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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

July 24, 2018

Mr. Everett R. Dowling, President
Dowling Company, Inc.
2005 Main Street
Wailuku, Hawaii 96793

Dear Mr. Dowling:

SUBJECT: WAIALE ROAD EXTENSION PROJECT (LU-58)

At its meeting on July 18, 2018, the Land Use Committee of the Maui County Council, which I chair, discussed the obligations of RCFC Kehalani, LLC, required by the conditions of Ordinance 2053, Bill 70 (1991) which has been attached for your reference. The Ordinance established Wailuku-Kahului Project District 3 Zoning for property located in Wailuku, Maui, Hawaii. Conditions 2, 3(e), and 4 of the Ordinance require (1) a twenty-year master plan outlining the applicant's plan to address the sewer, drainage, and traffic facility improvements; (2) applicant to provide its fair and equitable share of costs of planning and construction of the Waikapu Bypass (attached as map labeled "Graphical Summary of Brewer Home, Inc.'s Fair Share Contribution"); and (3) applicant to submit a traffic study indicating those improvements for that phase. The entity referred to as "applicant" is RCFC Kehalani, Inc., successor to C. Brewer Properties, Inc. ("CBP"). Please see the attached Ordinance excerpt to see relevant conditions of zoning.

A letter dated March 8, 1995, from C. Brewer Homes, Inc. ("CBH"), transmitted in correspondence dated July 17, 2018, from the Department of the Corporation Counsel, stated "As you will recall, Condition No. 9 of the Unilateral Agreement requires CBH to enter into and execute appropriate agreements with the County of Maui regarding required participation in infrastructure improvements. The letter further states, CBH will draft an agreement (for the County's review) which shall guarantee implementation of the contributions set forth." The letter dated March 8, 1995, has been attached for your reference.

The correspondence from the Department of the Corporation Counsel also indicates that he was unable to locate said agreements or a Long Range Traffic

Mr. Everett R. Dowling
July 24, 2018
Page 2

Master Plan that RCFC Kehalani, LLC had claimed in its compliance report to the Department of Planning dated April 24, 2018 was approved by the Department of Public Works. This compliance report has been attached for your reference.

He also stated he was unable to locate the twenty-year master plan required by Condition 2 at the Land Use Committee's meeting of July 18, 2018.

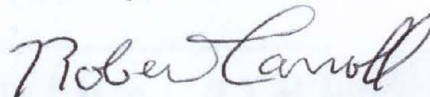
May I please request the following:

1. A copy of a twenty-year master plan required by Condition 2 of the Ordinance.
2. A copy of the Long Range Traffic Master Plan submitted by CBP and verification of approval from the Department of Public Works.
3. A copy of any plans, reports, and agreements required for compliance with Conditions 2 and 4, several of which you stated were provided through the attached compliance report.

I would appreciate your response by **October 1, 2018**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Alec Wagner at ext. 7662, or Rayna Yap at ext. 8007).

Sincerely,



ROBERT CARROLL, Chair
Land Use Committee

lu:ltr:058a01:ajw

Attachments

cc: Brian Ige, Development Manager, Dowling Company, Inc.
RCFC Kehalani, LLC
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele Chouteau McLean, Planning Director, Department of Planning
David Goode, Director, Department of Public Works

ORDINANCE NO. 2053

BILL NO. 70 (1991)

A BILL FOR AN ORDINANCE TO ESTABLISH
WAILUKU-KAHULUI PROJECT DISTRICT 3 ZONING
(CONDITIONAL ZONING) FOR PROPERTY
LOCATED AT WAILUKU, MAUI, HAWAII


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

SECTION 1. Pursuant to Chapters 19.42 and 19.45 of the Maui County Code, Wailuku-Kahului Project District 3 Zoning (conditional zoning) is hereby established, subject to Section 2 of this ordinance, for those certain parcels of land located at Wailuku and Waikapu, Maui, Hawaii, identified for real property tax purposes by Tax Map Key Numbers 3-4-07:2, 3-5-01: Portion of 1, and 3-5-01: Portion of 17, comprised of approximately 547.256 acres, more particularly described in Exhibit "A", which is attached hereto and made a part hereof, and in Land Zoning Map No. L-409, which is on file in the Office of the County Clerk of the County of Maui and which is by reference made a part hereof.

SECTION 2. Pursuant to Section 19.42.060 of the Maui County Code, the zoning established by this ordinance shall be subject to the conditions set forth in Exhibit "B", which is attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, which is attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



ROBERT K. KEKUNA, JR.
Deputy Corporation Counsel
County of Maui
waiag/ords/c(cs)

CONDITIONS

Pursuant to Section 19.42.060 of the Maui County Code, the zoning established by this ordinance is subject to the following conditions:

1. The applicant shall comply with the affordable housing requirements set forth in the State Land Use Commission's Decision and Order, dated January 30, 1990, which reclassified the subject parcels from Agricultural District to Urban District.

The applicant shall provide the following percentages of dwelling units in the Wailuku and Piihaha Project Districts in the aggregate, for sale or rental to persons in the low, low-moderate, and moderate income groups, as identified by the Housing Finance and Development Corporation, State of Hawaii;

<u>Income Range</u>	<u>%</u>
51% to 65% of median income	5%
66% to 80% of median income	10%
81% to 120% of median income	15%
121% to 140% of median income	<u>20%</u>
TOTAL	50%

Affordable housing units shall be allocated between Project Districts 2 and 3, to avoid undue concentration of any particular housing type or category in either project;

This condition may be fulfilled through construction and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State and the County of Maui.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

EXHIBIT "B"

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation and the County of Maui, for the provision of more than ten percent (10%) of the total units of housing affordable to persons with income less than eighty percent (80%) of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation and the County of Maui.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income figures published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

2. The applicant shall submit a twenty-year master plan to the Director of Public works of the County of Maui prior to preliminary subdivision approval of the project for the sewer, drainage, and traffic facility improvements in which the applicant participates. The master plans shall include, but shall not be limited to, on-site and off-site typical design standards, classification of roadways, and proposed construction schedules for each phase of the project.
3. The applicant shall participate in those traffic improvement needs as required by the Department of Transportation of the State of Hawaii and the Director of Public Works of the County of Maui. This participation shall include, but shall not be limited to:
 - a. The extension, construction, and improvement of Waiale Drive from the vicinity of the proposed Mahalani Street intersection to Honoapiilani Highway in conformance to the standards of the County of Maui. Land and construction of this roadway extension is to be funded entirely by the applicant and shall be offered for dedication to the County of Maui upon completion of its construction;
 - b. The right-of-way of the existing cane haul road from Lower Main Street to the Maui Correctional Center shall be dedicated in fee simple interest, free and clear of all encumbrances, to the County

of Maui upon request of the Director of Public Works. The value of the applicant's dedication of right-of-way and participation in the improvement of the roadway construction of the existing cane haul road shall be credited against any impact fee assessment. The applicant shall provide its fair and equitable share of costs of constructing the roadway. Construction of the roadway shall be in conformance to the standards of the County of Maui;

- c. The applicant shall provide its fair and equitable share of the costs of roadway construction of the Mahalani Road extension in conformance to the standards of the County of Maui;
 - d. The intersection and roadway improvements of Honoapiilani Highway with the Project District in conformance to the requirements of the Highways Division of the Department of Transportation of the State of Hawaii which are to be funded entirely by the applicant;
 - e. The applicant shall provide its fair and equitable share of the costs of the planning and construction of a future by-pass roadway south of the Waiale Drive extension and the southern end of the Project District past Waikapu town which includes, but which is not limited to, the offer of dedication of the future by-pass right-of-way to the appropriate governmental body. The value of the applicant's participation in the improvement in the planning and construction of the roadway shall be credited against any impact fee assessment; and
 - f. The conformance with any impact fees assessed by the County of Maui;
4. Prior to issuance of a building permit for each phase of the project, the applicant shall submit a traffic study approved by the Director of Public Works indicating those improvements and/or contributions for that particular phase. Said traffic study shall detail the sequence and timing of improvements and/or contributions as well as provide an analysis of operating conditions/levels of service at key intersections in the vicinity, provided that;
- a. No building permits will be issued for any structures mauka of Honoapiilani Highway until a construction contract has been executed and notice to proceed with construction has been issued for

Waiale Drive, from Kaohu Street to Honoapiilani Highway, and the extension of Mahalani Street, from the vicinity of the Maui Memorial Hospital to Waiale Drive.

5. The applicant shall participate in drainage improvements required by the drainage master plans and Director of Public Works of the County of Maui. In addition, the applicant shall fund an independent drainage study to be done by an independent consultant chosen by the Director of Public Works to verify the representations of the applicant regarding the proposed on-site disposal and over flow connection system which the applicant proposes to connect to the wastewater reclamation facilities or collection systems;
6. The applicant shall connect to the new Central Maui Wastewater Reclamation Facility or expanded Wailuku Wastewater Reclamation Facility, if and when capacity is available. In addition, the applicant shall conform to any impact fees assessed by the County of Maui pertaining to construction and expansion of wastewater reclamation facilities or collection systems;
7. The applicant shall provide its fair and equitable share of park improvements generated by the project as is deemed necessary by the Director of Parks and Recreation of the County of Maui. The applicant's participation shall include, but shall not be limited to, the dedication of land in fee simple, free and clear of all encumbrances, for park use and a community center site for use by the community;
8. The applicant shall provide its fair and equitable share for the impact the project district has upon public educational facilities as is deemed necessary by the Department of Education of the State of Hawaii which shall include, but which shall not be limited to, the dedication of land in fee simple interest, free and clear of all encumbrances, for a new school site; and
9. The applicant shall enter into and execute appropriate agreements with the appropriate agencies of the State of Hawaii and County of Maui regarding the applicant's required participation in improving the infrastructure and public facilities identified herein. These agreements shall be file with the Bureau of Conveyances of the State of Hawaii upon their execution.

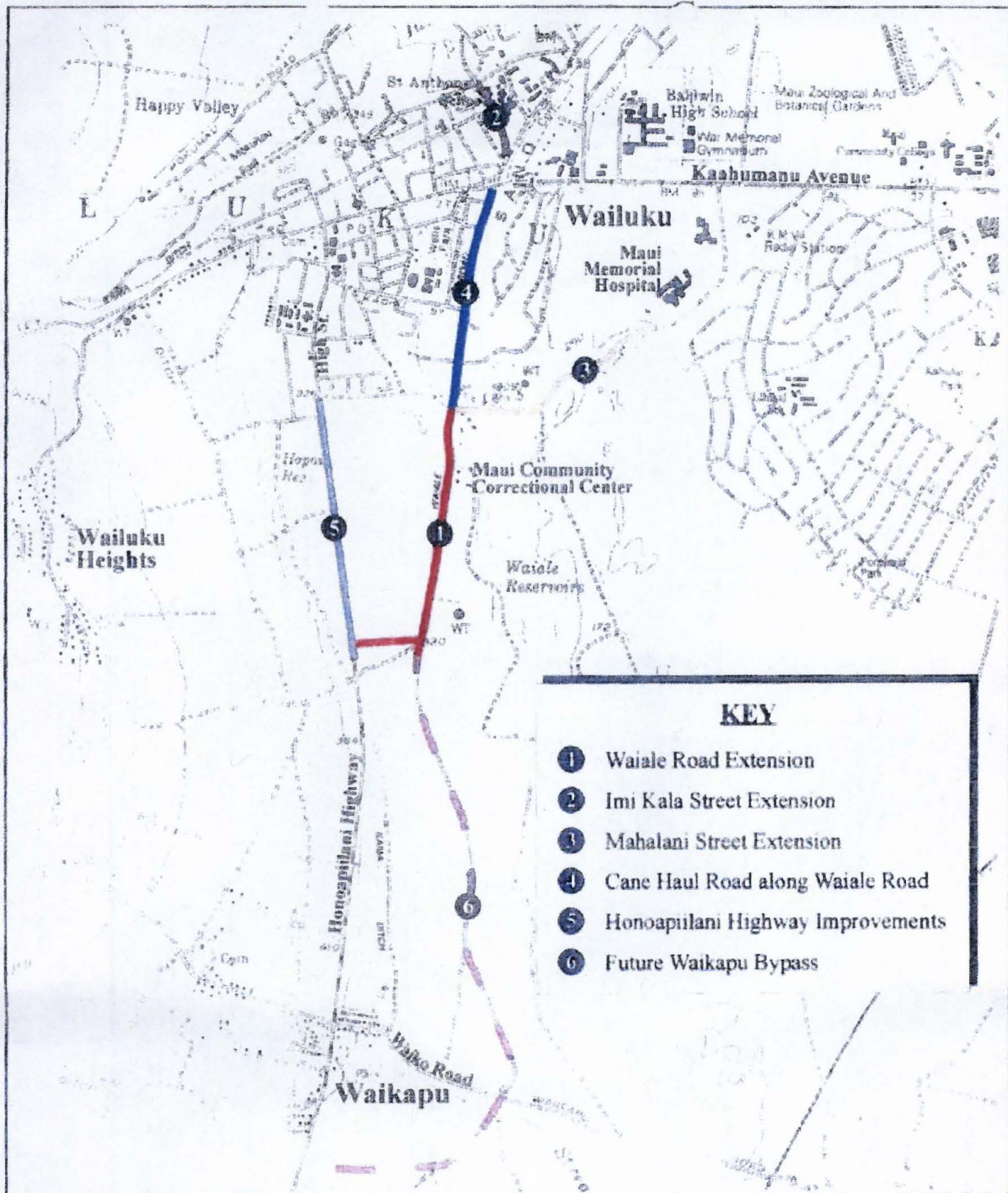


Exhibit A



Graphical Summary of C. Brewer Home, Inc.'s Fair Share Contribution



Prepared for: C. Brewer Homes, Inc.





C. Brewer Homes, Inc.

'95 MAR -8 P1:25

MAIL
PLANNING
DEPT

March 8, 1995

BRYAN

GWYN

DOUGLAS

CLAYTON

JAN

AL

SECRETARY

ASSIGN TO

TODAY'S DATE

DATE DUE

Brian Miskae, Director
County of Maui
Planning Department
250 South High Street
Wailuku, Hawaii 96793

SUBJECT: C. Brewer Homes, Inc.'s Fair Share Contribution to Regional Roadway Improvements

Dear Mr. Miskae:

Thank you for meeting with us to discuss the requirements for traffic improvements for the Wailuku Project District. As we discussed, C. Brewer Homes, Inc. (CBH) wishes to address the roadway improvements reflected in the Unilateral Agreement and Declaration for Conditional Zoning for the Wailuku Project District.

These requirements involve participation in traffic improvements established by the Department of Transportation (DOT) Highways Division and the Department of Public Works and Waste Management (DPWWM), and includes fair share contributions for regional roadway improvements in the vicinity of the project district.

The purpose of this letter, therefore, is to set forth in concept, proposed contributions which shall satisfy the conditions of the Unilateral Agreement. Each of the proposed roadway contributions are outlined below. Exhibit A, which is attached hereto, identifies the roadway segments encompassed by CBH's contribution package.

1. **Waiale Road Extension from Mahalani Street to Honoapiilani Highway:**

Item 1.a. CBH shall dedicate a road widening strip along the western extent of Waiale Road, between Mahalani Street and the vicinity of the Ka Hale Ake Ola entrance driveway. CBH shall construct road widening improvements to County standards for this section of roadway.

Item 1.b. CBH shall dedicate the roadway right-of-way for the construction of the proposed Waiale Road extension from Mahalani Street to Honoapiilani Highway. The dedication of the right-of-way (encompassing 3.67 acres)

shall provide a 60-ft. right-of-way to enable the County's implementation of the two-lane Waiale Road Extension to Honoapiilani Highway. Where Waiale Road intersects subdivision roads (e.g., Waiale Road-Olomea Street intersection), additional right-of-way will be provided to accommodate the additional width needed for intersection geometrics (i.e., deceleration lane, storage/turning lane).

- Item 1.c. CBH shall add two (2) additional travel lanes between Mahalani Street and Honoapiilani Highway. The timeframe for implementation of the two (2) additional lanes shall be determined by traffic impact analysis reports (or updates) which shall be prepared for subsequent subdivision phases. Construction of the additional lanes shall be in conformance with County standards and shall be funded by CBH.

2. Imi Kala Street Extension between Mill Street and Lower Main Street

- Item 2.a CBH shall dedicate to the County of Maui, the existing cane haul road (40 feet right-of-way) which underlies the proposed Imi Kala Street extension alignment. Parcels to be dedicated shall include TMK 3-4-18:48 (16,383 square feet) and TMK 3-4-19:5 (29,603 square feet). The ultimate right-of-way for the Imi Kala Street extension, as designed by the County of Maui and to be funded under the Intermodal Surface Transportation Efficiency Act (ISTEA), shall be 60 feet.

3. Mahalani Street Extension

- Item 3.a CBH shall dedicate to the County of Maui, the existing cane haul road along Waiale Road (TMK 3-4-03:19). This dedication will enable the construction of intersection improvements necessary for completing the Mahalani Street extension. It is noted that the proposed right-of-way for the Mahalani Street extension, as designed by the County of Maui and to be funded under ISTEA, is 60 feet. Should the value of CBH's right-of-way dedication fall short of the pro-rata requirement, CBH shall provide additional funding needed to meet its pro-rata share obligation.

4. Cane Haul Road Along Waiale Drive

- Item 4.a CBH shall dedicate to the County of Maui the cane haul road along Waiale Road including TMK 3-4-03:19 (0.58 acre), 3-4-02:36 (0.68 acre), 3-4-

Brian Miskae, Director
March 8, 1995
Page 3

10:2 (0.76 acre), and 3-4-38:4 (0.06 acre) to enable construction of the proposed Waiale Road widening improvements.

5. **Honoapiilani Highway Improvements (Fronting the Project District)**

Item 6.a CBH shall design and construct Honoapiilani Highway improvements fronting the Project District. Such improvements shall be in conformance with the requirements of the State Department of Transportation.

6. **Waikapu Bypass**

CBH will dedicate the right-of-way for the future Waikapu Bypass. This proposed Bypass would follow an alignment roughly coinciding with the existing cane haul road which fronts the Wailuku Agribusiness Baseyard in Waikapu. The proposed Bypass would terminate in the vicinity of the Maui Tropical Plantation. Right-of-way dedication shall occur following the completion of subdivision approval and engineering designs for the proposed roadway by the appropriate governmental body (e.g., State Department of Transportation or County Department of Public Works and Waste Management).

As you will recall, Condition No. 9 of the Unilateral Agreement requires CBH to enter into and execute appropriate agreements with the County of Maui regarding required participation in infrastructure improvements. In this regard, we are requesting your review and approval of the foregoing proposed contributions for roadway improvements. Upon receipt of your written approval of the proposed conditions, CBH will draft an agreement (for the County's review) which shall guarantee implementation of the contributions set forth. It is our understanding that such an agreement shall fulfill CBH's conditions of zoning and subdivision for the Wailuku Project District as it relates to pro-rata roadway contributions. We also understand that the value of CBH's contribution's will be credited against any future impact fee assessment enacted by the County of Maui.

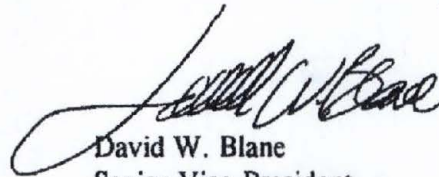
To ensure a workable timeframe for the execution and recordation of the agreement, we propose to submit a draft agreement for your review and comment within 30 days of receipt of your written approval of the proposed contribution package outlined herein.

Brian Miskae, Director
March 8, 1995
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Please feel free to call me if there are any questions or if additional information is needed.

Very truly yours,

C. BREWER HOMES, INC.



David W. Blane
Senior Vice-President

DWB:llt

cc: Charles Jencks, Dept. of Public Works and Waste Management
Lloyd Lee, Dept. of Public Works and Waste Management
Colleen Suyama, Planning Dept.
Ann Cua, Planning Dept.
Michael T. Munekiyo, A.I.C.P., Munekiyo & Arakawa, Inc.

cbhwpsd.001.1e32

RCFC KEHALANI, LLC

18/2151

April 24, 2018

William Spence, Director
Department of Planning
County of Maui
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

COUNTY OF MAUI
DEPT OF PLANNING & ZONING

APR 25 2018

RECEIVED

Dear Mr. Spence:

SUBJECT: Updated Compliance Report for the Change in Zoning Established
Through Ordinance No. 2053 for Wailuku-Kahului Project District No. 3
(Wailuku)

Provided for your information is an updated compliance report for the Wailuku-Kahului Project District conditional zoning approval, established through Ordinance No. 2053 containing nine (9) conditions of zoning. See Exhibit "A". The last compliance report for Ordinance No. 2053 was submitted in 2016 and approved by the Department of Planning (Department) on October 3, 2016. See Exhibit "B".

ORDINANCE NO. 2053, CONDITIONS OF ZONING

CONDITION NO. 1

The applicant shall comply with the affordable housing requirements set forth in the State Land Use Commission's Decision and Order, dated January 30, 1990, which reclassified the subject parcels from Agricultural District to Urban District.

The applicant shall provide the following percentages of dwelling units in the Wailuku and Piihaha Project Districts in the aggregate, for sale or rental to persons in the low, low-moderate, and moderate income groups, as identified by the Housing Finance and Development Corporation, State of Hawai'i;

Affordable housing credits from these efforts are being used to satisfy the current requirements for Kehalani.

CONDITION NO. 2

The applicant shall submit a twenty-year master plan to the Director of Public works of the County of Maui prior to preliminary subdivision approval of the project for the sewer, drainage, and traffic facility improvements in which the applicant participates. The master plans shall include, but shall not be limited to, on-site and off-site typical design standards, classification of roadways, and proposed construction schedules for each phase of the project.

Response: Under C. Brewer the twenty-year master plan was submitted to the Department of Public Works (DPW) prior to the first subdivision approval. The Applicant continues to work with the DPW on implementation of infrastructure improvements as required with development of each increment of Kehalani.

CONDITION NO. 3

The applicant - shall participate in those- traffic improvement needs as required by the Department of Transportation of the State of Hawai'i and the Director of Public Works of the County of Maui. This participation shall include, but shall not be limited to:

- a. *The extension, construction, and improvement of Waiale Drive from the vicinity of the proposed Mahalani Street intersection to Honoapi'ilani Highway in conformance to the standards of the County of Maui. Land and construction of this roadway extension is to be funded entirely by the applicant and shall be offered for dedication to the County of Maui upon completion of its construction;*
- b. *The right-of-way of the existing cane haul road from Lower Main Street to the Maui Correctional Center shall be dedicated in fee simple interest, free and clear of all encumbrances, to the County of Maui upon request of the Director of Public Works. The value of the applicant's dedication of right-of-way and participation in the improvement of the roadway construction of the existing cane haul road shall be credited against any impact fee assessment. The applicant shall provide its fair and equitable share of costs of constructing the roadway. Construction of the roadway shall be in conformance to the standards of the County of Maui;*
- c. *The applicant shall provide its fair and equitable share of the costs of roadway construction of the Mahalani Road extension in conformance to the standards of the County of Maui;*
- d. *The intersection and roadway improvements of Honoapi'ilani Highway with the Project District in conformance to the requirements of the Highways Division of the Department of Transportation of the State of Hawai'i which are to be funded entirely by the applicant;*

- e. *The applicant shall provide its fair and equitable share of the costs of the planning and construction of a future by-pass roadway south of the Waiale Drive extension and the southern end of the Project District past Waikapu town which includes, but which is not limited to, the offer of dedication of the future by-pass right-of-way to the appropriate governmental body. The value of the applicant's participation in the improvement in the planning and construction of the roadway shall be credited against any impact fee assessment; and*
- f. *The conformance with any impact fees assessed by the County of Maui;*

Response: The Applicant has worked with State Department of Transportation (HDOT) and the DPW on the traffic improvements outlined below:

- a. The extension of Wai'ale Drive from the Mahalani Street intersection to Waiko Road has been completed and provides access to Honoapi'ilani Highway from Ku'ikahi Drive and Waiko Road.
- b. The Applicant continues to work with the DPW to convey the cane haul road to the County of Maui.
- c. The Applicant participated in completion of the extension of Mahalani Street to Wai'ale Drive. The extension is Waiinu Road.
- d. The intersection and roadway improvements along Honoapi'ilani Highway have been completed. The Applicant completed the intersection improvements to the Highway at Kehalani Parkway and at Ku'ikahi Drive.
- e. Wailuku Agribusiness Company (former owner of the future Waikapu Bypass Roadway land) has an obligation to the Applicant to dedicate the future bypass road, if required by the State.
- f. Regional impact fees have not been levied on the Project District by the County of Maui.
- g. The Applicant completed the Ku'ikahi Drive/Honoapi'ilani Highway Redesign Project in November 2016. The Project included the installation of a new traffic signal system and other related intersection improvements. See Exhibit "D".

CONDITION NO. 4

Prior to issuance of a building permit for each of the project, the applicant shall submit a traffic study approved by the Director of Public Works indicating those improvements and/or contributions for that particular phase. Said traffic study shall detail the sequence and timing of improvements and/or contributions as well as provide an analysis of operating conditions/levels of service at key intersections in the vicinity, provided that;

- a. *No building permits will be issued for any structures mauka of Honoapi'ilani Highway until a construction contract has been executed and notice to proceed with construction has been issued for Waiale Drive, from Kaohu Street to Honoapi'ilani Highway, and the extension of Mahalani Street, from the vicinity of the Maui Memorial Hospital to Waiale Drive.*

Response: A Long Range Traffic Master Plan, which studied the impacts of additional traffic at Kehalani and the surrounding communities, was forwarded to the HDOT and the DPW. The long-range Traffic Master Plan has been approved by these agencies. The Applicant has constructed the HDOT required improvements on Honoapi'ilani Highway to mitigate the impacts of its development. The Applicant also has the approval of the County of Maui for its plan to mitigate traffic. Improvements include the completion of a traffic signal at the intersection of Honoapi'ilani Highway and Kehalani Mauka Parkway and Honoapi'ilani and Ku'ikahi Drive. Improvements to the intersection of Honoapi'ilani Highway and Ku'ikahi Drive also include exclusive left turn lanes. The last Traffic Impact Assessment Report, dated March 2003, was accepted for the ongoing phases of work at Kehalani and HDOT has allowed the County to continue processing individual projects at Kehalani for development. Subsequent to the 2003 TIAR updated Traffic evaluation reports were prepared and submitted to HDOT and DPW in July 2006 and December 2014. A separate Traffic Impact Assessment Report for the Kehalani Village Center was prepared and submitted to the HDOT and DPW in April of 2012.

- a. The extension of Ku'ikahi Drive from Wai'ale Drive to Honoapi'ilani Highway and the Mahalani extension (Waiinu Street) have been completed.
- b. In February of 2018 the applicant completed additional roadway and intersection improvements on Wai'ale Drive and Ku'ikahi Drive fronting Kehalani Village Center. The Project included drainage system improvement, curbs, gutters, sidewalks, bike lanes and installation of future traffic signal infrastructure at the Kuikahi Drive and Waiale Road intersections at Kehalani Village Center. Traffic signals at these intersection will be installed at these intersections when warranted by the DPW.
- c. As noted in our Condition 3.g response above, on November 1, 2016, the Ku'ikahi Drive/Honoapi'ilani Highway Redesign improvements were completed. Refer to Exhibit "D".

Applicant has completed improvements of two (2) pocket parks and the makai and mauka parks in accordance with the agreement and conveyed both the Makai and mauka parks to the County of Maui. The third pocket park located adjacent to Module 18 will be completed in accordance with the agreement. A bond has been issued to ensure construction of the third pocket park.

CONDITION NO. 8

The applicant shall provide its fair and equitable share for the impact the project district has upon public educational facilities as is deemed necessary by the Department of Education of the State of Hawai'i which shall include, but which shall not be limited to, the dedication of land in fee simple interest, free and clear of all encumbrances, for a new school site; and

Response: The Applicant dedicated over 14 acres for the development of Pu'u Kukui Elementary School within Wailuku Project District 3. The Applicant has also given the Department of Education (DOE) 4.585 acres for the expansion of Waihee Elementary School. The Educational Contribution Agreement for Wailuku-Kahului Project District 3 and related amendments document the Applicant's satisfaction of pro rata share requirements for education at Kehalani. These lands satisfy all contribution requirements associated with all development within the Kehalani Master Plan.

CONDITION NO. 9

The applicant shall enter into and execute appropriate agreements with the appropriate agencies of the State of Hawai'i and County of Maui regarding the applicant's required participation in improving the infrastructure and public facilities identified herein. These agreements shall be file with the Bureau of Conveyances of the State of Hawai'i upon their execution.

Response: In accordance with this condition, the Applicant has entered into several agreements with State and County agencies to participate in its fair share of infrastructure and public facilities. All agreements have been recorded with the Bureau of Conveyances.

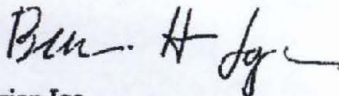
List of Agreements

1. February 17, 1993 – Right of Entry Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui, Hawai'i
2. December 4, 2002 – Storage Credits and Amended Right of Entry Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui, Hawai'i
3. December 18, 2002 – Agreement to Implement Unilateral Agreement and Declaration
4. December 18, 2002 – Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3)
5. December 18, 2002 – Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3) (Transmission Credits)

6. December 24, 2002 – Kehalani-Wailuku Project District 3 Offsite Sewer Improvements
7. January 14, 2003 – Education Contribution Agreement for Wailuku-Kahului Project District 3
8. May 14, 2003 – Second Supplemental Unilateral Agreement for Drainage Improvements Relating to Wailuku Project District 3 of the Wailuku-Kahului Community Plan (Makai)
9. 2006 – Amendment to Second Supplemental Unilateral Agreement for Drainage Improvements Relating to Wailuku Project District 3 of the Wailuku-Kahului Community Plan (Makai)
10. August 13, 2008 – First Amendment for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3)
11. August 13, 2008 – First Amendment for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3) (Transmission Credits)
12. August 14, 2008 – First Supplement to Education Contribution Agreement for Wailuku-Kahului Project District 3
13. August 18, 2008 – Second Amended Right of Entry Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui, Hawai'i
14. March 14, 2012 – Second Supplement to Education Contribution Agreement for Wailuku-Kahului Project District 3
15. October 12, 2012 – Phasing Agreement for Roadway Improvements
16. December 3, 2012 – Wailuku-Kahului Project District 3 Park Assessment Agreement
17. August 5, 2015 – Agreement Concerning the Development and Dedication of Wailuku Well 2, Tank and Transmission Pipeline
18. November 14, 2017 - First Amendment of Phasing Agreement for Roadway Improvements. (See Exhibit E)

If additional information is required regarding this report please contact us at 244-1500.

Sincerely,
RCFC KEHALANI, LLC


Brian Ige
Development Manager
Dowling Company, Inc.

ENCLOSURES

cc: Clayton Yoshida, Current Division (w/enclosures)
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