

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

June 4, 2008

Council Chamber

CONVENE: 1:33 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member
Councilmember Danny A. Mateo, Member
Councilmember Bill Kauakea Medeiros, Member

EXCUSED: Councilmember G. Riki Hokama, Member
Councilmember Michael P. Victorino, Member

STAFF: Tammy M. Frias, Committee Secretary
David M. Raatz, Substitute Legislative Attorney
Lei Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

ADMIN.: Jeffrey Hunt, Director, Department of Planning
Robyn Loudermilk, Planner, Department of Planning (Item Nos. 21 and 11)
Mike Napier, GIS Analyst, Long Range Planning Division, Department of Planning
(Item No. 11)
Jon Gushiken, GIS Technician, Long Range Planning Division, Department of Planning
(Item No. 11)
Michael Miyamoto, Deputy Director, Department of Public Works
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: **Item No. 21:** Edith Marciel
Wayne I. Arakaki
Edward Pelekai
William Chang
Paul L. Horikawa, Esq., Law Office of Paul L. Horikawa
Additional attendees (5)

Item No. 11: Lawrence Hansen, Maui Eldorado Condominium Association, and Site
Manager, The Masters at Kaanapali Hillside
Bob Pure, Kaanapali Royal
Additional attendees (10)

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PRESS: *Akaku--Maui County Community Television, Inc.*

CHAIR MOLINA: . . .*(gavel)*. . . Land Use Committee meeting for June 4, 2008 is now in session. For the record, we have in attendance today the Vice-Chair of the Committee, Joseph Pontanilla; Committee Members Danny Mateo, Michelle Anderson, Gladys Baisa, Jo Anne Johnson, Bill Medeiros; and excused are Committee members Chairman Riki Hokama and Mike Victorino. Good afternoon, Members. We have two items on our agenda and welcome back to Land Use. We last met in March so please bear with the Chair as he tries to shake off a little rust from the great budget session that we had recently. So I'm sure we're all ready and energetic and ready to do our thing. The Chair would like to introduce the Committee Staff. Filling in for Committee Analyst, Carla Nakata, we have the dynamic David Raatz with us today, and our charming Committee Secretary, we have Tammy Frias. We have also from the Corporation Counsel's Office, Mr. James Giroux. From the Planning Department, we have Director. Jeff Hunt, and we have Planner Robyn Loudermilk. And at a later point, we have some GIS Analysts that will be here for the second item today and we'll introduce them when we get to that item.

Members, we'll start off first with public testimony. We have, at this point, three people who have signed up to testify. But before we do that, the Chair would like to go over a few ground rules. For anyone who wants to testify today, you'll have three minutes to testify with one minute to conclude. Please state your full name and any organization that you may be representing. And please turn off all cell phones and pages so as not to disrupt our proceedings here today. So, with that being said, let's get right down to business. We'll start with our first testifier which is Lawrence Hansen and he'll be followed by Bob Pure.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. HANSEN: I was going to offer testimony on the golf course.

CHAIR MOLINA: That's fine, sir.

MR. HANSEN: My name is Lawrence Hansen and I am here representing my ownership in the Maui El Dorado Condominium Association and I'm also the site manager of the Masters at Kaanapali Hillside, and I'm representing them as an employee. I am a nine-year owner of a ground floor Kaanapali Golf Course facing condominium. I am speaking for the Association of Apartment Owners of the Maui El Dorado, which has 204 units. I am representing, as an employee, the Association of Apartment Owners of the Masters at Kaanapali Hillside, which is 200 units. I categorically state that I have never talked to an owner of any of the 404 taxpaying units. I am speaking for the ones any land use other than golf course for the land parcels under discussion. Therefore, I am requesting adoption of County Communication No. 05-151 as written. Thank you, Maui County Council Members.

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CHAIR MOLINA: Okay. Thank you very much, sir. Committee Members, questions for the testifier? Seeing none, thank you. Next to testify, we have Bob Pure followed by Paul Horikawa. And Mr. Pure will be testifying on Land Use Item 11.

MR. PURE: Thank you, Mr. Chairman, Committee Members. I was here testifying in November of 2005 and I believe that's part of the public record. Believe it or not, in 2005 I had a full head of hair --

COUNCIL MEMBERS: . . . (*chuckled*) . . .

MR. PURE: --but a lot of things have happened since then. Not a lot has happened on anything different in terms of what I testified about except receiving a document from Corp. Counsel. All of you know that the Kaanapali Golf Course is central to Kaanapali. It is one of the features of Kaanapali and one of the features of West Maui. And I made a fairly lengthy presentation back in November of 2005. Now, from what we understand in that particular testimony, many of the Committee members as well as the previous Planning Director was rather surprised that the parcel was zoned A-2 and it was not zoned PK-4. That came as a surprise to a lot of people, including us who had a property there that's been there for 30 years. I received from Mr. Giroux a fairly lengthy document, which was very difficult to understand but he was very, very nice. So, I called him and he spent a lot of time with me explaining the document which is quite good. Unless I'm reading this incorrectly, for those of you who know or don't know, the golf course consists of two 18-hole courses that are quite large -- the South course and the North course. I believe the documents state that the South course through, I'm not sure how, is indeed zoned PK-4, and the North course is still in question. So, I urge all of you Committee members to look at this situation and conform to the community plan which states that this should be zoned PK-4 as a golf course. And I do believe unless Mr. Giroux says otherwise, that indeed, half of it already is PK-4 and I believe the other half should be also. Thank you.

CHAIR MOLINA: Thank you, Mr. Pure. Committee members, questions for the testifier? Seeing none, thank you. Next to testify, we have Paul Horikawa and he'll be testifying on Land Use Item 21, and the Chair will offer folks in the gallery one last opportunity to testify after Mr. Horikawa is done. Mr. Horikawa.

MR. HORIKAWA: Good afternoon. My name is Paul Horikawa. I'm not really representing Mrs. Marciel in this matter but I did represent her in an action that formed the basis of her request to be here. And for Mrs. Marciel it's been a very long journey to get here. Just going through the file, I mean, it just so happened that I was in the process of purging my files about a month ago when I happened to see Edith's file. She first paid a substantial amount of money for the preliminary title report for the property that's going to be . . . there's a request to re-zone the property in 1992, there was an action to subdivide the property that was filed in 1997. And there was a Judgment that was entered in October of 1998, just about ten years ago, in which the court ordered that this particular property be subdivided. And as part of their request, I think part of the request was to have the property subdivided in order, I mean, excuse me, rezoned in order to

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have it subdivided on some consistency issues. It's been ten years since I saw Edith at the Second Circuit Court and I did, when I heard that it was on the agenda for today, I wanted to lend some support for her because it's been a long journey for her, it's been a time-consuming journey but that's one of the things when you deal with the processes. But I would ask you to support and grant Mrs. Marciel's request to have this property rezoned so that it could be subdivided. This is a process to allow the Marciel and Oliveira families to have each of their own separate parcels of land. So it's not as if these people are going to subdivide and sell or if they intend to make substantial or any money from it. In fact, it's been a very costly proposition for Mrs. Marcel. It's something that she didn't want to leave her family members and I give her a lot of courage and congratulations for sticking so long on what has been a very long and costly project for her. Thank you for your support. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Horikawa. Committee members, questions for the testifier? Seeing none, thank you. Is there anyone else who would like to testify on either of our two committee items today? Seeing no one approaching, the Chair will close public testimony. Any objections, Members?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Thank you. Public testimony is closed for today.

...END OF PUBLIC TESTIMONY...

ITEM NO. 21: CHANGE IN ZONING FOR EDITH MARCIEL (HANA) (C.C. No. 07-218)

CHAIR MOLINA: Members, our first item is Land Use Item 21, which is a Change in Zoning for Edith Marciel of Hana. The Committee is in receipt of the following County communication, which is numbered 07-218, from the Planning Director, transmitting a proposed bill to grant a request from Edith Marciel for a Change in Zoning from Interim District to RU-0.5 Rural District on approximately 2.863 acres in Hana, Maui. Also, a correspondence dated May 9, 2008, from the Corporation Counsel's office, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE TO ESTABLISH RU-0.5 RURAL DISTRICT ZONING FOR PROPERTY SITUATED AT HANA, MAUI, HAWAII". The purpose of the revised proposed bill is to grant the requested Change in Zoning. And at this point, the Chair will turn matters over to the Planning Department to give us an overview of the item.

MS. LOUDERMILK: Good afternoon, Members. Summary of the application, as indicated earlier, we're here for a Change in Zoning for approximately 2.8 acres of land in the Hana Community Plan region. It is designated Rural by the State Land Use Commission, Single-Family by the Hana Community Plan, zoned Interim District pursuant to Title 19, and it is not located within the Special Management Area. As we heard earlier through public testimony, the applicant is requesting a Change in Zoning to subdivide the property into two lots. This application will

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bring the zoning into conformance with the Single-Family designation of the Hana Community Plan and the Rural designation on the State Land Use map. The public hearing for the item was held by the Hana Advisory Committee on November 30, 2006. We had one person testify in support of the application. And then the Hana Advisory Committee recommended to the Maui Planning Commission that they recommend to the Maui County Council approval of the Change in Zoning application. This item was then discussed at the Maui Planning Commission meeting of January 9, 2007. Much of the discussion focused on the Interim zoned lands that are located in the Hana Community Plan District. And the commission wanted to have some background on how this property remained Interim. And basically, back in the late 1990s, the County adopted the Rural zoning district that we know of as of today, and within that ordinance there was an exception that excluded Hana Community Plan District lands because at that time the Council was considering the creation of an overlay district that would then cover these lands in the Hana Community Plan District. Subsequently, the proposed Cultural Overlay District zoning was filed by the Maui County Council. Then, lastly, as part of the discussion, the Commission would like to urge the Council to assist us in addressing this issue in the Hana region. At the January 9, 2007 meeting, the Commission recommended to the Council approval of the Change in Zoning with no conditions. And that concludes the Department's summary of the request.

CHAIR MOLINA: Okay. Thank you, Ms. Loudermilk. Mr. Medeiros, I'll recognize you first as the area representative. Do you have any questions for the Department?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair. First of all, I just want to thank you, Mr. Chairman, for the expediency in you agendizing [*sic*] this item. Mrs. Marciel, you know, has waited a long time with a lot of diligence and patience on this application on her request. I want to also thank the Planning Department. There was a lot of work involved in this application. If we look at the documents in our binders, it's quite extensive and it goes back for ten years or more. And so, it's reassuring to hear that the Hana Advisory Committee, which makes recommendations to the Maui Planning Commission, recommended approval of this application, and likewise, the Maui Planning Commission. So I just wanted to ask at this time the Planning Department that I know you did mention something that you'd like to see the Council address that could make things more appropriate than zoning for currently. But I know for areas like Hana where it became a lot of Interim zoning, there's a lot of difficulty when you pursue to do things in Hana. So, can you give us some clarification on the Interim zoning that this was in and the path for this application and request is to a Change in Zoning?

CHAIR MOLINA: Okay, Ms. Loudermilk?

MS. LOUDERMILK: Thank you. Back in August 1, 1958, the Board of Supervisors adopted the Interim Zoning District. The Interim Zoning District covered the districts of Makawao, Lahaina, Hana and Wailuku. Later on, a number of land use, comprehensive land use zoning maps, were adopted in the early '60s. One was not adopted for the Hana Community Plan District. Thus, much of the lands in Hana remained Interim unless a particular property owner came in to the County requesting a change in the land use designation. With the adoption of the Agricultural

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Zoning District bill back in 1998 or 1999, much of the lands in Hana that were agricultural were rezoned to agriculture. What we have left are lands that were designated something other than agriculture that were not changed from one designation to another by a particular property owner. And that's the situation that the Marciel family experienced. And I believe we have one or two other applications that are working their way through to the Council that have similar. And I just like to clarify that it was the Maui Planning Commission really asking the Department to urge the Council and with the General Plan update and other things that are occurring, a digital mapping project, I think that eventually we can come to some sort of resolution. However, until that time those property owners who are in the Interim Zoning District will need to come in for each particular property to have the zoning changed.

COUNCILMEMBER MEDEIROS: Mahalo for that information. And Mr. Chair, I'd like to allow my colleagues to ask questions of the Planning Department and take another opportunity later to express my support for this request and application. So, at this time, I'll allow my colleagues to speak. Thank you for this opportunity.

CHAIR MOLINA: Okay, and thank you, Member Medeiros. Committee Members, any questions for the Planning Department relating to Land Use Item 21? Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. I think this is so unfortunate. This family has been waiting since 2006 to subdivide this for their use, which brings up the issue of Interim zoning that all these parcels in Hana have. And, you know, I was here when this was adopted and I recall the discussion actually, I can believe it or not. The concern was specifically by Councilmember English, at the time, that if we give a blanket Rural zoning to all the property in Hana that it could be subdivided without considering the cultural properties or sites in a more intensive manner that zoning allows. And I know that I didn't get a chance to find it but I'm pretty certain that there is a provision within the community plan that has been in this plan since 1994 that calls for a Cultural Overlay for the Hana region. Many of our community plans have that. South Maui also has that requirement. And unfortunately, it has not been done. And so if Ms. Loudermilk could maybe extend a little for us on the comments she made about the GIS that's going on right now and how that might address the need for a Cultural Overlay District. Because I think the intent was, and you know when you say that the Cultural Overlay District, I don't think it was zoning, that it was a request to have a Cultural Overlay District discussed and brought forward for the Hana District was filed. That just means that at the end of a term the item never got forward and so at the end of a term, when you file something, that basically goes in the waste basket. But that doesn't mean it wasn't a viable request. It may just have been there wasn't time to get to it and that now it's lost in the shuffle. But it's an important thing that we have these Cultural Overlay Districts. My district is very rich in resources as is Member Medeiros'. So if maybe the Department could speak to how we can address that and I, for one, think that all these Interim properties need to be given the same consideration that all the other Interim properties got with the blanket zoning, if they were designated for Rural and if they have that State designation. But at the same time, I don't want to see us just overlook the need to have

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this Cultural Overlay District identified so at least we know and property owners know that they may have a portion of their property that needs to be preserved.

CHAIR MOLINA: Okay. Ms. Loudermilk, your comments?

MS. LOUDERMILK: Regarding the GIS we'll start with the digital mapping . . . part of the project is to verify all of the zoning, the community plan, and these State Land Use Districts. This would then allow us to identify those properties that are zoned Interim. That's the step that we can take through the digital mapping project.

Secondly, regarding the Cultural Overlay District or a need for a Cultural Overlay, I would like to defer this to the Director to see or to have him provide the policy explanation on that particular area.

COUNCILMEMBER ANDERSON: Okay, thank you, Ms. Loudermilk. . Before we do that, Chair, if I could just clarify what you said that the GIS mapping will identify the Interim parcels. Are you saying that the Planning Department doesn't have those Interim parcels identified currently?

MS. LOUDERMILK: On a case-by-case basis with paper maps.

COUNCILMEMBER ANDERSON: Okay. And this is going to put it all in --

MS. LOUDERMILK: Yes.

COUNCILMEMBER ANDERSON: --a more cohesive . . .

MS. LOUDERMILK: Yes.

COUNCILMEMBER ANDERSON: Okay. And then, if I may, Mr. Chair, before Director Hunt continues, I just want to read . . . um . . . within the community plan for Hana. It says, adopt land use standards and Overlay Zoning designations that recognize and preserve the unique, natural, cultural and land use characteristics of each community within the Hana region. Just so it's clear what the intent was when we originally or when the previous Council originally put this in Interim. It was to respect that request and have it done. And here we are ten years later and it's still not done. So maybe the Director can give us some idea.

CHAIR MOLINA: Mr. Director?

MR. HUNT: We're soon to embark on an update of the Hana Community Plan. We actually put money in this year's budget, and I would anticipate that as that process goes on, this would be one of the key issues in that process. We've also got some money allocated for some cultural resource studies and we can report back to you regarding those. I don't want to shoot from the hip and speak incorrectly. But there are some studies that are going on regarding cultural resources. I

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imagine those will be used to some extent in updating the Hana plan. And then the Hana plan would, you know the update process we start with existing plans and take a look at what they say and what needs to be done further and continued and I would imagine that one's going to rise near the top.

COUNCILMEMBER ANDERSON: Thank you, Mr. Director. I think, Mr. Chairman, it's time for us to put some, you know, focus and importance on these implementing actions. These community plans are great plans but if we don't implement what they spell out, you know, they mean nothing really. And like I said, this plan is ten years old so I would hope that the Department can find some funding and make sure that, that we do something in the manner that would draw attention to the areas that need to be preserved not just in South . . . or Hana, South Maui but Molokai . . . all the community plans that call for Cultural Overlay District. So that everybody knows this is a future of our historic preservation program which hasn't had much attention in the last 20 years and now is the time to do something if we're going to do anything to save these resources for the future. Thank you, Chairman.

CHAIR MOLINA: Thank you, Member Anderson. Thank you for those comments. Committee Members, any other questions for the Department before the Chair makes a recommendation?

COUNCILMEMBER BAISA: Recommendation.

CHAIR MOLINA: Okay, seeing none. Uh, Mr. Medeiros?

COUNCILMEMBER MEDEIROS: If there's no further questions for the Department, I'd just like to speak to the support of this, Mr. Chairman?

CHAIR MOLINA: Okay. If you prefer to, Mr. Medeiros, the Chair would like to go ahead and make a recommendation --

COUNCILMEMBER MEDEIROS: Certainly.

CHAIR MOLINA: --and I'll open the floor up to you.

COUNCILMEMBER MEDEIROS: Certainly, Mr. Chair.

CHAIR MOLINA: All right. At this point, Members, the Chair will make a recommendation to support, to entertain a motion to support a bill for an ordinance to establish RU-0.5 Rural District zoning for property situated at Hana, Maui, Hawaii.

COUNCILMEMBER MEDEIROS: So moved.

COUNCILMEMBER ANDERSON: Second.

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CHAIR MOLINA: Okay, it's been moved by Member Medeiros, seconded by Member Anderson. Member Medeiros, you have the floor.

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chair. And I'd like to further recognize that the applicant, Mrs. Edith Marciel, is in the audience and she flew here from California to finally see the light at the end of the tunnel of ten years, and we appreciate her coming here. You know, I grew up in Hana with the Marciels and she comes from the Pelekai family in Hana. They have been kama'ainas and members of East Maui for generations. In fact, the Marciels are also from the area of Kaupo. And with Mrs. Edith Marciel is her brother, Edward Pelekai, which kind of served as a liaison between my office and the applicant because she was in California. And so I do appreciate them being here; Bill Chang also from the Hana community familiar with the application is also in the audience. And I appreciate Mr. Paul Horikawa coming to testify on behalf and in support of the applicant. I did take the opportunity, this was brought to my attention when I first took office in January of 2007, and there was a lot of concern on the applicant that they were trying their best but seem to hit a rock wall. And so working with the applicant through telephone conversations to California and working with her brother, Edward Pelekai on Maui, we were able to finally get it to be considered for the Land Use Committee. And again, once again, I say to you, Mr. Chair, thank you for the expediency on which you acted on this item. I did take the opportunity to talk to other family members on this property in Hana and to see what they thought about their request and they all seem to be very pono that this was occurring and they supported it. So, I appreciate Mrs. Marciel's diligence and patience once again. Unfortunately, government processes sometimes take extensive effort, time, and perseverance, and she has done that. So, I urge my fellow colleagues on this Committee to please support this application and request so that this family can finally go ahead with their plans for their property and for their families. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you very much, Mr. Medeiros. Committee Members, any other comments on the motion on the floor? Before the Chair calls for the vote, the Chair would also like to recognize Mr. Medeiros. You did a lot of the leg work and you made the Committee aware of the situation so, you know, a lot of applause for you as well, Mr. Medeiros. Thank you for sharing with the Committee about the need for this matter. And to Mrs. Marciel, thank you for waiting. Unfortunately, there are times when things take a long time but finally as Mr. Medeiros stated, we have a light at the end of the tunnel here. So that being said, the Chair will call for the vote. And by the way, this would include the filing of County Communication No. 07-218 included in the motion, Members. So with that said, Members, all those in favor signify by saying aye?

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Thank you. The Chair marks it 7-0 with two excusals, Chairman Hokama and Member Victorino. So the motion passes. Congratulations, Ms. Marciel, and this will go on to the Council for first reading.

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VOTE: **AYES:** **Councilmembers Anderson, Baisa, Johnson, Mateo, Medeiros, Vice-Chair Pontanilla, and Chair Molina.**

NOES: **None.**

EXC.: **Councilmembers Hokama and Victorino.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

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

ITEM NO. 11: APPROPRIATE ZONING FOR KAA NAPALI GOLF COURSES
(C.C. No. 05-151)

CHAIR MOLINA: Members, we have one more item to discuss today, and that is Land Use Item 11, which is the appropriate zoning for Kaanapali golf course. I notice that we have some members from the Long Range Planning Division. Mr. Raatz, do you request a short break to set up our PowerPoint?

MR. RAATZ: We're okay.

CHAIR MOLINA: We're okay. All right. Well, let's get right into it, Members. We're dealing with Land Use Item 11 and the matter deals with the zoning for the Kaanapali golf courses. The Committee is in receipt of the following:

1. County Communication No. 05-151, from Councilmember Jo Anne Johnson, transmitting the following: a) a draft bill to change the zoning from A-2 Apartment District to PK-4 Golf Course Park District for TMK: (2)4-4-13:003 comprising approximately 34.386 acres and also comprising approximately 39.647 acres and comprising about approximately 1,391.547 square feet, comprising approximately 1.009 acres in Kaanapali, Maui, and also a draft resolution to refer the draft bill to the Maui Planning Commission.
2. Correspondence dated November 8, 2005, from the Planning Director, transmitting information relating to the subject property and a preliminary analysis of the requested zoning change.

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3. Correspondence dated July 20, 2007, from the Department of the Corporation Counsel's office, transmitting the following:
 - a. A draft bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM A-2 APARTMENT DISTRICT TO PK-4 GOLF COURSE PARK DISTRICT FOR PROPERTY SITUATED AT KAA NAPALI MAUI, HAWAII". The purpose of the draft bill is to change the zoning from A-2 Apartment District to PK-4 Golf Course Park District for TMK: (2)4-4-08:009, comprising approximately 39.647 acres; TMK: (2)4-4-08:010, comprising approximately 1,391.547 square feet; and TMK: (2)4-4-08:014, comprising approximately 1.009 acres in Kaanapali, Maui, Hawaii.

We're almost there, Members. And finally, a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A DRAFT BILL TO CHANGE ZONING FROM A-2 APARTMENT DISTRICT TO PK-4 GOLF COURSE PARK DISTRICT FOR PROPERTY SITUATED AT KAA NAPALI, MAUI, HAWAII". And again, the purpose of this proposed resolution is to refer the draft bill to the Maui Planning Commission for their comments, and eventually it will come back to the Council for a vote.

So with that being said, and that was quite a mouthful, I'd like to now turn it over to the Planning Department. And we have from the Long Range Planning Division two gentlemen joining us here today. We have Mike Napier, GIS Analyst; and John Gushiken who is a GIS Technician. Welcome to our proceedings, gentlemen. And I guess I'll turn this matter over is this to Ms. Loudermilk or to Director Hunt?

MS. LOUDERMILK: Good afternoon, Members. I am the Staff Planner that has been assigned to this particular project. And basically, I just want to provide a summary of what has been occurring since the resolutions have been initially discussed. There was a number of correspondence back and forth between Council, Planning Department, as well as the Office of the Corporation Counsel in terms of the information verification that what should be required in order for the bill to go forward. Also, as part of that communication, it was identified that the lower portion or the southern golf course was, in fact, rezoned to PK-4 automatically with the adoption of the 1991 ordinance as it was zoned residential at that time. What has . . . what we've provided currently is a revised map showing, identifying the properties that will be, uh, that should be part of the resolution and I believe, um . . . hard to see the color on the screen . . . there we go. The cross hatch patterns there's two fairly large properties with the SunStone property stuck in the middle and then on the upper right corner there's a sliver along the highway. So, the Department is recommending that those two properties be included in the resolution for the rezoning. And in consultation with the Corporation Counsel, we have provided the Committee very recently with the requested documents regarding Land Court maps and any other piece of information that will be required in order for these resolutions should it be passed out of Committee to go forward to the Maui Planning Commission. And that's basically where we are at this point in time.

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CHAIR MOLINA: Okay. Thank you, Ms. Loudermilk. Mr. Raatz, could we have the lights put back on again? At this point, the Chair will recognize area representative, Councilmember Johnson, for questions to the Department on this matter.

COUNCILMEMBER JOHNSON: Um, yes, thank you very much, Chair Molina. I really appreciate this coming forward cause as was noted I think he did have a little hair loss going on. Mr. Pure has been very gracious and the community has been gracious and kind of waiting for this process to unfold much like the previous one that Ms. Marciel had. But my question is and I was just passed a little bit of information – on the square footage which is I guess stated in my first communication and then repeated again in No. 3, is that one million three hundred ninety one thousand five hundred forty seven square feet? Because I believe it's just a typo and Scott Teruya mentioned, you know, that it should be a comma instead of a period. Is that correct?

MS. LOUDERMILK: I do not have a copy . . . is that on the agenda?

COUNCILMEMBER JOHNSON: Yeah. It's listed in two different places on the agenda but Mr. Teruya from Finance, just you know he's bringing to my attention that it's in the millions not one thousand.

MS. LOUDERMILK: We will ensure that the correct square footage gets incorporated into the resolution.

COUNCILMEMBER JOHNSON: Okay, great, great. And then, Mr. Pure also mentioned this because in the explanation that Corporation Counsel had given in the response to us was basically that through the automatic rezoning there was a portion of the land that fell under that auto rezone. So that particular TMK or that area was taken out of this resolution that was originally sent by me, is that correct?

MS. LOUDERMILK: That is correct.

COUNCILMEMBER JOHNSON: Yeah, because that didn't need to be rezoned; it was already done. And then now are you adding in two additional ones or those are already incorporated in the resolution we have before us today?

MS. LOUDERMILK: Those are already incorporated into the resolution.

COUNCILMEMBER JOHNSON: Yeah, that's what I thought because I really appreciate you doing that because the community and I believe, you know, this is privately paid for. Actually it's the drafting of all this with the cooperation of the community members that were impacted by this that actually went out and paid to have an attorney draft the original, you know, documents that came before you so I really want to thank them. But I want to thank you for further correcting with our maps. So, Mr. Chair, I just look forward to your recommendation because this has been a long time coming. Thank you.

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CHAIR MOLINA: Thank you. Thank you for bringing this matter to the attention of the Committee as well, Member Johnson. Again, Members, the intent here today is to refer the matter over to the Planning Commission. If you have any . . . uh, Members, you have any additional pressing questions at this time? Member Anderson?

COUNCILMEMBER ANDERSON: Just a real quick one. Ms. Loudermilk, you said that, oh, there it is now. Is it that the red . . . (*cleared throat*) . . . excuse me, the red part, is that the part that was automatically rezoned?

MS. LOUDERMILK: We're looking at the map on the screen. The portion below the hatched portion there is a red area and surrounding that red area is a light colored area, that is the portion of the golf course that was determined to have been automatically rezoned with the adoption of the park ordinance in 1991.

COUNCILMEMBER ANDERSON: Okay. And then the center of that is Business-Resort, right?

MS. LOUDERMILK: Yes.

COUNCILMEMBER ANDERSON: Okay. That's all I needed to know. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Member Anderson. Member Pontanilla?

VICE-CHAIR PONTANILLA: Fast question. So it's all the golf course property makai of the highway?

MS. LOUDERMILK: Yes.

VICE-CHAIR PONTANILLA: Okay.

MS. LOUDERMILK: My understanding is that the remainder of the golf course properties were part of the automatic rezoning and these on the mauka side and these are the remnants that we've identified that should be rezoned.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Seeing no other questions, Members, prior to the Chair's recommendation I'd like to call for a five-minute recess to confer with Staff on a procedural matter. Meeting in recess subject to the call of the Chair. . . . (*gavel*) . . .

RECESS: 2:13 p.m.

RECONVENE: 2:16 p.m.

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CHAIR MOLINA: . . .(gavel). . . Land Use Committee meeting for Wednesday, June 4, 2008 is now back in session. Members, prior to the Chair making a recommendation the Chair did confer with Staff on some changes to the proposed bill in terms of the enumeration. If you'll note on the draft bill, I guess Member Johnson brought it to our attention via Mr. Teruya from the Finance Department had mentioned I guess the number should have read one million three hundred ninety one thousand five hundred forty seven square feet but now, apparently, there's been another change, consideration, I guess I'll ask maybe Mr. Raatz, if you could make a comment to the Committee on this consideration.

MR. RAATZ: Thank you, Mr. Chair. Staff would just recommend to be consistent with other property descriptions that the square footage be converted to acres, which would be 31.945 acres for that particular parcel.

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: Okay. Members, is that clear?

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: All right. Good. And I guess when . . . assuming if this bill moves through, the changes will be made I guess by Corporation Counsel. Is that clear, Mr. Giroux?

MR. GIROUX: Yes.

CHAIR MOLINA: Very good. Before we went into recess, Member Anderson, did you have a question for the Department?

COUNCILMEMBER ANDERSON: No.

CHAIR MOLINA: Okay, seeing none. All right, very good, Members. Oh, sorry, Mr. Pontanilla, my apologies.

VICE-CHAIR PONTANILLA: Thank you. Just a question for the Department. All of the parcels in question, who owns the property -- Amfac or does the Employees Retirement System, State of Hawaii own the property? And the reason I ask is that the retirement system, if the thought is to invest money in a property like this, which is designated A-2, then what is the ramification in regards to the retirement system?

CHAIR MOLINA: Good question.

VICE-CHAIR PONTANILLA: Based on values.

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CHAIR MOLINA: Department, any comment?

MR. HUNT: By coincidence, I was the Staff Planner on this project back in a previous life which seems so stress free right now.

... *(Laughter)* ...

MR. HUNT: As I recall, the Employees Retirement System acquired the golf course through some legal foreclosure or something like that. I'm not sure that's right, legal word, but so I believe it is, oh, it is owned by them . . . system.

VICE-CHAIR PONTANILLA: So if we redesignate to PK-4, then all I'm saying is that how does that affect the . . . I guess ability for the State of Hawaii ERS to take advantage of a higher value property, you know, if it still remains A-2?

MS. LOUDERMILK: The Employees Retirement System would need to make a determination on whether they wanted to go forward with higher and best use. At this point in time, should any improvements want to occur on the golf course, they cannot occur because the property is located in the Special Management Area we have these land use inconsistencies no improvement should be occurring on the property. So if the goal is to maintain the property in the golf course with the associated golf course uses, this would be the best way for the Employees Retirement System to have the golf course come back to the quality that it was once known for and where they want to take it. At this point in time, we have not been in contact, the Department, with the ERS in terms of what their thoughts are for the rezoning.

VICE-CHAIR PONTANILLA: Yeah, it kind of amazes me that we don't have anybody from the Employees Retirement System here to provide us some information in regards to what we are planning today. Although this resolution and the bill will go to the Planning Commission, you know, it will give some opportunities for the State of Hawaii to have more discussion on this matter. I thought I'd bring it up because it's very interesting in the sense that we're downgrading a property and here we invest money on the retirement system to make sure that our money appreciates so that we can all get good retirements and then all of a sudden it goes away.

MR. HUNT: We'll be sure to include them once it goes to the Planning Commission for public hearing.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MOLINA: Okay, thank you, Member Pontanilla. The Chair was just informed that we did contact someone from the ERS that they would have someone here to monitor; however, the Committee here is not going to make a final decision on it until we get something back from the Planning Commission. Member Johnson?

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COUNCILMEMBER JOHNSON: Yes, and just to get it on the record because I'm not sure if Mr. Pontanilla was here when we had first discussed this or was in attendance, an Employees Retirement System did come the first time and they opposed this, of course. But principally what happened was the property was put in as collateral for a loan made to Amfac JMB for the tune of \$65 million by, you know, the State Employees Retirement System. Years went by and of course Amfac separated all their properties and all their holdings and this was left to get into a terrible state of disrepair and they defaulted on that loan. The collateral for that loan was these golf courses. What Employees Retirement System never knew until the SunStone issue came along was that they could, through some legal loophole, try to come in and sneak in with buildings or residential development. The community plan was always very clear that this was always to be kept in golf course. The inheritance was always to be as golf course. When the Employees Retirement System observed what was happening with SunStone, a little light blub went on and they figured they could come in and do something similar. They have explored options. I don't think they knew, until recently, about the auto rezone because they weren't even sure, they couldn't even find the ownership papers for this. So one of the things though that I want to be very clear about is there is no downzoning going on. The original A-2 Apartment zone was the catchall designation which at the time could, you know, you could have golf course designation. So it was kind of like what we just went through with Interim zone. It was a holding place. So never at any time did the Employees Retirement System ever plan on inheriting a white elephant because the property was, on numerous times, put up on the market and nobody would buy it. If anything, this property has not been a good investment for the Employees Retirement System because if anything, my suggestion would be that they put the golf course in the very best state it would be and then sell it to a private entity that is willing to put money into it. So, Mr. Chair, I know that's a long explanation but I wanted to get on the record what really transpired that this is not something that was ever in the community plan and there's not something that we're taking away from anyone because they never should have been their right to develop this area in the first place. Thank you.

CHAIR MOLINA: Thank you, Member Johnson. Committee Members, any final questions for the Department before the Chair makes a recommendation?

VICE-CHAIR PONTANILLA: Yeah, Chair, just a final comment.

CHAIR MOLINA: Member Pontanilla?

VICE-CHAIR PONTANILLA: I'm going to take the word of the Planning Department that when it does go through the Planning Commission that the State of Hawaii is notified. Thank you.

MS. LOUDERMILK: Yes.

CHAIR MOLINA: Okay, thank you. Okay, with that said, the Chair will make a recommendation. The Chair would entertain a motion to recommend adoption of the resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A DRAFT BILL TO CHANGE ZONING FROM

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announcements, Members? Seeing none, that being said it is 2:27 on Wednesday, June 4th, this Land Use Committee . . .

COUNCILMEMBER ANDERSON: Chair?

CHAIR MOLINA: Yes. Member Anderson?

COUNCILMEMBER ANDERSON: I do have a quick announcement.

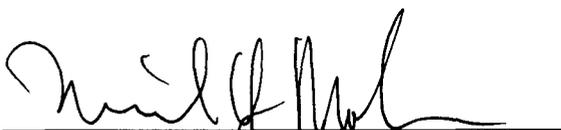
CHAIR MOLINA: Proceed, Member Anderson.

COUNCILMEMBER ANDERSON: I want to thank these GIS guys for bringing this information forward in the manner that they have. It's so helpful to all of us. Thank you very much and we look forward to your participation in the future.

CHAIR MOLINA: Amen to that, Member Anderson. We might be seeing you guys more often on a regular basis. Thank you. Any other announcements? Seeing none, the Chair would like to thank everyone for their professionalism and dedication. Thank you so much. Members, this meeting for Wednesday, June 4th is now adjourned. . . .(gavel). . .

ADJOURN: 2:27 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Land Use Committee

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Transcribed by: Jo-Ann C. Sato