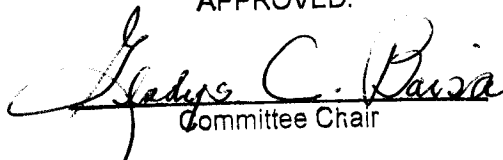


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M I N U T E S
LAND USE COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
WAILUKU, MAUI, HAWAII
JUNE 17, 2009

APPROVED:


Committee Chair

TRANSCRIBED BY:
Tonya McDade
Hawaii Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Captioner

1 CONVENE: 1:33 p.m.

2 PRESENT: Councilmember Gladys C. Baisa, Chair
3 Councilmember Michael Molina, Vice-Chair
4 (arr. at 1:34 p.m.)
5 Councilmember Jo Anne Johnson, Member
6 Councilmember Danny A. Mateo, Member
7 Councilmember Wayne K. Nishiki, Member
8 Councilmember Joseph Pontanilla, Member

9 EXCUSED: Councilmember Sol P. Kaho`ohalahala, Member
10 Councilmember Bill Kauakea Medeiros, Member
11 Councilmember Michael P. Victorino, Member

12 STAFF: Carla Nakata, Legislative Attorney
13 Pauline Martins, Committee Secretary
14 Ken Fukuoka, Director, Office of Council Services
15 Lei Kihm, Executive Assistant to Councilmember
16 Medeiros

17 ADMIN: James A. Giroux, Deputy Corporation Counsel,
18 Department of the Corporation Counsel
19 Jeff Hunt, Director, Department of Planning
20 Paul Fasi, Planner, Department of
21 Planning
22 Michael Miyamoto, Deputy Director, Department
23 of Public Works (Item No. 54)
24 Cheryl Okuma, Director, Department of
25 Environmental Management (Item No. 7)
26 Robyn Loudermilk, Planner, Department of
27 Planning
28 Clayton Yoshida, Planning Program
29 Administrator, Current Planning Division,
30 Department of Planning (Item No. 7)

31 OTHERS: Willem Van Der Lee
32 Maris Van Der Lee

33 PRESS: Akaku, Maui Community Television, Inc.

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CHAIR BAISA: ...(gavel)... Good afternoon.

Will the Land Use Committee meeting of June 17, 2009
come to order.

May I please note that I would really

1 respectfully ask everyone in the room, if you have a
2 cell phone or some kind of a noisemaker, that you would
3 please put it on the silent mode so we will not be
4 interrupted this afternoon by noise, unnecessary noise.
5 We'll make enough of it ourselves.

6 Chair would like to make introductions this
7 afternoon. I'd, first of all, like to introduce my
8 Vice-Chair of the Land Use Committee, Mike Molina.

9 VICE-CHAIR MOLINA: Good afternoon, Madam Chair.

10 CHAIR BAISA: Thank you, Mike, for coming.

11 I'd also like to introduce our Council Chair,
12 Danny Mateo, who's a Member of the Committee, who's with
13 us this afternoon. Good afternoon, Danny.

14 COUNCILMEMBER MATEO: Good afternoon.

15 CHAIR BAISA: I'd also like to introduce Member
16 Jo Anne Johnson.

17 COUNCILMEMBER JOHNSON: Aloha.

18 CHAIR BAISA: Thank you, Jo Anne.

19 And I'd also like to introduce Member Wayne Nishiki.

20 COUNCILMEMBER NISHIKI: Good afternoon.

21 CHAIR BAISA: And Member Joe Pontanilla.

22 COUNCILMEMBER PONTANILLA: Good afternoon.

23 CHAIR BAISA: Excused this afternoon is Member Sol
24 Kaho`ohalahala, Member Bill Kauakea Medeiros and Member
25 Michael Victorino.

1 We also have with us this afternoon our Corporation Counsel
2 representative, James Giroux. Good afternoon, James.

3 And from the Planning Department, we have our
4 Planning Director, Jeff Hunt.

5 MR. HUNT: Good afternoon, Chair.

6 CHAIR BAISA: Hi, Jeff. Always a pleasure.

7 And also with Mr. Hunt is Paul Fasi, Planner.

8 MR. FASI: Good afternoon, Chair.

9 CHAIR BAISA: Good afternoon.

10 We also have with us Mike Miyamoto, the Deputy
11 Director of Public Works. He's sitting in the back
12 there, I guess waiting to come -- be called shortly.

13 And we also have with us Planner Robyn
14 Loudermilk. Welcome, Robyn. Thank you.

15 And we have also with us Cheryl Okuma, the
16 Department -- the Director of the Department of
17 Environmental Management.

18 We also have with us land -- landowner
19 representatives Willem and Maris Van Der Lee. Thank you
20 for being here.

21 And my Committee Staff: Pauline Martins, my
22 Committee Secretary; and Carla Nakata, our Legislative Attorney.

23 Members, the public testimony will be accepted
24 starting in a few moments. Anybody wishing to testify
25 should sign up at the secretary's desk. Testimony will

1 be limited to three minutes. The yellow light will
2 indicate that you have 30 seconds remaining, and you
3 should begin to wrap it up. Testifiers are requested to
4 state their name for the record and to indicate who they
5 are representing, if that is applicable.

6 Today, we have two items on our agenda,
7 Members.

8 Land Use-54, Change in Zoning for Willem and
9 Maris Van Der Lee, Wailuku. Before the Committee is a
10 proposed bill to grant a request from Willem and Maris
11 Van Der Lee for a Change in Zoning from Interim District
12 to R-3 Residential District to develop a three-lot
13 family subdivision on 1.33 acres, located at 898 Pakele
14 Place, Wailuku, Maui.

15 We also have Land Use-7, a District Boundary
16 Amendment, Community Plan Amendment, and Change in
17 Zoning for a County Heavy Industrial Facility in
18 Puunene. Before the Committee are revised proposed
19 bills to grant requests from the Department of Public
20 Works and Environmental Management for a Community Plan
21 Amendment, a District Boundary Amendment, and a Change
22 in Zoning to allow for the establishment of a County
23 Heavy Industrial Facility on approximately 14.802 acres,
24 owned by the State, in Puunene, Maui.

25 In addition, the Committee has received

1 correspondence dated April 16th, 2009, from the Director
2 of Environmental Management indicating that the
3 Department no longer intends to pursue a County heavy
4 industrial facility at this site.

5 And so these are the items we'll be working on
6 this afternoon. Without objection, the Committee will
7 now accept public testimony on both items. Are there
8 any objections?

9 COUNCIL MEMBERS VOICED NO OBJECTIONS.

10 CHAIR BAISA: Secretary, did anybody sign up?

11 MS. MARTINS: No.

12 CHAIR BAISA: No one has signed up to testify
13 prior to the meeting. Is there anyone in the audience
14 who would like to testify? If not, without
15 objections -- and I'm not seeing anyone rushing up
16 front -- the Chair would like to close public testimony
17 on these items.

18 COUNCIL MEMBERS VOICED NO OBJECTIONS.

19 CHAIR BAISA: Thank you very much. Public
20 testimony is closed.

21 LU-54 CHANGE IN ZONING FOR WILLEM AND MARIS VAN DER
22 LEE (WAILUKU) (C.C. No. 08-252)

23 CHAIR BAISA: Members, our first item this
24 afternoon is Land Use-54, a Change in Zoning for Willem
25 and Mar -- Maris Van Der Lee. Before the Committee is a

1 proposed bill entitled "A BILL FOR AN ORDINANCE TO
2 ESTABLISH R-3 RESIDENTIAL DISTRICT ZONING FOR PROPERTY
3 SITUATED AT WAILUKU, MAUI, HAWAII". The purpose of the
4 proposed bill is to develop a three-lot family
5 subdivision on 1.33 acres located at 898 Pakele Place,
6 Wailuku, Maui.

7 We have Mr. Willem Van Der Lee in attendance
8 today.

9 Mr. Van Der Lee, would you like to provide the
10 Committee with a short presentation or some remarks on
11 the item? We'll invite you to the podium. Thank you
12 very much. Please proceed.

13 MR. VAN DER LEE: Hi. My name is Willem Van
14 Der Lee. And I would like to have the change in zone
15 because I -- we purchased this property, my wife Maris
16 and my brother together. And I think it would be better
17 if it was -- be able to make it an R-3, so we can have,
18 then, each our own property on -- piece of property on
19 that piece. And that's, basically, you know, what we're
20 looking for.

21 CHAIR BAISA: Thank you very much.

22 Members, any questions on Mr. Van Der Lee's
23 presentation? Yes, Ms. Johnson?

24 COUNCILMEMBER JOHNSON: I just wanted to find
25 out, Mr. Van Der Lee, when -- when did you start the

1 process for doing this Change in Zoning?

2 MR. VAN DER LEE: Well, we've been at it --
3 we've been at it for, I would say, 10 years. And then
4 we started, we stopped. And we been at it now for four
5 years. And we finally got at -- you know, to this point
6 right now.

7 COUNCILMEMBER JOHNSON: So -- so it's a long
8 while now?

9 MR. VAN DER LEE: It's been quite a while,
10 yes.

11 COUNCILMEMBER JOHNSON: Okay. And I -- you
12 know, I -- my assumption is that you just want to move
13 forward with this now so that -- as you're getting
14 older, that you just wanna make sure that that property
15 is divided amongst your family members.

16 MR. VAN DER LEE: Yes. That's correct.

17 COUNCILMEMBER JOHNSON: Okay. Thank you very
18 much.

19 CHAIR BAISA: Members, any additional
20 questions for our applicant? If not, Mr. Van Der Lee,
21 thank you. Would you please be available just in case
22 something comes up later?

23 MR. VAN DER LEE: Okay. Thank you.

24 CHAIR BAISA: Thank you very much. And now I
25 would like to ask Mr. Paul Fasi, the Planner, for his

1 comments?

2 MR. FASI: I can give you a brief overview of
3 the entire project, but, basically, what Mr. Van Der Lee
4 has just expressed is, basically, what the purpose of
5 this Change in Zoning is.

6 It's important to note that this is strictly a
7 Change in Zoning. There's no development proposed.
8 There's no earth moving at all. This is strictly a
9 paper transaction for the Van Der Lee family.

10 CHAIR BAISA: Director Hunt?

11 MR. HUNT: Just -- just to follow up. As --
12 as Paul stated it, it's just in Change in Zoning. The
13 State Land Use is already Urban, the Community Plan is
14 Single Family. The testifier said it's taken 'em
15 four years. I think this is an example where during the
16 Community Plan updates we hope to have zoning be
17 consistent with the Community Plan designations. And it
18 would be more of an expedited, streamlined process for
19 everybody that -- the applicant, the Planning
20 Department, the Council, et cetera. So I think this is
21 a good example of -- during the Community Plan Updates,
22 we're going to try and propose that zoning be
23 established to match the Community Plan designations.
24 And, hopefully, these kind of applications, then, won't
25 take up so much of every ones time.

1 Thank you.

2 CHAIR BAISA: Thank you very much.

3 We also have Mr. Miyamoto from Public Works.
4 Mr. Miyamoto, would you like to share any comments at
5 this time? No, okay. But he is available as a resource
6 if something comes up later.

7 Members, any questions, discussion, on what's
8 been presented?

9 Maybe I can help you by giving you some
10 background information. No conditions of zoning have
11 been recommended by the Maui Planning Commission. They
12 have -- there were no conditions attached to their
13 recommendation for approval. Per Planning, the property
14 is located in the Special Management Area. So before
15 this property could be developed, an SMA permit would be
16 needed. And this would be reviewed by the Maui Planning
17 Commission. The documents indicate that there is an old
18 single-story structure on the property and that is in
19 disrepair and is unused.

20 Will the owner need to obtain an SMA permit if
21 he decides to rebuild that structure to its original
22 specifications? And at that point, would an
23 archeological survey be required? I think that's an
24 issue that we might want to talk about just for a little
25 bit. And that would, obviously, best be answered by

1 somebody from, I guess, Planning, yeah. Can you help?

2 MR. FASI: You are correct, Chair. In order
3 to renovate the existing 30-year plus structure, he
4 would need an SMA permit to start the -- any
5 reconstruction per -- process. And if there are any
6 ground altering, earth moving involved in a development,
7 then that would trigger a review by the State Historic
8 Preservation Division for archeological monitoring
9 onsite.

10 CHAIR BAISA: However, it's been made clear
11 that that is not an issue at this point because what
12 we're approving today is simply the zoning.

13 MR. FASI: That is correct.

14 CHAIR BAISA: And there is no development
15 associated with this at this time?

16 MR. FASI: That is correct.

17 CHAIR BAISA: Good. And so this is why I
18 understand that this was a very narrow issue looked at
19 by the Planning Commission. And so there were no
20 condition attached because of the clear-cut nature of
21 the request.

22 MR. FASI: Yes, ma'am. To date, there has
23 been no testimony whatsoever communicated to the
24 Planning Department.

25 CHAIR BAISA: During the Planning Commission

1 hearings, were there any comments from neighbors?

2 MR. FASI: There was no testimony.

3 CHAIR BAISA: Members, any additional
4 discussion? Yes, Member Nishiki.

5 COUNCILMEMBER NISHIKI: Paul, I was looking at
6 the November 2nd, 2007 communication from the State of
7 Hawaii Department of Land and Natural Resources.

8 This is Exhibit 9, Members. (Inaudible.)

9 Anyway, it -- it goes on to say that they
10 thank you for the opportunity to review and comment on
11 the Change in Zoning application for the proposed
12 project. And I guess that's what it is. And then it
13 goes on to state, in the same paragraph, "No field
14 inspection was conducted on the oceanfront subject
15 parcel. Based on the submitted documents, the subject
16 action for the proposed undertaking consists of plans to
17 change the existing County Interim zoning to R-3. We
18 understand that there has been preliminary subdivision
19 approval for a proposed three-lot subdivision." And
20 then it goes on to say, "Existing land use includes two
21 single-family residences." Then, third paragraph, it
22 says, "This area was once the location of pre-Contact
23 traditional Hawaiian agricultural and aquaculture
24 activities with scattered habitation and ceremonial
25 sites. Previously documented --" anyway, it goes on to

1 say that, "There's been significant pre-contact subsurface
2 cultural deposits, artifacts, and post-Contact historic
3 properties documented in the area."

4 In the -- one, two, three, four -- fifth
5 paragraph it says, "Based on the compiled information, we
6 believe historic archaeological properties or
7 previously disturbed historic archaeological properties
8 may still be present. Therefore, in order to determine
9 the effect of the proposed undertaking on historic
10 sites, we recommend that no action be taken on the
11 subject application until an archeological inventory
12 survey has been conducted of the subject area to
13 determine whether significant historical properties are
14 present."

15 So, this coincides with 19.510.040, Madam
16 Chairman, in regards to the Change in Zoning, in which
17 it says that the Council may grant a Change in Zoning if
18 all following criteria are met. And, in D., it says,
19 "The application, if granted, would not adversely impact
20 the social, cultural, economic, environmental and
21 ecological character of the quality of the surrounding
22 area." So if this is stated in the Change in Zoning --
23 Paul --

24 MR. FASI: Yes.

25 COUNCILMEMBER NISHIKI: --Historic Preservation

1 says that they recommend no action be taken on the
2 subject application until this survey inventory is done.
3 How am I to act on it --

4 MR. FASI: Um.

5 COUNCILMEMBER NISHIKI: -- with a concern that
6 Historic Preservation talks about?

7 And the reason why I ask this is this: I hear
8 all the time Planning Department say, ah, don't worry
9 about it, we'll catch it when they come in for SMA.
10 Okay. For me, as an elected Council Member, if I see
11 this concern here, I cannot pass it over when it is part
12 of Change in Zoning. So if you can explain to me. You
13 want me to close my eyes and shuffle paper and say
14 "aye?"

15 CHAIR BAISA: Mr. Fasi, please.

16 MR. FASI: Subsequent to the November 2nd,
17 2007 letter that you're referring to, the DLNR issued a
18 letter on August 20th, 2008, a little under a year
19 after, in which they accepted the inventory level
20 fieldwork and stated that it was acceptable to them. I
21 think there was a little bit of a misconception with the
22 DLNR at the time, in 2007. That they were under the
23 impression that there would be some development work
24 done when, in fact, there -- there is not. And so the
25 2008 letter addresses their 2007 concern.

1 I don't think you have a copy of the 2008
2 letter as a exhibit. I can show you a copy.

3 COUNCILMEMBER NISHIKI: Can you read it or ...

4 MR. FASI: Sure. Paragraph 3 says, "The
5 report now contains the required information as
6 specified in HAR 13-276-5 regarding the documentation in
7 -- of inventory level fieldwork in general and is
8 acceptable."

9 COUNCILMEMBER NISHIKI: Okay.

10 CHAIR BAISA: Mr. Fasi, would you make that
11 available, please? We can have staff copy it. Carla
12 will get that from you and make copies for the Members,
13 but thank you for sharing that.

14 COUNCILMEMBER NISHIKI: So the Planning
15 Department sees that that would address 4E in 19.510.040
16 conditions of zoning?

17 MR. FASI: Yes, sir.

18 COUNCILMEMBER NISHIKI: Okay. Thank you.

19 CHAIR BAISA: Member Pontanilla, did you have
20 a question?

21 COUNCILMEMBER PONTANILLA: Thank you,
22 Chairman. Not a question, but comments in regards to
23 this particular area.

24 Years ago, as I was looking at the Community
25 Plan drawings, trying to match it up with the zoning,

1 there were a lotta inconsistency. And I think Director
2 Hunt indicated that as we go through the General Plan
3 and Community Plan Amendment, then we'll do the changes.
4 So there are -- across the street from this location,
5 the one particular subdivision, you have conservation as
6 well as, I think it's residential. Half of the lot is
7 conservation, the other half is residential. So there
8 are inconsistency.

9 Thank you.

10 CHAIR BAISA: Thank you, Member Pontanilla.

11 Members, are there any additional questions,
12 comments? If not, Chair is ready to make a
13 recommendation.

14 VICE-CHAIR MOLINA: Recommendation.

15 CHAIR BAISA: Thank you very much, Members.

16 The Chair will entertain a motion to recommend passage
17 on first reading of a proposed bill entitled "A BILL FOR
18 AN ORDINANCE TO ESTABLISH R-3 RESIDENTIAL DISTRICT
19 ZONING FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII".

20 VICE-CHAIR MOLINA: So moved.

21 COUNCILMEMBER PONTANILLA: Second.

22 CHAIR BAISA: Thank you very much. It's been
23 moved by Member Molina and seconded by Member Pontanilla
24 that the proposed bill be -- be passed.

25 Members, discussion? Member Molina, any

1 comment?

2 VICE-CHAIR MOLINA: Just a brief comment. I
3 just wanna thank the applicant for coming in. And,
4 again, this is just for a Change in Zoning. And, again,
5 when the day arrives that the applicant wants to build
6 and, of course, they'll have to go through the process
7 of going through the Maui Planning Commission, but, you
8 know, looking at the information presented to us here,
9 the structure -- well, I guess the oldest home that's on
10 the property was built back in 1935. So it's been there
11 for some time.

12 So, you know, I think what the applicant is
13 doing is appropriate. So I have no problem in
14 supporting this, Madam Chair. Thank you.

15 CHAIR BAISA: Thank you very much. Anything
16 that was built in 1935 is older than me, it's really
17 old.

18 Member Johnson?

19 COUNCILMEMBER JOHNSON: I just wanted to check
20 with Planning because I know that if any of the
21 improvements or demolition or anything, if that is under
22 \$125,000, it would only be an administrative approval on
23 the part of the Director, it would be an SMA minor and
24 it would not go through a standard public process, is
25 that correct?

1 MR. HUNT: If it's under 125,000, it would not
2 require a public hearing. But if there's issues
3 regarding archeological or -- or similar concerns, then
4 we send those to the appropriate agencies for their
5 comments, even though we don't take it to a public
6 hearing.

7 COUNCILMEMBER JOHNSON: Yeah. But because you
8 have the letter which, you know, we'll get at some
9 point, it's not necessarily going to occur. And -- and
10 I just wanna make that clear, that there is gonna be a
11 public hearing and public notices and all this other --
12 the things that we would ordinarily see. Because if
13 it's under that threshold, only the agencies would
14 comment and then it -- would there be a notice in the
15 paper?

16 MR. HUNT: I -- I don't believe it's enough
17 for a minor, but if it's -- if it's for a new house, I
18 mean, it's difficult to imagine that being under --

19 COUNCILMEMBER JOHNSON: Oh.

20 MR. HUNT: -- 125,000.

21 COUNCILMEMBER JOHNSON: Oh, yeah. I'm just
22 saying if it was a minor permit, like if the old
23 structure on the premises were to be demolished, and it
24 cost under \$125,000, then there will be no kind of
25 hearing, is that correct?

1 MR. HUNT: Unless we determine that there's --
2 in all likelihood, there -- there would not be a public
3 hearing --

4 COUNCILMEMBER JOHNSON: Okay.

5 MR. HUNT: -- for the (inaudible).

6 COUNCILMEMBER JOHNSON: I -- I appreciate
7 that. Because I just wanna make sure that people don't
8 be misled by the fact that automatically there's gonna
9 be a public hearing. It's not necessarily going to
10 occur. If -- if there is a large structure, replacement
11 of existing structure, and it goes over \$125,000, then,
12 yes, there would be. But, you know, in this particular
13 situation, there would not be.

14 So I just wanted people to understand that.
15 Thank you.

16 CHAIR BAISA: Members -- Member Pontanilla?

17 COUNCILMEMBER PONTANILLA: Thank you.

18 Does the Planning Commission still have that
19 information in regards to -- I -- I guess minor SMAs
20 that are signed off by the Department?

21 MR. HUNT: We send a report to them at every
22 meeting.

23 COUNCILMEMBER PONTANILLA: With the location
24 or -- or just the tax map key?

25 MR. HUNT: It's just a tax map key with --

1 there's additional information describing it, names and
2 other information. But it -- it is just a spreadsheet.
3 But it seems to be working.

4 COUNCILMEMBER PONTANILLA: Okay. Fine. Thank
5 you.

6 CHAIR BAISA: Any additional discussion? If
7 not, the Chair will call for the question. And that is
8 to -- to vote and to recommend passage on first reading
9 of the proposed bill entitled "A BILL FOR AN ORDINANCE
10 TO ESTABLISH R-3 RESIDENTIAL DISTRICT ZONING FOR
11 PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII". All those
12 in favor, please say "aye".

13 COUNCIL MEMBERS VOICED AYE.

14 CHAIR BAISA: Opposed, "no"?

15 VOTE: AYES: Councilmembers Johnson, Mateo,
16 Nishiki, and Pontanilla, and
Vice-Chair Molina, and Chair Baisa.

17 NOES: None.

18 ABSTAIN: None

19 ABSENT: None

20 EXC.: Councilmembers Kaho`ohalahala,
21 Medeiros, and Victorino.

22 MOTION CARRIED.

23 ACTION: FIRST READING OF BILL AND FILING OF
24 COMMUNICATION.

25 CHAIR BAISA: Motion carries. And it is

1 marked with six "ayes" and three "excused" -- Member
2 Ponta -- Member Victorino, Member Medeiros and
3 Member Kaho`ohalahala. Motion carries. Thank you.
4 Thank you, Planning Department. Thank you, resources.
5 Thank you, Members.

6 We will proceed in a few seconds, once we get
7 the new folks up here, with Land Use-7.

8 LU-7 DISTRICT BOUNDARY AMENDMENT, COMMUNITY PLAN
9 AMENDMENT, AND CHANGE IN ZONING FOR A COUNTY
10 HEAVY INDUSTRIAL FACILITY (PUUNENE)
11 (C.C. No. 07-91)

12 CHAIR BAISA: Members, our second item this
13 afternoon is Land Use-7, District Boundary Amendment,
14 Community Plan Amendment, and Change in Zoning for a
15 County Heavy Industrial Facility at Puunene. Before us
16 this afternoon is a revised proposed bill entitled "A
17 BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA
18 COMMUNITY PLAN AND LAND USE MAP FROM PROJECT DISTRICT 10
19 TO HEAVY INDUSTRIAL FOR PROPERTY SITUATED AT PUUNENE
20 MAUI HAWAII;" a revised proposed bill entitled "A BILL
21 FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT
22 CLASSIFICATION FROM AGRICULTURAL TO URBAN FOR PROPERTY
23 SITUATED AT PUUNENE, MAUI, HAWAII;" and a revised
24 proposed bill entitled "A BILL FOR AN ORDINANCE TO
25 CHANGE ZONING FROM AGRICULTURAL DISTRICT TO M-2 HEAVY

1 INDUSTRIAL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY
2 SITUATED AT PUUNENE, MAUI, HAWAII".

3 The Committee is also in receipt of
4 correspondence dated April 16th from the Director of
5 Environmental Management indicating that the Department
6 no longer intends to pursue a County heavy industrial
7 facility at this site.

8 I would now like to ask the Director of
9 Environmental Management, Sharon [sic] Okuma, for her
10 opening remarks. Cheryl.

11 MS. OKUMA: Thank you. Good morning -- good
12 afternoon, Committee Chair Baisa and Committee Members.

13 Briefly, the -- I consider the background of
14 this site pretty complex and going back perhaps 10-plus
15 or more years. But just a few highlights for you.

16 In 1999, the revised Puunene Airport Master
17 Plan was completed to support Maui County's request for
18 a governor's executive order transferring management of
19 a large parcel to the management of the County.

20 In 2003, about 223 acres were set aside to
21 Maui County for public and recreational use by
22 governor's executive order. Of this acreage, about 15
23 acres was sought for use by the Department for an
24 abandoned vehicle facility.

25 In 2006, the Department began taking steps to

1 move forward on the project.

2 In 2007, of July 26th, the Department received
3 DLNR's letter to the Council's Land Use Commission
4 advising that the proposed project was not consistent
5 with the executive order and the Puunene Airport Master
6 Area Plan. It was clarified to the Department in
7 subsequent discussions with the State DLNR that the
8 project, in their opinion, was not for public and
9 recreational purposes.

10 During the later part of 2007, the Department
11 met with a representative from DLNR to resolve the
12 matter so the project could move forward.

13 During those discussions, DLNR made two points
14 to us.

15 First, DLNR believed the project would be
16 profitable as it was revenue-generating, and the County
17 would be required to make payment to the State even if
18 the County was not directly receiving revenues.

19 In addition, at that time, before the global
20 economic crisis and the fall of the market, our best
21 information was that expenses would exceed scrap sales
22 and the facility would not be generating an annual
23 profit. However, because scrap metal would be sold to
24 the market by a third-party after processing, DLNR
25 considered that to be a source of revenue that they

1 wanted a cut of and would seek payment from the County.
2 The County -- we then asked DLNR if the State would
3 undertake the project directly. And the State declined.

4 Secondly, we were advised that the County
5 would need to undergo a new master planning effort for
6 that 223 acres. And we were only seeking 15 acres. And
7 that would involve complex participation of any State
8 and County agencies.

9 And I look to Planning Department for their
10 expertise on explaining what that involves.

11 But in any event, that process would
12 substantially -- could substantially delay the timeline
13 due to the level of effort needed and an outcome
14 dependent on other agencies.

15 The Department decided not to pursue this site
16 because, number one, of all those issues I've just
17 touched on; and, two, the project concept evolved to,
18 also, ultimately, today include a material recovery
19 facility as well to process recyclables.

20 Also, third point, the Integrated Solid Waste
21 Management Plan recommendation would have us consider a
22 centralized location near Central Maui Landfill for a
23 variety of facilities that would include the MRF, or
24 Material Recovery Facility, as well as an abandoned
25 vehicle facility and potentially other solid waste

1 facilities.

2 Currently, we have been in preliminary
3 discussions with HC&S and A&B, and have identified 20
4 acres next to Central Maui Landfill for purchase. And,
5 in fact, thanks to this Council, our Fiscal Year 2010
6 Budget provides us with the monies to begin moving
7 forward on negotiations.

8 Thank you.

9 CHAIR BAISA: Thank you very much, Ms. Okuma.
10 If you'd just stay with us, I'd like to hear from the
11 Planning Department and then we'll open it to the
12 Members for discussion.

13 Ms. Loudermilk?

14 MS. LOUDERMILK: Good afternoon, Chair and
15 Members.

16 I do not have too much more to add on other
17 than, when the County first embarked on this project,
18 there was a perceived crisis that there were not enough
19 industrial zoned lands, and abandoned vehicles were
20 sprouting alongside all the roads on Maui Island. At
21 that time there was only, I believe, one legally
22 permitted facility on Maui island that could handle the
23 abandoned vehicle. And that was located at the Puunene
24 Baseyard.

25 Also, there was a lot of discussion of a

1 multiple use and recycling facility, and that this could
2 possibly be a location for this to occur. So the -- the
3 Council provided monies to the Department of Public
4 Works and Environmental Management at that time to go
5 forward with the Environmental Assessment, the District
6 Boundary Amendment, the Change in Zoning and the
7 Community Plan Amendment.

8 When the project went before the Maui Planning
9 Commission, there was unanimous support. And there
10 still continues to be support today for the type of
11 activities that were being proposed.

12 As Director Okuma had indicated, with the
13 Integrated Solid Waste Management Plan update, they've
14 identified additional location, a more centralized
15 location, that would be more appropriate. And that they
16 would prefer this particular location.

17 Since that time, that this was before you, we
18 had a number of, I believe, two or three properties that
19 were designated Heavy Industrial on Maui Island to be
20 able to accommodate this type of activity. One large
21 project, again, was in the Central Maui Baseyard, in
22 which about 12 additional acres was rezoned to Heavy
23 Industrial. Then a Special Management Area permit was
24 issued to Kitagawa's for property along the Kahului
25 Harbor area. And I think there may have been one more,

1 but it -- it escapes me. But the -- the bottom line is
2 that we do have -- no. Excuse me.

3 Within the last six months, the Maui Planning
4 Commission also granted a Special Use Permit for a
5 similar type facility at the old Puunene hospital. And
6 the property owner there and the operator are consulting
7 with the Department of Health to meet all their
8 requirements to handle similar types of waste.

9 The Council provided the Planning Department
10 with funds to do the update of the Puunene Master Plan.
11 And that at this point in time the Department is in the
12 process of getting the monies disbursed, doing the RFP
13 and going forward.

14 Once that Master Plan gets done, then the
15 County can go back to the Board of Land and Natural
16 Resources, get issued a new executive order for -- at a
17 minimum, to keep the existing recreational uses that we
18 have out there. And there may be other new uses, such
19 as the potential prison by the State of Hawaii as well
20 as a potential expansion of the Puunene Armory,
21 depending on events in Washington, D.C.

22 At this time, the Department is aware of the
23 Department's request and are available to answer any
24 additional questions that you may have on the project at
25 this time.

1 CHAIR BAISA: Thank you, Ms. Loudermilk.
2 Members, open for discussion. Member Johnson?

3 COUNCILMEMBER JOHNSON: I just was curious if
4 you have any idea how much money was expended going down
5 this road?

6 MS. LOUDERMILK: I -- the Planning Department,
7 we do not have that -- it would probably be --

8 COUNCILMEMBER JOHNSON: I guess Ms. Okuma
9 might --

10 MS. LOUDERMILK: --more appropriate for, maybe,
11 Ms. Okuma. And it did begin under Milton Arakawa before
12 there was the Charter Amendment separating the
13 departments.

14 COUNCILMEMBER JOHNSON: Right. I -- I was
15 just curious to know if --

16 CHAIR BAISA: Ms. Okuma --

17 COUNCILMEMBER JOHNSON: -- we had that
18 information.

19 CHAIR BAISA: -- could you please? Thank you.

20 MS. OKUMA: I'm not sure I have all the
21 information, but I know that, prior to the new
22 department, there was an effort to undertake an
23 environmental assessment because that was the direction
24 provided to the Department under prior administration.
25 My best recollection is that was at a cost of about

1 maybe \$400,000.

2 But I just wanna comment that information
3 coming out of an environmental assessment, even though
4 done for the purpose in this case for the abandoned
5 vehicle facility, is still useful information in the
6 future for any other use. And Robyn's shaking her head.
7 Probably Planning can better address that than I.

8 COUNCILMEMBER JOHNSON: And I -- yeah. I
9 would just -- if there's an opportunity, I just would
10 like to know what the total was that was expended.
11 Because I think that the public -- I mean, they have a
12 right to know. But I also think that if there is any
13 applicability, or any files or anything that is useful,
14 whether it's to the armory or it's to the State for
15 expansion of any of their facilities, I think it would
16 be good to let them know through some communication that
17 we have this box of documents on file, we've done
18 preliminary whatever. Because, like everything else, it
19 ends up in the file, sitting somewhere. And half the
20 time, it's repeated again on the part of another agency
21 to have to do what we've already done.

22 But at least, if we could provide the cost
23 analysis, then the State or any other agency, if you're
24 qualifying for Federal funds, they may be able to say
25 that that is the cost of the information, that's our

1 contribution from the County of Maui, which then could
2 be used as qualifying money or matching funds. And
3 that's my reason.

4 MS. OKUMA: And -- and my -- my best
5 recollection is that is the major expenditure, which was
6 approximately maybe 400-plus thousand dollars.

7 COUNCILMEMBER JOHNSON: Yeah.

8 CHAIR BAISA: Member Johnson --

9 COUNCILMEMBER JOHNSON: And it's --

10 MS. OKUMA: It's my best --

11 CHAIR BAISA: The Chair will be happy to make
12 that request.

13 COUNCILMEMBER JOHNSON: And if we could just
14 have it --

15 CHAIR BAISA: Yes.

16 COUNCILMEMBER JOHNSON: -- when this comes
17 forward for first reading, assuming it gets out of
18 Committee.

19 CHAIR BAISA: Yes.

20 COUNCILMEMBER JOHNSON: I'd appreciate it
21 because I think that will be useful to those agencies,
22 if they do have to go forward for other funding.

23 CHAIR BAISA: Chair will make that request.
24 And then we'll have it on file.

25 COUNCILMEMBER JOHNSON: Thank you.

1 CHAIR BAISA: Thank you very much for bringing
2 that up. Any additional comments from the Members?
3 Member Mateo?

4 COUNCILMEMBER MATEO: Thank you, Madam Chair.
5 Ms. Okuma?

6 CHAIR BAISA: Cheryl, you might wanna hang for
7 a while until we're done.

8 COUNCILMEMBER MATEO: Just wanted ...

9 CHAIR BAISA: We're gonna need you.

10 COUNCILMEMBER MATEO: Yeah. Just wanted to
11 follow up on the Department's -- how far along you are
12 with the current landowner of the new site to purchase?

13 MS. OKUMA: We haven't started negotiations,
14 not -- thinking that was not appropriate until the
15 budget process was final and approved. And now that it
16 is, we can actually proceed forward to begin and open
17 the negotiations.

18 As I mentioned, there were only preliminary
19 discussions. We wanted to know if it was a viable
20 option, that area we were looking at. And we checked
21 with A&B, they turned us over to HC&S, who, in fact,
22 identified the 20 acres. And it looks like it's
23 appropriate. So with the money in place and with that
24 determination, we can now proceed with the negotiations.

25 COUNCILMEMBER MATEO: And just, you know, for

1 -- for my own information, because I don't remember, can
2 you kinda refresh our memories with the amount of monies
3 that was preliminarily requested by the Department for
4 the purchase of?

5 MS. OKUMA: For Fiscal Year '010, I believe it
6 was a million. So ...

7 CHAIR BAISA: It's a million.

8 MS. OKUMA: Chair Baisa is shaking her head.

9 COUNCILMEMBER MATEO: It is a million?

10 MS. OKUMA: I believe it was a million.

11 COUNCILMEMBER MATEO: Thank you very much.

12 Thank you, Madam Chair.

13 CHAIR BAISA: Members? Member Pontanilla?

14 COUNCILMEMBER PONTANILLA: Thank you. And,
15 you know, I can recall, I think most of us were here
16 when Mr. Ornellas gave us his opinion in regards to DLNR
17 and -- and, you know, for profit, yeah.

18 My question to Ms. Okuma is that now that we
19 have a vendor that brings us -- or take in derelicts, do
20 we need additional space to handle -- or do they have
21 enough space to handle all the dere -- derelicts at this
22 time? Because I remember, when this came forward, there
23 were no location to store derelicts that were being
24 picked up on the side of the road.

25 MS. OKUMA: Well, we have contracts in place.

1 And one is with a processor, SOS Metals. The other,
2 which you might be referring to, is -- is, basically, a
3 storage yard for vehicles that are brought in and not
4 determined by law to be eligible for scrapping. And
5 those are subject to County auction. And that is
6 something that has been contracted for by the County
7 over the years. So both are con -- contracts. I can't
8 speak for land availability for S -- SOS, but we've
9 never heard that that was an issue.

10 With respect to the storage yard, there have
11 been, as I recall, some challenges on trying to make
12 sure that that area is sufficient for the amount of cars
13 that are coming in. And, of course, over time, there's
14 been fluctuation in terms of what comes in and what goes
15 out.

16 So I -- I think to date, so far, that's --
17 that's probably been working out. But, obviously, as we
18 move forward in terms of various solid -- centralized
19 solid waste facilities, the concept of the abandoned
20 vehicle facility would address, I think, the thing that
21 the -- the matter you're -- you're bringing up.

22 COUNCILMEMBER PONTANILLA: Thank you. Thank
23 you, Chairman.

24 CHAIR BAISA: Members, any additional
25 comments? Member Johnson?

1 COUNCILMEMBER JOHNSON: Just as a follow-up
2 question to Chair Mateo's query. And this would be to
3 you, Ms. Okuma. When we're looking at this new site --
4 I know it's not the subject of, you know, what we're
5 doing today, but it has a rational nexus. What I would
6 like to find out is if that particular site is going to
7 be included in the new General Plan recommendations for
8 the rezoning, if that's -- if that's a requirement?
9 Because if it's not, I wanna find out from Planning if
10 they could make that as a recommendation. Because if
11 we're in the process of going through General Plan
12 Update, it would certainly save a lot of money and a lot
13 of time, and not have to go through this whole process
14 again, if that's the site that you're looking at.

15 MS. OKUMA: Well, I will, I guess, look to
16 Planning to help --

17 CHAIR BAISA: Chair --

18 MS. OKUMA: -- address that.

19 CHAIR BAISA: -- will ask Mr. Hunt.

20 COUNCILMEMBER JOHNSON: Thank you.

21 CHAIR BAISA: If you could address that,
22 Director Hunt.

23 MR. HUNT: The site near the central landfill?

24 COUNCILMEMBER JOHNSON: Yes.

25 CHAIR BAISA: Yes.

1 MR. HUNT: I believe that's in the draft Urban
2 Growth Boundaries at this point.

3 COUNCILMEMBER JOHNSON: Okay. But is the
4 zoning consistent with what the proposed use would be?

5 MR. HUNT: I don't know off the top of my
6 head. But the way the -- the way the hierarchy of
7 documents is -- is laid out in our Code, is we establish
8 a Maui Island Plan, including Urban Growth Boundaries
9 first, and then that leads to the Community Plans with
10 their Community Plan designations. Those have to be
11 consistent --

12 COUNCILMEMBER JOHNSON: Okay.

13 MR. HUNT: -- with the Urban Growth
14 Boundaries. And then like I alluded to on the last
15 application, we're going to propose that the zoning then
16 be consistent with the Community Plan at that time. And
17 that would result in consistency on that site.

18 COUNCILMEMBER JOHNSON: Okay. So if we pursue
19 this, what I -- I guess what my bottom line question is,
20 is it going to dovetail with the use that would be
21 intended on the part of our solid waste?

22 MS. OKUMA: Maybe to help -- help out a little
23 bit here, we are very preliminary right now in terms of
24 what all the uses would be. We would -- could be
25 looking at a variety of solid waste facilities. We

1 would have to do our own master planning once we
2 acquired that property. Maintenance yard, material
3 recovery facility, traditional, construction debris
4 facility, you know, as examples. That's something that
5 we're gonna need to determine as far as various uses,
6 and then look to Planning to let us know if that's
7 conforming zoning.

8 COUNCILMEMBER JOHNSON: Yeah. Yeah. And --
9 and -- and I understand that. So I -- I just put it out
10 there because it seems that it's gonna take her a little
11 while, and if it's gonna take a little while for
12 community planning, please don't forget about this
13 because it makes it so much easier.

14 CHAIR BAISA: Thank you for raising the issue,
15 Member Johnson. We're going to limit the discussion
16 because it's not part of what we're talking about today.

17 Any additional comments or questions in regard
18 to the request that the Department has made? Otherwise,
19 the Chair's ready to make a recommendation. Member
20 Molina?

21 VICE-CHAIR MOLINA: Yeah. Thank you, Chair.
22 No, just a comment prior to your recommendation.

23 Being that we've spent, at this point, an
24 estimated 400,000 for the initial site, I'm just, you
25 know, suggesting to the Department down the road with

1 this potential site they're looking at now, that I'm
2 sure there will be much more scrutiny, because, you
3 know, we're the gatekeepers with the taxpayer dollars.
4 And, of course, way back when, when the economy was
5 good, you know, it was not as noticed. But now with the
6 economy the way it is, and then if there's gonna be a
7 future request to do further studies on this new site,
8 you know -- just for the Department's, you know,
9 information, we will have to -- well, fut -- this
10 Council or future councils will have to be much more --
11 shall we say have to dig a little bit more and get much
12 more justification to spend additional monies.

13 And I hope whatever this site is, if this is
14 the site to be, that we go do it all the way because
15 this suddenly keep withdrawing and spending all these
16 monies and not getting nothing for all these monies
17 spent. You know, I can think of a lot of good things
18 that that \$400,000 could have been used for.

19 So just food for thought Madam Chair. Thank
20 you.

21 CHAIR BAISA: Thank you very much, Member
22 Molina. I think we're all very aware that, going
23 forward, we're going to have to spend money very, very
24 carefully because there's not gonna be a whole lot of
25 money to spend.

1 Member Nishiki?

2 COUNCILMEMBER NISHIKI: Yeah. So what is the
3 situation with the executive order? Are we at the
4 original executive order now?

5 MS. OKUMA: We're at the original executive
6 order, which was issued in 2003, I think I said.

7 COUNCILMEMBER NISHIKI: And -- and that
8 executive order states that -- what kinds of uses can be
9 used besides recreational.

10 MS. OKUMA: Generally, there's a provision it,
11 says other things, but general provision we're looking
12 at, it specifically says for public and recreational
13 use.

14 COUNCILMEMBER NISHIKI: Public and
15 recreational?

16 MS. OKUMA: Yes.

17 COUNCILMEMBER NISHIKI: When you -- when you
18 look at public, what -- what do you -- what do you read
19 into the lines?

20 MS. OKUMA: Well, we just did not agree with
21 DLNR's opinion that this facility would not be a public
22 use. We considered it was in the public interest. They
23 disagreed. But what came out of that discussion was the
24 State was generally looking at getting the revenues.
25 They wanted -- they saw this as a revenue-generating

1 activity. And that, I think, was the -- the actual
2 purpose.

3 COUNCILMEMBER NISHIKI: Yeah. When I -- when
4 I heard you say, well, they would be okay because it
5 would generate revenues, I -- I looked at the fact that
6 they would read into the lines that maybe allow anything
7 that could give them revenue. However, under the EO, is
8 the County now responsible --

9 MS. OKUMA: As ...

10 COUNCILMEMBER NISHIKI: -- for creating that
11 Master Plan that you talked about?

12 MS. OKUMA: I have to de -- defer to Planning
13 Department on that.

14 CHAIR BAISA: Mr. Hunt, and maybe even Corp Counsel ...

15 MS. LOUDERMILK: I can answer. The -- to follow up
18 with what Cheryl was saying, the executive order, the County
19 did argue strongly that this was for a public purpose.
20 Multiple reuse, abandoned vehicle, it was deemed public
21 health, safety, welfare. The DLNR had indicated that if
22 there is going to be a change in any type of uses within
23 the executive order, that the County of Maui will be
24 required to do a new master plan, including lands that
25 would be under the County jurisdiction as well as lands

1 that may go back to the -- under State use for public
2 purpose such as -- as a prison.

3 With that, the County of Maui came before the
4 Council. And the Council determined that the
5 appropriate agency to be the management or manager of
6 that master plan would be the Planning Department.

7 COUNCILMEMBER NISHIKI: And -- and why I bring
8 this up and -- and maybe we could put this EO in a
9 separate agenda item, Madam Chairman -- is because this
10 is land that we own. State or County, doesn't matter.
11 But we could be doing and looking at a variety of things
12 to do there. And so I would hope that if this is to be
13 filed that the EO be looked at and then we have a
14 discussion on it. Because, you know, we always say
15 we're looking for land, but here's land right now that
16 we could probably be doing something about.

17 So that's my --

18 CHAIR BAISA: Thank you. I think that's a
19 very good suggestion. We can handle that separately.

20 Member Pontanilla?

21 COUNCILMEMBER PONTANILLA: Thank you.

22 Maybe this is not the meeting that we should
23 be discussing this thing, but Member Nishiki brings out
24 a really good point. Presently, there're a number --
25 there is a number of nonprofits that are utilizing part

1 of the 223 acres that we have in Puunene. And, you
2 know, after discussing leases and licenses this morning,
3 we probably gonna see more of that in this particular
4 location. So, yeah, maybe a separate discussion.

5 Thank you.

6 CHAIR BAISA: Thank you, Member Pontanilla.
7 It certainly sounds like a -- a whole meeting for
8 another day. Thank you very much.

9 Members, any additional comments? If not,
10 Chair will make her recommendation.

11 VICE-CHAIR MOLINA: Recommendation?

12 CHAIR BAISA: Thank you very much.

13 In light of the Director's decision to
14 withdraw these requests, the Chair will entertain a
15 motion to file County Communication No. 07-91.

16 VICE-CHAIR MOLINA: So moved.

17 COUNCILMEMBER JOHNSON: Second.

18 CHAIR BAISA: It's been moved by Vice-Chair
19 Molina and seconded by Member Johnson that we file the
20 request. All those -- is there any discussion? All
21 pau? All those say -- in favor, say "aye".

22 COUNCIL MEMBERS VOICED AYE.

23 CHAIR BAISA: Opposed, "no"?

24

25

1 VOTE: AYES: Councilmembers Johnson, Mateo,
2 Nishiki, and Pontanilla, and
 Vice-Chair Molina, and Chair Baisa.

3 NOES: None.

4 ABSTAIN: None

5 ABSENT: None

6 EXC.: Councilmembers Kaho`ohalahala,
7 Medeiros, and Victorino.

8 MOTION CARRIED.

9 ACTION: FILING OF COMMUNICATION.

10 CHAIR BAISA: Motion carries. We have six
11 "ayes" and three "excused" -- Member Kaho`ohalahala,
12 Member Medeiros and Member Victorino.

13 Members, there is no further business on our
14 agenda for the day. The Chair would like to thank you
15 for a wonderful meeting, thank everyone who provided
16 resources to us today, and thank my staff.

17 And are there any announcements? If not, the
18 meeting -- nothing? No alohas for today? Everybody
19 have a wonderful evening.

20 And for those of us that are attending the
21 Hawaii State Association Counties, travel safe and have
22 a profitable meeting.

23 Thank you very much. The meeting is
24 adjourned....(gavel)...

25 ADJOURN: 2:25 p.m.

1 CERTIFICATE

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I, TONYA MCDADE, a Certified Shorthand Reporter of the State of Hawaii, do hereby certify that the electronically-recorded proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the electronically-recorded proceedings had in the foregoing matter.

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I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

18

DATED this 7th day of July, 2009.

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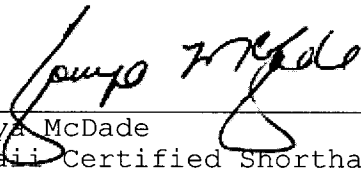
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