

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

August 25, 2009

**Committee
Report No.** _____

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

Chair and Members:

Your Infrastructure Management Committee, having met on August 3, 2009, makes reference to Communication No. 09-194, from the Director of Public Works, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF ROADWAY LOTS FOR THE LAHAINA BUSINESS PARK AND LAHAINA BUSINESS PARK - PHASE II, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the dedication of Roadway Lot Nos. 29 and 32, also known as the Keawe Street extension; Lot Nos. 30 and 32, also known as Kupuohi Street; and Lot Nos. 31 and 33, also known as Ulupono Street; located in the Lahaina Business Park and Lahaina Business Park - Phase II, Lahaina, Maui.

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

The Director of Public Works informed your Committee that the total area of the proposed roadway dedication is approximately 5.57 acres and that the Department has reviewed the dedication Warranty Deed and found it to be satisfactory.

Your Committee voted 5-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Medeiros, Vice-Chair Pontanilla, and members Baisa, Mateo, and Molina voted "aye". Committee members Kaho'ohalahala and Victorino were excused.

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

1. That Resolution No. _____, attached hereto, entitled "ACCEPTING DEDICATION OF ROADWAY LOTS FOR THE LAHAINA BUSINESS PARK AND LAHAINA BUSINESS

COUNCIL OF THE COUNTY OF MAUI
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Committee
Report No. _____

PARK - PHASE II, PURSUANT TO SECTION 3.44.015, MAUI
COUNTY CODE", be ADOPTED; and

2. That County Communication No. 09-194 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



BILL KAUAKEA MEDEIROS, Chair

Resolution

No. _____

ACCEPTING DEDICATION OF ROADWAY LOTS FOR
THE LAHAINA BUSINESS PARK AND
LAHAINA BUSINESS PARK - PHASE II,
PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE

WHEREAS, WEST MAUI VENTURE GROUP, a Hawaii limited partnership, (hereinafter called "Subdivider"), desires to comply with the subdivision requirements for the Lahaina Business Park and Lahaina Business Park - Phase II, formerly Tax Map Key Number (2) 4-5-010:007 (portion), Subdivision File Nos. 4.716 and 4.877, by dedicating those certain Roadway Lots as follows: Lot Nos. 29 and 32, also known as Keawe Street extension; Lot Nos. 30 and 32, also known as Kupuohi Street; and Lot Nos. 31 and 33, also known as Ulupono Street. Said lots are 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 Maui County Code, Section 3.44.015(C), 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,

Resolution No. _____


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

1. That it hereby accepts Keawe Street extension, Kupuohi Street and Ulupono Street, as described in said Warranty Deed attached hereto as Exhibit "1" to be dedicated by said Subdivider to the County of Maui in accordance with said Warranty Deed; and

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 the Subdivider.

APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\INGRESO\West Maui Venture Group Roadway lots.wpd

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

TITLE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: WEST MAUI VENTURE GROUP,
a Hawaii limited partnership

GRANTEE: COUNTY OF MAUI
200 South High Street
Wailuku, Maui, Hawaii 96793

LAHAINA BUSINESS PARK; SUBDIVISION FILE NO. 4.716; LOTS 29, 30, 31, AND 32
LAHAINA BUSINESS PARK - PHASE II; SUBDIVISION FILE NO. 4.877; LOTS 32 AND 33

TAX MAP KEY(S): (2) 4-5-10:034 (por.)
(2) 4-5-10:069

(This document consists of 10 pages.)

EXHIBIT " 1 "

PAGE 1 OF 10

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That WEST MAUI VENTURE GROUP, a Hawaii limited partnership, whose address is P. O. Box 220, Kihei, Maui, Hawaii 96753, hereinafter referred to as the "GRANTOR", for and in consideration of the sum of ONE DOLLAR (\$1.00) to Grantor paid by COUNTY OF MAUI, a political subdivision of the State of Hawaii, with its principal place of business and mailing address at 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "GRANTEE", receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey all of those certain properties situate at Moali'i, District of Lahaina, Island and County of Maui, State of Hawaii, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, unto the Grantee, as Tenant in Severalty, its legal successors and assigns, forever.

AND the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title and interest of the 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 hereunto belonging or appertaining, or held and enjoyed in connection therewith, unto the Grantee according to the tenancy herein above set forth, absolutely and in fee simple, forever.


AND the Grantor hereby covenants with the Grantee that the Grantor is lawfully seized in fee simple of the described real and personal property; that the Grantor has good right to convey the same as aforesaid; that said 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 "properties" shall be deemed to mean and include the properties specifically described in said Exhibit "A", all improvements thereon (including any personal property described in said 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 Grantor has executed this instrument on


this 28 day of APRIL, 2009.

WEST MAUI VENTURE GROUP, a Hawaii
limited partnership

By 
JOHN M. KEAN
Its General Partner

By 
J. STEPHEN GOODFELLOW
Its General Partner

APPROVED AS TO FORM
AND LEGALITY:

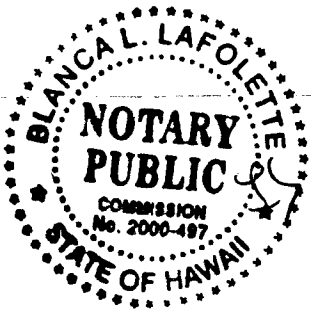

DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

State of Hawaii)
)
County of Maui)
Second Judicial Circuit

Document Description: Warranty Deed

Document Date: Undated @ time of Notary
No. Pages: 10

On this 17 day of APRIL, 2009, before me personally appeared JOHN M. KEAN, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that he is a General Partner of WEST MAUI VENTURE GROUP, a Hawaii limited partnership, and 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.



Blanca L. Lafolette 4/17/09
Notary's Signature Date

BLANCA L. LAFOLETTE
Notary's Printed Name

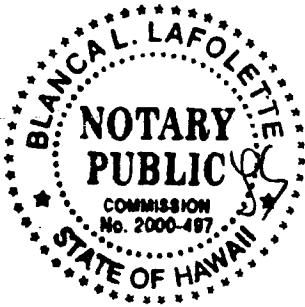
My commission expires: 10/15/2012

State of Hawaii)
)
County of Maui)
Second Judicial Circuit

Document Description: Warranty Deed

Document Date: APRIL 28, 2009
No. Pages: 10

On this 28 day of APRIL, 2009, before me personally appeared J. STEPHEN GOODFELLOW, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that he is a General Partner of WEST MAUI VENTURE GROUP, a Hawaii limited partnership, and 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.



Blanca L. Lafolette 4/28/09
Notary's Signature Date

BLANCA L. LAFOLETTE
Notary's Printed Name

My commission expires: 10/15/2012

EXHIBIT "A"

FIRST:

All of those certain parcels of land situate at Moali'i, District of Lahaina, Island and County of Maui, State of Hawaii, being Roadway Lots within the LAHAINA BUSINESS PARK, as shown on File Plan Number 2266, filed in the Bureau of Conveyances of the State of Hawaii, described as follows:

1. Lot 29, area 31,870 square feet, more or less (Keawe Street extension).
2. Lot 30, area 63,974 square feet, more or less (Kupuohi Street).
3. Lot 31, area 26,732 square feet, more or less (Ulupono Street).
4. Lot 32, area 30,483 square feet, more or less (Keawe Street extension).

TMK (2) 4-5-10:34 (portion)

SECOND:

All of those certain parcels of land situate at Moali'i, District of Lahaina, Island and County of Maui, State of Hawaii, being Roadway Lots within the LAHAINA BUSINESS PARK - PHASE II, as shown on File Plan 2402, filed in said Bureau of Conveyances of the State of Hawaii, described as follows:

1. Lot 32, area 48,448 square feet, more or less (Kupuohi Street).
2. Lot 33, area 41,282 square feet, more or less (Ulupono Street).

TMK (2) 4-5-10:69

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Lease in favor of Maui Electric Company, Limited and GTE Hawaiian Telephone Company Incorporated, formerly known as Hawaiian Telephone Company, dated October 13, 1967, recorded in said Bureau of Conveyances in Liber 5893 on Page 226; leasing and demising rights-of-way, each twenty-five (25) feet in width, over, across and under all lands owned and held by Pioneer Mill Company, Limited, situate in the District of Lahaina on the Island of Maui in the State of Hawaii, for a term of 35 years from the date hereof, and thereafter from year to year until terminated.

3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Quitclaim Deed dated November 15, 1993, recorded in said Bureau of Conveyances as Document No. 93-88009. Above Deed was confirmed by Final Judgment Quieting Title And Decree dated -----, filed in the Circuit Court of the Second Circuit, State of Hawaii, Civil No. 95-0473(1), on September 24, 1996, recorded as Document No. 96-140978 on October 1, 1996.

4. Notice of Imposition of Conditions by the Land Use Commission dated September 6, 1995, recorded as Document No. 95-115382, re: for reclassification of 37.742 acres from the State Land Use Agricultural District to State Land Use Urban District.

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Conditions Applicable to an Amendment of District Boundary from Agricultural to Urban dated December 21, 1995, recorded in said Bureau of Conveyances as Document No. 95-169817, as amended by instrument dated January 15, 1996, recorded as Document No. 96-006257.

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Unilateral Agreement and Declaration of Conditional Zoning dated April 19, 1996, recorded in said Bureau of Conveyances as Document No. 96-062320 by and between West Maui Venture Group, a Hawaii general partnership, and the County of Maui.

7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Final Judgment Quieting Title And Decree dated ---, recorded in said Bureau of Conveyances as Document No. 96-140978. The foregoing includes, but is not limited to the matters relating to the following:

- a. All mineral and metallic mines are reserved in favor of the State of Hawaii.
- b. The rights of native tenants are reserved.
- c. All historic and archaeological sites are reserved in favor of the State of Hawaii.
- d. All water having its source upon or flowing over, under or through the real property is reserved in favor of the State of Hawaii.
- e. The right to a continuous or uninterrupted flow of waters through, over, under and across the real property is reserved in favor of the State of Hawaii.

8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Hold Harmless Agreement dated November 17, 1999, recorded in said Bureau of Conveyances as Document No. 99-

191882 by and between the County of Maui and West Maui Venture Group, a Hawaii general partnership.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Declaration of Protective Covenants, Conditions and Restrictions for the Lahaina Business Park dated December 13, 1999, recorded in said Bureau of Conveyances as Document No. 99-198569, as the same may be amended from time to time.

10. Grant in favor of Maui Electric Company, Limited and GTE Hawaiian Telephone Company Incorporated dated January 7, 2000, recorded in said Bureau of Conveyances as Document No. 2000-053546; granting a perpetual, non-exclusive right and easement for utility purposes.

11. AS TO LOT 29 (FILE PLAN 2266):

a. Existing Easement "B" for access and utility purposes, shown on File Plan No. 2266.

b. Existing Easement "17" for electrical purposes, shown on File Plan No. 2266.

c. Grant in favor of Maui Electric Company, Limited, dated July 1, 1975, recorded in said Bureau of Conveyances in Liber 10784 on Page 5306; granting a perpetual right and easement for utility purposes over above said Easement "17." Said Grant was amended by instrument dated July 19, 1988, recorded in Liber 22333 on Page 178, said Easement being more particularly described therein.

12. AS TO LOTS 29, 30 AND 31 (FILE PLAN 2266):

Easement for water pipeline purposes in favor of the Board of Water Supply of the County of Maui, a political subdivision of the State of Hawaii, dated October 2, 2001, recorded in said Bureau of Conveyances as Document No. 2001-159609.

13. AS TO ITEM SECOND:

a. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Hold-Harmless Agreement dated November 8, 2001, recorded in said Bureau of Conveyances as Document No. 2001-182621 by and between the County of Maui, "County," and West Maui Venture Group, a Hawaii general partnership, "Developer," and "Owner."

b. The terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in Hold-Harmless Agreement dated May 11, 2004, recorded in said Bureau of Conveyances as Document No. 2004-105974 by and between the County of Maui, "County," and West Maui Venture Group, a Hawaii general partnership, "Developer," and "Owner."

Being a portion of the premises conveyed to the Grantor by Quitclaim Deed of Pioneer Mill Company, Limited, a Hawaii corporation, dated November 15, 1993, recorded in said Bureau of Conveyances as Document No. 93-188009, which Quitclaim Deed was confirmed by Final Judgment Quieting Title And Decree dated -----, filed in the Circuit Court of the Second Circuit, State of Hawaii, Civil No. 95-0473(1), on September 24, 1996, recorded as Document No. 96-140978 and further confirmed by Confirmation Deed dated June 21, 2004, recorded as Document No. 2004-142991.

4852-7848-3969.3.015792-00027