

PLANNING AND SUSTAINABLE LAND USE COMMITTEE
Council of the County of Maui

MINUTES

October 2, 2019

Council Chamber, 8th Floor

CONVENE: 9:01 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee (in 9:03 a.m.)
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura

STAFF: James Krueger, Legislative Analyst
John Rapacz, Legislative Attorney
Clarita Balala, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Jordan Hart, Deputy Director, Department of Planning (PSLU-41)
Kathleen Aoki, Planning Implementation Division Administrator, Department of Planning (PSLU 40 & 41)
Jacky Takakura, Administrative Planning Officer, Department of Planning (PSLU-40)
Ann Cua, Planner, Department of Planning (PSLU-40)
Paul Fasi, Planner, Department of Planning (PSLU-41)
Peter Graves, Geographic Information System Analyst, Department of Planning (PSLU-40)
Rowena Dagdag-Andaya, Director, Department of Public Works (PSLU-41)
Eva Blumenstein, Planning Program Manager, Department of Water Supply (PSLU-41)

Seated in the gallery:

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Jennifer Maydan, Planner, Department of Planning (PSLU-1(4))
Annalise Kehler, Planner, Department of Planning (PSLU-1(4))
Tiffany Bostwick, Planner, Department of Planning (PSLU-1(4))
Katie Blystone, Planner, Department of Planning (PSLU-1(4))

OTHERS: Mark Spencer
Lynn Britton, President, Maalaea Village Association
Vince Bagoyo, President, V. Bagoyo Development Group, LLC
Stacy Otomo, President, Otomo Engineering Inc.
(7) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR PALTIN: . . .*(gavel)*. . . Good morning. It's October 2nd, 9:00 a.m., and the Planning and Sustainable Land Use Committee can please come to order. At this time, I'd like to ask everyone in this place to silence any phones or noisemaking devices. My name is Tamara Paltin and I'm the Chair of the Planning and Sustainable Land Use Commission . . . Committee. Sorry. I'd like to introduce Mr. Shane Sinenci, my Vice-Chair from Hana.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And we have Councilmember Mike Molina. Aloha.

COUNCILMEMBER MOLINA: Good morning, Madam Chair.

CHAIR PALTIN: Good morning. I think Councilmember Lee looks like she's on her way. We have Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And we have Chair Kelly King.

COUNCILMEMBER KING: Aloha kakahiaka.

CHAIR PALTIN: Aloha kakahiaka. And we also have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning, Chair.

CHAIR PALTIN: Good morning. Non-voting Members today are Councilmember Hokama and Kama and they're always welcome to join us. From Corporation Counsel, we have Deputy Corp. Counsel Michael Hopper. From the Administration, we have Kathleen Aoki, our Administrative Planning Officer.

MS. AOKI: Good morning.

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CHAIR PALTIN: Good morning. We also have Ann Cua, a Planner.

MS. CUA: Good morning.

CHAIR PALTIN: And Peter Graves, our Geographic Information Systems Analyst.

MR. GRAVES: Good morning.

CHAIR PALTIN: Good morning. And in the audience, we also have Paul Fasi and Jacky Takakura and as well as Mr. Vince Bagoyo of Vince B. Bagoyo Development Consulting Group, LLC., and looks like also Mark Spencer. Committee Staff, we have Clarita Balala, Committee Secretary; James Krueger, our Legislative Analyst; and Legislative Attorney John Rapacz. Our District Staff in Molokai, we have Zhantell Lindo. Good morning, Ms. Lindo. And also, Denise Fernandez in Lanai.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office.

CHAIR PALTIN: Good morning, Ms. Fernandez. And in Hana, we have Ms. Mavis Oliveira-Medeiros. Good morning.

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. This is Mavis from the Hana Office and there is no one here waiting to testify.

CHAIR PALTIN: Right on. Thanks. And so, on the agenda today I have three items – *PSLU-40, which is Digital Zoning Map (2) for our Maui Island; PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision; and PSLU-1(4), West Maui Community Plan Update*. At this time, I'd like to open testimony. For individuals testifying in the Chamber please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with District Office staff. Testimony will be limited to the item on the agenda today. And pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item. When testifying, please state your name and the name of any organization you may be representing. If you are a paid lobbyist, please inform the Committee. We have established a connection to the Council District Offices. And at this time, I'd just like to welcome Councilmember Lee.

COUNCILMEMBER LEE: God morgen. That's my version of good morning from Norway.

CHAIR PALTIN: Oh, okay. Aloha kakahiaka. Okay, so the first testifier we have signed up today is Mark Spencer and he will be testifying on PSLU Item No. 41.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. SPENCER: Good morning, Council. Good morning, Tamara. It's been a while since I've been here, and I see a few familiar faces from my past life. I'd like to give you a little bit of a brief history of the land for the Maalaea Community Plan Amendment that we're here for today. Our family owns that and that would be my four siblings and myself.

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Our father, Jesse Spencer, had an insatiable desire to create housing for working families on Maui, and this was the last parcel he bought. It started as 1,100 homes with half of those being affordable. That was contested. From there, we changed the plan a couple of times. We dropped it down to 550 and then down to 200, both times in 50 percent affordable. Those met with some resistance from neighboring property owners and Maui Tomorrow. So, a few years ago when my father passed, our family decided to put this project aside for a while. So, why are we here today is we just decided to just to go and keep the property Ag. I'm sure you're probably aware but to refresh your memory on it, it is zoned State Land Use Agriculture; it's zoned Maui County zoning Agriculture; and it's in the General Plan as Agriculture. In the Kihei-Makena Community Plan, it was Project District 12, which was a project that was submitted over 20 years ago by I believe C. Brewer Homes at the time, and that's why we're here. We're here just to basically make that . . . the Community Plan align with all the other zoning categories. I thought it was kind of interesting as I kinda started reading up on the Community Plan when it was created and the Kihei Community Plan was done in 1998, over 20 years ago, it was stated that the Plan should be updated every 10 years. So, part of me feels like this . . . I wouldn't even be here if that was done already 'cause it would go to Ag. So, that's what we're here for and I thank Tamara for putting this on the agenda. We passed through the Planning Commission over a year ago and the wheels of our government were a little slow to get it here, but I do appreciate you guys looking at this. Thank you very much.

CHAIR PALTIN: Thank you, Mr. Spencer. Any questions for the testifier? No? Okay. Anybody else in the Chamber wishing to provide testimony? No. Okay. Anybody from the District Offices? Ms. Fernandez?

MS. FERNANDEZ: There are no testifiers at the Lanai Office.

CHAIR PALTIN: Thank you so much. Ms. Lindo, anyone in Molokai?

MS. LINDO: Good morning, Chair. There are no testifiers on Molokai.

CHAIR PALTIN: Thank you. And I think we heard earlier that there weren't any in Hana. If there's no objections, I'll close . . .

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes.

COUNCILMEMBER KING: I think we might have . . . do we have . . . I think we have another testifier. Are you folks wanting to testify?

CHAIR PALTIN: Anybody in the Chamber still want to testify?

COUNCILMEMBER KING: Are you wanting to testify on this issue?

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MS. BRITTON: . . . *(from the gallery)* . . . Aloha, I'm Lynn Britton. I submitted two pages of written testimony. I thought I'd spare the Committee.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Thank you. We did receive your written testimony.

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: It's on Granicus, Members, if you want to look it up. I believe there's a few testimonies. All right, if there's no objection, I will close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . .END OF PUBLIC TESTIMONY. . .

PSLU-40: DIGITAL ZONING MAP (2) FOR MAUI ISLAND (CC 19-346)

CHAIR PALTIN: Okay. So, the first item on the agenda is Digital . . . *PSLU-40, Digital Zoning Map (2) for Maui Island*. The Committee received County Communication 19-346, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING DIGITAL ZONING MAP (2) AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI." The purpose of the proposed bill is to adopt Digital Zoning Map (2) as the official zoning map for the Island of Maui, not to include 13 corrections to the first map. And the reason I scheduled this item, we didn't have the full amount of time to finish it last meeting. We ran past 12 and so, the Planning Department Staff asked if we could reschedule it so that we can get this matter cleared up as soon as possible and I thought that was a good idea. So, that's why I scheduled it. So, if Planning, Ms. Aoki and Mr. Graves, if you could continue with your presentation that'd be awesome. And, Members, oh, Ms. Aoki, how did you . . . did you want to have questions after each number, or did you want Members to hold their questions till the end?

MS. AOKI: They can ask while we're on each slide --

CHAIR PALTIN: Okay.

MS. AOKI: --yeah, rather than going back.

CHAIR PALTIN: So then, I would ask questions . . . I would ask you to, yeah, maybe do the number like there's 13 corrections. If you go through the correction for one and then we ask questions on that one.

MS. AOKI: Okay.

CHAIR PALTIN: If that's all right.

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MS. AOKI: Sure. Each one is marked like this one proposed correction No. 2. So, each of them is identified.

CHAIR PALTIN: Okay. And you already went over one. Members are satisfied with No. 1 from last time.

MS. AOKI: Okay.

CHAIR PALTIN: Okay. So, No. 2 we're getting on. Thank you so much.

MS. AOKI: You bet.

MR. GRAVES: Thank you. No. 2 is at the former Pioneer Mill site. This is just digital representation of what Map No. 8 showed. This is Heavy Industrial R-1 in Ag. Now in 19 . . . here's the 1996 Community Plan. In 1999, the Comprehensive Ag ordinance changed. Anything that was CP Ag would have been changed to Ag zone. And you can't really see in this . . . I'll zoom out in a second, but this is just this area where that zoning was located. Part of that Industrial zoning is in CP Ag. You see the label over here and this is all CP Ag. So, it's just something that we missed. This should have been auto zoned to CP Ag and should be reflected on Map 2. This is the error. And this is the correction with the Agricultural zoning.

CHAIR PALTIN: Members, is there any questions with this No. 2 change? Or does everybody understand what's being done? Seeing none. Yes, Member Sinenci?

VICE-CHAIR SINENCI: Is it . . . these slides correspond with the ones given to us, the presentation?

CHAIR PALTIN: Yeah, they're the same slides.

VICE-CHAIR SINENCI: Oh, okay.

CHAIR PALTIN: Okay. So, I'm assuming we're all okay with that change from Heavy Industrial to . . . back to the correct zoning of Ag and then we can move on to No. 3.

MR. GRAVES: This is just above D.T. Fleming Beach Park. It involves the sort of median here between the highway and the road down to D.T. Fleming. It has to do with this parcel, I'm sorry, this area. At the time that we zoned this Project District, we were using the paper map georeferenced to this area and we believed that that paper map extended all the way up to here. This is showing the 2014 parcels that we were using at the time and this is the corner of that paper map. This is the paper map with the parcels with that Project District area to note it's a little bit cluttered. But the actual cut off of the paper map for the Project District appears to be right here rather than all the way up. I didn't really notice this until the 2018 parcel layer came out and it was a much better representation of what was there. I think this might actually be a new parcel . . . that the cut off line for that Project District map is right here. So, because of that there's no

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zoning that covers this piece and it actually should have been left Interim. So, the correction would be with this piece back gone back to Interim.

CHAIR PALTIN: Thank you, Mr. Graves. Members, any questions on the D.T. Fleming parcel?
Ms. . . . Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, if you go back to that, on that one right there, so everything that's in that . . . I don't know how else to describe it; it looks like a quilt – that pink design area is Interim?

MR. GRAVES: That's all Interim, yes.

COUNCILMEMBER KING: Okay. That's it. I just wanted to ascertain that below that in the purple is all Project District.

MR. GRAVES: Yes.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR PALTIN: Any further questions? Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I know we're trying to get away from Interim. Is . . . what would be the process then like the Council would then have to take up that parcel and decide what kind of zoning it will be?

MS. AOKI: In order to rezone Interim, we would have to know what your community plan designation is underneath and then determine if . . . determine what zoning you want to apply because a change in zoning has to be consistent with your community plan. I don't know what the community plan is underneath. But the point of this project is just to fix the errors that we made. So, in this particular situation, we applied the Project District too far. So, it was Interim when the Project District got adopted so we're just scaling back to where that project . . . that change in zoning for Project District actually was.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Sorry, I guess I misunderstood. I thought he said . . .

CHAIR PALTIN: What we're doing.

COUNCILMEMBER RAWLINS-FERNANDEZ: No, no, no, I know what we're doing. But I thought he said that there was no zoning for that area and that he just decided to go with Interim. Isn't that what he just said?

MS. AOKI: That is and I apologize. It was Interim. It wasn't no zone. It was Interim.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, he misspoke.

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MR. GRAVES: There's no map.

MS. AOKI: There's no map. So, any time there's no map, if there's no Land Zoning Map that got adopted, it's Interim because there was an Interim ordinance way back when that zoned the entire island Interim.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. Mahalo, Chair.

MS. AOKI: Yeah.

CHAIR PALTIN: Okay. Thank you.

COUNCILMEMBER KING: Just a quick . . .

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Thank you. And that line that you have between the two the purple lines and the other pink quilt design, is that the end of that TMK?

MR. GRAVES: No. The TMK would be split. Actually . . .

COUNCILMEMBER KING: Okay. So, the TMK is split in two.

MR. GRAVES: Actually, this is still the 2014 map because this is what was adopted. I'm in the process of updating it into the 2018 parcels. In the 2014 parcels it was shown . . . depicted as all one parcel and not very detailed. The 2018 parcels do show it as, I believe, being a separate parcel.

COUNCILMEMBER KING: And that number up there the 280 is that a TMK number?

MR. GRAVES: No.

COUNCILMEMBER KING: That's a location number?

CHAIR PALTIN: Degrees and latitude.

MR. GRAVES: That's just the metes and bounds of the . . .

COUNCILMEMBER KING: Okay. So, I just was curious because it's all one TMK but it's split zoning?

MR. GRAVES: Yes.

COUNCILMEMBER KING: Is that typical?

MR. GRAVES: Quite a bit.

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COUNCILMEMBER KING: Okay.

MR. GRAVES: I mean, I'm not sure what they had in mind when they, when this was adopted. But it just became very clear and this is the paper map. The pur . . . the sort of magenta is the parcel lines. Black is the paper map referenced to it. You can see how well the newer parcel representation that this Change in Zoning map lines up and that this is the end of, you know, where the Project Districts went to. It didn't include up in here.

COUNCILMEMBER KING: Okay. No, I understand. I just was curious about splitting one TMK into various zoning.

CHAIR PALTIN: Member Molina and then Member Sugimura.

COUNCILMEMBER KING: Can I just finish up?

CHAIR PALTIN: Oh, sorry.

COUNCILMEMBER KING: Yeah, I just wanted to make sure that the changes . . . the map changes that we're doing here are being transmitted to the current West Maui CPAC in case this helps them inform the Community Plan Amendment Rules.

MS. AOKI: Uh-huh.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Ms. Aoki, Mr. Graves, you know, any time these corrections are made, I assume the property owners are notified. And in this case, does it have an impact on the tax classification for the property owner? I mean, is this like an upgrade in zoning or a downgrading, if you could kind of help me understand --

MS. AOKI: Sure.

COUNCILMEMBER MOLINA: --when these changes are made.

MS. AOKI: So, all the property owners were notified. Only one responded, which was the previous one for the plantation parcel. This is a tiny, tiny little piece that isn't developed . . . I mean it's in the entrance when you turn into D.T. Fleming. So, I'm not in Real Property Tax. I don't want to tell you that it won't have an impact. My gut would say, no, it won't. We do notify Real Property Tax so that they are aware of any changes in zoning that we make so they'll get notified.

COUNCILMEMBER MOLINA: Okay. Thank you.

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MR. GRAVES: My understanding is that real property assessment is based on use rather than zoning. This has come up quite a bit in the project and it's not my area of expertise. But that's my understanding is that it's just based on the use.

COUNCILMEMBER MOLINA: They assess on best available use I presume.

MR. GRAVES: Yeah.

COUNCILMEMBER MOLINA: Okay. Thank you for the information. Thank you.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. Mr. Molina asked my question, so I got my answer. Thank you.

CHAIR PALTIN: Okay. Thanks. I have a couple questions. I mean, I'm familiar with this area. I know it's just the embankment and you can't really do anything, but I just was wondering if you could briefly let us know what is allowable in the Project District and what is allowable in the Interim zoning? Just briefly.

MS. AOKI: Ann might know what's allowed in the Project District but, yeah, I can't answer that off the top of my head.

MS. CUA: Yeah, I don't have the Project District ordinance in front of me so I'm not super familiar with this Project District. But in terms of Interim, you know, Interim allows things like residential, parks, nothing pretty substantive.

CHAIR PALTIN: Like Open Space?

MS. CUA: Yeah, yeah.

CHAIR PALTIN: Okay. That seems like it would be appropriate for this area because it's just kind of the embankment. Okay. Thank you. We can move on to No. 4.

MR. GRAVES: Okay. This is out in Kipahulu along Hana Highway. This . . . just a second. I don't think . . . this isn't on your printout. I added this afterwards because I realized that it needed a little more explanation. This is another instance of, you know, the Ag . . . the Ag bill, basically. If it was CP Ag, it should be zoned Ag. It's not CP Ag in a lot of these areas out here especially out in Hana . . . anywhere outside of a detailed zoning map. The zoning, if it's CP Ag, it will be Ag. If it's any other CP like Rural or anything else, it will remain Interim. So, this is the approved map and we, basically, over shot or someone over shot. I think this was done quite a while ago. The line here made more of this agricultural than should be. If you look down on this inset, the Ag line . . . the Ag-Rural boundary is actually here, which would be here. So, the correction would be to change this from Agricultural to Interim in line with the Ag bill.

UNIDENTIFIED SPEAKER: Yeah.

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CHAIR PALTIN: Members, any questions on this parcel? Member Sinenci?

VICE-CHAIR SINENCI: Yeah, just a question on the location of this site in Hana?

CHAIR PALTIN: You mean like the address?

VICE-CHAIR SINENCI: Yeah, I'm trying to get a picture where it is.

CHAIR PALTIN: Mr. Graves, do you know the --

VICE-CHAIR SINENCI: You have any detail?

CHAIR PALTIN: --address or the general mile marker I guess maybe? Ms. Takakura?

MS. TAKAKURA: Good morning. For this particular property . . .

CHAIR PALTIN: If you can introduce yourself. Sorry.

MS. TAKAKURA: I'm Jacky Takakura, the Administrative Planning Officer in the Zoning Division. For this particular property, Real Property Tax did not have a street number. It's just Hana Highway.

VICE-CHAIR SINENCI: So, no buildings or anything on the site?

MS. TAKAKURA: No.

VICE-CHAIR SINENCI: Okay.

MR. GRAVES: There actually . . . let's have a screen shot from the GIS. It does look like there's some ag taking place and a building.

VICE-CHAIR SINENCI: Almost looks like loi or something on top, yeah.

CHAIR PALTIN: Ms. Aoki?

MS. AOKI: Member Sinenci, just so you know by converting it from Ag back to Interim they'll still be allowed to do what they're doing on the property now. So, that's not going to change.

VICE-CHAIR SINENCI: Okay. All right. Thank you.

MS. AOKI: Uh-huh.

CHAIR PALTIN: Thank you. Any other questions on this number? Seeing none. Shall we move on to No. 5?

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MR. GRAVES: Okay. This is actually I guess you'd call it 5, 6, and 7.

CHAIR PALTIN: Oh, okay.

MS. AOKI: Uh-huh.

MR. GRAVES: This involves three parcels. What this is, is the gulch running between Kamehameha School in Pukalani and these parcels make up the gulch. This . . . on the original map I believe, I can't even recall it or if it was because of the map or the CP but this is agriculture . . . agricultural and then the gulch. We had a recommendation that maybe at some point it should be changed to OS-2 but that actually should have been left to a later phase because there's . . . because we were trying not to implement community plan or, you know, make zoning changes just because we felt that it should be changed. That's a later phase when the change would come before Council. But I think simply by typing a 2 instead of a 3 in my phase column this was implemented. These two parcels, large parcels, belong to the State. This is a little edge of the large parcel that includes the school. So, the correction would be to take this from Open Space and put it back to Ag but still having a recommendation that maybe at some point it should be made Open Space.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Mr. Graves, can you explain you put a 2 instead of a 3 or what does that do?

MS. AOKI: Before he says anything just to explain something that Community Plan designation in these areas is Open Space. The zoning was Ag to begin with. We . . . our first two steps for DSSRT was to make a what we called the dirty map, which was . . . didn't match parcel lines, didn't have anything, and then a cleaned up version, which is what DSSRT Map 1 is. Inadvertently, we went to our Step 3 phase, which was to implement the community plan, which we are not doing. All we want to do is make a representation of the proper zoning aligning with the parcel layers. So, that is why he said 2 and 3 because in our minds Phase 3 is implementing the community plan. So, that's what happened in this case. It should not have happened because it's not consistent. We only implement the community plan if it was consistent. And in this case, it's not because it's Ag zoning and Community Plan Open Space. So, hence, a mistake and we want to revert it back to its correct zoning. And then if one day we come before Council to implement the community plan, these are the kinds of things we would come forward with. So, it's an error on our part. Does that make sense?

COUNCILMEMBER SUGIMURA: Our job, yeah.

MS. AOKI: Yeah. Thank you.

CHAIR PALTIN: Mr. Graves?

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MR. GRAVES: I mean, it does come to explain the typing of 2 instead of a 3. You know, GIS it's just not a map. It's got sort of the database in the back and you're saying, you know, adding in what phase it should be. And then when you go to implement changes, you could say, okay, if it equals Phase 2 and a change of zoning. But if a 3 was typed in there and there's thousands of records, you know, or a 2 instead of a 3 then this would accidentally got implemented.

CHAIR PALTIN: Thank you. Vice-Chairman Rawlins-Fernandez, did you have a question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair. So, I think Mr. Graves is explaining the answer to what I was going to ask which is how did that mistake happen?

MR. GRAVES: Well, this project has been going on since 2003. It's gone through several different departments, several people working on it, and we ended up with, you know, thousands and thousands of records not just for each parcel but because of parcel misalignments and whatever we could have, you know, we could have many recommendations on a single parcel. So, this was a matter of trying to take 50 years of zoning and make a single map from it all at once. I mean, in the future, changes in zoning now would just come in and trickle in. So, it's a lot easier to kind of keep track of what's going on. But when we were just trying to basically make one map for all of Maui that integrated every rezoning map, --

CHAIR PALTIN: Basically, somebody pressed the wrong button.

MR. GRAVES: --every change in zoning ordinance.

CHAIR PALTIN: I mean, basically, somebody pressed the wrong button. It was just a mistake. It happens, right.

MS. AOKI: Yeah, that was basically what I was asking.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. I don't doubt that this was a huge undertaking, but it sounds like . . . Ms. Aoki said that Step 2 was to just to make sure all the maps had the correct zoning as far as the current zoning is right now. Then Step 3 is to update those that have conflicting zoning and community plan designations, which I fully support. I was just curious, you know, how. So, it sounds like it was just an accidental push of a wrong button . . . or to simplify.

MR. GRAVES: Well, we also changed the method . . . or there were times when methodology changed in the middle of the project and then one time was the Hanohano case that basically we ended up saying, well, the map is the map. You know, at some point we were trying to make the corrections on the fly so we make a recommendation and then some time in 2008 or 2009 because of a court case we said, okay, we can't do that. We have to do the map as the map so there might be a part and parcel that you made a recommendation on. And in this case, I'm not sure exactly what happened, but you might have made a recommendation at one point and then the methodology, you know, the target kept changing so you kind of forget that at some point earlier you had made

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. . . at one point they were just recommendations and then we finally we said, okay, we can't do all these recommendations. We have to break 'em into like --

MS. AOKI: Phases.

MR. GRAVES: --a few different phases.

CHAIR PALTIN: The process --

MR. GRAVES: Yeah.

CHAIR PALTIN: --at one time it was but then that was not the right process.

MR. GRAVES: Early on it was just like . . . even before it got to us when there was an Administration there's going to make a corrected map and present it and say, here it is and then we just realized that it will be tied up for years so need to take it . . . the easy stuff first.

MS. AOKI: Piece by piece.

CHAIR PALTIN: I think this process was decided on for the transparency and the integrity of preserving the steps of how we get from Point A to Point B.

MS. AOKI: Uh-huh.

CHAIR PALTIN: I mean, it would be easy to correct things but there's so much things to correct you want to know the process by which because it could come down to legal issues or something like that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, the methodology that we're at now that we're trying to correct is to just have zoning as it is on the books right now and later we do the Step 3, which I support taking chunks at a time. For transparency, totally support. I just --

MR. GRAVES: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: --now that I'm clear I think for the rest of the 13 items are basically the same.

MS. AOKI: They're basically mistakes. They are going to be mistakes that we made.

MR. GRAVES: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo.

CHAIR PALTIN: Thank you. Further? Anything further? Okay. No. 6?

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MR. GRAVES: This is actually in the same area. This is just . . . here is the gulch here we were just looking at. This one is a little confusing so bear with me. This is all part of the Kamehameha School parcel. This blue here is actually where they get a change in zoning to Public-Quasi/Public but they didn't for the whole parcel. I believe it was because of the community plan. So, this zoning out in here on their parcel is just the remnant of how it was zoned I think on Change in Zoning 1007, which dates back to the '70s. So, it's a little, you know, piecemeal . . . there's actually a little shot of that map, and it was not very accurate as far as to how Pukalani actually turned out. What we were left with . . . what we adopted was this where there's this R-2 out here, some Apartment here. This sort of slice of R-3 and the little bit of road here, the reason being there was actually two Changes in Zoning maps for Pukalani. One early on showed this road later on . . . 1007 came in and add a lot more R-2. This actually ended up . . . up here. This was just very, I think, you know, hypothetical at the time. So, this is where this neighborhood actually ended up. This is what we adopted. Later on, when I was looking at it, I realized that this was the same shape here, that this line, this R-2 line on CIZ 1007 actually cuts across here. Zoom in. So, the R-2 it should actually come up here and erase, not erase, but change . . . the zoning should have been R-2 up to here. You still end up with these little strange little pieces of R-3 left over and a little piece of road. But that is the case in a lot of areas because of the, you know, the numerous . . . the zoning maps would come in not really addressing that and something gets rezoned and you have these little pieces left. I imagine belonging to the school at some point all of this would be changed to possibly to Public/Quasi-Public at some point anyway. This is actually what's there which is nothing. There's an access road that cuts across to the neighborhood from the school. So, that's our correction here is actually to change the zoning to what is shown, what should have been rezoned to R-2 on 1007.

CHAIR PALTIN: Thank you. Members, any questions on this item? Okay. So, moving on to No. 7.

MR. GRAVES: There's just a little sliver of . . . it's actually County-owned property across from Pauwela Cannery. I think it might be a road widening parcel. Right now, it's just being used for parking. Earlier on in the project when we got the map it had been zoned R-1. I later noticed that nothing else in the area was zoned R-1 and looked back at the original map and saw that it actually should have been R-3. So, that's the correction is just to change this piece of R-1 to R-3.

CHAIR PALTIN: And you're talking about that triangular portion even though the wording is in that gray part. The wording applies to the yellow triangle.

MR. GRAVES: Yes.

CHAIR PALTIN: Okay.

MR. GRAVES: Oops. Yes, there's a little . . .

CHAIR PALTIN: That portion that's out.

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MR. GRAVES: There's a little liter line but, yes, that's . . . this is the piece.

CHAIR PALTIN: Okay. Members, any questions? Mr. Sinenci?

VICE-CHAIR SINENCI: Just a clarification. Is there any significant changes between an R-1 and an R-3 rating?

MS. AOKI: Just the sizes of the lots. But it's County-owned so unless you guys want to build a house on there.

VICE-CHAIR SINENCI: Okay.

MS. AOKI: But yeah --

VICE-CHAIR SINENCI: Okay. Thank you.

MS. AOKI: --just the size of the lots basically.

CHAIR PALTIN: I don't know, we're in a crisis --

MS. AOKI: That's the standard.

CHAIR PALTIN: --so we might want to.

VICE-CHAIR SINENCI: Thank you.

CHAIR PALTIN: Okay. So, any further questions on the triangular portion? Okay. Moving on to No. 8.

MR. GRAVES: Yes, this is the Episcopal Church in Kihei on Kulanihakoi. I forgot my notes. During this project, one thing we did try to do was update old sort of general zoning categories to newer such as OS to OS-1 or OS-2. In this case, Public use to P-1 Quasi-Public or P-2 Quasi-Public. Again, this was . . . there's a few here, the next two are actually churches as well. These were just missed during the process. So, what we want to do is getting rid of this Public use is to move to P-1 Public/Quasi-Public as we have with other churches and other pieces of Public use. The rest should all, besides these three, if they were omitted, they should all be a P-1 or a P-2 now.

CHAIR PALTIN: Just for clarification – is Public use not being used anymore? It's transitioning into Public/Quasi-Public and Public use is fading out, phasing out as a terminology. Members, any questions on I guess 8, 9, and 10? Yes, Member . . . Chair King?

COUNCILMEMBER KING: Thank you. So, on correction No. 10 you've changed it to P-2. So what's the difference between P-1 and P-2?

MS. AOKI: The height.

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COUNCILMEMBER KING: Okay. So, you've changed that based on what was already there?

MS. AOKI: Correct.

COUNCILMEMBER KING: The height that's there.

MS. AOKI: Correct.

COUNCILMEMBER KING: Okay. So, that would limit . . . P-2 is higher or lower?

MS. AOKI: P-2 is higher. I don't know off the top of my head exactly what it is but it's a little bit higher and I think that's St. Theresa's.

MR. GRAVES: That's next to the grocery store.

COUNCILMEMBER KING: Yeah, that looks like St. Theresa's.

MS. AOKI: Yeah, so . . .

COUNCILMEMBER KING: So that would limit the other ones from going any higher or --

MS. AOKI: Correct.

COUNCILMEMBER KING: --they would have to get the P-2 zoning?

MS. AOKI: They . . . we based it on what their structures are currently built at. So, we weren't going to up zone them and we weren't going to down zone them. So, to give them P-1 in reference to what's built there now and then P-2 because they have higher buildings.

COUNCILMEMBER KING: Okay. And then on No. 10 you've got these blue areas that look like they're still Public use, but you just said there's no more Public use so on the . . . so that's after the fact?

MR. GRAVES: Yes. There is a Community Plan conflict there. I think the Community Plan for this piece, and I think this piece as well are Multi-family.

COUNCILMEMBER KING: Okay.

MS. AOKI: So, again, we cannot change their zoning because it's not consistent with the community plan. But in St. Theresa's case, their Community Plan is Public/Quasi-Public.

COUNCILMEMBER KING: If we're just talking about the actual zoning, those two areas are Multi-family right now?

MS. AOKI: No. That's their zoning. They got split zoning.

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CHAIR PALTIN: That's what it is under the Community Plan.

COUNCILMEMBER KING: Oh, that's all . . . is that all one parcel then?

MR. GRAVES: It's all owned by the church. For whatever reason, this is Multi-family Community Plan so we couldn't . . .

COUNCILMEMBER KING: Okay. But we're talking about the actual zoning, not necessarily the Community Plan because our Community Plan does conflict with zoning in some other areas.

MS. AOKI: Correct.

COUNCILMEMBER KING: So this particular piece, is the actual zoning Multi-family?

MR. GRAVES: No. It's Public use.

COUNCILMEMBER KING: Oh, it's Public use.

MR. GRAVES: But we can't make a recommendation at least by . . . yeah, we can't recommend that it change to Public use.

COUNCILMEMBER KING: So, it stays Public use then?

MR. GRAVES: Unfortunately.

COUNCILMEMBER KING: But you just said we don't have a --

MS. AOKI: Right.

COUNCILMEMBER KING: --Public use . . .

MS. AOKI: Right.

COUNCILMEMBER KING: Okay.

MR. GRAVES: It's sort of a Catch 22.

CHAIR PALTIN: We're phasing Public use out. But we can't change it through this process.

COUNCILMEMBER KING: No, I understand that. But we're changing the one piece.

MS. AOKI: Right.

COUNCILMEMBER KING: I just didn't understand why we didn't change the other but you're saying it's because it conflicts with the . . .

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MR. GRAVES: Because of Phase 3.

MS. AOKI: Right.

MR. GRAVES: This is definitely taken note of and needs to be addressed later.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: All right. Any further questions on anything from 8 through 10? No? Okay. Moving on to 11.

MR. GRAVES: This is a little sliver of drainage that got overlooked. There's actually drainage zoning . . . going all up this . . . there's actually drainage zoning shown going all up this and actually all the way up to our first correction where the accidental business change was made. So, all of this drainage was changed to match the actual use. There is no drainage there. Was changed to R-3 except on this one little parcel, the edge of this parcel it got overlooked. So, our fix . . . you know, to fix this we want to change it to R-3 as we did with the rest of that drainage. This is actually residential property.

CHAIR PALTIN: Mr. Graves, do you mind showing us the Pictometry for that property? Members, any questions on No. 11? Okay. Is that the last one?

MR. GRAVES: That's all of 'em.

CHAIR PALTIN: Okay. So, just to reiterate, these are just fixes to mistakes. Mistakes happen and by doing this then we can get closer to the implementation and the other things that you're talking about?

MS. AOKI: Correct.

CHAIR PALTIN: Okay. Members, any questions on the overall of what we're doing here? No? Okay.

COUNCILMEMBER SUGIMURA: Chair, I have a question?

CHAIR PALTIN: Oh, sure. Member Sugimura?

COUNCILMEMBER SUGIMURA: Before you move on, I gave documents to Staff to pass out and I know today you have 13 corrections.

CHAIR PALTIN: Oh, 11.

COUNCILMEMBER SUGIMURA: Oh, 11.

MS. AOKI: Uh-huh.

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COUNCILMEMBER SUGIMURA: Eleven? Well, total . . .

MR. GRAVES: It's depending on whether you go by parcels or areas.

COUNCILMEMBER SUGIMURA: Oh, okay, so based upon what was posted so Map 2 includes 13 corrections to the first map. And what I wanted to do was propose a 14th correction based upon a Planning meeting that we had in Lahaina for 266 Dickinson Street. And I have the documents that were presented to us and I kind of put it together. It sounds like it was the same type of situation of looking at the paper maps and then I guess eventually converting it to digital I suppose. When was the digital map actually completed?

MS. AOKI: Digital zoning Map 1? October of last year – 2018.

COUNCILMEMBER SUGIMURA: Oh, okay. Must be all of this was done with paper then. Because of the owner who came before the meeting in Lahaina for Planning and Sustainable Land Use Committee . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of order, Chair?

CHAIR PALTIN: Yes, Vice-Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: I think we might be bordering on Sunshine Law. This was not on the agenda.

CHAIR PALTIN: Mr. Hopper, would you weigh in, please?

COUNCILMEMBER RAWLINS-FERNANDEZ: I mean, I don't mind hearing it, but I don't know if this meeting would be appropriate to talk about it.

MR. HOPPER: Madam Chair, I think the agenda is relatively broad. My bigger concern with . . . I did get a chance to look at sort of the basic information. I think I have two general concerns with this. One is that before this was presented to the Planning Commission there was a list of changes made that was sort of made available to the public and given at the Planning Commission. And this wasn't one of them. And the other issue would be that I don't know if the Department has had a chance to actually review this and determine if this actually is a mapping error or it sounds like the description here is that they were told something different from the Planning Department at a certain time which, I mean, maybe justifies some sort of change at a certain point but doesn't really seem to be part of the mapping error issues that came up in the last time this map was adopted. And so, those are a couple of concerns I have. One is, that this didn't go through Planning Commission and two, that this . . . I don't know if the departments had any chance to review this and verify this is in fact a mapping error. I know Council has broad authority to pass zoning ordinances but the way this sort of went through notice and everything, this was a specific set of errors that were provided and, you know, adding additional ones on without having the Commission review it I would have I think some concerns with that. Not saying that this owner wouldn't be justified in seeking a

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either a Council-initiated or a Planning Director-initiated change in zoning at some point, but it doesn't seem to meet as part of this process. I don't know if the Department has additional comments on this having kind of just seeing this but that's my take on this having just become aware of this.

CHAIR PALTIN: Yes, I intend to agree. I think, you know, there was a way to do it and we did meet in Lahaina and Member Molina did I think asked the owner to go through a specific set of actions being that the testimony was kind of controversial half-half. Asked them to, you know, reach out to the PTA, reach out to the church right next door. And I think, for me, I don't want to mix up things. This is errors that were done through the digital map zoning process and this is, I mean, from what I remember it was kind of like a phone error with the reading the map wrong error, but it wasn't to do with digital zoning maps. So, I don't want to mix the two up, you know. There is probably a lot of more than one like this and I want to keep it strict to what the Department intended to use this process for. I mean, like they said, they could have gone through and changed things that they were intending to change but for the recordkeeping and the process they wanted to just make the dirty version and then correct it in another step. So, I'm inclined to not entertain this right at this time. And we do have a full agenda of other things we need to do so.

COUNCILMEMBER SUGIMURA: So, I just . . . thank you, Chair. So, I just wanted to bring it up because of the problem with the owner of the property going ahead and purchasing it based upon the recommendation from the Planning Department, and even getting confirmation of zoning before he purchased, during purchase, before he purchased, after purchase, and it looks like it was a huge error on our part and I would like to . . . I wanted to get this corrected. So, I thought that, you know, we could get it corrected based upon the information that the Planning Department is presenting.

CHAIR PALTIN: Yeah, no, not, not . . . that would be a separate process. But, you know, the situation with this one is we did hear them in Lahaina, and we did take testimony. I mean, the property owner is not here right now. All the folks that have been following this property weren't properly notified that this action could have been taken today. And so, I don't feel comfortable mixing actions and processes together. You know, I don't know about the Sunshine Law if just discussing it is a violation, but it seemed like Mr. Hopper was okay with talking about it because it was broad. But, actually, taking action and, you know, I prefer to like properly agendize it, properly let all the interested parties know and not mix the two.

COUNCILMEMBER SUGIMURA: Thank you. Based upon the minutes from your meeting, the verbatim, he did reach out to the school, Star of the Sea, across the street and, of course, we heard from the neighbors, but I was just trying to correct something that I think we did really wrong.

CHAIR PALTIN: Yeah. Based on the minutes and the testimony, he reached out to the Sacred Hearts Principal who had just moved there two months and Member Molina --

COUNCILMEMBER SUGIMURA: Sorry, Sacred Hearts.

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CHAIR PALTIN: --had requested that he reach out to the parents, the teachers, the Association, check back in with the Chaplain or Principal since he had lived there for longer than two months by now. So, I mean, that's what I'm waiting for is the follow up. I think Member Molina's recommendation was a good recommendation and that's what I'm waiting for to hear back that they did that from the community and from the school and from the owner. So, there is a process in place and it's just not this process here today.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: I just wanted to . . . I think we're getting a little too into the weeds with this because this is a zoning change issue that's being brought up. And what we're talking about right now is the correction of the digital zoning map so, I'd like to if we could focus on the . . . to do the map corrections that we're on and then I would be happy to talk about this at some other point once it gets on the agenda.

CHAIR PALTIN: Okay. Vice-Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I just wanted to echo that. I agree with Member Sugimura that, you know, it looks like we, the County, was wrong in this situation and I agree to correcting it. But I like the direction that you, as Chair, is taking with the . . . this item. And while it is broad I think there would be concerns about what this item could mean if we take up every single parcel to correct. Like I think what I understand from your guidance with this item is to just help the Department in correcting the mistakes that the Department is making with the digital zoning map and not trying to use this item to bring up other items that, you know, need to be corrected through a different process.

CHAIR PALTIN: Yeah. And I think this was the purpose of like the last 15 years of work because of these types of errors being made that's why we're transitioning from paper to digital. And in the process of transitioning from paper to digital it's apparent that even not just looking at the mistakes, but entering the data there could be mistakes and, you know, looking and over the course of 15 years and multiple staff changes or whatnot, mistakes do happen. And so, in this process right here right now, I'm just trying to solve the . . . those types of mistakes in the transition from paper to digital and this is not a transition from paper to digital type of mistake. So, we're keeping it tight to that at this time. So, the Chair will entertain a motion to recommend passage on first reading of the proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING DIGITAL ZONING MAP (2) AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI," incorporating any nonsubstantive revisions, and filing of County Communication 19-346.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: Okay, so moved by Chair King and seconded by Vice-Chair Rawlins-Fernandez. Any discussion on this? Vice-Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: Quick question, quick question. It looks like the presentation that was on the screen today is a little different than the one that we have in Granicus. Will we be getting the updated presentation? Mahalo.

MS. AOKI: Yes. We'll give it to James after the meeting.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Great.

MS. AOKI: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: That's all.

MR. GRAVES: We just added a few photos.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: The Pictometry ones.

COUNCILMEMBER KING: Just put it on Granicus. You don't have to give us hard copies.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Just electronic. Mahalo.

CHAIR PALTIN: Any further discussion? Okay. So, I'll call for the question. All those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Okay, so the motion passes unanimously seven-zero.

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VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and Councilmembers King, Lee, Molina, Rawlins-Fernandez, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending FIRST READING of bill and FILING of communication.

CHAIR PALTIN: Thank you so much.

MS. AOKI: Thank you all very much. We appreciate it.

CHAIR PALTIN: Just because of our next meeting and then you're probably leaving right now, right?

MS. AOKI: No, I think I'm . . . I've been asked to stay for the Maalaea project.

CHAIR PALTIN: Oh, okay. Right on. 'Cause I had a question.

MS. AOKI: Okay.

CHAIR PALTIN: But if you're gonna stay, that's cool.

MS. AOKI: Yes, I'll stay.

PSLU-41: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR MAALAEA AGRICULTURAL SUBDIVISION (CC 19-347)

CHAIR PALTIN: Okay, so the next item on the agenda is *PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision*. The Committee is in receipt of County Communication 19-347, from the Planning Director, transmitting the following: a proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE KIHAI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM PROJECT DISTRICT 12 TO AGRICULTURE FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-6-001:018." The purpose of the proposed bill is to grant a Community Plan Amendment to Agriculture for 257 acres located in Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as Tax Map Key (2) 3-6-001:018 for the proposed Maalaea Agricultural Subdivision, and also a proposed bill entitled "A

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BILL FOR AN ORDINANCE TO CHANGE ZONING FROM OPEN SPACE ZONE, R-3 RESIDENTIAL AND ROAD/STREET RESERVE ZONE TO AGRICULTURE FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, BEING PORTIONS OF TAX MAP KEY (2) 3-6-001:018.” The purpose of the proposed bill is to grant changes in zoning to Agricultural District for 14.7 acres, .06 acres and .8 acres, respectively, located in Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as three portions of Tax Map Key (2) 3-6-001:018 for the proposed Maalaea Agricultural Subdivision project. So, I met with Mr. Vince Bagoyo and Mr. Mark Spencer some time I think last week, and they explained the history and the background and how long it had taken them to go through the process of the Planning Commission and Corp. Counsel to get here. And they asked for this item to be put on the agenda and so I put it on the agenda. And at this time if we can have like a 5- to 10-minute presentation from Mr. Bagoyo, explaining what he’s asking us to do today.

MR. BAGOYO: Thank you so much, Chair and Members of the Committee. On behalf of the applicant, we do really want to thank you for taking this up today . . . this morning. I just wanted to give you a brief summary of the project. The name of the project is the Maalaea Agricultural Subdivision and it’s located along Honoapiilani Highway immediately across the Maui Ocean Center, consisting approximately 257 acres. It’s being proposed for 21-lots Agricultural Subdivision, which is consistent with the Ag zoning ordinance. The existing County and State Land Use designation to the property – it’s currently State Land Use District Ag, Community Plan District Project District 12 under the Makena . . . Kihei-Makena Community Plan it’s currently Project District 12; and the County zoning is Ag and a very small portion of the property is zoned Open Zone and also a small portion of the property it’s zoned Street Future Reserve; and there’s approximately 2,300 square feet of zoned R-3 Residential, which is the most southern tip of the project of the property. Our proposed Land Use Amendment is to change the current Community Plan District from Project District 12 to Agriculture, and also to change the zoning of those small portions of the property that is currently zoned Open Zone and to Agriculture, and then the Street Future Reserve Zone to Agriculture, and the R-3 zone to Agriculture. Just for your information, all these proposed changes is consistent with the Maui Island Plan. This is the location map. Again, it’s located at Maalaea immediately across the Maui Ocean Center and it’s mauka of the highway, and it sits at the base of the West Maui mountain. The proposed community plan . . . this is currently the Community Plan Map for the 257 acres so what we’re proposing is to change that entire property from Project District 12 to Agriculture and to make it consistent with the Maui Island Plan. The proposed Change in Zoning map that we have before you all of the red, which is on the southern tip of the subject property, those are the areas that we’re asking that the current zone, which is the R-3 which is approximately 2,300 square feet, from Residential . . . R-3 Residential to Agriculture. And that red, that’s the Street Future Reserve that’s currently zoned Street Reserve to Agriculture, and the remaining parcel Open Zone to Agriculture. And this is all to make it consistent with the Maui Island Plan. This is the proposed subdivision map for the project, which consisting approximately 21 agricultural lots. That’s the maximum lots that the applicant can subdivide based on the current Title 19.30 [sic] of the Ag zoning map. And the acreage ranges from a little over three acres to 40 acres per lot. This is the aerial photo of the project site. Again, as you can see, it sits pretty much at the base

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of the West Maui mountain. The proposed Community Plan and Change in Zoning applications is to keep the entire project site in Agriculture. And this is to be consistent with the Maui Island Plan, which designate the project site outside of the growth boundary, which means that it stays Agriculture. And then it will be consistent with the State Land Use District designation. Again, the proposed 21-lot Ag Subdivision is consistent with the Maui County Code Title 19.30A.030. Finally, the Maui Planning Commission in its September 11th, 2018 meeting recommended to approve the proposed Land Use changes. I believe the transmittal from the Planning Department to the Council there's proposed recommended condition that the Planning Commission had imposed on . . . on the proposed changes, and the owner and the applicant is in support of those conditions. Again, I just kind of briefly, as noted by Mr. Mark Spencer who is representing the owner, who is part of the owner, you know the history of this project. Initially, Mr. Spencer has suggested to build 1,100 units which is allowed under the Community Plan District 12 and because of concerns by the neighbors, it was scaled down to 500, and then scaled back to about 190 something lots and also that proposal faced some resistance. So, now, they wanted to just keep the entire property Agriculture. So, with that, Madam Chair and Members of the Committee, we also have Mr. Stacy Otomo, who is our Civil Engineer for this project; and of course, Mark Spencer is here. If you have any questions, we'd be happy to respond. Thank you so much.

CHAIR PALTIN: Thank you, Mr. Bagoyo. That was a perfect amount of time to spend on that. I just also wanted, before we open it up to questions, I wanted to mention that we have Deputy Director Jordan Hart from the Department of Planning, as well as Director Rowena Dagdag-Andaya from Public Works, and Ms. Eva Blumenstein from the Department of Water Supply here for questions as well. And at this time, I would like to allow Mr. Hart to make any comments or just opening comments on the presentation that we all watched.

MR. HART: Thank you, Chair and Members. You know, most notably I want to thank the applicant for being supportive of the DLNR Department of Forestry's request to accommodate the Lahaina-Pali trail. I think that's a really important addition to the project for the community. And I do, you know, want to just bring up with the Council that we've been working with DLNR on getting a lot of these trails that exist on the books that are public access trails mapped into our documents in order to prevent this from being an 11th hour kind of situation in the future so that we'll basically have these on the books to recognize early on in the subdivision process and the land use designation change process. But, again, I really want to commend the applicant for being cooperative. It's a really important addition. Thank you.

CHAIR PALTIN: Okay. Thanks. Is that the extent of all your comments? Okay. Ms. Dagdag-Andaya, did you want to make any comments? No. Okay. Ms. Blumenstein? Okay. All right, at this time I'll open it up to questions from the Members to any of the resources that I've spoken about. I'll take Ms. Lee followed by Mr. Molina.

COUNCILMEMBER LEE: Thank you, Madam Chair. Yes, this particular property has undergone multiple iterations and now it's down to 21 . . . down to 21 Ag lots. I'm

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wondering if the same neighbors who were opposed to a thousand units are opposed to 21 lots.

CHAIR PALTIN: Well, we did get the correspondence from the Kihei Community Association. And they were opposed, but the correspondence from the Maalaea Community Association was not opposed.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: So that's what we have on record.

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: I don't know if Mr. Bagoyo has more in-depth information than that.

COUNCILMEMBER LEE: Yeah, that's what I want to check with him. I don't count the Kihei Community Association as neighbors. But the Maalaea Community Association are neighbors, close neighbors, so I wanted to ask if you were . . . have been working with them throughout the process of designing and planning this project?

MR. BAGOYO: Thank you so much, Councilmember Lee. When Mr. Spencer wanted to reduce the number of lots from I believe 1,100 and then down to 500 and then down to about 190, you know, we did have several meetings with the Maalaea Community Association and they have always been really wanting to keep the area Ag, but they have also submitted a letter to the applicant sometime in March 15th of 2015, if I'm not mistaken. I do have a copy of the letter to actually support it to keep it Ag and also support about 190 lots at that particular time. And I do have a copy of that letter from the Maalaea Community Association. And we have worked with them and they've been very open to their concerns about make sure that keeping it Ag is one of their major concerns.

COUNCILMEMBER LEE: Will you be working with them and perhaps Atherton on a joint effort on wastewater?

MR. BAGOYO: This is a separate issue. We will be using based on . . . because it's only 21 lots, each lot will be using individual wastewater system under the Department of Health, Title 11-62 of the Rules.

COUNCILMEMBER LEE: Okay. And this individual system will be using . . . will it include reuse?

MR. BAGOYO: It will be the regular septic system, Councilmember Lee.

COUNCILMEMBER LEE: I see. That's all the questions I have for now. Thank you.

CHAIR PALTIN: Thank you, Ms. Lee. Member Molina followed by Chair King.

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COUNCILMEMBER MOLINA: Thank you, Madam Chair. I have questions for either Mr. Bagoyo or Director Hart [sic]. So, the intent of the owner is, again, to keep this entirely in Ag but also is there consideration for building gentleman farms on this as well?

MR. BAGOYO: In the Ag zoning ordinance it's very specific as to make sure that 51 percent of the property be used for ag, legitimate ag. They have to submit . . . each lot owner has to submit to the Planning Department a farm plan that has to be approved by the Planning Department. A year and a half ago, if I'm not mistaken, the farm plan has to be recorded by the Bureau of Convey . . . to the Bureau of Conveyance. I'm not sure. I think they have changed that policy after that.

CHAIR PALTIN: Deputy Director Hart, did you want to do an update on that whole process with the farm plans and the declarations?

MR. HART: Sure. Chair, Jordan Hart, Deputy Director of Planning. At the moment, we're not . . . we're not using farm plans because we're going through a process of trying to unify farm plans between Department of Planning, Department of Finance, and Department of Water Supply. So, while that's being hammered out, we've stopped processing farm plans. We do an Ag declaration and the Planning Department does want to see agriculture as the primary use of any property before you can enter into . . . well, any permitted use in the Agricultural District needs to be a primary use before even entering into any sort of accessory uses such as a dwelling. So, in the context of a farm dwelling, you know, similar to our discussion of the West Maui project, if you're going to have a dwelling in an Agricultural District, it needs to be accessory to farming.

COUNCILMEMBER MOLINA: Okay.

MR. HART: It's an important point by the Planning Department.

COUNCILMEMBER MOLINA: And then individuals who buy any of these lots are they able to subdivide further? And can the Council, if the Council chooses to restrict the, you know, the land from being subdivided any further if that's the choosing of the Council, but as it is right now can they subdivide further if they buy any of these 21 lots?

MR. HART: My understanding is the current proposed subdivision has used the total allowable allotment of parcels as is proposed. So, there's no further opportunity for a subdivision under normal circumstances.

COUNCILMEMBER MOLINA: Okay. And potentially how many total units could be built on these 21 lots as is?

MR. HART: With ohanas there could be two dwell . . . well, it's not technically an ohana.

COUNCILMEMBER MOLINA: Farm dwelling.

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MR. HART: It's a primary farm dwelling and there's a secondary farm dwelling that can be 1,000 square feet so there can be two per lot.

COUNCILMEMBER MOLINA: So, 42 max?

MR. HART: Yes.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Madam Chair.

CHAIR PALTIN: Sure thing. I'll take Member Sinenci followed by Member King followed by Member Sugimura.

VICE-CHAIR SINENCI: Okay. Thank you, Chair. Can you show on the map where the Lahaina-Pali trailhead begins?

CHAIR PALTIN: We can have this map distributed for the Members if that would help.

COUNCILMEMBER KING: It's in . . .

CHAIR PALTIN: Oh, you got?

COUNCILMEMBER KING: It's in the presentation.

VICE-CHAIR SINENCI: I have a map. Just where on the map is the trailhead? So, the owner would be providing . . . providing access?

MR. BAGOYO: Yes. Currently, this is the current access to the Pali . . . Pali trail.

VICE-CHAIR SINENCI: And so, there would be room for parking and those types of things?

MR. BAGOYO: Yeah, within the State property, which is right around that area. There's an existing parking mauka of the proposed project.

VICE-CHAIR SINENCI: Okay. And then you mentioned on the south end this is where the red lines are. Right now, it's Open Space and this is where you want to do the zone change . . . at the left side of the map . . . where there is the proposed street?

MR. BAGOYO: This is currently a Street Reserved zone.

CHAIR PALTIN: Yeah, I drive past that almost every day and it's just kind of like a road that doesn't go to anywhere in particular. It's just there.

VICE-CHAIR SINENCI: Does the elevation . . .

CHAIR PALTIN: That's not proposed to be the Pali trail access. It's just a . . . I don't know what it was originally for, but it looks like a remnant street that they want to change it from Road Street Reserve Zone to Ag. Is that correct?

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MR. BAGOYO: Correct. And this right here, this little dot right there is currently zoned R-3 Residential, which is approximately 2,300 square feet. And this area right here is the Open Zone area.

VICE-CHAIR SINENCI: And you're keeping it Open Zone or changing to Ag?

MR. BAGOYO: All Ag, yes.

VICE-CHAIR SINENCI: Okay. And then is the, I guess, the landscape of the area is that normally a flat area or it starts to elevate and does the elevation increase there towards that end?

MR. BAGOYO: Maybe if I could ask our Civil Engineer Stacy Otomo to respond to that question, if I may, Madam Chair?

CHAIR PALTIN: Sure thing. Mr. Otomo, if you would come down and identify yourself? For me, when I drive past that area it's kind of the drainage area that comes down and then it crosses the street. It's like right before you enter the Pali. But Mr. Otomo, thank you.

MR. OTOMO: Good morning, Chair, Members of the Committee. My name is Stacy Otomo. Councilmember, to answer your question there's about a 6 percent slope on the whole property so it's fairly flat.

VICE-CHAIR SINENCI: Okay. Yeah, I remember driving by, and it looks like it's . . . okay.

CHAIR PALTIN: Your questions are done?

VICE-CHAIR SINENCI: One more.

CHAIR PALTIN: Okay.

VICE-CHAIR SINENCI: And so for the Ag designation, I know you don't have to provide a farm plan any more, but do you need to submit any type of financials or you need to meet some type of agricultural earnings as part of the designation?

MR. HART: Chair, Jordan Hart. Not in the context of the farm dwellings. Agriculture and labor dwellings can require those type of things but that's basically when you're trying to verify that your farming business requires . . . you generate enough revenue or business that require labor dwellings. At that point, you would submit that kind of information. But just to build the dwelling, you know, there's subsistence farming and things like that and, you know, there's people requesting homes too so, anyway, we don't require any person who proposes to build a dwelling in the Ag District to provide any sort of financials.

CHAIR PALTIN: Until your second dwelling.

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MR. HART: Oh, excuse me, no. In that situation also no.

CHAIR PALTIN: Oh, okay.

VICE-CHAIR SINENCI: Was there something like that prior that you had to submit a statement of earnings?

MR. HART: So, what I opened with was discussing the Agricultural Labor Dwelling, which is basically farming operation is providing housing for people who are working at that farm. And in that context, they would be required to provide information about their income that their farm is generating in order to justify the need for labor.

VICE-CHAIR SINENCI: Otherwise, no need if you're not doing the housing?

MR. HART: No, if you're not claiming that you . . . okay, you can conduct [sic] the first farm dwelling, you can conduct . . . construct the second farm dwelling, when you want to begin to construct additional housing for labor that's when you need to start presenting information about the revenue of the farming operation.

VICE-CHAIR SINENCI: Okay. Thank you. Thank you, Chair.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, yeah, I was a little concerned about the issue of Ag, too, and what's required for an Ag zoning and maybe we'll end up addressing that in the Tax Code with the different tiers of ag taxation. But I have some questions about the Conditions of Zoning that are attached to the, in Granicus, are attached to the request for the Change in Zoning. And they're not . . . it's not numbered but it's Exhibit C – Conditions of Zoning. So, my first question was on runoff issues and that was mentioned in Ms. Britton's letter so maybe we could . . . is that a watershed issue we could ask for some . . . yeah, just to maybe --

CHAIR PALTIN: Department of Water Supply?

COUNCILMEMBER KING: --talk about what runoff issues we have that come through Maalaea into the bay from that?

CHAIR PALTIN: I don't know if that would fall under Department of Water Supply. Maybe Director Dagdag-Andaya might be more appropriate --

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: --for that one.

COUNCILMEMBER KING: And then while she's coming down here, I just wanted to say that, you know, I'm glad we got . . . I'm glad we got input from both of the two biggest community associations in the district because this is part of the Kihei-Makena

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Community Plan so . . . which we hopefully are going to be changing to rename as the South Maui Community Plan because it does include Maalaea. So, I do take, you know, the testimony from the KCA to heart as well even though, you know, maybe more heavily weighted by the Maalaea Visitors . . . Maalaea Village Association because they're directly in that area. But I do want to make a statement that everybody in that community plan should be able to comment so I was glad to get that. But maybe Ms. Dagdag-Andaya can speak to any runoff issues because right now I know Maalaea Village Association is engaged in trying to clean up the bay through some experimental projects that involve oysters. And they have mentioned to me before that it's going to be less effective the more runoff we keep getting from somebody's upper area so.

CHAIR PALTIN: Sure thing. So, Ms. Dagdag-Andaya, can you introduce yourself?

MS. DAGDAG-ANDAYA: Thank you, Chair. Rowena Dagdag-Andaya, Deputy, oh, I'm sorry, Director of Public Works. I just pulled up Ms. Britton's letter on Granicus just now. I haven't had a chance to read it yet but with every change in zoning or subdivision application we have drainage rules that the applicants need to follow. We have stormwater quality rules that also need to be addressed. As far as any issues in the Maalaea area, we currently have a project on Hauoli Street, the retention basin --

COUNCILMEMBER KING: Right.

MS. DAGDAG-ANDAYA: --that addresses some of the drainage issues in the area. But in terms of creating a condition, you know, we don't have a specific condition that would address any other issues. I think that would . . . any kind of drainage issues would be addressed when we do review for subdivision and when they construct their plans.

COUNCILMEMBER KING: Okay. Maybe Mr. Bagoyo, can you speak to any potential drainage issues from this subdivision?

CHAIR PALTIN: Sure. And then also at this time I'm going to be having Staff distribute my version of Exhibit C.

COUNCILMEMBER KING: Oh, okay.

CHAIR PALTIN: And you can check out No. 5 on there.

COUNCILMEMBER KING: That was my next issue so, okay.

CHAIR PALTIN: I'm hoping that my Condition of Zoning No. 5 addresses the issue that you're talking about. And we can change it more but just so that you know that it is something that I did try to address.

COUNCILMEMBER KING: Okay. Great.

MR. BAGOYO: If I may, Chair King, I'd like to ask our Civil Engineer regarding the drainage design?

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CHAIR PALTIN: Mr. Otomo, thank you so much for coming back down.

MR. OTOMO: Good morning. Stacy Otomo again. To answer Chair King's concerns, the drainage plan is basically if you look along the highway parallel to Honoapiilani Highway we've designated lots there where we're going to put retention basins inside basically taking care of the water quality and the quantity of drainage coming from the property. The existing drainageways coming through the property would not be touched. It'll be maintained. So, flows will keep coming to the highway culverts as it is today. However, any runoff both quantity and quality generally for the subdivision is going to be mitigated onsite. And I believe one of the conditions that the Planning Commission asked for was on the southerly end of the roadway system, they asked us to add another retention basin on that end, which we will be doing as well.

COUNCILMEMBER KING: Okay. So, when you say lots, you know, they're not developed lots. There's no structures on.

MR. OTOMO: No.

COUNCILMEMBER KING: Okay. Just designating areas for --

MR. OTOMO: Drainage.

COUNCILMEMBER KING: --retention basins.

MR. OTOMO: Yes.

COUNCILMEMBER KING: Okay. And my other issue was somewhat addressed in your version because the condition is kind of weak. It says, applicant shall consider leaving some land in undeveloped Open Space. That's the way it reads right now. So, my, you know, my question was going to be how much Open Space, how much percentage of Open Space in that TMK are we looking at and can we just designate that as shall remain Open Space instead of the idea that you could consider? Because I think that's one of the biggest concerns of all the community associations in the areas that we designate at least a majority of that entire lot for Open Space.

MR. BAGOYO: Thank you for that question. Yeah, I've discussed this briefly with my client and also with the Chair about keeping that Open Zone, which is approximately 14.7 acres not to be . . . there's no building to be constructed in that area.

COUNCILMEMBER KING: Okay.

MR. BAGOYO: And my client is okay with that condition.

COUNCILMEMBER KING: Okay. Is that what's described in here? I don't know what you mean by Exhibit II and Exhibit III.

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CHAIR PALTIN: Exhibit II and III are like the metes and bounds of the two open parcels on either side of that Road Street Reserve Zone.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: So, it's clearly defined metes and bounds.

COUNCILMEMBER KING: Is that on our Granicus? I didn't see that exhibit.

CHAIR PALTIN: The metes and bounds?

COUNCILMEMBER KING: Well, you just described it as any future owner or lessee must leave the areas described in Exhibit II and Exhibit III in undeveloped Open Space. So, I'm just looking for that exhibit, those exhibits.

CHAIR PALTIN: Mr. Krueger, would you like to answer that question?

MR. KRUEGER: Yes, Chair. The Exhibit II and Exhibit III described in the Conditions of Zoning passed out by the Chair they are appended to the attached conditions.

COUNCILMEMBER KING: Oh, but is there a map?

MR. KRUEGER: They are not attached but you can see those two parcels in the large map that Chair passed out.

CHAIR PALTIN: So, attached to my conditions there's Exhibit II and Exhibit III that describes Open Zone I and Open Zone II, which are referenced in this larger map over here.

MR. KRUEGER: Yeah, they're the two parcels that are currently zoned Open Zone. Thank you, Chair.

COUNCILMEMBER KING: Okay, I'm not . . . just that red part over here? That's all?

CHAIR PALTIN: The red part with the lines going through it. It looks like a candy cane striped area.

COUNCILMEMBER KING: Okay. But that's a pretty small portion of that entire . . .

CHAIR PALTIN: It's about 14.7 acres of the total 257 acres.

COUNCILMEMBER KING: Okay. So, what about the 36 acres, 35 acres and the 3 and the 15, the frontage of the highway?

CHAIR PALTIN: The frontage is I think the Planning Commission's one of their conditions that they wanted . . .

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COUNCILMEMBER KING: Because that's what I'd like to see in Open Space is that whole area down below the subdivision.

CHAIR PALTIN: Oh, the multimodal transportation corridor?

COUNCILMEMBER KING: Right.

CHAIR PALTIN: Oh, you want that in, okay.

COUNCILMEMBER KING: Well, the whole . . . yeah, because that whole frontage there's 21 acres here, 20, 19, 3, and 2 and so that whole area looks like it's planned for Open Space right now. Was there any plans to develop them?

CHAIR PALTIN: Those numbers the 20, 19, 3, and 2 are parcel numbers. The acreages are below --

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: --and the 20 is 36 acres.

COUNCILMEMBER KING: Right.

CHAIR PALTIN: Yeah.

COUNCILMEMBER KING: That's what I was looking at the 36, the 35, 15, 15. So, are there plans to develop that area into anything?

MR. BAGOYO: No. It's one of the things that the Planning Commission had suggested to the owner is to keep that kind of an open area for possibly future road or highway expansion. It's always been, in fact, it's in the Maui Island Plan to keep that. And the reason that we're trying to change it to all Ag is because in order to build the 21-lot subdivision every single land use designation must be consistent. So, we can't have . . . that's why we're coming before you today.

COUNCILMEMBER KING: No, I understand that. So, I don't have a problem with that as long as we can designate one of the conditions to leave this area undeveloped.

MR. BAGOYO: Yes.

COUNCILMEMBER KING: Are you okay with that?

MR. BAGOYO: Well, I don't know about . . .

COUNCILMEMBER KING: We can figure out some way to put that into the conditions?

MR. BAGOYO: Maybe that's something Mark needs to respond to.

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MR. SPENCER: Yeah, Mark Spencer again. I just want to make sure we're clear. The Open Space, the transportation corridor that I believe we're talking about is an area that runs linear to the highway. It's not those complete lots, those parcels. Those will be Ag parcels.

COUNCILMEMBER KING: Well, I don't know what you're pointing to but I'm pointing to the parcels underneath those. So you've got Parcel 21, 20, 19, Parcel 3, 2, and 1 that are all adjacent to the highway.

COUNCILMEMBER RAWLINS-FERNANDEZ: Those are part of the 21 parcels as I understand it.

COUNCILMEMBER KING: Are you planning to develop on those parcels as well?

CHAIR PALTIN: They would be Ag lots.

MR. SPENCER: Yes, those would be Ag lots. But now if you'll keep in mind that is like a 36-acre lot. It will be restricted to two dwellings in 36 acres.

COUNCILMEMBER KING: Okay. So, the only Open Space is just 14 acres on the corner then?

MR. SPENCER: Well, and then we talked about there's a transportation corridor that if you see that just goes linear right alongside the highway, which we agreed to keep open because the County wanted in case for future expansion of the highway.

CHAIR PALTIN: That's like No. 4 in your Conditions of Zoning, Exhibit C that I handed out. It says, MVI, LLC and any future owner or lessee must coordinate with the State Department of Transportation and Maui Department of Planning to ensure that a multimodal transportation corridor is provided along the project's Honoapiilani Highway frontage and improved by the Department of Planning. MVI, LLC and any future owner or lessee must dedicate any additional land that may be required for the corridor at no cost to the State of Hawaii or the County of Maui.

COUNCILMEMBER KING: Okay. What's the acreage of that?

CHAIR PALTIN: Mr. Otomo, are you aware of the acreage of that corridor?

MR. SPENCER: Stacy Otomo says it's about 15 acres.

COUNCILMEMBER KING: Okay. So, basically, you're planning to use that whole area for development . . . the whole . . .

MR. SPENCER: For Ag lots, yes.

COUNCILMEMBER KING: Basically, it looks like pretty much 90 percent of it or more. Okay. That's kind of the issue I guess with the community. Thank you.

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CHAIR PALTIN: I know there's more questions but we're around our break time. Is there any objections to a 10-minute break? Okay, we'll be back at 10:50 sharp. Oh, sorry, Ms. Lee?

COUNCILMEMBER LEE: Madam Chair, when we do come back, I'm not sure who's next to ask questions, but can we go in order of the conditions? And then that way, we can ask the developer, you know, a feedback on 1 through 7.

CHAIR PALTIN: Okay. I just . . . before we do that, I wanted to give everybody a chance. Member Sugimura hasn't had a chance to just ask a question and myself haven't and then we can go in order if you'd like to.

COUNCILMEMBER LEE: Okay. 'Cause it's harder to go from 2 to 3 to 6 to 1, you know. If we just went right down the line, then we don't have to jump all over the page. Okay. Thank you.

CHAIR PALTIN: Okay. So, we'll be in recess. Come back at 10:50, please. Thank you. . . .(gavel). . .

RECESS: 10:40 a.m.

RECONVENE: 10:55 a.m.

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of October 2nd return to order. It's 10:55. We're at bare quorum right now and seeing as the last Member is not here, I'll go ahead with my questions at this time. Our Real Property Tax website indicates that Wailuku Agri Business Company Incorporated is also a fee owner of this property. Is this still the case, Mr. Spencer? I just was asking that our Real Property Tax website indicates that Wailuku Agri Business Company, Incorporated is also a fee owner of this property. Is this still the case?

MR. SPENCER: *(Spoke from the gallery)* Not anymore.

CHAIR PALTIN: Not anymore. Okay. And then my next question is and I'm not sure which entity maybe Ms. Aoki, the current zoning for . . . listed in the Change in Zoning bill are Open Space Zone, R-3 Residential, and Road Street Reserve Zone; however, the current digital zoning map indicates that area is Open Space Zone is Open Zone and the area that is Road Street Reserve Zone is proposed zone, and I'm wondering what is the correct names for those zonings?

MS. AOKI: Thank you, Chair. The zoning should be reflected in the Change in Zoning map as R-3 Residential, Open Zone, and proposed road.

CHAIR PALTIN: Open Zone and proposed road. Those are the correct names.

MS. AOKI: Correct. Yes.

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CHAIR PALTIN: Okay. So, Mr. Hopper, is that a nonsubstantive change, revision, to the Change in Zoning bill and its exhibits to include the correct names for the zoning designations?

MR. HOPPER: Madam Chair, I do believe you could make that change. I don't think it's a substantive change. The previous designation is not as significant, I think, as what the actual zoning is going to be, but I think those corrections can be made.

CHAIR PALTIN: Okay. Thank you. And Ms. Aoki, do you happen to know what is some of the things allowed in Open Zone?

MS. AOKI: That's the interesting thing. There is no standards right now for Open Zone, which is why when we come to you with a digital zoning map if the Community Plan designation is Open Space we propose to you to change the Open Zone to either OS-1 or OS-2. In this situation, your applicant is asking you to change the Open Zone to Ag.

CHAIR PALTIN: Okay. Interesting. Thank you. Sorry. Member Sugimura, you weren't in your seat, so I just took your slot. If you have any questions?

COUNCILMEMBER SUGIMURA: Actually, I do. I understand this project is going to be getting water from the Michael Atherton's project. No?

MR. BAGOYO: No. The applicant's already developed three wells called Pohakea Well 1, 2 and 3, and they already developed the storage tanks that will be needed for this project.

COUNCILMEMBER SUGIMURA: Oh, okay.

MR. BAGOYO: It's going to be a privately-run system.

COUNCILMEMBER SUGIMURA: Oh, very good. So, there will be no big concerns about water and the lots won't have any problems starting when you get this all completed then?

MR. BAGOYO: Yes, we do have adequate source for this project. The domestic use for this project – 21 lots only approximately about 12,600, if I'm not mistaken, based on the County Department of Water Supply's standards. But for the agricultural portion we're going to be using approximately 473,000 gallons a day and the existing three wells would be sufficient to supply those needs.

COUNCILMEMBER SUGIMURA: Okay. And the area is such a windy area based upon just my experience of being around it. Are these lots as windy as across the street or like that?

MR. BAGOYO: Yeah, I think it's . . . probably based on my experience traveling from Waikapu to Lahaina it's a little windy along Maalaea area. Yeah, there's some wind.

COUNCILMEMBER SUGIMURA: With the wind farm above . . .

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CHAIR PALTIN: Yeah, interesting you mentioned that 'cause I just got an alert from the County system that there's an active Maalaea brush fire five acres burned. Evacuations under way at wind farm. Updates at Maui Now. So, lucky I'm on this side or unlucky I'm on this side. I don't know.

COUNCILMEMBER SUGIMURA: You're going to get hard time getting home.

CHAIR PALTIN: But yeah, it's a windy area.

COUNCILMEMBER SUGIMURA: Yeah, it's a windy area. I'm grateful that the multimodal transportation component is already thought through and I guess I'm curious . . . well, unfortunately we went down from the scaling down of the number of houses because we certainly need homes in the area. I wonder if this is going to turn into another Launiupoko kind of community. Of course, you can't see that.

MR. BAGOYO: I think one of the proposed condition No. 6 that is being proposed by the Chair, I discussed this with my client, and they had no objections to putting that condition at all.

CHAIR PALTIN: Okay.

MR. BAGOYO: Again, the holding tank is really to just keep it to Agriculture at this point in time.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Do you have further questions, or shall we start going through them?

COUNCILMEMBER SUGIMURA: You can start going through the conditions. I just wanted to . . . I'm glad to see the Spencer family still involved. I know Doug from my son growing up with his family, but they were certainly . . . they certainly provided a lot of good homes for our working families. So, I just want to say that publicly, thank you very much, and I'm sorry that they had to scale back to go from the, you know, potential of, you know, 1,000 to 500 to 190, you know, homes or so down to 21 lots, and I can see what they're trying to do 'cause they're trying to utilize their land. So, I appreciate that. I'm sure they'll do a, you know, a good job. So, thank you.

MR. BAGOYO: Thank you so much, Councilmember.

COUNCILMEMBER SUGIMURA: So, we can continue on.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: Can I ask another question? This is not pertaining to the conditions.

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CHAIR PALTIN: Sure.

COUNCILMEMBER KING: Thank you. So, I just wondered if the developer had considered any other options besides septic because I think we're also . . . there's a recognition that septic still makes its way down to the ocean, and that there may be alternatives if you're not going to hook up to sewer at some point there may be options for ATUs or you know the State Department . . . Dr. Pang at the State Department of Health is proposing compostable toilets and there are other options to going with septic that are more environmental.

MR. BAGOYO: Yeah, that's obviously, as you noted, there's a lot of options out there. In fact, I was watching the evolution of Microsoft that actually developed a self-composting system but it's still out of reach for many people. ATU is an option that can be utilized, and I think you heard about some of the pluses and minuses of ATU is the maintenance. Make sure that the individual owners will have to keep an eye on the maintenance of the ATU. But ATU is really a good system. It has been used in the State of Hawaii. Molokai used the self-composting system at their tentacles that they used to have over in the West End. I'm familiar with that because I had stayed there several times. But, yeah, that's another option.

COUNCILMEMBER KING: Do you know if the developer has looked into any of that for this particular area because it's kind of the same . . . the same type of scenario as the Launiupoko project, which you know it's in fairly close proximity to the ocean. And, you know, septic still goes into the groundwater.

MR. BAGOYO: Yeah, something that maybe the applicant would want to address. Yeah, certainly, I think, we just don't want it to . . . an outright condition. I think we would like to at least have the applicant to look at it and if it makes financial sense for the buyer 'cause a lot of . . . some of those three-acre lots there may be some local people that will probably buy some of those lots and so I just want to make sure that we have, you know, options.

COUNCILMEMBER KING: So, you haven't looked into yet or . . . I mean that was the question.

MR. BAGOYO: We have . . . our engineer basically said individual wastewater system, which is basically, you know, ATU is an individual wastewater system so.

COUNCILMEMBER KING: Right. But you said you were going to use septic tanks.

MR. BAGOYO: Yeah, that's one of the things that, yeah.

COUNCILMEMBER KING: Okay. I'm just trying to get a straight answer. Have you guys looked into doing some more environmental wastewater treatment for the units?

MR. BAGOYO: Mark, you want to respond to that?

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COUNCILMEMBER KING: Are you willing to?

MR. SPENCER: Hi, Mark Spencer, again. Yeah, we have looked into each one of them, and at this point, we want to keep those options open for whoever buys these lots as Vince talked about. There's going to be all different types of buyers coming in there. I think maybe a bigger question is what does the County do with those regulations? I kind of feel like we're here going under the County guidelines and all we're asking to do is to be able to use our land in a certain way and we will follow all the existing laws. I really don't think now is the time or the place for us to change those laws. So, I would be hesitant to throw so many conditions on this parcel that it ends up never being utilized.

COUNCILMEMBER KING: Okay. Well, yeah . . . no, just because those conditions were put on the Launiupoko projects so, you know, and they're outside of the actual requirements of the law but they're there because of the close proximity to the ocean. And so, you guys have that same situation. So, you know, that's one of my concerns is that close proximity to the ocean. So, I just wanted to find out if you had made any commitment, but I guess the answer is no, so.

MR. SPENCER: No commitment. We're definitely open to talk about that.

COUNCILMEMBER KING: Okay.

MR. SPENCER: I just . . . I think we've all seen a lot of projects that come before you guys and agree to a lot of conditions and then the projects never move forward.

COUNCILMEMBER KING: Right.

MR. SPENCER: And we're just trying to be careful we don't end up in that same situation here, but we are definitely willing to look at that and if that ends up being deemed a good system by the County and by us, we will encourage the buyers to use that system.

COUNCILMEMBER KING: Okay. All right. Thank you, Chair.

CHAIR PALTIN: Okay. Member Sinenci, a fast one before we start going through the conditions.

VICE-CHAIR SINENCI: Yeah. And it's just kind of piggy-back on Member Sugimura's question about the wells. Are those wells tapping into the same Waikapu Aquifer?

MR. BAGOYO: Yes, it is part of the Waikapu Aquifer.

VICE-CHAIR SINENCI: Because we did have some comments from the . . . I think it was Gladys Baisa about the three million dollar, um, three million gallons a day yield that comes out of the Waikapu Aquifer and because we just went ahead and okayed the Waikapu Town Center Project we wasn't sure how much usage off of the aquifer of this project would entail.

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CHAIR PALTIN: Member Sinenci, did you want to hear from Ms. Blumenstein?

VICE-CHAIR SINENCI: Okay.

CHAIR PALTIN: Okay. Sorry, Ms. Blumenstein, did you need some help carrying things?
Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Thank you, Member Sugimura. Yes, Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: It looks like it will take a couple minutes for
Ms. Blumenstein to join us. Would you mind if I asked a question?

CHAIR PALTIN: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I'm not super clear on what it is that we're
voting on today?

CHAIR PALTIN: We're voting on a change from . . . change in zoning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Zoning and the Community Plan designation?

CHAIR PALTIN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: With the understanding that . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: We're not approving housing right now?

CHAIR PALTIN: Well, so with the understanding that this Change in Zoning and Community
Plan Amendment would allow them to move forward with these other plans because
currently there's no public hearing or appeals process to create an Ag Subdivision, I
believe. If I'm wrong, somebody please stop me from saying wrong stuff.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. So, we would
be voting to amend the zoning and the community plan, which would allow for this
21 parcels to be developed for housing. Would this housing project come back to us at
all or this is it?

CHAIR PALTIN: Anybody is allowed to create an Ag Subdivision without any public hearing or
Council process. It's the change in zoning that we may approve that allows us to put
these conditions of zoning down. If there's no change in zoning, then there's no
conditions. And for land that's designated as Agriculture through I believe a sliding
scale process folks can create an Ag Subdivision and that has no further review from
us. I mean, I know I think that's a concern of the Kihei Community Association but

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currently under the rules that we operate right now there's no public hearing or appeals process if a landowner wants to create an Ag Subdivision. And so, that's what has happened in Launiupoko and other places where Ag Subdivisions are created without public input, and then using the sliding scale. So, for areas such as Launiupoko they developed as much as they could using the sliding scale without any type of public input. Then if they want to further subdivide those large parcels, that's when it comes back to us. So, we're not approving their Ag Subdivision. We're approving the Change in Zoning and the Community Plan Amendment. Once we do that, there's . . . my understanding nothing to stop them from doing an Ag Subdivision because that's what's allowed currently. Mr. Hart, is that kind of true?

MR. HART: That's correct. If the proposed or the requested land use designation changes went through, their next step would be subdivision, which is an administrative process.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification. Mahalo, Member Sinenci, for letting me jump in line real quick.

CHAIR PALTIN: Okay. Ms. Blumenstein all set up. Did you want to have Member Sinenci repeat his question?

MS. BLUMENSTEIN: No, I think I understand . . . Eva Blumenstein, Planning Program Manager for the Department. The concern over proposed use from the Waikapu Aquifer, we brought up this concern in our comments to the Community Plan Amendment because based on cumulative demand from this project, from potable and non-potable demand for this project and the potable demand from the Waikapu Town Project it appears that total demand could exceed sustainable yield from Waikapu Aquifer. So, the aquifer has a sustainable yield of three million gallons a day, so this is not a designated aquifer. Their well construction and permits in place for all those six wells total. So, what it really comes down to, you know, how that pumpage is distributed and managed over time to ensure that it remains below sustainable yield.

VICE-CHAIR SINENCI: So, these three wells have been permitted?

MS. BLUMENSTEIN: Well, the Pohakea 1, 2, and 3 Wells permitted for this project. And then you have the Waikapu Wells that were proposed for the Waikapu Town Project for primarily for potable use and they have supplemental irrigation water that's surface water, right. So, again, if it's pumpage over time depending, in this case, I think irrigation needs. This is a dry area so, you know, if there are small irrigation systems and had crops that are . . . can rely more on ambient rainfall then that might not be a problem but, you know. So, we're just assessing what the demand based on systems standards on what we know. We don't know what specific crops are proposed toward, you know, how much Waikapu Town Project may end up pumping in the end.

VICE-CHAIR SINENCI: And would this be something that the County would be or CWRM would be checking into from time to time?

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MS. BLUMENSTEIN: All private purveyors have to report pumpage to the State Water Commission and copy us. But we have no jurisdiction whatsoever. So, it's CWRM that if there are pumpage that start to getting close to sustainable yield they may step in and designate the area for example. Or at least put an alert on the . . . that they see. If they see changes in chlorides or water levels, so that would be CWRM not us.

VICE-CHAIR SINENCI: Okay. Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. So just, sorry, based off of your questions, Mr. Bagoyo, you were saying the non-potable pumpage requirement would be about 473,000 gallons a day?

MR. BAGOYO: For the irrigation.

CHAIR PALTIN: For the irrigation.

MR. BAGOYO: For the potable is about 12,600 a day.

CHAIR PALTIN: And the total 485,600 will be pumped through the wells.

MR. BAGOYO: Wells 1, 2, and 3, yes.

CHAIR PALTIN: 1, 2, and 3. And then . . .

MR. BAGOYO: Excuse me. On the three wells, one will be a standby system in case one of the wells breaks.

CHAIR PALTIN: So, three will --

MR. BAGOYO: And we still have enough.

CHAIR PALTIN: --be pumped and a fourth is a standby or two will be pumped and a third is the standby?

MR. BAGOYO: Yes. Two will be used and one will be standby according to Mr. Nance.

CHAIR PALTIN: Okay. And then, Ms. Blumenstein, from your presentation in the Water Use and Development Plan the other day is this one of those where it's closer to the shoreline and then if they do get brackish that it's the coning or is it not determined just by the location close to the ocean?

MS. BLUMENSTEIN: We don't have a lot of hydrologic data from Waikapu Aquifer. It is, we did in the one of the newest geological survey studies for groundwater pumpage we did include Waikapu. We don't have those results yet. None of these wells are very close to the shoreline so I'm not familiar with the chloride levels or how, you know, once pumpage starts increasing how that would impact the aquifer. I don't know that.

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CHAIR PALTIN: Okay. Thank you. Are you folks familiar with the chloride levels at this time?

MR. BAGOYO: Yes. Actually, we did a pump test for all those three wells by Mr. Nance. The average chloride NGL ranges from 160 to 180 in the chloride. And, of course, the Safe Drinking Water Act recommended chloride is about 250.

CHAIR PALTIN: And, Ms. Blumenstein, do you think 160 to 180 is okay at this time for the coning situation in your graphic from the other day?

MS. BLUMENSTEIN: I don't want to say whether that is adequate. I mean, that is more a . . . the chloride level is the secondary drinking water standard so it's more in terms of acceptability of how potable water supply should be. So, it's not a known . . .

CHAIR PALTIN: Indicator of how that is.

MS. BLUMENSTEIN: So, what we look at is more the changes over time. Our chlorides going up because you've got more water levels changing.

CHAIR PALTIN: Okay. All right. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. If I could just follow-up on your water questions. I don't know if this would be appropriate for Mr. Bagoyo or Ms. Blumenstein. The Planning Department reports said that was 2004 and 2007 that these wells were last tested. And you mentioned, Mr. Bagoyo, that Mr. Nance just recently I guess tested his report and findings on the chloride was just recent. But as far as the yields was there any recent testing or anything after 2007?

MR. BAGOYO: No. Those are the years - 2004 and 2007 when Mr. Nance did the pump test and those wells haven't been used because there's no development of course. But the test was done, not just the chloride, but also different chemical testing for that system. So, it's again, the chloride was in the range of 160 to 180 based on his pump test.

COUNCILMEMBER MOLINA: Yeah, okay. Yeah, I was just more concerned about the yield. So, the yield is still accurate what you gave us because it was last tested in 2007, yeah.

MR. BAGOYO: Correct.

COUNCILMEMBER MOLINA: So, that's what you folks believe is the current yield.

MR. BAGOYO: That's correct. For example, I think for Well No. 1 the pumping rate, gpm, is 330. For Well No. 2 is 450 gpm and Well No. 3 is 435 gpm.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Madam Chair.

CHAIR PALTIN: Sure. Okay, so I just wanted to give Mr. Bagoyo any opportunity to comment on what Ms. Blumenstein had said about the concern of the over pumping of the Waikapu Aquifer, if you had any comment that you wanted to make --

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MR. BAGOYO: Yeah.

CHAIR PALTIN: -- to that statement?

MR. BAGOYO: I think the 160 to 180 chloride it is something that Mr. Nance have mentioned as to how we could ensure that the chloride will be either be reduced or be maintained. And one of his suggestions on the 12,600 gallons per minute, I mean, per day domestic use is to just install as a system an RO to sweeten it up to make sure that we can maintain a lower chloride.

CHAIR PALTIN: Install a system you said?

MR. BAGOYO: Reverse osmosis. That's one of the suggestions that he have indicated in his report just to make sure that the taste will be . . . would be okay with the homeowner.

CHAIR PALTIN: Ms. Lee?

COUNCILMEMBER LEE: Mr. Bagoyo, so you're saying . . . did you say 12,000 or 21,000 per day?

MR. BAGOYO: The domestic demand is 12,000 . . . a little over 12,000 gallons a day.

COUNCILMEMBER LEE: Twelve thousand. And the non-potable water demand is . . .

MR. BAGOYO: About 473, I believe, yeah, a day.

COUNCILMEMBER LEE: Yeah, 473.

MR. BAGOYO: And that's going to be the . . . it's going to be a dual system. That's what's going to happen.

COUNCILMEMBER LEE: Yeah, a dual system. So, we're talking about out of three million gallons a day so that certainly seems well within, you know, any possible problems. And do you have any idea . . . which . . . are your non-potable source, is your non-potable source one of the wells?

MR. BAGOYO: Oh, yeah. All the three wells would be non-potable source. But . . .

COUNCILMEMBER LEE: Oh, where you getting your water? Where you getting your potable source from?

MR. BAGOYO: It's going to be the same well but we're going to have another system, another line that will . . . we plan to put in an RO, a reverse osmosis for the 12,600 because it's a very small quantity of potable demand.

COUNCILMEMBER LEE: Yeah, I know it's a small quantity. It's only 21 lots, right?

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MR. BAGOYO: Yeah.

COUNCILMEMBER LEE: Twenty-one homes. Okay. All right. Thank you. By the way, since I have you, do you have any comments on any of the seven Conditions of Zoning that the Chair provided?

MR. BAGOYO: I did discuss this with my client and my client doesn't have any objections to those conditions with the exception of No. 7.

COUNCILMEMBER LEE: Okay.

MR. BAGOYO: We just want to make sure that we have some kind of a timeline for that first right of refusal. Ninety days would probably, I think, be okay with the client. We just want to make sure that it's not an open-ended kind of . . .

CHAIR PALTIN: Like you're waiting around for us.

COUNCILMEMBER LEE: Yeah. Well, that sounds reasonable. I think the Members will consider that. Thank you.

MR. BAGOYO: Thank you so much.

CHAIR PALTIN: Okay. And I think the concern from Ms. Blumenstein wasn't that 485,600 is above the sustainable yield. It's that we just approved Waikapu Country Town, which has three wells that is going to be pumping out and the sustainable yield of the whole aquifer has to . . . is intended to provide service to both of these projects. Is that what the concern was? Yeah. And did Mr. Bagoyo address the concern with his answer?

MS. BLUMENSTEIN: No, I think Mr. Bagoyo was talking about the chlorides and how to mitigate the taste within the system.

CHAIR PALTIN: Okay. Mr. Bagoyo, did you want to address the concern that with the water needed for the Waikapu Country Town that this body approved and the sustainable yield of the Waikapu Aquifer being three million gallons a day the concern that this might . . . adding on this Ag Subdivision with this water need might be over the sustainable yield. Did you want to address that?

MR. BAGOYO: I believe the Water Resources consultant for both projects, Mr. Nance --

CHAIR PALTIN: Same guy.

MR. BAGOYO: --yeah, and so I think that if I'm not mistaken, I may be wrong, but they have looked at, Mr. Nance looked at those demands for both the Maalaea and also the Waikapu Town Project. And I think the Waikapu Town Project they're also going to be using surface water for the irrigation, if I'm not mistaken.

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CHAIR PALTIN: Yeah. At one point, I do recall the Waikapu Country Town saying . . . I don't know if it was on the record or in a meeting I had with them that they had pledged 500,000 gallons to you folks. Has there any been . . . been any discussion 'cause I don't know if it was with Jesse Spencer that passed away or Doug Spencer? Have you recently had any discussion with Atherton about him pledging 500,000 to the Spencer family?

MR. BAGOYO: I have not been contacted by them in terms of that pledge. I don't know if . . .

CHAIR PALTIN: So it might have been with either Jesse or Doug that he --

MR. BAGOYO: Could be.

CHAIR PALTIN: -- talked to. Okay. Alright. Yes, Ms. Lee?

COUNCILMEMBER LEE: So, since we're talking about the Atherton project, you know, the Atherton project is not going to be developed in one year or two years or three years. It's a phased project probably over 10-15, possibly longer. So, . . . and, hopefully, within that time, Eva, the Water Department will have developed new sources. So, you know, I feel very confident that there's sufficient water for this project and the Atherton project over time. Thank you.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. You got us so invigorated with the topic of water here I just wanted to follow up, especially from Member Lee.

CHAIR PALTIN: All things find life through water.

COUNCILMEMBER MOLINA: Yeah. I'm looking at Page 16, Members, of the Planning Department's Report. It's on your Granicus. And it states, if the projected demand (I presume for water) outpaces the estimated source availability, it is highly likely that the Water Department will give approval on a building permit or permits. Help me understand I guess maybe, Ms. Blumenstein or Director Hart [sic], so if there is no water for the project, as I read this statement, the Water Department will still approve the project. Is that correct? So, even if the demand exceeds the availability of water, unlikely, you know, but if it does exceed the Water Department will still issue a building permit?

MR. HART: I believe that would have been a typo. If the demand is exceeded, then you know there wouldn't be, but . . .

VICE-CHAIR SINENCI: Unlikely?

COUNCILMEMBER MOLINA: Yeah.

COUNCILMEMBER LEE: Jordan, can you turn your mike on?

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CHAIR PALTIN: He's not answering. He's conferring with the Department of Water Supply.

COUNCILMEMBER MOLINA: Madam Chair, while they're conferring that I just wanted to get clarity on that statement in there on that Page 16. I mean, it sounds like it's highly unlikely that there will be from what . . . based on discussions there will be sufficient water even with the Atherton project but I just wanted clarity on this statement 'cause it just sounds like that if a demand exceeds the availability, the Water Department will still issue a building permit. So, I just wanted to get some clarification.

MR. HART: Quick clarification, Chair. So, what I was conferring with the Department of Water Supply about was the mechanics of building permit review in the context of a private system. So, based on the discussion, the Department would . . . of Water Supply would address the availability of water through the subdivision process for a private system and then would not be reviewing building permits for projects that are on a private system.

COUNCILMEMBER MOLINA: Oh, okay. All right. Thank you for that clarification. Thank you, Madam Chair.

CHAIR PALTIN: Okay. So, did we still want to go through the Conditions of Zoning one by one . . . this body?

UNIDENTIFIED SPEAKER: Sure.

CHAIR PALTIN: Okay. Okay, so No. 1, I believe that kind of came out of the Planning Commission. Okay. You want me to read it? Okay. So, No. 1, MVI, LLC and any future owner or lessee must not operate Short-Term Rental Homes, Bed and Breakfast Homes, or any other transient accommodations on the property.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus? All right. Member Sinenci?

VICE-CHAIR SINENCI: Sorry. Will you be taking questions after each one?

CHAIR PALTIN: If there's questions, yeah, sure.

VICE-CHAIR SINENCI: I was just going to ask 'em, I know they mentioned that it was . . . they're not going to subdivide any further, but for the Planning can they also condominiumize any further the properties?

CHAIR PALTIN: Director . . . Deputy Director?

MR. HART: Chair, at this time, yes, condominiumization in the Ag District is . . . can be done. It's not a County process but it can be done at this time.

CHAIR PALTIN: Okay. Did you wanna, yeah, CPRs are allowable.

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MR. HART: Chair, if I could add?

CHAIR PALTIN: Yes.

MR. HART: That doesn't change at all the permitted uses or the limitations on development. CPR is a form of ownership but it doesn't allow them to develop any further, if that's helpful context, which would . . . what I mean by that is that their limitation of two farm dwellings per parcel would remain regardless of whether or not there is any CPRs on any parcels.

CHAIR PALTIN: Did you want to amend that condition?

VICE-CHAIR SINENCI: To include that there's no further condominiumization or no CPRs?

CHAIR PALTIN: Is that what you want to do?

VICE-CHAIR SINENCI: Yeah.

CHAIR PALTIN: Okay. Members, there's been a friendly amendment that there be no future CPRs. Did we want to thumbs up that, thumbs down it, or discuss it?

COUNCILMEMBER LEE: Ask them.

CHAIR PALTIN: Okay. Mr. Bagoyo, how do you feel about that?

MR. BAGOYO: Would it be appropriate more on Condition No. 6?

CHAIR PALTIN: You want to put that under Condition No. 6 rather than No. 2?

MR. BAGOYO: And that's fine.

CHAIR PALTIN: I mean, one. Okay.

MR. BAGOYO: Yeah.

CHAIR PALTIN: All right. Thank you for that.

MR. BAGOYO: Thank you, Councilmember.

CHAIR PALTIN: Condition No. 1 as it reads, is there consensus on that?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Yes, okay. No. 2, MVI, LLC and any future owner or lessee must construct and maintain firebreaks on all perimeter property boundaries as approved by the

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Maui Fire Department. And I believe this one also came from the Planning Commission. Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to point out on Granicus or on the packet of information on Page 24 is the Conditions of Zoning that came from the Planning Commission and so from 1 through 5 it's basically from the Planning Commission and that our Chair just added 6 and 7. That's all. Mahalo, Chair.

CHAIR PALTIN: So, do we have consensus on No. 2?

COUNCILMEMBERS: Yes.

CHAIR PALTIN: Consensus. Okay. And for No. 3, during our break I had a short discussion with Deputy Director Mr. Hart, and they have had different wording that they had submitted and I just kind of slipped through my purview. So, at this time, we'll be distributing the Planning Department's recommendation and I'll have Deputy Director Hart explain what their recommendation is.

MR. HART: Thank you, Chair. As I noted in our opening statements, you know, this issue is a really important issue. The Lahaina-Pali Trail is State land. It's un-subdivided State land. It runs through the parcel, but this is a State-owned trail. And the DLNR Department of Forestry made a comment into the application on February 20 . . . oh, sorry, February 28, 2018, this is in your County Communication 19-347, it's Page 82. But anyway, they explained that this is State land and they need to have, you know, assurances that the public will remain, continue to have access. We've had several meetings with DLNR over this subject and I was mentioning the overall issue of us meeting to map these so that we can proactively address these so that they were not addressing it as a floor change similar to what's going on here today. But nevertheless, we met with DLNR several times to address this issue. We came up with language that they're supportive of and it was in the same County Communication. It was on Page 188 and there's an Exhibit 16, which is the description of the language which I believe Staff just handed out. Page 190 is also a diagram showing the proposal. But we're asking for essentially two conditions. The first one is to ensure the preservation of the Pali Trail, pedestrian access with easement for vehicle access for service purposes or parking on State property mauka of the project site. And then the second condition that we're asking for is a pedestrian-bike access from the subdivision roadway towards the highway just basically to . . . in order to connect those subdivided lots down to the nearest commercial area where services and recreation at the harbor can be accessed. The first item we're asking for the Pali Trail we think is extremely critical and has to be included. The second item that we're asking for we think is good land use planning and should be included. Thank you.

CHAIR PALTIN: And at this time, I'd like to give the landowner's representative time to comment on what the Deputy Director had explained and handed out.

MR. BAGOYO: Yeah, we just received these conditions and the applicant reviewed it and with no objection at all.

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CHAIR PALTIN: Okay. So, Members, Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, in the packet that we received I see that we did get a response from DLNR but that's what it looks like, it's like tiny. We can't read it. So, there's like two pages on the one page and it's portrait orientation. It's not like landscaped where the words could be read, but can we get this so that I can read it?

CHAIR PALTIN: Deputy Director Hart, would you like to respond to Member Rawlins-Fernandez?

MR. HART: Thank you, Chair. I believe in the PDF it's full page.

COUNCILMEMBER RAWLINS-FERNANDEZ: No, it's not.

MR. HART: Do you have Page 82?

CHAIR PALTIN: And there was a request if you can speak a little bit louder.

MR. HART: Yes, PDF Page 82 of County Communication 19-347 is the letter from the DLNR Department of Forestry, dated February 28, 2018. I was just reviewing the PDF. I also have it printed to a, you know, four to one page but on my phone and the PDF it's a full-page sheet. But essentially what it says is that the State owns this land in fee. This is a State, County . . . this is a State trail established . . . the ownership is established by HRS 264-1 and basically saying that they must have this access, or the public must have this access. Suffice to say the applicant has reviewed the language prepared by the Planning Department and, you know, in agreement with the Department of Forestry and they've agreed to add that to the project where I think it's really important and I thank them for doing that.

CHAIR PALTIN: So, we can have the necessary exhibits attached to this condition as we add it in, in replace of the No. 3 that I originally had before first reading if that would suffice to parties concerned, if that's okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, that's fine. So, the pages that I was talking about that I can't read is Pages 79 and 80, Exhibit 5-A. That's the thing, we can't read it. Not Page 82. I don't have an issue with what you stated, Chair.

CHAIR PALTIN: It is kind of difficult to read. The letter from Melanie Chinen, Administrator, is that the one?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MR. HART: Chair, okay, I apologize for that, Chair. Those would have been older letters, I believe, from SHPD and there's a more current letter that added on to or added the most recent comment to those subjects.

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COUNCILMEMBER RAWLINS-FERNANDEZ: I just don't understand the point of putting this on in the packet if you're not going to make it so that we can read it. Put it in there so that we can read it or don't put it in there at all. I don't know, you just can't read it.

MR. HART: Thank you, Chair.

CHAIR PALTIN: Okay. So, for future reference. Chair King, did you have a comment on the revised No. 3?

COUNCILMEMBER KING: Yeah, I didn't know if, I mean, this sheet that we got from the Planning Department where they've got 1 and 2 are those supposed to be under your No. 3 or . . .

CHAIR PALTIN: Replacing my No. 3.

COUNCILMEMBER KING: Okay. So, the portion that says No. 2, the bicycle-pedestrian access, what is considered to be the closest commercial? It says, you want a safe bicycle-pedestrian access from the proposed subdivision to the nearby commercial areas. So, what would that be? Is that Maalaea? Is that across the road?

MR. HART: Yeah, and if I could, basically I believe it's Lots 21 and 22 that I've referenced . . . 20 and 21. And so, if you look at the subdivision plan there's a cul-de-sac on the southern end.

COUNCILMEMBER KING: Oh, the one that. . . the cul-de-sac in Lot 21?

MR. HART: Yeah. And so, there's a lot line that heads east or makai right off of that cul-de-sac and what we're requesting basically is, is a route that goes down to the highway for residents to access, you know, pedestrian and bicycle access to their nearest, you know, commercial services there.

COUNCILMEMBER KING: Okay. So, you're going to . . . then you're going to put what a crosswalk across the highway or something, some way to get across there? Because the commercial is on the opposite side of the highway.

MR. HART: That's proposed as Item B.

COUNCILMEMBER KING: Okay. And is that something that the developer is being asked to do?

MR. HART: Yeah, that's what's being requested.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR PALTIN: Okay. Members, consensus on the revised No. 3 from the Planning Department?

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COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Okay. Okay, No. 4, MVI, LLC and any future owner or lessee must coordinate with the State Department of Transportation and Maui Department of Planning to ensure that a multimodal transportation corridor is provided along the project's Honoapiilani Highway frontage and approved by the Department of Planning. MVI, LLC and any future owner or lessee must dedicate any additional land that may be required for the corridor at no cost to the State of Hawaii or the County of Maui. Any questions on this item? Consensus?

COUNCILMEMBER KING: Do we have any comments from Department of Transportation on this item?

CHAIR PALTIN: I've been trying to get in touch with Department of Transportation yesterday and today and I haven't been able to. I believe this is Planning Commission condition in some form. So, not at this time, no comments from the County Department of Transportation.

COUNCILMEMBER KING: We have somebody from the Planning Commission. Maybe we could ask if they had interaction with the State Department of Transportation? Mr. Fasi?

CHAIR PALTIN: Mr. Fasi, did you have any comment?

MR. FASI: I'm sorry, could you repeat that question?

COUNCILMEMBER KING: Well, your Condition No. 4 originally came from the Planning Commission? Is that correct?

MR. FASI: Correct.

COUNCILMEMBER KING: Okay. So, you made a statement that the owner or any future owner must coordinate with State Department of Transportation and Maui Department of Planning to ensure that a multimodal transportation corridor is provided. So, I just wondered if we had any input from the State DOT on that if they're willing to work with the developer and the County of Maui on this?

MR. FASI: Yes, they are.

COUNCILMEMBER KING: Okay. So, do you have a statement from them?

MR. FASI: No, I don't. I have the State Department's letter, which is Exhibit 4, and they have some recommendations here that the applicant must review and sit down with them and go over some of the State Department, DOT requirements. And this is something that the applicant has agreed to do so they will be conferring with each other.

COUNCILMEMBER KING: Okay. So, do we need to make a reference to Exhibit 4 then?

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MR. FASI: I'm sorry. It's Exhibit 4 of the Department's Report. This is a March 13, 2018 letter from State DOT.

COUNCILMEMBER KING: Right. So, do we need to, in the conditions, do we need to make a reference to Exhibit 4, to the requirements in Exhibit 4, if the DOT is putting requirements on?

MR. FASI: That's your prerogative.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Deputy Director Hart?

MR. HART: Again, Councilmember, thank you. I do think that Item No. 1 of their comments on their March 13, 2018 letter is relevant to what you're saying. I think that . . . had a short conversation with the project's civil engineer during the break but I think that that could use a little bit more detail.

COUNCILMEMBER KING: Okay, so maybe we can work on that.

CHAIR PALTIN: Work on No. 4. And then for clarification, was it the understanding of the landowner that the developers would be providing the corridor or . . .

MR. BAGYOYO: Just the land.

CHAIR PALTIN: Just the land?

MR. BAGYOYO: Just the land, yes.

CHAIR PALTIN: And then so it would be the State DOT that would be providing the corridor or we haven't gotten that far yet?

MR. BAGYOYO: Or it would probably be the DOT to put in the highway.

CHAIR PALTIN: The State DOT?

MR. BAGYOYO: Yeah.

CHAIR PALTIN: Okay. So, Chair King, did you want to propose amendments to include Exhibit 4 to Condition 4?

COUNCILMEMBER KING: Right. The request or the . . . if there's any request in Exhibit 4. I haven't read through the whole thing. Some of it is statements they're making, the Department of Transportation, some of it is and so . . . you know, I think it's incumbent upon the developer to, if they're going to be putting in the access to commercial, which is bicycle and pedestrian and the whole thing needs to fit together, I guess is the point.

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Because the corridor, the transportation corridor involves multimodal forms of transportation and so I'm just not clear on what the DOT is asking the developer to do or the County to do versus what we've just ascertained in Condition 3, which is that the developer is going to be putting in bicycle and pedestrian access.

CHAIR PALTIN: I think the main request of the landowner and developer is the request for the land fronting the highway so that at the time when we're either the State or whoever, government entities ready to move forward with the corridor they don't need to work on acquiring the land, which is my understanding.

COUNCILMEMBER KING: Well, they've got a nine-point letter here, so I just haven't had a chance to read through it all, but it appears to be going beyond just acquiring the land but I'm not sure. So, I'm just not . . .

CHAIR PALTIN: So, it's a 100-foot width of land and the landowner is under the impression that they're just going to give the land and work with the State DOT to develop it into an actual corridor.

COUNCILMEMBER KING: Okay. No. 2 says, the storage lane at the Honoapiilani Highway project access (Northbound left-turn) should have adequate length to ensure the thru movements will not be affected. So, I guess that's a requirement of the developer? This is in the DOT letter. So, I don't know which of these is going to be the cost to the County versus the cost to the developer. But there's . . . the statements in here include if it has not been already done so, the signalization intersections should be interconnected. The speed limit, it talks about the speed limit which is on their highway so I'm assuming they would do that. So, I guess that's what I would suggest is that it would make reference to this letter but it's still not clear in the letter which parts of their concerns are going to be satisfied by the County versus the developer. So, maybe Mr. Hart, if you've read this letter and Mr. Bagoyo has a response.

MR. HART: Yeah, sure, I have. That was the nature of my conversation with the project's engineer was, you know, has DOT weighed in, in writing, on the proposed right-of-way that's shown abutting the highway was my number one question. And my number two question was, why didn't they extend all the way to the southern end of the project frontage? So, anyway, if the applicant wants to respond to that, I do think that that's relevant. I do think that there can be some sort of catchall statement that's put in there that addresses that. Similar to the statement made by DOT, Item No. 1 in their March 13, 2018 letter, but if the applicant has further detail to add there it would be helpful but definitely short of having DOT saying something current to the Council or in writing, you know, here today, I think that we need to put something in there.

COUNCILMEMBER KING: Okay. You want to comment, Mr. Bagoyo?

MR. BAGOYO: Yeah. The State DOT reviewed the Traffic Impact Analysis Report, the TIAR, and in that TIAR there's several improvements that the developer will have to do. And just to give you an example, one of the recommended improvements would be to modify the existing Honoapiilani Highway-North Kihei signal intersection to provide the new

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east bound lane for the project site. And then there's going to be a change from existing three-legged intersections to four-legged intersections. Secondly, there's going to be a new north bound left turn lane for access into the project site. And then there's going to be a new south bound right turn lane for access into the project site. And then finally, there's going to be a new east bound leg for the exit out of the project site. So, there's several improvements that will be related to the project that the applicant will have to comply with as part of their HDOT review of our TIAR.

COUNCILMEMBER KING: Okay. So, and then, if you look at the letter dated March 13th the DOT's concerns . . . it doesn't, it addresses the concerns, but it doesn't say who's responsible for, for fixing them. One of them is No. 6 – no access permitted along the entire front . . . frontage. Their lots doesn't include retention basins and drainage should be restricted to only have access from the developer's internal road. So, that is clearly on the applicant, but then there's a . . . the next one says, access driveway connections including auxiliary lanes shall follow Federal and State/AASHTO is that on the applicant as well? Do you have to get those approved by HDOT?

MR. BAGYOYO: That's correct.

COUNCILMEMBER KING: Okay. And then it talks about a drainage study . . . it's requiring a drainage study for retention basins should be submitted for review and acceptance to the Maui District Engineer. So that's on . . .

MR. BAGYOYO: Yeah, that's part of the Subdivision review in terms of condition of the drainage.

COUNCILMEMBER KING: Okay. And then vehicular activity on the site shall be monitored to prevent debris from being tracked onto State highways. So, that's on the applicant? Are all these conditions in this letter on the applicant then?

MR. BAGYOYO: I believe so, yes.

COUNCILMEMBER KING: Okay. So, we can put reference to this letter as far as applicant obligations then?

CHAIR PALTIN: Chair King, would this addition on to No. 4 satisfy your points that MVI, LLC shall dedicate land and construct improvements to the satisfaction of the State Department of Transportation, would that amendment for . . .

COUNCILMEMBER KING: Yeah, or address concerns in Exhibit 4 with Mr. Hart.

MR. HART: Chair, I think that that's a good start. I just would like you to add the Department of Trans . . . County of Maui Department of Public Works.

CHAIR PALTIN: And the County of Maui Department of Public Works.

MR. HART: Yeah.

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MR. BAGOYO: I just wanted to get some clarification, Madam Chair. The . . . your proposed Condition No. 4, --

CHAIR PALTIN: Yes.

MR. BAGOYO: --we have no objections, but if I heard you correctly that we're going to be responsible . . . that the applicant will be responsible to make improvements on the highway. We're only going to make improvements based on the impact of our project. That's already laid out in the Traffic Impact Analysis Report.

CHAIR PALTIN: So, construct improvements laid out in the Traffic Improvement Analysis Report [*sic*] to the satisfaction of the State Department of Transportation and County of Maui Department of Public Works?

MR. BAGOYO: Yeah.

MR. HART: Chair?

CHAIR PALTIN: Yeah.

MR. HART: Prior to final subdivision approval.

CHAIR PALTIN: Prior to final subdivision approval.

MR. BAGOYO: That would be appropriate, yes.

COUNCILMEMBER KING: Okay. So, I'm not . . . I'm not clear because I'm not sure what you're restricting your improvements to because earlier we just talked about the bikeway-pedestrian walk . . . access so is that considered, I mean, we don't know what you consider direct impacts so I guess we need to get clear, make a clear . . . maybe a clear statement that that's the developer's or the applicant's expense? Or are you saying it's not?

CHAIR PALTIN: Mr. Hart and then Mr. Spencer.

MR. HART: Chair, if I could just address the trail – bike and trail comments that were made earlier? I think that those are stand alone. Those are basically off, you know, essentially off road with the exception of the first condition which includes roadway access to the Pali Trail parking area that may be mauka of the project site. The condition that's being discussed right now is relating to roadway and traffic improvements. And, you know, again, short of having the Department of Transportation weigh in and provide some sort of direction in writing or in person, you know, at this time, the proposed catchall condition are basically established in concurrence of the Department of Transportation and the Department of Public Works for roadway improvements is, you know, can be sufficient to accommodate.

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COUNCILMEMBER KING: Well, maybe per Exhibit 4, which is attached in the packet because those are very specific concerns. And whether we get the same, you know, we have a new DOT Director with . . . who doesn't know what these conditions are may say, yeah, everything's fine with me. I mean, we just went through this with the school crossing where the Land Use Commission made requirements, the DOT let the Department of Education off the hook, and then they thought they didn't have to build an underpass or an overpass. So that's why I think it's really clear, it's really important to be very clear whose expense this is and what's required because a couple years will go by and then somebody will say, well, that wasn't the intent of it. And I don't want to deal with that same issue when it comes to, you know, bicycle-pedestrian safety and these concerns that are in the DOT letter.

MR. HART: Chair, if I might. The only concern I wanted to express about the diagram that is being shown is, again, you know just the question of why their right-of-way wasn't extended to the southern extent of the project area, and you know, if there's a response for that by DOT that's great. But, you know, short of that, that would be my only concern with both.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Point of information. You know we have I think Planning is waiting in the back to present the third item. Are you going to go pass noon?

CHAIR PALTIN: No, I'm sorry.

COUNCILMEMBER SUGIMURA: You can excuse them maybe.

CHAIR PALTIN: It doesn't look like we're going to get to Item No. 3. I'm very sorry.

COUNCILMEMBER SUGIMURA: Yeah, should have excused them maybe.

CHAIR PALTIN: If you guys want to go to lunch. I'm going to defer the third item.

COUNCILMEMBER SUGIMURA: That's what I thought.

CHAIR PALTIN: Ms. Mayden and . . . I'm sorry.

UNIDENTIFIED SPEAKER: Not a problem.

CHAIR PALTIN: It took longer than I thought it would. Okay. Thank you, Ms. Sugimura. Would it be . . . would this suffice that MVI, LLC shall dedicate land and construct improvements as laid out in the TIAR to the satisfaction of the State Department of Transportation and County of Maui Department of Public Works prior to final subdivision approval including those described in Exhibit 4.

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COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Yes, Mr. Hopper?

MR. HOPPER: I just want to confirm. This letter is from 2018. I would, if you're going to . . . could be more specific then to the satisfaction of DOT based on whatever TIAR they approve, then I think it would be worth it maybe to confirm with DOT that all of these are still improvements that are required as part of the project. Because if they're going to actually attach a letter and say you're going to do all of these things, if they don't do those things then they're in potential breach of a condition and would have to come back to the Council for approval. So, I think that should maybe be confirmed that all of these items are things that are going to be required to be done. I don't know if it was what plans they were based on or if they're still okay with that. I know TIARs oftentimes get updated and discussed up until final subdivision approval but maybe all of these are conditions they still want but that was just a concern because if you put that in as a condition that all these have to be done and it's outdated or anything like that, then the applicant would have to come back for an amendment if they're not done.

CHAIR PALTIN: Mr. Hopper, is that something that we could confirm with the Department of Transportation prior to first reading or is that something that needs to be done in Committee?

MR. HOPPER: I mean, you've got Council Rules on, you know, Committee work and other work and I think you've got some discretion on that. I mean, I think getting your conditions to the point where they're ready to go in Committee is useful. I'm not opposed obviously to being specific as to the improvements required but I would just have that verified. If you want to do it at first reading, I don't think there's a specific legal reason you couldn't, but I don't know if you're prepared to pass this out of Committee otherwise anyway so that can be another issue. But I think that's up to the body in the end, but I know you generally don't like to do lots of work on the full Council floor.

CHAIR PALTIN: Thank you. Mr. Fasi, did you want to weigh in on that?

MR. FASI: Yes, thank you, Chair. Two points of clarification. One, this March 13th letter is the State DOT's comments only. They're not requirements. If the State DOT comes to the Planning Department with specifics and they want things to be specifically addressed, they'll make it a requirement and it's so noted. These are comments only and what we seem to be doing today is turning these comments into requirements, which is not such a bad thing.

COUNCILMEMBER KING: Right.

MR. FASI: But the intent of the State DOT letter was to ensure that the multimodal corridor is available to them. When I spoke to the Traffic Engineer from the State DOT two weeks ago, somewhat two and a half weeks ago, they purposely kept that kind of vague because they're not sure what they want to do yet on that frontage. But they wanted to ensure that the property is available.

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COUNCILMEMBER KING: Okay.

MR. FASI: That's their main concern with this letter.

COUNCILMEMBER KING: No, I understand that, Mr. Fasi. That's why I was saying, that's exactly what I was trying to do is get them to be more specific because these are concerns and all we're saying in our conditions is, you know, you have to talk to the DOT and the County of Maui. It doesn't say what has to be done about it but these concerns in this letter are pretty specific. And they may be like Mr. Hopper says, they may be outdated because it does refer to the TIAR of 2015. But my understanding was that's the last TIAR that was done. Have we done any more recent ones?

MR. FASI: Not that I'm aware of.

MR. HART: Chair?

CHAIR PALTIN: Deputy Director?

MR. HART: That's the purpose of, you know, the language to the satisfaction of DOT and Public Works because basically, you know, if the applicant presents a series of improvements to DOT or Public Works, you know based on a 2015 Traffic Study and DOT or Public Works says that this study is stale and we need you to update it before we can even conclude whether or not we accept that.

COUNCILMEMBER KING: Okay.

MR. HART: You know that could be a comment right there.

COUNCILMEMBER KING: So, we probably do need an updated comments from DOT.

MR. HART: And one other thing I will add and this is anecdotal but it's been my experience that DOT tends to try to wait until the very end to decide on their improvements just because in the past they may have agreed on something and then time has passed and then they've set their agreement but their needs change, and so, you know, giving them the opportunity to come in before final subdivision I think is their chance most in close proximity to the actual activity taking place to establish what they need.

COUNCILMEMBER KING: Okay. Well, I appreciate that but I also think that there's some things that need to be clarified beforehand and adhered to because you know like I said we've been seeing the State DOT come in at the last minute and tell the, for some reason, was interpreted by the Department of Education that they didn't need an overpass or underpass across the, you know, the Piilani Highway. And that was something they based on something that the DOT said which, you know, the Land Use Commission, you know, verified that didn't let them off the hook. But if we don't clarify it at this point, then we have those issues further down the road where the community is going no, you said you were going to do this and they say, well, you know, we don't have to

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now because it was something some agency said. So, I'm not really prepared to pass it out without getting clarification on exactly what the conditions are. You know, we've spent a lot more time on conditions on affordable housing, which is our top priority, and this has no affordable housing component on it so this should be, you know, scrutinized even more, I think. Thank you, Chair.

CHAIR PALTIN: Mr. Spencer, did you want to comment?

MR. SPENCER: Yeah, I just wanted to try to maybe clear up. And I do appreciate your concerns, Councilwoman King. Actually, I live right at the intersection of the Kihei High School. Well, I just want to, from my perspective, is we have site specific requirements that the DOT wants to make sure we do the turn lanes and all that. The corridor was something we were approached and asked if we would consider just making that land available to them. And that's what we have agreed to do. And they are years, if not decades away from figuring out what they're going to do with that. So, I don't know how they would be any more specific. And in regards to the March 18th, the time frame that's passed, we've been out of Planning Commission for a year waiting to be here and so if there is any reason for that delay, I mean, or that timeframe, it was out of our control. And I don't think anything has changed with the State. And one more . . . and I'm willing to get my perspective corrected here. My understanding is we're here just to get the zoning, the Community Plan changed to Ag. If we didn't have a conceptual plan right now for this subdivision, you wouldn't even be seeing it. And so, I feel like we're maybe getting a little bit off track and I'd love to hear --

COUNCILMEMBER KING: Well, . . .

MR. SPENCER: --from the Council and Planning if they agree with that. But we're here just to say is this land Ag or is it something else?

COUNCILMEMBER KING: Well, no, I understand that. But if we say that, then this subdivision goes forward. We have no control over it. So, this is really important . . .

MR. SPENCER: You don't normally have . . . you don't normally have control.

COUNCILMEMBER KING: Well, that's why it's really important that we know what we're approving.

MR. SPENCER: And, again, I'd like to hear from Corp. Counsel and from Planning, subdivision plans on an Ag Subdivision are an administrative function.

COUNCILMEMBER KING: Well, yeah, in the end actually that means . . .

MR. SPENCER: And, again, if we're changing the law, I don't think this is the place to do it. I'm not against it if we need to change that. But we've been given a certain set of requirements we follow them, we have been shut down numerous times, and now we're coming just saying the County should have already changed the community plan. But

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now we're the ones that had to bear the cost and the time to do it and all we're asking is for the Community Plan to be changed to Ag.

COUNCILMEMBER KING: Okay. But Mr. Spencer, that's not a small ask. Any changes in the Community Plan that don't go through the community and our community stretches from Makena all the way to Maalaea. I don't think all those communities have had a chance to express. We've only heard from Maalaea and Kihei Community Association. It's not that easy of a thing for us to say we're just going to change the community plan. You're right, we are way overdue. You know, this should have been done ten years ago the review of the Kihei Community Plan, the South Maui one. We can't speak to that now. I don't know why that wasn't, that review wasn't done a long time ago. I've been trying to effect quicker changes to the review, you know, quicker reviews and we've got some money into . . . to bring in a consultant to try to help us with the remaining community plans and doing them simultaneously. But the bottom line is, if we make these approvals, we're approving that subdivision we have no control over it. The community looks to us to make sure that if we're going to approve something like that, it's going to be beneficial to the community. And they have not, you know, we haven't had a public hearing but there is a proposed legislation for Ag Subdivisions to put that in the purview so, you know, the community has a chance to comment on it. It was . . . I don't know how many years old it was, it made it all the way through the Council but never got a second hearing. So, you know, that's on the agenda for Friday in fact to put that back on the boards because what I'm hearing and I think my colleagues are hearing from the community that why is it that these Ag Subdivisions go through without us being able to comment on them. So, that's what we're here doing. We're trying to be responsible to our communities on, you know, on making . . . we're not just going to make a change that we know is going to result in a subdivision without asking these questions. So, I understand you're seeing it as disjointed, but it really isn't because the result is going to be the same. So, you know, it would be the same way that we were talking about the subdivision only or we're talking about the zoning change 'cause once we do Ag zoning changes it's out of our hands.

MR. SPENCER: I understand your concern. I would be interested to hear what your Counsel has to say on this 'cause it's tough as a private landowner when you're given laws that you have to follow and you're following them and now what feels like added responsibilities are put on. So, I'd be interested to hear what the legal . . . and I not only get legal, I'm not the attorney in the family.

COUNCILMEMBER KING: Right.

MR. SPENCER: I operate completely differently. But I guess the other thought I've had too, and this is for discussion is if you're thinking of saying no to changing us to Ag, then my logic mind you're saying yes to something. So, if it's not Ag, what is our land? And that would be something I would just have you maybe go back and think about.

COUNCILMEMBER KING: Right.

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MR. SPENCER: I mean, if it's housing, I mean, tell us I'm getting . . . I'm the second to the youngest in my family and I'm not getting any younger. But . . .

COUNCILMEMBER KING: Right. No, I understand what you're saying and there is, you know, there were a lot of people in the community who would just like to see this left as Open Space and, you know, I know that's not what you thought you signed up for when you bought the property so that's what we have to weigh, you know. What is this Ag Subdivision mean? What is it bringing to the community? Are you under the impression that you would, as the applicant, develop this bikeway-pedestrian area and what's in this condition, which is pedestrian crosswalk across the highway and all those things?

MR. SPENCER: That is not my understanding, and this is a new condition. I think that part of it just came out. I would be terrified to commit to that without knowing where it's going, how safe it is, how they're even planning on doing it.

COUNCILMEMBER KING: Okay.

MR. SPENCER: Our commitment was to provide access for the corridor and then provide access for the trail.

COUNCILMEMBER KING: Okay. So, we have a, we have a . . .

MR. SPENCER: Beyond that I think that's a State function.

COUNCILMEMBER KING: Yeah. So, we're kind of far apart on that because I just asked the question earlier is that on the applicant and I was told yes. And when these, when these . . . when this new condition came out, was handed to us we asked Mr. Bagoyo is the applicant okay with it and he said, yes, but now I'm understanding that you haven't really had a chance to look at it.

MR. SPENCER: Well, I was shown a map of internal location of a 24-foot wide trail that would go between some lots, and that I did tell Deputy Hart that we would be agreeable to. As far as crossing . . . committing the crossing of Honoapiilani Highway with some kind of pedestrian path that was not at our intersection I don't see how I could agree with that.

COUNCILMEMBER KING: So, the condition says that in order to provide safe bicycle/pedestrian access from the proposed subdivision to the nearby commercial areas the following shall be provided prior to the final subdivision approval: a) that a 10-foot wide bikeway/pedestrian lot be added with an improved paved asphalt multi-use pathway starting at the end of the roadway lot between Lot No. 20 and No. 21 and ending at the Honoapiilani Highway-Kapoli Street intersection; and b) that a pedestrian crosswalk across Honoapiilani Highway be added at the Honoapiilani Highway-Kapoli Street intersection. So, that's what you would be committing to.

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CHAIR PALTIN: Okay, Members, just a temperature check. It's past 12 o'clock and we've made it roughly halfway through the conditions. What is the will of the body – we can continue on. I know some folks . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Move to defer.

CHAIR PALTIN: Okay. We have one request to defer. Is that the feeling of Members?

COUNCILMEMBER KING: I think we should defer because I think we have a lot of discussion. I also think that the applicant needs to read through some of the new conditions and give us a possible revised commitment or non-commitment to that.

MR. SPENCER: If I could clear that one up. Yeah, the pedestrian crosswalk, yes, we are agreeable to. I think there was maybe a little confusion in my mind that that location was changing.

MR. HART: Department was envisioning an existing intersection.

MR. SPENCER: Okay. I'm okay. I'm sorry, I misunderstood. I thought we were changing the location of that, which put concern on me. So, no, I am okay with that condition, Councilwoman King.

COUNCILMEMBER KING: Okay, okay.

CHAIR PALTIN: Okay. So, the next . . . if we do defer today, the next meeting date I did have something already scheduled but . . .

COUNCILMEMBER LEE: This afternoon?

CHAIR PALTIN: In the afternoon?

COUNCILMEMBER KING: I think there's an Affordable Housing Committee meeting at 1:30.

CHAIR PALTIN: In the evening? That would be up to Chair King if we could do it that evening.

COUNCILMEMBER KING: Tonight? Continue on?

CHAIR PALTIN: No.

COUNCILMEMBER KING: I think it's up to the Members.

CHAIR PALTIN: No, after the Affordable Housing meeting.

COUNCILMEMBER KING: Tonight?

CHAIR PALTIN: No.

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COUNCILMEMBER KING: What's after this one?

CHAIR PALTIN: After this is Affordable Housing.

COUNCILMEMBER KING: Right. So, you're saying this evening . . .

CHAIR PALTIN: No, next Committee meeting evening. I haven't been home all week --

COUNCILMEMBER KING: Oh.

CHAIR PALTIN: --and I forgot what my kids look like. So, the next one would be maybe --

COUNCILMEMBER KING: The 16th.

CHAIR PALTIN: --October 16th in the evening.

COUNCILMEMBER KING: I think you can certainly poll for that.

CHAIR PALTIN: Poll for October 16th. Is that too long a wait?

MR. BAGOYO: We'll yield to you, Madam Chair.

CHAIR PALTIN: Okay.

MR. BAGOYO: We don't mind this afternoon.

CHAIR PALTIN: You're available this afternoon?

MR. BAGOYO: Yeah.

COUNCILMEMBER LEE: Madam Chair, you know, I'm really concerned that some Members have few concerns left and others have many. And, you know, my concern about how the discussion was going . . . this is . . . we're not . . . this is not a housing project that we're reviewing, you know, like an affordable housing project where we look for every little exaction that we can find. This is an agricultural piece of property. So, to be thinking of all these kinds of additional conditions I think is really inappropriate. If somebody doesn't like this property for Agriculture and wants Open Space or some other use, that's not what we're here for. You're gonna have to change the law. So, anyway, you know, I don't want to . . .

CHAIR PALTIN: Okay. I'll come back tonight. Who wants to come back tonight?

COUNCILMEMBER LEE: Yeah, I don't want to have another meeting only to go through this whole thing again and nothing gets done. I mean people gotta come prepared.

CHAIR PALTIN: Okay. Is anyone prepared to come back tonight? Cannot?

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COUNCILMEMBER SUGIMURA: Can.

COUNCILMEMBER KING: I have an obligation.

COUNCILMEMBER RAWLINS-FERNANDEZ: I also cannot.

CHAIR PALTIN: Okay. I'll see if I can push back my other one for October 16th, and we're not going to re-go over things that we've already touched on. Hopefully, everybody can do their homework and meet with Mr. Spencer and Mr. Bagoyo prior to the October 16th and get it all ironed out so that when we meet on October 16th --

COUNCILMEMBER LEE: At what time?

CHAIR PALTIN: 9:00 a.m.

COUNCILMEMBER LEE: That's your regular meeting.

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: Okay.

MR. BAGOYO: So, it is --

CHAIR PALTIN: Yeah?

MR. BAGOYO: --Madam Chair, so it is my understanding that the . . . 'cause right now the condition, we stopped on proposed Condition No. 4 that is being proposed by the Planning Department, and my client said he's okay with those conditions. So, the only remaining conditions that we're going to be discussing would be 5, 6 and 7. Is that what it is?

CHAIR PALTIN: Five, 6 and 7, and maybe clarify the wording for No. 4.

MR. BAGOYO: Okay.

CHAIR PALTIN: And . . .

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes.

COUNCILMEMBER KING: You can also, you know, ask for if there's any updated concerns from the DOT and Director Hart [sic].

CHAIR PALTIN: We can try get updated concerns from the State DOT. It's kind of difficult to nail those guys down but we can make our best effort.

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COUNCILMEMBER KING: Okay.

CHAIR PALTIN: And, hopefully, we can do the majority of the work out prior to the Committee if there's concerns. If some Members have many concerns, I would imagine that Mr. Bagoyo would be willing to meet with the Members that have the concerns and hammer out something that is acceptable.

MR. BAGOYO: Yeah. If you could just send us any proposed language that we could look at prior to the 16th that would really, really be appreciated. That way, we don't have to be going back and forth.

COUNCILMEMBER KING: Yeah, I think the difficulty with that Chair is that we aren't able . . . we can't copy all colleagues on that kind of . . . that's a violation of Sunshine Law. So, the idea of asking, I mean, I don't think we're very egregious on the questions we're asking. We're trying to, you know, we're trying to ascertain whether we feel comfortable with this change. We don't mean for these changes to automatically rubber stamp. There's, you know, we're trying to . . . some of us are trying to determine whether this is a good change for Maui or not.

CHAIR PALTIN: Yeah. I'm not saying that everybody needs to be copied.

COUNCILMEMBER KING: No, no, I'm just . . .

CHAIR PALTIN: I mean everybody with their own concerns get them straight in their head because as Member Lee said not everybody has many concerns and some people have many concerns. So, if Mr. Bagoyo is willing to meet with folks with the many concerns to try and address them outside of Committee. If it's not possible to address the concerns outside of Committee then of course we're going to address them in Committee. But Member Lee had mentioned that some people don't have as many concerns as some other Members. So, if there are these concerns, maybe they can be met one-on-one with Mr. Bagoyo and Mr. Spencer and get them addressed.

COUNCILMEMBER KING: Okay, but just to let you know, my concerns have to do with the Director of Planning and the DOT concerns. I mean, everybody hearing those same concerns at once because I'm getting different, you know, I'm kind of getting different ideas about what's going on with these conditions from if I would just talk to the applicant versus talking to the applicant in front of the Department of Planning with the DOT concerns because now I'm hearing that maybe these DOT concerns are not current and that's I think the value of . . . that's what the Committee is about is you have the resources there and you can pose your questions and then we can make sure that everybody is on the same page instead of just talking to one Department or the applicant. So, I'm, you know, for me, it's a matter of does this work for South Maui District, and that involves more than just, you know, I'm happy to talk with the applicant. I have talked to the applicant about this, but I guess I'm just . . . I want to make the point that, you know, it's not that easy. We're not here just to say, yes, we're going to go ahead and approve these zoning changes. You know, we're here to make sure that if we do approve the zoning changes that we're doing the right thing for the

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community. So, I just like I said, don't like hearing that, you know, our questions are a waste of time from my colleague because I think they're very pertinent. Thank you.

CHAIR PALTIN: Yeah, I think, you know, . . .

COUNCILMEMBER LEE: Can I respond to that?

CHAIR PALTIN: Yes, you may but --

COUNCILMEMBER LEE: Okay. It will be quick.

CHAIR PALTIN: --first I wanted to say that we need to consider that we don't have the option to do anything. We have an option to do "a" or "b" and the consequences of doing "a" is one direction and the consequences of doing "b" is something else. I mean, I did hear you say about Open Space but it's not incumbent on Mr. Spencer to create Open Space. If the community really wants Open Space, then it's something that we would have to purchase the land from him. We can't just say, oh, you came in here to change it to Ag but we're going to change it to Open Space instead, you know. So, just . . . everybody wants Open Space and I'd say like, you know, maybe that's not the most appropriate place to do an Ag Subdivision, but it's not that we can do whatever we want kind of thing. You know, we have certain parameters.

COUNCILMEMBER KING: No, but you put parameters on there with the conditions and that's part of what, you know, that's part of what we're here to do. So, my decision is somebody who's the district representative is, is this the appropriate way to develop this particular parcel in the community and . . .

CHAIR PALTIN: Yeah, I mean, it's more appropriate than what it currently is, if you ask me. But sorry, yeah, Member Lee.

COUNCILMEMBER LEE: Okay. Just wanted to say that we don't have, as we all know, control over the Department of Transportation, the State Department, DOH, or any of those agencies. And a lot of times they don't give us specific suggestions for requirements because like you said earlier, who knows when they're gonna, you know, make those improvements on the highway. Oh, you didn't say it? Well, some other smart person said that. And then so, you know, a lot of it will be speculation on their part and a lot of it . . . a lot of times it's like pulling teeth from these people because they don't want to commit because they don't know the precise plans. They don't have any . . . you know, it's up to them when and how they want their improvements. So, when the time comes, that's when that conversation will take place. So, to me, a lot of, you know, to try and force them into making commitments at this early date is just not realistic. Thank you.

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: Maybe to assist the Committee for the next meeting I think there's oftentimes conditions for DOT or Public Works related entities that say as was discussed that prior

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to final subdivision approval that the applicant must provide their pro rata share or agree to provide their pro rata share of traffic improvements with DOT and County of Maui Department of Public Works. It could be per a TIAR and that's a typical condition that allows those agencies to prior to subdivision approval agree to what improvements are required. The other types of conditions are if there are particular improvements in the record that the Council believes are required to mitigate the impacts of the project, they can consider and make those specific conditions. Again, those are usually the different types of traffic conditions that you see on projects and the Committee can consider those, but I just wanted to kind of get that on the record that those are what we often see and maybe those are the two types of conditions that can be considered possibly. It's obviously up to the Committee but we do see those. I think the Waikapu project just had similar conditions and so that may be something to think about for those . . . for the future meetings.

CHAIR PALTIN: Thank you. So, when we come back on the 16th . . . prior to us coming back on the 16th, we can rewrite these as has been discussed up to this point with No. 3 coming from Planning, and we can upload that to Granicus prior to the meeting happening. Nail down the wording that was heard for No. 4 and discuss that in further detail and then continue on 5, 6, 7, have the motion, have the discussion, have the vote. Is that the understanding for the October 16th meeting?

COUNCILMEMBERS: Yes.

CHAIR PALTIN: Okay. Thank you for your hard work and . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes, Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I know you had something planned that you didn't want to move for the October 16th meeting. Do you intend to still schedule whatever item . . .

CHAIR PALTIN: No, that was a big one. There's no room for another thing so maybe I can just continue on with this agenda, which was the Community Plan Update possibly. I can't . . . the one that I had in mind for October 16th it can't be combined with any other item.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo.

MR. BAGOYO: Is it 9 o'clock, the same time?

CHAIR PALTIN: Yeah.

MR. BAGOYO: The 16th. Thank you. Thank you so much. We appreciate it.

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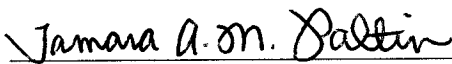
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CHAIR PALTIN: Thank you. If there's no further comments or questions or suggestions, I'll recess . . . adjourn . . . adjourn this meeting. Thank you for putting in the overtime. . . .(gavel). . .

ACTION: DEFER PENDING FURTHER DISCUSSION.

ADJOURN: 12:24 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:191002

Transcribed by: Jo-Ann Sato


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CERTIFICATE

I, Jo-Ann Sato, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 17th day of October, in Pukalani, Hawaii



Jo-Ann Sato