

## PSLU Committee

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**From:** Graham Resell <Graham.M.Resell@co.maui.hi.us>  
**Sent:** Wednesday, November 10, 2021 12:25 PM  
**To:** PSLU Committee  
**Subject:** PSLU-36 Digital Zoning Map  
**Attachments:** PSLU-36 2021-11-10 RFLS Leauanae Unilateral Agreement RAFLCclosing.PDF

You don't often get email from graham.m.resell@co.maui.hi.us. [Learn why this is important](#)

Please find attached the First Amendment to the Unilateral Agreement, approved as to form and legality and signed by our department, relating to the above referenced assignment. Originals will be placed in OCS' 2<sup>nd</sup> floor mail tray. Please let me know if there are any questions or if you need anything else from us.

Thank you,  
Graham

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Graham M. Resell  
Law Technician  
Department of the Corporation Counsel  
Telephone: (808)270-1778

# REQUEST FOR LEGAL SERVICES

RECEIVED  
CORPORATION COUNSEL

Date: November 9, 2021

From: Tamara Paltin, Chair

Planning and Sustainable Land Use Committee

21 NOV 10 AIO:25

TRANSMITTAL

Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL


Attention: Stephanie M. Chen, Esq.

Subject: **DIGITAL ZONING MAP (3) FOR MAUI** (PSLU-36)

**Background Data:** Please see attached the First Amendment to the Unilateral Agreement signed by the applicant and notarized. Please determine if it can be approved as to form and legality. If revisions are required, please email a Word document with track changes. Please submit your response to [pslu.committee@mauicounty.us](mailto:pslu.committee@mauicounty.us).

**Work Requested:** ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [ ] OTHER:

Requestor's signature  _____ Tamara Paltin	Contact Person  Wilton Leauanae (Telephone Extension: 7761)
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☐ [ ] ROUTINE (WITHIN 15 WORKING DAYS)

☐ [ ] RUSH (WITHIN 5 WORKING DAYS)

☐ [ ] PRIORITY (WITHIN 10 WORKING DAYS)

☐ [ ] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 10, 2021

REASON: To meet posting deadline for November 19, 2021 Council meeting.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>SMC</u>	ASSIGNMENT NO. <u>2021-0016</u>	BY: <u>GMR</u>
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TO REQUESTOR: ☒ [X] APPROVED ☐ [ ] DISAPPROVED ☐ [ ] OTHER (SEE COMMENTS BELOW)

☐ [ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

Please see attached.

DEPARTMENT OF THE CORPORATION COUNSEL

Date

11/10/2021

By

Stephanie Chen

(Rev. 7/03)

LAND COURT

REGULAR SYSTEM

Return by Mail to:

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

TITLE OF DOCUMENT:

FIRST AMENDMENT TO UNILATERAL AGREEMENT AND  
DECLARATION FOR CONDITIONAL ZONING DATED JULY 31, 2020

TOTAL NUMBER OF PAGES 4

Affects Tax Map Key(Maui) (2) 2-5-005:063 (POR.)

**FIRST AMENDMENT TO UNILATERAL AGREEMENT AND  
DECLARATION FOR CONDITIONAL ZONING DATED JULY 31, 2020**

Unilateral Agreement" or "Declaration" dated July 31, 2020, is made this 3<sup>rd</sup> day of November, 2021, by the following "Declarants," who are owners of real property located at 120 Baldwin Avenue, Pa'ia, Hawai'i, referred to as "the Property," comprised of 4.035 acres, and identified for real property tax purposes as Tax Map Key (2) 2-5-005:063 (por.):

Paia 2020, LLC, a Hawai'i limited liability company whose principal place of business is at 62 Baldwin Avenue, Unit 2B, Pa'ia, Hawai'i, and whose manager is David R. Spee, and

David Richard Spee, Trustee for the David R. Spee Revocable Trust dated NOVEMBER 16, 2009.

WITNESSETH:

WHEREAS, the Declarants entered into a Unilateral Agreement dated July 31, 2020; and

WHEREAS, the Unilateral Agreement dated July 31, 2020 shall be hereinafter referred to as the "Unilateral Agreement" or "Declaration"; and

WHEREAS, the Unilateral Agreement is on file with the Office of the County Clerk; and

WHEREAS, the Declarants now desire to amend the Unilateral Agreement; and

NOW, THEREFORE, the Declarants agree to amend the Unilateral Agreement as follows:

1. Section 5 is amended to read as follows:

5. That this Unilateral Agreement is fully effective on the effective date of the Conditional Zoning ordinance approving the establishment of a Change in Zoning from Interim District to B-CT Country Town Business District for Area "A" and a Change in Zoning from Interim District to P-1 Public/Quasi-Public for Area "B";

2. This First Amendment to the Unilateral Agreement may be executed in counterparts, each of which will be

deemed to be an original, but all of which, taken together, constitute one and the same First Amendment to the Unilateral Agreement.

Any persons signing this First Amendment to the Unilateral Agreement represents and warrants that they are duly authorized and have legal capacity to execute and deliver this First Amendment to the Unilateral Agreement. Each party represents and warrants to the other that the execution and delivery of this First Amendment to the Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this First Amendment to the Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.

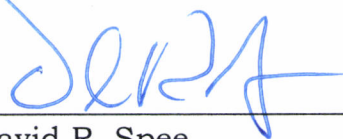
[Execution Pages to Follow]

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on the day and year first written above.

DECLARANTS:

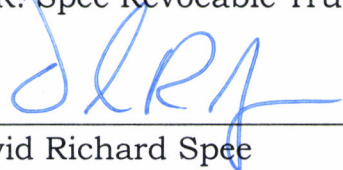
Paia 2020, LLC



By: David R. Spee

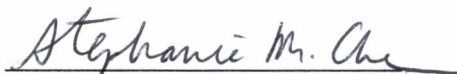
Its Manager

David R. Spee Revocable Trust



By David Richard Spee  
Its Trustee

APPROVED AS TO FORM  
AND LEGALITY:



STEPHANIE M. CHEN  
Deputy Corporation Counsel  
County of Maui

STATE OF Hawaii )  
County of Maui ) SS.

On this 3rd day of November, 2021, before me personally appeared David B. Spivey, Manager of Maui 2020, LLC, 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 capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Notary Public, State of Hawaii

Print Name: Serena L. Freitas

My Commission Expires: 9-28-2023

[Stamp or Seal]

LS SERENA L. FREITAS  
Notary Public - State of Hawaii  
Commission No. 03-554  
My Commission Expires Sept. 28, 2023

NOTARY PUBLIC CERTIFICATION

Doc. Date: 11/3/2021 # Pages: 6

Notary Name: Serena L. Freitas Judicial Circuit: 2nd

Document Description: First Amendment  
to Unilateral Agreement and Declaration  
for Conditional Zoning dated July 31, 2020

Notary Signature: 

Date: 11/3/2021

[Stamp or Seal]

LS SERENA L. FREITAS  
Notary Public - State of Hawaii  
Commission No. 03-554  
My Commission Expires Sept. 28, 2023

STATE OF Hawaii )  
County of Maui ) SS.

On this 3rd day of November, 2021, before me personally appeared David Richard Seibert, 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 capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]

Notary Public, State of Hawaii

Print Name: Serena L Freitas

My Commission Expires: 9-8-2023

[Stamp or Seal]  
SERENA L. FREITAS  
Notary Public - State of Hawaii  
Commission No. 03-554  
My Commission Expires Sept. 28, 2023

NOTARY PUBLIC CERTIFICATION

Doc. Date: 11/3/2021 # Pages: 6

Notary Name: Serena L Freitas Judicial Circuit: 2nd

Document Description: First Amendment

to Unilateral Agreement and Declaration  
for Conditional Zoning dated July 31, 2020

Notary Signature: [Signature]

Date: 11/3/2021

[Stamp or Seal]

[Stamp or Seal]  
SERENA L. FREITAS  
Notary Public - State of Hawaii  
Commission No. 03-554  
My Commission Expires Sept. 28, 2023