

DOCKET NO. /PETITIONER: A94-706/SHOW CAUSE HEARING AS TO HONUA'ULA PARTNERS, LLC

PARTY: COUNTY OF MAUI

LIST OF REBUTTAL EXHIBITS

| EXHIBIT NUMBER | DESCRIPTION | PARTY: OBJECTIONS | ADMIT |
|----------------|---|-------------------|-------|
| 7 | Ordinance No. 3975 - A Bill for an Ordinance Amending Title 19, Maui County Code, relating to M-1 Light Industrial District | | |
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2012 OCT 22 A 8:34
 LAND USE COMMISSION
 STATE OF HAWAII

ORDINANCE NO. 3975

BILL NO. 72 (2012)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
RELATING TO M-1 LIGHT INDUSTRIAL DISTRICT

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

SECTION 1. Section 19.04.040 is amended by adding a new definition to be appropriately inserted and to read as follows:

""Production facility, multimedia" means space in an outdoor or indoor area, building, part of a building, for the staging or recording of video or audio productions such as, but not limited to, music, commercials, programs, motion pictures, multi-media or other related activities."

SECTION 2. Chapter 19.24, Maui County Code, is amended to read as follows:

"Chapter 19.24

M-1 LIGHT INDUSTRIAL DISTRICT

Sections:

- 19.24.010 [Generally.] Purpose and intent.**
- 19.24.020 [Use regulations.] Permitted uses.**
- 19.24.030 [Height regulations.] Accessory uses and structures.**
- 19.24.040 [Area regulations.] Reserved.**
- 19.24.050 [Yards.] Development standards.**
- 19.24.060 Rulemaking authority.**

19.24.010 [Generally.] Purpose and intent. The M-1 light industrial district is designed to contain mostly warehousing and distribution types of activity, and permits most compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. Residential uses are excluded [from this district.] except for dwelling units located above or below the first floor and apartments.

19.24.020 [Use regulations.] Permitted uses. A. Within the M-1 light industrial district, no building, structure or premises shall be used and no building or structure hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

1. Any use permitted in a B-1, B-2, or B-3 district; provided, however, that no building, structure or portion thereof shall be hereafter erected, converted, or moved onto any lot in an M-1 district for dwelling purposes, including hotels and motels, except living quarters used by watchmen or custodians of industrially used property;
2. Animal kennels;
3. Carpet cleaning plants;
4. Cold storage plants;
5. Commercial laundries;
6. Craft, cabinet and furniture manufacturing;
7. Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers, crystal holders and the like;
8. Farm implement sales and service;
9. General food, fruit and vegetable processing and manufacturing plants;
10. Ice cream and milk producing, manufacturing and storage;
11. Laboratories—experimental, photo or motion picture, film or testing;
12. Light and heavy equipment and product display rooms, storage and service;
13. Machine shop or other metal working shop;
14. The manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials; aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood;
15. The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products except the rendering or refining of fats and oils;
16. The manufacture, dyeing and printing of cloth fabrics and wearing apparel;
17. The manufacture of musical instruments, toys, novelties and rubber and metal stamps;
18. Manufacture of pottery and figurines or other similar ceramic products;
19. Milk bottling or central distribution stations;
20. Plumbing shops having more than five employees;

21. Poultry or rabbit slaughter incidental to a retail business on the same premises;
22. Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys;
23. Replating shop;
24. Retail lumber yard including mill and sash work, except that mill and sash work shall be conducted within a completely enclosed building;
25. Small boat building;
26. Soda water and soft drink bottling and distribution plants;
27. Tire repair operation including recapping and retreading;
28. Vocational and trade schools giving general instruction as prescribed by the State Department of Education;
29. Warehouse, storage and loft buildings;
30. Wearing apparel manufacturing;
31. Wholesale business, storage buildings, nonexplosive goods and warehouses;
32. Apartment houses.

B. The above uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least six feet in height.]

| <u>Uses</u> | <u>Notes and exceptions</u> |
|---|-----------------------------|
| <u>Any use permitted in a B-1, B-2, or B-3 business district; provided, however, that no building, structure or portion thereof shall be hereafter erected, converted, or moved onto any lot in an M-1 district for dwelling purposes, including hotels and motels, except for dwelling units located above or below the first floor and apartments</u> | |
| <u>Animal kennels</u> | |
| <u>Apartment houses</u> | |
| <u>Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers, crystal holders and the like</u> | |
| <u>Carpet cleaning plants</u> | |
| <u>Cold storage plants</u> | |
| <u>Commercial laundries</u> | |
| <u>Craft, cabinet and furniture manufacturing</u> | |
| <u>Education, specialized</u> | |

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| <u>Farm implement sales and service</u> | |
| <u>General food, fruit and vegetable processing and manufacturing plants</u> | |
| <u>Harbor facilities</u> | |
| <u>Ice cream and milk producing, manufacturing and storage</u> | |
| <u>Laboratories—experimental, photo or motion picture, film or testing</u> | |
| <u>Light and heavy equipment and product display rooms, storage and service</u> | |
| <u>Machine shop or other metal working shop</u> | |
| <u>Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood</u> | |
| <u>Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products</u> | <u>Except the rendering or refining of fats and oils</u> |
| <u>Manufacture, dyeing and printing of cloth fabrics and wearing apparel</u> | |
| <u>Manufacture of musical instruments, toys, novelties and rubber and metal stamps</u> | |
| <u>Manufacture of pottery and figurines or other similar ceramic products</u> | |
| <u>Milk bottling or central distribution stations</u> | |
| <u>Mortuaries and morgues</u> | |
| <u>Plumbing shops</u> | |
| <u>Poultry or rabbit slaughter incidental to a retail business on the same premises</u> | |
| <u>Production facility, multimedia</u> | |
| <u>Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys</u> | |
| <u>Replating shop</u> | |
| <u>Retail lumber yard including mill and sash work</u> | <u>Mill and sash work shall be conducted within a completely enclosed building</u> |
| <u>Small boat building</u> | |
| <u>Soda water and soft drink bottling and distribution plants</u> | |
| <u>Tire repair operation including recapping and retreading</u> | |

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| Utility facilities, minor, and substations up to, and including, 69 kv transmission | |
| Warehouse, storage and loft buildings | |
| Wearing apparel manufacturing | |
| Wholesale business, storage buildings, nonexplosive goods and warehouses | |

19.24.030 [Height regulations.] Accessory uses and structures. [No building or structure nor the enlargement of any building or structure shall be erected or maintained to exceed four stories or forty-eight feet in height; provided, however, that the height of such building or structure shall not exceed one and one-half times the width of the widest street which it fronts.] The following uses and structures, located on the same lot, are deemed accessory, customary, incidental, usual and necessary to the above permitted uses in the district:

| |
|---|
| Uses |
| <u>Energy systems, small-scale</u> |
| <u>Fences, walls, patios, decks, and other landscape features</u> |
| <u>Garages, porte-cochere, mailboxes, ground signs, and trash enclosures</u> |
| <u>Security/watchman or custodian outbuildings</u> |
| <u>Subordinate uses and structures which are determined by the planning director to be clearly incidental and customary to the permitted uses listed herein</u> |

19.24.040 [Area regulations. Every lot within an M-1 district shall have a minimum lot area of not less than seven thousand five hundred square feet, having an average lot width of sixty-five feet.]. Reserved.

19.24.050 [Yards. A. Front Yard.

1. Where all the frontage between intersecting streets is located within business districts or industrial districts, no front yard shall be required.

2. Where the frontage is located abutting the residential district, there shall be a front yard of not less than ten feet from any setback line for street widening purposes; and if no such line exists, then from the main street or front boundary.

B. Side Yard.

1. Where the side of a lot in an M-1 district abuts upon the side or rear of a lot in an agricultural, farming, hotel, apartment, duplex or any type of residential district, there shall be a side yard of not less than ten feet.

2. In all other cases a side yard for light industrial building shall not be required.

C. Rear Yard.

1. In the case where the rear lot in an M-1 district abuts upon the side or rear of a lot in any residential, agricultural, farming, hotel, apartment or duplex district, there shall be a rear yard of not less than ten feet.

2. In all other cases a rear yard for M-1 building shall not be required.

3. No accessory building or buildings shall be allowed in the required rear yard of any lot occupied by any building containing light industrial business use except for off-street parking purposes.] **Development standards.**

| | <u>M-1</u> | <u>Notes and exceptions</u> |
|--|---|--|
| <u>Minimum lot area (square feet)</u> | <u>7,500</u> | <u>Except for utility facilities minor, which shall have no minimum lot area</u> |
| <u>Minimum lot width (in feet)</u> | <u>65</u> | |
| <u>Maximum building height (in feet)</u> | <u>60</u> | <u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed 70 feet in total height</u> |
| <u>Minimum yard setback (in feet)</u> | | |
| <u>Front</u> | <u>0 or the same as the adjoining zoning category whichever is greater</u> | <u>Where the setback of the adjoining non-industrial zoned parcel is less than 10 feet, a minimum setback of 10 feet shall be applied</u> |
| <u>Side and rear</u> | <u>0 or the same as the adjoining zoning category whichever is greater</u> | |
| <u>Free standing antenna or wind turbine structures height and setback</u> | <u>Maximum height of 75 feet and shall be setback 1 foot for every foot in height from all property lines</u> | |
| <u>Accessory structures allowed within setback area</u> | <u>Boundary walls, parking area, trash enclosures, and ground signs</u> | |

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|------------------------------|---|--|
| <u>Enclosure requirement</u> | All uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least 6 feet in height | |
|------------------------------|---|--|

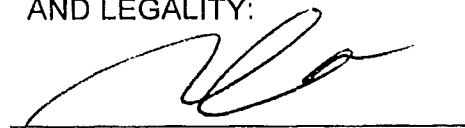
19.24.060 Rulemaking authority. The planning director may adopt rules to implement this chapter."

SECTION 3. Any dwelling structure that was constructed with a building permit that was approved prior to the enactment of this ordinance or appears on County real property tax records need not acquire a County special use permit, conditional permit or variance and may be reconstructed as permitted by the original building permit(s) or to the same size and location as shown on real property tax records.

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

S:\ALL\MJH\ORDS\Amend 19.24.rev. 5-15-12 - M1 light industrial.doc

WE HEREBY CERTIFY that the foregoing BILL NO. 72 (2012)

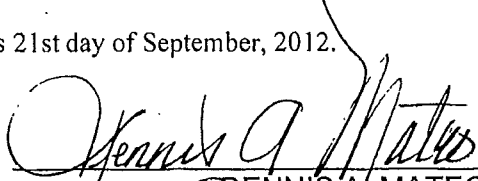
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 21st day of September, 2012, by the following vote:

| | | | | | | | | |
|--------------------------|---------------------------------|-----------------|----------------|------------------|----------------------|----------------|----------------------|------------------|
| Dennis A. MATEO Chair | Joseph PONTANILLA Vice-Chair | Gladys C. BAISA | Robert CARROLL | Eleanora COCHRAN | Donald G. COUCH, JR. | G. Riki HOKAMA | Michael P. VICTORINO | Michael B. WHITE |
| Aye | Aye | Aye | Aye | Aye | Aye | Aye | Aye | Excused |

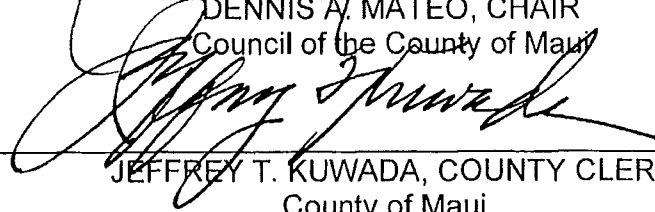
2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 21st day of September, 2012.

DATED AT WAILUKU, MAUI, HAWAII, this 21st day of September, 2012.

RECORDED
2012 SEP 24 PM 2:41
COUNTY CLERK




 DENNIS A. MATEO, CHAIR
 Council of the County of Maui



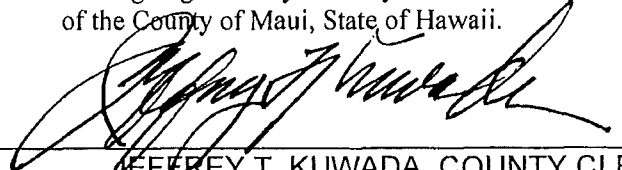
 JEFFREY T. KUWADA, COUNTY CLERK
 County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 24 DAY OF September, 2012.



 ALAN M. ARAKAWA, MAYOR
 County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3975 of the County of Maui, State of Hawaii.



 JEFFREY T. KUWADA, COUNTY CLERK
 County of Maui

Passed First Reading on September 7, 2012.
Effective date of Ordinance September 24, 2012

RECORDED
2012 SEP 24 PM 2:41
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3975, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of

KAONOULU RANCH

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02: por. of 15 and 3-9-01:16

DOCKET NO. A94-706

CERTIFICATE OF SERVICE
RE: DEPARTMENT OF
PLANNING, COUNTY OF MAUI'S
LIST OF REBUTTAL EXHIBITS
AND EXHIBIT 7

CERTIFICATE OF SERVICE RE: COUNTY OF MAUI, DEPARTMENT OF PLANNING'S LIST OF REBUTTAL EXHIBITS AND EXHIBIT 7

I HEREBY CERTIFY that a true and correct copy of the County of Maui's List of Rebuttal Exhibits and Exhibit 7 were duly served on October 19, 2012, upon the following parties, via e-mail, and depositing same in the U.S. Mail, postage prepaid, at their last known addresses:

| | METHOD OF SERVICE | | |
|--|-------------------|----------------------|---------------|
| | <u>Mail</u> | <u>Hand Delivery</u> | <u>E-Mail</u> |
| DANIEL ORODENKER Executive Director Land Use Commission P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: daniel.e.orođenker@dbedt.hawaii.gov | X | | X |
| TOM PIERCE ESQ. P.O. Box 798 Makawao, Hawaii 96768 E-mail: tom@mauilandlaw.com | X | | X |


Attorney for Intervenors Maui Tomorrow
Foundation, Inc., South Maui Citizens
For Responsible Growth, and Daniel Kanahele

2012 OCT 22 A 8:35
LAND USE COMMISSION
STATE OF HAWAII

| | METHOD OF SERVICE | | |
|---|-------------------|----------------------|---------------|
| | <u>Mail</u> | <u>Hand Delivery</u> | <u>E-Mail</u> |
| JONATHAN H. STEINER, ESQ. McCorriston Miller Mukai MacKinnon P.O. Box 2800 Honolulu, Hawaii 96803 E-mail: steiner@m4law.com | X | | X |
| Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC | | | |
| JOHN S. RAPACZ ESQ. P.O. Box 2776 Wailuku, Hawaii 96793 E-mail: rapacz@hawaii.rr.com | X | | X |
| Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC | | | |
| JESSE K. SOUKI, ESQ. Director, Office of Planning State of Hawaii P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: jesse.k.souki@dbedt.hawaii.gov | X | | X |
| BRYAN YEE, ESQ. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, Hawaii 96813 E-mail: bryan.c.yee@hawaii.gov | X | | X |
| Attorney for State Office of Planning | | | |
| MICHAEL HOPPER Deputy Corporation Counsel Department of the Corporation Counsel County of Maui 200 South High Street Wailuku, Hawaii 96793 E-mail: Michael.Hopper@co.maui.hi.us | | | X |

DATED: Wailuku, Hawaii, October 19, 2012.

PATRICK K. WONG
Corporation Counsel
Attorney for Department of Planning,
County of Maui

By 
MICHAEL J. HOPPER
Deputy Corporation Counsel