

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

July 11, 2013

2013 JUL 15 A 8:19
LAND USE COMMISSION
STATE OF HAWAII

MEMO TO: DANIEL ORODENKER
Executive Director
Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

FROM: Department of Planning, County of Maui *eo*
Clayton Yoshida, Planning Program Administrator

SUBJECT: **DOCKET No. A13-797 / CMBY 2011 Investment, LLC**

TRANSMITTED ARE THE FOLLOWING:

COPIES	DATE	DESCRIPTION
Original and 16 copies	07/11/13	Department of Planning, County of Maui Position Statement and Certificate of Service

- | | |
|---|---|
| <input type="checkbox"/> For your information & files | <input type="checkbox"/> For your review and approval |
| <input type="checkbox"/> For approval & signature | <input type="checkbox"/> See REMARKS below |
| <input type="checkbox"/> Per your request | <input checked="" type="checkbox"/> For filing |

REMARKS: LAND USE COMMISSION - Please return a file-marked copy of the Documents to us in the enclosed self-addressed envelope. Thank you.

Attachments

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DEPARTMENT OF PLANNING
 COUNTY OF MAUI
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2013 JUL 15 A 8:19
 LAND USE COMMISSION
 STATE OF HAWAII

BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII

In the Matter of the Petition of:)	Docket No. A13-797
)	
CMBY 2011 INVESTMENT, LLC)	POSITION STATEMENT OF THE
)	DEPARTMENT OF PLANNING, COUNTY
)	OF MAUI; CERTIFICATE OF SERVICE
To Amend the Agricultural Land Use)	
District Boundaries into the Urban Land)	
Use District for Certain Lands Situate at)	
Pulehunui, District of Wailuku, Island and)	
County of Maui, State of Hawaii,)	
consisting of approximately 86.030 acres)	
acres, Tax Map Key No. (2) 3-8-008:019)	

POSITION STATEMENT OF THE DEPARTMENT OF PLANNING, COUNTY OF MAUI

In accordance with §15-15-55 of the State Land Use Commission Rules, the Department of Planning, County of Maui, (hereinafter referred to as "Department") supports, subject to conditions, the State Land Use District Boundary Amendment filed by CMBY 2011 Investment LLC (hereinafter referred to as the "Petitioner") to reclassify approximately 86.030 acres at Maui Tax Map Key No. (2) 3-8:008 019 (hereinafter referred to as the "Petition Area") from the Agricultural Land Use District to the Urban Land Use District at Pulehunui, District of Wailuku, Maui, Hawaii.

Petitioner's Proposed Use of the Property

The Petitioner is proposing to reclassify approximately 86.030 acres from the Agricultural Land Use District to the Urban Land Use District in order to develop the area as a heavy industrial subdivision, consisting of up to 28 developable lots of varying sizes on 66 acres of land. The balance of land area is development for a series of retention basins and an internal roadway system. The Department understands that market conditions may change the number or size of specific lots. Related improvements on the site will consist of grading, drainage, internal roadways, utilities, private wastewater systems, security, etc.

The property is located in the Kihei-Makena Community Plan Area and is about 1.0 mile southeast of the intersection of Kama'aina Road, Mehamaha Loop, and Mokulele Highway. Access from the Highway to the project site is provided by Kama'aina Road, South Firebreak Road, and Lower Kihei Road. During WWII, the site was part of the Pu'unene Naval Air Station. In more

recent times, the property was used for farming and scrap metal storage. No productive use or activity has occurred on the property since 2007.

Background Information

A Finding of No Significant Impact (FONSI) regarding the Final Environmental Assessment required for the County Community Plan Amendment and use of State lands was issued by the Maui Planning Commission on November 27, 2012. Notice of the FONSI was published by the Office of Environmental Quality Control in the January 8, 2013, edition of The Environmental Notice.

Land Use

The Petition Area is zoned Agricultural by the County and designated Agriculture on the Kihei-Makena Community Plan. As such, the proposed heavy industrial use is inconsistent with the land use designation in the Community Plan and with County zoning. Consequently, the Applicant submitted to the County of Maui applications for the Community Plan Amendment (CPA) and Change in Zoning (CIZ) on April 16, 2012, along with the Environmental Assessment (EA) for the project as part of the application review process. The Applicant amended its CIZ application on October 29, 2012 to request zoning to the newly created M-3 Restricted Industrial District, and the CIZ and CPA applications are being held in abeyance by the County until such time as the Land Use Commission ("LUC") renders its decision on the District Boundary Amendment Petition. The Department of Planning is aware that the Applicant has submitted a Petition for a District Boundary Amendment (DBA) to the LUC now that the Final EA/FONSI had been issued by the Maui Planning Commission. In reviewing this project, the Department has consistently supported the application and anticipates continuing to do so as the application progresses through both the LUC and County of Maui. The Community Plan designation for the petition area is currently "Agriculture" and is proposed to be changed to "Heavy Industrial" through the CPA review process. The recent passage of the Maui Island Plan by the Maui County Council specifically designated the Petition Area within the Pulehunui planned growth area and the subject property was placed within the Urban Growth Boundary as "an ideal site to serve the island's long term heavy industrial land use needs." Additionally the Maui County Council approved a bill for M-3, Restricted Industrial District that permits heavy industrial uses as proposed by the Petitioner.

Consequently, the Department recommends that the LUC move forward with its review of the DBA Petition as submitted by the Petitioner in an expeditious manner as the proposed land use changes are consistent with the newly adopted Maui Island Plan.

County and Community Concerns

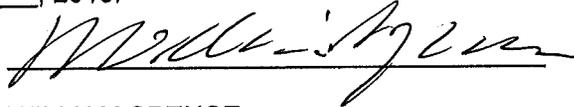
The public hearing process for review of the Environmental Assessment has provided an initial forum for reviewing and addressing County and Community concerns. No issues of significance were brought forth that were not addressed in the Final EA. These issues focused on the provision of security for the project during construction, encouraging lot owners to practice energy generation and conservation for proposed heavy industrial developments, and the review of potential fiscal mechanisms to ensure sustainable project development.

Recommendation

Based on our review of the information provided in the Petition, the Department of Planning finds that the proposed reclassification to the State Land Use Urban District is consistent with the standards for determining Urban District boundaries as set forth in the LUC's Rules. The

reclassification would also conform to the Maui Island Plan, which was adopted by the Maui County Council by Ordinance No. 4004, effective as of December 28, 2012. The Department of Planning supports CMBY 2011 Investment LLC's Petition for a District Boundary Amendment to provide their requested Urban District designation. This position statement offers general comments and may not address all concerns the County's Department of Planning may have. The analysis and recommendation of the Department of Planning for this project will be reflected in the testimony of the Department of Planning before the State Land Use Commission.

DATED: Wailuku, Hawaii, July 11, 2013.

A handwritten signature in black ink, appearing to read "William Spence", written over a horizontal line.

WILLIAM SPENCE
Planning Director
Department of Planning

**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Petition of:)	Docket No. A13-797
)	
CMBY 2011 Investment, LLC)	CERTIFICATE OF SERVICE
)	
)	
To Amend the Agricultural Land Use)	
District Boundaries into the Urban Land)	
Use District for Approximately 86.030)	
acres of land at Pulehunui, District of)	
Wailuku, Maui, Hawaii, Maui Tax Map Key)	
No. (2) 3-8:008: 019)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following on the date indicated below:

JESSE K. SOUKI Director Office of Planning 235 Beretania Street, 6 th Floor Honolulu, Hawaii 96813	Mail
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BRYAN YEE Deputy Attorney General Commerce and Economic Development Department of the Attorney General 425 Queen Street Honolulu, Hawaii 96813	Mail
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STEVEN S.C. LIM JENNIFER A. BENCK CARLSMITH BALL LLP ASB Tower, Suite 2200 1001 Bishop Street Honolulu, Hawaii 96813	Mail
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Attorney for Petitioner

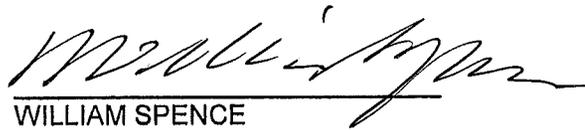
JAMES A. GIROUX
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

Hand delivery

PLANNING COMMISSION
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

Hand Delivery

DATED: Wailuku, Hawaii, July 11, 2013.



WILLIAM SPENCE
Planning Director
Department of Planning

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