

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997

Committee
Report No. 97-255

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

Chair and Members:

Your Land Use Committee, having met on October 13, 1997 and November 4, 1997, makes reference to County Communication No. 97-137, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO ADOPT A LAND ZONING MAP FOR THE URBAN DISTRICT OF PAIA";
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO ADOPT A LAND ZONING MAP FOR THE URBAN DISTRICT OF HAIKU"; and
3. Other related documents.

The purpose of the proposed bills is to change the zoning of all parcels with Interim District zoning in the State Urban District of the Pa'ia-Ha'iku Community Plan region. Virtually all Interim-zoned parcels would be rezoned to the most appropriate zoning district based on their current uses and their designations in the Community Plan, adopted by the County in 1995. Parcels for which no appropriate zoning district exists would be placed in the Urban Reserve District.

Your Committee notes that the Maui Planning Commission held a public hearing on the proposed bills on December 9, 1996. At the hearing, two people testified in favor of the proposed bills and two people expressed general concerns over specific parcels.

Your Committee further notes that at its special meeting of December 9, 1996, the Maui Planning Commission reviewed the findings presented in the document entitled "PLANNING DIRECTOR'S REPORT AND RECOMMENDATION", and voted to recommend approval of the proposed bills

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 2

Committee
Report No. 97-255

with one amendment. Because one of the Planning Commissioners expressed a conflict of interest with one property, and because there were only five Commissioners present, the Commission made no recommendation for the subject property, TMK: 2-5-5:14 and 16, the "lime kiln" site in Pa`ia. Your Committee notes that the Department of Planning recommends that these parcels be zoned Urban Reserve and PK-2 Community Park District.

Your Committee previously reported on the matter through Committee Report No. 97-232, which recommended that a proposed bill, which would establish B-CT Country Town Business District zoning for existing commercial properties in the Pa`ia and Kuau areas, pass first reading. Your Committee notes that Committee Report No. 97-232 was adopted at the Council meeting of November 7, 1997.

At its meeting of October 13, 1997, your Committee met with the Director of Finance, the Planning Director, a Planner from the Department of Planning, and a Deputy Corporation Counsel.

The Planner gave an overview of the two proposed bills and the maps which they adopt. He noted that the Interim District was established in 1958 to provide some development standards for Urban lands until the County could grant specific zoning. Nearly 40 years later, the County is finally taking the initiative to replace Interim zoning with specific zoning, using the community plans as a guide. Since 1958, when the Interim District was established, only 4 percent of the owners of Urban parcels have applied for changes in zoning to specific districts.

The Planner noted that your Committee recently approved a similar measure for the Hana Community Plan region which granted zonings to approximately 200 parcels. In comparison, the Pa`ia-Ha`iku measure proposes granting zonings to approximately 1,200 parcels.

Your Committee heard public testimony from seven people, two of whom also provided written testimony and information.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 3

Committee
Report No. 97-255

Lynn Rasmussen, representing the Pa`ia Main Street Association, expressed support of the proposed bill adopting the land zoning map for the Pa`ia and Kuau areas. She stated that business in Pa`ia town is "good but threatened" and encouraged your Committee to grant B-CT Country Town Business District zoning to existing commercial properties.

The Director of Finance was asked about the real property tax implications of the proposed changes in zoning, specifically those residential parcels for which B-CT Country Town Business District zoning is recommended. He stated that tax assessments are based on "highest and best use" and would be impacted by a change in zoning, as zoning represents potential use. If an Interim-zoned parcel in residential use were to become zoned B-CT Country Town Business, its assessment would most likely change from a residential rate to a commercial rate.

Your Committee asked the Director of Finance about residential land dedications which could enable the owners of these parcels to dedicate their land to residential use in order to maintain residential tax rates. The Director could not provide your Committee with an answer and requested to respond in writing.

Your Committee agreed to recommend the granting of B-CT Country Town Business District zoning for the existing or recently occupied commercial parcels in Pa`ia and Kuau. Your Committee again notes that these recommendations were set forth in Committee Report No. 97-232, which was adopted at the Council meeting of November 7, 1997.

Your Committee deferred the matter of zoning the remaining parcels, as recommended by the two proposed bills, pending further discussion and information from the Department of Finance. Your Committee recessed its meeting to November 4, 1997.

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COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

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Page 2

Committee
Report No. 97-255

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COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 3

Committee
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COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 4

Committee
Report No. 97-255

By letter dated October 27, -1997, the Director of Finance transmitted responses, and a parcel-by-parcel analysis, regarding the real property tax implications for the recommended zonings. The most significant tax changes would occur for parcels which are in residential use and are zoned Interim, but have been recommended for B-CT Country Town Business District zoning because they are designated Business in the Community Plan. While the owners of these parcels would benefit from such zoning due to the increased value of their properties, their real property tax assessments would increase significantly.

By letter dated October 28, 1997, the Chair of your Committee contacted the 34 owners of those parcels which are in residential use and which have been recommended for B-CT Country Town Business District zoning. This letter informed these owners of the possible change in their properties' zoning, described some of the advantages and disadvantages of such a change, and asked for their input prior to your Committee's November 4, 1997 reconvening.

By facsimile letter dated October 30, 1997, Clifford W. Green expressed support of the B-CT Country Town Business District zoning for existing commercial properties in Pa`ia.

At its meeting of November 4, 1997, your Committee met with the Director of Finance; the Real Property Tax Administrator, Department of Finance; the Planning Director; a Planner from the Department of Planning; and a Deputy Corporation Counsel.

Your Committee heard public testimony from eight people, two of whom also provided written testimony and information.

Dan Cohen and Robert Karpovich expressed concern over the proposed R-3 Residential District zoning for parcels which are developed with several dwellings. Such zoning could render some of these dwellings nonconforming and could prevent them from being rebuilt if they were substantially lost or destroyed.

Three people, all owners of parcels which are in residential use and which have been recommended for B-CT Country Town Business District zoning,

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 5

Committee
Report No. 97-255

expressed opposition to this proposed zoning. Mark Nagata also provided your Committee with a petition in opposition to this zoning, signed by several more of these parcel owners. As chairman of the Pa'ia Main Street Association, though, Mr. Nagata supports the B-CT Country Town Business District zoning for existing commercial parcels.

Your Committee agreed to not recommend B-CT Country Town Business District zoning for parcels which are in residential use. Your Committee also agreed to not recommend Urban Reserve zoning for these parcels until a determination could be made as to whether Urban Reserve would be consistent with the parcels' community plan designation of Business.

Your Committee then discussed the proposed zoning for the existing commercial parcels in the Ha'iku area. The Planner noted that there are five parcels which are, or have recently been, in commercial use and are zoned Interim. These are the parcels occupied by the Ha'iku Mart, Toma Garage, the Fukushima Store, the Kawaharada Store, and the Ohashi Store.

Your Committee agreed to recommend that B-CT Country Town Business District zoning be granted for these five existing commercial parcels in Ha'iku. The Chair of your Committee noted that he would contact the owners of these five parcels to inform them of your Committee's recommendation prior to this matter being considered by the full Council.

Your Committee is in receipt of a proposed bill, approved as to form and legality by the Department of the Corporation Counsel, to establish B-CT Country Town Business District zoning for the five commercial parcels in Ha'iku.

Your Land Use Committee recommends that Bill No. 80 (1997), attached hereto, entitled "A BILL FOR AN ORDINANCE TO ESTABLISH B-CT COUNTRY TOWN BUSINESS DISTRICT ZONING FOR PROPERTIES SITUATED AT HA'IKU, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 1, 1997
Page 6

Committee
Report No. 97-255



SOL P. KAHO'OHALAHALA Chair

J. KALANI ENGLISH Vice-Chair

ALAN M. ARAKAWA Member

JAMES "KIMO" APANA Member

PATRICK S. KAWANO Member

ALICE L. LEE Member

DENNIS Y. NAKAMURA Member

WAYNE K. NISHIKI Member

CHARMAINE TAVARES Member

ORDINANCE NO. _____

BILL NO. 80 (1997)

A BILL FOR AN ORDINANCE TO ESTABLISH
B-CT COUNTRY TOWN BUSINESS DISTRICT ZONING FOR PROPERTIES
SITUATED AT HA'IKU, MAUI, HAWAI'I

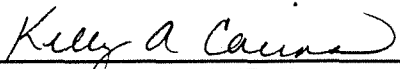
BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.15 and 19.510, Maui County Code, B-CT Country Town Business District zoning is hereby established for those certain parcels of land located in the Interim District in Ha'iku, Maui, Hawai'i, identified for real property tax purposes by TMKs: 2-7-09: 27; 2-7-09: 44; 2-7-10: 31; 2-7-19: 46; and 2-7-20: 11; and identified on Land Zoning Map No. 25, on file in the Office of the County Clerk of the County of Maui and which is by this reference made a part hereof.

SECTION 2. Severability. If any provision of this ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this ordinance are severable.

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

APPROVED AS TO FORM AND
LEGALITY:



KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui

lu:misc:30bill04:mnc