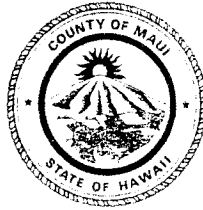


ALAN M. ARAKAWA
MAYOR



KEITH A. REGAN
MANAGING DIRECTOR

DEPARTMENT OF MANAGEMENT

COUNTY OF MAUI

September 29, 2017

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

2017 SEP 29 PM 3:14
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

Dear Chair Hokama:

SUBJECT: WAILUKU CIVIC COMPLEX (BF-76)

Thank you for your letter dated September 19, 2017 in which you requested we provide you with information as it relates to the project identified in your letter as the "Wailuku Civic Complex." In your letter, you requested the following:

- Cash-in-lieu agreements;
- Parking waivers;
- Variances;
- Tax abatements; and,
- Roadway improvement deferrals
-

We queried the Department of Public Works, the Department of Planning, and the Department of Environmental Management in an attempt to provide the information requested. Here is what we received from the departments:

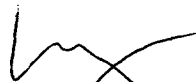
- **Environmental Management:** No such information exists according to their records.
- **Public Works:** No such information exists according to their records.
- **Planning:**
 - o List of cash-in-lieu agreements:
 - Planning believes that there are three property owners which may be subject to cash-in-lieu agreements. They are:
 - Robert Joslin for the Main Street Promenade building
 - Doug McLeod for the building at the corner of Vineyard and Market;
 - Chris Hart for Hart's Corner
 - Planning noted that no ordinance was ever passed setting the terms for the cash-in-lieu/parking assessment fee. Mr. Joslin did file a Unilateral

Agreement agreeing to provide his fair share of 52 stalls at such time as an ordinance is passed and the parking is underway (UA attached). The other two did not record any kind of the document.

- Parking waivers and variances:
 - A few parking variances and waivers have been granted, with no conditions for future payments and contributions. Planning was not able to pull this together in time to meet the deadline provided but indicated they will provide it to your office at a later date.
- Tax abatements:
 - According to Planning, at a recent BF meeting, the Real Property Administrator, Scott Teruya, stated that Chris Hart took advantage of the tax abatement when it was in place. It is Planning's understanding that there was no requirement to pay back any of the abated taxes, as it was intended to be an incentive program. Planning did not have information on the value of the tax abatement.
- 4. Roadway improvement deferrals:
 - Planning was aware of one roadway improvement deferral. Wayne Arakaki agreed to pay his fair share of the roadway improvements on Vineyard Street in front of his office building at such time when sidewalks, curbs and gutters are built (UA attached). There are no other infrastructure, parks or traffic impact fee requirements or agreements related to any MRA projects.

Thank you again for your letter. Should you have any additional questions or concerns related to this communication, we recommend that you contact the above mentioned departments directly.

Sincerely,



KEITH A. REGAN
Managing Director

ORIGINAL

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation Return by Mail (X) Pickup () To:

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

TOTAL NO. OF PAGES:

TMK No. (2) 3-4-012-039

AGREEMENT

THIS AGREEMENT made and entered by and between **WAYNE ISAO ARAKAKI** and **SOPHIA MI JA ARAKAKI**, husband and wife, whose mailing address is P.O. Box 884, Wailuku, Maui, Hawaii 96793, hereinafter collectively referred to as the "Applicant", and the **COUNTY OF MAUI**, by and through the Maui Redevelopment Agency, a political subdivision of the State of Hawaii, whose address is 200 S. High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "County" and the **MAUI REDEVELOPMENT AGENCY**, an agency of the County of Maui and a public body, corporate and politic, whose mailing address is 250 S. High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "MRA",

WITNESSETH:

WHEREAS, Applicant is the legal and equitable owner of that parcel of real property situate at Owa, District of Wailuku, Island and County of Maui, State of Hawaii, and specifically identified as Tax Map Key No. (2) 3-4-012-039, hereinafter referred to as the "Property"; and

WHEREAS, Applicant applied for a building permit to construct an office building

on the Property; and

WHEREAS, the County of Maui, Development Services Administration, issued a building permit to Applicant that authorized the construction of the office building on the Property; and

WHEREAS, Applicant constructed the office building on the Property; and

WHEREAS, the County of Maui determined that Applicant was required to construct a curb, a gutter, a sidewalk and pave a seven (7) foot wide strip of land and dedicate said seven (7) foot wide strip of land and the improvements constructed thereon to the County of Maui; and

WHEREAS, the Property is located in the Wailuku Redevelopment Area; and

WHEREAS, County of Maui determined that the Maui Redevelopment Agency, hereafter referred to as the "MRA", has jurisdiction and authority to grant variances from the provisions of the Wailuku Redevelopment Area Zoning and Development Code for parcels of land that are located in the Wailuku Redevelopment Area; and

WHEREAS, Applicant filed an application with the MRA wherein Applicant requested: 1) a variance from Wailuku Redevelopment Area Zoning and Development Code § 30.04.0040.B.1 that requires a minimum lot size of four thousand five hundred (4,500) square feet; and 2) a variance from Wailuku Redevelopment Area Zoning and Development Code § 30.04.040.B.2 that requires a minimum lot width of forty five (45) feet; and

WHEREAS, on September 28, 2012, the Maui Redevelopment Agency approved the Request for Variances, subject to certain conditions that are set forth below,

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein, it is hereby understood and agreed as follows:

1. Final construction of the project on the Property shall be in accordance with plans and representations made to and approved by the MRA at its September 28, 2012 meeting. The Applicant shall develop the Property in substantial compliance with the representations made to the MRA in obtaining the variances.

2. The Applicant, their successors and permitted assigns, shall exercise reasonable due care to third parties with respect to all areas affected by the variances and shall procure at their own cost and expense, and shall maintain during the entire period of the building permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the Applicant and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of the approval of the variances, including, but not limited to: 1) claims from any accident in connection with the

permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in exercise by the applicant of said rights; and 2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of the approval of the variances.

3. Applicant shall comply with all applicable governmental requirements when constructing the office building.

4. The building must be maintained and operated as a commercial office or residence only.

5. The Applicant shall maintain the exterior architectural elements of the Property in keeping with the original design of the structure.

6. The Applicant shall, upon demand by the County of Maui, convey a strip of land that is seven (7) feet wide along the Property frontage for future sidewalk and roadway improvement at the time that the County of Maui improves Vineyard Street in the vicinity of the Property.

7. The Applicant shall not be required to construct roadway improvements such as curbs, gutters, sidewalks or paving of said seven (7) foot wide strip of land along the Property frontage.

8. At the time that the County of Maui or other governmental entity initiates plans for improvement to the road right-of-way along Vineyard Street, the Applicant shall contribute their pro rata share of the cost of said improvements.

9. In the event that the County shall institute an impact fee ordinance and/or improvement district(s) specifically for improvements affecting the immediate area in which the Applicant's property is located, Applicant will participate and be responsible for their fair share contribution assessed pursuant to such impact fee and/or improvement district(s), provided, that Applicant's contribution shall be reduced by, or credit given for, the cost of any improvements previously installed by Applicant which are required by the provisions of said impact fees and/or improvement district(s).

10. This Agreement and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land until the same is released by the County of Maui.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
February 21, 2014

Applicant:

Wayne Isao Arakaki
WAYNE ISAO ARAKAKI

Sophia Mi Ja Arakaki
SOPHIA MI JA ARAKAKI

COUNTY OF MAUI

By Alan Arakawa
ALAN M. ARAKAWA
Its Mayor

MAUI REDEVELOPMENT AGENCY,
William Mitchell
By William Mitchell
WILLIAM MITCHELL
Its Chair

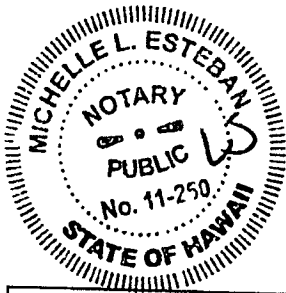
APPROVED AS TO FORM
AND LEGALITY:

James A. Giroux
JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

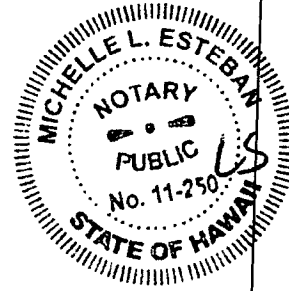
On this 21st day of February, 2014, before me personally appeared ALAN M. ARAKAWA, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, in the capacity shown, having been duly authorized to execute such instrument in such capacity, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed in behalf of the said County of Maui by authority of its Charter, and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Michelle L. Esteban
Notary Public, State of Hawaii
Print name: MICHELLE L. ESTEBAN
My commission expires: 8-14-15

| | |
|--|---------------------------|
| Date: <u>2/21/2014</u> | Number of Pages: <u>8</u> |
| Name: <u>MICHELLE L. ESTEBAN</u> | Second Circuit |
| Document Description: <u>Agreement between Naame Isao Arakaki and Sophia Miya Arakaki and the County</u> | |
| Notary Signature: <u>Michelle L. Esteban</u> | |
| NOTARY CERTIFICATION | |



STATE OF HAWAII

)

) SS.

COUNTY OF MAUI

)

On January 14, 2014 before me personally appeared **WILLIAM MITCHELL**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



[Handwritten Signature]
(notary's signature)

Avis K. Teshima-Wong
My Commission Expires January 4, 2015

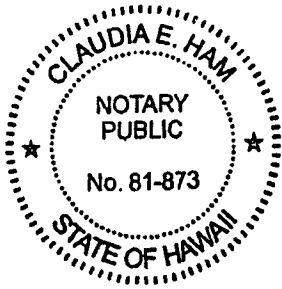
(print/type name of notary)
Notary Public, in and for said
County and State.

My commission expires:

| | |
|--|---------------------------|
| Date: <u>1/14/14</u> | Number of Pages: <u>7</u> |
| Name: <u>AVIS K TESHIMA-WONG</u> | Second Circuit |
| Document Description: <u>Agreement</u> | |
| <i>[Handwritten Signature]</i> Notary Signature | |
| NOTARY CERTIFICATION | |

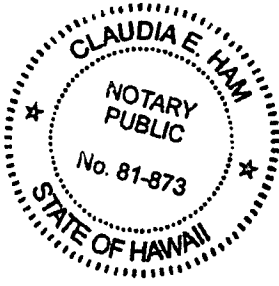
STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

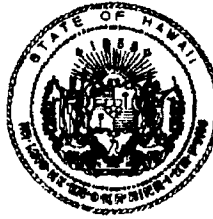
On Dec. 23, 2013 before me personally appeared WAYNE ISAO ARAKAKI and SOPHIA MI JA ARAKAKI, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Claudia E. Ham
(notary's signature)
Claudia E. Ham
(print/type name of notary)
Notary Public, in and for said
County and State.

My commission expires: 10-29-2017

| | |
|---|--|
| Date: <u>Dec. 23, 2013</u> | Number of Pages: <u>7</u> |
| Name: <u>Claudia E. Ham</u> | Second Circuit |
| Document Description: <u>Agreement</u> | |
| Notary Signature: <u>Claudia E. Ham</u> | |
| NOTARY CERTIFICATION |  |



R-968 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
AUG 05, 2002 10:00 AM
Doc No(s) 2002-136050



/s/ CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

10 1/1 Z6

5 !

| LAND COURT | REGULAR SYSTEM |
|--|-----------------------|
| AFTER RECORDATION, RETURN BY: MAIL (XX) | PICKUP () TO: |
| Department of Finance County of Maui 200 South High Street Wailuku HI 96793 | |

Affects TMK NOS.: (2) 3-4-013:076, (2) 3-4-013:096, (2) 3-4-013:100

TITLE OF THE DOCUMENT: UNILATERAL AGREEMENT

APPLICANT: ROBERT HUGH JOSLIN
LISA RENE JOSLIN
2026 Main Street
Wailuku, Hi. 96793

COUNTY: COUNTY OF MAUI
c/o Maui Redevelopment Agency
Department of Planning
250 South High Street
Wailuku, Maui, Hawaii 96793

UNILATERAL AGREEMENT

THIS AGREEMENT, entered into this 1st day of July, 2002, by ROBERT HUGH JOSLIN and LISA RENE JOSLIN, husband and wife, whose principal place of business and mailing address is 2026 Main Street, Wailuku, Hawaii, 96793, hereinafter jointly referred to as the "Applicant", and who are the record owners of those certain parcels of land situated at Wailuku, Maui, Hawaii, identified for real property tax purposes as Tax Map Key Nos. (2)3-4-013:076, 096 and 100.

W I T N E S S E T H:

WHEREAS, by letter dated June 21, 2000, the Applicant received approval from the County of Maui, through its Maui Redevelopment Agency, hereinafter referred to as the "County", to develop and construct the Applicant's "Main Street Promenade" project, a true and correct copy of said June 21, 2000 letter being attached hereto as Exhibit "A", and being incorporated herein by reference; and

WHEREAS, as part of the approval, the Applicant received a variance from Chapter 19.36 of the Maui County Code concerning Off-Street Parking requirements for the Applicant's project, and as a condition to the County's approval, condition "III. Variance from Chapter - 19.36 Off-Street Parking" at page 3 of the June 21, 2000 letter required:

"III. Variance from Chapter - 19.36 Off-Street Parking

A. That upon adoption of a parking assessment fee ordinance or rule for municipal parking within Wailuku Town, the applicant shall pay the amount provided for by the ordinance or rule. The applicant shall enter into a unilateral agreement which sets forth this condition to pay said assessment fee. The unilateral agreement shall be recorded with the Bureau of Conveyances on TMKs: 3-4-13:96, 100 and 76 prior to issuance of a Certificate of Occupancy. Further, other equivalent alternative for the

provision of parking may be considered and approved by the MRA.

B. That after demolition of the building situated on TMK: 3-4-13:76, the site shall be cleaned and utilized for off-street parking on an interim basis pending approval for future redevelopment of the site by the MRA."; and

WHEREAS, Applicant, in consideration for the County's June 21, 2000 approval, has agreed to execute this instrument pursuant to the terms and conditions of the June 21, 2000 approval;

NOW THEREFORE, the Applicant hereby agrees, promises and covenants as follows:

1. That within thirty (30) calendar days from the effective date of any duly adopted ordinance or rule of the County establishing an in-lieu, off-street parking assessment fee per parking stall, the Applicant shall deliver to the County, through its Department of Planning, a bank cashier's or certified check for an amount which represents the total of fifty-two (52) parking stalls multiplied by the established fee per parking stall.


2. That IT IS EXPRESSLY UNDERSTOOD AND AGREED that this condition, promise, agreement and covenant shall run with the land identified as TMK Nos. (2) 3-4-013:076, 096 and 100, and shall bind the Applicant, its successors and assigns, and constitute notice to all subsequent successors and assigns; and upon a breach or default of this condition, promise, agreement and covenant by the Applicant, the County shall have the right and power to enforce the terms of this Agreement by appropriate action at law or suit in equity against the Applicant and/or all such other persons involved; provided, however, that the Applicant or its successors

and assigns may file a petition for the removal, modification and/or termination of this Agreement, such petition to be processed through the County's Department of Planning and to be reviewed and considered by the Maui Redevelopment Agency.

3. That this Agreement shall be filed in the Bureau of Conveyances and/or the Land Court of the State of Hawaii, and recorded copies of this Agreement shall be filed with the County's Director of Planning, and Director of Public Works and Waste Management, prior to the issuance of a Certificate of Occupancy to the Applicant covering the project.

IN WITNESS WHEREOF, the Applicant has executed this Agreement the day and year first above written.

APPLICANT:

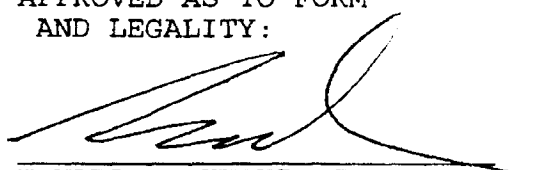


ROBERT HUGH JOSLIN



LISA RENE JOSLIN

APPROVED AS TO FORM
AND LEGALITY:

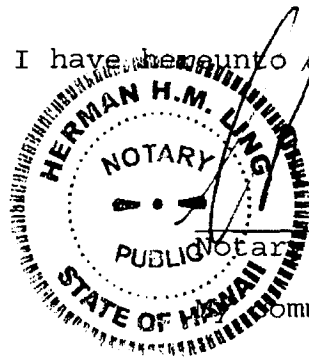


EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this 1st day of July, 2002, before me personally appeared ROBERT HUGH JOSLIN and LISA RENE JOSLIN to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Notary Public, State of Hawaii

Commission expires: 06/04/04

JAMES "KIMO" APANA
Mayor

JOHN E. MIN
Director

CLAYTON I. YOSHIDA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

June 21, 2000

Mr. and Mrs. Robert Joslin
265 Mamo Place
Wailuku, Hawaii 96793

Dear Mr. and Mrs. Joslin:

RE: **Maui Redevelopment Agency (MRA) Approval of the Following Requests for Phase I of the Main Street Promenade Project on TMK: 3-4-13:96, 100 and 76, Wailuku, Maui, Hawaii: 1. Design of Proposed Building and Landscaping; 2. Variance from the Uniform Building Code (UBC), Table No. 5A, for Eight "Protected Openings" on the West Side of the Proposed Building; and 3. Variance from the Maui County Code (MCC), Chapter 19.36.010 for the Required 70 On-Site Parking Stalls (MRA 2000/0002)**

At its regular meeting of June 16, 2000, the Maui Redevelopment Agency (MRA) reviewed the above requests and, after due deliberation, voted to approve the requests, subject to the following conditions:

- I. **Urban Design**
 - A. **Landscaping**
 1. A landscape architect is consulted to assist with the development of a comprehensive planting plan for all building elevations.
 2. Landscaping is incorporated into the streetscape along the entire Main Street facade of the project. The landscaping shall be an appropriate species for the area as set forth by the Maui County Planting Plan.

EXHIBIT "A"

3. The project's mechanical equipment, including the liquid petroleum gas (LPG) tank and the trash area at the rear of the property, shall be screened with landscaping. However, such landscaping shall not impede access to said equipment.
4. The rear of the building shall be landscaped, in conformance with the Maui County Planting Plan, to improve its appearance.

B. Building Design

1. Design attention shall be given to the rear of the building, including the loading zone, to enhance its aesthetic appearance.
2. The applicant shall cooperate with the Department of Public Works and Waste Management to improve the adjacent public sidewalk with respect to lighting, landscaping, and compliance with the Americans with Disabilities Act.

C. Lighting and Signage

1. The project shall utilize on-level lighting to mitigate the impact on surrounding properties.
2. A comprehensive signage plan shall be developed at a later date and submitted to the MRA for review and approval.

II. Variance from the Uniform Building Code for Protected Openings

- A. The Maui Redevelopment Agency recommends approval of the variance from the Uniform Building Code (UBC), Table No. 5A, for the eight "protected openings" on the side of the building adjacent to the public walkway.

III. Variance from Chapter - 19.36 Off-Street Parking

- A. That upon adoption of a parking assessment fee ordinance or rule for municipal parking within Wailuku Town, the applicant shall pay the amount provided for by the ordinance or rule. The applicant shall enter into a unilateral agreement which sets forth this condition to pay said assessment fee. The unilateral agreement shall be recorded with the Bureau of Conveyances on TMKs: 3-4-13:96, 100 and 76 prior to issuance of a Certificate of Occupancy. Further, other equivalent alternatives for the provision of parking may be considered and approved by the MRA.**
- B. That after demolition of the building situated on TMK: 3-4-13:76, the site shall be cleaned and utilized for off-street parking on an interim basis pending approval for the future redevelopment of the site by the MRA.**

IV. Conditions Applicable to All Approvals

- A. The construction of the proposed project shall be initiated by June 16, 2001. Further, initiation of construction shall be determined as construction of offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Failure to comply within this one (1) year period will automatically terminate this Maui Redevelopment Agency approval unless a time extension is requested no later than ninety (90) days prior to the expiration of said one (1) year period.**
- B. The construction of the project shall be completed within two (2) years after the date of its initiation. Failure to complete construction of this project will automatically terminate the subject Maui Redevelopment Agency approval.**

- C. That final construction shall be in accordance with preliminary architectural plans dated March 30, 2000.
- D. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.
- E. That the subject Maui Redevelopment Agency approval shall not be transferred without the prior written approval of the MRA.
- F. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject MRA approval and shall procure at its own cost and expense, and shall maintain during the entire period of this MRA approval, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this permit. Copies of a hold harmless and indemnity agreement and the policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order. Said agreement shall be recorded with the Bureau of Conveyances.

Mr. and Mrs. Robert Joslin
June 21, 2000
Page 5

- G. That full compliance with all applicable governmental requirements shall be rendered.
- H. That the applicant shall submit to the Planning Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject MRA approval. A preliminary report shall be reviewed and approved by the Planning Department prior to issuance of the building permit. A final compliance report shall be submitted to the Planning Department for review and approval prior to issuance of a Certificate of Occupancy.
- I. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the MRA approval. Failure to so develop the property may result in the revocation of the permit.

Thank you for your cooperation in this matter. If further clarification is required, please contact John F. Summers, Administrative Planning Officer, of this office at 270-7735.

Very truly yours,


Dr. JOHN E. MIN
Planning Director

JEM:JFS:cmb

c: Clayton Yoshida, AICP, Deputy Planning Director
Aaron Shinmoto, Planning Program Administrator (2)
John F. Summers, Administrative Planning Officer
Ann Cua, Staff Planner
August Percha, AIA
LUCA (2)
Project File
General File

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