

Tim

COUNCIL MEETING NOTICE and AGENDA
WEDNESDAY, SEPTEMBER 9, 2009
9:15 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS
Historic County Building
4396 Rice Street, Room 201
Lihue, Kaua'i, Hawai'i

MEETING CALLED TO ORDER.

ROLL CALL.

APPROVAL OF AGENDA.

SEP 10 10:00 AM
THE COUNTY OF KAUAI

09 SEP -3 P 8 :21

RECEIVED

MINUTES of the following meetings of the Council:

- Council Meeting of August 5, 2009
- Council Meeting of August 19, 2009
- Public Hearing of August 19, 2009 re: Bills Nos. 2320 and 2321

COMMUNICATIONS:

- C 2009-294 Communication (08/04/2009) from the Chief of the Building Division, Department of Public Works, transmitting for Council information, the Building Permit Information Reports for July 2009 that includes the following:
 - 1) Building Permit Processing Report
 - 2) Building Permit Estimated Value of Plans Summary
 - 3) Building Permits Tracking Report
 - 4) Building Permits Status

- C 2009-295 Communication (08/07/2009) from the County Engineer, transmitting a request to transfer \$132,000 from the Capital Improvement Project (CIP) General Fund (Project Contingency Account) to Moana Kai (Fujii) Shoreline Design/Permit for additional design cost of the Moana Kai Seawall. *(See Proposed Draft Bill No. 2323)*

- C 2009-296 Communication (08/14/2009) from the Director of Finance and the Accounting Systems Administrator, transmitting the annual certified physical inventory reports for the fiscal year ending June 30, 2009. ***(Inventory List on file in the County Clerk's Office.)***
- C 2009-297 Communication (time-stamped 09/18/2009) from the Director of Finance, transmitting for Council information, the Statement of Condition of the County Treasury as of June 16, 2009.
- C 2009-298 Communication (08/24/2009) from Diane Zachary, President & CEO, Kaua'i Planning & Action Alliance, requesting agenda time to give the Council a briefing on the second edition of its New Community Indicators Report, "Measuring What Matters for Kaua'i". ***(Copy on file in the County Clerk's Office.)***
- C 2009-299 Communication (08/26/2009) from the Planning Director, transmitting the Planning Commission's recommendation on Proposed Draft Bill No. 2322 to extend the deadline for obtaining a building permit for Additional Dwelling Units on non-residentially zoned land from December 15, 2009 to December 15, 2014. ***(Planning Commission's findings and staff report and transcripts on file in the County Clerk's Office.) (See Proposed Draft Bill No. 2322)***
- C 2009-300 Communication (08/26/2009) from the Planning Director, transmitting the Planning Commission's recommendation to approve amendments relating to Kaua'i Lagoons Resort Density Amendment Project (MORI Golf (Kaua'i), LLC (Applicant), Kalapakī, Līhu'e, Kaua'i, Hawai'i, Tax Map Key No. (4) 3-5-01: por. 27, 102, and por. 168 as follows:
- 1) State Land Use District Boundary Amendment from Agricultural District (A) to Urban District (U)
(See Proposed Draft Bill No. 2324)
 - 2) County General Plan Amendment from Open to Resort
(See Proposed Draft Bill No. 2325)
 - 3) County Zoning Amendment from Open District (O) to Residential District (R-2)
(See Proposed Draft Bill No. 2326)
 - 4) County Visitor Destination Area Amendment
(See Proposed Draft Bill No. 2327)
- (Planning Commission's findings and staff report and transcripts on file in the County Clerk's Office.)***

- C 2009-301 Communication (08/27/2009) from Councilmember Derek S.K. Kawakami, transmitting for Council consideration a Resolution approving the nomination of City & County of Honolulu Councilmember Romy Cachola to the Board of Directors of the National Association of Counties (NACo) for the fiscal year 2009-2010 term which was approved by the Hawai'i State Association of Counties (HSAC) Executive Committee meeting held on August 17, 2009. (*See Resolution No. 2009-52*)
- C 2009-302 Communication (08/05/2009) from the Director of Parks & Recreation, requesting Council approval to accept a gift of \$5,000 from the Florence Iwamoto Kaua'i Fund of the Hawai'i Community Foundation which will fund specifically the Līhu'e Senior Center to cover the cost of completing the intergenerational interviews video project and to update equipment for video showing.
- C 2009-303 Communication (08/06/2009) from the Chief of Police, requesting Council approval to expend approximately \$12,000 from the Police Special Fund account which funds will be used to purchase new computers for the Kapa'a Substation and Kōloa Substation.

LEGAL DOCUMENT:

- C 2009-304 Communication (08/19/2009) from the Director of Parks & Recreation, transmitting for Council approval securing of a shared-use path property adjustment agreement at Wailua Bay View and right-of-entry and license agreement at Kapa'a Sands to access for construction the Lydgate Park to Kapa'a Bike/Pedestrian Path along Papaloa Road as follows:
- (a) Property Adjustment Agreement by and between the Association of Apartment Owners of Wailua Bay View Apartments, a Hawai'i Nonprofit Corporation, and the County of Kaua'i, portion of Tax Map Key No. (4) 4-1-05:3, containing an area of approximately 1,080 square feet.
 - (b) Right-of-Entry and License Agreement by and between the County of Kaua'i, and the Association of Apartment Owners of Kapa'a Sands, containing an area approximately 2,134 square feet and Construction Parcel C-1, containing an area of approximately 13,437 square feet, both identified as being portions of Tax Map Key No. (4) 4-3-02:02.

CLAIMS:

C 2009-305 Communication (08/28/2009) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Leland Yadao for monetary damages, including fees and interest related to posting bail, attorneys' fees, and loss of income, and for loss and injury to his federal and state constitutionally protected civil rights, pursuant to Section 23.06, Charter of the County of Kaua'i.

COMMITTEE REPORTS:

PARKS/TRANSPORTATION COMMITTEE REPORT:

CR-PKT 2009-03: on Bill No. 2320 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC PARKS AND RECREATION
[Approved.]

PUBLIC WORKS/ELDERLY AFFAIRS COMMITTEE REPORTS:

CR-PWE 2009-04: on Bill No. 2321 A BILL FOR AN ORDINANCE ESTABLISHING A NEW ARTICLE 19, CHAPTER 22, KAUAI COUNTY CODE 1987, RELATING TO PLASTIC BAG REDUCTION
[Approved as amended.]

CR-PWE 2009-05: on PWE 2009-2 Communication (7/22/2009) from Tim Bynum, Committee Chair, requesting that the Director of Parks and Recreation, Director of Planning, and the County Engineer be present to provide an update on the short-term and long-term efforts to address the drainage issues at Po'ipū Beach Park.
[Received for the record.]

PUBLIC SAFETY/ENERGY/INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT:

CR-SEI 2009-05: on SEI 2009-4 Communication (8/10/09) from Derek S.K. Kawakami, Committee Chair, requesting that Police Chief be present to brief the Council on the Police Department's continuing effort to minimize and curtail criminal activity in County parks.
[Received for the record.]

RESOLUTIONS:

Resolution No. 2009-52 – RESOLUTION TO APPROVE THE NOMINATION OF ROMY CACHOLA TO THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF COUNTIES

BILLS FOR FIRST READING:

Proposed Draft Bill No. 2322 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (ADU Building Permit deadline extension for non-residentially zoned land) (*Referred to the Planning Commission on July 22, 2009.*)

Proposed Draft Bill No. 2323 – AN ORDINANCE AMENDING ORDINANCE NO. B-2009-691 AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA‘I, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2009 THROUGH JUNE 30, 2010, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$132,000 – Moana Kai (Fujii Shoreline Design/Permit))

Proposed Draft Bill No. 2324 – A BILL FOR AN ORDINANCE AMENDING STATE LAND USE DISTRICT BOUNDARY IN NĀWILIWILI, KAUA‘I (MORI Golf (Kaua‘i) LLC., Applicant)

Proposed Draft Bill No. 2325 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2006-382, RELATING TO GENERAL PLAN DESIGNATION IN NĀWILIWILI, KAUA‘I (MORI Golf (Kaua‘i), LLC., Applicant)

Proposed Draft Bill No. 2326 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-2006-383, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUA‘I (MORI Golf (Kaua‘i), LLC., Applicant)

Proposed Draft Bill No. 2327 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2006-384, RELATING TO VISITOR DESTINATION AREA DESIGNATION IN NĀWILIWILI, KAUA‘I (MORI Golf (Kaua‘i), LLC., Applicant)

BILLS FOR SECOND READING:

Bill No. 2320 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC PARKS AND RECREATION (*See CR-PKT 2009-03; Parks/Transportation Committee recommended approval.*)

Bill No. 2321, Draft 1 – A BILL FOR AN ORDINANCE ESTABLISHING A NEW ARTICLE 19, CHAPTER 22, KAUAI COUNTY CODE 1987, RELATING TO PLASTIC BAG REDUCTION (*See CR-PWE 2009-04; Public Works/Elderly Affairs Committee recommended approval.*)

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. (“H.R.S.”) §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4, H.R.S. §92-5(a), and Kaua‘i County Charter §3.07E. (Confidential reports on file in the County Attorney’s Office and/or the County Clerk’s Office. Discussions held in Executive Session are closed to the public.)

ES-400 Pursuant to Haw.Rev.Stat. §§92-4 and 92-5(a)(4) and (8), and Kaua‘i County Charter section 3.07(E), the Office of the County Attorney requests an executive session with the Council to provide the Council a briefing, update, and to request authority relating to an upcoming EEOC Mediation session in the case of Jane Doe v. County of Kaua‘i, EEOC Charge no. 486-2009-00268 and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-401 Pursuant to Haw.Rev.Stat. §§92-4 and 92-5(a)(4) and (8), and Kaua‘i County Charter §3.07(E), the purpose of this executive session is to provide a case status update and discuss possible settlement negotiations in, Ervin Ferguson III, et al. v. Mike Contrades, et al., Civ. No. 07-1-0036 (Fifth Circuit Court) and related matters. This legal consultation on the above-entitled lawsuit against the County, its department and employees, involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-402 Pursuant to Haw.Rev.Stat. §§92-4, 92-5(a)(4) and (8), and Kaua'i County Charter section 3.07(E), the purpose of this executive session is to provide the Council a briefing and status report on Barbara Robeson and Caren Diamond, Members of Protect our Neighborhood 'Ohana vs. Planning Commission and Planning Department of the County of Kaua'i and County of Kaua'i, Civil No. 09-1-0214 and other related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and /or liabilities of the Council and the County as they relate to this agenda item.

ADJOURNMENT.

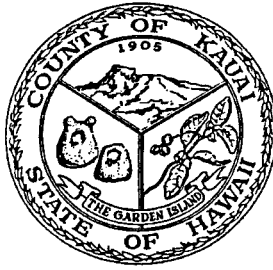
NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

Bill No. 2298 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE AND SINGLE-FAMILY TRANSIENT VACATION RENTALS

For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, ROOM 206, LIHU'E, KAUAI. TELEPHONE NO. 241-6371.

BERNARD P. CARVALHO, JR.
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

GARY K. HEU
ADMINISTRATIVE ASSISTANT

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

RECEIVED

'09 AUG 12 A10 :27

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

August 4, 2009

Honorable Kaipo Asing, Chairperson
And Members of the County Council
County of Kauai
Lihue, HI 96766

Dear Chairman Asing and Members of the County Council:

Subject: MONTHLY REPORT ON BUILDING PERMIT INFORMATION

Transmitted is the monthly report for the month of July. The report includes the following items:


1. Building Permit Processing Report – Provides information on quantity and value of incoming applications, value of permits issued, and status of Revolving Fund.
2. Building Permit Estimated Value Summary – Graph of building permit estimated values over a one year period.
3. Building Permits Tracking Report – Summarizes processing times overall and by agency for all permits issued during the reporting period.
4. Building Permits Status: All Current Open Applications – Summarizes review times overall and by agency for all outstanding permit applications


If any additional information is required, or any information is desired in a different format, please call me at 241-4854.


Very truly yours,

CONCUR:

APPROVED:


DOUGLAS HAIGH
Chief, Building Division

for 
DONALD M. FUJIMOTO
County Engineer

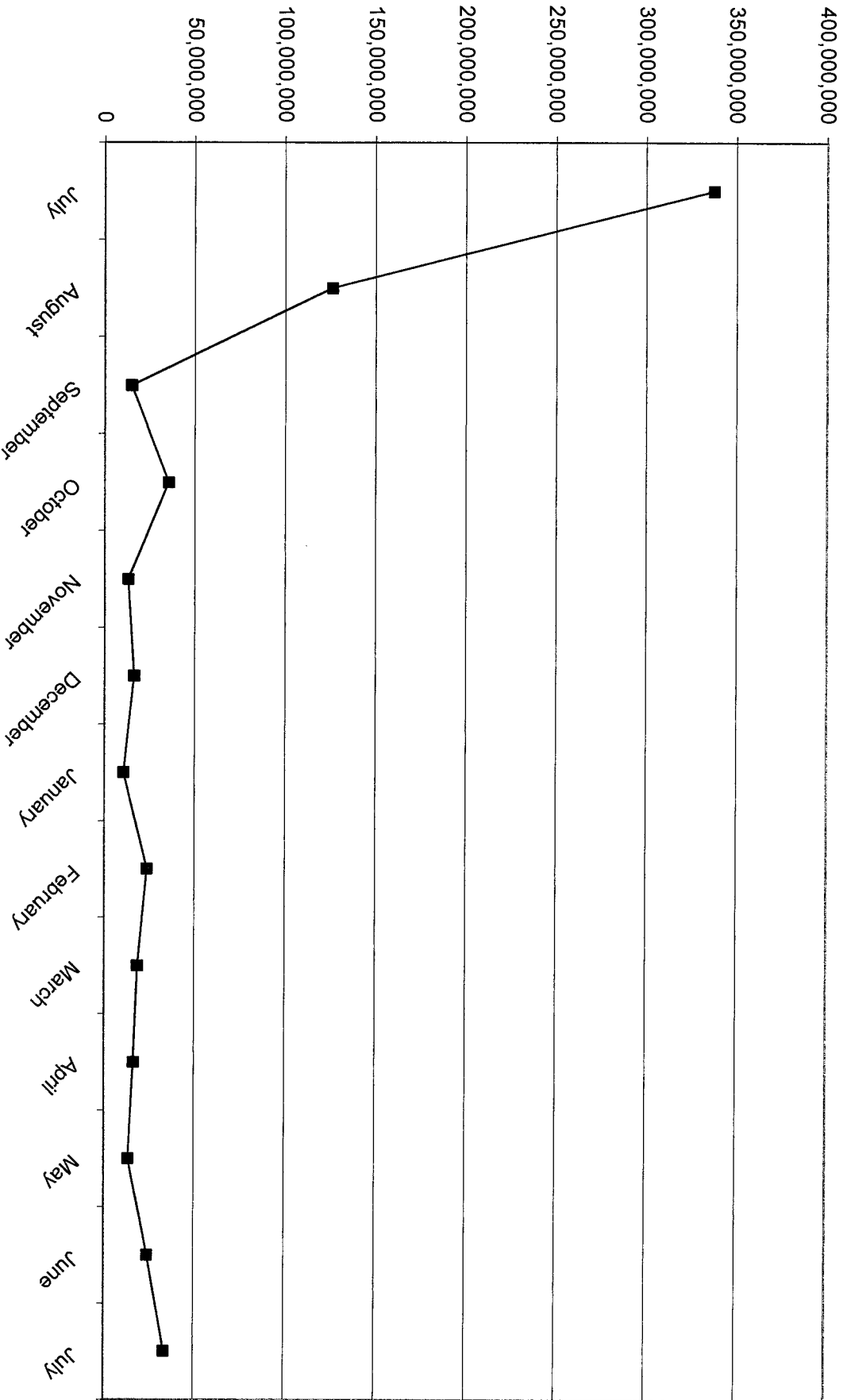

BERNARD P. CARVALHO, JR.
Mayor

Attachment

cc: Planning Department w/attachment, Fire Department w/attachment, Water Department w/attachment, Engineering Division w/attachment, Wastewater Division w/attachment, Director of Finance w/attachment

02009-294

Building Permit Estimated Value of Plans Summary



C7009-294

Building Permit Processing Report for the Month of July 2009

Permit Volume Summary

| | Residential | Commercial | Total | Previous Year |
|--|-------------|------------|------------|---------------|
| Incoming Plans | 185 | 35 | 220 | 206 |
| Estimate Value of Plans | 13,238,610 | 20,222,400 | 33,461,010 | 337,447,490 |
| Number of Building Permits Issued | 80 | 13 | 93 | 109 |
| Value of Building Permit Issued | 12,087,668 | 16,174,100 | 28,261,768 | 16,573,806 |
| Revolving Fund Fees Collected | 21,710 | 6,856 | 28,566 | 203,565 |
| Revolving Fund Balance at 1st of Month | | | 200,000 | 200,000 |

07009-294



Building Permits Status: Current Open Applications

| Type | # of Apps | <30 Days | 30 to 60 Days | 61 to 90 Days | > 90 Days |
|-------------|-----------|----------|---------------|---------------|-----------|
| Commercial | 716 | 32 | 14 | 18 | 653 |
| Residential | 1,522 | 61 | 63 | 37 | 1,361 |

| Type | Agency | Number of Reviews | < 30 Days | 30 to 60 Days | 61 to 90 Days | > 90 Days |
|-------------|-----------------------------|-------------------|-----------|---------------|---------------|-----------|
| Commercial | BUILDING-BLDG | 551 | 490 | 56 | 2 | 3 |
| Commercial | BUILDING-APPLICANT | 104 | 22 | 11 | 11 | 60 |
| Commercial | BUILDING-ELECTRICAL | 439 | 374 | 46 | 16 | 3 |
| Commercial | ELECTRICAL-APPLICANT | 163 | 62 | 22 | 8 | 71 |
| Commercial | BUILDING-PLUMBING | 408 | 398 | 2 | 1 | 7 |
| Commercial | PLUMBING-APPLICANT | 66 | 53 | 14 | 1 | 8 |
| Commercial | PLANNING DEPT | 639 | 396 | 130 | 16 | 127 |
| Commercial | PLANNING-APPLICANT | 454 | 210 | 21 | 14 | 209 |
| Commercial | ENGINEERING DIVISION | 279 | 222 | 6 | 0 | 51 |
| Commercial | ENGINEERING-APPLICANT | 34 | 11 | 3 | 1 | 36 |
| Commercial | FIRE DEPARTMENT | 439 | 431 | 6 | 0 | 2 |
| Commercial | APPLICANT FIRE | 6 | 1 | 0 | 0 | 7 |
| Commercial | DEPT OF HEALTH (STATE) | 516 | 430 | 25 | 15 | 46 |
| Commercial | HEALTH DEPARTMENT APPLICANT | 15 | 4 | 2 | 1 | 6 |
| Commercial | DEPT OF WATER | 541 | 493 | 22 | 5 | 21 |
| Commercial | WATER APPLICANT | 191 | 10 | 6 | 4 | 171 |
| Commercial | WASTEWATER DIVISION | 229 | 218 | 1 | 1 | 9 |
| Commercial | WASTEWATER APPLICANT | 18 | 3 | 0 | 1 | 14 |
| Commercial | FLOOD REVIEW | 395 | 390 | 3 | 0 | 2 |
| Commercial | FLOOD APPLICANT | 14 | 10 | 0 | 0 | 4 |
| Commercial | BUILDING DIVISION | 1,272 | 1,127 | 49 | 17 | 79 |
| Commercial | BUILDING APPLICANT | 222 | 122 | 13 | 7 | 80 |
| Commercial | REGIONAL APPLICANT | 19 | 6 | 1 | 0 | 12 |
| Commercial | PLANNING DEPT | 1,606 | 906 | 265 | 129 | 306 |
| Commercial | PLANNING APPLICANT | 106 | 456 | 117 | 33 | 260 |
| Commercial | ENGINEERING DIVISION | 772 | 692 | 17 | 3 | 60 |
| Commercial | ENGINEERING APPLICANT | 153 | 43 | 11 | 3 | 136 |
| Commercial | FIRE DEPARTMENT | 160 | 159 | 1 | 0 | 0 |
| Commercial | APPLICANT FIRE | 3 | 1 | 1 | 0 | 1 |
| Commercial | DEPT OF HEALTH (STATE) | 1,353 | 1,053 | 49 | 56 | 155 |
| Commercial | HEALTH DEPARTMENT APPLICANT | 292 | 56 | 43 | 27 | 126 |
| Commercial | DEPT OF WATER | 1,344 | 1,241 | 9 | 13 | 81 |
| Commercial | WATER APPLICANT | 439 | 101 | 140 | 26 | 211 |
| Commercial | WASTEWATER DIVISION | 208 | 190 | 1 | 0 | 27 |
| Commercial | WASTEWATER APPLICANT | 11 | 4 | 1 | 0 | 6 |
| Commercial | FLOOD REVIEW | 635 | 616 | 10 | 4 | 5 |
| Commercial | FLOOD APPLICANT | 66 | 33 | 9 | 1 | 23 |
| Residential | | | | | | |

Section 2 - Detail :

| | |
|--------------------------------------|---|
| Type : | Number of reviews on active Building Permit applications by type and aging |
| Agency : | Commercial or Residential Building Permit Type |
| Agency Name | Agency Name |
| BUILDING - BLDG : | Public Works Building Division |
| BUILDING - BLDG : | Public Works Building Division |
| APPLICANT BUILDING : | Out of Office from Public Works Building Division to Applicant |
| BUILDING ELECTRICAL : | Public Works Building Division Electrical Inspection Section |
| ELECTRICAL APPLICANT : | Out of Office from Public Works Building Division Electrical Inspection Section to Applicant |
| BUILDING PLUMBING : | Public Works Building Division Plumbing Inspection Section |
| PLUMBING APPLICANT : | Out of Office from Public Works Building Division Plumbing Inspection Section to Applicant |
| PLANNING DEPT : | Planning Department |
| PLANNING APPLICANT : | Out of Office from Planning Department to Applicant |
| ENGINEERING DIVISION : | Public Works Engineering Division |
| ENGINEERING APPLICANT : | Out of Office from Public Works Engineering Division to Applicant |
| FIRE DEPT : | Fire Department |
| APPLICANT FIRE : | Out of Office from Fire Department to Applicant |
| DEPT OF HEALTH : | Department of Health - State of Hawaii |
| HEALTH DEPARTMENT APPLICANT : | Out of Office from Department of Health to Applicant |
| DEPT OF WATER : | Department of Water |
| WATER APPLICANT : | Out of Office from Department of Water to Applicant |
| WASTEWATER DIVISION : | Public Works Wastewater Division |
| WASTEWATER APPLICANT : | Out of Office from Public Works Wastewater Division to Applicant |
| FLOOD REVIEW : | Public Works Building Division Flood Review Section |
| FLOOD APPLICANT : | Out of Office from PW Building Division Flood Review Section to Applicant |
| Number of Reviews : | Quantity of reviews for all active Building Permit applications. No Permit issued. There may be multiple reviews per application. |
| < 30 Days : | Quantity of Building Permit Application reviews aged 29 days or less |
| < 30 to 60 Days : | Quantity of Building Permit Application reviews aged 30 to 60 days |
| < 61 to 90 Days : | Quantity of Building Permit Application reviews aged 61 to 90 days |
| > 90 Days : | Quantity of Building Permit Application reviews aged greater than 90 days |

Field Descriptions, for your Reference:

Section 1 - Summary :

| | |
|-----------------------------|--|
| Type : | Quantity of active Building Permit applications by type and aging |
| # of Apps : | Commercial or Residential Building Permit Type |
| < 30 Days : | Total quantity of active Building Permit Applications |
| < 30 to 60 Days : | Quantity of Building Permit Applications aged 29 days or less |
| < 61 to 90 Days : | Quantity of Building Permit Applications aged 30 to 60 days |
| > 90 Days : | Quantity of Building Permit Applications aged greater than 90 days |

C2009-294



Building Permits Tracking Report Issued During July 2009

| Type | # of Apps | MAX | AVG |
|-------------|-----------|-----|-----|
| Commercial | 17 | 379 | 185 |
| Residential | 38 | 720 | 129 |

| Type | # of Apps | MAX | AVG |
|-------------|-----------|-----|-----|
| Commercial | 17 | 229 | 50 |
| Residential | 39 | 429 | 39 |

Agency Review Days

| Type | Agency | Number of Reviews | MAX Days | AVG Days |
|-----------------------------|-----------------------------|-------------------|----------|----------|
| Commercial | BUILDING-BLDG | 19 | 23 | 8 |
| | BUILDING APPLICANT | 2 | 56 | 60 |
| | BUILDING-ELECTRICAL | 13 | 1 | 1 |
| | ELECTRICAL APPLICANT | 4 | 53 | 26 |
| | BUILDING-PLUMBING | 13 | 12 | 6 |
| | PLUMBING APPLICANT | 4 | 32 | 13 |
| | PLANNING DEPT | 15 | 51 | 27 |
| | PLANNING APPLICANT | 5 | 238 | 68 |
| | FIRE DEPARTMENT | 13 | 24 | 6 |
| | DEPT OF HEALTH (STATE) | 19 | 51 | 16 |
| | HEALTH DEPARTMENT APPLICANT | 2 | 21 | 18 |
| | DEPT OF WATER | 14 | 46 | 7 |
| | WASTEWATER DIVISION | 6 | 1 | 1 |
| | FLOOD REVIEW | 15 | 18 | 6 |
| | BUILDING DIVISION | 49 | 24 | 8 |
| | BUILDING APPLICANT | 16 | 71 | 13 |
| | PLANNING DEPT | 38 | 141 | 25 |
| | PLANNING APPLICANT | 25 | 254 | 43 |
| | ENGINEERING DIVISION | 5 | 9 | 5 |
| | ENGINEERING APPLICANT | 1 | 66 | 66 |
| DEPT OF HEALTH (STATE) | 33 | 117 | 11 | |
| HEALTH DEPARTMENT APPLICANT | 2 | 209 | 154 | |
| DEPT OF WATER | 38 | 15 | 5 | |
| WATER APPLICANT | 3 | 35 | 24 | |
| WASTEWATER DIVISION | 5 | 1 | 1 | |
| WASTEWATER APPLICANT | 1 | 1 | 1 | |
| FLOOD REVIEW | 37 | 20 | 7 | |
| FLOOD APPLICANT | 1 | 21 | 21 | |
| Residential | | | | |

Field Descriptions, for your Reference:

Section 1 - Summary : Days from Application to Issuance - Total Throughput and Averages
 Type : Commercial or Residential Building Permit Type
 # of Apps: Quantity of Applications with Building Permit Issuance for the month
 Max: Greatest quantity of review days from Building Permit Application Start Date to Permit Issuance Date
 AVG: Mean average quantity of review days from Building Permit Application Start Date to Permit Issuance Date (Total Days / Number of Permits Issued)

Section 2 - Summary: Days from Approval to Pickup - Owner / Builder delay in days
 Type : Commercial or Residential Building Permit Type
 # of Apps: Quantity of Applications with Permits Issued for the month
 Max: Greatest quantity of days from Building Permit Application Approval Date to Permit Issuance Date
 AVG: Mean average quantity of days from Building Permit Application Approval Date to Permit Issuance Date (Total Days / Number of Permits Issued)

Detail Section 3: Agency Review Days
 Type : Commercial or Residential Building Permit Type
 Agency: Agency Name
 BUILDING - BLDG : Public Works Building Division
 BUILDING APPLICANT : Out of Office from Public Works Building Division to Applicant
 BUILDING ELECTRICAL : Public Works Building Division Electrical Inspection Section
 ELECTRICAL APPLICANT : Out of Office from Public Works Building Division Electrical Inspection Section to Applicant
 BUILDING PLUMBING: Public Works Building Division Plumbing Inspection Section
 PLUMBING APPLICANT : Out of Office from Public Works Building Division Plumbing Inspection Section to Applicant
 PLANNING DEPT : Planning Department
 PLANNING APPLICANT : Out of Office from Planning Department to Applicant
 ENGINEERING DIVISION : Public Works Engineering Division
 ENGINEERING APPLICANT : Out of Office from Public Works Engineering Division to Applicant
 FIRE DEPT : Fire Department
 APPLICANT FIRE : Out of Office from Fire Department to Applicant
 DEPT OF HEALTH : Department of Health - State of Hawaii
 HEALTH DEPARTMENT APPLICANT : Out of Office from Department of Health to Applicant
 DEPT OF WATER : Department of Water
 WATER APPLICANT : Out of Office from Department of Water to Applicant
 WASTEWATER DIVISION : Public Works Wastewater Division
 WASTEWATER APPLICANT : Out of Office from Public Works Wastewater Division to Applicant
 FLOOD REVIEW : Public Works Building Division Flood Review Section
 FLOOD APPLICANT : Out of Office from Public Works Building Division Flood Review Section to Applicant
 MAX: Greatest quantity of review days for the agency for permits issued for the month.
 AVG: Mean average quantity of review days for the agency for permits issued for the month.

C2009-294

BERNARD P. CARVALHO, JR.
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

GARY K. HEU
ADMINISTRATIVE ASSISTANT

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

**AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I**

DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

RECEIVED

'09 AUG 17 AIO :49

August 7, 2009

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

Honorable Kaipō Asing, Chairman
and Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawaii 96766

**SUBJECT: REQUEST TO AMEND ORDINANCE NO. B-2009-691, RELATING TO
THE FISCAL YEAR 09-10 CAPITAL BUDGET**

Attached for your consideration is a proposed bill to amend Ordinance No. B-2009-691 relating to the Fiscal Year 09-10 Capital Budget.

The draft bill addresses the appropriation transfer for additional design cost of the Moana Kai Seawall from Project Contingency in the General Fund in the amount of \$132,000.00 to:

General Fund Appropriation: Moana Kai (Fujii) Shoreline Design/Permit

Your favorable consideration and approval is appreciated. Should you have any questions regarding this matter, please contact Ryan Nishikawa at the Division of Road Construction and Maintenance, 241-4845.

Very truly yours,

CONCUR:

APPROVED:

[Signature]
for **DONALD M. FUJIMOTO**
County Engineer

[Signature]
WALLACE G. REZENTES, JR.
Finance Director

[Signature]
BERNARD P. CARVALHO, JR.
Mayor

Copy: PW Fiscal

C2009-295

Bernard P. Carvalho Jr.
Mayor

Gary K. Heu
Administrative Assistant



Wallace G. Rezentes Jr.
Director of Finance

Belma A. Baris
Deputy Director of Finance

County of Kauai
Department of Finance
Mo'ikeha Building
4444 Rice Street, Suite 280
Lihu'e, Kauai HI 96766
PH# 241-4200 FAX# 241-6529

RECEIVED

'09 AUG 14 P2 :01

MEMORANDUM

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

TO: Bill "Kaipo" Asing, Council Chair

VIA: Bernard P. Carvalho, Mayor *BC*

FROM: Wallace G. Rezentes, Jr., Director of Finance *WR*
Miles K. Tone, Accounting Systems Administrator

SUBJ: INVENTORY FOR FISCAL YEAR ENDING JUNE 30, 2009

DATE: August 14, 2009

Please acknowledge receipt of the annual certified physical inventory reports by signing below.

Received by: *Laura*

C. [Signature]

Date: 8-14-09

C2009-296

STATEMENT
CONDITION OF THE COUNTY TREASURY
County of Kauai
As of June 16, 2009

The undersigned Director of Finance and County Clerk, of said County, in pursuance of Section 10.5, County Charter, have this day counted the money in the Treasury of Kauai County, and find:
First: There ought to be in said Treasury:

AUG 18 2009
THE COUNTY OF KAUAI
COUNTY OF KAUAI

| | Cash As of March 24, 2009 | Cash As of June 16, 2009 | Cash Variance | Investments As of March 24, 2009 | Investments As of June 16, 2009 | Investments Variance |
|---|------------------------------|-----------------------------|------------------|-------------------------------------|------------------------------------|-------------------------|
| BEAUTIFICATION FUND..... | \$230,670.06 | \$309,257.06 | \$78,587.00 | \$38,492,508.15 | \$37,493,905.91 | (\$998,602.24) |
| BIKEWAY FUND..... | 32,037.23 | 40,412.23 | 8,375.00 | | | |
| BOND FUND..... | (87,456.90) | 346,117.75 | 433,574.65 | | | |
| BUILDING PERMIT REVOLVING FUND..... | 231,509.63 | 232,984.41 | 1,474.78 | | | |
| CDBG REHABILITATION REVOLVING..... | 1,967,937.22 | 2,280,886.12 | 312,948.90 | 794,628.09 | 502,986.97 | (291,641.12) |
| CRIMINAL ASSETS FORFEITURE FUND..... | 222,841.09 | 505,269.03 | 282,427.94 | | | |
| DEBT SERVICE FUND..... | (3,906,456.33) | 3,685,000.00 | 7,591,456.33 | 1,751,257.00 | 1,751,257.00 | 0.00 |
| FEDERAL GRANTS FUND..... | (1,240,639.72) | (1,607,451.33) | (366,811.61) | | | |
| GENERAL CIP FUND..... | 20,776,976.15 | 20,735,776.35 | (41,199.80) | 103,250,571.43 | 82,708,064.62 | (20,542,506.81) |
| GENERAL FUND..... | (12,763,609.61) | (26,508,763.90) | (13,745,154.29) | | | |
| GOLF FUND..... | (191,988.29) | 212,830.84 | 404,819.13 | | | |
| GRANTS CIP FUND..... | (8,450,424.22) | (6,267,171.66) | 2,183,252.56 | | | |
| HIGHWAY CIP FUND..... | 1,222,568.01 | 4,155,420.79 | 2,932,852.78 | | | |
| HIGHWAY FUND..... | 2,080,625.43 | 166,702.51 | (1,913,922.92) | 7,195,224.15 | 5,721,217.52 | (1,474,006.63) |
| HOUSING REVOLVING FUND..... | (122,342.35) | 430,773.98 | 553,116.33 | 2,634,877.68 | 1,597,811.87 | (1,037,065.81) |
| PARKS REVOLVING FUND..... | 694,102.70 | 805,606.65 | 111,504.15 | | | |
| LIQUOR FUND..... | (137,654.47) | (222,045.36) | (84,390.89) | 940,468.83 | 937,980.04 | (2,488.79) |
| HOUSING RENTAL PROJECTS FUND..... | 2,595,177.41 | 2,392,601.04 | (202,576.37) | | | |
| PUBLIC ACCESS FUND..... | 480,004.38 | 479,104.48 | (899.90) | 1,686,071.81 | 1,686,071.81 | 0.00 |
| REAL PROPERTY TRUST FUND..... | 358,214.61 | 282,579.33 | (75,635.28) | | | |
| SECTION 8..... | 2,132,364.68 | 2,384,931.11 | 252,566.43 | | | |
| SELF INSURANCE FUND..... | 3,162,171.57 | 3,410,829.89 | 248,658.32 | | | |
| SEWER FUND..... | (132,124.65) | 655,690.84 | 787,815.49 | 1,880,412.83 | 1,896,060.51 | 15,647.68 |
| SEWER TRUST FUND..... | 1,614,120.91 | 1,391,693.91 | (222,427.00) | 5,955,000.00 | 5,792,240.00 | (162,760.00) |
| SOLID WASTE DISPOSAL FUND..... | (531,638.36) | 5,106,168.40 | 5,637,806.76 | | | |
| SPECIAL STATE CIP FUND..... | 769.22 | 0.00 | (769.22) | | | |
| SPECIAL TRUST FUND FOR PARKS & PLAYGROUNDS | 168,254.65 | 111,504.75 | (56,749.90) | 4,649,905.17 | 4,651,805.21 | 1,900.04 |
| STATE GRANTS FUND..... | 994,832.21 | 742,785.10 | (252,047.11) | | | |
| TREASURY TRUST FUND..... | 2,920,385.45 | 2,952,093.08 | 31,707.63 | 970,000.00 | 970,000.00 | 0.00 |
| TRUST & AGENCY FUND..... | 502,725.28 | 596,669.69 | 93,944.41 | | | |
| TRUST FUND-CONTRIBUTIONS BY DEVELOPERS..... | 321,273.78 | 238,789.05 | (82,484.73) | 1,797,013.05 | 1,890,968.46 | 93,955.41 |
| WATER UTILITY "FRC"..... | 275,160.73 | 134,190.21 | (140,970.52) | 6,133,820.08 | 6,015,358.55 | (118,461.53) |

2009-291

RECEIVED
AUG 18 A9:02
THE COUNTY OF KAUAI

STATEMENT
CONDITION OF THE COUNTY TREASURY
County of Kauai
As of June 16, 2009

| | Cash As of March 24, 2009 | Cash As of June 16, 2009 | Cash Variance | Investments As of March 24, 2009 | Investments As of June 16, 2009 | Investments Variance |
|-------------------------|------------------------------|-----------------------------|------------------|-------------------------------------|------------------------------------|-------------------------|
| WATER UTILITY FUND | (122,402.19) | 1,941,016.59 | 2,063,418.78 | 8,191,561.30 | 5,722,052.29 | (2,469,509.01) |
| WATER UTILITY-BOND FUND | (230,103.16) | (662,412.74) | (432,309.58) | 660,000.00 | 660,000.00 | 0.00 |
| TOTAL | \$15,067,902.15 | \$21,459,840.40 | \$6,391,938.25 | \$186,983,319.57 | \$159,997,780.76 | (\$26,985,538.81) |

Second: The amount actually in said Treasury is:
The amounts and kinds of money are:

| | | | | | | |
|---------------------------------|-----------------|-----------------|----------------|------------------|------------------|-------------------|
| CASH IN TREASURY | \$77,376.78 | \$80,071.81 | \$2,695.03 | \$450,000.00 | \$450,000.00 | \$0.00 |
| CHANGE FUND, WAILUA GOLF COURSE | 3,600.00 | 3,600.00 | 0.00 | 11,258,929.31 | 10,965,066.20 | (293,863.11) |
| AMERICAN SAVINGS & LOAN | 1,000,801.13 | 1,003,644.34 | 2,843.21 | 3,577,056.27 | 4,034,023.76 | 456,967.49 |
| BANK OF HAWAII | 4,016,635.05 | 4,287,565.76 | 270,930.71 | 8,500,000.00 | 9,000,000.00 | 500,000.00 |
| CAPITAL SECURITIES OF AMERICA | | | | 106,624,877.70 | 84,731,795.80 | (21,893,081.90) |
| CENTRAL PACIFIC BANK | 3,065,230.76 | 2,970,327.10 | (94,903.66) | 14,994,456.31 | 14,078,738.92 | (915,717.39) |
| FIRST HAWAIIAN BANK | 6,914,258.43 | 10,114,631.39 | 3,200,372.96 | 20,278,579.98 | 19,713,416.08 | (565,163.90) |
| MERRILL LYNCH | | | | 21,299,420.00 | 17,024,740.00 | (4,274,680.00) |
| MULTI-BANK | | 3,000,000.00 | 3,000,000.00 | | | |
| UBS FINANCIAL SERVICES INC | | | | | | |
| VINING SPARKS | | | | | | |
| TOTAL | \$15,067,902.15 | \$21,459,840.40 | \$6,391,938.25 | \$186,983,319.57 | \$159,997,780.76 | (\$26,985,538.81) |

STATE OF HAWAII, County of Kauai

Subscribed and sworn to before me this

18th day of August 2009

[Signature]
County Clerk, County of Kauai

[Signature]
Office of the County Clerk

[Signature]
County Clerk

Dated, Lihue, Kauai August 14, 2009

[Signature]
Department of Finance

[Signature]
Director of Finance

C2009-297



RECEIVED

KAUA'I PLANNING & ACTION ALLIANCE

August 24, 2009

Kaua'i County Council
Attn: Kaipo Asing, Chair
County Services
4396 Rice Street #206
Lihu'e, HI 96766

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

SUBJECT: Request for Presentation to County Council on New Community Indicators Report

Dear Chair Asing:

Kaua'i Planning & Action Alliance has just published the second edition of its community indicators report, *Measuring What Matters for Kaua'i*. Copies of the report for each Council member and for the file are enclosed.

We are requesting approximately 30 minutes of time on the Council agenda to present a Powerpoint presentation on report highlights. A possible date for this would be September 9.

The report offers data and discussion on 57 indicators from seven aspects of life on our island. It also includes "Opportunities for Action" to ensure progress in areas where challenges arise. We are immensely grateful for the County funding that helped support this project.

I look forward to a confirmation of the presentation time and to sharing this information with the entire Council.

With best regards,


Diane Zachary
President & CEO

Enclosures

BRINGING PEOPLE TOGETHER TO CREATE A BETTER FUTURE FOR KAUAI
2959 Umi Street, Suite 201, Lihu'e, HI 96766 Phone 808.632.2005 Fax 808.632.2018
Email kpaa@kauainetwork.org www.kauainetwork.org

2009-298



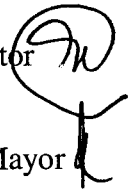
RECEIVED


MEMORANDUM

09 AUG 28 10:07

OFFICE OF THE COUNTY CLERK
THE COUNTY OF KAUAI
COUNTY OF KAUAI

TO: Honorable Chairperson William Kaipo Asing and Members of the Kauai County Council

FROM: Ian K. Costa, Planning Director 

VIA: Hon. Bernard P. Carvalho, Mayor 

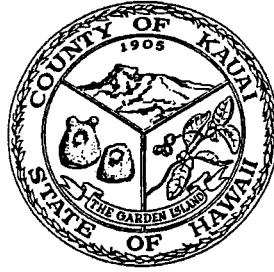
SUBJECT: Proposed Bill No. 2322, A Bill for and Ordinance Amending Section 8-26.1(d) to Extend the Deadline for Obtaining a Building Permit for an Additional Dwelling Unit from December 15, 2009 to December 15, 2014 for the Owners of Other Than Residential Zoned Lots.

DATE: August 26, 2009

Transmitted herewith for you review and recommendation is the Planning Commission's recommendation of Bill No. 2322 a proposed bill for an ordinance amending Section 8-26.1(d) of the Kauai County Code, relating to an extension to obtain a building permit for Additional Dwelling Units on lands zoned other than Residential.

C2009-299

BERNARD P. CARVALHO JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

RECEIVED

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

'09 AUG 28 A 8 :07

TELEPHONE: (808) 241-4050 FAX: (808) 241-6699

August 26, 2009

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

Honorable Chairman William "Kaipo" Asing and Members
Of the Kauai County Council
County of Kauai
4396 Rice Street
Lihue, HI 96766

Subject: Zoning Amendment ZA-2010-2
Proposed Bill No. 2322, A Bill for an Ordinance Amending Section 8-26.1(d) of the Kauai County Code to Extend the Deadline for Obtaining a Building Permit for an Additional Dwelling Unit from December 15, 2009 to December 15, 2014 For Holders of Additional Dwelling Unit Facilities Clearance Forms on Lands Zoned Other Than Residential
Applicant: Kauai County Council

The Planning Commission at its meeting held on August 25, 2009 voted 5 to 0 (2 absent) to recommend approval of Zoning Amendment ZA-2010-2 to extend the deadline for obtaining a building permit for Additional Dwelling Units from December 15, 2009 to December 15, 2014 for those owners and holders of an Additional Dwelling Unit Facilities Clearance Forms on lands zoned other than residential.

Transmitted herewith are the following:

1. Letter of Transmittal and proposed bill by the Kauai County Council;
2. Staff reports covering the proposed amendment;
3. Written public testimony presented during the public hearing; and
4. Public Hearing transcripts

C2009-299

Hon. Chairman William "Kaipo" Asing
and Members of the Kauai County Council
August 26, 2009
Page 2

Requirements regarding the Council's consideration of the proposed amendments are set forth in Section 8-22 of the Kauai County Code of Ordinances, 1987.



IAN K. COSTA

Enclosures

C-2009-299



RECEIVED

MEMORANDUM

'09 AUG 28 A8:00

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

TO: Honorable Chairperson William Kaipo Asing and Members of the Kauai County Council

FROM: Ian K. Costa, Planning Director *ADD. FOR*

VIA: Hon. Bernard P. Carvalho Jr., Mayor *[Signature]*

SUBJECT: General Plan Amendment GPA-2009-1
State Land Use District Boundary Amendment A-2009-1
Zoning Amendment and Visitor Destination Area
Amendment ZA-2009-10
MORI Golf (Kaua'i), LLC
Tax Map Key 3-5-1: por. 27, 102, and por. 168

Background

The Planning Commission, at its meeting held on August 25, 2009, approved the above referenced amendments as recommended by the Planning Department.

MORI Golf (Kaua'i), LLC (Applicant) and Kaua'i Development LLC intend to assign a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre undeveloped oceanfront parcel located adjacent to and east of the Līhu'e Airport to the existing Kaua'i Lagoons Resort located in Kalāpaki, Līhu'e, Hawai'i. The 138-acre parcel from which the density will be assigned is owned by Kaua'i Development LLC (Kaua'i Development Parcel). Following the assignment of density, the Kaua'i Development Parcel will be conveyed to the County for public purposes. The future use of the Kaua'i Development Parcel will be determined solely by the County following conveyance of the land to them.

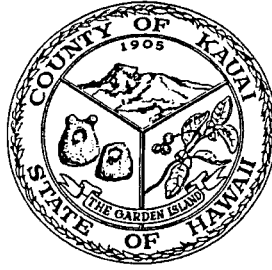
These amendment requests are the necessary first step in order for that conveyance to proceed.

DATE: August 26, 2009

Transmitted herewith for your review and recommendation is the 8/24/09 Planning Commission's recommendation of approval, application packet, staff report and evaluation, and transcripts.

C2009-300

BERNARD P. CARVALHO, JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING
RECEIVED

GARY K. HEU
ADMINISTRATIVE ASSISTANT

'09 AUG 28 10 08 AM
IMAKALAN B. AIU
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

TEL (808) 241-4050 FAX (808) 241-6699

August 25, 2009

Honorable Chairman and Members
of the Council
County of Kaua'i
4396 Rice Street
Līhu'e, Hawai'i 96766

Subject: General Plan Amendment GPA-2009-1
State Land Use District Boundary Amendment A-2009-1
Zoning Amendment and Visitor Destination Area Amendment ZA-2009-10
MORI Golf (Kaua'i), LLC
Tax Map Key 3-5-1: por. 27, 102, and por. 168

The Planning Commission, at its meeting held on August 25, 2009, approved the above referenced amendments as recommended by the Planning Department.

Project background. MORI Golf (Kaua'i), LLC (Applicant) and Kaua'i Development LLC intend to assign a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre undeveloped oceanfront parcel located adjacent to and east of the Līhu'e Airport to the existing Kaua'i Lagoons Resort located in Kalāpaki, Līhu'e, Hawai'i. The 138-acre parcel from which the density will be assigned is owned by Kaua'i Development LLC (Kaua'i Development Parcel). Following the assignment of density, the Kaua'i Development Parcel will be conveyed to the County for public purposes. The future use of the Kaua'i Development Parcel will be determined solely by the County following conveyance of the land to them.

These amendment requests are the necessary first step in order for that conveyance to proceed.

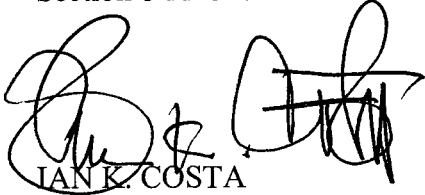
Transmitted herewith are the following:

1. Application
2. Staff report

07009-300

3. Staff evaluation
4. Public hearing transcripts

Requirements regarding the Council's consideration of the proposed amendments are set forth in Section 8-22 of the Kaua'i County Code of Ordinances, 1987.



IAN K. COSTA
Planning Director

Encl

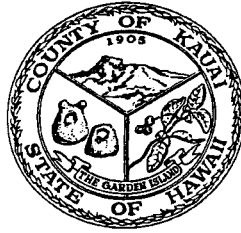
CC w/out encl:

- Dept. of Public Works – Engineering
- Dept. of Public Works - Wastewater
- Fire Dept.
- Finance-Real Property Division
- Health Dept.
- DLNR-Historic Preservation Division
- Dept. of Transportation – STP
- Dept. of Transportation – Highways, Kaua'i
- Dept. of Transportation – Airports, Kauai
- Water Dept.
- Land Use Commission
- Applicant

C2009-300

COUNTY COUNCIL

Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



Council Services Division
4396 Rice Street, Room 206
Lihu'e, Kaua'i, Hawai'i 96766-1371

OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cocouncil@kauai.gov

RECEIVED

*09 AUG 28 P4:15

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUI

August 27, 2009

Council Chair Bill "Kaipo" Asing,
And Members of the Kaua'i County Council
4396 Rice Street, Suite 206
Lihu'e, Hawai'i 96766

Dear Council Chair Asing:

Attached for your consideration is a resolution to approve the nomination of City & County of Honolulu Councilmember Romy Cachola to the Board of Directors of the National Association of Counties (NACo) for the fiscal year 2009-2010 term.

The Hawai'i State Association of Counties (HSAC) Executive Committee unanimously approve Councilmember Cachola's nomination at its August 17, 2009 meeting in Kona.

Thank you for your consideration in this matter.

Sincerely,

Derek S.K. Kawakami
Councilmember

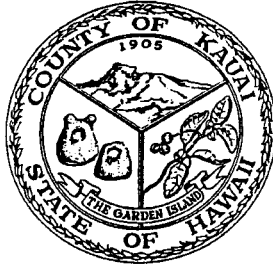
Attachment

cc: 09/09/09 Council Meeting Agenda

Lp/Lc
D:2009-10-102

0709-301

BERNARD P. CARVALHO, JR.
MAYOR



LEONARD A. RAPOZO, JR.
DIRECTOR
TELEPHONE 241-4456

GARY K. HEU
ADMINISTRATIVE ASSISTANT

KYLAN K. DELA CRUZ
DEPUTY DIRECTOR
TELEPHONE 241-4460

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I

DEPARTMENT OF PARKS AND RECREATION
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 105
LIHU'E, KAUA'I, HAWAII 96766

RECEIVED

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

August 5, 2009

Honorable Kaipo Asing, Chairman
And Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawai'i 96766

Subject: ACCEPTANCE OF A \$5,000 GIFT FROM THE FLORENCE IWAMOTO
KAUA'I FUND AT THE HAWAII COMMUNITY FOUNDATION

Dear Chair Asing and Council Members:

We request your approval to accept a gift of \$5,000 from the Florence Iwamoto Kaua'i Fund of the Hawai'i Community Foundation. The grant perimeters are to fund specifically the Lihue senior center to cover the cost of completion of the intergenerational interviews video project, and to update equipment for video showing.

Thank you for your support on this matter. Should you have further questions, please contact Cindy Duterte of my staff at 241-4467.

Very truly yours,

APPROVED:

LEONARD A. RAPOZO, JR.
Director, Parks & Recreation Department

BERNARD P. CARVALHO, JR.
Mayor

C2009-302



HAWAII COMMUNITY FOUNDATION

July 23, 2009

Board of Governors

Barry K. Taniguchi
Chairman

Paul Kosasa
Vice Chair

Jean F. Cornuelle
Secretary

Laurie T. Ainslie
Treasurer

Claire L. Asam, Ph.D.

Gary Caulfield

Maggie B. Cole

Samuel A. Cooke

Anthony R. Guerrero, Jr.

Richard W. Gushman, II

Honey Bun Haynes

Peter S. Ho

Lawrence M. Johnson

Micah A. Kane

Charlie King

Cathy Luke

David Nakada

Jennifer Sabas

Lawrence Stupski

Eric K. Yeaman

Ms. Cindy Duteurte
County of Kaua'i, Parks and Recreation Department
4444 Rice St., Suite 105
Lihue, HI 96766

Grant ID# 44637

Dear Ms. Duteurte:

At the recommendation of Kim Coco Iwamoto, we are pleased to award your organization a grant from the **Florence Iwamoto Kaua'i Fund**, a donor advised fund of the Hawaii Community Foundation in the amount of \$5,000. This grant is to be used to cover the intergenerational interviews video project completion and to update equipment for video showing.

The grant should be listed as a gift from the **Florence Iwamoto Kaua'i Fund at the Hawaii Community Foundation** in any publication. Any material you wish to send to the donor should be sent to our office and we will forward it.

Please note that by cashing the enclosed check, you are certifying to Hawaii Community Foundation that your organization is a duly recognized public charity under Section 501(c)(3) of the Internal Revenue Code. The donor of this grant requests your attestation to the following non-discrimination policy; "This program or organization does not and will not illegally discriminate on the basis of race, sex, sexual orientation, gender identity/expression, age, religion, color, ancestry, disability, physical appearance, marital status, socio-economic status, arrest and court record, assignment of income for child support obligations, or breastfeeding/expressing milk, as an employer or in the provision of services or opportunities to the public." No goods or services or other private benefit may be provided in exchange for this grant and the grant will not be used to satisfy the payment of any pledge or financial obligation of the donor advisor or any person related to the donor advisor.

Your organization should not provide a tax receipt for this grant, as this grant was made from a donor advised fund. As such, Hawaii Community Foundation has already provided the donor with a tax receipt for their donation.

If you are unable to use this grant for the purpose designated above, please contact me at (808) 245-4585. Within twelve months, please send us a short grant report which we will forward to the fund advisors. This grant report is less about oversight and more an opportunity for you to share information which you feel best captures the work that you do and which this grant helped accomplish.

We wish you every success in your continued good work in the community.

Sincerely,

Darcie Yukimura
Philanthropic Services Officer, Kaua'i Island

Enclosure

CC: Kim Coco Iwamoto



POLICE DEPARTMENT COUNTY OF KAUAI



BERNARD P. CARVALHO, JR.
Mayor

GARY K. HEU
Administrative Assistant

3990 KAANA STREET, SUITE 200
LIHUE, HAWAII 96766-1209
TELEPHONE (808) 241-1600
FAX (808) 241-1604

AUG 10 09 39

ADDRESS ALL
COMMUNICATIONS TO
DARRYL D. PERRY
Chief of Police

MARK N. BEGLEY
Deputy Chief

OFFICE IN
THE COUNTY OF
COUNTY OF KAUAI

August 6, 2009

Chairman Bill "Kaipo" Asing
and Councilmembers
KAUAI COUNTY COUNCIL
4396 Rice Street, Room 206
Lihue, HI 96766

RE: ACCOUNT #206-1001-551.30-00, POLICE SPECIAL FUND

Dear Chairman Asing and Councilmembers:

The Kauai Police Department requests your approval to expend approximately twelve thousand dollars (\$12,000.00) from the Police Special Fund account, #206-1001-551.30-00. These funds will be used to purchase new computers for the Kapaa Substation and Koloa Substation. Currently the computers at the Kapaa substation are antiquated and require replacement. With the funds we will also be adding two new computers to improve operations. We are requesting one additional computer for the Koloa substation.

Should you have any questions or require further information, please feel free to contact Lieutenant Michael Contrades at 826-6214.

Sincerely,

Darryl D. Perry
Chief of Police

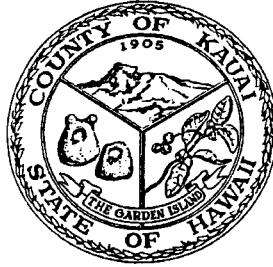
Approved: 8-7-09
BERNARD P. CARVALHO, JR. Date
Mayor

Concur: 8/6/09
WALLACE REZENTES, JR. Date
Finance Director

MMC

C2009-2103

BERNARD P. CARVALHO, JR.
MAYOR



LEONARD A. RAPOZO, JR.
DIRECTOR
TELEPHONE 241-4456

GARY K. HEU
ADMINISTRATIVE ASSISTANT

'09 AUG 19
KYLAN KOBELE CRUZ
DEPUTY DIRECTOR
TELEPHONE 241-4460

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I
DEPARTMENT OF PARKS AND RECREATION
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 105
LIHU'E, KAUA'I, HAWAII 96766

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

August 19, 2009

Honorable Kaipo Asing, Chairman
And Members of the County Council
4396 Rice Street, Room 201
Lihue, Hawaii 96766

Subject: Lydgate-Kapa'a Shared-Use Path Property Adjustment Agreement at Wailua Bay View (TMK 4-4-1-05:3 and Right of Entry and License Agreement at Kapa'a Sands (TMK 4-4-3-02: 02)

Dear Chair Asing and Council Members:

We request your approval of the subject legal documents. The purpose of the documents is to access for construction of the Lydgate Park to Kapa'a Bike/Pedestrian Path along Papaloa Road. Attached are one original and three copies of each document.

Please call me at 241-4455 should you have any questions.

Very truly yours,

APPROVED:

LEONARD A. RAPOZO JR.
Director, Parks & Recreation Department

BERNARD P. CARVALHO JR.
Mayor

DH
cc: CE
DCE
Building Division, P.W. Fiscal

C2009-304

PROPERTY ADJUSTMENT AGREEMENT

This Property Adjustment Agreement is entered into this 14 day of August, 2009 between the Association of Apartment Owners of Wailua Bay View Apartments, a Hawai'i Nonprofit Corporation, whose address is c/o Hawaiiana Management Company Ltd., Kukui Grove Executive Center, 4370 Kukui Grove St., Suite 110, Lihu'e, HI 96766 (the "Association") and the County of Kauai, Department of Public Works, 4444 Rice Street, Suite 175, Lihu'e, Hawai'i, 96766 (the "County").

WHEREAS the Kaua'i County Planning Department required that the developer of the property located at 320 Papaloa Road, Kapa'a, HI 96746 to install a sidewalk (the "Sidewalk") as a condition to the granting of Variance V-69-17 for the property's development;

WHEREAS by Declaration of Horizontal Property Regime dated September 1, 1971 and recorded at the Bureau of conveyance of the State of Hawai'i (the "Bureau") in Liber 7775 at Page 85, Bishop Trust Company, Limited, trustee of the Martha Webb Kimball Trust, as fee owner, and Far West Continental, Inc., a Hawai'i corporation, as developer, did create a horizontal property regime known as the Wailua Bay View Apartments;

WHEREAS, simultaneously with filing of said declaration, said Bishop Trust Company, Limited and Far West Continental, Inc. caused that certain Condominium Map No. 199, which set forth the Sidewalk and its location, to be filed at the Bureau; and

WHEREAS the parties would like to reconstruct said Sidewalk and have all rights applicable to the Sidewalk, if any, attach to the reconstructed sidewalk;

NOW THEREFORE in consideration of the mutual premises set forth herein, the construction of the proposed improvements shall be subject to the following terms and conditions:

1. Definitions. "Property" shall mean that portion of Tax Map Key No. (4) 4-1-05-3, containing an area of approximately One Thousand Eighty (1,080) square feet, as outlined in red on the attached Exhibit A and incorporated herein by reference and "Agreement" shall mean this agreement and all attachments hereto, including all pertinent plans.
2. Permission to enter. The ASSOCIATION hereby grants to the COUNTY, its officers, employees, agents, representatives and contractors, permission to enter upon the relevant portion of the Property for the purposes enumerated herein.
3. Work. The work will consist of (a) demolishing existing sidewalk, (b) reconstruction of the Sidewalk with a uniform ten foot wide shared-use path that is Property and the Papaloa Road right-of-way. Appropriate stop and warning controls will be implemented at the existing driveway. Grade adjustments will be

made to the existing driveway if necessary to avoid “bottoming out” of vehicles caused by the work. Access to the existing driveway and trash enclosure area shall be maintained during the Work.

4. Responsibility. The COUNTY shall be responsible, to the extent permitted by law, for damage or injury caused by the COUNTY’s officers and employees in the scope of their employment provided that the COUNTY’s liability for such damage or injury has been determined by a court or agreed to by the COUNTY. The COUNTY shall pay for such damages and injury, provided that funds are appropriated and allotted for that purpose.
5. ASSOCIATION interference. The ASSOCIATION agrees not to unreasonably interfere with the COUNTY’s operations and activities in, on, or connected with the Property.
6. Completion. The COUNTY will notify the ASSOCIATION upon completion of the work described in Paragraph No. 3. All property interests and rights which existed in the original sidewalk shall attach to the reconstructed sidewalk.
7. Maintenance. The County shall be responsible for the maintenance of the sidewalk/shared-use path and shall have all liability for the sidewalk/shared use path.
8. Restoration. Upon completion of the work described in Paragraph No. 3, the COUNTY shall not be responsible to the ASSOCIATION, pursuant to paragraph 4 herein, except as to any cause of action that may have accrued prior to completion of the work described in Paragraph No. 3, and the COUNTY shall remove all of its equipment from the Property and excepting the improvements, reasonably restore the Property to a condition similar to that which existed prior to the COUNTY’s work thereon.
9. Compliance. This Agreement shall not relieve Association of its obligations to comply with all obligations and requirements set forth by the Kaua’i County Code, County ordinances, existing permits and requirements of the Planning Department of the County.
10. Property Rights. All property rights held by the County prior to this Agreement shall remain in full force and effect.
11. Options, headings. This Agreement is to be construed as a whole, giving fair meaning to its terms. The captions are for convenience of reference only and are not

to fully describe, define or limit the provisions of the Agreement to which they may pertain.

ASSOCIATION:

Aug 14, 2009
Date

[Signature]
Title: PRESIDENT

Date

Title: _____

COUNTY:

COUNTY OF KAUAI

8/17/09
Date

By: [Signature]
for Wallace Rezendes, Jr.
Director of Finance

Date

By: _____
Peter Nakamura
County Clerk

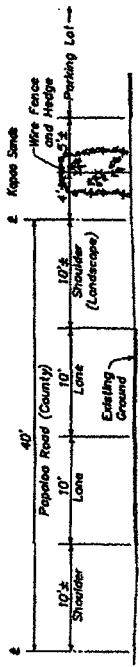
APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy County Attorney

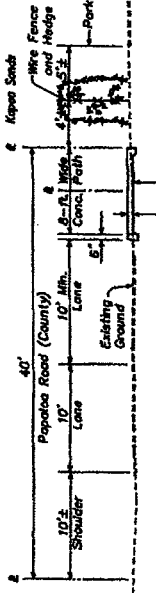
Dated: 8-17-09

100 CONTRACTORS AND ENGINEERS' REGISTRATION BOARD

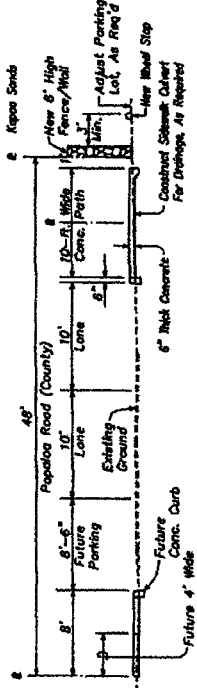
| | |
|--------------|---|
| PROJECT NO. | 2009 |
| DATE | 08/10/2009 |
| ISSUE NO. | 01 |
| ISSUE DATE | 08/10/2009 |
| PROJECT NAME | LYDGATE PARK TO LIH PARK BIKE/PEDESTRIAN PATH |
| PROJECT NO. | DMAG-0700 (49) |
| DATE | 08/10/2009 |
| SCALE | AS SHOWN |
| BY | |
| CHECKED BY | |
| APPROVED BY | |
| DATE | |
| SCALE | |



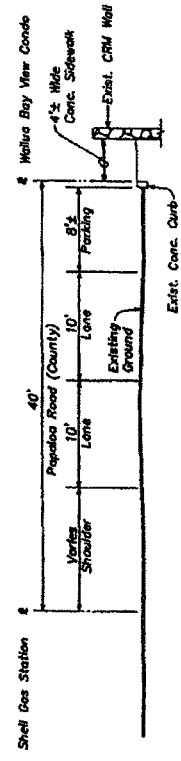
Existing Section 4-4
Papaloa Road
Scale 1" = 5'-0"



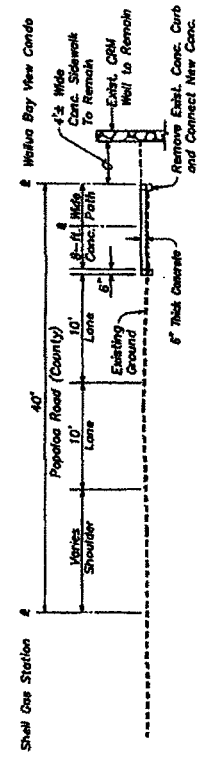
Proposed Section 4-4 (Alternative 1)
Papaloa Road
Scale 1" = 5'-0"



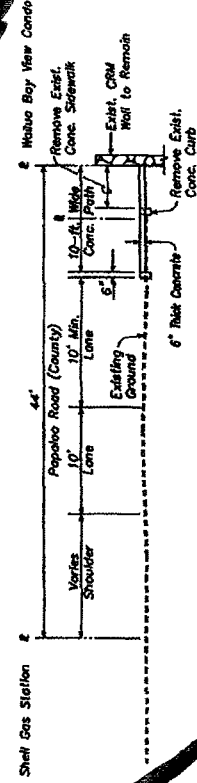
Proposed Section 4-4 (Alternative 2)
Papaloa Road
Scale 1" = 5'-0"



Existing Section 3-3
Papaloa Road
Scale 1" = 5'-0"



Proposed Section 3-3 (Alternative 1)
Papaloa Road
Scale 1" = 5'-0"



Proposed Section 3-3 (Alternative 2)
Papaloa Road
Scale 1" = 5'-0"

| | |
|---|------------|
| DEPARTMENT OF PUBLIC WORKS | |
| LYDGATE PARK TO LIH PARK BIKE/PEDESTRIAN PATH | |
| PAPALO A ROAD | |
| TYPICAL SECTIONS | |
| PROJECT NO. DMAG-0700 (49) | |
| SCALE | AS SHOWN |
| DATE | 08/10/2009 |
| BY | |
| CHECKED BY | |
| APPROVED BY | |
| DATE | |
| SCALE | |

EXHIBIT "A" (Sheet 2 of 2)

C2009-304(a)

RIGHT-OF-ENTRY AND LICENSE AGREEMENT

THIS AGREEMENT, is made and entered into by and between the COUNTY OF KAUAI, by its Department of Public Works, (hereinafter called the "COUNTY"), and the Association of Apartment Owners of Kapa'a Sands, whose mailing address is 380 Papaloa Road, Kapa'a, Hawai'i 96746 (hereafter called the "GRANTOR"),

WITNESSETH THAT:

WHEREAS, the COUNTY requires certain property designated as Easement "A-1", containing an area of approximately 2,134 Sq. Ft. and Construction Parcel C-1, containing an area of approximately 13,437 Sq. Ft., both identified as being portions of Tax Map Key 4-4-3-02:02, situated at 380 Papaloa Road, Kapa'a, HI 96746, all of which are more particularly shown on Exhibits A and B attached hereto and incorporated herein by reference (hereafter collectively called the "Property"), for a public purpose, to wit: the permitting, construction, preservation and protection of the shared-use path, landscaping strip, wall, gates, signs, gas tank, trash enclosure and parking lot relocations (hereafter called the "Project"); and

WHEREAS, the COUNTY desires to obtain immediate entry and access to the Property to commence permitting and construction of the Project without delay, it being contemplated

C2009-304 (b)

that a construction contract will be awarded in the near future;
and

WHEREAS, the GRANTOR owns a freehold estate in the Property which will be affected by the Project; and

WHEREAS, the GRANTOR desires to cooperate with the COUNTY to allow the construction of the Project to proceed without delay,

NOW, THEREFORE, in consideration of the premises and the covenants contained herein and other valuable consideration, the parties hereto mutually agree as follows:

1. Right of Entry and Access. The Grantor hereby grants to the COUNTY, its officers, employees and contractors, permission to obtain permits, enter upon, and have access to the Property as shown on the Parcel Map for the Project filed in the Building Division, Department of Public Works, County of Kauai, for the purposes of the Project. The Property will be used to construct a shared-use path, landscaping strip, wall, gates, signs, gas tank, trash enclosure and parking lot relocations. The GRANTOR, any of its permittees and utility companies shall continue to exercise all existing rights the GRANTOR has in the Property, including but not limited to, reasonable use and access over and through the Property. The COUNTY will use reasonable care to minimize inconvenience to the GRANTOR and its permittees with the understanding that the GRANTOR'S property is used as a

C2009-304 (b)

transient accommodation facility which requires twenty-four (24) hour access for its owners and guests.

2. Term. The term of this Agreement shall be for a period of one (1) year from the date of this Agreement subject to the provision for extensions set forth in paragraph 12 herein.

3. Acquisition of Property. The COUNTY shall initiate proceedings to acquire the Property, except Construction Parcel C-1, either by voluntary conveyance or by the exercise of its power of eminent domain within one (1) year from the date of this Agreement, and should the County fail to do so, this Agreement shall automatically terminate, unless extended in writing by the mutual agreement of the parties. Upon termination of this Agreement, and in the event the Property or any portion thereof is returned to the GRANTOR, the COUNTY shall restore the Property to a condition similar to that which existed prior to the commencement of the Project unless otherwise mutually agreed to in writing by the parties.

4. Valuation of Property. In the event eminent domain proceedings are instituted by the County, the Grantor agrees that the valuation in said proceeding shall not include the improvements made and constructed on Easement A-1 by the County. This provision shall survive the termination of this Agreement.

5. Severability. In the event any term or provision of this Agreement is declared to be invalid or illegal for any

C2009-304 (b)

reason, this Agreement will remain in full force and effect and will be interpreted as though such invalid or illegal provision were not a part of this Agreement. The remaining provisions will be construed to preserve the intent and purpose of this Agreement and the parties will negotiate in good faith to modify any invalidated provision to preserve each party's anticipated benefits.

6. Rental. The COUNTY agrees to pay to the GRANTOR annual rent of \$8,000 for access to and the use of the Property. The COUNTY shall give the GRANTOR thirty (30) days written notice prior to the start of construction. The first annual payment will be made within sixty (60) days from the start date of construction and each subsequent annual payment, if any, will be made on the anniversary date of the date of this Agreement, with the final payment being pro-rated accordingly. If the GRANTOR does not receive any payment when due, interest will accrue on the overdue unpaid balance at the rate of one percent (1%) simple interest per month.

7. Compliance with Law. The COUNTY shall, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, restrictions of record and requirements in effect during the term or any part of the term hereof regulating the use by the COUNTY of the Property.

8. County's Responsibility. The County shall be responsible, to the extent permitted by law, for damage or injury

C2009-304 (b)

caused by the County's officers and employees in the scope of their employment or by its contractors.

9. Indemnity. The County agrees to defend, indemnify and hold harmless the Grantor, its Board of Directors and its permittees from and against any and all claims including claims for property damage, personal injury, and wrongful death, that may arise from the access to and/or the use of the Property, and shall reimburse the Grantor for costs and expenses, including attorney's fees incurred in connection with the defense of any such claim.

The County shall name the Grantor as an additional insured on any comprehensive liability insurance policy.

10. No Limit on Eminent Domain Power. Nothing herein contained shall be deemed to preclude, limit, restrict, waive or affect in any way the COUNTY's right as sovereign to acquire, by its power of eminent domain, the Property or any portion thereof or any interest therein.

11. No Unreasonable Interference. The GRANTOR agrees not to unreasonably interfere with the COUNTY's facilities, operations and activities in, on or connected with the Property. Other than as set forth herein, the County agrees not to unreasonably interfere with the Grantor's ownership and use of its Premises including but not limited to its ingress and egress thereto. The COUNTY also agrees to exercise its best efforts to minimize any interference with the GRANTOR's or its permittees'

C2009-204 (b)

use of the Property within Construction Parcel C-1. The COUNTY shall provide the GRANTOR with a weekly schedule of the COUNTY's anticipated construction activities by the close of business on the Friday proceeding the week of the commencement of construction. The COUNTY shall not park or store any machinery, equipment or materials in the parking lot which is part of Construction Parcel C-1 at any time. The COUNTY shall have access to the parking lot for the purpose of performing site work on the two-foot extension adjacent to the makai portion of the lot, to remove and replace existing landscaping, to construct a wall/fence/gates in the area between the parking lot and Easement A-1, to relocate the gas tank and trash enclosure and to repave the parking lot. The COUNTY anticipates that there will be no time when the entire parking lot will be unavailable for use by the Grantor's members and permittees. In the event of unreasonable interference, the GRANTOR reserves the right to immediately terminate this Agreement.

12. Extension. The term of this Agreement may be extended upon mutual written agreement of the GRANTOR and the COUNTY hereto at an annual rental not less than the current annual rental to be agreed upon by the parties, except that the annual rental payable for the first year of the extension will be the same as the annual rental set forth in Paragraph 2 herein.

C2009-304 (b)

13. Default: The parties agree that it shall be considered a default under this Agreement if either the GRANTOR or the COUNTY:

(a) Fails punctually to pay any monies when the same become due, within thirty (30) business days of written notice;

(b) Fails to cure a condition caused by the County which threatens the health and/or safety of the Grantor's members and/or their permittees and the condition has continued for twenty (20) days after notice in writing to the County (which notice shall specify the respects in which the condition causes the threat) unless, with respect to any condition which cannot be cured within fifteen (15) days, the County shall have commenced and diligently prosecuted the actions necessary to cure the condition; or

(c) Fails in any other respect to punctually or faithfully observe or perform any covenant contained in this Agreement and fails to cure such breach within thirty (30) days of written notice to cure such default.

14. Rights Upon Default. Upon the occurrence of any default, the GRANTOR and the COUNTY shall have the following rights and remedies:

(a) Either the GRANTOR or the COUNTY may terminate this Agreement by sending written notice to the other party.

(b) With respect to paragraph 13(b), if the default is not cured within ten (10) days after written notice, the Grantor may, but shall not be required to, cure the default without liability to the County for any loss or damage and the County shall be responsible for the reasonable costs thereof. Notwithstanding the foregoing, in the event of an emergency caused by the County as determined by the Grantor, the Grantor may give notice to the County and immediately cure the default without liability to the County for any loss or damage and the County shall be responsible for the reasonable costs thereof.

(c) The GRANTOR may bring an action for ejectment or pursue any other remedy available to remove the COUNTY from the Property.

©2009-304 (b)

(d) Either the GRANTOR or the COUNTY may seek to recover damages.

(e) Each right and remedy provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the GRANTOR or the COUNTY of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise of any or all other rights or remedies provided for in this Agreement now or hereafter existing at law or in equity or by statute or otherwise.

(f) In addition to the provisions contained in subparagraphs 14(a) to (e) of this paragraph, this Agreement may be terminated by either the GRANTOR or the COUNTY upon sixty (60) days written notice to the other party.

15. Excess Annual Rent. The GRANTOR agrees to reimburse and pay in full to the COUNTY the appropriate and proper prorated amount of any excess annual rent paid by the COUNTY for the use of the Property. The GRANTOR shall fully reimburse and pay such excess rental to the COUNTY within sixty (60) days of the effective termination date.

16. Restoration. Upon the full or partial termination of this Agreement, the COUNTY and/or its contractors shall remove all equipment or tangible personal property from the Property and any improvements within the Property purchased by the COUNTY or such portion thereof not required by the COUNTY and shall restore that portion of the Property to a condition as similar as reasonably possible to that which existed prior to the COUNTY's possession of the Property, excepting reasonable wear and tear.

@2009-304(b)

17. Alternative Dispute Resolution. All disputes, questions, controversies or claims arising out of or in connection with this Agreement or relating hereto may by mutual agreement of the GRANTOR and the COUNTY be submitted to mediation and/or arbitration.

18. Attorney's Fees and Costs. If either the GRANTOR or the COUNTY seeks to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the losing party, its attorney's fees, costs and other litigation expenses incurred.

19. Headings, Captions. The headings and captions used herein are for convenience of reference only and are not to be used to construe, interpret, define or limit the paragraphs to which they may pertain.

20. Assignment. The GRANTOR and the COUNTY may not assign or otherwise transfer any interest in this Agreement without their mutual written consent.

21. Amendment. This Agreement shall not be amended except in writing signed by the GRANTOR and the COUNTY.

22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same document binding all of the parties hereto notwithstanding all of the parties are not signatory to the original or the same counterpart. For all purposes, including without limitation,

C2009-304 (b)

recordation, filing and delivery of this instrument, duplicate unexecuted pages of the counterparts may be discarded and remaining pages assembled as one document.

23. Plural, Singular. In this Agreement, the singular shall include the plural, and the plural shall include the singular, as the case may be.

24. Binding Effect. The term "GRANTOR" wherever used herein shall include the GRANTOR, and the heirs, representatives, successors and assigns of the GRANTOR. The term "COUNTY" wherever used herein shall include the County of Kauai, its contractor(s), representatives, successors and permitted assigns, and this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Right-of-Entry and License Agreement this 17 day of AUGUST, 2009.

Grantor:
Association of Apartment
Owners of Kapa'a Sands

By: John G. Burns
Print Name: John G. Burns
Title: Board President

C 2009-304(b)

STATE OF HAWAI'I)
) ss.
COUNTY OF KAUA'I)

On this _____ day of _____, 2009, before me appeared PETER A. NAKAMURA, to me personally known, who, being by me duly sworn, did say that he is the County Clerk of the COUNTY OF KAUA'I, a political subdivision of the State of Hawai'i; and that said instrument was signed on behalf of said COUNTY OF KAUA'I by authority of its Charter; and said PETER A. NAKAMURA, acknowledged said instrument to be the free act and deed of said COUNTY OF KAUA'I.

| | |
|-------------------------|----------------|
| Doc. Date: _____ | # Pages: _____ |
| Notary Name: _____ | Circuit _____ |
| Doc. Description: _____ | |
| _____ | |
| Notary Signature _____ | Date _____ |

Notary Public, State of Hawai'i
My commission expires:

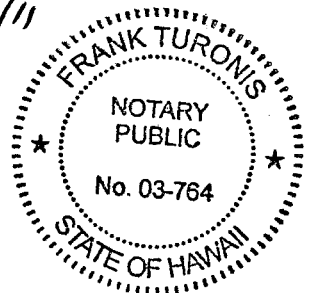
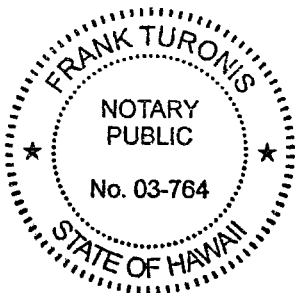
STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On Aug. 17, 2009 (insert date), before me personally appeared JOHN G. BUENOS to me personally known, who, being by me duly sworn, 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.

| | |
|---|--------------------|
| Doc. Date: <u>8/17/09</u> | # Pages: <u>10</u> |
| Notary Name: <u>FRANK TURONIS</u> | Circuit <u>5</u> |
| Doc. Description: <u>RIGHT OF ENTRY AND LICENSE AGREEMENT</u> | |
| <u>Frank Turonis</u> | <u>8/17/09</u> |
| Notary Signature _____ | Date _____ |

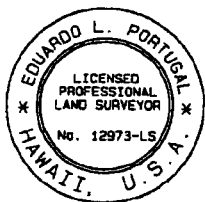
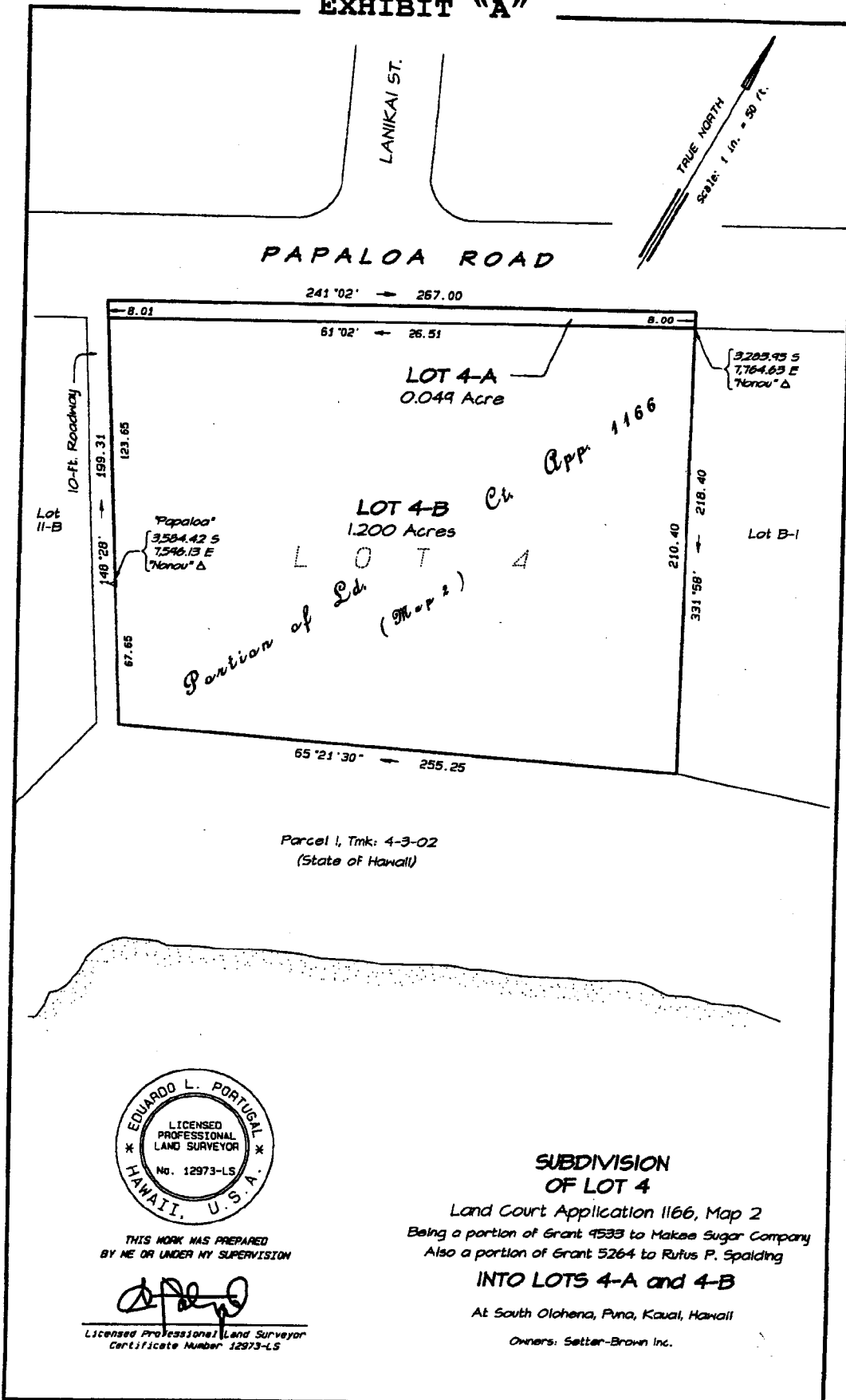
Frank Turonis

Notary Public, State of Hawai'i
My commission expires: 12/28/11



C2009-304 (b)

EXHIBIT "A"



THIS WORK WAS PREPARED
BY ME OR UNDER MY SUPERVISION

Eduardo L. Portugal

Licensed Professional Land Surveyor
Certificate Number 12973-LS

**SUBDIVISION
OF LOT 4**

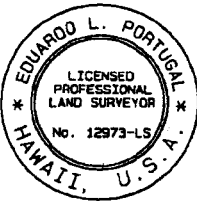
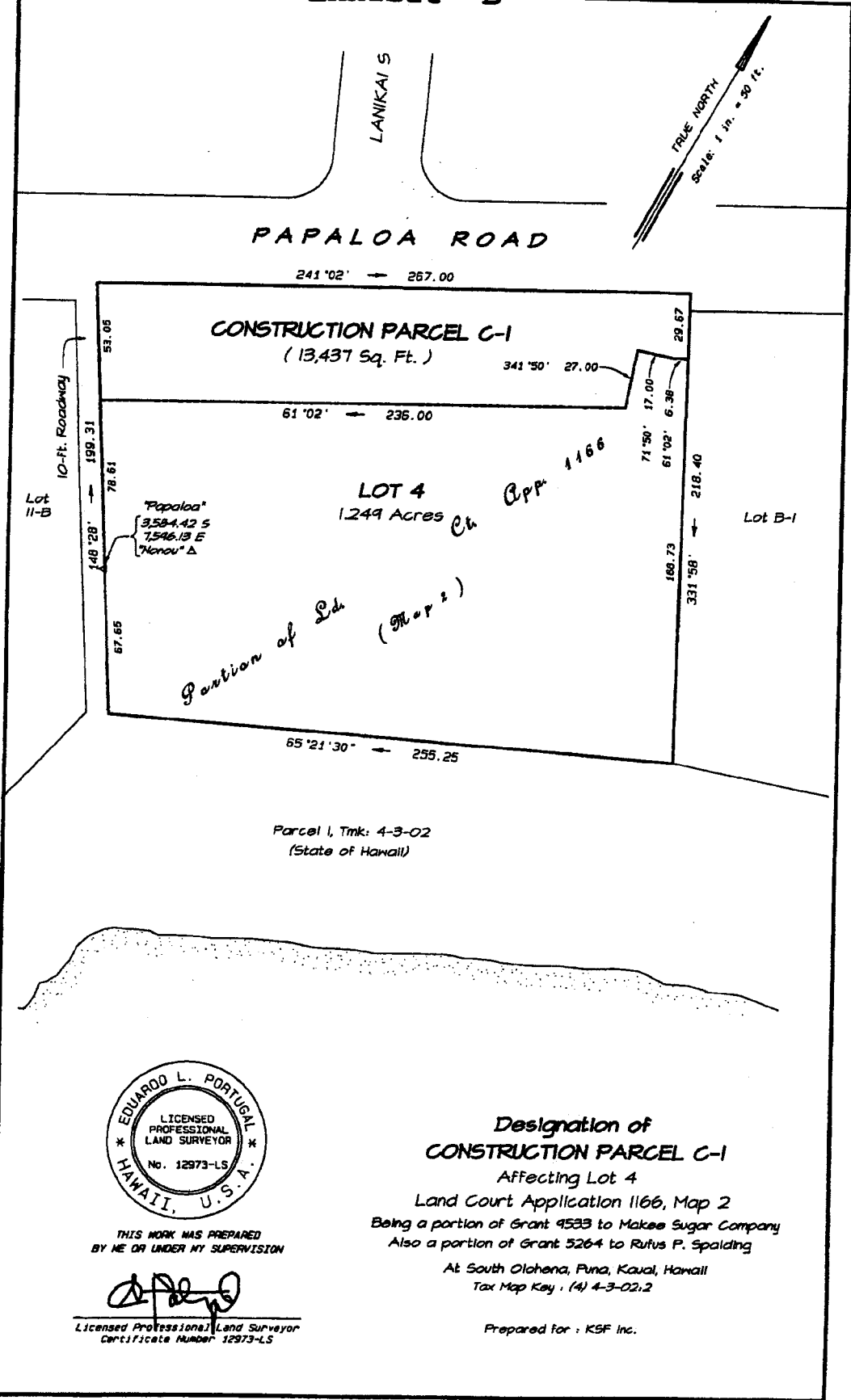
Land Court Application 1166, Map 2
Being a portion of Grant 4533 to Makee Sugar Company
Also a portion of Grant 5264 to Rufus P. Spalding

INTO LOTS 4-A and 4-B

At South Oloheua, Puna, Kaula, Hawaii
Owners: Setler-Brown Inc.

C2009-304 (b)

EXHIBIT "B"



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

[Signature]

Licensed Professional Land Surveyor
Certificate Number 12973-LS

Designation of
CONSTRUCTION PARCEL C-1

Affecting Lot 4
Land Court Application 1166, Map 2
Being a portion of Grant 9533 to Makee Sugar Company
Also a portion of Grant 5264 to Rufus P. Spalding

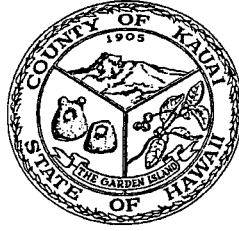
At South Oloheua, Puna, Kaula, Hawaii
Tax Map Key: (4) 4-3-02.2

Prepared for: KSF Inc.

C2009-304(b)

COUNTY COUNCIL

Bill "Kaipo" Asing, Chair
Jay Furfaro, Vice Chair
Tim Bynum
Dickie Chang
Daryl W. Kaneshiro
Lani T. Kawahara
Derek S. K. Kawakami



OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Līhu'e, Kaua'i, Hawai'i 96766-1371

RECEIVED

'09 AUG 28 AM 10:24

August 28, 2009

The Honorable Bill "Kaipo" Asing
Chair, and Members
of the County Council
County of Kaua'i
Līhu'e, Hawai'i 96766

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

Chair and Members:

Pursuant to Section 23.06, Charter of the County of Kaua'i, we transmit a claim filed against the County of Kaua'i by Leland Yadao for monetary damages, including fees and interest related to posting bail, attorneys' fees, and loss of income, and for loss and injury to his federal and state constitutionally protected civil rights.

A copy has been sent in advance to the County Attorney's Office.

Very truly yours,

PETER A. NAKAMURA
County Clerk

Enclosure

cc: Alfred B. Castillo, Jr., County Attorney
Leland Yadao

C2009-305

COUNTY COUNCIL

COUNTY OF KAUAI

Resolution

RESOLUTION TO APPROVE THE NOMINATION OF ROMY CACHOLA TO THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF COUNTIES

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

WHEREAS, the Hawai'i State Association of Counties (HSAC) is comprised of the county councils of the State of Hawai'i; and

WHEREAS, the county councils of the State of Hawai'i are also members through HSAC of the National Association of Counties (NACo), an organization comprised of about 3,000 counties from across the United States; and

WHEREAS, NACo is governed by a board of directors comprised of elected officials of member-counties; and

WHEREAS, Section 5A of the HSAC bylaws requires nominees to the NACo Board of Directors to be nominated by the HSAC executive committee and member-county councils of HSAC and forwarded to the NACo President and Board of Directors for consideration in accordance with Article VI of the NACo bylaws; and

WHEREAS, at its August 17, 2009 meeting, the HSAC executive committee unanimously approved the nomination of Romy Cachola to be a NACo president's appointee to the NACo board of directors for the 2009-2010 term; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that it approves Romy Cachola as the nominee for the NACo president's appointee to the board of directors for the fiscal year 2009-2010.

BE IT FURTHER RESOLVED that this resolution shall take effect upon approval.

BE IT FINALLY RESOLVED, that copies of this resolution be transmitted to Councilmember Cachola and all members of the Hawai'i State Association of Counties Executive Committee.

Introduced by:

DEREK S.K. KAWAKAMI

Table with 5 columns: Name, Aye, Nay, Exc, Recused. Rows include Osing, Furfaro, Bynum, Chang, Kaneshiro, Kawahara, Kawakami, and Total.

Certificate Of Adoption

We hereby certify that Resolution No. _____ was adopted by the Council of the County of Kauai, State of Hawaii, Lihue, Kauai, Hawaii, on

County Clerk

Chairman & Presiding Officer

Dated

Reso. No. 2009-52

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO THE COMPREHENSIVE ZONING ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose: The Kaua'i County Council finds that due to the recession and tight credit market, lot owners have been unable to obtain financing to construct houses. The purpose of this bill is to extend the deadline for obtaining a building permit from December 15, 2009 to December 15, 2014 for the owners of lots who have (1) obtained an Additional Dwelling Unit ("ADU") Facilities Clearance Form on or before June 15, 2007, or (2) who have submitted a building permit application and an ADU Facilities Clearance Form signed by the employees of the agencies listed on the form by November 22, 2006.

SECTION 2. Article 26, Section 8-26.1(d) of Kaua'i County Code 1987, as amended, is hereby amended as follows:

"(d) Notwithstanding the expiration of Section 8-26.1(a), and subject to compliance with all applicable legal requirements and conditions, a building permit for an additional dwelling unit shall be granted for a lot in existence as of December 31, 2006 which, up to December 31, 2006, was eligible to apply for an additional dwelling unit under Section 8-26.1(a) and for which an ADU Facilities Clearance Form is certified as complete by the Planning Director as of June 15, 2007 or for which an ADU Facilities Clearance form was signed by the authorized employees of all agencies or departments listed in the ADU Facilities Clearance Form and submitted with a building permit application prior to [the adoption of this ordinance,] November 22, 2006, provided that:

(1) The term "lot in existence as of December 31, 2006," as used in Section 8-26.1(d) shall not apply to any lot created by the relocation of a kuleana lot by consolidation and resubdivision pursuant to the provisions of Chapter 9, Kaua'i County Code 1987, as amended ("Subdivision Ordinance"), where such consolidation and resubdivision occurs after December 31, 2006.

(2) All applicable county requirements not inconsistent with Section 46-4(c), Hawai'i Revised Statutes, and the county's zoning provisions applicable to residential use are met, including, but not limited to, building height, setback, maximum lot coverage, parking, and floor area requirements.

(A) If the additional dwelling unit is to be built in a Special Treatment District or Constraint District, all

requirements of such district shall be met.

(B) Notwithstanding any other provision to the contrary, for lots in the Urban and Rural State Land Use Districts which were re-zoned from Residential to Open District after September 1, 1972, the maximum lot coverage shall be the same as the residential district requirement.

(3) The provisions of this subsection shall not apply to lots developed under a project development, or other multi-family development, or similar provisions where the aggregate number of dwelling units for such development exceeds the density otherwise allowed in the zoning district, or where additional dwelling units are specifically prohibited by zoning ordinance.

(4) For lots on which an additional dwelling unit is developed, no guest house under Sec. 8-3.3(a)(2) shall be allowed. An existing guest house may be converted into an additional dwelling unit, but no additional guest house may be constructed.

(5) The following public facilities are found adequate to service the additional dwelling unit:

(A) Public sanitary sewers, an individual wastewater system (or cesspool), or a private sanitary sewer system built to County standards and approved by the Department of Health.

(B) For sewerred areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system shall be confirmed in writing by the Department of Health.

(C) The availability of water (including, but not limited to, source, transmission, and storage lines/facilities) shall be confirmed in writing by the Department of Water.

(D) Approval in writing from the Kaua'i Fire Department is required for all parcels.

(E) The lot must have direct access to a street which has an all weather surface (asphalt or concrete) roadway pavement continuous to the major thoroughfare, or if the street does not have such all weather surface at the time of application for a building permit, there exist funds specifically appropriated in the capital improvement budget ordinance for such roadway pavement. The Planning Director and County Engineer shall apply the standards and criteria for requiring road improvements established in the Subdivision Ordinance and the "Kaua'i County Planning Commission Road Widening Policy" (as may be amended from time to time), for those roads which are considered substandard.

(6) An ADU Facilities Clearance Form as prescribed by the Planning Director shall be completed prior to application for a building permit and shall be submitted with the building permit application. Completion of the ADU Facilities Clearance form shall not guarantee the issuance of a building permit. All requirements and conditions on

the completed ADU Facilities Clearance Form shall be met prior to issuance of a building permit based on legal requirements at the time of building permit issuance. The Planning Director shall certify the ADU Facilities Clearance Form as complete, only if every signature blank on the form has been signed by the respective department or agency, and the applicant has signed an affidavit prescribed by the Planning Director verifying 1) that there is no restriction or covenant applicable in any deed, lease, or other recorded document which prohibits the construction or placement of an additional dwelling unit on the applicable lot, and 2) that the applicant understands that completion of an ADU Facilities Clearance Form does not guarantee or vest any right to a building permit, and that all conditions and requirements in existence at the time of building permit application shall be met before a building permit can be issued. The Planning Department shall keep a record of all ADU Facilities Clearance Forms that are issued and shall retain the original affidavits and the original ADU Facilities Clearance Forms that are certified as complete by the Department.

(7) Nothing contained in this section shall affect private covenants or deed restrictions that prohibit the construction of a second dwelling unit on any lot.

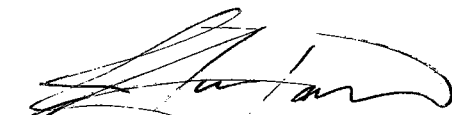
(8) Notwithstanding any law to the contrary, no building permit for an additional dwelling unit shall be issued pursuant to this Section after December 15, [2009.] 2014."

SECTION 3. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, the brackets, bracketed material and underscoring need not be included.

SECTION 5. This Ordinance shall take effect on _____.

Introduced by:


JAY FURFARO

DATE OF INTRODUCTION:

LĪHUʻE, KAUAʻI, HAWAII

V:\CS OFFICE FILES\2009 BILLS\ADU in non-res extension.doc:PM/ao

BILL NO. _____

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. B-2009-691 AS AMENDED,
RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA'I,
STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2009 THROUGH
JUNE 30, 2010, BY REVISING THE SURPLUS AND APPROPRIATIONS
ESTIMATED IN THE GENERAL FUND**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. That pursuant to Sec. 19.10A and 19.07B of the Charter of the County of Kaua'i, as amended, Ordinance No. B-2009-691, as amended, relating to the Capital Budget of the County of Kaua'i, State of Hawai'i, for the fiscal year July 1, 2009 through June 30, 2010, be hereby amended as follows:

The sum of \$132,000.00, be and is hereby transferred from the item designated as follows:

| | |
|---------------------|--------------|
| PROJECT CONTINGENCY | \$132,000.00 |
|---------------------|--------------|

Of the General Fund and appropriated to the items entitled:

| | |
|---|--------------|
| MOANA KAI (FUJII) SHORELINE DESIGN/PERMIT | \$132,000.00 |
|---|--------------|

SECTION 2. This Ordinance shall take effect upon its approval.

INTRODUCED BY: _____ DATED: _____

DARYL W. KANESHIRO
(By Request)

DATE OF INTRODUCTION:

Līhu'e, Kaua'i, Hawai'i

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING STATE LAND USE DISTRICT
BOUNDARY IN NĀWILIWILI, KAUA'I
(MORI Golf (Kaua'i) LLC., Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I,
STATE OF HAWAII:

SECTION 1. The designation of the State Land Use District for that certain area of approximately 14.6 acres in Nāwiliwili, Kaua'i, identified as TMK: (4) 3-5-01: por. 168, as delineated on the map attached hereto and incorporated herein as Map 1, is hereby amended from the State "Agricultural" Land Use District (A) to the State "Urban" Land Use District (U).

SECTION 2. Pursuant to Sec. 11-4.5, Kaua'i County Code 1987, and Sec. 205-3.1, H.R.S., the Planning Director is directed to transmit this ordinance to the State Land Use Commission, the Department of Business, Economic Development and Tourism, and the State Office of Planning within sixty days from the effective date of this ordinance.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part or portion of this ordinance that can be given effect without such invalid part or parts.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

JAY FURFARO
(By Request)

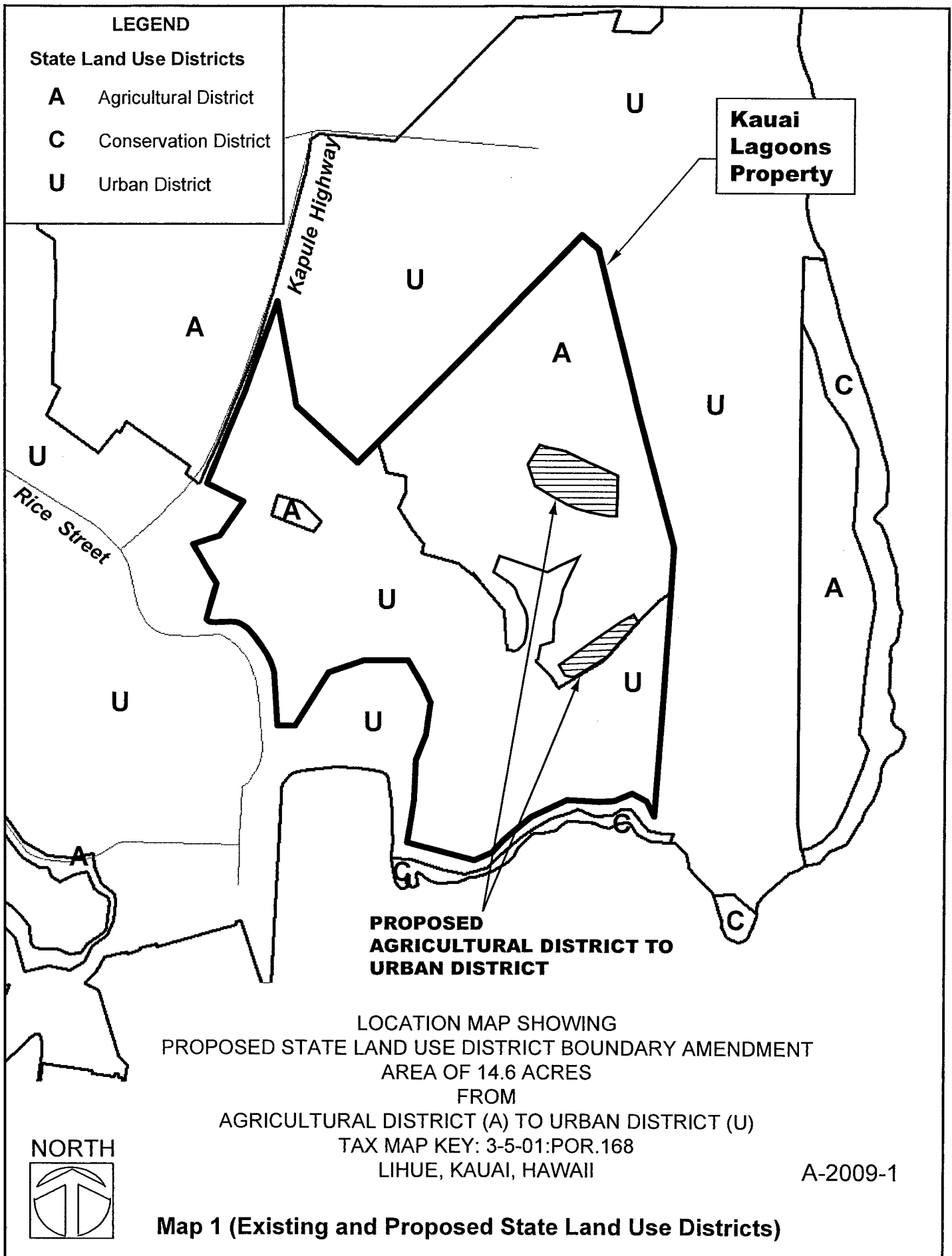
DATE OF INTRODUCTION:

Lihu'e, Kaua'i, Hawai'i

LEGEND

State Land Use Districts

- A** Agricultural District
- C** Conservation District
- U** Urban District



A-2009-1

Proposed Draft Bill # 2324

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING
ORDINANCE NO. PM-2006-382,
RELATING TO GENERAL PLAN DESIGNATION IN
NĀWILIWILI, KAUAʻI
(MORI Golf (Kauaʻi), LLC., Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAʻI,
STATE OF HAWAII:

SECTION 1. The General Plan designation for that certain area of approximately 19.1 acres in Nāwiliwili, Kauaʻi, identified as TMK: (4) 3-5-01: por. 27, as delineated on the map attached hereto and incorporated herein as Map 2, is hereby amended from “Open” to “Resort”.

SECTION 2. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part or portion of this ordinance that can be given effect without such invalid part or parts.

SECTION 3. The Planning Department is directed to note this amendment on the official General Plan map filed with the Department. All General Plan provisions applicable to the “Resort District” designation shall apply to the area described herein.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

JAY FURFARO
(By Request)

DATE OF INTRODUCTION:

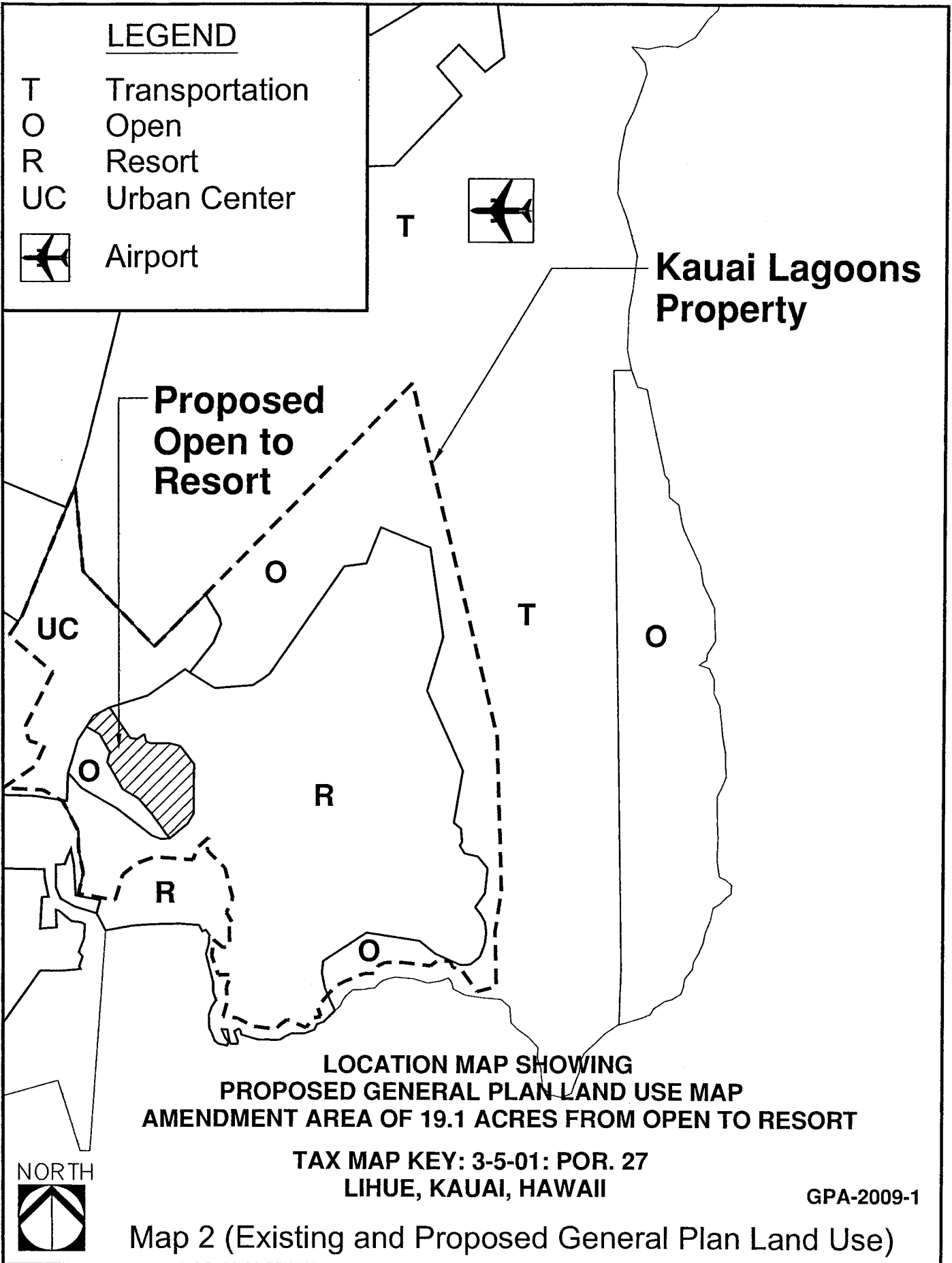
Lihuʻe, Kauaʻi, Hawaiʻi

LEGEND

- T Transportation
- O Open
- R Resort
- UC Urban Center
-  Airport

Kauai Lagoons Property

**Proposed
Open to
Resort**



**LOCATION MAP SHOWING
PROPOSED GENERAL PLAN LAND USE MAP
AMENDMENT AREA OF 19.1 ACRES FROM OPEN TO RESORT**

**TAX MAP KEY: 3-5-01: POR. 27
LIHUE, KAUAI, HAWAII**

GPA-2009-1

Map 2 (Existing and Proposed General Plan Land Use)

Proposed Draft Bill # 2325

A BILL FOR AN ORDINANCE AMENDING ZONING CONDITIONS IN
ORDINANCE NO. PM-2006-383, RELATING TO ZONING DESIGNATION IN
NĀWILIWILI, KAUA‘I
(MORI Golf (Kaua‘i), LLC., Applicant)

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA‘I, STATE OF HAWAII:

SECTION 1. Ordinance No. PM-2006-383 is hereby amended in its entirety as follows:

“SECTION 1. The zoning designation for that certain area of approximately 66.7 acres in Nāwiliwili, Kaua‘i, identified on zoning map NM-NW 400 from Open District (O) to Residential District (R-2), Resort District (RR-10), and Resort District (RR-20) on parcels identified by TMK 3-5-01: por. 27, por. 168, por. 172, and from Limited Industrial District (I-L) to Residential District (R-20) on TMK 3-5-01:165 and on the map attached hereto and incorporated herein as Revised Map 3 (9/27/06), subject to the following conditions:

1. Notwithstanding any provisions to the contrary, no more than a total of [750] 772 dwelling units or hotel/motel rooms (herein referred to as the “Density Cap”) shall be developed on the properties identified herein and in Condition No. 24. The affordable housing units constructed within the areas rezoned herein shall not be counted as part of the Density Cap as long as the units remain as affordable pursuant to the Agreement (Kaua‘i Lagoons Affordable Housing) between Kaua‘i Development LLC and the County of Kaua‘i, dated February 18, 2005, as amended. For the purposes of implementing this condition, units are defined as a hotel room (a suite or room without kitchen facilities) or a combination of hotel and residential units (a unit with kitchen facilities) for development within the Resort District (RR-10, RR-20). For development within the Residential District (R-20) only residential dwelling units are allowed. As represented, uses situated in the affected areas sought for zoning amendment shall be limited to the following residential types as described below.
 - a. For development within the Resort District (RR-10, RR-20), multi-family residential units are allowed.
 - b. Development within the Residential District (R-2) shall be limited to single family detached residential units. No Additional Dwelling Units (ADU) are permitted[.] and no guest cottages shall be permitted on those lots developed on the approximately 21.6

Proposed Draft Bill #2076

acres that are being rezoned from Open District (O) to Residential District (R-2), as reflected in the location map attached hereto and incorporated herein and identified as Map 3 (September 2009).

2. As further represented by the Applicant, "...the Open District (O) portions of the property shall not have any residential density or be used for the calculation of any residential density on the property. No building permits shall be issued unless documentation that this restriction on density has been incorporated into the deeds of the affected property (ies) has been received by the Planning Department."
3. The Applicant shall comply with, and fully implement all provisions of the Effluent Use Agreement dated August 14, 2001, entered into between Kaua'i Lagoons Resort Company, Ltd. and the County of Kaua'i.

Pursuant to the aforementioned agreement, the Applicant agrees to dedicate free and clear of any liens, and encumbrances, without cost to the County:

- a. All land and easements required for the disposal of effluent from the Lihu'e Wastewater Treatment Plant ("LWWTP");
- b. Approximately 2.22 acres of land for the expansion of LWWTP
- c. Approximately 7.1 acres of land in the "Stable Area;"
- d. Any other land and easements required for the County's operation of the LWWTP as may be mutually agreed to between the County and the Applicant;
- e. Prior to conveying ownership of the LWWTP site to the County, the Applicant shall remove and relocate all golf course irrigation system improvements, weather station infrastructure and any related appurtenances from the property. Other than provided above, all lands conveyed to the County by the Applicant shall be on an "as is" basis. The Applicant is not aware of any dangerous, hazardous or environmentally damaging conditions existing on any of the lands to be conveyed.

The Applicant shall dedicate the aforesaid lands to the County within ninety (90) days after final subdivision approval of its Subdivision Application for the subject property currently pending before the Planning Commission.

4. Should the sewer capacity for additional development on the property exceed 150,000 gallons per day, the Applicant acknowledges that it shall

be subject to any applicable waiting or priority list established by the County of Kaua'i for such service. No building permits shall be issued until sewer capacity issues have been resolved with the Department of Public Works – Wastewater Division.

5. The Applicant shall submit a request to the Planning Commission to cancel the existing Running Waters Hotel permits, identified as SMA Use Permit SMA (U)-87-17, Special Permit SP-87-15, Project Development Use Permit U-87-17, and Class IV Zoning Permit Z-IV-87-59, within 6 months from the approval of this zoning amendment ordinance.
6. The Applicant shall resolve the provision of affordable housing for this zoning amendment with the County Council in accordance with the Kaua'i Lagoons Affordable Housing Agreement dated February 18, 2005 as may be amended or otherwise determined by the County Council.
7. The Applicant shall allow public access over and across all existing public vehicular and pedestrian public accessways on the subject property. Easement documents in favor of the County providing for non-motorized bicycle access from the public access entrance at Kapule Highway to eventually connect with "Easement 1" on TMK: 3-5-01 por. 102 (as described in State of Hawai'i Bureau of Conveyances Document No. 90-152880) shall be executed within one hundred and eighty (180) days from the enactment of this ordinance.

The Applicant shall provide a passive beach park to include public parking in the vicinity of the former Fashion Landing commercial area, restroom and shower facilities, recreational shelters, and picnic areas in the approximate vicinity of the Kiele No. 13 green and the area commonly referred to as Running Waters Beach.

The aforementioned facilities shall be inclusive of, but not limited to, the following amenities:

- a. Public restrooms and shower facility at the former Fashion Landing commercial area (beneath restaurant facility);
- b. Public restrooms and shower facility near the Running Waters Beach; picnic shelters (i.e., recreational shelters) to be located close by; and
- c. Weather shelters and picnic tables along the lateral shoreline access.

Restroom and shower facilities and other public recreational amenities required in this condition shall be constructed within two (2) years from

the date of the enactment of this ordinance, and shall be maintained by the Applicant.

The Applicant shall provide lateral shoreline access according to the 'Roadway and Public Access Plan (dated August 2006),' which is attached to and incorporated herein as part of this ordinance. More specific plans shall be submitted for the review and approval of the County of Kaua'i at the time of Zoning Permit and/or SMA permit application for the hotel/resort-residential project prior to any construction of the restroom and shower facilities and other public recreational amenities referenced above. Facility locations are to be determined at this time.

As represented by the Applicant, the Applicant shall indemnify, defend, pay for all attorneys fees and costs, and hold harmless the County of Kaua'i, its employees, agents, successors and assigns from any and all injuries and/or property damage that may directly or indirectly arise from the use by the public of the public access easements and facilities located on the Applicant's properties identified herein.

8. All deeds or instruments transferring interest in the subject property, or in the structures or improvements therein, easements running in favor of the State of Hawai'i and the Land Use Commission and the County of Kaua'i shall indemnify and hold the State of Hawai'i and Land Use Commission and the County of Kaua'i, harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Līhu'e Airport and the operation of the Līhu'e Wastewater Treatment Plant.
9. No residential, condominium, or hotel units shall be constructed within areas greater than 60 DNL noise contour of the Līhu'e Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level. The Applicant shall satisfy this condition with the appropriate State and/or Federal agency at time of submittal of Zoning Permit and/or SMA Use Permit application.
10. The Applicant shall comply with any height restriction to be set by the State of Hawai'i pursuant to specifications established in FAA regulations for aviations easement purposes along the perimeter of the Līhu'e airport runways.
11. Traffic improvements to intersections or roadways within the Līhu'e District, as determined by the State Highways Division and/or Department of Public Works, to mitigate increase in traffic generated by the proposed hotel/resort residential projects shall be considered and, as may be appropriate, required by the Planning Commission at time of

consideration of Zoning Permit and/or SMA Use Permit Application for the proposed hotel/resort-residential project.

12. To minimize adverse impacts to Newell's shearwaters, exterior lighting fixtures shall be only of the following types: shielded lights, cut-off luminaries or indirect lighting. The Applicant shall consult with the Division of Forestry and Wildlife, Kaua'i District (State Department of Land and Natural Resources), for its specific lighting recommendations. Up-lighting shall be prohibited and only fully shielded, low profile lights shall be implemented. Spotighting of any structures or the ocean shall be reviewed and approved by the Planning Director.
13. The Applicant, its successors or assigns, shall develop the appropriate documents and/or agreements for the review of and approval by the County of Kaua'i that would hold the County of Kaua'i harmless from any lawsuits relating to noise generated during normal airport activities at the Līhu'e Airport by any owners, subtenants, guests, or other users of the rezoned area.
14. An aviation easement in a form prescribed by the State Department of Transportation shall be granted to the State of Hawai'i by the Applicant, to cover the entirety of the Kaua'i Lagoons Resort property owned by the Applicant.
15. The Applicant shall consult with and comply with all archaeological/historical requirements of the State of Historic Preservation Division at time of Zoning Permit and/or SMA Use Permit Applications for the property.
16. The Applicant shall comply with all requirements established by the Department of Public Works regarding grading, grubbing, drainage and erosion control in order to minimize any adverse impacts to surrounding properties, to Kalapakī Bay, and to adjoining off-shore waters during construction and other grading or grubbing activity. The applicant shall also conduct a drainage study to evaluate the impacts of increased runoff from the development of residences, parking lots and other impermeable surfaces and shall implement measures to keep storm flow rates to levels existing prior to the project construction of any of the said [750] 772 units.
17. The Applicant shall continue to make available two hundred (200) off-street parking stalls within the parking lot area described as "Easement P-1" to the property currently identified as the Kaua'i Marriott Resort and Beach Club (TMK: 3-5-02: 02) for hotel and resort purposes.

18. Substantial construction of one hundred twenty-five (125) hotel or resort/residential units shall be completed within two (2) years from the effective date of this ordinance. Substantial construction of an additional one-hundred-twenty-five (125) hotel or resort/residential units shall be completed within seven (7) years from the effective date of this ordinance (total of two-hundred fifty units). Substantial construction of the balance of the seven-hundred-fifty (750) units allowed by this ordinance, or five-hundred (500) units shall be completed within twelve (12) years of the effective date of this ordinance. Substantial construction, as used herein, shall mean the laying of foundations. If substantial construction is not completed within this timeframe, the Planning Commission shall initiate proceedings to review the provisions of the zoning designations for the property.
19. Pursuant to Chapter 4 (“Developing Jobs & Businesses”), Section 4.5.2 (“Supporting Businesses and Jobs for Kaua‘i Residents – Implementing Actions”) of the Kaua‘i General Plan (November 2000):
- “(c) In granting zoning and permits for new resorts and other businesses, the County shall seek commitments that businesses will actively recruit and train Kaua‘i residents to fill new jobs.”
- To this end, the Applicant shall seek to actively recruit and train Kaua‘i residents to fill new jobs.
20. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua‘i contractors as long as they are reasonably competitive with other contractors, and shall seek to employ residents of Kaua‘i in temporary construction and permanent resort related jobs. It is recognized that the Applicant may have to employ non-Kaua‘i residents for particular skilled jobs where no qualified Kaua‘i resident possesses such skills. For the purposes of this condition, the Council shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
21. Prior to or as part of any submittal for any major land use permits for development associated with this petition or any portion of its resort campus, the Applicant shall provide the Planning Commission a status report of applicable conditions of approval under Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30. The status report shall include but not be limited to:

- a. a development schedule of all highway improvements as required by the State Highways Division;
 - b. an updated roadway and public access master plan (Figure 9, Applicant's Petition, November 2005) identifying the location and availability for use by the general, the public beach access and associated improvements, and public access for vehicular, pedestrian and non-motorized traffic that shall be incorporated herein and referenced to in this zoning ordinance;
 - c. the location of the additional affordable housing units that are intended to be required by the subject land use petitions.
22. The Applicant is made aware that during the review of major land use permits and design, additional shoreline setbacks, height restrictions, and lot coverage restrictions may be required to mitigate visual impacts along the coast and to preserve near shore water quality.
23. As represented by the Applicant, the Applicant shall have that certain parcel of land located in Kalapakī, Hanamā'ulu, Līhu'e (Puna), Kaua'i, Hawai'i, identified by Kaua'i Tax Map Key No. (4) 3-05-001:102 ("Subject Property") encumbered with a Declaration Of Conservation Restriction (to be recorded in the Bureau of Conveyances of the State of Hawai'i) which will contain provisions regulating the development of the Subject Property, including but not limited to, the following restrictions (hereinafter referred to as the "Development Restrictions"):
- a. No dwelling units shall be allowed within those portions of the Subject Property located in the 65 DNL or higher noise contours as shown on that certain map entitled FAR Part 150 5-Year (CY 1991) Noise Exposure Map for Līhu'e Airport (from the Līhu'e Airport – FAR Part 150 Noise Compatibility Program, Noise Compatibility Program Report, State Department of Transportation Airports Division, December 1989) (referred to hereinafter as the "Restricted Area").
 - b. Only the following structures or improvements shall be allowed within the Restricted Area: roads, fences, walls, vegetation and landscaping, not more than five (5) agricultural accessory buildings, underground utilities and above-ground facilities associated therewith (none of which shall exceed five (5) feet in height), irrigation ditches, no more than two (2) water tanks (neither of which shall exceed fifteen (15) feet in height), and water wells. No dwelling units shall be allowed within the Restricted Area.

- c. Only agricultural uses shall be allowed within the Restricted Area. No residential, industrial, resort or commercial uses (except commercial uses related to agriculture activities) shall be allowed within the Restricted Area.
- d. The Subject Property shall not be subdivided.
- e. The maximum number of dwelling units that may be developed on the Subject Property shall not exceed eleven (11) dwelling units. The owner of the Subject Property shall have the right to use the dwelling unit density to which the Restricted Area is eligible, provided that any and all dwelling units (not to exceed 11) are located on the portions of the Subject Property outside of the Restricted Area.
- f. The Declaration Of Conservation Restriction encumbering the Subject Property may not be amended in any manner so as to change, modify, or delete the Restrictive Covenants contained herein without the prior approval of the Council of the County of Kaua'i.

24. The zoning designation for that certain area of approximately 21.6 acres in Nāwiliwili, Kaua'i identified on zoning map ZM-NW 400 from Open District (O) to Residential District (R-2), on parcels identified by TMK: 3-5-01: por. 27, and por. 168 and on the map attached hereto and incorporated herein as Map 3 (September 2009), subject to the following conditions:

- a. With respect to those certain areas in Nāwiliwili, Līhu'e, Kaua'i, identified as (i) TMK: 3-5-01: por. 27 consisting of approximately 7.06 acres that has been amended from Open District (O) to Residential District (R-2), and (ii) TMK: 3-5-01: por. 168 consisting of approximately 14.6 acres that has been amended from Open District (O) to Residential District (R-2) as shown on zoning map ZM-NW 400 and on the map attached hereto and incorporated herein as Map 3 (September 2009), (hereinafter referred to as the "2009 Petition Area"), the following conditions shall apply:
- b. Notwithstanding the provisions in Condition No. 1.b. of this Ordinance and as represented by the Applicant, guest cottages and additional dwelling units shall not be permitted on the lots created within the 2009 Petition Area. This restriction shall be included in the deeds for the subject lots, and recorded at the Bureau of Conveyances. A recorded copy of the deed(s) shall be provided to the Planning Department.

- c. Notwithstanding the provisions in Condition No. 12 of this Ordinance, in order to minimize adverse impacts on Federally Listed Threatened Species, such as Newell's Shearwater and other seabirds, all external lighting for structures or other improvements within the 2009 Petition Area shall be limited to the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of features shall be prohibited.
- d. Notwithstanding the provisions contained in Condition No. 16 of this Ordinance, Best Management Practices shall be utilized during all phases of development within the 2009 Petition Area in order to minimize erosion, dust and sedimentation impacts of the project to abutting properties. These practices shall be reflected in the subdivision, grading, construction, or other plans for the Petition Area that are submitted for permit processing.
- e. No application for development (subdivision, grading, etc.) related to the subject requests for any proposed subdivisions within the 2009 Petition Area (identified in Figure 6a of the Applicant's Petition, June 8, 2009, as Subdivision 1A, Subdivision 5, and Subdivision 6) shall be accepted for processing by the Planning Department until such time that the 138-acre parcel identified as TMK: (4) 3-5-01: por. 102 is conveyed to the County of Kaua'i, as represented.
- f. Agency comments and concerns as submitted for the subject petition shall be resolved at the time of the next review conducted by the Planning Department, be it subdivision or other review.
- g. As represented, the 12.0 acre remnant that will be General Planned "Resort" and surrounding proposed Subdivision 6 within the 2009 Petition Area which currently encompasses the existing Kiele Golf Course Hole Nos. 6 and 8, shall not be utilized for any future density calculations purposes, and is only intended to provide for a more uniform General Plan "Resort" boundary designation.
- h. Additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

[24.]25. The Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency (ies).

SECTION 2. Upon the completion of recordation with the Bureau of Conveyances of the State of Hawai'i of the deed conveying the parcel identified as TMK: 3-5-01: por. 102 consisting of 138 acres to the County of Kaua'i, Condition No. 23 of this Ordinance shall no longer be applicable.

SECTION 3. The zoning designation for that certain area in Nāwiliwili, Kaua'i, identified as TMK: 3-5-01: 27, 82, 83, 115, 116, 117, 118, 119, and 120, as shown on Zoning Map ZM-NW-400 and on the map attached hereto and incorporated herein as Exhibit ZA-2002-1, are subject to the amendments in Section 1 hereinabove, and incorporated herein as part of this zoning application.

SECTION 4. Ordinance No. PM-2002-363 is superceded.

SECTION 5. The Planning Commission is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION 6. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION [6.] 7. This ordinance shall take effect upon approval.

SECTION 8. Material to be deleted is bracketed. New material is underscored."

INTRODUCED BY:

JAY FURFARO
(By Request)

DATE OF INTRODUCTION:

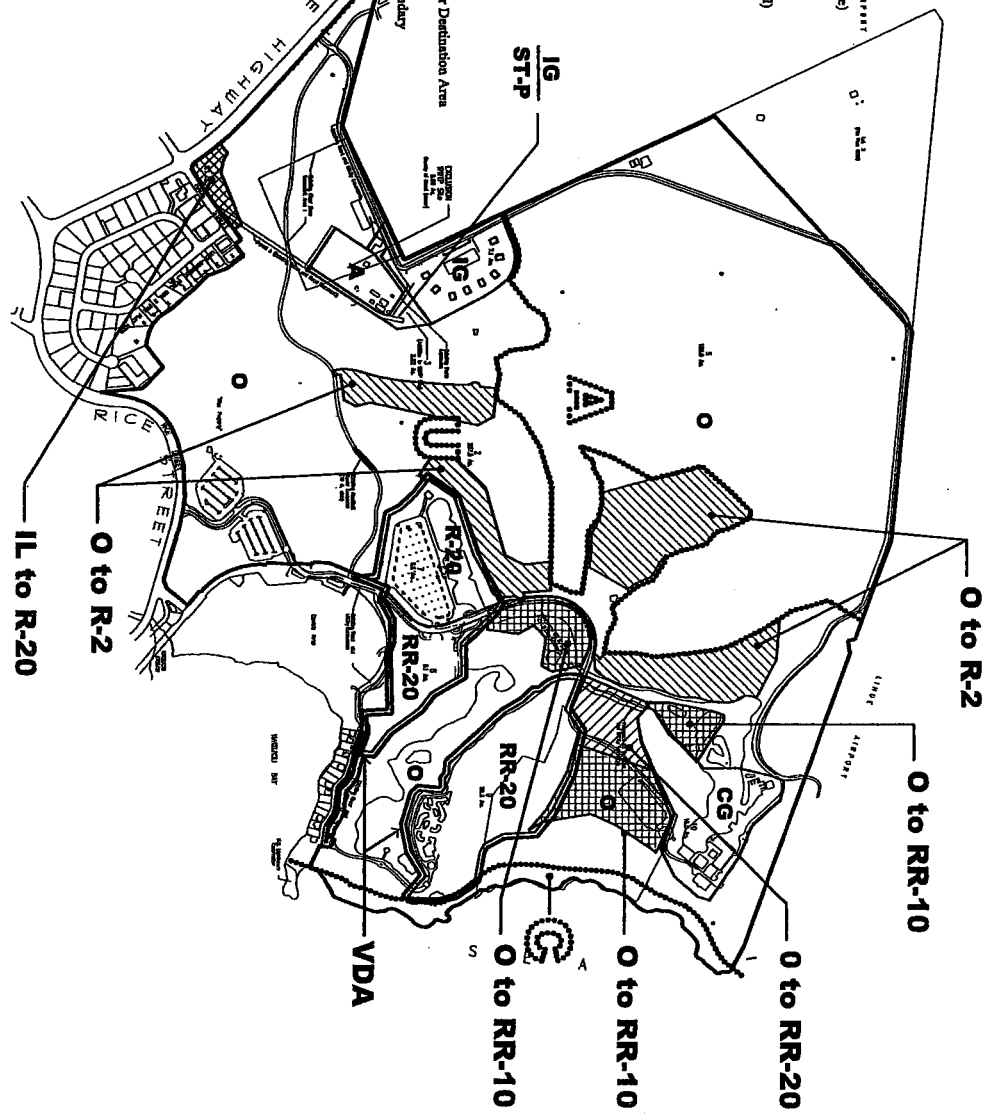
Lihu'e, Kaua'i, Hawai'i

DRAFTED Draft Bill #2296

Legend
Area (in Ac.)

| | |
|-------|------------------------|
| ○ | Open |
| RR-20 | Resort (20 Units/Acre) |
| R-20 | Residential |
| CG | Commercial (General) |
| IG | Industrial (General) |
| ST-P | Industrial (Special) |
| C | Conservation (State) |
| 8.0 | O to RR-20 |
| 16.6 | O to RR-10 |
| 40.0 | O to R-2 |
| 21 | IL to R-20 |
| 66.7 | |

- State Land Use Boundary
- U Urban
- A Agriculture
- G Conservation



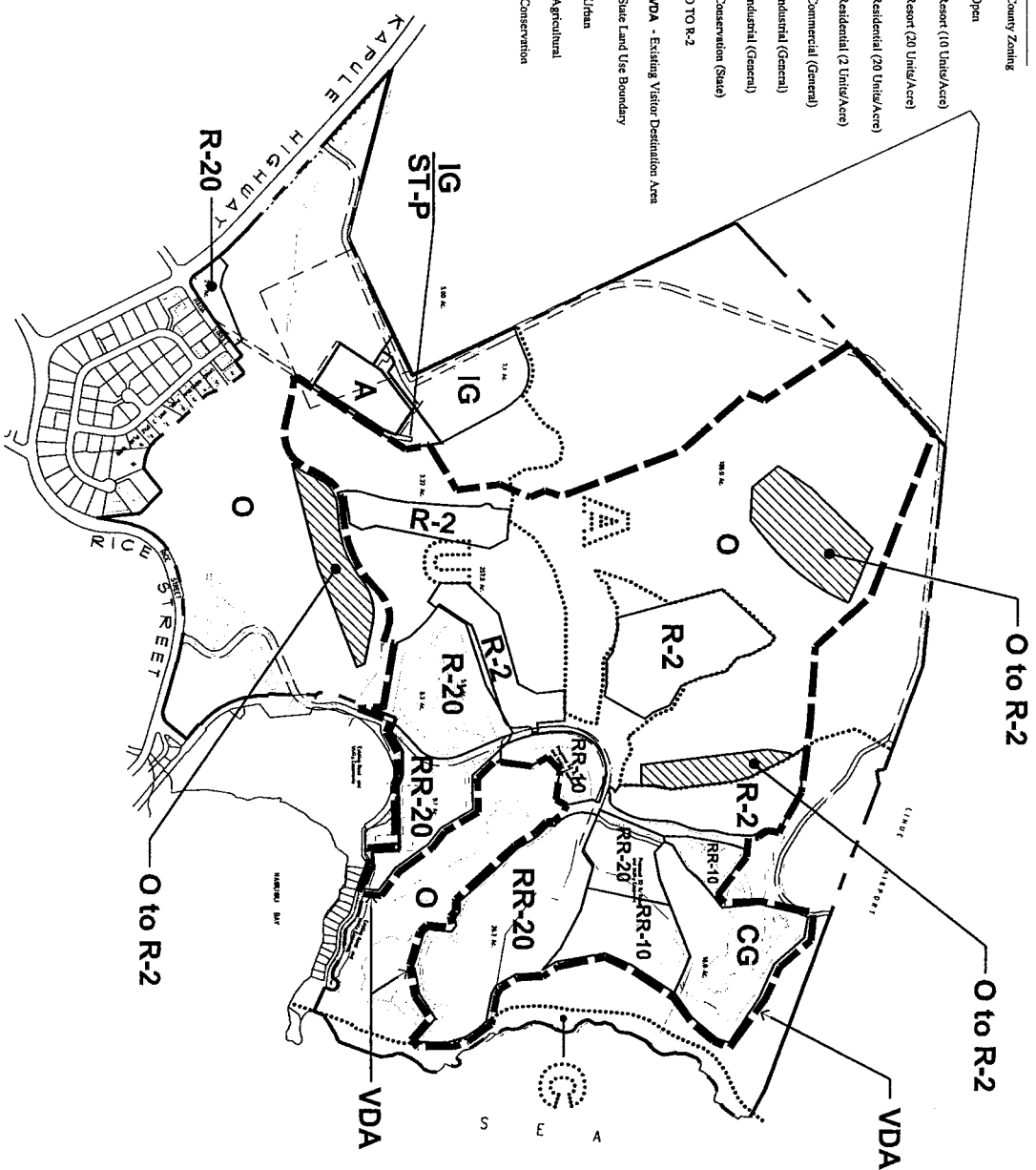
LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400
FROM
OPEN DISTRICT (O) AND
LIMITED INDUSTRIAL DISTRICT (IL)
TO
RESORT DISTRICT (RR-10, RR-20) AND
RESIDENTIAL DISTRICTS (R-2, R-20)
TAX MAP KEYS: 3-5-01: 27 (POR.),
165, 168 (POR.), AND 172 (POR.)
KALAPAKI, KAUAI, HAWAII

REVISIED Map 3 (Existing and Proposed Zoning)
ZA-2006-05
Revised 9/27/06



Legend
County Zoning
Area (in Ac.)

- Open
- RR-10 Resort (10 Units/Acre)
- RR-20 Resort (20 Units/Acre)
- R-20 Residential (20 Units/Acre)
- R-2 Residential (2 Units/Acre)
- CG Commercial (General)
- IG Industrial (General)
- IG Industrial (General)
- ST-P Industrial (State)
- O TO R-2
- VDA - Existing Visitor Destination Area
- State Land Use Boundary
- Urban
- Agricultural
- Conservation



LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400

FROM
OPEN DISTRICT (O)
TO

RESIDENTIAL DISTRICT (R-2)

TAX MAP KEYS: 3-5-01: 27 (POR.)
AND 168 (POR.)

KALAPAKI, KAUAI, HAWAII

ZA-2009-10
Map 3 (Existing and Proposed Zoning)
SEPTEMBER 2009

Proposed Draft Bill # 7376

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE AMENDING
ORDINANCE NO. PM-2006-384, RELATING
TO VISITOR DESTINATION AREA
DESIGNATION IN NĀWILIWILI, KAUA'I
(MORI Golf (Kaua'i), LLC., Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I,
STATE OF HAWAII:

SECTION 1. Tax Map Key No. (4) 3-5-01: por. 27 consisting of approximately 9.2 acres in Nāwiliwili, Kaua'i, as shown on the attached Map 4, is hereby designated as a Visitor Destination Area (VDA).

SECTION 2. The Visitor Destination Area designation and boundary lines established herein shall be transferred onto the official zoning maps for reference purposes.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part or portion of this ordinance that can be given effect without such invalid part or parts.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

JAY FURFARO
(By Request)

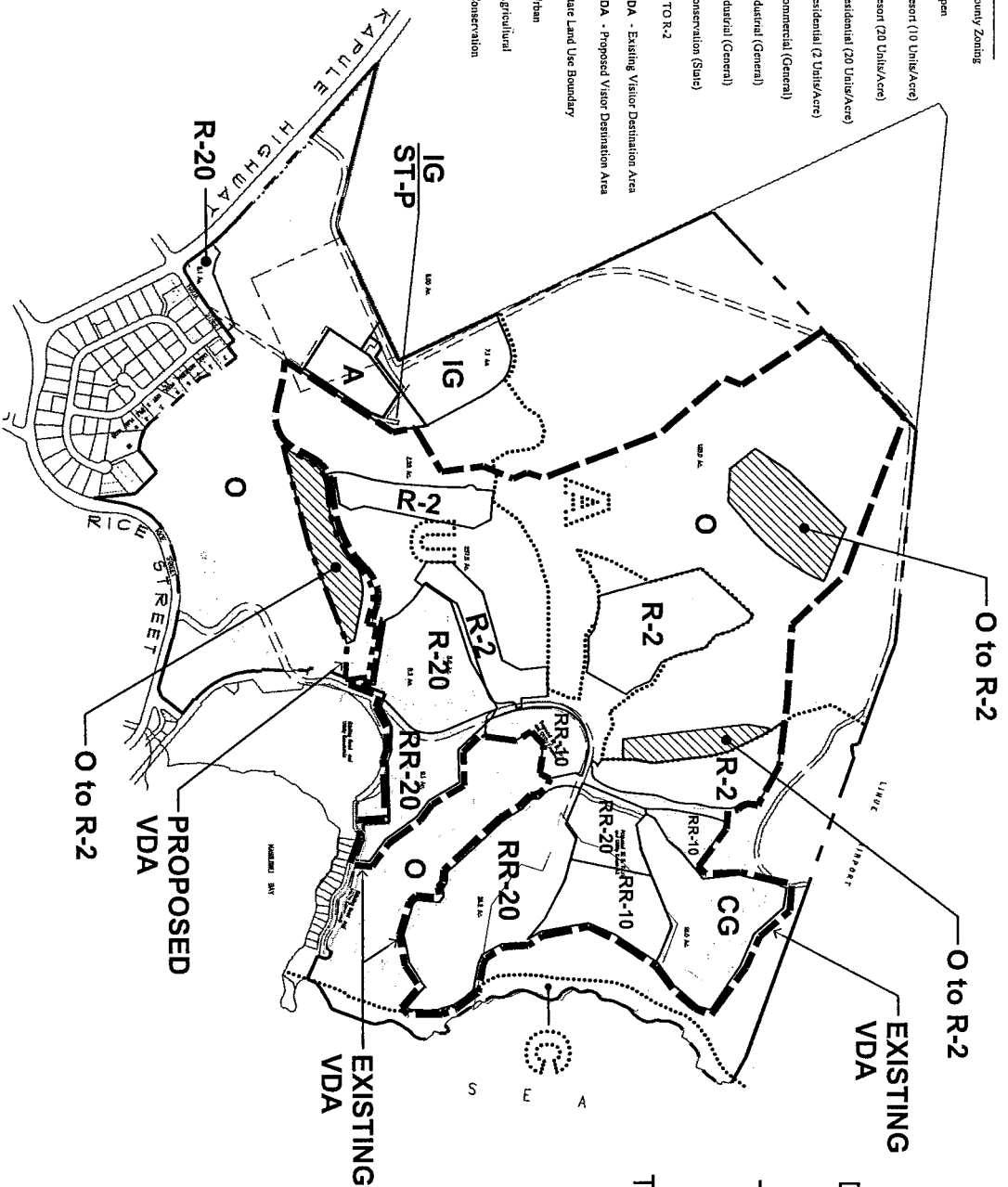
DATE OF INTRODUCTION:

Lihu'e, Kaua'i, Hawai'i



Legend
Area (in Ac.) County Zoning

- 0 Open
- RR-10 Resort (10 Units/Acre)
- RR-20 Resort (20 Units/Acre)
- R-20 Residential (20 Units/Acre)
- R-2 Residential (2 Units/Acre)
- CG Commercial (General)
- IG Industrial (General)
- ST-P Industrial (Special Purpose)
- Conservation (State)
- 21.6 O TO R-2
- 278.7 VDA - Existing Visitor Destination Area
- 9.2 VDA - Proposed Visitor Destination Area
- State Land Use Boundary
- U Urban
- A Agricultural
- G Conservation



LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400
AMENDMENT TO THE VISITOR
DESTINATION AREA DESIGNATION
FOR
THE RESIDENTIAL DISTRICT (R-2)
AND OPEN DISTRICT (O)
TAX MAP KEY: 3-5-01: 27 (POR.)

KALAPAKI, KAUAI, HAWAII

ZA-2009-10
Map 4 (Existing and Proposed
Visitor Destination Area)

Proposed Draft Bill # 2327