

ORDINANCE NO. 3363

BILL NO. 10 (2006)

A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. 3061 (2002),  
THE WAILUKU-KAHULUI COMMUNITY PLAN AND LAND USE MAP, FROM  
AGRICULTURE TO WAILUKU-KAHULUI PROJECT DISTRICT 1  
(MAUI LANI) AND AMEND PART III.D.5, PROJECT DISTRICTS,  
OF THE WAILUKU-KAHULUI COMMUNITY PLAN

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Wailuku-Kahului Community Plan and Land Use Map is hereby amended from Agriculture to Wailuku-Kahului Project District 1 (Maui Lani) for property situated at Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key No. (2)3-8-007:131 (por.), comprising approximately 59.655 acres, and more particularly described in Exhibit "1", attached hereto and made a part hereof, and in Community Plan Amendment Map No. CP-416, 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. Part III.D.5, Project Districts, of the Wailuku-Kahului Community Plan adopted by Ordinance No. 3061 (2002), is amended to read as follows:

"PROJECT DISTRICT 1 (Maui Lani) [1,012] 1069 acres

Guidelines should be based on the master plan for this residential community which will provide about [3,300] 3,700 residential units of various types. Alternatives to promote affordable housing, such as experimental and demonstration housing, shall be considered in the residential development. An open space and recreation system which [may] include a golf course, future school sites, village mixed use area, and community or regional scale commercial shopping facilities shall be integrated in the development to serve the expanding Wailuku-Kahului population. Transportation routes should provide alternative means of access between Kahului and Wailuku.

EXHIBIT "1"

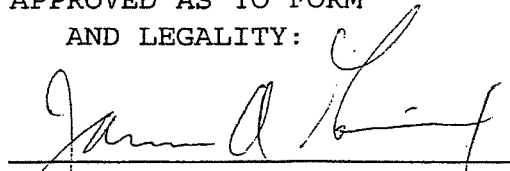
Recommended guidelines for spatial allocations within the project district are:

[School and public use .....	25 acres
Parks, open space including	
a golf course .....	240 acres
Roads .....	38 acres
Community commercial center .....	25 acres
Residential use .....	639 acres
Land resources for future	
recreational facilities .....	45 acres
Residential units based on 5.17	
dwelling units per acre average	
density .....	3,300 units]
<u>Residential</u>	
<u>Single family</u> .....	<u>542 acres</u>
<u>Multi-family</u> .....	<u>22 acres</u>
<u>Commercial</u> .....	<u>27 acres</u>
<u>Village mixed use:</u>	
<u>Village mixed use (C/R)</u> .....	<u>57 acres</u>
<u>Village mixed use (R)</u> .....	<u>34 acres</u>
<u>Recreational</u>	
<u>Golf course</u> .....	<u>177 acres</u>
<u>Parks</u> .....	<u>28 acres</u>
<u>Public/quasi-public</u>	
<u>School</u> .....	<u>26 acres</u>
<u>Church sites</u> .....	<u>6 acres</u>
<u>Open space</u> .....	<u>12 acres</u>
<u>Major roads</u>	
<u>Circulation</u> .....	<u>54 acres</u>
<u>Other areas</u>	
<u>Waiale Reservoir</u> .....	<u>77 acres</u>
<u>Area near Maui Memorial Park</u> .....	<u>7 acres</u>
<u>Residential units</u> .....	<u>3,700 units"</u>

SECTION 3. Material to be deleted is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material or the underscoring.

SECTION 4.. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

S:\CLERICAL\LJN\ORD\CPA\38007131cpa.wpd

Description of TMK: (2) 3-8-07: Portion of 131

Land situated on the easterly side of Honoapiilani Highway  
(F.A.P. No. 13-G) at Wailuku, Maui, Hawaii

Being a portion of Grant 3343 to Claus Spreckels

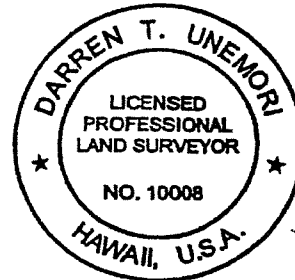
Beginning at a point on the westernmost corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,355.56 feet South and 356.96 feet West and running by azimuths measured clockwise from True South:


1. 271° 30' 656.02 feet along the remainder of Grant 3343 to Claus Spreckels to a point;
2. 181° 30' 525.51 feet along same to a point;
3. 271° 30' 1,936.19 feet along same to a point;
4. 337° 08' 46" 1,201.89 feet along same to a point;
5. 242° 41' 773.23 feet along same to a point;
6. 348° 11' 979.60 feet along same to a point;
7. 337° 11' 75.47 feet along same to a point;
8. 124° 00' 756.73 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 12-A of Maui Lani Subdivision to a point;
9. 104° 48' 20" 2,739.12 feet along same to a point;
10. 107° 15' 264.13 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 12-B of Maui Lani Subdivision to a point;
11. 17° 15' 20.00 feet along same to a point;

EXHIBIT " 1 "

12. 107° 15'

476.46 feet along same to the point of  
beginning and containing an  
Area of 59.655 Acres.



  
\_\_\_\_\_  
Licensed Professional Land Surveyor  
Certificate No. 10008

April 28, 2005

Note: This metes and bounds description has been prepared for Change  
in Zoning and Community Plan Amendment purposes only.

V:\Projdata\04PROJ\04006\Survey\change in zoning - 59.655 acres - County version.wpd

WE HEREBY CERTIFY that the foregoing BILL NO. 10 (2006)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 3rd day of March, 2006, by the following vote:

G. Riki HOKAMA Chair	Robert CARROLL Vice-Chair	Michelle ANDERSON	Jo Anne JOHNSON	Dain P. KANE	Dennis A. MATEO	Michael J. MOLINA	Joseph PONTANILLA	Charmaine TAVARES
Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye


2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 3rd day of March, 2006.


DATED AT WAILUKU, MAUI, HAWAII, this 3rd day of March, 2006.

RECEIVED


2006 MAR -3 PM 2:14

OFFICE OF THE MAYOR

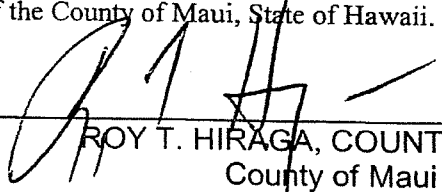
  
ROBERT CARROLL, VICE-CHAIR  
Council of the County of Maui

  
ROY T. HIRAGA, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 3 DAY OF MARCH, 2006.

  
ALAN M. ARAKAWA, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3363 of the County of Maui, State of Hawaii.

  
ROY T. HIRAGA, COUNTY CLERK  
County of Maui

Passed First Reading on February 17, 2006.  
Effective date of Ordinance March 3, 2006.

RECEIVED

2006 MAR -3 PM 3:26

OFFICE OF THE  
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3363, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

\_\_\_\_\_  
County Clerk, County of Maui

ORDINANCE NO. 3364

BILL NO. 11 (2006)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, PERTAINING TO GENERAL PROVISIONS AND DEFINITIONS, AND CHAPTER 19.78, MAUI COUNTY CODE, PERTAINING TO WAILUKU-KAHULUI PROJECT DISTRICT 1 (MAUI LANI)

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

SECTION 1. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Automobile services" means a facility providing fueling, greasing, lubrication and cleaning services for vehicles. Additional services may include, but are not limited to, minor engine repair, such as replacement of spark plugs, batteries and tires; minor repair of engine parts such as fuel pumps, oil pumps and lines, belts, carburetors, brakes, mufflers and emergency wiring; radiator cleaning and flushing; towing; safety inspections; and motor adjustments not involving repair of head or crankcase. Services not included are tire recapping and regrooving; body work, such as straightening of frames or body parts; steam cleaning; welding; painting; and storage of automobiles not in operating condition.

"Day care facility" means a facility where persons are cared for on an intermittent basis, but not continuously over a twenty-four hour period, such as, but not limited to, adult day care, preschools, and day nurseries.

"Eating and drinking establishments" means a business engaged in the preparation and serving of food to customers, such as, but not limited to, restaurants, fast food restaurants, delicatessens, cafes, bars and nightclubs.

EXHIBIT "2"

"Education, general" means a facility offering a general educational curriculum, such as, but not limited to, kindergartens, elementary, intermediate, and high schools, and colleges and universities.

"Education, specialized" means a facility that offers a specialized educational curriculum, such as, but not limited to, trade and vocational, language, music, dance, and art schools.

"Food and beverage, retail" means businesses engaged in the retail sale of food and beverage products, such as, but not limited to, supermarkets, convenience stores, bakeries, liquor stores, and catering establishments.

"General merchandising" means businesses within permanent enclosed facilities engaged in the retail sale or rental of goods, including, but not limited to, retail stores, drugstores, department stores, electronic and communication stores, hardware stores, home furnishing stores, pet stores, garden shops, and equipment rentals.

"General office" means facilities used for the practice of a profession, the conduct of public administration, or the administration of a business or industry, such as, but not limited to, administrative offices for government agencies, financial, insurance, and real estate companies, professional practices, and television and radio stations.

"Light manufacturing and processing" means enclosed facilities for the production or assembly of products, other than food or agricultural products, involving limited or minor emissions of odors, fumes, noise, vibrations, heat, glare or electrical interference to the exterior, such as, but not limited to, commercial laundries, laundromats, craft industries, apparel manufacture, and small craft assembly plants.

"Medical center, major" means a facility established for in-patient maintenance, observation, medical, dental, and other health care treatment and supervision, or for convalescence of persons afflicted with or suffering from sickness, disease, or injury, such as, but not limited to, hospitals and nursing homes.



"Medical center, minor" means a facility established to provide medical, surgical, dental, laboratory and x-ray, or other similar health care services to the general public without overnight accommodations.

"Personal and business services" means establishments that offer specialized goods and services purchased by individual consumers and businesses for compensation, such as, but not limited to, barber shops and beauty salons, financial institutions, photography laboratories and studios, medical, dental, or similar health care services provided by sole practitioners or small group practices, art and culture classes, and travel and activities agencies.

"Recreation, indoor" means facilities under roof, but not necessarily fully enclosed, for recreational activities or amusement, such as, but not limited to, arcades, auditoriums, bowling alleys, racquetball courts, billiard halls, skating rinks, theaters, and health and fitness clubs."

SECTION 2. Section 19.78.010, Maui County Code, is amended by amending subsection B to read as follows:

"B. The intent of the Wailuku-Kahului project district 1, referred to in this code as the Maui Lani project district, is to establish a residential community along with an integrated open space and recreation system, future school sites, village mixed use area, and community or regional scale commercial shopping facilities to serve the expanding Wailuku-Kahului population."

SECTION 3. Section 19.78.030, Maui County Code, is amended by amending subsection A to read as follows:

"A. Permitted [Uses.] uses. Within the commercial PD-WK/1 district, the following uses shall be permitted:

1. Principal uses and structures:

- [a. Retail commercial establishments,
- b. Personal, financial, business, medical/dental, real estate and other professional services,
- c. Food and beverage operations,
- d. Auditoriums, theaters and amusement activities which are situated within completely enclosed buildings,
- e.] a. Automobile services [stations],  
excluding major repairs[,];
- [f. Health and fitness facilities,
- g. Churches and day care centers, and
- h. Botanical gardens, nurseries and garden plots.]
- b. Animal boarding facility;
- c. Animal hospital;
- d. Day care facility;
- e. Eating and drinking establishments;
- f. Education, general;
- g. Education, specialized;
- h. Eleemosynary organizations;
- i. Food and beverage, retail;
- j. Garage, storage;
- k. General merchandising;
- l. General office;
- m. Group shelters;
- n. Light manufacturing and processing;
- o. Medical center, minor;
- p. Parking area, public;
- q. Personal and business services;
- r. Public facility or public use;
- s. Quasi-public use or quasi-public facility;
- t. Recreation, indoor;
- u. Self storage, provided it is within an enclosed building; and
- v. Utility facilities, minor.

2. Accessory [Uses] uses and [Structures.] structures. The following uses shall be clearly

incidental to and customarily found in connection with the principal uses:

- a. [Parking structures, and]  
Energy systems, small-scale;
- b. [Service and utility  
enclosures and structures.]  
Outdoor storage yards that  
are ancillary to a permitted  
principal use, provided the  
storage yards are  
appropriately screened from  
the public right-of-way;
- c. Parking areas, covered or  
uncovered;
- d. Service and utility  
enclosures and structures;
- e. Walls and fences; and
- f. Warehouses which are  
ancillary to a permitted  
principal use."

SECTION 4. Chapter 19.78, Maui County Code, is amended by \*  
adding a new section to be appropriately designated and to read  
as follows:

"19.78.051 Village mixed use PD-WK/1. A. The  
village mixed use PD-WK/1 district is intended to  
provide flexibility in the planning and development of  
a village/commercial district with an integrated  
residential community. There shall be two village  
mixed use subdistricts, as follows:

B. Village mixed use residential (VMX/R) shall  
be a residential subdistrict in close proximity to the  
neighborhood commercial/residential core.

1. Permitted uses. Within the VMX/R  
subdistrict, the following uses shall be  
permitted:

- a. Principal uses and structures:
  - i. Single-family dwelling;
  - ii. Two-family or duplex  
dwelling;

- iii. Multi-family dwelling;
- iv. Park;
- v. Public facility or public use;
- vi. Recreation, active;
- vii. Recreation, indoor;
- viii. Recreation, open land;
- ix. Recreation, passive; and
- x. Utility facilities, minor.

b. Accessory uses and structures.

The following uses shall be clearly incidental to and customarily found in connection with the principal uses:

- i. Energy systems, small-scale;
- ii. Garage, private;
- iii. Home occupation;
- iv. Parking areas, covered or uncovered;
- v. Play equipment;
- vi. Recreation buildings and pools;
- vii. Restrooms; and
- viii. Walls not exceeding 5 ft. in height, and fences.

c. Special uses. The following uses shall be permitted subject to the approval of the appropriate planning commission:

- i. Day care facility;
- ii. Education, general;
- iii. Education, specialized;
- iv. Group shelters;
- v. Uses and structures, which are similar to the character or nature of any of the principal uses or structures or which conform to the intent of this chapter.

d. Development standards for the VMX/R subdistrict shall be:

Minimum lot size: 3,000 sq. ft.;  
Minimum lot width: 40 sq. ft.;  
Minimum building setbacks:

<u>Front yard:</u>	<u>10 ft. for single-family dwellings;</u> <u>20 ft. for carports and garages;</u> <u>15 ft. for two-family and multi-family dwellings;</u>
<u>Side yard:</u>	<u>6 ft. for one-story buildings and 10 ft. for two-story buildings for single-family dwellings;</u> <u>5 ft. for two-family dwellings, for any exterior walls with openings for light, air, and/or access; the sum of both side yards on any lot must total a minimum of 10 ft.; common walls must be constructed of masonry or of equal fire and sound retardant material;</u> <u>10 ft. for multi-family dwellings;</u>
<u>Rear yard:</u>	<u>5 ft. for one-story buildings;</u> <u>10 ft. for two- and three-story buildings;</u>
<u>Maximum building height:</u>	<u>Two-stories, not to exceed 30 ft., for single-family and two-family dwellings;</u> <u>Three-stories, not to exceed 45 ft.,</u>

	<u>for multi-family dwellings;</u>
<u>Maximum</u>	
<u>floor area ratio:</u>	<u>0.5 FAR for single-family, not to include carport or garage;</u>
	<u>0.9 FAR for two-family and multi-family, not to include carport or garage;</u>
<u>Maximum</u>	
<u>overall density:</u>	<u>10 units per acre for single-family dwellings; and</u>
	<u>15 units per acre for two-family and multi-family dwellings.</u>

C. Village mixed use commercial/residential (VMX/C-R) shall be a subdistrict of mixed residential and commercial uses incorporated into the village concept.

1. Permitted uses. Within the VMX/C-R subdistrict, the following uses shall be permitted:

- a. Principal uses and structures:
  - i. Single-family dwelling;
  - ii. Two-family or duplex dwelling;
  - iii. Multi-family dwelling;
  - iv. Living quarters;
  - v. Lodging house;
  - vi. Animal boarding facility;
  - vii. Animal hospital;
  - viii. Day care facility;
  - ix. Eating and drinking establishments;
  - x. Education, general;
  - xi. Education, specialized;
  - xii. Eleemosynary organizations;
  - xiii. Food and beverage, retail;

- xiv. Garage, storage;
- xv. General merchandising;
- xvi. General office;
- xvii. Group shelters;
- xviii. Light manufacturing and processing;
- xix. Medical center, minor;
- xx. Park;
- xxi. Parking area, public;
- xxii. Personal and business services;
- xxiii. Public facility or public use;
- xxiv. Quasi-public use or quasi-public facility;
- xxv. Recreation, active;
- xxvi. Recreation, indoor;
- xxvii. Recreation, open land;
- xxviii. Recreation, passive;
- xxix. Self-storage, provided it is within an enclosed building; and
- xxx. Utility facilities, minor.

b. Accessory uses and structures. The following uses shall be clearly incidental to and customarily found in connection with the principal uses:

- i. Energy systems, small-scale;
- ii. Garage, private;
- iii. Home occupation;
- iv. Outdoor storage yards that are ancillary to a permitted principal use, provided the storage yards are appropriately screened from the public right-of-way;
- v. Parking areas, covered or uncovered;
- vi. Park equipment, including but not limited to, play equipment, backstops, dugouts, scoreboards, and bleachers;

- vii. Recreation buildings and pools;
- viii. Restrooms;
- ix. Walls not to exceed 5 ft. in height, and fences; and
- x. Warehouses which are ancillary to a permitted principal use.

c. Special uses. The following uses shall be permitted subject to the approval of the appropriate planning commission:

- i. Medical center, major;
- ii. Utility facilities, major; and
- iii. Uses and structures that are similar to, and compatible with, the principal uses and structures of the subdistrict and which conform to the intent of this chapter may be approved by the appropriate planning commission.

d. Development standards for the VMX/C-R subdistrict shall be:

Minimum lot size: 5,000 sq. ft.;

Minimum lot width: 60 ft.;

The following minimum building setbacks for single-family, two-family, and multi-family residential use shall apply, except for row type dwellings where no setbacks shall be required:

Front yard: 15 ft.;

Side yard: 6 ft. for one-story buildings and 10 ft. for two- and three-story buildings for single-family and multi-family dwellings;



5 ft. for two-  
f a m i l y  
dwelling, for  
any exterior  
walls with  
openings for  
light, air,  
and/or access;  
the sum of  
both side  
yards on any  
lot must total  
a minimum of  
10 ft.; common  
walls must be  
constructed of  
masonry or of  
equal fire and  
s o u n d  
retardant  
material;

Rear:

6 ft. for one-  
s t o r y  
buildings and  
10 ft. for  
two- and  
three-story  
buildings;

Minimum building setbacks for  
commercial/residential use:

Front yard:

No setback;

Side and rear yard:

No setbacks,  
except when  
adjacent to  
residential  
and non-  
commercial  
uses, where  
the setbacks  
for the  
adjacent use  
shall apply;

Maximum building height: Two-stories  
not to exceed  
30 ft. for  
single-family  
and two-family  
dwellings;  
Three-stories  
not to exceed  
48 ft. for  
commercial and  
multi-family  
dwellings;

Maximum lot  
coverage ratio: 0 . 6 f o r  
commercial,  
two-family and  
multi-family  
dwellings; and

Maximum floor  
area ratio: 0.5 FAR for  
single-family,  
not to include  
carport or  
garage;  
1.0 FAR for  
commercial,  
two-family and  
multi-family  
dwellings, not  
to include  
carport or  
garage."

SECTION 5. Section 19.78.060, Maui County Code, is amended  
to read as follows:

"19.78.060 Land use categories and acreages. A.  
The following are established as the approximate  
acreages for the various land use categories within  
the Maui Lani project district:

Residential:

Single-family	[634.2] <u>542</u> acres
[Condominiums	10 1/2 acres
Apartments	11 acres]
<u>Multi-family</u>	<u>22 acres</u>

Commercial: [21.7] 27 acres

Recreational:

Golf course	[172] <u>177</u> acres
Parks	[16.8] <u>28</u> acres
[Additional park area	10 acres]

Public/quasi-public:

School[/park]	[25] <u>26</u> acres
Church site	6 acres
[Filipino community	
center	2 acres
Waiale reservoir	35 acres]

Village Mixed Use:

<u>Village mixed use (C/R)</u>	<u>57 acres</u>
<u>Village mixed use (R)</u>	<u>34 acres</u>

Open Space 12 acres

Major roads:

Circulation [/open space	67.8] <u>54</u> acres
Total	[1,012] <u>985</u> acres

B. The land use map attached as exhibit [A] A-1 to ordinance no. [1939 (1990)] 3146 (2003) is repealed in its entirety, and the land use map dated April 8, 2005, attached as exhibit [A-1] A-2 to the ordinance repealing Exhibit [A] A-1 is hereby adopted and is made a part of this section by reference."

SECTION 6. Chapter 19.78, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"Section 19.78.052 Open Space PD-WK/1. A. Permitted uses. Within the open space district, the following uses shall be permitted:

1. Principal uses:

a. Drainageways, retention basins, reservoirs, dry wells, and other drainage facilities;

- b. Open areas;
- c. Recreation, active, limited to no roofed or walled structures, such as open ball fields;
- d. Recreation, open land;
- e. Recreation, passive;
- f. Restoration of cultural sites; and
- g. Utility facilities, minor.

2. Accessory uses and structures. The following uses shall be clearly incidental to and customarily found in connection with the principal uses:

- a. Energy systems, small scale;
- b. Parking areas, uncovered;
- c. Park equipment, including but not limited to, play equipment, backstops, dugouts, scoreboards, and portable bleachers;
- d. Restrooms;
- e. Walls not to exceed 4 ft. in height, and fences;

3. Special uses. The following uses shall be permitted subject to the approval of the appropriate planning commission:

- a. Cemeteries;
- b. Cultural and historical facilities of an outdoor nature.

4. Development standards for the open space district shall be:

Minimum building setbacks:

Front yard: 25 ft.;

Side and rear yard: 15 ft.;

Maximum building height: one-story not to exceed 15 ft.;

Maximum wall height: 4 ft. within the yard setback from any public right of way or public area; and

Maximum lot coverage: 5 percent or  
2,500 sq. ft.,  
whichever is  
less."

SECTION 7. The land use map for Wailuku-Kahului Project District 1 (Maui Lani), dated April 8, 2005, attached hereto as Exhibit "A-2", is hereby adopted and made a part of this ordinance by reference.

SECTION 8. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 9. 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\MauiLani.wpd



WE HEREBY CERTIFY that the foregoing BILL NO. 11 (2006)


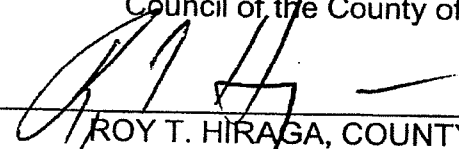
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 3rd day of March, 2006, by the following vote:

G. Riki HOKAMA Chair	Robert CARROLL Vice-Chair	Michelle ANDERSON	Jo Anne JOHNSON	Dain P. KANE	Dennis A. MATEO	Michael J. MOLINA	Joseph PONTANILLA	Charmaine TAVARES
Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye


2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 3rd day of March, 2006.

DATED AT WAILUKU, MAUI, HAWAII, this 3rd day of March, 2006.

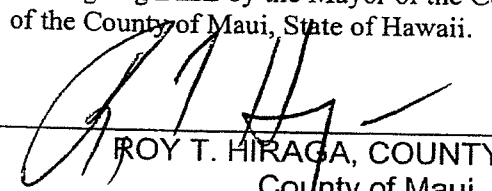
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OFFICE OF THE MAYOR

  
ROBERT CARROLL, VICE-CHAIR  
Council of the County of Maui  
  
ROY T. HIRAGA, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 3 DAY OF MARCH, 2006.

  
ALAN M. ARAKAWA, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3364 of the County of Maui, State of Hawaii.

  
ROY T. HIRAGA, COUNTY CLERK  
County of Maui

Passed First Reading on February 17, 2006.  
Effective date of Ordinance March 3, 2006.

RECEIVED  
2006 MAR -3 PM 3:26  
OFFICE OF THE  
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3364, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

\_\_\_\_\_  
County Clerk, County of Maui

ORDINANCE NO. 3365

BILL NO. 12 (2006)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO WAILUKU-KAHULUI PROJECT DISTRICT 1 (MAUI LANI) (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII

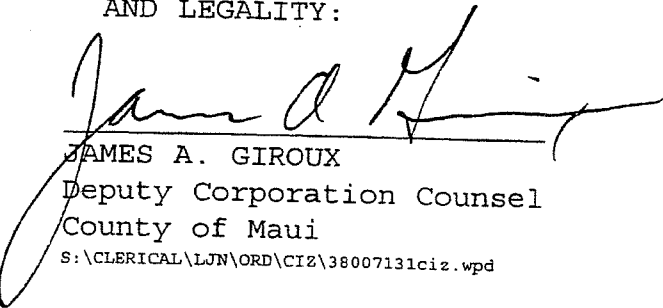
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.78 and 19.510, Maui County Code, a change in zoning from Agricultural District to Wailuku-Kahului Project District 1 (conditional zoning) is hereby granted for that certain parcel of land situated at Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2)3-8-007:131 (por.), comprising approximately 59.655 acres, and more particularly described in Exhibit "1", attached hereto and made a part hereof, and in Land Zoning Map No. L-421, 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 "2", 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 "3".

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

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EXHIBIT "3"



Description of TMK: (2) 3-8-07: Portion of 131

Land situated on the easterly side of Honoapiilani Highway  
(F.A.P. No. 13-G) at Wailuku, Maui, Hawaii

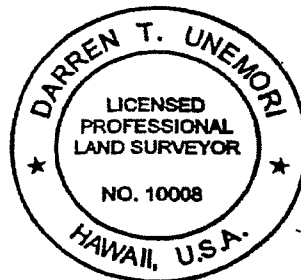
Being a portion of Grant 3343 to Claus Spreckels


Beginning at a point on the westernmost corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,355.56 feet South and 356.96 feet West and running by azimuths measured clockwise from True South:

1. 271° 30' 656.02 feet along the remainder of Grant 3343 to Claus Spreckels to a point;
2. 181° 30' 525.51 feet along same to a point;
3. 271° 30' 1,936.19 feet along same to a point;
4. 337° 08' 46" 1,201.89 feet along same to a point;
5. 242° 41' 773.23 feet along same to a point;
6. 348° 11' 979.60 feet along same to a point;
7. 337° 11' 75.47 feet along same to a point;
8. 124° 00' 756.73 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 12-A of Maui Lani Subdivision to a point;
9. 104° 48' 20" 2,739.12 feet along same to a point;
10. 107° 15' 264.13 feet along the remainder of Grant 3343 to Claus Spreckels, being also along Lot 12-B of Maui Lani Subdivision to a point;
11. 17° 15' 20.00 feet along same to a point;

12. 107° 15'

476.46 feet along same to the point of  
beginning and containing an  
Area of 59.655 Acres.



  
\_\_\_\_\_  
Licensed Professional Land Surveyor  
Certificate No. 10008

April 28, 2005

Note: This metes and bounds description has been prepared for Change  
in Zoning and Community Plan Amendment purposes only.

V:\Projdata\04PROJ\04006\Survey\change in zoning - 59.655 acres - County version.wpd

EXHIBIT "2"

Conditions of Zoning

1. As represented, 51 percent of the total housing units provided within the Village Mixed Use District of Maui Lani shall meet the affordable housing criteria of the County of Maui. The units shall be provided, as follows:

Estimated Number of Affordable Housing		
Affordable Income Category	% of units	No. of Affordable Units
Families Earning up to 80 percent of Median Family Income	10	50
Families Earning 81 percent to 100 percent of Median Family Income	15	75
Families Earning 101 percent to 120 percent of Median Family Income	15	75
Families Earning 121 percent to 140 percent of Median Family Income	11	55
TOTAL AFFORDABLE UNITS	51	255

2. Maui Lani 100, LLC and its successors and assigns shall provide water source development, treatment, and transmission improvements in accordance with the Right of Entry and Operating Agreement between Maui Lani Partners and the Department of Water Supply (DWS) dated April 22, 2005, as amended by the Amendment to Right of Entry and Operating Agreement dated February 16, 2006 (Agreement). Further, DWS shall review and approve said improvements prior to connection to the County of Maui Water System. Maui Lani 100, LLC and its successors and assigns shall enter into an agreement with the County of Maui outlining water source development, treatment and transmission improvements and the phasing of the development,

construction, and connection of said improvements in accordance with the Agreement.

In the event the three wells are accepted by the County of Maui, and the wells become contaminated above standards of the Department of Health (DOH) and the Environmental Protection Agency (EPA), Maui Lani 100, LLC and its successors and assigns shall be responsible for any necessary remediation in accordance with the Agreement.

3. Maui Lani 100, LLC and its successors and assigns shall implement regional roadway improvements identified in Table 5 and the Conceptual Phasing Plan for Maui Lani Roadway System Improvements of the application documents in accordance with an Agreement executed with the Department of Public Works and Environmental Management.
4. Maui Lani 100, LLC and its successors and assigns shall implement the following traffic improvements as recommended in the Traffic Impact Analysis Report:
  - a. Extend Kuikahi Drive between Waiale Road and future Maui Lani Parkway as a two-lane roadway.
  - b. Construct Maui Lani Parkway between Kuikahi Drive and Kamehameha Avenue as a two-lane roadway.
  - c. Extend Kamehameha Avenue between Maui Lani Parkway and the southern boundary of Maui Lani project district as a two-lane roadway.
  - d. Monitor and signalize the Kuikahi Drive/Waiale Road intersection when warranted.
  - e. Monitor and participate in their pro-rata share to the signalization of the Waiale Road/Olomea Street intersection when warranted.
  - f. Monitor and participate in their pro-rata share to the signalization of the Waiale Road/Waiinu Street intersection when warranted.

- g. Monitor and participate in their pro-rata share to the signalization of the Kuihelani Highway/Maui Lani Parkway intersection when warranted.
  - h. Monitor and participate in their pro-rata share to the signalization of the Maui Lani/Kamehameha Avenue intersection when warranted.
  - i. Monitor and signalize project accesses on Maui Lani Parkway and on Kuikahi Drive Extension when warranted.
5. In the event portions of the 28 acres of park land identified in the Maui Lani project district are used to accommodate drainage facilities such as detention and retention basins, additional park lands equivalent to the loss of utilizable park lands shall be provided within the Maui Lani project district.
6. Maui Lani 100, LLC and its successors and assigns shall work with the Department of Parks and Recreation to determine the park needs of the Maui Lani Village Mixed Use project. If it is determined that more park lands are necessary, Maui Lani 100, LLC and its successors and assigns shall enter into an agreement with the County of Maui to provide the additional park lands within the Maui Lani project district.
7. Maui Lani 100, LLC and its successors and assigns shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the satisfaction of the Department of Education. Terms of contribution shall be agreed upon in writing by Maui Lani 100, LLC and the Department of Education.
8. On-street parking shall only be allowed to the extent that a minimum 10-foot wide traffic lane is maintained for each direction of vehicular travel allowed.