

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

November 26, 2019

Pacific Whale Foundation Classrooms 1 and 2

CONVENE: 5:07 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura (in 5:12 p.m.; out 6:15 p.m.; in 6:29 p.m.)

STAFF: James Krueger, Legislative Analyst
Ana Lillis, Legislative Analyst
David Raatz, Supervising Legislative Attorney
Clarita Balala, Committee Secretary

Seated in the gallery:

Kathy Kaohu, Executive Assistant to Councilmember Tamara Paltin
Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Jordan Hart, Deputy Planning Director, Department of Planning
Paul Fasi, Planner, Department of Planning

OTHERS: Mike Moran, President, Kihei Community Association
Amy Hodges, Program Manager, Maui Nui Marine Resource Council
Lynn Britton, President, Maalaea Village Association
Larry Stevens
Mark Spencer, MVI LLC
Vince Bagoyo, President, V. Bagoyo Development Group, LLC
Stacy Otomo, President, Otomo Engineering Inc.
(6) additional attendees

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

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

CHAIR PALTIN: . . . (*gavel*) . . . Will the Planning and Sustainable Land Use Committee of November 26, 2019, 5:07 p.m., please come to order. If everyone can please silence their cell phones or any noisemaking devices at this time, that'd be awesome. My name is Tamará Paltin, and I'm the Chair of the Planning and Sustainable Land Use Committee. And I'd like to introduce my Vice-Chair of this Committee, Mr. Shane Sinenci from Hana.

VICE-CHAIR SINENCI: Aloha.

CHAIR PALTIN: And your area representative, Chair King, from South Maui. And we also have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha, everyone.

CHAIR PALTIN: Aloha. And Council Vice-Chair Keani Rawlins-Fernandez of Molokai.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha.

CHAIR PALTIN: And Councilmember Alice Lee of Wailuku.

COUNCILMEMBER LEE: But as we say in Japan, konnichiwa.

VICE-CHAIR SINENCI: Konnichiwa.

CHAIR PALTIN: Konnichiwa. And Councilmember Yuki Lei Sugimura will be joining us shortly. She had a mix-up of directions. And we have non-voting members, Councilmember Riki Hokama and Tasha Kama who are welcome to join us at any time. We have from Corporation Counsel, Deputy Corporation Counsel, Mike Hopper, at the end. And from the Department of Planning, the Administration's representative is Deputy Director Jordan Hart, sitting right next to Mike Hopper. In our audience today, we have Vince Bagoyo, a consultant for MVI LLC, the landowner, and we have Mr. Spencer of MVI LLC, who's the landowner. For Committee Staff tonight, we have Clarita Balala, who is the Committee Secretary, second from the end there; Mr. James Krueger, our Legislative Analyst, right next to Councilmember Molina; and Ms. Ana Lillis, another Legislative Analyst, who just joined us at the end; and Mr. David Raatz, Supervising Legislative Attorney, in between Clarita and James. At this time, I wanted to mahalo the Pacific Whale Foundation for allowing us to have this meeting here at Maalaea in the community that the change is taking place, proposed to take place. Today, we have one item on the agenda and it's a Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision. For individuals wishing to testify, please sign up with Staff. Testimony will be limited to the item on the agenda today. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes for the item. When testifying, please state your name and the name

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of any organization you may be representing. If you are a paid lobbyist, please inform the Committee.

. . .BEGIN PUBLIC TESTIMONY. . .

CHAIR PALTIN: So, our first testifier signed up this evening is Mr. Mike Moran and he's testifying on PSLU-41. He's testifying on behalf of the Kihei Community Association and his title is President of the Kihei Community Association. Aloha, Mr. Moran. Thank you.

MR. MORAN: Aloha, Chair Paltin. Thank you very much for the opportunity.

CHAIR PALTIN: Oh, if I might just pause you. I'd like to introduce Councilmember Yuki Lei Sugimura who came just in time for the important part. She didn't miss anything. Did you reset the clock? Okay. Anytime you're ready, you can begin.

MR. MORAN: Okay. Mike Moran for the Kihei Community Association. Thank you very much, Chair, for a number of things. One, for arranging a meeting in the evening in the community. We hear the griping so often about 9:00 a.m. downtown, so no excuses this evening for the people in the community for coming out. We'd like to join you and also say mahalo to the Pacific Whale Foundation. I have attended countless functions in here but never a County Council Committee meeting so another checkmark. And also mahalo to Vince Bagoyo and the Spencer family for their great communication with KCA over many, many years. They always are welcome to talk with us. On this item, unfortunately, the one thing that's consistent about this and it's unchangeable is this location, which the community believes is not appropriate for human habitation. Of course, the fires. Fires continue to be a major concern and when yet one more flamed during the prior committee hearing, some saw this as an ominous warning. Additionally, the environmental concern for Maalaea Bay is another. Some see the tragic impact on the coral reef system here some decades ago as one of the worst in Maui. So, we need to protect what's left of the coral reef system here. Next situation is the update of the Kihei-Makena Community Plan. Director McLean advised us in South Maui that outreach in our district is expected to begin in the beginning of 2020. Well, December starts next week so that's only a little over a month away. So, let's await the community input on this nearly 22-year-old plan before we make any amendments. And then also we have heard that this land is on the market. Do we know who is the potential buyer and what their plans are? KCA offered detailed written testimony to you back in September, which you have on file, so we see no need to take your time repeating the details of that, that was stated there. We believe this land should remain open and undeveloped. Is it possible for the County to take possession of it? Is there a manner for some land preservation nonprofit to acquire it? We do have faith in this Committee and this Council. Please continue taking the most appropriate steps in this situation for the greater overall benefit of the aina and the community. Mahalo.

CHAIR PALTIN: Thank you, Mr. Moran. Members, are there any questions for Mr. Moran? I...oh, Chair King?

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COUNCILMEMBER KING: Thanks for being here, Mike. I don't see your testimony on Granicus, but did you bring, happen to bring a hard copy of your previous testimony?

MR. MORAN: I have one single copy 'cause it should be...I know...

COUNCILMEMBER KING: I know...I remember you sent it in the last meeting, but I don't see it on Granicus.

MR. MORAN: Yeah. It was...it's on the website. It was under Randy Wagner, because...

COUNCILMEMBER KING: Oh, it's under Randy. Okay. We have it then.

MR. MORAN: Yeah, she's...that's...yeah. She submitted it because the developer came to her and she chairs our committee that does it, so she wrote it up and I told her that was fine.

COUNCILMEMBER KING: Okay, great. Thank you.

MR. MORAN: That's the confusion.

COUNCILMEMBER KING: Thanks for being here.

MR. MORAN: Thanks.

CHAIR PALTIN: Thank you, Mr. Moran. I had a question.

MR. MORAN: Yes.

CHAIR PALTIN: In the upcoming community plan update, what would you think that it should be zoned?

MR. MORAN: We would like to keep it...I don't want to say a specific zone because I'm not akamai enough to say exactly, but we think it should be not...it should not be developed. Is it possible to make it like a passive park? Is it possible to work with the State somehow to keep it open land, maybe campsites for visitors and residents? Somehow that we're not developing it for the reasons that we stated, mostly the fire...if like to build homes whether we're building 500 homes or 20 homes, are we telling people to come live here and then we see those fires burning? So, we would...whatever is the proper zoning to keep it open space.

CHAIR PALTIN: Okay, thank you.

MR. MORAN: Thank you.

CHAIR PALTIN: Next up, we have Amy Hodges, testifying on behalf of the Maui Nui Marine Resource Council. Her title is program manager. And I just wanted to mention for

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Members' benefit before she starts her testimony that our Committee Staff had tried to get in touch with someone to give a presentation on the Pohakea Watershed plan and was unsuccessful, but it's lucky that we have Ms. Hodges here today and she does know...her testimony will be on that Pohakea Watershed plan. And so, if possible, I would also like to designate her as a resource person, and then if we can have questions and a little bit of more information after testimony closes, if that's all right with Members.

COUNCILMEMBERS: No objection.

CHAIR PALTIN: Okay, thank you. Thank you, Ms. Hodges. You may begin your testimony.

MS. HODGES: Okay. Thank you. Aloha, Councilmembers. My name is Amy Hodges. I'm the programs manager with the Maui Nui Marine Resource Council. I do apologize that you weren't able to reach anyone from our office. I'm always there. You can e-mail me, amy@mauireefs.org. I'm happy to give a presentation. We just did one actually last week at the Maui Ocean Center and that's on *Akaku* and it'll be on our Facebook as well. The Maui Nui Marine Resource Council asks that the Committee take into consideration the implementation of projects meant to mitigate wildfire, erosion, and sedimentation of our coastal waters contained within the Pohakea stormwater management plan when making a decision on the future of this property. The Pohakea Watershed stormwater management plan and connected water quality of monitoring plan was written in 2018 by Maui Environmental Consulting for MNMRC, Maui Nui Resource Council. The intention of the plan was to characterize the watershed, which is essentially Pohakea, it's the watershed, runs along Honoapiilani Highway up MECO power line access road and then kind of down the windmills road, that's south, and then along the bay a little bit. So, it's to characterize the watershed, identify likely sources of pollutants of the coastal waters coming from that watershed leading to poor water quality in Maalaea Bay, and then identify possible remediation projects that could be done to help fix the problem. MNMRC isn't about pointing fingers. It's about just let's find some solutions and then take the actions that we need to do together. We have a vested interest in the future of this property because of the mauka to makai connectivity of it. We have sedimentation issue in the waters here. There is a beautiful coral reef tract in the bay. It's suffering like all of our coral reefs are so that's why we're interested in it. The parcel land that we're talking about today is like the key connector piece of land between the steep mountains there and the coastal property. That's why it's really key to the whole project. It would be great; it has four drainages passing across it. It's really important. The plan includes erosion hot spot stabilization and culvert repair, placement of retention basins, an oyster bioremediation project, fire and fuel breaks, all kinds of stuff in there, it's like a little menu to choose from for the area, not all on the property we're talking about but in the watershed. Let me fast forward. We're working, so in the past year we've received funding from NFWF, the County of Maui, HTA, Fred Baldwin Memorial Foundation, and we're working with the Maalaea Village Association, the community here, and the businesses to work on these projects to implement them. So, please when you're looking at the future of this parcel of land, take in consideration the implementation of these projects. Whatever the future zoning might be, you can incorporate some of these projects in that land. So, thank you.

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CHAIR PALTIN: Thank you. And I just wanted to point out that the presentation did make it onto Granicus, so that was from the one at last week --

MS. HODGES: Oh, awesome.

CHAIR PALTIN: --and it's on people's Granicus --

MS. HODGES: That's great.

CHAIR PALTIN: --as Pohakea Watershed.

MS. HODGES: Awesome because the person presenting was Michael Reyes, who is the author of the report, the expert, and then I did a follow up on what we'll be doing in the next year and that we've been funded for out of it. So that's great, it made it on. Thank you.

CHAIR PALTIN: Yeah, yeah.

MS. HODGES: Okay.

CHAIR PALTIN: And it looks like one of our analysts also helped him, Wes Crile.

MS. HODGES: Yeah. Oh, Wesley Crile, yes.

CHAIR PALTIN: That's awesome.

MS. HODGES: He's awesome. So, they work together and yeah, we love them.

CHAIR PALTIN: Okay, cool. And so if Members have questions or need more in depth we'll bring you back up as a resource. Thank you.

MS. HODGES: All right, thank you.

CHAIR PALTIN: Next up we have Lynn Britton, and she's testifying on behalf of Maalaea Village Association and she's the president.

MS. BRITTON: Aloha. Thank you for coming to Maalaea. I think in your ride over here you noticed the area, you saw the West Maui Mountains on this side of the island and you saw the South Maui and Maalaea Bay and everything that makes Maalaea special and important to Maui. I've written extensive testimony over the last several months, so I'll spare you the details. I did want to emphasize certain points that have come up in terms of what would we do with this property if the Committee and the Council in its wisdom decided not to go ahead and approve the Change in Zoning. I did have my notes here. I think that the overall, the critical nature of the property and the location of the property is what makes it so difficult in terms of making a decision. You think, well, it's only a 21-lot subdivision, you know, it's agriculture. Got into a discussion with Planning last week, well, isn't ag the same as open space. You know, but the fact is all these

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recommendations that are included in the Pohakea study all have to do with the land and the fact that there is four different gulches that come right through this property. It's the crucial area in terms of what feeds Maalaea Bay. Maalaea Bay feeds the economy of Maui. We have all the boats and the visitors that rely, that you rely on for the economy. We have all of the environmental programs here, Maui Ocean Center, Pacific Whale Foundation where we are tonight, we have Kealia Wildlife Refuge just a mile or two away. I mean this is an environmental corridor. And in terms of what I see the purview of the Council it's to think long range, it's to think the decisions that you make today and how it affects the future. And if there's anything more important than protecting the environment of Maui, I really don't know what it is. There are a couple of major points in the Maui Island Plan that have to do directly with drainage and preserving watersheds and scenic vistas, I mean, the Lahaina, West Maui Mountains are a major scenic resource for Maui and the visitor industry. I even talked to the Fire Department. I said, what is best for the property? Is it best to keep it open space and dry or is it best to have it all green and whatever? And he said, well, that's no reason for development. So, I think the alternative that might be considered is for the County to go ahead and buy it, buy all or part of it, put it in conservation, and then get all the different agencies and nonprofits; Maui Nui Marine Resource Council is doing important work here in Maalaea Bay. There are landowners above, I mean, even the wind farm that was almost burned to the ground with the fire when we had our October 16th meeting. There are a lot of resources available. A lot of people can come together and really make this a very special place. Thank you.

CHAIR PALTIN: Thank you, Ms. Britton. Councilmember Molina and Sugimura have questions for you.

COUNCILMEMBER MOLINA: Good evening, aloha, Lynn. Just for clarification on your testimony, you said you spoke to someone from the Fire Department.

MS. BRITTON: Yes.

COUNCILMEMBER MOLINA: Can you tell us who you spoke with?

MS. BRITTON: I spoke to the head of fire prevention.

COUNCILMEMBER MOLINA: Oh, that would be Captain Haake.

MS. BRITTON: Yes.

COUNCILMEMBER MOLINA: And he told you that...

MS. BRITTON: He said the dry brush is a problem, which is what would lead to wanting to have an active management plan and get all the different resources to work together, but he said that's no reason for development. So, that's why it's important to manage the property and to take it under County control so that we really can preserve it.

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COUNCILMEMBER MOLINA: Okay. And the proposed purchase of the property would be...that was, didn't come from him right?

MS. BRITTON: No, no, no.

COUNCILMEMBER MOLINA: But that's from your association.

MS. BRITTON: But may I answer that also?

COUNCILMEMBER MOLINA: Yeah.

MS. BRITTON: 'Cause that's been my thinking too, I mean, the fact the 21-lot subdivision would probably be very helpful for the owners of property in Maalaea. You know, it would probably enhance property values, but that's no reason to make these decisions. With all the things that could be done with the Pohakea Watershed including Federal, State, not only County funds, once you've subdivided the area even though it is ag, you've lost that control because you'll have 21 different owners that you'll have to negotiate to do anything that needs to be done with protecting the watershed.

COUNCILMEMBER MOLINA: Okay. All right. Thank you.

MS. BRITTON: Thank you.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. Thank you, Chair. Nice seeing you, Lynn.

MS. BRITTON: Aloha, Yuki Lei.

COUNCILMEMBER SUGIMURA: Yeah. Good to be in your neighborhood.

MS. BRITTON: Thank you for coming to our town.

COUNCILMEMBER SUGIMURA: So, over the years, I don't know from what year this project first came to you, but it was supposed to be, I think was thousand-something units and then it changed, this is by memory, like 200 units, and now we're at 21. So, in this process, did Maui, Maalaea Community Association ever support this project?

MS. BRITTON: Well, it's...Maalaea Community Association is no longer in existence.

COUNCILMEMBER SUGIMURA: Or whatever the organization you're from.

MS. BRITTON: We are the Maalaea Village Association.

COUNCILMEMBER SUGIMURA: Village Association.

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MS. BRITTON: But actually the first proposal for the property was Brewer sold it to Mike Atherton. Mike Atherton proposed a development to the Maalaea community, at that time that was about, I don't know, 20 years ago. And at that time with Atherton's proposal, they were addressing the drainage issues from State conservation land above this property. They were saying that they knew that the drainage issues needed to be handled before they even developed the area. And I think that Atherton was proposing maybe 500 units at the time and then it was sold. Atherton couldn't get the community support. He sold it to Spencer and Atherton went and focused on the plantation. So, to answer...oh, I'm sorry, I lost track of your actual question. At one time, MCA did negotiate with the Spencer's. They came to an agreement on a development, I think it was 195 units at the time, it was the community, and Sierra Club, and Maui Tomorrow that was all working together on this and it was the community that even suggested that they put affordable housing at the corner of the site. But for whatever reasons, the owner of the property decided to go 201H at the last minute and basically all of the agreements that had been reached through negotiation were no longer in effect 'cause we had no more control. So, that's what happened.

COUNCILMEMBER SUGIMURA: At one point, my question was, did you ever support previous...

MS. BRITTON: Yes, I said that they did.

COUNCILMEMBER SUGIMURA: So, 198.

MS. BRITTON: I said they did, but then because they went 201H instead of the agreements that were struck with the various groups that's when the support was withdrawn and an EIS was requested of the owner and then they no longer pursued it.

COUNCILMEMBER SUGIMURA: Thank you.

MS. BRITTON: Yes.

CHAIR PALTIN: Members, any further questions for the testifier? Seeing none, thank you for your testimony.

MS. BRITTON: Thank you.

CHAIR PALTIN: Our last testifier that we have signed up at this time is Mr. Larry Stevens and he's testifying on behalf of himself as an individual and it says that he's submitting less than 16 copies of testimony. One, I guess.

MR. STEVENS: One, actually. Good evening, Chair. Good evening, Councilmembers. Good evening, Staff. Great to be here, great to be in Maalaea, and great to be addressing this subject, which is something that in my, wearing my other hat, the Maui Nui Marine Resource Council hat, I've been very heavily involved in as we've developed our projects and so on. But I'm speaking on behalf of myself tonight, you'll probably understand why when you hear what I'm about to propose. Let me just read this. In my view, the

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Spencer property represents a terrible risk and a tremendous opportunity. The risk is that we build housing in the windiest, driest, most fire-prone area of the island. The opportunity is to acquire this land and use it instead to stabilize and upgrade municipal infrastructure, reduce fire risk, reduce the danger to the nearshore waters and the reef and fish that inhabit them, and also support the return of sustainable agriculture to the central valley. How do we do that? The Kahului Wastewater Plant is in the tsunami zone on Maui and is at risk from rising sea levels. In County hands, the Spencer site could support the relocation of this wastewater plant, allow consolidation with Waikapu Town, with the Maalaea condos and the commercial area, and allow us to replace all that and with an updated and integrated system that will produce an enormous amount of R-1 water that we could use for all kinds of purposes including agriculture. Modern wastewater plants can be designed to be much more like a greenhouse than a traditional wastewater facility and therefore are appropriate in areas where they were never appropriate in the past. The R-1 effluent from such a plant could serve multiple purposes. It could provide irrigation for central valley agriculture from sunflowers to food crops such as ulu to pasture land. The effluent could also be stored to be used to fight fires either in the valley or up the hill towards the windmills. Forty-one thousand acres burned there just last month creating the nearly inevitable avalanche of eroding soil that will spill into the bay after the next storm. The coming brown water event will be epic. Wouldn't it be great if this one were the last one, the last time it had to happen in Maalaea Bay? The land that is not needed for wastewater can serve other purposes, major retention basin to mitigate runoff, green space created by our restorative practices in the gulches that crisscross the property, and recreation areas. To sum up, the Spencer land could support reduced fire risk, better fire management, reduced tsunami risk, reduced risk in rising seas, water for agriculture, better wastewater management for Kahului, Wailuku, Waikapu, and Maalaea, the end of injection wells in Central Maui, and reduce runoff to sensitive coastal waters. So, for all those reasons, I think you might have an interesting project to pursue. Thank you.

CHAIR PALTIN: Members, questions for the testifier? Chair King has a question.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Larry. I was just wondering if you ran this idea by the Administration. Did you talk to anybody in the Administration?

MR. STEVENS: I have not talked to the Administration yet. This is...

COUNCILMEMBER KING: Or with Atherton?

MR. STEVENS: No.

COUNCILMEMBER KING: Okay.

MR. STEVENS: There's so much complexity there and so many delicate things. I didn't want to upset the apple cart.

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COUNCILMEMBER KING: Okay. No, I appreciate, but timing is a huge issue because they're ready to go and if they have to wait another five years for a wastewater treatment facility to be built, that kind of puts a hitch in his project too.

MR. STEVENS: I understand. I'm just --

COUNCILMEMBER KING: Okay.

MR. STEVENS: --putting it out there.

COUNCILMEMBER KING: No, thank you. I appreciate your ideas.

CHAIR PALTIN: I had a question. I wasn't clear who would be building the wastewater treatment that you are proposing.

MR. STEVENS: I think this would a County wastewater facility because it would be replacing the Kahului facility and then integrating and perhaps it can be done with financial support from the Atherton project and from the other participants in the area all of whom need to be upgrading their own wastewater systems right now.

CHAIR PALTIN: Okay. So, same response as Chair King. Thank you.

MR. STEVENS: Thank you.

CHAIR PALTIN: Is there anyone else? That was our last signed up testimony. Would anyone else like to provide testimony at this time before I close public testimony? Going, going, gone. Okay. Thank you. So, if there's no objection, I will close public testimony.

COUNCILMEMBERS: No objections.

...END OF PUBLIC TESTIMONY...

CHAIR PALTIN: Okay. Members, at this time, would anybody like to revisit the Pohakea Watershed plan? Is there any questions for our designated resource person, Ms. Hodges, based on the presentation, the Pohakea presentation on Granicus? Council Vice-Chair Rawlins-Fernandez has a question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Ms. Hodges. Mahalo for being here --

MS. HODGES: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: --and for being a resource to us. I didn't get an opportunity to look through the presentation.

MS. HODGES: Sure.

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COUNCILMEMBER RAWLINS-FERNANDEZ: And so, perhaps it addresses this question --

MS. HODGES: Sure

COUNCILMEMBER RAWLINS-FERNANDEZ: --but if it doesn't, how would housing project affect the mitigation plan or recommendations from the Pohakea Watershed management plan?

MS. HODGES: Sure. Yeah, you know the...it's, you know, the document is dense, it's over 100 pages. It...a development in that area would just, we would hope would include things, fire breaks, water tanks for fire prevention, a retention basin isn't impossible on the same property as a development. So, you know, MNMRC isn't anti-development, that's not our stance but we think that the land on there could be used to implement some of these projects. And it's possible that it could be with development there, but it would be harder with homes. But it is possible to do both to compromise and that's what we offer. Yeah. We are working on fire breaks in the area or we are funded to, we will be in 2020. One of the main fire breaks we're considering is the main road that's that dirt road, not the highway, but the one that's on the other side of the property that runs right against the base of the hills, so that would be one that we would hope to be incorporated whether developed or not as a main fire break there. We will buffer on either side. When we speak with DOFAW, who is the, well the State is the owner of the conservation land parcel that's immediately mauka there. It's a State unencumbered parcel. It's in Land Division right now and DOFAW is working to get it designated as forest reserve and they're a partner in the project. They want, you know, fuel break, I mean fire break, you know, down to bare earth on the roads that border the property plus a 20 to 30-foot buffer on either side of them of fuel [sic] breaks, that would be vegetation that's always maintained down low. So, it's a pretty big fire break but that's what's needed for the area with the winds so that they don't jump fire breaks. So, it would be projects like that that we would hope would be incorporated if development was chosen for the area. They've also mentioned that, and this isn't in the plan, but DOFAW has mentioned that, you know, they could really use like a helicopter water dip tank that is mauka of the highway. They have issues with flying helicopters across the highway, I guess there's regulation with that, and that would be really useful in fighting fires that do affect the area there. And I don't want to testify on behalf of DOFAW, certainly, but in our conversations with them they said, oh, you know, that wouldn't be a bad spot for a dip tank where, you know, our firefighters and our crews would have access to water, so things like that that could be incorporated, yeah, retention basins, for sure. Fixing that, there are major erosion hotspots called head cuts there where the streams come down and hit the culverts that go under the highway and the velocity of the streams that come down when they flow in the big storms are so intense for the culvert size that they're actually eroding backwards and digging. I mean, it's double overhead the ditches there that are being eroded, so things like that would be on the property that we hope could be stabilized and fixed whether developed or not but that might affect the plans of the community. Yeah.

CHAIR PALTIN: Did your question get answered?

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MS. HODGES: Maybe? Kind of?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. No, it did. I guess, you kinda mentioned it. I don't know if you could provide a little bit more detail on why it would be harder. Would be harder because there would then be multiple property owners that would have to be worked with or would it be harder because the design, like the 230-foot [sic] buffer zone on each side so it would substantially, it could substantially affect the design of the overall development?

MS. HODGES: I'm thinking of the design of the development and it's two, it's on either side. It's 20- to 30-foot buffers on either side, not 230, just so you know. It's really big. I mean, that would be great. But yeah, I think just the design and the layout and, of course, property owners these things take management over time. And so, you know, it would be a long-term thing that you would have to work with the property owners, hopefully would be invested in it if that's the case.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Mahalo.

MS. HODGES: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Thank you. Member Sinenci also had some questions.

MS. HODGES: Oh, sure.

VICE-CHAIR SINENCI: Thank you, Chair. Thank you, Ms. Hodges, for being here. Just a couple questions. So, when the Pohakea study came out, it doesn't look like it had any developments in my, this was just looking at the present --

MS. HODGES: Correct.

VICE-CHAIR SINENCI: --environment --

MS. HODGES: Yes.

VICE-CHAIR SINENCI: --with nothing else on it. So, your report doesn't have anything about development and how development would affect the outcome of your report, yeah?

MS. HODGES: Correct. It was taking a look at it as stands today. It does recommend on one of the last pages, a prioritize list of projects and it recommends engaging with the County for maintaining green space for that area just because it's kind of a linchpin area, but it doesn't take, it doesn't speak of future developments in it. You're correct.

VICE-CHAIR SINENCI: Okay. And then I heard there is a project involving oysters or --

MS. HODGES: Yeah.

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VICE-CHAIR SINENCI: --within the bay. Can you briefly speak to that? Why --

MS. HODGES: Yeah.

VICE-CHAIR SINENCI: --this project and why here in this particular bay?

MS. HODGES: Sure. Yeah. The project it's the oyster project. It's, it was brought to our attention by Waterkeepers, Oahu Waterkeepers who have already started a similar oyster project on Oahu. They now have four sites there. It was brought to our attention through them as a natural bioremediation effort. Oysters are nature's filterers, right. They have to filter water to live, that's how they eat. And so, it was brought to our attention that coming off of really successful projects of the billion oyster project in New York Harbor and Chesapeake Bay, oyster projects where they have been incredibly successful at cleaning the harbor's waters there. It was brought to Oahu and now to Maui as a way to clean the harbor's waters. And so, we will be implementing it. We have January 28th, we think, as our install date for the first oysters in Maalaea Harbor. Maalaea was chosen. Why Maalaea? We looked at all different sites. But it was chosen because it's a contained area. We have a lot of partners in the area, the Coast Guard, DOBOR, DLNR was here at the time, Pacific Whale Foundation, Maui Ocean Center could help us, you know, do informational outreach at the aquarium about it and so we're like let's do Maalaea Harbor with the oysters. So, yeah, in January we will be installing the first 500. They're contained in cages. It's not like an oyster reef bed. But they will be contained in cages under the catwalks and the docks suspended. We've been working with Paul Sensano, the Harbor Master, on it and Department of Ag and everybody on Oahu to get our permits. And yeah, we'll be starting there, test pilot 500 oysters then ramping up, if it's successful, then ramping up the numbers to actually help clean the water. They can filter all kinds of things, sediment, plastics, chemicals, bacteria. Yeah, I missed the important part, they're really good at cleaning the water, and so, and they're supposed to be there. When you snorkel the harbor, you'll find little oysters like on the pilings, so that's what we're gonna do, yeah.

VICE-CHAIR SINENCI: Thank you. Thank you, Chair. One more question, Chair.

MS. HODGES: Yeah.

VICE-CHAIR SINENCI: So, we had a couple, I received couple testifiers [sic] that mentioned aquifer recharge. So, you know, keeping, I guess, stormwater's an issue here, especially running out into the bay and so having a basin here to collect water similar to Kealia Pond. Is there, I mean, known aquifers in this area that water retention would be able to help recharge those aquifers?

MS. HODGES: Oh gosh, I can't speak to aquifer recharge myself. I'm not the expert on that. I do believe just from speaking 'cause we wanted to do some groundwater monitoring. We're talking about how deep do we have to drill to get a piezometer in there to get a sample and we suspected that it's pretty shallow, the lens here. So, I can't, I can't speak to testify on the aquifer recharge. I do know there are natural upwellings all over in

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springs that are still here even though they were removed when this was developed, but the springs still pursue and they come up in the harbor, but aquifer recharge I'm not sure. I'm thinking more of just retaining the sediment on the land with retention basins.

VICE-CHAIR SINENCI: Thank you. I just had a comment.

MS. HODGES: Yeah.

VICE-CHAIR SINENCI: Just looking quickly over the report and there's a lot of, I know there's a lot of cultural and for practitioners, sometimes the names of certain places will give you some clues. And so I've noticed that there was mala lo ka wai aole or something like that, which means it's hard to get water in this area too. So, thank you.

MS. HODGES: From the gulches, yeah.

VICE-CHAIR SINENCI: Yeah, the gulch. Right. Thank you.

MS. HODGES: Okay, thank you.

VICE-CHAIR SINENCI: Thank you, Chair.

CHAIR PALTIN: Sure thing. Members on this side, any questions? I had a couple questions.

MS. HODGES: Okay.

CHAIR PALTIN: You know by...so, the community plan amendment is one thing but by changing the zoning we're allowed to put on these conditions of zoning that run with the land.

MS. HODGES: Okay.

CHAIR PALTIN: And so, number two condition does say that the future owner or lessee must construct and maintain fire breaks on all permit or property boundaries as approved by the Maui County Fire Department so changing the zoning would cause them to have to do the fire breaks on the property. And then the other one, number 11 out of the 15 conditions gives the County of Maui the first right of refusal to purchase for purposes of transportation, transfer hub, a parcel of at least 40 acres that results from the subdivision property, and the way that the --

MS. HODGES: Forty acres.

CHAIR PALTIN: --subdivision is laid out the 40-acre parcel is the most northern or the most Lahaina side of the parcel. So as I drive to Lahaina, that's the part with, where it really looks like the runoff comes down because it has all those deep gulches. And so, we have, the County, has the first right of refusal to purchase that property within 90 days and it sounds like maybe if this were to go through instead of strictly for transportation transfer hub it seems to me from the presentation that that might be a critical piece in

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the watershed from the State runoff land to the harbor. So, maybe we can amend that to say transportation transfer hub and/or to pursue the Pohakea stormwater management plan and --

MS. HODGES: Sure.

CHAIR PALTIN: --that would be a significant...

MS. HODGES: Yeah. Any area of land within that transect would be useful, could be used to do something. Certainly, the head cuts are significant. You know, I don't want to reroute the water again, but if it was possible...I'm not familiar myself with the map, but it sounds like you know where it is on the parcel.

CHAIR PALTIN: Yeah. So, from where that open road reserve and the northernmost boundaries.

MS. HODGES: Yeah, for like the Pali Trail access.

CHAIR PALTIN: No, not the Pali Trail.

MS. HODGES: Other?

CHAIR PALTIN: Before you get onto the Pali, like on the most Lahaina side of this property that crosses across the street. And if you envision from the base of the mountain, 40 acres going towards Wailuku.

MS. HODGES: Okay.

CHAIR PALTIN: So, the County does have first rights of refusal for that whole parcel and right now the condition is for a transportation transfer hub.

MS. HODGES: Okay, yeah.

CHAIR PALTIN: But I would imagine we could amend that and say also and/or to contribute to the vision of the Pohakea watershed preserve.

MS. HODGES: Yeah, sure. You know, the gulches which become, you know, ephemeral running streams when they do are kind of spaced out across the parcel, so, of course, my brain is thinking of retention basins, but you could do other things on that property. Yeah, I would agree with you.

CHAIR PALTIN: Just, yeah, just --

MS. HODGES: It seems like a good...

CHAIR PALTIN: --from, like, I drive by and because this is on our agenda I'm always like looking --

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MS. HODGES: I know.

CHAIR PALTIN: --and that area, that 40 acres, the most Lahaina side looks like that's where majority of the runoff and the mud and everything comes through and I'm not saying that it's coming from the landowner's property --

MS. HODGES: No, nor are we, yeah.

CHAIR PALTIN: --but from the State coming just down through there. Because the portion that is mauka of, what is it called, North Kihei Road or South Kihei Road?

MS. HODGES: North Kihei Road there. Yeah.

CHAIR PALTIN: North Kihei Road, that portion, is that causing runoff?

MS. HODGES: Oh, like the, by MECO guys?

CHAIR PALTIN: So, mauka of Highway 30 at the intersection of Kihei road. Is that a significant problem area? 'Cause I only see the gulches on the north side of their property.

MS. HODGES: Yeah, it's mostly it's coming, it comes down off the gulches and then it enters channelized diversions which are channelized and come out under culverts. So, the land itself it's like the old ag isn't as much of a sedimentation concern, of course, you would think other things are possibly coming off that land as well, but as far as sedimentation it's mostly coming out of the culverts which are diversions coming off of the steeper mauna portions.

CHAIR PALTIN: Okay, thank you. That's the, answers my question. Any further questions? Chair King has a question.

COUNCILMEMBER KING: Thank you. Thanks for being here, Amy.

MS. HODGES: Sure.

COUNCILMEMBER KING: Yeah, I wish I had gone to that...the presentation.

MS. HODGES: We can come and give you guys one.

COUNCILMEMBER KING: So, did you...were you able to work with the landowners at all on the, when you were developing this with Michael Reyes?

MS. HODGES: We didn't, no, we didn't, we did not.

COUNCILMEMBER KING: Okay. So, you don't have any idea of, like, what type of agreements we would need in place in order to effect the watershed management plan?

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MS. HODGES: I don't as far as the private landowners. I know that we're working with the State on the largest portion of that parcel, but as far as the parcel in question, I don't --

COUNCILMEMBER KING: Okay.

MS. HODGES: --know.

COUNCILMEMBER KING: Have you seen the...well, we have a development plan we've been looking at. I don't know if that's what it'll end up being because they're in the process of trying to sell it to somebody else. But have you seen their proposed plan?

MS. HODGES: I've only looked at it briefly. I haven't, so.

COUNCILMEMBER KING: Okay. I was just wondering how much of that is in areas where you would need to be able...you would need access. Can you say off the top of your head? If not, that's okay, we can...

MS. HODGES: I can't. No, I'd rather not guess at this time.

COUNCILMEMBER KING: Okay.

MS. HODGES: Thank you.

COUNCILMEMBER KING: All right. Thank you.

CHAIR PALTIN: Thank you, Ms. Hodges. I just wanted to say thank you so much for presenting to us your depth of knowledge on the fly and thank you for being here. You really saved the day for...

MS. HODGES: No, my pleasure and again, happy to do a more in depth for you any time. Thank you.

CHAIR PALTIN: Thank you so much. Okay, Members, so at this time, I'd like to introduce PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision. And the Committee is in receipt of the following: County Communication 19-347, from the Planning Director, transmitting proposed bills to grant land use entitlements for property in Maalaea, Wailuku, Maui, Hawaii for the proposed Maalaea Agricultural Subdivision project; correspondence dated, November 19, 2019, to the Department of the Corp. Counsel, requesting the following: a revised proposed bill entitled A Bill for an Ordinance to Amend the Kihei-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 from Project District 12 to Agriculture for approximately 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 project. A revised proposed...and a revised proposed bill, A Bill for an Ordinance to Change Zoning from Open Zone, R-3 Residential District, and

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Proposed Road to Agricultural District (Conditional Zoning) for Property Situated at Maalaea, Wailuku, Maui, Hawaii, Tax Map Key (2) 3-6-001:018 (Por.). And the purpose of the proposed bill is to grant Changes in Zoning from Open Zone, R-3 Residential District, and proposed road to Agricultural District for 14.7 acres, 0.06 acre, and 0.8 acre, respectively, located in Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purpose as three portions of tax map key (2) 3-6-001:018, for the proposed Maalaea Agricultural Subdivision project. And so, this meeting was scheduled in response to the request from Members that an evening meeting be held in the community that this project was affecting and I thought that was a reasonable request and so I scheduled this meeting tonight here in Maalaea. At this time, I think this is our fourth meeting on this item. So at this time, I'd like to lead with a motion and then discussion. Members, the Chair will first entertain a motion to recommend passage on first reading of the bills that I had just read.

COUNCILMEMBER SUGIMURA: Second.

CHAIR PALTIN: Oh, I don't make the motion.

COUNCILMEMBER SUGIMURA: Oh, I make that motion then.

CHAIR PALTIN: Oh, okay. So, moved by Councilmember Yuki Lei Sugimura.

COUNCILMEMBER MOLINA: Second.

CHAIR PALTIN: Seconded by Councilmember Molina. And, Members, at this time, we can have a discussion on the item. I did have a revised conditions on Granicus, and I believe the landowner has seen copies of the revised things.

COUNCILMEMBER LEE: Are you going to make an amendment?

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: On the revised?

CHAIR PALTIN: Yeah, I'd like to just notify Members that, you know, in the last meeting when it was discussed about having the meeting in the community that it was affected, I thought about my community and I know that they probably would not come to this meeting and the things that they would think about. And I really felt that nobody would want a crosswalk at the Carl's Jr. intersection, because it's such a dangerous highway. And, you know, if it's a push-button crosswalk, I was afraid that somebody may continually push it and traffic already does back up to West Maui. And so, I, in my revised conditions, I removed that condition for the crosswalk at Carl's Jr. I'd also like to mention that there was some of the other issues that had come up in the last meeting was questioned as to how the minutes went from, I think, something like 175 acres to what it was, and so my staff did pull up meeting minutes from 1997, and those are on your Granicus, and the highlighted portions are relevant to how the acreage increased from 175 acres. Another thing that was discussed was with Ms. Britton was the

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reconfiguration, like, possibility of cluster subdivisions and in discussing with the landowner in order for that to happen they would need to go back to the Planning Commission, and we didn't pass cluster subdivision legislation yet, so that wasn't acceptable to him. One of the other items that had come up for discussion and has also come up for this in testimony was the County purchasing the land. And in meeting with the landowner, he did make attempts to reach out to the Mayor and his attempts were not returned. And so, I mean, no response is still a response. I'm not sure if any other Members did get any kind of response from the Administration as to purchasing the land? No. Okay. So then, at this time, I guess, I would like to...yes?

COUNCILMEMBER KING: Did we get a report from the landowner? When you and I met with the landowner, he discussed a potential sale and he also said he was on his way to meet with the Mayor. So, can we get a report of what happened in that meeting with the Mayor about the County purchase?

CHAIR PALTIN: Yes, if you'd like to report on it. I think we did talk about it but for the Members.

MR. SPENCER: Yeah. Hi. Mark Spencer, landowner. Yeah, what I did, Kelly, after I left your office, I went up, tried to speak to the Mayor. He was not available. I left my name and number, told him what it was about, and never received a phone call back, that was the extent of it.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Thank you. So, Mark, did you have a meeting with him scheduled?

MR. SPENCER: No.

COUNCILMEMBER KING: Oh.

MR. SPENCER: No, I tried to get...I left a message and he never responded.

COUNCILMEMBER KING: Okay. So that...I guess my understanding was that you had a meeting scheduled --

MR. SPENCER: No.

COUNCILMEMBER KING: --but you just --

MR. SPENCER: No.

COUNCILMEMBER KING: --so it was just an attempt to reach him and you didn't. Have you tried to schedule a meeting with him since?

MR. SPENCER: Not since that time. I never got any response yet.

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COUNCILMEMBER KING: Okay, I think that's probably the next step is to actually schedule a meeting and then have that discussion 'cause I didn't realize there was no meeting planned. Thank you.

VICE-CHAIR SINENCI: Chair?

CHAIR PALTIN: You have another question for the landowner?

VICE-CHAIR SINENCI: Yeah. Mark, thanks, Mark. So, several of the testifiers said that the property is for sale. Have you received or you said you were gonna meet with a potential buyer, have you received any?

MR. SPENCER: Yeah. And I think I talked about that at the last Council meeting also. We are currently in contract and complete open. I really don't know if it's gonna close. Like any deal, this one in particular, I don't want to say I'm not expecting it to close, but I'm also very fully, as a family, we're fully expecting that we will go and do what we need to do to finish up this project and we're prepared to do that.

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

COUNCILMEMBER MOLINA: Madam Chair?

CHAIR PALTIN: Councilmember Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. Good evening, Mark. So, as I understand it, you're basically downzoning and you're looking at selling the property. So, you're looking at reducing the value of your property basically by doing this downzoning.

MR. SPENCER: You had to bring that up, huh?

COUNCILMEMBER MOLINA: Yeah. I mean, I don't see that too often.

MR. SPENCER: Yeah. Again, I think I've been very open with everybody is this was a, my father was passionate about building affordable housing as all of us in the family were. Toward the end of his life he wanted to continue doing it and that's why he bought this parcel. After we went through two or three versions of it and ran into roadblocks different ways, as a family, my siblings and I voted to just abandon that, abandon the project, take the loss, and just take it back to ag, which would, which is what it previously was before the community plan.

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

CHAIR PALTIN: Any further questions for the landowner? Chair King?

COUNCILMEMBER KING: Thank you, Chair. And what is your closing date, Mark? Can you share that with us? I mean, 'cause we discussed...

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MR. SPENCER: I think it was 60 days after we get the zoning cleared up, the community plan changed.

COUNCILMEMBER KING: So, if there's no...so this is all contingent on rezoning. Okay. So, if there's no rezoning...if there were no rezoning, then we could go into discussions with possibly the County purchasing the land.

MR. SPENCER: Correct.

COUNCILMEMBER KING: Okay. 'Cause I'm...you know, personally I don't see it as a downzoning, because I think what you're looking at is market price estates versus the affordable housing that was originally proposed, correct?

MR. SPENCER: No, it's downzoning compared to 1,100 homes and a commercial center versus 21 ag lots.

COUNCILMEMBER KING: Okay. But the 1,100, wasn't that affordable or was it just a portion?

MR. SPENCER: It was half affordable.

COUNCILMEMBER KING: It was just, it was 50 percent affordable. Okay. All right. Thanks.

CHAIR PALTIN: Vice-Chair Rawlins-Fernandez, a further question for the landowner?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair. Aloha, Mr. Spencer. Mahalo for being here. So, I guess I'm kind of on the same page as Chair King as far as characterizing it as a downzone when being project district the chance of building houses hasn't been very good, especially since a project district would require community review and input, and by zoning it Ag it would allow it to, I guess, not have community input and review, and it would be an administrative approval. And so, while it could be seen as downzoning, the value of being able to build houses on a property where currently would have so much opposition by the community that it would never go through. But if it's administratively approved and the community would have no say, then houses could be built there. My question is when you said that regardless of the sale of this parcel, your family is committed to seeing this project through. What did you mean by that? Did you mean building the 21 houses?

MR. SPENCER: Building, developing the 21 ag lots. Whether or not we would build or not that would be a different question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, your family plan to complete the 21 ag lots and it's contingent upon this approval of community plan zoning change. And are there contingency plans as far as if this, if the Council doesn't approve the community plan designation change?

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MR. SPENCER: That's a good question and that's kind of, I guess, where I'm a little confused here. From my understanding, it's currently in the community plan for 1,100 homes, a commercial center among other aspects of it. What we're asking for is to change that back to Ag, which would agree with the Maui County zoning and the State Land Use Commission and also the Maui Island Plan. If the Council decides that they want to keep it as 1,100 homes, that's a tough one for me 'cause that to me that sounds like that's telling me that we want 1,100 homes. 'Cause the way I see it, the two options out there right now is the existing community plan approval, which is 1,100 homes and a commercial center, or 21 ag lots.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification on how you see our vote. The way I see my vote, 'cause I will be voting not to approve the community plan designation, and that vote to me, my interpretation of that vote so that everyone is clear, is not that I support 1,100 homes, but that I don't support ag subdivisions having administrative approval without any review and input by the community. That's what my no vote would mean for the community. Mahalo.

MR. SPENCER: Would you allow me to ask you? So, the current law, which my understanding is we're all bound to follow, is if a land is zoned Ag, it is you're guaranteed as landowner by right to create an ag subdivision and by the County law that is the responsibility of the Planning Department. So, you're saying you don't agree with the law.

COUNCILMEMBER RAWLINS-FERNANDEZ: Absolutely. Slavery was legal, didn't make it right. Mahalo.

CHAIR PALTIN: Mr. Hart, did you want to comment on the current law?

MR. HART: No. The only point of clarification I would make is Public Works administers the subdivision process. The Planning Department plays a part of verifying land use designations but it's a Public Works' operation. Thanks.

CHAIR PALTIN: Thank you for the clarification. Mister, or Member Sinenci, did you have a question?

VICE-CHAIR SINENCI: Thank you. Just one more question, Mark. So, had the Mayor had this meeting with you and you did present it to him, I mean, would it still be on the table that, you know, if he did have interest in the property?

MR. HOPPER: Madam Chair?

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: I'm just...I want to remind the Committee, again, you've got a criteria under the Maui County Code for grant...deciding whether or not to grant a Change in Zoning. The issue of whether or not the property can be purchased by the County at this stage is not part of that criteria and at this stage the request is to review the Change in Zoning to determine if it meets the criteria or not. And I know there's been several questions

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about the County acquiring the property, that's going to have to be a separate issue from the Change in Zoning. Certainly, if the Council believes that this property does not meet the criteria for a Change in Zoning and in fact that's in the Code at 19.510.040 and I believe it's A(4) and several subsections then it can find that and not grant the Change in Zoning. But at this stage that's a separate issue from the issue of the County acquiring the property at this stage, that's not on the agenda or something part of this request.

VICE-CHAIR SINENCI: Point taken. Thank you. Point taken.

CHAIR PALTIN: Other than Condition 11, right? That's on the table.

MR. HOPPER: If we're talking about the County seeing that there's a mitigative measure that if the property subdivided that there will be detrimental impacts and as part of those impacts the County would want, require the right of first refusal for, in this case, transient or a drainage...drainage uses that mitigate the impacts that come from the project, then that's an example of something under, you know, the United States Constitution that the Supreme Court has determined the Council can condition the project on as long as it deals with the impacts of the project. And my understanding is that all these conditions were reviewed by the developer and they're aware of them and understand them and they are on the property to mitigate the impact of the proposed subdivision. So, that's something that it is permitted provided that again is mitigating the impact of the project and that's in the County Code as well, as far as the basis for imposing conditions along with the decision whether or not to grant a Change in Zoning which again the applicant does have to show that they are...they have met the criteria required for that change.

CHAIR PALTIN: Thank you. Member Sinenci, sorry to interrupt.

VICE-CHAIR SINENCI: No, I appreciate the effort, Mark. Thank you.

MR. SPENCER: Okay. Could I add something? On that condition about us selling, or the first right of refusal, I would suggest you could even just, if it's appropriate, scratch out that little phrase that talks about a transportation and just say the County has the first right to, first right of refusal to purchase that and we're agreeable to that.

CHAIR PALTIN: Okay.

MR. HOPPER: Madam Chair?

CHAIR PALTIN: I would...yes, Mr. Hopper.

MR. HOPPER: I don't know if you want to get to each condition but if you're discussing that one, one thought I did have was maybe be a bit more specific about which 40 acres if possible. And I understand being more general but because it's mitigating an impact you could maybe say for drainage purposes or other purposes that you're considering it for just to show as part of the record and to a future landowner that this is the reason

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that we're requiring this is because there's a potential drainage impact of building the homes and therefore this would mitigate that impact, so.

CHAIR PALTIN: Thank you. I like that. Would the most Lahaina side of the property be specific enough or the northernmost 40 acres of the property be specific enough?

MR. BAGOYO: I think we can be specific. We could say lot, the proposed lot 21.

CHAIR PALTIN: Oh, okay. And if..

MR. BAGOYO: That's the most southern. That's 44 acres by the way.

CHAIR PALTIN: Okay. And if a new developer or a new owner was to purchase it from you, would they be bound to this layout so that lot 21 would mean the same to a new owner?

MR. BAGOYO: Yeah. That's the pre-final layout that's been, that was already submitted to the County Public Works.

CHAIR PALTIN: Okay. So, at this time, I'd like to...if there's no further questions...Member Molina?

COUNCILMEMBER MOLINA: Yeah. Just question for the Director of Planning, Mr. Hart.

CHAIR PALTIN: Member Molina, then Member Lee.

COUNCILMEMBER MOLINA: Under the proposed zoning request from the landowner, what specific uses and would the 21 units assuming, you know, the property sold to a new landowner, can they build ohanas on each lot? Would that be permitted?

MR. HART: Yes, that's permitted in the Ag District.

COUNCILMEMBER MOLINA: Okay. So, potentially we're looking at 42 structures then, farm dwelling and...if I'm correct then.

MR. HART: Thank you, Corporation Counsel. It's actually a second farm dwelling not to exceed 1,000 square feet is the proper terminology.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR PALTIN: Member Lee, sorry, I saw that you had a question or a comment.

COUNCILMEMBER LEE: Yes. Madam Chair, I'm...procedurally, first we had a motion to approve, a second, and then you brought up revisions. So, are your revisions going to be amendments? And if so, can we go through them one by one? Because first you started talking about the crosswalk, and then jumped over to the amount of acres, and then talked about purchasing the property from the County, and now layouts. I think we need to go through them one by one.

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CHAIR PALTIN: If that's the will of the body, we sure can do that. One question before we start.

COUNCILMEMBER KING: Yeah. I just, I guess this is a question for, I don't know if it's Planning or Corp. Counsel, but the statement that what's before us right now is 100 and something homes or 1,000, 1,100 homes. What...the area is right now zoned Project District 12. If they want...whatever goes into that, I mean, that's what we're proposing to change it from, from Project District 12 to Agriculture. So, Project District 12 does not mean we have 1,100 homes approved on the table, does it?

MR. HART: The community plan is the project district, the zoning is Ag, Open Zone, and Residential.

COUNCILMEMBER KING: Right. So, if it says Project District 12 in the community plan, does it, is that mean there are 1,100 homes approved in the project, in the community plan?

MR. HART: No. In the community plan, yes, I'm sorry. It's, that's what it's designated for in the community plan.

COUNCILMEMBER KING: Okay. So, that was the, whatever, 20-something years ago they proposed 1,100 homes --

MR. HART: Yes.

COUNCILMEMBER KING: --in the community plan affordable?

MR. HART: I believe the applicant said it was half. I'd have to...

COUNCILMEMBER KING: Okay.

MR. HART: I'd have to read from the project district description.

COUNCILMEMBER KING: Yeah, I think that was...and that's kind of my point is it's a little bit outdated because the law has since changed as well. Right now...that back then 50 percent affordable was the requirement. Right now, it's 25 percent. So, likely even if it did go forward, it probably wouldn't get approved because it would only have 25 percent affordable housing or is it bound by the old laws?

MR. HART: It would be bound by the community plan unless the Council changed the community plan language.

COUNCILMEMBER KING: Okay. So, if we wanted to do, you know, say this didn't go through, we wanted to do a purchase we could still do the purchase at whatever it's zoned at, correct? It doesn't have...does it have to be rezoned Open Space? Does it have to be rezoned Open Space if the County wanted to use open space funds to purchase it?

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MR. HOPPER: Again, the County...the discussion right now of the County purchasing the property is not on the agenda and is something that is not part of the zoning criteria, so I...

COUNCILMEMBER KING: No, but, Mr. Hopper, it is something that colors my opinion of what's happening and it has a bearing on my vote, because if that is an option, which has not been discussed with the Mayor. It wasn't the Mayor turned down a meeting, the Mayor didn't, there was no meeting scheduled. So, there was one attempt to go meet with the Mayor on the fly. We don't know that that's been turned down. We don't know what the opinion of the Mayor is and the Administration is this Administration. So, you know, that is part of the discussion. There's pieces on the conditions that have to do with us purchasing parts of the parcel.

MR. HOPPER: So, my advice at this stage is to not have further discussions on purchasing the property. We can go into executive session to discuss more of the details of my concerns with that continued discussion, but that's the advice on record at this stage and we can certainly discuss more on why I do believe that's an issue. But at this stage, that's my advice on this, in this particular Change in Zoning application.

COUNCILMEMBER KING: Okay. So, do you have a problem with the zoning condition of first right of refusal for the County to buy the property if we don't know that the Mayor has agreed to that?

MR. HOPPER: Again, at this stage, if you want to talk about a specific zoning condition that is mitigating an impact of the property, then that's very different than just saying the County acquiring the entire property for in general, which is something that's, again, not part of this. If it's to mitigate an impact of the land use entitlements, which are on the agenda today, then that's certainly something that we can discuss and go forward with.

COUNCILMEMBER KING: Okay. So, we should just ignore all the discussion also about whether or not the Mayor is interested in this because he has not been approached yet.

MR. HOPPER: I can explain to you my rationale and my caution of continued discussion of purchasing the property that is under consideration for zoning entitlements at this point as I would with any other property in executive session if we want to go into that detail and explain why. I don't want to do that in open session in this situation because I believe it may subject the County to potential liability in that case.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR PALTIN: Thank you. Before we go through the conditions, I just had another question. Did you also, for the landowner, did you also try to schedule a meeting with him and were not successful, it wasn't just that on the fly going up?

COUNCILMEMBER KING: We asked that. He said no, he hasn't tried to schedule a meeting.

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CHAIR PALTIN: Did you want to clarify, Mr. Spencer?

MR. SPENCER: Yeah. Mark Spencer, again. Yes, I left Kelly's office, went straight up to the Mayor's Office, asked to meet with him, they came back said he wasn't available, I said I'd like to meet with him, I left my contact information, and did not get any return call.

CHAIR PALTIN: And did you do a follow-up phone call?

MR. SPENCER: No, I did not.

CHAIR PALTIN: Oh, okay. All right. Moving along, in that case, if folks look on their Granicus under correspondence to Corp. Counsel, 11-19-19, under Exhibit "C," Page 18 of 29. We have the revised conditions, Exhibit "C." At the request of the body we can go through them one by one. And do we want to do just consensus on each condition? Okay. All right.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER SUGIMURA: . . . (inaudible) . . .

CHAIR PALTIN: Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Wrong one. I just wanted to be sure that the owners are okay with the conditions. Have you reviewed it? Okay. And you're okay?

CHAIR PALTIN: I think this is...that's what we're doing right now.

COUNCILMEMBER SUGIMURA: Yeah, and one by one, but I just wanted to make sure they've seen it.

CHAIR PALTIN: They can give you a thumbs-up or...

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Okay. Alright. So, Condition 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. Consensus?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Number 2, MVI, LLC and any future owner or lessee must construct and maintain firebreaks on all perimeter property boundaries as approved by the Maui County Fire Department.

COUNCILMEMBERS: Consensus.

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CHAIR PALTIN: Consensus? Question from Chair King.

COUNCILMEMBER KING: What is meant...what properties are you referring to in that property boundaries?

CHAIR PALTIN: The property boundaries, perimeter property boundary of the owner.

COUNCILMEMBER KING: Of every single lot?

CHAIR PALTIN: This condition was coming from the Planning Commission. Mr. Fasi, would you care to comment on the intent of that or Mr. Hart?

MR. HART: So, it was intended to be the perimeter of the development.

CHAIR PALTIN: The perimeter of the land --

MR. HART: Entire...

CHAIR PALTIN: --owned by the owner, not --

MR. HART: Yeah.

CHAIR PALTIN: --each lot.

MR. HART: Correct.

CHAIR PALTIN: Okay. So, the clarification is the perimeter of the land owned by MVI LLC at this time, clarification. Consensus?

COUNCILMEMBER KING: Well, I...are there...

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Are there going to be additional fire breaks around the properties that are being developed?

CHAIR PALTIN: Mr. Hart?

MR. HART: No, there wasn't a proposal. No, not at this time. There wasn't a request that each, that the master developer clear firebreaks on each individual lot after they're sold as a...

COUNCILMEMBER KING: Okay, so just around the entire thing and that was sufficient...do we have a statement by the Fire Department that that was sufficient?

MR. HART: I believe it came from the Planning Commission.

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COUNCILMEMBER KING: Okay. Mr. Fasi, was that...did you get approval from the Fire Department on that condition that that was sufficient? If the fire jumps over that one fire break, there's nothing to keep it from going into the subdivision?

MR. FASI: We did not get consensus.

COUNCILMEMBER KING: You did not get consensus from the Fire Department?

MR. FASI: We did not get consensus from the Fire Department. That was an issue that came up in the Planning Commission. I don't believe the Fire Department had a representative there to comment on that --

COUNCILMEMBER KING: Okay.

MR. FASI: --aspect.

COUNCILMEMBER KING: I'd like to reserve my approval until we talk to the Fire Department.

CHAIR PALTIN: Okay. So, we don't have consensus on Condition number 2. Would it be appropriate to take a vote on Condition number 2?

MR. KRUEGER: Chair, it's your call. The bills that are currently before the Committee already contains that condition. My understanding is as you're going through the conditions it's just confirming the Committee's feeling on those. But the bills that the motions were taken on these conditions are already included in those bills. Thank you, Chair.

CHAIR PALTIN: Okay. So, would Members like to just vote on each condition or would they like to vote at the end of all the conditions? Member Lee?

COUNCILMEMBER LEE: Chair, it might be easier if we just voted on each condition and then that way we don't have to go back.

CHAIR PALTIN: Okay. All right. So, all those in favor of Condition number 2 as stated in Exhibit "C" conditions of zoning, correspondence to Corp. Counsel, 11-19-19, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed?

COUNCILMEMBERS: No.

CHAIR PALTIN: No, okay. So, we got one, two, three, no, no...so we have three "ayes" and three "noes" and one excused. So, we can, I guess circle back to that one.

COUNCILMEMBER LEE: Actually, it fails.

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CHAIR PALTIN: Oh, it fails. Okay. Should we...

VOTE: AYES: Chair Paltin, and Councilmembers Lee and Molina.

NOES: Vice-Chair Sinenci and Councilmembers King and Rawlins-Fernandez.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Sugimura.

MOTION FAILED.

MR. KRUEGER: Excuse me, Chair?

CHAIR PALTIN: Yes, James?

MR. KRUEGER: If okay, can Staff request a short recess?

CHAIR PALTIN: You sure can. And I'll approve a short recess. You wanted like five minutes or call of the Chair?

COUNCILMEMBER MOLINA: Call of the Chair.

CHAIR PALTIN: Call of the Chair. Okay, we're gonna take a short recess at the call of the Chair. ...*(gavel)*...

RECESS: 6:25 p.m.

RECONVENE: 6:29 p.m.

CHAIR PALTIN: ...*(gavel)*... Will the Planning and Sustainable Land Use Committee meeting of November 26 return to order. The time is 6:29. I've been advised by Staff, a better way to take votes would to entertain a motion to take out the condition if there's no consensus. So, is there a motion...you missed the vote.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, no. ...*(laughter)*...

CHAIR PALTIN: Okay. So, is there a motion --

COUNCILMEMBER SUGIMURA: Bathroom was far away.

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CHAIR PALTIN: --to remove Condition 2, which says, MVI, LLC and any future owner or lessee must construct and maintain firebreaks on all perimeter property boundaries as approved by the Maui County Fire Department?

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of order? Or point of clarification?

CHAIR PALTIN: Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Well, my vote was no when we, when you checked for consensus. And it wasn't that I wanted it completely removed as a condition. I think I agree with Chair King as far as modifying it to ensure that it's exactly what we want as a condition. Conceptually, I do agree with it being in there. Mahalo.

CHAIR PALTIN: Okay. So...and then Staff also did point out, and I know Member Lee really wanted to go in order, but Condition number 4 does describe a 50-foot buffer zone on either side of the highway as well as buffers on the trail. And although they aren't called fire breaks, we could do that, or was there a further amendment to Condition 2 that anyone wanted to make? Member Lee?

COUNCILMEMBER LEE: Madam Chair, the reason why I generally like to go in order is because we can sort of digress a little too much sometimes when you do that. Number 2 actually by voting no on number 2 means that we don't have that condition anymore. Right? We took a vote to approve of that condition and that vote failed, unless somebody else had a different understanding of what happened. So, before you jump to number 4, I think you better take care of number 2 'cause I don't think anybody wants to remove this condition that requires fire breaks on the perimeter of the land.

CHAIR PALTIN: Point taken, Member Lee. Member Sugimura, would you like to move for reconsideration?

COUNCILMEMBER SUGIMURA: So...

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: Just, Madam, just conferring with Staff, so my understanding was there was a motion and a second to approve with all these conditions in it and then there was another vote taken to approve of Condition 2, which was actually already part of the original motion and that was a three-three vote. I mean, so that wasn't any sort of action. There wasn't a four-member majority vote to take action on anything, so I'm not sure why the original main motion, which was to approve with the conditions wouldn't still be before the body. Staff can correct me if I'm wrong, but, you know, despite that motion which seems like it wouldn't necessarily be required because it was already in the part of the main motion. I don't think that altered the main motion at all. I think once you have a main motion, your options are to amend, to delete what's in the proposed main motion or take up some other action, but I thought that's my reading on

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it. Again, I defer to the Chair and the Staff on parliamentary matters, but that was my thought.

CHAIR PALTIN: I was wondering if the Staff could clarify on parliamentary matters if somebody that was absent for the vote could move for reconsideration.

MR. KRUEGER: Chair, so Staff concurs with what Corporation Counsel just said, that the main motion has not been altered in any way. The...as a matter of reconsideration, Staff doesn't think it's necessary at this time since there has been, you know, no alteration to the main motion. Someone could propose an amendment, but other than that, nothing else is needed. Thank you, Chair.

MR. HOPPER: One option could be to delete all of the conditions and start one, approval one by one or you could just decide what you want to do with each of these conditions to remove them or retain them. I'm not sure what the best way is. I thought, traditionally in committees, the rules were a little more flexible, if you wanted to go condition by condition to be, to have consensus but, I mean, a lot of this is up to the body on how you want to handle these particular, these items.

CHAIR PALTIN: Member Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. My recollection is that there was a motion to approve the project, somebody seconded, then you brought up conditions that you wanted to revise, yeah. So, that's where we are now. So, I still suggest that we go condition by condition, one at a time, because now I'm sensing that you may want to combine a couple of these, maybe add new ones, I'm not sure, so if...we did number 1, how about we just finish number 2?

CHAIR PALTIN: Okay. So, I don't hear any motion to remove number 2. Is there any motion to amend number 2?

MR. HOPPER: I believe the main motion contains all of the conditions. Was that the original main motion? So, that's what you have. You haven't taken a vote on the main motion yet. You're deliberating on the main motion and can have amendments to that main motion. But...and if you want to delete all of the conditions, move to amend by deleting all conditions, second, and do that, and then start from scratch. Maybe that's an option or to withdraw the main motion and do something else, but I think you've got some flexibility.

COUNCILMEMBER MOLINA: Chair?

CHAIR PALTIN: Councilmember Molina?

COUNCILMEMBER MOLINA: Thank you. Can I ask Mr. Hopper for additional clarification? So, does this current Condition 2 still exist after the three-three vote? It still exists, right? It's still on the table?

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MR. HOPPER: Yes. I believe the three-three vote was to add the condition, which, I mean, it's sort of as a motion wasn't necessary because it's part of the --

COUNCILMEMBER MOLINA: Main motion.

MR. HOPPER: --main motion that was already there. So, I think what you have before you if you were to take a vote now, for example, you would be approving these changes subject to all of the conditions, if I recall correctly what the motion was. And so, that's the main motion that you have right now to consider.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Hopper. Madam Chair, for your consideration, because the condition is still on the table, we can move on to the next condition, and then if anyone has a consideration, we can come back to it and amend it. I mean, that's an option.

COUNCILMEMBER KING: . . .*(inaudible)*. . .

COUNCILMEMBER MOLINA: Yeah. And, but I haven't heard anything, anybody's making any indication of amending it at this time, so...okay, if you are, okay, good, I'd like to hear it. Thank you.

CHAIR PALTIN: Okay. I'll entertain a motion to amend Condition 2.

COUNCILMEMBER KING: Okay. Thank you, Chair. So, I'd like to amend Condition 2 by adding the fire breaks, and this is part of why, you know, would be good to have the Police...the Fire Department here, because we don't know what it is that they want to have, and they weren't there to approve this. But I think we need fire breaks around any developed area, the developed subdivision as well, because we've got trails and things on there that are going to be used by the general public. So, that would be my suggestion is to say, maintain fire breaks on all perimeter property boundaries as well as boundaries around the developed subdivision as approved by the Maui County Fire Department.

CHAIR PALTIN: Is there a --

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: --timeframe on that because the properties have not been subdivided yet. We're just doing a change in zoning and a community plan amendment.

COUNCILMEMBER KING: Well, at any subdivision, any developed subdivision would just, would apply to anything whether it's this plan or another plan.

CHAIR PALTIN: So, like by first subdivision approval?

COUNCILMEMBER KING: What is the...I mean I don't see a deadline on the original fire break. Is there a deadline for that?

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CHAIR PALTIN: For me, I would hope they would do it as the condition gets changed they would work on it.

MR. HART: Chair, if I could add some clarity?

CHAIR PALTIN: Yes.

MR. HART: I believe the anticipation was it was gonna be the perimeter, it was gonna be to the approval of the Fire Department, and it was anticipated to be, you know, in perpetuity. So, that would be, you know, whether or not there's an association or a body that takes over after the current developer that's the perimeter fire break is being maintained.

COUNCILMEMBER KING: Right. When the...the question was when would that be done, because if we're going to add, you know, after any, around any subdivision, when would that be done?

MR. HART: I would anticipate when the ordinance sticks.

MR. HOPPER: If the Council wants a certain time, you can say prior to final subdivision approval or something like that if it's possible. I don't know if the developer had a thought on that, but you can put in a timeframe if you wanted.

CHAIR PALTIN: Mr. Bagoyo?

MR. BAGOYO: Thank you. Normally, the Fire Department reviews and approve the subdivision anyway. So, that's why that language by the Planning Commission was inserted. So they will approve the subdivisions, and they can impose the fire breaks within those lots.

COUNCILMEMBER KING: Okay. But they could do that on the perimeter as well but we're putting it in.

MR. BAGOYO: In the lots.

COUNCILMEMBER KING: Council putting it in as, I'm suggesting we put it in as a condition --

MR. BAGOYO: That's fine.

COUNCILMEMBER KING: --as approved by the Fire Department --

MR. BAGOYO: That's fine.

COUNCILMEMBER KING: --around the subdivision.

MR. BAGOYO: Yeah.

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COUNCILMEMBER KING: And that would be done at the point that the subdivision is developed, correct?

MR. BAGOYO: Correct.

COUNCILMEMBER KING: Okay.

MR. BAGOYO: Thank you.

CHAIR PALTIN: Okay. So, that was moved by Chair King, Council Chair King, and seconded by Council Vice-Chair Rawlins-Fernandez. Any discussion on the motion on the floor?

MR. HOPPER: Madam Chair, just clarification on the wording of the condition, what was it? Could Staff...

CHAIR PALTIN: Chair?

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Or Staff?

COUNCILMEMBER KING: So, it would say, maintain fire breaks on all perimeter property boundaries as well as all...as well as the subdivision boundaries as approved by the Maui County Fire Department. So, the intent is that it would go, if it's gonna go around the whole perimeter there would also be a fire break around the subdivision boundaries.

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

COUNCILMEMBER KING: Well, not each individual property but around the whole subdivision separating it out from some of the other activities that are happening on the property, which are gonna be hiking and, you know, the maintenance of the watershed, and some of these other things.

CHAIR PALTIN: Mr. Hart?

MR. HART: I want to make sure I understand. The project perimeter and not each individual lot, however...

COUNCILMEMBER KING: Correct. The subdivision perimeter.

MR. HART: Okay. I believe that that...

COUNCILMEMBER KING: So, you've got your property, your entire property fire break, but then you got all these, this subdivision in here that has no fire breaks around it.

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MR. HART: So, I believe that that is the intent of the Planning Commission's proposed condition is that...

COUNCILMEMBER KING: I asked that and they said no. My first question was is that going around the subdivision, they said no, it's the perimeter of the entire property.

MR. HART: Point of clarification, that is the subdivision.

COUNCILMEMBER KING: The entire, the subdivision is part of the entire property, correct?

MR. HART: Well, the project is being, the property's proposed to be subdivided anyway. So, in the way, in the context of the way it'd be referred to that this is the subdivision, so around...

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

MR. HART: No, it, I mean, I apologize, but when you're referring to a subdivision that whole collected, collection of parcels that's being subdivided is the subdivision.

COUNCILMEMBER KING: So, this is a subdivision too?

MR. HART: That's part of the project site.

COUNCILMEMBER KING: This is the subdivision?

MR. HART: Yeah, that's part of the project site as well. So, the Planning Commission proposes that they create a fire break around the entire thing that you see there.

COUNCILMEMBER KING: Okay. But what happened to the pieces that we've had, the County has first right of refusal to buy? That's not gonna be part of the subdivision.

MR. HART: I believe it was being referred to as parcel 21. Is that correct?

MR. BAGOYO: ...*(inaudible)*...

MR. HART: Yeah. So, that is one of the subdivided parcels. If you want to...

CHAIR PALTIN: Mr. Bagoyo?

MR. BAGOYO: Thank you. Lot 21 is part of the 21-lot subdivision.

COUNCILMEMBER KING: Okay, so you...

MR. BAGOYO: So, the 40-something acres is lot 21.

COUNCILMEMBER KING: Okay. So, my intent is that the, maybe it's just rewording this, is that the fire break needs to be around whatever is being developed, okay.

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MR. BAGOYO: Correct.

COUNCILMEMBER KING: Okay, and that parcel is not being developed, is that correct? Otherwise how could we buy it?

MR. BAGOYO: Forty-one or, I mean, 21.

COUNCILMEMBER KING: Right.

MR. BAGOYO: Well, it's gonna be part of the subdivided lots. It's gonna be an...that lot is gonna be an individual lot.

COUNCILMEMBER KING: Right, but it's not one of the developed lots; otherwise, why is it in here as a condition that we could have first right of refusal to buy?

CHAIR PALTIN: If I may, so that's a lot, and if we don't buy it, then it'll be sold as a lot.

MR. BAGOYO: That's correct.

CHAIR PALTIN: So, hopefully, we buy it. I mean, if we don't buy it, somebody's gonna put a house somewhere on it probably or not if they don't want to, but it's a 21-lot subdivision and we have the first right of refusal for lot 21. So, according to Deputy Director Hart, it sounds like Condition 2 does mean what the intent of Council Chair King had stated in her amendment.

MR. HART: I believe it does. I believe it does.

COUNCILMEMBER KING: Okay. So, can I just ask you then, if this, if this gets changed because we're not voting on this actual subdivision, if this gets changed at some point, then what happens to these conditions if someone comes in and buys this and says, I'm only going to develop half of the project, half of the property?

CHAIR PALTIN: My understanding is if it gets changed it needs to go back to the Planning Commission.

MR. HART: The question is a procedural question about whether or not they change the land use designations but then reset the subdivision process and did a different subdivision?

COUNCILMEMBER KING: Right. Right now, we're talking about Community Plan Amendment change and Change in Zoning and if that happens, this plan doesn't necessarily have to be followed is my understanding.

MR. HART: Well...

COUNCILMEMBER KING: They don't have to come back to the Council or the public or tell anybody if they decide to change the development.

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MR. HART: I'm sorry. So, the conditions would be recorded against the property presuming you went through the Change in Zoning, Community Plan Amendment process. So, the way that the condition is drafted currently, the applicant would be responsible for maintaining a fire break around the perimeter of the property.

COUNCILMEMBER KING: Of the property. So that was my point if someone came in and just said, I'm only going to develop half of this property, they're not bound to put a fire break around the actual development subdivision.

MR. HART: I would...from the Planning Department's perspective, our position would be that you proposed and this is established in the submittals that they're making and this, the minutes of this meeting that the condition is to do a fire break around the perimeter of this collection of property right now. If they change their subdivision plans, that's, the conditions of zoning would have been recorded against the property, the obligation would maintain.

COUNCILMEMBER KING: Well, the conditions are to put a fire break around the entire property.

MR. HART: That's what I'm trying to...

COUNCILMEMBER KING: If they decide to not develop the entire property into a subdivision, then the fire break goes around the entire property but not around the subdivision. It doesn't separate out the subdivision from whatever else is happening in the property, and this is what's happening in parts of Kihei when we see fires spreading is there's no fire break between bare land and a subdivision. And I know because my husband went out there and helped cut one the last time there was fire that almost hit the Kaiwahine Village.

MR. HART: So, Chair, just point of clarification --

CHAIR PALTIN: Mr. Hart?

MR. HART: --that the condition has no reference to subdivision. It only references the property perimeter boundaries.

MR. SPENCER: If I could maybe try to clear it up.

CHAIR PALTIN: Mr. Spencer?

MR. SPENCER: If a future plan by us or somebody else was only gonna utilize part of it, the subdivision is still for the entire parcel. So, that perimeter is still there, so even if somebody was only gonna build on part of it, the...

COUNCILMEMBER KING: No, I understand that, Mark, but what I'm saying is you need to have a fire break around the subdivision.

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MR. SPENCER: Yeah, I'm agreeing. That's what I'm saying is a subdivision is dividing a piece of property into individual lots. If somebody comes back later and says, you know, we're not gonna do 21 lots, we're gonna do 3 lots over here and just keep the other side big, that big piece is still part of the subdivision, so the perimeter fire break would still be required.

COUNCILMEMBER KING: But what I'm saying is we also need a fire break around the developed subdivision that protects those developed areas.

MR. SPENCER: Okay. Well, again, when you're saying subdivision, subdivision is the drawing of lines and creating individual lots.

CHAIR PALTIN: Okay. I want to make a point of clarification that we're getting kicked out of here at 8:30 and so and we're on Condition 2 of 15. So, and I did want to amend number 11 and there was a request to go in order. So, it kind of sounds to me that it was covered. We can take a vote on the proposed amendment if that's the will of the body.

COUNCILMEMBER KING: Well, I just want to say, Chair, that the, what I'm talking about is the developed subdivision, not lines drawn on a map. And I'm really worried about what we're actually gonna get in the end because we have no control over this map or any other map that someone decides to draw and develop once it, if this condition of zoning happens.

CHAIR PALTIN: Yeah. So, once again, the condition says that the owner or if any future owner or lessee must construct and maintain fire breaks on all perimeter property boundaries. There's no wording about subdivision. So, they must construct and maintain fire breaks around the entire perimeter property boundaries that the owner owns and we're talking about this property right now. So, if you don't want to withdraw your motion, we can take a vote right now.

COUNCILMEMBER KING: . . . *(inaudible)* . . .

CHAIR PALTIN: Okay. All those in favor...

COUNCILMEMBER KING: Can I clarify the motion since we've been going back and forth on it so much?

CHAIR PALTIN: Okay. One last clarification.

COUNCILMEMBER KING: Okay. So, the motion would say, all perimeter property boundaries as well as all, around all developed subdivision boundaries as approved by the Maui Fire County Department or the Maui County Fire Department.

CHAIR PALTIN: Okay. As moved by Chair King and seconded by Vice, Council Vice-Chair Rawlins-Fernandez, all those in favor of the motion as stated, say "aye."

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COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed?

COUNCILMEMBER SUGIMURA: Opposed.

CHAIR PALTIN: I'm gonna do a roll call 'cause I didn't get that. So, we got Member Sugimura opposed. Councilmember Molina?

COUNCILMEMBER MOLINA: Aye.

CHAIR PALTIN: Council Chair King, aye. I'll go no. Sinenci?

VICE-CHAIR SINENCI: Aye.

CHAIR PALTIN: Yes. Rawlins-Fernandez, yes.

COUNCILMEMBER LEE: No.

CHAIR PALTIN: No. So that's four-three, the motion passes.

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

NOES: Chair Paltin and Councilmembers Lee and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE AMENDMENT TO CONDITION 2.

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just, point of clarification or information. Did Chair King want to add a timeline to it or was it and I missed it?

COUNCILMEMBER KING: No, I didn't put, I didn't add a timeline. There wasn't a timeline in the original fire break, so I think when it gets to the point of the subdivision being approved then the timeline has to go in there --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

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COUNCILMEMBER KING: --at that point.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: Okay. Moving on to Condition number 3, to provide safe continued access to the existing Pali Trail and continued vehicle access to the existing Pali Trail parking lot, MVI, LLC and any future owner or lessee must provide the following items as shown on Exhibit "I" prior to final subdivision approval. A, a 24-foot wide trail and roadway lot between proposed lots 5 and 6. This lot must be dedicated to the State Department of Land and Natural Resources. B, a 10-foot wide trail lot adjoining a subdivision roadway lot starting at Honoapiilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This 10-foot wide trail lot must be improved with a multiuse path paved with asphalt, concrete, and any, or any other material approved by the State Department of Land and Natural Resources. This trail lot must be dedicated to the State Department of Land and Natural Resources. C, a roadway access easement over a subdivision roadway lot starting at Honoapiilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. This easement must remain open to the public 24 hours a day in perpetuity and must be dedicated to the State Department of Land and Natural Resources. D, a pedestrian crosswalk across Honoapiilani Highway, at the Honoapiilani Highway and North Kihei Road intersection. Walk signaling must not be on demand. Do we have consensus on 3?

COUNCILMEMBER KING: Chair, can you explain why, what that crosswalk would look like? So, there'd be no...I'm not sure what the signaling means not be on demand.

CHAIR PALTIN: So, similar to the concerns I had with the Carl's Jr. crosswalk, for the flow of traffic to West Maui and other, Maalaea, I guess, I don't want folks to be continually pressing it and stopping traffic. And so when the light turns naturally, the crosswalk sign will flash up, not on demand.

COUNCILMEMBER KING: Okay. And then do you have a date for any of these?

CHAIR PALTIN: As it says in 3, prior to final subdivision approval. Councilmember Sugimura?

COUNCILMEMBER KING: Can I just follow up?

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: So, none of this is, if the subdivision isn't requested, then none of this is applicable, correct?

CHAIR PALTIN: If there's no final subdivision approval, then it wouldn't be met on the time. I mean, there would, they don't need to meet these conditions until they hit final subdivision approval, so.

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COUNCILMEMBER KING: Okay. So, the trail and roadway lot is not a condition of zoning, it's a condition of the subdivision approval?

CHAIR PALTIN: It's...they're all conditions of zoning. It wouldn't go into effect until they make the first, the final subdivision approval because the existing trail is there.

COUNCILMEMBER KING: The existing trail will remain.

CHAIR PALTIN: Yeah.

COUNCILMEMBER KING: Okay. So, there's no problem with that? Okay.

CHAIR PALTIN: Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: So, I want to just speak in favor to the sentiments that you expressed when we started this meeting about the concern for that crosswalk, so I just want to support this. Thank you.

CHAIR PALTIN: Okay. So, and as I mentioned before I took out the Carl's Jr. crosswalk and, you know, that's the last stoplight before you go into West Maui. So, you know, Councilmember Hokama, who's not here, says Maui's notorious for bad drivers and red light runners and that being the last stoplight I would hate for someone to just, oh, I'm gonna blow through this red light and take out a person, so that's, I just was concerned. So, that's why, I only left the North Kihei Road one. Sounded like we have consensus on that? Okay. Number 4, MVI, LLC and any future owner or lessee must maintain a 50-foot buffer zone on either side along a subdivision roadway starting at Honoapiilani Highway and ending at the makai end of the 24-foot wide trail and roadway lot described in Condition 3a. The 50-foot buffer zone must also be along the 24-foot wide trail and roadway lot described in Condition 3a. Only Agricultural District uses that do not involve structures are allowed in this buffer zone. Consensus, Members?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Number 5, MVI, LLC and any future owner or lessee must maintain a 200-foot buffer zone along the Honoapiilani Highway. Only Agricultural District uses that do not involve structures are allowed in this buffer zone.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus, okay. Number 6, prior to final subdivision approval, MVI, LLC and any future owner or lessee must provide a 10-foot wide bikeway and pedestrian lot starting at the end of a subdivision roadway lot near the mauka end of the lot line between proposed lots 20 and 21 depicted on the map attached as Exhibit "I" and ending at the Honoapiilani Highway and Kapoli Street intersection. This 10-foot wide bikeway and pedestrian lot must be improved with a multiuse path paved with asphalt, concrete, or a similar material.

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COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus, okay. Number 7, MVI, LLC and any future owner or lessee are responsible for traffic and roadway improvements necessary to mitigate the project's impacts. The necessary traffic and roadway improvements must be specified to the satisfaction of the State Department of Transportation, the County Department of Transportation, and the County Department of Public Works, and documented in a Memorandum of Agreement. The improvements must be completed prior to final subdivision approval.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Number 8--thank you--MVI, LLC and any future owner or lessee must leave the area subject to the Change in Zoning undeveloped, without any structures, because of drainage concerns, to provide a buffer for cultural sites in the area, and to preserve views.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Okay. Number 9, MVI, LLC and any future owner or lessee must not create a condominium property regime on the property.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Number 10, MVI, LLC, and any future owner or lessee must not pursue approvals under Chapter 201H, Hawaii Revised Statutes, or any other similar law or regulation. MVI, LLC and any future owner or lessee are informed that the Council's approval of the Change in Zoning to Agricultural District is based on this commitment.

COUNCILMEMBER MOLINA: Consensus.

MR. HOPPER: Wait, Madam Chair.

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: This was one condition that, with Staff, I had discussed alternative language because I don't know if, I don't want to accurately...inaccurately reflect that if a future Council decides to grant a 201H approval that's something it could still possibly do. The revised condition that I discussed with Staff was the Maui County Council's approval of the Change in Zoning to Agricultural is given with the expectation that MVI, LLC and any future owner or lessee will not pursue approvals under Chapter 201H, Hawaii Revised Statutes, or any other similar law or regulation for the property. So, that's what we had had.

CHAIR PALTIN: Okay. I like the legal version. Is there any motion to adopt that amended language?

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COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER MOLINA: Second.

COUNCILMEMBER LEE: I don't mind that, but we did it for Atherton, just trying to remind you about that.

CHAIR PALTIN: I know and at that time we had Mr. Galazin instead of Mr. Hopper.

MR. HOPPER: Oh, no. I'm not saying that we disagree on that. I think this accurately reflects, you know, probably reality. I just don't want the expectation to be that no one could ever ask in the future. I mean, it would be...I don't think that through zoning conditions you can necessarily prevent future councils from taking legislative acts or things under State law, so that can be a little difficult to put in there. So, I think the language is still clear enough on the Council's intention with this, so.

CHAIR PALTIN: Okay, thank you. So, it's been moved by Councilmember Sugimura and seconded by Councilmember Molina to adopt the language proposed by Deputy Corp. Counsel, Michael Hopper, for Condition number 10. All those in favor?

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed?

COUNCILMEMBERS: No.

CHAIR PALTIN: Okay, so it sounded like five "ayes" and two "noes," Council Chair King and Councilmember Sinenci, and Councilmember Rawlins-Fernandez. So, it's four-three, motion carries.

VOTE: AYES: Chair Paltin and Councilmembers Lee, Molina, and Sugimura.

NOES: Vice-Chair Sinenci and Councilmembers King and Rawlins-Fernandez.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE AMENDMENT TO CONDITION 10.

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CHAIR PALTIN: Okay, number 11, the County of Maui will have the first, have the right of first refusal to purchase for the purposes of a transportation transfer hub, a parcel of at least 40 acres that results from subdivision of the property. And we did discuss some word changes. Mr. Hopper, did, were you ready to present a proposed amendment to Condition 11?

MR. HOPPER: The only...the main thing is, was that if there's a specific area that you believe would be, I think you said was lot 21 on Exhibit "I." You've referred to Exhibit "I" in different places here, so I think you could add that language. And then also you were discussing for the purposes of a transportation hub or drainage purpose or drainage mitigation purposes or whatever else you'd want to use, if those are two potential things you would want to use it for, and then, and refer to Exhibit "I," lot 21 on Exhibit "I." So, I don't know the exact language maybe the County of Maui will have the right of first refusal to purchase for purpose, for the purposes of a transportation transfer hub and/or a drainage mitigation purposes, a parcel, lot 21, on Exhibit "I," which shall be at least the area known as lot 21 on Exhibit "I," which shall consist of at least 40 acres that results from the subdivision of the property...something like that.

CHAIR PALTIN: Okay. So, I'll entertain a motion to amend Condition 11 to say the County of Maui will have the right of first refusal to purchase lot 21 on Exhibit "I" for the purposes of transportation transfer hub and/or drainage mitigation and that this parcel shall be at least 40 acres that results from subdivision of the property.

VICE-CHAIR SINENCI: So moved.

CHAIR PALTIN: Moved by Council Vice, or Committee Vice-Chair Sinenci.

COUNCILMEMBER LEE: Second.

CHAIR PALTIN: Seconded by Councilmember Alice Lee. Any discussion, Members?
Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. I think we should just take out the purposes and just say the County has right of first refusal and then we decide what we want to do with it then because we don't, we haven't done a study on a transportation hub, we don't even know if that's practical there or if it's desirable there. We may want to do drainage. We may want to do something else with it in the future, so why limit ourselves. I think that's what the landowner was suggesting earlier. But my other, and my other question is what, how...well, I guess I have two questions. How long do we have to purchase it? Because I don't think we can get it done in 90 days when we can't even get a meeting with the Mayor. And how would we be assured that we would, we'd be purchasing it for at a reasonable rate?

CHAIR PALTIN: So, the timeline discussed with the landowner was 90 days. And I think Corp. Counsel Deputy, Mr. Hopper, did, I mean, we can take out the transportation transfer

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hub, but you mentioned something about recordation of the drainage mitigation for a reason.

MR. HOPPER: Well, I just, in general, the requirements would be if you're going to require dedication of property for a public purpose or for the County or something like that to specify what impact it's trying to mitigate. Most of these are clearly to mitigate access issues for existing trails and other things like that. So, I think it's probably good to...if they're dedicating 40 acres to the County, it would be to mitigate some impact the development's having generally. And so, if you look at the subdivision and say there are, based on the record, there appears to be potential drainage impacts if they build these homes here, then this would be in response to those or if there's transportation issues it's creating this may be in response to those. So, I think that's the benefit of specifying the purposes that it would be used for, if that's the Committee's intent. But generally, if you're going to require dedication, it would be to mitigate a project impact that the project's having and drainage would be an example of one of those. Maybe there's others that are in the record that you can consider, but that's why I think I suggested some sort of language like that.

CHAIR PALTIN: Thank you, Mr. Hopper. At this time, would the landowner care to respond to Council Chair's King's question as to if we can get more than 90 days and a fair value price?

MR. SPENCER: I'm sorry.

CHAIR PALTIN: Oh, sorry.

MR. SPENCER: We had another conversation going.

CHAIR PALTIN: I just thought you were nodding. So, Council Chair King had asked about the 90 days, if we could get it longer and something about a fair price, fair market value.

COUNCILMEMBER KING: It's...is it...it's the parcel that's open space to be...

MR. SPENCER: Yeah. I would say we'd be willing to go 120 days after final subdivision approval, so that's still down the road. And I believe your counsel can probably tell you, I think it would just go under your standard County policy when you're buying property. I mean, we'll have our sales price, but it'll have to go through some appraisal process.

COUNCILMEMBER KING: Well, but this is open space right now, this parcel. Is this the parcel that you're asking for rezoning to Ag from Open Space?

MR. SPENCER: No. I think it's a combination.

COUNCILMEMBER KING: I thought it was that corner.

MR. SPENCER: I think it's Maui County zoned Ag right now.

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COUNCILMEMBER KING: Okay.

CHAIR PALTIN: So to clarify, under Condition 8, they wouldn't be able to develop any structure in that, in this parcel, portion of the parcel. So, it's a reduced value because they couldn't make use of it. So, I'll entertain a motion to amend the current motion to take out the transportation transfer hub portion but leave in the drainage mitigation and add in the timeframe of 120 days after final subdivision approval.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR PALTIN: Moved by Councilmember Yuki Lei Sugimura and seconded by Councilmember Mike Molina. At this time, we're voting on the amendment to the motion on the floor. All those...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So on the map, are there other areas of drainage mitigation?

CHAIR PALTIN: Not on the existing map.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, it would be up to the County to purchase this area and then create the drainage mitigation for there to be any drainage mitigation?

CHAIR PALTIN: Deputy Director Hart?

MR. HART: Perhaps the applicant could have their civil engineer come and describe...all subdivisions require drainage mitigation. Well, any project that's creating hardscape and things like that require mitigation. So, there's going to be mitigation required to offset the increase that's developed by the project. What had been talked about by members of the public previously was drainage coming from mauka of the project site through the project. So, the project it would require, be required by Public Works to provide mitigation for anything they cause.

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez, would you like to hear from the --

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure.

CHAIR PALTIN: --project engineer? Mr. Engineer, could you identify yourself for the record.

MR. OTOMO: Good evening. Stacy Otomo. What Deputy Director Hart said is correct. The project is required to mitigate the additional runoff that it generates from the subdivision improvements and that's being provided for on the project. There was one specific

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request from the Maui Planning Commission where on lot 21 that we add additional basins on there and we were agreeable to that.

CHAIR PALTIN: Okay, Mr. Stacy Otomo. Any questions from Council Vice-Chair Rawlins Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so retention basins or drainage basins would be constructed in lot 21 and that would be the extent of the drainage mitigation?

MR. OTOMO: It's not only on lot 21, but the Planning Commission had requested that we do additional on lot 21. But if you look at the strip along the highway, there's retention basins all along that strip as well.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. It's not really clearly mapped out on the map we have.

MR. OTOMO: But there's basins throughout that strip along the highway.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is there a map that you have that clearly indicates where the drainage basin is?

MR. OTOMO: We can provide one. We do actually have that same map but when we printed this the, that's the one, the layers are actually turned off, but we can print one with the layers showing the basin as well.

CHAIR PALTIN: Any further questions for Mr. Stacy Otomo?

COUNCILMEMBER RAWLINS-FERNANDEZ: That's the questions I have. Mahalo, Chair.

CHAIR PALTIN: Oh, okay. Thank you, Mr. Stacy Otomo. So, did...sorry, did we vote on the amendment? Okay. Members, ready to vote on the amendment? All those in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Motion carries.

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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: APPROVE AMENDMENT TO CONDITION 11.

CHAIR PALTIN: And now we'll vote on...oh, is there consensus on the condition with the amendment?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Okay, number 12, MVI, LLC and any future owner or lessee must develop the property in substantial compliance with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee in obtaining the Change in Zoning to Agricultural District.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Is it possible to make Condition 12 Condition number 1 instead? That be the first condition, so that it's like, you know.

CHAIR PALTIN: I don't have a problem with renumbering condition 12, number 1. Is there consensus on the renumberation [sic]?

COUNCILMEMBER RAWLINS-FERNANDEZ: And then my second question is, would it be clear to anyone in the future reading these conditions which meetings they should refer to? Would it be the second reading of the Council?

CHAIR PALTIN: It would be the bills. Yeah, the final bill, I would think. I had a other question on your first question. Did you want to, then, switch number 1 and 12 or did you want to renumber down?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. No, I just wanted it, like, front and center, and, you know, that way it's, it sets the tone immediately. We're asking,

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we're, some of our discussions included whether, you know, there would be substantial compliance. And so, I think if it was Condition 1, then anyone that was reading the conditions would see, you know, right away that it requires substantial compliance.

CHAIR PALTIN: Okay. So, any objection to switching the number for 12 and number 1?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. Mr. Hopper, you didn't have anything?

MR. HOPPER: Oh, no. I just recommended that just to make it easier on Staff so they wouldn't have to renumber every single condition if they can just change 1 and 12, so we'd swap them, that would probably be easier for them.

CHAIR PALTIN: Oh, right on. We were there. Okay. Number 13, MVI, LLC and any future owner or lessee must provide water for the property through private wells and must not draw water from any water source that would diminish the availability of water for other properties.

COUNCILMEMBER MOLINA: Consensus.

MR. HOPPER: Oh, wait, Madam Chair.

CHAIR PALTIN: Yes?

MR. HOPPER: Just to comment on this. I had discussed alternative language with Staff. The issue was that the phrase "and must not draw water from any water source that would diminish the availability of water for other properties," technically taking water from any aquifer could potentially do that. So, I don't want this to be read as saying you can't use no water for this. So, the alternative language sort of discussed with Staff was MVI, LLC and any future owner or lessee must provide water for the property through private wells. To ensure the property only uses its fair share of water resources, the wells must not draw water from any water source that would exceed the sustainable yield of the water source as set by the Commission on Water Resources Management.

CHAIR PALTIN: Thank you. And I'll entertain a motion to amend Condition 13 to what Corp. Counsel Hopper said.

COUNCILMEMBER SUGIMURA: So moved.

VICE-CHAIR SINENCI: Second.

CHAIR PALTIN: Moved by Councilmember Sugimura, seconded by Vice-Chair Sinenci. All those in favor?

COUNCILMEMBERS: Aye.

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CHAIR PALTIN: Any opposed? Motion carries.

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: APPROVE AMENDMENT TO CONDITION 13.

CHAIR PALTIN: Number 13 Condition, as amended, do we have consensus on it?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Number 14, MVI, LLC and any future owner or lessee must receive from the Department of Water Supply a "will serve" letter to confirm reliable long-term water supply for the property prior to final subdivision approval.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. Okay. Number 15, under Docket A91-67, 20.644 acres of the property were reclassified by the State Land Use Commission from Conservation to Rural. MVI, LLC and any future owner or lessee must adhere to the following conditions placed on the 20.644 acres as a result of that reclassification.

MR. HOPPER: Madam Chair, I'm very sorry to interrupt. But Deputy Director, I think had a comment on the last one. He wasn't sure if the Department of Water Supply issues those letters. I wasn't sure if you had, maybe, talked with them on that. I didn't want...

CHAIR PALTIN: Oh, number 14, you're talking about?

MR. HOPPER: Yeah. I'm sorry. He had just indicated to me he wasn't sure of that.

CHAIR PALTIN: Deputy Director Hart?

MR. HART: Yeah, thank you. I was reviewing the comments...the conditions. So, the project is providing private water but they're soliciting a "will serve" letter from the Department of Water Supply?

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CHAIR PALTIN: This project is drawing from the Waikapu Aquifer and that has a sustainable yield of 3 million gallons a day and Michael Atherton for the Waikapu Country Town is also drilling 3 wells, I believe, for his Waikapu Country Town. So, the concern is that Mr. Atherton doesn't believe that he can pull out 3 million gallons a day and Mr. Spencer can also pull out close to 500,000 gallons a day. And I think that the Commission on Water Resource Management is the entity that would oversee that.

MR. HART: So...

CHAIR PALTIN: So, should...were we supposed to say Commission on Water Resource Management instead of Department of Water Supply, is that what you're saying?

MR. HART: I've tried...yeah, I couldn't be certain. I've tried to get "will serve" letters from the Department of Water Supply for projects that were on the County system, and they were very apprehensive, and they don't, they do not like to give "will serve" letters. I can't even just envisioning how they would give a "will serve" letter on a private system. I'm not even following that at all, frankly. I do think that the conditions that Corporation Counsel provided about sustainable yield under the review of the Commission on Water Resource Management is relevant, but I don't think the mechanics of a "will serve" letter, I don't know that the applicant could achieve that, and I don't know if the applicant's civil engineer has an opinion on that or not. But I've never been able to obtain a "will serve" letter despite having tried to obtain them and I can't even envision when it's not their system.

CHAIR PALTIN: Mr. Stacy Otomo or Mr. Vince Bagoyo, whoever feels more comfortable in taking this question?

MR. OTOMO: Stacy Otomo, again. On the private water system, it's gonna be governed by the Department of Health. All the reports go into them for the system and the pumping and everything goes to them. I think if you take out the "will serve" and just state that the Water Supply has to confirm that the project has a long-term reliable source of water would be adequate or appropriate.

CHAIR PALTIN: Okay. So, something like MVI, LLC and any future owner or lessee must receive from the Department of Water Supply confirmation that there is reliable long-term water supply for the property prior to final subdivision approval?

MR. OTOMO: That's correct. Because what happens is after the Department of Health approves the reports and the plans, the approved copies go to the Department of the Water Supply, so with that I think they'll be able to confirm that the project has a long-term reliable source of water.

CHAIR PALTIN: Okay. I'll entertain a motion to amend Condition 14 as I just previously stated.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER MOLINA: Second.

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CHAIR PALTIN: Moved by Councilmember Yuki Lei Sugimura, seconded by Councilmember Mike Molina. Voting on the amended Condition number 14, all those in favor, say "aye."

COUNCILMEMBER LEE: Oh, wait, one second.

CHAIR PALTIN: Yes, one second before we vote. Member Lee?

COUNCILMEMBER LEE: Okay. I thought you said earlier CWRM and he's saying DOH. So, which is...what is the motion?

CHAIR PALTIN: I'm no expert. I would go with Mr. Stacy Otomo.

COUNCILMEMBER LEE: You said DOH, right?

MR. OTOMO: The reports and the water system is approved by the Department of Health. CWRM actually monitors the pumpage, you know, if it's set at 3 million gallons a day, they monitor that.

COUNCILMEMBER LEE: Just, Stacy, just tell us, we're gonna delete the Department of Water Supply and insert...

MR. OTOMO: From what I've seen on past subdivisions with private water systems, there's always the condition that we need to get a letter from the Department of Water Supply stating that the project has a long-term reliable source of water. And I think with the approval by the Department of Health, they'd be willing to issue that letter.

COUNCILMEMBER LEE: Okay. Because generally speaking, since I chair the Water Committee, private water systems don't come under the County. So, you know, I think it's important that you put the right agency here, and Mr. Bagoyo was the Water Director at one time.

MR. BAGOYO: You know your Condition number 13 as proposed by the Corp. Counsel, I think, it's adequate. You can delete 14, basically, because the CWRM will have to approve the sustainability of that source anyway. So, I...Condition number 13, I believe, will address that concern, so you can delete 14.

CHAIR PALTIN: Deputy Director Hart?

MR. HART: I think that they can achieve...I think they can achieve 14 as it was just recently amended. But I agree that if there's a standard condition of subdivision that you have sustainable yield consistent with the water availability ordinance and you have another condition stating that CWRM's going to be supervising the sustainable yield, I believe that you're covered, so whichever way you choose to go on it, I think, is achieving.

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CHAIR PALTIN: I would choose to keep it in with the Water Supply if it's achievable and there's a motion on the floor so...

MR. HOPPER: Madam Chair?

CHAIR PALTIN: Yes, Mr. Hopper?

MR. HOPPER: You may consider also just before first reading checking with the Department of Water Supply and seeing if this is something that's consistent with their policy or not. If that's...I know you don't want to do Committee work on the Council floor but maybe since they're not here that's an option you would have, too. I mean, to approve it and then with the changes and then ask Water Supply before first reading, if it's okay.

CHAIR PALTIN: Yeah, yeah. I wouldn't mind that. James, could you check before first reading if that's something that they're willing to do? Okay. So, voting on number 14 as amended, all those in favor, say "aye."

COUNCILMEMBERS: Aye.

COUNCILMEMBER KING: What did we amend it to be, CWRM or?

CHAIR PALTIN: It's still Department of Water Supply and it's not a "will serve" letter. It's just to confirm a reliable long-term water supply for the property prior to final subdivision approval and that would be based on Department of Health confirmation. So, all those in favor, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Okay, motion carries.

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: APPROVE AMENDMENT TO CONDITION 14.

CHAIR PALTIN: Number 14 is in, as amended. Consensus?

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COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Going back to number 15. Did you guys need me to read that first part again?

COUNCILMEMBER KING: No.

COUNCILMEMBER MOLINA: No.

CHAIR PALTIN: Okay. Part A, the 20.644 acres must continue in agricultural use, in compliance with the representations made to the State Land Use Commission. Part B, the landowner must notify the State Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property. Part C, the landowner must immediately stop work and contact the State Historical [sic] Preservation Division should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, pavings, or walls be encountered during crop cultivation or any subsequent development activity. D, the landowner must provide annual reports to the State Land Use Commission, the State Office of Planning, and the County Department of Planning in connection with the status of the subject project in the Petitioner's progress in complying with the conditions imposed by the State Land Use Commission. E, the State Land Use Commission may fully or partially release the conditions it imposed as to all or any portions of the 20.644 acres upon timely motion and upon the provision of adequate assurance of satisfaction of the conditions by the landowner. Consensus? Question? Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Just clarification on the 20.4 acres, .644 acres.

CHAIR PALTIN: You want to know where that is?

VICE-CHAIR SINENCI: Yeah.

CHAIR PALTIN: I believe it's the portion shaded in red.

VICE-CHAIR SINENCI: Okay, all right. Thank you, Chair. On my map it's shaded red. It's the furthest...thank you.

CHAIR PALTIN: Any further discussion?

COUNCILMEMBER KING: I guess I have a question on that, that's in that parcel that the County has first right of refusal to buy and what is the purpose of changing it from Conservation to Rural?

CHAIR PALTIN: You mean to Ag? So, the purpose of zoning change is if we don't change the zoning, then the conditions that we just went over do not run with the land, and we just wasted a bunch of time, kind of. Mr. Deputy Director Hart?

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MR. HART: There's also the need to have land use consistency for subdivision in general terms, so that's an important part of this.

CHAIR PALTIN: There's that, too. I mean, I guess we could not change the zoning, but all those 15 conditions won't run with the land and then their configuration would change, maybe to one less lot than 21 but...

COUNCILMEMBER KING: This is the lot that the County has first right of refusal on?

CHAIR PALTIN: That's correct. And I, to me, my perspective is we worked really hard on these conditions. I like the conditions and I'd like to see the conditions run with the land. If we don't change the zoning, then the conditions do not run with the land and what Jordan said. Do we have consensus on 15?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. So, that brings us to the main motion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. I thought at our last Committee meeting I had introduced a condition and I don't see it here. So, perhaps I can add it to Condition 13 since it would make sense. It has to do with water. It's a condition that we added to previous housing projects including the Waikapu Country Town and the Launiupoko Makila Farms project and that's any homeowner association...

CHAIR PALTIN: I'll entertain a motion to amend Condition 13.

COUNCILMEMBER RAWLINS-FERNANDEZ: I move to amend Condition 13 to add language requiring homeowner association to pay 10 percent of its fines to watershed protection of Mauna Kahaawai.

CHAIR PALTIN: Before there's a second, did you mean fees?

COUNCILMEMBER RAWLINS-FERNANDEZ: What I say fines? Fees.

VICE-CHAIR SINENCI: Second.

CHAIR PALTIN: Okay. There's a motion on the floor from Council Vice-Chair Rawlins-Fernandez to have...and seconded by Committee Vice-Chair Sinenci to have future homeowners association pay 10 percent of its fees for watershed maintenance, I guess, as per the Pohakea management plan. Okay. And, Member Lee, discussion?

COUNCILMEMBER LEE: Could we have the developer make a comment on that?

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CHAIR PALTIN: Or the landowner? Mr. Spencer?

MR. SPENCER: I'm a little confused on that association fee. What that 10 percent of is?

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez, can you clarify for the landowner?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, if there would be the creation of a homeowners association in this area, there's usually a homeowners association membership fee, and 10 percent of that would go to the protection of watershed of Mauna Kahalawai, which is where the water would be drawn from, the aquifer that the watershed recharges. It's something...it's a condition that we added to two previous developments, and I think it's good practice for any development that addition of houses should contribute to the water that they are taking from the aquifer.

MR. SPENCER: Yeah. It's kind of a curve ball. I haven't thought about that yet. To be cooperative, I'll say yes. I hope that's a wise answer.

CHAIR PALTIN: If I may, under discussion, ask a question to Ms. Hodges as the resource that we had for the Pohakea presentation. And, you know, in your presentation, was there a need to fund the implementation of the watershed management plan?

MS. HODGES: Yes, there is. Yeah. It'll be a continuous, ongoing thing that needs to be done, the maintenance of the projects, the fire breaks. Things that are in the State parcel we're hoping to, of course, eventually move over, and would be absorbed by their management. But there's lots of areas that are not in the State parcel that would need continuous funding to maintain, erosion hotspots, vegetation planting, replanting, you know, fire resistant things if a fire was to come through, water quality monitoring, all of that would be ongoing.

CHAIR PALTIN: And so this fee that would be collected, would you think that the management team would be willing to accept it for the upkeep of the same area?

MS. HODGES: Yeah, absolutely. I could think...I think there would be lots of entities that could accept it, that would be willing to. Yeah, we have lots of programs that are ongoing. It could be something as obvious as continuous water quality monitoring, which is something that we're, we need funding for every year, and that's monitoring what's coming off the land. I know you talk about aquifer recharge here. Yeah, groundwater monitoring, all of that would be ongoing.

CHAIR PALTIN: Okay. Members, are we ready to vote or would we like to have more discussion on this item?

COUNCILMEMBER RAWLINS-FERNANDEZ: I think one more question for me and then Member Sinenci had questions.

CHAIR PALTIN: Okay.

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MS. HODGES: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Hodges. Okay. So, the intention of this, it was originally for the aquifer recharge. Is that something that the Pohakea Watershed management plan has plans for?

MS. HODGES: Yeah. It's more stormwater based. So, as far as aquifer recharge, it would be keeping the water on the land rather than a highway to get it off the land, so that would be things like the retention basins.

COUNCILMEMBER RAWLINS-FERNANDEZ: Retention basins.

MS. HODGES: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, yeah. Mahalo.

CHAIR PALTIN: Committee Vice-Chair Sinenci? Yeah, discussion?

VICE-CHAIR SINENCI: Okay. Thank you. I think it's a responsible move on the developer's side. We've seen depletion through years of our environment, our natural environment, and I think we're moving to being better stewards and more responsible stewards of our environment that is, you know, pretty much lacking...a limited supply of resources. So, when thinking ahead for future generations, I think this is why this is important. Thank you.

CHAIR PALTIN: Thank you. Mr. Bagoyo?

MR. BAGOYO: We just need some clarification about who do we need to pay the 10 percent fee to? Is it to the general, County or some other agency?

CHAIR PALTIN: Council Vice-Chair Rawlins...we're not doing quid pro quo business. But, Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for that clarification.

MR. BAGOYO: I think it's important that we need to clarify the intents of that condition, so that we know...

CHAIR PALTIN: We avoid quid pro quo at all costs.

COUNCILMEMBER RAWLINS-FERNANDEZ: No quid pro quo here.

MR. BAGOYO: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: The intention was for it to go to the Pohakea Watershed protection.

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MR. BAGOYO: Agency.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, whatever organization is doing that.

MR. BAGOYO: Okay.

CHAIR PALTIN: Ms. Hodges, do you mind speaking into the mic for the record?

MS. HODGES: Yeah, Maui Nui Marine Resource Council is, of course, spearheading it, but it's something that we can't do alone, the implementation of the plan, so it's something that would have multiple partners involved over time. So, whoever is involved at the time could accept the funds, there could be a variety of projects that those funds could go towards.

CHAIR PALTIN: So, my question would be...

MS. HODGES: Yeah. Maui Nui Marine Resource Council is the one at this time. Yes.

CHAIR PALTIN: As designated by Maui Nui Marine Resource Council, and if there is no designation could Maui Nui Marine Resource Council keep it in a fund specifically for Pohakea?

MS. HODGES: I would certainly think so since it's a signature project for us, I would possibly have to check with my board members before making some sort of like fiscal sponsorship.

CHAIR PALTIN: Maybe our Staff can coordinate with you before first reading --

MS. HODGES: Of course.

CHAIR PALTIN: --if that's gonna be something that works.

MS. HODGES: Yeah, that's fine.

CHAIR PALTIN: And he can get your information that he can actually contact somebody.

MS HODGES: Yes.

CHAIR PALTIN: Okay.

MS. HODGES: Okay, thank you.

CHAIR PALTIN: Council Chair King has a comment for discussion.

COUNCILMEMBER KING: Okay. Thank you, Chair. Yeah, I fully support that condition. I was going to actually add a condition requiring full cooperation by the landowners and

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any future property owners with the Pohakea Watershed management plan. But I think putting that designation of the 10 percent of the fees will ensure that cooperation, because we heard earlier from testifiers that that could be a problem once you start dealing with 21 different landowners on the property. If some of their fees are going...and I don't know if we need to put that language in as far as full cooperation and 10 percent of the fees that will ensure that there's not somebody holding something up, because it's coming across the corner of their property or something, because I think that's a, this should be seen as a benefit to the landowners and the future homeowners is the watershed project. I did want to make a comment that this report was also prepared by one of our OCS Staff before he joined us, Wesley Crile, so he may have some information as far as the entity that we're looking at. But I'm happy with Maui Nui Marine Resource Council being the holder for this project. Thank you.

CHAIR PALTIN: Okay. Are we ready to vote on Condition 13 as amended and added on to? There's a request from Council Chair King for Council Vice-Chair Rawlins-Fernandez to read the amended addition.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. Mahalo, Chair. Okay. So, the language would say and I'm open to any nonsubstantive revisions from Staff that any future homeowner association would pay 10 percent of its homeowner association fees to the Pohakea Watershed protection to Maui Nui Marine Resource Council or any entity that is leading that effort.

CHAIR PALTIN: Before that, I wanted to friendly amendment, maybe not Marine Resource Council but a fund established by the Marine Resource Council for the Pohakea storm water management. Is that --

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure.

CHAIR PALTIN: --a nonsubstantive friendly amendment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Nonsubstantive.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Friendly, very friendly.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Okay. I was, earlier, I talked about many of you seem to agree with to add the words, the homeowner association will maintain cooperation with and pay a 10 percent fee, 10 percent of their fees to, just to make sure that there's that cooperation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. You can add that language.

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CHAIR PALTIN: Friendly amendment for cooperation. That's very cooperative and friendly of you guys.

MR. HART: Chair, in the context of the Planning Department, you know, participating in potential enforcement on the conditions at the request of Maui Nui Marine Resource Council, what is that supposed to mean, cooperation? Does that mean that they can just come in and just expand retention basins on any of these people's future parcels or you know what I mean? Like is there...what does that mean for future landowners as far as cooperation?

CHAIR PALTIN: To me, it means continued dialogue, but let's see what Chair King says.

COUNCILMEMBER KING: I would agree and I think the comments earlier about, you know, having to get an agreement from 21 different landowners if they want to address a drainage issue or something could be problematic in the future. One person says no and then you're stopped from moving ahead with the project. So, I don't know if there's a better way to word that, but it's an issue that we have to, you know, we want to mitigate now rather than later. It could be an unintended consequence of the subdivision.

MR. HART: So, again, in anticipating trying to figure out how to enforce this, you know, the master plan called for things like retention basin and things like that, like, but it's not clearly laid out, it's a series of options that could happen. So, at some point I'm presuming there might be a plan and that plan would be presented to these owners and then those owners are bound to cooperate with whatever that plan may be.

COUNCILMEMBER KING: Yeah, the plan is in Granicus. The plan was...

MR. HART: I've reviewed it.

COUNCILMEMBER KING: Okay. Fifty-five pages.

MR. HART: Right.

COUNCILMEMBER KING: Okay.

MR. HART: And what I'm trying to say is it talks about a menu of opportunities that could be done, you know, a combination of measures that could be taken but it's not a specific plan about how to address this property. So, let's say, at time point through the proceeds of the association dues, Maui Nui Marine Resource Council's able to fund a specific plan for improvements, are they able to just present this to all of these lot owners and say we're building this on your property and you need to cooperate with us?

COUNCILMEMBER KING: Well, that's a good question. I don't know. Maybe, I don't know, can you address that, Amy, as far as what is the apprehension as far as cooperation from the homeowners?

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MS. HODGES: Yeah. I think that's a really fair question. What is expected because as a homeowner moving in I would have the same question. Who's this? Who's telling me what to do? So, I totally understand that. As far as us, we're very much an open dialogue, have consensus organization, so I would be along the same lines as Chair Paltin was saying, which was, you know, keep an open dialogue. But is that too vague for what enforcement is?

COUNCILMEMBER KING: Right. I mean, the problem to me is that this, you know, and we've heard this over and over again what a precious piece of land this is and what an issue the watershed is up there and we need to maintain and preserve it. We don't need some landowner getting in the way and saying, you know, I don't approve this, it's not coming on my corner of the land or, I mean, we want to prevent something being held up for the good of the whole island because of one property owner or two property owners. So, I'm not sure.

CHAIR PALTIN: So, point of information, when we did do this for Waikapu Country Town, the word that we used was collaboration and not cooperation and that one got through. Is that more palatable to you folks, collaboration?

COUNCILMEMBER KING: That would be fine, I think.

MR. HART: My only concern would be that there's a potentially unknown, you know, set of actions that may occur on various...let's do an example. Let's say somebody was farming. Let's say they were farming 90 percent of their property and there's a proposal that we need mitigation in the lower half of your farm, so we're digging retention basins in your farm right now and thank you for cooperating with us. You know what I mean? Like I don't...how does that play out over time? I guess, I just, because we're throwing it in right now, but 40 years from now, there could be a plan or a proposed action that the Planning Department will be asked to make sure that these people abide by. I just want to make sure we're...

COUNCILMEMBER KING: Are you okay with the word collaboration since we used it before? I mean, you didn't oppose it before when we used it for the Atherton project.

MR. HART: Well, I mean, it wasn't specifically me, but collaboration sound, it does sound better. I mean, that sounds like both parties are agreeing to an action as opposed to one party presenting an action that another party has to agree to.

MR. HOPPER: I just, I want to make clear I don't think the intent of the condition nor I don't think it can be read to say that, you know, the people that own their property wouldn't still maintain their private property right and if somebody wanted to do a project on their property, they would need an easement or agreement with the property owner to do that. I don't think you could say this is a carte blanche easement for someone to come on do whatever they wanted on the properties and I see that concern raised. I think the language is broader, is broad language and I don't think it could be read to require dedication of future easements or things without, you know, paying fair market value for those easements or otherwise agreeing to those easements.

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CHAIR PALTIN: So, are we all good with collaboration?

MR. HART: That, the Corporation Counsel's explanation was fine with me.

CHAIR PALTIN: Okay. So, are we going with collaboration? Okay.

COUNCILMEMBER MOLINA: Madam Chair? Sorry, just for further clarification.

CHAIR PALTIN: Councilmember Molina?

COUNCILMEMBER MOLINA: Okay. So, just want to...that's kind of leading up to the question I had. So, would this, that language initially proposed as cooperation...and 'cause I don't want to see it turned out into a potential takings of a person's property right. So, Corporation Counsel, you are okay with the word collaboration instead of cooperation? Just so we don't end up in court.

MR. HOPPER: We can clarify it more and, I mean, I think that would hinge on how the County and the, how the County interprets the condition. I think in the future, if the County said hey, you've got to give them, you know, an easement on the property without paying for it that's an interpretation of the condition. I don't think that would be a reasonable interpretation of the condition, and if we want to clarify that more, we can. All it says right now is, well, you can reread the condition, but I think it's clear and I don't think any party's understanding it, and this is in the minutes right now and I think it's, it could maybe, you know, in the committee report or however else reflected, that this is not intended to affect the private property rights of the landowner such that they would have to give up access easements on their property without either agreeing to them or being paid fair market value for them or otherwise. You know, the other issue with the land being donated to the County, that's got to deal directly with a mitigation issue and that's presumably something that was reviewed by the Council, reviewed by Staff, and seen as something to mitigate impacts that based on the record there were. Right now, it's a little broader than that, so I think you're using the word collaboration, you're not specifying that any particular land area has to be donated to this group. It's saying cooperation as part of the mitigation plan for the area that presumably again is mitigating the impacts of this development and...that this development will have. So, I don't think it can go beyond the general language you have to be interpreted as allowing this organization or other organizations to gain access or get portions of that property for their purposes without...as they would with any private landowner negotiating for that.

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

CHAIR PALTIN: Okay. So, are we...we're good with collaboration? And would we...are we ready to vote on the amendment addition? All those in favor, say "aye."

COUNCILMEMBERS: Aye.

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CHAIR PALTIN: Any opposed? Motion carries unanimously.

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: APPROVE AMENDMENT TO CONDITION 13.

CHAIR PALTIN: Okay, Members, so we have about 40 more minutes to discuss before they kick us out. And I guess we're on the main motion as amended. Any discussion on the main motion as amended? We've got 40 minutes.

MR. KRUEGER: Excuse me, Chair?

CHAIR PALTIN: Yes?

MR. KRUEGER: Staff, would just like to clarify the main motion as amended on the floor, does that include nonsubstantive changes to the bills if necessary?

CHAIR PALTIN: Yeah, that's to include nonsubstantive revisions...including any nonsubstantive revisions and filing of County Communication 19-347. Okay. Discussion? Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I think the conditions that we went over are, you know, good if houses are to be built there. But I don't support 1,100 houses being built on the parcel. I don't support 195 houses being built there. I don't support 21 houses or 42 farm dwellings. The community told us that they want to see this be open and undeveloped land, and so I'd like to support their wishes and not have any houses on the parcel. As one of the testifiers pointed out, the South Maui Community Plan will be updated or the update will commence in two months and the preference is to wait for that to happen, and so I'll be also voting no on the main motion to support that request. I think as one of the testifiers said, you know, this is, or many testifiers said, that this is a key component to mauka-makai connection and so a lot of work in this area is necessary to ensure that the Maalaea Bay is cleaned and protected and the reef, what's left of the reef, preserved and possibly like to see growth of the reef, a healthy reef. I think I would potentially vote yes on, you know, this motion if the ag subdivision law wasn't as flawed as it is. I believe it needs to be fixed because it goes

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against the health and welfare of the environment and the people without having any kind of community review, but because it's not fixed and because the community will have zero input when approving this ag subdivision then I have to vote no. I'm a strong proponent of community having oversight on this and while, you know, the main motion is whether we change the community plan designation and zoning, the impact of doing that would allow the landowner to get a administratively approved ag subdivision, and I don't think that's right for the community. So, I will be voting no on the main motion. Mahalo, Chair.

CHAIR PALTIN: Thank you, Vice-Chair Rawlins-Fernandez. Further discussion? Member Lee, followed by Chair King.

COUNCILMEMBER LEE: Thank you, Madam Chair. Okay, on the plus side, I believe that open space will be retained in over 250 acres, fire protection will be improved, fire prevention. It also provides, the project also provides housing opportunities, farming opportunities. It'll be a lot denser than the previous plans. It'll also help with the drainage problems in that area. So that, for that, and many other reasons, I believe that this is a good project and I will be supporting it. Thank you.

CHAIR PALTIN: Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. I think we did good work on the conditions. I'm still not in favor of this project and for many of the same reasons that Vice-Chair Rawlins-Fernandez spoke about. It...right now, we're in the process of beginning the community plan review and this Council, like the last Council, continually makes changes before the community is done with its review. We just did that in Lahaina. And to me, this is very similar to the Launiupoko projects. It's sprawl, there's nothing out there, so it's gonna cause extra traffic. You have to drive anywhere you want to go from there to get to anything. The...I don't believe that it's going to necessarily help with our drainage. I hope it will help with green space, maybe, there'll be some watering out there, but to, I think it's premature to push the community plan amendment. And we've heard from our two biggest communities in this community plan amendment area, Maalaea and Kihei, both want to keep this open space and they see it as a critical location. It was ironic that when...I'm surprised that this is our fourth meeting, because I don't remember having four meetings on this but this is only the second meeting I remember, but the previous meeting as testifiers were testifying there was a fire happening out there. So, it's not gonna stop. It is a dangerous area for people to even buy in, but I also have a lot of issues with the ag subdivision bill and hoping we can get to that soon. I mean, I know it went back for revisions after being heard once in the Ag Committee, but right now it is terribly flawed and the public has no say. Once we do this rezoning, the public will have no say on this subdivision. The public doesn't even have to be notified of when that subdivision is starting. So, to me, that should have been one of the conditions of the subdivision is to notify the public and let people know when things are happening. But hopefully we can take care of that in the bill, and I just, I see this as premature. I would like to have the support of and our main community associations before I approve an development in our area. So, thank you.

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CHAIR PALTIN: Committee Vice-Chair Sinenci, did you have discussion?

VICE-CHAIR SINENCI: Yes. Thank you, Chair. I just had some comments about the project. I did want to, you know, mahalo the Spencer ohana just for, you know, in the past and providing affordable homes for our community and especially, you know, you guys' patriarch. And I only say that because, you know, we remember those types of acts. And I get it, we're continuing in his legacy. For me, his legacy will be better spent by, you know, dedicating something in his honor and, for me, I support open space as particularly in this area. This area is, again, people have said it prior, fire, traffic, an area of congestion prior going onto the Pali highway, the 3 million gallon yield of the Waikapu Aquifer. So, again, all these different things that we've discussed in previous projects all apply to this very area. I support open space. I support the Maui Island Plan and in acquiring for open space the environmental protections and the watershed protections. We need more of those on this island and including roadside parks. So, albeit, we did some good work on this, it's...the reason was to look at it from another vantage point. So, I, too, won't be supporting the motion on the floor. Thank you, Chair.

CHAIR PALTIN: Thank you. Members, further comments? Discussion? Okay. Before I call for the question, I'll add my discussion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Oh, further discussion? Second and final, Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I want to move to amend the main motion.

CHAIR PALTIN: Okay. What?

COUNCILMEMBER RAWLINS-FERNANDEZ: I want to add condition that Chair King mentioned. I'll add it for her.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Condition 16, MVI, LLC and any future owner or lessee must notify the residents of the community plan area that an ag subdivision is planned immediately after final subdivision approval.

VICE-CHAIR SINENCI: Second.

CHAIR PALTIN: Okay. Condition...

MR. HOPPER: Just to clarify, the community plan area, I think you may want to be more specific. If...it's probably not the whole community plan area. Maybe there's a area you were thinking of differently. You said the residents of the community plan area.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, the Kihei-Maalaea [sic] Community Plan area.

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MR. HOPPER: Yeah, that's...you probably don't mean every...I mean, probably not a mailed notice to every person. So, if you want to be more specific as to what notice and who would get it.

CHAIR PALTIN: You mean like a 500 radius or something?

MR. HOPPER: I mean, whatever you would want, but yeah, I don't think the intention is to have every single person who lives in Kihei-Makena Community Plan area to get the notice. So, just maybe be more specific as to who get the notice.

CHAIR PALTIN: Did you want to be more specific, Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I thought I was specific, Kihei-Maalaea [sic] Community Plan area.

CHAIR PALTIN: Okay. So, it's been moved by Council Vice-Chair Rawlins-Fernandez, seconded by Committee Vice-Chair Sinenci, that what she said.

COUNCILMEMBER KING: Can I ask a question?

CHAIR PALTIN: Discussion, Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, the...was your...was that immediately after subdivision approval? Because what I would like us to have it say is immediately upon applying for subdivision approval because that's the only timing...

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. I'll take that as a friendly amendment.

COUNCILMEMBER KING: Okay, thank you. Because that's one of the problems with our subdivision, ag subdivision bill, is that people don't find out about things until they're a done deal and then they have no say and they have no input and at least this would give folks the input on the conditions. Thank you.

CHAIR PALTIN: Friendly amendment by Council Chair King.

COUNCILMEMBER LEE: Alice Lee.

CHAIR PALTIN: Discussion, Member Lee?

COUNCILMEMBER LEE: Thank you. Madam Chair, I'm thinking that this particular amendment is extreme. It has to be more reasonable in that notices in *The Maui News* or something like that but not in, not 40,000 letters to all of South Maui and Maalaea. So, I think, you know, you would be able to get support for your suggestion if you confined it to something or not confined it but allowed for notification to be more reasonable.

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CHAIR PALTIN: Was that a friendly amendment or an unfriendly amendment?

COUNCILMEMBER LEE: No, that was actually both. I like these people, yeah. So, it was, it's friendly and it's meant to be friendly, but I just don't agree with a personal letter or individual notifications, I think that's absurd, you know, it's not reasonable. So, you know, if it were three notices in *The Maui News* or some publication like that, I can see that, I can understand. I would be acceptable to that.

CHAIR PALTIN: So, I guess the question is do you accept it as a friendly amendment or do you want her to move to amend your amendment?

COUNCILMEMBER LEE: Okay. What I'm doing is I'm discussing her proposed amendment, and I'm letting her know and the world know that this is a possibility for me if she changed it to something, the notification to something that's reasonable. That's all I'm saying. And if she doesn't want to that's fine, but I'm just saying that 40,000 letters is beyond reason. Thank you.

CHAIR PALTIN: Thank you. Any further discussion? Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. Mahalo, Chair. Okay. I'm open to that. I never said mailer, I just said must notify the residents and, I guess, it was interpreted as a mailer, so I can be more specific and I'm, I guess, three notifications in the newspaper is a good start and maybe a presentation to the community associations in the area.

CHAIR PALTIN: Deputy Director Hart, did you have something that you wanted to add to that?

MR. HART: Just point of clarification. It's my understanding that consistent with the existing subdivision regulations for the County that the applicant has already applied for and received preliminary subdivision approval, so it can't be on application. It'd have to be some other achievable threshold. They have already applied and received preliminary subdivision approval.

CHAIR PALTIN: That's the part where they went through the Planning Commission already.

MR. HART: No, with Planning Commission improved...included public notification and public testimony, but the subdivision process, which is administered by Public Works has already been applied for and they've received, they've received preliminary subdivision approval already. So, there was a discussion about notifying when they apply, and I just wanted to point out that that has already transpired.

CHAIR PALTIN: Council Chair King, discussion?

COUNCILMEMBER KING: How can they apply for subdivision without the Change in Zoning having happened?

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MR. HART: Basically, when you apply for a...now I'm going to explain another agency's process, so I'm not the best expert. But anyway, when you apply, you, within 45 days, you receive all of the conditions you have to achieve in order to receive final subdivision approval. And so, once you have preliminary subdivision approval, if you're able to satisfy all of the requirements, then you can get final subdivision approval. So, as an example, let's say the Department of Planning said you have a land use issue that you need to rectify. If you get a Change in Zoning, then you've satisfied Planning Department's conditions, or if Fire Department says you need to cut fire breaks, then when you're able to cut the fire breaks then you've achieved their conditions and so on. So, all agencies say this is what you need to do in order to subdivide this land and then the applicant's obligation is to do all of those things.

COUNCILMEMBER KING: Okay. Well, if they've already applied then, I guess, the condition needs to say upon Change in Zoning approval that they need to notify that they've applied. But it's news to me, I thought you had to have your zoning before you applied but so you don't. Anybody can apply for a subdivision anywhere and then have the Change in Zoning be one of the conditions?

MR. HART: Generally, yes. I mean, and there's other ways to do it without changing zoning, but yeah, in general terms, yes.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: So, from my understanding, we're unfriendly amending as Chair King had in putting it back to the original language from Council Vice-Chair Rawlins-Fernandez about final subdivision approval, is that acceptable?

COUNCILMEMBER KING: That's not what I... *(inaudible)*...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair King...

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Chair King suggested instead of after subdivision, after subdivision application submission, it would be immediately after a change in zone. So, basically, after second reading.

CHAIR PALTIN: Deputy Director Hart, is that acceptable?

MR. HART: Yeah. My only point was that the benchmark that was being discussed has passed previously.

CHAIR PALTIN: Okay. So, can you reread where we're at right now, Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, we have MVI, LLC and any future owner or lessee must notify the residents of the Kihei-Maalaea [sic] Community Plan

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area that an ag subdivision is planned immediately after a Change in Zoning is achieved with three notifications in a newspaper and a presentation to each of the community associations in the area.

CHAIR PALTIN: Can you be more specific of which community associations?

COUNCILMEMBER RAWLINS-FERNANDEZ: I think there's only two, so the Kihei Community Association and the Maalaea Village Association.

CHAIR PALTIN: Okay. Mr. Vince Bagoyo?

MR. BAGOYO: Yeah, a couple of things, if we can define the word immediate. You know maybe that way there's no misunderstanding when we can advertise it into *The Maui News* newspaper. So, maybe, you know, three weeks after the zoning change is granted or something like that.

CHAIR PALTIN: Like within three weeks.

MR. BAGOYO: Yeah. That way we...within 30 days or whatever, yeah. And the other is that we don't mind --

CHAIR PALTIN: Take that within 30 days...

MR. BAGOYO: --meeting with Maalaea again and the Kihei Community Association, I just want to make sure that we're not gonna pay \$500 additional to Kihei Community Association to make that presentation.

UNIDENTIFIED SPEAKER: They charge?

MR. BAGOYO: Yes, we do...they do charge. Yeah. So, I just wanted to make...well, you know, it's been there.

CHAIR PALTIN: Any comment, Mr. Deputy Director Hart?

MR. HART: No comment.

CHAIR PALTIN: Okay. And a note from Staff that there is no such thing as the Kihei-Maalaea Community Plan. It's Kihei-Makena Community Plan. And did you want to take the friendly amendment from Mr. Bagoyo of within 30 days, as well as a free presentation to the Kihei Community Association? Member Lee?

COUNCILMEMBER LEE: I don't think he has to do two separate ones. The one for the Maalaea one he can invite the Kihei or Makena associations and get away from, you know, we don't want to get involved in fees and presentation costs and things like that. As long as they invite the two associations together and apparently Maalaea doesn't charge anything. You have it over here and then they can come. I mean, let's not get hung up on these kinds of things. Thank you.

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CHAIR PALTIN: Yeah. We only have 20 minutes left. Council Vice-Chair Rawlins-Fernandez, followed by Committee Vice-Chair Sinenci.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. Okay. So, I'll make those friendly amendments in the community plan area, 'cause the Kihei-Makena Community Plan area includes Maalaea but it's just called the Kihei-Makena. Okay. And okay, so the presentation to the Kihei Community Association and Maalaea Village Association.

UNIDENTIFIED SPEAKER: . . .(inaudible). . .

COUNCILMEMBER RAWLINS-FERNANDEZ: However it's done.

CHAIR PALTIN: Committee Vice-Chair Sinenci?

VICE-CHAIR SINENCI: I just had a friendly...no, to say that it was an area newspaper and not like Hilo newspaper or something.

CHAIR PALTIN: Okay. Friendly amendment for *Maui News*. Okay. All those...

COUNCILMEMBER MOLINA: Chair? Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER MOLINA: Sorry, before we call for the vote, just a request. Based on what Mr. Bagoyo said about the fee that was charged to them, can you provide a letter? I guess, there must have been a letter transmitted to you making this request or this payment of \$500, is it to the Kihei Community Association? And I just ask, this is interesting, I've never heard of a request or a mandate made to a developer in order to do a presentation in front of a community association that you have to pay \$500, and if you have a copy, you know, I just...or something. This the first, I mean, it's an eye opener. I'm just curious to verify this.

MR. BAGOYO: It's not new. It's a standard procedure for Kihei Community Association, for us to make a presentation to their association, we have to pay \$500.

COUNCILMEMBER MOLINA: Wow. I'm sure other community associations would be interested in hearing this. Because I've been a member of the Makawao Community Association, Chair for the Main Street Association way back when, and, you know, we never charged a developer, I mean, it's for a presentation. So, anyway, but I just would like a copy of that letter or that was sent to you, canceled check, whatever, just for our knowledge and in case I'm sure there may be other community association leaders hearing this.

MR. BAGOYO: Sure.

COUNCILMEMBER MOLINA: I mean, it's...

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MR. BAGOYO: I'll ask my client, 'cause they paid for that.

COUNCILMEMBER MOLINA: Five hundred dollars. Wow. Okay. Thank you.

CHAIR PALTIN: Okay. And sorry, if I may just make a friendly amendment. So, just, you know, not limit it, like if you're having the one presentation if you also invite just, you know, open invitation to other communities that could be affected, including Waikapu Community Association and West Maui Community Association, just, you know, it doesn't hurt since we're inviting folks, just extend the invitation for free. Okay. Are we...any further discussion on this?

COUNCILMEMBER SUGIMURA: No.

CHAIR PALTIN: Okay. All those in favor of the added amended condition, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Motion carries unanimously, Condition number 16.

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: **APPROVE ADDING CONDITION 16.**

CHAIR PALTIN: Any discussion on the main motion? Okay. As amended? So, I think I was on my final, okay. So, I'm not in favor of houses over here in Maalaea, because I think it's a horrible place to try to live with the wind and the fire and whatnot. And if that's the case, then I wouldn't be in favor of camping there either because similar concerns. My problem is that, you know, no response from the Administration. When somebody doesn't respond, it's, it is a response that they're not into it and, you know, in the amount of time we had from the second meeting to the third meeting, I would have hoped that somebody that was interested in buying the open space followed up on that and that it didn't happen in that given amount of time is kind of the writing on the wall, for me. And so, I think that, you know, the portion, the 40-acre portion to purchase the approvals or the conditions that we put on this is better than just the notification of an

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ag subdivision. And yet, I'm not voting for this ag subdivision, I'm voting simply to change the land to Ag as a community plan. And so, I would request the landowner and the family to really think about it, about moving forward. I can vote for the changing of zoning to Ag and the community plan amendment to Ag, but I'm not for the development, the ag subdivision development to try and put people where this land is. It's not really fit for human habitation or camping. So, I think, you know, the community oversight we've taken in what the testimonies have said and done the best we could with it. And I think that, you know, it came out with a much better plan, so I will be supporting the motion. All those in favor of the motion as amended including any nonsubstantive revisions, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Those opposed, please say no.

COUNCILMEMBERS: No.

COUNCILMEMBER MOLINA: Roll call.

CHAIR PALTIN: Okay. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Aye.

CHAIR PALTIN: Councilmember Molina?

COUNCILMEMBER MOLINA: Aye.

CHAIR PALTIN: Council Chair King?

COUNCILMEMBER KING: No.

CHAIR PALTIN: Committee Vice-Chair Sinenci?

VICE-CHAIR SINENCI: No.

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR PALTIN: Councilmember Alice Lee?

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: And I'll vote aye. So, that motion carries five to...four to three and includes the filing of County Communication 19-347.

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VOTE: AYES: Chair Paltin, and Councilmembers Lee, Molina, and Sugimura.

NOES: Vice-Chair Sinenci and Councilmembers King and Rawlins-Fernandez.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

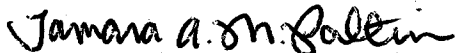
MOTION CARRIED.

ACTION: Recommending FIRST READING of revised Community Plan Amendment bill, FIRST READING of revised Change in Zoning bill, RECORDATION of unilateral agreement, and FILING of communication.

CHAIR PALTIN: This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Members. The time is now 8:17 [sic]. This meeting is adjourned. . . . (gavel) . . .

ADJOURN: 8:20 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:191126:mb

Transcribed by: Michelle Balala

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CERTIFICATE

I, Michelle Balala, 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 December, 2019, in Kihei, Hawaii

A handwritten signature in cursive script, reading "Michelle Balala", is written over a horizontal line.

Michelle Balala