

**COUNCIL OF THE COUNTY OF MAUI**  
**PUBLIC WORKS AND**  
**FACILITIES COMMITTEE**

July 26, 2007

**Committee**  
**Report No.**

07-74

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

Chair and Members:

Your Public Works and Facilities Committee, having met on July 5, 2007, makes reference to County Communication No. 06-57, from the Director of Parks and Recreation, transmitting a proposed resolution entitled "ACCEPTING LAND DEDICATED FOR PARK AND PLAYGROUND PURPOSES AND WAIVER OF COMFORT STATION PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the dedication of a park located adjacent to Kulanihakoi Street in the Alii Village Subdivision, Kihei, Maui, comprised of approximately 9,027 square feet and identified as TMK: (2) 3-9-01:155; and to approve the waiver of the requirements to provide comfort stations and parking in the referenced park.

Your Committee notes that the Council (2005-2007 Council term) referred County Communication No. 06-57 to its Parks and Economic Development Committee at the Council meeting of February 17, 2006.

By correspondence dated June 22, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "ACCEPTING LAND DEDICATED FOR PARK AND PLAYGROUND PURPOSES AND WAIVER OF PARKING AREA AND COMFORT STATION PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE". The revised proposed resolution refers to the waiver of the parking area in the title and body of the resolution.

By correspondence dated June 27, 2006, the Chair of the Committee transmitted a map of the Alii Village Subdivision from the Department of Parks and Recreation.

At its site inspection of July 6, 2006, in Kihei, the Parks and Economic Development Committee met with the Chief of Planning and Development, Department of Parks and Recreation; a Deputy Corporation Counsel; Jo Ann Fujita, Vice President, Puanani O Kula Nurseries; and Herman Patao, Superintendent, Puanani O Kula Nurseries.

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There was no public testimony.

Ms. Fujita provided a brief overview of the park's uses and noted the park's boundaries. She stated that the subdivision consists of 31 lots, one of which is dedicated for park use. She further stated that Kiawe Partners, the developer of the subdivision, was prepared to pay the park assessment fee to satisfy their park dedication requirements, but the residents of the community preferred having a park.

Ms. Fujita acknowledged that the park will be used primarily as a rest stop for bikers and pedestrians of the future North-South Collector Road. She added that Puanani O Kula Nurseries has been responsible for the periodic maintenance and upkeep of the park on behalf of Kiawe Partners.

The Chief of Planning and Development stated that the landscaping plan for the park includes a water fountain and a few picnic benches. He further stated that although Puanani O Kula Nurseries has been cleaning the park periodically, the developer is still ultimately responsible for its maintenance. He noted that once the park is dedicated to the County, responsibility for the park's upkeep will also transfer to the County.

The Committee was concerned with the park's appearance, specifically, that the grade level of the lot appeared to be uneven and the grass appeared to be dead in some areas. The Committee agreed that the appearance of the park should be dramatically improved prior to the County's acceptance.

Mr. Patao stated that the park will be re-grassed along the pathway and additional irrigation will be installed to remedy the park's current appearance. He further stated that the berm will be leveled off and flattened once the North-South Collector Road is in use.

The Committee deferred consideration of the matter pending further discussion.

At its meeting of July 6, 2006, in Kihei, the Committee met with the Chief of Planning and Development, Department of Parks and Recreation; a Deputy Corporation Counsel; Jo Ann Fujita, Vice President, Puanani O Kula Nurseries; and Herman Patao, Superintendent, Puanani O Kula Nurseries.

There was no public testimony.

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The Chief of Planning and Development acknowledged that the Department is not satisfied with the park's current appearance, namely, the park's grading and landscaping condition.

The Committee suggested that the berm in the park be leveled and that posts be installed along the park's boundary, adjacent to the North-South Collector Road. The Committee further suggested that improvements to the park be made immediately, prior to the County's acceptance, rather than waiting until after the North-South Collector Road is completed.

While the Committee agreed that parking should be waived, the Committee discussed requiring comfort stations, particularly because the park will serve as a rest stop for travelers utilizing the North-South Collector Road.

The Committee briefly discussed the possibility of comfort stations attracting vandals and other illegal activity if proper security measures are not installed.

The Chief of Planning and Development noted that the Kihei Community Association (KCA) favored having a park, whereas, the Department's preference to satisfy the park assessment requirement is to accept money.

The Committee requested that a copy of the change in zoning ordinance for the Alii Village Subdivision be transmitted to the Committee.

By correspondence dated July 10, 2006, the Chair of the Committee requested that Dave Mackwell, KCA President, comment on the proposed waiver of comfort stations for the Alii Village Subdivision park.

By correspondence dated July 21, 2006, the Chair of the Committee requested that the Department of Planning provide information on correspondence pertaining to the change in zoning and/or special management area use permit for the Alii Village Subdivision, detailing the specific requirements imposed upon Kiawe Partners, and copies of the Maui Planning Commission's meeting minutes on this matter.

By correspondence dated July 26, 2006, David Frazier, KCA President, recommended that comfort stations be included, not waived, and suggested a number of design specifications for the park.

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By correspondence dated July 28, 2006, the Chair of the Committee requested that the Director of Parks and Recreation provide comments on a copy of a letter dated July 26, 2006, from David Frazier, KCA President, informing of KCA's opinion that comfort stations be included, not waived, and recommendations on removing the existing berm, and providing shade trees and park benches in the park.

By correspondence dated August 14, 2006, the Planning Director provided information pertaining to the change in zoning and/or special management area use permit, the specific requirements imposed upon Kiawe Partners, and copies of the Maui Planning Commission's meeting minutes on this matter.

By correspondence dated August 31, 2006, the Director of Parks and Recreation stated that 1) the berm on the property will be removed when the North-South Collector Road is constructed; 2) one fully grown tree would provide adequate shade for the park; therefore, the planting of additional trees is not necessary; 3) a drinking fountain and park bench will be installed upon completion of the North-South Collector Road; 4) comfort stations would be impractical, an unnecessary burden to maintain and operate, and an attraction for vandalism; and 5) imposing a requirement for a comfort station would be an unfair burden to Kiawe Partners.

At its meeting of January 5, 2007, the Council referred County Communication No. 06-57 to your Public Works and Facilities Committee (County Communication No. 07-5).

By correspondence dated June 29, 2007, the Co-Chairs of your Committee requested that the Department of the Corporation Counsel further revise the proposed resolution to clarify that the Council is waiving the requirement to provide a parking area and comfort station.

By correspondence dated July 2, 2007, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "ACCEPTING LAND DEDICATED FOR PARK AND PLAYGROUND PURPOSES AND WAIVER OF PARKING AREA AND COMFORT STATION PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE". The revised resolution includes an appropriately numbered paragraph in the "BE IT RESOLVED" portion of the resolution stating that the Council is waiving the requirement to provide a parking area and a comfort station.

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At its meeting of July 5, 2007, your Committee met with the Director of Parks and Recreation; the Planning and Development Chief, Department of Parks and Recreation; and a Deputy Corporation Counsel.

There was no public testimony.

The Director gave a brief overview of the park. She also provided recent photographs of the park and the access corridor to the park.

The Planning and Development Chief reviewed the history of the proposed park dedication. He stated that in order to lessen the potential for vandalism, the water fountain and bench are being stored until the North-South Collector Road is completed. He further stated that the dedication of land was in lieu of a park assessment fee of \$66,000.

The Deputy Corporation Counsel noted that a unilateral agreement had been executed when the property was rezoned, which requires a payment of \$16,351.50 in park dedication fees, and that the combination of land and fees would satisfy the requirements of Section 18.16.320, Maui County Code. Therefore, he recommended that the resolution be further revised to reference the cash contribution, and clarify that the land dedication and waiver of certain requirements would only partially, rather than fully, satisfy the requirements of the Code.

Your Committee discussed park assessments in general, and the difficult decision before your Committee. Given the amount of time that has passed between the original preliminary subdivision approval and the park dedication, the Council is now faced with the decision of whether or not to accept the land as proposed by the developer, without needed amenities, such as a comfort station, in lieu of park assessment fees required by law.

Your Committee further revised the resolution, in accordance with the Deputy Corporation Counsel's recommendations.

Your Committee voted to recommend adoption of the revised proposed resolution, to incorporate your Committee's recommended revisions, and filing of the communication.

Your Committee is in receipt of a further revised proposed resolution, approved as to form and legality.

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Your Public Works and Facilities Committee RECOMMENDS the following:

1.     That Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "ACCEPTING LAND DEDICATED FOR PARK AND PLAYGROUND PURPOSES AND WAIVER OF PARKING AREA AND COMFORT STATION PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE", be ADOPTED; and
  
2.     That County Communication No. 06-57 be FILED.

Adoption of this report is respectfully requested.

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**BILL KAUAKEA MEDEIROS** Co-Chair

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**DANNY A. MATEO** Member

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**MICHAEL P. VICTORINO** Co-Chair

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**JOSEPH PONTANILLA** Member

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**G. RIKI HOKAMA** Member