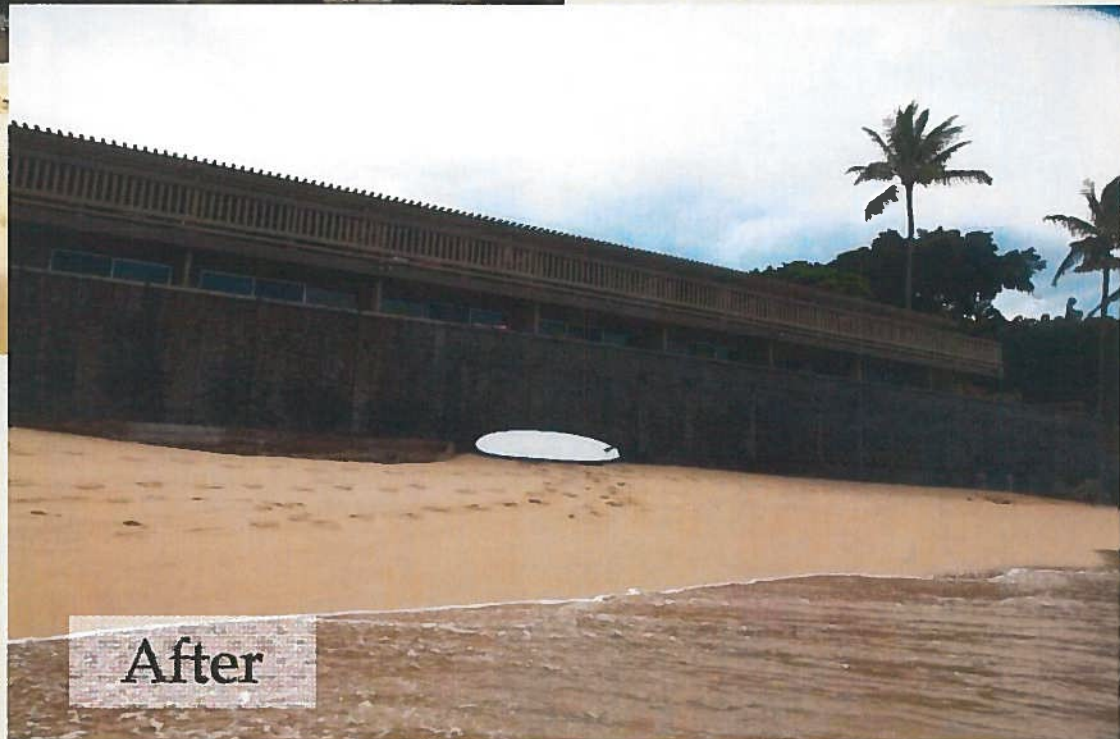


5b. April 18, 2014.

2013 Emergency Work



Before

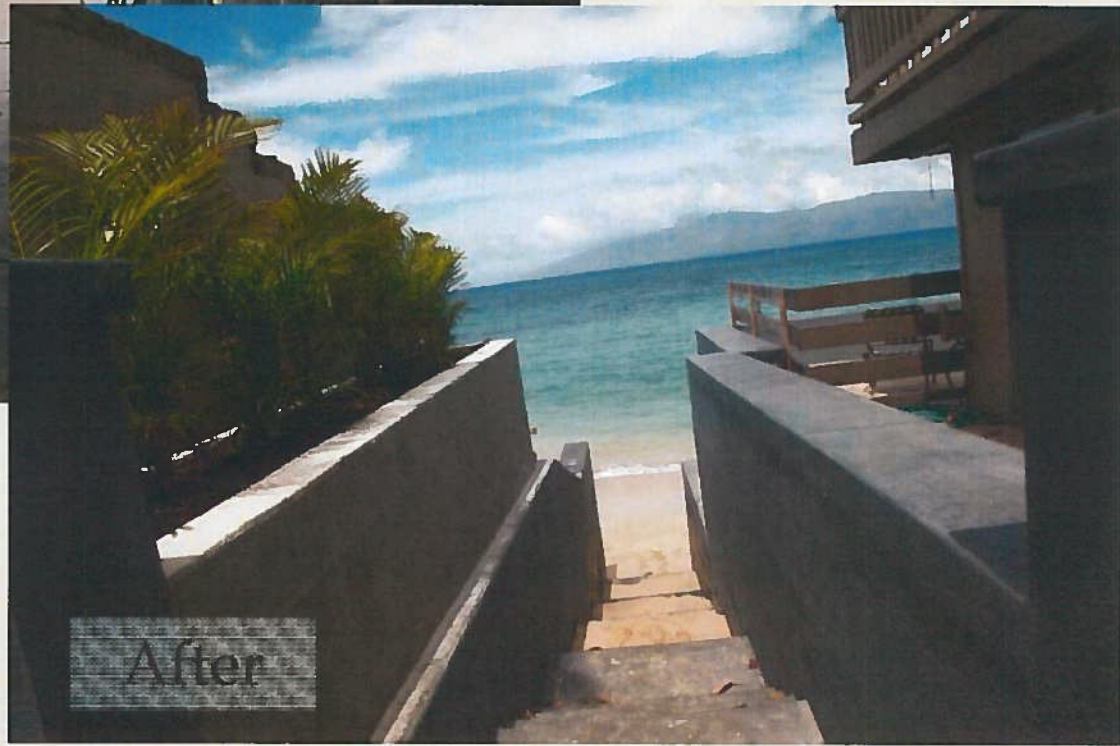


After

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

2013 Emergency Work



July 22, 2014

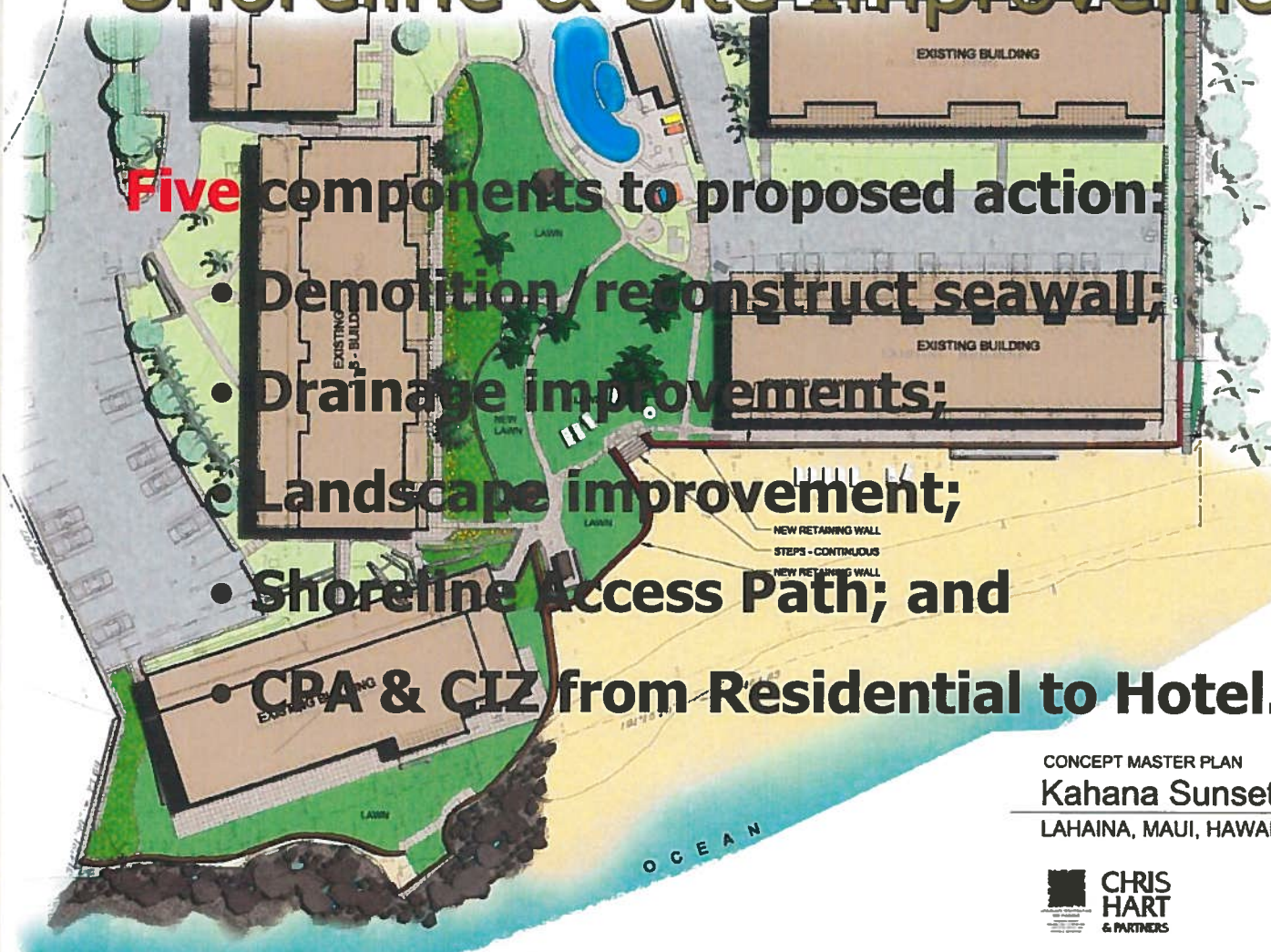
KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Project Overview

Shoreline & Site Improvements

Five components to proposed action:

- Demolition/reconstruct seawall;
- Drainage improvements;
- Landscape improvement;
- Shoreline Access Path; and
- CPA & CIZ from Residential to Hotel.



CONCEPT MASTER PLAN
Kahana Sunset
LAHAINA, MAUI, HAWAII



SCALE: 1/16" = 1'-0"
PROJECT: 09-143
DATE: 07/03/13



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

[illegible]

CONCEPT MASTER PLAN
Kahana Sunset
LAHAINA, MAUI, HAWAII



SCALE: 1 inch = 50 feet
PROJECT: 09-143
DATE: 07/03/13



Shoreline Improvements

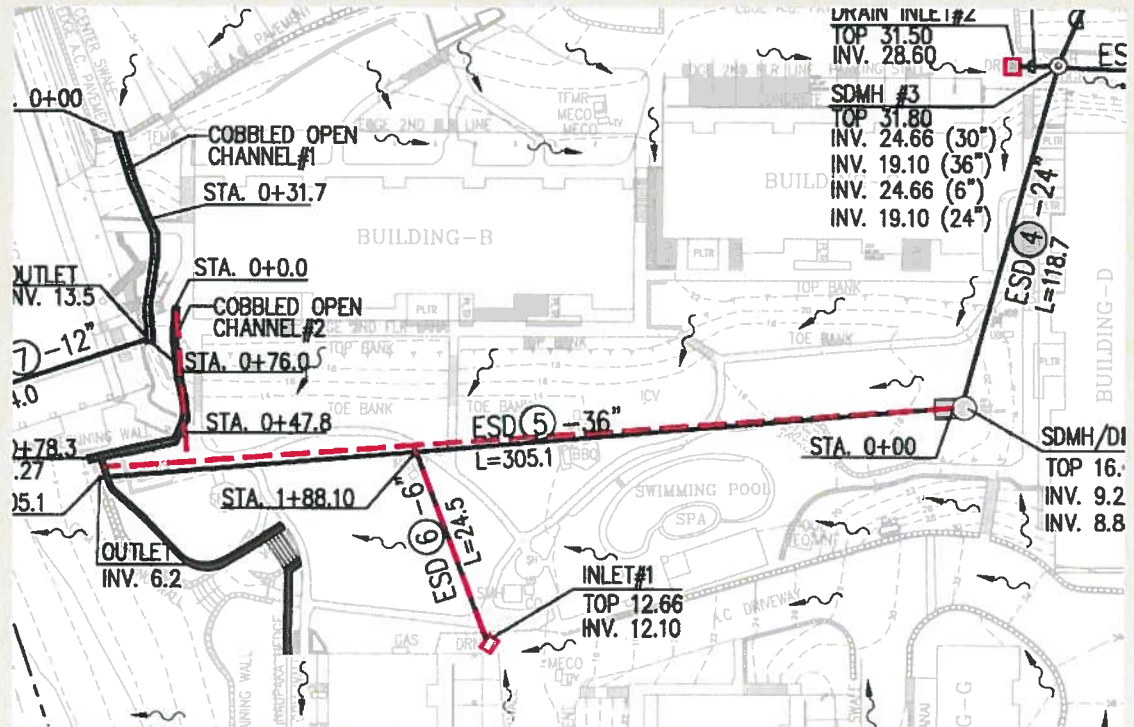
- **Seawall**
 - Demolish 114 feet;
 - Construct 125 foot long replacement 10 to 30 feet inland.
- **Amenities**
 - Relocate gazebo & outdoor shower inland.




Drainage Improvements

■ Drainline

- Replace 300 foot long 36-inch drain line;
- Relocate outfall;
- Upsize ESD No. 6 from 6 to 8-inch line;
- Replace Open Channel w/ subsurface drain line;
- Install filters in Inlet Nos. 1 & 2.



 **Marc M. Siah & Associates, Inc.**

Consulting Civil • Structural • Environmental & Ocean Engineers
820 South Beretania Street, Suite 201, Honolulu, Hawaii 96813

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS



Site Improvements

- Landscape Planting
 - Renovate to include drought tolerant and native plantings.



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Shoreline Access

- Approximately 250-foot long access path along southern boundary

- Follows the natural contour of the existing grade with risers at key intervals;

- 6-inch thick crushed stone surface;

- Ranges in width between 38 and 60 inches;

- Delineated by six-foot high fence and a landscape planting buffer.

- Stairs to beach already constructed with 2013 emergency

BEACH
ACCESS
PATH

CONCEPT MASTER PLAN
Kahana Sunset
LAHAINA, MAUI, HAWAII



SCALE: 1/16" = 1'-0"
PROJECT: 09-143
DATE: 07/03/13

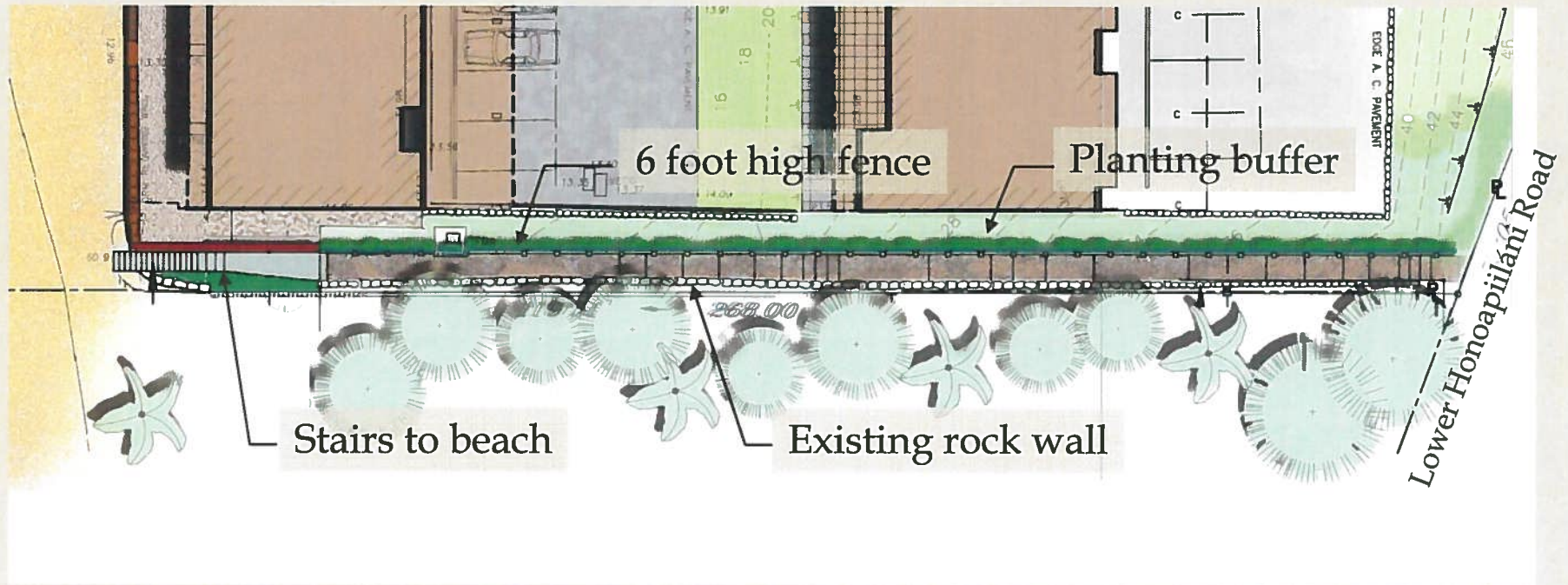


CHRIS
HART
& PARTNERS, INC.

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Beach Access Plan



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

22



Shoreline Access Inventory Report

Oceanit Laboratories,
March 2005

- Update to 1986 Maui County Shoreline Access Management Plan;
- Inventory existing shoreline access for Maui County;
- Establish priority access areas based on community input;
- Recommendations for future access or improvements to existing access.

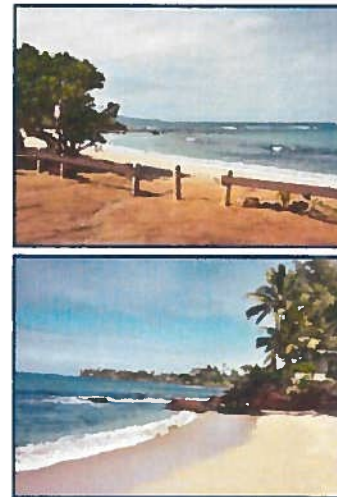
Shoreline Access Inventory Update - Final Report

County of Maui
Job #01-02/P-31

Prepared for:
Department of Planning
County of Maui
250 South High Street
Wailuku, HI 96793

Prepared by:
oceanit
1001 Bishop Street
ASB Tower 2970
Honolulu, HI 96813

March 2005



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Shoreline Access Inventory Report

PRIORITY RECOMMENDATION

“This area contains a large condominium development with no public access and negligible space for public access parking. ... Land could be acquired across Lower Honoapi’ilani Road for a beach support park and/or parking area and an access easement through the development should be made a condition with any future SMA permit for changes to the development.”

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Maui County Planning Dept
Job #011-0249-31

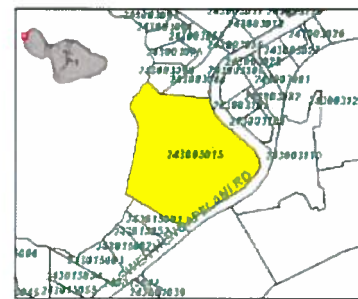
Shoreline Access Inventory Update 2005
Section 8: Priority Recommendations

Kahana Sunset TMKs: 4-3-003:015



Kahana Sunset Area

This area contains a large condominium development with no public access and negligible space for public access parking. The development was completed prior to SMA provisions requiring public access as part of development. The closest access point is the Kahana paved access point just south of the development. However, there is no formal parking in the area and patrons currently park along the side of the road and then must jump off a cliff and swim (in order) to gain access to the beach. As noted above, the West Maui area is expected to grow by 19 percent through 2010. The demand for access and adequate parking is acute. Land could be acquired across Lower Honoapi’ilani Road for a beach support park and/or parking area and an access easement through the development should be made a condition with any future SMA permit for changes to the development.



**Location of Kahana Sunset Condominium Development
(Source: County of Maui website)**

Page 45

SMA Rules Criteria

- **A. NATURAL & CULTURAL RESOURCES**
- **B. BENEFICIAL USES OF THE ENVIRONMENT**
- **C. COUNTY & STATE LONG TERM ENVIRONMENTAL POLICIES & GOALS**
- **D. ECONOMIC & SOCIAL WELFARE**
- **E. SECONDARY IMPACTS TO INFRASTRUCTURE**
- **F. CUMULATIVE EFFECTS**
- **G. EFFECTS ON RARE, THREATENED, OR ENDANGERED SPECIES**
- **H. STATE & COUNTY GENERAL & COMMUNITY PLANS, OR ZONING ORDINANCES**
- **I. AIR & WATER QUALITY, NOISE LEVELS**
- **J. ENVIRONMENTALLY SENSITIVE AREAS**
- **K. PUBLIC VIEWS**
- **L. OBJECTIVES & POLICIES OF HRS CHAPTER 205A**

HRS 205A Objectives & Policies

- **A. RECREATIONAL RESOURCES**
- **B. HISTORICAL/CULTURAL RESOURCES**
- **C. SCENIC AND OPEN SPACE RESOURCES**
- **D. COASTAL ECOSYSTEMS**
- **E. ECONOMIC USES**
- **F. COASTAL HAZARDS**
- **G. MANAGING DEVELOPMENT**
- **H. PUBLIC PARTICIPATION**
- **I. BEACH PROTECTION**
- **J. MARINE RESOURCES**

MPC Shoreline Rules 12-203

■ §15 “Criteria for approval of a variance”

(a) A shoreline area variance may be granted for a structure or activity otherwise prohibited by this chapter, if the commission finds ... that the proposed structure or activity is necessary for or ancillary to:

- **Drainage;**
- **Private facilities which neither adversely affects beach processes nor artificially fix the shoreline; provided that the commission also finds that hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area;**

MPC Shoreline Rules 12-203

■ **Grounds for Hardship**

- **Deprived of Reasonable Use of the Land;**
 - **Erosion will threaten habitable structures.**
- **Unique Circumstances;**
 - **Drainage system is a regional outfall;**
 - **First public access to beach at Keonenui Bay.**
- **Practical alternative which best conforms to the purpose of the shoreline rules.**
 - **Proposed replacement seawall will be constructed 10 to 30 feet landward.**

MPC Shoreline Rules 12-203

■ **Appropriate Conditions**

- **Maintain and require safe lateral access to and along the shoreline for public use;**
- **Minimize risk of adverse impacts on beach processes;**
- **Minimize risk of structures failing;**
- **Minimize adverse impact on public views;**
- **Comply with flood hazard districts and erosion & sedimentation control.**

Community Plan Amendment and Change in Zoning

| West Maui Community Plan | |
|---------------------------------|-------------|
| Residential | → Hotel |
| Maui County Zoning | |
| R-3 Residential | → H-M Hotel |

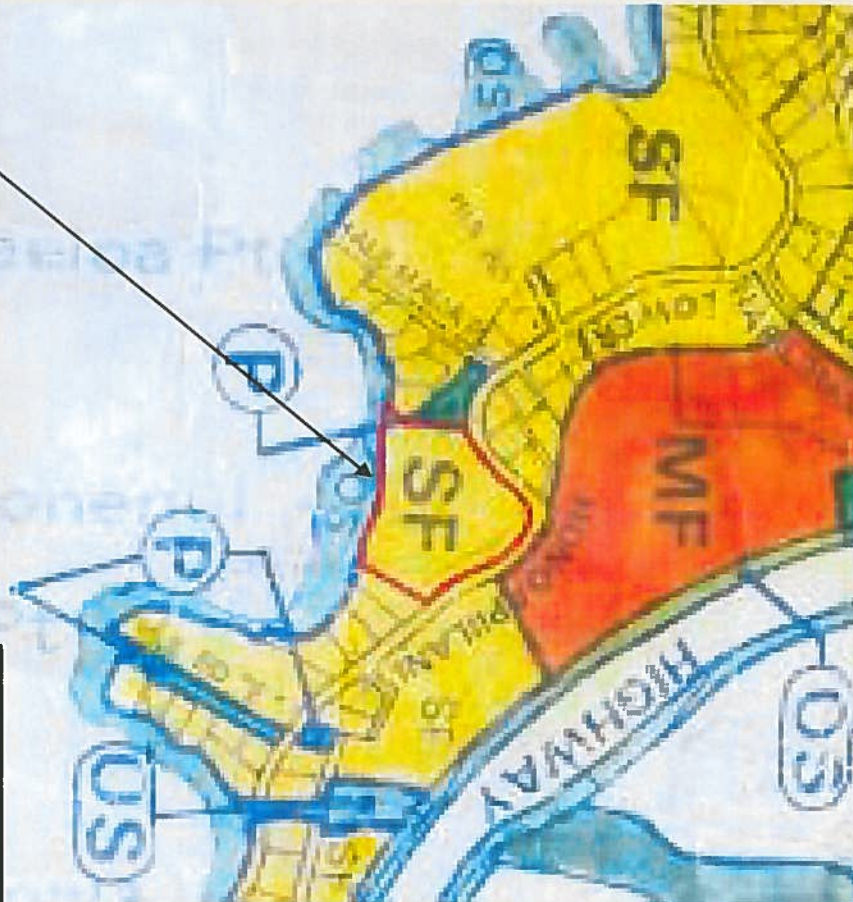
The requested CPA and CIZ actions are for the purpose of creating land use consistency with the established use occurring on the property since 1971. There is no intention of expanding the number of units nor is there an intention to build anything other than the actions identified in the applications.

Existing Site

- **79 Unit Hotel-Condominium;**
- **Variance granted by Maui Planning Commission on 2/6/1968;**
 - **“Construction of Apartment Buildings with Accessory Uses.”**
- **Constructed in 1971 when there was no County ordinance regulating Transient Vacation Rental (TVR) use.**

Community Plan Map

**PROJECT
SITE**



- **West Maui
Community Plan:
Single Family**
- **Requesting
amendment to
Hotel**

LEGEND

| | |
|------|----------------------------------|
| SF | Single Family Residential |
| MF | Multi-Family Residential |
| B | Business/Commercial |
| SBR | Service Business/Residential |
| BMF | Business/Multi-Family |
| HI | Heavy Industrial |
| LI | Light Industrial |
| H | Hotel |
| P | Public/Quasi-Public |
| PK | Park (GC) Golf Course |
| OS | Open Space |
| PD | Project District |
| AP | Airport |
| AG | Agricultural |
| R | Rural |
| C | Conservation |
| —SD— | Airport Special Control District |

NOTE: These symbols are not to be used for any other purpose. © 2014, 2015, 2016, 2017, 2018
per Resolution 2015-01-002708



July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

■ County
Zoning: R-3
Residential
District

■ Requesting
change to
H-M Hotel



Zoning Comparison Matrix

Existing to Proposed

| | R-3 (existing) | H-M (proposed) | 1971 | Kahana Sunset |
|---|---------------------------|---|---------------|----------------------|
| Allowable Use | Long Term Residential | Transient Vacation Rental (TVR) allowable | TVR allowable | Owner/TVR |
| Area (min.) | 10,000 SF | 15,000 SF | 10,000 SF | 194,583 SF |
| Height (max.) | 2-stories or 30FT | *3-Stories (Condition of Zoning) | Variance | 1 - 3 stories |
| Unit Density (max.) | 1 unit / 10,000 SF | NA | Variance | 1 unit / 2,432 SF |
| Lot Coverage (max.) | NA | 30% | Variance | 22% |
| Floor Area-Lot Area Ratio (max.) | NA | 100% | Variance: 40% | 40% |

Zoning Comparison Matrix

Existing to Proposed

| | R-3 (existing) | H-M (proposed) | 1971 | Kahana Sunset |
|------------------------------------|--|---|------------------------------------|--|
| Front/Rear Yards (min.) | Front: 15FT; Rear: 1-story: 6FT 2-story: 10FT | ½ height of bldg. min.: 15 FT | Variance | Front: >15FT for 1-story, >20FT for 3-story; Rear: >15FT for 2-story |
| Side Yards (min.) | 1-story: 6FT 2-story: 10FT | 1-2 st: 10 FT 3-4 st: 15 FT 5-6 st: 20 FT | Variance | all structures no closer than 15 FT |
| Parking (min.) | 2 stalls/ main; 1 stall/ ohana | 0.5 stalls/ 1 unit | Variance: 0.5 stalls/ 1 unit | 1.3 stalls / 1 unit |

CIZ Criteria

- *The proposed request meets the intent of the general plan and objectives and policies of the community plans of the county;*
- *The proposed request is consistent with the applicable community plan land use map of the county;*

CIZ Criteria

- *The proposed request meets the intent and purpose of the district being requested;*
- *The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements.*

CPA & CIZ Summary

- **Kahana Sunset is an existing hotel-condominium.**
- **No expansion of hotel-condominium uses is proposed.**
- **Complies with H-M Hotel zoning standards.**
- **Therefore, the CPA & CIZ actions have no primary or secondary impacts to historical or cultural resources, to physical or socio-economic environment, to public services, or to infrastructure.**

Timeline

- **Submit SMA, SSV, CPA, & CIZ applications with Draft EA: August 1, 2012.**
- **Draft EA OEQC publication: February 8, 2013.**
- **Review by the Maui Planning Commission: February 26, 2013.**
- **Community Meeting: July 16, 2013.**
- **Final EA submitted to Planning August 20, 2013.**

Timeline

- Revised Final EA submitted January 7, 2014.
- Notice of SMA Application published on March 28, 2014.
- Notices of CPA & CIZ applications mailed on March 31, 2014.
- Maui Planning Commission Final EA review: April 22, 2014
- Final EA OEQC Publication: May 23, 2014.
- Maui Planning Commission: July 22, 2014
- Review of CPA & CIZ applications by the Maui County Council: ?

Summary/Conclusion

- **Through the Environmental Review process, potential impacts were identified and mitigation measures were provided.**
- **Comment from agencies and concerned parties were heard and addressed.**
- **The project meets the objectives of HRS Chapter 205A.**
- **The project meets the objectives of the Maui Planning Commission SMA Rules and Shoreline Rules.**

Summary/Conclusion

- **The project meets the criteria for a Community Plan Amendment.**
- **The project meets the criteria for a Change in Zoning.**

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

Mahalo

July 22, 2014

KAHANA SUNSET SHORELINE & SITE IMPROVEMENTS

PURSUANT TO CHAPTER 92, HAWAII REVISED STATUTES AS AMENDED, NOTICE IS HEREBY GIVEN OF A REGULAR MEETING OF THE MAUI PLANNING COMMISSION

RECEIVED
2014 JUL 11 AM 11:45

AGENDA

OFFICE OF THE
COUNTY CLERK

DATE: JULY 22, 2014
TIME: 9:00 A.M.
PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building,
250 South High Street, Wailuku, Maui, Hawaii 96793

Members: Ivan Lay (Chair), John "Keone" Ball (Vice-Chair), Sandra Duvauchelle, Jack Freitas,
Wayne Hedani, Richard Higashi, Jason Medeiros, Max Tsai, Penny Wakida

A. CALL TO ORDER

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

C. PUBLIC HEARINGS (Action to be taken after each public hearing.)

1. STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES requesting a State Land Use Commission Special Use Permit for the Maui Veterans Cemetery Expansion project of 10 acres and related improvements in the State Agricultural District at TMK: 2-4-002: por. of 009 Lot 4-A, Makawao, Island of Maui. (SUP2 2014/0009) (P. Fasi)
2. MR. EDWARD GRAMIT of the MAHINA SURF AOA requesting a Change of Zoning for the Mahina Surf from R-3 Residential District to the A-1 Apartment District for property located at 4057 Lower Honoapiilani Road at TMK: 4-3-009: 005, Lahaina, Island of Maui. (CIZ 2012/0003) (P. Fasi)
3. KAHANA SUNSET AOA requesting a Community Plan Amendment from Multifamily to Hotel, a Change in Zoning from R-3 Residential District to H-M Hotel District, a Special Management Area Use Permit, and a Shoreline Setback Variance for the proposed Kahana Sunset Shoreline and Site Improvements Project for property situated at 4909 Lower Honoapiilani Road, TMK: 4-3-003: 015, Napili, Lahaina, Island of Maui. (CPA 2012/0003) (CIZ 2012/0007) (SM1 2012/0003) (SSV 2012/0002) (J. Buika)

The Kahana Sunset AOA proposes to demolish a portion of the existing seawall (114 feet) and the ten-foot (10') concrete stairs sited within the Shoreline Setback Area and construct a structurally engineered shoreline armoring system approximately ten (10) feet mauka of the current seawall in order to stabilize the shoreline. A thirteen-foot (13') wide stairway will be constructed thirty (30) feet mauka of the existing stairway. The damaged seawall at the existing drainage

outfall will be located three (3) feet mauka of the existing wall. A gazebo and existing shower will remain but will be relocated. The existing 300-foot long, 36-inch, corrugated metal, storm-drain line will be repaired and retrofitted to minimize sediment, debris, and pollutants into the ocean. The project will include landscape planting.

D. NEW BUSINESS

1. MR. GREGG LUNDBERG, General Manager of WESTIN MAUI, LLC requesting review and comments on the Draft Environmental Assessment (EA) in support of the Shoreline Setback Variance and the relocation of the existing County sewer line for the proposed Master Plan Improvements for the Westin Maui Resort & Spa, at 2365 Kaanapali Parkway, TMK: 4-4-008: 019, Kaanapali, Island of Maui. (EA 2014/001) (A. Cua)

The proposed improvements include a new parking structure, new landscaping facility, ballroom expansion and meeting room expansion, new back of the house structure, demolition of structures, roof additions, spa improvements, relocation of existing sewer line, and other related improvements.

The approving authority of the Environmental Assessment is the Maui Planning Commission.

The EA trigger is the Shoreline Setback Variance and the relocation of the existing County sewer line.

The Applicant has also submitted applications for a Special Management Area Use Permit and a Shoreline Setback Variance. The public hearings on these applications will be scheduled after the Chapter 343, HRS process has been completed.

The Commission may concur on the filing of the Draft EA and anticipated Findings of No Significant Impact (FONSI) determination with the Office of Environmental Quality Control (OEQC) for publication. It may also provide its comments on the Draft EA.

E. UNFINISHED BUSINESS

1. MR. ISAAC HALL, attorney for JAMES BENDON, ROBERT and MARGARET KAPLAN, CYRUS MONROE, and PETER SIRACUSA submitting an appeal dated December 19, 2013 of the issuance of an SMA Exemption for the milling and resurfacing of Runway 2-20 at the Kahului Airport at 1 Kahului Airport Road, TMK: 3-8-001: 019, Kahului, Island of Maui (APPL 2013/0012) (SM5 2013/0350) (SMX 2013/0324) (P. Fasi) (Matter was previously discussed at the April 22, 2014 Maui Planning Commission meeting)

Ms. Wakida: Oh you won't be opening the path before? You couldn't complete the—

Ms. Scheibel: It's part of the —

Ms. Wakida: Let me finish my question. You couldn't complete the beach access and open it before the rest of the seawall is done?

Ms. Scheibel: Well, part of it is, it's part of the grading. You know, I mean, grading is part of it, so it will be part of the whole project and so it won't be open before. It be open some time during that process.

Ms. Wakida: Thank you.

Ms. Scheibel: Okay.

Chairperson Lay: You wish to comment on that?

Mr. Kumar Siah: About that. I'm Kumar Siah, the structural engineer for the project. One of the conditions for us to be able to do that is securing a grading and grubbing permit which is part of the project so we cannot do that. Thank you.

Chairperson Lay: Commissioners, any more questions? Can we get the Department's recommendation?

b) Action

Mr. Buika: We have four permits here so I'll just do conclusions of law and recommendation one by one is that...

Chairperson Lay: Sure that would be good.

Mr. Buika: Okay. So the first is the Community Plan Amendment. The conclusion of law. The proposed community amendment action will bring the existing condominium/hotel use into conformity and consistency with County land use plans and policies including Chapter 205A, HRS as well as the Maui...West Maui Community Plan land use map. An Environmental Assessment in accordance with Chapter 343, HRS has been accepted by the Maui Planning Commission. As such, the application complies with Chapter 2.80(b).110 of the Maui County Code. The property has three-story building on it and has been used as a transient vacation rental under the variance issued in 1968. That's the conclusion of law.

And the recommendation, the Department of Planning recommends that the Maui Planning Commission recommend approval of the Community Plan Amendment from Single-Family to Hotel to the Maui County Council. That concludes my recommendation.

Mr. Tsai: So move.

Mr. Higashi: Second.

Chairperson Lay: Moved by Commissioner Tsai, seconded by Commissioner Higashi. Any discussion on the motion? Commissioner Hedani?

Mr. Hedani: Changing zoning to H-M?

Mr. Buika: Yes, sir.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: But we're only on the Community Plan Amendment not the Change in Zoning right now, correct?

Chairperson Lay: We're gonna take one by one on this. Yes.

Ms. Wakida: So we're just on the amendment, right?

Mr. Buika: Yes, ma'am.

Chairperson Lay: Call for the vote. All those in favor? Okay, that passes. Next.

Community Plan Amendment

It was moved by Mr. Tsai, seconded by Mr. Higashi, then

VOTED: To Recommend Approval of the Community Plan Amendment from Multifamily to Hotel to the County Council as Recommended by the Department. To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.

(Assenting - M. Tsai, R. Higashi, J. Medeiros, J. Freitas, K. Ball, W. Hedani, S. Duvauchelle, P. Wakida)

Mr. Buika: Okay, the conclusions of law for a Change in Zoning. The proposed change in zoning from R-3, Residential to H-M, Hotel conditioned with five height limitations to a maximum of three stories height meets the five required criteria. Those criteria are there on Page 2 of your recommendations report. I won't read those and as far as the recommendation, the Department of Planning recommends that the Commission recommend approval of the Change in Zoning to the Maui County Council subject to one condition. And the Change in Zoning is from R-3, Residential to H-M. Project specific condition that will be placed on this change in zoning reads, "That structures on the Kahana Sunset property shall be limited in height to no more than three stories with roof, including the ventilation compartments as currently configured as of July 22, 2014 accepting alternate energy devices approved by the Board of Directors of the Kahana Sunset and by the County of Maui if required, and accepting any new configurations as may be required by the

County of Maui."

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I would like to make a slight adjustment to that project specific condition to read, "That current and future structures on the Kahana Sunset property shall be limited in height." I really wanna see that tied in so that there's no loopholes in that, in that wording. I wonder if that would be agreeable?

Mr. Buika: Thank you. I noted that here.

Chairperson Lay: So we make an amendment on that.

Mr. Hedani: Move to approve the recommendation as amended.

Mr. Freitas: Second.

Chairperson Lay: Okay.

Mr. Hopper: The original motion was to approve as recommended then normally you would have amendment after that motion's been made to add that, to change that condition.

Ms. Wakida: We didn't have a motion yet.

Mr. Hopper: Yeah, so if there's no motion yet, then you can make a motion to discuss changes you wanna make now and then say you're going to do the motion with those changes and just make sure staff knows those changes if you wanna go that way.

Mr. Hedani: That's what I moved for.

Chairperson Lay: Approved yes. Motion to approve. Commissioner Ball?

Vice-Chair Ball: My concern with the way you read that was that there's no height limitation, it's story limitation.

Mr. Buika: Shall be limited in height to no more than three stories. So it is a story limitation.

Vice-Chair Ball: Right, so if you had 20-foot stories let's say which is weird, but I mean where do we wanna go with the height limitation of...County, right, whatever that is or no higher than the current—

Mr. Buika: It makes reference to as currently configured. So it does make reference to existing conditions.

Vice-Chair Ball: So no higher than it is now?

Mr. Buika: So no higher than it is now.

Vice-Chair Ball: That will be in there.

Mr. Buika: Yes.

Vice-Chair Ball: Is that how it would read 20 years from now?

Unidentified Speaker: It sets a date.

Mr. Buika: It says "as currently configured as of July 22, 2014." Except any changes to...if you put on solar, PV requirement.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Just a comment. I think the Council was going through a gyration trying to define what a story was in terms of feet. I'm not sure what they decided to do.

Chairperson Lay: Director?

Mr. Spence: I would also add to this that any improvements to this property, if they're gonna be changing a building or something like that, it's gonna be require a SMA Major and that's coming back to this Commission and they're gonna have to deal with view plains and all that stuff. You know, I'm pretty happy with the condition.

Mr. Buika: Thank you.

Chairperson Lay: Any more discussion on the motion?

Ms. Wakida: Who made the motion?

Chairperson Lay: Wayne. Jack seconded.

Mr. Hedani: I moved to approve with the amendment.

Chairperson Lay: Okay so we're back to the amendment.

Mr. Spence: Just so I'm clear. The motion's to approve with the recommendation that Penny was talking about to add future buildings.

Mr. Hedani: Right. It's to approve the recommendation to the Council with Penny's amendment which I think Jim picked up.

Chairperson Lay: Okay, so the motion on the floor, any more discussion? No? Penny?

Ms. Wakida: Just for the clarity for the record so the motion will read that current and future

structures of Kahana Sunset property?

Mr. Buika: Yes, so noted.

Ms. Wakida: Thank you.

Mr. Buika: I have that here. I'll make that change according to the amendment.

Ms. Wakida: Thank you.

Chairperson Lay: Okay, the Director wish to repeat the motion?

Mr. Spence: The motion was to approve as amended. To recommend to the County Council approval of the Change in Zoning with the one condition as amended.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes.

Change in Zoning

It was moved by Mr. Hedani, seconded by Mr. Freitas, then

VOTED: To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.

(Assenting - W. Hedani, J. Freitas, J. Medeiros, K. Ball, M. Tsai, S. Duvauchelle, P. Wakida, R. Higashi)

Mr. Buika: Thank you. The third action is approval or consideration of the Shoreline Setback Variance. This is conclusion of law, the shoreline setback variance application complies with the standards and criterias, core development in the shoreline setback area as set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission, Section 2, Purpose, and HRS Chapter 205A as amended, and as listed and addressed in the accompanying Department report for this project under the section, State and County Shoreline Rules; Analysis for Shoreline Setback Variance. The application complies with the six...with the applicable six criteria for approval of a variance in the shoreline setback area that's set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission specifically Sections, 12-203-15, Criteria for approval of a variance and these are under A 8, B, C, D, E, and F. And there are five.

So as far as the recommendation, the Maui County Planning Department recommends approval of the Shoreline Setback Variance application request subject to the following five conditions as required by Chapter 12-203-15, Criteria for approval of a variance. The five, they're on your green sheet, they're on Page 4. That the required conditions of every variance and Raymond had showed them on a slide that the applicant maintains and requires safe lateral access to and along the

shoreline for public use. That the applicant minimizes risk of adverse impacts on beach processes. That the applicant minimizes risk of structures failing and becoming loose rocks or rubble on public property. That the applicant minimizes adverse impacts on public views to, from, and along the shoreline. And finally, that the project shall comply with Chapter 19.62 and 20.08, Maui County Code relating to Flood Hazard Districts and Erosion and Sediment Control respectively. That concludes the recommendation. Recommends approval with those five conditions.

Mr. Medeiros: Move to approve.

Chairperson Lay: Motion by Commissioner Medeiros.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Any discussion on the motion?

Mr. Hedani: Call for the question.

Mr. Spence: The motion is to approve with the required conditions as recommended by Staff.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes.

Shoreline Setback Variance

It was moved by Mr. Medeiros, seconded by Mr. Hedani, then

**VOTED: To Approve the Shoreline Setback Variance as Recommended with
Conditions by the Department.
(Assenting - J. Medeiros, W. Hedani, J. Freitas, K. Ball, M. Tsai,
S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Buika: Thank you. And then finally, conclusions of law regarding the Special Management Area Use Permit. The Special Management Area Use Permit application complies with the applicable standards for the Special Management Area as follows on Page 3 of the recommendations page and as addressed in the accompanying Department report for the project and then these conditions that were reviewed are listed below A through L. The Department based on the facts presented in the Department report finds that the action as proposed does not have a significant adverse environmental and ecological effect since mitigation measures are incorporated into the project. And that said, action essentially meets the objectives, policies and guidelines of the SMA Rules and that the said actions are not restricted by or contrary to the General Plan, community plan and zoning. So the actions are consistent. So that's the conclusions of law.

And the Department's recommendation. The Maui Planning Department recommends approval of

the Special Management Area Use Permit subject to the following standard and project specific conditions. There are standard conditions on Page 5. I will not read those to you. You have reviewed those. There are six of them.

There are some project specific conditions. First one, 7 is archaeological monitoring will be conducted as required. A flood permit will be obtained, No. 8. 9, it has to do with flood lights, up lights, and those will be restricted along the shoreline. No. 10 is ensuring water quality and that marine resources are protected during the construction work. No. 11 is in regards to Department of Public Works, any required permits required there prior to beginning the work. No. 12 is regarding utilizing drought tolerant plants where possible. No. 13 is to protect...to put in during construction procedures that will protect endangered species such as honu. Instructing the construction crews, et cetera, stopping if there are any issues with endangered species. No. 14 are conditions that were placed on the project by the Department of Water Supply which are best management practices to ensure water quality during construction. No. 15 are best management practices from Department of Health requiring a National Pollutant Discharge Elimination System Permit, if required. An erosion control plan for the project. No. 16 also has to do with the Department of Health is dust control measures A thru F. 17 is construction of the seawall, the timing regarding doing it during certain seasons during low tide especially. No. 18, public access, the important one on the shoreline, public access. No. 19 is unique it requires the AOA and owners to be responsible for any clean up if any of the property falls into the ocean from damages and holds the County harmless. The Unilateral Agreement recorded with the Bureau of Conveyances or the Land Court on that one. And then No. 20 finally they have not gotten the State Certified Shoreline because they are working with the Department of Land...Bureau of Land and Natural Resources, Department of Land and Natural Resources. So at the conclusion, when the project is done, they will get their State Certified Shoreline and remove any additional encroachments as DLNR requires. And they will be required to submit a State Certified Shoreline at the conclusion of all of this remedial work along the shoreline. So that concludes the 20 conditions.

And finally, in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission Adopt the Planning Department's Report prepared for July 22, 2014 meeting and the Department's recommendation report prepared for the same meeting as its finding of fact, conclusions of law, and decision and order on the SM1 and the Shoreline Setback Variance Permits and authorizes the Director of Planning to transmit said decision and order on behalf of the Planning Commission.

And secondly that the Planning Department also recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation documents prepared for July 22, 2014 meeting, as its proposed findings of fact, conclusions of law, and decision and order on the community plan amendment and the change in zoning and authorize the Director of Planning to transmit the Maui Planning Commission's recommendation on the community plan amendment and the change in zoning to the Maui County Council. So I might be a little ahead of myself there, but the conclusion for the SM1.

Mr. Medeiros: So move.

Chairperson Lay: Motion by Commission Medeiros.

Vice-Chair Ball: Second.

Chairperson Lay: Second by Commissioner Ball. Any discussion on the motion?

Mr. Spence: The motion is to approve as recommended by Staff.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes. Motion carries. Congratulations.

Mr. Buika: Thank you.

Special Management Area Use Permit

It was moved by Mr. Medeiros, Mr. Ball, then

**VOTED: To Approve the Special Management Area Use Permit as
Recommended by the Department.
(Assenting - J. Medeiros, K. Ball, J. Freitas, M. Tsai, W. Hedani,
S. Duvauchelle, P. Wakida, R. Higashi)**

Chairperson Lay: Moving on.

Mr. Spence: Commissioners, New Business, Mr. Gregg Lundberg, General Manager of Westin Maui, LLC requesting review and comments on the Draft Environmental Assessment and with us this afternoon is Ms. Ann Cua.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Director, I'd like to make a recommendation to you based upon the fact that looking at the myriad amount of SMAs that's been given to us would be assigned...I just kinda kept record of the information since March of 2014 and every month apparently there's the same SMAs that's been printed up with the planner.

Chairperson Lay: Maybe we should bring this up at the end. Let's bring this up later on when we take that up.

Mr. Higashi: At the end of our agenda report there's always a SMA report on what's happening and what's completed, et cetera, but I notice that most of it are repeat. In other words, the amount of the paperwork that is being generated for the same repeat, unless it's new—

Chairperson Lay: Commissioner, we'll deal with that when we reach that agenda item. That should be coming up and then we'll talk about that then.

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 18, 2014

CERTIFIED MAIL - # 7013 1710 0002 3790 8995

Mr. Raymond Cabebe
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Cabebe:

SUBJECT: APPROVAL OF THE SPECIAL MANAGEMENT AREA (SMA) USE PERMIT AND SHORELINE SETBACK VARIANCE (SSV) AND RECOMMENDATIONS FROM THE MAUI PLANNING COMMISSION TO THE MAUI COUNTY COUNCIL REGARDING COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING (CIZ) FOR THE KAHANA SUNSET AOAO SHORELINE AND SITE IMPROVEMENTS, LOCATED AT 4909 LOWER HONOAPIILANI ROAD, LAHAINA, MAUI, HAWAII; TMK: (2) 4-3-003:015 (CPA 2012/0003) (CIZ 2012/0007) (SM1 2012/0003) (SSV 2012/0002) (EA 2012/0002)

The Department understands that you are the Authorized Representative for the Kahana Sunset AOAO.

At its regular meeting on July 22, 2014, the Maui Planning Commission (Commission) reviewed the subject requests and after due deliberation and receipt of testimony and exhibits, and by a unanimous vote, hereby recommends to the Maui County Council (Council) that the Council: (1) approve of the Community Plan Amendment from Single-Family to Hotel for the subject parcel and (2) approve the Change in Zoning for the subject parcel, subject to the following project specific condition.

PROJECT SPECIFIC CONDITION FOR CHANGE IN 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 AOAO and by the County of Maui (County), if required, and excepting any new configurations as may be required by the County.

Furthermore, at its regular meeting on July 22, 2014, the Commission reviewed the subject requests and after due deliberation and receipt of testimony and exhibits, and by a unanimous vote, hereby orders approval of the Shoreline Setback Variance (**SSV 2012/0003**), subject to the following conditions:

REQUIRED VARIANCE CONDITIONS:

1. That the Applicant maintains and requires safe lateral access to and along the shoreline for public use.
2. That the Applicant minimizes risk of adverse impacts on beach processes.
3. That the Applicant minimizes risk of structures failing and becoming loose rocks or rubble on public property.
4. That the Applicant minimizes adverse impacts on public views to, from, and along the shoreline. For purposes of this section only, "adversely impacts public views," means the adverse impact on public views and open space resources caused by new building structures exceeding a one (1) story or thirty foot (30 ft.) height limitation.
5. That the project shall comply with Chapters 19.62 and 20.08, Maui County Code (MCC), relating to flood hazard districts and erosion and sedimentation control respectively.

Furthermore, the Commission voted to grant approval of the SMA Use Permit (**SM1 2012/0003**), subject to the following standard conditions and project specific conditions, as indicated below:

STANDARD CONDITIONS:

1. That to the satisfaction of the Department of Planning (Department), construction of the proposed project shall be initiated by **July 31, 2017**. Initiation of construction shall be determined as construction of onsite and/or offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit, and initiation of building construction, whichever occurs first. Evidence of the initiation of construction shall be submitted to the Department prior to the date listed immediately above. Failure to comply by that date will automatically terminate this SMA Use Permit unless a time extension is requested no later than ninety (90) days prior to said date. A time extension shall be processed in accordance with the provisions of Section 12-202-17 of the SMA Rules for the Commission.
2. That to the satisfaction of the Department, the construction of the project shall be completed within five (5) years after the date of its initiation. Evidence of the date

of the completion of construction shall be submitted to the Department. Any request for a time extension shall be submitted no later than ninety (90) days prior to the completion deadline. A time extension shall be processed in accordance with the provisions of Section 12-202-17 of the SMA Rules. Failure to complete construction of this project within this time period will require unfinished portions of the project to obtain a new SMA Use Permit.

3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by the subject permit and shall obtain, pay for, and keep in force throughout the term of the permit, comprehensive liability insurance issued: (1) by an insurance company authorized to do business in the State of Hawaii ("admitted carrier"); or (2) through a general insurance agent or broker licensed in the State of Hawaii, if the company is not authorized to do business in the State of Hawaii ("non-admitted carrier"). The insurance carrier shall be rated no less than "A" as established by "AM Best" or "Standard & Poor" ratings. The insurance policy, as evidenced by issuance of a policy endorsement, shall name the County, its officers, employees, and agents, as an additional insured. The insurance policy shall contain the following minimum requirements:
 - a. No less than a combined single limit ("CSL") of liability coverage of \$1,000,000.00;
 - b. No erosion of limit by payment of defense costs;
 - c. Annual aggregate limit of not less than \$1,000,000.00;
 - d. A duty to defend, indemnify and hold harmless the County, its officers, employees, and agents, against any loss, liability, claims, and demands for injury or damage, including, but not limited to, claims for property damage, personal injury, or wrongful death, arising out of, or in connection with, in whole or in part, the permitted uses, the County's permit review and approval process, or any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights;
 - e. Name the County, its officers, employees, and agents, as additional insureds; and
 - f. Written or endorsed to state that the coverage to the additional insureds is primary and non-contributing with respect to any other insurance available to the County.

The Applicant shall furnish the Department with a copy of the insurance policy certificate and the required endorsements verifying such insurance coverage

within ninety (90) days of the issuance of the subject permit. Thereafter, the Applicant shall instruct the insurance company to directly provide the Department with a copy of the insurance policy certificate and required endorsements as it is renewed on an annual basis. The proof of insurance and all subsequent certifications of insurance coverage shall include the applicable Tax Map Key and permit numbers. If the scheduled expiration date of a current insurance policy is earlier than the expiration of the subject permit, the Applicant shall, upon renewal of the insurance policy, provide the Department with a copy of the renewed insurance policy certificate and required endorsements. The insurance policy shall expressly state that the coverage provided under such policy shall not be canceled or terminated, unless the carrier has first given the Department at least thirty (30) calendar days prior written notice of the intended cancellation or termination.

The insurance policy shall remain in full force and effect until the permitted work has been completed and accepted by the County.

4. That to the satisfaction of the Commission or the Department, the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit. Failure to so develop the property may result in the revocation of the permit and/or other enforcement.
5. That the Applicant shall submit to the Department two (2) copies of a detailed report addressing its compliance with the conditions established with the subject SMA Use Permit. A preliminary compliance report shall be reviewed and approved by the Department prior to issuance of the Grading and Grubbing Permit. Plans regarding the location of any construction related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase shall be submitted to the Department for review and approval prior to or along with the preliminary compliance report. The preliminary compliance report shall also include evidence that final construction plans are in substantial compliance with the Concept Master Plan dated July 3, 2013, preliminary structural plans dated May 2012 and labeled as sheets S-1 through S-4 as contained in the Preliminary Structural Engineering Report, Shoreline Access Path plan dated January 2014, and representations made to the Commission in obtaining the SMA Use Permit and SSV.

PROJECT SPECIFIC CONDITIONS:

1. That to the satisfaction of the Department, appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be regularly maintained per manufacturer's specifications or other Best Management Practices (BMPs), with the contaminant residuals from stormwater treatment to be disposed of properly. Records of the inspection, maintenance and disposal

shall be kept by the Applicant and made available for inspection by County and State agencies upon request. Plans for the filtration measures and a program and record keeping for inspection, maintenance and disposal of contaminated residuals shall be submitted to the Department prior to or along with the preliminary compliance report.

2. That to the satisfaction of the Department or the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), all ground disturbing activities shall be monitored in accordance with the Archaeological Monitoring Plan (ASH 2012). As noted in the plan, full-time monitoring will be the protocol for this project and the DLNR-SHPD shall be notified of the onset and completion of the project. In the event that historic resources, including human skeletal remains, are identified during construction activities, work shall be halted, the site shall be secured, and procedures outlined in the Archaeological Monitoring Plan shall be followed. Evidence of the fulfillment of this condition shall be submitted with the final compliance report.
3. That to the satisfaction of the Department, the project shall conform to MCC, Chapter 19.62, pertaining to flood hazard districts. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.
4. That, to the satisfaction of the Department, no artificial light from floodlights, uplights, or spotlights be used for decorative or aesthetic purposes for illuminating the shoreline and ocean waters, or is directed to travel across property boundaries toward the shoreline and ocean waters. Evidence of the fulfillment of this condition shall be submitted with the final compliance report.
5. That to the satisfaction of the Department, BMPs shall be implemented to insure water quality and marine resources are protected. No construction materials shall be stockpiled in the aquatic environment. All construction-related materials shall be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes shall be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site shall be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions shall be curtailed to minimize the potential for adverse water quality impacts. Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.
6. That appropriate approvals shall be obtained from the County Department of Public Works prior to commencement of work.

7. That to the satisfaction of the Department, the proposed development will utilize drought tolerant plants and native trees in its landscaping scheme, where possible. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.
8. That to the satisfaction of the Department, during construction, the following procedures will be implemented to mitigate any possible impacts to endangered or protected species:
 - a. Visual survey of the project area will be performed just prior to commencement or resumption of construction activity to ensure that no protected species are in the project area. If protected species are detected, construction activities will be postponed until the animals voluntarily leave the area;
 - b. If any listed species enter the project area during the conduct of construction activities, all activities will cease until the animals voluntarily depart the area; and
 - c. All on-site construction personnel will be apprised of the status of any listed species potentially present in the project area and the protections afforded to those species under Federal laws.

Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.

9. That as recommended by and to the satisfaction of the County Department of Water Supply, during construction, the following BMPs plan will be implemented in order to protect ground and surface water sources:
 - a. Prevent cement products, oil, fuel and other toxic substances from falling or leaching into the ground;
 - b. Maintain vehicles and equipment to prevent oil or other fluids from leaking;
 - c. Concrete trucks and tools used for construction should be rinsed off-site;
 - d. Staging and storage of construction machinery and storage of debris should not take place on any sandy beach area;
 - e. Properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work;
 - f. Properly install and maintain erosion control barriers such as silt fencing;

- g. Disturb the smallest area possible;
- h. Retain ground cover until the last possible date;
- i. Stabilize denuded areas by sodding or planting as soon as possible;
- j. Keep run-off on site;
- k. No construction or toxic materials or debris should be placed where it may enter the ocean; and
- l. Construction debris and sediment should be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris should be disposed of outside the coastal zone.

Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.

- 10. That a National Pollutant Discharge Elimination System (NPDES) permit will be obtained by the contractor, if required. Evidence of the fulfillment of this condition shall be submitted with the preliminary compliance report.
- 11. That an Erosion Control Plan will provide specific measures to mitigate erosion during construction. As such, drainage impacts are mitigated to the maximum extent by measures under the control of Kahana Sunset AOA. Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.
- 12. That to the satisfaction of the Department of Health, adequate dust control measures that comply with the provisions of Hawaii Administrative Rules, Chapter 11-60.1, "Air Pollution Control," Section 11-60.1-33, Fugitive Dust, will be implemented during all phases of construction, to include the following measures:
 - a. Providing an adequate water source on site prior to start-up of construction activities;
 - b. Landscape planting and rapid covering of bare areas, including slopes, beginning with the initial grading phase;
 - c. Controlling of dust from shoulders, project entrances, and access roads;

- d. Providing adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities;
- e. Controlling of dust from debris hauled away from project site; and
- f. To minimize construction-related impacts to the surrounding neighbors, the developer will limit construction activities to normal daylight hours, and adhere to the Department of Health's Administrative Rules, Chapter 11-46, "Community Noise Control."

Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.

- 13. That to the satisfaction of the Department, the wall construction shall be conducted during the season when tides and waves are at its lowest, which is generally during the spring and summer months. Evidence of the fulfillment of this condition shall be submitted with both the preliminary and final compliance reports.
- 14. That to the satisfaction of the Department, the public shoreline access path shall be constructed along Kahana Sunset's southern boundary, as represented by the Applicant, for public use and recreational activities along the shoreline. The Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County harmless from and against any and all loss, liability, claim, or demand arising out of damages in connection with the shoreline access path. This condition shall be set forth in a unilateral agreement recorded by the Applicant with the Bureau of Conveyances or land court. A copy of the recorded agreement shall be filed with the Planning Director (Director) prior to the final compliance report.
- 15. That to the satisfaction of the Department, the Applicant shall be responsible for any shoreline and/or ocean area restoration and associated permitting which may become necessary as a result of structures from Applicant's property which may enter the shoreline setback area and/or ocean as a result of failure or any other cause. This condition shall be set forth in a unilateral agreement recorded by the Applicant with the Bureau of Conveyances or land court. A copy of the recorded agreement shall be filed with the Director prior to the final compliance report.
- 16. That upon completion of the actions in compliance with representations made to the Commission, the Applicant shall have the shoreline surveyed and certified by the State of Hawaii. Evidence of the certified shoreline shall be submitted to the Director prior to or in conjunction with the final compliance report.

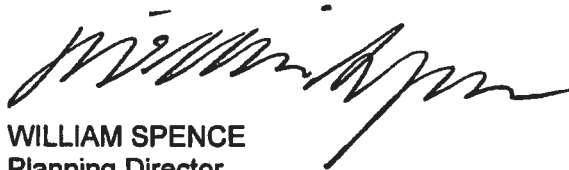
Mr. Raymond Cabebe
August 18, 2014
Page 9

The conditions of this SMA Use Permit shall be enforced pursuant to Section 12-202 et. seq. of the *SMA Rules for the Commission*.

Further, the Commission adopted the Report and Recommendation prepared by the Department for the **July 22, 2014** meeting as its Findings of Fact, Conclusions of Law, and Decision and Order. Parties to proceedings before the Commission may obtain judicial review of decision and orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes (HRS).

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner James Buika at james.buika@mauicounty.gov or at (808) 270-6271.

Sincerely,



WILLIAM SPENCE
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
John F. Summers, Planning Program Administrator (PDF)
James A. Buika, Staff Planner (PDF)
Patrick Wong, Deputy Corporation Counsel (PDF)
Tara Owens, University of Hawaii Sea Grant Extension Agent-Maui (PDF)
Department of Public Works
Department of Parks and Recreation
Department of Water Supply
Maui Police Department
Department of Health, Clean Water Branch
Department of Health, Wastewater Branch
Department of Health, Maui District Health Office
Department of Land and Natural Resources-Office of Conservation and Coastal Land
Department of Land and Natural Resources-Maui Land Division
Department of Land and Natural Resources-State Historic Preservation Division
Department of Transportation
U.S. Army Corps of Engineers
CZM File (SM1/SSV)
Project File
General File

WRS:JAB:njm

K:\WP_DOCS\PLANNING\SM1\2012\0003_Kahanasunset\APPROVAL SMASV\Approvalkahanasunsets1ssv.Doc

MAUI PLANNING COMMISSION
MINUTES APPROVED from
July 22, 2014

Maui Planning Commission
Minutes - July 22, 2014
Page 41

A-1 zoning.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's seven...oops, that's six ayes.

Chairperson Lay: All those opposed?

Mr. Spence: Motion carries.

Chairperson Lay: Motion carries.

Mr. Hopper: Note that silence is an affirmative vote. So if you don't vote that's considered a "yes" vote, just as a note.

It was moved by Mr. Ball, seconded by Mr. Medeiros, then

VOTED: To Recommend Approval of the Change of Zoning from R-3 Residential District to A-1 Apartment District to the County Council as Recommended by the Department.
(Assenting - K. Ball, J. Medeiros, J. Freitas, S. Duvauchelle, P. Wakida, R. Higashi, W. Hedani - abstained)
(Excused - M. Tsai)

Chairperson Lay: Our next agenda item?

Mr. Spence: Commissioners, we're on your third public hearing item. Kahana Sunset AOA requesting Community Plan Amendment from Multi-Family to Hotel, and a Change in Zoning from R-3 Residential District to H-M Hotel District, an SMA Permit and a Shoreline Setback Variance proposed for Kahana Sunset shoreline and site improvements. And the Staff Planner, it's still morning is Mr. Jim Buika.

3.

KAHANA SUNSET AOA requesting a Community Plan Amendment from Multifamily to Hotel, a Change in Zoning from R-3 Residential District to H-M Hotel District, a Special Management Area Use Permit, and a Shoreline Setback Variance for the proposed Kahana Sunset Shoreline and Site Improvements Project for property situated at 4909 Lower Honoapiilani Road, TMK: 4-3-003: 015, Napili, Lahaina, Island of Maui. (CPA 2012/0003) (CIZ 2012/0007) (SM1 2012/0003) (SSV 2012/0002) (J. Buika)

The Kahana Sunset AOA proposes to demolish a portion of the existing seawall (114 feet) and the ten-foot (10') concrete stairs sited within the Shoreline Setback Area and construct a structurally engineered shoreline armoring system approximately ten (10) feet mauka of the current seawall in order to stabilize the shoreline. A thirteen-foot (13') wide stairway will be

constructed thirty (30) feet mauka of the existing stairway. The damaged seawall at the existing drainage outfall will be located three (3) feet mauka of the existing wall. A gazebo and existing shower will remain but will be relocated. The existing 300-foot long, 36-inch, corrugated metal, storm-drain line will be repaired and retrofitted to minimize sediment, debris, and pollutants into the ocean. The project will include landscape planting.

Mr. Jim Buika: Good morning. Thank you, Director of Planning, Chair, Commissioners, Deputy Director of Public Works, Corporation Counsel, my name is Jim Buika with the Planning Department. Before I believe with some initial opening remarks I'd like to alert you to an additional package, Exhibit 45 that I put on your desks. These are comments from the public mostly on the concerns with the change in zoning. There are ten comments and written responses from the applicant in that package and if you'll allow me, I will pass out one additional letter that we...that my boss, Clayton Yoshida handed to me on the way out the door this morning. One more so it makes 11. It's not exhibited, so I'll just pass it around.

Thank you, so what I'd like to do is just provide the Commission with some brief opening remarks then provide the applicant's representative, Mr. Raymond Cabebe, the opportunity to present the project to you. I believe most of you have seen it through the environmental assessment process both the Draft EA and then the Final EA that was presented on April 22, 2014. Following the presentation on the project we will be prepared to answer questions about the project from the Commission. So if this is acceptable to the Chair, I'll just begin some comments. Thanks.

The report in front of you is for both a major SMA Use Permit and a Shoreline Setback Variance since a large portion of actual project will take place in the shoreline setback area along the beach. There are also land use change proposed for this parcel that I will describe. The applicant will give you a briefing. He'll show you the location and some slides in a moment. By introductory, way of introductory comments, the project is located at Kahana Sunset Resort in Keanui Bay, Napili area north of S Turns, north of the Mahina Surf project you were just looking at. All the properties in the bay actually have seawalls now or retaining walls including Kahana Sunset which is fronted by seawalls and has been the site of multiple Emergency SMA Permits in the past, few years, 2007 was one, 2010, due to undermining of the seawalls and the lanais at the shoreline. And this project is designed to improve the shoreline area and actually to demolish a seawall that is not protecting the property but in the common area and move it back about 30 feet and/or the seawall about 10 feet and some of the stairs 30 feet to provide actually some more beach area. It's not a perfect project. It is work in the shoreline setback area again like the Mahina Surf it was built in 1971. It's subject to at that time poor siting of the buildings, chronic erosion. Then they've had...then they had big major 1980 storm where many permits along that side of town came in to build seawalls so they built some seawalls there. And the seawalls in the entire bay has exacerbated the shoreline erosion problem by creating high wave energy. So the whole aim here is to clean up what was there. They've actually taken a lot out of the shoreline area working with the State and this is remedial work and there is actually in the Final EA we had a...the master plan there are two buildings that have been subjected to potential collapse into the ocean and there is a master plan where they would consider if the buildings were damaged beyond repair that they potentially could move those buildings back. So it's kind of a strategic retreat. It's not part of this application, but

it was considered.

There are two good things that are coming out of the project that I wanna make you aware of even though we're doing work in the shoreline setback back area. The first is that we will be increasing the beach area by almost 3,000 square feet. So we will be moving back somewhat. And also another important point that I know this Commission is very interested in was adding a public access to the beach through the Kahana Sunset property that connects into Lower Honoapiilani Road, so road to shoreline access.

Regarding the land use designations the applicant is requesting a community plan amendment from Single-Family to Hotel and a change in zoning from R-3 Residential to H-M Hotel District which is a maximum of six stories height. In order to have the land use designations consistent with the existing use there's a table on Page 4 in your report that talks about the changes in land use planning, Table 1. There have been considerable public comment asking not to change, not to support the change in zoning here today. Those are in Exhibit 35 to 37. There were six email and written testimonies in the report and then I handed an additional 10. They are by surrounding neighbors who have received the notice, public hearing notice and one today.

So the reason...I'll just give you a little background from the Department's perspective on the reason for the land use designation changes. The land use designation changes are being proposed because Kahana Sunset was constructed in 1971, as a lot of that area was by way of variance granted in 1968 as an apartment condominium project on residentially zoned property. This variance is 1968 again. It is an exhibit in your packet. In 1971, the County of Maui did not have any restrictions on transient vacation rentals. We now call them short-term rentals so that use. Kahana Sunset has always operated as a transient vacation rental apartments since its inception and is now grandfathered in to do so. Over time Maui County Code regarding TVRs use has evolved to restrict TVR use to Hotel zoned property only. To date, the 1968 variance continues to govern uses on the property. However, the County Department of Planning recognizes that the proposed action is to bring the established use of the property into consistency with zoning, Hotel zoning again allowing for the TVR use that is grandfathered in there.

Based on the use of the property, Hotel is the most appropriate zoned equivalent. It should be noted Kahana Sunset has been paying real property tax at the hotel rate for many years. And it should be reiterated that no expansion or intensification of use is associated with this application. And the Department has included with the change in zoning, a condition that will limit the height restriction to what it is existing to placate the concerned citizens around there that they would build up as a hotel. So there is a restriction that will go with the deed that will not allow them to build any higher. And what the change in zoning also does is right now a single family and residential if they did have damage, if they wanted to relocate buildings, if they wanted to refurbish them, under these height restrictions they would have to go through this change in zoning, community plan amendment at that time. So with the EA done and the SMA Major Permit and the variance they're coming in as separate actions, separate tracks those will go to the Council for approval and...if you recommend approval, and then so really today we are looking at the Major SMA Permit and the variance to do the work out front, the seawalls, and I'll have Raymond right now just explain the exact work that is being done. So that concludes my opening comments and still time before lunch we'll...I'll ask the applicant to give a presentation on the project. Thank you.

Mr. Raymond Cabebe: Good morning Commissioners and Chair Lay. My name is Raymond Cabebe and I'll be doing this presentation before you. I'll be introducing to you our project team and then we also...I'll be talking about the request that we have before you and show a little bit about the existing site. Also, you have seen this presentation or this project at least once. What we will show is the relationship between the actions and the actual permits, and then we'll conclude.

For the Kahana Sunset AOA, the applicant is...we have the applicants here, Jacqueline Scheibel who is the Long Range Planning Committee Chair, Bob Scheibel, who's the Board President, Ken Gadick is not here. He's traveling today. We also have Jordan Hart and myself for Chris Hart & Partners and Dr. Mark Siah, who is a civil and coastal engineer and Kumar Siah who's a structural engineer.

Now there's four applications as Jim said. The Special Management Area Use Permit and a Shoreline Setback Variance is before you for your review and if you know if you see fit an approval. And the Community Plan Amendment and the Change in Zoning will go to the Maui County Council with your recommendations.

This is a location map showing the property on the northwest coast of Maui. The aerial map showing the properties around it. The Alaeloa Condominium to the north, Napili Villas to the east, Keonenui Bay to west. This is the tax map showing the property is 4.467 acres. There's 79 units on the property within six buildings. There's a seventh, actually a seventh building with the support services with the office manager's residence and a laundry. It was constructed in 1971. It has your typical amenities, you know, pool, cabana, gazebos, barbeques, showers, parking. This is the property how it's situated in kind of a U-shape and the buildings are labeled Buildings A thru F. This is Lower Honoapiilani Road as it curves around this area.

As Jim said, the variance was granted in 1968, and it was constructed in 1971, and there's been several permits and emergency permits done for the shoreline protection. And the latest thing was last year when they had to remove some old stairs and a rock and concrete buttress that was...that's actually was an encroachment and while the work was being done they also constructed the stairway for the beach access.

Some photos of the property along the shoreline. Photo 1 is on the north side of the property. Photo 2 leads down to the side of Building A. And this is looking at Building A from the shoreline. And Photo 4 is looking at Building F which is the other building on the shoreline. This is the drainage outfall. This was taken I think in 2012 I believe this picture. I'll show you a more recent picture. This is the stairway that's gonna be demolished and moved back about 30 feet. This is in January and this is in April and as you can see it's kind of day light in here so that the pipe is pretty damaged and the wall is you know just barely holding up there. This is the wall in front of Building F with the buttress and the old stairway. And this is how it looks now. This is the...on the side of Building F where the proposed beach access will go and this is where the stairway that was built last year as it leads down to the shoreline. It's not open currently 'cause it doesn't have all the railings on there so it's not being used yet.

This is the master plan for the property along the shoreline. If you recall, there's like five parts to it. The demolition, reconstruction of the seawall, the drainage improvements, the landscape

improvements, shoreline access path, and then final one is the community plan amendment and change in zoning from Residential to Hotel. The master plan showing the shoreline setback is...is this red, dashed line that follows along here. So you can see that Building A and Building F are both within the shoreline area. This is...the shoreline setback is based on the average lot depth since it's greater than the annual erosion hazard rate.

This is the detail of the new wall, proposed new wall and this is how it's configured. It's about 125 feet in total, and as I said, the stairs is gonna be about 30 feet back and this portion of the wall is about 10 feet and there was a shower that's located here and it's being moved back here. And the existing gazebo is right here and it's being moved across that walkway.

The drain line improvements is 300-foot drain line that runs from this dry well all the way to this outfall, that photo that I showed you. It's gonna be replaced in its entirety. There's also a smaller drain line that is gonna be up sized and also filters are gonna be put at the inlets. This shows the landscape improvements. It's just a retaining wall that's gonna be open up the lawn a little bit and new plantings will be drought tolerant and native.

The beach access path will run along the southern boundary here. It's of crushed stone and it will follow the natural grade from Lower Honoapiilani Road down to the shoreline. There's a six-foot high fence and a planting buffer that will define its boundary next to Kahana Sunset. There's a shoreline access inventory report that was prepared in 2005 by Oceanit Laboratories. It was actually an update to that 1986 report and has a inventory of existing shoreline access areas throughout the County and it's also established priority areas that, you know, that they were looking for that access that was needed. And this was based on community input, you know, as this group went to...had community meetings and the Kahana Sunset was determined to be a priority access area. And this is their recommendation. This area contains a large condominium development with no public access and negligible space for public access parking. Land could be acquired across Lower Honoapiilani Road for a beach support park and/or parking area and an access easement through the development should be made a condition with future SMA Permit for changes to the development. And so the Department's recommendation is to have a condition for this access.

I'm gonna move onto the SMA Rules criteria. There's 12 of them and they're listed in your report and they're addressed in your report, so I'm not gonna go through all of them. The last item, the 12th item is objectives and policies of HRS Chapter 205A and these...there's ten more criteria that has to be met and that's also listed in your report and addressed in your report. Because most of the improvements are within the shoreline area, it has to...we have to get this shoreline setback variance and this is the criteria for that variance. It pertains to the drainage cause we're replacing the drainage and it's also for...it has to, it has to not artificially fix the shoreline provided the Commission also finds that a hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area.

And this is the criteria for the hardship. Erosion will, you know eventually threaten the habitable structures. The unique circumstances are this drainage system that you know serves that whole region and it's also the first public access to Keonenui Bay. And we went through several alternatives through the EA process and this was deemed the most practical. And the shoreline setback variance also requires some mandatory conditions and these five conditions are in the

recommendation from the Department.

Moving onto the Community Plan Amendment and the Change in Zoning is from Residential to Hotel and R-3 Residential to H-M Hotel. And as Jim said, you know, it's specifically for to bring the historical use to be consistent with what the land use designations should be. And there's no plans, there's no actions connected with this, with these two applications.

Just as a recap this 79-unit hotel granted...was granted a variance in 1968, constructed in 1971 when there was no TVR restrictions. The community plan map showing it as Single-Family, zoning map showing it as R-3, Residential. I think Jim referred to this table regarding Kahana Sunset and comparing the R-3 existing zoning and H-M zoning. You know, from the right side Kahana Sunset that's their existing attributes. 1971 TVRs were allowed. It meets you know, area minimums and height through the variance they met the height restrictions through the variance and the lot coverage and floor area ratios. On the height part, put a asterisk here, there's a three stories...actually H-M is usually six stories, but the staff recommendation shows it as a condition of zoning to three stories and Kahana Sunset agrees with that. It meets the front and side yard standards. Rear yard is actually the shoreline so it's kind of grandfathered in that respect because there were no shoreline rules back in 1971. And then change in zoning criteria you know meets the community plan and the community plan use map...it doesn't currently but we're doing the community amendment concurrently and it will meet the community plan. As I shown you it will meet the standards and there's no indirect or direct impacts for this project.

The Kahana Sunset is a existing hotel condominium. There's no expansion proposed. It complies with H-M zoning standards. There's no primary or secondary impacts. Just a short time line here. It was submitted originally...the applications were all submitted originally in August 2012. Last year 2013 we went through the whole Draft EA process. We had a community meeting and we submitted a final, revised final in January and this body reviewed it in April and all the notices were sent out as required. And we're here today to look at this SMA and Shoreline Setback Variance and asking for your recommendations for the Community Plan Amendment and Change in Zoning and that's gonna be a future thing with the Maui County Council.

And as we said we went through the whole process and you know the impacts were identified and mitigated and we went through the whole commenting from the agencies and addressed all the concerns. We feel that the project meets the objectives of 205A and also the Maui Planning Commission SMA Rules and Shoreline Rules and meets the criteria for a Community Plan Amendment and a Change in Zoning. The presentation is concluded so we're open for questions.

Chairperson Lay: Thank you. Commissioner so we don't have all these people that are going to publicly testify, I would like go through, I don't think there's too many to testify before we break for lunch.

Vice-Chair Ball: I gotta go.

Chairperson Lay: You gotta go.

Vice-Chair Ball: I'll be back at 1:00.

Chairperson Lay: Other Commissioners shall we go ahead and let the public testimony or should we move forward with taking lunch?

Ms. Wakida: Public testimony. I don't think there's too many.

a) Public Hearing

Chairperson Lay: Okay, I'll open to public testimony. So we're gonna go to public testimony, for those of you Commissioners who have to go, we'll let you know how it went. At this time, I'm going to open up to public testimony. Anyone that wishes to testify please step up to the mic, identify yourself and you have three minutes? You missed it Commissioner Ball. We're now closing public testimony. We gonna take lunch and reconvene at 1 o'clock.

A recess was called at 12:07 p.m., and the meeting was reconvened at 1:00 p.m.

Chairperson Lay: Come to order. It's 1 o'clock. We just finished public testimony. Commissioners, do we have any questions? Seeing none...Commissioner Wakida?

Ms. Wakida: Thank you. This is probably for Mr. Cabebe. We had a slide on the beach access. It's currently not finished. Do you have any projection on when that beach access will be completed and opened?

Mr. Cababe: I'll have Jackie Scheibel answer that question for you.

Chairperson Lay: and Jackie please identify yourself for the record. Thank you.

Ms. Jacqueline Scheibel: Hi, I'm Jacqueline Scheibel. I co-chair the Long Range Plan. And we've been working on this project coming on our third year. The steps to the beach are complete. The handrails are already installed. The safety rails you know so that people can't climb over, fall down are complete, they're not yet installed, but the actual making of those rails are complete and we're just waiting for them to be installed. And so the most difficult part of the path to the beach already is done. The plan is laid out and it's part of the plan. And so it will be completed as we go along. We know exactly what we're gonna be doing with it. We've had MECO out because there's a transformer in the way and so they've agreed that it's not gonna be problem, we will just simply fence around it. They don't object to that. And so that was one of the issues and they were out just two weeks ago. So the transformer issue is handled. And so when our project is done, the path to the beach will be complete as well. I've had people out to look at fencing and we're gonna do the fencing. Our staff will be putting the fencing up. The gates we've already looked at. The gates will lock and they'll be locked at night and they'll be opened in the morning by our staff because we want to make sure that it's safe, but...and our thought was that we would open them, I know that the book says I think 9:00 in the morning till 7:00 at night. We thought we would follow whatever the Parks do, you know, and I have to look to see what those hours are, but we would follow the Park time. So we're looking at when the...if the SMA is approved and we can start construction because we have to do it in the summer...we have to have minus tides. If the SMA is approved now and we can start construction now we expect that it will take 10, 12 weeks to do the construction that would mean the path would be open at the end of that time.

Ms. Wakida: Oh you won't be opening the path before? You couldn't complete the—

Ms. Scheibel: It's part of the —

Ms. Wakida: Let me finish my question. You couldn't complete the beach access and open it before the rest of the seawall is done?

Ms. Scheibel: Well, part of it is, it's part of the grading. You know, I mean, grading is part of it, so it will be part of the whole project and so it won't be open before. It be open some time during that process.

Ms. Wakida: Thank you.

Ms. Scheibel: Okay.

Chairperson Lay: You wish to comment on that?

Mr. Kumar Siah: About that. I'm Kumar Siah, the structural engineer for the project. One of the conditions for us to be able to do that is securing a grading and grubbing permit which is part of the project so we cannot do that. Thank you.

Chairperson Lay: Commissioners, any more questions? Can we get the Department's recommendation?

b) Action

Mr. Buika: We have four permits here so I'll just do conclusions of law and recommendation one by one is that...

Chairperson Lay: Sure that would be good.

Mr. Buika: Okay. So the first is the Community Plan Amendment. The conclusion of law. The proposed community amendment action will bring the existing condominium/hotel use into conformity and consistency with County land use plans and policies including Chapter 205A, HRS as well as the Maui...West Maui Community Plan land use map. An Environmental Assessment in accordance with Chapter 343, HRS has been accepted by the Maui Planning Commission. As such, the application complies with Chapter 2.80(b).110 of the Maui County Code. The property has three-story building on it and has been used as a transient vacation rental under the variance issued in 1968. That's the conclusion of law.

And the recommendation, the Department of Planning recommends that the Maui Planning Commission recommend approval of the Community Plan Amendment from Single-Family to Hotel to the Maui County Council. That concludes my recommendation.

Mr. Tsai: So move.

Mr. Higashi: Second.

Chairperson Lay: Moved by Commissioner Tsai, seconded by Commissioner Higashi. Any discussion on the motion? Commissioner Hedani?

Mr. Hedani: Changing zoning to H-M?

Mr. Buika: Yes, sir.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: But we're only on the Community Plan Amendment not the Change in Zoning right now, correct?

Chairperson Lay: We're gonna take one by one on this. Yes.

Ms. Wakida: So we're just on the amendment, right?

Mr. Buika: Yes, ma'am.

Chairperson Lay: Call for the vote. All those in favor? Okay, that passes. Next.

Community Plan Amendment



It was moved by Mr. Tsai, seconded by Mr. Higashi, then

**VOTED: To Recommend Approval of the Community Plan Amendment from Multifamily to Hotel to the County Council as Recommended by the Department. To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.
(Assenting - M. Tsai, R. Higashi, J. Medeiros, J. Freitas, K. Ball, W. Hedani, S. Duvauchelle, P. Wakida)**

Mr. Buika: Okay, the conclusions of law for a Change in Zoning. The proposed change in zoning from R-3, Residential to H-M, Hotel conditioned with five height limitations to a maximum of three stories height meets the five required criteria. Those criteria are there on Page 2 of your recommendations report. I won't read those and as far as the recommendation, the Department of Planning recommends that the Commission recommend approval of the Change in Zoning to the Maui County Council subject to one condition. And the Change in Zoning is from R-3, Residential to H-M. Project specific condition that will be placed on this change in zoning reads, "That structures on the Kahana Sunset property shall be limited in height to no more than three stories with roof, including the ventilation compartments as currently configured as of July 22, 2014 accepting alternate energy devices approved by the Board of Directors of the Kahana Sunset and by the County of Maui if required, and accepting any new configurations as may be required by the

County of Maui.”

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I would like to make a slight adjustment to that project specific condition to read, “That current and future structures on the Kahana Sunset property shall be limited in height.” I really wanna see that tied in so that there's no loopholes in that, in that wording. I wonder if that would be agreeable?

Mr. Buika: Thank you. I noted that here.

Chairperson Lay: So we make an amendment on that.

Mr. Hedani: Move to approve the recommendation as amended.

Mr. Freitas: Second.

Chairperson Lay: Okay.

Mr. Hopper: The original motion was to approve as recommended then normally you would have amendment after that motion's been made to add that, to change that condition.

Ms. Wakida: We didn't have a motion yet.

Mr. Hopper: Yeah, so if there's no motion yet, then you can make a motion to discuss changes you wanna make now and then say you're going to do the motion with those changes and just make sure staff knows those changes if you wanna go that way.

Mr. Hedani: That's what I moved for.

Chairperson Lay: Approved yes. Motion to approve. Commissioner Ball?

Vice-Chair Ball: My concern with the way you read that was that there's no height limitation, it's story limitation.

Mr. Buika: Shall be limited in height to no more than three stories. So it is a story limitation.

Vice-Chair Ball: Right, so if you had 20-foot stories let's say which is weird, but I mean where do we wanna go with the height limitation of...County, right, whatever that is or no higher than the current—

Mr. Buika: It makes reference to as currently configured. So it does make reference to existing conditions.

Vice-Chair Ball: So no higher than it is now?

Mr. Buika: So no higher than it is now.

Vice-Chair Ball: That will be in there.

Mr. Buika: Yes.

Vice-Chair Ball: Is that how it would read 20 years from now?

Unidentified Speaker: It sets a date.

Mr. Buika: It says "as currently configured as of July 22, 2014." Except any changes to...if you put on solar, PV requirement.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Just a comment. I think the Council was going through a gyration trying to define what a story was in terms of feet. I'm not sure what they decided to do.

Chairperson Lay: Director?

Mr. Spence: I would also add to this that any improvements to this property, if they're gonna be changing a building or something like that, it's gonna be require a SMA Major and that's coming back to this Commission and they're gonna have to deal with view plains and all that stuff. You know, I'm pretty happy with the condition.

Mr. Buika: Thank you.

Chairperson Lay: Any more discussion on the motion?

Ms. Wakida: Who made the motion?

Chairperson Lay: Wayne. Jack seconded.

Mr. Hedani: I moved to approve with the amendment.

Chairperson Lay: Okay so we're back to the amendment.

Mr. Spence: Just so I'm clear. The motion's to approve with the recommendation that Penny was talking about to add future buildings.

Mr. Hedani: Right. It's to approve the recommendation to the Council with Penny's amendment which I think Jim picked up.

Chairperson Lay: Okay, so the motion on the floor, any more discussion? No? Penny?

Ms. Wakida: Just for the clarity for the record so the motion will read that current and future

structures of Kahana Sunset property?

Mr. Buika: Yes, so noted.

Ms. Wakida: Thank you.

Mr. Buika: I have that here. I'll make that change according to the amendment.

Ms. Wakida: Thank you.

Chairperson Lay: Okay, the Director wish to repeat the motion?

Mr. Spence: The motion was to approve as amended. To recommend to the County Council approval of the Change in Zoning with the one condition as amended.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes.

Change in Zoning

It was moved by Mr. Hedani, seconded by Mr. Freitas, then

**VOTED: To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.
(Assenting - W. Hedani, J. Freitas, J. Medeiros, K. Ball, M. Tsai, S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Buika: Thank you. The third action is approval or consideration of the Shoreline Setback Variance. This is conclusion of law, the shoreline setback variance application complies with the standards and criterias, core development in the shoreline setback area as set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission, Section 2, Purpose, and HRS Chapter 205A as amended, and as listed and addressed in the accompanying Department report for this project under the section, State and County Shoreline Rules; Analysis for Shoreline Setback Variance. The application complies with the six...with the applicable six criteria for approval of a variance in the shoreline setback area that's set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission specifically Sections, 12-203-15, Criteria for approval of a variance and these are under A 8, B, C, D, E, and F. And there are five.

So as far as the recommendation, the Maui County Planning Department recommends approval of the Shoreline Setback Variance application request subject to the following five conditions as required by Chapter 12-203-15, Criteria for approval of a variance. The five, they're on your green sheet, they're on Page 4. That the required conditions of every variance and Raymond had showed them on a slide that the applicant maintains and requires safe lateral access to and along the



shoreline for public use. That the applicant minimizes risk of adverse impacts on beach processes. That the applicant minimizes risk of structures failing and becoming loose rocks or rubble on public property. That the applicant minimizes adverse impacts on public views to, from, and along the shoreline. And finally, that the project shall comply with Chapter 19.62 and 20.08, Maui County Code relating to Flood Hazard Districts and Erosion and Sediment Control respectively. That concludes the recommendation. Recommends approval with those five conditions.

Mr. Medeiros: Move to approve.

Chairperson Lay: Motion by Commissioner Medeiros.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Any discussion on the motion?

Mr. Hedani: Call for the question.

Mr. Spence: The motion is to approve with the required conditions as recommended by Staff.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes.

Shoreline Setback Variance

It was moved by Mr. Medeiros, seconded by Mr. Hedani, then

**VOTED: To Approve the Shoreline Setback Variance as Recommended with
Conditions by the Department.
(Assenting - J. Medeiros, W. Hedani, J. Freitas, K. Ball, M. Tsai,
S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Buika: Thank you. And then finally, conclusions of law regarding the Special Management Area Use Permit. The Special Management Area Use Permit application complies with the applicable standards for the Special Management Area as follows on Page 3 of the recommendations page and as addressed in the accompanying Department report for the project and then these conditions that were reviewed are listed below A through L. The Department based on the facts presented in the Department report finds that the action as proposed does not have a significant adverse environmental and ecological effect since mitigation measures are incorporated into the project. And that said, action essentially meets the objectives, policies and guidelines of the SMA Rules and that the said actions are not restricted by or contrary to the General Plan, community plan and zoning. So the actions are consistent. So that's the conclusions of law.

And the Department's recommendation. The Maui Planning Department recommends approval of

the Special Management Area Use Permit subject to the following standard and project specific conditions. There are standard conditions on Page 5. I will not read those to you. You have reviewed those. There are six of them.

There are some project specific conditions. First one, 7 is archaeological monitoring will be conducted as required. A flood permit will be obtained, No. 8. 9, it has to do with flood lights, up lights, and those will be restricted along the shoreline. No. 10 is ensuring water quality and that marine resources are protected during the construction work. No. 11 is in regards to Department of Public Works, any required permits required there prior to beginning the work. No. 12 is regarding utilizing drought tolerant plants where possible. No. 13 is to protect...to put in during construction procedures that will protect endangered species such as honu. Instructing the construction crews, et cetera, stopping if there are any issues with endangered species. No. 14 are conditions that were placed on the project by the Department of Water Supply which are best management practices to ensure water quality during construction. No. 15 are best management practices from Department of Health requiring a National Pollutant Discharge Elimination System Permit, if required. An erosion control plan for the project. No. 16 also has to do with the Department of Health is dust control measures A thru F. 17 is construction of the seawall, the timing regarding doing it during certain seasons during low tide especially. No. 18, public access, the important one on the shoreline, public access. No. 19 is unique it requires the AOA and owners to be responsible for any clean up if any of the property falls into the ocean from damages and holds the County harmless. The Unilateral Agreement recorded with the Bureau of Conveyances or the Land Court on that one. And then No. 20 finally they have not gotten the State Certified Shoreline because they are working with the Department of Land...Bureau of Land and Natural Resources, Department of Land and Natural Resources. So at the conclusion, when the project is done, they will get their State Certified Shoreline and remove any additional encroachments as DLNR requires. And they will be required to submit a State Certified Shoreline at the conclusion of all of this remedial work along the shoreline. So that concludes the 20 conditions.

And finally, in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission Adopt the Planning Department's Report prepared for July 22, 2014 meeting and the Department's recommendation report prepared for the same meeting as its finding of fact, conclusions of law, and decision and order on the SM1 and the Shoreline Setback Variance Permits and authorizes the Director of Planning to transmit said decision and order on behalf of the Planning Commission.

And secondly that the Planning Department also recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation documents prepared for July 22, 2014 meeting, as its proposed findings of fact, conclusions of law, and decision and order on the community plan amendment and the change in zoning and authorize the Director of Planning to transmit the Maui Planning Commission's recommendation on the community plan amendment and the change in zoning to the Maui County Council. So I might be a little ahead of myself there, but the conclusion for the SM1.

Mr. Medeiros: So move.

Chairperson Lay: Motion by Commission Medeiros.

Vice-Chair Ball: Second.

Chairperson Lay: Second by Commissioner Ball. Any discussion on the motion?

Mr. Spence: The motion is to approve as recommended by Staff.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's eight ayes. Motion carries. Congratulations.

Mr. Buika: Thank you.

Special Management Area Use Permit

It was moved by Mr. Medeiros, Mr. Ball, then

**VOTED: To Approve the Special Management Area Use Permit as
Recommended by the Department.
(Assenting - J. Medeiros, K. Ball, J. Freitas, M. Tsai, W. Hedani,
S. Duvauchelle, P. Wakida, R. Higashi)**

Chairperson Lay: Moving on.

Mr. Spence: Commissioners, New Business, Mr. Gregg Lundberg, General Manager of Westin Maui, LLC requesting review and comments on the Draft Environmental Assessment and with us this afternoon is Ms. Ann Cua.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Director, I'd like to make a recommendation to you based upon the fact that looking at the myriad amount of SMAs that's been given to us would be assigned...I just kinda kept record of the information since March of 2014 and every month apparently there's the same SMAs that's been printed up with the planner.

Chairperson Lay: Maybe we should bring this up at the end. Let's bring this up later on when we take that up.

Mr. Higashi: At the end of our agenda report there's always a SMA report on what's happening and what's completed, et cetera, but I notice that most of it are repeat. In other words, the amount of the paperwork that is being generated for the same repeat, unless it's new—

Chairperson Lay: Commissioner, we'll deal with that when we reach that agenda item. That should be coming up and then we'll talk about that then.

Ms. Wakida: Later on the in the agenda.

Chairperson Lay: Yeah, we're gonna follow the agenda. When we reach that point, then we can discuss the matter.

Mr. Higashi: Excuse me.

D. NEW BUSINESS

1. **MR. GREGG LUNDBERG, General Manager of WESTIN MAUI, LLC requesting review and comments on the Draft Environmental Assessment (EA) in support of the Shoreline Setback Variance and the relocation of the existing County sewer line for the proposed Master Plan Improvements for the Westin Maui Resort & Spa, at 2365 Kaanapali Parkway, TMK: 4-4-008: 019, Kaanapali, Island of Maui. (EA 2014/001) (A. Cua)**

The proposed improvements include a new parking structure, new landscaping facility, ballroom expansion and meeting room expansion, new back of the house structure, demolition of structures, roof additions, spa improvements, relocation of existing sewer line, and other related improvements.

The approving authority of the Environmental Assessment is the Maui Planning Commission.

The EA trigger is the Shoreline Setback Variance and the relocation of the existing County sewer line.

The Applicant has also submitted applications for a Special Management Area Use Permit and a Shoreline Setback Variance. The public hearings on these applications will scheduled after the Chapter 343, HRS process has been completed.

The Commission may concur on the filing of the Draft EA and anticipated Findings of No Significant Impact (FONSI) determination with the Office of Environmental Quality Control (OEQC) for publication. It may also provide its comments on the Draft EA.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I think we're just making comments on the Draft EA for today. We're not voting?

Chairperson Lay: Yeah.

Mr. Hedani: I just wanted to disclose that the Westin is a member of Kaanapali Operations so if