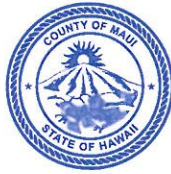


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



RECEIVED

2016 AUG -9 PM 2: 56

COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 9, 2016

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Don S. Guzman, Chair
Economic Development, Energy,
Agriculture, and Recreation Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Mayor **8/11/16**
Date

Dear Chair Guzman:

**SUBJECT: AUTHORIZING GRANT OF A LEASE OF REAL PROPERTY TO
TEACH DEVELOPMENT LLC (OLD MAUI HIGH SCHOOL CAMPUS)
(EAR-63)**

We are in receipt of your letter dated August 3, 2016 in which you ask several questions relating to the zoning and permitting process for the above-referenced endeavor.

This action involves two parcels: TMKs 2-5-004: 014 and 053. Parcel 14 is comprised of 22.158 acres and is owned by the State of Hawaii and is under the control and custody of the County pursuant to two Executive Orders. Parcel 53 is comprised of 1.38 acres and is owned by the County.

Responses to your questions are provided below:

1. Parcel 14 has Interim zoning, is designated Public/Quasi-Public and Single Family by the Paia-Haiku Community Plan, is within the Rural Growth Boundaries of the Maui Island Plan, and is situated in the State Agricultural District. Parcel 53 has Interim zoning, is designated Public/Quasi-Public by the Paia-Haiku Community Plan, is within the Rural Growth Boundaries of the Maui Island Plan, and is situated in the State Agricultural District. Zoning and Flood Confirmation Forms for both parcels are attached.
2. Yes, a State Land Use District boundary amendment can be obtained for a portion of a parcel; it does not have to apply to the entirety of a parcel. In the example you provide, a 14-acre portion of the parcel can be the subject of a district boundary amendment (for example, from the State Agricultural District to the State Urban

District), leaving the balance of the parcel in its existing district. District boundary amendments of 15 acres or less can be processed at the County level, through the relevant island planning commission and the County Council, pursuant to Section 205-3.1, Hawaii Revised Statutes and Chapter 19.68, Maui County Code. District boundary amendments of greater than 15 acres must be processed by the State Land Use Commission.

We understand that the endeavor will involve active agricultural uses. The areas of the parcels that will be used for agriculture can remain in the State Agricultural District. If the other uses can reasonably be conducted within 15 acres or less, then it would be appropriate for the district boundary amendment to be processed at the County level. If the other uses require more than 15 acres, though, then a district boundary amendment for a larger area should be processed by the State Land Use Commission.

3. We are not aware of any particular assurances that the County has given to the lessee with regards to expediting entitlements, licenses, permits, or other County processes; we would only be familiar with processes that fall under the Planning Department's authority. We would comment, though, that the uses proposed by the lessee for the Old Maui High School campus site appear to have broad community support and have been the subject of a variety of meetings with government agencies and community groups. This would suggest that the entitlement process will be relatively straight-forward.
4. The proposed use requires several land use entitlements. It triggers environmental review pursuant to Chapter 343, Hawaii Revised Statutes, because it involves the use of state and county lands and involves a community plan amendment. It is our understanding that the Maui Planning Commission (MPC) will be the accepting authority for the Chapter 343 document, most likely an Environmental Assessment (EA).

The MPC would review the draft EA and determine whether it anticipates issuing a Finding of No Significant Impact (FONSI). After the draft EA is published and the public comment period concludes, the MPC will review the final EA and potentially issue a FONSI. After the final EA and FONSI are published and the legal challenge period concludes, the MPC can consider the proposed land use entitlements in order to make a recommendation to the Council. It is our understanding that the project will require a change in zoning from Interim to Public/Quasi-Public, a community plan amendment from Single-Family to Public/Quasi-Public, and a district boundary amendment from Agricultural to Urban. The Council will have final approval authority over these land use changes.

Once the EA process is complete, the entitlements will likely be relatively straight-forward, as issues are typically resolved during the development of the draft and final EA documents. However, we cannot make any representations or assurances of the timing of these approvals other than this: we will process the applications as efficiently as we can at the time they are submitted.

Honorable Don S. Guzman, Chair
Economic Development, Energy,
Agriculture, and Recreation Committee
August 9, 2016
Page 3

5. We are not aware that any other County department has given assurances to the lessee to expedite applications for the lessee.

We hope this letter sufficiently responds to your questions. If you need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Spence', with a long horizontal flourish extending to the right.

WILLIAM SPENCE
Planning Director

Attachments (2)

xc: Danny Agsalog, Director of Finance (pdf w/atts.)
Michele McLean, Deputy Planning Director (pdf w/atts.)
Clayton Yoshida, Planning Program Administrator (pdf w/atts.)
John Rapacz, Planning Program Administrator (pdf w/atts.)
Teena Rasmussen, Economic Development Director (pdf w/atts.)

WRS:MCM:atw

S:\ALL\Michele\Council\GuzmanOldMauiHigh EAR-63.doc



ZONING AND FLOOD CONFIRMATION FORM

(This section to be completed by the Applicant)

APPLICANT NAME _____ TELEPHONE _____
PROJECT NAME _____ E-MAIL _____
PROPERTY ADDRESS _____ TAX MAP KEY (2)2-5-004:053

☐ Yes ☐ No Will this Zoning & Flood Confirmation Form be used with a Subdivision Application?

IF YES, answer questions A and B below and comply with instructions 2 & 3 below:

A) ☐ Yes ☐ No Will it be processed under a consistency exemption from Section 18.04.030(B), MCC?

IF YES, which exemption? (No. 1, 2, 3, 4 or 5) _____

B) State the purpose of subdivision and the proposed land uses (ie 1-lot into 2-lots for all land uses allowed by law): _____

- INSTRUCTIONS:**
- 1) Please use a separate Zoning & Flood Confirmation Form for each Tax Map Key (TMK) number.
 - 2) If this will be used with a subdivision application AND the subject property contains multiple districts/designations of (1) State Land Use Districts, (2) Maui Island Plan Growth Boundaries, (3) Community Plan Designations, or (4) County Zoning Districts; submit a signed and dated Land Use Designations Map, prepared by a licensed surveyor, showing the metes & bounds of the subject parcel and of each district/designation including any subdistricts.
 - 3) If this will be used with a subdivision application AND the subject property contains multiple State Land Use Districts; submit an approved District Boundary Interpretation from the State Land Use Commission.

(This section to be completed by ZAED)

LAND USE DISTRICTS/DESIGNATIONS (LUD) AND OTHER INFORMATION: ¹

STATE DISTRICT: ☐ Urban ☐ Rural ☒ Agriculture ☐ Conservation

☐ (SMA)
Special
Management Area

MAUI ISLAND Growth Boundary: ² ☐ Urban ☐ Small Town ☒ Rural ☐ Planned Growth Area ☐ Outside Growth Boundaries

PLAN Protected Area: ² ☐ Preservation ☐ Park ☐ Greenbelt ☐ Greenway ☐ Sensitive Land ☒ Outside Protected Areas

COMMUNITY PLAN: ² Public / Quasi-public

COUNTY ZONING: Interim

OTHER/COMMENTS:

FEMA FLOOD INFORMATION:

FLOOD HAZARD AREA ZONES ³
& BASE FLOOD ELEVATIONS: Zone X

☐ FEMA DESIGNATED FLOODWAY For Flood Zone AO, FLOOD DEPTH:

☐ FLOOD DEVELOPMENT PERMIT REQUIRED (Zones V, VE, A, AO, AE, AH, D, & Floodways) Attached LUD Map

☐ (PD)
Planned
Development
☐ (PH)
Project District
☐ See
Additional
Comments (Pg.2)
☐ See
Attached LUD Map

SUBDIVISION LAND USE CONSISTENCY: ☐ Not Consistent, (LUDs appear to have NO permitted uses in common)

☐ Not Applicable, (Due to processing under consistency exemption No. ☐1, ☐2, ☐3, ☐4, ☐5).

(Signature)

☐ Interim Zoning, (The parcel or portion of the parcel that is zoned interim shall not be subdivided).

☐ ⁴ Consistent, (LUDs appear to have ALL permitted uses in common).

☐ ⁴ Consistent, upon obtaining an SMA, PD, or PH subdivision approval from Planning.

☐ ⁴ Consistent, upon recording a permissible uses unilateral agreement processed by Public Works (See Pg.2).

NOTES:

- 1 The conditions and/or representations made in the approval of a State District Boundary Amendment, Community Plan Amendment, County Change In Zoning, SMA Permit, Planned Development, Project District and/or a previous subdivision, may affect building permits, subdivisions, and uses on the land.
- 2 Please review the Maui Island Plan and the Community Plan document for any goals, objectives, policies or actions that may affect this parcel.
- 3 Flood development permits might be required in zones X and XS for any work done in streams, gulches, low-lying areas, or any type of drainageway; Flood development permits are required for work in all other zones. Subdivisions that include/adjoin streams, gulches, low-lying areas, or any type of drainageway might require the following designations to be shown on the subdivision map: 100-year flood inundation limits; base flood elevations; drainage reserves.
- 4 Subdivisions will be further reviewed during the subdivision application process to verify consistency, unilateral agreement requirements, and the conditions associated with a unilateral agreement [Section 18.04.030.D, Maui County Code].

REVIEWED & CONFIRMED BY:

Shelly M. Kan-Hai Shelly M. Kan-Hai
(Signature) (Signature)

8/8/16
(Date)

For: John S. Rapacz, Planning Program Administrator, Zoning Administration and Enforcement Division



ZONING AND FLOOD CONFIRMATION FORM

(This section to be completed by the Applicant)

APPLICANT NAME _____ TELEPHONE _____
PROJECT NAME _____ E-MAIL _____
PROPERTY ADDRESS _____ TAX MAP KEY (2)2-5-004:014

- ☐ Yes ☐ No Will this Zoning & Flood Confirmation Form be used with a Subdivision Application?
IF YES, answer questions A and B below and comply with instructions 2 & 3 below:
- A) ☐ Yes ☐ No Will it be processed under a consistency exemption from Section 18.04.030(B), MCC?
IF YES, which exemption? (No. 1, 2, 3, 4 or 5) _____
- B) State the purpose of subdivision and the proposed land uses (ie 1-lot into 2-lots for all land uses allowed by law): _____

- INSTRUCTIONS:
- 1) Please use a separate Zoning & Flood Confirmation Form for each Tax Map Key (TMK) number.
 - 2) If this will be used with a subdivision application AND the subject property contains multiple districts/designations of (1) State Land Use Districts, (2) Maui Island Plan Growth Boundaries, (3) Community Plan Designations, or (4) County Zoning Districts; submit a signed and dated Land Use Designations Map, prepared by a licensed surveyor, showing the metes & bounds of the subject parcel and of each district/designation including any subdistricts.
 - 3) If this will be used with a subdivision application AND the subject property contains multiple State Land Use Districts; submit an approved District Boundary Interpretation from the State Land Use Commission.

(This section to be completed by ZAED)

LAND USE DISTRICTS/DESIGNATIONS (LUD) AND OTHER INFORMATION:¹

STATE DISTRICT:	☐ Urban ☐ Rural ☒ Agriculture ☐ Conservation	☐ (SMA) Special Management Area
MAUI ISLAND PLAN Growth Boundary:	☐ Urban ☐ Small Town ☒ Rural ☐ Planned Growth Area ☐ Outside Growth Boundaries	
PLAN Protected Area:	☐ Preservation ☐ Park ☐ Greenbelt ☐ Greenway ☐ Sensitive Land ☒ Outside Protected Areas	
COMMUNITY PLAN: ²	Single-family, Public/Quasi-Public	
COUNTY ZONING:	Interim District	
OTHER/COMMENTS:		
FEMA FLOOD INFORMATION:		
FLOOD HAZARD AREA ZONES ³ & BASE FLOOD ELEVATIONS:	Zone X	
☐ FEMA DESIGNATED FLOODWAY	For Flood Zone AO, FLOOD DEPTH:	
☐ FLOOD DEVELOPMENT PERMIT REQUIRED (Zones V, VE, A, AO, AE, AH, D, & Floodways)	Attached LUD Map	

- SUBDIVISION LAND USE CONSISTENCY: ☐ Not Consistent, (LUDs appear to have NO permitted uses in common).
- ☐ Not Applicable, (Due to processing under consistency exemption No. ☐1, ☐2, ☐3, ☐4, ☐5).
- ☐ Interim Zoning, (The parcel or portion of the parcel that is zoned interim shall not be subdivided).
- ☐ ⁴ Consistent, (LUDs appear to have ALL permitted uses in common).
- ☐ ⁴ Consistent, upon obtaining an SMA, PD, or PH subdivision approval from Planning.
- ☐ ⁴ Consistent, upon recording a permissible uses unilateral agreement processed by Public Works (See Pg.2).

NOTES:

- 1 The conditions and/or representations made in the approval of a State District Boundary Amendment, Community Plan Amendment, County Change In Zoning, SMA Permit, Planned Development, Project District and/or a previous subdivision, may affect building permits, subdivisions, and uses on the land.
- 2 Please review the Maui Island Plan and the Community Plan document for any goals, objectives, policies or actions that may affect this parcel.
- 3 Flood development permits might be required in zones X and XS for any work done in streams, gulches, low-lying areas, or any type of drainageway; Flood development permits are required for work in all other zones. Subdivisions that include/adjoin streams, gulches, low-lying areas, or any type of drainageway might require the following designations to be shown on the subdivision map: 100-year flood inundation limits; base flood elevations; drainage reserves.
- 4 Subdivisions will be further reviewed during the subdivision application process to verify consistency, unilateral agreement requirements, and the conditions associated with a unilateral agreement [Section 18.04.030.D, Maui County Code].

REVIEWED & CONFIRMED BY:

 _____ 8/8/16 _____
(Signature) (Date)

For: John S. Rapacz, Planning Program Administrator, Zoning Administration and Enforcement Division

Grace Ishii - Council transmittal

From: Michele McLean
To: Ishii, Grace; Tajiri, Lisa
Date: 8/10/2016 8:38 AM
Subject: Council transmittal

Hi Grace and Lisa,

Avis is out today, and I'm trying to track-down a letter to Council that should have come over to you yesterday. It's addressed to Don Guzman as EAR chair, regarding Old Maui High.

EAR is posting an agenda today and wants to include it. Can you please let me know the status ASAP?

Mahalo!
-Michele.