

COUNCIL OF THE COUNTY OF MAUI
PARKS AND ECONOMIC
DEVELOPMENT COMMITTEE

October 6, 2006

Committee
Report No.

06-116

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

Chair and Members:

Your Parks and Economic Development Committee, having met on August 31, 2006 (site inspection) and September 14, 2006, makes reference to County Communication No. 05-327, 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 KILI NAHE SUBDIVISION, NAPILI, MAUI, HAWAII".

The purpose of the proposed resolution is to approve the waiver of requirements to provide comfort stations and parking for a privately owned and maintained park in the Kili Nahe Subdivision in Napili, Maui, comprised of approximately 5,706 square feet, located at the intersection of Lower Honoapiilani Road and Napilihau Street (TMK: (2) 4-3-03:025).

By correspondence dated June 26, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution incorporating nonsubstantive revisions for clarity and consistency.

At its site inspection of August 31, 2006, in Napili, your Committee met with the Chief of Planning and Development, Department of Parks and Recreation; G. Robert Johnston, Vice President, Landtec, Inc.; Inoke Taufa, Friendly Island Landscape, LLC; and Dennis Toshikiyo, Friendly Island Landscape, LLC.

There was no public testimony.

The Chief of Planning and Development explained that Lahaina Land Investors, LLC, the developer of the nine-lot Kili Nahe Subdivision, was required to provide a minimum 3,000-square-foot park to fulfill their park dedication requirements, pursuant to Section 18.16.320.B.2.c, Maui County Code (MCC). The developer provided a larger park consisting of 5,706 square feet.

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Consistent with the terms of the Amended Unilateral Agreement dated June 25, 2004 between the County and Lahaina Land Investors, LLC, the Chief of Planning and Development stated that the developer has installed an irrigation system and the park has been landscaped.

He also stated that Lahaina Land Investors, LLC has installed an underground drainage system to pipe and drain subsurface water from the subdivision. In addition, although the park will be privately owned and maintained, it will be open to the public.

Mr. Johnston stated that the value of the park is approximately \$35,000, an amount comparable to the park assessment fees that would have been paid if Lahaina Land Investors, LLC had not dedicated the land for park and playground purposes. He noted that the value of the park would have been much higher had the parcel been sold as a residential lot. He further noted that Lahaina Land Investors, LLC expended approximately \$250,000 to install the underground drainage system, after obtaining approval from the Department of Parks and Recreation and the Department of Public Works and Environmental Management.

Your Committee questioned whether parkland that also serves as a subdivision's drainage system would qualify for park credit, pursuant to Section 18.16.320.E.1, MCC.

Your Committee further questioned the public's accessibility to the park. Mr. Johnston noted that the park is easily accessible from the street. He further noted that residents of the Kili Nahe Subdivision may need to walk onto the sidewalk fronting the park in order to access the park.

Recognizing the Department's preference to accept money instead of land to fulfill park dedication requirements, your Committee questioned why the Department chose to accept this remnant piece of parkland. The Chief of Planning and Development stated that the previous Administration made the decision to accept land instead of money in this case.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated September 6, 2006, your Committee requested that the Department of the Corporation Counsel determine whether parkland that also serves as a subdivision's drainage system would qualify for park credit, pursuant to Section 18.16.320.E.1, MCC.

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At its meeting of September 14, 2006, your Committee met with the Deputy Director of Parks and Recreation; the Chief of Planning and Development, Department of Parks and Recreation; a Deputy Corporation Counsel; Howard Kihune, President, Landtec, Inc.; G. Robert Johnston, Vice President, Landtec, Inc.; Ronald Fukumoto, President, Ronald M. Fukumoto Engineering, Inc.; and Karlynn Kawahara, Project Manager, Munekiyo & Hiraga, Inc.

There was no public testimony.

Your Committee received a copy of correspondence dated May 18, 2006, from Karlynn Kawahara of Munekiyo & Hiraga, Inc., to the Department of Planning, with attached photos of the Kili Nahe Subdivision park.

The Chief of Planning and Development provided a brief overview of the matter. He noted that the previous Administration approved the parkland, and was possibly unaware that parkland doubling as a drainage system should not qualify for park credit, pursuant to Section 18.16.320.E.1, MCC.

The Deputy Corporation Counsel noted that there is pending litigation concerning whether areas serving as drainage basins can qualify for park credit. He further noted that Lahaina Land Investors, LLC did not ask for, nor did they receive, any future park assessment credits.

Mr. Johnston stated that Lahaina Land Investors, LLC chose to expend approximately \$250,000 to install an underground drainage system in lieu of paying an initial park assessment fee of approximately \$21,000. He further stated that installing the underground drainage system has resulted in a landscaped, open space area that is both functional and visually appealing for the community.

Your Committee briefly discussed how the underground drainage system at the Kili Nahe Subdivision may also benefit nearby subdivisions should runoff occur.

Your Committee briefly discussed whether structures can be built over drainage systems. The Deputy Corporation Counsel advised that building structures over drainage systems could be dangerous. The Chief of Planning and Development said that allowing structures to be built over drainage systems would depend on the location of the structure in relation to the location of the drainage lines.

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Your Committee further discussed the impracticality of providing comfort stations and parking given the park's size and location. The 5,706-square-foot park is located at the corner of a busy intersection and appears to be too small to accommodate comfort stations and parking. In addition, comfort stations are unnecessary because the park is located within a residential subdivision and is in close proximity to Napili Plaza.

Your Committee was further concerned about the park's accessibility, particularly for individuals with disabilities. Your Committee discussed whether Lahaina Land Investors, LLC would consider the installation of a walkway that would accommodate disabled individuals, and allow accessibility to the park from within the subdivision.

Your Committee discussed how Section 18.16.320, MCC, should be amended to require that the Council approve waivers of park dedication requirements at the time the waivers are requested.

Realizing that the Administration had already accepted the park, and considering the impracticality of providing comfort stations and parking in the park, your Committee voted to recommend adoption of the revised proposed resolution and filing of the communication.

Your Parks and Economic Development Committee **RECOMMENDS** the following:

1. That Resolution No. _____, as revised herein and attached hereto, 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 KILI NAHE SUBDIVISION, NAPILI, MAUI, HAWAII", be ADOPTED; and
2. That County Communication No. 05-327 be FILED.

Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Chair

ROBERT CARROLL Member

CHARMAINE TAVARES Vice-Chair

DANNY A. MATEO Member

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