

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

March 11, 2005

**Committee
Report No.**

05-36

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

Chair and Members:

Your Public Works Committee, having met on February 8, 2005 and February 28, 2005, makes reference to County Communication No. 04-270, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY TO FRONTSTREET HOLDINGS LTD. FOR UNDERGROUND PRIVATE WASTEWATER SYSTEM PURPOSES".

The purpose of the proposed resolution is to grant a non-exclusive easement to build, construct, rebuild, repair, operate, maintain, relocate or remove an underground private wastewater system (grease interceptor) through and under a portion of Front Street in Lahaina.

Your Committee notes that County Communication No. 04-270 was referred to the prior Council's Public Works and Traffic Committee at the Council meeting of November 5, 2004.

At its meeting of January 21, 2005, the Council referred County Communication No. 04-270 to your Public Works Committee (County Communication No. 05-13).

At its meeting of February 8, 2005, your Committee met with the Director of Public Works and Environmental Management; the Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management; and a Deputy Corporation Counsel.

There was no public testimony.

Your Committee received photographs of the property owned by Frontstreet Holdings Ltd. (FSH) and the proposed location for the grease interceptor from the Chair of your Committee.

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

March 11, 2005
Page 2

Committee
Report No. 05-36

The Director informed your Committee that the proposed resolution would grant a non-exclusive 84-foot easement to FSH to install a grease interceptor under the County's sidewalk adjacent to their building. This grease interceptor would service their existing tenant, the Cheeseburger in Paradise Restaurant, and bring FSH in compliance with County requirements.

The Director also stated that due to the property's limited area, FSH is requesting the non-exclusive easement to install the grease interceptor on County property.

Your Committee reviewed several photographs of the property and the proposed location of the grease interceptor, noting its proximity to the ocean and the limited area to install a grease interceptor. Your Committee also reviewed a photograph of a grease interceptor installed under the County's sidewalk for Bubba Gump Shrimp Co. Restaurant, Inc. (BGSCR).

The Wastewater Reclamation Division Chief informed your Committee that the property owner has been issued a notice of violation and has been fined \$36,300 to date. He also explained that a portion of these fines may be waived because the property owner is waiting for the County to grant this non-exclusive easement to install the grease interceptor.

Your Committee expressed concerns about the health and safety of pedestrians in the immediate area.

The Wastewater Reclamation Division Chief explained that the provisions in the non-exclusive easement requires that FSH be responsible for the installation, repair, and maintenance of the grease interceptor. He also explained that FSH will indemnify the County against any claims related to the grease interceptor.

Your Committee requested that the Department of Public Works and Environmental Management provide a written response to the following questions:

1. Are there any alternatives for the property owner that will allow for a grease interceptor system to be installed entirely on private property?

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

March 11, 2005
Page 3

Committee
Report No. 05-36

2. Does the installation of a grease interceptor in the Lahaina Historic District require approval from the Maui County Cultural Resources Commission and has FSH received such approval?
3. Has FSH received their building permit for the installation of this grease interceptor system?
4. Is the grease interceptor system installed at 889 Front Street for BGSCR on County property, and if so, has a non-exclusive easement been obtained from the County?

Your Committee deferred the matter.

By correspondence dated February 23, 2005, the Director of Public Works and Environmental Management responded that FSH's design consultant has determined the best design for the grease interceptor, the project has received approval from the Maui County Cultural Resources Commission, a building permit has been issued, and a non-exclusive easement has been granted to BGSCR.

By correspondence dated February 23, 2005, Edgar Espiritu, Design Specialist, Joslin Group, provided documentation in support of the proposed easement.

At its meeting of February 28, 2005, your Committee met with the Director of Public Works and Environmental Management; the Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management; and a Deputy Corporation Counsel.

There was no public testimony.

The Director stated that the property is adjacent to the ocean with no perimeter area to install a grease interceptor. He stated that the Maui County Code does not allow the grease interceptor to be installed in any part of a food service establishment where food is handled. He also stated that the Department of Public Works and Environmental Management has no objections to the granting of the non-exclusive easement.

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

March 11, 2005
Page 4

Committee
Report No. 05-36

Your Committee expressed concern that a private entity is allowed the use of public property for such a nominal fee.

The Director stated that the fee of \$10 is consistent with the non-exclusive easement granted to BGSCR.

Your Committee expressed concern for the traffic congestion during the installation of the grease interceptor.

Mr. Don Freeman, Vice President, Joslin Group, explained that the installation will be done at night and that various steps will be taken to ensure public safety.

Your Committee voted to recommend adoption of the proposed resolution and filing of the communication.

Your Public Works Committee RECOMMENDS the following:

1. That Resolution No. _____, attached hereto, entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY TO FRONTSTREET HOLDINGS LTD. FOR UNDERGROUND PRIVATE WASTEWATER SYSTEM PURPOSES", be ADOPTED; and
2. That County Communication No. 04-270 be FILED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

March 11, 2005
Page 5

Committee
Report No. 05-36

JOSEPH PONTANILLA Chair

G. RIKI HOKAMA Member

MICHAEL J. MOLINA Vice-Chair

DANNY A. MATEO Member

ROBERT CARROLL Member