

MAUI COUNTY COUNCIL
Amendment Summary Form

Legislation: Bill granting Change in Zoning to Agricultural District for the Maalaea Agricultural Subdivision project.

Proposer: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

JP

Description: As drafted, the County would have 120 days to commit to purchasing the lot for drainage purposes. The amendment would give the County of Maui one year to close purchase on Lot 21.

Motion: Move to amend the Change in Zoning bill by:

1. Replacing Condition 11 with the following language:

“MVI, LLC and any future owner must grant to the County of Maui a right of first refusal to purchase Lot 21 as depicted on Exhibit “i,” which is approximately 40 acres. At any point after final subdivision approval, MVI, LLC or any future owner will give written notice to the County of Maui of the proposed purchase terms and the County will have ninety (90) days from the date of such notice to agree upon the purchase terms, and one (1) year from the date of such notice to close its purchase of Lot 21 which will include any required Maui County Council approvals”;

2. Removing the first two sentences of Condition 13 and adding it to Condition 14, and nonsubstantive revisions.
3. Updating the unilateral agreement attached to the bill as Exhibit “F” to reflect the change in conditions.

Effect: The current Condition 11 language would be removed and replaced by the language included above and Conditions 13 and 14 would be updated accordingly.

HOLD FOR MEETING

CC 20-99

February 7, 2020 Council meeting

Reasons: This amendment will ensure the County may purchase the lot, if it so chooses, in a more reasonable timeframe.

Attachment: Revised Conditions of Zoning reflecting the proposed amendments in tracked changes.

pslu:ltr:041aasf02:alkl

Attachment

EXHIBIT "C"

CONDITIONS OF ZONING

1. MVI, LLC and any future owner or lessee must develop the property in substantial compliance with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee in obtaining the Change in Zoning to Agricultural District.
2. MVI, LLC and any future owner or lessee must construct and maintain firebreaks on all perimeter property boundaries as well as boundaries around lots resulting from subdivision as approved by the Maui County Fire Department.
3. To provide safe continued access to the existing Pali Trail and continued vehicle access to the existing Pali Trail parking lot, MVI, LLC and any future owner or lessee must provide the following items as shown on Exhibit "i" prior to final subdivision approval:
 - a. A 24-foot wide trail and roadway lot between proposed Lots 5 and 6. This lot must be dedicated to the State Department of Land and Natural Resources.
 - b. A 10-foot wide trail lot adjoining a subdivision roadway lot starting at Honoapi`ilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This 10-foot wide trail lot must be improved with a multiuse path paved with asphalt, concrete, or any other material approved by the State Department of Land and Natural Resources. This trail lot must be dedicated to the State Department of Land and Natural Resources.
 - c. A roadway access easement over a subdivision roadway lot starting at Honoapi`ilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This easement must remain open to the public 24 hours a day in perpetuity and must be dedicated to the State Department of Land and Natural Resources.
 - d. A pedestrian crosswalk across Honoapi`ilani Highway at the Honoapi`ilani Highway and North Kihei Road intersection. Walk signaling must not be on demand.

4. MVI, LLC and any future owner or lessee must maintain a 50-foot buffer zone on either side along a subdivision roadway starting at Honoapi`ilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. The 50-foot buffer zone must also be along the 24-foot wide trail and roadway lot described in Condition 3a. Only Agricultural District uses that do not involve structures are allowed in this buffer zone.
5. MVI, LLC and any future owner or lessee must maintain a 200-foot buffer zone along the Honoapi`ilani Highway. Only Agricultural District uses that do not involve structures are allowed in this buffer zone.
6. Prior to final subdivision approval, MVI, LLC and any future owner or lessee must provide a 10-foot wide bikeway and pedestrian lot starting at the end of a subdivision roadway lot near the mauka end of the lot line between proposed lots 20 and 21 depicted on the map attached as Exhibit "i" and ending at the Honoapi`ilani Highway and Kapoli Street intersection. This 10-foot wide bikeway and pedestrian lot must be improved with a multiuse path paved with asphalt, concrete, or a similar material.
7. MVI, LLC and any future owner or lessee are responsible for traffic and roadway improvements necessary to mitigate the project's impacts. The necessary traffic and roadway improvements must be specified to the satisfaction of the State Department of Transportation, the County Department of Transportation, and the County Department of Public Works, and documented in a Memorandum of Agreement. The improvements must be completed prior to final subdivision approval.
8. MVI, LLC and any future owner or lessee must leave the area subject to the Change in Zoning undeveloped, without any structures, because of drainage concerns, to provide a buffer for cultural sites in the area, and to preserve views.
9. MVI, LLC and any future owner or lessee must not create a condominium property regime on the property.
10. The Maui County Council's approval of the Change in Zoning to Agricultural District is given with the expectation that MVI, LLC and any future owner or lessee will not pursue approvals under Chapter 201H, Hawaii Revised Statutes, or any other similar law or regulation for the property.

11. ~~The County of Maui will have the right of first refusal to purchase for drainage mitigation purposes Lot 21 as depicted on Exhibit “i,” which is approximately 40 acres. MVI, LLC or any future owner will offer the County the option to purchase the lot upon final subdivision approval for the property. The County will have 120 days to purchase the lot. MVI, LLC and any future owner must grant to the County of Maui a right of first refusal to purchase Lot 21 as depicted on Exhibit “i,” which is approximately 40 acres. At any point after final subdivision approval, MVI, LLC or any future owner will give written notice to the County of Maui of the proposed purchase terms and the County will have ninety (90) days from the date of such notice to agree upon the purchase terms, and one (1) year from the date of such notice to close its purchase of Lot 21 which will include any required Maui County Council approvals.~~
12. MVI, LLC and any future owner or lessee must not operate Short-Term Rental Homes, Bed and Breakfast Homes, or any other transient accommodations on the property.
13. ~~MVI, LLC and any future owner or lessee must provide water for the property through private wells. To ensure the property only uses its fair share of water resources, the wells must not draw water from any water source that would exceed the sustainable yield of the water source as set by the Commission on Water Resources Management. Furthermore, a~~Any future homeowner’s association or similar organization established on the property will collaborate with the Maui Nui Marine Resource Council and organizations with whom they have partnered to protect the Pohakea Watershed. The homeowner’s association must pay 10 percent of its monthly homeowner’s association fees to a fund managed by the Maui Nui Marine Resource Council or a partner organization for the purposes of implementing the Pohakea Watershed / Ma`alaea Bay Maui County, Hawaii Stormwater Management Plan, dated November 16, 2018, and attached as Exhibit “ii.”
14. MVI, LLC and any future owner or lessee must provide water for the property through private wells. To ensure the property only uses its fair share of water resources, the wells must not draw water from any water source that would exceed the sustainable yield of the water source as set by the Commission on Water Resources Management. MVI, LLC and any future owner or lessee must receive confirmation from the Department of Water Supply that the property has a long-term, reliable supply of water prior to final subdivision approval.

15. Under Docket A91-67, 20.644 acres of the property were reclassified by the State Land Use Commission from Conservation to Rural. MVI, LLC and any future owner or lessee must adhere to the following conditions placed on the 20.644 acres as a result of that reclassification:
 - a. The 20.644 acres must continue in agricultural use, in compliance with the representations made to the State Land Use Commission.
 - b. The landowner must notify the State Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property.
 - c. The landowner must immediately stop work and contact the State Historic Preservation Division should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, pavings, or walls be encountered during crop cultivation or any subsequent development activity.
 - d. The landowner must provide annual reports to the State Land Use Commission, the State Office of Planning, and the County Department of Planning in connection with the status of the subject project in the Petitioner's progress in complying with the conditions imposed by the State Land Use Commission.
 - e. The State Land Use Commission may fully or partially release the conditions it imposed as to all or any portions of the 20.644 acres upon timely motion and upon the provision of adequate assurance of satisfaction of the conditions by the landowner.

16. MVI, LLC or any future owner or lessee must notify the residents of the Kihei-Makena Community Plan Area that a subdivision of the property is planned by:
 - a. Posting three notices in an area newspaper of general circulation immediately after the Change in Zoning to Agricultural District is approved; and
 - b. Providing a free presentation to a community organization or similar organization in the Kihei-Makena Community Plan Area within 30 days after the approval of the Change in Zoning to Agricultural District.