
From: rebecca collins <beckyinojai@sbcglobal.net>
Sent: Friday, June 17, 2022 11:23 AM
To: County Clerk
Subject: Brown development napili

RECEIVED

2022 JUN 17 AM 11:36

OFFICE OF THE
COUNTY CLERK

[You don't often get email from beckyinojai@sbcglobal.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

This is clearly not a project based on height usage etc that was legitimately approved not the least of which the black plastic surrounding it creates blind spots.. too close to road so cannot see cars coming .. the whole thing . should be shut down and removed.. eyesore and is not a single family or long term rental so brown lied about that too. We have been coming to napili for years .. I was born in Hawaii as was my father..don't allow this as it destroys the Hawaii vibe big time and is in violation of the codes re height and an employee with county city was fired for calling this out so somebody gettin paid off to give this permit.. SHUT IT DOWN. NOW.

Sent from my iPhone

From: Maureen Bacon <mauimo808@gmail.com>
Sent: Friday, June 17, 2022 3:20 PM
To: County Clerk
Subject: Lighting bill

RECEIVED

2022 JUN 17 PM 3:24

OFFICE OF THE
COUNTY CLERK

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The lighting that certain neighbors in the neighborhood have are a real issue. Bright flood lights kept on all night to apparently keep the pigs away shine right into our windows & many of our neighbors windows, including bedroom windows. And they don't seem to be will to do much about it. I would like to see this bill passed.

Maureen Bacon

County Clerk

From: tnelson002@hawaii.rr.com
Sent: Sunday, June 19, 2022 9:36 PM
To: County Clerk
Subject: Testimony regarding Resolution 22-154

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2022 JUN 20 AM 8:13

OFFICE OF THE
COUNTY CLERK

You don't often get email from tnelson002@hawaii.rr.com. [Learn why this is important](#)

I don't believe the proposed resolution to convert real property from transient vacation rental use to residential use will improve availability of "affordable housing" nor do I believe it is legal. I am extremely upset by the prospect of denying my ability to continue to rent out my condhotel unit at Kamaole Sands. We bought the unit 20 years ago at which time it was a TVR and we bought it for that purpose. Kamaole Sands was built as a resort facility and that is its primary use. We have been residents of Maui for about 15 years. I don't see how it could be legal or ethical to deprive us of our right to derive income as was established when we procured the property.

One-bedroom units at Kamaole Sands are selling for \$750,000 and up. The current AOA fees are greater than \$600 a month. These costs are not compatible with "affordable housing". I would also remind the Council that the County would lose the Transient Accommodation Tax and increased property taxes generated by TVRs.

It looks like the Council, if the bill becomes law, is transferring its legal obligation to determine zoning to condo associations. I don't think you can do that, as the Council has the obligation to act on behalf of the people who elected them and that duty cannot be relegated to some other body. I also think our condo documents control and cannot be overridden or rewritten by the Council. Finally I think the current owners have a strong "estoppel" argument and a "taking" argument under the U.S. Constitution.

I request that the TVR conversion proposal be rescinded so that we may continue to derive beneficial use of our property.

Tom Nelson
Kihei

County Clerk

RECEIVED

From: kimberly potter <kimberlypotter2022@icloud.com>
Sent: Saturday, June 18, 2022 6:55 AM
To: County Clerk
Subject: New Bill 21 Proposal

2022 JUN 20 AM 8:13

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COUNTY CLERK**

[You don't often get email from kimberlypotter2022@icloud.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

To whom it may concern:

Precluding certain kinds of needed lighting would be against safety codes and personal safety.
This would be unreasonable.

I understand we all are protective of our environment, however, I believe must birds do not fly at night.

Mahalo,
Kimberly Potter
Maui Westside Owner

Sent from my iPhone

County Clerk

RECEIVED

From: HelpThanks <HelpThanks@protonmail.ch>
Sent: Friday, June 17, 2022 8:54 PM
To: County Clerk
Subject: Bill 21

2022 JUN 20 AM 8:13

**OFFICE OF THE
COUNTY CLERK**

 You don't often get email from helpthanks@protonmail.ch. [Learn why this is important](#)

Aloha Maui Council,

I would like to express my support for the proposed Bill 21 regarding outdoor lighting for protection of seabirds.

The light pollution that we now face is increasing with each new development. This bill seeks to tackle the issue. This bill is forward thinking and when implemented will make Maui County better not for just birds, but more energy efficient. Also will help in reducing light pollution for all residents.

Another problem is the motion sensor lighting the extreme wealthy have been installing on their empty mansions at the shoreline. These do damage to more than just birds. They damage our vision, and nesting honu.

Please vote for approval of this bill.

Many Mahalos,

Jonny Orlando



Bay and Beach Foundation

PO Box 10823
Lahaina, HI 96761

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2022 JUN 20 AM 8:13

OFFICE OF THE
COUNTY CLERK

June 16, 2022

To: Maui County Councilpersons and Chair Lee:

Reaching out to reiterate the Napili community concerns regarding the building currently under construction at the corner of Lower Honoapi'ilani Road and Hui Drive, in Napili, Maui, aka Napili Beach House.

After more thorough review of the public documents regarding this structure, Napili Bay and Beach Foundation has found that Maui County Planning Department's SMA Minor Exemption permit SM5 2019/0082, issued 4/10/2019 for a single family dwelling at 5385 Lower Honoapi'ilani Road, TMK 2-4-3-002:057-000 did not accurately describe the structure that was to be built according to plans. The estimated value was also much more than allowed for by an SMA Minor Exemption. Further, the 2021 Maui County Parcel Information indicates the tax class for this parcel as a "Short Term Rental", not a single family dwelling. Please see the next page of this submission for a summary of the facts found in process and outcomes as of Summer, 2021.

For the above reasons, and because the structure 'does not fit' size and style of The Napili Civic Improvement District Ordinance, Bill No. 13 (1964, as revised and codified, Chapter 19.60) and most importantly for reasons of increased environmental impacts of a large structure and hard surfaces on runoff to Napili Bay, Napili Bay and Beach Foundation, Inc. respectfully challenges this building as it is now being built (height and style), and for the uses now on shown on public records for Short Term Rental occupancy.

Sincerely,

A handwritten signature in black ink that reads "Pat B. Lindquist". The signature is fluid and cursive, with a long horizontal stroke at the end.

for Napili Bay and Beach Foundation, Inc.

Pat B. Lindquist, President

Gregg Nelson, Vice-President

Nane Aluli, Secretary

Norm Runyan, Director

Jamie Lung-Ke'o, Director

Tano Taitano, Director

The Brown House at Napili – Just the Facts

I. Structure –

- 8 labelled bedrooms with adjoining baths
- 2 "Media rooms" and 2 "Dens" which have ensuite walk in closets and bathrooms,
 - suite separated from rest of house by hallway doors. One set of plans shows
 - a king bed in the floorplan of one of these rooms, they can all be used as
 - Master bedroom suites => totalling 12 bedrooms.
- Floorplan shows two virtually identical structures divided by a lobby and elevator/stairs:
 - 2 kitchens, 2 'great rooms', 2 powder rooms, 1 laundry closet
- 8 parking places on property*
- 4 parking places on Hui Drive, designated as public beach parking
- 2 pools and spas – one at ground level, one on roof top
- Total height – 45 ft.
- Each story has a ceiling height of 16 ft.
- Roof top has a pool, spa, built in BBQ kitchen area, with lanai spaces

II. Process to Permits

- SMA granted in April, 2019 as an SMA5 => exempt from public notification and comments. (**SM5** 2019/0082 issued on 4/10/19 for single family residence with valuation of \$1,500,000.)
- Granted SMA Minor exemption based on designation as a single family residence, value less than \$500,000.00. Structure is designated several other places as main residence.
- Building permit issued in May, 2020, designated as apartment (5/19/20 B20200448) gives permit amount of \$2,000,000, plus \$150,000.00 for pool.)
- Maui County Tax parcel designation in 2021 is 'Short Term Rental' (Parcel Number 430020570000.)
- Napili Civic Improvement District Ordinance ((1964, as revised and codified, Chapter 19.60) parameters not followed:
 - not to exceed 2 stories in height
 - must retain style of other buildings in the district (Construction and architectural styling of buildings and structures shall be in conformance with present developments in the Napili Bay civic improvement district)
- Building permits issued for structure valued at \$2,000,000.00

III. Neighbors lodge challenges with Maui County Planning & DPW in March/April 2021

County Clerk

From: Axel I. Beers
Sent: Monday, June 20, 2022 9:43 AM
To: County Clerk
Subject: Fw: submitting Maui County Council Bill 21 Testimony

Importance: High

Hi,

Forwarding testimony for June 21.

Thank you,
Axel

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COUNTY CLERK

From: Erik <erik@extendedhorizons.com>
Subject: submitting Maui County Council Bill 21 Testimony
Date: June 18, 2022 at 11:27:09 AM HST

Aloha Council

I am writing to add my voice to the support of passing Bill 21 as proposed. The issue of light pollution on Maui has been an ongoing and seemingly intractable issue for decades.

There are so many reasons to support this bill. Starting with the science behind it, the protection of seabirds, the protection of nesting turtles and more. However it is simple to understand environmental reasons, there are also esthetic reasons and sound business reasons.

In the past 4 decades of growth, I have seen the darkness of Maui's night sky steadily eroded.

Some of it patently blatant, like the lighting for bigbox store parking lots. Some of it with best of intentions like night time sporting lighting, and the often cited use of lighting to deter crime.

As this growth of lighting has happened there has been little regard for the stray lighting or simple retrofits which can be easily used. Businesses and governmental agencies owe it to the community to utilize current LED tech and shielding for a better night time experience.

One only need to look at the intersection of Kaanapali and Hwy 30 to see an example of how much light can be directed to an area without blinding bystanders.

The time to act is now. As a business owner myself that is severely regulated at the County, State, and Federal level I have to say, this bill is generous in it giving 3 years to phase in better lighting to meet the bill's requirements for existing fittings.

Please pass this bill for all the residents and animals that are affected by light pollution on Maui.
Mahalo,

Erik Stein
Extended Horizons

<https://www.mauinews.com/news/local-news/2022/06/concerns-loom-over-outdoor-lighting-bill-in-maui-county/>

MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



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DEPARTMENT OF PLANNING 2022 JUN 20 PM 2:23

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

OFFICE OF THE
COUNTY CLERK

June 16, 2022

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

APPROVED FOR TRANSMITTAL

Michael P. Victorino 6/20/22
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Council Members:

SUBJECT: RESOLUTION NO. 22-159

I am writing to request that the Council not adopt Resolution No. 22-159 as drafted because it contains several errors and inaccuracies. I have no objection to the resolution being referred to an appropriate committee for further discussion.

Thank you for your consideration of this testimony. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michele McLean".

MICHELE MCLEAN, AICP
Planning Director

xc: Jordan Hart, Deputy Director
Jacky Takakura, Administrative Planning Officer

MCM:atw

S:\ALL\Michele\Council\Lee Reso 22 159.docx

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793
June 16, 2022

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COUNTY CLERK

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

APPROVED FOR TRANSMITTAL

Michael P Victorino 6/20/22
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Council Members:

SUBJECT: COMMITTEE REPORT NO. 22-52

I am writing to request that the Council defer taking action on Planning and Sustainable Land Use (PSLU) Committee Report No. 22-52, which would file Bill 82 (2022) relating to Apartments in the M-2 Heavy Industrial District.

It is our understanding that Affordable Housing (AH) Committee Chair Gabe Johnson might be interested in further discussing the bill in his AH Committee. He is out of the country and will not be present at your June 21, 2022 meeting and, therefore, will not be able to request that the matter be so referred. In order to keep this option open, Committee Report No. 22-52 can be deferred at your June 21, 2022 meeting, thus allowing action to be taken at your next meeting instead, when AH Committee Chair Johnson is present.

We believe that amendments can be made to the proposed bill to address some of the concerns raised during the PSLU Committee's deliberations, including public notice, affordability, and ensuring that no housing is located near heavy industrial uses. Deferring action on Committee Report No. 22-52 will allow these ideas to be discuss further.

The Council is mindful of the deadline imposed by the Maui County Charter, where land use ordinance revisions that are proposed by the planning director must be acted upon by the Council within 180 days of receipt. The subject bill was transmitted to the Council on April 18, 2022, meaning that the Council has until approximately October 18, 2022 to

Honorable Michael P. Victorino, Mayor
For Transmittal to:
Honorable Alice Lee, Chair
and Members of the Maui County Council
June 16, 2022
Page 2

take action on the proposed bill to meet the Charter deadline. It should be noted that there are no repercussions if the deadline is not met; the bill does not automatically pass or fail.

Thank you for your consideration of this testimony. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'michele', with a stylized, flowing script.

MICHELE MCLEAN, AICP
Planning Director

xc: Jacky Takakura, Administrative Planning Officer

MCM:atw

S:\ALL\Michele\Council\Lee M2 CR.docx

County Clerk

From: Carol A REINHOLD <careinhold@mac.com>
Sent: Monday, June 20, 2022 3:15 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

 You don't often get email from careinhold@mac.com. [Learn why this is important](#)

As an owner of two condominiums on Napili Bay, I am in support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Carol Reinhold
301 Esquina
Newport Beach, CA 92660
Home (949) 675-3085
Mobile (949) 697-9333

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2022 JUN 20 PM 3:18

June 20, 2022

OFFICE OF THE
COUNTY CLERK



Gerard C. Gibson
President

The Honorable Alice L. Lee, Chair
The Honorable Keani Rawlins-Fernandez, Vice-Chair
Maui County Council
Kalana O Maui Building
200 South High Street, 8th Floor
Wailuku, Hawaii 96793

RE: Hawaii Hotel Alliance Opposition to Bill 21, CD1 (2022)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and Members of the County Council,

Mahalo for this opportunity to provide testimony in advance of the County Council's June 21, 2022 meeting. Maui's lodging industry is deeply committed to its stewardship role for the local environment—including the protection of Hawaii's native seabird species—but if enacted Bill 21, CD1's outdoor lighting fixture requirements would impose impractical, ambiguous and unsafe requirements on businesses (and residents) throughout the County which run counter to the guidance of state and federal agency experts in this space.

For the reasons our testimony will expand upon below, the Hawaii Hotel Alliance must regretfully oppose Bill 21, CD1.

Bill 21, CD1 Conflicts with Prevailing Expert Opinion:

State and federal agencies with expertise on what constitutes appropriate measures to protect endangered seabirds have developed corresponding light minimization guidelines. Importantly, these guidelines were included in Appendix E to the Kauai Seabird Habitat Conservation Plan (KSHCP, or Plan)¹—a Plan prepared in 2020 by the U.S. Fish and Wildlife Service (USFWS) and the Hawaii Department of Land and Natural Resources (DLNR). This Appendix includes requirements relating to the placement, angling and shielding of lights, as well as other key lighting mitigation measures. At the time the KSHCP was prepared, several groups asked the agencies to also impose light spectrum requirements similar to those found in Bill 21, CD1. It is important to underscore the experts at these agencies declined to do so.

Bill 21, CD1 Ignores Established Safety Parameters:

The wellbeing of our lodging guests and employees alike is of the utmost importance, and something that should not be unduly compromised in anything adopted by the County via Bill 21, CD1. There are human safety benefits of lights with shorter wavelengths, including that they create greater contrast and enhance

¹ See Attachment, "KSHCP Appendix E."

peripheral vision—yet Bill 21, CD1 does not properly account for this critical dynamic. Conversely, recognition of human safety needs is present within state and federal agency light minimization guidelines for protecting endangered seabirds, and the KSHCP itself requires appropriate lighting level stipulations for particular light functions—recognizing the standards prepared by the Illuminating Engineering Society of North America (IESNA). More specifically, the IESNA standards provide light level recommendations for several applications, including parking lots, walkways and roads—again, something for which Bill 21, CD1 does not properly account. The County should not be requiring light levels be less than these recognized and patterned illumination standards for human safety, which Bill 21, CD1 would concerningly do.

Exacerbating these concerns is the fact that Bill 21, CD1 would newly apply its provisions to “[t]emporary hotel and condominium beach security lighting” and “[s]afety and security lighting for water features,” which were previously exempt in broad scope. This could increase safety hazards for hotel guests and make it impossible for security staff to implement safety or security lighting at their hotels and resorts, even temporarily to resolve pressing safety matters.

Bill 21, CD1 Contains Unworkable, Unsubstantiated Provisions:

A critical requirement within Bill 21, CD1 would be that all outdoor lighting fixtures must “*limit short wavelength content to no more than two percent of blue light content*” (with “*blue light content*” defined as “*the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm*”). Such a standard would be impossible for most—if not all—residents and businesses to adhere to.

The short wavelength content measurement specified in Bill 21, CD1 is not something that is typically provided by light bulb and fixture manufacturers, nor is it included on the labels for their products, so one would be unable to determine if new lights they purchase effectively comply with the law. Most businesses and residents lack the equipment and expertise that would be necessary to perform the calculations necessary to determine compliance, all while state and federal agencies have yet to determine if there is scientific support to suggest this requirement is beneficial for seabirds. State and federal agencies knowledgeable about endangered seabird protection have not recommended adopting this for all outdoor lighting, which means Bill 21, CD1 is again a troubling outlier.

Moreover, requiring all (except neon) outdoor lights to be filtered light emitting diode bulbs (LEDs) is concerning on added grounds, as LED filters are not commonly used and are not widely available. Per the County’s Deputy Corporation Counsel,² there is only one vendor who arguably sells such filters, yet every outdoor light in the County would require one—presenting cost trepidations, supply anxieties, and even worries over such a product voiding light manufacturer warranties given this alteration of intended use. All for a practice outside of what experts would constitute as necessary.

Further, Bill 21, CD1 would take effect immediately for all new or newly replaced lighting fixtures, and provide only a three-year grace period for existing fixtures. Given the numerous compliance challenges present, this would create immediate difficulties for businesses such as hotels and resorts with large

² See Memorandum, “*Ordinance on Protecting Seabirds from Outdoor Lighting Bill No. 21 CD1 (2022)*” (May 24, 2022).

The Honorable Alice L. Lee, Chair
The Honorable Keani Rawlins-Fernandez, Vice-Chair
Maui County Council
Page 3

numbers of outdoor lighting fixtures. And even a three-year period may not be enough time to comply, particularly with stipulations like those for blue light content and filtering that are stymied by present manufacturer specifications and availabilities.

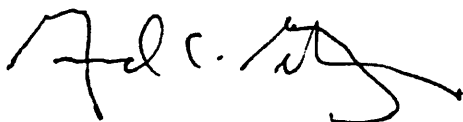
Concluding Remarks:

In sum, the lodging industry on Maui is steadfastly committed to protecting Hawaii's native seabird species, including by minimizing lighting. When one minimizes lighting though, it is also important that human safety—namely the safety of our guests and employees—is not compromised, especially with impractical and burdensome requirements that do not hold demonstrated, expert-validated benefits.

Bill 21, CD1 is simply not a sensible approach to the important protection of Hawaii's native seabirds, especially given that alternative options are available. One logical option would be for Maui to adopt requirements similar to those included in the KSHCP's Appendix E, which reflects mindful policies established by subject-matter experts from USFWS and DLNR. Another option would be to impose a correlated color temperature requirement, as the State imposes on its own agencies (this measurement is typically included on LED light bulb labels).³ Any new requirements should also preserve existing exemptions and allow enough lead time for compliance.

For the many reasons articulated in our testimony, the Hawaii Hotel Alliance urges the County Council to reject Bill 21, CD1 and instead pursue an alternative conservation pathway. Without such action, the risks and harms brought about by Bill 21, CD1's requirements—to residents, businesses, guests and more—will greatly exceed any benefit that may possibly be attained.

Mahalo Nui Loa,

A handwritten signature in black ink, appearing to read "Gerard C. Gibson", with a stylized flourish at the end.

Gerard C. Gibson
President
Hawai'i Hotel Alliance

³ See Hawaii Revised Statutes Section 201-8.5.

APPENDIX E: Guidelines for Adjusting Lighting at Facilities

1. Guidelines for Adjusting Lighting at Facilities

This appendix provides detailed guidelines to inform minimization measures that can be customized to address an array of possible lighting issues at Participant facilities. A lighting minimization plan to achieve the maximum extent practicable will be included in each Participant PIP.

These guidelines represent best available science at the time of KSHCP permit issuance. Over the life of the plan, likely new information and new technologies will be available, and this appendix may be updated accordingly.

Not all lighting guidelines are appropriate for all types of facilities. Some represent long term, infrastructure solutions, and others may be implemented on a seasonal basis.

1.1. Deactivate Non-Essential Lights

Prioritization of seabird and honu light attraction minimization measures involves evaluating light needs to determine if non-essential lights can be deactivated during the seabird fallout season (September 15 to December 15) and turtle nesting season (May 15-December 15). Deactivating the lights avoids the potential for light attraction that those lights could otherwise cause. Turning off a subset of lights, both unshielded and shielded, during the fallout season (September 15 to December 15) can assist with minimizing the risk of seabird light attraction, if those lights are not necessary. In their PIPs, Applicants must provide rationale for any facility lights that cannot be deactivated during seabird fallout season, and detail what other minimization practices will be implemented on lights that will remain illuminated. The regulatory agencies will review the evaluation and justification as provided in applicant PIPs.

Similarly, turning out lights that shine directly on beaches during the turtle nesting season (May 15-December 15) can prevent hatchling disorientation. Avoid use of the following lamp styles on beachside or shore perpendicular to sides of a structure: private balcony lights, up lights; decorative lighting, not necessary for human safety or security; pond lights; and beach lighting. Timers or other similar devices should be used to ensure the selected lights remain off during the turtle nesting season. This measure may require the installation of independent light switches. Conversely, to prevent accidental activation, light fixtures can be removed for lights that will no longer be needed at a facility.

1.2. Install Full Cut-off Light Fixtures

A full cut-off fixture refers to a light fixture which does not shine light above a 90 degree horizontal plane. For lights necessary to be activated, full cut-off fixtures provide an effective measure to achieve light minimization because they prevent light from shining directly upward.

These types of lights house the light bulb up within the fixture so that no bulb protrudes below (Figure 1). Such fixtures must be mounted at appropriate angle so they point directly down to the ground. Many light manufacturers provide light fixture information along with the light specifications to indicate if a fixture is a full cut-off design. The International Dark Sky Association (www.darksky.org) is a good source for information on full cut-off lights and provides additional references to light engineering resources and light manufactures.

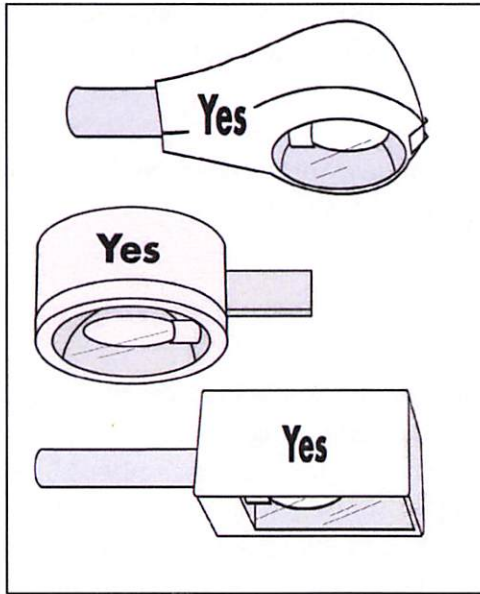


Figure 1: Examples of full cut-off light fixtures. Source: www.darksky.org.

Along shorelines, exterior fixtures on the seaward (makai) and the shore perpendicular sides of the building (and on the landward side of the building if they are visible from the beach) should be down-lit fixtures, fully shielded and full cut-off, louvered, or recessed fixtures that do not have reflective inner surfaces. These fixtures should use low wattage bulbs (e.g., < 50w). All exterior fixtures on the landward (mauka) side of the building should be directed downward only (Witherington & Martin 2003).

1.3. Shielding Light Fixtures

This minimization measure aims to achieve the functional equivalent of a full cut-off light fixture by installing a shield, visor, hood or similar on an existing light fixture to prevent light from shining upward and reducing trespass. In addition to the shielding, to achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture (Figures 2 & 3). Reed

et al. (1985) suggest that in areas where other light sources are rare, the shielding of principal lights would likely have a larger effect in decreasing seabird light attraction.

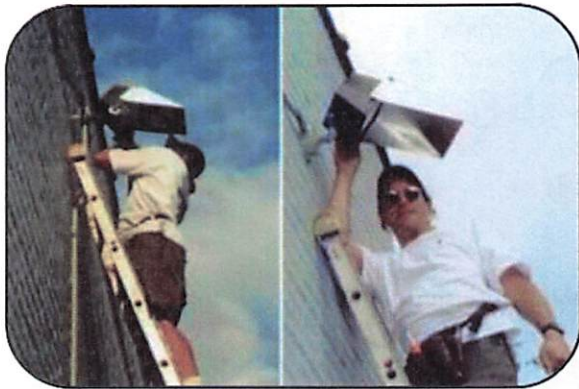


Figure 2: Installation of an appropriately sized floodlight shield. Source: www.darksky.org.

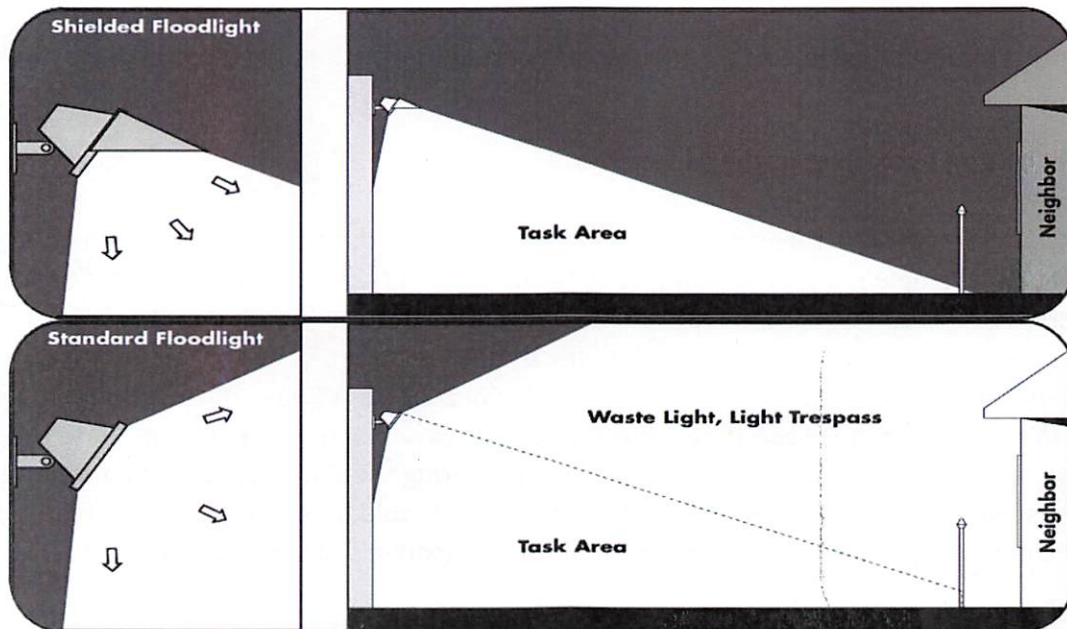


Figure 3: Before and after effects of shielding and light management designed to minimize light attraction risk to seabirds and to decrease light pollution. Source: www.darksky.org.

1.4. Angle Lights Downward

Angling and repositioning lights presents a potential alternative to shielding or replacing light fixtures and may be sufficient to make lights fully cut-off and eliminate light shining horizontally and vertically (Figure 4). To achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create

a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture. Tree strap downlights may be used to minimize seabird light attraction unless turtles may be present on the adjacent beach.

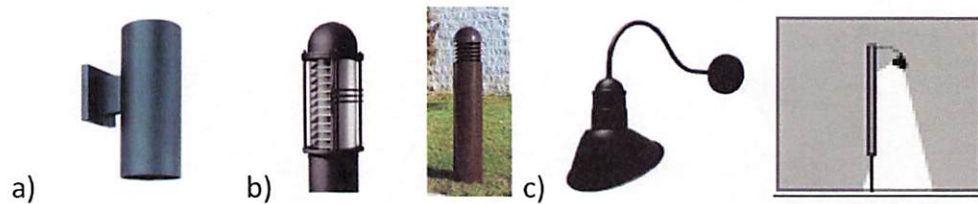


Figure 1-: (a) Wall mount cylinder down-light, (b) bollards with downward-directed louvers, and (c) sign lights angled downward. From http://myfwc.com/media/418417/SeaTurtle_LightingGuidelines.pdf (FWC 2011).

1.5. Place Lights Under Eaves

Light fixtures placed under building eaves can achieve the functional equivalent of a full cut-off fixture. The architectural eave acts as shield to prevent light from shining directly upward.

1.6. Shift Lighting According to the Moon Phase

This minimization measure addresses lighting for which the need, or purpose, for the lighting can be shifted in timing each year to coincide with the moon phase. Because a reduction in light attraction has been correlated with the full phase of the moon (Reed et al. 1985; Telfer et al. 1987) lights for essential functions, and for which that function can be shifted in timing, should coincide with the full phase of the moon and avoid the dark phase of the moon. It is important to note that a full moon that is obscured by heavy cloud cover could simulate the dark phase of the moon. By not activating those lights during the dark phase of the moon the effect of those lights is reduced. Examples of activities that could be minimized with this measure include scheduling of night time events, such as festivals or sporting events.

1.7. Install Motion Sensors for Motion-activated Lighting

Motion sensors switch lights on only when triggered, thereby limiting the time that the light stays on and reducing its potential for seabird light attraction. If a sensor light is required for security purposes, the light equipped with the sensor should be at low light levels. For example, Light Emitting Diode (LED) streetlights and parking lot lights can be activated when needed and dim when no activity is detected nearby. However for those fixtures, full cut-off designs or the functional equivalents are recommended because of the possibility of light attraction occurring when the motion-sensor light is activated or in the event that the motion sensor equipment malfunctions and the light remains on.

Where motion sensors are impractical (eg at sporting events), stadium lights should be turned off as soon as the public leaves the stadium.

1.8. Decrease Lighting Levels

This measure addresses lowering light intensity levels (e.g., measured in lumens) while still meeting the need to safely complete tasks and serve the purpose of the light. Guidance on standards for the appropriate lighting level for a particular light function should be followed as provided by the appropriate agency or professional and technical organization. For example the Illuminating Engineering Society of North America (IESNA) provides recommendations for light levels for several applications including parking lots, walkways, and roads. In addition individual entities may have standards and best practices for lighting needs.

For many applications where lighting is needed, brighter lighting may not always provide the best lighting for the needed function. It is often the case where reduced lighting levels can provide for the needed function of the lighting. For example, for security purposes overly bright lights tend to create blind spots, or very dark shadows, outside the lit area that preclude effective visibility. Well placed, but reduced lighting can provide for more effective security. Therefore, when Participants seek to enhance onsite visibility for security, while reducing risk to seabirds, the appropriate reduction of light levels (along with shielding and re-angling lights) forms a starting point to accomplish both purposes.

1.9. Decrease Visibility of Interior Lights

Facilities with large and/or numerous windows, tall building profiles, or large glass facades may also pose a risk of light attraction to Covered Seabirds on Kaua'i. The following measures are based, in part, on efforts in cities in Canada and the mainland USA to decrease harmful effects of buildings on birds and apply to seabirds in that they can decrease the amount of light escaping from within buildings (City of Toronto 2007; Evans Ogden 2002):

- Install screens or shades over large windows that are lowered nightly during the fallout season;
- Modify buildings and decrease or eliminate light glow from within a facility;
- Create glass opacity to prevent the escape of internal light. Tinted glass or film with a visible light transmittance value of 45 percent or less should be applied to all windows and doors within line of sight of the beach;
- Install physical screens outside a building;
- Install landscaping in front of large windows;
- Close all window blinds after daylight hours until sunrise;
- Stagger the operation of lights in the evening or morning hours so that not all lights are turned on at once; and
- Maximize the number of offices or indoor rooms that turn off all lights after sunset;

- Place reminder notices on switches to turn out lights or draw curtains/blinds in oceanfront rooms. This should include coastal areas that are on the perpendicular sides of the structure;
 - a. Turn off room and lanai lighting that are not needed;
 - b. Relocate moveable lamps away from windows that are visible from the beach; and
 - c. Close opaque curtains or blinds after dark to block inside light from shining outside.

1.10. Use Light-less Technologies

Where conditions and facility needs permit, technologies that do not use light, such as closed-circuit television (CCT) with infrared illuminators, may be effectively employed to “see” at night thus enabling some of the lights to be turned off. For example, any fenced areas or the dark sides of facilities can be monitored with CCT so that lights do not need to be used or installed.

1.11. Plant Vegetation Around Lights to Reduce Light Visibility

Trees and shrubs can be planted so that they over-arch lights or shield side visibility of lights along the coast or along a ridge, for example. Whether the lights are mounted on 20-foot poles, walkways, or within landscaped areas, having adjacent or overarched vegetation would further reduce the risk of seabird light attraction that any residual light scatter may pose. Long-term planning and maintenance of screening vegetation is encouraged, where appropriate to the uses and needs of the affected lights.

1.12. Lower Height of Lights

Light that is low in height has potential to reduce the effect of light attraction because lower lights may be less visible to passing seabirds. Installing ground-level lighting, such as along walkways, and reducing pole height can decrease light waste and trespass.

1.13. Use Longer Light Wavelengths

In coastal areas, use of acceptable lights such as: LPS 18w, 35w, red, orange or amber LEDs (true red, orange or amber diodes, but not filters), true red neon, and other lighting sources that produce light wavelengths of 560 nm or longer (Witherington et al. 2014). Long wavelength lights, e.g., those that produce light that measures greater than 560 nanometers on

a spectroscope, are required for all construction visible from and adjacent to sea turtle nesting beaches. Turtles are most sensitive to short wavelengths of light, probably because they live in a marine environment that filters out long wavelengths. Green turtles are least attracted to longer wavelength light in the yellow-orange to red end of the spectrum (630 to 700 nm) (Witherington and Martin 2000). In the absence of other light sources, however, turtles may still be attracted to long wavelength light.

Filters designed to exclude transmission of short wavelengths (<570nm) can be fitted to high pressure sodium (HPS) vapor lights. Such filters have been found to be effective at avoiding disruption of nesting females (Salmon, 2006) but even filtered HPS light has been found to attract hatchlings, although not as strongly as unfiltered HPS lights (Sella et al, 2006). Filtering alone is thus not sufficient to avoid attraction and disruption of hatchling orientation. Bright white light fixtures, such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps, are not approved for beachside or shore perpendicular sides of a structure. Limited use of shorter wavelength lights may be approved in areas where direct and indirect light or glow could not possibly be visible from the beach due to installation of opaque "light fencing" (see below).

County Clerk

RECEIVED

From: Tom Gianneschi <ragtagsam@icloud.com>
Sent: Monday, June 20, 2022 12:43 PM
To: County Clerk
Subject: County Council Meeting June 21, 2022 Agenda K Committee Reports Climate Action, Resilience and Environment Committee Bill 21 Outdoor Lighting

2022 JUN 20 PM 1:40

OFFICE OF THE
COUNTY CLERK

You don't often get email from ragtagsam@icloud.com. [Learn why this is important](#)

Council Members:

I want to express my relief that council is considering limiting LED lighting. I feel the ecological concerns are real and for that purpose alone I hope you will agree with the experts and vote passage on first reading. However, I would like to share my recent experience that goes beyond my concerns for our relentless damage to our environment.

There have been two instances in the last 6 months on my street where neighbors who were upset with families living next to them used LED lighting as a nuisance to invade their privacy and deliberately cause discomfort. They purchased and installed LED lighting that they then directed at their neighbors homes so that it would be bright in their house during sleeping hours. One case was a motion sensor arrangement triggered by street traffic to create a flashing effect throughout the night. They used the existing exemptions as a means to create a serious nuisance to their neighbors and a road safety issue for passing motorists. My County Service Request 22-0000156 that inquired about the legality of this informed me of the current exemption for lighting that protects this unsafe and annoying behavior. At the time I thought how far out of date the current regulations are for LED technology.

If this lighting can be used for purposes like the above it doesn't take much imagination to see other unwanted ideas. A strong enough LED light can literally kill plants. If I'm unhappy with my neighbor I can buy a big bright LED light on Amazon, under the guise of security duct tape it to my home or fence, shine it every night on my neighbors landscape and kill some of it claiming its all perfectly legal.

This lighting technology is so bright it begs regulation that is much more stringent than what we have been accustomed to. The ecological concerns are real but there are real human concerns as well.

Please pass Bill 21 on first reading.

Thank you
Thomas Gianneschi

County Clerk

From: Bob Adams <drbobadams@gmail.com>
Sent: Monday, June 20, 2022 2:01 PM
To: County Clerk
Cc: James B. Forrest
Subject: Fwd: Comments on Bill 21
Attachments: Comments or council copy.pdf

RECEIVED
2022 JUN 20 PM 2:05
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COUNTY CLERK

Council Chairman,

Apologies for hitting send button to fast.

My name is Bob Adams and I am serving as a resource for James Forrest on this work.

I look forward to hearing the discussion on this very interesting environmental bill. I have worked with several organizations on these types of issues.

--

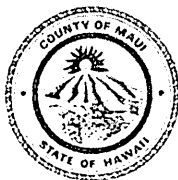
Regards,
Bob Adams
C&W Energy Solutions,
www.cwenergyusa.com
Chips&Wafers,
Office: 480-998-1694
Cell: 480-993-6806
Fax: 480-922-7003
Skype: drbobadams@gmail.com
5234 East Hatcher Rd
Paradise Valley, AZ 85253

MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
First Deputy

LYDIA A. TODA
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808)270-7740

May 24, 2022

Memorandum

TO: Climate Action, Resilience, and Environment Committee

FROM: Keola R. Whittaker, Deputy Corporation Counsel

SUBJECT: Ordinance on Protecting Seabirds from Outdoor Lighting
Bill No. 21 CD1 (2022)

For the reasons identified below, our office is unable to approve the subject Bill as to form and legality, as currently constructed. We are working on an alternative version of the Bill which meets the policy goal updating the outdoor lighting ordinance to regulate lighting with high blue light content.

1. The proposed Bill contains conflicting provisions.

The Bill requires that all outdoor lights – both residential and commercial – be “filtered light emitting diode fixtures...” or filtered LED lights. (Section 20.35.060(D)) The ordinance also appears to allow for non-LED lights. (Section 20.25.060(E) (neon) and Section 20.35.090 (low pressure sodium, high pressure sodium, and others)). We request clarification on whether the intent is to ban all non-LED lights.

We are not aware of any state or municipality that requires all outdoor lights to be filtered LED lights. We recommend that the Bill be clarified and conflicting provisions be removed.

2. LED filters are not available on the open market, making compliance difficult to impossible.

As drafted, the Bill would require adding filters to LED lights. However, LED filters are not commonly used and are not available on the open market. Compliance with this requirement would be difficult to impossible.

Requiring the purchase of filters — which we understand is only available from a single vendor — would make it difficult for Maui residents to comply with the ordinance. Moreover, adding a filter to the light may affect the manufacturer’s warranties for lights because they would alter the light’s intended use. This may

lead to unnecessary legal liabilities for the County, businesses, residents, and anyone who complies with the ordinance.

Furthermore, requiring the use of LED light fixtures that contain high blue light content and then requiring the addition of a filter to reduce blue light is more complex than the simpler solution of requiring use of LEDs with a lower blue light content.

We therefore recommend the Bill remove the requirement to add a filter to all LED lights. We recommend alternative language below.

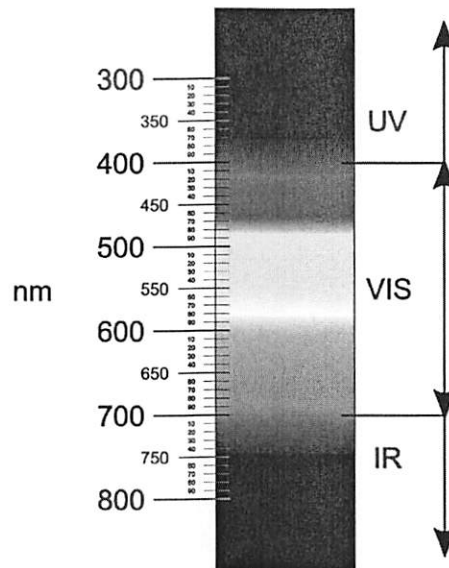
3. The Bill's definition of "blue light" makes it difficult to enforce.

We found no outside support for the definition of "blue light content" contained in the bill. No lightbulb purchased at the store would contain this "blue light content" measurement making it nearly impossible for residents to comply with this requirement.

The bill defines "blue light content" as "the ratio of the amount of energy emitted by the outdoor light fixture between 400 and 500 nm divided by the amount of energy between 400 and 700 nm". The ordinance requires that all outdoor light – including those used in private residential homes – contain "no more than 2 percent of blue light content."

It is our understanding that measuring blue light content using this particular ratio requires equipment and information that is unavailable to most residents. If passed in its current form, residents would not know how to comply with the ordinance and it is not clear how the County would enforce the ordinance.

In addition, this definition of blue light content used in this ordinance has not been adopted by any major agency or organization, and it is not clear why that definition should be used since it would be difficult to measure. According to the U.S. Department of Energy, "blue light" is a term used as shorthand to describe a variety of ranges of wavelengths but there is no consensus definition of blue light; light colors vary along a continuum and there's no single, discrete definition of blue or any other color. Visible light is usually defined as having wavelengths in the range of 400-700 nanometers:

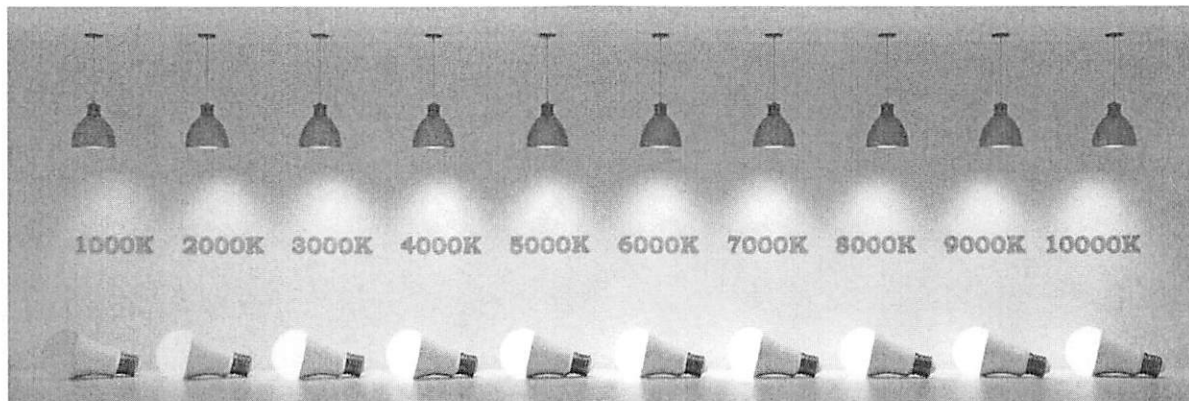


Blue light ranges have been reported by different organizations as 424 nm - 491 nm; 450 nm - 500 nm; and 450 nm - 480 nm. The Cégep de Sherbrooke, a Canadian university with a focus on astronomy and atmospheric science, broadly defines the blue range as 405-530 nm and recommends a metric called “% Blue,” which sums the radiant power in that range, dividing by the total power emitted between 380 and 780 nm. The definition of “blue light power content” provided in Maui County’s current streetlight standards is based on the “International Dark Sky Association’s (IDA) definition of blue light content which is the sum of energy between 405-530 nm divided by the sum of energy from 380-730nm times the total power output in watts.” It is not clear why the draft bill does not adopt this same definition of “blue light content” and instead uses a measurement without any reference to an outside entity that has adopted such definition.

We recommend removing this definition in its entirety and adopting instead the correlated color temperature scale, described below.

4. **As an alternative, consider using of the Correlated Color Temperature scale because it used by the lighting industry, and has been used in State of Hawai‘i law and the laws of many other jurisdictions.**

The lighting industry uses correlated color temperature (CCT), measured in Kelvin to describe the perceived color of a broad-spectrum light source such as LED lights. Color temperatures reaching 5000 Kelvin (K) appear blueish in tone and are typically referred to as “cooler” colors. Kelvins between 2700-3000 (K) are yellowish and are referred to as “warm” colors.



Low CCT generally corresponds to a relatively lower proportion of blue wavelengths in the visible spectrum. As CCT increases, the appearance becomes a cooler blueish-white color.

Many jurisdictions with dark sky laws, including the State of Hawai'i, uses the correlated color temperature measurement. (See, e.g., Section 201-8.5, Hawaii Revised Statutes.). The International Dark-Sky Association estimates that 29 municipalities in the United States use 3000K LEDs are the standard choice for outdoor street lights and that requirement can be expanded to apply to some other outdoor lighting. Our proposed revisions to the bill adopt CCT measurements because that measurement is available on lightbulb packaging and would therefore it would be easier for businesses and residents to comply. The energy use information provided with light blubs indicates the light appearance, in Kelvins, making compliance with the law much easier than using the proposed blue light content measurement.

Lighting Facts/Datos de Iluminacion Per Bulb/Por Bombilla	
Brightness/Brillo	1600 lumens/lúmenes
Estimated Yearly Energy Cost/ Costo Estimado Anual de Energía	\$1.81
Based on 3 hrs/day, 11¢kWh. Cost depends on rates and use./Basado en 3 hrs/día, 11¢kWh. Costo depende de la tarifa y el uso.	
Life/Duración	9.1 years/años
Based on 3 hrs/day/Basado en 3 hrs/día	
Light Apperance/Apariencia de Iluminación	
Warm/Cálida	Cool/Fría
5000K	
Energy Used/Usó de Energía 15 watts/vatios	

5. The ordinance has safety implications that should be weighed against its benefits.

According to the U.S. Department of Energy, light with short wavelengths are a fundamental component of the visible spectrum and have safety benefits. “White light sources containing short-wavelength light generally render nighttime colors more similarly to daylight, aiding in identification (e.g., of vehicles, clothing, people) and improving contrast between an object (e.g., road debris) and its surroundings. Short wavelengths are also acknowledged as providing enhanced peripheral vision at the low levels of illuminance typically associated with street lighting. Researchers have found improvements in detection threshold and reaction times in simulated outdoor viewing tasks under light sources with broader spectra and better color rendering properties; these improvements occurred when target light levels were in the mesopic vision range (i.e., at typical street lighting levels).”

It stands to reason that improved visual performance can bring associated safety benefits. Nevertheless, there may be some areas where the benefits of omitting the short wavelengths outweigh the disadvantages. For example, in areas harboring certain endangered species that have been shown to be particularly affected by short wavelengths, regulations on blue light may be net beneficial.

The Committee should consider requesting an analysis of the safety benefits of full-spectrum LED lights to determine what exceptions should be added or included in the Bill.

6. Exceptions to the ordinance should not be eliminated.

The proposed ordinance eliminates a number of essential exceptions already contained in the law. We recommend keeping most or all of those exceptions, especially those detailed below.

The Bill removes the following exemption: “Lighting on federal and State properties and on areas under the jurisdiction of the federal and State government, including, but not limited to Hawaiian home lands, State conservation districts, airports, and harbors.” At minimum, the Bill should retain an exemption for airports because regulation of anything related to air safety is preempted by federal law. 8A Am Jur 2d, Aviation § 25 (collecting cases and stating that the federal regulation of airspace management and air safety is so pervasive that preemption is inferred).

The Bill also removes an exemption for temporary lighting used for public safety, road construction or emergency repair. Removing this exemption could have significant safety consequences and may prevent nighttime road

construction or the ability to respond to emergencies. As explained above, light containing short wavelengths provides greater visibility at night and may be necessary on a temporary basis.

We recommend that the Committee consult with the police department, emergency management, and other County departments that may have to respond to emergencies at night before removing this common exemption to outdoor lighting ordinances.

7. The height restrictions are too vague to be enforceable.

Supreme Court precedent recognizes two independent grounds upon which an ordinance's language can be so vague as to deny due process of law. First, a law violates due process "if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits." *Hill v. Colorado*, 530 U.S. 703, 732 (2000). Individuals should receive fair notice of what behavior is prohibited. *Smith v. Goguen*, 415 U.S. 566, 572 (1974) ("The doctrine incorporates notions of fair notice or warning."). Second, a law is unconstitutionally vague "if it authorizes or even encourages arbitrary and discriminatory enforcement." *Hill*, 530 U.S. at 732, 120 S.Ct. 2480. Statutes must "provide explicit standards for those who apply" them to avoid "resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972).

The height restrictions contained in Section 20.35.060(E)(3) of the Bill may be unconstitutionally vague for two reasons. First, it does not provide adequate notice. The ordinance requires that light fixtures be mounted "as low as possible with existing lighting and safety standards to limit light trespass and reflection of ground surfaces" but does not reference any specific lighting or safety standards. It is not clear what lighting standards or safety standards should apply and therefore the ordinance does not convey a sufficiently definite warning as to the proscribed conduct when measured by common understandings and practices. Consequently, the Bill not only fails to give specific notice of how an applicant should design light fixtures so that the proposed fixture complies with that restriction, but it also fails to provide an objective standard that the Public Works Department can apply in determining the fixture's compliance once a plan has been submitted and thereafter when an approved project has been built.

Second, the Bill fails to provide explicit standards for those who apply it which could lead to arbitrary enforcement. Since the Bill does not reference any objective safety or lighting standards, it does not provide the Public Works Department with sufficient guidance.

We recommend that the Bill be amended to allow the Director of the Public Works Department to develop administrative rules that sets height restrictions on free-standing luminare and that such rules balance safety concerns and lighting requirements with the goal of reducing light trespass. Those administrative rules, in turn, would provide specific height restrictions providing clear standards to those who need to determine compliance with the law and those enforcing the law.

* * *

For the reasons detailed above, we are unable to sign the Bill in its current form. We are working on alternative legislation that achieves the drafter's aims of reducing blue light content in outdoor lights while resolving these legal concerns.

County Clerk

RECEIVED

From: Greg Friedman <ghfriedman61@gmail.com>
Sent: Monday, June 20, 2022 2:13 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

2022 JUN 20 PM 2:33

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COUNTY CLERK**

 You don't often get email from ghfriedman61@gmail.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Greg Friedman

County Clerk

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From: David Casper <dcasper66@yahoo.com>
Sent: Monday, June 20, 2022 2:14 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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COUNTY CLERK

 You don't often get email from dcasper66@yahoo.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Tear down Mr. Brown's monster building.

Mahalo, David Casper
Mahaniahina, HI.

County Clerk

RECEIVED

From: Teresa Nae'ole <britsrock@me.com>
Sent: Monday, June 20, 2022 2:21 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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<https://aka.ms/LearnAboutSenderIdentification>]

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Aloha, Teresa Naeole

County Clerk

From: Paula Opal <popalrwc@gmail.com>
Sent: Monday, June 20, 2022 2:27 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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Dear Council

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

The island needs to stop this development and prevent this person from flagrantly ignoring and subverting Maui law and code just because he can. And the Council needs to enforce new code and/or process improvement to ensure this doesn't happen again.

Sincerely
Paula Opal
Kapalua

County Clerk

From: JIM VERBICK <jvneurotoxica@comcast.net>
Sent: Monday, June 20, 2022 2:33 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

[You don't often get email from jvneurotoxica@comcast.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Sent from my iPhone

RECEIVED
2022 JUN 20 PM 2 59
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County Clerk

From: Patricia Inouye <pcinouye@gmail.com>
Sent: Monday, June 20, 2022 2:47 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

 You don't often get email from pcinouye@gmail.com. [Learn why this is important](#)

For over 30 years, I have been visiting Maui and staying at Napili Sunset. I love Napili Bay because of the moratorium on building taller than 2 stories.

I am appalled that Greg Brown's building was allowed to be built. Tear it down because of the illegal manner that he gained permits.

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Patricia Inouye
2306 Shire Lane
Davis, CA 95616

--

Patsy Inouye

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County Clerk

From: sam swvs.net <sam@swvs.net>
Sent: Monday, June 20, 2022 2:53 PM
To: County Clerk
Subject: testimony for 6/21/2022 22-159 and 22-158

You don't often get email from sam@swvs.net. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Planning and Public Works's handling of Greg Brown's Napili monstrosity and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center at that site instead.

Thanks
Sam Small
Makawao

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June 20, 2023

Council Chair, Alice Lee
Keani Rawlins-Fernandez, Vice-Chair
Maui County Council
200 South High St, 8th Floor
Wailuku, HI 96793

RECEIVED

2022 JUN 20 PM 3:45

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COUNTY CLERK

RE: Hawai'i Hotel Alliance Opposition to Bill 21, CD1 (2022)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez, and members of the County Council,

Mahalo for this opportunity to provide testimony in advance of the County Council's June 21, 2022 meeting. Maui's lodging industry is deeply committed to its stewardship role for the local environment- including the protection of Hawai'i's native seabird species.-but if enacted, Bill 21, CD1's outdoor lighting fixture requirements would impose impractical, ambiguous and unsafe requirements on businesses (and residents) throughout the county which run counter to the guidance of state and federal agency experts in this space.

State and federal agencies with expertise on what constitutes appropriate measures to protect endangered seabirds have developed corresponding light minimization guidelines. Importantly, these guidelines were included in Appendix E to the Kauai Seabird Habitat Conservation Plan- a Plan prepared in 2020 by the US Fish and Wildlife Service and the e Hawai'i Department of Land and Natural Resources (DLNR). This appendix includes requirements relating to the placement, angling, and shielding of lights, as well as other key Lightning mitigation measures. At the time the KSHCP was prepared, several groups asked the agencies to also impose light spectrum requirements similar to those found in Bill 21, CD 1. It is important to underscore the experts at these agencies declined to do so.

The well being of our lodging guests and employees alike is the utmost importance, and something that should not be unduly compromised in anything adopted by the county via bill 21. There are human safety benefits of shorter wavelengths, including that that they create greater contrast and enhance peripheral vision-yet Bill 21 does not properly account for this critical dynamic. Conversely, recognition of human safety needs is present within state and federal agency light minimization guidelines for protecting endangered seabirds.

Exasperating these concerns is the fact that Bill 21 would newly apply its provisions to "temporary Hotel and condominium Beach security lighting" and "safety and security lighting for water features ", which were previously exempt in broad scope. This could increase safety hazards for hotel guests and make it impossible for security staff to implement safety or security lighting at their hotels and resorts , even temporarily to resolve pressing safety matters.

Bill 21 is simply not a sensible approach to the important protection of Hawai'i's native seabirds, especially given that alternative options are available. One logical option would be for Maui to adopt requirements similar to those included in KSHCP's Appendix E, which reflects mindful policies established by subject-matter experts from USFWS and DLNR. Another option would be to impose a correlated color temperature requirement, as the State imposed on its own agencies (this measurement is typically included on LED light bulb labels). Any new requirements should also preserve existing exemptions and allow enough lead time for compliance.

For the many reasons articulated in our testimony, the Hawai'i Hotel Alliance urges the county council to reject Bill 21 and instead pursue an alternative conservation pathway.

Mahalo Nui,

Lahela Aiwohi, VP
Hawai'i Hotel Alliance

County Clerk

From: Joseph Kohn MD <outlook_945BCBF227049F41@outlook.com> on behalf of Joseph Kohn MD <Joseph@WeAreOne.cc>
Sent: Monday, June 20, 2022 3:32 PM
To: County Clerk; Tamara A. Paltin
Subject: STRONGLY SUPPORT PROPOSED INQUIRY INTO GREG BROWN & Hawaiian Cultural Center

Some people who received this message don't often get email from joseph@weareone.cc. [Learn why this is important](#)

Aloha Kakou

Strongly support Kelly King's Reso 22-159 for an official investigation into Greg Brown, and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Mahalo nui,

Joseph Kohn MD
Founder, We Are One, Inc. - www.WeAreOne.cc - WAO
493 Pio Dr Apt 209
Wailuku, HI 96793-2641
808-359-6605
Joseph@WeAreOne.cc
www.WeAreOne.cc

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2022 JUN 20 PM 3:45
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County Clerk

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From: AY <mauigirrl808@gmail.com>
Sent: Monday, June 20, 2022 3:37 PM
To: County Clerk
Subject: Greg Brown - Napili

2022 JUN 20 PM 3:45

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COUNTY CLERK

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Aloha Maui County,

Why did you allow this person to build an eye sore in Napili?

If you allow the arrivals of these ugly McMansions, you will destroy & ruin the beauty of this island, Napili.

Investors & their hired contractors have destroyed many areas of the islands due to excessive oversized buildings they call 2nd homes.

Which sit empty and are used for tax write offs for these multi-millionaires.

What do you benefit from this???

Don't be fooled or naive...these people are not thinking of Maui or the local community...they will say ANYTHING to get you to believe that they will follow the rules. Make empty promises. Throw cash in your face. Make threats to take you to court.

When in fact they have already lied. These investors are not honest nor are they PONO. They will twist your words making you believe you were in the wrong. Or they will play stupid to control the outcome. Open up your eyes! Wake up!

Maui does not need more unnecessary excessive over the top enormous concrete eye sore. (an elevator?)
Elevators are for commercial buildings.

Look at all the HUGE homes on S. Kihei Road...most of those sit empty collecting dust & cobwebs.

Maui needs to put better use to empty lots, we need more affordable housing for our local born Hawaiians.
STOP catering to the outsiders and DO Good for the Community!


Alison LY

--

Sweet Blessings & Much Aloha
"To Thine Own Self Be True"

County Clerk

From: louiseroCKETT@aol.com
Sent: Monday, June 20, 2022 3:24 PM
To: County Clerk
Subject: testimony

 You don't often get email from louiseroCKETT@aol.com. [Learn why this is important](#)
I support Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili.

RECEIVED
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County Clerk

From: Tara S King <taradastarra@gmail.com>
Sent: Monday, June 20, 2022 3:28 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

 You don't often get email from taradastarra@gmail.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead. Tara S King

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County Clerk

From: EVERT CRAFT <epcraft@comcast.net>
Sent: Monday, June 20, 2022 4:18 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

This monster house is an outrage. I bought a condo at Napili Bay because I love the informal Hawaiian atmosphere of this area, with no high-rise ostentatious buildings. This one building defies everything I love about Napili. The developers kept working on the construction even though they knew it violated code and knew that neighbors were upset. I know, I watched. It does not fit and never should have been approved!

Priscilla Craft
Homeowner
Unit H261, Napili Shores

County Clerk**RECEIVED**

From: Stephanie Austin <stephandjim@aol.com>
Sent: Monday, June 20, 2022 4:18 PM
To: County Clerk
Subject: Support for 22-159, (and 22-158 with reservations)

2022 JUN 20 PM 4:24**OFFICE OF THE
COUNTY CLERK**

[You don't often get email from stephandjim@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I support Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili.

I would support Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center, or perhaps a community center instead, depending upon the outcome of the investigation.

I cannot know the facts - there are many allegations which need to be closely investigated, officially. The result of these permitting decisions has clearly outraged the community: we need to trust our government - trust has been shaken in this instance, and the facts must be determined.

If indeed it has been illegally characterized, perhaps a Hawaiian Cultural Center would be an appropriate use: but first things first.

Stephanie Austin

County Clerk

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From: Pospisil, Barbara <BPospisil@gc.cuny.edu>
Sent: Monday, June 20, 2022 4:19 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

2022 JUN 20 PM 4:25

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 You don't often get email from bpospisil@gc.cuny.edu. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

From: Lawsons <mylawsonhome@gmail.com>
Sent: Monday, June 20, 2022 6:08 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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[You don't often get email from mylawsonhome@gmail.com. Learn why this is important <https://aka.ms/LearnAboutSenderIdentification>]

I support both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

R Carolyn W Lawson

Sent from my iPad

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From: Chris Breckels <chrisbreckels@yahoo.com>
Sent: Monday, June 20, 2022 6:26 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

2022 JUN 21 AM 7:40

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You don't often get email from chrisbreckels@yahoo.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead. Mahalo, Christopher Breckels-Lahaina.

From: Nachum Kaplan <nachummaui@gmail.com>
Sent: Monday, June 20, 2022 6:42 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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You don't often get email from nachummaui@gmail.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

From: Rich Wesson <richardwesson@msn.com>
Sent: Monday, June 20, 2022 6:51 PM
To: County Clerk
Subject: Greg Brown

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[You don't often get email from richardwesson@msn.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Listen to the people.

Richard Wesson
284 Hayward Road
Pullman Wa 99163

Covid expatriate

From: Tapani Vuori <tvuori@mauiocenter.com>
Sent: Monday, June 20, 2022 8:21 PM
To: County Clerk
Subject: Testimony on Bill 21, relating to outdoor lighting for protection of seabirds

You don't often get email from tvuori@mauiocenter.com. [Learn why this is important](#)

Dear Honorable Chair and Committee Members,

I strongly support Bill 21.

I am a Board member at Ma'alaea Triangle Association (MTA) which represents all the commercial business in the Ma'alaea Triangle commercial area. We have a parking lot that contains 756 parking stalls and 37 light poles most being 30' high. These light poles were installed about 25 years ago when the commercial area was developed and are end of life with outdated lighting technology that is not energy efficient and not very seabird friendly. We are in the final stages of contract negotiations with a lighting manufacturer that is able to deliver to our specifications; < 2% blue light content, < 3,000K, and shielded light fixtures. They are completely PV + battery operated. Our new lights will be 18' tall. We expect to be able to execute this project by the end of 2022.

I wanted to share this project with Maui County Council considering this issue as here we have a private organization that recognizes the importance of this issue and is making the decision on its own to lead with a solution that is not only seabird friendly but also most energy efficient and it is happening now. I urge the Maui County Council to continue to be forward looking and be the agents for positive change in and for our Community. Thank you for your time and consideration.

Aloha,

Tapani Vuori | General Manager
Maui Ocean Center, The Hawaiian Aquarium
192 Ma'alaea Rd, Wailuku, HI 96793
t 808.270.7097 | c. 808.561.2022

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SEA what we're up to! Facebook | Twitter | Instagram | Website | Map
Our Mission: E hi'i a maopopo kaho'oha'oha'o ana a me ka hō 'ihi no ka Hawai'i ola ma ke kai
To foster understanding, wonder and respect for Hawaii's marine life

From: Sandi Ioakimi <sioakimi@gmail.com>
Sent: Monday, June 20, 2022 8:37 PM
To: County Clerk
Subject: Support for 22-159 and 22-158

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OFFICE OF THE
COUNTY CLERK

You don't often get email from sioakimi@gmail.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

Mahalo for your consideration.

Sandi Ioakimi
808.283.6216
Kihei

From: Christina Levang <leva0748@pacificu.edu>
Sent: Monday, June 20, 2022 10:39 PM
To: County Clerk
Subject: Bill 21 Outdoor Lighting Ordinance Written Testimony

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OFFICE OF THE
COUNTY CLERK

You don't often get email from leva0748@pacificu.edu. [Learn why this is important](#)
Aloha,

I am writing to testify in support for Bill 21 scheduled to be discussed tomorrow at 9am.

My name is Christina Levang. I was raised in Kihei. From the time when I was a child, just 20 years, till now, both the silence and the darkness have gradually been taken. The peace and quiet at night was once normal but now it seems to be a rarity. At the hotel, where I work, there is a noise ordinance that begins at 10pm. For the party it may be conflicting, but for most, including not only the guests but also myself, I am very thankful it is in place. Like the silence that is being protected, I am in hope that the dark night sky be protected as well and Bill 21 ensures that. We all are craving more peace these days maybe more than ever before and less artificial light is a good place to begin. It is our birth right and for us to protect what is natural already says how far we have come... But I believe this Bill is a move in the right direction. With that said, I am in full support of the outdoor lighting ordinance. For the people and for the seabirds. We are one.

Thank you for reading,

Christina Levang

Grounds and Maintenance at Maui Nui Botanical Garden
Sales Clerk and Herbalist at Dragon's Den Herb Shop
Banquet Server at Four Seasons

Sent from Mail for Windows



THE DUNES
MAUI LANAI

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OFFICE OF THE
COUNTY CLERK

June 20, 2022

Alice Lee, Chair, Maui County Council
200 S. High Street
Wailuku, HI 96793
Via email: county.clerk@mauicounty.us

RE: OUTDOOR LIGHTING BILL 21 (2022), COMMITTEE REPORT NO. 22-47.

Dear Chair Lee:

The proposed Outdoor Lighting Bill 21 (2022) will cause undue harm to businesses and our small community, and therefore, we do not support this bill.

Community Impacts:

- COVID is still on Maui, and it continues to plague our community. The proposed bill will cause businesses to shut down, prices of goods and services to increase, and prevent companies like ours from being able to help the community. Our clubhouse has been without a restaurant tenant for six months due to COVID, and now this proposed bill would place our practice facilities in a precarious economic position.
- To illustrate, the driving range at our golf course serves as a community gathering place. We provide free and discounted services to community groups such as:
 - Special Olympics of Maui
 - The PGA Hope Wounded Warrior Project
 - Boys & Girls Club of Maui
 - Maui Memorial Medical Center Foundation
 - Maui Junior Golf
 - First Tee Hawaii
 - Drive, Chip and Putt sponsored by the Masters Tournament, United States Golf Association, and The PGA of America
 - H.P. Baldwin High School Golf Team
 - Kamehameha High School Golf Team

To comply with the proposed bill, it would require removing all existing lights then installing double the number of lights down each side of the range. At \$6/bucket of balls, the cost would be unsurmountable and most likely cause the closure of our practice facilities.

Community Outreach and Department Implementation:

- It is apparent that sufficient community outreach to organizations, churches, schools, and businesses has not occurred.
 - Are organizations like the Maui Raceway Park and businesses like the drive-in restaurant aware of the pending legislation and its financial impacts?
 - Does the school with the LED stadium lights understand that their lights require full shielding to comply with Class 1 Recreational Lighting per Ordinance 3430?
- The Department of Public Works has stated that existing Ordinance 3430 is only enforced if there is a complaint. Without proper implementation, including a budget and staffing, how does the Council know that the existing ordinance does or does not work? Our community of people, businesses, and organizations cannot endure another economic hit, especially when this burden is based on conjecture.

The Outdoor Lighting Bill 21 (2022) will cause irreparable harm to our small community as we try to heal and recover from a pandemic. There is no solid scientific evidence that this bill will save any seabirds, but the unintended consequence is obvious. This bill will devastate our community network of resources at our most vulnerable time. The pandemic rules shut down ball fields and businesses that non-profits and student athletics relied on. Please do not cause another shutdown of much-needed community resources. We implore the Council to vote "no" on Outdoor Lighting Bill 21 (2022). We all care about the environment and welcome the opportunity to be part of the conversation. Please feel free to contact the undersigned at (808)244-8730 or email Lpaci@mills-group.com.

Sincerely,

Leiane Paci

Leiane Paci
General Manager

Cc: Maui County Council Members

From: Amy Stephens <rainbowcountrymaui@gmail.com>
Sent: Tuesday, June 21, 2022 5:05 AM
To: County Clerk
Subject: support of both Kelly King's Reso 22-159

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2022 JUN 21 AM 7:40

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COUNTY CLERK**

You don't often get email from rainbowcountrymaui@gmail.com. [Learn why this is important](#)

Aloha Maui County Council,
I support of both Kelly King's Reso 22-159 for an official investigation into the Planning Department and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.
Mahalo,
Amy Stephens

From: Ananda Stone <splashvideo@yahoo.com>
Sent: Tuesday, June 21, 2022 6:50 AM
To: County Clerk
Subject: Support for 22-159 and 22-158

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2022 JUN 21 AM 7:40

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COUNTY CLERK

 You don't often get email from splashvideo@yahoo.com. [Learn why this is important](#)
Aloha County Clerk,

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead. The building Greg Brown is building in Napili is an eye sore and I understand that he is trying to call it a "home" when it is clearly a hotel. I would like to find out who in our Planning Department is being paid off to allow for illegal buildings to get permits.

Mahalo,

Ananda Stone

From: michele.m@charter.net
Sent: Tuesday, June 21, 2022 7:12 AM
To: County Clerk
Subject: SUPPORT PROPOSED INQUIRY INTO GREG BROWN

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2022 JUN 21 AM 7:41

You don't often get email from michele.m@charter.net. [Learn why this is important](#)

OFFICE OF THE
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Please document and include us with the many others that are in support of the above mentioned inquiry. This investigation is valid and important. The exemptions, approvals, etc. fairly and justly should be investigated. We live in Kapalua and use Napili Bay, ocean trails, etc. We love the natural beauty of our area. This building ruins our landscape and natural beauty of our area, it is not acceptable and should not be approved. We are in support of Kelly King's Resolution 22-159 for the investigation and also Tamara Paltin's Resolution 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead. Please accept this email and present our wishes to the council.

Mahalo,
Michele & Martin Morey
100 Ridge Rd. #524
Lahaina, HI 96761



EARTHJUSTICE

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2022 JUN 21 AM 7:40

TESTIMONY IN SUPPORT OF BILL 21, CD 1
SEABIRD AND BIODIVERSITY PROTECTION
(Committee Report No. 22-47 (First Reading))

OFFICE OF THE
COUNTY CLERK

Maui County Council

June 21, 2022

9:00 a.m.

Aloha Council Members:

Earthjustice submits this testimony on behalf of the Center for Biological Diversity and Conservation Council for Hawai'i *in strong support of Bill 21, CD 1*, which would amend Maui County's lighting ordinance to increase protections for Hawai'i's threatened and endangered seabirds. Bill 21 is consistent with the best available science on how to minimize harm to imperiled seabirds from artificial lights. Bill 21 also provides clear guidance on how to implement these new lighting requirements with minimal burden on the community. For these reasons, the County should whole-heartedly adopt this measure as a win-win for the community and Hawai'i's native seabirds.

Artificial lights in Maui County regularly attract and disorient Hawaiian petrels, band-rumped storm petrels, and Newell's shearwaters as they navigate between the ocean and nesting colonies, resulting in fallout, injury, and death. State and federal wildlife agencies charged with helping to prevent these species from going extinct recognize that artificial light attraction poses an ongoing threat to the species' survival and recovery. Best practices to minimize light attraction, and help prevent extinction, include reducing short wavelength "blue light" in outdoor lighting fixtures, preventing outdoor lighting from shining upward or over the ocean, and eliminating reflective surfaces that bounce light into the sky. Bill 21 would require compliance with these best practices to give our native seabirds the best chance of survival.

To address concerns about increased regulatory burdens for businesses and residents, Bill 21, CD 1 provides a reasonable phase-in period for the replacement of existing outdoor lighting. *See* Proposed Section 20.35.070.B (exempting existing lighting for three years). Bill 21, CD 1 also facilitates compliance with the new lighting requirements by adopting the definition of "blue light content" found in Hawai'i County's lighting ordinance.¹ Using the same definition of "blue light content" provides consistency for businesses operating in both locations, and also provides a template for implementation given that Hawai'i County has had a blue-light content requirement on the books for the past ten years. Finally, the bill provides that the director of

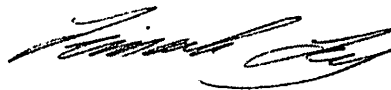
¹ Compare Proposed Section 20.35.060.D with Hawai'i County Code § 14-51(a)(9); *see also* Hawai'i County Code § 14-55, Table 14-A (specifying that LED fixtures must have "less than 2% blue light content").

public works will maintain a list of light fixtures that comply with lighting requirements. *See* Proposed Section 20.35.060.F. These provisions will ensure a smooth transition to seabird friendly lighting in Maui County and reduce any regulatory burdens on the community.

Bill 21, CD 1 is a crucial step forward for seabird conservation in Maui County and provides a clear path forward for businesses and residences to install seabird friendly lighting. For these reasons, we respectfully urge the County Council to pass this bill.

Mahalo nui for the opportunity to provide this testimony.

Leinā'ala L. Ley

A handwritten signature in black ink, appearing to read 'Leinā'ala L. Ley', with a stylized flourish at the end.

Attorney
Earthjustice

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County Clerk

2022 JUN 21 AM 8:07

From: Ginger Prince <ginger3prince@gmail.com>
Sent: Tuesday, June 21, 2022 7:46 AM
To: County Clerk
Subject: Support for 22-159 and 22-158

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|| You don't often get email from ginger3prince@gmail.com. [Learn why this is important](#)

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

The way the permits were presented as a two story family residence and the resulting looks of the building are in no way correct. Time to make a stand for our "Maui " and tear this monstrosity down as a warning to future builders looking to make their millions.

Mahalo,
Ginger Prince

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2022 JUN 21 AM 8:07

From: Dan Williams <onenapi@aloha.net>
Sent: Tuesday, June 21, 2022 7:48 AM
To: County Clerk
Subject: Support for 22-159 and 22-158

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[You don't often get email from onenapi@aloha.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I support of both Kelly King's Reso 22-159 for an official investigation into Greg Brown's abuses in Napili and Tamara Paltin's Reso 22-158 to apply Eminent Domain to build a Hawaiian Cultural Center instead.

I insist that the above resolutions be put into action , when I hired Chris Hart to help me develop that parcel a few years back I was held to an entirely different standard. Brown development is crooked , he should never have been given permits. Our existing development accross the street from this monster has been repeated assaulted by bad business practices. So not only is he a crook he's an asshole. Maybe it's not against the laws to be a jerk , but he certainly has skirted the law. If it's allowed to continue I believe by comparison my opportunity was usurped, I've kept all my records should anyone like to see them.

Dan Williams.
One Napili Way

Sent from my iPhone

County Clerk

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From: Lahela Aiwohi <lahelaauiwohi@gmail.com>
Sent: Tuesday, June 21, 2022 8:02 AM
To: County Clerk
Subject: Testimony attachment in Opposition of Bill 21, CD1, No. 22-147
Attachments: KSHCP Appendix E.PDF

2022 JUN 21 AM 8:07

**OFFICE OF THE
COUNTY CLERK**

Aloha,

I submitted testimony in opposing of Bill 21, CD1, No. 22-147. I failed to attach Appendix E to my original email sent yesterday. Please accept the attached Appendix E as part of the testimony for "Lahela Aiwohi, Hawai'i Hotel Alliance".

Mahalo

Lahela Aiwohi, VP
Hawai'i Hotel Alliance
808.463.4200

Sent from my iPhone

APPENDIX E: Guidelines for Adjusting Lighting at Facilities

1. Guidelines for Adjusting Lighting at Facilities

This appendix provides detailed guidelines to inform minimization measures that can be customized to address an array of possible lighting issues at Participant facilities. A lighting minimization plan to achieve the maximum extent practicable will be included in each Participant PIP.

These guidelines represent best available science at the time of KSHCP permit issuance. Over the life of the plan, likely new information and new technologies will be available, and this appendix may be updated accordingly.

Not all lighting guidelines are appropriate for all types of facilities. Some represent long term, infrastructure solutions, and others may be implemented on a seasonal basis.

1.1. Deactivate Non-Essential Lights

Prioritization of seabird and honu light attraction minimization measures involves evaluating light needs to determine if non-essential lights can be deactivated during the seabird fallout season (September 15 to December 15) and turtle nesting season (May 15-December 15). Deactivating the lights avoids the potential for light attraction that those lights could otherwise cause. Turning off a subset of lights, both unshielded and shielded, during the fallout season (September 15 to December 15) can assist with minimizing the risk of seabird light attraction, if those lights are not necessary. In their PIPs, Applicants must provide rationale for any facility lights that cannot be deactivated during seabird fallout season, and detail what other minimization practices will be implemented on lights that will remain illuminated. The regulatory agencies will review the evaluation and justification as provided in applicant PIPs.

Similarly, turning out lights that shine directly on beaches during the turtle nesting season (May 15-December 15) can prevent hatchling disorientation. Avoid use of the following lamp styles on beachside or shore perpendicular to sides of a structure: private balcony lights, up lights; decorative lighting, not necessary for human safety or security; pond lights; and beach lighting. Timers or other similar devices should be used to ensure the selected lights remain off during the turtle nesting season. This measure may require the installation of independent light switches. Conversely, to prevent accidental activation, light fixtures can be removed for lights that will no longer be needed at a facility.

1.2. Install Full Cut-off Light Fixtures

A full cut-off fixture refers to a light fixture which does not shine light above a 90 degree horizontal plane. For lights necessary to be activated, full cut-off fixtures provide an effective measure to achieve light minimization because they prevent light from shining directly upward.

These types of lights house the light bulb up within the fixture so that no bulb protrudes below (Figure 1). Such fixtures must be mounted at appropriate angle so they point directly down to the ground. Many light manufacturers provide light fixture information along with the light specifications to indicate if a fixture is a full cut-off design. The International Dark Sky Association (www.darksky.org) is a good source for information on full cut-off lights and provides additional references to light engineering resources and light manufactures.

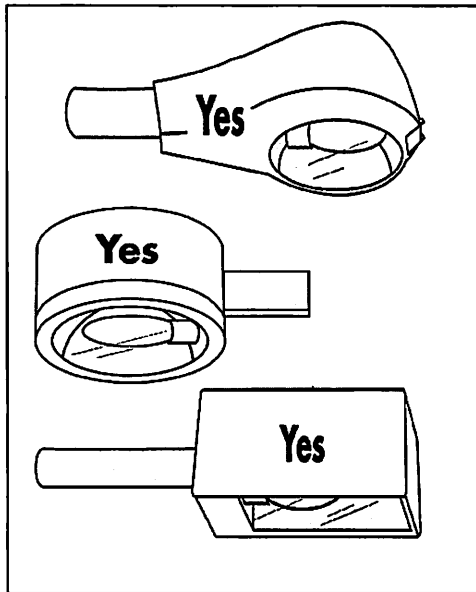


Figure 1: Examples of full cut-off light fixtures. Source: www.darksky.org.

Along shorelines, exterior fixtures on the seaward (makai) and the shore perpendicular sides of the building (and on the landward side of the building if they are visible from the beach) should be down-lit fixtures, fully shielded and full cut-off, louvered, or recessed fixtures that do not have reflective inner surfaces. These fixtures should use low wattage bulbs (e.g., < 50w). All exterior fixtures on the landward (mauka) side of the building should be directed downward only (Witherington & Martin 2003).

1.3. Shielding Light Fixtures

This minimization measure aims to achieve the functional equivalent of a full cut-off light fixture by installing a shield, visor, hood or similar on an existing light fixture to prevent light from shining upward and reducing trespass. In addition to the shielding, to achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture (Figures 2 & 3). Reed

et al. (1985) suggest that in areas where other light sources are rare, the shielding of principal lights would likely have a larger effect in decreasing seabird light attraction.



Figure 2: Installation of an appropriately sized floodlight shield. Source: www.darksky.org.

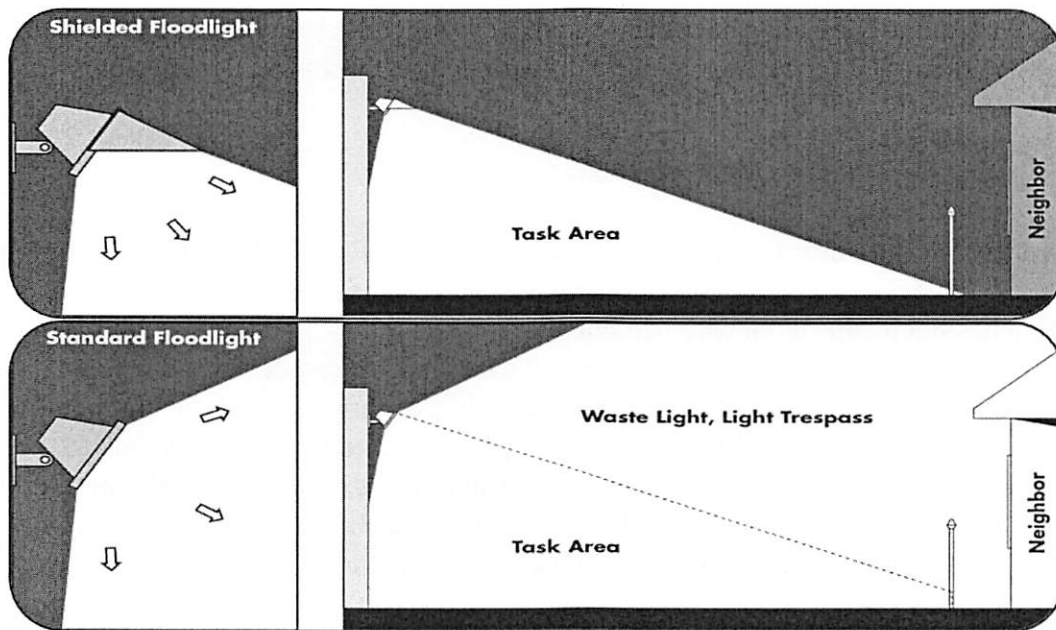


Figure 3: Before and after effects of shielding and light management designed to minimize light attraction risk to seabirds and to decrease light pollution. Source: www.darksky.org.

1.4. Angle Lights Downward

Angling and repositioning lights presents a potential alternative to shielding or replacing light fixtures and may be sufficient to make lights fully cut-off and eliminate light shining horizontally and vertically (Figure 4). To achieve the functional equivalent of a full cut-off fixture, a light fixture should be adjusted so that it points directly down perpendicular to the ground to create

a level, horizontal plane between the fixture and the ground, and have the bulb housed within the light fixture. Tree strap downlights may be used to minimize seabird light attraction unless turtles may be present on the adjacent beach.

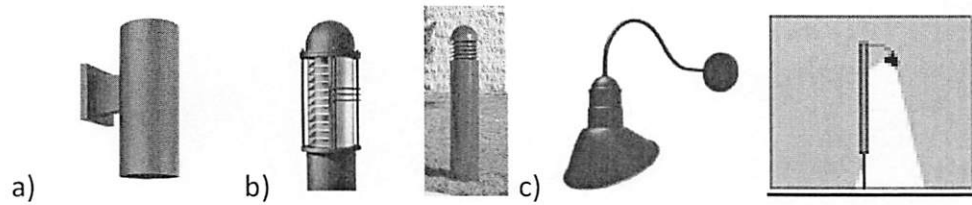


Figure 1-: (a) Wall mount cylinder down-light, (b) bollards with downward-directed louvers, and (c) sign lights angled downward. From http://myfwc.com/media/418417/SeaTurtle_LightingGuidelines.pdf (FWC 2011).

1.5. Place Lights Under Eaves

Light fixtures placed under building eaves can achieve the functional equivalent of a full cut-off fixture. The architectural eave acts as shield to prevent light from shining directly upward.

1.6. Shift Lighting According to the Moon Phase

This minimization measure addresses lighting for which the need, or purpose, for the lighting can be shifted in timing each year to coincide with the moon phase. Because a reduction in light attraction has been correlated with the full phase of the moon (Reed et al. 1985; Telfer et al. 1987) lights for essential functions, and for which that function can be shifted in timing, should coincide with the full phase of the moon and avoid the dark phase of the moon. It is important to note that a full moon that is obscured by heavy cloud cover could simulate the dark phase of the moon. By not activating those lights during the dark phase of the moon the effect of those lights is reduced. Examples of activities that could be minimized with this measure include scheduling of night time events, such as festivals or sporting events.

1.7. Install Motion Sensors for Motion-activated Lighting

Motion sensors switch lights on only when triggered, thereby limiting the time that the light stays on and reducing its potential for seabird light attraction. If a sensor light is required for security purposes, the light equipped with the sensor should be at low light levels. For example, Light Emitting Diode (LED) streetlights and parking lot lights can be activated when needed and dim when no activity is detected nearby. However for those fixtures, full cut-off designs or the functional equivalents are recommended because of the possibility of light attraction occurring when the motion-sensor light is activated or in the event that the motion sensor equipment malfunctions and the light remains on.

Where motion sensors are impractical (eg at sporting events), stadium lights should be turned off as soon as the public leaves the stadium.

1.8. Decrease Lighting Levels

This measure addresses lowering light intensity levels (e.g., measured in lumens) while still meeting the need to safely complete tasks and serve the purpose of the light. Guidance on standards for the appropriate lighting level for a particular light function should be followed as provided by the appropriate agency or professional and technical organization. For example the Illuminating Engineering Society of North America (IESNA) provides recommendations for light levels for several applications including parking lots, walkways, and roads. In addition individual entities may have standards and best practices for lighting needs.

For many applications where lighting is needed, brighter lighting may not always provide the best lighting for the needed function. It is often the case where reduced lighting levels can provide for the needed function of the lighting. For example, for security purposes overly bright lights tend to create blind spots, or very dark shadows, outside the lit area that preclude effective visibility. Well placed, but reduced lighting can provide for more effective security. Therefore, when Participants seek to enhance onsite visibility for security, while reducing risk to seabirds, the appropriate reduction of light levels (along with shielding and re-angling lights) forms a starting point to accomplish both purposes.

1.9. Decrease Visibility of Interior Lights

Facilities with large and/or numerous windows, tall building profiles, or large glass facades may also pose a risk of light attraction to Covered Seabirds on Kaua'i. The following measures are based, in part, on efforts in cities in Canada and the mainland USA to decrease harmful effects of buildings on birds and apply to seabirds in that they can decrease the amount of light escaping from within buildings (City of Toronto 2007; Evans Ogden 2002):

- Install screens or shades over large windows that are lowered nightly during the fallout season;
- Modify buildings and decrease or eliminate light glow from within a facility;
- Create glass opacity to prevent the escape of internal light. Tinted glass or film with a visible light transmittance value of 45 percent or less should be applied to all windows and doors within line of sight of the beach;
- Install physical screens outside a building;
- Install landscaping in front of large windows;
- Close all window blinds after daylight hours until sunrise;
- Stagger the operation of lights in the evening or morning hours so that not all lights are turned on at once; and
- Maximize the number of offices or indoor rooms that turn off all lights after sunset;

- Place reminder notices on switches to turn out lights or draw curtains/blinds in oceanfront rooms. This should include coastal areas that are on the perpendicular sides of the structure;
 - a. Turn off room and lanai lighting that are not needed;
 - b. Relocate moveable lamps away from windows that are visible from the beach; and
 - c. Close opaque curtains or blinds after dark to block inside light from shining outside.

1.10. Use Light-less Technologies

Where conditions and facility needs permit, technologies that do not use light, such as closed-circuit television (CCT) with infrared illuminators, may be effectively employed to “see” at night thus enabling some of the lights to be turned off. For example, any fenced areas or the dark sides of facilities can be monitored with CCT so that lights do not need to be used or installed.

1.11. Plant Vegetation Around Lights to Reduce Light Visibility

Trees and shrubs can be planted so that they over-arch lights or shield side visibility of lights along the coast or along a ridge, for example. Whether the lights are mounted on 20-foot poles, walkways, or within landscaped areas, having adjacent or overarching vegetation would further reduce the risk of seabird light attraction that any residual light scatter may pose. Long-term planning and maintenance of screening vegetation is encouraged, where appropriate to the uses and needs of the affected lights.

1.12. Lower Height of Lights

Light that is low in height has potential to reduce the effect of light attraction because lower lights may be less visible to passing seabirds. Installing ground-level lighting, such as along walkways, and reducing pole height can decrease light waste and trespass.

1.13. Use Longer Light Wavelengths

In coastal areas, use of acceptable lights such as: LPS 18w, 35w, red, orange or amber LEDs (true red, orange or amber diodes, but not filters), true red neon, and other lighting sources that produce light wavelengths of 560 nm or longer (Witherington et al. 2014). Long wavelength lights, e.g., those that produce light that measures greater than 560 nanometers on

a spectroscope, are required for all construction visible from and adjacent to sea turtle nesting beaches. Turtles are most sensitive to short wavelengths of light, probably because they live in a marine environment that filters out long wavelengths. Green turtles are least attracted to longer wavelength light in the yellow-orange to red end of the spectrum (630 to 700 nm) (Witherington and Martin 2000). In the absence of other light sources, however, turtles may still be attracted to long wavelength light.

Filters designed to exclude transmission of short wavelengths (<570nm) can be fitted to high pressure sodium (HPS) vapor lights. Such filters have been found to be effective at avoiding disruption of nesting females (Salmon, 2006) but even filtered HPS light has been found to attract hatchlings, although not as strongly as unfiltered HPS lights (Sella et al, 2006). Filtering alone is thus not sufficient to avoid attraction and disruption of hatchling orientation. Bright white light fixtures, such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps, are not approved for beachside or shore perpendicular sides of a structure. Limited use of shorter wavelength lights may be approved in areas where direct and indirect light or glow could not possibly be visible from the beach due to installation of opaque "light fencing" (see below).

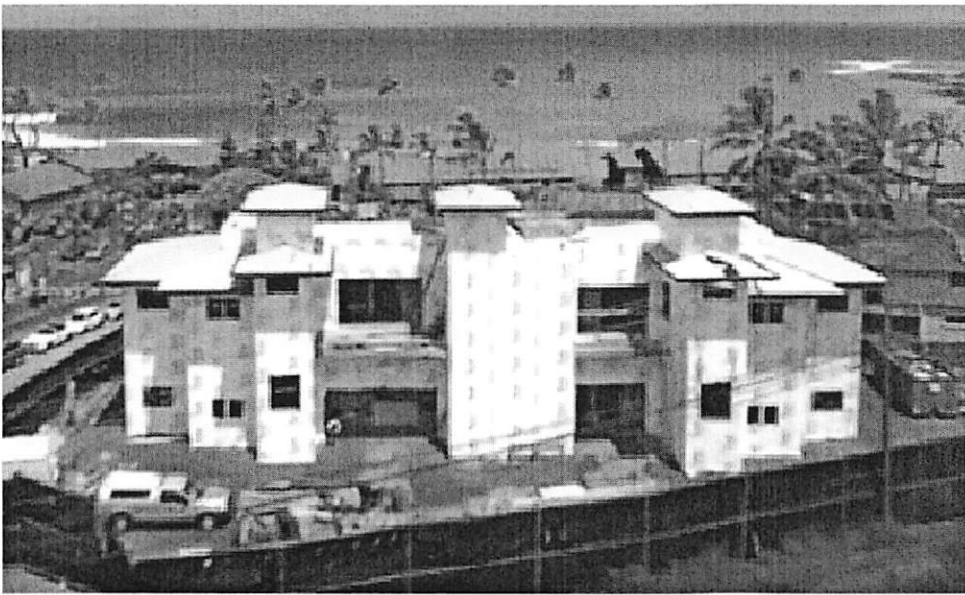
County Clerk

From: Chris Salem <chrissalem8@yahoo.com>
Sent: Tuesday, June 21, 2022 8:08 AM
To: County Clerk
Cc: Alice L. Lee; Tamara A. Paltin; Shane M. Sinenci; Mike J. Molina; Tasha A. Kama; Kathy L. Kaohu; Gabe Johnson; Yukilei Sugimura; Keani N. Rawlins; Kelly King; David M. Raatz
Subject: Written Testimony - Resolution to Investigate Brown Development

RECEIVED

2022 JUN 21 AM 8:11

OFFICE OF THE
COUNTY CLERK



Good Day Honorable Chair Lee;

I want to thank the Council for bringing forth the Resolution to investigate the Department of Planning and Department of Public Work's on the irresponsible permit approvals issued to Brown Development. While there are numerous violations by the developer which have been ignored by Planning Director Mclean, the most recent is one which cannot be overlooked, and is just cause to immediately reinstate the Stop Work Orders.

Brown Development's application for an "after-the-fact" SMA Minor permit on top of a hotel development which received a SMA Permit Exemption, falsely alleged the cost of work performed on grading, stone walls, etc. was **\$15,000.00**. (See Below) Planning Director Mclean acknowledged in public testimony that she decided not use her duty and authority under the SMA rules to ask Public Works to review the accuracy of contractor / developer valuation. According to the former Director of Public Works, **not once**

has the Department of Planning requested from DSA engineers a review of developer's SMA Permit valuations.

Please look over the attached estimate by a licensed contractor that actually values the "after-the-fact" work performed by

Brown Development at over **\$225,000.00**. With this information in hand, we believe DSA's qualified licensed professional engineer

Lance Nakamura, PE has a duty to address this misrepresentation to the County by a licensed contractor?

Does this require a directive from Planning Director Mclean, or does a private citizen's complaint or RFS trigger this review

and consequences? Can the Council conclude with urgency the Planning Director was negligent, and request the Corporation Counsel

Director to advise their client to take the appropriate action?

Should the DCCA contractor's licensing authority be sent this evidence from the Planning Department, DSA, or Corporation Counsel?

Respectfully;

Chris Salem

Chairman of the Board

Napili Bay Community Association

cc: Board Members

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



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

February 4, 2022

Greg Brown
Napili Beach House LLC
P.O. Box 1060
Lahaina, Hawaii 96767

Dear Mr. Greg:

**SUBJECT: AFTER-THE-FACT SPECIAL MANAGEMENT AREA (SMA)
MINOR PERMIT APPROVAL FOR THE CONSTRUCTION OF A
TERRACED ROCK WALL AT 5385 LOWER HONOAPIILANI
ROAD, LAHAINA, MAUI, HAWAII; TMK: (2)4-3-002:057
(SMX2021/0301) (SM2 2022/0012)**

The Department of Planning (Department) has reviewed and assessed your subject application dated August 30, 2021, including structural plans for the subject terraced wall, as attached and dated January 5, 2021 [sic]. In accordance with the *Special Management Area Rules for the Maui Planning Commission*, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development; pursuant to Section 205-A-22 and can be issued a SM2 permit approval with conditions;
2. The scope of the project is to construct a terraced perimeter wall on west property line; the outer wall is up to four feet tall, eighteen inches wide and 210 feet long. The inner wall is up to seven feet tall, eighteen inches wide and 580 feet long. Neither the outer wall nor inner wall will retain more than 36 inches of earth fill. The terraced wall was not included as part of original SMA permit. The wall has been constructed and thus is an After-the-Fact permit authorization;
3. The project has a valuation not in excess of \$500,000.00;
(Valuation: \$15,000.00)



Thad Henry Design Group Hawaii, Inc.

GENERAL CONTRACTOR - LICENSES BC22902-BC 23823

June 6, 2022

Mr. Chris Salem
Napili, HI

RE: Wall costs

Aloha Chris:

Not knowing all the parameters of the project such as grading and compaction, I can offer you the following costs in today's market for the items in question. These would be good averages of what us contractors are paying to have this type of work completed.

Rock wall work: \$30-\$40 a square foot, depending on the style of wall and rock type chosen. Also, most walls are 18" in thickness so it's 1 1/2 times the quote.

Excavation: \$200 per hour including operator and machine...NOT mobilization.

Just by doing simple math on the quantities listed on the SMA permit at the \$30 a sf price, the first wall is 1,260 sf which would translate into \$37,800 and the second wall is 4,060 sf which would translate into \$182,700. Keep in mind these numbers DO NOT include excavation, compaction, overhead and profit or GE Tax, which I would think are all part of the process as well.

Backfill and compaction is usually by the hour and not knowing how much is involved here is hard to determine. Also, are there any drainage systems behind these walls? I would think that this lower section of wall (which looks to be retaining the upper section of wall) should have been engineered since it is retaining and it's over 3' in height. Minimum drain systems would be in the \$25 per lineal foot range

Overhead and Profit is usually anywhere from 10 to 25% depending on the contractor.

The total value of this project could be in excess of \$225,000.00.

Hope this helps you .

Respectfully yours,

Thad Henry
Owner
Thad Henry Design Group HI, Inc.

P.O. BOX 878 - LAHAINA, MAUI, HI 96767-0878

PHONE # (808) 669-7773

FAX # (808) 669-8886



----- Forwarded Message -----

Subject: Re: [EXTERNAL] Request for Assistance

State of Hawai'i
Office of Planning

Good Afternoon Justine;

The documentation I have present to your authority clearly represents a complete breakdown in the County of Maui's administration of HRS 205A. How many more citizen driven complaints and lawsuits will it take before the State Office of Planning investigates the evidence of gross negligence by the Department of Planning under Director Mclean?

Does this look like a structure which should have been issued a SMA Permit exemption which denied citizens of their rights to public participation during the SMA application process? Isn't public participation paramount by statute? Director Mclean has just issued a "after the fact" SMA Permit on a "development" which was her Department originally issued an SMA Exemption that stated the project was determined to not be a "development".

As exhibited below, the developer / contractor submitted an fraudulent valuation of the work performed to obtain an "after the fact" SMA Minor Permit. Is this not just cause for investigation at a State level? Is this not grounds for suspension or revocation of the contractor's license? Finally, is it fair to ask you to forward this evidence to the State licensing agency for contractors?

Why does State law provide specific rules to the Counties and your office fails and refuses to insure they are honored and upheld?

With that said, my UIPA request is a just for the amount of funding the State provides to Maui County to administer HRS 205A.

Just the last 3 years is fine to satisfy this government record request.

This information should be easily produced with limited impact on your busy schedule.

Respectfully;

Christopher Salem
Chairman of the Board
Napili Bay Community Association