

LAND USE COMMITTEE
Council of the County of Maui

MINUTES

September 17, 2007

Council Chamber

RECONVENE: 4:30 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member
Councilmember Gladys C. Baisa, Member
Councilmember G. Riki Hokama, Member (Arrive 4:41 p.m.; Leave 5:33 p.m.)
Councilmember Jo Anne Johnson, Member (Arrive 4:42 p.m.)
Councilmember Danny A. Mateo, Member (Arrive 4:42 p.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael P. Victorino, Member

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

Morris Haole, Executive Assistant to Councilmember Bill Kauakea Medeiros
Jock Yamaguchi, Executive Assistant to Councilmember Michelle Anderson

ADMIN.: Clayton Yoshida, Planning Program Administrator, Current Planning Division, Department of Planning
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Charles Jencks, Owner's Representative, Honua`ula Partners, LLC
Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc. (Applicant's entitlement consultant)
John Ford, Program Director/Senior Biologist, SWCA Environmental Consultants
(Applicant's flora consultant)
B. Martin Luna, Esq., Carlsmith Ball, LLC (Applicant's attorney)
Kimokeo Kapahulehua

Joyclynn Costa
Additional attendees (10)

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

CHAIR MOLINA: . . .(*gavel*). . . The recessed Land Use Committee meeting of September 10, 2007 is now back in session. Today is Monday, September 17th, 4:30 p.m. For the record, we have in attendance

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

Members Anderson, Baisa, Medeiros, Pontanilla, Victorino, and Molina. We are still awaiting the arrival of Members Mateo, Johnson and Hokama. We have the Committee Staff here present for us. We have Legislative Analyst, Carla Nakata, as well as Committee Secretary, Tammy Frias. And we have from the Corporation Counsel's office, Mr. James Giroux, and from the Planning Department, Mr. Clayton Yoshida.

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

CHAIR MOLINA: Members, at our last meeting, the Chair requested that we have a discussion related to three conditions being proposed by the applicant, which is located on Pages 14 and 15 of your matrix. The first of which is the transfer of ownership and then the dry land forest issue, or condition, proposed condition and the land contribution for fire and police. The Chair is aware that several of you do have an evening commitment regarding, I guess a meeting over here in Central Maui regarding proposed housing. So the Chair is aware of that, so by our Land Use Committee standards, we will have a short meeting. So we're looking at about maybe an hour to an hour and a half at the most. So the Chair is totally sensitive to your needs with meeting with your constituents on other matters, as well. So, again, I will ask the format will be for today, again we will have the Department give their comments on the applicant's condition and then we will have a Q&A with the Planning Department, as well as the applicant who has made himself available once again for your questions. So, we will proceed in that fashion. So please be direct with your questions. Keep your commentaries to a minimum because of the fact that some Members do have to leave so let's proceed in that fashion.

And joining us, we have Members Mateo and Johnson. Welcome to our meeting. Okay. All right, we will, I'll ask Staff right now to look at the condition first related to the transfer of ownership. Ms. Nakata, could you read the condition for the Members and after that I'll have Mr. Yoshida from the Planning Department give his comments.

MS. NAKATA: Yes, Mr. Chair. Applicant's proposed Condition No. 15 that WCPT/GW Land Associates, LLC its successors and permitted assigns shall notify the Department of Planning and the Council of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Wailea 670 project prior to any development.

CHAIR MOLINA: Okay, thank you, Staff, and again as an FYI, Members, the WCPT/GW Land Associates, LLC is to be changed to Honua'ula Partners, LLC. Mr. Yoshida from the Planning Department, can you give your comments as it relates to this condition?

MR. YOSHIDA: We have no comments.

CHAIR MOLINA: Okay, if you look at our matrix, your Department--I don't know if you have a matrix available, Mr. Yoshida?

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

MR. YOSHIDA: Yes.

CHAIR MOLINA: If you look at the far right column it mentions in there clarification of the conditions should be provided as to the intent and so on. Can you give additional comment on that as to, you know, why, or give us the nexus as to why you folks made this comment as it related to the applicant's proposed condition? I understand Ms. Suyama might have been the one giving these comments. Are you able to give us further, I guess clarification, as to why the Department made these comments?

MR. YOSHIDA: We don't have any further comments regarding what is listed in that column. We just wanted clarification as to the intent and purpose.

CHAIR MOLINA: Okay. Staff, for the public's information can you read the Planning Department's clarification of the proposed condition?

MS. NAKATA: Yes, Mr. Chair. Clarification of the condition should be provided as to the intent and purpose it will serve since it will be deemed fulfilled once notice is given. Is such notification limited to transferring the entire Honua'ula/Wailea 670 project to another entity or for each individual site that may be created? As a large project, the Department and County Council may receive numerous notifications of transfers especially since it includes leases. As written, each time a lease is executed, the applicant is required to notify the Department and the Council.

CHAIR MOLINA: Okay, thank you, Staff. Okay, Members, the Chair will open the floor for any questions you have of the Department first and then once the questions for the Department have been exhausted, we will call on the applicant to respond to any questions you may have. Member Anderson?

COUNCILMEMBER ANDERSON: I don't have questions for the Department, Mr. Chairman, but I do have a question for Corporation Counsel at the appropriate time.

CHAIR MOLINA: Okay. Members, any other questions for the Department? If not, I will recognize Member Anderson's question for Corporation Counsel. Seeing none. Member Anderson, you may proceed and ask Mr. Giroux your question.

COUNCILMEMBER ANDERSON: Thank you Mr. Chair. You know, Mr. Giroux, were you at the meeting in, in Kihei the other night?

MR. GIROUX: Chair?

CHAIR MOLINA: Mr. Giroux?

MR. GIROUX: I was there for the early part of it, I believe the first twenty-five testifiers.

COUNCILMEMBER ANDERSON: Did you hear Ms. Costa give her presentation to the Council with the heirs to people who own royal patents in this area?

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

MR. GIROUX: No, I, I don't believe I heard that testimony.

COUNCILMEMBER ANDERSON: Have you prepared a response to my request regarding clear title and whether or not a warranty deed is suffice, is sufficient for clear title?

CHAIR MOLINA: Mr. Giroux?

MR. GIROUX: I don't believe I've gotten a written request to comment on the title. I believe you did have some questions at one of the meetings regarding that.

COUNCILMEMBER ANDERSON: And Mr. Chair, there, there has been no written request for that information?

CHAIR MOLINA: Let me consult with Staff. Ms. Nakata, have we been able to send out a written request to the Corporation Counsel related to Member Anderson's request?

MS. NAKATA: I don't believe a request went out. I believe at the time, if my memory is correct, at the time the question came up, we had a preliminary title search document and we subsequently got the warranty deed reflecting the new ownership. So no request went out following receipt of the warranty deed.

CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: Well, that's just the problem, Mr. Chairman. A warranty deed is only a color of title. It's not a clear title. And, you know, I think that we need to respect the, the heirs of the royal patent who came forward and pleaded their case to us. And we need to have a title examination that shows the links from the time of the royal patent to today. A warranty deed only says that if I have any title, I'm transferring it to you. How is that clear title? How is that proof of ownership and why should we be entitling land that may not belong to these people? You know, a warranty deed is not clear title.

And, you know, I'm sorry that this, this is the time and this is the place to force this issue, but it's time to deal with it. And if the County is going to be entitling land that cannot prove legal ownership then shame on all of us, because, you know, for the considerate. . . a warranty deed reads . . . You know, it just says for considerate, for, for a dollar, and other considerations, we are transferring ownership to you based on this exhibit. And, and the exhibit lists various parcels. And it says on the warranty deed that we are transferring title to you for this, if, for, for, for these parcels. And, and it doesn't necessarily say that they have the ownership of it. It says that they have, they, they have the right to transfer this ownership for these parcels if they own any of them. How is that clear title? And I'm looking at this and there's all these royal patents involved and all these heirs came forward. They have a right to have their, their claim heard and, and that this is the body to do it, because they're asking us to entitle this land.

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

You know, Members we have to remember that the Supreme Court gives Native Hawaiians access rights to practice their, their culture on property that is undeveloped. Once the property is developed, that extinguishes their rights. And so, by us entitling this property, we are extinguishing their rights. I, I can't in clear conscience do that. And, and I understand from the testimony we heard the other night in Kihei--excuse me--that Mr. Jencks promised a group of young Hawaiians, that he would produce a title examination. And, and I think we need to see that. And I think he needs to do it. And I would think that his investors would want him to do it too, because we're wasting everybody's time here if this gets challenged down the road. And, and, you know, we're required, we are required by our Change in Zoning application requirements to have ownership, clear ownership expressed and . . . I don't, I don't see that we have clear ownership here.

So, you know, we were told sometime ago, when we had a discussion on clear title. Mr. Kushi was sitting in as Corp. Counsel at that time. And he said that a certificate of clear title is needed before a subdivision can commence. So why isn't it necessary before we give entitlement?

CHAIR MOLINA: Let me ask. Mr. Giroux, are you able to respond to Member Anderson's question?

MR. GIROUX: Thank you, Chair. As far as, I don't know how far you want me to go into this, Chair, but I'll try to give you a nutshell as far the, the power of zoning that's in a, a municipality is given to it in several ways. The Supreme Court of the United States has stated in, in the case that we normally call it Euclid that municipality does have an interest in health, safety, and welfare of its people to zone properties in order to clarify their uses and to separate non-appropriate uses.

Basically, in Hawaii, what we have is, we have the State laws that under the HRS, Chapter 46, I believe, that allows the Counties or municipalities to zone lands that are, have been converted or have been designated as Urban. Under those powers, the Maui County Code allows this body to, to zone property. Within the Code, you, there is a requirement that an applicant show or submit proof of ownership. As far as zoning goes, zoning is a legislative act, and the County or municipality does have the power to zone properties that it, itself doesn't own in that the Charter allows the Director and the Council to submit changes in zonings to properties that in and of itself, the County does not own. That being said, that this County does require some form of proof that somebody who's filing for an application have some authority to ask for, for that.

I think in the past, that as far as zoning goes, this body has always taken a warranty deed to be sufficient proof to proceed with acts of zoning. Subdivisions, I'm not that familiar with subdivision, however, I believe that there are certain requirements that clear title be shown at that stage. There are, there are other venues in order to look at title, not necessarily the zoning procedures, but within the Circuit Court, if somebody wants to challenge title, they can take a claim in the Circuit Court and request the courts to determine title. There's also procedures of doing title searches and trying to get insurance, I guess is the other form of trying to solidify one's ownership over property that they have claim for. So, in a nutshell, Chair, I think that about covers it.

CHAIR MOLINA: Okay. Member Anderson?

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

COUNCILMEMBER ANDERSON: Well, I don't think it covers it at all, Mr. Giroux. I mean, we are responsible in making sure that the person who is, who is processing this application on this 670 acres has a legal or equitable interest in the land. And, a warranty deed does not give them clear title. So, I don't know how you can, maybe in the past that that's the way the County has operated, but we're dealing with a whole new ball game. We're dealing with educated Native Hawaiians who want their rights respected. And they have done a lot of research to find these royal patents are still effective and still, still give ownership to this land to the heirs.

And unless, Wailea 670 can show clear title, then I don't know how we have any proof of legal or equitable interest in the land because the chain of title has been broken and we need a title examination to show that they indeed have clear title. And, so, you know, if this body wants to continue to convey interests, valuable monetary entitlements to property that isn't clearly owned by the person presenting the application, then I think that we are turning our backs on our responsibility to make sure that we have clear title. It's, it's the applicant's responsibility, Mr. Chairman, to prove to us that they have clear title. It's not our responsibility.

You know, everything about this application has been incomplete. We're spending valuable Council time trying to get the information so we can make an informed decision, because the information was not presented in the application. Councilmember Carroll tried his best during last term to get the applicant to be forthright and give us the information we need so that we know we're operating under the rule of law, which this body adopted. And till this day, we still don't have adequate information.

I don't know if any of you have been following the responses that we've been getting, but they're inadequate responses, Mr. Chairman, they've, he's not giving us the information that we're asking for. So, I would like to ask if Mr. Jencks can produce a title examination so that he can prove to us that he has clear title and, and that, his investors have a legal and equitable interest in the land. And, and because this is an important issue, Mr. Chairman, and you might as well face it, we're going to be facing this from here on out, because we have educated people who know what their rights are and they're demanding their rights. And are we just gonna, you know, disrespect them and ignore it, or are we going to respond and, and say a warranty deed isn't enough for ten dollars and other considerations?

Who's kidding who? We need clear title. We need a title examination so that, you know, these, these preliminary title reports aren't worth the paper they're written on. And I would venture to guess the warranty deed isn't either, especially if somebody wants to go and challenge it in court, but, you know, that's after the fact, Mr. Chair. We're here and now, today, trying to make a decision, trying to follow the rule of law, and, and the applicant is saying this should be good enough. I don't think it's good enough. I'm certainly not going to be able to go to sleep at night knowing that, that we entitled somebody to use land that they don't have clear title on.

So, maybe, as I was going to say, before Mr. Jencks comes down, I think that we need to have Corporation Counsel, if you would please write a letter requesting this, and, and I'm, I'm being specific, Mr. Chairman, we need a title examination. A title examination will show clear links that this owner has

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

a right because all the owners previous signed off. And that is a title examination, and that's what clear title is, and we don't have that. So, I think we need a written opinion on this, Mr. Chairman. We need a written opinion, we need case law to support the opinion, so that we have some confidence that we're doing the right thing. And, in the meantime, if Mr. Jencks would like to come down and address the promise that he made about doing a title examination, I would appreciate it.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Before we continue, the Chair would like to recognize Member Hokama to our proceedings today.

Just a quick question for Corporation Counsel, the Land Use Committee when it comes to title challenges and based on what's on our agenda, are we the body that makes the decision on title searches? I, I, you know, I just want, I guess the simple answer would probably be "no" if any, if there's any challenges to legal title, that would, I guess obviously go to court, but based on what, what's on our agenda, do we make that determination? Mr. Giroux, are you able to comment? Just, just so the public understands what our role is here.

MR. GIROUX: Chair?

CHAIR MOLINA: Mr. Giroux?

MR. GIROUX: I, as I stated before, the, basically we're looking at Title 19 as far as what, what is the contents of an application. If, if the body is, if the body is okay with the information that is, that is provided for in the application, then it's the purview of the Council to basically decide whether or not the application is sufficient. So, it, it does come under the legislative powers of this body to, to make that determination as far as what it's comfortable with as far as the need to have the title. I, I think it would be good to know if, you know, just to clarify the issue is, is there a pending lawsuit that has been put forth in the Circuit Court in order to move this issue forward, in order to clarify whether or not there is actual challenges to the title itself. That might be something that may be useful to know in this type of situation.

CHAIR MOLINA: Uh huh. So I guess, in essence, my answer, well, my question regarded do we play judge and jury with title ownership in this Committee? Is it our responsibility?

MR. GIROUX: Well, if, if, if the documentation that you look at is insufficient, you're not the ultimate authority. I, I believe that's the question, if you're the ultimate authority. I, I believe title can be challenged at any time and title can always be challenged. Every homeowner on this island owns, or who owns a home has a warranty deed and they also have purchased insurance that basically tells them that the insurance company will defend them in court if they are challenged. So, you, you have people who have bought property, built homes, and their title can always be challenged at any time. So, title is, is something that the courts deal with as far as deciding ultimately the, the owner of a property.

CHAIR MOLINA: Thank you, Mr. Giroux. Mr. Yoshida, follow-up. When a person, a landowner comes in with an application such as something like this, a large-scale proposal, does your Department look at the

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

issue of title ownership to try and verify? I mean, is it part of your responsibilities to ensure that there is title ownership?

MR. YOSHIDA: Mr. Chair, Members of the Committee, I believe we just look for some sort of proof of ownership, but we don't, we don't necessarily do any kind of title search or anything like that.

CHAIR MOLINA: Unless, if there's something, there's a red flag that pops up then you would maybe refer that to Corporation Counsel or for an opinion?

MR. YOSHIDA: Yes, we may.

CHAIR MOLINA: Okay, thank you.

COUNCILMEMBER ANDERSON: Chair?

CHAIR MOLINA: Member Johnson followed by Member Anderson.

COUNCILMEMBER JOHNSON: Yes, and, I, I know and perhaps, Mr. Giroux, you weren't here when the issue of the Pioneer Mill land that is on Lahainaluna Road came up, but a very similar issue occurred where there was a cloud on the title of the land that we, as a County, were accepting. And it became a very contentious issue because we were trying to make a determination whether or not if heirs and assigns came forward, and we had a building that had actually been constructed on land that they had some interest in, we were concerned about it. So, while we accepted the, I guess, donation from Amfac, at that time, what ended up happening was, we very specifically made sure that no building was constructed upon that land and we provided proper language that stated if at any time any heirs and assigns did come forward, they would be justly compensated or we would deal with it, but specifically, we knew and Amfac knew that they could not get clear title.

In fact, we have issues all over the West Side. So, I guess what, from my perspective I agree with Member Anderson, that if this is something that is a growing concern, and obviously the people that came forward did so in good faith and appealed to us as their representatives to actually look at the law and see that everything was as it should be. So, I believe in this case, it is incumbent upon us to look very carefully at all of the challenges that come forward. Where as in the past, it may have been practice, it may have been acceptable, but as Member Anderson said, these are people that have gone to great lengths to do their due diligence and if that is the case then, it's incumbent upon us to apply a similar standard when we looked at what we got from Amfac, we made those challenges. We erred on the side of caution and we said look, we don't want to be guilty of building on someone's land when we can't make a clear determination as to who those people are.

So, if we can apply that kind of standard and that type of rationale to looking at what we're doing, then I think that in my view we should apply a similar standard to looking at what other people are doing. So, that's my take on it and for whatever it's worth, I think that, as Member Anderson said, we're going to have to deal with it sooner or later and because we've already dealt with it in our own situation, with

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

taking property on which there was a cloud of title, we, we made a very strong statement by simply not building on the site where the senior center is in West Maui now. So, I use that as a further justification that these questions are appropriate for us to ask. We were asked, these are our constituents, while they may be a minority of people that are asserting their rights, they are a very important minority, because if they are the title holders or they can form a legal challenge, I do not want the County to get embroiled in that later on. Thank you, Mr. Chair.

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

COUNCILMEMBER ANDERSON: Yes, thank you, Mr. Chair, and thank you, Ms. Johnson. And no disrespect to you, even though they are a minority, they are a minority in their own homeland. They are the host culture, Mr. Chairman, they de . . . , they, they deserve the utmost respect in our deliberations. And if we're going to entitle land that doesn't have clear title, I want you all to realize what you're doing. You are extinguishing the Native Hawaiian rights. And we should not force them to have to go to court and challenge this after we put all this work in. So, we need to have clear title and, you know, we've already been put on notice. They all came forward in front of us, last Monday night, and put us all on notice, that we are the legal heirs to this land, or at least portions of it. And, a warranty deed is not clear title. . . .(end of tape, start 1B). . . this applicant's right to come before us on that warranty deed. And you know what, before we brought the issue up, we were using a preliminary title report to substantiate his right to process this in front of us. That's unbelievably sloppy. Our requirement for this application, 19.510 "General Application Procedures", any department or agency or any person having a legal or equitable interest in property, or person acting as authorized representative of the person having a legal or equitable interest in the land may file an application, and on and on. Well, I don't think we have proof of legal and equitable interest, Mr. Chairman. It's very clear that a warranty deed is not clear title, so how can that be proof of legal and equitable interest?

This Council, Members, back in 2001, actually passed a bill requiring that the County only accepts real property that, with good title. It got sent back to Committee because Public Works was concerned it would, it would foul them up in accepting roadway dedications. So it got sent back to Committee for that purpose, but the Committee Chairman never brought it forward again. It passed first reading, I have a copy of it right hear, if anybody wants to see it. It passed unanimously. Alan Arakawa, Bob Carroll, Riki Hokama, Jo Anne Johnson, Mike Molina, Wayne Nishiki, Charmaine Tavares and may rest in soul, Patrick Kawano. It says, and this is only in response to the County acquiring real property, but the language applies. The County shall not acquire real property unless the Director of Finance and Corporation Counsel certify in writing that the conveyed interest constitutes good title, provided that this certification requirement may be waived by a two-third votes, two-third vote of the Council's entire membership. That's not easy to do. And then it says, in quotes, "good title is title that is free from any present litigation, obvious defects, or reasonable doubts concerning its validity or merchantability, merchantability". That's a word I have never pronounced, so, I think you know what I mean, merchantability. Free of obvious defects or reasonable doubts.

Well, we had at least ten Native Hawaiians come before us last Monday night and tell us, I'm a descendent of royal patent holders. And, I want to read off some of the names, but, royal patent holders

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

on this property, Mr. Chairman, and are we just going to ignore that? To me, that's, that's, an obvious defect. And, if, if Mr. Jencks, cannot provide a title examination to erase any doubt, it says here, reasonable doubts concerning its validity. Well, I certainly have reasonable doubts and I think all of us here should have reasonable doubts. And, you know, why can't they give us a title examination? I mean, that's standard, if you want to show clear title and I think we need to require it. And if they don't have clear title, then go clear it up. And, and if these heirs of the royal patents do not want to sell their property to Mr. Jencks and his investors from New York City, then I guess they'll just have to parcel out those royal patents out of the 670 acres and reconfigure their project accordingly. But, I for one, am not going to let them destroy land that's been just fine for the last however many thousands of years it's been sitting there untouched, if they don't have clear title. So, if Mr. Jencks could come forward and give us some assurances that he's doing a title examination and that we could expect that forthcoming.

CHAIR MOLINA: Will do, Member Anderson. Members, any other questions before I call upon Mr. Jencks? Mr. Jencks?

MR. JENCKS: Mr. Chair, good afternoon.

CHAIR MOLINA: Good afternoon.

MR. JENCKS: Okay, in response to the question, I'd be happy to provide whatever it is I can develop or the title company can develop to demonstrate that we have clear, unambiguous title to this land.

COUNCILMEMBER ANDERSON: So . . .

MR. JENCKS: Whatever it is we can, we can dig out, we can provide, which is a matter of standard practice, be happy to do that.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: So, that would mean a title examination that shows a clear chain of title?

MR. JENCKS: If that's what it shows, that's what it shows.

COUNCILMEMBER ANDERSON: And if it doesn't show that, then you're going to have a problem, Mr. Jencks, but that's what the title examination is suppose to do, and so you're telling us you can provide that? I want to make it very clear that, that's what we expect to see.

MR. JENCKS: I, I would . . .

COUNCILMEMBER ANDERSON: The whole chain of title.

MR. JENCKS: I would recommend you put that in a letter to me, Mr. Chair, as quickly as possible. I would happy to get on it right away. I can tell you that we do have title insurance on this property and that is

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

an indicator, based upon my limited education in this process and trying to understand it, that is a key indicator that we have unambiguous, uninterrupted title of this property, but we'd be happy to go through the process and demonstrate that.

CHAIR MOLINA: Okay. Thank you, Mr. Jencks. Any other questions for Mr. Jencks as it relates to this proposed condition from the developer. Seeing none. Thank you, Mr. Jencks.

MR. JENCKS: You're welcome.

CHAIR MOLINA: So Staff will send a letter out to you.

COUNCILMEMBER ANDERSON: And also, Mr. Chair, if we could get a letter to Corp. Counsel.

CHAIR MOLINA: Okay. Staff will make note of that.

COUNCILMEMBER ANDERSON: Because, I mean, I think we need to deal with this once and for all. And, you know, we attempted, this body attempted to do this six years ago. And, as I said, we already passed this bill with this definition of what good title is approved as to form and legality by Corporation Counsel. Good title is title that is free from any present litigation, obvious defects, or reasonable doubts concerning its validity or merchantability. So, that's what we need to see, Mr. Chairman, and, and, you know, I'd like, I'd like Corporation Counsel to, I mean, this is, this requires certification from Corp. Counsel, so, you know, James Takayesu was our Corp. Counsel at the time and he signed off on this and, you know, I'd like to know what, how you can certify, and I, I don't want any kind of title insurance? You know, title insurance is, means nothing to me. That's a private contract between two people. It doesn't have any kind of legal standing as far as proof of ownership. It's just saying if somebody challenges you and you've transferred this property based on our title report, which is an incomplete record of title, then, you know, we'll pay you back your \$26,000 an acre. You know, it, it, it doesn't give, give us any assurance that they have clear title, whatsoever. And, I'd like to see for once and for all a legal opinion from Corp. Counsel addressing these exact issues -- to a title examination, what we have to see for clear title. And--excuse me--I don't care what's happened in the past, I don't care that anybody out there that holds land right now could be challenged, that's not the issue before us.

The issue before us is 670 acres that is wholly undeveloped and that we know of at least ten people who claim ownership rights under the royal patent. To me, that's a reasonable doubt and for us to ignore that, shame on us, Mr. Chairman. This is the host culture. Haven't, hasn't enough of their land been stolen already? This is a group who is at the lowest socioeconomic step of the ladder in Maui County. Since Western man has stepped in and taken over, from being the top of the ladder, they're at the bottom of the ladder. And why is that, Mr. Chairman? Because Western man has not respected their rights to ownership and I think it's time we do. You know, the apology bill came right out and said it, their lands were stolen. Now, you know, it, it's, it's particularly offensive in this situation because we have undeveloped land and the Native Hawaiians still have PASH rights to access this land at any time. But the minute we give entitlements and they begin building on the land and the land is no longer undeveloped, those rights are extinguished. That means we're extinguishing the rights, so we better

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

make sure that they have clear title and that the Native Hawaiians who claim rights to this land as heirs to the royal patents . . . people, look at the warranty deed. It lists one royal patent after another. So how can we ignore it? Now is the time, Mr. Chairman, to make things right.

CHAIR MOLINA: Okay. We will get, ask Corporation Counsel to give us a written opinion in the near future, as soon as they can provide something for the Committee on that regards and we'll honor your request from Staff.

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

CHAIR MOLINA: Okay. All right, Members, let's move onto the next proposed condition from the applicant. Staff, can you go ahead and read that for the Committee.

MS. NAKATA: Yes, Mr. Chair. No. 24 that WCPT/GW Land Associates, LLC, its successors and permitted assigns, shall submit a conservation and stewardship plan for the propagation of native dry land forest plants within the project for approval as part of the initial Phase II application.

CHAIR MOLINA: Okay, Mr. Yoshida, from the Planning Department, can you give us your comments?

MR. YOSHIDA: Yes, Mr. Chair, Members of the Committee, the Department wanted clarification as to the agency approving the plan. Is it the Department of Land and Natural Resources or the Fish and Wild, U.S. Fish and Wildlife Service?

CHAIR MOLINA: Okay, thank you, Mr. Yoshida. Committee Members, questions for the Department or for the applicant at this point? Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Clayton, this is the area that your commenting on that is just a small area that's proposed for preservation, is that correct?

MR. YOSHIDA: Yes, I believe so.

COUNCILMEMBER JOHNSON: So, did you have any thoughts or comments when we were being given testimony by Mr. Altenberg and others as to the larger area and the mitigation plans or the preservation plans for this much wider area, or were you just looking at your comments on the proposal, as opposed to what was being asked for from the general public?

CHAIR MOLINA: Mr. Yoshida?

MR. YOSHIDA: Yes, I believe we were commenting on the applicant's proposed condition.

COUNCILMEMBER JOHNSON: Okay. Having heard some of the concerns expressed by both Mr. Altenberg, as well as others in the community who are familiar with a lot of the endangered species and other plants

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

that survive only in this area, do you have any commentary to make in support of a preservation of a larger portion as opposed to just the small little parcel that's to be a part of their, this plan?

CHAIR MOLINA: Mr. Yoshida?

MR. YOSHIDA: I don't have any thoughts regarding the application to the wider portion. I would probably leave it to the agencies that would have that purview, whether it be the Department of Land and Natural Resources or the Fish and Wildlife Service.

COUNCILMEMBER JOHNSON: Okay. And with regard to those two agencies, because I know at times staffing is a concern, is there any way that you would recommend we have an outside organization, you know like a stewardship type organization, that is familiar, such as Outdoor Circle, or, I know there's, Anna Palamino and Mr. Art Medeiros, they are part of a group of individuals who really look at stewardship and propagation of plant materials. Would you say that, that could be something that your Department would also support as an additional consideration?

MR. YOSHIDA: I believe we would respect the opinion of the public agencies approving the plan, whether it be the Department of Land and Natural Resources or the Fish and Wildlife Service.

COUNCILMEMBER JOHNSON: Okay. Mr. Chair, having heard Mr. Yoshida's comments, I tend to disagree a little bit because I think that U.S. Fish and Wildlife and DLNR, they've, they're basically agencies that have so many things on their plate, that a lot of times when you look at a stewardship plan or you look at the implementation of the plan, oftentimes I've seen governmental agencies not have the, the staffing or not even have the financial wherewithal to be able to look at these. And over time, I mean any plan that you put forward is only as good as the ability of the general public or even the enforcement agencies to really see that it is implemented and that all of the plans that were proposed are really being followed. So, that's where I have a difficulty.

I also have a difficulty in that the proposal from the applicant in my view, it doesn't really preserve. It's taking out of any potential preservation a huge amount of land area and I believe that Mr. Altenberg really made a very good point when he said that this is the last remnant or the last possible remnant where we're really going to be able to preserve something in the past so I would be inclined, at least as far as this particular measure goes, when you're looking at the over arching, I guess, philosophy behind this, if I'm looking at the plan that's been provided by the developer, it's not adequate in my view. And when I look at the agencies that would actually be approving the plan, I just feel that there are other entities that should be included in this because I believe their stewardship is from a different perspective, it's from a public perspective, it's from historical works that they've done. And I know Mr. Medeiros and also Anna Palamino and Mr. Silva, they've done a great job in terms of what they have really tried to perpetuate. So, I would say this for me is not adequate. Not only is the area that's being preserved not adequate, but the oversight should also be by a third-party non-governmental agency so that we, the public, can be assured that everything that was promised would be done. Thank you.

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

CHAIR MOLINA: Thank you, Member Johnson. I think that's a reasonable suggestion. Having, I guess more, a local entity right here to oversee it, for example, such as, I could use one example like say, either an Outdoor Circle or Na Kupuna O Maui. I guess an agency that's more in touch or a group that's more in touch with us, because as we know we heard with what happened with SHPD and their understaffing. So it's difficult for an agency that's off island to provide full monitoring, so I think that's a very reasonable request to include in this proposed condition.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. I'd like to draw attention, Members, to what the condition actually says, "that WCPT Land Associates, its successors and permitted assigns, shall submit a conservation and stewardship plan for the propagation of native dry land forest plants within the project for approval as part of the initial Phase II application". That doesn't talk anything about preserving what's there. It talks about propagating native plants. So we're just going to let 'em destroy everything that's already there and then propagate what they've already destroyed. It makes no sense at all.

I want you guys to understand that the, the application requirement says, "identification of environmentally sensitive areas, habitat and botanical features, which include, but which are not limited to wet lands, streams, rock outcroppings, endangered plants and animals". This place, this 110 acres in the southern portion, the a'a flow, with all the native plants and all the wiliwili, it's full of endangered plants and exceptional trees. You saw the pictures of the wiliwili trees. Some of the only remaining wiliwili trees that have any hope of survival because they are so ancient and because where they are, they have been able to survive the gall wasp. "If applicable, a baseline study and preservation and mitigation plan and comments from the Department of Land and Natural Resources of the State and the United States Fish and Wildlife Service and the United States Corps of Engineers". You know what, Mr., Mr. Chair, what they submitted with their application was a very cursory review done in 1988 for the EIS they did for the Community Plan Amendment. 1988, nineteen years ago.

We've already seen the GPS citing of all the native plants that Dr. Altenberg provided for us. We've already received letters from other botanists, who say that, why destroy something? We're spending millions of dollars statewide to try to restore the same native plants that they want to destroy to put in a golf course. We need to have Dr. Altenberg's review submitted to DLNR and U.S. Fish and Wildlife and get their comments on that, Mr. Chairman, because that is an adequate review and we've had letters from many botanists backing us up. Now, what time are we going to quit, Mr. Chair?

CHAIR MOLINA: Six o'clock. I was hoping we could spend a few more, some more, a few more minutes on this and move onto the last condition.

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

COUNCILMEMBER ANDERSON: Well, I, you know, what I've got to propose here is going to take more than a half hour, and I don't want it, to, you know, pass all this out and then have to go over it again on, when we meet again on Wednesday.

CHAIR MOLINA: Yeah, yeah.

COUNCILMEMBER ANDERSON: But. . .

CHAIR MOLINA: We can save it for Wednesday, Member Anderson.

COUNCILMEMBER ANDERSON: If you'd like to do that, I would appreciate --

CHAIR MOLINA: Yeah.

COUNCILMEMBER ANDERSON: --it, Mr. Chairman, because I, I can't get through this in a half hour and I have documents here that I want to pass out and go over with everybody. And then, you know, then we adjourn and it's all wasted effort and time that I'd have to repeat on Wednesday. So, if you could defer this to Wednesday, I'd appreciate it.

CHAIR MOLINA: Yeah. We will, we do intend to have a long afternoon and possible early evening on it, so, I'll give you the opportunity to --

COUNCILMEMBER ANDERSON: Thank you.

CHAIR MOLINA: --further elaborate on that. Members, I'm going to give Mr. Jencks an opportunity to give a few comments if he chooses to do so on this proposed condition. Mr. Jencks, do you, would you like to comment on this today and give you a couple, give you about five minutes, Mr. Jencks, and then we're going to move on to the last proposed condition that you have.

MR. JENCKS: Thank you, Mr. Chair. Yeah, just listening very carefully to what's being said here, and there are a lot of things being said that frankly don't have any basis in fact or in science. With that said, however, I think in preparation for next, the next meeting on the conditions, I'd like to hand out an updated document we provided to the, the Committee, I think it was in the fall or maybe it was the summer of 2006, a conservation and stewardship plan for these lands that identified the research we did, we had done on the property, including U.S. Fish and Wildlife Service, USGS, DLNR and also other folks from the University of Hawaii and stakeholders in South Maui, including Mr. Lee Altenberg. We have continued to update that, that plan. We gave it to you, I, I think at the request actually of Councilmember Pontanilla and it's in the project binder.

I'm going to hand out today an updated version and this document has exactly what it is I've heard discussed here this afternoon. It has a detailed conservation and preservation program planned that includes, among things, the establishment of the preserve using, using these agencies and stakeholders from South Maui, a conservation, preservation management plan, how you pay for this, who you hire,

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

how you do it, the funding for that management program and also the details on how you would set up the management plan. So, I'm going to, I'm going to hand this out. I have enough copies here for everybody. I'll leave this with you and then when you have a chance to look at this, I think this will give you, I think a good foundation for where we jump off at the next meeting to talk about a realistic plan that can be funded, that's properly managed, has the right people involved in terms of stakeholders in designating the area that we want to preserve. So, I'll leave that with you today.

CHAIR MOLINA: Thank you, Mr. Jencks. Staff, I guess if you could assist Mr. Jencks. Members, I'll give you, I guess on your own, you can go ahead and review the documents and then on Wednesday you can come up with your questions or issues that you have with this document provided to us by the applicant.

Members, let's move on to our last condition proposed by the applicant on Page 15 of 15. I'll give Ms. Nakata a break from reading. I'll go ahead and read it, Members. It states, "that WCPT/GW Land Associates, LLC, its successors and permitted assigns, shall provide to both the Department of Fire and Public Safety and Police Department each one acre of land for development of fire and police service centers within the VMX district at the time 50 percent of the total unit/lot count has received either final occupancy or subdivision approval. The acreage provided shall have roadway and full utility services provided to the parcel." Mr. Yoshida, can you elaborate on the Department's comments of this proposed condition?

MR. YOSHIDA: Yes, Mr. Chair. The Department commented that the condition should be reworded to read that "WCPT/GW Land Associates, LLC, its successors and permitted assigns, shall donate to the County of Maui one acre of land each for sites to be used by the Department of Fire and Public Safety and Department of Police for development of fire and police facilities within the VMX district at the time 50 percent of the total unit/lot count has received either final occupancy or subdivision approval. The acreage provided shall have roadway and full utility services provided to the parcel."

CHAIR MOLINA: Okay, thank you, Mr. Yoshida. Members, comments on this before I call the applicant up to give additional comment? Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. Have we been able to verify with our specific first response departments that that is where they would like Council to consider sites for improvements for their department?

CHAIR MOLINA: You know at this point, Mr. Hokama, I, it's been such a long time, I can't really say one way or another. Maybe I can have Staff to provide, provide some assistance.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

CHAIR MOLINA: Did, at our last, I guess one of our meetings from way back when, did we have both the Fire Department and the Police Department comment on this condition? I know we've never formally discussed the condition in Committee, but I don't know if the Department, both Departments had a chance to give comments on this proposal from the applicant. Staff, can you recall?

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

MS. NAKATA: I recall that both Departments commented on a land contribution, but I don't recall whether the specific location of the land was discussed or not.

CHAIR MOLINA: Okay, maybe at a later point we can get a written response from them, or . . .

COUNCILMEMBER HOKAMA: Thank you, Chair. I believe, if I can, if I recall correctly, we did have some verbal comments back from the Fire Department at one point in time, Members, but then, yeah, Chairman, at the same time, we know where 670 is. We just spent millions to build the Wailea fire station off Kilohana. Now, so does this make sense for us now to look at something that Planning is recommending, as well as the applicant is recommending consideration. I think we're working backwards, but we need to make a strategic decisions where we want to have potential sites for us to provide the first response and then go and review the land, potential other sites that may have equal value and then make your determination that that is where the County wants to go and expand its level of service for our Departments. This, to me, does not work, Chairman, the approach that is being proposed to this Committee at this time. So, it is my preference Chairman to not dwell on this one too much, because for me this is more okole first than brain first. Thank you.

CHAIR MOLINA: Okay, and thank you, and Members, yes, these are, again are considered. . .(end of tape, start 2A). . .what, well in the Chair's opinion what should take priority is the condition set forth by the Planning Commission before the applicant. So, again, these are just proposals for your consideration by the applicant. We have a choice of either accepting them and modifying it, or not accept any of it at all. Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chairman. Thank you for making that clear because this condition that was just read was proposed by the applicant and I'm not sure, maybe Carla can tell us, is this Condition 33 was that submitted in March 13, '07 or July 20, '07?

CHAIR MOLINA: Ms. Nakata?

MS. NAKATA: This was submitted in March.

COUNCILMEMBER ANDERSON: In March. Now I have specific notes that I took sometime in March and the Fire Department wants five acres and they were specifically adamant about the need for five acres, or, you know, the Wailea station is in a very cramped, small area and they don't have place even, they don't even have room for the, for an ambulance. You know where the ambulance is, what's the word, not lodged --

COUNCILMEMBER MEDEIROS: Staged.

COUNCILMEMBER ANDERSON: --staged--thank you--at a private home in Maui Meadows. So, you know, if the Fire Department says they're gonna need five acres then, you know, I think we need to listen to that. And what good is an acre gonna do because there won't be any place to, to expand if it's in this

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

VMX area and is that where they want it? So, maybe what we need to do is send a copy of the site plan down to the Fire Department and also the Police Department. Now, possibly the Police Department would be fine with one acre, cause they're only do a substation, unless they want to do their full on Kihei station there, but I think that's too far south. So, I think that, you know, we don't want to put, shove ourselves in a corner and then have an acre of land that's useless because it's not large enough. So, I feel the same as Chair Hokama, we need to, we need to get the Fire Department to look at the site plan and give us an idea, you know, are they okay in the VMX district. Maybe Mr. Jencks would not be comfortable giving them five acres in VMX. So, appreciate his, you know, making this condition, but it doesn't meet the requirement that we were asked for.

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

VICE-CHAIR PONTANILLA: Thank you. Maybe you should have both the Fire Department and the Police Department come back and provide us with more details because, what the Chairman had just mentioned, the location of the Wailea station is about, less than a mile from this location herein. Is it the best place and only the, both Departments can tell us that. And as far as the Wailea station, I think we built the station to last the County of Maui for a number of years. As far as the emergency response team, I don't think we made provisions for that EMR to be located at a fire station, Wailea Fire Station. And maybe we should take a look at, you know, this development as a means of providing something for the emergency medical response team.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Staff and the Chair will make note of that consideration. Mr. Jencks, would you like to give additional comment on your proposal?

MR. JENCKS: Thank you, Mr. Chair. Yeah, I, I would actually. Subsequent to the time we spent in Committee talking to the Fire Department and the Police Department about what their needs would be, I did do, I did a review of the Fire Department's own service study that they did. They had done quite some time, actually it wasn't the Fire Department, it was for all the agencies, as I recall, and I took a look at that document talk, and it talks about how many stations, what kind of service area, where they're located today, where they would be looking to go in the future to service South Maui, for example? And one of the, one of the areas that they identified as being really short was the southerly part of Wailea and Makena because there's really nothing down there for them to use in stage.

Using the performance criteria that was in that report I took a map of South Maui and starting plotting out in radiuses where the, for example, there's a fire station at, I think it's Waimahaihai and South Kihei Road and then you have the new station on Kilohana and then where would you go south from there to stage a station so you could serve a lot of the high value properties in South Maui, for example, the hotels, residential and also down in Makena. It turns out, it actually turns out that one of the best places to be is on that Kaukahi corridor mauka/makai, which is about a mile and a half from that Kilohana station. It's a really great distance to be, to, to, so you could project your services farther into South Maui.

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

So, I met with the Fire Department and I talked to them about that analysis and I ran them through the conclusions I came to, and I believe if you bring them up here or even call the Chief, I think he's going to tell you that a two-acre site would do the job for them located somewhere in that corridor in 670 because that's where we have some vacant land. And when I talked with him, you know I, this was a, this was a run at a concept to get something on the table to talk about the timing for delivery of land and what we had, what we talked about, what the Fire Chief and I talked about, also the Deputy Chief was that maybe a more finite dedication schedule is really necessary. So we talked about including a, a parcel as a part of the Phase II application, the initial Phase II application, which would include that area in the middle of the project, 'cause there's a lot of things going on that will serve the project and providing this land to them as a part of that Phase II application so it's on the application in the Phase II and then a subsequent subdivision which would be the Step 3 or the Phase III application would formalize then we could dedicate to the Fire Department. So we, we tried to set up some more definitive timeframes for them to actually get the land. So, we, we had a really great discussion. I think if you get 'em up here or call 'em, he may even have something in writing, I'm not sure, but it would describe that and how we came to that conclusion and it seemed to work for them very well and they were pretty happy with that, that result.

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

COUNCILMEMBER ANDERSON: Thank you, Chair. So, Mr. Jencks, when you say, when you're talking about they, are you talking about just the Fire Department or the police and fire?

MR. JENCKS: I, I just, I talked to the Fire Department because the, I think it was mentioned a little bit earlier they have the demand for physical facilities, station, land. I think the Fire Department are much more flexible in terms of where they could go for a substation, but, but this is all based upon my discussions with the Fire Department.

COUNCILMEMBER ANDERSON: Well, you just said they wanted two acres and you're offering one acre?

MR. JENCKS: Allow me to repeat. This was a start and an idea to get something on the table. Subsequent to this, discussions with the Fire Department indicate they'd like two acres in the property.

COUNCILMEMBER ANDERSON: Rather than the five acres?

MR. JENCKS: Yes. That, the five acres for them is, they threw that out as like a maximum. They seem to think based upon the discussion we had that a two-acre site in the property would suit their needs and allow them to build a facility that would serve this additional area, Wailea and down into Makena, as well. They were pretty, they were happy about that.

COUNCILMEMBER ANDERSON: Okay. I think we need something, you know, either have them come or something in writing. Because I do know there was some confusion because Deputy Chief Bal told us five acres and then at a subsequent meeting that he wasn't at, Chief Kaupalolo --

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

MR. JENCKS: Kaupalolo.

COUNCILMEMBER ANDERSON: --told us something different.

MR. JENCKS: Yeah.

COUNCILMEMBER ANDERSON: In fact, he told us he didn't think he needed anything. I guess he doesn't cause he's retiring. . .(laughter). . . But, anyway, I appreciate your willingness because it's definite that we need protection for the people that go further south. You know, I think Wailea's station basically is responding, well they respond wherever they have to, but, they're being spread pretty thin.

MR. JENCKS: Yeah, so, but going farther south I think is a good idea and they saw the logic in that, as well. And, I, I think that one of the things that, that we cleaned up here was the, once again, I just, I just put something on the table. The idea of tying it to a Phase II submittal so that we can agree on the location and then subdividing it out as a part of that Phase III which will result from the Phase II gives it finality and you can get, actually get something done.

COUNCILMEMBER ANDERSON: So, Mr. Jencks, the meeting you had with the Fire Department --

MR. JENCKS: Yes.

COUNCILMEMBER ANDERSON: --you didn't memorialize that in anything in writing.

MR. JENCKS: I have the summary I, I provided to them. I could be happy to provide that to you.

COUNCILMEMBER ANDERSON: Well, yeah, I mean we're the ones making the decision so we have to know what, what discussions have gone on and. . .

MR. JENCKS: There may be, I, I had the impression that the Chief was going to send a letter in, but maybe it just got lost in the shuffle. I can check on that.

COUNCILMEMBER ANDERSON: And then with the Fire Department, I mean the Police Department?

MR. JENCKS: You know I. . .

COUNCILMEMBER ANDERSON: Did you meet with them at all?

MR. JENCKS: Well I, I did meet with them a number of times and they did express, did express interest in locating on the project, but they were much more difficult to, forgive the term, nail down, in terms of what they would need in terms of area and I think that's because, one of the thoughts I had, is you know we have this VMX district and it allows for public facilities. A substation would be, it seems to me that would be the ideal place in a larger building that gets billed a commercial center, you can put these guys

LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

in there, give them space. I, I think in the end that's probably the better, the better facility for them than just giving them like an acre or two of land, I'm not quite sure they need that. So maybe that was part of their uneasiness with talking about the facility. But, I think definitely in the VMX district, I think in the project, you're gonna want to have a substation capability and it, and the land uses that are permitted, provide for that.

COUNCILMEMBER ANDERSON: Okay, thank you.

MR. JENCKS: Sure.

COUNCILMEMBER ANDERSON: I think we, as he said, we need to nail it down, Mr. Chair.

CHAIR MOLINA: So noted, Member Anderson. We will follow-up and at our next meeting, we will make sure we either get comments in writing or get representatives from both Departments to come here. Members, any other questions before the Chair closes for today? Okay, if not, Members, we will recess this meeting until Wednesday, September 19, 1:30 p.m. Expect a long day and early evening. The Chair's looking at a dinner break and we will touch upon the conditions that we have yet to reach consensus on. This will be the second and final pass through on these conditions so come armed with all of your potential amendments or language changes because we need to start making some tough decisions on the conditions. So, we will see how far we can get on September 19th. So, with that being said, Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chair. So, the September 19th meeting at 1:30?

CHAIR MOLINA: That is correct.

COUNCILMEMBER MEDEIROS: You're gonna continue this?

CHAIR MOLINA: Yes.

COUNCILMEMBER MEDEIROS: And, you have other agenda items also for that 1:30?

CHAIR MOLINA: No. It's solely for this, this matter.

COUNCILMEMBER MEDEIROS: I see.

CHAIR MOLINA: That's why we didn't post any particular, you know, any other matters for that day. So it will all be relegated to LU-38 for that day and evening.

COUNCILMEMBER MEDEIROS: I see.

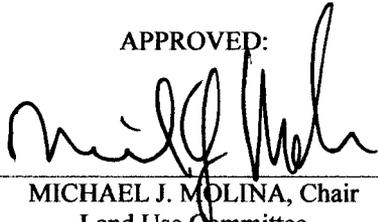
LAND USE COMMITTEE
Council of the County of Maui

September 17, 2007

CHAIR MOLINA: So, with that being said Members, I want to thank you all for your participation today. This meeting is in recess until Wednesday, September 19, 2007, 1:30 p.m. here in the Council Chambers. . . .(gavel). . .

RECESS: 5:45 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Land Use Committee

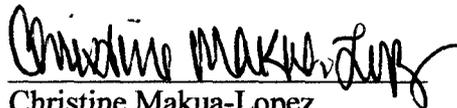
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Transcribed by: Christine Makua-Lopez

CERTIFICATE

I, Christine Makua-Lopez, 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 this 10th day of October 2007, in Kula, Hawaii.


Christine Makua-Lopez