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M I N U T E S  
LAND USE COMMITTEE  
Council of the County of Maui  
Council Chamber  
August 1, 2007

APPROVED:  
  
\_\_\_\_\_  
Committee Chair

1 **CONVENE:** 1:34 p.m.

2

3 **PRESENT:** Councilmember Michael J. Molina, Chair  
4 Councilmember Joseph Pontanilla, Vice-Chair

5 Councilmember Gladys C. Baisa, Member

6 Councilmember G. Riki Hokama, Vice-Chair

7 (Arrive 1:49 p.m.)

8 Councilmember Jo Anne Johnson, Member

9 (Arrive 4:15 p.m.)

10 Councilmember Bill Kauakea Medeiros, Member

11 Councilmember Michael P. Victorino, Member

12

13 **EXCUSED:** Councilmember Michelle Anderson, Member

14 Councilmember Danny A. Mateo, Member

15

16 **STAFF:** Tammy M. Frias, Committee Secretary

17 Carla M. Nakata, Legislative Attorney

18

19 Lei Kihm, Executive Assistant to

20 Councilmember Bill Kauakea Medeiros

21

22 **ADMIN.:** Clayton Yoshida, Planning Program

23 Administrator, Current Planning

24 Division,

25 Department of Planning

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Robyn Loudermilk, Planner,  
Department of Planning  
(Item Nos. 3 and 8)  
Michael Miyamoto, Deputy Director,  
Department of Public works  
Cheryl Okuma, Director,  
Department of Environmental Management  
(Item No. 8)  
Scott English, Lieutenant, Fire Prevention  
Bureau,  
Department of Fire and Public Safety  
(Item No. 8)  
James A. Giroux, Deputy Corporation  
Counsel,  
Department of the Corporation Counsel  
**OTHERS:      Item No. 8:** C. Earl Stoner, Jr., President,  
S&F Land Co., Inc.  
  
Glenn Tadaki, Planner,  
Chris Hart & Partners, Inc.  
  
Christopher Hart,  
Chris Hart & Partners, Inc.

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**Item No. 3:** Vince Bagoyo, Jr.

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

. . . . .

CHAIR MOLINA: (Gavel).

**ITEM NO. 8: COMMUNITY PLAN AMENDMENTS AND CHANGES IN  
ZONING FOR THE CENTRAL MAUI BASEYARD  
(PUUNENE)**

CHAIR MOLINA: The Land Use Committee Meeting for  
August 1st, 2007 is now in session. For the  
record, we have in attendance for our meeting  
today Chairman of the Committee, Mike Molina;  
Committee Members Gladys Baisa, Bill Medeiros,  
Mike Victorino, and Committee Vice-Chair Joseph  
Pontanilla. Excused are Members Mateo,  
Anderson, Johnson, and Hokama.

Members, we have two items on our agenda  
today, which is LU-8, which is a Community Plan  
Amendment and Changes [sic] in Zoning for the  
Central Maui Baseyard in Puunene; and LU-3, a  
Change in Zoning for Waihee Mauka Project.

We will first deal with Land Use Item  
No. 8, and, Members, we will have a presentation  
done for us by the Applicant's representative.

1 But before we turn matters over to the  
2 Applicant's representative for LU-8, Chair would  
3 also like to recognize Staff in attendance here  
4 today, Committee Analyst Carla Nakata and  
5 Committee Secretary Tammy Frias. And from the  
6 Corporation Counsel's office, we have Mr. James  
7 Giroux, and from the Planning Department,  
8 Clayton Yoshida and Robyn Loudermilk.

9 So, Members, we're going to take a very  
10 brief recess to set the Chambers up for our  
11 presentation, so don't go anywhere. Meeting in  
12 recess. (Gavel).

13 **RECESS: 1:35 p.m.**

14 **RECONVENE: 1:38 p.m.**

15 CHAIR MOLINA: (Gavel). Land Use Committee Meeting for  
16 August 1st, 2007 is now back in session. We  
17 have before us the Applicant's representative,  
18 Mr. Glenn Tadaki, that will do a presentation  
19 regarding Land Use Item No. 8. Mr. Tadaki.

20 (Computer-generated presentation.)

21 MR. TADAKI: Thank you, Chairman Molina. Good  
22 afternoon, Chairman. Members of the Council  
23 Land Use Committee, my name is Glenn Tadaki,  
24 with the Landscape Architecture and Planning  
25 firm of Chris Hart & Partners. With me this

1           afternoon is Chris Hart; and the Applicant, Earl  
2           Stoner of S&F Land Company.

3           The Applicant is requesting a Community  
4           Plan Amendment and Change in Zoning for three  
5           proposed heavy industrial areas in the Central  
6           Maui Baseyard totaling approximately 12 acres.  
7           Next, please.

8           The Central Maui Baseyard is located in  
9           Central Maui, in the Puunene area, on 52 acres  
10          of land in the State Urban District. Next.

11          The lands underlying the baseyard are  
12          designated for Light Industrial use by the  
13          Kihei-Makena Community Plan. In context of the  
14          Applicant's request, we are seeking to  
15          reclassify the three proposed Light Industrial  
16          areas -- I'm sorry, we are seeking to get  
17          reclassification for the three proposed Heavy  
18          Industrial areas. In doing so, we're seeking to  
19          change the classification from Light Industrial  
20          to Heavy Industrial for the Community Plan.  
21          Next.

22          The three proposed Heavy Industrial areas  
23          include Lot 1C, Lot 59, and Lot 221. Lot 1C  
24          consists of 9.8 acres and is currently zoned  
25          Agriculture. We're seeking a zoning change to

1 Heavy Industrial. Lot 59 occupies 1.3 acres,  
2 and as with Lot 221, which is about 1 acre,  
3 we're seeking zoning changes for these parcels  
4 from Light Industrial to Heavy Industrial.  
5 Next, please.

6 In September of 2005, the Maui Planning  
7 Commission granted a County Special Use Permit  
8 for 2.6 acres of land located at the south end  
9 of Lot 1C. The County Special Use Permit was  
10 granted for a metal recycling facility, which is  
11 currently being operated by SOS Metals. Next.

12 The Central Maui Baseyard is located east  
13 of and adjacent to Mokulele Highway. This is an  
14 aerial photograph of the baseyard, looking  
15 towards the south. Lot 1C is located here.  
16 Next, please.

17 This is another aerial photograph.  
18 Lot 1C, Lot 59, and Lot 221 are all illustrated  
19 in this aerial photo.

20 This is a photo of Lot 59, which was  
21 formerly occupied by Maui Auto Wrecking.

22 As I mentioned previously, this site was  
23 1.3 acres.

24 This is Lot 221, which is used as an --  
25 for abandoned vehicle storage on behalf of the

1 County of Maui. This site occupies 1 acre.

2 Next photo is taken from the north end of  
3 Lot 1C, looking toward the SOS metal recycling  
4 facility, which is located at the south end of  
5 the lot. Next, please.

6 This photo shows Lot 1C, taken from the  
7 SOS metal recycling facility, looking north,  
8 toward the opposite end of the lot. Next.

9 This is a view of the exterior of the SOS  
10 metal recycling facility, containing the  
11 equipment which is utilized for the SOS's  
12 operations. Next, please.

13 This is the interior photo of within the  
14 building, showing a -- looks like a car that's  
15 about to be placed into the bailer for crushing.  
16 Next, please.

17 This is a view of the metal recycling  
18 facility building and their drainage basin.  
19 Next, please.

20 This slide depicts the land use history  
21 of the baseyard. In summary, we could say that  
22 the lands underlying the baseyard had been used  
23 for industrial purposes from World War II to the  
24 present time. This spans a total of 66 years.  
25 Next, please.



1           In terms of land use processing, the  
2           lands which comprise the baseyard have been  
3           permitted for industrial-type uses from 1984, up  
4           to the present time. This span of time is 23  
5           years. Next, please.

6           The Maui Planning Commission has  
7           recommended to the Maui County Council that the  
8           Community Plan Amendment and Change in Zoning  
9           request be approved by the Council, which brings  
10          us to today's meeting. Next, please.

11          The reasons supporting the Applicant's  
12          request are -- can be basically broken down into  
13          three points. Much of the heavy industrial land  
14          which is on Maui is used for light industrial  
15          and business purposes, which coincidentally also  
16          are allowed within the Heavy Industrial  
17          District. As a result, the amount of land that  
18          is available for purely heavy industrial uses is  
19          very limited and in very short supply.

20          The location for the proposed heavy  
21          industrial areas were based on Mr. Stoner's  
22          discussions with the County officials. The  
23          sites were deemed appropriate, given the  
24          historical industrial uses of the property in  
25          the past and the surrounding activities within

1 the baseyard. The central location of the  
2 baseyard and these proposed heavy industrial  
3 areas, as well as your proximity to shipping  
4 facilities at the airport -- at the harbor were  
5 also considered and are very important factors.

6 The proposed heavy industrial areas will  
7 provide much needed space for purely heavy  
8 industrial uses in an area that is appropriately  
9 utilized and for such purposes.

10 That concludes my presentation.

11 CHAIR MOLINA: Okay. Thank you very much, Mr. Tadaki.

12 Members, we're going to take a short  
13 recess to put the screen up, and then we'll  
14 continue with our discussion on Land Use Item  
15 No. 8. Meeting in recess. (Gavel).

16 **RECESS: 1:45 p.m.**

17 **RECONVENE: 1:46 p.m.**

18 CHAIR MOLINA: (Gavel). The Land Use Committee Meeting  
19 for August 1st, 2007 is now back in session.

20 Members, we heard from the Applicant's  
21 representative for Land Use No. 8. At this  
22 point, the Chair will ask the Planning  
23 Department if they have any comments before we  
24 entertain public testimony on this item.

25 Planning Department.

1 MR. YOSHIDA: Good afternoon, Mr. Chair and Committee  
2 Members. Clayton Yoshida, Planning Program  
3 Administrator with the Planning Department.  
4 Staff Planner Robyn Loudermilk will outline the  
5 Maui Planning Commission's review of the subject  
6 applications.

7 CHAIR MOLINA: Ms. Loudermilk?

8 MS. LOUDERMILK: Good afternoon, Mr. Chair and Members  
9 of the Committee. The Maui Planning Department  
10 conducted the Public Hearing on the proposed  
11 action on November 14th, 2006. At that Public  
12 Hearing, no testimony was received. Prior to  
13 the Public Hearing held on November 14, the  
14 Commission went on a site visit of the property  
15 in October of that same year. As no additional  
16 testimony was received during the Public  
17 Hearing, the Planning Commission recommended  
18 approval of the Community Plan Amendment and  
19 also recommended the approval of the Change in  
20 Zoning to the Maui County Council, subject to  
21 the following conditions.

22 Condition No. 1 limits the use of the  
23 property, in such that it remains industrial in  
24 nature. However, the intent is to allow for one  
25 restaurant within the baseyard, and that

1 shouldn't exceed a total of a thousand feet.  
2 Discussion at the Commission had to do with,  
3 well, you know, let's have lunch wagons or, you  
4 know, some sort of eating place on-site for the  
5 baseyard workers. We just don't want one fancy  
6 and fu-fu kind restaurant over there. Oh,  
7 excuse me. Excuse me.

8 The second condition had to do with  
9 landscape planting for Lot 1C, and that the  
10 landscape planting will be reviewed and approved  
11 by the Planning Department in order to mitigate  
12 the visual impacts of the industrial activities.

13 And thirdly, there will be no building or  
14 structures or the enlargement of any building or  
15 structures to exceed four stories or 48 feet in  
16 height.

17 These three conditions were put on the  
18 previous Change in Zoning within the area to --  
19 from Agriculture to Light Indus- -- to Light  
20 Industrial, and we felt that the commis- --  
21 these conditions are still appropriate. And  
22 during the period of time since the application  
23 was transmitted to the Council, the Department  
24 has worked with Council Staff to further clarify  
25 the intent of the conditions. Basically, what

1 had occurred is that action was taken at once on  
2 the three separate properties, and we wanted to  
3 make clear that each of the three separate  
4 properties should not have a restaurant, only  
5 one of the three properties, and that's been  
6 identified for Lot 1C. Also, that for the  
7 landscape planting plan that is mainly for  
8 Lot 1C, as it was not covered by the previous  
9 Change in Zoning. And Condition No. 3, mainly  
10 again for the Lot 1C, in that it limits the  
11 height to what's allowed in the Light  
12 Industrial.

13 And upon the discussion of these issues  
14 with the Applicant, the Applicant understands  
15 the intent of the conditions and has agreed that  
16 the proposed conditions will remain on the  
17 property identified in Land Zoning Map L-5103.

18 And then the Department and the Applicant  
19 also agree that the Condition No. 1 for the  
20 properties identified in Land Zoning Maps L-5104  
21 and L-5103 should be replaced with the following  
22 language: That the uses on the property shall  
23 be industrial in nature or accessory to the  
24 principal industrial use, such as an office for  
25 a construction baseyard. No pure retail or

1 commercial activity, such as a store or  
2 restaurant, shall be conducted on the property.

3 And I believe Committee Staff has been  
4 working with our Corporation Counsel to  
5 incorporate those changes, and I believe those  
6 are the changes that are before you today. And  
7 that concludes the Department's summary of the  
8 application before the Maui Planning Commission.

9 CHAIR MOLINA: Thank you very much, Ms. Loudermilk.

10 Members, I know you'll have some  
11 questions for the Department and the Applicant  
12 as well, but before we do that, the Chair has  
13 been informed by the Committee Secretary that  
14 there has been no sign-ups for public testimony.  
15 The Chair will offer one last time to anyone in  
16 the gallery who would like to speak on Land Use  
17 Item No. 8.

18 Seeing no one approaching, if there are  
19 no objections, the Chair will close public  
20 testimony for Land Use Item No. 8.

21 COUNCIL MEMBERS: No objections.

22 CHAIR MOLINA: Okay. So noted. Okay, Members, you may  
23 proceed with the questions for the Planning  
24 Department, and before we do that, the Chair  
25 would also like to inform the Committee that we

1 have in attendance as well, in the gallery, from  
2 the Public Works Department, Deputy Director  
3 Mike Miyamoto; and the Director of Environmental  
4 Management, Ms. Cheryl Okuma, as well as Scott  
5 English, Lieutenant Scott English from the  
6 Department of Fire and Public Safety; and on  
7 call is the Deputy Water Director, Eric  
8 Yamashige.

9 So, with that being said, Members, the  
10 floor is open for any questions for either the  
11 Planning Department or the Applicant.

12 Mr. Hokama, and the Chair would like to  
13 acknowledge your presence to our proceedings  
14 today, Chairman.

15 COUNCILMEMBER HOKAMA: Thank you, Mr. Molina. And,  
16 Chairman, my apologies for my lateness in coming  
17 to your meeting this afternoon.

18 This would be for the Planning  
19 Department. When the request was before the  
20 State Land Use Commission, was there any  
21 discussion, since, you know, we are now informed  
22 of other types of a nonresidential request, that  
23 a housing component be considered, so, was that  
24 ever part of the Commission's discussion  
25 regarding this specific proposal? Do you recall

1           any, whether or not a housing component should  
2           be considered?

3 MR. YOSHIDA: I believe that this application was heard  
4           by the Land Use Commission in 1996, and, no, I  
5           don't believe there was any discussion about a  
6           residential component.

7 COUNCILMEMBER HOKAMA: Has your Department recently  
8           rechecked with the Commission to see if they had  
9           additional comments as they have placed on other  
10          recent reclassification request for the island  
11          of Maui?

12 MR. YOSHIDA: I believe that the subject parcel did  
13          receive incremental redistricting, I think it  
14          was in 2005.

15 MS. LOUDERMILK: Yes.

16 MR. YOSHIDA: I don't -- I don't think -- I don't  
17          believe there was discussion about employee  
18          housing or -- at that meeting.

19 COUNCILMEMBER HOKAMA: Do you believe it appropriate  
20          for this Committee to have a discussion on the  
21          subject matter? 'Cause as you're well aware,  
22          lady and gentlemen, that our employee workforce  
23          housing ordinance was intended to take all  
24          developments into consideration.

25 MR. YOSHIDA: I believe for a few of the Light



1 Industrial reclassifications that came before  
2 the State Land Use Commissions, such as the  
3 Waiko Baseyard and the Hawaii Business, Part 2,  
4 you know, there was a requirement for the  
5 Applicant to do some kind of housing study,  
6 because at that time there was no workforce  
7 housing policy, and I think that was presented  
8 to the Council in terms of when they dealt with  
9 the -- the Change in Zonings for those two  
10 applications.

11 COUNCILMEMBER HOKAMA: And forgive me -- the Planning  
12 Department, Mr. Yoshida, are you referring to a  
13 study that I believe Mr. Kunihisa prepared maybe  
14 two, three years ago, regarding industrial  
15 commercial properties and how we would consider  
16 maybe making a reasonable assessment; is that  
17 what you're referring to? Because I remember we  
18 did have discussion by Council Committee  
19 regarding that work product that he submitted,  
20 and I think at that time we also discussed how  
21 San Diego has approached it where it's a  
22 square-footage formula to come up with some type  
23 of housing component on industrial and  
24 commercial properties. Is that what you are  
25 referring to, Mr. Yoshida?

1 MR. YOSHIDA: I believe there was a housing study. I'm  
2 not sure who did the study for the Waiko  
3 Baseyard, when that came before the Council Land  
4 Use Committee. And there was also a housing  
5 study done for the Maui Business, Part 2, Change  
6 in Zoning, which is pending before the Land Use.  
7 Committee.

8 COUNCILMEMBER HOKAMA: But the Land Use Commission on  
9 that specific application did have a housing  
10 component -- or condition of approval. Is this  
11 Committee correcting its understanding regarding  
12 that specific land use request?

13 MR. YOSHIDA: Yes. They did require the Applicant to  
14 conduct a housing study --

15 COUNCILMEMBER HOKAMA: Not to provide...

16 MR. YOSHIDA: -- and submit it with their zoning  
17 request.

18 COUNCILMEMBER HOKAMA: Wasn't there a minimum acreage  
19 that they had to comply with?

20 MR. YOSHIDA: Yes, they had to -- I believe they had to  
21 have at least --

22 COUNCILMEMBER HOKAMA: Ten acres?

23 MR. YOSHIDA: -- 10 acres or so.

24 COUNCILMEMBER HOKAMA: Gee. You know, since Mr. Mateo  
25 is not here, you know, I just wish, as his

1           Committee's sub Vice-Chairman, to bring up these  
2           points of consideration and, you know, we would  
3           appreciate your Department's comments and  
4           recommendations to this Committee, if, one, we  
5           should consider a component of condition of  
6           zoning; and, two, what would -- may be an  
7           appropriate param- -- perimeter of consideration  
8           for this application.

9                     Mr. Chairman, thank you very much for my  
10           opportunity.

11 CHAIR MOLINA:   Okay. Thank you very much, Chairman  
12           Hokama.

13                     Members, we'll continue the line of  
14           questioning for the Planning Department, as well  
15           as the Applicant, who is here. And by the way,  
16           I neglected to mention the Applicant himself,  
17           Mr. Earl Stoner is here, as well, for any  
18           questions that you may have in addition.

19                     Mr. Pontanilla?

20 VICE-CHAIR PONTANILLA:   Yeah, just for clarification to  
21           the Department in regards to the conditions.  
22           Are these the only three conditions that is set  
23           for this particular project?

24 MS. LOUDERMILK:   For the Change in Zoning, yes.

25 VICE-CHAIR PONTANILLA:   There's other conditions that

1           need to be complied?

2 MS. LOUDERMILK: No. Those are the only conditions.

3 VICE-CHAIR PONTANILLA: Okay. The other question that

4 I have is that, you know, Mr. Hokama brings out

5 a very good point, in regards to our workforce

6 housing in regards to the, you know, industrial

7 subdivision or business parts. The question

8 that I have is maybe for Corporation Counsel, is

9 that if the property is leased, does the lessor

10 need to comply with the workforce housing

11 policy?

12 MR. GIROUX: I don't think this is something that we've

13 looked at, but it seems pretty novel in that

14 sense, as far as I think we've always looked at

15 aspects of the developer, development, people

16 who are investing to -- to buy and sell the

17 property.

18 VICE-CHAIR PONTANILLA: Uh-huh.

19 MR. GIROUX: I need to research that and maybe talk to

20 the other attorneys who participated in drafting

21 that bill, to see how that would apply to

22 somebody who is actually only leasing

23 properties.

24 VICE-CHAIR PONTANILLA: Thank you. And, Chair, under

25 your signature, maybe something can be sent to

1 Corporation Counsel in regards to the question  
2 that I posed?

3 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Staff  
4 will make note of that.

5 Members, any other questions for the  
6 Department, the Applicant, or Corporation  
7 Counsel at this time? Mr. Medeiros?

8 COUNCILMEMBER MEDEIROS: Mahalo, Chair. I'm looking  
9 at, you know, what is allowed in Heavy  
10 Industrial, and Lot 1C borders Mokulele Highway,  
11 and did you consider the prevailing winds in  
12 that area, that blow through that industrial  
13 area across Mokulele in setting some conditions?

14 MS. LOUDERMILK: Yes. And part of the conditions have  
15 to do with the landscape buffering. And in  
16 terms of the types of uses, processing has to  
17 occur in an enclosed structure. But that was  
18 taken into consideration, as well the proximity  
19 to Mokulele Highway. We worked with the  
20 Department of Transportation to ensure that  
21 their project for the widening and the proposed  
22 improvements that would be required for the  
23 widening, as well as the expansion of the  
24 Central Maui Baseyard into this area were  
25 compatible uses.

1 COUNCILMEMBER MEDEIROS: So who would develop and  
2 approve the landscaping plan?

3 MS. LOUDERMILK: The -- the Applicant would be required  
4 to develop the landscaping plan. Once  
5 developed, it will be submitted to the Planning  
6 Department and probably assigned to myself for  
7 review and approval, and that would need to be  
8 done prior to the issuance of some of the  
9 permits that would be needed to -- to go  
10 forward. So the Planning Department will be the  
11 final authority.

12 COUNCILMEMBER MEDEIROS: And who would be responsible  
13 for the continuous maintenance of the  
14 landscaping?

15 MS. LOUDERMILK: The Applicant has indicated that his  
16 entity would maintain the landscape planting, as  
17 long as the facility is being used as such.  
18 He's been doing it right now, he's been working  
19 with Department of Transportation.

20 COUNCILMEMBER MEDEIROS: The entity being the owner or  
21 the leaseholder or...

22 MS. LOUDERMILK: The leaseholder.

23 COUNCILMEMBER MEDEIROS: The leaseholder. Because, you  
24 know, in M-2, Heavy Industrial District, there  
25 are some things that are allowed, even with

1 Special Use Permits, that seem to be of concern  
2 when you have that much traffic going by such an  
3 area. And, so, the landscaping plan would be  
4 able to mitigate, you know, like dust, noxious  
5 and offensive fumes, smoke, noise, vibrations?  
6 Because Heavy Industrial is some heavy  
7 operation.

8 MS. LOUDERMILK: Maybe not all of that, but I think  
9 the -- the reason the request for Heavy  
10 Industrial came in, is that to operate a  
11 junkyard, you have to be Heavy Industrial, you  
12 cannot be Light Industrial. And the proposed  
13 conditions were based on that there would not be  
14 more noxious-type uses. However, that should  
15 the Committee decide that they want to limit,  
16 that would be the -- the will of the Committee.  
17 Because our intent was basically Heavy  
18 Industrial to allow for the junkyard processing,  
19 and uses allowed in Heavy Industrial are also  
20 light industrial and business in nature.

21 COUNCILMEMBER MEDEIROS: Because under Heavy Industrial  
22 Special Use Permits, you know, you can  
23 manufacture chemicals, and oil, and alcohol and,  
24 you know, ammonia, chlorine.

25 MS. LOUDERMILK: Yeah.

1 COUNCILMEMBER MEDEIROS: Lot of flammable, creosol,  
2 explosives, fertilizer. It seems like that lot  
3 would be of concern, being as close as it is to  
4 the public's travel. And I was just wondering  
5 if, you know, the Planning Department made those  
6 observations in the Maui County Code.

7 MS. LOUDERMILK: Yes, we did. We did make those  
8 observations.

9 COUNCILMEMBER MEDEIROS: Okay. And so after those  
10 observations, you just had three conditions to  
11 put on this project?

12 MS. LOUDERMILK: Yes.

13 COUNCILMEMBER MEDEIROS: Okay. Thank you, Chair.

14 CHAIR MOLINA: Thank you, Member Medeiros.

15 Just following up on Member Medeiros'  
16 question with regard to the landscaping issue,  
17 if I could ask Corporation Counsel to comment.  
18 Based on the language that's written for  
19 Condition No. 2, under Exhibit B, is that  
20 language appropriate or, I guess for lack of a  
21 better word, strong enough to ensure that full  
22 mitigation of the visual impacts of the  
23 industrial activity will be, I guess, buffered  
24 by the, you know, I guess the landscaping or the  
25 vegetation that's -- that would be part of the



1           landscaping plan? Would we need to add  
2           additional language or is that -- will that  
3           suffice?

4 MR. GIROUX: Let me -- let me pull my copy out.

5 CHAIR MOLINA: Okay. Mr. Giroux, while you're looking  
6           at that, while you're doing that, I guess I'll  
7           get my next question out to Ms. Loudermilk.

8                       Was there any recommendation with regards  
9           to Condition 1, on the restaurant, as far as the  
10          hours of operation? I know there's a -- I guess  
11          there was thought of I guess having this  
12          restaurant be open for breakfast and lunch.  
13          Were there any recommendations that the  
14          Committee can consider, for example, like from  
15          5:00 a.m. till 2:00 p.m., can you comment on  
16          that?

17 MS. LOUDERMILK: There were no recommendations for  
18          hours of operation --

19 CHAIR MOLINA: Okay.

20 MS. LOUDERMILK: -- that was discussed.

21 CHAIR MOLINA: Okay. I guess at a later point, we can  
22          continue this discussion possibly with the  
23          Applicant as well.

24                       Mr. Giroux, are you ready to respond to  
25          the earlier question?

1 MR. GIROUX: Thank you, Chair. Yes, I did -- I did  
2 look at that condition and it did raise some  
3 concern for me, as far as just maybe adding some  
4 clarity that not only will a plan be submitted,  
5 but that within the condition, that it would be  
6 enforced to maintain a continual, you know,  
7 continual buffer. Meaning that, you know, that  
8 once the plan was submitted to the Department,  
9 that wouldn't be the end of the condition. The  
10 plan or the condition should probably read that  
11 not only the plan be submitted, but that -- that  
12 the continual visual buffer shall -- shall  
13 remain once they are established.

14 I think the way it's written, it kind of  
15 leaves some ambiguity, and just being an attorney,  
16 I just hate ambiguity. So I think, you know, it  
17 would be defensible, you know, but it really  
18 leaves the Department kind of having to make  
19 almost a legal argument that the plan needs to be  
20 enforced. I think the language should be clear  
21 within the condition that not only are you going  
22 to submit a plan, but that that plan shall remain  
23 in full force and effect to -- to maintain that  
24 continual buffer.

25 CHAIR MOLINA: Okay. Thank you, Mr. Giroux.

1 Member Baisa, questions?

2 COUNCILMEMBER BAISA: I guess I might as well continue  
3 along with the landscaping plan because the  
4 first time I heard it, kind of a little alarm  
5 went off in my head. Just want to follow up to  
6 make sure that we are, in doing landscaping,  
7 that we are being sensitive to water use and  
8 conservation, and that we're considering  
9 Xeriscaping so that -- it's such a dry, hot  
10 area, and yet we know we need to have the visual  
11 taken care of, but I want us to be careful about  
12 water.

13 CHAIR MOLINA: Thank you, Member Baisa.

14 Members, any other questions for the  
15 Department or the Applicant? Member Hokama?

16 COUNCILMEMBER HOKAMA: Mr. Chairman, your request is  
17 regarding all Departments or just this  
18 Department?

19 CHAIR MOLINA: This Department or if you have any  
20 request for our resource personnel, that we have  
21 Solid Waste -- excuse me, Environmental  
22 Management Division, Public Works, we have them  
23 in the gallery as well, if you have questions  
24 for them.

25 COUNCILMEMBER HOKAMA: I would like to ask Lieutenant

1 English, if you would come up, regarding the  
2 Fire Department's comments, please.

3 CHAIR MOLINA: Okay. So noted, Member Hokama.

4 Lieutenant English?

5 COUNCILMEMBER HOKAMA: Thank you, Lieutenant. In your  
6 written comments, I am made aware of the  
7 Department's concerns regarding some of the  
8 vehicular fluids that obviously some will be  
9 very flammable, as well as the, I guess the  
10 level of fire, a water fill fire -- fire -- fire  
11 response, whether it be through the hydrants or  
12 whatnot. Has anything changed since your letter  
13 of 2005, Lieutenant, that has been addressed by  
14 the Applicant working with you in your  
15 Department to mitigate potential fire issues or  
16 fire prevention issues that you could share with  
17 the Committee this afternoon, please?

18 CHAIR MOLINA: Lieutenant English?

19 LIEUTENANT ENGLISH: Good afternoon, Council Chair and  
20 Council. At this point, that letter from 2005  
21 addressed basically the fire flow requirement  
22 for the Heavy Industrial, which is 2500 gallons  
23 a minute. My only concern, I mean, I was --  
24 when he wrote that letter, I think Captain  
25 Martin wrote that letter. We were looking at 1C

1 for the SS -- SOS sheet metal process. As I  
2 know of, the Water Department brought in a new  
3 12-inch water main along Mokulele, tapped into  
4 the Central Maui Baseyard.

5 I'm thinking, you know, Central Maui  
6 Baseyard, we only have 8-inch water mains, and  
7 my concern is the further we get away from  
8 Mokulele, we might not have that fire flow for  
9 that 2500 gallons a minute due to friction loss,  
10 the further you get away from the 12-inch. So,  
11 I think SOS, being so close to Mokulele, will be  
12 okay with that, but I wasn't aware of the other  
13 lots being zoned Heavy Industrial further away,  
14 so we may have to do some flow tests in the  
15 baseyard itself, to see we have that fire flow.

16 COUNCILMEMBER HOKAMA: And, Lieutenant, I thank you for  
17 that information regarding the Water  
18 Department's efforts to upgrade the 12-inch line  
19 that will be running by this project site.

20 Would you -- do you think it would be  
21 appropriate for this Committee to consider a  
22 condition whereby on-site storage might be one  
23 way to mitigate your concern of the need for  
24 water for fire purposes, fire prevention, or  
25 fire response? I noticed in one of the letters,

1           it was mentioned about storage. Is that  
2           something that your vision of the Fire  
3           Department is open to or wish to have us  
4           consider regarding as one way to mitigate some  
5           of your issues?

6   LIEUTENANT ENGLISH: I think the storage was for when  
7           they drained the cars of the fluids, they would  
8           need to get provisions for aboveground tanks  
9           that will contain, say, like gasoline or the  
10          motor oil, until it can be properly disposed of.  
11          And I think that's what the container storage  
12          permit that they need to apply for, I think they  
13          may have done it by now.

14   COUNCILMEMBER HOKAMA: Okay.

15   LIEUTENANT ENGLISH: To just contain the combustible  
16          and flammable liquids.

17   COUNCILMEMBER HOKAMA: Okay. What about a storage  
18          tank? Does that make sense? To have a water  
19          storage tank on the site, as backup for either  
20          pressure or additional water resources to  
21          respond?

22   LIEUTENANT ENGLISH: Yeah, if the system cannot provide  
23          the adequate fire flow, they can put like an  
24          on-site storage tank, probably with a fire pump  
25          to maintain that flow of 2500 gallons a minute,

1           because the area is pretty flat. We're not  
2           going to get no gravity, high pressure gravity  
3           fed from a tank that's put in that area, so they  
4           have to be off some kind of fire pump.

5   COUNCILMEMBER HOKAMA: Well, one of my concerns with  
6           this area, Lieutenant, is wind velocity and the  
7           regularity of the wind, particularly the trade  
8           winds, and that's why we know why we use Kahului  
9           Airport, so I can envision a rapidly spreading  
10          brushfire out of control. So that's one of my  
11          concerns. Would you, in your Department, think  
12          it might be appropriate for us to require that  
13          maybe annually or twice a year, the Applicant  
14          maintain firebreaks around the perimeter of the  
15          property as a way of prevention? Would that be  
16          something that, from a public safety standpoint,  
17          might make good policy for us to consider?

18   LIEUTENANT ENGLISH: Yeah, that would be an excellent  
19          suggestion to maintain, say, a hundred-foot  
20          buffer around the perimeter of the baseyard.  
21          Yeah, because we have Mokulele on one side, that  
22          gives a pretty good buffer. Puunene side or  
23          back towards Kahului, I think we have, say, a  
24          30- or 40-foot road, then we have cane fields  
25          right there. So it would be a good idea to try

1 and maintain at least a hundred-foot buffer, so.

2 COUNCILMEMBER HOKAMA: I'm more concerned about, you  
3 know, downwind, which would be the south Maui  
4 side of the property. Because that would be,  
5 you know, the way the trades typically blow, go  
6 that way; right, down towards south?

7 LIEUTENANT ENGLISH: Yeah. So if it's downwind, so the  
8 best buffer would be on the plantation site  
9 where HC&S is right now, because the brushfire,  
10 the threat would be from the plantation side.

11 COUNCILMEMBER HOKAMA: When they burn the cane?

12 LIEUTENANT ENGLISH: Yeah, going into the baseyard. As  
13 far as the baseyard, somewhere in the baseyard  
14 catch fire, and it spreads to the Kihei side --

15 COUNCILMEMBER HOKAMA: Right.

16 LIEUTENANT ENGLISH: -- then we have, I would say, a  
17 lot of cane field before we threat, then would  
18 be the armory would be the next.

19 COUNCILMEMBER HOKAMA: Right.

20 LIEUTENANT ENGLISH: And they maintain the area pretty  
21 good, as far as around the armory.

22 COUNCILMEMBER HOKAMA: Okay, Lieutenant. Is there  
23 something that we need to be informed by you and  
24 your Department regarding the permitted uses of  
25 a Light Industrial/Heavy Industrial that could



1           be a cause of spontaneous combustion? Is there  
2           things that we need to know about, so that we  
3           can appropriately try and mitigate it through  
4           conditions that you're aware that can happen in  
5           an industrial area?

6   LIEUTENANT ENGLISH: That...

7   COUNCILMEMBER HOKAMA: Whether it be the storage piles  
8           or things...

9   LIEUTENANT ENGLISH: Yeah, that is very true, of  
10           different kind of storage area. As far as for  
11           metal, not a big problem. I know that the  
12           processing plant, we did have installed fire  
13           sprinklers in that existing building now. If it  
14           was ever to change, not a change of use but  
15           change of operation, that may be a concern.

16   COUNCILMEMBER HOKAMA: Okay. Is there something you  
17           could recommend to us this afternoon on how to  
18           structure language that the Applicant could  
19           comply with, to mitigate this concern of ours?  
20           And I'm sorry, Lieutenant, to put you on the  
21           spot, but if you have something to recommend,  
22           you know, I am very open to your suggestions.

23   LIEUTENANT ENGLISH: I would say maybe a condition  
24           should put on the properties, that before they  
25           use a change of operation, we should get some

1 approval by the Fire Department. If they do  
2 some kind of recycle operation, compost recycle  
3 plant, you know, that it has spontaneous  
4 combustion, dangerous, so that kind of  
5 operations, yeah, we want to know what's going  
6 to happen in that properties.

7 COUNCILMEMBER HOKAMA: Okay. Lieutenant, thank you  
8 very much for your responses to my questions.

9 Chairman, thank you.

10 CHAIR MOLINA: Okay. Thank you, Member Hokama.

11 Mr. Pontanilla?

12 VICE-CHAIR PONTANILLA: Thank you.

13 You know, I agree with the Fire  
14 Department as well as Mr. Hokama on the downwind  
15 side, that we should create a buffer zone. This  
16 buffer zone that we're talking about, you know,  
17 in looking at different buffer zones, it's all  
18 cleared land, right? But when I look at this  
19 map, here, it seems like there's -- I know  
20 there's a ditch that runs along the perimeter  
21 off the property on the south side, and there's  
22 lot of kiawe growth. For it to create a buffer,  
23 you know, it means taking out all those trees  
24 that's on that side of the property, south side  
25 of the property. I don't know, you know, the

1 Fire Department's policy in regards to if  
2 there's green trees growing along an open ditch,  
3 would that be sufficient as a buffer zone,  
4 although there's, you know, vegetation, forestry  
5 along that ditch?

6 LIEUTENANT ENGLISH: Yeah, as far as the -- as the fire  
7 code ruling as far as combustible brush, it's  
8 like anything dried, over 18 inches. Living and  
9 standing trees is not considered a combustible  
10 vegetation. So, I mean, if they're concerned  
11 about water to try and maintain a green property  
12 around the area, I mean, you're going to be  
13 using a lot of water. If they just would clear  
14 it out, maybe gravel it, keep all the vegetation  
15 from growing, that would be a -- probably be the  
16 ultimate buffer and probably less dust, too.

17 VICE-CHAIR PONTANILLA: So the ground vegetation?

18 LIEUTENANT ENGLISH: Yes.

19 VICE-CHAIR PONTANILLA: Okay. Fine. Thank you.

20 Mr. Chair?

21 CHAIR MOLINA: Thank you, Mr. Pontanilla.

22 Mr. Victorino?

23 COUNCILMEMBER VICTORINO: Thank you, and I agree with  
24 my colleagues, but I think I have a bigger  
25 concern than -- than -- than -- than fires

1           because I look downwind, and I would be very  
2           concerned if a major fire was to erupt in this  
3           area with flammable fumes, because those would  
4           travel a great deal with very little control.  
5           And I don't know, you know -- I know we've had  
6           many complaints about cane fires being burnt and  
7           the soot going down to Kihei, and those would be  
8           my concerns, that if we were to have a major  
9           industrial fire in that area, especially what my  
10          colleague, Mr. Medeiros, brought up about other  
11          things being done on property and some of the  
12          uses that Heavy Industrial is allowed to, I  
13          think the only condition -- one of the  
14          conditions I'd like to see is that any change  
15          from what their original intent, has to be  
16          approved by the Fire Department and whoever  
17          other regulatory bodies, that there would be no  
18          chance of what the Fire Department is looking  
19          at, is a possibility, not only of a big fire.

20                 Because I think -- the big fire doesn't  
21          bother me, so long as we don't have homes in  
22          this area. Maybe one day, that might change.  
23          Right now, we've got a lot of land between this  
24          point, and you can't even see in the picture,  
25          you can't even see the national armory, the

1           armory. So the National Guard Armory is far  
2           enough, we can't see it, so I'm not worried  
3           about fires, except I worry about fumes that  
4           could be fanned by the strong winds that would  
5           occur. Does that make sense, Lieutenant  
6           English?

7   LIEUTENANT ENGLISH: Yeah. If, say, one of their  
8           storage tanks that hold in, say, the waste oil,  
9           catches -- ignites on fire, as far as the fuel  
10          storage, it will stay right there. As far as  
11          the air pollution or the contaminants in the  
12          area blowing towards Kihei, that would be a  
13          problem.

14                 As far as -- I know we have a standard,  
15                 you know, DOT transportation book, as far as  
16                 different types of hazard, how much evacuation  
17                 we need, and, worst-case scenario, I think it's  
18                 a one-mile evacuation around from certain types  
19                 of hazardous chemicals, which we have that right  
20                 now. So if the smoke reach the Kihei area, it  
21                 may cause some problem, but like I said, they  
22                 are more than one mile away, as far as from the  
23                 true hazard.

24   COUNCILMEMBER VICTORINO: So you wouldn't see that as a  
25           major concern as --

1 LIEUTENANT ENGLISH: Not...

2 COUNCILMEMBER VICTORINO: -- as far as...

3 LIEUTENANT ENGLISH: Not at this time, yeah. It's just  
4 as bad as the tank farms being right next to  
5 Maui Mall.

6 COUNCILMEMBER VICTORINO: Okay. Okay. Thank you.

7 CHAIR MOLINA: Thank you, Mr. Victorino.

8 All righty, Members. If there -- do we  
9 have any other questions before the Chair offers  
10 a recommendation at this point?

11 Okay. Mr. Pontanilla.

12 VICE-CHAIR PONTANILLA: This is for, not for the  
13 Department but Mr. Glenn Tadaki, when he did his  
14 presentation, there's one slide that was kind of  
15 interesting -- interested in. This is almost  
16 towards the -- maybe the middle of his  
17 presentation. There's this one photo that shows  
18 the -- the old Mokulele Highway as well as the  
19 utility poles, and I'm assuming that Lot C is  
20 that big open field.

21 CHAIR MOLINA: Can you tell us, Mr. Pontanilla,  
22 which -- what the title of the...

23 VICE-CHAIR PONTANILLA: Lot 1C, View from SOS Metal  
24 Recycling Facility camera facing north.

25 CHAIR MOLINA: Okay. And you want the Applicant to

1           respond?

2 VICE-CHAIR PONTANILLA: Yeah.

3 CHAIR MOLINA: Do you have a question?

4 VICE-CHAIR PONTANILLA: I see all those fire hydrants  
5           on that old Mokulele Highway location, and where  
6           this turn-off is located, is that the end of the  
7           property for Lot 1C?

8 CHAIR MOLINA: Okay. Members, we're going to have the  
9           Applicant or the Applicant's representative come  
10          up to respond to Member Pontanilla's questions.  
11          Any objections?

12 COUNCIL MEMBERS: No objections.

13 CHAIR MOLINA: Okay. Thank you. Mr. Stoner, if you  
14          could come up and have a seat and join us here.  
15          I know you've recently had knee surgery.

16 MR. STONER: I think I'm okay for the moment.

17 CHAIR MOLINA: You're okay?

18 MR. STONER: If I don't have to stay up here for too  
19          long. Thank you.

20 CHAIR MOLINA: Okay.

21 MR. STONER: I think I could put a lot of these  
22          questions to rest very quickly, and I appreciate  
23          the opportunity to testify. I'm Earl Stoner,  
24          the president of S&F Land Company, which is the  
25          Applicant. Mr. Chair, Members of the Committee,

1           thank you.

2                     In response to the question, the -- the  
3           old Mokulele Highway, new Mokulele Highway is  
4           the western boundary of our entire property at  
5           this time. The northern boundary is the former  
6           Waiko Road. The easterly boundary is an awai  
7           for about half of the property and then the  
8           balance is a sugar cane field, and the extreme  
9           east boundary is a major cane haul road, which  
10          serves the north-south service for HC&S, and the  
11          south boundary is Pulehu Stream.

12                    The provision of a hundred-foot buffer,  
13          by taking out the vegetation at Pulehu Stream  
14          would fly directly in the face of both the Corps  
15          of Engineers and other entities from the Land  
16          Use Commission. We are required under our  
17          approval from the Land Use Commission to keep  
18          that stream vegetation in place, to fence it and  
19          to keep the wildlife, et cetera, safe in that  
20          location. So six, half a dozen or the other, we  
21          kind of have to live with that situation.

22                    I think that this stream vegetation is  
23          generally quite green in that location, so I  
24          think it provides an adequate buffer similar to  
25          green sugar cane in there, and I don't think we



1 have any other buffer problems.

2 With respect to landscaping, which was  
3 one of the questions that came up, we have had,  
4 in effect, for the past 15 years, a landscape  
5 plan for the baseyard, which included oleander  
6 hedges, koa trees, and be-still hedges. If you  
7 go to the baseyard and look at it, you'll see a  
8 lot of that is presently in place. There's  
9 already a be-still hedge along the highway at  
10 Lot 1C, and we intend to continue adding to that  
11 as we develop Lot 1C, assuming we receive  
12 approval of that.

13 With respect to our facility, it is a  
14 leasehold facility, it is not a for-sale  
15 facility. It has been a leasehold facility  
16 since 1984, and as far as I'm concerned, will  
17 continue in that vein for the foreseeable  
18 future. I think that responds to the question  
19 of housing. We're in a situation where we're  
20 not benefiting by the sale of property, and we  
21 do not intend to benefit by the sale of  
22 property.

23 Let's see, I think there were couple of  
24 other questions that were raised that -- oh.  
25 The fire flow situation, we presently come off

1 the 36-inch high pressure main at Mehameha Loop.  
2 We have installed all of the off-site water  
3 improvements for the baseyard, approximately  
4 three and a half million dollars worth of  
5 improvements along Mokulele Highway and along  
6 Mehameha Loop, which also takes care now of the  
7 armory and assorted other areas. So that was  
8 done by us during the past 15 years, and that  
9 water system is in place.

10 We constantly, as we have developed the  
11 project, have met with the Fire Department, the  
12 fire marshal's office, provided them drawings of  
13 our fire system, we have appropriate hydrant and  
14 fire system throughout the baseyard and we've  
15 constantly pressure tested that, to the levels  
16 that are required by law, from improvements in  
17 that area.

18 As to M-2 zoning, to be very honest with  
19 you, with the exception of SOS Metals, the M-2  
20 zoning request was strictly in response to a  
21 request from the former Administration. They  
22 asked that we add approximately 9 and a half  
23 acres to our request, to add more M-2 zoning  
24 which they felt was necessary at that time. We  
25 do have the ability to provide M-2 zoned area to

1 future users, if we have users of that type.  
2 However, at this time we don't have anybody that  
3 is M-2 required except SOS Metals.

4 It would be my anticipation that the  
5 properties, as they are infilled in that area,  
6 that they would be M-1 primarily, but we will  
7 always have the ability to go to M-2 uses, if  
8 necessary. However, our lease with A&B  
9 restricts our uses substantially with respect to  
10 environmental hazard, et cetera, so I think some  
11 of the concerns that were expressed with respect  
12 to noxious fumes, smoke, et cetera, are items  
13 that we would not allow on the property, even if  
14 we had an M-2 zone user that wanted to do that  
15 type of use. We're not gonna have a tanning  
16 plant or a chemical plant at Central Maui  
17 Baseyard, even if we have M-2 zoning.

18 We may have other metal -- metal  
19 processing facilities or similar type of uses  
20 which do not create a large fire hazard or other  
21 problem, but we do not want to have uses that  
22 would in any way create a noxious problem for  
23 us, because we're responsible for that cleanup.  
24 We're the first online people with that  
25 responsibility.

1           We conduct presently an annual,  
2           substantial annual environmental inspection by a  
3           third-party engineering entity that is strictly  
4           in the environmental engineering business, that  
5           we have to provide both to our lessor, A&B, and  
6           to other entities, statewide, to assure that we  
7           are operating in a -- an efficient and safe  
8           manner, and that we're using best management  
9           practices, particularly with respect to fire  
10          hazard and related things. Storage of oil,  
11          storage of other flammables, automotive fluids,  
12          et cetera, storage of any noxious items like  
13          paints, thinners, et cetera, this is all covered  
14          in that annual report, and it is -- it is done  
15          on an annual basis.

16           We do an internal semiannual report to  
17          supplement that, to assure that we do not have  
18          problems of that type, cropping up at the  
19          baseyard because I can tell you that we're  
20          probably more concerned than any single Council  
21          Member here, with respect to clean management of  
22          that facility.

23           And I would -- I would welcome your  
24          review of the facility at any time. I'd be  
25          happy to go over annual reports with you, and

1 show you what we've done for the last 15 or 20  
2 years out there. I think we've improved it on a  
3 regular basis and we would continue to do so.  
4 If there are other questions, I'll be happy to  
5 try to respond.

6 CHAIR MOLINA: Thank you, Mr. Stoner. I think you've  
7 answered a lot of questions.

8 Mr. Pontanilla, do you have any other  
9 questions, because the Chair has one question  
10 for the...

11 VICE-CHAIR PONTANILLA: No. I think he answered a lot  
12 of questions.

13 COUNCILMEMBER VICTORINO: He covered all  
14 that...(inaudible)...

15 CHAIR MOLINA: Thank you. All right. Mr. Stoner, one  
16 question I have is with regards to the condition  
17 for the restaurant. I guess no set hours were  
18 established. Your tenants, I presume you must  
19 have heard feedback as to, you know, what times  
20 that would be suggested or recommended. Would  
21 you look at maybe a 5:00 a.m. till 2:00 p.m.  
22 type of...

23 MR. STONER: Absolutely. No problem there at all. The  
24 suggestion for a restaurant came from the former  
25 Planning Director at the meeting. I did not

1 bring it up. It was a surprise to me and,  
2 frankly, I think it was a good idea. We have  
3 since instituted a lunch wagon operation at the  
4 baseyard, which is operating successfully at  
5 this time. He operates presently from 5:30,  
6 6:00 in the morning until 2:00 in the afternoon.  
7 I would say lunch -- lunch and breakfast are the  
8 only things that we would have out there.

9 I would also point out that the baseyard  
10 is closed off at seven o'clock every evening  
11 with a gated facility which minimizes access.  
12 The only access is by card for tenants and their  
13 employees, so that would resolve that issue.  
14 And if somebody is concerned about something  
15 that would be serving people driving by, on the  
16 highway, they'd have to come inside the  
17 baseyard, if they could see it, and they won't  
18 be able to see it with our landscaping buffer.

19 CHAIR MOLINA: Okay. And, typically, most of your  
20 tenants begin -- their businesses open up at  
21 5:30, six o'clock?

22 MR. STONER: Yeah. Some even earlier than that. Some  
23 of the trucking agencies and contractors are out  
24 there four -- we have suggested to the lunch  
25 wagon guy that he operate maybe from 4:00 till

1           2:00. But we would certainly have no problem  
2           with a restriction of that type. As I say, we  
3           were pleased with the suggestion and if it needs  
4           to be restricted, we'll be happy to go along  
5           with any restriction you'd like to put on it.

6 CHAIR MOLINA: And no request for liquor at the  
7           restaurant at this time?

8 MR. STONER: Not at all.

9 CHAIR MOLINA: We will incorporate that as...

10 MR. STONER: I don't think any of our trucking entities  
11           want their drivers drinking.

12 CHAIR MOLINA: Yeah, okay. Thank you. I just thought  
13           I'd ask.

14                       Members, any other questions for the  
15           Applicant? Mr. Medeiros?

16 COUNCILMEMBER MEDEIROS: Thank you, Mr. Stoner, for  
17           that information. So you lease the property  
18           from A&B?

19 MR. STONER: Yes, sir.

20 COUNCILMEMBER MEDEIROS: And if I may ask you, how long  
21           a lease do you have?

22 MR. STONER: Thirty-five years.

23 COUNCILMEMBER MEDEIROS: Thirty-five?

24 MR. STONER: Yes.

25 COUNCILMEMBER MEDEIROS: Okay. You know, I take your

1 word, you know, to be somebody that has a lot of  
2 integrity, that you don't plan on doing the  
3 other possible uses with the property, but my  
4 concern would be, you may not have the property  
5 forever and somebody else may lease it after  
6 your lease is done, and we may not have the same  
7 intent by a new lessee. So that would be my  
8 concern, because under M-2 Heavy Industrial, and  
9 I think it's a fit in there, except the location  
10 is right along Mokulele.

11 MR. STONER: Uh-huh.

12 COUNCILMEMBER MEDEIROS: And my concern is with the  
13 traveling public, you know, going by there, and  
14 there's quite a bit of traffic that goes by  
15 there.

16 MR. STONER: Well, it was an interesting discussion  
17 that we had with respect to that. By the time  
18 we got around the M-2 zoning, which again I  
19 would point out was requested and suggested by  
20 the former Administration, this was the only  
21 large property, with the exception of the other  
22 two smaller pieces, that was available at the  
23 baseyard for such use.

24 I think there's -- there's a two-edge  
25 sword here. I think it's for -- for uses of



1           that type, which are noxious by their nature, to  
2           a certain extent, I think it's a good idea to  
3           have them in the public eye, you know, readily  
4           visible. The other side of that coin is, there  
5           potentially could be uses. I'd have to say to  
6           you, you'd have to rely on me at this particular  
7           junction to assure you that we will not have  
8           other noxious uses like that, that would in any  
9           way impact on traffic on Mokulele Highway.

10                   I would further point out, you may have  
11           noticed or you may not have, but during the  
12           recent harvesting in that area was substantial  
13           easterly trades, which would tend to push smoke  
14           onto the highway, that even with the  
15           substantially easterly trades that we've had  
16           this year, the dust has gone to the east of the  
17           highway from the west, so that the wind during  
18           northeast and easterly periods generally pushes  
19           back onto the baseyard rather than going the  
20           other way, at that location.

21                   That may be little to put your mind at  
22           rest, but I would say if you -- if you're  
23           interested in it, watch the harvest in that area  
24           and we've noticed it very much this year,  
25           because our SOS Metal guys got inundated when

1           they did the field just to the northwest of us,  
2           they just got obliterated, whereas we didn't  
3           have anything when we were rough-grading Lot 1C,  
4           we had nothing going across the highway.

5 COUNCILMEMBER MEDEIROS: Okay. And my other question  
6           is, currently, how high is your landscape  
7           buffer?

8 MR. STONER: The current -- well, I -- I wish that we  
9           still had wiliwili, it would be 30 feet. We  
10          presently have a be-still hedge that is -- the  
11          highest point of it right now, which was planted  
12          early at the north end of Lot 1C, is at about  
13          15 feet. The lower end, which was planted at  
14          the latter part, as SOS moved in, is at about 8  
15          to 10 feet, presently.

16                 We've instructed our landscape  
17          maintenance guys to cut that hedge at the  
18          bottom, on the sides to increase the height. So  
19          we hope to maintain it about a 15-foot height,  
20          and if we are able to kill those little rascals  
21          that attack the wiliwilis, I think we'd probably  
22          go back in with wiliwili hedges at that location  
23          'cause they provide a pretty good 30-foot buffer  
24          there. That would be ideal for the highway.

25 COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Stoner.

1 MR. STONER: You're very welcome.

2 COUNCILMEMBER MEDEIROS: Thank you, Chair.

3 CHAIR MOLINA: Thank you, Mr. Medeiros.

4 I see no other request for questions for  
5 the Applicant. I'd like to thank you,  
6 Mr. Stoner, for...

7 MR. STONER: Thank you, Mr. Chairman, Members of the  
8 Committee. Thank you very much.

9 CHAIR MOLINA: And thank you for responding to those  
10 questions as well.

11 Members, the Chair would like to ask for  
12 a consideration of -- we have six bills to  
13 consider here, and the Chair is going to offer a  
14 recommendation first, on the first three bills,  
15 which is on the back page of your agenda. I'd  
16 like to proceed in making a motion for those  
17 three bills in one motion and then when we get  
18 to bill four, that is where we will discuss the  
19 conditions, and at that point, Members can make  
20 any amendments or additional conditions as well,  
21 so, if there are no objections, the Chair would  
22 like to proceed in that fashion.

23 COUNCIL MEMBERS: No objections.

24 CHAIR MOLINA: Okay. Members, at this point, the Chair  
25 will entertain a motion to -- for "A BILL FOR AN

1           ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY  
2           PLAN AND LAND USE MAP FROM LIGHT INDUSTRIAL TO  
3           HEAVY INDUSTRIAL FOR APPROXIMATELY 9.811 ACRES  
4           SITUATED AT PUUNENE, MAUI, HAWAII." The purpose  
5           of the revised proposed bill is to grant S&F's  
6           request to amend the Kihei-Makena Community Plan  
7           from Light Industrial to Heavy Industrial for  
8           the 9.811-acre property, to accommodate heavy  
9           industrial uses, including the existing metal  
10          recycling facility.

11                   The next bill is a bill entitled "A BILL  
12           FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA  
13           COMMUNITY PLAN AND LAND USE MAP FROM LIGHT  
14           INDUSTRIAL TO HEAVY INDUSTRIAL FOR APPROXIMATELY  
15           58,091 SQUARE FEET SITUATED AT PUUNENE, MAUI,  
16           HAWAII." The purpose of the revised proposed  
17           bill is to grant S&F's request to amend the  
18           Kihei-Makena Community Plan from Light  
19           Industrial to Heavy Industrial for the  
20           58,091-square-foot property, to accommodate  
21           heavy industrial uses.

22                   And the third bill is a bill entitled "A  
23           BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA  
24           COMMUNITY PLAN AND LAND USE MAP FROM LIGHT  
25           INDUSTRIAL TO HEAVY INDUSTRIAL FOR APPROXIMATELY

1 43,810 SQUARE FEET SITUATED AT PUUNENE, MAUI,  
2 HAWAII." The purpose of the revised proposed  
3 bill is to grant S&F's request to amend the  
4 Kihei-Makena Community Plan from Light  
5 Industrial to Heavy Industrial for the  
6 43,810-square-foot property, to accommodate  
7 heavy industrial uses.

8 COUNCILMEMBER VICTORINO: So moved.

9 VICE-CHAIR PONTANILLA: Second.

10 CHAIR MOLINA: It's been moved by Member Victorino,  
11 seconded by Member Pontanilla.

12 Any discussion on the motion for the  
13 first three bills?

14 Seeing none, all those in favor, signify  
15 by saying aye.

16 COUNCIL MEMBERS: Aye.

17 CHAIR MOLINA: All those opposed?

18 Okay. The Chair will mark it 6 ayes with  
19 3 excusals, Members Johnson, Anderson, and  
20 Mateo.

21 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
22 **Medeiros, Victorino,**  
23 **Vice-Chair Pontanilla, and**  
24 **Chair Molina.**

25 **NOES: None.**

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**EXC.:** Councilmembers Anderson,  
Johnson, and Mateo.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION CARRIED**

**ACTION:** Recommending **FIRST READING** of revised  
proposed bills.

CHAIR MOLINA: Members, we are on the fourth bill --

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MOLINA: -- which is a -- yes, Member Hokama?

COUNCILMEMBER HOKAMA: May I have a short recess to  
confer with you, please?

CHAIR MOLINA: Okay. Members, this meeting will be in  
recess until 2:50. (Gavel).

**RECESS: 2:40 p.m.**

**RECONVENE: 2:50 p.m.**

CHAIR MOLINA: (Gavel). Land Use Committee Meeting for  
August 1st, 2007 is now back in session. Thank  
you very much for that break, Members. When we  
last left off, we had just approved the three  
early bills which relate to the amendment of the  
Kihei-Makena Community Plan. And we are now on  
the fourth bill, which relates to a change in  
zoning from Agriculture to M-2 Heavy Industrial  
for approximately 9.811 acres situated at

1           Puunene, Maui, Hawaii. And the intent of this  
2           bill of the -- I should say revised proposed  
3           bill is to grant S&F's request to change the  
4           zoning for the 9.811-acre property from Ag. to  
5           M-2 Heavy Industrial District, to accommodate  
6           heavy industrial uses, and, of course, this  
7           relates to the conditions that had been  
8           discussed prior. So, with that being said,  
9           Members, the Chair will entertain a motion.

10       COUNCILMEMBER HOKAMA: So moved.

11       VICE-CHAIR PONTANILLA: Second.

12       CHAIR MOLINA: Okay. It's been moved by Member Hokama,  
13           seconded by Member Pontanilla.

14                   Member Hokama, as the maker of the  
15           motion, you have the floor, and at this point,  
16           the Chair will consider amendments through the  
17           conditions or additional conditions as well.  
18           Member Hokama.

19       COUNCILMEMBER HOKAMA: Chairman, thank you very much,  
20           and for the recess. I had an opportunity to  
21           inform the Applicant of some of my  
22           considerations for conditions to the zoning  
23           ordinance as part of conditions of zoning.

24                   Chairman, I would ask that the Committee  
25           consider as additional conditions of the subject

1 request under the rezoning for 9.811 acres, three  
2 things. One, that the Fire Department be  
3 consulted prior to any change of permitted uses  
4 within the subject property. Two, that they  
5 continue at a minimum, an annual third-party  
6 environmental assessment. And three, Chairman,  
7 would be the -- excuse me, Chairman, I lost my  
8 notes.

9 CHAIR MOLINA: Okay. Member Hokama, maybe what we can  
10 do...

11 COUNCILMEMBER HOKAMA: Maybe if we can work from the  
12 first...

13 CHAIR MOLINA: Yeah. Let's go ahead and work maybe,  
14 Staff, should we consider that just as one  
15 separate amendment, which is the request to have  
16 the Fire Department be consulted if there are  
17 any additional uses, shall we consider that as,  
18 say, Condition No. 4?

19 MS. NAKATA: Okay.

20 CHAIR MOLINA: Okay? Members, any objections to having  
21 Member Hokama's proposed amendment be considered  
22 as Amendment No. 4?

23 COUNCIL MEMBERS: No objections.

24 CHAIR MOLINA: Okay. So, Staff, would it be  
25 appropriate that a motion be placed on the floor



1 to amend for this condition?

2 MS. NAKATA: Yes, Mr. Chair. Motion to amend to insert  
3 a new Condition No. 4 to read: That the  
4 Department of Fire and Public Safety shall be  
5 consulted prior to any change of permitted uses  
6 within the subject property.

7 CHAIR MOLINA: Okay. Chair is ready for a motion to  
8 the amendment. Mr. Hokama?

9 COUNCILMEMBER HOKAMA: Chairman, I -- I'm happy to make  
10 the motion to amend, by the language recommended  
11 by Committee Staff regarding the notification  
12 for consulting with the Fire Department.

13 CHAIR MOLINA: Okay. Is there a second?

14 VICE-CHAIR PONTANILLA: Second.

15 CHAIR MOLINA: Okay. It's been moved by Member Hokama  
16 and seconded by Member Pontanilla to amend the  
17 proposed bill.

18 Mr. Hokama, any additional discussion on  
19 your proposed amendment?

20 COUNCILMEMBER HOKAMA: Chairman, I am open that if  
21 Committee wishes, since this would be part of a  
22 unilateral agreement that will be recorded with  
23 the Land Court, that if the Applicant wishes to  
24 provide comment, whether or not he's agreeable,  
25 I'm very open to the Committee requesting that

1 consideration.

2 CHAIR MOLINA: Okay. Any other discussion, Members?

3 Okay. Seeing none, all those in favor of  
4 the proposed amendment or additional condition  
5 to the bill, signify by saying aye.

6 COUNCIL MEMBERS: Aye.

7 CHAIR MOLINA: All those opposed?

8 Thank you. The Chair mark it 6-0, with  
9 three excusals, Members Mateo, Anderson, and  
10 Johnson.

11 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
12 **Medeiros, Victorino,**  
13 **Vice-Chair Pontanilla, and**  
14 **Chair Molina.**

15 **NOES: None.**

16 **EXC.: Councilmembers Anderson,**  
17 **Johnson, and Mateo.**

18 **ABSENT: None.**

19 **ABSTAIN: None.**

20 **MOTION CARRIED**

21 **ACTION: APPROVE amendment to the main motion.**

22 CHAIR MOLINA: And, now, Member Hokama, your next  
23 amendment, we shall have that incorporated as  
24 Amendment Number -- or, excuse me, Condition  
25 No. 5. Can you restate the amendment...

1 COUNCILMEMBER HOKAMA: Sure. Condition No. 5 would be  
2 that the Applicant would continue, at a minimum,  
3 an annual third-party environmental assessment  
4 regarding the rezone acreage.

5 CHAIR MOLINA: Okay. The Chair will...

6 COUNCILMEMBER HOKAMA: And, again, I'm open to the  
7 Staff doing non-substantive editing to clarify  
8 intent of the Committee.

9 CHAIR MOLINA: Okay. The Chair will entertain a motion  
10 for that condition. Mr. Hokama?

11 COUNCILMEMBER HOKAMA: So moved, Chairman.

12 COUNCILMEMBER VICTORINO: Second.

13 CHAIR MOLINA: Okay. It's been moved by Member Hokama,  
14 seconded by Mr. Victorino.

15 Additional comment, Mr. Hokama?

16 COUNCILMEMBER HOKAMA: No additional comment, Chair.

17 MS. NAKATA: Excuse me, Mr. Chair. Could Staff just  
18 clarify, is the condition limited to the conduct  
19 of the E.A., or is there a requirement that the  
20 E.A. be submitted to the Council?

21 CHAIR MOLINA: Mr. Hokama, your preference?

22 COUNCILMEMBER HOKAMA: You know, this is more in regard  
23 to -- well, this -- that was the term the  
24 Applicant used in describing their annual  
25 ongoing efforts as part of, I would consider,

1           their mitigation plan to minimize any type of  
2           either fire incidents or on-site situations that  
3           can occur from those permitted uses, and I'm not  
4           looking for the traditional environmental  
5           assessment study that is done for satisfying  
6           Chapter 243.

7 MS. LOUDERMILK: Yeah, yeah, yeah. Yeah.

8 COUNCILMEMBER HOKAMA: And so that might not be the  
9           appropriate language, Mr. Chairman. That was  
10          what the Applicant had stated, but my -- my --  
11          my intent was for them to continue that ongoing  
12          review, that they are complying and they're  
13          taking care of their needs, one, ensure safety  
14          margins regarding firebreaks, potential other  
15          mitigating factors, whether it be with erosion  
16          or other things that could impact negatively  
17          that the Committee had brought up, concerning  
18          its issues of safety and welfare.

19 CHAIR MOLINA: Okay. Thank you, Mr. Hokama.

20                   All right. Committee Members, is that  
21                   clear? Mr. Medeiros?

22 COUNCILMEMBER MEDEIROS: I just want to get some  
23                   clarification, Chair. Thank you.

24                   The conditions are placed on all three  
25                   lots or just 1C? I mean, as far as your

1 existing conditions and the additional  
2 conditions suggested by Council Chair Hokama.

3 CHAIR MOLINA: Planning Department?

4 MS. LOUDERMILK: I believe at this point in time, we  
5 are just addressing Lot 1C for these amendments  
6 to the proposed conditions.

7 COUNCILMEMBER MEDEIROS: Okay. Because your condition  
8 sheet is attached to all three lots. Did you do  
9 separate conditions for each lot?

10 MS. LOUDERMILK: I would defer to Corporation Counsel.  
11 They put together the ordinance.

12 CHAIR MOLINA: Mr. Giroux?

13 MR. GIROUX: I believe early on, that there was  
14 confusion because the way that the motion went  
15 down at the -- at the Commission level, that  
16 when we received it, we -- we just put all of  
17 the conditions on all three bills, and then  
18 later on, it was clarified by the Planning  
19 staff, that the intent was to break it up. So  
20 there are conditions to -- to each bill, but the  
21 way we're working with it now, is that each bill  
22 will have its own set of conditions. So, the  
23 Lot 1C, right now, has the most conditions on  
24 it, and that's the one we're working on, and  
25 then the other two lots only have two conditions

1           currently. And so we'll -- once we're done with  
2           1C, I believe the Chair wants to go to the next  
3           bills, and we can incorporate the ones that we  
4           agree with, with Lot 1C, to those, when they  
5           come up.

6 COUNCILMEMBER MEDEIROS: Okay. Thank you for that  
7           clarification.

8                         Thank you, Chair.

9 CHAIR MOLINA: Thank you, Member Medeiros.

10                        Any other discussion on the proposed  
11           condition to the bill?

12 MS. NAKATA: Mr. -- Mr. Chair?

13 CHAIR MOLINA: Yes.

14 MS. NAKATA: Would you like Staff to just read the  
15           wording of proposed Condition 5?

16 CHAIR MOLINA: Proceed.

17 MS. NAKATA: That S&F Land Company, Inc., shall  
18           continue to conduct, at minimum, an annual  
19           third-party environmental inspection for the  
20           subject property.

21 CHAIR MOLINA: Okay. Members, is the condition as  
22           stated by Staff?

23                        Okay. Seeing no other discussion, all  
24           those in favor, signify by saying aye.

25 COUNCIL MEMBERS: Aye.

1 CHAIR MOLINA: All those opposed?

2 Thank you. The Chair mark it 6-0, with  
3 two [sic] excusals, Members Mateo, Anderson, and  
4 Johnson.

5 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
6 **Medeiros, Victorino,**  
7 **Vice-Chair Pontanilla, and**  
8 **Chair Molina.**

9 **NOES: None.**

10 **EXC.: Councilmembers Anderson,**  
11 **Johnson, and Mateo.**

12 **ABSENT: None.**

13 **ABSTAIN: None.**

14 **MOTION CARRIED**

15 **ACTION: APPROVE amendment to the main motion.**

16 CHAIR MOLINA: Member Hokama, have you come up with  
17 your third proposal? If not, I can give you a  
18 little more time, 'cause I have...

19 COUNCILMEMBER HOKAMA: No, Chairman. I am happy to --

20 CHAIR MOLINA: Okay.

21 COUNCILMEMBER HOKAMA: -- recommend a third amendment  
22 to condition zoning, and I believe this is  
23 something that my fellow Committee Members had  
24 brought up earlier, and the Applicant,  
25 Mr. Stoner, is agreeable. That would be a

1           third -- an additional new condition, Chairman,  
2           regarding the landscaping.

3 CHAIR MOLINA:   Okay.

4 COUNCILMEMBER HOKAMA:   The Applicant is very willing to  
5           work with the appropriate County agency.   I  
6           don't know if that would be Planning Department  
7           or Department of Environmental Control, now that  
8           we have a new Department, that the Applicant  
9           would be -- would work to have an acceptable  
10          landscaping plan in place, to address the  
11          various fracas, including water usage, native  
12          plants, and other appropriate criteria for  
13          consideration in a landscape plan.

14 CHAIR MOLINA:   Okay.   Thank you, Mr. Hokama.

15                   Corp. Counsel, can I get comment from  
16           you?   Should Member Hokama's proposal rather  
17           than being incorporated as a separate condition,  
18           could that be incorporated into Condition No. 2,  
19           which relates to the landscaping?   Would that be  
20           more preferable, or would that -- would it be  
21           better off as a separate proposed condition?

22 MR. GIROUX:   I think you could do it both ways.   You  
23           know, when you're talking with the plan, maybe  
24           the plan shall include, add the language on the  
25           second para- -- the para- -- second sentence,



1           you know, said plan shall address the needs to  
2           provide, and maybe add language that, and it  
3           shall include concerns regarding the water,  
4           native landscape, native fauna, something like  
5           that, incorporate the language into that second  
6           sentence maybe.

7                        Because I also, Chair, was also looking  
8           at additional language that may tighten up the  
9           requirement that the buffer remain maintained,  
10          so.

11 CHAIR MOLINA:   Okay.  What is the body's preference?

12                        Shall we just incorporate it into Condition 2 or  
13          establish a separate condition?

14 COUNCILMEMBER VICTORINO:  Incorporate.

15 CHAIR MOLINA:   Mr. Hokama?

16 COUNCILMEMBER HOKAMA:  Chairman, you know, I would  
17          defer to --

18 CHAIR MOLINA:   Staff?

19 COUNCILMEMBER HOKAMA:  -- our legal staff and  
20          Corporation Counsel to recommend the most  
21          appropriate format, so that, one, it is very  
22          clear whoever reads the conditions of zoning,  
23          that it's understandable and in plain English.  
24          Okay.  And I say that because that's part of our  
25          State Constitution, in order for any person to

1           understand our laws. And, two, again, down the  
2           road, heaven forbid, if we don't have  
3           Mr. Stoner, who I have faith in and confidence  
4           in not to be around, that whoever succeeds, can  
5           understand plain English and continue to fulfill  
6           and comply with all conditions of zoning.

7 CHAIR MOLINA: Okay. Thank you, Member Hokama.

8                         Staff and I guess Corporation Counsel, if  
9           you can work on incorporating the appropriate,  
10          whether it be done as a separate condition or  
11          incorporated into Condition No. 2, whichever is  
12          the best route...

13 MS. NAKATA: Yes, Mr. Chair. Could Staff please  
14          clarify, in addition to addressing water  
15          conservation measures, what were the other  
16          factors that Member Hokama wanted inserted?

17 COUNCILMEMBER HOKAMA: I would like consideration of  
18          native plants that would meet the part of the  
19          criteria of water conservation. And I believe  
20          Ms. Baisa and Mr. Victorino had some other  
21          suggestions that I'm very open for their input,  
22          Mr. Chairman. Thank you.

23 CHAIR MOLINA: Thank you, Mr. Hokama.

24                         Member Baisa or Member Victorino, any  
25          additional comment?

1 COUNCILMEMBER VICTORINO: I'll yield to Ms. Baisa. Go  
2 ahead.

3 CHAIR MOLINA: Okay. Member Baisa?

4 COUNCILMEMBER BAISA: Just quickly. I had used the  
5 term "Xeriscaping," which I think covers their  
6 water piece, but does not address the native  
7 Hawaiian plants, which tend to really be low in  
8 terms of use of water. We just want to be sure  
9 that, you know, we are attentive to water  
10 conservation. I think it's something that all  
11 of us need to pay more attention to.

12 CHAIR MOLINA: Okay. Thank you, Member Baisa.

13 With that being said, Mr. Medeiros?

14 COUNCILMEMBER MEDEIROS: Yeah. I think Member Baisa  
15 said it, but, that the landscaping be arid-area  
16 tolerant, okay?

17 CHAIR MOLINA: Arid-area tolerant. Okay.

18 COUNCILMEMBER MEDEIROS: Or dry-area tolerant.

19 CHAIR MOLINA: Okay.

20 COUNCILMEMBER HOKAMA: Doesn't like water.

21 COUNCILMEMBER MEDEIROS: Doesn't need water, okay.

22 COUNCILMEMBER VICTORINO: Doesn't use much water.

23 CHAIR MOLINA: The word "arid" sounds a little fancy, I  
24 think... Plain English, right?

25 MR. GIROUX: I think the term they use is "drought

1 resistant."

2 COUNCILMEMBER MEDEIROS: Okay. Drought resistant.

3 CHAIR MOLINA: Okay.

4 COUNCILMEMBER MEDEIROS: Yeah. "Arid" sounds like a  
5 deodorant.

6 CHAIR MOLINA: Okay, Member. I'm sure Staff and  
7 Corporation Counsel will come up with the most,  
8 I guess, understandable language possible for  
9 this consideration. So...

10 COUNCILMEMBER MEDEIROS: And, Mr. Chair, I have one  
11 follow-up question, please.

12 CHAIR MOLINA: Proceed.

13 COUNCILMEMBER MEDEIROS: I just want to be sure that  
14 the conditions will run with the land, if it  
15 changes ownership?

16 COUNCILMEMBER VICTORINO: Mr. Chair?

17 CHAIR MOLINA: Good point. Mr. Victorino?

18 COUNCILMEMBER VICTORINO: Well, that was another  
19 condition that I wanted to bring forth somehow,  
20 some way that we could put language in, that not  
21 only run with -- with the land and the contract  
22 that presented this. If for any reason  
23 Mr. Stoner was to decide to step away or some  
24 change in his company, that because we're going  
25 from M-1 to M-2, that it'll have to come back to

1           this body or some body, that no one will just  
2           buy out that agreement and then put, you know,  
3           what we just talked about, a chemical plant or  
4           something of that nature. We don't want to  
5           leave future Councils or the future generations  
6           at harm's way, because we changed it to M-2.

7                     Now, I don't know how that condition  
8           needs to be worded, but I am very concerned that  
9           today we all know, and we trust, and we're all  
10          okay, but 35 years from now or 30 years from  
11          now, which is, like that, all of a sudden we are  
12          now faced with another Council looking at a Dow  
13          chemical plant, for example, being built there,  
14          and all of a sudden because it's M-2,  
15          dah-dah-dah, eh, you, we have a whole bunch of  
16          problems, so.

17                    I'm not sure how the wording, and maybe  
18          Corp. Counsel can guide us on that, but I just  
19          want to make sure that there's chance that  
20          things could change because ownership changed,  
21          because whatever may -- may -- may make changes  
22          that that M-2 is only good for this, and if  
23          there's changes, that that change will have to  
24          come back to -- to this body or a body of  
25          governmental status.

1 CHAIR MOLINA: Okay, Mr. Victorino.

2 COUNCILMEMBER MEDEIROS: Mr. Chair?

3 CHAIR MOLINA: Mr. Medeiros?

4 COUNCILMEMBER MEDEIROS: I just wanted to finish up my  
5 questioning. So, I think in my conversation,  
6 it's by Code, that it runs with the -- the land,  
7 so they actually doesn't need any special  
8 language?

9 CHAIR MOLINA: Mr. Giroux?

10 MR. GIROUX: Chair, to answer that, according to Code,  
11 what needs to be done, is that a unilateral  
12 agreement will be filed on the land, and that  
13 will run in perpetuity.

14 COUNCILMEMBER MEDEIROS: Okay.

15 MR. GIROUX: And what -- what happens is that this will  
16 not get to, I believe, first or second reading  
17 without it first being filed, on the land. For  
18 the second question about the use, there's two  
19 ways that it can be done. One, standard  
20 condition can be that -- that the property shall  
21 be developed as represented, meaning the  
22 representative came here and said he was only  
23 going to use it for scrap metal. The other one  
24 is, you can say -- you can have a condition that  
25 says that the M-1 or M-2 uses shall be

1           restricted to scrap metal and recycling. It's a  
2           very restrictive M-2 zoning.

3                        So, you -- you can do it both ways. The  
4           first one means that somebody is going to have  
5           to research what happened today. But it is a  
6           standard condition. We do pass ordinances that  
7           just say, you know, as represented by the, you  
8           know. But the other way, which is a little more  
9           clearer but might be more restrictive, is to  
10          actually say what use you do want to use it in,  
11          as M-2 and restricted to said use, and put in  
12          what use you want to -- that's remained. So it  
13          can only be used for that type of M-2 operation.

14 COUNCILMEMBER MEDEIROS: So would that be conditional  
15          M-2, Heavy Industrial zoning?

16 MR. GIROUX: Right, it would be conditional zoning,  
17          and -- and already we are working with  
18          conditions. So it would run with, the  
19          unilateral would be filed, if that is adopted as  
20          a condition, and that would run with the land.

21 COUNCILMEMBER MEDEIROS: Okay. Yeah, I would accept,  
22          Corp. Counsel, your, you know, explanation about  
23          it's a standard condition, about the conditions  
24          running with the land, and I'd accept that.

25                        Okay. Thanks, Mr. Chair.

1 CHAIR MOLINA: Okay. Thank you, Member Medeiros.

2 COUNCILMEMBER VICTORINO: Mr. Chair?

3 CHAIR MOLINA: Mr. Victorino?

4 COUNCILMEMBER VICTORINO: Again, I'm -- I -- not to  
5 oppose my colleague in any way, shape, or form,  
6 and it's up to the rest of the Members here, but  
7 I would prefer some things to that nature where  
8 it is spelled out in the condition, that there  
9 is no possibility of change in the future,  
10 because I just want to make sure that the public  
11 safety is protected down the road, you know, and  
12 I think what you've just said is, leaves a  
13 little bit more opening because you gotta go  
14 back and research and what was decided on, et  
15 cetera, right?

16 MR. GIROUX: Right. In any case, with both  
17 recommendation or both ways, right now, the  
18 conditions don't have that.

19 COUNCILMEMBER VICTORINO: Right.

20 MR. GIROUX: So, you know, you -- if that's your  
21 intent, you can choose one way. One way is to  
22 put a condition that says it will be developed  
23 as represented, or -- or, put a condition that  
24 says that it will be restricted to said use.  
25 But right now, as the bill is, it has neither.



1 COUNCILMEMBER VICTORINO: So -- okay. Mr. Chair, could  
2 we have a recess to kind of decide, I mean, real  
3 quick?

4 CHAIR MOLINA: Hang on, Mr. Victorino.  
5 Mr. Hokama?

6 COUNCILMEMBER HOKAMA: Chairman, before you make your  
7 decision on the request for recess, I would just  
8 share couple points with the Committee this  
9 afternoon. One, unless a unilateral agreement  
10 is executed after first reading, it has been a  
11 practice of the Chair not to schedule second and  
12 final until the recorded document has been  
13 confirmed by the recording agency, normally the  
14 State Land Court, that they have recorded that  
15 executed agreement, we do not take final action  
16 on the zoning ordinance.

17 Second, Mr. Chairman, my intent of the  
18 first amendment whereby consultation with the  
19 Fire Department prior to any change of permitted  
20 use, was trying to address their comments that  
21 Mr. Medeiros and Mr. Victorino sharing with us  
22 at this present time, and that's already an  
23 amendment that has been received the support of  
24 this Committee. So I would ask if that's  
25 insufficient, then we might need to re-review

1           that and reword it to ensure the concerns.

2           Unless this zoning bill comes back for  
3           amendment, to change the conditions of zoning,  
4           Mr. Chair, it cannot be changed. And regardless  
5           of who is the owner, the agreement runs with the  
6           land, through the Land Court execution -- I  
7           mean, recordation. So I just wish to share that  
8           with the Members, that that is how the County  
9           has, in the past and currently, ensures  
10          compliance on the conditions of zoning. And I  
11          thank you for this opportunity, Chair.

12   CHAIR MOLINA:   Okay. Thank you, Mr. Hokama.

13           Mr. Victorino, is it still your intent to  
14          request for a recess to consult with Corporation  
15          Counsel or Staff to consider a proposed  
16          condition as it relates to the comments from  
17          Member Hokama?

18   COUNCILMEMBER VICTORINO:   Yes, please, Mr. Chair.

19   CHAIR MOLINA:   Okay. Two-minute recess. (Gavel).

20   **RECESS:   3:13 p.m.**

21   **RECONVENE:   3:15 p.m.**

22   CHAIR MOLINA:   (Gavel). Land Use Committee Meeting for  
23          August 1st, 2007 is now reconvened. When we  
24          last left, Mr. Victorino had a consideration.

25                   Mr. Victorino.

1 COUNCILMEMBER VICTORINO: Yes. I will defer to Council  
2 Chair Hokama for the -- an amendment change that  
3 we have discussed.

4 CHAIR MOLINA: Okay. Mr. Hokama.

5 COUNCILMEMBER HOKAMA: On behalf of Mr. Victorino...

6 COUNCILMEMBER VICTORINO: Oh, shucks. Come on, you  
7 guys.

8 COUNCILMEMBER HOKAMA: Chairman, I would ask that the  
9 Committee consider a motion to amend, I believe,  
10 Condition No. 4? Oh, wait.

11 CHAIR MOLINA: Was this related to the lands? I think  
12 that was...

13 COUNCILMEMBER HOKAMA: Relating to the Fire Department,  
14 Chairman.

15 CHAIR MOLINA: Okay. That was -- Staff, that was 4?  
16 Yeah, okay.

17 COUNCILMEMBER HOKAMA: Yeah. That we amend Condition 4  
18 by replacing the word "consult" with the word  
19 "approved."

20 CHAIR MOLINA: Okay. Is there a second?

21 COUNCILMEMBER VICTORINO: Second.

22 CHAIR MOLINA: Okay. Been moved by Member Hokama and  
23 seconded by Member Victorino.

24 Additional discussion? Mr. Hokama.

25 COUNCILMEMBER HOKAMA: I believe this would take care

1 of some of the Committee Members' concern,  
2 Mr. Chairman, regarding the permitted uses and  
3 change of actual operations at the project site,  
4 to allay fears that something that we may not  
5 want, could be -- that could occur in the  
6 future. We heard from presentations from the  
7 Applicant specifically what he does not intend  
8 to permit within his project site, but this  
9 would very clearly state, by a condition, take  
10 care of the concerns of some of the Members that  
11 would like a governmental review prior to change  
12 of a current permitted practice, and I believe  
13 this would address it. It would run with the  
14 land, so even if Mr. Stoner was no longer  
15 associated with the project, unless there is a  
16 change of zoning amendment, it'll stay, in  
17 effect, in perpetuity, Chairman. Thank you.

18 CHAIR MOLINA: Thank you, Mr. Hokama.

19 Any other discussion before the Chair  
20 calls for the vote on the proposed amendment?

21 MS. NAKATA: Mr. Chair?

22 CHAIR MOLINA: Yes.

23 MS. NAKATA: Could Staff please clarify? Currently,  
24 the wording of the Condition 4 is that the  
25 Department of Fire and Public Safety shall be

1           consulted prior to any change of permitted uses  
2           within the subject property. So, is the  
3           proposal to amend that, to state, that the  
4           Department of Fire and Public Safety shall  
5           approve any proposed use, prior to any change or  
6           permitted uses within the subject property?

7 CHAIR MOLINA: Mr. Hokama?

8 COUNCILMEMBER HOKAMA: I believe that's the intent of  
9           the Committee. And, again, the key concern with  
10          Fire Department was some of the public safety  
11          issues that was brought up in the earlier  
12          discussions, Mr. Chairman, whether it be with  
13          noxious fumes, fire and smoke, you know, other  
14          concerns that the Committee brought up,  
15          regarding the proposed permitted M-2 uses. That  
16          is why we believe that fire, again, knowing full  
17          well what is the capabilities and what is  
18          available on site of the project to mitigate or  
19          respond to any fire issues, I believe, would be  
20          an appropriate agency to take this matter up.

21 CHAIR MOLINA: Okay. Thank you, Mr. Hokama.

22                 I see no other discussion on a proposed  
23                 amendment. All those in favor, signify by  
24                 saying aye.

25 COUNCIL MEMBERS: Aye.

1 CHAIR MOLINA: All those opposed?

2 Thank you. The Chair mark it 6-0, with  
3 three excusals, Mateo, Anderson, and Johnson.

4 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
5 **Medeiros, Victorino,**  
6 **Vice-Chair Pontanilla, and**  
7 **Chair Molina.**

8 **NOES: None.**

9 **EXC.: Councilmembers Anderson,**  
10 **Johnson, and Mateo.**

11 **ABSENT: None.**

12 **ABSTAIN: None.**

13 **MOTION CARRIED**

14 **ACTION: APPROVE amendment to the main motion.**

15 CHAIR MOLINA: The Chair would like to offer an  
16 amendment to Amendment No. -- excuse me,  
17 Condition No. 1, to provide additional language  
18 after the word "property," and to state as read,  
19 hopefully: Restaurant hours of operation will  
20 be from 4:00 a.m. to 2:00 p.m., and adding an  
21 additional sentence, if that is appropriate,  
22 liquor sales will be prohibited.

23 Chair would --

24 COUNCILMEMBER VICTORINO: So moved.

25 CHAIR MOLINA: -- like to ask for a motion?

1 COUNCILMEMBER VICTORINO: So moved.

2 CHAIR MOLINA: Okay. Moved by Member Victorino. Is  
3 there a second?

4 VICE-CHAIR PONTANILLA: Second.

5 CHAIR MOLINA: Seconded by Member Pontanilla.

6 Any discussion, Members? Mr. Hokama?

7 COUNCILMEMBER HOKAMA: Chairman, just a question of  
8 clarification.

9 CHAIR MOLINA: Uh-huh.

10 COUNCILMEMBER HOKAMA: As I understand it, and you say  
11 a restaurant, we're just talking about one  
12 restaurant?

13 CHAIR MOLINA: That is correct. Maybe we should add  
14 the word -- Staff, maybe would it be appropriate  
15 to -- I guess we're talking about one  
16 restaurant.

17 MS. NAKATA: Mr. Chair, I believe...

18 CHAIR MOLINA: The restaurant hours of operation,  
19 should that -- would that be more appropriate?

20 MS. NAKATA: I believe in the current last sentence of  
21 Condition No. 1, it does say "except for a  
22 restaurant not to exceed a total of 1,000 square  
23 feet."

24 CHAIR MOLINA: Okay. So that covers that, that issue  
25 of it being just one restaurant on the subject

1 property, which is Lot 1C, I believe.

2 COUNCILMEMBER HOKAMA: Thank you, Chairman.

3 CHAIR MOLINA: Thank you, Mr. Hokama.

4 Any other discussion on the proposed  
5 amendment to Condition 1?

6 Seeing none, all those in favor, signify  
7 by saying aye.

8 COUNCIL MEMBERS: Aye.

9 CHAIR MOLINA: All those opposed?

10 Thank you. Chair will mark it 6-0, with  
11 three excusals, Members Mateo, Anderson, and  
12 Johnson.

13 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
14 **Medeiros, Victorino,**  
15 **Vice-Chair Pontanilla, and**  
16 **Chair Molina.**

17 **NOES: None.**

18 **EXC.: Councilmembers Anderson,**  
19 **Johnson, and Mateo.**

20 **ABSENT: None.**

21 **ABSTAIN: None.**

22 **MOTION CARRIED**

23 **ACTION: APPROVE amendment to the main motion.**

24 CHAIR MOLINA: Any other considerations for Bill No. 4?  
25 Staff?



1 MS. NAKATA: Mr. Chair, there was no motion to amend  
2 with respect to Condition No. 2, to address the  
3 water conservation measures, Xeriscaping,  
4 drought-resistant plants.

5 CHAIR MOLINA: Thank you for reminding the Chair of  
6 that. I guess we got caught up in another  
7 discussion. We forgot to put into play, the  
8 proposed amendment from Member Hokama to  
9 incorporate the additional language with regards  
10 to the landscaping.

11 Member Hokama?

12 COUNCILMEMBER HOKAMA: Chairman, I move to amend by  
13 adding the -- a new condition to the ordinance  
14 regarding the landscaping as stated by Committee  
15 Staff.

16 COUNCILMEMBER VICTORINO: Second.

17 CHAIR MOLINA: It's been moved by Member Hokama and  
18 seconded by Member Victorino, to add a  
19 condition, so we will call that Condition  
20 Number -- Staff, would that be Condition No. 5  
21 or 6?

22 MS. NAKATA: We currently have five conditions. One  
23 alternative would be to amend current Condition  
24 No. 2 that also addresses the landscaping plan.

25 CHAIR MOLINA: Okay. Members, maybe to make it easier,

1           we'll just incorporate that into Condition 2, if  
2           there are no objections.

3 COUNCIL MEMBERS: No objections.

4                   **COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused**  
5                   **Councilmembers Anderson, Johnson,**  
6                   **and Mateo.)**

7 CHAIR MOLINA: Okay. The proposed amendment is for  
8           Condition 2.

9                   Member Hokama, you have the floor as the  
10          maker of the motion.

11 COUNCILMEMBER HOKAMA: Chairman, again, one, this is --  
12          follows the practice that the Applicant has  
13          informed this Committee that it's currently  
14          practicing as part of the fulfillment of a State  
15          Land Use Commission condition and, again,  
16          Chairman, for the -- for your Committee, it just  
17          makes good sense and good practice.

18 CHAIR MOLINA: Okay. Thank you, Member Hokama.

19                   Any other discussion? Seeing none, all  
20          those in favor of amending Condition No. 2,  
21          signify by saying aye.

22 COUNCIL MEMBERS: Aye.

23 CHAIR MOLINA: All those opposed?

24                   Okay. Thank you. We'll mark it 6-0,  
25          with three excusals, Members Mateo, Anderson,

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and Johnson.

**VOTE: AYES: Councilmembers Baisa, Hokama, Medeiros, Victorino, Vice-Chair Pontanilla, and Chair Molina.**

**NOES: None.**

**EXC.: Councilmembers Anderson, Johnson, and Mateo.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: APPROVE amendment to the main motion.**

CHAIR MOLINA: Any other considerations before the Chair calls for the bill -- the vote for the bill as amended?

Okay. Seeing none, Chair will call for the vote for a bill for an ordinance to change zoning from Ag. District to M-2 Heavy Industrial District.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MOLINA: Yes, sir, Mr. Hokama?

COUNCILMEMBER HOKAMA: I apologize.

CHAIR MOLINA: No.

COUNCILMEMBER HOKAMA: And I just wanted to bring up one point for the Committee's consideration

1           because this is how I understand it in my  
2           discussions with Public Works through its Deputy  
3           Director Mr. Miyamoto. You know, we had --  
4           this, we talked about traffic impact fees, and  
5           its relationship to projects on the State's  
6           STIP. My understanding is that this project  
7           would not be part of what would be impacted or  
8           be part of the impact fee program at this time,  
9           as we've understood how the current proposal is  
10          being considered.

11                   And, so, I just want that straight, so  
12          that down the road, if someone says, "Shouldn't  
13          this be part of this assessment?" again, the  
14          Deputy Director is here, but I would just state,  
15          it is my understanding, for the record, that  
16          this project would not be part of consideration  
17          under that new traffic impact fee proposal,  
18          which is what it is at this time, a proposal,  
19          Chairman.

20   CHAIR MOLINA: Thank you, Member Hokama, and I guess  
21                   that can be confirmed by the Planning Department  
22                   as well. Am I correct, Mr. Yoshida or  
23                   Ms. Loudermilk?

24   MS. LOUDERMILK: Yes.

25   CHAIR MOLINA: Okay. Thank you.

1 All right, Members. Seeing no other  
 2 considerations, the Chair will call for the vote  
 3 on the bill as amended. All those in favor,  
 4 signify by saying aye?

5 COUNCIL MEMBERS: Aye.

6 CHAIR MOLINA: All those opposed?

7 Thank you. The Chair will mark it 6-0,  
 8 with three excusals, Mateo, Anderson, and  
 9 Johnson.

10 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
 11 **Medeiros, Victorino,**  
 12 **Vice-Chair Pontanilla, and**  
 13 **Chair Molina.**

14 **NOES: None.**

15 **EXC.: Councilmembers Anderson,**  
 16 **Johnson, and Mateo.**

17 **ABSENT: None.**

18 **ABSTAIN: None.**

19 **MOTION CARRIED**

20 **ACTION: Recommending FIRST READING of revised**  
 21 **proposal bill (9.811-acre property); and**  
 22 **RECORDATION of unilateral agreement.**

23 CHAIR MOLINA: We're almost there, Members. We have  
 24 two more bills to consider, which is "A BILL FOR  
 25 AN ORDINANCE TO CHANGE ZONING FROM M-1 LIGHT

1 INDUSTRIAL DISTRICT TO M-2 HEAVY INDUSTRIAL  
2 DISTRICT (CONDITIONAL ZONING) FOR APPROXIMATELY  
3 58,091 SQUARE FEET SITUATED AT PUUNENE, MAUI,  
4 HAWAII." The purpose of the revised proposed  
5 bill is to grant S&F's request to change the  
6 zoning for the 58,091-square-foot property from  
7 M-1 Light Industrial District to M-2 Heavy  
8 Industrial District to accommodate heavy  
9 industrial uses.

10 And if there are no objections, the Chair  
11 will read the last bill. The Chair's intent is  
12 to incorporate in one motion, both bills. The  
13 last bill is "A BILL FOR AN ORDINANCE TO CHANGE  
14 ZONING FROM M-1 LIGHT INDUSTRIAL DISTRICT TO M-2  
15 HEAVY INDUSTRIAL DISTRICT (CONDITIONAL ZONING)  
16 FOR APPROXIMATELY 43,810 SQUARE FEET SITUATED AT  
17 PUUNENE, MAUI, HAWAII." The purpose of the  
18 revised proposed bill is to grant S&F's request  
19 to change the zoning for the 43,810-square-foot  
20 property from M-1 Light Industrial District to  
21 M-2 Heavy Industrial District to accommodate  
22 heavy industrial uses.

23 Is there a motion?

24 COUNCILMEMBER VICTORINO: So moved.

25 VICE-CHAIR PONTANILLA: Second.

1 CHAIR MOLINA: It's moved by Member Victorino.  
2           Seconded by Member Pontanilla.  
3           Any discussion, Members?  
4 COUNCILMEMBER HOKAMA: Chairman?  
5 CHAIR MOLINA: Mr. Hokama?  
6 COUNCILMEMBER HOKAMA: I would ask if you'd allow a  
7           motion to include all three of my additional  
8           conditions for the first bill to be part of the  
9           second and third bill, if you would consider a  
10          motion to amend --  
11 CHAIR MOLINA: Okay.  
12 COUNCILMEMBER HOKAMA: -- to proceed in that manner?  
13 CHAIR MOLINA: Okay. The motion has been made to  
14          incorporate Member Hokama's into these two  
15          bills; am I correct, Mr. Hokama?  
16 COUNCILMEMBER HOKAMA: Yes, sir.  
17 CHAIR MOLINA: Okay.  
18 COUNCILMEMBER VICTORINO: Second.  
19 MS. NAKATA: Mr. Chair?  
20 CHAIR MOLINA: Staff?  
21 MS. NAKATA: Staff is clear with respect to new  
22          conditions, 4 and 5, which would, I guess, be  
23          new conditions 3 and 4 to these bills, but there  
24          is not a landscape planting plan condition on  
25          these two Change in Zoning bills.

1 CHAIR MOLINA: Chairman Hokama?

2 COUNCILMEMBER HOKAMA: I would recommend, then, that we  
3 then recreate a fifth condition.

4 CHAIR MOLINA: Okay.

5 COUNCILMEMBER HOKAMA: So that we can place that  
6 landscaping condition in its proper place.

7 CHAIR MOLINA: Okay.

8 COUNCILMEMBER HOKAMA: And that would be my -- part of  
9 my motion to amend, Chairman.

10 CHAIR MOLINA: Okay. Members, you heard the proposal  
11 to add a fifth condition to address Member  
12 Hokama's concern. Is there a second?

13 COUNCILMEMBER VICTORINO: Second.

14 CHAIR MOLINA: Okay. Now, hang on, Members, you know  
15 what? I think we had a motion on the floor, and  
16 a second.

17 Staff, do we need to...

18 COUNCILMEMBER HOKAMA: Those needs to be clarified,  
19 Chairman.

20 CHAIR MOLINA: Okay. It was already -- okay. All  
21 right.

22 Okay, Members, any discussion?

23 COUNCILMEMBER VICTORINO: No.

24 CHAIR MOLINA: Okay. Seeing none, all those in favor,  
25 signify by saying aye.



1 COUNCIL MEMBERS: Aye.

2 CHAIR MOLINA: All those oppose?

3 Okay. The motion passes. Okay. We have  
4 a count of 6-0, with three excusals, Mateo,  
5 Anderson, and Johnson.

6 **VOTE: AYES: Councilmembers Baisa, Hokama,**  
7 **Medeiros, Victorino,**  
8 **Vice-Chair Pontanilla, and**  
9 **Chair Molina.**

10 **NOES: None.**

11 **EXC.: Councilmembers Anderson,**  
12 **Johnson, and Mateo.**

13 **ABSENT: None.**

14 **ABSTAIN: None.**

15 **MOTION CARRIED**

16 **ACTION: APPROVE amendment to the main motion.**

17 CHAIR MOLINA: Okay. We are back to the bills as  
18 amended. Any other discussion?

19 Seeing none, all those in favor, signify  
20 by saying aye.

21 COUNCIL MEMBERS: Aye.

22 CHAIR MOLINA: All those opposed?

23 Thank you. The last two bills have been  
24 passed by a vote of 6 to nothing. Three  
25 excusals, Mateo, Anderson, and Johnson.

1                   And, Staff, would -- at this point, do we  
2                   need to consider any filing to be incorporated  
3                   into the motions? Okay, Members, we'll  
4                   incorporate filing into the motion that just  
5                   passed as well. Okay. Any objections?

6 COUNCIL MEMBERS: No objections.

7                   **VOTE:        AYES:        Councilmembers Baisa, Hokama,**  
8   **Medeiros, Victorino,**  
9   **Vice-Chair Pontanilla, and**  
10    **Chair Molina.**

11    **NOES:        None.**

12    **EXC.:        Councilmembers Anderson,**  
13    **Johnson, and Mateo.**

14    **ABSENT:     None.**

15    **ABSTAIN:    None.**

16                   **MOTION CARRIED**

17                   **ACTION:    Recommending FIRST READING of revised**  
18    **proposed bills (58,091-square-foot property**  
19    **and 43,810-square-foot property);**  
20    **RECORDATION of unilateral agreements; and**  
21    **FILING of the communication.**

22 CHAIR MOLINA: Okay. Thank you very much, Members. I  
23                   believe that concludes matter for Land Use Item  
24                   No. 8.

25                   We have one more item, Members, and that

1 is LU-3, a Change in Zoning for the Waihee Mauka  
2 Project. We have the Applicant's representative  
3 here, and we will be setting the Chambers up for  
4 a brief presentation, so we will take a recess.  
5 The Land Use Meeting of August 1st is now in  
6 recess. (Gavel).

7 **RECESS: 3:27 p.m.**

8 **RECONVENE: 3:30 p.m.**

9 **ITEM NO. 3: CHANGE IN ZONING FOR WAIHEE MAUKA PROJECT**  
10 **(C.C. No. 06-314)**

11 CHAIR MOLINA: (Gavel). Land Use Committee meeting for  
12 August 1st, 2007 is now back in session.

13 Members, we are on Land Use Item 3, which  
14 is a proposed Change in Zoning for the Waihee  
15 Mauka Project. To give us a presentation will  
16 be the Department of Planning, Ms. Robyn  
17 Loudermilk.

18 (Computer-generated presentation.)

19 MS. LOUDERMILK: Good afternoon, Members. This is an  
20 application for a Change in Zoning by RDD,  
21 Limited Liability Corporation. The request is a  
22 Change in Zoning from the Agricultural District  
23 to the Open Space District to bring the property  
24 in compliance with the Open Space Designation on  
25 the Wailuku-Kahului Community Plan Land Use Map.

1           Excuse me. This property will then be part of a  
2           proposed agricultural subdivision. No  
3           development is proposed for the property.

4           The project location is in the  
5           Waihee-Waiehu area, mauka of Kahekili Highway.  
6           I apologize, this is a photo of the property, on  
7           more on the left-hand side, there's some black  
8           lines going up, that's the property. To the  
9           south is Kahekili Highway and the Waihee-Kou, a  
10          Hawaiian Homes subdivision.

11          This is the northern portion of the  
12          property. As you can see, it's currently being  
13          utilized as a macadamia nut orchards.

14          And right next door to the property is an  
15          agricultural processing plant. And so that's  
16          some of the processing that was occurring, that  
17          they had to do with the macadamia nuts that were  
18          being harvested.

19          Right now, the property is leased to  
20          Kapuna Ranch, and the property is an existing  
21          macadamia orchard. The existing natural  
22          drainage way that comprises the Open Space  
23          designation is associated with Kope Gulch, and  
24          there are no proposed changes to the existing  
25          use of the property.

1                   Currently, it's in the State Land Use  
2                   Agricultural District, designated Open Space in  
3                   the Wailuku-Kahului Community Plan, and zoned  
4                   Agriculture, and it is located outside of the  
5                   Special Management Area.

6                   The map that we have to the left  
7                   identifies the Open Space designation of the  
8                   property, and this designation follows the 100-  
9                   and 500-year flood areas that were identified in  
10                  the Flood Insurance Rate Maps issued by the  
11                  Federal Emergency Management Agency.

12                  There are two categories of Open Space.  
13                  We have Open Space 1, which is passive, and Open  
14                  Space 2, which is active.

15                  Passive Open Space is mainly for  
16                  sensitive ecological resources and endangered  
17                  species habitats. So the focus is more on the  
18                  natural and cultural resources for their  
19                  preservation.

20                  The Active Open Space identifies scenic  
21                  and recreational resources, hazardous areas,  
22                  drainage ways, and open space greenbelts that  
23                  will provide visual relief and can also buffer  
24                  sensitive ecological resources or agriculture  
25                  activities from urbanized areas.

1           What I've listed is the identified  
2           permitted uses within the 0-2 Open Space, so I  
3           believe this is either the first or second  
4           application coming before this body, to the --  
5           this newer designation. Permitted uses are  
6           agriculture, Native Hawaiian traditional and  
7           customary uses, outdoor recreation, park,  
8           passive land use, passive recreation,  
9           restoration of cultural sites. And on the  
10          right-hand side, they're identified special  
11          conditions associated with -- with these  
12          permitted uses.

13           Next, we have accessory uses and special  
14          uses that are identified. As accessory uses, we  
15          have assembly areas. Special uses allowed in  
16          the 0-2 Open Space District is agriculture,  
17          which would allow for processing on site,  
18          cemetery, outdoor recreation, a more intensified  
19          use. A resource extraction, which in this case  
20          is limited to the island of Lanai, and then  
21          structures. So we've identified the types of  
22          structures that would be allowed under the  
23          Special Use provisions.

24           Outstanding issues on this project dealt  
25          with potential for traffic, historic and

1 cultural resources. Regarding the traffic  
2 assessment, it was based upon the most intensive  
3 use allowed by the zoning district, based upon  
4 the Institute of Transportation Engineers Trip  
5 Generation for a park. The counts were done in  
6 July 2005. We see up there, there's a lot of  
7 vehicles going through this particular area in  
8 the morning and in the evening.

9 The existing access to the properties via  
10 Kahekili Highway there is no separate turn lanes  
11 to enter the property. Access from the property  
12 to the highway is controlled by a stop sign.  
13 The level of service at the entrance of the  
14 property would be C. Traffic along the highway  
15 would operate at a Level of Service A. Level of  
16 Service going north of the property will be  
17 continued to operate at E, with or without the  
18 development of the property. Then lastly, the  
19 DOT Highways Division reviewed the application  
20 and verbally commented that they had no  
21 objections to the proposed action.

22 Regarding archeological, historic, and  
23 cultural resources, the archeological and  
24 cultural assessment was done on the property.  
25 Two sites have been identified on the property.

1           These consist of traditional agricultural  
2           terraces, as well as cultural materials.

3                    On the right-hand side, top and bottom,  
4           are the best photos that we could find at that  
5           particular time to identify the resources. And  
6           they are located in the portion of the property  
7           in which minimal or no orchard growing is  
8           occurring. So this is part of the scattered  
9           cultural remains.

10                   The DLNR initially commented that no  
11           action be taken until an archeological inventory  
12           survey has been done. And then they revised  
13           their comments to a no effect, once it was  
14           relayed that there will be no changes on this  
15           particular property resulting from the Change in  
16           Zoning.

17                   Then lastly, questions, and I'll defer  
18           that till we get back to the...

19 CHAIR MOLINA: Okay. Thank you, Ms. Loudermilk.

20                   Okay, Members, we shall take a brief  
21           recess and lift up the screens and begin our  
22           discussion on Land Use Item No. 3. Land Use  
23           Meeting for August 1st, is in recess. (Gavel).

24 **RECESS: 3:37 p.m.**

25 **RECONVENE: 3:38 p.m.**



1 CHAIR MOLINA: (Gavel). Land Use Committee Meeting for  
2 August 1st, 2007 is now back in session. We are  
3 discussing Land Use Item No. 3, which is a  
4 Change in Zoning for the Waihee Mauka Project,  
5 and it relates to County Communication  
6 No. 06-314, from the Planning Director,  
7 transmitting a proposed bill to grant a request  
8 from RDD, LLC, for a Change in Zoning from Ag.  
9 District to OS-2 Open Space District for the  
10 Waihee Mauka Project on approximately  
11 17.559 acres along Kahekili Highway in Waihee,  
12 Maui.

13 A correspondence dated January 19, 2007,  
14 from the Corporation Counsel's office,  
15 transmitting a revised proposed bill entitled,  
16 "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM  
17 AG. DISTRICT TO OS-2 OPEN SPACE DISTRICT FOR  
18 PROPERTY SITUATED AT WAIHEE MAUKA" -- excuse me,  
19 "WAIHEE, MAUI, HAWAII." The purpose of the  
20 revised proposed bill is to grant the request  
21 for the subject property, which would allow for  
22 the development of a 14-lot agricultural  
23 subdivision on the parcel.

24 Before we begin the question-and-answer  
25 session, Members, Committee Secretary, have we

1 had any sign-ups for the item?

2 MS. FRIAS: No, Mr. Chair.

3 CHAIR MOLINA: Okay. If there are no objections, the  
4 Chair will close public testimony for Land Use  
5 Item No. 3.

6 COUNCIL MEMBERS: No objections.

7 CHAIR MOLINA: Okay. Thank you very much. Public  
8 testimony is closed on that item.

9 Okay, Members, you have heard the  
10 presentation from the Planning Department. The  
11 floor is now open for questions, and, by the  
12 way, we do have the representative from the  
13 Applicant, Mr. Vince Bagoyo, available for your  
14 questions as well. Committee Members, the floor  
15 is now open.

16 Mr. Hokama?

17 COUNCILMEMBER HOKAMA: Chairman, maybe for the  
18 Department, when the -- our Chairman read that  
19 this bill is to grant -- is requesting Ag. to  
20 Open Space, which would allow for the  
21 development of a 14-lot agricultural subdivision  
22 on the parcel, can you -- I'm trying to have an  
23 understanding --

24 MS. LOUDERMILK: I'll -- I'll...

25 COUNCILMEMBER HOKAMA: -- of this description.

1 MS. LOUDERMILK: Yes, I'll clarify. The -- the  
2 property before you is the portion of a larger  
3 parcel owned by the Applicant, in which they  
4 initially came in to request subdivision into 14  
5 lots. Based upon the strict standards of Title  
6 18, the Subdivision Code, the Land Use  
7 designations for the properties have to be like  
8 for like...for example, the Open Space is  
9 designated on the Community Plan. In order for  
10 that portion to be subdivided, it would have to  
11 be rezoned Open Space 2. This Open Space  
12 portion would be one of 14 lots that could be  
13 created, should the Applicant come back in for  
14 subdivision of the property. So this would be  
15 one of 14, and this is only a portion of a  
16 larger lot, in which the Applicant owns in the  
17 area. So I do see how the title can be  
18 misleading in that sense.

19 COUNCILMEMBER HOKAMA: Chairman, if you please...

20 CHAIR MOLINA: Proceed, Mr. Hokama.

21 COUNCILMEMBER HOKAMA: Thank you.

22 So as we look at Exhibit 16 that is part  
23 of the Committee's -- the Department's submittal  
24 to the Committee, the 14-lot subdivision is on  
25 either side of the Open Space proposal; is that

1 correct?

2 MS. LOUDERMILK: Yes, and it includes that property in  
3 Open Space.

4 COUNCILMEMBER HOKAMA: Okay. So my question is, one,  
5 was this whole parcel subdivided under the  
6 current agricultural scale and sliding rule  
7 ordinance?

8 MS. LOUDERMILK: It was not even allowed to be  
9 processed because the State Land Use District in  
10 the community plan and the zoning did not allow  
11 for the subdivision to occur because...

12 COUNCILMEMBER HOKAMA: No, the original...

13 MS. LOUDERMILK: The original...

14 COUNCILMEMBER HOKAMA: This original...

15 MS. LOUDERMILK: This original one, yes, would have  
16 been under the existing agricultural zoning  
17 ordinance and subdivision. They would be  
18 subject to the provisions of...

19 COUNCILMEMBER HOKAMA: Okay, 'cause what I'm trying  
20 to --

21 MS. LOUDERMILK: Yeah.

22 COUNCILMEMBER HOKAMA: -- find out, Ms. Loudermilk, and  
23 the Planning Department, if this has already  
24 gone through a subdivision, wants to create this  
25 big parcel, then our understanding of the

1           lawyers, they cannot come back for additional  
2           subdivision.

3 MS. LOUDERMILK: Clarification. My understanding that  
4           this property has not been subject to any  
5           previous subdivision, subject to the  
6           agricultural zoning ordinance.

7 COUNCILMEMBER HOKAMA: Okay. And, so, I'm still trying  
8           to understand how this Open Space will allow the  
9           development of potentially 14 more lots.  
10          Because under our Code, part of the reason of  
11          Open Space was to create a buffer between  
12          urbanization and agriculture. This is trying to  
13          segregate agriculture with agriculture.

14 MS. LOUDERMILK: Yes, in addition to the additional  
15          identification of areas for drainage, natural  
16          resource area, so, yes, that is one of those.

17 COUNCILMEMBER HOKAMA: Isn't this the same project that  
18          the community was not supportive of, earlier?

19 MS. LOUDERMILK: I'm not aware of any previous activity  
20          up here. Maybe I can ask -- I have Vince Bagoyo  
21          here. He might be able to answer the question  
22          about was this a development that the community  
23          had reservations about. I'm not aware at this  
24          point in time, but I...

25 CHAIR MOLINA: Excuse me. Mr. Hokama, would you want

1 the Applicant's representative to respond to  
2 your question?

3 COUNCILMEMBER HOKAMA: I would like to go through the  
4 Departments before we request the Applicant's  
5 representative to respond to questions,  
6 Chairman.

7 CHAIR MOLINA: Continue, Mr. Hokama.

8 Mr. Bagoyo, you may have a seat, yeah?  
9 At a later point, we'll call you up.

10 COUNCILMEMBER HOKAMA: Okay. So the Department, the  
11 Planning Department is not aware of community  
12 concerns regarding...

13 MS. LOUDERMILK: No. In fact, we have received two  
14 letters in support.

15 COUNCILMEMBER HOKAMA: Okay. But wasn't it mentioned  
16 earlier to this Committee, that this was  
17 resubmitted because the original one was  
18 declined?

19 MS. LOUDERMILK: As of right now, there is no  
20 subdivision application in. This action is  
21 result of a subdivision application which was  
22 denied, based on this portion of the property  
23 not meeting the Community Plan designation. So  
24 at this point in time, I do not believe there is  
25 a new request for subdivision at this point in

1           time. This is a result of a request that was  
2           previously denied because it did not meet the  
3           Community Plan land use designation.

4 COUNCILMEMBER HOKAMA: Have you had a chance to review  
5           the letter from Mr. Clyde Namu`o, Office of  
6           Hawaiian Affairs? Because they gave a very  
7           definitive response to the request of this  
8           application, and they questioned why we are even  
9           considering this.

10 MS. LOUDERMILK: Yes. Yes, the Department did, and we  
11           weighed that against the response that we got  
12           from the State Historic Preservation Division in  
13           relation to the cultural resources on the  
14           property. So it was a balance, and...

15 COUNCILMEMBER HOKAMA: Well, their more point is that  
16           the purpose can be met under the current  
17           agriculture designation.

18 MS. LOUDERMILK: That is not correct.

19 COUNCILMEMBER HOKAMA: And that is not correct?

20 MS. LOUDERMILK: That is not correct. For the  
21           subdivision. Should the...

22 COUNCILMEMBER HOKAMA: Regarding use, though?

23 MS. LOUDERMILK: Regarding use, the current zoning does  
24           allow for the agricultural use.

25 COUNCILMEMBER HOKAMA: So on that point, they're

1 correct?

2 MS. LOUDERMILK: That point, they are correct, that the  
3 existing zoning does allow for the existing use.

4 COUNCILMEMBER HOKAMA: Okay. Is the current acreage  
5 under agricultural cultivation?

6 MS. LOUDERMILK: Yes, it is.

7 COUNCILMEMBER HOKAMA: And that...

8 MS. LOUDERMILK: Macadamia orchards.

9 COUNCILMEMBER HOKAMA: It's macadamia orchard.

10 MS. LOUDERMILK: And it's -- it's an active orchard.

11 COUNCILMEMBER HOKAMA: Did our Planning Commission  
12 consider a condition that those agricul- -- some  
13 type of agriculture activity must continue on  
14 the land?

15 MS. LOUDERMILK: No. For this particular reason,  
16 agricultural use is an outright permitted use  
17 on -- in the 0-2 Open Space. And the Open Space  
18 also allows for preservation and restoration of  
19 the cultural sites on the property that is not  
20 allowed in the State -- in the County  
21 Agricultural Zoning District. And lastly, what  
22 they were most impressed with, is that property  
23 zoned Open Space, you can't build a house on it.

24 COUNCILMEMBER HOKAMA: Council was very deliberate in  
25 ensuring that that does not squeak through.



1 MS. LOUDERMILK: Yeah. So the benefits of the -- so  
2 that's -- that was the benefits of the Open  
3 Space designation on this particular portion  
4 that -- that the -- that the Commission did  
5 deliberate. There was a lot of deliberations,  
6 again, regarding the larger subdivision issue.  
7 And in terms of what is there now and what is --  
8 was being requested, the Commission determined  
9 that this is something that they would recommend  
10 to this body for consideration for approval.

11 COUNCILMEMBER HOKAMA: When the Commission discussed  
12 the area of transportation and potential roadway  
13 impacts, is it the Department's understanding  
14 should Hale Mua move forward, how it impacts  
15 level of service for the general community  
16 entering and leaving this project area?

17 MS. LOUDERMILK: In discussion with the State  
18 Department of Transportation Highways Division,  
19 Hale Mua -- Hale Mua did not emerge at that  
20 time. The...

21 COUNCILMEMBER HOKAMA: And I just bring it up  
22 because --

23 MS. LOUDERMILK: Yeah.

24 COUNCILMEMBER HOKAMA: -- there are -- my understanding  
25 of the project we approved, was that there was

1 three major transportation improvements. The  
2 lower -- the lower route, which would go through  
3 Hawaiian Homes, Mr. Chairman, and then Waiehu  
4 Beach Road area.

5 MS. LOUDERMILK: Okay.

6 COUNCILMEMBER HOKAMA: The upper road, which would  
7 eventually go and enter into Piihana, Happy  
8 Valley. And then third, the road that is to  
9 connect by a new bridge to connect to Wailuku  
10 Industrial is another reliever of traffic  
11 pressure.

12 MS. LOUDERMILK: Yeah.

13 COUNCILMEMBER HOKAMA: So for me, you know, I'm  
14 thinking maybe I would only agree if those three  
15 improvements are in place before I even consider  
16 this.

17 Thank you, Chairman.

18 CHAIR MOLINA: Thank you, Member Hokama.

19 Committee Members, any other questions  
20 for the Department? Mr. Pontanilla.

21 VICE-CHAIR PONTANILLA: Thank you. And I asked this  
22 question when the House Committee was here on  
23 Maui, in regards to the traffic coming from  
24 Waihee and going to Waihee. Because we have lot  
25 of developments by Department of Hawaiian

1 Homelands, that, you know, what is taking into  
2 consideration as far as the traffic going in and  
3 out, out of Waihee. As Mr. Hokama had pointed  
4 out, when Hale Mua came about, that there were  
5 three areas that was considered in and out for  
6 Waihee Valley, and Mr. Hokama mentioned the  
7 existing Waiehu Beach Road, Kahekili Highway,  
8 and the proposed connection up to Lower Main  
9 going into Waiale Drive.

10 My question is that the -- the  
11 information that you provided on the overhead,  
12 was Department of Hawaiian Home Land's vehicle  
13 traffic considered in any of the studies that,  
14 you know, going from and coming out of Waihee  
15 Valley?

16 MS. LOUDERMILK: Well, the existing -- yes. The  
17 existing traffic counts that occurred included  
18 the existing traffic that goes through the  
19 Hawaiian Homes area. In terms of the  
20 extrapolation, that was not required by State  
21 DOT for Kahekili Highway. Their concern was  
22 more not with the Change in Zoning. Their  
23 concern was more with, should the subdivision be  
24 approved, then that would be the time in which  
25 they could trigger their requirements and

1           which -- which are separate from the County.  
2           So, yes, Hawaiian Homes was considered in the  
3           initial count.

4                        Secondly, in terms of further details,  
5           State DOT did not require that. It did not  
6           warrant a more extensive study.

7                        And then thirdly, the action of the  
8           Change in Zoning itself was not as much of a  
9           concern for them versus should the actual  
10          subdivision go forward, and at that point, that  
11          would be when they would make their  
12          determination in relation to Kahekili Highway.

13 VICE-CHAIR PONTANILLA: Long answer. No solution.

14 MS. LOUDERMILK: Um -- yeah. Yeah.

15 VICE-CHAIR PONTANILLA: Thank you very much. Do you --  
16           does the Department know of any more  
17           developments being considered by Department of  
18           Hawaiian Home Lands in this particular area?

19 MS. LOUDERMILK: At this point, no. That would be  
20           their last portion of property that they have at  
21           this point in time. We are not aware of any  
22           potential purchases for property in that  
23           particular area.

24 VICE-CHAIR PONTANILLA: Thank you.

25                        Thank you, Chair.

1 CHAIR MOLINA: Thank you, Mr. Pontanilla.

2 Mr. Victorino?

3 COUNCILMEMBER VICTORINO: Yes. Just to add on or to  
4 continue on the line of questioning on traffic,  
5 my first question is, you stated that this study  
6 was done in July of 2005?

7 MS. LOUDERMILK: Yes.

8 COUNCILMEMBER VICTORINO: Okay. And if I'm not  
9 mistaken, most July of any year is summer  
10 months?

11 MS. LOUDERMILK: Yes.

12 COUNCILMEMBER VICTORINO: Okay. So you know where my  
13 question is going. Why July, and not when the  
14 peak traffic times when during school, when  
15 school is on, because I'm very familiar with the  
16 area, I live in the area, and I can tell you,  
17 there is a tremendous difference, and it's  
18 changing very radically. Right now, the traffic  
19 yes...today, if you went there today, was  
20 immensely backed up.

21 MS. LOUDERMILK: Yeah. I cannot answer that.

22 COUNCILMEMBER VICTORINO: Yeah. So I'm curious when  
23 you say no impact and -- I don't see that being  
24 a reality.

25 CHAIR MOLINA: Ms. Loudermilk?

1 MS. LOUDERMILK: Yeah, in term -- I understand in terms  
2 of there is an impact. Based -- unfortunately,  
3 based upon the criteria that the State DOT  
4 follows for their roadway, that is what their  
5 determination was, to -- to the Department. But  
6 we realize that it's a regional issue and, you  
7 know, I cannot speak for the DOT other than  
8 saying that those -- those were their comments  
9 based upon what they've required for, and  
10 specifically on Kahekili Highway in this  
11 particular instance.

12 COUNCILMEMBER VICTORINO: Unfortunately, I don't like  
13 when big brother comes along, and has been in  
14 the past and probably in the future, telling us  
15 what is right and wrong, because they're not  
16 there to be impacted.

17 The other area that we were talking  
18 about, and I concur with Council Chair Hokama,  
19 is that something like this or any other major  
20 project, other than the Hawaiian Homes because  
21 we are bound to do that, should not come forward  
22 until we get that extension, which will go into  
23 actually the mill area, not the industrial area,  
24 which will come across by Wai- -- Waiale, thank  
25 you, Waiale, and then, you know, which then

1 breaks up the traffic that is right now  
2 presently backing up, in Happy Valley, all the  
3 way down Market Street because of that  
4 congestion there.

5 So, any projects coming up now in that  
6 area already that hasn't been approved, I think  
7 this Committee would have a hard time, I mean,  
8 at least from my side, because I know of the  
9 traffic impact, not only talking schools and all  
10 the other things, but the traffic impact is so  
11 bad right now. It takes people 25 to 30 minutes  
12 to come from Kahekili, by the graveyard, to get  
13 into Wailuku town both ways because of the  
14 backup coming out of all these homes.

15 So when you say, oh, when this, this,  
16 this statement is made not -- no major impact, I  
17 beg to differ with anybody, and I'd like them to  
18 come back and make a real thorough study, and  
19 not in July, but do it when September, August,  
20 when school is back into session, which is  
21 really a reality check, as far as traffic is  
22 concerned. Thank you.

23 And I'm not personally against you. It's  
24 just that I'm not really happy with what this,  
25 this whole study has come up with.

1 MS. LOUDERMILK: Thank you.

2 CHAIR MOLINA: Okay. Thank you, Mr. Victorino.

3 Committee Members, any other questions  
4 for the Department? Mr. Medeiros?

5 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair.

6 What is the intent of the Applicant, in  
7 the Change in Zoning? Because in -- what is  
8 this, OS, Open Space 2, which is active, are  
9 buildings allowed?

10 MS. LOUDERMILK: Only in relation to agricultural or  
11 recreational facilities. The intent for this  
12 particular portion of the property is for it to  
13 remain inactive agriculture, which it is right  
14 now, it's one of the remnants of the macadamia  
15 orchards that was located in that region.  
16 And -- so for that portion, the intent is for it  
17 to remain in its existing use.

18 As part of the larger property, should  
19 the Change in Zoning be granted, it would allow  
20 the Applicant then to submit a subdivision  
21 application to the County of Maui, for the  
22 14-lot subdivision, which is on either side of  
23 that piece of property.

24 COUNCILMEMBER MEDEIROS: So which is more restrictive,  
25 Agriculture or Open Space?



1 MS. LOUDERMILK: I think it would depend on what you  
2 want to restrict.

3 COUNCILMEMBER MEDEIROS: As far as development of homes  
4 or structures?

5 MS. LOUDERMILK: Open -- In terms of Open Space, the --  
6 the key advantage for Open Space is that it does  
7 not -- it allows for active agricultural uses,  
8 associated uses, structures, recreational uses.  
9 And the only types of structures allowed are  
10 related to the processing. You cannot have a  
11 house on the property. So I think in terms  
12 of -- that's the largest restriction in terms of  
13 you can do your agriculture on the property, but  
14 you cannot have the house on the property,  
15 whereas if you're in the Agricultural Zoning  
16 District, you're -- it's questionable the types  
17 of structures that you are allowed in relation  
18 to the use, as well as it does allow for  
19 housing.

20 So if housing is the concern, the Open  
21 Space is the more restrictive, but still allows  
22 the flexibility to do all of the agricultural  
23 operations, to provide open space for natural  
24 resources and hazards that we would not  
25 necessarily want to have developed.

1                   In this particular case, it was  
2                   identified as a 100- and 500-year flood area,  
3                   and it was deemed significant enough to identify  
4                   that open space to keep -- to ensure, further  
5                   ensure that no housing or urban-type development  
6                   will occur.

7 COUNCILMEMBER MEDEIROS: So what is the possible  
8                   advantage to the Applicant, to possibly have it  
9                   subdivided?

10 CHAIR MOLINA: Excuse me, Mr. Medeiros and  
11                   Ms. Loudermilk, the Chair would like to just  
12                   make a quick announcement.

13                   First of all, turn off your cell phones  
14                   and pagers, please. I don't like the disruption  
15                   in our Committee meeting here.

16                   And, Mr. Medeiros, at the conclusion,  
17                   when you get a response from Ms. Loudermilk, the  
18                   Chair will be calling for a brief recess.

19 COUNCILMEMBER MEDEIROS: Okay.

20 CHAIR MOLINA: Ms. Loudermilk, you may respond to  
21                   Mr. Medeiros' question.

22 MS. LOUDERMILK: I believe the intent, should the  
23                   Change in Zoning would be granted, would be to  
24                   subdivide the property and sell the property or  
25                   lease the property out as an ag. subdivision.

1 COUNCILMEMBER MEDEIROS: Thank you very much.

2 Thank you, Chair.

3 CHAIR MOLINA: Thank you, Mr. Medeiros. The Chair is  
4 going to call for a brief recess. The  
5 August 1st, 2007 Land Use Committee Meeting is  
6 in recess. (Gavel).

7 **RECESS: 4:04 p.m.**

8 **RECONVENE: 4:15 p.m.**

9 CHAIR MOLINA: (Gavel). The Land use Committee meeting  
10 of August 1, 2007, is now back in session.  
11 Members, we left off on Land Use Item No. 3,  
12 which is a proposed Change in Zoning for Waihee  
13 Mauka project. The Chair would like to offer a  
14 recommendation. In light of the time  
15 considerations and other matters as well as some  
16 issues that have been brought up by Members, I  
17 think it's in the best interest at this time  
18 that we defer Land Use Item No. 3 for discussion  
19 on another meeting date. Any objections?

20 COUNCIL MEMBERS: No objections.

21 CHAIR MOLINA: Okay, Land Use Item 3 is now deferred.

22 **ACTION: DEFER pending further discussion.**

23 CHAIR MOLINA: Okay, so that concludes the agenda for  
24 our Land Use meeting of August 1, 2007. Any  
25 announcements, Members? Seeing none. It is

1           4:15. This Land Use meeting for August 1, 2007  
2           is now adjourned. (Gavel).

3 **ADJOURN: 4:17 p.m.**

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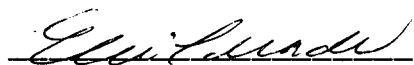
C E R T I F I C A T E

STATE OF HAWAII )  
 ) SS,  
CITY AND COUNTY OF HONOLULU )

I, Elsie Terada, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 24th day of August, 2007, in Honolulu, Hawaii.

  
\_\_\_\_\_

ELSIE TERADA, CSR NO. 437  
Notary Public, State of Hawaii  
My Commission Expires: 4-07-2010