



Landscape Architecture
City & Regional Planning

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OFFICE OF THE
COUNTY COUNCIL

February 20, 2014

Mr. Robert Carroll, Chairman
Council Land Use Committee
200 South High Street
Wailuku, Maui, HI 96793

Dear Chairman Carroll:

Regarding: Status of Settlement Agreement and Land Use Entitlement for the Maui Oceanfront Inn and Sarento's Restaurant (MOSR), located at 2980 South Kihei Road, Kihei, Maui, Hawaii;
TMK Nos.: (2) 3-9-004:029 and 149. (EA 2006/0015)
(CPA 2006/0005) (CP 2006/0012) (SM1 2006/0017)
(SSV 2006/0004) (OSP 2006/0002)

The above referenced applications have been inactive for some time following a request for clarification from the Council Land Use Committee Chair. In the process of obtaining additional information in reply to the Chair's request in 2011, the former Leaseholder and Applicant, Western Apartment Supply & Maintenance Company filed for bankruptcy.

The above referenced parcels lease, revocable permit and facilities were subject to the bankruptcy process and were ultimately purchased by a new entity, Ruby & Sons Hospitality, in June of 2012.

In September of 2013, Chris Hart & Partners, Inc., (CH&P) was retained by the new leaseholder to complete the processing of the above referenced applications.

Over the past few months CH&P has made significant progress with the Department of Land & Natural Resources in securing an Owner's Letter of Authorization for the completion of the Application process. The leaseholder has executed and submitted a Permit Indemnification letter for the DLNR for completion of the process. A letter of authorization is expected from the BLNR following review and acceptance of the Permit Indemnification Letter.

The applicant has resolved, or advanced as much as possible all, each of the items requested by the Council Land Use Committee Chair.

In light of this, we respectfully requests a meeting with you to review the project and status, and to request a position on the Council Land Use Committee's agenda following the receipt of a letter of authorization form the BLNR, which is anticipated during the first quarter of 2014.

The Applicant's progress on these outstanding issues is described below:

#1. Letter of Authorization:

This item is in progress with completion anticipated during the first quarter of 2014.

#2. Area of Revocable Permit and Area of Parcel 149:

This issue is resolved, as the Applicant has requested a Conditional Use Permit for a portion of the parking lot Parcel No. 149. The Applicant proposes to use only the area of 0.694 acres for parking, consistent with the existing Revocable Permit.

Parking uses will not occur outside of the area of the Revocable Permit or the requested Conditional Use Permit.

#2.a Area of Conditional Permit and area of Parcel 149:

The new Applicant and leaseholder is in negotiation with the State DLNR for a lease update. The Conditional Use Permit will not conflict with the area that is currently covered by a Revocable Permit.

Parking uses will not occur outside of the area of the Revocable Permit or the requested Conditional Use Permit.

#2.b. Status of Updated Lease for Parcel 149:

The new Applicant and leaseholder is in negotiation with the State DLNR, and is anticipating that an updated lease will be forthcoming.

#3. Status of Mitigation Measures:

Section 2.5.2: A right of entry was obtained from the Sate of Hawaii, and the Naupaka was removed from the shoreline area by the new Applicant and leaseholder.

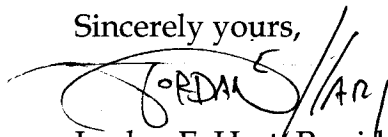
Section 2.5.3: Beach reserve signage has been posted and maintained as referenced in the Settlement Agreement. On September 19, 2010 the former Applicant and leaseholder's attorney requested written comment from the Interested Parties, and has followed up via telephone. Our office confirmed that to date there is no written reply or documentation of an agreement or of any negative comment on the particular words used for beach signage has been received from the Interested Parties.

Section 2.5.4: The Applicant has posted and maintained public parking signage as referenced in the Settlement Agreement. On September 19, 2010 the Applicant's attorney requested written comment from the Interested Parties, and has followed up via telephone. Our office confirmed that to date, there is no written reply or documentation of an agreement or of any negative comment on the particular words used for parking signage has been received from the Interested Parties.

Section 2.5.5: The Applicant has completed portions of 2.5.3 & 4 of the Settlement Agreement and has initiated completion of all other mitigation measures. The Applicant has been granted the referenced variances, contingent on completion of the Settlement Agreement. The Applicant will continue to pursue the completion of all portions of the Settlement Agreement.

Thank you for your consideration. Please contact me at 242-1955 or Jhart@CHPMaui.com for further information.

Sincerely yours,



Jordan E. Hart, President
Land Planner

Enclosures (1):

- Letter from Council Land Use Committee Chair dated 2012-02-09