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## **Luxury condos' place in review of Makena Resort argued**

*By VALERIE MONSON, Staff Writer*

WAILUKU – Maui Tomorrow's bid to intervene on Everett Dowling's luxury condominium development along the Makena coastline was rejected soundly by the Maui Planning Commission Tuesday night, but no decision could be reached on what should happen next to the project.

With commissioners exhausted from a long agenda Tuesday afternoon, there was still the question of whether the county's Cultural Resources Commission (CRC) should review the draft management plan prepared by Makena Resort. The management plan includes the parcels planned for development by Dowling's Keaka LLC.

After two motions to forward the management plan with the Keaka special management area permit application to the CRC failed, the Keaka application was deferred until Oct. 11.

Chairwoman Susan Moikeha clearly was angered with what she called Dowling's apparent reluctance to appear before the cultural panel. On Wednesday, Dowling told The Maui News that he has every intention to take his project to the CRC but not as part of the Makena Resort.

"The issue was the overall Makena Resort plan," said Dowling as to why he had objected. "That's their processing. We're a separate project."

That still might not satisfy the commission, particularly Moikeha, who felt that the CRC should be given the entire draft report that was prepared to comply with a recommendation by the Maui County Council's Land Use Committee during Makena Resort's rezoning application last year.

Dowling continued to insist that his parcel, already zoned urban, easily could be removed from the management plan for the larger resort.

Moikeha disagreed.

"There's a lot of protesting over the CRC and I just don't understand it," she snapped. "I don't see where we have the authority to change a document we didn't even generate. I've heard this all day long – 'Oh, it has nothing to do with us.' Then why was it in there in the first place?"

The Keaka request involves three parcels within the Makena Resort area, including a 9.3-acre hotel/resort property that runs along the 15th fairway of

the Makena Golf Course. The development plan also includes an accessory recreation building to be constructed on a portion of a 1.7-acre parcel jointly held with Maui County, and a retention basin on a 2-acre parcel on the mauka side of Makena Road.

In voting 6-1 to turn down the request from Maui Tomorrow to intervene on the project, commissioners said they felt the group filed its petition late and for no good cause. Maui Tomorrow is a community lobbying group set up to protect natural resources and open space and support sustainable development.

"Rules need to be followed," said Wayne Hedani. "Maui Tomorrow doesn't have a direct interest that would be harmed."

Only Commissioner Diane Shepherd felt the intervention should have been granted.

"Maui Tomorrow is a volunteer organization that wouldn't have received notice (of the meeting) like the neighbors would have," said Shepherd. "They were only five days late. The developer has an army of consultants to make sure everything is done along the right lines."

The Keaka development proposal would build 71 condominium units in 15 buildings on the lot between the 15th and 16th oceanfront fairways of the Makena Golf Course. The parcel is just south of the Maui Prince Hotel along the old Makena Road segment that provides public access to the Maluaka Beach fronting the hotel.

Buildings would range in height from one to six stories. No prices for the condos have been set, but Dowling estimated they would each cost "above \$3 million."

The condos would include two two-bedroom units, 54 three-bedroom units, 12 four-bedroom penthouses and three four-bedroom bungalows with garages. The three-bedroom condos each would have 3,438 square feet of enclosed living space.

Moikeha noted that the units most likely would not be purchased by current Maui residents.

"This won't be for the local, everyday resident," she said. "These will be second homes for people from the Mainland."

Dowling cited his company's other projects that have been sold to Maui workers.

"We have put more first-time home buyers in houses than any other developer," he insisted.

The three-story accessory building would feature a parking garage, golf shop, locker rooms, kitchen facilities and a deck with a pool and spa for residents of the complex and their guests. The third floor also might be turned into a condominium (which would make a total of 72 units).

Dowling said short-term rentals would be prohibited in the project, a condition that would accompany the deeds and be enforced by the homeowners association. After the meeting, he said he felt such a distinction would be a selling point for the property because so many condos in the Wailea-Makena region are let out as vacation rentals.

"Some people with that amount of income, buying at this price range don't want to meet a new neighbor every week," he said. "Plus, it lowers the impacts in the community."

There was little discussion about the fact that Dowling's project would be limited to the very rich. Dowling said Wednesday that he would do whatever is asked to meet an affordable housing requirement – either 11 units constructed at a location not known at this time or a cash contribution. He also defended building the opulent complex.

"I believe in balance," he said. "In the last six-year period, we have built 400 affordable units. . . If you look at the other luxury developers, other than just fulfilling their obligatory commitments, they haven't done any affordable housing projects."

His Dowling Co. has built homes in two Waiehu Kou Hawaiian homestead projects and is contracted to develop additional Hawaiian homestead units at Waiehu and Lahaina. Dowling also noted that owners in Hawaiian homestead projects pay no property taxes, so the pricier dwellings are needed to help pay for county services for all.

"We're very proud to develop them," he said of the Keaka condos.

Those questioning the project said archaeology reports were inadequate and questioned whether there will be water for the development.

Earthjustice, which is challenging diversion of stream waters from Central Maui for the growth in Central and South Maui, opposed the development saying there is insufficient water in existing systems.

The state Department of Land and Natural Resources noted that Dowling didn't identify his water source.

"At this time, the Iao aquifer is not able to supply potable water for all existing needs and proposed uses," wrote district land agent Daniel Ornellas. "The subject application fails to address this fact and how their proposed uses will further impact the ability of existing sources to supply existing and proposed needs."

But Dowling, who has been praised for his work with Hawaiian homelands and monetary donations to various entities, responded to the critics with his own supporters, including Native Hawaiian cultural specialist Charles Kauluwehi Maxwell Sr., Makena resident Ed Chang and Patty Nishiyama of Na Kupuna O Maui.

Maxwell, who prepared a cultural impact assessment for Dowling, said the property contained no burials and no other "significant" sites than those already identified, which included the old Makena School and a fishing shrine.

Maui Tomorrow sought to intervene mostly because of a fear that archaeological sites had not been completely identified, especially in relation to other features within the ahupuaa, and could be destroyed.

Ed Lindsey, a member of Maui Tomorrow, called for review by the CRC.

"He (Dowling) has his commitment to bulldoze and build," said Lindsey. "We have our commitment to protect and preserve as many sites as possible."

After the meeting, Lindsey said archaeological technology has improved over the years and that new studies are needed "so we can make a more informed decision." He said an "independent" archaeologist was needed to make an assessment.

The meeting began with former Planning Commissioner Dick Mayer urging the panel not only to accept Maui Tomorrow's late bid for intervention, but to permanently get rid of the deadline requiring a petition for intervention to be filed 10 weekdays in advance of the public hearing.

"The time factor is less important than the information," said Mayer.

Lucienne de Naie, vice president of Maui Tomorrow, explained that the group didn't know the project was scheduled for review until only a few weeks ago and couldn't obtain a copy of the staff report until Sept. 16. When the board of

directors decided the report didn't address certain issues, it decided to intervene the next day.

If the intervention had been accepted, a contested case procedure would have kicked in, delaying the project and potentially leading to additional conditions.

De Naie said the group didn't make the decision lightly.

"Lots of developments have come up in this area and we haven't intervened," she said. "It's a big deal to intervene."

But that didn't convince the commission.

"We live by rules and regulations," said Commissioner Johanna Amorin. "That's what the law is all about."

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