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MINUTES

LAND USE COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
AUGUST 15, 2007
COUNCIL CHAMBER

APPROVED:



Committee Chair

1 RECONVENE: 4:51 p.m.

2

3 PRESENT: Councilmember Michael J. Molina, Chair
4 Councilmember Joseph Pontanilla, Vice-Chair
5 Councilmember Michelle Anderson, Member
6 Councilmember Gladys C. Baisa, Member
7 Councilmember G. Riki Hokama, Member
8 Councilmember Michael P. Victorino, Member

9

10 EXCUSED: Councilmember Jo Anne Johnson, Member
11 Councilmember Danny A. Mateo, Member
12 Councilmember Bill Kauakea Medeiros, Member

13

14 STAFF: Tammy M. Frias, Committee Secretary
15 Carla M. Nakata, Legislative Attorney

16

17 ADMIN.: Colleen Suyama, Deputy Director, Department of
18 Planning
19 Michael Miyamoto, Deputy Director, Department
20 of Public Works
21 Patrick Matsui, Chief of Planning and
22 Development, Department of Parks and
23 Recreation
24 James A. Giroux, Deputy Corporation Counsel,
25 Department of the Corporation Counsel

1 OTHERS: Charles Jencks, Owner's Representative,
2 Honua'ula Partners, LLC
3 Gwen Ohashi Hiraga, Principal, Munekiyo &
4 Hiraga, Inc. (Applicant's entitlement
5 consultant)
6 Wayne Yoshioka, Manager, PB Americas, Inc.
7 (Applicant's traffic consultant)
8 Barry Toyota, Vice President and Director,
9 Wilson Okamoto Corporation (Applicant's
10 civil engineering consultant)
11 Aki Sinoto, Aki Sinoto Consulting (Applicant's
12 archaeologist)
13 John Ford, Program Director/Senior Biologist,
14 SWCA Environmental Consultants
15 (Applicant's flora consultant)
16 B. Martin Luna, Esq., Carlsmith Ball, LLC
17 (Applicant's attorney)
18
19 Melissa Prince
20 Four (4) Baldwin High School Students
21 Additional attendees (25)
22
23 PRESS: Melissa Tanji, The Maui News
24 Akaku - Maui County Community Television, Inc.
25

1 ITEM NO. 38: CHANGE IN ZONING AND PROJECT DISTRICT PHASE
2 I APPROVAL FOR "HONUUA'ULA/WAILEA 670"
3 RESIDENTIAL DEVELOPMENT (C.C. No. 01-334)
4

5 CHAIR MOLINA: (Gavel). The recessed Land Use Committee
6 meeting of July 25th, 2007 is now back in session.
7 Members, we will continue our line of questioning
8 for the applicant as it relates to the Honua'ula
9 application. When we last left off, we had Member
10 Victorino. We're going to recognize him first. He
11 had some questions for the applicant, Mr. Jencks.

12 Mr. Jencks, if you can come on up to the
13 podium, I believe that this was related to the
14 proposed condition number 12 from the Planning
15 Commission, which is page 7 of 12 on your matrix,
16 Members.

17 And before we start the questioning, for the
18 record, we have in attendance Vice-Chair of the
19 Committee, Joe Pontanilla, Committee Members Mike
20 Victorino, Riki Hokama, Gladys Baisa, and Michelle
21 Anderson and Mike Molina. Excused are Members Danny
22 Mateo, Bill Medeiros, and Jo Anne Johnson. And I
23 might want to add, we do want to send out our
24 sympathies to Councilmember Medeiros. There was a
25 death in the family today, or it might have happened

1 last night. We all send our prayers to Member
2 Medeiros and his family.

3 Mr. Victorino, you have the floor.

4 COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

5 Mr. Jencks, one of the questions that I wanted
6 to ask you, if per se we were to take your option
7 that you proposed to Mr. Mateo, with the 250 units
8 being built off of the site, which would then leave
9 additional lands available, would there be some
10 consideration? Because one of the things that I
11 know has been brought up time in and time out is
12 that southern portion where your golf course and
13 housing would be built, the archaeological sites
14 that may be in that area and some of the -- also the
15 plants, like the wiliwili and other plants that are
16 in that area?

17 MR. JENCKS: Uh-huh.

18 COUNCILMEMBER VICTORINO: That has been showing up in some
19 of the reports? Would there be some consideration
20 if that was to happen, that we could somehow
21 preserve that lower southern portion of the property
22 and not touch it, or really restrict anything other
23 than maybe a target golf course, and not touching
24 any of the pristine and natural wilderness that is
25 down there in that corner?

1 CHAIR MOLINA: Mr. Jencks?

2 MR. JENCKS: The proposed site for the affordable
3 apartments, if you will, in North Kihei is
4 approximately 13 acres, plus or minus. The golf
5 course portion of this project is located and
6 designed to be located in the southerly, I would say
7 half of the property.

8 COUNCILMEMBER VICTORINO: Uh-huh.

9 MR. JENCKS: For a couple of reasons. One is that the
10 topography is much more severe in the southern end,
11 creating a much more desirable golf course. And
12 number two, the residential component primarily is
13 located in the northern half of the project, where
14 the topography is much less severe and you have much
15 better cover, organic cover, more dirt, those kinds
16 of things, for residential development.

17 So saying, okay, we have 13 acres that we're
18 going to use for housing in North Kihei, now we have
19 13 acres that we can expand the preservation program
20 in the project. I think that's what you're getting
21 at, and could we do that, could we accommodate that.

22 A couple of questions, first of all. I think
23 it's pretty clear, based upon work that's been done
24 on the property over the years, that, A, there are
25 no federally endangered plants on the property.

1 It's also clear that there are no federally
2 endangered animals on the property. It's also clear
3 that the preservation area that we've been talking
4 about -- in fact, we provided to the Committee, I
5 think it was in June of 2006, a preservation plan.
6 I don't know if you've had a chance to look at that,
7 but it talks about the viability of this resource,
8 if you will.

9 There are no areas immediately adjacent to
10 this property, either mauka or southerly from the
11 property, that provide any contiguity with
12 significant resource, plant resource areas, so
13 there's no relationship between what we think is on
14 this property and something that's immediately
15 adjacent. Okay.

16 We also know, for example, that what is on the
17 property in terms of resource, dry land, scrub
18 habitat, is -- it's there, but it's also very
19 fragmented. There's a small piece here, there's a
20 small piece here. You don't have a large,
21 contiguous mass that you could protect and preserve.

22 Therefore, given all of those things I just
23 said, the approach has been to identify the best
24 pieces of this resource that's there and preserve
25 those intact, and expand on them if necessary, to

1 make sure we preserve what is valuable. Not by
2 taking a large, contiguous piece and saying preserve
3 this, because it may not be what it is you're
4 intending to preserve. It may not all be what
5 you're intending to preserve, and you may dilute
6 your reference, because this is not --

7 The preservation of this type of habitat is
8 not easy. It has to be fenced, it has to be
9 controlled, it has to be selectively taken care of.
10 And someone, most importantly, Mr. Victorino, has to
11 pay for that.

12 So I think we can -- our proposal, and I'll
13 get right to it, our proposal here is not to say
14 we're going to preserve, and someone was throwing
15 out 6 acres. Well, the 6 acres is not in the report
16 we provided, nor is it on the map we provided. I
17 don't know where that came from, frankly. It's not
18 in the project's best interest, it's not in this
19 habitat's best interest to say arbitrarily we're
20 going to make it 10 acres, we're going to make it 25
21 acres, we're going to make it 50 acres, whatever it
22 happens to be.

23 We think the best way to solve this problem,
24 and we think it's easily solved, because we've had
25 the help of U.S. Fish and Wildlife Service and USGS,

1 and also the University of Hawaii, is to put
2 together the stakeholders, including those agencies
3 I just mentioned, DLNR included, as well as the
4 folks themselves in Maui, Dr. Lee Altenberg and
5 others that would be interested in sitting down with
6 us as a part of the approved plan that we get out of
7 this process, with the acreages intact, for the golf
8 course, the residential, whatever it happens to be.
9 Sit down with the stakeholders and their peers, and
10 develop a preservation plan that would be formalized
11 and approved by DLNR as a part of our Phase II
12 application with the Planning Commission.

13 Because then we do it in the context of, A,
14 what we know to be the givens in the project, what
15 the zoning will provide for; and B, what we can do
16 to move things around, the golf course, the
17 residential, and identify those pieces that make
18 sense for preservation, and not today say it's going
19 to be 20 acres or 30 acres, or whatever it happens
20 to be. We do that, we define what it is through
21 consensus and through working together with the
22 stakeholders.

23 COUNCILMEMBER VICTORINO: Okay. Thank you, Mr. Chair. He
24 covered many issues. Thank you very much.

25 CHAIR MOLINA: Thank you, Mr. Victorino. Member Anderson?

1 COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. I'd like
2 to follow up on that.

3 First of all, Mr. Jencks, you've got single
4 family in this southern portion, which is the 'a'a
5 flow. You have single family and multifamily
6 housing as well as a wastewater treatment plant
7 taking up 90 percent of that area. The golf course
8 is 10 percent of it, maybe 20. So what you just
9 said is not true.

10 And also the study that you folks used that
11 was sent to Fish and Wildlife was a study that was
12 done in 1988 for the Environmental Impact Statement,
13 which is outdated, inadequate, and should have been
14 redone for this project. So it was wholly
15 inadequate. And, as a matter of fact, I would like
16 to pass out to Members, since --

17 You know, I wasn't going to bring this up, but
18 since it's come up, Mr. Chairman, I think that --
19 and we're not yet into conditions that you are going
20 to be allowing, you know, for the Members to
21 propose. We're still working on their conditions.
22 If Staff could help pass this out, please.

23 I'd like to read into the record that this is
24 a crucial and vital ecosystem, of which only 5
25 percent of it still exists in the whole of the

1 state. And what he's asking us to allow him to
2 destroy is a very small portion of that, vital
3 portion of that 5 percent that's left, particularly
4 here on Maui. Actually, the study that
5 Dr. Altenberg did, Members, it shows that the -- he
6 actually did a GPS, and I don't know if you guys can
7 put your fingers --

8 That's one of the problems with this project,
9 Mr. Chair, is that all this information has come in
10 in such a piecemeal manner that it's impossible to
11 find all this stuff, unless you've spent the hours
12 and days that I have spent organizing it so I can
13 put my fingers on things immediately.

14 You will see that the GPS shows valuable
15 native and endemic species all throughout this area,
16 and that his claim that they're not contiguous, so
17 therefore they can't be appropriately saved, is
18 ridiculous, because the idea is that you want -- I
19 mean, this, this habitat, Members, has been in
20 existence for thousands of years, and it's done just
21 fine without human contact. And you want to have
22 different pockets, because it's that 'a'a flow, so
23 the plants redistribute themselves, you know, with
24 winds and birds and whatnot to these various pockets
25 of soil, and that's what's allowed this habitat to

1 maintain itself.

2 And I would like to read for the record --
3 this is from Dr. Creighton Litton, who is a forest
4 ecologist with the Department of Land and Natural
5 Resources, University of Manoa. And he says that he
6 is a forest ecologist who's worked in Hawaiian dry
7 forests for the past 4.5 years. He sent us this
8 letter in regards to the proposed development at
9 Wailea.

10 "It's my understanding that 110 acres of the
11 property contain high value, endemic Hawaiian dry
12 forest, and that the developer has proposed to set
13 aside 6 to 20 acres as a preserve. I urge you to
14 consider this proposal, and require that the
15 developer set aside the entire 110 acres of wiliwili
16 forest as a permanent reserve or conservation area."

17 I'm just going to read a little bit of it.
18 You, you folks, I've passed it out; you can read the
19 rest.

20 "Hawaiian lowland dry forests are one of the
21 most threatened ecosystems in the United States,
22 with less than 10 percent of the original habitat
23 remaining. Those fragments that remain are
24 typically isolated and highly degraded. Preserving
25 existing dry forests will be inordinately more cost

1 efficient than restoring areas that have been highly
2 degraded. In addition, larger areas will be much
3 more useful as conservation tools than small,
4 fragmented areas. Thus, it is crucial that we
5 preserve all of the remaining Hawaiian dry forest
6 habitat that is relatively intact, such as Wailea
7 670.

8 I endorse Dr. Altenberg's testimony presented
9 to your Council that that is a highly important
10 conservation area to preserve. In addition, I find
11 the original developer's EIS to be flawed, primarily
12 because the botanical survey is dated 1988, and
13 obviously missed many rare, endemic, and important
14 elements."

15 I won't take more of the Committee's time on
16 this at this point, but, Members, you can continue
17 to read. Again, he urges us to consider requiring
18 the developer to set aside the entire 110 acres of
19 wiliwili dominated forest in Wailea 670 as a
20 preserve or conservation area.

21 And I would also like to add that -- you know,
22 here's another one from Professor Robert Cabin,
23 University of Environmental Science and Ecology --
24 if we could pass this out, Staff -- also endorsing
25 this and preserving it.

1 And the reason that this is important,
2 Members, we're spending millions of dollars
3 statewide trying to restore what little of this
4 ecosystem still remains. Trying to restore it. And
5 here's one that's intact already, that doesn't need
6 to be restored. It just needs to be preserved. And
7 I just cannot imagine telling --

8 I mean, this is an opportunity here, folks, to
9 set aside a conservation easement, to make this 110
10 acres a botanical, a native Hawaiian botanical and
11 cultural preserve. And that has much more value to
12 the keiki o ka aina of this island and to the
13 visitor of this island than a golf course, a section
14 of a golf course. We got plenty of those already.
15 This is the last breathing remnant of an intact
16 ecosystem that has been destroyed otherwise
17 throughout this state. And on all the islands,
18 Members, the botanical community is fighting to get
19 money to restore this ecosystem, and here we have
20 one that doesn't need to be restored. It just needs
21 to be preserved.

22 So when we get to the point, Mr. Chairman, of
23 conditions, I'm going to be proposing a condition
24 that the whole 110 acres be set aside through a
25 conservation easement. You know, this gives the

1 landowner tax breaks. This allows for 501(C)(3)
2 entities to come in and manage it. He doesn't even
3 have to give up ownership. All he has to do is
4 redesign his project so that this 'a'a flow and the
5 vitally important botanical ecosystem that is here,
6 not to mention the cultural sites, can be preserved
7 in place.

8 Thank you, Chair, for the time.

9 CHAIR MOLINA: All right. Thank you, Member Anderson.

10 Members, any other questions for Mr. Jencks as
11 it relates to condition number 12? Seeing none,
12 I'll excuse Mr. Jencks at this point. Thank you.

13 All right, Members, let's try to go over
14 condition number -- we'll skip around a little bit.
15 I don't believe we've touched upon condition number
16 18, which is a rather lengthy set of proposals.
17 We'll just basically summarize it. It relates to
18 "WCPT/GW Land Associates, LLC, its successors and
19 permitted assigns, shall address in their Phase II
20 application the following," and it relates to the
21 conditions established by the Department of Health.
22 And it is rather lengthy.

23 I guess we'll go ahead. Now, Ms. Nakata, if
24 you would like to go ahead and read the condition
25 for us, and then we'll have Planning, Planning

1 Department comment on it.

2 MS. NAKATA: "That WCPT/GW Land Associates, LLC, its
3 successors and permitted assigns, shall address in
4 their Phase II application the following:

5 A. Condition 1 of the Department of Health's
6 "Twelve Conditions Applicable To All New Golf Course
7 Development" ("12 Conditions") relating to an
8 approved sampling plan, establishment of the
9 baseline groundwater/vadose zone water quality, and
10 if appropriate, nearshore water quality, has been
11 met to the satisfaction of the Director of Health;

12 B. Conditions 2 and 3 of the Department of
13 Health's "12 Conditions" relating to groundwater
14 monitoring have been satisfied by the Director of
15 Health;

16 C. Condition 4 relating to the preliminary
17 proposal of the individual treatment system meets
18 the requirements of the Department of Health, and
19 final design shall be approved at the time of Phase
20 III;

21 D. Condition 5 of the Department of Health's
22 "12 Conditions" relating to use of effluent has been
23 satisfied;

24 E. Condition 6 of the Department of Health's
25 "12 Conditions" relating to golf carts and storage

1 of petroleum has been addressed and incorporated in
2 the design and layout of the buildings;

3 F. Conditions 7, 8, and 11 of the Department
4 of Health's "12 Conditions" relating to fertilizers,
5 biocides, and pesticides and the Integrated Golf
6 Course Management Plan have been reviewed, and
7 comments from the Departments of Agriculture and
8 Health have been incorporated in the design and
9 layout of the golf courses;

10 G. Condition 9 of the Department of Health's
11 "12 Conditions" relating to noise from maintenance
12 facilities has been addressed through the location
13 and design of the maintenance activities and
14 facilities;

15 H. Condition 10 of the Department of Health's
16 "12 Conditions" and the Department of Public Works
17 and Environmental Management's concerns and
18 recommendations relating to solid waste disposal
19 management activities and facilities are identified
20 and designed;

21 I. Condition 12 of the Department of Health's
22 "12 Conditions" relating to soil runoff during
23 construction and concerns of the State Department of
24 Transportation; County Department of Public Works
25 and Environmental Management; Department of Health;

1 and the Natural Resources Conservation Service of
2 the United States Department of Agriculture relating
3 to drainage are addressed and incorporated in the
4 design and layout of the plans, and a preliminary
5 erosion control and drainage report is included in
6 the application;

7 J. Confirmation from Maui Electric Company
8 ("MECO") that the proposal to relocate and/or
9 landscape MECO facilities is incorporated in the
10 application and site plan; and;

11 K. Roadway improvements to the satisfaction
12 of the State Department of Transportation and the
13 County Department of Public Works and Environmental
14 Management and proposed agreements are incorporated
15 in the application and site plan and finalized as
16 part of Phase II approval."

17 CHAIR MOLINA: Thank you, Ms. Nakata. You deserve a drink
18 of water after that long dissertation.

19 Planning Department, Deputy Director Suyama,
20 can you share with us your comments as it relates to
21 these "12 Conditions" from the State Department of
22 Health?

23 MS. SUYAMA: There's very little that we have to add.

24 Condition 18 is actually part of the original
25 conditional zoning that was done for the first half

1 of the Wailea 670 project, which was the golf
2 courses and the park. Plus a lot of these
3 conditions, in terms of 18 A to 18 I, are also
4 reflected in the Land Use Commission Decision in
5 Order.

6 And other than that, you know, we don't have
7 much to say other than that these conditions
8 reference to the -- it's simpler to just maybe
9 reference the original documents than rewriting
10 everything back down again as a condition.

11 And you may want to clarify that the Project
12 District Phase II shall address the conditions and
13 incorporate any design requirements to meet the
14 conditions. That's our only comment.

15 CHAIR MOLINA: All right. Thank you, Deputy Director.

16 Committee Members, any comments on this? We
17 also have Mr. Matsui from the Parks Department, and
18 he is here, I guess to deal with any matters related
19 to the golf course as well.

20 Do you have any comments on this, Mr. Matsui,
21 as well?

22 MR. MATSUI: No.

23 CHAIR MOLINA: Okay. Members, the floor is open for
24 questions for the Department. Member Anderson
25 followed by Member Hokama.

1 COUNCILMEMBER ANDERSON: You know, Mr. Chair, if these
2 conditions A through -- what was it, Colleen, that
3 you said?

4 MS. SUYAMA: A to I.

5 COUNCILMEMBER ANDERSON: A to I is -- that's what you said
6 was part of the LUC's Decision in Order.

7 MS. SUYAMA: It's reflected in the Decision in Order by
8 the Land Use Commission.

9 COUNCILMEMBER ANDERSON: But you said that all of these
10 conditions were the original conditions on the
11 Change in Zoning they got for the golf courses and
12 the park.

13 MS. SUYAMA: That's correct.

14 COUNCILMEMBER ANDERSON: So my question is, why haven't
15 any of this, why hasn't any of this been done? They
16 got their Phase II approval, they got their Phase
17 III approval. They got all those approvals, and so
18 these conditions, at least an attempt at the
19 baseline of all these conditions should have already
20 been done at Phase II. And so do we have anything
21 that shows that they did any of this?

22 CHAIR MOLINA: Deputy Director?

23 MS. SUYAMA: All I understand about the Phase II approval
24 that was done for the original golf course was that
25 the land use allocation portion was approved by the

1 Maui Planning Commission. They never initiated the
2 Phase III Project District.

3 And normally before Phase III Project
4 District, we also require applicants to produce a
5 compliance report on how you've met all of the
6 conditions of zoning and how you've met all of the
7 conditions of the Land Use Commission before we
8 would grant Phase III approval, because Phase III
9 approval is your final administrative approval
10 before you go back to the Public Works Department
11 and get your ministerial approvals. So until that
12 time, the applicants are usually given time to
13 comply with the conditions.

14 COUNCILMEMBER ANDERSON: Well, I have to beg to differ
15 with you, because they did get Phase III approval.
16 And Richelle Kawasaki did an analysis of this for
17 Councilmember Nishiki some years ago, and I can pull
18 that up, Mr. Chair, if I have a few minutes to find
19 it. They did, they did get Phase III approval.
20 They went all the way. The only thing they needed
21 to do next was get a grading permit and commence.

22 Now, I don't know why they didn't go forward,
23 if there was a downturn in the Japanese market, if
24 they didn't -- you know, the pump, the wells that
25 they drilled didn't produce enough water. Nobody

1 knows why they didn't go forward. But, yeah, they
2 got Phase III approval, and -- so, you know, I'd
3 like to see --

4 Well, I got a problem with quite a few of
5 these conditions, Mr. Chairman. Many of these
6 conditions relate to impacts that we need to be
7 addressing in the change of zoning. And if we wait
8 for them to do these things at Phase II, it's out of
9 our purview. We aren't going to know what the
10 baselines are, we're not going to know -- some of
11 them are probably okay for Phase II, but a lot of
12 them aren't. And, you know, this whole thing
13 about --

14 Let's just pick out one real quick. F,
15 Conditions 7, 8, and 11 of the Department's "12
16 Conditions" relating to fertilizers, biocides,
17 pesticides, blah blah blah. I mean, that's right
18 here in our Change in Zoning application
19 requirements, Members. So why do we put this off to
20 the Planning Commission and abdicate our
21 responsibility to make sure that the impacts are
22 appropriately mitigated in the Change in Zoning?

23 You know, they are building a golf course.
24 This is a major issue. We know what's happening to
25 our reefs. And I think we need to tighten these

1 conditions up and make them comply currently with
2 the Change in Zoning ordinance that requires that
3 they identify.

4 Number 24, Identification and assessment of
5 chemicals and fertilizers used, including, but not
6 limited to, detailing effects upon surface,
7 underground, and marine water resources, and
8 neighboring properties, and surrounding flora and
9 fauna, and if applicable, a mitigation plan and
10 maintenance program, and schedule and comments from
11 Department of Health and DLNR and the United States
12 Fish and Wildlife and the U.S. Environmental
13 Protection Agency.

14 That's an application requirement for this
15 Change in Zoning. And here we're punting that off,
16 past our purview, to the Planning Commission.
17 That's an abdication of our responsibility,
18 Mr. Chairman, to the people who elected us. And
19 that is only one condition.

20 So I have a problem with all of these
21 conditions saying Phase II or Phase III, because
22 we're required through the ordinance for Change in
23 Zoning to make sure that this has already been
24 assessed and that the mitigation plans are in place,
25 approved by this very, these various agencies in

1 front of us today.

2 That's just the one, and if you want me to go
3 through the rest of them, I'm happy to do it, but I
4 got problems with all of them being done after we
5 approve this.

6 CHAIR MOLINA: Thank you, Member Anderson.

7 Mr. Hokama?

8 COUNCILMEMBER HOKAMA: Chairman, maybe Staff can help me
9 locate. Is it in our submittals that has the
10 Department of Health's "12 Conditions" as it relates
11 to condition number 18, Chairman?

12 CHAIR MOLINA: Staff?

13 MS. NAKATA: I believe we did obtain actually a more
14 current version than the version that's referenced
15 here.

16 COUNCILMEMBER HOKAMA: Do the Members have a copy of that,
17 Ms. Nakata?

18 MS. NAKATA: Yes. It should be in the binders. I'll
19 locate it.

20 COUNCILMEMBER HOKAMA: Yeah, thank you for -- I would
21 appreciate that assistance, please.

22 Chairman, just a few questions, please.

23 CHAIR MOLINA: Proceed, Mr. Hokama.

24 COUNCILMEMBER HOKAMA: Again, this is before whatever is
25 the appropriate department.

1 Under 18 C, Mr. Chairman, as it relates to the
2 preliminary proposal of the individual treatment
3 system that meets the requirements of Department of
4 Health, can someone tell us, what are we exactly
5 being informed about regarding this proposed
6 preliminary individual treatment system, please?

7 CHAIR MOLINA: Department?

8 MS. SUYAMA: My information, what I understand is that
9 when the golf course first came in, they were
10 proposing an individual wastewater treatment to
11 handle the sewers from the clubhouse primarily. And
12 because of that, that jurisdiction of who reviews
13 the plans are with the Department of Health. And
14 usually such plans are reviewed at the time that
15 you're ready for construction and your construction
16 plan's together, and the Department of Health
17 makes -- you know, reviews it and makes sure that it
18 meets their standards and their regulations.

19 COUNCILMEMBER HOKAMA: So this could not be misinterpreted
20 to, as it relates to the treatment of either
21 brackish or effluent material.

22 MS. SUYAMA: It's a condition that was strictly for the
23 waste, the wastewater disposal proposed for the golf
24 clubhouse at that time, because they were not
25 planning, in 1992, they were not planning any sewage

1 treatment plant. And at that time they were also
2 looking at if in the future they were going to
3 develop more than just the golf course, that they
4 were planning to originally connect to the County
5 treatment system.

6 COUNCILMEMBER HOKAMA: Okay.

7 MS. SUYAMA: So this is why these conditions. And, you
8 know, as an aside, these conditions cannot be met at
9 the Council level, because you do not have final
10 design plans at the Council level. There are some
11 things that cannot be done at this level, because
12 it's as you go through the process. People develop
13 their plans, and the agencies again review those
14 plans and make sure that they are in compliance, and
15 we rely on those agencies.

16 COUNCILMEMBER HOKAMA: I understand your comment, Director
17 Suyama. However, I would agree with my colleague
18 that this type of requirement on the treatment
19 plant, because it just talks about a preliminary
20 proposal, I would think that would, definitely, it
21 needs to be completed prior to going to Phase III
22 and showing the Commission exactly what they're
23 being expected to approve.

24 I mean, we're not talking about final design.
25 This is just talking about preliminary proposal.

1 MS. SUYAMA: Right.

2 COUNCILMEMBER HOKAMA: You cannot show that to Commission
3 during Phase II, then something is not right.

4 CHAIR MOLINA: Director?

5 COUNCILMEMBER HOKAMA: This is being proposed for Phase
6 III, which is just the Director signing off.

7 So just so we're clear, yeah. This is with --
8 this is or is not within the SMA boundary?

9 MS. SUYAMA: It is not within.

10 COUNCILMEMBER HOKAMA: It is not. So again, the
11 Commission, final review is Phase II.

12 MS. SUYAMA: Final review with the Commission is Phase II,
13 and then the final, the third phase is the
14 administrative --

15 COUNCILMEMBER HOKAMA: Right.

16 MS. SUYAMA: -- in which the Department approves it.

17 COUNCILMEMBER HOKAMA: Okay. Okay, well, that's my
18 question under C. My question under -- if I may,
19 Chairman, please.

20 CHAIR MOLINA: Proceed.

21 COUNCILMEMBER HOKAMA: This is still under 18. I'm
22 looking at 18 I. And here again, we talk about the
23 potential design, layout of plans, preliminary
24 erosion control, drainage report. That is something
25 we already have. Is that a good understanding on

1 this Committee's part, Director?

2 CHAIR MOLINA: Director?

3 MS. SUYAMA: My understanding of this condition would be
4 that when they come in with their preliminary plans,
5 they need to include what they call a preliminary
6 drainage report that would address a lot of these
7 things dealing with soil runoff during construction.

8 And based upon these conditions, there
9 probably were some comments that were made by the
10 Department of Transportation and the Department of
11 Public Works and Environmental Management at that
12 time as well as the Department of Health and the
13 Natural Resources Conservation Service, that there
14 were some drainage related issues that need to be
15 worked out during, during the subsequent phases.

16 COUNCILMEMBER HOKAMA: Uh-huh.

17 MS. SUYAMA: And those things would have to be done. And
18 normally these preliminary plans are reviewed by the
19 Commission at the Phase II level, and the final
20 detailed plans are then prepared by the applicant,
21 which is reviewed by the Public Works Department as
22 well as the other agencies that are involved in the
23 review process.

24 COUNCILMEMBER HOKAMA: So at this point in time you can
25 say that the Committee does not have any type of

1 documentation regarding this condition.

2 MS. SUYAMA: You were given preliminary drainage reports
3 as part of the application, was included as part of
4 that. They have their own consultants here that
5 could have addressed further, if you needed more
6 information. And that was analyzed by the agencies
7 and was put in as part of the record in terms of the
8 agency comments that was included in the
9 Department's report to the Commission.

10 COUNCILMEMBER HOKAMA: Okay. And my next, last question
11 in this area, Director, is K, 18 K. Has the
12 Department received from the various agencies that
13 would comment on the transportation component,
14 provided any type of list of what those projects
15 should be considered as part of mitigation of this
16 project?

17 MS. SUYAMA: There was a basic traffic impact analysis
18 report that was done by the applicant, and there
19 were several updates that were done. The Council
20 Staff had asked the Planning Department if they
21 would try to itemize what those improvements were,
22 and I believe there is a proposed condition relating
23 to traffic mitigation that's a separate condition,
24 that was garnered from all of the different traffic
25 mitigation, traffic impact analysis reports.

1 And in what our draft condition was that
2 besides making, doing these improvements, we had
3 proposed timetables as to when these improvements
4 should be done, and we were trying to link the
5 improvements to the occupancy of the units. In
6 other words, certain things had to be done before
7 you even occupied the units.

8 COUNCILMEMBER HOKAMA: Uh-huh.

9 MS. SUYAMA: And that was our proposal.

10 COUNCILMEMBER HOKAMA: Okay, I know we talked about this
11 in a previous meeting, Director, so. So just so I
12 can get a yes or no, we are preparing a list of
13 specific projects to address transportation
14 concerns?

15 MS. SUYAMA: Yes. The Department was asked to itemize
16 those improvements.

17 COUNCILMEMBER HOKAMA: This one says, would be
18 incorporated in the application and site plan and
19 finalized as Phase II approval. I would prefer that
20 it be part of the unilateral agreement up front,
21 even before we give second and final reading to the
22 zoning document, so. Is that an issue for Planning
23 Department?

24 MS. SUYAMA: No, it's not.

25 COUNCILMEMBER HOKAMA: Thank you very much. Chairman,

1 thank you.

2 CHAIR MOLINA: Thank you, Mr. Hokama.

3 Committee Members, any other questions
4 relating to condition number 18?

5 MS. NAKATA: Mr. Chair?

6 CHAIR MOLINA: Staff?

7 MS. NAKATA: For the Committee's information, the golf
8 course guidelines, we actually have, the Committee
9 has two versions. The January 1992 version, which
10 is version four, and that's referenced, or that was
11 transmitted by March 8th, '06 letter from the
12 Planning Director; and then we also have what was in
13 the most current version, version six, July 2002.
14 That was transmitted from the Chair of the Committee
15 October 3rd, 2006, and that's in the back of the
16 Members' binder four.

17 CHAIR MOLINA: Thank you, Staff.

18 Committee Members, we'll spend a few more
19 minutes here on this condition. If you have any
20 other questions, the Chair is open.

21 Member Anderson?

22 COUNCILMEMBER ANDERSON: Yeah. There was a -- you know, I
23 just have to state this, Mr. Chair, because I think
24 there's some confusion, you know. We are giving
25 them a Change in Zoning into a Project District,

1 but, you know, and Project District does allow Phase
2 I, Phase II, and Phase III. Phase I is at the
3 Council level. Phase II is at the Planning
4 Commission level. Phase III, the Planning Director
5 reviews it.

6 But that doesn't mean to say that you cannot,
7 you do not have to have the, you know, the basic
8 project scale and impacts analyzed at the Change in
9 Zoning phase, you know. Yeah, Project District
10 gives you flexibility, but it only gives you so much
11 flexibility.

12 And, you know, right now what we've got in
13 front of us is a map that, if I can find it, that
14 just, you know, breaks it down into various
15 categories, and so that when they come in, they're
16 going to come in and get Phase III -- Phase II maybe
17 for all of it or maybe for just a portion of it, and
18 then get Phase III. Say their first phase of
19 build-out is going to be, I'm just saying, going to
20 be this section. They'll come in and they'll get
21 Phase III for this section. And then they're
22 flexible in what kind of buildings they're going to
23 design, whatever. That's where the flexibility
24 comes in.

25 But the overall impact of the 670 acres is our

1 responsibility, and they are getting a Change in
2 Zoning. The application procedure requires the
3 impact analysis, so that we can meet the criteria of
4 approval. And to just say, well, they'll do it in
5 Phase II. You know, the Planning Commission is not
6 elected by the populace. We're elected by the
7 populace, and we're elected to safeguard the public
8 interest.

9 And if we, if we can't have the information in
10 front of us to make sure that the impacts have been
11 properly mitigated, you know, I think it's a sham
12 that we could just say, well, they'll deal with it
13 in Phase II, it's not our problem. It is our
14 problem. It's nobody's problem but ours, and if we
15 choose to ignore the application requirements, then
16 it's on us.

17 And I would like to note, Chair, this is the
18 drainage plan we got for Makena, a very extensive
19 drainage plan. And mind you, Members, we had to
20 pull it out of them tooth and nail to get it, but we
21 got it. And, Members, South Maui is in dire straits
22 when it comes to runoff. We have no drainage
23 facilities in South Maui. We have had a master
24 drainage plan for the Kihei area on the books for 20
25 years. It's never been implemented.

1 I just looked at it today. The most recent
2 one was done in 1993, and it stops, interestingly
3 enough, at Kilohana. And I was told at the time
4 that the rest of the drainage plan for South Maui,
5 for that region of South Maui, has been done by
6 Wailea and Makena Resorts.

7 So where is the master drainage plan for
8 Wailea and how does this project fit into that? And
9 where are the mitigation measures that we can
10 condition this with to make sure that the drainage
11 plan that they put in is not going to exacerbate the
12 nearshore water situation that we have already?

13 Originally they were told, and this is
14 currently on the zoning for the 480 acres, that the
15 topography, the existing topography shall remain as
16 permanent open spaces. And, you know, if we allow
17 them to just go in and change the topography,
18 changing the natural drainageways, that means you're
19 channelizing the drainage, you're concentrating it
20 into one area, and disallowing it to sheet flow,
21 like it currently does, and spread the drainage out
22 of, you know, across the whole 670 acres.

23 So we need a plan. We need to know how
24 they're going to go about doing this. And I just, I
25 just don't think it's enough to just say they'll do

1 it at Phase II, because at Phase II, it's out of our
2 hands at that time. And again, the Change in Zoning
3 says that we are supposed to know what the existing
4 topography is and how they are going to change it
5 and what the proposed grading will be, and we don't
6 know any of that.

7 CHAIR MOLINA: Thank you, Member Anderson.

8 Members, any other questions before I call up
9 the applicant to seek a response? Mr. Jencks?

10 COUNCILMEMBER ANDERSON: Did you want us to go through
11 each one of these sections under this condition,
12 Mr. Chair?

13 CHAIR MOLINA: Yeah, well, as much as the -- how far,
14 depends on how far the Committee wants to get
15 tonight. Sure, that --

16 COUNCILMEMBER ANDERSON: Because I have a problem with all
17 of them.

18 CHAIR MOLINA: Okay. I'd like Mr. Jencks to come up to
19 respond. Mr. Jencks, can you respond to Member
20 Anderson's concern with regards to the drainage
21 plan?

22 MR. JENCKS: Sure, if you could -- oh, I'm sorry.

23 CHAIR MOLINA: We'll turn that light down. Proceed,
24 Mr. Jencks.

25 MR. JENCKS: So, Mr. Chair, as I heard it, the concern

1 was -- there were a couple of things that I heard.
2 One was when do you get a drainage plan, and what
3 happened to the Wailea drainage plan. The Member
4 talked about the Makena Resort drainage plan, that I
5 haven't seen personally. I am familiar as a
6 director with the number of iterations in the Kihei
7 overall drainage master plan.

8 We submitted as a part of the Phase I
9 application a drainage mitigation plan that was
10 suited to the level of application, which is a
11 Change in Zoning for 670 acres. That plan is a part
12 of the application packages, and should be in your
13 binders.

14 It shows, it shows the drainage basins that
15 run through the property. It also provides
16 information on the detention basins, and it also
17 provides information on the flows that are expected
18 to be generated based upon the performance criteria
19 that the Department of Public Works uses.

20 We have said a number of times in Chambers
21 that that plan is going to evolve. And
22 Councilmember Anderson is correct. Our Phase II
23 application would take the plan that we've already
24 given you, that's a master plan level drainage plan,
25 and increase the level of detail to address all the

1 drainage issues within that Phase II application.

2 Now, those, that application would be a
3 defined, detailed drainage application and report
4 that would be reviewed by all the agencies that are
5 listed on this, in one of these, in one of the
6 subsets of this condition, as well as the County of
7 Maui. That would be reviewed by the Planning
8 Department, and then as a part of the Phase III,
9 which is the actual permit approval, the grading
10 permit, the subdivision approvals, it would be
11 reviewed again for final approval.

12 So there's a number of steps here. We've
13 provided a master plan level grading report that
14 addresses the key issues, the flows, how we would
15 handle those flows on a master plan level. As you
16 go to Phase II, that is refined by area, and that's
17 what we will be doing.

18 And by the way, this condition that we were
19 looking at, talking about, also requires us to
20 review this with the Department of Health. So
21 that's another agency with regard to soil erosion,
22 nearshore issues. They're all tied in with a number
23 of conditions, including the water quality
24 monitoring that we've been doing offshore.

25 CHAIR MOLINA: Thank you, Mr. Jencks.

1 Member Anderson?

2 COUNCILMEMBER ANDERSON: Thank you, Chairman.

3 You say you have a master plan drainage
4 report. I recall it being a preliminary, and at the
5 time you were requested to include, after it was
6 submitted, Soil and Conservation asked you to
7 include the CFCs that would be realized from the
8 extension of Piilani Highway through the project
9 area, which was not included, and so I would like to
10 see an update of that.

11 But, you know, Mr. Chairman, you know, we hear
12 all these promises that things are going to be taken
13 care of and that, you know, we're going to do the
14 right thing, and no worries. But in the last ten
15 years, the south shore of Maui from, you know --
16 well, at least from Keawakapu down, has been
17 severely degraded. Not just the reefs, but the
18 water quality. Wailea Beach exceeds State water
19 quality standards. Makena Beach exceeds State water
20 quality standards, turbidity, algae growth,
21 chlorophyll A. From Kalama Park, Kalama Beach down,
22 exceeds State water quality standards. Same thing.

23 So, you know, you don't get on this list, and
24 the point of being on the impaired water bodies
25 list, Mr. Chairman, is to say you're below water

1 quality standards and you need to fix it. You need
2 to come up to the State standards. And so we need
3 to do something different than what we've been doing
4 all along, because it's obviously not working.

5 And I'll tell you all, you know, I'm not
6 blaming Mr. Jencks. Of course, he hasn't even done
7 anything on the land yet, so it's not his fault. If
8 we don't have a plan in front of us that shows us
9 that the runoff is going to be properly mitigated,
10 then we're just going on a hope and a prayer.

11 Forty percent of the degradation of the coral
12 reef growth along the South Maui coast is attributed
13 to the injection wells. That leaves forty percent
14 of the load, of the pollutant load that's causing
15 the degradation of the reefs, is from injection
16 wells. That means sixty percent of the load is from
17 runoff.

18 And any of you who live down there, you just
19 come down when there's a rain. There's flooding
20 everywhere. We don't have proper drainage along
21 Piilani Highway. We don't have culverts large
22 enough to take the runoff from the mauka land, which
23 is why we need Piilani to be brought up to Federal
24 standards.

25 You can't just make it four lane by restriping

1 it and say, you know, now we have a four lane
2 highway. The community plan says widen it to four
3 lanes, and when you widen it to four lanes, that
4 means you're actually putting in the culverts
5 necessary to take the mauka runoff and distribute it
6 appropriately. And we haven't done that.

7 You know, I just cannot say strongly enough
8 how important it is that we put in controls now,
9 because, Members, you all saw this reef study. I
10 mean, this is as scary as a nightmare I've ever
11 seen, in ten years the degradation of our reefs.
12 And you know how long it takes to regenerate a reef?
13 Generations of people before this reef will be
14 generated, or regenerated or grow back. It's gone
15 in our lifetime, in ten years.

16 So, Mr. Jencks, please understand that, you
17 know, we're at a tipping point. Our water quality
18 along the shoreline is degraded below State
19 standards. Our reefs are being destroyed. We
20 cannot afford to continue what we're doing on the
21 south shore of Maui, or not only will we destroy
22 what we have for the people and the residents who
23 live here, who want to swim in a healthy shoreline,
24 who want to fish and have recreational use of our
25 beaches, but for the industry that we depend on

1 economically.

2 And I'll tell you something. You only find
3 out, you only find out what is wrong if you test for
4 it. If you don't test for it, you're not going to
5 know what's wrong. We don't test for bacteria.
6 None of these tests that are being done, these water
7 quality monitoring tests that are being done, test
8 for bacteria. And we have an independent water
9 quality expert who's doing that, and there's
10 bacteria in our nearshore waters.

11 If we don't -- if we want Maui to remain no ka
12 'oi, we must demand that those people who are
13 responsible for monitoring and protecting our
14 shoreline are the best available and are doing the
15 best work that science can provide. And that is not
16 happening, Mr. Chairman.

17 These impaired water bodies along the south
18 shore of Maui, you know how they got on the list?
19 They got on the list because I nominated them. I
20 sent it to DOH. Every year they call, they send out
21 and they ask for people to make nominations, and you
22 have to be, you know, have exceeded water quality
23 standards for them to even consider it. And you
24 know what I sent them as evidence that we've
25 exceeded water quality standards? The water quality

1 monitoring reports for the last years done by Steven
2 Dollar for Makena. And he's the same one that's
3 doing, doing the monitoring for this project.

4 So I got a problem with that, Mr. Chairman.
5 His water monitoring reports do not consider biota.
6 You can't, you can't say there's been an adverse
7 impact if you're not studying the community that is
8 impacted, which is the biological community. His
9 water quality reports showed that the water, the
10 nearshore waters all exceeded State standards, and
11 they got listed as an impaired water body because of
12 it. So, you know, I will have a condition that's
13 more specific as to what kind of monitoring program.

14 And, Members, if you think DOH, who's supposed
15 to review these reports every year, is going to
16 watch our back, you better think twice, because when
17 Makena Resort came up, Councilmember Nishiki had me
18 get these reports, call DOH, and ask them for their
19 review of these reports. And you know what? DOH
20 hadn't received any of the reports. In nine years,
21 the only report they had was the very first report.
22 In nine years they hadn't seen them. So, yeah,
23 they're really looking out for Maui, aren't they?
24 And if they'd seen them, would they have done
25 anything about it? I guess not.

1 So it's up to us, Members, to make sure that
2 everything is tight at this level so that we can
3 stop the degradation that's going on on our
4 shorelines now. We don't have time. You know,
5 there's no more wiggle room. We're at the tipping
6 point, and so everything has to be tight and no ka
7 'oi, right here today.

8 CHAIR MOLINA: Thank you, Member Anderson. We'll await
9 your proposed recommendation as it relates to the
10 conditions here.

11 Members, any other questions for Mr. Jencks at
12 this point as it relates to condition 18, which
13 we've got about 11 subsections, I guess?

14 Okay. If not, Members, the Chair would like
15 to call for a short recess. Ten minute recess,
16 Members. (Gavel).

17 RECESS: 5:46 p.m.

18 RECONVENE: 6:09 p.m.

19 CHAIR MOLINA: (Gavel). Recessed Land Use Committee
20 meeting of July 25th, 2007 is now back in session.

21 Members, we last left off with a discussion of
22 condition number 18 as proposed by the Planning
23 Commission. The Chair would like to move on from
24 that condition. We did have some Q and A on that,
25 and I believe Member Anderson is going to be

1 submitting a proposal related to that condition at a
2 future date.

3 The Chair would like to go back to condition
4 number 2, which we had engaged in some very lengthy
5 dialogue first time we discussed that. Again, just
6 for review purposes, Staff, can you read the
7 condition out for the Members and the public?

8 MS. NAKATA: The Planning Commission's proposed condition
9 number 2, "That WCPT/GW Land Associates, LLC, its
10 successors and permitted assigns, shall contribute
11 their pro rata share of transportation improvements
12 as determined by the State Department of
13 Transportation and the County Department of Public
14 Works and Environmental Management, including
15 widening of Piilani Highway to four lanes, the
16 future extension of Piilani Highway through the
17 Project District, and intersection improvements such
18 as installation of traffic signals. Said
19 improvements shall be determined by the State
20 Department of Transportation and the County
21 Department of Public Works and Environmental
22 Management, shall be coordinated with the Department
23 of Planning, and shall be concurrent with each phase
24 of the Wailea 670 development."

25 CHAIR MOLINA: Thank you, Staff.

1 And, Deputy Director Suyama, any additional
2 comments to make before we continue the line of
3 questioning on this condition? I don't believe we
4 went all the way through it the first time we dealt
5 with it.

6 MS. SUYAMA: This is condition 2 on page 2 of 12 that
7 we're talking about, right?

8 CHAIR MOLINA: That is correct.

9 MS. SUYAMA: We had been asked by the Council Staff to try
10 to itemize some of the improvements that were
11 identified in the traffic impact analysis reports as
12 well as some of the representations that were made
13 by the developer. And for that reason, we had
14 itemized some of the improvements from A to H that's
15 listed in column four of the chart. You know, this
16 is to the best that we could provide, you know, to
17 the Council.

18 There are also -- some of these may be
19 modified because of some other, you know, factors.
20 Like if they do the highway extension of Piilani
21 Highway, some of these improvements may not be
22 necessary. And I believe the applicant wanted to
23 address some of the proposed improvements.

24 CHAIR MOLINA: Okay, thank you, Director.

25 Mr. Miyamoto, do you have any additional

1 comments to make?

2 MR. MIYAMOTO: Not at this time, Mr. Chair. Just
3 previously that I had mentioned that, you know, this
4 is an itemization, and then a couple of the
5 conditions actually conflicted, extending it or
6 making it a T intersection. So in talking with the
7 applicant, they wanted to clarify some of these
8 things.

9 CHAIR MOLINA: Thank you. Members, any objections to
10 having the applicant to come up and clarify some of
11 the proposed conditions?

12 Mr. Jencks? We're giving you a workout
13 tonight, Mr. Jencks.

14 MR. JENCKS: Glad to be here, Mr. Chairman. Thank you for
15 all your help, and Members of the Committee as well.

16 Certainly. I'd like to just make a few
17 comments. And I think what the Deputy Director was
18 referring to were the recommendations from the
19 Department, A through H. Reviewed those carefully,
20 and just a few comments on those.

21 Condition A, which refers to the improvements
22 of Piilani Highway from Kilohana Drive to Wailea Ike
23 Drive, this is something that we are actually
24 already working on. We started working on a
25 proposal for a design build proposal with the State

1 Department of Transportation, and we're also
2 reviewing the agreements that would tie the three
3 parties together as well as the three parties to the
4 State Department of Transportation. So this is
5 already underway, but we are already working on that
6 improvement.

7 The only issue I have there, Mr. Chair and
8 Members of the Committee, is that when we analyzed
9 the traffic generated based upon the master plan
10 build-outs of Honua'ula, Makena Resort, and Wailea
11 Resort, we concluded that the improvements to this
12 section of highway needed to be started in 2012.
13 And this condition states that we start it now and
14 be completed prior to the first occupancy of the
15 first unit in Honua'ula.

16 So I would like you to consider, and we have
17 Mr. Wayne Yoshioka here to discuss a reasonable
18 start and completion time. We believe a start in
19 2012 would do the job and allow us to develop
20 product, sell product, create revenue, and get this
21 improvement done, and also allow us time to design
22 it, get the design build process completed in a
23 timely fashion as well.

24 So A, I would like you to consider the timing
25 on A.

1 B is the extension of Piilani Highway into the
2 property, and it's requested that at fifty percent
3 of the project that this be done so that we can
4 connect to Kaukahi Street. We think that's a good
5 idea. In fact, we discussed it in Chambers. We
6 think that would not only provide additional access
7 for the project, but also provide an alternate way
8 out of Wailea and Makena to Piilani Highway and
9 facilitate emergency ingress and egress. So B is
10 fine.

11 And I have talked to the Department of
12 Transportation. Their only concern, as I mentioned
13 once before, is that once we improve past the
14 existing terminus of the highway, their concern is
15 who's going to take maintenance responsibility. Is
16 it a private entity, or could it be the County of
17 Maui. So that's something we can talk about, but
18 once again, we support this extension and think it's
19 a good idea.

20 C is all tied in with the improvements to the
21 Piilani Highway from Kilohana to Wailea Ike Drive.

22 D will be accomplished anyway when we extend,
23 it will be modified anyway when we extend the
24 highway into the project, following up on
25 Mr. Miyamoto's comment.

1 E, this is also going to be handled as a part,
2 we believe, as a part of the -- this deals
3 with the -- let's see. E is the Wailea
4 Alanui/Wailea Ike Drive intersection, to add a
5 signalized double right turn movement -- okay.

6 This one here is a problem, Mr. Chair. And I,
7 if I may, Mr. Yoshioka can also explain. This is
8 asking us to improve this intersection, to add
9 signalized double right turn movement from
10 northbound to eastbound turning traffic, and
11 providing two left turn lanes for southbound traffic
12 from Wailea Ike Drive prior to occupancy of the
13 first unit in the project.

14 The traffic that is generating the issue at
15 this intersection is not -- well, okay, let me be
16 careful here. We do have traffic from this project
17 flowing through this intersection, but the bulk of
18 the traffic affecting this intersection is Wailea
19 Resort and Makena Resort traffic.

20 We're willing to participate. There are some
21 land control issues. Much of the land needed for
22 this expansion is owned by GolfBC, not Makena,
23 Wailea Resort, or Honua'ula, but indeed the traffic
24 that's generating the impact is in the main from
25 both Makena and Wailea Resort, but we're willing to

1 participate if that's a condition.

2 On F, the Piilani Highway/Kilohana Drive/Mapu
3 Place intersection, that would also occur as a part
4 of the improvements to Piilani Highway from Kilohana
5 to Wailea Ike Drive.

6 And G, signalization of the Wailea Ike
7 Drive/Kalai Waa, that's not a problem, nor is H, as
8 far as we're concerned.

9 So those are our, those would be our comments.
10 And once again, I have Mr. Yoshioka here if you have
11 any questions on traffic, generation, where it's
12 coming from, and how it will impact these
13 intersections.

14 CHAIR MOLINA: Thank you, Mr. Jencks.

15 Members, I'm going to call up Mr. Yoshioka to
16 respond to condition A as well as condition E to add
17 further clarification.

18 Good evening, Mr. Yoshioka. And if you
19 could --

20 MR. YOSHIOKA: Good evening, Mr. Chairman.

21 CHAIR MOLINA: If you could identify yourself as far as
22 what company you're with or --

23 MR. YOSHIOKA: Sure.

24 CHAIR MOLINA: -- so forth.

25 MR. YOSHIOKA: Wayne Yoshioka, with a company known as PB

1 Americas. We appear as Parsons Brinckerhoff on most
2 of these reports, but we have a name change to PB
3 Americas, Inc.

4 CHAIR MOLINA: Thank you.

5 MR. YOSHIOKA: I'm the traffic engineer on the project.

6 CHAIR MOLINA: I'd like you to expound on condition A and
7 condition E, if you will, and will be prepared to
8 respond to any questions from the Committee.

9 MR. YOSHIOKA: Because again, condition A is a condition
10 that, again, as Charlie mentioned, is in fact
11 acceptable, and in fact is actually underway. We
12 have a letter from the State DOT in concurrence,
13 saying that that is their -- that that particular
14 improvement satisfies their requirements for
15 improvements in the area. And my understanding is
16 that right now the agreement is being reviewed by
17 DOT and the State Attorney General's office, and
18 we'll proceed from there.

19 As far as time frame for implementation, we
20 did do a study that looked at Wailea Resort, Makena
21 Resort, and the whole Honua'ula project, and at a
22 build-out, a fairly optimistic build-out of roughly
23 about 100 units per year for all three of them
24 simultaneously, in addition to projects that were
25 already programmed to come on line for Wailea

1 Resort, determined that a time frame of about 2012
2 was appropriate for implementation of the widening.

3 Item E, which is this modify the Wailea
4 Alanui/Wailea Ike Drive intersection to add a
5 signalized double right turn movement from
6 northbound to eastbound turning traffic and then
7 providing the reflection of that the other way,
8 that's the westbound Wailea Ike Drive to southbound
9 Wailea Alanui -- and that's right by the major
10 shopping center there, the Wailea Shopping Center.

11 And again, this is to, this is to handle at
12 build-out the heavy traffic that would come up from
13 Makena Resort up Wailea -- Makena Alanui, then
14 Wailea Alanui, and then turn up right onto Wailea
15 Ike to get to Piilani Highway.

16 Now, you know, if in the future the extension
17 of Piilani Highway goes beyond Kaukahi and connects
18 into Makena that way, this improvement would not be
19 required at all. If that does not happen, however,
20 this is an identified improvement to handle the
21 future Makena traffic, primarily.

22 And in fact, in our June 2005 impact study, we
23 had identified that as an improvement, not so much
24 for Honua'ula, but an improvement by others, because
25 when we analyzed the situation for in the June 2005

1 study, we not only analyzed the immediate Honua'ula
2 area, but we looked a little beyond and covered
3 that, that subregion, which is that whole Wailea
4 Resort area.

5 CHAIR MOLINA: Okay. Thank you, Mr. Yoshioka.

6 Committee Members, questions for Mr. Yoshioka?
7 Start with Mr. Pontanilla, followed by Mr. Hokama.

8 VICE-CHAIR PONTANILLA: Thank you, Chair.

9 Mr. Yoshioka, on item E, you talk about this
10 item, as far as the action for this item, this will
11 be at the time when you have total build-out. When
12 is that expected, total build-out?

13 MR. YOSHIOKA: We do not know. What we essentially did
14 was we took -- we just wanted to see what
15 improvements were required in the area, so what we
16 did was we took the fully zoned or proposed land use
17 for Makena and generated the traffic for that, took
18 it up through the area, and this is one of the
19 improvements that was identified.

20 At the time the assumption was, because Makena
21 at that time was assuming that there was no
22 extension of Piilani Highway, so all the traffic, of
23 course, would be conducted onto Makena Alanui and
24 Wailea Alanui. So this is really their sole way out
25 of the area, through this intersection.

1 VICE-CHAIR PONTANILLA: So at this time you don't have any
2 estimates as far as when that's going to happen?

3 MR. YOSHIOKA: No, we have no real idea of when they
4 would, they would build out. But --

5 VICE-CHAIR PONTANILLA: The -- go ahead.

6 MR. YOSHIOKA: And I think the thought here was that, you
7 know, this intersection would be monitored, and when
8 it got to that point, it would be implemented.

9 However, you know, I think, again, our
10 recommendation was this is an improvement by others,
11 so we're not saying not recommended -- not monitored
12 by Honua'ula, but monitored by Makena, perhaps.

13 VICE-CHAIR PONTANILLA: Okay. On item A, in regards to
14 expect -- or upgraded to four lanes, is that
15 upgrading the existing roadway to four lanes, and do
16 you have enough right of way to do that?

17 MR. YOSHIOKA: Again, we haven't gone through full design
18 on this, and there will be another consultant
19 actually doing the design, but my understanding is
20 that there's sufficient, there's sufficient right of
21 way in place to widen this thing to four lanes,
22 according to State DOT standard.

23 VICE-CHAIR PONTANILLA: So that would mean cutting the
24 banks on both side of the existing highway.

25 MR. YOSHIOKA: It appears -- again, no design has been

1 done yet, but again, it appears that there will be
2 some, some cutback of the banks.

3 VICE-CHAIR PONTANILLA: Okay, thank you. Thank you,
4 Chair.

5 CHAIR MOLINA: Thank you, Mr. Pontanilla. Mr. Hokama?

6 COUNCILMEMBER HOKAMA: Well, you know, for me, Chairman, I
7 don't really care where the generation is coming
8 from. If it's going to go through the area, it's
9 going to go through the area regardless of
10 origination. So I would see this a non-comment for
11 me from the consultant.

12 So from what I'm understanding is that you
13 don't have a problem paying up front and getting
14 reimbursed then, because you guys don't want to
15 wait, and we don't want to wait. Because this pro
16 rata language in one of the Planning Commission's
17 recommendations means we're all going to wait for
18 the improvements. So I'm assuming from listening to
19 your comments, you don't have a problem doing it up
20 front and considering reimbursement from the various
21 entities, whoever they may be.

22 MR. YOSHIOKA: Councilman, Chair, if I may answer.

23 CHAIR MOLINA: Sure.

24 MR. YOSHIOKA: And again, my understanding is that the
25 applicant was agreeable to, as you say, up fronting

1 the improvement, and I think that's what DOT
2 appreciated, is that they would get this improvement
3 within a short time frame rather than waiting a long
4 time before all the pro ratas could accumulate so
5 they had enough funds to actually do this. So this
6 was a way to get an improvement in quickly,
7 relatively quickly into the area.

8 COUNCILMEMBER HOKAMA: And just so we can be clear on that
9 2012 number that you've shared with the Committee,
10 again, Mr. Yoshioka, what is the magic of 2012?

11 MR. YOSHIOKA: What we did was we started with the
12 existing traffic, Councilmember, and we, we
13 incrementally added each year developments that were
14 either programmed to come on line by -- and this was
15 done through discussion between the traffic
16 engineers from all three developments, Makena,
17 Wailea Resort, and Honua'ula. And we determined
18 what the projects were that were coming on line, and
19 then for those that didn't specifically have a time
20 frame, we assumed then a build-out of so many units
21 per year, and we added that to the existing traffic.

22 And at that point in time, around 2012, we're
23 saying that's when we really start exceeding the
24 capacity of the two lane, two lane stretch between
25 Kilohana and Wailea Ike, and that's when you would

1 want to have your, your -- the four lanes for the
2 Piilani Highway.

3 COUNCILMEMBER HOKAMA: Okay. So we're very clear, 2012,
4 you're already expected to exceed the capacity of
5 the system.

6 MR. YOSHIOKA: You would reach the capacity of the system.

7 COUNCILMEMBER HOKAMA: So, obviously, we would want the
8 project designed and built before 2012?

9 MR. YOSHIOKA: I think that's the schedule they're aiming
10 for. I think right now the very fact that they're
11 actually having the discussions with the DOT to try
12 to finalize the agreement with DOT, and then
13 proceeding into a design build, which is the, kind
14 of an expedited route for project implementation,
15 because I think they're trying to adhere to that
16 goal.

17 COUNCILMEMBER HOKAMA: Is that dependent upon State
18 funding, or is that going to be a reimbursement type
19 of consideration?

20 MR. YOSHIOKA: At least my understanding right now is that
21 there's no State funding in this, in this expansion.

22 COUNCILMEMBER HOKAMA: So this would be funded private
23 sector first and potential reimbursement later?

24 MR. YOSHIOKA: I'm not sure about reimbursement. It's
25 funded by private sector first.

1 COUNCILMEMBER HOKAMA: So if we say we want this completed
2 before 2012, that would not be considered
3 irresponsible then, from your comments you just
4 shared with us, that it's going to extend capacity
5 at 2012?

6 MR. YOSHIOKA: If it builds out at the rate that they're
7 building out right now. You know, again, at the
8 time we did the calculation, Makena was poised to
9 move ahead with their development. Honua'ula was in
10 the final stages. So, you know, it all pertains to
11 the fact that everybody starts actually putting
12 things into the ground, say by, say by 2009 or so.

13 Now, if they, if they start implementing their
14 projects later than that, actually the 2012 is a
15 conservative date. You probably wouldn't hit the
16 capacity at 2012, you would hit it a little bit
17 later than that, if the developments started later
18 than what we had assumed, which was roughly, you
19 know, the 2009 time frame.

20 COUNCILMEMBER HOKAMA: I would still like the improvement
21 before 2012, though.

22 Chairman, would you allow questions for Deputy
23 Director Miyamoto?

24 CHAIR MOLINA: Go ahead, Mr. Chair.

25 COUNCILMEMBER HOKAMA: Mr. Miyamoto, you know, when we

1 talk about the Planning Commission's comments, and
2 they say the pro rata share, what do -- who are we
3 talking about as participating in this pro rata
4 share? Is it the State, the County, Federal
5 government?

6 CHAIR MOLINA: Mr. Director?

7 COUNCILMEMBER HOKAMA: Wailea, Makena? Who, who are we
8 talking about as participating in this pro rata
9 program, please?

10 MR. MIYAMOTO: For the widening of Piilani Highway?

11 COUNCILMEMBER HOKAMA: Well, I mean, the way the condition
12 is, it's a blank condition, yeah, from --

13 MR. MIYAMOTO: Uh-huh.

14 COUNCILMEMBER HOKAMA: -- the Planning Commission. I
15 mean, it's not a blank, but it's an encompassing
16 condition. It says that, you know, Wailea 670 shall
17 contribute their share of improvements as determined
18 by State DOT and County Public Works. So who's
19 involved in this pro rata share?

20 MR. MIYAMOTO: Yeah, typically the, you know, the
21 improvements are going to be development justified,
22 so therefore we're going to put the total cost on
23 all the development. And based on their pro rata
24 contribution to the, to the demand for that
25 capacity, it would be their share of that, the cost

1 of that improvement.

2 And right now, since we don't have anything
3 programmed in the STIP for any of these
4 improvements, you know, it would be very difficult
5 to get any Federal funding, and we would probably
6 put a lot of this as off-site improvements to the
7 development to -- for a requirement for the
8 development to pay for these improvements. So it
9 would be totally privately funded at this point.

10 COUNCILMEMBER HOKAMA: So besides the applicant, who do
11 you see, if any, participant with a pro rata amount?

12 MR. MIYAMOTO: Pretty much the three people that are
13 involved in trying to determine the Piilani Highway
14 widening, the Wailea and the Makena Resort and this
15 project.

16 COUNCILMEMBER HOKAMA: Is it a problem for us to want
17 things done up front? You know, we always react
18 after capacity is reached, and by then it's pretty
19 much an exasperating experience for everybody,
20 residents in the general area, those that want to
21 travel in and out of the region. So my thing with
22 the, with all this projects coming up is to have the
23 improvements prior to capacity. Is that an issue
24 with your department regarding these proposals?

25 MR. MIYAMOTO: Getting it before, you know -- for example,

1 like Piilani Highway, I imagine Member Anderson will
2 weigh in on what her thoughts are on the congestion
3 on that corridor. But something like that, adding
4 the capacity can only benefit the regional travel
5 within that area.

6 Some of the local improvements may be a little
7 bit -- the intersection improvements may actually,
8 may not be fully utilized, like a double right turn
9 may not really be necessary, you know. Right now
10 the double right turn could probably be temporary --
11 you know, in, I guess in the initial stages, rather
12 than put a double right turn, you know, you could
13 probably make that right turn a free-flowing right
14 turn lane, because there's only one single left turn
15 going up the hill.

16 COUNCILMEMBER HOKAMA: Uh-huh.

17 MR. MIYAMOTO: That would certainly help to increase the
18 capacity of that right turn. That could be done
19 until such a point that you can see failure in that
20 movement, that then maybe the double right turn
21 might be warranted.

22 If you were to put the double right turn, I
23 can see possibly some operational problems if it's
24 not really warranted. People trying to get ahead of
25 somebody else and trying to sneak into that extra

1 right turn lane to go up the hill; I can see that
2 may become an operational problem.

3 COUNCILMEMBER HOKAMA: Well, all right. Make sure our
4 Police Department tags those people and let them pay
5 the price. I don't have a problem with penalties
6 and fines.

7 Any other thing you would comment on what is
8 the 8-0 H that you could give us that should be done
9 in advance of certain -- of reaching capacity?

10 CHAIR MOLINA: Mr. Director?

11 MR. MIYAMOTO: In looking at the conditions, in just
12 talking with the Deputy Director of Planning here
13 about the first condition, about A, you know, just
14 trying to go through the process of how they would
15 get their entitlements and go through design and
16 then have it built. Design build-out is a very nice
17 way to expedite the project. And we're trying to
18 think about how long it would take to get the
19 entitlements, and then, you know --

20 COUNCILMEMBER HOKAMA: When you say entitlements, what are
21 you talking about?

22 MR. MIYAMOTO: Well, I guess because it's State right of
23 way and they're increasing the capacity, the roadway
24 has got to go through an environmental assessment,
25 and to go through that process, you know. I don't

1 think we would -- there's no SMA, yeah.

2 MS. SUYAMA: To clarify, this project is within the State
3 right of way, and that would trigger compliance to
4 Chapter 343, so they need to go through that
5 permitting process with the State.

6 They also, for their projects, would have to
7 go through, not for the right of -- not for the
8 roadway improvement, but for the Project District,
9 they also would have to go through Project District
10 Phase II and Project District Phase III approval, as
11 well as getting the ministerial permits in order to
12 do the actual construction.

13 And we're trying to estimate whether that
14 would take approximately five years to get through
15 the whole process, which may be appropriate in terms
16 of the timing. That if 2012 is the date that
17 capacity needs to be increased, that timing of the
18 project would be coinciding with that 2012 date, or
19 capacity is lost at the construction of that
20 improvement. Has to be done no later than the 2012
21 year.

22 COUNCILMEMBER HOKAMA: Okay. So this is on a State, this
23 is like a State project, except privately funded.

24 MS. SUYAMA: That's correct, but they're still subject to
25 343.

1 COUNCILMEMBER HOKAMA: No, I don't have an issue with
2 that. Can we still make this requirement, but make
3 it so that it wouldn't need to go through Phase II
4 and Phase III, because basically just need to
5 satisfy State Highways, right? It will be their
6 specs and their approval of what is to be
7 constructed.

8 MS. SUYAMA: The highway improvements don't have to go
9 through Project District Phase II or III, it's the
10 project itself, like whatever development they
11 propose will have to be going through that process.
12 So I believe the SMA boundary in this area is the
13 makai portion of the highway.

14 COUNCILMEMBER HOKAMA: Right.

15 MS. SUYAMA: Highway right of way. So I don't believe
16 that this would involve an SMA permit from the
17 Planning Commission.

18 COUNCILMEMBER HOKAMA: The Commission would still have to
19 make a determination? Would that be the case?

20 MS. SUYAMA: No, because this is a State project, the
21 State Department of Transportation would have to
22 make those determinations.

23 COUNCILMEMBER HOKAMA: Okay, okay. Okay. So from what
24 I'm gathering, it doesn't seem to be a major issue
25 of us requiring improvements prior to capacity then.

1 MS. SUYAMA: I would, I would recommend that it not be
2 done later than 2012, which is when capacity will be
3 lost on the roadway.

4 COUNCILMEMBER HOKAMA: Completion of the improvements.

5 MS. SUYAMA: Completion of the improvements.

6 COUNCILMEMBER HOKAMA: Okay. Do you have any issues with
7 completion of the improvements no later than 2012,
8 Mr. Miyamoto?

9 MR. MIYAMOTO: Given the testimony that the capacity would
10 be exceeded by 2012, I'll have no problems.

11 COUNCILMEMBER HOKAMA: Mr. Chairman, thank you very much.

12 CHAIR MOLINA: Thank you, Mr. Hokama.

13 Members, questions first for Mr. Yoshioka? If
14 not, I'll excuse Mr. Yoshioka and I'll assume the
15 questions will be for Director Miyamoto or Planning
16 Department.

17 I see none. Thank you, Mr. Yoshioka, and
18 we'll call you up --

19 COUNCILMEMBER ANDERSON: I had my hand up, Chairman.

20 CHAIR MOLINA: Oh, I'm sorry. You did want Mr. Yoshioka.

21 Okay, go ahead, Member Anderson.

22 COUNCILMEMBER ANDERSON: Thank you. Mr. Yoshioka, thank
23 you for being here.

24 So when you did the third traffic report, the
25 intention was -- and this was at the request of DOT,

1 that you folks do a coordinated study for Wailea
2 670, Wailea Resort, and Makena Resort. However, in
3 the explanation to DOT and to us, you stated that
4 the traffic study cannot be updated at this time
5 because specific information about potential
6 developments in the Makena Resort is unavailable due
7 to the pending sale of the Makena Resort and the
8 fact that Makena Resort's Change in
9 Zoning application is still pending before the
10 County Council.

11 So as best as I can understand from the
12 letters received from Wailea 670 and also from DOT,
13 is that you folks did not use the build-out numbers
14 for Makena Resort for their Change in Zoning
15 application, but you instead used their existing
16 zoning. Is that correct?

17 CHAIR MOLINA: Mr. Yoshioka?

18 MR. YOSHIOKA: Yes. In fact, to first address your thing
19 about, that comment about not being able to do it.
20 At the time, I think that's been superseded by the
21 fact that we actually did this study, and that the
22 point, that point was that because --

23 COUNCILMEMBER ANDERSON: Excuse me, but it has not been
24 superseded. I'm reading from a letter dated January
25 22nd, '07, and the report is dated September 2006.

1 MR. YOSHIOKA: The reason, the reason we were making that
2 comment is because we would have to -- because they
3 were under sale or potential sale, there was not an
4 explicit determination of what their build-out was.

5 So what we did was we went back to the
6 existing zoning, which is by far more intense in
7 terms of zoning than what they're currently
8 proposing, so we're actually taking the worst case
9 condition by taking the highest amount that's
10 possible. We used that amount in our study because
11 of lack of any kind of indication from Makena what
12 their, what their development would be.

13 So we figured the safest thing to do was take
14 the worst case scenario, which was the heavy
15 development. Because if you look at their present,
16 their more recent traffic studies, the amount of
17 development that they're proposing is far less than
18 what's being proposed in the original zoning. So
19 that's what we took as the basis of the -- well, the
20 coordinated study. And we then took it through the
21 process.

22 And again, the 2012 capacity date came about
23 assuming that all three developments would be
24 underway by 2009 and actually producing, building
25 units and producing traffic by 2009, and

1 incrementing that up over the years until we got
2 some point where we hit capacity on that link.

3 COUNCILMEMBER ANDERSON: Well, that is very confusing
4 because DOT, in their letter in response to this,
5 says that they will not review this until Makena
6 Resort's data is brought up to date.

7 MR. YOSHIOKA: Well, I think --

8 COUNCILMEMBER ANDERSON: If I could finish.

9 MR. YOSHIOKA: Sure, go ahead.

10 COUNCILMEMBER ANDERSON: And you know why that's
11 important, Mr. Chair, is every traffic report that
12 we've received from these folks was criticized by
13 DOT as being inadequate. In fact, having -- you
14 know, not just inadequate, but having incorrect
15 figures. And so then they went back and did another
16 one, and they went back and did another one.

17 And that's why I'm concerned, because DOT has
18 not reviewed this final one. The internal roadway
19 system has been reviewed by Mr. Miyamoto, and that
20 was in the June '05, the final June '05 report.
21 This September '06 report is for regional traffic
22 roadway improvements. And the reason it's important
23 that DOT reviews this --

24 You know, they're basically telling us, you
25 know, we don't care if you go ahead and approve it

1 because they're going to pay for the widening and
2 the extension, and that's all we're concerned with,
3 is who's going to pay for it. DOT has to sit down
4 and get all the parties involved and work out
5 everybody's pro rata share.

6 That hasn't happened, because Wailea 670 says
7 we'll pay for it and we'll work it out with the
8 other guys; which is fine for them and fine for DOT,
9 but what about us? We're supposed to have a traffic
10 impact analysis report again, by our application
11 standards, that has been reviewed and commented on
12 by DOT. And the reason that is important, Members,
13 is because DOT looks at the traffic counts, and they
14 determine whether or not these traffic counts that
15 they're using are reasonable.

16 And excuse me, sir, but they found that the
17 previous traffic counts were not reasonable. And
18 when I say reasonable, what they do is DOT has their
19 own traffic counts that they do, and I obtained
20 their traffic counts. They do them at specific
21 sites along the highway. They do it annually and in
22 certain places they do it twice a year.

23 And so what they do when they review a traffic
24 analysis is they compare their traffic counts with
25 the traffic counts in the consultant's report to

1 determine if their counts were reasonable. And
2 that's why I think that we need to have this
3 reviewed by DOT.

4 And -- I'm sorry, sir, I forget your name.

5 MR. YOSHIOKA: Name's Wayne Yoshioka.

6 COUNCILMEMBER ANDERSON: Mr. Yoshioka. You're saying that
7 the traffic counts that you used for Makena are
8 greater than what their Change in Zoning application
9 is right now. And that's great, but I'd like to
10 have it verified, because, you know, I live down
11 there, and I'm telling you right now, we're at
12 capacity already. We can't wait for 2012 for any of
13 these improvements. Any of you folks, I'll bring
14 you pictures to prove it. From 3:00 until 5:30, you
15 cannot get onto Piilani Highway from Kilohana to
16 Wailea Ike. It is bumper to bumper right now.

17 And if you look at the traffic counts that DOT
18 has -- excuse me. Traffic counts that DOT does,
19 they have various stations. We were told by
20 Mr. Brennan Morioka, Deputy DOT Director, that the
21 carrying capacity for Piilani Highway is 17,000 cars
22 per hour, and in many of the intersection areas on
23 Piilani, we have already exceeded that.

24 So that's why -- I mean, you know, you're
25 asking us to take good faith on what you're telling

1 us, but we have a legal process that we need to
2 follow. And it's there for a reason, you know, so
3 that we have verifiable reports that actually will
4 mitigate the problem.

5 And, you know, I'm looking at -- I did my own
6 comparison and, you know, some of the traffic counts
7 that you're using in your study are less than
8 traffic counts that were done in 2005 by DOT, and
9 this was done in '06. So I find that hard to, you
10 know, put faith in, if your traffic counts for '06
11 are lower than the traffic counts that DOT did in
12 '05.

13 And so, Mr. Chairman, I think that we need to
14 have DOT review this. And, you know, they said they
15 would wait and review this when the data from Makena
16 was complete. He's telling us it is complete. In
17 fact, it's even greater. So why isn't DOT willing
18 to review this? They're waiting for this to be
19 updated. And this, Members, is the analysis that
20 tells us when we have to have all these upgrades on
21 Piilani Highway.

22 And I would like to mention that when
23 Mr. Morioka was here last year, he told us that
24 there would be no more Federal money coming to South
25 Maui for Piilani Highway until there were four more

1 lanes identified; regional, north south lanes
2 identified. We are short four traffic lanes north
3 to south. And until that is identified -- and they
4 have told me personally that they are waiting for
5 Maui County to identify where those lanes are going
6 to be. And until that's done and they can get it on
7 their State transportation improvement program, we
8 will not get any Federal dollars, not to widen
9 Piilani Highway to Federal standards, or for any
10 other reason.

11 And so -- and I think that is particularly
12 important that that roadway segment -- and obviously
13 it's going to be mauka Piilani, there's no other
14 place to put it, but I think it's very important
15 that we have that identified before we start
16 approving things mauka of the highway, because you
17 need that corridor identified so that the
18 development, you know, in that area makes room for
19 that corridor.

20 And is this corridor going to go mauka of
21 Wailea 670 and feed in at that point, or is it going
22 to dead end on the north, north side of Maui Meadows
23 and then feed back into Piilani? I mean, what's the
24 configuration? We've got a high school that's
25 coming in down there. We've got other projects

1 mauka of Piilani.

2 And I just think it's irresponsible of us to
3 not have that corridor designated or at least a map
4 showing us the various options. And, you know, I've
5 been talking with the engineers in the County, and
6 I've heard various different stories. Yeah, we've
7 got various options, and it's almost ready to go.

8 You know, I mean, at least something on a map,
9 so that we can have some idea of where this roadway
10 needs to go in conjunction with all of these, you
11 know, Makena Resort and Wailea 670, how is this all
12 going to tie in.

13 And that brings me to my next question to you,
14 and that is, can you provide us with a map that
15 shows where all these various modifications that are
16 in, you know -- and I would say, you know, whether
17 it's a Piilani modification, connected to Piilani or
18 whether it is going to be a major collector road,
19 all of these various, one through -- A through H.

20 CHAIR MOLINA: Mr. Yoshioka, can you --

21 COUNCILMEMBER ANDERSON: Can we get a map showing, you
22 know, what is going to be done and how -- you know,
23 existing, and then what you're going to do? Because
24 I think we need to see it in its totality, so we can
25 see the planned traffic flow and how this is going

1 to play out.

2 CHAIR MOLINA: Mr. Yoshioka?

3 MR. YOSHIOKA: Mr. Chairman, Councilman Anderson, we would
4 have no problem providing such a map, but to make
5 sure I understand some of your previous question I
6 think I heard, again, our reports have been
7 reviewed. The June 2005 was not just a, just a
8 local roadway study. The June 2005 study addressed
9 Piilani improvements as well, and that was fully
10 approved, reviewed and approved by the Maui County
11 Department of Public Works and Environmental
12 Management.

13 There was a review with the State. They
14 had -- of course, there's always a back and forth on
15 all of our studies. We went through with the State.
16 Brennan Morioka, Deputy Director of State DOT, in a
17 letter to us, to -- actually to Chair Molina on
18 January 25th, 2007, said -- wrote a letter that
19 said, "We have no objection to approval of the
20 Honua'ula zone change from Project District
21 applications provided this offer were imposed as a
22 conditioned approval."

23 And the condition they're talking about is the
24 offer to widen Piilani Highway from Kilohana Drive
25 to Wailea Ike to four lanes, to DOT standard.

1 COUNCILMEMBER ANDERSON: I can't --

2 MR. YOSHIOKA: Again, one of the key things in this is
3 that when you look at the -- I think you're right
4 about the Federal dollars. I mean, Federal dollars
5 are getting scarce. And I think one of the, one of
6 the --

7 COUNCILMEMBER ANDERSON: Mr. Yoshioka, could we just stop
8 right there? Because let's clarify something before
9 you go on to that, and I will yield back, but the --
10 You know, DOT says they don't have any problem
11 with you going ahead as long as you've already
12 agreed to pay up front and work it out amongst
13 yourselves, who's going to pay what pro rata share.
14 And I already mentioned that, and that's fine for
15 DOT, because that's all they care about.

16 But again, you know, they asked you to do, in
17 March of '06, they asked you to do the September '06
18 report, a combination. You know, your June '05 was
19 good as far as internal, and you did make changes,
20 but it was not adequate as far as regional traffic
21 improvements, which is why they asked you to do the
22 '06. They specifically asked you to combine --

23 "Our review of their respective traffic
24 reports," and they're referencing the three major
25 resort areas, "revealed that each had used different

1 parameters, projections, and assumptions. It would
2 have been very difficult to resolve the differences
3 and come up with a fair determination of the
4 proportionate responsibility for traffic impacts.
5 Because of this, the developers agreed to submit a
6 proposal that summarizes the combined findings. We
7 understand they are progressing in their work and
8 anticipate they will submit the TIAR and proposal to
9 us shortly."

10 So that is what the '06 report was supposed to
11 give us. And again, they have not reviewed it.
12 They have said they will wait and review that,
13 review this when you have -- when Makena Resort
14 gives them more current data.

15 So, you know, I'm just trying to make it very
16 clear that the build-out on Piilani Highway and the
17 assertion that you don't need to do this until 2012
18 is based on this report, which has not been reviewed
19 by DOT. So you can show, if you can show me a
20 review letter on this, aside from this fact that
21 they're saying, you know, okay, well, you know --

22 In fact, that very same letter also says, "We
23 withhold our review of this report until we get more
24 firm data on Makena Resort."

25 CHAIR MOLINA: Mr. Yoshioka?

1 MR. YOSHIOKA: Thank you, Chair.

2 Again, as I was, as I was saying a little
3 earlier, Councilmember Anderson, you know, the study
4 that we had done in 2005 did address the regional
5 issues because it did cover Piilani Highway.

6 Now, DOT did request a coordinated study,
7 which we did. In fact, we got together with the
8 other two consultants, both the Makena and the
9 Wailea Resort consultant. We actually went out and
10 addressed a lot of the issues that DOT had at hand.
11 One of them was going out and specifically doing a
12 survey to determine what resort trip generation
13 would be, for example, how much traffic is generated
14 by resort unit, and went through all that.

15 Now, what was lacking in this was Makena's
16 determination of what land use they really had at
17 the time. And so again, like I said earlier, rather
18 than worrying about what their exact land use was,
19 we took a much larger land use.

20 So in other words, if we had actually used
21 some more current land use from Makena, I would, I
22 would hazard that the point of capacity would be a
23 lot further out in time than 2012. But we did use
24 an expanded version, which was the original zoning,
25 which had quite a bit more land use than what

1 they're currently, at least, proposing, at least the
2 ones I've seen, more currently. So again, we're
3 trying to be conservative, because we didn't know.

4 Now, what DOT is saying about review of this
5 is they're saying, well, but if you're going to use
6 this study -- and they have said that the study was
7 to be used to allocate, if it's later on, allocate
8 the responsibilities between the three entities. Of
9 course, if I went in and used Makena's super growth
10 scenario, that probably wouldn't be fair to Makena.
11 So they're saying, well, we'll wait until we see the
12 actual proposed from Makena before we actually
13 review that study.

14 But the point is that I think they understand
15 that we're being conservative, and the date of 2012
16 is probably closer than it would be, say if Makena
17 was building out at a lower, at a lower level than
18 what we had assumed.

19 Now, a lot of the, you know -- again, in the
20 area a lot of the congestion that you see in that
21 area is primarily due to the fact that certain
22 intersections need to be signalized. And, you know,
23 in fact, there are some works right now to do some
24 interim signalization. But this interim
25 signalization would be superseded by the widening

1 project of Piilani, which will actually implement
2 the more permanent and to standard signal
3 installations along, at Kilohana, at Okolani, and
4 Wailea Ike.

5 So I think what we're saying here is that DOT
6 is satisfied that we have a proposal here that
7 allows them to get a major improvement in place at
8 private cost, get it up front, not wait a long time
9 before they can accumulate enough pro rata share
10 dollars to try to do something. And so I think
11 that's what DOT has said in their letter to Chair
12 Molina.

13 As far as the other issue of corridor and
14 saying that, you know, they won't direct dollars
15 into this corridor until Maui County has decided how
16 they want to resolve the ultimate build-out of this
17 corridor, that was triggered in part by -- the first
18 step was when the North-South Collector Road, which
19 was originally going to be a four-laner, it was
20 decided that, you know, community interest dictated
21 that it be a smaller road.

22 COUNCILMEMBER ANDERSON: We know.

23 MR. YOSHIOKA: And it went to a two lane, when that went
24 to a two lane, and also, South Kihei Road was also
25 determined to be less than a four lane, it created

1 situations where more capacity was needed elsewhere.

2 And I think what DOT is saying is that before
3 they go back and program Federal dollars, which they
4 had programmed in on the North-South Collector,
5 rather than to do something like that and have it
6 yanked away again, they would rather see Maui County
7 have a plan for how they would really want to
8 implement the ultimate configuration of the Piilani
9 corridor.

10 And then once that configuration has been
11 determined by Maui County, then they would feel that
12 they had some reasonable assurance that any funds
13 that they program in to the corridor would be
14 utilized and not yanked away.

15 COUNCILMEMBER ANDERSON: Well, you know, I appreciate your
16 speaking for DOT, but they were here and they spoke
17 to us directly.

18 And, yes, you're right that it is the fact
19 that we reduced the North-South Collector Road from
20 four lanes to two lanes and we reduced South Kihei
21 Road from four lanes to two lanes, but it's a little
22 bit more than that in that if --

23 You see, we're tied to the Federal government,
24 into the Federal Highways Division standards,
25 because Piilani Highway was built with federal

1 Dollars. And if -- we have now downgraded Piilani
2 Highway, and it no longer meets Federal standards.
3 And so when Piilani Highway was first built -- you
4 know, the Federal Highways Division identified the
5 need for twelve lanes of regional traffic for the
6 build-out of the South Maui region, depending on our
7 General Plan community plan, many years ago.

8 So, you know, it's the fact that we have to
9 meet standards of the Federal Highways Division in
10 order to get those STIP dollars back to South Maui.
11 And, you know, I don't know that that is either here
12 nor there for the discussion, but I would like to
13 see, you know, if --

14 I'd like to see DOT tell us that the figures
15 in this report for the build-out are acceptable and
16 reasonable to them. Not just we don't care if you
17 go ahead and improve it, because they've already
18 decided that they're going to work out the pro rata
19 share amongst each other, and it's not our problem
20 anymore. You know, the road is our problem, and we
21 need to know if the figures in here are accurate.

22 You know, there's no way. All you have is a
23 bunch of, what you call, traffic counts and roadway
24 configurations with traffic counts, and there's
25 nothing in here that shows me, what is the actual

1 numbers that you're using.

2 You know, here we have the build-out for
3 Makena Resort. You have 400 multifamily units, 22
4 single family, 675 resort multifamily, and 33 resort
5 single family. So I don't know that that's any
6 greater intensity than what -- you know, I would
7 like to see how that really pans out, because that
8 doesn't seem to be any greater in intensity than
9 what we have already in front of us for the Change
10 in Zoning.

11 And the reason I want DOT to look at this is
12 because I want them to verify the numbers in here as
13 correct.

14 CHAIR MOLINA: All right. Thank you, Member Anderson.

15 COUNCILMEMBER ANDERSON: Because they, in the past, you
16 know -- I'm just going to read one thing into the
17 record here, Mr. Chairman. This was on the May, the
18 revised, updated traffic study of May '05, which
19 ended up being the June '05 study.

20 It says that "The TIAR references the Kihei
21 master, traffic master plan prepared in '03 as one
22 of the primary documents supporting the analysis and
23 roadway plans. We need to note that the preparation
24 of the 2003 plan was not in consonance with the
25 established planning process. Hawaii Department of

1 Transportation was not involved in the development
2 of this plan, and we are not in agreement with the
3 key elements of the plan."

4 And so you folks used that plan for the '05
5 study. DOT says that it wasn't an adequate
6 analysis. And actually I looked at it, and it used
7 old figures. And the Kihei traffic master plan was
8 also done by your firm, Mr. Yoshioka.

9 So, you know, I'm just asking for solid
10 verification that what we have here is actually
11 what's happening on the ground, Mr. Chairman.

12 CHAIR MOLINA: Thank you, Member Anderson. Committee will
13 see what we can do to accommodate your request, and
14 I believe, Mr. Yoshioka, you've been requested to
15 provide the maps afterwards.

16 MR. YOSHIOKA: And we will do that.

17 CHAIR MOLINA: Thank you. Members, we're going to be
18 losing quorum in about a half an hour. I'd like to
19 cover at least one more condition.

20 VICE-CHAIR PONTANILLA: I've got one question for
21 Mr. Yoshioka.

22 CHAIR MOLINA: All right, Mr. Pontanilla, and then
23 afterwards --

24 VICE-CHAIR PONTANILLA: Thank you.

25 CHAIR MOLINA: -- we'll cover our --

1 COUNCILMEMBER ANDERSON: Chair.

2 CHAIR MOLINA: -- last condition for the night. Member
3 Anderson?

4 COUNCILMEMBER ANDERSON: I had another question regarding
5 traffic. And I won't take up a lot of time, but I'd
6 like to get the question out there so that next time
7 we meet, the answer can be forthcoming.

8 CHAIR MOLINA: Okay.

9 COUNCILMEMBER ANDERSON: And it doesn't have to do with
10 Mr. Yoshioka.

11 CHAIR MOLINA: Okay. We'll start with Mr. Pontanilla
12 first and --

13 VICE-CHAIR PONTANILLA: Mine is easy.

14 CHAIR MOLINA: -- go back to Member Anderson.

15 VICE-CHAIR PONTANILLA: Back in 2003 you did a study for
16 the Kihei master traffic plan, and the twelve lane,
17 twelve lanes that is there in Kihei, I understand
18 it's six lane on the existing Piilani, four lanes on
19 the North-South Collector Road, as well as two lanes
20 on the existing South Kihei Road.

21 When I look at the master plan that was done
22 back in 2003, and now you mention 2005, is there a
23 difference in the number of lanes from the 2003
24 master plan as compared to the 2005 master plan?
25 Because the 2003 master plan calls for four lanes

1 from Kilohana to Wailea Ike. And I'm assuming that
2 what is being called for is looking at the 2003
3 master plan for Kihei traffic.

4 MR. YOSHIOKA: Chair?

5 CHAIR MOLINA: Mr. Yoshioka.

6 MR. YOSHIOKA: Councilmember Pontanilla, yes, that 2003
7 Kihei traffic master plan was actually requested,
8 not through the State DOT. It was requested
9 through, directly through the County of Maui, DPWEM.
10 And that study looked, took a look at the Kihei area
11 and tried to get a handle on what the requirements
12 would be for that subregion.

13 Now, there were two alternatives that ended up
14 in that study because there was this question at
15 that time of what would happen to the North-South
16 Collector. Again, it was programmed to be four
17 lanes, and a decision was made that -- well,
18 actually the decision hadn't been made at that
19 point, but it was being discussed that that
20 North-South Collector could be limited to just two
21 lanes because of the desires of the community to
22 have a more bike, walkable friendly facility in that
23 area.

24 And so what that Kihei traffic master plan did
25 was evaluate both alternatives and say, okay, well,

1 if we do this, if you do take, if you do have four
2 lanes on the North-South Collector, then you can
3 leave Piilani Highway at four lanes and that will
4 function fine.

5 If you reduce the North-South Collector down
6 and also limit what you can do further north on
7 South Kihei Road, that creates the need for two more
8 lanes somewhere, and that report suggested that
9 there are two ways to do it. You could either six
10 lane Piilani Highway or you could look for an
11 alternative facility further mauka. So that was
12 really the conclusions of that Kihei study.

13 In both cases, though, the segment from Kihei,
14 old Kilohana Drive down to Wailea Ike, showed four
15 lane needs for that segment, and no more than four
16 lanes. And one of the things, if you look at the
17 report, they'll show you why. Because if you look
18 at the volume patterns along Kihei, you know, Kihei
19 really is a -- if you can envision it, it's a long,
20 kind of like a bottle, and the mouth is at the top
21 near Mokulele. So what happens is, of course the
22 traffic increases as you move toward the mouth of
23 the bottle, as you come up toward Mokulele. So the
24 tail end toward the Kilohana end, we determined for
25 the long-range future, will always be a four lane.

1 As you build up toward, toward Lipoa and
2 there's always the issue of, okay, where does that
3 transition occur. But somewhere between there, as
4 you build toward Lipoa, you're going to start
5 needing more than four lanes if you limit
6 North-South Collector to just two lanes. And this
7 thing will happen somewhere in the future, and
8 somewhere in the future is because we don't know how
9 fast the area is really going to build out.

10 But as the area builds out, at some time in
11 the future you're going to need two more lanes
12 somewhere. You know, I think the decision was made
13 that those two lanes would not be on the North-South
14 Collector, so it's going to have to be somewhere
15 else.

16 VICE-CHAIR PONTANILLA: Thank you for that response. When
17 you did the study, did you take in account the total
18 build-out for, like, I guess Wailea 670, Makena
19 Resort, as well as the Wailea development to come up
20 with those kind numbers?

21 MR. YOSHIOKA: Yes, to the best ability of the data that
22 was available in that time frame, it was to try to
23 get a handle on the build-out of the area.

24 VICE-CHAIR PONTANILLA: Thank you. One more question. In
25 regards to the existing construction that's going on

1 on Mokulele Highway, you said at the north end, you
2 know, you come to this stick, almost like a bottle.
3 So once the construction is completed on the
4 proposed highway, do we, are we going to see, like a
5 reversal?

6 CHAIR MOLINA: Mr. Yoshioka?

7 MR. YOSHIOKA: Councilmember, could you explain what you
8 mean by reversal?

9 VICE-CHAIR PONTANILLA: Meaning that rather than coming up
10 like a soda bottle, now you're looking at probably
11 the north end becoming wider than the south end.

12 MR. YOSHIOKA: Oh, I see, I see what you mean,
13 Councilmember. In terms of -- I think what you're
14 saying is in terms of capacity, you would have
15 greater capacity on the north end now, and is it
16 going to be such that you funnel in a lot of traffic
17 and they can't get through because you don't have
18 enough on the end.

19 But what I was referring to was the actual
20 volume. The volume actually decreases pretty
21 dramatically as you move down the corridor. And
22 that makes sense, right? As you're moving down the
23 corridor, a lot of the development starts to absorb
24 the traffic that's coming into the Kihei area.

25 Now, what the Mokulele project does for us is

1 that it assures us, as we move into the future and
2 the area continues to grow, that -- you know, I'm
3 using the analogy of a bottle. We try not to have a
4 bottleneck when we hit Mokulele. And so as we feed
5 all this traffic up toward the north end of Piilani
6 Highway, at least we have the capacity to continue
7 that up Mokulele.

8 For example, Piilani Highway isn't, isn't a
9 four lane facility. So that four lane facility is
10 coming up toward Mokulele and it presently goes into
11 a two lane facility, although they're getting close
12 to being complete with their four laning.

13 And one of the reasons why Mokulele could
14 handle the traffic within two lanes for a long time,
15 even after Piilani got widened to four lanes, was
16 that Mokulele itself has very few traffic signals
17 along it. It's pretty much an unimpeded roadway, so
18 it can carry a lot more traffic per lane than, say
19 Piilani Highway, because of the intersections on
20 Piilani Highway.

21 But there's a limit to that, and so
22 recognizing that, DOT has gone forward with a
23 project to widen Mokulele as well, and that pretty
24 much assures that that won't create a bottleneck as
25 we -- as the traffic comes up into that area.

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

2 CHAIR MOLINA: Thank you, Member Pontanilla.

3 Member Anderson, your question for

4 Mr. Yoshioka and the applicant to think about?

5 COUNCILMEMBER ANDERSON: Yeah. And I'd like to reiterate
6 in case someone didn't hear, the Kihei traffic
7 master plan prepared in 2003 by Mr. Yoshioka's firm
8 was done actually in order to restripe the highway.
9 But DOT says that they were not -- "We need to note
10 that the preparation of the 2003 plan was not in
11 consonance with the established planning process.
12 Hawaii Department of Transportation was not involved
13 in the development of this plan, and we are not in
14 agreement with the key elements of the plan."

15 So the plan is no good, Members, if DOT
16 doesn't say they agree -- and frankly, I have the
17 plan, I've looked at it. They used figures that
18 were too old. You know, the whole idea of a traffic
19 impact analysis is to say this is what existing
20 conditions are, this is what future conditions are
21 going to be, and this is what you need to do to
22 mitigate it.

23 So my questions, Mr. Chairman, are, number
24 one -- you know, there's a lot of private roadway
25 agreements that Wailea 670 has entered into, and I

1 think we need to see them. And one of them is the
2 roadway agreement with Wailea Resort Company
3 regarding Kaukahi Street and Kalai Waa Street. And
4 the reason I think this is important is because it
5 impacts the people who currently live in Wailea.

6 And, you know, I'm getting lots of phone calls
7 from residents of this area who are upset because
8 they were led to believe that there would be limited
9 access to Kaukahi Street, and that back in 2000 the
10 agreement with the Wailea Community Association and
11 Wailea 670 states that "The Wailea Community
12 Association supports their plan of a secondary entry
13 exit via an extension of Kaukahi Street. However,
14 the main entry for Wailea 670 must be from the
15 Piilani Highway at or near Wailea Ike," from day
16 one.

17 "They are generally supportive of the concept
18 of a limited use, secondary entry exit utilizing an
19 extension of Kaukahi Street, and that Kaukahi Street
20 will be restricted, i.e. gated at both ends."

21 That was in 2000. Now we're in 2005. They
22 have an agreement, the Wailea Community Association
23 has an agreement that says that limited, "The
24 limited access to Kaukahi Street" -- well, I got to
25 read the whole thing, Members, because it won't make

1 sense if I just read the part about the road.

2 "The key points to this agreement were the
3 participation in the extension of Piilani Highway
4 through to Makena, the limited access to Kaukahi
5 Street, relocation of the sewage treatment plant,"
6 blah blah blah.

7 Okay, but there is on their deed a grant of
8 roadway easement for Kaukahi Street and Kalai Waa
9 Street between Wailea Resort and Wailea 670, which
10 is a whole different thing from the agreement with
11 the Wailea Community Association. And so I think we
12 need to see what that agreement says, Mr. Chairman.

13 And I'd also like to see the agreement that
14 they have -- what is the roadway plan that they have
15 with Ulupalakua Ranch? That's also a deed, deeded
16 on their deed.

17 There is a -- "Wailea 670 is scheduled to
18 close" -- let's see. I'm just reading one section,
19 Members, so that you get an idea of why I'm
20 concerned.

21 You know, this is a big old legal document,
22 but just to give you an idea of one. There's all
23 these agreements between Ulupalakua and Wailea 670,
24 and it has to do with a roadway easement area and a
25 roadway plan, although the plan is not spelled out,

1 exactly what the plan is.

2 But it says, "If any sale or lease of the
3 entirety of Wailea 670 is scheduled to close prior
4 to completion of construction of the roadway
5 improvements in the roadway easement area, as
6 provided in said roadway plan, the purchaser or
7 lessee thereof shall have the financial capacity to
8 pay for such improvements and shall expressly assume
9 the obligation."

10 You know, what I'm trying to point out,
11 Members, is there's all kinds of private roadway
12 agreements that none of us are privy to. And, you
13 know, I think we need to know what the whole picture
14 is here.

15 CHAIR MOLINA: All right, Member Anderson. I believe the
16 applicant has gotten all those requests down, so at
17 our next session if he can get that to the Committee
18 in an expedient manner, it would be appreciated.

19 All right, Members, it is 17 minutes after
20 7:00. The Chair is going to call for a short break.
21 I'm looking the -- I'm going to give you time to go
22 look at your calendars prior to discussion of our
23 last condition for the night. I'm looking at
24 Monday, August 20th. So, Members, if you can check
25 with your staff on your availability for Monday,

1 August 20th.

2 Meeting in recess. (Gavel).

3 RECESS: 7:17 p.m.

4 RECONVENE: 7:25 p.m.

5 CHAIR MOLINA: (Gavel). Recessed Land Use Committee
6 meeting of July 25th, 2007 is now back in session.
7 Thank you very much for that recess.

8 Members, we'll go down the line on your
9 availability for Monday, August 20th. The Chair is
10 looking at a time of about 1:30 in the afternoon,
11 unless Members would like to meet in the morning.
12 Feel free to say so. We'll start first with
13 Mr. Victorino.

14 COUNCILMEMBER VICTORINO: 1:30, I'd be available. Thank
15 you, Mr. Chair.

16 CHAIR MOLINA: Thank you. Mr. Pontanilla?

17 VICE-CHAIR PONTANILLA: 1:30 is good on Monday.

18 CHAIR MOLINA: Thank you. Mr. Hokama?

19 COUNCILMEMBER HOKAMA: I can give you two hours,
20 Mr. Chairman.

21 CHAIR MOLINA: Okay, thank you, Mr. Chair. Member Baisa?

22 COUNCILMEMBER BAISA: I'm okay, 1:30.

23 CHAIR MOLINA: Okay, and --

24 COUNCILMEMBER BAISA: Not in the morning.

25 CHAIR MOLINA: Okay, thank you. Member Anderson?

1 COUNCILMEMBER ANDERSON: 1:30 is fine. Thank you, Chair.

2 CHAIR MOLINA: Thank you. And we will check with the
3 offices of the Members who are not here tonight,
4 Members Mateo, Johnson, and Medeiros, on their
5 availability for Monday, the 20th, at 1:30. So it
6 seems like we have overwhelming consensus for that
7 date.

8 Members, there's one last condition the Chair
9 would like to look at in time before we lose quorum.
10 If you turn to the last page, this is a proposed
11 condition from the applicant, page 12. It's
12 condition, I guess the applicant's numbered
13 condition 31. Staff, can you read the condition,
14 please?

15 MS. NAKATA: "That WCPT/GW Land Associates, LLC, its
16 successors and permitted assigns shall preserve the
17 broad vista to the Upcountry regions."

18 CHAIR MOLINA: Okay. Deputy Director Suyama, can you
19 comment on the proposed condition from the
20 applicant?

21 MS. SUYAMA: It's great that they want to preserve view
22 corridors or vistas, but we have to ask for
23 clarification as to how we're going to enforce this
24 condition.

25 And basically what we're saying, clarification

1 should be provided as to what measurements are to be
2 used to determine the protection of the broad vistas
3 to the Upcountry regions. How much of the vista can
4 be impacted by development to accommodate vertical
5 construction and changes in landscaping.

6 Also, does this condition relate only to
7 public vistas, from public roadways or lands. Who
8 is to make this determination, and at what phase of
9 development. Once slated for protection, does the
10 developer establish view easements to ensure future
11 protection.

12 So we had all these questions as to how we --
13 what you're trying to attempt to do and how are we
14 going to measure those things and how are we going
15 to enforce this condition. So I think the developer
16 needs to provide more clarification.

17 CHAIR MOLINA: Thank you, Deputy Director.

18 Members, any objection to having Mr. Jencks
19 come up to respond?

20 VICE-CHAIR PONTANILLA: No objection.

21 COUNCILMEMBERS: No objections.

22 CHAIR MOLINA: Thank you. Mr. Jencks?

23 Member Anderson?

24 COUNCILMEMBER ANDERSON: No objection, but I think we need
25 to extend this to ocean views, too, because you have

1 a whole, you know, subdivision right next door, and
2 I'd like to make sure that their view plane to the
3 ocean is protected as well.

4 CHAIR MOLINA: Okay, thank you, Member Anderson. That is
5 a good consideration.

6 Mr. Jencks? Can you please provide
7 clarification for the (inaudible) --

8 MR. JENCKS: Sure, Mr. Chairman. Thank you for asking me
9 down.

10 Members, this condition actually came from a
11 review of the Makena Resort conditions that are
12 presently in this Committee for review and approval,
13 and also reflects back upon some of the discussions
14 that the Planning Department has had with folks
15 doing work in South Maui, and also in West Maui, in
16 terms of the view sheds to the ocean, and also the
17 mauka areas.

18 I would say to you that the intent here was to
19 provide protection of the vistas, I think correctly,
20 as Ms. Anderson has pointed out, to the ocean and
21 also to the Upcountry areas from the Piilani
22 Highway. And certainly, we certainly have the
23 ability to, as a part of the Phase II application,
24 as we propose development, to provide some criteria
25 on how we would protect those vistas, given the

1 relative elevation of the roadway, so that we -- you
2 know, because we have a buffer zone that we have to
3 provide adjacent to the highway.

4 So we're talking about landscape issues,
5 height of landscaping, those kinds of issues, so we
6 can protect those views off the highway, both mauka
7 and makai. That was the intent.

8 CHAIR MOLINA: Okay. Thank you, Mr. Jencks.

9 Members, the floor is open for questions of
10 Mr. Jencks. Member Hokama?

11 COUNCILMEMBER HOKAMA: I have one for Planning Department,
12 Mr. Chairman.

13 CHAIR MOLINA: Okay.

14 COUNCILMEMBER HOKAMA: If you want to have only questions
15 for Mr. Jencks at this time, I can yield and wait
16 for an appropriate time, Chair.

17 CHAIR MOLINA: Okay. So Member Baisa followed by Member
18 Anderson?

19 COUNCILMEMBER BAISA: This is a very wonderful concept.
20 It is rather broad. You know, I am Upcountry, and
21 we certainly enjoy looking below us and enjoying the
22 view from, you know, up in Kula. And, you know, to
23 be very specific, it's difficult because, you know,
24 people build houses in front of you that you have no
25 control over, or people grow big trees.

1 And while I like the idea, it's wonderful that
2 we're able to look around and enjoy the beauty of
3 Maui, how are we going to police this thing?

4 CHAIR MOLINA: Thank you, Member Baisa. Is that a
5 question for Mr. Jencks, or is it just a --

6 COUNCILMEMBER BAISA: Yeah, Mr. Jencks, any ideas?

7 CHAIR MOLINA: You're on the spot, Mr. Jencks.

8 MR. JENCKS: Thanks for the softball. You make a really
9 good point, you know. There's some jurisdictions in
10 this country where your property tax values have a
11 component that's based upon the view you have. And
12 I worked in a community that had that, and we would
13 always get these complaints about their down-slope
14 neighbor who put in vegetation, who then was then
15 blocking their view, and they were paying high
16 property taxes for the view.

17 Who takes care of that? Who deals with that?
18 Well, it ended up being our problem to call the next
19 door neighbor, saying cut your trees down because
20 you're blocking Joe's view. He's paying big taxes,
21 we want the big taxes.

22 In this case, if you look at the Piilani
23 Highway corridor through the property, and we're, as
24 proposed in one of the Transportation Commissions,
25 we're going to develop that up to a certain point,

1 and it's actually about halfway through that
2 alignment, about 3,600 feet in from where the road
3 ends today -- it's about half of that distance -- to
4 meet up with Kaukahi Street. We have to provide
5 buffers on both sides of the highway to buffer
6 development on both sides of the highway for noise
7 and visual pollution, et cetera.

8 Going mauka of that area, out of that buffer
9 area, we will have landscape features in place, and
10 those landscape features will mature over time, and
11 they could possibly create a problem. However, I
12 think with careful planning, selection of a proper
13 landscape palette, it's not going to maybe last
14 forever.

15 But I think the intent here is to do the best
16 we can to preserve those vistas, which I think are
17 going to be quite large from a vertical point of
18 view. They're not very narrow vistas, like, for
19 example, of the ocean. But the mauka vistas are
20 very, very high and very large, so I think that
21 would be maybe easier to deal with. But the
22 maintenance of that is indeed a question.

23 COUNCILMEMBER BAISA: Because it's been my experience that
24 while you might be able to do this with buildings.

25 MR. JENCKS: Uh-huh.

1 COUNCILMEMBER BAISA: Because they have to come in and,
2 you know, be reviewed, and Planning looks at them
3 and we look at them, everybody looks at them.

4 I think the problem comes in more with
5 landscaping. You know, as I look around the area in
6 Kula where I live, the issues that we have are with
7 landscaping. People who build tall, tall hedges and
8 tall trees. You know, you don't want to be fighting
9 with your neighbors all the time, so as much as
10 you'd like to get the chain saw out, you kind of
11 live with it.

12 So I think that's what's, you know, prompting
13 me to worry about this a bit.

14 CHAIR MOLINA: Okay. Thank you, Member Baisa. Member
15 Anderson?

16 COUNCILMEMBER ANDERSON: Thank you, Chair.

17 I think maybe one way that you can do that --
18 you showed us a graphic of the buffer zone between
19 Maui Meadows and your project.

20 MR. JENCKS: Yes.

21 COUNCILMEMBER ANDERSON: And it includes a two lane road
22 with a median strip down the middle, with trees? Am
23 I recalling it correctly? There's trees on either
24 side of the road, or --

25 MR. JENCKS: It was, it was, if I may, it was a buffer

1 zone on the Maui Meadows boundary that was a fifty
2 foot wide landscape buffer, and then we had a single
3 loaded road, and then the residences. That's what
4 we had in the buffer.

5 COUNCILMEMBER ANDERSON: And so I think maybe we could
6 prohibit the use of trees along that buffer zone
7 that don't exceed a certain height. I mean, you can
8 still landscape it nicely without putting trees that
9 are going to, you know, over the years grow real
10 tall and block people's view, view plane.

11 So maybe you could come up with an idea of
12 what kind of trees that might be. Like, I don't
13 know, stunted palms or something like? But I mean,
14 you know --

15 MR. JENCKS: I suppose we could. This is, in my mind, and
16 I know the Planning Department, they deal with this
17 a lot in the context of properties that front the
18 ocean and views through --

19 COUNCILMEMBER ANDERSON: Yeah, yeah.

20 MR. JENCKS: -- properties, and they think a lot about
21 landscape and what kind of landscape is appropriate.
22 Yet there are trees, for example, Councilmember,
23 like monkeypods, that are very beautiful as they
24 mature and they get a nice crown on them. Those
25 wouldn't be a problem, necessarily, because you get

1 the views between and through. But yet there are
2 other trees --

3 COUNCILMEMBER ANDERSON: Yeah, but you got to wait 20
4 years for that crown to get up above your view.

5 MR. JENCKS: I think we all got to look long-term here,
6 and we've got to look with the long-term vision of
7 the property.

8 COUNCILMEMBER ANDERSON: Well, but, yeah, long-term for
9 you, but you got people in Maui Meadows that are
10 living there right now. They don't want to wait 20
11 years to get their view back. They might be dead by
12 then.

13 MR. JENCKS: My point was, I think maybe working with the
14 Planning Department as a part of the Phase II
15 palette, we could do that. Not a problem.

16 COUNCILMEMBER ANDERSON: You know, Chair, you know, I'd
17 like to see us do this for all major developments,
18 but -- you know, we have, certainly have the
19 technology today.

20 And in fact, Members, in South Lake Tahoe, you
21 cannot build anything in Tahoe without providing a
22 graphic of the build-out, a three dimensional
23 graphic of what it actually looks like on the
24 build-out. And, you know, I think you should be
25 able to do that for us, Mr. Jencks, with the backing

1 that you have. It's just a computer program, and
2 you punch it in.

3 MR. JENCKS: Just push a button?

4 COUNCILMEMBER ANDERSON: Well, I mean, come on. You know
5 what the topography is and you know what it is
6 you're building and you know what the building
7 heights are. You know, give us an idea.

8 MR. JENCKS: I tell you what I'll do. I'll have some
9 cross-sections done that would show relative to the
10 Upcountry views what this could look like, and then
11 you could see for yourself --

12 COUNCILMEMBER ANDERSON: And I want to see it relative to
13 the ocean views.

14 MR. JENCKS: I'll do, I'll go -- I'll do both directions.

15 COUNCILMEMBER ANDERSON: That would be great.

16 MR. JENCKS: Okay.

17 COUNCILMEMBER ANDERSON: Thank you.

18 CHAIR MOLINA: Thank you, Member Anderson. And, Members,
19 of course if you want to strengthen the language as
20 well, please feel free to do so at a later point,
21 and we look forward to the graphics from Mr. Jencks.

22 Any other questions for Mr. Jencks before I
23 excuse him and recognize Member Hokama for questions
24 for the Planning Director?

25 Member Anderson?

1 COUNCILMEMBER ANDERSON: Mr. Jencks, could you tell us,
2 please? We got notification -- I think I already
3 put it away. We got notification that you folks
4 sold WCPT/GW, sold to Honua'ula Partners on July
5 25th of this year. Could you tell us who that is,
6 who the people are, Honua'ula?

7 MR. JENCKS: Honua'ula Partners, LLC?

8 COUNCILMEMBER ANDERSON: Yes.

9 MR. JENCKS: It is the same partnership. We had a
10 contribution from -- the WCPT/GW Land Associates,
11 LLC contributed the land into a new partnership that
12 includes an entity called D. E. Shaw for the
13 purposes of establishing the revenue to make the
14 improvements that we're talking about in this
15 chamber. So we have a new partner.

16 It's an LLC. It's not a corporation, it's an
17 LLC, so you have to change the name when you add
18 partners. And so it's virtually the same except for
19 the addition of D. E. Shaw, and the new partnership,
20 the LLC is named Honua'ula Partners, LLC. That's
21 the only difference.

22 COUNCILMEMBER ANDERSON: So it's just a change of the
23 name, not really a change --

24 MR. JENCKS: That's correct.

25 COUNCILMEMBER ANDERSON: -- of the entities involved.

1 MR. JENCKS: That's correct.

2 COUNCILMEMBER ANDERSON: Okay, thank you very much.

3 MR. JENCKS: You're welcome.

4 CHAIR MOLINA: Thank you. Okay, Mr. Hokama?

5 Mr. Jencks, I guess you're excused for now.

6 MR. JENCKS: Thank you.

7 CHAIR MOLINA: Thank you. Mr. Hokama, question for the
8 Deputy Planning Director?

9 COUNCILMEMBER HOKAMA: Mr. Chairman, thank you very much.

10 And I would say that was quite interesting hearing
11 how Lake Tahoe did it. I can tell you Virginia,
12 they require all the road improvements up front, as
13 we were made aware of during our attendance at a
14 conference. One development had to put up 70
15 million dollars of improvements up front, even
16 before they started building homes.

17 Chairman, before I ask my question, though,
18 I'd just like to ask your indulgence. I thought it
19 was refreshing that I was -- we, Mr. Pontanilla and
20 I were made aware of four Baldwin students who took
21 their own initiative and time upon being made aware
22 of these proceedings, has come and sat and listened
23 to the goings of this Committee. And I just wanted
24 to acknowledge that, their presence and their
25 interest in civic activities that are happening in

1 their community, and I just would ask your
2 indulgence in at least allowing us to recognize
3 their presence this evening.

4 CHAIR MOLINA: By all means, Mr. Hokama, and I really
5 much, as a former schoolteacher myself, I can
6 appreciate this. And you're doing the right thing
7 here, because this is a televised meeting, and you
8 can use this to verify extra credit from your
9 teacher as well, so. Good job, you guys. You
10 picked the right committee meeting to come to, and
11 we really appreciate your attendance here tonight.

12 Member Hokama?

13 COUNCILMEMBER HOKAMA: Chairman, thank you.

14 Just quickly for Ms. Suyama, our Deputy
15 Director of Planning, we have in various community
16 plans languages to protect the view planes, whether
17 we stretch it out to vistas or whatnot. Has the
18 Department implemented any type of internal
19 parameters or language of how you folks, how your
20 department would have -- let me just say it's
21 getting late. How your department plans to take
22 that into consideration in the developmental
23 process, review process?

24 Because let me just give you my example. I
25 think it's a crime what Towne Development and Carr

1 did, from old Wailuku town toward Waikapu. That
2 great view, and now complete obstruction of Iao
3 Valley and the west side mountains. I consider that
4 criminal. That is not what we grew up with and that
5 is not what I want to look at for the rest of
6 eternity, a damn graded mountain blocking view
7 planes. That's the shits. I'm going to be real
8 blunt and candid. I'm not going to tolerate that to
9 happen anyplace else in this county.

10 So how are we going to fulfill the need to
11 protect view planes and open space corridors?

12 Because the applicant is going to do what is good
13 for them. We need to know what is good for the
14 County. Do you folks have any comments?

15 CHAIR MOLINA: Deputy Director?

16 MS. SUYAMA: What I understand is that there was a scenic
17 study that was done several years ago through the
18 Coastal Zone Management funding. However, that
19 study was never officially adopted as a document.
20 So right now, other than the SMA, Special Management
21 Area that has certain criteria that needs to, that
22 you need to review, view corridors or public vistas.
23 And it's from public right of ways. It's not
24 personal views from individual properties.

25 COUNCILMEMBER HOKAMA: No, I understand that, Deputy

1 Director.

2 MS. SUYAMA: Right.

3 COUNCILMEMBER HOKAMA: About public views.

4 MS. SUYAMA: Right. Right now, unless there are design
5 guidelines that were approved that talk about view
6 corridors and views and the SMA, those are
7 particularly the only areas that I know of that
8 we're really enforcing view corridors. We're not
9 doing it County-wide.

10 COUNCILMEMBER HOKAMA: So enforcement means that if
11 someone built a structure, you would go in and tell
12 them to take that structure down? Because if we go
13 to Makena Resort, I don't know what is the
14 condominium, but that one, I know by SMA had to
15 maintain view planes from the roadway. We had zero.
16 So we're going to tell them knock down those
17 buildings to create the view, view vistas again?

18 CHAIR MOLINA: Deputy Director?

19 MS. SUYAMA: To the best of my -- you know, views were
20 considered in the project, and the problem with
21 views, you know, looking at view planes, is that we
22 come up with -- basically we're saying this is what
23 it's going to look like, you know, to the best of
24 our knowledge, that that is what the impact is going
25 to be. And sometimes what is proposed as what the

1 impacts are is not what actually happens in real
2 life. But it did go to the review process.

3 We, a lot of times in terms of view corridors,
4 rely on the Urban Design Review Board, you know, to
5 do the review rather than just department staff, and
6 we talk about the need for view corridors through
7 the property. They review it to the best of their
8 ability and they make recommendations to the
9 Department.

10 I know that after things are built,
11 sometimes -- you know, you don't realize that that
12 was the impact. But once the approval is granted, I
13 don't think that we have any recourse after that
14 point, because it was considered in the overall
15 approval that was done.

16 And that's why when you're talking about
17 vistas to be -- to protect vistas, we as a
18 department need guidance as to how do you measure
19 vistas, how do you determine the value of that
20 vistas. Because not all views are -- some views are
21 going to be more important than others. So what are
22 you protecting in terms of the vistas? And I think
23 that needs to be determined for us to enforce that
24 at our County level.

25 So without that, it's very hard for us to make

1 that kind of determination, and that's why we
2 generally say that you need some kind of study or
3 some kind of guidance for the Department to
4 implement it. And that's why we were very concerned
5 about the way the condition was written, because it
6 doesn't do any measurements --

7 COUNCILMEMBER HOKAMA: Uh-huh.

8 MS. SUYAMA: -- of what you're trying to protect. And,
9 you know, from the language, people can say, well,
10 it means to protect my views, you know, rather than,
11 rather than public views.

12 And that's why we said that the developer
13 needs to clarify that condition, so that when it
14 comes to the Planning Commission and the Planning
15 Department, we know how to do those measurements and
16 we know how to do the enforcement.

17 The way it is right now, I don't think we can
18 enforce this condition.

19 COUNCILMEMBER HOKAMA: Well, we appreciate that comment of
20 the difficulty that your department has with this
21 issue, but I would say if all our departments would
22 either give us recommendations or require us to
23 follow certain standards, or if we need to revise
24 our ordinances.

25 Because I think one of the ordinances that

1 really screws us up is this mass grading ordinance.
2 If we follow topo, we go to the lowest point before
3 we allow 30 feet height or ask for waivers of height
4 restrictions, I would say that is one way to
5 approach dealing with too tall structures in
6 people's faces.

7 You know, if this is something I think we can
8 consider language for a condition, Mr. Chairman.

9 And as far as enforcement, you know, it's not
10 a new idea to put it in the CC&Rs. It's not a new
11 idea to have the subdivision or homeowners or
12 whoever is occupying those structures to be required
13 to be part of an association that would do
14 enforcement.

15 And, okay, Kahului Town Association, how old
16 is this development? They have an association
17 that's supposed to follow certain guidelines, you
18 know. Mililani town has it. Where we own, I have
19 some, some. Not a lot, but we have some CC&Rs that
20 protect neighbors from one another. So I think
21 there's already tools, Chairman, we can use to try
22 and get enforcement or compliance.

23 I think the issue that we hear from Ms. Suyama
24 is defining what it is, so. Is this something we
25 should have the applicant go and produce a document

1 for us on how we might want to approach this
2 project?

3 CHAIR MOLINA: Deputy Director?

4 MS. SUYAMA: I think because we don't have the resources
5 of doing it ourselves that I think it would have to
6 come from the developer, that they provide you as
7 much information as to what view corridors or vistas
8 are you trying to protect. You know, what are the
9 values. You know, what are the measurements that we
10 would use. Because all vertical development will
11 have some kind of, some kind of impact on views,
12 whether it's structures or landscaping.

13 So how do you set those criteria as to how
14 much would you allow, you know, blockage of views
15 or, you know, degradation of views? Because that's
16 not clear. You know, do you allow 10 percent of the
17 views to be affected, 20, 50? You know, I think
18 those kind of --

19 COUNCILMEMBER HOKAMA: Well, Towne Development wiped out
20 the whole view, so it's obviously --

21 MS. SUYAMA: Right.

22 COUNCILMEMBER HOKAMA: -- not what we want.

23 MS. SUYAMA: Right. So, I mean, you have to set some
24 criteria, and I think it has to come from the
25 developer in the beginning, because without the

1 resources of doing that kind of study, it's going to
2 be very difficult for the department to make that
3 determination.

4 COUNCILMEMBER HOKAMA: I think this is something we need
5 to work on, because I'm sure the Members are -- we
6 have this language in various community plans
7 already preserving view planes. So it's language we
8 already, the community expects us to move forward
9 on. So it's, you know, too bad this is a project
10 that's bringing it to the fire, but we would ask for
11 your comments, your department's comments, Deputy
12 Director, to help provide guidance.

13 Chairman, thank you very much for the
14 opportunity.

15 CHAIR MOLINA: Thank you, Member Hokama.

16 Member Victorino followed by Member Anderson.

17 COUNCILMEMBER VICTORINO: You know, to tack onto what
18 Chair Hokama was saying, I think the problem that
19 I've seen with CC&Rs and other, what I call home
20 rule rules, they're only as effective as the
21 leadership of that particular AOA or homeowners
22 association. And I've had some problems right
23 within my neighborhood and having the enforcement
24 necessary.

25 And, you know, knowing where the boundaries

1 are and not, like Ms. Baisa said earlier, not
2 getting your neighbor mad at you, you know? Because
3 you got to live next door to that person. So if
4 you're in an adversarial role with your neighbor, it
5 becomes extremely difficult.

6 So it may encumber upon us to set the
7 guidelines so this development and all future
8 developments, view planes are not destroyed. View
9 planes are something that they know exactly what
10 needs to be done and how it's done.

11 But I go back to when you have individual
12 homeowners building. And I know for myself, one of
13 my neighbors built a lot further out and a lot
14 higher than they should have, but once it was done,
15 you going to tell them to tear down his house? I
16 don't think so, you know.

17 I think that's where the problem lies, you
18 know. So if we had design guides so that when they
19 go into the Planning Department and it's there
20 specified, you will be the first line of defense in
21 saying, oh, I'm sorry, Mr. So and So. You cannot go
22 high because this is the grade, this is 30 feet from
23 your grade. You cannot, and you can't backfill and
24 grade. Whether it's Maui Meadows, Wailuku Heights,
25 I don't care where it is in this, in this community.

1 You know, if I'm the --

2 If we got to set lines, if guidelines and
3 CC&Rs not working, and our communities cannot use
4 common sense or some of our community members cannot
5 use common sense and they hurt somebody else's
6 livelihood --

7 And that's another thing on the grading, you
8 know. We do mass grading. Is that always right in
9 what we're doing? We're destroying a lot of what I
10 call our natural topography for the sake of building
11 more homes. Some of this is out of our hands now,
12 but the future is not, and now's the time to take
13 our stance.

14 So sorry if 670 or Charlie's project is the
15 first project coming up, but there will be others,
16 so the developers better hear us good, because
17 enough is enough, you know. We're tired of losing
18 what we believe is ours to enjoy. And that's our
19 community, yeah.

20 Thank you, Mr. Chair.

21 CHAIR MOLINA: Thank you, Member Victorino. Member
22 Anderson?

23 COUNCILMEMBER ANDERSON: Thank you, Chair. I agree
24 wholeheartedly with both the previous speakers. In
25 fact, we've got lawsuits going on right now,

1 neighbor to neighbor, because people are not
2 following the law, or they're trying to get
3 variances.

4 You know, you get people who come here and
5 maybe, you know, don't want to be vested into the
6 community. They just want to build a home for their
7 enjoyment a couple of months out of the year and
8 then they're gone. And so they build out to the
9 max, they build to the, you know, right up to the
10 property line, and they put in fill, and then try to
11 get another 30 feet on top of the fill. You know,
12 it just is a mess. And they don't really care what
13 the neighbors think, you know, and that's not the
14 kind of community we want.

15 So I think maybe what we need to do is adopt
16 the same kind of ordinance that they have in Lake
17 Tahoe. The whole idea being that if you're going to
18 build, before you build you have to give us a
19 computer generated printout of what the end result
20 is going to look like.

21 And, Members, I'm not kidding. This is -- any
22 consultant worth their weight, you know, probably
23 already has this program, and they probably already
24 use it and show the developer what your build-out is
25 going to look like. You know, I've met many of

1 these. There's people on Oahu that do this. It's a
2 computerized program. You feed in the topography,
3 and it generates out a real-time, real-life printout
4 of what the build-out is going to look like. It's
5 not computer science, it's all in a program already.

6 And that's what they make people do in Tahoe,
7 because the view planes are very valuable there.
8 And I don't know that they're any more valuable than
9 the view planes we have. There's no place on earth
10 that has the beautiful view planes that we have. So
11 we need to protect them.

12 And I think that might be a tool that we
13 should put in our box, because you could go to any
14 consultant and say, here's the topography of my
15 land, here's what I want to do, please give me a
16 printout. And it can be done.

17 In fact, I almost got Wayne Nishiki talked
18 into spending a couple thousand dollars to do that
19 for Makena Resort's build-out four or five years
20 ago. He didn't want to spend the money, but --
21 don't waste taxpayer dollars.

22 But, you know, it's something that's doable.
23 It's not like, you know, I'm bringing up something
24 that isn't already being done all over the United
25 States.

1 CHAIR MOLINA: Thank you, Member Anderson. I take your
2 comments with great consideration.

3 You know, for myself, having grown up in a
4 simple home -- the dream city of Kahului is a good
5 example. There was a time when everybody was just
6 happy with a single story home, and now you're
7 seeing people with multiple story homes, you know.
8 Maybe it's because the times are changing, but a
9 house is a house. I still live in a simple house,
10 and it's so important for neighbors to respect one
11 another, and maybe we're losing some of that, so.

12 And I think it's important, too, that this
13 discussion is brought up in front of our youngsters
14 who are here from Baldwin High tonight. So food for
15 thought, our students.

16 We're going to call it a night, Members.

17 COUNCILMEMBER HOKAMA: Chairman?

18 CHAIR MOLINA: Mr. Hokama?

19 COUNCILMEMBER HOKAMA: Chairman, just quickly. I would
20 just ask the question so that maybe Corp Counsel and
21 Planning Department can prepare a response so that
22 we can consider whether or not we want this
23 consideration as a potential condition, Mr. Chair.

24 CHAIR MOLINA: Proceed, Mr. Hokama.

25 COUNCILMEMBER HOKAMA: The question is, would it be

1 reasonable for us to craft a condition whereby,
2 possibly for Phase II approval, which would be the
3 Commission, that a development would have structures
4 sited on the lots.

5 So let's say, whatever it is, if it's R-3,
6 10,000 square feet, you only can have your structure
7 in this portion of the lot, whatever it be, maximum
8 3,000 square feet, you know, those kind of things.
9 And that way we know that from the siting, it
10 protects setbacks and view planes, not only for that
11 lot buyer or for those potential lot buyers around
12 that specific lot. So if one of the ideas can be
13 that we lock in the sites, house sites on the lots,
14 I would ask for you folks' comments at the next
15 appropriate meeting that the Chair allows.

16 Chairman, thank you.

17 CHAIR MOLINA: All right. Thank you, Mr. Hokama.

18 Before we end tonight, I'd like to ask the
19 Members, starting at our next meeting on Monday,
20 recess meeting, please come equipped with any
21 potential additional conditions and wording changes
22 to the existing conditions that we have discussed
23 thus far.

24 So that being said, I'd like to ask our Akaku
25 cameras to pan the gallery, get a view of our

1 students there so we can make sure that their
2 teachers can see that they were here tonight. And I
3 applaud their efforts. Here they are on a, what is
4 it, Wednesday evening? They could be at home
5 watching TV or playing Nintendo, but they're here in
6 the Council Chambers to view one of our meetings.

7 And also, Members, for your information,
8 you're again being filmed by, I guess Melissa Prince
9 Productions here in the gallery as well. Thank you.

10 So that being said, Members, next recess
11 meeting for LU-38 is set for Monday, August 20th, at
12 1:30 p.m. in the afternoon, right here in the
13 Chambers. This meeting is in recess (gavel).

14 RECESS: 7:56 p.m.

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C E R T I F I C A T E

STATE OF HAWAII)
)
COUNTY OF HAWAII)

I, Kathy Pearson, CSR, a Notary Public in and for the State of Hawaii, do hereby certify:

That the above audiotaped proceedings were taken by me in machine shorthand and thereafter reduced to print under my supervision; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

DATED: Sept 18, 2007

Kathy Pearson
Kathy Pearson, CSR No. 313
Notary Public, State of Hawaii

My commission expires:
July 12, 2010