

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

**MINUTES**

**March 11, 2020**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 9:08 a.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Tamara Paltin, Chair  
Councilmember Shane M. Sinenci, Vice-Chair  
Councilmember Kelly Takaya King (in 9:45 a.m.)  
Councilmember Alice L. Lee (out 11:57 a.m.)  
Councilmember Michael J. Molina  
Councilmember Keani N.W. Rawlins-Fernandez  
Councilmember Yuki Lei K. Sugimura (in 9:37 a.m.)

NON-VOTING MEMBER:  
Councilmember Riki Hokama (out 10:57 a.m.)

**EXCUSED:** VOTING MEMBER:  
Councilmember Shane M. Sinenci, Vice-Chair

**STAFF:** Ana Lillis, Legislative Analyst  
Clarita Balala, Committee Secretary

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

**ADMIN.:** Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Michele McLean, Director, Department of Planning  
Paul Fasi, Planner, Department of Planning (PSLU-14)  
Annalise Kehler, Planner, Department of Planning (PSLU-52)  
Ann Cua, Planner, Department of Planning (PSLU-54)

**OTHERS:** Darren Jones, Managing Member, Hanzawa Group LLC (PSLU-14)  
Clare Apana (PSLU-54)  
Lucienne de Naie, Conservation Chair, Sierra Club Maui (PSLU-54)  
Carol Lee Kamekona (PSLU-54)  
Kauanoë Batangan, Munekiyo Hiraga

Paul Lamparelli, Hanzawa Group LLC  
Mike Fisher, Hanzawa Group LLC

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Kaimi Judd, Vice President of Development, Makena Golf & Beach Club  
Leilani Pulmano, Project Manager, Pacific Rim Land  
(6) additional attendees

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

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CHAIR PALTIN: . . .*(gavel)*. . . Aloha kakahiaka. The time is 9:08. Will the Planning and Sustainable Land Use Committee of March 11, 2020 come to order. At this time, if I can ask everyone to silence their cell phones or any noise-making devices. My name is Tamara Paltin and I'm the Chair of the Planning and Sustainable Land Use Committee. We'd like to send our deepest condolences out to my Vice-Chair Shane Sinenci and his staff. Both of them had lost a parent very recently, so they are excused, or he's excused. I'd like to say aloha kakahiaka to Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Good morning, Madam Chair.

CHAIR PALTIN: Thank you, good morning. We have Councilmember Kelly King, who's in another meeting at this time. We have Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, and my deepest condolences to our colleague and his family and also his staff. Mahalo, Chair.

CHAIR PALTIN: Aloha kakahiaka, mahalo. And a non-voting Member, we have Councilmember Riki Hokama. We have some items of interest for him today, an item about Lanai.

COUNCILMEMBER HOKAMA: Good morning, Chair.

CHAIR PALTIN: Good morning. We have Council Chair Alice Lee.

COUNCILMEMBER LEE: Madam Chair, for our Visayan friends, maayong buntag.

CHAIR PALTIN: Maayong buntag to you.

COUNCILMEMBER LEE: Yeah, more or less.

CHAIR PALTIN: Okay. And we have Councilmember Yuki Lei Sugimura is in another meeting as well. And Councilmember Tasha Kama is not a voting Member but always welcome to attend. With us today, we have Corporation Counsel, Deputy Corp. Counsel, Michael Hopper.

MR. HOPPER: Good morning, Chair.

CHAIR PALTIN: Good morning. From the Department of Planning, we have Director Michele McLean.

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MS. McLEAN: Aloha, Chair, good morning.

CHAIR PALTIN: Aloha, good morning. And we also have Planners Paul Fasi and Annalise Kehler. Good morning. From Makena Resort, we have Kaimi Judd and Leilani Pulmano. Committee Staff, we have Clarita Balala, Committee Secretary, and Legislative Analyst, Ana Lillis. Molokai Office is closed this week. For our District Office Staff, from Lanai, we have Denise Fernandez, and Hana, we have Mavis Oliveira-Medeiros. On the agenda today, we have three items, hopefully we can get through them, PSLU-14, District Boundary Amendment and Change in Zoning for Hanzawa's Variety Store and Adjacent Property in Haiku; PSLU-52, Country Town Business District in Lanai City; and PSLU-54, Annual Compliance Report on the Change in Zoning for Makena Resort Area. At this time, we'll be opening up for public testimony. For individuals testifying in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with the District Office 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 per item. When testifying, please state your name and the name of any organization you may be representing. If you're a paid lobbyist, please inform the Committee. We have established a connection to the Council District Offices that are open. Our first testifier today...and I just wanted to remind the testifiers that at the...when you have 30 seconds left the yellow light will go on, and then when your time is up the red light will go on, and if you can conclude your testimony at that point. Our first testifier today is Darren Jones, testifying on PSLU-14. He's testifying on behalf of the Hanzawa Group LLC. His title is a Managing Member and you're welcome to ask clarifying questions of his testimony but he's also a resource person. So, if there's any in-depth kind of additional questions maybe we can save it 'til the item comes up. Thank you, Mr. Jones. You may start your testimony.

**. . .BEGIN PUBLIC TESTIMONY. . .**

MR. JONES: Thank you for the invitation. Good morning to all the Land Use and Sustainable Land Use Committee. Thank you for including us. We just wanted to attend this morning's meeting and just kind of let the Committee know where we are with our application and just wanted to show ourselves and actually answer any questions that you folks might have for us as well regarding our application and the progression of the zoning change. So, I don't have a whole lot to add. Maybe I was looking for some guidance as to what questions you folks might have or what clarifications were needed. Certainly, this process has been going on for quite a while and we're looking to come to a resolve. The latest changes in our situation is just that our, actually our planner was Jordan Hart, so we, actually at this time we're kind of in between, you know, having someone to give us some direction in helping to complete this process. So, that's kind of been one of our delays among others but that's kind of where...what our situation is at this point.

CHAIR PALTIN: Okay. Does that conclude your testimony?

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MR. JONES: I wasn't sure if it was open for discussion or question/answer type things if you folks had any questions for me. I wasn't really prepared to make a big statement but...

CHAIR PALTIN: Well, when the item comes up we can have discussion.

MR. JONES: Okay.

CHAIR PALTIN: The testifying part is mainly the Members ask clarifying questions on your testimony. So, when the item comes up, we'll have opening comments from the Planning Department first probably 'cause that might've been your opening comments --

MR. JONES: Yeah.

CHAIR PALTIN: --and then you can have another chance to make opening comments if you choose to have comments on Planning Department's opening comments, and we can have a discussion at that time.

MR. JONES: I'd be happy to. Thank you.

CHAIR PALTIN: Okay, thank you. Members, any clarifying questions at this time? Okay, thank you very much, Mr. Jones. We have two more testifiers. The next testifier is Lucienne de Naie and she's testifying on agenda item PSLU-54 on behalf of the Sierra Club Maui and her title is Conservation Chair. Oh...

MS. APANA: . . .*(from the gallery)*. . . Can we go in reverse order?

CHAIR PALTIN: Sure. She might've just stepped out for a moment. We'll go skip ahead to the number three testifier, Ms. Clare Apana also testifying on PSLU-54 on behalf of herself as an individual.

MS. APANA: Good morning, Councilmembers.

CHAIR PALTIN: Good morning.

MS. APANA: Did...was my e-mail testimony received? Yes? Okay, 'cause I tried to print it and I didn't get the second page. Will you be requiring this? I made copies of the documents that I attached.

CHAIR PALTIN: You can give it to Staff and we can make copies for distribution.

MS. APANA: Okay. Thank you very much. I have some questions and some concerns about this item. In particular, I have a concern about Condition 17 and 18, which is in regards to the preservation plan and OHA, 18, the acceptance of the preservation plan by Office of Hawaiian Affairs. Last week, I went to testify at the Urban Design Committee [*sic*]. The 44 conditions was not reported upon and OHA didn't have any knowledge of the upcoming...the committee meetings that were going to be hearing about this

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committee...this particular issue. So, I called them to see if they knew, because I know that they have Condition 18 and he said that they were just two days before, so. In a week, they were asked to give comments to the EA and give comments here today just because I asked them if they want...if they were going to. I did get an e-mail, which I gave to you from Kamakana Ferreira and his position is that they have not accepted any APP, a preservation plan, and that...I feel that the SMA and the other permitting...the structure that the, this developer's going through is...should be removed and taken back. So, I have concerns and I don't know how this works, but I don't understand why these conditions seem to me very important to getting the zoning and they're not brought up at the Planning Commission, at the Urban Design. This was never sent to the CRC. And I know you only do the conditions, but if you make any kind of decisions, I hope that you will ask them to come back and give you really good answers because when I read this, this is not the kind of answer you give when you're going to get an SMA. You have full disclosure of the entire thing. I'm worried about the water conservation plan. I couldn't find it. Where is it? I'd like to read it myself for this condition. And if you could ask them to complete this before anything else moves, I would be so grateful for that. And if you do make any decisions, if you could send this to the Planning Commission so that they could have it, and the CRC so they could have it, because obviously it's not being reported on and I think it's very important. Thank you very much.

CHAIR PALTIN: Thank you, Ms. Apana. Members, questions for the testifier? Seeing none, thank you.

MS. APANA: Thank you.

CHAIR PALTIN: Ms. Balala, I don't see Ms. Apana's attachment. Did it get uploaded onto Granicus?

MS. BALALA: This morning.

CHAIR PALTIN: This morning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: The testimony that I have on Granicus from Ms. Apana is 95 pages long.

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that all of it? Is...Ms. Apana?

MS. APANA: I think so . . .*(inaudible)* . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay.

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CHAIR PALTIN: Is it...

COUNCILMEMBER RAWLINS-FERNANDEZ: For the record, she confirmed that it's about 90 pages.

CHAIR PALTIN: Is that...all I have is General Communication 20-1 and General Communication 20-2.

COUNCILMEMBER LEE: Try refresh.

CHAIR PALTIN: Okay. Thank you, Ms. Apana. So, next up we have Ms. Lucienne de Naie, testifying on agenda item PSLU-54 on behalf of the Sierra Club Maui and her title is Conservation Chair.

MS. DE NAIE: Mahalo, Chair Paltin and Members of the Committee. My name is Lucienne de Naie and as mentioned I'm testifying on behalf of Sierra Club, which has tracked these conditions for many, many years. In fact, we sat many hours. I'm sure Mr. Molina remembers it in the room while those conditions were being crafted. And we do come from time to time each year subsequently to talk about how things are going. We're gonna concentrate on the General Communication 2 for the H-2 project because that project is actually in the more imminent planning stages right now. It's before the Planning Commission with a Draft Environmental Assessment. Its applied for an SMA, which as you may recall is kind of the trigger for most of these conditions to start. These conditions don't pertain to all the land at Makena Resort. They pertain to 600 acres that were rezoned in 2008 and parcel H-2 is a very small part of that. It's 28 acres. However, they're reporting on how they're meeting the conditions many of which don't apply to them, but many of which do, is really kind of sparse seeing the decision makers are gonna be looking at these conditions. And if they see a report that just says this is taken care of and this is okay and there's really no background that actually it isn't, then that makes it difficult for them to make really good decisions. So, if it were possible for this Committee, which actually has jurisdiction and the Council to have a very much more complete compliance report prepared. I'm...I don't have time to go into detail right now of all the things that could really be better. Ms. Apana referred to some but there are so many things that is just like a lick and a promise and actually you need a real document to know whether compliance is being met or not. So, you may recall that one of the conditions of zoning is that if the project is not in compliance with the conditions of zoning it could have its entitlements reversed. Now, no one wants to do that. It's just let's get the real story on how we're doing on these conditions of zoning. So, just to give you a bit of an example, there's Condition number 10, which requires a master access plan for bikes and walking paths, and basically it says, yeah, this plan was submitted in 2010 and it's all okay. But the whole concept of Makena Resort has changed since then, it's a very exclusive gated community, nobody can go there. What is the updated plan—I'm sorry—for a project that is about to try to get entitlements? They have some little sketchy trails and things in the presentation in the EA, but we really don't know how that connects with everything. A public access has really been lost here. The Maui Prince is gone. No one can go down to that site anymore. It'll all be exclusive homes.

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There'll be one little walking trail somewhere maybe. We really need some of this information because the lack of the information was why this condition was put in the first place. The project was approved without clear plans for all of the things that were in the conditions. Thank you for your consideration of this.

CHAIR PALTIN: Thank you, Ms. de Naie. And I just wanted to point out on the communications from the Chair, my Staff and I went through the various plans that had been submitted during the different annual compliance reporting period and we posted them up there for easy access of folks to find. I had hoped to post them individually so you don't have to go through the 298 pages to find each plan, but it didn't work out that way. But, so the plans that were submitted as part of the annual compliance reports are in there for the public's information and Members' information if they wanted to review it. But you are right that some of them had been submitted...

MS. DE NAIE: Ten years, 12 years ago, or 11 years ago.

CHAIR PALTIN: It's been a while ago, yeah.

MS. DE NAIE: Yes, yeah.

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

MS. DE NAIE: All right, thank you.

CHAIR PALTIN: Next up, we have Carol Lee Kamekona, testifying on PSLU-54 for herself as an individual.

MS. KAMEKONA: Aloha kakahiaka ia ko kakou. Ko`u inoa o Carol Lee Kamekona. Noho wau ma Kahului aka ko`u ohana ma Moku o Keawe. In the updated archaeological preservation plan, APP, dated January 2020, it states the preservation sites at the project area consist of a historic remnant wall, traditional habitation, and agricultural sites significant under criterion C and D, they exhibit the past archaeological landscape and maintain a sense of place. The goal of the APP is to protect the record of ancestral Hawaiian lifeways and to further enhance or support cultural identities. Through the protection and preservation of the ancient material culture of the Kanaka Maoli, the continuity and interconnectedness between the past, present, and future is maintained and perpetuated. I believe these sites should be considered and preserved as a Traditional Cultural Property, TCP, for inclusion in the National Register of Historic Places, NRHP, based on its associations with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions of a living community. They are rooted in a traditional community's history and are important in maintaining the continuum cultural identity of the community. Several sites within this project have been dated to 1400 to 1600 AD. Proof of habitation and agricultural features. Kahoukapu son of Kuaiwa was the father of Kauholanuimahu. Laakapu, his mother descended from Kila, a son of Moikeha and grandson of Mauweke. Kauholanuimahu succeeded his father Kahoukapu as Moi on the Big Island, but he resided a great deal of time at Honuaula

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on Maui where he exercised royal authority. His wife, Neula, was from a Maui family with ties to Honuaula. As reported by Inez MacPhee Mashdown...Ashdown, Maui County's historian for a number of years, Oneuli or Kalani heiau by Keawalai Church and Onipaa Heiau, south of the Makena School not far from Keawalai Church, were both built by Kauhola. A dated feature found at Oneuli heiau relates to Kauhola's era, AD 1420. He is also attributed with building the loko ia or fishpond of Keoneoio. I am a 15<sup>th</sup> generation direct lineal descendant of Kauhola-nui-mahu. Therefore, these sites designated criterion C and D could very well be the habitation of my kupuna. Also in the updated APP, dated January 2020, a letter from the Office of Hawaiian Affairs to Everett Dowling. Many traditional period sites and the cultural materials they contain are regarded as endangered by Native Hawaiians who have lost much of their history and culture to non-native settler development. OHA also states that a July 2008 version of the archaeological monitoring plan was delivered and marked final by SHPD. A July 2009 version of the preservation plan was delivered and marked final by SHPD. Ten year later, Mr. Dowling requests comments from OHA, which in no doubt would require revisions to documents received and stamped final.

CHAIR PALTIN: Ms. Kamekona, can you...

MS. KAMEKONA: There are no protocols in place for multiple final reports. Therefore, until the County and Dowling establishes a written protocol for co-approval of these documents between SHPD and OHA, no acceptance can be granted by OHA.

CHAIR PALTIN: Can you wrap up it up in one minute?

MS. KAMEKONA: With that said, I am asking that due to the non-compliance of the conditions of zoning, namely Condition 18, since they are at the SMA level stage, the SMA should be pulled until compliance of all 44 conditions have been met. Mahalo.

CHAIR PALTIN: Thank you. Members, questions for the testifier?  
Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Kamekona!

MS. KAMEKONA: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo no kou mana`o kēia lā. Do you have your testimony in writing? That we...

MS. KAMEKONA: Ma`ane`i.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Would you mind submitting it in writing to the Council? Hiki. Okay, mahalo.

MS. KAMEKONA: `Ekahi wale no.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, we can make copies.

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MS. KAMEKONA: Hiki.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

MS. KAMEKONA: Mahalo.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Thank you. Members, further questions to...for the testifier? I just had one question, Ms. Kamekona.

MS. KAMEKONA: E kala mai.

CHAIR PALTIN: So, for Condition 18, your main concern is that when it says status of the compliance and estimate of time for the compliance they say that given the foregoing it is H2R's understanding that compliance with this condition has been satisfied for the H2R parcel. But you're saying it hasn't been satisfied because Office of Hawaiian Affairs has not approved their preservation and...comprehensive preservation and mitigation plan pursuant to Chapter SE [sic] of Hawaii Revised Statutes. That's your concern?

MS. KAMEKONA: Correct. Condition 18 states that it must also consult with OHA, the Office of Hawaiian Affairs, and they have only as of 2019, not 2009 when the report was initially submitted and approved by SHPD and stamped final. That is why OHA is saying to pull the SMA permit, not allow anything to go forward because the 44 conditions have not been met especially Condition 18, which states they should have been consulted and they were not.

CHAIR PALTIN: And they have no approval...they have not approved either of these plans?

MS. KAMEKONA: In the APP, it states in the letter from OHA to Mr. Everett Dowling, they do not accept.

CHAIR PALTIN: Thank you.

MS. KAMEKONA: You're welcome.

CHAIR PALTIN: Okay. Last...oh, let me go out to the District Offices. Ms. Denise Fernandez, any testifiers in Lanai?

MS. FERNANDEZ: Aloha, Chair. This is Denise at the Lanai Office and there are no testifiers.

CHAIR PALTIN: Thank you. Ms. Mavis Oliveira-Medeiros out in Hana, do you have any testifiers today?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. This is Mavis in Hana. There is nobody here waiting to testify.

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CHAIR PALTIN: Thank you. Anybody else in the gallery want to provide any testimony today? Seeing none, any objections to closing public testimony at this time?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. Thank you.

**. . .END OF PUBLIC TESTIMONY. . .**

**PSLU-14 DISTRICT BOUNDARY AMENDMENT AND CHANGE IN ZONING FOR HANZAWA'S VARIETY STORE AND ADJACENT PROPERTY (HAIKU) (CC 09-181)**

CHAIR PALTIN: So, we'll take up the first item PSLU-14, District Boundary Amendment and Change in Zoning for Hanzawa Variety Store and Adjacent Property in Haiku. The Committee is in receipt of County Communication 09-181, from the Planning Director, transmitting the following, a proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Urban for the Property Situated at Haiku, Maui, Hawaii. The purpose of the proposed bill is to grant a District Boundary Amendment from Agricultural to Urban for approximately 2 acres of land located at Haiku, Maui, Hawaii, identified for real property tax purposes as (2) 2-7-014:044 (por.) ("the property"), for Hanzawa Variety Store project. And a proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Rural for Property Situated at Haiku, Maui, Hawaii. The purpose of the proposed bill is to grant a District Boundary Amendment from Agricultural to Rural for approximately 1.9 acres of land located at Haiku, Maui, Hawaii, identified for real property tax purposes as (2) 2-7-014:44 (por.), comprised of approximately 1.5 acres, and (2) 2-7-014:052, comprised of approximately 0.41 acres, for the Hanzawa site. And then there's more but I don't have to read it all. So, I'm...scheduled this item because when we were on Molokai we realized one of the agenda items had been on the agenda for over ten years and it was no longer relevant, so I'm consciously trying to, you know, alternate between current items and backed up items to move everything through in a timely manner. So, at this time, we heard some of the opening comments from the applicants. I'd like to ask the Planning Department for their opening comments.

MS. MCLEAN: Thank you, Chair. We received a letter from you asking some questions and we did transmit our response, but unfortunately it hasn't made its way to you yet. So, I'll just read a few excerpts from that draft. The applications were submitted to the Department on January 2, 2007. In our review, we concluded that the criteria for a District Boundary Amendment and Change in Zoning were satisfied. We scheduled the matter before the Maui Planning Commission, who heard it on August 12, 2008 and January 13, 2009, and recommended approval to the Council with conditions. And the package was transmitted to the Council on June 10, 2009. Since it's been 13 years since the application was received there have been some notable changes. Particularly,

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the property has been sold to new owners. There are two parcels involved, parcels 2-7-014:044 and 2-7-014:052. Parcel 44 was sold in July of 2012 and is now owned by Haiku Group, Darren Jones, who spoke earlier is with that entity. Parcel 52 was sold twice in 2009 and again in 2011 and is owned by Cheyenne and Bobbi Jean Ranis. Our staff Planner Paul Fasi has spoken with Mr. Jones and was told that they do intend to pursue the District Boundary Amendment and Change in Zoning, but at that time we didn't have a timeframe or what proposed changes they might be thinking of. Since the application was transmitted, we'd like to point out that the Countywide Policy Plan was adopted in 2010, the Maui Island Plan was adopted in 2012. We feel that the project should be reviewed with...for consistency and compliance with those plans, also updated traffic studies, updated State and County agency comments, infrastructure assessment, and so forth should be conducted. And also since it's been such a long time, the community should have a further chance to weigh in. So at a minimum, we think that an updated application should be submitted that would allow us to take it to the Urban Design Review Board and the Maui Planning Commission again. Obviously, those provide public testimony and then the Council would again have the opportunity to review it, or alternatively, if the Council were to file the matter, then they could start fresh with a brand new application. Thank you, Chair.

CHAIR PALTIN: Thank you, Director McLean. At this time, I'd like to recognize Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning, Chair.

CHAIR PALTIN: Good morning. Okay, so and from the applicant group, we have Mr. Darren Jones, who we've heard from previously as well as Mike Fisher and Paul Lamparelli. Is that right? Okay. And would you care to make any additional comments or respond to the comments made by the Planning Department at this time?

MR. JONES: Those all sound reasonable, I mean, as far as obviously there...I would imagine there would have to be some updates at this point and the application has been out there for quite some time. We had had some community meetings several years ago now unfortunately. So, again the issue at this point for us is just getting back with a Planner and trying to come up with a resolution to be able to bring something to the community that they'll approve, and works for the community, is gonna continue to further the community the way that our store does in Haiku. The...oh, shucks, what was I gonna say? The main reason for us wanting to do some of these changes are that so that we can actually live on the property. I live in Kahului and Michael in Haiku and Paul also in Haiku but part of these, you know, zoning changes are so that we can build a house there. So, that's one part of why this is still so important for us. The other part is that we can protect our store. Everything that I've heard is to protect a business like this in an interim zone requires more accurate and up-to-date zoning, so that if something were, you know, to happen to the store we'd have time to rebuild it without having to be pressured from, you know, for other reasons. So, just looking for protection of, you know, the Hanzawa Store, which has been there in one way or another for over 100 years and we'd like to see it go another 100 years. You know, we're just...we

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consider ourselves caretakers of that property, and we see it going on much further, and an important part of the Haiku community for years to come.

CHAIR PALTIN: Thank you, Mr. Jones. Any...did he sum it up for the other members of your group? Okay. So, yeah, I deeply apologize that it's taken this long, 11 years, to be brought to this, but I do also agree with Director McLean. I think, you know, that maybe we should start from the beginning given that you need a planner and a plan and I would just recommend that, you know, if you can get the entire community on board with your plan and not have, you know, some of it have it be a divisive plan, I would hope it would go through the process much faster. So, if you can try to outreach to the community and come up with that...something that people can get on board with.

MR. JONES: I mean, the community backs actually everything that we've proposed doing, which is again just having some commercial zoning for the commercial property as it is. So, there isn't any question or problem with that. It really just had to do with literally the boundary of how much of that property would be commercial. If it's...if the boundary is literally outside the back door for the current store or if they allowed more room for further expansion years down the road, there's no argument with the community. I don't believe starting over would achieve anything other than, to be honest, unsurmountable [*sic*] costs, you know, to restart this whole process. So, I completely agree, traffic studies, you know, things have changed. You know, there have been obviously some changes in parts of that application that I think could absolutely use updating, but honestly the plan and the application are still valid and a continuation of what's been going on.

CHAIR PALTIN: Okay. Mr. Hopper, do you have any comment of if this...how different it needs to be in order for it to go back to the Planning Commission?

MR. HOPPER: I mean, usually if it involves the same entitlements and the same property, you've got a fair amount that you can do as far as conditions or changes. I think the legal issue isn't necessarily as much of a problem as what's being discussed. It's just the time that has passed and that in and of itself doesn't necessarily prohibit the Council from taking action, but it sounds like the policy matters being discussed that is it proper to bring that forward without...with the time having passed without going back to the commission. So, I can look at it in more detail. I mean, today on your agenda it says that there won't be any actual action taken other than filing the communication, so it's not something you could pass out today. But I mean, to the extent the plans and things need revisions, I think you do have a fair amount of authority to consider revised plans, but the Council, I think with those revisions can send them back to the Council...to the Planning Commission but there's a fair amount would have to change for that to be mandatory, I think. But we can look at what actually would change and discuss that, but I think aside from the legal matters, you're being, you know, sort of advised by the Planning Director that it'd be a good idea for that to happen anyway for policy reasons and for the fact that it's an older application.

CHAIR PALTIN: Thank you, Mr. Hopper. Director McLean, any comment on the applicant's statement?

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MS. MCLEAN: Either way I think the only substantive difference between a new application and a revised application would be the notice of application that goes to surrounding property owners. So, if they revised the application, they would still have to do a notice of public hearing when the public hearing is scheduled and the commission would conduct a public hearing, which would be similar to if they started all over again, but an amended application wouldn't have that initial notice of application. But to me, that seems the key difference; otherwise, you know, it has happened before when a project has gone to the Planning Commission, let's say, for an SMA permit and the Planning Commission has the final decision-making authority. They may defer action and then the applicant goes back and does a lot of rework and then if that's substantive enough then they can redo the public hearing, so it would be similar to that. So, it doesn't have to be filed and start all over but that's really, you know, your decision. I would point out that what's in front of you does include the two parcels, and we don't know and maybe Mr. Jones does, what the intent of that other parcel owner is whether they want to be part of this or not. We don't know. We haven't gotten in touch with them, so that might have a bearing if that's no longer in play. It may be better to just start all over.

CHAIR PALTIN: Thank you, Director McLean. At this time, I'd like to welcome Member King to the proceedings.

COUNCILMEMBER KING: Thank you, Chair. Sorry about being late, I had an unavoidable meeting and then a little fender bender in my driveway.

CHAIR PALTIN: Oh, that's too bad. Member Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. This question is either...well, probably for the Director first. Director McLean, would you consider this a completed application? 'Cause I'm wondering is it really in our jurisdiction if it's not a completed application.

MS. MCLEAN: What was transmitted to you is a complete application, but I don't know that that's what the property owners' intent is anymore, particularly the owner of property...of Parcel 52. We don't know what their intention is anymore. What's in front of you is complete and you certainly could act on it, but we don't know if with Parcel 44 where the store is, if what's in front of you is what Mr. Jones and his group wants to pursue and we really don't know if it's what the new owner of Parcel 52 wants to pursue. So, it's a complete application, but we don't know where the applicant stands on it right now.

COUNCILMEMBER LEE: Okay. So, you know, that's my concern is that is it really in our purview at this point since it's not quite relevant anymore and it's more, I mean, I'm not trying to toss it back to you, but I'm thinking that it's, to me, seems like more your call on whether this is a completed valid application. Because what's before us is really not exactly what the new applicant wants to accomplish, right?

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MS. MCLEAN: As far as we know, but we're not certain of that right now. I think for the Council, your choice is either to defer and keep it in Committee and let the application be revised and taken through the Planning Commission again so that you get a fresh recommendation based on current plans or whether to file it and have them start with a brand new application. I think for the Council those are the two choices --

COUNCILMEMBER LEE: Okay.

MS. MCLEAN: --and either one would be appropriate.

COUNCILMEMBER LEE: Okay, thank you. So, Corporation Counsel, my question now is if we file this matter that it's not voiding the application, it's just filing this current application which they can revise, correct, with the Department?

MR. HOPPER: Well, I think if you file the matter, we can clarify with Planning, but I think they would consider that a closure of that application or at least that application is completed subject to the filing of a new application. We can review that, but I mean, as I understand filing that's sort of seen as closing out the application and would require them to file a new application consistent with the requiring public notice and requiring all the things that you would need to have in a new application. Again, we can clarify with that, but I don't know of any other method, for example, for the Council to, you know, sort of reject an application or deny an application. I think it would generally do that by filing, that would come off of your agenda and as far as with the Planning Department does with those applications, my understanding is they would generally consider those closed. I don't think it would keep filed applications around, but I would...I'd want to have that clarified. I think under the Code, you most likely would need to file a new application in that situation unless I'm mistaken. But we can...exactly what happens to it, I'm not sure. But I'm familiar with some, several applications that have been filed, and my understanding is that that's essentially the Council closing out the matter. I think they would need to file a new application in that situation generally.

COUNCILMEMBER LEE: In this situation?

MR. HOPPER: Well, if you file the application I think that's what the idea would be.

COUNCILMEMBER LEE: Okay. My whole point was, you know, would they have to start from square one if we file this issue, and so your answer is yes then. 'Cause I didn't think so in the beginning. I didn't think so.

MR. HOPPER: Again, I want to clarify what's being filed and what the Planning Department does with an application that has been filed, but I don't think if an application's filed that the Department keeps it on record forever and the applicant's just free to say, hey, I want to do that again. I don't think that's how filing would work.

COUNCILMEMBER LEE: Okay, no, not I want to do that again. It's...it has to be revised and updated obviously. So...okay, so your interpretation is in order for them...well, the Council has the option of filing this matter, requiring them to start from, you know, the

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beginning, or deferring this matter and having them take the time to revise their application and resubmit.

MR. HOPPER: That sounds correct, yes. I mean, you would...if you filed the application, I don't think they could say, for example, we already did our public hearing notice so we don't have to do that again, or we don't need to provide a new application with new information that meets the criteria of the application, it's up to date. I don't think they could rely on what had been previously filed because that application which is intended to eventually get to the Council and meet the Council's requirements has been filed. If you want to take some other action that would not require that, I think we could consider something other than filing but...or we can review these details a bit more. But if you file an application, I don't see how that the information in that application would stay on file and be able to be just updated and amended. I think you would generally file a new application in that situation because that would be the Council action. And again, we can...

COUNCILMEMBER LEE: Thank you. So, the applicant, your intention was to update your application or did you realize that by coming here today your application could be filed?

MR. JONES: Just to reiterate again, you know with Jordan Hart as our Planner for years, we've been working with him and had been following...

COUNCILMEMBER LEE: I know but he's been with the County for a year now.

MR. JONES: Yeah.

COUNCILMEMBER LEE: So, you've been looking for a planner for one year?

MR. JONES: To be honest, you know, other factors have stepped in so we haven't been able to focus that much on this --

COUNCILMEMBER LEE: Okay.

MR. JONES: --plan in the last year since he left.

COUNCILMEMBER LEE: Okay. So, even with him a year ago as your planner, this application has been sitting since 2012?

MR. JONES: That's when we took over the property, correct. And we've had community meetings. We've presented new plans to the community.

COUNCILMEMBER LEE: Yeah.

MR. JONES: We had certain meetings at our store on the grounds and --

COUNCILMEMBER LEE: No, why was it...

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MR. JONES: --sent out notice.

COUNCILMEMBER LEE: Why was it not completed for seven or eight years this application?

MR. JONES: I don't have an exact reason other than coming up with a new plan. Obviously, the old plan that was handed over to us as we took over the store wasn't great for the community. So, it's just taken time to come up with a decent plan.

COUNCILMEMBER LEE: Oh, you changed the plan since 2012?

MR. JONES: We changed...correct. Yeah, we didn't agree...we agreed with the community that they didn't like certain aspects of the application, so we kept trying to go back to the community to find something that they would like so that it would be a good thing for the community instead of not something good for the community.

COUNCILMEMBER LEE: How much of a hardship would it be for us to file this today, the Council, and for you to start again?

MR. JONES: Honestly, I think it'd be devastating to whatever we're trying to do there. And it's, you know, again we're just trying to protect the store that's been there for 100 years and be able to live on our property. So, it's...I don't know what consequence it is for it to sit in front of Council for this long. I...obviously, I'd like to have it working faster than that but I'm not sure, you know, how it affects you folks at all. So, you know, I'm not sure, you know, what to say to that.

COUNCILMEMBER LEE: Thank you.

MR. JONES: Thank you.

CHAIR PALTIN: Thank you. I'll take Member Molina, followed by Member Sugimura.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. For Mr. Hopper or Director McLean, doesn't the Director have discretionary authority to keep an application on file because, I mean, we're the Legislative Branch, they're the Executive Branch so just because we take an action on an application doesn't mean the Department has to follow that, right? I mean, it sounds like maybe more like Department policy that...I mean, don't you have that...wouldn't you have that discretionary authority, Madam Director, to keep it on file?

CHAIR PALTIN: Director McLean?

MS. MCLEAN: Mike and I have been whispering here that certainly there's a difference between Council denying an application and filing it, but it's...I don't know if that has happened before with an application, you know. The Council had...has filed different subject matters before or just general bills that aren't the result of an application. It's sort of a gray area. I don't know that we've faced that before, and I don't know, Mike will probably kick me under the desk when I say this, but if the Council were to file this but in the committee report, for example, or otherwise on the record you make it clear that the

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purpose of filing it is to accept the matter again with revised plans, then we could, you know, we could keep it open on our, you know, from our side, but making it clear that it's going to require a new public hearing and new neighbor notification and things like that. You know it's just a step up from filing a new application, but if that makes a big difference to the applicant and if that's what the Council would like to see, then I'm happy to follow that direction as long as Corp. Counsel doesn't have legal concerns over doing that.

COUNCILMEMBER MOLINA: Okay, thank you. And I guess, and on our end, I guess the question is it's been languishing in Committee for 11 years. I mean, I was on the Council back in 2009 when this matter first came up with the original applicants, Matt and Sandy Daniells and then someone had told me that I think it was addressed one time in Committee under the...maybe it might've been under former Councilmember Carroll when he was the Land Use Chair, but otherwise it's been sitting here for some time, so. And I don't know what your intention is, Madam Chair, today, but you know, appreciate the discussion, so. But certainly, the aspect of the Director's discretionary authority I think comes into play here and subject to I guess debate and Department policy as to how an application whether it be filed or done away with because of the Council's action to file. So it's all subject to legal interpretation, I guess. Thank you.

CHAIR PALTIN: Member Sugimura...oh, Mr. Hopper?

MR. HOPPER: Yeah, I just wanted to comment that if you don't want the application to have any chance of being closed, then you could keep it here and send it back to the Planning Commission or something like that. But if you file it and say that's at the whim of the Director, which I'm not totally...think is correct necessarily, then you would be losing that ability. If that's the Council's intent is to say we don't want to close out this application, we just want it to be revised and sent to the Planning Commission for an updated public notice or something other than closing out the application, then I think you could decide not to file it. But my understanding is that there are matters either through Council action to file something or from the Council not retaining those items from term to term that have been filed that are applications, and I don't know if any of them that just were kept alive by the Department after being filed by Council. Maybe that could...they, you know, they could correct me if I'm wrong, so that's the concern I would have with filing it and the Council thinking, oh, this is going to come back and they won't have to start from square one. I think that would be a potential issue, you know, so I don't want the Council to get the wrong impression that that's, that there's no chance that if you file it that it would be closed out and they'd have to start from scratch 'cause I think that's generally what would happen if you file an application. And we could also check, but I don't know if there's a specific Council action to vote, you know, to vote no on an application versus filing an application, 'cause my understanding was filing is what happens to an application generally after it is rejected, but we can, you know, look at...research that issue as well. So, if you want additional details on these we can look into them more. I didn't necessarily have all of that analysis prepared for you, but I would say that if you do file this, don't assume that it's going...it's not going to be closed out and a new application required.

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CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Interesting discussion, Chair. Sorry that I was late, I was at the Liquor Commission meeting. But I wanted to kind of pick up on this discussion and some of this may have been talked about before I got here so I apologize. But if there are two parcels, 52 and 44, are you changing the use? I mean, I know the store 'cause I live Upcountry like Mike, so we've, you know, we shopped there, you know, frequent it. Seabury...your store would donate stuff to Seabury, which I helped with a community event. So, I've been there, I know you care about the community, and I wonder are you changing your use so drastically or is it...what is happening with this new Parcel 52 and 44? The store is on 44?

MR. JONES: Fifty-two is, yeah, was sold to the Ranis family, and my knowledge is they wanted to be included in our application last time we spoke with Mr. Carroll years ago. So to my knowledge there's been no change as far I think that was brought up before whether they were still part of the application. Apparently, I haven't spoken with them, but it is still part of the application.

COUNCILMEMBER SUGIMURA: So, because of that is...it's now a new element that wasn't on the initial. Is that what's causing this...causing the discussion? Are they here? Are you...any of 'em...no?

MR. JONES: No.

COUNCILMEMBER SUGIMURA: So, you're Hanzawa Store that you purchased and you're trying to...you're Parcel 44 and you're trying to include 52 because your neighbor said they wanted to be part of this application. Is that what's going on?

MR. JONES: Correct. I wish I knew a little bit more of the intricacies of what that means but I...unfortunately, I'm not that familiar with what that really means.

COUNCILMEMBER SUGIMURA: So, if we look at the property that I'm familiar with by shopping, I don't know Parcel 52. I just know Hanzawa Store.

MR. JONES: Just up Awalau Road there's kind of a nice brand new house and they...that they had subdivided out for Mr. Ralph Hanzawa and he actually passed away shortly thereafter it was completed building and so they sold it off, but it's just up Awalau Road, maybe 150 yards.

COUNCILMEMBER SUGIMURA: And it's a house --

MR. JONES: It's a house.

COUNCILMEMBER SUGIMURA: --that was for Mr. Hanzawa, who has since passed away?

MR. JONES: Correct.

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COUNCILMEMBER SUGIMURA: And the use of that is a house now?

MR. JONES: It is a house.

COUNCILMEMBER SUGIMURA: Somebody's living there --

MR. JONES: Correct.

COUNCILMEMBER SUGIMURA: --from the Hanzawa family?

MR. JONES: Correct. The Ranis family, I beg your pardon, the Ranis family.

COUNCILMEMBER SUGIMURA: Ranis family.

MR. LAMPARELLI: The property was sold after...Ralph did live in the house, Mr. Hanzawa, and then after he passed the property was sold and so a portion of that used to be a part of the property that belonged to the Hanzawa family but that was subdivided and that portion, which I believe is a half-acre, was sold off.

COUNCILMEMBER SUGIMURA: So, they're not doing retail or commercial? They're...somebody is living there.

MR. LAMPARELLI: Strictly residential.

COUNCILMEMBER SUGIMURA: They're, not...and they're not interfering with the community except to drive their car in and out, go to school, or whatever their family may do as a resident of Haiku.

MR. JONES: Correct.

COUNCILMEMBER SUGIMURA: Okay.

MR. JONES: And to my knowledge that parcel is not included in the commercial side. I believe that's included in more the, I guess, the rural side. Is that correct?

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you, Chair. So, I remember this controversy from being, you know, just hearing about it as a member of the public a long time ago and that it seemed to me, and I don't know all the details, but it seemed to me that the Daniells wanted to expand it and the community did not want it expanded. So, I'm not really sure what...so what the difference is between what you're trying to do, but I'm happy to hear from the Director that whatever changes it would still...whatever changes you make it would still have to go out to public hearing again and notify the neighbors because everybody needs to know what's happening. And, you know, it's almost ten years later, so it's a different community in ten years, too. But, you know, my question is what is the extra expense in starting over again? You still have to do the community notification. You still have

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to do the public hearings. So, is there like a substantial application fee that causes the hardship in starting it again or is it because you feel like you would need to hire a planner consultant and you don't feel like you need to do that with continuation of this?

MR. JONES: Correct. I mean, obviously the traffic studies, I believe might be one that would have to be changed, which is amenable. But I think just speaking with Matt and Sandy Daniells and what their investment and expense had been getting it to the point that it's at I think with perhaps different architectural or different archaeological studies. I'm not that well versed but they told me what it had cost them to get it to that point. And just to clarify also our plan is very different, the Sandy...Matt and Sandy Daniells were not just looking to protect the store, they were looking to develop the property and have additional retail square footage, different rows of shops and different things that obviously were turned down by the community. And so, we were looking to come up with a plan that obviously was different so that it wasn't that intrusive and the community would back just us being able to perhaps expand the store one day. So, if we make that boundary line, that property line too close to the store, that takes...that's...it would just invite us having to do this all over again perhaps 20 years down the road or further. So just looking to ensure, you know, the portion of the store that may need future expansion based on what the community needs, you know, 10, 20, 30, 50 years down the road or 2 years down the road. So, we had again met with the community where we had drawings. Obviously they were very different than what Matt and Sandy Daniells had proposed, and we met with them, and got feedback from them, and we're just still in the planning stages trying to revise and give them, you know, something we can start acting on.

COUNCILMEMBER KING: Okay. So, for the Director, so if we continue on with this same application, it's...revisions are allowed and then they would be able to...I guess what they would save are like the archaeological study. They wouldn't have to redo that. Is that what we're hearing? And then some of the other...what else is it saving? SMA? There's no...are they in the SMA? They're not.

MS. MCLEAN: They're not in the SMA. Some of it would depend on what they're proposing because what an applicant proposes drives what agency review we seek and what studies need to be done.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: We would want, as he mentioned, we would definitely want another traffic study. We would want agencies to just review water, wastewater, solid waste, drainage. So, you know, a revised infrastructure assessment report, which isn't significant, it's a relatively modest proposal even with the rural and the business components. I think it's the write-up that's done that describes the history of the area and surrounding property uses and all that is, you know, may need to be revised somewhat but probably not substantially. So, those would be the costs that a planning consultant would charge for if they started all over again. Whereas that they could just do a supplemental report which wouldn't be nearly as extensive.

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COUNCILMEMBER KING: Okay. Okay, thank you.

CHAIR PALTIN: Thank you, Members. So, for me, I prefer them to start over and part of the reason is the long and divisive history of the project, you know. When you have this and say somebody wants to get thoroughly...read through the whole application, I mean it's associated with our now Deputy Planning Director, it has that long history of being divisive. The...what...it's a new owners, it's a new plan. And to me, I think it will move forward better personally because you know they need to find a planner, they can't do it anything without a planner. It's been sitting there for eight years and then one year without a planner. And it's like, I mean, I totally support it if you're serious and you want to do this and you want to move forward, but with this kind of history attached to it it almost makes it like, oh, that one, it's been around since '07 and then we got it in '09 and then it was sold in 2012, and so my preference is to file it. I'll entertain a motion to recommend the filing of County Communication 09-181.

COUNCILMEMBER MOLINA: So move.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: It's been moved by Councilmember Molina to file and seconded by Councilmember Rawlins-Fernandez. Any discussion on the item? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I...I'm concerned about the cost that would be associated. I would...if they're making changes that are agreeable to the community, it sounds like they've been in touch with their community. I don't know if the community would tie that so strongly if they're making changes from what they heard the community wants. So, I would hate for them to have to go through, especially the archaeological costs and the waiting that we hear about if they have to do any of that. It's gonna be much longer for them. So, if they could kind of pick up where they are and make adjustments, you know. So I understand what you're saying, but I find it a hardship I think for the new owners. And I hear their intent, which sounds, you know, sincere, so I have that concern about the additional time, additional cost if they start brand new, so.

CHAIR PALTIN: I would just say that, you know, I don't see how the archaeological studies would have changed that much and they have within their possession all the information on file. And so, you know, it would be submitting the portions that are the same over, revising the other one, and it just feels a lot cleaner, and to me it would move through faster without, you know, if somebody has to read this document that goes back to 2007 and it's no longer relevant versus starting with a clean copy and just reading what the current plans are and getting a new planner that's not associated at all with our Department so there is no conflict of interest issues but that's me. Member Lee?

COUNCILMEMBER LEE: Yeah, I feel for the applicant and it's difficult. I remember the Daniells having difficulty even...and it was sad because they were the people that were there for many, many, many years, well before the new residents in Haiku moved in. However, I believe that this project warrants a new application and that your...many of

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the studies, well not many, but I'm sure a lot of the studies just need to be updated as opposed to, you know, starting from the beginning. So, because of these reasons, I would vote in support of your motion, your recommendation.

CHAIR PALTIN: Thank you. Member King, --

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: --followed by Member Molina.

COUNCILMEMBER KING: Thank you, Chair. So, I just wanted to ask Director McLean if they did start a new application, would they be able to utilize existing studies and just update them or do they have to recreate all the archaeological studies...I mean, can they just like update those studies?

MS. MCLEAN: I think so. I think they'd be able to update --

COUNCILMEMBER KING: Okay.

MS. MCLEAN: --what they have and some might not need to be updated. They may still be perfectly relevant as they are.

COUNCILMEMBER KING: Okay. So, it seems to me that the...there's...what is the application fee?

MS. MCLEAN: It's based on project valuation, so I don't know. I think the maximum is \$5,000 and the minimum is just under \$2,000. So, it depends on the valuation of the project.

COUNCILMEMBER KING: Okay. We're not talking tens of thousands or?

MS. MCLEAN: No.

COUNCILMEMBER KING: Okay, all right, thank you, Chair.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. If you...would you allow me to ask the Director just a quick question about the application itself?

CHAIR PALTIN: Yes. Director.

COUNCILMEMBER MOLINA: Madam Director, is the application deficient and the current application as is with... was from the...I guess since they've taken it over from the Daniells? Any concerns? I know you mentioned the traffic analysis would have to be updated. Is there anything else that you see with the current application?

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MS. MCLEAN: Well, the current application was adequate when it was transmitted to the Council. And as I said before, if the Council wanted to take action on it today, there really wouldn't be anything stopping you unless you folks feel that the information is dated.

CHAIR PALTIN: Oh, point of information. We couldn't take action, because it's not agendized for legislative action.

MS. MCLEAN: At the next meeting, you could take action. But for it to go through agency review again, we would want some of the studies to be updated.

COUNCILMEMBER MOLINA: Okay. And in your initial discussions with the applicant, has there been...I guess it's been downsized from the original application as far as what the new applicants want? So, sorry, Director, we ought to get you some water, I think.

MS. MCLEAN: I don't know what their current plans are. I don't believe that they have the same plans that the Daniells did, which was for expansion and then some rural subdivisions on the back portion of the parcel. But I'm not certain what their plans are at this point.

COUNCILMEMBER MOLINA: Okay. And then the applicant stated that he had community support, so I don't know...do we have any letters of support at this point in Granicus from this? Okay. Yeah, so I can understand your point of view, Madam Chair, or your position on this about maybe starting over or at least if we could get some preliminary information would help, but we don't seem to have that at this point. Okay, thank you.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'll be voting in favor of the motion to file for basically all the reasons that the Members said that the components of the application that are reusable can be recycled. Those components that cannot be reused like the traffic study, infrastructure study, should be revised anyway regardless of our action here. It's such an old application that it's bad policy to move on it. I agree and thank the Director for advocating for community review again, especially since the Council adopted the General Plan, the Maui Island Plan, since the application was submitted that components from those two plans could possibly be integrated into the new application. And I agree with you, Chair, as far as, you know, any appearance of conflict with their former planning consultant and I don't know if Parcel 52 would need to be removed from the application. So, I'll be voting in favor of the motion. Mahalo, Chair.

CHAIR PALTIN: Thank you. So all those in favor of the motion, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Motion passes unanimously with one Member excused, Vice-Chair Sinenci.

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Vice-Chair Sinenci.**

**MOTION CARRIED.**

**ACTION: Recommending FILING of communication.**

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: So, as the Department said, in the Committee you report you'll make it clear that we're not denying the project but we're just having them start anew.

CHAIR PALTIN: Sure.

COUNCILMEMBER SUGIMURA: Just so that they won't be confused.

CHAIR PALTIN: We can do that.

COUNCILMEMBER SUGIMURA: Yeah, 'cause I think based upon the discussion and the cost and what the Department said.

CHAIR PALTIN: We can do that.

COUNCILMEMBER SUGIMURA: Yeah, thanks.

CHAIR PALTIN: Okay, thank you very much.

**PSLU-52 COUNTRY TOWN BUSINESS DISTRICT IN LANAI CITY (CC 20-83)**

CHAIR PALTIN: Next item up is PSLU-52, Country Town Business District in Lanai City. The Committee is in receipt of County Communication 20-83, from the Planning Director, transmitting a proposed resolution entitled Adopting the Lanai City Country Town

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Business District Design Guidelines and Standards. The purpose of the proposed resolution is to update the existing design guidelines for Lanai City to address the desires expressed in the 2016 Lanai Community Plan. And I scheduled this item...originally, I had been trying to piggyback onto the Budget and I got told that that wasn't possible, but so I scheduled it right before Budget and my...I was really thankful in going through this. I learned a lot about, you know, the history of Lanai, and so I'm excited even more so to go to Lanai for Budget. It's kind of an extensive document, but there's lots of pictures so that helps. If...I know the history of it, it went through, you know, the CRC, the Urban Design and [sic] Review, it was heard on Lanai, there wasn't too much opposition. I think one meeting was cancelled due to a Member walking out because he was not happy with the plans and then they lost quorum, but it wasn't he didn't like the plan, the maps were not accurate, and I don't believe that's Ms. Annalise's fault at all. It just, you know, sometimes maps are inaccurate, but yeah. So, any opening comments from the Planning Department?

MS. KEHLER: Good morning, Chair. Annalise Kehler with the Planning Department. Chair pretty much covered sort of like the review history of the documents. Just a little bit of...I can give like a little bit of background on like the process that we used a little bit more in detail. So, the current design guidelines, they date to 1997 and they've not been formally updated since then. In 2011, the Council introduced a new set of design guidelines and that was meant to replace the '97 document. So, the Department took it through the review process required in the County Code. Through that process the Department learned the community on Lanai was really not ready to update their design guidelines at that time. A lot of folks wanted to wait until they finished updating their community plan. So, the Department kind of tabled the document for a few years. And then in 2016, Council adopted the updated community plan for Lanai. And the new plan talks quite a bit about preserving historic buildings in Lanai City and as well as improving the town's existing design guidelines. So, one of the more important actions, Action 10.02 from the community plan directs the Department to revise the design guidelines. So, throughout the plan, the community expresses the desire for more detailed guidance on how to care for existing buildings, and they also wanted more guidance on how to construct new buildings that are compatible with the character of the Country Town District. So, I started the process of developing the document before you today several years ago, and I started with the 2011 Council introduced document. I reviewed it against the community plan as well as historic preservation best practices. And then I kind of developed like this road map on how I would improve the document and address issues raised in the community plan. So, as Chair mentioned, I discussed the road map for improving the document with the various reviewing bodies prescribed in the County Code. Overall, the reviewing bodies were supportive of the plan to improve the document and they really only offered minor comments and suggestions. The Planning Commission on Lanai really offered the most meaningful input and a more detailed account of that review process is described in the cover letter to the Council from the Department and that's on Granicus. So, after I finished the review process, I prepared the document that's before you today. That's this document here. And I have to admit that it took me a lot longer than I anticipated to create this document, but it's here so I'm glad it's done. And, you know, in the end, the final product looked really visually different from what...when we started, so I took it back to the Planning

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Commission on Lanai for one last look late last year, and I explained to them that the content of the document hasn't changed much really, it's just the graphic layout that's completely different. And then I created a table for them showing all of the differences between the original document they looked at and the new one. I would say that they...based on the review that they did in late last year, they seemed to appreciate the document. In particular, they liked that I incorporated their suggestions from previous meetings and they voted unanimously to recommend that the Council adopt the new design guidelines. So, that pretty much sums up the process.

CHAIR PALTIN: Thank you, Ms. Kehler. Members, any questions for the Planning Department or Ms. Kehler or Mr. Hopper at this time?

COUNCILMEMBER HOKAMA: Chair?

CHAIR PALTIN: Member Hokama?

COUNCILMEMBER HOKAMA: Thank you for allowing me to participate this morning, Chair, and thank you for notifying me of your intentions to post, which is appreciated. So, a couple things, I've gone to...and thank you for your good work. I don't agree with all areas of it, so I'm gonna bring it up in a future meeting that I would ask with Chair Lee and Budget Chair Rawlins-Fernandez's ability to help us coordinate, Chair Paltin, yeah, I want this done on Lanai eventually. I think the practice that the Council has of trying to go to the district of impact is a good practice. I think it's worth the resources we budget and utilize for such community meetings. And it's gonna be interesting the discussion on Lanai, because the community that we started with that this whole movement to standards away from guidelines is basically either dead or not the tenant of the commercial businesses buildings anymore. So, what you heard at times is what the so-called new resident of the island doing business understands Country Town Guidelines, okay. And my thing, too, for my community is which cultural era you want to preserve, the Jim Dole era, the David Murdock era, the new Ellison era, because there was no ground signs before in our commercial areas, okay. Now we have but that's not our historical commercial culture. So, you know, these are points that I was gonna share with the Members, but my request is eventually I would like Lanai to have the ability to talk to you face-to-face instead of through a three-minute transmission. I would like Lanai to be able to have a sense that this Council really cares about what is going on on that island on that district and they would love to see all of you face-to-face. So, that would be my request, Chair, with no disrespect to any Member that eventually you consider a deferral for a future Lanai meeting, please.

CHAIR PALTIN: Thank you, Mr. Hokama. And I am totally open to that. If it isn't able to happen during Budget, the earliest would probably be June, and if there's no objection and Members do feel like that they will be able to travel to Lanai, I'm totally open. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo for Member Hokama's comments and I completely agree and I would love to go to Lanai. And I was thinking perhaps we could do a joint meeting like we did on Molokai, PSLU

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and EDB, 'cause I would love to do some updates on Lanai for the CIPs that are occurring on Lanai. So, perhaps we can poll for a date in June if Chair Lee approves. Mahalo, Chair.

CHAIR PALTIN: Okay, sounds good. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Just asking about one of the recommendations where it had to do with a parking strategy. Any thoughts on that for, you know, parking requirements?

CHAIR PALTIN: Ms. Kehler?

COUNCILMEMBER MOLINA: I'm just curious.

MS. KEHLER: Yeah, so what we did in the document is we completely exempt the Country Town zoned parcels from compliance with the Parking Code, because it's just way too intensive for an old town like that and we didn't...I mean, through the process we heard that there aren't parking issues and there's no shortage of parking there, so you know, for the time being this document says you don't need to provide off-street parking. If in the future it becomes an issue, the document can always be updated to address the parking issues.

COUNCILMEMBER MOLINA: Okay. And one more question, Madam Chair, regarding the trees, the Cook pines. Any plans for the removal of some of the, I guess, the dead ones or the diseased ones? And I guess it'll probably be something that would have to be discussed with the Arborist Committee, I'm just guessing.

COUNCILMEMBER HOKAMA: Chair, may I interject?

CHAIR PALTIN: Member Hokama?

COUNCILMEMBER HOKAMA: Many of the Cook, Norfolk pine issues is one because we really don't have four seasons. There's no winter or such or frost or to take care of certain pests of that, the specie, but Pulama Lanai or, and previously you go all the way back to the Dole era the landowner has been responsible in trying to take care and remove either dead, dry-rot, termite-ridden trees. The area that is the County's right of ways that we got to step up our game, and again we have pictures of our community center, those pine tree branches is like spears. It'll penetrate and go right through our corrugated roof. We have photos of that, okay. Worse than the palm branch. So, I would say we need to budget so that Countywide we take care of our tree requirements, Chair. Thank you.

CHAIR PALTIN: Member Molina, does that --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --satisfy your --

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COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --second question?

COUNCILMEMBER MOLINA: Yeah, it certainly did.

CHAIR PALTIN: And...

COUNCILMEMBER MOLINA: And one last one for, sorry, about the lighting. I know we have the shielded lighting laws. Any thoughts on that part as it relates to this?

CHAIR PALTIN: Ms. Kehler?

MS. KEHLER: Yeah, so in the section of the guidelines it discusses lighting. It mentions the County's outdoor lighting ordinance, so any lighting that goes on in the town would need to comply with that and then there's suggestions for any future streetlight improvements on what that design might look like as well.

COUNCILMEMBER MOLINA: Yeah, yeah, I think it's good...worthy of discussion as the island is growing and, you know, at the same time you want to keep that, you know, nice ambience of Lanai without, you know, getting any stray lighting and so forth, so. But yeah, I certainly agree with Mr. Hokama, we need to have this further discussion of this on Lanai.

CHAIR PALTIN: Thank you. Member King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, I support the deferral and having the visitation. The one thing I wanted to ask about was and because I haven't read the whole 300 pages that's on Granicus but some of the design just in looking at the first part of it some of the current design components or, I don't know if they are design components, but they're historic components such as wood utility poles. Are you looking at the...are the recommendations in here for how to make...how to marry that with, you know, just kind of shoring things up against potential disasters like storm events, fire events? I know the utility's been looking at the fact that wood utility poles fall down pretty easily. So, it's kind of nice you don't have to worry about sea level rise 'cause they're up on top but there are other potential climate related disasters that have to be sort of, you know, mitigated in the...and thought about with the design components.

CHAIR PALTIN: Ms. Kehler?

MS. KEHLER: So, as far as looking at potential disaster mitigation that's beyond the scope of this document, but I do understand what you're saying about, you know, utility poles can sometimes be dangerous; however, the community was really adamant in saying that the wood utility poles are a part of their cultural landscape and so, you know, that was something that I mentioned in the document, because the community did say that

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it's important to them. I understand that as time goes on I'm sure that MECO or HECO or whatever it is now might feel the need to phase out telephone poles and if that happens so be it, you know.

COUNCILMEMBER KING: Yeah, I just wanted... 'cause I know that they're looking at other, on Maui, other components for utility poles, so I just wanted to make sure that that was part of the discussion. The safety issues I think are gonna be key going forward. So, thank you, Chair.

CHAIR PALTIN: Thank you. And I had some questions that maybe you might not know the answer to right now, but it kind of looks like the sentiment is to defer and hear it again on Lanai. So, maybe if you don't know them off the top of your head we can submit that to the Committee. But I want to know how many lots are affected by this district area and if there is exemptions for existing nonconformance? And if there are, how long would that exemption last until it needs to be replaced or rehabilitated or would it last forever? I was wondering about the variance process for this. You know, if somebody doesn't want to meet these design guidelines, what process would they have to come to Maui? Do we have enforcement on Lanai to see if people aren't meeting these guidelines? And if they aren't, would it be fined and like what kind of amount of fines would they get? Would all the lot owners get the guidelines for rehabbing Kauai's old houses? And I know it's not Kauai but that was the document kind of referred to in here. And just lastly, you know, knowing that they don't have like, Home Depot or Lowes, would there be an added cost to the lot owners for meeting these specific spec criteria? Those were my questions and I understand that I didn't submit them ahead of time. So, if maybe they could be responded to like before the next meeting.

COUNCILMEMBER HOKAMA: Chair?

CHAIR PALTIN: Member Hokama?

COUNCILMEMBER HOKAMA: Ms. Paltin, one thing that might also help you and the Members would be, and they can get it from RPT, what is Pulama's property and what is non-Pulama, 'cause the impact is on Pulama itself.

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER HOKAMA: All business tenants are, well, are a tenant of Pulama, okay. So, the landowner usually would get the notice of violation and then they would go after the tenant --

CHAIR PALTIN: So, you're saying --

COUNCILMEMBER HOKAMA: --for compliance.

CHAIR PALTIN: --of the lot owners, how many are Pulama Lanai?

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COUNCILMEMBER HOKAMA: That would...yeah, I think within the proposed boundary of this proposal that would be helpful for the Committee Members.

CHAIR PALTIN: Thank you. That's a good suggestion. Director McLean, did you have anything to add to that?

MS. MCLEAN: Well, two of those questions we can answer now. One is nonconformities. Those would fall under the typical nonconformities provisions of the County Code, which is Chapter 19.500, and 19.500 talks about nonconforming uses and nonconforming structures. And generally, those can remain as they are in perpetuity. They can't be expanded or modified in a way that increases the nonconformity, but they can stay as they are. So, there is no expiration and they are allowed to continue. But if they were, for example, wanting to expand a business, then that expanded portion would have to comply with the new requirements. The question about enforcement is enforcement on Lanai is the same as it is anywhere else, which is complaint based. And so, we would send an inspector over and then the fines would be assessed. Well, the first step would be a notice of warning indicating what the violation or the alleged violation is, giving time to come into compliance, and usually that prompts the recipient to contact us and say, oh, okay, I'm gonna do this and this and if they have a path toward compliance, then we give them time to do that. If they don't respond, then we would follow up with a notice of violation that would assess fines that would be commensurate with the violation.

CHAIR PALTIN: Thank you, Director. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Just more of a request for information I guess from Public Works since there was a discussion about the shielding of lights and so forth. If we could ask...I'd like to ask for a request prior to the next meeting on this, which would be on Lanai, the total number of lights that require shielding or upgrading and how many of these lights are the responsibility of the County.

CHAIR PALTIN: Staff, you got that down? Okay.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PALTIN: Members, any further questions? I think if you like you can also submit questions to my Committee between now and then and maybe when we are on Lanai on the 9<sup>th</sup> for Budget we can just take a walk around and, you know, refer to the document. It has a lot of good history, you know, from way back in the day, so it's kind of like a little site tour. Director McLean?

MS. KEHLER: Chair, I just wanted to add one little piece of information about ground signs. So, the document that I took to the Planning Commission originally did not allow for them, but they wanted it so we added it back in. So, that's just a little for your information.

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CHAIR PALTIN: Thank you, Ms. Kehler. If there's no objection, I'd like to defer this item at this time.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: SMS)

**ACTION:           DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: Okay, cool. Right on. And we went a little bit past our break time. If there's no objection, we'll take like a 10, 15 minute recess.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. This meeting is in recess. . . .(gavel). . .

**RECESS:           10:39 a.m.**

**RECONVENE:   10:57 a.m.**

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of Wednesday, March 11, return to order. The time is 10:57 and we're on our last agenda item for today.

**PSLU-54           ANNUAL COMPLIANCE REPORT ON THE CHANGE IN ZONING  
FOR MAKENA RESORT AREA** (GC 20-01 & GC 20-02)

CHAIR PALTIN: PSLU-54, Annual Compliance Report on the Change in Zoning for Makena Resort Area. The Committee is in receipt of the following: General Communication 20-1, dated January 3, 2020, from Munekiyo Hiraga, transmitting a copy of the Annual Compliance Report - Change in Zoning Conditions for Makena Resort Area in accordance with Condition 22 of Ordinance 3613; General Communication 20-2, dated January 6, 2020, from Munekiyo Hiraga, transmitting a copy of the Change in Zoning Annual Compliance Report for Parcel H-2 (Lot 19) in accordance with Condition 22 of Ordinance 3613. So, there are two separate parcels. And I scheduled this item because I...you know, we're kind of new to the Council, a lot of us, and so I wanted to familiarize ourselves with the condition. And I felt that it was timely with the recent *Maui News* article that came out that Staff is getting prepared to distribute to you all so that we're up to date on the things that we're talking about, and I think it kind of touched a little bit on some of what the testifiers were speaking to. So, as Staff is handing out those recent documents, we have Mr. Kaimi Judd from the landowner or representative and if you had any presentation you wanted to give at this time.

MR. JUDD: Okay, great, mahalo, Chair Paltin, Committee, everyone. My name is Kaimi Judd. I'm the Vice-President of Development of Makena Golf & Beach Club. I'm here representing the Makena Golf & Beach Club owners annual compliance report. I'm here to take any questions you may have. A brief update and orientation, Ann is handing

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out a general map that I can...you can use for reference as I orient you on our project and the zoned parcels within the Makena Golf & Beach Club owner's control. So, the Ordinance 3613, the--thank you--the zoned parcels it numbers 603 acres total for that ordinance, approximately 603 acres. A large portion, 441 acres, are the...within the golf course area and were clarified to be zoned Park, so those are not shaded, well they're largely in gray on the map that you see here. So, I'll just give you a little orientation on this map, the Hotel Makena, the former Prince Hotel location is in blue. That was not part of the zoned, this ordinance rezoned parcels. The, in red are...there's a recent SMA approval of parcels known as M5, M6, S7, and B2. Those were in an approved SMA and not part of the zoned...the zoning, rezoning ordinance. What's indicated in yellow are areas that we are as we in the overview of our compliance report indicate that we are preparing a EIS prep notice for a proposed project and largely it's the areas in yellow and also it does include the gray areas in the sense that they're zoned Park slated for golf course use, which currently is the case for the north golf course, and the south golf course has been shut down for some time now and is being...gonna be proposed to be renovated, but the development parcels are in yellow. Within those development parcels are the zoned, rezoned parcels in this Ordinance 3613. Those are indicated in the blue hatch areas. So, excuse me, for the approximately 120 acres...excuse me, so there's 603 acres, the 441 is Park, the balance of which are 120 acres Apartment, 3.8 Residential, 9.8 Community Business District, and 0.46 to Resort Commercial. There are 28 acres that were rezoned to Hotel District and entirely, almost entirely all of that is the H-2 project. I'm not here to speak to the H-2 project and that's under a separate compliance report. Leilani, I think, will be presenting on that. That for orientation is to the right of the blue, not the gray but the sort of light gray area, and I'm sure they will present and orient you on their specific location and conditions report. Okay, so with that orientation I just wanted to then clarify as I stated and it's in the overview that we will be proposing a land plan and in that EIS prep notice and then eventually the draft EIS, final EIS, and SMA process we will be assessing all of these 44 conditions, and we stand firm that we will comply with all of the conditions. We will rely on new studies that will be part of our traffic assessment as is required under Chapter 3.43 and the other conditions such as Ms. de Naie testified on Condition 10 on trails. So, all of these will be relying on our new plan. You're using our new plan, and we're going through not only the conditions compliance process as outlined in these 44 conditions but also the EIS and SMA process as a whole. So, rest assured that these will be thoroughly assessed and addressed in that process. Some of the conditions have been complied with and I think they're outlined in our report, largely conditions that relate to public benefit. So for example, there was a one-and-a-half acre expansion of Maluaka Beach Park that we went ahead and dedicated. We still maintain that park. It's a County...it operates as a County park, but we at the Makena, the responsibility is on us to own and maintain those parks and it includes Makena Landing as well. So, there are conditions that we have complied with and working diligently to continue progressing on those conditions. The Department of Defense, tsunami siren was installed. That was a condition. Up at the wastewater treatment facility in coordination with the DOD we continue to provide thorough marine quality reports. They are actually required to be done semi-annually and we do them quarterly in essentially coordination with our marine quality experts, AECOS, that thought that a quarterly provided a more thorough basis of assessment of the conditions of the area. So, just to clarify, I've been involved

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in this project for about six years. We obviously are responsible for all of the historical conditions of this project. I'm not familiar with every single one of them, but I can assure you that we will be complying with all of them. And if you have questions, I may not be able to answer every single one if there's some historical need to, you know, for me to look back, but I'm open to scheduling time to come back and answer any questions that I can't answer today. So, thank you.

CHAIR PALTIN: And that concludes your presentation?

MR. JUDD: Yes.

CHAIR PALTIN: Thank you. Members, questions for the presenter? Member King?

COUNCILMEMBER KING: Thank you, Chair. My first question is can we get a printed reference legend to this map that's in writing because it's...you went through what everything is, but I didn't have time to write it down and I definitely cannot read this tiny writing, so if you can give us a reference to what all these different colors mean and what's happening where as far as this map goes that would be helpful. And the second...my second question is, you know, I have the notes from the testimony this morning and there's a...I know there was a settlement agreement reached between this project and the Sierra Club folks but there seems to be a list of conditions that hasn't been met, haven't been met, and that were claimed to have been met, and so I don't know if you have that, if you can go over those, or if you can send us a report specifically on Conditions 10, 12, 14, 15, 18, 19, 27 and 31 seem to be the...oh, 38. But there...and I, and, Chair, I don't know if we have the letter from OHA that was discussed this morning that there was a letter from OHA saying they had not gotten the archaeological study and they're supposed to. So, those are some of my main concerns is what, you know...and just to give you an example that Condition 10 requires the master access plan for bike and walking path and the comment was that you guys concluded that the condition was satisfied because the plan was submitted but, you know, access is not just a plan, it's actually providing access. And it appears to the public that Makena has now been rebranded into an exclusive members only project and that there's been, you know, there's been some attempt to block the public from access so those are the kinds of things, you know, I'm looking at on this list of conditions of zoning that seem to not have been met. And I don't know if you, Chair, I don't know if you want to take the time to have him go over all of these or if they can send a specific report in because...and I don't know, maybe the Department can share with us what happens, you know, if we make conditions of zoning and we approve the zoning on these conditions and the conditions aren't met, then what happens?

CHAIR PALTIN: I believe Condition 23 covers that, what happens. If failure to fulfill any condition may result in a reversion to former or more appropriate zoning or community plan designations or other remedies, so that's my understanding. Director McLean?

COUNCILMEMBER KING: So, I don't...yeah, and what would be the process of that? But I'm just really concerned that these conditions get put on here and they need to be met and

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not with just, you know, something on paper but in real time. So, maybe Mr. Judd could...

CHAIR PALTIN: I'll take Director McLean and then followed by Mr. Judd.

MS. MCLEAN: We have the same concerns with some of the conditions like you mentioned that a plan isn't fulfillment. There are some conditions that require just a plan and the plan would fulfill that, but when...yeah, that particular condition isn't met by the plan, the access actually has to be provided. And sometimes conditions have particular timing in them; otherwise, we would look for compliance at the most appropriate stage of development. On the map that's shown, only the area in the light gray, the H2R property, which has representatives here, has started the entitlements for the development. They have a Draft EA that was just reviewed yesterday by the Maui Planning Commission. They've submitted an SMA permit, and so we would look for applicable conditions to be fulfilled at certain milestones of that process and then additional conditions under the SMA permit if it's granted would also further those conditions. So, the SMA permit can't be granted if the zoning conditions aren't fulfilled or there isn't a clear --

COUNCILMEMBER KING: Okay, so that has to be granted.

MS. MCLEAN: --pathway for them to be fulfilled.

COUNCILMEMBER KING: What areas of light gray are you talking about? 'Cause I see one, two, three, four, five, six areas that appear to be light gray, and I know sometimes the colors don't translate. But what area are you talking about?

MS. MCLEAN: If you can see where I'm pointing, it's down below sort of in the center just to the right of the blue.

CHAIR PALTIN: Might be easier on *The Maui News* article maybe.

COUNCILMEMBER KING: Okay. Is it on both sides of the road then? 'Cause there's another area of light gray on the other side of the road --

MS. MCLEAN: Right. It's just --

COUNCILMEMBER KING: --and then it's...

MS. MCLEAN: --the mauka.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: The mauka portion.

COUNCILMEMBER KING: And then if you go...if you look for to the far right there's two square parcels that are also light gray but you're not talking about those.

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MS. MCLEAN: Not talking about those, just that one parcel, just the area mauka of the road.

COUNCILMEMBER KING: Okay. That's spanning the, across cross the road. Oh, just the mauka side of the road? Okay. 'Cause there's a light gray area on the makai side of that road, too.

MS. MCLEAN: Correct.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: It...the portion that is now undergoing project review is just the mauka portion.

COUNCILMEMBER KING: Okay. So, that's kind of why we need that legend because it's really confusing. You can't even go by the colors 'cause the colors are repeated in different areas. But anyway, that's my main concern, Chair, is the compliance issues and what is the timeline for compliance so that the community has a comfort level that these conditions are being met and the intention is to meet them and not just, you know, put something on paper.

CHAIR PALTIN: Mr. Judd?

MR. JUDD: Yes, Councilmember King, thank you. Apologies if the map is a little disorienting. I didn't intend that obviously to be a result. I didn't want to assume as I'm only speaking on the Makena Golf & Beach owners' land that's under our control. Circle the H-2 parcel. But I think as Chair Paltin indicated that perhaps *The Maui News* article that was distributed would help to perhaps clarify. I will I think be able to better follow up with a map that would not create confusion. One important point of clarification—there are two separate compliance reports. One that refers to the areas that are under control of Makena Golf & Beach Club owners and the other was issued by the H2R LLC ownership. And I think you're referring in the conditions that you read off that it indicated compliance. For example, Condition 10, we did not indicate that we have satisfied the condition in our report. If I could read it for you and I think it brings a bit of that context that I...

CHAIR PALTIN: If I may --

MR. JUDD: Yes.

CHAIR PALTIN: --interrupt? So what Mr. Judd is working off of right now is just 20-1. That's the compliance work report that he's responsible for. When we go to 20-2, we'll bring down Ms. Pulmano to go over that. Is that correct, Mr. Judd?

MR. JUDD: That's correct. So, I'm not gonna speak to their report but --

COUNCILMEMBER KING: Okay.

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MR. JUDD: --as far as our report, as I mentioned earlier, that we intend to fully comply, for example, with the trails assessment and it'll be under the overall process of our EIS and SMA process which have...we have yet to embark on but we are not indicating in our compliance report that we have satisfied or complied with the condition. We intend to comply with the condition, which we will.

COUNCILMEMBER KING: Okay. So, there's no attempt to block off or gate that...to gate the public off from that?

MR. JUDD: No, and you'll gain a lot of clarity once we do publish an EIS prep notice and certainly the community agencies will be able to comment and then there'll be a process to work through satisfaction of this condition.

COUNCILMEMBER KING: Okay, thank you, Chair. I'll yield for now.

CHAIR PALTIN: Anyone else at this time? I can go if nobody...Member Sugimura?

COUNCILMEMBER SUGIMURA: So from what I'm gathering...thanks for doing this. Kaimi Judd, so you're taking care of everything else, the majority of everything on this map and then the H2R, I guess you said, RLC [*sic*] is just this little thing right there?

MR. JUDD: The 20, roughly 28 acres --

COUNCILMEMBER SUGIMURA: Twenty-eight acres.

MR. JUDD: --which is better indicated in this *Maui News* article of where it's located within this overall map, so apologies again.

COUNCILMEMBER SUGIMURA: Okay, and you're still in the process. So, you're...you've not...I mean, some of the concerns expressed are not completed then but you recognize that you're looking at it or need to do it eventually or plan to do something with it?

MR. JUDD: Yes, we worked diligently to satisfy some of the conditions along the way as some of which I've mentioned, and we have been, you know, regularly filing compliance reports and the time is coming soon. So, it's actually timely that we have this discussion because as we are gonna be going forward over the next couple of years in our EIS and SMA process, which include our zoned lots under this ordinance, then it's timely for us to bring this into focus.

COUNCILMEMBER SUGIMURA: Okay, thank you. And so, how many acres do you have versus...

MR. JUDD: The acreage for the zoned parcels, as I mentioned, of the 603 acres total under this ordinance, 441 are Park, those are owned and controlled by the group that I represent and then there are approximately...the balance except for the H-2 is indicated in those blue hatched areas. And it's...I'm really bad at my math right now, but let's say it's...I'm looking at the specifics and I can read them off, 120 Apartment, 3.8

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Residential, 9.8 Community Business District, 0.46 Resort Commercial, and 0.353 Hotel District. Okay?

COUNCILMEMBER SUGIMURA: Thank you.

MR. JUDD: Thank you.

CHAIR PALTIN: Before, I just wanted to clarify when you said 441 acres, did you say park or part?

MR. JUDD: Park.

COUNCILMEMBER SUGIMURA: Park.

MR. JUDD: P-K, P-K, park.

CHAIR PALTIN: Okay, like park, open space, park...

MR. JUDD: It's Park Golf.

CHAIR PALTIN: Oh.

MR. JUDD: So, it's largely the north and south golf course, Makena Golf Course areas that --

CHAIR PALTIN: Thank you.

MR. JUDD: --again are indicated in gray on this map that...I don't want to confuse anyone further with this map, so we'll follow up with a better map.

CHAIR PALTIN: Thank you, thank you. I just wasn't --

MR. JUDD: Yeah.

CHAIR PALTIN: --sure if you said 441 part or park, so thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so I have questions on four of the conditions. I'll start in chronological order with Condition 13. In the status, you said that the discussions to provide a construction access road from Piilani Highway are ongoing. Will you please tell the Committee when these conversations were initiated and what the current status of these conversations and when the Council can expect an outcome from your ongoing conversations?

MR. JUDD: So, just to...which condition is it?

COUNCILMEMBER RAWLINS-FERNANDEZ: Thirteen.

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MR. JUDD: Thirteen, okay. Sure, the 13 is regarding construction access roads. And we've had discussions both with Department of Transportation as it relates to Condition 14 and our assessments that we will be doing and on a TAIR...TIAR and TMP basis. The discussions that we've had because we...there are some joint history in certain obligations on traffic that goes back again before my time, but with the Wailea 670 project that is adjacent to the northeast on this map and there were potential ways for construction traffic to access through that should that prove to be viable. Certainly, we don't have any control over that project and so there were discussions to look at ways that either if it's viable for that condition if it's triggered, we'll be assessing to see if it's necessary and triggered and if it is that is one potential way that construction access would be, you know, viable. We've had discussions also with the Wailea Community Association, which is of primary concern on construction traffic through the Wailea Alanui and Makena Alanui roads to our project area. Again, we haven't triggered the requirement, but we will be working with the neighboring landowners if...should there be a requirement to have Condition 13 of construction traffic not utilize the roads that are indicated there.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. For Condition 20, developer shall implement efficient soil erosion and dust control measures during and after the development to satisfy Department of Health and County. And it says that this will...this condition will continue during the life of the project. What are the current measures that are in place to prevent soil erosion and control dust?

MR. JUDD: So, just so I can understand your question, certainly we're gonna comply. We have not in the zoned parcels initiated any action that requires it, but certainly when we...once we take action, we will outline a plan that will, you know, be again part of this process of the EIS and SMA process once we get there.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I'll yield the floor for now, Chair. Mahalo.

MR. JUDD: Mahalo.

CHAIR PALTIN: Okay, I had a question on...so you were saying earlier that 0.46 acres are Resort Commercial and 0.353 was Hotel District within the acreage that's, that is related to these conditions and then Condition 39 says no transient vacation rentals, timeshares shall be allowed within this Makena Resort rezoning application area, no special use permits, conditional permit for such accommodation shall be accepted by the Department of Planning. So, is your understanding of this that for Hotel District you can't build a hotel or anything like that, even the Resort District?

MR. JUDD: We have no plans to propose a hotel and as you know the HM location that was the former Prince Hotel does not have a hotel. It is not in the zoned parcels. The little...there's...again apologies, there's a tiny section that is on the bottom left corner of that blue HM parcel that is that small area and that is not slated for any development and is certainly is too small, nor is there any plan nor will there be any plan to have hotel or TVR use in that small area.

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CHAIR PALTIN: So, those 120 acres for Apartment and the 3.8 for Residential, those are gonna be either places where people actually live or vacant second homes?

MR. JUDD: There...it'll be an appropriate use for the zoning and when we present the prep notice plan there'll be more clarification, but yeah, it will be complying with all these conditions within the zoned areas, absolutely.

CHAIR PALTIN: Okay, thank you. And then I just was wondering on Condition 27, I didn't get a chance to look at the annual report. But are you using nonpotable water for irrigation or potable?

MR. JUDD: Well, again, these zoned areas are not being...you know, we haven't worked towards that point 'cause we haven't started, initiated the project in the zoned parcels but we are...I can tell you that the golf course, for example, uses existing wells that are onsite that were done well prior to my time, and so they use nonpotable water for the golf course and some of the landscape related. So just understanding, we will certainly assess the...and comply with water conservation requirements prior to the issuance of any building permits for development within these zoned parcels that require an SMA use permit. So, you know, we're at some time away so there'll be, as I mentioned, fresh assessments of the project that we will be proposing this year and going through the process of assessing this water conservation zoning...or condition.

CHAIR PALTIN: Thank you. And last one and this applies for both items, number 19, my interpretation of the condition is that reports will be submitted annually or bi-annually and you're submitting them quarterly. But my interpretation in part two of water quality is that you're providing estimates of total mass discharge of those pollutants on a daily and annual basis from all sources. So, it's my interpretation that you need to be testing it daily, not testing it semi-annually or annually but submitting them semi-annually or annually and testing it daily. Because even if you test it quarterly that doesn't give you any kind of accurate picture of anything having watched the ocean daily, that's...I mean, you can test it hourly and still that would be more accurate than daily but...so in my mind that's not compliance for number 19. And I had a similar concern on 18 as the testifiers that when you say that status as appropriate the Office of Hawaiian Affairs for approval. It is appropriate because that's what the condition says, so the status is that Office of Hawaiian Affairs does need to accept what you're doing. So, those are just my two comments on 18 and 19.

MR. JUDD: Yeah, if I could address those. So, in Condition 19 the way I read it is that daily...well, I'll just read it here. It says that if this report lists the receiving waters as impaired and requiring a total maximum daily load, TMDL study, then the monitoring program shall be amended to evaluate land-based pollutants and it goes on. And so, that daily, I think reference you're talking about is if there is a...if it's deemed impaired and I think your staff asked for clarification from our marine quality scientist and expert Dr. Cattell with AECOS, and I think we addressed that the waters are, have not been deemed impaired or requiring a TMDL.

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CHAIR PALTIN: So, if at any time they are deemed impaired, then at that point you would begin daily testing?

MR. JUDD: I'd have to take a look, a closer look at this to be sure that I answer that correctly, but we certainly will comply with the requirements of this condition if...should anything change to kick in a more, you know, a different level of monitoring.

CHAIR PALTIN: Thank you.

MR. JUDD: Okay. Oh, and then on your Office of Hawaiian Affairs, that was again condition...I'm sorry, could you remind me?

CHAIR PALTIN: Eighteen.

MR. JUDD: Eighteen, thank you. Yeah, so I think this statement is that certainly we are gonna prepare, once we get there, preservation and mitigation plans for our zoned parcels indicated on the map in the hatched areas in compliance with SHPD and subject to the review and approval of SHPD and the Office of Hawaiian Affairs as appropriate. I think the as appropriate comment is, you know, there are certain things that often Office of Hawaiian Affairs looks at, certain things that SHPD looks at and we will be submitting it as required through the process of our EIS, SMA, and the zoning condition.

CHAIR PALTIN: Thank you.

MR. JUDD: Okay.

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you. I just wanted to follow up on...and thank you for bringing that up, Mr. Judd. In the condition, it says that the comprehensive preservation mitigation plan will be approved by the State Historic Preservation District, Department of Land and Natural Resource, and Office of Hawaiian Affairs but it doesn't say...I mean, you guys have kind of stuck in that will send as appropriate, so I'm not sure how that's translating from that condition to as appropriate as decided by you folks of what OHA should get or you asking OHA what reports they want?

MR. JUDD: You know, I'm...I rely on certain experts like our archaeologist to be able to answer, better answer a question like that. Would I be able to respond to you after I consult with them?

COUNCILMEMBER KING: Yeah, sure.

MR. JUDD: Because I'm not familiar with exactly what OHA's portion of review is if it's everything or a portion of it --

COUNCILMEMBER KING: Yeah.

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MR. JUDD: --as appropriate.

COUNCILMEMBER KING: Yeah, it doesn't divide anything up in the condition, so --

MR. JUDD: Okay.

COUNCILMEMBER KING: --it just looks like everything should be going to all three of those. And so, I think that was one of the concerns of the public too --

MR. JUDD: Sure.

COUNCILMEMBER KING: --is they haven't been getting the reports, and then they can decide if something is not appropriate for them to comment on. And then the water report, water quality reports, are those going online? It was part of the condition was to post it online.

MR. JUDD: Part of this condition was to post it online?

COUNCILMEMBER KING: No, it's Condition 19, publicly available online, results of monitoring shall be published and publicly available online.

MR. JUDD: You know, I'm not certain of that to be honest. I will check and follow up with you. I know that you can access these monitoring reports. We actually do provide them as part of also a settlement agreement to certain people that are plaintiffs in a settlement agreement, so we do distribute them, but I will follow up with you to see and clarify the access point for the...for these reports.

COUNCILMEMBER KING: Yeah, like for the general public, yeah, --

MR. JUDD: Thank you.

COUNCILMEMBER KING: --'cause the water quality issue on that coastline is a huge issue that we're dealing with right now and we've always kind of viewed the most southern areas as being the cleanest, so it'd be nice to know that still is the case or if something else is happening.

MR. JUDD: Okay.

COUNCILMEMBER KING: Thank you.

MR. JUDD: I think...and just for the record, the monitoring reports are included in the compliance report, and so I think there are...they were within the compliance report to all of you.

COUNCILMEMBER KING: Right, no, but part of compliance is to have them publicly available online so that's...

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MR. JUDD: And I will check to see and follow up on where those are accessible to the public.

COUNCILMEMBER KING: Okay, thank you.

MR. JUDD: Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I guess this is for Director McLean. Has any SMA permits been granted for this or Ms. Cua?

MS. CUA: Yeah, for the area that is subject to the Change in Zoning, no.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so it's safe to assume that no grading has...grading activity has occurred.

MS. CUA: For the area in the Change in Zoning, no, but there were two SMAs granted in the area but for parcels that are not subject to the Change in Zoning. They were already zoned --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, understood.

MS. CUA: --and that includes the Prince Hotel and the property to the north of that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Okay, and, Mr. Judd, on Condition 36, developer shall maintain Makena Landing, North Maluaka, and South Maluaka as...and all future park lands. And the status is that a formal agreement relating to maintenance was finalized and recorded with Bureau of Conveyances and that maintenance has been and will continue to be undertaken for the life of the project. What kind of maintenance are you performing and how frequently?

MR. JUDD: We provide daily maintenance to the bathrooms and the landscaped areas to both the Makena Landing Beach Park, Maluaka Beach Park as indicated there. I had mentioned earlier we also expanded the park. If you're familiar with where the hotel used to hold weddings and parties out on the point there to the left of as you're looking out at the ocean, that was added to the park area. So, we maintain that...the facilities there on a daily basis.

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

CHAIR PALTIN: Thank you. And for number 19 about the water quality and ecological monitoring again, sorry. I see the water quality sampling report. Is it your indication that this includes the ecological monitoring and ecological sampling as well? Because my interpretation of the ecological monitoring is beyond just water quality.

MR. JUDD: I don't mean to be...I want to be clear I am not a marine scientist. So, if I could consult with our marine scientist to answer that question, if that's okay with you?

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CHAIR PALTIN: Sure. And if you're gonna respond to Members individually can you also CC the PSLU Committee so that we can get all the questions and answers as part of this Committee report or item on Granicus so it's all...if anybody from the public wanted to look up in there like we've seen all these questions being asked --

MR. JUDD: Sure.

CHAIR PALTIN: --we want a answer, we want to hear the answers as well, if you send it to the Committee it can be part of the public record.

MR. JUDD: Okay. If I could follow up with your Staff to be sure that we are clear on the question and that we'll be working to get the answers to the group that you request to be distributed to. Okay.

CHAIR PALTIN: Thank you so much. So, it's about 11:37 and I don't want to not let H2R have a chance. Is there more pressing questions for Mr. Judd at this moment?

COUNCILMEMBER KING: Chair, I just wanted to say that, you know, for the questions I had I'm happy to have the answers come to the Committee and then you distribute it to Committee Members and we know we're getting the answers to all the questions.

CHAIR PALTIN: Okay. Is that okay with you?

MR. JUDD: Yeah.

COUNCILMEMBER KING: Okay, thank you.

MR. JUDD: Thank you.

CHAIR PALTIN: Any objection to having H2R representative up at this time? Okay, thank you so much, Mr. Judd. And --

MR. JUDD: Thank you. Thanks everyone.

CHAIR PALTIN: --we'll hear from Ms. Leilani Pulmano who will be speaking to the annual compliance report for parcel H2R, Lot 19. And I believe many of the conditions were the same, whether it applied to which parcel was the difference. So, they did prepare their own. I included this *Maui News* article to show the timeliness of it although it may be a little bit misleading because it says parcel originally was approved for a 500-room hotel and then we have that Condition Number 39, which doesn't allow any transient vacation rentals or timeshares. So, it's kind of an odd situation but it is what it is. Thank you. And it looks like Ms. Pulmano has some handouts that will be coming around to everyone. Very nice maps. Yes, Director McLean?

MS. MCLEAN: Thank you, Chair. I just wanted to note that we certainly recognize the different ownership entities now. These zoning conditions apply to the entire area, and it's more

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the responsibility of the two owners to decide who's gonna be responsible for what when there are certain conditions that relate to a specific geographic area, but we are concerned with the timing and also with conditions possibly getting a little bit lost with them saying, oh, this guy's gonna fulfill it, no, that guy's gonna fulfill it. So, just want to let the Committee know that this is something we're mindful of and on top of. Thank you.

CHAIR PALTIN: Thank you, Ms. McLean. And everyone should have got a copy of the maps. These are much easier to understand to me. Thank you very much. And if you had a presentation or some opening remarks, Ms. Pulmano?

MS. PULMANO: Thank you. Good morning, Chair and Councilmembers. My name is Leilani Pulmano with Pacific Rim Land and we are the managing partners of the entity that's preparing the proposed project, which is H-2 Residential, and I have the maps in front of you there. And so just to clarify, we haven't started anything yet. This is our beginning of our process. We have submitted a Draft Environmental Assessment and included in that package was a Special Management Area major permit that was the Draft EA was published on the OEQC bulletin in February 23<sup>rd</sup>. We have been before the Urban Design Review Board, and yesterday we actually were in front of the Maui Planning Commission for the...for comments on the Draft EA. We continue our process with the being before the Cultural Resource Commission on April 2<sup>nd</sup>. And so, we'll be here in the public and answering questions on this project.

CHAIR PALTIN: Thank you. Is that the entirety of your presentation?

MS. PULMANO: That is.

CHAIR PALTIN: Okay, thank you. Members...Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Ms. Pulmano. Just a question on access to...and as I look at the map with archaeological sites, so how is that...what is your access plan for the public who wants to go maybe view the archaeological sites or is that gonna be closed off or?

MS. PULMANO: Thank you for your question. We, on the parcel itself, we have six archaeological sites. The six archaeological sites are habitation and agriculture sites. We will be providing access to it. If anybody would like to practice cultural practices, we certainly will be providing access to that.

COUNCILMEMBER MOLINA: Okay. And as far as the...in looking at all the street, trees, and everything else, runoff, what do you plan to use as far as, well, environmentally friendly fertilizer or something, I mean...what's the plan there?

MS. PULMANO: We have a, very extensive design guidelines that's part of our Draft EA and that was before the Urban Design Review Board and it requires low impact development practices. And the...our design guidelines require organic fertilizers and pesticides. I'm

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not too familiar what that means, but when I see organic I'm assuming that that means it's good for the environment.

COUNCILMEMBER MOLINA: Yeah, I just asked that because, you know, runoff into the ocean potentially. So, okay, thank you.

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Thank you, Chair. So, I'm gonna go through couple of the questions that the previous group had kind of punted to you. But the first one's on Condition 10. Is this complete...is this all gated, the whole community?

MS. PULMANO: The community is gated.

COUNCILMEMBER KING: So, how are you planning to provide access to the archaeological sites and what is your access plan for bike and walking paths? Are you exempting this project from the bike and walking paths?

MS. PULMANO: So, the trail map that was prepared back in 2010, we are complying with that trail map that reflects bicycling and pedestrian access along Old Makena Road and Makena Alanui Road. Within the project itself, there are five different accesses to provide connectivity.

COUNCILMEMBER KING: I don't see those on here. Can you tell us where they are on this map?

MS. PULMANO: Sure. Thanks. Thanks, Ann. I'm sorry. I didn't keep one for myself. So, if I'm orienting to you here, right where the road enters into the development there is a pedestrian, bicycle trail there, and golf cart path.

COUNCILMEMBER KING: And that's open to the public?

MS. PULMANO: That will be gated. The community will be gated. So, the access points for the cultural sites, we would establish a protocol with the homeowners association for access to those...to the preservation sites.

COUNCILMEMBER KING: Okay. So, you're interpreting where it says the developer shall provide pedestrian and bicycle access ways within the roadways through the fronting...fronting the Makena Resort, you're interpreting that to be only access for the homeowners and not for the public?

MS. PULMANO: Well, the access for the public is the...along...we're improving Makena...Old Makena Road and Makena Alanui.

COUNCILMEMBER KING: I can't...I'm sorry. Can you...I can't see the map where you're holding up the map. Can you show me on the map where your access is for the...

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MS. PULMANO: So, the improvements for pedestrian and bicyclists are along the existing public roads on Old Makena Road as well as Makena Alanui Road. So, as you drive through Makena there's a pretty good bike path and when you hit the frontage of our property on Makena Alanui Road it...there's no bike paths or sidewalks, so we will be improving that area with sidewalks and bike paths and same with Old Makena Road.

COUNCILMEMBER KING: Okay. I think the...you know, I think maybe there's a difference of interpretation, because it says that the developer shall provide pedestrian and bicycle access ways within the roadways throughout and fronting the Makena Resort area. So, there's nothing actually throughout that allows pedestrian access or bicycle access. So, I think that's where there might be a...and I don't know what, you know, not having been involved in those early negotiations, I don't know what the intention of that was. But if someone wants to access the archaeological site, then is it they have to call and make an appointment to come in?

MS. PULMANO: Yes. It's what...how we would envision it.

COUNCILMEMBER KING: Okay. I'm not sure if that's what the public envisioned as public access. But anyway, that was a concern, the Condition 18 again on the OHA. Are you planning to provide all of the...did you provide OHA with the archaeological site information at the same time that you provided it to SHPD?

MS. PULMANO: So, the Condition 18 is as it reads, talks about providing a comprehensive preservation mitigation plan, and I won't read the whole thing, and to SHPD and Office of Hawaiian Affairs prior to any grading within the project area, and we have been actually working with OHA. So last year, we started this process of providing them the preservation plan and the monitoring plan and they provided us comments back. We have revised our preservation and monitoring plan and sent that back to them just recently. And as part of the EA process, it has...the EA has been transmitted to both SHPD and OHA for their comment.

COUNCILMEMBER KING: Okay. And so, you're reviewing their proposed changes?

MS. PULMANO: We have revised it based on their proposed changes --

COUNCILMEMBER KING: Okay.

MS. PULMANO: --and submitted the preservation plan back to OHA --

COUNCILMEMBER KING: Okay.

MS. PULMANO: --both the preservation plan and the monitoring plan for their second round of review.

COUNCILMEMBER KING: Okay, great, thank you. I'll yield for now, Chair. Thank you.

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CHAIR PALTIN: Thank you. And just going off of Member King's, who did your AIS and would you mind also submitting either your current or your final APPs and AMPs to this body as well?

MS. PULMANO: Sure, we can certainly do that. You want the current one that's been submitted or would you like to wait until OHA has responded?

COUNCILMEMBER KING: Maybe after OHA has responded. That would be good. If we could have...and then we can get copies of the letters as well.

CHAIR PALTIN: Yeah, the most recent with the letters, and then if you could let me know who did your AIS.

MS. PULMANO: So we had several firms involved in preparing the AIS, Archaeological Services Hawaii, Aki Sinoto, and Akahele Archaeology.

COUNCILMEMBER KING: Okay. Will there also be comments from the Cultural Resource Committee [sic] in your final EA?

MS. PULMANO: Yes. We're going to be before the Cultural Resource [sic] Commission on April 2<sup>nd</sup> to receive comments --

COUNCILMEMBER KING: Okay.

MS. PULMANO: --on the Draft Environmental Assessment.

COUNCILMEMBER KING: Okay, great, thank you.

CHAIR PALTIN: Could you repeat the second entity that did the AIS?

MS. PULMANO: Aki Sinoto --

CHAIR PALTIN: Aki Sinoto.

MS. PULMANO: --and Akahele Archaeology.

CHAIR PALTIN: And so, would Akahele Archaeology be the most recent and most...the one that you're working off of? Are you working off all three?

MS. PULMANO: All three.

CHAIR PALTIN: Okay. Okay. Any further questions from the Members?

COUNCILMEMBER KING: I guess, Chair, it seems like they're...you're still...you're kind of still in the beginning stages on compliance on a lot of these, so we just got to keep monitoring, I guess.

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CHAIR PALTIN: Yeah. I have a further question on number 19. Who is your degreed scientist experienced with Clean Water Act programs, water quality monitoring, water quality assessment, water quality-based permitting, modeling, watershed planning, and TMDL?

MS. PULMANO: So for Condition 19, we have actually been relying on Makena Golf & Beach Club to satisfy that condition and...but as part for our Draft Environmental Assessment, we did prepare a monitoring...I mean, sorry, a marine water quality and a biological report and our consultant is Marine Research Consultants.

CHAIR PALTIN: Okay, thank you.

MS. PULMANO: The scientist's name is Steve Dollar.

CHAIR PALTIN: Okay, thank you. And then, so none of...these are all going to be like primary living sites or second homes or something for these folks because they can't do any transient vacation?

MS. PULMANO: That's correct. We got a determination from the Planning Department back in 2008, I believe...2018, I'm sorry, that talked about we're not able to do a hotel on this parcel or transient vacation rental.

CHAIR PALTIN: So, it's gonna be either they're living there or they're gonna be...

MS. PULMANO: So, it will be Resort Residential uses, yes.

CHAIR PALTIN: Okay. But isn't Resort Residential uses transient vacation rentals?

MS. PULMANO: Not necessarily, just resort-style homes, I suppose.

CHAIR PALTIN: Oh, okay. And you can't find anyone else besides Steve Dollar?

MS. PULMANO: I'm sure we could. We were very comfortable with Steve Dollar's work. He sets the methodology and the standard throughout the State on these Department of Health water quality reports. He's contracted by the County of Kauai as well as the County of Hawaii. So, we felt that he had the reputable [sic] experience to be able to prepare these reports.

CHAIR PALTIN: Okay. Members, any further...

COUNCILMEMBER KING: Just one more question.

CHAIR PALTIN: Yes, Member...

COUNCILMEMBER KING: Thank you, Chair. So did...on your map...maybe, I don't know if it's on the larger map you could do it or on...if you can do it somewhere on some...on maybe on this one. Can you do an overlay of the sea level rise inundation zone just so we can have a comfort level with how far back you are?

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MS. PULMANO: We certainly can, but I can tell you verbally that we are outside of the 3.2 sea level exposure area.

COUNCILMEMBER KING: Okay. Yeah. Where are you in the six foot?

MS. PULMANO: I'm not sure. Has those...if those maps are even out but I can check.

COUNCILMEMBER KING: I think they're, yeah, I think they're...that's what we're talking about now, I mean, you know, of course there's various timings of those but it would be good to see just to give that comfort level. But, you know, I just I guess I would say too, Chair, that I share your concerns about the reports we've seen from Mr. Dollar before in regards to other water issues on the island, so that's my opinion. Thank you.

CHAIR PALTIN: And for Condition number 25, I was wondering if you had an idea of how that you were gonna comply with Chapter 2.96 of the Maui County Code, like if you knew already specifically how that was gonna be complied with?

MS. PULMANO: So, Chapter 2.96 on the affordable housing condition, the 53 lots will require 14 affordable housing units, 11 has already been provided as part of previous owners for this parcel. We partnered with Hale Mahaolu and Department of Hawaiian Home Lands for 11 homes, affordable homes. And the remaining three, we don't have an idea at this point which way we're gonna comply with 2.96, but we...it's certainly a comment that we received from both the Urban Design Review Board and the Maui Planning Commission that they would like to get an understanding of that.

CHAIR PALTIN: Member Rawlins-Fernandez? Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. That was gonna be my question. So under Condition 25, you're...for clarification, you bought credits?

MS. PULMANO: No. Those were...it was a contribution for the construction of Hale Mahaolu Ehiku, the senior project in Kihei.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, is that not the credit system?

MS. PULMANO: No, it's a...I would suppose that would be a in-lieu fee, an in-lieu fee contribution so that they could build those affordable homes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so you bought your way out of buying homes, okay, out of building affordable homes. So, what...so 2.96 requires like a percentage of 80 percent AMI and below 80 to 100 and then like 100 to 120 or...sorry, I don't have it memorized. But what AMI did you contribute to building homes for?

MS. PULMANO: The...at the time, the in-lieu fee I believe was the difference between 100 percent AMI and 140 percent AMI. I'm not absolutely positive about that because the rules, 2.96 got amended. I think the current rules right now for the in-lieu fee

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is...the difference between 100 percent AMI and the difference between 160 percent AMI. But I would like to add that there's been 11 families that have enjoyed living in these affordable homes since we...since it was contributed.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So for the remaining three, what AMI will that be?

MS. PULMANO: I'm not actually sure. We will have to consult with the Department of Housing and Human Concerns to determine what would be the appropriate AMI.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Chair, can we get that information from them later?

UNIDENTIFIED SPEAKER: Got it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: And then I had a question on Condition Number 37 in regards to you said like Resort Residential and then I just was wondering if you could share with us your interpretation of what you believe Condition 37 means, 'cause for me I'm not sure like how you --

MS. PULMANO: So, our...

CHAIR PALTIN: --mesh that with Resort Residential.

MS. PULMANO: Sure. Our...the Condition Number 37 as I understand it it talks about architecture design, and so in our design guidelines it was based on traditional Hawaiian architecture as well as Polynesian architecture. We have the design guidelines that we can provide to you.

CHAIR PALTIN: And those guidelines are like established by Urban Review and Design...Urban Design Review Board of what traditional Hawaiian island architecture is?

MS. PULMANO: The applicant. So, we would prepare the design guidelines and it was before...it came before the Urban Design Review Board for their review and approval.

CHAIR PALTIN: Okay. And you got the approval?

MS. PULMANO: Yes, we did.

CHAIR PALTIN: Okay. Members, any further questions for the presenter?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Just...it was just pointed out that in the article that you distributed, it says that the housing credits were secured from the completed Hale Mahaolu Ehiku senior renter project. So, I guess, whoever did this article also believed that it was housing credits.

CHAIR PALTIN: Yeah, I guess we would have to check with Kehau Cerizo. But you're saying in-lieu fees?

MS. PULMANO: Yes, --

CHAIR PALTIN: Okay.

MS. PULMANO: --in-lieu fee.

CHAIR PALTIN: I would...sorry, I'm...I would tend to believe them, in-lieu fees, 'cause they also said they could have built a 500-room hotel and that, I mean, they could build the hotel if people were living there for longer than 180 days, I guess, only 'cause it wasn't allowed for transient vacation rentals. So it's little bit...little bit misleading but, you know, I just provided this as to the reason why I scheduled it 'cause it's timely because this is what the general public gets. And so, just wanted to let them know that we are going through the annual compliance reports and taking a look at 'em and familiarizing ourselves. Further questions from the Members? Seeing none, if there's no objections, I'll defer this item.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: ALL and SMS)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: Okay. Item is deferred and if there's no objections, this concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Members. The time is now 12:01. Stoked making it close to the ending time, and this meeting is adjourned. . . .(gavel). . .

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**ADJOURN:** 12:01 a.m.

APPROVED:

*Tamara M. Paltin*

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TAMARA PALTIN, Chair  
Planning and Sustainable Land Use  
Committee

pslu:min:200311: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 7<sup>th</sup> day of April, 2020, in Kihei, Hawaii



Michelle Balala