

ALAN M. ARAKAWA  
Mayor

MICHELE CHOUTEAU MCLEAN  
Director

JOSEPH W. ALUETA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

RECEIVED

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OFFICE OF THE MAYOR

October 10, 2018

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

*Alan Arakawa* 10/10/18  
Mayor Date

Dear Chair White and Members:

**SUBJECT: APPLICATION FOR A CONDITIONAL PERMIT (CP) AND A  
RECOMMENDATION OF APPROVAL OF A CP FOR THE  
KUKAHIKO ESTATE SPECIAL EVENTS, LOCATED AT  
5034 MAKENA ROAD, MAKENA, ISLAND OF MAUI, HAWAII;  
TMK: (2) 2-1-007:079 (CP 2017/0004)**

The Department of Planning (Department) is transmitting for your review and action the CP application to allow the continued use of special events at the Kukahiko Estate filed by Ed Chang, Board Trustee on behalf of the John and Kamaka Kukahiko of Makena Corporation. A summary of the application is as follows:

APPLICATION SUMMARY	
Application - CP	The CP application is for the continued use of special events at the Kukahiko Estate
Applicant	Ed Chang, Board Trustee for John and Kamaka Kukahiko of Makena Corporation
Owner	John and Kamaka Kukahiko of Makena Corporation
Tax Map Key	(2) 2-1-007:079
Address	5034 Makena Road, Kihei, Hawaii 96753
Area	0.811 acres
Land Use Designations	State Land Use District: Urban Kihei-Makena Community Plan: Public/Quasi Public Title 19, Zoning: A-2 Apartment Located within the Special Management Area (SMA)

COUNTY COMMUNICATION NO. 18-377

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
October 10, 2018  
Page 2

Brief Description	The Applicant is requesting the continued use of approximately 110 small-scale (49 persons including guests and vendors) special events per year at the Kukahiko Estate.
Public Hearing	Held by Maui Planning Commission (Commission) on May 22, 2018, in Wailuku, Maui
Testimony	Verbal testimony was given on this application at the public hearing. There was testimony both favorable and against this application.
Recommendation	The Commission recommended approval with five (5) ayes, two (2) Commissioners excused, the Chair abstained from voting, and one (1) Commissioner seat was vacant.

The Commission reviewed the request on May 22, 2018, for a CP to allow the continued operation of special events at the Kukahiko Estate in Makena. The Applicant has been conducting special events prior to applying for a permit and continues to operate despite receiving Notices of Violation by the Department's Zoning Administration and Enforcement Division (ZAED).

The Commission recommended approval of the CP to the Maui County Council (Council). The Conditions of Approval (COA) as defined in the proposed Ordinance are:

1. That the CP shall be valid for a period of five (5) years from the effective date of this ordinance; provided, that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code (MCC).
2. That the CP shall be non-transferable unless approved by the Planning Director (Director). The Director may forward the request to the Commission.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject CP and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this CP, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this CP, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
October 10, 2018  
Page 3

non-performance of any of the terms and conditions of this CP. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of approval of this CP, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable Tax Map Key (TMK) and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Council in obtaining the CP. Failure to so develop the property may result in the revocation of the CP pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the Applicant may host a maximum of one hundred ten (110) events on site per calendar year.
7. That the number of guests per event shall not exceed forty-nine (49) persons including event staff.
8. That events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending at 9:30 p.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. No DJs or large bands are allowed.
9. That there shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. For special events for all guests and vendors must be accommodated onsite. For special events of twenty-one (21) guests and over, a shuttle is required in addition to the onsite parking.
10. That structures utilized for the event will not be left up for longer than twenty four (24) hours.

As Council approval is required for the CP, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

Honorable Alan M. Arakawa, Mayor  
For Transmittal to:  
Honorable Mike White, Chair  
October 10, 2018  
Page 4

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE GRANTING THE JOHN AND KAMAKA KUKAHIKO OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE COUNTY APARTMENT DISTRICT, TAX MAP KEY NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII";
2. Letter from Michele McLean, Director, to Mr. Rory Frampton, dated August 9, 2018, with the Commission's Recommendation for Council approval of the CP for the Kukahiko Estate Special Events;
3. Department's Recommendation to the Commission, dated May 22, 2018;
4. Department's Staff Report to the Commission, dated May 22, 2018;
5. Minutes of the May 22, 2018 Commission meeting; and
6. CP Application dated July 10, 2017.

Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



MICHELE MCLEAN  
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)  
Candace R. Thackerson, Staff Planner (PDF)  
Maui Planning Commission (PDF)  
Rory Frampton, Consultant (PDF)  
Ed Chang, Applicant  
Project File

MCM:CRT:ela

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CouncilTransmittal\_SpecialEvents.doc



ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE GRANTING THE JOHN & KAMAKA KUKAHIKO  
OF MAKENA CORPORATION A CONDITIONAL PERMIT TO CONDUCT SPECIAL  
EVENTS WITHIN THE COUNTY APARTMENT DISTRICT, TAX MAP KEY  
NUMBER (2) 2-1-007:079, MAKENA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to the John & Kamaka Kukahiko of Makena Corporation to conduct approximately 110 small-scale special events per year at 5034 Makena Road, Makena, Maui, identified for real property tax purposes by Tax Map Key number: (2) 2-1-007:079, within the County Apartment District, comprising approximately 0.811-acres of land situated at Makena, Maui, Hawaii.

SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

1. That the Conditional Permit shall be valid for a period of five (5) years from the effective date of this ordinance; provided, that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director. The Planning Director may forward the request to the Maui Planning Commission.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at his/her/their own cost and expense, and

shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the Applicant may host a maximum of 110 events on site per calendar year.
7. That the number of guests per event shall not exceed forty-nine (49) persons including event staff.
8. That events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending at 9:30 p.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. No DJS or large bands are allowed.

9. There shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. For special events all for guests and vendors must be accommodated onsite. For special events of twenty-one (21) guests and over, a shuttle is required in addition to the onsite parking.
10. That structures utilized for the event will not be left up for longer than 24 hours.

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

APPROVED AS TO FORM  
AND LEGALITY:



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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

LF 2018-1097  
2018-08-16 Ordinance

ALAN M. ARAKAWA  
Mayor

MICHELE CHOUTEAU MCLEAN  
Director

JOSEPH W. ALUETA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

August 9, 2018

CERTIFIED MAIL # 7016 1370 0001 8897 1843

Mr. Rory Frampton  
340 Napoko Place  
Kula, Hawaii 96790

Dear Mr. Frampton:

**SUBJECT: CONDITIONAL PERMIT (CP) FOR THE KUKAHIKO ESTATE  
SPECIAL EVENTS, LOCATED AT 5034 MAKENA ROAD,  
MAKENA, ISLAND OF MAUI, HAWAII; TMK: (2) 2-1-007:079  
(CP 2017/0004)**

At its regular meeting on May 22, 2018, the Maui Planning Commission (Commission) reviewed the above application, conducted the public hearing, and after due deliberation, recommended the Maui County Council's (Council) approval of the CP with the following conditions:

**CONDITIONAL PERMIT**

1. That the CP shall be valid for a period of five (5) years from the effective date of this ordinance; provided, that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code (MCC).
2. That the CP shall be non-transferable unless approved by the Planning Director (Director). The Director may forward the request to the Commission.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject CP and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this CP, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this CP, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or

suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this CP. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department of Planning (Department) within ninety (90) calendar days from the date of approval of this CP, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That the Applicant shall develop the property in substantial compliance with the representations made to the Council in obtaining the CP. Failure to so develop the property may result in the revocation of the CP pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That the Applicant may host a maximum of one hundred ten (110) events on site per calendar year.
7. That the number of guests per event shall not exceed forty-nine (49) persons.
8. That events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending at 9:30 p.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. No DJ's or large bands are allowed.
9. That there shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. Special events for all guests and vendors must be accommodated onsite. Special events of twenty-one (21) guests or more, a shuttle is required in addition to the onsite parking.
10. That structures utilized for the event will not be left up for more than twenty four (24) hours.

The CP conditions will be enforced pursuant to the provisions of Chapter 19.530, Section 19.530.030 of the MCC, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.



Mr. Rory Frampton  
August 9, 2018  
Page 3

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Candace Thackerson by email at [candace.thackerson@mauicounty.gov](mailto:candace.thackerson@mauicounty.gov) or by phone at (808) 270-7180.

Sincerely,



MICHELE MCLEAN  
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)  
John S. Rapacz, Planning Program Administrator (PDF)  
Candace R. Thackerson, Staff Planner (PDF)  
Carolyn Takayama-Corden, Secretary to Boards & Commissions (PDF)  
Project File

MCM:CRT:ela

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**BEFORE THE MAUI PLANNING COMMISSION**

**COUNTY OF MAUI**

**STATE OF HAWAII**

**In the Matter of the Application of**

**KUKAHIKO FAMILY CORPORATION –  
WEDDINGS AND EVENTS**

**To Obtain a Conditional Permit to allow  
approximately 110 small-scale (50 guests  
maximum) special events per year at the  
Kukahiko Estate located at 5034 Makena Road  
on Maui Tax Map Key (2) 2-1-007:079, Makena,  
Maui, Hawaii**

**DOCKET NO.: CP 2017/0004**

**Ed Chang, Board Trustee on behalf of  
John and Kamaka Kukahiko of Makena  
Corporation  
(CRT)**

**MAUI COUNTY DEPARTMENT OF PLANNING'S RECOMMENDATION  
TO THE MAUI PLANNING COMMISSION  
MAY 22, 2018 MEETING**

**DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HI. 96793**

**Conditional Permit,**

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BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Application of

KUKAHIKO FAMILY CORPORATION -  
WEDDINGS AND EVENTS

To Obtain a Conditional Permit to allow approximately 110 small-scale (50 guests maximum) special events per year at the Kukahiko Estate located at 5034 Makena Road on Maui Tax Map Key (2) 2-1-007:079, Makena, Maui, Hawaii

DOCKET NO.: CP 2017/0004

Ed Chang, Board Trustee on behalf of  
John and Kamaka Kukahiko of Makena  
Corporation  
(CRT)

**CONCLUSIONS OF LAW**

**Conditional Permit**

The application complies with the applicable standards for a Conditional Permit as established in the Planning Department's Report to the Maui Planning Commission, May 22, 2018, Docket No. CP 2017/0004 as follows:

A Conditional Permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the Conditional Permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Upon finding that reasons justifying granting of a Conditional Permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a Conditional Permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

Should the Commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the Commission shall recommend denial of the request and may instruct the Applicant to seek a change in zoning should the facts warrant such an application.

Every Conditional Permit shall be conditioned upon the proposed development fully complying with all requirements of Title 19 and other applicable governmental requirements.

The Planning Department finds that the proposed continued use meets the criteria for the issuance of a Conditional Permit. The use has been, and will continue to be, in harmony with the area. Further, the proposed continued use is not detrimental to the public interest, convenience, or its welfare.

### **RECOMMENDATION**

Maui County Planning Department recommends that the Maui Planning Commission recommend approval of the Conditional Permit to the Maui County Council, subject to the following conditions:

1. That the Conditional Permit shall be valid for a period of five (5) years from the effective date of this ordinance; provided, that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director. The Planning Director may forward the request to the Maui Planning Commission.
3. That the Applicant and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at his/her/their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit, or prior to starting operations, whichever is first. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.
4. That the Applicant shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That noise generating activities or amplified music shall not occur past 9:30 p.m.

The Conditional Permit conditions will be enforced pursuant to the provisions of Chapter 19.530, §19.530.030 of the Maui County Code, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.

In consideration of the forgoing, the Maui County Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendations prepared for the May 22, 2018, meeting as its Findings of Fact, Conclusions of Law, and Recommendation and to authorize the Director of Planning to transmit said Recommendation to the Maui County Council on behalf of the Maui Planning Commission.

APPROVED:

  
WILLIAM SPENCE  
Planning Director



**BEFORE THE MAUI PLANNING COMMISSION**

**COUNTY OF MAUI**

**STATE OF HAWAII**

**In the Matter of the Application of**

**KUKAHIKO FAMILY CORPORATION –  
WEDDINGS AND EVENTS**

**To Obtain a Conditional Permit to allow  
approximately 110 small-scale (50 guests  
maximum) special events per year at the Kukahiko  
Estate located at 5034 Makena Road on Maui Tax  
Map Key (2) 2-1-007:079, Makena, Maui, Hawaii**

**DOCKET NO.: CP 2017/0004**

**Ed Chang, Board Trustee on behalf of  
John and Kamaka Kukahiko of Makena  
Corporation  
(CRT)**

**MAUI COUNTY DEPARTMENT OF PLANNING'S REPORT  
TO THE MAUI PLANNING COMMISSION  
MAY 22, 2018 MEETING**

**DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HI 96793**

**Conditional Permit**

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BEFORE THE MAUI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Application of

KUKAHIKO FAMILY CORPORATION –  
WEDDINGS AND EVENTS

To Obtain a Conditional Permit to allow approximately 110 small-scale (50 guests maximum) special events per year at the Kukahiko Estate located at 5034 Makena Road on Maui Tax Map Key (2) 2-1-007:079, Makena, Maui, Hawaii

DOCKET NO.: CP 2017/0004

Ed Chang, Board Trustee on behalf of  
John and Kamaka Kukahiko of Makena  
Corporation  
(CRT)

**DESCRIPTION OF THE PROJECT**

This matter arises from an application for a Conditional Permit filed on November 6, 2017. The application was filed by Rory Frampton Consulting Inc. ("Consultant"), on behalf of Ed Chang, Board Trustee for John and Kamaka Kukahiko of Makena Corporation ("Applicant"), pursuant to Chapter 19.40, Maui County Code regarding Conditional Permits. The Conditional Permit would provide the opportunity to continue a use that is not specifically permitted within the "A-2 Apartment District" but is a use that is similar and compatible to permitted uses in the district such as transient vacation rentals and short-term vacation homes.

The Applicant is requesting a County Conditional Permit to continue to host approximately 110 small-scale (50 guests maximum) special events and weddings per year at the Kukahiko Estate, located at 5034 Makena Road, Makena, Hawaii TMK (2) 2-1-007:079 ("Property"). A Location Map, TMK Parcel Map, and Aerial Photograph are included as Exhibits 1, 2 and 3. Most events are small wedding ceremonies or vow renewals consisting of fewer than 20 guests and take place during the late afternoon. The Applicant filed this application of their own accord, and the Applicant has worked diligently to communicate with and minimize potential impacts of the events on the closest neighbors.

Operations are managed by the Trustee members, Mr. Ed Chang, who resides approximately 0.2 miles from the project site or less than five minutes away. Weddings, receptions, vow renewals, and other similar events to take place at the project site are subject to a rental agreement made between the Kukahiko Corporation and the Event Coordinator and/or responsible agent. This agreement sets the times, costs and rules of using the Property for the agreed upon event activity. The Property may be rented in full for events and include both dwellings (Main Dwelling and Bridal Suite) as well as use of the lawn/ceremony space or the Property may be partially rented to include use of the lawn/ceremony space only. The number of guests at the event on the Property shall not exceed fifty (50) for full rental events and twenty (20) for lawn ceremony only events. All events must have an Event Coordinator or Responsible Agent onsite during the entire time of the event as well as the completion of breakdown and cleanup. All event attendees must vacate the property fifteen (15) minutes prior to the end of the event and shuttle services are

utilized for events larger than 20 guests. When utilized, all shuttle buses must pick up guests no later than one-half (1/2) hour prior to the end of the event. Vendors and staff may remain to quietly clean up and break down event. Events may take place between the hours of 8am and 10pm, no earlier and no later. The number of hours allotted for an event between these hours is determined by the rental agreement but most full rentals allow use of the property for twelve (12) hours, morning rentals allow for use of the property for seven (7) hours, and Lawn/Ceremony Only events typically allow use of the property for three (3) hours only. There are no overnight stays for guests utilizing this Property. A Site Plan, photographs of the site as well as photographs of special event activities are included as Exhibits 4, 5 and 6.

Entertainment is allowed so long that only limited amplification is used with the prior approval of the Owner, Applicant or designated representative. No bands or DJ's are allowed and all music must be approved by the Owner and end no later than 9:30pm. Fire dancing and/or drums are strictly prohibited. Alcohol may be served. The event coordinator is responsible for providing certified bartender service for their event. Registration certificate(s) must be from the Department of Liquor Control, County of Maui. No alcohol may be sold or purchased on the Property and no alcohol may be served to minors under the age of 21. No alcohol may be taken off the Property or onto the beach per Hawaii State law. Any occurrence of violent, abusive, belligerent behavior, illegal activity, inappropriate conduct, fighting, arguing, yelling, presence/use of illegal drugs or drug paraphernalia will result in the immediate termination of the event.

All event catering vendors/caterers must comply with the State of Hawaii Department of Health rules and regulations and provide Applicant, Owner or designated representative a copy of their current Food Establishment Permit. If temporary structures such as tents are needed, the Applicant or designated representative will apply for the applicable building permits.

Applicant, Owner and their designated representatives have the right to enter and inspect the Property at any time during the event to ensure rules established in the rental agreement are adhered to. Property managers, Owner, and designated representatives reserve the right to "cut-off" or discontinue serving alcohol to any or all clients, guests and/or event attendees at their discretion. The Coordinator/Agent must provide liability insurance of no less than One Million Dollars (\$1,000,000.00) which names the Kukahiko Corporation as an additional insured and assumes full liability for any injury that happens to any guests, event attendees, clients or vendors while on the property.

### **Parking**

A maximum of eight (8) cars including vendors and staff are allowed to park on site. Use of a shuttle service is strongly encouraged for event guests, and events with parties of twenty (20) attendees or more will be required to utilize a shuttle service.

### **Project need**

The neighborhood within which the Property is located is extremely exclusive with the homes worth tens of millions of dollars. Many of the homes and condos in this area are vacation homes owned by non-residents. As such, property taxes alone on the property were \$52,591 in 2016. Maintenance of the ocean front property with the challenges of elements is extremely costly as well. Ownership of the Property has been maintained by the Kukahiko family for generations, with some family members, including the Applicant's great, great grandfather, buried in a small cemetery adjacent to the north east portion of the Property. In order to keep the property in this family's care

and to provide a future for the growing number of descendants, the Applicant is requesting to continue using the Property for event rentals, in the same manner as the last several years.

### **DESCRIPTION OF THE PROPERTY**

1. The Property is approximately 0.811 acres and located at 5034 Makena Road, Maui Tax Map Key (2) 2-1-007:079, Makena, Island of Maui, Hawaii (**Exhibit 1 and 2**).
2. Land Use Designations (**Exhibit 7 and 8**)
  - a. State Land Use District: Urban
  - b. Maui Island Plan: Urban Growth Boundary
  - c. Kihei-Makena Community Plan: Public/Quasi Public
  - d. County Zoning: A-2 Apartment District
  - e. Other: Located in the SMA
3. Surrounding Uses (**Exhibit 3**)

North --	Single Family Homes, Hale O Makena Condominiums, Makena Surf Resort Condo Rentals
East --	Makena Alanui Road, Vacant Land, Golf Course
South --	Single Family Homes, Makena Landing Park and Makena State Park
West --	Pacific Ocean

4. The project area is developed with a main dwelling, detached garage and a secondary dwelling. The site is located on gently sloping land. Elevations on the site range from approximately 0 feet above mean sea level at the western boundary of the Property to approximately 40 feet above mean sea level at the southeastern boundary of the site. The soils of the proposed project site are classified as Makena loam, stony complex, (MXC) with slopes ranging between 3 and 15%, (**Exhibit 9**). These soils cover the entirety of the project site. These soils are generally classified as not prime farmland. The FEMA Flood Insurance Rate Map Panel Number 150003 0678F as revised September 19, 2012 indicates that the majority of the project site is in an area of minimal flood hazard, Zone X (**Exhibit 10**). Areas in Zone X have a 0.2% annual chance of flood. The map also indicates a small portion of the southern makai corner of the Property, lies within flood Zone VE. Areas in Zone VE are subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action. The events will not occur in Zone VE. The site is also located within the coastal tsunami evacuation area.

### **APPLICABLE REGULATIONS**

#### **CONDITIONAL PERMIT**

A conditional permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended.

#### **Chapter - 19.40.010 Intent:**

The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed

for a particular location. (Ord. 1684 § 2 (part), 1988)

**Chapter - 19.40.070 Establishment:**

1. Upon finding by the appropriate planning commission that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.
2. Should the commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change in zoning should the facts warrant such an application.
3. Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of this title and other applicable governmental requirements.
4. Approval of a conditional permit shall be through enactment of an ordinance by the council, in accordance with the provisions of the charter. (Ord. 1985 § 1, 1991: Ord. 1684 § 2 (part), 1988)

**Chapter 19.40.080 - Conditions, amendments, modifications:**

- A. Conditional permits may be issued subject to such terms and conditions deemed reasonable and necessary to fulfill the intent and purposes of this title. All changes in the use or appearance of land or buildings allowed by the permit shall be in accordance with the specified conditions and the proposal as approved. Such permit shall be issued subject to compliance with and/or fulfillment of such terms and conditions and shall so state.
- B. Any person who has been issued a conditional permit may request the commission to review a request to amend or delete any terms and conditions imposed upon such permit.
- C. The commission on request or on its own initiative may recommend action to revoke any conditional permit or amend or delete any terms, conditions, and time stipulations of such conditional permit if such action is deemed necessary to effectuate the purpose and intent of this chapter. The commission shall provide due notice in writing to the applicant/permittee and an opportunity for a hearing.
- D. The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review. (Ord. 3827 § 1 (part), April 2011)

**PROCEDURAL MATTERS**

1. On **November 6, 2017**, the Department of Planning received the Conditional Permit application.



2. On **November 17, 2017**, the Department of Planning transmitted the applications to various government agencies for review and comment.
3. On **April 5, 2018**, the Department of Planning filed a Request for Service (RFS 18-0000495) in reference to operating without a permit.
4. On **April 11, 2018**, 41 days prior to the hearing, the Maui County Planning Department mailed a notice to the applicant and appropriate state and county agencies notifying them of the scheduled public hearing.
5. On **April 18, 2018**, the applicant mailed letters of notification and location map to all owners and recorded lessees within 500 feet of the subject property describing the applications and notifying them of the scheduled hearing date for the Conditional Permit, time and place by either certified or registered mail receipt.
6. On **April 20, 2018**, a notice of hearing on the applications was published in the Maui News by the Maui County Planning Department.
7. The subject application does not involve an action that triggers compliance with Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.

#### **REVIEWING AGENCIES**

<b>County Agencies:</b>	<b>Comment</b>	<b>Exhibit Number</b>
Department of Fire & Public Safety	Yes	11
Applicant response letter		11a
Department of Public Works	Yes	12
Applicant response letter		12a
Department of Water Supply	Yes	13
Applicant response letter		13a
Police Department	No	14
Department of Environmental Management	No	15
<b>State Agencies:</b>		
Department of Health	Yes	16
Applicant response letter w/ calculations		16a

#### **ANALYSIS**

##### **LAND USE**

1. The project is in conformance with the goals, objectives and policies of the Hawaii State Plan.
2. The proposed project is in the State Urban District. The proposed uses conform to the State

Urban designation of the property.

3. As stated in the Maui County Charter, as amended in 2002:

"The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development."

The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

1. A vision statement and core values for the County to the year 2030
2. An explanation of the plan-making process
3. A description and background information regarding Maui County today
4. Identification of guiding principles
5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
  - A. Protect the Natural Environment
  - B. Preserve Local Cultures and Traditions
  - C. Improve Education
  - D. Strengthen Social and Healthcare Services
  - E. Expand Housing Opportunities for Residents
  - F. Strengthen the Local Economy
  - G. Improve Parks and Public Facilities
  - H. Diversify Transportation Options
  - I. Improve Physical Infrastructure
  - J. Promote Sustainable Land Use and Growth Management
  - K. Strive for Good Governance

The proposed action is in keeping with the following Countywide Policy goals, objectives, policies and actions:

- F. Strengthen the Local Economy

**Objective:** Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.

**Policies:**

- Support and promote locally produced products and locally owned operations and businesses that benefit local communities and meet local demand.

**Objective:** Support a visitor industry that respects the resident culture and the environment.

**Policies:**

- Recognize the important contributions that the visitor industry makes to the County's economy, and support a healthy and vibrant visitor industry.

4. The Maui Island Plan (MIP) was adopted by the County Council on December 28, 2012. The Plan provides direction for future growth, the economy, and social and environmental decisions through the year 2030. The Plan looks comprehensively at many factors that influence the physical, social and economic development of the island. In addition to establishing a directed growth strategy to identify areas appropriate for future urbanization and revitalization, the Plan also identifies and addresses key environmental, housing, and economic development issues relevant to Maui's current and future generations. The Plan is intended by the County Council, Planning Department, and Maui Planning Commission as a policy foundation for day to day decisions and is specifically intended to be used to assist in reviewing discretionary permits.

The subject parcel is in the MIP Urban Growth Boundary (UGB). The proposed project is in keeping with the following MIP goal, objective, and policy:

#### **Economic Development**

**Goal: 4.1:** Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.

**Objective: 4.1.1:** A more diversified economy.

**Policy: 4.1.2.b:** Encourage and support local businesses.

4.1.3.d: Encourage, nurture, and reward entrepreneurship and innovation.

**Goal: 4.5:** Small businesses will play a key role in Maui's Economy.

**Objective: 4.5.1:** Increase the number of and revenue generated by small businesses and decrease the percentage of small business failures.

Policy: 4.5.1.c: Reduce barriers to small business development.

5. According to the Kihei-Makena Community Plan the parcels are identified as Public/Quasi Public. The proposed project is in keeping with the following community plan goals, objectives and policies:

**Cultural Resources**

**Goal:** Identification, preservation, enhancement, and appropriate use of cultural resources, cultural practice, and historic sites that:

**Objective and Policies:** Recognize and respect family ancestral ties to certain sites.

**Environment**

**Goal:** Preservation, protection, and enhancement of Kihei-Makena's unique and fragile environmental resources.

**Objective and Policies:** Maintain and enhance the long-term availability of shoreline resources for public enjoyment through adequate access, space, and facility provisions, and through on-going resource management programs.

**Cultural Resources**

**Goal:** A diversified and stable economic base which serves resident and visitor needs while providing long-term resident employment.

**Objective and Policies:** Increase the availability and variety of commercial services to provide for regional needs and strategically establish small scale commercial uses within, or in close proximity to, residential areas.

6. County Zoning. The parcel is zoned A-2 Apartment District. Special events are not permitted uses in this districts, therefore, a Conditional Permit is required.

As set forth in Chapter 19.40 of the Maui County Code, the intent of the conditional permit is to provide the opportunity to establish uses that are not specifically permitted within the apartment and residential zoning districts where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. The Maui Planning Commission may recommend approval for a conditional permit if it finds that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located.

The proposed use is similar, related and compatible to permitted uses within Chapter 19.12.020, Maui County Code A-2 District:

A. Any use permitted in the residential and duplex districts.

G. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989.

H. Bed and breakfast homes

I. Short term rental homes.

The Makena area is considered a resort destination area and contains uses permissible in the A-2 District which are dedicated to tourism including short term rental homes and transient vacation rentals. Tourists are drawn to the area in part because of the beautiful natural coastal features. Visitors are also drawn to the Makena and Wailea area by the visitor accommodations and services offered in the main visitor hub of Wailea but seek private, scenic, quiet and intimate locations for weddings, vow renewals and receptions. The proposed request would allow use of the coastal property for special events while at the same time preserving the residential scale and character of the area. Thus, the requested use is similar, related and compatible to permissible uses in the A-2 District.

Holding a maximum of 110 special events per year on the Property is not anticipated to be significantly detrimental to the public interest, convenience or welfare. Potential adverse impacts on the existing physical environment are not anticipated. The events and their associated parking are not anticipated to adversely impact environmental conditions, the area's current public infrastructure, nor public services. It is anticipated that the special events use of the property will continue to exist in harmony with the surrounding area.

6. The subject property is located within the Special Management Area of the Island of Maui. Each event will be required to obtain an SMA permit. The proposed development meets the goals and objectives of Chapter 205A, Hawaii Revised Statutes (HRS) as follows:

**Recreational Resources:** The proposed project will not impact coastal recreational resources. While the event site is located adjacent to the ocean fronting the Property, it is a rocky shoreline and the public has use of the nearby Makena Landing Park and Makena State Beach Park.

**Historic Resources:** There are no known historic or archaeological sites on the subject property, however a family grave site is adjacent to the subject property boundary to the north. The family graves are situated on a separate TMK parcel which is owned and maintained by the Applicant. The Applicant's request does not involve any new construction or significant land use change and would not impact the existing public access pathway or use of the shoreline for traditional and customary coastal related activities.

**Scenic and Open Space Resources:** The Property is already developed and will not impact scenic or open space resources. Coastal access is provided via a path that runs along the northern boundary of the Property and views to the ocean exist over this northern portion of the property. A view corridor toward the ocean also exists between the structures.

**Coastal Ecosystems:** The use of the special events should have no significant effect on coastal ecosystems of biological or economic importance. The events are temporary in nature and no ground altering activities are proposed.

**Economic Uses:** The project will support event related employment for local residents and businesses.



**Coastal Hazards:** The event site is located in Flood hazard Zone X and VE, an area of minimal flooding.

**Managing Development:** Through permit processes agency review and public participation will occur.

**Public Participation:** Through permit processes agency review and public participation will occur.

**Beach Protection:** The use of the Property for temporary special events is not anticipated to interfere or affect natural shoreline processes or improvements along the shoreline.

**Marine Resources:** Marine Resources are not anticipated to be affected by the use of the property for special events.

In addition to the foregoing objectives and policies, SMA permit review criteria pursuant to Act 224 (2005) provides that:

No special management area use permit or special management area minor permit shall be granted for structures that allow artificial light from floodlights, uplights, or spotlights used for decorative or aesthetic purposes when the light:

- (1) Directly illuminates the shoreline and ocean waters; or
- (2) Is directed to travel across property boundaries toward the shoreline and ocean waters.

The proposed project's lighting design will specify the shielding of all lights and use of directional down lighting. These design considerations will mitigate light pollution and prevent lighting from traveling across property boundaries. All exterior lighting will comply with the County's outdoor lighting ordinance.

## **AGRICULTURE**

The proposed project is not located on lands zoned as agricultural.

## **ARCHAEOLOGICAL, HISTORIC AND CULTURAL RESOURCES**

There are no known historic or archaeological sites on the subject property. The property itself is not an area where traditional and customary cultural activities take place, however, the abutting coastline is an area where traditional activities related to gathering of ocean and marine resources continue to take place. As noted above, an existing public access provides a pathway to the shoreline. A small cemetery containing the remains of Kukahiko ancestor(s) is located just outside the Property near the northern boundary. The Applicant's request would not involve new construction or significant land use change and would not impact the existing public access pathway or use of the shoreline for traditional and customary coastal related activities. Furthermore, the events are temporary and do not require the construction of any permanent structures. It is not anticipated that the proposed action will have any adverse impacts on archaeological, historic or cultural resources.

## **INFRASTRUCTURE AND PUBLIC FACILITIES AND SERVICES**

1. **Water:** The Kihei area is serviced by the County of Maui's Central Maui Water System which is comprised of ground water and surface water primarily from Iao Valley and other centrally located secondary wells, tunnels and surface waters. The Property is currently served by the County of Maui Department of Water Supply. The majority of water consumption at the Property is dedicated to irrigation purposes with a small portion serving domestic needs of family visits and wedding or event water needs. No change to the existing water system is being proposed. The Department of Water Supply had no comments (**Exhibit 13**).
2. **Sewers:** The Property is currently served by an aerobic individual wastewater septic system consisting of a 1000-gallon whitewater aerobic tank unit and 500-SF of soil absorption seepage pit. The unit was designed to treat a project flow of five (5) bedrooms. There are currently three (3) bedrooms and a loft between the three (3) dwellings on the property being served by the wastewater system. There is no existing potable drinking water well within 1,000 feet of the proposed disposal system. The system was installed in 2003 by Linda Taylor Engineering, Inc. and approved by the Department of Health as it conforms with the provisions of Hawaii Administrative Rules, Title 11, Chapter 62. The Department of Health comments are included as **Exhibit 16**.
3. **Drainage:** There are existing drainage improvements in place on the Property. A retaining wall and other drainage improvements were approved during the building permit process and installed during the construction of the two existing dwellings and garage on the Property. The Applicant's request would not involve new construction or significant land use change and as such would not impact onsite or off-site drainage systems.
4. **Roadways, Curbs, Gutters and Sidewalks:** Makena Alanui Road is the primary route serving the Makena region. Access to the Property is provided via Makena Road, an existing minor road that branches from Makena Alanui towards the ocean and culminates in a cul-de-sac near Maluaka Beach. Makena Road traffic is light and primarily attributed to residential and beach traffic. The Property is connected to Makena Road via a driveway and approximately eight off-street parking stalls are provided on the Property. Use of a shuttle service will be required by the Applicant for all events with 20 or more guests. The proposed activities are not anticipated to have adverse impacts to traffic and roadway infrastructure in the region.
5. **Electrical and Telephone:** Electric service is currently provided to the Property by Maui Electric. Telephone service is also available. With the use of the Property for special events, electrical and telephone services will not be detrimentally affected.
6. **Parks:** There are twenty-seven (27) parks in the Kihei-Makena region that provide recreational opportunities to the community. Makena Landing Park and Makena State Beach Park are nearby the parcel, but are not anticipated to be affected by this project.
7. **Schools:** The Kihei-Makena region is served by Kihei School and Kamalii School (Elementary), Lokelani Intermediate and Maui High School and Kihei Charter School. Educational facilities will not be adversely affected by the use of the Property for special events.
8. **Solid Waste:** The Central Landfill is the primary landfill on Maui and the nearest solid waste facility to the Kihei region. Property is within the service area of the County of Maui Residential Refuse Collection Service with manual refuse collection from Makena Road residences every Wednesday. While within the service area of the County of Maui, there is no public or private refuse collection service contracted for the Property. All refuse collection and removal is taken

care of by the Applicant, Owner, or Agent for Kukahiko family visits or by the event coordinator for weddings, receptions, and other events. Waste generated during events primarily consists of food waste, beverage container waste, and paper waste. Clean up of the Property, including the removal of any refuse generated during, before and after an event, will continue to be the responsibility of the event coordinator. It is stated clearly in any event Property rental contract that the Property must be left in the same condition as it was found. Thus, no additional burden is placed on residential refuse collection services as all waste generated by an event is removed from the Property to appropriate disposal sites by event coordinator or by those contracted for each event to do so. The Department of Environmental Management had no comments on this project (**Exhibit 15**).

## **9. Public Services:**

### Police

The County of Maui's Police Department is headquartered in Wailuku, Maui. Kihei is served by the Kihei Police Station, located at 2201 Pi'ilani Hwy., Kihei, Maui, HI 96753. The Maui Police Department did not have any comments (**Exhibit 14**).

### Fire

Fire prevention, suppression and protection services are offered by the County's Department of Fire and Public Safety. 14 fire stations serve Maui County with two located in the Kihei-Makena region, the Kihei Fire Station and the Wailea Fire Station. The Wailea Fire Station is located at 300 Kilohana Drive, Kihei, Maui, HI 96753 located approximately four (4) miles from the Property. A fire hydrant is located across Makena Road from the Property, approximately 100-feet from the Property's driveway. Two fire extinguishers are located on the Property, one in the main dwelling's kitchen and one in the garage. The Department of Fire and Public Safety requires that events utilizing tents and/or canopies larger than 700 feet in size require flame-resistance certificates and must apply for a Temporary Membrane Structures Permit from the Fire Prevention Bureau. It is not anticipated that holding special events on the Property will negatively impact Maui County Fire services. Comments from the Department of Fire and Public Safety are included as **Exhibit 11**.

### Medical

Maui Memorial Medical Center, the only major medical facility on the island, services the island of Maui. Acute, general and emergency care services are provided at this 231-bed facility. Several medical and dental offices are located in the Kihei area to serve the region's residents.

The proposed project is not anticipated to affect police, fire, medical services or create a need for an extension beyond existing service area limits.

## **SOCIO-ECONOMIC IMPACTS**

The proposed activities will help to preserve the long-term economic vitality by providing diversity to the activities, options and opportunities to visitors. Attracting visitors who wish to have a destination wedding will support the accommodations and food services offered in Wailea. General Excise Taxes generated from event venue rentals will further support Maui County and the State of Hawaii. Additionally, local jobs will be maintained for activities associated with florist services, cleanup, wedding coordination, entertainment, food catering, beverage services, cosmetic services, equipment/supply rentals, etc.

## **ENVIRONMENTAL IMPACTS**

The Applicant's request would not involve new construction or significant land use change. The proposed activities associated with the use are similar to those conducted in the region as Makena is known for its beach and resort weddings. Many of the surrounding uses such as Makena Place and Makena Surf Resort are located a significant distance from the Property. Additionally, the parcels surrounding the Property are large, ranging from approximately half (0.5) an acre to approximately five (5) acres in size resulting in significant space to buffer any event from neighboring activities. Only one abutting parcel is currently developed and the Applicant has communicated and worked with this particular neighbor to minimize potential impacts of the events. The proposed use is not expected to inhibit current or future surrounding land uses and operations. As such, the proposed project is considered to be compatible with surrounding land uses. Potential adverse impacts on the existing physical environment are not anticipated as the events are temporary in nature.

#### **OTHER GOVERNMENTAL APPROVALS THAT MAY BE REQUIRED**

An SMA Assessment and Shoreline Setback Assessment has been applied for by the Applicant to the Planning Department. These approvals will be held in abeyance until the Conditional Permit is approved. Liquor and Fire Department permits may also be required on a per event basis.

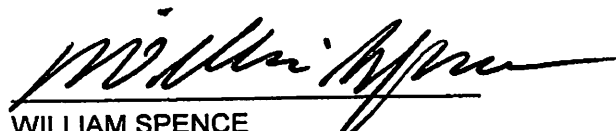
#### **TESTIMONY**

As of May 7, 2018, the Department of Planning has received no testimony in regards to this project.

#### **ALTERNATIVES**

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberations on the request.
2. Approve with no Conditions. The Commission may take action to recommend to the Maui County Council approval of the Conditional Permit without imposing any conditions.
3. Approve with Conditions. The Commission may take action to recommend to the Maui County Council approval of the Conditional Permit with conditions.
4. Denial. The Commission may take action to recommend to the Maui County Council denial of the Conditional Permit.

APPROVED:

  
WILLIAM SPENCE  
Planning Director

**MAUI PLANNING COMMISSION  
PORTION OF THE REGULAR MINUTES  
ITEM B-2  
MAY 22, 2018**

Mr. Spence: Okay Commissioners the next agenda item is Mr. Edward Chang, a board trustee of John and Kamaka Kukahiko of Makena Corporation. They're requesting a Conditional Permit to conduct weddings in Makena, and our Staff Planner this morning is Ms. Candace Thackerson.

- 2. EDWARD CHANG, Board Trustee for JOHN AND KAMAKA KUKAHIKO OF MAKENA CORPORATION requesting a Conditional Permit in order to utilize the property for small scale special events, weddings, and ceremonies at their property located in the A-2 Apartment District at 5034 Makena Road, TMK: (2) 2-1-007: 079, Makena, Island of Maui. (CP 2017/0004) (C. Thackerson)**

Ms. Candace Thackerson: Okay, good morning Commission.

Mr. Robinson: Good morning.

Ms. Thackerson: So the project we have before you is to obtain a Conditional Permit to allow approximately 110 small scale and had listed as 50 but they're actually gonna cap it 49, just so that's a correction on the record. Special events, 49 guests maximum special events per year at the Kukahiko Estate located at 1534 Makena Road, TMK: (2) 2-1-007: 079. So that's what's before you today. Your role today as the commission is to review and give a recommendation as County Council will be the approving body behind this permit today.

I also have before you there two letters of testimony that were against the project. One of them Thomas Savage, I called him and I spoke with him directly and he has withdrawn his comments but I still wanted to introduce them for the record. His comments were namely to protect the shoreline access which the family and the applicant has agreed to do. I personally snorkel down there and it's always open over by what we slang call you know the Five, Five Caves and stuff, that snorkeling point and he had some concerns about the noise or the number of events. And when I told him that it was going to be limited to 110 he felt more comfortable. So I was able to get ahold of him. The other letters I was not able to get ahold of them. They didn't put their phone numbers or emails so sometimes I get a hard copy letter and I can't contact people back to talk to them or to tell them to look at the staff report on line.

Also in front of you I have some proposed conditions. They were stated in the staff report. It's not anything new. We just thought to make it easier for our Zoning and Enforcement later to go out and things like that when it comes to that time to list them in the approval letter so that was an oversight on my part. So I just made them a little more specific so it's easier for anyone in the future looking at the permit and I'll go over those at the time of recommendation.

For now, I'll turn it over to Rory Frampton and he's gonna just give a short presentation on the project.

Mr. Rory Frampton: Thank you and good morning Commissioners. My name is Rory Frampton. I'm here representing –

Mr. Robinson: Good morning Rory.

Mr. Frampton: Good morning. The Kukahiko Family and with me today we have Ed Chang who's the...on the Board of Trustees. Also, Ransom Piltz, who's on the Board of Trustees as well. Mariah Gill is an environmental consultant that's helped me put the application together. She's here as well. So I'll quickly go through our slideshow.

So again, the project description the property itself consists of a main dwelling approximately 3,400 square feet in size, a detached garage and an accessory secondary dwelling. The land use designations are zoning is A-2, Apartment, the community plan is Public/Quasi-Public, it's in the State Urban District and within the Urban Growth Boundary.

The request is an after-the-fact approval of a Conditional Use Permit in order to continue using the property for events such as weddings, receptions, vow renewals and photo shoots and to establish compliance with the County Code. It doesn't involve any new construction or ground altering activities.

The project need, and I'll let Ed Chang speak to this in a little bit...in more detail, but this property has been in the family, has been owned by the family since 1883. The Kukahiko Corporation was formed when over time there were multiple heirs of the property and there were so many heirs you couldn't really subdivide the property so they formed a corporation in order to be able to maintain the ownership and again, Ed Chang will add a little bit more information there. And in the area, you know, the homes have been...are rather elaborate. The property's very valuable and the real estate or the real property taxes have really sky rocketed and they're upwards of \$50,000 a year for this property and so they've turned to small scale ceremonies and weddings in order to generate revenue so they can keep the property in family hands and to allow the property to be used by the family for special events and special occasions so it's like a family beach house.

So they have a lot of event rules and they're all listed in the staff report. The number of guests are limited to 49. There's a event coordinator has to be on property at all times. The owner, the representative of the owner has a right to enter the property at any time. The times are limited between 8:00 a.m. and 10:00 p.m. and the attendees have to leave 15 minutes before the end of the event. Of course, there's no...they don't allow for illegal drugs or violent, abusive behavior. Soft music is the only music that's allowed. It may be limited amplification if they ask the owner. The music has to stop by 9:30. There's rules regarding compliance with Liquor Control laws. The caterers have to comply with Department of Health. There can't be any big spotlights or decorative lights or major light like flood lights and that type of stuff. Any service that's more than 20 people they gotta have a shuttle service. There's limited parking available on site and there's...you know, there's no fire dancing or drums or aerial drones or ...(inaudible)...poppers are not allowed. So these are all house rules that when they signed the contract the people who were using the facility agreed to. These are all in place and have been put in by the applicant.

Other requirements that we're working with Candace on and if we're successful with the Conditional Permit, we'll have to get an SMA Minor Permit and Shoreline Setback Assessment to allow for the temporary placement of minor structures and activities within the shoreline area.

So here's a map that's a little hard to see out there but it's out on the point at Makena. Here's Makena Bay or Makena Landing and the hotel is just down the coast a little ways. Across the street you have Hale O Makena...well, across the street is Makena Place and you have Hale O Makena Condo community and there's various condominiums and the golf course in the area. This is an aerial view with the Kukahiko property at this area. You can't see the three dimensional aspect here but the road goes up a steep hill. These houses are at a higher elevation. There's the Kukahiko property at the lower elevation and the shoreline access runs right along the property to this point and it's a very popular swimming and diving spot off the coast as Candace noted. On this northern portion of the property is where there's an area where they can have the guest parking and then a lot of times the caterers park interiorly so you have the main house, the garage, and the ohana and adjacent to the property is a family graveyard where Ed's great, great grandparents, I think it's his great, great grandfather are buried.

So this is just another view of the property with the property here on the left and other properties on the shoreline there. This just shows the parcels in the area and that's the tax map key. So the community plan designation is Public/Quasi-Public. The property is not within a...there's a small tiny sliver hard to see on this map that's covered the tsunami zone but the majority of the property is outside of the tsunami zone. The house elevation pad is about 14 feet above sea level. So here's looking at the property from the road with the main dwelling and the garage and the ohana right to the right. This is looking from up on the hill kinda...you can see over the property. It's just a single story, fairly modest especially in comparison to the surrounding homes in that area. So the front of the house opens up. These sliding doors are actually resource sliders...recess sliders that go into the walls so they open the facility so it's kind of an indoor/outdoor experience and that's looking out towards the ocean from the lanai and it has a real nice lawn in the front of the property where a lot of the events are held. The garage has separate entrances, outside exterior entrances for the bathrooms and that's a picture of the ohana dwelling. I don't know why that photo's blank on that side, but this is what a typical lawn ceremony would look like and that's another...some photos of what the typical lawn ceremonies are. So I'm gonna ask Ed Chang to come up now and give a little bit of family history and history on the property and then we'll be available for any questions.

Mr. Robinson: While Mr. Chang is walking up, I didn't see a NOV notice within this packet and it's requested for all permits and homes. Are you able to get that for us Candace?

Ms. Thackerston: There's...at the time I wrote my application I had filed an RFS on the property knowing that it was operating at the time, but there was no NOV at that time. It was just an RFS which I turned in and made a note of in there.

Mr. Robinson: There's an RFS in this package.

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Ms. Thackerson: I don't print out the screen. I don't do B&Bs and short-term rental permits so usually we don't...I don't handle RFSs but I did make a note that I had...on Page...I think I put it under procedural matters.

Mr. Robinson: Procedural matters. Thank you Candace.

Ms. Thackerson: Yes, No. 3 on Page 6. On April 5, 2018 the Department of Planning filed a Request for Service in reference to operating without a permit.

Mr. Robinson: Thank you Candace.

Ms. Thackerson: Yeah, you're welcome. And now here's Ed Chang.

Mr. Ed Chang: Good morning Commissioners. Thank you for allowing me to speak.

Mr. Robinson: Good morning.

Mr. Chang: My name is Edward Chang. I'm one of the Director, Kukahiko Corporation. We have seven directors. My goal is to explain how we got here and I want to give you the history of the Kukahiko Family. I'm one...again, I'm one of the directors. My great great grandfather, John and Kamaka Kukahiko, his wife, built, bought the property from Ulupalakua Ranch in 1883. In 1902, he deeded the property to 10 of his children and one grandson. In 1969, 79 percent of the property was sold to non-family members. One of the buyers filed a suit to partition his share from the other undivided interest owners which basically were family. In 1973, 59 family members, the remaining people that did not sell any of their shares of the property. There were 59 of them formed a corporation and called it the John and Kamaka Kukahiko of Makena Corporation. In 1974, the property was partitioned to four owners. One of them was the Kukahiko Family and we got two parcels at that point in time. These parcels were approximately 15,000 square feet each. By 1997, the Kukahiko Corporation has three parcels. We've been in business, we've been in existence for 23 years, made no income on the property, and taxes had become a real burden. Everything in Makena is upgraded since the addition of Prince Hotel and the golf courses. The corporation by a majority of shareholders decided to sell the two parcels past Makena Landing and build for family use on the parcel that has the family graveyard, the pictures that Rory showed you. The house was completed in 2004 and property taxes continue to escalate. I'll just give you some rough numbers, 2001 - \$10,000, 2005 - \$33,000, 2010 - \$56,000, 2017 - \$52,000. The family has had property in Makena for a 135 years, since the purchase in 1883. The family Corp, Kukahiko Corporation has been in existence for 45 years. I might make some remark that not all the Kukahiko Family belongs to this corporation, only those that did not sell the property. We're the ones that's still existing. We still have one family that owns the parcel at Makena Landing and the parcel extended all the way to where the family graveyard is, where we eventually built like Rory had explained to you. Our goal is to maintain family property for family use and we do need some help. Thank you very much for your patience to listen.

Ms. Thackerson: Okay, we can either...the Chair can either...we can open the discussion or I can go over the proposed conditions that might help.



Mr. Robinson: If you're through with your presentation then I was going to do public testimony.

Ms. Thackerson: Okay.

Mr. Robinson: And then we can...when we asked for recommendation you can go over the conditions then or you can go over it now it's up to you.

Ms. Thackerson: No, no, I would rather just do them before maybe the discussion because it might answer some of the discussion questions, so...okay, but we can do public. Thank you.

**a) Public Hearing**

Mr. Robinson: At this time, I'd like to open up for public testimony. You'll have three minutes. Please state your name. Mr. Flannery, if you would like to speak sir.

Mr. Michael Flannery: My name is Michael Flannery and I own the property adjacent to—

Mr. Robinson: Mr. Flannery could you please speak into the mic sir. Thank you.

Mr. Flannery: My name is Michael Flannery and I own the property next door to the Eddie Chang property just to the south, up the hill which is about 60 feet above the Chang residence and we've had many problems over a long period of time. I had prepared a written statement and a verbal statement that for my notes to go over and I've made 10 copies of each and I want to pass them out to the board if that's okay. There also is one copy of an agreement that the Chang Family and I reached on some points of renting the property out over the last 10 years and I have a copy of that also. So I think there's 10 copies of each one of those there. I'm not a professional speaker and I get a little nervous when I do this...(inaudible)...me.

Mr. Robinson: You're doing great.

Mr. Flannery: You want to wait for that or you want—

Mr. Robinson: No, why don't you go ahead sir, your time.

Mr. Flannery: Well, on the verbal statement I started that I've been coming to Maui for approximately 40 years with my parents and vacationing here and we usually stayed in Wailea over that period of time and rented and fell in love with the community. Through those years I dreamed of building a home here when I retired some day and as that time went by 40 years later and I retired. I had some cancer issues and stopped working in 2000. The Wailea area had developed a lot over that period of time. When I first came here there was no Four Seasons or Grand Wailea and it was a rural area with a little shopping center that we enjoyed, a little market I guess mostly. And so when we decided to buy property we bought in a more remote area and we moved our search down to the Makena area. We found a beautiful piece of property there in a residential area I thought overlooking the ocean and we purchased the property, designed a beautiful home and built the home and which I thought was in a residential area. But when we got the home done and we started living there the Chang Family was putting on parties and

birthday parties and things and when we talked to them they said it was for family birthdays and events and that went okay for quite a period of time. And then a few years later it was apparent that they started renting the property out to different people for different events and music started getting louder and the participation started more often. A few years later the Chang Family hired a commercial planning company and put their ads on the internet to attract people from all over the world and the parties starting happening four to six times a week.

Ms. Takayama-Corden: Three minutes.

Mr. Flannery: With loud amplified music and DJs directing the dancing and the parties. Through that period of time, at least twice the parties got so loud and went till maybe midnight that my wife and I couldn't sleep. And we like to sleep with the doors open, no air conditioning.

Mr. Robinson: Mr. Flannery, I apology could you please wrap up your testimony.

Mr. Flannery: Wrap up?

Mr. Robinson: Will please wrap in a few seconds. I know, I'm sorry it's only three minutes for testimony. I apologize.

Mr. Flannery: Okay, I'll wrap up. So we called...at 10:30 at night we called the Chang Family which live about a quarter mile away and Eddie Chang was in bed, his wife woke him up and he appeared within five minutes to the event and shut off the music and he's worked with us over a period of time to try to control these events and control noise. As they continued to be fairly loud and we were having trouble sleeping I called for a meeting with the Chang Family and we went to their house and met with members of the Chang Family and laid out points that might work for both of us to be able to enjoy the properties.

Mr. Robinson: And is this what you have in front of us?

Mr. Flannery: The verbal statement and then there was a response to the Planning Commission report also. That I won't address since I don't have time.

Mr. Robinson: Okay, sir actually you don't have time. I appreciate it. It's in the future it's best to hand in your testimony ahead of time so we can read it and then we can ask you questions. I apologize it's –

Mr. Flannery: They didn't...they didn't give me that in the information that I was supposed to put in ahead of time.

Mr. Robinson: I apologize. But thank you. Commissioners is there any questions for our testifier? Yes, Commissioner Gomes.

Ms. Gomes: I do. Thank you for being here and providing testimony. I just want to know are you in opposition of this or I'm getting the impression you are.

Mr. Flannery: I'm in opposition of it from the standpoint of that it has to have regulations that make it suitable to be in a residential area and have a commercial business running. When I bought the property I had no idea there was going to be a commercial business running next door to me on a regular basis and it was loud and Eddie over the period of time as I say, Eddie has worked with me on this and I hope he continues to in the future. Still has a big impact on the residential area and the values of the property next door.

Ms. Gomes: And...sorry Chair, I have...you also, there's someone, there's another letter that was provided by you, Daren Darson is, is that you?

Mr. Flannery: No. No, that was after the meeting I had with the Chang Family. Daren was the person that was coordinating the events for Eddie and he responded to my request to help deal with the noise levels.

Ms. Gomes: I see. Okay, so he...you both are kind of on the same.

Mr. Flannery: We've been operating on this for the last five years and Eddie has honored most of this. However recently the amplified music has started a bit on some of the events.

Ms. Gomes: Okay, thank you.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. E kala mai ia'u. I'm just trying to visualize your house. Are you titanium house next door?

Mr. Flannery: Yes.

Kahu Hill: Okay. Am I understanding that you are okay with weddings or vow renewals or things on the property it's really about the noise, about the noise level or late at night the amount of people or the volume of the noise?

Mr. Flannery: Mostly the volume of the noise. We can't sit on our patio and have a barbeque dinner with guests and hear each other talk in the past. As I say in the last few years since we reached this agreement it has been better but it started to have amplified music again some of the time.

Kahu Hill: That's my main question. Mahalo.

Mr. Robinson: Yes, thank you. Any other Commissioners? Thank you for your testimony.

Mr. Flannery: There was one thing I wanted to mentioned about the planning report it will take me one minute can I do that or not?

Mr. Robinson: Sir, I'm sorry. You can hand it in though.

Mr. Flannery: It's handed—

Mr. Robinson: I apologize, I've given you more than double what I normally allow. Thank you. Is there anybody else that would like to testify at this time? Hi, please state your name and you have three minutes.

Ms. Zandra Amaral Crouse: Aloha, aloha kakahiaka, ...(inaudible)...good morning my friends.

Mr. Robinson: Aloha.

Ms. Amaral Crouse: Zandra Amaral Crouse and I'm testifying...I'm Principal Broker and Owner of Aina Hawaii ZEE Properties. However, I'm testifying as a private citizen. First of all, I know that many of you sitting on the Commission know the Chang Family and the Luuwais. I recall as a little girl we'd go in there and I'd stay at my girlfriend's grandfather's house, the Luuwai Family on the beach. And I also recall going to see the Changs and camping out at their place and them opening it up to every scout there was be it girls or boys. And I say this because I lived through a time as did most of you who were born and raised here, lived through a time when the Luuwais, the Medeiros, and the Ching Family was faced with the loss of their properties because the hotels went in and that escalated the property taxes beyond their ...(inaudible)...

These were simple people who worked really hard to maintain the ahupua'as and the land that was entrusted to them by their ancestors. And today, it gives me nothing but pride to see that the generations now through the Luuwais, the Chang Family and all the old families Upcountry and who are faced with losing their properties because of the increase in property taxes taking this different avenues of building revenue so that they can maintain because we know that land is so sparse. These families are large. They need the land for their children and their great grandchildren. I humbly ask you to help them in any way that you can, and I know that you will.

And also Mike I understand your problem in that noise can be a problem because I live abutting Haleakala Ranch on the Kihei side and when there's noise upside it comes down and what I hear Mike saying is that Ed Chang and his family as I've always known them too, as the Luuwais in Makena to be able to sit and as we say, olelo Hawaii, kukakuka, talk story. So I humbly ask support this family because I testify to you humbly. If you do not, an investor will find their lot, will have the money to hire attorneys and turn this into an investment property and we don't want that to happen. We want a family to maintain the history. These families are our history. I humbly ask you. Thank you so much Commissioners for your kokua. Mahalo.

Mr. Robinson: Commissioners any questions? Commissioner Tackett.

Mr. Tackett: You were saying that you used that property or they allowed families to use that property to access the beach and to enjoy the ocean?

Ms. Amaral Crouse: Oh yeah. Not only did they ask him, I mean if you ask Commissioner right now how many people in this room enjoy camping you would see her hand go up, her hand go up and many of us go up, yes, yes. They provided the grounds for the scouts to scout on or even the Amaral Family when we wanted to have a little small reunion, yes.

Mr. Tackett: So this continues to happen and the second part of that question is, do you know of any other properties nearby that allow any sort of beach access or any side of any kinds of public access to the ocean?

Ms. Amaral Crouse: I cannot speak to the access to the ocean outside of the Chang Family and I testified that because almost everywhere we go in Makena the people along the beach, the local people, the Luuwais you don't see big boulders in front of their path. The Chang Family you do not see big boulders in front of their denying access, but you do see those big boulders in front of access for those who have moved here and are investors. I am sorry, and I've got nothing wrong, you know I'm really grateful for them because without their taxes and their money we cannot have affordable housing for our children but yes, I do hope that answered our question Commissioner.

Mr. Tackett: So people do still use that as an access to snorkel and...

Ms. Amaral Crouse: Sure.

Mr. Tackett: That was my question. Thank you.

Ms. Amaral Crouse: You're welcome.

Mr. Robinson: Commissioners? Thank you so much.

Ms. Amaral Crouse: You're welcome.

Mr. Robinson: If somebody else would like to...please come to the mic. Please state your name you have three minutes.

Mr. Thomas Cook: Aloha Commissioners my name I Thomas Cook. I'm here as basically a friend of the family. I've known Ed and Lori for over 20 years. I think the Changs are a blessing to our community. Historic...I mean, born and raised in Makena and as far as if you want to know something about the area he's full of wonderful stories, a heart of gold, really honest. Because of Ed's experience he enable to basically do this. You don't get a pressure...the tax relief for a hui like a homeowner can get a tax relief. But when it's a hui family and a lot of members you don't get the tax relief. So they'd be taxed off the property. They're very hardworking and industrious to create this product that they have that their family uses, that the community uses and everybody gets to use.

As far as the noise goes, it sounds like they're working on it and it's...and as far as it like being commercial in a residential area I get choked up. I mean it's like the things that the Changs have seen happen in their neighborhood and the transitions and then somebody to go like oh I bought residential and I thought it was going to stay like that. How about them who were like born and raised and used to be able to catch fish and do everything and now it's just like what it is. So I would humbly ask you to approve this. I think that this is a vote for local culture and just all across the board a good thing. I know them personally. I'm familiar with the property. I actually did the

retaining walls and the site work like over 25 years ago or something. And this I a good family. Please, please, please support this. Thank you.

Mr. Robinson: Thank you. Commissioners any questions? Thank you. Aloha, please state your name you have three minutes.

Mr. Randy Piltz: Thank you, my name is Randy Piltz. And I'm a past president of the John Kamaka Kukahiko Corporation. I am also a former member of the planning commission and all State Land Use Commission. Also, I have taken vacation time to be here.

Mr. Robinson: You're a busy man Randy.

Mr. Piltz: You know there's something that I'd like to say to the Commissioners and I know you can't do that, but we wouldn't be asking to have this brought into the family because if we didn't have to pay the \$56 that was \$63,000 taxes every year we wouldn't be running this business. Right now we have to do this in order to keep the property. It was originally built so that the family could have out of each family members, they could have one week to spend at a beach house. One of the few places Hawaiians have, still own on the ocean and that's what we wanted to do. We wanted a place for the family to use once a year come down and use the facility. But we can't do that because we gotta pay the taxes. And you know the noise situation, we had a former family member that was a wedding operator and it got out of hand to the point where we couldn't tell him what to do and he continued to do things that which wasn't in accordance with what we wanted and he also didn't help pay the situation. He had all these weddings and we were supposed to get a percentage of that, but he didn't bother giving it to us. He continued to make noise and eventually we had to evict him from the property. So I ask each of you that to keep this in the family and we have the zoning that we're requesting, but keep in mind we really don't want to have weddings there. We wanted to keep it as a family residence. Thank you very much for your attention.

Mr. Robinson: Randy I got a question for you, actually I got two. First of all, Randy why didn't you guys apply for a permit sooner?

Mr. Piltz: Well you know we started off in saying just do it for a little bit, a short time. But then as we continued on I ...(inaudible)... I'm in the County and I should have known better and I'm sorry, but we didn't.

Ms. Takayama-Corden: Three minutes.

Mr. Piltz: And I don't have any other reasons for not doing it.

Mr. Robinson: And I'm going to have a question but I want to ask you if you think or maybe Mr. Chang, someone has the answer 'cause of what your position was but my question is going to be regarding the taxes and the exemptions and the ability of different things that you guys had. So I don't want to say that you would have to answer it because it's not your application, but if somebody thinks that somebody's better to answer then maybe you it's going to be asked with one of these people.

Mr. Piltz: Well, you know we could have filed for an exemption on the taxes but you have to understand Hawaiians, right, oh I want to stay there. I want to take care the property. Well when you have 200 members and everybody wants to stay at the beach that's not gonna work and so because we had formed the corporation we said, this isn't gonna work. We have to do something to retain the property and to gain money access to pay the taxes.

Mr. Robinson: Thank you. Commissioner La Costa.

Ms. La Costa: Mahalo Randy for being here and answering our questions. Is the property used in a short-term rental situation or is it only weddings and receptions?

Mr. Piltz: It's only weddings. No, we didn't go for rental of the property because then we wouldn't be able to use it and as it is right now we're not able to use it because we have the wedding business going on. And you know it's too bad that we have this situation. We can't use it when we really want to use it for family use only.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. Aloha Randy. Mahalo for your service. I've done many weddings there and I know the property well and Makena, living in that area, my mom. I wanted to understand, I've never been there when there's been a reception. It's always been acoustic guitar or easy weddings in the daytime and people are there for just hours. How many receptions are we looking at as far as 'cause sometimes they just look to get married and they may go to lunch or dinner or somewhere else and not have receptions on the property and amplified sound.

Mr. Piltz: You know we don't allow amplified sound. And the number of weddings I'm not sure but I have a cousin who has been operating the wedding business for us. Now that we have evicted one of the other cousins that wasn't paying his share, so I think Chris will be able to help you with that.

Kahu Hill: Okay, and I want to make sure I understood you correctly. You said you don't allow amplified sound?

Mr. Piltz: No we don't.

Kahu Hill: Okay.

Mr. Robinson: Any other questions? Thank you Randy. Is there anyone else who would like to testify on this item? Please state your name, you have three minutes.

Mr. Tom Croly: Aloha Commission my name is Tom Croly. I'm a resident of Kihei and also someone who has used the access to the ocean near this property. I watched this property get built. I am in full support of the application to use this as a event venue. I have been to events at this location and found that they operated them very professionally and with good control. In fact in preparation for this meeting I looked up some of the reviews and the reviews are wonderful but some of things that the people say is, boy they really are strict. No fire. We wanted to have fire

dancers at our thing but they wouldn't allow it. They kicked us out right at 9:30. They wouldn't even let us stay for another half hour. I think those are important things and I think that as a conditional permit those are things that we want to put in the conditions of the permit to make sure that everyone understands what the rules are. I also reviewed the report and the report said that this use would be similar to a short-term rental or a bed and breakfast and I want say definitively it's not. It's not in any way, shape or form in related to bed and breakfast or short-term rental that specifically have rules that would forbid this type of use. When this Commission grants someone a short-term rental permit specifically built into that short-term rental permit you may not have anyone, anyone on the property who is not a registered guest. And the registered guests are limited to two per bedroom. So this is a completely different use than a short-term rental, but I think it's an appropriate use of this land based on you know, the history and what's been taking place. But this is the public testimony or this is the public hearing for this and you want to listen to the public and say, let's address the public's concerns. Some concerns were raised about noise. Maybe there's concerns about parking. Maybe there's concerns about hours. Those are the things that a conditional permit is for. It's for conditioning those types of things. So I entrust the Commission to do exactly that and when this thing makes its way up to County Council well, they'll have the opportunity to add more conditions if they choose. But this should be approved. It shouldn't just be approved because of who these folks are. I know we want it. We all want to do this, but it should be approved, approved because it's the right thing for this property and as long as we condition it it's not gonna be a problem for the neighbors or the community. One more thing. I looked at the people within 500 feet and I just want to comment on where they own their properties. These people are from Alpharetta Georgia, Menlo Park, California, Medina Washington, Park City Utah, West Chicago Illinois, Encinitas California, Edmonton Alberta, Calgary Alberta, Boulder Colorado, Truckee California, Jackson Wyoming. I think you can see around them are properties that are owned by anyone but Kamaaina like these folks—

Ms. Takayama-Corden: Three minutes.

Mr. Croly: -- and we want to give these folks the ability to continue to own this property. Thank you.

Mr. Robinson: Thank you. Do we have anyone else that would like to testify?

Mr. Chang: (Speaking from the audience) I'd just like to make one correctional comment.

Mr. Robinson: This is public testimony. We'll let you do that as an applicant.

Mr. Flannery: (Speaking from the audience).. I want to take two seconds to say—

Mr. Robinson: I'm sorry, I'm sorry, order please, order please, order please. When the Commission has time for questions, the Commissioner can go ahead and ask the applicant for questions and at that time you guys can go ahead and share anything that you guys might want to do. Is there somebody would like to have testimony? Please state your name you have three minutes.

Mr. Brad White: It's Brad and Marlene White. We are at



Mr. Robinson: I apologize can you please state your name.

Mr. White: Sure, Brad White, W-H-I-T-E. We live in Hale O Makena across the road. We do not know the Changs other than we met them this morning. I would just like to say that we've actually been part of the ceremonies that have been there despite going out on the lava flow and looking back and I must say if that's...if there's any...excuse me I got a bit of a cold, but I will add that it's a spice of life. That is what we call community. We're from Canada so we're one of the mentioned Calgary names but it is very much a spice of life there and part of the community I think it's very important that we retain that community. I don't know if anybody here is a wine drinker but it's a Bordeaux blend. It takes more than one variety to make it all work. So thank you and I hope that you support it.

Mr. Robinson: Thank you. Would anybody else like to testify?

Ms. Thackerson: Aunty, you want to sit and speak into the mic?

Ms. Lori Chang: No, I'm getting to that age where people get concerned about me, but I'm okay. I'm Lori Chang from Makena. I'm the wife, my husband was Ed Chang. I'd like you to know I married into the family and I've been through this with them. It's very important to the family that they can come back to Makena and touch base again because a lot of them have stories that their parents are telling them of what it was like when they were children and they'd go to Makena and hukilaus and you know, those kinds of things, fishing was...fish was plentiful those days. So this Corporation decided that we need to maintain this place and we had no other choice but to do something like what we did. All we wanted to do was to be able to get the money to maintain the place and for a place the family can come home to. If we did short-term rentals the families couldn't come home at all. But this way, in between they can come home and they do. We do have a family that come home all the way from Utah to spend every summer. They try to make, you know a vacation at the Kukahiko house and I think that's great. Now...(inaudible)...my husband, we live right down the street from the hale so he has to take care of the hale. He goes there, cleans the yard, maintains the house, something gets broken, he's there to fix it. So you know, the place gets looked after. But we need to be able to stay there. We've had trouble with the taxes. Okay, now we found a solution and I'm asking you please give them give the Hawaiians a chance to come home because it's a good thing.

Mr. Robinson: Question please. Kahu Hill.

Kahu Hill: Mahalo Chair. Mahalo Kupuna Chang. I wanted to understand and mahalo for your patience in this 'cause Na Hale O Makena was mentioned and that was vague when I came to bless that and had to separate your family land on the heiau to be able to keep some of the family land and being able to have that a Poolenalena for you and your husband. This is also an extension like that to be able bring some of the money in for the taxes to be able to preserve it and to preserve family land. Is this on the same kind of understanding in the Makena area?

Ms. Chang: I think so. I think so. You know there aren't too many Hawaiians left in Makena. Maybe there's, maybe 10 families and we're one of them. Makena has changed, it's become a

place for an international place and so you know, the families that have had to leave for economic reasons they left, they like to come home. They like to touch base. They want their children. I hear it so often when families do come, they say oh what a nice place it be for the children to come to swim, to come and touch base to hear what the tutus have said. And that's all we're trying to do. You know it's a lot of work for my husband and I, but you know what we're doing it because the families want it and we still have the aloha between the families. You know I hope all the Hawaiian families can do that. And it's doing what we're doing that...you know, they'll be able to do and we hope that you folks understand this and give us a consideration too.

Kahu Hill: One more Chair.

Mr. Robinson: Yes, Kahu Hill.

Kahu Hill: Mahalo. I just wanted to ask a question and maybe your husband might be able to answer it better or someone. I wanted to understand who's maintaining and cleaning the gravesite and making sure that that is also gonna stay protected in this?

Ms. Chang: My husband does a lot of it. When Uncle Duck lived, David Chang, he did it but he's gone. So now my husband does it. And you know, I've been surprised a couple of times we've had people that we don't know come in and clean the grave and put flowers. I mean, they're from the mainland and they come and they touch base with the grave I don't know why, but they do and they feel really good when they leave. So I think that's a nice thing too. You know something that we so often we hear of, we gotta preserve this, we gotta preserve this site, but do we really go back to see and touch base with those things? I don't think so, but then we have these tourists that come and you know it's amazing to me. I just sometimes, I looked at that and I just marvel that here is this little graveyard and people come to it, it means something to them.

Kahu Hill: Mahalo Aunty.

Mr. Robinson: Thank you for your testimony. Is there anyone else that would like to testify? Seeing none, I'd like to close public testimony. Thank you all for your deep thought testimony. At this time we're gonna take a quick five-minute recess. Thank you.

A recess was called at 10:40 a.m., and the meeting was reconvened at 10:50 a.m.

Mr. Robinson: Commission is now back in session. Candace please.

**b) Action**

Ms. Thackerson: Okay, so it's still morning. So good morning Commission. I just wanted to note before I get into the recommendation that you might see that's none regarding the SMA and that's just because that we're not gonna place those on the Conditional Permit. It will be addressed at the time that the Department issues the SMA Permit and it will be a Minor most likely and it will be a blanket one for all the events on the property. And in that I will address the shoreline access being left open as personally from my experience that they have always been great about leaving the access open. I have snorkeled that spot. While there's been weddings going on, I've been

able to find parking. I wave at them and my snorkeling gear. It doesn't seem to be a huge issue. So that will be addressed at the time of the SMA including the dark sky ordinance and things like that.

So as far as what's in front of you right now for the Conditional Permit I just wanted to add into the record so we have here the six conditions, but then in front of you I had five additional ones. As I stated earlier, they're already included in your staff report. The Department just thought for ease for people in the future looking at the permit and the approval letter they could be listed out. And I think this will also address some of the concerns that we've heard today from the testifiers.

Number one, that the applicant may host a maximum of 110 events on site per calendar year. When you do the math that's about two a week. So that's really, you know, it's not gonna be this ongoing thing.

Number two, that the number of guests per event shall not exceed 49 persons. Again, you know we have a lot of event venues here on Maui. Haiku Mill, Dragon Fruit Farm, Olowalu, they're closer to 100, you know 150 some odd people. This is what we consider small scale, small scale events.

Number three, that events may take place any time between 8:00 a.m. and 10:00 p.m. with all music ending at 9:30 a.m. Vendors and staff may remain quietly to clean up and breakdown the event. Limited amplification during the event is allowed with prior approval by the owner. However, no bands or DJs are allowed. Earlier we heard Randy Piltz say that there was no amplification, but I believe that's what Ed Chang was raising his hand about in the audience was that they do allow limited and that could be, you know, when they have one ukulele player and he has to kinda plug into his amp to get some music or things like that going. Regardless, it's off at 9:30 p.m.

Number four, there shall be no offsite parking and this includes parking along Makena Road or any of the public parking areas along Makena Road. For the special events all parking for guests and vendors must be maintained onsite. And as you saw on the site plan they do have space for that on their site. For special events of 21 guests and over, a shuttle is required in addition to the onsite parking. So for ones that are over 20 then they can have a shuttle but we still want to allow them to have some parking onsite so, you know, the bride doesn't have to arrive in a shuttle.

And Number five that structures utilized for the event will not be left up for longer than 24 hours and that will also be placed on the SMA with Shoreline Setback Rules because they're only allowed to have temporary minor structures allowed in the shoreline back regardless.

So with the addition of those five, the Planning Department would like to recommend that the Maui Planning Commission recommend approval of the Conditional Permit to the Maui County Council.

Mr. Robinson: Commissioners, we could adapt these proposals, we can eliminate these proposals, we can make less conditions, you know we can do a lot of things. So I just want you to understand that usually what we have in the green packet is you know is what the Planning

Department does, and of course, Candace went ahead and added five more. We can take it and we can make it less. You know they're adding more. So if you feel one way or the other, I just want to let you know that it's we don't have to make a motion to follow it all, we can chop it apart or we can add on. Just wanted to clarify that. Having said that, does any of the Commissioners have any questions for our applicant? I'm sorry? Oh, I'm sorry, Kahu Hill would you like to say something at this moment. Sorry.

Kahu Hill: Mahalo Chair. I wanted to clarify because I know this property and I stood there with ohana, Kimo before it was ever fully complete looking at it and they were dreaming out of maintaining this land for their ohana years ago. I have done weddings on the property. Most of them are in Japanese and Olelo Hawaii so I really have to study my Japanese. So they don't have too many guests 'cause they're coming from Japan. But I have done vow renewals, I have done blessings there. I have not made much money from there 'cause I don't go there much. But I have gone there in the last few years. I have never been under contract. It's not something that I'm connected to for financial reasons. I'm simply serving Akua and serving the community and doing the work it is at location. So I wanted you to understand that I have no...I don't even know if I'm going to work there ever in the future 'cause I have no contracts or bookings to be there. I do want you to know that I feel that I can vote impartially and be able to support this on the agenda and I wanted to share that all with you, but I wanted to divulge that I have done work as Kahu and ceremonies at this location. Mahalo.

Mr. Robinson: Thank you. Commission, does anybody have any objections to Kahu being involved in the voting of this?

Mr. Tackett: I have no objection.

Mr. Castro: None.

Commission Members: No.

Mr. Robinson: Seeing no objections Kahu, thank you. At this time, Commissioner La Costa.

Ms. La Costa: Thank you, Chair. The revenue that is derived from the ceremonies and the receptions there is that enough to cover the taxes? Are there any kind of shortfalls and how's that gonna be handled and if there's excess income then you know obviously they pay GET on it so that was my question.

Ms. Thackerson: That would be something better directed at the applicant so I can have them come up and answer that question for you. Who do they think would be best to answer that?

Mr. Frampton: You know it goes to the corporation and they pay their taxes, they pay their whatever's required and I'm not sure what happens with the excess. But they've been able to with the level activity that they've had they've been able to make the payments on the property taxes. All their taxes are paid up I looked the other day.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Mahalo. This is for Randy.

Mr. Frampton: Rory.

Kahu Hill: E kala mai ia`u. I wanted to know if you could pull up that one image. It seems like it might have changed from what I've seen about the eight parking stalls that are there on the property that without blocking the beach access. And if it's changed recently if you guys have expanded or where on the parking?

Mr. Frampton: Sorry, Rory Frampton again. So the...if you've been out there recently there's been construction occurring on the neighboring property and they built a long retaining wall, but it runs alongside of the public access. So the public access is there. You can kinda see it. It looks like a road right here that goes by the graves and then down to the coastline like that. So that's all there, that's in place. Recently I noticed with the construction of what was going on they have actually cleaned up this portion of their property a little bit more, the Changs have or the Kukahikos have and so that's the area where the stalls you can comfortably get...I mean they can get a lot more than eight stalls on the property if they want to, but that's the primary area for the guest parking. There's also parking by the house and there's a potential for grass parking as well.

Kahu Hill: So when you come in in the driveway to the right usually they would park inside on the pavement so you can just go off the pavement or from the road and be able to park in the dirt area?

Mr. Frampton: Correct.

Kahu Hill: Okay, mahalo.

Mr. Frampton: Thank you.

Mr. Robinson: Any other Commissioners? I have a question and it's for the applicant please.  
Mr. Chang. Aloha Mr. Chang.

Mr. Chang: Hello.

Mr. Robinson: And Candace I forgot to ask you is the Luuwais do they have a short-term rental or do they have a activities permit? The Luuwais, I know we did that last year I believe. I'm sorry, Rory you know that?

Mr. Chang: He can answer that too.

Mr. Robinson: Yeah, but I have another question for you, but I wanted to make sure.

Mr. Frampton: So for the Luuwais it's for transient vacation rentals and special events, but they don't handle a lot of special events but the permit allows for it.

Mr. Robinson: Okay, thank you. So Mr. Chang I remember you...(sound system interference)...

Mr. Spence: It's in the upcoming budget.

Mr. Robinson: Mr. Chang I remember you from the Discovery and my recollection is that you're pro Discovery and you encouraged the development of that is that...is that right recollection?

Mr. Chang: I'm pro but I wouldn't say I encourage.

Mr. Robinson: Okay, well you're part of the...and I mean that was my question on your testimony.

Mr. Chang: I believe that the development that I'm being presented with is a good one.

Mr. Robinson: Okay. Did you understand that it was personally gonna affect your property and the property taxes going forward?

Mr. Chang: Yes.

Mr. Robinson: And so—

Mr. Chang: I think it might add some stabilization because it hasn't been stable. At first it was really jumping all over the place and it seemed to be getting stable. But the number's there already.

Mr. Robinson: The numbers?

Mr. Chang: The number like 50,000 a year taxes is there already.

Mr. Robinson: So when Discovery sells the property for \$5 million to \$10 million you don't think your property taxes are gonna change in that ...(inaudible)...

Mr. Chang: There's one up for sale right next to me for 29.5 today.

Mr. Robinson: Yeah, and so when those are sold you don't think the property values are gonna change per square foot?

Mr. Chang: I'm not sure. In 2002 the property next to me that they're currently building on sold for 13 million. So what I'm saying is right where our hale needs to be and Makena itself what we call the piko of Makena is going to be expensive. Even the houses that sold for 4 million is now selling for I believe 18 million at Makena Place. Yes, I agree.

Mr. Robinson: And Mr. Chang did you not or your family not know that a permit is required to have special events on your property?

Mr. Chang: Yes we did.

Mr. Robinson: And is there something, a part of the County planning process that discouraged you guys from applying earlier?

Mr. Chang: No. We were kinda advised do it a little while. When you find what you can do then go and get a permit. We actually hired a guy that said he was going to help us do the permit. He didn't. We ended up firing him and then I decided to convince the directors that I would ...(inaudible)... this process through and that's where we are now. And I am sorry but we are a little late.

Mr. Robinson: Thank you. Candace you want to add something? That's all from me Mr. Chang. Thank you so much.

Ms. Thackerson: Candace Thackerson, Staff Planner. I would like to say that the applicants came in of their accord. I filed the RFS on the project after because when I opened up the application I saw pictures of the wedding occurring so then I knew it was an after-the-fact. So the applicants came in of their own accord.

Mr. Robinson: Okay. Seeing no other questions do we have a motion? Commissioner Hudson.

Mr. Hudson: I move to recommend to the County Council approval for this.

Mr. Robinson: Okay.

Kahu Hill: I second.

Mr. Robinson: Kahu Hill seconds. Discussion on the recommendation. Commissioner Tackett.

Mr. Tackett: So although I might not appear that way, I've been here kind of a long time, long time for me, not a long time for the owners of this particular property, but it's really interesting that when they came up and they showed the map I remember camping there when I was like fourth grade, you know in the back of a truck on the side of that mountain like, like with the rocks going into the ocean. And it's just amazing that that still exists this day because all the places that I want to go that I went to when I was a kid none of them are as close to being the same as that place is. So I just want to say that I'm gonna be in favor of it. I admire the fact that they still hold onto that property and I admire the fact that they still hold onto those old family values. So that's kinda what I took from what went down today and I will be in favor of it.

Mr. Robinson: Commissioner La Costa.

Ms. La Costa: Thank you Chair. This is really difficult for me because I have read letters opposing the noise and the traffic and everything that is disrupting homeowners because we all have private property rights. On the other hand, the old Hawaiian homesteads, Auntie Medeiros was a very dear friend of mine and I know they no longer have that property because they were forced to sell it because of the taxes. I just want to be very clear that the noise mitigation has got to be addressed whether it is strictly weddings and no receptions or whatever because we have to be cognizant and appreciative of everyone's property rights and their quiet enjoyment to their

properties so that's my biggest concern is that there aren't any more letters of complaint for this that everyone gets along and it's all about aloha and...so that's gonna be incumbent upon the folks who own it and run it.

Mr. Robinson: Anybody else? Commissioner Kahu Hill.

Kahu Hill: Mahalo Chair. I did want to say that it's very heartwarming to see Hawaiians comes and be able to have their land and be able to have this connection since the 1800's. It's what my kupuna Papa David Kaalakea shared for that area and his connection to Makena and this area and coastal areas. I would like to hope that you do look at the sound and the level of sound, be able to talk about that and that it is working for the neighborhood and the community and also to encourage when you can to be able to shuttle the people in there so there's a least amount of impact for the parking and for people who want to access and go down to the beach that may be four-year-old or fourth grade or kupuna be able just to smell the ocean or walk down that area 'cause it's everybody's, it's part of all of us. So I just want to say mahalo and encourage those two things.

Mr. Robinson: Thank you. We're gonna get some clarification on your motion before we vote just to let you know that there's additional conditions that was put forward and I'll have the Director speak on that before we do that. But before that, seeing that the Commissioners are done it's...it's...this troubles me. This troubles me because of how we set up rules and how it...it doesn't do what we want for locals. And I don't know how we, how we as a planning commission or as the Council fix this. We have a family who has to rent out their property to keep their property even though the property has been in their hands for decades. I mean there has to be something legislative or a moratorium where you've owned your property for over 10 years or 20 years, I mean more or less 50, you know to where you don't have to go ahead and prostitute it out to keep it. I mean that's exactly what...how I feel and I hate to use that word but it's...a circuit breaker law was made so that people could stay in their residence. We would hope that a Hawaiian family could come together and work it out between your differences so that you can use that circuit breaker law. But when that breaks down like any other family at least they have the agreement to keep in their hands and I think that's something that I think we should try to look for is legislatively because this is what's going to happen to the rest of Hawaii. What happened in Makena is what's gonna happen next in Paia and the local people are gonna get priced out tax wise and you know and again guys this is not something new, we all know this since the day of Hawaii people lose their property 'cause they don't pay their taxes. And people wait to jump on the taxes and take it from them because, you know, the culture of Hawaiians are different. You know, it's not a capitalistic culture it's a sharing culture and this where we fall into this.

But it's hard for me to reward when we don't follow rules. It's hard for me to, you know, reward because now we wanna do something what we know better. It's hard for me to reward where we're agreeing to developments that directly affect your ability to keep you land and then you're gonna come to the planning commission and to the Council and say, okay now I want to throw events because you know all these lands are mine. You know, Hawaiians sold lands, they're not stolen, but when this is taxes they're taken and that's the difference. And so you know, guys...these guys have been running you know little Makena community down here. The neighbors that complained they were legislating their own conditions with the landowner, right?



They were saying well, if you do this or you do that. So everybody kind of was complacent in my eyes you know. I mean we have people performing at the property complacent. We have people, you know, doing services at the property complacent. Everybody is good people. Everybody wants to do the right thing and we keep on turning our blind eye. But if we keep on turning our blind eye what happens to the places that we don't want to have it done? Can we then just switch over and say okay, now guys or since you know, since you're not Hawaiian then you know the rules are gonna be different for you and that's where, that's where we're not able to do that so we have to look for something in a legislative process to help keep these lands and these taxes in a certain way so the families don't have to go this. Sorry for all that, but this is what's happening and you know and it's sad. There's nothing wrong with, nothing wrong with people coming and buying land in Hawaii. They worked hard, they're buying oceanfront property which we all want a part. That's nothing against people investing in Hawaii, good for them. But for people who want to protect it you have to look at it a different way. The people with the money aren't the problem, it's the people selling the property and people not keeping it is. Director, you like to go over the conditions for the recommendation?

Mr. Spence: So Commissioners what the Department does is make a recommendation to you. You can adopt as recommended by Staff and myself. That's always my signature on the report. Normally we have your standard conditions and some special conditions in order to mitigate possible impacts. So what you...you've read the recommendation that we've handed out, but then there's also these other conditions, proposed conditions as to numbers of events and number of people, et cetera. So it's up to the Commission. Maybe I should just ask would the maker of the motion clarify his motion. Is it just what was presented earlier or does it include these other five conditions?

Mr. Robinson: Thank you Director. And also we don't have to put any conditions 'cause it's a recommendation and the Council as we've known really kinda does what their own thing is. So I think, I think it's this Commission is do you want to try put as many conditions down and follow Candace's or do you want to leave it as what the original recommendation was?

Mr. Hudson: Thank you, Chair. I will modify my motion and to adopt as recommended by the Planning Commission including the additional five conditions that Candace recommended.

Mr. Robinson: Kahu Hill?

Kahu Hill: And I would like to modify as well to accept these additional conditions proposed.

Mr. Robinson: Thank you so much.

Kahu Hill: Mahalo.

Mr. Robinson: Any further discussion on the clarification on the motion? Corporation Counsel.

Mr. Galazin: Thank you Chair. And think just for the Commissioners it's important to make sure that when you're reviewing these things what we're talking about is uses being proposed in a area where it's not permitted but is somehow going to be compatible in some way and that's what the

analysis and the staff report is about. Knowing the history or the back story of why somebody is coming forth with an application is always helpful and important to consider but ultimately in making your decision you want to make sure that you're basing it and that it's clear on the record that you're looking at the land use impacts, you're looking at the proposed conditions that would mitigate it and that's where your final decision comes from. That it's not a desire to see one person maintain a property versus another. It's that these impacts, you know, aren't going to be so significant that it will be way out of character of the neighborhood. And that if it's done with the conditions as proposed it will be in compliance with the County Code and that's your recommendation made to the County Council. So if anybody feels otherwise, you know, please make sure you try and articulate that for the record. But if you are voting just strictly on the land uses themselves and how they apply then I think we're fine. Thank you Chair.

Mr. Robinson: That's all? Okay, Director.

Mr. Spence: Okay, Commissioners the motion is to recommend to the County Council approval of the Conditional Permit with the regular conditions as well as the additional five.

Mr. Robinson: All those in favor of the motion?

Mr. Spence: That's five ayes. Motion carried.

**It was moved by Mr. Hudson, seconded by Kahu Hill, then**

**VOTED: To Recommend Approval of the Conditional Permit to the County Council as Recommended by the Department with Additional Conditions as Proposed.**  
**(Assenting – L. Hudson, A. Hill, C. Tackett, S. Castro, P.D. La Costa)**  
**(Excused – L. Carnicelli, T. Gomes)**

Submitted by,

Carolyn Takayama-Corden  
Secretary to Boards & Commissions II



COUNTY OF MAUI  
DEPARTMENT OF PLANNING  
2200 MAIN STREET, SUITE 619  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 270-8205 FAX: (808) 270-7634

APPLICATION TYPE: CONDITIONAL PERMIT

DATE: 7/10/17

PROJECT NAME: Kukahiko Family Corporation - Weddings & Events VALUATION: \$ Not Applicable

PROPOSED DEVELOPMENT: Rental of John and Kamaka Kukahiko of Makena Corporation, "Kukahiko", property for events, weddings, and ceremonies.

TAX MAP KEY NO.: (2)2-1-007:079 CPR/HPR NO.: \_\_\_\_\_ LOT SIZE: 0.811 acres

PROPERTY ADDRESS: 5034 Makena Road, Makena, Maui, Hawaii, 96753

OWNER: John & Kamaka Kukahiko PHONE: (B) \_\_\_\_\_ (H) \_\_\_\_\_  
of Makena Corporation  
ADDRESS: PO Box 6117

CITY: Kahului STATE: Hawaii ZIP CODE: 96733

\* OWNER SIGNATURE: Randy Pitz - President

APPLICANT: Ed Chang, Board Trustee for John & Kamaka Kukahiko of Makena Corporation

ADDRESS: 4800 Makena Alanui Road

CITY: Kihei STATE: Hawaii ZIP CODE: 96753

PHONE (B): \_\_\_\_\_ (H): (808) 874-6475 FAX: \_\_\_\_\_

\* APPLICANT SIGNATURE: Edward Chang

AGENT NAME: Rory Frampton

ADDRESS: 340 Napoko Place

CITY: Kula STATE: Hawaii ZIP CODE: 96790

PHONE (B): (808) 298-4956 (H): \_\_\_\_\_ FAX: \_\_\_\_\_

EXISTING USE OF PROPERTY: Rental

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Urban

COMMUNITY PLAN DESIGNATION: Public/ ZONING DESIGNATION: A-2 Apartment  
Quasi-Public District

OTHER SPECIAL DESIGNATIONS: Special Management Area & Maui Island Plan-Urban  
Growth Boundary



RECEIVED

11 - 7 2017

## ZONING AND FLOOD CONFIRMATION FORM

DEPT. OF PLANNING  
COUNTY OF MAUI

(This section to be completed by the Applicant)

APPLICANT NAME Ed Chang TELEPHONE 808-281-3241  
PROJECT NAME Kukahiko Weddings E-MAIL mgill.336@gmail.com  
PROPERTY ADDRESS 5034 Makena Road, Makena, HI 96753 TAX MAP KEY (2) 2-1-7:79

☐ Yes ☒ No Will this Zoning & Flood Confirmation Form be used with a Subdivision Application?  
IF YES, answer questions A and B below and comply with instructions 2 & 3 below:

A) ☐ Yes ☐ No Will it be processed under a consistency exemption from Section 18.04.030(B), MCC?  
IF YES, which exemption? (No. 1, 2, 3, 4 or 5) \_\_\_\_\_

B) State the purpose of subdivision and the proposed land uses (ie 1-lot into 2-lots for all land uses allowed by law):  
\_\_\_\_\_

INSTRUCTIONS:

- 1) Please use a separate Zoning & Flood Confirmation Form for each Tax Map Key (TMK) number.
- 2) If this will be used with a subdivision application AND the subject property contains multiple districts/designations of (1) State Land Use Districts, (2) Maui Island Plan Growth Boundaries, (3) Community Plan Designations, or (4) County Zoning Districts; submit a signed and dated Land Use Designations Map, prepared by a licensed surveyor, showing the metes & bounds of the subject parcel and of each district/designation including any subdistricts.
- 3) If this will be used with a subdivision application AND the subject property contains multiple State Land Use Districts; submit an approved District Boundary Interpretation from the State Land Use Commission.

(This section to be completed by ZAED)

### LAND USE DISTRICTS/DESIGNATIONS (LUD) AND OTHER INFORMATION: <sup>1</sup>

STATE DISTRICT: ☒ Urban ☐ Rural ☐ Agriculture ☐ Conservation

☒ (SMA)  
Special  
Management Area

MAUI ISLAND PLAN Growth Boundary: ☒ Urban ☐ Small Town ☐ Rural ☐ Planned Growth Area ☐ Outside Growth Boundaries

PLAN Protected Area: ☐ Preservation ☐ Park ☐ Greenbelt ☐ Greenway ☐ Sensitive Land ☒ Outside Protected Areas

COMMUNITY PLAN: Public/Quasi-Public

COUNTY ZONING: A-2 Apartment District

OTHER/COMMENTS:

FEMA FLOOD INFORMATION: A Flood Development Permit is required if any portion of a parcel is designated V, VE, A, AO, AE, AH, D, or Floodway, and the project is on that portion.

FLOOD HAZARD AREA ZONES <sup>3</sup> Zones X, VE(31')  
& BASE FLOOD ELEVATIONS:

☐ FEMA DESIGNATED FLOODWAY

For Flood Zone AO, FLOOD DEPTH:

☐ (PD)  
Planned  
Development  
☐ (PH)  
Project District  
☐ See  
Additional  
Comments (Pg.2)  
☐ See  
Attached LUD Map

SUBDIVISION LAND USE CONSISTENCY: ☐ Not Consistent, (LUDs appear to have NO permitted uses in common).

☐ Not Applicable, (Due to processing under consistency exemption No. ☐ 1, ☐ 2, ☐ 3, ☐ 4, ☐ 5).

☐ Interim Zoning, (The parcel or portion of the parcel that is zoned interim shall not be subdivided).

☐ <sup>4</sup> Consistent, (LUDs appear to have ALL permitted uses in common).

☐ <sup>4</sup> Consistent, upon obtaining an SMA, PD, or PH subdivision approval from Planning.

☐ <sup>4</sup> Consistent, upon recording a permissible uses unilateral agreement processed by Public Works (See Pg.2).

### NOTES:

- 1 The conditions and/or representations made in the approval of a State District Boundary Amendment, Community Plan Amendment, County Change in Zoning, SMA Permit, Planned Development, Project District and/or a previous subdivision, may affect building permits, subdivisions, and uses on the land.
- 2 Please review the Maui Island Plan and the Community Plan document for any goals, objectives, policies or actions that may affect this parcel.
- 3 Flood development permits might be required in zones X and XS for any work done in streams, gulches, low-lying areas, or any type of drainageway; Flood development permits are required for work in all other zones. Subdivisions that include/adjoin streams, gulches, low-lying areas, or any type of drainageway might require the following designations to be shown on the subdivision map: 100-year flood inundation limits; base flood elevations; drainage reserves.
- 4 Subdivisions will be further reviewed during the subdivision application process to verify consistency, unilateral agreement requirements, and the conditions associated with a unilateral agreement [Section 18.04.030.D, Maui County Code].

### REVIEWED & CONFIRMED BY:

John S Rapacz  
(Signature)

7/7/17  
(Date)

For: John S Rapacz, Planning Program Administrator, Zoning Administration and Enforcement Division

**TITLE GUARANTY OF HAWAII**  
INCORPORATED  
HONOLULU, HAWAII

TITLE GUARANTY OF HAWAII, INCORPORATED  
HEREBY CERTIFIES THAT THIS IS A TRUE COPY  
OF THE ORIGINAL DOCUMENT RECORDED AS  
LAND COURT DOCUMENT NO. 2390782  
WHICH CREATED TRANSFER CERTIFICATE  
OF TITLE NO. 494276

ON JULY 09, 1997 AT 8:01 A.M.

BY:

*Cynthia Nakashima*

2390782 R ULUPALAKUA RANCH INC  
E JOHN KAMAKA KUKAHIKO MAKENA CO

DATE OF RECORDING : JULY 09, 1997

DESCRIPTION : LOT 1A APP 1896 CT \$703.30

DOCUMENT TYPE : D

TCT NO. : 494276

FILE MAKENA



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Return by mail( )pick-up( )

CASE BIGELOW & LOMBARDI (DFA)  
737 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813

Total Pages: 3

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Tax Map Key No.: (2) 2-1-7-79

DEED AND GRANT OF EASEMENT  
(Lot 1-A)

KNOW ALL MEN BY THESE PRESENTS THAT:

ULUPALAKUA RANCH, INC., a Hawaii corporation, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor paid by JOHN AND KAMAKA KUKAHIKO OF MAKENA CORPORATION, a Hawaii corporation, whose address is 4800 Makena Alanui, Kihei, Hawaii 96753, hereinafter called the "Grantee," the receipt of which is acknowledged, does hereby grant and convey unto the Grantee, the property described in Exhibit "A" attached hereto and incorporated herein by reference.

AND the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with the improvements thereon and all rights, easements, privileges and appurtenances thereunto belonging or appertaining, unto the Grantee, forever.

And the Grantor hereby covenants with the Grantee that the Grantor is lawfully seised in fee simple of the premises described herein and has good right to sell and convey the same; that the same are free and clear of all liens and encumbrances, except as set forth herein and except for the lien of real property taxes not yet required by law to be paid; and that the Grantor will

WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

This conveyance and the covenants of the Grantor shall be binding upon the Grantor and the Grantor's successors and assigns, and shall run in favor of and inure to the benefit of the Grantee and the Grantee's successors and assigns. The use herein of the singular in reference to a party shall include the plural. The term "person" shall mean and include an individual, partnership, association or corporation, as the context may require.

The Grantor has duly executed this Deed and Grant of Easement as of May 30, 1997.

ULUPALAKUA RANCH, INC.,  
a Hawaii corporation

By C. Pardee Erdman

Name: C. Pardee Erdman C. Pardee Erdman  
Title: CEO Chief Executive Officer

Grantor

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 31<sup>st</sup> day of May, 1997 before me personally appeared C. Pardee Erdman, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and, if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Benjamin A. Loo  
Notary Public, State of Hawaii

My commission expires: 7/1/2000

EXHIBIT "A"

All of that certain parcel of land situate at Papaanui, Honuaula, Makawao, Island and County of Maui, State of Hawaii, described as follows:

Lot 1-A, area 0.811 acre, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1896 of Ulupalakua Ranch, Inc. ("Map 2").

Being a portion of the land described in Certificate of Title No. 249,360.

TOGETHER WITH non-exclusive access rights appurtenant to Lot 1-A over and across Lot 1-C, as shown on Map 2, as set forth by Land Court Order No. 127084, recorded March 7, 1997; provided, however, whenever Lot 1-C is conveyed or dedicated to the County of Maui or to any other governmental authority for use as a public roadway, such access rights over and across Lot 1-C shall automatically terminate; reserving, however, unto the Grantor the right to so convey or dedicate Lot 1-C to the County of Maui or to any other governmental authority for use as a public roadway.

TOGETHER ALSO WITH a non-exclusive perpetual easement appurtenant to Lot 1-A over, across and upon Easement 4 (18,727 square feet) affecting Lot 1-B, as shown on Map 2, for non-exclusive, non-vehicular use, as set forth by Land Court Order No. 127084.

SUBJECT, HOWEVER, to the following:

1. Reservation of all mineral and metallic mines in favor of the State of Hawaii, as set forth in Royal Patent Grant Nos. 234 and 223.
2. Easement 2, as shown on Map 1 of Land Court Application No. 1896, for vehicular and pedestrian access to Exclusion "A" to Land Court Application No. 1896, in favor of and appurtenant to Exclusion "A," said easement restricted in use to providing access between the public road (being Lot 9 as shown on Map 1 of Land Court Application No. 1846) and Exclusion "A," as set forth in Decree No. 2002 in Land Court Application No. 1896.

End of Exhibit "A"



John and Kamaka Kukahiko of Makena Corporation  
PO Box 6117  
Kahului, HI 96731

August 12, 2017

William Spence, Director  
County of Maui, Department of Planning  
2200 Main Street, Suite 619  
Wailuku, Maui, HI 96793

**SUBJECT: LANDOWNER LETTER OF AUTHORIZATION**  
Conditional Permit Application  
Kukahiko Family Corporation-Weddings & Events  
5034 Makena Road, Makena, Maui Island, Hawaii  
TMK No. (2) 2-1-007:075

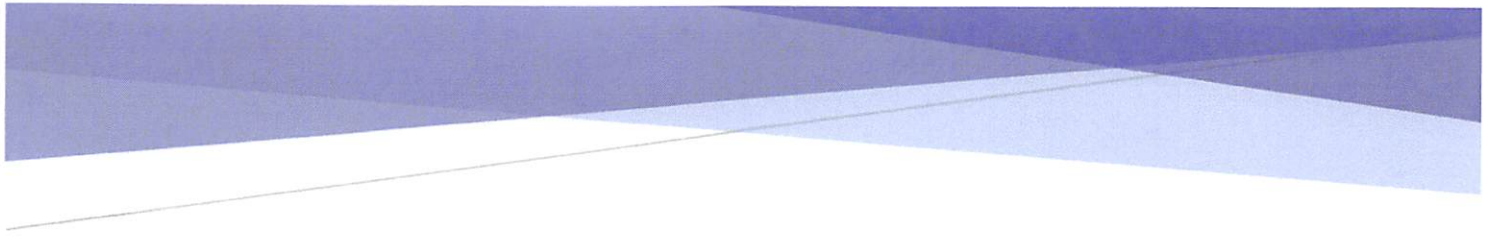
Dear Mr. Spence:

John and Kamaka Kukahiko of Makena Corporation ('Kukahiko Corp.') is the owner of the property listed above, site of the Kukahiko House - Weddings and Events. We hereby provide authorization to Mr. Rory Frampton, Agent for Mr. Ed Chang, Applicant for Kukahiko House - Weddings and Events and Board Trustee for Kukahiko Corp., to act on our behalf in the preparation, submittal and processing of a Conditional Permit and any other necessary permits or approvals in support of use of the subject parcel for weddings and events. Should you have any questions, please call Rory Frampton, at (808) 298-4956 or Ed Chang, at (808) 874-6475.

Sincerely,



Ed Chang Jr.  
On behalf of John and Kamaka Kukahiko of Makena Corporation



# PROJECT ASSESSMENT

Kukahiko Family Corporation—Weddings & Events

Conditional Permit Application  
Chapter 19.40, Maui County Code

Applicant:  
Mr. Ed Chang, John and Kamaka Kukahiko of Makena Corporation

Prepared By:  
Rory Frampton Consulting Inc.

## Executive Summary

<b>Project Name:</b>	Kukahiko Family Corporation - Weddings & Events
<b>Type of Document:</b>	Conditional Permit - Project Assessment
<b>Legal Authority:</b>	Chapter 19.40, Maui County Code
<b>Location:</b>	5034 Makena Road Makena, Hawaii, 96753 TMK: (2) 2-1-007:079
<b>Landowner:</b>	John and Kamaka Kukahiko of Makena Corporation PO BOX 6117 Kahului, Hawaii, 96733
<b>Applicant:</b>	Mr. Ed Chang, Board Trustee 4800 Makena Alanui Road Kihei, Hawaii, 96753
<b>Consultant:</b>	Rory Frampton Rory Frampton Consulting Inc. 340 Napoko PL Kula, HI 96790
<b>Project Summary:</b>	<p>The subject 'Property' is an approximately 0.811-acres parcel located ocean front, at 5034 Makena road, Makena, Maui, Hawaii identified as TMK (2) 2-1-007:079. The Property is owned by the John and Kamaka Kukahiko of Makena Corporation ('Owner'). The Property currently consists of a main dwelling, detached garage and a secondary dwelling and has been used for residential uses as well as rental for small wedding ceremonies and receptions events. The property is currently designated as "A-2 Apartment District" by Maui County Zoning, is within the Maui Island Plan Urban Growth Boundary, is designated as "Public/Quasi-Public" on the Kihei-Makena Community Plan" and is within the State Land Use "Urban" District. The Applicant is seeking after-the-fact approval of a Conditional Use Permit in order to continue using the Property for events such as weddings, receptions, vow</p>

renewals, and ceremonies, and to establish compliance with Chapters 19.12 and 19.40 of the Maui County Code. The Applicant's request would not involve new construction or significant land use change. Continued ownership and maintenance of the Property without the generation of revenue from event rentals would be unduly burdensome as property values in the surrounding area have sky rocketed in recent decades. The Conditional Use Permit would provide the opportunity to continue a use that is not specifically permitted within the "A-2 Apartment District" but is a use that is similar and compatible to permitted uses in the district such as transient vacation rentals and short-term vacation homes.

## Project Overview

### A. Property Location, Ownership, and Existing Use

The subject 'Property' is an approximately 0.811-acres parcel located ocean front, at 5034 Makena road, Makena, Maui, Hawaii identified as TMK (2) 2-1-007:079. The Property is owned by the John and Kamaka Kukahiko of Makena Corporation ('Owner'). The Property currently consists of a main dwelling, detached garage and a secondary dwelling and has been used for residential uses as well as rental for small wedding ceremonies and receptions events. The property is currently designated as "A-2 Apartment District" by Maui County Zoning, is within the Maui Island Plan Urban Growth Boundary, is designated as "Public/Quasi-Public" on the Kihei-Makena Community Plan" and is within the State Land Use "Urban" District. The 'Applicant', Mr. Ed Chang, is a Board Trustee of the owning corporation and manages the Property. (See Figures 1-3)

### B. Property and Family History

John Kukahiko was a man of chiefly lineage who was awarded his first fee-simple interest to land at Mo'oiki in 1854 (Royal Patent Grant No. 1495) mauka of Pu'u Olai in the Makena region. Kamaka Kuhaulua Kukahiko was a descendant of traditional family of the Honua'ula region (Wailea/Makena region). Together they purchased shoreline property in Makena from Ulupalakua Ranch in 1883 (Kumu Pono Associates LLC, 2005). The Kukahiko family were known for their net throwing abilities, *ho'olei 'ūpena*. As reported in the Honolulu Advertiser by Jeanne Booth Johnson in 1959, folklore claimed that John Kukahiko had the power to calm the ocean water and that with this power he guided whalers into and out of Makena Bay (Johnson in Kumu Pono Associates LLC, 2005 and Mott-Smith, 1947). John and Kamaka Kukahiko deeded their shoreside property to their ten (10) children and one grandson. As time went on, the number of Kukahiko heirs grew: in 1927 the family was reported to have 70 members, by 1947 300 family members attended the annual reunion, in 1967 the Kukahiko reunion had grown so large that camping on the Keawalai Church grounds was necessary and by 2006 approximately 1000 descendants attended the reunion held in Kihei at the Veterans of Foreign Wars Hall (Kukahiko Ohana, 2012). As the family grew, some members decided to sell their interests in the Kukahiko property. In order to protect and keep Kukahiko land within the family, many Kukahiko heirs decided to incorporate themselves. In 1973, 59 family heirs incorporated to found the "John and Kamaaka Kukahiko of Makena Corporation". Eventually, three parcels and the family grave (adjacent to the subject Property) were owned by the Kukahiko Corporation but because none of the parcels were generating income to pay for the ever-increasing property taxes, selling two of the parcels was made necessary in 1998 and 2001 respectively. Today the Corporation holds the subject Property (TMK 2-1-7:79) which now has two dwellings and a garage built on it, and the family grave parcel (Ed Chang, 2017).

### A. Overview of Request

The Applicant is seeking a Conditional Use Permit to continue operating Property rentals for events such as weddings, receptions, vow renewals, and ceremonies. The Conditional Use Permit would provide the opportunity to continue a use that is not specifically permitted within the "A-2 Apartment District" but is a use that is similar and compatible to permitted uses in the district such as transient vacation rentals and short-term vacation homes. The Applicant requests approval to rent the property for events consisting of no more than fifty (50) guests and subject to the rules and restrictions described in the 'Operations and Management' section below. The Applicant has conducted Property rentals for events for the past several years and has on average rented the property for approximately 110 events per

year. Most events are small wedding ceremonies or vow renewals consisting of fewer than 20 guests and take place during the late afternoon.

## II. Description of the Proposed Request

### A. Operations and Management

Operations are managed by the Trustee members, Mr. Ed Chang, the Applicant resides approximately 0.2 miles from the project site or less than five minutes away. Weddings, receptions, vow renewals, and other similar events to take place at the project site are subject to a rental agreement made between the Kukahiko Corporation and the Event Coordinator and/or responsible agent. This agreement sets the times, costs and rules of using the property for the agreed upon event activity. The Property may be rented in full for events and include both dwellings (Main Dwelling and Bridal Suite) as well as use of the lawn/ceremony space or the Property may be partially rented to include use of the lawn/ceremony space only. The number of guests at the event on the Property shall not exceed fifty (50) for full rental events and twenty (20) for lawn ceremony only events. All events must have an Event Coordinator or Responsible Agent onsite during the entire time of the event as well as the completion of breakdown and cleanup. All event attendees must vacate the property fifteen (15) minutes prior to the end of the event and shuttle services are utilized for events larger than 20 guests. When utilized, all shuttle busses must pick up guests no later than one-half (1/2) hour prior to the end of the event. Vendors and staff may remain to quietly clean up and break down event. Events may take place between the hours of 8am and 10pm, no earlier and no later. The number of hours allotted for an event between these hours is determined by the rental agreement but most full rentals allow use of the property for twelve (12) hours, morning rentals allow for use of the property for seven (7) hours, and Lawn/Ceremony Only events typically allow use of the property for three (3) hours only.

Entertainment is allowed so long that only limited amplification is used with the prior approval of the Owner, Applicant or designated representative. No bands or DJ's are allowed and all music must be approved by the Owner and end no later than 9:30pm. Fire dancing and/or drums are strictly prohibited. Alcohol may be served; the event coordinator is responsible for providing certified bartender service for their event. Registration certificate(s) must be from the Department of Liquor Control, County of Maui. No alcohol may be sold or purchased on the Property and no alcohol may be served to minors under the age of 21. No alcohol may be taken off the Property or onto the beach as per Hawaii State law. Any occurrence of violent, abusive, belligerent behavior, illegal activity, inappropriate conduct, fighting, arguing, yelling, presence/use of illegal drugs or drug paraphernalia will result in the immediate termination of the event.

A maximum of eight (8) cars including vendors and staff are allowed to park on Property. Use of a shuttle service is strongly encourage for event guests and events with parties of twenty (20) guests/attendees or more must utilize a shuttle service. All event catering vendors/caterers must comply with the State of Hawaii Department of Health rules and regulations and provide Applicant, Owner or designated representative a copy of their current Food Establishment Permit.

Applicant, Owner and their designated representatives have the right to enter and inspect the Property at any time during the event to ensure rules established in the rental agreement are adhered to. Property managers, Owner, and designated representatives reserve the right to "cut-off" or discontinue serving alcohol to any or all clients, guests and/or event attendees at their discretion. The

Coordinator/Agent must provide liability insurance of no less than One Million Dollars (\$1,000,000.00) which names the Kukahiko Corporation as an additional insured and assumes full liability for any injury that happens to any guests, event attendees, clients or vendors while on the property.

B. Request Rational and Implementation Timeframe

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years, in order to establish compliance with Chapters 19.12 and 19.40 of the Maui County Code. Continued ownership and maintenance of the Property without the generation of revenue from event rentals would be unduly burdensome as property values in the surrounding area have sky rocketed in recent decades. The neighborhood within which the Property is located is extremely exclusive with the homes worth tens of millions of dollars. Many of the homes and condos in this area are vacation homes owned by non-residents. As such property taxes alone on the property were \$52,591 in 2016. Maintenance of the ocean front property with the challenges of elements is extremely costly as well. Ownership of the Property has been maintained by the Kukahiko family for generations, with some family members, including the Applicant's great, great grandfather, buried in a small cemetery adjacent to north east portion of the Property. In order to keep the property in this family's care and to provide a future for the growing number of descendants, revenue from the rental of the property for weddings and events must continue. Additionally, the parcels surrounding the Property are large, ranging from approximately half (0.5) and acre to approximately five (5) acres in size resulting in significant space to buffer any event from neighboring activities. The Applicant has worked diligently to communicate with and minimize potential impacts of the events on the closest neighbors.

III. Environmental Setting, Potential Impacts, and Mitigation Measures

A. Physical Setting

1. Existing and Surrounding Land Use
  - a. Existing Conditions

The proposed project site is located within the Kihei-Makena Community Planning region on the southern leeward side of the island of Maui, in an area west (makai) of Makena Road which is surrounded by residential and vacation/hospitality uses. The property is located approximately 2 miles from Wailea and approximately 8 miles from Kihei Town (Azeka Shopping Center).

The property has been used for residential purposes, a place for family gatherings, and as a venue rental for weddings, receptions, vow renewals, and ceremonies since approximately 2006. For the first approximately 7 years the family rented the Property for events on a trial and error bases, and it wasn't until approximately 2014 that the family started regularly renting the Property for events. A wide range of land uses currently surround the project site. To the north of the project site is Makena Place-gated community, Hale O Makena Condominium Community and further north is the Makena Surf Resort-Vacation Condo Rentals. Directly abutting the Property to the north, a residential dwelling is currently under construction. A 40' 'no-build' easement in favor of the Kukahiko Corporation buffers the subject Property from this new construction. To the east is the project site lies approximately 6 acres of undeveloped State Land Use designated 'Agricultural' land that is bounded further east by dozens of acres of vacant State designated 'Urban' land. Abutting the Property to the south are residential homes

and Makena Bay including Makena Landing and Makena State Park. Directly makai (west) and adjacent to the project site is the Pacific Ocean. (See Figures 1-3)

b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. The proposed activities associated with the use are similar to those conducted in the region as Makena is known for its beach and resort weddings. Many of the surrounding uses such as Makena Place and Makena Surf Resort are located a significant distance from the Property. Additionally, the parcels surrounding the Property are large, ranging from approximately half (0.5) and acre to approximately five (5) acres in size resulting in significant space to buffer any event from neighboring activities. Only one abutting parcel is currently developed and the Applicant has communicated and worked with this particular neighbor to minimize potential impacts of the events. The proposed use is not expected to inhibit current or future surrounding land uses and operations. As such, the proposed project is considered to be compatible with surrounding land uses.

2. Climate

a. Existing Conditions

The Kihei Coast can be characterized as being sunny, warm and dry for most of the year. In Kihei Town, the average annual high temperature is 86 degrees Fahrenheit with the average low temperature being 63 degrees Fahrenheit. In Makena, as measured at the Makena Golf Course station (515842), as measured at the Makena Golf Course station (515842), average temperatures are similar, ranging from an average low of 65.9 degrees Fahrenheit to an average high of 84.3 degrees Fahrenheit. June through August are historically the warmer months of the year while the cooler months are generally January to March.

Rainfall in Kihei and Makena is highly seasonal and mostly occurs in the winter months, mean annual precipitation from 1982 to 2016 in the Makena region was 15.67 inches, slightly higher than the mean annual precipitation in Kihei (12.84 inches, period of record 1905-2016). Basic climatic data for the proposed project area can be found at <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?hi4489>.

b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. In essence, the Applicant only requests to continue using the Property for event rentals, as he has for several years, yet seeks to come into compliance with Chapters 19.12 and 19.40 of the Maui County Code and continue business as usual. The proposed use is not expected to impact or be impacted by existing climatic conditions of the Makena region.

3. Topography and Soils

a. Existing Conditions

The site is located on gently sloping land. Elevations on the site range from approximately 0 feet above mean sea level at the western boundary of the Property to approximately 40 feet above mean sea level at the southeastern boundary of the site. The soils of the proposed project site are classified as Makena loam, stony complex, (MXC) with slopes ranging between 3 and 15%. These soils cover the entirety of



the project site. These soils are generally classified as not prime farmland. These soils are the product of volcanic ash and mass movement stony deposits. MXC soils are generally well drained and the water table is generally located at a depth of more than 80 inches. The Property topography was altered when the dwellings were constructed, including the construction of a retaining wall, and landscaped features. (See Figures 9 & 12)

b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. The Property has already been built on and landscaped. There are no impacts expected on the topographic characteristics of the land as no changes to existing topography and soils at Property are being proposed.

4. Flood and Tsunami Hazards

a. Existing Conditions

The majority of the Property is not within any flood or tsunami prone zoned. FEMA Flood Insurance Rate Map Panel Number 150003 0678F as revised September 19, 2012, indicates that the majority of the project site is in an area of minimal flood hazard (Zone X). Areas in Zone X have a 0.2% annual chance of flood. The map also indicates a small portion of the southern makai corner of the Property, lies within flood Zone VE. Areas in Zone VE are subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action. The site is also located within the coastal tsunami evacuation area. (See Figures 8 & 11)

b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. The dwellings previously constructed on the Property were constructed on the portion of the Property with minimal flood hazard (Zone X). It is these dwellings and on the lawn that events generally take place. The tsunami evacuation safe zone in all but "Extreme Tsunami Warnings" is located on the mauka side of Makena Road, only a few hundred feet from the Property's dwellings and ceremony space.

5. Flora and Fauna

a. Existing Conditions

Avifauna and mammal's common to the vicinity of the project site are also typical of species found in the urbanized Kihei area. Alien bird species commonly spotted in this area and at the project site include the Common mynah, barred and spotted doves, house finches, mockingbirds and gray francolins. Feral mammals typically found in the area include cats, rats, mice and mongoose. The Property is landscaped with tropical plant species both introduced and native to Hawaii. Because the Property is irrigated the flora is not typical of the native dry coastal scrublands of Makena. Bordering the Property is a small, State beach that is rocky in nature and separates the Property from the ocean. No rare, Federal or State listed threatened or endangered mammal, bird, or insect species have been observed at the project site but variety of such species have been observed in the surrounding offsite coastal and marine environment.

#### b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. As such, the proposed activities are not expected to have a significant impact on the fauna and avifauna in this part of Maui. While no rare, Federal or State listed threatened or endangered mammal, bird, or insect species have been observed on the project site, if such a species was observed, all activities would be halted in that area of the Property until the species left on its own accord.

While no threatened or endangered plant or animal species are known to exist on the property, the following specific mitigation measures will be taken:

No permanent open water features are planned for the proposed facility. Pest control will be administered to target potential rodent and feral animal populations should they be detected. Outdoor lighting will be minimized and down shielded to the extent practicable to help avoid creating an attractive nuisance to seabirds, specifically the Newell's shearwaters (*Puffinus newelli*) and Hawaiian petrels (*Pterodroma sandwichensis*) that might transit over the property at night.

#### 6. Air Quality a. Existing Conditions

Current ambient air quality at the proposed project site is within both the state and national ambient air quality standards. Air quality in Kihei (nearest air monitoring site) is considered "Good" based on low (under 50) Air Quality Index (AQI) values. This AQI value indicates that air quality in Kihei and around the perspective project site is satisfactory and air pollution poses little or no risk to human lives. Based on average air quality data gathered at the Department of Health's Kihei Station, fine particulate matter (PM<sub>2.5</sub>) is on average very low (5ug/m<sup>3</sup>). Daily wind speeds in Kihei average approximately 8 mph quickly dispersing any intermitted air pollution in the region. Daily regional wind speeds are attributed to the prevalent easterly/north easterly trade in this area. These trade winds prevail approximately 80-85% of the time and are generally stronger during the afternoons and lighter during mornings and nights. Current air quality data, trends and local conditions affecting air quality in the project area can be found at <http://health.hawaii.gov/cab/hawaii-ambient-air-quality-data/> and [http://airnow.gov/index.cfm?action=airnow.local\\_state](http://airnow.gov/index.cfm?action=airnow.local_state).

#### b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. The Property has already been built on and landscaped. Irrigation is utilized to maintain ground cover and grass throughout the Property. The drive way and parking area is paved and little to no bare earth or soil is exposed on the Property that could contribute to dust emissions. There are no impacts expected on the ambient air quality as no changes to the Property are being proposed.

#### 7. Streams, Wetlands, Reservoirs a. Existing Conditions

According to the United States Fish and Wildlife Service National Wetlands Inventory, there are no wetlands or rivers on the Property. The Property is located near a marine intertidal rocky shore that is made up of bedrock, stones and boulders and is subject to high wave and tidal energy, and is typical of the Makena coast. (See Figure 10). Approximately 600 feet north of the Property is a riverine system identified by the United States Fish and Wildlife Service National Wetlands Inventory that is described as flowing intermittently and can be seasonally flooded. The shoreline was surveyed on March 1 1999 and March 18, 1998 and certified on August 11, 1999 for shoreline setback purposes during the building process.

**b. Potential Impacts and Mitigation Measures**

No changes are proposed to the Property's land use, and the proposed activities are not expected to negatively impact any streams, wetlands or marine environments. Additionally, all inventoried water bodies are located offsite and as such separated from proposed activities.

**8. Noise Characteristics**

**a. Existing Conditions**

The project site is currently being utilized for event rentals and residential uses. No noise complaints have been filed with the Department of Health Noise Division against the Property in the last five years (Department of Health Noise Section, 2017). Most events typically take place in the early afternoon and continue through sunset; however, events may take place between the hours of 8am and 10pm. All events must have an Event Coordinator or Responsible Agent onsite during the entire time of the event as well as the completion of breakdown and cleanup and to help ensure event noise does not reach disruptive levels. Entertainment is allowed at events and most receptions utilize music, all music ends no later than 9:30pm.

**b. Potential Impacts and Mitigation Measures**

The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. The Applicant has worked with neighbors to ensure any potential noise complaints are mitigated for and addressed immediately. Moving forward, all event attendees will continue to be required vacate the property fifteen (15) minutes prior to the end of the event. Vendors and staff will be allowed to remain to quietly clean up and break down event. Events will be allowed to take place between the hours of 8am and 10pm, no earlier and no later. Only limited amplification will be allowed with the prior approval of the Owner, Applicant or designated representative. No bands or DJ's will be allowed and all music must be approved by the Owner.

**9. Scenic and Open Space Resources**

**a. Existing Conditions**

The project site is visible from Makena Road, which is the nearest public roadway. The project site is landscaped as residential homes in the region are typically landscaped and thus aesthetically blends in with the residential properties to the south of the Property. Coastal access is provided via a path that runs along the northern boundary of the Property and views to the ocean exist over this northern portion of the property. A view corridor toward the ocean also exists between the structures. Due to topography at the southern property frontage, there are existing views toward the ocean looking

northward over the existing structures. The land on the east and north sides of the Property are undeveloped and vegetated with primarily introduced grass species such as buffel grass and kiawe trees.

**b. Potential Impacts and Mitigation Measures**

The Applicant's request would not involve new construction or significant land use change, as such there will be no changes to existing view corridors. This is in contrast to several abutting and nearby coastal properties which have blocked nearly all ocean views. Coastal access will be available at all times via the existing path along the northern boundary of the Property.

**10. Archaeological, Historical, and Cultural Resources**

**a. Existing Conditions**

There are no known historic or archaeological sites on the subject property. The property itself is not an area where traditional and customary cultural activities take place, however, the abutting coastline is an area where traditional activities related to gathering of ocean and marine resources continue to take place. As noted above, an existing public access provides a pathway to the shoreline. A small cemetery containing the remains of Kukahiko ancestor(s) is located just outside the Property near the northern boundary.

**b. Potential Impacts and Mitigation Measures**

The Applicant's request would not involve new construction or significant land use change and would not impact the existing public access pathway or use of the shoreline for traditional and customary coastal related activities. As such, there will be no significant impact to archaeological or cultural resources.

**B. Socio-Economic Environment**

**1. Population**

**a. Existing Conditions**

The Property is within the Census Designated Place (CDP) of Wailea, Maui, Hawaii. Wailea's population was reported in the 2010 Census as approximately 5,938. Approximately 78% of Wailea's population identified as white alone, 8.8% as Asian, 2% Native Hawaiian or Other Pacific Islander, 0.7% Black or African American, 0.4% American Indian and Alaska Native, and 6.9% as Hispanic or Latino. The vast majority (almost 96%) of the population had achieved either a high school diploma or higher, and 10% of the population spoke languages other than English at home (US Census Bureau, 2010). Basic census and demographic data can be found at <https://www.census.gov/quickfacts/fact/table/waileacdphawaii/PST045216>.

**b. Potential Impacts and Mitigation Measures**

The proposed activities are not anticipated to have adverse impacts to the existing population of Wailea. No modification of the existing demographic or socio-cultural composition of the region would occur. The proposed activities will have no known impact on the current wellbeing of minority and/or impoverished peoples in the region nor will the proposed action place any disproportionate burden on any population.

2. Economy
  - a. Existing Conditions

With its dry and mild climate and proximity to recreation-orientated shoreline resources Wailea's visitor based economy has grown steadily. Accommodation and food services sales account for the majority of Wailea-Makena's economy share, with reported sales of \$554,353,000 in 2012 (U.S. Census Bureau, Economic Census, 2012). Retail sales follow accommodation and food services bringing in \$99,284,000 to the Wailea-Makena economy in 2012. The median value of owner-occupied housing units between 2011 and 2015 was reported to be \$820,500 (U.S. Census Bureau, Economic Census, 2012).

The Median household income from 2011-2015 was \$59,902/year. Approximately 55% of the population age 16 years+ were in the civilian labor force between 2011 and 2015 and approximately 17% of the population lives at or below the poverty line. The median gross rent was reported to be \$1,808 between 2011 and 2015. Basic census and demographic data can be found at <https://www.census.gov/quickfacts/fact/table/waileacdphawaii/PST045216>.

- b. Potential Impacts and Mitigation Measures

The proposed activities will help to preserve the long-term economic vitality by providing diversity to the activities, options and opportunities to visitors. Attracting visitors who wish to have a destination wedding will support the accommodations and food services offered in Wailea. General Excise Taxes generated from event venue rentals will further support Maui County and the State of Hawaii. Additionally, local jobs will be maintained for activities associated with florist services, cleanup, wedding coordination, entertainment, food catering, beverage services, cosmetic services, equipment/supply rentals, etc.

- C. Public Services
  1. Police and Fire Protection
    - a. Existing Conditions

The County of Maui's Police Department is headquartered in Wailuku, Maui. Kihei is served by the Kihei Police Station, located at 2201 Pi'ilani Hwy., Kihei, Maui, HI 96753.

Fire prevention, suppression and protection services are offered by the County's Department of Fire and Public Safety. 14 fire stations serve Maui County with two located in the Kihei-Makena region, the Kihei Fire Station and the Wailea Fire Station. The Wailea Fire Station is located at 300 Kilohana Drive, Kihei, Maui, HI 96753 located approximately four (4) miles from the Property. A fire hydrant is located across Makena Road from the Property, approximately 100-feet from the Property's driveway. Two fire extinguishers are located on the Property, one in the main dwelling's kitchen and one in the Garage.

- b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years. As such, the proposed activities are not anticipated to have adverse impacts on police and fire protection and/or services.

2. Solid Waste Disposal
  - a. Existing Conditions

There are six operating landfills, recycling and/or refuse convenience centers in Maui County. The Central Landfill is the primary landfill on Maui and the nearest solid waste facility to the Kihei region. Property is within the service area of the County of Maui Residential Refuse Collection Service with manual refuse collection from Makena Road residences every Wednesday. While within the service area of the County of Maui, there is no public or private refuse collection service contracted for the Property. All refuse collection and removal is taken care of by the Applicant, Owner, or Agent for Kukahiko family visits or by the event coordinator for weddings, receptions, and other events.

- b. Potential Impacts and Mitigation Measures

Waste generated during events primarily consists of food waste, beverage container waste, and paper waste. Clean up of the Property, including the removal of any refuse generated during, before and after an event, will continue to be the responsibility of the event coordinator. It is stated clearly in any event Property rental contract that the Property must be left in the same condition as it was found. Thus, no additional burden is placed on residential refuse collection services as all waste generated by an event is removed from the Property to appropriate disposal sites by event coordinator or by those contracted for each event to do so. The County is not contracted to serve the Property with regular refuse removal so no burden is placed on the public system.

3. Medical Facilities
  - a. Existing Conditions

Maui Memorial Hospital is the only major medical facility on the island. This facility provides for all acute, general and emergency care services. Several medical and dental offices are located in the Kihei area to serve the region's residents.

- b. Potential Impacts and Mitigation Measures

The proposed activities are not anticipated to have adverse impacts to medical facilities and/or services in the region.

- D. Infrastructure
  1. Roadways and Traffic
    - a. Existing Conditions

Makena Alanui Road is the primary route serving the Makena region. Access to the Property is provided via Makena Road, an existing minor road that branches from Makena Alanui towards the ocean and culminates in a cul-de-sac near Maluaka Beach. Makena Road traffic is light and primarily attributed to residential and beach traffic. The Property is connected to Makena Road via a driveway and approximately eight off-street parking stalls are provided on the Property. Use of a shuttle service is currently strongly encouraged by the Applicant for all events with 20 or more guests.

- b. Potential Impacts and Mitigation Measures

The proposed activities are not anticipated to have adverse impacts to traffic and roadway infrastructure in the region. The Applicant is requesting after the fact approval to continue using the

Property for event rentals, in the same manner as the last several years. Use of a shuttle services to alleviate local traffic and parking impacts along Makena Road during will be encouraged for all events regardless of event size.

2. Drainage and Erosion Control

a. Existing Conditions

There are existing drainage improvements in place on the Property. A retaining wall and other drainage improvements were approved during the building permit process and installed during the construction of the two existing dwellings and garage on the Property. There are no drainage system improvements along the roadway fronting the Property.

b. Potential Impacts and Mitigation Measures

The Applicant's request would not involve new construction or significant land use change and as such would not impact onsite or off-site drainage systems.

3. Water Systems

a. Existing Conditions

The Kihei area is serviced by the County of Maui's Central Maui Water System which is comprised of ground water and surface water primarily from Iao Valley and other centrally located secondary wells, tunnels and surface waters. The Property is currently served by the County of Maui Department of Water Supply. The majority of water consumption at the Property is dedicated to irrigation purposes with a small portion serving domestic needs of family visits and wedding or event water needs. More information about Maui's water systems is located here: <http://www.co.maui.hi.us/226/Maui-Water>.

b. Potential Impacts and Mitigation Measures

The project site is within the Central Maui Water System and the Kihei WRF service area. No negative impacts are expected to the region's water system as no increase in consumption is being proposed. No change to the existing water system is being proposed. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years.

4. Wastewater Systems

a. Existing Conditions

The Property is currently served by an aerobic individual wastewater septic system consisting of a 1000-gallon whitewater aerobic tank unit and 500-SF of soil absorption seepage pit. The unit was designed to treat a project flow of five (5) bedrooms. There are currently three (3) bedrooms and a loft between the three (3) dwellings on the property being served by the wastewater system. There is no existing potable drinking water well within 1,000 feet of the proposed disposal system. The system was installed in 2003 by Linda Taylor Engineering, Inc. and approved by the Department of Health as it conforms with the provisions of Hawaii Administrative Rules, Title 11, Chapter 62.

b. Potential Impacts and Mitigation Measures

No change to the existing wastewater system is being proposed. The Applicant is requesting after the fact approval to continue using the Property for event rentals, in the same manner as the last several years.

## 5. Electrical and Telephone Considerations

### a. Existing Conditions

Maui Electric Company currently provides electrical services to the Property. Maui Electric's generating station is located in Maalaea at 1000 North Kihei Road, Maui, Hawaii 96753 approximately 6 miles north of the Property. Spectrum currently serves the Property with WiFi internet service and there is no telephone service at the Property.

### b. Potential Impacts and Mitigation Measures

The proposed project is not anticipated to have adverse impacts to electrical and/or telephone services in the region. Current internet service is for private Kukahiko family use only. No changes to existing electrical and communication systems are being proposed.

## IV. Relationship to Land Use Planning

### A. Hawaii Land Use Law

Chapter 205, Hawaii Revised Statutes relates to the Land Use Commission and establishes the four major land use districts in which all lands in the State are placed. These four-major land use district are "Urban", "Rural", "Agricultural", and "Conservation". The proposed project site is located within the "Urban" district. (See Figure 5) The proposed action—continual rental of the Property for events such as weddings, receptions, vow renewals, and ceremonies—is permissible within the Urban State Land Use District.

### B. Maui Countywide Policy Plan

The County of Maui 2030 General Plan Countywide Policy Plan acts as an over-arching values statement and umbrella policy document of the Maui Island Plan and the nine Community Plans. The plan includes:

1. *A vision for the County;*
2. *A statement of core themes or principles for the County; and*
3. *A list of countywide objectives and policies for population, land use, the environment, the economy, and housing.*

To guide the Maui Countywide Policy Plan, core principles are defined in the plan as follows:

1. *Excellence in the stewardship of the natural environment and cultural resources;*
2. *Compassion for and understanding of others;*
3. *Respect for diversity;*
4. *Engagement and empowerment of Maui County residents;*
5. *Honor for all cultural traditions and histories;*
6. *Consideration of the contributions of past generations as well as the needs of future generations;*
7. *Commitment to self-sufficiency;*
8. *Wisdom and balance in decision making;*



9. *Thoughtful, island-appropriate innovation; and*
10. *Nurturance of the health and well-being of our families and our communities.*  
(emphasis added)

The core principles identified under items 1, 2, 3, 4, 5, 6, 7 and 10 are supportive of the proposed request.

In line with these core principles, the Maui Countywide Policy Plan identifies goals, objectives, policies and actions for the following planning categories:

- A. *Protect the Natural Environment*
- B. *Preserve Local Cultures and Traditions*
- C. *Improve Education*
- D. *Strengthen Social and Healthcare Services*
- E. *Expand Housing Opportunities for Residents*
- F. *Strengthen the Local Economy*
- G. *Improve Parks and Public Facilities*
- H. *Diversify Transportation Options*
- I. *Improve Physical Infrastructure*
- J. *Promote Sustainable Land Use and Growth Management*
- K. *Strive for Good Governance*  
(emphasis added)

The goals, objectives, policies and actions under items A, B, and F are strongly supportive of the proposed use.

A. Maui Island Plan

The Maui Island Plan was adopted in December, 2012 and is intended to be a blueprint that provides direction for future growth, the economy, and social and environmental decisions on the island through 2030. The “backbone” of the Maui Island Plan is the Directed Growth Plan which is intended to accommodate growth in a manner that provides for economic development, yet protects environmental, agricultural, scenic and cultural resources; economizes on infrastructure and public services; meets the needs of residents; and protects community character. The Directed Growth Plan uses MIP goals, objectives, and policies as well as guiding land use principles as a foundation for establishing urban and rural growth boundaries, as well as for providing guiding land use principles for use of Agricultural lands.

The Property is located within the Urban Growth Area on the Maui Island Plan Directed Growth Map. (See Figure 7) The proposed action is consistent with the Urban Growth Area description to “...contain a greater variety of land use types including various housing types and densities, commercial, retail, industrial uses, and resort destination areas”. The proposed use is located within the Makena resort destination area and provides a unique coastal setting and venue for special events and ceremonies for visitors while preserving the opportunity for members of a local family to maintain family lands in an area that has become dominated by high-end luxury housing.

In addition, the MIP sections on Core Values and Economic Development - Tourism are supportive of the proposed use. A few of the supportive core values, objectives and policies from the MIP are as follows:

Core Values:

- *Respect and protect our heritage, traditions, and multi-cultural resources;*
- *Retain and enhance the unique identity and sense of place;*
- *Support efforts that contribute to a sustainable and diverse economy for Maui;*
- *Recognize and be sensitive to land ownership issues and work towards resolution.*

Economic Development Tourism - Goal, Objective and Policies:

*4.2 A healthy visitor industry that provides economic well-being with stable and diverse employment opportunities.*

*4.2.1 Increase the economic contribution of the visitor industry to the island's environmental well-being for the island's residents' quality of life.*

*4.2.1.c Focus economic growth in the visitor industry through enhanced visitor experiences and an emphasis on attracting higher-spending.*

*4.2.1.d Provide a rich visitor experience, while protecting the island's natural beauty, culture, lifestyles, and aloha spirit.*

*4.2.1.e Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, ag-tourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate locations.*

*4.2.1.f Recognize the important economic contributions that the visitor industry makes and support a healthy and vibrant visitor industry.*

B. Kihei-Makena Community Plan

Within Maui County, there are nine (9) community plan regions each with their own Community Plans. These plans are meant to set forth desired land use patterns, goals, objectives, policies and actions for a number of planning and functional areas related to the region. The Property is designated for "Public/Quasi-Public" use within the Kihei-Makena Community Plan region. (See Figure 6) The proposed action—continual rental of the Property for events such as weddings, receptions, vow renewals, and ceremonies—is consistent with the Kihei-Makena Community Plan Map designation for "Public/Quasi-Public" use. The proposed activity is consistent with the Public/Quasi-Public use description that this designation "should include schools, libraries, fire/police stations, government buildings, public utilities, hospitals, churches, cemeteries, and community centers". Weddings, receptions, vow renewals and ceremonies typically occur in places such as community centers, government buildings, and churches all of which are included in the Public/Quasi-Public use designation. As such the proposed action at the Property is consistent with the Kihei-Makena Community Plan Map designation.

In addition, the following objectives and policies are supportive of the proposed request:

Land Use:

*Preserve coastal vistas, open space and recreational opportunities for residents by prohibiting further shoreline development except in places designated on the 1997 community plan land use map, and prohibit future community plan amendments along the shoreline that would increase the intensity of land use, with the exception of land use that is public or quasi-public in nature.*

**Environment:**

*Maintain and enhance the long-term availability of shoreline resources for public enjoyment through adequate access, space, and facility provisions, and through on-going resource management programs.*

**Cultural Resources:**

*Recognize and respect family ancestral ties to certain sites.*

**Economic Activity:**

*A diversified and stable economic base which serves resident and visitor needs while providing long-term resident employment.*

**C. Maui County Zoning**

The project site is currently within the County of Maui's "A-2 Apartment District". Rental of the Property for events such as weddings, receptions, vow renewals, and ceremonies—while not explicitly stated as a permitted use within the "A-2 Apartment District" per Chapter 19.12 MCC, may be allowed as a conditional use per Chapter 19.40 MCC. The intent of Chapter 19.40-Conditional Permits, MCC "is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location." (Section 19.40.010, MCC). In addition, the Planning Commission may recommend approval of a conditional permit upon finding "that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located." (Section 19.40.070, MCC.)

**Reasons justifying granting of the permit exist:**

As noted above, various planning documents and policies establish a basis for justification of the proposed request. The requested use serves to enrich the visitor experience, while protecting the island's natural beauty, culture, lifestyles, and aloha spirit. Approval of the request would recognize and support the important economic contributions that the visitor industry makes and would help to maintain a healthy and vibrant visitor industry. Importantly, approval of the requested use of the property provides an opportunity for the Kukahiko Corporation to maintain ownership of the property in light of high property tax rates created by surrounding luxury/high end housing that has resulted in the displacement of many local families from the Makena area.

**The proposed use is similar, related and compatible to permitted uses within the A-2 District:**

Permitted uses in the A-2 Apartment District per Chapter 19.12.020, Maui County Code ('MCC') include the following uses which are similar and related to the proposed use:

A. Any use permitted in the residential and duplex districts.

G. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989.

H. Bed and breakfast homes

## I. Short term rental homes.

The Makena area is considered a resort destination area and contains uses permissible in the A-2 District which are dedicated to tourism including short term rental homes and transient vacation rentals. Tourists are drawn to the area in part because of the beautiful natural coastal features. Visitors are also drawn to the Makena and Wailea area by the visitor accommodations and services offered in the main visitor hub of Wailea but seek private, scenic, quiet and intimate locations for wedding, vow renewals and receptions. The proposed request would allow use of the coastal property for special events while at the same time preserving the residential scale and character of the area. Thus, the requested use is similar, related and compatible to permissible uses in the A-2 District.

The proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located;

As noted, the property has been used for the requested purpose for a number of years and the use has not been detrimental to the public interest convenience and welfare. The use provides for tourism related economic activities that support many local businesses. These types of activities are supported by policies in the MIP and the Kihei-Makena Community Plan. Lastly, the property has been managed according to a detailed set of rules and requirements that minimizes potential impacts to nearby properties so that the use can exist in harmony within surrounding area.

## Sources

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Kumu Pono Associates LLC, 2005 *He Mo'olelo 'Aina No Ka'eo Me Kahi 'Aina E A'E Ma Honua'ula O Maui, A Cultural-Historical Study of Ka'eo and other lands in Honua'ula, Island of Maui*, Pages 36 & 56

Lillian G. Mott-Smith, March 09, 1947, The Honolulu Saturday Advertiser, *Kukahiko Clan Gathers, Descendant of Whaler Meet in Reunion on Maui*

NPS, 2014 <https://www.nps.gov/maps/full.html?mapId=7ad17cc9-b808-4ff8-a2f9-a99909164466>

U.S. Census Bureau, Economic Census, 2012.

<https://www.census.gov/quickfacts/fact/table/waileacdphawaii/PST045216>

US Census Bureau, 2010, <https://www.census.gov/quickfacts/fact/table/waileacdphawaii/PST045216>



**Linda Taylor Engineering**  
P.O. Box 779, Makawao, Maui, Hawaii (808) 572-2688

Figure 1  
Regional Location



## LEGEND



Kukahiko Family Property, 5034 Makena Road

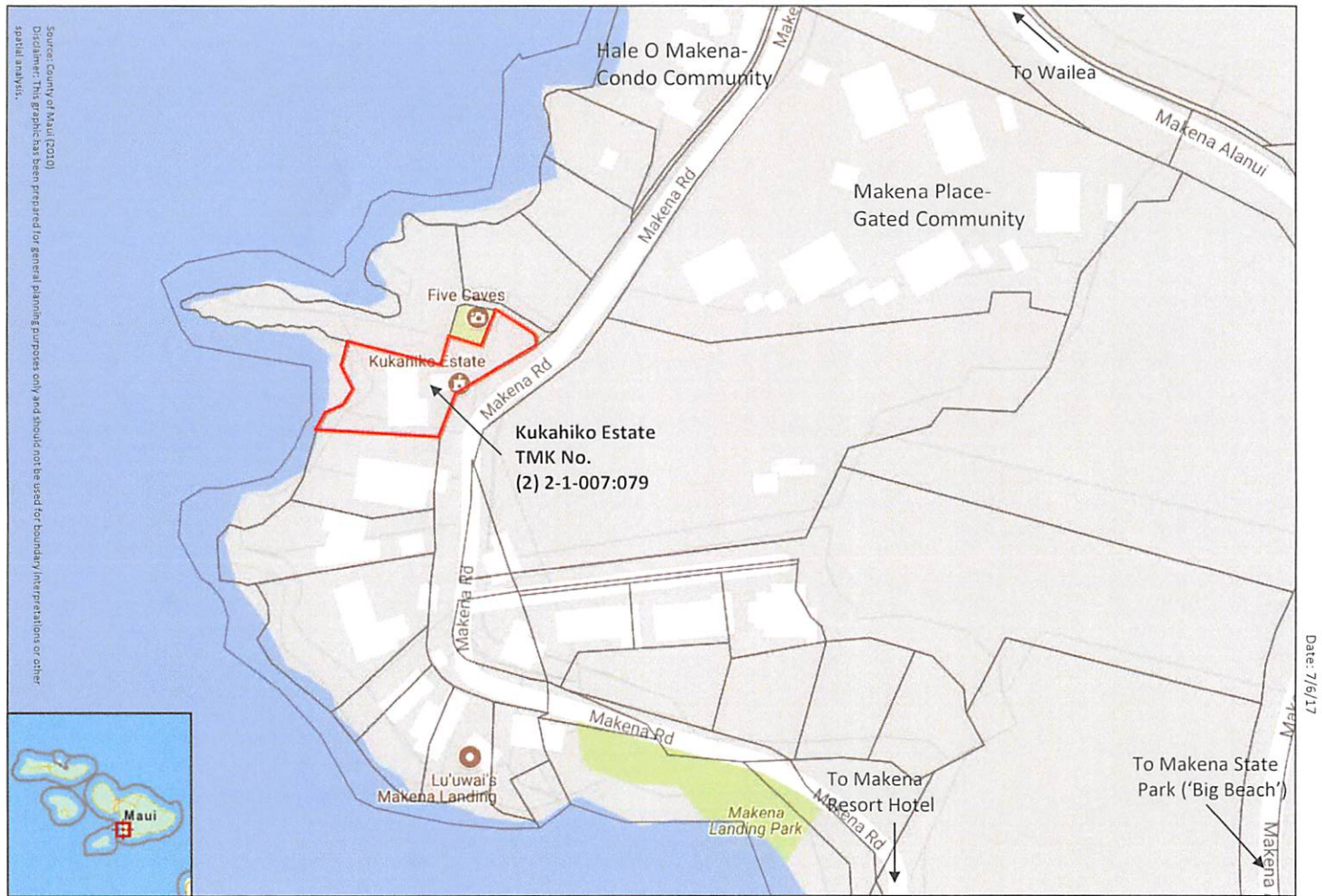


Figure 2  
Aerial Photograph

Source: Google(2017)

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.





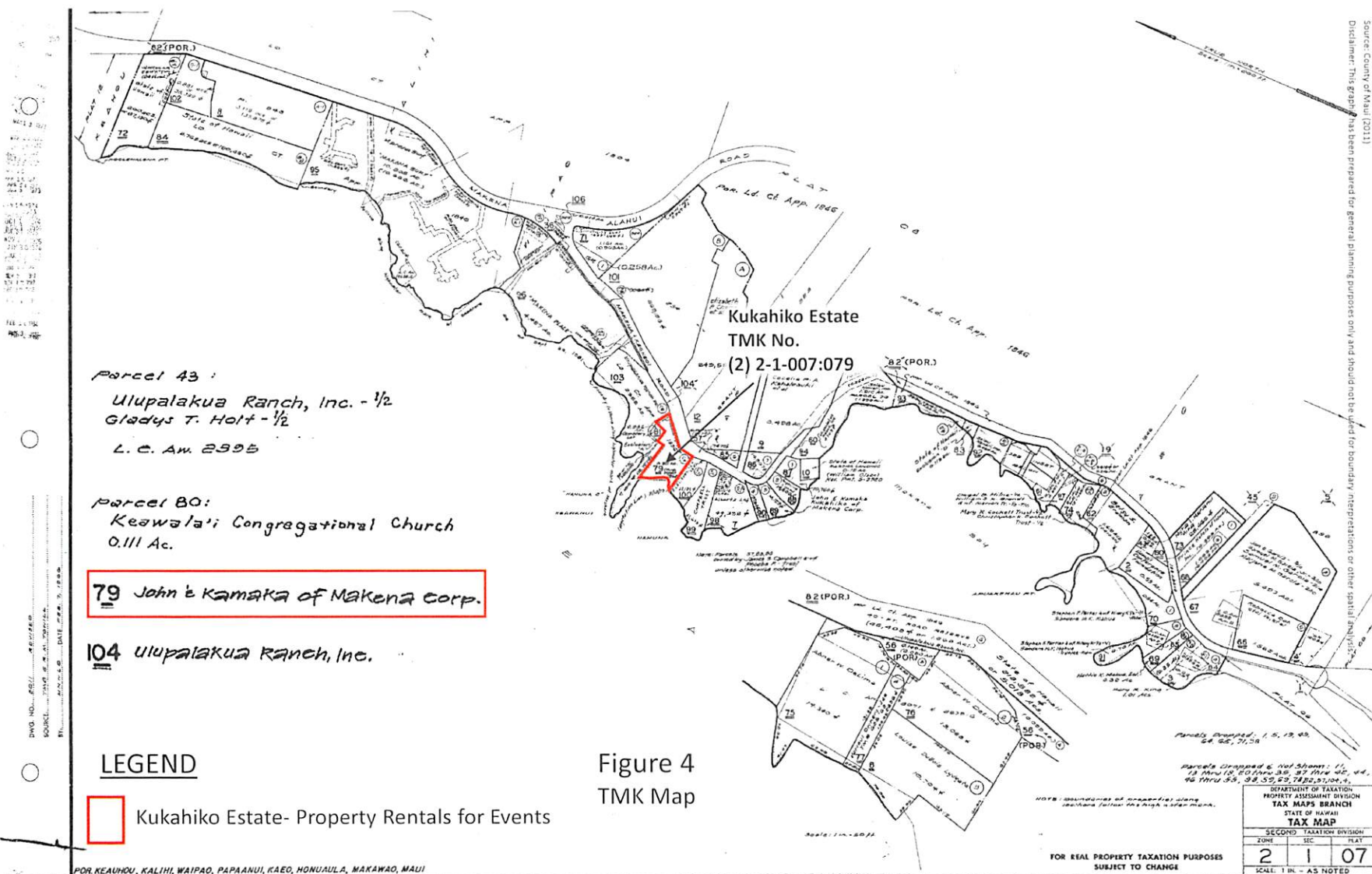
### LEGEND

- Kukahiko Estate- Property Rentals for Events



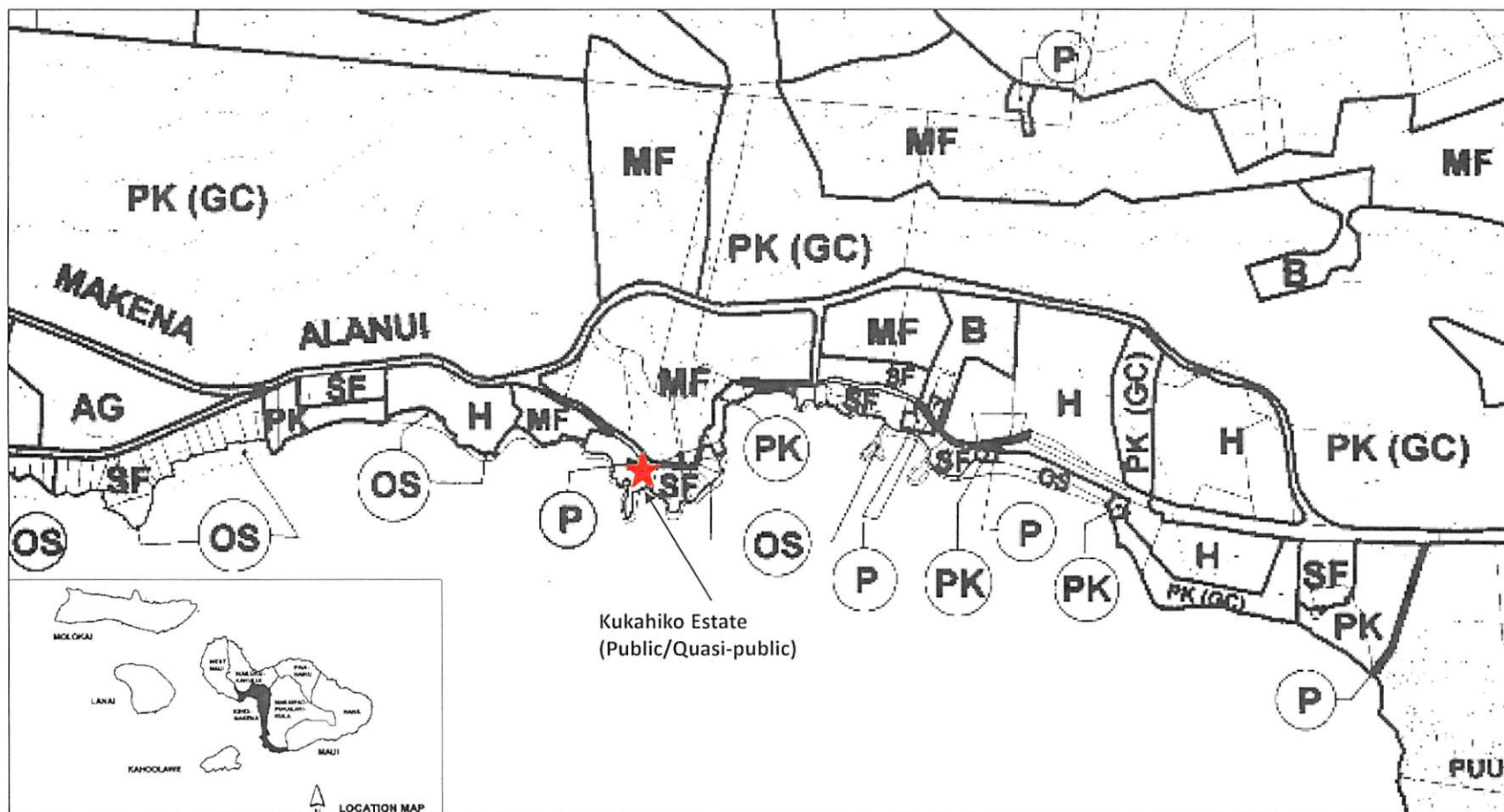
Figure 3  
Location Map

Date: 8/8/17









Date: 8/11/17

## LEGEND

- ★ Kukahiko Estate- Property Rentals for Events
- |                            |                 |
|----------------------------|-----------------|
| P: Public/Quasi-public     | MF: Multifamily |
| AG: Agriculture            | H: Hotel        |
| PK /(GC): Park/Golf Course | OS: Open Space  |
| SF: Single Family          | B: Commercial   |

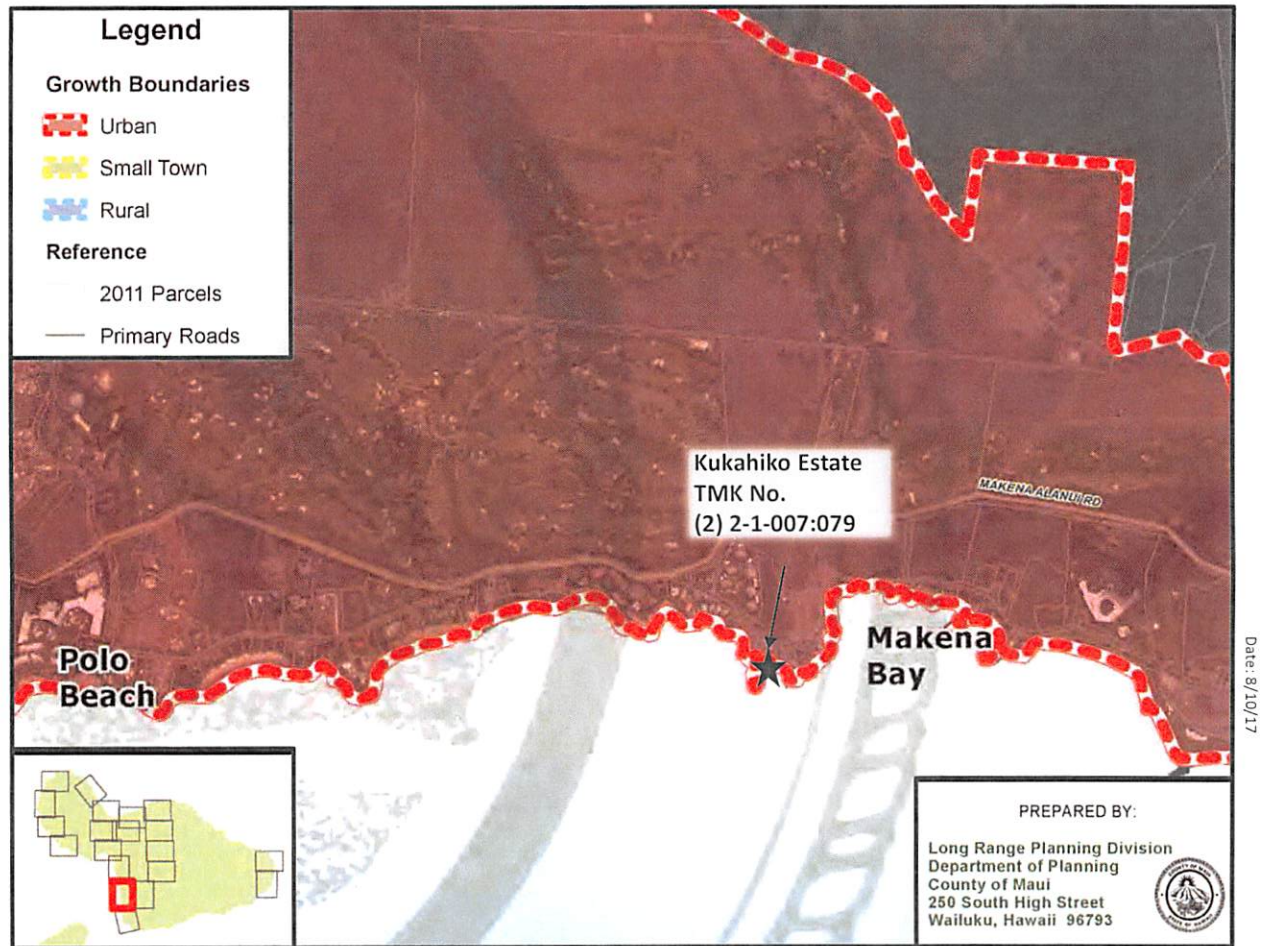
Source: County of Maui (1998)

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.



Figure 6  
Kihei-Makena Community  
Plan Map





**LEGEND**

★ Kukahiko Estate- Property Rentals for Events



**Figure 7**  
**Maui Island Plan**  
**Directed Growth Map**

Source: County of Maui (2012)  
 Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.

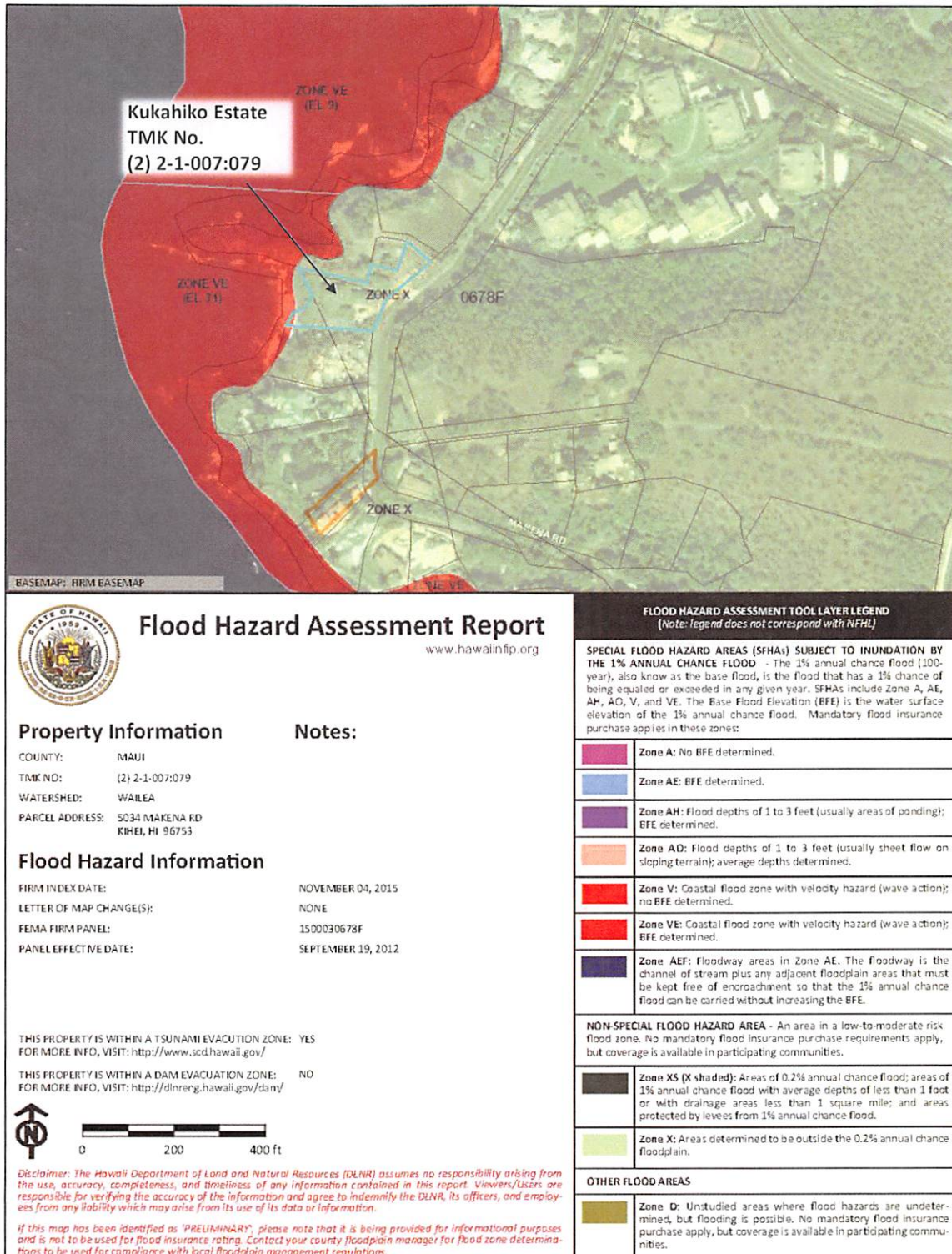


Figure 8  
Flood Hazard Assessment Report





## LEGEND

**MXC** Makena loam, stony complex, 3-15% slopes

Figure 9  
NRCS Soil Resource Report,  
Soil Map

Source: USDA NRCS <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm> (2016)

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.



Date: 8/31/17

#### LEGEND

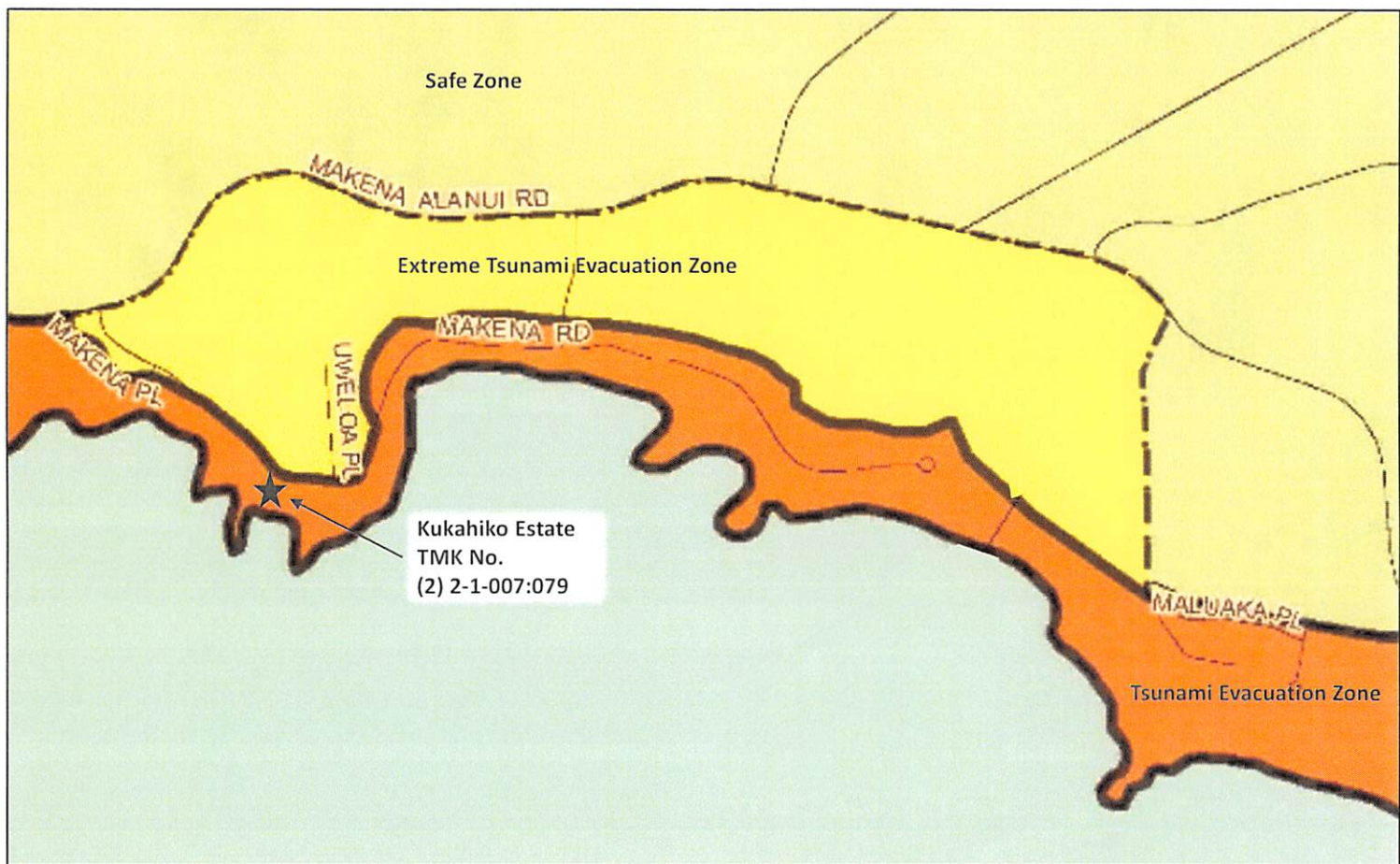
 Kukahiko Estate- Property Rentals for Events

Figure 10  
FEMA Flood Insurance Rate Map

Source: US Fish and Wildlife Service (2017)

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.





Date: 9/1/17

### LEGEND

- ★ Kukahiko Estate- Property Rentals for Events
- Orange Box Tsunami Evacuation Zone
- Yellow Box Extreme Tsunami Evacuation Zone
- Light Yellow Box Safe Zone

Source: County of Maui (2015)

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.

Figure 11  
Tsunami Evacuation  
Maui Map







revised  
JUNE 14, 2001  
JULY 9, 2001

KUKAHIKO RESIDENCE  
LOT #1A  
HONUAULA, MAUI, HAWAII



HUGH FARRINGTON  
A.E.C.  
P.O. BOX 1948  
KOHALA, HAWAII 96751  
(808) 479-2445

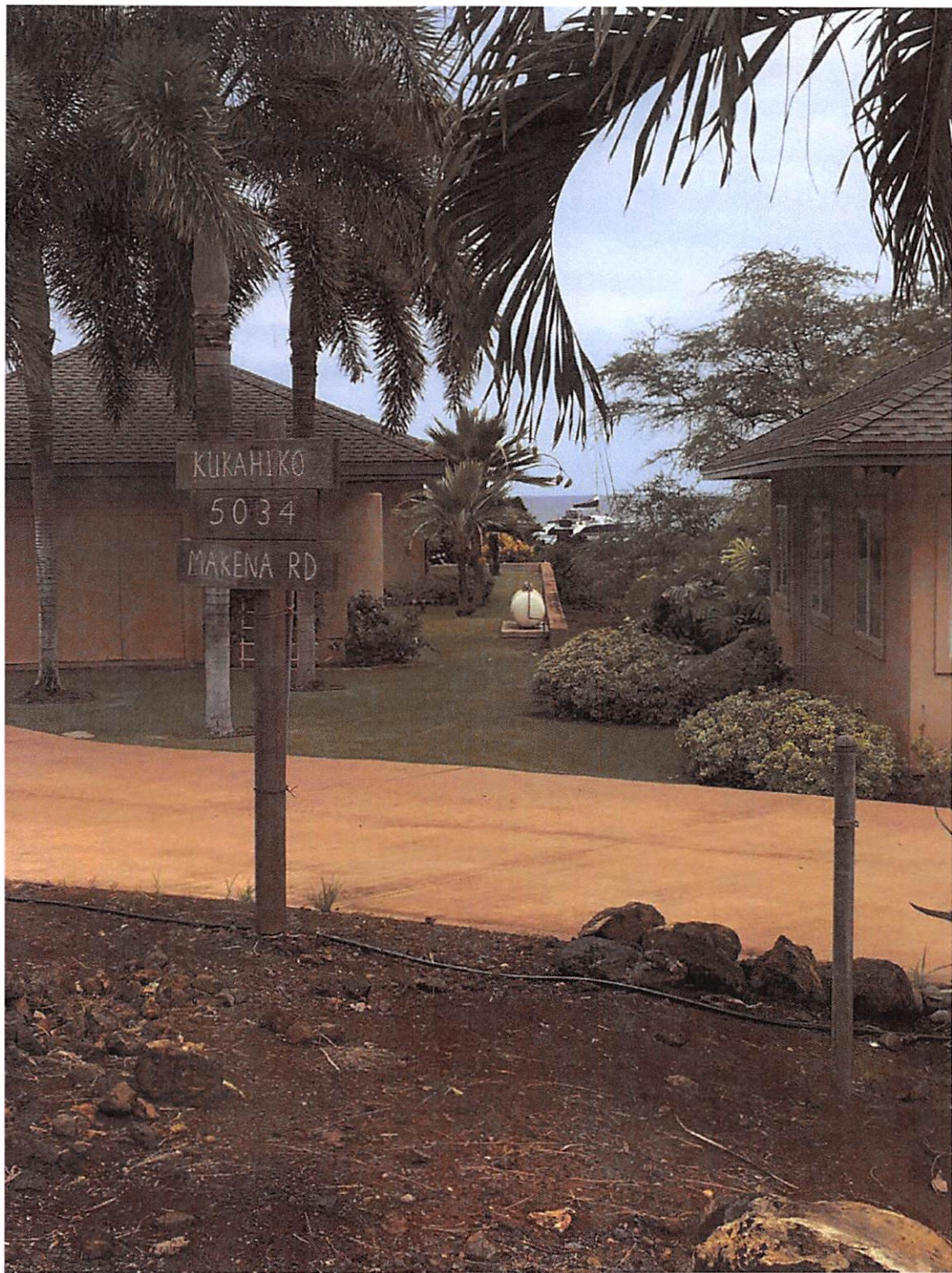
Scale 1/16" = 1'-0"  
Date MAY 2001  
Job #  
drawn by tic  
sheet #



# Photographs

Property without event.





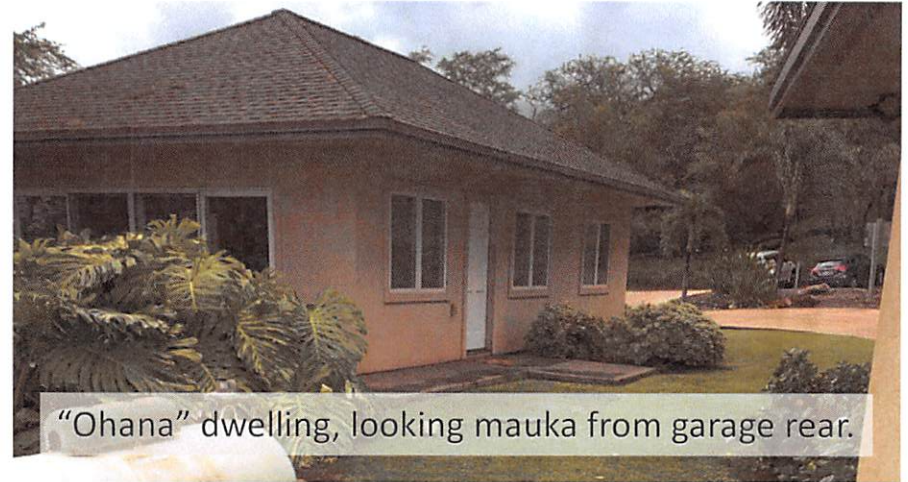
View corridor between Kukahiko dwellings, looking makai from Makena Road.





Kukahiko driveway and parking area, family graveyard visible in background of photo on the right.





"Ohana" dwelling, looking mauka from garage rear.



Garage and extra bathrooms.



Northern property boundary shows retaining wall, septic and propane tanks.