

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

December 21, 2007

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

07-162

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 June 13, 2007 and December 5, 2007, makes reference to County Communication No. 06-83, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE PULEHUIKI-KAMEHAMEIKI HOMESTEADS, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the dedication of road widening Lot 8-B-3, along Lower Kula Road, Kula, Maui, consisting of approximately 471 square feet, and identified as TMK: (2) 2-3-02:portion of 009.

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 further notes that the subdivider has deferred roadway improvements by completing the requirements of a subdivision agreement for lots on existing streets containing three lots or less, pursuant to Section 18.20.040.A, MCC.

Your Committee further notes that the Council (2005-2007 Council term) referred County Communication No. 06-83 to its Public Works Committee at the Council meeting of March 17, 2006.

By correspondence dated June 20, 2006, the Chair of the Committee requested that the Department of Public Works and Environmental Management revise the Land Description, attached as Exhibit "A" to the proposed resolution, to correct the name of the road from "Old Lower Kula Road" to "Lower Kula Road".

By correspondence dated July 11, 2006, the Director of Public Works and Environmental Management transmitted a revised proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE

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

December 21, 2007  
Page 2

**Committee  
Report No.**     07-162

PULEHUIKI-KAMEHAMEIKI HOMESTEADS, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE”. The revised proposed resolution corrects the name of the road from “Old Lower Kula Road” to “Lower Kula Road”.

At its meeting of July 31, 2006, the Committee met with the Director of Public Works and Environmental Management and a Deputy Corporation Counsel.

There was no public testimony.

The Director stated that the subject road widening lot is an irregular shaped lot consisting of 471 square feet. He further stated that the subdivision was granted final subdivision approval on February 23, 2006.

The Committee discussed the deferral agreement currently allowed by the MCC, and whether the Department is able to track and monitor these agreements should future roadway improvements be required.

The Deputy Corporation Counsel explained that there may be no benefit to the County to reject the roadway lot, given that the deferral agreement has already been signed.

The Committee discussed the historical loose rock wall appearing on the subject property map. The Committee recommended that the State Historic Preservation Division be consulted regarding the significance of the wall and any costs that the County might incur, should the roadway lot be accepted with the wall intact.

The Committee deferred consideration of the matter pending further discussion.

By correspondence dated August 3, 2006, the Chair of the Committee requested that the State Historic Preservation Division provide information regarding the historical significance of the loose rock wall, as well as any information associated with the costs to protect this wall should the County initiate a future road widening project. The correspondence further requested that the Division comment on any flexibility granted to municipal governments with respect to similar rock walls within public rights-of-way in the event of roadway modifications.

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

December 21, 2007  
Page 3

**Committee**  
**Report No.**     07-162

By correspondence dated December 22, 2006, Melanie Chinen, Administrator of the State Historic Preservation Division, responded that since no documentation regarding the wall has been recorded, the Division would recommend that an archaeologist be retained to generate a report assessing historical significance. Ms. Chinen commented that it would be unlikely that the Division would recommend preserving the wall.

At its meeting of January 5, 2007, the Council referred County Communication No. 06-83 to your Public Works and Facilities Committee (County Communication No. 07-5).

At its meeting of June 13, 2007, your Committee met with the Director of Public Works and Environmental Management, the Corporation Counsel, and a Deputy Corporation Counsel.

There was no public testimony.

The Director provided an overview of the matter, and stated that the Department has considered the State Historic Preservation Division's response. He stated that the Department is of the opinion that since the wall appears to have been built to retain the roadway fill, the road widening lot should be accepted with the existing wall intact. He further stated that the majority of the historic wall in the general vicinity is already located within the County right-of-way.

Your Committee discussed the potential costs relating to the wall should the County make future road improvements. Your Committee noted that additional costs would be associated with the wall whether it is preserved or not. Your Committee also discussed to what degree the subdivision had complied with existing land use designations.

The Director replied that his Department relied on the Department of Planning's analysis in approving the subdivision.

The Deputy Corporation Counsel affirmed that the MCC requires subdivisions to be consistent with land use laws, zoning codes, and community plan designations.

Your Committee deferred consideration of the matter pending further discussion.

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

December 21, 2007  
Page 4

**Committee**  
**Report No.** 07-162

By correspondence dated July 2, 2007, the Co-Chairs of your Committee requested that the Department of Public Works explain how the subject property was given final subdivision approval when Section 18.04.030, MCC, requires that all subdivisions be consistent with the county general plan, community plans, land use ordinances, the provisions of the MCC, and other laws relating to the use of land.

By correspondence dated November 7, 2007, the Director of Public Works responded that Chapter 205, Hawaii Revised Statutes (HRS), generally requires a minimum lot size of one-half acre. He stated that the 2.86-acre and 2.295-acre lots resulting from the subdivision exceed the State Rural District minimum lot size requirements and are not contrary to State land use provisions. He further stated that the proposed lots are also consistent with County community plan and zoning provisions.

At its meeting of December 5, 2007, your Committee met with the Director of Public Works and a Deputy Corporation Counsel.

There was no public testimony.

The Director provided a brief overview of the matter.

Your Committee asked whether the County would be able to share with the current landowner any cost for future archaeological studies that may be required should the road widening lot be accepted.

The Director stated that the County had not discussed this option and noted that it is not customary to expect a landowner to donate more than the land itself.

Your Committee voted to recommend adoption of the revised proposed resolution and filing of the communication.

Your Committee is in receipt of a revised proposed resolution incorporating nonsubstantive revisions.

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

December 21, 2007  
Page 5

**Committee**  
**Report No.**     07-162

Your Public Works and Facilities Committee RECOMMENDS the following:

1.     That Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE PULEHUIKI-KAMEHAMEIKI HOMESTEADS, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", be ADOPTED; and
  
2.     That County Communication No. 06-83 be FILED.

Adoption of this report is respectfully requested.

pwf:cr:07060aa:scj

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

December 21, 2007  
Page 6

**Committee**  
**Report No.** 07-162

---

**BILL KAUAKEA MEDEIROS** Co-Chair

---

**DANNY A. MATEO** Member

---

**MICHAEL P. VICTORINO** Co-Chair

---

**JOSEPH PONTANILLA** Member

---

**G. RIKI HOKAMA** Member