

**MAUI PLANNING COMMISSION  
PORTION OF REGULAR MINUTES  
ITEM C-1  
OCTOBER 24, 2017**

Mr. Spence: Okay, Commissioners we have for you this morning our digital zoning map presentation and hopefully a recommendation for adoption of some ordinances and with us this morning is Kathleen Aoki and Peter Graves and Ann Cua and David Raatz, but he's sitting over there.

**C. PUBLIC HEARINGS** (action to be taken after each public hearing.)

**1. MR. WILLIAM SPENCE, Planning Director, transmitting two proposed bills relating to zoning maps and districts, respectively described as follows:**

- 1) A proposed bill titled "A BILL FOR AN ORDINANCE ADOPTING A DIGITAL ZONING MAP AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI." The purpose of the proposed bill is to adopt a digital zoning map for the Island of Maui.**
- 2) A proposed bill titled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO ZONING DISTRICTS AND MAPS." The purpose of the proposed bill is to establish updated County policy on determining boundaries for zoning districts. The bill also provides an updated list of zoning districts. (D. Raatz)**

Ms. Kathleen Aoki: Good morning Commissioners. This morning we are very happy to be here to finally present to you what's known as DSSRT which is what we...a nickname we sort of or an acronym we gave for the Dead Sea Scroll Replacement Team. And what this program is...what we're trying to do here is create a digital zoning layer for the County. So this project has been going on for many, many years. It started off with the Managing Director's Office back in the early 2000's. It was transferred to the Planning Department around 2005. So 12 years, yes we have been working on this project.

So the goal of the project is to replace all these wonderful zoning maps which we carefully brought over an example to you this morning. This is the Kihei Land Zoning Map 5 and it is literally held together by tape, duct tape, there's post it notes, there's handwriting on it, there's all kinds of things that have happened these maps over the years.

So this project included a team that comprised many different people in the Department from all the different divisions. Today we have Peter Graves who is from Plan Implementation. I'm also from Plan Implementation. We have Ann Cua from the Current Division and David Raatz is the Administrative Planning Officer from the Zoning Division and he will be presenting to you the bills at the end of our presentation. With this project you do have to amend Title 19 which is what we're here today 'cause there's language that needs to be changed in Title 19 that talks about a digital layer and not a paper map. We've also made some minor amendments to Title 19 to actually try to clean it up and make it a little bit more understandable.

So for this project just so you know there are two maps that we're asking for adoption. The first map is going to be an "as is" map which we will go over with you and that is the way zoning is today if we were to just transfer everything onto a digital layer without rectifying it and without making any kind of corrections to mistakes or inadvertent errors. The second map is that map which has been adjusted and Peter will go over that with you.

With this project just so you know we sent out over...about 900 postcards to all owners who are impacted by little tweaks and changes that we're adjusting on the map on the digital layer. So everyone was notified. We have four public meetings. We wanted to go out to the community. We let people know on those postcards that we were having these meetings. So we had meetings in Kihei, Wailuku, Lahaina and Pukalani. We also created our own website, our own email address or not our own website but on our Planning Department website there's a link to the DSSRT Project. We have our own email, we have own phone number so that way anyone who's curious about the project or if they got a postcard and couldn't come to one of these meetings could call us and Peter can go and tell you exactly what's happening with that parcel. So we've really tried to go out and make this known. We had a press release in the paper. The good news is we haven't really gotten too many inquiries which to me is a positive. The inquiries that we did get when we explained to them what was happening to their parcel they were relieved 'cause everybody walking out the door with zoning they think they always had. They never knew they had say a proposed road going through their property that never got built. So we're not doing anything that isn't consistent with community plan. It has to be consistent with community plan in order for us to make those tweaks.

So with that, I will...oh, one last thing just so you know, we did take this to the Lanai Planning Commission for their review, unanimous thumbs up, no brainer quote from one of the planning commissioners. We took it to Molokai, they also gave a unanimous thumbs up and approval. Their recommendation though is that when we do the Molokai Map, today we're just talking about the Maui layer so that I want to make clear. This layer is only for Maui Island then we'll go to Molokai and Lanai and do theirs. So Molokai's recommendation was when do the Molokai layer is to come back to Molokai and have a meeting which we would do anyway. So with that, I'll turn this over now to Ann Cua who will go through the power point.

Ms. Ann Cua: Good morning Chair and Members.

Chair Duvauchelle: Morning Ann.

Ms. Cua: You know Kathleen mentioned that this really was a labor of love from a lot of people in the Department and it's taken...it took such a long time that some of our Staff moved on to retirement and just doing other things and I was really happy when Kathleen was talking to see that one member of our team, Joe Alueta walked in and so we're just really excited about that. It was...it was a lot of work to put this together but we are very excited to be before you today.

So just to give a little bit of background. You know the goal of this project way back when was to replace the County's old maps like the one you saw on the wall. Some of them are up to 50 years old. They're paper maps been you know, written over, taped over, just in very poor condition. Another goal is to make digital zoning maps available online for public use, to confirm existing zoning for all parcels in the County of Maui and that was a task to go one parcel at a time.

Because it's not as simple as bring out one map and you'll kinda see there's been different layers over time to get the zoning that we have today and so we have to cross reference a lot of maps at times. And then as Kathleen mentioned this is such a huge project and we couldn't do Maui County at one time so we're doing Maui Island first and we will get to the other islands after we're done with Maui.

So first of all what is zoning? Zoning determines how property may be used and where structures may be placed and you see that in your applications that come before you. It also promotes orderly pattern of development and it separates incompatible land uses. And zoning is the first thing that a landowner must be aware of before developing their property. You get a piece of property, what can I do with this piece of property? Well your zoning dictates what you can do with the property.

How is property zoned in Maui County? Well, basically there's three different layers and I'm gonna go over that. It's comprehensive zoning maps, individual changes in zoning and comprehensive ordinances. So prior to 1957 there was no zoning and so we basically had Interim Zoning. And Interim Zoning was intended to be a temporary zoning until we actually zoned and we still have Interim Zoning today. In 1960's we did comprehensive land zoning maps and that is like what you see on the wall. The map that you see on the wall is the Kihei area and it is the largest rectangle that you see on the slide. And then all other areas that you can see that are squares and rectangles those are our comprehensive land zoning maps, limited around the island so you can see still there's a lot of Interim Zone.

And then what you are most familiar with is individual zoning changes and that was from the 1960's to the present. And most properties comes in you know one parcel at a time but then you also see large parcels sometimes five, six hundred acres for a change in zoning and those are individual changes of zoning.

And then there were two comprehensive bills. First the Rural Zoning Bill in 1997 and the parameters of that bill, that zoning that created Rural Zoning in these areas were you had to have community plan and State Land Use Rural designations. The lands also had to be less than 15 acres and not in the Hana Community Plan. Those were the parameters that comprehensive Rural Zoning was granted by. And then in 1999 comprehensive Ag Zoning was established for areas that were community planned Ag. And so there is our current Zoning Map and it is made up of all the layers that we've just discussed and you can see that there still exists Interim Zoning.

So you know what were some of the challenges to accomplish our goals? Well, as you saw the age and the lack of detail of the original maps was a challenge, very poor quality, worn out, falling apart so sometimes hard to read. There's no single complete set of maps for the island as you saw it's a patchwork. You know, the Interim Zoning, then comprehensive zoning, individual zoning, and then the comprehensive Ag and Rural bills.

You know this is an example of some of the challenges that we had. You know the scale of the maps made it...individual parcel determinations difficult. You see these this large line here going through this...here's a subdivision that was created and then we realized, we found out that this line actually means something and we'll explain some of those examples to you later on.

And you know, another thing is that we found zoning that actually exist on the map that we didn't realize existed like proposed road and drainage and those go through properties. So when Kathleen mentioned that at the end of the day with this project people are not gonna be surprised at their zoning. Their zoning is gonna be what they always thought it was. For example here, these people that live in this subdivision have no idea that part of their lot is zoned Drainage. So when we make the correction to be back to what it was, what it should be which is probably R-2 or R-3 no one will be surprised because that's what they always thought they had.

The benefits of this project that we were able to confirm zoning accurately and efficiently. There will be greater public access to accurate zoning information. We will be able to reduce the zoning determinations by the Department Staff and for example between Fiscal Year 2013 and 2016 the Department processed 21,457 zoning verification forms and so that is either people coming into the Department bringing their form, waiting, having a staff person pull out a few maps to take a look at what the zoning is and then filling out the form or people can email the form in. Now what they'll be able to do is sit at home, with their cup of coffee with their laptop at their desk and check it at home so that is very exciting. That's a great public service that the County will be able to provide. It will also improve coordination between government agencies. Government agencies need zoning information as well to plan CIP projects so they'll have it at their fingertips as well.

And then I'm not sure if you are aware of our upcoming County online permit process. Right now we have the KIVA System but we are going to soon, hopefully soon be having the MAPS Permit Tracking System. This zoning digital layer is a key foundation for that MAPS process.

So that concludes my presentation. I'm gonna turn it over to Peter now and he's gonna take you through some examples that we found to show you kinda what we were dealing with and what we're gonna change in our maps.

Mr. Peter Graves: So these are just a few of the examples of issues we ran into that need to be fixed but we as a team can't unilaterally fix them. They were you know the maps were adopted by the Council and if we want to fix a mistake basically it has to go back to the Council to be fixed. You know when we started this we just wanted to make a digital layer, but these are some of the kinds of things we ran into. Here's the North Kihei area that was shown previously, I forget the streets, ...(inaudible)...paradise, et cetera and this is the portion of the original map and these are actually the...these aren't on the map, these are the digital...these red lines are the digital parcel layer overlaid with it.

And this, you know what you see in the bill is there's a kind of a...Map 1 and a Map 2. This is the before map. The dirty map as we call it taken directly from original LCM5. When they created LCM5 the highway didn't exist yet so this was just the proposed highway with...this is the proposed highway with open zone around it. But when the highway was actually built it was built out here and that was never adjusted in the zoning maps. And because of some Hanohano court case and some other court decisions we realized we can't just, we can't just shove this out. It should have been what the Department previously did on that map up there just adjusted things. So what you end up with is people whose homes should be R-2, but they're actually within this legacy proposed road zoning and open zone. This is the fix, this would be referred to as Map 2 where the highway is actually adjusted up to where it's supposed to be. The homes are in R-2 again. There's actually a drainage shown, a very wide drainage zoning shown here. We just

eliminated it because the actual drainage is just a very narrow concrete channel along the parcel line so that way no one's...no one has their lot in the drainage zoning.

This is another that posed a problem. Wailuku Heights. Originally Wailuku Heights was given R-3 zoning I believe this was in the late 70's, Map 407. Then the Ag Bill came along was in 1998 or 99 saying that if it's zoned...if it's CP Ag then it will be zoned Ag. In most places this didn't cause much of an issue but in Wailuku the Wailuku-Kahului the CP map that was in effect in 1998 was still the 1987 map there was a draft CP map that actually closely followed the parcel lines to delineate Single-Family from Ag but that hadn't been adopted yet. So in effect when the Ag Bill was passed this is what happened. These people lost their zoning. So these houses up off the tip here down along the bottom here have been legally zoned Ag you know for the past 20 years and something we just realized recently when we were going through the different layers we had to look at to see what the zoning was. So this would be the before layer, they'd been zoned Ag and this is just showing the...this is what the current CP looks like where they actually recognize based on the parcel lines and this is the after, this is the fix that we just want to get these people back to R-3 zoning where they're supposed to be.

Pukalani Golf Course, we have some maps. The Pukalani Map and actually the Wailea Map they're very general and bit cartoonish. As you can see here when the actual development was done the roads placed and subdivisions place, you can't really see on this scale but the development didn't match what was on the map and then this is the actual zoning taken literally, the legal zoning today, but when you overlay the parcels the zoning does not match precisely where the development is and you can't really see it this scale but if you zoom in and see this is where the, you know, this little subdivision was, the zoning does not match. The roads do not match the road parcels. This piece of duplex here does not match the duplex parcel. So if someone were to come in today and say what's my zoning, you're zoning...you're zoned half Golf Course and half R-2. And this is just the...this is the after. This is the fix, not really changing anyone's zoning radically just making the lines match where they should and this is just a broader view of the after. I think, yeah, this is the last, our last example. This is just an overview of the after zoning which you can't tell from this scale that there is any difference yeah at all because there aren't any huge changes, it's more just the minutia. Anyway thank you. David is gonna take over.

Mr. David Raatz: Thank you Peter. Good morning Commissioners. I'm David Raatz, Administrative Planning Officer with the Planning Department. We do have still a very brief power point on the legislation itself and just for background again as Kathleen alluded to we're here today asking you to sit in your capacity as advisory to the Maui County Council land use ordinances which is your authority under the Charter. The legislation we have before ultimately will be acted upon by the Council but pursuant to the Charter we need your advice to the Council just as we received from the Lanai and Molokai Planning Commissions before we got here today.

I would say as it's been shown there was great technical effort by the Department in getting us to this point but the legislation itself I would say is very simple as you'll see in this brief presentation or as might you have may already seen it, you had a chance to review the material that we sent you earlier for the September 12<sup>th</sup> meeting. So we just want to briefly give...(inaudible)...

So we talked about the existence of these Dead Sea Scrolls and the fact that there's inadvertent errors that exists on the maps that we currently have. These are the official maps and by going digital and making the maps available online to anyone at any time not only we will have increased ease of use by the public and government officials who have to use the zoning map, but we'll have much more accuracy and clarity in zoning designations for the County of Maui. If you got to the next slide please?

So here's what we currently have on the books for zoning maps in the County of Maui. The Charter grants the Planning Director the authority to enforce zoning ordinances and zoning maps and also prepare and administer those documents. And then...and further into that Charter authority the Code currently says in Chapter 19.06 that paper zoning maps are the official maps and those are kept on file with the County Clerk. The current Code also establishes policies for determining the boundaries of zoning districts.

So the Department's position again, and the reason we're here today is that we think it's time for Maui County zoning maps to go digital and this will further a number of General Plan Policy Objectives and some of them are pretty obvious but we think they're very important. Government services will be transparent, effective, efficient and responsive to the needs of residents. The government should facilitate the community's ability to obtain relevant documentation. The County should use advanced technology to improve efficiency and the County should expand government online services.

So we have two bills before you today and as usual when we present legislation you have the ability to recommend that the County pass one or both of the bills as is or you might want to recommend amendments to one or both of the bills or if you do need additional information from us you have the ability to defer action and we can get back to you on that.

So if you want to look at the legislation I have just a very brief power point presentation. We could call it up if you need to but I think you have it in your material. The first bill does two simple things it establishes the policy that digital zoning maps will now be official and again starting first for the Island of Maui and also adopt the first digital map of the Island of Maui the what we call the "as is" map that reflect the status of current zoning designations even with the flaws that were alluded to in the presentation.

The second map would...excuse me, the second bill would do a couple of additional things. It would establish a legend or a reference or directory of all the zoning designations that are available. As you can see here on the paper map there are legends, if we put acronyms on the maps for ease of reference and we want to provide a comprehensive and clear updated legend so they receive B-CT on a digital map you'll be able to know exactly what that means, where the standards are found in the County Code in the Comprehensive Zoning Ordinance. So again, it's providing an updated current and accurate legend for all the different zoning designations that are available to the County and then also tightening up and clarifying the language on determining the boundaries of zoning districts.

So that's the legislation in a nutshell and we appreciate your consideration.

Chair Duvauchelle: Thank you, thank you. At this time we'll open the floor for public testimony.

**a) Public Hearing**

Chair Duvauchelle: And if anybody wishing to testify please come forward, state your name, you'll have three minutes.

Mr. Joe Alueta: Hi, my name is Joe Alueta, resident of Waihee Valley. I used to...I was the former Administrative Planning Officer. I was the...you could say, it was kind of a...if you're into the Lord of the Rings, this was kind of like our journey to the get to the one map to unite them all instead of throwing it into the volcano which we wanted to do several times. This is an option to get all of these old maps and throw them into the volcano and have only one map to basically unite all of Maui County or at least Maui at this point in time. Very happy to see it finally come to fruition at this stage. It was kind of like, a lot of the things stayed the same I know, and it's very much improved. All I can do is say that I hope you will adopt it wholeheartedly because inaction is not an option. It's actually worse a lot of times. So for the past 30, 40 years a lot of times we've had inklings of problems with the paper maps. I used to have a slide up there that had basically an ostrich sticking its head in the sand and that's basically what the County has done for the last 34 years is ignore the problem. We've gotten to the point where we've had a number of lawsuits and court rulings that have said you know, the map is the map, you know the problem, you had opportunity to fix them, you never fixed them and plaintiffs have often won against us because of that. So this is an opportunity to correct all of these errors which were inadvertent. A lot of it, you know everyone did their best on a technical basis but you don't with today's technology, GPS and stuff like that it does, it makes it difficult. So hopefully you will adopt this and we can move forward and this will be the first step and the next steps will be to finish off some of the other unfinished that I think is more complicated and needs a little more attention but I think this is the basis of it. So hopefully you'll support it.

Chair Duvauchelle: Thank you, Joe. Any questions? Thank you. Thanks for all your hard work when you were here.

Mr. Alueta: Thanks.

Chair Duvauchelle: Anybody else wishing to testify on this agenda item? Okay, seeing none, we'll close public testimony and we'll take questions, discussions from the Commissioners. Okay...

Mr. Robinson: I got one.

Chair Duvauchelle: Commissioner Robinson?

Mr. Robinson: I'm not sure who to address this to. It is a no-brainer that we needed to update the maps. I don't think there's any dispute about that. My concern is is we're updating the maps but just like we saw in Pukalani where things were zoned one way, we're changing it to another to correct it and that's where I'm not sure if I understand what we're doing because if we're correcting something we're changing something and I would assume that we would take a neighborhood like we did in Waikapu and we said, okay these four houses were supposed to be zoned this it didn't can you guys approve that and I remember us doing that. But to say this whole

island we're gonna just approve all these zoning changes it concerns me. You know, I know we're trying to make everything right, I know we're trying to make everything go forward. You know, I appreciate that this administration finally is attacking this problem, I know it's a problem but my concern is I want to make sure that the people before followed the rules. I want to make sure that people knew that this wasn't zoned right, but they said you know what we're just gonna build those 10 houses anyway 'cause it's supposed to look this way. If the map was the map, the map was the map and we all have to follow the rules. And the reason why I'm bringing this up because I was at Olowalu this morning, I see these houses that aren't supposed to be built next to the ocean but they are. But is this map gonna be another thing that's gonna make what we did wrong for the past 25 years okay today because we're gonna change the zoning to make it okay. And so that's where my concern comes from.

Ms. Aoki: Thank you for that question. Trust me we've gone through that too. I think what's important though the map is the map only came sort to our eyes a few years ago. So that's why we know we have to come to you and the Council in order to fix these little changes. And while we are changing zonings per se like in Pukalani it's only because either things weren't built where they said they were gonna be built or it's rectifying what actually is a digital layer versus these old maps that have big, fat lines on them. You know, you get a Sharpie pen it's like that could be a distance of feet you know. So if in Pukalani you have situation where things got built and maps are overlaid on top of each other what's now on a map shown as golf course is actually dwellings, it's got permits for that, it got approvals for that, everything has gone through the process of those homes being built you know with County approvals saying that it's residential and it wasn't until we started looking at these old maps, laying them on top of each other, getting a digital version, getting the Real Property Tax boundary...Real Property Tax maps when you start seeing that there's these slivers that are outside and it's only because we've gotten more technical, we've gotten better. When you get a better view of looking of where these lines actually are versus a 1960's map, that are quad maps and have you know, ranges that are not as detailed as what we have today.

The other thing too is that we notified like I said everybody who's been impacted. So we're not doing this in a vacuum and everyone had the opportunity and we're not changing it to something other than what they think they've already had, already gotten permission to build on it. ... (inaudible)... Joe was saying it's worse to keep it the way it is because if you came in now and we're on this lot in Kihei that has a proposed road on it, it makes it convoluted to say the least because we could say you know what half your property is in proposed road and they say well, what's proposed road, and we say, well we don't have any standards for proposed road because we don't. The zonings on these maps that we never did any standards for drainage, proposed roads, there's like a beach access and there's all these kinda different things that we never did standards for. So we're actually making things 100 times better by going in and properly taking out these zonings that don't exist, roads never got built, drainages never got built and putting them in the category that they always thought they were and we've always done approvals for.

So I don't know if that helps to ease...and the last one too, one of the questions came up before was about community plan, we are not doing anything that's inconsistent with community plan. So if you're community planned single family and you're in this drainage zoning but subdivisions got approved. I mean, you can see from Kihei, that example in Kihei, all those things got approved based on well, it was residential, but nobody back then went in and really took the time or looked

at it or like Joe said we stuck our head in the sand and said, oh never mind that drainage or that proposed road. The road got built somewhere else. It's residential. And what we have learned through court cases is we don't have that right to do that. We did that but we don't have that right to do that. So we need to have Council go in and make those changes not the Planning Department.

Chair Duvauchelle: Commissioner Higashi?

Vice-Chair Higashi: I agree with Commissioner Robinson that I think this particular proposal is overdue and needs to be corrected. My problem is, my concern is that the new zoning is gonna affect specific property owners because they're going according to the old maps and whether the County is gonna guarantee that those people who are now in a particular zoning that's updated that they will be grandfathered in, that they will not have any problem with property or drainage. It's like it shows over there. I think one of the photo also showed Piilani Highway and there was a property that was inside of the highway itself and those are the kinds of stuff that will the County protect the private owners that they will not have any problem with condemnation et cetera? That's my concern on the maps that you have.

Ms. Aoki: Okay, well maybe we can bring up that map. So if we could cut the lights so we can kinda show you. So what happens here is this, this was where there was a proposed road, proposed highway. That's where Piilani Highway was supposed to be built on this map over here. If you look at the old DSSRT map. Then they also had like a greenway buffer along here. What happened though if you look at the Real Property Tax Map and this all digital layers, this is where the actual TMK is, this is where the road got built.

So subdivisions came in, all got approval based on Residential zoning which is this yellow here, and it's kinda hard to see but if you look at the satellite imaging you can see how those have been built. You see all these drawings here. So they all got approval, they all got their subdivision. Life went on as we know it. Nobody really taking into consideration the old layer that still had this proposed road. County just said, oh no the road got moved. This is our Single-Family. So when we come in and we clean it per se, we're effectively making these people that originally had this proposed highway underneath their property really their residential and the highway is being moved so nobody is getting their land condemned and like I say we actually had people come in to our Kihei meeting that brought their postcards with their TMK and it was kind of ironic that the people that came either had this drainage or they were along this road. There's a drainage and another road and we told them oh by the way, right now your property is half residential and half drainage. I mean they were like what? We said, yeah, we're fixing that, you know you got your house, it's obviously you got all your approvals, we're making you Residential. Everybody left those meetings happy. It was wonderful. That doesn't happen very often, but they all left happy. So again, Commissioner nobody is gonna get condemned. The County is in more liability, the potential for liability keeping the way it is versus correcting it and that's why we've been sued and that's why we've had to pay a lot of money for parcels because of these kind of errors.

Vice-Chair Higashi: Thank you.

Chair Duvauchelle: Corp. Counsel, did you want to...?

Mr. Galazin: Yes, thank you, and just to speak to the Commissioner's question. As far as grandfathering goes that doesn't apply to zoning that being legislative act. That's more something that it applies to uses and here I think what the Planning Department is trying to explain what they're doing is just making that conform to what it should be and again, I think it's been clearly explained that there's not going to be any issues of condemnation or issues of you know, regulatory takings or something like that. What we're doing is just making sure these maps align comprehensively through a legislative act which is clearly not something that's grandfathered in, it's the use that's grandfathered in.

Chair Duvauchelle: Thank you. Commissioner Robinson?

Mr. Robinson: Just a last thing. I understand I think. I think cleaning everything up is a great point. Where I'm coming from is people made mistakes and they're not being held accountable. We gave permissions and we looked at zoning that wasn't correct and we're correcting it now and I don't think anybody should lose their house because there was mistakes made or there was not clear direction on what something should be and I understand that, but I don't understand how we can give, you know, when we turn in plans for a subdivision and we look at a zoning map and it doesn't match that it happened. That's what I don't understand. I don't understand you know, and I said and we've been...the County's been to court a few times about decision makings happening in the Planning Department that the taxpayers have to pay for it. So I know this is going to wipe the slate clean and we can start all over and hopefully not have to deal with it anymore, but at some point I still think the community should know what mistakes were made or what things were overlooked, if there is a pattern of the same people making the same generalities on subdivisions and if it was certain people always getting the don't worry about it, we'll fix it later type of thing. And if so, it's more, it's we're gonna fix it, it's gonna go ahead but to do away with the information if somebody wants to know in the future, you know, that's where I'm coming from. You know, fixing the map not having to deal with it anymore, I think it helps every single person, a purchaser, a developer, a seller and of course the Planning Department. But the misdeeds done prior is I don't think it should be swept under the rug.

Chair Duvauchelle: Director please?

Mr. Spence: In the last whatever 50 years of zoning in this County I don't think there was any malintent or trying to sweep anything under the rug or anything of the sort. What happened when the 1960's when Council adopted this map and they said okay, this is what everything is zoned, they did so by a legislative action and so when things happen like...and so they adopted for instance where Piilani Highway is supposed to be and then State Department of Transportation said, oh we have a better location that's mapped as an...we have a better location for this, so they built it in another place. So we just went, the Planners at that time probably I mean, 70's, 80's went okay, well there's no roadway there so this line magically moved. This line moved up and what's left is Residential zoning. That was the thought process at that time.

I mean, you're talking about 50 years of thought going into this piece of paper that's up here. Nobody have said, I'm gonna do something for my buddy or whatever like that as far as moving lines goes, but when we went through and I wasn't here when we went to court over this one thing, but basically what the court said is, okay no this piece of paper up there was adopted by Council, you can't move any of these lines around. Those lines are there. So if you have a 50-

foot wide drainage that shows on that map, done with a Sharpie at scale whatever, that's what those properties are zoned. All these properties that you thought I mean when we drew this map, okay, there should be a drainage way here. They didn't stop to think that this 50-yard wide swath was the actual zoning and we were going to have a 50-yard wide drainage way in this location. It was an indicator of where a drainage should be and they were gonna let the engineers figure it out later, but that's not what the court said. The court said, no this map says what this is. And so we allowed, they put in the drainage way and we allowed people okay, that fulfills the intent of this map and we're gonna let people build around it. We didn't have that authority at least according to the court because what's located on that map is 50 yards wide and you know, you can't just allow people to build apartments and single-family dwelling and all the rest of the things in there. So basically we're going oh my God we allowed a whole lot of stuff to go through that the court is now saying you know our practices over the last 50 years are incorrect so let's correct it all.

We're not getting rid of the history of this. On Peter's hard drive there and backed up in several different places are all the old zoning maps with all of the incorrect metes and bounds descriptions, with all of the, you know, everything that went on, the ordinances, et cetera, all the conditions of zoning, all that stuff is still there. We aren't getting rid of the history. If somebody really wanted to a forensic study on what happened we have all that information for them. But from going on here, I...we can't readily live, if somebody wants to come in and put in an ohana and we go, no you're future roadway, you can't build an ohana because you're actually zoned future roadway. That's not something we want to live with. We are...I mean, really it's been said numbers of time, we are zoning to what people already think their zoning is and what the county has already responsibly issued building permits for and people are living there, et cetera. So this is just making corrections. This isn't...we are...we're not erasing the sins of the past, but boy we sure are correcting them so people's lives can go on and we can continue to issue permits.

Chair Duvauchelle: Thank you. Any other questions?

Mr. Graves: I just wanted to sort of expand a little bit on what Will said. Part of the problem here is that we're taking 50 or even 30-year-old maps and holding them up to impossibly high standards. I mean standards that they were...this map was drawn, you'd lay it out on a table and a bunch of people would say, oh I know where that is, I know where that is, you know, it's a model, it's a representation. But for us to, you know, in a lot of communities that would have been refined over time so by the time you go to make a digital map you're not taking this 50-year-old map and laying it down under, you know, our base for figuring out where these maps were in the real world is using the tax map parcels which at this point are accurate within feet you know. So you just...you're using these maps in a way that they were never meant to be used but it's all we have. It's the only way we can figure out where the zoning is. More recent maps, even maps 20-years-old line up much better. I mean, like Lanai City, Lanai City is a no-brainer. You put the map down and it lines up perfectly with the parcels and we have very little problems on Lanai or even Molokai where most of the zoning is just either comprehensive or small changes in zoning. It's just in Maui where we've got as you saw all these layers on top of each other and trying to line that all up with parcels that are now accurate within feet or less than feet. So again yeah I don't think it's any...there was any bad intent, it was just byproduct.

Chair Duvauchelle: Thank you.

Ms. Cua: I think the last comment and we can't hit home enough is that everybody that worked to provide zoning information for the last 50 years did the best they could based on information they had. So we need to really stress that there was no malice intent anywhere. It's just the technology now is so advanced and we need to move with that, we need to move with the times, we need to put ourselves in a better place to serve the public better and we can sit here and we can ask questions all day long and you know...or we can say, you know what we need to have a base layer that is accurate, that we can give correction information or we can do Joe's example of continue to keep our head in the sand. And so we hope that you can come along with us and make the positive recommendation as the other commissions did to the County Council so that the County can finally have a digital zoning layer whereby we move forward. Thank you.

Chair Duvauchelle: Thank you, Ann. I'll make a comment. I'm a frequent flyer of your current zoning confirmation process and I think this is long overdue. I know it's been a lot of work and I'm really happy to see it step up to the next century and really clean things up. So I mean I think it's a really positive move and I applaud the work you guys have done. Commissioner Hudson?

Mr. Hudson: Just a quick comment. Several years back the Police Department that does dispatching had to redo all of their maps similar to that. There was a plane that flew over and took pictures and we took what was as our beats, you know, for officers to respond to this include paramedics, this included the fire districts and all of that and we did an overlay and it was so bad that one of our beats was a half mile out at sea. Since squad cars can't over there we found that these digital maps were definitely the way to go. I think, I agree with the people that have been working on this this is long overdue. I understand accountability but let's fix some problems first. That's my comment. Thank you.

Mr. Spence: I wanna say for Staff you know they were working on this before I ever became director in 2011 and one reason this has taken so long is they have been so careful, they've gone parcel by parcel confirming the community, confirming what is there an issue with the property or is there not or whatever, I mean the carefulness in which they went through this I wanna thank them. It was painful at times how tedious and how they minutia that they paid attention to. So what we're coming up here with now is something that I mean, the accuracy we will have when this is adopted is gonna be light years ahead of what we have now.

Chair Duvauchelle: Any other comments? Commissioner Carnicelli?

Mr. Carnicelli: I'd like to move to approve both proposed bills as drafted to the County Council.

Chair Duvauchelle: Thank you.

Mr. Hudson: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Hudson. Director?

Mr. Carnicelli: Can I make a comment on the motion?

Chair Duvauchelle: Please.

Mr. Carnicelli: I just want to make a comment on the motion. I'm just going to reiterate what everybody already said just to put it on the record that I think that this is a consumer protection bill actually is what this is. This is actually helping the public as Commissioner Robinson said, I mean, you know you gotta go someplace to be able to say what's my zoning and right now, the public can't do that. In this new millennia that's just crazy and status quo is not okay, so and the fact that everything lines up with the community plan, it's kind of a no-brainer for me.

Chair Duvauchelle: Any other discussion on the motion? Okay, Director would you repeat?

Mr. Spence: The motion is to recommend approval of the two bills to the Maui County Council and the adoption of the zoning map.

Chair Duvauchelle: All those in favor please raise your right hand?

Mr. Spence: That's five ayes.

Chair Duvauchelle: Motion carries. Thank you. Thank you very much.

**It was moved by Mr. Carnicelli, seconded by Mr. Hudson, then**

**VOTED: To Recommend Approval of the Two Proposed Bills to the County Council.**  
**(Assenting – L. Carnicelli, L. Hudson, K. Robinson, C. Tackett, R. Higashi)**  
**(Excused – T. Gomes, S. Castro)**