

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

October 22, 2021

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on September 30, 2021, makes reference to County Communication 19-145, from the Planning Director, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE HANA COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURE TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT NAHIKU ROAD, HANA, MAUI, HAWAII, TAX MAP KEY (2) 1-2-002:023."
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT NAHIKU ROAD, HANA, MAUI, HAWAII, TAX MAP KEY (2) 1-2-002:023."
3. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL TO P-1 PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT NAHIKU ROAD, HANA, MAUI, HAWAII, TAX MAP KEY (2) 1-2-002:023."

The purpose of the proposed bills is to grant a request for a Community Plan Amendment from Agriculture to Public/Quasi-Public, State Land Use District Boundary Amendment from Agricultural to Rural, and Change in Zoning from Agricultural to P-1 Public/Quasi-Public for 1.9 acres located at Nahiku Road, Hana, Maui, Hawaii, tax map key

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(2) 1-2-002:023, to facilitate the development of the proposed Nahiku Community Center.

Your Committee notes the Council's Planning and Sustainable Land Use Committee (2019-2021 Council term) met on this matter on January 8, 2020.

Your Committee notes the Maui Planning Commission ("Planning Commission") reviewed the proposed legislation on August 14, 2018, and recommended approval.

Your Committee also notes the proposed project is located at the site of the previous Nahiku Grammar School, which served as the community center until it was destroyed by arson in 2005.

On March 24, 2008, by Executive Order, the State transferred the property to the County of Maui for community center purposes.

In 2012, the Department of Parks and Recreation issued an Environmental Assessment Exemption, under Chapter 343, Hawaii Revised Statutes, and obtained a Special Management Area ("SMA") Minor Permit and building permits to replace the structure.

Your Committee notes a Petition to Intervene was filed on October 10, 2017 on behalf of 11 individuals in opposition to the project. The Planning Commission deferred taking action on the petition, but the Planning Director confirmed the petition is still active. In order for the entitlements in the proposed bills and the SMA permit to be granted, the Planning Commission would have to act on the petition first.

Your Committee notes construction was never initiated because of litigation between the County and the contractors for the project. The deadline to complete construction was by March 2018. The SMA Minor Permit has expired and the building permit was withdrawn by the Department of Parks and Recreation.

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Your Committee requested an update from various County departments, inquired about community concerns, and sought recommendations on how to proceed with the Nahiku Community Center project given the extensive delay.

The Director of Parks and Recreation said an Environmental Assessment and major Shoreline Management Assessment would now be required for the project to continue. The Director expressed the Department's intent to do further community outreach and proceed with the project if it was the community's desire, and if funding was approved by the Council at the next budget session.

Your Committee notes the Department of Parks and Recreation did not proceed further on the project due to the ongoing litigation.

By correspondence dated September 28, 2021, the Department of the Corporation Counsel provided an update on the lawsuit *County of Maui v. Maui Kupono Builders LLC, Travelers Casualty and Surety Company of America, et al.* A stipulation for dismissal filed with the Second Circuit Court on June 7, 2021 terminated the lawsuit.

Your Committee expressed concern about the physical state of the project premises given the lengthy period of non-use. The Department of Finance noted the Executive Order issued in 2008 was still active and required the County to restore the premises to a condition satisfactory to the State Department of Land and Natural Resources in the event of non-use for a continuous period of one year.

Your Committee discussed the roadway leading to the Nahiku Community Center and asked the Department of Public Works about the roadway's ownership. By correspondence dated September 30, 2021, the Director of Public Works confirmed the road fronting the old Nahiku School site on its northern boundary was considered a government road that the County maintained, but the County did not have title to it. The Director

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also confirmed Nahiku Road on the project area's southern boundary is a County road.

Your Committee acknowledged the community is deeply divided on whether to continue with the Nahiku Community Center project, cancel or postpone it, or proceed with the project but at a different location.

Your Committee determined that the Nahiku Community Center project should be postponed to a future date to allow the County and the community to discuss the project further and seek ways to resolve any outstanding issues.

Your Committee voted 8-0 to recommend filing of the communication. Committee Chair Paltin, Vice-Chair King, and members Kama, Lee, Molina, Rawlins-Fernandez, Sinenci, and Sugimura voted "aye." Committee member Johnson was excused.

Your Planning and Sustainable Land Use Committee RECOMMENDS that County Communication 19-145 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



TAMARA PALTIN, Chair