

19.78.051 Village mixed use PD-WK/1.

The village mixed use PD-WK/1 district is intended to provide flexibility in the planning and development of a village/commercial district with an integrated residential community. There shall be two village mixed use subdistricts, as follows:

A. Village mixed use residential (VMX/R) shall be a residential subdistrict in close proximity to the neighborhood commercial/residential core.

1. Permitted Uses. Within the VMX/R subdistrict, the following uses shall be permitted:

a. Principal uses and structures:

i. Single-family dwelling;

ii. Two-family or duplex dwelling;

iii. Multifamily dwelling;

iv. Park;

v. Public facility or public use;

vi. Recreation, active;

vii. Recreation, indoor;

viii. Recreation, open land;

ix. Recreation, passive; and

x. Utility facilities, minor.

b. Accessory Uses and Structures. The following uses shall be clearly incidental to and customarily found in connection with the principal uses:

i. Energy systems, small-scale;

ii. Garage, private;

iii. Home occupation;

iv. Parking areas, covered or uncovered;

v. Play equipment;

vi. Recreation buildings and pools;

vii. Restrooms; and

viii. Walls not exceeding five feet in height, and fences.

c. Special Uses. The following uses shall be permitted subject to the approval of the appropriate planning commission:

i. Day care facility;

ii. Education, general;

iii. Education, specialized;

iv. Group shelters;

v. Uses and structures, which are similar to the character or nature of any of the principal uses or structures or which conform to the intent of this chapter.

d. Development standards for the VMX/R subdistrict shall be:

i. Minimum lot size, three thousand square feet;

ii. Minimum lot width, forty square feet;

iii. Minimum building setbacks:

(A) Front yard, ten feet for single-family dwellings; twenty feet for carports and garages; fifteen feet for two-family and multifamily dwellings,

(B) Side yard, six feet for one-story buildings and ten feet for two-story buildings for single-family dwellings; five feet for two-family dwellings, for any exterior walls with openings for light, air, and/or access; the sum of both side yards on any lot must total a minimum of ten feet; common walls must be constructed of masonry or of equal fire and sound retardant material; ten feet for multifamily dwellings,

(C) Rear yard, five feet for one-story buildings; ten feet for two- and three-story buildings;

iv. Maximum building height, two stories, not to exceed thirty feet, for single-family and two-family dwellings; three stories, not to exceed forty-five feet, for multifamily dwellings;

v. Maximum floor area ratio, 0.5 FAR for single-family, not to include carport or garage; 0.9 FAR for two-family and multifamily, not to include carport or garage;

vi. Maximum overall density, ten units per acre for single-family dwellings; and fifteen units per acre for two-family and multifamily dwellings.

C. Village mixed use commercial/residential (VMX/C-R) shall be a subdistrict of mixed residential and commercial uses incorporated into the village concept.

1. Permitted Uses. Within the VMX/C-R subdistrict, the following uses shall be permitted:

a. Principal uses and structures:

- i. Single-family dwelling;
- ii. Two-family or duplex dwelling;
- iii. Multifamily dwelling;
- iv. Living quarters;
- v. Lodginghouse;
- vi. Animal boarding facility;
- vii. Animal hospital;
- viii. Day care facility;
- ix. Eating and drinking establishments;
- x. Education, general;
- xi. Education, specialized;
- xii. Eleemosynary organizations;
- xiii. Food and beverage, retail;
- xiv. Garage, storage;
- xv. General merchandising;
- xvi. General office;
- xvii. Group shelters;
- xviii. Light manufacturing and processing;
- xix. Medical center, minor;

- xx. Park;
- xxi. Parking area, public;
- xxii. Personal and business services;
- xxiii. Public facility or public use;
- xxiv. Quasi-public use or quasi-public facility;
- xxv. Recreation, active;
- xxvi. Recreation, indoor;
- xxvii. Recreation, open land;
- xxviii. Recreation, passive;
- xxix. Self-storage, provided it is within an enclosed building; and
- xxx. Utility facilities, minor.

b. Accessory Uses and Structures. The following uses shall be clearly incidental to and customarily found in connection with the principal uses:

- i. Energy systems, small-scale;
- ii. Garage, private;
- iii. Home occupation;
- iv. Outdoor storage yards that are ancillary to a permitted principal use, provided the storage yards are appropriately screened from the public right-of-way;
- v. Parking areas, covered or uncovered;
- vi. Park equipment, including, but not limited to, play equipment, backstops, dugouts, scoreboards, and bleachers;
- vii. Recreation buildings and pools;
- viii. Restrooms;
- ix. Walls not to exceed five feet in height, and fences; and
- x. Warehouses which are ancillary to a permitted principal use.

c. Special Uses. The following uses shall be permitted subject to the approval of the appropriate planning commission:

i. Medical center, major;

ii. Utility facilities, major; and

iii. Uses and structures that are similar to, and compatible with, the principal uses and structures of the subdistrict and which conform to the intent of this chapter may be approved by the appropriate planning commission.

d. Development standards for the VMX/C-R subdistrict shall be:

i. Minimum lot size, five thousand square feet;

ii. Minimum lot width, sixty feet;

iii. The following minimum building setbacks for single-family, two-family, and multifamily residential use shall apply, except for row type dwellings where no setbacks shall be required:

(A) Front yard, fifteen feet,

(B) Side yard, six feet for one-story buildings and ten feet for two- and three-story buildings for single-family and multifamily dwellings; five feet for two-family dwellings, for any exterior walls with openings for light, air, and/or access; the sum of both side yards on any lot must total a minimum of ten feet; common walls must be constructed of masonry or of equal fire and sound retardant material,

(C) Rear, six feet for one-story buildings and ten feet for two- and three-story buildings;

iv. Minimum building setbacks for commercial/residential use:

(A) Front yard, no setback,

(B) Side and rear yard, no setbacks, except when adjacent to residential and noncommercial uses, where the setbacks for the adjacent use shall apply;

v. Maximum building height, two stories, not to exceed thirty feet for single-family and two-family dwellings; three stories, not to exceed forty-eight feet for commercial and multifamily dwellings;

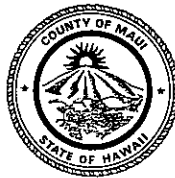
vi. Maximum lot coverage ratio, 0.6 for commercial, two-family and multifamily dwellings; and

vii. Maximum floor area ratio, 0.5 FAR for single-family, not to include carport or garage; 1.0 FAR for commercial, two-family and multifamily dwellings, not to include carport or garage. (Ord. 3364 § 4, 2006)

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



DEC 29 2008

COUNTY OF MAUI
DEPARTMENT OF PLANNING

December 18, 2008

CERTIFIED MAIL - #7006 2760 0000 7127 4098

Mr. Bill Mills
Maui Lani 100, LLC
1100 Alakea Street, Suite 2200
Honolulu, Hawaii 96813

Dear Mr. Mills:

SUBJECT: PROJECT DISTRICT PHASE II AND COUNTY SPECIAL USE PERMIT APPROVALS FOR THE MAUI LANI VILLAGE MIXED USE (VMX) PROJECT CONSISTING OF 150 MULTI-FAMILY RESIDENTIAL UNITS INTEGRATED WITH COMMERCIAL RETAIL, LIGHT MANUFACTURING AND LIVE/WORK USES IN A 57 ACRE VMX COMMERCIAL/RESIDENTIAL (CR) SUBDISTRICT, AND APPROXIMATELY 114 SINGLE-FAMILY AND 211 MULTI-FAMILY UNITS IN A 34 ACRE VMX RESIDENTIAL SUBDISTRICT AT, TMK: 3-8-007:151 (POR), 152, 155 (POR); (PH2 2007/0002) (CUP 2008/0004)

At its regular meeting on August 12, 2008, the Maui Planning Commission (Commission) conducted the public hearing on the above Project District Phase II application. The matter was deferred until December 9, 2008, in order to gather additional information on the project.

At its regular meeting on December 9, 2008, the Commission conducted a public hearing on a County Special Use Permit to allow for Automobile Services and Wholesale Distribution Storage Use in the 57 acre VMX (CR) Subdistrict. After due deliberation and receipt of testimony and exhibits, the Commission hereby orders approval of the County Special Use Permit with no conditions.

The Commission also continued its review of the Project District Phase II application as unfinished business. After lengthy discussion and receipt of testimony and exhibits, the Commission hereby orders approval of the Project District Phase II Application subject to the following conditions:

1. That construction of the proposed project shall be initiated by **December 31, 2011**. Initiation of construction shall be determined as construction of offsite improvements, issuance of a foundation permit and

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793

MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634

CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

CR:CA/1/DC/1/P

initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Failure to comply within this three (3) year period will automatically terminate this Project District Phase II approval unless a time extension is requested no later than ninety (90) days prior to the expiration of said three (3) year period. The Planning Director shall review and approve a time-extension request but may forward said request to the Commission for review and approval. The permit holder or any aggrieved person may appeal to the Commission any action taken by the Planning Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.

2. That the construction of the project shall be completed within ten (10) years after the DATE of its initiation. Failure to complete construction of this project will automatically terminate the subject Project District Phase II approval. A time extension shall be requested no later than ninety (90) days prior to the completion deadline. The Planning Director shall review and approve the time-extension request but may forward said request to the Commission for review and approval.
3. That final construction shall be in accordance with conceptual plans approved by the Commission on December 9, 2008, dated November 3, 2008.
4. That each segment of the project shall obtain Project District Phase III approval prior to issuance of building permits or subdivision approvals. Plans submitted with the Phase III application shall include, but not be limited to, architectural, landscape planting, building materials, color scheme, lighting, and signage.
5. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to dust and soil erosion from wind and water, ambient noise levels, and traffic disruptions.
6. That this Project District Phase II approval shall not be transferred without the prior written approval of the Maui Planning Director.
7. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Project District Phase II approval and shall procure at its own cost and expense, and shall maintain during the entire period of this Project District Phase II approval, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional

named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Copies of the policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order.

8. That full compliance with all applicable governmental requirements shall be rendered.
9. That the applicant shall submit to the Department of Planning (Department) compliance reports with Project District Phase III applications for each segment of the VMX (CR) and VMX Residential sub-districts. A preliminary report shall be reviewed and approved by the Department, for each phase of development, prior to issuance of building permits or preliminary subdivision approvals. Final compliance reports for each phase of development shall be submitted to the Planning Department for review and approval prior to issuance of a certificate of occupancies or final subdivision approvals. Said compliance reports shall address compliance with the District Boundary Amendment, Change in Zoning and Project District Phase II conditions.
10. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the Project District Phase II approval. Failure to so develop the property may result in the revocation of the permit.
11. That appropriate energy conservation measures shall be incorporated into the project, which may include but are not limited to, energy conserving building materials, solar water heaters, state of the art air conditioning systems, photo voltaic systems, etc.
12. That all exterior illumination shall consist of fully shielded downward lighting throughout the project.
13. That appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be maintained regularly per manufacturers specifications, with the contaminant residuals from storm water treatment

to be properly disposed of. Records of the disposal shall be kept by the applicant and made available for inspection by county and state agencies upon request. Plans for the filtration measures shall be submitted to the Department together with the Phase III Project District applications and preliminary compliance reports. Evidence of appropriate mechanisms to comply with this condition after filtration measures have been installed shall be submitted to the Department as part of final compliance reports for each segment of the project.

PROJECT SPECIFIC CONDITIONS

14. That the applicant shall construct required improvements to public services such as water, sewers, drainage, etc. to mitigate the impacts the project may have on public infrastructure. Said improvements shall be completed prior to issuance of a certificate of occupancy for the project.
15. That a National Pollutant Discharge Elimination System (NPDES) permit shall be obtained (if required). A copy of the approved NPDES permit shall be submitted to the Planning Department together with the Phase III Project District applications.

Archaeological

16. That any Project District Phase III application involving land altering activities such as subdivision improvements and/or site work shall be transmitted to SHPD for review and comment prior to Project District Phase III approval.
17. That archaeological monitoring shall be conducted for the proposed project in accordance with the approved monitoring plans. (Recommended by SHPD)
18. That phased archaeological monitoring reports shall be submitted to the State Historic Preservation Division (SHPD) for review and approval within 180 days after the completion of the construction project. (Recommended by SHPD)
19. That SHPD shall be notified at the onset and completion of each segment of the project and phased monitoring program. (Recommended by SHPD)
20. That written confirmation from SHPD that full compliance with the approved archaeological monitoring reports have been rendered shall be submitted to the Planning Department with final compliance reports associated with each segment of development of the VMX (CR) and VMX Residential sub-districts.

21. That should iwi Kupuna or Native Hawaiian cultural or traditional deposits be found during the construction of the project, work will cease and the appropriate agencies will be contacted pursuant to applicable law. (Recommended by Office of Hawaiian Affairs)
22. That a written plan addressing the perpetual preservation and respect of archaeological sites be developed and submitted to the Community Association responsible to maintain these sites.
23. That any materials associated with archaeological investigations uncovered as part of project construction be returned to the land.
24. That the Community Association's Rules governing this project, identify the obligations and penalties pursuant to state law, associated with non-compliance with Burial Treatment Plans.

Water Conservation

25. That water conservation measures shall be incorporated in the project's design and operation including but not limited to the use of native vegetation.

Fauna

26. That U.S. Fish and Wildlife Service Best Management Practices shall be incorporated into the project's plans. (Recommended by the US Fish & Wildlife Service).

Design Guidelines

27. That full compliance with the Final Design Guidelines dated July 16, 2008, and amended site plan as approved by the Maui Urban Design Review Board (UDRB) on November 3, 2008 shall be rendered. If substantive changes are proposed to the Design Guidelines as determined by the Planning Department, the guidelines shall be submitted to the UDRB for review and approval.
28. That design elevations based on the amended site plan should include more integration between the large warehouse building and the smaller retail spaces.
29. That assembly type uses are prohibited in the 300 foot landfill residential buffer zone in the VMX Residential area.

Affordable Housing

30. That full compliance with the Maui Lani 100 LLC Affordable Housing Agreement recorded on January 5, 2007 shall be rendered.

Education

31. That full compliance with the Maui Lani Educational Agreement dated December, 2005, shall be rendered.

Traffic and Roadways

32. That as represented by the applicant, and agreed to by the Department of Public Works (DPW) Maui Lani will agree to expedite the design and construction of the initial two lanes of Maui Lani Parkway (MLP) between Kuikahi Drive and Onehee Avenue together with the extension of Onehee Avenue to intersect with the MLP. Maui Lani will complete the MLP improvements by December 2013 subject to approval by the SHPD and the Burial Council. Said completion shall be a condition of the Project District Phase II approval but shall not be a condition of occupancy or subdivision approval for the VMX District. (Recommended by Department of Public Works (DPW))
33. That represented by the applicant and agreed to by the DPW, Maui Lani will proceed immediately with an Updated Traffic Report as called for in the Master Roadway Agreement. A proposed scope of work for said report was submitted to the DPW for review and comment. Comments will be provided by August 5, 2008. Said report shall be completed and submitted to the DPW for review and approval on or before July 15, 2009. Completion of the final segment of the Maui Lani Parkway between Onehee Avenue and Waiinu Street shall be in accord with the Updated Traffic Report and any subsequent amendments to the Master Roadway Agreement. (Recommended by DPW)
34. That as represented by the applicant, there shall be no vehicular entry/exit gates within the VMX-C/R and VMX Residential subdistricts. Pedestrian access gates from the VMX Residential subdistrict to the regional park are permitted.
35. That no "big box" stores over 70,000 sq. ft. shall be permitted.
36. That the applicant work with the adjacent property owners and applicable governmental agencies, to the extent practicable, to study and mitigate any potential threats of possible breaching of Waiale Reservoir.

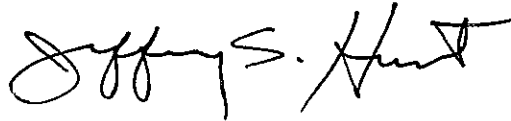
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37. That an area be provided within the project that explains the history and culture of the project area and memorializes those who lived and walked before us on this land.
38. That the applicant make a good faith effort to increase the number of bus stops within the project area.

Further, the Commission adopted the attached Report, Addendum report and recommendation prepared for the August 12, 2008 and December 9, 2009 meetings as its Findings of Fact, Conclusions of Law, and Decision and Order. Parties to proceedings before the Commission may obtain judicial review of decision and orders issued by the Commission in the matter set forth in Chapter 91-14, Hawaii Revised Statutes.

Thank you for your cooperation. If additional clarification is required, please contact Current Planning Supervisor Ann T. Cua at ann.cua@mauicounty.gov or at 270-7521.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

Attachment

xc: Ann T. Cua, Current Planning Supervisor
Mich Hirano, Munekiyo & Hiraga, Inc.
Steve Miller, Maui Lani 100 L.L.C.
Aaron Shinmoto, PE, Planning Program Administrator (2)
Development Services Administration
Hinano Rodrigues, DLNR SHPD
Milton Arakawa, Director of Public Works
Police Department
Captain Val Martin, DFPS: Fire Prevention
DOT Highways Division
Jeff Eng, Director of Water Supply
Project File
General File

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