

MICHAEL P. VICTORINO  
Mayor

MICHELE CHOUTEAU MCLEAN, AICP  
Director

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COUNTY COUNCIL

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

April 10, 2019

Ms. Michele M. Yoshimura   
Budget Director, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

  
Mayor   
Date

For Transmittal to:

Honorable Keani Rawlins-Fernandez  
Chair, Economic Development and Budget Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez:

**SUBJECT: FISCAL YEAR ("FY") 2020 BUDGET (PL-9) (EDB-1)**

Thank you for your letter dated April 4, 2019 with further questions about the fees and applications for the Department of Planning (Department). Please consider the following in response:

1. a. When the County Council discussed the 2009 Fee Study and Cost Recovery Plan prepared by Matrix Consulting Group (Study), the Department largely endorsed the Study's recommendation of seeking 30 percent cost recovery in the first year, 40 percent the second year, and so on until the fifth year when 70 percent of the cost would be recovered by the permit fee.
- b. Any costs associated with permit processing are subsidized by the General Fund in the amount not covered by the permit fee. The Study determined that approximately 19 percent of the cost to process our permits is recovered by our fees, meaning that 81 percent is

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subsidized by the General Fund. If a cost recovery fee schedule is adopted as described in item 1a above, then 70 percent of a permit fee would be subsidized in the first year, 60 percent the second year, and so on until the fifth year when 30 percent of the cost would be subsidized by the General Fund.

- c. Best practices in planning and local government finance nationwide dictate that fees for planning services should be primarily “user fees” and, according to the Study, “should be assessed according to the degree of individual or private benefit gained from services.” If they were to be set at a higher level, then the term “user fee” would not apply; instead, the fee would actually be a tax. The current fees cannot be considered a user fee or a tax because they are not based on the benefit to the applicant, the cost of providing the service, or a higher amount. The Study recommends a fee schedule that is based on best practices and that seeks cost recovery.
2. The current fee structure could be considered one that supports the general community. As noted in our response to PL-8, when the Study was previously the subject of public meetings held by the Department and the Council, there was some public support for relatively low fees because the permit process benefits the general public. Testifiers – who were not representative of the development or construction industries – stated that it is important to have public notice, public meetings, public hearings and the opportunity to learn and comment on proposed projects. In the opinion of some, the government subsidy of the permit review process is justified because it provides a public service and not just a benefit to the applicant.

If a cost recovery fee schedule were adopted, then permit fees would be considered user fees that provide a benefit to the applicant, which is what the Study and best practices advocate.

3. We are not aware of any Countywide Policy Plan (CWPP) or Maui Island Plan (MIP) policies that specifically call for permit fees to be subsidized. There are indirect and broad statements about the County government and services, which relate to the extent that some permit processes involve public notice and public meetings, but none that are specific to subsidizing permit fees.

There are four MIP actions that relate to permit fees, but not subsidies:

5.1.5-Action 7. Waive County review fees to modify dwelling units to accommodate the needs of people with disabilities (reasonable accommodation).

5.1.6. Reduce the cost to developers of providing housing that is affordable to families with household incomes 160 percent and below of annual median income.

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5.1.6.c. Offer extra incentives in boom periods and withdraw incentives during slack periods.

5.1.6-Action 1. Develop a comprehensive, flexible system of incentives to develop affordable housing including:

(1) Reduction or waiver of impact, assessment, and permit fees.

4. All of our permit fees are deposited into the General Fund, except for Special Management Area (SMA) and shoreline permitting fees that will be deposited into the SMA Revolving Fund beginning July 1, 2019. Whether these fees remain the same or are increased (or decreased), they will be continue to be deposited into the General Fund unless an ordinance is adopted to divert them elsewhere. Similarly, Council will continue to determine how the General Fund is spent through its adoption of the County's annual budget, including funding for priorities listed in the CWPP and MIP.
5. The approximate cost of consultant fees that would be charged for seven types of land use applications is as follows:
  - a. Change in Zoning (CIZ): \$285,000
  - b. Community Plan Amendment (CPA)\*: \$325,000
  - c. District Boundary Amendment <15 acres (DBA): \$285,000
  - d. Project District Zoning (PD1)\*\*: \$495,000
  - e. Special Management Area Use Permit (SM1): \$285,000
  - f. Short-Term Rental Home (STRH): \$30,000
  - g. Shoreline Setback Variance (SSV)\*: \$325,000

\* CPAs and SSVs trigger compliance with Chapter 343, Hawaii Revised Statutes, and the preparation of an Environmental Assessment or Environmental Impact Statement, thus having a higher cost.

\*\* Project District Zoning Phase 1 involves not only a CIZ but the creation of a new chapter in Title 19, Maui County Code, to create the zoning for the project district.

Please note that these approximate costs are based on each of these being free-standing individual applications, and not packaged as a group (such as a CIZ and DBA together). These costs also cover what is needed for a complete application package, including traffic studies, architectural renderings, civil engineering reports, and similar studies.

6. You requested additional information for the seven types of permits noted above for FY18. Please see the table below. Please note that you requested the number of applications received, the applicant's name, the address, the owner and the assessed value of each property; we provided the owner's name, the tax map key number, and the project valuation. We do not track applications by applicant name or property valuation. Where "n/a" is

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indicated, it is either because we do not track valuation (e.g., STRHs) or there is no cost or development associated with the request (i.e., it is a paper change).

Applicant Name	TMK(s)	Valuation
CIZ – 5		
County of Maui	2380070950000 2380070960000	n/a
Hale Mahaolu Akahi	2380070500000	n/a
County of Maui	2380070970000	n/a
University of Hawaii	2530030130000	\$5.6 million
Ferreira Family Partners	2390041410000	n/a
CPA – 1		
County of Maui	2380070970000	n/a
DBA - 1		
University of Hawaii	2530030130000	\$5.6 million
SM1 - 7		
BRE Iconic Gwr Owner LLC	2210081090000	\$91.515 million
County of Maui	2380070010000	\$2 million
University of Hawaii	2530030130000	\$5.6 million
State of Hawaii	2390041510000	\$29 million
University of Hawaii	2380070400000	\$9.36 million
Wailea Community Association	2210081290000	\$1.5 million
Boschetti, Giampaolo	2390020140000 2390021160000 2390021500000 2390021510000	\$91 million
SSV - 0		
STRH – 39 – no associated valuation		
Applicant	TMK	
Hana Aku LLC	2140050190000	
Yu, Leonard and Roberta Beatty	2140050230000	
Lama Inc	2160070170000	
Koch, Gregory	2140110410000	
Herzog, Austin and Marie Dibona-Herzog and Jacob Williams	2120030040000	
Zeman, Albert	2140120140000	
Newton, Robin and Bradley	2130030150001	
Baker, Tyler and Laura	2390170540000	
McKim, Raymond	2390370360000	
Melott, Stanley	2390060040000	
Shafir Trust	2390180860000	

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Penavega, Carols and Alexa	2390090160001
Kent, Sidney and Lorraine	2390420820000
Maui Dreamer LLC	2390080050001
Boonyaratanakornkit, Jerry and Winnie	2390380080000
Dressler, Bradley and Anne Pawsat-Dressler	2390080050002
Abreu, Mauricio	2390401020000
Rice Trust, Amy and Anderson Trust, David and Rebecca	2490120480000
Coon, Randolph and James and Doreen Coon Trust	2490070390000
Hinton Trust, Michael and Brenda	2490100500000
Nielson, Lorrie	2490050290000
Caruso, Patrick	2490040100000
Nielson, Russell	2490130010000
Chuan, Jason and Jane Yoo	2540170190000
Vigil, Henry	2570070110000
Holstein Trust, Janine	2230030300000
Rich, Thomas and Valerie	2270110640002
Kranichfeld, Barbara	2270131610000
Drewyer, Darwin and Michelle and Papanui LLC	2280030700000
Hookoana LLC	2270131940000
Snowed Inn Hostelry Inc	2430190470000
Davis, Robert and Cathleen	2430070170000
Dennis, Justin	2470120080000
Giess, Diana	2460060690000
Bridgers, Warren and Janice	2480030940001
Deloria, Francis and Susan	2470090460002
Thibaut Family Trust, Sharron and Chrisophter	2440200260000
Engle Residence Trust I and II, Marla	2430070150000
Sweeney Condominium	2470100360000

We hope this information satisfactorily answers your questions. If you require additional information, please feel free to contact me.

Sincerely,



MICHELE CHOUTEAU MCLEAN, AICP  
 Planning Director