

ALAN M. ARAKAWA  
Mayor

DAVID C. GOODE  
Director

ROWENA M. DAGDAG-ANDAYA  
Deputy Director

Telephone: (808) 270-7845  
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COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

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

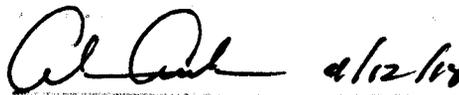
CARY YAMASHITA, P.E.  
Engineering Division

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.*

2018 APR 12 PM 2:51  
OFFICE OF THE  
COUNTY CLERK

RECEIVED

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

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

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)

Wailuku Project District No. 3  
Description of Parcel Above Honoapiilani Highway

Land situated on the west side of Honoapiilani Highway F.A.P. No. 13-G and on the north side of Kuikahi Drive at Wailuku, Waikapu, Maui, Hawaii

Being portion of R.P. 7659, L.C. Aw. 326 to Wm. Humphreys; R.P. 4529-B & 4549, L.C. Aw. 71 to Michael J. Nowlein; R.P. 1925, 1928, 1958, L.C. Aw. 387 Part 5, Sec. 1 to A.B.C.F.M; Grant 172 to E. Bailey and Grant 483 to E. Bailey

Beginning at a pipe at the southwest corner of this parcel of land on the north side of Kuikahi Drive, the coordinates referred to Government Survey Triangulation Station "LUKE" being 4,783.71 feet South and 5,925.55 feet West and running by azimuths measured clockwise from True South:

1. 186° 10' 50" 186.31 feet along Lots 1, 2 and 3 of Wailuku Heights Subdivision Unit I, File Plan 1707;
2. Thence along Lots 3 and 4 of Wailuku Heights Subdivision Unit I, File Plan 1707 on a curve to the left having a radius of 155.00 feet, the chord azimuth and distance being:  
172° 55' 45" 71.06 feet;
3. 159° 40' 40" 238.06 feet along Lots 4, 5 and 6 of Wailuku heights Subdivision Unit I, File Plan 1707;
4. 202° 13' 20" 139.44 feet along Lots 7 and 8 of Wailuku Heights Subdivision Unit I, File Plan 1707;
5. Thence along Lot 8 of Wailuku Heights Subdivision Unit I, File Plan 1707 on a curve to the left having a radius of 85.00 feet, the chord azimuth and distance being:  
190° 36' 40" 34.22 feet;
6. 179° 00' 149.65 feet along Lots 8 and 9 of Wailuku Heights Subdivision Unit I, File Plan 1707;

7.	84°	37'	14.49 feet along Lot 9 of Wailuku Heights Subdivision Unit I, File Plan 1707;
8.	175°	38'	106.92 feet along the remainder of R.P. 4529-B and 4549, L.C. Aw. 71 to Michael J. Nowlein;
9.	167°	04'	325.21 feet along same;
10.	164°	06'	110.01 feet along same;
11.	151°	58'	59.48 feet along the remainder of Grant 483 to E. Bailey;
12.	144°	34'	54.42 feet along same;
13.	136°	32'	125.13 feet along same;
14.	133°	08'	322.70 feet along same;
15.	136°	25'	63.50 feet along same;
16.	146°	11'	66.61 feet along same;
17.	155°	47'	99.76 feet along same;
18.	137°	21'	52.57 feet along same;
19.	183°	52'	90.13 feet along same;
20.	152°	14'	97.08 feet along same;
21.	191°	58'	43.72 feet along same;
22.	228°	14'	121.65 feet along same;
23.	215°	42'	39.52 feet along same;
24.	191°	06'	69.00 feet along same;
25.	184°	13'	241.09 feet along same;
26.	176°	07'	125.63 feet along same;
27.	164°	38'	114.86 feet along same;
28.	156°	05'	105.53 feet along same;
29.	143°	56'	325.71 feet along same;

30. 163° 02' 105.02 feet along same;
31. 168° 43' 211.54 feet along same;
32. 162° 45' 56.00 feet along same;
33. 139° 24' 53.01 feet along same;
34. 106° 32' 100.04 feet along same;
35. 195° 56' 26.63 feet along the easterly side of  
West Alu Road;
36. Thence along same on a curve to the right having a radius of  
459.10 feet, the chord azimuth  
and distance being:  
218° 35' 281.45 feet;
37. 236° 26' 343.30 feet along same;
38. Thence along same on a curve to the left having a radius of  
291.50 feet, the chord azimuth  
and distance being:  
212° 31' 236.35 feet;
39. 188° 36' 137.66 feet along same;
40. Thence along same on a curve to the left having a radius of  
390.50 feet, the chord azimuth  
and distance being:  
165° 40' 304.32 feet;
41. 142° 44' 44.86 feet along same;
42. Thence along same on a curve to the right having a radius of  
56.60 feet, the chord azimuth  
and distance being:  
181° 16' 70.52 feet;
43. 219° 48' 123.26 feet along same;
44. Thence along same on a curve to the left having a radius of  
336.50 feet, the chord azimuth  
and distance being:  
192° 49' 305.36 feet;
45. 165° 50' 189.16 feet along same;

46. Thence along same on a curve to the right having a radius of  
107.50 feet, the chord azimuth  
and distance being:  
203° 20' 130.88 feet;
47. 240° 50' 253.47 feet along same;
48. Thence along same on a curve to the left having a radius of  
1,181.80 feet, the chord  
azimuth and distance being:  
236° 52' 45" 162.99 feet;
49. 232° 55' 30" 14.56 feet along same;
50. 323° 34' 60.01 feet along the remainder of R.P.  
1925, 1928, 1958, L.C. Aw. 387  
Part 5 Sec. 1 to A.B.C.F.M.;
51. 232° 55' 30" 71.25 feet along same;
52. 306° 21' 42" 97.17 feet along same;
53. 257° 55' 57" 87.82 feet along same;
54. 240° 36' 74.60 feet along same;
55. 214° 22' 03" 63.81 feet along same;
56. 199° 19' 181.92 feet along same;
57. 163° 04' 63.63 feet along same;
58. Thence along the south side of West Alu Road on a curve to the  
left having a radius of  
1513.70 feet, the chord  
azimuth and distance being:  
235° 15' 16" 30.00 feet;
59. 312° 28' 189.35 feet along the remainder of R.P.  
1925, 1928, 1958, L.C. Aw. 387  
Part 5 Sec. 1 to A.B.C.F.M.;
60. 232° 28' 642.65 feet along same;
61. 244° 58' 826.58 feet along same and the remainder  
of Grant 172 to E. Bailey;
62. 345° 30' 135.00 feet along the remainder of Grant  
172 to E. Bailey;
63. 300° 45' 160.00 feet along same;

4.	257°	45'	120.00 feet along same;
5.	268°	00'	190.88 feet along same;
5.	10°	55' 30"	396.16 feet along same;
7.	16°	29'	340.28 feet along same;
8.	271°	30'	103.79 feet along same;
9.	1°	30'	30.00 feet along same;
0.	91°	30'	203.65 feet along same;
11.	350°	47'	484.00 feet along same;
12.	271°	30'	360.00 feet along same;
13.	350°	47'	1,032.08 feet along same and the remainder of R.P. 1925, 1928, 1958, L.C. Av. 387 Part 5 Sec. 1 to A.D.C.F.M.; and Grant 483 to E. Bailey;
14.	260°	47'	375.00 feet along the remainder of Grant 483 to E. Bailey;
15.	350°	47'	30.00 feet along same;
16.	260°	47'	119.92 feet along same;
17.	350°	49'	1,869.36 feet along the west side of Honopiiilani Highway, F.A.P. No. 13-G;
18.	Thence along same on a curve to the right having a radius of 28,607.80 feet, the chord azimuth and distance being: 351° 19' 33.5" 508.59 feet;		
9.	354°	53' 43"	158.02 feet along same;
0.	Thence along same on a curve to the right having a radius of 28,599.80 feet, the chord azimuth and distance being: 352° 19' 09.8" 167.72 feet;		

81. Thence along the north side of Kuikahi Drive on a curve to the right having a radius of 38.00 feet, the chord azimuth and distance being:  
37° 09' 37.3" 53.43 feet;
82. 81° 50' 210.82 feet along same;
83. Thence along same on a curve to the left having a radius of 1,933.86 feet, the chord azimuth and distance being:  
63° 05' 30" 1242.71 feet;
84. 44° 21' 916.59 feet along same;
85. Thence along same on a curve to the right having a radius of 1,017.74 feet, the chord azimuth and distance being:  
71° 09' 30" 918.02 feet;
86. 97° 58' 82.59 feet along same;
87. Thence along same on a curve to the left having a radius of 1,933.86 feet, the chord azimuth and distance being:  
94° 46' 30" 215.34 feet;
88. 91° 35' 338.07 feet along same to the point of beginning and containing an gross area of 439.041 Acres.

Subject also to an easement in favor of Alexander and Baldwin Inc. for Waiale Division Conduit more particularly described as follows:

A perpetual easement or right-of-way for an underground pipe or tunnel (herein referred to as the Waiale Diversion Conduit) from the New Waihee Ditch to the Old Waihee Ditch, of such size and capacity as shall be sufficient to divert and carry any volume of water to the full capacity of the New Waihee Ditch, along the line of or adjacent to the present 36" diversion pipe; the center line of said present pipe being described as follows:

Beginning at a point on the mauka line of Lot 1, of the Old Waihee Ditch Right-of-Way above described in paragraph (A), and in the center line of said present diversion pipe, at its outlet into said Old Waihee Ditch, the coordinates of which point referred to Luke Trig. Station are 21.45 feet South and 1,251.85 feet West; also said point is azimuth and distance 136° 30' 22.7 feet from the end of Course 4 of Lot 1 of said Old Waihee Ditch Right-of-Way, and running by true azimuths:

1. 87° 29' 1,624.00 feet along the center line of this underground right-of-way along under the North side of Road, crossing under said Road to bend in present pipe just makai of High Street, and South of the culvert under High Street;
2. 69° 01' 1,721.50 feet along the center line of this underground right-of-way under High Street, and up to the intake at the New Waihee Ditch.

0312d

Wailuku Project District No. 3  
Description of Parcel Makai (East) of Honoapiilani Highway

Land situated between Honoapiilani Highway F.A.P. No. 13-G and Waiale Road on the south side of Koa Venture Subdivision, File Plan 1426 at Wailuku, Maui, Hawaii

Being a portion of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlein; R.P. 7712, L.C. Aw. 215 to Henry L. Brooks; R.P. 3523, L.C. Aw. 3338 to Namailou; R.P. 4552, L.C. Aw. 244 to George Lawrence; R.P. 5426, L.C. Aw. 3511, Apana 2 to Kalalione; R.P. 4124, L.C. Aw. 8076 to Hiolo; Grant 483 to E. Bailey; Deed: Kam IV to Henry I. Jones; Poailima; and all of R.P. 5426, L.C. Aw. 3511, Apana 1 to Kalalione; and Poailimas

Beginning at a point at the northwest corner of this parcel of land on the east side of Honoapiilani Highway F.A.P. No. 13-G, the coordinates of which point of beginning referred to Government Survey Triangulation Station "LUKE" being 39.31 feet South and 2,857.06 feet West and running by azimuths measured clockwise from True South:

1. 263° 21' 40" 111.65 feet along Lot 3 of Koa Venture Subdivision, File Plan 1426;
2. 284° 14' 10" 71.79 feet along Lot 4 of Koa Venture Subdivision, File Plan 1426;
3. 287° 45' 60.50 feet along same;
4. 278° 52' 44.60 feet along Lots 4 and 9 of Koa Venture Subdivision, File Plan 1426;
5. 268° 54' 181.91 feet along Lots 9, 10 and 16 of Koa Venture Subdivision, File Plan 1426;
6. 267° 29' 678.49 feet along Lots 16, 17, 24, 28, 29, 30 and 31 of Koa Venture Subdivision, File Plan 1426;
7. 346° 30' 34.23 feet along the westerly side of Koa Drive;
8. 267° 29' 393.88 feet along the southerly side of Koa Drive;
9. 293° 08' 142.32 feet along same;

1. 301° 30' 20" 160.74 feet along same;
2. 276° 43' 86.03 feet along same;
3. 8° 52' 79.49 feet along the westerly side of Waiiale Drive;
4. 259° 14' 5.08 feet along same;
5. 8° 52' 283.49 feet along same;
6. 3° 12' 144.73 feet along same;
7. 357° 35' 444.70 feet along same;
8. 9° 00' 224.50 feet along same;
9. 279° 00' 55.00 feet along the southerly end of Waiiale Drive;
10. 9° 00' 1,278.06 feet along the remainder of Grant 483 to E. Bailey;
11. Thence along same on a curve to the right having a radius of 550.00 feet, the chord azimuth and distance being: 37° 52' 30" 531.19 feet;
12. 66° 45' 226.21 feet along same;
13. Thence along same and the remainder of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlein on a curve to the right having a radius of 2,260.00 feet, the direct chord azimuth and distance being: 74° 17' 30" 593.24 feet;
14. 81° 50' 51.17 feet along the remainder of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlein;
15. 172° 39' 15.22 feet along the easterly side of Honoapiilani Highway F.A.P. No. 13-G;
16. Thence along same on a curve to the left having a radius of 28,682.80 feet, the chord azimuth and distance being: 171° 44' 917.74 feet;

- |     |      |     |  |
|-----|------|-----|--|
| 26. | 170° | 49' | 2,359.00 feet along same;  |
| 27. | 80°  | 49' | 5.00 feet along same;  |
| 28. | 170° | 49' | 28.72 feet along same to the point of beginning and containing an Area of 108.215 Acres. |

SUBJECT, HOWEVER to an easement in favor of Alexander and Baldwin, Inc., more particularly described as follows:

A perpetual easement or right-of-way for an underground pipe or tunnel (herein referred to as the Waiale Diversion Conduit) from the New Waihee Ditch to the Old Waihee Ditch, of such size and capacity as shall be sufficient to divert and carry any volume of water to the full capacity of the New Waihee Ditch, along the line of or adjacent to the present 36" diversion pipe; the center line of said present pipe being described as follows:

Beginning at a point on the east side of Monoapilani Highway F.A.P. No. 13-G, the coordinates of which point of beginning referred to Government Survey Triangulation Station "LUKE" being 94.21 feet South and 2,864.28 feet West and running by azimuths measured clockwise from True South:

- |    |      |     |  |
|----|------|-----|--|
| 1. | 265° | 35' | 45.70 feet;                                    |
| 2. | 270° | 10' | 132.00 feet;                                   |
| 3. | 268° | 25' | 293.00 feet;                                   |
| 4. | 267° | 21' | 193.00 feet;                                   |
| 5. | 266° | 12' | 486.96 feet to the westerly side of Koa Drive. |

CONDITIONS

Pursuant to Section 19.42.060 of the Maui County Code, the zoning established by this ordinance is subject to the following conditions:

1. The applicant shall comply with the affordable housing requirements set forth in the State Land Use Commission's Decision and Order, dated January 30, 1990, which reclassified the subject parcels from Agricultural District to Urban District.

The applicant shall provide the following percentages of dwelling units in the Wailuku and Piihaha Project Districts in the aggregate, for sale or rental to persons in the low, low-moderate, and moderate income groups, as identified by the Housing Finance and Development Corporation, State of Hawaii;

<u>Income Range</u>	<u>%</u>
51% to 65% of median income	5%
66% to 80% of median income	10%
81% to 120% of median income	15%
121% to 140% of median income	<u>20%</u>
TOTAL	50%

Affordable housing units shall be allocated between Project Districts 2 and 3, to avoid undue concentration of any particular housing type or category in either project;

This condition may be fulfilled through construction and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State and the County of Maui.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

EXHIBIT "B"

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

- of Maui upon request of the Director of Public Works. The value of the applicant's dedication of right-of-way and participation in the improvement of the roadway construction of the existing cane haul road shall be credited against any impact fee assessment. The applicant shall provide its fair and equitable share of costs of constructing the roadway. Construction of the roadway shall be in conformance to the standards of the County of Maui;
- c. The applicant shall provide its fair and equitable share of the costs of roadway construction of the Mahalani Road extension in conformance to the standards of the County of Maui;
  - d. The intersection and roadway improvements of Honoapiilani Highway with the Project District in conformance to the requirements of the Highways Division of the Department of Transportation of the State of Hawaii which are to be funded entirely by the applicant;
  - e. The applicant shall provide its fair and equitable share of the costs of the planning and construction of a future by-pass roadway south of the Waiale Drive extension and the southern end of the Project District past Waikapu town which includes, but which is not limited to, the offer of dedication of the future by-pass right-of-way to the appropriate governmental body. The value of the applicant's participation in the improvement in the planning and construction of the roadway shall be credited against any impact fee assessment; and
  - f. The conformance with any impact fees assessed by the County of Maui;
4. Prior to issuance of a building permit for each phase of the project, the applicant shall submit a traffic study approved by the Director of Public Works indicating those improvements and/or contributions for that particular phase. Said traffic study shall detail the sequence and timing of improvements and/or contributions as well as provide an analysis of operating conditions/levels of service at key intersections in the vicinity, provided that;
    - a. No building permits will be issued for any structures mauka of Honoapiilani Highway until a construction contract has been executed and notice to proceed with construction has been issued for

Waiale Drive, from Kaohu Street to Honoapiilani Highway, and the extension of Mahalani Street, from the vicinity of the Maui Memorial Hospital to Waiale Drive.

5. The applicant shall participate in drainage improvements required by the drainage master plans and Director of Public Works of the County of Maui. In addition, the applicant shall fund an independent drainage study to be done by an independent consultant chosen by the Director of Public Works to verify the representations of the applicant regarding the proposed on-site disposal and over flow connection system which the applicant proposes to connect to the wastewater reclamation facilities or collection systems;
6. The applicant shall connect to the new Central Maui Wastewater Reclamation Facility or expanded Wailuku Wastewater Reclamation Facility, if and when capacity is available. In addition, the applicant shall conform to any impact fees assessed by the County of Maui pertaining to construction and expansion of wastewater reclamation facilities or collection systems;
7. The applicant shall provide its fair and equitable share of park improvements generated by the project as is deemed necessary by the Director of Parks and Recreation of the County of Maui. The applicant's participation shall include, but shall not be limited to, the dedication of land in fee simple, free and clear of all encumbrances, for park use and a community center site for use by the community;
8. The applicant shall provide its fair and equitable share for the impact the project district has upon public educational facilities as is deemed necessary by the Department of Education of the State of Hawaii which shall include, but which shall not be limited to, the dedication of land in fee simple interest, free and clear of all encumbrances, for a new school site; and
9. The applicant shall enter into and execute appropriate agreements with the appropriate agencies of the State of Hawaii and County of Maui regarding the applicant's required participation in improving the infrastructure and public facilities identified herein. These agreements shall be file with the Bureau of Conveyances of the State of Hawaii upon their execution.

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS:  
STATE OF HAWAII

BUREAU OF CONVEYANCES  
SEP 22 1991 12:28 PM

91 12429C

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL (X) PICK-UP ( )

Office of the County Clerk  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

UNILATERAL AGREEMENT AND DECLARATION  
FOR CONDITIONAL ZONING

THIS INDENTURE, made this 29<sup>th</sup> day of August,  
1991, by B. G. MOYNAHAN, Vice President for WAILUKU  
AGRIBUSINESS CO., INC., a Hawaii corporation whose business and  
mailing address is 90 Waiko Road, Wailuku, Maui, Hawaii 96793,  
hereinafter referred to as "Declarant", and who is the owner of  
those certain parcels of land situate at Wailuku, Maui, Hawaii,  
identified for tax purposes by Tax Map Key 3-4-02:02 and 3-5-01:  
portion of 01 and 17, comprising of approximately 547 acres, and  
more particularly described in Exhibit "1", which is attached  
hereto and made a part hereof and hereinafter referred to as the  
"Property".

EXHIBIT "C"

W I T N E S S E T H

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering a change in zoning of the Property as follows: The establishment of Project District 3 of the Wailuku-Kahului Community Plan; and

WHEREAS, the Council recommends through its Planning and Economic Development Committee, Committee Report No. 91-225, that said establishment of zoning by the County be approved for passage on first reading subject to certain conditions pursuant to Chapter 19.42, Maui County Code; and

WHEREAS, Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Chapter 19.42, Maui County Code;

NOW, THEREFORE, Declarant hereby makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Chapter 19.42, Maui County Code, relating to conditional zoning;

2. That the Property, and all parts thereof, is and shall be held subject to the covenants, conditions, and restrictions contained herein and that all of such covenants, conditions, and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this Declaration with the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be, without the execution,

delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor or assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Property 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 Property 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. 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 same is released as to the Property or any part thereof by the County;

4. 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 "Declarant", his 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 Project District 3 aforesaid for the Property and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be;

6. That Declarant agrees to develop said Property 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; and

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 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 the 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 Declarant or its successor 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 has executed this Declaration the day and year first above written.

APPROVED AS TO FORM:

DECLARANT:

WAILUKU AGRIBUSINESS CO., INC.

*Eric Maehara*  
ERIC T. MAEHARA  
MIMI K. HORIUCHI  
Attorney for DECLARANT

By *B.G. Moynahan*  
B. G. MOYNAHAN  
Its ~~Assistant Secretary~~  
Vice President

*done up*

APPROVED AS TO FORM  
AND LEGALITY:

*[Signature]*  
ROBERT K. KEKUNA, JR.  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII )  
 ) ss.  
CITY AND COUNTY OF HONOLULU )

On this 29th day of August, 1991, before me personally appeared B. G. Moynahan, to me personally known, who, being by me duly sworn, did say that he is the Vice President of Wailuku Agribusiness Co., a Hawaii corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

Stephanie A. Marques L.S.  
Notary Public, State of Hawaii  
My Commission Expires: 2/10/92

Wailuku Project District No. 3  
Description of Parcel Above Monoapiliani Highway

Land situated on the west side of Monoapiliani Highway F.A.P. No. 13-G and on the north side of Kuikahi Drive at Wailuku, Waikapu, Maui, Hawaii

Being portion of R.P. 7659, L.C. Aw. 326 to Wm. Humphreys; R.P. 4529-B & 4549, L.C. Aw. 71 to Michael J. Nowlein; R.P. 1925, 1928, 1958, L.C. Aw. 387 Part 5, Sec. 1 to A.B.C.F.M; Grant 172 to E. Bailey and Grant 483 to E. Bailey

Beginning at a pipe at the southwest corner of this parcel of land on the north side of Kuikahi Drive, the coordinates referred to Government Survey Triangulation Station "LUKE" being 4,783.71 feet South and 5,925.55 feet West and running by azimuths measured clockwise from True South:

1. 186° 10' 50" 186.31 feet along Lots 1, 2 and 3 of Wailuku Heights Subdivision Unit I, File Plan 1707;
2. Thence along Lots 3 and 4 of Wailuku Heights Subdivision Unit I, File Plan 1707 on a curve to the left having a radius of 155.00 feet, the chord azimuth and distance being:  
172° 55' 45" 71.06 feet;
3. 159° 40' 40" 238.06 feet along Lots 4, 5 and 6 of Wailuku Heights Subdivision Unit I, File Plan 1707;
4. 202° 13' 20" 139.44 feet along Lots 7 and 8 of Wailuku Heights Subdivision Unit I, File Plan 1707;
5. Thence along Lot 8 of Wailuku Heights Subdivision Unit I, File Plan 1707 on a curve to the left having a radius of 85.00 feet, the chord azimuth and distance being:  
190° 36' 40" 34.22 feet;
6. 179° 00' 149.65 feet along Lots 8 and 9 of Wailuku Heights Subdivision Unit I, File Plan 1707;

7.	84°	37'	14.49 feet along Lot 9 of Wailuku Heights Subdivision Unit I, File Plan 1707;
8.	175°	38'	106.92 feet along the remainder of R.P. 4529-B and 4549, L.C. Aw. 71 to Michael J. Nowlein;
9.	167°	04'	325.21 feet along same;
10.	164°	06'	110.01 feet along same;
11.	151°	58'	59.48 feet along the remainder of Grant 483 to E. Bailey;
12.	144°	34'	54.42 feet along same;
13.	136°	32'	125.13 feet along same;
14.	133°	08'	322.70 feet along same;
15.	136°	25'	63.50 feet along same;
16.	146°	11'	66.61 feet along same;
17.	155°	47'	99.76 feet along same;
18.	137°	21'	52.57 feet along same;
19.	183°	52'	90.13 feet along same;
20.	152°	14'	97.08 feet along same;
21.	191°	58'	43.72 feet along same;
22.	228°	14'	121.65 feet along same;
23.	215°	42'	39.52 feet along same;
24.	191°	06'	69.00 feet along same;
25.	184°	13'	241.09 feet along same;
26.	176°	07'	125.63 feet along same;
27.	164°	38'	114.86 feet along same;
28.	156°	05'	105.53 feet along same;
29.	143°	56'	325.71 feet along same;

30. 163° 02' 105.02 feet along same;
31. 168° 43' 211.54 feet along same;
32. 162° 45' 56.00 feet along same;
33. 139° 24' 53.01 feet along same;
34. 106° 32' 100.04 feet along same;
35. 195° 56' 26.63 feet along the easterly side of  
West Alu Road;
36. Thence along same on a curve to the right having a radius of  
459.10 feet, the chord azimuth  
and distance being:  
218° 35' 281.45 feet;
37. 236° 26' 343.30 feet along same;
38. Thence along same on a curve to the left having a radius of  
291.50 feet, the chord azimuth  
and distance being:  
212° 31' 236.35 feet;
39. 188° 36' 137.66 feet along same;
40. Thence along same on a curve to the left having a radius of  
390.50 feet, the chord azimuth  
and distance being:  
165° 40' 304.32 feet;
41. 142° 44' 44.86 feet along same;
42. Thence along same on a curve to the right having a radius of  
56.60 feet, the chord azimuth  
and distance being:  
181° 16' 70.52 feet;
43. 219° 48' 123.26 feet along same;
44. Thence along same on a curve to the left having a radius of  
336.50 feet, the chord azimuth  
and distance being:  
192° 49' 305.36 feet;
45. 165° 50' 189.16 feet along same;

46. Thence along same on a curve to the right having a radius of  
107.50 feet, the chord azimuth  
and distance being:  
203° 20' 130.88 feet;
47. 240° 50' 253.47 feet along same;
48. Thence along same on a curve to the left having a radius of  
1,181.80 feet, the chord  
azimuth and distance being:  
236° 52' 45" 162.99 feet;
49. 232° 55' 30" 14.56 feet along same;
50. 323° 34' 60.01 feet along the remainder of R.P.  
1925, 1928, 1958, L.C. Aw. 387  
Part 5 Sec. 1 to A.B.C.F.M.;
51. 232° 55' 30" 71.25 feet along same;
52. 306° 21' 42" 97.17 feet along same;
53. 257° 55' 57" 87.82 feet along same;
54. 240° 36' 74.60 feet along same;
55. 214° 22' 03" 63.81 feet along same;
56. 199° 19' 181.92 feet along same;
57. 163° 04' 63.63 feet along same;
58. Thence along the south side of West Alu Road on a curve to the  
left having a radius of  
1513.70 feet, the chord  
azimuth and distance being:  
235° 15' 16" 30.00 feet;
59. 322° 28' 189.35 feet along the remainder of R.P.  
1925, 1928, 1958, L.C. Aw. 387  
Part 5 Sec. 1 to A.B.C.F.M.;
60. 232° 28' 642.65 feet along same;
61. 244° 58' 826.58 feet along same and the remainder  
of Grant 172 to E. Bailey;
62. 345° 30' 135.00 feet along the remainder of Grant  
172 to E. Bailey;
63. 300° 45' 160.00 feet along same;

1.	257°	45'		120.00 feet along same;
2.	268°	00'		190.88 feet along same;
3.	10°	55'	30"	396.16 feet along same;
4.	16°	29'		340.28 feet along same;
5.	271°	30'		103.79 feet along same;
6.	1°	30'		30.00 feet along same;
7.	91°	30'		203.65 feet along same;
8.	350°	47'		484.00 feet along same;
9.	271°	30'		360.00 feet along same;
10.	350°	47'		1,032.08 feet along same and the remainder of R.P. 1925, 1928, 1958, L.C. Aw. 387 Part 5 Sec. 1 to A.D.C.F.M.; and Grant 483 to E. Bailey;
11.	260°	47'		375.00 feet along the remainder of Grant 483 to E. Bailey;
12.	350°	47'		30.00 feet along same;
13.	260°	47'		119.92 feet along same;
14.	350°	49'		1,869.36 feet along the west side of Monoapillani Highway, F.A.P. No. 13-G;
15.	Thence along same on a curve to the right having a radius of 28,607.80 feet, the chord azimuth and distance being: 351° 19' 33.5" 508.59 feet;			
16.	354°	53'	43"	158.02 feet along same;
17.	Thence along same on a curve to the right having a radius of 28,599.80 feet, the chord azimuth and distance being: 352° 19' 09.8" 167.72 feet;			

81. Thence along the north side of Kuikahiki Drive on a curve to the right having a radius of 38.00 feet, the chord azimuth and distance being:  
37° 09' 37.3" 53.43 feet;
82. 81° 50' 210.82 feet along same;
83. Thence along same on a curve to the left having a radius of 1,933.86 feet, the chord azimuth and distance being:  
63° 05' 30" 1242.71 feet;
84. 44° 21' 916.59 feet along same;
85. Thence along same on a curve to the right having a radius of 1,017.74 feet, the chord azimuth and distance being:  
71° 09' 30" 918.02 feet;
86. 97° 58' 82.59 feet along same;
87. Thence along same on a curve to the left having a radius of 1,933.86 feet, the chord azimuth and distance being:  
94° 46' 30" 215.34 feet;
88. 91° 35' 338.07 feet along same to the point of beginning and containing an gross area of 439.041 Acres.

Subject also to an easement in favor of Alexander and Baldwin Inc. for Waiale Division Conduit more particularly described as follows:

A perpetual easement or right-of-way for an underground pipe or tunnel (herein referred to as the Waiale Division Conduit) from the New Waihee Ditch to the Old Waihee Ditch, of such size and capacity as shall be sufficient to divert and carry any volume of water to the full capacity of the New Waihee Ditch, along the line of or adjacent to the present 36" diversion pipe; the center line of said present pipe being described as follows:

Beginning at a point on the mauka line of Lot 1, of the Old Waihee Ditch Right-of-Way above described in paragraph (A), and in the center line of said present diversion pipe, at its outlet into said Old Waihee Ditch, the coordinates of which point referred to Luke Trig. Station are 21.45 feet South and 1,251.85 feet West; also said point is azimuth and distance 136° 30' 22.7 feet from the end of Course 4 of Lot 1 of said Old Waihee Ditch Right-of-Way, and running by true azimuths:

1. 87° 29' 1,624.00 feet along the center line of this underground right-of-way along under the North side of Road, crossing under said Road to bend in present pipe just makai of High Street, and South of the culvert under High Street;
2. 69° 01' 1,721.50 feet along the center line of this underground right-of-way under High Street, and up to the intake at the New Wahee Ditch.

0312d

Wailuku Project District No. 3  
Description of Parcel Makai (East) of Honoapiilani Highway

Land situated between Honoapiilani Highway F.A.P. No. 13-G and Waiale Road on the south side of Koa Venture Subdivision, File Plan 1426 at Wailuku, Maui, Hawaii

Being a portion of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlain; R.P. 7712, L.C. Aw. 215 to Henry L. Brooks; R.P. 3523, L.C. Aw. 3338 to Mamailou; R.P. 4552, L.C. Aw. 244 to George Lawrence; R.P. 5426, L.C. Aw. 3511, Apana 2 to Kalaione; R.P. 4124, L.C. Aw. 8076 to Hiolo; Grant 483 to E. Bailey; Deed: Kam IV to Henry I. Jones; Poalima; and all of R.P. 5426, L.C. Aw. 3511, Apana 1 to Kalaione; and Poalimas

Beginning at a point at the northwest corner of this parcel of land on the east side of Honoapiilani Highway F.A.P. No. 13-G, the coordinates of which point of beginning referred to Government Survey Triangulation Station "LUKE" being 39.31 feet South and 2,857.06 feet West and running by azimuths measured clockwise from True South:

1. 263° 21' 40" 111.65 feet along Lot 3 of Koa Venture Subdivision, File Plan 1426;
2. 284° 14' 10" 71.79 feet along Lot 4 of Koa Venture Subdivision, File Plan 1426;
3. 287° 45' 60.50 feet along same;
4. 278° 52' 44.60 feet along Lots 4 and 9 of Koa Venture Subdivision, File Plan 1426;
5. 268° 54' 181.91 feet along Lots 9, 10 and 16 of Koa Venture Subdivision, File Plan 1426;
6. 267° 29' 678.49 feet along Lots 16, 17, 24, 28, 29, 30 and 31 of Koa Venture Subdivision, File Plan 1426;
7. 346° 30' 34.23 feet along the westerly side of Koa Drive;
8. 267° 29' 393.88 feet along the southerly side of Koa Drive;
9. 293° 08' 142.32 feet along same;

4. 301° 30' 20" 160.74 feet along same;
5. 276° 43' 86.03 feet along same;
6. 0° 52' 79.49 feet along the westerly side of Waiale Drive;
7. 269° 14' 9.08 feet along same;
8. 8° 52' 283.49 feet along same;
9. 3° 12' 144.73 feet along same;
10. 357° 35' 444.70 feet along same;
11. 9° 00' 224.50 feet along same;
12. 279° 00' 55.00 feet along the southerly end of Waiale Drive;
13. 9° 00' 1,278.06 feet along the remainder of Grant 483 to E. Dailey;
14. Thence along same on a curve to the right having a radius of 550.00 feet, the chord azimuth and distance being: 37° 52' 30" 531.19 feet;
15. 66° 45' 226.21 feet along same;
16. Thence along same and the remainder of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlein on a curve to the right having a radius of 2,260.00 feet, the direct chord azimuth and distance being: 74° 17' 30" 593.24 feet;
17. 81° 50' 51.17 feet along the remainder of R.P. 4529-B and R.P. 4549, L.C. Aw. 71 to Michael J. Nowlein;
18. 172° 39' 15.22 feet along the easterly side of Honoapiilani Highway F.A.P. No. 13-G;
19. Thence along same on a curve to the left having a radius of 28,682.80 feet, the chord azimuth and distance being: 171° 44' 917.74 feet;

- 16. 170° 49' 2,359.00 feet along same;
- 17. 80° 49' } 5.00 feet along same;
- 28. 170° 49' 28.72 feet along same to the point of  
beginning and containing an  
Area of 108.215 Acres.

SUBJECT, HOWEVER to an easement in favor of Alexander and Baldwin, Inc., more particularly described as follows:

A perpetual easement or right-of-way for an underground pipe or tunnel (herein referred to as the Waiale Diversion Conduit) from the New Waihee Ditch to the Old Waihee Ditch, of such size and capacity as shall be sufficient to divert and carry any volume of water to the full capacity of the New Waihee Ditch, along the line of or adjacent to the present 36" diversion pipe; the center line of said present pipe being described as follows:

Beginning at a point on the east side of Honoapiilani Highway F.A.P. No. 13-G, the coordinates of which point of beginning referred to Government Survey Triangulation Station "LUKE" being 94.21 feet South and 2,864.28 feet West and running by azimuths measured clockwise from True South:

- 1. 265° 35' 45.70 feet;
- 2. 270° 10' 132.00 feet;
- 3. 268° 25' 293.00 feet;
- 4. 267° 21' 193.00 feet;
- 5. 266° 12' 486.96 feet to the westerly side of Koa Drive.

CONDITIONS

Pursuant to Section 19.42.060 of the Maui County Code, the zoning established by this ordinance is subject to the following conditions:

1. The applicant shall comply with the affordable housing requirements set forth in the State Land Use Commission's Decision and Order, dated January 30, 1990, which reclassified the subject parcels from Agricultural District to Urban District.

The applicant shall provide the following percentages of dwelling units in the Wailuku and Piihaha Project Districts in the aggregate, for sale or rental to persons in the low, low-moderate, and moderate income groups, as identified by the Housing Finance and Development Corporation, State of Hawaii;

<u>Income Range</u>	<u>%</u>
51% to 65% of median income	5%
66% to 80% of median income	10%
81% to 120% of median income	15%
121% to 140% of median income	<u>20%</u>
TOTAL	50%

Affordable housing units shall be allocated between Project Districts 2 and 3, to avoid undue concentration of any particular housing type or category in either project;

This condition may be fulfilled through construction and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State and the County of Maui.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

EXHIBIT "2"

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

- of Maui upon request of the Director of Public Works. The value of the applicant's dedication of right-of-way and participation in the improvement of the roadway construction of the existing cane haul road shall be credited against any impact fee assessment. The applicant shall provide its fair and equitable share of costs of constructing the roadway. Construction of the roadway shall be in conformance to the standards of the County of Maui;
- c. The applicant shall provide its fair and equitable share of the costs of roadway construction of the Mahalani Road extension in conformance to the standards of the County of Maui;
  - d. The intersection and roadway improvements of Honoapiilani Highway with the Project District in conformance to the requirements of the Highways Division of the Department of Transportation of the State of Hawaii which are to be funded entirely by the applicant;
  - e. The applicant shall provide its fair and equitable share of the costs of the planning and construction of a future by-pass roadway south of the Waiale Drive extension and the southern end of the Project District past Waikapu town which includes, but which is not limited to, the offer of dedication of the future by-pass right-of-way to the appropriate governmental body. The value of the applicant's participation in the improvement in the planning and construction of the roadway shall be credited against any impact fee assessment; and
  - f. The conformance with any impact fees assessed by the County of Maui;
4. Prior to issuance of a building permit for each phase of the project, the applicant shall submit a traffic study approved by the Director of Public Works indicating those improvements and/or contributions for that particular phase. Said traffic study shall detail the sequence and timing of improvements and/or contributions as well as provide an analysis of operating conditions/levels of service at key intersections in the vicinity, provided that;
- a. No building permits will be issued for any structures mauka of Honoapiilani Highway until a construction contract has been executed and notice to proceed with construction has been issued for

Waiale Drive, from Kaohu Street to Honoapiilani Highway, and the extension of Mahalani Street, from the vicinity of the Maui Memorial Hospital to Waiale Drive.

5. The applicant shall participate in drainage improvements required by the drainage master plans and Director of Public Works of the County of Maui. In addition, the applicant shall fund an independent drainage study to be done by an independent consultant chosen by the Director of Public Works to verify the representations of the applicant regarding the proposed on-site disposal and over flow connection system which the applicant proposes to connect to the wastewater reclamation facilities or collection systems;
6. The applicant shall connect to the new Central Maui Wastewater Reclamation Facility or expanded Wailuku Wastewater Reclamation Facility, if and when capacity is available. In addition, the applicant shall conform to any impact fees assessed by the County of Maui pertaining to construction and expansion of wastewater reclamation facilities or collection systems;
7. The applicant shall provide its fair and equitable share of park improvements generated by the project as is deemed necessary by the Director of Parks and Recreation of the County of Maui. The applicant's participation shall include, but shall not be limited to, the dedication of land in fee simple, free and clear of all encumbrances, for park use and a community center site for use by the community;
8. The applicant shall provide its fair and equitable share for the impact the project district has upon public educational facilities as is deemed necessary by the Department of Education of the State of Hawaii which shall include, but which shall not be limited to, the dedication of land in fee simple interest, free and clear of all encumbrances, for a new school site; and
9. The applicant shall enter into and execute appropriate agreements with the appropriate agencies of the State of Hawaii and County of Maui regarding the applicant's required participation in improving the infrastructure and public facilities identified herein. These agreements shall be file with the Bureau of Conveyances of the State of Hawaii upon their execution.

WE HEREBY CERTIFY that the foregoing BILL NO. 70 (19 91 )

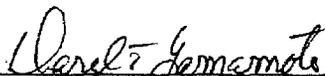
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 1st day of November, 19 91, by the following votes:

Howard S. KIHUNE Chair	Patrick S. KAWANO Vice-Chair	Vinco G. BAGOYO, Jr.	Goro HOKAMA	Alice L. LEE	Ricardo MEDINA	Wayne K. NISHIKI	Joe S. TANAKA	Leinaala TERUYA DRUMMOND
Aye	Aye	Aye	Aye	Aye	Excused	Aye	Aye	Excused

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 1st day of November, 19 91.

DATED AT WAILUKU, MAUI, HAWAII, this 1st day of November, 19 91.

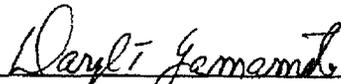
  
 \_\_\_\_\_  
 HOWARD S. KIHUNE, CHAIR  
 Council of the County of Maui

  
 \_\_\_\_\_  
 DARYL T. YAMAMOTO, COUNTY CLERK  
 County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 8 DAY OF NOVEMBER, 1991.

  
 \_\_\_\_\_  
 LINDA CROCKETT LINGLE, 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. 2053 of the County of Maui, State of Hawaii.

  
 \_\_\_\_\_  
 DARYL T. YAMAMOTO, COUNTY CLERK  
 County of Maui

Passed First Reading on September 6, 1991.  
Effective date of Ordinance November 8, 1991.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2053, 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

RECORDED  
NOV 11 1991  
COUNTY CLERK