

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002

**Committee
Report No.**

02-42

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

Chair and Members:

Your Land Use Committee, having met on January 7, 2002 and January 28, 2002, makes reference to County Communication No. 01-287, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO R-2 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII".

The purpose of the proposed bill is to conditionally change the zoning from Agricultural to R-2 Residential to facilitate the construction of a subdivision consisting of 25 single-family lots on approximately 6.058 acres of land located at Waikapu, Maui (TMK: 3-5-4:95).

2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO SINGLE FAMILY RESIDENTIAL FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII".

The purpose of the proposed bill is to change the community plan designation from Agriculture to Single Family Residential to facilitate the construction of a 25-lot residential subdivision on approximately 6.058 acres of land located at Waikapu, Maui (TMK: 3-5-4:95).

3. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 2

Committee
Report No. 02-42

AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT
WAIKAPU, WAILUKU, MAUI, HAWAII”.

The purpose of the proposed bill is to enact a State District Boundary Amendment, from Agricultural to Urban, to facilitate the construction of a 25-lot residential subdivision on approximately 6.058 acres of land located at Waikapu, Maui (TMK: 3-5-4:95).

Your Committee notes that, if enacted, the proposed bills would approve a land-use application submitted by Scott Nunokawa and Haunani Lemn (the developers) to facilitate development of the proposed “Waiolani Elua” residential subdivision in the Waiolani neighborhood of Waikapu in Central Maui.

Your Committee further notes that the Maui Planning Commission held a public hearing on the developers’ application on July 10, 2001. At the hearing, two members of the public testified in opposition to the application because of their preference that the subject property be used for park purposes.

Your Committee further notes that at its meeting of July 10, 2001, the Maui Planning Commission, after reviewing the findings presented in the documents entitled “MAUI PLANNING DEPARTMENT’S RECOMMENDATIONS REPORT TO THE MAUI PLANNING COMMISSION JULY 10, 2001 MEETING”, and MAUI PLANNING DEPARTMENT’S REPORT TO THE MAUI PLANNING COMMISSION JULY 10, 2001 MEETING”, voted to recommend approval of the proposed bills subject to the following conditions:

1. Honoapiilani Highway at the intersection of Pilikana Street shall be re-striped to accommodate a left turn storage lane. Said striping shall be in accordance with the Department of Transportation, Highway Division standards.
2. No direct access from the project site to Honoapiilani Highway shall be allowed.
3. In keeping with the Department of Housing and Human Concerns housing policy, the developers shall enter into an affordable housing agreement which earmarks 10 percent of the project’s units

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 3

Committee
Report No. 02-42

as affordable or shall provide an in lieu payment to the Department of Housing and Human Concerns.

4. The applicant shall participate in required infrastructural improvements for water, sewers, drainage, and roadway/traffic as determined by the appropriate County agencies to mitigate impacts resulting from the proposed development.
5. Prior to clearing the project site, appropriate measures shall be taken to eradicate pests and rodents in accordance with the Department of Health, Vector Control rules.

Your Committee further notes that the recommendation of the Maui Planning Commission was based upon the following findings:

1. The applicant has submitted all the necessary information for the Community Plan Amendment application.
2. The proposed application complies with the applicable standards for a State Land Use Commission District Boundary Amendment.
3. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the County.
4. The proposed request is consistent with the applicable community plan land use map of the County.
5. The proposed request meets the intent and purpose of the district being requested.
6. The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 4

Committee
Report No. 02-42

7. The application, if granted, would not adversely impact the social cultural, economic, environmental, and ecological character and quality of the surrounding area.

By memorandum dated December 13, 2001, the Chair of your Committee transmitted a letter from the developers, dated December 5, 2001, providing a summary of their application's compliance with Subsection 19.510.010(D), Maui County Code.

By letter dated December 31, 2001, the Chair of your Committee requested that the Director of Parks and Recreation attend the meeting scheduled for January 7, 2002.

By letter dated December 31, 2001, the Chair of your Committee requested that a representative of the State Department of Transportation attend the meeting scheduled for January 7, 2002.

By letter dated January 2, 2002, the Chair of your Committee requested that the Department of Planning transmit the project's Environmental Assessment and Traffic Impact Analysis Report.

At its meeting of January 7, 2002, your Committee met with Ferdinand Cajigal, Co-Acting District Engineer, Maui District, DOT; the Director of Housing and Human Concerns; the Director of Public Works and Waste Management; the Chief of Planning and Development, Department of Parks and Recreation; a Staff Planner, Department of Planning; the Planning Director; and a Deputy Corporation Counsel.

Your Committee received the following documents:

1. Printed copy of the developers' computer-generated slide show (submitted by the developers);
2. Preliminary Subdivision Plat map (submitted by the developers);
3. Chapter 19.510, Maui County Code, "Application and Procedures" (submitted by the Chair of your Committee); and

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 5

Committee
Report No. 02-42

4. Facsimile letter dated May 2, 2001, from Neal S. Fujiwara, District Conservationist, United States Department of Agriculture, regarding drainage for the proposed development (submitted by the Staff Planner).

Your Committee received public testimony in support of the proposed bills from Ed Lindsey, David Jorgensen, and Buck Buchanan. The testifiers made the following points:

- The developers have a community reputation for integrity.
- The projected sales prices for homes in the proposed subdivision appear to be within a range that will be accessible to many current Maui families. The proposed housing, therefore, fulfills a community need.
- The project is appropriate for its location (in part because it is contiguous to the Wailuku urban core and another residential development) and reflects sound land-use planning.

The developers presented a computer-generated slide show, exhibiting maps and photographs of the project site and providing the following information:

- Each of the project's 25 residential lots will have a minimum lot size of 7,500 square feet.
- Assuming enactment of the proposed bills, final subdivision approval is anticipated for the summer or fall, with sales to commence shortly thereafter.
- All required reports have been completed, and most necessary infrastructure is in place.
- After purchasing the property in June 1999 from Wailuku Agribusiness, the developers have been in communication with the Waiolani Community Association board of directors regarding the project's impacts on the surrounding neighborhood.
- Demographic and economic studies indicate that there is a community need for the project, which will provide a "unique and desirable product for home buyers."

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 6

Committee
Report No. 02-42

- The project is “desirable growth” because “it is near an urban core, contiguous to urban growth, planned for in the 1990 community plan update, and requires minimal infrastructural growth.

Your Committee asked the developers to address concerns about the projects impact on the `lao Aquifer. They informed your Committee that they assumed and hoped that water from the `lao Aquifer would be available to support the project, but that they did not have sufficient information to accurately respond to your Committee’s question.

In response to your Committee’s question, the developers informed your Committee that the Department of Parks and Recreation had recommended that they make an “in-lieu” cash payment to satisfy an otherwise applicable requirement to provide property for park uses.

Your Committee noted that the State Historic Preservation Division (SHPD) had not conducted an on-site archaeological inventory survey of the subject property. In response to your Committee’s question, the Deputy Corporation Counsel informed your Committee that the SHPD was not required to conduct such a survey.

Your Committee expressed concern about the subject property’s prior agricultural uses and inquired about the possible remaining presence of chemicals or other hazardous materials arising from pesticides. The developers indicated that they had not conducted soil testing, but noted that the adjacent property (which had also been used for agriculture) included residential uses and lacked any apparent pesticide-related health hazards. They also noted that the subject property had been fallow for nearly ten years.

Your Committee expressed concern about the lack of recreational resource in the neighborhood encompassing the project, except for a community center and ball field on the opposite of heavily traveled Honoapiilani Highway, which lacks a signalized crosswalk in the area. The developers said that they would have to raise the projected sales prices for their residential lots if they were required to use part of their property for park uses. The payment of an in-lieu fee would be a more practical way of fulfilling their recreational obligations, they said.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 7

Committee
Report No. 02-42

In response to your Committee's question, the developers estimated that the sales prices for most of the lots would possibly be between \$100,000 and \$150,000, although various factors could change that.

In response to your Committee's question, the developers said they are committed to ensure that the constructed homes are consistent with design guidelines applicable in the Waiolani neighborhood and throughout Waikapu.

The Staff Planner provided an overview of the application and confirmed its compliance with applicable provisions of the Maui County Code.

Mr. Cajigal informed your Committee that traffic signals were not warranted on Honoapiilani Highway at the entrance to the proposed subdivision (Pilikana Street) or at the crosswalk leading to the community center and ball field on Waiko Road.

Your Committee expressed concern about potential ambiguities relating to the third proposed condition, referencing the Department of Housing and Human Concerns housing policy, because the policy has not been enacted by ordinance.

In response to your Committee's questions, the Director of Public Works and Waste Management indicated that traffic safety in the area would be monitored, that the County had sufficient wastewater capacity for the project, and that there was no indication that the project would create drainage problems.

Your Committee deferred action pending further discussion.

By memorandum dated January 11, 2002, the Chair of your Committee requested that the Department of the Corporation Counsel provide confirmation of the verbal opinion that the SHPD was not required by State or Federal Law to conduct an on-site archaeological inventory survey of the subject property.

By letter dated January 22, 2002, the Chair of your Committee requested that a representative of the State Department of Transportation attend the meeting scheduled for January 28, 2002.

At its meeting of January 28, 2002, your Committee met with the Director of Water Supply; a Water Resources Planner, Department of Water Supply; the

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 8

Committee
Report No. 02-42

Director of Public Works and Waste Management; the Director of Housing and Human Concerns; the Director of Parks and Recreation; the Deputy Planning Director; a Staff Planner, Department of Planning; and two Deputy Corporation Counsel.

The Director of Parks and Recreation informed your Committee that the County would be interested in developing a 3-5 acre active park in the Waiolani neighborhood to fit the community's needs (preferably on the mauka side of Honoapiilani Highway) and that park-assessment revenues provided by the developers could facilitate such action. He also informed your Committee of the process by which the Department of Parks and Recreation (with the assistance of the Department of Finance and the Department of the Corporation Counsel) will apply Section 18.16.320, Maui County Code, and determine the appropriate park assessment for this project prior to final subdivision approval.

In response to your Committee's question, the developers noted that, pursuant to the proposed affordable-housing condition, they plan to ensure that three affordable homes are built in their subdivision.

In response to your Committee's questions, the Director of Housing and Human Concerns informed your Committee that the developers had told her that they were committed to making three house-and-lot packages available for sale at below-market prices to qualified buyers, which she commended. She also said that she recommended that the affordable units be made available concurrently with the development of market units.

The developers noted that they felt that it was appropriate to offer affordable house-and-lot packages even though the project's market elements would include only lot sales. They also acknowledged that any affordable-housing requirements imposed by the Council would result in rising prices for the market lots.

Your Committee had a lengthy discussion on concerns relating to affordable housing, accessory dwelling units, water availability, and other elements of the project.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 9

Committee
Report No. 02-42

Your Committee voted to recommend that "EXHIBIT 'B'" of the proposed conditional-zoning bill be amended as follows:

1. In Condition 3, add the following: "No more than 12 lots may be sold until the three required affordable homes are constructed."
2. Add the following new condition: "That accessory dwelling units shall be permitted on not more than 12 lots."
3. Add the following new condition: "The Council cannot and does not guarantee that water necessary to support the proposed development and uses of the subject property will be available when requested."

Your Committee voted to recommend passage of the proposed bills (as revised to incorporate the above-referenced substantive amendments and technical amendments) on first reading and to file the communication.

Your Committee is in receipt of revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel, incorporating the revisions recommended by your Committee.

Your Committee is also in receipt of an agreement entitled "UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING", executed by the developers.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. _____ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO R-2 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII", PASS FIRST READING and BE ORDERED TO PRINT;
2. That Bill No. _____ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 10

Committee
Report No. 02-42

WAILUKU-KAHULUI COMMUNITY PLAN AND LAND USE MAP
FROM AGRICULTURE TO SINGLE FAMILY RESIDENTIAL FOR
PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII",
PASS FIRST READING and BE ORDERED TO PRINT;

3. That Bill No. _____ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY SITUATED AT WAIKAPU, WAILUKU, MAUI, HAWAII", PASS FIRST READING and BE ORDERED TO PRINT;
4. That the County Clerk RECORD the UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING; and
5. That County Communication No. 01-287 be FILED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 15, 2002
Page 11

Committee
Report No. 02-42

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