

**LAND USE COMMITTEE**  
Council of the County of Maui

**MINUTES**

**October 3, 2007**

**Council Chamber**

**CONVENE:** 1:35 p.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember G. Riki Hokama, Member (Arrive 2:33 p.m.)  
Councilmember Jo Anne Johnson, Member (Arrive 1:41 p.m.)  
Councilmember Danny A. Mateo, Member  
Councilmember Bill Kauakea Medeiros, Member  
Councilmember Michael P. Victorino, Member

**ABSENT:** Councilmember Michelle Anderson, Member

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

**ADMIN.:** Jeffrey Hunt, Director, Department of Planning  
Paul Fasi, Planner, Department of Planning (Item No. 9)  
Robyn Loudermilk, Planner, Department of Planning (Item No. 3)  
Michael Miyamoto, Deputy Director, Department of Public Works  
Wayne Ibarra, Acting Captain, Wailuku Patrol, Department of Police (Item No. 3)  
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** **Item No. 9:** Mich Hirano, Project Manager, Munekiyo & Hiraga, Inc.  
John Maloney, Development Manager, Pacific Rim Land, Inc.  
Ken Gift, Senior Project Manager, Goodfellow Bros., Inc.

**Item No. 3:** Vince Bagoyo, Jr.  
Dennis Boehlje, Vice President of Planning & Development, Betsill  
Brothers Construction, Inc.  
Marcello S. Dadez  
Jan Yagi Buen, Waihee Community Association

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

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CHAIR MOLINA: . . .(*gavel*). . . The Land Use Committee meeting for Wednesday, October 3, 2007 is now in session. It is 1:35. For the record, we have in attendance, Members Mateo, Baisa, Medeiros, Victorino and Committee Vice-Chair Pontanilla and Molina. And we have two particular items we're going to be addressing today, Members, which is Committee Item LU-9, a Conditional Permit for a rock quarry in Kihei and LU-3, which is a Change in Zoning for the Waihee Mauka Project. But before we do that, the Chair would like to also recognize other folks in attendance. We have Committee Analyst, Carla Nakata, who's a little bit disabled today, but she's here. Appreciate you being here, Ms. Nakata. And Committee Secretary, Tammy Frias; and from the Corporation Counsel's office, Mr. James Giroux; and from the Planning Department we have Director Jeff Hunt, as well as Planner, Paul Fasi, with us today.

So, with that being said, Members, typically in Committee we entertain public testimony for each item; however, today we have a request from a member of the public who would like to testify on our second item today, which is LU-3 and this individual needs to leave for a personal matter. So if there's no objections, the Chair would like to ask that person to give their testimony now. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. We have to testify on LU-3, Jan Yagi Buen. And Ms. Buen, if you could please also state any organization that you may be representing. And for the record, Committee procedures, when it comes to testimony, you'll have three minutes to testify with one minute to conclude and we ask that all pagers and cell phones, please be turned off at this point. Okay. And, we've been informed that Member Johnson will be a, a little late today.

**ITEM NO. 3: CHANGE IN ZONING FOR WAIHEE MAUKA PROJECT** (C.C. No. 06-314)

***. . .BEGIN PUBLIC TESTIMONY. . .***

MS. YAGI BUEN: Thank you for reminding me about the cell phone. Honorable Chairman, Mike Molina and Vice-Chair, Mike Victorino, and Members of this, the Committee, thank you for letting me testify this, this afternoon. It was difficult for me. I just flew over last night from my uncle's funeral on the Big Island and I was charged by my, my family to take care of everything, so we're still going through this. But, I needed to, I really wanted to be here because of the Waihee community and the residents of Waihee.

I had numerous calls regarding development in general. Waihee, for many generations, we have enjoyed the rural lifestyle and quickly the country charm of Waihee is, is eroding. And so, this project, I, I realize it's a Change in Zoning from Agricultural to Open Space and we don't know whether houses will be developed or not. However, as you know, the Waiehu Kou IV came up and it's right next to the Waihee Park. We have enjoyed the village atmosphere and for many years have really enjoyed that. So the, the residents of Waihee, mainly from the village, have called me and I've, I've spoken with them and they are very much opposed to any kind of development. And I don't know whether this will lead

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to, this proposed Change in Zoning, is going to lead to any more houses being developed. And that's a fear that the, the Waihee residents have. Sixty-five percent of the residents are on small plantation, retirement income. They fear that the already high property taxes will increase and will literally drive them out of their homes. They fear that and they have voiced that to me.

Another issue that we face, is the congestion, the traffic is really bad, especially in the early morning hours and after school. Of course, the, the Federal program of No Child Left Behind is contributing to the traffic congestion, because we have students from outside the Waihee District coming to Waihee School. It's very congested there. So, it's not only the crowding of the schools, but it's the, the traffic problem. We also have, they, they also voiced the social impacts that will be, you know, increased, the negative kind of social impacts. And, and so, they, with these concerns, I want to make some comment.

MS. NAKATA: Three minutes.

MS. YAGI BUEN: We haven't officially voted to, the Community Association hasn't officially made a, a, given, given a vote to oppose this project, this item before you, but everyone that I have spoken with did tell me to please ask this Committee to defer this item until infrastructural needs are worked out. I thank you for giving me this opportunity to come before you today. Thank you.

CHAIR MOLINA: Okay, thank, thank you, Ms. Yagi Buen.

MS. YAGI BUEN: Any questions?

CHAIR MOLINA: Committee Members, before I open the floor, one quick question, Ms. Yagi Buen. You are on, on your testimony sheet you listed yourself as with the Waihee Community Association.

MS. YAGI BUEN: Yes, yes.

CHAIR MOLINA: And what, what is your position?

MS. YAGI BUEN: I'm the President of the Community Association, I'm sorry I didn't put that down.

CHAIR MOLINA: No problem. And did you have an opportunity to meet with the applicant, at this point, or any one of your Association members?

MS. YAGI BUEN: At one time, the developer called me and met with the Executive Board. And at that time, I asked the developer to go before the community and present this to the Community Association and I had never received a call so it was never done. Thank you.

CHAIR MOLINA: Okay. Thank you, Ms. Yagi Buen. Committee Members, questions for the testifier? Seeing none.

COUNCILMEMBER VICTORINO: Chair.

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CHAIR MOLINA: Oh, excuse me. I'm sorry, Mr. Victorino?

COUNCILMEMBER VICTORINO: Yes, Jan, what is the biggest opposition beyond the infrastructure? What was the other major reason that the community fears any development whatsoever?

MS. YAGI BUEN: For the reasons that I had cited.

COUNCILMEMBER VICTORINO: Wasn't water a big issue too, also?

MS. YAGI BUEN: Water, was the hugest issue. And I'm glad you brought that up because the Association members heard Councilmember Mike Victorino. Thank you for coming to our meeting. And they had very much, huge concerns about the water. As you know, the, the Waihee stream, the water had been diverted from there and taken for, we don't know what, but its, the Waihee stream is now, it's not flowing as it used to before. So, we're very concerned about the water issue.

COUNCILMEMBER VICTORINO: Okay, thank you, Jan. Thank you, Mr. Chair.

MS. YAGI BUEN: Thank you.

CHAIR MOLINA: Thank you, Mr. Victorino. Ms. Yagi Buen, one more question. Can you give us an approximate date or somewhere of a rough date of when you spoke to the developer on all this?

MS. YAGI BUEN: August, 2006.

CHAIR MOLINA: From August, 2006, you had asked...

MS. YAGI BUEN: Oh, no, no, no, I'm sorry, that was another developer who the community, the community had 100 percent it was unanimously opposed to, that, that was in August, 2006. That was a proposed development in the village and there were about a hundred something, hundred, about roughly about a hundred members. That was another development proposal.

CHAIR MOLINA: But for this...

MS. YAGI BUEN: For this particular one, I don't remember exactly when the developer, sometime last year, but I don't know exactly the date.

CHAIR MOLINA: Okay, but you made an offer, offered it --

MS. YAGI BUEN: Yes.

CHAIR MOLINA: --up to your Community Association?

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MS. YAGI BUEN: Yes, yes, I did, I did.

CHAIR MOLINA: They did not, okay. All right, thank you very much.

MS. YAGI BUEN: Thank you.

CHAIR MOLINA: Okay. Seeing no other questions. I'm sorry, excuse me, Ms. Yagi Buen. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. Jan, good afternoon, thank you being here.

MS. YAGI BUEN: Good afternoon.

VICE-CHAIR PONTANILLA: As far as the designation Open Space, Open Space to, which actually is Open Space, which allow ag uses as well as allow native Hawaiian traditional and customary uses, also with limited outdoor recreation. Is the community opposed to an OS, Open Space too?

MS. YAGI BUEN: This is what we are hoping that the developer would come and meet with the community so we can ask these questions, how it will affect our community. How can we work together to make things happen where we're not clashing. And, so, I, we don't, I don't know the answer. I cannot answer you there. Thank, thank you for asking the question, though.

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

CHAIR MOLINA: Thank you, Mr. Pontanilla. And, one more question, Ms. Yagi Buen. Sorry to be --

MS. YAGI BUEN: No, go ahead.

CHAIR MOLINA: --pestering you with questions today. When is your next Community Association meeting scheduled? Do you have a tentative date?

MS. YAGI BUEN: We have a tentative date for November. It's usually the third Thursday of the month. We're not having one in October.

CHAIR MOLINA: Okay.

MS. YAGI BUEN: Yeah, but yeah so November, we're tentatively looking for that, that month to have a meeting.

CHAIR MOLINA: Okay. And then, could I request from your Association something in writing with regards to some of the concerns you have made? If you could send a letter as soon as possible --

MS. YAGI BUEN: I will.

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CHAIR MOLINA: --so we have your comments in writing. Thank you. Okay, no other questions? We have Member Johnson here who's joined us as well as --

MS. YAGI BUEN: Thank you.

CHAIR MOLINA: --Member Medeiros and Member Pontanilla. Seeing no other questions. Thank you. Is there anyone else that would like to testify on either LU-3 or LU-9? Okay, seeing none. At this point, Members, if, well the Chair will go ahead and leave public testimony open for a few more minutes. Oh, we do have one more. Okay, sir, come on up. And you can sign up at the . . . okay, thank you. And this is Mr. Marcello Dadez. Mr. Dadez, if you could go ahead and state your name for the record and proceed with your testimony.

MR. DADEZ: Chairman Molina, Vice-Chair Pontanilla, and, Members of the Committee. My name is Marcello Dadez. I'm a resident of Waihee living at 2041 on Kahekili in the middle of the village. Yeah, now what impact I've been having is daily, daily impact, yeah. I have my three kids in the Kahului area. When they come to visit me, they park on the sidewalk. And if in the evening, take a drive down to Waihee, you'll see cars on the sidewalk to give room for that traffic that coming from Camp Maluhia, yeah. Before we had only Kapuna. At Camp Maluhia, we would have the Mendez and that's it, yeah. And the County had approved a subdivision way beyond there and it really affected us. Where's the bypass road? Is it in the Community Plan? There's nothing there. Are we, are we going to be placed in the corner again, like in Lahaina, yeah, in Paia, yeah? The developers want to develop. It's a beautiful place, Waihee, yeah. There's water, fertile soil, they want to be farmers, fine. Come in, yeah, we'll buy some of the produce from there. But Wailuku Sugar, yeah, was a farmer too; they had cane from Pohala all the way down to Waihee, way down to Kapuna side, yeah. When they harvest their crops, the sugar cane, where did they go to go to the mill, on the Tournahauler road? That is located in the back of Waihee proper, yeah. And they reach to the mill, yeah. So, if developers want to make agriculture lots and everything, yeah, they have to give in. Buy some of that Tournahauler road, yeah, so that they can get, it's an alternative route or we call it bypass. Otherwise, if that is not done, we will be locked in.

MS. NAKATA: Three minutes.

MR. DADEZ: And then, what's gonna happen? Waihee is a plantation village, yeah. It's not an urban place like Kahului, it's a plantation village. It was designed by Wailuku Sugar for the workers there, yeah. The side roads don't have sidewalks, they walk on the road. The kids run back and forth, yeah, from the park area going down to the golf course. And now the fourth phase of Hawaiian Homes, I think the County had approved an opening for them. We thought, we were led to believe that all the Hawaiian Homes, Phase I, Phase II, Phase III, Phase IV --

MS. NAKATA: Four minutes.

MR. DADEZ: --will enter and exit on, on the main highway, but now we saw going down to the golf course road. There's an opening there into County road, what happened?

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CHAIR MOLINA: Mr. Dadez.

MR. DADEZ: The County approved it?

CHAIR MOLINA: Mr. Dadez, I'm sorry, you went over the four minutes already.

MR. DADEZ: Yeah, okay.

CHAIR MOLINA: So, we'll go ahead and address some of your concerns. And...

MR. DADEZ: Apparently, the County had approved it. We thought the County is for the people.

CHAIR MOLINA: Okay. Mr. Dadez, thank you. I would ask the Members if they have questions for you now.

MR. DADEZ: Okay.

CHAIR MOLINA: Committee Members, questions for the testifier? Member Johnson followed by Mr. Victorino.

COUNCILMEMBER JOHNSON: Yes, Mr. Dadez, thank you very much for your information. The issue that we have before us is the, the rezoning, and from listening to what Ms. Yagi Buen had to say, you have not, as a community, had an opportunity to understand what changes are proposed or what changes may result from this intended land use change? Is that correct?

MR. DADEZ: Yeah.

COUNCILMEMBER JOHNSON: Okay. And so...

MR. DADEZ: It, it's in regards to Waihee Mauka, yeah, I would like to let you know, the only time I knew about that, when they placed the sign, I passed and I looked at it, Waihee Mauka, who's that? The developer didn't meet the community. We are being neglected. Apparently, on the roadway, yeah, we not dummies there. The pipings are all being worked out, for what? I think to connect going up. You see how long, because we experienced the Phase I, the Phase II, Phase III, they don't take that long to fool around on the road. Phase IV was the longest. Twice they have to turn off the water. You know what I think, I personally think, this developer, I don't know who he was, yeah, this developer must have inside track in the County to spend that much money. It's not been approved. Apparently you folks gonna approve it. Yeah. They don't care about us. I'm waiting for what you folks gonna decide. Yeah. If you don't care about us too, we dead.

COUNCILMEMBER JOHNSON: Yeah, and, and I think I understand what your concerns are, Mr. Dadez. I think one of the, one of the problems that comes in is that people in the general public were not aware that when the Ag bill was passed many years ago, that automatically if you had agricultural land, you would then be granted the land use permits.

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MR. DADEZ: Land use . . . okay.

COUNCILMEMBER JOHNSON: Yes. And so it was kind of like an automatic zoning, and so what you're talking about is really a component of what we're looking at today, but basically, the Ag zoning or the Ag bill, as it was referred to, is what created the situation that you're describing. And so, in Member Baisa's Committee we do have some ag issues and I would be happy to visit with you so that some of the things that we could consider to correct some of the problems that came up when that law was passed, are addressed. But, unfortunately, what we're looking at today doesn't really, necessarily, address the problems you're raising, but I think from...

MR. DADEZ: The traffic is not the problem?

COUNCILMEMBER JOHNSON: Well, part of what we have to review are the impacts of looking at this one change from Agriculture to Open Space.

MR. DADEZ: That's right. Yeah.

COUNCILMEMBER JOHNSON: So, I think from what I've heard so far, if they could meet with you as a community, I think it would be real helpful, cause then you could also explain some of the problems to them. But, I do appreciate what you're saying.

MR. DADEZ: And we don't know, no, I personally don't know...

CHAIR MOLINA: Excuse me, Mr. Dadez, Member Johnson are you done with asking questions?

COUNCILMEMBER JOHNSON: Yes, and, and I can visit with him afterwards, privately, so that I can perhaps look at some other ways to answer the questions that he's asking that are not related, perhaps to this particular item on the zoning. Thank you.

CHAIR MOLINA: Okay, thank you, Member Johnson. Mr. Dadez, hang on for a second, Mr. Victorino has a question for you.

COUNCILMEMBER VICTORINO: Well, actually, Mr. Pontanilla had asked to speak first --

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: --so, I'll yield to him and then ask my question thereafter.

CHAIR MOLINA: All right. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, Member Victorino. Such a nice guy, yeah.

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Good afternoon, Mr. Dadez. By the way, Chairman, Mr. Dadez was my math teacher when he was delivering liquor to the Puunene community. So, nice to see you again. I think, you know, Mr., Ms. Buen kind of put it in perspective in regards that the community need to be, should be meeting, or the developer should be meeting with the community to hear your concerns in regards to what is being proposed here and hopefully they do that. The things that you mention, you know, Phase I, II, III and IV are basically Department of Hawaiian Home Lands projects and unfortunately, those project, projects don't come through the Council for review or even approvals.

The way I understand it, is that Department of Hawaiian Home Lands do have special consideration and one of the issues that you bring up is probably the access road that goes down to the golf course. So if we don't see it, you know, we can't answer, you know ask questions in regards to the access, but just to let you know that those are Hawaiian Home Lands' projects that we don't see here in the Council Chambers. So, hopefully, again, you know, that the developers would meet with the community to hear your concerns so that, you know, we can have a win-win situation. Thank you.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Mr. Victorino, you had a question for Mr. Dadez?

COUNCILMEMBER VICTORINO: Yeah, Mr. Dadez, understanding all your concerns and we, we've been listening to you. I think the question I have for you is, on this challenge you talking about the roadway and parking all of that, what do you think the County could do to help because a lot of that roadway is State Highway, right, Kahekili in through . . . what could we do that you think we could do to help you in that area?

MR. DADEZ: You, either you have to stop developing --

COUNCILMEMBER VICTORINO: Okay.

MR. DADEZ: --or find an alternate road. I, which I mentioned that --

COUNCILMEMBER VICTORINO: By-pass.

MR. DADEZ: --Tournahauler road.

COUNCILMEMBER VICTORINO: Okay.

MR. DADEZ: That's the only place. Makai of Waihee is Conservation. No way you can go from there. So, like I say, we gonna be locked in, but if you, the County is going to approve, you know, some more Ag zoning, Ag zoning, it's gonna up to the mountain and then what? We all locked in. We won't, we won't be able to get out.

COUNCILMEMBER VICTORINO: Okay, Mr. Dadez, thank you very much for that.

MR. DADEZ: Thank you.

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COUNCILMEMBER VICTORINO: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Committee Members, any other questions for Mr. Dadez?

VICE-CHAIR PONTANILLA: I got one more.

CHAIR MOLINA: Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Just for your information, Mr. Dadez, I've spoken to the administrator for Department of Hawaiian Home Lands. Because of all of the developments that they created in Waihee, part of the issue is that what you just mentioned, traffic, school and the way I understand it is that they don't put in a dime to improve the highway, as well as improve the school in Waihee area. So that's something that they gonna be addressing in future projects that they do to insure that, you know, proper infrastructure is provided for the community whenever they do improvements or create housing for the Hawaiian people. Thank you, Chair.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Seeing no other questions for the testifier?

MR. DADEZ: I would like to respond to that, yeah. I spoke to Mr. Ige, yeah, and I, we spoke about that opening to that road. He said that the County, yeah, had required them to have two entrance and exits. Yeah. Then I say, why on the County road? There's a, a drainage ditch. Build a bridge and go to the other side. Don't make your problem our problem also. We are, yeah, a village people there, yeah. Kids all over street, we don't want any kind, we have enough from the golf course and the park. That's it.

CHAIR MOLINA: Okay.

MR. DADEZ: And in the past, there was flashing light, I think, Mr. Victorino, know. The, the community was concerned and so they placed a flashing light because the golfers go to 19 hole, yeah, and they coming up and there's no light. You come up from the golf course to where they gonna make a left turn or right turn, yeah, there's no light there, yeah,

CHAIR MOLINA: Thank you.

MR. DADEZ: So, there was a flashing light in the past.

CHAIR MOLINA: Mr. Dadez, I think you answered Mr. Pontanilla's question on that. Thank you. Okay. Committee Members, any other questions for Mr. Dadez before I excuse him? Okay, thank you for your testimony, Mr. Dadez.

MR. DADEZ: Thank you for listening.

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**ITEM NO. 9:     CONDITIONAL PERMIT FOR A ROCK QUARRY (KIHEI) (C.C. No. 07-113)**

CHAIR MOLINA: Thank you. Okay Members, at this point, seeing there's no other requests for testimony on LU-3, Chair's gonna leave it open. We're gonna take up LU-9 first, we're gonna have a mini presentation, and then after that the Chair will make a decision as to the time when we will close public testimony for LU-9 and LU-3.

So, let me go through LU-9 real quickly. This is a Conditional Permit Request for a rock quarry over in Kihei. County Communication No. 07-113, from the Planning Director, transmitting a proposed bill to grant a request from Goodfellow Bros., Inc. for a ten-year Conditional Permit for the operation of offices, a rock crushing facility, and a construction baseyard facility, and for aggregate and materials storage on approximately 14.5 acres located at Kihei. Number 2, a correspondence dated August 1, 2007, from the Corporation Counsel's office transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING GOODFELLOW BROS., INC. A CONDITIONAL PERMIT FOR USES RELATING TO A ROCK QUARRY WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT KIHEI, HAWAII". The intent of the revised proposed bill is to grant Goodfellow Bros., Inc.'s request for a ten-year Conditional Permit on approximately 14.5 acres located in Kihei, Maui. So, before we go any further, Members, the Chair's gonna call for a short recess. We will have a presentation done by the applicant's representative. Meeting in recess. . . .(*gavel*). . .

**RECESS:     2:01 p.m.**

**RECONVENE:   2:03 p.m.**

CHAIR MOLINA: . . .(*gavel*). . . Land Use Committee Meeting for Wednesday, October 3<sup>rd</sup>, 2007 is now back in session. We have the applicant's representative for Land Use Item No. 9, which is a Conditional Permit for a rock quarry over in Kihei. We have Mr. Mich Hirano who will be doing a presentation with regards to this matter. Mr. Hirano?

*Note:   Computer-generated presentation.*

MR. HIRANO: Thank you, Chair Molina. Good afternoon, Chair Molina, Vice-Chair Pontanilla and Council Land Use Committee Members. My name is Mich Hirano with Munekiyo & Hiraga and our firm is assisting the applicants, Goodfellow Bros. and Pacific Rim Land, with the Conditional Permit application before you today. On behalf of the applicants, we've prepared a PowerPoint presentation to provide some background information on the project. The consideration before you this afternoon is an application for a Conditional Permit to operate a rock crushing facility, which supports the construction activity in the Kihei-Makena region. As well, the application is to allow the aggregate and material storage of the crushed aggregate, to allow for baseyard operation for the rock crushing and hauling machinery and equipment and, as well, for supportive administrative office functions. The, I'd like to clarify that although in the title of your documents, before you today, it mentions quarry. There is no quarry operations carried out at the site. It's for rock crushing and aggregate storage.

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In terms of the project location, the project site is a 14.5 acre site in South Kihei. It's mauka of Piilani Highway. It's adjacent and to the south of the Kihei Wastewater Treatment Facility. It's surrounded by currently agricultural lands. The Monsanto seed corn operation is located on the agricultural lands to the east and south of the project site.

The underlying land use designations of the project site are State Land Use designated Agricultural, County Community Plan designated land use is Agricultural, and the County zoning is Agricultural. The application has received a State Land Use Special Use Permit.

It's the, the rock crushing facility has been in operation since the early 1970's. It was originally established. . .(end of tape, start 1B). . .position of the Kihei Wastewater Treatment Facility and continued with the development of Piilani Highway and has, had been in continuous operation since that time. It has been permitted through the State Land Use Special Use Permit, which was granted by the County because it was under 14, or it was less than 15 acres. And there have been numerous time extensions that were granted for the State Special Use Permit. However, at the last application for the time extension for the State Land Use Special Use Permit, the Planning Department had notified the applicant that due to the specifics of the permitted uses, being rock crushing, storage of aggregate, that a Conditional Permit would be required, as well. So at that point, the applicant had applied for a State, for a County Conditional Permit.

The Planning Commission had reviewed both the State Land Use Special Use Permit and the Conditional Permit, had approved the time extension request for the State Land Use Permit and recommended approval for the Conditional Permit and this is the application history that is before you today. The subject property of 14.5 acres is actually made up of two land parcels, there's parcel 54 on the northern portion of the site and parcel 69 on the southern portion of the site. The applicant is, or the landowner is Pacific Rim Land and they are presently going through a subdivision and consolidation process to make it one TMK parcel.

In terms of the operations itself, I'd just like to give you a little overview of the present facility. It's a rectangular shape. This is the entrance into the facility and this is the western portion of the site. Piilani Highway runs along further to the west so you, trucks enter the site. There's a weigh station and the mechanic's office in this location. Administrative offices and trailers in this location. Some employee parking in this area, as well as this area. And their stockpile areas are basically in the middle portion of the site and just to the south of the mechanic shop. This large area is kind of the stockpile area. There's raw material that's brought into the site and basically, the raw materials that are provided are construction, from construction zones in South Maui where there are the large boulders that are being graded off-site. They're trucked to this area and stored. Then this crushing plant takes the raw material, crushes it and makes aggregate of three inches or less and stockpiles the aggregate in this area. And then the trucks take the aggregate to construction sites and the aggregate is used for base material and road construction, residential construction, and highway construction throughout South Maui.

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In terms of just pictures of the site to give Council Members an idea of the present site, this is looking at the site, it's looking across Piilani Highway to the west. And this is the entrance into the wastewater treatment facility, as well as the driveway off to the Kihei rock crushing site. And, as you can see, the site is well screened by mature kiawes that are, that are growing between the Piilani Highway and the rock crushing facility. So, you probably may not even notice the rock crushing facility if you weren't aware that it was there, because you, it's very difficult to see. It's well screened by the existing vegetation. This is the driveway into the site, off of old Welakahao and the driveway to the left goes on to the wastewater treatment facility.

This is as you approach down into the driveway into the project site. I'd like to just draw your attention to this water tank. This water tank uses reclaimed water from the waste, Kihei Wastewater Treatment Facility and this water is used to wet down for dust control, not only within the project area, but as well for projects that are off-site where water trucks come in, they fill up with this water and then use it to spray dust control at the project site, as well as other construction zone sites. The trucks themselves when they're stored with aggregate and they leave the site, they're actually covered so that dust control is provided by covering the material on the trucks as they are, as they leave the site and go on to the highway and to the construction areas. This is the administrative offices for the facility. This is the weigh station to the right. Some aggregate storage you see in the mid-ground of the screen, employee parking and the machine shop and weigh station. Again, this a, a picture of the, some large aggregate material that's, that's used to, to be crushed into smaller size aggregate for construction fill and material. This is the crusher in the mid-ground and this is a, a closer look at the crusher operation where the material comes in, gets crushed, goes on the conveyor belt and be, gets stored.

In terms of highway access and some of the improvements that have been made into the site, when the Piilani Highway was widened from two lanes to four lanes, Goodfellow Bros., in conjunction with the County of Maui I think they paid, the County paid \$100,000, Goodfellow Bros., paid approximately \$300,000 to make some improvements for access into the site and they developed a left turn pocket on the southbound direction into the, Welakahao on the mauka side and, as well an acceleration lane, a southbound right turn acceleration lane, out, leading out of the project site onto Piilani Highway. As a result of some comments that were made from, Department of Transportation, as well, regarding the left turn onto Piilani Highway and, you know, some of the, because at times that turn is difficult depending on the traffic of Piilani Highway, Haleakala Ranch had built in consultation with Goodfellow Bros., an agricultural road actually, which joins the project site on the south and goes to a controlled intersection. And this is the Kanani Street intersection on Piilani Highway. On the mauka side this is Monsanto seed corn operation, the County lands, as well are just to the South of this intersection and the other surrounding lands are owned by Haleakala Ranch. And so, presently trucks come into this direction, they make a right hand turn into the, into the site, and all southbound traffic mostly uses this now agricultural road and this controlled intersection and exits southbound on the controlled intersection.

In terms of just the project summary, the plant has been in operation for over 30 years under the State Land Use Special Use Permit. During that time, there has not been a complaint about the operations in terms of noise or dust to the Planning Department. The use is compatible with the adjacent Kihei Wastewater Reclamation Facility. In fact, as well, it uses that reclaimed water for dust control at the

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site. It provides construction recycling material, a recycling baseyard and recycling material, construction material, which is in close proximity to projects in South Maui. And I think the importance of that is the reduction in traffic this particular site offers for the construction trucks in South Maui where they have a close deposit in proximity to the construction area so that there are no long haul zones for transportation of material to the project site from the source material that's being used. And, as well, another important aspect is it provides employment for approximately 20 employees who are currently working at the site. So thank you very much for your time and consideration for this application.

CHAIR MOLINA: Thank you very much, Mr. Hirano. Members, we shall recess to put up the screen and continue with our discussion on LU-9. Meeting in recess. . . .(gavel). . .

**RECESS: 2:18 p.m.**

**RECONVENE: 2:20 p.m.**

CHAIR MOLINA: . . .(gavel). . . Land Use Committee Meeting for October 3, 2007 is now back in session. It's 20 minutes after the hour of 2:00. Thank you, Mr. Hirano, and my apologies for mispronouncing your name. Thank you very much for that presentation. The pictures, pictures are worth a thousand words yeah. At this time, we have from the Planning Department, Mr. Fasi, who will give some brief comments and, Members, as I mentioned earlier he does have a commitment, he has to go, I believe to the Lanai Planning Commission meeting, this evening. So, I would ask you that if you have any questions please be direct and to the point. Mr. Fasi, do you have any additional comments to make before I open the floor for questions from the Members?

MR. FASI: Just one. Thank you, Mr. Chair. Good afternoon, Council Members. The project did receive a State Special Use Permit that we would like to have run concurrently with this permit as far as timing is concerned. The State Use Special Use Permit was for ten years and, therefore, the Planning Department feels like we would like to have this permit run for ten years, as well and have them expire at the same time so we can process them again at the same time and not separately. That's all. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Fasi. Committee Members, questions for Mr. Fasi or Mr. Hunt from the Planning Department, at this time? Okay. And so, Mr. Fasi, just again for clarification, basically the permit request is to make it consistent with that, the State permit, I guess, to make it consistent?

MR. FASI: Yes, sir.

CHAIR MOLINA: Okay, thank you. Any questions for the applicant's representative? We'll go first, Member Johnson you have a question for Mr. Fasi?

COUNCILMEMBER JOHNSON: Not, I guess for Mr. Fasi or for Mr. Hunt. Just so that people can understand what, what was the difference between continuing the Special Use Permit as opposed to coming now underneath the Conditional Use Permit.

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MR. FASI: Both permits are required for this operation. In order for this operation to continue, you can't have one without the other.

COUNCILMEMBER JOHNSON: Okay, but wasn't there previously granted a County Special Use Permit?

MR. FASI: Yes, ma'am.

COUNCILMEMBER JOHNSON: And so, my question is, why would you recommend to the applicant then to change from the County Special Use Permit to this Conditional Use Permit cause they had always continued previously under the old system. What's the rationale for doing that?

MR. FASI: Apparently, before this project was given to me, another planner had notified the applicant that a Conditional Permit is required, just to make it legal. They had been operating without a Conditional Permit, but we just want to bring the applicant under, you know, the proper code and, and conditions.

COUNCILMEMBER JOHNSON: Okay, so they had no County Special Use Permit, it was only the State Land Use Permit they had and so then you were recommending that they now get a Conditional Use Permit from the County?

MR. FASI: Yes, ma'am.

COUNCILMEMBER JOHNSON: Okay. 'Cause I was a little confused when I met with the, you know, applicant. So, anyway, Mr. Hunt has...

CHAIR MOLINA: Okay, Mr. Director?

MR. HUNT: Let me, let me try and clarify a little bit more. The operation was okay in the Ag zone prior to the update of the Agricultural Zoning Ordinance and then when the ordinance was adopted, I believe in '98, it, it provided as a special use mining and resource extraction. The Department has taken a conservative interpretation of that and we consistently required that for quarrying operations, accessory operations, such as storage, crushing, administrative offices, that those, those don't fit under the exact special use of mining or resource extraction so, therefore, they need a Conditional Permit.

COUNCILMEMBER JOHNSON: Okay, and that was what I wasn't quite clear about because what, if I understand correctly, and correct me if I'm wrong, that it was because of the Ag Zoning Ordinance and the uses that were permitted and actually this was a, I guess you could view it as potential use, but then the position of the Department was no, you need a Conditional Use Permit because that particular activity did not fit within the definition, in the Department's view.

MR. HUNT: That's correct.

COUNCILMEMBER JOHNSON: Okay, thank you.

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CHAIR MOLINA: Thank you, Member Johnson. Committee Members, any other questions for the Department before the Chair offers a recommendation? Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you. And real briefly, thank you for that explanation. And, and just to add that there was no, there was no violation or no wrongdoing by this particular company that forced them to go and seek County Special Use Permit because this is primarily, the change in ordinance now requires it. So it's not being compelled because of any violation whatsoever?

MR. HUNT: That is correct.

COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

CHAIR MOLINA: Okay. Thank you, Mr. Mateo. Any other questions for the Department? Seeing none. Members, before the Chair offers his recommendation, any requests for testimony on LU-9? Seeing none. The Chair will close public testimony for Land Use Item No. 9.

*...END OF PUBLIC TESTIMONY...*

CHAIR MOLINA: Okay. All right, Members, so if there's no other concerns expressed? For the record, we did invite from the Department of Transportation, Mr. Cajigal, to give some comments, but apparently he's not here. So, I just wanted to make that known for the record.

So, with that being said, the Chair will ask for a motion to consider a bill for an ordinance granting Goodfellow Bros., Inc. a Conditional Permit for uses relating to a rock quarry within the County Agricultural District for property situated at Kihei, Hawaii.

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR MOLINA: Okay. It's been moved by Member Pontanilla, seconded by Mr. Victorino. Mr. Pontanilla, any discussion?

VICE-CHAIR PONTANILLA: No discussion, Chair. I think Mr. Fasi explained the proper procedure in regards to the, now the new ordinance from the State to come in for a Conditional Permit on this one here. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. There has been a consideration for a change in addressing some of the language in the title of the bill. Before the Chair recognizes that, Mr. Medeiros, you have something to add?

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COUNCILMEMBER MEDEIROS: Yeah, that was going to be my question, Chair, that according to the applicant's presentation, this isn't a quarry operation, this is more a rock crushing facility and operation, so do we still leave in the title of the bill, quarry?

CHAIR MOLINA: That's what we're going to do right now. Staff, if you could, or I guess, let us know what is the appropriate language that we should insert? The Chair is considering an amendment from the floor and Mr. Medeiros, I'll give you that opportunity, if you'd like to amend, but let's hear from Staff first.

MS. NAKATA: Mr. Chair, Councilmember Medeiros is correct that the applicant did advise there is no quarrying operation. Staff would, therefore, recommend that the word quarry in the title of the revised proposed bill transmitted on August 1<sup>st</sup> be changed to crushing facility. So, the phrase would be for uses relating to a rock crushing facility.

CHAIR MOLINA: Okay. So we shall delete the word quarry and crushing facility. Mr. Medeiros, you have the floor. I'll, I'll give you a chance to amend.

COUNCILMEMBER MEDEIROS: So, Mr. Chair, besides making that change from quarry to rock crushing, do we also have to also mention that it's a storage facility for the results of the rock crushing facility operations?

CHAIR MOLINA: Staff?

MS. NAKATA: Mr. Chair, Staff believes that it would be sufficiently covered by the phrase "usage relating to a rock crushing facility". In addition, Staff would note that in Section 1 of the revised proposed bill, the uses are described as to operate offices, a rock crushing facility, and a construction baseyard facility and to store aggregate and materials within the County Agricultural District. So, the revision to the title, Staff believes would be consistent with the uses called out in the text of the bill. In addition, Staff would note that Corporation Counsel has been consulted and that Deputy Giroux believes that this revision would comply with the Sunshine Law in light of the description contained in the agenda under Item No. 1 for the purpose of the bill.

CHAIR MOLINA: Okay, so no additional revisions to the title would be recommended at this point. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: So, Mr. Chair, right, I, I move to amend the bill to reflect the changes that was given to us by the Staff.

CHAIR MOLINA: Okay, and for the record, we shall, that is to remove the word quarry and insert the words crushing facility.

COUNCILMEMBER MEDEIROS: So moved.

COUNCILMEMBER VICTORINO: Second that amendment.

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CHAIR MOLINA: Okay, its been moved by Member Medeiros and seconded by Member Victorino. Any discussion on the proposed amendment? Seeing none. All those in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Okay. We have seven ayes and no, seven ayes and no nays and Members Anderson and Hokama not present.

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

**NOES: None.**

**EXC.: Councilmember Hokama.**

**ABSENT: Councilmember Anderson.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: APPROVE amendment to the main motion.**

CHAIR MOLINA: All right, Members, we're back to the main motion, as amended. Any discussion? Member Johnson?

COUNCILMEMBER JOHNSON: This would just be a question. And, and actually within 19.40.080, there's also a section requiring reporting. Now it doesn't come from the Planning Department, but it says under 19.40.110, the Department of Public Works shall submit to the County Council quarterly reports on a status of all Conditional Permits. Is there any comment on that particular aspect, because ever since I've been on the Council I don't recall ever seeing any kind of a status report on Conditional Permits ever.

CHAIR MOLINA: We did have, we do have Mr. Miyamoto from Public Works here, if you would like him to provide additional comment to your question, Member Johnson?

COUNCILMEMBER JOHNSON: Yes, I would like somebody to answer it, because if this is a standard condition that's part of the Conditional Use Permit, then I'd just like to find out when these reports come to us, if we have to ask for them, because I've never seen a status report.

CHAIR MOLINA: Okay, Mr. Miyamoto?

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MR. MIYAMOTO: Sorry, Mr. Chair. I was speaking with the other planner regarding something else. I didn't hear the question.

CHAIR MOLINA: Member Johnson, if you could restate --

COUNCILMEMBER JOHNSON: I'll repeat.

CHAIR MOLINA: --your question.

COUNCILMEMBER JOHNSON: This is under the County Code 19.40.110 and because this is a Conditional Use Permit, the requirement says under reporting, Department of Public Works shall submit to the County Council quarterly reports on the status of all Conditional Permits. So, because I've never seen such a report from your Department or from Planning, other than when the, I guess, applications are first filed and they go through the Planning Department, I think on the, their monthly report, it lists what permits are granted. But, if your Department is required to do this, how would that relate to what we've got before us now and if you haven't been doing reports, is this something that should be addressed?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Mr. Chair. I'm not aware of, I wasn't actually aware of this Code as it is under Title 19, which is for the Planning Department, but I'd have to check back with our Director to see if he's aware of it and if we have, or have not been providing these reports at this point.

COUNCILMEMBER JOHNSON: Then Mr. Chair, because this is more of a global issue, you know, rather than something specific, even though its contained within the title for a Conditional Use Permit, I would ask that we send correspondence just to ask and inquire, because obviously if we're gonna know that status of permits and expiration, I just want to know what the means. And if it's Public Works' responsibility to do that, we just need to at least advise them that this is a requirement under the Code.

CHAIR MOLINA: Okay. That is a reasonable request, Member Johnson. We'll instruct Staff to send a correspondence to the Public Works Director to get a response.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Mr. Hunt?

MR. HUNT: I would love to let Public Works take the heat on this one, but in all fairness, it, it, it's, it's probably a more likely responsibility of the Planning Department. I'm guessing now, so don't hold me to this, but I'm guessing it's a vestige of, of an older Code where there is this kind of responsibility under Public Works. So, that, that correspondence should probably go to the Planning Department as well.

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COUNCILMEMBER JOHNSON: Okay. And, and maybe with a copy to Public Works, because if it requires an ordinance change to clean up the Code than I think its appropriate, but if it was there initially and it's, you know, or it's outlived its usefulness, or if Planning is to do it, than we should have this properly addressed within the Code. Thank you.

CHAIR MOLINA: Okay. Staff will make note of that. We'll send a correspondence to the Planning Director and cc the letter to the Public Works Director, as well. Members, any other questions? The Chair has one, would like to make one request to the applicant, if he could come up and respond to a question? Mr. Hirano and if you ...

MR. HIRANO: Chair Molina, I have with me as well, Ken Gift, who is Project Manager with Goodfellow Bros., and John Maloney with Pacific Rim Land. If I'm not able to answer the questions, then I'll have to just defer it to them.

CHAIR MOLINA: Okay. Thank you. Just basically one question, regarding the hours of operation.

MR. HIRANO: Oh. Yes.

CHAIR MOLINA: It is still your intent to operate up until 5:00 p.m.?

MR. HIRANO: Yes, the, the applicant will be operating within the Special Use Permit Conditions.

CHAIR MOLINA: Okay, it wasn't clearly noted here.

MR. HIRANO: No change will be required. Yes.

CHAIR MOLINA: Okay, it wasn't clear to the Chair at first. I, I, I had thought that it was a request to extend the hours of operation till 6:00 p.m., but you a currently still satisfied with 5:00 p.m.?

MR. HIRANO: Yes, yes.

CHAIR MOLINA: Okay. Members, any other questions for the applicant? Member Johnson?

COUNCILMEMBER JOHNSON: Yes, thanks very much for being here, Mich. The, because the people from the State Department of Transportation are not here, I just see a letter that was sent at this time from Brennan Morioka and it was sent to the former Director of Planning, Mr. Foley. And it lists, I guess, the conditions. And you are currently operating with those particular conditions, as well on this site, with regard to signalization. It, it. . .(*inaudible*). . .

MR. HIRANO: I think it was the monitoring, to continue monitoring traffic and do improvements. And, I think we responded to that, Member Johnson, that, that was why they were looking at the alternative southern access to Kanani Street to access a signalized intersection for the southbound traffic.

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COUNCILMEMBER JOHNSON: Okay, so what you did was you developed in satisfaction. Because it says submit a traffic signal warranty study every two years. Signalize the driveway intersection with Piilani Highway when warranted at no cost to the State. And until driveway intersection with Piilani is signalized, apply to Maui District Office for an Occupancy and Use Permit and obtain approval for traffic control plan. And, so what you're indicating to us is that in satisfaction of that, you utilized that alternate access at an existing signalized intersection so that you would not add an additional signal onto an over signalized highway?

MR. HIRANO: That, that was the, yes and the applicant also will monitor, as required.

COUNCILMEMBER JOHNSON: Okay, because, and perhaps if you could, when this comes to the full Council, I didn't see any communication and if its in here, I apologize, Mr. Chair, but if, if we could have some response if you didn't respond in writing, just get some --

MR. HIRANO: Yes.

COUNCILMEMBER JOHNSON: --I guess, correspondence from Mr. Morioka just indicating that this is your arrangement so that you've already addressed that.

MR. HIRANO: That was, I believe we responded to that letter in that fashion and I'm, I'm not sure whether we've received a response from the Department of Transportation yet on it. But, I'll follow up with Highways.

COUNCILMEMBER JOHNSON: Okay, if you can. And then, also, Chair Molina, if you could just have, even it's some type of, frankly if it's even an email or something before this comes before the full Council, I would really appreciate that just so that we're clear about the conditions. Because if it's something, because this is a Conditional Use Permit, if it's something that we need to formally put within our CUP then we should be adding it in now.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Chair will work with the applicant and the State DOT to get a response and bring it to your attention.

COUNCILMEMBER JOHNSON: Okay, thank you very much.

CHAIR MOLINA: Okay. All right, thank you. Any other questions for the applicant before the Chair calls for the vote? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: I just have a question looking through some of the documents in the binder. I notice that the Planning Commission inquired about noise. I, do you have a condition that you have to operate at less than certain decibel levels?

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MR. HIRANO: The applicant has a noise permit from the Department of Health and they're operating within the noise permit. So it is permitted. As well, the rock crusher itself is a permitted equipped, piece of equipment from the Department of Health.

COUNCILMEMBER MEDEIROS: And I understand from your presentation that you haven't received any complaints about noise or dust?

MR. HIRANO: No.

COUNCILMEMBER MEDEIROS: Okay, thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Just a follow-up question on that. So, just to be clear.

MR. HIRANO: Yes.

CHAIR MOLINA: You currently are not adding any new crushing types of machinery?

MR. HIRANO: No, there's no plans for expansion. It's to keep at the current level. Yes.

CHAIR MOLINA: Okay. Thank you. Members, any other questions for the applicant? Seeing none. Thank you very much. All right, Members, the Chair will call for the vote on the bill, as amended, which is a bill for an ordinance granting Goodfellow Bros., Inc. a Conditional Permit for uses related to a rock crushing facility within the County Ag District for property situated at Kihei, Hawaii. All those in favor, signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Okay, thank you. The Chair will mark it 8-0. The Chair recognizes Chairman Hokama to our proceedings today. Eight ayes and with one Member not here today, Member Anderson.

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

**NOES: None.**

**EXC.: None.**

**ABSENT: Councilmember Anderson.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: Recommending FIRST READING of revised proposed bill.**

MS. NAKATA: Excuse me, Mr. Chair, will there be a motion to file, as well?

CHAIR MOLINA: Yes. Chair would like to ask you to consider inclusion of filing of the communication, as well. Any objections?

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (absent: MA).

**ACTION: Recommending FILING of communication.**

CHAIR MOLINA: Okay, this will include filing. All right, 8-0. Okay, Members, before we go onto to our next Item, which is LU-3, the Chair will call for a recess. Members, let us come back at 2:55. Meeting in recess. . . .(gavel). . .

**RECESS: 2:39 p.m.**

**RECONVENE: 2:57 p.m.**

CHAIR MOLINA: . . .(gavel). . . Land Use Committee Meeting for October 3, 2007 is now back in session. Thank you very much, Members, for that break.

**ITEM NO. 3: CHANGE IN ZONING FOR WAIHEE MAUKA PROJECT** (C.C. No. 06-314)

CHAIR MOLINA: We are now on Land Use Item 3, which relates to a Waihee, Change in Zoning for the Waihee Mauka project. And for the record, the Chair will ask is there anyone in the gallery that would

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like to testify on this particular item. Seeing no one approaching, the Chair will close public testimony for LU-3. Any objections Members?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: All right, thank you very much Members. So ordered. All right Members, LU-3. The Committee is in receipt of the following County Communication No. 06-314, from the Planning Director, transmitting a proposed bill to grant a request from RDD, LLC for a Change in Zoning from Ag District. . .(end of tape, start 2A). . .to OS-2 Open Space District for the Waihee Mauka project on approximately 17.559 acres along Kahekili Highway in Waihee, Maui. Also, a correspondence received dated January 19, 2007, from the Corporation Counsel's office, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AG DISTRICT TO OS-2 OPEN SPACE DISTRICT FOR PROPERTY SITUATED AT WAIHEE, MAUI, HAWAII". The purpose of the revised proposed bill is to grant the request for the subject property, which would allow for the development of a 14-lot agricultural subdivision on the parcel.

And Members, as you know, the Committee previously met on this application back on August 1<sup>st</sup> of this year. And we have from the Planning Department, along with Director Jeff Hunt, we have Planner Robyn Loudermilk and we also have from the Public Works Department, Mr. Mike Miyamoto and representing the Police Department, we have Acting Captain of the Department of Police, Mr. Wayne Ibarra, and also we have Mr. Giroux from Corporation Counsel. And the applicant's representative, we have Mr. Vince Bagoyo, Jr. and Dennis Boehlje--I hope I pronounced that name correct--Land Use Planner from Betsill Brothers Construction, Inc.

At this point, the Chair would like to ask the Planning Department if they have any additional comments and afterwards I will ask Captain Ibarra if he would like to add in some comments on this matter. Ms. Loudermilk?

MS. LOUDERMILK: Thank you, Chair. The Department has no additional comments at this time.

CHAIR MOLINA: Okay, thank you very much. Captain Ibarra, if you could please come up and join us? We would like to get your input on the matter. And after Captain Ibarra is done, Members, Mr. Miyamoto is waiting in the wings if you have questions for him and then we will hear from the applicant, as well. Captain?

MR. IBARRA: Good afternoon, Mr. Chair.

CHAIR MOLINA: Good afternoon.

MR. IBARRA: Our main concern, as with any development in the County of Maui, and particularly this area of Waihee, would be the traffic congestion. The area is quite congested as it is. We understand that the highway is under the State, but as far as our input, traffic would be a main concern for emergency

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vehicles to respond out there and also for the citizens that have to live and have to go to the schools that are out there. So, traffic is a major concern.

CHAIR MOLINA: Okay, thank you Captain Ibarra. Committee Members, questions for the Police Department or else I will ask Mr. Miyamoto to come down and ask if he has any questions? So Member Johnson followed by Member Hokama, questions for Captain Ibarra?

COUNCILMEMBER JOHNSON: Yes, Captain, thanks very much for being here. You were here during the testifiers who I guess were at the beginning of the meeting. Were you here for their comments -- Mr. Dadez and Ms. Yagi Buen, were you here at that time?

MR. IBARRA: No, I don't believe I was.

COUNCILMEMBER JOHNSON: Oh, okay. Well then, I guess you can't . . . I'll just summarize by saying that their concerns were similar to yours, and, but the question that I asked was, because this is a Change in Zoning, that would basically be from Agriculture to Open Space, it was a little bit different from what the testimony was that we were receiving, which was about the existing Ag subdivision and the fact that the developer, to date, according to their testimony, had not made an effort, I guess, to meet with the community. So, if a community meeting were to take place, I guess it would be, and I think Ms. Yagi Buen had indicated that, you know, it would be in an upcoming meeting that they would like to have the developer present. Would you be able to attend or someone from your Department be able to attend and maybe also share some of your concerns and suggestions with that community, if it's possible?

MR. IBARRA: Sure, I don't believe that there would be any conflict in attending a meeting.

COUNCILMEMBER JOHNSON: Okay great. Thank you very much. I really appreciate that, because they have the same concerns that you do. Thank you.

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

COUNCILMEMBER HOKAMA: Chairman, thank you very much. Captain Ibarra, we appreciate your presence, as well as your knowledge of the existing situation regarding traffic in this area. In your professional estimation for our Police Department, have you see any improvements or mitigative efforts done in that general area or surrounding areas that have helped to mitigate the traffic concerns of Piihana, Mokuhau area toward the Wailuku Estates, as well as the Waihee/Waiehu areas, and Wailuku Terrace, I believe, Mr. Chairman?

CHAIR MOLINA: Captain?

MR. IBARRA: Sir, as far as any mitigation done by the developers or that --

COUNCILMEMBER HOKAMA: In the general area.

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MR. IBARRA: --in the general area.

COUNCILMEMBER HOKAMA: You know, because again, yeah Mr., Captain Ibarra, I bring this up because we know it's going to get more intense with anticipation of, I believe, Mr. Chairman, it's Hale Moa project --

CHAIR MOLINA: That's correct.

COUNCILMEMBER HOKAMA: --that we've already approved and is going through, I guess, final State Land Use Commission process. But we already know more homes, more demand, more stress and, you know, I'm concerned that if the current situation is already at a level of service that our residents find highly difficult, it's going to get worse. And, so, in our review of this application, you know, we are going to consider mitigative efforts that is appropriate to attach to this, but I would just ask for your professional comment on how you see the existing thing and whether or not anything has been done during your term of being in charge of this area of whether or not things have improved, it's gotten worse, things are still status quo in your review, Mr. Ibarra, Captain.

MR. IBARRA: Well, sir, in my opinion and from what I've been able to gather from the officers that actually work in that area, traffic has been as it has been and it's impacted in certain areas during certain times. In the morning, during the morning traffic, the schools and in the afternoon, with the amount of volume of people that live in that area already, it has seen a great impact as far as traffic congestion. So, and, I don't, I haven't seen any type of measures that, you know, have been implemented yet to try and mitigate these problems.

COUNCILMEMBER HOKAMA: Could you share with us whether or not the Lower Beach, Waiehu Road or the upper Kahekili, Market Street venues, do you believe they have the same level of stress regarding the service ability to move vehicles and people, or, or is once, one route more difficult and more impacted by what you see on a day to day basis?

MR. IBARRA: Well, I don't believe any of the, the routes are much more feasible than the other. And both have been impacted at different, at different times by the residents and both I've seen the traffic through North Market Street and also the traffic on Waiehu Beach Road basically has been affected, you know, by the amount of people that's been living in that area and by the amount of the subdivisions that we have put out there. And, I don't, I haven't seen any, any improvements in the road structures or anything to mitigate the congestion.

COUNCILMEMBER HOKAMA: When there has been a call for assistance or response by your Department, Captain, have you noticed a impact on your ability, as well as response time to those call, call outs?

MR. IBARRA: I don't have that information at hand.

COUNCILMEMBER HOKAMA: Okay.

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MR. IBARRA: But what I can tell you from experience and speaking with the officers, is that it depends on the type of call and situation. Of course, the emergency calls where the officers are assigned to go emergency response, those calls, which are, you know, the, the --

COUNCILMEMBER HOKAMA: They're higher priority.

MR. IBARRA: --high priority, the response times aren't affected as much because of the fact that the officers are utilizing their lights and sirens and are getting, and getting through the traffic. It's the calls for services that the officers aren't authorized and they have to respond in a routine response where the times may be greatly affected due to the amount of congestion.

COUNCILMEMBER HOKAMA: I thank you for your response and I appreciate the demands we place on you and your men and women of the Department. Thank you, Chairman.

CHAIR MOLINA: Thank you, Mr. Chairman. Committee Members, any other questions for the Police Department, at this time? Seeing none. Thank you very much, Captain Ibarra, for your input on this matter. Members, any questions for Mr. Miyamoto from Public Works at this time, before the Chair calls up the applicant? Okay. Seeing none. Thank you, Mr. Miyamoto. Okay. I'd like to call upon the applicant to come up and respond to some questions the Committee may have.

Good afternoon, sir. If you could please state your name for the record?

MR. BOEHLJE: Good afternoon, Mr. Chairman and Councilmen. I'm Dennis Boehlje with Betsill Brothers Construction representing RDD, LLC.

CHAIR MOLINA: Okay. Thank you, Mr. Boehlje. One, one question for you. You heard the testimony today. What efforts have you made to have, made with, for example Ms. Yagi Buen or the Waihee community, in general, to have a meeting to, I guess, share with the community what is being proposed? Because, we, for myself, I've received calls and we've also received this testimony dated October 2<sup>nd</sup>, written testimony Members, which is in the last page of your Item from a Melvin Fukunaga asking questions about this proposal. What efforts have you folks made to network with the community on this proposal?

MR. BOEHLJE: That's, I think as Jan pointed out, and I believe it was in 2005 Dwayne Betsill met with members of the board of the Waihee Community Association and informed them that he would like to get together with the whole Association at some point to tell of our plans in the area. Now, Betsill Brothers and RDD own several properties in the area. And this was prior to this application for the Open Space Change in Zoning and it really didn't contemplate this application. In other words, we had filed for an agricultural subdivision map. That's when we were aware of the inconsistency between the Open Space Community Plan and the Agricultural zoning. So when we proceeded to file this application, we did not see this as an issue that was of significance, just the Change in Zoning to Open Space, that was significance that the Association would want to, want to review it. We discussed it internally and just didn't think, it, it, it was our fault, we didn't think this would be a concern to them.

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We still intend, in fact, we're planning on meeting with them in the next few months about our plans in the Waihee area.

CHAIR MOLINA: Thank you, Mr. Boehlje. Questions for the applicant? Mr. Mateo, you have any questions? If not...

COUNCILMEMBER MATEO: Thank you, Mr. Molina.

CHAIR MOLINA: Oh, I'm sorry, I thought I saw your hand go up.

COUNCILMEMBER MATEO: Thank you, Mr. Molina, I guess I'll just ask the question Mr. Molina wanted to ask. Instead of going back in a couple of months to meet with the Waihee Community, they're having their next meeting on November 3<sup>rd</sup>. You know, I'm, I'm hoping that you will be available to, to sit with them and explain this current project, because in 2005, a couple of years wait, a two-year wait for the project to, to actually develop, it, it, it takes some getting use to. You know, it, this is like, 2005 you initially mention it to them, that the project, this project could be coming along and then nothing happens for a period of time, so that when it does happen, it's shock, yeah. So, I, I think they should have been kept abreast along the way. So, I'm kinda hoping that come November 3<sup>rd</sup>, you will be on the table, you know, answering questions from the community so the project, you know, can get its considerations. And, I would also like to ask you, because of community concerns at this point, and because of, we just heard the police officer reference concerns of traffic, you know, at this point, you know, your comments on us at this point, not taking any action, other than deferring this matter until you meet with the community and have this discussion and then we're able to get some kind of feedback.

MR. BOEHLJE: If you're asking me if we would agreed to that, yes. I'm, I was surprised at the comments today and, as I said, I had, we had overlooked the possibility that they might want to review an Open Space CIZ, but based on the comments we heard today, if you're asking us to return to them, absolutely, yes.

COUNCILMEMBER MATEO: So, therefore, Chairman, if, if the applicant is saying he is receptive in meeting with the, the community and I believe that we have all heard real loud and clear the wishes of the community via their, their representatives, perhaps we could at this point just defer this item, Chairman, and, and call this discussion to a halt until we have opportunity for additional feedback from both the developer and the community. Thank you very much, Mr. Chairman.

CHAIR MOLINA: Okay, thank you very much Mr. Mateo. Chair will take that under consideration. Mr. Victorino, as the area representative, any comments from you?

COUNCILMEMBER VICTORINO: No, I, I think we've spoken on this and I think that would probably be our best avenue. And I would try to be there that night also, just to make sure that, you know, whatever has been said to me and to all will be said to you folks and you can address it, you know. So, I think I'm all for that deferral and being able to sit down with the community is the optimal way to get anything done

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today in our, in our, in our County. If they're willing, I'm more than happy to accept your recommendation of deferral is that's what you so choose, sir. Thank you, Mr. Chair.

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

COUNCILMEMBER JOHNSON: Yes, thanks very much too. I just wanted, there was one thing in Mr. Fukunaga's letter to us on October 2<sup>nd</sup>. And he states that this proposed Ag subdivision cannot move forward without this Change in Zoning. Is that correct?

MR. BOEHLJE: That has been, that, I don't want to say unequivocally no, but that was the determination at the time from Corp. Counsel, that, that they asked us to, they rejected the application at that time and asked us to proceed with a Change in Zoning.

COUNCILMEMBER JOHNSON: Okay, because it was inconsistent with the community?

MR. BOEHLJE: Correct.

COUNCILMEMBER JOHNSON: Okay, thank you.

CHAIR MOLINA: Thank you Member Johnson. Committee Members, any other questions for the applicant before I excuse him? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Maybe just one and it may also be for the Department later. But, if this request in Change of Zoning goes through, does it change your ability to do different things on the new zoning?

CHAIR MOLINA: Mr. Boehlje?

COUNCILMEMBER MEDEIROS: Other. . . from what it is currently?

MR. BOEHLJE: Councilmember, not, not to my knowledge. Our, in fact, the rezoning would limit what we can do on that 17 acres to the point that where, what, we could now build one farm residence or maybe even two, we could build none. So, to the best of my knowledge, that's all, all it accomplishes at this point is to bring it into consistency with the community plan.

COUNCILMEMBER MEDEIROS: So that, that, that's your intent and that's your sole purpose of this zone changing request?

MR. BOEHLJE: That's, in fact, our sole purpose at this point is to bring it into consistency with, so that we don't have any issues in the future since we had our, our original tentative or preliminary map rejected we've not even pursued that. So we have not pursued the agricultural subdivision and we don't know that we will for certain. All we're doing at the present time is farming the land.

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COUNCILMEMBER MEDEIROS: Okay, thank you very much for your information and your testimony. Thank you, Chair. I'll have questions for the Department later when you're ready for that.

CHAIR MOLINA: Okay, thank you Member Medeiros. Ms. Loudermilk do you care to add anything with regard to Member Medeiros' questions?

MS. LOUDERMILK: The, the uses in the proposed Open Space designation is much more restrictive than what is allowed in the County Agricultural District. So the applicant will continue to do farming on the property, can be used for outdoor open space, recreation. There are two cultural properties, cultural sites on the property. This zoning will allow for the, the preservation and maintenance so it is a bit, it is much more restrictive in terms of the types of structures that can be put on, but in terms of the intent of continuing agricultural operations and the like, that can still go forward.

COUNCILMEMBER MEDEIROS: Okay, so you, you also see it as a Department that the sole purpose of this is to just come into conformity with the community plan?

MS. LOUDERMILK: Yes.

COUNCILMEMBER MEDEIROS: Okay, thank you, Chair.

CHAIR MOLINA: Okay, thank you Mr. Medeiros. Any other questions for the applicant before I excuse him from the stand? Okay, Mr. Boehlje, thank you. Okay. Chairman Hokama followed by Mr. Pontanilla?

COUNCILMEMBER HOKAMA: Thank you, Chairman. Department, if you can help refresh my memory. So this open space parcel that we are considering for this Change in Zoning request was original part of one large parcel that on our diagram is agricultural on both sides of the proposed change?

MS. LOUDERMILK: Yes.

COUNCILMEMBER HOKAMA: Okay, so, therefore, it went through a subdivision process already, correct?

MS. LOUDERMILK: They went through the subdivision process. It got rejected. There is no application.

COUNCILMEMBER HOKAMA: Okay, so, this open space has been, has not been subdivided out from the large parcel?

MS. LOUDERMILK: No, it has not.

COUNCILMEMBER HOKAMA: So, we are considering a Change of Zoning only on metes and bounds?

MS. LOUDERMILK: Yes. The metes and bounds relate to the metes and bounds that FEMA has established on their FIRM maps in which the Open Space designation was taken from during the Wailuku/Kahului community plan update.

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COUNCILMEMBER HOKAMA: Okay, and, Ms. Loudermilk, I'm just trying to get --

MS. LOUDERMILK: No.

COUNCILMEMBER HOKAMA: --a good sense, yeah.

MS. LOUDERMILK: Yes.

COUNCILMEMBER HOKAMA: But, you know, you know, normally Council has issues with providing zoning to an unsubdivided parcel. Because we're talking than just about a lot, a, a, a parcel within a larger lot and the rest of the lot maintains a different zoning. So, normally we would have, have it subdivided out so we are subdividing a specific lot for a zoning consideration. So, help me understand why for this one it's only a metes and bounds zoning consideration?

MS. LOUDERMILK: It is only a metes and bounds consideration in that the subdivision law does not allow for subdivision of, of a larger parcel if there are land use inconsistencies between the State Land Use designation, the Community Plan designation and the underlying Zoning designation. The inconsistency that was identified through the subdivision process had to do with the, I believe the Open Space designation. The subdivision ordinance is very specific in terms of consistency. It is much stricter than consistency used for other components in the Planning Department so that has brought us to this, it's a Catch 22. We're not allowed to subdivide because of that inconsistency and it does not meet, it does not conform to what Council would usually like to see, because we cannot subdivide it out.

COUNCILMEMBER HOKAMA: Okay, I understand the predicament the Department is facing in trying to administer the subdivision, as well as the Zoning Code. What I'm concerned about is that if this had to go through, have gone through a subdivision process and then this request comes through, already the property or the lot would have gone through the sliding scale, right? I'm just concerned they are now, do they have the additional benefit of more lots because we're doing the zoning this way, or not because you've eliminated that initial subdivision?

MS. LOUDERMILK: I don't think so. I believe the sliding scale would still apply.

COUNCILMEMBER HOKAMA: To the two parcels, on either side of the Open Space designation?

MS. LOUDERMILK: The subdivision would encompass the entire property and that the sliding scale would occur on the portions of the property designated Ag. I would have to get back to this Committee to see exactly the number.

COUNCILMEMBER HOKAMA: Thank you, because --

MS. LOUDERMILK: Yeah.

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COUNCILMEMBER HOKAMA: --if it's, based on the whole lot --

MS. LOUDERMILK: Yeah.

COUNCILMEMBER HOKAMA: --yeah, the Open Space is one lot. Or one, one subdivided portion of that whole initial lot, right?

MS. LOUDERMILK: Should the subdivision go through, yes.

COUNCILMEMBER HOKAMA: So, you can understand our predicament also now --

MS. LOUDERMILK: Yes, yes, yes.

COUNCILMEMBER HOKAMA: --as we try to maintain integrity of the sliding --

MS. LOUDERMILK: Yeah.

COUNCILMEMBER HOKAMA: --scale ordinance under Agricultural zoned lands. And, we would appreciate --

MS. LOUDERMILK: We can get back.

COUNCILMEMBER HOKAMA: --if you get back to our, our Chairman Molina with a response please. And, Director Hunt, we understand it's a unique situation but would ask that you base, help provide the legal basis of the determination also with Corporation Counsel's assistance please. Thank you, Mr. Chairman.

CHAIR MOLINA: Okay. Thank you, Member Hokama. Chair going recognize Mr. Pontanilla and after Mr. Pontanilla is done the Chair is gonna offer a recommendation to the Committee. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yes, I was gonna say that because the developer has come forward and is willing to meet with the community, that for this particular Land Use Item, that we should defer it, but I have a question before you do that, to the Department. And, you know, traffic has been an issue throughout Maui County. I, I just liked to find out from the Department, whenever a developer comes in, any developer, or anybody that like subdivide, in regards to the traffic study, and the reason why I bring this up is that of the issue that we had, you know, we have in Kahului regarding the Department of Transportation. When I look at traffic, I look at a scheme that, and overall planning in regards to the traffic for a particular area. In other words, well as an example, in Kahului, because we have that issue on Kaahumanu and Puunene Avenue. What is the alternate route for the Department of Transportation, as well as the County of Maui, so that we get an overall picture as far as the traffic and the traffic impacts that would have within a community? Like in Waihee, you know, we all know that there is a proposed third route coming out of Waihee town, you know, going through, I guess, the Wailuku Post Office area across the bridge. Now creating a new bridge and crossing that bridge to get to Lower Main. When we do traffic studies do we include like proposed projects that may be coming online or

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something that is being proposed by the State of Hawaii? So that, you know, for me, it gives me a, a picture saying that, okay, if we approve anything in Waihee, that down the road five, ten years from now we're looking at, you know, improving the traffic condition in the particular area.

MR. HUNT: The, the situation that you're up against is that once the consistency in the entitlements is done, then essentially the developer has the rights to do an agricultural subdivision and the way the review process is right now based on the existing ordinance is, it's not a very extensive review process. And, to the best of my knowledge, I don't believe we've required traffic impact studies for agricultural subdivisions and that's a problem that the Department, there's a lot of problems with agricultural subdivisions that the Department sees and we're gonna be coming back to the Council and discussing potential solutions in the future.

VICE-CHAIR PONTANILLA: Yeah. It, it, it's only gonna help the County of Maui in regards to planning and gives us a really good idea of what's coming on line in, in, in the near future. And, you know, for me, to have an impact study done, you know, at certain intersection and that's it. It doesn't really solve the problem until you take a look at the overall picture. You know, I, I you know knowing that this is an agricultural subdivision but you know, when we have developers creating . . . a good example, Department of Hawaiian Home Lands, you know, they created all that homes in Waihee Valley that there's no means of providing traffic relief, you know, things like that. Thank you, Chair.

MR. HUNT: We share those concerns.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Chair's gonna offer a recommendation, Members. I've heard your concerns loud and clear and based on the fact that no meeting, evening meeting has been held with the community and like I stated earlier, I've received phone calls and we did get a testimony submitted to us with questions about this proposal, and I think it's only fair to the citizens of Waihee that the applicant hold an evening meeting to clear the air, so to speak. Cause initially the applicant, excuse me, the Chairman of this Committee was under the assumption that the applicant had met with the community and apparently that did not transpire. So needless to say I'm not very happy about that. So, I'm gonna defer this and I want to make it clear to the applicant that the Chair will not consider this application until a meeting is held with the community, especially in this day and age of growth here in Maui County. I think for all developers no matter what the size of the proposal is, you need to meet with the community to clear the air on any concerns. So, the Chair's recommendation is to defer. Mr. Hokama?

COUNCILMEMBER HOKAMA: Mr. Chairman, I, I am in support of your recommendation. I have just one question for the Department, please.

CHAIR MOLINA: Proceed.

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COUNCILMEMBER HOKAMA: Since you, you have made us appreciate the difficulty of this unique situation, it may not be able to be done with this application and we may need to amend one or more ordinances in our Code, but maybe in the future and if we can consider for this one and Corp. Counsel can find a legal means of doing it, would a in perpetuity easement to address the. . .(end of tape, start 2B). . .the information was proposed initially be another means of accomplishing the same thing but still allowing then the subdivision so that we are not looking at providing double opportunity for more lots than was originally intended under the sliding scale ordinance. And you don't need to respond today. I'm posing that, but I would like for you folks to think about and be able to respond when and if the Chairman does reschedule this item for Committee discussion, please.

MR. HUNT: We will explore that.

COUNCILMEMBER HOKAMA: Thank you very much. Thank you, Chairman.

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

COUNCILMEMBER JOHNSON: Yes, and because it's been 2006 and we've had a lot of comments, you know, I'm just refreshing my memory about the various comments from the different Departments. I would also, if there is a community meeting, as I asked the Police Department, I don't know if people from Planning and especially, the Water Department, if somebody, even if just some representative could go there to hear the concerns or if someone tapes the meeting, I think it would be really helpful to us. I'm, I'm sure at least one of the Members of this Council might be able to attend, but I'd be really interested to see the comments as it stands now, because from my understanding this is the lynch pin in allowing that agricultural subdivision to move forward and the availability of water plus the stream restoration, all these issues that we're dealing with, it's really important that we try and get that feedback. So, I would just ask if there's any way, even, Mr. Boehlje, if somebody from our Staff, if nothing else, if we could provide some presence at that meeting, because I think it's going to give us a good indication. Because obviously, we can't all legally attend the meeting due to a lot of other, you know, rulings that we have and Sunshine Law. I just think it, for me as one Member; it would be very helpful to, to at least hear from the community, because we can't all be there. Thank you.

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

COUNCILMEMBER VICTORINO: Mr. Chair. Let me assure my colleagues. I'm there for my community even though my own community is the island and the County of Maui. Okay. So they'll be there and also I've already have letters being drafted both to the Water and to you, Mr. Hunt, to have representation there, also Public Works and the State will be informed. So, I'll try to get everybody I can there. So let me be assure, all of you, we will be represented and if any other Member wants to come, we're allowed two members, you're more than welcome. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. All right, Members, you've heard the Chair's recommendations, so with that being said, Land Use Item 3 is deferred. Any objections?

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COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Seeing none. It is 3:32. Staff, is everything all clear with public testimony? Just to reassure has been closed for LU-3 and LU-9. All right. Thank you very much. 3:32 Members.

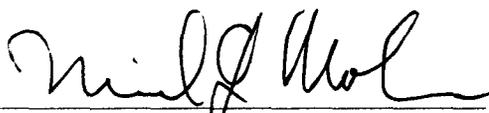
**COUNCIL MEMBERS VOICED NO OBJECTIONS** (absent: MA).

**ACTION: DEFER pending further discussion.**

CHAIR MOLINA: Thank you very much for your participation today. Members, this Land Use Committee meeting for October 3, 2007 is now adjourned . . . *(gavel)* . . .

**ADJOURN:** 3:32 p.m.

APPROVED:



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MICHAEL J. MOLINA, Chair  
Land Use Committee

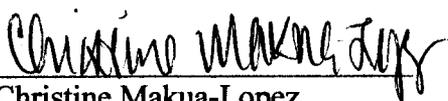
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Transcribed by: Christine Makua-Lopez

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 25<sup>th</sup> day of October 2007, in Kula, Hawaii.

  
Christine Makua-Lopez