

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS AND
FACILITIES COMMITTEE

November 16, 2007

Committee
Report No.

07-138

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, October 3, 2007, and October 31, 2007 (site inspection and meeting), makes reference to County Communication No. 07-119, from the Director of Parks and Recreation, transmitting a proposed resolution entitled "APPROVING THE WAIVER OF CERTAIN PARK REQUIREMENTS FOR A PRIVATELY OWNED AND MAINTAINED PARK PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE, FOR THE KIHEI KAUAHALE SUBDIVISION, KIHEI, MAUI, HAWAII".

The purpose of the proposed resolution is to approve the waiver of requirements to provide comfort stations and a parking area in a privately owned and maintained park located adjacent to Waipuilani Road in the Kihei Kauhale Subdivision, Kihei, Maui, consisting of approximately 10,501 square feet, and identified as TMK: (2) 3-9-46:portion of 014.

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; a Deputy Corporation Counsel; and Mich Hirano, Project Manager, Munekiyo & Hiraga, Inc.

There was no public testimony.

Mr. Hirano provided a computer-generated presentation, entitled "REQUEST FOR WAIVER OF CERTAIN PARK REQUIREMENTS FOR KIHEI KAUAHALE SUBDIVISION", and submitted a copy of the presentation.

The Planning and Development Chief stated that the proposed park was in response to the stated preference of the Kihei Community Association that the Department pursue land, rather than cash contributions, to fulfill park dedication requirements. The Department has since reconsidered its policy and now prefers to seek monetary contributions rather than small passive parks. He further stated that the developer had not made it clear to the Department that the park would also be used for drainage purposes.

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Your Committee discussed the relative value of passive parks and whether the proposed bench and table would be accessible and likely to be used by the community.

Your Committee proposed that the Department discuss with the developer the possibility that the developer pay to the County one-half of the park assessment fee should the requirement for a parking area and comfort stations be waived.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated September 28, 2007, Sandy Baz, Executive Director, Maui Economic Opportunity, Inc., provided testimony in opposition to the proposed resolution. He asked that subdividers of high-priced subdivisions either provide all park amenities when they offer land to fulfill their park dedication requirements, or pay the in-lieu park assessment fees.

By correspondence dated October 2, 2007, the Director of Parks and Recreation transmitted a copy of correspondence dated September 14, 2007, from Mich Hirano, Project Manager, Munekiyo & Hiraga, Inc., confirming the developer's commitment to pay 50 percent of the park assessment fee in lieu of providing a restroom and a parking area at the subject park. The correspondence also included a revised landscape plan that identified the location of the accessible picnic table and park bench.

At its meeting of October 3, 2007, your Committee met with the Director of Parks and Recreation; the Planning and Development Chief, Department of Parks and Recreation; and two Deputy Corporation Counsel.

There was no public testimony.

The Director provided a brief overview of the history of this park and discussed her October 2, 2007 correspondence.

A Deputy Corporation Counsel clarified that, according to the Maui County Code, a developer cannot claim that a legally required drainage or setback area also meets a park dedication requirement.

The Planning and Development Chief stated that the Department's policy to reject park land that also serves as a drainage basin began in 2003.

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Your Committee stated its intent to carefully review any request to waive park requirements. A Co-Chair of your Committee stated that a site inspection would be scheduled before any action would be taken on this proposed resolution.

Your Committee deferred consideration of the matter pending further discussion.

At its site inspection of October 31, 2007, your Committee met with the Director of Parks and Recreation; the Planning and Development Chief, Department of Parks and Recreation; a Deputy Corporation Counsel; Mich Hirano, Project Manager, Munekiyo & Hiraga, Inc.; and John Patterson, Principal, JPI Realty Services.

There was no public testimony.

The Director again stated that the initial plan presented to the Department did not indicate that the landscaped park would be enclosed by a fence, nor that it served as a drainage basin.

Mr. Hirano described the proposed improvements planned by the developer, and the location of the proposed bench, table, and cinder path connecting them. He also described a proposed gate that would provide an entrance on Waipuilani Road.

Your Committee discussed the different uses of the passive park, and questioned whether the proposed bench and table would be accessible and in compliance with the Americans with Disabilities Act.

Your Committee expressed its concerns with the topography of the park due to the large slopes on both sides of the park.

Your Committee deferred consideration of the matter pending further discussion.

At its meeting of October 31, 2007, your Committee met with the Director of Parks and Recreation; the Planning and Development Chief, Department of Parks and Recreation; a Deputy Corporation Counsel; and Mich Hirano, Project Manager, Munekiyo & Hiraga, Inc.

There was no public testimony.

The Director stated that the full park assessment fee of \$236,000 would be collected by the County if the waiver was not approved.

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Your Committee expressed its opinion that the subject lot did not concur with your Committee's concept of a park, and declined to waive the requirement of a parking area and comfort stations. Your Committee further stated its intention to send a letter to the Director strongly suggesting that the park dedication requirement for this subdivision be met through collection of the in-lieu park assessment fee.

Your Committee voted to recommend filing of the communication.

Your Public Works and Facilities Committee **RECOMMENDS** that County Communication No. 07-119 be FILED.

Adoption of this report is respectfully requested.

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