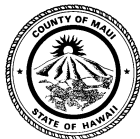


Council Chair  
Alice L. Lee

Vice-Chair  
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Tom Cook  
Gabe Johnson  
Tamara Paltin  
Keani N.W. Rawlins-Fernandez  
Shane M. Sinenci  
Nohelani U'u-Hodgins



Director of Council Services  
David M. Raatz, Jr., Esq.

Deputy Director of Council Services  
Richelle K. Kawasaki, Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

May 7, 2024

Ms. Hoku Krueger  
Munekiyo Hiraga  
305 High Street, Suite 104  
Wailuku, Hawaii 96793  
*Email: [Hoku@munekiyohiraga.com](mailto:Hoku@munekiyohiraga.com)*

Dear Ms. Krueger:

**SUBJECT: BILL 28 (2024), DISTRICT BOUNDARY AMENDMENT  
FOR HALE MAHAOLU KE KAHUA PROJECT  
(WAILUKU) (HLU-26)**

At its reconvened meeting of April 5, 2024, the Maui County Council's Housing and Land Use Committee recommended Bill 28, CD1 (2024), be passed on first reading. A copy of the conditions recommended by the Committee is enclosed.

May I please request that you provide three hard copy originals of a unilateral agreement, signed by the appropriate individual or individuals on behalf of the landowner, agreeing to the conditions recommended by the Committee. For your ease of reference, I am enclosing a form for the unilateral agreement that you may wish to consider using.

May I also please request that you attach the identical exhibits to the unilateral agreement that are attached to the bill. However, you may wish to consider using numeric exhibit references rather than alpha references, as the unilateral agreement will be both a stand-alone document and an Exhibit "D" to the bill.

May I further request your response by **May 17, 2024**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Ms. Hoku Krueger  
May 7, 2024  
Page 2

Should you have any questions, please contact me or the Committee staff (Paige Greco at (808) 270-7660, Carla Nakata at (808) 270-5519, or Pauline Martins at (808) 270-8039).

Sincerely,

A handwritten signature in black ink, appearing to read "Tasha Kama", with a long horizontal flourish extending to the right.

TASHA KAMA, Chair  
Housing and Land Use Committee

hlu:ltr:026a01:cmn

Enclosures

cc: Michael Hopper, Deputy Corporation Counsel

LAND COURT SYSTEM

REGULAR SYSTEM

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Return By Mail ( X ) Pickup ( ): To:

Office of the County Clerk  
County of Maui  
200 South High Street  
Wailuku, Hawai'i 96793

Total Number of Pages: \_\_\_\_\_

(Including exhibits, notary certification pages, and all other components)

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Affects Tax Map Key (Maui) **TMK**

**UNILATERAL AGREEMENT AND DECLARATION OF CONDITIONS FOR STATE LAND  
USE DISTRICT BOUNDARY AMENDMENT**

THIS INDENTURE, referred to as “***Declaration***” or “***Unilateral Agreement***,” is made this, \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by the following “Declarant,” who is the owner of real property located at **PROPERTY ADDRESS**, Hawaii, referred to as “***the Property***,” comprised of **SIZE** acres, and identified for real property tax purposes as Tax Map Key: **TMK**.

The Declarant is **NAME OF DECLARANT**, whose principal address is at **DECLARANT’S ADDRESS**, Hawaii, and whose authorized contact person is **ENTITY’S AUTHORIZED OFFICER, IF APPLICABLE**, who is currently **PERSON’S NAME, IF APPLICABLE**, and any of their successors.

**WITNESSETH:**

WHEREAS, the Council is considering the Declarant’s Petition (“***Petition***”) for a State Land Use District Boundary Amendment for the Property, described in **Exhibit “1”** and more particularly identified in **Exhibit “2,”** State Land Use District Boundary Amendment Map No. **MAP NO.**; and

WHEREAS, the Council's Housing and Land Use Committee recommended passage on first reading of a State Land Use District Boundary Amendment bill for the Property in accordance with Section 19.68.040, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this Unilateral Agreement in accordance with Section 19.68.040, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. In accordance with Maui County Code. That this Declaration is made in accordance with the provisions of Section 19.68.040, Maui County Code, relating to State Land Use District Boundary Amendments;

2. Binding until Maui County written release. That until written release by the County of Maui, (a) the Property, and all its parts, are held subject to this Declaration's covenants, conditions, and restrictions, which are effective as to and run with the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery, or recordation of any further deed, instrument, document, agreement, declaration, covenant, or the like with respect to the Property by the Declarant, the County of Maui, or any successor or assign; (b) the acquisition of any right, title or interest in or with respect to the Property by any person or entity constitute acceptance of all of the covenants, conditions, and restrictions of this Declaration by the person or entity; and (c) upon any transfer of any right, title, or interest in or with respect to the Property, the transferee assumes, is bound by, and is obligated to observe and perform all of the covenants, conditions, and restrictions of this Declaration;

3. Running with the Land. That this Declaration and all of its covenants, conditions, and restrictions contained are effective as to and run with the land in perpetuity, or until the Declarant notifies the County Department of Planning that any of the covenants, conditions, and restrictions are satisfied by the Declarant, and the Department verifies the satisfaction and provides a written release of the covenant, condition, or restriction;

4. NAME OF DECLARANT as Declarant. That the term "Declarant" and any pronoun in reference to it, wherever used in this Declaration, means the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and includes any corporation or any other entity, and means and includes NAME OF DECLARANT, as Declarant and the Declarant's successors, and assigns;

5. Effective as of date State Land Use District Boundary Amendment ordinance approved. That this Declaration is fully effective on the effective date of the State Land Use District Boundary Amendment ordinance approving the establishment of a State Land Use reclassification from the EXISTING District to the PROPOSED District for the Property;

6. Develop consistent with State Land Use District Boundary Amendment conditions. That the Declarant agrees to develop the Property in conformance with the conditions stated in Exhibit "3" and in the State Land Use District Boundary Amendment ordinance;

7. Conditions reasonable and rationally related to public health, safety and welfare. That the conditions imposed are reasonable and rationally related to the objective of preserving the public health, safety, and general welfare and fulfill the need for the public service demands created by the Property's proposed use;

8. Conditions enforceable by County of Maui. AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County of Maui, the conditions imposed in this Declaration run with the land identified in this Declaration and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Property. The Declarant further understands and agrees that the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, with the understanding the Declarant or its successors and assigns may at any time file a petition with the County Department of Planning for the removal of the conditions and termination of this Unilateral Agreement, which will be processed in the same manner as petitions for State Land Use District Boundary amendments.

This Declaration may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, constitute one and the same Declaration.

Any persons signing this Unilateral Agreement represent that they are duly authorized and have legal capacity to execute and deliver this Unilateral Agreement. Each party represents to the other that the execution and delivery of this Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year indicated on the following notary public certification pages.

DECLARANT:

**NAME OF DECLARANT**

By: \_\_\_\_\_

**NAME**

**POSITION, IF APPLICABLE**

Approved as to Form and Legality:

By: \_\_\_\_\_

**Print name:**

Deputy Corporation Counsel  
County of Maui



**EXHIBIT "1"**

**Description of the Property**



EXHIBIT "2"

STATE LAND USE DISTRICT BOUNDARY AMENDMENT MAP

EXHIBIT "3"

CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY AMENDMENT

# EXHIBIT "A"

## AGRICULTURAL STATE LAND DISTRICT AREA

**Being a portion of Land Commission Award 8559-B, Apapa 20 to William C. Lunalilo,  
and a portion of Grant 3343 to Claus Spreckels  
being also a portion of Lot 1-C of the Paukukalo Large Lot Subdivision  
Subdivision File No. 3.1744**

at  
Waiehu, Wailuku, Maui, Hawaii

Beginning at the Southerly corner of this parcel, also being the Northeast corner of Lot 1-B Being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 11,352.04 feet North, 887.43 feet West and running by azimuths measured clockwise from true South:

1. 102° 44' 413.27 feet along Lot 1-B, being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels;

thence along Kahekili Highway, on a curve to the right, with a radius of 1800.00 feet, the chord azimuth and distance being

2. 198° 44' 43" 110.24 feet;

3. 200° 30' 1664.46 feet along the same;

thence along the same, on a curve to the right, with a radius of 1050.91 feet, the chord azimuth and distance being

4. 203° 46' 15" 119.92 feet;

5. 297° 02' 30" 18.97 feet along the same;

6. 207° 02' 30" 150.00 feet along the same;

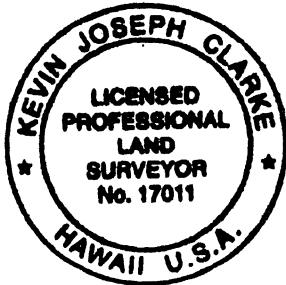
7. 297° 02' 30" 20.00 feet along the same;

8. 207° 02' 30" 12.11 feet along the same;  
  
thence along the same, on a curve to the left, with a radius of 776.20 feet, the chord azimuth and distance being
9. 203° 11' 30" 104.24 feet;
10. 282° 46' 30" 111.07 feet along Waiehu Beach Road;
11. 12° 46' 30" 43.44 feet along Lots 81 of the Waiehu Heights Subdivision Unit II (File Plan No. 1567), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
12. 323° 18' 20" 28.89 feet along the same;
13. 22° 28' 45" 1427.95 feet over 1-C of the Paukukalo Large Lot Subdivision, being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels;
14. 18° 13' 30" 222.62 feet along Lots 59, 58, and 57 of the Waiehu Heights Subdivision Unit II (File Plan No. 1567), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo and Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
15. 347° 51' 40" 73.62 along Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
16. 349° 07' 40" 176.08 feet along the same;
17. 348° 11' 30" 135.68 feet along Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo and Lot 92 Waiehu Heights Subdivision III (File Plan No. 1715)

being a portion of Land Commission Award 8559-B,  
Apana 20 to William C. Lunalilo;

18. 353° 25' 30"

88.66 feet along Lot 93 Waiehu Heights Subdivision III (File Plan  
No. 1715) being a portion of Land Commission Award  
8559-B, Apana 20 to William C. Lunalilo to the point of  
beginning and containing an area of 9.798 acres;

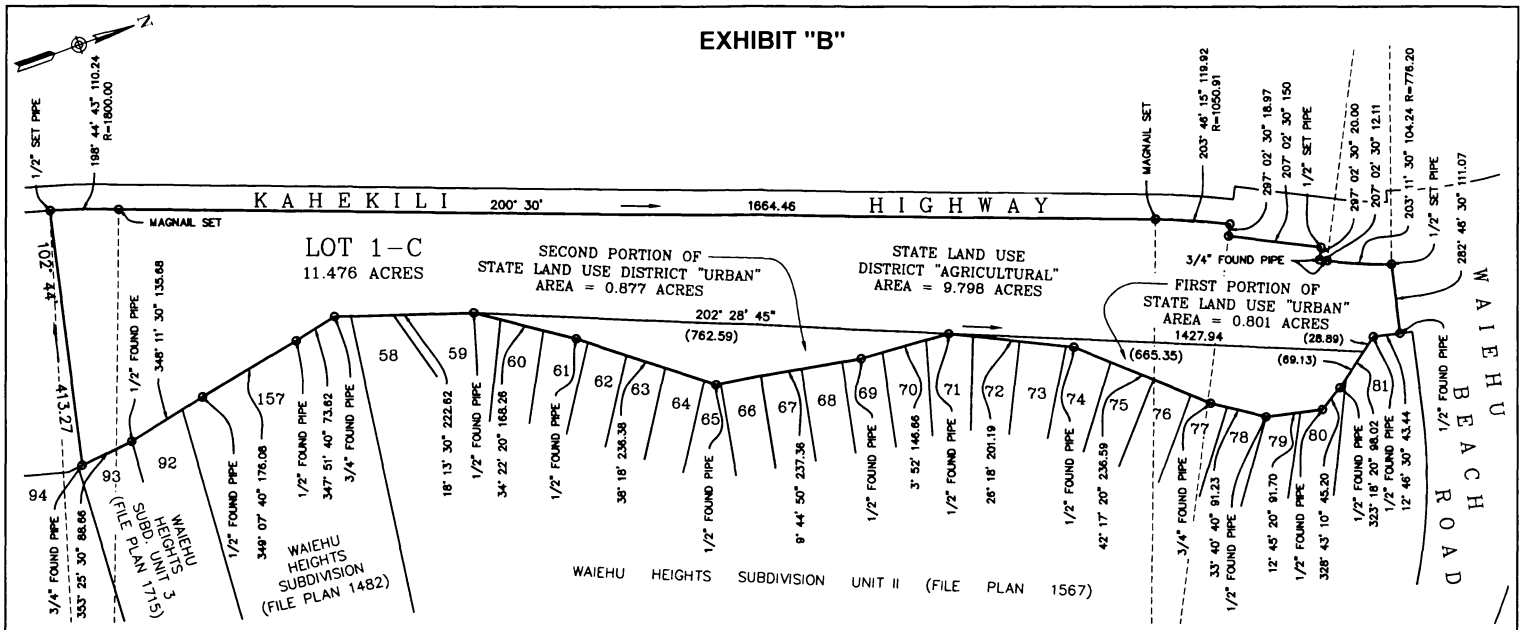


A handwritten signature in black ink, appearing to read "Kevin J. Clarke", written over a horizontal line.

Kevin J. Clarke  
Licensed Professional Land Surveyor  
Certificate No. 17011-LS  
Exp. 04/2022

11/16/2023

TOPO Ke Kahua (SLU Ag)  
File 20-0559



Land Use District Boundary Amendment Map No. 415

District Boundary Amendment

Paukukalo, Waeihu, Wailuku, Maui, Hawaii

From Agricultural District to Urban District

## **EXHIBIT “C”**

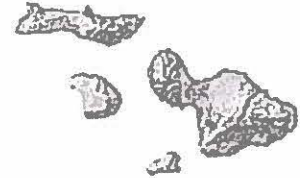
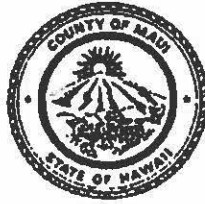
### **CONDITIONS**

1. The Property must be developed as a one hundred percent residential workforce housing project under the letter dated May 4, 2023, from the director of housing and human concerns, approving, with modifications, the independent development of the Hale Mahaolu Ke Kahua Affordable Housing Community Project under Chapter 2.97, Maui County Code (“DHHC Approval Letter”), attached as Exhibit “1”.
2. The Property must be developed in substantial compliance with the representations made to the department of housing and human concerns in obtaining the DHHC Approval Letter and to the Maui County Council in obtaining the State District Boundary Amendment.
3. The developer must work with the State Department of Transportation to inspect the drainage culvert located to the east of the Kahekili Highway and Waiehu Beach Road intersection quarterly, prior to forecasted large rain events, and following large rain events for blockage. The developer must request that the State Department of Transportation clear the culvert before occupancy of the first dwelling unit and as needed, after quarterly inspection, prior to forecasted large rain events, and following large rain events.
4. Before occupancy of the first dwelling unit, the developer must replace the ginger, heliconia, fern tree, tropha, golden glory, and Singapore plumeria in the landscape planting plan with native plants, fruit trees, or non-invasive lei plants, and substitute the fern tree with koai‘a in the landscape planting plan.
5. To the extent allowed by law, the developer must give preference to Maui County residents based on their length of residency and to those displaced by the August 2023 wildfires on Maui Island.

**RICHARD T. BISSEN, JR.**  
Mayor

**LORI TSUHAKO**  
Director

**SAUMALU MATA' AFA**  
Deputy Director



**DEPARTMENT OF HOUSING  
& HUMAN CONCERNS  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 546  
WAILUKU, MAUI, HAWAII 96793  
PHONE: (808) 270-7805**

May 4, 2023

**CERTIFIED MAIL RETURN RECEIPT REQUESTED  
70202450000001955512**

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

**APPROVED FOR TRANSMITTAL**

*Richard T. Bissen, Jr.* 5.5.23  
Mayor Date

For Transmittal to:

Monte Heaton  
Waiehu Housing, LP  
330 West Victoria Street  
Gardena, California 90248

Dear Mr. Heaton:

**SUBJECT: APPROVING WITH MODIFICATIONS THE INDEPENDENT  
DEVELOPMENT OF THE HALE MAHAOLU KE KAHUA AFFORDABLE  
HOUSING COMMUNITY PROJECT UNDER CHAPTER 2.97, MAUI  
COUNTY CODE**

By correspondence dated February 21, 2023, attached as Exhibit A, the Department of Housing and Human Concerns ("DHHC") transmitted the Hale Mahaolu Ke Kahua Affordable Housing Community Project ("Application" or "Project"), submitted by Waiehu Housing LP ("Applicant"), in accordance with Chapter 2.97, Maui County Code ("MCC"), to Maui County Councilmember Tasha Kama, Chair of the Housing and Land Use Committee.

The Application lists exemptions requested by the Applicant, authorized by Chapter 2.97, MCC. A list of the proposed exemptions is attached as Exhibit B.

On March 17, 2023 Chris Sugidono of Munekiyo Hiraga, received a letter from Otomo Engineering, Inc., setting out the estimated costs of the proposed exemptions. A copy of the letter is attached as Exhibit C.

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TO SUPPORT AND EMPOWER OUR COMMUNITY TO REACH ITS FULLEST  
POTENTIAL FOR PERSONAL WELL-BEING AND SELF-RELIANCE

**EXHIBIT 1**



Pursuant to Section 2.97.170, MCC, the Maui County Council ("Council") was required to approve, approve with modifications, or disapprove the Application via resolution within sixty days of receipt, which occurred on February 21, 2023. The Council failed to take any action within the prescribed time period. Section 2.97.170, MCC, provides that in the event Council fails to take action, the DHHC director is then given the authority to approve, approve with modifications, or disapprove the Application within fourteen days of the expiration of Council's 60-day time limit.

The Application anticipates providing 120 affordable multi-family rental housing units in Waiehu, Maui, Hawaii, for residents earning 60 percent or less of the Area Median Income ("AMI"). The latest *Hawai'i Housing Planning Study, 2019*, conducted by SMS Research, specifies that Maui County requires the completion of more than 10,400 housing units by 2025 to meet its residents needs. The study further specifies that Maui County needs 1,116 multi-family rentals to be completed by 2025 for residents earning 60% AMI and below.

The DHHC has independently reviewed the merits of the Project and considered the need to provide suitable housing for Maui County residents, and also considered the concerns regarding traffic impact, infrastructure, and historic preservation. The Project meets the 100 percent affordability requirement and other application requirements in order to qualify to request exemptions and incentives under Chapter 2.97, MCC. Relevant County departments and the administration were also consulted to consider the Application and potential concerns. After substantive review, it has been determined that the Project team, through its Application, representations to Council, and department meetings, have satisfactorily addressed the aforementioned concerns.

Through this correspondence, and pursuant to the Project's preliminary plans and specifications, as submitted to the Council on February 21, 2023, except that the Applicant must comply with all statutes, ordinances, charter provisions, and rules of governmental agencies relating to planning, zoning and construction standards for subdivisions, development and improvement of land, and the construction of units, unless exempted, I exercise the approval power given to me under Chapter 2.97, MCC, to approve the project with modifications. All exemptions in Exhibit B shall be approved, except for those exemptions listed and modified below under the sections entitled "Exhibit B – Exemption Modifications" and "Additional Modifications".

The final plans and specifications for the Project are approved if the final plans and specifications do not substantially deviate, as determined by the DHHC director or the director assigned to oversee this project, from the preliminary plans and specifications submitted to the Council. Any substantial deviation from the preliminary plans and specifications must be approved by the DHHC director or the director assigned to oversee this project for prior approval. The final plans and specifications constitute the zoning, building, construction, and subdivision standards for the Project. In the event of any conflict between the plans and specifications of the Project and this letter, the terms of this letter and any exhibits shall control.

The Applicant and the DHHC shall enter into a Residential Workforce Housing Agreement ("RWFHA") pursuant to 2.96.080, MCC. This letter shall be attached to that RWFHA, and the terms and conditions herein shall be incorporated into that RWFHA as binding conditions.

**Exhibit B-Exemption Modifications**

1. **Exemption 1:** The Project shall not be exempt from Chapter 8.04.040, MCC, relating to disposal permits. The Project shall be exempt from payment of fees associated with Chapter 8.04.040, MCC. In accordance with Chapter 2.97, MCC, a request for exemption or modification of any section of the code still needs to meet the minimum requirements for health and safety. To help ensure health and safety and that only non-hazardous waste is accepted at the Maui County landfills, the Applicant shall have a valid landfill account and Construction & Demolition Number which can be obtained by completing and submitting a Declaration of Non-Hazardous Construction and Demolition Waste Form, which is attached as Exhibit D. The Project shall not be exempt from 8.04.050, MCC. Disposal fees may be waived by the Director of Environmental Management upon request via a Landfill Tipping Fee Waiver Request, which is attached as Exhibit E.
2. **Exemption 2:** The wastewater collection and conveyance system constructed by the Applicant shall be owned and maintained by the Project.
3. **Exemption 3:** The Project shall not be exempt from the requirement of payment of the water system development fee as established in Chapter 14.07, MCC. Reimbursement of the water system development fee will be made from the Affordable Housing Fund, pursuant to Chapter 3.35, MCC. The cost of the fee shall be determined upon acceptance of the water system improvements and fees shall be charged in the amounts as set forth in the annual budget for the year when acceptance occurs, for the water system development fee.
4. **Exemption 8:** The Project shall be exempt from the requested exemptions from Chapter 19.36, related to off-street parking and loading. The Project shall include two (2) bike racks on the property to support the County's initiative to increase opportunities for multimodal transportation.
5. **Exemption 9:** The Project shall construct its frontage improvements to urban standards as required by Title 16 and Title 18, MCC, including but not limited to pavement widening, right-of-way widening, curbs, gutters, and sidewalks. The Project shall also construct any other improvements to Kahekili Highway, including relocating or underground existing overhead utilities, as necessary to accommodate the frontage improvements. The Director of Public Works may modify the standards of Title 16 and 18, MCC, as necessary to accommodate the Project's site constraints. Costs for construction of the frontage improvements and related improvements to Kahekili Highway are eligible for reimbursement from the Affordable Housing Fund, pursuant to Chapter 3.35, MCC. It is the intent of all parties that the Applicant be allowed to produce the proposed 120 affordable multi-family rental housing units.

6. Exemption 10: An exemption from Chapter 19.68, MCC and Chapter 19.510, MCC is granted to enable the District Boundary Amendment ("DBA") to be submitted either to Council for direct referral or through the Planning Director to the Maui Planning Commission for review as required under Section 8-8.4 of the Revised Charter of the County of Maui (1983), as amended. Further, a DBA application shall be submitted into Maui's Automated Planning & Permitting System ("MAPPS") with the accompanying Final Environmental Assessment ("EA"). The Project shall also be exempt from payment of fees associated with Chapter 19.510, MCC. The Project shall be constructed consistent with any additional terms and conditions as may be included in any Ordinance approving the DBA. In the event the DBA is not approved by Council, the approval herein is automatically rescinded.
7. Exemption 11: The Project shall be exempt from Section 19.510.040, MCC; Chapter 19.30A, MCC; and Chapter 19.02A, MCC. The Project shall abide by Section 19.12.050, MCC, related to Apartment District, A-1, development standards. The Project shall memorialize the exemption of Section 19.510.040, MCC; Chapter 19.30A, MCC; and Chapter 19.02A, MCC; and the required compliance with Section 19.12.050, MCC, by recordation with the State of Hawaii Bureau of Conveyances.
8. Exemption 12: The Project shall be exempt from Chapter 2.80B, MCC. The Project shall memorialize the exemption of Section 2.80B, MCC, by recordation with the State of Hawaii Bureau of Conveyances.

**Additional Modifications**

The Applicant will utilize Ground Penetrating Radar ("GPR") methodologies to survey the Project parcel for potential archaeological findings prior to the submittal of a grading permit application, and shall consult with the State Historic Preservation Division ("SHPD") prior to conducting these activities.

I am requiring the construction of the Project to be initiated within two years and completed within five years from the date of this correspondence. Construction of the Project shall be considered initiated when a building permit is issued and construction of a building has begun. Extensions of these time limits may be allowed by a formal request from the Applicant, in writing, to the DHHC director, or the director responsible for overseeing this project. An approved extension of these time limits shall be in writing.

I am also requiring the submittal of an annual report to the DHHC director, or the director responsible for overseeing this project, until every proposed unit in the development is initially rented. The annual report shall contain information relating to the progress of the Project and shall be due within 30 days of the annual anniversary of this correspondence. Failure to submit the annual report may result in forfeiture of the refundable application fee.

The Applicant shall submit in writing to the DHHC director, and within 14 days of the date of this correspondence, its acknowledgement of an agreement to indemnify the County in accordance with Section 2.97.190, MCC.

Section 2.97.200, MCC shall apply to this project.

Should you have any questions, please do not hesitate to contact me at (808) 270-7805.

Sincerely,



LORI TSUHAKE, LSW, ACSW  
Director of Housing and Human Concerns

**Attachments**

xc: Victoria Takayesu, Corporation Counsel  
Shayne Agawa, Director of Environmental Management  
Bradford Ventura, Fire Chief  
Kekuhaupio Akana, Managing Director  
Patrick McCall, Director of Parks & Recreation  
Kathleen Aoki, Director of Planning  
Jordan Molina, Director of Public Works  
Marc Takamori, Director of Transportation  
John Stufflebean, Director of Water Supply  
Buddy Almeida, Housing Administrator  
Maui County Councilmembers  
Debbie Cabebe, Chief Executive Officer, Maui Economic Opportunity  
Grant Chun, Executive Director, Hale Mahaolu  
Karlynn K. Fukuda, President, Munekiyo Hiraga  
Moe Mohanna, President, Highridge Costa Development

**RICHARD T. BISSEN, JR.**  
Mayor

**LORI TSUHAKO**  
Acting Director

**SAUMALU MATA' AFA**  
Deputy Director



RECEIVED

'23 FEB 21 17

OFFICE OF THE MAYOR

**DEPARTMENT OF HOUSING  
& HUMAN CONCERNS**  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 546  
WAILUKU, MAUI, HAWAII 96793  
PHONE: (808) 270-7805

February 21, 2023

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Richard T. Bissen, Jr.* 2/21/23  
Mayor Date

For Transmittal to:

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

Dear Chair Kama:

**SUBJECT: HALE MAHAOLU KE KAHUA AFFORDABLE HOUSING  
COMMUNITY PROJECT UNDER CHAPTER 2.97, MAUI COUNTY  
CODE**

The Department of Housing and Human Concerns is transmitting for your review and action the Maui County Code (MCC) Chapter 2.97 application for the proposed independent development of the Hale Mahaolu Ke Kahua Affordable Housing Community Project.

The applicant, Waiehu Housing, LP proposes to develop approximately 11.476 acres of land, identified as TMK (2) 3-3-001:106 (Parcel 106) in Waiehu, Maui, Hawaii, pursuant to Chapter 2.97, MCC. The applicant and Maui Economic Opportunity, Inc. (MEO) plan to enter into a long-term lease to develop the affordable housing community. The project will be developed in cooperation with Hale Mahaolu.

The proposed project will consist of 120 multi-family residential units for rent. All units will be 100 percent affordable to households earning at or below 60 percent of the County of Maui's area median income, as set forth by the County of Maui, Department of Housing and Human Concerns' Affordable Sales Price Guidelines.

---

TO SUPPORT AND EMPOWER OUR COMMUNITY TO REACH ITS FULLEST  
POTENTIAL FOR PERSONAL WELL-BEING AND SELF-RELIANCE

**EXHIBIT A**

Honorable Tasha Kama, Chair  
Housing and Land Use Committee  
February 21, 2023  
Page 2

Copies of the project's preliminary application were distributed to various federal, state and county agencies for review and comment prior to the application being finalized. Agency comments and responses to substantive comments are included in the application for your information.

Enclosed for consideration by the County Council are the following documents:

1. Nineteen (19) copies and one (1) jump drive containing a digital version of the Application for Chapter 2.97, MCC Fast-Tracked Residential Workforce Housing Project Approval for the Hale Mahaolu Ke Kahua Affordable Housing Community TMK (2) 3-3-001:106;
2. Proposed resolution entitled, "APPROVING THE INDEPENDENT DEVELOPMENT OF THE HALE MAHAOLU KE KAHUA AFFORDABLE HOUSING COMMUNITY WORKFORCE HOUSING PROJECT UNDER CHAPTER 2.97, MAUI COUNTY CODE";
3. Proposed resolution entitled, "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE HALE MAHAOLU KE KAHUA AFFORDABLE HOUSING COMMUNITY WORKFORCE HOUSING PROJECT UNDER CHAPTER 2.97, MAUI COUNTY CODE"; and
4. Proposed resolution entitled, "DISAPPROVING THE INDEPENDENT DEVELOPMENT OF THE HALE MAHAOLU KE KAHUA AFFORDABLE HOUSING COMMUNITY WORKFORCE HOUSING PROJECT UNDER CHAPTER 2.97, MAUI COUNTY CODE".

Thank you for your attention to this matter. If you have any questions or require additional information, please feel free to contact me at Ext. 7805.

Sincerely,



LORI TSUHAKO, LSW, ACSW  
Acting Director of Housing and Human Concerns

Enclosures

xc: Buddy Almeida, Housing Administrator  
Munekiyo Hiraga  
Waiehu Housing, LP



### Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section/ Requirement	Requested Exemption	Rationale for Request
1. Requirements for acquiring disposal permit and payment of disposal charges	Title 8, Health and Safety, Maui County Code (MCC):  Chapter 8.04, Refuse Collection and Landfills	<u><b>MCC 8.04.040 Disposal Permits – Application and Suspension; MCC 8.04.050, Disposal Charges</b></u>  Exemption for project to dispose of construction waste during the construction of the project without the need to apply for a disposal permit and pay for disposal charges.	An exemption from the requirements to apply for a disposal permit and pay associated charges will provide cost savings and ensure that the project is financially feasible.
2. Requirement for payment of wastewater assessment fees	Title 14, Public Services, MCC:  Section 14.35, Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System	<u><b>MCC 14.35 Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System</b></u>  Exemption to allow the project to receive its building permits without the need to pay wastewater assessment fees.  Section 14.35.080, Exemptions, exempts developments comprised of 100% residential workforce housing units from the provisions of this chapter.	An exemption from the requirements to pay the wastewater assessment fee for the Wailuku/Kahului Wastewater Treatment System will advance the affordability objectives of the project.
3. Requirement for payment of water system development fees	Title 14 – Public Services, MCC:  Chapter 14.07 – Water System Development Fees	<u><b>MCC 14.07 Water System Development Fees</b></u>  Exemption requested from Section 14.07 water system development fees to allow the project to receive its building permits without the need to pay water system development fees.	An exemption from the requirements to pay the water system development fees will advance the affordability objectives of the project.

### EXHIBIT B

### Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section/Requirement	Requested Exemption	Rationale for Request
4. Requirement to demonstrate water availability	Title 14 – Public Services, MCC:  Chapter 14.12 – Water Availability	<u><b>MCC 14.12 Water Availability</b></u>  Exemption requested from Section 14.12 Water Availability.  Section 14.12.030, Exemptions, exempts developments comprised of 100% residential workforce housing units from the provisions of this chapter.	
5. Requirements for payment of permit and inspection fees	Title 16, Buildings and Construction, MCC:  Sections 16.04C, Fire Code 16.18B, Electrical Code 16.20B, Plumbing Code 16.26B, Building Code	<u><b>MCC Title 16 Building and Construction</b></u>  Exemptions from MCC Chapters: <ul style="list-style-type: none"> <li>• 16.04C, <u>Fire Code</u>,</li> <li>• 16.18B, <u>Electrical Code</u>,</li> <li>• 16.20B, <u>Plumbing Code</u>, and</li> <li>• 16.26B, <u>Building Code</u>.</li> </ul> To exempt the project from payment of the fire, electrical, plumbing, and building permit, plan review, and inspection fees.	These exemptions provide savings to ensure the project is financially feasible. The project intends to meet all inspection and code requirements.
6. Requirements for payment of permit and inspection fees	Title 20, Environmental Protection, MCC:  Chapter 20.08, Soil Erosion and Sedimentation Control  Section 20.08.090, Grubbing and Grading Permit Fees	<u><b>MCC 20.08.090, Grubbing and Grading Permit Fees</b></u>  An exemption is sought to payment of grubbing and grading permit and inspection fees.  Section 20.08.090(D) exempts developments comprised of 100% residential workforce housing units from grubbing and grading permit fees.	This exemption provides savings to ensure the project is financially feasible. The project intends to meet all inspection and code requirements.



### Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section Requirement	Requested Exemption	Rationale for Request
7. Requirement for payment of park assessment fee	<p>Title 18, Subdivisions, MCC:</p> <p>Chapter 18.16, Design Standards</p> <p>Section 18.16.320, Parks and Playgrounds</p>	<p><u><b>MCC. 18.16.320 Parks and Playgrounds</b></u></p> <p>An exemption is sought from the provision to pay park assessment fees.</p> <p>Pursuant to Section 18.16.320(1)(5) Park Assessment Fees are exempt for workforce housing projects.</p>	<p>This exemption provides savings to ensure the project is financially feasible. The project will provide two (2) play areas designed to serve the recreational needs of the residents living within the housing community. One play area will be centrally located near the clubhouse and the second located near a common laundry room.</p>
8. Requirements for number of parking stalls and number and sizes of loading areas	<p>Title 19, Zoning, MCC:</p> <p>Chapter 19.36B, Off-Street Parking and Loading</p> <p>Sections</p> <p>19.36B.020 Designated Number of Off-Street Parking Spaces</p> <p>19.36B.030 Designated Number of Loading Spaces</p>	<p><u><b>MCC 19.36B. Off-Street Parking and Loading</b></u></p> <p>An exemption from Section 19.36B.020 (Designated Number of Off-Street Parking Spaces) for off-street parking requirements for the proposed clubhouse, which will only be used by onsite residents and is not open to the public.</p> <p>An exemption from Section 19.36B.020 (Designated number of off-street parking spaces) for off-street parking for the proposed residential units to require only one stall per unit for the proposed 28 one bedroom units planned for the project.</p> <p>An exemption from Section 19.36B.030 to allow for reduced dimensions (8.5 ft. x 19 ft.) of the two (2) required loading spaces.</p>	<p>The proposed project will provide adequate parking for residents and the exemptions will enable flexibility in the number of parking stalls and dimensions of loading spaces. The requested exemptions would also minimize potential queuing issues by reducing the number of stalls near driveway entrances. This will further the affordability of the project. Smaller loading stalls, which can be used for moving vans and furniture delivery, would also improve the flexibility as to where they are located and make them more useful to the housing community. Larger stalls would require them to be located in areas that may not be as useful due to them requiring turning areas and back up space.</p>

Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section Requirement	Requested Exemption	Rationale for Request
9. Urban standards relating to curb, gutters and sidewalks	Title 16.26B, Building and Construction MCC:  Chapter 16.20B Building Code  Title 18, Subdivision, MCC:  Chapter 18.20 – Improvements	<u>MCC 16.26B.3600, Improvements to Public Streets</u>  <u>MCC 18.20.040, 18.20.070, and 18.20.080, Existing Streets, Sidewalks, Curbs, and Gutters.</u>  Exemption from constructing curbs, gutters, and sidewalks for the frontage of the project adjacent to Kahekili Highway.	This exemption will allow the Applicant to implement the project without providing improvements to public streets and ensuring the project is financially feasible. The exemption would also allow the provision of a northbound right-turn lane into the project at the central access, which would provide a safeguard from traffic spilling out onto Kahekili Highway.
10. Requirement for State Land Use District Boundary Amendment for Agricultural portion of Subject Property	Title 19, Zoning, MCC:  Chapter 19.68 – State Land Use District Boundaries  Chapter 19.510 - Application and Procedures  Article 8, Chapter 8, Revised Charter of the County of Maui (1983), as amended	<u>MCC 19.68 State Land Use District Boundaries</u>  <u>MCC 19.510 Application and Procedures Article 8, Chapter 8, Revised Charter of the County of Maui (1983), as amended</u>  Exemptions from these provisions are sought to enable the District Boundary Amendment (DBA) request to proceed directly to the Maui County Council, without requiring the preparation of a DBA application and subsequent processing through the Maui Planning Commission. An ordinance for a DBA will be reviewed by the County Council concurrently with the MCC 2.97 application.	The project site is 11.476 acres and located within the State "Urban" and "Agricultural" Districts. This exemption would expedite the delivery of affordable workforce housing.

Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section/Requirement	Requested Exemption	Rationale for Request
11. Requirements of Change of Zoning and all provisions relating to "Agricultural" and "Interim" development standards to allow the use of the "A-1" district zoning standards.	Title 19, Zoning, MCC:  Chapter 19.02A, Interim Zoning Provisions and 19.30A, Agricultural District Chapter 19.12, Apartment District	<u>MCC 19.510.040 Change of Zoning</u>  <u>MCC 19.02A Interim Zoning Provisions</u>  <u>MCC 19.30A Agricultural District</u>  Exemptions from these provisions to allow the project to proceed without obtaining a Change of Zoning approval and to permit the development and use of the property for multi-family residential use according to the permitted uses, accessory uses and buildings, and development standards of the "A-1" District pursuant to the provisions set forth in Chapter 19.12, Apartment District.	The project site is zoned "Agricultural" and "Interim". These exemptions would expedite the delivery of affordable workforce housing by allowing the project to be developed in accordance with the "A-1" District zoning provisions, which are more applicable to the proposed development, without the need to obtain a Change of Zoning.
12. Requirement for General Plan, Community Plan Consistency	Title 2, Administration and personnel, MCC:  Chapter 2.80B, General Plan and Community Plans	<u>MCC 2.80B, General Plan and Community Plans</u>  An exemption from MCC 2.80B to allow the project to be implemented (1) without a Community Plan Amendment; and (2) without the need for consistency to be demonstrated between the community plan and zoning designations.	These exemptions would expedite the delivery of affordable workforce housing. The project site is located within the Urban Growth Boundary of the Maui Island Plan.

March 17, 2023



CONSULTING CIVIL ENGINEERS  
305 SOUTH HIGH STREET, SUITE 103  
WILMINGTON, DELAWARE 19801  
PH: 302.426.0000

Mr. Chris Sugidono  
Munekiyo Hiraga  
chris@munekiyohiraga.com

Dear Chris:

Subject: Hale Mahalo Ke Kahua  
Estimated Costs for Requested Exemptions from the Revised Exhibit "A"

In response to the requests for estimated costs associated with the requested exemptions listed in Exhibit "A", we offer the following:

**Item 1A - Exemption from Section 8.04.040, "Disposal permits—Application and suspension"**

Disposal permits cost \$25. Since most contractors already have a disposal permit, one will most likely not be required.

**Item 1B - Exemption from Section 8.04.050, "Disposal charges"**

The Department of Environmental Management (DEM) allows these fees to be waived. The Contractor shall fill out an application at the time of construction. Since these fees are based on the amount of material being disposed of, the estimated dollar amount associated with this exemption cannot be determined at this time.

**Item 1C - Exemption from Section 14.07.030, "Water system development fee schedule"**

The water system development fees are based on water meter size. Since the project is still in the conceptual design phase, the exact water demand has not been determined. Based on the preliminary site and building plan, it is estimated that one 3" water meter for domestic use and one 2" water meter for irrigation use will be required for this project. The anticipated water system development fee is \$404,392.

**Item 1J - Exemption from Section 16.26B.3600, "Improvements to Public Streets"; Item 1K - Exemption from Section 18.20.040, "Existing Streets"; Item 1L - Exemption from Section 18.20.070, "Sidewalks"; Item 1M - Exemption from Section 18.20.080, "Curbs and gutters"**

The project is requesting to be exempt from constructing curb, gutter, and sidewalk along its frontage with Kahekili Highway. Since the project is still in the conceptual design phase and has not gone out to bid, it is not possible to determine construction costs. A rough order of magnitude estimate is \$70,000 for sidewalks and \$110,000 for curb and gutter. The total estimated cost for these improvements is \$180,000.

EXHIBIT C

## HLU Committee

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**From:** HLU Committee  
**Sent:** Tuesday, May 7, 2024 2:32 PM  
**To:** Hoku Krueger  
**Subject:** BILL 28 (2024), DISTRICT BOUNDARY AMENDMENT FOR HALE MAHAOLU KE KAHUA PROJECT (WAILUKU) (HLU-26)  
**Attachments:** Correspondence to Munekiyo 05-07-2024 HLU-26\_TK.pdf; DBA UA - blank.docx  
**Importance:** High