

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

December 5, 2018

Council Chamber, 8th Floor

CONVENE: 1:36 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Alika Atay
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Kelly T. King
Councilmember Yuki Lei K. Sugimura

EXCUSED: Councilmember Don S. Guzman
Councilmember Riki Hokama, Vice-Chair
Councilmember Mike White

STAFF: James Krueger, Legislative Analyst
Rayna Yap, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

ADMIN.: Rowena Dagdag-Andaya, Deputy Director of Public Works
Michele McLean, Planning Director, Department of Public Works
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Mabel Todd, Board President of School Board, Doris Todd Christian Academy (LU-68)
Carolyn Moore, Head of School, Doris Todd Christian Academy (LU-68)
Carol Reimann, Alexander & Baldwin
Melanie Takushi, Alexander & Baldwin
(2) additional attendees

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

CHAIR CARROLL: . . .*(gavel)*. . . This Land Use Committee meeting of December 5, 2018 will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

First, may I request that anybody has anything makes noise, please put it on the silent mode or turn it off. We have with us this afternoon, Members King –

COUNCILMEMBER KING: Good afternoon, Chair.

CHAIR CARROLL: --Cochran –

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR CARROLL: --Sugimura –

COUNCILMEMBER SUGIMURA: Merry Christmas, Chair.

CHAIR CARROLL: --Atay –

COUNCILMEMBER ATAY: Good afternoon.

CHAIR CARROLL: --and Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: Mike White is excused and hopefully we will have Mr. Hokama and Mr. Guzman will be coming in later. Department of the Corporation Counsel, we have David Galazin, Deputy Corporation Counsel.

MR. GALAZIN: Afternoon, Chair.

CHAIR CARROLL: Administration representatives, we have Rowena Dagdag-Andaya --

MS. DAGDAG-ANDAYA: Aloha, Chair.

CHAIR CARROLL: --Deputy Director of Public Works. Michele McLean, Planning Director, will join us. David Raatz, Administrative Planning Officer, Zoning and Enforcement Administration Division, Department of Planning will also be joining us. Carolyn Moore and Mabel Todd of Doris Todd Christian Academy. Carol Reimann and Melanie Takushi, A&B. Our Staff, we have Rayna Yap, Committee Secretary; James Krueger, Legislative Analyst. Carla Nakata is excused for today, our Legislative Attorney. Denise Fernandez, Lanai District Office Staff; Ella Alcon, Molokai District Office Staff; and Hana Office is closed today. We have, first item, is LU-68, License to Alexander & Baldwin, LLC, as Licensee, and Doris Todd Christian Academy, as Sublicensee, for Existing Encroachments on County of Maui Real Property along Baldwin Avenue (Makawao); LU-26, Amending Chapters 19.04 and 19.30A, Maui County Code, to Authorize Certain Subdivisions and Uses; discretionary referral. Testimony, anyone giving testimony, please come to the podium and identify yourself and any organization you might be representing, and you have three minutes. Proceed.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

. . .BEGIN PUBLIC TESTIMONY. . .

MS. TODD: Good afternoon, Chairman Carroll and the Land Use Committee Members. I'm Mabel Todd. I'm from Doris Todd Christian Academy. I'm President of the School Board there. Doris Todd Christian Academy is now 62 years old. We've been around a little while and actually started with Doris Todd taking four students into her home for preschool, 1956; next year, they moved into the educational building of the Paia Hawaiian Church; and then the next year we used the youth center down on the beach. In fact, we were there when there was that big tsunami that took out so many buildings farther along the beach side, and we got our picture on the front page of the newspaper in the morning 'cause we were still okay, for which we really thank the Lord. We started, it was in 1961 that A&B called Ed Todd and asked him if he would be interested in a piece of property on Baldwin Avenue. It was only on a small piece of acreage, 0.27 of an acre, one main building, and had been used by the Assembly of God for a church; so we moved up there. Later on that year, they extended another...they gave us another piece of property on the makai side of us, and then we stayed on that for the next 16 years; and then after that we got almost three acres added. So we had almost four acres then to continue on. Today, our school goes from preschool right up through high school. It was when Doris was just 42 that she was taken home to Heaven following surgery. And two-and-a-half years later, I married...or Ed Todd married me, so I got the name without all the hard work. And in 1996, A&B, who has been such a kind benefactor to us, they renegotiated the property and gave us a long-term lease...and my times up.

CHAIR CARROLL: You have 30 seconds more.

MS. TODD: Thank you. That enabled us to build classrooms. I just want to say that we appreciate A&B, Johnny Baldwin worked hard for us, too. And we're hoping that we will get your approval for this today. Thank you very much.

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

MS. TODD: Thank you.

CHAIR CARROLL: Proceed.

MR. KRUEGER: Mr. Chair, the next person signed up to testify in the Chambers is Carolyn Moore, testifying on agenda item LU-68.

MS. MOORE: Aloha, Chair Carroll and Committee Members. Thank you so much for giving us this opportunity. Mrs. Todd mentioned that we began building new classrooms. And as we began to do that, we wanted that long-term lease. But then approached A&B about the possibility of purchasing the land, which put us into rezoning and subdivision; and it was at that time that we learned that we had encroachments in the County right-of-way. Before that, we were unaware of that. Had we known that at the time, we would have included that in the whole project for the new classroom buildings. But we did begin to move as many things as we could move out of that

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

right-of-way, including a small monument to Doris Todd. We relocated that, we've moved flag poles, we've moved water fountains. I can't even remember all of the things. We built a stone wall, a rock wall, to protect our children, and made sure it was not in the County right-of-way, and we will be removing the fence that was fronting that. Recently, we are working with Lance Weisel of Sterling Development Services who contacted three construction companies. And we have obtained bids from two of them to totally remove all of the encroachments and return that area to a lawn strip fronting Baldwin Avenue. All is preventing us from proceeding at this point is money. It's going to cost over \$200,000; so we need money. We need to raise money for that; and, also, we'll need to do the whole scheduling of the construction when it isn't going to interfere with school and have the necessary permits for that. But it is our intent to do that. We don't want to leave things in the County right-of-way. So and that I do have, if anyone's interested in seeing it, I brought along a copy of what we submitted to the construction companies with the demo plan. And would anyone like to see that?

CHAIR CARROLL: Yeah.

MS. MOORE: We just wanted to show you that our intent is one to be cooperative and to do what the law requires and not to take advantage of the County. And the fact that we were totally ignorant of these things being in the way.

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

MS. MOORE: Thank you.

CHAIR CARROLL: Proceed.

MR. KRUEGER: Mr. Chair, there is no one else in the Chamber signed up to testify.

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

MS. FERNANDEZ: Good afternoon, Chair, this is Denise Fernandez on Lanai and there is no one waiting to testify.

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

MS. ALCON: Good afternoon, Chair, this is Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR CARROLL: Is there anyone in the Chamber who wishes to give testimony that has not? Seeing none, if there's no objection, we will close public testimony.

COUNCILMEMBERS: No objection.

CHAIR CARROLL: Public testimony is now closed.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

. . .END OF PUBLIC TESTIMONY. . .

ITEM LU-68: LICENSE TO ALEXANDER & BALDWIN, LLC, AS LICENSEE, AND DORIS TODD CHRISTIAN ACADEMY, AS SUBLICENSEE, FOR EXISTING ENCROACHMENTS ON COUNTY OF MAUI REAL PROPERTY ALONG BALDWIN AVENUE (MAKAWAO) (CC 18-315)

CHAIR CARROLL: Members, the request before the Committee today is to allow Doris Todd Christian Academy, a sublicensee, to use approximately 5,600 square feet of County property along Baldwin Avenue for existing improvements. The Chair of your Committee posted a request to the Department of the Corporation Counsel for a revised proposed resolution incorporating some housekeeping revisions. The Department has since incorporated the revisions to the resolution and approved it as to form and legality. This is available in Granicus as correspondence from Corporation Counsel, dated November 29, 2018. This is the version we will working from today. Members, we have with us two representatives from the Doris Todd Christian Academy – Carolyn Moore and Mabel Todd. Doris Todd Christian Academy is the proposed sublicensee. We also have two representatives from the landowner and proposed licensee, A&B – Melanie Takushi and Carol Reimann. Members, because these individuals have specialized knowledge of the property and the encroachments, if there are no objections, the Chair would like to have them designated as resource persons pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objection.

CHAIR CARROLL: So be it. Deputy Director Andaya, do you have any comments to make at this time?

MS. DAGDAG-ANDAYA: Yes, Chair, thank you very much; and good afternoon, Councilmembers. The Department of Public Works is in receipt of a subdivision application for which the Doris Todd Christian Academy School sits on. It was received back in, I believe, in 2005 during sometime around May or April of that year. And, at the time, the preliminary comments had gone out to the applicant and it was indicated that there were a number of encroachments within the County right-of-way that needed to be addressed prior to the final subdivision. And, from then, the Department has been working with A&B and also with the school to have these comments addressed. In, I believe in 2014, the Department did meet with representatives of A&B and with the school and discussed options for ways on how to address the encroachment, and one of them was to remove the encroachments or obtain a license agreement. And the license agreement route would also help them obtain final subdivision in the end. So what you have before you is a request for an encroachment agreement and license. And, in your packets, I believe you have a fact sheet and it states the project name, the TMK, the names of the licensee and sublicensee, the area...or area to be dedicated which is 5,600 square feet, and additional information. I also wanted to add that the Department did confirm the right-of-way widths along Baldwin Avenue, and that the existing right-of-way is at the

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

proposed ultimate width; therefore, Doris Todd Christian Academy or A&B wouldn't have to provide additional space for right-of-way. No additional improvements to the right-of-way is required. And, as I said earlier, the encroachment is 5,600 square feet, so about ten feet wide and about 560 feet in length. Also in your packets is a map of a survey done that describes or shows what the encroachments are within the property. And, as one of the testifiers mentioned earlier, there is a chain-link fence; I believe she also mentioned the concrete wall and some shrubbery and hedges; and I think at one point there was a stone...like a monument or a sign and I guess, according to the applicant, they've since removed that. I can also provide you a little tour of Baldwin Avenue, this section of Baldwin Avenue, using Google Maps. So, Chair, if I may?

CHAIR CARROLL: Any questions from Public Works at this time? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Just real quickly, so you support the motion, the reso?

MS. DAGDAG-ANDAYA: Yes, that's correct.

COUNCILMEMBER KING: Okay, thank you.

CHAIR CARROLL: Alright. Corporation Counsel, do you have any comments to provide at this time?

MR. GALAZIN: Nothing at this time. Thank you, Chair.

CHAIR CARROLL: Members, do you have any questions for Corporation Counsel?

MS. DAGDAG-ANDAYA (*Google Maps Presentation*): Chair, may I? So if you take look at this street view—and this street view was taken in September of 2011, so there may have been some items from the right-of-way removed—but I understand that a portion of the parking lot is within the County right-of-way. And beyond the chain-link fence--it's this portion behind it and, I believe, up until the concrete wall or maybe a little bit before the concrete wall--that's where our right-of-way is located. So it's about ten feet, the encroachment is roughly ten feet. And it extends all the way to the edge of the property, which is right about, I believe right about here or right here, I believe. And you can see the classrooms and the playground in the back. Our Engineering Division, as I mentioned earlier, did review and confirm the ultimate right-of-way for Baldwin Avenue. So, at this time, we're not asking for the applicant to provide us additional right-of-way space. The travel lanes are adequate. We do have a sidewalk on one side fronting the school, and this sidewalk is sufficient at this time. But if you have any questions, I'd be more than happy to answer them as much as I can.

CHAIR CARROLL: I must commend Corporation Counsel [*sic*] for a very professional video, thank you. Members, any questions about what was presented right now? Ms. King?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

COUNCILMEMBER KING: Thank you, Chair. So thanks for this video, 'cause it's really...having a visual...so are they wanting to take that fence down, or is that stone wall going to stay there?

CHAIR CARROLL: Ms. Andaya?

MS. DAGDAG-ANDAYA: Chair, I want to defer that to the applicant. That would be included in this...if they decide to include the stone wall, that it would be included in this license agreement. However, I understand they have other plans for...and I could defer to the school.

COUNCILMEMBER KING: Okay. I guess my only other question would be, I guess, is there any...there were no plans to put a bike lane there... 'cause it doesn't look like there's much room on the other side of the...

MS. DAGDAG-ANDAYA: Chair, at this time, we don't have any plans for a bike lane.

COUNCILMEMBER KING: Okay.

MS. DAGDAG-ANDAYA: There are opportunities using this space on the Haliimaile side, because you still have this much right-of-way left.

COUNCILMEMBER KING: Okay. That's all the questions I have...actually, I just wanted to find out if that was...if any of that whole section, since it looked like they had that stone wall that already separated them, 'cause they're asking for that whole strip. Okay. Thank you.

CHAIR CARROLL: Thank you. Anything further for Public Works? Members, do you have any questions for the representatives of Doris Todd Christian Academy or A&B? Seeing none, the Chair will give his recommendation.

COUNCILMEMBER SUGIMURA: Recommendation?

CHAIR CARROLL: Members, the Chair will entertain a motion to recommend adoption of the revised proposed resolution transmitted by correspondence dated November 29, 2018 from the Department of the Corporation Counsel entitled "AUTHORIZING THE GRANTING OF A LICENSE TO USE COUNTY OF MAUI REAL PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII TO ALEXANDER & BALDWIN, LLC, AS LICENSEE, AND TO DORIS TODD CHRISTIAN ACADEMY, AS SUBLICENSEE, FOR EXISTING ENCROACHMENTS ALONG A PORTION OF BALDWIN AVENUE," incorporating any nonsubstantive revisions and to file County Communication 18-315.

COUNCILMEMBER SUGIMURA: So move, Chair.

COUNCILMEMBER CRIVELLO: Second.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

CHAIR CARROLL: Been moved by Ms. Sugimura, second by Ms. Crivello. Discussion? Seeing none, all in favor of the motion signify by saying, "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six "ayes," three excused --

MS. DAGDAG-ANDAYA: Thank you very much. Thank you.

CHAIR CARROLL: --Mr. Guzman, Mr. Hokama, and Mr. White.

VOTE: AYES: Chair Carroll, and Councilmembers Atay, Cochran, Crivello, King, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Hokama, Councilmembers Guzman and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of revised resolution and FILING of communication.

ITEM LU-26: AMENDING CHAPTERS 19.04 AND 19.30A, MAUI COUNTY CODE, TO AUTHORIZE CERTAIN SUBDIVISIONS AND USES (CC 17-129)

CHAIR CARROLL: Alright, Members, we have LU-26, Amending Chapters 19.04 and 19.30A, Maui County Code to Authorize Certain Subdivisions and Uses. Members, the Committee met on this item in 2017, County Communication 17-129, transmitting a single bill that was later split into two revised bills. One of the revised bills relating to roadway lot and restricted use lot subdivisions, and authorizing fees and administrative rules, was recommended by the Committee for passage on first reading. The Council subsequently passed bill on second and final reading at its meeting of July 14, 2017. Ordinance 4464 went into effect on August 1, 2017. The Committee made no recommendation on the other revised proposed bill, to authorize commercial filming and photography activity, temporary commercial events, and temporary sales offices in all zoning districts, subject to certain limitations. Members, since the Committee took no action on one bill...took action on one bill and deferred action on the other, the Chair's recommendation is that the County Communication be filed. The Chair would entertain a motion to recommend filing of County Communication 17-129.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

COUNCILMEMBER CRIVELLO: So move.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: So moved...and seconded by Ms. Crivello [*sic*]. Any discussion?

COUNCILMEMBER SUGIMURA: So, Chair, I have...

CHAIR CARROLL: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, on this item, I would...the item, as it sits in the Committee, there's an amendment that I was trying to propose, but this bill never was discussed again. And, if you remember the discussion when it came up, that there were residents who were being intimidated by a film company that was filming at a private home at the end of a street and all the residents were being blocked from going home because of the filming going on, and it was kind of wild from the description. And I did receive testimony. I did receive their concern from the resident. Doing two things: one is to increasing the notification area from 500 feet to 1,000 feet for this to happen, and then the other request that I got is that they actually want somebody there so that in case the residents had a concern, they could contact...they wanted actually not the film company because I think they were having a problem with the film company. So, Chair, I agree with you, if you could file this and I wanted to work with the residents in the area—this is Haiku—to just make sure that their concerns are being met, and I will introduce it again in the new term. So I agree with your motion. I think I need to change the title because it was really for the other part and this filming was a secondary aspect of it. So, Chair, I'm going to agree with you and we will...if you would file it, that would be good. And then I'll look into it further and bring it up in the new term. Thank you.

CHAIR CARROLL: Thank you. Any further discussion to the motion on the floor?

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: And thank you, Ms. Sugimura, for willingness to continue to work on this. I've had issues in West Maui, too; so I think to talk to West Maui residents, also, would be helpful and not just Haiku. Thank you. That's all. Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR CARROLL: Any further discussion to the motion on the floor to file? All in favor, signify by saying, "aye."

COUNCILMEMBERS: Aye.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

CHAIR CARROLL: Opposed? Motion carried, six “ayes,” three excused.

VOTE: AYES: Chair Carroll, and Councilmembers Atay, Cochran, Crivello, King, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Hokama, Councilmembers Guzman and White.

MOTION CARRIED.

ACTION: Recommending FILING of communication.

ITEM LU-58: WAIALE ROAD EXTENSION PROJECT (WAILUKU) (MISC)

CHAIR CARROLL: Members, the Chair posted one communication pending before the Committee for you to consider referring to the Council Chair for the term beginning January 2, 2019, pursuant to Rule 23 of the Rules of the Council. This is a Miscellaneous Communication dated May 21, 2018, from Deputy County Clerk, reporting that the Council referred the matter relating to the Waiale Road Extension project. The item pending on your Committee master agenda as LU-58. Because the Committee has received documents that your Chair believes will be helpful to the next Council in considering this matter, your Chair recommends that the matter be referred. The Chair would entertain a motion to recommend the Miscellaneous Communication dated May 21, 2018, from the Deputy County Clerk, relating to the Waiale Road extension project, be referred to the Council Chair for the term beginning January 2, 2019, pursuant to Rule 23 of the Rules of the Council.

COUNCILMEMBER KING: So move.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Been moved and seconded. Discussion? All in favor, signify by saying, “aye.”

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried, six “ayes,” three excused.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

December 5, 2018

VOTE: **AYES:** **Chair Carroll, and Councilmembers Atay, Cochran, Crivello, King, and Sugimura.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Vice-Chair Hokama, Councilmembers Guzman and White.**

MOTION CARRIED.

ACTION: **Recommending REFERRAL of communication to the Council Chair for the term beginning January 2, 2019.**

CHAIR CARROLL: Members, this is the last meeting of the Land Use Committee. I have held open a possible last meeting, but I have no further business unless some emergency comes up. I'll hold the time open until the time to file for that last meeting just in case there's something that really needs to be heard. But, for all practical purposes, this will be the last meeting. I would especially like to thank the Members that are in attendance today. Thank you so much. This Committee has operated so long on bare quorum or just six Members, and I appreciate all the Members that usually over here that come every time, thank you so much. And I appreciate everybody out there in television land for participating by watching us. And I wish everybody a very merry Christmas and a happy and prosperous New Year. This Land Use Committee stands adjourned. . . .(gavel). . .

ADJOURN: 2:03 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee