

COUNCIL OF THE COUNTY OF MAUI

PLANNING AND LAND USE COMMITTEE

July 9, 2004

Committee
Report No. 04-106

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

Chair and Members:

Your Planning and Land Use Committee, having met on July 1, 2003, makes reference to the following:

1. A Miscellaneous Communication dated September 24, 2001, from the County Clerk, referring the matter relating to the Community Plan designation of approximately 5.17 acres in Kihei, identified for real property tax purposes as TMK: 3-9-001:157, to the Land Use Committee; and
2. General Communication No. 02-1, from Doyle G. Betsill, President, Kenranes, Ltd., requesting a Community Plan Amendment (from Park to Multi-Family) for approximately 7 acres in Kihei, identified for real property tax purpose as TMK: 3-9-001:162.

Your Committee notes that the Miscellaneous Communication was referred to the prior Council's Land Use Committee as recommended by Committee Report No. 01-172, adopted by the Council on September 21, 2001. As stated in Committee Report No. 01-172, the Council's denial of a requested Change in Zoning from A-1 Apartment and R-1 Residential District to B-2 Community Business District left the zoning for the 5.171-acre parcel inconsistent with the property's Business/Commercial designation in the Kihei-Makena Community Plan.

Your Committee further notes that the Land Use Committee reported on this matter by Committee Report No. 02-2, adopted by the Council on January 11, 2002. Pursuant to the recommendation of Committee Report No. 02-2, the Council adopted Resolution No. 02-2, entitled "REFERRING A PROPOSED BILL AMENDING THE KIHEI-MAKENA COMMUNITY PLAN FOR PROPERTY IN THE "KA ONO ULU" AREA OF KIHEI, MAUI, HAWAI'I TO THE MAUI PLANNING COMMISSION". The proposed bill amends the Kihei-Makena Community Plan Land Use Map from Business/Commercial to Single-Family and

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Multi-Family for the 5.171-acre parcel. Your Committee notes that the Maui Planning Commission recommended approval of the proposed bill on March 25, 2002.

In addition, your Committee notes that General Communication No. 02-1 was referred to the prior Council's Land Use Committee on February 15, 2002.

By correspondence dated February 21, 2002, Councilmember Charmaine Tavares requested background information regarding the land use history of the subject property.

By correspondence dated February 28, 2002, Doyle G. Betsill, President, Kenranes, Ltd., inquired about the Committee's plans for considering the Community Plan Amendment for the 7.001-acre parcel.

By correspondence dated April 10, 2002, the Council Chair transmitted correspondence dated April 3, 2002, from the Planning Director, transmitting documents relating to the Maui Planning Commission's recommended approval of the proposed Community Plan Amendment for the 5.171-acre parcel.

By correspondence dated July 26, 2002, the Acting Council Chair transmitted correspondence dated July 23, 2002, from the Planning Director, transmitting the minutes of the Maui Planning Commission's meeting of March 25, 2002, when the proposed Community Plan Amendment for the 5.171-acre parcel was discussed.

By correspondence dated October 4, 2002, the Chair of the Committee transmitted the following:

1. A draft resolution entitled "REFERRING A PROPOSED BILL AMENDING THE KIHEI-MAKENA COMMUNITY PLAN FOR 7 ACRES IN KIHEI, MAUI, HAWAII TO THE MAUI PLANNING COMMISSION". The purpose of the draft resolution is to refer to the Maui Planning Commission a draft bill amending the Kihei-Makena Community Plan Land Use Map from Park to Multi-Family for approximately 7 acres situated at Kihei, Maui, Hawaii (TMK: 3-9-001:162), pursuant to Sections 8-8.4 and 8-8.6 of the Charter of the County of Maui.

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2. A draft bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN LAND USE MAP FROM PARK TO MULTI-FAMILY FOR APPROXIMATELY 7 ACRES SITUATED AT KIHEI, MAUI, HAWAII". The purpose of the draft bill is to restore the subject property's prior designation of Multi-Family.

By correspondence dated October 10, 2002, the Committee received written testimony from Gary W. Zakian, Esq., on behalf of Kenranes, Ltd., in support of the draft resolution. He asserted the following: (1) the proposed Community Plan Amendments for the 5.171-acre parcel and the 7.001-acre parcel should be considered simultaneously because they have been linked in Kihei land-use plans for several years; (2) the Kihei community has consistently supported redesignation of the 7.001-acre parcel from Park to Multi-Family; and (3) the 7.001-acre parcel should not be designated Park because the Department of Parks and Recreation has not accepted dedication of the parcel for park purposes.

Your Committee notes that the prior Council's Land Use Committee met on this matter on October 14, 2002.

At its meeting, the Land Use Committee met with the Planning Director, the Deputy Planning Director, the Administrative Planning Officer from the Department of Planning, a Staff Planner from the Department of Planning, the Director of Public Works and Waste Management, and the First Deputy Corporation Counsel.

The Committee received verbal testimony from Doyle G. Betsill, President, Kenranes, Ltd., in support of the draft resolution. He referred the Committee to the assertions in Mr. Zakian's written testimony.

The Staff Planner provided background information on the 7.001-acre parcel.

The Committee discussed the County Administration's apparent lack of interest in using the 7.001-acre parcel for park purposes, the possible benefit of jointly considering the community plan designations for both parcels, and the Council's capability of further considering this matter after receiving the Maui

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Planning Commission's recommendation. The Committee voted to recommend adoption of the draft resolution.

By correspondence dated October 21, 2002, the Chair of the Committee requested that the Department of Planning provide two exhibits to be attached to the draft bill, a description of the property and Community Plan Map No. CP-519, by October 31, 2002. These exhibits were required before the draft resolution (attaching the draft bill) could be submitted to the Department of the Corporation Counsel for approval as to form and legality.

By correspondence dated October 29, 2002, the Planning Director stated that the requested exhibits would not be transmitted by October 31, 2002.

By correspondence dated November 7, 2002, the Planning Director noted that a site inspection and a review of records revealed that the subject area is subject to inundation during heavy rains and is the site of wetlands as determined by the United States Army Corps of Engineers. The Planning Director also transmitted photographs of the subject area.

By correspondence dated December 9, 2002, the Planning Director transmitted the requested exhibits. Your Committee notes that this correspondence was not received by the Office of Council Services until December 11, 2002, the day after the agenda was posted for the last Council meeting of the 2001-2003 Council term (held on December 17, 2002). Therefore, the Land Use Committee was unable to issue a report recommending adoption of the draft resolution prior to the expiration of the Council term.

At its meeting of January 10, 2003, the Council referred the Miscellaneous Communication dated September 24, 2001, and General Communication No.02-1 to your Planning and Land Use Committee (County Communication No. 03-10).

At its meeting, your Committee met with the Planning Director, the Administrative Planning Officer from the Department of Planning, a Staff Planner from the Department of Planning, the Deputy Director of Public Works and Environmental Management, and the Corporation Counsel.

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Your Committee received verbal testimony from Gary W. Zakian, Esq., on behalf of Kenranes, Ltd. He urged your Committee to recommend adoption of the draft resolution, as the prior Council's Land Use Committee did on October 14, 2002.

The Staff Planner provided background information on the 7.001-acre parcel.

Your Committee noted that Community Plan Map No. CP-519, attached to the draft bill, was technically inadequate. Your Committee voted to revise the draft resolution to incorporate a corrected Community Plan Map and other technical revisions. Your Committee voted to recommend adoption of the draft resolution, as revised.

Your Committee reviewed the proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN LAND USE MAP FROM BUSINESS/COMMERCIAL TO SINGLE-FAMILY AND MULTI-FAMILY FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII". The purpose of the proposed bill is to amend the Kihei-Makena Community Plan Land Use Map from Business/Commercial to Single-Family and Multi-Family for approximately 5.171 acres in Kihei, identified for real property tax purposes as TMK: 3-9-001:157. Your Committee determined that it would be appropriate to jointly consider legislation on the community plan designations for both the 7.001-acre parcel and the 5.171-acre parcel at the same meeting. Therefore, your Committee deferred consideration of the proposed bill on the 5.171-acre parcel pending receipt of the Maui Planning Commission's comments on the 7.001-acre parcel.

Your Committee is in receipt of a proposed resolution retitled "REFERRING A DRAFT BILL AMENDING THE KIHEI-MAKENA COMMUNITY PLAN FOR 7.001 ACRES IN KIHEI, MAUI, HAWAII, TO THE MAUI PLANNING COMMISSION", incorporating your Committee's revisions. The purpose of the proposed resolution is to refer to the Maui Planning Commission an attached draft bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN LAND USE MAP FROM PARK TO MULTI-FAMILY FOR APPROXIMATELY 7.001 ACRES SITUATED AT KIHEI, MAUI, HAWAII", pursuant to Sections 8-8.4 and 8-8.6 of the Charter of the

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County of Maui. The purpose of the draft bill is to restore the subject property's prior designation of Multi-Family.

Your Planning and Land Use Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "REFERRING A DRAFT BILL AMENDING THE KIHEI-MAKENA COMMUNITY PLAN FOR 7.001 ACRES IN KIHEI, MAUI, HAWAII, TO THE MAUI PLANNING COMMISSION", be ADOPTED.

Adoption of this report is respectfully requested.

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