

Resolution

No. 22-149

REFERRING TO THE MAUI PLANNING
COMMISSION PROPOSED BILLS TO AMEND
THE KIHEI-MAKENA COMMUNITY PLAN LAND
USE DESIGNATION TO MF MULTI-FAMILY AND
OPEN SPACE AND CHANGE THE ZONING TO
A-1 APARTMENT DISTRICT FOR REAL
PROPERTY SITUATED AT KIHEI, MAUI, HAWAII,
TAX MAP KEYS (2) 2-1-023:004,
(2) 2-1-023:005, AND (2) 2-1-023:006
(WAILEA POINT VILLAGE)

WHEREAS, the Council is considering a Community Plan Amendment bill to amend the Kihei-Makena Community Plan land use designation from Hotel to MF Multi-Family and Open Space and a Change in Zoning bill to change the zoning from H-1 Hotel District and H-2 Hotel District to A-1 Apartment District for that certain real property situated in Kihei, Maui, Hawaii, identified for Real Property Tax purposes as tax map keys (2) 2-1-023:004, (2) 2-1-023:005, and (2) 2-1-023:006, cumulatively comprising 26.36 acres (Wailea Point Village); and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and amendments and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the Community Plan Amendment bill, entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN LAND USE DESIGNATION FROM HOTEL TO MF MULTI-FAMILY AND OPEN SPACE FOR 26.36 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEYS (2) 2-1-023:004, (2) 2-1-023:005, AND (2) 2-1-023:006 (WAILEA POINT VILLAGE)," a copy of which is attached as Exhibit "1," to the Maui Planning Commission for appropriate action, in accordance with Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;

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2. That it refers the Change in Zoning bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE THE ZONING FROM H-1 HOTEL DISTRICT AND H-2 HOTEL DISTRICT TO A-1 APARTMENT DISTRICT (CONDITIONAL ZONING) FOR 22.03 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEYS (2) 2-1-023:004, (2) 2-1-023:005 (POR.), AND (2) 2-1-023:006 (POR.) (WAILEA POINT VILLAGE)," a copy of which is attached as Exhibit "2," to the Maui Planning Commission for appropriate action, in accordance with Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
3. That it respectfully requests the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible after receiving advice from the South Maui Advisory Committee;
4. That it welcomes suggestions from the Maui Planning Commission, South Maui Advisory Committee, and Department of Planning on revising the bills, but it does not seek revised legislation from the Department of Planning; and
5. That certified copies of this Resolution be transmitted to the Mayor, the Maui Planning Commission, the South Maui Advisory Committee, and the Planning Director.

INTRODUCED BY:

Kelly T. King
KELLY TAKAYA KING

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY
PLAN LAND USE DESIGNATION FROM HOTEL TO MF MULTI-FAMILY AND
OPEN SPACE FOR 26.36 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS
TAX MAP KEYS (2) 2-1-023:004, (2) 2-1-023:005, AND (2) 2-1-023:006
(WAILEA POINT VILLAGE)

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

SECTION 1. In accordance with Chapter 2.80B, Maui County Code, a
Community Plan Amendment from Hotel to MF Multi-Family and Open Space is
granted for that certain real property situated at Kihei, Maui, Hawaii, and
identified for Real Property Tax purposes as tax map keys (2) 2-1-023:004,
(2) 2-1-023:005, and (2) 2-1-023:006, cumulatively comprising 26.36 acres, as
identified in Exhibit "A."

SECTION 2. This Ordinance takes effect on January 1, 2023.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:wal:22-059n

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE TO CHANGE THE ZONING FROM H-1 HOTEL DISTRICT AND H-2 HOTEL DISTRICT TO A-1 APARTMENT DISTRICT (CONDITIONAL ZONING) FOR 22.03 ACRES IN KIHEI, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEYS (2) 2-1-023:004, (2) 2-1-023:005 (POR.), AND (2) 2-1-023:006 (POR.) (WAILEA POINT VILLAGE)

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

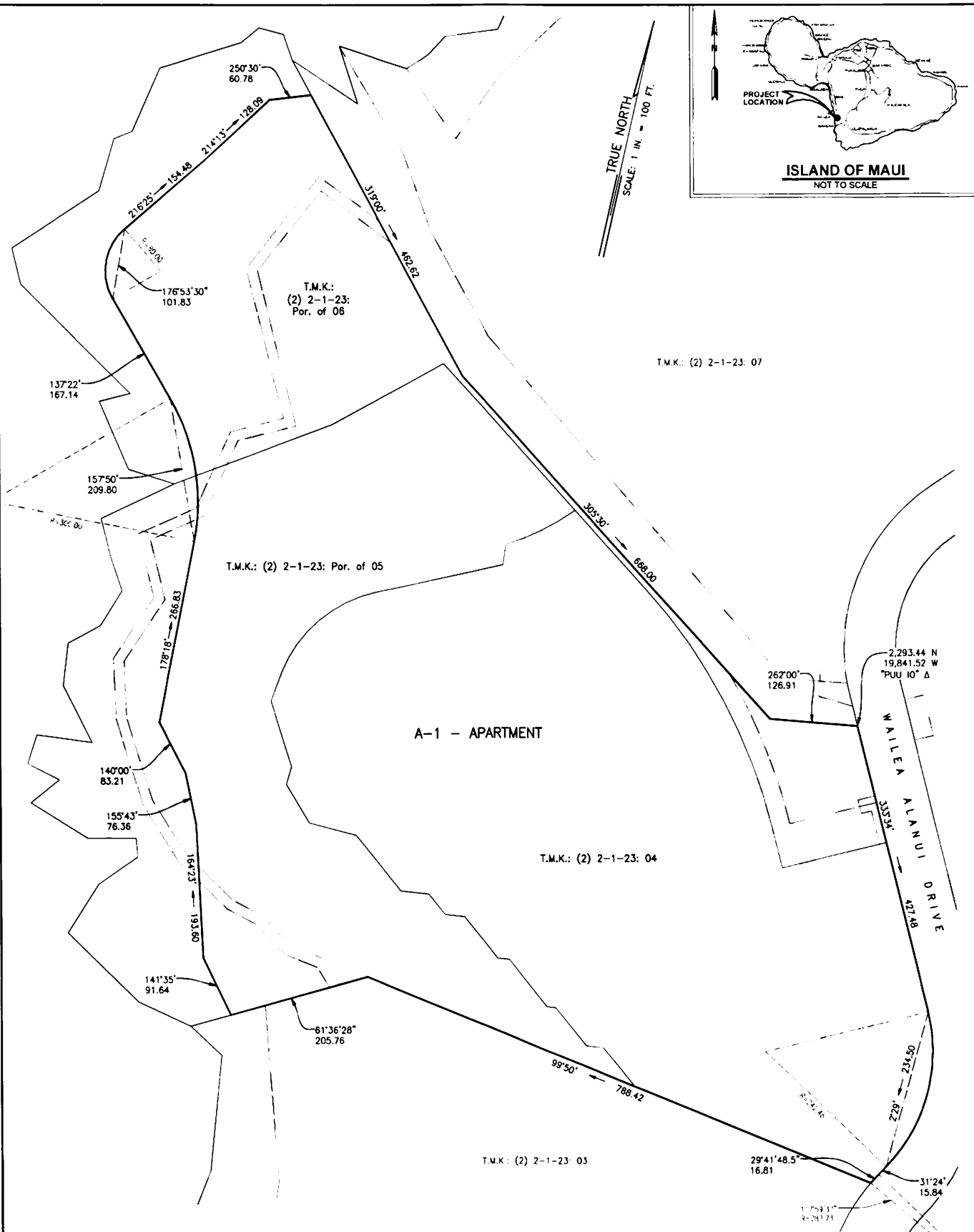
SECTION 1. In accordance with Chapters 19.12 and 19.510, Maui County Code, a Change in Zoning from H-1 Hotel District and H-2 Hotel District to A-1 Apartment District (Conditional Zoning) is granted for that certain real property situated at Kihei, Maui, Hawaii, and identified for Real Property Tax purposes as tax map keys (2) 2-1-023:004, (2) 2-1-023:005 (por.), and (2) 2-1-023:006 (por.), cumulatively comprising 22.03 acres, as identified in Exhibit "A."

SECTION 2. In accordance with Section 19.510.050, Maui County Code, the zoning granted by this Ordinance is subject to the conditions in Exhibit "B" and the Unilateral Agreement and Declaration for Conditional Zoning, attached as Exhibit "C."

SECTION 3. This Ordinance takes effect on January 1, 2023.

paf:wal:22-059m

V:\Propdata\9pro\190720 - Wailea Point Reasoning.dwg\maps\LAND ZONE AREA-00.dwg



LAND:

T.M.K.: (2) 2-1-23 : 04 & PORS. OF 05 & 06

AREA:

TOTAL AREA: 22.031 ACRES

LAND ZONING MAP NO. L-

CHANGE IN ZONING - HONUAULA, MAUI, HAWAII
FROM H-1 HOTEL AND H-2 HOTEL TO A-1 APARTMENT

EXHIBIT “B”

CONDITIONS OF ZONING

1. Transient vacation rental use at Wailea Point Village is prohibited for units not conducting the use as of the effective date of this ordinance.
2. Units conducting transient vacation rental use must cease the within one year from the effective date of this ordinance or upon the sale of the units, whichever is sooner.

EXHIBIT "C"

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail () Pickup () : To:

Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: _____

Affects Tax Map Keys (Maui) (2) 2-1-023:004, (2) 2-1-023:005 (por.), and
(2) 2-1-023:006 (por.) (Wailea Point Village)

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

WITNESSETH:

WHEREAS, the Declarant has agreed to execute this instrument under to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made under to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning;
2. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety, and general welfare, and the conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County, the conditions imposed in this Declaration run with the land and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in the land, and the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity.

This Declaration may be executed in counterparts, each of which are considered an original, but all of which, taken together, comprise one and the same Declaration.

Each person signing this Unilateral Agreement represents and warrants that they are duly authorized and have legal capacity to execute and deliver this Unilateral Agreement. Each party represents and warrants to the other that the execution and delivery of this Unilateral Agreement and the performance of such party's obligations have been authorized and that this Unilateral Agreement is a valid and legal agreement binding on each party and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the undersigned has executed this Declaration
the day and year first above written.

DECLARANT:

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

STATE OF _____)
) SS.
_____)

On this ____ day of _____, 20__, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public, State of _____

Print Name: _____

My Commission Expires: _____

NOTARY PUBLIC CERTIFICATION

Doc. Date: _____ # Pages: _____

Notary Name: _____ Judicial Circuit: _____

Document Description: _____

Notary Signature: _____

Date: _____