

COUNCIL OF THE COUNTY OF MAUI  
**LAND USE COMMITTEE**

September 24, 2002

**Committee**  
**Report No.** 02-130

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

Chair and Members:

Your Land Use Committee, having met on July 29, 2002 and August 12, 2002 (site inspection and meeting), makes reference to County Communication No. 02-116, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM DISTRICT TO RESIDENTIAL R-3 DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PAPAANUI, HONUULA, MAKAWAO, MAUI, HAWAII".

The purpose of the proposed bill is to conditionally change the zoning from Interim to R-3 Residential for approximately 2.352 acres in Makena, designated as TMK: 2-1-007:103, Papaanui, Honuula, Makawao, Maui, as requested by Ulupalakua Ranch, Inc. and recommended by the Maui Planning Commission.

Your Committee notes that the Maui Planning Commission met to consider the requested change in zoning on January 22, 2002 and March 12, 2002.

Your Committee further notes that the Maui Planning Commission, on March 12, 2002, after reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION JANUARY 22, 2002 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION JANUARY 22, 2002 MEETING", voted to recommend approval of the requested change in zoning, subject to the following conditions:

1. That the applicant provide for lateral public shoreline access along the entire oceanfront length of the property. Said access shall be offered for dedication to the County of Maui.

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2. That the use of walls higher than four feet shall be prohibited in the roadway front-yard setbacks especially in areas where view corridors can be blocked.
3. That the applicant shall participate in a future traffic impact fee for traffic and roadway improvements in Kihei-Makena district. Said fee shall be established and implemented in accordance with Chapter 14.68, Maui County Code.

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

1. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the County.
2. The proposed request is consistent with the applicable community plan land use map of the County.
3. The proposed request meets the intent and purpose of the district being requested.
4. 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.
5. The application, if granted, would not adversely impact the social cultural, economic, environmental, and ecological character and quality of the surrounding area.

By correspondence dated July 1, 2002, the Chair of your Committee transmitted correspondence dated July 1, 2002, from C. Earl Stoner, Jr., representing Ulupalakua Ranch, Inc., transmitting photographs exhibiting beach access at the subject property.

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At its meeting of July 29, 2002, your Committee met with the Director of Public Works and Waste Management; the Deputy Planning Director; a Staff Planner from the Department of Planning; two Deputy Corporation Counsel; and C. Earl Stoner, Jr., representing Ulupalakua, Ranch, Inc.

Your Committee received the following: (1) written testimony from Mr. Stoner in support of the proposed bill; and (2) correspondence dated July 29, 2002, from Councilmember Wayne K. Nishiki, requesting a site inspection.

Your Committee received verbal testimony from Sean Lester, Rob Parsons, and Christina Hemming expressing concerns about the potential impacts of proposed development on the subject property, primarily relating to traffic and protection of the shoreline.

Mr. Stoner and the Staff Planner provided an overview of the proposed bill.

Your Committee deferred consideration of the proposed bill pending a site inspection.

By correspondence dated July 31, 2002, the Acting Council Chair transmitted minutes of the Maui Planning Commission's meeting of March 12, 2002.

By correspondence dated August 9, 2002, the Chair of your Committee transmitted a copy of a Land Court order relating to the subject property.

At its site inspection of August 12, 2002, your Committee met with a Staff Planner from the Department of Planning and C. Earl Stoner, Jr., representing Ulupalakua, Ranch, Inc. Your Committee received public testimony from three Makena residents regarding shoreline access in the area. Your Committee examined the subject property and the surrounding area, including the coastline.

Your Committee deferred consideration of the proposed bill pending a later meeting in the Council Chamber.

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At its meeting, your Committee met with the Director of Public Works and Waste Management; the Deputy Planning Director; a Staff Planner from the Department of Planning; the First Deputy Corporation Counsel; and C. Earl Stoner, Jr., representing Ulupalakua Ranch, Inc.

Your Committee engaged in a lengthy discussion with Mr. Stoner and County officials regarding concerns about infrastructure and shoreline access. Your Committee also noted the importance of preserving view planes in the area, which is the basis for the first condition to the proposed bill.

Your Committee voted to revise the proposed bill to add a new condition prohibiting the operation of short-term rentals (unless an appropriate change in zoning or permit is obtained) and to revise other conditions to provide more precise and comprehensive wording. Subject to those revisions, your Committee voted to recommend passage of the proposed bill on first reading and filing of County Communication No. 02-116.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM DISTRICT TO RESIDENTIAL R-3 DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PAPAANUI, HONUAULA, MAKAWAO, MAUI, HAWAII", incorporating the revisions recommended by your Committee and technical revisions.

Your Committee is also in receipt of a Unilateral Agreement and Declaration for Conditional Zoning, executed by Ulupalakua Ranch, Inc.

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 INTERIM DISTRICT TO RESIDENTIAL R-3 DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PAPAANUI, HONUAULA, MAKAWAO, MAUI, HAWAII", PASS FIRST READING and BE ORDERED TO PRINT;

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2. That the County Clerk RECORD the Unilateral Agreement and Declaration for Conditional Zoning; and
3. That County Communication No. 02-116 be FILED.

Adoption of this report is respectfully requested.

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**ALAN M. ARAKAWA** **Chair**

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**DANNY A. MATEO** **Member**

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**ROBERT CARROLL** **Member**

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**MICHAEL J. MOLINA** **Member**

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**G. RIKI HOKAMA** **Member**

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**WAYNE K. NISHIKI** **Member**

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**JO ANNE JOHNSON** **Member**

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**CHARMAINE TAVARES** **Member**

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**DAIN P. KANE** **Member**