

TO: Tasha Kama, Chair
Housing and Land Use Committee
County Council
County of Maui
200 South High Street
Wailuku, Maui, Hawai'i 96793

DATE: June 28, 2024

SUBJECT: HLU-26 Unilateral Agreement for Bill 28
(2024) District Boundary Amendment for
Hale Mahaolu Ke Kahua Project
(Wailuku)

Enclosed is/are:

Copies	Date	Description
3 Originals	June 2024	Unilateral Agreement

X	For your information For necessary action For your review For your files	For your use As requested For your signature Returning
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REMARKS: As requested, we are providing three (3) hard copies of the signed Unilateral Agreement for your review and processing.

Please call us at (808)244-2015, if you have any questions. Thank you.

Signed: 
Hoku Krueger, Associate

HK:yp
Copy to:

Grant Chun, Hale Mahaolu (w/enclosure)
Moe Mohanna, Highridge Costa (w/enclosure)
K:\DATA\Highridge\Waiehu AH PERMITTING\Applications\Unilateral Agreement\UA trans.docx

RECEIVED
 2024 JUN 28 PM 12:11
 OFFICE OF THE
 COUNTY COUNCIL

LAND COURT SYSTEM

REGULAR SYSTEM

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: 24

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

Affects Tax Map Key (Maui) (2) 3-3-001:106 (por.)

**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, 28 day of June, 2024, by the following "Declarant," who is the owner of that certain portion of real property located at Wailuku, Maui, Hawaii, referred to as "***the Property***," comprised of 9.798 acres, and identified for real property tax purposes as a portion of Tax Map Key: (2) 3-3-001:106.

The Declarant is WAIEHU HOUSING, LP, whose principal address is at 330 WEST VICTORIA STREET, GARDENA, CALIFORNIA 90248, and whose Managing General Partner is HIGHRIDGE COSTA DEVELOPMENT COMPANY, LLC, and whose Administrative General Partner is HALE MAHAOLU. Its authorized contact persons are its MANAGING GENERAL PARTNER and its ADMINISTRATIVE GENERAL PARTNER, who are currently MOHANNAD H. MOHANNA and GRANT Y. M. CHUN, 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. 415; 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. WAIEHU HOUSING, LP 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 WAIEHU HOUSING, LP, 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 AGRICULTURAL District to the URBAN 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:

WAIEHU HOUSING, LP

MANAGING GENERAL PARTNER:

Highridge Costa Development Company, LLC, a
Delaware limited liability company

By: 
MOHANNAD H. MOHANNA
PRESIDENT

ADMINISTRATIVE GENERAL PARTNER:

Hale Mahaolu, a Hawaii domestic nonprofit corporation

By: 
GRANT Y. M. CHUN
EXECUTIVE DIRECTOR

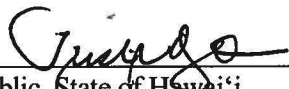
Approved as to Form and Legality:

By: _____
Print name: _____
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 25th day of June, 2024, before me personally appeared MOHANNAD H. MOHANNA, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Notary Public, State of Hawai'i
Printed Name: Trisha N. Ogata
My commission expires: April 27, 2028

NOTARY CERTIFICATION STATEMENT


Document Identification or Description:

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

Doc. Date: _____ or ☒ Undated at time of notarization.

No. of Pages: 24

Jurisdiction: First Circuit
(in which notarial act is performed)


Signature of Notary
06/25/2024
Date of Notarization and
Certification Statement

Trisha N. Ogata
Printed Name of Notary

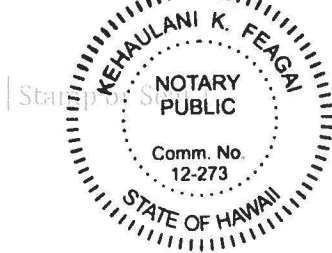


STATE OF HAWAII
COUNTY OF MAUI

)
) SS.
)

On this 26th day of June, 2024, before me personally appeared GRANT Y. M. CHUN, to me personally known, who being by me duly sworn, did say that he/she is the ADMINISTRATIVE GENERAL PARTNER of WAIEHU HOUSING, LP, and that said instrument was signed on behalf of said WAIEHU HOUSING, LP by authority of its Board of Regents, and said GRANT Y. M. CHUN, as said ADMINISTRATIVE GENERAL PARTNER, acknowledged said instrument to be the free act and deed of said WAIEHU HOUSING, LP.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Signature]
Notary Public, State of Hawaii
Print Name: Kehaulani K. Feagai
My Commission Expires: 06/26/2024

NOTARY PUBLIC CERTIFICATION	
Doc Date: <u>undated</u>	# Pages: <u>24</u>
Notary Name: <u>Kehaulani K. Feagai</u>	Judicial Circuit: <u>2nd</u>
Document Description: <u>Unilateral Agreement</u> <u>Declaration of conditions for State</u> <u>Land use District boundary Amendment</u>	
Notary Signature: <u>[Signature]</u>	
Date: <u>06/26/2024</u>	

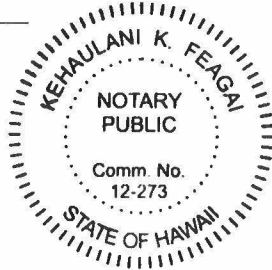


EXHIBIT "1"

DESCRIPTION OF THE PROPERTY

AGRICULTURAL STATE LAND DISTRICT AREA

Being a portion of Land Commission Award 8559-B, Apana 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;

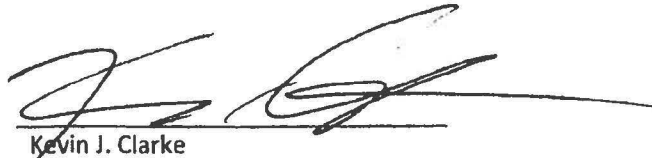
8. 207° 02' 30" 12.11 feet along the same;

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.

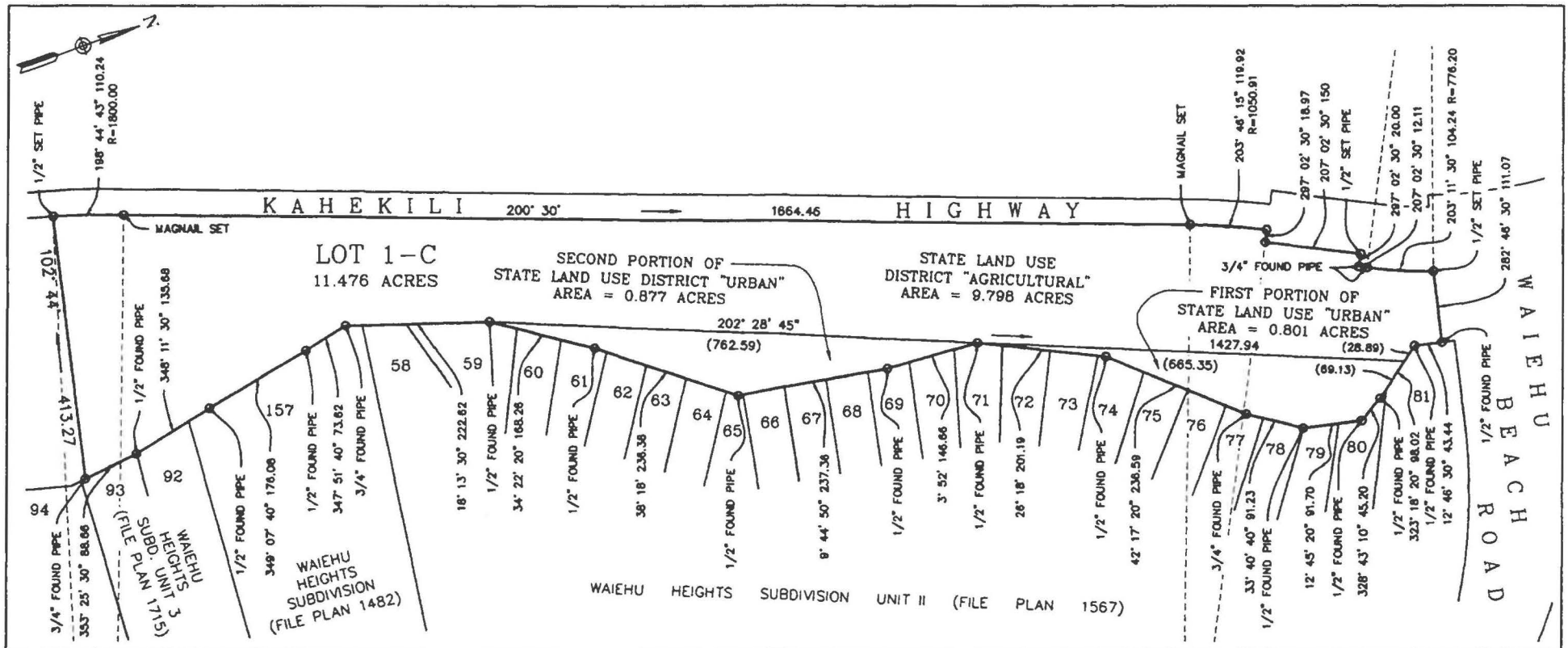
Kevin J. Clarke
Licensed Professional Land Surveyor
Certificate No. 17011-LS
Exp. 04/2022

11/16/2023

TOPO Ke Kahua (SLU Ag)
File 20-0559

EXHIBIT "2"

STATE LAND USE DISTRICT BOUNDARY AMENDMENT MAP



Land Use District Boundary Amendment Map No. 415

District Boundary Amendment

Paukukalo, Waeihu, Wailuku, Maui, Hawaii

From Agricultural District to Urban District

EXHIBIT "3"

CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY AMENDMENT

CONDITIONS

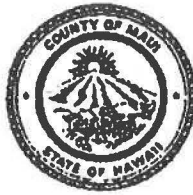
1. The Property must be developed as a one hundred percent residential workforce housing project under the letter dated May 4, 2023, from the director of housing and human concerns, approving, with modifications, the independent development of the Hale Mahaolu Ke Kahua Affordable Housing Community Project 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.

hlu:misc:026abill04_conditions:emb/pmg

RICHARD T. BISSEN, JR.
Mayor

LORI TSUHAKE
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.

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.

Monte Heaton
May 4, 2023
Page 5 of 5

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 Mahalo
Karilynn K. Fukuda, President, Munekiyo Hiraga
Moe Mohanna, President, Highridge Costa Development

RICHARD T. BISSEN, JR.
Mayor

LORI TSUHAKE
Acting Director

SAUMALU MATA' AFA
Deputy Director



RECEIVED

23 FEB 21 2023

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.
Mayor Date 2-21-23

OFFICE OF THE
COUNTY CLERK

2023 FEB 21 AM 11:15

RECEIVED

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
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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) 3-3-001:108;
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

cc: Buddy Almeida, Housing Administrator
Munekyo Hiraga
Walehu 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>MCC 8.04.040 Disposal Permits – Application and Suspension; MCC 8.04.050, Disposal Charges</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>MCC 14.35 Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System</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>MCC 14.07 Water System Development Fees</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>MCC 14.12 Water Availability</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>MCC Title 16 Building and Construction</u> Exemptions from MCC Chapters: <ul style="list-style-type: none"> • 16.04C, <u>Fire Code</u>, • 16.18B, <u>Electrical Code</u>, • 16.20B, <u>Plumbing Code</u>, and • 16.26B, <u>Building Code</u>. 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>MCC 20.08.090, Grubbing and Grading Permit Fees</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	Referent Section or Requirement	Requested Exemption	Rationale for Request
<p>7. Requirement for payment of park assessment fee</p>	<p>Title 18, Subdivisions, MCC:</p> <p>Chapter 18.16, Design Standards</p> <p>Section 18.16.320, Parks and Playgrounds</p>	<p><u>MCC. 18.16.320 Parks and Playgrounds</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>
<p>8. Requirements for number of parking stalls and number and sizes of loading areas</p>	<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>MCC 19.36B, Off-Street Parking and Loading</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 or Requirement	Requested Exemption	Rationale for Request
<p>9. Urban standards relating to curb, gutters and sidewalks</p>	<p>Title 16.26B, Building and Construction MCC:</p> <p>Chapter 16.20B Building Code</p> <p>Title 18, Subdivision, MCC:</p> <p>Chapter 18.20 – Improvements</p>	<p><u>MCC 16.26B.3600, Improvements to Public Streets</u></p> <p><u>MCC 18.20.040, 18.20.070, and 18.20.080, Existing Streets, Sidewalks, Curbs, and Gutters.</u></p> <p>Exemption from constructing curbs, gutters, and sidewalks for the frontage of the project adjacent to Kahekili Highway.</p>	<p>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.</p>
<p>10. Requirement for State Land Use District Boundary Amendment for Agricultural portion of Subject Property</p>	<p>Title 19, Zoning, MCC:</p> <p>Chapter 19.68 – State Land Use District Boundaries</p> <p>Chapter 19.510 - Application and Procedures</p> <p>Article 8, Chapter 8, Revised Charter of the County of Maui (1983), as amended</p>	<p><u>MCC 19.68 State Land Use District Boundaries</u></p> <p><u>MCC 19.510 Application and Procedures Article 8, Chapter 8, Revised Charter of the County of Maui (1983), as amended</u></p> <p>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.</p>	<p>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.</p>

Chapter 2.97 Exemption List

Development Standard or Requirement	Relevant Section/Requirement	Requested Exemption	Rationale for Request
<p>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.</p>	<p>Title 19, Zoning, MCC: Chapter 19.02A, Interim Zoning Provisions and 19.30A, Agricultural District Chapter 19.12, Apartment District</p>	<p><u>MCC 19.510.040 Change of Zoning</u> <u>MCC 19.02A Interim Zoning Provisions</u> <u>MCC 19.30A Agricultural District</u></p> <p>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.</p>	<p>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.</p>
<p>12. Requirement for General Plan, Community Plan Consistency</p>	<p>Title 2, Administration and personnel, MCC: Chapter 2.80B, General Plan and Community Plans</p>	<p><u>MCC 2.80B, General Plan and Community Plans</u></p> <p>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.</p>	<p>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.</p>

March 17, 2023



CONSTRUCTION CIVIL ENGINEERING
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Mr. Chris Sugidono
Munekiyo Hiraga
chris@munekiyohiraga.com

Dear Chris:

**Subject: Hale Mahaolu 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 18.26B.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