

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

December 16, 2011

Committee
Report No. _____

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

Chair and Members:

Your Land Use Committee, having met on November 30, 2011, makes reference to County Communication 11-281, from Councilmember Michael P. Victorino, transmitting a proposed resolution entitled "APPROVING THE LOCATION AND BOUNDARIES OF A CEMETERY EXPANSION OF MAUI MEMORIAL PARK ON LAND SITUATED AT WAILUKU, MAUI, HAWAII".

The purpose of the proposed resolution is to approve the location and boundaries of approximately 124,092 square feet of land, identified as TMK: (2) 3-8-46:043 ("subject property"), owned by Maui Memorial Park, LLC, for the expansion of the Maui Memorial Park cemetery, Wailuku, Maui, Hawaii.

Your Committee notes that Section 441-2, Hawaii Revised Statutes ("HRS"), requires that any person who establishes, maintains, improves, or operates a cemetery file with the Bureau of Conveyances or Land Court, a written certificate of dedication, containing a description of the land or other property to be made available for cemetery purposes, and dedicating the property exclusively for cemetery purposes.

Your Committee further notes that Section 441-4, HRS, prohibits the extension of any existing cemetery without Council approval of the location and boundaries of the property to be extended. Council approval may be established by including the Council's written endorsement on the certificate of dedication required by Section 441-2, HRS, or by filing with the Bureau of Conveyances or Land Court a certified copy of a Council resolution approving the location and boundaries of the cemetery property to be extended.

Your Committee was informed by Jonathan Durrett, attorney for Maui Memorial Park, LLC, that a portion of the subject property is zoned M-1 Light Industrial District and the remainder is zoned Agricultural District. Cemeteries and columbaria are permitted as accessory uses and special uses, respectively, in these districts. Mr. Durrett further noted that the subject property has been set aside for cemetery use under the conditions of a Special Use Permit and an Accessory Use Permit, both issued by the

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Department of Planning on October 15, 2010. Therefore, no land use changes are required.

Mr. Durrett indicated that following Council approval of the expansion, Maui Memorial Park, LLC, will file the required certificates dedicating the property exclusively for cemetery purposes.

Your Committee questioned whether the subject property is within the vicinity of an old landfill, and how the landfill might affect cemetery operations. Mr. Durrett confirmed that a covered landfill is located within the vicinity of the subject property, but will not affect cemetery operations.

Your Committee acknowledged the need to expand the cemetery because it has reached capacity and plots are no longer available.

Your Committee voted 7-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Carroll, Vice-Chair White, and members Baisa, Cochran, Couch, Pontanilla, and Victorino voted "aye". Committee members Mateo and Hokama were excused.

Your Land Use Committee RECOMMENDS the following:

1. That Resolution _____, attached hereto, entitled "APPROVING THE LOCATION AND BOUNDARIES OF A CEMETERY EXPANSION OF MAUI MEMORIAL PARK ON LAND SITUATED AT WAILUKU, MAUI, HAWAII", be ADOPTED; and
2. That County Communication 11-281 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

Resolution

No. _____

APPROVING THE LOCATION AND BOUNDARIES OF A CEMETERY EXPANSION OF MAUI MEMORIAL PARK ON LAND SITUATED AT WAILUKU, MAUI, HAWAII

WHEREAS, Maui Memorial Park, LLC, a Hawaii limited liability company (the "Cemetery Owner"), is the owner of a cemetery known as Maui Memorial Park (the "Cemetery") situated at Wailuku, Maui, Hawaii; and

WHEREAS, the Cemetery Owner also is the owner in fee simple of that certain property situated at Wailuku, Maui, Hawaii, identified as Tax Map Key No. (2) 3-8-046:043, comprised of approximately 124,092 square feet, and being more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference (the "Cemetery Expansion Property"); and

WHEREAS, a portion of the Cemetery Expansion Property is zoned M-1 Light Industrial District and the remainder is zoned Agricultural District, and cemeteries and columbaria are permitted as accessory uses and special uses, respectively, in these districts, with planning commission approval; and

WHEREAS, the Cemetery Expansion Property has been set aside for cemetery use under the conditions described in County Special Use Permit 201010003 ("CUP 201010003") and Accessory Use Permit 201010001 ("AUP 201010001") issued by the County of Maui's Department of Planning on October 15, 2010; and

WHEREAS, the Cemetery Owner desires to expand the cemetery onto the Cemetery Expansion Property; and

WHEREAS, Hawaii Revised Statutes ("HRS") Section 441-4 provides in part:

"No cemetery shall hereafter be established, nor shall the boundaries of any existing cemetery be extended, without the location and boundaries of the cemetery or extension thereof having first been approved by the council of the county in which the cemetery is located."; and

WHEREAS, HRS Section 441-2 requires every person who undertakes to establish or operate a cemetery, from time to time as the person's property may be made available for cemetery purposes, to file in the Bureau of Conveyances or, in the case of registered land, in the Office of the Assistant Registrar of the Land Court, a written certificate of dedication containing

a description of the land or other property which is to be made available for cemetery purposes, and dedicating the property exclusively to cemetery purposes; and

WHEREAS, HRS Section 441-4 provides that the aforesaid certificate of dedication shall not be accepted for filing without a written endorsement thereon by authority of the council confirming the council's approval of the location and boundaries of the cemetery, or, in lieu thereof, a recorded certified copy of a resolution of the council approving the location and boundaries of the cemetery; and

WHEREAS, the current boundaries of the Cemetery were established prior to the enactment of HRS Chapter 441 and are deemed dedicated pursuant to HRS Section 441-17; and

WHEREAS, the Cemetery Owner desires to obtain approval of the Council of the County of Maui ("Council") of the location and boundaries of the Cemetery Expansion Property and to file a written certificate or certificates of dedication from time to time for the Cemetery Expansion Property as the property is made available for cemetery purposes; and

WHEREAS, the Council finds that the location and boundaries of the Cemetery Expansion Property should be approved pursuant to HRS Section 441-4; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the location and boundaries of the Cemetery Expansion Property as described in Exhibit "A," attached hereto and incorporated herein, are hereby approved; and
2. That the Chair of the Council is authorized to endorse the certificate or certificates of dedication required by HRS Section 441-2 to be filed by the person operating the cemetery as the Cemetery Expansion Property is made available for cemetery purposes; and
3. That certified copies of this resolution be transmitted to the Department of Land and Natural Resources, State of Hawaii; and to the Cemetery Owner.

APPROVED AS TO FORM AND LEGALITY:

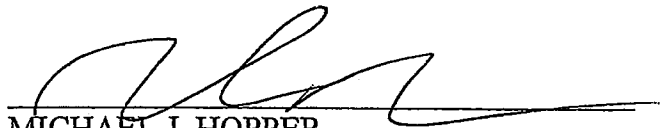

MICHAEL J. HOPPER
Deputy Corporation Counsel
S:\ALL\MJHRESOS\Maui Memorial Expansion.rev.doc

EXHIBIT A

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Grant Number 3343 to Claus Spreckels) situate, lying and being at Wailuku, Island and County of Maui, State of Hawaii, being LOT 7-B-I of the "MAUI LANI SUBDIVISION" (Land Use and Codes File Number 3.1942), and thus bounded and described as per survey of Allen IC. Watanabe, Land Surveyor, Engineering Division, Department of Public Works and Waste Management, County of Maui, dated March 8, 2001, to-wit;

Beginning at the northwest corner of this parcel of land, being also the northeast corner of Lot 7-A, Maui Lani Subdivision (Land Use and Codes Administration File Number 3.1854), the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 226.86 feet south and 437.17 feet west, thence running by azimuths measured clockwise from true South:

1. 277 34' 00" 154.57 feet along Lot 7-D, Maui Lani Subdivision (land Use

and Codes Administration File Number 3.1854),
said Lot 7-D being a portion of Grant 3343 to Claus
Spreckels;

2. 7 34' 00" 200.00 feet along Maui Electric Company, Limited Lot (TMK

(2) 3- 8-046:002 recorded in Liber 3710, Page 244,
State of Hawaii Bureau of Conveyances), said lot
being a portion of Grant 3343 to Claus Spreckels;

3. 248 45' 30" 114.13 feet along Maui Electric Company, Limited Lot (TMK

(2) 3- 8-046:002 recorded in Liber 3710, Page 244,
State of Hawaii Bureau of Conveyances), said lot

being a portion of Grant 3343 to Claus Spreckels;

4. 187 34' 00" 85.00 feet along Maui Electric Compaui, Limited Lot (TMK

(2) 3- 8-046:002 recorded in Liber 3710, Page 244, State of Hawaii Bureau of Conveyances), said lot being a portion of Grant 3343 to Claus Spreckels;

5. 277 34' 00" 43.00 feet along Lot 7-B-2, Maui Lani Subdivision (Land Use

and Codes Administration File Number 3.1942), said Lot 7-B-2 being a portion of Grant 3343 to Claus Spreckels;

6. 187 34' 00" 60.00 feet along Lot 7-B-2, Maui Lani Subdivision (Land Use

and Codes Administration File Number 3.1942), said Lot 7-B-2 being a portion of Grant 3343 to Claus Spreckels;

7. 277 34' 00" 104.51 feet along Lot 7-E, Maui Lani Subdivision (Land Use

and Codes Administration File Number 3.1854), said Lot 7-E being a portion of Grant 3343 to Claus Spreckels;

Thence along a curve to the left, along Lot 7-E, Maui Lani Subdivision (Land Use and Codes Administration File Number 3.1854), said Lot 7-E

being a portion of Grant 3343 to Claus Spreckels, with a radius of 530.00 feet, the radial azimuth to

the beginning of curve being 7 34' 00", the radial

azimuth to the end of curve being 334 05' 22", the

chord azimuth and distance being;

8. 260 49' 41" 305.29 feet;

9. 343 48' 00" 217.08 feet along I1-D-1-B, Mahalani Street Extension

Subdivision (Land Use and Codes Administration File Number 3.1802), said Lot 11-0-1-B being a portion of Grant 3343 to Claus Spreckels;

10. 94 00' 00" 138.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

11. 102 00' 00" 120.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

12. 82 00' 00" 111.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

13. 91 00' 00" 63.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

14. 65 00' 00" 63.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

15. 60 00' 00" 132.00 feet along Lot B, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

16. 93 00' 00" 154.00 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

17. 107 00' 00" 44.40 feet along Lot 8, Maui Lani Subdivision (Land Use and

Codes Administration File Number 3.1457), said Lot 8 being a portion of Grant 3343 to Claus Spreckels;

18. 187 34' 00" 266.42 feet along Lot 7-A, Maui Lani Subdivision (Land Use

and Codes Administration File Number 3.1854), said Lot 7-A being a portion of Grant 3343 to Claus Spreckels, to the point of beginning and containing an area of 124,092 square feet, more or less.

MAUI MEMORIAL PARK EXPANSION

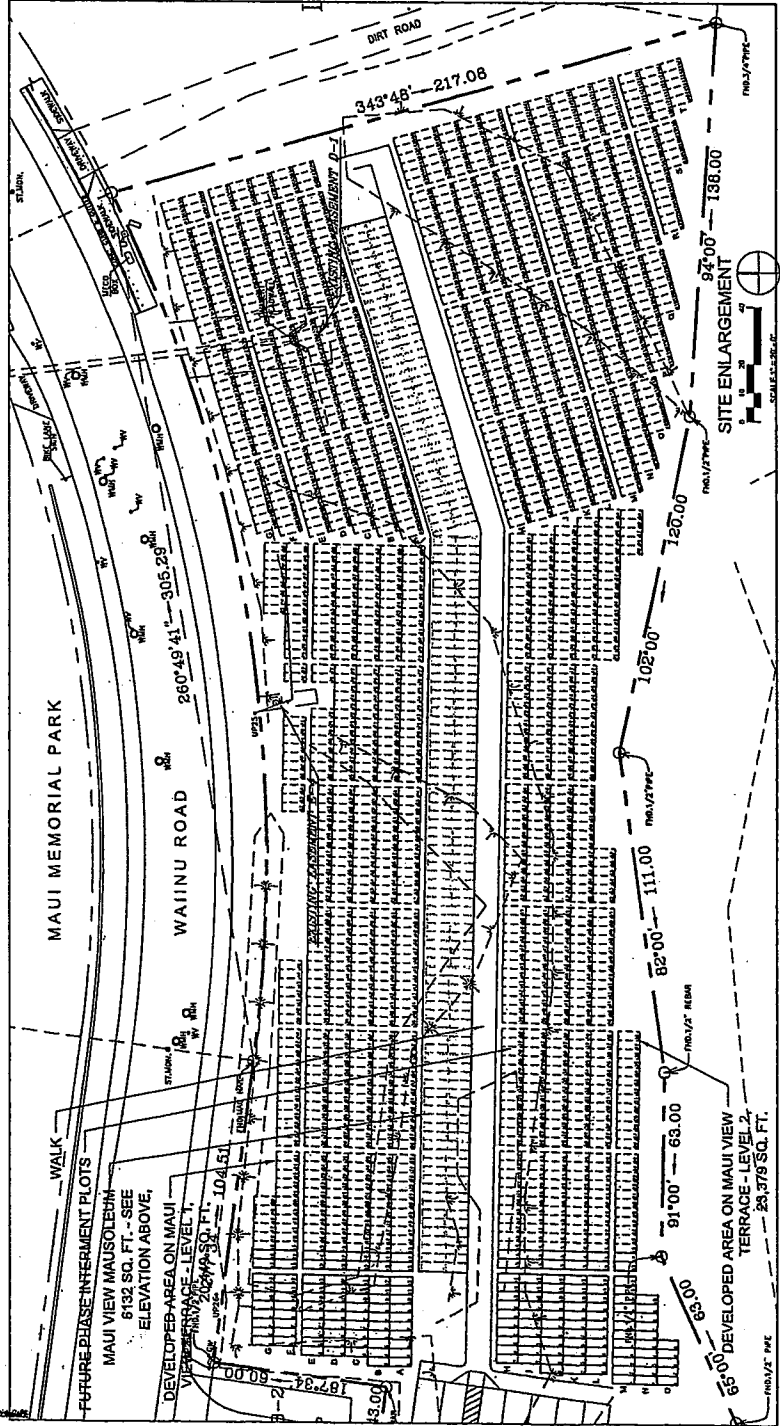
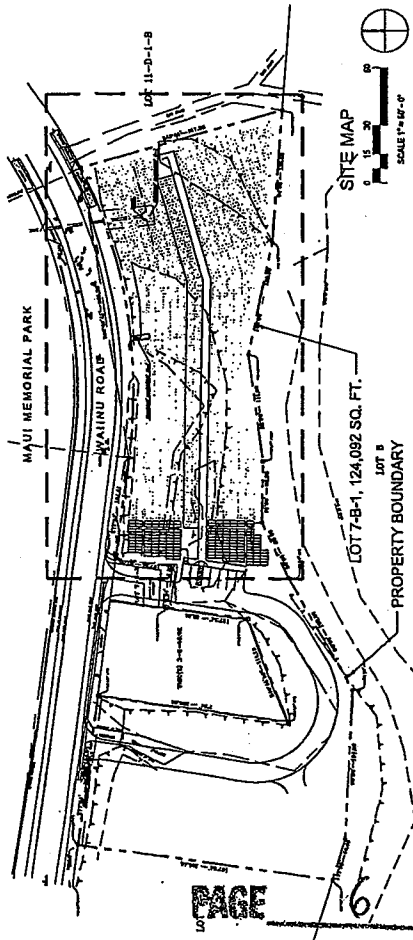
LOT 7-B-1

LAND SITUATED ON THE SOUTHERN SIDE OF MAUI MEMORIAL PARK, SOUTH OF WAINU ROAD, MAUI LANI SUBDIVISION WAINU ROAD, WAILUKU, ISLAND OF MAUI, HAWAII

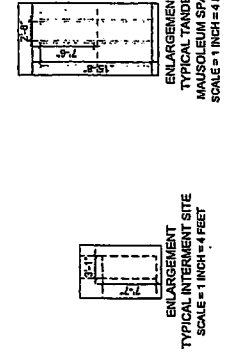
TMK (2) 3-8-046: 043

AREA = 2.849 ACRES

OWNER: MAUI MEMORIAL PARK, LLC
 ADDRESS: WAILUKU, MAUI 96793



TABULATION OF INTERMENT BLOCKS		TOTAL SITES
BLOCK	SITES	
MAUI VIEW, LEVEL 1		
A	3 TO 84, 85 TO 144	129
B	3 TO 84, 144 TO 144	129
C	85 TO 144, 144 TO 144	129
D	4 TO 84, 85 TO 144	122
E	4 TO 72, 73 TO 84, 85 TO 144	104
F	5 TO 45, 46 TO 71, 72 TO 84, 85 TO 144	84
G	5 TO 24, 25 TO 36, 37 TO 144	75
MAUI VIEW, LEVEL 2		
H	85 TO 144	134
I	3 TO 84, 85 TO 144	134
J	3 TO 84, 144 TO 144	134
K	85 TO 144, 144 TO 144	134
L	2 TO 84, 85 TO 144	116
M	2 TO 72, 73 TO 84, 85 TO 144	87
N	1 TO 84, 85 TO 144, 144 TO 144	87
O	1 TO 10, 10 TO 144	52
P	1 TO 10, 10 TO 144	52
Q	11 TO 144	26
R	11 TO 144	18
S	12 TO 144	18
T	144 TO 144	5
TOTAL INTERMENTS		522
TOTAL SITES		1727
TABULATION OF TANDEM MAUSOLEUM BLOCKS		TOTAL SPACES
BLOCK	SPACES	
AA	1 TO 122	244
BB	1 TO 122	244
CC	1 TO 122	244
DD	1 TO 122	244
EE	1 TO 122	244
TOTAL SPACES		1220



ENLARGEMENT
 TYPICAL INTERMENT SITE
 SCALE = 1 INCH = 4 FEET

ENLARGEMENT
 TYPICAL TANDEM MAUSOLEUM SPACE
 SCALE = 1 INCH = 4 FEET