

September 16, 1999

Ms. Virginia Goldstein, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 9720

**Subject: Compliance with Conditions "R" of Ord. No 96-8 and "O" of Ord.No. 96-7
Fair Share Requirements
Hokuli`a by Oceanside 1250**

Dear Ms. Goldstein:

This is to follow up with respect to discussions with your staff regarding the fair share requirements for the proposed Phase I subdivision (SUB 98-124) for the Hokuli`a by Oceanside 1250 project.

Condition "R" of Ord. No 96-8 and "O" of Ord. No. 96-7 require fair share contributions to mitigate the potential regional impacts of the approved development with respect to parks and recreation, fire, police, solid waste and roads. These contributions shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments.

78-6831 Alii Drive
Suite K15
Kailua-Kona, Hawaii
96740
Tel: 808-324-1500
Fax: 808-324-0171

These conditions further provide that in lieu of paying the fair share contribution, Hokuli`a may construct and contribute improvements/facilities related to parks, police, fire, solid waste and road facilities within the impacted region. Furthermore, the cost of constructing improvements required for solid waste management, the ocean park, and roadway improvements, including the Mamalahoa Highway Bypass and the Mamalahoa Highway-Halekii Street intersection, shall be credited against the sums specified for solid waste, parks, and roads respectively,

The Phase I development proposed by 1250 Oceanside Partners (Oceanside) involves a total of 261 agricultural lots. Based on the per lot fair share contributions, it is our understanding that the following gross values are applicable to this initial phase of development of the Hokuli`a project:

Description	Parks	Police	Fire	Solid Waste	Roads	Total
Per Lot Allocation	\$3,490.85	\$168.40	\$332.61	\$145.62	\$3,101.68	\$7,239.16
Number of Lots	261	261	261	261	261	261
Total Fair Share	\$911,111.85	\$43,952.40	\$86,811.21	\$38,006.82	\$809,538.48	\$1,889,420.76

In accordance with the requirements of Condition "R" of Ord. No 96-8 and "O" of Ord. No. 96-7, the actual fair share contribution amounts for each of the required facilities is determined to be as follows:

Park and Recreation Facilities

Oceanside is required to convey a perpetual easement for public access to the 140 acre ocean park pursuant to Condition "I" of Ord. No. 96-8 and "L" of Ord. No. 96-7. This easement document has been submitted to the County under separate cover for its review and approval. Upon execution of this document, commitment of this area to public use will be assured in perpetuity. According to the County of Hawaii, Real Property Assessment Division, Finance Department, the valuation of the State Land Use designated Conservation lands within TMK: 8-1-04:003, which include a 114.570 acre portion of the approximately 140 acre ocean park, is \$1,031,100.00. (Attachment No. 1)

In addition, the value of the required park dedication conveyance which is provided as part of the Final Subdivision Approval for Phase 1 Subdivision No. SUB 98-124, is an offset to the park and recreation fair share contribution requirements. In accordance with Condition "L" of Ordinance No. 96-8, Oceanside has submitted a dedication deed for two acres of land adjacent to the County's Kona Scenic Park. Based on an appraisal prepared by Baird Appraisals, the value of the lands contributed total \$170,000. (Attachment No. 2)

These two valuation, which total \$1,201,100 shall off-set the \$911,111.85 required for the fair share contribution for park and recreation facilities for the proposed 261 unit Phase I of Hokuli'a. The amount of excess mitigation (\$289,988.15) shall be credited against future fair share contribution requirements for park and recreation facilities for future subdivision increments of Hokuli'a by Oceanside 1250, provided that Oceanside reserves the right to undertake a formal appraisal of the Ocean Park area to reestablish the value of these lands to off-set future parks fair share requirements for future subdivision increments.

Police Facilities

Payment in the amount of \$43,952.40 to comply with the fair share requirements for Phase I Subdivision No. SUB 98-124 for police facilities (Attachment No. 3)

Ms. Virginia Goldstein
September 16, 1999
Page 3

Fire Facilities

Payment in the amount of \$86,811.21 to comply with the fair share requirements for Phase I Subdivision No. SUB 98-124 for fire facilities (Attachment No. 4); and

Solid Waste Facilities

Payment in the amount of \$38,006.82 to comply with the fair share requirements for Phase I Subdivision No. SUB 98-124 for solid waste facilities (Attachment No. 5).

Road Facilities

With respect to the fair share road requirements, Oceanside has submitted a bond and agreement to assure the construction of the Mamalahoa Highway Bypass and the Mamalahoa Highway-Halekii Street intersections in the amount of \$24,760,000.00 and \$290,000.00, respectively. According to Development Agreement No. 1, Oceanside may be reimbursed for a portion of the construction cost of the Mamalahoa Highway Bypass. However, Oceanside is not eligible for reimbursement of the "project impact cost" which is estimated as 38% of the total cost or \$9,408,800.00.

This amount, and the construction cost of the Mamalahoa Highway-Halekii Street intersection total, \$9,698,800.00 and off-set the \$809,538.48 fair share requirements for Phase I Subdivision No. SUB 98-124 for road facilities. The amount of excess contribution (\$8,889,261.52), as well as the those portions of the Mamalahoa Highway Bypass project cost for which Oceanside may be eligible for reimbursement, but for which no reimbursement is received, shall be used to off-set fair share contribution requirements for road facilities for future subdivision increments of Hokuli'a by Oceanside 1250.

Also attached for your information are copies of Condition R. of Ord. No 96-8 and Condition O. of Ord. No. 96-7 (Attachments 6 and 7) to assist you in your review. Please call me if you have any questions with respect to fair share requirements for Phase I of Hokuli'a by Oceanside.

Sincerely,



JW Robert A. Stuit
Director of Planning

attachments

cc: Bill Moore, William L. Moore Planning

Borrower for County of Hawaii Census Tract 214 Map Reference 381-04-P3 & P56
 Property Address Below Halekii Street
 City Kealahou County Hawaii State HI Zip Code 96750
 Legal Description Lot#372, Portion of Parcel 3 & parcel 56, Halekii, South Kona
 Sale Price \$ n/a Date of Sale n/a Loan Term n/a yrs. Property Rights Appraised Fee Leasehold De Minimis PUD
 Actual Real Estate Taxes \$ Not Avail. (yr) Loan charges to be paid by seller \$ n/a Other sales concessions n/a
 Lender/Cient Hokuli'a Oceanside 1250 Address 78-6831 Alii Drive, Suite K15, Kailua-Kona, HI 96740
 Occupant Vacant Appraiser Joelle Baird/Larry R. Baird Instructions to Appraiser Formulate Opinion of Current Market Value of
portion to be given to County for Kona Scenic Park Expansion

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Good	<input type="checkbox"/>	Avg.	<input checked="" type="checkbox"/>	Fair	<input type="checkbox"/>	Poor	<input type="checkbox"/>
Built Up	<input type="checkbox"/> Over 75%	<input checked="" type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	Employment Stability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Growth Rate	<input type="checkbox"/> Fully Dev	<input type="checkbox"/> Rapid	<input checked="" type="checkbox"/> Steady	Convenience to Employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Values	<input type="checkbox"/> Increasing	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Declining	Convenience to Shopping	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demand/Supply	<input type="checkbox"/> Shortage	<input checked="" type="checkbox"/> In Balance	<input type="checkbox"/> Oversupply	Convenience to Schools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marketing Time	<input type="checkbox"/> Under 3 Mos.	<input checked="" type="checkbox"/> 4-6 Mos.	<input type="checkbox"/> Over 6 Mos.	Adequacy of Public Transportation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Present Land Use	<u>60%</u> 1 Family	<u>39%</u> 2-4 Family	<u>0%</u> Apts.	Recreational Facilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>0%</u> Industrial	<u>0%</u> Vacant	<u>0%</u> Condo	Adequacy of Utilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in Present Land Use	<input type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (*)	<input checked="" type="checkbox"/> Taking Place (*)	Property Compatibility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(*) From Agriculture To Res. Acreage Develop			Protection from Detrimental Conditions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Predominant Occupancy	<input checked="" type="checkbox"/> Owner		<input type="checkbox"/> Tenant	Police and Fire Protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Price Range	\$ <u>150,000</u> to \$ <u>400,000</u>		Predominant Value \$ <u>200,000</u>	General Appearance of Properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Age	<u>New</u> yrs. to <u>40+</u> yrs.		Predominant Age <u>15</u> yrs.	Appeal to Market	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject is located below Kona Scenic Subd Services of Kealahou (services, PO, hospital) are located at top of Halekii Street. Captain Cook (police, fire, services) approx 3 miles South Konawaena School (all grades) approx 1 mile SE. Appeal to market of subject area is average with most residents long term. Employment stability of area is also average

Dimensions See attached map = 2.3 Acres Sq. Ft. or Acres Corner Lot
 Zoning classification A-1A (agriculture minimum 1 acre lots) Present Improvements do do not conform to zoning regulations
 Highest and best use Present use Other (specify) Proposed Park Addition
 Elec. Public Other (Describe) Individual
 Gas Individual
 Water Individual
 San. Sewer Cesspool Individual
 Underground Elect. & Tel.
 OFF SITE IMPROVEMENTS
 Street Access Public Private
 Surface Gravel
 Maintenance Public Private
 Storm Sewer Curb/Gutter
 Sidewalk Street Lights
 Topo Moderate
 Size Larger than typical for Kona Scenic
 Shape Irregular (as addition rectangular)
 View Ocean
 Drainage Appears Adequate
 Is the property located in a HUD Identified Special Flood Hazard Area? No Yes
 Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions) FIRM CP 155166 943C revised 9/88. No adverse easements or encroachments noted. Subject parcel is being given to County for addition to Kona Scenic Park. The subject site is in natural brush & shrub vegetation. Appraisal assumes subject to take on rectangular shape of receiving parcel (subject being added to rectangular parcel, appraisal assumes this shape for valuation purposes)

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	<u>Below Halekii Street 381-04-P3 & P56</u>	<u>Off Koa Road 382-10-14</u>	<u>Coffee Drive 382-09-82</u>	<u>Off Napoopoo Road 381-09-45</u>
Proximity to Subject		<u>3.5 Miles SE</u>	<u>3 Miles South</u>	<u>2.5 Miles South</u>
Sales Price	\$ <u>n/a</u>	\$ <u>180,000</u>	\$ <u>139,000</u>	\$ <u>220,000</u>
Price	\$	\$	\$	\$
Data Source	<u>Inspection/Owner</u>	<u>MLS/TMK/Broker</u>	<u>MLS/ TMK Service</u>	<u>MLS/TMK/Broker</u>
Date of Sale and Time Adjustment	<u>n/a</u>	<u>7/99</u>	<u>3/99</u>	<u>6/99</u>
Location	<u>Kealahou</u>	<u>Kealahou Ranch</u>	<u>McCoy Plantation</u>	<u>Kaawaloa Orchard</u>
Site/View	<u>2.30 Acres</u>	<u>3.15 Acres</u>	<u>1.00 Acre</u>	<u>3.14 Acres</u>
View	<u>Ocean</u>	<u>Ocean</u>	<u>Ocean</u>	<u>Coastline</u>
Utilities	<u>All Available</u>	<u>Catchment, 1 pole</u>	<u>All Available</u>	<u>All Available</u>
Access	<u>Average</u>	<u>Average-</u>	<u>Average</u>	<u>Average</u>
Improvements	<u>None</u>	<u>Mac Nuts</u>	<u>None</u>	<u>Rambutan</u>
Sales or Financing Concessions	<u>n/a</u>	<u>Conventional MLS# 6608</u>	<u>Conventional D#99-039130</u>	<u>Conventional MLS# 7533</u>
Net Adj. (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ <u>10,000</u>	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ <u>30,000</u>	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ <u>50,000</u>
Indicated Value of Subject		\$ <u>170,000</u>	\$ <u>169,000</u>	\$ <u>170,000</u>

Comments on Market Data: Comp#1 is located in Kealahou Ranch Lots, is larger site, 1 pole from power & catchment water, inferior access (narrow single lane road, easement from Koa Rd to subject is gravel, mac nuts on site). Comp#2 is located in McCoy Plantation & is considered similar for view, access & utilities but smaller. Comp#3 is new subd off Napoopoo Rd, larger site, superior view, some rambutan (fruit) planted
 Comments and Conditions of Appraisal: This appraisal is a complete summary appraisal report completed for gifting purposes and not intended for any other use. Appraisal assumes rectangular shape as end use. Zoning of subject is A-1A, but because of assumption regarding shape, appraisal does not reflect subdivision potential

Final Reconciliation: Market approach is the best indicator of value for the subject as it represents actions of buyers & sellers in the open market. No cost approach due no buildings. No income approach because raw land not typically bought & sold for its income potential

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF August 11 19 99 to be \$ 170 000
 Appraiser(s) Joelle Baird/Larry R. Baird Review Appraiser (if applicable) Did Did Not Physically Inspect Property

COUNTY OF HAWAII
 REAL PROPERTY ASSESSMENT DIV.
 865 PIILANI STREET
 HILO, HAWAII 96720-4679

ADDRESS SERVICE REQUESTED

FIRST-CLASS MAIL
 U.S. POSTAGE PAID
 HONOLULU, HAWAII
 PERMIT No. 59

8-1-004-003-0000

NOTICE OF PROPERTY ASSESSMENT - 1999

THIS IS NOT A BILL

RP-2	ASSESSED VALUATION			TAX KEY NUMBER					
	VALUE	EXEMPTION	NET TAXABLE	Z	S	PLAT	PARCEL	CPR	TEND
BLDG	0	0	0	8	1	004	003	0000	001
LAND	1,031,100	0	1,031,100						
TOTAL	1,031,100	0	1,031,100						
FEE OWNER			GENERAL LAND CLASS		CONSERVATION				
* 1250 OCEANSIDE PARTNERS					LAND AREA 114.570 A				

Received
 LESSEE/ASSIGNEE
 MAR 16 1999

1250 OCEANSIDE PARTNERS
 OCEANSIDE 1250, STE 200
 74-5620 A PALANI ROAD
 KAILUA-KONA, HI 96740

Please detach at perforation before mailing.

ONLY RETURN POSTCARD FOR EXEMPTION OR ADDRESS CHANGE

A property owner who is currently receiving an exemption has the legal duty of reporting any change in the status, ownership, or use of the property to the Assessor.

Tax Key Number: 8-1-004-003-0000 001 COUNTY OF HAWAII

Property Address: 81 6599 MAMALAHOA HWY

1. Notice of change in exemption status. (Please complete the following):

The above property has been sold / leased rented vacated

Date of change: _____

I understand that the filing of this card voids the claim for exemption previously filed by me.

2. Notice of change of mailing address. (Please complete the following): **Please Print.**

NAME _____

ADDRESS _____

CITY / STATE / ZIP _____

COUNTRY (Foreign) _____

SIGNATURE _____ DAYTIME PHONE () _____

09/14/1999

99SEP-POLI

fair share police

43,952.40

0.00

9681

43,952.40

CHECK: 009681 09/15/1999 Director of Finance

43,952.40

1250 OCEANSIDE PARTNERS

OPERATING ACCOUNT
78-6831 ALII DR., STE. K15
KAILUA KONA, HI 96740
(808) 324-1500

BANK OF HAWAII
KAILUA-KONA BRANCH 057
KAILUA-KONA, HAWAII 96740
59-102-1213

9681

009681

*FORTY-THREE THOUSAND NINE HUNDRED FIFTY-TWO AND 40 / 100

DATE

AMOUNT

09/15/1999

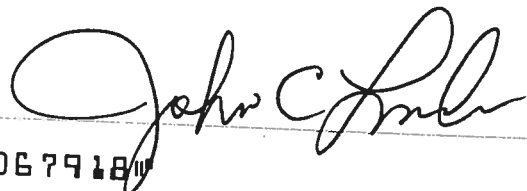
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Director of Finance

01-DOFPLAN

009681

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Security features included. Details on back.

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THE

9680

09/14/1999

99SEP-FIRE

fair share fire

86.811.21

0.00

86.811.21

CHECK: 009680 09/15/1999 Director of Finance

86,811.21

1250 OCEANSIDE PARTNERS

OPERATING ACCOUNT
78-6831 ALII DR., STE. K15
KAILUA KONA, HI 96740
(808) 324-1500

BANK OF HAWAII
KAILUA-KONA BRANCH 057
KAILUA-KONA, HAWAII 96740
59-102-1213

9680

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*EIGHTY-SIX THOUSAND EIGHT HUNDRED ELEVEN AND 21 / 100

DATE

AMOUNT

09/15/1999

****86,811.21*

PAY
THE
ORDER
OF

Director of Finance

01-DOFPLAN

009680

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09/14/1999

99SEP-SOLI

fair share solid waste

38,006.82

0.00

38,006.82

CHECK: 009682 09/15/1999 Director of Finance

38,006.82

1250 OCEANSIDE PARTNERS

OPERATING ACCOUNT
78-6831 ALII DR., STE. K15
KAILUA KONA, HI 96740
(808) 324-1500

BANK OF HAWAII
KAILUA-KONA BRANCH 057
KAILUA-KONA, HAWAII 96740
59-102-1213

9682

009682

*THIRTY-EIGHT THOUSAND SIX AND 82 / 100

DATE

AMOUNT

09/15/1999

****38,006.82*

PAY
THE
ORDER
OF

Director of Finance

01-DOFPLAN

009682

⑈009682⑈ ⑆121301028⑆ 0057⑈067918⑈

O. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation , fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed lots in each such increment. The fair share contribution for each lot, except for lots larger than ten acres in size or which are committed exclusively for golf course and park purposes, shall be based on the maximum allowable density of building sites as determined by the zoning of such lot. The fair share contribution in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies shall have a maximum combined value of \$7,239.16 per lot. Based upon the applicant's representation of intent to subdivide and develop up to 400 lots, the indicated total fair share contribution is \$2,895,664.00, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition O.

The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot, for an indicated total of \$1,396,340.00 to the County to support park recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of \$67,360.00 to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of \$133,044.00 to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of \$58,248.00 to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of \$1,240,672.00 to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute improvements/facilities related to park and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The cost of constructing the improvements required in Conditions J, K and M shall

be credited against the sum specified in Condition O(4) for solid waste facilities, Condition O(1) for parks and recreation, and in Condition O(5) for road and traffic improvements. For purposes of administering Condition O, the value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be such amount as approved by the Planning Director, upon consultation with the appropriate agencies.

- P. Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, State Department of Education and the Department of Water Supply.
- Q. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- R. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

- (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service;
- (2) if it provides a source of income to the person(s) who reside on the property; or
- (3) if the property is dedicated for agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the State Bureau of Conveyances and a copy of the recorded deeds shall be filed with the Planning Department within one year from the date of Final Subdivision Approval.

Each approved lot must comply with at least one of the above requirements to satisfy the conditions of approval of this ordinance;

~~(Q)~~(S)

Restrictive covenants in the deeds of all the proposed lots shall prohibit the construction of a second dwelling unit on each lot; provided that this shall not preclude the construction of a guest house as defined under Chapter 25 of the Hawaii County Code. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to final subdivision approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the county and recorded with the Bureau of Conveyances likewise prior to final subdivision approval;

ORD. 96-8

~~(R)~~(T)

[The Applicant shall pay its fair share contribution to address potential regional impacts of the subject property with respect to park, fire, police, solid waste disposal facilities, sewer and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the agricultural lot counts are adjusted. The fair share contributions described below shall be adjusted annually based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution for each agricultural zoned lot of the subject property less than ten acres in size shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities, or

any combination thereof shall have a maximum combined value of \$ 4,701,205.74. In lieu of paying the fair share contribution, the applicant may construct such improvements/facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies).

Any contributions required by this ordinance that exceed the fair share requirement of this proposed development shall, at the applicant's request be credited towards any of the applicant's future developments that require infrastructural impact contributions;]

The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed lots in each such increment. The fair share contribution for each lot, except for lots larger than ten acres in size or which are committed exclusively for golf course and park purposes, shall be based on the maximum allowable density of building sites as determined by the zoning of such lot. The fair share contribution in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies shall have a maximum combined value of \$7,239.16 per lot. Based upon the applicant's representation of intent to subdivide and develop up to 400 lots, the indicated total fair share contribution is \$2,895,664.00, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition O. The fair share contribution shall be allocated as follows:

- (1) \$3,490.85 per lot, for an indicated total of \$1,396,340.00 to the County to support park and recreational improvements and facilities;

- (2) \$168.40 per lot, for an indicated total of \$67,360.00 to the County to support police facilities;
- (3) \$332.61 per lot, for an indicated total of \$133,044.00 to the County to support fire facilities;
- (4) \$145.62 per lot, for an indicated total of \$58,248.00 to the County to support solid waste facilities;
- (5) \$3,101.68 per lot, for an indicated total of \$1,240,672.00 to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the planning director. The cost of constructing the improvements required in Conditions H, K and L shall be credited against the sum specified in Condition R(1) for parks and recreation, Condition R(4) for solid waste facilities, and in Condition R(5) for road and traffic improvements. For purposes of administering Condition R, the value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be such amount as approved by the Planning Director, upon consultation with the appropriate agencies.

[(U) The Applicant shall conform, to the best extent practicable, with the guidelines as provided within the Strategies for Energy Efficient Architecture by Hawaiian Design and the State Model Energy Code, in the construction of dwellings within the subject property;]

(S)[(T)] In the event that the State Department of Education adopts an educational facilities impact fee program, the applicant shall participate in the requirements of the program;