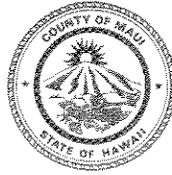


CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 16, 2009

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INFORMATION QUALITY CONTROL

Ms. Katherine Kealoha, Director
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

Dear Ms. Kealoha:

**SUBJECT: FINAL ENVIRONMENTAL ASSESSMENT (FEA) FOR THE
NONA LANI COTTAGES LOCATED AT 455 SOUTH KIHEI
ROAD, KIHEI, MAUI, HAWAII; TMK: (2) 3-9-041:001
(CPA 2006/0001) (CIZ 2006/0001) (EA 2006/0002)**

The Maui Planning Commission, at its regular meeting on February 24, 2009, accepted the Final Environmental Assessment (FEA) for the subject project, and issued a Finding of No Significant Impact (FONSI). Please publish the FEA in the April 8, 2009, Office of Environmental Quality Control (OEQC) Environmental Notice.

We have attached a completed OEQC Publication Form, two (2) hardcopies of the FEA and one (1) CD containing the PDF file of the FEA. An electronic file of the Project Summary will be emailed to your office separately.

Thank you for your cooperation. If you have any questions, please contact Staff Planner Jeffrey Dack by email at jeffrey.dack@mauicounty.gov or by phone at 270-6275.

Sincerely,

CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

For: JEFFREY S. HUNT, AICP
Planning Director

Attachments

xc: Jeffrey P. Dack, AICP, Staff Planner
Raymond Cabebe, Chris Hart & Partners, Inc.
EA Project File (w/ copy of attachment)
General File

JSH:CIY:JPD:vb

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FINAL
HRS CHAPTER 343
ENVIRONMENTAL ASSESSMENT

NONA LANI COTTAGES

*455 · South · Kihei · Road
Kihei · Maui · Hawaii
TMK: (2) 3-9-041:001*

Prepared for:

Nona Lani Cottages, LLC
P.O. Box 655
Kihei, Hawaii 96753

Prepared by:

Chris Hart and Partners
Landscape Architecture and Planning
115 North Market Street
Wailuku, Hawaii 96793
Phone: 242-1955
Fax: 242-1956



JUNE 2008
Revised November 2008



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FIGURES

Figure No. 1: Regional Location

Figure No. 2: Tax Map Key

Figure No. 3: Aerial Map

Figure No. 4: Typical Cottage Floor Plan

Figure No. 5: State Land Use Map

Figure No. 6: Community Plan Map

Figure No. 7: Zoning Map

Figure No. 8: Flood Hazard Map

Figure No. 9: Soils Map

Figure Nos. 10.1-10.3: Site Photographs

Figure No. 11: Site Plan

APPENDICES

Appendix A: Ownership Documents

Appendix B: Zoning and Flood Confirmation

Appendix C: List of Owners of Properties Within 500 Feet

Appendix D: Topographic Survey Map

Appendix E: Planning Department Pre-consultation

Appendix F: Agency Comments & Responses



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I. PROJECT INFORMATION

A. PREFACE

This Community Plan Amendment (CPA) and County Change in Zoning (CIZ) application has been filed on behalf of Nona Lani LLC, the owners of a parcel identified as Tax Map Key 3-9-041:001, Kihei, Maui, Hawaii. The Kong family lives on the property and has owned it for 62 years. The family has operated Nona Lani Cottages LLC with twelve (12) transient vacation rental units since 1972.

B. PURPOSE OF THE REQUEST

The intent of the owners is to establish consistency between the County's Kihei-Makena Community Plan and County zoning land use designations and the current vacation rental use. This Final Environmental Assessment (EA) has been prepared to describe and analyze the impacts associated with this action and is required since the applicant will seek to amend the Kihei-Makena Community Plan to change the designation of the subject property from MF Multi Family to H Hotel. This Final EA has been prepared in compliance with Chapter 343, Hawaii Revised Statutes (HRS), Section 5-6, which states that an Environmental Assessment (EA) shall be required for actions which *propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county*; and Chapter 200, Hawaii Administrative Rules, Environmental Impact Statement Rules.

The owners are also seeking a County Change In Zoning (CIZ) designation from R-2 Residential to H-1 Hotel District. (**Note:** The immediately adjacent parcels to the south have been zoned H-1 Hotel District since 1969.)

The Kong family will continue the transient vacation rental use as established over the last 36 years. The family does not intend to pursue any additional development on the subject property at this time, however the proposed entitlement action will establish consistency and will allow flexibility for any future improvements. (**Note:** Any future



development plans will be the subject of a Special Management Area (SMA) use permit application process.)

C. PROJECT PROFILE

Proposed Project: Community Plan Amendment and County Rezoning
Lot Size: 2.27 acres
Existing Land Use: Transient vacation rental cottages
Address: 455 South Kihei Road
Kihei, Maui, Hawaii
Access: South Kihei Road
Tax Map Key: (2) 3-9-041:001

D. IDENTIFICATION OF THE APPLICANT

Land Owners: Nona Lani Cottages LLC
Address: P.O. Box 655
Kihei, Hawaii 96753
Phone: (808) 870-9100
(808) 879-2497
Contact: Ms. Cherlyn J. Kong

E. ACCEPTING AGENCY

Name: Maui Planning Commission
c/o Department of Planning, County of Maui
Address: 250 South High Street
Wailuku, Hawaii 96793
Phone/Fax: Phone: (808) 270-7735
Fax: (808) 270-7969
Contact: Mr. Jeffrey S. Hunt

F. CONSULTANT

Land Use Planners: Chris Hart & Partners, Inc.
1955 Main Street, Suite 200
Wailuku, Maui, Hawaii 96793-1706
Phone/Fax: Phone: 808-242-1955
Fax: 808-242-1956



Contact: Mr. Christopher L. Hart

G. MAJOR LAND USE, DEVELOPMENT AND CONSTRUCTION APPROVALS

1. Community Plan Amendment that includes a Public Hearing, Recommendation by the Maui Planning Commission, and Approval by the Maui County Council.
2. Change in Zoning that includes a Public Hearing, Recommendation by the Maui Planning Commission and Approval by the Maui County Council.
NOTE: The Department of Planning initially disagreed that the Nona Lani Cottages is an existing nonconforming use and, therefore disagreed that the project is limited to these approvals (**See:** Appendix "E", letter dated 10/18/07). Planning has since reversed its opinion and considers the cottages an existing nonconforming use (**See:** Appendix "E", letter dated 3/6/08).

No improvements to the subject property are proposed at this time. Any improvements or new development on the property may be subject to the following approvals:

1. Special Management Area (SMA) Use Permit that includes a Public Hearing and Approval by the Maui Planning Commission.
2. Grading/Grubbing Permit approval from the Department of Public Works (DPW), County of Maui.
3. Building, Electrical and Plumbing Permits for structures from the DPW.
4. Special Flood Hazard Area Development Permit from the Department of Planning.

H. PRE-CONSULTED AGENCIES & PRIVATE INTERESTS

A. COUNTY OF MAUI

1. Department of Planning

I. CONSULTED AGENCIES & PRIVATE INTERESTS

The Maui Planning Commission reviewed and commented on the Draft Environmental Assessment for the Nona Lani Cottages at its April 22, 2008 regular meeting. The Draft



Environmental Assessment for the Nona Lani Cottages was published on December 23, 2007 by the State Office of Environmental Quality Control (OEQC) in its Environmental Notice bulletin. The publication initiated a 30-day public review period ending on January 22, 2008. The Draft EA was mailed to agencies below. All comment letters and responses are found in Appendix "F", unless noted otherwise.

A. COUNTY OF MAUI

1. Civil Defense (did not respond)
2. Corporation Counsel (did not respond)
3. Department of Environmental Management
4. Department of Housing and Human Concerns (did not respond)
5. Department of Parks & Recreation
6. Department of Planning
7. Department of Public Works
8. Fire Department
 - a. Capt. Val Martin verbally responded by phone. He commented that existing fire protection appears to be adequate and in compliance. The department will comment on the CIZ and CPA applications.
9. Police Department

B. STATE OF HAWAII

1. Department of Land and Natural Resources – Aquatic Resources (did not respond)
2. Department of Land and Natural Resources – Commission on Water Resource Management
3. Department of Land and Natural Resources – Engineering
4. Department of Land and Natural Resources – Land
5. Department of Land and Natural Resources – Office of Conservation & Coastal Lands (did not respond)



II. DESCRIPTION OF THE PROPERTY AND PROPOSED ACTION

A. PROPERTY LOCATION

The subject property is located in north Kihei, on South Kihei Road between Ohukai Road and Kaonoulu Road, Kihei, Maui, Hawaii; TMK: (2) 3-9-041:001. (See: Figure No. 1 “Regional Location”, No. 2 “Tax Map Key”, & No. 3 “Aerial Map”).

B. EXISTING LAND USE

The subject 2.27 acre parcel contains ten (10) structures (See: Appendix “D”). The original 5,147 square foot dwelling has been renovated and consists of a residence and four (4) units and eight (8) 396 square foot one-bedroom cottages (See: Figure No. 4, “Typical Cottage Floor Plan”). The remaining structures on the property consist of a small laundry facility, two small storage sheds and a gazebo. The parcel has been owned by the Kong family since 1944. The Nona Lani Cottages LLC, with twelve (12) transient vacation rental units, has been operated by the family since 1972.

C. LAND USE DESIGNATIONS

State Land Use Classification:	Urban (<u>See</u> : Figure No. 5, “State Land Use”)
Kihei-Makena Community Plan:	MF Multi-Family (<u>See</u> : Figure No. 6, “Community Plan Map”)
County Zoning:	R-2 Residential District (<u>See</u> : Figure No. 7, “Zoning Map”)
Flood Zone Designation:	A4 (<u>See</u> : Figure No. 8, “Flood Zone Map”)
Special Designations:	Special Management Area



D. DESCRIPTION OF PROPOSED ACTION

The Applicant is requesting a Community Plan Amendment from MF Multi-Family to Hotel and a Change in County Zoning from R-2 Residential to H-1 Hotel for parcel number TMK (2) 3-9-041:001. No additional development is proposed at this time.

The Kong family has used the parcel to operate Nona Lani Cottages LLC with twelve (12) transient vacation rental units since 1972. The 12-unit density is consistent with the allowable density in the R-2 Residential District and concerns for transient versus long-term rental were not well defined in 1972, the early years of Maui's visitor industry development. The 1985 update of the Kihei-Makena Community Plan changed the land use designation of the subject parcel to MF Multi-Family in order to establish consistency with the existing transient vacation rental use. At that time, "motel" use was an allowable use within the County Apartment District. In 1989, 16 years after the establishment of the transient vacation rental business on the property, "motel" use was disallowed in the Apartment District. The 1998 revision to the Kihei-Makena Community Plan retains the MF Multi-Family designation.

As stated, there is no development proposed at this time, however the Department of Planning requested that this document describe the potential full build-out scenario of the requested Hotel designations. Actual future development would likely be of a much smaller scale in order to retain the character and ambiance of the Nona Lani Cottages. Since the property is within the Special Management Area (SMA), any development of the property and its cumulative impact or significant environmental or ecological effect on the SMA would be reviewed by the Maui Planning Commission in the context of an SMA Use Permit.

The requested County zoning designation, H-1 Hotel, allows transient vacation rentals and other accessory, business, and service establishments which supply commodities or perform services primarily for hotel guests as identified in Section 020 "Permitted uses", Chapter 19.14 "Hotel Districts". The lot coverage ratio and floor area-lot area ratio for H-1 zoning is 25 percent and 50 percent, respectively. This would yield approximately 80 - 500 square foot units with a 4,720 square foot allowance for accessory buildings for offices, registration desk, housekeeping, maintenance, and other support functions. The hotel units would be contained within a number of two-story buildings since building heights cannot exceed two stories. Chapter III of this document will examine the potential impacts and mitigation measures that would be required of such a hypothetical scenario, even though the actual development density would likely be more similar in character to the existing facility in order to maintain the family oriented scale and ambiance.



E. ALTERNATIVES

1. No action

Analysis. As noted previously, the Kihei-Makena Community Plan's Land Use Map designates the area for MF Multi-Family use, while the County land use designation for the area is R-2 Residential. The subject request seeks to update the designations in order to establish consistency with the existing transient vacation rental use established in 1972.

The "No Action" alternative would maintain the current inconsistencies between the zoning and community plan designations and the existing use. This would create confusion and uncertainty in the future use of the property, and would "technically" prohibit the existing transient vacation rental use of the property. Since the Planning Department recognizes the eight cottages as "legal" and "non-conforming" (See: Appendix "E", letter dated 3/6/08), its use as transient vacation rentals could continue. However, the flexibility for future renovation/development upgrades would be limited. Unfortunately, for the applicant, the County rarely initiates changes to land use maps in order to establish consistency and the burden of initiating the requested land use changes falls on the respective property owners. The applicant would have to cease operating as a transient vacation rental business and convert to a rental business that would comply with allowable uses within the R-2 Residential District.

2. Alternative Zoning/Uses

Analysis. Alternate uses and configurations were considered at the beginning of the project. A summary of these alternatives is presented below:

Apartment Zoning (County Zoning). This option would establish a consistency with the existing Kihei-Makena Community Plan designation. However, according to Maui County Code, Title 19, Chapter 19.12, the permitted uses within the Apartment District are limited to long term residential uses and transient vacation rentals are not allowed. Given the applicant's desire to consider future improvements to the property as a continuing transient vacation rental facility, the Apartment District designation is not a feasible option. Thus, the Apartment (A-1 or A-2) option would preclude the landowner from continuing the current use and restrict the flexibility for any future improvements.

Single Family Residential Designation (Kihei-Makena Community Plan). This option would also establish consistency with the existing County zoning designation. R-2



Residential District zoning allows for 7,500 square foot minimum lots and a maximum of 13 lots could be created. However, the applicants wish to maintain the existing family transient vacation rental business operation on the subject property.



III. DESCRIPTION OF THE EXISTING ENVIRONMENT, POTENTIAL IMPACTS AND MITIGATION MEASURES

A. PHYSICAL ENVIRONMENT

Using the “legal baseline” of long term residential use, the analysis of the physical environment comparison between the existing and nonconforming use and the potential uses within the proposed Hotel use designation would be the same as the comparison between the “legal baseline” use and the potential uses within the proposed Hotel use designation. (**NOTE:** The Department of Planning initially disagreed that the Nona Lani Cottages is an existing nonconforming use [**See:** Appendix “E”, letter dated 10/18/07]. However, Planning has since reversed its opinion and considers the cottages an existing nonconforming use [**See:** Appendix “E”, letter dated 3/6/08].)

1. Land Use

Existing Conditions. The 2.27 acre project site is located on the western shoreline of South Maui on South Kihei Road between Ohukai Road and Kaonoulu Road in the town of Kihei (**See:** Figure No. 3, “Aerial Map”). The immediate area is a patchwork of developed and undeveloped urban zoned land.

The subject property is adjacent to a range of land uses including multi-family and single-family residential, public, and resort uses. To the north are vacant lands that are community planned for multi-family family use. To the east, are the South Pointe multi-family development and single-family residences. Immediately south of the project site are hotel zoned and community planned parcels which have been developed as the Kihei Holiday and the Maui Beach Resort condominium projects. To the west, *makai* of South Kihei Road, is Maipoina Oe Iau Beach Memorial Park.

The following is a description of zoning, community plan designations, and existing land uses adjacent to the subject property:



North: State Land Use: Urban
Zoning: A-1
Community Plan: MF Multi-Family
Existing uses. Vacant, planned for multi-family development (future Kai Makani project).

East: State Land Use: Urban
Zoning: R-2 Residential, H-M Hotel
Community Plan: Single Family, Multi-Family
Existing uses. Single family dwellings, condominium apartments.

South: State Land Use: Urban
Zoning: H-1, H-M Hotel
Community Plan: Hotel
Existing uses. Condominium apartments.

West: State Land Use: Urban
Zoning: Park
Community Plan: Park
Existing uses. beach park.

The Kong family has owned the property since February 1944 when Frank A. F. Kong purchased the property from the Territory of Hawaii. The property was originally designated as Lot 19, Waiakoa & Waiohuli-Keokea Beach Lots with a tax map key of 3-9-001:045. In 1979, the parcel was re-keyed to its present tax map key of 3-9-041:001. David Kong recalls that the entire property was covered with *kiaawe* trees. In 1952, a residence was constructed and David and his wife, Winona, started a family that grew to seven children. At one time, the family raised pigs, peanuts and *kiaawe* tree beans to sell as feed for local cattle farmers. Between 1972 and 1973, the *kiaawe* trees were cleared and the cottages were constructed to create the Nona Lani Cottages allowing Mrs. Kong to work from home operating a licensed rental business. Following is a chronological list of buildings on the property taken from Maui County Real Property records:

Building	Date	Bldg. Permit	Area
Main Residence	1952	Not listed	1614 s.f.
Patio addition	July 1957	57/1159	304 s.f.
4-Cottages	April 1972	72/0740, 72/0741, 72/0742, 72/0743	396 s.f. with 96 s.f. deck
Laundry/Storage	Dec. 1973	73/2252	140
4-Cottage	July 1973	73/1317, 73/1318, 73/1319, 73/1320	396 s.f. with 88 s.f. deck



Addition	March 1981	81/0417	408 s.f.
Enclose lanai/bath	Dec. 1987	87/72991	
Add 4 bedrooms/baths	Dec. 1990	90/3507	
Enclose/add deck	May 1991	91/1014	

Prior to Ordinance 2609 in 1997 (Chapter 19.64, Maui County Code), the County did not have any laws regulating transient vacation rentals (TVR) within residential districts. Therefore, the TVR use is an existing nonconforming use since 1972. As stated previously, the 1985 revision to the Kihei-Makena Community Plan changed the land use designation of the subject parcel to MF Multi-Family in order to establish consistency with the existing transient vacation rental use. At that time, “motel” use was an allowable use within the County Apartment District. In 1989, “motel” use was disallowed in the Apartment District. (**NOTE:** No violation citation has ever been filed against the property owner prior to October 12, 2007. The Department of Planning initially disagreed that the Nona Lani Cottages is an existing nonconforming use [**See:** Appendix “E”, letter dated 10/18/07]. However, Planning has since reversed its opinion and considers the cottages an existing nonconforming use [**See:** Appendix “E”, letter dated 3/6/08].)

Nona Lani LLC is owned by the David Y.S. Kong Trust and the Winona K. Kong Trust. According to the applicant, the trusts provide for restrictions that bar the transfer of ownership outside of the Kong family until twenty years after the passing of the last of the seven children. This ensures that the property would remain in the family for several decades, preventing an outsider from purchasing the property and developing a denser project.

Potential Impacts and Mitigation Measures. The project site is located in an area of North Kihei which features a mix of urban land uses. The requested H Hotel designation and H-1 Hotel District allows for future establishment of an upgraded transient vacation rental project on the parcel and establish zoning compliance for the existing use. The Hotel designation will be a logical extension of hotel zoned properties to the south which include the Kihei Holiday, the Maui Beach Resort and the Maui Lu Resort. The existing urban infrastructure system is proximate to the subject property and capable of servicing any future improvements. (**Note:** The immediately adjacent



parcels to the south have been community planned H Hotel and zoned H-1 Hotel District since 1969.)

2. Topography and Soils

Existing Conditions. The project site is relatively flat with uniform slopes. The elevation ranges from approximately 10 feet above mean sea level (MSL) at the *mauka* (eastern) boundary to approximately 9 feet above MSL at the *makai* (western) boundary, an approximately half percent (.5%) slope.

According to the “Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii (August, 1972),” prepared by the United States Department of Agriculture Soil Conservation Service, the soils within the project site are classified as Dune Land (DL) (See: Figure No. 9, “Soils Map”). Dune Land customarily occurs in coastal areas of Maui and consists of windblown sand particles that accumulate and form hills and ridges.

Potential Impacts and Mitigation Measures. Any new development on the property would require fill to meet the requirements for building within the Special Flood Hazard Areas. However, there will be no grade alterations since there is no development planned at this time.

3. Flood and Tsunami Zone

Existing Conditions. According to Panel Number 150003 0265 C of the Flood Insurance Rate Map, September 6, 1989, prepared by the United States Federal Emergency Management Agency, the project site is situated in Flood Zone A4. Flood Zone A4 represents areas of 100-year flood with base flood elevations and flood hazard factors determined (See: Figure No. 8, “Flood Zone Map”). The *makai* side of the property has a base flood elevation of 10 feet. The *mauka* side has a base flood elevation of 9 feet.

Potential Impacts and Mitigation Measures. As required for any new development on the property, construction would require grading to meet the requirements of Chapter 19.62 “Flood Hazard Areas” of the Maui County Code (MCC). In addition, construction within the Special Flood Hazard Area:

- shall be adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- shall be constructed with materials and utility equipment resistant to flood damage
- shall be constructed using methods and practices that minimize flood damage.



- shall be constructed with electrical, heating, ventilation, plumbing, air conditioning, and other service facilities that are designed or located so as to prevent the entry and accumulation of floodwater.
- shall have the lowest floor, including basement, elevated to, or above, the base flood elevation.

However, since there is no development planned at this time, the proposed action will not have an impact on existing flood and tsunami hazards.

4. Terrestrial Biota (Flora and Fauna)

Existing Conditions. The project site has been in residential use for at least 50 years. Trees on site include avocado, coconut, kukui, kiawe, mango, lauhala, plumeria, California pepper, various citrus, and monkeypod. Other vegetation found on site includes hibiscus, bougainvillea, various ornamentals, and various grasses and weeds. Feral mammals typically found in this area include mongoose, cats, rats, and mice. Avifauna commonly found in this area includes the common mynah, sparrow, Japanese white-eye, dove, and house finch.

Potential Impacts and Mitigation Measures. There are no known significant habitats of rare, endangered or threatened species of flora and fauna located on the subject property. Therefore rare, endangered, or threatened species of flora and fauna will not be impacted by the proposed action or any future new development.

5. Air Quality

Existing Conditions. Air quality refers to the presence or absence of pollutants in the atmosphere. It is the combined result of the natural background and emissions from many pollution sources. The impact of land development activities on air quality in a proposed development's locale differs by project phase (site preparation, construction, occupancy) and project type. In general, air quality in the Kihei area is considered relatively good. Non-point source emissions (automobile) are not significant to generate a high concentration of pollutants. The relatively high quality of air can also be attributed to the region's exposure to wind, which quickly disperses concentrations of emissions. The Kihei area is currently in attainment of all criteria pollutants established by the Clean Air Act, as well as, the State of Hawaii Air Quality Standards.

Potential Impacts and Mitigation Measures. Air quality impacts attributed to any new development could include dust generated by the short-term construction related



activities. Site work such as grading and building construction, for example, could generate airborne particulate. Adequate dust control measures that comply with the provisions of Hawaii Administrative Rules, Chapter 11-60.1, "Air Pollution Control," Section 11-60.1-33, Fugitive Dust, would be implemented during all phases of construction. Some of these measures will include:

- Providing adequate water source on site prior to start-up of construction activities.
- Landscaping and rapid covering of bare areas, including slopes, beginning with the initial grading phase.
- Controlling of dust from shoulders, project entrances, and access roads.
- Providing adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities.
- Controlling of dust from debris hauled away from project site.

The addition of more hotel units would increase the volume of traffic in the region, which would increase vehicular emissions such as carbon monoxide. The added volume would relatively small, thus the proposed project is not anticipated to be detrimental to local air quality. However, since there are no construction activities planned and there is no increase in traffic associated with the proposed action, there are no impacts to local air quality.

6. Noise Characteristics

Existing Conditions. The noise level is an important indicator of environmental quality. In an urban environment, noise is due primarily to vehicular traffic, air traffic, heavy machinery, and ventilation and air-conditioning equipment. Ramifications of various sound levels and types may impact health conditions and an area's aesthetic appeal. Noise levels in the vicinity of the project area are generally low. Traffic noise from South Kihei Road and noise associated with beach activities are the predominant source of background noise in the vicinity of the subject property.

Potential Impacts and Mitigation Measures. In the short-term, new development could generate some adverse impacts during construction. Noise from heavy construction equipment, such as material-carrying trucks and trailers, would be the dominant source of noise during the construction period. To minimize construction related impacts to the surrounding neighbors, the applicant would limit construction activities to normal daylight hours, and adhere to the Department of Health's Administrative Rules, Chapter



11-46, Community Noise Control.” In the longer-term, new development should not significantly impact existing noise conditions in the area due to the relatively small increase in traffic generated by the project and its proximity to neighboring multi-family and hotel uses. However, the proposed action will not impact existing noise conditions in the area since no improvements are currently planned for the property. No additional traffic will be generated by the action.

7. Archaeological/Historical Resources

Existing Conditions. Maui County real property records show the first dwelling structure was constructed in 1952. According to the owner/applicant, his parents acquired the parcel in the 1940s and constructed the original house. At that time, the property was densely covered with *kiaawe* trees. From 1972 to 1973, most of the 2.27 acre property was cleared and the currently existing cottages were constructed. This occurred during early development of the visitor industry in North Kihei, when the nearby Maui Lu Hotel was catering to a large number of Canadian visitors.

No archaeological inventory survey has been conducted on the property, but a survey (E. Pestana & M. Dega, 2002, *Archaeological Inventory Survey for the Proposed Kai Makani Condominium Project*) has been conducted on the property immediately to the north (the project is currently under construction) producing negative results. Another survey done on the Maui Lu Hotel property to the south (B. Burgett, et al. 1998) also produced negative results, identifying no evidence of archaeological remains.

Potential Impacts and Mitigation Measures. Any proposed new development on the property would likely indicate a need for an archaeological inventory survey in the context of an SMA Use Permit application, however it is unlikely that any archaeological remains would be found given the results of surveys in the area. There are no plans for development or improvements at this time, therefore the proposed action will not have any impact on archaeological or historical resources.

8. Cultural Resources

Existing Conditions. The existence of three fishponds at Kalepolepo and at least two *heiau* near the shore confirm the previous presence of a stable pre-contact population the Kihei area in the vicinity of the project site. During the introduction of western influence, Kalepolepo became an important provisioning area and a landing was established there and later at the Kihei wharf to the north. The shoreline area is popular to fishermen, divers and, more recently, board sailing enthusiasts and canoe paddlers.



As previously stated, the applicant's family has owned the parcel for over sixty years. David Kong, who has lived there for 54 years, has not witnessed any exercise of cultural rights related to gathering, access, or other customary activity occurring on the property.

No cultural impact assessment has been conducted on the property, but an assessment (K.L. Naone, 2002, *Kai Makani Project Cultural Impact Assessment*) has been conducted on the property immediately to the north. Based on Mr. Naone's knowledge of the property and interviews with family in the area, the assessment concludes "that for the past 30 years at least, there have been no significant cultural practices or beliefs associated with" the Kai Makani property.

Potential Impacts and Mitigation Measures. Based on the recollection of the owner of the property whose family has lived on the property for 54 years and the cultural impact assessment on the neighboring property, it is reasonable to conclude that no cultural activities are practiced on the property. The proposed action also does not restrict access to any offsite cultural activities. Therefore, the proposed action will not have an adverse effect on the cultural beliefs, practices, and cultural resources of native Hawaiians or any other ethnic group.

9. Visual Resources

Existing Conditions. The subject parcel provide views of the West Maui Mountains, Haleakala and the Pacific Ocean. The *Maui Coastal Scenic Resources Study* (Environmental Planning Associates Inc., 1990) does not identify any views from South Kihei Road in the vicinity of the subject property as unique or distinctive.

Potential Impacts and Mitigation Measures. New development on the property would be subject to current setback rules and height limitations for the proposed H-1 Hotel zoning. Hotel room structures would likely be two-story buildings sited *mauka-makai* to provide public view corridors through the property. However, since there are no current plans for development or the construction of any improvements, no unique public scenic resources or adjacent views will be impacted by the proposed action. Therefore the proposed project is not anticipated to significantly impact public view corridors, or the visual character of the site and its immediate environs.

10. Shoreline Resources

Existing Conditions. The subject parcel does not abut the shoreline, however there is a narrow beach reserve located on the *makai* side of South Kihei Road across from the subject property.



Potential Impacts and Mitigation Measures. Due to the proximity of the shoreline to the subject property, new development on the property may be subject to Shoreline Rules of the Maui Planning Commission. Shoreline setbacks may apply and any new development would comply with the appropriate setback. It is anticipated that any new development on the property would not have a significant effect on the shoreline resources in the vicinity.

B. SOCIO-ECONOMIC ENVIRONMENT

Nona Lani Cottages is a family owned and operated transient vacation rental business which currently consists of twelve (12) vacation rental units. There are no plans for additional development or improvements at this time. (**Note:** Any future plans for new development/expansion will require a Special Management Area (SMA) Permit.) As discussed in this document, the hypothetical full build-out for H-1 Hotel zoning would consist of approximately 80 units.

1. Population and Housing

Existing Conditions. The population of the County of Maui has exhibited relatively strong growth over the past decade with a 2000 population of 128,241, a 27.6% increase over 1990 population of 100,504. The 2000 population of Maui Island was 117,644. The 2000 population of South Maui District was 22,870, 19.4% of Maui Island's population. (*Maui County Community Plan Update Program: Socio-Economic Forecast*, SMS Research, June 14, 2002).

The *Residential Workforce Housing Policy* (RWHP) was approved by the Maui County Council on December 5, 2006 and designated as Ordinance No. 3418. The RWHP would apply to any project with five or more: 1) dwelling units; 2) new, undeveloped lots; 3) combination of dwelling units and new, undeveloped lots; and 4) hotel units. Prior to final subdivision approval or the issuance of a building permit, a developer would commit to providing one or a combination of options as provided in the RWHP.

Potential Impacts and Mitigation Measures. Changing the zoning and community plan designations to hotel will not lead to a direct impact on population levels since there is no residential component. At the hypothetical full build-out, secondary impacts to population levels could arise due to increased employment opportunities; however, these potential increases are considered minimal due to the dynamic nature of the visitor



industry in this district. Therefore, a full build-out project should have minimal impact upon local population levels.

The hypothetical full build-out scenario would be subject to Chapter 2.96 “Residential Workforce Housing Policy”, Maui County Code (MCC). For the purposes of calculating the number of affordable units, the total number of units will be 80 units. After subtracting the 12 existing units at the Nona Lani Cottages, the number of new units will be 68 units for calculation of the residential workforce housing requirement. Based on the 40% affordable housing requirement, the applicant would be required to provide, or convey to a “qualified housing provider” (pursuant to Section 2.96.150), 27 affordable residential workforce housing units for sale or rent.

However, the proposed action does not meet the applicable requirements of Section 2.96.030:

6. *Any hotel redevelopment or renovation project that increases the number of lodging or dwelling units in a hotel.*

The application does not involve construction of additional units.

Any future development will comply with any policies and ordinances relating to affordable housing in effect at the time.

Using the “legal baseline” of long term residential use, the hypothetical 12 residential units would be taken out of the long term residential use. Given the insignificant unit count relative to approximately 9,000 households in the Kihei-Makena Community Plan area, there would be no significant impact.

2. Economy

Existing Conditions. The South Maui economy is based primarily upon the visitor industry. Visitor accommodations typically are located near the shoreline along with support facilities and residential communities. South Maui has developed into an important visitor destination, adding to the region’s service, commercial and residential. The existing Nona Lani Cottages does not directly employ a hotel support staff. Maintenance and housekeeping chores are contracted out.

Potential Impacts and Mitigation Measures. In the hypothetical full build-out scenario, the project would support construction and construction-related employment on a short-term basis.



On a long-term basis, a full build-out project would result in increased employment and business opportunities. The proposed project would add 68 new units to the facility. These additional units will require additional staff, including housekeeping, administration, maintenance, sales, marketing and management; the number would vary depending on the level of service to be provided. Tax revenues will increase due to increased land values, employment and business transactions.

The construction of the hypothetical full build-out scenario, would not have a significant negative effect on the economy.

C. PUBLIC SERVICES

Using the “legal baseline” of long term residential use, the analysis of the public services comparison between the existing use and the potential uses within the proposed Hotel use designation would be the same as the comparison between the “legal baseline” use and the potential uses within the proposed Hotel use designation, with the exception of schools (See: No. 4 below).

1. Recreational Facilities

Existing Conditions. The South Maui area has a wide reputation as a recreational destination, particularly for ocean related activities. Ocean sports and recreation available in the South Maui District include swimming, fishing, surfing, scuba diving, snorkeling, sailing, and para-sailing. State and County beach parks in the South Maui District include the Maipoina Oe Iau Beach Park (located across the street), Kalama Beach Park, Kamaole Beach Park, Ulua Beach, Wailea Beach, Polo Beach, Makena Beach Park, and Ahihi-Kinau Marine Reserve, including the northern portion of La Perouse Bay.

Potential Impacts and Mitigation Measures. The guests of Nona Lani Cottages will continue to frequent Maipoina Oe Iau Beach Park across South Kihei Road. The Kai Makani project to the north is scheduled to construct major improvements to the park, including parking and a new pavilion. The hypothetical full build-out of the project site would likely increase use of the beach park with increased pedestrian traffic, however no development is proposed at this time and the proposed action will not have any significant negative impact upon existing recreation facilities and services in the region.



2. Police and Fire Protection

Existing Conditions. The Maui County Police Department has a local sub-station in Kihei located in the Kihei Town Center, across from Kalama Park, approximately three miles from the subject property.

Fire prevention, suppression, and protection in the Kihei District is provided by Maui County Fire Department's Kalama Park Station, located approximately three miles from the subject property. The Wailea Fire Station is located at the intersection of Kilohana Drive and Piilani Highway, six miles from the subject property.

Potential Impacts and Mitigation Measures. The proposed project will not extend the existing service area limits for emergency services.

3. Solid Waste

Existing Conditions. Only two landfills are currently operating on Maui, the Central Maui Landfill in Pulehu, and the Hana landfill. Single-family residential solid waste collection for South Maui is provided by the County and taken to the Central Maui Landfill, which also accepts waste from private refuse collection companies.

Potential Impacts and Mitigation Measures. No construction activities are planned at this time, however if any development occurs, in the short term, construction and demolition debris will be reused or recycled when practical, or disposed at a construction and demolition waste landfill.

If any development occurs, solid waste generated over the long term by the project will be reduced by incorporating a green waste composting program. Solid waste collection for the subject property will be provided by a private refuse collection firm and taken to the Central Maui Landfill in Pulehu.

4. Schools

Existing Conditions. The Kihei District is serviced by both private and public schools, which provide education for preschool through high school age children. Kihei Charter School provides a high school opportunity in Kihei, however Kihei is within the Maui High School district, a traditional high school located in Kahului. The private schools in the Kihei District include grades kindergarten through eight along with several preschools



Potential Impacts and Mitigation Measures. The hypothetical full build-out scenario does not have a residential component and is not anticipated to significantly affect school enrollment.

Using the “legal baseline”, the hypothetical 12 units would be taken out of long term residential use. The respective proportional allocations of students in elementary, middle and high schools would be decreased.

D. INFRASTRUCTURE

Note that no new development is proposed at this time. All estimated impacts on infrastructure is based on the hypothetical full build-out scenario. Therefore, the proposed action itself would not have any impact on infrastructure.

1. Roadways and Traffic

Existing Conditions. The automobile is the primary source of transportation in South Maui and an extensive roadway system exists in the South Maui area. Right-of-way widths vary with each roadway. Some roads are paved with curbing and sidewalks while others are comprised of asphaltic concrete pavement and have limited curbs.

South Kihei Road, a two-lane roadway, is a County collector roadway that is the primary north/south roadway servicing Kihei and providing the connection to Wailea and Makena. Access to South Kihei Road is not limited. There is a posted speed limit of 30 mph. The site is accessed from South Kihei Road by two driveways.

For the purpose of establishing the estimated traffic generated by the existing uses, it is assumed that there are nine (9) “all-suites”, three (3) “hotel” , and (1) “single family” units (as described by the Institute of Transportation Engineers [ITE]). This existing condition generates seven (7) AM peak hour trips and eight (8) PM peak hour trips. Using the hypothetical “legal baseline” of ten (10) single family and three (3) apartments, there would be nine (9) AM peak hour trips and twelve (12) PM peak hour trips generated.

Potential Impacts and Mitigation Measures. Generally, a comprehensive traffic analysis should be completed whenever a development is expected to generate 100 or more new inbound or outbound trips during the peak hours (ITE recommended practice). Developments containing about 150 hotel rooms would be expected to generate this level of traffic and hence, require a complete traffic analysis. Thus, the



hypothetical full build-out of the property at the requested H-1 Hotel District zoning (80 units) would not require a comprehensive analysis. Nevertheless, a traffic impact analysis report (TIAR) would likely be prepared to assess the effects of added traffic to intersections to the north at Ohukai Road and to the south at Kaonoulu Road. This TIAR would be the means by which cumulative traffic impacts could be addressed. Although the project scale would be too small to warrant quantification of cumulative traffic by reference to nearby projects, the project's relative contribution to background traffic could be estimated by comparing it to data from a published source such as an adopted long range transportation plan.

Using the ITE trip generation process for hotel rooms, 80 rooms would generate 51 AM peak hour trips and 59 PM peak hour trips. The net increase from existing conditions would be 44 AM peak hour trips and 51 PM peak hour trips. The net increase from the "legal baseline" would be 42 AM peak hour trips and 47 PM peak hour trips.

The applicant would be responsible for any required traffic mitigation measures in connection with any future development and its impact upon regional traffic. These mitigation measures would likely be required as a condition of approval at a predetermined stage of the development process, such as prior to the issuance of future building permits. The Department of Public Works and Environmental Management would likely require roadway improvements which may include road widening, construction of curb, gutter, and sidewalk, and possibly a left turn storage lane into the project site.

Since no development is proposed at this time, there are no traffic impacts associated with the proposed actions.

2. Wastewater

Existing Conditions. The Kihei Wastewater Reclamation Facility (KWRF), located to the south of the project site, serves the Kihei and Wailea areas. There is an existing 21 inch sewerline fronting the project site along South Kihei Road.

Potential Impacts and Mitigation Measures. According to the Maui Wastewater Reclamation Division, as of December 2005, the KWRF has a remaining capacity of approximately 1.3 million gallons per day. The hypothetical full build-out scenario would generate approximately 20,000 gallons per day. The KWRF would have the capacity to handle the expected additional wastewater flow generated by the hypothetical full build-out scenario, however wastewater capacity for the subject project cannot be ensured until issuance of the building permits. Final wastewater contribution calculations, which would include existing/past property usage, would be submitted



with the building permit applications for any future new development and the appropriate fees would be paid.

3. Water

Existing Conditions. Nona Lani Cottages is serviced by Department of Water Supply's (DWS) Central Maui system. The Iao Aquifer is the primary source for this system. Majority of the water is withdrawn from this aquifer in the vicinity of Iao Stream and Waiehu Stream with the balance withdrawn from the adjacent Waihee aquifer. The property is served by a 1-inch meter.

Potential Impacts and Mitigation Measures. An average daily potable demand of 28,000 gallons per day is projected for the hypothetical full build-out of the project site. Additional capacity needed will be determined as the difference between the total average daily demand and the current average consumption. Currently there are no restrictions to obtaining or upgrading water meters in the Central Maui Water System area, however any additional meter requirements will be subject to availability of water from the system or at such time that additional sources are developed. If additional water is not available, any proposed future development would be limited to the available capacity of the existing service.

4. Drainage and Erosion Control

Existing Conditions. There are no existing drainage systems in the immediate vicinity of the project site. Presently, onsite runoff sheet flows across the project site in an east to west direction. As the runoff sheet flows toward South Kihei Road, it ponds in the low lying areas within the project site.

Potential Impacts and Mitigation Measures. Development of the site to its hypothetical full build-out potential would likely significantly increase the stormwater runoff of the property. As required by the Maui County Code, any increase in runoff would be contained onsite most likely by an above ground and/or underground retention or detention basin incorporated into the landscape planting scheme.

5. Electrical, Telephone, Cable, and Data Systems

Existing Conditions. Electrical service to the subject property is presently provided by Maui Electric Company, Ltd. (MECO) powerlines. Any additional electrical power required for any new development will be supplied by MECO.



Hawaiian Telcom maintains overhead telephone lines that provide data and voice communications to the subject property.

Cable TV and data service will be provided by Oceanic Time Warner Cable of Hawaii.

Potential Impacts and Mitigation Measures. Electrical loads and distribution line sizes would be determined during the design phase of the any new development. Existing overhead poles and lines on South Kihei Road would be relocated when the road is widened. Electrical, telephone and cable system trunk lines would be extended underground into the project site. The distribution system for these facilities within the development will be placed underground in accordance with the provisions of the Maui County Code.

Construction of any new structures would comply with Chapter 16.26.1300, "Energy Conservation", Maui County Code.



IV. RELATIONSHIP TO GOVERNMENTAL PLANS, POLICIES, AND CONTROLS

A. STATE LAND USE LAW

Chapter 205, Hawaii Revised Statutes, relating to the Land Use Commission, establishes four major land use districts into which all lands in the State are placed. These districts are designated Urban, Rural, Agricultural, and Conservation. The subject property is within the Urban District.

Analysis: The project area is located in an area within north Kihei. Kihei is one of the major communities of Maui and provides a mix of hotel, resort and residential condominiums, along with single-family housing units and commercial shopping centers with resort and retail businesses. The area has grown substantially over the past fifteen years. The proposed change in land use designations to hotel use is consistent with Urban district uses.

B. GENERAL PLAN OF THE COUNTY

The General Plan of the County of Maui (1990 update) provides long-term goals, objectives, and policies directed toward improving living conditions in the County. The following General Plan Themes, Objectives and Policies are applicable to the proposed project:

I. B. Land Use

Objective No. 1.: *To preserve for present and future generations existing geographic, cultural and traditional community lifestyles by limiting and managing growth through environmentally sensitive and effective use of land in accordance with the individual character of the various communities and regions of the County.*

Policies:



- (b). *Provide and maintain a range of land use districts sufficient to meet the social, physical, environmental and economic needs of the community.*

Analysis: The Nona Lani Cottages have existed at its present site since 1972 when the Kong family constructed the first cottages providing accommodations for budget-minded travelers. The family owned and operated business provides a unique experience unlike any other resort facility along the South Maui coast.

II. B. Visitor Industry

Objective No. 2: *To control the development of visitor facilities so that it does not infringe upon the traditional social, economic and environmental values of our community.*

Policies:

- (e) *Encourage enhancement of existing visitor facilities without substantial increases in room count.*

Analysis: The owners of Nona Lani Cottages do not have any plans at present to increase the room count. Any plans to develop the property would be the subject of a Special Management Area Use Permit. The hypothetical full build-out based on the requested H-1 Hotel zoning would yield approximately 80 - 500 square foot units with a 4,720 square foot allowance for accessory buildings for offices, registration desk, housekeeping, maintenance, and other support functions, although actual development would likely be more similar in character to the existing facility.

III. A. Housing

Objective No. 1: *To provide a choice of attractive, sanitary and affordable homes for all our residents.*

Objective No. 2: *Provide affordable housing to be fulfilled by a broad cross-section of housing types.*

Analysis: Long term residential use is a permitted use within the R-2 Residential District, however the Nona Lani Cottages is operated as a transient vacation rental, which is currently not a permitted use. Therefore, these objectives do not apply.

III. B. Urban Design

Objective No. 1: *To see that all developments are well designed and are in harmony with their surroundings.*



Objective No. 2: To encourage developments which reflect the character and the culture of Maui County's people.

Analysis: The nearby Maui Lu development, established in the early 1960s, originally began as a residence and a group of transient vacation rental cottages when the surrounding area in North Kihei was mostly kiawe forest and sparsely populated. (Note: The Kihei-Makena General Plan was adopted in 1968 and the zoning map was adopted in 1969.) Similarly, Nona Lani Cottages was established in 1972 with a residence and transient vacation rental cottages, contrasting with the major tourist destinations of Kaanapali and Wailea. Other neighboring developments in the area, such as the Kihei Holiday and the Maui Beach Resort were developed with denser and more massive designs. No new development is planned on the property at this time, however any new proposal would likely be similar to the existing facility in order to preserve the residential/open space scale and character.

C. KIHEI-MAKENA COMMUNITY PLAN

Nine community plan regions have been established in Maui County. Each region's growth and development is guided by a community plan, which contains objectives and policies in accordance with the Maui County General Plan. The purpose of the community plan is to outline a relatively detailed agenda for carrying out these objectives.

The subject property is located within the Kihei-Makena Community Plan area which was adopted by Ordinance No. 2641 on March 6, 1998. The Kihei-Makena Community Plan designation for the subject property is currently MF Multi-Family. The parcel has been used as the family owned and operated Nona Lani Cottages with twelve (12) transient vacation rental units for the past 33 years. The 1985 revision to the Kihei-Makena Community Plan changed the land use designation of the subject parcel to MF Multi-Family in order to establish consistency with the existing use. At that time, "motel" use was an allowable use within the County Apartment District. In 1989, "motel" use was disallowed in the Apartment District.

The applicant is requesting a Community Plan Amendment to change the designation from MF Multi-Family to H Hotel. This Draft Environmental Assessment examines any impacts this amendment might have on the immediate area.



LAND USE

Goal

A well-planned community with land use and development patterns designed to achieve the efficient and timely provision of infrastructural and community needs while preserving and enhancing the unique character of Ma`alaea, Kihei, Wailea and Makena as well as the region's natural environment, marine resources and traditional shoreline uses.

Objectives and Policies

d. Limit hotel uses to those areas presently planned for hotel use, and limit hotel development until adequate public facilities and services are established to meet existing needs.

Analysis: The subject property has been used for transient vacation rental since 1972, prior to the adoption of the Maui County General Plan (June 24, 1980). (**Note:** The immediately adjacent parcels to the south have been community planned H Hotel and county zoned H-1 Hotel District since 1969.) The proposed rezoning will not impact existing public facilities and services. Section III.C discusses the effects of the hypothetical full build-out on public services along with possible mitigation measures.

ECONOMIC ACTIVITY

Goal

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

Objectives and Policies

d. Establish balance between visitor industry employment and nonvisitor industry employment.

Analysis: The Nona Lani Cottages is a transient vacation rental property that will remain as it currently exists with no increase in density at this time. Thus, the proposed action will not have any impact on public facilities and services nor will it have any effect on employment opportunities. Subchapter III.B discusses the impacts of the hypothetical full-build out on the economy and housing.



HOUSING AND URBAN DESIGN

Goal

A variety of attractive, sanitary, safe and affordable homes for Kihei's residents, especially for families earning less than the median income for families within the County. Also, a built environment which provides complementary and aesthetically pleasing physical and visual linkages with the natural environment

Analysis: Long term residential use is a permitted use within the Multi-family Residential use designation, however the Nona Lani Cottages is operated as a transient vacation rental, which would not currently be a permitted use. Therefore, the goal of providing affordable homes does not apply. The Nona Lani Cottages is a low density development along South Kihei Road that was established in 1972 when the surrounding area was sparsely populated and transient vacation rental use was not a specifically prohibited use in the R-2 Residential District. The residential character was complementary to the area at the time.

D. COUNTY ZONING

The applicant is requesting a Change in Zoning from R-2 Residential to H-1 Hotel in order to ultimately allow for the subject properties to be consistent with current use and provide flexibility for possible future expansion and accessory uses. A request for a "Change in Zoning" must meet the following criteria as found in MCC § 19510.040.4:

1. *The proposed request meets the intent of the general plan and objectives and policies of the community plans of the county;*

Analysis: As described in Subchapters B and C, the proposed action meets the intent of the general plan and the objectives and policies of the Kihei-Makena Community Plan.

2. *The proposed request is consistent with the applicable community plan land use map of the county;*

Analysis: The Kihei-Makena Community Plan, adopted March 6, 1998 by Ordinance No. 2641, identifies the subject parcels as MF Multi-Family. A Community Plan Amendment requesting to re-designate the subject property as H Hotel is submitted concurrently with this rezoning request.



3. *The proposed request meets the intent and purpose of the district being requested;*

Analysis: Pursuant to MCC Section 19.14.010, the Hotel District “is a high density multiple-family area bordering business districts and ocean fronts. This district includes public and semi-public institutional and accessory uses. This district is basically residential in character and, as such, should not be spotted with commercial enterprises.”

The proposed Change in Zoning accomplishes these objectives and will allow for a land use that is in character with the existing/historical transient vacation rental use and that of hotel zoned properties to the south. Additionally, the proposed zoning conforms with the County General Plan.

4. *The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements.*

Analysis: As described in Subchapters III.C and III.D, the proposed Change in Zoning will not adversely impact schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, traffic, or other public infrastructure and services.

5. *The application, if granted would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.*

Analysis: As discussed in Chapter III, the proposed action will not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area;

6. *If the application change in zoning involves the establishment of an agricultural district with a minimum lot size of two acres, an agricultural feasibility study shall be required and reviewed by the Department of Agriculture and the U.S. Soil Conservation Service.*

Analysis: Not Applicable.

Conformance with proposed H-1 Hotel District zoning:

The existing development is an allowable use within the district.



	<u>H-1 Hotel</u>	<u>Nona Lani Cottages</u>	<u>Hypothetical Full Build-out</u>
Lot Area	Minimum 10,000 sq. ft.	2.27 acres (98,881 sq. ft.)	
Height	Two-story maximum	Cottages - one-story; Main structure - two-stories.	80 - 500 s.f. hotel units; 4720 s.f. Lobby/offices/support services
Lot Coverage	25%	7%	25%
Floor area - lot area ratio	50%	9%	45%

V. HRS CHAPTER 343 SIGNIFICANCE CRITERIA

A finding of no significant impact (FONSI) is anticipated and therefore an environmental impact statement will not be required for the proposed action. Using the hypothetical full build-out of the property (referred to as the “proposed project”), this determination has been made in accordance with the following significance criteria specified in Section 11-200-12 of the Department of Health rules relating to Environmental Impact Statements:

- A. *Involves an irrevocable commitment to loss or destruction of any natural or cultural resource.*

As documented in this report, the existing cultural and natural resources on the property will be preserved and the proposed project will not result in their loss or destruction.

- B. *Curtails the range of beneficial uses of the environment.*

The neighboring properties to the south are in hotel use and the proposed project does not introduce a new use to the area. The project will not curtail the range of beneficial uses of the environment in the project vicinity.

- C. *Conflicts with the state’s long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders.*

The proposed project would be developed in compliance with the state’s long term environmental goals. As documented in this report, adequate mitigation measures



would be implemented to minimize the potential for negative impacts to the environment.

- D. *Substantially affects the economic or social welfare of the community or state.*

The proposed project would result in increased employment and business opportunities in the short term. As documented in this report, there would be no significant negative long term impacts to the socio-economic environment.

- E. *Substantially affects public health.*

There are no special or unique aspects of the project which will have an impact on public health.

- F. *Involves substantial secondary impacts, such as population changes or effects on public facilities.*

The proposed project could lead to secondary impacts to population levels due to increased employment opportunities; however, these potential increases are considered minimal due to the dynamic nature of the visitor industry in this district. As documented in this report, the full build-out scenario would not result in a significant negative impact on public facilities.

- G. *Involves a substantial degradation of environmental quality.*

Mitigation measures would be implemented during construction to minimize negative short term impacts such as soil erosion and sedimentation. The project design would incorporate a drainage system that will minimize degradation of the environmental quality.

- H. *Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.*

The proposed project is considered the maximum development of the property and, therefore, does not involve a commitment for larger actions on behalf of the applicant or any public agency. In terms of cumulative impacts, the project site is situated within the State Urban District and adjacent to developed residential and resort areas. Infrastructure and utilities are adequate to service the proposed project. Therefore, the project will not result in cumulative negative impacts on the environment.

- I. *Substantially affects a rare, threatened, or endangered species, or its habitat.*

There are no known rare, threatened, or endangered species or habitat at the project site.



- J. *Detrimentially affects air or water quality or ambient noise levels.*

As documented, there will be short term impacts on air and water quality and ambient noise levels during construction of the proposed project; however, mitigation measures will be employed to minimize these impacts. Adverse long-term impacts are not anticipated.

- K. *Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion prone area, geologically hazardous land, estuary, fresh water, or coastal waters.*

The project site is located within a flood plain and tsunami zone. The proposed project would be constructed within Zone A4, an area subject to 100-year flooding. Compliance with County grading requirements would be met.

- L. *Substantially affects scenic vistas and view planes identified in county or state plans or studies.*

As discussed in Section III.A.9, the proposed project will not negatively affect ocean views along South Kihei Road nor obstruct major view corridors.

- M. *Requires substantial energy consumption.*

Construction of proposed project would comply with Chapter 16.26.1300, "Energy Conservation", Maui County Code. Where practicable and economically feasible, the proposed project would meet or exceed the building efficiency standard for the State of Hawaii.

VI. FINDINGS AND CONCLUSIONS

This Final Environmental Assessment and application for a Community Plan Amendment (CPA) from MF Multi-Family to H Hotel and a County Change in Zoning (CIZ) from R-2 Residential District to H-1 Hotel District for a 2.27 acre site at Kihei, Maui, Hawaii (TMK (2) 3-9-041:001) analyzes the environmental and socio-economic impacts associated with the applicants' proposal to establish consistency between the County's Kihei-Makena Community Plan and County zoning land use designations and the current transient vacation use.

This proposed entitlement action is not anticipated to result in environmental impacts to surrounding properties, near shore waters, natural resources, and/or archaeological and historic resources on the site or in the immediate area. Since no increase in density or additional



development is planned at this time, public infrastructure and services including roadways, sewer and water systems, medical facilities, police and fire protection, parks, and schools, are adequate to serve the property. The proposed action will not impact public ocean/mountain view corridors and will not produce significant adverse impacts upon the visual character of the site and its immediate environs.

This report also analyzes the environmental impacts and impacts to public infrastructure and services for a hypothetical full build-out scenario of a hotel with 80 - 500 square foot units and 4,720 square feet of accessory buildings for offices, registration desk, housekeeping, maintenance, and other support functions. The hotel units would be contained within several two-story buildings. This document examined the potential impacts and mitigation measures that would be required of such a hypothetical scenario, although actual development would likely be more similar in character to the existing facility.

The subject property is situated within the State's Urban District and is community planned for Multi-Family development and County zoned R-2 Residential. The Applicants' proposal to amend the community plan designation from MF Multi-Family to H Hotel and change the County zoning from R-2 Residential District to H-1 Hotel District support the existing/historical transient vacation rental use on the property and the mixture of resort, residential, and public uses that characterizes the immediate area. Rezoning the subject parcel would be consistent with the State Urban land use designation. As such, the proposed action is consistent with the objectives and policies contained within the Kihei-Makena Community Plan, as well as State Land Use Law, and the County's Comprehensive Zoning Ordinance.

Based on the foregoing analysis and conclusion, the proposed action will not result in significant impacts to the environment and is consistent with the requirements of HRS Chapter 343, and a Finding of No Significant Impact (FONSI) is warranted.



VI. REFERENCES

County of Maui, Department of Planning. 1991. *The General Plan of the County of Maui, 1990 Update*. Wailuku, Hawaii.

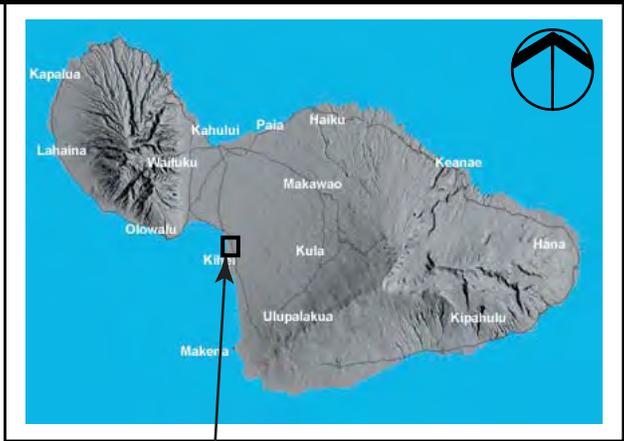
County of Maui, Department of Planning. 1998. *Kihei-Makena Community Plan*. Wailuku, Hawaii.

County of Maui, Office of Economic Development. 2003. *Maui County Data Book*. Wailuku, Hawaii.

Federal Emergency Management Agency. *Flood Insurance Rate Map*. Community Panel Map Number 150003 0265 C. Revised September 6, 1989.

U.S. Department of Agriculture, Soil Conservation Service in Cooperation with the University of Hawaii, Agricultural Experiment Station. 1972. *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii*. Washington, D.C.

FIGURES



Project Location

FIGURE 1

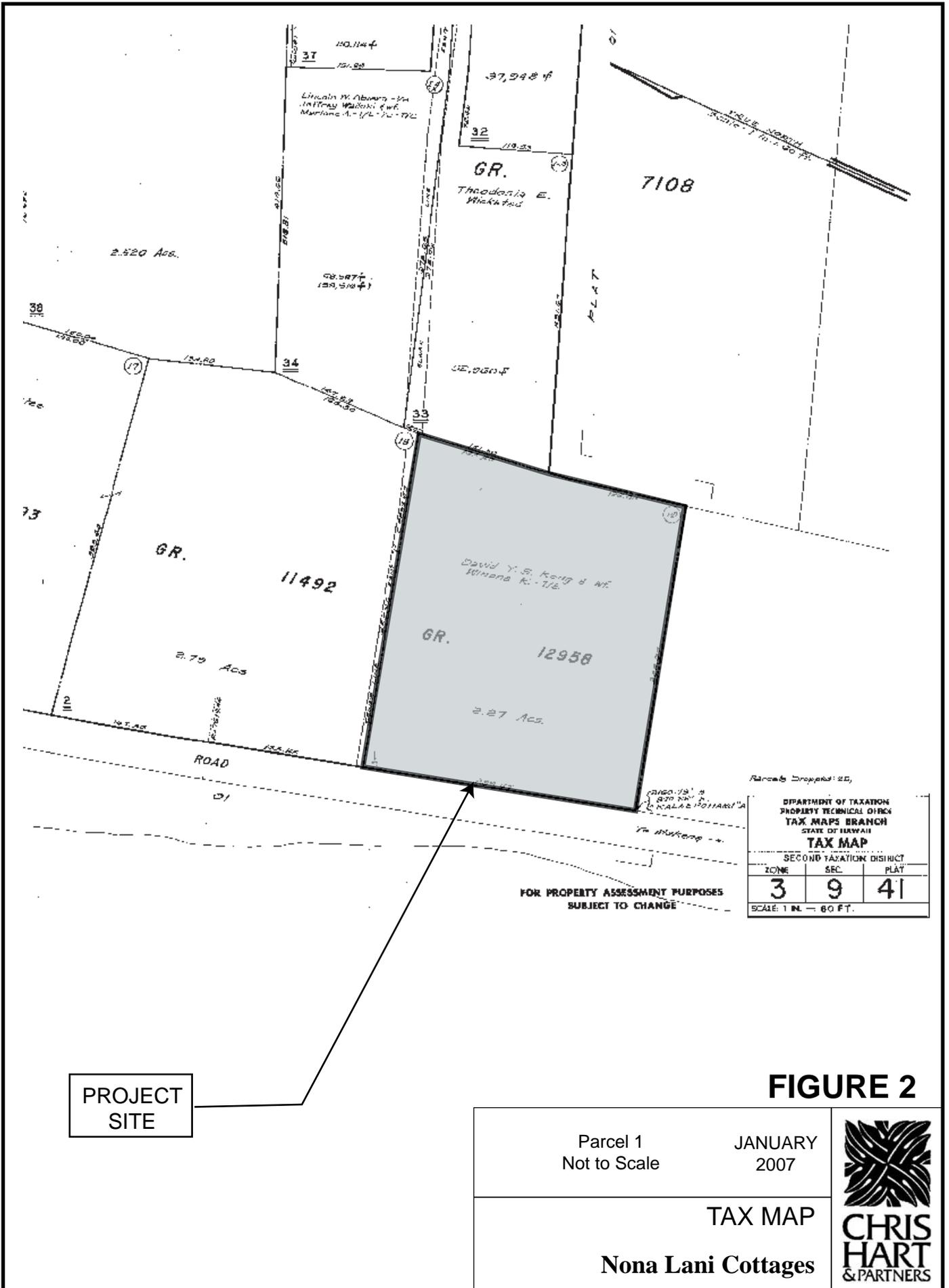
Not to Scale

JANUARY
2007

REGIONAL LOCATION

Nona Lani Cottages





DEPARTMENT OF TAXATION
PROPERTY TECHNICAL OFFICE
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

SECOND TAXATION DISTRICT

ZONE	SEC.	PLAT
3	9	41

SCALE: 1 IN. = 60 FT.

PROJECT SITE

FIGURE 2

Parcel 1 Not to Scale	JANUARY 2007
TAX MAP	
Nona Lani Cottages	





PROJECT SITE

FIGURE 3

Photo taken 6/13/2000	JANUARY 2007	 CHRIS HART & PARTNERS
AERIAL MAP Nona Lani Cottages		

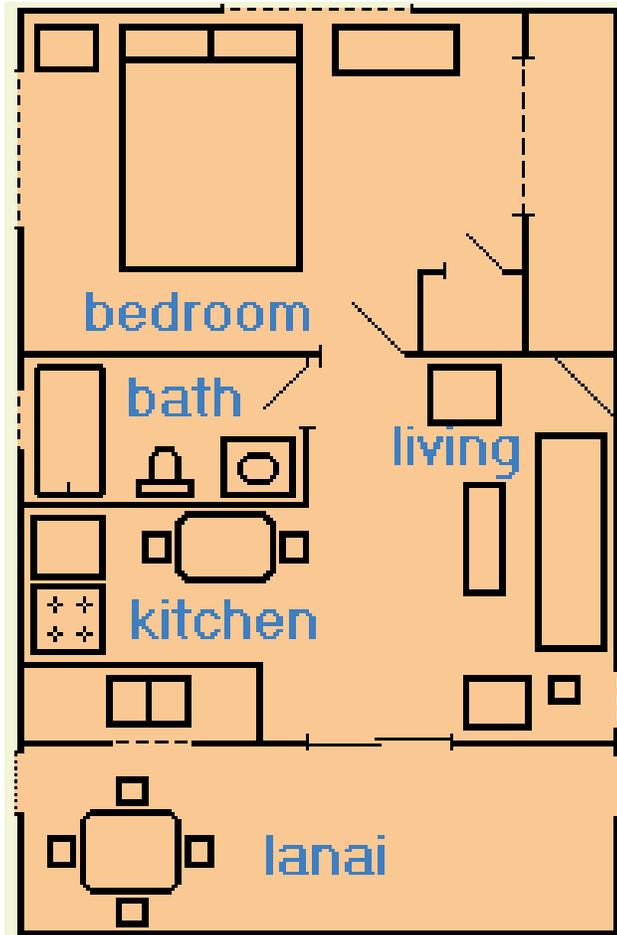


FIGURE 4

Not To Scale

JANUARY
2007

TYPICAL COTTAGE
FLOOR PLAN
Nona Lani Cottages





-  Agricultural
-  Urban
-  Rural

**PROJECT
SITE**



FIGURE 5

Not to scale

JANUARY
2007

STATE LAND USE MAP
Nona Lani Cottages





PROJECT
SITE



FIGURE 6

<p>JANUARY 2007</p>	
<p>KIHEI-MAKENA COMMUNITY PLAN Nona Lani Cottages</p>	
<p>CHRIS HART & PARTNERS</p>	



PROJECT
SITE

FIGURE 7

Not to scale

JANUARY
2007

COUNTY ZONING MAP
Nona Lani Cottages



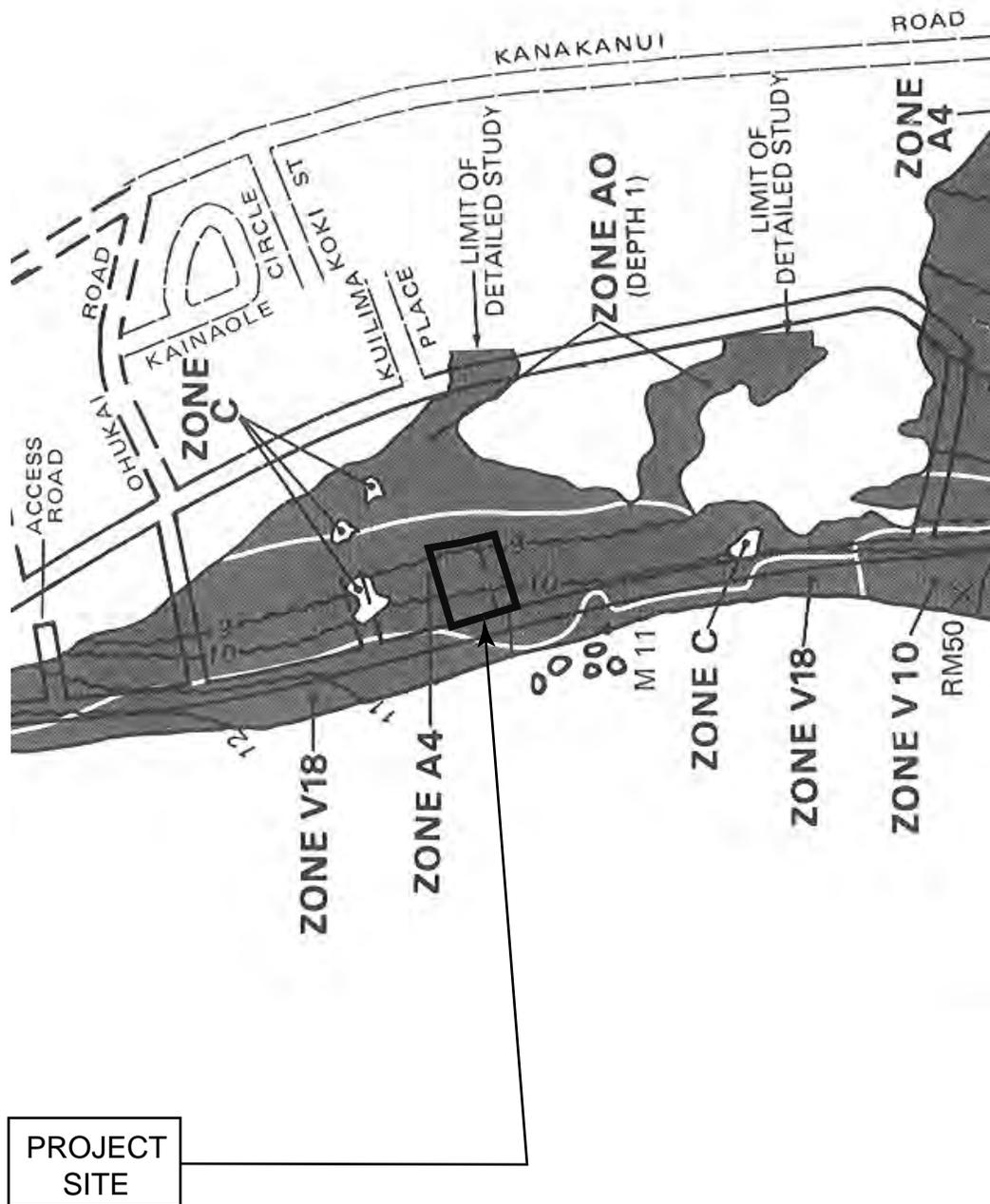


FIGURE 8

Not to Scale
 FEMA Flood Insurance Map

JANUARY
 2007

FLOOD MAP

Nona Lani Cottages



PROJECT
SITE

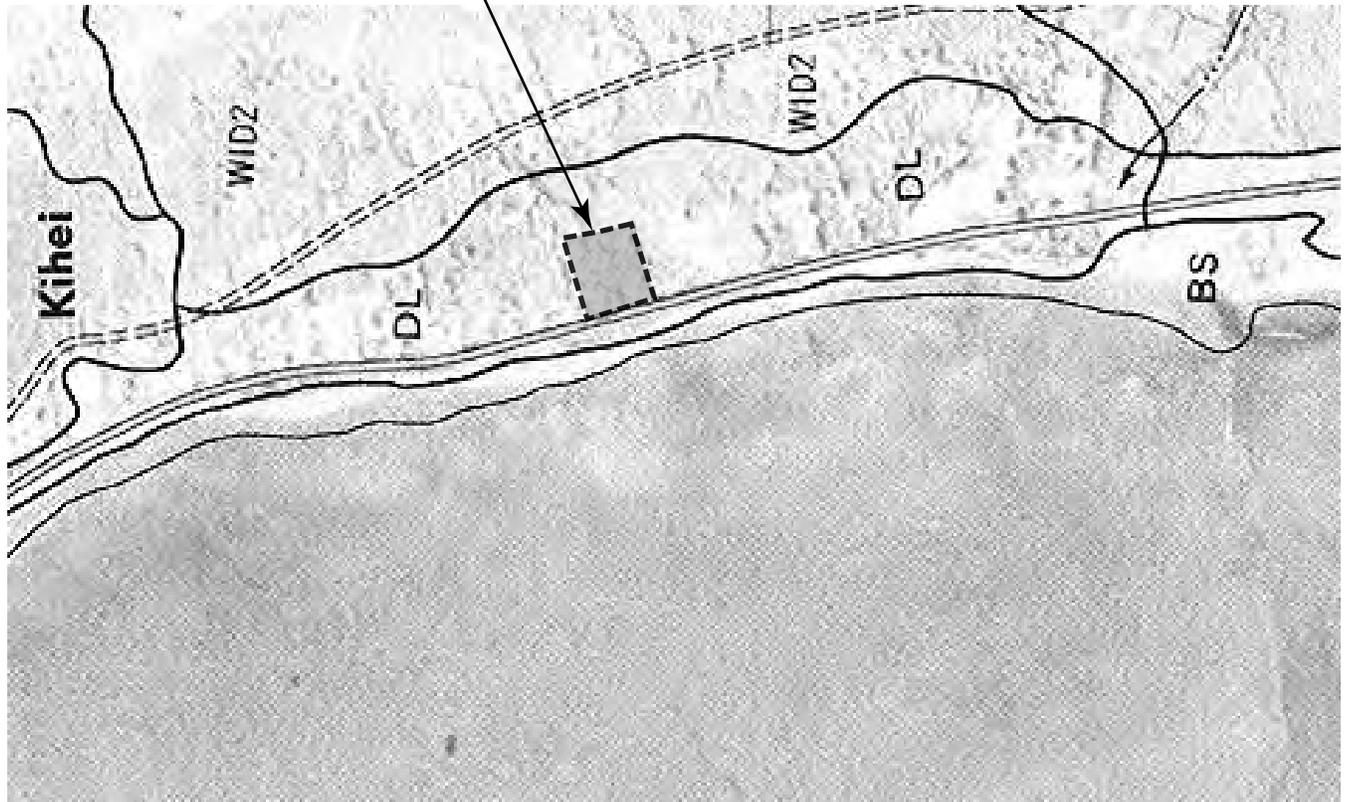


FIGURE 9

Not to Scale

JANUARY
2007

SOILS MAP
Nona Lani Cottages





Photo 1: Looking southeast from Mai Poina Oe Iau Beach Park across South Kihei Road at northwest corner of property.



Photo 2: Sign at main entrance with the Kihei Holiday in the background.



Photo 3: View of the property from the south corner. South Kihei Road at left, Cottage No. 1 at center with driveway and parking at right.



Photo 4: Entrance to main building and office.



Photo 5: View from front of property looking northeast from across South Kihei Road. Cottages from left, No. 4 (obscured by tree), No. 3, and No. 2.



Photo 6: View from front of property looking southeast from across South Kihei Road. Cottages from left, No. 2 and No. 1.



FIGURE 10.1

Photos taken
11/30/2004
unless otherwise noted

JANUARY
2007

PHOTOGRAPHS
Nona Lani Cottages



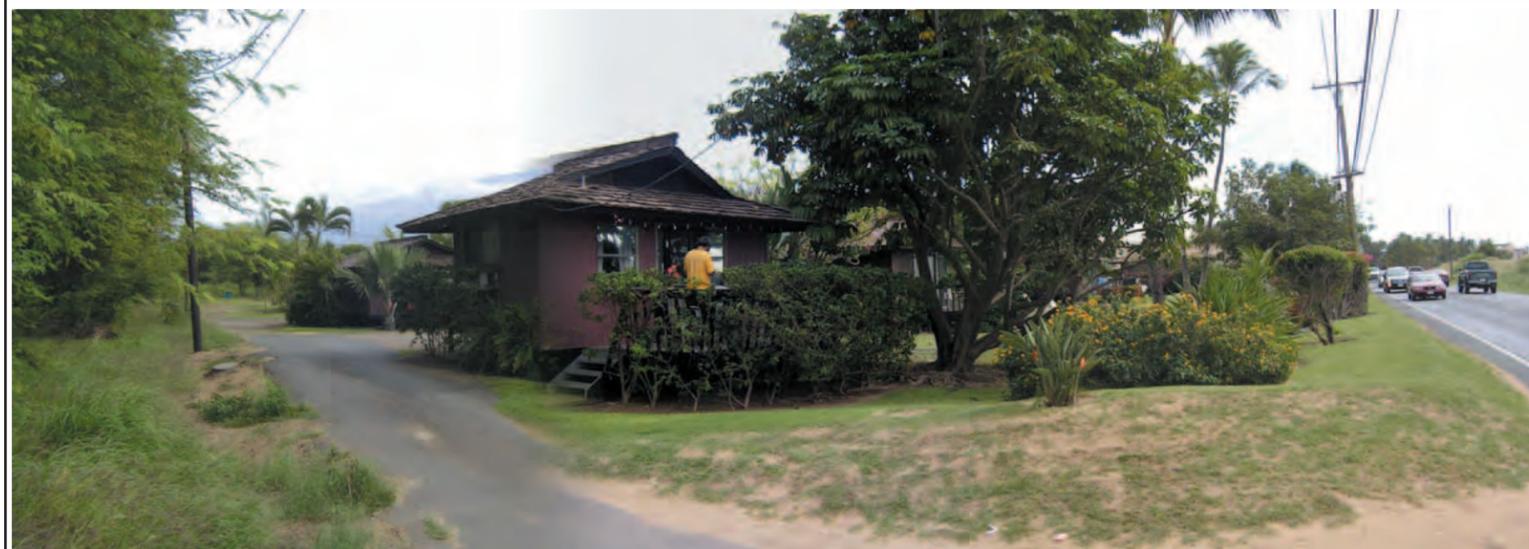


Photo 7: View from western corner. Driveway along northern boundary at left, Cottage No. 4 at center, South Kihei Road at right.



Photo 8: Looking down driveway along northern boundary toward South Kihei Road.



Photo 9: Looking south from northern boundary. 5,147 square foot main structure at right.

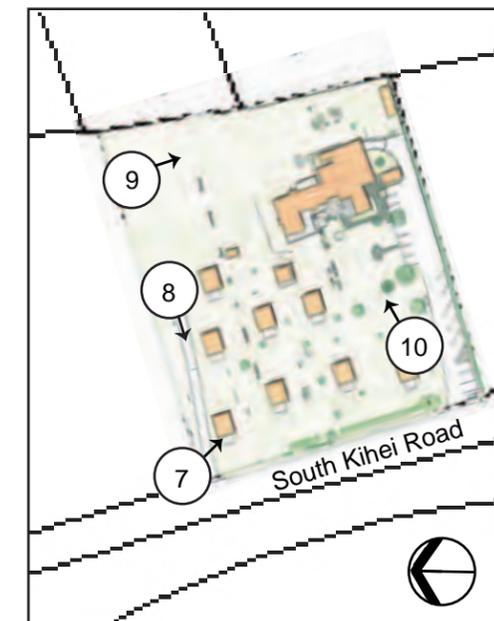


Photo 10: View of gazebo area in front of main residence structure.

FIGURE 10.2

Photos taken
11/30/2004
unless otherwise noted

JANUARY
2007

PHOTOGRAPHS
Nona Lani Cottages





Photo 11: View of front of main structure. At left, is the north wing housing four vacation rental units.



Photo 12: View from eastern corner of property looking at the south side of the main structure. Fence along Southpointe boundary visible at right.



Photo 13: Rear view of main structure.



Photo 14: View of northeast corner of main structure.

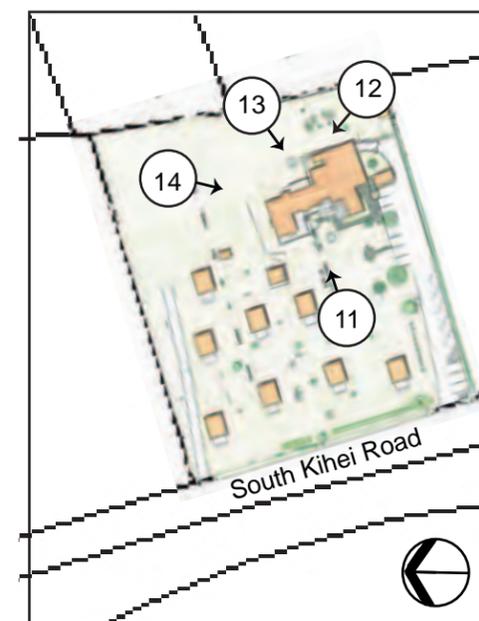


FIGURE 10.3

Photos taken
11/30/2004
unless otherwise noted

JANUARY
2007

PHOTOGRAPHS
Nona Lani Cottages



APPENDICES

APPENDIX A
Ownership Documents

PROPERTY TAX
RS FEE

2001-000411

25.00

TOTAL 1144.90

CHECK 1144.90

CHANGE 0.00

JAN 22 2001 TIME 8:07
DOCUMENT NO. 2001-000411

LAND COURT SYSTEM

REGULAR SYSTEM

RETURN BY MAIL (X) PICKUP () TO:

NONA LANI COTTAGES LLC
455 S KIHEI RD
KIHEI, HI 96753

Total Number Pages: 5

TMK: (II) 3-9-41-1

DOC.NO.: 90-084264

WARRANTY DEED

Grantor: **DAVID Y. S. KONG**, Trustee under the David Y. S. Kong Trust dated May 9, 1990, and

WINONA K. KONG, Trustee under the Winona K. Kong Trust dated May 9, 1990,

which Trustees are each empowered to hold, develop, lease, assign, convey, sell, encumber and/or otherwise deal with real property pursuant to those certain trust powers more particularly set forth in each said Trust

Grantee: **NONA LANI COTTAGES LLC**, a Hawaii limited liability company

Grantee's Address: 455 South Kihei Road
Kihei, Hawaii 96753

Grantee's Tenancy: TENANT IN SEVERALTY

Subject Property: Lot 19, Waiakoa House Lots, Waiakoa, Kula, Island and County of Maui, State of Hawaii

200 Wailuku Executive Center
24 North Church Street
Wailuku, Maui, HI 96793

BODDEN & MURAOKA
ATTORNEYS AT LAW ♦ A LAW CORPORATION

Telephone: (808) 244-8222
Telecopier: (808) 242-7621
www.mauiestatelaw.com

THIS DEED is made from the parties named above and hereinafter collectively referred to as "Grantor," to the party named above and hereinafter referred to as "Grantee." Grantee's address is as set forth above.

WITNESSETH

Conveyance. Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto Grantee, in the name and tenancy as set forth above, the property noted above and more completely described in Exhibit "A" attached hereto and by this reference made a part hereof, together with all buildings and improvements thereon, all rights, privileges, and easements held or enjoyed in connection therewith or appurtenant thereto, all reversions, rents, issues and profits therefrom, and all of the estate, right, title and interest of Grantor, both at law and in equity, therein and thereto.

Grantee's Interest. TO HAVE AND TO HOLD the same unto Grantee, in the tenancy aforesaid, and unto Grantee's legal representatives, successors and assigns, forever.

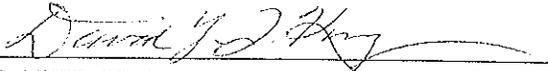
Grantor's Covenants. AND Grantor does hereby covenant and agree with Grantee, Grantee's legal representatives, successors and assigns, that Grantor is lawfully seised in fee simple of the premises hereby conveyed, that Grantor has good right to sell and convey the same as aforesaid, that the same are free and clear from all encumbrances, except non-delinquent real property taxes and those encumbrances, easements, restrictions and reservations, if any, as may be described in Exhibit "A."

AND GRANTOR will, and Grantor's successors and assigns shall, forever WARRANT AND DEFEND the title to the land against the lawful claims and demands of all persons, except as noted herein.

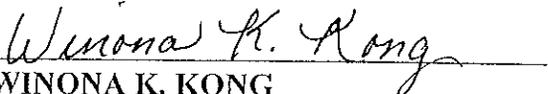
Definitions. AT ALL TIMES HEREIN the terms "Grantor" and "Grantee" or any pronouns used in place thereof shall mean and include, and any and all covenants shall be deemed to be binding upon or inure to the benefit of, the masculine or feminine, singular or plural number, and individuals, firms or entities, and their and each of their respective heirs, legal representatives, successors and assigns, according to the context thereof.

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed this date:
December 1, 2000, but effective as of January 2, 2001.

GRANTOR:



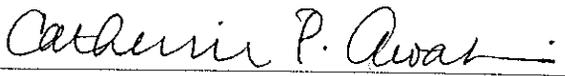
DAVID Y. S. KONG
Trustee aforesaid



WINONA K. KONG
Trustee aforesaid

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this date: December 1, 2000, before me personally appeared **DAVID Y. S. KONG** and **WINONA K. KONG**, in their capacities as Trustees aforesaid, as Grantor, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed in the capacities stated above.



Print Name: CATHERINE P. AWAKUNI
Notary Public, State of Hawaii
My Commission expires: 10/15/2004

EXHIBIT "A"

All of that certain parcel of land (being all of the land described in and covered by Land patent Grant Number 12,958 to Ah Moy Leong Kong, also known as Cecelia Ah Moy Kong), situate at Waiakoa, in the District of Kula, Island of Maui, State of Hawaii, being a portion of the Government Land of Waiakoa, and also being Lot 19 of the Waiakoa House Lots, and being more particularly described as follows:

BEGINNING at a pipe at the southwest corner of this lot, the northwest corner of Lot 20, Waiakoa House Lots, and on the east side of Kihei-Makena Road (40 feet wide), the coordinates of said point of beginning referred to a + on rock (Kalaepohaku) at seashore and on the boundary between the lands of Pulehunui and Waiakoa being 3160.73 feet South and 870.22 feet East, and the coordinates of said + on rock (Kalaepohaku) referred to Government Survey Triangulation Station "Puu-o-Kali" being 17875.5 feet North and 25734.0 feet West, as shown on Government Survey Registered Map 3028, and running by azimuths measured clockwise from True South:

- | | | | | |
|----|------|---------|--------|--|
| 1. | 164° | 47' 30" | 289.67 | feet along the east side of Kihei-Makena Road to a pipe; |
| 2. | 254° | 47' 30" | 358.95 | feet along Lot 18, Waiakoa House Lots to a pipe; |
| 3. | 352° | 17' | 165.30 | feet along Lot 4, Waiakoa Homesteads, Makai Section (Grant 7108 to Leialoha) to a pipe; |
| 4. | 348° | 10' | 126.00 | feet along same to a pipe; |
| 5. | 74° | 47' 30" | 329.97 | feet along Lot 20, Waiakoa House Lots to the point of beginning. Containing an area of 2.27 acres. |

Being the same premises conveyed to Grantor herein by deed dated May 9, 1990, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 90-084264.

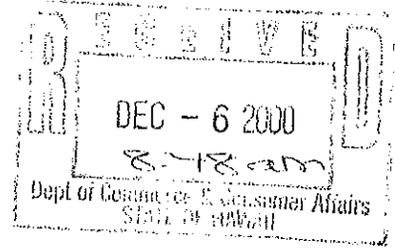
TOGETHER WITH any and all right, title or interest of the Grantor under any lease, agreement of sale, or other document or agreement related to the said property.

SUBJECT, HOWEVER, to any and all terms, conditions, reservations, covenants, restrictions, easements, encumbrances, and/or other matters affecting title to the said property presently of record and created or agreed to by the Grantor herein.

END OF EXHIBIT "A"

STATE OF HAWAII
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS

Business Registration Division
1010 Richards Street
P.O. Box 40
Honolulu, Hawaii 96810



ARTICLES OF ORGANIZATION

OF

NONA LANI COTTAGES LLC

A HAWAII LIMITED LIABILITY COMPANY

BODDEN & MURAOKA
Attorneys at Law ♦ A Law Corporation
200 Wailuku Executive Center
24 North Church Street
Wailuku, Maui, Hawaii 96793
Telephone: (808) 244-8222

Attorneys for Organizers

STATE OF HAWAII
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS

Business Registration Division
1010 Richards Street
P.O. Box 40
Honolulu, Hawaii 96810

ARTICLES OF ORGANIZATION

OF

NONA LANI COTTAGES LLC

The undersigned, for the purpose of forming a limited liability company under the laws of the State of Hawaii, and who desire to obtain the benefits conferred by said laws upon limited liability companies, do hereby make and execute these Articles of Organization.

I. NAME

The name of the company shall be **NONA LANI COTTAGES LLC**.

II. INITIAL DESIGNATED OFFICE

The street address of the initial designated office shall be 455 South Kihei Road, Kihei, Hawaii 96753. The designated office may hereafter be relocated to such other place as shall be specified from time to time according to the Operating Agreement of the company.

III. NAME AND ADDRESS OF INITIAL AGENT FOR SERVICE OF PROCESS

The company shall have and continuously maintain in the State of Hawaii an agent for service of process on the company. The name of the initial agent for service of process of the company is **CHERLYN J. KONG**, whose street address is 455 South Kihei Road, Kihei, Hawaii 96753.

IV. NAME AND ADDRESS OF EACH ORGANIZER

The name and address of each organizer are as follows:

DAVID Y.S. KONG, SR.
455 South Kihei Road
Kihei, Hawaii 96753

WINONA K. KONG
455 South Kihei Road
Kihei, Hawaii 96753

V. TERM

The term of the company shall begin on the day these Articles of Organization are filed with the Hawaii Department of Commerce and Consumer Affairs and shall continue for a specific term which will expire on December 31, 2040.

VI. MANAGEMENT OF THE COMPANY

The management of the company is vested in the **managers**. The name and residence street address of each manager are as listed below. The number of initial members is two.

DAVID Y.S. KONG, SR.
455 South Kihei Road
Kihei, Hawaii 96753

WINONA K. KONG
455 South Kihei Road
Kihei, Hawaii 96753

CHERLYN J. KONG
455 South Kihei Road
Kihei, Hawaii 96753

The transfer or encumbrance of any real property owned by the company shall require the prior written approval of all of the membership units.

VII. LIABILITY OF MEMBERS

No member or manager, solely by virtue of being a member or manager, shall be liable for the debts and obligations of the company.

VIII. AMENDMENT

These Articles may be amended by the members in the manner set forth in the Operating Agreement.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements and that the same are true and correct to the best of our knowledge.

Signed this date: December 1, 2000

ORGANIZERS:



DAVID Y.S. KONG, SR.



WINONA K. KONG

APPENDIX B
Zoning and Flood Confirmation

COUNTY OF MAUI
DEPARTMENT OF PLANNING

ZONING AND FLOOD CONFIRMATION REQUEST FORM

APPLICANT: Chris Hart & Partners, Inc. PHONE NO.: 242-1955
ADDRESS: _____
PROJECT NAME: Nona Lani Cottages
ADDRESS AND/OR LOCATION: 455 South Kihei Road, Kihei, Maui, Hawaii
TMK NUMBER(S): (2) 3-9-041:001

ZONING INFORMATION

STATE LAND USE Urban COMMUNITY PLAN Multi-Family
COUNTY ZONING R-2 Residential SPECIAL DISTRICT Special Management Area
OTHER _____

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED
04 DEC 23 11:35

FLOOD INFORMATION

FLOOD HAZARD AREA* ZONE A4
BASE FLOOD ELEVATION 9'-10' mean sea level, 1929 National
Geodetic Vertical Datum or for Flood Zone A0, FLOOD DEPTH N/A feet.

FLOODWAY [] Yes or [X] No

FLOOD DEVELOPMENT PERMIT IS REQUIRED [X] Yes or [] No

* For flood hazard area zones B or C; a flood development permit would be required if any work is done in any drainage facility or stream area that would reduce the capacity of the drainage facility, river, or stream, or adversely affect downstream property.

FOR COUNTY USE ONLY

REMARKS/COMMENTS: _____

- Additional information required.
- Information submitted is correct.
- Correction has been made and initialed.

Reviewed and Confirmed by:
AARON SHINMOTO
Planning Program Administrator
Signature

1-25-2005
Date

APPENDIX C
List of Owners of Properties Within 500 Feet

**PROPERTY OWNERS WITHIN 500 FEET
OF THE SUBJECT PROPERTY**

Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001043	0001	MAUI BEACH VACATION CI	CONSOLIDATED RESORTS MGT LLC	250 PILOT RD, #280	LAS VEGAS NV 89119 3511	
239001043	0002	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0003	CHUN'S RESTAURANT INC	CHUN, JUNG HO/CHI SON CINDY	P. O. BOX 1423	KIHEI HI 96753 0000	
239001043	0004	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0005	HASS,KATHLEEN ANN		515 S KIHEI RD, A202	KIHEI HI 96753 0000	
239001043	0006	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0007	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0008	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0009	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0010	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0011	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0012	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0013	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0014	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0015	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0016	DACANAY,KENNETH T	C/P CONSOLIDATED RESORT C/O CONSOLIDATED RESORTS MANAGEMENT	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0017	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0018	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0019	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0020	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0021	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0022	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0023	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0024	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0025	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0026	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0027	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0028	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0029	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0030	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0031	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	

**PROPERTY OWNERS WITHIN 500 FEET
OF THE SUBJECT PROPERTY**

Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001043	0032	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0033	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0034	1820 LINCOLN DRIVE,LLC	C/O BILL CIOCCHETTI	6505 UTE HWY	LONGMONT CO 80503	
239001043	0035	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0036	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0037	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0038	STALLARD,VERONICA ANN		P O BOX 84	PUUNENE HI 96784 0000	
239001043	0039	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0040	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0041	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0042	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0043	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0044	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0045	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0046	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0047	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0048	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0049	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0050	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0051	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0052	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001043	0053	CONSOLIDATED MAUI INC	CONSOLIDATED RESORTS MGT LLC	250 PILOT ROAD, SUITE 280	LAS VEGAS NV 89119	
239001044	0001	FEINBERG,LUCY WEIL		483 S KIHEI RD #101	KIHEI HI 96753 0000	
239001044	0002	ARSHON,HAROLD		16410 84TH ST, NE SUITE D-507	LAKE STEVENS WA 98258 9060	
239001044	0003	TOMICH,MATTHEW S		28 BLASIRING	CH-4057 BASEL	SWITZERLA ND
239001044	0004	MAYO,CYNTHIA JOAN		9 AKEA PL	KIHEI HI 96753	
239001044	0005	MACLEOD,TERRY		P O BOX 873	SEELEY LAKE MT 59868 0873	
239001044	0005	TABER,WILLIAM		17336 VIA CARMEN	SAN LORENZO CA 94580	
239001044	0006	KESSLER,EDWARD H		112 WOODSIDE DR	DOVER PLAINS NY 12522	
239001044	0007	CHANDLER,TOM TR	C/O CHANDLER,TOM TRS	483 S KIHEI RD #107	KIHEI HI 96753	
239001044	0008	FURLONG,JAY		27 COIT LN	NORWICH CT 06360	
239001044	0009	POURCHEZ,LESLIE		P O BOX 1968	KIHEI HI 96753 0000	
239001044	0010	KUDEJ EDWARD J JR		28 RIMMON ST	SEYMOUR CT 06483 0000	
239001044	0011	COVERT,VICKIE A	COVERT,VICKIE A	PO BOX 383	SURFSIDE CA 90743 0383	

**PROPERTY OWNERS WITHIN 500 FEET
OF THE SUBJECT PROPERTY**

Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001044	0012	MARESCA,CARMINE BRUN		25072 MAMMOTH CIR	LAKE FOREST CA 92630 1858	
239001044	0013	WILLIAMS,CORY GROVER		P O BOX 671	KIHEI HI 96753 0671	
239001044	0014	PHILIPS,CRAIG	C/O PHILIPS,CRAIG/ANN	483 S KIHEI RD #114	KIHEI HI 96753	
239001044	0015	SMITH,CHARLOTTE GEOR		P O BOX 2316	KIHEI HI 96753	
239001044	0016	FULLERTON,ROBERT W		153 TOMAHAWK STREET	YORKTOWN HEIGHTS NY 10598 0000	
239001044	0017	YOKOUCHI MASARU		2145 WELLS ST STE 301	WAILUKU HI 96793 0000	
239001044	0018	STEPHENS,ROBERT L III	C/O KIMBERLY WANKO	358 PAMELA CT	HEMET CA 92544	
239001044	0019	CUSHING,ELOISE K		483 S KIHEI RD, APT 119	KIHEI HI 96753	
239001044	0020	MATHIES,DOUGLAS DERW		483 S KIHEI RD #120	KIHEI HI 96753	
239001044	0021	LARWA,PETER LAWRENCI		313 LAKAU PL	KIHEI HI 96753 7629	
239001044	0022	CLAYTON,RICHARD	C/O CLAYTON,RICHARD	2395 S KIHEI RD #205	KIHEI HI 96753 0000	
239001044	0023	ORAM,JOAN SHIPPEE		483 S KIHEI RD #203	KIHEI HI 96753 9005	
239001044	0024	PETERSON,ERIC DAVID	C/O PETERSON, ERIC D/TRUDY ANN	483 S KIHEI RD #204	KIHEI HI 96753	
239001044	0025	QUICK,CHARLES L	QUICK,CHARLES/VALORY	6372 BORG CIR	OGDEN UT 84403 0000	
239001044	0026	POMPILLIO,ANTONIO CHAI	POMPILLIO, ANTONIO/DORIS	483 S KIHEI RD #206	KIHEI HI 96753 0000	
239001044	0027	CHRISTIANSEN,DAVID		483 S KIHEI RD #207	KIHEI HI 96753	
239001044	0028	BUCHANAN IRENE		2823 SEHELT DR	NORTH VANCOUVER, BC V7H 1P5	CANADA
239001044	0029	ANTONIO,RANDOLPH M		218 KAUHAA ST	KIHEI HI 96753	
239001044	0030	TISDALE,ROBERT E		1215 S KIHEI RD, STE 0- 242	KIHEI HI 96753	
239001044	0031	MCCORMICK MICHAEL P/H		3445 KEHA DR	KIHEI HI 96753 0000	
239001044	0032	MUMFORD, KATHLEEN S	KIHEI HOLIDAY #212	483 S KIHEI RD	KIHEI HI 96753 0000	
239001044	0033	REDDICK,MARSHALL E		4538 PEPPERWOOD AVE	LONG BEACH CA 90808 0000	
239001044	0033	RETZER,GREG D		16691 BAREFOOT CIRCLE	HUNTINGTON BEACH CA 92649 0000	
239001044	0034	FURUMOTO,SANDRA LEE		178 HOLOMAKANI DR	KULA HI 96790	
239001044	0035	JOHNSON,CANDACE ANN		483 S KIHEI RD APT 215	KIHEI HI 96753 9006	
239001044	0036	BRYAN, G ANTHONY TRS		2395 BALD MOUNTAIN RD	VAIL CO 81657 0000	
239001044	0037	BARRIO,GEORGE RICO		483 S KIHEI RD #217	KIHEI HI 96753	
239001044	0038	MACLEOD,DUNCAN S	MACLEOD,DUNCAN S/KATHLEEN A	8655 MARIANNA DR	FORESTVILLE CA 95436	
239001044	0039	HENNING,JOSEPH E		483 S KIHEI RD #219	KIHEI HI 96753	
239001044	0040	WICKER,FRANK J		483 S KIHEI RD #220	KIHEI HI 96753	
239001044	0041	BOLL,DOUGLAS EDWARD		483 S KIHEI RD #308	KIHEI HI 96753	
239001044	0042	SCHREINER,SAMUEL RAYI		PO BOX 595	KIHEI HI 96753	
239001044	0043	RECTOR,MARGARET E		493 HOLLY LN N	OAKDALE MN 55128 7034	
239001044	0044	MICHALCHUK,GARY		15207-49 AVE	EDMONTON, ALBERTA T6H 5P2	CANADA
239001044	0045	MILLER,TIMOTHY R		621 BUTLER DR	BELLE PLAINE MN 56011 0000	
239001044	0046	ARTMAN,LINDA D		3950 KALAI WAA ST #C102	KIHEI HI 96753 0000	
239001044	0047	OHATA, SHIZUKO TRS		483 S KIHEI RD 314	KIHEI HI 96753 0000	
239001044	0048	HANNA,RANDALL L	C/O HCS SERVICES	1301 SHILOH RD #450	KENNESAW GA 30144	

**PROPERTY OWNERS WITHIN 500 FEET
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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001064	0000	JPS HAWAII INC		828 FORT ST MALL, 4TH FLR	HONOLULU HI 96813 4321	
239001064	0001	BELL,MOLLY AYLESWORTH		P O BOX 191	KIHEI HI 96753	
239001064	0002	OKAMURA,GLENNA SADA		480 KENOLIO RD #1-102	KIHEI HI 96753 0000	
239001064	0003	CHUNG,PAUL MICHAEL		480 KENOLIO RD #1-103	KIHEI HI 96753	
239001064	0004	CUARESMA, SEGUNDA O E		480 KENOLIO RD 1-104	KIHEI HI 96753 0000	
239001064	0005	BAEHR,LINDA ANN		3208 MADRONE ST	ANTIOCH CA 94509	
239001064	0006	CANTOR,ANNA		480 KENOLIO RD 1-106	KIHEI HI 96753	
239001064	0007	KRAML,ROBERT P		28353 HAZELRIDGE DR	RANCHO PALOS VERDES CA 90275	
239001064	0008	WETSELAAR,HENRI		480 KENOLIO RD #1-202	KIHEI HI 96753	
239001064	0009	KROENING,JESSE		120 HANA HWY 9-237	PAIA HI 96779	
239001064	0010	FAJARDO,STEPHEN D V		PO BOX 331147	KAHULUI HI 96733	
239001064	0011	MIDTTUN,SVEIN J	C/O GUMBOC,NOEL M/M	410 KAHIKI LN	KAHULUI HI 96732 2835	
239001064	0012	INGRAHAM,ARLINE MARIE	C/O ARLINE INGRAHAM	480 KENOLIO RD #1-206	KIHEI HI 96753	
239001064	0013	TORRES,JOSEPH N		220 WEST KAUAI ST	KAHULUI HI 96732	
239001064	0014	LEE,VINCENT M		7498 CANYON BREEZE RD	SAN DIEGO CA 92126	
239001064	0015	PINSINCE,ALICE		2442 SE FLORESTA DR	PORT SAINT LUCIE FL 34984	
239001064	0016	WEBER,CHRISTIAN G TR	WEBER,CHRISTIAN G/MELINDA M TRS	4892 PAYTON ST	SANTA BARBARA CA 93111	
239001064	0017	MORIMOTO,ROBERT M		480 KENOLIO RD #2-105	KIHEI HI 96753	
239001064	0018	BREWER,JAMES GRANT		480 KENOLIO RD #2-106	KIHEI HI 96753	
239001064	0019	COY,CHRISTOPHER PATRI		480 KENOLIO RD APT 2-201	KIHEI HI 96753	
239001064	0020	WHITE,PATSY I TRUST		3175 ALOHI ST	LIHUE HI 96766 1206	
239001064	0021	BARTOLOMEU,MARIA S		480 KENOLIO RD 2-203	KIHEI HI 96753	
239001064	0022	DOAN,J & S FAMILY TRUST	DOAN,JASON T/SHIRLEY W TRS	P O BOX 1359	KIHEI HI 96753 1359	
239001064	0023	KAM,EDEAN VIRGINIA YIN		PO BOX 630376	LANAI CITY HI 96763	
239001064	0024	CROUCHER,SHANNON MA		480 KENOLIO RD #2-206	KIHEI HI 96753	
239001064	0025	CARRILLO,CATHLEEN MAF		480 KENOLIO RD #3-101	KIHEI HI 96753	
239001064	0026	CABOTAGE,EFREN CABLA		125 KUUALOHA ST	KAHULUI HI 96732	
239001064	0027	MATSUNO,BRIAN K		480 KENOLIO RD #3-103	KIHEI HI 96753	
239001064	0028	MILLER,MICHAEL D		PO BOX 1774	WAILUKU HI 96793 0000	
239001064	0029	RAMSEY,MATTHEW JOSEF		480 KENOLIO RD #3-105	KIHEI HI 96753	
239001064	0030	KEAU,JENNIFER LEIGH MA	KEAU,JENNIFER L M/JACINTO,TYRONE B	480 KENOLIO RD 3-106	KIHEI HI 96753	
239001064	0031	NGUYEN,DIEM-TRANG T		50 KOPI LN #16-101	WAILUKU HI 96793	
239001064	0032	NUNES,NATHAN ALAN		709 ZUNWALT LN	FOSTER CITY CA 94404	
239001064	0033	BRAVO,DANILO BRIONES		480 KENOLIO RD #3-203	KIHEI HI 96753	
239001064	0034	CLEAVE,DAVID EARL		1450 S KIHEI RD, #G202	KIHEI HI 96753	
239001064	0034	CLEAVE,ELIZABETH ANNE	CLEAVE,ELIZABETH A/ANDREW W	480 KENOLIO RD #3-204	KIHEI HI 96753	
239001064	0035	MUCKLIN,DANIEL T		5731 CUNEO CT	SANTA ROSA CA 95401 0000	
239001064	0036	LOPEZ,GAUDENCIO PALAC	LOPEZ, GAUDENCIO/CARMELITA	1238 PUU KIPA ST	PEARL CITY HI 96782 0000	

**PROPERTY OWNERS WITHIN 500 FEET
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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001064	0037	HOWARD,MARK STUART		480 KENOLIO RD #4-101	KIHEI HI 96753 000	
239001064	0038	HAYES,EARLE H.	EARLE H HAYES/LARRY S O'HARA	480 KENOLIO RD #4-102	KIHEI HI 96753	
239001064	0039	PARROTT,ADAM	C/O ADAM PARROTT/AMY T L MAO	480 KENOLIO RD APT 4-103	KIHEI HI 96753 0000	
239001064	0040	PUCKETT,BRIAN		480 KENOLIO RD #4-104	KIHEI HI 96753	
239001064	0041	CHAPLICK, NANCY ANN		480 KENOLIO RD 4-105	KIHEI HI 96753 0000	
239001064	0042	CYMBALUK,ALFRED M		480 KENOLIO RD APT 4-106	KIHEI HI 96753	
239001064	0043	DAVIDSON,DEBORAH ANN	COUNTRYWIDE-#9000559	P O BOX 10219	VAN NUYS CA 91410 0219	
239001064	0043	DAVIDSON,DEBORAH ANN	DAVIDSON,DEBORAH ANNE	140 UWAPO RD #30-101	KIHEI HI 96753 0000	
239001064	0044	CHASTAIN,CHARLES KEITH		3839-D JOHNSON ST	HIGH POINT NC 27265	
239001064	0045	WALSH,KRISTAN M		202A HANALANI ST	PUKALANI HI 96788 0000	
239001064	0046	UTTLEY,VINCENT G		12211 WOODSIDE DR	SARATOGA CA 95070	
239001064	0047	MPJR LLC		812K N KALAHEO AVE	KAILUA HI 96734 0000	
239001064	0048	STRAUSS,MICHAEL HOWARD		6550 N LONGFELLOW	TUCSON AZ 85718	
239001064	0049	JENKINS,JON DAVID		30 CHERRYVILLE RD	FLEMINGTON NJ 08822	
239001064	0050	TINO,BLANCA		88 KAHELE PL	KIHEI HI 96753 0000	
239001064	0051	RUBIN,PAULA LYNN	C/O RUBIN, PAULA/KINGSLEY,RHODA	20124 N W 61 AVE	HIALEAH FL 33015	
239001064	0052	AYLSWORTH,JOSHUA J		480 KENOLIO RD #5-104	KIHEI HI 96753	
239001064	0053	KANESHIRO,LAUREL ANN		PO BOX 2672	WAILUKU HI 96793	
239001064	0054	BLAKELEY,CHRISTOPHER		480 KENOLIO RD APT 5-106	KIHEI HI 96753 7530	
239001064	0055	HEXOM,NATHAN R.		4923 VALLEY VIEW DRIVE	WILLISTON ND 58801	
239001064	0056	LOPEZ,LINDA		3300 WAILEA ALANUI DR #23-B	KIHEI HI 96753	
239001064	0057	SCHAVRIEN,PAUL		9 MISTLETOE ST	RANCHO SANTA MARGARI CA 92688	
239001064	0058	CRADDICK,DAVID EDWIN F		932 HOOMAU ST	WAILUKU HI 96793	
239001064	0059	LAPPE,LISA A		140 UWAPO RD, #46-102	KIHEI HI 96753	
239001064	0060	MATSUNAGA, GERALD MITCHELL		426 S PALAMA DR	KAHULUI HI 96732 0000	
239001064	0061	MCCAULEY,DANNY K		480 KENOLIO RD UNIT 6-101	KIHEI HI 96753	
239001064	0062	JANSEN,JOAN A		1620 N DADE DR	JACKSON MI 49203	
239001064	0062	LIEBNER,MARY JOAN		480 KENOLIO RD #6-102	KIHEI HI 96753	
239001064	0063	CASTROMAN,GABRIEL ADRIAN	C/O MS BENE CAMBRA	9952 OSGOOD WAY	SAN DIEGO CA 92126	
239001064	0064	GIVNER,DALE	C/O GIVNER, DALE/PATRICIA	309 SOUTH A STREET	OXNARD CA 93030	
239001064	0065	RICHARDSON,KELLY JONE		480 KENOLIO RD #6-105	KIHEI HI 96753	
239001064	0066	TETLEY,JOHN A REV TRUSTEE	C/O KEITH HARRISON	480 KENOLIO RD #6-106	KIHEI HI 96753	
239001064	0067	HELIE,JASON N		480 KENOLIO RD #6-201	KIHEI HI 96753	
239001064	0068	DICKMAN,THOMAS		P O BOX 217	KIHEI HI 96753	
239001064	0069	YOKOYAMA,HISAKO TRS		1222 ARLINGTON LN	SAN JOSE CA 95129	
239001064	0070	SIMMONS,MARK A		480 KENOLIO RD 6-204	KIHEI HI 96753	
239001064	0071	POND,DELWIN T		3633 COUNTY HOLLOW DR	SALT LAKE CITY UT 84121 0000	

**PROPERTY OWNERS WITHIN 500 FEET
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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001064	0072	HEALEY, MICHAEL P REVC	HEALEY, MICHAEL P TRS	2387 SOUTH KIHEI ROAD #A408	KIHEI HI 96753	
239001064	0073	NEIZMAN, JESSE MICHAEL	C/O ANNE RUSKIT	480 KENOLIO RD 7-101	KIHEI HI 96753 0000	
239001064	0074	LEIGH, WAYNE A/KATHY T		480 KENOLIO RD 7-102	KIHEI HI 96753 0000	
239001064	0075	MCGOVERN, MARIANNE EL		480 KENOLIO RD, APT 7-103	KIHEI HI 96753	
239001064	0076	HARMAN, MATTHEW M	C/O HUNT, CORINNE	480 KENOLIO RD #7-104	KIHEI HI 96753 0000	
239001064	0077	HUBER, WILLIAM A		PO BOX 476	COOL CA 95614	
239001064	0078	ALENSONORIN, ALFRED P	ALENSONORIN, ALFRED & HARRIET TRUSTEES	480 KENOLIO RD #7-106	KIHEI HI 96753	
239001064	0079	WATANABE, KERRY L A/DC		480 KENOLIO RD 7-201	KIHEI HI 96753 0000	
239001064	0080	KONG, LINDA JANE		298 KAILOHIA ST	KIHEI HI 96753 7613	
239001064	0081	LIZADA, GEORGE L SR/MAI		5155 D KIPULU PL	LAHAINA HI 96761 0000	
239001064	0082	CABANIA, MAXIMO/TERESI		964 MAILE ST	MAKAWAO HI 96768 0000	
239001064	0083	ROBISON, JOHN M		2929 ANDROS ST	COSTA MESA CA 92626 0000	
239001064	0084	MATSUOKA, LOWELL S		220 S MOKAPU ST	KAHULUI HI 96732	
239001064	0085	ST PIERRE, TERRY		480 KENOLIO RD 8-101	KIHEI HI 96753 0000	
239001064	0085	ST PIERRE, TERRY	IRWIN MORTGAGE CORP	P O BOX 7189	INDIANAPOLIS IN 46207 0000	
239001064	0086	INOUE, WENDY LEIKO		480 KENOLIO RD #8-102	KIHEI HI 96753	
239001064	0087	BOYNTON, GILL H	C/O CENTRY CONSTRUCTORS & ENGINEERS	920 SANDY PKWY	SAN CARLOS CA 94070 9030	
239001064	0088	SUGAI, PATRICK SUNAO		480 KENOLIO RD #8-104	KIHEI HI 96753	
239001064	0089	GREENWOOD, JULIA A		480 KENOLIO RD #8-105	KIHEI HI 96753 0000	
239001064	0090	JACKMAN, MICHAEL SCOTT	JACKMAN, MICHAEL/JADE	480 KENOLIO RD ATP 8-106	KIHEI HI 96753	
239001064	0091	KOTLAR, ROSE	C/O KOTLAR, ROSE ET AL	P O BOX 2215	KIHEI HI 96753	
239001064	0092	V1 ROTATE PROPERTIES,		PO BOX 1035	WAILUKU HI 96793	
239001064	0093	AHRON, RICHARD GEORGE		7666 SUPERIOR TERRACE	EDEN PRAIRIE MN 55344	
239001064	0094	RALLI, MICHAEL D		PMB 937 PO BOX 959	KIHEI HI 96753	
239001064	0095	VERDUZCO, ROMELLE		29022 KOMMERS LANE	MODJESKA CANYON CA 92676 0000	
239001064	0096	YAZAKI, ANSELM TAKESHI		480 KENOLIO RD 8/206	KIHEI HI 96753 0000	
239001064	0097	ELECCION, DEREK ALFREI		480 KENOLIO RD 9-101	KIHEI HI 96753 0000	
239001064	0098	MORIYAMA, JANE KIMIE		480 KENOLIO RD APT 9-102	KIHEI HI 96753	
239001064	0099	TORRES, KENNETH ANTHC		480 KENOLIO RD 9-103	KIHEI HI 96753	
239001064	0100	HO, SHARAY KEALA		480 KENOLIO RD 9-104	KIHEI HI 96753	
239001064	0101	FUJIKAWA, ANDREW/SHEIL	FUJIKAWA, ANDREW/SHEILA TRUSTEES	P O BOX 331092	KAHULUI HI 96733 1092	
239001064	0102	MIYANO, JUN/MARLENE M		480 KENOLIO RD 9-202	KIHEI HI 96753 0000	
239001064	0103	GROSS, MICHAEL OTIS		480 KENOLIO RD #2-202	KIHEI HI 96753 0000	
239001064	0104	HERMAN, ANDREA JO		480 KENOLIO ROAD, #9-204	KIHEI HI 96753	
239001064	0105	PASCUA, LYNETTE MACAD		480 KENOLIO RD 11-101	KIHEI HI 96753 0000	
239001064	0105	PASCUA, LYNETTE MACAD	TERRITORIAL SAVINGS & LOAN	1440 KAPIOLANI BLVD 14TH FL	HONOLULU HI 96814 0000	

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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001064	0106	CORDEN,JEANETTE		480 S KIHEI RD #11-102	KIHEI HI 96753	
239001064	0107	JASLOW,MARC		643 MEAKANU LN #406	WAILUKU HI 96793	
239001064	0108	ALLEN,WILLIAM T	ALLEN,WILLIAM/AURORA	480 KENOLIO RD #11-10411	KIHEI HI 96753 7528	
239001064	0109	MERCADO,CORINNE		480 KENOLIO RD #11-105	KIHEI HI 96753	
239001064	0110	BERUBE,PAULA M		1750 AUWAE RD	HILO HI 96720	
239001064	0111	LAG,MICHAEL N		480 KENOLIO RD 11-201	KIHEI HI 96753 0000	
239001064	0112	GENOVA,PAUL D		P O BOX 6079	KAHULUI HI 96733	
239001064	0113	TAN,SUYLI		2514 HOOLEA PL	HAIKU HI 96708	
239001064	0114	FAULKNER,SHARON K		104 WISTERIA WAY #4	MILL VALLEY CA 94941	
239001064	0115	SOUTH BREEZE II LLC	C/O BARUT,WESLEY	1325 S KIHEI RD #221	KIHEI HI 96753	
239001064	0116	SIMHA,AJIT		140 UWAPO RD #35-101	KIHEI HI 96753 7439	
239001064	0117	DIRKSEN,BILLY J		480 KENOLIO RD #13-101	KIHEI HI 96753	
239001064	0118	GALVIN,TIMOTHY J	GALVIN, TIMOTHY/EVANGELINE	480 KENOLIO RD 13-102	KIHEI HI 96753 0000	
239001064	0119	TORRES, OLIVIER DENIS		480 KENOLIO RD 13-103	KIHEI HI 96753 0000	
239001064	0120	THOMPSON,ALICE		P O BOX 2114	ARVADA CO 80001 2114	
239001064	0120	WARNKE,H PUANANI		PO BOX 2114	ARVADA CO 80001	
239001064	0121	TANG,SHIH TUO		31 LA RONDA	IRVINE CA 92606 8815	
239001064	0122	CHASE,DAWN MICHELLE		2358 GRAND AVE	VENTURA CA 93003	
239001064	0123	BRADY,KATHLEEN ADELE		480 KENOLIO RD #13-203	KIHEI HI 96753	
239001064	0124	GUERRERO,AMY HARUE	C/O YAMADA,AMY A	128 KEALOHILANI ST	KAHULUI HI 96732 3128	
239001064	0125	CURTIS,KIMBERLY		480 KENOLIO RD APT A	KIHEI HI 96753	
239001064	0126	CLARK,MARIE FRANCE		480-B KENOLIO RD	KIHEI HI 96753 0000	
239001064	0127	MARTIN,MANUEL III & ESTH	MANUEL/ESTHER MARTIN III TTEE	480 KENOILI RD, #C	KIHEI HI 96753	
239001064	0128	ABILAY,CHAD K		480 KENOLIO RD #D	KIHEI HI 96753	
239001064	0129	KIYOTA,GALEN HIROTOSH	KIYOTA,GALEN/RIE	480 KENOLIO RD #E	KIHEI HI 96753	
239001064	0130	CALLISON, THOMAS D		480 KENOLIO RD #F	KIHEI HI 96753 0000	
239001064	0131	BRANDL,EMILY R		480 KENOLIO RD #G	KIHEI HI 96753	
239001064	0132	PATTERSON,GARY H		18215 N 65TH AVENUE	GLENDALE AZ 85308	
239001064	0133	SABOG,AVELINO		480 KENOLIO RD #J	KIHEI HI 96753	
239001064	0134	BALDWIN,CARRIE		480 KENOLIO RD, HOUSE K	KIHEI HI 96753 0000	
239001099	0000	JPS HAWAII INC		828 FORT ST MALL, 4TH FLR	HONOLULU HI 96813 4321	
239001099	0001	AMARAL,TESSIE M		81 ALIILANI PL	KIHEI HI 96753 9015	
239001099	0002	O'NEAL,LYNNZEE KAY		PO BOX 2155	KIHEI HI 96753	
239001099	0003	JACINTHO,MAXINE LANI		P O BOX 331195	KAHULUI HI 96733	
239001099	0004	SMITH,HELEN MITSUKO		857 19TH AVE	HONOLULU HI 96816	
239001099	0005	WILSON,MARCIA DIANE TF		440 SEASIDE AVE #608	HONOLULU HI 96815	
239001099	0006	NARUSAWA, GORDON M/S		94-305 WAIMAKA ST	MILILANI HI 96789 0000	
239001099	0007	SOUTH BREEZE II LLC	C/O BARUT,WESLEY	1325 S KIHEI RD #221	KIHEI HI 96753	
239001099	0008	BRANDIGER,RICHARD F	BRANDIGER,RICHARD F/KATHERINE M	13090 MISSION HILLS LP	RAPID CITY SD 57702	

**PROPERTY OWNERS WITHIN 500 FEET
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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001099	0009	HSUAN,HULBERT CHIEN-S		1177 CALIFORNIA ST #912	SAN FRANCISCO CA 94108 2222	
239001099	0010	HOGAN,KEVIN M		PO BOX 1047	KIHEI HI 96753	
239001099	0011	HATCHER,STEVEN	C/O STEVEN HATCHER	480 KENOLIO RD #12-103	KIHEI HI 96753 0000	
239001099	0012	FINNEY,JOE	JOE/KIMBERLY FINNEY	480 KENOLIO RD #12-104	KIHEI HI 96753 0000	
239001099	0013	ZAYAS-QUINONES,EDUAR	C/O ZAYAS-QUINONES, EDUARDO M/M	480 KENOLIO RD #12-105	KIHEI HI 96753	
239001099	0014	BIGA,VERNA LEE KUULEIA		P O BOX 10851	LAHAINA HI 96761	
239001099	0015	LINDELEAF/HALL,TRUST	C/O EDWARD E HALL, ETAL	1103 33RD ST	SACRAMENTO CA 95816 0000	
239001099	0016	CUNHA,CHARLES W	C/O CUNHA, CHARLES W/LYN M	PO BOX 5251	EL DORADO HILLS CA 95762 0000	
239001099	0017	ASATO,GARY KAZU		28681 SPRINGFIELD DR	LAGUNA BEACH CA 92677	
239001099	0018	BELTRAN,RAMON R		597 POHAI ST	KAHULUI HI 96732 0000	
239001099	0019	GROENEWOUT,BRIAN VAN		480 KENOLIO RD #12-205	KIHEI HI 96753	
239001099	0020	DECAMP,ROBERT JAMES		480 KENOLIO RD #12-206	KIHEI HI 96753	
239001099	0021	SAROL,GLENN DATOC		480 KENOLIO RD #14-101	KIHEI HI 96753	
239001099	0022	MARTIN, WILLIAM L/ELEAN		480 KENOLIO RD 14-102	KIHEI HI 96753 0000	
239001099	0023	YAYOSHI, GLENN SHIGEO		479 KAULANA ST	KAHULUI HI 96732 0000	
239001099	0024	ABILAY,CHAD K		480 KENOLIO RD #D	KIHEI HI 96753	
239001099	0025	DELEON,EMILY PAET ETAL		480 KENOLIO RD, APT 14- 201	KIHEI HI 96753 0000	
239001099	0026	WILLIAMS,CONSTANCE E		480 KENOLIO RD #14-202	KIHEI HI 96753	
239001099	0027	ALVIAR, RUFINO SONNY		480 KENOLIO RD,#14-203	KIHEI HI 96753 0000	
239001099	0028	BERNARDINI,GARY JOSEP	C/O BERNARDINI, GARY/JODEAN	850 TILTON RD	SEBASTOPOL CA 95472	
239001099	0029	CARRILLO,MARIO E		480 KENOLIO RD #15-101	KIHEI HI 96753	
239001099	0030	MORRISON,MICHAEL RINA		480 KENOLIO RD 15-102	KIHEI HI 96753	
239001099	0031	FAULKNER,SHARON KAY		104 WISTERIA WAY #4	MILL VALLEY CA 94941	
239001099	0032	SF OBSIDIAN PROPERTIES	DONALD CHAIKIN	PO BOX 1751	KIHEI HI 96753	
239001099	0032	WOOD,DANNY		480 KENOLIO RD #15-104	KIHEI HI 96753	
239001099	0033	ORTEGON,GENEVIEVE G T		29434 ELBA DR	LAGUNA BEACH CA 92677	
239001099	0034	EASTMAN,WESLEY LEE		480 KENOLIO RD #15-106	KIHEI HI 96753	
239001099	0035	FAULKNER,SHARON KAY		104 WISTERIA WAY #4	MILL VALLEY CA 94941	
239001099	0036	WEBB,MARK A		480 KENOLIO RD #15-202	KIHEI HI 96753	
239001099	0037	CHAIKIN,DONALD TRUST	C/O SF OBSIDIAN PROPERTIES LLC	P O BOX 1751	KIHEI HI 96753 0000	
239001099	0038	OLER, CURTIS G/CHARLEN		480 KENOLIO RD 15-204	KIHEI HI 96753 0000	
239001099	0039	TAKASE,FRANCINE RENEE		P O BOX 1744	KAHULUI HI 96733 0000	
239001099	0040	WUEST,MARY ANNE		480 KENOLIO RD #15-206	KIHEI HI 96753	
239001099	0041	DROUT,JENNIFER KAREN		P O BOX 1361	PUUNENE HI 96784	
239001099	0042	SMITH,GREGORY P		PO BOX 955	HAIKU HI 96708	
239001099	0043	FUJII,HIROSHI		44 SILVER SPRING DR	ROLLING HILLS ESTATES CA 90274	
239001099	0044	PACADA,MYRNA J		480 KENOLIO RD 16-104	KIHEI HI 96753	
239001099	0045	DELA CRUZ,MARK A		480 KENOLIO RD 16-105	KIHEI HI 96753	

**PROPERTY OWNERS WITHIN 500 FEET
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Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001099	0046	MAGBUAL,GLENDA		987 AKAIKI PL	WAILUKU HI 96793 9459	
239001099	0047	LOPES,ROBERT C		PO BOX 5015	KAHULUI HI 96733 5015	
239001099	0048	MCDONALD,BRUCE E	C/O MCDONALD,BRUCE E/CHRISTINA	674 MALIMALI ST	KIHEI HI 96753	
239001099	0049	RATTE,JAN YAEMI		P O BOX 534	KIHEI HI 96753 0534	
239001099	0050	FRANCIS,JOHN MAURICE	C/O FRANCIS,JOHN M/M	480 KENOLIO RD #16-204	KIHEI HI 96753	
239001099	0051	ALMOGELA,LILEBETH CUA		758 PALA CIR	KAHULUI HI 96732	
239001099	0052	PARSONS,CLAIRE LOUISE		480 KENOLIO RD #16-206	KIHEI HI 96753	
239001099	0053	AKIMA,ABIGAIL K TRUST		480 KENOLIO RD #17-101	KIHEI HI 96753	
239001099	0054	OSTREM,RENEE C L A		19120 RICHMOND BEACH DR NW	SHORELINE WA 98177 2942	
239001099	0055	LEAZENBY,TINA		480 KENOLIO RD #17-103	KIHEI HI 96753	
239001099	0056	BOCKEMUEHL, ROBERT W	COUNTRYWIDE FUNDING CORP	155 NORTH LAKE AVE	PASADENA CA 91109 0000	
239001099	0056	BOCKEMUEHL,ROBERT W		1038 CASHEW LN	CEDAR PARK TX 78613	
239001099	0057	KINZLE,CHRISTIAN SAMUE		P O BOX 2826	WAILUKU HI 96793 0000	
239001099	0058	BARUT,WESLEY	WESLEY BARUT	480 KENOLIO RD 10-203	KIHEI HI 96753	
239001099	0059	CARPENTER,ART	C/O ABORDO,RICKY-NELSON/KOZUKI,NICOLE	480 KENOLIO RD #17-201	KIHEI HI 96753 0000	
239001099	0060	LYONS,RAYMOND JOSEPH	LYONS,RAYMOND J JR ETAL	480 KENOLIO RD #17-202	KIHEI HI 96753	
239001099	0061	BAUGHMAN,BRETT		480 KENOLIO RD 17-203	KIHEI HI 96753 0000	
239001099	0062	BARBER,RACHAEL JACQU		480 KENOLIO RD 17-204	KIHEI HI 96753	
239001099	0063	MARCUM,STEVEN DALE	MARCUM,STEVEN DALE/LORI ANN	5019 MARATHON LANDING CT	CASTLE HAYNE NC 28429 0000	
239001099	0064	MAZARIEGOS,SHEILA		658 KUPULAU DR	KIHEI HI 96753	
239001099	0065	SIGNAIGO,MICHAEL FRANK	MICHAEL & TERRI SIGNAIGO	480 KENOLIO RD #18-101	KIHEI HI 96753	
239001099	0066	WILLIAMS,ANGELA J		480 KENOLIO RD APT 18-102	KIHEI HI 96753 0000	
239001099	0067	YAMASHITA, DEAN M/MICHAEL		480 KENOLIO RD 18-103	KIHEI HI 96753 0000	
239001099	0068	HEINER,KEITH ELLIOT		480 KENOLIO RD #18-104	KIHEI HI 96753	
239001099	0069	TANOUE, NANCY NAOMI		480 KENOLIO RD 18-201	KIHEI HI 96753 0000	
239001099	0070	BARTNICKI,ANTHONY		480 KENOLIO RD #18-202	KIHEI HI 96753 0000	
239001099	0071	REPOLLO,STEVEN D		P O BOX 1845	KIHEI HI 96753	
239001099	0072	METZ,PETER MICHAEL		480 KENOLIO RD #18-204	KIHEI HI 96753	
239001099	0073	HUANG,DAVID JIN ZE		23002 RIO LOBOS RD	DIAMOND BAR CA 91765	
239001099	0074	ILAR,ALFREDO R JR		480 KENOLI RD 19-102	KIHEI HI 96753 0000	
239001099	0075	PARRA,TREVOR		800 INNES AVE #1	SAN FRANCISCO CA 94124 0000	
239001099	0076	LEAL,MARCO ANTONIO	LEAL,MARCO/MARIE	6675 W 88TH ST	LOS ANGELES CA 90045 0000	
239001099	0077	ARSENAULT,ANITA		855 BROADWAY #1006	CHELSEA MA 02150	
239001099	0078	FONTAINE,NANCY M		480 KENOLIO RD #19-106	KIHEI HI 96753 7544	
239001099	0079	MASTERS,ALEXANDER		PO BOX 625	PUUNENE HI 96784 0000	
239001099	0080	KING,RYAN SCOTT		480 KENOLIO RD #19-202	KIHEI HI 96753	
239001099	0081	BRAUNER,STEVEN A		480 KENOLIO RD #19-203	KIHEI HI 96753	
239001099	0082	SERPIERI,THELMA E		480 KENOLIO RD #19-204	KIHEI HI 96753 0000	

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239001099	0083	ALEXANDER, RONALD LEE		480 KENOLIO RD #19-205	KIHEI HI 96753	
239001099	0084	TRAICHEL, BRIAN C		5121 MUIR AVE #6	SAN DIEGO CA 92107	
239001099	0085	BERSAMIN, PHILLIP I M/LYI		480 KENOLIO RD 20-101	KIHEI HI 96753 0000	
239001099	0086	PARSCAL, BRIAN KEITH	C/O ADKINS, RUSSELL/JESSICA	480 KENOLIO RD #20-102	KIHEI HI 96753	
239001099	0087	GONZAGUI, FRANCO	C/O FRANCO & MARIBEL GONZAGUI	4362A MODOC RD	SANTA BARBARA CA 93110	
239001099	0088	SABAS, RAUL Q/MARIVIC E		480 KENOLIO RD 20-104	KIHEI HI 96753 0000	
239001099	0089	LUSK, EDWARD H/SUPAPC		632 MAALAHU ST	WAILUKU HI 96793 1543	
239001099	0090	REID, DAVID W		PO BOX 2171	KIHEI HI 96753	
239001099	0091	ST KLAIR, MITSUYO		480 KENOLIO RD #20/201	KIHEI HI 96753	
239001099	0092	TOMITA, GORDON TAKAO T	GORDON/BABY TOMITA	46-412 HULUPALA PL	KANEOHE HI 96744 0000	
239001099	0093	THONGTRAKUL, SOMSRI		480 KENOLIO RD #20-203	KIHEI HI 96753	
239001099	0093	THONGTRAKUL, WATANA	THONGTRAKUL, WATANA	122 LUAKAHA CIR	KIHEI HI 96753 8286	
239001099	0094	YAMADA, ROY I/CORLISS M		480 KENOLIO RD 20-204	KIHEI HI 96753 0000	
239001099	0095	BALDWIN, CARRIE MIRIAM		480 KENOLIO RD HOUSE K	KIHEI HI 96753	
239001099	0096	LOGAN, PHILLIP R		480 KENOLIO RD #20-206	KIHEI HI 96753 0000	
239001099	0097	GUY, JOHN/YOLANDA		480 KENOLIO RD 21-101	KIHEI HI 96753 0000	
239001099	0098	MOORE, DANIEL WRIGHT	DANIEL MOORE ET AL	480 KENOLIO RD #21-102	KIHEI HI 96753	
239001099	0099	UKIDA, DEREK ALAN		480 KENOLIO RD 21-103	KIHEI HI 96753	
239001099	0100	HUTLER, KEVIN		6387 NUGGET DR	FOREST HILL CA 95631	
239001099	0101	FISHER, PETER & LORI TRU		918 NEVADA AVE	SAN JOSE CA 95125	
239001099	0102	LOUGH, KRISTY MARIE		480 KENOLIO RD UNIT 21- 106	KIHEI HI 96753	
239001099	0103	GALINDO, ROMULO I ETAL		480 KENOLIO RD 21-201	KIHEI HI 96753 0000	
239001099	0103	GALINDO, ROMULO ILAR	C/O FRED C SARANILLIO	1407 KOMOHANA PL	LAHAINA HI 96761	
239001099	0104	LARSON, CHARLES E		1577 SKYLINE DR	LAGUNA BEACH CA 92651	
239001099	0105	ARREOLA, DANIELLE K		326 HOALIKE ST	KIHEI HI 96753 0000	
239001099	0106	CERVANTES, KEVIN I ETAL		115 KOEHANA PL	MAKAWAO HI 96768 0000	
239001099	0107	RUSSELL, LOUISE		480 KENOLIO RD #28-102	KIHEI HI 96753 0000	
239001099	0108	SANCHEZ, STEVEN D		480 KENOLIO RD #21-206	KIHEI HI 96753 7549	
239001153	0001	SMITH, MASON DANIEL		480 KENOLIO RD #22-101	KIHEI HI 96753 7540	
239001153	0002	PAUL, ROBERT LAWRENCE		601 MIDDLE RINCON	SANTA ROSA CA 95409	
239001153	0003	MCLAUGHLIN, MICHAEL R	C/O CORA SUDA	PO BOX 1116	KIHEI HI 96753	
239001153	0004	SCHNEIDER, KAREN LENOI		480 KENOLIO RD 22-104	KIHEI HI 96753	
239001153	0005	GALANG, CUILLERMO C III		12220 APPIAN DR	RANCHO CUCAMONGA CA 91739	
239001153	0006	WYATT, STEVEN KENNETH		480 KENOLIO RD 22-106	KIHEI HI 96753	
239001153	0007	SMITH, WILLIAM LANCE	C/O WILLIAM SMITH	480 KENOLIO RD 22-201	KIHEI HI 96753	
239001153	0008	SLEPOY, HENRY C JR		480 KENOLIO RD #22-202	KIHEI HI 96753	
239001153	0009	LAM, ALBERT D S TRUST		7529 MUOLEA PL	HONOLULU HI 96825	
239001153	0010	NUNES, GERALD ANTHONY	NUNES, GERALD/VICTORIA	709 ZUMWALT LN	FOSTER CITY CA 94404	
239001153	0011	ROBELLO, STEPHANIE M		2007 LADERA DR	LINCOLN CA 95648	

**PROPERTY OWNERS WITHIN 500 FEET
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239001153	0012	SINDELAR,PAUL M & M SU	SINDELAR,PAUL M & M SUE TTEES	1844 EASTGATE AVE	UPLAND CA 91784 0000	
239001153	0013	HUMECKY LIVING TRUST	HUMECKY,DANIEL & ANN TRUSTEES	1100 HILLSIDE LN	LOUISVILLE CO 80021	
239001153	0014	NAKAMURA, BLAKE KEN		480 KENOLIO RD 23-102	KIHEI HI 96753 0000	
239001153	0015	BALDWIN,CARRIE MIRIAM		480 KENOLIO RD HOUSE K	KIHEI HI 96753 0000	
239001153	0016	LEWIS,GARY R	C/O PAGAN,DUANE/JAMIE	P O BOX 330302	KAHULUI HI 96733	
239001153	0017	SMITH,GREGORY P		P O BOX 973	HAIKU HI 96708	
239001153	0018	PAUL,ROBERT	PAUL,ROBERT/LUTH, MELISSA	601 MIDDLE RICON RD	SANTA ROSA CA 95409	
239001153	0019	SABIN,IRWIN	C/O SABIN,EMILEE	480 KENOLIO RD #23-201	KIHEI HI 96753	
239001153	0020	ALVARADO,ERIC		480 KENOLIO RD #23-202	KIHEI HI 96753	
239001153	0021	CHENG,KAM YUEN REVC L	C/O CHENG, KAM Y/PO H	460 HILINAI ST	WAILUKU HI 96793 9457	
239001153	0022	HERTZ,RYAN		480 KENOLIO RD #23-204	KIHEI HI 96753	
239001153	0023	HOEFT,RICK A	C/O HOEFT, RICK/ WILLIAMS, DEBORAH	PO BOX 1000	MAKAWAO HI 96768	
239001153	0024	DALE,RICHARD G	C/O CHARLENE K HIWATASHI	55 WAIKA LN #104	WAILUKU HI 96793	
239001153	0025	ALCAIN,ELVIRA GINES		480 KENOLIO RD #24-101	KIHEI HI 96753	
239001153	0026	MAYER,LISA ANN		8927 E MARCI LYNNE WAY	TUCSON AZ 85747 5628	
239001153	0027	PATTERSON,GERRY L.		5642 E AILANTO AVE	PAHRUMP NV 89061	
239001153	0028	JOYCE,ROBERT ARTHUR		1416 BOURET DR	SAN JOSE CA 95118	
239001153	0029	DE FIRMIAN,CHRIS		305 RANCHO DR	VENTURA CA 93003	
239001153	0030	KOHLMEYER,DANIEL KIETI		480 KENOLIO RD #24-202	KIHEI HI 96753 7537	
239001153	0031	SPENCE,CARNEY RAKEST		627 WAINEE ST	LAHAINA HI 96761 0000	
239001153	0032	MARTIN,SUSAN MARIE TR		480 KENOLIO RD #24-204	KIHEI HI 96753 0000	
239001153	0033	SAKUGAWA-SOUZA,LEI A		480 KENOLIO RD 25-101	KIHEI HI 96753 0000	
239001153	0034	SINCLAIR, ROBERT J/JOSE		480 KENOLIO RD 25-102	KIHEI HI 96753 0000	
239001153	0035	KO,DENN		480 KENOLIO RD #25-103	KIHEI HI 96753	
239001153	0036	GO,MANUELITO M		480 KENOLIO RD #25-104	KIHEI HI 96753	
239001153	0037	POWELL, ISABELLA K		480 KENOLIO RD 25-201	KIHEI HI 96753 0000	
239001153	0038	OLSON,DEBORAH TOMOE		480 KENOLIO RD #25-202	KIHEI HI 96753 0000	
239001153	0039	PANA,DANROY M		PO BOX 851	WAILUKU HI 96793	
239001153	0040	WYLAN,ANDREA	C/O JENNIFER K DONABEDIAN	480 KENOLIO RD #25-204	KIHEI HI 96753	
239001153	0041	TAIT,MARSHA JEAN		1016 W PICCADILLY RD	PHOENIX AZ 85013 0000	
239001153	0042	O'HAYER,ALMA PENNA LEY		480 KENOLIO RD 26-102	KIHEI HI 96753 0000	
239001153	0043	CHAMBERS,NANCY LEE		480 KENOLIO RD #26-103	KIHEI HI 96753	
239001153	0044	MOHLER,JULIE A	C/O JULIE KEAN	480 KENOLIO RD, APT# 26- 104	KIHEI HI 96753 0000	
239001153	0045	WASSERMAN,TENNILLE AI		564 KAIOLA ST	KIHEI HI 96753 0000	
239001153	0046	CROSSLEY,TODD A		2874 UALANI PLACE	MAKAWAO HI 96768	
239001153	0047	BLUE SKY HAWAII REAL ES	BLUE SKY HAWAII RE TRUST	1993 S KIHE RD #21-255	KIHEI HI 96753	
239001153	0048	TAIT,CARL E		P O BOX 621	KIHEI HI 96753	
239001153	0049	PERREIRA, KAREN MARIE		480 KENOLIO RD 26-203	KIHEI HI 96753 0000	

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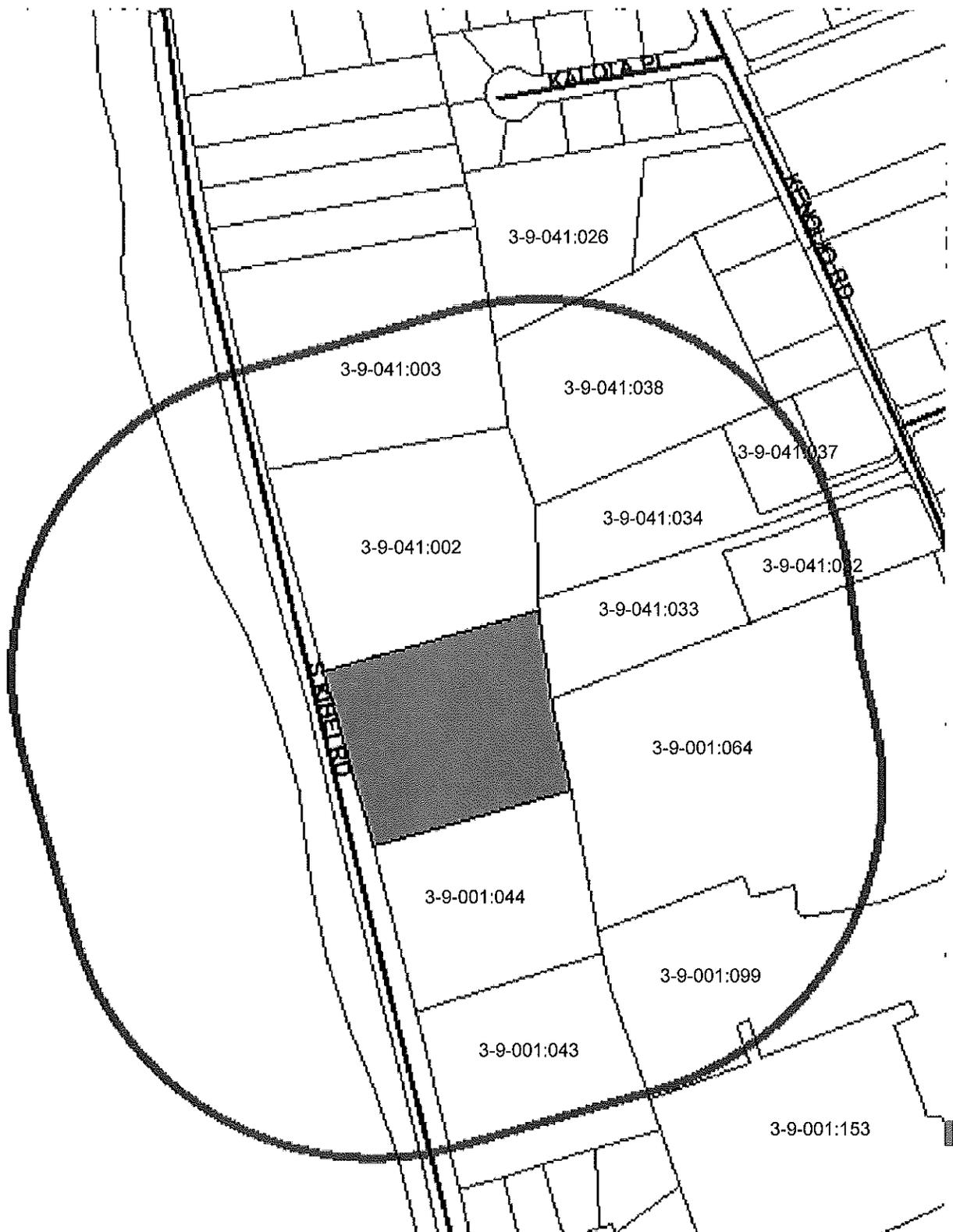
Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001153	0050	DROUT LIVING TRUST	DROUT,REGINALD/SUSAN TTEE	4936 W HARDY RD	TUCSON AZ 85742 0000	
239001153	0051	CALAUSTRO, JOANNE ETA		P O BOX 982	PUUNENE HI 96784 0000	
239001153	0052	PORTMANN, GILBERT J/M/		21933 CARSTENS LAKE RD	KIEL WI 53042 0000	
239001153	0053	MANN,JOHN ALAN		13849 TULSA CT	MAGALIA CA 95954 0000	
239001153	0054	MARRERO,CARLA M		480 KENOLIO RD #27-102	KIHEI HI 96753 0000	
239001153	0055	COVA,ELLA		P O BOX 623	KIHEI HI 96753	
239001153	0056	VALINT-COLLIAS,DENISE		480 KENOLIO RD #27-104	KIHEI HI 96753	
239001153	0057	CRAIG,PAMELA		PO BOX 959	KIHEI HI 96753	
239001153	0058	HITZIG,LAURE		PO BOX 630830	LANAI CITY HI 96763 0830	
239001153	0059	CONNOLLY, BRIAN P/PATR		480 KENOLIO RD 27-203	KIHEI HI 96753 0000	
239001153	0060	LEWIS,MARK E/MARY F TR	C/O GONZALEZ, SEAN/SABRINA	2743 CYPRESS POINT PL	ONTARIO CA 91761	
239001153	0061	SINENCI,FREDERICK NICO		480 KENOLIO RD #28-101	KIHEI HI 96753	
239001153	0062	RUSSELL,LOUISE TRUST	RUSSELL,LOUISE TRS	480 KENOLIO RD #28-102	KIHEI HI 96753 0000	
239001153	0063	ACADEMIA,PAULINE B		480 KENOLIO RD #28-103	KIHEI HI 96753	
239001153	0064	KAIAMA,SALLY N		480 KENOLIO RD APT 28- 104	KIHEI HI 96753 7549	
239001153	0065	QUERRY,BARBARA J	C/O GUZMAN,ALFA VALENSH AGATEP	480 KENOLIO RD #28-105	KIHEI HI 96753	
239001153	0066	PARRELL,HARRY REVOC T		229 LA VERNE AVE	LONG BEACH CA 90803 0000	
239001153	0067	VEGAS, JOSEPH THOMAS		P O BOX 2441	WAILUKU HI 96793 0000	
239001153	0068	OLSSON,ERIC PAUL		P O BOX 2124	KIHEI HI 96753	
239001153	0069	CHUN,JUNG HO		P O BOX 1423	KIHEI HI 96753	
239001153	0070	KIMBROUGH, CHRISTOPHI		480 KENOLIO RD 28-204	KIHEI HI 96753 0000	
239001153	0071	MATOI,ROSS YASUO		480 KENOLIO RD #28-205	KIHEI HI 96753	
239001153	0072	BEER,SUSAN		1993 S KIHEI RD #21	KIHEI HI 96753	
239001153	0073	SIMPSON,KENNETH ALBEF		480 KENOLIO RD, APT 29- 101	KIHEI HI 96753	
239001153	0074	WASSERMAN,BRENDA		1325 S KIHEI RD, STE 102A	KIHEI HI 96753 8145	
239001153	0075	BOECKMAN,ROBERT SHAI		480 KENOLIO RD #29-103	KIHEI HI 96753	
239001153	0076	WASSERMAN,SHANA L.		1325 S KIHEI RD #102A	KIHEI HI 96753	
239001153	0077	HOOPER,KEVIN G		1129 E BIRCHBROOK CIR	MIDVALE UT 84047 0000	
239001153	0078	BASSLER,RICHARD & KAR	C/O RICHARD & KAREN BASSLER TTEE	2745 NW CANYON DR	REDMOND OR 97756	
239001153	0079	KITO,KAREN TOKIE		480 KENOLIO RD #29-203	KIHEI HI 96753	
239001153	0080	PINCOMBE REV LIV TRUST	C/O PINCOMBE,RAYMOND C/JODI	26272 MONTAREZ CIR	MISSION VIEJO CA 92691 0000	
239001153	0081	WOMACK,MICHELLE J Y		480 KENOLIO RD 30-101	KIHEI HI 96753	
239001153	0082	AWEAU,NORMAN TOBY PA		480 KENOLIO RD #30-102	KIHEI HI 96753	
239001153	0083	SUZUKI,DON HIROSHI		PO BOX 880280	PUKALANI HI 96788 0280	
239001153	0084	BENIGNO,THERESA C		P O BOX 1939	KIHEI HI 96753	
239001153	0085	SHIELDS,BEVERLY L	C/O M/M STEPHEN BOROWSKI	480 KENOLIO RD #30-1105	KIHEI HI 96753	
239001153	0086	FLOYD,DAVID A	C/O ORTIZ,FAUSTINO M/M	480 KENOLIO RD #30-106	KIHEI HI 96753	
239001153	0087	LARITA, JETHRO M/DOLOR		480 KENOLIO RD 30-201	KIHEI HI 96753 0000	

**PROPERTY OWNERS WITHIN 500 FEET
OF THE SUBJECT PROPERTY**

Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239001153	0088	LIZADA,PARALUMAN		PO BOX 516	PUUNENE HI 96784	
239001153	0089	HISEY,MICHAEL G		480 KENOLIO RD #30-203	KIHEI HI 96753 0000	
239001153	0090	WILSON,CHARLENE LOUIE		480 KENOLIO RD 30-204	KIHEI HI 96753	
239001153	0091	JENNINGS,ROBERT RUSSI	JENNINGS,ROBERT R/JANET	P O BOX 1028	PUUNENE HI 96784	
239001153	0092	LINDSAY,JAMES MICHAEL		480 KENOLIO RD #30-206	KIHEI HI 96753	
239001153	0093	HOKE, RAYNARD L		P O BOX 62231	HONOLULU HI 96839 0000	
239001153	0093	HOKE,RAYNARD LLOYD		98-1372 KOAHEAHE PL #170	PEARL CITY HI 96782	
239001153	0094	MAGALLON,ANTONIO	C/O MAGALLON,ANTONIO & MINA	963 DELBERT WAY	SAN JOSE CA 95126	
239001153	0095	GASCOIGNE,KATHERINE		480 KENOLIO RD 31-103	KIHEI HI 96753	
239001153	0096	CHAPPELL,SARA		480 KENOLIO RD #31-104	KIHEI HI 96753	
239001153	0097	DUMBLETON TRUST	DUMBLETON,ANNA B	480 KENOLIO RD #31-105	KIHEI HI 96753	
239001153	0098	JACKSON,JOHN HENRY		480 KENOLIO RD #31-106	KIHEI HI 96753 0000	
239001153	0099	DELOS SANTOS,FREDERIC		480 KENOLIO RD #31-201	KIHEI HI 96753	
239001153	0100	MAGALLON,ANTONIO		963 DELBERT WY	SAN JOSE CA 95126	
239001153	0101	LABEAUX,DAMIAN ARMANI	C/O JOHN AKAO ET AL	140 MANINO CIRCLE #102	KIHEI HI 96753	
239001153	0102	OLIVERIO,RICHARD RALPH		480 KENOLIO RD #31-204	KIHEI HI 96753 0000	
239001153	0103	MORGAN,JAMES PAUL		625 JILL DR	GARDNERVILLE NV 89460	
239001153	0104	LLEGO,DUNN ROBIN		P O BOX 63	KIHEI HI 96753 0000	
239041001	0000	KONG,DAVID Y S		455 S KIHEI RD	KIHEI HI 96753 0000	
239041002	0000	KAI MAKANI - CONDO MAS	WS KAI MAKANI, INC. C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0001	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0002	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0003	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0004	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0005	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0006	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0007	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0008	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0009	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0010	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0011	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0012	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0013	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0014	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041002	0015	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	

**PROPERTY OWNERS WITHIN 500 FEET
OF THE SUBJECT PROPERTY**

Parcel ID	CPR	Owner	C/O	Street	CSZ	Country
239041002	0112	WS KAI MAKANI, INC.	C/O MARY & CATHY ASSOCIATES LLC	5690 DTC BOULEVARD STE 280W	ENGLEWOOD CO 80111	
239041032	0000	KALANIKAU,PATRICK		442 KENOLIO RD	KIHEI HI 96753 0000	
239041033	0000	ZEBZDA,MARTIN ANTHON		43 BUENA VISTA TERRACE	SAN FRANCISCO CA 94117 0000	
239041034	0000	ABIERA,LINCOLN W TRUS		432 KENOLIO RD	KIHEI HI 96753 0000	
239041037	0000	DODD,NORMA		135 AKAI ST	KIHEI HI 96753 0000	

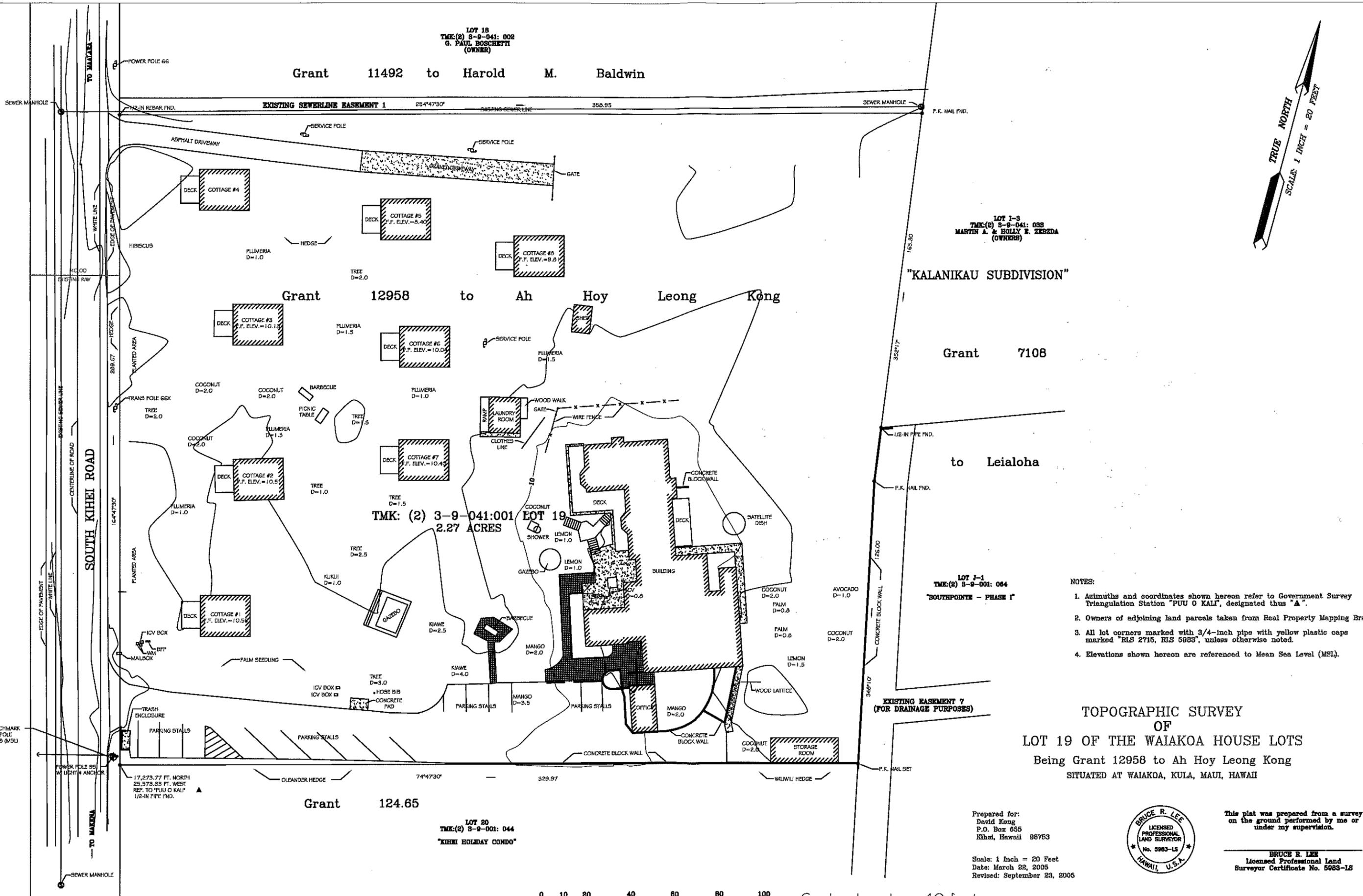


Copyright 2004, County of Maui

0 138.60ft 0 0.03mi

MAP SHOWING PARCELS
WITHIN 500 FEET OF
TMK: (2) 3-9-041:001
Kihei, Maui, Hawaii

APPENDIX D
Survey Map



LOT 18
 TMK(2) 3-9-041: 002
 G. PAUL BOSCHETTI
 (OWNER)
 Grant 11492 to Harold M. Baldwin

Grant 12958 to Ah Hoy Leong Kong

"KALANIKAU SUBDIVISION"

Grant 7108

TMK: (2) 3-9-041:001 LOT 19
 2.27 ACRES

LOT J-1
 TMK(2) 3-9-001: 064
 "SOUTHPOINTE - PHASE I"

- NOTES:
1. Azimuths and coordinates shown hereon refer to Government Survey Triangulation Station "PUU O KALI", designated thus "A".
 2. Owners of adjoining land parcels taken from Real Property Mapping Br.
 3. All lot corners marked with 3/4-inch pipe with yellow plastic caps marked "RLS 2715, RLS 5983", unless otherwise noted.
 4. Elevations shown hereon are referenced to Mean Sea Level (MSL).

TOPOGRAPHIC SURVEY
 OF
 LOT 19 OF THE WAIKOEA HOUSE LOTS
 Being Grant 12958 to Ah Hoy Leong Kong
 SITUATED AT WAIKOEA, KULA, MAUI, HAWAII

Prepared for:
 David Kong
 P.O. Box 655
 Kihel, Hawaii 96753



This plat was prepared from a survey on the ground performed by me or under my supervision.

BRUCE R. LEE
 Licensed Professional Land Surveyor Certificate No. 5983-LS

Scale: 1 Inch = 20 Feet
 Date: March 22, 2005
 Revised: September 23, 2005



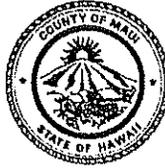
Scale: 1 inch = 40 feet

APPENDIX E
Planning Department Pre-consultation

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 6, 2008

Mr. Thomas D. Welch, Esq.
Mancini, Welch, and Geiger, LLP.
33 Lono Avenue, Suite 470
Kahului, Hawaii 96732

Dear Mr. Welch:

**SUBJECT: NONA LANI COTTAGES LLC TEMPORARY VACATION RENTALS
DAVID Y.S. KONG AND WINONA KONG – NOTICE OF WARNING,
ON TMK: (2) 3-9-041:001, ISSUE OF LEGALITY OF SHORT TERM
RENTAL OPERATIONS (BVA 2007/0011); (EA 2006/0002);
(CPA 2006/0001); AND (CIZ 2006/0001)**

The Department of Planning (Department) has reviewed materials you and your clients have provided to the Department subsequent to your filing, on November 16, 2007, a Notice of Appeal of the Director's October 12, 2007, letter/Notice of Warning. Given a review of this additional information, the Department concurs that under the 1971 "Permanent Ordinances of the County of Maui", the short term rental use of the eight cottages on the subject property was legal if established, as you have stated, upon the completion of their construction in the early 1970s. Such short term rental uses legally operating on lands zoned R, or Residential districts at that time, became permitted, non-conforming uses in 1981 as defined in Maui County Code Section 19.04.040.

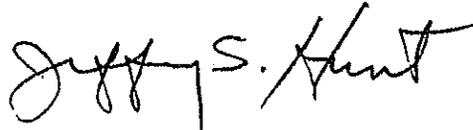
Section 19.500.110 C.2. of the Maui County Code states that "Any nonconforming use that is discontinued for twelve consecutive months shall not be resumed." As your clients have submitted adequate evidence that their short term or transient vacation rental use of the eight cottages on the subject property has been continuous since the use first became non-conforming in 1981, the previous position of the Department as set out in its letters dated on May 25, 2007, August 16, 2007, and October 18, 2007, - that the current use is not permitted - is withdrawn. The Notice of Warning letter dated October 12, 2007, is hereby rescinded as to the eight cottages. The Notice of Warning as to use of the 4 rooms constructed in 1990-91 is not rescinded by this letter.

Mr. Thomas D. Welch, Esq.
March 6, 2008
Page 2

The Department has determined that your clients may continue to operate the eight cottages of the Nona Lani Cottages for transient vacation rentals as long as this use continues to comply with the requirements for non-conforming use as set out in Maui County Code Section 19.500.110C.2.

If you have questions about this letter, please feel free to contact Mr. Jeffrey Dack, Staff Planner, at jeffrey.dack@mauicounty.gov or at 270-6275.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

JSH:JPD:bg

c: Colleen M. Suyama, Deputy Planning Director
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, P.E., Planning Program Administrator, ZAED
Jeffrey P. Dack, AICP, Staff Planner
Trisha Kapua'ala, Staff Planner, ZAED
Mary Blaine Johnston, Deputy Corporation Counsel
Project File
General File
K:\WP_DOCS\PLANNING\EA\2006\0002_NONALANICOTTAGES\FINAL DRAFT WELCH LETTER 03 03 08.DOC

PAUL R. MANCINI*
THOMAS D. WELCH, JR.
JAMES W. GEIGER
PETER A. HOROVITZ

MANCINI, WELCH & GEIGER LLP
A LIMITED LIABILITY LAW PARTNERSHIP

THE KAHULUI BUILDING
33 LONO AVE., SUITE 470
KAHULUI, HAWAII
96732-1681

COUNSEL
ROSALYN LOOMIS

TELEPHONE:
(808) 871-8351

*A LAW CORPORATION

FACSIMILE:
(808) 871-0732

October 24, 2007

Via Hand Delivery:

Jeffrey P. Dack
Staff Planner
County of Maui
200 S. High Street
Wailuku, HI 9693

Jeffrey S. Hunt
Planning Director
County of Maui
200 S. High Street
Wailuku, HI 96793

OCT 24 2007
CHRIS HART & ASSOCIATES
Landscape Architecture & Planning
CC: Raymond 04/1159

Re: Mr. and Mrs. David Kong – Notice of Violation on TMK (2) 3-9-41:1:
Issue of Illegality of Short Term Rental Operations

Dear Jeff Dack and Jeff Hunt:

I have been engaged by Mr. and Mrs. David Kong in connection with the Notice of Violation delivered by Charles Villanon to them on October 17, 2007, citing their operation of the Nona Lani Cottages in Kihei.

I understand that the Notice was served on the Kongs based on Jeff Dack's legal conclusion that the eight cottages on the property should be characterized as a "Motel" under the Maui 1971 zoning ordinance. This is stated in his letter to Chris Hart dated May 25, 2007 (copy enclosed). If they are a "Motel," they are not grandfathered as a nonconforming use. If they are not a "Motel," they are grandfathered.

I respectfully disagree with Jeff's conclusion. For the reasons outlined below we ask that you reconsider this matter and withdraw the Notice of Violation with respect to the eight cottages on the property.

This is of huge importance to the family who has been operating the cottages as their primary business and source of income since they were built in 1972. The prompt resolution of this issue is urgent for them since they have received reservations and deposits for January and February. If they comply with

your Notice of Violation to cease operation by January 1, 2008 their loss of that business and income will be irretrievable.

While we fully understand the County's need to follow the law on transient rentals (particularly in the present public controversy), we strongly believe that the law in this case permits the Kongs to operate the cottages for transient use. I will set forth the analysis below.

1. The eight cottages are permitted structures in 1971 and there is no limitation contained in the 1971 ordinance as to the term of permitted rentals. There is no question that each of these buildings were properly permitted as "Dwellings" in 1971 and 1972 and each cottage clearly met the definition of "Dwelling Units" under Section 8-1.2 of the 1971 zoning ordinance. Also there is no question about the fact that the 1971 zoning ordinance did not regulate rental terms or length of stay with respect to the rental use of dwelling units. The restriction on "transient" rentals does not appear in our ordinance until 1980 (State) and 1981 (County).

2. The only question is: was this a "Motel"? The only way you could argue that short term rental use was not legal in 1972 is if you can interpret Section 8-1.2's definition of "Motel" to mean the buildings and uses on the Kong's property. As stated above, the buildings and uses are legal unless they clearly fall under the "Motel" definition.

Are the cottages a "Motel"? The answer depends in part upon the physical configuration of parking. Under Section 8-1.2 a group of detached dwellings designed for transients is not a "Motel" unless the Units have "garages attached or parking spaces conveniently located to each Unit." The parking on the Kongs' property clearly does not meet this configuration. Most of the parking is crammed into a narrow driveway/parking area along the southerly ten per cent of the land and is not designed or intended to be "conveniently located to each Unit." In fact some of the cottage renters are required to walk (and carry their bags) over 100 feet over walkways and the landscaped yard. The enclosed photos show this.

The absence of "convenient" parking to "each" Unit should definitively dispose of this issue in the Kong's favor. This result would also be consistent with the general intent of the ordinance. The definition of "Motel" is, by its terms, clearly intended to describe an automobile-oriented highway-type facility, "for automobile tourists and transients" in which each guest may drive up to and park at his or her Unit. It describes a structure of the kind generally understood in the continental U.S. as a motel or motor lodge.

The configuration of the Nona Lani Cottages neither resembles a "Motel" or "motor lodge" as normally envisioned or configured nor meets the requirement of an automobile-oriented facility. While parking is closer to some units than others, "each unit" clearly does not have its own attached garage or "conveniently located" parking. Nor does it have a motel office (the Kongs meet arriving guests in their living room), or any of the physical appearance normally understood (in 1972) as a "Motel" or "motor lodge." Nor does it fall into the category of an "auto court," or "tourist court" since it lacks the "court" configuration as defined in the ordinance.

While most Nona Lani guests rent cars for their Hawaii vacation they clearly did not fall within the intended concept of "automobile tourists" or "transients". For 35 years Nona Lani renters have come to the facility as their Hawaii vacation destination, not as a transient stopover on an automobile tour. The word "transient" in 1971 is not defined in the ordinance. The normal meaning in the 1971 ordinance would be understood as "passing through a place with only a brief stay or sojourn." (Webster's 9th Collegiate Dictionary) Nona Lani guests often stayed for weeks, and during winter months, the guests who returned often stayed 1-2 months and continue to do so. In other words, this is a small resort destination and not a place for people who are just passing through in their cars from one place to another.

3. Our Request. For the foregoing reasons we feel that the short term rental use of Nona Lani Cottages was a permitted use, and not prohibited, when the use was started in 1971 and 1972. They have been used the same way consistently for over 35 years, with no cessation or hiatus, and thus fall within the requirements for legal nonconforming use.

Even if one could argue that the definition of "Motel" is unclear or subject to reasonable doubt in its interpretation or its application to these facts, Hawaii law requires the County of Maui to give the Kongs the benefit of the doubt. This is required by the general rule that where there is an uncertainty or ambiguity in a land use law (or its application), the enforcing governmental agency must construe the uncertainty in the landowner's favor. This is also the decent thing to do given this family's operating history.¹

¹ See, e.g. Foster Village Community Association & Hess, 4 Haw.App. 463 (1983). The Court held that a pig was an "accessory use" in the residential zone because its use was not as "livestock" but as a "pet." The Court said, at page 469, that

"If possible, legislative intent should be obtained primarily from the language of the statute.... Zoning laws should be strictly construed, as they are in derogation of common law, and their provisions may not be extended by implication."

See also Waikiki Marketplace v. Zoning Board of Appeals, 86 Haw. 343 (1997) in which the Supreme Court, citing the Foster Village Community Association case, held that an addition to a

October 24, 2007
Jeffrey P. Dack and
Jeffrey S. Hunt, County of Maui
Page 4

Finally, this case is unique and not similar to those other vacation rental operations which are at the heart of the current controversy and enforcement program. The great majority of those situations do not have valid nonconforming uses. Deciding in the Kongs' favor does not create a dangerous precedent.

4. My Recommendations to the Kongs. I understand that 3 of the 4 bedrooms and baths, added to the Kongs' main house in 1990, are being used for short term rentals, in addition to the cottages. Since those facilities would not have been grandfathered as nonconforming uses I have advised the Kongs to stop vacation rental operations with respect to those rooms, not later than January 1, 2008.

I have also advised the Kongs that if they refuse to stop their operations with respect to the eight cottages and if the County seeks to enforce its Notice of Violation as to cottages by injunction, fines or penalties, the Kongs should take all legal actions to oppose such action by litigation based on the foregoing analysis.

Also, please remember that the Kongs have applied for a change in zoning and have been working on that with the County for two years, having filed their amendment application in January of last year. The rezoning is important to them in the long run in order to enable them to properly maintain and replace their facilities when needed. In the meantime, why should the County refuse reasonable accommodation to the needs of this kama`aina family?

Thank you for your consideration. I look forward to hearing from you.

Very truly yours,



Thomas D. Welch

TDW:mz

Enclosures

structure built illegally without a building permit was nevertheless entitled to legal, nonconforming status as a structure which was "previously lawful" under the land use provisions of the Honolulu zoning and land code. The court reasoned that it was a structure allowed by zoning, and the word "lawful" should be strictly construed as meaning lawful as to use, even if unlawful under the building code.

October 24, 2007
Jeffrey P. Dack and
Jeffrey S. Hunt, County of Maui
Page 5

cc: Mr. and Mrs. David Kong
Charles Villanon, Zoning Inspector, County of Maui
Clayton I. Yoshida, AICP, Planning Program Administrator, County of Maui
Aaron Shlnmoto, PE, Planning Program Administrator, County of Maui

bcc: Chris Hart, Chris Hart & Partners, Inc.

CHARMAJNE TAVARES
Mayor
JEFFREY S. HUNT
Director
COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 25, 2007

RECEIVED
MAY 30 2007

CHRIS HART & PARTNERS
Landscape Architecture & Planning
CRaymond
04/15/07

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
1955 Main Street, Suite 200
Wailuku, Hawaii 96793

Dear Mr. Hart:

RE: Comments on Draft Environmental Assessment and Applications for a Community Plan Amendment and Change in Zoning for the site of the existing Nona Lani Cottages Temporary Vacation Rentals located at TMK: 3-9-041: 001, 455 South Kihel Road, Kihel, Island of Maui, Hawaii (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001), and Notification of Expected Zoning Violation

The Maui Planning Department (Department) has reviewed and has additional comments on the January 2007, revised submittal of the Draft Environmental Assessment (DEA) and applications for a Community Plan Amendment (CPA) and Change in Zoning (CIZ) you have provided for the site of the above-referenced development. We will start with comments and discussion about the status of the existing use relative to land use regulations because this will fairly broadly affect the DEA and other submittals and it also includes a notification of an expected zoning violation. This discussion can also generally fall within the context of the need for the submittal to meet the requirements of CIZ application checklist item: "7.b. A report addressing the following: Detailed land use history of the parcel which includes, but is not limited to former and existing State and County land use designations, violations and uses." We will then follow with a few comments on other details of the revised submittal.

After the discussion of the existing land use, the revised application materials for the CPA and CIZ will be addressed below first after the land use discussion, and then the resubmitted DEA will be addressed. We acknowledge all of the revisions made in response to the Department's February 17, 2006, letter of comments upon the original January 2006, CPA and CIZ applications submittal. Unfortunately, the preliminary DEA and the CPA and CIZ applications are still missing some information as discussed below. Based upon this, the Department has determined that the preliminary DEA and the application package does not yet represent an adequately complete package to continue processing of the DEA, and the CPA and CIZ applications at this time. Please prepare and submit two copies of a new, complete DEA and application package booklet incorporating revisions to address the comments below. Or you may also wish to discuss with an appropriate Department representative possible alternative approaches such as just submitting newly modified pages for further Department review.

The Department appreciates the additional information provided in the Land Use discussion of the DEA at Section III.A.1. However, information you have provided is not adequate to establish that the current transient use is legal non-conforming. Because it is still relevant, the associated comment from the Department's February 17, 2006, comment letter is repeated here: "The submittal provides some of [the] relevant the land use and permit history for the existing uses. However, please prepare and submit a history of building permits, plan designations and relevant allowed uses, as well as also zoning designations and relevant allowed uses. The current temporary vacation rental (TVR) use is not a permitted use under the present zoning. However, if you believe this use to be legal non-conforming, please submit the rationale and documentation for this, particularly including what the original uses of the structures were, substantiation of when the TVR use commenced, that it was permitted under zoning and any applicable plan designations at the time the use commenced, and that it was not discontinued for a year nor changed during the time when it was not a permitted use."

The present transient use of the property is not permitted within the current R-2 Residential zoning district applicable to the site. This was also not a permitted use within the Residential District when the first cottages were built in 1972. Please disclose in the Draft EA that the four 1972 building permits for identical structures read "To be occupied as Cottage", that the four 1973 permits for four more structures identical to the 1972 permits read "To be occupied as Single Family Dwelling" after "Cottage" was first typed in and then crossed out, and that the 1990 building permit reads "To be occupied as residence" with "Remarks: Four bedrooms/four baths/two lanais/sitting room/deck."

Additional information and/or analysis will be necessary to establish that the present transient use is a legally existing non-conforming use. In this light, please provide the following: 1) When did the transient (as opposed to long-term rental) use of each of the 1972 units, the 1973 units, and the four 1990 extra bedrooms/bath first commence? If it was at the completion of their construction, please confirm this; 2) Was the site's zoning designation anything other than R-2 at these times, and if so what was it at these times?; and 3) How did the associated regulations applicable at these various times legally allow the commencement of the transient uses?

Unless you can establish that the zoning of the property was some designation other than the R-2 Residential District when some or all of the transient uses were established, the following regulatory history and conclusion applies to the subject site, its development and use. Since before the construction of the first cottages on the site in 1972, the County of Maui's (as well as most other jurisdictions') Zoning Ordinance has been structured such that unless a use is permitted by the ordinance, it is instead not allowed. Section 8-1.4(b)(1) of "The Comprehensive Zoning Ordinance for the County of Maui" from the "Permanent Ordinances of the County of Maui 1971" (1971 Zoning Ordinance) lists "Single family dwellings" as one of the "permitted uses" within the "Residential Districts". Section 8-1.2 of the 1971 Zoning Ordinance defines "Dwelling - A building or portion thereof designed exclusively for residential occupancy but not including hotels, tenements, boarding or lodging house as defined herein".

It appears that if, as is stated in the revised application materials, the units were immediately used for transient use at the time of their construction, this use would most likely have fallen with the 1971 definition of "Motel - A group of attached or detached buildings containing dwelling units or apartments, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto court or motor lodge." Such motels were allowed in the Apartment District, but not the Residential District.

Under the current zoning ordinance, now called "the Comprehensive Ordinance", "Single family dwellings" are still listed as one of the "permitted uses" within the "Residential Districts". Although in 1971 the zoning ordinance just defined "Dwelling", the current ordinance includes the following definition for "Dwelling, single-family 'Single-family dwelling unit' means a building consisting of only one dwelling unit designed for or occupied exclusively by one family" and it defines "'Dwelling unit' means a room or group of rooms connected together constituting an independent housekeeping unit for family and containing a single kitchen." Then it defines "'Family' means an individual living alone or a group of two or more persons related by blood or marriage and their legal issue living together as a single housekeeping unit in a dwelling unit and in which two boarders, unrelated by blood may be living on a long-term residential basis. A family may also be defined as no more than five unrelated persons living together as a single housekeeping unit. In addition, eight or fewer persons who reside in residential facilities monitored and/or licensed by the state pursuant to chapter 46-15.3 of the Hawaii Revised Statutes shall constitute a family. Resident managers, supervisors or operator and operator's family shall not be included in the resident count."

The use on the site now falls within the following current definition of 'Hotel' or 'motel' means a transient vacation rental, other than a bed and breakfast home containing lodging or dwelling units." This is in part because "Transient vacation rentals or use' means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred and eighty days." Motels are no longer allowed within the Apartment District, but Hotels are allowed within the Hotel District.

Unless you can provide evidence to the contrary, we must conclude that the transient vacation rental use was not permitted when you indicate it was established, and it is not permitted now. We are not aware of any time during the interim when this use was an allowed use on this site. We do not yet see adequate support for your contention that the use is a legal non-conforming use. However, you are certainly welcome to provide adequate support if this is possible.

If you can not establish that the present transient use commenced legally, we must proceed with the understanding that it was instead established illegally, whether or not the applicant was aware of this at the time. In this case, the current TVR use will therefore constitute a zoning violation. Although violations are normally subject to immediate abatement through zoning enforcement procedures, this current development can temporarily take advantage of a County policy regarding TVRs which was in place at the time the CIZ and CPA applications were made. This is that the County was temporarily holding in abeyance zoning enforcement against TVRs not operating legally within the context of land use requirements, but which had prior to February 13, 2007, made substantially complete applications which would make them legal uses within the context of land use regulations if the application(s) were to ultimately be approved. Therefore, unless you can somehow conclusively demonstrate that the current TVR uses were established and remain in legal operation today within the context of land use regulations, the TVR use will have a limited grace period during which enforcement proceedings will not be carried out. However, this grace period is anticipated to be of only a few months duration and then the TVR use and operations will be expected to have ceased unless and until they can be carried out in full compliance with the land use regulations then applicable to the site.

Mr. Christopher L. Hart, ASLA
May 25, 2007
Page 4

For the purposes of the application materials and the Draft EA, the baseline use(s) of the property for analysis within the application materials and Draft EA needs to include a use or set of uses which is/are currently legally permissible. If you can not establish that the present transient use is in legal operation under land use regulations, a use or set of uses which is/are currently legally permissible, such as long term rentals (those of over 180 days), will need to be included in the application materials and Draft EA as an additional or substitute baseline. The impacts of proposed changes from a legal baseline use must then be addressed. In this case, the project description of the Draft EA would need to be amended to recognize the legal establishment of the TVR uses as a fundamental part of the proposed project, in addition to the requested CIZ and CPA amendments. The environmental assessment must then address the impacts of the establishment of the TVR use compared to a legal baseline, much as if the legal baseline were the current use and the TVR use was just now being proposed.

Furthermore, if you can not establish that the present transient use is in legal operation under applicable land use regulations, the application package must include all land use applications, the approval of which would be necessary to legally establish the desired use on the site if the requested CIZ and CPA are ultimately granted. This would include at least an SMA Assessment application. If your applicant needs and wishes to establish the current use as a legal use in the Hotel District, you should analyze the consistency of the site development with standards of development applicable to that use in that District, and include within a revised project description any site or building modifications and/or identification of additional land use applications(s) and permitting needed to legally establish the use.

Other comments

The CPA and CIZ application packages include checklists entitled, respectively, "COMMUNITY PLAN AMENDMENT REQUIRED SUBMITTALS" and "GENERAL SUBMITTAL REQUIREMENTS". These other comments below are provided in the order of the items on the CPA checklist, and then on the CIZ checklist. As with the Department's February 17, 2006, letter of comments, where a checklist item is not listed below the submittal was adequate or the item was inapplicable.

CPA 4. Original and one (1) copy of the policies and objectives of the general plan applicable to the application and an analysis as to conformance to these policies and objectives.

Comment: The January 26, 2007, response letter states that Subchapter IV.B. has been revised to address the "Housing and Urban Design" section of the General Plan. However, we do not see this. When this is done, please be sure that the proposed change from a legal baseline use of the site is analyzed for consistency with the Housing and Urban Design Section. Should a legal baseline include use of the cottages for long-term rentals, such a baseline would seem likely to support well the Housing Objectives within the General Plan, and it would need to be demonstrated how and why a change from such a baseline would be in "conformance to these policies and objectives." A similar treatment should be provided for the relationship of the proposed action to the Housing policies within the Kihei-Makena Community Plan.

CIZ 7.a. A report addressing the following: Policies and objectives of the General Plan; the provisions of the community plan applicable to the application; the provisions of the applicable district; and an analysis of the extent to which the application, if granted, conforms to these provisions, objectives and provisions.

Comment: Please address how the current site development conforms to the development standards of the proposed new Hotel District zoning for the site.

CIZ 7.d. Analysis of the secondary impacts of the proposed use on surrounding uses which includes, but is not limited to increases in property value, property, housing, community services and facility needs, secondary jobs and employment generated and compatibility with surrounding uses. If applicable, affordable housing program and comments from the Department of Housing and Human Concerns of the County and other mitigation plans and comments from the respective governmental and community service agencies.

Comment: If the current transient use is not established as a legally existing nonconforming use, please address if, and if so how, the establishment of a legal transient use under the Hotel District, or the re-establishment of a legal use under the present R-2 District, would trigger the application of the Residential Workforce Housing Policy. In this eventuality, please also address how the establishment of a legal transient use within the Hotel District would affect the project site's contribution to the supply of long-term rental housing in the area if its current legal use was as long-term rentals.

CIZ 13. Notarized Affidavit of Mailing of Notice and Application (Attachment B)

Comment: This obligation is to be fulfilled at the time of submission of an application, not at the time of acceptance of an application as complete. The application can not be considered complete for agency review and further processing unless and until the mailing of the Notice and Application has been successfully carried out and the notarized affidavit submitted.

We acknowledge the revisions made in response to the Department's February 17, 2006, pre-consultation comments upon the original January 2006, submittal. Given the need addressed above for the CPA and CIZ application materials to be supplemented, we are providing further pre-consultation comments in association with further needed application revisions.

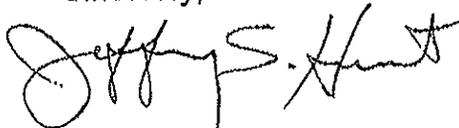
1. Please update the "Contact" under Section I.E. Accepting Authority to be: "Jeffrey S. Hunt, AICP";
2. If you can not establish that the present transient use commenced legally, a proposal for the legal establishment of transient use would be subject to all applicable rules and regulations including, but not limited to, the SMA Rules of the Maui Planning Commission and the County Building Code. In such an eventuality, please list within Section I.G. the additional permits which would be necessary for such legal establishment;

3. The text of the "No Action" alternative in Section I.E.1. appears to include an acknowledgment that the maintenance of "the current inconsistencies between the zoning and community plan designations and the existing use" "would 'technically' prohibit the existing transient vacation rental use of the property". Resolution of a use's inconsistency with a community plan and zoning does is certainly desirable. However, it may not be required for an existing use unless such inconsistency was created when required permitting and laws were not followed. Unless it can be established that the existing transient use is a legal use, since the "no action" alternative in the DEA is for "no action" on the requested CPA and CIZ, such alternative would more appropriately involve a legal use of the site which the owners would have in effect in the absence of approval of the requested CPA and CIZ; and
4. Please note that the Department's concurrence with the final two sentences in the Section VI. Findings and Conclusions is dependent upon satisfactory resolution of the other comments in this letter.

Thank you for the opportunity to comment. The Department appreciates your anticipated responsiveness to the above comments as we work together on your requests. When comments have been satisfactorily resolved, the Department will work with you further to commence upon the transmission of a final Draft EA to the Office of Environmental Quality Control (OEQC), and to other agencies and the Maui Planning Commission for their comments.

If you have any questions about the comments in this letter or desire any clarifications about the amendment request review or DEA process, please feel free to contact Mr. Jeffrey Dack, Staff Planner, at jeffrey.dack@co.maui.hi.us, or at 270-6275.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

JSH:JPD:bg

c: Colleen M. Suyama, Deputy Planning Director
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, P.E., Planning Program Administrator, ZAED
Jeffrey P. Dack, AICP, Staff Planner
CPA/CIZ Project File
EA Project File
General File
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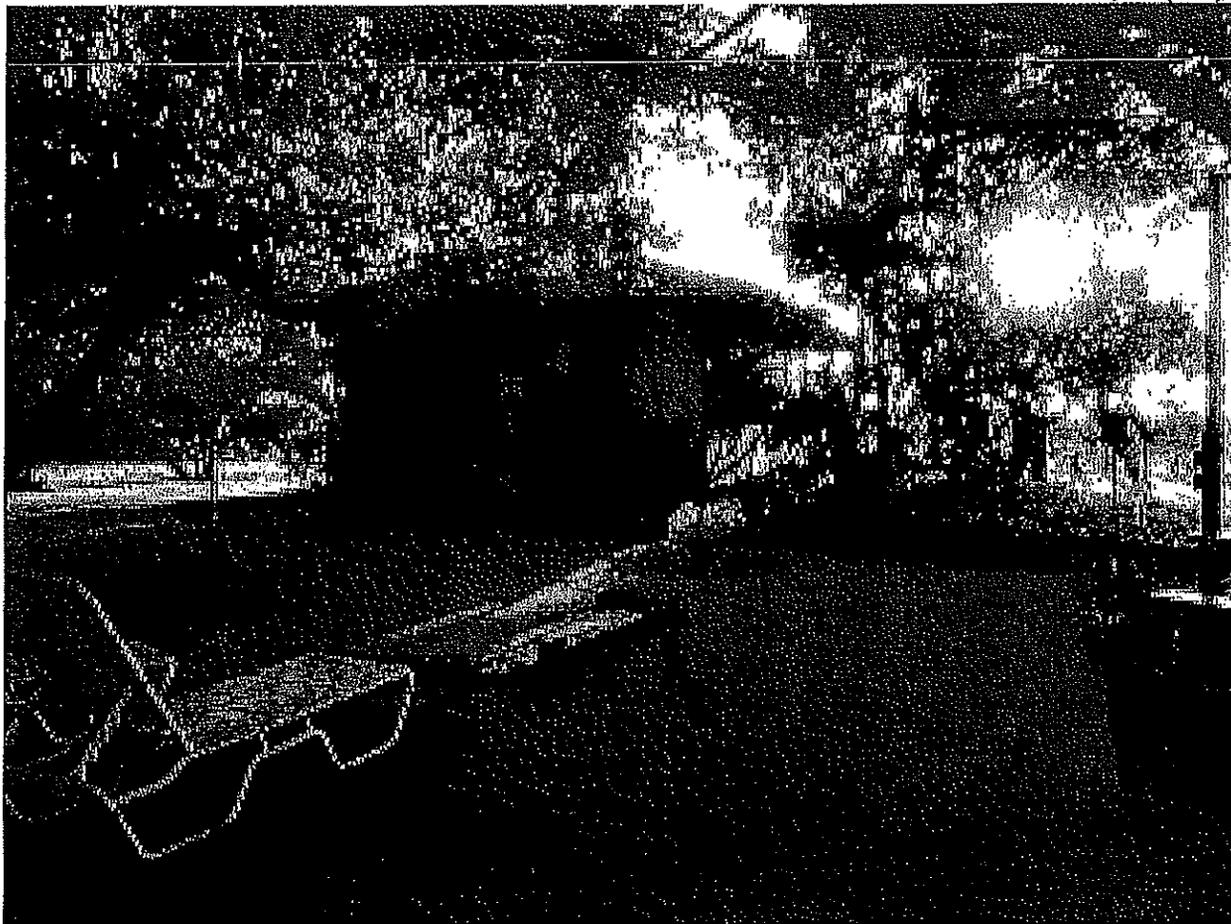
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(6)



CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 12, 2007

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED
#7005 3110 0002 6290 7780

Mr. David Kong
Nona Lani Cottages, LLC
Post Office Box 655
Kihei, Hawaii 96753

Dear Mr. Kong:

**SUBJECT: COMMUNITY PLAN AMENDMENT/CHANGE IN ZONING
APPLICATION(S) FOR A TRANSIENT VACATION
RENTAL AND NOTICE OF WARNING**

The Maui Planning Department (Department) is in receipt of the following applications:

Project Name:	Nona Lani Cottages
ID Nos:	CPA 2006/0001, CIZ 2006/0001
TMK:	3-9-041:001
No. of Rooms:	12
Lot Size:	2.27 acres
Date Received:	January 18, 2006
State Land Use District:	Urban
Community Plan Region:	Kihei-Makona
Zoning District:	R-2 Residential

As the applications were received by the Department prior to February 12, 2007, the transient vacation rental currently in operation will be provided a grace period but is still required to cease operation by January 1, 2008.

Please be advised that this letter also represents a Notice of Warning for the transient vacation rental use on the property. A copy of this letter is being forwarded to the Department's Zoning Administration and Enforcement Division.

Mr. David Kong
October 12, 2007
Page 2

Should you require further clarification on your applications, please contact Jeffrey P. Dack, AICP, of the Planning department by email at jeffrey.dack@mauicounty.gov or by phone at 270-6275. For enforcement questions, please contact Charles Villalon of the Zoning Administration and Enforcement Division by email at charles.villalon@mauicounty.gov or by phone at 270-5277.

Sincerely,



JEFFERY S. HUNT, AICP
Planning Director

xc: Raymond Cabebe, Chris Hart and Partners
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator (2)
Charles Villalon, Zoning Inspector
Jeffrey P. Dack, AICP, Staff Planner

JSH:JPD:bv

Project Folder
General Folder
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CHRIS
HART
& PARTNERS INC.

'07 NOV -7 P3:47

November 7, 2007

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

Attention: Mr. Jeffrey Dack

Dear Mr. Hunt:

Re: Draft Environmental Assessment in support of Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001)

Thank you for your letter dated October 18, 2007 regarding the Draft Environmental Assessment (EA) and applications for Community Plan Amendment and Change in Zoning for the subject project.

Based on our September 28, 2007 letter to you, we concluded that the existing Nona Lani Cottages, as a transient vacation rental (TVR), is an existing and nonconforming use. We acknowledge that the Department, on the contrary, concludes that the TVR use on the property "was not at any time a permitted use". There are only two instances within the Draft EA where it is argued that the use is "existing and nonconforming" (pages 7 & 9). A note has been added on those pages to state the Department's conclusion. In addition, on Page 3, we state that the Department does not recognize the Nona Lani Cottages as an existing and nonconforming use, and therefore the Department does not agree that major approvals are limited to a Community Plan Amendment and a Change in Zoning. We hope that these changes allay your fears that reviewers may overlook the conflicting conclusions.

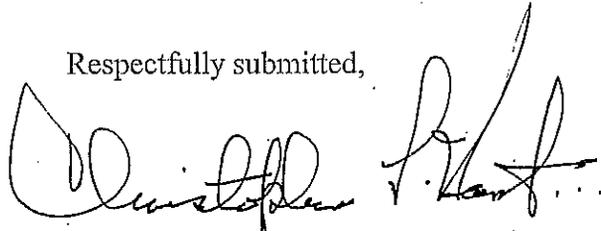
In consideration of the foregoing, we are resubmitting one (1) complete document for your review. Please advise us on the number of additional copies required for agency review. If you have any questions regarding the above, please do not hesitate to call.

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

Mr. Jeffrey S. Hunt, Planning Director
RE: Draft Environmental Assessment for the Nona Lani Cottages
November 7, 2007
Page 2

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher L. Hart". The signature is fluid and cursive, with a large initial "C" and a long horizontal stroke at the end.

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

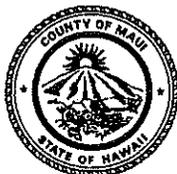
CLH:rrc

c: Ms. Cherlyn Kong
Mr. David Kong
Ms. Colleen Suyama
Mr. Clayton Yoshida
Mr. Tom Welch

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 18, 2007

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: DRAFT REVISED JUNE 2007 DRAFT ENVIRONMENTAL ASSESSMENT IN SUPPORT OF APPLICATIONS FOR A COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR THE SITE OF THE EXISTING NONA LANI COTTAGES TEMPORARY VACATION RENTALS LOCATED AT 455 SOUTH KIHEI ROAD, KIHEI, ISLAND OF MAUI, HAWAII, TMK: 3-9-041:001 (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

The Maui Department of Planning (Department) has received your letter dated September 28, 2007, responding to the Department's comment letter dated August 16, 2007. We respectfully disagree with the conclusions in your letter. As stated in our comment letters dated May 25, 2007, and August 16, 2007, the Department has concluded that the transient use of the subject property was not at any time a legally permitted use, and that it therefore cannot benefit from the status of a (legal) "nonconforming use" within the meaning of Title 19 of the Maui County Code. It also could not have therefore taken advantage of the State and County actions affecting otherwise legally operating transient vacation rental uses as listed in your letter.

The Department is concerned that in order for the proposal to benefit from a proper and valid environmental and project review, it must be clear to the parties reviewing a Draft Environmental Assessment (DEA) that the Department of Planning has concluded that the existing use was not ever a legally operating use under the Maui Zoning Ordinance. Although this would be evident to parties thoroughly reviewing the Department's letters attached to the DEA, we fear that most reviewers would not be likely to dig so deeply into the appendices to a DEA as necessary to discover this. We therefore ask that, even though you and the Department continue to disagree as to the legal status of the existing use, you revise the DEA to clearly report the Department's conclusion in this regards alongside the various points in the document where you refer to the use as "nonconforming" or otherwise comment upon your opinion as to its legal status. This clear disclosure is critical to a valid review by agencies and possibly other reviewers. In this same light, please also disclose on page three (3) that, although you may disagree, it is the Department's conclusion that an SMA Assessment is required.

In light of your request for the Department to expedite the "opportunity to present this project to the Maui Planning Commission for their input," please prepare the modest text changes to accomplish the disclosures requested above and submit just the modified

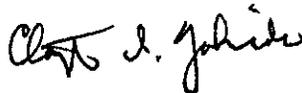
Mr. Christopher L. Hart, ASLA
October 18, 2007
Page 2

pages of the Draft Revised June 2007 Draft Environmental Assessment for the Department's review. This submittal may be by any means you find most expeditious. We hope to then agree with you that the modified document is adequate for publication and review as a Draft Environmental Assessment.

Thank you for the opportunity to comment. The Department appreciates your anticipated responsiveness to the above comments as we work together on your requests.

If you have any questions about the comments in this letter or desire any clarifications about the amendment request review or DEA process, please feel free to contact Staff Planner Jeffrey Dack by email jeffrey.dack@mauicounty.gov or by phone at 270-6275.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

xc: Colleen M. Suyama, Deputy Planning Director
Aaron H. Shinmoto, PE, Planning Program Administrator, ZAED (2)
Jeffrey P. Dack, AICP, Staff Planner

CIS:JPD:bv

CPA/CIZ Project File
EA Project File
General File

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CHRIS
HART
& PARTNERS INC.

'07 SEP 28 P1:55

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

September 28, 2007

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

Attention: Mr. Jeffrey Dack

Dear Mr. Hunt:

Re: Draft Environmental Assessment in support of Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your letter dated August 16, 2007 regarding the Draft Environmental Assessment and applications for Community Plan Amendment and Change in Zoning for the subject project.

As we acknowledged previously, the existing Nona Lani Cottages, operating as transient vacation rentals (TVR), is not a permitted use within the R-2 Residential District, however here are pertinent facts that support the rationale that the existing use is "nonconforming":

1. On May 20, 1980, the State of Hawaii adopted HRS 514E:5 which prohibits vacation rentals (leases less than 30 days) and timeshares state-wide in all counties, except areas zoned hotel. The statute also authorized counties to adopt zoning ordinances to broaden or narrow the applicable physical area of restriction. Paragraph (1) of HRS 514E:5 "grandfathers" existing TVRs:
Existing time share units, time share plans, and transient vacation rentals are not impaired by the provisions of this section.
2. Effective on April 20, 1981, the County of Maui passed Ordinance No. 1134 which made TVRs more restrictive by redefining it as 180 days, however TVR use on the subject property is typically less than 30 days.
3. County of Maui Ordinance No. 1989 (1991) restricts TVR use only to properties in the hotel district, however the ordinance also "grandfathers" timeshares and TVRs "which were operating pursuant to and under law ... as of the effective date of the ordinance codified in this section ...".

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

Therefore, since the TVR use on the property began in 1973 and has been continuously operated as such since, the Nona Lani Cottages operating as a TVR in the residential district is an existing and nonconforming use.

In regards to your DEA Comments:

Page 3

In light of the above analysis, our position is that the current TVR use does have legal standing, therefore an SMA Assessment is not required.

Pages 23 & 26

The analyses of "Housing and Urban Design" of the General Plan and the Kihei-Makena Community Plan are highlighted on pages 23 and 26, respectively. Given the historical use and our position on the legality of the existing use, we feel that the conclusions are accurate. If you feel that they are not, then it is your prerogative to state that in your staff report and let the accepting agency, the Maui Planning Commission, decide whether the conclusions are accurate.

Page 29

The proposed action does not propose any additional units, and therefore will not trigger the Residential Workforce Housing Policy (Chapter 2.96, Maui County Code). While we recognize the prominence of affordable housing in the public consciousness, we do not feel that the insignificant number of existing units in this project, which have been used as vacation rentals for the last 34 years, could "substantially affect the economic or social welfare of the community or state." If and when any development on the property that triggers Chapter 2.96 is proposed, the applicant will comply with its applicable requirements.

The environmental review process provides several opportunities to refine the document before being ultimately reviewed by the Maui County Council. We look forward to your cooperation in expediting our opportunity to present this project to the Maui Planning Commission for their input. If you have any questions regarding the above, please do not hesitate to call.

Respectfully submitted,



for Christopher L. Hart, ASLA
President
Landscape Architect - Planner

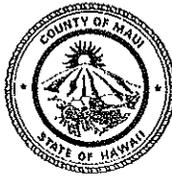
CLH:rrc

c: Ms. Cherlyn Kong
Ms. Colleen Suyama
Mr. Clayton Yoshida

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



RECEIVED

AUG 27 2007

CHRIS HART & PARTNERS
Landscape Architecture & Planning

cc: Raymond
04/159

COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 16, 2007

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
115 N. Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

RE: Comments on Draft Revised June 2007 Draft Environmental Assessment in Support of Applications for a Community Plan Amendment and Change in Zoning for the Site of the Existing Nona Lani Cottages Temporary Vacation Rentals Located at TMK: 3-9-041:001, 455 South Kihei Road, Kihei, Island of Maui, Hawaii (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

The Maui Department of Planning (Department) has reviewed, and has the following limited additional comments on the June 2007, revised submittal of the Draft Environmental Assessment (draft Revised DEA) you have provided in support of applications for a Community Plan Amendment (CPA) and Change in Zoning (CIZ) for the above-referenced site.

We acknowledge all of the revisions made in response to the Department's May 25, 2007, letter of comments on the draft Revised DEA. For all but the final comment below, please prepare and submit two copies of proposed revisions to the draft Revised DEA. When these are resolved we hope to commence the transmission and review process for the DEA.

General Comment

The text of the draft Revised DEA refers to the current transient vacation rental use on the site variously as "existing and nonconforming" or "existing non-conforming" (p. 7, 8, et al). Please note that Maui County Zoning Ordinance Section 19.04.040 provides the following definition: "Nonconforming uses" means any use of a structure or zoning lot which was previously lawful but which does not conform to the applicable use regulations of the district in which it is located, either on the effective date of the ordinance codified in this article or as a result of any subsequent amendment." However, you have acknowledged "that the existing Nona Lani Cottages, operating as transient vacation rentals, is not a permitted use within the R-2 Residential District" and "the intent of the application is to correct past non-conformities." Given the Zoning Ordinance's use of the term "nonconforming" as referring to "any use... which was previously lawful", the draft Revised DEA's use of this term to refer to the existing site use is, at best, confusing and may, to some persons, be misleading. Please do not use the term as applying to the existing site use, or at least clarify that the term's use is not intended to imply that the existing site land use was ever "previously lawful."

DEA Comments

P.3 Section I.G. - Although It may not involve a "Major Land Use... Approval", to establish the current site land use as a legal use will involve a change in use because, from a technical standpoint at least, the current use does not have a legal standing as an existing use and so must be established as a legal use. A Special Management Area Assessment application will be required for this.

P.23 Section IV.B. and
P.26 Section IV.C.

In both Section III.A. Physical Environment and Section III.B Socio-Economic Environment you have accepted one of the suggestions from the Department's May 25, 2007, letter by "Using the 'legal baseline' of long term residential use". We note that the May 25, 2007, letter stated: "The January 26, 2007, response letter states that Subchapter IV.B. has been revised to address the 'Housing and Urban Design' section of the General Plan. However, we do not see this. When this is done, please be sure that the proposed change from a legal baseline use of the site is analyzed for consistency with the Housing and Urban Design Section. Should a legal baseline include use of the cottages for long-term rentals, such a baseline would seem likely to support well the Housing Objectives within the General Plan, and it would need to be demonstrated how and why a change from such a baseline would be in 'conformance to these policies and objectives.' A similar treatment should be provided for the relationship of the proposed action to the Housing policies within the Kihei-Makena Community Plan."

The brief "Analysis" section on page 23 of the draft Revised DEA regarding the "Housing and Urban Design" section of the General Plan states that "However, the Nona Lani Cottages is operated as a transient vacation rental, which is currently not a permitted use." It then concludes that "Therefore, these objectives do not apply". Similarly, The "Analysis" section on page 26 of the draft Revised DEA regarding the "Housing and Urban Design" section of the Kihei-Makena Community Plan states that "however, the Nona Lani Cottages is operated as a transient vacation rental, which would not currently be a permitted use." It then concludes that "Therefore, the goal of providing affordable homes does not apply." We do not believe that either conclusion is accurate. The draft Revised DEA at its page 6 now acknowledges that under the "no action" alternative "The applicant would have to cease operating as a transient vacation rental business and convert to a rental business that would comply with allowable uses within the R-2 Residential District." Since this "no action" alternative would support the General Plan Housing objectives listed in Section IV.B. and also very likely the Community Plan goal of providing affordable housing, but the proposed action would not, the General Plan objectives and Community Plan goal are applicable and their attainment would be impacted by the proposed action, particularly compared to the "no action" alternative.

P.29 Section V.F. - As discussed above, the proposed action is anticipated to impact the attainment of the General Plan and Community Plan objectives and goals to "provide a choice" or "a variety" "of attractive, sanitary and affordable homes" for residents, particularly compared to the "no action" alternative. Given the current prominence of affordable housing as an important area of public policy endeavors,

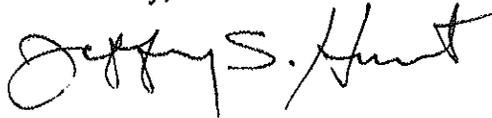
Mr. Christopher L. Hart, ASLA
August 16, 2007
Page 3

this may rise to the level of significance under Chapter 343 as an impact which "substantially affects the economic or social welfare of the community or state." The Department will look forward to comments from the public and agencies on the Draft EA in arriving at a recommendation to the Maui Planning Commission in this regards.

Thank you for the opportunity to comment. The Department appreciates your anticipated responsiveness to the above comments as we work together on your requests.

If you have any questions about the comments in this letter or desire any clarifications about the amendment request review or DEA process, please feel free to contact Mr. Jeffrey Dack, Staff Planner, by email jeffrey.dack@mauicounty.gov or by phone at 270-6275.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

JSH:JPD:nt

c: Colleen M. Suyama, Deputy Planning Director
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator, ZAED (2)
Jeffrey P. Dack, AICP, Staff Planner
CPA/CIZ Project File
EA Project File
General File
K:\WP_DOCS\PLANNING\EA\2006\0002_NonaLaniCottages\App&EA_ReviewComments8-07.wpd



CHRIS
HART
& PARTNERS INC.

'07 JUN 21 P2 26

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

June 21, 2007

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

Attention: Mr. Jeffrey Dack

Dear Mr. Hunt:

Re: Draft Environmental Assessment in support of Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001)

Thank you for your letter dated May 25, 2007 regarding the Draft Environmental Assessment and applications for Community Plan Amendment and Change in Zoning for the subject project. A meeting with Mr. Jeffrey Dack, Ms. Colleen Suyama, Mr. Clayton Yoshida, Mr. Raymond Cabebe, Ms. Cherlyn Kong, and myself was held on June 6, 2007 and the responses also reflect the discussion at that meeting. We would like to state up front that the existing Nona Lani Cottages, operating as transient vacation rentals, is not a permitted use within the R-2 Residential District and we have never contended that it was. These are the relevant facts:

1. The units were used as short-term rentals as soon as they were constructed in 1972 & 1973.
2. The zoning in 1972 was R-2 Residential (7,500 s.f. minimum lot size).
3. The regulations at the time did not define transient vacation rental uses. SMA rules did not exist and building permits to construct the structures were obtained by complying with all applicable regulations.

The intent of the applicant is to correct past non-conformities and make the existing use permitted within the (H-1) Hotel District. We have provided all requested additional information and revisions as noted here and highlighted in the attached draft. The following responses also address other issues and omissions:

Building permit notation disclosures. The current Maui County Code includes in its definition of "Subdivision" (§18.04.470) that *the construction of four or more dwelling units on a lot, parcel, or site shall be subject to the provisions of this title (Title 18, Subdivisions), however: The Permanent Ordinances of the County of Maui*

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

1971 in effect at that time did not include that definition. Both the current and 1971 Comprehensive Zoning Ordinance allowed a single family dwelling at a rate of one dwelling for every 7,500 square feet within (R-2) Residential District zoning. The subject property has an area of 2.27 acres (98,881 square feet) which would allow a maximum of thirteen (13) dwellings to be constructed.

Regulatory history. A definition of "cottage" does not exist in either versions of the County Code. The cottages were designed as dwellings and did not fall into the definitions for hotel, tenements, boarding, or lodging house. All structures on the property have been permitted according to regulations in effect at the time of construction.

Motel Use. We acknowledge that the existing use is most closely compatible with the definition for "motel" in the 1971 Ordinances. The 1985 revision to the Kihei-Makena Community Plan designated the parcel as Multi-family use in order to establish consistency with the existing use since "motel" use was an allowable use within the Apartment district at that time. In 1989, "motel" use was deleted from the Apartment district.

Transient vacation rental. When the short-term use was established on the property, the County did not have a definition for "transient vacation rental" (TVR). Please note that the current use was established 34 years ago and no violation citation has ever been filed against the property owner. The current applications were submitted in January, 2006 for the purpose of bringing the historical use into conformance.

Baseline use. Although using a "legal baseline" is not rooted in historical reality, a comparison is provided in conjunction with the existing use. The "legal baseline" to be used is "long term residential" use (longer than 180 days) which is allowable in both Residential and Apartment districts. Being that this is a "legal" scenario and not the "actual", the impacts of the requested Community Plan Amendment (CPA) and Change in Zoning (CIZ) to Hotel use are more accurately reflected in comparisons to the existing and nonconforming use, and would be more relevant than the hypothetical scenario because the guest cottages are 396 square feet and not necessarily conducive to "long term residential" use. The proposed actions (CPA & CIZ) within the Special Management Area (SMA) could potentially allow a "change in density", but the entitlement actions do not cause it. Therefore, an SMA Assessment application would not be necessary. The applicant will comply with all SMA and building requirements, if and when further development of the property is proposed.

CPA 4. An analysis of the "Housing and Urban Design" sections of the General Plan and Kihei-Community Plan is provided (See: IV.B & IV.C).

CIZ 7.a. An analysis of conformance of the current site to Hotel District zoning is provided (See: IV.D).

CIZ 7.d. Although the existing use is existing and nonconforming, the proposed entitlement action does not trigger compliance with the Residential Workforce Housing Policy since no new units are being proposed or constructed. In any case, the existing structures would be exempt since building permit applications for the structures were submitted prior to the effective date of Chapter 2.96. Since the project site does not currently provide long-term rentals it would be irrelevant to address the effects of the proposed actions on the supply of long-term rentals.

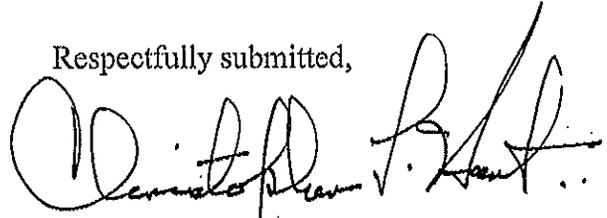
CIZ 13. The notices of application will be sent out to owners and lessees of properties within 500 feet of the subject property. A notarized affidavit of mailing will be provided.

Additional revisions:

1. The Accepting Authority Contact will be updated.
2. The necessary approvals for the proposed action (Community Plan Amendment) which triggers the EA, does not include any permits for the establishment of a "legal" use. The approval of the requested action would establish the existing use as a permitted "legal" use in the (H-1) Hotel District. An SMA Use Permit is listed as a major approval required for any new development on the property.
3. The "No Action" alternative is revised to acknowledge that the existing use would have to be changed to some kind of legal use of the property.
4. It is acknowledged that the Department's concurrence is dependent on the resolution of the issues in your May 25, 2007 letter.

We assume that the foregoing response addresses any remaining issues and that acceptance for processing is warranted. If you have any questions regarding the above, please do not hesitate to call.

Respectfully submitted,



Christopher L. Hart, ASLA
President
Landscape Architect - Planner

CLH:rrc

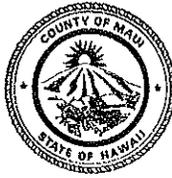
attachment

c: Ms. Cherlyn Kong
Ms. Colleen Suyama
Mr. Clayton Yoshida

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 25, 2007

RECEIVED
MAY 30 2007

CHRIS HART & PARTNERS
Landscape Architecture & Planning

CC Raymond
04/159

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
1955 Main Street, Suite 200
Wailuku, Hawaii 96793

Dear Mr. Hart:

RE: Comments on Draft Environmental Assessment and Applications for a Community Plan Amendment and Change in Zoning for the site of the existing Nona Lani Cottages Temporary Vacation Rentals located at TMK: 3-9-041: 001, 455 South Kihei Road, Kihei, Island of Maui, Hawaii (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001), and Notification of Expected Zoning Violation

The Maui Planning Department (Department) has reviewed and has additional comments on the January 2007, revised submittal of the Draft Environmental Assessment (DEA) and applications for a Community Plan Amendment (CPA) and Change in Zoning (CIZ) you have provided for the site of the above-referenced development. We will start with comments and discussion about the status of the existing use relative to land use regulations because this will fairly broadly affect the DEA and other submittals and it also includes a notification of an expected zoning violation. This discussion can also generally fall within the context of the need for the submittal to meet the requirements of CIZ application checklist item: "7.b. A report addressing the following: Detailed land use history of the parcel which includes, but is not limited to former and existing State and County land use designations, violations and uses." We will then follow with a few comments on other details of the revised submittal.

After the discussion of the existing land use, the revised application materials for the CPA and CIZ will be addressed below first after the land use discussion, and then the resubmitted DEA will be addressed. We acknowledge all of the revisions made in response to the Department's February 17, 2006, letter of comments upon the original January 2006, CPA and CIZ applications submittal. Unfortunately, the preliminary DEA and the CPA and CIZ applications are still missing some information as discussed below. Based upon this, the Department has determined that the preliminary DEA and the application package does not yet represent an adequately complete package to continue processing of the DEA, and the CPA and CIZ applications at this time. Please prepare and submit two copies of a new, complete DEA and application package booklet incorporating revisions to address the comments below. Or you may also wish to discuss with an appropriate Department representative possible alternative approaches such as just submitting newly modified pages for further Department review.

Mr. Christopher L. Hart, ASLA
May 25, 2007
Page 2

The Department appreciates the additional information provided in the Land Use discussion of the DEA at Section III.A.1. However, information you have provided is not adequate to establish that the current transient use is legal non-conforming. Because it is still relevant, the associated comment from the Department's February 17, 2006, comment letter is repeated here: "The submittal provides some of [the] relevant the land use and permit history for the existing uses. However, please prepare and submit a history of building permits, plan designations and relevant allowed uses, as well as also zoning designations and relevant allowed uses. The current temporary vacation rental (TVR) use is not a permitted use under the present zoning. However, if you believe this use to be legal non-conforming, please submit the rationale and documentation for this, particularly including what the original uses of the structures were, substantiation of when the TVR use commenced, that it was permitted under zoning and any applicable plan designations at the time the use commenced, and that it was not discontinued for a year nor changed during the time when it was not a permitted use."

The present transient use of the property is not permitted within the current R-2 Residential zoning district applicable to the site. This was also not a permitted use within the Residential District when the first cottages were built in 1972. Please disclose in the Draft EA that the four 1972 building permits for identical structures read "To be occupied as Cottage", that the four 1973 permits for four more structures identical to the 1972 permits read "To be occupied as Single Family Dwelling " after "Cottage" was first typed in and then crossed out, and that the 1990 building permit reads "To be occupied as residence" with "Remarks: Four bedrooms/four baths/two lanais/sitting room/deck."

Additional information and/or analysis will be necessary to establish that the present transient use is a legally existing non-conforming use. In this light, please provide the following: 1) When did the transient (as opposed to long-term rental) use of each of the 1972 units, the 1973 units, and the four 1990 extra bedrooms/bath first commence? If it was at the completion of their construction, please confirm this; 2) Was the site's zoning designation anything other than R-2 at these times, and if so what was it at these times?; and 3) How did the associated regulations applicable at these various times legally allow the commencement of the transient uses?

Unless you can establish that the zoning of the property was some designation other than the R-2 Residential District when some or all of the transient uses were established, the following regulatory history and conclusion applies to the subject site, its development and use. Since before the construction of the first cottages on the site in 1972, the County of Maui's (as well as most other jurisdictions') Zoning Ordinance has been structured such that unless a use is permitted by the ordinance, it is instead not allowed. Section 8-1.4(b)(1) of "The Comprehensive Zoning Ordinance for the County of Maui" from the "Permanent Ordinances of the County of Maui 1971" (1971 Zoning Ordinance) lists "Single family dwellings" as one of the "permitted uses" within the "Residential Districts". Section 8-1.2 of the 1971 Zoning Ordinance defines "Dwelling - A building or portion thereof designed exclusively for residential occupancy but not including hotels, tenements, boarding or lodging house as defined herein".

It appears that if, as is stated in the revised application materials, the units were immediately used for transient use at the time of their construction, this use would most likely have fallen with the 1971 definition of "Motel - A group of attached or detached buildings containing dwelling units or apartments, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto court or motor lodge." Such motels were allowed in the Apartment District, but not the Residential District.

Under the current zoning ordinance, now called "the Comprehensive Ordinance", "Single family dwellings" are still listed as one of the "permitted uses" within the "Residential Districts". Although in 1971 the zoning ordinance just defined "Dwelling", the current ordinance includes the following definition for "Dwelling, single-family 'Single-family dwelling unit' means a building consisting of only one dwelling unit designed for or occupied exclusively by one family" and it defines "'Dwelling unit' means a room or group of rooms connected together constituting an independent housekeeping unit for family and containing a single kitchen." Then it defines "'Family' means an individual living alone or a group of two or more persons related by blood or marriage and their legal issue living together as a single housekeeping unit in a dwelling unit and in which two boarders, unrelated by blood may be living on a long-term residential basis. A family may also be defined as no more than five unrelated persons living together as a single housekeeping unit. In addition, eight or fewer persons who reside in residential facilities monitored and/or licensed by the state pursuant to chapter 46-15.3 of the Hawaii Revised Statutes shall constitute a family. Resident managers, supervisors or operator and operator's family shall not be included in the resident count."

The use on the site now falls within the following current definition of 'Hotel' or 'motel' means a transient vacation rental, other than a bed and breakfast home containing lodging or dwelling units." This is in part because "'Transient vacation rentals or use' means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred and eighty days." Motels are no longer allowed within the Apartment District, but Hotels are allowed within the Hotel District.

Unless you can provide evidence to the contrary, we must conclude that the transient vacation rental use was not permitted when you indicate it was established, and it is not permitted now. We are not aware of any time during the interim when this use was an allowed use on this site. We do not yet see adequate support for your contention that the use is a legal non-conforming use. However, you are certainly welcome to provide adequate support if this is possible.

If you can not establish that the present transient use commenced legally, we must proceed with the understanding that it was instead established illegally, whether or not the applicant was aware of this at the time. In this case, the current TVR use will therefore constitute a zoning violation. Although violations are normally subject to immediate abatement through zoning enforcement procedures, this current development can temporarily take advantage of a County policy regarding TVRs which was in place at the time the CIZ and CPA applications were made. This is that the County was temporarily holding in abeyance zoning enforcement against TVRs not operating legally within the context of land use requirements, but which had prior to February 13, 2007, made substantially complete applications which would make them legal uses within the context of land use regulations if the application(s) were to ultimately be approved. Therefore, unless you can somehow conclusively demonstrate that the current TVR uses were established and remain in legal operation today within the context of land use regulations, the TVR use will have a limited grace period during which enforcement proceedings will not be carried out. However, this grace period is anticipated to be of only a few months duration and then the TVR use and operations will be expected to have ceased unless and until they can be carried out in full compliance with the land use regulations then applicable to the site.

For the purposes of the application materials and the Draft EA, the baseline use(s) of the property for analysis within the application materials and Draft EA needs to include a use or set of uses with is/are currently legally permissible. If you can not establish that the present transient use is in legal operation under land use regulations, a use or set of uses which is/are currently legally permissible, such as long term rentals (those of over 180 days), will need to be included in the application materials and Draft EA as an additional or substitute baseline. The impacts of proposed changes from a legal baseline use must then be addressed. In this case, the project description of the Draft EA would need to be amended to recognize the legal establishment of the TVR uses as a fundamental part of the proposed project, in addition to the requested CIZ and CPA amendments. The environmental assessment must then address the impacts of the establishment of the TVR use compared to a legal baseline, much as if the legal baseline were the current use and the TVR use was just now being proposed.

Furthermore, if you can not establish that the present transient use is in legal operation under applicable land use regulations, the application package must include all land use applications, the approval of which would be necessary to legally establish the desired use on the site if the requested CIZ and CPA are ultimately granted. This would include at least an SMA Assessment application. If your applicant needs and wishes to establish the current use as a legal use in the Hotel District, you should analyze the consistency of the site development with standards of development applicable to that use in that District, and include within a revised project description any site or building modifications and/or identification of additional land use applications(s) and permitting needed to legally establish the use.

Other comments

The CPA and CIZ application packages include checklists entitled, respectively, "COMMUNITY PLAN AMENDMENT REQUIRED SUBMITTALS" and "GENERAL SUBMITTAL REQUIREMENTS". These other comments below are provided in the order of the items on the CPA checklist, and then on the CIZ checklist. As with the Department's February 17, 2006, letter of comments, where a checklist item is not listed below the submittal was adequate or the item was inapplicable.

CPA 4. Original and one (1) copy of the policies and objectives of the general plan applicable to the application and an analysis as to conformance to these policies and objectives.

Comment: The January 26, 2007, response letter states that Subchapter IV.B. has been revised to address the "Housing and Urban Design" section of the General Plan. However, we do not see this. When this is done, please be sure that the proposed change from a legal baseline use of the site is analyzed for consistency with the Housing and Urban Design Section. Should a legal baseline include use of the cottages for long-term rentals, such a baseline would seem likely to support well the Housing Objectives within the General Plan, and it would need to be demonstrated how and why a change from such a baseline would be in "conformance to these policies and objectives." A similar treatment should be provided for the relationship of the proposed action to the Housing policies within the Kihei-Makena Community Plan.

CIZ 7.a. A report addressing the following: Policies and objectives of the General Plan; the provisions of the community plan applicable to the application; the provisions of the applicable district; and an analysis of the extent to which the application, if granted, conforms to these provisions, objectives and provisions.

Comment: Please address how the current site development conforms to the development standards of the proposed new Hotel District zoning for the site.

CIZ 7.d. Analysis of the secondary impacts of the proposed use on surrounding uses which includes, but is not limited to increases in property value, property, housing, community services and facility needs, secondary jobs and employment generated and compatibility with surrounding uses. If applicable, affordable housing program and comments from the Department of Housing and Human Concerns of the County and other mitigation plans and comments from the respective governmental and community service agencies.

Comment: If the current transient use is not established as a legally existing nonconforming use, please address if, and if so how, the establishment of a legal transient use under the Hotel District, or the re-establishment of a legal use under the present R-2 District, would trigger the application of the Residential Workforce Housing Policy. In this eventuality, please also address how the establishment of a legal transient use within the Hotel District would affect the project site's contribution to the supply of long-term rental housing in the area if it's current legal use was as long-term rentals.

CIZ 13. Notarized Affidavit of Mailing of Notice and Application (Attachment B)

Comment: This obligation is to be fulfilled at the time of submission of an application, not at the time of acceptance of an application as complete. The application can not be considered complete for agency review and further processing unless and until the mailing of the Notice and Application has been successfully carried out and the notarized affidavit submitted.

We acknowledge the revisions made in response to the Department's February 17, 2006, pre-consultation comments upon the original January 2006, submittal. Given the need addressed above for the CPA and CIZ application materials to be supplemented, we are providing further pre-consultation comments in association with further needed application revisions.

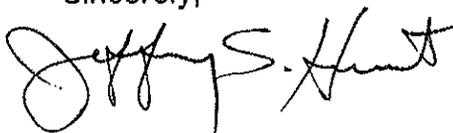
1. Please update the "Contact" under Section I.E. Accepting Authority to be: "Jeffrey S. Hunt, AICP";
2. If you can not establish that the present transient use commenced legally, a proposal for the legal establishment of transient use would be subject to all applicable rules and regulations including, but not limited to, the SMA Rules of the Maul Planning Commission and the County Building Code. In such an eventuality, please list within Section I.G. the additional permits which would be necessary for such legal establishment;

3. The text of the "No Action" alternative in Section I.E.1. appears to include an acknowledgment that the maintenance of "the current inconsistencies between the zoning and community plan designations and the existing use" "would 'technically' prohibit the existing transient vacation rental use of the property". Resolution of a use's inconsistency with a community plan and zoning does is certainly desirable. However, it may not be required for an existing use unless such inconsistency was created when required permitting and laws were not followed. Unless it can be established that the existing transient use is a legal use, since the "no action" alternative in the DEA is for "no action" on the requested CPA and CIZ, such alternative would more appropriately involve a legal use of the site which the owners would have in effect in the absence of approval of the requested CPA and CIZ; and
4. Please note that the Department's concurrence with the final two sentences in the Section VI. Findings and Conclusions is dependent upon satisfactory resolution of the other comments in this letter.

Thank you for the opportunity to comment. The Department appreciates your anticipated responsiveness to the above comments as we work together on your requests. When comments have been satisfactorily resolved, the Department will work with you further to commence upon the transmission of a final Draft EA to the Office of Environmental Quality Control (OEQC), and to other agencies and the Maui Planning Commission for their comments.

If you have any questions about the comments in this letter or desire any clarifications about the amendment request review or DEA process, please feel free to contact Mr. Jeffrey Dack, Staff Planner, at jeffrey.dack@co.maui.hi.us, or at 270-6275.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

JSH:JPD:bg

c: Colleen M. Suyama, Deputy Planning Director
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, P.E., Planning Program Administrator, ZAED
Jeffrey P. Dack, AICP, Staff Planner
CPA/CIZ Project File
EA Project File
General File
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'07 JAN 29 P1:24

January 26, 2007

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

Attention: Mr. Jeffrey Dack, Staff Planner

Dear Mr. Hunt:

Re: Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001)

In response to the Planning Department's letter dated February 17, 2006 regarding the Community Plan Amendment (CPA) and Change In Zoning (CIZ) for the subject project, we offer the following response to comments enumerated in your letter:

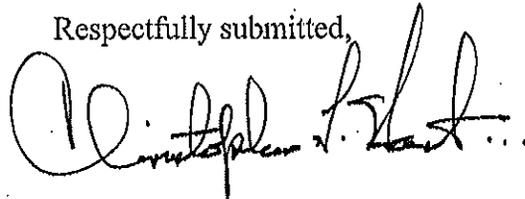
- CPA
 2. The "Articles of Organization of Nona Lani Cottages LLC" are made a part of Appendix "A".
 3. The 500 foot radius map was created with the County of Maui's Accela GIS website. The map has been revised to include a graphic scale.
 4. Subchapter IV.B, "General Plan of the County", has been revised to address the objectives and policies of the "Visitor Industry" and the "Housing and Urban Design" sections.
 6. A mylar CPA map is submitted with this letter.
 7. See separate letter addressing the comments on the Draft Environmental Assessment.
- CIZ
 7. The CIZ and CPA applications are submitted with the Draft Environmental Assessment which addresses items "a" through "p".
 - a. Subchapters IV.B and IV.C analyzes the provisions of the General Plan and the Kihei-Makena Community Plan applicable to the subject applications.

- b. Subchapter III.A, paragraph 1, has been appended with additional information regarding the history of the property.
 - c. See III.A.7.
 - d. See III.B.1.
 - e. See III.D.1.
 - f. Not applicable.
 - g. See III.D.3.
 - h. See III.D.2.
 - i. See III.C.3.
 - j. See III.A.4.
 - k. See III.A.2. & III.D.4.
 - l. No development is proposed at this time. The Kihei Community Association will be consulted when plans are developed.
 - m. No development is proposed at this time.
 - n. See III.B.2.
 - o. Not applicable.
 - p. Not applicable.
13. The notarized affidavit of mailing of Notice and Application will be submitted under separate cover upon acceptance of the Change in Zoning application by the Planning Department.
14. A mylar CIZ map of the property is submitted with this letter.

(Note: A revised copy of the consolidated application is submitted for your review.)

We assume that the foregoing response addresses any remaining issues and that acceptance of our consolidated application for processing is warranted. If you have any questions regarding the above, please do not hesitate to call.

Respectfully submitted,

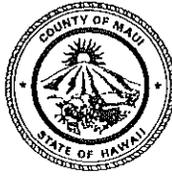


Christopher L. Hart, ASLA
President
Landscape Architect - Planner

ALAN M. ARAKAWA
Mayor

MICHAEL W. FOLEY
Director

WAYNE A. BOTEILHO
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

February 17, 2006

RECEIVED
FEB 21 2006

CHRIS HART & PARTNERS
Landscape Architecture & Planning

cc: Chris / Raymond
04/159

Mr. Chris Hart
Chris Hart & Partners, Inc.
1955 Main Street, Suite 200
Wailuku, Hawaii 96793

Dear Mr. Hart:

RE: Comments Upon Applications for a Community Plan Amendment and Change in Zone for the site of the existing Nona Lani Cottages Temporary Vacation Rentals located at TMK: 3-9-041: 001, at 455 South Kihei Road, Kihei, Island of Maui, Hawaii (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

The Maui Planning Department (Department) has reviewed and has the following comments upon the applications for a Community Plan Amendment (CPA) and Change in Zoning (CIZ) you have submitted for the site of the above referenced development. Unfortunately, the CPA and CIZ applications are missing a series of items as discussed below. Based upon this, the Department has determined that the application package does not represent an adequately complete package to continue processing of the CPA and CIZ applications at this time. Please prepare and submit two copies of a new, complete application package booklet incorporating revisions to address the comments below.

The CPA and CIZ application packages includes checklists entitled, respectively, "COMMUNITY PLAN AMENDMENT REQUIRED SUBMITTALS" and "GENERAL SUBMITTAL REQUIREMENTS". The comments below are provided in the order of the items on the CPA checklist, and then on the CIZ checklist. Where a checklist item is not listed below, the submittal was adequate or the item was inapplicable.

CPA 2. A notarized letter of authorization from the legal owner if the applicant is not the owner.

Comment: Please provide evidence of the application signatory's authorization to sign the application on behalf of the applicant LLC.

CPA 3. List of owners and lessees of real property within a 500 feet radius of the subject parcel should be obtained from the most current available list at the Maui County Department of Finance, Real Property Tax Division. This list should include the tax map key numbers and the names and addresses of all owners, lessees, and members of the Board of Directors or managing agents to be notified, including a map drawn to scale, clearly defining the 500 feet notification boundary and the parcels affected.

Comment: No scale is shown on the map. Please provide evidence verifying that the line encircling the site is at 500 feet from the site's boundaries.

CPA 4. Original and one (1) copy of the policies and objectives of the general plan applicable to the application and an analysis as to conformance to these policies and objectives.

Comment: Because the application is to change from residential housing designations to hotel designations, both the Visitor Industry and the Housing and Urban Design sets of objectives and policies are "applicable to the application". Please provide "an analysis as to conformance to these policies and objectives" by the application, for both the Visitor Industry and the Housing and Urban Design General Plan sections.

CPA 6. Legal description and mylar map drawn to scale of the subject property in a format prescribed by the department of planning.

Comment: No mylar map has been submitted. Please do so in a format as shown in a map attachment to the Department's application package.

CPA 7. Original and one (1) copy of a draft environmental assessment including, but not limited to, the following:

- a. Identification of applicant or proposing agency;
- b. Identification of approving agency which shall be the department of planning;
- c. Identification of agencies consulted;
- d. General description of the action's technical, economic, social, and environmental characteristics;
- e. Summary description of the affected environment, including suitable and adequate location and site map;
- f. Identification and summary of major positive and negative impacts and alternatives considered, if any;
- g. Proposed mitigation measures, if any;
- h. Any other information the department may require in its consideration of every phase of the proposed action, the expected consequences, both primary and secondary, and the cumulative as well as the short term and long-term effects of the action in making a determination; and
- i. Compliance with Chapter 200, Title 11, State Department of Health rules.

Comments: See separate letter of Preconsultation Comments from the Department on the Draft Environmental Assessment (EA).

CIZ 7. (which is also a requirement of the Community Plan Amendment application) - A report addressing the following: [items 7.a. through 7.p. in the CIZ General Submittal Requirements checklist]

Comments: At present, neither the CIZ nor the CPA application is accompanied by such a report. As such, both of these applications are incomplete. However, we will offer a few comments now which should assist you in preparing a report which we are hopeful will be adequate and responsive to the needs associated with the application submittal requirements.

As is addressed within the separate letter of Preconsultation Comments on the Draft EA, the appropriate basis for assessment and analysis of these applications is the ultimate maximum development which could be allowed upon this site under the proposed new community plan and zoning designations, not just the existing development on the site. All of the report items in Section 7. of the CIZ submittal checklist must be addressed thoroughly and comprehensively for this maximum potential level of development.

CIZ 7.a. A report addressing the following: Policies and objectives of the General Plan; the provisions of the community plan applicable to the application; the provisions of the applicable district; and an analysis of the extent to which the application, if granted, conforms to these provisions, objectives and provisions.

Comment: Because the application is to change the site from residential housing to hotel designations, both the set of plan provisions (such as objectives and policies) which are served by the current designations as well as those which would be supported by the proposed new designations need to be identified and analyzed as to the impacts of changing the current designations. Also, since the applications are for plan and zoning designation changes, not development at this time, the effects upon these plan provisions must be analyzed as they would result from the maximum potential development under the proposed new hotel designations and the current residential designations, respectively.

CIZ 7.b. A report addressing the following: Detailed land use history of the parcel which includes, but is not limited to former and existing State and County land use designations, violations and uses.

Comment: The submittal provides some of relevant the land use and permit history for the existing uses. However, please prepare and submit a history of building permits, plan designations and relevant allowed uses, as well as also zoning designations and relevant allowed uses. The current temporary vacation rental (TVR) use is not a permitted use under the present zoning. However, if you believe this use to be legal non-conforming, please submit the rationale and documentation for this, particularly including what the original uses of the structures were, substantiation of when the TVR use commenced, that is was permitted under zoning and any applicable plan designations at the time the use commenced, and that it was not discontinued for a year nor changed during the time when it was not a permitted use.

CIZ 13. Notarized Affidavit of Mailing of Notice and Application (Attachment B)

Comment: We do not find this as part of the application package.

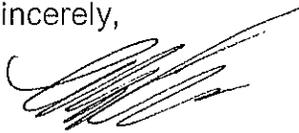
CIZ 14. For Change in Zoning, the following additional information is required: b. Mylar map drawn to scale (8 ½" x 14" format) of the subject parcel (Attachment C)

Comment: We do not find this as part of the application package. Please submit one in a format as shown in a map attachment to the Department's application package.

Thank you for the opportunity to comment. The Department appreciates your anticipated responsiveness to the above comments as we work together on your requests. Please provide a revised submittal or a status update on the CPA and CIZ applications within 30 days of this letter. Failure to do so may cause the applications to be closed.

If you have any questions about the comments in this letter or desire any clarifications about the amendment request review process, please feel free to contact Mr. Jeffrey Dack, AICP, Staff Planner, at 270-6275.

Sincerely,



MWF

MICHAEL W. FOLEY
Planning Director

MWF:JPD:sec

c: Wayne Boteilho, Deputy Planning Director
Clayton Yoshida, AICP, Planning Program Administrator
Kivette Caigoy, Environmental Planner
Jeffrey Dack, Staff Planner
SMA Project File
EA Project File
General File
K:\WP_DOCS\PLANNING\EA\2006\0002_NonaLaniCottages\AppReviewComments.wpd



January 26, 2007

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

'07 JAN 29 P1:24

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

Attention: Environmental Planner

Dear Mr. Hunt:

Re: Draft Environmental Assessment in support of Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001)

In response to the Planning Department's letter dated February 17, 2006 regarding the Draft Environmental Assessment for the subject project, we offer the following response to comments as enumerated in your letter:

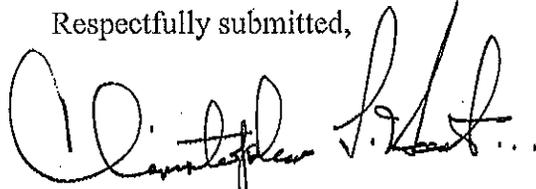
1. **Full build out potential.** The Draft EA has been revised to include an analysis of the potential impacts of a full build-out scenario.
2. **Cultural Impact Study.** A new section is added to the Draft EA (Subchapter III.A, Section 8, "Cultural Resources") to address impacts of the proposed action and the full build-out scenario.
3. **Significance criteria in relation to full build out.** Chapter V has been added to the Draft EA to address the significance criteria in relation to the proposed action.
4. **Typographical errors.** The typographical errors have been corrected.
5. **Figure No. 11.** The cottages on the Site Plan have been labeled.
6. **List of permits.** Subchapter I.G has been added to the Draft EA listing the permits for the proposed action and for any future development on the property.

A revised copy of the Draft Environmental Assessment is submitted for your review.

Mr. Jeffrey S. Hunt, Planning Director
RE: Draft Environmental Assessment for the Nona Lani Cottages
January 26, 2007
Page 2

We assume that the foregoing response addresses any remaining issues and that acceptance for processing is warranted. If you have any questions regarding the above, please do not hesitate to call.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher L. Hart". The signature is fluid and cursive, with a large initial "C" and "H".

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

CLH:rrc

attachments

c: Ms. Cherlyn Kong
Mr. Jeffrey Dack

ALAN M. ARAKAWA
Mayor

MICHAEL W. FOLEY
Director

WAYNE A. BOTEILHO
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

RECEIVED
FEB 21 2006

CHRIS HART & PARTNERS
Landscape Architecture & Planning
cc: Chris/Raymond
04/159

February 17, 2006

Mr. Chris Hart
Chris Hart & Partners
1955 Main Street, Suite 200
Wailuku, HI 96793

Dear Mr. Hart:

RE: Preconsultation Comments in preparation of a Draft Environmental Assessment for the Proposed Land Use Amendments for the Nona Lani Cottages located at TMK: 3-9-041: 001, at 455 South Kihei Road, Kihei, Island of Maui, Hawaii (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

The Maui Planning Department (Department) provides the following preconsultation comments for the proposed Community Plan Amendment from Multi-Family to Hotel, and Change in Zoning from R-2, Residential District to H-1, Hotel District:

1. Although the Applicant currently has no intentions of additional development, the Draft EA, in its entirety, should be revised to describe the full potential build-out scenario of the requested land use amendments.

Based on the foregoing and assuming full build-out potential, the following technical studies or analysis should be prepared and included in the Draft EA:

- a. Traffic Impact Analysis
 - b. Water usage
 - c. Sewer usage
 - d. Drainage
 - e. View analysis
2. Provide a Cultural Impact Study that includes sources of information (written and verbal) used to derive conclusions.

Mr. Chris Hart
February 17, 2006
Page 2

3. Provide a discussion of the proposed project considering full build-out potential relative to the Significance Criteria as defined in Section 11-200-12, HAR.
4. Please note the following typographical errors:
 - a. Paragraph 2 of Section I.B should state "...Change in Zoning."
 - b. Paragraph III.7 should state "...nearby Maui Lu Hotel."
5. Label the cottages on Figure 11.
6. Provide a list of all Federal, State, and County permits required.

Upon resolution of the foregoing, please submit one (1) copy of the Draft EA to the Department for further review. Please note that the Department requires a copy 10 calendar days prior to anticipated OEQC Submission Deadlines.

Thank you for your cooperation. Should you require further clarification, please contact Ms. Kivette Caigoy, Environmental Planner, at 270-7735.

Sincerely,



For

MICHAEL W. FOLEY
Planning Director

MWF:KAC:sec

c: Wayne Boteilho, Deputy Planning Director
Clayton I Yoshida, Planning Program Administrator
Kivette Caigoy, Environmental Planner
Jeffrey Dack, Staff Planner
EA Project File
General File
K:\WP_DOCS\PLANNING\EA\2006\0002_NonaLaniCottages\preconsultation.wpd

APPENDIX F
Agency Comments & Responses



February 17, 2009

Mr. Jeffrey K. Eng, Director
Department of Water Supply
200 South High Street
Wailuku, Hawaii 96793

Dear Mr. Eng:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your February 10, 2009 letter in response to the Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project. Following are responses to your comments:

Source Availability and Consumption. The applicant acknowledges that the project is served by the Central Maui System with an existing 1-inch meter. Please note that the projected potable demand for the hypothetical "full build-out" is 28,000 gallons per day (gpd) which approximates your estimated potential of 30,000 gpd. The applicant acknowledges that the current usage is approximately 8,000 gpd which is not expected to increase since no development is proposed at this time.

System Infrastructure. Please be reminded that the Nona Lani Cottages has been in operation since 1972. Since no development is proposed, we do not feel that consultation with a civil engineer is appropriate at this time. It is anticipated that your recommended requirements will be adequately addressed during the preparation of any future development plans, however this is an existing project with no immediate expansion plans. If and when future development plans are prepared, engineering reports will be provided along with recommendations for the appropriate water system improvements.

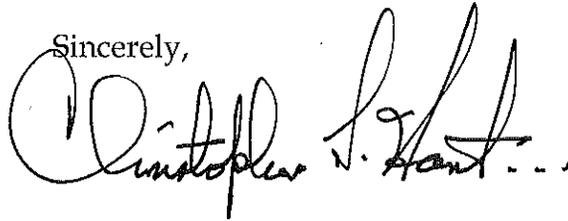
Conservation. The Nona Lani Cottages already has a repair and maintenance program in place. No additional landscape planting is proposed, however existing native climate-adapted plants have been used and will be considered for planting, in the event of any future landscape alterations are made.

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1717 • PHONE 808-242-1955 • FAX: 808-242-1956

Mr. Jeffrey K. Eng
Department of Water Supply
Re: Nona Lani Cottages
February 17, 2009
Page 2

Thank you again for commenting. If you have any further questions, please do not hesitate to contact myself or Raymond Cabebe of our office.

Sincerely,


Christopher L. Hart, ASLA
President
Landscape Architect - Planner

attachment

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

CHARMAINE TAVARES
Mayor



JEFFREY K. ENG
Director
ERIC H. YAMASHIGE, P.E., L.S.
Deputy Director

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauiwater.org

February 10, 2009

Mr. Jeffrey P. Dack, Staff Planner
Department of Planning
County of Maui
250 South High Street
Wailuku HI 96793

Re: I.D.: CPA 2006/0001, CIZ 2006/0001, EA 2006/0002
TMK: 3-9-041:001
Project Name: Draft Environmental Assessment in Support of Nona Lani Cottages
CPA and CIZ

Dear Mr. Dack:

Thank you for the opportunity to comment on this application.

Source Availability and Consumption

The project area is served by the Central Maui System. The main sources of water for this system are the designated Iao aquifer, Waihee aquifer, the Iao tunnel and the Iao-Waikapu Ditch. New source development projects include Maui Lani Wells, Waikapu South well and Waiale Surface Water Treatment Plant. The property is served by a 1-inch meter. Depending upon the ultimate use of the property, with existing use just over 8,000 gpd, rezoning the 2.27 acre subject parcel from residential to hotel could potentially result in 30,000 gallons per day of additional consumption. We understand that no development is proposed at this time. Consumption for the current operation is well below system standards for hotel use.

System Infrastructure

The subject property is fronted by a 12-inch waterline and two fire hydrants along South Kihei Road. Granting of the subject application should be conditioned upon 1. Submittal and approval of domestic and fire flow calculations prepared by a licensed engineer or architect to determine

"By Water All Things Find Life"



Jeffrey P. Dack
Page 2

adequate fire protection. Fire protection is determined by calculations on size, materials and other specific information about a given structure. The approved fire flow calculation methods for use include Guide for Determination of Needed Fire Flow- Insurance Service Office, 1974, 2001 and 2006 and Fire Flow- Hawaii Insurance Bureau, 1991. 2. Provision of water for fire and domestic service according to Department standards. 3. Installation of a backflow preventer, if not already installed on site.

Conservation

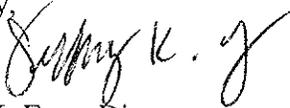
To alleviate demand on the Central Maui system, please find attached a conservation checklist for the Home and Yard, and our planting brochure. We recommend that implementation of the following conservation measures be made a condition of the subject permits:

Maintain Fixtures to Prevent Leaks: A simple, regular program of repair and maintenance can prevent the loss of hundreds or even thousands of gallons a day. The applicant should establish a regular maintenance program.

Use Climate-adapted Plants: In the event of any landscape alterations climate-adapted native plants should be used to the extent feasible. The project is located in the "Maui County Planting Plan" - Plant Zone 3. Native plants adapted to the area conserve water and protect the watershed from degradation due to invasive alien species.

Should you have any questions, please contact our Water Resources and Planning Division at 244-8550.

Sincerely,



Jeffrey K. Eng, Director
emb

cc: engineering division

Attachments:

A Checklist of Water Conservation Ideas for the Home & Yard
Plant Brochure: "Saving Water in the Yard"



June 13, 2008

Mr. Jeffrey S. Hunt, Director
Department of Planning
250 South High Street
Wailuku, HI 96793

**Attention: Mr. Clayton Yoshida
Mr. Jeffrey Dack**

Dear Mr. Hunt:

Re: Final Environmental Assessment in support of Applications for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001)

Thank you for your letters dated May 12, 2008 regarding the Draft Environmental Assessment (EA) and applications for Community Plan Amendment and Change in Zoning for the subject project. As you have determined that the use of the eight (8) cottages as transient vacation rentals is an existing non-conforming use (letter dated March 6, 2008 to Mr. Thomas Welch, Esq.), please be advised that Nona Lani Cottages are not "temporary vacation rentals". The applicants have been in operation for 36 years and intend to continue to operate as such. Please correct your project description in future correspondence.

HRS Chapter 343 requires identification of direct, indirect, and cumulative impacts of the proposed entitlement actions (i.e. the Community Plan Amendment and Change in Zoning) on the environment along with socio-economic and technical considerations. There are no direct impacts since these are merely entitlement actions. However, determination of indirect and cumulative impacts on the infrastructure in Kihei for a "hypothetical full build-out" of an 80-unit hotel on the subject property would require the consultation of professional architects, civil & traffic engineers, etc. We hold to the conviction that it is not prudent to expect the applicant to have plans and engineering reports prepared since the full build-out scenario is strictly hypothetical and would trigger the requirement of a Special Management Area (SMA) Use Permit.

In further response to your comments:

- 1. Roadways and Traffic.** We agree that there is no need for preparation of a Traffic Impact Assessment Report (TIAR) since there are no development plans. In Section III.D.1., a cursory analysis was done to estimate the potential generation of traffic of a "hypothetical full build-out" of eighty (80) hotel

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

units. Without the aid of a traffic engineer and specific development plans, it is not possible to determine cumulative projections and mitigation measures. As noted in the Department of Public Works comments, development of the site would require roadway improvements such as curbs, gutters and sidewalks, in addition to the preparation of a TIAR.

2. **Wastewater.** In Section III.D.2., it is estimated that the “hypothetical full build-out”, on average, would generate approximately 20,000 gallons of wastewater per day. The net average flow (projected daily flow minus current daily flow), determined by a civil engineer, would be subject to wastewater assessment fees in effect at the time of development. The Kihei Wastewater Reclamation Facility currently has capacity to accommodate the estimated “full build-out” potential.
3. **Water.** In Section III.D.3., it is estimated that the “hypothetical full build-out”, on average, would generate a demand of 28,000 gallons of potable water per day. A civil engineer would determine the net demand required for the project and if the existing water service is adequate to serve the development.

Following is a response to the Maui Planning Commission’s sole comment:

Full Build-Out. The “hypothetical full build-out” scenario of 80 units is based on 500 sq. ft. units and approximately 4,700 sq. ft. of support service area (lobby, offices, maintenance, housekeeping, etc.), keeping within the allowable lot coverage (LC) and floor area ratio (FAR) limitations of H-1 Hotel District zoning. The number of units in “full build-out” could be less, with larger units, or more, with smaller units.

Existing Properties. The Nona Lani Cottages property is adjoined by two multi-family developments: Kai Makani to the north and Southpointe to the east; and one hotel zoned property to the south, Kihei Holiday. Further south on South Kihei Road, there are two other large hotel zoned properties: the Maui Beach Resort (formerly known as the Isana Resort) and the Maui Lu Resort. The density, in terms of units per acre are as follows:

Property	Type	Units	Acreage	Units/Acre
Nona Lani	Transient vacation rentals	12	2.270	5.3
Kai Makani	Multi-family	112	9.848	11.4
Maui Lu	Hotel (future timeshares)	388	27.282	14.2
Southpointe	Multi-family	346	14.819	23.3
Maui Beach Resort (Isana)	Hotel-condo	53	2.190	24.2
Kihei Holiday	Hotel-condo	48	1.930	24.9

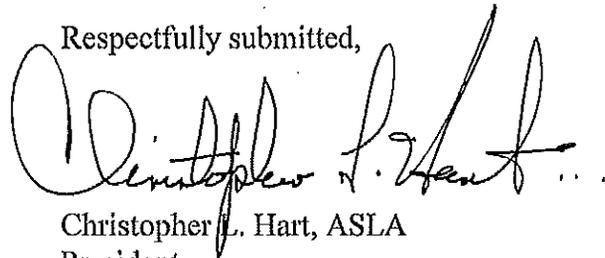
Appropriate number of units. The future “appropriate” number of units would depend on many different variables, such as market conditions and the wishes of the

family. It would depend on whether the family would want to develop a "pure" hotel, hotel-apartment, or to market the project as a condominium or timeshare project.

In any case, any further development of the property would come under the purview of the Maui Planning Commission through the Special Management Area (SMA) permit process. The proposed two (2) story (H-1) Hotel District development would be based on what the Planning Commission deems to be "appropriate" at that future time.

Therefore, in consideration of the foregoing, we are submitting one (1) complete Final Environmental Assessment for your review. Please advise us on the number of additional copies required. If you have any questions regarding the above, please do not hesitate to call.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher L. Hart". The signature is fluid and cursive, with a large initial "C" and "H".

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

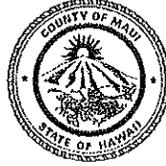
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c: Ms. Cherlyn Kong
Mr. David Kong
Mr. Clayton Yoshida
Mr. Tom Welch

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 12, 2008

RECEIVED

MAY 14 2008

CHRIS HART & PARTNERS, INC.
Landscape Architecture and Planning

C. C. Hart & Raymond

DY/LSA

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: DRAFT ENVIRONMENTAL ASSESSMENT IN SUPPORT OF APPLICATIONS FOR A COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR THE SITE OF THE EXISTING NONA LANI COTTAGES TEMPORARY VACATION RENTALS LOCATED AT 455 SOUTH KIHEI ROAD, KIHEI, MAUI, HAWAII TMK: (2) 3-9-041:001 (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

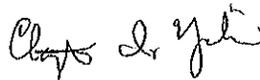
At the regular meeting of April 22, 2008, the Maui Planning Commission (Commission) reviewed the above-referenced document and provided the following comment:

1. Given that the site currently contains 8 cottage units and 4 rooms within the residence on the site, and that the DEA identifies "the hypothetical full build-out of the property at the requested H-1 Hotel District zoning" to be 80 units, please identify what would be an appropriate number of units under the requested H-1 Hotel District zoning.

Mr. Christopher L. Hart, ASLA
May 12, 2008
Page 2

Thank you for your cooperation. Should you require further clarification, please contact Staff Planner Jeffrey Dack, AICP, by email to jeffrey.dack@mauicounty.gov or by telephone at 270-6275.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

For: JEFFREY S. HUNT, AICP
Planning Director

xc: Colleen M. Suyama, Deputy Planning Director
Jeffrey P. Dack, AICP, Staff Planner
EA Project File
General File

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CHARMAINE TAVARES
Mayor
JEFFREY S. HUNT
Director
COLLEEN M. SUYAMA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 12, 2008

RECEIVED

MAY 14 2008

CHRIS HART & PARTNERS, INC.
Landscape Architecture and Planning

CC: Chris & Raymond
04/15/08

Mr. Christopher L. Hart, ASLA
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: DRAFT ENVIRONMENTAL ASSESSMENT IN SUPPORT OF APPLICATIONS FOR A COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR THE SITE OF THE EXISTING NONA LANI COTTAGES TEMPORARY VACATION RENTALS LOCATED AT, 455 SOUTH KIHEI ROAD, KIHEI, MAUI, HAWAII TMK: (2) 3-9-041:001 (EA 2006/0002) (CPA 2006/0001) (CIZ 2006/0001)

The Department of Planning (Department) has reviewed the Draft Environmental Assessment (DEA) in support of applications for a Community Plan Amendment and Change in Zoning and has considered the discussion of the Maui Planning Commission on this subject at their April 22, 2008 meeting. Although the Department has commented extensively on versions of the Preliminary DEA, the Department now provides the following additional comments on the DEA in light of recent discussions on DEA:

1. Chapter 1. Description of the Existing Environment, Potential Impacts and Mitigation Measures
 - D. Infrastructure Subsection 1. Roadways and Traffic

Please provide information and if necessary, mitigation measures, for cumulative traffic impacts which could result from the 80 units of "hypothetical full build-out of the property at the requested H-1 Hotel District zoning". There may not be the need to involve the preparation of a Traffic Impact Assessment Report (TIAR) at this time, but instead might be able to adequately rely upon information from one or more other recent TIARs conducted for projects nearby, such as in 2007 for the redevelopment of the Maui Lu project nearby.

Mr. Christopher L. Hart, ASLA
May 12, 2008
Page 2

D. Infrastructure Subsection 2. Wastewater

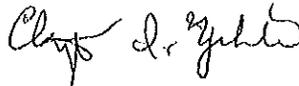
Please provide information and if necessary, mitigation measures, for cumulative impacts upon the capacity of the regional wastewater system which could result from the 80 units of "hypothetical full build-out of the property at the requested H-1 Hotel District zoning".

D. Infrastructure Subsection 3. Water

Please provide information and if necessary, mitigation measures, for cumulative impacts upon the capacity of the water supply system which could result from the 80 units of "hypothetical full build-out of the property at the requested H-1 Hotel District zoning".

Thank you for your cooperation. Should you require further clarification, please contact Staff Planner Jeffrey Dack, AICP, by email to jeffrey.dack@mauicounty.gov or by telephone at 270-6275.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

For: JEFFREY S. HUNT, AICP
Planning Director

xc: Colleen M. Suyama, Deputy Planning Director
Jeffrey P. Dack, AICP, Staff Planner
EA Project File
General File

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April 16, 2008

Ms. Cheryl K. Okuma, Director
Department of Environmental Management
2200 Main Street, Suite 175
Wailuku, Hawaii 96793
Attention: Mr. Gregg Kresge

Dear Ms. Okuma:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your February 12, 2008 "no comment" memorandum in response to the Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

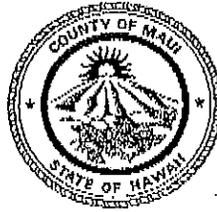
Christopher L. Hart, ASLA
President
Landscape Architect - Planner

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

CHARMAINE TAVARES
Mayor
CHERYL K. OKUMA, Esq.
Director
GREGG KRESGE
Deputy Director



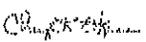
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DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED

TRACY TAKAMINE, P.E.
Solid Waste Division
DAVID TAYLOR, P.E.
Wastewater Reclamation
Division

COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2200 MAIN STREET, SUITE 175
WAILUKU, MAUI, HAWAII 96793

February 12, 2008

MEMO TO: JEFF HUNT, PLANNING DIRECTOR

FROM: CHERYL K. OKUMA, ESQ., DIRECTOR OF ENVIRONMENTAL
MANAGEMENT  Digitally signed by Cheryl K. Okuma
Date: 2008.02.12 11:54:19 -1000'

SUBJECT: NONA LANI COTTAGES, LLC
CPA 2006/0001, CIZ 2006/0001, AND EA 2006/0002
TMK (2) 3-9-041:001, KIHEI

We reviewed the subject application and have the following comments:

1. Solid Waste Division comments
 - a. None.
2. Wastewater Reclamation Division comments:
 - a. None.

If you have any questions regarding this memorandum, please contact Gregg Kresge at 270-8230.



04/159

April 16, 2008

Mr. Morris M. Atta, Administrator
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

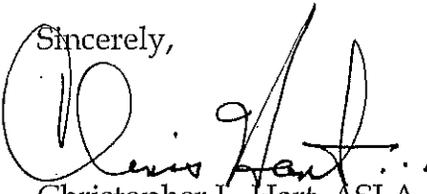
Dear Mr. Atta:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your letter dated February 1, 2008 in response to the Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

We will respond directly to the Commission on Water Resource Management and the Engineering Division on their respective comments.

Thank you again for your letter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

CLH:rrc

Attachment

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

'08 FEB -5 P4:12



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DEPT OF PLANNING
COUNTY OF MAUI
250 SOUTH HIGH STREET
WAILUKU, HAWAII 96793

February 1, 2008

County of Maui
Department of Planning
250 South High Street
Wailuku, Hawaii 96793

Attention: Mr. Jerry Dack

Gentlemen:

Subject: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for Nona Lanii Cottages

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comment.

Other than the comments from Commission on Water Resource Management, Engineering Division, the Department of Land and Natural Resources has no other comments to offer on the subject matter. Should you have any questions, please feel free to call our office at 587-0433. Thank you.

Sincerely,

Morris M. Atta
Administrator



April 16, 2008

Mr. W. Roy Hardy, Hydrologic Program Manager
Commission on Water Resource Management
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809
Attention: Mr. Charley Ice

Dear Mr. Hardy:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your memorandum dated January 14, 2008 in response to the subject Draft Environmental Assessment (EA) in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

The Maui Department of Water Supply (DWS) has been solicited for comments on the Draft EA, and their comments will be incorporated into the Final EA document. By these applications, it is assumed that the DWS would include this project in its Water Use and Development Plan, although this is an existing project with no immediate expansion plans.

Thank you again for your comments. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

CLH:rrc

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

LINDA LINGLE
GOVERNOR OF HAWAII



J. AURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 18, 2007

MEMORANDUM

From
TO:

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division - Maui District

07 DEC 19 11
RECEIVED
10/11/07

To

FROM:

Morris M. Atta
Morris M. Atta

SUBJECT:

Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for Nona Lani Cottages

LOCATION: Kihei, Maui, TMK: (2) 3-9-41:1

APPLICANT: Chris Hart & Partners on behalf of Nona Lani Cottages, LLC

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by February 1, 2008.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *W. Payson*

Date: *1/14/08*

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

January 16, 2008

LAURA H. THIELEN
CHAIRPERSON
RECEIVED
LAND DIVISION
MEMBER: CLAUDIO
MEMBER: STACY
NEAL S. FOURMAN
CHIYOME L. FUKINO, M.D.
DONNA FAY K. KIYOSAKI, P.E.
LAWRENCE H. MIKE, M.D., J.D.
2008 JAN 17 10:11
KEN C. KAWAHARA, P.E.
DEPUTY DIRECTOR

DEPT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

REF:

TO: Morris Alta, Acting Administrator
Land Division

FROM: Ken C. Kawahara, P.E., Deputy Director
Commission on Water Resource Management **K**

SUBJECT: Nona Lani 12-cottage Zoning Change

FILE NO.: TMK: (2) 3-9-041:001

Thank you for the opportunity to review the subject document. The Commission on Water Resource Management (CWRM) is the agency responsible for administering the State Water Code (Code). Under the Code, all waters of the State are held in trust for the benefit of the citizens of the State, therefore, all water use is subject to legally protected water rights. CWRM strongly promotes the efficient use of Hawaii's water resources through conservation measures and appropriate resource management. For more information, please refer to the State Water Code, Chapter 174C, Hawaii Revised Statutes, and Hawaii Administrative Rules, Chapters 13-167 to 13-171. These documents are available via the Internet at <http://www.hawaii.gov/dlnr/cwrm>.

Our comments related to water resources are checked off below.

- 1. We recommend coordination with the county to incorporate this project into the county's Water Use and Development Plan. Please contact the respective Planning Department and/or Department of Water Supply for further information.
- 2. We recommend coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan.
- 3. There may be the potential for ground or surface water degradation/contamination and recommend that approvals for this project be conditioned upon a review by the State Department of Health and the developer's acceptance of any resulting requirements related to water quality.

Permits required by CWRM: Additional information and forms are available at www.hawaii.gov/dlnr/cwrm/forms.htm.

- 4. The proposed water supply source for the project is located in a designated ground-water management area, and a Water Use Permit is required prior to use of ground water.
- 5. A Well Construction Permit(s) is (are) required before the commencement of any well construction work.
- 6. A Pump Installation Permit(s) is (are) required before ground water is developed as a source of supply for the project.

Morris Atta, Acting Administrator

Page 2

January 16, 2008

7. There is (are) well(s) located on or adjacent to this project. If wells are not planned to be used and will be affected by any new construction, they must be properly abandoned and sealed. A permit for well abandonment must be obtained.
8. Ground-water withdrawals from this project may affect streamflows, which may require an instream flow standard amendment.
9. A Stream Channel Alteration Permit(s) is (are) required before any alteration can be made to the bed and/or banks of a stream channel.
10. A Stream Diversion Works Permit(s) is (are) required before any stream diversion works is constructed or altered.
11. A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion(s) of surface water.
12. The planned source of water for this project has not been identified in this report. Therefore, we cannot determine what permits or petitions are required from our office, or whether there are potential impacts to water resources.
13. We recommend that the report identify feasible alternative non-potable water resources, including reclaimed wastewater.

OTHER:

This is represented as an existing use with no proposed change.

If there are any questions, please contact Charley Ice at 587-0251.



April 16, 2008

Mr. Eric T. Hirano, Chief Engineer
Engineering Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809
Attention: Ms. Alyson Yim

Dear Mr. Hirano:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001). (Ref. DEAComPlanAmendNonaLaniCottages Maui.394)

Thank you for your memorandum dated January 27, 2008 in response to the subject Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

Please be advised that there are no immediate construction plans for the project. Mr. Francis Cerizo, Flood Coordinator with the Maui County Department of Planning, will be consulted prior to any future construction. Future plans will also conform to Title 44 of the Code of Federal Regulations (44CFR) and Maui County Flood Hazard District Ordinance No. 1145.

Thank you again for your comments. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

Attachment

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

LINDA LINDRETT
EC 19 PM 03 27 07



LAIHA H. TRIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 18, 2007

RECEIVED
LAND DIVISION
2008 JAN 28 A 9:21
DEPARTMENT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

MEMORANDUM

- TO: **DLNR Agencies:**
- Div. of Aquatic Resources
 - Div. of Boating & Ocean Recreation
 - Engineering Division
 - Div. of Forestry & Wildlife
 - Div. of State Parks
 - Commission on Water Resource Management
 - Office of Conservation & Coastal Lands
 - Land Division - Maui District

FROM: *for* Morris M. Alta *Maalona*

SUBJECT: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for Nona Lani Cottages

LOCATION: Kihei, Maui, TMK: (2) 3-9-41:1

APPLICANT: Chris Hart & Partners on behalf of Nona Lani Cottages, LLC

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by February 1, 2008.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *C. T. Hart*

Date: 1/27/08

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/Moris Atta
Ref.: DEAComPlanAmendNonLaniCottages
Maui.391

COMMENTS

- (X) We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone A4. The National Flood Insurance Program does regulate developments within Zone A4 as indicated in bold letters below.
- () Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone ____.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is ____.
- (X) Please note that the project site must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

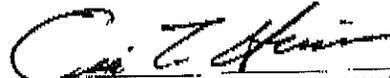
Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- () Mr. Robert Sumitomo at (808) 768-8097 or Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
- () Mr. Kelly Gomes at (808) 961-8327 (Hilo) or Mr. Kiran Emler at (808) 327-3530 (Kona) of the County of Hawaii, Department of Public Works.
- (X) Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
- () Mr. Mario Antonio at (808) 241-6620 of the County of Kauai, Department of Public Works.
- () The applicant should include project water demands and infrastructure required to meet water demands. Please note that the projects requiring water service from the Honolulu Board of Water Supply system will be required to pay a resource development charge, in addition to Water Facilities Charges for transmission and daily storage.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.

() Additional Comments: _____

() Other: _____

Should you have any questions, please call Ms. Suzie S. Agraan the Planning Branch at 587-0258.

Signed: 
ERIC T. HIRANO, CHIEF ENGINEER

Date: 1/27/08



April 16, 2008

Mr. Milton M. Arakawa, Director
Department of Public Works
200 South High Street
Wailuku, Hawaii 96793
Attention: Mr. Michael Miyamoto

Dear Mr. Arakawa:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your January 8, 2008 memo in response to the Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

It is anticipated that your comments will be adequately addressed during the preparation of any future development plans, however this is an existing project with no immediate expansion plans.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Christopher L. Hart, ASLA
President
Landscape Architect - Planner

attachment

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

CI IARMAINE TAVARES
Mayor

MILTON M. ARAKAWA, A.I.C.P.
Director

MICHAEL M. MIYAMOTO
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7855



RALPH NAGAMINE, L.S., P.E.
Development Services Administration

GARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

January 8, 2008

DEPT OF PUBLIC WORKS
COUNTY OF MAUI
RECEIVED
08 JAN 10 09:41

MEMO TO: JEFFREY S. HUNT, A.I.C.P., PLANNING DIRECTOR

FROM: *MMA* MILTON M. ARAKAWA, A.I.C.P., DIRECTOR OF PUBLIC WORKS

SUBJECT: DRAFT ENVIRONMENTAL ASSESSMENT, COMMUNITY PLAN
AMENDMENT AND CHANGE IN ZONING FOR NONA LANI
COTTAGES, LLC
TMK: (2)3-9-041:001
EA 2006/0002, CPA 2006/0001 AND CIZ 2006/0001

We reviewed the subject application and have the following comments:

1. The architect and owner are advised that the project is subject to possible tsunami and flood inundation. As such, said project must conform to Ordinance No. 1145, pertaining to flood hazard districts.
2. A road-widening lot shall be provided for the adjoining half of South Kihei Road to provide for future 60 foot wide right-of-way and improved to County standards to include, but not be limited to pavement widening, construction of curb, gutter and sidewalk, street lights and relocation of utilities underground. Said lot shall be dedicated to the County upon completion of the improvements.
3. All structures such as walls, trees, etc., shall be removed or relocated from the road-widening strip. The rear boundaries of the road-widening strip shall be clearly marked to determine if said structures have been properly removed and relocated.
4. A 30 foot radius shall be provided at the intersection of the proposed subdivision road/driveway and the adjoining subdivision roads and State roads.

Memo to Jeffrey S. Hunt, A.I.C.P., Planning Director
January 8, 2008
Page 2

5. A verification shall be provided by a Registered Civil Engineer that the grading and runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties.
6. A detailed and final drainage report and a Best Management Practices (BMP) Plan shall be submitted with the grading plans for review and approval prior to issuance of grading permits. The drainage report shall include hydrologic and hydraulic calculations and the schemes for disposal of runoff waters. It must comply with the provisions of the "Rules and Design of Storm Drainage Facilities in the County of Maui" and must provide verification that the grading and runoff water generated by the project will not have an adverse effect on adjacent and downstream properties. The BMP plan shall show the location and details of structural and non-structural measures to control erosion and sedimentation to the maximum extent practicable.
7. During construction of this project, all construction employee parking shall be accommodated on the project site and not within the County road right-of-way.
8. All existing features such as structures, driveways, drainage ways, edge of pavement, etc. shall be shown on the project plat plan.
9. A site plan and a sight distance report to determine required sight distance and available sight distance at existing and proposed street intersections shall be provided for our review and approval.
10. The 100-year flood inundation limits shall be shown on the project site plans. Lot geometrics cannot be approved until such data is submitted and reviewed.
11. A detailed final Traffic Impact Assessment Report for the entire subdivision/development shall be submitted for our review and approval. The report shall also address regional traffic impacts and include assessments from the local community police officer.
12. For all infrastructure that may be dedicated to the County, preliminary construction plan submittal shall include a completed technical assistance review performed by the Disability and Communication Access Board (DCAB) for compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG)

Memo to Jeffrey S. Hunt, A.I.C.P., Planning Director
January 8, 2008
Page 3

- for all facilities. All technical and structural infeasible assessments shall be the responsibility of the developer and an agreement waiving the County of Maui of any future liability, including redesign and reconstruction for said facility, shall be recorded with the State Bureau of Conveyances.
13. Construction plans shall be designed in conformance with Hawaii Standard Specifications for Road and Bridge Construction dated 2005 and Standard Details for Public Works Construction, 1984, as amended.
 14. Work site traffic-control plans/devices shall conform with the "Manual on Uniform Traffic Control Devices for Streets and Highways", 2003.
 15. Sight distance setbacks and easements will not be allowed for all roadways, public or private. Road right-of-way must accommodate sight distance allowances.

If you have any questions regarding this memorandum, please call Michael Miyamoto at 270-7845.

MMA:MMM:ls

xc: Highways Division
Engineering Division

S:\LUCACZM\Nona_Lanl_Cottages_llc_ea_cpa_ciz_39041001_ls.wpd



April 16, 2008

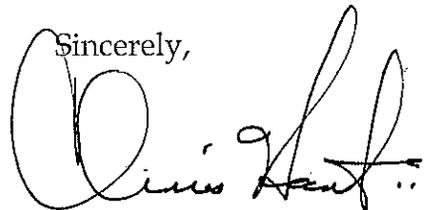
Ms. Tamara Horcajo, Director
Department of Parks & Recreation
700 Hali'a Nakoa Street, Unit 2
Wailuku, Hawaii 96793
Attention: Mr. Patrick Matsui

Dear Ms. Horcajo:

RE: Applications for State Land Use District Boundary Amendment and Change In Zoning for the Proposed Serle Subdivision at TMK: (2) 2-7-002:043 Haiku, Maui, Hawaii (DBA 2006/0002, CIZ 2006/0005)

Thank you for your January 24, 2008 "no comments to offer" response to the Draft Environmental Assessment in support of the Community Plan Amendment and Change in Zoning applications for the subject project.

If you have any further questions, please do not hesitate to contact me.

Sincerely,


Christopher L. Hart, ASLA
Landscape Architect - Planner

attachment

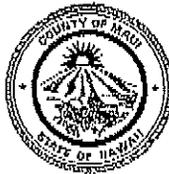
c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956

CHARMAINE TAVARES
Mayor
JEFFREY S. HUNT
Director
COLLEEN M. SUYAMA
Deputy Director

RECEIVED



2007 DEC 17 PM 12:06

RECEIVED

2007 DEC -2 AM 9:12

PARKS & RECREATION COUNTY OF MAUI
PLANNING DEPARTMENT OF PLANNING DEPT. OF
December 13, 2007 RECREATION

TRANSMITTAL

STATE AGENCIES		COUNTY AGENCIES	
<input checked="" type="checkbox"/>	DLNR (5)	<input checked="" type="checkbox"/>	Dept of Public Works (3)
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Dept of Water Supply
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Dept of Parks and Recreation
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Fire Dept
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Police Dept
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Dept of Housing and Human Concerns
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Corporation Counsel
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Civil Defense (CPA/CIZ only)
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Dept of Environmental Management (2)

PROJECT NAME: DRAFT ENVIRONMENTAL ASSESSMENT IN SUPPORT OF NONA LANI COTTAGES COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING
 APPLICANT: NONA LANI COTTAGES, LLC
 SUBJECT I.D.: CPA 2006-0001, CIZ 2006/0001, and EA 2006/0002
 TMK: (2) 3-9-041:001

TRANSMITTED TO YOU ARE THE FOLLOWING:

Application

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation - P40-

Please provide any previous comments, letters, etc. pertinent to this application and identify which of your comments and recommendations you would like the Department of Planning to recommend as conditions of project approvals. **Submit your comments directly to me by February 6, 2008.** If no comment, sign the bottom and return. For additional clarification, please contact me at jeffrey.dack@mauicounty.gov or by phone at 270-6275

Sincerely,

For: Jeffrey P. Dack, Staff Planner
JEFFREY S. HUNT, AICP
Planning Director

2008 JAN 29 PM 3 14
DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED

JSH:JPD:nt
c: Jeffrey P. Dack, Staff Planner
Applicant General File
Project File
KWP DOCUMENT PLANNING\EA\2006\0002_NonaLaniCottages\Agency.doc

We have no comments to offer:

Signed: Patrick T. Martin

Comments Attached: _____

Dated: 1/29/08

2008 JAN
DEPART



April 16, 2008

Chief Thomas M. Phillips
Police Department
55 Mahalani Street
Wailuku, Hawaii 96793
Attention: Officer Brad Hickle

Dear Chief Phillips:

RE: Draft Environmental Assessment for Community Plan Amendment and Change in Zoning for the Nona Lani Cottages at TMK: (2) 3-9-041:001 (EA 2006/0002; CPA 2006/0001; CIZ 2006/0001).

Thank you for your December 28, 2007 memorandum in response to the Draft Environmental Assessment in support of Community Plan Amendment and Change in Zoning applications for the subject project. We acknowledge your comment that the applicants' request will not have any impact on police services.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Christopher L. Hart, ASLA
Landscape Architect - Planner

attachment

c: Mr. David Y.S. Kong, Sr.
Ms. Cherlyn Kong
Mr. Jeffrey Dack

LANDSCAPE ARCHITECTURE
CITY AND REGIONAL PLANNING

115 N. MARKET STREET • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX: 808-242-1956



POLICE DEPARTMENT COUNTY OF MAUI



CHARMAINE TAVARES
MAYOR

55 MAHALANI STREET
WAILUKU, HAWAII 98793
(808) 244-6400
FAX (808) 244-6411

THOMAS M. PHILLIPS
CHIEF OF POLICE

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

December 28, 2007

2008 JAN 7 PM 3 29
DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED

MEMORANDUM

TO : JEFFREY S. HUNT, PLANNING DIRECTOR

FROM : THOMAS M. PHILLIPS, CHIEF OF POLICE

SUBJECT : I.D. : 'CPA 2006-0001, 'CIZ 2006/0001, and EA
2006/0002
TMK : (2) 3-9-041:001
Project Name : Nona Lani Cottages, LLC
Applicant : DEA in Support of Nona Lani Cottages
Community Plan Amendment and Change in
Zoning

- No recommendation or comment to offer.
- Refer to enclosed comments and/or recommendations.

As always, thank you for giving us the opportunity to comment on this project.

Ac Wayne T. Ribao
Assistant Chief Wayne T. Ribao
For: THOMAS M. PHILLIPS
Chief of Police

Enclosure

COPY

TO : THOMAS PHILLIPS, CHIEF OF POLICE, COUNTY OF MAUI
 VIA : CHANNELS
 FROM : BRAD HICKLE, POLICE OFFICER III, DISTRICT VI KIHEI
 SUBJECT : DRAFT ENVIRONMENTAL ASSESSMENT (DEA), CHANGE IN ZONING (CIZ), COMMUNITY PLAN AMMENDMANT (CPA), FOR THE NONA LANI COTTAGES @ TMK: (2) 3-9-041-001

CONCUR:
 AC W. [Signature]
 1/28/07

APPLICANT INFORMATION:

The application was prepared by Chris Hart & Partners for the applicant, Cherlyn KONG of the Nona Lani Cottages, LLC. Ms. KONG is submitting the Draft Environmental Assessment (DEA) in support of a request for Change in Zoning (CIZ) and request for Community Plan Amendment (CPA) for the Nona Lani Cottages which are located at 455 South Kihei Road, Kihei Hawaii.

IMPACT ON POLICE:

After reviewing the application this Officer discovered the applicant(s) do not have any plans at this time to increase the room count on this property. Based upon this information I do not believe the approval in the applicant(s) requests will have any impact on police services.

RECOMMENDATIONS:

It is recommended that this application be returned to the County Planning Department for final review and consideration. Thank you for the opportunity to review this request and submit our comments and/or recommendations.

Respectfully Submitted,

Officer Brad Hickle [Signature]
 12/26/07

17:00 hours

[Signature]
 12/27/07