

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

August 19, 2015

Council Chamber, 8th Floor

CONVENE: 1:34 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Robert Carroll, Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Gladys C. Baisa
Councilmember Don Couch
Councilmember Stacy Crivello
Councilmember Don S. Guzman (in 1:40 p.m.)

EXCUSED: VOTING MEMBERS:

Councilmember Elle Cochran

STAFF:

Carla Nakata, Legislative Attorney
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
Paul Fasi, Planner V, Department of Planning
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works
Michael Miyamoto, Deputy Director, Department of Environmental Management
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS:

Tom Croly
Cheryl Okuma, Munekiyo Hiraga
Kirk Tanaka, RT Tanaka Engineering
Matt Nakamoto, Austin Tsutsumi Associates
Dan Ford, Ford Canty & Associates, Inc.
Jordan Hart, Chris Hart & Partners, Inc.
Brett Davis, Chris Hart & Partners, Inc.
Mercer "Chubby" Vicens
Plus (3) Others

PRESS:

Akaku Maui County Community Television, Inc.

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CHAIR CARROLL: . . .*(gavel)*. . . The Land Use Committee meeting of August 19, 2015 will come to order. I'm Councilmember Robert Carroll, Chair of the Council's Land Use Committee. First of all, my request if anybody has cell phones or anything else makes noise, please turn it off or put it on the silent mode. Voting Members with us this morning, Committee Members, Vice-Chair Michael Victorino.

VICE-CHAIR VICTORINO: Good afternoon, Chair.

CHAIR CARROLL: Good afternoon. Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR CARROLL: Good afternoon. Don Couch.

COUNCILMEMBER COUCH: Aloha and good afternoon, Chair.

CHAIR CARROLL: Good afternoon. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha and good afternoon, Chair.

CHAIR CARROLL: And excused at this time is Don Guzman and Elle Cochran. Non-voting...excuse me, Executive Branch representatives, Michele McLean, Director [*sic*] of Department of Planning for LU-16, 10, and 8; Paul Fasi, Department of Planning, LU-8 and 10; Kyle Ginoza, Director of Environmental Management, LU-8; Rowena Dagdag-Andaya, Deputy Director of Public Works for LU-8. Department of Corporation Counsel we have Mike Hopper, Deputy Corporation Counsel. Applicant's representatives we have Brett Davis, Chris Hart & Partners, LU-10; Jordan Hart, Chris Hart & Partners for LU-10; Cheryl Okuma, Munekiyo and Hiraga, LU-8; Albert Kanno ABC Development Company, LLC, LU-8; Carol Matsunaga, broker, Realty Factors, LU-8; Kirk Tanaka, RT Tanaka Engineering; Matt Nakamoto, Austin Tsutsumi Associates; Dan Ford, Ford Canty and Associates, Inc. We have our Staff Raynette Yap, Committee Secretary and Carla Nakata, our Legislative Attorney. Today we have three items on our agenda. The first item regarding a resolution referring to the Molokai Planning Commission a proposed bill for a Change in Zoning for 14.56 [*sic*] acres along Kamehameha V Highway in Kawela. Excuse me . . .*(clears throat)*. . . The second is a request for a Change in Zoning for Mahina Surf AOA in Lahaina. Finally we'll be considering a request from ABC Development Company, LLC for District Boundary Amendment, Community Plan Amendment, and Change of Zoning for the proposed Waikapu Light Industrial Project in Wailuku. For our public testimony we have three remote sites. Hana, are you there?

MS. LONO: Good afternoon, Chair. This is Dawn Lono in Hana.

CHAIR CARROLL: Thank you. Molokai?

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

CHAIR CARROLL: Good afternoon. And Lanai?

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

CHAIR CARROLL: Thank you. Public testimony will be allowed for three minutes with one minute to conclude if necessary. When you come to the microphone to the podium, please give your name and any organization that you might be representing. Ms. Nakata?

. . . BEGIN PUBLIC TESTIMONY . . .

MS. NAKATA: Mr. Chair, the first testifier in the Chamber is Tom Croly, he'll be testifying on item LU-10.

MR. CROLY: Aloha, Chair. Aloha, Committee. I'm Tom Croly and I'm here on my own behalf. And I'm here because you guys know that I'm somebody who pays attention to the laws that we have in this County and how they apply specifically to short-term rentals and such. And I want those laws to apply to everyone equally and to be consistently applied. The item on today's agenda, LU-10 caught my attention because it was a Change in Zoning from R-3 Residential zoning to A-1 Apartment zoning for a condominium complex that has been doing short-term rental for more than 40 years. Now in Planning Committee a few months back, we codified the grandfathering, if you will, of the short-term rentals in the Apartment District. I would assume and I want you to ask Corporation Counsel this that this Change in Zoning would apply to this property and that these folks would then be legally allowed to rent their properties for short term. The tax record reflects that 52 of the 56 properties at Mahina Surf are currently being taxed as Hotel, so they're currently being used as short-term rental. But if I understand it correctly, in the R-3 District, they would not be allowed to do that, and I do know that there's other properties on the island in the County that are in a similar circumstance, some folks of which who have gotten notices of cease and desist, you have to stop renting, and those folks have said what are we going to do? So I'm very curious to see if this solves the problem even though no one has brought it up for Mahina Surf as to this Change in Zoning from R-3 when it was built to A-1, whether that indeed will make the short-term rental in there, in this complex consistent with our laws and legal and so forth and not require these folks to have to come forward to get a Short-Term Rental Permit. I want to stress I have no dog in this fight, okay. I'm not being paid to be here, I'm not speaking on behalf of anyone, I'm just trying to make sure that the laws as we have them on the books and the way we're applying them are being done consistently. Thank you, Chair.

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

MS. NAKATA: Mr. Chair, no one else has signed up to testify in the Chamber.

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CHAIR CARROLL: Hana, do you have anybody waiting to give testimony?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR CARROLL: Thank you. Molokai, do you have anyone waiting to give testimony?

MS. ALCON: There is no one here on Molokai waiting to testify; however, there is Weymouth Kamakana here to answer questions if the Council has any for LU-16.

CHAIR CARROLL: Thank you. Lanai, do you have anybody waiting to give public testimony?

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

CHAIR CARROLL: Thank you. Anyone in the audience wish to give testimony? Please come forward. Seeing none, if there's no objections, we will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . . END OF PUBLIC TESTIMONY . . .

**ITEM NO. 16: CHANGE IN ZONING FOR 14.59 ACRES ALONG
KAMEHAMEHA V HIGHWAY (KAWELA) (CC 15-215)**

CHAIR CARROLL: The Committee is in receipt of County Communication 15-215, from Councilmember Stacy Crivello, transmitting a proposed resolution entitled Referring to the Molokai Planning Commission a Proposed Bill to Change Zoning from Interim to Agricultural for 14.56 [sic] acres in Kawela, Molokai, Hawaii. The purpose of the proposed resolution is to refer to the Molokai Planning Commission a proposed bill to Change in Zoning from Interim District to Agricultural District for approximately 14.56 [sic] acres along Kamehameha V Highway in Kawela, Molokai, Hawaii, identified for real property tax purposes as Tax Key (2) 5-4-001:029. The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions. The Committee may also consider the filing of County Communication 15-215 and other related actions. Member Crivello, since you initiated this resolution would you like to provide comments?

COUNCILMEMBER CRIVELLO: Yes. Thank you, Chair. First of all, Chair, I thank you for your assistant along with your Staff's expertise in helping me to move this forward on behalf of Molokai residents at Kawela as far as the change in the zoning. And also I've had the assistance from our Planning Director, so I wanted to make sure all my ducks were in place before I submitted the request for us to hear this. You know as we are well aware, most of Molokai or all of Molokai, I'm not sure for sure, is Interim zoning, and that makes it difficult for many of our old-time residents such as the families that

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have ownership to the Kawela tax map key that we're dealing with here. And for us to be able to change it to Agriculture from Interim would be most helpful for the members as to how they want to move forward with this. And some of the members are kupuna, some have passed on. And I think it's a testament to especially our kupuna that we can assist them to put things in order for the generations to come, too much of this Interim and undivided and everything else that we have to deal with with our lands and especially in the Rural District. So I ask my colleagues to support your request in Change of Zoning from Interim and pass this resolution on to our Molokai Planning Commission for some sort of determination. Thank you, Chair.

CHAIR CARROLL: Thank you. Planning Department, do you have any comment on the proposed resolution?

MS. McLEAN: Thank you, Chair. I'll just convey that Planning Director Will Spence who is actually on Molokai today did share with me that he had the discussion with Councilmember Crivello and pledged his support to see the appropriate entitlements given to this property. So we will take it to the Molokai Planning Commission after we review the documents and make sure we have a complete application, and then we will process it and it will come back to the Council.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR CARROLL: Thank you. Any further discussion before I give my recommendation?

COUNCILMEMBERS: Recommendation?

CHAIR CARROLL: The Chair will entertain a motion recommending the adoption of the proposed resolution entitled Referring to the Molokai Planning Commission a Proposed Bill to Change Zoning from Interim to Agricultural for 14.56 [sic] acres at Kawela, Molokai, Hawaii; incorporating any nonsubstantive revisions.

COUNCILMEMBER CRIVELLO: I so move, Chair.

VICE-CHAIR VICTORINO: Mr. Chair, I second the motion.

CHAIR CARROLL: Been moved by Ms. Crivello, seconded by Mr. Victorino. Further discussion? Seeing none, all in favor of the motion, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," one excused, no "noes."

VOTE: AYES: Chair Carroll, Vice-Chair Victorino, Councilmembers Baisa, Couch, Crivello, and Guzman.

NOES: None.

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ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Cochran.

MOTION CARRIED.

ACTION: ADOPTION of resolution.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you, Members.

CHAIR CARROLL: Thank you. And I am sorry, Mr. Guzman is with, he's been with us for a while and I did not recognize him. Thank you, Mr. Guzman.

ITEM NO. 10: CHANGE IN ZONING FOR MAHINA SURF AOO
(LAHAINA) (CC 15-108)

CHAIR CARROLL: Moving on, the Committee is in receipt of County Communication 15-108, from the Planning Director, transmitting a proposed bill entitled A Bill for an Ordinance to Change Zoning from R-3 Residential District to A-1 Apartment District for Property Situated at tax key, [sic] map key (2) 4-3-009:004 [sic], Lahaina, Maui, Hawaii. The purpose of the proposed bill is to grant a request from Chris Hart & Partners, Inc., on behalf of Mahina Surf AOO, for a Change in Zoning from R-3 Residential District to A-1 Apartment District for 1.96 acres, 4057 Lower Honoapiilani highway, Road, excuse me, Lahaina, Maui, Hawaii, to make the subject property's zoning consistent with its Multi-Family designation in the West Maui Community Plan. The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without revisions. The Committee may also consider filing of County Communication 15-108 and other related actions. Members, we're going to receive a PowerPoint presentation today on this application from Brett Davis of Chris Hart & Partners, Inc., the applicant's consultant. You have been provided copies of the slides used in this presentation. Mr. Davis, when you are ready you may proceed.

COUNCILMEMBER COUCH: Mr. Hart. It's Mr. Hart.

CHAIR CARROLL: Actually it's Mr. Hart.

(PowerPoint Presentation)

MR. HART: Thank you. Good afternoon, Chair and Members. The project is the Mahina Surf. The request is a Change in Zoning from R-3 to A-1 as noted. The Mahina Surf is in the center of the graphic, closest to the ocean there.

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COUNCILMEMBER COUCH: Jordan.

CHAIR CARROLL: Yeah, if you could talk more into the microphone please.

MR. HART: And...absolutely. This is the location of the project site. I just wanted to note this is a County park, this is Pohaku Park, also known as S-Turns, approximately 600 feet from the north property boundary of the Mahina Surf. In 2012, the Mahina Surf was granted an SMA Minor Permit. The purpose of the permit was to do vegetation restoration along the shoreline. There was a replacement of invasive species with native plants. The property worked with DLNR to complete this. A condition of this SMA Minor Permit was the processing of this Change in Zoning. As noted, the condominium complex was constructed in 1969 on R-3 Residential property. Community plan is Multi-Family, and the land use patterns have changed around the project site but the project never received a Change in Zoning. This was a condition of the shoreline. Prior to the restoration project, there was invasive cactus dragon fruit plant, there was wedelia. Basically this invasive species were not holding the soil. The proposed resolution to this condition was to...this is an additional before photo. The proposed resolution was to plant native shoreline plants in order to hold the soil better. This is a photograph of the completed re-vegetation project. The plants that were included were naupaka, pohinahina, and pohuehue, all native plants. As you can see, the soil is retained much better. It's really improved the condition on the shoreline. The project went through the Maui Planning Commission in July of 2014. The Planning Commission recommended approval of the Change in Zoning request with no additional conditions. As noted, this is a, the Change in Zoning application is compliant with a condition of the SMA Minor Permit for the replanting project that was just shown. As you can see, the community plan designation for the project and the surrounding properties is Multi-Family. As you can also see, this is a photograph of the County zoning map. The Mahina Surf is still R-3 as well as the abutting property to the south, but all the other properties have completed the Change in Zoning process over time. You can see the ordinance numbers that have happened, and just one of the late adopters here. And so in summary, the request is to bring the project into compliance with the community plan. The A-1 zoning use is or zoning district is consistent with the existing use and structures. That concludes the presentation.

CHAIR CARROLL: Thank you. Planning, do you have any opening comments? Mr. Fasi or...

MS. McLEAN: Thank you, Chair. As reflected in the presentation, the Planning Department supports the request. It's really more of a housekeeping entitlement, as you will, there isn't any related development proposed. It doesn't particularly increase the developability or impact of the site; it's more just getting the designations in proper alignment.

CHAIR CARROLL: Thank you. Members, I'm now going to open the floor for discussion. And we did have a request from one of the testifiers about, that either Planning or Corporation Counsel, could you address that?

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VICE-CHAIR VICTORINO: Oh, that's what I was going to ask. I was going to ask that, Mr. Chair. No problem.

CHAIR CARROLL: Oh. Thank you, Mr. Victorino.

VICE-CHAIR VICTORINO: Sorry about that.

MS. McLEAN: The question related to existing short-term rental use on the property, and there are actually two different ways that that would be allowed to continue. First is by the amendments to the Apartment districts that the Council recently made, that said if a short-term rental use was established in building or structures that were lawfully constructed and occupied by a certain date--which this project was--then those uses would be allowed to continue. So that's not grandfathering, that's sort of a step above grandfathering, it's saying that it is outright allowed. Even if that language were not in the Apartment District 'cause this is getting changed to the Apartment District, even if that language weren't in there, it's an existing lawful nonconforming use. It was established back in the '60s when the structures were built, it's been ongoing ever since then, and so it would be allowed as a grandfathered use. So there's two different ways that short-term rental uses would be allowed to continue. But by the language in the Apartment districts, it's very clear that it's permitted. It's not just grandfathered but it would be permitted.

CHAIR CARROLL: Thank you. The floor is now open. Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you. And thank you for that explanation. I hope that helps Mr. Croly's and the question he had, and I would hope that others would come forward as time goes on and get the necessary changes. I think we have a lot of properties that have not been correctly zoned and, you know, time is now that they come in and try to get it corrected. You mentioned and I don't know if it was you or was it the present, Mr. Hart said that I think 52 out of the 56 short-term rental units that are in this property have been paying Hotel/Resort real property tax rates, right?

MS. McLEAN: I believe that was a statement made by the testifier.

VICE-CHAIR VICTORINO: By the testifier, yeah, okay. So if that's the case and, you know, they've already, they're already in compliance with Real Property and all the other aspects, I find no major reason why not to make the change here and now, and get them into, you know, having them conform. And I think that makes other properties that maybe haven't done it, be more likely to come forward and want to do it. So being that other properties were mentioned by Mr. Croly, I would say it's really up to them to come in. You know like you said, you have the reasons why some of them would be grant or would be considered and allowed to continue, but for those who are not in compliance, then I would say best you come forward and get compliant with the laws that are existing today. So I'll wait for your recommendation, Mr. Chair, but I'm comfortable with the overall presentation. Thank you, Chair.

CHAIR CARROLL: The floor is open. Any further discussion?

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VICE-CHAIR VICTORINO: Recommendation?

CHAIR CARROLL: Recommend...Mr. Couch?

COUNCILMEMBER COUCH: Thank you. I noticed in the...and I don't know who to, maybe Mr. Fasi. In the Planning Commission meeting, there was a concern about shoreline access from, even though it's a rocky shoreline. I think one of the commissioners and I know Ms. Cochran has that same concern about the nearest shoreline access, and it's my understanding that the closest one is going to be the Pohaku Park? Is there any other beach access along that area?

CHAIR CARROLL: Mr. Fasi?

MR. FASI: Thank you, Chair. No, not within 1,500 feet, as the State requires a beach access be required every 1,500 feet. This one is within 650 to 700 feet. I'm not aware of any other access at this time.

COUNCILMEMBER COUCH: So that State requirement came after those were put in?

MR. FASI: Yes, sir.

COUNCILMEMBER COUCH: Okay. And it doesn't look like there's room to have one come in there, I think. And besides, kind of in my thought is that if we're allowing access to a rocky beach, that might be inviting liability. Or a rocky shore, not a beach at all. But I notice that was brought up in the Planning Commission meeting and I know Ms. Cochran had that same concern. All right, thank you.

CHAIR CARROLL: Any further discussion before I give my recommendation?

COUNCILMEMBERS: Recommendation?

CHAIR CARROLL: The Chair will entertain a motion to recommend the passage on first reading of the proposed bill entitled A Bill for an Ordinance to Change Zoning from R-3 Residential District to A-1 Apartment District for Property Situated at tax key (2) 4-3-009:005, Lahaina, Maui, Hawaii; incorporating any nonsubstantive revisions; and to file County Communication 15-108.

VICE-CHAIR VICTORINO: Mr. Chair, I move for the Change of Zoning for the Mahina Surf AOA and the filing of the communication.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: It's been moved by Mr. Victorino, seconded by Mr. Couch. Discussion? Hearing none, all in favor of the motion, signify by saying "aye."

COUNCILMEMBERS: Aye.

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CHAIR CARROLL: Opposed? Motion carried, six “ayes,” no “noes,” one excused.

VOTE: AYES: Chair Carroll, Vice-Chair Victorino, Councilmembers Baisa, Couch, Crivello, and Guzman.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Cochran.

MOTION CARRIED.

ACTION: FIRST READING of bill and FILING of communication.

CHAIR CARROLL: Thank you.

ITEM NO. 8: COMMUNITY PLAN AMENDMENT, DISTRICT BOUNDARY AMENDMENT, AND CHANGE IN ZONING FOR THE PROPOSED WAIKAPU LIGHT INDUSTRIAL PROJECT (WAILUKU) (CC 15-78)

CHAIR CARROLL: The Committee is in receipt of County Communication 15-78, from the Planning Director, transmitting the following: a proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Urban for Property Situated at Wailuku, Maui, Hawaii. The purpose of the proposed bill is to grant a request from ABC Development Company, LLC for a District Boundary Amendment from Agricultural to Urban for 8.55 acres at 109 East Waiko Road, Wailuku, Maui, Hawaii, to facilitate the development of the proposed Waikapu Light Industrial Project, consisting of seven condominiumized units, lots. The proposed bill entitled A Bill for an Ordinance to Amend the Wailuku-Kahului Community Plan and Land Use Map from Agricultural to Light Industrial for Property Situated at Wailuku, Maui, Hawaii. The purpose of the proposed bill is to grant a request from ABC Development Company, LLC for a Community Plan Amendment from Agricultural to Light Industrial for the subject property, to facilitate the development of the project. A proposed bill entitled A Bill for an Ordinance to Change Zoning from Agricultural District to M-1 Light Industrial District for Property Situated at Wailuku, Maui, Hawaii. The purpose of the proposed bill is to grant a request from ABC Development Company, LLC for a Change in Zoning from Agricultural District to M-1 Light Industrial District for the subject property, to facilitate the development of the project. The Committee may consider whether to recommend passage of the proposed bills on first reading, with or without revisions. The Committee may also

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consider the filing of County Communication 15-78 and other related actions. Members, we'll receive a PowerPoint presentation today on this application from Cheryl Okuma of Munekiyo Hiraga, the applicant's consultant. You have been provided copies of the slides used in this presentation. Ms. Okuma, you may proceed.

(PowerPoint Presentation)

MS. OKUMA: Okay, thank you, Council Chair Carroll, and good afternoon, Committee Members. Just get...so we're here before you today regarding the Waikapu Light Industrial Project out at Waikapu. And with, in terms of the project team that's here today and there's a few people that are currently on their way in terms of this team but they will be here shortly. But from ABC Development Company which is the applicant, we have Albert Kanno and Carol Matsunaga. Civil Engineer is Kirk Tanaka of RT Tanaka Engineers. And the traffic engineer is Matt Nakamoto from Austin, Tsutsumi and Associates. And we also have with us the, Mr. Dan Ford of Ford Canty and Associates as well. In terms of just a little bit of context, this project was before the Maui Planning Commission and there was a final EA review and a Finding of No Significant Impact, and the trigger for the EA review was the Community Plan Amendment. And that was, the FONSI was issued on March 11, 2014. On August 26, 2014, the Maui Planning Commission's recommendation to the Council was to approve the State Land Use District Boundary Amendment, Community Plan Amendment, and Change in Zoning, so before you today are basically three requests that we have for this project. A State Land Use District Boundary Amendment, the request is to change that to Urban as its existing designation is Agricultural. The second request is a Community Plan Amendment with the requested change to Light Industrial as the existing designation is Agriculture. And the third request is a Change in Zoning to M-1 Light Industrial as the existing designation is Agricultural. In terms of the perspective and location of this project site, it's an 8.55 acres and you see that we've labeled it there. It's the former parcel of the Maui Scrap Metal operations and had been a metal scrap operations for about 20 years. The applicant had purchased this property--Mr. Kanno--in 2007 and had committed to cleaning up the site. And as you can see here to the eastward is the Waiko Industrial and Consolidated Baseyard, and further up northeast is the Waiko Baseyard. This is a picture of the project area, you know, before the cleanup, shortly after Mr. Kanno acquired the property. You can see the electrical lines that run within Waiko Baseyard which is upwards to the northeast. And after the cleanup, this is a view from within the project site. And basically there was a removal of 40,000 tons of scrap metals, tires, and appliances from the parcel. They were removed from the site and shipped to Oahu at significant cost. The large materials or metals were sheered and bailed for shipment, and the metals that remained onsite were actually separated from the soil with a very specialized piece of equipment called a trommel. This is the project site after cleanup. The property is now fit for industrial use. And in terms of what the project currently looks like, this is a recent photo that was just taken a few days ago. As mentioned, this was a seven-year process for the applicant in terms of the efforts to clean up at significant cost for the benefit of the environment from 2007 through 2014. Metals have been shipped off island and the specialized equipment that I had mentioned, the trommel did the separation of the metal from the soils.

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There was a comprehensive environmental investigation conducted to assess the post-removal site condition and develop the remedial action, and all of this was done with, in consultation and with the approval of the State of Hawaii Department of Health. An Environmental Hazard Evaluation assessed site conditions and Remedial Alternatives Analysis was conducted looking at potential remedies. What we now have today is a soil consolidation in a containment cell which was capped with a minimum of 3.5 feet of clean fill. So this is the approved remedial action approved by the Department of Health. The soils managed containment cell does not pose human health or human, environmental hazards. And in terms of the testing that was done under the guidance and with the approval of the Department of Health, we know that the testing indicated that groundwater will not be impacted by the soil that is managed within the containment cell. Now in terms of this particular site plan, the applicant, Mr. Kanno is proposing to develop seven Light Industrial lots under what we call a Condominium Property Regime, and the lots would basically range from .8 to 1.5 acres. And Mr. Kanno would like to keep one of the lots for himself. I think eight years ago he was contemplating, you know, he had a Safety Systems business, he was contemplating bringing that to this parcel. Since that time, he has sold his business but he does also have his One Shot's business near Hashi's and he's looking at being able to at least retain one of these units for himself. Just a brief note in terms of the CPR or what we call the Condominium Property Regime in real estate is basically when there's undivided interest in common elements that will vest in each one of these seven owners. So you'd have common areas. For example, landscaping could be considered a common area. Each unit owner would have an undivided interest much like in a condominium. That's generally the concept. So anyway, you see the seven lots here, the main access into the internal what we call elements but they can also be viewed as units, but you see there unit Element 3, 4, 5, 6, and 7, that'll be accessed by a roadway off of East Waiko Road. That has a, that will be a 20-foot roadway in order to meet Fire Code requirements, and there are currently fire hydrants already installed that, you know, Mr. Kanno had installed those fire hydrants there. There's also a small access roadway into what we call Element 1 and Element 2 off of East Waiko Road. Okay. So in terms of the State Land Use District Boundary Amendment, there are criteria that the, for consideration by the Council. So just kind of going through that, you know, the lands are located within an existing urban area. It is already in an area where there's concentrations of people, there's infrastructure in the area, roads and various urban levels of services. As mentioned, this project is near the Waiko Baseyard, Consolidated Baseyard, Waiale Project District, and Waiko Industrial Project. The project is within the Urban Growth Boundary designated by the Maui Island Plan, so it is in an area where the Maui Island Plan designated and foresaw for growth. Continuing on in terms of the criteria, the project area is outside of any flood and tsunami hazard areas, and as mentioned, this was a former scrap metal recovery facility. There had been extensive site restoration activities, remedial action taken, so the property is now fit for light industrial use. As mentioned there are other baseyards that surround and are adjacent to and in proximity to this project as well, and the project is nearby and adjacent to existing infrastructure and services that are available in the area, and again within the Urban Growth Boundary designated for future growth. Community Plan Amendment also has criteria for consideration by this Council or this Committee. The project is located as mentioned

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within the Maui Island Plan's Urban Growth Boundary, so it's consistent with the County policies and General Plans. There's consistency with the community plan. The project site as was formerly used as a scrap metal for many years was actually through a Special Use Permit and County Conditional Permit which as you know provides temporary entitlements, and now what's being requested by the applicant is a more permanent entitlement request for Light Industrial use. As already mentioned, there are construction baseyards and other similar industrial type businesses that characterize the lands all along this East Waiko Road corridor. This is, as you can see this is the Maui Island Plan map and you can see that we've got the project site there identified within the Urban Growth Boundary. So Change of Zoning also has its criteria, and just going through that, the proposed project again is within the urban growth designated areas. And in terms of consistency with the community plan map, this Community Plan Amendment request we have before you will create that land use consistency. The project site as you know is, has a low agriculture productivity rating of "E", and as mentioned previously, it's been a scrap metal recovery for many years and prior to that was utilized for sand mining. There's existing infrastructure in terms of the nearby areas to this project site, and no adverse effects to parks, schools, or other public facilities. The proposed industrial project is supportive of the economic opportunities in the community. It provides business opportunities within the community. No adverse effects to cultural or archaeological resources, and as noted, there had been environmental cleanup at significant cost to improve public health and welfare of the community. So in summary, we have three requests that are before you: the State Land Use District Boundary Amendment from Agriculture to Urban; the second request from the Community Plan Amendment from Agricultural to Light Industrial; and our third request, the Change in Zoning from Agriculture to M-1 Light Industrial. And we would respectfully request your consideration for approval for these three requests that are before you today. Thank you very much for your time. And we can answer any questions you have. Thank you.

CHAIR CARROLL: Thank you. Planning, could you provide your opening comments?

MS. McLEAN: Thank you, Chair. The only comments are that we are supportive of the applications that are before you today. They went through pretty smoothly through the Maui Planning Commission, and the Department remains in support.

CHAIR CARROLL: You have something, Mr. Fasi?

MR. FASI: Thank you, Chair. Just a little FYI, there is another similar parcel on this street, it's the Waiko Light Industrial Baseyard that will be before this Committee with the identical land use designation changes. Thank you.

CHAIR CARROLL: Thank you. Members, I'm now going to call up the departments, Public Works.

MS. DAGDAG-ANDAYA: Good afternoon, Chair and Members of the Committee.

CHAIR CARROLL: Do you have any opening comments, Public Works?

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MS. DAGDAG-ANDAYA: Yes, sir, I have just a few comments. And what I wanted to note was that we provided the applicant with a letter on February 10, 2014, and we had comments to their application. We just had general comments regarding some changes to the description in the, the descriptions provided regarding jurisdiction, location, and then another comment from that same division, Highways Division was regarding route barriers to minimize any damage to existing roads or future roads, curbs, and gutters as well as sidewalks. Our Engineering Division did comment that they would prefer to have access to individual lots be provided from an internal roadway as discussed by Ms. Okuma. And then we also wanted to note that additional review of this application will take place when the applicant comes in for any grading permits or building permits. We'll continue to review for sight distance, distance to existing roads in the area, making sure that access points are within like a certain, within a certain distance. We'll also review the recommendations provided in the TIAR as well as any frontage improvements that the applicant needs to construct along Waiko Road. You know in addition to that, I did also want to note and say that we do have a current project that we are looking forward to, it's the construction of the roadway improvements along Waiko Road, so that's something that we'll need to discuss with the applicant when they're ready for construction. Other than that, if you have any questions, I'm here and available for any, for your questions.

CHAIR CARROLL: Thank you. Any questions for Public Works? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you, Ms. Andaya, for being here. The question I have, I see that that's pretty acute angle of traffic on that road. Is there concerns from the Department as to what can be done there?

MS. DAGDAG-ANDAYA: Chair?

CHAIR CARROLL: Ms. Andaya?

MS. DAGDAG-ANDAYA: That's something that we'll continue to review with the applicant when they come in for their permits, their building permits. We did take a look at that angle and thought, you know, there might be some other different ways to accommodate or maybe align it a little more, but that's something that we'll continue to talk to the applicant about.

COUNCILMEMBER COUCH: But they don't have...I mean ultimately their intent is to do something, all the access is going to be from that road except for the two lots nine and two?

MS. DAGDAG-ANDAYA: Chair?

COUNCILMEMBER COUCH: I'm sorry, one and two.

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MS. DAGDAG-ANDAYA: Yes. The current plan is to have two access points, so you have Element Number 1, Element Number 2 and there's a shared driveway in between. I believe that's an existing driveway right now.

COUNCILMEMBER COUCH: Okay.

MS. DAGDAG-ANDAYA: Our preference from the Department as we stated in our letter last year, was that we'd prefer that all access points be provided along that internal roadway. We recognize however that it is an existing access point. When we do review this again when they come in for permits, we'll need to review for sight distance issues as well as the distance from that proposed access point to Pakana Street and to that other roadway, that angled one, the main internal roadway.

COUNCILMEMBER COUCH: And I guess, Mr. Chair, I don't know where we want to ask this but right now it's seven different lots that are going to do some sort of Light Industrial use which is fairly low traffic; however, you know, M-1 zoning allows for a lot of other things that could be higher traffic, lower impact but higher traffic. My concern would be some sort of use in there that would bring a lot of traffic in there and that's, that could be a dangerous angle, et cetera, and I'm not sure what the engineers would say about that.

MS. DAGDAG-ANDAYA: Chair? And that's also something that we had talked about in my discussion with our staff is what uses would take place in, especially in Element 1 and Element 2 because that would help us define whether or not we would allow for that access point right there. Another thing that we would be looking at is the left-turn lane or the left turn into that internal roadway. I think the TIAR recommended a shared left turn and through. One of the things that we'd recommend is like a dedicated left turn at that intersection and something that we would have to discuss with the applicant when they come in.

COUNCILMEMBER COUCH: I have more but I'll let everybody else ask.

VICE-CHAIR VICTORINO: Chair?

CHAIR CARROLL: Thank you. Any further questions for Public Works? Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you. And, Ms. Andaya, this sketch of the outer perimeter along Waiko Road, is that not the existing road itself? And I'm talking along East Waiko Road.

MS. DAGDAG-ANDAYA: Okay.

VICE-CHAIR VICTORINO: Yeah, if you can put it back up.

MS. DAGDAG-ANDAYA: We'll put it back up.

VICE-CHAIR VICTORINO: So that everybody knows what we're talking about.

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CHAIR CARROLL: Ms. Andaya?

MS. DAGDAG-ANDAYA: I believe the figure that you're looking at...oh.

VICE-CHAIR VICTORINO: I'm looking at the picture.

MS. DAGDAG-ANDAYA: Oh, okay.

VICE-CHAIR VICTORINO: Yeah. I don't need to look at figures, I look at pictures.

MS. DAGDAG-ANDAYA: Sure. The, if the question again, let me recap, is whether or not the alignment or that...

VICE-CHAIR VICTORINO: Right now the way it's drawn up here, isn't that pretty much with the alignment of the existing road?

MS. DAGDAG-ANDAYA: Of the existing road, correct.

VICE-CHAIR VICTORINO: Of the existing road that is there right now?

MS. DAGDAG-ANDAYA: Yes.

VICE-CHAIR VICTORINO: Okay. So you're saying, Mr. Couch is asking questions, you know, and he's asking as far as you're answering his question by saying if there is a dedicated left turn towards where that 1 and 2 is, right?

MS. DAGDAG-ANDAYA: It would either be at that Limited Common Element 1 or 2, and then the other, another one would be at the main, that internal roadway. I think it's considered element Number 8.

VICE-CHAIR VICTORINO: Number 8, yeah. But we have not asked the other, where you have the Consolidated Baseyard, there's no dedicated left turn at that point, right? There's nothing there now?

MS. DAGDAG-ANDAYA: My understanding is that there is none right now.

VICE-CHAIR VICTORINO: Yeah, okay.

MS. DAGDAG-ANDAYA: However, this, that is just a recommendation that we would have.

VICE-CHAIR VICTORINO: Yeah. Well again, I know this road well enough to tell you what's there and not there. Okay. And so my question to you is if we're going to make this and the next one...and in fact this all going be industrial, so let's get it right. And so I have no problem, you've made this upper section put a sidewalk in, so if we're going to have sidewalk, let's make the sidewalk all the way across. So let's not, you know...around with the question, let's make sure it's done. If you want me to put a

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condition in I can. And secondly, as far as turn lanes, if we're going to make one, when we do the whole redevelopment of East Waiko Road, I'd want that done all the way across.

MS. DAGDAG-ANDAYA: Okay.

VICE-CHAIR VICTORINO: All the way across. Every one of these should have a dedicated left-turn lane.

MS. DAGDAG-ANDAYA: Okay.

VICE-CHAIR VICTORINO: Okay. So if we're going to do that --

MS. DAGDAG-ANDAYA: So noted.

VICE-CHAIR VICTORINO: --we do it for all.

MS. DAGDAG-ANDAYA: So noted.

VICE-CHAIR VICTORINO: Okay. So that's, you know, because we're going to do it all the way from Waiale all the way back down to Kuihelani. I know the plan, so I want to make sure that if we're going to make this guy or one of them do it, I want it all the way across. And if we're going to make these improvements, let's do the improvements right up front. Okay. And I think I talked to Mr. Goode about that in the past. Okay. The other question I have is this angled road. If you look at the other angled road near the Wailuku Industrial it says, I mean Waiko Industrial printing, that road does the same thing, it comes out almost at the exact same angle.

MS. DAGDAG-ANDAYA: Yes.

VICE-CHAIR VICTORINO: Okay. And what we...and then that was the old dump road.

MS. DAGDAG-ANDAYA: Correct.

VICE-CHAIR VICTORINO: That was the old dump road, right? And so traffic used to come in and out, of course not as much traffic as you have now. Waiko Road is much heavily traveled. But we also had down here is we had made it split out if you notice, and it has for a left turn and a, if you're going to go across a right turn, I mean, you know, a right turn. So I would say at that point to answer that other question, we can do the same thing, basically have the applicant do the same thing with a, with the agreement with the adjacent property line, because the adjacent property line is going probably have to share that road in the first place. That's the Waiko Industrial area, because they're going to share the same common area. So I mean I've looked at this project, I've lived there long enough, I've driven by that property, and eventually all of this from Waiale all the way down to Kuihelani is going to be Light Industrial, that's pretty much the plan, except for the little shopping complex that Fong is putting at the intersection

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of Kuihelani and Waiko Road. So everything, the Wailuku side of this roadway will be industrial, is, am I correct? Pretty much Light Industrial?

MS. DAGDAG-ANDAYA: Defer to Planning Department for that.

MS. McLEAN: Those are either existing or proposed entitlements.

VICE-CHAIR VICTORINO: And Light Industrial?

MS. McLEAN: Yes.

VICE-CHAIR VICTORINO: Okay, thank you. That's all the questions I have for now. Thank you.

CHAIR CARROLL: Anything further for Public Works? Mr. Couch?

COUNCILMEMBER COUCH: Yeah and looking at and in the area as well, I agree with Mr. Victorino about if you're going to do the sidewalk, it should be all the way down. This is just to put it out there that we do have the complete streets policy, but as far as that new internal road I would think that wouldn't be a necessary to have something like that, because that's, it goes to nowhere pretty much. But have you done your, you know, done some discussion on that with your Department?

MS. DAGDAG-ANDAYA: Chair? And this, as far as the internal roadways --

COUNCILMEMBER COUCH: Yeah, yeah.

MS. DAGDAG-ANDAYA: --meaning curb, gutter, sidewalk or...

COUNCILMEMBER COUCH: Limited Common Element 8, yeah.

MS. DAGDAG-ANDAYA: Limited Common Element 8. Well, you know, just for an example, the Waiko Baseyard to the west, that I believe has curb/gutter/sidewalk, that's according to, I checked in there and they have that.

COUNCILMEMBER COUCH: Right.

MS. DAGDAG-ANDAYA: As well as the Consolidated Baseyard, that also has curb/gutter/sidewalk. I think we would also apply the same type of standards for this.

COUNCILMEMBER COUCH: Sure. But no bike paths or anything like that?

MS. DAGDAG-ANDAYA: I...Chair?

COUNCILMEMBER COUCH: I don't think it's necessary in that area.

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MS. DAGDAG-ANDAYA: No.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR CARROLL: Anything further for Public Works? Seeing none, thank you, Ms. Andaya.

MS. DAGDAG-ANDAYA: Thank you.

CHAIR CARROLL: Members, I'm going to open the floor but before I do, I have a condition that I would like the Staff to distribute at this time. As soon as they distribute it, I'll explain the purpose of this condition, condition of zoning. Ms. Nakata? I'm going to read it first and then explain what this condition is supposed to do. Condition reads "That permitted uses for the subject property are as follows: (1) for Limited Common Elements 1 and 2, the approximate configuration reflected on the Project Site Map [sic] attached hereto as Exhibit "B-1" and incorporated herein by reference, any use permitted in the M-1 Light Industrial District, excluding apartment houses; and (2) for Limited Common Elements 3 through 7, in the approximate configuration reflected on the Project Site Plan attached hereto to Exhibit "B-1" and incorporated herein by reference, any use permitted in the M-1 Light Industrial District, excluding uses permitted in the B-1 Neighborhood Business District, B-2 Community Business District, or B-3 Central Business District, and excluding apartment houses." Members, we have had trouble constantly from having Light Industrial areas that end up to be retail areas. For instance Maui Marketplace, that was an industrial area. And this an effort to try to keep this area as an industrial area with allowing two of the lots in the front to be able to be classified as a B-1, B-2, and B-3, but the other five lots would have to remain as, in the Industrial classification.

VICE-CHAIR VICTORINO: So, Mr. Chair?

CHAIR CARROLL: The two lots on the front...

VICE-CHAIR VICTORINO: Oh, go ahead. No, no, finish it, finish up.

CHAIR CARROLL: Yeah.

VICE-CHAIR VICTORINO: I'm sorry. I didn't know if you were finishing, you stopped and I thought...okay, go ahead.

CHAIR CARROLL: I'm sorry. The two lots in the front would be allowed to, if they can, to have all of that under there, and also they have indicated that they would like to have a residence on the top of those first two lots. That would be, those two lots could be used of course for B-1, B-2, or B-3, that they would be able to have the owner or what to live on the top of those two. They have also indicated they would like to have on the other lots, the three through seven, that they would like to be able to have those lots to be able to have, but I haven't addressed that right here. All right. Discussion?

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VICE-CHAIR VICTORINO: Do you want me to make a motion and then discuss? You want me to make a motion for this amendment?

CHAIR CARROLL: I was going to...yeah, let's have a motion on the floor.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: It's been moved by Mr. Victorino, seconded by Mr. Couch. All right. Discussion? I've briefly given a description, and we have Staff over here and I had worked with Planning Department and they are probably able to be more concise in the description than I am. But any questions?

VICE-CHAIR VICTORINO: Mr. Chair? Thank you very much. And I think I understand what you're trying to come to but just to make sure that I'm clear, you're looking at really trying to eliminate any opportunity for a retail outlet or retail outlets --

CHAIR CARROLL: Yes.

VICE-CHAIR VICTORINO: --in these various condominium regimes that they're looking to develop?

CHAIR CARROLL: Yes.

VICE-CHAIR VICTORINO: Okay. And they were okay with this? The...and I don't, I never asked them but are they?

CHAIR CARROLL: We can call the applicant forward.

VICE-CHAIR VICTORINO: If you don't mind, please.

CHAIR CARROLL: Sure. If there's no objection, I'll call the applicant forward.

COUNCILMEMBERS VOICED NO OBJECTIONS

COUNCILMEMBER COUCH: No objection. Just a point of clarification before we get that far. It's not all seven lots, it's five of the lots. Two of the lots you want to allow --

CHAIR CARROLL: The, yeah, the two lots would have B-1 --

COUNCILMEMBER COUCH: --retail.

CHAIR CARROLL: --B-2, and B-3. The other lots, three through seven would not have any of the B zoning.

VICE-CHAIR VICTORINO: So that's what I'm saying --

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CHAIR CARROLL: So they would be strictly for...yeah.

VICE-CHAIR VICTORINO: --I thought the way you were presenting that all seven, but you're saying one and two would be allowed to.

CHAIR CARROLL: They would be allowed . . .*(inaudible)*. . .

VICE-CHAIR VICTORINO: But three to seven would not?

CHAIR CARROLL: Yeah. And we did something similar to this on the other ones, the Waiko Baseyard and then Consolidated Baseyard. We did something similar on that to try to preserve the area as more, we allowed some but not all to try to keep it in the Industrial area classification. 'Cause we lose that too quickly if we don't.

VICE-CHAIR VICTORINO: No, no, okay. And I guess my concern is again traffic. You know every time you talk retail, I have this image of a lot more traffic than industrial. But I'll, want to discuss it a little bit more and then, you know, come back to that matter. But go ahead. If you don't mind, the applicant.

CHAIR CARROLL: Yeah. Please come forward. Identify yourself at the microphone please. You gotta pull it.

MS. OKUMA: Sorry. Cheryl Okuma from Munekiyo Hiraga. Okay. So taking the first point that Council Committee Chair Carroll was mentioning, for the Limited Common Elements 1 and 2, that's for the two units, looking at permitted use allowable within the M-1 designated district, and we're fine with that. M-1 allows B-1, B-2, B-3 use. Excluding apartment houses, applicant is fine with that. Okay. Moving on to the rest of the Limited Common Elements, that's 3, 5, 6, and 7, so that's five units. What's being proposed from what we're hearing is that their permitted use is M-1 use excluding B-1, B-2, B-3 and excluding apartment houses. And our only, applicant's only comment with respect to that is, you know, to be able to have some flexibility in the option of having these Light Industrial businesses where you could also have caretakers or people who live on the second floor for example. Because the nature of the business might be that it's a 24-hour operation, for some reason they need somebody always there onsite, security, maintenance, whatever the reason is. But to allow that kind of flexibility so that whoever comes into those elements, any one of those five units would at least have that kind of flexibility. So they could, you know, live on the second floor while they have their Light Industrial operations on the first floor. That's really what the applicant is looking at. And right now, you know, Mr. Kanno himself, he's familiar with this because he still has a business and this is exactly how he lives and he works. He lives where he works. Yeah.

VICE-CHAIR VICTORINO: Okay. Thank you.

CHAIR CARROLL: Thank you.

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VICE-CHAIR VICTORINO: Again, Mr. Chair, you know, that was...again, the retail is one aspect, and then that was my other concern is that if there was a business that would have someone living upstairs, you know, to watch the property or maybe the owner/operator wants to live there on the property. By doing this we would eliminate any opportunity for that purpose as best I know the B-1, B-2, and B-3, so some consideration in that respect. I know I made the motion but I'd like to make a little more consideration in that respect. And as far as the retail, I'd like to avoid retail in this area as much as possible, because we have the retail down in the corner of Kuihelani and Waiko Road already. And so the rest of the area is the hope it would be all Light Industrial with the possibility of...and then you mentioned something about wanting to build a house in the back of the property or the upside of the property. You said something to that nature in your comments, Mr. Chair?

CHAIR CARROLL: That would be on the upper story, it would be on top of.

VICE-CHAIR VICTORINO: Oh, okay, building on top. Okay, okay.

CHAIR CARROLL: Yes.

VICE-CHAIR VICTORINO: And that's...okay, okay, I gotcha. I sorry, I misunderstood. The way you said it, I thought that was a house on the backside of the property.

CHAIR CARROLL: Yeah.

VICE-CHAIR VICTORINO: Okay, okay. On the top, in other words --

CHAIR CARROLL: Right.

VICE-CHAIR VICTORINO: --multistory, multiuse.

CHAIR CARROLL: As we have in some other mixed use districts where you --

VICE-CHAIR VICTORINO: Mixed use, okay.

CHAIR CARROLL: --have a business and then you have . . . *(inaudible)* . . .

VICE-CHAIR VICTORINO: I would be amenable to that. You know if we can allow that to happen, I would have no major problem, but I do have a problem with the aspect of retail. I just don't feel like I want to see too much more retail on Waiko Road. In fact, I'd rather not see any if possible. But...

CHAIR CARROLL: Well, that is why I limited it, only the two lots facing the road, and all the rest would stay that way. It would minimize the impact but still yet because we had done that on the other two projects flanking that, we had allowed some, so we felt it was only fair to give them at least two lots.

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VICE-CHAIR VICTORINO: Okay. I'll listen to other comments of the other Members, Mr. Chair. Thank you.

CHAIR CARROLL: Discussion? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And my concern are similar to Mr. Victorino's on the retail portion of that. But a bigger concern is we have this picture and there's seven lots or elements, if you will, and then two other road elements. What's to prevent the applicant if they were to get the Change in Zoning and everything and just to mishmash this all around, make them smaller, make them bigger? Because we aren't making this a condition of this is what the site has to look like.

CHAIR CARROLL: This is a condition of zoning, it goes with the land.

COUNCILMEMBER COUCH: But who's to say that those lots wouldn't change? You know, by the time they want to go build and do their condominiumization, they completely change that and there's four lots or ten lots.

CHAIR CARROLL: I will let...Planning, could you please address that?

MS. McLEAN: Thank you, Chair. As the Chair has proposed it, that site plan would be attached as an exhibit to the Change in Zoning ordinance so they would be bound by it.

COUNCILMEMBER COUCH: By that particular site plan.

MS. McLEAN: By that particular plan. And we did discuss this briefly with the Chair earlier today, so we really haven't had a chance to work through all the kinks. But that brings up a bigger concern that we've just been talking about which is if these entitlements are approved with whatever conditions the Council may see fit to establish, we see projects two, three, four, five, ten years down the road, they come in with an entitlement and they say we don't want to condominiumize the property. You know we're fine with these restrictions but how do we properly develop the property in compliance with this zoning condition if we are not condominiumizing? And we've been talking with Public Works about site design and they'd rather see it configured this way. And it's, even if the applicant today is saying we don't mind being bound to this site plan, at this level, at the high level of zoning, we don't necessarily want to be getting into this kind of specificity. One thought that Mike and I were just discussing really briefly that might accomplish the concern that you're talking about, that would be easy for the Planning Department to administer however the project is developed, whether it's kept intact or whether it's subdivided or whether it's CPR'd, would be to put an overall square footage limit on the amount of retail allowed to be developed on the site. So if you said...and I don't have a good number, that's something we can work out with the applicant, but, you know, 5,000 square feet or 10,000 square feet of B-1, B-2, and B-3 uses, you know, a maximum of that shall be allowed on the property. And then the applicant can put that into their condo docs and can...so

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internally the applicant can administer that. We can do that easily by building permit, by square footage, by COs, and then the applicant isn't limited and it gives them flexibility to work with Public Works. That's just, you know, just an ongoing thought as we're discussing it, that might be a way to accomplish the Chair's intent without...but giving the applicant a bit more flexibility. So that's just one thought.

CHAIR CARROLL: Thank you, Ms. McLean. Mr. Couch?

COUNCILMEMBER COUCH: Yeah. And that was my concern is this may not even be close to what it looks like at the end of the day.

CHAIR CARROLL: The only thing I can say is the Chair feels comfortable that that's the best action that we could take to get the result that we want from rezoning.

COUNCILMEMBER COUCH: Well I think hers, it might be a bit better by --

CHAIR CARROLL: Yeah.

COUNCILMEMBER COUCH: --giving an amount of...would you want square feet or an amount of acreage that is...because this ends up being 1 point or 2.8, essentially 2.8 acres, those 2 lots together. So could we say something like 2.8 acres can have B-1 uses on 'em? The square footage is determined by floor to area ratio and all the other information, all the other requirements, right? Would that be better or would you rather a certain amount of actual square footage of B-1, B-2, or B-3?

MS. McLEAN: Just off the top of my head, square footage of structure would be easier for us --

COUNCILMEMBER COUCH: Easier.

MS. McLEAN: --to administer.

COUNCILMEMBER COUCH: Okay.

MS. McLEAN: That's harder for us to make a decision on right now. I can, you know, we can call back to Staff and get some feedback from them, because if you're talking about acreage of a parcel, then does that include the building and parking and, you know, whatever other amenities are tied to that B-1, B-2, or B-3 use, rather than, you know, simple square footage of a structure? But we could pretty easily, I think we could pretty easily if we could have a moment to work with the applicant, figure out how much retail could realistically be developed on those two properties if they were developed with nothing but retail and then use that square footage as the restriction if that's the direction you want to consider going in.

COUNCILMEMBER COUCH: And I'd leave that up to the representative of the area as well, but I would think that that would be the better way to go.

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VICE-CHAIR VICTORINO: Chair? I would, with your permission, maybe ask, maybe take our midday, mid-afternoon break and give them ten minutes to...you think ten minutes would be enough to work out? And let them work it out and then come back and see if that would be appealing or applicable to what we're talking about. Because I like the square footage, I think it's very specific and it's easier for them to deal with. So I mean it's your call, Mr. Chair.

CHAIR CARROLL: Well I'll tell you what, it's a quarter to, yeah. Why don't we take a ten-minute break now and then come back since we do have a motion on the floor.

VICE-CHAIR VICTORINO: Okay.

CHAIR CARROLL: All right? We shall reconvene at 5 minutes 'til 3:00. We now stand in recess. . . .(gavel). . .

RECESS: 2:44 p.m.

RECONVENE: 3:14 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting is called back to order. Members, consulting with Staff and everyone else, we have come up with, I feel with something that is viable; however, I want to make sure so I want to have it written down and presented to you. So if there's no objection, I'm going to call for a recess until 3:30 and then I can distribute the amendment that I think will be palatable to all.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR CARROLL: So no further discussion, we shall recess until 3:30 p.m. We stand in recess. . . .(gavel). . .

RECESS: 3:14 p.m.

RECONVENE: 3:39 p.m.

CHAIR CARROLL: . . .(gavel). . . Land Use Committee meeting will come back to order. Firstly, Mr. Villarimo [sic] --

VICE-CHAIR VICTORINO: Yes, sir?

CHAIR CARROLL: --could you, we'd like to remove your motion from the floor.

VICE-CHAIR VICTORINO: No problem. That's your motion, I withdraw my motion.

CHAIR CARROLL: Any objections?

COUNCILMEMBERS: No objections.

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CHAIR CARROLL: Okay, thank you. You have distributed to you what we have worked out in the recess over here. I will read it now. "Any use permitted in the M-1 Light Industrial District, excluding apartment houses, shall be permitted on no more than 2.8 acres fronting East Waiko Road. For the remainder of the subject property, any use permitted under the M-1 Light Industrial District, excluding uses permitted in the B-1 Neighborhood Business District, B-2 Community Business District, or B-3 Central Business District, and excluding apartment houses, shall be permitted, except that the dwelling units may be located above or below the first floor of a permitted use."

VICE-CHAIR VICTORINO: Mr. Chair, I move for the motion of this amendment.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: It's been moved by Mr. Victorino, seconded by Mr. Couch. Discussion?

VICE-CHAIR VICTORINO: Mr. Chair? This gets a lot closer to what I was referring to and the, and my concerns, so I'm amenable to this change. And I will still await to see what the actual square footage allowed in that particular acreage. And the Department has assured me that they will get that to us or get that to me before first reading. And if it's extensively higher than I have discussed, I will then propose another amendment to limit the square footage for retail use and retail use only. So --

CHAIR CARROLL: Thank you...

VICE-CHAIR VICTORINO: --other than that I can accept this. And I thank you for all the hard work. And I thank you, Michele and the Department and the applicants, for being so patient with that.

CHAIR CARROLL: Thank you, Mr. Villarimo [*sic*]. Any further discussion?

VICE-CHAIR VICTORINO: And by the way, his name is Victorino, not Villarimo [*sic*], sir. You call me three times that, I just wanted to get clarification. Somebody else took my seat, I haven't left yet.

CHAIR CARROLL: Heaven forbid that I would cut you off, Mr. Victorino.

VICE-CHAIR VICTORINO: No, no, that's okay. I love you too, sir. Thank you.

CHAIR CARROLL: Is there any further discussion to the motion on the floor? Seeing none, all in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," no "noes," one excused.

VOTE: AYES: Chair Carroll, Vice-Chair Victorino,

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**Councilmembers Baisa, Couch, Crivello, and
Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Cochran.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: The floor is open for any further discussion before I give my recommendation.

COUNCILMEMBERS: Recommendation?

CHAIR CARROLL: Okay. The Chair will first entertain a motion to recommend on passage of first reading the proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Urban for Property Situated at Wailuku, Maui, Hawaii; incorporating any nonsubstantive revisions.

VICE-CHAIR VICTORINO: So move, Mr. Chair.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: It's been moved by Mr. Victorino, seconded by Mr. Couch. Discussion? Seeing none, all in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," no "noes," one excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
 Councilmembers Baisa, Couch, Crivello, and
 Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

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EXC.: Councilmember Cochran.

MOTION CARRIED.

ACTION: FIRST READING of bill and FILING of communication.

CHAIR CARROLL: The Chair will next entertain a motion to recommend passage on first reading the proposed bill entitled A Bill for an Ordinance to Amend the Wailuku-Kahului Community Plan and Land Use Map from Agricultural to Light Industrial for Property Situated at Wailuku, Maui, Hawaii; incorporating any nonsubstantive revisions.

VICE-CHAIR VICTORINO: So move, Mr. Chair.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: Been moved by Mr. Victorino, seconded by Mr. Couch. Discussion? All those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," no "noes," one excused.

VOTE: AYES: Chair Carroll, Vice-Chair Victorino, Councilmembers Baisa, Couch, Crivello, and Guzman.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Cochran.

MOTION CARRIED.

ACTION: FIRST READING of bill and FILING of communication.

CHAIR CARROLL: Finally, the Chair will entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance to Change Zoning from Agricultural District to M-1 Light Industrial District for Property Situated at Wailuku, Maui, Hawaii; incorporating any revisions made at today's meeting and any nonsubstantive revisions; and to file County Communication 15-78.

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VICE-CHAIR VICTORINO: So move, Mr. Chair.

COUNCILMEMBER COUCH: Second.

CHAIR CARROLL: Been moved by Mr. Victorino, seconded by Mr. Couch. Discussion?
Seeing none, all in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," no "noes," one excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Victorino,
Councilmembers Baisa, Couch, Crivello, and
Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Cochran.

MOTION CARRIED.

**ACTION: FIRST READING of revised bill, RECORDATION of
unilateral agreement, and FILING of communication.**

CHAIR CARROLL: That brings us to the end of our meeting today and thank you very much
for your patience, and our audience and those in television land. And this Land Use
Committee meeting stands adjourned. . . .(gavel). . .

ADJOURN: 3:44 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

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CERTIFICATE

I, Daniel Schoenbeck, 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 the 31st day of August, 2015, in Kula, Hawaii

A handwritten signature in black ink, appearing to read "Daniel Schoenbeck", written over a horizontal line.

Daniel Schoenbeck