

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

March 1, 2013

**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 February 13, 2013, makes reference to County Communication 11-317, from Councilmember Mike White, transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO ENACT A COMMUNITY PLAN AMENDMENT AND A CHANGE IN ZONING FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII".

The purpose of the proposed resolution is to refer the following to the Maui Planning Commission for review and recommendations:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP FROM PUBLIC/QUASI-PUBLIC TO SINGLE-FAMILY FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII". The purpose of the proposed bill is to amend the Paia-Haiku Community Plan and Land Use Map from Public/Quasi-Public to Single-Family for a 0.375-acre parcel located at Paia, Maui, Hawaii ("subject property").
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM P-1 PUBLIC/QUASI-PUBLIC DISTRICT TO R-3 RESIDENTIAL DISTRICT FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII". The purpose of the proposed bill is to change the zoning from P-1 Public/Quasi-Public District to R-3 Residential District for the subject property.

Your Committee notes that the Council's Land Use Committee (2011-2013 Council term) previously reported on this matter in Land Use Committee Report 12-1. At its meeting of January 6, 2012, the Council adopted Resolution 12-1, referring revised proposed bills incorporating nonsubstantive revisions to the Maui Planning Commission.

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By correspondence dated January 28, 2013, the Planning Director transmitted the Maui Planning Commission's recommendation to approve the proposed bills. The Planning Director also transmitted revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel.

In his transmittal, the Planning Director noted that the proposed Community Plan Amendment bill would correct a mapping error made by the County in 1983, when the property was first designated Public/Quasi-Public in the Paia-Haiku Community Plan. At the time of the designation, two dwelling units were already on the property, having been constructed in 1965 and 1975, respectively. The property was zoned P-1 Public/Quasi-Public District in 2000. Single-family residential use is not permitted under the current land use designations.

The revised proposed bills would allow the property owner to make improvements to, or rebuild, the two residential structures, which are currently considered existing, non-conforming structures.

The property is located on the shoreline in Kuau and is primarily surrounded by single-family residential lots. A graveyard and vacant lot lie east of the property.

Your Committee notes that, following the adoption of Resolution 12-1, a question arose as to whether an environmental assessment ("EA") was required for the proposed Community Plan Amendment, pursuant to Section 343-5(a)(6), Hawaii Revised Statutes ("HRS"). By correspondence dated May 11, 2012, the Planning Director summarized a conversation with the Director of the State Office of Environmental Quality Control ("OEQC"). The Planning Director stated the Director of OEQC had "confirmed that an EA would not be triggered (a) to correct clear mapping errors that occurred during decennial community plan updates and (b) for community plan amendments initiated by the County, whether by the Council or the Administration."

The Chair of the Committee requested an opinion from the Department of the Corporation Counsel as to whether an EA would be needed before the Council could consider the proposed Community Plan Amendment. By correspondence dated January 10, 2013, the Department of the Corporation Counsel opined as follows:

The community plan amendment at issue is an amendment to an existing County general plan initiated by the County and thus Chapter 343, HRS, requirements are not triggered and do not apply. Director Spence,

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Department of Planning, and Gary Hooser, Director of the State Office of Environmental Quality Control, [footnote omitted] have determined that community plan amendments that are initiated by County Council do not trigger the Chapter 343, HRS, process, and this office concurs.

Your Committee discussed the inequity involved in burdening the property owner with the cost of an environmental assessment to correct mapping errors generated by the County in this instance. The Deputy Planning Director noted that the Department is very supportive of the revised proposed bills to correct the land use designations.

Your Committee voted 8-0 to recommend passage of the revised proposed bills on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Guzman, and members Baisa, Cochran, Couch, Crivello, Victorino, and White voted "aye". Committee member Hokama was excused.

Your Land Use Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO AMEND THE PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP FROM PUBLIC/QUASI-PUBLIC TO SINGLE-FAMILY FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill \_\_\_\_\_ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM P-1 PUBLIC/QUASI-PUBLIC DISTRICT TO R-3 RESIDENTIAL DISTRICT FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. That County Communication 11-317 be FILED.

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



\_\_\_\_\_  
ROBERT CARROLL, Chair

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ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)


A BILL FOR AN ORDINANCE TO AMEND THE  
PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP  
FROM PUBLIC/QUASI-PUBLIC TO SINGLE-FAMILY FOR  
TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Paia-Haiku Community Plan and Land Use Map is hereby amended from Public/Quasi-Public to Single-Family for property situated at Paia, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 2-6-009:017, comprising approximately 0.375 acre, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Community Plan Map No. CP-717, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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All of that certain parcel of land situate, lying and being at Lower Pali, Hanakuaoko, Island and County of Maui, State of Hawaii, being all that portion of Section 3 of the First Partition of Hanakuaoko Hul, originally covered by Deed of the President of the Board of Education to the Trustees of Oahu College, dated January 30, 1860, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12, Pages 400-403, and thus bounded and described:

Beginning at a 3/4 inch pipe at the southerly corner of this lot, the easterly corner of Florus H. Cassel's lot, the coordinates of said pipe being 6,282.53 feet north and 6,628.74 feet east referred to Government Survey Triangulation Station "PUUNENE", and running:

1. 147° 41' 215.82 feet along Florus H. Cassel's lot to 1 3/4 inch pipe at the edge of sea pali;
2. Thence in a southeasterly direction along the sea pali to a point on same, the direct azimuth and distance being 234° 15' 93.0 feet;
3. Thence in a northeasterly direction along the sea pali to a 3/4 inch pipe at the pali, the direct azimuth and distance being 217° 27' 37.21 feet;
4. 332° 28' 170.00 feet along land owned by Hawaiian Commercial and Sugar Co., Ltd., a 3/4 inch pipe at the northerly side of the Plantation Road;
5. 62° 35' 85.0 feet along the Plantation Road to the point of beginning and containing an area of 0.375 acre, more or less.

## EXHIBIT A

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

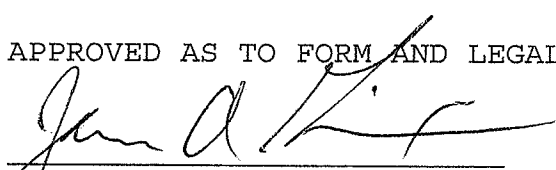
A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM  
P-1 PUBLIC/QUASI-PUBLIC DISTRICT TO R-3 RESIDENTIAL DISTRICT  
FOR TAX MAP KEY NUMBER (2) 2-6-009:017, PAIA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapters 19.08 and 19.510, Maui County Code, a change in zoning from P-1 Public/Quasi-Public District to R-3 Residential District is hereby granted for that certain parcel of land situated at Paia, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 2-6-009:017, comprising approximately 0.375 acre, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and as shown in Land Zoning Map No. L-1524, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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All of that certain parcel of land situate, lying and being at Lower Faia, Hamakua, Island and County of Maui, State of Hawaii, being all that portion of Section 3 of the First Partition of Hamakua, Maui, originally covered by Deed of the President of the Board of Education to the Trustees of Oahu College, dated January 30, 1860, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12, Pages 400-403, and thus bounded and described:

Beginning at a 3/4 inch pipe at the southerly corner of this lot, the easterly corner of Florus H. Cassel's lot, the coordinates of said pipe being 8,282.55 feet north and 6,628.74 feet east referred to Government Survey Triangulation Station "POUNENE", and running:

1. 147° 41' 216.82 Feet along Florus H. Cassel's lot to 1 3/4 inch pipe at the edge of sea pali;
2. Thence in a southeasterly direction along the sea pali to a point on same, the direct azimuth and distance being 234° 15' 93.0 feet;
3. Thence in a northeasterly direction along the sea pali to a 3/4 inch pipe at the pali, the direct azimuth and distance being 217° 27' 37.21 feet;
4. 332° 28' 170.00 Feet along land owned by Hawaiian Commercial and Sugar Co., Ltd., a 3/4 inch pipe at the northerly side of the Plantation Road;
5. 62° 35' 85.0 feet along the Plantation Road to the point of beginning and containing an area of 0.375 acre, more or less.

## EXHIBIT A