

REQUEST FOR LEGAL SERVICES

RECEIVED

DATE SEP 26 2017 3:55 pm

Date: September 25, 2017
From: Robert Carroll, Chair
Land Use Committee

SEP 25 2017

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: James Giroux, Esq.

Subject: DISTRICT BOUNDARY AMENDMENT, COMMUNITY PLAN AMENDMENT, AND CHANGE IN ZONING FOR HUI NO'EAU VISUAL ARTS CENTER (LU-43)

Background Data: Please review and, if appropriate, approve as to form and legality the attached revised proposed resolution. Attached are a clean copy and a mark-up reflecting the revisions that have been incorporated.

Work Requested: [X] FOR APPROVAL AS TO FORM AND LEGALITY
[] OTHER:

Requestor's signature: Robert Carroll
Contact Person: Carla Nakata (Telephone Extension: 7659)

- [] ROUTINE (WITHIN 15 WORKING DAYS)
>[] RUSH (WITHIN 5 WORKING DAYS)
>[] PRIORITY (WITHIN 10 WORKING DAYS)
>[] URGENT (WITHIN 3 WORKING DAYS)

[X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 27, 2017, 10 a.m.
REASON: For posting on the agenda for the October 4, 2017 Committee meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: JAG ASSIGNMENT NO. 2017-0095 BY: KKM

TO REQUESTOR: [] APPROVED [] DISAPPROVED [] OTHER (SEE COMMENTS BELOW)
[] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date: SEP 26 2017

By: James Giroux

(Rev. 7/03)

Resolution

No. _____

REFERRING TO THE MAUI PLANNING
COMMISSION PROPOSED BILLS TO AMEND
THE STATE LAND USE DISTRICT
CLASSIFICATION, ZONING, AND MAKAWAO-
PUKALANI-KULA COMMUNITY PLAN AND LAND
USE MAP FOR PROPERTY SITUATED AT
MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2)
2-4-002:011 AND (2) 2-4-002:006 (POR.)
(HUI NO`EAU VISUAL ARTS CENTER)

WHEREAS, the Council is considering a proposed bill to amend the State Land Use District classification from Agricultural to Rural and a proposed bill to change the zoning from Interim and Agricultural Districts to P-1 Public/Quasi-Public District for property comprising approximately 14.775 acres, situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006 (collectively, the "Property"); and

WHEREAS, the Council is also considering a proposed bill to amend the Makawao-Pukalani-Kula Community Plan and Land Use Map from Agricultural to Public/Quasi-Public for a portion of the Property comprising approximately 4.306 acres, situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as a portion of tax map key (2) 2-4-002:006; and

WHEREAS, Hui No`eau Visual Arts Center, also known as the Kaluanui Estate, whose street address is 2841 Baldwin Avenue, Makawao, Maui, Hawaii, is on the Property; and

WHEREAS, the Property's current land use designations do not allow for its actual, longstanding use as an arts and educational center without appropriate permits, which are both costly and time-consuming to obtain; and

WHEREAS, grant funding for the nonprofit corporation, Hui Noeau, may be jeopardized if the appropriate permits are not obtained in a timely manner; and

Resolution No. _____

WHEREAS, the Council, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended ("Charter"), may propose amendments to land use ordinances and revisions to the General Plan, including community plans; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Charter require that the appropriate planning commission review proposed land use ordinances and amendments thereto, and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

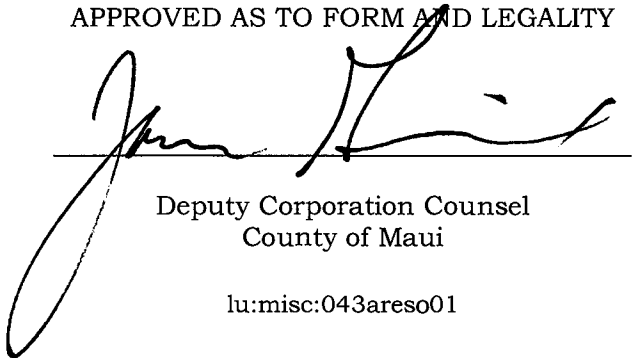
1. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Maui Planning Commission for appropriate action, pursuant to Sections 8-8.4 and 8.8-6 of the Revised Charter of the County of Maui (1983), as amended ("Charter"); and
2. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)," a copy of which is attached hereto as Exhibit "2" and made a part hereof, to the Maui Planning Commission for appropriate action, pursuant to Sections 8-8.4 and 8.8-6 of the Charter; and
3. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEY (2) 2-4-002:006 (POR.)," a copy of which is attached hereto as Exhibit "3" and made a part hereof, to the Maui Planning

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Commission for appropriate action, pursuant to Sections 8-8.4 and 8.8-6 of the Charter; and

4. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and
5. That certified copies of this resolution be transmitted to the Mayor; the Planning Director; the Maui Planning Commission; and Robb Cole, Planner, Hawaii Land Use Group.

APPROVED AS TO FORM AND LEGALITY



Deputy Corporation Counsel
County of Maui

lu:misc:043areso01

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)

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

SECTION 1. Pursuant to Section 205-3.1, Hawaii Revised Statutes, and Chapter 19.68, Maui County Code, the State Land Use District classification is reclassified from Agricultural to Rural for that certain real property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, comprising approximately 14.775 acres, and more particularly described in Exhibit "A," attached hereto and made part hereof, and in District Boundary Amendment Map No. DB-____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:043adbabil01:cmn

EXHIBIT "1"

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion) and 011

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393 and all of Lot 2-A-1-A of H. A. Baldwin "Kaluanui: House Lots, Subdivision File No. 2.2242, being portions of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a found 1/2 inch pipe at the northernmost corner of this parcel of land, along the south side of Kaluanui Road coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,513.72.4 feet North and 4,062.59 feet West and running by azimuths measured clockwise from true South (meridian of said "PIIHOLO"),

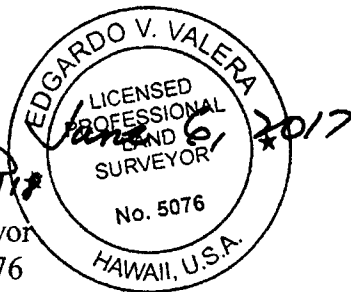
1. 301° 54' 32" 375.50 feet along Lot 2-A-1-B of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a 1/2 inch pipe; thence,
2. 309° 42' 186.00 feet along the same to a 1/2 inch pipe; thence,
3. 347° 40' 168.41. feet along Lot 2-A-1-C of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a 1/2 inch pipe; thence,
4. 347° 20' 162.00 feet along the same to a 1/2 inch pipe; thence,
5. 358° 00' 38.07 feet along Lot 2-B-1 of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2..2214 to a 1/2 inch pipe; thence,
6. 34° 34' 300.76 feet along the same to a 1/2 inch pipe; thence,
7. 42° 38' 177.80' feet along the same to a 1/2 inch pipe; thence,
8. Along Baldwin Avenue on a curve to the left with a radius of 751.00 feet and a central angle of 21° 31' 51", the chord azimuth and distance being
131° 42' 59" 280.56 feet to a 1/2 inch pipe; thence,

- 9. 115° 47' 95.63 feet along thje same to a ½ inch pipe; thence,
- 10. 110° 36' 121.67 feet along the same to a ½ inch pipe; thence,
- 11. 151° 13' 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
- 12. 177° 10' 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
- 13. 265° 06' 97.60 feet along the south side of Kaluanui Road to a point; thence,
- 14. 261° 26' 63.70 feet along the same to a point; thence,
- 15. 327° 30' 8.63 feet along the same to a ½ inch pipe; thence,
- 16. 266° 06'' 238.10 feet along the same to the point of beginning and containing an area of 14.775 acres, more or less.

Note: This metes and bounds description has been prepared for change in Zoning, Land Use District Boundary Amendment and Community Plan Amendment purposes only.

This work was prepared by me
 or under my direct supervision.
 VALERA, INC.

Edgardo V. Valera
 Edgardo V. Valera *Exp 4/1/17*
 Licensed Professional Land Surveyor
 State of Hawaii Certificate No. 5076
 End of description.
 8178Kaluanui



ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM AND AGRICULTURAL DISTRICTS TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAII, TAX MAP KEYS (2) 2-4-002:011 AND (2) 2-4-002:006 (POR.)

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

SECTION 1. Pursuant to Chapters 19.31 and 19.510, Maui County Code, a change in zoning from Interim District to P-1 Public/Quasi-Public District and from Agricultural District to P-1 Public/Quasi-Public District is hereby granted for that certain real property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, respectively, comprising approximately 14.775 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Land Zoning Map No. L-_____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:043acizbill01

EXHIBIT "2"

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion) and 011

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393 and all of Lot 2-A-1-A of H. A. Baldwin "Kaluanui: House Lots, Subdivision File No. 2.2242, being portions of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a found 1/2 inch pipe at the northernmost corner of this parcel of land, along the south side of Kaluanui Road coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,513.72.4 feet North and 4,062.59 feet West and running by azimuths measured clockwise from true South (meridian of said "PIIHOLO"),

1. 301° 54' 320" 375.50 feet along Lot 2-A-1-B of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a 1/2 inch pipe; thence,
2. 309° 42' 186.00 feet along the same to a 1/2 inch pipe; thence,
3. 347° 40' 168.41. feet along Lot 2-A-1-C of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a 1/2 inch pipe; thence,
4. 347° 20' 162.00 feet along the same to a 1/2 inch pipe; thence,
5. 358° 00' 38.07 feet along Lot 2-B-1 of H. A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2..2214 to a 1/2 inch pipe; thence,
6. 34° 34' 300.76 feet along the same to a 1/2 inch pipe; thence,
7. 42° 38' 177.80` feet along the same to a 1/2 inch pipe; thence,
8. Along Baldwin Avenue on a curve to the left with a radius of 751.00 feet and a central angle of 21° 31' 51", the chord azimuth and distance being
131° 42' 59" 280.56 feet to a 1/2 inch pipe; thence,

- 9. 115° 47' 95.63 feet along thje same to a ½ inch pipe; thence,
- 10. 110° 36' 121.67 feet along the same to a ½ inch pipe; thence,
- 11. 151° 13' 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
- 12. 177° 10' 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
- 13. 265° 06' 97.60 feet along the south side of Kaluanui Road to a point; thence,
- 14. 261° 26' 63.70 feet along the same to a point; thence,
- 15. 327° 30' 8.63 feet along the same to a ½ inch pipe; thence,
- 16. 266° 06'' 238.10 feet along the same to the point of beginning and containing an area of 14.775 acres, more or less.

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End of description.
8178Kaluanui



ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE TO AMEND THE MAKAWAO-PUKALANI-KULA
COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL TO
PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT MAKAWAO, MAUI,
HAWAII, TAX MAP KEY (2) 2-4-002:006 (POR.)

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

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Makawao-Pukalani-Kula Community Plan and Land Use Map is hereby amended from Agricultural to Public/Quasi-Public for that certain real property situated at Makawao, Maui, Hawaii, and identified for real property tax purposes as a portion of tax map key (2) 2-4-002:006, comprising approximately 4.306 acres, and more particularly described in Exhibit "A," attached hereto and made a part hereof, and in Community Plan Map No. CP-_____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

lu:misc:043acpabill01

EXHIBIT "3"

LAND DESCRIPTION

Tax Map Key (2) 2-4-002:006(Portion)

Land situated between Baldwin Avenue and Kaluanui Road at Haliimaile, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii.

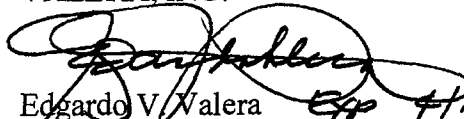
Being portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File No. 2.393, being a portion of Royal Patent 7512, Land Commission Award 11,216, Apana 27 to Kehaunohi.

Beginning at a point at the northeast corner of this parcel of land, along the south side of Kaluanui Road coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 7,505.10 feet North and 4,304.59 feet West and running by azimuths measured clockwise from true South (meridian of said "PIIHOLO"),

1. 327° 30' 8.63 feet along the southerly side of Kaluanui Road to a ½ inch pipe; thence,
2. 327° 30' 315.00 feet along Lot 2-A-1-B of H.A. Baldwin "Kaluanui" House Lot Subdivision, Subdivision File No. 2.2242 to a ½ inch pipe; thence,
3. 343° 58' 290.00 feet along the same to a ½ inch pipe; thence,
4. 36° 40' 289.60 feet along the same to a ½ inch pipe to a ½ inch pipe; thence,
5. 151° 13' 454.41 feet along portion of Lot 1 of Maui Pineapple Co., Ltd Lease, L.U.C.A. File 2.393 to a point, thence,
6. 177° 10' 361.02 feet along the remainder of Lot 1 of Maui Pineapple Co., Ltd. Lease, L.U.C.A. File No. 2.393 to a point; thence,
7. 265° 06' 97.60 feet along the south side of Kaluanui Road to the point of beginning and containing an area of 4.306 acres, more or less.

Note: This metes and bounds description has been prepared for change in Zoning and Community Plan Amendment purposes only.

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or under my direct supervision.
VALERA, INC.


Edgardo V. Valera *Exp 4/18*
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 5076
End of description.
8178CPKaluanui

