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May 26, 2023

The Honorable Tasha Kama
Chair, Housing and Land Use Committee
Council of the County of Maui
200 South High Street
Wailuku, Hawaii 96793

Via e-mail to HLU.Committee@mauicounty.us

Re: Proposed Revisions to Bills 28 and 29
HLU Committee 5/30/2023

Dear Chair Kama,

We truly appreciate the assistance we have received from the Council and the Administration with the Public Private Partnership Agreement (the "PPP"). Bill 28 (2023) amends various conditions of Ordinance 4998 (2019), which changed the zoning for Waikapu Country Town, to allow the developer to provide additional residential workforce housing units in the project in lieu of constructing or funding certain improvements relating to infrastructure.

The PPP was executed on April 28, 2022 and the implementation of its terms is contingent upon the adoption of Bill 28 (2023). We would like to request the following amendments to Bill 28 (2023):

1. Directly reference the PPP in the conditions by removing reference to "subject to agreement with the County" and replacing with a specific reference to, "the Public Private Partnership Agreement County of Maui – Waikapu Country Town, dated April 28, 2022, as may be amended."
2. Remove the proposed increased deed restrictions in Section 5, amending Condition 5 of Ordinance 4998 (2019), and simply require the developer to comply with the Chapter 2.96, Maui County Code, and the PPP.
3. Remove Section 8, as the Unilateral Agreement and Declaration for Conditional Zoning, dated August 30, 2019, has been amended.

We have attached a revised version of Bill 28 (2023), which contains the requested changes for your review.

We would also request that Section 2 of Bill 29 (2023), amending Section 19.96.030, Maui County Code, reflect that “Figure 1A” is the controlling plan.

We appreciate your time and please feel free to reach out with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Ueoka". The signature is fluid and cursive, with the first name "Jeffrey" written in a larger, more prominent script than the last name "Ueoka".

Jeffrey Ueoka

Encl.

ORDINANCE NO. _____

BILL NO. _____

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, pursuant to the Public Private Partnership Agreement County of Maui – Waikapu Country Town, dated April 28, 2022, as may be amended (the “PPP”), 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 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 crossing [crossings]. Landowners are not constructing the Waiale Road Extension or the Waiale Road Extension intersection with Honoapiilani Highway. Landowners may, pursuant to the PPP, 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 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, pursuant to the PPP, 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 inasmuch 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 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 and the PPP. [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.]

Landowners will not seek project approvals authorized by Chapter 20IH, Hawaii Revised [Statutes] Statutes, or similar project approvals for this project.

SECTION 6. Condition 6 of Exhibit “C” (Conditions of Zoning) of Ordinance 4998 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 district [districts], Landowners shall apply for a State Special Permit in accordance with the provisions of Chapter 205, Hawaii Revised Statutes (HRS). Alternatively, landowners may, pursuant to the PPP, 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. Pursuant to the terms of the PPP, an interim connection to the Wailuku/Kahului Wastewater Treatment Facility for 100,000 gallons per day of wastewater shall 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 shall 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 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. 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 9. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel
County of Maui