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**COUNTY COUNCIL**
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July 20, 2017

MEMO TO: Patrick K. Wong
Corporation Counsel

F R O M: Robert Carroll, Chair
Land Use Committee

SUBJECT: **CONDITIONAL PERMIT FOR PROPERTY LOCATED AT 588 KULAIWI DRIVE (WAILUKU)** (LU-23)

At its meeting of July 19, 2017, the Land Use Committee discussed a request for a Conditional Permit for property located at 588 Kulaiwi Drive ("property"). The Committee inquired about the applicability of the Wailuku Heights Extension – Unit II Homeowners Association ("HOA") Covenants, Conditions, and Restrictions (CC&Rs) to the property, and the impact, if any, of the CC&Rs on the County's ability to grant the requested Conditional Permit.

The Committee was informed the lot encompassing the driveway, consisting of approximately 0.25 acre (formerly identified as Lot 144), is within the subdivision and therefore falls under the HOA. The quarter-acre lot has been consolidated with the larger parcel, consisting of approximately 5.25 acres, outside the boundaries of the Wailuku Heights Extension subdivision, to form the property.

May I respectfully request that you opine on the following:

1. Even though the parcels have been consolidated, do the CC&Rs apply only to the portion that was previously the individual quarter-acre lot?

2. Irrespective of whether the CC&Rs apply to a portion of the consolidated lot, do the CC&Rs affect the County's ability to grant the Conditional Permit?

3. Are the CC&Rs a private agreement between the landowner and the HOA that are outside the County's enforcement capability?

I would appreciate receiving a response by **July 26, 2017**. I apologize for the short turnaround time, but the Land Use Committee meeting of July 19, 2017, has been recessed to Thursday, July 27, 2017.

To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Gary Saldana at ext. 7137, or Clarita Balala at ext. 7668).

lu:ltr:023acc01:grs

cc: James Giroux, Deputy Corporation Counsel
William Spence, Planning Director