

DEPARTMENT OF PLANNING
COUNTY OF MAUI
One Main Plaza
2200 Main Street, Suite 315
Wailuku, Hawaii 96793
Telephone: (808) 270-7735
Facsimile: (808) 270-7634

LAND USE COMMISSION
STATE OF HAWAII

2010 NOV 21 A 7:51

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Petition of:	)	Docket No. A07-773
)	
EMMANUEL LUTHERAN CHURCH OF	)	DEPARTMENT OF PLANNING, COUNTY
MAUI	)	OF MAUI'S POSITION STATEMENT ON
	)	ELC OF MAUI'S MOTION FOR
	)	MODIFICATION AND WAIKAPU
To Amend the Land Use District Boundary	)	DEVELOPMENT VENTURE'S (WDV)
of Certain Lands Situated at Wailuku, Island	)	1) MOTION TO APPROVE SALE OF A
of Maui, State of Hawaii, Consisting of	)	PORTION OF THE PETITION AREA,
25.263 Acres from the Agricultural District	)	2) MOTION TO ALLOW FOR SUBDIVISION to
the Urban District, Tax Map Key No.	)	PETITION AREA; AND 3) MOTION TO
3-5-002:011	)	BIFURCATE; CERTIFICATE OF SERVICE
)	

**THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S POSITION STATEMENT ON
ELC'S MOTION FOR MODIFICATION AND WDV's 1) MOTION TO APPROVE SALE OF A
PORTION OF THE PETITION AREA, 2) MOTION TO ALLOW FOR SUBDIVISION OF
PETITION AREA AND 3) MOTION TO BIFURCATE**

ELC'S MOTION FOR MODIFICATION

In accordance with §15-15 of the State Land Use Commission Rules, the Maui County Planning Department (Department) supports the State of Hawaii Land Use Commission (LUC) allowing the amendment/modification of the Findings of Fact, Conclusions of Law, and Decision and Order (D&O), filed on March 7, 2008, to authorize the future development of the Emmanuel Lutheran Church (ELC). As discussed by the ELC in its Motion for Modification, it still plans to create a new campus for its church and school that will suit its needs. The footprint of the updated

project is similar to the old. The original project was to be built on land approximately half the size, with the remainder for open space and unidentified future uses. In addition to the fact that the updated project calls for development on only half of the parcel, it will enable the school to pay off its mortgage for the Petition Area. In addition, an application for affordable housing on approximately 12.5 acres was approved by the Maui County Council via Resolution Number 18-150 through the HRS 201H-38 process. The Applicant plans to provide 80 workforce housing residential units total. There will be 68 single-family and 12 duplex units. The project will be 100% affordable to families making 70 to 100 percent of the County's median family income. Modification Number 1 of the 201H-38 approval states that Intervenor Waikapu Development Venture (WDV) shall commence construction within two years of the effective date of the Resolution and make its best effort to complete construction of 80 residential workforce housing units with roads and infrastructure no later than four years from the effective date of the Resolution. See **Exhibit A**. For consistency with the representations made to the Maui County Council for the 201H-38 approval, and in order for WDV to comply with the conditions of the 201H approval, an amendment/modification to the D&O is necessary. The Department supports the Motion.

WDV'S MOTION TO APPROVE SALE OF A PORTION OF THE PETITION AREA

Intervenor WDV is requesting the amendment of Condition Number 20, which states that the Petitioner shall secure approval of the LUC prior to the sale of the petition area or any portion. The property lies within the "Urban" Growth Boundary, per the Maui Island Plan, and the proposed workforce housing project will be developed consistent with the "Urban" designation. See **Exhibit B**.

According to the *Maui Island Plan*, the Urban Growth boundary denotes the areas within which urban-density development that requires a full range of services is supported, in accordance with land use laws. The Urban Growth boundary accounts for growth projections through 2030, the availability of infrastructure and services, environmental constraints and an approximate density of land development. Also, the proposed housing project will be infill, built amidst other housing

developments. The project area is bound by the Waikapu Gardens and Waiale Elua projects to the south, Waiolani subdivisions to the southwest or mauka of the property, Kehalani to the west or mauka of the property, and Wailuku Heights to the west. In addition, the 201H-38 application for affordable housing was approved with Modification Number 2, which states that project approval shall lapse and be void if the LUC fails to approve the property sale within six months of the date of the resolution. Refer to **Exhibit A**. In order for WDV to comply with the Modification and be consistent with representations made to the Maui County Council, the LUC must approve the sale of the 12.5-acre portion of the property. The Department is not opposed to the sale.

WDV'S MOTION TO ALLOW FOR SUBDIVISION OF PETITION AREA

In order to sell a portion of the property, the property must be subdivided. As WDV mentioned in its Motion, the subdivision application was for the creation of two lots, Lot 1-B for 12.763 acres for ELC's church and school and Lot 1-A for 12.5 acres for the WDV housing development. Preliminary subdivision approval was granted by the County of Maui Department of Public Works on July 16, 2018. The final plat must be filed within one year of approval, or the subdivision will be deemed null and void. Given the aforementioned information, the Department is not opposed to the sale of the 12.5-acre area to WDV.

WDV's MOTION TO BIFURCATE

The Department further understands the need for bifurcation of the docket, as zoning conditions and land use approvals run with the land. In this case, once sold, the parcels will be developed by separate entities. There will be different uses. While ELC is proposing a public/quasi-public use consisting of a church and school, WDV is proposing residential use consisting of 68 single-family units and 12 duplex units. Each project is bound by different processes and have different timetables. The ELC project is anticipated to be built-out by approximately 2028. In addition to a District Boundary Amendment, the ELC project required a Change in Zoning, which

was granted by Ordinance 3686, effective September 21, 2009. See **Exhibit C**. There were 11 conditions imposed by the Maui County Council, with which the ELC must comply. A Unilateral Agreement and Declaration for Conditional Zoning was also established and runs with the land in perpetuity, until the Declarant notifies the County Department that it has satisfied the conditions and the County verifies the satisfaction and provides a written release of the conditions. Refer to **Exhibit C**. Because there has been a substantial change in scope of the project, ELC will need to amend the Unilateral Agreement. In addition, the project is subject to various other Maui County Code requirements, which will require time for processing. It should be noted that ELC plans to also initiate a fundraising and capital campaign to construct the church and school, which will add to their development timeframe. In contrast, the WDV project must comply with conditions of the 201H-38 approval, which exempted the project from various other Maui County Code requirements, including a Change of Zoning, which will expedite construction and completion of the project by September 7, 2020. Given the various considerations involved, the Department has no objection to the bifurcation of the docket so that conditions may be imposed and adequately addressed separately.

POSITION OF THE DEPARTMENT

The Department is supportive of approval of the proposed affordable housing project, as long as the proposed plan remains consistent with the representations made to the Maui County Council for the 201H-38 approval. In addition, the Department notes several issues that were raised by agencies during the 201H-38 review that are already addressed in the conditions imposed by the D&O and/or were also addressed in the 201H-38 approval. We note these for the LUC's information:

- 1) The Petitioner shall coordinate with Department of Environmental Management on wastewater requirements. See **Exhibit D** and **D&O condition 4**.
- 2) The Petitioner will provide a safe bicycle/pedestrian path should be incorporated into the project design that extends to the developments to the north and south for

greater connectivity. See **Exhibit E**.

- 3) Documentation should be provided to ensure that the neighborhood green lot and open space/retention basin remain in perpetuity. See **Exhibit F**.
- 4) An archaeological inventory survey has been accepted by the State Historic Preservation Division (SHPD). An archaeological monitoring plan has been prepared for the proposed project. Should any burials, archaeological or historic sites be discovered during the course of development, all construction activity shall cease until cleared to the satisfaction of SHPD. See **D&O conditions 8 and 9**.
- 5) The Police Department commented that traffic control will not be needed, as long as the development is off the roadway, according to their letter submitted during the 201H-38 review process. See **Exhibit G**. The Applicant responded that the Traffic Impact Assessment Report recommended the installation of two northbound left-turn storage lanes along Waiale Road for entrance into the two proposed project accesses. Two northbound left-turn storage lanes should be installed along Waiale Road, as recommended by project engineers.
- 6) As per Fire Department comments, Covenants, Conditions and Restrictions (CC&Rs) should prohibit permanent parking on interior streets. See **Exhibit H**.
- 7) Petitioner shall implement water conservation measures and Best Management Area Practices to preserve air quality and protect surface and groundwater resources. See **D&O conditions 16 and 17**.
- 8) The Petitioner shall implement energy conservation measures, such as use of solar water and electrical and incorporate such measures into the project area. See **D&O condition 18**.
- 9) Because the land was formerly cultivated for agriculture, the Petitioner shall conduct a soil analysis study in consultation with the Department of Health Hazard Evaluation and Emergency Response Office and conduct appropriate abatement. See **D&O**

- 10) The Petitioner shall conduct air quality control and monitoring, as specified by the Department of Health. See Exhibit I and D&O condition 11.
- 11) Petitioner shall timely provide annual reports to the Land Use Commission, the Office of Planning and the Department. See D&O condition 19.

CONCLUSION

The Department supports ELC's Motion for Modification, and does not oppose WDV's Motion to Approve Sale of a Portion of the Petition Area, WDV's Motion to Allow for Subdivision of Petition Area, and WDV's Motion to Bifurcate. The issues and concerns raised by agencies during their review of WDV's 201H-38 project have been addressed either by the Council in its approval or by the LUC in the original D&O.

DATED: Wailuku, Hawaii, _____, 2018.


MICHELE MCLEAN
Planning Director
Department of Planning

MCM:TKF
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**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Petition of:)	Docket No. A07-773
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EMMANUEL LUTHERAN CHURCH OF)	CERTIFICATE OF SERVICE
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of Certain Lands Situated at Wailuku, Island)	
of Maui, State of Hawaii, Consisting of)	
25.263 Acres from the Agricultural District to)	
the Urban District.)	
<u>Tax Map Key No. 3-5-002:011</u>)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following on the date indicated below:

DANIEL E. ORODENKER
Executive Director
State of Hawaii Land Use Commission
P.O. Box 2359
Honolulu, Hawaii 96804-2359

By Certified Mail No.:

(Return Receipt Requested)

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DATED: Wailuku, Hawaii, _____, 2018.


MICHELE MCLEAN
Planning Director
Department of Planning

Resolution

No. 18-150

APPROVING WITH MODIFICATION THE AFFORDABLE WORKFORCE HOUSING PROJECT BY WAIKAPU DEVELOPMENT VENTURE LLC, PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Waikapu Development Venture LLC, a Hawaii Limited Liability Company ("Waikapu Development Venture LLC"), proposes the development of the Affordable Workforce Housing Project ("Project") for qualified residents on approximately 12.5 acres of the 25.263-acre parcel identified for real property tax purposes as tax map key (2) 3-5-002:011; and

WHEREAS, the proposed Project will have a total of sixty-eight (68) single-family units and twelve (12) duplex units for a total of eighty (80) residential workforce housing units; and

WHEREAS, all units in the proposed Project will be sold to income-qualified individuals earning between seventy percent and one hundred forty percent of the County of Maui's area median income; and

WHEREAS, the Project will provide needed residential workforce housing units to meet the current and growing demand for housing; and

WHEREAS, on July 25, 2018, the Department of Housing and Human Concerns ("Department") submitted the preliminary plans and the specifications, and accompanying Application for Affordable Housing Subdivision ("Application") to the Maui County Council ("Council"), recommending approval of the Project pursuant to Section 201H-38, Hawaii Revised Statutes ("HRS"); and

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five days after the Department submits the preliminary plans and specifications for the Project to the Council, or the Project shall be deemed approved; and

WHEREAS, pursuant to Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

EXHIBIT A

BE IT RESOLVED by the Council of the County of Maui:

1. That, based upon the transmittals and the representations of the Department and Waikapu Development Venture LLC, the Council approves the Project, with modification, attached hereto as Exhibit "A" and made a part hereof, including the Project's preliminary plans and specifications, as submitted to the Council on July 25, 2018, pursuant to Section 201H-38, HRS; provided that Waikapu Development Venture LLC shall comply with all statutes, ordinances, charter provisions, and rules of governmental agencies relating to planning, zoning, and construction standards for subdivisions, development and improvement of land, and the construction of units thereon, except for the exemptions specified in Exhibit "B" attached hereto and made a part hereof; and

2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of Housing and Human Concerns, from the preliminary plans and specifications approved by the Council; and

3. That any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval; and

4. That the final plans and specifications shall constitute the zoning, building, construction, and subdivision standards for the Project; and

5. That certified copies of this resolution shall be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Waikapu Development Venture LLC.

APPROVED AS TO FORM AND LEGALITY



Deputy Corporation Counsel

County of Maui

2017-0095

LU-2(4) 2018-08-16 Modification

MODIFICATIONS

1. Construction of the Waikapu Development Venture LLC Affordable Workforce Housing Project ("Project") shall commence within two years of the effective date of this resolution. Commencement of construction shall mean the visible start of grading, pursuant to a valid grading permit as needed for the development of the 12.5 acres upon which the 80 residential workforce housing units shall be constructed ("Property"). Waikapu Development Venture LLC shall act in good faith and with its reasonable best efforts to complete construction of the 80 residential workforce housing units, with all related roads and infrastructure, no later than four years after the effective date of this resolution.
2. Project approval shall lapse and become void if the State Land Use Commission fails to approve the sale of the Property by Emmanuel Lutheran Church of Maui to Waikapu Development Venture LLC within six months after the effective date of the resolution.

lu:misc:002(4)modifications02

EXHIBIT "A"

**WAIKAPU DEVELOPMENT VENTURE AFFORDABLE WORKFORCE HOUSING
PROJECT EXEMPTIONS PURSUANT TO SECTION 201H-38, HAWAII REVISED
STATUTES.**

A. EXEMPTION FROM TITLE 2, MCC, ADMINISTRATION AND PERSONNEL

1. An exemption from Chapter 2.80B, MCC, General Plan and Community Plans, shall be granted to permit the Project to proceed without obtaining a Community Plan Amendment.

B. EXEMPTIONS FROM TITLE 8, MCC, HEALTH AND SAFETY

1. An exemption from Section 8.04.040, MCC, Disposal Permits — Application and suspension, shall be granted to exempt the Project from the requirement of acquiring a *Disposal Permit*.
2. An exemption from Section 8.04.050, MCC, Disposal Charges, shall be granted to exempt the Project from *Disposal Charges*.

**C. EXEMPTIONS FROM TITLE 12, MCC, STREETS, SIDEWALKS, AND
PUBLIC PLACES**

1. An exemption from Section 12.08.100, MCC, Standards and Specifications, shall be granted to allow driveways within the 15-foot reserve area adjacent to an intersection and allow the maximum driveway width for the duplex units to exceed twenty-two (22) feet. The new maximum driveway width for the duplex units shall be thirty-six (36) feet.
2. An exemption from Chapter 12.24A, MCC, Landscape Planting and Beautification, shall be granted to exempt the Project from compliance with the *Landscape Planting Plan* as it pertains to requiring *One (1) Tree per Residential Lot*. The Project is comprised of seventy-four (74) Residential Lots, and thus, the Landscape Planting Plan will include the planting of no less than 74 Landscape Trees. However, the Project is allowed, through this exemption, flexibility in the precise location of each tree as it may not be feasible to plant a tree in the front area of every single residential lot. Some of the trees may be planted in the Neighborhood Green or along the several pedestrian pathways leading to the Neighborhood Green.

D. EXEMPTIONS FROM TITLE 14, MCC, PUBLIC SERVICES

1. An exemption from Section 14.05.090, MCC, Fire Protection, shall be granted to exempt the Project from providing *Fire Protection* for the portions of the Property along Honoapiilani Highway.
2. An exemption from Chapter 14.76, MCC, Impact Fees for Traffic and Roadway Improvements in Wailuku-Kahului, Maui, Hawaii; shall be

granted to exempt the Project from having to pay *Traffic Impact Fees* should such fees be adopted prior to issuance of building permits for the Project.

E. EXEMPTIONS FROM TITLE 16, MCC, BUILDINGS AND CONSTRUCTION

1. Exemptions from MCC Chapters 16.04C, Fire Code, 16.18B, Electrical Code, 16.20B, Plumbing Code, and 16.26B, Building Code, shall be granted to exempt the Project from *Fire, Electrical, Plumbing, and Building* permit fees, as well as inspection fees.
2. An exemption from Chapter 16.04C.160, MCC, Fire Code, as it pertains to permit fees in Subsection 1.12.8 shall be granted to exempt the Project from permit fees required by the Fire Code.
3. An exemption from Section 16.04C.440, MCC, Fire Code, as it pertains to *dimensions* in Subsection 18.2.3.6.1 shall be granted to exempt the Project from providing an *Unobstructed Width of Twenty (20) feet* for the *Interior Subdivision Roadways* (Roadways C and D) (Please refer to Exhibit 3 — Typical Section of Roadways C and D).
4. An exemption from Section 16.04C.470, MCC, Fire Code, as it pertains to Subsection 18.4.6 shall be granted to exempt the Project from providing fire protection for the portions of the property along Honoapiilani Highway.
5. An exemption from Section 16.26B.3600, MCC, Improvements to Public Streets, as it relates to *Urban Standards for Curbs and Gutters*, shall be granted for the portion of the Project adjacent to *Waiale Road* (Please refer to Exhibit 1— Typical Section of Waiale Road).

F. EXEMPTIONS FROM TITLE 18, MCC, SUBDIVISIONS

1. Exemptions from Section 18.04.030, MCC, Administration, and Section 18.16.020, MCC, Compliance, shall be granted to exempt the Project from requirements of obtaining a *Change in Zoning, and Community Plan Amendment*.
2. Exemptions from Section 18.16.050, MCC, Minimum Right-of-Way and Pavement Widths, shall be granted to allow the *Internal Subdivision Roadways* (Roadways C and D) to have a *Minimum Right-of-Way Width of Thirty-Six (36) feet and Minimum Pavement Width of Twenty (20) feet* (Please refer to Exhibit 3 — Typical Section for Roadways C and D).
3. An exemption from Section 18.16.070(A), MCC, Intersection Angles, shall be granted to allow the right-of-way lines at intersections to have a minimum corner radii of fifteen (15) feet.
4. An exemption from Section 18.16.220, MCC, Lots Size and Shape, shall be granted to allow *Lot Sizes, Widths, Shapes, and Orientation, and Minimum Building Setback Lines*, within the Project that are not consistent with, and not in conformance with the provisions of Chapter 19.31, MCC, Public/Quasi-Public District.

5. An exemption from Section 18.16.230, MCC, Lots — Minimum Sizes, shall be granted to allow Lot Sizes within the Project that are *not consistent with, and not in conformance with* the provisions of Chapter 19.31, MCC, Public/Quasi-Public District.
6. An exemption from Sections 18.20.040 and 18.20.080, MCC, as they relate to the *Urban Standards for Curbs, Gutters*, shall be granted for the portions of the Project adjacent to Waiale Road (Please refer to Exhibit 1- Typical Section of Waiale Road).
7. An exemption from Section 18.20.070, MCC, Sidewalks, shall be granted to allow the following exemptions as it relates to the *Construction of Sidewalks* along the Internal Subdivision Roadways A, B, C, and D (Please refer to Exhibits 2 and 3 — Typical Sections of proposed Internal Roadways).
 - Roadway A — Four (4) foot wide Concrete Sidewalks will be provided on both sides of portions of *Roadway A*; and the *Sidewalks will be in compliance with applicable Americans with Disabilities Act ("ADA ") requirements*.
 - Roadway B — Five (5) foot wide Concrete Sidewalks will be provided on one side of portions of *Roadway B*; and the *Sidewalks will be in compliance with all ADA requirements*.
 - Roadways C and D — The Project is exempt from constructing *Sidewalks on both sides of the Internal Subdivision Roadways C and D*.
8. An exemption from Chapter 18.40, MCC, Guidelines for Acceptance, shall be granted to allow the County to accept the subdivision roadways and utilities located within the subdivision roadways based on the exemptions granted herein, including but not limited to, exemption C.1 relating to the standards and specifications of driveways.

G. EXEMPTIONS FROM TITLE 19, MCC, ZONING

1. An exemption from Chapter 19.31, MCC, Public/Quasi-Public District, shall be granted to permit the development and use of the subject parcel for single-family and two-family (duplex) residential purposes. Permitted uses shall be based on Chapter 19.08, MCC, Residential District, and Chapter 19.10, MCC, Two-family (Duplex) District. The Project shall be exempt from all Development Design Standards set forth in Chapter 19.31, MCC. Further, this exemption shall allow the subdivision of the property in the plat configuration as generally shown in the Project Site Plan and Exhibit 4. The following Zoning Standards shall apply to the Project:

PERMITTED USES:

Single-Family and Two-Family (Duplex) Residential Units, as well as accessory buildings located on the same lot, the use of which is customary, incidental, usual, and

necessary to that of the main building or to the use of the land; provided that Bed and Breakfast Homes, Short-Term Rental Homes, and other rentals for a period of less than 180 days shall not be permitted.

MINIMUM LOT SIZE: 3,000 Square feet

MAXIMUM HEIGHT: No building shall exceed two (2) stories or thirty (30) feet in height.

MINIMUM LOT WIDTH: Forty (40) feet

- YARDS (BUILDING SETBACKS): Yards (building setbacks) to be as follows:
 - SINGLE-FAMILY AND TWO-FAMILY (DUPLEX) DWELLINGS:
 - Front Yard: Ten (10) feet minimum
 - Side Yard: Single-story is six (6) feet minimum; and two-story is ten (10) feet minimum; exterior stairs and landing decks accessing second story duplex units may extend to within (6) feet of the side yard property line on one side only.
 - Rear Yard: Fifteen (15) feet minimum
 - GARAGES AND CARPORTS:
 - Front Yard: Zero (0) feet – lot line
 - Side Yard: Zero (0) feet – lot line
 - Rear Yard: Zero (0) feet – lot line

and as shown in Exhibit 4.

- TOTAL NUMBER OF RESIDENTIAL LOTS IN PROJECT:
 - Single-Family Lots: 68 lots
 - Two-Family (Duplex) Lots: 6 lots
 - Total Lots: 74 lots
- TOTAL NUMBER OF UNITS IN PROJECT:
 - Single-Family Units: 68 units
 - Two-Family (Duplex) Units: 12 units
 - Total Units: 80 units

H. EXEMPTIONS PURSUANT TO MAUI COUNTY CODE REGARDING PROJECTS COMPRISED OF 100 PERCENT RESIDENTIAL WORKFORCE HOUSING UNITS

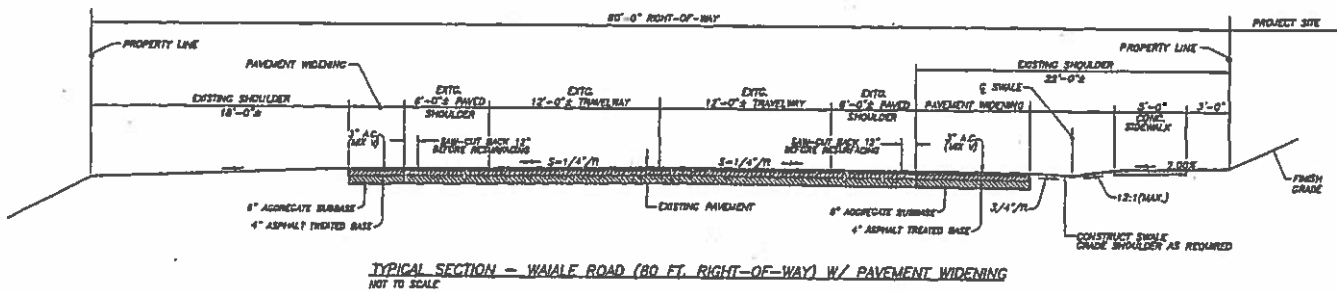
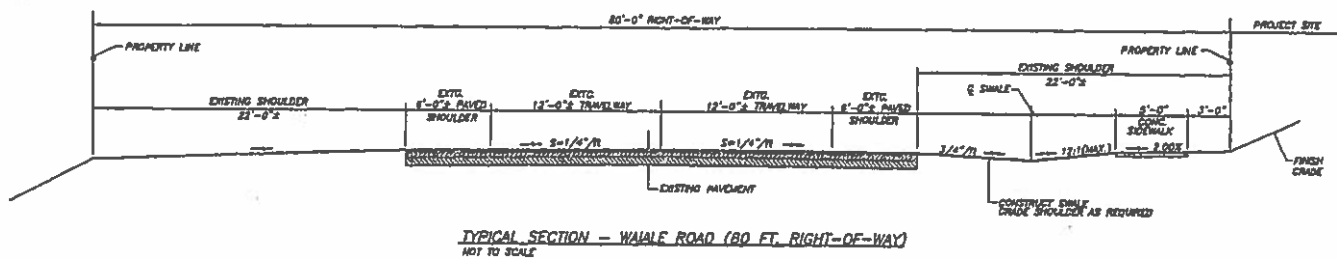
1. Section 12.08.050(D), MCC, as it pertains to *Driveway Permit Fees*.
2. Section 14.12.030, MCC, as it pertains to *Water Availability*.

EXHIBIT "B"

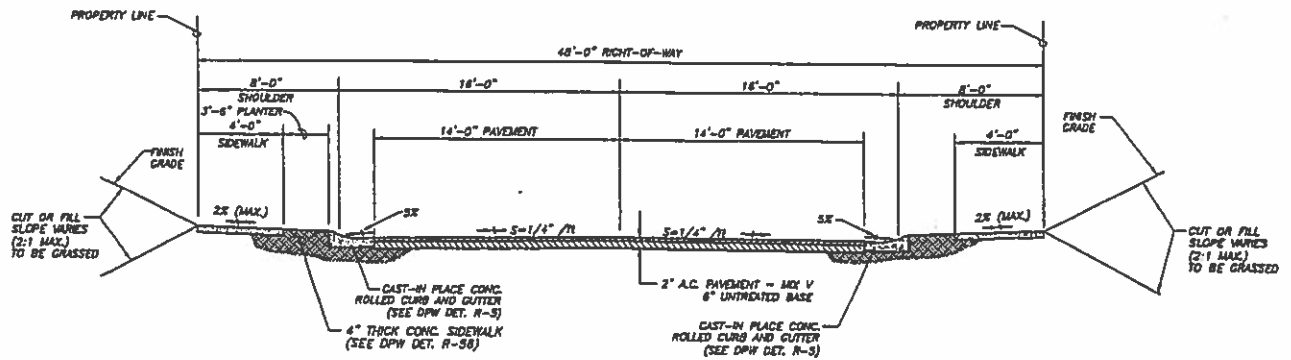
3. Section 14.35.080, MCC, as it pertains to wastewater assessment fees for facility expansion for the Wailuku/Kahului Wastewater Treatment System.
4. Section 16.18B.107, MCC, as it pertains to the *Electrical Permit Fee* in Section 107.1C.
5. Section 16.20B.103.4, MCC, as it pertains to the *Plumbing Permit Fee* in Section 103.4.1.3.
6. Section 16.26B.108, MCC, as it pertains to the *Building Permit Fee* in Section 108.2.
7. Section 18.16.320 (I) (5), MCC, as it pertains to the *Park Assessment Fee*.
8. Section 20.08.090(D), MCC, as it pertains to *Grading and Grubbing Permit Fee*.

I. EXEMPTION FROM ORDINANCE 3686 (2009)

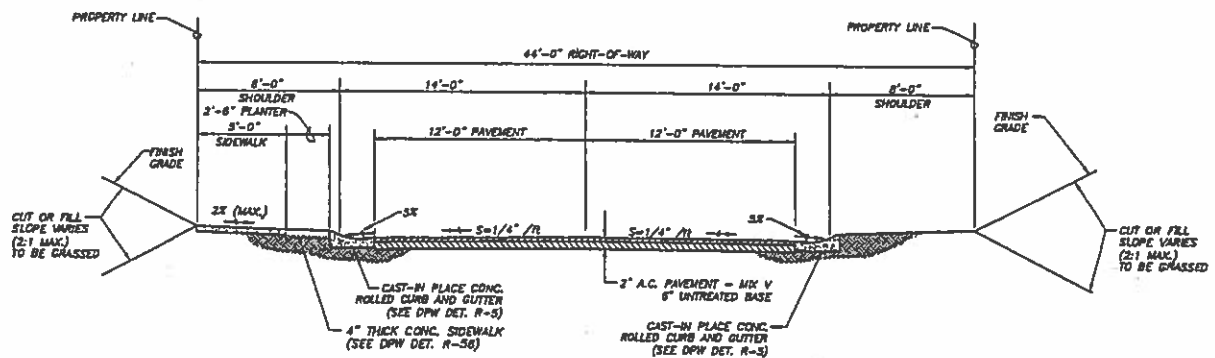
1. An exemption from the Conditions of Zoning set forth in Exhibit "B" and Exhibit "2" to Exhibit "C" of Ordinance 3686 (2009) shall be granted to exempt the Project from the conditions imposed therein.



TYPICAL SECTION
EXHIBIT 1



TYPICAL SECTION - SUBDIVISION INTERIOR ROAD "A" (48 FT. RIGHT-OF-WAY)
NOT TO SCALE

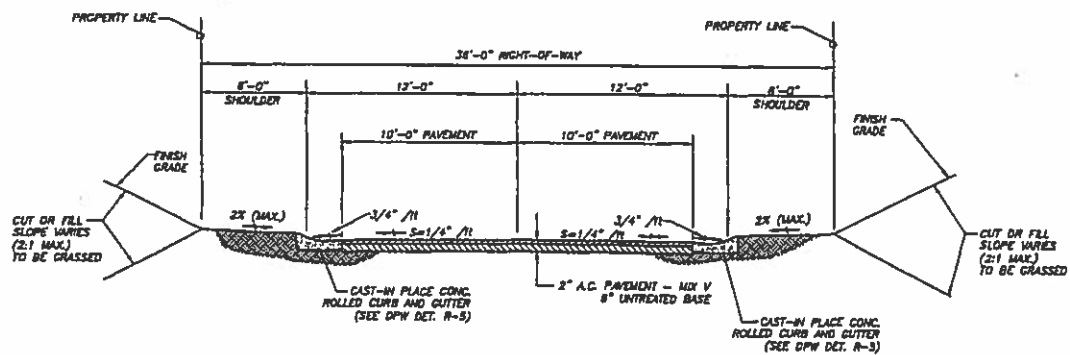


NOTES:

1. ROAD "B" ROW SHALL INCLUDE ON STREET PARALLEL PARKING STALLS, WHERE OCCURS.

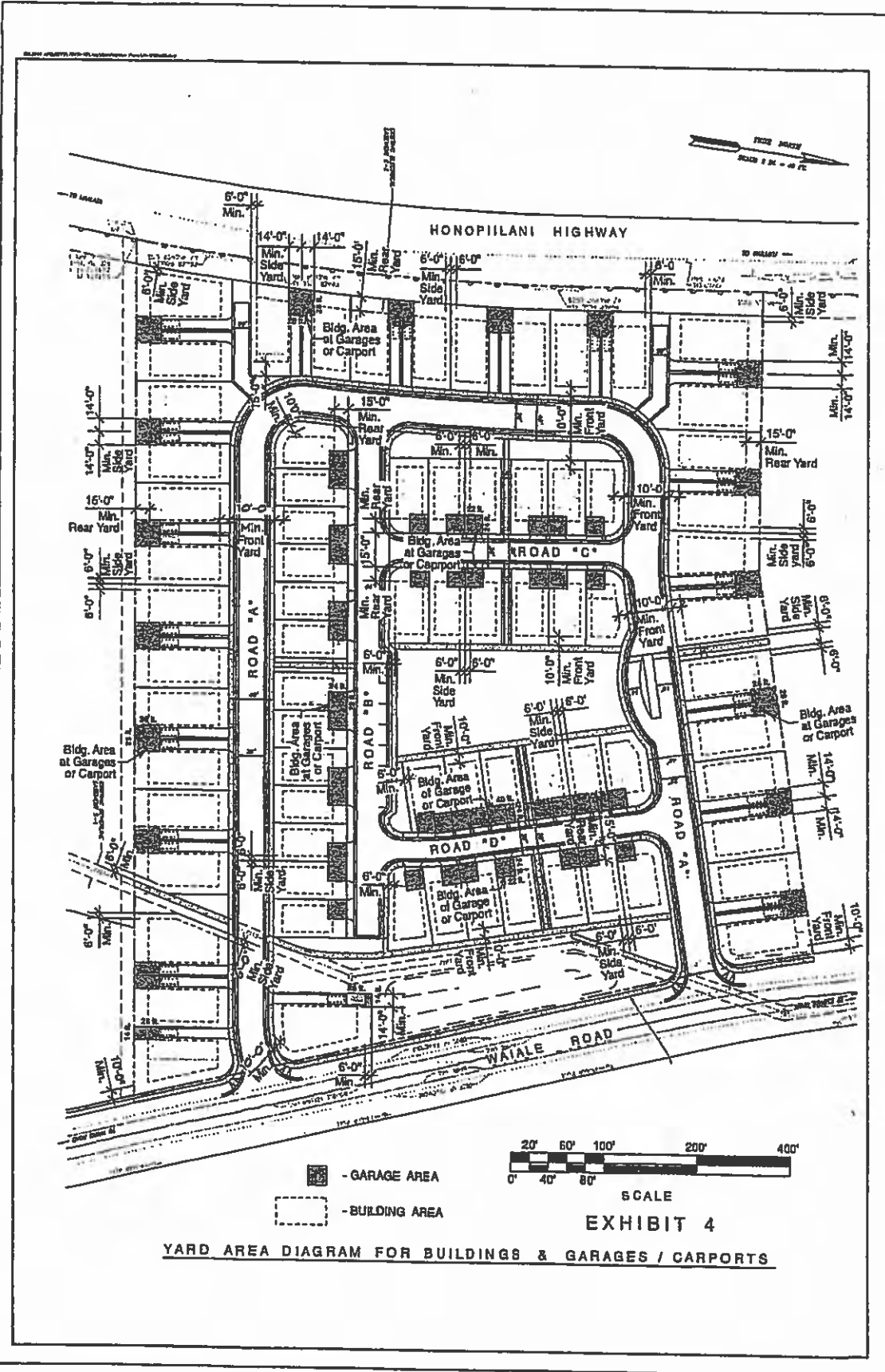
TYPICAL SECTION - SUBDIVISION INTERIOR ROAD "B" (44 FT. RIGHT-OF-WAY)
NOT TO SCALE

TYPICAL SECTION
EXHIBIT 2



TYPICAL SECTION - SUBDIVISION INTERIOR ROAD "C" & "D" (36 FT. RIGHT-OF-WAY)
NOT TO SCALE

TYPICAL SECTION
EXHIBIT 3



YARD AREA DIAGRAM FOR BUILDINGS & GARAGES / CARPORTS

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 18-150 was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of September, 2018, by the following vote:

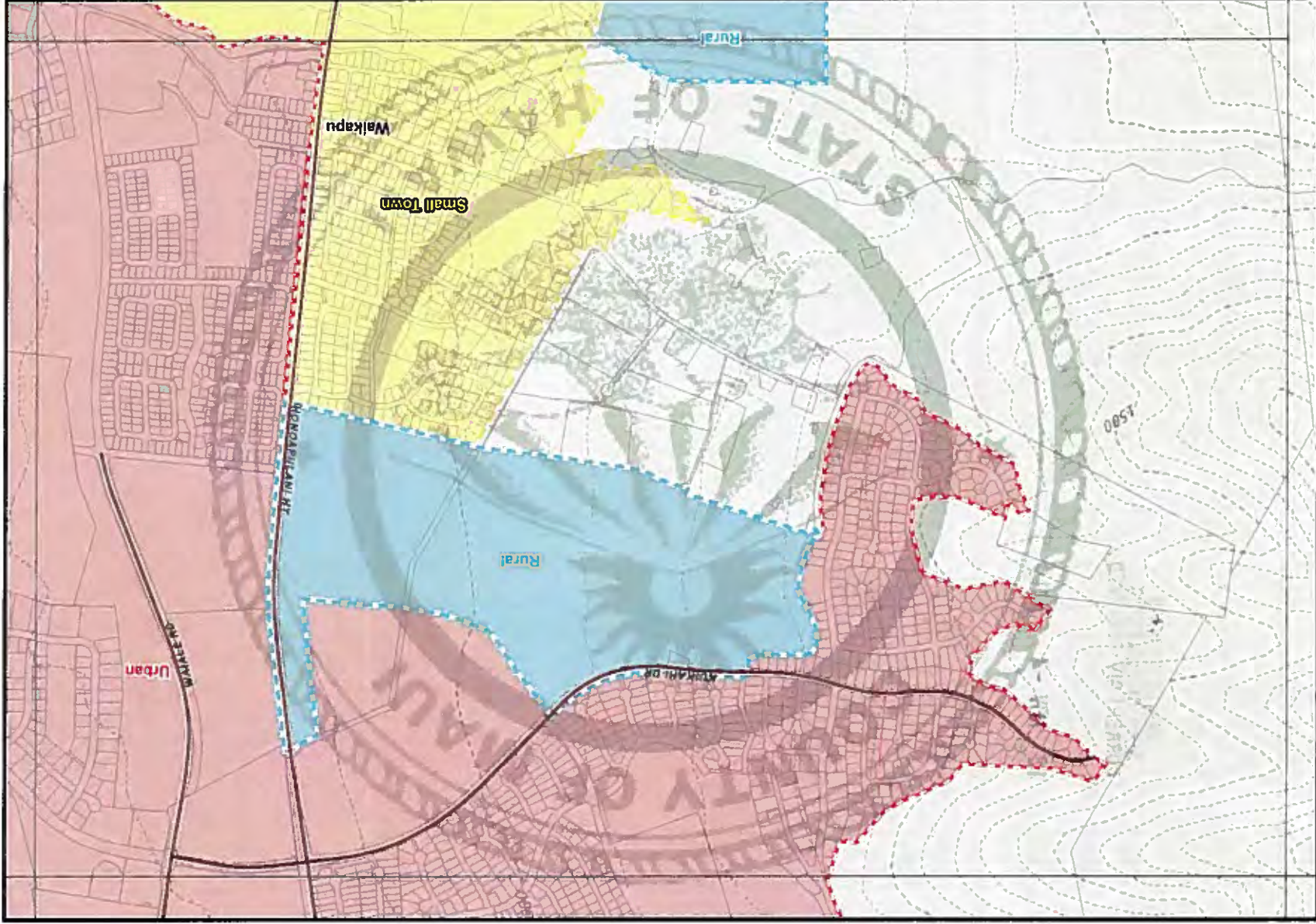
MEMBERS	Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye


COUNTY CLERK



Prepared by: Long Range Planning Division
Department of Planning, County of Maui
250 South High Street, Wailuku, Hawaii 96793

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Feet
Product Code: M-CET_20121030-G Copyright © October 30, 2012



Maui Island
Plan
Directed
Growth
Boundaries

EXHIBIT 3

Legend

- Growth Boundaries
- Urban
- Small Town
- Rural
- Reference
- Primary Roads
- 2011 Parcels
- 100 Ft. Contours



This is not a zoning map.
Please contact the Planning
Department for zoning confirmation



G-10

Wailuku

DIRECTED GROWTH PLAN

Protected Areas

Part of the Directed Growth Plan is to ensure that future development patterns do not compromise Maui's unique and fragile natural resources. One tool to promote the protection and availability of passive and active recreational amenities and other environmentally sensitive areas is the identification of preservation areas, regional parks, greenways, greenbelts, and sensitive lands. Each type of protected area is described in Table 8-2. It is not the intent of the Protected Areas to regulate lands within the State Conservation District. In some instances, Conservation lands are included to provide context.

Urban, Small Town, and Rural Growth Areas

The MIP is the first comprehensive plan to establish urban, small town, and rural growth boundaries in Maui County. These boundaries will encompass approximately 5,389 acres of new planned urban and small town growth areas. The Directed Growth Maps show Urban, Small Town, and Rural Growth Boundaries (UGB, STB, and RGB) - the space inside these boundaries is referred to as Urban, Small Town, and Rural Growth Areas respectively. These boundaries are depicted with lines on the Directed Growth Maps. The growth boundary line separates a growth area from a nongrowth area.

- The UGB denotes the areas within which urban-density development requiring a full range of services, such as new multi-user sewer and water, is supported in accordance with applicable land use laws. Growth boundaries are a long-range planning tool that will be used on Maui to evaluate proposals involving community plan amendments, changes in zoning, development proposals or utility extensions.
- The STB denotes areas that are less intensely developed than urban areas with fewer services and a lower level of infrastructure. These areas may be more self-sufficient than Rural Villages. Primary employment opportunities are often in nearby urban areas.
- The RGB is intended to identify and protect the character of our rural communities. It identifies an existing or future land use pattern that includes a mixture of small farms, low density residential housing, and a limited amount of urban uses consistent with the character and scale of our country towns. The intent of this boundary is to provide a framework for further and more detailed long-range rural planning during the community plan update process. Rural areas inherently possess a lower set of standards for infrastructure and public services than urban areas. As such, it is also the intent to apply lower level-of-service standards in RGBs.

The UGBs, STBs, and RGBs are used to identify and protect farms and natural areas from sprawl and to promote the efficient use of land, and the efficient provision of public facilities and services inside the boundary.

The UGBs, STBs, and RGBs take into account future growth projections through 2030, the availability of infrastructure and services, environmental constraints, and an approximate density of land development to determine the placement of the boundary. Land outside of the UGB is intended to remain rural in character with a strong agricultural and natural-resource presence. These boundaries are intended to be static "lines in the sand" until the time at which job and housing growth cannot be accommodated within the boundaries, which, if not addressed, could exacerbate the affordable housing problems facing Maui and have a negative impact on the overall quality of life. To ensure that an adequate supply of land is available, the MIP will be updated every ten years to provide for appropriate expansion to meet new

For: Mayor's Office

ORDINANCE NO. 3686

Effective Date: September 21, 2009

RECEIVED

ORDINANCE NO. 3686

2009 SEP 22 PM 2:08

OFFICE OF THE MAYOR BILL NO. 74 (2009)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII

City Mgmt	✓
Finance	
Fire	
Hsg&HC	
Liquor	
Parks&R	
Personnel	
Planning	✓
Police	
Prosectrs	
Public W	✓
Transpn	
Water S	✓
Mgmt.	
Mayor	
Budget	


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

SECTION 1. Pursuant to Chapters 19.31 and 19.510, Maui County Code, a change in zoning from Agricultural District to P-1 Public/Quasi-Public District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2)3-5-002:011, comprising approximately 25.263 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-423, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions set forth in Exhibit "B", attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto and made a part hereof as Exhibit "C".

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

APPROVED AS TO FORM
AND LEGALITY


JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\LJN\ORD\CI2\35002011.wpd

DEPT OF CLERICAL

09 OCT -9 P 3:05

EXHIBIT C

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Grant 3152 to Henry Cornwell and Grant 3343 to Claus Spreckels) situate, lying and being on the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) at Waikapu and Wailuku, Island and County of Maui, State of Hawaii, being LOT A of the "WAIKAPU EAST (LARGE-LOT) SUBDIVISION NO. 3" and thus bounded and described:

Beginning at a point at the southwesterly corner of this lot, being also the northwesterly corner of Lot B of Waikapu East (Large-Lot) Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,563.76 feet south and 2,085.73 feet west and running by azimuths measured clockwise from true South:

1. Thence along the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) on a curve to the left with the point of curvature azimuth from the radial point being: $271^{\circ} 55' 48''$ and the point of tangency azimuth from the radial point being: $262^{\circ} 39' 11''$, having a radius of 2,899.93 feet, the chord azimuth and distance being: $177^{\circ} 17' 29.5''$ 469.02 feet to a point;
2. $172^{\circ} 39' 11''$ 865.57 feet along same to a point;
3. $241^{\circ} 16'$ 878.02 feet along R. P. 4529-B and 4549, L. C. Aw. 71 to Michael J. Nowlein, being also along Lot 9-A of Waiale Road and Kuikahi Drive Extension Subdivision to a point;
4. Thence along the remainder of Grant 3343 to Claus Spreckels, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 on a curve to the right with the

point of curvature azimuth from the radial point being: 104° 32' 45" and the point of tangency azimuth from the radial point being: 284° 39' 17", having a radius of 1,600.00 feet, the chord azimuth and distance being: 14° 36' 01" 3.04 feet to a point;

5. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 104° 39' 17" and the point of tangency azimuth from the radial point being: 99° 00', having a radius of 1,600.00 feet, the chord azimuth and distance being: 11° 49' 38.5" 157.85 feet to a point;
6. 9° 00' 84.93 feet along same to a point;
7. Thence along same on a curve to the left, having a radius of 1,560.00 feet, the chord azimuth and distance being: 354° 03' 30" 804.45 feet to a point;
8. 339° 07' 622.61 feet along the remainders of Grant 3343 to Claus Spreckels and Grant 3152 to Henry Cornwell, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 to a point;
9. 82° 00' 904.67 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot B of Waikapu East (Large-Lot) Subdivision No. 3 to the point of beginning and containing an area of 25.263 acres, more or less.

EXHIBIT "B"

CONDITIONS OF ZONING

1. That, in order to prevent impacts to water resources, and all to the satisfaction of either the Department of Water Supply (DWS), the Department of Public Works (DPW), or the Department of Planning (Department), Emmanuel Lutheran Church of Maui shall employ construction mitigations as follows: adopt best management practices designed to minimize infiltration and runoff from construction and vehicle operations; prevent cement products, oil, fuel, and other toxic substances from falling or leaching into the water; properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work; retain ground cover until the last possible date; stabilize denuded areas by sodding or planting as soon as possible, which should involve replanting to include soil amendments, fertilizers, and temporary irrigation, and use of high seeding rates to ensure rapid stand establishment; avoid fertilizers and biocides, or apply only during periods of low rainfall to minimize chemical run-off; and keep run-off on-site.
2. That, in order to conserve water, and all to the satisfaction of either the DWS or the Department, Emmanuel Lutheran Church of Maui shall employ the following water conservation measures in project designs and/or construction: use climate adapted, drought tolerant, and non-invasive plantings; limit irrigated turf to 25 percent or less of total landscaped area except for active play or picnic areas; and use brackish and/or reclaimed water sources for dust control during construction and other non-potable uses, as well as for landscaping when such water is available.
3. That, in order to facilitate wastewater collection and treatment services for the site, and all to the satisfaction of the Department of Environmental Management, Emmanuel Lutheran Church of Maui shall: fund any necessary off-site improvements to the collection system and wastewater pump stations; indicate on plans the ownership of each easement (in favor of which party); prevent non-contact cooling water and condensate from

draining to the wastewater system; and show the installation of a service manhole near the property line prior to connection to the County sewer. Furthermore, kitchen facilities within the proposed project shall comply with pre-treatment requirements (including grease interceptors, sample boxes, screens, etc).

4. That, in order to mitigate construction waste, and to the satisfaction of the Department of Environmental Management, Emmanuel Lutheran Church of Maui shall submit and implement a plan for composting/disposal of cleared and grubbed material and recycling/reuse/disposal of construction waste.
5. That, in order to increase the safety of internal circulation, and to the satisfaction of the Department, Emmanuel Lutheran Church of Maui shall submit and implement a plan for internal circulation which keeps vehicular traffic from mixing with the students, such as by keeping vehicles along the outer periphery of the central campus area shown on the project's conceptual site development plans.
6. That, in order to provide improved access to the project site and its neighborhood, and to the satisfaction of the DPW, provide road widening lot/lots for future right-of-way. Such lot/lots shall be dedicated to the County.
7. That, in order to mitigate local traffic impacts and provide adequate circulation to and in the vicinity of the project site, and to the satisfaction of the DPW, the assumptions and methods for the preparation of the updated traffic impact assessment report (TIAR) to be prepared pursuant to condition no. 5 of the March 7, 2008 Decision and Order of the Hawaii Land Use Commission on Docket A07-773 shall first be approved by the DPW. The revised TIAR shall include the intersection of Waiale and Wainu Roads, possibly leading to a fair-share assessment for the signalization of this intersection. Further, that as it relates to conditions of circulation beyond those on state highways, the DPW shall approve the revised TIAR, and Emmanuel Lutheran Church of Maui shall contribute to or construct all of its recommended circulation improvements prior to the issuance of

building permits for new buildings to be added following the preparation of the revised TIAR.

8. That, in order to mitigate regional traffic impacts, and to the satisfaction of the DPW, Emmanuel Lutheran Church of Maui shall participate in a future impact fee for traffic and roadway improvements in the Wailuku-Kahului Community Plan Area. Said Fee shall be established and implemented in accordance with Title 14, Article 4, Impact Fees, except that the fees shall be paid to the County upon issuance of the first building permit or the establishment of the fee, whichever occurs later. If all phases of the project are completed before the traffic impact fee is established, then the fees shall be waived.
9. That, in order to provide for safety in the vicinity of the drainageway within the northerly portion of the site, the top of the drainageway shall be fenced, and access for maintenance shall be provided.
10. That, given that development on the property is proposed to be carried out in phases, a compliance report shall be submitted and approved by the Department concurrently with the Revised TIAR in Condition No. 7. Approval of the Compliance Report will be required prior to the issuance of grading or building permits for development subsequent to the submittal of the Report, and a second compliance report shall be submitted and approved by the Department prior to the issuance of occupancy permits for the final phase of building development for the church and school.
11. That, as offered by Emmanuel Lutheran Church of Maui, Emmanuel Lutheran Church of Maui shall work with, and to the satisfaction of, the State Department of Transportation and DPW as appropriate, to enhance, or where currently adequate, retain pedestrian and bicycle facilities along Honoapiilani Highway and Waiale Road adjoining the property as contemplated in the "Bike Plan Hawaii" or similar plans of the State Department of Transportation.

FILED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF MAUI, STATE OF HAWAII

RECEIVED AT THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF MAUI, STATE OF HAWAII

Doc 2009-138944

SEP 10, 2009 08:02 AM

Doc 2009-138944

SEP 10, 2009 08:02 AM

REGULAR SYSTEM

LAND COURT SYSTEM

Return By Mail () Pickup (x) : To:
Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: 9

Affects Tax Map Key (Maui) (2) 3-5-002:011

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL
ZONING

THIS INDENTURE, made this 21st day of August 2009, by Emmanuel Lutheran Church of Maui, a Hawaii nonprofit corporation, whose principal place of business is located in Kahului, Maui, Hawaii, and whose mailing address is 520 West One Street, Kahului, Hawaii, 96732, hereinafter referred to as "DECLARANT", and which is the owner of that certain parcel located at Waikapu, Maui, Hawai'i, comprised of approximately 25.263 acres, and identified for real property tax purposes by Tax Map Key No(s). (2) 3-5-002:011, hereinafter referred to as "PARCEL" (or "PROPERTY").

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Parcel, comprised of approximately 25.263 acres which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. L-423, which is on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 09-102, that said establishment of zoning be approved for passage on first reading subject to certain conditions pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code relating to conditional zoning;

2. That until written release by the County of Maui, the Parcel, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Parcel, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawai'i, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or with respect to the Parcel by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Parcel the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

3. That this Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the Declarant notifies the appropriate County Department that any of said covenants, conditions and restrictions are satisfied by the Declarant, and the appropriate County Department verifies the satisfaction and provides a written release of the covenant, condition or restriction;

4. That the term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", the Declarant's heirs, devisees, executors, administrators, personal representatives, successors, and assigns;

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of P-1 Public/Quasi-Public District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

6. That the Declarant agrees to develop said Parcel in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County, the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

IN WITNESS WHEREOF, the undersigned have executed this Declaration the day and year first above written.

DECLARANT:

Emmanuel Lutheran Church of Maui

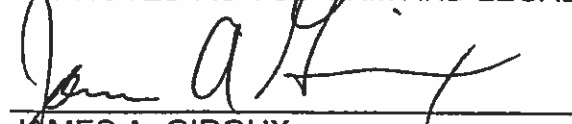


by: Richard H. Sudheimer
President



by: Waldo W. Ullerich
Treasurer

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)

ISLAND AND COUNTY OF MAUI)

SS:

On this 21 day of August, 2009, before me personally appeared Richard H. Sudheimer, to me personally known who being by me duly sworn, did say that he is the President of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation, and that the instrument was signed on behalf of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation, by authority of its board of directors, partners or trustees, and Richard H. Sudheimer acknowledged the instrument to be the free act and deed of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation.

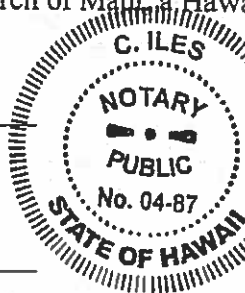
C. Iles
Signature of Notary

C. Iles
My Commission Expires 02/29/2012

Printed Name of Notary

Notary Public, State of Hawaii

My Commission Expires: C. Iles My Commission Expires 02/29/2012



Doc. Date: 8-21-09 # Pages: 9
C. Iles
Doc. Description: Unilateral Agreement and Declaration for Conditional Zoning
C. Iles 8-21-09
Notary Signature Date
NOTARY CERTIFICATION

STATE OF HAWAII)

ISLAND AND COUNTY OF MAUI)

SS:

On this 21 day of August, 2009, before me personally appeared Waldo W. Ullerich, to me personally known who being by me duly sworn, did say that he is the Treasurer of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation, and that the instrument was signed on behalf of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation, by authority of its board of directors, partners or trustees, and Waldo W. Ullerich acknowledged the instrument to be the free act and deed of Emmanuel Lutheran Church of Maui, a Hawaii non-profit corporation.

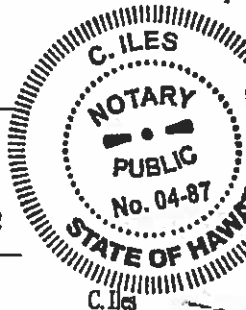
C. Iles
Signature of Notary

C. Iles
My Commission Expires 02/29/2012

Printed Name of Notary

Notary Public, State of Hawaii

My Commission Expires: C. Iles My Commission Expires 02/29/2012



Doc. Date: 8-21-09 # Pages: 9
C. Iles
Doc. Description: Unilateral Agreement and Declaration for Conditional Zoning
C. Iles 8-21-09
Notary Signature Date
NOTARY CERTIFICATION

EXHIBIT - 1.

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Grant 3152 to Henry Cornwell and Grant 3343 to Claus Spreckels) situate, lying and being on the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) at Waikapu and Wailuku, Island and County of Maui, State of Hawaii, being LOT A of the "WAIKAPU EAST (LARGE-LOT) SUBDIVISION NO. 3" and thus bounded and described:

Beginning at a point at the southwesterly corner of this lot, being also the northwesterly corner of Lot B of Waikapu East (Large-Lot) Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,563.76 feet south and 2,085.73 feet west and running by azimuths measured clockwise from true South:

1. Thence along the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) on a curve to the left with the point of curvature azimuth from the radial point being: 271° 55' 48" and the point of tangency azimuth from the radial point being: 262° 39' 11", having a radius of 2,899.93 feet, the chord azimuth and distance being: 177° 17' 29.5" 469.02 feet to a point;
2. 172° 39' 11" 865.57 feet along same to a point;
3. 241° 16' 878.02 feet along R. P. 4529-B and 4549, L. C. Aw. 71 to Michael J. Nowlein, being also along Lot 9-A of Waiale Road and Kuikahi Drive Extension Subdivision to a point;
4. Thence along the remainder of Grant 3343 to Claus Spreckels, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 on a curve to the right with the

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6. 9° 00' 84.93 feet along same to a point;

7. Thence along same on a curve to the left, having a radius of 1,560.00 feet, the chord azimuth and distance being: 354° 03' 30" 804.45 feet to a point;

8. 339° 07' 622.61 feet along the remainders of Grant 3343 to Claus Spreckels and Grant 3152 to Henry Cornwell, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 to a point;

9. 82° 00' 904.67 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot B of Waikapu East (Large-Lot) Subdivision No. 3 to the point of beginning and containing an area of 25.263 acres, more or less.

EXHIBIT "2"

CONDITIONS OF ZONING

1. That, in order to prevent impacts to water resources, and all to the satisfaction of either the Department of Water Supply (DWS), the Department of Public Works (DPW), or the Department of Planning (Department), Emmanuel Lutheran Church of Maui shall employ construction mitigations as follows: adopt best management practices designed to minimize infiltration and runoff from construction and vehicle operations; prevent cement products, oil, fuel, and other toxic substances from falling or leaching into the water; properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work; retain ground cover until the last possible date; stabilize denuded areas by sodding or planting as soon as possible, which should involve replanting to include soil amendments, fertilizers, and temporary irrigation, and use of high seeding rates to ensure rapid stand establishment; avoid fertilizers and biocides, or apply only during periods of low rainfall to minimize chemical run-off; and keep run-off on-site.
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6. That, in order to provide improved access to the project site and its neighborhood, and to the satisfaction of the DPW, provide road widening lot/lots for future right-of-way. Such lot/lots shall be dedicated to the County.
7. That, in order to mitigate local traffic impacts and provide adequate circulation to and in the vicinity of the project site, and to the satisfaction of the DPW, the assumptions and methods for the preparation of the updated traffic impact assessment report (TIAR) to be prepared pursuant to condition no. 5 of the March 7, 2008 Decision and Order of the Hawaii Land Use Commission on Docket A07-773 shall first be approved by the DPW. The revised TIAR shall include the intersection of Waiale and Waiinu Roads, possibly leading to a fair-share assessment for the signalization of this intersection. Further, that as it relates to conditions of circulation beyond those on state highways, the DPW shall approve the revised TIAR, and Emmanuel Lutheran Church of Maui shall contribute to or construct all of its recommended circulation improvements prior to the issuance of building permits for new buildings to be added following the preparation of the revised TIAR.
8. That, in order to mitigate regional traffic impacts, and to the satisfaction of the DPW, Emmanuel Lutheran Church of Maui shall participate in a future impact fee for traffic and roadway improvements in the Wailuku-Kahului Community Plan Area. Said Fee shall be established and implemented in accordance with Title 14, Article 4, Impact Fees, except that the fees shall be paid to the County upon issuance of the first building permit or the establishment of the fee, whichever occurs later. If all phases of the project are completed before the traffic impact fee is established, then the fees shall be waived.

9. That, in order to provide for safety in the vicinity of the drainageway within the northerly portion of the site, the top of the drainageway shall be fenced, and access for maintenance shall be provided.
10. That, given that development on the property is proposed to be carried out in phases, a compliance report shall be submitted and approved by the Department concurrently with the Revised TIAR in Condition No. 7. Approval of the Compliance Report will be required prior to the issuance of grading or building permits for development subsequent to the submittal of the Report, and a second compliance report shall be submitted and approved by the Department prior to the issuance of occupancy permits for the final phase of building development for the church and school.
11. That, as offered by Emmanuel Lutheran Church of Maui, Emmanuel Lutheran Church of Maui shall work with, and to the satisfaction of, the State Department of Transportation and DPW as appropriate, to enhance, or where currently adequate, retain pedestrian and bicycle facilities along Honoapiilani Highway and Waiale Road adjoining the property as contemplated in the "Bike Plan Hawaii" or similar plans of the State Department of Transportation.

WE HEREBY CERTIFY that the foregoing BILL NO. 74 (2009)

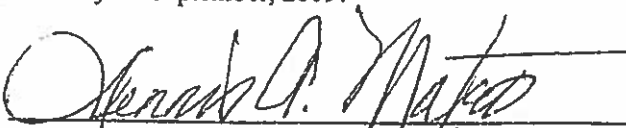
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 18th day of September, 2009, by the following vote:

Dennis A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gladys C. BAISA	Jo Anne JOHNSON	Solomon P. KAHO'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

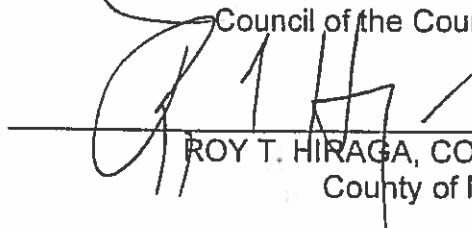
2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 18th day of September, 2009.

DATED AT WAILUKU, MAUI, HAWAII, this 18th day of September, 2009.

RECEIVED
2009 SEP 18 PM 3:35
OFFICE OF THE MAYOR




DENNIS A. MATEO, CHAIR
Council of the County of Maui



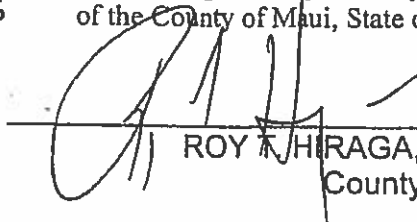
ROY T. HIRAGA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 21st DAY OF SEPTEMBER, 2009.



CHARMAINE TAVARES, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3686 of the County of Maui, State of Hawaii.



ROY T. HIRAGA, COUNTY CLERK
County of Maui

Passed First Reading on September 4, 2009.
Effective date of Ordinance September 21, 2009.

RECEIVED
2009 SEP 21 AM 11:30
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3686, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

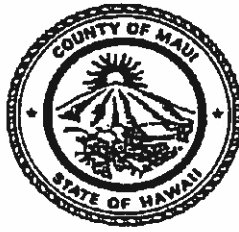
Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

ALAN M. ARAKAWA
Mayor

STEWART STANT
Director

MICHAEL M. MIYAMOTO
Deputy Director



MICHAEL RATTE
Solid Waste Division

ERIC NAKAGAWA, P.E.
Wastewater Reclamation Division

**COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**
2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

January 18, 2018

Mr. Vince Bagoyo
1500 Kilinoe Place
Wailuku, Hawaii 96793

**SUBJECT: WAIKAPU DEVELOPMENT VENTURE LLC
AFFORDABLE WORKFORCE HOUSING SUBDIVISION
DRAFT APPLICATION
TMK (2) 3-5-002:011 (POR.), WAILUKU**

We reviewed the subject application and have the following comments:

1. Solid Waste Division comments:

- a. Refuse collection services cannot be ensured to be available when project is completed.
- b. Developer must apply to the Central Maui Landfill to dispose of construction waste.

2. Wastewater Reclamation Division (WWRD) comments:

- a. Although wastewater system capacity is currently available as of the date of this letter, the developer should be informed that wastewater system capacity cannot be ensured until the issuance of the building permit.
- b. Wastewater contribution calculations are required before building permit is issued.
- c. Developer is not required to pay assessment fees for this area at the current time.
- d. Show or list minimum slope of new sewer laterals.
- e. Plans should show the installation of a single service lateral and advanced riser for each lot. Any request for waiver of this requirement shall be made submitted in writing for approval by WWRD.
- f. A single service lateral with property line cleanout shall be provided for each dwelling unit.

EXHIBIT D

- g. Sewerlines shall only be considered for dedication to the County if constructed in roadways and said roadways are accepted for maintenance by the County.
- h. Any sewer within or upstream of a new sewer easement will remain privately owned and maintained.
- i. No trees, structures, building overhangs or walls shall be planted/constructed in the existing sewer easement.
- j. Level vehicular access to all sewerlines and manholes (including those in easements) shall be provided for future maintenance and construction purposes.
- k. Existing sewerline shall be inspected with a CCTV camera prior to grading and at the completion of construction to verify no damage has occurred. CCTV files shall be provided to WWRD within ten (10) days of video work. Identified damage shall be corrected by the developer.
- l. Non-contact cooling water and condensate should not drain to the wastewater system.

If you have any questions regarding this letter, please contact Michael Miyamoto at 270-8230.

Sincerely,



MICHAEL M. MIYAMOTO
Deputy Director of Environmental Management



BAGOYO

DEVELOPMENT
CONSULTING GROUP

March 13, 2018

Mr. Michael M. Miyamoto
Deputy Director
Maui Department of Environmental Management
2050 Main Street, Suite 2B
Wailuku, HI 96793

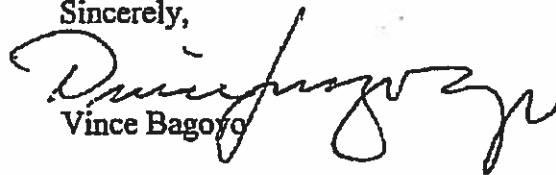
Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Dear Mr. Miyamoto:

This is to acknowledge receipt of your letter dated January 18, 2018 regarding the above subject proposed affordable housing project and thank you for your comments. We do concur with your comments and recommendations as noted in your letter. A detailed construction plans for the proposed project will be provided for your review upon receipt of approval by the County Council of 201H, HRS application for the project.

Thank you again for your kind comments and should you have further questions or require additional information regarding the proposed project, please contact me at (808) 357-3842.

Sincerely,



Vince Bagoyo

Attachment

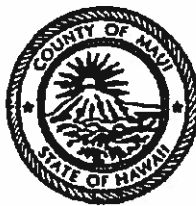
Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

JWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



GLEN A. UENO, P.E., P.L.S.
Development Services Administration

GARY YAMASHITA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

March 23, 2018

Mr. Vince Bagoyo, Project Consultant
WAIKAPU DEVELOPMENT VENTURE LLC
1500 Kilinoe Place
Wailuku, Maui, Hawaii 96793

Dear Mr. Bagoyo:

**SUBJECT: DRAFT APPLICATION FOR PROPOSED WORKFORCE
HOUSING PROJECT PURSUANT TO 201H, HAWAII REVISED
STATUTES LOCATED AT WAIKALE ROAD, WAILUKU, HAWAII
TMK: (2) 3-5-002:011 (POR.)**

We reviewed the subject application and have the following comments:

Comments from the Highways Division:

1. Section V Exemptions Request

E.5 This would exempt the project from providing infrastructure relating to curbs, gutters, sidewalks along Waiale Road. We have concerns that there should be a safe walkway incorporated into the development on Waiale Road.

F.3 Minimum intersection radii. Restrict street parking and ensure Emergency vehicles' accessibility.

Comments from the Development Services Administration, Plans Review Section:

2. Section V, E, 1, on page 80, Exemption from Title 16, Maui County Code (MCC) Building and Construction from the listed MCC chapters, provide a list of fees being requested to be exempt.

EXHIBIT E

Comments from the Engineering Division:

3. Exemption F-2, regarding minimum right-of-way and pavement width would result in non-standard streets for Roads "B", "C", and "D" upon completion. If this exemption is pursued, the Department recommends that these roadways are to remain under private ownership and maintenance.
4. Exemption F2, a pavement width of 20 feet may not provide adequate width for on-street parking and emergency response. The Department recommends consultation with Emergency response agencies. Construction plans shall be designed appropriately.
5. Exemption F7, requests an exemption from constructing sidewalks on both sides of the internal subdivision roadways. The Department does not support this request. Five (5) feet wide sidewalks shall be constructed on Road "A" along both sides of internal roadways for the purpose of safety and accessibility for future residents. This also renders only portions of the subdivision accessible under the Americans with Disabilities Act.
6. Project site plan is not clear whether curb ramps are constructed at roadway intersections as recommended in the Americans with Disabilities Act.
7. Provide Typical Sections for Roads "A", "B", "C", and "D".
8. For each development listed in 3.2 of the Traffic Impact Analysis Report (TIAR), provide a table that shows the volume of traffic contributed to each studied intersection.
9. Page 13 of the TIAR states certain developments are "... not explicitly included in this TIAR". Please revise to simply state whether or not these projects are included.
10. For clarity, provide additional exhibits. The first showing additional volumes forecasted through the Maui Regional Transportation Demand Module (MRTDM) and a second only showing volumes generated by the remaining developments that are not included in the MRTDM.
11. Page 22 of the TIAR states that no bike improvement is identified on Waiale Road in the State of Hawaii Department of Transportation (HDOT)

Mr. Vince Bagoyo, Project Consultant
March 23, 2018
Page 3

Bike Plan Hawaii. This should not preclude any from being proposed.
The project should provide provisions for safe bicycle traffic.

12. Provide an exhibit showing Year 2020 traffic without the project.
13. Provide an exhibit or table showing the effects to Level of Service (LOS) and delay of the project with only background growth, without surrounding developments.
14. Remove Sections 5.1 and 5.2 from Part 5. Conclusions and move them to their respective sections in the body of the report.
15. Part 5. Conclusions should detail all recommendations as a result of this report and identify which entity is responsible for implementation.

Please call Rowena M. Dagdag-Andaya at 270-7845 to schedule a meeting regarding the contents of this letter.

Sincerely,


DAVID C. GOODE
Director of Public Works

DCG:RMDA:da

Enclosure

xc: Highways Division
Engineering Division

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BAGOYO

DEVELOPMENT
CONSULTING GROUP

May 7, 2018

Mr. David C. Goode
Director
Department of Public Works
200 So. High Street
Wailuku, HI 96793

Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Gentlemen:

Thank you for your letter of March 23, 2018, and we appreciate your time reviewing and commenting on the draft application. The following is in response to your comments in the order as noted in your letter:

1. E.5: A sidewalk is proposed along Waiale Road fronting the subject site (see attached typical section).
F.3: The proposed Homeowners association's CC&R's will include provisions to prohibit permanent parking on the interior (20' wide) streets to ensure emergency vehicles' accessibility.
2. Comment acknowledged.
3. Will respectfully request the Council to allow for the dedication of the interior streets.
4. Please refer to item 1(F.3) response.
5. The applicant will request an exemption to allow sidewalks to be constructed on one side of the internal roadways.
6. Curb ramps will be constructed at intersections where appropriate and will meet ADA standards.
7. Refer to attached typical sections for Roads "A", "B", "C", and "D".
8. TIAR has been updated to include the information as requested.
9. TIAR has been updated and removed mention of Puunani Residences and Waiale as requested.
10. TIAR has been updated to include the information you have requested.
11. Comment acknowledged. A statement has been added in the revised TIAR, that "along Waiale Road between Waiko Road and Kuikahi Drive, paved shoulders are currently provided for pedestrian and bike use. In the Central Maui Pedestrian and Bicycle Master



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DEVELOPMENT
CONSULTING GROUP

Plan for 2030, the County has identified the potential implementation of bike paths or bike lanes along this stretch for future consideration."

12. TIAR has been updated to show exhibit for Year 2020 traffic with Project, with ambient growth, without background projects, as clarified with Department of Public Works by project's traffic consultant, ATA, Inc.
13. TIAR has been updated by project's traffic consultant to show LOS for Year 2020 traffic with Project, with ambient growth, without background projects, as clarified with Department of Public Works by the project's traffic engineer consultant.
14. Comment acknowledged.
15. Comment acknowledged.

Thank you again for your comments and should you have any further questions regarding the proposed project, please contact me at (808) 357-3842 or by email at vbagoyno-devgroup@hawaii.rr.com.

Sincerely,


Vince Bagoyno

Attachments

Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

ALAN M. ARAKAWA
Mayor



DAVID TAYLOR, P.E.
Director

GLADYS C. BAISA
Deputy Director

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

January 24, 2018

Mr. Vince Bagoyo
Wailuku Development Venture LLC
1500 Kilinoe Place
Wailuku, Hawaii 96793

Dear Mr. Bagoyo:

Subject: DRAFT APPLICATION FOR AFFORDABLE WORKFORCE HOUSING
SUBDIVISION
TMK: (2) 3-5-002:011, Wailuku, Maui, Hawaii

We received a copy of the draft application for the proposed workforce housing project consisting of 68 single family residential units and 12 duplex residential units. According to Appendix G – Preliminary Engineering Report, in addition to these residential units, a neighborhood green lot and open space/retention basin will also be developed. Maui County Code, Chapter 14.12.030 allows residential development projects with one hundred percent affordable housing units an exemption from the County's "water availability policy." For the neighborhood green lot and open space/retention basin, the department requires documentation that those parcels shall remain in perpetuity for those specific uses.

If you have any questions, please feel free to contact Tammy Yeh at 270-7835.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Taomoto".

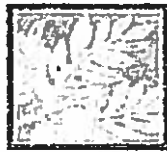
WENDY TAOMOTO, P.E.
Engineering Program Manager

TY/smb

cc: Carol Reimann, Director; Department of Housing and Human Concerns

"By Water All Things Find Life"

EXHIBIT F



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CONSULTING GROUP

March 12, 2018

Ms. Wendy Taomoto, P.E.
Engineering Program Manager
Maui Department of Water Supply
200 So. High Street
Wailuku, HI 96793-2155

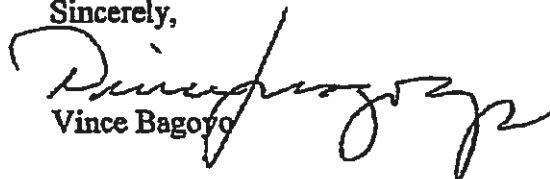
Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Dear Ms. Taomoto:

This is to acknowledge receipt of your letter dated January 24, 2018 commenting on the above subject workforce housing project. We appreciate your comments and for confirming that the proposed one hundred percent affordable housing project is exempt from the County's "water availability policy" per Chapter 14.12.030, Maui County Code. With regards to the open space/retention basin on the project site, we are pleased to affirm that the basin will remain in perpetuity and documentation will be provided within a deed restriction upon the subdivision of the project site.

Thank you again for your kind comments and should you have further questions or require additional information regarding the proposed project, please contact me at (808) 357-3842.

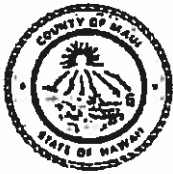
Sincerely,


Vince Bagoyo

Attachment

Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

1500 KILINOE PLACE
WAILUKU, HI 96793
(808)357-3842
VBAGOYO-DEVGROU@HAWAII.RR.COM



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE

YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

January 24, 2018



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

Mr. Vince Bagoyo
Project Consultant
Waikapu Development Venture LLC
1500 Kilinoe Place
Wailuku, Hawaii 96793

Re: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located Waiale Road, Wailuku, Hawaii
TMK: (2) 3-5-02:11 (por.)

Dear Mr. Bagoyo:

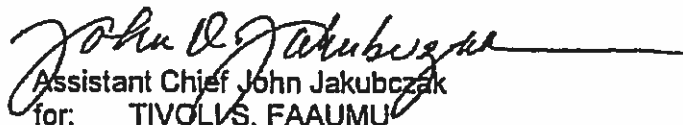
This is in response to Ms. Carol Reimann's memorandum dated January 5, 2018 requesting comments to the draft application.

In review of the submitted documents, concerns from the police perspective are upon the safety of pedestrians and vehicular movement. The project will run between Waiale Road and Honoapi'ilani Highway in Wailuku. The project location is approximately 25 acres, which will have the entry/exit on Waiale Road.

Currently the traffic flow has been increasing from the Spencer Home Development and will increase upon the completion of this development. Also, there will be an increase in calls for service for the Wailuku Patrol District with the increasing community members in the area, however, Maui is in need of affordable housing. As long as this development is off the roadway, traffic control will not be needed by police.

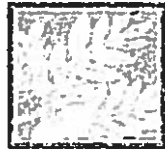
Thank you for giving us the opportunity to comment on this project.

Sincerely,


Assistant Chief John Jakubczak
for: TIVOLI S. FAAUMU
Chief of Police

c: Director Carol Reimann, DHHC
Mr. Buddy Almeida, Housing Administrator

EXHIBIT G



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DEVELOPMENT
CONSULTING GROUP

March 12, 2018

Mr. Tivoli S. Faaumu
Chief of Police
Maui Police Department
55 Mahalani Street
Wailuku, HI 96793

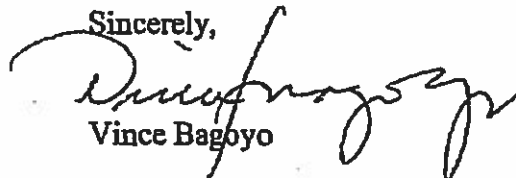
Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Dear Chief Faaumu:

This is to acknowledge receipt of your letter dated January 24, 2018 regarding the above subject affordable housing project and thank you for your comments. As noted in our Traffic Impact Analysis Report (TIAR) prepared by Austin Tsutsumi and Associates, northbound through traffic on Waiale Road will continue to spill back to Waiale Road/Kuikahi Drive intersection in the AM peak hour. Based on the forecast trips, the Project will increase traffic at the intersection by approximately 1.5%. The more critical AM peak hour of traffic, the Project is forecast to add only 18 northbound through vehicles and 11 northbound left-turn vehicles along Waiale Road through the intersection. To mitigate this potential impact, the TIAR recommends installing two northbound left-turn storage lanes along Waiale Road for entrance into the two proposed Project accesses.

Thank you again for your kind comments and should you have further questions or require additional information regarding the proposed project, please contact me at (808) 357-3842.

Sincerely,

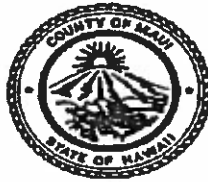


Vince Bagoyo

Attachment

Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
FIRE CHIEF

LIONEL W. MONTALVO
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY
FIRE PREVENTION BUREAU

313 MANEA PLACE, WAILUKU, HAWAII 96793
(808) 876-4690, FAX (808) 244-1363

March 14, 2018

Vince Bagoyo
1500 Kilinoe Place
Wailuku, HI 96793

SUBJECT: Affordable Workforce Housing Project
Off Wai'ale Road, Wailuku, HI
TMK: (2) 3-5-002:011 (por.)

Dear Vince,

Thank you for allowing our office to provide comment on the subject proposed project. As per your request, comments are provided below:

- The proposed paved road widths of 20 feet meet the minimum road widths required by the fire code, but that is assuming that no parking is allowed on the street. The project needs come up with a plan to ensure that permanent parking on the street is prohibited.
- If the proposed water supply for fire protection are in-line with DWS standards, the water supply will meet the current requirements of the fire code.
- Our office does reserve the right to provide further comment on the proposed project during the building permit review process if building permits are routed to our office. At that time, fire department access, water supply for fire protection, and fire and life safety requirements will be addressed for the subject permits.
- Be advised that access and water supply improvements should be in place prior to construction of buildings or alternate provisions need to be provided.

If there are any questions or comments, please feel free to contact me at (808) 876-4693 or by email at paul.haake@mauicounty.gov.

Sincerely,

Paul Haake

A handwritten signature in cursive script that reads "Paul Haake".

Captain - Fire Prevention Bureau

EXHIBIT H



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DEVELOPMENT
CONSULTING GROUP

March 15, 2018

Mr. Paul Haake
Captain-Fire Prevention Bureau
313 Manea Place
Wailuku, HI 96793

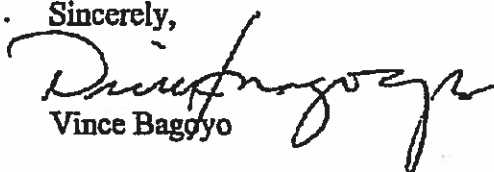
Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Dear Mr. Haake:

This is to acknowledge receipt of your letter dated March 14, 2018 regarding the above subject proposed affordable housing project. We appreciate and concur with your comments. As noted in your letter, we are pleased to inform you that the proposed project's homeowners' association CC&R's will include provisions to prohibit permanent parking on the interior (20' wide) streets. Also, the water supply for fire protection for the project is proposed to be dedicated to the County and will be designed and constructed to meet DWS standards and fire code.

Thank you again for your kind comments and should you have further questions or require additional information regarding the proposed project, please contact me at (808) 357-3842.

Sincerely,



Vince Bagoyo

Attachment

Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

1500 KILINOE PLACE
WAILUKU, HI 96793
(808)357-3842
VBAGOYO-DEVGROU@HAWAII.RR.COM

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, HAWAII 96793-3378

LORRIN W. PANG, M.D., M.P.H.
DISTRICT HEALTH OFFICER

January 31, 2018

Mr. Vince Bagoyo
Bagoyo Development Consulting Group
1500 Kilinoe Place
Wailuku, Hawaii 96793

Dear Mr. Bagoyo:

Subject: Proposed Workforce Housing Project
Applicant: Waikapu Development Venture
TMK: (2) 3-5-02:11 (por.)
Address: Waiale Road, Wailuku, Hawaii
Description: 80 Affordable Workforce Residential Housing Units

Thank you for the opportunity to review this project. We have the following comments to offer:

This land was formerly in the production of pineapple and/or sugarcane. Chemicals associated with the pineapple or sugar industry persists in soil today and may be a threat to public health and the environment. Please contact the Department of Health, Hazard Evaluation and Emergency Response Office at 808 586-4249.

It is strongly recommended that the Standard Comments found at the Department's website: <http://health.hawaii.gov/epo/home/landuse-planning-review-program/> be reviewed and any comments specifically applicable to this project should be adhered to.

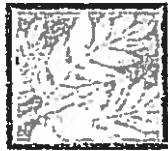
Should you have any questions, please contact me at 808 984-8230 or email me at patricia.kitkowski@doh.hawaii.gov.

Sincerely,

A handwritten signature in cursive script that reads "Patti Kitkowski".

Patti Kitkowski
District Environmental Health Program Chief

EXHIBIT I



BAGOYO

DEVELOPMENT
CONSULTING GROUP

March 12, 2018

Ms. Patti Kitkowski
District Environmental Health Program Chief
State Department of Health
54 High Street
Wailuku, HI 96793-3378

Subject: Draft Application for Proposed Workforce Housing Project
Pursuant to 201H, Hawaii Revised Statutes ("HRS")
Located at Waiale Road, Wailuku, Hawaii; TMK: (2) 3-5-02:11 (por)

Dear Ms. Kitkowski:

This is to acknowledge receipt of your letter dated January 31, 2018 regarding the above subject proposed affordable housing project and thank you for your comments. As noted in the draft 201H application, Phase I Environmental Site Assessment was conducted for the subject property by Vuich Environmental Consultants, Inc. According to the environmental site assessment has revealed no evidence of recognized environmental conditions in connection with the property. Per your recommendation, the applicant will further contact the Department of Health, Hazard Evaluation and Emergency Response office prior to any development of the subject property to ensure compliance with all applicable rules and regulations.

Thank you again for your kind comments and should you have further questions or require additional information regarding the proposed project, please contact me at (808) 357-3842.

Sincerely,


Vince Bagoyo

Attachment

Cc: Ms. Carol Reimann (Director, Dept. of Housing and Human Concerns)
Waikapu Development Venture LLC

1500 KILINOE PLACE
WAILUKU, HI 96793
(808) 357-3842
VBAGOYO-DEVGROU@HAWAII.RR.COM

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

EPD 18-023

January 31, 2018

Mr. Vince Bagoyo
Bagoyo Development Consulting Group
1500 Kilinoe Place
Wailuku, Hawaii 96793
Email: VBAGOYO-DEVGROU@hawaii.rr.com

Dear Mr. Bagoyo:

**SUBJECT: Draft Application (DA) for Proposed Workforce Housing Project, Wailuku, Maui, Hawaii
TMK: (2) 3-5-02:11 (por)**

The Department of Health (DOH), Environmental Planning Office (EPO), acknowledges receipt of your January 8, 2018 letter and DA to our office on January 30, 2018. We understand from the DA preface that Waikapu Development Venture, LLC ("Applicant") is proposing to develop 80 affordable workforce residential housing units pursuant to 201H, Hawaii Revised Statutes (HRS). The proposed project consists of 68 single-family units and 12 duplex units. The subject property consists of 12.5 acres. The project will be developed under the 201H, HRS and the housing units will be affordably-priced to families making 70 percent to 140 percent of Maui County's median family income. The Applicant, in coordination with the County of Maui Department of Housing and Human Concerns, will seek exemptions from certain statutes, ordinances, charter provisions, and rules relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon as provided by Section 201H-38 HRS.

We understand from the DA Preface that "The proposed project does not involve the use of State and County lands or funds, and there are no other triggers for an environmental assessment pursuant Chapter 343 HRS. As noted, the project will be developed pursuant to 201H, HRS".

We understand from page 7, Section D that under Section 201H-38, HRS promotes the development of affordable housing project by providing exemptions from "all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon" provided that the proposed housing project is consistent with the purpose and intent of 201H-38, HRS, and meets minimum requirements of health and safety. This proposed project will be consistent and in compliance with the requirements pursuant to 201H, HRS.

We understand from Section V of the DA that only the following exemptions are requested pursuant to 201H-38, HRS.

- Exemption from Title 2, MCC, Administration and Personnel
- Exemptions from Title 8, MCC, Health and Safety; Chapter 8.04 refuse collection and landfills
- Exemptions from Title 12, MMC, Streets, Sidewalks and Public Places
- Exemptions from Title 14, MCC, Public Services
- Exemptions from Title 16, MCC, Building and Construction
- Exemptions from Title 18, MCC, Subdivisions
- Exemptions from Chapter 19, MCC, Zoning
- Exemptions from MCC regarding projects comprised of 100% residential workforce housing units

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As you know, Hawaii's environmental review laws require Environmental Assessments (EAs) and Environmental Impact Statements (EISs) to consider health in the discussion and the mitigation measures to reduce negative impacts. In its definition of 'impacts,' §11-200-2, Hawaii Administrative Rules (HAR) includes health effects, whether primary (direct), secondary (indirect), or cumulative. Further, §11-200-12(b)(5), HAR, lists public health as one of the criteria for determining whether an action may have a significant impact on the environment.

We advocate that you consider health from a broad perspective; one that accounts for the social, economic, and environmental determinants of health and wellbeing. Community well-being can be impacted by access to physical activity, health care, feelings of social connectedness and safety. Design solutions that take these factors into consideration positively contribute to the social determinants of health in a community, improving the well-being of those who live there by influencing health promoting behaviors. Social determinants contribute to preventable chronic diseases such as asthma, diabetes, obesity, and cardiovascular disease.

An example of social influences include access to safe pedestrian corridors such as pathways, sidewalks, bike lanes, greenways and open space. §11-200-17(h), HAR, says EISs must discuss how proposed actions may conform or conflict with any policies for the affected area. This includes Hawaii's 2009 Complete Streets law, which requires the state and counties to establish policies to accommodate all users of the road, no matter age, ability, or mode of transportation. In 2015, Hawaii passed Act 97 which amended Hawaii's Renewable Portfolio Standards by setting a goal for Hawaii to become one hundred percent renewable by the year 2045. To reach this goal Hawaii should transform its transportation sector from the use of fossil fuels to renewable fuel, electric vehicles (EV)s, and public transit systems including bikeshare programs. To address "range anxiety" and facilitate the adoption of EVs, it is essential that EV charging stations be added to any planned parking areas open to the EV driving public. Plans should strive to encourage the use of personal bicycles through the development of designated bike lanes and class A bike trails. All efforts should be made to reduce harmful vehicle emissions, reduce vehicle miles travelled (VMT's), encourage alternative modes of transport and increase physical activity.

In the development and implementation of all projects, EPO strongly recommends regular review of State and Federal environmental health and use guidance. State standard comments to support sustainable healthy design are provided at: <http://health.hawaii.gov/epo/landuse>. Projects are required to adhere to all applicable standard comments.

If you haven't already, EPO recommends that you review the new Healthy Communities Policy Guide: <https://planning.org-uploaded-media.s3.amazonaws.com/document/Healthy-Communities-Policy-Guide.pdf>, Plan4Health website: <http://plan4health.us> and the free, on-demand, six-part Plan4Health webinar series available on the American Planning Association website.

EPO also encourages you to examine and utilize the Hawaii Environmental Health Portal at: <https://eha-cloud.doh.hawaii.gov>. This site provides links to our e-Permitting Portal, Environmental Health Warehouse, Groundwater Contamination Viewer, Hawaii Emergency Response Exchange, Hawaii State and Local Emission Inventory System, Water Pollution Control Viewer, Water Quality Data, Warnings, Advisories and Postings.

We suggest you review the requirements of the Clean Water Branch (Hawaii Administrative Rules (HAR), Chapter 11-54-1.1, -3, 4-8) and/or the National Pollutant Discharge Elimination System (NPDES) permit (HAR, Chapter 11-55) at: <http://health.hawaii.gov/cwb>. If you have any questions, please contact the Clean Water Branch (CWB), Engineering Section at (808) 586-4309 or cleanwaterbranch@doh.hawaii.gov. If your project involves waters of the U.S., it is highly recommended that you contact the Army Corps of Engineers, Regulatory Branch at: (808) 835-4303.

Injection wells used for the subsurface disposal of wastewater, sewage effluent, or surface runoff are subject to environmental regulation and permitting (HAR, Chapter 11-23, "Underground Injection Control (UIC)"). DOH approval must be obtained before any injection well construction commences. A UIC permit must be issued before

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any injection well operation occurs. For specific questions please email sdwb@doh.hawaii.gov or call (808) 586-4258.

Please note that all wastewater plans must conform to applicable provisions (HAR, Chapter 11-62, "Wastewater Systems"). We reserve the right to review the detailed wastewater plans for conformance to applicable rules. Should you have any questions, please review online guidance at: <http://health.hawaii.gov/wastewater> and contact the Planning and Design Section of the Wastewater Branch (WWB) at (808) 586-4294.

If temporary fugitive dust emissions could be emitted when the project site is prepared for construction and/or when construction activities occur, we recommend you review the need and/or requirements for a Clean Air Branch (CAB) permit (HAR, Chapter 11-60.1 "Air Pollution Control"). Effective air pollution control measures need to be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures could include, but are not limited to, the use of water wagons, sprinkler systems, and dust fences. For questions contact the Clean Air Branch via e-mail at: Cab.General@doh.hawaii.gov or call (808) 586-4200.

Any waste generated by the project (that is not a hazardous waste as defined in state hazardous waste laws and regulations), needs to be disposed of at a solid waste management facility that complies with the applicable provisions (HAR, Chapter 11-58.1 "Solid Waste Management Control"). The open burning of any of these wastes, on or off site, is strictly prohibited. You may wish you review the Minimizing Construction & Demolition Waste Management Guide at: <http://health.hawaii.gov/shwb/files/2016/05/constdem16.pdf>. Additional information is accessible at: <http://health.hawaii.gov/shwb>. For specific questions call (808) 586-4226.

If noise created during the construction phase of the project may exceed the maximum allowable levels (HAR, Chapter 11-46, "Community Noise Control") then a noise permit may be required and needs to be obtained before the commencement of work. Relevant information is online at: <http://health.hawaii.gov/irhb/noise>. EPO recommends you contact the Indoor and Radiological Health Branch (IRHB) at (808) 586-4700 with any specific questions.

A phase I Environmental Site Assessment (ESA) and site investigation should be conducted for residential development or redevelopment projects in current or formerly used industrial areas and on formerly and currently zoned agricultural land used for growing sugar, pineapple or other agricultural products. If the investigation shows that a release of petroleum, hazardous substance, pollutants or contaminants may have occurred at the site, the site should be properly characterized through an approved Hawaii State Department of Health (DOH)/Hazard Evaluation and Emergency Response Office (HEER) soil and/or groundwater sampling plan. Please refer to Sections 3 and 4 of the HEER Office Technical Guidance Manual <http://www.hawaiidoh.org>.

If the site is found to be contaminated, then all removal and remedial actions to clean up hazardous substance or oil releases by past and present owners/tenants must comply with State Law (HRS, Chapter 128D, "Environmental Response Law", Chapter 451, "State Contingency Plan"). To identify HEER records related to the property, visit <http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/public-records>. For information on site assessment and cleanup programs review: <http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/site-assessment-and-cleanup-programs>. Any specific questions should be directed to the HEER office at (808) 586-4249.

The property may harbor vectors which may disperse to the surrounding areas when the site is cleared. In accordance with Title 11, HAR, Chapter 11-26, "Vector Control", the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of vectors be determined, the applicant shall eradicate the vectors prior to clearing the site.

The Hawaii Disability and Communication Access Board (DCAB) recommends the inclusion of access for persons with disabilities through all phases of design and construction. New construction and alteration work shall comply with all applicable accessibility requirements. Projects covered by §103-50, Hawaii Revised Statutes, and HAR Title 11 Chapter 216 shall seek advice and recommendations from DCAB on any construction plans prior to commencing with construction. If you have any questions please contact DCAB at (808) 586-8121 or dcab@doh.hawaii.gov.

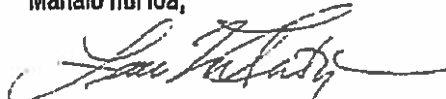
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You may also wish to review the draft Office of Environmental Quality Control (OEQC) viewer at: <http://eha-web.doh.hawaii.gov/oeqc-viewer>. This viewer geographically shows where some previous Hawaii Environmental Policy Act (HEPA) (Hawaii Revised Statutes, Chapter 343) documents have been prepared.

To better protect public health and the environment, the U.S. Environmental Protection Agency (EPA) has developed an environmental justice (EJ) mapping and screening tool called EJSCREEN. It is based on nationally consistent data and combines environmental and demographic indicators in maps and reports. EPO encourages you to explore, launch and utilize this powerful tool in planning your project. The EPA EJSCREEN tool is available at: <http://www.epa.gov/ejscreen>.

We hope this information is helpful. If you have any questions please contact us at DOH.epo@doh.hawaii.gov or call us at (808) 588-4337. Thank you for the opportunity to comment.

Mahalo nui loa,



Laura Lalaloa Phillips McIntyre, AICP
Environmental Planning Office

LM:nn

c: DOH: DHO M, EMD, CWB, WWB, CAB, SHWB, SDWB, HEER, IRHB, PHP, OEQC (via email only)

Attachment 1: DHO Maui comments

Attachment 2: Office of Environmental Quality Control (OEQC) viewer (of some past EA's, EIS's in area)

Attachment 3: U.S. EPA EJSCREEN Report for Project Area .