

ORDINANCE NO. _____

BILL NO. 28 (2023)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE 4998 (2019) RELATING TO THE CHANGE IN ZONING (CONDITIONAL ZONING) TO WAIKAPU COUNTRY TOWN (WCT) DISTRICT FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII

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

SECTION 1. Condition 1.a of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Landowners shall mitigate all Project-generated traffic impacts as required by the SDOT-H. Landowners shall enter into an agreement regarding the scope and timing of required traffic improvements to mitigate the traffic related impacts of the project on SDOT-H facilities as generally indicated in the project’s Pro Rata Share Calculations for Waikapu Country Town Project dated June 29, 2018, as approved by SDOT-H. Alternatively, landowners may, subject to agreement with SDOT-H, provide additional residential workforce housing units in the project in lieu of providing funding or constructing traffic improvements to mitigate the traffic related impacts of the project. The agreement shall be executed prior to the approval of the first subdivision application to the County of Maui for the project.”

SECTION 2. Condition 1.b of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Landowners shall fully fund the project [intersections] intersection with Honoapiilani Highway only at the Main Street Intersection (also referred to as Study Intersection #9 in the TIAR/EIS), [and at the Waiale Road Extension Intersection (also referred to as Study Intersection #13 in the TIAR/EIS.)] Landowners are solely responsible for funding the Main Street [and Waiale Road Extension] intersection improvements. Landowners may, subject to agreement with the County, provide additional residential workforce housing units in the project in lieu of providing funding or constructing the intersection with Honoapiilani Highway at the Waiale Road Extension intersection (also referred to as Study Intersection #13 in the TIAR/EIS).”

SECTION 3. Condition 1.d of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Landowners shall provide pedestrian crossings on Honoapiilani Highway at the [intersections] intersection of Main Street [and Waiale Road Extension,] and ensure that the development layout provides pedestrian routes to [these] this pedestrian [crossings.] crossing. Landowners are not constructing the Waiale Road Extension or the Waiale Road Extension intersection with Honoapiilani Highway. Landowners may, subject to agreement with the County, provide additional residential workforce housing units in the project in consideration of the County providing pedestrian crossings on Honoapiilani Highway at the intersection of the Waiale Road Extension.”

SECTION 4. Condition 3.b of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Landowners shall enter into an agreement with DPW regarding the project’s pro rata share contribution to the Waiale Road Extension from Waiko Road to Honoapiilani Highway. The agreement shall determine the project’s pro rata share of the total anticipated costs for design and construction of the future Waiale Road Extension and the methods and timing by which the payments or similar contributions are made. Alternatively, landowners may, subject to agreement with the County, provide additional residential workforce housing units in lieu of contributing funding for the design and construction of the future Waiale Road Extension. [The agreement will also consider the project’s actual traffic generated insomuch as any reductions or increases in traffic than originally estimated may reduce or increase the pro rata share in the future.] Further, Landowners shall deed the Waiale Road Extension right-of-way to DPW, upon demand, the value of which shall not be considered towards the pro rata share used in the agreement. The agreement shall be executed prior to the approval of the first subdivision application to the County of Maui for the project. DPW shall confirm compliance with this condition.”

SECTION 5. Condition 5 of Exhibit “C” (Conditions of Zoning) of Ordinance 4998 (2019)

shall be amended to read as follows:

“Residential Workforce Housing. Landowners shall provide residential workforce housing opportunities in accordance with the County of Maui’s residential workforce housing requirements. The required number of residential workforce housing units as determined by the County of Maui shall be completed according to a timetable associated with the issuance of building permits for market-rate dwelling units as required by the Maui County Code and as agreed to by the Department of Housing and Human Concerns. Further provided, all residential workforce housing units in the project shall be subject to the following deed restriction periods:

- a. “Below-moderate income” twenty years.
- b. “Moderate income” fifteen years.
- c. “Above-moderate income” ten years.

Landowners will not seek project approvals authorized by Chapter 201H, Hawaii Revised [Statutes,] Statutes, or similar project approvals for this project.”

SECTION 6. Condition 6 of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Wastewater. Landowners shall participate in the funding and construction of adequate private or public wastewater facilities for the Project Area. The wastewater facilities shall be in accordance with the applicable standards and requirements of the DOH and the County of Maui as applicable. If Landowners’ proposed wastewater facilities are to be located within the State agricultural [districts,] district, Landowners shall apply for a State Special Permit in accordance with the provisions of Chapter 205, Hawaii Revised Statutes (HRS). Alternatively, landowners may, subject to agreement with the County, provide additional residential workforce housing units in the project in lieu of participating in the funding and construction of adequate private or public wastewater facilities. Subject to agreement with the County, an interim connection to the Wailuku/Kahului Wastewater Treatment Facility for 100,000 gallons per day of wastewater may be made available for the project, provided that upon the County’s new wastewater treatment facility in the vicinity of the project coming online, the project’s wastewater may be diverted to the County’s new wastewater treatment facility. If Landowners desire to request an initial or interim connection to County wastewater facilities for any dwellings, an agreement must be made to the satisfaction of the Department of Environmental Management and other applicable agencies prior to the issuance of any building permit. County or private operable wastewater facilities must be available to serve any use or structure prior to the issuance of the building permit for such use or structure.”

SECTION 7. Condition 8 of Exhibit “C” (Conditions of Zoning) of Ordinance 4998

(2019) shall be amended to read as follows:

“Education Contribution Agreement. Landowners shall contribute to the development, funding, and construction of school facilities in compliance with the Educational Contribution Agreement for Waikapu Country Town, undated but executed as of January 31, 2017, entered into by Landowners and the Department of Education, as may be amended. Landowners shall ensure that prospective buyers, purchasers, and subsequent owner-builders of lots are given notice of the requirement to pay the Central Maui District Impact Fee in accordance with the Educational Contribution Agreement, as may be amended. Such notice shall be recorded and run with the land.”

SECTION 8. Upon adoption of this Ordinance, Landowners shall cause the Unilateral Agreement and Declaration for Conditional Zoning, dated August 30, 2019, recorded in the State

of Hawaii Bureau of Conveyances as Document No. A-71880997, to be amended to reflect the amendments herein.

SECTION 9. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed materials, or the underscoring.

SECTION 10. This Ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Stephanie Chen
STEPHANIE M. CHEN
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
LF2023-0105
2023-03-08 Ord Amd Ord 4998

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris R. Lee", written over a horizontal line.

Upon the request of the Mayor.