

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

January 31, 2007

Council Chamber

CONVENE: 1:35 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member (Leave 6:24 p.m.)
Councilmember Gladys C. Baisa, Member
Councilmember G. Riki Hokama, Member (Arrive 2:43 p.m.; Leave 3:07 p.m.)
Councilmember Jo Anne Johnson, Member (Arrive 1:47 p.m.; Leave 5:28 p.m.)
Councilmember Danny A. Mateo, Member (Arrive 1:40 p.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael P. Victorino, Member

STAFF: Tammy M. Frias, Committee Secretary
Carla M. Nakata, Legislative Attorney
Lei Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

ADMIN.: Colleen Suyama, Deputy Director, Department of Planning
Michael Miyamoto, Deputy Director, Department of Public Works and Environmental Management
Herman Andaya, Acting Director, Department of Housing and Human Concerns
Jo-Ann Ridao, Housing Commissioner, Office of the Mayor
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Charles Jencks, Owner's Representative, WCPT/GW Land Associates, LLC
Wayne Yoshioka, Manager, Parsons Brinkerhoff Quade & Douglas, Inc.
(Applicant's traffic consultant)
Gwen Ohashi Hiraga, Principal, Munekiyo & Hiraga, Inc. (Applicant's entitlement consultant)
Aki Sinoto, Aki Sinoto Consulting (Applicant's archeologist)
Tom Schnell, Manager, PBR Hawaii (Applicant's planning consultant)
B. Martin Luna, Esq., Carlsmith Ball, LLC (Applicant's attorney)
Kenneth Jencks
Glenn Yasui, Highway Administrator, Highways Division, State Department of Transportation
Ferdinand Cajigal, Engineering Program Manager, Maui District Office, State Department of Transportation
Lee Altenberg, Associate Professor, University of Hawaii at Manoa; and Chair, Native Hawaiian Plant Society

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Lucienne deNaie, Senior Vice President, Maui Tomorrow Foundation, Inc.
Robin Knox
Rob Parsons
Additional attendees (20)

PRESS: Melissa Tanji, *The Maui News*
Akaku--Maui County Community Television, Inc.

CHAIR MOLINA: . . .(*gavel*). . . The Land Use Committee meeting for January 31st, 2007 will now come to order. For the record we have in attendance the Vice-Chair of the Committee Joseph Pontanilla, Committee Members Michelle Anderson, Gladys Baisa, Bill Medeiros, Mike Victorino, and Chairperson Mike Molina. Excused are Members Riki Hokama, Jo Anne Johnson, and Danny Mateo. We have from the Committee Staff, we have our Committee Analyst Carla Nakata and our Committee Secretary Tammy Diaz [*sic*].

Members, we have one item on our agenda--and by the way, welcome, this is the debut for 2007 for the Land Use Committee meeting. So this is my maiden voyage as well.

COUNCILMEMBER ANDERSON: . . .(*chuckle*). . .

CHAIR MOLINA: . . .(*chuckle*). . . We have a very, very heavy item to discuss here today and we have--as you well know, the Land Use Committee has traditionally been very busy. We have a very thick master agenda--I happen to be going through it today--91 pages long, with 27 applications to consider for this term. So just to let you know, we'll be quite busy.

**ITEM NO. 38: CHANGE IN ZONING AND PROJECT DISTRICT PHASE I APPROVAL FOR
"HONUA`ULA/WAILEA 670" RESIDENTIAL DEVELOPMENT**
(C.C. No. 01-334)

CHAIR MOLINA: So the Chair's intent as to proceed. . .we do have Committee Item LU-38, which is a Change in Zoning and Project District Phase I Approval for the Honua`ula/Wailea 670 Residential Development, is what we are considering today. The Chair would like to go forward in this manner. But, first, I'm going to give you a, a rather long-winded opening just to get everyone up to speed as to where we're at and what has occurred since the last meeting back in October of 2006.

So for the Members' information, especially our three new Members to the Committee--Members Baisa, Medeiros, and Victorino--the Committee is in receipt of County Communication No. 01-334, from the former Planning Director, transmitting a request by DKI & Associates, Inc., on behalf of the landowner, WCPT/GW Land Associates, for a land use approval to facilitate the development of a residential community consisting of up to 1,400 dwelling units, an 18-hole golf course with recreational amenities, and village mixed uses.

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The approvals requested are as follows: (1) a Phase I Project District Approval to repeal in its entirety Chapter 19.90, Maui County Code, and establish a new Chapter 19.90A, MCC, relating to the Kihei-Makena Project District 9, otherwise known as Wailea 670; (2) an amendment to Ordinance No. 2171, relating to the Kihei-Makena Project District 9 for approximately 402 acres; and (3) a Change in Zoning from Ag and Open Space Districts to Kihei-Makena Project District 9 for approximately 268 acres, all totaling up to 670 acres.

Also for your consideration, Members, a correspondence dated September 29, 2006, from the Corporation Counsel's Office, transmitting a proposed bill entitled A BILL FOR AN ORDINANCE TO REPEAL ORDINANCE NO. 2171 AND TO ESTABLISH KIHAI-MAKENA PROJECT DISTRICT 9 ZONING FOR APPROXIMATELY 670 ACRES SITUATED AT PAEAHU, PALAUEA, KEAUHOU, MAUI, HAWAII. The purpose of the proposed bill is to consolidate the previously mentioned draft bills, thereby establishing Kihei-Makena Project District 9 zoning across the 670-acre project district, with a single set of conditions.

The Committee has also received a correspondence dated September 28, 2006, from the Planning Director, suggesting revisions to the Project District bill. The revisions relate to permitted uses and structures in the project district, and a conflict with respect to the height of antennae in the single-family and multi-family residential sub-districts.

And, in addition, the Committee has received correspondence. . .or received a correspondence dated September 28, 2006, from the Owner's Representative, Charles Jencks, containing conditions proposed by WCPT/GW Land Associates, LLC.

We will have for your perusal, Members, the following resource personnel: the Planning Director, Mr. Jeff Hunt; the Deputy Planning Director, Colleen Suyama; the Deputy Director of Public Works and Environmental Management, Mike Miyamoto; the Acting Director of Housing and Human Concerns, Herman Andaya; Deputy Corporation Counsel James Giroux; and from the State, Glenn Yasui, the Highway Administrator, Highways Division, State DOT; and Ferdinand Cajigal, the Engineering Program Manager, Maui District Office, State DOT.

And we have a number of resource personnel that are on-call: individuals from the Parks Department, Water Department, and also the Police Department and the Fire Department. So at a later point in time when we do open the floor for questions from you, Members, we will ask for your consideration if you do want to talk or have these individuals speak to you who are on-call, we will definitely have them come here. Otherwise, if you don't have a need to hear from them, we will let them know that they're basically off the hook for today 'cause we know they're very busy individuals.

And here are some of the changes that have occurred since our last Committee meeting, and what I'll also mention to you is my intent for how we will proceed for the rest of today. A new term has started, and as I mentioned earlier, we have three new Council Members and Committee Members. Ordinance No. 3418, which established a Residential Workforce Housing Policy, went into effect on December 5, 2006. Your Chairman sought clarification from the Owner's

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Representatives regarding impacts of the policy on the subject project, and received a response from Mr. Jencks dated January 27, 2007.

And by the way, Members, for your information, we . . . you do have a lot of binders on this project. . . (*chuckle*). . . on your table. So to help you get started or to focus, put your focus let's . . . we will be working the majority of the time from Binder No. V. That's the binder that contains the most recent documents that this Committee has received.

And also today we will address, on behalf of a Committee Member, a correspondence dated October 11, 2006, the Committee then requested a legal opinion from the Corporation Counsel's Office asking whether the fact that the Piilani Highway extension is no longer planned for construction by the State DOT, which would then have the application or require the application to be possibly returned to the Maui Planning Commission for review. And Corporation Counsel responded by . . . to that issue with an opinion dated January 23rd, 2007. So you should have that in your binder as well.

The Committee received responses from the State DOT dated November 2nd, 2006 and January 25th, 2007, I believe with regard to the Traffic Impact Analysis Report.

And due to the change in Committee membership, the Chair has requested that the Owner's Representative provide a PowerPoint for you today as well, and I've asked the applicant to do a presentation not more than 15 minutes because of the anticipated . . . lengthy discussion we will have on this project. And following the PowerPoint, your Chairman will seek comments from the Department of Planning, then open the meeting to public testimony. And following the completion of public, public testimony, your Chair's intent is, first, to hear from the State DOT representative, Mr. Yasui, who has flown over from the island of Oahu, and at a later point in time I'll, I need to find out from Mr. Yasui if he is on a time constraint for today. At this point, the Chair has no idea if he has to fly back tonight. So we want to make sure that we hear your concerns for us before that.

Another intention your Chair has is to hear from the Owner's Representative and from the Acting Director of Housing and Human Concerns regarding the impacts, again, of the Residential Workforce Housing Policy on this project. And then when we do reach that point, the Chair would like to consider action on just the Project District, District bill and also entertain any amendments to it. So in a nutshell, that's what we're going to be working on today.

Now, as you know this project, there's also other components that we have to deal with, another bill. We will probably, we will more, more than likely deal with that at another meeting. So just on the Project District bill alone it gives us quite a workload for today. And, Members, I did via e-mail ask you to consider a recess coming back tonight. However, the Chair upon hearing from at least two Members and taking into consideration the weather tonight, I will ask you to consider working up till no later than 6:00 p.m. tonight, rather than have you, have us break and come back from dinner and work later. I would. . . the Chair's preference is to work no later than

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6:00. I do realize we have two more committee meetings tomorrow, and I anticipate those meetings to be quite lengthy, and we just finished a late meeting last night.

So if there are no objections, the Chair would like you to consider that.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Thank you very much, Members. So with that being said, we will take a short two-minute break to get the Chambers prepared for the applicant's presentation. Meeting in recess, subject to the call of the Chair. . . .(gavel). . .

RECESS: 1:45 p.m.

RECONVENE: 1:47 p.m.

CHAIR MOLINA: Okay, Members, let's proceed. . . .(gavel). . .

MR. JENCKS: Thank you, Mr. Chair. The--

CHAIR MOLINA: Excuse me. Just hang on, Mr. Jencks. Thank you. The Land Use Committee meeting for January 31st is now back in session and before we turn matters over to the applicant, the Chair would like to acknowledge the present of, presence of Councilmembers Johnson and Mateo to our proceedings today. Now we have the applicant Mr. Charlie Jencks, representing the entity, to give us an overview of the project. Mr. Jencks, if you will.

MR. JENCKS: Thank you, Mr. Chair, Mr. Molina. We're going to show you a PowerPoint presentation that takes us back to. . . it was originally done in March of, of last year, and this is essentially the same PowerPoint. So, I have my brother on the, the keys up there. Ken, please.

Note: Computer-generated slide show presentation.

Okay. Kihei-Makena Project District 9. . .we are in Project District 9 in the Community Plan, and one of the key issues we've got to wrestle with here is to make sure that this proposed project is consistent with the Community Plan. To that end, a mix of single-family and multi-family units are, are offered. And, once again, this proposal goes back to March 15th of last year. So this affordability issue we're going to discuss today, hopefully, or in the near future as it relates to the Workforce Housing bill, 40 percent single-family mix in the project, 60 percent multi-family, and at the time, a year ago, it was 30 percent affordable mix broken down as shown on the, on the screen: 210 units at 100 percent or less; 105 at 100. . .at 120; 105 at 140 percent. This breakdown was to achieve compliance with the Community Plan description of a mixed single- and multi-family units for different economic brackets. Ken.

Also included Village Mixed Use/Commercial, we have 56 acres of that use, with a maximum of 80,000 gross square feet of commercial uses at a neighborhood village level; one 18-hole golf

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course; public and private amenities; public parks; public trail and pathway systems; private recreational facilities as well. Next.

Buffer zones between Maui Meadows and the Piilani Highway corridor have been established, and we can perhaps talk about those again today. And also, future public use sites in the VMX District that'll allow for schools, that would allow for a police station or even a, a fire station if necessary. So that summarizes how we are compliant with the Project District 9 description in the Kihei-Makena Community Plan.

The lay, the land is designated Urban by the State Land Use Commission; it is designated as Project District 9 in the Community Plan; and right now we are zoned for two Golf Courses and Accessory Uses on 400 acres and the balance being Agricultural/Open Space, which is really the subject of this application, converting what you see right now with zoning to a revised Project District 9 description. Next.

This matrix gives you an idea where the project has come over the years. Back in 1988 when they did the original Community Plan Amendment, we were at 2,650 units. We are now at 1,400 units on the far right. Another example, we got 6 acres of Commercial at the time in 1988, we went up to 9 acres, and now we're down to 80,000 gross square feet. Two golf courses in the beginning down to one golf course at 200 acres. And then Parks and Open Space, another good example, we started out with 32 acres, went to 6 acres, went back to 36, and now we're at 90 acres of Park and Open Space in the project area. So this gives you an idea of where we started out in 1988 way back when and then moved forward to today in 2006. . .actually I should say 2007. Next.

Okay. These are the community agencies and groups that, that we have met with, including all the community associations, labor unions, the Board of Realtors, contractors, environmental groups, Sierra Club, Maui Tomorrow, Maui Junior Golf, Na Kupuna O Maui. We met with all of these folks a number of times to clear issues, to get resolution on any concerns they may have had, going back all the way to 2001. Next.

This is a summary of the governmental agencies that we've met with, including the Planning Commission, all the State departments, all the County major departments--Housing and Human Concerns, Public Works, Parks, Office of the Mayor--State Department of Transportation, and any other Federal and State agencies that had any comment on the. . .either the EIS that was done originally back in, in 1988 or any concerns currently. Next.

Smart growth features. We like to think that the project does bring forth a lot of the concepts that everyone has talked about in Maui County and tries to make them a reality. We've, we've combined the various residential densities with commercial uses in the VMX District, which I'll show, I'll talk to you about in a minute. Open Space features are integrated into the plan utilizing all the drainage areas. We're incorporating pathways and also parks adjacent to those areas for access; bicycle and pedestrian pathways and facilities off-road and within the drainageways. We have nearly three miles of off-road bicycle and pedestrian pathways in the

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project. Connectivity with outside communities with trails, that includes Maui Meadows and, and the . . . and Wailea Resort on the makai side. We've also incorporated in the VMX District nodes for mass transit opportunities if, when those become available in Maui County. And then one of the nicest things about the project is within the smart growth context, we're not extending public utilities. We're creating the water system; we're also creating the sewer system that will develop as a part of the project and then turn over the sewer system later on when sewer system service becomes available from the County of Maui. Next.

The VMX District provides for future public use opportunities as I've described earlier, such as the Fire or Police facility or even the County facility. The Residential component covers approximately 350 acres or 50 percent, 55 percent of the site. The Commercial uses are neighborhood in nature, and we're projecting a 20-year build-out for the project. Next.

This is the conceptual land use plan that we have been showing you for a while now, and you'll note that the lighter-colored yellow areas are Single-Family; the ochre-color areas are Multi-Family; and then there are a series of VMX Districts that are actually five VMX nodes in the project that combine Multi-Family in VMX to allow you to provide those commercial services in an area or a location convenient to the residential component of the project. Those arcs that you see on the map connote time and distance. The interior arc is a quarter mile distance from the center and the larger arc is a half mile. So . . . and when you look at the concept plan, you can see that a five, a quarter mile distance is about a five-minute walk. So you can easily get to these commercial areas to get what it is you need on a daily basis. Now, this map also shows you the drainage areas that we've incorporated into the plan; the primary and secondary roadway system, which incorporates all of these on- and off-road trail systems that we've talked about; the golf course at the southerly end of the project which is about 200 acres; two public parks in the northern section adjacent to Maui Meadows. Also, in the far right, lower right corner the wastewater treatment plant that would then be converted at a future date once public service is available for sewer, waste. Next.

With regard to the Natural Resource Management Plan, there are no listed endangered species at Honua`ula. However, to support the conservation of endemic and indigenous dry forest plant species, we've come up with a plan that proposes--and I provided, provided this to the Council Members last April--preserving areas within the project so that we can nurture and encourage the growth of native plants, such as awikiwiki, wiliwili, and akoko, nehe, for example. And also, we plan to work with the native plant propagators to help make that happen. We brought in a series of . . . some folks from the University of Hawaii, including Art Medeiros, to take a look at this area. We, we, we've photographed, we flew it in helicopters, we walked all over this site to try to establish a program and get a record of actually what is on the site, and this, this program that we're proposing has been supported by, by those folks from the University of Hawaii and Art Medeiros. Next slide.

Create a conservation collection, seeds and cuttings of all native plants in the project, and also support the other programs that are on Maui, such as the, the Leeward Haleakala Watershed Restoration Partnership, which I think will be really important in helping to recover after this

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recent fire we had Upcountry. So we've got a multi-pronged approach to the issue. It is not an issue in terms of, of endangered plants, but it is an issue with regard to making sure that we preserve and create opportunity for these native plants who survive within the project area. Next slide.

This slide shows you where these plants are located, the nehe and awikiwiki and kipukas, which are right down on the lower portion of the, of the slide along with, along with the one akoko plant on the property. These sites have all been located by GPS and SWA, SWCA is the, is the consulting agency that's helping us work with not only the State, but any Federal agency with regard to this conservation effort. And these modules will be located within the project and designed and. . .with a, with a management plan to preserve these plants. Next slide.

Infrastructure. Private potable, nonpotable water systems within the project. We already have two wells on-site that'll do 1 million gallons a day. The wastewater treatment plant will be designed to use reclaimed water for irrigation so the water stays on the property; privately built roads and pathways, but open to the public; public and private park facilities and open space system used for natural drainage and pathways; and roundabouts at major intersections within the project. Next slide.

Ideally, the street system built to a rural standard; we're supporting connectivity to adjacent communities; drought tolerant plants to keep the use of water down; use of native plants; and we've also incorporated energy efficiency recommendations in the zoning ordinance for the property. Next slide.

Some of the benefits. Our current park fees in South Maui are 15,000 plus per lot. So park fees will be generated in excess to \$20 million for park fees. We're offering up a direct donation to the County in exchange for the relief of a Little League field put on the property in prior zoning of, of \$5 million; voluntary traffic impact fee of 5,000 per unit, which is about \$7 million in traffic impact fees. And the partnership has taken the lead in the widening of Piilani Highway, from Kilohana to Wailea Ike Drive, which from a cash flow point of view is probably a \$15 million project that we will have to design and manage and ensure our other partners, Wailea Resort and Makena Resort, help us in that cost. And we've also increased the school fee from \$895 per unit to \$3,000 per unit through agreement with the Department of Education. That's a \$4.2 million fee that would be paid to the State at the close of every, every unit. Next slide.

Okay. In conclusion, we feel the project implements the Community Plan; provides housing both affordable and market rate; assists in the infrastructure development, not only with Piilani Highway, but park development in South Maui and other uses with the traffic impact fees that will help South Maui. And it will also, through this period of time from 2001 when we've become actively involved as a team and talking to the community, we feel that we've addressed the concerns of the community. I think that's pretty much witnessed today. . .just you have a lot of people that support this project, both in the community and here today.

So if, if you have any questions, I'd be happy to answer them. Thank you.

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CHAIR MOLINA: Okay. Thank you very much, Mr. Jencks. And at a later point in time, Mr. Jencks, I'm sure some of the Members will have questions for you. Members, at this point we will now take a break to put the screen back up and when we return, we'll have the Planning Department Meeting in recess, subject to the call of the Chair. . . .(gavel). . .

RECESS: 1:58 p.m.

RECONVENE: 1:59 p.m.

CHAIR MOLINA: . . .(gavel). . . The Land Use Committee meeting for January 31st, 2007 is now back in session. I would like to thank the applicant for that very informative presentation. Next up we have the Planning Department, and to give us an overview we have Deputy Planning Director Colleen Suyama. And by the way, congratulations on your appointment, Director Suyama.

MS. SUYAMA: Thank you. There are two actions that are being asked of the Council. The first action is the Project District Phase I Approval, and this is amending Chapter 19.90 in the County Code of Title 19. In this portion of the application what, what. . .what we're asking the Council to do is to set the standards which identify the permitted uses and the development standards for the Project District No. 9. The original Project District Ordinance that was done in 1992 was limited only to the first half, the first 400 acres of the Project District which was two golf courses and the recreational uses. And the second portion, which is the additional 267 acres that they are requesting to be redistricted into the Project District 9 is for the residential and commercial uses that are proposed, and those standards need to be placed in Title 19 as an amendment of Chapter 19.90. And that's the first portion of the action.

The Comm..., the Committee has already discussed the ordinance through the previous Council, and in your packet by the January 18, 2007 transmittal from Chairman Mike Molina, this is the most recent ordinance that was reviewed by the Committee as well as the Department with all the proposed changes incorporated into it.

The other portion of the action is the actual zoning of the property, and that is to actually zone the 267 acres remaining into Project District 9. And at the last meetings of the Council, they were beginning. . .to start deliberating potential conditions that may be associated with it, and two of the primary things that the Department had pointed out that the Council needs to resolve is, what is the affordable housing requirement for this project, and the other one is what is the transportation requirement for this project. And those were the things that the Council, the previous Council was deliberating on. Okay.

CHAIR MOLINA: Okay. Thank you very much, Director Suyama. Committee Members, do you have any pressing questions right now for the Planning Director? And the reason I ask as we. . .I. . .the Chair does want to, would like to proceed with having the public give their testimony on this item. If you have something pressing right now, please let the Chair know.

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Otherwise, we will go into public testimony. Any immediate questions for this matter? Member Anderson?

COUNCILMEMBER ANDERSON: Chair, I'll, I'll follow your lead on this. I just want some assurance that down the road we'll have a chance to ask questions of the Planning Department because we haven't since the very opening of this item, some months ago, had a chance to discuss or ask questions of the Department. So, I hope we can reserve that right for later.

CHAIR MOLINA: Oh, by all means, Member Anderson.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR MOLINA: Okay. Alright, Members. Seeing no other immediate request for questions to the Planning Department, the Chair would like to proceed with public testimony, and the Chair would like to go over a few ground rules before entertaining public testimony. You'll be given three minutes to testify with a minute to conclude. Please turn off all cell phones and pagers, and please state your name for the record and any organization or entity that you represent. So we have, at this point, two people signed up to give public testimony. We have Lee Altenberg, to be followed by Lucienne deNaie.

...BEGIN PUBLIC TESTIMONY...

MR. ALTENBERG: Good afternoon, Council Members. My name is Lee Altenberg and I am testifying as an individual today. I'm Associate Professor at the University of Hawaii at Manoa in Information and Computer Sciences, and I'm also Chair of the Native Hawaiian Plant Society of Maui. My research area is population biology. And although I am not directly working in conservation biology, I see it as a civic duty for somebody, for a population biologist living on Maui to become involved in conservation.

Now this project and indeed the entire Wailea-Makena resort plan was conceived at a time when the area was basically seen as worthless scrubland and much better utilized as a resort than as cattle ranching and, indeed, most of the area was a wasteland, it had been a dense wiliwili forest and...but over 90 percent of the wiliwili forest of Maui have been destroyed, the cattle and, most significantly, by enormous fires that are known to have occurred. We've just witnessed the power of fire to destroy miles of forest in a few days on Haleakala, and we can imagine the force of fires before there was any firefighting equipment in that area. And...these destroyed forests were entirely taken over by alien species, buffel grass, kiawe, and haole koa. And if you wander through 80 percent of the Wailea 670 property, you only find one endemic Hawaiian species, that's a few straggling wiliwili trees. However, when you come to the southern 20 percent of the property, suddenly you find yourself among wiliwili trees that are hundreds of years old, and the number of endemic Hawaiian species jumps from 1 species to 12 species. And growing in this wiliwili tree, among the wiliwili trees we can find a vine with a beautiful purple flower, the flower of the original maunaloa lei, the awikiwiki, and we also find the sunny yellow flowers of the rock, nehe. These two species are found in at most three other sites on all of Maui. They are

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very rare plants and they have been exterminated in almost their entire range, except for this small habitat. So we have a mystery here. Why are these remnants of an almost extinct ecosystem on this spot? And is it because these are more recent lava flows and the soil is so patchy and the trees spaced far enough apart that the fires were not able to devour these little kipukas, even though they destroyed all the forest of Kihei and all the rest of Wailea and Makena? And not even African grasses can take over this patch of land. So the 10 percent, all the 10 percent of the wiliwili forest that used to be in South Maui--

MS. NAKATA: Three minutes.

MR. ALTENBERG: --now survive--thank you--on these recent a`a flows. So this project was planned at a time when little value was placed on things that were truly Hawaiian, like the native dry land forest. The same was once true of hula dancing and surfing which are, which were once banned and then which are now known throughout the world as great treasures of Hawaii. So we know now better than to destroy the treasures of Hawaii. Charlie Jencks inherited this project conceived in this earlier era and he's trying his best to fit this project into today's values. He plans to preserve 6 acres of this remnant forest, out of which 110 acres are on the property, and bring a few of the rare species into cultivation, but this is not an accepted approach to conservation where you destroy 95 percent of the habitat and propose to keep rare species alive through permanent cultivation.

MS. NAKATA: Four minutes.

MR. ALTENBERG: I may. . .conclude if the Chair--

CHAIR MOLINA: Okay, well. . .if you could conclude.

MR. ALTENBERG: So my recommendations to the County Council would be that the development rights of the southern 20 percent of this land should be transferred to the rest of the property and should be put into a conservation easement, and the plan for the northern 80 percent of the property should be revised to allow a higher density which is better in keeping with the principles of smart growth in such a way as to be able to provide all these attractions that are currently planned for the property. Moreover, I think the General Plan needs to take a look at these remnant pieces of native Hawaiian forest and plan to put them into conservation in a way that's never been done comprehensively, and I think it's, it's about time that the County Council made that a priority for the General Plan.

CHAIR MOLINA: Okay.

MR. ALTENBERG: Thank you for your attention.

CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. Committee Members, questions for the testifier? Member Johnson, followed by Member Pontanilla.

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COUNCILMEMBER JOHNSON: Yes, Lee, thank you very much for your testimony. With regard to the conservation portion where we would be transferring the development rights onto the other part of the property, would you conceive. . .--(*CHANGE OF TAPE, start 1B*). . .some management, you know, conservation group, you know, land trust would then take over that area that would be placed in conservation? 'Cause, obviously, you don't want people that are abutting the property to destroy what is there. So how would you conceive of your recommendation working?

MR. ALTENBERG: Well, as I understand, this is typically what happens. A . . .some kind of nonprofit entity is created to manage conservation on conservation easements and, and I would imagine that something could be worked out with the property owners that would be amenable. . . .And, and even as in Waikamoi Preserve, to allow the public a way to access this, this real heritage piece of forest. . .because it, it's a shame right now that there's no way the public can even see what an ancient dry land forest looks like on Maui. So, I . . .there. . .it's been done many times and I think it could be done for this property as well.

COUNCILMEMBER JOHNSON: Okay. With regard to the gall wasp and the wiliwili, what exists on this property now? Is there still a threat and are there any native trees that are at risk or that are actually surviving? Because I've heard rumors that some of the native trees are actually coming back from the gall wasp.

MR. ALTENBERG: Well, this is what's remarkable. If you drive the Piilani Highway, all those alien wiliwilis that are windbreaks just look almost dead and. . .but the natives are managing to survive as far as we can tell because they put out their leaves so fast the gall wasp can't catch up with them, and even in my front yard a wiliwili is putting out leaves. And. . .so, you know, the jury is still out, but it looks like after all the things that have attacked the native forest--the fire, rats, cattle--the wiliwilis are even surviving the gall wasps. But what's critical is that habitat where the wiliwilis survive be preserved for any future restoration efforts, depending on how, how this gall wasp emerges.

COUNCILMEMBER JOHNSON: Okay. By relocating as was recommended or is actually, I guess, what the plan is that the developer has to basically concentrate in a relatively small 6-acre area, the species that you're speaking about, what are the inherent risks in doing that as opposed to just leaving them on their current site?

MR. ALTENBERG: Well, first of all, the habitat has many, many components, not all of which have even been identified--soil, sheer volume of land necessary for propagation. I mean we're talking about moving trees that are 40-feet high. I don't imagine that they can be relocated. I don't, I don't know that wiliwili trees have ever been relocated. These are trees that are hundreds of years old. There's dozens or hundreds of them on the property. So the, the trees themselves. . .would be, would be. . .I don't imagine that they can be relocated. I haven't heard that as part of the plan. It's been talking about the vines, the small shrubs, but not the remnant trees themselves.

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COUNCILMEMBER JOHNSON: And these are the ones that you just mentioned were actually surviving all of this gall wasp infestation?

MR. ALTENBERG: Yes and, you know, it's not a dead ecosystem. You find patches of wiliwili of all age classes. So they're continuing to reproduce and grow and recruit. And that goes for all the species, except the naio where there's only very old trees.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. ALTENBERG: But. . .so. . .I mean habitat fragmentation is one of the big problems in causing loss of species, loss of biodiversity and, and 95 percent destruction of habitat is, is going to reduce the chance that any of it is going to survive. Also, it becomes dependent on human cultivation. How long can we depend on that. . .5 years, 10 years, 50 years, 100 years? These plants have been there for thousand of years, all on their own, and they manage to survive all the onslaughts that we've thrown at them so far.

COUNCILMEMBER JOHNSON: Except for man.

MR. ALTENBERG: . . .*(chuckle)*. . . Well, it depends on the five votes of this, of this Council whether to accept this current plan, which would destroy this habitat, or find a way to, to bring it into conservation.

COUNCILMEMBER JOHNSON: Thank you very much, Lee.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Member Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, Chair. I was going to ask Mr. Altenberg, and I think he answered the question in regards to the gall wasp and the wiliwili trees in that location. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Committee Members, any other questions for the testifier? Seeing none, thank you, Dr. Altenberg.

MR. ALTENBERG: Thank you very much.

CHAIR MOLINA: Next to testify, we have Lucienne deNaie, to be followed by Robin Knox.

MS. deNAIE: Aloha, my name is Lucienne deNaie and I'm here representing Maui Tomorrow today. We are one of the parties that have been consulted on this particular project, and during that consult. . .*(inaudible)*. . .some of our concerns have been worked with, such as changing the proportions of affordable housing, but some we're very much still concerned about and this does include native plant habitat and cultural sites review.

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I'm giving you a little, just background information that you can keep for yourselves that is a timeline of 27 years of what has been promised for the various ownerships of this project. I just think it might be helpful as you evaluate the whole to know where we started. The first thing I think you need to understand is the original project was half the size and predicated around the fact that there would be a through road through it. So in other words, it was half as many acres, it was about a thousand units, and it was based around the fact that there was a Piilani Highway extension there. So that is something that should be kept in mind. Yes, it has ballooned up to 2,000 and gone back down to 1,400, but it started out around 1,000. . .so. . .and it started out having a road.

I want to call your attention to the one, little packet number "A" that I passed out to you just in regards to native plants. First of all, it's important to realize that everything is connected. I was going to pass out a bunch of maps to you guys, and I've decided I'd wait and talk to you at your offices, 'cause too much to do when you sit up here. But this preserve area that is being discussed on the Wailea 670 southern area, area is connected to what is being preserved in Palauea at the One Palauea Bay project, and what I passed out to you is the. . .a few pages from their preservation plan. They've put a lot of time and effort into a preservation plan. Exactly the same plants are down there because it's exactly the same lava flow. It is, as Dr. Altenberg said, a very, very special habitat area. Unfortunately, we've lost the middle section of it. When the Wailea Golf Course was put in, a lot of hasty bulldozing was done there and there wasn't much attention paid to native plants. But if you look on page 3, you will see--I have underlined--that the preferred way to deal with native plant habitats are when you protect an intact plant community rather than recreating the community, and that means giving them as much space as needed to actually not just survive but to prosper.

I would hope that this Council would be part of a new era. In the past, we have found it convenient to relocate things when they were in the way. Some of you may be aware that Wailea Village, what used to be at Wailea Point, was a beautiful, little fishing village with its own wells and so forth. It's right below this property. This property is in the same Paeahu Ahupua`a, and it was decided that it was in the way of the condominiums and it was relocated, even though it was old enough, it, it dated back to 1300s--

MS. NAKATA: Three minutes.

MS. deNAIE: --even though it had 600 artifacts. It just wasn't considered good enough to keep, to go on existing where it is. I think we're past that era and we have some tools now. There is the Recovery Lands Act which can actually pay our property owner to put aside additional habitat. It's a 25/75 percent match, with the 25 percent coming from local funds and 75 percent coming from Federal funds. I believe we should work with the landowner and ask for the conservation easement on these lands. I hope you have it within your hearts and within your power to ask for all of the information you need to make a very good decision on that and the cultural sites. And I wish I had more than three minutes. . . .(chuckle). . . Thank you.

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CHAIR MOLINA: Thank you, Ms. deNaie. Committee Members, questions for the testifier? Member Anderson?

COUNCILMEMBER ANDERSON: I wish you had more time, too. I'd like to hear about cultural sites.

MS. deNAIE: I have a whole presentation on cultural sites 'cause I've done extensive research of the whole surrounding area. Let me--

COUNCILMEMBER ANDERSON: Could you give us a brief summary of that?

MS. deNAIE: May I just say that, just for example, a, a few miles from this site at approximately the same elevation as the southern portion of this site is the most extensive agricultural village that has been found on the Makena Resort project. After 20 years of archaeological review there, they finally found it in 1995. They started in 1974. It's just rugged terrain, they didn't find it. It's huge, it has 200 features, it encompasses a, a 2-acre area, and they are going to preserve it. Are we missing something like that on this site and do we want to know about it? I, I brought some maps--I can leave them at your offices--just a comparison with the work product that the current archaeological crew produces in terms of their drawings and their maps and what is possible to get if you hire people who really go all the way. Hawaiian Home Lands is being so conscientious as they develop their land. They're doing pollen testing. They're, they're doing charcoal testing that actually analyzes the woods not just for dates, but that analyzes what products were actually used their 500, 600 years ago so that we have a sense of what life in the area is like. Otherwise, we'll be left with six sites here maybe, most of which are stepping stones, and that probably relate to stepping stones further down, but they'll never be connected. We're just kind of taking Hawaiian culture and slicing into little pieces and say, here you can you look at this and now that's okay.

COUNCILMEMBER ANDERSON: So, Lucienne, have you looked at the survey report for this project?

MS. deNAIE: I have looked at the various survey reports. Now, I hope that there has been an update of the amended one from 2001 because we really, really need to get some good people in there and a lot of them and go over this land. I'm not, I'm not denigrating the people who've worked on it. It's a difficult area, you know, because of the terrain to look at, but there are, you know, there are levels of involvement that I think that we need to see the commitment from the landowner to say I want the best here. I want, I really want to know what the history of this area is.

COUNCILMEMBER ANDERSON: Well, it's disturbing to me that this project's been around for six years, this version of the project, and they still don't have a complete historic review. I mean there's. . .last time we met, the preservation plan had still not been submitted to DLNR.

MS. deNAIE: I--

COUNCILMEMBER ANDERSON: Now are you aware of the updates?

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MS. deNAIE: I, I don't know on the update. Perhaps Mr. Jencks can address that. But just as an aside, in 1994 the Land Use Commission, as one of their conditions of approval of the additional 370 acres that we are now, you know, disposing of in its next phase, mandated that there be a new archaeological review. That happened six years later in 2000. So, I think the multiple partnerships and ownerships. . .my, my little timeline helps you understand how many different people have owned this land and all the things they promised, and I just think that it could be helpful. I'm, I'm not saying that Mr. Jencks will not keep his promises, but there's been a lot of promises made on this land and, you know, we should sort of know how to steer best.

COUNCILMEMBER ANDERSON: So, I, I know, personally know that you've spent a lot of time in cultural reviews and that you have a very strong working knowledge of the Historic Preservation Act for the State. So, I want your opinion as to whether or not the archaeological survey that was done for this project. . .whether or not you feel it's adequate?

MS. deNAIE: I believe. . .from based on my knowledge of, of a wide variety of surveys that have been done throughout this area and surrounding area, that it's at a minimum level and that it needs to be improved.

COUNCILMEMBER ANDERSON: Thank you very much.

CHAIR MOLINA: Thank you, Member Anderson. Committee Members, questions for the testifier? Seeing one, thank you, Ms. deNaie. Next to testify we have Robin Knox, followed by Rob Parsons.

MS. KNOX: Aloha, my name is Robin Knox and I'm testifying as an individual. I'm a resident of Kihei. I am a water quality scientist and was formally employed in government as a water quality manager and planner and permit writer. So my comments are based on a large amount of experience with these issues. I'd like to make the Council aware that the coastal segments that are down gradient from this area and are the ultimate receiving water of storm water and ground water inputs from this area are officially listed as impaired waters. This is in the State's report to Congress, it's called the 303(d) list and these. . .it's required under the Clean Water Act that the State assess these waters and report. And this meets, this means that it's not meeting the water quality standards that are designed to support uses like fishing and recreational uses, and that includes support of the coral reef habitat. Because these waters are listed as impaired, there is a requirement that the State or EPA do a study called a total maximum daily load. This study will establish in pounds per day how much pollution can go into those waters and still support the uses and meet the standards, and all of our land uses will have to change to accommodate that. The State in their draft 2006 report said that they do not have the money to do these studies, and they did not put a schedule for doing these studies even though they're mandated by the Clean Water Act.

I also note that on this project there was a past requirement from the Land Use Commission. . .to have a marine water quality study as part of the project. I urge you to look into that study design

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and to require that that study design be done in conjunction with the Department of Health and LDNR [*sic*]-who, by the way, identify land base pollutants as the biggest threat to coral reefs--work with those two agencies to design these studies to support assessment of the water quality and the development of these TMDL studies. These studies, therefore, should include not only measuring the water out in the marine environment, but also estimating or measuring the loading of pollutants that are going both to the ground water and to the storm water runoff because both of those waters end up in the ocean, and we really need to get a grip on this. More and more waters are listed as impaired, the more we look. And the, the obvious control is land-base pollutant controls, and the land use and planning of land use is critical to this.

So, I don't think we should wait for EPA and the State to find the funding. If there's a requirement in place to do marine studies, let's spend that money wisely. Let's don't waste the money of, you know, the developer or the State.

MS. NAKATA: Three minutes.

MS. KNOX: Let's combine forces to really optimize these studies and start to understand these problems so that we can find solutions. Thank you.

CHAIR MOLINA: Okay, thank you. Committee Members, questions for the testifier? Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. Ms. Knox, thank you very much. We appreciate your expertise. Could you--unfortunately, we don't have any maps that show the coastline in conjunction with this project--so could you just give us the name of maybe the bay or some point or some, some point of reference for where the impaired water body is listed in conjunction with?

MS. KNOX: I, I don't have that report with you to list out how they named it, but the entire Kihei coast from Maalaea all the way out to Ahihi-Kinau is, is listed as impaired or we don't have enough data, but what we have tells us it's impaired. So it's really being impacted by urban development.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

CHAIR MOLINA: Thank you, Member Anderson. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Robin, thank you very much. The... obviously because the waters are impaired it's from cumulative impacts of urbanization and other factors. One of the things, of course, we are charged with is if a project does get a permit or has permission of the Council to move forward, we have to mitigate whatever the negative impacts are or at least not worsen the existing conditions. Do you have any recommendations as to what mitigative measures might be utilized to either reduce the nutrient loading or to reduce the negative impacts

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from this development? And, obviously, there's other developments that squeak through, so we're not going to be able to create conditions for them. But do you have suggestions?

MS. KNOX: I do and I think that they do apply to any development that we would be discussing. There are a number of EPA recommended best management practices for storm water, but what we also have to recognize is that we lose ecosystem function when we develop in the coastline and we lose Mother Nature's ability to remove pollutants. So we have to mitigate not only the new load from the development and the faster runoff, but the loss of ecosystem function that we have there. So the, the... we can also put in ecosystem restorations, like the native plant restorations. We can put in wetland restorations; they're very effective. There's all kinds of things we can do, but what we need to do is have a system for evaluating these options and evaluating these problems, and that's where these types of studies where you quantify not just the concentration of pollutants but the mass loading in pounds. Then you can start to set goals and say we want to reduce our loading by 20 percent; what can we do? And a land use or a water quality manager can look at the maps and see what the land uses are and look at the EPA BMPs and say, you know, if we put this practice in in this area, we think we could get "x" number of pounds reduction, and that's how you do it. You tweak everybody. Everybody in, in the watershed has to contribute something and it has to be a fair process, and it has to involve everybody to work. But my goal in bringing this to your attention is to try to make sure that any work that is done under these existing requirements to do a marine water quality study, that they tie-in to what the State's doing and to what the EPA plans to do in the future so that we're making the most of the data that we're collecting and we're actually using it to create a system that helps us assess and solve problems.

COUNCILMEMBER JOHNSON: You bring up some really good points. One of my concerns is, of course, that when we put in the mitigative measures, we place conditions that require monitoring so that we know where we are in the process or if the nutrient loading continues to escalate, where we are. I know that similar measures have been implemented in other areas and it just simply is a continual decline, and yes you're monitoring the gradual degradation of the coral reef and the nearshore water ecosystem. So because I know that is occurring in other situations, what is there or what measures could we put in place that have been used in other areas that would actually, I guess, stop at some point further degradation of the system? What kind of resolution or measures can we put in place that when they find the nearshore waters going downhill, what can we do about it?

MS. KNOX: Well, again, it goes back to having a system to be able to understand that. What's wrong with a lot of the monitoring that's being done and why it's basically just watching the horse after it left the, the barn, you know, is, is that they only look at concentrations. They don't try to estimate pollutant loadings. And to really understand how much is out there, we have to know more than just concentration data. So the key, again, is to quantify the pollutant loading. If you have that, then you can develop a system for managing and for assessing all these different types of BMPs. Some of them might be actual treatment practices, like putting filters, carbon filters on your storm water drains so that the storm water actually gets treated before it's discharged, retention does a lot, infiltration does a lot of good, putting it on a golf course does a lot of good.

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But we have to realize that not just look at--when I read the environmental assessments, I, I see oh, we're removing 90 percent of the pollution. I'm like, well, that's great. How much is left and is it too much for the reef to bear? You know, that's the question and those are the questions that are not being answered, but I think that we can start to answer them and I think that the County level of government is going to be key to protecting water quality because you can move faster, and actually in these kinds of issues you have more authority than the EPA or the State does. And...but the key is it's a tremendous amount of work, it's very technical work. It requires a lot of engineering and scientific expertise and understanding ecology, which we talked about earlier is very complex. So you really need to, you know, have everyone involved in doing it, the people that understand the land, that have lived there in the past, the people that want to develop it and see its future. We all have to focus and have this system for assessment that's fair and distributes that load of solving the problem equally.

COUNCILMEMBER JOHNSON: So what you're suggesting right now is that we establish the baseline, what, what level it's at currently and then develop a plan for mitigation so that it either improves or certainly does not worsen?

MS. KNOX: Right. You can use estimates, measurements, and computer models to... assess that and, and to see where--because sometimes one location may have more ecological value than another. If you can remove the pollutant load at one location, it may be ten times more valuable in terms of improving water quality than at another location. But we won't know this until we start to quantify it. And you have within your reach right now an immediate way to start doing this on this project by saying for these marine studies we want you to not only look at the concentrations of water out on the reef, but we also want you to look at the loadings coming from your development to ground water and to surface water. And an additional thing that needs to be done is bioassessment of the marine waters because it's not enough just to look at water quality concentrations. I wish our computer models were that good, but they're not. The biology is smarter than we are, and sometimes by the time it shows up in water quality concentrations you may also already have changes in biology. So you want to look at both, and a lot of the studies that I've seen only look at water quality concentration.

COUNCILMEMBER JOHNSON: Thank you very much, Robin.

MS. KNOX: You're welcome.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee Members, any other questions for the testifier? Seeing none, thank you. Next to testify, we have Rob Parsons. Mr. Parsons is the last person to have signed up. The Chair will give any member of the public one last opportunity to sign up to testify for this item. Mr. Parsons, good afternoon.

MR. PARSONS: Aloha and good afternoon, Mr. Chair, Committee Members. Thank you for the opportunity to share my thoughts with you today. My name is Rob Parsons. I've called Maui my home for...going on 30 years now that dates back to, back the same time that this tract of land we're talking about was just a glimmer in the eye of some developer.

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This project has been through many iterations, many changes. So like yourselves, I'm here to listen today and to try to determine if what we're looking at in this current iteration makes more or less sense than what we've looked at in the past in terms of community needs. And you, you are tasked with helping to legislate actions which constitute both current and future community needs. Our current needs include affordable housing, a high school in South Maui, medical, medical facility, but I just don't see how a seventh golf course in South Maui can be construed as a community need at this time, nor are more high-end gated neighborhoods a community need. These are developer needs and these are economic generators. But I would hope that as you ask questions of the proposal before you, that you look at the context of all of the proposed developments, not only in South Maui but islandwide. I think that will be key in assessing the impacts that this project would generate. . .and not only that, but in, in a cumulative manner so that we're looking at all the components and does this fit in with what we really desire for our community in the future.

Up until earlier this year I lived in the neighborhood contiguous to this property, Maui Meadows, for about four and a half years. I was there when the restriping of the Piilani Highway was finished, and that made a, an immediate beneficial impact for the better in, in what was a *very* backed up two-lane highway. Well, in, in this amount of time, about five years since the restriping took place, the, the four lanes are just about as backed up as the two lanes were some five years ago. In the presentation we, we saw that the developer said that they would take the lead on widening the section between Kilohana and the current end of the Piilani Highway. I would remind everyone here that when the first two lanes were put in, it was with a lot of dynamite because that section is primarily blue rock, and so this would have much more impacts now that Wailea neighborhoods have been built out than before. And just take a look yourself next time you're down in the neighborhood it's. . .you know, that widening that section is no easy task. It's going to be a huge, expensive, noisy, disturbing task. Also with the build-out of 20 years, I would remind you that we'd be looking at construction traffic for 20 years in that area.

This project--

MS. NAKATA: Three minutes.

MR. PARSONS: Thank you. This, this project is appealing, of course, to the construction industry and the real estate industry. With, with something like 1,800 licensed realtors on the island right now, there's always a demand for more inventory, and I shouldn't think this should be any different. But I, we get to really assess and, and choose what's going to be the best here, and the affordable housing that were in the PowerPoint, I didn't see anything that was under 100 percent of the median income and I think that's where the critical need is in our community is for those 60 percent and 80 percent of median income.

I, I will submit that the future, the very near future may look very different than it does today. We, we're tossing the word "sustainability" around. We're very dependent on outside imports

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for our food, 85 percent, 90 percent for our energy production of fossil fuels and also for building materials. And I would look to support projects--

MS. NAKATA: Four minutes.

MR. PARSONS: --that can help Maui be more sustainable in those areas in particular, and I'm not sure that this one fits the bill. So, I ask you to just ask the question, will this enhance or diminish our quality of life, the project that you see proposed before you? Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Parsons. Committee Members, any questions for the testifier? Seeing none, thank you. Okay, the Chair will offer one last opportunity to the public for sign-ups to testify. Seeing none, with no objections, Members, the Chair will close public testimony for our item today.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, thank you very much, Members.

...END OF PUBLIC TESTIMONY...

CHAIR MOLINA: Members, at this time with no objections, we do have Mr. Yasui from the State DOT. I'd like to have him give an overview and then we will go to questionings for the Planning Department and the DOT. Any objections to proceeding in that manner?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Alrighty. Mr. Yasui, if you would like to please come up. And also, Mr. Cajigal, if you're willing to join us, you're more than welcome. . . .And by the way, Mr. Yasui, thank you very much for joining us. We know you're a very, very busy individual and thank you for making time for us. Please have a seat in front. . . --(*CHANGE OF TAPE, start 2A*)-- . . .and also, Mr. Cajigal, I know you've been very busy with work along Haleakala Highway. So as an Upcountry resident, I can definitely appreciate the work you're doing. Okay. Okay, Mr. Yasui, you have the microphone and. . . flail away when you're ready. . . .(*chuckle*). . .

MR. YASUI: Oh, thank you, Mr. . . .Chair Molina. Thank you for accommodating me. By the way, I'll be here for a while today. I'll be happy to answer questions as long as you need to. The DOT, State DOT did send a letter to Chair Molina, dated January 25th, 2007, that basically states our position, and in a nutshell, we do not have any objection to the approval of the Honua`ula zone change and Project District applications with the understanding that the offer to widen that section of Piilani Highway between Kilohana Drive and Wailea Ike Drive is made a condition of the approval. Other than that, I can answer any questions that you may have for me.

CHAIR MOLINA: Okay. Thank you, Mr. Yasui. Mr. Cajigal, would you like to add anything at this point?

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MR. CAJIGAL: I have none, Mr. Chair.

CHAIR MOLINA: Okay, thank you very much. Okay, Members, we have. . .the Chair will open up questions for the State DOT, and once we're done with the State DOT we'll recall the Planning Department for questions from the body. Questions, Members? We'll start with Member Johnson.

COUNCILMEMBER JOHNSON: Yes, Mr. Yasui and Freddie. Thank you for coming. Because we have not yet enacted our Traffic Impact Fee Ordinance for South and West Maui and now there's additional studies for the remaining areas of Maui, I'm curious to know whether the State has any process in place to actually collect fees similar to the Department of Education for regional impacts for developments, not only this one but for others.

MR. YASUI: The only development we have that does that is in Ewa, the Ewa Plains where there are about six developments. . .with an assessment for each *new* unit that's being entered into that development zone. That we, ourselves, the State does not have the authority to, to collect, directly collect the impact assessments. So the City & County of Honolulu by State statute is collecting for the State DOT the impact assessment. They do retain a certain amount of it for their own administrative cost and for one of the State, the City projects that are included in the, the road project or road and highway projects that are required.

COUNCILMEMBER JOHNSON: Okay. 'Cause it's always been my understanding that, you know, fees or at least mitigative impact assessments were a part of a formula that the State Department of Transportation, I gather, could assess. But from what you're saying, there is no such formula?

MR. YASUI: No. In fact, we were ready to do so by legislation; however, you know, Highways is not the only State infrastructure that's affected--schools, you know, all public type infrastructures. So the State has convened a, a task group that is looking at a statewide policy for impact assessments. So we're part of that group.

COUNCILMEMBER JOHNSON: Okay. But if we were to impose such fees through our Traffic Impact Fee Ordinance, that's possible and then we, they could be used for regional improvements in a cooperative manner with the State? Is that correct?

MR. YASUI: You could, except that we, we will not be able to accept those monies unless there's a statute that permits it that first, first of all, allows us to, to set up that process, and then the County itself would need to enact an ordinance that would collect those fees for us.

COUNCILMEMBER JOHNSON: Uh-huh. And I know we're, we're working on that. . . *(chuckle)* . . .

MR. YASUI: Yeah.

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COUNCILMEMBER JOHNSON: It's only been pending since 1988, but you know government. One of the things that I really am concerned about is that when we enter into, I guess, areas where we have all this rampant development it just. . .and then, of course, when you make improvements right away what happens is when you lay down new roadway surface, it gets chewed up. It's already happening in West Maui with all of the development going on. There is mud, debris, rocks, everything carried off of these construction sites right onto your roadway. So what, what are you able to do? Because these are State roadways that usually get eaten up first, what are you able to do to at least have the developers either resurface or participate in projects so that we, the public, don't have to end up waiting again and then, you know, trying to get the money out of the coffers from the State Legislature to make these needed repairs?

MR. YASUI: I, I don't believe there is a specific development or business entity that's assessed that kind of fee or monetary--I wouldn't call it a penalty--but remediation for perhaps accelerated deterioration of the, the highway. You know, you, you could you say residential developments, commercial developments, whatever, and there's no way for us to, to actually monitor especially an event you have multiple developments happening, you know, who's really contributing to that deterioration. I think we've accepted it as part of the, the public access that's provided for economics and people living in the area.

COUNCILMEMBER JOHNSON: Okay. But let's say, for example, that obviously the development community has participated in other roadway projects, Piilani restriping, contributing through negotiated kinds of arrangements to have our highway infrastructure improved or at least brought up to a standard that's more acceptable to the general public before their projects may proceed. I'm looking at what would you, if you were sitting where I am, what would you suggest that we do to ensure that when the development occurs or, I guess, prior to development proceeding that there's somehow that if roadway damage occurs, that someone be held accountable for any damages to the newly resurfaced area or just to at least bring it up to the same standard as when the project began our roadway surfaces?

MR. YASUI: The only, the only event that I, I have been myself involved where that has happened was where you can specifically identify a source of that extra loadings on the highway, and what you do is you take a before and after survey before the project started and after and you, you compare the conditions of what needs to be done after the work is done. You can look at like emergency-relief type projects where, you know, there might be a whole lot of hauling right after a disaster, and you might have overloads, you might have multiple frequency of roundtrips and whatnot. And after the work is done, you know, you'd look at the existing condition and then you could create another project that they'd fund.

COUNCILMEMBER JOHNSON: Okay.

MR. YASUI: But other than that I don't know of any, you know, specific instance that that has happened.

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COUNCILMEMBER JOHNSON: So you'd suggest that if we were to do anything, we'd place a condition within this that at least established a baseline for what the roadway surface was prior to development and then if there was any degradation that could be attributed to the impacts of the development, that that would be then mitigated by some means? Would you suggest a bond?

MR. YASUI: A bond or, or. . .I really don't know. I, I think that's something, a new area that needs to be looked at.

COUNCILMEMBER JOHNSON: Well, you're the State DOT, you better start looking at some of these things. . . .*(chuckle)*. . .

MR. YASUI: Well, you know, we. . .because we serve regional needs, you know, it's very difficult to just to assess the penalty on one developer, one source of traffic, 'cause from time to time others might come in there with sporadic heavy loads and they may also contribute to, to rapid deterioration. Very difficult.

COUNCILMEMBER JOHNSON: Yeah, and it's a cumulative impact. So just think about that, of how the State may be able to help us to mitigate these things either at your level or by making recommendations that we place conditions at our level.

MR. YASUI: Certainly.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Member Baisa?

COUNCILMEMBER BAISA: Mr. Yasui, you mentioned earlier that they are collecting some traffic impact fees on Oahu. Can you kind of give me an idea of what those might be? Do you know?

MR. YASUI: I don't know the exact numbers. It's several hundred dollars per unit, per new unit for each developer.

COUNCILMEMBER BAISA: I was very interested in that because I noticed that the earlier presentation mentioned \$5,000 a unit.

CHAIR MOLINA: Excuse me, Member Baisa, if you could standby. . . .Test. Okay, we're back on. We're having some slight technical difficulties. I'm sorry, Member Baisa, if you could--

COUNCILMEMBER BAISA: Should I repeat that?

CHAIR MOLINA: --restate your question? Yes, you may.

COUNCILMEMBER BAISA: Yeah. I had noticed in the earlier presentation the mention of \$5,000 per unit. So, I kind of wondered were we in the ballpark?

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MR. YASUI: It, it could be that amount, I'm not sure.

COUNCILMEMBER BAISA: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Baisa. Before we recognize the next Member for questions, the Chair would like to recognize Member Hokama to our proceedings today. Members, additional questions for the State DOT? Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. Yasui, thank you for being here. You know, let me make sure I got this straight. Did you say that you guys have no mechanism at DOT to collect impact fees from County development projects for State DOT projects?

MR. YASUI: That's correct.

COUNCILMEMBER ANDERSON: So all these years in all of the land use entitlements this County has passed where we have a condition of zoning that says, the applicant shall pay their pro rata share of traffic improvements pursuant to DOT and County Public Works, none of that has ever resulted in fees being paid to DOT?

MR. YASUI: Not, not that I know of. I think the term is their fair share and whether or not--

COUNCILMEMBER ANDERSON: Fair share, pro rata. . .that, yeah.

MR. YASUI: I think it's fair share. And the problem with that, that's kind of a can statement for all, for many of our previous responses, you know, to applica..., applications.

COUNCILMEMBER ANDERSON: Could you put the mike closer to you?

MR. YASUI: There's--

COUNCILMEMBER ANDERSON: You, you can move it.

MR. YASUI: --there's really no definition of that fair share or *when* it is to be assessed. So the idea now to get what you can at the present time seem to be a better approach than to wait for the future in which time a developer might be gone, the, the ownerships transfer, liabilities passed on, and then we get nothing.

COUNCILMEMBER ANDERSON: So, in essence what you're saying is that we need to have specific mitigation. . .proposed for specific impacts so that we can condition that specific mitigation and it doesn't really matter how much it cost? In other words, a left-hand lane, another signal, the widening of Piilani or whatever it might be, that we need to be very specific instead of just saying pro rata share or fair share of, of traffic improvements?

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MR. YASUI: Yes, I think that will help us, you know. The, the past approach wasn't really getting us anything and when you look at a regional type impact, especially as a for instance in Honolulu, those impact assessments that we mentioned were limited to that development area itself. . .not, for instance, the increased traffic that's going to occur on H1 or into town. So very difficult to assess.

COUNCILMEMBER ANDERSON: Well, you know, it's shocking to me. I mean. . .*no wonder* our roads are highly congested. I mean we've always thought that, you know, these developers are paying into a fund to help pay for our regional roadways.

MR. YASUI: Well, those conditions are there, for whatever they're worth at this present time. I'm sure--

COUNCILMEMBER ANDERSON: Well, apparently they're not worth anything.

MR. YASUI: Well, I, I don't think we've. . .well, the State has ever, you know, really gone to a developer and say now this is your fair share for this regional impact, given all those many years that, that statement has been, that condition has been included in our approvals.

COUNCILMEMBER ANDERSON: Well, you've been very enlightening. Wish we gotten a letter about that *years ago*, Mr. Chair. Which brings me to my next question and my biggest concern, is that we don't have a traffic impact statement that is comprehensive and could lead us to an understanding of what the overall impact would be of this project so that we could condition it with mitigative measures that down the road they would be expected to provide or at least participate in. So, I mean I know that you guys say you don't have any objection as long as they widen the extension rather, excuse me, widen Piilani from Kilohana to Wailea Ike, which I mean that's a condition in our, in our Community Plan. It's not like, you know, they're doing us any favor. This is something that has to be done for any development further south of Kilohana. . .But that doesn't address the regional impacts that this project will have on the Piilani Highway, on South Kihei Road, on the North-South Collector Road should that happen. And it doesn't take into consideration all--well, let me ask you this. Have you read the most recent traffic impact analysis submitted with this project?

MR. YASUI: No, I haven't.

COUNCILMEMBER ANDERSON: Because. . .I might be wrong 'cause it's been awhile since I've looked at it, too, but my memory tells me that. . .and. . .maybe--having a senior moment here. . .*(chuckle)*. . .

COUNCIL MEMBERS: . . .*(chuckle)*. . .

COUNCILMEMBER ANDERSON: Mr. Cajigal, maybe he's seen it. Have you seen it, Mr. Cajigal?

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MR. CAJIGAL: I've seen it, but I have not really read it myself either. I briefly looked at it because there's some. . .we're kind of waiting for the rest of the, the developers at Wailea and Makena to, to come up to--

COUNCILMEMBER ANDERSON: Weigh in.

MR. CAJIGAL: --yeah, to basically come out with their so-called. . .well, there was a term that's used for that, that study.

MR. YASUI: The master. . .

MR. CAJIGAL: Master, master plan or master TIAR.

COUNCILMEMBER ANDERSON: So that brings me to my next point here. You know, in Moriak..., Mori. . .

CHAIR MOLINA: Morioka.

COUNCILMEMBER JOHNSON: Morioka.

COUNCILMEMBER ANDERSON: . . .Morioka--thank you--Brennon Morioka's letter to us saying that we don't have an objection to this project as long as they widen Piilani. You know that, that's all well and good for DOT, but for us as decision makers we're legally bound by the criteria of approval in our Change in Zoning ordinance, and one of the criterias of approval is to. . .determine that there will be no adverse impact on our roadways or our transportation systems. Now, one of the requirements of the application for this Change in Zoning is that the traffic impact analysis for the project be submitted with the application go, undergo DOT's review, and as decision makers who are not, you know, technically oriented people--we, none of us are traffic engineers--we depend on *you guys*. You are the State regulatory agency that has to do with traffic impacts. So we depend on you to review the traffic impact analysis and give us your comments, and if you guys haven't been able to do that, then that leaves us, you know, in a very precarious position. You wanna respond?

MR. YASUI: Well, just to, just to mention that our review of the TIAR, so to speak, is limited to the State highway system. It may address other, you know, roads and streets within the regional circulation plan, but our interest is in the State highway system. The four-lane widening to that section that we mentioned is in the, the County Long-Range Land Transportation Plan. It was justified some years back. There is going to be an update of that plan beginning this year. Whether or not that, that four lane is still the scenario or the concept, which I still anticipate--although, you know, it's going to be verified through that update--that, that remains to be seen. Although at this present time, that four lane is shown in the long-range plan.

COUNCILMEMBER ANDERSON: Right. And, and I appreciate that, you know, your, your jurisdiction is State highways, but, you know, it's also required in our, in our Change in Zoning

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Code that not only does DOT review the, the traffic impact analysis, but our Department of Public Works review it. And so, of course, they're going to review it for our jurisdictional roadways, while you review it for your regional highways, and that is an invaluable tool for us as decision makers and if we don't have that tool, we're, you know, shooting in the dark here. And, you know, I live down there in, in Maui Meadows and I, I don't know if either of you had been down there in the last six months, but there's an awful lot of building going on in Wailea that is totally off the radar because they're building on zoning entitlements they got years and years and years ago. So there's no current traffic impact analysis that I know of that includes all of these newly, newly developed projects that, first of all, they're not finished yet and, you know, that's going to add tons more traffic to the highway. And so that needs to be included in our comprehensive look here on the impact to Piilani and to all the, you know, ancillary roads, too.

MR. YASUI: Yeah. Our, you know, concern there is more global. That's why I mentioned the long-range plan update. It, it should utilize all the current and projected land use changes in that, in that region to, to determine from our standpoint, the State Highway's standpoint, what is needed to improve the regional traffic circulation. So, again, if there were additional zoning changes made or not anticipated when that last update of that long-range plan was completed, then this update should pick that up and then give us a better idea of, you know, what's happening in that region.

COUNCILMEMBER ANDERSON: Well, I mean that--

MR. YASUI: And then--

COUNCILMEMBER ANDERSON: --that's fine, but it's just a long-range plan. It's not a Traffic Impact Analysis Report that we can apply to this project.

MR. YASUI: Yeah. Just, just a final comment on that long-range plan. It does also establish priorities for funding and that's, that's a very important consideration, 'cause as we well know there are many, many high priority road improvements and new highway improvements on this island.

COUNCILMEMBER ANDERSON: Yeah, you know, I'm real familiar with the Long-Range Transportation Plan and I'm familiar with the fact that priorities change, too. So, I mean that's neither here nor there. I, I appreciate your, your bringing that up because, you know, it is the overall template that is supposed to be followed, but any of us that have been around here long enough know that the priority shift all the time on that plan. So that doesn't have the...that doesn't give us any kind of assurances that we need in regards to this project. What we need is a traffic impact analysis that takes into consideration all those projects in Wailea that are currently being built and how they will be impacting the roadway in conjunction with this project. 'Cause if we're not looking at this in a cumulative manner, then we're wasting everybody's time because the results won't be effective if we're only looking at what Wailea 670 is generating. And, you know, all traffic impact analysis reports are supposed to look at the surrounding areas and what those impacts will be. So, you know, I can appreciate that they're waiting for Makena to sell out or whatever, but, you know, Makena has existing zoning, you could run the numbers on that;

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Wailea has existing zoning, which they are currently building on. . .which is going to, you know, result in hundreds of units that will be occupied before this project ever breaks ground. So if we don't have that analysis and your expertise and its review, we're not fulfilling our requirements at all in our decision making. So, I hope you see where I'm coming from. It might be okay for you guys to, to wait and say, you know, when they ever get around to it, then we'll review it. But it's not okay for us to wait because we have to make an informed decision. We have to know what the impacts are going to be. We have to be able to mitigate them. And as you just told us, you want to have specific mitigation measures that we can condition to this project so we know that they're gonna happen. You know, we've all rest assured all these years that because we've got that condition that says, you know, everyone's going to pay their fair share pursuant to whatever improvements required by DOT, we always thought well, gee, that means it's going to be taken care of, and now we found it, it meant nothing.

CHAIR MOLINA: Mr. Yasui, comment? And, Member Anderson, after the last question, if you have any additional questions, can I first ask other Members to ask other--

COUNCILMEMBER ANDERSON: This is--

CHAIR MOLINA: --questions--

COUNCILMEMBER ANDERSON: I'm done.

CHAIR MOLINA: Oh, you're done? Okay. Mr. Yasui, your response to Member Anderson.

MR. YASUI: The, the comment on fair share participation by developers is a statewide issue that hasn't been resolved at this time. That, that's why, you know, we're seeking other ways to mitigate the traffic problems now. Without a, a commitment to design, build, construct, and actually put into service additional facilities, additional laneage [*sic*], new highways, our, our funding sources are, regular sources are limited, extremely limited. And, and as you mentioned, priorities do change, but they are priorities, and we cannot accommodate everyone. So our intent is to seek other sources that can do the work to assist us to supplement the work that we need to do. That's what we're looking for. So in the area that we're speaking of, the three South Maui developers would be contributing to a great part of our regional transportation improvements that we think it's a (*inaudible*) part. Now beyond from Kilohana back, you know, we still need to upgrade that section to four lanes divided. Currently, it's a substandard highway.

COUNCILMEMBER ANDERSON: You mean the restriped portion of Piilani?

MR. YASUI: Yes.

COUNCILMEMBER ANDERSON: That that's what you're looking at is, is these major developers will be contributing to standardizing that roadway eventually.

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MR. YASUI: Well, the, the three developers there--I don't know which ones--but did pay for that work. They paid for the--

COUNCILMEMBER ANDERSON: For the restriping?

MR. YASUI: --for the design work--

COUNCILMEMBER ANDERSON: Right.

MR. YASUI: --the State paid for the construction--

COUNCILMEMBER ANDERSON: Right.

MR. YASUI: --the actual construction. It wasn't just restriping. There was a lot of physical work that had to be done.

COUNCILMEMBER ANDERSON: Yeah.

MR. YASUI: The work that we're talking about, the widening to four lanes--the existing two lanes--is, is work that's in addition to what they've already contributed.

COUNCILMEMBER ANDERSON: Okay. You know, what we're trying to avoid here is having Piilani turn into Honoapiilani in Lahaina. It's a little late for them, but it's not for us and, and we don't, we don't want Piilani to turn into Honoapiilani and have to wait 30 years for any improvement.

MR. YASUI: Well, I think for that very, very reason I think what the developers were offering the State was a very, very attractive one that we'd get in service a facil..., an upgraded facility far earlier than we could ourselves do given, given the current restrictions on our funding.

COUNCILMEMBER ANDERSON: Well, when you say upgraded facility, could you be more specific for that?

MR. YASUI: Four lane divided from Kilohana to Wailea Ike.

COUNCILMEMBER ANDERSON: Yeah. Well, I mean they gotta do that if they want the project. So, that's nice that you feel like they're helping you out. . .(chuckle). . .you know, that's a given. Thank you, Chair.

CHAIR MOLINA: Okay, thank you.

COUNCILMEMBER ANDERSON: Thank you very much, Mr. Yasui.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Committee Members, any other questions for the State DOT at this time? And prior to I recognized Member Johnson, but Mr. Yasui and

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also Mr. Cajigal will be here in the gallery, I presume, up until later tonight when we . . . or this early evening when we do end this meeting. So if you have questions, we can always call them up later as well. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you very much. Because there's two letters in here, it's a little bit unclear. One is from Wailea 670 Associates and that was dated January 22nd, and then there's also Mr. Morioka's letter. . . basically just reiterating some of the same things back. And specifically. . . I'll just refer to Mr. Jencks' letter in which he says the tra. . . , you're not going to essentially update this Traffic Study for reasons outlined in the letter, but it says the Traffic Study will be updated later in order for WCPT to be reimbursed for the portion of the cost of constructing the road widening of Piilani at Wailea segment. So. . . they're asking you to confirm the foregoing facts so that the Council Land Use Committee would understand that the Traffic Study does not have to be updated now before action can be taken. But then in Brennon's letter back, he doesn't say anything about reimbursement. . . .(chuckle). . . He just says, yeah, we don't have any objection to them deferring this study because there is other things that have to take place and because, just as you mentioned, they're willing to accelerate the work in advance of when you would be able to actually complete it.

CHAIR MOLINA: Member Johnson, let me interject for the Members' information. You're referring to the January 25th letter from Mr. Morioka?

COUNCILMEMBER JOHNSON: Yes, Mr. Morioka.

CHAIR MOLINA: Okay. Alright, Members, just for your information.

COUNCILMEMBER JOHNSON: So can you clarify in Brennon's letter because it's not exactly consistent with what Mr. Jencks says because it doesn't say anything about yes, we're going to agree to reimburse. . . .(chuckle). . .

MR. YASUI: Yeah. I, I think what Mr. Jencks had included in his letter was the offer to upfront all the costs involved in widening that, that two-lane highway to four lanes. . .

COUNCILMEMBER JOHNSON: Uh-huh.

MR. YASUI: . . .and that the, the TIAR that's to be developed soon, I hope, would determine the, the splitting of cost between the developers. The State will not be putting in a single penny.

COUNCILMEMBER JOHNSON: Okay. So when he talks about reimbursement, he's not talking about reimbursement on the part of the State to any of the developers?

MR. YASUI: No.

COUNCILMEMBER JOHNSON: He's talking about the other developers who would be participating in this reimbursing into that fund as to their portion?

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MR. YASUI: That's correct. I would imagine that with that TIAR being accepted by all three parties, that they get to some agreement, a formal agreement, the legal binding agreement that would actually state their reimbursement shares.

COUNCILMEMBER JOHNSON: Okay. And it also in these letters, it doesn't talk about any potential. . . --(*CHANGE OF TAPE, start 2B*)-- . . .on the part of the other developers. You know, it's just that there's going to be this participation and it just leaves open the question about well, are these other developers now going to expect some type of credit either from the State or the County for the participation in this?

MR. YASUI: I think as far as all, all three developers are concerned, the State has already agreed with them that, with that widening of that highway that, that their, their obligations to us would end.

COUNCILMEMBER JOHNSON: Okay. So one of the things that's not addressed then in either of these letters then, I guess, because for lack of a better, you know, understanding what we measure traffic, whether it's worse or whether it's better, is the level of service. Now nowhere in here does it speak of level of service. Could you address that issue?

MR. YASUI: The level of service would be identified in the TIAR. You, you'd basically. . .mark the criteria with the established Level of Service, I believe, "C", and from there you determine what you need and then, you know, who's to, who's to provide what to mitigate any adverse impacts to that level of service.

COUNCILMEMBER JOHNSON: Okay. So what you would suggest then because the absence of level of service spoken about in any of these documents, which are basically, are recommendations, would be to perhaps stipulate in a condition what that level of service would be and what the understanding is?

MR. YASUI: Um. . .you mean you'd stipulate a Level of Service "C", which is more typical--

COUNCILMEMBER JOHNSON: Yes.

MR. YASUI: --than, than what I've. . .I haven't seen in--

COUNCILMEMBER JOHNSON: Very specific so that there's no misunderstanding about who's to do what.

MR. YASUI: You could do that. And I don't how the actual TIARs are being done, you know. You might need to ask Charlie, Mr. Jencks what their basis of their analysis is.

COUNCILMEMBER JOHNSON: Okay. Just off the top of your head, what is the existing level of service for Piilani?

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MR. YASUI: Which part?

COUNCILMEMBER JOHNSON: It would be, I guess, you know, the, the portion that was under review in the TIAR.

MR. CAJIGAL: It's probably at about "E" right now.

COUNCILMEMBER JOHNSON: Okay. So basically, this would be establishing what's included in the Maui Long-Range Transportation Plan, which is "C"?

MR. CAJIGAL: Yes.

MR. YASUI: Uh-huh.

COUNCILMEMBER JOHNSON: Okay. Alright, thank you very much.

CHAIR MOLINA: Thank you, Member Johnson. The Chair would just like to ask for clarification on level of service for, for the viewing public and Members in general. What is a Level "E"? I would presume a Level "A" would be very little traffic or Level "B". So "E" falls around--I know, I believe "F" is the worst level of service, right, or it's very congested.

MR. CAJIGAL: I'm not really a traffic engineer, but I, I'm going to have to defer that to, to...to the traffic engineer to give you a good definition of the Level of Service from "A" to "F". I don't have all my manuals with me, but there is certainly some--

CHAIR MOLINA: Well, I guess for, for many of us who are not traffic experts we sort of generally assume "F" is the very high traffic...amount of cars.

MR. YASUI: It's, it's more of a concept. It's a description--

COUNCILMEMBER ANDERSON: "F" means failing.

COUNCIL MEMBERS: ...*(chuckle)*...

COUNCILMEMBER ANDERSON: I'm not kidding. That's what it says, failing.

CHAIR MOLINA: Yeah. Oh, really?

COUNCILMEMBER ANDERSON: Yes.

CHAIR MOLINA: Okay.

MR. YASUI: It's failure. And what it is, it doesn't mean that everything's stopped. What it means is any minor disturbance of the...in, in the area of the traffic will create a stoppage. It could be a

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flat tire, somebody just pulling off the side of the road for any reason. And, and that's opposed to a Level of Service "A" when you have a. . .we don't even have that in Hawaii, except at maybe the wee hours of the morning on the freeway. Level of Service "A" is free flowing and, and at the speed limits.

CHAIR MOLINA: Okay. Thank you. Okay, Members, if there are no--okay, one question. Members, just for information, after we finish the question and answer session with the DOT, the Chair intends to call for a break and when we return, we'll have the Planning Department. Member Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Just for my curiosity. If the Level of Service is "E" right now--I know we're doing some road improvements from Puunene to Piilani Highway. So once that additional. . .well, the four lanes is completed up to Piilani, will the level of service from the begin..., beginning of Piilani to Maui Meadows, does that level of service improve?

MR. CAJIGAL: You mean after. . .

VICE-CHAIR PONTANILLA: After the additional lanes are completed.

MR. YASUI: Additional lanes on--

MR. CAJIGAL: Lanes from where?

VICE-CHAIR PONTANILLA: From Puunene Avenue to--

MR. CAJIGAL: Oh, Mokulele.

COUNCILMEMBER VICTORINO: Mokulele.

VICE-CHAIR PONTANILLA: Yeah, on Mokulele Highway.

MR. CAJIGAL: The. . .not necessarily because you, you would. . .well, no it would still be the same because you're still restricted with the same, same lane, laneage [*sic*]. Right now you have a four-lane highway, so you would still have. . .if you don't improve the highways or add more capacity or whatever, the level of service would remain the same.

VICE-CHAIR PONTANILLA: So even with the additional two lanes that is now being constructed to make it four lanes, the level of service will still remain at "E"?

MR. CAJIGAL: Well, it's. . .oh, you mean like when it pushes all the traffic from, from Kahului? To a certain degree it'll, it will, it will. . .certainly will affect the level of service as you get closer to Mokulele, but it will eventually dissipate as you go further towards Wailea.

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MR. YASUI: We're not, we're not adding traffic with the widening, you know, it's, it's improving the level of service.

VICE-CHAIR PONTANILLA: No, I know you're not adding traffic--

MR. YASUI: Yeah.

VICE-CHAIR PONTANILLA: --but you're creating congesting at the front and. . .the back end, Wailea end.

COUNCILMEMBER ANDERSON: Because of the project.

MR. YASUI: It could, it could. . .it could make it a bit more congested because cars are arriving faster.

VICE-CHAIR PONTANILLA: Uh-huh.

MR. YASUI: But other than that, the volume itself I don't think is changing, you know, the overall volume during the peak hours.

VICE-CHAIR PONTANILLA: So the traffic lights from Piilani Highway to Maui Meadows doesn't play a major part in regards to the level of service between that sections?

MR. CAJIGAL: You have intersection level of service and as you. . .and you can always retime it to, to actually take a count of the added flows. Right now it's timed using the same, using the current flow of traffic, but as you have more and more traffic that comes through, you can certainly retime it to take care of that so. . .to, to still arrive at the level of service that. . .*(inaudible)*. . .level of service. So it's basically a. . .*(inaudible)*. . .process. You have more cars to, to come in that you can adjust at the signals to take care of it.

VICE-CHAIR PONTANILLA: Okay. Thank you. . .*(chuckle)*. . .

CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Member Anderson?

COUNCILMEMBER ANDERSON: Thanks, Chair. I just want to follow-up on that. Being that I live down there, I see there's traffic everyday, and the hotel traffic during their commute time--and you guys must know that it's not a 9:00 to 5:00 commuter time for hotels--it is backed up bumper to bumper from Wailea Ike all the way. . .to Kilohana and. . .from Kilohana to. . .um. . .I don't know what the makai road is. Does anybody remember the name of the makai road? The mauka road is Mikioi going into the last intersection into Maui Meadows. That section of the road is still two lane, four lane, but then from Mikioi south to Wailea Ike it's just two lane. So even with it expanding to two lane from Mikioi to Kilohana where the traffic is then stopped by a light, the first stoplight, it is bumper to bumper traffic from 3:30 on till, I don't know, 5:30, 3:30 to maybe 4:30, 5:00, and, and it's so bumper to bumper that people cannot get in and out of Maui Meadows on Mikioi, especially if they're going across the street. Sometimes they can merge in

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because there's a merging lane, but most all of us if we're trying to get on Piilani during hotel commute times, we all drive down to the, to the first entrance where there's a stoplight. So. . .and I know that there is a requirement for a stoplight at Mikioi. What's the name of that? It, you know, it's not the same name when it gets mauka.

MR. CAJIGAL: Okolani.

COUNCILMEMBER ANDERSON: Thank you. So obviously there isn't, there, you know, there already is a need for that to happen today, and that's what I'm trying to tell you it's Level of Service "F" during these peak commuter times *today* without this project, without all the projects in Wailea that are being built *today*. So that's why. . .I feel so strongly that we get a comprehensive Traffic Impact Analysis Report because if you say that, you know, we're going to mitigate the impacts, let's know what they are so that we can, you know, truly mitigate them. And, and the other thing I want bring up when Mr. Mori. . .

CHAIR MOLINA: Oka.

COUNCILMEMBER ANDERSON: . . .Morioka, I'm sorry, was here several months back, he told us that there will be no more Federal money coming to the roadways in South Maui because in the Long-Range Transportation Plan it has been long ago determined that we need another two lanes running perpendicular to Piilani Highway, and, and because South Kihei Road, the community does not want that to go four lane, so that's going to remain two lane. The North-South Collector Road which was going to be four lane, the community does not want that four lane; that's going to remain two lane. So where we're going to get another additional two lanes so that we can start getting some Federal money? Until that happens there will be no additional Federal money for South Maui.

CHAIR MOLINA: Mr. Yasui.

MR. YASUI: I, I think he's referring to the need for a comprehensive plan, transportation plan in that Kihei region. I mentioned that Regional Traffic Circulation Plan. The development of that, that master plan, so to speak, is really a County function, and I think we're looking at again during the update of that long-range plan to see what needs to be done to address that need. 'Cause Piilani Highway, I mean we don't. . .I, I don't know exactly what context he responded to you, but Piilani Highway itself as a Federal-aid highway is only. . .available for four lanes divided, a full standard four-lane divided highway. Right now it's substandard and when we update it to make it safer, it, it's going to take every bit of rights-of-way that we have right now.

COUNCILMEMBER ANDERSON: Right.

MR. YASUI: So maybe that's what he meant. I'm not quite sure beyond that what he might have meant.

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COUNCILMEMBER ANDERSON: Well, no, he very specifically said we need. . .we need another two lanes in South Maui.

MR. YASUI: Yeah. I think, excuse me, I think maybe he--I'm not, not trying to figure what the heck was in his mind--but, you know, with North-South Road or North-South Collector, you know, being downgraded to a two-lane road rather than a four-lane, you know, four-lane high..., four-lane road, that two-lane capacity displacement had to occur someplace.

COUNCILMEMBER ANDERSON: Right.

MR. YASUI: I think that's what he probably meant.

COUNCILMEMBER ANDERSON: Yeah, and that's what he's saying--

MR. YASUI: Yeah.

COUNCILMEMBER ANDERSON: --where are you going to put those other two lanes?

MR. YASUI: Yeah. Well, that's something the County has to decide.

COUNCILMEMBER ANDERSON: Mr. Chair, if maybe we could have Staff go back to the meeting when Mr. Morioka was here--and it was the second to the last meeting that we had in last term--and maybe do a search in the minutes if we can find his, his testimony to us. That would be helpful. Thanks.

CHAIR MOLINA: Okay. The Chair will recognize that. Thank you, Member Anderson. Members, at this time the Chair is going to call for a recess and before we do that, the Chair would like to get some feedback from you, I'd like your assistance. Earlier I mentioned that the Parks Department, Police, Fire, and Water departments are on-call. Members, do you see a need to ask any of those representatives to come up at a later point in our meeting? Member Johnson?

COUNCILMEMBER JOHNSON: Because we have a change in Administration, I would very much like to hear from Parks because in the past Administration it was more that we wanted money as opposed to land. So, I want to see if we're still headed in the same direction.

CHAIR MOLINA: Okay, we'll keep Parks on-call.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Any other request for the departments that I mentioned? The Police did provide a written response, so we do have that in our binders. Any request for Fire or Water to be on-call at this time? Okay. Seeing none, the Chair will release Police, Fire, and Water from their on-call status. So with that being said, Members, we will take a break until 3:40 and when we return, we'll have the Planning Department to respond to questions and, of course, the DOT

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representatives, Mr. Yasui and Mr. Cajigal, will be waiting in the wings should you have any other pressing questions. Meeting in recess till 3:40. . . .(gavel). . .

RECESS: 3:25 p.m.

RECONVENE: 3:45 p.m.

CHAIR MOLINA: . . .(gavel). . . The January 31st, 2007 Land Use Committee meeting is now back in session. Thank you very much for that break, Members. We have now to--

COUNCILMEMBER VICTORINO: Mr. Chair--

CHAIR MOLINA: Yes.

COUNCILMEMBER VICTORINO: --before you start--

CHAIR MOLINA: Yes, sir, Mr. Victorino.

COUNCILMEMBER VICTORINO: --I, I'd like to ask one quick question, not to be facetious, but would you make it a point somehow, someway, because I was so intrigued with this service, level of service and this "F" grade that I heard about. You know, I'd like to know what the level of service, the various letters and what they equate to. So could we make that a point to have somebody, Staff get that for us?

CHAIR MOLINA: Sure. We will make that request to Staff, if we could get a . . .specific definitions for the letter designations for letter of, level of service. Member Anderson, you have--

COUNCILMEMBER ANDERSON: Yeah, Chair, my staff is currently going through the *Highway Capacity Manual* and trying to find a real simplified chart. Also in the Long-Range Transportation Plan I think there's also a chart. So we're looking that up right now.

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: Just so that we have it, Mr. Chair.

CHAIR MOLINA: Okay, we'll--

COUNCILMEMBER VICTORINO: I think that would be important.

CHAIR MOLINA: Alrighty, we will make that available.

COUNCILMEMBER VICTORINO: Thank you.

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CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Members, we have Deputy Director Suyama from the Planning Department here now to respond to any questions that you may have. Committee Members, questions for the Planning Department as it relates to this project? . . .Do we have no questions for Planning? I believe Member Anderson? We'll, we'll start with you, Member Anderson. . .

ALL: . . .(*chuckle*). . .

CHAIR MOLINA: . . .since you mentioned--

COUNCILMEMBER ANDERSON: Thanks a lot.

CHAIR MOLINA: --a request, having a request for the. . .

COUNCILMEMBER ANDERSON: . . .(*chuckle*). . .

CHAIR MOLINA: Or, Members, other Members, do you have any questions for now until Member Anderson. . .can get started? We'll start with Member Baisa, to be followed by Member Anderson.

COUNCILMEMBER BAISA: Oh, thank you, Chair. My question is really simple. I was informed during the break that the traffic studies are in our binder and I'm having trouble locating them. Could somebody help us find them?

CHAIR MOLINA: Sure, we'll ask Staff to assist Member Baisa. Any other Members need assistance to find the traffic study report?

COUNCILMEMBER BAISA: With, with five binders--

CHAIR MOLINA: Yeah.

COUNCILMEMBER BAISA: --it's an formidable task.

CHAIR MOLINA: Okay.

COUNCILMEMBER MEDEIROS: Chair.

COUNCILMEMBER ANDERSON: Mr. Chair.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah. Is it indexed in a certain way that, you know, makes it. . .you know, some formula for us to look for it? . . .(*chuckle*). . .

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CHAIR MOLINA: Okay. We will try to make it as easy for you as possible. There is a lot of documentation for this application, so we will try and assist you. Ms. Nakata, the traffic report, is that in Binder V or is that--

COUNCILMEMBER JOHNSON: We got it in Binder IV.

COUNCILMEMBER BAISA: Got it, Binder IV.

CHAIR MOLINA: Binder IV. Members, if you have a need to look at the Traffic--

COUNCILMEMBER VICTORINO: Do you know what page it's on--

CHAIR MOLINA: --Study--

COUNCILMEMBER BAISA: It's right in the front.

COUNCILMEMBER JOHNSON: Next to the last.

COUNCILMEMBER VICTORINO: Next to the last?

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: It's dated September '06.

CHAIR MOLINA: Okay. Members--

COUNCILMEMBER VICTORINO: Thanks.

CHAIR MOLINA: --September '06 in Binder No. IV, Traffic Study.

MS. NAKATA: Mr. Chair, just for clarification. If they're looking at the September '06, that's the Draft Coordinated Traffic Impact Assessment Study. There were previous Traffic Impact Assessment Reports done as well. The revised TA..., TIAR was distributed in, I believe, May '05, with a further revised TIAR in June '05.

CHAIR MOLINA: Okay, Members, you have that information available for you.

COUNCILMEMBER ANDERSON: And, and, Chair. . .

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: . . .yeah, in addition to that, DOT still wants another TIAR, that the September '06 one is not acceptable to them. So, I just want to make that clear, that's why I'm making the point that we need that finalized and *approved* TIAR.

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CHAIR MOLINA: Okay. So noted, Member Anderson.

VICE-CHAIR PONTANILLA: Chair.

CHAIR MOLINA: Okay, Member Pontanilla?

VICE-CHAIR PONTANILLA: I was wondering if we can have the consultant engineer give us information regarding the TIAR?

CHAIR MOLINA: Okay. Member Pontanilla, if . . . could I at least have the Planning Department first--

VICE-CHAIR PONTANILLA: Sure.

CHAIR MOLINA: . . . and since they've been waiting, and then right after they're done we'll call up the consultant--

VICE-CHAIR PONTANILLA: Sure. Thank you.

CHAIR MOLINA: --to respond to your question. Thank you. Okay. I think Member Baisa asked her question for the Planning Department. Member Anderson, are you ready?

COUNCILMEMBER ANDERSON: Yeah, I can wing it.

COUNCILMEMBER BAISA: . . . *(chuckle)* . . .

CHAIR MOLINA: Okay, proceed.

COUNCILMEMBER ANDERSON: . . . *(chuckle)* . . . I think. Ms. Suyama, were you the Planner on this project?

MS. SUYAMA: Yes, I was the Planner from the beginning.

COUNCILMEMBER ANDERSON: Okay. I have a concern that there is no cumulative impact analysis in the report. How long ago was the report from the Planning Department done on this project?

MS. SUYAMA: The first report was done in 2000 when it went to public hearing before the Maui Planning Commission and because of concerns that the Commission had, it was deferred for about a year; and the second addendum report was prepared in October 2001. So since that time we have not done any further analysis.

COUNCILMEMBER ANDERSON: Since 2001?

MS. SUYAMA: That's correct.

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COUNCILMEMBER ANDERSON: And we've had a lot of changes since then. So when you did your report, you didn't take into consideration the cumulative impact of the development that's curren..., currently going on in Wailea right now? Is that correct?

MS. SUYAMA: That's correct. We took it up to the 2001 period. After that, because it was it held in Council Committee for several years before it got assigned for, you know, active review, what had happened is that the applicant on their own did some updates to their reports and submitted it back to the agencies to resolicit new comments from those agencies. But we didn't do an independent study of those, of those reports or the agency comments because it is at the Council level now, it is where you. . .generally the Council reviews whatever additional information is received.

COUNCILMEMBER ANDERSON: Well, that's kind of my point here is that I think that it would be helpful, especially with three new Members who haven't had the advantage of the numerous meetings that we've already had. If, if the Department could give us an updated analysis and particularly a cumu..., a cumulative impact analysis because. . .the reports that we have don't show cumulative or secondary impacts. There's no analysis as to what the cumulative impact would be if this project were to go forward. So. . .would that be something that your Department would be willing to do?

MS. SUYAMA: If this Council wants the Department to take another, second look at the information that has been transmitted to the Council and to make another report to the Council, I don't think we have any objections to do that, but that would be at the direction of this Committee.

COUNCILMEMBER ANDERSON: Well, I think that would be very helpful for us because lots of things have changed since this first came up. The, the. . .the Planning Commission as well as the. . .State Land Use Commission and their review of this project many years ago, it was with the understanding that Piilani Highway was going to be extended right through this project, and in fact the Project District was *created* around the extension of Piilani Highway, and we have since learned from DOT they have no intention of ever extending that highway. So to me that is a very critical issue. And I believe, Mr. Chair, we got a. . .we got a response from Corporation Counsel in regards to that and if maybe we could take a moment to have Corporation Counsel review that response. . .the previous Committee Chair sent that question up to Corp. Counsel because I think--and I want to make it clear to everyone because it's now. . .oh, shoots, this is the third term that this matter has been pending before the Council. And I want to make it clear to everyone that the developer during two terms ago or three terms ago when Councilmember Nishiki was the Land Use Chair, he was, the applicant was afforded an opportunity to have a hearing and he turned it down because of whatever reason, he was, his consultants weren't available or whatever it was. And in this last term, previous. . .yeah, two, four, six. . .several years ago it was also, Mr. Carroll offered to bring it up and the applicant denied. So it's, it. . .you know, the fact that this is stretched out this long is not the Council's fault. It's the applicant who has, you know, made some changes and has gone through whatever to extend this, to meet with community members or whatever it might be. And, you know, that's

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all well and good, but it's still. . .we're six years, now almost seven years since this project was first reviewed by the Planning Department and, as I said, conditions have changed.

So, Mr. Chair, I think it would be helpful if we could have Corp. Counsel address that response because. . .as all these Members know, there's so much here that's come in that it's easier for him to review it for us at this point and--

CHAIR MOLINA: Okay. Member Anderson, the Chair will acknowledge your request. Members, any objection to the Corp. Counsel responding, I presume, to the January 23rd transmittal to the Committee? Any objections to having him--

COUNCILMEMBER BAISA: None, no objections.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Alright, Mr. Giroux.

MR. GIROUX: Thank you, Chair. If I could just ask if all, all the Members have a copy or--

CHAIR MOLINA: Binder V, Members.

MR. GIROUX: --are able to find. . .? I know, I know they've got tons of paperwork. . . *(chuckle)*. . .

COUNCILMEMBER ANDERSON: It's going to be in the--

MR. GIROUX: It took me awhile to go through those binders.

COUNCILMEMBER VICTORINO: And what was the date again?

MR. GIROUX: It's January 23rd, 2007. It should be close to the back.

CHAIR MOLINA: In, in Binder V, Members.

COUNCILMEMBER VICTORINO: Okay.

CHAIR MOLINA: It's near the end.

COUNCILMEMBER ANDERSON: January 3rd?

CHAIR MOLINA: Twenty-third.

COUNCILMEMBER VICTORINO: Yeah, 23rd.

MR. GIROUX: Twenty-third.

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CHAIR MOLINA: 2007.

COUNCILMEMBER VICTORINO: Department of Corp. Counsel?

MR. GIROUX: Yes.

COUNCILMEMBER ANDERSON: Oh, it's in the binder? It's not in the document handout?

COUNCILMEMBER VICTORINO: No.

COUNCILMEMBER ANDERSON: Thank you.

MR. GIROUX: We were asked to opine whether the fact that the Piilani Highway extension is no longer planned for construction by the State Department of Transportation, would it require the application to be returned to the Maui Planning Commission for review? If you look at the structure of the, of our opinion, we give a little background about the. . . basically, what are the entitlements that are being asked for, and we also follow that with some excerpts from some of the documents as far as to confirm the facts that are, that are being asked of, and basically the fact of that there were representations made that there was going to be an extension or. . . of the highway through Wailea 670 and up to Ulupalakua Ranch. And also, that there was confirmation through a letter from the State Department of Transportation that they were no longer looking at that as an option as far as making any improvements to the extension that was previously mentioned.

In our section two of the document you'll see that we outlined Section 19.510.040(A) and that basically gives an outline of what the process is for a Change in Zoning, and we also gave an outline of Section 19.45.050, Maui County Code, which is the process of a step. . . a Project District Phase I approval. Both of those include a transmittal. . . of the application to the Maui Planning Commission, and the, the Planning Commission does a public hearing, takes public comment and does a finding of facts and reports back to this body with. . . with findings of facts, conclusions, and recommendations for various, the various actions.

In our analysis we point out that neither procedure has any clear guidance as far as whether there's a lot of time that passes or lapses or if there's any significant change in the project in the meantime, whether or not this needs to be reviewed further by the Planning Commission.

And our conclusion is is that these processes are legislative acts and that it is within your purview to give weight to any of those conclusions given by the Planning Commission in light of changes that are made in the meantime. It is not mandatory that it go back to the Planning Commission, but it is within your powers and purview to ask that it be done. And so as, as far as our conclusion, again, that it's not mandatory that it be returned to the Planning Commission, but it's a policy decision that has to be. . . that can be discussed and debated by this body.

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CHAIR MOLINA: Okay. Thank you, Mr. Giroux. Comments, Members? Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. And thank you for that, Mr. Giroux. I think that. . .you know, given the magnitude of this proposal, Mr. Chairman, and the timeframe that has passed since it was originally looked at and given this major change, you know, my concern, and I'm just going to be right upfront with it, is that without the extension of Piilani Highway which was--you know, it's in our Community Plan, it's in the Project District description, it's on the map, it's long been stated as. . .you know, a future highway project in the Long-Range Transportation Plan and whatnot, and, and given that there was quite a bit of discussion by the Planning Commission about the extension, I would feel much better about this project if, if the Planning Department would give us an updated report of an updated analysis of all the additional stuff that's come in, including a comprehensive cumulative impact analysis which is a requirement of a Change in Zoning application. . .review for us in their analysis, as well as an opportunity for the Planning Commission to review it given the changes. I think. . .
--(CHANGE OF TAPE, start 3A)-- . . .and it might expedite our deliberations to have those updated analysis and input from the Planning Department.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, any other comments to the opinion from Corporation Counsel? Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Mr. Giroux. Because, obviously, Member Anderson has kind of stated generally what's required in terms of, I guess, our review and then the Planning Department's analysis of the whole, I guess, the cumulative impacts and the regional impacts of what's already been approved. Does the fact that we're going through the General Plan process now, because that also is before the Planning Commission and before the General Plan Advisory Committee, does that in your opinion have any additional, I guess, weight with regard to our need to kind of look at this in the big picture review or would the General Plan Advisory Committee be reviewing this at some point in time?

CHAIR MOLINA: Mr. Giroux?

MR. GIROUX: I'm not sure if that's purely a technical, I mean a legal question.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. GIROUX: I think that, that is laid in with a lot of policy, I think, considerations as far as. . . What, what you might want to do is ask the Planning Department as far as what, what analysis they've done in consideration that they--it's a document. . .the, the Gen..., General Plan policy document is something that the long-range Planning Department has worked on and whether or not. . .that does seem to fit into this project, whether or not it fits into their view of what they believe the General Plan policy document should look like because it's not a complete document in the sense that it. . .at this point the, the long-term or long-plan, long. . .

COUNCILMEMBER JOHNSON: Range.

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MR. GIROUX: . . .long-range. . .*(chuckle)*. . .long-range Planning, they, they produce the document and then it goes to the General Plan Advisory Committee which then gives recommendations, and then the, the community. . .well, then it goes to the planning commissions for further comments and then it comes to, to this body for final decision making. So in the end this body is really. . .the determinative body of what that document is going to look like.

COUNCILMEMBER JOHNSON: Okay. And, and the only reason I ask that, Mr. Giroux, is because when we thought we were moving forward with the General Plan process, we kind of get thrown for a loop because of the concurrency requirement to transmit simultaneously all the plans. So, I just don't want to find ourselves somewhere down the road and find out, oops, made another booboo. . . .*(chuckle)*. . . So, Ms. Suyama. . .

MS. SUYAMA: Maybe, maybe I can clarify some things. Because the Project District is already on the General, on the Community Plan, it has some entitlements in that, in that case. . .

COUNCILMEMBER JOHNSON: Uh-huh.

MS. SUYAMA: . . .you know, it is identified currently for future, you know, land use amendments. They're in the process now of getting the actual zoning for the, for the property. They've already gotten the State Land Use District redistricted to the Urban District. I don't think this is a project that we would necessarily send back to the GPAC, you know, Advisory Committee because they're looking at, looking at new urban boundaries as well as new land uses, you know, based upon whatever the population projections are for the next 30 years.

My understanding from the first question that came from Councilmember Anderson is that whether the Department would look at all of the reports and compile it into another report for the Council, which is different from sending it back to the Planning Commission and getting another recommendation from the Planning Commission. Because what you have to realize is the Commission in 2007 is a totally new Commission from the one that made the recommendation in 2001, and one of the problems with all the information that has been generated between the Department, the Planning Commission, and the Council, you're asking this new Commission to look through all of this information to date and then make a recommendation. And I think that's a, that's a task that's, you know, I mean. . .it can be done, but it's going to take a long time to get the Commission, the present Commission up to date to what has happened throughout these, you know, five, six years. You know, the Council, on the other hand, has been privy to all of this information. And that's why I said, I don't have any objections if the Department looked at all the studies and made a report to you as to what the changes are, what the impacts are for your use in your deliberation.

COUNCILMEMBER JOHNSON: Yeah. And, and I, I understand what you're saying, there is a difference between the two. I guess what I'm looking at is until you actually look at it to see whether or not there have been substantial changes from what was originally reviewed by the Planning Commission at that point in time in 2001, is that substantially or tremendously different

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enough that, you know, legally it has to go back? Because basically anything that's being reviewed by us, my understanding is whenever there is something that has substantially changed so that it would be very different creating completely different impacts or creating something that was not anticipated when the original review took place, that to defend from a legal position. . .that we had an obligation to send it back to the Commission. We've done that in certain legislative situations. But I don't know whether that's accurate or not. I'm just looking at this as there have been so many projects which I'm unaware of that have actually been approved in SMA areas, things that the Planning Commission has done even since I've been on the Council over these years, that I don't know what those cumulative impacts are, myself personally, and I don't know if the whole picture works the way that it was originally intended to work. Maybe, as Mr. Altenberg suggested also, because we didn't have gall wasp, we didn't have other issues surface way back when this was originally reviewed, maybe that is the area that we need to look about doing a conservation easement or something in that context. That's why I'm asking the questions that I am. You kind of understand where I'm coming from?

MS. SUYAMA: I think the basic project has not changed. It's still the same Wailea 670 project that was reviewed by the Planning Commission and the Department. I think there has been changes in terms of some of the transportation requirements because now the State has come out and said that the Piilani extension is not required, they're not going to pursue it. But the other things like doing the four lanes of the Kilohana to Wailea Ike Drive, that was always in the plan, that always was part of the recommendation that needed to be done, and regardless of what the TIA [*sic*] states today, that needs to be done. I mean I don't think the new TIAR is going to be any different in that recommendation. The, the only difference is that if the State is not going to build the extension of Piilani Highway to Ulupalakua, if they, you know, that's no longer in the works, the only, the only reason that you would make the extension is to the last, the second driveway access, which is Kaukahi Road, to service Wailea 670 and some of the traffic that comes from Makena and Wailea Resort through Kaukahi Road. That is the only change that would occur. But I think the, the improvements that are proposed take into accommodation the Makena Resort and Wailea Resort in, in the proposed improvements. Other than that, you know, they're now. . .not going to depend on County sewers, they're not going to depend on County water system. They're basically providing their own private system to supply that. That's not going to change the parameters with the Planning Commission. I don't believe that's going to do anything.

COUNCILMEMBER JOHNSON: And the park space changes or any of those changes?

MS. SUYAMA: The park space, the park was already something that the Commission had considered in the sense that it was going to be one golf course. The regional park that was originally in Wailea 670, Parks Department had come out with a position that they wanted the monies that would've been used for the construction of that park to go to the South Maui park. That had already come out during the initial review by the Planning Department and the Planning Commission. That's not going to change. The thing about the one golf course and having an agreement with, you know, community organizations like the Junior Golf Association using the

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course, that was already disclosed with the Planning Commission. So other than, to me, the traffic, I mean that's about the major impact that's, that's different.

COUNCILMEMBER JOHNSON: Okay. Thank you very much, Colleen.

CHAIR MOLINA: Thank you, Member Anderson [*sic*], Member Johnson. Excuse me. Committee Members, any other questions for the Planning Department at this time? Member Anderson?

COUNCILMEMBER ANDERSON: Yeah, I'd like to follow-up on that. . . Ms. Suyama, you see--what do we have here, five binders. . .there. . .and how many meetings have we had? Does, has anyone counted? If, if the application that came to this body was complete enough for us to take action, we wouldn't have all these binders of additional information that has come to us generated from questions that this body asked. And so. . .I respectfully disagree with you. I think that, you know, it's the Planning Commission's job to review and, and make recommendations on Change in Zoning and, and whether this is a whole new Planning Commission or not makes no difference whatsoever. I mean. . .you know, what I'm asking for is **consolidate** all this and make a comprehensive report that is easy to understand, that does an updated analysis on all the additional information that's come in, that this body asked for in order to make an informed decision. So--

MS. SUYAMA: Right--

COUNCILMEMBER ANDERSON: --please let me finish--so, you know, I'm not trying to unduly burden the Planning Commission, but after all we're the ones that have to make an informed decision, and, and we wouldn't have all this additional information that's come in over all these years since you folks even looked at it if it **wasn't necessary** in order to make an informed decision. So, you know, changes have been made and, as I said, the original report from the Planning Department did not do any cumulative impact analysis, and that leaves us. . .you know. . .that leaves us to do the job and ask for all this information and try to, you know, put it together in a, in a cohesive way so that we can make sure that we're making an informed decision and our decision is not gonna have adverse impact to the community in a cumulative way, and **especially** since there's so much new development in Wailea that's going on now that wasn't on the radar when your Department looked at this and when the Planning Commission looked at it. So, I think, you know, we have a **very legitimate** reason to have this reanalyzed. **A whole highway is missing. . .a whole highway is not gonna be there.**

MS. SUYAMA: And the Department has stated that if it's this desire of this Committee, the Council Committee that it be, it comes back to the Planning Department and we reanalyze all of these reports and the information and put it into a report for the Council to make their deliberations, we're willing to do that. We're not saying we're not willing to do that.

COUNCILMEMBER ANDERSON: No, no, no, but you said you didn't think that you'd want the Planning Commission to do it. They're the authority--

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MS. SUYAMA: *You're* the authority.

COUNCILMEMBER ANDERSON: Ms. Suyama--

CHAIR MOLINA: Excuse me.

COUNCILMEMBER ANDERSON: --they are the authority for reviewing and making recommendations to this Council on these type of requests, and what I'm saying is that the review that the previous Planning Commission did did not *have* all this information. Now that we have all the information. . .I think it's totally fair to ask them to redo a new review, just like we're asking you to do a new review.

MS. SUYAMA: Right. And if that is the desire of this Council Committee, we will take it back to the Planning Commission for review.

COUNCILMEMBER ANDERSON: Thank you very much.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Committee Members, any other questions for the Planning Department as it relates to this matter? Okay. Seeing none, thank you, Director Suyama. Next, I would like to call upon the Housing Department, the representative so they can give their take on the matter of the policy and its impacts to this project? Members, by the way, for your information you've been given a handout that was provided by Staff with regards to the implementation of the Housing Policy on this project. It's called--oh, excuse me, you *haven't* been given it yet, excuse me, I'm getting a little presumptuous. It's currently being handed out. It's entitled "Units in Wailea 670 using the Housing Policy", and it is a one, two, three page document. Members, would you like to take a short break to review the document and then come back? Okay, I'm seeing a few heads nod.

COUNCILMEMBER ANDERSON: Mr.--

CHAIR MOLINA: Why don't we take about. . .ten minutes. Is that sufficient time for you to analyze and then we can ask questions and get input from Mr. Andaya and also Ms. Ridao. By the way, congratulations on your appointment, Ms. Ridao, too.

MS. RIDAO: Thank you.

CHAIR MOLINA: So, Member Anderson--

MS. RIDAO: Quite different sitting on this side of the aisle. . . .*(chuckle)*. . .

CHAIR MOLINA: . . .*(chuckle)*. . . Member Anderson.

COUNCILMEMBER ANDERSON: How do we look? . . .*(chuckle)*. . .

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MS. RIDAO: Cute. . . .(chuckle). . .

COUNCILMEMBER ANDERSON: Better than the back of our heads, right?

MS. RIDAO: . . .(chuckle). . .

CHAIR MOLINA: Okay. Member Anderson, you have a question?

COUNCILMEMBER ANDERSON: Chair, I just wanted to, before you break, let the Members know that we're passing out various descriptions of what level of service is--

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: --for the Members to keep for their. . .

CHAIR MOLINA: Perusal.

COUNCILMEMBER ANDERSON: Yeah.

CHAIR MOLINA: Okay. Alright, Members, so you've heard that, and thank you, Member Anderson, for providing the definitions of the level of service. We're going to take a break and we shall restart, if you will, about 4:30. The Chair will give you time to analyze the documents that have been given to you. Meeting in recess until 4:30. . . .(gavel). . .

RECESS: 4:18 p.m.

RECONVENE: 4:31 p.m.

CHAIR MOLINA: . . .(gavel). . . The LU Committee meeting of January 31st, 2007 is now back in session.

Members, I hope you've had an opportunity to digest the data that was provided for you by Staff, and the numbers were basically formulated from a January 27th transmittal from the applicant in relation to the impacts the policy would have and the amount of housing units that will be provided in the affordable range. So just for your information. And before we go towards further discussion on this data that was provided to you, I'd like to ask Mr. Andaya from the Housing Department as, as well as Ms. Ridao if they would like to provide opening comments.

MR. ANDAYA: Good afternoon, Council Member. Actually, we were going to mention these numbers as well. Wailea 670 proposes to build 1,400 units, and of these units more than 50 percent will be sold for \$600,000 or more. Pursuant to Chapter 2.96, the Department will recommend that 50 percent of the units or 700 units be sold at affordable levels. The breakdown, and you have the breakdown in front of you--it's on the top of the, the handout that was passed to you--30 percent in the level 80 to 100 percent of HUD, the HUD median income. . . would

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require 210 units; at the 100 percent to 120 percent of the HUD median income, we would require 210 units; at the 120 percent to 140 percent of the median income, we would require 140 units; and at the 140 percent to 160 percent of median income, we would require 140 units.

I'd like to also add. . .in a previous proposal that the developer had, had given, he offered contributing 5 acres of land in South Maui. This 5 acres is in a light industrial area that they're developing. As you know, we have a homeless, homelessness problem here on Maui and we have. . .the Central Maui, a, a homeless resource center in Central Maui, Ka Hale A Ke Ola; we built not too long ago the West Maui Resource Center; and now we're looking at building the South Maui Resource Center. For the past two years we've been, the Department has been looking for land for the South Maui Resource Center, and we've experienced great difficulty in doing this because there's not too many land out there and if there are any, the neighbors. . .nobody wants a homeless resource center in their backyard. So we are very interested in this 5 acres of land that Wailea 670 is, is willing to offer or to, to contribute. And so we would recommend a combination of units as well as the land in fulfilling their affordable housing requirement. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Director.

COUNCILMEMBER VICTORINO: Mr.--

CHAIR MOLINA: Member Anderson? Oh, I'm sorry, followed by Mr., Mr. Victorino. Thank you.

COUNCILMEMBER ANDERSON: Yeah. I just want some clarification on this 5 acres because I'm looking at. . .December 12, '06. . .and it was sent to everybody with an, an attached map for this center, and it looks like it's. . .mauka Piilani at Kilo..., at Kaonoulu, and so it, it's not going to. . .the northern end of the project. It looks like, to me, it's abutting Ohukai Road. Is that correct? Do you have a map there, Mr. Andaya?

CHAIR MOLINA: Member Anderson, for the body's information, this is attached to the December 12th, 2006 letter from the applicant? Okay.

COUNCILMEMBER ANDERSON: That's right, Mr. Chair.

CHAIR MOLINA: Members, it's more towards the middle of your binder.

COUNCILMEMBER ANDERSON: December 26, '06 [sic].

CHAIR MOLINA: Dated December 12th, 2006 with an attached map.

COUNCILMEMBER ANDERSON: So, I think maybe if you just look at the location map up at the top corner, it's probably easier for the purposes of my discussion without having to open up the whole big map. Mr. Andaya--

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MR. ANDAYA: I see it, Council Member.

COUNCILMEMBER ANDERSON: Mr. Andaya, was I correct on that, Ohukai is the road to the north of that project? . . . Is that correct?

MR. ANDAYA: Councilmember Anderson, is that on the top of the, the project? Is that from that little map there? Are you referring to--

COUNCILMEMBER ANDERSON: I thought at one time this was going to come off Ohukai Road. And so what I'm trying to find out, is this a different location than what we were originally looking at?

MR. ANDAYA: The, the location that was. . . what, what I understand, it's on the left side of the project, of that map, on the left side of the map.

COUNCILMEMBER ANDERSON: Left side of what project?

MR. ANDAYA: Five acre, parcel 14. This--

COUNCILMEMBER ANDERSON: Mr. Chair, if we could have the applicant come up maybe and, and give us--

CHAIR MOLINA: Members, any objections to having the applicant giving us more specifics with regards to this?

COUNCIL MEMBERS: No objections.

COUNCILMEMBER ANDERSON: 'Cause Kaonoulu Street is quite a ways down from Ohukai--

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: So, I'm confused.

CHAIR MOLINA: Okay, Mr. Jencks.

MR. JENCKS: Mr. Chair, thank you very much and thank you for asking me to come down and clarify. The map shows you a subdivision of land that's on the mauka end of an 88-acre parcel that is going to be served by the extension of West Kaonoulu Street, which is on the makai side of Piilani Highway going mauka. That road is the planned Kihei-Upcountry Highway, okay. It does not relate *in any fashion* to Ohukai. This parcel will be served by that new road and then will eventually connect to Haliimaile on the Haleakala Highway, and that is a project that we have done a large lot subdivision for, submitted the civil plans to build the new extension of or the new increment of the Kihei-Upcountry Highway, the signalization of that intersection, also significant water improvements, et cetera, et cetera, et cetera. So this 5-acre piece is a part of a

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subdivision of that large lot that creates light industrial lots at about a half acre and a 5-acre lot that I've identified. Now that map has not been submitted for processing at this time, but I had the map prepared so it is ready to go, to be submitted for processing.

COUNCILMEMBER ANDERSON: Okay.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: So, Mr. Jencks, the...on the loc..., location map that we're looking at up in the corner, the 5-acre parcel that, that you are referencing for the affordable housing project is on the right side?

MR. JENCKS: It's in the upper left-hand corner of the darkened area. See the darkened area?

COUNCILMEMBER ANDERSON: Uh-huh.

MR. JENCKS: Okay, upper left. Yeah, that...right there where you finger is, right there, at that corner.

COUNCILMEMBER ANDERSON: This, this section?

MR. JENCKS: That's correct. Left-hand side of those darkened areas.

COUNCILMEMBER ANDERSON: The left hand--

COUNCILMEMBER VICTORINO: Mr. Chair, can, can I have clarification? I don't know what map Ms. Anderson is looking at.

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: I think we're looking at--

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: I mean mine says No. 14, 5 acres. Is that what we're talking about?

MR. JENCKS: That's absolutely correct.

COUNCILMEMBER VICTORINO: Okay. Thank you very much. . . .Just wanna get it straight.

COUNCILMEMBER ANDERSON: So it, it's a small portion of this overall map that we're looking at?

MR. JENCKS: That's correct.

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COUNCILMEMBER ANDERSON: And, and so is all this surrounding area industrial?

MR. JENCKS: It's, it's Light Industrially zoned and I've resubdivided it into half-acre lots in, on that map.

COUNCILMEMBER ANDERSON: And so we're going to put an affordable housing project in amongst light industrial?

MR. JENCKS: Well--

COUNCILMEMBER ANDERSON: Is that the best we can do?

MR. JENCKS: Let me be real clear on that. This is special needs housing and it's one of very few pieces that are in South Maui that are available for this type of use. I was talking to Mr. Andaya about it and also Alice Lee in the past. They've been looking for probably at least a year, maybe two years for a piece of land. There isn't any other entitled land that would be easy to develop for this use. And so we. . .the partnership decided hey, look, we should offer this as a public benefit for the, for the County. That, that's what there is available. It's Light Industrial, it allows for apartments.

COUNCILMEMBER ANDERSON: And across the, the Kaono..., west, east, Kaonoulu Road, on the other side, what are those?

MR. JENCKS: That's Light Industrial as well.

COUNCILMEMBER ANDERSON: It's all Light Industrial. And so that whole, major parcel. . .what about makai of that towards Piilani Highway, what's that?

MR. JENCKS: That's also Light Industrial. We're looking at some different uses in there. Like, for example, the, one of the ideas we have is maybe for a small Lowe's that would go in to serve South Maui. See, the idea here was employment, shopping, employment. . .places for people to go, a good place to put this use.

COUNCILMEMBER BAISA: Mr. Chair.

CHAIR MOLINA: Member Baisa.

COUNCILMEMBER BAISA: Just, just a comment about where it is. When you try to locate a facility like this, the experience that I've had, and I know most of us have had, is there's a lot of reaction and a NIMBY attitude about don't put it close to me. So it might not be a really bad idea. . .*(chuckle)*. . .to put it in an isolated area like that.

CHAIR MOLINA: Okay. Thank you for your point, Member Baisa. Mr. Victorino, thank you for waiting so patiently. Do you have a question now? I'm hoping it wasn't answered earlier, but--

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COUNCILMEMBER VICTORINO: No, it, it hasn't. But anyhow, let, let me go with the first. . .addressing or--

CHAIR MOLINA: Is this for Mr. Jencks?

COUNCILMEMBER VICTORINO: Mr. Jencks, yeah. Yeah.

CHAIR MOLINA: Okay, proceed.

COUNCILMEMBER VICTORINO: Now that he's, he's in front of us again and to tack on to what Ms. Baisa was saying, Councilmember Baisa. First of all, I have worked with the resource center for a lot of years in many areas and the former Charlie Ridings, and yes I know for years they've been looking for a parcel down in Kihei, in the South Maui area, and I've always been appalled with the fact that we've always had this not in my neighborhood, if it doesn't fit it's not in my neighborhood. Well, I'm sorry, it's gotta go somewhere, we have to take it, there are people. And I will fight anybody in this room right now, anytime, to tell me they don't belong somewhere in South Maui. And in this area it's a very good area because just what Mr. Jencks has mentioned earlier, this would give opportunities for employment for these people for which many of them do not have vehicles yet, they're trying to *get* on their feet, and this would be the opportunity to adjust both what we need for our special needs, for our low income housing, and as well as economic boom in that area. So, I think it kills two birds with one stone. What I really wanted to ask--and that was, that was just something that made me go off on the wrong way--what I wanted to ask is I see two proposals here, right, page 1 and page 2, and I see one that is using the Housing Policy for which you are saying you'd like to see done a 50-50, right, and I see just below that Wailea 670 housing plan. Okay. Has this . . . (*inaudible*). . .Mr. Andaya, been shared with Mr. Jencks as far as what you guys are asking for?

MR. ANDAYA: No, no it hasn't.

COUNCILMEMBER VICTORINO: It hasn't been? Okay.

MR. ANDAYA: It hasn't been.

COUNCILMEMBER VICTORINO: Okay. So go to Mr. Jencks, if I may, Mr. Chair?

CHAIR MOLINA: Proceed.

COUNCILMEMBER VICTORINO: Mr., Mr. Jencks, this is the first time you've seen this. . .this, this formula here that we have? Do you, have you got a copy of it?

MR. JENCKS: I have a copy, yes. I can say to you this is the first time I've seen this piece of paper.

COUNCILMEMBER VICTORINO: Okay.

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MR. JENCKS: But I have talked to Mr. Andaya about this discussion today about the affordable housing requirements. We have had a discussion with not only with Mr. Andaya, but with the project team as a whole as well.

COUNCILMEMBER VICTORINO: Okay. And are you comfortable with this formula should we. . .you know, be able to work this formula in, in what we have here where their Housing Policy would be met, the 50 percent? Would you be able to work with that?

MR. JENCKS: Responding directly to that question--

COUNCILMEMBER VICTORINO: Yes.

MR. JENCKS: --'cause I knew I was going to get asked that question--I'd like. . .what I'd like to suggest to the Council Committee are a couple of things to consider. The direct answer is yes, I'm willing to work with the Council Committee on this issue. What I'd like you to consider is in the context of the Workforce, Workforce Housing Ordinance, which is something we all have to abide by, what we've already proposed within the context of this project, and if I may just describe my points. One, we came to you with a 30 percent requirement and it's broken down as, as Mr. Andaya has showed you here on, on the first page under Wailea 670 housing formula, 420 units, 30 percent. We've made the statement that all of these affordable units would be built in our project. We made the statement that the project right now has a density of about 2.1 units per acre on a gross basis. We're trying to keep the density down and make it a great place to live for everybody close to work and at the right end of South Maui. We've also talked about the recent discussion which is. . . --(*CHANGE OF TAPE, start 3B*)-- . . .of that program, the 30 percent, plus the 5 acres, plus a, a \$1,000 per unit contribution to the new Homebuyer Program that the Department manages to assist people into getting to the point where they can purchase a home. So, you know, we propose that as a package to address the requirement for affordability in this project within the context of this 50 percent discussion which. . .and I, and I did write a letter back to, to the Chair with regard to the affordable housing program and I was asked the question, do you think these units would sell on an average for more than \$600,000, and I said I'm certain they would because I have to pay the bill somehow. I mean that's, that's an easy point to make, yes indeed they would sell for more than \$600,000, which gets us to the 50 percent criterion. So that's an easy linkage to make.

The thing I'd like you to consider is combining, combining what we had proposed with, with this ordinance which I think is doable in the sense that we're talking about a Change in Zoning and you have flexibility in the ordinance structure or the Code to do different things and mix and match and, and be flexible and, and identify for yourselves what's important to you and, and the County of Maui as well as what I need to get on with what I want to accomplish. So to that end, taking both what I had proposed originally and in the context of what, you know, what I've discussed with Danny many times and, you know, watching the Workforce Housing bill get passed, taking that 50 percent requirement saying okay, look, keep the 5-acre piece on the table, make that still a contribution to the County of Maui for special needs housing, but give us some

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credit against that 50 percent requirement so that we can keep that in the deal. 'Cause I made the point here on this, on the Council floor in a previous meeting in October, I was asked in this room if I could comply with a 40 percent requirement, and at that time I said okay, look, if you want me to comply with a 40 percent requirement--and it's a matter of record--I said then other things have to leave the table. Okay. Maybe I can't do the 5 acres, maybe I can't do the \$1,000 per unit and I'll have to comply with the 40 percent. I'm here today to tell you if we can work together on some, a good compromise, we can all win in this situation. You can get your affordable on-site, not maybe elsewhere in South Maui, but on-site where it belongs; get the 5 acres that the County needs for special needs housing clearly; and also get that con..., the contribution to the new Homebuyer Program.

So, I'm willing to be flexible. I'd like you to be flexible and consider the entire package.

COUNCILMEMBER VICTORINO: Mr. Chair, I think that answers my question and, and I'd like to say in closing that I really appreciate when people like Mr. Jencks are willing to compromise, looking for the betterment of the Maui, Maui County and their people. The special needs housing is a real *crucial* issue and I think cannot be left off the table, that must be considered. . .and affordable housing also in the package. So if we can work out something that it's a win-win for the people of Maui County, then you've got me.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. The Chair has one quick question for Mr. Andaya, since Mr. Jencks did touch upon the contribution to the First-Time Homebuyer's Fund. What is the status of the program? I believe the Council appropriated those funds to be available July 1st of last year. Has, have we had already people applying for the loans and is the program fully implemented, and where are the monies at, I guess the overseeing agency? Can you comment on that briefly?

MR. ANDAYA: I'm not sure which, which program. We have several programs and one is--

CHAIR MOLINA: The, the. . .yeah, the First-Time Homebuyer Fund that was initiated by the Council.

MR. ANDAYA: You know, I'm, I'm, I'm not sure, Mr. Chair. I know there's several programs. I, I need to check, double check. I know there was one program where we're still waiting for the admin. rules to be done.

CHAIR MOLINA: Okay.

MR. ANDAYA: And so. . .

CHAIR MOLINA: So it, it hasn't. . .the monies are there, but it hasn't been doled out to the public at this time?

MR. ANDAYA: I'm not sure, I'm not sure if that's, you know, if that's the case, Council Member. I, I'm really not sure. I can, I can get back to you or. . .in writing on that.

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CHAIR MOLINA: Okay. It'd be somewhat disappointing if the money has been sitting there since July and nothing's been done where it can be given out to the public. So, I look forward to the Department's response. Members, any more questions for Mr. Jencks before we go back to the Housing Department? Member Johnson?

COUNCILMEMBER JOHNSON: Yes. Charlie, what is the worth on the 5 acres? What is the valuation?

MR. JENCKS: I would say that that land today, the market value is about \$1 million an acre.

COUNCILMEMBER JOHNSON: So, okay, on the first sheet that--and I'm assuming you have the first sheet in front of you--if we're looking, I guess, at the equitability of what you would be, I guess, proposing, the 5 acres in order to come up to a comparable of what the Housing Policy would be, it would need to be about. . .50 some thousand dollars more in value in order to have, I guess, the same amount of value that we would be looking at in the Housing Policy. So because there is a big disparity, do you have any other comments on that?

MR. JENCKS: Just so I understand, Council Member. You're looking at the disparity in total in the percentages between 50 percent and the 30 percent, then the unit count. . .

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: . . .and so you're trying to, you're trying to reconcile. . .do I think that \$5 million makes up that value difference? Is that what you're asking me?

COUNCILMEMBER JOHNSON: Well, I'm, I guess what I'm looking at is if you're going to give. . .and it says here you're doing a \$1.4 million into a new Homebuyer Fund and donating the 5 acres, and on this sheet it says that the 5 acres in order to come up, I guess, with the valuation that we would be looking at here would need to be valued at 61 million 6 [sic]. So--

MR. JENCKS: That's one way of looking at it.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: If you're asking me what I think of that line of logic, I look at it differently. I look at it in that the County needs this land and you're right, I mean if you look at the unit, the total unit count and the values, the numbers are the numbers.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: But I look at it, the land has got more value than it's selling price in that the County needs this facility. So the intrinsic value is much greater. And I, and I see the more comparable. I see them, I see them being the same, nearly the same.

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COUNCILMEMBER JOHNSON: Okay. Well, I don't. . .(*chuckle*). . .but that's alright.

MR. JENCKS: That's okay.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Committee Members, any other questions for Mr. Jencks? Seeing none, thank you, Mr. Jencks. . .for now.

COUNCILMEMBER BAISA: Chair.

CHAIR MOLINA: You may be called--Member Baisa, I'm sorry. Mr. Jencks.

COUNCILMEMBER BAISA: Mr. Jencks, I listened carefully to your earlier presentation, and you mentioned a number of things that you were doing, like the road and you were donating money for public, I mean land for public use and quite a few other things that you're giving or--

MR. JENCKS: Uh-huh.

COUNCILMEMBER BAISA: --you know, giving in, in exchange for the ability to do the project. You have a price tag on those things?

MR. JENCKS: I sent, I sent the Members--well, it's in the file--a letter that summarized the total value of all the things we're being asked to do or things, you know, fees we have to pay--

COUNCILMEMBER BAISA: Right.

MR. JENCKS: --things we're volunteering to do; upping the DOE fee; the \$7 million in traffic impact fees which I think is even more than is in your proposed ordinance that you've got on the floor; the off-site improvement fees. And I took another look at that and with our commitment to do Piilani Highway, those numbers exceed \$40 million in total value.

COUNCILMEMBER BAISA: Thank you. I was trying to equate, you know, this disparity to see if it was being made up somewhere else. Thank you.

CHAIR MOLINA: Okay. Thank you, Councilmember Baisa. Committee Members, any other questions for Mr. Jencks before I excuse him from the floor? Seeing none, thank you. Members, additional questions for the Housing Department?

COUNCILMEMBER MATEO: Chairman.

CHAIR MOLINA: Member Mateo?

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COUNCILMEMBER MATEO: Chairman, thank you very much. First of all, I'd like to thank Ms. Nakata and Ms. Revels for putting together this document for us because it was very, it was a rude awakening to actually take a look at, at numbers, yeah. . .

CHAIR MOLINA: Uh-huh.

COUNCILMEMBER MATEO: . . .and it was, it was very well done. To the, to Administration, did, did you have the opportunity to take a look at both proposals?

CHAIR MOLINA: Mr. Director?

MR. ANDAYA: Yes, Councilmember Mateo, we, we did, they did show us the, the figures that was shown below here.

COUNCILMEMBER MATEO: Okay. And, and, Mr. Andaya, I heard you indicate that the Administration would be. . .is very interested in retaining that 5-acre parcel that is being, is part of the proposal?

MR. ANDAYA: Yes, Council Member.

COUNCILMEMBER MATEO: And if the Adminis..., and if the Administration also supporting the Housing Policy as it was adopted, you're saying, you're saying the Housing Policy as adopted *plus* the 5 acres added to the policy requirements?

MR. ANDAYA: Or the. . .perhaps the numbers can be adjusted to include the, to include the land, yes.

COUNCILMEMBER MATEO: Okay. And since you had the opportunity of taking a look at both proposals, the, the major difference primarily is virtually in the number of affordables? One, the proposal being submitted provides a 420 affordable unit count, and based on the current Housing Policy we're looking at 700 units in a market count. And I would like to share additional information based on the, the same chart you're looking at, and you can follow along with me because I just use the same, the same numbers that Staff had prepared for us. For the existing Housing Policy which is a 50 percent requirement because of the projected cost of the units they're going to be selling, you'll note that on the first page the projections is based on a \$750,000 home because we don't know unit prices at this particular point. So we use the base of 750,000. We're talking about a 700 requirement for affordable housing. We're talking about 210 units in the below moderate, we're talking 210 in the moderate area, 140 in above moderate, 140 in the gap. For the proposal itself we're talking about 70 percent market and 30 percent affordable for. . .and the breakdown in terms of percentages, that percentage for the below moderate has, had increased to 50 percent, but that still comes out to the same 210 affordable units like the Affordable Housing Policy will require anyhow. The above moderate is 25 percent or 105 units and the, and the. . .the gap group is, is a 0. The, the difference is the obvious factors, but the need for the County for the 5 acres of land that is wanted for special, special needs is a consideration that this body is going to have to work with. In terms of taking a look at our own

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flexibility, do we stand by the policy and ask all developers to provide what the policy dictates? That is going to be a call that, that we need, we need to make. So, I just wanted to share that information off of the, off of the paper with you and for your information the. . .page 2 was based on homes valued at, at \$1 million each. Thank you, Mr. Chair, for the opportunity.

CHAIR MOLINA: Thank you, Member Mateo. Committee Members, any other questions for the Housing Department or comments? Member Baisa?

COUNCILMEMBER BAISA: Mr. Chair, if we could please ask one more question of the developer?

CHAIR MOLINA: Sure. Mr. Jencks?

COUNCILMEMBER BAISA: Mr. Jencks--

MR. JENCKS: Yes, ma'am.

COUNCILMEMBER BAISA: --best case scenario, when do you think you would be building homes?

MR. JENCKS: . . .*(chuckle)*. . .

COUNCILMEMBER BAISA: Be optimistic.

MR. JENCKS: *I am* optimistic.

COUNCILMEMBER BAISA: After 19 years, let's have a little optimism. . . .*(chuckle)*. . .

MR. JENCKS: I am the *eternal optimist*. I've been at this project *seven years* coming February, so I, I have to be an optimist to be where I am today. This is what I have to do. I, if I can get a Phase I approval on this, from this Council, I then have to go and submit a Phase II application to the Maui County Planning Commission that'll be reviewed in detail, it has to be produced which is a rather definitive document. It has a lot of architectural stuff in it, engineering details. That's gotta go to the Planning Commission for their approval. At the same time that's in process with the Planning Commission, I can also then have subdivision plans drawn up, I can have building plans drawn up, assuming that I'm not going to have too many changes from that Phase II review process. When the Phase II review process is complete, I can then get permits issued, I can get a final subdivision approval. I can start actually getting something done. So, I would say to you--and I'm an *optimist*--

COUNCIL MEMBERS: . . .*(chuckle)*. . .

MR. JENCKS: --it's possible for me to be in the ground by the fall of this year to receive permits to actually get something done by the end, maybe by the end of the calendar year.

COUNCILMEMBER BAISA: You are an optimist.

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MR. JENCKS: *I am* an optimist. I, I operate on that level. I try to get stuff done.

COUNCILMEMBER BAISA: The, the reason for my question was, I was looking at this worksheet and then the average sales prices, and it's been my experience and I have family members that are wrestling with affordable housing and trying to buy a home, and it seems like every month these prices change. And that's why I was interested in knowing when would we actually be building homes because the cost we're anticipating today will probably be very different when we build.

MR. JENCKS: Well, the costs or the costs, the costs escalate on a daily basis--

COUNCILMEMBER BAISA: They--

MR. JENCKS: --between fuel, material. And as you all have been reading and hearing, the Federal index is changing as well. The Federal Reserve is going to hike rates. We're now at 6.5 percent for 30 year. That's gonna, it's gonna change.

COUNCILMEMBER BAISA: Thank--

MR. JENCKS: So it will get more costly.

COUNCILMEMBER BAISA: Thank you very much, that--

MR. JENCKS: You're welcome.

COUNCILMEMBER BAISA: --for answering my question. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Baisa. Member Anderson, question for Mr. Jencks?

COUNCILMEMBER ANDERSON: Yes, please.

CHAIR MOLINA: Proceed.

COUNCILMEMBER ANDERSON: Mr. Jencks, do you have any idea. . .when this roadway is gonna be started? In other words, I know, I know you say you have this all ready to go for subdivision, but. . .is there, is, is. . .I'm sorry to sound so uninformed, but I don't know about East Kaonoulu Street, it's not--

MR. JENCKS: That is the, the proposed--

COUNCILMEMBER ANDERSON: That's going up to the tech park?

MR. JENCKS: --Kihei-Upcountry Highway.

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COUNCILMEMBER ANDERSON: Does that go up to the tech park?

MR. JENCKS: No, it . . .this intersects--you know where Kaonoulu Village is--

COUNCILMEMBER ANDERSON: Yeah.

MR. JENCKS: --on Piilani Highway?

COUNCILMEMBER ANDERSON: Yeah.

MR. JENCKS: That road that goes makai that goes down to the beach--

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: --that's West Kaonoulu Street.

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: This intersection is right mauka of that. Okay.

COUNCILMEMBER ANDERSON: So this doesn't exist yet? You're saying--

MR. JENCKS: *No*, it doesn't exist yet.

COUNCILMEMBER ANDERSON: So it's going to be called East Kaonoulu for--

MR. JENCKS: For--

COUNCILMEMBER ANDERSON: --for a little ways and then turn into a highway?

MR. JENCKS: For lack of a better term, we're kind of waiting for the State to tell us what they want to call this?

COUNCILMEMBER ANDERSON: Oh, I see.

MR. JENCKS: I had to put a name on it.

COUNCILMEMBER BAISA: . . .*(chuckle)*. . .

COUNCILMEMBER ANDERSON: No wonder I'm so confused.

MR. JENCKS: . . .*(chuckle)*. . .

COUNCIL MEMBERS: . . .*(chuckle)*. . .

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MR. JENCKS: But to, to answer your question with regard to--

COUNCILMEMBER ANDERSON: That's a new one on me.

MR. JENCKS: --to status, the large lot subdivision was granted. I had all the civil plans developed, created, drawn up, detailed out to plan for the signal on Piilani Highway, the new road, the new water tank at a million gallons, relocation of the 36-inch County waterline that serves South Maui 'cause it diagonally crosses the property, and a host of other issues. I've been waiting since--and, and I'm to the point where I'm, I'm. . .the agency I'm waiting on is the Department of Water Supply. I'm waiting for them to approve the plan so I can bond the subdivision and get this underway.

COUNCILMEMBER ANDERSON: Did you folks buy this parcel from--who did it?--Haleakala Ranch or Ulupalakua?

MR. JENCKS: No, it was originally owned by Kaonoulu Ranch, Henry Rice. He rezoned in about 1995.

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: We bought it from him two years ago.

COUNCILMEMBER ANDERSON: I see. So you don't have any indication from the State when they're going to start this?

MR. JENCKS: *I* have to build it.

COUNCILMEMBER ANDERSON: You're going to build the road up to your--

MR. JENCKS: I'm building--

COUNCILMEMBER ANDERSON: --light industrial property?

MR. JENCKS: --all of the improvements to make that subdivision. I've gotta build those. We're talking in excess of \$20 million in on-site and off-site infrastructure.

COUNCILMEMBER ANDERSON: So you're not depending on the State at all? When they're ready to do the highway, they'll extend beyond you guys?

MR. JENCKS: That's correct.

COUNCILMEMBER ANDERSON: Thank you.

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MR. JENCKS: We're designing it to their standard--

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: --up to that point and they'll just pick it up and go.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

CHAIR MOLINA: Okay. Thank you, Member Anderson.

COUNCILMEMBER MEDEIROS: Chair.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mr. Jencks, please. I like the idea of the 5 acres and that it'll serve our special needs housing and being that the Housing Department is encouraging that. On the affordable housing in the project--and you may have pointed this out already in the presentation you gave, but I just wanted to be sure--the affordable housing units would be built concurrent to the market units?

MR. JENCKS: That's correct.

COUNCILMEMBER MEDEIROS: So one market, one affordable--

MR. JENCKS: That's correct--

COUNCILMEMBER MEDEIROS: --one market, one affordable.

MR. JENCKS: --per the ordinance.

COUNCILMEMBER MEDEIROS: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Councilmember Medeiros. Councilmember Johnson.

COUNCILMEMBER JOHNSON: Yes, Charlie, the... obviously because, you know, prices are what they are and the 750,000 may be low, I guess, at this point in time for your market priced units. One of the things I'm looking at is because we don't stipulate for the affordables, would they be done as rentals, would they be done as for sale individual homes, would they be done as multi-family? How would you be addressing that within your project?

MR. JENCKS: Briefly, I sent to Councilmember Anderson--and maybe you all have it in your, in your binder--a profile of different product types that we would use in the project. We're intending on building owner-occupied units, not rental, but owner-occupied units in this project, and I described in a previous meeting that the 100 percent product would probably be attached

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product, maybe some town homes but most likely stacked flats, like Iao Parkside. The 120 percent product could be a combination of town homes and maybe some single-family in a condominium scheme. . .

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: . . .and then the 140 percent, a combination once again, 'cause some folks like town homes, like they like attached product, and/or single-family in a condominium scheme, or maybe even some. . .in the upper range some single-family with small lots. That's the plan. The zoning we're proposing allows us to do any variation or combination for the affordable or the market rate product. So we want to mix it up and use product that you haven't seen here on Maui, product that D.R. Horton's building on Oahu that's very popular and very price sensitive.

COUNCILMEMBER JOHNSON: Yeah. And, and I know that one of the issues that we dealt with before was because people that are earning below moderate income oftentimes have difficulty with the down, and again Mr. Molina's reason for asking about the Home Buyer's Fund. But irrespective of that, even sometimes the monthly payments are difficult for them to come up with. I know we've been looking at affordable rentals. Is there anyway that you would consider--you know, obviously you have your proposal, you know, to do the 30 percent--but coming up with some kind of an in-between proposal where you might be able to provide rental units within your complex that would at least allow people to get in there and have the capability to save for a home?

MR. JENCKS: We'd certainly entertain that.

COUNCILMEMBER JOHNSON: Okay. Thank you very much.

CHAIR MOLINA: Thank you, Member Johnson. Member Pontanilla?

VICE-CHAIR PONTANILLA: Mr. Jencks, while you're cont..., contemplating on Member Johnson's request, maybe you can contemplate on my request. . . .*(chuckle)*. . . You know, as we move forward in regards to, you know, you're hoping to break ground in the next few months and we all know that interest rates are rising, we all know that employees get raises. What I'm afraid of is that those people that are now qualified for the 120-140 percent median income all of a sudden find themselves out of a home. So while you're negotiating with our Housing Department, take a look at that. . .because I, I think they represent, you know, the people that we all talk about--and, and you've heard it before--you know, the teachers, firemen, policemen--

COUNCILMEMBER ANDERSON: And Council Members.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

VICE-CHAIR PONTANILLA: --you know, things like that. Council Members. So if you could. . .while you negotiate with the Housing Department.

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MR. JENCKS: I guess the best way to address that, Council Member, is I'm, I'm hoping that I'm negotiating with you primarily on, on this condition. I have talked to Herman and we've had, and I've spent a lot of time with Alice as well talking about the affordable component. When, when we agree on what that component is going to be, whether it's the 30 percent or it's 40 percent or 50, whatever it happens to be, we can talk about that gap group, which I think is what you're looking at. . .

VICE-CHAIR PONTANILLA: Uh-huh.

MR. JENCKS: . . .and, and a percentage that is keyed into the gap group. I'm not opposed to that at all, but once again it comes back to what it is we're going to in a global sense agree upon, and I'm, and I'm sensitive to that.

VICE-CHAIR PONTANILLA: Thank you.

MR. JENCKS: Absolutely.

CHAIR MOLINA: Thank you, Member Pontanilla. Member Mateo?

COUNCILMEMBER MATEO: Thank you very much. Mr. Jencks, thank you. You just, you just gave me a thought then.

MR. JENCKS: Oh, no.

ALL: . . .(*chuckle*). . .

COUNCILMEMBER MATEO: If the requirement. . .if, if we're looking at say a 50 percent and the number we're going to use is that 700, then as long as you, you meet the re. . ., the numbers of providing the 700 affordables, then it would be really at your, at your call in terms of whether or not you'd like to do, for example, a specific unit that could be deemed for special needs, you know, as well as providing your single-family and your multi-family and whatever it is. As long as the numbers jive, then it would be the developer would have the option of making it inclusive in your project site?

MR. JENCKS: As I understand the ordinance, that's correct.

COUNCILMEMBER MATEO: So--

MR. JENCKS: If it. . .well, if the ordinance gives credit for that type of unit. I'm not sure that's true. I have to look at it very carefully. But, yeah, you, you're correct. If we go to the 50 percent, it's pretty clear in this ordinance that it's clear what I gotta do.

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COUNCILMEMBER MATEO: Yeah. So, so the question would be then if, if, you know, we stay with the policy and there is no 5 acres of land, the question would come right back to you, you know, whether or not you'd be even looking at doing a special needs unit or facility in the project site?

MR. JENCKS: The direct answer to that is I, I did talk to Charlie at length about that, Charlie Ridings about that. He didn't want any, he didn't want it at that end of Kihei. He wanted it at the northern end of Kihei. He was very specific.

COUNCILMEMBER MATEO: Okay. Thank you.

MR. JENCKS: You're welcome.

COUNCILMEMBER MATEO: Thank you, Chairman.

CHAIR MOLINA: Thank you, Member Mateo.

VICE-CHAIR PONTANILLA: Question.

CHAIR MOLINA: Member Pontanilla, followed by Member Johnson.

VICE-CHAIR PONTANILLA: Thank you. I'm glad you mentioned Charlie Ridings. Would you know if Charlie already started any negotiation as far as trying to get some grants to do this affordable or, or housing?

COUNCILMEMBER VICTORINO: He's retired.

COUNCILMEMBER JOHNSON: He's retired.

COUNCILMEMBER VICTORINO: Joe--

VICE-CHAIR PONTANILLA: Oh, his replacement.

COUNCILMEMBER VICTORINO: --his replacement. Yeah.

MR. JENCKS: I do, I do not know the answer to that.

VICE-CHAIR PONTANILLA: Okay, fine. Well, maybe Housing would know?

CHAIR MOLINA: Mr. Director?

MR. ANDAYA: Actually we, we have been trying to, trying to find monies for Charlie Ridings, especially. . . particularly in-lieu contributions, trying to get developers to contribute to, to that.

VICE-CHAIR PONTANILLA: To construct--

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MR. ANDAYA: Construct the--

VICE-CHAIR PONTANILLA: --something on the 5 acres?

MR. ANDAYA: Yes, correct.

VICE-CHAIR PONTANILLA: Okay.

MR. ANDAYA: That's correct. So we have been working closely with MECC.

VICE-CHAIR PONTANILLA: Thank you. And that would address people making 80 percent below median income?

MR. ANDAYA: Oh, yeah, I think even lower.

VICE-CHAIR PONTANILLA: Even lower? Okay.

MR. ANDAYA: Like 60 and lower probably.

CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Member Johnson?

COUNCILMEMBER JOHNSON: Charlie, I'm going to ask the \$64,000 question. Because there's full employment and because on other projects, I was just told today that there will be 100 percent imported labor on a huge project that's taking place in West Maui, 100 percent imported materials. Where are you going to get the workforce to build this if there's 100 percent employment?

MR. JENCKS: Well, I guess there's a couple ways to answer that question. The first answer is by the time I get to what Ms. Baisa asked me about, hey, when you're gonna get something done, I think you're going to find it could be a very different economic picture here than it is today, number one. So 100 percent today is not necessarily 100 percent two, three years from now when you really have the need for labor. Number two, we've already committed in this project to use collective bargaining for all of the commercial that's built and the multi-family, which is, is the preponderance of the product in this project. So we've already committed to that, both the Carpenter's Union, masonry, electricians, Operating Engineers, and we've also committed to ILWU for the operational aspects. So those folks, we'll be going to those folks and saying we need your help to get something done. Okay, so there's two answers to that, and I think the most important is you can't, it's important. . .it's, it's a good idea to look at what's happening today on Maui, but if you talk to the professional trades, the engineers, the architects and even some of the contractors other than large state projects, Haleakala Highway, Mokulele Highway, the, the bypass that's been bid out through Design Build, it gets some. . .there's, there's some softness in the market when you get out there away. So. . .and I think that's the good thing about this

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project--we're looking at 20 years--it's going to provide a consistent flow and not this peak that you see with some of the projects you see like, for example, Intrawest on West Maui.

COUNCILMEMBER JOHNSON: Thank you.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Mr. Victorino?

COUNCILMEMBER VICTORINO: I would like a point of clarification. Councilmember Mateo, if I may, mentioned a moment ago that let's use the 50 percent, the 700, plus the 5 acres. Is that a, is that correct, Councilmember Mateo? And I ask the question directly, Mr. Chair, if I may?

CHAIR MOLINA: Proceed.

COUNCILMEMBER MATEO: Mr. Chair.

CHAIR MOLINA: Mr. Mateo?

COUNCILMEMBER MATEO: Thank you. No, it, it was just a consideration of including in that total requirement--

COUNCILMEMBER VICTORINO: Right.

COUNCILMEMBER MATEO: --the special needs at--

COUNCILMEMBER VICTORINO: Okay--

COUNCILMEMBER MATEO: So it wasn't, it wasn't required--

COUNCILMEMBER VICTORINO: --700 plus the 5 acres.

COUNCILMEMBER MATEO: Yes.

COUNCILMEMBER VICTORINO: Okay, thank you. Now thank you for that clarification. So, Mr. Chair, may I ask Mr. Andaya?

CHAIR MOLINA: Yes, you may.

COUNCILMEMBER VICTORINO: Mr. Andaya, in that 5 acres how many units would you anticipate we could put in there? And now I know it's not single-family dwellings and all that kind of stuff, so that's a little different. However, in the five units [*sic*] using Wailuku as a model or even West Maui. . . your best estimate, you know, I just want your best estimate in that area?

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CHAIR MOLINA: Mr. Director. . .or Ms. Ridao, whoever would like to take a stab at that, you may proceed.

COUNCILMEMBER VICTORINO: Yeah.

MR. ANDAYA: I believe the, the. . .Ka Hale A Ke Ola has about 200, 200 apartments or so.

COUNCILMEMBER VICTORINO: This is the Wailuku one?

MR. ANDAYA: Right, the Wailuku one.

COUNCILMEMBER VICTORINO: What is West Maui approximately if you, if. . .

MR. ANDAYA: Yeah. Less, less than 200 perhaps. Yeah. I, I don't. . .approximately I, I. . .

COUNCILMEMBER VICTORINO: So if this 5 acres was included in the affordable portion of that 50 percent, we hopefully get around 500, I mean around 200 there. Plus right now I think we're short like, we're short what 240?

MR. ANDAYA: Uh-huh.

COUNCILMEMBER VICTORINO: I think that's what we originally. . .200. . .

MR. JENCKS: Two hundred eighty.

UNIDENTIFIED SPEAKER: Eighty.

COUNCILMEMBER VICTORINO: . . .280. So if we got around 200, then we'd be around 80 short if we were to hold the 200, the 50 percent, percentage, percentile we'd be about 80 short. . .you know, just, you know, more or less. Yeah.

MR. ANDAYA: Yeah, more, more. . .if we use the 200 figure, yes.

COUNCILMEMBER VICTORINO: For the 5 acres.

MR. ANDAYA: The 5 acres. But I'm not sure, you know, I'm not sure what, what MECC had. . .
--(CHANGE OF TAPE, start 4A)-- . . .resource center.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. ANDAYA: So it may be that, you know, that they may try to put more, more units into that 5-acre, you know, parcel.

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COUNCILMEMBER VICTORINO: Okay. I just wanted that clarified, Mr. Chair, because again that's gonna be part of the equation. So we need to make sure that if we can meet the 50 percent by taking care of our special needs as well--and I'd like to see some in the gap group because there are a lot of people out there that fall into that gap group and we need not to leave them out. Mr. Jencks, I hope that can be another consideration. Maybe the 80 you could somehow fit that in the gap group. But I, I think it covers a lot of the need that we have, especially for South Maui. I think it's a great plan in that respect.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. I think your points are well taken. Members, any other questions for Mr. Jencks or the Housing Department?

COUNCILMEMBER MEDEIROS: Chair.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mr. Jencks. . .and I think Member Anderson has been pursuing, you know, the improvements to Piilani Highway which is a very important consideration as part of your plan, and as part of the plan you would take on that responsibility? Is that what you're saying?

MR. JENCKS: That's correct.

COUNCILMEMBER MEDEIROS: And at what point or what part of your construction of the project would you do the improvements to Piilani Highway?

MR. JENCKS: Well, we've committed that upon Phase I approval we would initiate the design of that improvement. With the Council giving me, giving me Phase I approval, I would commit to hire an engineer and get the design or the improvement underway. The timing for the start of construction. . .it was identified in a traffic report that we, that we discussed in this room this morning and in previous meetings, that it was done expressly for that purpose, for the extension of the highway and the, and the cost sharing principle between Makena, Wailea, and Honua`ula. That report based upon the, the building programs for Wailea, Makena Resort--which is now being sold, so who knows what they're going to do--

COUNCILMEMBER MATEO: Right.

MR. JENCKS: --and Honua`ula was a start in 2012. Okay. So we, we, we. . .what we did is we backed up and said let's make some basic assumptions on development of units per year--the eternal optimist--100 units a year starting, let's say, a year from now or two years from now we start turning over units affordable and market. The same goes for Makena, the same goes for Wailea. The need to have that roadway underway was January of 2000 and. . .2012, 2012. So design, permitting. . .whatever I gotta do, I gotta get that done. It doesn't mean I can't still in the meantime develop, I can. But given the traffic loading that we would expect, the additional cars

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from affordable product, market rate product, and the other partners in the area, we, we were projecting January of 2012 was being the start date for that improvement.

COUNCILMEMBER MEDEIROS: And, and the reason I ask is that those of us that are new to this Council. . .*(chuckle)*. . .we haven't had the ability to read the five binders.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

COUNCILMEMBER MEDEIROS: So that's my reasons for asking to catch up on some of this information. Mahalo.

MR. JENCKS: You're welcome.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Mr. Jencks, one last question before we let you go. . .for now. Just a clarification for the, for the 5 acres. Is it 100 units or 200 units--I'm just trying to get clarification in my mind--that was being looked at to the special needs housing?

MR. JENCKS: If you take the, the 5 acres that we're proposing and you compare that to what was done off Waiale Drive and you compare that to--which I think is a, a bigger site--and you compare that to the center that was done in Lahaina and, and based upon the layout, same, using the same parameters, same type of product we're looking. . .you know, our discussions have been at 100 units.

CHAIR MOLINA: About 100? Okay.

MR. JENCKS: And that was the basis for our discussion, about 100 units as a credit.

CHAIR MOLINA: And, and in terms of design guidelines, is it something that you are looking at, for lack of a better term, have it look somewhat appropriate for the area instead of standing out like an eyesore?

MR. JENCKS: To be clear we're not building it. Maui Economic Concerns of the Community would build it, and the product they built in Lahaina is, is great. They did, they did a great job.

CHAIR MOLINA: Okay.

MR. JENCKS: Very cost effective.

CHAIR MOLINA: Alright, thank you.

VICE-CHAIR PONTANILLA: Chair.

CHAIR MOLINA: Member Johnson, followed by Member Pontanilla.

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COUNCILMEMBER JOHNSON: Yes, Charlie, because, you know, we're throwing out, I guess, consideration. . .various scenarios. If we were to say that you would utilize your formula and then you build--well, I guess it would really be coming up to our formula--but if you delivered 200 units and you built the homeless resource center on your 5 acres, would that be something that you could work with?

MR. JENCKS: And I guess the question is, what's in it for me? What do I get?

COUNCILMEMBER JOHNSON: Well, you'd get excused, you'd get a reduction, let's say, in the number of affordable units because you wouldn't have to deliver 80 units then.

MR. JENCKS: So, I, I give the County the land or give Maui Economic Concerns of the Community the land and build the units to get a credit?

COUNCILMEMBER JOHNSON: Yes, I guess that's what I'm saying.

MR. JENCKS: I'd have to take a real serious look at that. I, I don't think that would work for me.

COUNCILMEMBER JOHNSON: Well, if you could come up with some way that we could actually--'cause, frankly, I'll be honest with you, private development can build much more easily than County can by you giving us the land and then we contracting to build. It's going to be very difficult.

MR. JENCKS: I can tell you in my discussions with Charlie Ridings and his, his replacement that has come onboard, they are *very, very* effective at building this product, and they can do it, I, I think. . .I mean their cost per square foot is amazing. They do a terrific job. They know it, they know how to build it, and I think they're the ones that should be doing it. They know exactly what they need, the parameters, the product, the materials. They are the best ones at it. I mean they give you the best product.

COUNCILMEMBER JOHNSON: Well, think about some way that this would work because--

MR. JENCKS: Sure.

COUNCILMEMBER JOHNSON: --just simply giving, I guess, the land in and of itself, to me there there's too big of a disparity between what our Affordable Housing Policy is and then when other people come they're going to just look at us and say well, you did it for "xyz", therefore you do it for us.

MR. JENCKS: I understand.

COUNCILMEMBER JOHNSON: So that's why I'm saying we have to have something that we can--

MR. JENCKS: So closing this gap is, is an important part of the--

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COUNCILMEMBER JOHNSON: Right, it's really important for us and to get the housing done. It's really important. Thank you.

MR. JENCKS: Sure.

CHAIR MOLINA: Thank you, Member Johnson. Member Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Fast question. Are you going to receive any Federal funding or exemptions from anybody, government--

MR. JENCKS: No.

VICE-CHAIR PONTANILLA: --in this project?

MR. JENCKS: No.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MOLINA: Thank you, Member Pontanilla. Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. Jencks, you just kind of upset me with that schedule for the widening of Piilani, from Kilohana to Wailea Ike. You said you're, you're anticipating starting the construction in 2012?

MR. JENCKS: January. . .I believe that's what the report says, January of 2012 we would start.

COUNCILMEMBER ANDERSON: What report are you referencing?

MR. JENCKS: I'm referencing the report that was done by Honua`ula incorporating the Makena Master Plan, the Wailea Master Plan, and the Honua... , Honua`ula Master Plan for that specific section of roadway, the one we did for the State Department of Transportation. . .that we supplied to you.

COUNCILMEMBER ANDERSON: Well, you know, we have an overriding document called our Community Plan and. . .we have to find that this project is in compliance with the policies and objectives of the plan, and I'd like to read to you what it says under Transportation: Undertake transportation system improvements concurrently with planned growth of the Kihei-Makena region. Require adequate inter-regional highway capacity, including the widening of Piilani and Mokulele Highways to four lanes prior to the construction of major projects south of Kilohana or mauka of Piilani Highway.

Now you're constructing a major project south of Kilohana and you're also doing something mauka of Piilani. So. . .by not doing that widening until 2012. . .we're not in compliance with

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the Community Plan, and, you know, that's our job to make sure the Community Plan is followed.

MR. JENCKS: Do you mind if I respond?

COUNCILMEMBER ANDERSON: Oh, I'm asking you to. Yes, please.

MR. JENCKS: Okay. Mokulele Highway is a multi-phase project that has been entirely bid out. As a matter of fact, Goodfellow Brothers, Inc. is doing the last two phases and that, and those will all be underway in February of this year. The improvements to Piilani Highway to convert it from a two-lane to a four-lane roadway were undertaken by Wailea 670, Honua`ula, and Makena Resort. We paid for the design engineering that cost us \$750,000 and facilitated the funding to get that improvement done to convert it to a roadway that virtually eliminated the traffic issues on the highway, and that still is performing quite well and will perform quite well into the future. As to the improvements south of Kilohana, I'm very familiar with that, that. . .that statement in the Community Plan. I'm also very familiar of the number of projects that have been permitted that are south of Kilohana, for example, Hoolei in Wailea Resort, the other projects in Wailea that are, that are major projects. We have committed. . .in recognition of that requirement committed to design and make that improvement. I can make that, I can, I can design that road and make that improvement if I have a project to build. And so, the application before you today is the project and I have committed to make those improvements so that we are in, in sync with that document.

COUNCILMEMBER ANDERSON: It says, prior to the construction of major projects. . .south of Kilohana. Thank you.

MR. JENCKS: Sure.

CHAIR MOLINA: Thank you, Mr. Jencks and Member Anderson. Members, at this point the Chair has exhausted I think almost all of the points that I wanted to cover for today's meeting. We have one more point that I would like to discuss, that is the Project District bill itself. When we last discussed this matter, there was a motion on the floor during the last term. So, I'd like to take a recess. We're going to put up the Project District bill for your perusal. We're going to take a ten-minute break to set up the projector. Meeting in recess till 5:40. . . .(gavel). . .

RECESS: 5:28 p.m.

RECONVENE: 5:45 p.m.

CHAIR MOLINA: . . .(gavel). . . The January 31st, 2007 Land Use Committee meeting is now back in session. Members, thank you. We are at the tail end of our meeting today. The Chair did mention to you all about staying here till 6:00. I anticipate we will go past 6 o'clock. It is 5:45. We are going to discuss the first bill of this application, the Project District bill. We will not have time to discuss the other bills which make up this application. That will be saved for another time.

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So, Members, please bear with the Chair. We will more than likely go past 6 o'clock. Is there any Member that has to leave by the 6 o'clock time parameter that was set? Okay, Member Anderson. Anyone else? Okay, thank you. And Member Johnson did ask to be excused. She has another commitment.

Alrighty, Members, up on the wall you see the Project District bill. This bill was last discussed in the October 4, 2006 meeting for the new Members' information. There were some recommendations for some amendments to it, but before going any further with the discussion of this bill, the Chair is aware that there was a consideration to have this matter sent back to the Planning Commission for review because of the additional proposals that have been made since the year 2000 or 2001. The Chair is not in, will respectfully not be in favor of sending this back to the Planning Commission and just on the basic, simple premise that we are the final decision makers, ultimately we have to deal with this application as well as with all applications. So it is just my, again, it's just one person's view of things and as we all know, the Planning Commission, they do have a lot of other matters to be dealt with. And, however, the Chair is supportive of getting a report, an updated report back from the Planning Department to help us address some of the issues that have been brought up. Any comments from the body as to the Chair's recommendation on this matter? Any comments? Member Anderson?

COUNCILMEMBER ANDERSON: I appreciate the Chair's willingness to send the application to the Department for an updated analysis. I think it's certainly called for specifically. . .you know, for the five new Members or the three new Members to try to get through five binders in six years of, of documentation is, is an impossible task. And even for those of us who are sitting Members, it's extremely difficult to be able to work with this much paperwork. . .and, and, you know, analyze it and come up with a, some clear understanding.

So because this is such a large project and it is a 20-year build-out, I, I think it's so important that we have an updated cumulative impact analysis because. . .we're going to be living with this for a long time and if this is our only shot, Mr. Chair, to make sure it's done right, I have concerns that we don't have an adequate traffic impact analysis. Back in August of '06, DOT sent us a letter in response to questions that the previous Chair of this Committee asked concerning. . .the highway and traffic, and I just want to read one sentence in their response: The Traffic Impact Assessment Report, which is better known for the new Members as the TIAR, will identify the necessary mitigation measures, determine each developer's proportionate responsibility, and identify triggers and timetables when improvements will be needed. That's information that we need, Mr. Chair, because we need to condition this project with those mitigation measures specific to the timetable that is determined in order to make sure that the improvements are done in a timely way. The Kihei Community Plan, for those of you who are not familiar with it, all through this plan is infrastructure concur..., concurrency requirements, and this is the body who's responsible to make sure that those infrastructure concurrency requirements are met, and the only way we can make sure it happens is to specifically condition the project. We already heard from DOT that it doesn't do any good to have a blanket condition that says roadway improvements, as determined by DOT, will be implemented. . .because none of 'em have been.

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So, I appreciate your willingness to send this back to the Planning Department for their updated review and also, request that an updated TIAR be completed so that we have the opportunity to condition this project with the developer's proportionate responsibility, identify the triggers and the timetable, and put it in the condition. Otherwise, we have no hope to meet the Community Plan's overriding requirement of infrastructure concurrency.

CHAIR MOLINA: Okay. Thank you, Member Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

CHAIR MOLINA: Member Baisa?

COUNCILMEMBER BAISA: Mr. Chair, may I ask Ms. Suyama a question?

CHAIR MOLINA: Sure. Ms. Director.

COUNCILMEMBER BAISA: Ms. Suyama, if this request is referred to your Department, can you give us any idea of the time involved when we can expect a report? And I realize you have a heavy workload.

MS. SUYAMA: If it was just dealing with the existing information that we received to date, I would say at least 30 days, about a month. But hearing Ms. Anderson's motion, she's asking for, I believe, an updated TIAR from the developer. That's going to take a lot longer if that's part of the motion.

COUNCILMEMBER BAISA: Thank you.

CHAIR MOLINA: Yeah. There currently is no motion on the floor at this point, but the Chair has not mentioned that consideration of a TIR, TIAR. But again, the Chair will look for direction from the body if that is something you would like included as well as an update from the Department.

VICE-CHAIR PONTANILLA: Chair.

CHAIR MOLINA: The Chair will follow the will of the body. Member Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Earlier I requested if we could hear from the developer's person that did that TIAR, because I was kind of puzzled in regards to the comments made by Department of Transportation. I look at it, you know, Mokulele Highway is geared to be completed and when you look at the TIAR study, it's seconds per vehicle. Once that road is completed, in my mind, you know, the traffic flow on Piilani will improve. If we can have some comments by the developer's traffic engineer?

CHAIR MOLINA: Okay. Members, any objections to having the applicant's representative--

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COUNCILMEMBER BAISA: No, no objection.

CHAIR MOLINA: --regarding the TIAR?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Thank you. And, sir, please state your name for the record and the entity you work for.

MR. YOSHIOKA: Good afternoon, Council Chair. My name is Wayne Yoshioka, I'm with the firm Parsons Brinkerhoff, and we are responsible for the . . .for several traffic studies that have been done. There was one in 2001, we did an update in May of 2005. At . . .after that study, that was reviewed by Maui County DPWEM. They gave us considerable comments on those. We worked with them to resolve those comments which resulted in a, yet another revised Traffic Impact Analysis dated June 2005, which, which DPWEM then concurred with. So this June report is the most comprehensive of them. It covers not only the--excuse me--it covers not only the area south of Kilohana, but extends up into the corridor to take a look at intersections in the, in the mid-Piilani Highway corridor as well and makes recommendations that are consistent with the Kihei Traffic Master Plan, which we had the privilege of also working on for the Maui County Department of Public Works and Environmental Management. And basically, it incorporates those recommendations for the, the corridor and talks about sharing of those responsibilities among all developments within that area. It then goes forward and talks about specific improvements that are solely the responsibility of, of Honua`ula, which include intersections such as the Okolani-Mikioi intersection signalization, various intersection configuration and modifications to handle interim improvements. And then, of course, the final report that came out was the one that was a consolidated report between Honua`ula, Wailea development, and Makena development, and the purpose of that report was slightly different. What that report tried to focus on was the area south of Kilohana only, and the concern that the DOT had was this, this whole issue about the widening of Piilani Highway, and they were concerned about how that widening cost was going to be allocated among the three development entities. When Wailea 670 or Honua`ula stepped up and said we will be responsible for this widening, we commit to this widening, then we--and so from the perspective of the State DOT at that point, they were only dealing with Honua`ula at that point and it was up to Honua`ula then to go and talk to Makena and Wailea Resort and get their reimbursement from those guys. But from the perspective of the DOT, they're saying well, we only have, we're only dealing with you, Honua`ula, and your commitment is that you will have, you will take care of it at no cost to the State; and, and you've heard Mr. Jencks make that commitment here.

Now we also did an estimate of when that widening would be triggered, and that's based on probably an optimistic build-out schedule of 100 units per year out of Honua`ula, Wailea development, and Makena development simultaneously building out at 100 units a year. We'd also include some of the development that Wailea indicated that they would bring online in terms of commercial development as well, and that was estimated to be, as Mr. Jencks said, around

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2012 in terms of when the road would be needed in terms of being, construction being started on that roadway. So the, the intent is to start the design right away as soon as, as soon as he gets his Phase I approval, start the design which is a, a process that has to go through, finish, get all the approvals from DOT because this, this is going to be a DOT roadway, so DOT has to concur that the standards are met, and then it is free to move into actual construction.

So we have quite a few studies that had been done, and the only other thing I wanted to talk about was the extension of Piilani Highway. You know, actually we were also involved in the Kihei-Upcountry planning studies of that, of that highway and, you know, essentially the extension of Piilani Highway was the Kihei-Upcountry Road. It was to extend Piilani Highway and go up into Ulupalakua. And, in fact, when we first came onto that, that project, that's, that was our assumption is what we're going to be studying. But when we went forward with that project, we got extreme negative response out of Ulupalakua area saying that, you know, over our dead body would you put a road that connects off to Ulupalakua, in that area. And we were instructed by DOT at that point to look at other alternatives, and there were quite, quite a few other alternatives that we looked at. The final upshot of that was that their road would start at Kaonoulu Road and go mauka, curve, and go all the way to Haliimaile in Upcountry area. So that was the final resolution of the, of the Kihei-Upcountry Road, which then rendered the extension of Piilani Highway really superfluous. And that is why on the last go-around of the Long-Range Transportation Plan for Maui which was co-authored by the State DOT and Maui County, that was removed from the Long-Range Plan and is no longer part of the Long-Range Plan.

So that's a little bit of history on that. And in terms of Level of Service definitions, just, just to bring you up to speed on that, too, 'cause I know you guys have some definitions. Typically, on an interrupted facility. . .what, what we call an uninterrupted facility would be something like a freeway or a country road with very few intersections. That would be an uninterrupted facility. When you put signals on a roadway, it becomes an interrupted facility, and in that case the capacity of that roadway is, is really regulated or governed by the intersection capacity. So in this case of Piilani Highway we look to both the un..., unsignalized and signalized capacity of intersections, and that's why the, the definitions that you guys have are the definitions for signalized and unsignalized intersections. And I don't want to get into the real detailed explanation, but essentially going through certain algorithms it, it estimates delay for specific movements and then it does a weighted average of those movements for a single approach, and then for the entire intersection it does a weighted average of all the approaches. And that's how we come out with level of service for the entire intersection, but you can also _____ back and look in our reports, we also furnish the level of service for individual movements as well so you can see how individual movements operate. And yes, Council, Council Member, in the Mikioi area, right now you have Level of Service "F" primarily because unsignalized intersection. But again, one of the mitigation actions that are being committed to is to signalize that intersection and when it's signalized, the delay goes down to acceptable levels because now you're not trying to insert yourself into a fairly heavy stream of traffic. You actually have the signal giving you that opportunity to get into the stream of traffic.

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So that's, that's where we are now and that's why I think the last letter from Deputy Director Morioka said the Traffic Study was no longer, you know, an issue in terms of timeframe because they have already got their commitment for the widening. They don't have to worry how is it going, how is this going to take place. They've got their commitment from Honua`ula, we'll take care of the widening, and it's really Charlie's problem to figure out how he's going to get the money back from Makena and, and Wailea Resort. So at that point DOT said okay, well, as long as we have your commitment on this, then, then it's not. . .not an issue that you, that we have this study that says how do you prorate between the different developments.

CHAIR MOLINA: Okay. Thank you, Mr. Yoshioka. Member Pontanilla, any other questions for. . .?

VICE-CHAIR PONTANILLA: Yeah. Once Mokulele Highway is completed as a four-lane highway, the traffic flowing from Wailea-Makena, going towards Kahului-Wailuku or back to Central Maui, because of the added lanes on, on Mokulele. . .in my mind, you know, the seconds delayed per vehicle coming out of Makena or Wailea should be reduced.

MR. YOSHIOKA: Well, certainly at the, at the intersection of Mokulele Highway and Piilani Highway one of the, the largest benefits we probably will see there is that right now you can only have a single right-turn lane onto Mokulele because there's only one accepting lane. But as it gets widened, the widening gets finished, now we have the opportunity to have a double right and you can accept two streams of traffic onto Mokulele which certainly will help, help that intersection, just as, you know, fairly recently DOT converted the, the makai bound flow on Mokulele from a single left to a double left and that really helped that situation in terms of the queuing on Mokulele; likewise, it'll help in the other direction. So certainly this, this. . .this widening on Mokulele is very beneficial to that, to that specific area.

VICE-CHAIR PONTANILLA: So when you do your traffic study on Piilani--

MR. YOSHIOKA: Yes.

VICE-CHAIR PONTANILLA: --I, I know, you know, reading all the documents everything was based on Kilohana towards Mikioi, I guess, or Mikioi towards, towards Wailea Ike. . .

MR. YOSHIOKA: Uh-huh.

VICE-CHAIR PONTANILLA: . . .and, and there's no. . . --(*CHANGE OF TAPE, start 4B*)-- . . . Mikioi going towards Mokulele Highway, and part of the Community Plan for Kihei-Makena Community Plan this, you know, they, they talk about Mokulele Highway and the completion of Mokulele Highway, and I know it's going to be completed in, in probably about year, year and a half. When you do traffic studies, do you look at those projects that are coming on-line so that you can get a better feel as far as traffic being delayed on the back end?

MR. YOSHIOKA: Yes, we do. We. . .essentially what we do is we do, first, an evaluation of the, what we call the existing conditions so we. . .that's our baseline, and then we pick a horizon year and

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at that horizon year we make an assumption. . .(cough). . .excuse me, we make an assumption of what improvements are likely to be in place at that time. Certainly within the timeframe of our studies Mokulele Highway would be finished because by the time, you know, our, our horizon year, Mokulele would be done by that time. And, again, there's certain other things that if we can't guarantee that they'll be in through some, some of the plans that DOT has or Maui County has, then that becomes a condition that we would say, we would recommend that this happen.

Now your con..., your comment about not having anything north of Kilohana, that's true of the September 2006 study because, again, that was the study for the DOT to look specifically at the widening of Piilani Highway from Kilohana south. But our June 2006 [sic] report actually is more comprehensive and actually goes up the corridor, and it doesn't hit every single intersection, but it hits the ones that we, we identified as bottleneck intersections, such as Lipoa, you know, Piikea. Those are intersections that as we're doing the Kihei Traffic Master Plan we were, we were surprised in a way that there was kind like a hump that happens at, at Lipoa when traffic--you would expect traffic just to keep on building and building and building from south to north all the way up to Mokulele, but there actually is a hump that occurs at, at Lipoa because there's a lot of traffic that's going both ways and moving through that area, and that becomes your constraint point. So we analyzed those intersections that we believed were, were critical to the corridor. So in the June 2006 [sic] report we did, we did address more than the area south of Kilohana.

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

CHAIR MOLINA: Thank you, Member Pontanilla. Member Anderson?

COUNCILMEMBER ANDERSON: I'm sorry, I didn't catch your name.

MR. YOSHIOKA: My name's Wayne Yoshioka.

COUNCILMEMBER ANDERSON: Yoshio?

MR. YOSHIOKA: Yoshioka.

COUNCILMEMBER ANDERSON: Yoshioka. Mr. Yoshioka, in regards to the. . .the. . .September '06, and that's when you said that's more comprehensive?

MR. YOSHIOKA: No, the 2000. . .June 2000. . .June 2005 is the more comprehensive. The September 2006 was specifically geared to look at the widening of Piilani Highway from south of Kilohana.

COUNCILMEMBER ANDERSON: Okay. . . .Sorry, Chair. . . .(chuckle). . . Like I said, there's so much here. I can't put my fingers on that right at the moment, but. . .you know, the, the concern I have is not just the highways--of course, that's a big problem because we, you know, we got some relief and we don't want to go back to having, you know, bad congestion. . . .(cough). . . Excuse me. So in your more comprehensive one, June '05--

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MR. YOSHIOKA: June 2005, right.

COUNCILMEMBER ANDERSON: --did you take into consideration all the build-out that's going on in Wailea right now? Was that, you know, part of your baseline in, in your study? Did you take all of those projects that are currently being constructed in, in your (*inaudible*)?

MR. YOSHIOKA: Yeah. Within, within the timeframe of our, our build-out year, which I think was at that time 2015 that was used as the, as the horizon year for the, for the study, but what it did was it also echoed in that 2005, June 2005 Study, it echoed many of the recommendations that were included in the Kihei Traffic Master Plan that was done for Maui County DPWEM. And basically, the Kihei Traffic Master Plan identified two conditions because at that time it was not clear which one would occur. But now, now we know that the condition that did occur, the North-South Collector was identified to be a two lane, because at one point the North-South Collector was, was going to be a four-lane facility as was certain segments of South Kihei Road. And since then the, the Kihei community has come out and, and made clear that, that they wanted the North-South Collector to be a two lane and, and certain other areas of, of South Kihei Road to remain two lane as well, which, which then put more pressure on Piilani Highway, and in this Kihei Traffic Master Plan the recommendation there is, is then saying that then long term, long term you need to look for two other lanes in this corridor. You can achieve it several different ways. You could make Piilani Highway a six lane, which we just heard Mr. Yasui said they're not willing to do.

COUNCILMEMBER ANDERSON: . . .(*inaudible*). . .

MR. YOSHIOKA: The other alternative is to look mauka and do a collector system mauka of Piilani Highway, which in fact has started to take shape in, in many of the. . .in areas in terms of discussions, especially with the catalyst of the Kihei-Upcountry Road coming in serving as a way to tie all that system together. So as this thing moves forward, I suspect that the next round of the Long-Range Transportation Plan is going to have to take a close look at what's the best configuration for that, but clearly long term we, we're going to be looking for more capacity parallel to Piilani Highway in this, in this. . .in this corridor. And--

COUNCILMEMBER ANDERSON: So back to my question, which was did you consider the current build-out of Wailea in the June '05 Traf. . ., Traffic Impact Analysis?

MR. YOSHIOKA: Yes. Within the timeframe of the horizon year of the study, yes, we did project the traffic up. . .based on data that we got from Wailea Resort.

COUNCILMEMBER ANDERSON: And so. . .because my concern, Mr. Chair, is without the extension of the highway. . .you know, that was a decision that the State made. . .in total contradiction to our Community Plan without any consult. . ., consultation with the County. In fact, the route they chose was not the route that the public voted to have. So my concern is that we've got Wailea building out, we've got Makena, and we've got Wailea 670 all at a dead-end road, all at the end

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of a dead-end road. I have evacuation issues that I'm *very* concerned about. There's no possible way that we could afford evacuation for all these people should there be a disaster. And, and then on a more, you know, everyday practical term is that. . .we're going to be funneling all of these cars from Makena and Wailea 670 and Wailea Resort area onto Wailea Nui [*sic*] and Wailea Ike and, you know, those are not really thoroughfare roads, they're meandering resort roads. And so that's what I'd like to see is--you know, it's not just the highways, it's the inter, it's the internal roadways and how all this traffic is going to be handled.

MR. YOSHIOKA: Actually, I agree with you, Council Member, and in fact the June 2005 report as well as the September 2006 identifies improvements not only Piilani Highway, but on the Wailea Alanui in terms of its intersection with Kau..., Kaukahi; also with the intersection of Wailea Alanui and Wailea Ike; also on some intermediate roads, Kalai Waa and, and Wailea Ike. So it, it actually comes off the system in full recognition of what, exactly what you just said.

COUNCILMEMBER ANDERSON: And, and did you consider that the North-South Collector Road is not being developed in, in the sequence or the schedule that it was originally planned to be in the, in the Kihei Master Plan? So we're not going to have that for relief either.

MR. YOSHIOKA: Well, actually, you know, it's actually starting to move forward faster than I really expected it to. It's not going to be developed as a four lane, but we did evaluate that as a two lane as well, and in fact as you see, there are areas starting to actually occur south of Kealii Alanui that's starting to move, that section. So actually we are seeing the North-South Collector being implemented and, and I think it's a very positive thing and we hope it continues, and what that will do in the long run is that right now there are a lot trips that being handled by Piilani Highway that don't belong on Piilani Highway. There are these shorter trips that are going back and forth and they have no recourse but to use Piilani Highway because South Kihei Road is fairly congested right now. So with the, with the inclusion of the North-South Collector and the connection of the various segments. . .(*cough*). . .we'll have the ability to draw traffic off Piilani Highway, extending the life of Piilani Highway and providing relief for South Kihei Road as well in the area. So it's the circulation--you know, this is, this is not an uncommon problem. You know, very, very often an area will develop and the main roads get laid down for us and the connections come later, and Maui County has fully recognized that the connections are needed. Public Works is pushing it very hard and it's getting implemented.

COUNCILMEMBER ANDERSON: So, so, you know, I hope it gets done, too, and that those were the words you used, but that's. . .hope isn't good enough. I, I want to see, you know, what the schedule is because my concern is that we no longer have Federal dollars to build the North-South Collector Road because it's no longer a two, a four-lane road, it's only two lanes.

MR. YOSHIOKA: Right. Well, you know, one of, one of the things--

COUNCILMEMBER ANDERSON: And so, you know, what is the schedule in your Traffic Impact Analysis Report? Is it scheduled out, have you figured out what the County is, you know,

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scheduling the build-out for that roadway to be so that it hits Wailea at a time when it's going to be needed?

MR. YOSHIOKA: Well, first of all, we're, we're not gonna...the, the schedule of North-South Collector really is the call of DPW, not us. But I think one of the things that--

COUNCILMEMBER ANDERSON: No, I'm not asking if it's a call, your call, but that's what a Traffic Impact Analysis Report is for, is to show when all these improvements are gonna happen in a timely way that will meet the need, in other words the impact will, will be mitigated. And so you, you don't have an idea when that North-South Collector Road is gonna be built?

MR. YOSHIOKA: Within the timeframe of our horizon year, again, as...in our assumption of which road was to be, the North-South Collector was assumed to be connected up in the critical areas, and further, though, Honua`ula is, is levying on itself of a \$5,000 per unit impact fee and that can be used to help augment cost for, for implementation of these things. You know, right now--

COUNCILMEMBER ANDERSON: Yeah, I understand that, but that's, you know, a hundred units a year. It's going to take quite awhile for that to build up to enough money to make an impact on, on a road that cost a million dollars a...what... .

MR. YOSHIOKA: Well... .

COUNCILMEMBER ANDERSON: ...a tenth of a mile?

MR. YOSHIOKA: ...again, you know, the, the impact fee that's being levied voluntarily by Honua`ula at \$5,000 a unit is, is a very generous one. You know, for example, Mr. Yasui mentioned Ewa as being the example in Oahu and their, their fee right now is...the impact fee, I believe, is something in the range of like 2,700 a unit, and this is a \$5,000 a unit impact fee free for Maui County to use as it sees fit. And, you know, one of the ways they can do it, one of the ways that's been discussed in Ewa--for example, they faced the same issue of the money's not here all at once, but comes in in pieces--and one of the things they have looked at was using bonding to help, to help that and use the income from the impact fees to, to service bond it.

COUNCILMEMBER ANDERSON: You know what I'm asking for, Mr. Chair? I'm asking for assurances in a Traffic Impact Analysis Report that the concurrency requirement in our Community Plan is gonna be met, and I haven't heard that, you know, no assurance in any way that it's gonna be, things are gonna be done in a timely manner, that the North-South Collector Road will provide relief for all of this build-out. I mean that's what the Traffic Impact Analysis Report is supposed to tell us what the timing is and, you know, if we don't have...if we don't have that, how are we going to condition this project to make sure that, that they, they implement their share of it? And, yeah, you know, \$5,000 per unit at 100 units per year, that'll take a long time. So that's my concern and, you know, it's a requirement in our application, it's a requirement in our criteria of approval, and I don't want to hope and guess because hoping and guessing gave us the problem we have at Honoapiilani Highway. Thank you.

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CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, any final questions for Mr. Yoshioka?

COUNCILMEMBER MEDEIROS: Chairman.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo. I, I just want to be sure I have the studies that you cited correctly. So in 2001 there was a Traffic Study?

MR. YOSHIOKA: There was an Update Traffic Study. There was a previous Traffic Study done by others, and that was the first time we became involved, yes.

COUNCILMEMBER MEDEIROS: Okay. So 2001. May 2005 was another Traffic Study?

MR. YOSHIOKA: Yes.

COUNCILMEMBER MEDEIROS: Okay. June 2005, one month later, there was an Updated Study which became the Kihei Traffic Master Plan?

MR. YOSHIOKA: No.

COUNCILMEMBER MEDEIROS: Oh.

MR. YOSHIOKA: That was the updated. . .that Updated Study was due to comments from Maui County DPW that we addressed and then updated the study to those, to respond to those, those concerns. The--

COUNCILMEMBER MEDEIROS: And when was the Kihei Traffic Master Plan?

MR. YOSHIOKA: The Kihei Traffic Master Plan was, was completed in December 2002.

COUNCILMEMBER MEDEIROS: Okay, and then September 2006 was another Traffic Study with, for the combined efforts of Honua`ula, Wailea, and Makena developments?

MR. YOSHIOKA: Right, and primarily to address the issue of the widening of Piilani Highway south of Kilohana Drive.

COUNCILMEMBER MEDEIROS: Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Any other questions for Mr. Yoshioka? Seeing none, thank you.

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MR. YOSHIOKA: Thank you.

CHAIR MOLINA: Okay, Members. . .let us go and address the Project District bill now, and I'd like you to look at a January 18, 2007 document transmittal from your Chair, the Committee. In it were some suggested revisions to the bill, and what I'd like to do is go through one by one on each of these revisions, get your comments, if it's the body's will to include these revisions in them or not. Okay. Are we all there yet, Members? Or the bill is, is attached as well with the proposed revisions in it. I'd like to get your comments on each of these proposals.

Start with No. 1, To change references to the "proposed Piilani Highway extension" to the "Piilani Highway extension corridor", based on information that the extension is no longer proposed for construction by the State. Comments, Members? Objections? Can we, if there's no objections, can we proceed to the next one?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Members, moving on to No. 2, To revise Section 19.90A.030(B)(1)(a), as follows: "Solar or other renewable energy water heating system;"", to allow for other renewable energy technologies. Comments, objections? No objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Moving on to No. 3, To revise Section 19.90A.030(D)(4), as follows: "The height of any structure within the project site shall be measured--and we've bracketed out--[from the finish grade]--and inserted--in accordance with Section 19.04.040, Maui County Code.", to address concerns with the way in which building height is measured. Comments? Objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: No objections? Okay. Moving on to No. 4, To revise Section 19.90A.030(E)(5), as follows: "A minimum one hundred foot wide fire buffer area, with a minimum fifty-foot wide landscape buffer area within it, shall be provided. . .", to conform with the owner's representations concerning a wider fire buffer. Comments? Any objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Moving on to No. 5, To revise Section 19.90A.040(A)(2)(c), as follows: "Antennae and antennae dishes, provided that ground dish antennae shall not exceed ten feet in height, shall be screened by walls, earth berms, and/or landscaping with a minimum height of four feet, and that any roof or wall-mounted antennae shall--and we shall bracket out--[not exceed the height of the building]--and we will insert--meet the development standards for maximum height of the single-family residential sub-district and the multi-family sub-district;"", as recommended by the Planning Director, to fix a conflict in the proposed bill relating to the height of antennae in those sub-districts. Comments?

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COUNCILMEMBER MATEO: Chairman.

CHAIR MOLINA: Member Mateo?

COUNCILMEMBER MATEO: The, the . . .this just seems to be more in accordance with CC&Rs.

CHAIR MOLINA: That is my understanding.

COUNCILMEMBER MATEO: So, I question why this particular restriction on antennae, et cetera is relevant to this when I believe these are all components that they will be developing in their CC&Rs as they sell their property.

CHAIR MOLINA: So in . . .you think this is more redundancy, there is maybe no need for this, inclusion of this?

COUNCILMEMBER MATEO: Well, well, you know, I'm not the professional--

CHAIR MOLINA: Sure. Can I get a comment from Staff--

COUNCILMEMBER MATEO: Maybe we can ask Corp., Corp. Counsel?

CHAIR MOLINA: --or Corp. Counsel?

MS. SUYAMA: Oh, well. . .

CHAIR MOLINA: Or Director Suyama?

COUNCILMEMBER MATEO: Yeah.

MS. SUYAMA: The Department request that this be put in because there are people that come in for permits for antennae, you know, with the County of Maui. The County does not enforce CC&Rs, it will enforce it's own Code, and for that reason we say that it should be in the Code.

COUNCILMEMBER MATEO: But in exclusive, in exclusive subdivisions the homeowner's association requires compliance with CC&Rs. So, I just don't know the, I don't know the relevance.

MS. SUYAMA: It's, it's basically a zoning standard that we're establishing, you know, to govern antennae within Residential and Multi-Family Districts.

COUNCILMEMBER MATEO: Okay. I don't get it. Thank you.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

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CHAIR MOLINA: Okay. Thank you, Member Mateo. Any other comments to this before we move on to the next proposed revision?

COUNCILMEMBER MEDEIROS: Chair, Chair.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah. Where it says, minimum of four feet. . .so, so it can be higher than that as far as. . .but it, it cannot be lower than four feet as far as--

CHAIR MOLINA: Planning Department?

COUNCILMEMBER MEDEIROS: --I guess camouflaging the antennae or the dish?

MS. SUYAMA: You're talking about the one. . .the, the ground dishes?

COUNCILMEMBER MEDEIROS: It says that, No. 5, the third sentence, it starts "shall be screened by walls, earth berms, and/or landscaping with a minimum height of four feet, and that any roof or wall-mounted antennae shall not"--well, I'm, I'm talking about the four feet so--

MS. SUYAMA: Right. That's for those that are mounted on the ground. There are some people with those dish antennae.

COUNCILMEMBER MEDEIROS: That are on the ground?

MS. SUYAMA: That are on the ground.

COUNCILMEMBER MEDEIROS: Thank you, Chair.

CHAIR MOLINA: Okay. Any other comments to the proposed revision? Moving on, No. 6, To revise Section 19.90A.060(A)(1)(d) to make singular the term "Golf courses"; and to revise Section 19.90A.070(A)(2)(b), as follows: "One clubhouse--and we've bracketed out the word [per] and underscored the words--for the golf course. . .", to basically make it consistent with the reduction in the project district from two golf courses to one golf course. Any comments?

COUNCIL MEMBERS: No.

CHAIR MOLINA: No objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Moving on, No. 7, To delete Section 19.90A.070(A)(1)(b), which provides for homeowner association dwelling units for occupancy of less than 180 consecutive days; to

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delete reference in Section 19.90A.070(A) to “homeowner guest housing,”; and to renumber the subsections accordingly, as suggested by WCPT, to conform with the bill’s intent that no short-term residential units are allowed, otherwise known as vacation rentals. Comments?

COUNCILMEMBER VICTORINO: No objection.

COUNCILMEMBER BAISA: No objection.

CHAIR MOLINA: No objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Moving on to No. 8, To replace in its entirety the principal uses and structures in Section 19.90A.070(A)(1) with the principal uses and structures contained in correspondence dated September 28, 2006, from the Planning Director, with the exception of Subsection (b) (relating to homeowner association dwelling units), to conform with the Department’s recommendation, for consistency with recent legislation relating to a village mixed-use district. Comments?

COUNCILMEMBER VICTORINO: No.

CHAIR MOLINA: Objections?

COUNCILMEMBER VICTORINO: None.

COUNCILMEMBER MEDEIROS: None.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, seeing one. Okay, Members, those are the recommended revisions to the Project District bill at this point. Are there any other considerations that you would. . .Members would like to entertain and to incorporate into this?

COUNCILMEMBER MATEO: Chairman.

CHAIR MOLINA: Member Mateo?

COUNCILMEMBER MATEO: Just for clarification, when we discussed Item 5, I don’t think you asked for consensus on this particular section.

CHAIR MOLINA: Oh, okay. Alright. For the record, I take it you. . .there’s no consensus on your part for No. 5?

COUNCILMEMBER MATEO: No.

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CHAIR MOLINA: Okay. We will state, for the record, Member Mateo opposes revision 5. Do we need. . .Staff, do we need to take a formal vote or a motion on this?

MS. NAKATA: Yes, Mr. Chair, there's no motion pending right now for passage of the proposed bill.

CHAIR MOLINA: So on the revisions there's. . .at this point we do, we do need to take a, a vote on this?

MS. NAKATA: Just for clarification. . .when the Committee left off at its meeting in October, there was a main motion pending--

CHAIR MOLINA: That's correct.

MS. NAKATA: --and no vote was taken at the time. So that motion is, is dead, it's no longer in effect. So if the Chair wants to entertain a motion now, he can do so on the bill and then subsequently--

CHAIR MOLINA: Address the amendments?

MS. NAKATA: --motions to amend.

CHAIR MOLINA: Proposed revisions? Okay. Thank you. Alright, Members, you've heard the recommendation from Staff, I guess in a nutshell, is basically for us to consider any amendment we would first need to take, have a vote on the bill. But before we do that, Planning Department?

MS. SUYAMA: Right. Carla brought some discrepancies up to us. One of 'em is that on page 3 of the bill, Section 19.90A.030, Section B. which is Energy Efficiency. . .

CHAIR MOLINA: Uh-huh.

MS. SUYAMA: . . .we would suggest that this section be deleted. When we first put this section in, the Council had not adopted the Model Code. . .

CHAIR MOLINA: Uh-huh.

MS. SUYAMA: --the Energy Model Code, and now that we have that, there are probably some discrepancies between the two that they may be conflict in some terms. So we'd suggest that because now we have a Model Code, that whatever energy efficiency would be subject to that Code.

CHAIR MOLINA: This is Section B. under--

MS. SUYAMA: Under Energy Efficiency--

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CHAIR MOLINA: --Energy Efficiency.

MS. SUYAMA: --would be deleting that section.

CHAIR MOLINA: The whole section?

MS. SUYAMA: That whole section.

COUNCILMEMBER VICTORINO: So where would you start from, B.?

CHAIR MOLINA: That would--

MS. SUYAMA: Yeah, from B. and deleting the whole section--

CHAIR MOLINA: Which goes up to. . .?

MS. SUYAMA: --which goes to page, to the end of page 3.

COUNCILMEMBER MEDEIROS: Uh-huh.

CHAIR MOLINA: End of page 3, okay--

MS. SUYAMA: Yeah, page 3.

CHAIR MOLINA: --so which is--

COUNCILMEMBER MEDEIROS: That's on the same page?

CHAIR MOLINA: --the whole category of B.--

MS. SUYAMA: Right, on the same page.

CHAIR MOLINA: --the B. section. Okay.

COUNCILMEMBER VICTORINO: So you would still remain, A. will still be there, but from B. on?
Am I correct?

CHAIR MOLINA: Mr. Victorino, question--

COUNCILMEMBER VICTORINO: Yes.

CHAIR MOLINA: --for Planning?

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COUNCILMEMBER VICTORINO: Yeah, to Planning. From B. all the way down to L.--

MS. SUYAMA: L., that's correct.

COUNCILMEMBER VICTORINO: --you want that all removed?

MS. SUYAMA: That'll be all removed. That's part of the Energy Efficiency that we had suggested.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR MOLINA: So this would make the proposed revision. . .No. 2 in, in the document transmittal moot then basically if we decide to delete the whole section? Okay.

COUNCILMEMBER MATEO: Chairman.

CHAIR MOLINA: Mr. Mateo?

COUNCILMEMBER MATEO: Would, would Ms. Suyama comment on instead of deleting the whole thing, to just leave the heading "Energy Efficiency" and include, must comply with existing laws or whatever it is just so it is existing, existent on this particular bill?

CHAIR MOLINA: Director Suyama or Corp. Counsel, if you'd like to chime in?

MS. SUYAMA: Because you have the, you adopted the Energy Model Code--

COUNCILMEMBER MATEO: No, I'm aware of that.

MS. SUYAMA: --they, they are still subject to it regardless of whether it's in the ordinance or not.

COUNCILMEMBER MATEO: Okay. I'm aware of it, and I just figure it's easier to include it in, in the bill itself so there is no confusion at a later point, Ms. Suyama, whether or not they must conform with it or not. And I'm just asking, you know. . .you know, it's easy to take things out and somebody look at this agreement. So if you want all the information, it should be inclusive. So when you start to delete, you know, I begin to question. Thank you very much, Chairman.

CHAIR MOLINA: Okay. Thank you, Member Mateo. Members, any other considerations before the Chair makes a recommendation? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. I kind of agree with Member Mateo. You can leave Energy Efficiency, but, you know, it probably would be best to note in there the existing requirement that is now with the Planning Department. . .make it clear.

CHAIR MOLINA: Okay. Corporation Counsel or departments, what would be the. . .if basically we delete all what's underneath Energy Efficiency, what type of appropriate language would be

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needed? I would presume that we would want the applicant to comply to the County's Energy Code. Can I get comment. . .just for the record? Are you able to respond to using the appropriate language?

MR. GIROUX: What, what's the. . .is, is there a codified. . .

MS. SUYAMA: I don't have the codification.

MR. GIROUX: Chair, I think if we were going to add language, that we would want to refer to the exact, I guess, number of the Code. . .you know, oftentimes we use, you know, Maui County Code Section 19-, you know. So we would have to look. . .I, I think we should look at that and, and get the, get the exact, I guess, correct reference to the. . .

CHAIR MOLINA: Okay, so noted.

MS. NAKATA: Mr. Chair, I believe the--

CHAIR MOLINA: Staff?

MS. NAKATA: --reference to the Hawaii Model Energy Code is in Chapter 16.16 of the Maui County Code.

CHAIR MOLINA: So we could insert that language as part of the, your revision then? Energy Efficiency and. . .put the appropriate language that it has to refer to that?

MS. NAKATA: I, I don't. . .Staff. . .I don't know whether there's a particular section within the Chapter or. . .

MR. GIROUX: No, the. . .the whole, just refer to the whole. . .Chapter.

CHAIR MOLINA: Okay. Member Baisa?

COUNCILMEMBER BAISA: Mr. Chair, even if it appears to be redundant, I agree with Member Mateo. It might come in handy later on to have the reference. We don't have to put the whole thing, but at least the reference, the appropriate reference.

CHAIR MOLINA: Uh-huh. Okay, so noted. Okay, Members, so the Chair wants to just make sure we are all on the same page with it. So we will keep Energy Efficiency and insert the appropriate language that makes references to the County Energy Code?

COUNCILMEMBER BAISA: Yes.

CHAIR MOLINA: Okay. Is that clear to all Members? Okay, and we'll have Staff make the appropriate insertion of the language. Okay. Members, any other considerations? Seeing none--

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COUNCILMEMBER VICTORINO: Ready for your recommendation.

CHAIR MOLINA: So noted. Okay. Members, the Chair's recommendation is to pass on first reading of the proposed bill entitled, A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.90. . . --(*CHANGE OF TAPE, start 5A*)-- . . . MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 19.90A, MAUI COUNTY CODE, PERTAINING TO THE KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670).

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR MOLINA: Moved by Member Pontanilla, seconded by Member Victorino. Discussion as the maker of the motion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, Chair. This is the first phase in several more phases that the applicant need approval. This will establish a new chapter in the Maui County Code pertaining to the Kihei-Makena Project District 9 (Wailea 670). You know, we all heard the developer in regards to what is being planned, that it would include 1,400 dwelling units which would be--

COUNCILMEMBER VICTORINO: Mr. Chair, point of order.

CHAIR MOLINA: Mr. Victorino.

COUNCILMEMBER VICTORINO: And I do not want to cut my colleague off, but I think we are making a motion on the original motion. Is that correct?

CHAIR MOLINA: That is. . .well, we are--no, no the original motion we, it was mentioned by Staff earlier that we were gonna take out that original motion because it--

COUNCILMEMBER VICTORINO: Oh, no, no, I understand that, but the. . .without the amended changes we have to still put in and insert the amendment, we have to make--

CHAIR MOLINA: Yeah.

COUNCILMEMBER VICTORINO: --an amendment to make the changes, right?

CHAIR MOLINA: Well, well, right now we're just on the bill--and the Chair failed to mention it should be the bill as amended.

COUNCILMEMBER VICTORINO: As a. . .well, you did not say that. See, so--

CHAIR MOLINA: Okay. No, that's fine.

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COUNCILMEMBER VICTORINO: Yeah. So that's the correction that I'm trying to make.

CHAIR MOLINA: Right.

COUNCILMEMBER VICTORINO: I'm sorry, Mr. Pontanilla, but I'm not trying to--

CHAIR MOLINA: Yeah, and that's my fault.

COUNCILMEMBER VICTORINO: Yeah. Okay, yeah.

CHAIR MOLINA: I, I will take responsibility for that. So yes, Members, to clarify, the motion is for the bill as amended. . .assuming to include these revisions that, the bill that is attached to your January 18th, 2007 transmittal from your Chair.

COUNCILMEMBER VICTORINO: Thank you for that clarification.

CHAIR MOLINA: Okay. Thank you. And my apologies, Mr. Victorino. Mr. Pontanilla, continue.

VICE-CHAIR PONTANILLA: Thank you, Mr. Victorino. Anyway, it's going to be providing. . .some needed affordable housing in the area as well as recreational amenities for the community in South Maui. So thank you, Chair.

CHAIR MOLINA: Okay. Thank you very much, Mr. Pontanilla. The Chair would like to make. . .before we continue with the discussion on the floor with the motion, there is a response--since we're talking about the subject of the Energy Code, the, the Committee did ask for Public Works' response, which was dated March 9th, '06. So if any Members would like the Department to respond to their response, you may feel free to do so during this discussion phase as well. So it's dated March 9th, '06 and if you would like to take a look at it at some point or if at a later time when we do meet on this matter again in the future, you can get comments to their. . .or try to solicit comments from the Department as to why they responded in that fashion. So anyway, continuing on, Members. Comments on the motion that's on the floor?

COUNCILMEMBER VICTORINO: Mr. Chair, I will--

CHAIR MOLINA: Mr. Victorino?

COUNCILMEMBER VICTORINO: --I will be supporting the motion with the amendments as, as stated. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Any other comments to the motion on the floor?
Staff?

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MS. NAKATA: Mr. Chair, could Staff just clarify that in addition to the revisions that were incorporated through the motion, you're also incorporating the energy efficiency re..., revision--

CHAIR MOLINA: That is correct.

MS. NAKATA: --that was discussed later?

CHAIR MOLINA: And any objections to that, Members? We're going to, again, delete that...the Section B., under Energy Efficiency, page 3 of the document, keep the word Energy Efficiency and put the appropriate language that refers to the Maui County Energy Code in which the applicant must comply by.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: MA, RH, JJ).

CHAIR MOLINA: Okay. Thank you, Members. Any additional discussion, Members? Okay. Before the Chair offers his thoughts...well, actually I'm going to go ahead and incorporate that at the same time if everyone else is satisfied with their...opportunity to speak. And we did--again, I do want to address the issue of the Traffic Impact Analysis Report. The Chair would just like to offer his thoughts. He is satisfied with the June 2006 [sic] report. It is basically about a year and a half old. We're not talking about a document that's ten years old or five years old.

So as part of the Chair's recommendation, I will ask the Department to give us an updated analysis with regards to the changes that have occurred with the project. I will ask for that, unless the majority of the body would like to ask for a traffic, an Updated Traffic Impact Analysis Report. I will leave it to you; however, your Chair is...I just want you to know that the Chair is satisfied with the June 2006 [sic] TIAR. Comments, Members, on that? Any objections to the Chair's recommendation?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: MA, RH, JJ).

CHAIR MOLINA: Okay, seeing none...if not, the Chair will call for the question. All in favor of the motion to pass the Project District bill as revised, signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Okay, the Chair will mark it six-zero.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 31, 2007

VOTE: **AYES:** **Councilmembers Baisa, Mateo, Medeiros, Victorino, Vice-Chair Pontanilla, and Chair Molina.**

NOES: **None.**

EXC.: **Councilmembers Anderson, Hokama, and Johnson.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **Recommending FIRST READING of revised proposed bill entitled “A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.90, MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 19.90A, MAUI COUNTY CODE, PERTAINING TO KIHAI-MAKENA PROJECT DISTRICT 9 (WAILEA 670)”;** and

DEFER remaining bills pending further discussion.

CHAIR MOLINA: Thank you very much, Members. It is 6:40, Members. We will not have time to discuss the other portion of this application, which is the conditions. So we will do that a future point in time. Staff, comments?

MS. NAKATA: No. Staff just wanted to clarify that the revised TIAR was June '05, not June '06.

CHAIR MOLINA: Did I say '06? I'm sorry, June '05. So that would make it a year and a . . . is that about a year and a half? Am I correct with the . . .? Okay, it was just off on the year, right? Okay. Alright, seeing none, Members, I want to thank you for a very, very long day and I appreciate you sticking around for this meeting.

So with that being said, I want to thank the Staff and everyone involved, all of our resource personnel for standing by, and especially the Planning Director and everyone else. It was a very . . . I believe a very constructive meeting. So this is just one. . . *(chuckle)*. . . one point of this matter that we have addressed.

So with that, I want to thank everyone involved. Thank you for all of your professionalism. It is 6:40 on the 31st of January, 2007. This Land Use Committee meeting is now adjourned. . . *(gavel)*. . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

January 31, 2007

ADJOURN: 6:40 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Land Use Committee

lu:min:070131:tf

Transcribed by: Tammy M. Frias