

ORDINANCE NO. 3554

BILL NO. 22 (2008)

A BILL FOR AN ORDINANCE TO REPEAL ORDINANCE NO. 2171 (1992)  
AND TO ESTABLISH KIHAI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING  
(CONDITIONAL ZONING), FOR APPROXIMATELY 670 ACRES SITUATED AT  
PAAEHU, PALAUEA, KEAUHOU, MAUI, HAWAII

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

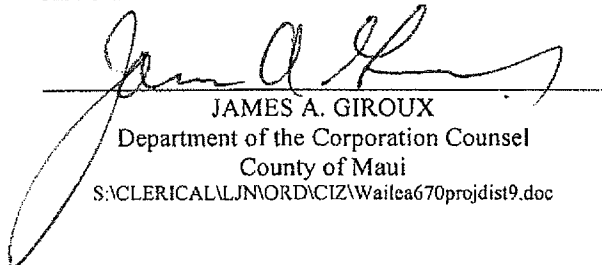
SECTION 1. Ordinance No. 2171 (1992) is hereby repealed in its entirety.

SECTION 2. Pursuant to Chapters 19.45 and 19.510, Maui County Code, Kihei-Makena Project District 9 (Wailea 670) zoning (conditional zoning) is hereby granted for those certain parcels of land located at Paeahu, Palauea, Keauhou, Maui, Hawaii, identified for real property tax purposes by Tax Map Key Nos. (2) 2-1-008:056 and (2) 2-1-008:071, comprising approximately 670 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-590, which is 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 3. Pursuant to Section 19.510.050, Maui County Code, the Kihei-Makena Project District 9 (Wailea 670) zoning granted by this ordinance is subject to the conditions set forth in Exhibit "B", 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 "C".

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

APPROVED AS TO FORM AND LEGALITY:

  
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JAMES A. GIROUX  
Department of the Corporation Counsel  
County of Maui  
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- g. Condition 9 of the Department of Health's "12 Conditions" relating to noise from maintenance facilities has been addressed through the location and design of the maintenance activities and facilities;
  - h. Condition 10 of the Department of Health's "12 Conditions" and the County Department of Environmental Management's concerns and recommendations relating to solid waste disposal management activities and facilities are identified and designed;
  - i. Condition 12 of the Department of Health's "12 Conditions" relating to soil runoff during construction and concerns of the State Department of Transportation; the County Department of Public Works; the State Department of Health; and the Natural Resources Conservation Service of the United States Department of Agriculture relating to drainage are addressed and incorporated in the design and layout of the plans, and a preliminary erosion control and drainage report is included in the application;
  - j. Confirmation from Maui Electric Company, Ltd. ("MECO") that the proposal to relocate and/or landscape MECO facilities is incorporated in the application and site plan; and
  - k. Roadway improvements to the satisfaction of the State Department of Transportation and the County Department of Public Works and proposed agreements are incorporated in the application and site plan and finalized as part of Project District Phase II approval.
19. That Honua`ula Partners, LLC, its successors and permitted assigns, shall execute appropriate agreements with the State of Hawaii and County of Maui agencies regarding participation in improvements of infrastructure and public facilities where such improvements are reasonably related to Honua`ula Partners, LLC 's project.
20. That marine monitoring programs shall be conducted which include monitoring and assessment of coastal water resources (groundwater and surface water) that receive surface water or groundwater discharges from the hydrologic unit where the project is located. Monitoring programs shall include both water quality and ecological monitoring.

Water Quality Monitoring shall provide water quality data adequate to assess compliance with applicable State water quality standards at Hawaii Administrative Rules Chapter 11-54. Assessment procedures shall be in accordance with the current Hawaii Department of Health ("HIDOH") methodology for Clean Water Act Section 305(b) water quality assessment, including use of approved analytical methods and quality control/quality

assurance measures. The water quality data shall be submitted annually to HDOH for use in the State's Integrated Report of Assessed Waters prepared under Clean Water Act Sections 303(d) and 305(b). If this report lists the receiving waters as impaired and requiring a Total Maximum Daily Load ("TMDL") study, then the monitoring program shall be amended to evaluate land-based pollutants, including: (1) monitoring of surface water and groundwater quality for the pollutants identified as the source of the impairment; and (2) providing estimates of total mass discharge of those pollutants on a daily and annual basis from all sources, including infiltration, injection, and runoff. The results of the land-based pollution water quality monitoring and loading estimate shall be submitted to the HDOH Environmental Planning Office, TMDL Program.

The ecological monitoring shall include ecological assessment in accordance with the Coral Reef Assessment and Monitoring Program protocols used by the Department of Land and Natural Resources. The initial assessment shall use the full protocol. Subsequent annual assessments can use the Rapid Assessment Techniques. Results shall be reported annually to the Aquatic Resources Division, Department of Land and Natural Resources.

21. That all exterior lighting shall be shielded from adjacent residential properties and near shore waters. Lighting requirements in force at the time of building permit application shall be applied.
22. That Honua`ula Partners, LLC, its successors and permitted assigns, shall pay the Department of Education \$3,000 per dwelling unit upon issuance of each building permit to be used, to the extent possible, for schools serving the Kihei-Makena Community Plan area; provided that, should the State pass legislation imposing school impact fees that apply to Kihei-Makena Project District 9, Honua`ula Partners, LLC, its successors and permitted assigns, shall from that point forward comply with the State requirements, or contribute \$3,000 per dwelling unit, whichever is greater.
23. That Honua`ula Partners, LLC, its successors and permitted assigns, shall fund and construct adequate civil defense measures as determined by the State and County of Maui civil defense agencies.
24. That Honua`ula Partners, LLC, its successors and permitted assigns, shall provide to the County two acres of land with direct access to the Piilani Highway extension for the development of fire control facilities within the village mixed-use sub-district at the time 50 percent of the total unit/lot count has received either a certificate of occupancy or final subdivision approval. The acreage provided shall have roadway and full utility services provided to the parcel.