

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
NOVEMBER 7, 2022**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson P Denise La Costa at approximately 9:14 a.m., Monday, November 7, 2022, in the Planning Conference Room, 250 South High Street, Wailuku, Maui, Hawaii 96768 and online via BlueJeans; Meeting ID: **748 230 685**

Ms. La Costa: Aloha kakahiaka everyone. Thank you so much for your patience while we established quorum for this morning's meeting. So, I will now call to order the Maui Planning Commission of November 7<sup>th</sup>. Director, roll call please.

Ms. McLean: Thank you, Chair and good morning. Commissioner Freitas. Please let us know where you are and if anyone is with you.

Mr. Freitas: Aloha and good morning. I'm at my office in Lahaina. I am alone.

Ms. McLean: We can't hear you Commissioner Freitas.

Mr. Freitas: Testing, testing. No more?

Ms. La Costa: There you go.

Ms. McLean: Now we can.

Ms. La Costa: Perfect.

Mr. Freitas: Oh, okay, I'm sorry. Good morning, everyone. I apologize for being late. I am in my office in Lahaina, alone. Thank you.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Aloha and good morning.

Ms. McLean: Commissioner Hipolito.

Mr. Hipolito: Good morning, Chair. Good morning fellow Commissioners, Director, Mr. Hopper. I'm alone, in my office in Kahului.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: Aloha kakahiaka kakou. Nice to see everybody.

Ms. McLean: And Chair La Costa.

Ms. La Costa: Good morning, all, and mahalo for joining us this morning.

Ms. McLean: Commissioners Pali, Lindsey and Deakos are excused, although I note that Commissioner Deakos just entered in the chat that he's still in the field and isn't joining in an official capacity but he's just listening for the first hour, so we appreciate you joining us for that amount of time. So, we do have five members present for a quorum, Chair.

Ms. La Costa: Thank you, Director. So, to let everyone know, on the agenda we will not be hearing Item No. C.2, it has been rescheduled for November 22<sup>nd</sup>. Additionally, we will not be hearing Item D, as the Council has already approved this bill, so it will not be necessary for us to hear it.

And with that, I want to ask the commissioners present, have you all received and have you had time to read the information under Item No. B, we got it yesterday at 4:00 p.m. I don't know if you have had a chance to review it, and if not, please let me know. Commissioner Hipolito.

Mr. Hipolito: I have not been able to read completely.

Ms. La Costa: Thank you. Commissioner Freitas, did you get a chance to review the documents?

Mr. Freitas: I have. I have, but I was expecting us to probably go into Executive Session.

Ms. La Costa: Thank you. Commissioner Thayer.

Ms. Thayer: I read it this morning.

Ms. La Costa: Commissioner Thompson. Thank you, and myself. Okay, having stated that if we have a motion please to go into Executive Session. Go ahead, Mr. Hopper.

Mr. Hopper: Chair, just a suggestion, if Commissioner Hipolito hasn't read the document or finished reading it, you want to give a few extra minutes for him to complete reading and then we can have the parties introduce themselves and then decide if he would like to go into Executive Session. Maybe that way just so Commissioner Hipolito has had a chance to review all the documents.

Ms. La Costa: Okay, thank you Mr. Hopper. So, Commissioner Hipolito, if you have not had a chance to review the documents, would you need 10, 15 minutes to do that?

Mr. Hipolito: I completed about 75 percent, 15 minutes would be good.

Ms. La Costa: Perfect. Then at this juncture I will recess the meeting for 15 minutes which will be 9:37.

A recess was called at approximately 9:18 a.m., and the meeting was reconvened at approximately 9:37 a.m.

Ms. La Costa: Good morning, ladies and gentlemen. We will now reconvene the November 7<sup>th</sup> meeting of the Maui Planning Commission. So, the first item on our agenda, Director, please.

**B. CONSIDERATION AND ADOPTION OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER**

**Proposed Findings of Fact, Conclusions of Law and Decision and Order on the matter of HONUULA PARTNERS, LLC, requesting Project District Phase II Development Approval for Honuaula, a master planned community comprised of single-family and multi-family homes, village mixed uses, preservation and conservation areas, and recreation/open space areas and related infrastructure improvements on approximately 670 acres in Kihei-Makena Project District 9, located in Wailea, Island of Maui, TMKs: (2) 2-1-008: 056 and 071 (PH2 2018/0002) (A. Cua)**

**The Commission may take action to adopt, adopt with modifications, or take some other action regarding the proposed Findings of Fact, Conclusions of Law, and Decision and Order.**

Ms. McLean: Thank you, Chair. The first item is consideration in adopting a Proposed Findings of Fact, Conclusions of Law and Decision and Order relating to the new Honuaula Partners LLC request for Project District Phase II Development Approval for Honuaula, a master planned community comprised of single-family and multi-family homes, village mixed uses, preservation and conservation areas, and recreation/open space areas and related infrastructure improvements on approximately 670 acres in Kihei Makena Project District 9, in Wailea at TMKs: 2-1-008:056 and 071.

And again, the item is posted for the commission to take action to adopt, adopt with modifications or take some other action regarding the Proposed Findings of Fact, Conclusions of Law and Decision and Order. Ann Cua is the project planner, but I think at this point we'll turn it over to Mr. Hopper for procedural guidance.

Ms. La Costa: Thank you. Thank you, Chair or Director.

Mr. Hopper: Chair, I think you could have the parties introduce themselves for the record and if the commission would like, could...if you've got legal questions go to Executive Session or take some other action and move forward with the process today. So, I think that's where you could head.

Ms. La Costa: Thank you, Mr. Hopper. So, with that advice I will go to the applicant first, then Mr. Hurley you second. Mr. Chipchase, please go ahead.

Mr. Cal Chipchase: Good morning, Chair and Members, Cal Chipchase for the applicant.

Ms. La Costa: Thank you.

Mr. Ryan Hurley: Good morning, Chair, Members of the Commission. Ryan Hurley here on behalf of Intervenors, Hooponopono O Makena and the Maui Tomorrow Foundation.

Ms. La Costa: Mahalo, Mr. Hurley, nice to see you. Okay, at this juncture, may I have a motion, please?

Mr. Thompson: Thank you, Chair. May I make a motion to go into Executive Session.

Ms. La Costa: Thank you. May I have a second? Thank you, Commissioner Thayer. At this juncture, we will go into Executive Session as there are some legal questions we have on the information we received yesterday afternoon.

Mr. Hopper: You got to take a vote.

Ms. McLean: You have to vote.

Ms. La Costa: Oh, I beg...oh, I'm so sorry. All those in favor of going into Executive Session, please voice your opinion by saying, aye.

Mr. Hipolito: Aye.

Ms. La Costa: Aye.

Ms. Thayer: Aye.

Mr. Thompson: Aye.

Mr. Freitas: Aye.

Ms. La Costa: Any opposed? Any abstentions? Okay, at this juncture we will recess the meeting again for Executive Session.

The regular meeting was recessed at approximately 9:39 a.m., and the Commission went into Executive Session at approximately 9:45 a.m. The Executive Session was adjourned at approximately 10:05 a.m., and the regular meeting was reconvened at approximately 10:08 a.m.

Ms. La Costa: Good morning again, ladies and gentlemen, those present here and those on our BlueJeans meeting. We will now reconvene the November 7th meeting of the Maui Planning Commission. We will now address our Agenda Item Number B. I will give both parties ten minutes to discuss their Findings of facts, Conclusions of Law, their opposition, and then please let me know within that ten-minute time if you would like to have part of it for rebuttal Mr. Chipchase, so as the applicant. Yes, Mr. Hurley?

Mr. Hurley: I'm sorry. I didn't provide findings. Can you explain what's going on Chair? I did not provide Findings of Facts, Conclusions of Law. I was not prepared to discuss my Findings of Facts, Conclusions of Law today. Can you please clarify what's going on?

Ms. La Costa: Mr. Hopper will do that for us. Thank you.

Mr. Hopper: You're going to have ten minutes to discuss your objections.

Mr. Hurley: Okay, thank you.

Ms. La Costa: Sorry Mr. Hurley I did mention that and the objections, but I speak softly sometimes. So, Mr. Chipchase will you please open and let me know if you'd like part of ten minutes as rebuttal. Thank you.

Mr. Chipchase: Yes, Chair. Thank you. I'd like three minutes for rebuttal.

Ms. La Costa: Go ahead please.

Mr. Chipchase: So, Chair, we at the last hearing the Commission adopted Findings of Fact, Conclusions of Law, Decision and Order with modifications. We submitted those with a redline showing all the changes that we made to the form of the Commission's Decision and Order. Mr. Hurley filed an objection to them I believe on Friday. We submitted on November...October 19<sup>th</sup>, he filed his objection on Friday and the first part of his objection challenges the commission's authority to make a decision. I..I think it's very difficult not to view that as nothing but one more attempt to delay the conclusion of this proceeding.

Mr. Hurley: Chair, Chair this is Mr. Hurley. Can I just note I can't see Mr. Cal Chipchase on my screen.

Ms. La Costa: Thank you for letting me know that. We'll adjust that right now.

Ms. McLean: I don't see it on my screen.

Mr. Chipchase: I look pretty much the same.

Mr. Hurley: I'll just note that you previously made one of my witnesses testify a different time because his video didn't work, so I think it's important that we maintain those standards.

Ms. La Costa: You are correct Mr. Hurley. Thank you so much for that, and we'll wait just a moment until Mr. Chipchase shows up on the video.

Mr. Hurley: I think I can see him now. I'm not sure if that's or I see somebody.

Mr. Chipchase: I will...

Ms. La Costa: We'll adjust it. That's actually someone in the gallery, so we will adjust the...

Mr. Chipchase: That is you.

Ms. La Costa: That's Lawrence.

Ms. McLean: That camera.

Ms. La Costa: Maybe just turn that monitor Carolyn that be easier? I'm picking it up. The joys of virtual meetings. We'll take a brief five-minute recess—

Ms. Takayama-Corden: I got it.

Ms. La Costa: Carolyn's on it. Okay, thank you, Carolyn. There you go. So, Mr. Hurley, you can now see Mr. Chipchase, thank you so much for again bringing that to my attention. So, Mr. Chipchase, I will start your ten minutes right now and thank you so much.

Mr. Chipchase: Okay, well, I won't use it all Chair, and I appreciate the accommodation. The...the first thing I wanted to address in Mr. Hurley's objections was this argument that the Commission lacks the authority, the power now to act on its finds and conclusions, and when I got that argument, it was real hard for me to see it as anything other than one more, pretty overt effort to delay the conclusion of these proceedings. At the time, Mr. Hurley took the appeal from just the Commission's oral decision, no written entry of decision. The Commission had already noticed everybody that it would enter a written decision on this day. Despite knowing that there would be a written decision entered today, he took a premature appeal from the oral decision, and then came in and argued that his premature appeal prevents you from entering a written decision. I mean, that's...there's no shame. It's just...it does not prevent you from entering a written decision. If it were otherwise, then any losing party always could simply take an appeal and say, well, now you can't enter a written decision. That's not the way the law works. If you take a premature appeal, it has no effect on the trial body, here the commission, the authority, the agency to enter the written decision. And it's that written decision that triggers the right to appeal. So, we should proceed today as noticed and as everybody knew we would.

On the substance of intervenor's objections to our findings, you can really break them down into about four categories. The first category is an objection to our citation to commission minutes for two meetings. If you will recall, the commission directed us, among other changes, to cite the official transcripts for two meetings, February and March, there are no official transcripts. The commission did not order them because no witness testimony was taken. We dealt with the initial presentation and then we dealt with argument on motions. So, all we have are the minutes. So, we cited to the minutes because those are the commission's official record for that day. We also have our transcripts that we ordered. And so, if there's any question about the accuracy of the minutes, they can be cross-checked against the transcripts that we have provided to the commission and submitted to the Commission and referenced in our initial findings and conclusions. And so, we cited the official record that is verifiable as correct.

The other category is the correction of typos. I think in one place, Mr. Munekiyo referenced 1986 when he began practice and it...we...I think we cited 1986 and it was actually 1989. Things like that, corrected the typos, which are consistent with the commission's direction to make non-substantive changes.

The third category is the objection to the inclusion of Exhibit 53, which is the final site plan. And as I'm sure the Commission remembers, there was a long discussion about that exhibit, which final site plans should be referenced and how to incorporate it. Consistent with that discussion and the Commission's direction, we incorporated it, and referenced it as we were told to do.

The last objection has to do with Conclusion of Law 7. In the final hearings, the Commission will remember there was a lot of discussion over the affordable housing requirement, and we offered the Commission could take a couple of different approaches. One would be to conclude that it doesn't need to make that decision as part of the Phase 2, and one would be to determine the number of units that are required. When we prepared the Findings of Fact, Conclusions of Law, Decision and Order, we both had in there the determination that 450 units were required, and alternatively, that it's not the commission's responsibility to make that decision because when the final decision was made during that discussion, the Commission didn't discuss that issue, didn't reference a particular number. We just took that out of the findings and conclusions because we didn't want to presume the Commission had reached that issue when it didn't say anything.

But we put the removal of that in the redline so that everybody can see it and so we can talk about it. And if the Commission intended to determine 450 units are not required as part of this Phase 2 approval and concluded that it wasn't the Commission's responsibility to make that determination. You can make both conclusions of law. They're not inconsistent. You can determine the number, 280 would our number, and you can determine that you don't need to make that determination. And so, if that is the Commission's ultimate decision, all you have to do is direct us to put that conclusion of law back into the findings or you can do it yourself or Mr. Hopper can do it. It's not, it's not a significant issue. It's just a question of what is the Commission's ultimate determination.

And so, for those reasons with respect, there's no merit to withholding a decision today and our proposed form of order is correct. The only thing the Commission needs to decide is whether to include, Conclusion of Law 7 or not. Thank you.

Ms. La Costa: Thank you, Mr. Chipchase. Mr. Hurley you have ten minutes.

Mr. Hurley: Hi, Chair. I doubt I'll need all that time. You know, I'm not, I'm not really sure where to begin to be honest. I'm kind of shocked too how, you know, we're constantly told that we're the ones delaying. But yet the applicant who has an entire army of attorneys working on this and almost unlimited funds, they can't seem to get it right, folks.

You know, on September 27<sup>th</sup>, you had, you know, you asked us to prepare affordable housing memorandums and a number of other things. We spent a considerable amount of time doing that. You guys didn't ask any affordable housing questions. There wasn't one, one question asked of me, almost. You then proceeded to make three amendments, most of which were attempting to fix mistakes that the applicant had already done. You guys have noticed repeatedly we've been doing this for seven months. How is the applicant getting major things wrong like the site plan? How does he not know what he's putting in the Findings of Facts? How many attorneys does he has have to review it? The fact is, is the site...First of all, I don't want to forget. We shouldn't be here. On September 27<sup>th</sup>, you guys, I don't even know what we're doing. You guys made a final decision. You guys made three amendments and then you took up the final decision. If you guys wanted Mr. Chipchase to come back, which I'll note after reviewing the record, there is no request for Mr. Chipchase to make any additions to it and provide new Findings of Facts. There is no request saying, hey, please make these adjustments and come back to the Commission. It was my assumption that Mr. Hopper and the

Commission was going to make the amendments, and then you folks would sign it. I'm unsure what we're doing here once again.

The reality is, is you folks made a final decision on September 27<sup>th</sup>, there was no, no discussion of a future written orders or coming back here and discussing again. I mean, this idea that we're discussing changes that they want to make, substantive changes, again. I think that requires a whole new agenda item and a whole new vote. I'm sorry, I'm getting distracted by Mr. Hopper and Director McLean talking, apologies. Sorry about that. So, the reality is, is we shouldn't be here folks. You guys don't even have jurisdiction to do it.

On to Exhibit 53. Folks, that shouldn't have been up to you. The applicant should have had that correct the first time. That isn't up to Director McLean to inappropriately provide that hey, we think Site Plan 53. She's a party. She shouldn't be saying it this time. The applicant had their chance. Everyone had comments. No one made them. So, and it's not my fault that the amendment was not properly made or properly put. The fact is that Exhibit 53 was never approved and was not approved...for...the amendment was never approved and that the site plan and containing Exhibit 53 was never approved. You have a final decision. We made...we did what was best in our client's interest and we appealed that that final decision within 30 days of that final decision which was October 27<sup>th</sup>. That's when we appealed it. And unfortunately, you folks didn't act in time to do a written decision or sign anything. Jurisdiction has been pulled and lies solely with the Circuit Court. It's inappropriate for you folks to move on now that the Circuit Court has jurisdiction.

You know, I'm, I'm truthfully don't give much credence to what Mr. Chipchase says because he gets it wrong a lot of the times. I know it sounds good and you folks believe it, but how many times has he been reversed on appeal? There's a number of times you guys have seen him two or three times because it's come back, so let's not put any credence in that. The fact is, is there was a final decision entered and the Commission has lost jurisdiction and now it lies with the Circuit Court.

On to these findings of facts. You know, it was my assumption there was going to be non-substantive changes. That's what was agreed on. That was what the...(inaudible)...was made. And these proposed findings of facts not only do they, you know, the transcripts weren't initially referred to, but they wholly removed transcript reference out a number of places. They just take those transcript references, references out. That's not appropriate. I warned you folks a number of times that the transcripts didn't line up, that the information didn't line up, and you said, oh, it's no big deal. But now we're missing references. Now we can't trust the validity of what you folks voted on because the references are gone or point to something different than what you voted on. That's a big deal. That's a process issue we can't let go.

Now, findings the fact...the Conclusions of Law Number 7, this is a big deal, folks. This is a really big deal. Once again, I believe it's everyone's understanding that you took a vote and made a final decision. Now, after the fact, the applicant is coming back and trying to remove a Conclusions of Law that you already voted on, that you base your decision on, not to mention that it's one of the most contentious items that we've been arguing about. What do we spend the last seven months arguing about a lot? A lot of it was affordable housing. The entire time the applicant has been stating it's location, location, location. After you folks vote, then he tries



to remove that Conclusion of Law. Not once, not once was that Conclusion of Law mentioned at the September 27<sup>th</sup> hearing. He had no right to remove that, wholly inappropriate. This raises serious ethical and due process concerns. So, I'll leave at that. I mean, I'm honestly kind of disturbed we're even here. And honestly disturbed that we're looking at such different, such different Findings of Facts, Conclusions of Law. The record is, what the record is. We believe it's on appeal that Circuit Court has jurisdiction. If you folks move forward, I think that there's just gonna be more due process issues concern given that there's already been a final, final decision issued on this.

And please, don't let that, that attempt to remove Conclusion of Law Number 7 slide by. That's a big deal. That should raise concerns for everybody. You folks voted, and after the fact they're trying to open up discussion again. You just heard Mr. Chipchase say, that's for us to discuss and talk about now. Well, if that was case, I should have had an opportunity to provide more Findings of Fact or Conclusions of Law. We shouldn't be here. I'll just note, you know the Commission had an alternative. You folks could have made your amendments and not taken a final vote. You could have sent Mr. Chipchase off or the Department off and said, hey, draft up what we said, bring it back and then we'll take a final vote. You folks chose not to go that way. You chose a quick path forward and voted on it without seeing the written...without seeing the proposed written final...the proposed final facts, the Findings of Facts, Conclusions of Law and Decision and Order as amended. That's not my fault, but the final decision has been entered and moving forward beyond that is inappropriate. I'll leave it at that. Thank you.

Ms. La Costa: Thank you, Mr. Hurley. Mr. Chipchase, your rebuttal, please.

Mr. Chipchase: A few things, I guess. One, the final decision is the written decision that's pretty clear in the rules. You voted to enter a final decision to adopt a particular form of order that's what's before you today. So, that's all there is to do today.

As for the jurisdiction of this body, I've been through Mr. Hurley's cases and none of them say that you lose jurisdiction. But I assume that's ultimately a question for you to take the advice of your counsel on. And so, we will trust and live with his advice, whatever it might be.

In terms of the substance of the decisions, the substance of the changes. I went through them with you. Mr. Hurley didn't add anything new to them. If there is any discussion on any of those changes, I'm happy to participate. Thanks very much.

Ms. La Costa: Thank you, Mr. Chipchase. Okay, at this time, before we do—

Mr. Hurley: Chair, Chair this is Ryan Hurley. Could I just get confirmation that Director McLean didn't participate in that last Executive Session?

Ms. La Costa: She did not. I will confirm that as Chair.

Mr. Hurley: Okay, thank you very much.

Ms. La Costa: And Carolyn can, and all the chair, all the members here.

Mr. Hurley: No, that's fine. I just wanted confirmation on the record. Thank you.

Ms. La Costa: Absolutely. Thank you for asking. So, at this juncture, Commissioners, will you please ask any clarifying questions you have of either party. Anyone? Okay, I do have a question for you, Mr. Hurley.

Mr. Hurley: Sure, Chair.

Ms. La Costa: Thank you. Hang on a second, I have it on my computer. On your...your objection on Page—

Mr. Hurley: I apologize Chair, I'm seeing that the page numbers fell off when I PDFd it. I'll submit an errata with the appropriate page numbers.

Ms. La Costa: Okay, Page 6 of 37.

Mr. Hurley: What...can you, can you tell me is there a header in the middle of that page?

Ms. La Costa: It is, your Department, Director McLean also summarized the amendments the Commission had already passed specifically stating.

Mr. Hurley: Yes, I'm there.

Ms. La Costa: Oh, wait a minute. That might be the incorrect one, sorry. I have so many yellow marks on this page, and let there be no doubt to anyone watching that we don't read this stuff. Okay, I beg your pardon, it is on Page 7, and it is right above C, the applicant's order, FOF, COL and D and O.

Mr. Hurley: Yes.

Ms. La Costa: The paragraph starts, beyond the improper insertion.

Mr. Hurley: Yes.

Ms. La Costa: Okay. So, you have shown there that a Finding of Fact, Number 427 includes a quote from Chair La Costa that has been heavily edited, rewritten raising questions about the validity of the initial quote that the commission, at least in part, based its September 27, 2022 decision on.

Mr. Hurley: Yes, Chair.

Ms. La Costa: Can you please tell me what you think has been edited and/or removed? Because I read it twice and I do remember asking that question, so—

Mr. Hurley: Did you read, did you look at the, the proposed...the redline version of the Proposed Findings of Fact that were submitted by the...that was what I was basing it on.

Ms. La Costa: Twice. Yeah, I've gone back and read everything and then I went back and looked at the references to go to the redline, so, yes. So, and the decision from my part, hopefully I'm not overstepping my bounds here, but that was not made for any kind of decision. It was for clarification from Miss Knox and the—

Mr. Hurley: Chair, if it's any consolation, I was just more pointing out that there was some serious factual misrepresentations in the Findings of Facts. I'm not sure that it changed what you said per se, but it definitely there was some significant edits. I'm going to it right now. So, you know, my...going back to my further point, listen, they've had seven months and an army of people working on this. They shouldn't be coming back after the vote, adjusting things that should have been done the first time.

Ms. La Costa: Mr. Hurley, my question is you specifically stated that I—

Mr. Hurley: I'm pulling it up, I'm pulling it up for you right now.

Ms. La Costa: Okay, and the edited. So, I want to know what your direction of that information is, please.

Mr. Hurley: Okay, Chair. So, previously, it said Chair La Costa points out that the project has not yet started to Miss Knox through her question, what do you monitor when no project has broken ground? Now they've changed it to how to you monitor that when nothing has happened?

Ms. La Costa: So, you're, you're referring to the misstatement that you feel was done in the redline version, is that correct?

Mr. Hurley: Yes. Would you like me to show it on my screen, Chair?

Ms. La Costa: No, sir. I have it in front of me. Thank you very much. I just didn't know what you were referring to when you discussed the editing of that. So, thank you for the clarification. That's all I have.

Mr. Hurley: No problem, Chair.

Ms. La Costa: Thank you. Commissioners, have you other clarifying questions for either party? Commissioner Thayer, no? Anybody? Okay, I don't see any further clarifying questions from my Commissioners. So, at this juncture then we will begin deliberation. During deliberation, please note that either party is not allowed to jump in and make comments. If we have additional clarifying questions, we will call you, otherwise, please do not interrupt the deliberations. Thank you so much. I will need a motion. At this juncture, I would like to have a motion please from the commission to accept, accept with changes, reject. Commissioner Thompson.

Mr. Thompson: Thank you, Chair. I'd like to make a motion to accept to the DOD, and Conclusions of Law. Thank you.

Ms. La Costa: We have two versions, so you just...you're talking about the initial or the Appendix A which was the redline.

Mr. Thompson: The redline version, AA

Ms. La Costa: Thank you. Do I have a second?

Ms. Thayer: I have a question.

Ms. La Costa: Okay.

Ms. Thayer: If I want to make some suggested changes do I second for discussion and then make amendments.

Mr. Hopper: I think you could do that. You could also start out with a motion that has changes in it that you already want to make, but I don't think there's anything prohibiting you from seconding it and then making a motion to amend while it's on the floor already.

Ms. Thayer: Okay, I'll second for discussion.

Ms. La Costa: Thank you, Commissioner Thayer. Mr. Thompson, would you like to start discussion as to movant?

Mr. Thompson: I'd love to hear what Commissioner Thayer has to say.

Ms. La Costa: Thank you. Commissioner Thayer, go ahead, please.

Ms. Thayer: Thank you. I guess I have a few things to...discuss, and in no particular order, maybe I'll list them all that I have written down. One is just, I guess, evaluating the inclusion of the language about Exhibit 53. Mike Munekiyo's reference to the 450 units. I think there's a typo possibly in your statement that's referenced. And then I'm wondering if that needs to be included in this at all. And then, in—

Ms. La Costa: Excuse me, Commissioner Thayer, can you please reference the page?

Ms. Thayer: Oh, sorry.

Ms. La Costa: That you're looking at so we can all be on the same—

Ms. Thayer: The Number 427, on Page 61 of the redline version.

Ms. La Costa: Thank you. Thank you.

Ms. Thayer: And then in the last condition that I raised about the landscaping, I think there's a typo in there also. It says, will consists on that one. Sorry, I guess...okay, so, that being the ones that I would like to bring up. I guess just 'cause I have it in front of me, but the Number 427 about Chair La Costa pointing out that the project has not yet started, I don't know

that that's necessary to include as a basis for our decision making. And it's not like you're presenting evidence. Like it's a statement of the situation which I think is implied by virtue of this whole entire process that we're going through that nothing has happened. But that's one thing I would like to raise. I don't know if we would discuss these piece by piece or if I should go over my thoughts in all four of these things.

Ms. La Costa: Mr. Hopper, do you have an opinion on that please?

Mr. Hopper: You could take a motion on each one by one. Maybe the Commission would benefit from hearing a detailed explanation of each one of them so they know where you're going. I don't know if one will affect the others.

Ms. Thayer: Okay, okay.

Mr. Hopper: Or if they're all separate, standalone. So, you may want to—

Ms. Thayer: Okay.

Mr. Hopper: Maybe briefly describe which—

Ms. Thayer: Okay.

Mr. Hopper: Well, briefly describe what specific changes. So, it sounds like for 427, you're suggesting striking that—

Ms. Thayer: Altogether.

Mr. Hopper: --Finding of Fact. If there's other edits or changes, you could briefly describe those specifically.

Ms. Thayer: Okay. I think...okay, so that's my thoughts for that one. About Exhibit 53, I think we need to include reference to that since that is the site plan that we are saying is going along with the project district ordinance. So, I think it is prudent to specify which site plan we are approving as part of this decision. Mike Munekiyo's statement, I think, would also be prudent to include since we did center, many, many discussions on that point. And I think that is a substantive point to include in this.

Ms. La Costa: And can you please give us that reference, thank you.

Ms. Thayer: Oh, sorry, oh yeah. Page 66, redline version, Conclusions of Law Number...formerly Number 7.

Mr. Hopper: So, you mean, rather than striking Number 7, keeping it in?

Ms. Thayer: Correct.

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Mr. Hopper: So, I think so far there's a strike out that you'd have on the one Finding of Fact of Chair La Costa's comment. The Exhibit 53 is already part of the redline.

Ms. Thayer: Correct.

Mr. Hopper: So, you would not need a motion for that if—

Ms. Thayer: No.

Mr. Hopper: --if...because the original motion was to adopt with that. You would, you would need to include in a motion to leave in Conclusion of Law Number 7.

Ms. Thayer: Correct.

Mr. Hopper: So, and then maybe you can go on with the other—

Ms. Thayer: Okay, and then the last one is just fixing the wording on Condition 25. Either--

Ms. La Costa: Page number, please.

Ms. Thayer: Oh, 79.

Ms. La Costa: Thank you.

Ms. Thayer: Sorry. Of the redline version. And, I would say, will consist, just take out the s on the end of consists or if it should be, shall that's, because that's, I feel like more customary language than will. And I think that was recorded in the discussion.

Mr. Hopper: Okay, so—

Ms. Thayer: So, I guess the motion would be to keep, what was that...Findings of Fact Number 7, no...

Mr. Hopper: Conclusion of Law.

Ms. Thayer: Sorry, Conclusion of Law Number 7, to strike Number 427, and to fix the wording on that Condition 25.

Ms. La Costa: So, that's your friendly amendment?

Ms. Thayer: That is my friendly amendment. Thank you very much.

Mr. Hopper: I think you'd want to make a motion to amend.

Ms. Thayer: Okay, I would make a motion to amend motion for including, what was it, Conclusions of Law Number 7, for striking, I guess this is the right order to say this is in, is that 427—

Mr. Hopper: Finding of Fact 427.

Ms. Thayer: Finding of Fact Number 427, and then amending the language to Condition Number 25.

Ms. La Costa: May I have a second?

Mr. Hopper: Just clarifying the condition language for 25 would read, that the landscaping for the project shall consist mainly of...and then the remainder of the condition.

Ms. Thayer: Correct.

Ms. La Costa: Okay, thank you. May I have a second please? Commissioner Thompson, thank you. All those in favor of the friendly amendment, please certify by saying, aye.

Mr. Thompson: Aye.

Ms. Thayer: Aye.

Mr. Freitas: Aye.

Mr. Hipolito: Aye.

Ms. La Costa: Aye. Thank you. So, it carries unanimously. Thank you, Commissioners.

**It was moved by Mr. Thompson, seconded by Ms. Thayer, then**

**VOTED: To Amend the Main Motion to Leave in Conclusion of Law Number 7, to strike Finding of Fact 42, and Amend the Language of Condition Number 25 to Read, "that the landscaping for the project shall consist mainly of, and continue with the remainder of the condition. (Assenting – K. Freitas, D. Thompson, M. Hipolito, K. Thayer, P D. La Costa)  
(Excused – K. Pali, M. Deakos, A. Lindsey,)**

Okay, so then we will go back to the continued discussion for the original amendment or the original motion on the floor. So, is there additional discussion for the motion as amended? No one? Okay, I see no further discussion for the amended motion. Okay, that being stated, Director, could you please do roll call vote on accepting the Findings of Fact, Decisions of Law and Conclusions, you know what I mean.

Ms. McLean: As amended.

Ms. La Costa: As amended. Thank you.

Ms. McLean: Yes. Commissioner Freitas.

Mr. Freitas: Aye.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Aye.

Ms. McLean: Commissioner Hipolito.

Mr. Hipolito: Aye.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: Aye.

Ms. McLean: Chair La Costa.

Ms. La Costa: Aye.

Ms. McLean: Chair that's five ayes, no noes, three excused, Commissioners Lindsey, Deakos and Vice-Chair Pali. The motion passes five to zero.

**It was moved by Mr. Thompson, seconded by Ms. Thayer, then**

**VOTED: To Accept the Redline Version of the Findings of Fact, Conclusions of Law and Decision and Order, as Amended by the Commission.  
(Assenting – K. Freitas, D. Thompson, M. Hipolito, K. Thayer,  
P D. La Costa)  
(Excused – K. Pali, M. Deakos, A. Lindsey,)**

Ms. La Costa: Thank you. Thank you, ladies and gentlemen of the Commission, Applicant, Mr. Hurley.

Mr. Hurley: So, Chair, just for clarification, will there be another...will those amendments be made by the applicant and refiled and brought before the commission now, those amendments that are just made?

Ms. La Costa: I will defer that to Mr. Hopper.

Mr. Hopper: I think at this point, there can be a final order prepared and circulated for, for signature among the commission.

Mr. Hurley: I would object to that at this point, and I'm also going to object...can we get clarification on what the September 27th vote was? 'Cause it was my understanding that was the vote where the commission approved this. You guys made a big deal about all being there, and now there's some substantive changes that have been made. So, is this the final vote on the site plan? Can I just get some clarification on what happened today?



Mr. Hopper: I think once the Decision and Order is signed, you'll have your final Decision and Order. I think that process is allowed by the Commission's rules. And so, I think that we can proceed in that manner.

Mr. Hurley: So, but there will be...so, will the Department be drafting and forwarding it around or will the applicant be drafting the edits around. The applicant can finish the edits and we can have it approved by the Commission through signature, which is allowed in the rules.

Mr. Hurley: Would I, would I have a chance to view those edits before it's signed?

Mr. Hopper: I mean, the three changes that were made were done orally, but I think that if you want a –

Mr. Hurley: There were a lot of changes made last time that showed up that weren't, that weren't made last time that showed up on this one. So, I think it's appropriate I see the edits before they signed.

Mr. Hopper: Okay—

Mr. Hurley: I'll leave it at that. I mean, you folks can go forward. There's already an appeal going forward on this. But you know, there was a number of changes that showed up in this draft version I never saw that were made orally. So, I think it's appropriate that the intervenors see it before anything is signed.

Ms. La Costa: Thank you, Mr. Hurley. Mr. Chipchase.

Mr. Chipchase: We will file a clean copy and a red line showing all changes against this version.

Ms. La Costa: Thank you so much. Mr. Hurley, is that acceptable to you?

Mr. Hurley: But prior to it being signed, yeah, that's fine. We'll make notations of...and objections at that point as well.

Mr. Hopper: I mean, you'll see the several changes. I think you've certainly filed a Statement of Objections on the change...I mean, so, I'll leave it at that. I think it can be circulated.

Mr. Hurley: You folks could have voted up or down. You didn't. You made more amendments. I should, I mean, you're changing the process as it goes. You made amendments last time and then you had the applicant bring it forward for review and approval again. There's more amendments, shouldn't the process stay the same?

Mr. Hopper: Yeah, I think the typos that were changed and the, the other change that was made to have the site plan in clarifying the commission's previous vote were changes. I don't really see anything else that was changed that's going to be of substance and a Finding of Fact was, was deleted. So, again, you can certainly raise issues that you have on appeal or

otherwise. But at this point, I think we can proceed to finalize the Decision and Order consistent with the Commission's rule after the vote today and, and move forward that way.

Ms. La Costa: Thank you, Mr. Hopper. So, you have had your answer, Mr. Hurley. Thank you so much for attending and your participation. Mr. Chipchase, thank you so much for your participation and attendance in the meetings.

Okay, having said that, we will move on to our next agenda item. Director.

Ms. McLean: Thank you, Chair. The next item is a public hearing which was initiated by the Director transmitting Council Resolution 22-217, referring to the commission, a proposed bill for an ordinance to amend the State Land Use District classification from Agricultural District to Urban District. A conditional boundary amendment for the proposed Kuikahi Affordable Housing Community located on a 14.9-acre parcel of land adjacent to Kuikahi Drive in Wailuku at TMK: 3-5-002:003 (portion), and Danny Dias has taken this matter through commission. Just for those of you who remember Danny from before he was with the Current Division that he moved over to our Zoning Administration and Enforcement Division, and now he's back as a supervising planner with Current. So, happy to see him in front of the commission again.

Ms. La Costa: Mr. Dias, welcome and please introduce yourself and go ahead with your presentation. Thank you.

### **C. PUBLIC HEARINGS**

- 1. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Council Resolution 22-217 referring to the Maui Planning Commission a proposed bill for an ordinance to amend the State Land Use District classification from Agricultural District to Urban District (Conditional Boundary Amendment) for the proposed Kuikahi Affordable Housing Community, located on a 14.9 acre parcel of land adjacent to Kuikahi Drive, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-5-002:003 (portion) (ZPA2022-00004) (D. Dias)**

Mr. Danny Dias: Thanks, Michele. Good morning, Madam Chair and Members of the Commission. I'll try to keep my comments brief as the developer's representative, Mr. Lawrence Carnicelli has a thorough PowerPoint presentation that he will share with you this morning.

As Director McLean stated, the item before you this morning is a request for a State Land Use District Boundary Amendment from Agricultural to Urban for the 202-unit Kuikahi Affordable Housing Community that will be located right up the road here along Kuikahi Drive in Wailuku.

The commission today is tasked with providing a recommendation on this request to the Maui County Council. This project will be 100 percent affordable and the breakdown of the units is as follows, the developer proposes to construct 120 multi-family/condominium units, 18 duplex units, 14 townhomes, 16 live/work units, 28 studio units and six single-family dwellings. As you may know, this project has already gone through quite a bit of review at this

point happening simultaneously with this resolution. The County Council also reviewed and adopted Resolution 22-193, which is attached to your report as Exhibit No. 2, and this resolution involved the approval of this project under Chapter 2.97 of the Maui County Code, which allows for various exemptions requested for residential workforce housing projects and a list of those exemptions requested by the developer and approved by the Council is located within the Exhibit 2.

Lastly, this project received EIS approval earlier this year, and during that process, this commission reviewed and provided numerous comments on the Draft EA, and those comments are provided or those comments provided by the Commission are attached to this report as Exhibit No. 17. So, with that, I'll hand it over to Mr. Lawrence Carnicelli from Alaula Builders for his presentation. Thank you.

Ms. La Costa: Thank you, Mr. Dias. Mr. Carnicelli welcome, and we look forward to your presentation.

Mr. Lawrence Carnicelli: Aloha. Good morning, Chair. Lawrence Carnicelli, Vice President of Development for Alaula Builders. And if you allow me, I will do a screen share. Okay, you got me? Yes, here it is.

So, Kuikahi Villages is, is what we're here for, a DBA, as Mr. Dias had pointed out. So, this is basically what we'll do is we'll go through the request, location, an overview, site with some renderings, the EA, and then some of the dynamics that happened through the community input process. I really want to recommend Mr. Dias on a staff report. It's extremely thorough, very well written. If anybody didn't want to go through that four or five inches of the EA, I think he covered everything pretty well. As you can see here.

So, why are we here? So, the Kuikahi Village, we...is a 100-percent workforce housing application, 2.97 process. We went to the County Council and the 2.97 application was adopted on October 7th. However, it was bifurcated. The DBA was bifurcated into a separate resolution of which we are here today to get your comments and recommendations. And then we will go back to the Council for full adoption of the DBA.

In the, in the approval of the 2.97 application, the Council added some conditions to the project which are listed here. Basically, it's got to start within two years, got to finish in five, has to be in compliance with the representations. The lottery has to have preference for long-term residents. There's a, there's a process for that. It has to be owner-occupied in perpetuity. Can only have indoor cats and dogs have to be in enclosed areas. That was a quite vigorous conversation to be had. Cannot feed feral cats or chickens. Composting...(inaudible) stations, covered trash on the site. We have to do the road improvements on Kuikahi and there has to be a hold harmless for the reservoir, Wailuku Water Company's reservoir, which is about this.

So, the land use designation is basically the reason why we're here is if you look is land use is Ag and it's under 15 acres, and so it does not go to the Land Use Commission, it actually is under the jurisdiction of the county. Here is from the bill that the Council sent it, sent to you is basically, it's an amendment to the Land Use District, and they respectfully request your

comments. This may look familiar because on November 25th last year, you guys also did review this and made comments at that point in time.

The location of it. So, here's the base location. If you look right, here's the Honoapiilani Highway and then going up is Kuikahi Drive. On the mauka side is Wailuku Heights. You have Waikapu on the southern side. Kehalani over on the, the northern portion and then down here like that's Foodland right there, but that's the Honoapiilani. Oh, one thing I didn't point out in that is this, just as reference is, this right here is Kehalani Mauka Parkway. So, again, Kuikahi Drive going up, and Kehalani Mauka Parkway is gonna be a significant thing. Right here is the County's water tank and the 14.97 acres is roughly right here in this area. This is looking makai. Again, this is Kehalani Mauka...or sorry, this is Kuikahi Drive right here. Kehalani Mauka Parkway is roughly about there and so, it's just below the tank. Here's just a larger overview. Again, the proposed project is roughly right there.

So, overview of the project itself, as Mr. Dias had pointed out, it's a 100 percent work force. It's 100 percent for sale homes. Will be marketed to Maui resident buyers only. As we said earlier, it will be owner-occupied in perpetuity. No market rate sales on this. There's no market rate component to it, no vacation rentals and again, no mainland buyers.

So, what we've tried to do here is a missing middle and smart growth principles as I think we talked about back last November. Seven different home types single-family, two-bedroom and three-bedroom condos, townhomes, duplexes, live/work and tiny homes. It's infill. Basically, we're focusing on for sale because we want to try to promote generational homeownership for folks here on, on Maui. We're trying to do the environmentally sensitive design. There's five playgrounds...five parks, playgrounds, you know, biking, walking paths with shade trees, things of that nature. And there's regional infrastructure coordination, which I'll go over.

Again, missing middle housing is a term now used in smart growth principles. You have, say, single-family homes, all the way to say, multi-family, and there's this whole slew of other things that can happen all the way from duplexes, courtyards, bungalows, multiplexes, triplexes fourplexes, things like that. So, that's what we're really trying to do is focus on that, and it's kind of a unique project.

The Maui County Comprehensive Affordable Housing Plan, the Council commission added a couple of years ago, this is a tier one project in that plan. Here's a summary of breakdown of the homes themselves. So, there's 28 tiny homes, there's 75 two-bedroom condos, 45 three-bedroom condos, 18 duplexes, 14 townhomes, 16 live/work and six single families, and tried to make plenty of ample additional parking.

These are not the prices. Always have to make that disclaimer. This is roughly what they would be when we made the presentation. This is the prices are not set by us. This is the prices of workforce housing is set by the county. It's actually been amended recently at Council. But this is, I think it's important to give this to give people just an idea of the ranges of what these homes will go for if they were built today. But again, this is kind of a moving target, but that's sort of what it is. Also, we're in the process of working with the Department of Housing and Human Concerns and the County Council to use affordable housing funds to buy all these prices down by 100,000 each.

The site itself. So, here's the site if you look...here's again, Kuikahi Drive, is this is sideways from the other things that we looked at. Here's Kehalani Mauka Parkway. Down here along Kuikahi Drive is the multi-family in the middle. We have the townhomes and duplexes, a sort of a courtyard sort of feeling right here with the playground and pavilion. These are the single-family homes. We have our tiny homes. And then along here is the live/work component to that.

As far as other features of this, in the orange, we have five spot parks along the outside. There's one, two, three, four, five, five different spot parks along the...throughout the, the, the neighborhood. The purple is walking, walking paths for connectivity all throughout this site. There's also a 40-foot buffer. We put a 40-foot buffer along a Kuikahi Drive to kind of just, you know, be respectful to the neighbors on the north side of us, Koa is over there. And anyways, just try to make it a real walkable, usable neighborhood. And if I just also would note is part of the live/work is...actually I'll go to that later, never mind.

So, landscaping plan, there's no exemptions that we asked for in the landscaping plan, this is going to be as if this was 100 percent market rate housing. It's going to have all the same trees and, and everything that a normal, "normal", you know, market rate neighborhood would have. However, we are going to focus on drought tolerant plants and xeriscaping.

So, here are some renderings. I'll just go through this. Just so you can kind of get an idea because, you know, we didn't really have renderings last time we were here. This right here is looking mauka. This is Kuikahi Drive right here and this car is coming out Kehalani Mauka Parkway. So, this is the intersection that we talked about, and I'll go over that a little bit. To the right-hand side of here is Koa neighborhood. And then obviously, Kuikahi Village is on the left-hand side of this photo. So, this is looking makai. So, this is at the top. Again, in the middle of the picture is Kuikahi Drive, Koa on the right-hand side of this picture and then Kuikahi Village on the right. And then here's just some renderings through the course of the neighborhood.

I'm just trying to be respectful for your time. I'm just kind of trying to get through this. I know you guys have seen it before and read things and if you do have questions, obviously I'll be more than happy to go over those with you. This is the multi-family, backside of those. That's the townhomes. That's the duplex. This is the front side of the live/work, and the live/work is basically what that is, is a, a townhome on the top, and then there's a studio underneath. The studio would be allowed to, to conduct business that's allowed in the Residential District currently. It's not asking for anything, you know, over and above, what's actually already allowed in the Residential District, so it's not going to be like machine shop or something like that. It's something that really the intent here is to have services so people can stay within the neighborhood. Let's say daycare or haircutting, something like that. Also, the component of it is I think we actually discussed this last time we were here is that if somebody wanted to put a long-term tenant in there, they would be able to do that as well. This is the back side of the live/work. This is the tiny home.

So, Environmental Assessment. We did a full-blown EA. Started about a year...two years ago. Reached out to 48 different federal, state and county agencies and community associations. There's a list in this middle paragraph of the different associations that we reached out to, along

with neighbors. On October 8th of twenty-one, we got our anticipated FONSI and we published the Draft EA, and then the Final EA and the FONSI was issued on May 23rd of this year. Here's a list of all the different studies in due diligence that's done in the EA process that you guys are very familiar with.

So, the findings in the EA showed that there were no native plants, no endangered...nor endangered Hawaiian Hoary Bats. The AIS showed that there...does not contain any historical sites or burial features or human remains, and then the Cultural Impact Assessment also showed that there was no cultural practices or any cultural resources found to be in connection with the site.

Also, is the traffic report that TIAR said that we should try to optimize the timing of the intersection at Waiale Road and Kuikahi Drive which I think you're all familiar with that we would consider a mini roundabout at Kuikahi Drive and the Kehalani Mauka Parkway which we featured earlier. Additionally, that the, that the drainage that a...that we retain onsite surface flows for the 50-year, one-hour storm that that be retained onsite. So, this is Kuikahi Drive right here. This is kind of looking, looking, makai, and then this is Kehalani Mauka Parkway. So, this is that intersection. This is, say the. the most makai portion of the, the neighborhood, and this is where that roundabout is potentially going to go. Here's a bad rendering of it, because it's probably a little bit too far, you know, to the north. It's going to be more on our property than not, but we don't actually make the determination whether a roundabout goes there or not. It actually can be a stoplight. It could be a stop signs, traffic, you know, mitigation type things. But we're working with, Public Works because they...this is their, you know, roadway, they're going to ultimately decide what goes there. But we felt that it'd be necessary that even though it's not triggered that by our TIAR, that we found that it necessary to put some sort of traffic control at this intersection just for safety.

Here's just a preliminary drainage plan. As you can see, all retain...all drainage retained on site and then there would be a retention basin down here at the bottom, again, Kuikahi Drive there.

So, in the community outreach process, we got a lot of input, some of which actually came from this commission. So, one of them was why are you putting it in the middle of the property and not down at the bottom? And it's basically because we don't have water. So, there's three ranges. If you talk to the Department of Water, there's three ranges of tank storage for this particular property. You have the upper upper, you have the upper and then you have the lower, the upper upper and the lower do not have water. And there was enough water in the in the middle band here, which is called the upper to where we actually have enough water to build homes. When actually we were at the commission, some of you talked about, does this bifurcate ahupuaa line? It actually does not when you look at the project site there.

One of the things that we're also concern was the runoff from Wailuku Heights actually currently goes into the Wailuku Water Company's Reservoir 10 that you can see featured on the, the mauka side is up here, so all of this runoff from this neighborhood actually is retained in this reservoir. And so, we've actually been working with the Department of Public Works that we were going to put additional retention specifically just for the county on our site right here. So, we're going to actually take all of that runoff that would normally go into the reservoir, and we're going to create a detention basin over here on our property to help serve the county.

Here's just an overview of the reservoir itself. Is, there's a lot of things have been done by Wailuku Water Company. They own this, it's their water. It's, well, it's not their water, but they control everything about this. This is, even though it's technically sits on our property. They're the ones that control everything. So, here's the reservoir itself. The water comes through the lao Waikapu ditch from lao Valley, comes this way. It's electronically monitored. As it comes in it then, the delivery system is underground. It comes out, as you can see here on the makai side, and there's actually two spillways. There's one here on the southern side and then an emergency spillway on the backside as well.

It's not...Oh, here we go. There's concern about whether or not there would be sand. This particular project site has cobbly silty clay and lao clay in it. Sand is over a mile away. You got to go all the way past Waiale to find sand. The Waikapu Community Association was really concerned about their 500-foot buffer. In the Maui Island Plan there's a 500-foot buffer between Wailuku and Waikapu on the parent parcel, which is 148 acres. The project site does not fall within that 500-foot acres. It's Flood Zone X.

Schools, always a conversation when you're when you're going to build a new neighborhood about schools. So, Puu Kukui is the...is what will serve this particular neighborhood. Puu Kukui is currently at a max capacity, so when we talked to you over a year ago, we went to the DOE and we talked to them about that and concerns, and they said, well, it's actually part of a larger system that includes Waihee Elementary, Wailuku Elementary, Puu Kukui and Pomaikai. The other three schools are actually not at capacity, on Puu Kukui is. Puu Kukui is actually been going down in enrollment for the last four years, but the DOE looks at this as not an over capacity issue, but a redistricting issue. So, they're going to hopefully within the next year before next year's school year they're gonna redistrict and so some of the overcrowding that's going on in Puu Kukui will go to some of those other three schools. There's also a super school site that will be put at Waikapu Country Town. Mike Atherton's Waikapu Country Town will actually have a super school on site there.

As far as land use districts, Maui, 94 percent of all Maui lands are in Ag or Conservation, about one percent in Rural and five percent is in Urban.

Timelines. People always want to know about timelines. Essentially, when we look at our initial design and studies is February of 2020 Draft EA, Final EA, 2.97 approvals, come here to you guys, planning commission, we go back to the Council for our DBA approvals, then we start taking applications at that point. We hope to start earthwork in March. I think that that's a little bit...we're trying...we hopefully we can get some approvals for that. We'll conduct our lottery some time next summer and start construction next summer. We'll start our off-site intersection work shortly thereafter because that actually has to be completed before anybody moves in which our first occupancies let's say, you know, a late summer of 2024 and then hopefully done by the summer of 25. And we respectfully request your support. Mahalo Chair.

Ms. La Costa: Thank you. Commissioners, have you any clarifying questions for Mr. Carnicelli? Commissioner Freitas.

Mr. Freitas: Thank you, Chair. Good morning, Mr. Carnicelli. Good to see you. You said that

the sales price amendment that was recently adopted by the County Council. Will that sales prices affect this or not?

Mr. Carnicelli: That's a good question. It's still a little bit unclear to us as to whether it is or not. We've been told that we were going to be given an exemption to that. However, the reality is this is, is for these homes in order to be built, we're going to have to work with the county in some way, shape or form to bring the prices down, and we're going to need assistance from the county in order to do that. So, the intent has always been that we want, you know, the, the euphemism that's thrown around is truly affordable. There's an inverse proportion in the prices that the county has us sell at versus interest rates. So, as interest rates rise, the prices go down. At some point in time, it just doesn't make fiscal sense to even move forward with the project. So, that's why we're going to have to work with the Council and with the Administration, whether it be this one or a new one. Next year, we're going to have to work with them to set prices. So, there will be a lot more input into what the pricing is between now and the time that the lottery happens.

Mr. Freitas: Okay, thank you. One more question. You said...you went kind of fast and said something about a hold harmless. Is that hold harmless due to the, I guess there's a stream or gulch. Why is there a hold harmless?

Mr. Carnicelli: Yeah, the hold harmless is, is the reservoir that we talked about. The Wailuku Water Company's reservoir is above this project, and there was this concern that it's like, okay, what if something happens there and they want...the hold harmless basically says that if we're responsible for anything that we hold the county harmless. It's a standard thing in any 2.97 application. They always want to hold harmless. They just wanted us to add, you know, if we're even though we're not, not responsible at all for the Wailuku Water Company's reservoir, if there is something found that we are, that we hold harm, that we indemnify the county.

Mr. Freitas: Okay. Thank you, Chair.

Ms. La Costa: Thank you, Commissioner Freitas. Commissioners? Commissioner Thayer.

Ms. Thayer: Thank you Chair. And thank you, I have a question clarifying, you said there's no access to water on the lower portion of the property to support development, did I hear you correctly.

Mr. Carnicelli: Correct.

Ms. Thayer: Okay, and—

Mr. Carnicelli: Yeah, is...go ahead, sorry.

Ms. Thayer: Oh, no, you can continue to...do you have—

Mr. Carnicelli: No, I can go deeper as to why, but it's yes, to answer your question.



Ms. Thayer: Okay, 'cause I was just looking, so the part that got added into the Urban Growth Boundary, so that is not developable or not developable for affordable housing.

Mr. Carnicelli: Okay, it depends if you're talking about water versus, you know, the district boundaries.

Ms. Thayer: Well for...well, in relation to the water access.

Mr. Carnicelli: Okay, the water is you have source, storage and transmission for, for water. The upper part, the upper upper tank doesn't have capacity to support any housing. The lower storage also does not have capacity to support housing. So, the middle band width, which is called the upper tank that actually has enough storage to support homes.

Ms. Thayer: Okay, so the rest of the property, as it is now, would not be able to support any more housing.

Mr. Carnicelli: Correct.

Ms. Thayer: Okay, thank you.

Mr. Carnicelli: Yeah.

Ms. La Costa: Commissioners? Mr. Carnicelli, I have a question, when it talks about Maui residents as being only those eligible. Do you have a specific time that they must be a resident?

Mr. Carnicelli: That's in the Code, 2.97...oh, anyways, it doesn't matter which one it is, but it's in the Code as far as what it is.

Ms. La Costa: Okay.

Mr. Carnicelli: Is that they have to essentially, as I understand it, it's did you file taxes in the County of Maui last year? I do believe that the Council is looking at amending that as well.

Ms. La Costa: Okay, 'cause you have the opportunity to change that if you want to as far as requirements for the lottery, correct?

Mr. Carnicelli: Correct.

Ms. La Costa: Okay. Yeah, because we have a lot of people who need homes and we don't want someone moving here and then wanting to get a home.

Mr. Carnicelli: A hundred percent agree with you. That's, that's--

Ms. La Costa: You know that.

Mr. Carnicelli: That's exactly...and I think that was the intent also, is first thing, owner occupied that the Council said, hey, listen, we want this to not only be owner occupied, but owner occupied in perpetuity, so it's just like there's no second homeowners, there's nobody, you know, picking one off. So, I think that, yeah, the Council had the same concern as you did, as we all do.

Ms. La Costa: So, the live/work, you said, could also be used as long-term rentals.

Mr. Carnicelli: Correct.

Ms. La Costa: Okay.

Mr. Carnicelli: Correct. Yeah, they're not forced to...it's not going to be, you know, forced commercial. As a matter of fact, we had to change our whole TIAR because of this conversation that we had a year ago here was actually the Director in the Planning Department said, oh, you guys are going to change your traffic study if, if you're going to have tenants potentially living here as well. So, yeah.

Ms. La Costa: Okay, thank you so much for your answers.

Mr. Carnicelli: Sure.

Ms. La Costa: Commissioners, other questions. Commissioner Thompson.

Mr. Thompson: Mr. Carnicelli, welcome. So, on the perpetual affordability, how exactly does that work and let's say you have to sell or, you know, grandma is dying, you gotta move to the mainland or something, does it get turned over at the same price or does it incremental appreciation in it. I'm not sure how that would work.

Mr. Carnicelli: Now, good question, is 2.97 allows for a ten-year deed restriction. So, these would be deed restricted for ten years meaning that within the first ten years you still can sell, however it's just restricted...the price is restricted and the amount of appreciation that you're allowed to receive is also restricted, and first, and foremost, the County has first right of refusal. So, if in that ten-year deed restricted period you want to raise your hand and say, hey listen, I need to sell, the County has first right of refusal by Code, and actually even by deed restrictions it will be that way. I would anticipate what we're gonna try to work something in is if we're fortunate enough and we can work with the County to buy the prices down, we're gonna put something else in there to make that a little bit more substantial in terms of the buy down part of it where there's like a...that it goes back to the County that it's not just going in people's pockets.

Mr. Thompson: Roger. So, it's ten years now though, ten deed restricted.

Mr. Carnicelli: Correct. Yeah, by Code. I guess I could of just said by Code it's ten years rather than doing all that.

Mr. Thompson: Appreciate it. Thank you.

Ms. La Costa: Mr. Hipolito, have you any questions?

Mr. Hipolito: No, Chair.

Ms. La Costa: Thank you. Commissioner Thayer, no go ahead.

Ms. Thayer: Thank you. The additional detention basin that's going in by the reservoir is that being put in as part of this project?

Mr. Carnicelli: No, separate and apart. It's something that we were approached by Public Works and they asked if we would work with them in order to do that. So, whether this, you know, project moves forward or not, we're still working with the county to help out on that, yeah.

Ms. Thayer: Okay. Okay.

Ms. La Costa: Commissioners, any other clarifying questions for the applicant? Okay, then we will move to public testimony. Is there anyone who is on the call that would like to testify on this item? Going once, if anyone out there is interested in testifying, please step forward now. Going twice, being that no one who is on the call is wanting to testify. Public testimony is now closed. All right, Commissioners we will open our discussion. Commissioner Thayer, I see you over there, crunching at the bit.

Ms. Thayer: All right, fine. I'll start it off. Okay, so I guess to put it all out there, I...like this to me and you know, I'm thinking about this as 'cause this is like a State Land Use Commission decision, like we are acting for them because of the size of this project. So, thinking in that lens and, you know, like reading their comment letter on the Draft EA and thinking about other comment letters that they've put forth for other projects that are on like Ag land that are zoned Ag, community planned Ag, State Land Use District, Ag, and on thing that they've said is usually when there is a DBA to go from Ag to Urban, it is like the last of those three things to be changed. Like usually you would have like the community plan would change an area from Agriculture to whatever, and then the zoning would follow suit, and then it would be to bring the State Land Use Designation in line with all of those things, kind of from the ground up. And this is going the other way.

On the other hand, like this is, I think, in itself, like a well-planned, well-planned project like you're providing all the different kinds of housing that are needed and it's all affordable, which is also needed. But I want to look at it like, give it some scrutiny. One, because this is like just under 15 acres and like just thinking of other projects that could come up in the future, that might not be good for the people, 100 percent affordable housing project, like if this was a market rate housing project that wanted to go through the DBA process that was like a hair under 15 acres, how would we look at that? And like, what kind of precedent might we be setting by like, taking and going forward and recommending approval on a project of this size and scope? You get what I'm saying? These are all things that are going through my head in evaluating this project. 'Cause the change from Ag to Urban is like a pretty significant and potentially permanent change. And like, this piece of land is the kind of like the first on the Waikapu side of Kuikahi Drive to have any development aside of like outside of Waikapu Town

itself. And so, like what was just, you know, formerly like forest that probably then had some kind of Hawaiian habitation on it, that then was in sugar and pineapple, like will now be fully urbanized, and like the cumulative effect of that wasn't really addressed in the EA. So, like, there's the open space that's being urbanized. And then there's like the prime Class A Ag land that is also being urbanized. But then we get into like the cost-benefit analysis of is it okay or good or beneficial to have fully affordable housing at the cost of some of our most fertile or accessible watered Ag land? These are all questions going through my head.

And, and I guess it's to us to weigh that out and provide a good recommendation. And then like, what is the potential for this just being a precursor to further development of that whole side of Kuikahi Drive? Like what could this open up to in the future to say like, oh, like this little piece was already developed, so why don't we just like, add this little piece more and it's just another 14.9 acres, and in the grand scheme of things, it's not that big, but in the microcosm here it is big and how do we weigh that all out.

But on the other hand, like at the expense of all that, we are potentially giving many, many local families a good chance at a new life, and a home to call their own. And so, I don't know that I have a point of all this, but I wanted to raise all of this for discussion because to me, like these are the salient points to look at for a project like this, whether it is affordable or not. If we are considering a 15-acre project that will like, fully urbanize fully agricultural land that I feel like we should weigh this out and what this would mean for potentially future projects that are doing some kind of development on a piece of land like this. If anybody has any thoughts, I would love to hear them.

Ms. La Costa: Director.

Ms. McLean: All right, I mean, I do, but oh, commissioners, want to go first.

Ms. La Costa: Okay, I thought that maybe you would answer—

Ms. McLean: No, I do for sure, but Commissioners want to go first, they should go first.

Ms. La Costa: Okay, Commissioner Freitas.

Mr. Freitas: Aloha Chair. Question is, you're asking me to comment or you're asking a question?

Ms. La Costa: I asked...I called on you because I wanted to know if you had any discussion on this matter?

Mr. Freitas: I do. I feel that we've heard a lot about this project and most of them when I look back at the Charter, the Maui Island Plan, all of those things I think pretty much were...(inaudible)...they did a really, really great job. I think when Commissioner Thayer started speaking and she started to talk about us looking at this through the lens of the land use, I would like to just kind of focus in on that. And it says in that section on Page 10 that conditions shall be imposed only if the Council finds such to be necessary to prevent adverse effects upon public health, safety and welfare, and shall be reasonably conceived to fulfill needs arising

directly out of the proposed land use in the following respects and there's only two, one is protection of the public from the potentially deleterious effects of the proposed use, and the second is, for ...(inaudible)...needs for public service demands created by the proposed use. Both of these were overwhelmingly provided and shared and well thought out from the, from the public protection, and also to the much needed not only housing, but I like the way that they have that one area where you can also have an office space downstairs for providing even more services. They need everything here. So, I, I'm happy for this project. That's my manao on this. Thank you, Chair.

Ms. La Costa: Thank you, Commissioner Freitas. Commissioner Hipolito.

Mr. Hipolito: Thank you, Chair. I echo Commissioner Freitas. I hear Commissioner Thayer's questions and, and comments about prime land. I came from agriculture. That's where I grew up and agriculture is to me...it's important for our community, but also, it's important to also recognize that agriculture, it's not dying, but it's, it's hard to do. And I look at right now what is the need right now? I think there's a lot of fertile lands, throughout our island, but very few lands and commitments from people who wants to provide housing for our residents or we want them to become permanent residents and not moving off island. So, I'm very interested to hear that the Director's point before I add more comment, but I echo what Commissioner Freitas says, and but I do feel for Commissioner Thayer's comments that she has made.

Ms. La Costa: Thank you, Commissioner Hipolito. Commissioner Thompson.

Mr. Thompson: You know, we had this before us last year and I think we ferreted it out pretty well, although there's good points still made it. We do need the housing. Once it's built, though, that Ag's gone, it'll never return. It's a sacrifice. But I know it's...like I said, it's going to be really well vetted out. It's got another trip to the, the Council and it still has some speed bumps in it for financing because getting the county to give over \$100,000 a unit, I mean, they need to, and I think it looked like they were going to, but I'm not sure, but as far as we're concerned, I think, yeah, I think we have a good wrap on it. I don't think I have anything to add.

Ms. La Costa: Thank you, Commissioner Thompson. Director, would you please give us your input?

Ms. McLean: Thank you, and I love Commissioner Thayer's thinking like a planner. To me, the order that land use changes would go in, would start with the Maui Island Plan and then community plan would follow that, then the District Boundary Amendment before the Change in Zoning, because the Change in Zoning would have to be consistent with the DBA. In this case, because of the 2.97 process, that takes care of the Community Plan Amendment and the Change in Zoning together. So, it, it did put the DBA out of order. So, you're absolutely right about that. But that's how the process works. And when you're looking at a DBA from Ag to Urban, you're, you're really looking at the appropriateness of urbanizing that land. And you look for it to be contiguous. You look for where we want to see growth. You look for where the Maui Island Plan is saying we should grow, and ideally there would be redevelopment of existing developed lands. We don't often see that, unfortunately. So, for the most part, that does mean that that growth is going to happen in undeveloped areas, which are generally Ag. That's just what we face.

In this case, you do have the benefit of a fully fleshed out project to consider when you're thinking of the appropriateness for urbanization. Sometimes you don't. You're just looking at, oh, that's community plan, single-family. There's going to be some kind of residential here. You don't really know. In this case, you know, and so that's obviously going to go into your thinking, but we don't often have the benefit of that. So, it's, it's nice to have that.

And then with regards to the 15-acre threshold, I think it is sending a message to the State Land Use Commission that people really don't want to have to go before them. We want decisions made on the local level. I know they don't like it, but at the same time, I've been through Land Use Commission proceedings, and they are long and, and difficult. And it's, you know, it's understandable why people want things processed on the local level. There are often proposals at the state level to increase that threshold, and if it's increased, you'll probably see projects coming in that are just below that new threshold. But I think it is, I think it is beneficial to have those decisions made at the local level. And if that seems like people are pushing the limit, well, they're still within the limit. So, so, those are just some, some planner thoughts to the planning comments that you had. Thank you, Chair.

Ms. La Costa: Commissioner Freitas. Were you just shakaing because you agree or did you have...did you have additional comments?

Mr. Freitas: I forgot, I'm at my office, and the owners of the company walked in and I saying hi to them.

Ms. La Costa: That was a howzit then, okay. Okay. Commissioners, additional thoughts. So, it's always great to be the last one to speak because then you don't have to regurgitate what other people have so much more eloquently discussed. So, I will start with Commissioner Thayer. I absolutely concur about what you have said. What is more important, you know, in the land-based thing. Prime Ag lands where that's located, around a lot of houses, you know, what kind of issues come up with herbicides, pesticides, noise, et cetera, et cetera. And with all the other infill that is there, I think that is a good place for that project because they have access to hospitals, and downtown, and the airport, and, and with the live/work units, then you know, there will definitely be opportunities for people to expand their businesses.

The LUC comment, when you said that, I kind of smiled to myself thinking this is not the first and it will not be the last, and I concur with the Director making those decisions, for our neighborhood, rather than leaving them to people in Honolulu makes so much more sense. So, I like it when people just push the outside of that envelope and do the 14.9 so that we get to hear it and make the decision on it. So, I, I'm, I like that.

This project is what Maui desperately needs. Everyone is always saying, we need housing, we need housing, and I would like \$100 for every time someone asks me when there's going to be another affordable housing project that they can get in on the lottery, especially my friends at the dump. They're always asking me what's coming up. So, I applaud this project. Mr. Carnicelli and the developers that they are providing our people with what they need to and the restrictions on, you have to live here a specific number of years, I think is really important. It's easy to move here, file a tax return. You move here in December, you file a tax return then

all of a sudden, you're a resident. I just think that that's undercutting who lives here. It's like Hawaiian Homelands it's been, you know, waiting forever on the list. So, it's important, I think that that is really scrutinized so that we have people who are...I have a friend living in their car now, so I don't want to see that anymore. So, I applaud this. The work/live is perfect. The tiny homes, because a lot of people don't want to mess with a lot of maintenance. I mean, it's, it's the whole package which we haven't seen before. So, mahalo nui, I applaud you. So, with that, could Mr. Dias, would you please give us the Department's recommendations. Mahalo.

Mr. Dias: Thank you, Chair. Yes, the Maui Planning Department recommends that the commission recommend approval of the State Land Use District Boundary Amendment, subject to two conditions. Number one, that the property be developed as a 100 percent residential workforce housing project in accordance with the 2.97 Resolution, and also, that the property shall be developed in substantial compliance with the representations made to the Maui Planning Commission and Maui County Council in obtaining the 2.97 Resolution and the State District Boundary Amendment.

Ms. La Costa: Thank you. Commissioners, may I have a motion please? Commissioner Hipolito. We can't hear you.

Mr. Hipolito: I would like to make recommendation, a motion to approve with the two conditions for the State Land Use District Boundary Amendments.

Ms. La Costa: Thank you, sir. May I have a second, please? Commissioner Thompson. Mr. Hipolito, would you like to speak on your motion?

Mr. Hipolito: Yeah, I would like to continue my discussion. I, like everyone, has mentioned earlier, the developer has done a really great job. I hope other developers really look at what this developer has done, Mr. Carnicelli and their group, and use that as a template or even a prototype. And again, I applaud them for what they were doing. We need the housing as you said, Chair. We really do. And again, I support this project a hundred percent. Thank you.

Ms. La Costa: Thank you so much. Mr. Thompson, second.

Mr. Thompson: I concur.

Ms. La Costa: Thank you. Okay, Director, could we please do a roll call vote? Oh, Commissioner Thayer.

Ms. Thayer: Sorry, I wanted to ask about the landscaping.

Ms. La Costa: About the what, please?

Ms. Thayer: Landscaping. And I don't know if this would be a condition, but I would just ask.

Ms. La Costa: Okay, let me, let me have Mr. Carnicelli come up and answer your question then before we do the vote. It's kind of out of order, but I'll make an exception.

Ms. Thayer: Sorry. But thank you for incorporating native trees into the landscaping. Would you be open to incorporating other trees like Ohia Lehua?

Mr. Carnicelli: You know, is...it's a little bit out of my scope to say this and not this, whatever is because there was actually discussion in Council about that, about...there's a whole palette of trees that are included that the Council...that the county allows and doesn't allow. I do believe that that is one of the trees that's allowed. So yeah, is that we're going to try to use as many native plants as we can.

Ms. Thayer: Yeah.

Mr. Carnicelli: But we have a landscape architect, Bill Mitchell, and he's the guy that I don't know if you're familiar with Bill, but he, he definitely wants to incorporate as many of the native species as we can.

Ms. Thayer: Yeah, I'm just thinking the...so, I work for the Watershed Partnership and this is like—

Mr. Carnicelli: Right.

Ms. Thayer: --very close to the forest that we take care.

Mr. Carnicelli: Sure.

Ms. Thayer: So, as much native trees can be incorporated as possible, would really help to like, rejuvenate the watershed and the natural environment that used to be there.

Ms. Thayer: Right.

Ms. Thayer: And then even thinking about the families that are living here would likely be all local folks, but to include things like, Ohia and Koa. It's also good for like lei plants and cultural significance—

Mr. Carnicelli: Right.

Ms. Thayer: and for kids growing up there to be familiar with Hawaiian plants.

Mr. Carnicelli: Agreed.

Ms. Thayer: So, the fullest extent possible. I don't want to like, impose a condition about this because I know that could affect your cost. But to the fullest extent possible.

Mr. Carnicelli: Understood.

Ms. Thayer: To incorporate as many as possible because there are other like common, not native trees in the landscaping plan that I think get generically used all over, but to replace those as much as possible.



Mr. Carnicelli: Yeah, there's certain ones that will definitely be excluded, even though they're allowed.

Ms. Thayer: Yeah.

Mr. Carnicelli: 'Cause you know, the, the list there was just kind of from the county's list, but you know, there's some without going too far down the rabbit hole, it's like even Council wanted to say like, oh, do we include fruit trees or not?

Ms. Thayer: Hmm.

Mr. Carnicelli: 'Cause like, okay, we want fruit trees for people, but oh, but then the deer come down.

Ms. Thayer: Right.

Mr. Carnicelli: And so, anyways, it's a balance, and that's why we hired a landscape architect to do that.

Ms. Thayer: Sure.

Mr. Carnicelli: But definitely understand what you're saying for sure.

Ms. Thayer: Awesome. And I wanted to say thank you about the accepting the not feeding the cats and things like that. Awesome. Very helpful.

Mr. Carnicelli: I'll talk to you after this about the, about the cat conversation we had a Council.

Ms. Thayer: Yeah, I didn't listen to that Council meeting, but yes, sure, thank you. Thank you. Sorry.

Ms. La Costa: We have to get to ...(inaudible)...might as well. Okay, Director, would you please do roll call vote. Mahalo.

Ms. McLean: Yes, Chair. The motion is to recommend approval of the project to the County Council subject to the two conditions in the staff report. Commissioner Freitas.

Mr. Freitas: Aye.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Aye.

Ms. McLean: Commissioner Hipolito.

Mr. Hipolito: Aye.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: Aye.

Ms. McLean: And Chair La Costa.

Ms. La Costa: Absolutely aye.

Ms. McLean: Chair, the motion passes five ayes, no noes, with three excused, Vice-Chair Pali and Commissioners Lindsey and Deakos. The motion passes.

**It was moved by Mr. Hipolito, seconded by Mr. Thompson, then**

**VOTED: To Recommend Approval to the County Council the State Land Use District Boundary Amendment as Recommended by the Department with the Recommended Conditions.  
(Assenting – K. Freitas, D. Thompson, M. Hipolito, K. Thayer, P D. La Costa)  
(Excused – K. Pali, M. Deakos, A. Lindsey,)**

Ms. La Costa: Mahalo Director, and mahalo Mr. Carnicelli and your group.

Mr. Carnicelli: Thank you.

Ms. La Costa: Appreciate very much. Okay, with that, we will move onto the next item on our agenda which is the Director's Report.

2. **CHARLENE SHIBUYA FOR MUNEKIYO HIRAGA on behalf of COUNTY OF MAUI DEPARTMENT OF PUBLIC WORKS requesting a Special Management Area Use Permit and Shoreline Setback Variance for proposed improvements in two areas. Area 1: Dickenson Street to Lahainaluna Road includes replacing concrete wave deflector, wooden railings, deteriorated sidewalks, concrete planters, overgrown trees, existing light fixtures and street amenities; repairs to beach access stairs and railings; and removal of wooden bollards. Area 2: Papalaua Road to Baker Street includes replenishing boulders in stacked seawall, located at Front Street, Lahaina, Island of Maui, TMK: (2) 4 5-002: 999 and 002 (por.) and (2) 4 6-009 :999 (SM1 2020/0011) (SSV 2020/0002) (C. Thackerson)**

**MATTER IS RESCHEDULED FOR THE NOVEMBER 22, 2022 AGENDA**

**D. UNFINISHED BUSINESS**

**NOTE:** the Maui County Council adopted a proposed bill on first reading on Friday, October 21; if the Council adopts the bill on second and final reading before November 7, then this item will be removed from the agenda.

**MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 22-70, CD1, FD1, referring to the Maui Planning Commission a proposed bill to amend chapters 19.11, 19.12, 19.14, 19.15, 19.18, 19.20, 19.22, 19.32 and 19.52, Maui County Code to: (1) cap the number of transient accommodation units to the existing levels for properties in the Apartment and Hotel Districts; (2) remove transient accommodations as a permitted use in the SBR Service Business Residential, B-CT Country Town Business, B-3 Central Business, B-R Resort Commercial, Planned Development, and Lahaina Historic Districts; and (3) prohibit transient accommodations of more than 20 bedrooms in the B-2 Community Business District; the bill also proposes to amend Chapter 19.36B to prohibit temporary parking of camper vans and recreational vehicles used for transient accommodations unless authorized by zoning and permit, and to amend Chapter 19.37 to limit transient accommodations to B-2 District only. The Department is also proposing minor revisions to the bill. (J. Takakura) (Matter is deferred from the 8/9/22 meeting)**

The County Council has adopted the Bill.

**E. DIRECTOR'S REPORT**

- 1. Designation of the South Maui Advisory Committee to conduct the public hearing and provide a recommendation on the following application:**

**RAYMOND CABEBE OF CHRIS HART AND PARTNERS, INC. on behalf of KIHEI MARKETPLACE LLC, requesting a Special Management Area Use Permit to maintain a 300 sq. ft. restaurant, renovate a 4,000 sq. ft. commercial structure, demolish an abandoned wave generating structure and other remaining structures, as well as construct three new structures to be retail, restaurant, parking on lower level, 17 long-term rentals, and two live/work units on upper floors, with all utilities, landscaping and parking improvements, located at 1975 South Kihei Road, Kihei, Island of Maui, TMK: (2) 3-9-003:002 (SM1 2020/0002) (C. Thackerson)**

The Commission may take action to designate that the South Maui Advisory Committee conduct the public hearing and provide a recommendation on the subject application request or take other action.

Ms. McLean: Yes, Chair. The next item is a request from Raymond Cabebe of Chris Hart and Partners on behalf of Kihei Marketplace LLC, relating to an SMA permit to maintain a 300-square foot restaurant, renovate a 4,000-square foot commercial structure, demolish an abandoned wave generating structure, and other remaining structures as well as construct three new structures to be retail, restaurant and parking, adding 17 long-term rental units, and two life/work units on upper floors with utilities, landscaping and parking improvements located at 1975 South Kihei Road at TMK: 3-09-003: 02.

What is in front of you today is whether to designate that the South Maui Advisory Committee conduct the public hearing and provide a recommendation to you folks. If you vote to do that, then we will schedule the meeting with them and then it will come back to you after. If you vote not to do that, then it will be scheduled with you a little bit sooner than it would be coming to you otherwise. Candace Thackerson is the project planner. She's on the call if you do have questions about the application for her.

Ms. La Costa: Thank you, I was just gonna...I was just going to acknowledge Ms. Thackerson. Nice to see you this morning. Commissioners, have you any questions for Planner Thackerson? Do we have anyone on the line for public testimony? If you are on the call via BlueJeans and would like to make comments or testify about this project, please come forward. Going once, going twice, no one has signed up to testify, so public testimony is now closed.

Commissioners? When we have had other propositions, action items, et cetera come before us that have been...the question has been asked whether or not we want South Maui Advisory Council to review them. The answer has always been no so that we can maintain the full island approach. So, having stated that, that's my opinion. Is there a motion either to defer this to the South Maui or to have it stay within the planning commission? Commissioner Thompson.

Mr. Thompson: That will be surprising, but I would like to make a motion to keep that here. I would certainly like to invite the valuable comments of the South Maui Commission to take place right here like it's supposed to, and it would keep us from having a inflated, useless government. So, my motion will be to have us hear it and hopefully some of those listening from the South Maui Commission would like to participate in that.

Ms. La Costa: Thank you. Do I have a second? Commissioner Hipolito, second. Thank you. So, would you like to make further comment on your motion, Commissioner Thompson.

Mr. Thompson: Oh, no, thank you.

Ms. La Costa: Okay. Commissioner Hipolito is the second. Further comments?

Mr. Hipolito: No comment, Chair.

Ms. La Costa: Thank you. Okay, I don't see any other commissioners who want to make comments, so at this juncture the motion on the table is to have the hearing of the South Maui or Kihei Marketplace be heard by the planning commission rather than being deferred to South Maui Advisory Committee. Okay, Director would you please take a roll call vote. Thank you.

Ms. McLean: Commissioner Freitas.

Mr. Freitas: Aye.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Aye.

Ms. McLean: Commissioner Hipolito.

Mr. Hipolito: Aye.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: Aye.

Ms. McLean: And Chair La Costa.

Ms. La Costa: Aye.

Ms. McLean: Chair, the motion passes with five ayes, zero noes, three excused, Vice-Chair Pali and Commissioners Lindsey and Deakos.

**It was moved by Mr. Thompson, seconded by Mr. Hipolito, then**

**VOTED: For the Commission to Hear the Matter and Not Designate the South Maui Advisor Committee.  
(Assenting – K. Freitas, D. Thompson, M. Hipolito, K. Thayer,  
P Denise La Costa)  
(Excused – K. Pali, M. Deakos, A. Lindsey)**

Ms. La Costa: Thank you, Director, and thank you very much, Commissioners. Okay, our next item on the agenda.

Ms. McLean: Next item are the SMA Minor and Exemptions Reports.

**2. SMA Minor Permit Report**

**This is for notification and review purposes. No action is anticipated.**

**3. SMA Exemptions Report**

**This is for notification and review purposes. No action is anticipated.**

Ms. McLean: Are there any questions on any of those items?

Ms. La Costa: I would like to thank the Department for giving us some information on there, it really helps.

Ms. McLean: Great. Thank you for that.

**4. Discussion of Future Maui Planning Commission Agendas**

**a. November 22, 2022 agenda items**

Ms. McLean: If there are no questions on that, then discussion of future commission agendas. We apologize for not sending the memo out to you with a list of items for the next meeting. There is a fair amount of scrambling and other issues. Right now, for your next meeting, we have the Front Street, the Public Works Front Street SMA and Shoreline Setback Variance that was posted on today's agenda. So, that'll be next time. Also, R.D. Olson has a warehouse, a retail project, another one in the Maui Business Park II. You've seen a few of those already. There's another one of those. And then the SMA and Shoreline Rules coming to you hopefully for adoption. There may also be an item related to the One Wailea Appeal, so there might be a Decision and Order for that item if we are able to put together the entire record in time. So, three, three action items for sure, and possibly a fourth. Any questions on that?

Ms. La Costa: Thank you, Director.

Ms. McLean: Okay.

Ms. La Costa: With that, if there are no further comments, I thank you all for participating, for taking the time to volunteer, and to help our community be a better place. This meeting is adjourned.

**F. NEXT REGULAR MEETING DATE: NOVEMBER 22, 2022**

**G. ADJOURNMENT**

The meeting was adjourned at approximately 11:48 a.m.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

Present

P Denise La Costa, Chair – in person  
Kawika Freitas – via BlueJeans  
Dale Thompson - in person  
Mel Hipolito, Jr. – via BlueJeans  
Kim Thayer – in person

Excused

Kellie Pali, Vice-Chair  
Ashley Lindsey  
Mark Deakos

Others

Michele McLean, Director, Dept. of Planning – in person  
Michael Hopper, Deputy Corporation Counsel, Dept. of the Corporation Counsel – in person