

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

February 2, 2015

Council Chamber, 8th Floor

CONVENE: 9:02 a.m.

PRESENT: VOTING MEMBERS:
Councilmember Robert Carroll, Chair
Councilmember Gladys C. Baisa
Councilmember Elle Cochran
Councilmember Don Couch
Councilmember Stacy Crivello

EXCUSED: VOTING MEMBERS:
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Don S. Guzman

STAFF: Scott Jensen, Legislative Analyst
Raynette Yap, Committee Secretary
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

ADMIN.: Michele McLean, Deputy Director, Department of Planning
Kurt Wollenhaupt, Planner, Department of Planning
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

In the gallery:

Rowena Dagdag-Andaya, Deputy Director, Department of Public Works

OTHERS: Sal Marino, Vice President, Valley Isle Pumping
Rosemary Robbins
Jordan Hart, President, Chris Hart & Partners
Charles Jencks, Pacific Rim Land, Inc.
Blanca Lajolette, Pacific Rim Land, Inc.
Tom Nance
Mark Matsuda
Plus (2) Others

PRESS: Akaku Maui County Community Television, Inc.

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CHAIR CARROLL: . . .*(gavel)*. . . The Land Use Committee meeting of January 2, 2015...excuse me, February 2, 2015 will come to order. I'm Councilman Robert Carroll, Chair of the Land Use Committee. May I, first of all, request that if anybody has anything that makes noise out there, please turn it off. We have with us this morning the Vice-Chair of the Committee, Michael Victorino, is excused. We have with us Gladys Baisa. Good morning.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR CARROLL: Elle Cochran. . . *(short pause)*. . .

COUNCILMEMBER BAISA: She's here.

CHAIR CARROLL: Recess. . . *(gavel)*. . .

RECESS: 9:03 a.m.

RECONVENE: 9:04 a.m.

CHAIR CARROLL: . . .*(gavel)*. . . Land Use Committee is back in session. We have with us, again, Elle Cochran, Don Couch --

COUNCILMEMBER COUCH: Morning, Chair.

CHAIR CARROLL: --Stacy Crivello --

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR CARROLL: --and Don Guzman will be joining us at 10 o'clock. Executive Branch representatives: we have Kurt Wollenhaupt, Planner, Department of Planning; representative from Public Works will be joining us; we have Mike Hopper, Deputy Corporation Counsel. Applicant's representative: Jordan Hart, President, Chris Hart & Partners, Inc.; Charlie Jencks, Pacific Rim Land, Inc.; Blanca Lafolette, Project Coordinator, Pacific Rim, Inc. Tom Nance, Water Resource Engineer; Mark Matsuda, Civil Engineer; and Phillip Rowell, Traffic Engineer, who will be available until 10 o'clock by phone only. Committee Staff, Raynette Yap, Committee Secretary; Scott Jensen, our Legislative Analyst. Today, we have a single item on our agenda. It involves Community Plan amendment and Change of Zoning for the Puunene Heavy Industrial Subdivision in Pulehunui. Assisting us this morning from the Hana District Office is Dawn Lono. Are you there, Ms. Lono? Dawn Lono?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office.

CHAIR CARROLL: Thank you. From Lanai, Denise Fernandez.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai.

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CHAIR CARROLL: Good morning. And from Molokai, Ella Alcon.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai.

CHAIR CARROLL: Good morning. For individuals who will be testifying in the Chamber, please sign up at the desk located on the 8th floor lobby just outside the Chamber door. If you'll be testifying from a remote testimony location specified on the meeting agenda, please sign up with the Council Staff at the specified location. Testimony will be limited to items on the agenda today. Pursuant to Rules of the Council, each testifier will be allowed to testify up to three minutes per item. When testifying, please state your name and the name of any organization you are representing. Mr. Jensen.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. JENSEN: Mr. Chair, the first testifier is Sal Marino. He'll be testifying as a representative of Valley Isle Pumping.

MR. MARINO: *(from gallery)* Where do I do that? Here? . . .*(short pause)*. . . Sorry, I'm new to this. Got my cheat sheet here. So I'm Sal Marino with Valley Isle Pumping here to talk in support for this subdivision. As the owner of a waste management company, I can tell you how difficult it is for our type of business to find an appropriate spot to perform our daily work without creating a nuisance for those around us, and I believe that the proposed heavy industrial subdivision will provide companies like mine with the space needed to do our daily work as well as provide opportunity to create new solutions to some of Maui's needs. And as my perspective as a life-long resident I can see both the environmental and business need for this type of place on Maui. The Heavy Industrial Subdivision would give businesses like ours an appropriate place to conduct essential services without negatively impacting surrounding properties and residents. One example that I know about, because we're in the waste business, is Maui needs a place where all the different wastes and bi-products we're creating can go for treatment or processing, recycling, and reuse. Right now, there are certain types of waste on Maui that have nowhere to go and are entering our environment as a result. Maui also needs a place where local businesses could produce some of the products or energy that we are consuming. From personal experience, I can tell you that many property owners are hesitant to sell land for these types of uses out of the concern for devaluing surrounding properties or creating nuisances in the neighborhood. I definitely have personal experience in that. Creating access for local businesses to appropriately zoned pieces of property would also provide the security needed to invest in equipment and infrastructure that would ultimately benefit all of us on Maui. I, for one, am excited to see this move forward because I see the need for it on a daily basis in our work. I think that not only would it house much needed existing services on our island but it would also be a place for innovative local businesses to come up with new solutions to our needs. Thank you.

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CHAIR CARROLL: Thank you. Any clarification needed from the testifier? If none, thank you.

MR. MARINO: Thank you.

CHAIR CARROLL: Mr. Jensen.

MR. JENSEN: Mr. Chair, the next testifier is Rosemary Robbins.

MS. ROBBINS: Good morning, everybody. Rosemary Robbins, concerned citizen. I went through the binder, that took a few hours to go over this one item on our agenda today, and discovered that the way this is written up today gives no indication of the wholeness of what's involved in here so I'm glad I had the opportunity to go through that. It's important that transparency be cherished and carried through. In 2014 right here at this microphone, there were folks who spoke about this and brought up some of the issues that need to be addressed in here. One is that the description of this particular project is of 86.03 acres. It's not just for what our previous testifier was saying, the purpose on that, for getting rid of waste materials and reusing and your sensitivity, thank you, to the environment for that, but there's also on Pages 27, 28, 29, 30, 31, 49 of this 63-page explanation in here talking about developing housing on that land nowhere near in the presentation on Page 1. But it is in there so we need to make sure we are aware of that. When I went through the pages, it turns out that there was good news and bad news, like the rest of life, and I made some items and wrote them down in terms of where anybody can find them. Anyone can come down to the 7th floor and go ahead and read them. And it talks about...I'm going to do the bad news first because we need to move on from those and do good stuff in the community. They have discovered and written in here that the Kahului Aquifer has drinking water quality in some locations and brackish water in most of the remaining area. It also talks about the fact that this one particular well, thanks be to God somebody was doing something about this, and this well and they identified 4927-01 is not suitable because it was improperly constructed and the well casing is too small to be of any use and has come apart in numerous places. It also talks about high nutrient levels, particularly nitrate and nitrogen are present throughout the aquifer. Scary as all get-out. And those of us who worked on the Upcountry Oversight and Advisory Committee for the EPA when we were dealing with the contaminated water Upcountry, have been through that. The good news, quick second on the good news? Thank you. The solutions that are recommended in here talking about using reverse osmosis as a process, they're talking about sufficient drainage, lots of the things that have been talked about before but haven't been amalgamated into a single item. So room for improvement. Folks are aware of that. They've acknowledged it in their data and I would just hope that people would read that and would make sure that we do more than just identify this as a salvage kind of operation. Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, thank you.

MS. ROBBINS: You're welcome.

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CHAIR CARROLL: Mr. Jensen.

MR. JENSEN: Mr. Chair, there are no other testifiers signed up in the Chamber.

CHAIR CARROLL: Ms. Alcon, is there anybody on Molokai District Office waiting to give testimony?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR CARROLL: Thank you. Ms. Fernandez, is there anyone waiting to give, provide testimony at the Lanai Office?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR CARROLL: Thank you. Ms. Lono, is there anyone wishing to provide testimony in the Hana Office?

MS. LONO: There is no one waiting to testify at the Hana Office.

CHAIR CARROLL: Thank you. Members, there's no one...is there anyone in the Chamber that wishes to give testimony? Please come forward. Seeing none, if there's no objection, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . . END OF PUBLIC TESTIMONY . . .

**ITEM NO. 30: COMMUNITY PLAN AMENDMENT AND CHANGE IN
ZONING FOR PUUNENE HEAVY INDUSTRIAL
SUBDIVISION (PULEHUNUI) (CC 14-262)**

CHAIR CARROLL: Members, today we begin with County Communication 14-262, from the Planning Director, transmitting a proposed bill to grant a request from CMBY 2011 Investment, LLC, for a Community Plan Amendment from Agricultural to Heavy Industrial for approximately 86.03 acres parcel located at Pulehunui; as well as a proposed bill to grant a request from CMBY 2011 Investment, LLC, for a Change in Zoning from Agricultural District to M-3 Restricted Industrial District (Conditional Zoning) on the same parcel. The proposed bills would allow CMBY to develop the Puunene Heavy Industrial Subdivision on the subject property. Today, we'll be hearing from a planner assigned to the project as well as the applicant's representative. I'll ask first whether the planner has any introductory remarks before we hear from the applicant. Planning?

MS. McLEAN: Thank you, Chair, yes. Kurt Wollenhaupt has a very, very brief introduction.

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MR. WOLLENHAUPT: Good morning, Members of the Maui County Council and of the Land Use Committee. I've been following this project sort of since its inception. It has gone through the proper procedures, an exhaustive review by the State Land Use Commission, as this is over 15 acres. There was no public testimony negatively felt at that time. It then had an exhaustive review in the Environmental Assessment process by our own Maui Planning Commission, and then consequently after that, it went to the Maui Planning Commission for its public hearing for the Change in Zoning and the Community Plan Amendment. At that time, there was unanimous recommendation to send this on for approval to the County Council. As the Members of this Committee know, this is, I believe, the first Item that ever is R-3. In your wisdom, you chose to have this new designation of M-3...M-3, so that there would be places for heavy industrial uses that cannot be then taken away by retail, by other sorts of uses. So this is the first one to really designate an area for these heavy industrial uses. Mr. Jordan Hart has an excellent presentation that's going to cover the history of this project, so I believe that if you have any other questions, I'll be happy to answer them but I think the overview will be complete with the presentation.

CHAIR CARROLL: Thank you. Members, we are going to have a video presentation. We're going to go back and use the screen today, so we're going to take a two-minute recess while we lower the screen. Recess. . . *(gavel)* . . .

RECESS: 9:16 a.m.

RECONVENE: 9:18 a.m.

CHAIR CARROLL: . . . *(gavel)* . . . Land Use Committee Meeting is now back in session. We will now turn the time over to the applicant.

. . . BEGIN PRESENTATION . . .

MR. HART: Good morning, Chair. My name is Jordan Hart of Chris Hart & Partners. I'm here to present the project information for your consideration. The proposed project is the Puunene Heavy Industrial Subdivision. It occurs at TMK (2) 3-8-008-019, Pulehunui, Maui. It's a request for Community Plan Amendment and Change in Zoning. The applicant, CMBY 2011 Investments, LLC, is proposing to develop a Heavy Industrial Subdivision on 86 acres of vacant, undeveloped land in Pulehunui, Maui. 66 acres will be set aside for up to 28 developable lots on 0.5 to 20-acre parcels. 11 acres are allocated for internal roadways, and 9 acres are designated for drainage retention basins. The final size and number of lots will be based on market conditions at the time of final subdivision approval or when the applicant is ready to proceed with construction. I'm going to try and see if I can focus the screen for one moment so I'm going to pause. . . *(short pause)* . . . how's that? Is that okay? Estimated construction costs for the subdivision is approximately \$20 million in 2011 dollars while the projected construction period is approximately 30 months. This is a conceptual landscape master plan for the project site. This is a conceptual subdivision layout for

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the project site. The subject parcel lies four miles south of Kahului and three miles north of Kihei. The property is in the State Urban, sorry, the property is in the State Urban District and is designated for Agricultural use by the Kihei-Makena Community Plan and Maui County Zoning. The site also falls within the Urban Growth Boundaries of the Maui Island Plan and is part of the Pulehunui Planned Growth Area. The subject parcel is bordered by Project District 10, the Old Puunene Airport and, sorry, a 561-acre area, which the Kihei-Makena Community Plan establishes as a master planned recreational and industrial expansion area to meet future needs and those locations are better suited away from residential uses. The Kihei-Makena Community Plan also states that approximately 125 acres, including the adjacent Hawaiian Cement site should be used for Heavy Industrial purposes. The Hawaii National Guard Armory, Maui Raceway Park, and other recreational motor sports facilities are located in Project District 10. The property is close to existing heavy industrial uses and is in the area as Hawaiian Cement Quarry is 0.2 miles east, the Central Maui Baseyard is 1.3 miles north. This is a regional location map. This is the Maui Island Plan Urban Growth Boundary. This is the project location here. This would be Kahului and Kihei. This is an aerial photo of the same location zoomed in. The project location is dark in black here. The Urban Growth Boundary is in red here. The Hawaiian Cement Quarry is located here. Maui Raceway Park is located here. Army National Guard is here. This is an excerpt from the Maui Island Plan. This is the Urban Growth Boundary for the vicinity. The Pulehunui Planned Growth Area is 639 acres that has been put in the urban, or designated for urban development. The project site lies within that here. As stated, the subject parcel lies within the Urban Growth Boundaries of the Maui Island Plan and is part of the Pulehunui Planned Growth Area. The Pulehunui Planned Growth Area encompasses 639 acres and it has been designated for heavy industrial, public-quasi public and recreational uses. The location is midway between Kihei and Kahului, and its proximity to the airport and harbor make the Pulehunui Planned Growth Area a logical site for expanded heavy industrial uses in the area and serve the long-term heavy industrial needs of the island. This is a State Land Use map. This shows that the existing designations around the location are currently Agriculture. The project site is now designated for Urban use. Also for consideration are other landowners in the vicinity with plans for use. Those are noted on the map. The Central Maui Baseyard in yellow is noted here. These are character photos of the project area. This is a view from the intersection of Mokulele Highway and Kama`aina Road. The camera is facing east here. This is a view towards the subject parcel. The camera is facing south here. This is a typical photograph of the project site. The project site is primarily Kiawe and Buffalo grass. This is a typical view of sugar cane. These cane fields are east of the subject parcel. You can see the stack of the Hawaiian Cement Quarry here. This is an HC&S irrigation reservoir. You're looking out towards Waihe`e here. The Hawaiian Cement Quarry here. And this photo is taken towards Project District 10, the Old Puunene Airport, the West Maui Mountains are in the background here. The proposed project triggered the need for environmental assessment because it involves a Community Plan Amendment and the use of State Land for an access and utility easement. The availability of the draft EA was published in the Environmental Notice on June 8, 2012. On June 26, 2012, the Maui Planning Commission reviewed and commented on the draft EA. On November 27, 2012, the Maui Planning Commission accepted the

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final EA and issued a Finding of No Significant Impact. The availability of the FEA FONSI was published in the Environmental Notice on January 8, 2013. The 30-day challenge period for the Final EA and FONSI expired on February 7, 2013, with no legal challenges being filed. On November 22, 2013, the State Land Use Commission approved the applicant's request to reclassify the subject parcel from State Agricultural District to State Urban District. Based on their findings of facts and conclusions of law, the State Land Use Commission determined that the reclassification will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area. The applicant is responsible for and will comply with the 25 conditions of approval of the State Land Use Commission set forth in its Decision and Order dated November 22, 2013. This is an excerpt of the Kihei-Makena Community Plan Map. Project District 10 is located here. Project site is located here. Primarily agricultural uses surrounding the project site. This is a zoom-in of the County Zoning Map. North would be this direction towards the top. This is the subject parcel. As previously stated, it's primarily Agricultural Zone around the property. In order to develop the proposed project, the applicant is requesting a Community Plan Amendment from Agriculture to Heavy Industrial and a Change in Zoning from Agricultural to M-3 Restricted Industrial. It is the applicant's request for the CPA and CIZ...the applicant's request for CPA and CIZ were filed on April 16, 2012, and have been held in abeyance until the district boundary was granted. On December 3, 2013, the Maui Planning Commission conducted a site visit of the subject parcel. At its meeting on April 8, 2014, the Maui Planning Commission recommended that the Maui County Council approve the applicant's request for a Community Plan Amendment and Change in Zoning. The M-3 Restricted Industrial Zone is codified in Chapter 19.25 of the Maui County Code. The purpose of the M-3 zoning is to provide for manufacturing and nuisance industries that are not allowed in other zoning districts and may be obnoxious or offensive in nature. The principle M-3 uses include manufacturing, processing, storing, or treating goods from raw materials. Office space and limited retail or product display are allowed as accessory uses. In addition to manufacturing or processing of goods from raw materials, the intended market for the project include those seeking industrial warehouse space and secure baseyard areas. Subdivision improvements to be built by the applicant include backbone infrastructure and utility systems. The ownership and maintenance of those improvements shall rest with the subdivision lot owners association. Dual water systems for domestic, irrigation, and fire flow uses includes wells, booster pumps, purification systems, waterlines, manholes, and laterals. Drainage system includes retention basins, drain lines, manholes, and laterals. Internal roadway systems and utilities include underground utility lines and laterals. Common area landscaping and irrigation includes underground irrigation lines and laterals. A packaged wastewater treatment system will be installed to accommodate wastewater from all lots. System includes a secondary treatment where the treated solids will be disposed of in accordance with Department of Health standards. Liquids will be disposed of in a leach field onsite. Wastewater disposal system will be located more than 1,000 feet from water supply wells and will meet all State and Federal requirements. This is a zoomed-in diagram of the water system. The key improvements: the three source wells with one standby, three reverse osmosis trains, one standby, one 250,000 gallon

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potable storage tank, one 400,000 gallon non-potable storage tank, booster pumps and backbone generator, sorry backup generator power for fire protection. This is the preliminary grading plan for the project site. This is a diagram of the roadway improvements that will occur as a result of the project. These include the modification of the intersection, sorry, so this is the Mokulele Highway and Kama`aina Road. That occurs here. So the first improvement is the modification of the intersection's westbound approach. So that's the westbound approach of the intersection. An additional right-turn lane will be provided here. The second improvement will be to provide an acceleration lane from northbound on Mokulele Highway, so that is after the right turn is taken, the acceleration lane is provided here. The third improvement is the lengthening of the southbound left-turn lane from 60 feet to 450 feet, so as vehicles coming from Kahului approach the project site, they'll have 450 feet to slow down in order to make their left turn at the intersection into the project site, well into Kama`aina Road, which leads to the project site. Proposed project will not require any Department of Army permits since it does not involve any navigable waters of the U.S. or involve placement or dredging of fill materials in U.S. waters. No rare, threatened, or endangered species of plant, insect, or animal life were observed on the subject parcel nor are there any wetlands or critical wildlife habitat. No adverse noise impacts are anticipated due to the project's distance from Mokulele Highway and residential areas. Since some heavy industrial uses can create air pollution, any activity involving potential pollution source is subject to review and approval by the Department of Health, Clean Air Branch. Archeological inventory survey and archeological monitoring plan were approved by the State Historic Preservation Division on June 18, 2012 and on August 24, 2012 respectively. Cultural Impact Assessment Report notes that the project area is not used, has not been used for traditional Hawaiian or cultural purposes. The project is expected to create an annual average of 65 direct and indirect Maui jobs during its 30-month construction period and 124 direct and indirect jobs during its 10-year lot build-out period. Subject parcel has a Land Study Bureau Rating of E, which is the lowest rating for poor overall productivity and it's not designated as an Agricultural Land of Importance in the State of Hawaii. The proposed project will not impact surface water sources and is not expected to have an adverse effect on groundwater resources, downstream properties, or marine waters. Design and operation of the project's private water system will be subject to review and approval by DOH Safe Drinking Water Branch. The design and installation of the wastewater disposal system will be located more than 1,000 feet from water supply wells and will meet all State and Federal requirements. No adverse drainage impacts to adjacent downstream properties are anticipated. The project's private drainage system will comply with all applicable regulatory requirements. With the proposed improvements to the intersection of Mokulele Highway and Kama`aina Road, the proposed project will not, is not expected to have an adverse impact on traffic. Power and communication systems will be extended to the subdivision from existing overhead facilities. Exterior lighting will be shielded or downward directed to minimize light pollution and impact to seabirds. The projects CC&Rs will encourage lot owners to use sustainable building design guidelines and energy and water conservation measures when developing their lots in the future. The reclassification of the subject parcel will not have an adverse effect on neighboring land uses as the existing character of the surrounding area will be maintained. Reclassification of subject

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parcel will not have an adverse impact upon agriculture or negative effect on the inventory of agricultural lands in the area...excuse me...in the area, I'm sorry, lands that are available for large scale or diversified agriculture on the island of Maui. The proposed project is not expected to result in any adverse environmental or socioeconomic impacts. The project will not have an adverse effect on existing public services or service area limits. Water, wastewater, drainage, and roadway systems for the project will be provided and owned and maintained and will not affect public systems. Privately owned and maintained. Due to limited supply of Heavy Industrial zoned land on Maui, the proposed project will alleviate pent-up demand for purely heavy industrial lands. The project is consistent with existing heavy industrial uses in the area and uses planned for Project District 10, which is intended as a master plan recreational and industrial expansion area. The subject parcel lies within the Urban Growth Boundaries of the Maui Island Plan and is part of the Pulehunui Planned Growth Area, which is 639 acres. This is also designated for heavy industrial, public-quasi public, and recreational uses. The Pulehunui Planned Growth Area is a logical expansion of heavy industrial uses in the area, and its location midway between Kihei and Kahului and its proximity to the airport and harbor make it the ideal site for serving the islands long-term heavy industrial needs. Thank you.

. . . END OF PRESENTATION . . .

CHAIR CARROLL: Thank you. We will stand in recess for two minutes while we put up the screen. We are in recess. . .(*gavel*). . .

RECESS: 9:34 a.m.

RECONVENE: 9:36 a.m.

CHAIR CARROLL: . . .(*gavel*). . . Land Use Committee Meeting of February 2, 2015 is now back in session. Members, I'll now open the floor for discussion. I also direct your attention to the updated description of the applicant's plan to provide water and wastewater treatment for the subject property, as detailed in correspondence dated January 29, 2015, in your binder. The floor is now open for discussion. . .(*short pause*). . . Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Planning Department, we heard some testimony, and I couldn't find it in the pages that were pointed out, but it's my understanding that M-3 from when we created that a couple of years ago, that no housing is allowed except for potentially a watchman, what we call a watchman's quarters or something like that, and I didn't see anywhere in this plan where housing was even proposed. So...

CHAIR CARROLL: Planning Department?

COUNCILMEMBER COUCH: Can we just clarify that for me, please.

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MS. McLEAN: Yes. That's correct. The only type of housing that would be allowed on the site, reading from the Ordinance, the language says security watchman or custodian outbuildings. And that's under accessory uses so that means that you'd have to have your principal use established and that that would be accessory to the principal use. Kurt and I were discussing it trying to figure out what reference that might have been made. The only thing we can figure is the adjacent DHHL lands. Perhaps that's where in one of these documents there's reference to housing and homestead lots but certainly not within the M-3 Industrial District.

COUNCILMEMBER COUCH: Okay, I am looking at that. Slide 10, I believe it is, talks about adjacent, it's not really, I mean, there's some DLNR land that's kind of catty-corner, but I don't see any adjacent land to it. And I recall this project when we were doing the Maui Island Plan, we moved the Urban Growth Boundary to accommodate this project knowing what it was going to be. And I know DLNR and DHHL don't have to follow our laws but we expressly put the Urban Growth Boundary where it was when they requested it to go all the way around. So I have no, I seem to recall that that's what we discussed is look, right now we don't have any plans to have it, maybe housing, but certainly no, it's outside the Urban Growth Boundary so M-3 use was appropriate for that area because it's so far away from anything. So is that what you recall?

MS. McLEAN: Yeah. We agree with --

COUNCILMEMBER COUCH: Okay.

MS. McLEAN: --with your description of --

COUNCILMEMBER COUCH: And I noticed that there's...

MS. McLEAN: --what the Council's intent for that area was.

COUNCILMEMBER COUCH: Okay. And I noticed that there's only two conditions of zoning and both of them are essentially to do the, to give us, Council, a copy, or one of them is to give the Council a copy of, or both of them, of the annual report. So you anticipate having us take a look at it every year just to make sure everything's moving along as planned?

MS. McLEAN: Yes because the Land Use Commission did impose their standard conditions and this is the first use of M-3 and also because there has been discussion over the past years about Land Use Commission conditions and how those are enforced. By making it a zoning condition it also makes it a more direct County responsibility even though the County does enforce Land Use Commission conditions. By making them zoning conditions, it's by County ordinance rather than the Land Use Commission action. So that's what's being recommended to you. If you feel that's appropriate, you can keep that condition.

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COUNCILMEMBER COUCH: And one more, Mr. Chair. I notice that one of the conditions of, from the Land Use Commission was that they had to complete, I think they said complete the initial construction phase...I have to find it now. Oh, infrastructure, complete construction of proposed backbone infrastructure for the project was to consist of the primary roadways and access points, internal roadways, water, and electrical system improvements and storm water drainage and other utility system improvements within 10 years from the date of this Decision and Order approving the petition. It doesn't have what happens if they don't. Are we, the Council or the Planning Department, supposed to enforce that, or is that just something that the State will take a look and say hey, you're not done in 10 years?

MS. McLEAN: The State doesn't have an enforcement arm, if you will, for the Land Use Commission. If it were brought to the Land Use Commission, they might make a ruling on it, but in terms of issuing notices of warning, that is, that falls to the County and again, by making it a zoning condition as well, it would become a zoning violation and not just a violation of the Land Use Commission Decision and Order.

COUNCILMEMBER COUCH: Does the Department feel we need to put a condition in there to kind of keep in track with that or are we fine with the condition that they have?

MS. McLEAN: We're comfortable with the Land Use Commission conditions. As Kurt mentioned, this has gone through a pretty extensive process, the Land Use Commission, then the Environmental Assessment process, and then Community Plan and Change in Zoning, so we're comfortable with the extent of the Land Use Commission conditions.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

CHAIR CARROLL: Thank you. Ms. Baisa, followed by Ms. Cochran.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. I've had the opportunity to review the binder and as has been stated, this has been reviewed by a tremendous amount of bodies, and everybody seems to concur that this should go forward and has looked at the concerns, so I don't have any serious concerns. I'd like to thank the testifier for raising the issues that she did and for having the answers, but I'm okay, Chair.

CHAIR CARROLL: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Along the lines of Councilmember Couch's queries, and I don't know if it's for the planner or developer themselves to answer, but in reference to the whole water system and the package, you know, wastewater, drainage, everything, infrastructure basically on site, it says that improvements, ownership, maintenance, improvements shall rest with the subdivision lot owners association. So for me, I'm just wondering if lots and the land pretty much is spoken for already? I mean, because I've seen cases where a developer goes in, does the subdivision or what have you, and then things just don't pan out as

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expected and now who's stuck holding the bag? You know, or, and things aren't in compliance and on and on. So that kind of, not saying I don't trust, but is, where is the sort of guarantee and, you know, where is it that it says, I mean I know it's hard to foresee the future, but to me this is a huge thing. You know, we ourselves go through non-compliance issues that we have to deal with a lot, and so I'm just looking at something like this M-3, something that we, sort of a new type of zoning, so I think it's very important that we make sure that it's protected and going to be maintained properly in perpetuity and not just, you know, for a little bit. Because yeah, it's, you got water, you got the Kahului Aquifer below and pond to the south and reservoir to the north, and there's a lot of competing water uses in this area. I mean technically it doesn't look like much but there is. So, Chair, I don't, that's just the kind of concern that I have and so I'm not sure who can maybe address it or shed some light.

CHAIR CARROLL: Do you have comment, Ms. Mclean?

MS. McLEAN: I'll just give a general comment but I think that is a question for the applicant. The, what's before the Council is whether this area of land is appropriate for the use that they're proposing, and the after, the, if the zoning is granted, then it does become the landowner's responsibility to properly develop that land. To do so, they'll need an extensive range of permits relating to water, wastewater, grading, roadways, et cetera, so there will be, those are administrative permits. Those won't come to you folks for approval, but State and County agencies will have continued permitting authority as the project pans out. But in terms of what improvements the developer is making versus the lot owners, I'm sure that they can answer that question.

COUNCILMEMBER COCHRAN: And there's injection wells involved here? Does it state somewhere?

MS. McLEAN: We would recommend that the applicant's consultant respond to that question, the details of the infrastructure systems.

COUNCILMEMBER COCHRAN: Okay. Is there...

CHAIR CARROLL: Would you like to call the applicant forward?

COUNCILMEMBER COCHRAN: Sure if no...

CHAIR CARROLL: Any objection to the Member's calling the applicant?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: If the applicant would please come down to the podium and identify yourself?

MR. JENCKS: Good morning, Mr. Chair. My name is Charles Jencks, representing Pacific Rim Land and GBI Holdings and the Central Maui Baseyard.

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COUNCILMEMBER COCHRAN: Good morning, Mr. Jencks.

MR. JENCKS: Good morning.

COUNCILMEMBER COCHRAN: And I'm not sure if you heard some of the queries that I had, but my last question was in reference to possibly use of injection wells in your onsite package.

MR. JENCKS: The way the onsite, and this is, it's an interesting story, I'll make it brief. An example is the Consolidated Baseyard located off of Waiko Road. That project was built and all the lots had their own individual innovative wastewater system where they come a leach field, and somewhere along the line the State of Hawaii, Department of Health decided that they didn't want to allow that any longer so not only Waiko the project that you heard a while back for us but also this project needs to now have a centralized wastewater treatment plant where what will happen is all the wastewater will be channeled to one plant. So you don't have individual plants. Much easier to manage, I will admit. Much more costly to develop. But the wastewater will go then to a leach field that will handle all of the water for the entire project. So we're not using an injection well.

COUNCILMEMBER COCHRAN: Okay. And that will be treated?

MR. JENCKS: Yes.

COUNCILMEMBER COCHRAN: Okay.

MR. JENCKS: Yes, absolutely. It will be an aerobic system probably producing R-2 quality water, which you could use for irrigation purposes if desired.

COUNCILMEMBER COCHRAN: Okay. Thank you. And I guess in reference to my first question about the infrastructure being built, maintained, improved, and what have you by the association, lot owner association when that, I guess, materializes, just some added, I don't know, added --

MR. JENCKS: Sure.

COUNCILMEMBER COCHRAN: --guarantees that yes, that's going to happen and hopefully, I mean, I'm sure in the end it'll be the association who will be, you know, if there's any fines to be given or, I mean, they have to comply with the permitting and --

MR. JENCKS: Sure.

COUNCILMEMBER COCHRAN: --and stuff so I just seen --

MR. JENCKS: Sure, absolutely. Well, if --

COUNCILMEMBER COCHRAN: --examples of it not happening.

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MR. JENCKS: --if I may? If I may? Once the zoning is approved for this project, my goal will be to work with the project engineer, Otomo Engineering, to develop a subdivision map and all of the civil construction plans for the offsite and onsite improvements. My goal is to submit those plans as quickly as possible and then receive a bonded subdivision approval. The value of the improvements are approximately \$20 million, which includes all of the off and onsite roadway systems, utility systems, including water and wastewater. Those will be developed and put in place so I can retire the bond, which is a fairly expensive proposition. We may do it out of pocket. We may get a loan to do that. We'll put all those facilities will be in place before we sell and occupy the lots. As a part of that process, Councilmember, we will then also create the association that will be responsible for enforcing all of the essential terms and conditions that you've, I'm sure, you've read within the DBA from the State Land Use Commission and any conditions from the Department of Planning or the Council. Now, as Michele stated previously, there are a number of other applicants or applications, excuse me, that will have to be filed and completed with the State Department of Health, the wastewater system, very rigorous compliance requirements and also for the water system, very rigorous application requirements that need to be met for funding, for guarantees on reserves, for guarantees on maintenance and care and keeping of that plant. So it's not an easy proposition but where there isn't any public infrastructure, municipal infrastructure for water and wastewater, this is the approach we have to take.

COUNCILMEMBER COCHRAN: Thank you very much. And I guess the only costs you have currently is for 2011 pricing? We're now, you know, into 2015 so?

MR. JENCKS: You can assume an approximate 3 percent increase per year and construction cost increases.

COUNCILMEMBER COCHRAN: Okay. Thank you very much, Mr. Jencks, --

MR. JENCKS: Sure.

COUNCILMEMBER COCHRAN: --for your time.

MR. JENCKS: Not a problem.

COUNCILMEMBER CRIVELLO: I have a question.

CHAIR CARROLL: Yes. If you could stay there, Mr. Jencks. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Good morning.

MR. JENCKS: Good morning.

COUNCILMEMBER CRIVELLO: Thank you for being here. In reviewing the petition that you've put before the Maui Planning Commission, I have a, I guess clarification. It has a note of plans to construct three wells, two active and one backup from the Kahului

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Aquifer and it was approved by CWRM, but can you kind of clarify for me how you draw brackish water from an existing aquifer or is that brackish? I mean what's the salinity level?

MR. JENCKS: Well, I'll take a shot at this but our water expert, Mr. Tom Nance is here. If I can't answer the question satisfactorily, please say so. The property, the 86 acres overlies the Kahului Aquifer and there was an existing well that Ms. Robbins referenced in her testimony that was this site. This 86 acres was part of an old military installation. In fact, if you go out now, you can see some of the foundations in some of the areas where they had installations established. They had dug a well in the second World War and I believe it's about a six-inch casing that was completely useless for us. So water quality at the bottom of the well was very good water, very good water, but the well structure itself was useless. So we couldn't use that well. And I might also add that prior to our acquisition of the property, the land was leased to, it was at one time Elmer Cravalho's pig farm. It was also subsequent to that, was leased to a gentleman who basically used it as a metal/car battery wrecking yard. I don't know how he managed to do that but prior to our acquisition it was a mess. The owner, our condition on acquisition was cleaning all that up. We had all that cleaned up, had everything removed from the property and then had it thoroughly evaluated from an environmental context and it's fine. Our wells that we have dug will indeed use the Kahului Aquifer for its source of water for both domestic use and irrigation use. The water that's being pumped out of the aquifer in that area is slightly brackish, which means that it's got more chlorides in it than drinking water does. The threshold's approximately 250 milligrams per liter. That's the threshold. If you go above that with chlorides, it's considered brackish then you have to treat it. We are exceeding that number but not by a great amount, so what we will do is we will pump the water from the aquifer and I think our demand, our peak demand is 130,000 gallons a day, which is not a lot of water for this type of use. It's a low volume of water. We'll pump the water out of the aquifer using those wells that we've already dug and drilled and tested and then treat that water with a reverse-osmosis system to achieve domestic-quality potable water and then also have residual water for irrigation purposes.

COUNCILMEMBER CRIVELLO: I think that as a follow-up to that, I guess what I'm trying to understand is the Kahului Aquifer, so the chloride level is quite high? Is that what I'm to understand? And salinity level is high too for it to be brackish?

MR. JENCKS: It's, it is considered brackish water and we're going to treat it and make it domestic water, which is not unusual anywhere in Maui County. That's done in quite a few locations.

COUNCILMEMBER CRIVELLO: Okay, thank you. Thank you. Thank you, Chair.

CHAIR CARROLL: Any further discussion before the Chair gives his recommendation? Oh, I'm sorry, Corporation Counsel?

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MR. HOPPER: Yes. Thank you, Mr. Chair. I just wanted to follow up on a couple of, on the conditions of zoning issue. The conditions of zoning for this project are to provide copies of the annual reports sent to the State of Hawaii, Land Use Commission. That doesn't make those conditions conditions of zoning. I just wanted to clarify that. The only conditions of zoning is to provide a copy of that report and basically provide a compliance report indicating that the conditions were complied with, the only one of which is to provide the same reports to go to the Land Use Commission. Again, that doesn't make those conditions into conditions of zoning. So really there's no conditions of zoning on this project other than the condition to provide copies of the report that were provided to the Land Use Commission. The Land Use Commission conditions are separately enforceable by the Planning Department. In addition, any interested party can bring an order to show cause or petition for declaratory ruling before the commission itself. That can include the commission itself if they saw a problem with the, for example, the backbone infrastructure condition that Councilmember Couch brought up. That would also allow the State Office of Planning or a private citizen who has a problem, has a standing and could also bring an order to show cause petition or a declaratory ruling petition before the Land Use Commission seeking enforcement of the conditions. So that's, I just wanted to have that clarified as far as the enforcement of State Land Use Commission conditions and how that could be done and to also clarify the status of the conditions of zoning for the project.

CHAIR CARROLL: Thank you. Any further discussion before the Chair gives his recommendation?

COUNCILMEMBERS: Recommendation?

CHAIR CARROLL: The Chair will entertain a motion to recommend passage on first reading of the proposed bills entitled A Bill for an Ordinance to Amend Kihei-Makena Community Plan Land Use Map from Agricultural to Heavy Industrial for Property Situated at Pulehunui, District of Wailuku, Maui, Hawaii, Tax Key Number (2) 3-8-008:019, for the Proposed Puunene Heavy Industrial Subdivision; and a Bill for an Ordinance to Change Zoning from Agricultural District to M-3 Restricted Industrial District (Conditional Zoning) for Property Situated at Pulehunui District of Wailuku, Maui, Hawaii, Tax Key Number (2) 3-8-008:019; incorporating any nonsubstantial technical revisions; and filing of the County Communication.

COUNCILMEMBER COUCH: Mr. Chair, I move that we pass the two proposed bills as you read and file County Communication 14-262.

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR CARROLL: Been moved by Mr. Couch, seconded by Ms. Baisa. Discussion, Mr. Couch?

COUNCILMEMBER COUCH: No discussion, thank you.

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CHAIR CARROLL: Any further discussion? All those in favor of the motion, signify by saying, "aye"?

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, five "ayes", two excused.

**VOTE: AYES: Chair Carroll, Councilmembers Baisa,
Cochran, Couch, and Crivello.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

**EXC.: Vice-Chair Victorino and Councilmember
Guzman.**

MOTION CARRIED.

**ACTION: FIRST READING of revised bill and FILING of
communication.**

CHAIR CARROLL: Thank you, Members. That concludes the business for today. Thank you for all those attending in the Chamber and out there in television land. And this meeting of February 2, 2015 stands adjourned. . . .(gavel). . .

ADJOURN: 9:59 a.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee


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CERTIFICATE

I, Kekai R. Robinson, hereby certify that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 23rd day of February, 2015, Wailuku, Maui, Hawaii.



Kekai R. Robinson