

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

October 17, 2008

**Committee  
Report No.**

08-128

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

Chair and Members:

Your Land Use Committee, having met on June 4, 2008, makes reference to County Communication No. 07-218, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5 RURAL DISTRICT ZONING FOR PROPERTY SITUATED AT HANA, MAUI, HAWAII". The purpose of the proposed bill is to grant a request from Wayne Arakaki, on behalf of the property owners, including Edith Marciel, for a Change in Zoning from Interim District to RU-0.5 Rural District on approximately 2.863 acres in Hana, Maui, Hawaii (TMK: (2) 1-4-06:020).

Your Committee notes that the Hana Advisory Committee (HAC) held a public hearing on the application on November 30, 2006.

Your Committee further notes that the HAC, after reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE HANA ADVISORY COMMISSION [*sic*] NOVEMBER 30, 2006 MEETING" (Department's Report), and the conclusions and recommendations presented in the document entitled "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE HANA ADVISORY COMMISSION [*sic*] NOVEMBER 30, 2006 MEETING" (Department's Recommendation), voted to recommend approval of the Change in Zoning on November 30, 2006.

By correspondence dated December 20, 2006, the Chair of the HAC transmitted to the Maui Planning Commission the Department's Report, the Department's Recommendation, and the draft minutes of the HAC's meeting of November 30, 2006.

Your Committee notes that the Maui Planning Commission held a public hearing on the Change in Zoning application on January 9, 2007.

Your Committee further notes that the Maui Planning Commission, after reviewing the findings presented in the Department's Report, the conclusions and recommendations presented in the Department's Recommendation, the HAC's

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correspondence, and the draft minutes of the HAC's meeting, voted to recommend approval of the Change in Zoning, without conditions, on January 9, 2007.

By correspondence dated November 15, 2007, Edward Pelekai, Edith Marciel's brother, requested that the application be scheduled.

By correspondence dated January 14, 2008, the Chair of your Committee requested that the Department of the Corporation Counsel incorporate technical revisions to the proposed bill.

By correspondence dated January 22, 2008, the Chair of your Committee requested that the Planning Director transmit copies of the letters of authorization from the owners of the property, authorizing Edith Marciel to pursue the subject Change in Zoning application.

By correspondence dated February 21, 2008, the Chair of your Committee noted that the Department of the Corporation Counsel had advised that the property description attached as Exhibit "A" to the proposed bill is legally insufficient. He further noted that the Department had advised that a metes and bounds description would be needed to appropriately process the application; or, if the property is Land Court property, that the Land Court description would be needed. The Chair requested that an appropriate property description be provided, along with a revised proposed bill.

By correspondence dated April 30, 2008, Paul Horikawa, Esq., attorney for Edith Marciel, transmitted a metes and bounds description of the property.

By correspondence dated May 9, 2008, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5 RURAL DISTRICT ZONING FOR PROPERTY SITUATED AT HANA, MAUI, HAWAII", incorporating an appropriate property description and other technical revisions.

At its meeting, your Committee met with the Planning Director; a Planner, Department of Planning; the Deputy Director of Public Works; and a Deputy Corporation Counsel. Your Committee also met with Edith Marciel, one of the property owners; Wayne Arakaki, Manager, Wayne I. Arakaki Engineer, LLC; and William Chang, Wayne I. Arakaki Engineer, LLC.

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Your Committee received public testimony from one member of the public in support of the revised proposed bill.

The Planner provided an overview of the application, including a history of Interim zoning in Maui County, generally, and in East Maui, particularly. She noted that enactment of the revised proposed bill would change the subject property's zoning designation from Interim to RU-0.5, which would provide consistency with the existing Single-Family community plan designation and allow for subdivision into two lots.

Your Committee noted the desirability of changing Interim zoning to a specific zoning designation and of providing consistency with the Hana Community Plan.

Your Committee voted to recommend passage of the revised proposed bill and filing of the communication.

Your Committee notes that, subsequent to its meeting, it received correspondence dated June 12, 2008, from the Department of Planning, transmitting copies of letters from four owners of the subject property, authorizing Wayne Arakaki "to apply for and obtain the necessary permits".

Noting that it appeared there were other owners who had not submitted letters of authorization, confirmation of the current owners of the property was requested from Paul Horikawa, Esq. By correspondence dated July 23, 2008, Mr. Horikawa provided a Status Report dated July 11, 2008, prepared by Title Guaranty of Hawaii, Incorporated, reflecting additional owners of the subject property. He further advised that the applicant is in the process of obtaining authorizations from the remaining owners; that the property had been the subject of a partition proceeding; and that some of the owners may refuse to sign authorizations for the Change in Zoning application.

By correspondence dated September 9, 2008, the Chair of your Committee requested an opinion from the Department of the Corporation Counsel as to whether the Council has the authorizations necessary to proceed with the proposed Change in Zoning.

By correspondence dated August 28, 2008 [sic], Paul Horikawa, Esq. transmitted documents entitled "Notarized Owner's Acknowledgment/Authorization to Subdivide" signed by six owners, dated September 18, 2008.

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By correspondence dated September 23, 2008, the Chair of your Committee in turn transmitted a copy of those authorizations to the Department of the Corporation Counsel.

By correspondence dated October 3, 2008, the Department of the Corporation Counsel advised that, based on the title report, the authorizations received, and the information provided by Mr. Horikawa and your Committee, all parties who appear to have an interest in the property have signed authorizations. Accordingly, the issue posed in the request for an opinion is now moot, and the Council may deliberate and act upon the subject Change in Zoning application.

Your Land Use Committee RECOMMENDS the following:

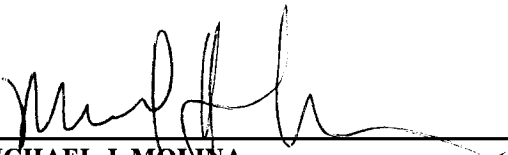
1. That Bill No. \_\_\_\_\_ (2008), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5 RURAL DISTRICT ZONING FOR PROPERTY SITUATED AT HANA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 07-218 be FILED.

Adoption of this report is respectfully requested.

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\_\_\_\_\_  
**MICHAEL J. MOLINA** Chair

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**JO ANNE JOHNSON** Member

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**JOSEPH PONTANILLA** Vice-Chair

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**DANNY A. MATEO** Member

\_\_\_\_\_  
**MICHELLE ANDERSON** Member

\_\_\_\_\_  
**BILL KAUAKEA MEDEIROS** Member

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**GLADYS C. BAISA** Member

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**MICHAEL P. VICTORINO** Member

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**G. RIKI HOKAMA** Member

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

BILL NO. \_\_\_\_\_ (2008)

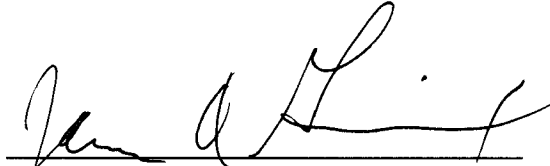
A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5  
RURAL DISTRICT ZONING FOR PROPERTY  
SITUATED AT HANA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapters 19.29 and 19.510, Maui County Code, RU-0.5 Rural District Zoning is hereby established for property situated at Hana, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number: (2) 1-4-006:020, comprising approximately 2.863 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-1612, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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DESCRIPTION

PARTITION OF GRANT 1982 TO KAHANANUI  
LOT 2

Being Lot 2 of the Partition of Grant 1982 to Kahananui, being a portion of Grant 1982 to Kahananui, situate at Kawaipapa, Hana, Island and County of Maui, State of Hawaii and more particularly described as follows:

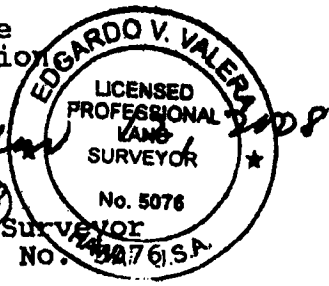
Beginning at a found 1/2 inch pipe at the southwest corner of this lot and along the east side of Hana Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUIKI", being 4,056.50 feet North and 4,500.04 feet West, and running by azimuths measured clockwise from true South (meridian of said "KAUIKI"); thence,

1. Along the east side of Hana Highway on a curve to the left with a radius of 2,322.52 feet and a central angle of 6° 16' 52", the chord azimuth and distance being  
157° 10' 45" 254.49 feet to a found 1/2 inch pipe; thence,
2. 269° 06' 20" 387.45 feet along Lot 1 of the Partition of Grant 1982 to Kahananui to a point; thence,
3. 281° 17' 10" 111.20 feet along the same to a point; thence,
4. 286° 08' 10" 108.90 feet along the same to a point; thence,
5. 274° 07' 40" 125.94 feet along the same to a point; thence,
6. 60° 47' 25" 535.30 feet along Lot 4-B-1 of Kawaipapa Subdivision to a point; thence,
7. 163° 21' 128.02 feet along Tax Map Key (2) 1-4-006:019 to a found 1/2 inch pipe; thence,
8. 71° 44' 130.64 feet along the same to the point of beginning and containing an area 2.863 acres, more or less.

EXHIBIT " A "

This work was prepared by me  
or under my direct supervision  
VALERA, INC.

*[Handwritten signature]*  
Edgardo V. Valera *Exp 4/08*



Licensed Professional Land Surveyor  
State of Hawaii Certificate No. *5076 S.A.*  
End of description.  
5402Lt2