

# LAND USE COMMITTEE

Council of the County of Maui

## MINUTES

August 24, 2007

### Council Chamber

**RECONVENE:** 9:07 a.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Michelle Anderson, Member  
Councilmember Gladys C. Baisa, Member  
Councilmember Jo Anne Johnson, Member (Arrive 10:45 a.m.)  
Councilmember Bill Kauakea Medeiros, Member

**EXCUSED:** Councilmember G. Riki Hokama, Member  
Councilmember Danny A. Mateo, Member  
Councilmember Michael P. Victorino, Member

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

**ADMIN.:** Colleen Suyama, Deputy Director, Department of Planning  
Gregg Kresge, Deputy Director, Department of Environmental Management  
David Taylor, Wastewater Reclamation Division Chief, Department of Environmental Management  
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Charles Jencks, Owner's Representative, Honua`ula Partners, LLC  
Gwen Ohashi Hiraga, Principal, Munekiyo & Hiraga, Inc. (Applicant's entitlement consultant)  
Wayne Yoshioka, Manager, PB Americas, Inc. (Applicant's traffic consultant)  
B. Martin Luna, Esq., Carlsmith Ball, LLC (Applicant's attorney)  
Blaine J. Kobayashi, Esq., Carlsmith Ball LLP (Applicant's attorney)  
Kimokeo Kapahulehua  
Melissa Prince  
Additional attendees (10)

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

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CHAIR MOLINA: . . .(gavel). . .The recessed Land Use Committee meeting of July 25th, 2007, is now back in session. It is five minutes after the hour of nine o'clock, Friday, August 24th. Good

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morning, Members. In attendance today we have Members Pontanilla, Medeiros, Baisa, Anderson, and Molina. Excused are Members Victorino, Hokama, Johnson, and Mateo. So, Members, if you do have to leave the room for something please signify the Chair immediately, because we cannot operate with less than five people in the house.

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

CHAIR MOLINA: So we left off on Condition No. 17, but before that I would just like to discuss briefly the meeting that we're looking at for Kihei. I believe Staff has confirmed that all nine Members will be in attendance. We're looking at Monday, September 10th, 6:00 p.m., Staff, at the Kihei Community Center? Please confirm.

MS. NAKATA: Mr. Chair, 6:00 or 6:30.

CHAIR MOLINA: Okay.

MS. NAKATA: We're trying to confirm.

CHAIR MOLINA: We're still determining the specific time, because my understanding there is a function or some event that's going on.

MS. NAKATA: That doesn't get out until 5:30.

CHAIR MOLINA: Okay. I guess the Community Center is not open to us until 5:30. So put it down at either 6:00 or 6:30 and, Members, we are going to look at a very long, potentially long night. So please make your arrangements with your family, because as Member Mateo, borrowing one of his favorite phrases, we will be there until the cows come home or the roosters crow, whichever. So prepare for a long night. And those Members who are not here I'm hoping their Staff members are listening in. So please inform your Member, be prepared for a long evening, possible early morning on Monday, September 10th, and we may go into Tuesday, September 11th, a very ominous date. So anyway we will work, and we will hear all the testifiers who intend to come out for that night.

So with that being said, Members, let us continue with Condition No. 17. The Chair would ask if there are any objections to Mr. Jencks, the Applicant, to get your comments. On Condition 17, the Committee by consensus, took out the words I believe "when feasible." Members, if you look at Condition 17, which is page, looking at our matrix here, page 8 of 12 on your matrix. And I guess, Mr. Taylor, if you would like to add additional comment. Mr. Taylor, from the Wastewater Division. And, of course, we have Deputy Director Suyama from the Planning Department, and Mr. Giroux from Corporation Counsel's office. Mr. Taylor.

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MR. TAYLOR: Thank you, Mr. Chair. And I believe the, the language from the, the Condition 16 and 17 are both similar.

CHAIR MOLINA: Uh-huh.

MR. TAYLOR: So if I could address both of them. The consensus that was reached at the end of the last Council Meeting basically said that the project shall connect to the County Wastewater System by the, by the removal of the words "if feasible." The Division and the Department believe that if this project is approved it would be better for the County Wastewater System as a whole to allow the developer to build and operate its, his own wastewater treatment plant for the project.

CHAIR MOLINA: Okay. And can you give specific reasons why?

MR. TAYLOR: In general the, there's a limited capacity of the transmission system and the wastewater treatment plant. And these types of systems tend to be built in, need to be built in large chunks not piecemeal. So our strategy for South Maui for the next 20 years is to try to save the limited capacity of the existing system and have large projects that are built on the periphery build their own treatment plants, use 100 percent of their water for reuse at those sites, rather than burdening the existing system which has limited capacity and forcing any reclaimed water to have to be pumped inward to the core system as raw sewage, and then pumped back again to the outskirts for use as reclaimed water.

So with the goals of the Division to continue to have available capacity and promote the use of reclaimed water we feel that this, this basically conservation of the limited core system capacity for in-fill, and then allowing smaller plants on the outskirts to have 100 percent reuse is a, is a better strategy to meet these overall goals.

CHAIR MOLINA: Thank you. Members, questions for Mr. Taylor? We'll start with Member Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. So, Mr. Taylor, basically what you're saying is that if Wailea 670 hooked up to the system they would take all the available capacity?

MR. TAYLOR: They would take a significant amount of the available capacity.

COUNCILMEMBER ANDERSON: So what we need to do then is require them to upgrade the system to provide for the needs of their project. And I believe that is what the intention of this condition was when it was originally assessed on the project in 1993. And, in fact, the Project District Ordinance currently says the development shall not burden government agencies to provide substantial infrastructure improvements and that WCPT, it successors and assigns, shall participate in their fair share of development in funding of the wastewater and the effluent transmission systems between the project site and the Kihei Wastewater Facility. Now you

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mentioned that there were ordinances currently in the Code regarding allocation and fair share, fair share cost. Could you please give us where that is in the Code, Mr. Taylor?

MR. TAYLOR: I, I don't have that information in front of me. I don't remember the Chapter numbers.

COUNCILMEMBER ANDERSON: You don't have the County Code up there?

MR. TAYLOR: Corp. Counsel is looking for it.

CHAIR MOLINA: We can have Corp. Counsel look for it in the meantime, Member Anderson, if you'd like to go to another question.

COUNCILMEMBER ANDERSON: Okay. You know, while they're doing that, and then I'll yield, Mr. Chair. I just wanted to go back to your opening comments about our meeting September 10th. We also had been polled for September 14th. Is that confirmed yet? I know that it will only be used if we need to, but --

CHAIR MOLINA: Right. Yeah, that is a potential...

COUNCILMEMBER ANDERSON: --could we get that on record?

CHAIR MOLINA: Yeah, a potential recess. We, we're, we could consider September 14th as well. In the event the majority of the Members would like September 14th, then that is the only other date that we, the Community Center is open, because during the middle of the week it's closed --

COUNCILMEMBER ANDERSON: Right.

CHAIR MOLINA: --according to Staff.

COUNCILMEMBER ANDERSON: So I'm just trying to get my calendar straight too, Mr. Chair.

CHAIR MOLINA: Sure.

COUNCILMEMBER ANDERSON: So if at the end of the evening on September 10th, if there are still people who have signed up to testify, who haven't had an opportunity, then we're going to have to go to the 14th; is that correct?

CHAIR MOLINA: Yes.

COUNCILMEMBER ANDERSON: And so have you chosen a time yet for that?

CHAIR MOLINA: The Chair has been looking at a late afternoon, possibly early evening start time for the 14th as well.

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COUNCILMEMBER ANDERSON: I would appreciate an early evening, like maybe four or something, so that people who work --

CHAIR MOLINA: Right.

COUNCILMEMBER ANDERSON: --won't miss their chance. So it's going to be somewhere around there?

CHAIR MOLINA: Yeah, we're looking at that since the impetus for the hearings was to cater to the working group that is the appropriate times that we were considering.

COUNCILMEMBER ANDERSON: Okay. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Corporation Counsel and Mr. Taylor, are you prepared to..., okay. Still looking? Okay. You need a short recess? Members, we're going to call for a short recess to let Staff and Corporation Counsel find the area in the County Code. Meeting is in recess. . .(*gavel*). . .

**RECESS: 9:15 a.m.**

**RECONVENE: 9:20 a.m.**

CHAIR MOLINA: . . .(*gavel*). . .The recessed Land Use Committee meeting of July 25th, 2007, is now back in session; 9:20, Friday, August 24th, 2007. Members, we left off with the Corporation Counsel as well as the Wastewater Division looking for the specific, I guess, code number as it relates to a matter that Member Anderson had requested. According to Mr. Taylor and Mr. Giroux, they will need additional time. So, Member Anderson, what we'll do is when we have our next meeting Wastewater Division will provide you that specific information you requested. We will keep our fingers crossed.

COUNCILMEMBER ANDERSON: Can they even just give me the Chapter? Is that --

CHAIR MOLINA: Mr. Taylor, are you...

COUNCILMEMBER ANDERSON: --Chapter 8 or?

CHAIR MOLINA: Can you provide a response to Member Anderson?

MR. TAYLOR: Yes, Mr. Chair, we found it. It's 14.34. It titled "Wastewater Assessment Fees for Facility Expansion and the Collection Transmission System Upgrade for the Kihei Regional Wastewater Treatment System"; 14.34.

COUNCILMEMBER ANDERSON: Thank you, Chair. If anybody...and I have to take a minute to look at it unless he knows exactly what provision he was quoting the other day.

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CHAIR MOLINA: Okay. Members, any, while Member Anderson is studying that area of the Code, any questions for Mr. Taylor? Otherwise, I'm going to ask Mr. Jencks to come up and provide us some additional comments with regards to this matter of wastewater. Member Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. I'll wait until we get Mr. Jencks up. I'd like to know what his reaction to this is.

CHAIR MOLINA: Okay. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: I just have a short question, Chair, mahalo, for Mr. Taylor. On all projects that come on-line and are tied into the County system, do all projects contribute to the upgrade of the system, or only when capacity is an issue?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: Thank you, Member Medeiros. How, how the program works is it's driven by ordinance. In both the Kihei area and the Wailuku-Kahului area, there are ordinances where essentially what happened is the County floated bonds to do these large project improvements, and then by ordinance set up impact fees, assessment fees to collect that money as people tied in with their fair share. So in both the Kihei area and the Wailuku-Kahului area that's how it's done. Those fees are collected at the building permit issuance.

COUNCILMEMBER MEDEIROS: So just those two areas or districts involved, or does West Maui also have ordinances of the same type?

MR. TAYLOR: West Maui doesn't at this time, because the West Maui capacity is still adequate because of the large original project that was built in the '70s that was paid, that was paid for by the Federal Grants Program. So essentially because that was all paid for upfront and there's still capacity, we're not charging new hookups. But what had to happen in both Kahului and Kihei is that original capacity ran out in a number of areas. We had to do these large improvement projects and the County spent its own money. So we're, we're trying to get that money back. So that's the reason that there's, we, we still have the old Federally-funded capacity that we're still giving away in some other areas. And so we don't charge for that.

COUNCILMEMBER MEDEIROS: Okay. Mahalo, Mr. Taylor. Mahalo, Chair.

CHAIR MOLINA: Thank you, Mr. Medeiros. Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. So, Mr. Taylor, all the current projects coming on line in Wailea, have they all paid their assessment fee?

MR. TAYLOR: Those projects, each project pays its assessment fee when, before they can pick up their building permit. So if they have building permits they've paid their assessment fees.

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COUNCILMEMBER ANDERSON: And do you know what they are?

MR. TAYLOR: I'm sorry?

COUNCILMEMBER ANDERSON: Do you know what the assessment fee is? What they would have been paying?

MR. TAYLOR: The assessment fees vary because there is one assessment fee, and the assessed, the actual numbers are, are in the County Budget Ordinance, because that's where the, the actual numbers are. There is one assessment fee for plant capacity which is, I, I don't know the number off the top of my head, but it's around \$5 per gallon per day. And then there are different areas for assessment fees for the collection system meaning that if you're further away from the core system and the wastewater from your, that you're generating goes through a number of different pumping stations, you're paying for your fair share of all of those pumping stations and all of the lines. So there's a different, there's a bunch of different areas laid out in Kihei on a map, and each of those areas has its own collection transmission fee, and everyone pays the, pays the, the facility, the treatment plant facility fee.

COUNCILMEMBER ANDERSON: So, Mr. Chair, I'd just like to read the purpose of this Chapter, so we can get straight what we're looking at. It says, "the purpose of this Chapter is to establish wastewater assessment fees for the expansion of the Kihei Wastewater Treatment Plant and the upgrade expansion of the Kihei Wastewater Transmission System. Assessment fees shall be paid by developers before the issuance of building permits or as otherwise provided in this Chapter. For those developments which will utilize expansion capacity in the Kihei Regional Wastewater Treatment System and which will create additional impact upon the Kihei Wastewater Transmission System."

So it seems clear to me that it's not just for, you know, the current capacity but for the expansion, the needed expansion. So maybe what we need to do is change this, you know, I'd like to see this, Mr. Chair, for the purpose of clarity and just good legislative language that we combine 16 and 17, because they kind of say the same thing only different. And that we should put in here..., well, 16 says, Wailea 670 shall participate in their fair share of development and funding of the wastewater and effluent transmission system between the project site and the Kihei Wastewater Reclamation Facility. Now remember this was done back in 1993 when there was plenty of capacity. So if they had gone forward with their project back then and hooked up, we wouldn't be looking at the, the problem of inadequate capacity today.

And then 17 says, Wailea 670 shall connect to the Public Wastewater Reclamation Facility for treatment of wastewater. It seems to me that we could, you know, combine those two and maybe add in, you know, where it says, "shall participate in their fair share of development and funding for the wastewater and effluent transmission system," I think we need to add in, "will pay for their share of the necessary increase capacity to meet their project needs," because that's the intention.

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As I said, in their, back when they got their Project District expansion in their community plan amendment to go from 300 acres to 670, this was done in 1992, according..., “the Applicant is willing to participate in the development and/or improvement of necessary public infrastructure relative to water, sewage, disposal, and roadways to accommodate the proposed project.” And then in their Change in Zoning it says, “the Applicant shall participate in its fair share of the development and funding,” oh, I already read that. That’s one of the, that’s 16.

So No. 7, “the Applicant shall execute appropriate agreements with the State and the County regarding participation and improvements of infrastructure and public facilities where such improvements are reasonably related to the Applicant’s project.” So, you know, if, if the wastewater treatment plant doesn’t have enough capacity, then they need to contribute to upgrading the capacity.

And I, I’d like us to, to find out if the Department can provide for us what assessment fees have been collected I would say in the last five years in the South Maui region that would be serviced off this treatment plant, because we should know how many new projects have come on-line, projects that are pending to come on-line that already received their building permits, that have already paid an assessment fee. Let’s take a look and see how much money has been collected and what it’s going to take cost wise to increase the capacity of the treatment plant. We can’t do this, we, we can’t be looking at things in an isolated way, because everything is connected.

CHAIR MOLINA: Okay, Member Anderson. Mr. Taylor, can, would you like to comment?

MR. TAYLOR: Thank you, and I, we completely agree with Member, with Member Anderson’s comment that we, we, we really can’t do this piecemeal. And what that means is we need to build wastewater capacity not in 500,000 gallon increments, but when we build it, we build it in probably at least two million gallons at a time. Meaning we, we can’t do a small expansion of a pipeline or a treatment plant. We have to do a large expansion. And if, and for that to happen, I mean, somebody needs to bring big money to the beginning, front the whole thing, pay for the whole thing, and then collect the money later. And since the developers that we’re looking at don’t, aren’t really all on the same timeline, and none of them are really large enough to do a two million gallon expansion, it means the County would need to do the expansion. We would need to float general obligation bonds, or revenue bonds, or SRF loans, and then collect the money as they come on-line.

We’re in a difficult situation in South Maui, because if there was just a little bit of development, we could overtax the system just a little bit and, and get buy. If there was a lot of development we could build a whole other large system, but where we are is somewhere in between. We don’t have enough critical mass to build a large system and, and have enough development to pay it back. But we have too much to get buy with what we have. And, and that’s why we’re sort of in this middle ground, and that’s why our strategy has changed from what it used to be. Building a large expansion in the early ‘90s that was the plan. Build a large expansion, there’ll be plenty of

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development, and we'll get these impact fees back. We're not looking at that rate of growth anymore. So we need to just do a little bit, but our plans can't be expanded just a little bit.

So our strategy is save what we have for the time being for in-fill, and these relatively medium size projects like the one under discussion today, let them build their own plant and not tax ours, because there just aren't enough of it. If there were five projects of size, and they were all roughly the same timeline, I would agree saying the County can expand the plant, we can do a major system, and charge everybody, you know, a fifth. But there really isn't anything like that, and we have a lot of smaller developers, but we really just don't have the, the, the economy of scale or the critical mass to do another large expansion.

And that's where we're concerned is that we would need to come in basically in our CIP budget, we would need to fund a large expansion, and then start getting money back. But we don't think there's going to be enough need where we're going to get enough of the money back and that's going to leave the County having to basically raise our sewer fees to pay the debt service if there isn't enough development to support the impact fees. So we're kind of in this middle ground between a little bit of development and a lot where we feel these, these private plants on the outskirts of the developed area are really our best strategy.

CHAIR MOLINA: Okay. Thank you, Mr. Taylor. Member Anderson followed by Member Baisa.

COUNCILMEMBER ANDERSON: Well, that may be your strategy, Mr. Taylor, but that isn't County policy, and the policy is set by this body, and your strategy needs to follow the policy of the County. "The Applicant shall execute appropriate agreements with the State and County regarding participation and improvements of infrastructure and public facilities where such improvements are reasonably related to the Applicant's project." Has this Applicant ever come to you and said, you know..., since 1992, and said, you know, we're going to need so much sewage effluent or sewage capacity. Can we enter into an agreement on what it's going to cost to do that? And if that had been done..., you know, all these other projects that are coming on-line, first of all do you have any figures for that?

I mean, I'm seeing all these, all these units being built in Wailea. They're not on-line yet. There's no people in them; maybe a few might. A few new ones have some people, but for the most part they're still finalizing. So, you know, you know, they're getting, they got in on time, so they're getting, they're getting the, the, the advantage of taking some of the capacity in the system for their smaller projects, and I don't know what, what you consider small. But you add it all up, and it's not so small. So it seems to me that all this new expansion down in this area, all these people should have participated in the expansion of the system. And until we see those numbers, and what their sewage capacity is, what assessment they've paid, what you think the cost would be to expand the system, this is all just talk. And I'd like to see some firm figures, because, you know, if, if there is not capacity for 1,400 homes right now, then we're out of capacity. And we should be looking at expanding right now.

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So, I mean we still have a hospital to build. We still have a high school to build. Planning, Long Range Planning, Members, just came out with maps for the GPAC and everything mauka of Piilani is a planned development, on the maps right now, the, the GPAC's going to be looking at. So, you know, now's the time. And, and if you're saying, you know, an upgrade has to be five million gallons a day to make it economically feasible, well let's look at it. What is it going to cost? How much will Wailea 670 have to kick in? How much will DOE have to kick in for the high school? How much is Kawamoto, right next door to Wailea 670, going to have to kick in? I mean, you know, let's plan it, and, and let's plan it right now. And if Wailea 670 gets approval here there's a couple years before they're going to start building anything.

So, you know, the decision we make today isn't for what's going to happen tomorrow. It's what's going to happen in the next couple years. So we need that information, Mr. Chair, to see the picture in its totality not just, you know, what Wailea 670's impact is, but the cumulative impact of the whole area's use of the sewage treatment plant. And I would like to see the figures of what capacity is left, how much capacity is going to be used by the projects that have building permits, but haven't come on-line yet, and what their assessment has been, what they've paid into it. Let's see if we can't get a fair share here from everybody, so that we're not up against the wall. And, you know, I, I don't know where the County decided that it's okay to do all this private/public facilities. I mean this Council's never made a policy to do that. It's always been our policy that the government provides the public facilities so that we have control and that we can assess the cost, you know, over the broad picture. We're going to have affordable houses in this, in this project. To this date, we don't know what they're going to be assessed for private wastewater system. We don't know what they're going to be assessed for a private water system, desalinization. I mean it's irresponsible not to have this, these figures and numbers in front of us and look at the total picture of what we're doing.

CHAIR MOLINA: Member Anderson, we will have Staff make that request of the Division.

COUNCILMEMBER ANDERSON: Thank you, Chairman.

CHAIR MOLINA: Okay. Thank you. Member Baisa, you had a question?

COUNCILMEMBER BAISA: Well, essentially some of it Michelle has already asked, but it appears to me that we have a basic philosophical difference, and the philosophical difference is that the law says that the County will do the plant, and Director is recommending that, you know, they build their own plant, because of the concern with capacity and building smaller systems, bigger systems. And I think we need to resolve that, because this is just one project. There are many others in the pipe. The other is, I'm not clear. If this plant is built by the developer will some day this be turned over to the County, or is it intended that it will always be kept private?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: Thank you, Member Baisa, and, and first let me, let me address your philosophical question. The 1992 conditions, if, if we think back to what was going on in 1992, there was a

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couple really big differences than there are today, and I think these are the key to the philosophical differences, and the, and the conditions from 1992. First, the belief was, back in 1992, that when Makena developed, Makena would tie into the County wastewater system. And the rate of development back in the early '90s was, was still really high. That was still the building boom at that time. So, at that time, the Division was looking at a large increase in capacity in the '90s before the year 2000, and that included Makena.

So the concept..., the conceptual plan was we would need to build a core system, core wastewater collection system for wastewater from Makena, through Wailea, through Wailea 670, and tie it into the Kihei Treatment Plant. That was the plan. And this condition that Wailea 670 would pay their fair share, the idea was the County would probably be paying for that whole large system, and they would pay for a share of that system. Also, the North Kihei was planned that that was going to be diverted to a new treatment plant over by the Puunene Airport that would also handle expansion out towards Waikapu. That was sort of, that was the plan.

That plan was based on the technology of the early '90s, led towards large centralized wastewater treatment plants run by the government. There were small treatment plants here and there all over the country. As a whole the technology was not deemed very reliable. The people who ran them weren't deemed very reliable and qualified. So the regulatory agencies, the county wastewater municipalities all across the country were following a philosophy of centralized wastewater treatment and so were we. What's changed since then is almost everything.

First of all, Makena built their own plant. Makena built their own two million gallon wastewater treatment plant to handle all of their development. So the plan for a core system from Makena that Wailea 670 would, would be part of basically died when Makena built their own plant, because now we don't need a core system from that end. There's also been a huge technology shift towards these smaller, privately owned treatment plants. The technology has come 180 degrees where they are very reliable. They make R-1 quality reclaimed water onsite, under very small footprints, with very little difficulty, very little odors, and the companies that run them have become very professional. In fact, the companies on Maui that do this are all, are ex-senior employees who own and manage these companies. They're basically run extremely professionally, reliable, qualified. They're, they're, the Department of Health knows how to regulate them, because there's enough of them.

So when we look at, and then we look at reclaimed water. Reclaimed water wasn't really on the radar in the early 1990s. So wastewater was looked at as how do we get it from the people generating the wastewater, to the plant, and get it down the injection well. But now because of issues with injection wells and reclaimed water as a source, the issues become, how do we get the reclaimed water back to where it was generated? And where we can use reclaimed water is on the outskirts of town in the large open areas.

So the whole philosophy of bringing the wastewater from the external areas to the center and putting it down the wells it's not really what we're looking at anymore. Now we've shifted to how do we get the water treated and back to the edges of the community where the large tracks

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for reclaimed water are. So we can see the big thing of changes, the development profile has changed, the technology has changed, and reclaimed water this issue of getting it back to where it's still...*(change tape, start 1A)*...changed. So this is why it's really changed almost all the communities across the country and especially when you throw in the fact that the Federal grant money for large systems is gone and the communities are on their own.

The philosophy I was talking about, our strategy, is a national strategy that all of the small communities our size are moving towards. Keep your Federally funded core large wastewater municipal plants for in-fill and have smaller, what they call satellite or scalping plants on the outskirts. Make your reclaimed water there. Don't have long pipelines where you're piping stuff, and paying those electrical costs, importing fossil fuels to make electricity. Keep the water where it was generated, use it right there, and it's a whole kind of paradigm shift of decentralized wastewater treatment that existed when that condition was come up with in the early '90s.

So we hope that discussions like this, and, and we completely agree that we follow your policy. As your, your sort of technical advisors in this I think we're recommending that we change our policy with the times, because that policy doesn't really fit into the current needs like it did back in the early '90s.

CHAIR MOLINA: Okay. Member Baisa?

COUNCILMEMBER BAISA: We had one other piece to that, David, and that was is it eventually going to be turned over to us or not?

MR. TAYLOR: The intention of the developer is not to turn it over to us at this time. If . . . I can't really speak for the County. That would, that would ultimately be a Council decision if it was going to be accepted by us. What I would say from a technical standpoint is our Division, the whole civil service structure, is built to operate large facilities that are fully staffed. It would be difficult for us, with our current structure, to operate a small treatment plant that wasn't fully staffed. It wouldn't really fit in. If we had a number of them, if there was ten of them on the island, and we had a small group that specialized in that, that wouldn't be a problem. You know, it's, again it's a critical mass type of thing where right now we have these private companies that fill that niche where we're not really ready to take one. But if it was a lot of them and that was a decision that the County would start operating them, we can certainly operate them. We have qualified staff. The, the issues would be, you know, how to, how to, how to bring that into our structure, but it's relatively the same technology and we're currently technically capable. It would be a matter of modifying our, our structure to, to deal with small treatment plants.

COUNCILMEMBER BAISA: The reason I ask the question, of course, is because I wanted to know if, you know, it would continue as a private system or be considered eventually part of the County system, then I could say we've approved, we've improved the County system which I keep hearing in the language, now do we have to improve the County system? The other part that interests me is the cost of operating a private system and the, and the charge to the consumer. Is

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there much difference between getting your services from the County or getting your services from a private run facility?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: Every situation is a little bit different. And I think if you had, say 20 houses that had a private system, your costs are probably going to be very large, because there isn't an economy of scale. But at the range they're talking about, a thousand homes and things, my guess would be it would be either the same as the County or possibly cheaper, because they're not going to have to absorb the cost of that pipeline and the pumping cost of pumping three miles of wastewater and three miles of reclaimed water, you know, up and down hills. So cost is a big issue in this and if we cannot pump water back and forth, you know, we can save those operational costs forever. Plus we, you know, everyone's concerned about wastewater spills. The less we have to move the wastewater from where it's generated to where it's treated, the less pipeline we have, the less chance there is that it spills, the less pipeline repair and maintenance we have to do. So, again, this is, this is really a national movement that is saying let's not move our wastewater all over the place, and send it back, and send it forth, and pay all these pumping costs, and have all these long pipelines. Let's generate wastewater, treat it where it is, reuse it where it is, and, and let's do that. And again that's really just fitting in with the technology and, and the whole national strategy in, in our, in our industry.

COUNCILMEMBER BAISA: Well, thank you very much, that makes it a lot clearer for me. And for me what this just points out one more time, is that what happens to a project or the evaluation and all the work that's done on it, over a long period of time. You know, you make a study, you make recommendations, you look at everything, and you're comfortable with it today. And 15 years later the whole thing has changed, the technology, the needs, the community. You know, so many things. And so it doesn't fit anymore. And so you have to kind of have to do the work all over and reevaluate for what is appropriate today. So, thank you very much.

CHAIR MOLINA: Thank you, Member Baisa. I want to call up Mr. Jencks for his comments.

COUNCILMEMBER ANDERSON: I had some questions for Taylor, Mr. Taylor.

CHAIR MOLINA: Okay. Hang on. I'm going to ask Mr. Jencks first to comment on what was just said by Mr. Taylor first, and then we'll go back to questionings for Mr. Taylor.

MR. JENCKS: Good morning, Mr. Chair.

CHAIR MOLINA: Good morning, Mr. Jencks. I believe I'm going to try and dovetail this question related to Member Baisa's question where if you were to build your own system would it, over time would you then turn it over to the County?

MR. JENCKS: A couple of things in response to that. I was talking to Mr. Taylor earlier today. Our desire would be that we would design this entire system and have the County of Maui review it.

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Not only the plan itself, but also the circulation and delivery system within the project, and get, get their review and their input on the design, so that if that did come up as an opportunity we could, they would be accepting something they know everything about, and it's designed to a standard that they would accept. And so we, we would certainly do that, and we think that's the right thing to do. So, yes..., I mean we would, certainly if that came up as a possibility, or they wanted to expand it for any reason to serve the area that would be fine as well.

CHAIR MOLINA: Okay, and one more question. The other day we removed language in Condition 17, taking out the words "when it becomes feasible" as it relates to the treatment of wastewater. Can you comment on that as well? I mean if you were required to hookup to the County system versus creating your own system. Can you share any comments with regards to that?

MR. JENCKS: I'd be happy to, Mr. Chair. You know, when I first became involved in the project, we did a couple, made a couple of decisions that I, that we followed all the way through to today. One was with regard to the potable water system, and the other one was with regard to the wastewater system.

The conditions that we drafted for your consideration included, in good faith, Conditions 15, 16, and 17, which is what we're basically talking about today, because we felt at the time, you know, realistically the idea of building our own plant and getting that under way, and controlling that process, and being able to provide wastewater service to homes on our schedule was the most desirable approach, because we didn't know what the County would be doing. Yet, we also felt it was a responsible thing to do in terms of incorporating in the conditions that would still have us connect, if, if the County does provide service in the future and also participate in those costs. We felt that was the responsible thing to do.

So we included all those conditions from '92 or '93 up through today, so that we're taking a responsible approach. We do have a treatment plant that we can build, and we can provide excellent service as Mr. Taylor described, high quality service with reclaimed water onsite, low energy, but still in the future provide an opportunity for this body when you decide to do it, establish a fee, we would participate, and we will connect in the future. So in direct response, Mr. Chair, when it becomes feasible is probably the right wording for that condition.

CHAIR MOLINA: Okay. Thank you. Committee Members, questions for Mr. Jencks? Member Anderson?

COUNCILMEMBER ANDERSON: Mr. Jencks, you have an agreement with Wailea Resort Company signed July 15th, 2003; it's called grant of roadway easements, Kaukahi Street and Kalawaa [*sic*], Kalai Waa Street. But there is many other agreements included in this grant of an easement and one of them says that, "WCPT shall have the right, at its sole cost and expense, to construct and install any and all, any and all utilities necessary or desirable for the Wailea 670 project, including without limitation, electricity, water, cable television and sewage which utilities may be connected to any utilities at any time located in, on, under, through, and over the streets provided, however," and this is underlined, "that any sewage system constructed by

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WCPT shall be connected to a County of Maui public sewer system located within the streets and shall not unreasonably interfere with the grantor's use of grantor's utilities and/or improvements," blah, blah, blah. So it looks like you've already agreed with Wailea Resort Company to connect to the County system for any sewer lines that may be going through these streets.

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: The intent of the emphasis that you drew our attention to was to address exactly what we talked about a few minutes ago. When there is the possibility of hooking up to the County system, we now have the right in those, in those streets to make that connection. That's why that emphasis was put in that agreement. When it becomes feasible, when services provided, when there is the capacity, when the delivery system is in place we wanted to be able to secure the right, in Kalai Waa or Kaukahi Street, to make that connection. And that's why that easement agreement states that.

COUNCILMEMBER ANDERSON: Well, that's not what it states, Mr. Jencks. It doesn't say when feasible or when it happens. It says, "provided, however, that any sewage system constructed by WCPT shall be connected to a County of Maui public sewer system." That's what it says. It doesn't say when feasible, or anything like that.

MR. JENCKS: Well, Mr. Chair, if I may? I played a major role in writing that that agreement and working with Wailea Resort, and I can tell you that's exactly the intent.

COUNCILMEMBER ANDERSON: Well, if that was the intent it's not well written. Also, it does say that in our community plan..., I guess my questions have more to do with Mr. Taylor's comments, Mr. Chair.

CHAIR MOLINA: All right. Thank you.

COUNCILMEMBER ANDERSON: So I'll yield with Mr. Jencks.

CHAIR MOLINA: Okay. Any other questions of Mr. Jencks before we excuse him? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair. Mr. Jencks, if, if the system is constructed by the developer what percentage of expansion potential and capacity would be planned for --

CHAIR MOLINA: Mr. Jencks?

COUNCILMEMBER MEDEIROS: --beyond your immediate needs?

MR. JENCKS: If I may, Mr. Chair. Councilmember, we have delineated a five-acre parcel or area in the Project District for the wastewater treatment plant, at the bottom of the property adjacent to Wailea Resort. The reason for that was to use gravity to serve the, the property in its entirety.

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That land is more than adequate for the plant we envision. As Mr. Taylor described the NBR plants are fairly compact; they're very efficient; mostly underground; cover a very small space. I think I've told you earlier, you know, I think we're looking at a half million gallon a day plant. So it's a very small, small area, but we've provided enough land for any contingency, any design issue we have to deal with, five acres is more than adequate.

COUNCILMEMBER MEDEIROS: And this, this system or this plant would require approximately how many personnel or staff to operate and maintain?

MR. JENCKS: You know, I really don't have an answer for that.

COUNCILMEMBER MEDEIROS: Okay. Okay...*(inaudible)*...

MR. JENCKS: I know that they, excuse me, they are fairly automated.

COUNCILMEMBER MEDEIROS: I see.

MR. JENCKS: But, and perhaps Mr. Taylor could give you, I, but I don't know off-hand.

COUNCILMEMBER MEDEIROS: Okay. Mahalo, Mr. Jencks. Mahalo, Chair. I'll, I'll wait for more questions for Mr. Taylor. Thank you.

CHAIR MOLINA: Thank you, Mr. Medeiros. Committee Members, any other questions for Mr. Jencks? Member Anderson?

COUNCILMEMBER ANDERSON: Yeah, Mr. Chair, some meetings back I requested Mr. Jencks to give us an estimate of the electrical needs for his project in total. Maui Electric had said in their review, back in 2000, that this development would tax their capacity. So I want to know..., you know, there's going to be electrical needs not just for the 1,400 homes, but there'll be electrical needs for the treatment plant, and there will also be electrical needs for the desalinization plant. And I'd like to know what that is and how much they're going to have to upgrade their electrical substation, and if that upgrade would be sufficient to meet the needs of this project, because I think we all need to know if there's going to be an increase in electrical rates, because there isn't sufficient electricity right now to service this project. That is a definite impact that we need to know about.

And, you know, I, I think that maybe they could find a better place for this treatment plant. It's right in the critical habitat area. And so I would ask Mr. Jencks to start looking at another place he can put it, maybe up by the desal plant, or someplace where you're not going to be disturbing the critical habitat and having to cut down hundred year old trees.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Mr. Jencks, I taken you've gotten all that comments --

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MR. JENCKS: Yes, Mr. Chair.

CHAIR MOLINA: --and requests.

MR. JENCKS: The plant location is actually in an area that was highly disturbed in the early '90s by construction activity that took place as a part of work in Makena Resort. So it's, it's not in a habitat area. And as a part of a response to the Committee on the, on the water system, I did provide the summary on the desalinization process which included, as I recall, estimates on the kilowatt hour usage per thousand gallons. I did ask Mr. Matasci to talk to Maui Electric about the total impact, and as soon as I get that I will provide that.

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

MR. JENCKS: You're welcome.

CHAIR MOLINA: Okay. Members, the floor is now open again for questions for Mr. Taylor. Member Anderson, and then Member Medeiros you're going to follow.

COUNCILMEMBER ANDERSON: Mr. Taylor, how far does the Kihei Sewage Treatment Plant service? Where is it's, how far north, and south, and makai of the Piilani?

MR. TAYLOR: The, the treatment service area starts at Sugar Beach. It does not go as far as the Maui Electric Treatment Plant. So the Sugar Beach Condominiums all the way to the Kea Lani and the Makena Surf Hotel or Condominium is also hooked up. That's the end of the line. It basically serves almost every thing makai of Piilani Highway. There might be a few little places here and there that have, that still have cesspools, but for the most part all of Kihei proper. And Maui Meadows is not sewerred. Maui Meadows is the large part of South Maui that, that is not connected --

COUNCILMEMBER ANDERSON: Right.

MR. TAYLOR: --and they're still on cesspools...*(inaudible)*...

COUNCILMEMBER ANDERSON: But everything makai the highway to Makena Surf?

MR. TAYLOR: That's correct.

COUNCILMEMBER ANDERSON: And then everything that Makena serves south is served by the Makena or cesspools?

MR. TAYLOR: I think most..., yeah, that's correct. That is correct.

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COUNCILMEMBER ANDERSON: And so where is the Wailea, what does the Wailea Sewage Treatment Plant serve?

MR. TAYLOR: There is no Wailea Sewage Treatment Plant. All of the Wailea wastewater comes to our plant.

COUNCILMEMBER ANDERSON: All of it comes to you?

MR. TAYLOR: That's correct.

COUNCILMEMBER ANDERSON: That's strange, because I heard otherwise from people within Wailea, but I guess it was misinformation. So you're saying that all of Wailea currently..., you know, I appreciate you saying, you know, back in 1992, the, the technology wasn't advanced enough that people were comfortable with private sewage treatment plants. That's fine, but in our community plan it says, and this community plan was adopted in 1998, and, and it started it like in 1994, in the early '90s. So, you know, it takes some time sometimes to get these plans adopted, but what I'm trying to establish is that in the early '90s these were the objectives that we put in, in place. "Coordinate improvements to sewer transmission lines and wastewater reclamation facilities to meet the needs of future population growth. Require that the Wailea Resort Company and the Wailea-Makena Alliance work toward a solution that would enable the Wailea Sewage System to be dedicated to the County." So what is the Wailea Sewage System that they're, they're referencing here? It must be the, the expected Wailea 670 system?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: Actually I, I think what they're referring to is the Wailea Sewage System is the series of pumping stations and wastewater transmission lines that a lot of them run through Wailea private property, they connect some things that aren't part of the hotels, and eventually all that wastewater comes to us. So I think what they were talking about is there's some pump stations, for example, there's a, there's a major pumping station that's on the grounds of the Grand Wailea that was turned over to us. We've arranged to take ownership of that to serve as core needs. So I, I think they're, they're referring to the transmission system and pumping stations, and that has been an ongoing effort. We have, we've been working with Wailea to take ownership of a number of things, to clarify easements and things like that. There's some things we can't take ownership. There are, they're still in the process of upgrading things and turning them over to us. So we are absolutely attempting to follow that to the best of our ability.

COUNCILMEMBER ANDERSON: So, Mr. Chairman, if we could get a summary of what that is, you know, and even a map would be good. I still think that it's very, it's folly for us to look at something this big and, and long range in isolation. We have to look at it within the bigger picture. I mean after all there are bigger picture agreements between Wailea 670 and Wailea Resort, bigger picture agreements between Wailea 670 and Haleakala Ranch. And so those bigger picture agreements need to be in front of us so that we can see what the overall impact is going to be, and what the overall plan is, because you know what, if..., just like what you're

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saying right now, that kind of information can alleviate a lot of the concerns if we know that there is a plan in place. We should know that.

The, you know, you're saying that nobody talked about reclaimed effluent. Well, here it is in our community plan. "Reduce the reliance on injection wells for wastewater disposal. Require the use of reclaimed effluent for irrigation of golf courses, parks and landscaped areas." So, you know, if, if our community plan says "require that the Wailea Resort Company and the Wailea-Makena Alliance work toward a solution that would enable the Wailea Sewage System be, to be dedicated to the County," then I think we need to know what that is and what they're doing towards that. And who the Wailea-Makena Alliance is and who they were back in 1995. You don't know?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: I have no idea who that was.

COUNCILMEMBER ANDERSON: So, you know, if, if, if the wastewater treatment plant is currently facilitating the needs of Sugar Beach, Sugar Beach is a long way from the treatment plant and Wailea 670 is just 600 homes away. Wailea 670 is just on the other side of the treatment plant which is just on the other side, or rather just on the other side of Maui Meadows, which is just on the other side of the treatment plant.

So, you know, I appreciate your concern about electrical costs and all that, but the whole idea of a major treatment plant..., and, you know, you're making some statements about strategies that are used nationwide. I will be looking into that and if you could, maybe, provide us with some documents that show that this is, you know, the, the technology that's being used today, I could agree with you when you're looking at rural areas, but we're looking at a very urbanized area that has sewage treatment connections to the County all around it and beyond it. So why aren't they being included so that the costs can be spread out, and they can pay their fair share of the upgrades that are needed for this plant?

You know, I mean is it fair for them just to do what they want to do, and then connect to the system, and then all the taxpayers pay for their system; the maintenance and upgrade of their system, because it's connected to the County? I don't think so. I think they should pay their share to increase the system so the cost is divided among everyone fairly. And I think that's the intention, Mr. Chairman, of how the conditions were written, how our ordinance reads. And, you know, Mr. Taylor, if you have different strategies that you'd like to see implemented in the County, then you need to bring forward some amendments to the County Code, because this is the policy which is in the Code, and this is what we need to follow.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: Not new strategies that haven't come before this Council for a policy decision.

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CHAIR MOLINA: Okay. Mr. Taylor, you want to respond?

MR. TAYLOR: Thank you, Chairman. Member Anderson, we, we completely agree, and I'm probably going to go maybe a little beyond what I should normally say to talk about the General Plan a little bit. We are a key infrastructure group, and we've been working with Long Range Planning in the development of the General Plan. I can all but guarantee you that the strategy I've been talking about is going to be the Wastewater strategy that comes to you as a policy proposal in the General Plan, because we're, we're writing it and that's what we're writing. So I think we're kind of caught between these old general, between the old community plans and, and this new General Plan process.

We have been working with Long Range Planning looking at the future, looking at the next 20 and 30 years, and we, we are doing exactly what you just recommended, and, and you're going to see that in, I'm, I'm not sure what the Long Range Planning schedule is. I know before the end of the year they plan on releasing the Maui Island Plan to the GPAC, and they're in that process. We've been working with them on the infrastructure strategies we want to present, and, and what I just went through today is sort of a preview of what you're going to see in a couple months for the Wastewater section of the Maui Island Plan.

COUNCILMEMBER ANDERSON: So are you saying that you're going to be promoting a strategy that would say all the mauka development, each one of them have to build their own sewage treatment plant?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: The, the, because, nobody really knows what, well, let me say this. I don't know what the final maps are going to look like. We've seen a lot of proposals, what if this, what if that. So we're going to continue to work with Long Range Planning, and what we're, basically the strategy that I, I noted we're going to try to take the, the center capacity, the center development, service that by the existing treatment plant, and then the edges, wherever those edges are, have smaller treatment plants that, that take care of that wastewater.

And it really depends on what the final maps look like, but as a whole we, it's going to be very, very difficult and, and overly expensive to try to upgrade the existing core capacity, because all the pipelines are in roads. They're in South Kihei Road, they're underwater, there's heavy traffic. Basically are going to try to not expand the size of what we have in the core urban systems, and if there is more development on the outskirts treat it on the outskirts. So because none of it, I don't know what the final maps are going to look like, but that is the strategy that we're going to work around that with the final development of, of the maps and the growth areas.

COUNCILMEMBER ANDERSON: You know, Mr. Taylor, you told us a couple of weeks ago when we gave you supplemental budget funding to upgrade the sewer lines in the, in the South Maui area to meet the EPA Consent Decree that you would be expanding the lines at the time. So, you

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know, that's kind of in, in contradiction to what you're saying. And the maps are out, because the GPAC just got them the other night. So if the GPAC's got the maps then, you know..., that's what I'm saying, Mr. Chair, we're working in a disconnect here. If the maps have already been given to the GPAC that shows all this proposed development mauka of Piilani Highway, and you don't, you haven't seen them yet, then I'm confused how you can..., you know, is the strategy going to come later?

CHAIR MOLINA: Mr. Taylor, I'll let you respond, and then, Member Anderson, if you don't mind I have Mr. Medeiros waiting for some questions, and we can come back to you.

COUNCILMEMBER ANDERSON: Yeah, I'm fine, Chair.

CHAIR MOLINA: Okay. Mr. Taylor, can you respond, and we'll move on to Mr. Medeiros?

MR. TAYLOR: Okay. First, first of all, as far as when we were here. . .

COUNCILMEMBER ANDERSON: Wait. Chair, the one question I did have at the end of the comment was what's the capacity left in the treatment plant right now?

CHAIR MOLINA: Okay. Mr. Taylor?

MR. TAYLOR: Okay. First of all, there was a number of questions there. First was when we were here a few weeks ago it was for a SRF loan authorization for a South Kihei Road, one of the projects was a South Kihei Road sewer line rehabilitation. That is because it's not, it's not a capacity issue it's a structural adequacy issue where the old concrete lines are deteriorating.

COUNCILMEMBER ANDERSON: Right.

MR. TAYLOR: We're not digging up the road; we're putting a structural liner within.

COUNCILMEMBER ANDERSON: Right.

MR. TAYLOR: We're not upgrading the capacity; we're just beefing up the structural integrity of the pipes.

COUNCILMEMBER ANDERSON: Right.

MR. TAYLOR: So that isn't really that hard to do, because we don't have to dig up the road. Putting in new lines means we have to dig up the road.

COUNCILMEMBER ANDERSON: Right. But that's only on South Kihei Road.

MR. TAYLOR: Right.

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COUNCILMEMBER ANDERSON: You told us in other areas that you will be increasing the capacity of the lines.

MR. TAYLOR: When we go ahead and we, when we replace force mains --

COUNCILMEMBER ANDERSON: Yes.

MR. TAYLOR: --pressurized lines, those aren't nearly as deep as sewage gravity lines. So we tend to make them a size bigger. So that, that's, that's a different, that's basically two different types of, of facilities.

As far as the maps, I, I'm not sure what GPAC got. I know we, we constantly, we work with Long Range every week. I'm not sure what's the status, whether those are draft maps, but we work with them constantly about different scenarios and maps. And, you know, I know that's going to be an ongoing effort to change those maps. And we're going to continue to work with them to finalize what the final maps are as well as our final Wastewater Treatment strategy for those maps. So that is an ongoing process. It's not just a one time thing. We, we work with them basically on a weekly basis on that.

And as far as the, the treatment plant capacity there, there is no one number that, that you can quantify what is the capacity of a treatment plant. The flows vary through the day, through the night, through the month, through the year. The flows go up and down, up and down. The treatment plant can handle higher flows for shorter periods of time, but not for really long periods of time. So the bottom line is to kind of figure out how full is your treatment plant is a pretty major engineering and statistical effort of long term studies of biological processes, flows, computer models, and I would say that we have generally about two million gallons a day of capacity left, but that's sort of plus or minus depending on, on how you look at it. So there is no one number, and I want to be really clear. There is no one number.

COUNCILMEMBER ANDERSON: Yeah, but I mean we're talking about peak flow just like we do with water. You have to have..., you know, when you have peak flow, everybody's flushing their toilets Christmas Eve or Christmas morning. You, you got to know what that is, and I mean, I mean there's just a limit. And so, and so when you're saying two million gallons a day, we know it's plus or minus. They're asking for a half a million gallons a day for their, for their project. So you're going to come back and tell us how many more units or gallons per day are going to be covered...(change tape, start 1B)...gallon a day capacity for all those projects down in Wailea that haven't started flushing their toilets yet.

MR. TAYLOR: We, we can get you that information.

COUNCILMEMBER ANDERSON: Great. Thank you, Mr. Taylor. Thank you, Chairman, for the time.

CHAIR MOLINA: Okay. Mr. Medeiros?

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair. Mr. Taylor, do you know how many private wastewater systems exist today in Maui County?

MR. TAYLOR: I don't have that number, because they're regulated by the Department of Health. But I can tell you, I mean, just off the top of my head there's, there's one in Makena, there's a number of them in Maalaea. I think each condo has it's own. I know on the east shore of Molokai all of those condos have, the larger condos have their own. There are, in Maui County there may be dozens. I, I don't have it, Pukalani has its own private treatment plant. They are, again, they're not regulated by us, so we don't have any sort of list, but just, there are a lot of them. I mean it's a, it's a common practice.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that. And so are or, are these systems supposedly supposed to tie into County systems?

CHAIR MOLINA: Mr. Taylor?

COUNCILMEMBER MEDEIROS: The private systems?

MR. TAYLOR: There, there is no, these systems are privately owned and operated under permit by the Department of Health, and there is no Federal, State or local ordinance to, to make them tie in or give them a timeline for tying in, if that's what you mean.

COUNCILMEMBER MEDEIROS: Now the system you mentioned at Makena that's been in existence for quite a while now; is that correct?

MR. TAYLOR: Less than ten years, more than five; somewhere in that neighborhood.

COUNCILMEMBER MEDEIROS: Okay, and have there ever been, to your knowledge, any maintenance issues with that system?

MR. TAYLOR: You know, that, that plant is managed and operated by, by four personnel who all used to work for us, so we, we know them, and so we still hear what's going on.

COUNCILMEMBER MEDEIROS: Right.

MR. TAYLOR: And they, they have, they've reported that everything's great.

COUNCILMEMBER MEDEIROS: Okay, and, and, and you talked about and described how technology has improved for those smaller wastewater systems and which it seems to be what is going on nationwide. You also mentioned that some areas in South Maui, some isolated areas are still on cesspools, and is that because the system for, the County system does not go to those areas?

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MR. TAYLOR: Yeah, that's correct. I, I can't picture exactly where they are, but everything in Kihei used to be on cesspools and septic tanks. And in the '70s when the Federal money built the major systems there were some places I, I suppose that were deemed too difficult to tie in. You know, maybe, maybe they were, the road was higher than their properties. And so they, they couldn't get the sewer line deep enough to allow a connection. So I think there's some scattered, there's some scattered homes here and there that, that were never able to tie in, but I think it's few and far between.

COUNCILMEMBER MEDEIROS: And, and you identified Maui Meadows as still being on cesspools, and I'm assuming septic tanks, because anytime you make, you build a new construction in an area like that you're required to go into septic tanks; is that correct?

MR. TAYLOR: I'm not quite certain of those rules, because that is regulated by the State Department of Health.

COUNCILMEMBER MEDEIROS: Okay.

COUNCILMEMBER ANDERSON: That's true.

COUNCILMEMBER MEDEIROS: And how far does the system, for the County system extend mauka of Piilani Highway?

MR. TAYLOR: For the most part there is no system mauka of the highway.

COUNCILMEMBER MEDEIROS: So it ends at the plant?

MR. TAYLOR: It, it basically ends at the plant and all the lines run downhill to South Kihei Road. Over by Ohukai, that area mauka of the highway is connected and that wastewater runs all the way down to South Kihei Road. So over on the north end of Kihei it, it extends mauka, but not on the south end.

COUNCILMEMBER MEDEIROS: Okay. So that's why Maui Meadows doesn't have to connect, because there's no system out there?

MR. TAYLOR: That's correct.

COUNCILMEMBER MEDEIROS: Okay, and maybe finally my last question is earlier we were talking about wastewater assessment fees, and I want to know would assessment fees have a negative impact on our efforts to increase affordable housing. Say if we decided on a project that was just affordable housing, would they be required to also contribute to wastewater assessment fees, and new schools, things that are County and community benefit projects?

MR. TAYLOR: I believe, I, I certainly can't comment on, on schools, but I believe that assessment fees by ordinance are waived for affordable housing.

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COUNCILMEMBER MEDEIROS: Okay.

MR. TAYLOR: Yeah, that's correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Taylor. Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Members, before we go to break the Chair's one request, I would like to get comment from Planning or Corporation Counsel. There's been a request or suggestion made by Member Anderson to consolidate Conditions 16 and 17. Can I get comment from you? Can we do it or, or do they need to be kept separate? Mr. Giroux or Ms. Suyama. Mr. Taylor, would you have something to add on that? Okay. Mr. Giroux.

MR. GIROUX: I, I don't see any problem with combining it.

CHAIR MOLINA: Okay. We will work with Staff and see what we can do to consolidate the two conditions. Member Anderson? I'm sorry, Member Pontanilla followed by Member Anderson.

VICE-CHAIR PONTANILLA: Thank you. For Mr. Taylor. I think the request by Member Anderson in regards to the wastewater plan, the current plan that we have in regards to identifying where all the pump stations are located is a good one. It gives us a fairly good idea of how the, the wastewater is being handled from South Kihei as well as north of Kihei. That would give us a good picture. The question I have is that, do you guys track the flow on any given time of day?

MR. TAYLOR: Thank you, Member Pontanilla. We can get you those maps. In fact if anyone wants to look at them at the recess I, I have them with me, but we can, we can get hard copies to you. We do track flow at a number of places. In each of our, in most of our pumping stations we track flow on a, on a minute-by-minute basis and record that, and same with the treatment plant. And that's how we know it goes up and down, and up and down, but not at every location, but at, at certain key locations we do track that flow.

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

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

COUNCILMEMBER ANDERSON: Thanks, Chairman. You know, I, I just first wanted to just say I think what, what happened with Maui Meadows is they started building that subdivision in the '70s, and, the late '70s, and maybe the regulations weren't specific, and we didn't have the sewage treatment plant to service it then. But I think one of the big problems is that it's all blue rock down there, and so once houses are built it's kind of hard to dig up your whole yard and..., well, anyway, EPA's got a, you know, if you've got a house and a hana [sic] and an ohana, EPA is saying you've got to get rid of your, your cesspool and put a septic system in. But that's one of the reasons I'd like to see this connection to the treatment plant go to Wailea 670, because

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they're going to be blasting that blue rock anyway and putting in, you know, widening the highway. So why can't they put the lines in at the same time?

And I want to bring to Members attention, remember this study we got, this reef study. Maalaea in ten years, Members, from 1995 to 2005, went from 50 to 75 percent coral cover in the near shore waters down to eight percent. And that the algae blooms are rated super abundant. So I think we need to be very cautious about allowing more private sewage treatment plants who do use injection wells. And, you know, Members, down the road here maybe when we have time we might want to look at passing some legislation that requires all these treatment plants to distribute their effluent and not use it in injection wells. Find a way to do it. That if it costs you money, oh, well. What is the cost of saving our coral reef system? Thank you, Chairman.

CHAIR MOLINA: Thank you, Member Anderson. Okay. Members, we're going to take a short recess. Let's reconvene at 10:35. Meeting in recess. . .(*gavel*). . .

**RECESS: 10:23 a.m.**

**RECONVENE: 10:40 a.m.**

CHAIR MOLINA: . . .(*gavel*). . .The recessed Land Use Committee Meeting of July 25th, 2007, is now back in session. It is 10:40, Friday, August 24th. Members, I believe at our last meeting the Chair had mentioned the possibility of working in the afternoon today. However, the Chair was reminded by his Staff that he has a site inspection in Upcountry today. So, unfortunately, I will not be able to be here, so, and I know you're very bummed out about it as well. So we will, we will have to, you know, end our, end our day by twelve. So I just thought I'd let you know. Members, I'd like to spend the rest of the morning looking at page three of your matrix. Yes, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: I have a question for Mr. Taylor.

CHAIR MOLINA: Oh, you want to, okay. All right. We have a question for Mr. Taylor. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. You know, in regards to affordable housing like Member Medeiros had mentioned if there's exceptions given to a project when they create affordable housing, how do we do that in regards to the assessment fee that they need to pay? Do we credit the, the affordable housing units that's being created?

MR. TAYLOR: For the wastewater assessment fee, for, for example, this is for the Wailuku, oh, let me look at the, oh, here's the Kihei Regional Wastewater System Ordinance, 14.34. Under 14.34.090B, affordable housing units which for a period of five years after the original purchase are exempt from the fees. So basically when he comes in to pay the fees he just doesn't owe any money on the affordable units. So if he has a thousand units and 300 affordables, he pays the assessment fees on the thousand, but not on the 300.

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

CHAIR MOLINA: Thank you, Mr. Pontanilla. All right. Members, let's look at page three of your matrix. This is the Applicant is making a proposal. It relates to transportation and highways. I believe the Applicant's consultant is here as well for questions. If I could have Staff read the proposed condition from the Applicant. It's in the second column, and then we'll have Planning Department give their comments.

MS. NAKATA: This is relating to the traffic contribution?

CHAIR MOLINA: Transportation and highways --

MS. NAKATA: Oh, okay.

CHAIR MOLINA: --on the second column.

MS. NAKATA: Applicant's Condition No. 5, "That WCPT/GW Land Associates, LLC, it's successors and permitted assigns shall provide pedestrian and bicycle access ways within the roadways throughout the Wailea 670 project. The proposals for pedestrian and bicycle access ways shall be included with the preliminary site plans submitted for Phase II approval."

CHAIR MOLINA: Thank you. Okay. Deputy Director Suyama, can you provide us additional comments?

MS. SUYAMA: We don't have any objections to this condition; however, we just wanted to note that in the Project District ordinance it does have a requirement that requires bike/pedestrian ways as part of a comprehensive system of landscaped roads and bikeway/pedestrian ways within the project to be reviewed during the Project District Phase II. So, you know, there is that provision in the, in the proposed code changes and, but, you know, if you want to reiterate it as part of the condition that would be fine.

CHAIR MOLINA: So just so I get an understanding. So since they're already required to do that, so we may not need this condition?

MS. SUYAMA: You know, it doesn't, it doesn't hurt to have the condition to be very, you know, specific --

CHAIR MOLINA: Okay.

MS. SUYAMA: --that this is what the Council wants done.

CHAIR MOLINA: Okay. Thank you. Members, questions? Member Anderson?

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COUNCILMEMBER ANDERSON: I just want clarification from what Ms. Suyama just said that, are you saying that in the current Chapter 19.90 it, it is a requirement?

MS. SUYAMA: No, what I'm saying is that there is the, the, the bill that's going concurrent with the Change in Zoning made provisions in that proposed code for bikeways and pedestrian ways as part of it, and that would be the section that I just cited 19.90A, that .030C3, that is where specifically it's, it's identified in the proposed ordinance change.

COUNCILMEMBER ANDERSON: So specifically what you're saying is that the proposed 19.90A is the proposed replacement of 19.90.

MS. SUYAMA: That's correct.

COUNCILMEMBER ANDERSON: And it's spelled out specifically, is this the language that, that you've got here, C3? Is that the --

MS. SUYAMA: No, it's...

COUNCILMEMBER ANDERSON: --specific language?

MS. SUYAMA: No, it's just a summary of, of what's in there.

COUNCILMEMBER ANDERSON: Well, I'd like to see something that requires the, the bikeway and pedestrian system to be interconnected, you know, either somehow makai..., did we, did we not ever get a map from Wailea 670 folks showing where this would be?

CHAIR MOLINA: You know what, let me call up the Applicant. Mr. Jencks?

MR. JENCKS: Yes, Mr. Chair.

CHAIR MOLINA: Mr. Jencks, if you could respond to Member Anderson's questions regarding a map?

MR. JENCKS: Yes, in, in the, in the PowerPoint presentation that we've done a number of times in Chambers as well as copies of that presentation there was a map included that show the, the primary and secondary roadway system and on that map those roads had, as I recall, red dots that showed the location of the off-road bicycle and pedestrian pathways. Nearly three miles follow those roadways. And with regard to connectivity, which I think is a very good point, we've pushed the concept of connectivity for the trail way system with the Maui Meadows folks and the Wailea folks, and we certainly could make a connection on Kaukahi Street, and I think it would be wise to make a connection certainly into Maui Meadows if that's acceptable to those folks.

CHAIR MOLINA: Okay. Member Anderson?

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COUNCILMEMBER ANDERSON: I'm trying to find the PowerPoint. Mr. Jencks, do you, do you folks have a copy with you?

MR. JENCKS: No, I don't.

COUNCILMEMBER ANDERSON: Maybe Staff could --

CHAIR MOLINA: Yeah, we, we can...

COUNCILMEMBER ANDERSON: --do a search on the master agenda and see where it is in these seven binders. Mr., Mr. Chairman.

CHAIR MOLINA: Staff, are you able to accommodate the request? Member Anderson?

COUNCILMEMBER ANDERSON: You know, it's within our purview to connect a concept planned with the Project District ordinance much like we have with Maui Lani. And as I said before, I think it's invaluable to have this map, because this is a 20 year build out and, you know, when push comes to shove ten years down the road it's likely that none of us are going to be around, none of the staff people will be around. You know, things change. People change. Mr. Jencks may not even be around.

So I think it's important that we have a site map so that what is being presented to us is connected to the ordinance so down the road people can see what the intent was. And I'd like to see a connection somehow on the map showing where these pedestrian ways and bikeways are going to be so that when they actually get to doing it there is something for them to follow, and the representations made to us today can be fulfilled.

CHAIR MOLINA: Okay. Mr. Jencks, any additional comment?

COUNCILMEMBER ANDERSON: I mean that's not to say, Mr. Chair, that there isn't flexibility for them to change it around to a certain extent for whatever reason might be necessary at the time. I mean, you know, there could be, there could be things beyond their control that would cause them to have to change things like too much blue rock, you know, to blast out or whatever. But at least it's a template to follow and the intention is there so that we've got something, you know, a picture tells a thousand words. Something to go by.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Mr. Jencks?

MR. JENCKS: I can see the Staff, they've pulled out, it looks like they have the, maybe the PowerPoint that I'm talking about.

MS. NAKATA: It's a March 15, 2006 PowerPoint. It's in binder number three.

COUNCILMEMBER ANDERSON: Thank you.

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CHAIR MOLINA: Okay. Members, binder number three, March 15, 2006 PowerPoint. And what is the title of the PowerPoint?

MS. NAKATA: Honoa'ula Maui County Council Land Use Committee March 15, 2006.

CHAIR MOLINA: Okay. We're playing musical binders here, Members.

COUNCILMEMBER ANDERSON: March, what was it March...

MR. JENCKS: While you're looking, what, what we attempted to do here was show on the map the off-road bicycle and pedestrian pathways in the project that follow along all the primary and secondary roadways. And if you wrote in this condition, that kind of a definition, I think that would do the job. As to the question of the Land Use map, the ideal situation for us is to have some flexibility in the development plan, but also define the development plan in terms of acreage, the permitted uses, and the standards that we've proposed in the ordinance.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: I understand that, but you're already asking us in the bill for approval to approve this project as individual zoning lots. So, you know, I'm assuming the purpose behind that, and I, I understand the question that I raised last week. We got a letter today from Mr. Luna explaining it and none of us, or at least I haven't had a chance to read it since it just came this morning when we started our meeting. But I'm assuming that the purpose in, in having different zoning lots separated out by metes and bounds is in order to sell off those lots eventually individually to different people to develop them. So you've already cut down a certain amount of flexibility if that's the way the zoning ordinance has been crafted.

I'm looking at this PowerPoint and, Members, oh, Jo Anne's got one that's folding out, so I guess I'm not...

COUNCILMEMBER JOHNSON: ...*(Inaudible)*...

MR. JENCKS: I think Jo Anne's got the concept plan. It's 11 by 17 and folds out?

COUNCILMEMBER JOHNSON: Yeah.

MR. JENCKS: Yeah.

COUNCILMEMBER ANDERSON: Which map are you talking about, Charlie? I'm looking at this PowerPoint...

MR. JENCKS: If you, if you look..., if I may, Mr. Chair?

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CHAIR MOLINA: Mr. Jencks, go ahead? This is a fold out map?

COUNCILMEMBER ANDERSON: Yeah, but this map is no different than the concept map right here.

COUNCILMEMBER JOHNSON: Oh, I see it.

COUNCILMEMBER ANDERSON: Okay. Wait a minute.

CHAIR MOLINA: This is at the very beginning; am I correct, Mr. Jencks? Close to the beginning of...

MR. JENCKS: Yeah, I was just looking...

CHAIR MOLINA: Concept Plan Wailea 670.

MR. JENCKS: I can describe it on the concept plan. The, the PowerPoint I was just looking at in Ms. Anderson's binder didn't have the map I suspected.

CHAIR MOLINA: This is a yellow and green map, Members.

MR. JENCKS: Yeah, the Concept Plan, 11 by 17.

COUNCILMEMBER ANDERSON: Charlie, come here and see if this is it --

MR. JENCKS: Okay.

COUNCILMEMBER ANDERSON: --because I don't see any bikeways on here. I see a legend for it, but then I don't see, see it on the map.

MR. JENCKS: Yeah, this, this..., Mr. Chair, this map is the proposed concept plan, and it shows you the primary and secondary roadway system in the, in the project. The roadways that are on this map would be the roadways that would have the off-road bicycle and pedestrian pathways.

COUNCILMEMBER ANDERSON: So the pathways are all going to be along the roadways; the pedestrian, bike...

MR. JENCKS: Yes, in the right-of-way, but off-road which was most desired, that's, that's considered a Class 1 bicycle trail in those communities. It's the most desirable type of trail. It keeps people off the road and keeps them safe both for pedestrian and bicycle.

COUNCILMEMBER ANDERSON: So every single one of these roads is going to have a bikeway/pedestrian pathway adjacent to it?

MR. JENCKS: That's the plan.

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COUNCILMEMBER ANDERSON: So then we could make that a condition so it's specific, because if you look at the concept plan, Members, he does have bikeways/walkways in the legend, but it, then it doesn't show it on the map. So I think that's important to include.

MR. JENCKS: Yeah, it probably, it probably didn't screen out when it printed. That's probably the problem. But I can provide it to you as well an exhibit, Mr. Chair, that defines that. I'd be happy to do that.

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

COUNCILMEMBER ANDERSON: And then, Mr. Chair, if I could have one more question with Mr. Jencks.

CHAIR MOLINA: Okay. Proceed, Member Anderson.

COUNCILMEMBER ANDERSON: You know, you made a comment about connection to Maui Meadows, and when you look at the left side of the map, folks, you can see that's where Maui Meadows is, and then there's, it says emergency access only. Can you explain that? And I can't read the road name.

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: We in, in the initial iterations of the concept plan, we had contemplated vehicular access, vehicular access and that's why we said emergency ingress and egress only. Maui Meadows has come back to us and said we don't, we're not interested in vehicular access which his fine, but we've said, look, we should consider this trail access for pedestrian/bicycle.

COUNCILMEMBER ANDERSON: And so how would you connect that, Mr. Jencks, because..., and then, you know, you also don't have on this map, there, there is supposed to be a buffer zone, and then we have since seen another map that is only, you know, a cross-section map showing that, that buffer zone and where the roadway is. And so I think we need to see that on the concept plan where that..., you know, you have all the other roads here, so why isn't that road here, and what, what does it service?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: If I may? I think, you know, I think what we have to understand is we're looking at two different levels of detail. The concept plan that you have in front of you does indeed show a buffer zone adjacent to Maui Meadows?

COUNCILMEMBER ANDERSON: It does?

MR. JENCKS: That green line that goes down that one border.

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COUNCILMEMBER ANDERSON: Okay.

MR. JENCKS: That's, that's intended to be the, it's, it's a graphic representation of the buffer zone.

COUNCILMEMBER ANDERSON: And how wide is it?

MR. JENCKS: In the ordinance that we, that you are reviewing I think it's 100 feet wide from the boundary into our property. The next level of detail, which we showed you on the cross-section of the buffer zone, did indeed, as you pointed out, Ms. Anderson, show a roadway. But that's, I mean that's the next level of detail that would be defined as a part of the Phase II submittal. But the ordinance says 100 feet of buffer that would include a 50-foot wide landscape buffer immediately adjacent to the Maui Meadows boundary. So we're just, we're just looking at two different levels of detail and definition. But indeed that buffer is shown on that map adjacent to that boundary, and it's a graphic representation of, just so that it's there.

COUNCILMEMBER ANDERSON: So I have a letter from the Maui Meadows Neighborhood Association, and when they met with you they asked you for a 200 foot landscaped buffer. And, and they say that the 200 foot request by Maui Meadows appears in Wailea 670's printed literature dated 2004, where it states, "and the 200 buffer discussed with the Maui Meadows Neighborhood Association." So, you know, and I, and I went back and read the minutes when you had this association meeting and it seemed that you had agreed to the 200 buffer. So now it's 100 with a road in it, and they never understood it to be a road. They thought it was going to be truly a buffer. So I'm just wondering how it ended up being 100 feet with a roadway in the middle of it?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: Well, if I may, Mr. Chair. We developed, I heard a series of requests from the Maui Meadows folks when I became involved in this project going back to 2001, and the request for a buffer zone varied from 50 feet to 500 feet. There was absolutely no consistency on what was needed to properly buffer the property and the projects, Maui Meadows and Wailea 670. So what we did was we did a series of cross-sections, and we came up with a 100 foot wide buffer area, and we did a series of sections down through the property showing the relationship between Maui Meadows and homes in Maui Meadows, and homes in the property, in our project. I took those cross-sections to two meetings in Maui Meadows, both with the neighborhood association and the homeowners association and got consensus on the cross-sections I represented to those folks. Now, and those have not changed since that, those meetings were held.

COUNCILMEMBER ANDERSON: You say you got consensus from them?

MR. JENCKS: I presented the drawings and described in detail what we were proposing.

COUNCILMEMBER ANDERSON: For 100 foot buffer?

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MR. JENCKS: That's correct.

COUNCILMEMBER ANDERSON: And when was that, Mr. Jencks?

MR. JENCKS: That was back in 2001. Now, Mr. Chair, I may add that there have been people in Maui Meadows who have been saying things, like, I'm going to put a roadway on their boundary, which is absolutely not true. The drawings show the cross-sections represent exactly what we agreed to in the meetings. So make no mistake there's a 50-foot wide landscaped buffer immediately adjacent to the boundary with Maui Meadows, and then a single loaded road. Now a single loaded road is a road that has homes on one side, not homes on the other sides, homes on one side in our project.

COUNCILMEMBER ANDERSON: Homes would be on the south side of the road?

MR. JENCKS: On the project side, that's correct. All within 100 feet. So it would be 100 feet from the boundary of Maui Meadows and our project to the first home in our project whether it's single-family or multi-family.

COUNCILMEMBER ANDERSON: So do you have anything to substantiate that they agreed to this? Because as I said I'm looking at a letter from the Maui Meadows Homeowners, or Neighborhood Association saying that..., and, Staff, do you want to pass this out to other Members so they can see it? And they say that the request was a 200-foot buffer and that Wailea 670's literature dated in 2004 states the 200 buffer discussed with the Maui Meadows would include the 200 foot buffer. So that's neither here nor there. We, I guess we'll be discussing that when we get to that condition later, Mr. Chair, but I just bring it up because it's connected to what we're talking about.

So, Mr. Jencks, would it be possible then..., and I can understand Maui Meadows not wanting traffic ingress and egress at this point, because what's likely to happen is people will be short cutting through Maui Meadows and using that subdivision to access in and out of the project. You know, if somebody's living at this end of the project it's going to be quicker for them to go up Mikioi and cut through the neighborhood to get into your project than it is to go down here and, and access. People always take the shortest route. So I can understand why Maui Meadows does not want their neighborhood road to become a collector road, but could, could there be a connection, you know, where that, what is that road?

MR. JENCKS: Yeah, what's the name of the lower road?

COUNCILMEMBER ANDERSON: Yeah, Hoaloo or...

MR. JENCKS: I don't recall.

COUNCILMEMBER ANDERSON: Well, at any rate, I mean I can't read it here, and I think it's cut-off anyway, but you know what road I mean.

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MR. JENCKS: Yeah.

COUNCILMEMBER ANDERSON: When it dead ends into your project.

MR. JENCKS: Right.

COUNCILMEMBER ANDERSON: ...*(change tape, start 2A)*...at that point put in a, a pedestrian/bicycle pathway connecting to the pathways in the project.

MR. JENCKS: We, I, you know, that's what we're suggesting.

COUNCILMEMBER ANDERSON: You're intending to do that?

MR. JENCKS: That's, yeah, we'd like to make that connection.

COUNCILMEMBER ANDERSON: Great.

MR. JENCKS: And I, actually I, I think, Member Anderson, I think there are maybe two points in Maui Meadows in that interface between the project where you have roadways that stub out. There might be another one that is well up higher that we can make the connection.

COUNCILMEMBER ANDERSON: Oh, that would be great, because up higher is where the roadway actually, you know, your internal roadway is here.

MR. JENCKS: Uh-huh.

COUNCILMEMBER ANDERSON: Actually, would you call these roadways that you have on the map, Charlie, collector roads?

MR. JENCKS: Yeah. Yeah. Yes, we call them primary secondary, but they are collector roads that would bring people into and out of the project.

COUNCILMEMBER ANDERSON: Right. And then all the internal roadways for the subdivisions within here would be done at Phase II?

MR. JENCKS: They would be designed as a part of the Phase II.

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: And then the permit is a part of Phase III, and then constructed.

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COUNCILMEMBER ANDERSON: Right. So if we could show on this concept map where those two stub outs are that you could actually extend, you know, allow ingress and egress for the bikeway and the path, pedestrian pathway I think that would be reassuring.

MR. JENCKS: That makes sense.

COUNCILMEMBER ANDERSON: Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you. Members, so can, do I assume we have consensus to, the Chair would recommend leaving this condition in as proposed by the Applicant. Do we have consensus? Mr. Pontanilla, Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Consensus.

CHAIR MOLINA: And by the way, Chair would like to recognize Member Johnson to our proceedings this morning.

COUNCILMEMBER JOHNSON: I have a question.

COUNCILMEMBER ANDERSON: Mr. Chair?

CHAIR MOLINA: Hang on. Member Johnson has a question, and then we'll go back to Member Anderson.

COUNCILMEMBER JOHNSON: Yes, and this would be, I guess from Charlie. Because I know we're talking about pedestrian and bicycle, but with the bicycle access is your intent, is it a multi-purpose type pathway where moms with strollers or other people, you know, like on, I don't want to call them the mopeds, and certainly not the dirt bikes, but it's just going to be limited to your mountain bikes, or your, your regular bicycles, and then maybe strollers or something like that? Is that what you're talking about?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: It's, it's intended to be, I, I believe the section shows an eight foot wide paved pathway and that would include, that would address pedestrian and bicycle not mopeds, not dirt bikes, not horses. It's bicycles and pedestrians.

COUNCILMEMBER JOHNSON: Yeah, because I, I know that a lot of times there's a great deal of pressure right now, because there's no place for a lot of the BMX riders to go and, you know, these guys just, they'll go wherever.

MR. JENCKS: That clearly is not the intent. And I, and I think you're right. You have to, you do need to regulate that and enforce it. I, I mean I see people on mopeds on the bikeway on Mokulele

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Highway. They should be on the highway. That's where they're supposed to be. So that's a regulatory issue, and I, I share your concern.

COUNCILMEMBER JOHNSON: Yeah, and, and with regard, there's some of these other little vehicles, they're electric vehicles. They resemble, I guess they basically have golf cart frames, but they're the GEM, I think. They have them over on Lanai. Will they be permitted on these alternate roadways, or walkways, or paths?

MR. JENCKS: They should be on the right-of-way, in the roadway.

COUNCILMEMBER JOHNSON: In the roadway. Okay. I just want to be clear, because sometimes what people conceptualize and then when they're faced with the reality, they said, oh, but I thought.

MR. JENCKS: Right.

COUNCILMEMBER JOHNSON: So it's better to just get it on the record --

MR. JENCKS: No, I agree.

COUNCILMEMBER JOHNSON: --that your intent is just for none motorized --

MR. JENCKS: Right.

COUNCILMEMBER JOHNSON: --unless it's probably like a wheelchair, you know, where somebody had a ka`a huila, you know, like, what they do they call those, those little mobility devices for people who are disabled.

MR. JENCKS: Certainly.

COUNCILMEMBER JOHNSON: That would be accommodated. Okay. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Mr. Jencks, just to follow-up on Member Johnson's question, so to monitor or to ensure that some of these questionable vehicles don't use this bike pathway, you will already have security? Is this part of the package, I guess, for this project that there is, you know, for example, you see some of these other communities or subdivisions they have security there. Is that the intent of this project as well?

MR. JENCKS: Yes, it is.

CHAIR MOLINA: Okay. Thank you. I think, Member Anderson, you had a question.

COUNCILMEMBER ANDERSON: Yeah. I'm having a problem finding it in the community plan, but the community plan does say under government, that's us, it says that we're supposed to be

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adopting, I'm going to bring this up later, Mr. Chair, but it's also in our, it's in our application requirement that, let's see, that we're supposed to identify mauka to makai access and traditional roadways. This is also, Members, a mandated requirement by State statute. Chapter 46 of Hawaii Revised Statutes requires that we adopt beach and mountain access ordinance to implement the State statute which requires us to establish public mauka and makai accesses in conjunction with an overall public master, or Public Access Master Plan.

And it's also a requirement of our, and I'm going to find it real quick here, of our Change in Zoning requirement, Mr. Chairman, that there is mountain to makai access especially, oh here it is - identification of traditional beach and mountain access trails and additional trails which may be required for public access to the beaches, which doesn't apply to them, and mountains, which does apply, in a preservation mitigation plan and comments from DLNR and OHA. And why is it important that OHA weigh in on this, because it is a PASH requirement. And basically, you know, PASH is only a Supreme Court decision. By the way, yah, to the Hawaii Supreme Court. I just had to get that plugged in. But their decision in the, in the PASH opinion is, is only a reaffirmation of what's already in our State Constitution which preserves native Hawaiian rights for customary and traditional access for subsistence, cultural, and religious purposes. This is in Article 12, Section 7, of the Hawaii State Constitution. And as I said, reaffirmed by this, by the Court's PASH decision.

And so I'm bringing this up in regards to these bikeways and, and pathways, because there, there is a traditional roadway . . . um . . . mountain access trail. This is in a USGS 1954 map, and it is a roadway. I think Mr. Jencks in some of the literature or communications or what not from you folks that you, you define it as a jeep trail.

CHAIR MOLINA: Mr. Jencks?

COUNCILMEMBER ANDERSON: You know what roadway I'm talking about?

MR. JENCKS: There are a number of jeep trails on the property, dirt roads.

COUNCILMEMBER ANDERSON: And so I just want to make sure that, that, and I asked you about this, oh, a month or so ago, and you said, yeah, we'll make sure we do it, but I don't see anything that verifies that. And, in fact, I think it goes, and I do have an overlay map, Mr. Chairman, that shows this roadway. And it appears to me that the roadway goes makai of the Piilani Highway extension, right below that. So, you know, still we don't know is this Piilani Highway extension, you know, how's the configuration going to happen once it gets through this project? And is it going to come around this way and tie into Makena which would be the logical thing to do, but that isn't always what happens. And how it could allow further mountain access, because we have a traditional trail here, and, and it goes mauka to the mountain, and we must preserve that, Mr. Chairman.

So I'd like to see how Mr. Jencks is going to incorporate this in, and not just as a bicycle/pedestrian path but, you know, a true path that people could use to get mountain access.

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And we're mandated by State law to do this. We're also mandated in our own County Code to do this and, again, there was no identification of mountain access trails or any additional trails that would be required for public access to the mountains, or preservation mitigation plan, or comments from DLNR and OHA in regards to this application. And I would like to see that happen prior to our approving this, or at least a commitment from the developer to identify where it's going to be and how that's going to be effectuated. If, if they're not, if they're going to do away with this trail that's been here for so many years, at least back to 1954 USGS map, and I'm sure it goes further back, so if they're going to do away with this let's see the replacement and let's see it on the concept maps, so we can assure that that's going to happen.

CHAIR MOLINA: Mr. Jencks, can you comply with the request?

MR. JENCKS: I do, Mr. Chair, I, I can comply, and I, I, my presumption here is with regard to this mountain access is limited to the property I control. That's, that would be my presumption at this point. I cannot deal with access trails that may or may not connect through Ulupalakua Ranch, because I don't have any control over that land, but I certainly will address the issue within the context of the property I control. I can, I will and can address the issue with regard to the jeep trail and its significance or not, and how we're going to provide that access. I would also like to say that as a part of the cultural plan, the Cultural Preservation Plan included in that draft was the provision of access for indigenous rights. So we've already accomplished that as, as a part of that plan. So I'll be happy to provide that.

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

COUNCILMEMBER ANDERSON: Yeah, you know, I appreciate the access rights for the cultural area, but that doesn't address what I'm talking about and that is mountain access. And, you know, Members, we don't get the opportunity to implement the mandate that we have unless we have a project in front of us. And that's why it's important to address it now. And, you know, I, you know, you do have some, I believe that you do have some agreements with Ulupalakua regarding roadways; is that correct, Mr. Jencks?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: I would respond to that by saying, yes, we do have, we have an agreement with Ulupalakua Ranch that covers two issues. One issue is the, is the use and rights to the exclusion parcel which is the extension of the Piilani Highway through the property. It gives us rights on approving that access, utilities, ad nauseum. The other part of that agreement is an access right through our property from Ulupalakua Ranch for their operations both, both pedestrian and vehicular. And in the agreement there's a map that shows some options for that access. But in the end that access will follow the roads, you know, we have to facilitate that access. So we will, we will develop the rights of way and provide that access through our property from Ulupalakua Ranch down to Piilani Highway. That was the intent and we certainly will be doing that, but that's, those are the two specific areas of interest with regard to access. And it's for, the intent was for the Ulupalakua agricultural operations mauka/makai.

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COUNCILMEMBER ANDERSON: And so could we get a copy of the map showing those roadways, Mr. Jencks? What specific roadways you're talking about, because, you know, the roadway could very much, very well be this roadway that, that I'm talking about, because it's the roadway that goes up to Ulupalakua Ranch.

MR. JENCKS: I believe I provided to this, to the Chair the short form agreements for both, for that agreement. And they were provided, and I believe there's a map in there that shows, at the time when those agreements were entered into, where those access points would be.

COUNCILMEMBER ANDERSON: I've never seen a map. So if, if we --

CHAIR MOLINA: Yeah, we'll have Staff try and locate it.

COUNCILMEMBER ANDERSON: --we could find it. And in the meantime if you could just provide the map, Mr. Jencks, it would be helpful --

MR. JENCKS: Sure.

COUNCILMEMBER ANDERSON: --because I've been through all these agreements and there's no maps. They're all talking about, you know, if there's any specific reference to anything it's, it's a metes and bounds. And, you know, metes and bounds don't tell us anything.

MR. JENCKS: Well, what I, what I would say to that is certainly I'll, I'll provide the maps that we had at the time when the agreements were, were entered into, but you must remember that those may not in the end be the actual alignments of the access.

CHAIR MOLINA: Mr. Jencks, if at all possible, at some point if you could assist Staff with dates of that, that, those documents.

MR. JENCKS: I'd be happy to. Absolutely.

CHAIR MOLINA: That would help us locate if faster. Okay. Thank you, Mr. Jencks. All right. Members, so I guess if there's no other questions for Mr. Jencks, do we have any questions for the Department? Mr. Medeiros followed by Member Anderson.

COUNCILMEMBER MEDEIROS: I just have a, maybe a request to Member Anderson. She provided us with this letter from the Maui Meadows Neighborhood Association, and, and the discussion was on whether the 200 foot buffer, 100 foot buffer, 50 foot buffer was what the association was talking about. The only thing about the letter is that there are three operative words in here. The first sentence the word is "asked." The second sentence is "request." And the third sentence says "discussed." There's nothing in here that says anything was confirmed or agreed to. So I was wondering if the association could provide the entire literature that they are describing in their letter, because they only take an excerpt and print --

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CHAIR MOLINA: Yeah.

COUNCILMEMBER MEDEIROS: --the 200 foot buffer was discussed, but it doesn't indicate any consensus or agreement on that. So if that could be provided in its entirety as far as the literature that would be helpful.

CHAIR MOLINA: Okay. I think that's a very good request, Mr. Medeiros. I believe the current president of the organization is Madge Schaffer. I don't know who, I guess according to Mr. Jencks the, the meeting was in 2001, and I don't know if Mr. Jencks can recollect who was the chair at the time. But I do agree I think we need, we do need more clarification and maybe through Member Anderson's assistance, or we could contact Ms. Schaffer, and she could, they could look at some of the past documentation to confirm or to help us decipher which was agreed upon. Was it the 100 foot buffer or the 200 foot buffer.

VICE-CHAIR PONTANILLA: Chair?

CHAIR MOLINA: Mr. Pontanilla followed by Member Anderson.

VICE-CHAIR PONTANILLA: This is a handout that was presented to us maybe a couple years ago in regards to the landscape buffers and according to this, you know, 116 foot buffer between the homes in Maui Meadows and the homes within the project was presented to the interested parties. And this buffer includes a 50 foot landscape buffer, a single loaded road, setbacks and landscape area for a total of 116 feet. This buffer appears to be satisfactory and is a compromise between the 50 foot landscape buffer originally asked for and the 200 foot buffer discussed with the Maui Meadows Neighborhood Association. This was given to us a couple years ago, and...

CHAIR MOLINA: And who, who, excuse me, Mr. Pontanilla, who gave that to us now again?

VICE-CHAIR PONTANILLA: Mr. Jencks.

CHAIR MOLINA: Mr. Jencks, and this was from...

VICE-CHAIR PONTANILLA: I think this was part of their presentation to us, if I can recall, maybe a year an a half, two years ago.

CHAIR MOLINA: And that was for the 100 foot buffer?

VICE-CHAIR PONTANILLA: Yes.

CHAIR MOLINA: Okay. Thank you. Maybe we can find out who was Mr. McCormick as well. I mean was he a passed board member or, because he doesn't, he doesn't really identify himself. He does give his phone number, but there's no identification as to what his role is with the association. Member Anderson?

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COUNCILMEMBER ANDERSON: Thank you, Chair. First in answer to Mr. Medeiros, I believe that the letter from Mike McCormick, he is an officer of the neighborhood association, he's not the president. And I had asked, he was just someone I could get in touch with at the time, and I had asked what was the discussion between Maui Meadows Neighborhood Association, because there's all this confusion as to is it a 50 foot buffer, is it 116 foot buffer, you know, is it a 200 foot buffer. We've had all these various things. So I asked him to verify to me what was discussed. And that language that he pulled up is from the meeting that Mr. Jencks had back in 2000 with the neighborhood association. And I can, I went back and looked at the minutes to verify. And so that was what was said. And I'll, I'll bring the minutes in at our next meeting for everyone to see.

But I think that that might be superseded by a letter of March 13th, 2006, from the neighborhood association with their concerns, this is to the Council Members, and it was their understanding at that time that there will be a 116 foot landscaped buffer where all structures would be prohibited between the homes on Kumulani and the project. So they're, they now have since found out that the 116 foot buffer includes the roadway and that was not their understanding. And so that's why I was saying the other day that, you know, if that roadway is going to be within the 116 foot buffer they should at least have stunted trees, because it would impact the view planes from Maui Meadows.

And, you know, Members, we were told by the Fire Department that they wanted a 100 foot fire buffer all the way around the project and, well, specifically around the top of the project, you know, so that should there be any fire there would be protection for these residents at least with the 100 foot buffer. And I don't know that. Well, I guess we'd have to ask the Fire Department if above or with a loaded roadway that has trees and such in it would be considered a fire break. But at any rate I will over the weekend, Mr. Chair, confer with Madge Schaffer who is the president of the association, and just reconfirm what their feelings are about this and ask her to send us a letter that's very specific to the question at hand.

CHAIR MOLINA: Okay. Thank you, Member Anderson, that would be helpful to the Committee. All right. Members, so the Chair would like to move on to discuss another proposed condition by the Applicant.

COUNCILMEMBER ANDERSON: Mr. Chairman, excuse me.

CHAIR MOLINA: Yes, Member Anderson.

COUNCILMEMBER ANDERSON: Before we stopped and had questions again you were going down the line asking for consensus.

CHAIR MOLINA: Yeah, I'm sorry general consensus at least for this --

COUNCILMEMBER ANDERSON: And --

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CHAIR MOLINA: --initial...

COUNCILMEMBER ANDERSON: --and I would not agree to this unless we can have a concept map that actually identifies, you know, at least the intention of where these are going to be, and then in Phase II, because basically, Members, this issue is out of our hands if we leave it to Phase II. And, you know, I can't emphasize enough how quickly things can change once this leaves our hands. And so, I, I want to make sure that we have the concept, the idea. And, you know, as Mr. Jencks, represented us, represented to us today I think is a beautiful plan, and I want to make sure that it is secured in, in our approval by attaching this concept plan, and he also said he would get back to us and show how the pedestrian/bikeway path could be connected to the Maui Meadows Homeowner's Association. And also at this other end of the project, you know, we want to connect our communities, Mr. Chairman, not segregate them. And, you know, one of the advantages, there are going to be disadvantage no matter how you look at it. Every time you develop land there's disadvantages to the surrounding areas, and so you live with it. But let's give them some advantages to soften the blow and that is, you know, to open this space up for use for everyone on their bikes and their daily walks.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Member Baisa, any comments? So far the, the Chair is gauging this as consensus based on the condition of the concept plan if I . . .  
(inaudible) . . . , by Member Anderson.

COUNCILMEMBER BAISA: I'm pretty much in consensus, but I do understand and appreciate Member Anderson's caveat.

CHAIR MOLINA: Okay. And just to make sure it's clear to everybody. So we'll, we'll await Mr. Jencks to provide us the additional information as well as the concept plan. So, Member Johnson?

COUNCILMEMBER JOHNSON: Yes, I believe the document that Mr. Jencks is referring to from August 20th, 2007, part of the exhibits, this would be on page 29 of Exhibit C or page 14 of 16, which is Exhibit C, they actually reference, this has been part of their agreement. They talk about customary and traditional rights and practices including, without limitation, those exercised for subsistence, cultural, religious access or gathering purposes as provided for in the Hawaii Constitution or HRS. So that is stated, and then there is in a couple pages after that, I believe it's page 32, Exhibit D, one of one, it shows again, it's not a very good map, but it does show an access point. It shows Ulupalakua Ranch, Maui Meadows and their access points. So that is in the, let me look at the binder, that's in binder seven. So I think that is the document that's being referred to. So hopefully Staff will be able to take a look at it. Thank you.

CHAIR MOLINA: Okay. Thank you for that clarification, Member Johnson. All right. Members, let's move on to the next proposed condition from the Applicant. I'm looking at same column, the one right below it. If we could have Staff read that condition, proposed condition from the Applicant?

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MS. NAKATA: Yes. WCPT's proposed Condition No. 8. "That WCPT/GW Land Associates, LLC, its successors and permitted assigns shall provide construction access from Piilani Highway to the construction sites. Construction access shall be prohibited from roads within the Wailea Resort area."

CHAIR MOLINA: Okay. Members, we do have the Applicant's consultant, Mr. Yoshioka, I believe to comment on that as well. Planning Department, do you have any comments on this?

MS. SUYAMA: We have no objections to the condition. It would be prudent that any construction vehicles do not go through the other neighborhoods and come off directly from Piilani Highway.

CHAIR MOLINA: Thank you, Madam Director. Members, you want Mr. Jencks to come up to respond to any questions, or is this something the Committee feels comfortable with leaving in? Member Johnson?

COUNCILMEMBER JOHNSON: Yes, and, and because it says specifically Wailea Resort area I think the description that Member Anderson was just giving about the residential neighborhood and Maui Meadows, any of those areas, I think it's important that they also be protected so that we might expand this to say roads within the Wailea Resort area and adjoining properties so that they're not utilizing residential areas or existing roadways to access that go right through neighborhoods.

CHAIR MOLINA: So you're recommending to add the words?

COUNCILMEMBER JOHNSON: I'm recommending to expand it, right.

CHAIR MOLINA: And adjoining properties.

COUNCILMEMBER JOHNSON: And adjoining properties.

CHAIR MOLINA: Members, any objections to adding that language to the Applicant's condition?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Oh, no. No objections.

CHAIR MOLINA: Oh, okay. Members, do you want Mr. Jencks for any questions as it relates to this condition, proposed condition?

COUNCILMEMBER ANDERSON: Mr. Chairman?

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CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: Going to fast here. There is an agreement with Wailea Community Association that we asked Mr. Jencks if he could give us a copy of that agreement regarding the Kaukahi and did you give it to us?

CHAIR MOLINA: Okay. It's been in here. Mr. Jencks, he gave us a copy of the agreement. I know we've got tons of documents.

COUNCILMEMBER ANDERSON: And we haven't, I just haven't had a chance to read it yet. So, but one of the agreements that Wailea 670 requested, I mean Wailea Community Association requested is that "Wailea 670 must participate in the near term and the long term in assisting with the extension of Piilani through to Makena and perhaps beyond by paying its proportionate share of the extension costs and lobbying for the extension." Well, you know, they're under the misnomer too. DOT never intended to pay for the extension and that goes way back to the '90s, Members. That was always planned to be a cost of the developments in that area. It says, this is in 2000, "that Wailea Community Association supports your plan for a secondary entry/exit via, via an extension of Kaukahi Street; however, the main entry for Wailea 670 must be from the Piilani Highway at or near Wailea Iki Drive from day one or the main entrance must be changed to be more centrally located along the extension of Piilani. All construction, golf course, employee, vendor supplier, tour vehicles, and primary owner traffic must use the Piilani Highway entrance from day one of construction."

So that I think is where this condition is coming from. Is there agreement with Wailea Community Association and, you know, I'm fine with it the way it reads, Mr. Chairman, but, as I said, I want to see the map. The traffic consultant said they could give us a map that shows all of the interconnected roads within Wailea...*(change tape, start 2B)*...and the other thing, you know, we got to think about, Members, is that when they start the expansion of the roadway I've heard two scenarios.

The first scenario I heard was that all the traffic from Kilohana to Wailea Iki on Piilani would be rerouted down Kilohana and through Wailea to get to the resort areas while the highway is being widened, because they're going to have to blast all that rock in two big sections of the highway. And then I was speaking with Steve Goodfellow who, who was at one of the meetings the other day, and I asked him how long it would take to do that widening and blast the black rock, because his company does that sort of thing, he should know. He said probably about 18 months. And I said, well, then that's going to be 18 months of rerouting traffic? And he said, no, that we will route the traffic on one lane while we blast on the other. I don't believe that's possible. I don't think, that's a two lane road. I don't know how you can blast one lane and keep the traffic going.

So I'd like to know what the plan is, Mr. Chair, because, you know, this could have a huge impact on everybody down there. We need to know what that impact is so that we can properly mitigate it. And if that means, you know, opening up the extension first and getting that done so

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that all the construction traffic can go from Piilani straight into the, into the project which is what it looks like Wailea Community Association is asking for, then I think we need to know exactly how that's going to work. How all these interconnected roads are going to be expanded? And, you know, I'm not so sure now that what I just read you was the agreement they had in 2000 with Wailea Community Association. And now we have a letter in June of '05 that doesn't quite say the same thing, but it's not signed.

So the only thing we have connecting, you know, Wailea 670 with Wailea Community Association is this 2000 letter, which is signed by the president of Wailea Community Association and also signed by the executive manager, Michael Rosenfield for Wailea 670. This is the only thing we have. So I'd like to see, you know, you know, reserve my right to come back to this after we seen that infor..., other information, because, you know, I think it's not responsible if, if, if maybe Mr. Jencks can tell us if there's another agreement between Wailea Community Association and Wailea 670 that supersedes this 2000 letter.

CHAIR MOLINA: Okay. Member Anderson, we'll have Mr. Jencks prepare to respond.

COUNCILMEMBER ANDERSON: Because I know for a fact, Mr. Chairman, there are a lot of people in Wailea who are not happy with this.

CHAIR MOLINA: Okay. Mr. Jencks?

MR. JENCKS: Thank you, Mr. Chair, I'd be happy to comment. There are a number of agreements in place today. The one that Ms. Anderson was referencing was entered into with WCA in 2000?

COUNCILMEMBER ANDERSON: Yeah, October 19, 2000.

MR. JENCKS: And that agreement is still in effect.

COUNCILMEMBER ANDERSON: It is still in effect.

MR. JENCKS: And I might add that the agreement with Wailea Resort or A&B Wailea, which is the current ownership is different than that. That agreement is with WCA responding to their specific concerns. The agreement with A&B Wailea or at the time Wailea Resort was for the, for the use of Kalai Waa and Kaukahi Street, but still reflects that basic understanding with regard to WCA in terms of the access. We're not to be using those roads for construction access at all as an example. So we tried to follow through with that original agreement. Keep, keep and honor that and incorporate as much as we could that was specifically related to the use of both Kalai Waa and Kaukahi Street. So those are the, those are the agreements with have, and we're going to stick by those, Mr. Chair.

CHAIR MOLINA: Mr. Jencks, would you, would you be able to provide the additional information that's being requested as well?

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MR. JENCKS: I'm not, I'm not quite sure what additional information is being requested.

CHAIR MOLINA: I think the plan, Member Anderson, you're referring to.

COUNCILMEMBER ANDERSON: Yeah, let me, let me clarify, Mr. Chair. You know, we asked for the agreement, the roadway agreement between Wailea Resort Company, and I'm just going to say Wailea 670, please, it's so much easier than WCPT and Honua'ula and all that and besides, you know..., you know, Members, that's the other thing. In the agreement with Wailea Resort that, or was it Wailea Community Association you had to drop, actually it's Wailea Community Association. They asked you to drop using the name Wailea. I guess they feel it's proprietary, which may be one of the reasons why you changed to Honua'ula.

But back to the point at hand here, the agreement, the roadway agreement signed in July of 2003, on Kaukahi Street and Kalawai [*sic*], Kalai Waa Street between Wailea 670 and Wailea Resort is not the same agreement that was made with Wailea 670 and the Wailea Community Association. And so now I'm getting calls and emails from people who live in Wailea now that this agreement has come forward, mind you three, four years later, that they're upset, because it looks to them like Kaukahi and Kalai Waa are going to be major thoroughfare roads for entry into Wailea 670. And it was never their understanding when they bought there that those roads would be used as major collector roads. And so I think there's a disconnect here, and if, maybe Mr. Jencks can explain that . . . how this agreement with Wailea Resort comports with your agreement with Wailea 670 signed in 2000?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: Well, as I said earlier the 2000 agreement set forth the basic relationship between Wailea 670 and Wailea Community Association in 2000. With regard to the name issue, they just wanted to make sure that we didn't use the name Wailea to name our project. The name of Honua'ula came years later.

They are two separate agreements. The, the WCA agreement sets out specific requirements for us to limit access. It's for residents only. It was to be gated at Kaukahi, so we didn't have a lot of extra traffic coming into Wailea Resort. We specifically addressed that which is also, as I recall, mentioned in the Kalai Waa-Kaukahi Street agreement. The construction access was also specifically addressed I believe in both . . . certainly the WCA agreement.

Moving on to the Kalai Waa-Kaukahi agreement, one of the things that we agreed to in that agreement was to provide Wailea Resort a water tank site in our property for them to construct. I believe it's a 1.5 million gallon water tank which they have done to help serve Wailea Resort proper, the high level area, but also to improve the water system in Wailea. That's been done. We granted the easements, gave them the land, the water tank's been constructed. The other part of that agreement that you need to be aware of is that we also agreed to improve Kaukahi Street from the top down to Wailea Alanui to a current County standard at a time of their choosing. That road needs to be improved and repaired. It's old, it's..., both these roads are both private

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roads still owned by A&B Wailea. We agreed to not only give them the water tank site and allow them to improve it, but also we made concessions to improve Kaukahi, to improve that road.

Once again, access through that area, whether it's public right-of-way or private right-of-way is restricted. We made that agreement with WCA to respect that. We're not intending on loading any traffic on either Kalai Waa or Kaukahi Street. We're not intending to use them as collector roads. All the access for this project is intended to be from Piilani Highway at the intersection of Piilani and Wailea Iki Drive and/or as Piilani is, is extended into the project area for access into the property. Those are the intended and preferred access roads into the property.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: So, Mr. Jencks, are you saying that this agreement with Wailea Resort comports with the agreement made by Wailea Community Association?

MR. JENCKS: I think there's areas that are common to both, but they're two, but they're for two specifically different things.

COUNCILMEMBER ANDERSON: Well, I mean that's not what I'm hearing from homeowners in Wailea. Now that they've seen this agreement they think that they're roadways are going to be, have increased usage that they never intended and that this original agreement restricts. So are you telling me that that's not true?

CHAIR MOLINA: Mr. Jencks?

MR. JENCKS: I'm telling you that the WCA agreement was entered into to address the concerns of WCA in 2000 relative to construction access, limiting access through Wailea Resort for traffic from Wailea 670 and a host of other things including, I might add, our commitment to help them improve beach access points in Wailea Resort by mutual agreement. The easement agreement between Wailea 670 and, and then Wailea Resort was to provide for utility and access, controlled access from our property through Wailea Resort reflecting that original agreement with WCA.

COUNCILMEMBER ANDERSON: So then this agreement with Wailea Resort will maintain Kaukahi as a restricted private roadway that will be limited to the usage, and this is what it says: "the usage will be limited to Wailea 670 residents only with very low traffic volume. The purpose of the Kaukahi entry is for use by Wailea 670 residents for Wailea local destinations and beach access. No employee, construction, supplier, prospective sales touring, or golf course traffic will be allowed and that the access gates..." you know, it will be gated at both ends. So is, is what I just said here confirmed in your agreement with Wailea Resort?

MR. JENCKS: Are you reading from the easement agreement?

COUNCILMEMBER ANDERSON: What I just read you is from the Wailea Community Association agreement.

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MR. JENCKS: That's from the WCA agreement. I'm pretty sure that it references the same type of issues in the, in the grant of easement, limited access. Maybe not in the same words, but the intent is there. And in any case --

COUNCILMEMBER ANDERSON: Well...

MR. JENCKS: --the priority in my mind, Mr. Chair, is the WCA agreement, and we intend to honor that.

CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: Well, an attorney in Wailea tells me that it doesn't say the same thing, so I'm going to leave it at that, Mr. Chairman, and get back to it at a later date. But if..., you know, I think it's important for us to know what these agreements are. I mean we've got so many private agreements going on with this project that we're not aware of. And, you know, while we're on the subject, you know, we're supposed to be looking at the access to a recreation, or the impacts to our recreational areas and nobody can tell me that 1,400 homes down there is not going to impact our over stressed beaches already. I mean there's not enough parking. We're maxed out period. And so that was a concern that I had early on with this is that how are we going to fit 3,000 more people onto our beaches, not only down in Makena, but Keawekapu. That's the beach most of these people are going to go to. There's no more parking at Keawekapu.

And so I'd like to know what, if we could ask the developer what exactly, in their agreement with Wailea Community Association it says: "that Wailea 670 will contribute to the development and maintenance of beach access in the Wailea-Makena area. Wailea Community Association and Wailea 670 will continue to work together to solve beach access and related issues to mutual satisfaction. Well, it's seven years later, and I would think that they would have some plan by now. And I'd like to know what that plan is. Are they going to, are they going to extend the parking lot above Keawekapu? Are you going to take over some of the maintenance chores that Wailea Community Association has?"

You know, the, we have some beautiful beach accesses down there that are open to all the public and I haven't gone back and looked at the condition of zoning, but I'm pretty certain that Wailea Community Association is paying to have these beach accesses maintained and kept, kept up to a standard that Wailea feels is appropriate for their community, which is all well and good, but now they're distributing that responsibility on to somebody else, and I would like to know what it is. If, if that means they're going to be, be providing more parking, because if you don't have parking you don't have access. So if you could let us know what you really intend to do in this agreement to develop and maintain beach accesses in the Wailea-Makena area that would be very reassuring for me to know that.

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CHAIR MOLINA: Okay. Mr. Jencks, before I let you respond, again, we'll first deal with this condition as worded and, Members, you have the options of adding additional language. And maybe the consideration currently made by Member Anderson could be something that could be done as maybe a separate proposed condition as well. So, Mr. Jencks, if you can take all of that in and come back to the Committee?

MR. JENCKS: Not a problem, Mr. Chair.

CHAIR MOLINA: Okay. All right. Members, it's close to the zero hour, I guess, if you want to call it that. The Chair's going to just, would like to call, well, would like for you to think about something and call for a short recess. The Chair would like to get some feedback from you, or go check your calendars about the possibility of having an additional recessed meeting sometime next week. I'm looking at Wednesday, the 29th. And then at that meeting we could adjourn so we then could have the September 10th meeting in South Maui to allow the public to testify. So I'm going to give you guys time to think about it, a couple of minutes, and then we'll open this up again and get feedback from you as to if you would want an additional recessed meeting. Meeting in recess. . .*(gavel)*. . .

**RECESS: 11:50 a.m.**

**RECONVENE: 11:59 a.m.**

CHAIR MOLINA: . . .*(gavel)*. . .The recessed Land Use Committee Meeting of July 25th, 2007, is now back in session. It is just about high noon, Friday, August 24th. Members, the Chair prior to taking a break did ask for your input as to an additional recessed meeting next week and the Chair was considering the date of August 29th. However, during the break I did consult with several Members. I believe we have at least two Members that will be off-island that day, possibly three. And I believe we would be lucky to have bare quorum. So taking all of that into consideration, and of course when you have bare quorum anything can happen, a Member can leave and, and there goes your meeting.

So I've considered this matter, being that there's so much information that has come in, I've asked my Staff to put together a, I guess, a new matrix, but Staff will need more time obviously. So your Chair's recommendation is we adjourn today, and then we meet again on September 10th. This will give the Staff enough time to collect all of the additional data that has come in, put together a new matrix, and give you, you a little bit more time to meet your constituents on other matters as well as come up with your additional conditions or languages to the proposed conditions that we have discussed thus far. So we will go with that route. That is the Chair's recommendation. Comments? Members, we'll go down the line. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair, so your intention is to adjourn today's meeting?

CHAIR MOLINA: Yes, if we, if we adjourn, then on September 10th, then we can have the public testimony phase in Committee.

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VICE-CHAIR PONTANILLA: Okay. Fine. Thank you.

CHAIR MOLINA: And since we're on that, Members, we will go with a six o'clock start time at the Kihei Community Center on Monday, September 10th. The Parks Department has told us they can, I guess normally they shut down by ten o'clock, but I have requested, being that we may have a lot of testifiers, to go at an additional two hours. So we're looking at a shut down time of, time of maybe midnight. So the Chair's ready to go the distance, and I'm hoping that the Committee is too. Mr. Medeiros, any comments?

COUNCILMEMBER MEDEIROS: Mahalo, Chair. Yeah, I, I support your plans and your recommendations. Thank you.

CHAIR MOLINA: Thank you, Mr. Medeiros. Member Johnson?

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: Okay. Thank you. Member Baisa?

COUNCILMEMBER BAISA: No problem. That will fit in my schedule and give us an opportunity to try to get organized with all the data that's floating around. Thank you.

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

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. I think we all appreciate the break and a chance to get caught up. If I could just get a clarification. The Chair's intention is to continue to go through these conditions that are on the matrix, and then once we've gotten through with this, then you're going to be taking conditions from Members; is that correct?

CHAIR MOLINA: Well, actually we've, we've made the first pass through of the conditions. The new matrix that the Chair will, is requesting from Staff would incorporate some of the comments and suggestions that you have made from the first pass through. At the, once we get through the public testimony in Kihei, I would expect all the Members to start incorporating any additional conditions or language --

COUNCILMEMBER ANDERSON: But...

CHAIR MOLINA: --so we're at the decision making phase for some of the conditions. Member Anderson?

COUNCILMEMBER ANDERSON: Well, that's what I was asking --

CHAIR MOLINA: Yeah.

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COUNCILMEMBER ANDERSON: --because we've done a pass through but --

CHAIR MOLINA: Right.

COUNCILMEMBER ANDERSON: --a lot of these we didn't get any consensus on.

CHAIR MOLINA: Exactly.

COUNCILMEMBER ANDERSON: We just kept going because there were problems.

CHAIR MOLINA: Right.

COUNCILMEMBER ANDERSON: So we didn't even discuss the problems --

CHAIR MOLINA: Yeah.

COUNCILMEMBER ANDERSON: --but I just wanted to make sure that that was your intention.

CHAIR MOLINA: Yeah, so we'll, we'll take each condition as it comes, I mean the ones that have not reached consensus. So at that point when we discuss the conditions we have not reached consensus, that is when I would like your, you know, any Member to make proposal, additions...

COUNCILMEMBER ANDERSON: Because I have conditions that would replace some of these conditions we have here.

CHAIR MOLINA: Sure. Sure. The Chair would welcome any, your condition --

COUNCILMEMBER ANDERSON: Okay.

CHAIR MOLINA: --proposals as well as other Members.

COUNCILMEMBER ANDERSON: Thank you, Chairman. And thank you very much for, for bringing the meeting down to Kihei in, in the evening.

CHAIR MOLINA: Thank you.

COUNCILMEMBER ANDERSON: South Maui is going to really appreciate it.

CHAIR MOLINA: Thank you very much, Member Anderson. And so, Members, you have a little over two weeks to get yourselves reenergized. I know you've put on hold many of your requests for other matters from your constituents. So this is a good catch-up time for you. And get plenty of rest, and then we will continue with this matter on September 10th. So I want to thank you all for your participation. I know it's been challenging for some of us, but when it comes to family matters as well, but that's we're paid to do, and I believe all, each and every one of us, Staff,

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Corporation Counsel, Planning Department we're all dedicated people, and we want to do the best job we can.

**ACTION: DEFER pending further discussion.**

CHAIR MOLINA: So with that being said it is just after high noon. This, I guess this is the appropriate way to say it, Staff, I guess the January *[sic]* 25th, 2007 Committee meeting is...

MS. NAKATA: July 25th.

CHAIR MOLINA: July. July, I, that's why need as break too. I'm even getting my months mixed up. The July 25th, 2007, recessed meeting is adjourned. Am I correct? That's the way to say it? Okay. All right. July 25th, 2007 recessed meeting is now adjourned. . . .*(gavel)*. . .

**ADJOURN:** 12:05 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair  
Land Use Committee

lu:min:070824r

Transcribed by: Jessica B. Cahill

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CERTIFICATE

I, Jessica Cahill, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED 10th day of September, 2007, in Wailuku, Hawaii

  
Jessica Cahill