

COUNCIL OF THE COUNTY OF MAUI
**INFRASTRUCTURE MANAGEMENT
COMMITTEE**

March 6, 2009

**Committee
Report No.**

09-10

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Infrastructure Management Committee, having met on February 9, 2009, makes reference to County Communication No. 08-270, from the Director of Public Works, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROADWAY LOT FOR NA MALA O WAIHEE SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the dedication of Roadway Lot 8, consisting of approximately 0.812 acres, located in the Na Mala O Waihee Subdivision, Wailuku, Maui, and identified as TMK: (2) 3-2-08:013.

Your Committee notes that, pursuant to Section 3.44.015(C), Maui County Code (MCC), the Council may accept gifts or donations of real property or any interest in real property by the passage of a resolution, approved by a majority of its members.

Your Committee received a revised proposed resolution incorporating nonsubstantive revisions.

The Director of Public Works stated that the Department inspected the improvements to the subdivision on October 17, 2008. He confirmed that all improvements satisfy the requirements of Title 18, MCC, and are, therefore, acceptable for dedication to the County.

Your Committee voted 6-0 to recommend adoption of the revised proposed resolution and filing of the communication. Committee Vice-Chair Pontanilla and members Baisa, Kaho'ohalahala, Mateo, Molina, and Victorino voted "aye". Committee Chair Medeiros was excused.

Your Infrastructure Management Committee **RECOMMENDS** the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "ACCEPTING DEDICATION OF A ROADWAY LOT FOR

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NA MALA O WAIHEE SUBDIVISION, PURSUANT TO
SECTION 3.44.015, MAUI COUNTY CODE” be ADOPTED; and

2. That County Communication No. 08-270 be FILED.

Adoption of this report is respectfully requested.



JOSEPH PONTANILLA, Vice-Chair

im:cr:09096aa:mjg

Resolution

No. _____

ACCEPTING DEDICATION OF A ROADWAY LOT
FOR NA MALA O WAIHEE SUBDIVISION,
PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE

WHEREAS, M&W2, L.L.C. (hereinafter called "Subdivider"), desires to comply with the subdivision requirements for the Na Mala O Waihee Subdivision, Tax Map Key Number (2) 3-2-008:013, Subdivision File No. 3.2135, by dedicating that certain Roadway Lot 8. Said lot is more fully described in Exhibit "A" of the Warranty Deed attached hereto as Exhibit "1" and made a part hereof; and

WHEREAS, the Director of Public Works has reviewed and approved said dedication; and

WHEREAS, pursuant to Section 3.44.015(C), Maui County Code, the County Council may accept donations of real property or any interest in real property by the passage of a resolution approved by a majority of its members; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

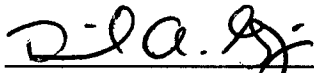
1. That it hereby accepts Lot 8, as described in said Warranty Deed attached hereto as Exhibit "1", to be dedicated by said Subdivider to the County of Maui for public purposes in accordance with said Warranty Deed; and

Resolution No. _____

2. That it does hereby authorize the Mayor of the County of Maui to execute all necessary documents in connection with the acceptance of said dedication; and

3. That certified copies of this Resolution be transmitted to the Mayor of the County of Maui, the Director of Public Works, and said Subdivider.

APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

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LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation Return by Mail (X) Pickup () To:

COUNTY OF MAUI
Department of Finance
200 South High Street
Wailuku, Hawaii 96793

TOTAL NUMBER OF PAGES: 8

T.M.K.: (2) 3-2-008:013 (Lot 8 roadway lot)

Subdivision File No. 3.2135

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That M&W2, L.L.C., a Hawaii limited liability company, whose address is 8 Kiopa'a Street, Suite 201, Pukalani, Maui, Hawaii 96768, (hereafter the "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) to Grantor paid by COUNTY OF MAUI, a political subdivision of the State of Hawaii, with its principal office and post office address being 200 South High Street, Wailuku, Maui, Hawaii 96793, (hereafter the

receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey all of that certain property situate at Waihee, Kula, Maui, Hawaii, as particularly described in Exhibit "A", attached hereto and incorporated herein by reference, upto the Grantee, as Tenant in Severalty, its legal successors and assigns, forever, including the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interests of Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same together with all buildings, improvements, tenements, rights, easements, hereditaments, privileges and appurtenances thereunto belonging or appertaining, or held and enjoyed in connection therewith unto the Grantee according to the tenancy hereinabove set forth, absolutely and in fee simple, forever.

AND the Grantor hereby covenants with the Grantee that the Grantor is lawfully seised in fee simple of the described real and personal property and that the Grantor has good right to convey the same as aforesaid; that the property is free and clear of all encumbrances, except as may be described in Exhibit "A"; and that the Grantor will WARRANT AND DEFEND the same unto the Grantee, forever, against the lawful claims and demands of all persons.

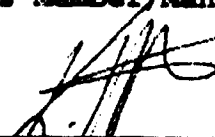
It is understood and agreed that the term "property" shall be deemed to mean and include the property specifically described in Exhibit "A", and all rights, easements, privileges and appurtenances in connection therewith, that the terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine and/or feminine, the singular or plural number, individuals, firms or corporations, that the rights and obligations of the Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, personal representatives, successors in trust and assigns and that where there is more than one Grantor or Grantee, any covenants of the respective party shall be and for all purposes deemed to be joint and several.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this September 7 2005.

M&W2, L.L.C.

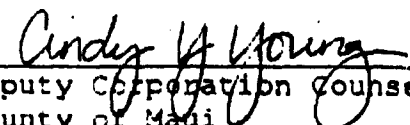
By: KRS DEVELOPMENT, INC.
Its Member/Manager

By



KENT R. SMITH
Its President

APPROVED AS TO FORM
AND LEGALITY:



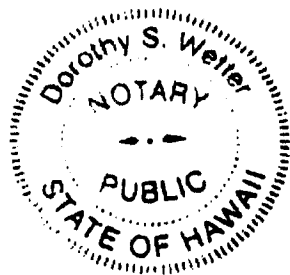
Deputy Corporation Counsel
County of Madison

STATE OF HAWAII

)
) SS.
)

COUNTY OF MAUI

On Sept. 7 2005, before me personally appeared **KENT R. SMITH**, to me personally known, who, being by me duly sworn, did say that he is the President, of **KRS DEVELOPMENT, INC.**, a Hawaii corporation, and that the said instrument was signed in behalf of said corporation by authority of its Board of Directors, in said corporation's capacity as Manager of **M&W2, LLC**, a Hawaii limited liability company, and that the foregoing instrument was signed in the name of and in behalf of said limited liability company, and said **KENT R. SMITH** acknowledged that the foregoing document was executed as the free act and deed of said corporation, and as the free act and deed of said limited liability company.



Dorothy S. Wetter
(notary's signature)

Dorothy S. Wetter

(print/type name of notary)
Notary Public, in and for said
County and State.

My commission expires **NOV. 23, 2007**

Exhibit A

LOT 8

(ROADWAY LOT)

NA MALA O WAIHEE SUBDIVISION

SITUATED AT FALEILEIHA, WAIHEE, WAILUKU, MAUI, HAWAII

BEING PORTIONS OF ROYAL PATENT 7654,

LAND COMMISSION AWARD 11257, APANA 2 TO WAIOLAMA;

LAND COMMISSION AWARD 3960 TO NAPAHOA;

ROYAL PATENT 3385, LAND COMMISSION AWARD 442 TO KAIHUMUA;

ROYAL PATENT 5359, LAND COMMISSION AWARD 3481 TO KIHE;

ROYAL PATENT 5403, LAND COMMISSION AWARD 4405-J TO KAHUANA

AND ROYAL PATENT 4475, LAND COMMISSION AWARD 7713,

APANA 24 TO V. KAMAMALU

Beginning at the Northwest corner of this Lot, being also the Northeast corner of Lot 9 (Future Roadway Lot), Na Mala O Waihee Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 18,069.97 feet North and 5,887.75 feet West and running by azimuths measured clockwise from True South:

1. 259° 10' 135.23 feet along the remainder of Royal Patent 7654, Land Commission Award 11257, Apana 2 to Waiolama and Royal Patent 4475, Land Commission Award 7713, Apana 24 to V. Kamamalu;
2. Thence, along the remainder of Royal Patent 7654, Land Commission Award 11257, Apana 2 to Waiolama and Royal Patent 4475, Land Commission Award 7713, Apana 24 to V. Kamamalu on a curve to the right with a radius of 510.00 feet, the chord azimuth and distance being:

268° 03' 157.51 feet:

3. 276° 56' 42.78 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 24 to V. Kamamalu and Royal Patent 3385, Land Commission Award 442 to Kaihumua;
4. 12° 04' 25.00 feet along Kuhinia Street;
5. 282° 04' 37.88 feet along Kuhinia Street;
6. Thence, along Kuhinia Street on a curve to the left with a radius of 460.30 feet, the radial azimuth to the point of curve being 12° 04', the radial azimuth to the point of tangent being 6° 56' 10", the chord azimuth and distance being:
279° 30' 05" 41.20 feet;
7. Thence, along Kuhinia Street on a curve to the left with a radius of 435.30 feet, the radial azimuth to the point of curve being 6° 56' 10", the radial azimuth to the point of tangent being 2° 52' 01", the chord azimuth and distance being:
274° 54' 05.5" 30.91 feet;
8. 343° 21' 15.88 feet along the remainder of Land Commission Award 3960 to Napahoa;
9. Thence, along Lot 6, Na Mala O Waihee Subdivision on a curve to the right with a radius of 450.30 feet, the radial azimuth to the point of curve being 2° 11' 30.6", the radial azimuth to the point of tangent being 6° 56' 10", the chord azimuth and distance being:
94° 33' 50.3" 37.28 feet;
10. Thence, along Lot 6, Na Mala O Waihee Subdivision on a curve to the right with a radius of 475.30 feet, the radial azimuth to the point of curve being 6° 56' 10", the radial azimuth to the point of tangent being 12° 04', the chord azimuth and distance being:
99° 30' 05" 42.55 feet;

11. 102° 04' 36.09 feet along Lot 6, Na Mala O Waihee Subdivision;
12. 96° 56' 40.99 feet along Lot 6, Na Mala O Waihee Subdivision;
13. Thence, along Lot 6, Na Mala O Waihee Subdivision on a curve to the left with a radius of 470.00 feet, the chord azimuth and distance being:
88° 03' 145.16 feet;
14. 79° 10' 55.17 feet along Lot 6, Na Mala O Waihee Subdivision;
15. Thence, along Lot 6, Na Mala O Waihee Subdivision on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
33° 05' 28.81 feet;
16. 347° 00' 371.42 feet along Lots 6 and 7, Na Mala O Waihee Subdivision;
17. Thence, along Lots 7, 1, 3 and 4, Na Mala O Waihee Subdivision on a curve to the right with a radius of 43.00 feet, the radial azimuth to the point of curve being 257° 00', the radial azimuth to the point of tangent being 139° 16' 56", the chord azimuth and distance being:
108° 08' 28" 73.61 feet;
18. Thence, along Lot 4, Na Mala O Waihee Subdivision on a curve to the left with a radius of 43.00 feet, the radial azimuth to the point of curve being 319° 16' 56", the radial azimuth to the point of tangent being 257° 00', the chord azimuth and distance being:
198° 08' 28" 44.47 feet;
19. 167° 00' 298.32 feet along Lots 4 and 5, Na Mala O Waihee Subdivision;
20. Thence, along Lot 5, Na Mala O Waihee Subdivision on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
123° 05' 27.74 feet;

21. 169° 10'

40.00 feet

along Lot 9 (Future Roadway Lot),
Na Mala O Waihee Subdivision to
the point of beginning and con-
taining an area of 0.812 Acre.



871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

April 30, 2007
Revised: May 31, 2007
Revised: June 5, 2007
Revised: June 6, 2007

This Description is subject
to Final Subdivision Approval
by the County of Maui
(Subd. File No. 3.2135)

R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Surveyor
Certificate No. 7223-LS
License Expires: April 30, 2008

End of
Exhibit A

PAGE

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OF

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