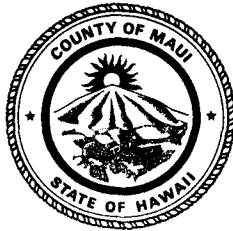


ALAN M. ARAKAWA  
Mayor



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DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
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July 11, 2013

MEMORANDUM

T O: Robert Carroll, Chair  
Land Use Committee

F R O M: James A. Giroux, Deputy Corporation Counsel

SUBJECT: CHANGE IN ZONING FOR 1476 SOUTH KIHEI ROAD, SITE OF  
KIHEI VETERINARY CLINIC (KIHEI) (LU-8)

In response to your memorandum of July 8, 2013, attached is the proposed bill, revised as requested, and approved as to form and legality.

If you have any questions or concerns, please do not hesitate to contact me.

JAG:ln  
Enclosure

S:\CLERICAL\LJN\CNCL\LandUseCommTrans.wpd

OFFICE OF THE  
COUNTY COUNCIL

2013 JUL 11 AM 10:35

RECEIVED

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL DISTRICT TO B-2 COMMUNITY BUSINESS DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT 1476 SOUTH KIHEI ROAD, KIHEI, MAUI, HAWAII

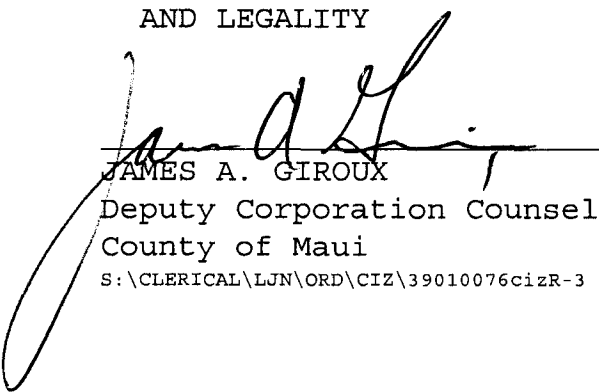
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.18 and 19.510, Maui County Code, a change in zoning from R-3 Residential District to B-2 Community Business District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Kihei, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2)3-9-010:076, comprising approximately 43,390 square feet, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-5115, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions set forth in Exhibit "B", attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY

  
\_\_\_\_\_  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

S:\CLERICAL\LJN\ORD\CIZ\39010076cizR-3 to B-2.wpd

EXHIBIT "A"

All of that certain parcel of land (being a portion of Grant 10933 to the heirs of Esther K. Crowell) situated approximately 5 feet Westerly from South Kihei Road and approximately 2 feet Southerly from Waiohuli Street, at Waiohuli-Keokea, District of Makawao, Island and County of Maui, State of Hawaii, being PARTITION LOT 3, being also a portion of Lot 16 of Waiohuli-Keokea Beach Lots, and more particularly described as follows:

Beginning at the Southeast corner of this piece of land, being also the Northeast corner of Partition Lot 4, and on the Westerly side of Roadwidening Partition Lot 8, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being 4,600.24 feet North and 23,266.45 feet West, and running by azimuths measured clockwise from South:

1. 82° 47' 40" 286.20 feet along Partition Lot 4;
2. 174° 04' 30" 151.75 feet along Partition Lot 5;
3. 262° 49' 10" 257.62 feet along Partition Lot 8;

Thence along said Partition Lot 8 on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:

4. 308° 56' 35" 43.25 feet;
5. 355° 04' 120.51 feet along said Partition Lot 8 to the point of beginning and containing an area of 43,390 square feet more or less.

Being all of the land conveyed to the Grantor herein by Deed from Richard Caldito and Steve Parker, Co-Commissioners, pursuant to an Order filed October 10, 1984, in the Circuit Court of the Second Circuit with Civil No. 4624 to Miriam O. Fendler, widow, Trustee of Fendler Enterprises, a Revocable Living Trust, dated January 9, 1980, as amended, with full power to sell, mortgage, etc., dated April 28, 1988, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 21880 on Page 791.

SUBJECT, HOWEVER, to the following:

1. Covenants, conditions and restrictions contained in the Deferred Improvement Agreement dated August 5, 1987, as set forth in Commissioners Deed dated April 28, 1988, and recorded in the said Bureau of Conveyances in Liber 21880 on Page 791.

2. Approval of said Subdivision by the County Planning Department of the County of Maui, State of Hawaii.

END OF EXHIBIT "A"

EXHIBIT "B"

CONDITIONS OF ZONING

1. That the existing wetlands be maintained.
2. That building heights be limited to a maximum of 45 feet.
3. That the permitted uses shall be limited to the following:
  - a. Florist shops;
  - b. One single-family dwelling per lot; provided that, the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;
  - c. Bed and breakfast homes, subject to the provisions of Chapter 19.64, Maui County Code;
  - d. Home occupations in single-family dwellings permitted pursuant to Subsection 19.16.020(P), Maui County Code (paragraph b, above);
  - e. Short-term rental homes, subject to the provisions of Chapter 19.65, Maui County Code;
  - f. Antique shops;
  - g. Art galleries;
  - h. Automobile parking lots and/or buildings;
  - i. Awning or canvas shops;
  - j. Catering establishments employing not more than five persons;
  - k. Charity relief organizations;
  - l. Clinics, medical or dental;
  - m. Custom dressmaking or millinery shops;
  - n. Dancing and hula studios;
  - o. Feed stores;
  - p. Haberdasheries and women's apparel shops;
  - q. Jewelry stores or fine art shops, including interior decorating;
  - r. Museums;
  - s. Music conservatories or music studios;
  - t. News and magazine stands;
  - u. Nursing and convalescent homes;

- v. Pet shops not involving the treatment or boarding of animals;
- w. Photo studios;
- x. Physical culture studios;
- y. Plumbing shops within wholly enclosed buildings and employing not more than five persons;
- z. Printing, lithography, or publishing shops;
- aa. Private clubs or fraternal organizations;
- bb. Professional and financial buildings;
- cc. Public parking areas;
- dd. Radio and television stations;
- ee. Religious, benevolent, and philanthropic societies;
- ff. Shoe stores;
- gg. Sign-painting shops within wholly enclosed buildings and employing not more than five persons;
- hh. Skating shops;
- ii. Tailor shops; and
- jj. Any other retail businesses or commercial enterprises that are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area; provided that, such uses shall be approved by the commission as conforming to the intent of Chapter 19.18, Maui County Code; and further provided that, those B-1 Neighborhood Business District and B-2 Community Business District-permitted uses as of the effective date of this ordinance, which have been specifically excluded by this ordinance, are hereby prohibited.