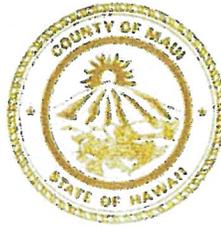


MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



RECEIVED
2020 FEB -4 PM 4: 28
OFFICE OF THE MAYOR

DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

February 4, 2020

Honorable Michael P. Victorino, Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 2-5-2020
Mayor Date

OFFICE OF THE
COUNTY COUNCIL

2020 FEB -5 AM 10: 28

RECEIVED

For Transmittal to:

Honorable Tamara Paltin, Chair
Planning and Sustainable Land Use Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Councilmember Paltin:

**SUBJECT: AMENDING THE COMPREHENSIVE ZONING
ORDINANCE RELATING TO RESOURCE EXTRACTION
OR PROCESSING (PSLU-16)**

As you know, in response to concerns about grading activity in Central Maui and its potential to disturb *iwi kupuna*, the Maui County Council adopted a temporary moratorium on sand mining in Central Maui in 2018. During the moratorium, an updated sand study was prepared and proposed code changes were considered.

As a result, Ordinance No. 4937 was adopted to amend provisions of Chapter 20.08, Maui County Code, relating to grading. This explicitly required grading applications and permits to meet the requirements of Chapter 6E, Hawaii Revised Statutes, relating to historic preservation. Another proposed bill to amend the definition of "resource extraction" was also considered but was ultimately recommitted to your Committee.

The definition of "resource extraction" is what allowed the Department of Planning (Department) to issue a Notice of Warning for the above-referenced grading activity, which resulted in its suspension. This activity has not resumed since. We believe the fundamental purpose of this definition is sound, but it can also be interpreted in a manner that is overly broad and, therefore, can be misapplied.

Honorable Michael P. Victorino, Mayor
For Transmittal to:
Honorable Tamara Paltin
February 4, 2020
Page 2

The current definition of “resource extraction” is “activities engaged in the exploration, mining and processing of natural deposits of rock, gravel, sand, and topsoil.”

As part of the typical site development process, material is graded and sometimes processed to be used on-site, or is removed from the site in order for the site to be leveled or filled with more suitable material. Those normal activities would be considered “resource extraction” under the current definition.

We have consulted with the Department of Public Works, and we agree that the following language would be appropriate, reasonable, clear and easy to administer:

“Resource extraction” means an activity that requires a grading permit pursuant to chapter 20.08 and results in the export, to a location outside of the grading limits identified in the grading permit, of earthen material generated from below the natural grade, including ores, minerals, soils, sand, rock, cinder, and topsoil, in a quantity greater than the minimum amount necessary for development as certified by a licensed civil engineer and the planning director, in consultation with the director of public works; or an activity that is subject to the Federal Mine Safety and Health Act, Title 30 United States Code section 802(h).

This proposed definition, along with the changes to Chapter 20.08, should significantly curtail the kind of mining and extraction that we have seen in the past. However, together these will not completely prevent the possible disturbance of *iwi kupuna* or other historic properties; further code amendments and changes to processes would be needed to achieve such an objective, including changes to state laws and rules, keeping in mind that such changes would also impact how site development typically occurs.

Your consideration of this proposed definition would be appreciated. Please feel free to contact me should you require additional information or have any questions.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Rowena Dagdag-Andaya, Director of Public Works (pdf)
Jordan Molina, Deputy Director of Public Works (pdf)
John Rapacz, Planning Program Administrator (pdf)
Jacky Takakura, Administrative Planning Officer (pdf)

MCM:atw

S:\ALL\Michele\Council\Paltin PSLU-16 revised definition final.docx