

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

October 16, 2015

**Committee
Report No. _____**

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

Chair and Members:

Your Economic Development, Energy, Agriculture, and Recreation Committee, having met on September 29, 2015, makes reference to County Communication 12-5, from the Director of Parks and Recreation, transmitting a proposed bill to add or remove certain trees designated by the Maui County Arborist Committee ("Arborist Committee"), to the list of exceptional trees in the County ("list"), pursuant to Section 12.24A.030(C)(8), Maui County Code ("MCC").

Your Committee notes it previously reported on this matter through Committee Report 14-156. Seven bills recommended for passage by Committee Report 14-156 were enacted, as Ordinances 4180-4186 (2015), respectively.

Your Committee notes Act 105 (1975), the Exceptional Tree Act, seeks to protect trees deemed worthy of preservation because of their "historic or cultural value" or "by reason of age, rarity, location, size, aesthetic quality or endemic status."

Your Committee further notes in 1990 the Council added Chapter 12.24A to the MCC, providing, among other things, procedures for the designation of exceptional trees in the County. Since that time, the Council has periodically designated exceptional trees by amending the most current ordinance.

Your Committee noted the process to amend the exceptional tree list is cumbersome, as each new ordinance amends an exhibit to Ordinance 3737 (2010), which itself amended an exhibit to Ordinance 2041 (1991).

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Report No.** _____

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.24A, MAUI COUNTY CODE, RELATING TO EXCEPTIONAL TREES," approved as to form and legality.

The purpose of the proposed bill is to codify the ordinances relating to the exceptional tree list. This will make the list more readily accessible and easier to amend, as needed, pursuant to MCC procedures.

Also, the proposed bill would add requirements for exceptional tree nominations at Sections 12.24A.055(B) and (C), MCC, to help standardize the submission of exceptional tree nominations from the Arborist Committee to the Council.

The Chair of the Arborist Committee informed your Committee the Arborist Committee supports the proposed bill.

Your Committee voted 4-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Guzman and members Crivello, Victorino, and White voted "aye." Committee Vice-Chair Cochran and members Couch and Hokama were excused.

Your Economic Development, Energy, Agriculture, and Recreation Committee RECOMMENDS the following:

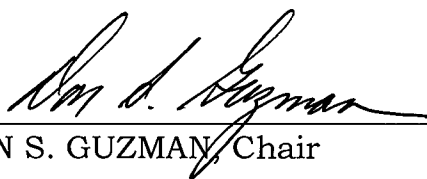
1. That Bill _____ (2015), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.24A, MAUI COUNTY CODE, RELATING TO EXCEPTIONAL TREES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-5 be FILED.

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



DON S. GUZMAN, Chair

ear:cr:15003aa:scb

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.24A, MAUI COUNTY
CODE, RELATING TO EXCEPTIONAL TREES

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

SECTION 1. Section 12.24A.020, Maui County Code, is amended by
amending the definition of "Landscape planning plan" to read as follows:

"Landscape planting plan" means the Maui County
landscape planting plan prepared by the committee pursuant to
section [12.24A.030] 12.24A.040 of this chapter."

SECTION 2. Section 12.24A.030, Maui County Code, is amended to read
as follows:

"12.24A.030 Maui County arborist committee. A.
Establishment. There is established a Maui County arborist
committee which shall consist of nine members appointed and who
may be removed by the mayor with notice to, but without approval
by, the [county] council. The members shall be residents of the
county with professional or other interest in landscape
beautification. There shall be six nonvoting, ex-officio members
consisting of: the arborist, the plan reviewer, the director of parks
and recreation, the director of public works [and waste
management], the director of planning, and the director of housing
and human concerns or their respective designees.

B. Terms and Operations. Section 13-2 of the revised
charter of the county shall apply to the committee in the same
manner as said provisions apply to boards and commissions
recognized by the revised charter; provided that any member may
be reappointed to a second consecutive term and provided that any
vacancy on this committee shall be filled by appointment by the
mayor with notice to, and without approval of, the [county] council.

C. Duties and Responsibilities.

1. The committee shall have prepared for review by
the mayor and [county] council a landscape planting plan
which shall serve as a guide for the care, preservation,

pruning, planting, replanting, removal, and disposition of planted material in public areas throughout the county.

2. The committee shall serve as a reviewing body for any landscape planting in public parks and street beautification programs.

3. The committee shall review and make recommendations to the director of planning for his approval or disapproval of proposals that have been reviewed by the plan reviewer and found to be inconsistent with the landscape planting plan.

4. The committee shall research, prepare, and recommend to the mayor and the council exceptional trees to be protected [and appropriate protective ordinances, regulations and procedures to the mayor and county council] by ordinance or regulation, in accordance with section 12.24A.055.

5. The committee shall review and comment on any rules and regulations of executive agencies governing the planting, replanting, removal, and disposition of park and street trees and plantings in the county.

6. The committee shall identify to the director of parks and recreation any areas within the county where there are no abutting owners to maintain street trees and where the county should maintain or beautify such trees.

7. The committee, after consultation with the department of public works [and waste management] and the department of parks and recreation, shall promulgate rules and regulations pursuant to chapter 91 of the Hawaii Revised Statutes for the following:

a. Practice and procedure for the committee[,];

b. Exceptional trees[,];

c. Approval of landscape planting proposals[,]; and

d. Planting and care of trees and landscape planting in public parks and streets, including irrigation systems for street trees.

8. When rules or regulations do not cover a particular circumstance, the committee shall recommend appropriate action.

[8. The committee shall establish a list of exception trees in the county. The list of exceptional trees shall be adopted by the county council and shall be deemed incorporated by reference to this section. The procedures for designating an exceptional tree are as follows:

a. Any citizen or citizen group may petition the committee to recommend for designation of a particular tree or stand or grove of trees with historic or cultural value, or which by reason of age, rarity, location, size, aesthetic quality or endemic status as worthy of preservation as exceptional tree(s) for the county. The committee shall recommend to the county council for its adoption any addition to the exceptional tree list.

b. The committee, on at least an annual basis, shall re-examine the designated exceptional trees, and in the event such tree is found to be dangerous or diseased beyond repair, the county council, may remove such tree from the list of exceptional trees.

c. Upon designation by the county council of an exceptional tree, the committee shall notify the property owner and/or the occupant of the property by registered mail that such designation has been made. Notice shall also be filed with the bureau of conveyances stating that the exceptional tree has been so designated.]”

SECTION 3. Chapter 12.24A, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

“12.24A.055 Exceptional Trees. A. Declaration of Legislative Intent. The council desires to improve the quality of life of its citizens by enacting protective regulations to safeguard exceptional trees within the County. The council finds that, not only are trees of value for their beauty, but they perform an important ecological function in that they prevent soil erosion, purify the air, and retard flooding. The council also finds trees contribute to the beauty of the island and are an important element in achieving the objectives of the general plan. The council is resolved to protect those unique assets to our environment, wherever they might be located in the County.

B. Procedures. The procedures for recommending designation of an exceptional tree are as follows:

1. Any citizen or citizen group may petition the arborist committee to examine a particular tree, stand of trees, or grove of trees for the purpose of having it recommended to the council for designation as exceptional under this section.

2. The committee may recommend to the council for designation as exceptional any tree, stand of trees, or grove of trees which has historic or cultural value; or, by reason of age, rarity, location, size, aesthetic quality, or endemic status, is

worthy of preservation as an exceptional tree(s) for the county. The committee's recommendation shall be made on a form that includes the following:

- a. Identification of the tree(s) by scientific and common names;
- b. Photograph of the tree(s);
- c. Location by address and tax map key;
- d. Map illustrating the specific location of the tree(s) on the parcel;
- e. Evidence of ownership of the real property upon which the tree(s) is located;
- f. Description and dimensions; and
- g. Detailed statement of the basis for the committee's recommendation.

C. On or before March 1 of each year, the committee shall examine the exceptional trees listed in this section, and in the event any listed tree is found to be dangerous or diseased beyond repair, or otherwise no longer meets the exceptional tree criteria, the committee shall recommend to the council that it be removed from the list of exceptional trees in subsection E.

D. Upon designation by the council of an exceptional tree, the committee shall notify the property owner or the occupant of the property by registered mail that such designation has been made. Notice shall also be filed with the bureau of conveyances, stating the exceptional tree has been so designated.

E. List of Exceptional Trees. The trees in this section are designated as exceptional trees of the County of Maui:

<u>Name of Tree (scientific, common)</u>	<u>Location, Description, Size</u>	<u>Tax map key (if available)</u>
<u>Ala`a, Pouteria sandwicensis</u>	<u>D.T. Fleming Arboretum, Kanaio; The larger of two trees; Height 25 feet, Diameter 16.5 inches, Crown spread 30 feet</u>	<u>(2) 2-1-009:017</u>
<u>Alani, Melicope knudsenii</u>	<u>D.T. Fleming Arboretum, Kanaio; Planted in 1953 from seeds gathered from Auwahi slopes of Haleakala; Height 20 feet, Diameter 9.5 inches, Crown spread 20 feet</u>	<u>(2) 2-1-009:017</u>
<u>Banyan, Ficus sp.</u>	<u>Former Pau Hana Inn, Kaunakakai, Molokai; Large spreading tree with an attractive fluted trunk; Height 60 feet, Diameter 216 inches, Crown spread 135 feet</u>	<u>(2) 5-3-006:028</u>
<u>Bermuda Juniper, Juniperus bermudiana</u>	<u>Souder residence, 3145 Baldwin Avenue, Makawao; At least 90 years old; Height 45 feet, Diameter 61 inches, Crown spread 70 feet</u>	<u>(2) 2-4-002:014</u>

<u>Breadfruit, Ulu, Artocarpus altilis</u>	<u>Baldwin House, Lahaina</u> <u>Height 45 feet, Diameter 33 inches,</u> <u>Crown spread 36 feet</u>	<u>(2) 4-6-008:007</u>
<u>California Featherduster palm, Washingtonia filifera</u>	<u>Hale Paahao, Lahaina;</u> <u>Located on the old prison grounds;</u> <u>Height 40 feet, Diameter 23 inches,</u> <u>Crown spread 12 feet</u>	<u>(2) 4-6-008:044</u>
<u>California Pepper Tree, Schinus molle</u>	<u>406 Lower Kimo Drive, Kula;</u> <u>Male tree planted in 1957 by Jack and</u> <u>Loraine Clayton at the first house built</u> <u>on Lower Kimo Drive; Height 50 feet,</u> <u>Diameter 53 inches, Crown spread 85</u> <u>feet</u>	<u>(2) 2-3-015:020</u>
<u>Chinese Banyan, Ficus microcarpa</u>	<u>Kalana Pakui Building, Wailuku;</u> <u>Planted by Dr. Hilario Moncado in</u> <u>1937;</u> <u>Height 65 feet, Diameter 95 inches,</u> <u>Crown spread 100 feet</u>	<u>(2) 3-4-008:042</u>
<u>Indian Banyan, Ficus benghalensis</u>	<u>Lahaina Court House Square, listed on</u> <u>National Register of Historic Places;</u> <u>Planted April 24, 1873 by William O.</u> <u>Smith, Sheriff of Lahaina;</u> <u>Height 50 feet, Diameter 180 inches</u> <u>near ground level (10 trunks), Crown</u> <u>spread 225 feet</u>	<u>(2) 4-6-001:009</u>
<u>India Rubber Tree, Ficus elastica</u>	<u>Souder residence, 3145 Baldwin</u> <u>Avenue, Makawao;</u> <u>At least 90 years old;</u> <u>Height 56 feet, Diameter 88 inches,</u> <u>Crown spread 135 feet</u>	<u>(2) 2-4-002:014</u>
<u>Jacaranda, Jacaranda mimosifolia</u>	<u>165 Hanamu Road, Makawao;</u> <u>The blooms of the spreading canopy</u> <u>and its pastoral setting are the subject</u> <u>of many artists' canvas;</u> <u>Height 60 feet, Diameter 63.5 inches,</u> <u>Crown spread 103 feet</u>	<u>(2) 2-4-010:001</u>
<u>Kiawe, Prosopis pallida</u>	<u>Honoapiilani Highway, Oceanside near</u> <u>mile marker 11; Historic landmark at</u> <u>ocean's edge with two dominant lateral</u> <u>branches and a horizontal branch that</u> <u>reaches over the water;</u> <u>Height 30 feet, Diameter 102 inches,</u> <u>Crown spread 50 feet</u>	<u>(2) 3-6-001:013</u>
<u>Kou, Coria subcordata</u>	<u>Baldwin House, Lahaina;</u> <u>Height 35 feet, Diameter 22 inches,</u> <u>Crown spread 45 feet</u>	<u>(2) 4-6-008:007</u>
<u>Loulu, Pritchardia forbesiana</u>	<u>D.T. Fleming Arboretum, Kanaio;</u> <u>Largest of four trees;</u> <u>Height 25 feet, Diameter 10.5 inches,</u> <u>Crown spread 12 feet</u>	<u>(2) 2-1-009:017</u>
<u>Mexican Featherduster, Washingtonia robusta</u>	<u>Hale Paahao, Lahaina;</u> <u>On old prison grounds;</u> <u>Height 55 feet, Diameter 16 inches,</u> <u>Crown spread 10 feet</u>	<u>(2) 4-6-008:044</u>

<u>Monkey Pod, Samanea saman</u>	<u>Kaahumanu Church, Wailuku; Height 40 feet, Diameter 78 inches, Crown spread 95 feet</u>	<u>(2) 3-4-014:002</u>
<u>Monkey Pod, Samanea saman</u>	<u>Manager's residence, Kaanapali Kai, Inc., 2145 Wells St., Ste. 301, Wailuku; Height 50 feet, Diameter 57 inches, Crown spread 130 feet</u>	<u>(2) 3-4-014:060</u>
<u>Monkeypod, Samanea saman (stand of 4)</u>	<u>980 South Kihei Road, Kihei; Large, beautiful shade trees, aesthetic quality; Height 25 feet (average), Diameter 16-22 inches, Crown spread 25 feet</u>	<u>(2) 3-9-011:004-0000</u>
<u>Monkey Pod, Samanea saman</u>	<u>Hale Paahao, Lahaina; Old prison grounds; Height 60 feet, Diameter 69 inches, Crown spread 100 feet</u>	<u>(2) 4-6-008:044</u>
<u>`Ohe (2 trees), Tetraplasandra hawaiiensis</u>	<u>D.T. Fleming Arboretum, Kanaio; Planted by D.T. Fleming; Height 65 feet, Diameter 35.5 inches; Crown spread 45 feet (larger of 2 trees)</u>	<u>(2) 2-1-009:017</u>
<u>Ohia, Metrosideros polymorpha</u>	<u>Waikamoi Preserve, Haleakala Ranch; Aged over 600 years, the largest and oldest known specimen on Maui of this culturally significant species; Height 80 feet, Diameter 47 inches, Crown spread 108 feet</u>	<u>(2) 2-3-05:004</u>
<u>Podocarpus, Afrocarpus falcatus</u>	<u>D.T. Fleming Arboretum, Kanaio; Larger of two trees; Planted by D.T. Fleming; Height 70 feet, Diameter 57 inches, Crown spread 70 feet</u>	<u>(2) 2-1-009:017</u>
<u>Rainbow shower, Cassia x nealae (85 trees)</u>	<u>A 6.7 mile stretch of Baldwin Avenue starting at 0.5 miles from intersection of Hana Highway on Baldwin Avenue, Paia, and ending below `A`ala Place, Makawao; Planted by Ethel Baldwin and later by Mayor Hannibal Tavares; Height 35 feet, Diameter 15 inches, Crown spread 30 feet</u>	
<u>Royal Palm (23 trees)</u>	<u>Wailuku Elementary School, Wailuku; Around school entrance; Height 50 feet, Diameter 15 inches, Crown spread 20 feet</u>	<u>(2) 3-4-007:001</u>
<u>Royal Palm, Roystonea regina</u>	<u>Hale Paahao, Lahaina; Old prison grounds; Height 50 feet, Diameter 22 inches, Crown spread 17 feet</u>	<u>(2) 4-6-008:044</u>
<u>Royal Palm (20 trees), Roystonea regina</u>	<u>Entrance to Lahainaluna High School, Lahaina; Height 40 feet, Diameter 16 inches, Crown spread 15 feet</u>	<u>(2) 4-6-018:005</u>
<u>True Kamani, Calophyllum inophyllum</u>	<u>Lahainaluna High School, Lahaina; Height 60 feet, Diameter 60 inches, Crown spread 80 feet</u>	<u>(2) 4-6-018:012</u>

<u>True Kamani, Calophyllum inophyllum</u>	<u>Old Hana School, Hana; Over 90 years old; Fronting the school; Height 31 feet, Diameter 72.6 inches, Crown spread 101 feet</u>	<u>(2) 1-4-004:030</u>
<u>West India Locust, Hymenaea courbaril</u>	<u>Manager's residence, Kaanapali Kai, Inc., 2145 Wells St., Ste. 301, Wailuku; Height 75 feet, Diameter 39 inches, Crown spread 80 feet</u>	<u>(2) 3-4-014:060</u>

”

SECTION 4. Section 12.24A.070, Maui County Code, is amended to read as follows:

“12.24A.070 Planting of street trees. A. The director of parks and recreation shall be responsible for overseeing and coordinating the planting and maintaining of all trees and landscape plantings in public parks and rights-of-way of streets in the county.

1. There shall be a Maui County arborist and staff within the department of parks and recreation to plant and maintain trees in the public parks and rights-of-way of streets.

2. The arborist shall advise the arborist committee on the landscape planting plan and exceptional trees, and shall advise the committee, the public, and all agencies in the planting, care, and preservation of trees and landscape plantings.

B. The landowner abutting a street, avenue, road, or highway under the jurisdiction of the county may plant a street tree within the county right-of-way abutting the landowner's property with the recommendation of the committee and approval of the ~~[directors]~~ director of public works ~~[and waste management]~~ and director of parks and recreation and subject to reasonable conditions consistent with the landscape planting plan.

C. Any person may plant street trees within the county right-of-way with the recommendation of the committee and approval of the ~~[directors]~~ director of public works ~~[and waste management]~~ and director of parks and recreation and subject to reasonable conditions consistent with the landscape planting plan.

D. Subdivisions.

1. For any subdivision of property into four or more lots, the director of public works ~~[and waste management]~~ shall require from the subdivider, a planting plan which identifies the areas where street trees may be planted, so as not to interfere with the health, safety, and welfare of the public. The director of public works ~~[and waste management]~~ shall require the planting of trees in conformance with the

approved planting plans, the landscape planting plan, and applicable law.

2. The number of recommended street trees for a subdivision and provisions for their irrigation shall be provided for in accordance with the landscape planting plan.

3. The director of public works [and waste management] shall require a plan of irrigation in addition to a description of the number of trees, location, type, and sizes and other requirements that are in accordance with the planting plan.

4. Notwithstanding any provision to the contrary, irrigation systems for street trees shall not require easements when such systems are in the county right-of-way; provided, however, that the landowner abutting the county right-of-way shall execute an agreement, running with the land and recorded with the bureau of conveyances, indemnifying the county against any liability, damages, or claims including property damage or personal injury arising from such systems.

5. Notwithstanding any provision to the contrary, the plans proposed for the subdivision shall be reviewed by the plan reviewer for compliance with the landscape planting plan and approved by the director of planning.

E. The department of parks and recreation shall be responsible for all general maintenance on street trees that are designated to be maintained by the county except that the property owner abutting any planting strip shall be responsible for watering and occasional fertilizing. The property owner abutting any planting strip shall also be responsible for the maintaining and weeding of the planting strip.”

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JERRIEL SHEPPARD

Department of the Corporation Counsel
County of Maui

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