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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

July 2, 2018

MEMO TO: Patrick K. Wong
Corporation Counsel

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

A handwritten signature in black ink that reads "Robert Carroll".

SUBJECT: **WAIALE ROAD EXTENSION PROJECT (WAILUKU)** (LU-58)

On May 18, 2018, the Council adopted the recommendations in Budget and Finance Committee Report 18-79, as amended, referring the matter relating to the Waiale Road Extension Project (CBS-1069) to the Land Use Committee.

The item was referred to the Committee to clarify the party obligated to assume the costs of extending Waiale Road. A question relating to this issue was posed in the attached correspondence from the Chair of the Budget and Finance Committee to the Department of the Corporation Counsel, dated April 16, 2018.

In your Department's response to the request, you stated the Director of Public Works determined the scope of the Project is outside of the responsibility covered by Condition 3(a) of Ordinance 2053 (1991). However, your Department also stated "further research into the legislative history of the ordinance is required to determine the scope of improvements required by condition 3.a." A copy of the response is also attached as for your reference.

May I please request you opine whether a private party is in fact responsible for assuming the costs of the Project along with any documentation upon which you based your opinion.

I would appreciate receiving a response by **July 9, 2018**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

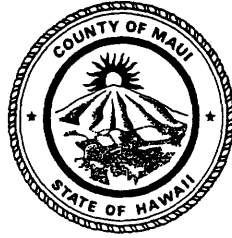
Patrick K. Wong
July 2, 2018
Page 2

Should you have any questions, please contact me or the Committee staff (Alec Wagner at ext. 7662, or Rayna Yap at ext. 8007).

lu:ltr:058acc01:ajw

Attachments

ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793-2155
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

April 18, 2018

RECEIVED
2018 APR 19 PM 1:59
OFFICE OF THE
COUNTY COUNCIL

MEMO TO: Riki Hokama, Chair
Budget and Finance Committee

FROM: *Michael J. Hopper*
Deputy Corporation Counsel

SUBJECT: **FISCAL YEAR ("FY") 2019 BUDGET** (CC-8) (BF-1)

I am in receipt of your correspondence dated April 16, 2018 posing the following question:

As it relates to the Waiale Road Extension capital improvement project, under the Department of Public Works (CBS-1069 on page 800 of the Program Budget), is there an obligation by any private party to fund this project? Please explain. See item 3.a. on page 2 of Exhibit "B" of Ordinance 2053 (1991), attached for your reference.

I am also aware of the correspondence dated April 11, 2018 from Public Works Director David Goode to this Committee in response to the above question (attached).

Ordinance 2053 (1991) requires that the project developer provide: "The extension, construction and improvement of Waiale Drive from the vicinity of the proposed Mahalani Street intersection to Honoapiilani Highway in conformance to the standards of the County of Maui."

In Director Goode's response, he states that "In researching the project files for Kehalani, it was clear that the reference to Honoapiilani Highway in item 3.a is the intersection of Honoapiilani Highway and Kuikahi Drive." By

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the Director's reading of the condition, the obligation of the developer would be to construct and dedicate the portion of Waiale road from the current Waiinu Road intersection to Kuikahi Drive, the referenced connection to Honoapiilani Highway.


Thus, the Director concludes that because the Waiale Road Extension CIP project involves design for construction of Waiale Road from Waiko Road to Honoapiilani Highway, it is outside of the responsibility covered by condition 3.a. of ordinance 2053.

Based on my review of ordinance 2053 as well as the Director's response, further research into the legislative history of the ordinance is required to determine the scope of the improvements required by condition 3.a. Items such as the application, staff reports, meeting minutes and other information in the record should be reviewed. I have requested this information from the Department of Planning, but because many of the documents are in storage I will be unable to review the information prior to the response date requested by your letter.

Additionally, it would be beneficial to contact the Department of Planning on this issue as the department responsible for oversight and enforcement of conditions of zoning, as well as the current individuals and entities responsible for compliance with condition 3.a. to add their positions to the record.

Please do not hesitate to contact me with any further questions.

APPROVED FOR TRANSMITTAL:


PATRICK K. WONG
Corporation Counsel

Attachment

CC: David C. Goode, Public Works Director (w/attachment)
William R. Spence, Planning Director (w/attachment)

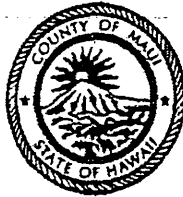
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ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

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



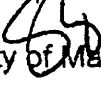
COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

GLENA UENO, P.E., P.L.S.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

April 11, 2018

Mr. Sananda K. Baz 
Budget Director, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

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

For Transmittal to:

Honorable Riki Hokama, Chair
Budget and Finance Committee
Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

Dear Chair Hokama:

SUBJECT: FISCAL YEAR ("FY") 2019 BUDGET (PW-2) (BF-1)

In response to your letter April 9, 2018, the Department of Public Works responds as follows:

As it relates to the Waiale Road Extension capital improvement project (CBS-1069 on page 800 of the Program Budget), is there an obligation by any private party to fund this project? Please explain. See item 3.a. on page 2 of Ordinance 2053, attached for your reference.

RECEIVED
2018 APR 12 PM 1:33
COUNTY OF MAUI
PUBLIC WORKS

 4/12/18

Mr. Sananda K. Baz
Honorable Alan M. Arakawa
For Transmittal to:
Honorable Riki Hokama, Chair
April 11, 2018
Page 2

Response: Item 3.a. of Ordinance No. 2053 requires the developer of Kehalani to participate in traffic improvements as required by our Department, including but not limited to extending Waiale Road from the proposed Mahalani Street (now known as Waiinu Road) to Honoapiilani Highway.

In researching the project files for Kehalani, it was clear that the reference to Honoapiilani Highway in Item 3.a. is the intersection of Honoapiilani Highway at Kuikahi Drive. Waiale Road was built by Kehalani, and Kuikahi Drive was built by the County using Federal funds.

Additionally, in reviewing the files for Kehalani which included Ordinance No. 2053, State Land Use Commission approval, Project District Phase II approval, and large-lot subdivision approvals, it was agreed between the developer, the Department of Planning, and our Department in 1995 that the developer would:

- For Waiale Road Improvements from Mahalani Street to Honoapiilani Highway:
 - a) dedicate and improve to County standards a road-widening strip along western edge of Waiale Road, from Mahalani Street to Ka Hale Ake Ola driveway,
 - b) dedicate 3.67 acres to provide a 60-foot right of way for Waiale Road extension to Honoapiilani Highway, and
 - c) add with their own funds, two additional lanes between Mahalani Street and Honoapiilani Highway, when warranted by updated Traffic Impact Analysis Reports (TIAR) prepared in accordance with new subdivisions.
- For Imi Kala Extension, between Mill Street and Lower Main Street, they will dedicate the underlying two parcels.
- For Mahalani Street Extension, they will dedicate the cane-haul road (TMK 3-4-003:019).

Mahalani street does not connect to Honoapiilani Hwy...

Mr. Sananda K. Baz
Honorable Alan M. Arakawa
For Transmittal to:
Honorable Riki Hokama, Chair
April 11, 2018
Page 3

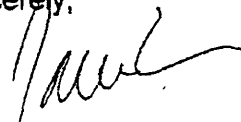
- For Lower Main Street Improvements, between Mill Street and Mahalani Street, they will dedicate the cane-haul road parcels 3-4-003:019, 3-4-002:036, 3-4-010:002, and 3-4-038:004.
- For the "Waikapu Bypass", they will dedicate the right of way from the Wailuku Agribusiness Baseyard in Waikapu to a terminus near the Tropical Plantation.

The "Waikapu Bypass", as noted in the 1995 correspondence, is the current extension of Waiale Road to a terminus near the Tropical Plantation. The previous Kehalani developers encumbered the property now owned by Waiale 905 Partners, LLC with an agreement to dedicate this right of way to the County. That agreement is being honored by Waiale 905 Partners, LLC.

There is no other project that we are aware of with conditions to design or construct the extension of Waiale Road to Honoapiilani Highway just past the Tropical Plantation.

Should you have any questions, please contact me at Ext. 7845.

Sincerely,



DAVID C. GOODE
Director of Public Works

DCG:jso
Enclosure

s:\david2\transmittals\rhokama_fy 2019 budget pw-2 bf-1 waiale road extension cip

Council Chair
Mike White

Vice-Chair
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Presiding Officer Pro Tempore
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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 16, 2018

2017-0093
RECEIVED
CORPORATION COUNSEL
2018 APR 16 AM 9:06

MEMO TO: Patrick K. Wong
Corporation Counsel

F R O M: Riki Hokama, Chair *Riki Hokama*
Budget and Finance Committee

SUBJECT: **FISCAL YEAR ("FY") 2019 BUDGET** (CC-8) (BF-1)

As it relates to the Waiale Road Extension capital improvement project, under the Department of Public Works (CBS-1069 on page 800 of the Program Budget), is there an obligation by any private party to fund this project? Please explain. See item 3.a. on page 2 of Exhibit "B" of Ordinance 2053 (1991), attached for your reference.

I would appreciate receiving a response by **April 19, 2018**, to assist the Committee in reviewing the FY 2019 Budget. To ensure efficient processing, please duplicate the coding in the subject line above for easy reference.

Should you have any questions, please contact me or the Committee staff, Michele Yoshimura (ext. 7663), Shelly Espeleta (ext. 7134), Maggie Clark (ext. 7661), or Yvette Bouthillier (ext. 7758), at your earliest convenience.

bf:2019bgt:180415acc03:mcc

Attachment

ORDINANCE NO. 2053

BILL NO. 70 (1991)

A BILL FOR AN ORDINANCE TO ESTABLISH
WAILUKU-KAHULUI PROJECT DISTRICT 3 ZONING
(CONDITIONAL ZONING) FOR PROPERTY
LOCATED AT WAILUKU, MAUI, HAWAII


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

SECTION 1. Pursuant to Chapters 19.42 and 19.45 of the Maui County Code, Wailuku-Kahului Project District 3 Zoning (conditional zoning) is hereby established, subject to Section 2 of this ordinance, for those certain parcels of land located at Wailuku and Waikapu, Maui, Hawaii, identified for real property tax purposes by Tax Map Key Numbers 3-4-07:2, 3-5-01: Portion of 1, and 3-5-01: Portion of 17, comprised of approximately 547.256 acres, more particularly described in Exhibit "A", which is attached hereto and made a part hereof, and in Land Zoning Map No. L-409, which is on file in the Office of the County Clerk of the County of Maui and which is by reference made a part hereof.

SECTION 2. Pursuant to Section 19.42.060 of the Maui County Code, the zoning established by this ordinance shall be subject to the conditions set forth in Exhibit "B", which is attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, which is 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:



ROBERT K. KEKUNA, JR.
Deputy Corporation Counsel
County of Maui
waiag/ords/c(cs)

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation and the County of Maui, for the provision of more than ten percent (10%) of the total units of housing affordable to persons with income less than eighty percent (80%) of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation and the County of Maui.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income figures published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

2. The applicant shall submit a twenty-year master plan to the Director of Public works of the County of Maui prior to preliminary subdivision approval of the project for the sewer, drainage, and traffic facility improvements in which the applicant participates. The master plans shall include, but shall not be limited to, on-site and off-site typical design standards, classification of roadways, and proposed construction schedules for each phase of the project.
3. The applicant shall participate in those traffic improvement needs as required by the Department of Transportation of the State of Hawaii and the Director of Public Works of the County of Maui. This participation shall include, but shall not be limited to:
 - a. The extension, construction, and improvement of Waiale Drive from the vicinity of the proposed Mahalani Street intersection to Honoapiilani Highway in conformance to the standards of the County of Maui. Land and construction of this roadway extension is to be funded entirely by the applicant and shall be offered for dedication to the County of Maui upon completion of its construction;
 - b. The right-of-way of the existing cane haul road from Lower Main Street to the Maui Correctional Center shall be dedicated in fee simple interest, free and clear of all encumbrances, to the County