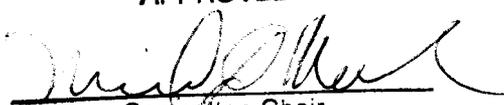


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M I N U T E S  
LAND USE COMMITTEE  
Council of the County of Maui  
Council Chamber  
October 22, 2007

APPROVED:  
  
Committee Chair

1       **RECONVENE:**     9:07 a.m.

2       **PRESENT:**     Councilmember Michael J. Molina, Chair  
3                       Councilmember Joseph Pontanilla, Vice-Chair  
4                       (arrive 3:50 p.m.)  
5                       Councilmember Michelle Anderson, Member  
6                       Councilmember Gladys C. Baisa, Member  
7                       (leave 12:51 p.m.)  
8                       Councilmember G. Riki Hokama, Member  
9                       (arrive 9:49 a.m.; leave 11:00 a.m.)  
10                      Councilmember Danny A. Mateo, Member  
11                      Councilmember Bill Kauakea Medeiros, Member  
12                      (leave 12:51 p.m.)  
13                      Councilmember Michael P. Victorino, Member

14       **EXCUSED:**     Councilmember Jo Anne Johnson, Member

15       **STAFF:**       Tammy M. Frias, Committee Secretary  
16                       Carla M. Nakata, Legislative Attorney  
17                       Stephanie Ohigashi, Executive Assistant to  
18                       Councilmember Michael P. Victorino

19       **ADMIN.:**     Ann Cua, Planner, Department of Planning  
20                       (leave 11:10 a.m.)  
21                       Colleen Suyama, Deputy Director, Department  
22                       of Planning (arrive 11:10 a.m.;  
23                       leave 12:51 p.m.)  
24                       Clayton Yoshida, Planning Program  
25                       Administrator, Current Planning  
26                       Division, Department of Planning  
27                       (arrive 3:50 p.m.)  
28                       Jeffrey Eng, Director, Department of Water  
29                       Supply  
30                       James A. Giroux, Deputy Corporation Counsel,  
31                       Department of the Corporation Counsel

32       **OTHERS:**     Charles Jencks, Owner's Representative,  
33                       Honua'ula Partners, LLC  
34                       Steven J. Goodfellow, Goodfellow Bros., Inc.  
35                       Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc.  
36                       (Applicant's entitlement consultant)  
37                       B. Martin Luna, Esq., Carlsmith Ball, LLC  
38                       (Applicant's attorney)  
39                       Joyclynn Costa  
40                       Additional attendees (5)

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

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

4       CHAIR MOLINA: (*Gavel.*) The recessed Land Use Committee  
5                   meeting of October 18th, 2007, is now back in  
6                   session.

7                   Good morning, Members.

8       COUNCIL MEMBERS: Good morning.

9       CHAIR MOLINA: You look all bright-eyed and bushy-tailed,  
10                   ready to -- ready to work.

11       COUNCILMEMBER MATEO: Don't be fooled.

12       COUNCILMEMBER BAISA: I don't know about the tail.

13       CHAIR MOLINA: Okay.

14       COUNCILMEMBER VICTORINO: I don't know about the bushy  
15                   part.

16       CHAIR MOLINA: Okay. Thank you, Mr. Victorino.

17                   We're discussing Land Use Item 38, which is a  
18                   Change in Zoning and Project District Phase I  
19                   Approval for "Honua'ula/Wailea 670" Residential  
20                   Development.

21                   And we have in attendance this morning -- we  
22                   have Members Mateo, Anderson, Baisa, Medeiros,  
23                   Victorino, and Molina. Excused are Members Johnson,  
24                   Hokama, and Pontanilla.

25                   Members, we're going to be doing a juggling

1 act today in terms of, I guess, Members that will be  
2 present as far as Council Members and also resource  
3 personnel. We will be working till 1:00 today, and  
4 from there the Chair will take a break and come back  
5 a little later in the afternoon because my  
6 understanding is we have some Members that have to  
7 leave for some prior commitments. For the public's  
8 information, this is an off-week and Members do make  
9 prior commitments to address other matters in our  
10 community. The Chair is very mindful and respectful  
11 of that, although this is a very important issue  
12 we're dealing with this morning, but there are other  
13 important matters in our community. So, our Members  
14 have to go out and do various things, whether it be  
15 site inspections or talk to community groups on  
16 other matters, so we have to be very mindful of  
17 that. And, so, that is why today we're -- we have  
18 some what of an unusual schedule and how we will  
19 proceed. So, we will work up until 1:00. Of course  
20 we will have a break or two in between. And then my  
21 understanding is we will lose quorum because, again,  
22 Members have prior commitments. And by 3:30, I was  
23 told by Staff we will have bare quorum to continue  
24 for about another hour and a half, maybe two hours,  
25 from 3:30 to 5:00, maybe 5:30. So, that is how our

1 schedule will go today, 9:00 to 1:00, then 3:30 to  
2 5:30. So, there will be quite a long break in  
3 between. So, I guess you can look at it as having a  
4 very extended lunch break from after 1:00 o'clock,  
5 so -- well, for some of you, anyway.

6 So, with that being said -- and then I was  
7 also told that for some of our conditions that we  
8 haven't reached consensus on, the Department  
9 personnel that the Chair would like to have present  
10 is unavailable, so we will be jumping around.  
11 Namely, the Chair had hoped that the Water Director  
12 would be available this morning, but I was told the  
13 Water Director will be available now 10:00 o'clock,  
14 or the representative from the Water Department,  
15 10:00, maybe 10:30, water of course being a critical  
16 subject matter for this application.

17 So, how the Chair would like to proceed until  
18 we get the Water Director here is to look at  
19 Condition 18.

20 And Members, you have been given a revised  
21 matrix.

22 Staff, can you go over any -- I guess, any  
23 areas of where changes or additions were made to the  
24 revised matrix?

25 And, by the way, Staff that's here today, we

1           have Carla Nakata, Legislative Analyst, and  
2           Committee Secretary Tammy Frias.

3                       Ms. Nakata?

4       MS. NAKATA: Mr. Chair, the main change to the matrix was  
5           the addition of a new column on the right-hand side  
6           to indicate those conditions where either consensus  
7           had been reached or where the Chair is presenting a  
8           recommendation for discussion.

9       CHAIR MOLINA: Okay. Members, that is where the  
10           adjustments were made to our matrix.

11                    So, with that being said, Members, Chair  
12           would like to look at Condition 18, which is located  
13           on Page -- I believe Page 10 of the matrix. Yes,  
14           Page 10 of your matrix. And, basically, it lists  
15           all the conditions from the Department of Health --  
16           related to Department of Health. There was, I  
17           guess, some discussion as to whether this is needed  
18           or not because it's assumed the Applicant has to  
19           follow these conditions or conditions that are  
20           similar to -- from the Department of Health. So,  
21           basically, the Chair would like to get your input on  
22           this as to whether we keep the Planning Commission  
23           recommendation condition in or we leave it out,  
24           because I believe Ms. -- Director Suyama had  
25           suggested to us that this may be redundant and may

1 not be needed in the application at this point.

2 Comments, Members?

3 Or can -- by the way, we also have -- from  
4 the Planning Department we have Ann Cua, and from  
5 Corporation Counsel Mr. James Giroux.

6 Ms. Cua, are you able to comment on Condition  
7 18?

8 It's on Page 10 of the matrix. I believe  
9 Director Suyama, when we last talked about it, had  
10 suggested that this may not be, I guess, needed  
11 because it is already assumed the Applicant must  
12 follow conditions similar to what is already listed  
13 here.

14 MS. CUA: I believe that's correct. But I think this body  
15 before has included conditions even though it's  
16 going to need to be complied with anyway. I believe  
17 the energy condition was one of them that we had  
18 proposed that you possibly delete because there is  
19 legislation; however, I believe you decided to  
20 include that as a condition. So, the Department has  
21 no objection to the language as stated.

22 CHAIR MOLINA: Okay. So, we're fine if we leave it in as  
23 is?

24 Okay. Member Anderson?

25 COUNCILMEMBER ANDERSON: Yeah, Chair, just -- so folks

1 realize, these are already conditions that run with  
2 the land based on the unilateral agreement filed  
3 with the Land Court System in 1992 for their -- for  
4 their zoning for the two golf -- the previous golf  
5 courses. So -- and I think that this is also a  
6 condition that the State Land Use Commission  
7 imposed.

8 But my concern with the conditions, when we  
9 talked about this back in August, has to do with the  
10 Item B, which says, Conditions 2 and 3 of the  
11 Department of Health's 12 conditions relating to  
12 groundwater monitoring. My concern, Mr. Chair, is  
13 that -- you know, these same conditions, they're --  
14 they're standard golf course conditions that the  
15 State always imposes, and so these conditions were  
16 in place from Makena Resort, and the ground-watering  
17 program that they implemented based on these  
18 conditions was not, in my opinion, adequate, and in  
19 the opinion of many other marine biologists, because  
20 they -- the -- the consultant who did the  
21 monitoring -- and they do it annually and it's  
22 supposed to be sent to the Department of Health for  
23 their review -- the monitoring program did not  
24 include any study of the biota to see the impacts;  
25 and that's the whole purpose, really, of the

1 groundwater monitoring.

2 I might have picked out the wrong condition.

3 It has to do with the near-shore water monitoring

4 that they do. And at the time when we discussed

5 this in August, I brought up the issue of the

6 monitoring reports that had been done for Makena

7 Resort --

8 CHAIR MOLINA: I'm sorry, Member Anderson, if you can

9 continue.

10 COUNCILMEMBER ANDERSON: Yeah.

11 And because they didn't actually adequately

12 monitor the biota, the really -- the water quality

13 data -- the -- actually, the water quality reports

14 were never even reviewed by Department of Health.

15 When I called them back in -- what was it, Members,

16 with the memory?

17 CHAIR MOLINA: Was it back this August, you think?

18 COUNCILMEMBER ANDERSON: No, no, no, when we were doing

19 Makena Resort.

20 CHAIR MOLINA: Oh.

21 COUNCILMEMBER ANDERSON: I called them for Councilmember

22 Nishiki, and they had never even received the

23 reports. Thirteen years of reports had never been

24 reviewed. So, we got the reports and sent them to

25 them, and they agreed that the reports did not

1           adequately analyze the effects of the biota.

2                       Now, those reports revealed that the water  
3           quality standards along the shoreline had exceeded  
4           the State standards. And the reports that that  
5           biol -- consultant did are the reports that I sent  
6           in -- every year the State asks for nominees for the  
7           Impaired Water Bodies List. This is a requirement  
8           that the EPA puts out every year. And, so, because  
9           the -- the reports revealed that the water along the  
10          shoreline had exceeded State standards for  
11          turbidity, chlorophyll -- I can't remember right  
12          now; I'd have to pull it out -- I sent those reports  
13          into the State for the Section 303 Impaired Water  
14          Body List. And based on those reports, they put the  
15          near-shore waters along this shoreline on the  
16          Impaired Water Bodies List, which means there has to  
17          be action taken to correct and bring the water  
18          quality standards back up to State standards.

19                      So, what I'm wanting to do, Mr. Chairman, is  
20          provide a condition that specifically states what  
21          the marine monitoring program has to include, which  
22          includes, you know, analytical methods that will  
23          actually spell out what pollutant loadings -- what  
24          effect pollutant loadings might have on the biota.

25          CHAIR MOLINA: Do you have that condition ready for us to

1 consider?

2 COUNCILMEMBER ANDERSON: Yes, I do, Chairman.

3 CHAIR MOLINA: Okay.

4 COUNCILMEMBER ANDERSON: I've had it ready since August.

5 CHAIR MOLINA: Okay. Why don't you go ahead and propose  
6 it.

7 Now, you want this as a separate condition or  
8 to be incorporated within Condition 18?

9 COUNCILMEMBER ANDERSON: Well, I'm a little confused the  
10 way --

11 CHAIR MOLINA: Let me ask Staff.

12 Member Anderson wants to propose a condition  
13 related to water -- I guess water monitoring to, I  
14 guess, B, 18(B).

15 Can she incorporate the condition into 18(B)  
16 or must it be done as a separate condition?

17 I'm just trying to consider which is the more  
18 cleaner, I guess, way to do this.

19 COUNCILMEMBER ANDERSON: Chair?

20 CHAIR MOLINA: Member Anderson?

21 COUNCILMEMBER ANDERSON: I called out the wrong condition.

22 I said condition B, which has to do with groundwater  
23 monitoring. It's actually condition A, relating to  
24 an approved sampling plan, establishment of the  
25 baseline --

1 CHAIR MOLINA: Okay.

2 COUNCILMEMBER ANDERSON: -- groundwater and nearshore  
3 water quality.

4 And the reason, Chairman, that I -- I think  
5 it's important for us to put in a specific -- and  
6 this -- this condition was written by a marine  
7 biologist who does this kind of work and -- this  
8 kind of monitoring, and the reason I think we need  
9 to spell it out is because -- you know, in the past  
10 the Department of Health didn't even review the  
11 conditions -- I mean, the reports that were done and  
12 they're supposed to be the ones who oversee this for  
13 us. So, because it's our waters and our residents  
14 and visitors who swim in the waters and our reefs  
15 that are being damaged -- I don't need to remind  
16 everybody but I'm going to anyway -- that we have a  
17 very severe degradation of our reefs along the  
18 shoreline, so we want to stop any further  
19 degradation and we want to hopefully put conditions  
20 in and a monitoring program in that will repair the  
21 nearshore waters and give our reefs a chance to  
22 regenerate for the next generation.

23 CHAIR MOLINA: Okay. Staff, again, can you give comment?  
24 Is it appropriate to incorporate it into, I guess, A  
25 of Condition 18 or should it be done as a whole

1 separate condition?

2 MS. NAKATA: It would probably be cleaner to keep it  
3 separate, especially if the Committee considers the  
4 Chair's recommendations in the right-most column  
5 that the condition be collapsed to reference the  
6 State Land Use Commission's Condition No. 5.

7 CHAIR MOLINA: Okay. So, Member Anderson, why don't you  
8 go ahead and propose your condition and we'll  
9 consider it as a separate condition.

10 Any objections, Members, as a separate  
11 condition?

12 COUNCIL MEMBERS: No objections.

13 COUNCILMEMBER ANDERSON: Chair, I see you don't have the  
14 screen set up today, and I had given this condition  
15 earlier -- shoots, I think back in August to  
16 Ms. Nakata electronically so she could project it  
17 for Members. But I do have hard copies. If we  
18 could pass them out, it would be easier for Members  
19 to follow it, because it's rather lengthy.

20 CHAIR MOLINA: Members, do you need a few minutes to go  
21 over the -- this is a very lengthy proposed  
22 condition.

23 COUNCILMEMBER ANDERSON: I'd like to read it, Chair, into  
24 the record so people that are listening can hear it  
25 and the Members can follow along.

1 CHAIR MOLINA: Okay. Members, do you want to just follow  
2 along and Member Anderson read out the condition,  
3 then, rather than taking a break to go over it  
4 yourself?

5 Okay. Member Anderson, go ahead.

6 COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

7 The marine -- the title is "Marine Water  
8 Quality Monitoring Condition." "The marine  
9 monitoring program shall include monitoring and  
10 assessment of coastal water resources (groundwater  
11 and surface waters) that receive surface water or  
12 groundwater discharges from the hydrological unit  
13 where the project is located. Monitoring programs  
14 shall include both water quality and ecological  
15 monitoring.

16 Water Quality Monitoring shall provide water  
17 quality data adequate to assess compliance with  
18 applicable State water quality standards at Hawaii  
19 Administrative Rule Chapter 11-54. Assessment  
20 procedures should be in accordance with the current  
21 Department of Health methodology for Clean Water Act  
22 Section 305(b) water quality assessment, including  
23 use of approved analytical methods and quality  
24 control/quality assurance measures. The water  
25 quality data should be submitted annually to the

1 Hawaii Department of Health for use in the State's  
2 Integrated Report of Assessed Waters prepared under  
3 Clean Water Act Sections 303(d) and 305(b)."

4 Section 303, Members, is the Impaired Water Quality  
5 List. "If this report lists the receiving waters as  
6 impaired and requiring a Total Maximum Daily Load  
7 study, then the monitoring program shall be amended  
8 to evaluate land-based pollutants, including: (1)  
9 monitoring of surface and groundwater quality for  
10 the pollutants identified as the source of the  
11 impairment; and (2) provide estimates of total mass  
12 discharge of those pollutants on a daily and annual  
13 basis from all sources, including infiltration,  
14 injection, and runoff. The results of the  
15 land-based pollution water quality monitoring and  
16 loading estimate shall be submitted to the Hawaii  
17 Department of Health Environmental Planning Office,  
18 TMDL Program;" that's Total Maximum Daily Load.

19 "The ecological monitoring shall include  
20 ecological assessment in accordance with the Coral  
21 Reef Assessment and Monitoring Program protocols  
22 used by the Hawaii Department of Land and Natural  
23 Resources. The initial assessment should use the  
24 full protocol. Subsequent annual assessments can  
25 use the Rapid Assessment Techniques. Results shall

1           be reported annually to the Department of Land and  
2           Natural Resources, Aquatic Resources Division."

3 CHAIR MOLINA: Okay. Members, you've heard the proposed  
4           condition.

5                   Staff, shall we take a -- would it be  
6           appropriate to take a motion to --

7 COUNCILMEMBER ANDERSON: Chair?

8 CHAIR MOLINA: -- accept the condition?

9 COUNCILMEMBER ANDERSON: If I -- if I could make some  
10           explanatory comments, because there's a lot of  
11           technical language here.

12 CHAIR MOLINA: Okay. Let me just ask Staff quickly just  
13           for procedure.

14                   Procedurally, Staff, shall we do it first --  
15           do it as a motion --

16 MS. NAKATA: Yes, we could --

17 CHAIR MOLINA: -- or just a friendly, incorporate it?

18 MS. NAKATA: We could do it as a motion to amend the main  
19           motion. I think thus far we've mainly been  
20           operating as consensus. But if we'd like to start  
21           voting, then it would make sense to include it as a  
22           motion.

23 CHAIR MOLINA: Okay.

24                   All right. Member Anderson, go ahead and  
25           give your explanation on this.

1 COUNCILMEMBER ANDERSON: Thank you, Chairman.

2 I just want Members to realize that  
3 everything in here actually is tying this condition  
4 to regulations already in place and just making  
5 those regulations part of the condition so that we  
6 can be assured that all these regulations are going  
7 to be utilized in protecting the marine water  
8 quality in this area, because it's already degraded.  
9 The -- the Total Maximum Daily Loads relates to a  
10 standard that is set for the amount of pollutants  
11 that the nearshore waters can accept before they be  
12 considered impaired. And impairment basically means  
13 that they have exceeded the total maximum daily load  
14 of the amount of pollutants that are acceptable in  
15 the nearshore waters.

16 So, I'm looking at the list right now, and  
17 for this shoreline, it shows algae growth and --  
18 from chlorophyll A and turbidity. And -- you know,  
19 I'm not -- I'm not saying that -- of course, Wailea  
20 670 is not part of the current problem because they  
21 haven't developed anything there yet; but we want to  
22 make sure that they don't add to the problem.  
23 And -- so, that's the reasoning behind this. And as  
24 I said, this has been reviewed by -- I mean, there's  
25 also phosphorus, which are nutrients that feed the

1 algae growth; that's also in -- in exceedance of the  
2 State standards. So, hopefully we'll get a chance  
3 when Makena Resort comes forward to also have them  
4 comply with this standard. Because somebody's been  
5 asleep at the wheel. And it's not just injection  
6 wells that are causing the degradation of our water  
7 quality and our reefs; it's runoff. So, I'm hoping  
8 the Members can see the value in this. We need to  
9 be the stewards. We can't count on someone on Oahu  
10 to ring the bell for us. Because if they -- if they  
11 were not asleep at the wheel and -- they have many  
12 other demands on their time, so we can't expect them  
13 to be watching over us.

14 The study that was recently done reveals  
15 there is a serious problem, and this condition is  
16 meant to put a governor on the problem so that it  
17 doesn't get worse, and hopefully if this project  
18 goes through they would be happy to comply with  
19 this. There's nothing in here that isn't already  
20 required by law; it's just putting it all together  
21 in one condition for this particular project.

22 CHAIR MOLINA: Okay.

23 COUNCILMEMBER ANDERSON: Thank you, Chairman.

24 CHAIR MOLINA: So noted, Member Anderson.

25 So, Members, you've heard the recommendation

1 from Staff procedurally as to incorporate this  
2 condition. I was about to call it Condition 20; but  
3 being that, you know, the numbers may change, we'll  
4 just call it a proposed condition for the time  
5 being, which is basically called "Marine Water  
6 Quality Monitoring Condition." So, what we'll do --  
7 Chair's recommendation is --

8 I guess, Member Anderson, you can propose it  
9 as a motion to amend -- motion to amend the current  
10 motion that's on the floor by incorporating this  
11 condition, and if you can get a second, and then I  
12 guess we've heard the discussion, and then we can  
13 take a vote on incorporating this condition into the  
14 application.

15 So, if you'd like to go ahead, Member  
16 Anderson, as a motion.

17 COUNCILMEMBER ANDERSON: Do you think it's necessary for  
18 me to read the motion again, Mr. Chairman? Or can I  
19 just say I move to --

20 CHAIR MOLINA: Yeah, I think it's -- that will be  
21 sufficient.

22 COUNCILMEMBER ANDERSON: Would you like me to read it  
23 again?

24 CHAIR MOLINA: No, I think we've heard it enough. We can  
25 just move --

1 COUNCILMEMBER ANDERSON: Well, okay. I move to amend the  
2 main motion with the condition that I just read into  
3 the record.

4 CHAIR MOLINA: Okay.

5 COUNCILMEMBER VICTORINO: Second.

6 CHAIR MOLINA: Thank you.

7 And the condition, we'll call it, as the  
8 title for the time being, "Marine Water Quality  
9 Monitoring Condition."

10 COUNCILMEMBER ANDERSON: Right.

11 CHAIR MOLINA: Okay.

12 All right. Thank you, Mr. Victorino, you  
13 seconded.

14 And is there any additional discussion?

15 COUNCILMEMBER MATEO: Chairman?

16 CHAIR MOLINA: Okay. Mr. Mateo, followed by Mr. Medeiros.

17 COUNCILMEMBER MATEO: Chairman, thank you very much.

18 And I'm sure Member Anderson will be able to  
19 provide me with a little more information on the  
20 proposed amendment.

21 This apparently -- one, you know, I think,  
22 just to state it openly and real frankly, the need  
23 to protect our reefs, that's paramount, yeah. So,  
24 that's no concern -- no issue there.

25 If this is an action that will be -- that

1 will be applied to all developments coming down the  
2 road, then I don't have a problem with it. So, I  
3 believe I heard Member Anderson indicate that as  
4 developments come forward, this same condition will  
5 be applicable to their development projects, as  
6 well. So, you know, if that is the purpose and the  
7 intent and the expectation of the inclusion, then I  
8 don't have a problem with it. I would -- I would  
9 just be worried if we're -- we have specific large  
10 developers, because Ms. Anderson is right: We  
11 didn't get into this mess overnight; it's been  
12 decades of neglect. So, if this is a process that  
13 will be applicable to all develop -- development  
14 projects regardless of its size, I don't have a -- I  
15 don't have an issue with it.

16 So, perhaps if Ms. Anderson could just  
17 comment on my comments.

18 CHAIR MOLINA: Okay. Member Anderson, if you can do a  
19 follow-up to Mr. Mateo's concern.

20 COUNCILMEMBER ANDERSON: Certainly.

21 Basically, the -- the trigger for marine  
22 monitoring programs such as this are -- excuse me --  
23 are areas that have golf courses or large landscaped  
24 areas because the -- because of the pesticide and  
25 the nutrients that are put on the landscaping, which

1           during heavy rains runs off into the ocean. And  
2           that is really the purpose of the original  
3           conditions, the golf course conditions that the  
4           state adopted some time ago. But unless you  
5           specifically spell out what you expect them to do --  
6           and, you know, these -- these conditions were  
7           written some time ago and we know so much more now.  
8           And, actually, the -- the various programs that are  
9           now in place, including the State's Integrated  
10          Report of Assessed Waters, you know, have been  
11          improved since that time. And a lot of -- a lot of  
12          these reporting requirements, Members, are actually  
13          initiated through Federal law, under the Clean Water  
14          Act, and the Clean Water Act is constantly being  
15          amended to update it for more accurate and current  
16          study based on scientific knowledge.

17                 So, I would say to Member Mateo's question,  
18          that this would be applied to all developments where  
19          there would be the potential for runoff of  
20          nutrients, nutrient loading and -- it's basically  
21          nutrients -- into the nearshore waters, such as  
22          large resorts, golf courses, and anything where this  
23          Department of Health's 12 conditions applicable to  
24          all new golf course development would be imposed. I  
25          think that it might be -- and anything along the

1 shoreline, where there is the potential for  
2 injection wells, runoff on to the shoreline, I would  
3 definitely be proposing this condition, because we  
4 need to put in controls. I mean, it's already too  
5 late. But at least if we put controls in now we can  
6 stop the degradation and hopefully start improving  
7 the nearshore waters.

8 CHAIR MOLINA: Okay. Thank you, Member Anderson.

9 Mr. Mateo, you have any additional comment?

10 COUNCILMEMBER MATEO: Thank you very much, Chairman  
11 Molina.

12 CHAIR MOLINA: All right. Thank you.

13 Mr. Medeiros?

14 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman, yes.

15 I, too, would like to express that the merits  
16 of this proposal is unquestionable, that we want to  
17 be sure about our water quality and our ecosystem in  
18 the ocean, along with the reefs. And, you know,  
19 having grown up in East Maui where our water is so  
20 very pristine and clear and without pollutants, I  
21 think this is important.

22 My question goes along the lines with Member  
23 Mateo's question. He said -- he recommended that,  
24 you know, this should be applied to all forthcoming  
25 development projects that may impact our water

1           quality in the ocean.

2                       But I would like to ask the question of  
3           Member Anderson because of her long tenure, you  
4           know, both in the office of another Council Member  
5           and as a Council Member, was this condition applied  
6           to other development projects prior to this one?

7   CHAIR MOLINA:   Member Anderson, can you respond to  
8           Mr. Medeiros's question?

9   COUNCILMEMBER ANDERSON:   This is the first opportunity  
10           I've had to put a condition like this forward.

11                    And, you know, Members, what really motivated  
12           me is when we had the Department of Land and Natural  
13           Resources Aquatic Division come and talk to us about  
14           the degradation of our reefs -- not just on the  
15           South shore but the West shore, also -- from  
16           injection wells.  But, you know, their study -- and  
17           I don't know how many -- excuse me, Chair.

18                    If Staff could pass these out, too.

19                    You know, this -- this report was given to us  
20           in my Water Resources Committee and unfortunately  
21           not all the Members are able to attend, so I'm not  
22           sure if everyone got this information.  But -- and  
23           pardon me, Members, I made some color copies.  I  
24           think there's enough color copies for all the  
25           Members here, and there might be extra black and

1 white. But this is a USGS report that shows the  
2 groundwater nutrient flux to coastal waters and  
3 gives a numerical simulation of wastewater injection  
4 in Kihei. And, you know, they say a picture tells a  
5 thousand words. And, so, I know this is a lot to  
6 throw on Members -- (end of side A, tape 1) -- the  
7 picture on the front. And you might also want to  
8 look at the summary, where it says problem, on the  
9 first page of the text. But you can see from the  
10 picture how injection wells spread out and seep into  
11 our nearshore waters. And that really -- this  
12 study, because it's -- you know, it's empirical  
13 data, and it says that unfortunately our reef system  
14 is degrading. In the last 10 years alone we've  
15 lost, you know, 50 percent of our coral reef cover  
16 in many areas along these nearshore waters --  
17 shorelines. And, so, that's what really prompted me  
18 to put together a tighter condition, and I would  
19 hope that in the future this Council and this County  
20 will make sure that there are safeguards in place so  
21 that in the future people who are lucky enough,  
22 Mr. Chairman, to develop along our shorelines  
23 understand the effects of their irrigation runoff,  
24 of their injection wells, of their golf course  
25 nutrient loading; and by having this condition in

1 place, we will have a way to monitor it and make  
2 sure that they are very serious about how they treat  
3 the land that they're on. Because all the  
4 degradation to our ocean and our nearshore waters is  
5 all land-based. So, it starts on the land. And we  
6 as stewards and as the decision-makers on who's  
7 allowed to use the land and in what manner, we have,  
8 I think, that responsibility to make sure everybody  
9 is aware. And a condition such as this -- again,  
10 it's attached to the current Coral Reef Assessment  
11 and Monitoring Program protocols. We're not asking  
12 them to do anything that isn't something that should  
13 be done; it's just putting it all together in one  
14 condition so they're aware that this is what we  
15 expect --

16 CHAIR MOLINA: Something that's more specific.

17 COUNCILMEMBER ANDERSON: -- in the level of protection for  
18 our shoreline.

19 CHAIR MOLINA: Okay. Mr. Medeiros, did Member Anderson  
20 answer your question?

21 COUNCILMEMBER MEDEIROS: Yes.

22 Thank you, Member Anderson.

23 My further question is, when we propose a  
24 condition like this, how do we or the monitoring  
25 agencies determine what comes from this project and

1           what comes from already existing projects? How do  
2           you separate that, as far as what gets to the ocean?  
3           And who do you -- how do you determine, you know,  
4           what project is contributing to that?

5                         Maybe if Member Anderson can, you know, give  
6           me some enlightenment on that.

7       CHAIR MOLINA: Well, before we go to Member Anderson, I  
8           would guess the State agency that does -- Department  
9           of Health, I guess they would be the folks to ask  
10          procedurally how they go about and do it. I don't  
11          know if Member Anderson wants to add a little more  
12          insight to that.

13       COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

14                         I have done a lot of study on this issue.  
15          And first of all, there's a baseline study that's  
16          done so that the conditions pre-existing development  
17          are set as a baseline. In the protocols that are  
18          set out, the -- the sources, including infiltration,  
19          injection, and runoff, as part of this -- this water  
20          quality monitoring, they look at is -- is the  
21          project using injection wells? What kind of  
22          nutrients do they put on their golf course? What is  
23          the course of runoff? And, so, they can -- you  
24          know, they -- you know, it's fair to say that you  
25          cannot specifically pinpoint because -- and that's

1           what they call non-point source pollution -- because  
2           they can't specifically say the pollutant loadings  
3           along the shoreline right here are from this  
4           particular project. And, again, they'll have to get  
5           an NPDE -- NPDES -- thank you -- so many acronyms --  
6           non-point source pollution -- what's the "E"?  
7           Elimination? -- source or system permit. Any time  
8           you discharge into State waters you have to get this  
9           permit, and that calls out for various protocols,  
10          too. So, you know, like if this project gets  
11          approved, they're going to be right here doing their  
12          project, and right below them is going to be a big  
13          commercial center, and they're going to also have  
14          runoff and they're also going to have lots of  
15          pavement that could contribute all kinds of  
16          oil-based products into the runoff. So, it's not  
17          like the State's going to go and say you're the --  
18          you're at fault. It's just that putting these  
19          protocols in place allows us to catch up front,  
20          before the degradation happens if there are  
21          pollutant loadings that exceed State standards so  
22          that then the State Department of Health can go in  
23          and request that certain mitigation measures be put  
24          in place to stop the pollutant loadings.

25          CHAIR MOLINA: Okay.

1 COUNCILMEMBER MEDEIROS: Yeah, Mr. Chairman, yeah, I'm  
2 just, you know, concerned that do we have the  
3 enforcement resources for something like this?

4 I think it's good, because I, too, would like  
5 to protect our water quality and our ocean  
6 ecosystems, and I just want to be sure that, you  
7 know, we hold the responsible parties, you know, to  
8 their portion of, you know, what gets contributed to  
9 our waters along our coastlines.

10 So, with that, I thank Member Anderson for  
11 her explanation.

12 And thank you, Mr. Chairman.

13 CHAIR MOLINA: Okay. Thank you, Mr. Medeiros.

14 Member Anderson?

15 COUNCILMEMBER ANDERSON: Yeah. I just want to explain  
16 that this is a State Department of Health function,  
17 and their Department of Health Environmental  
18 Planning Office has a Total Maximum Daily Load  
19 Program in place and they do have enforcement  
20 officers. And it's not like they're going to go and  
21 issue a violation to anybody, unless it's a blatant  
22 violation like we saw on Kauai, you know, where they  
23 went in and did mass grading and it -- and all this  
24 soil went in and damaged the reef; then they'll send  
25 out enforcement officers to issue violations. But

1           this is more a monitoring program to catch problems  
2           before they happen.

3           CHAIR MOLINA: Okay. Thank you, Member Anderson.

4                       Members -- okay. Right after Member Baisa's  
5           comments, I'm going to ask the Applicant just for a  
6           comment with regards to the condition that we're  
7           considering.

8                       So, Member Baisa?

9           COUNCILMEMBER BAISA: Yeah. Thank you, Chair.

10                      I am in support of the condition. But I did  
11           want to note that I have before me a report that's  
12           dated -- or a letter that's dated February 13th to  
13           Roy Figueiroa from Tom Arizumi with the  
14           Environmental Management Division of the State of  
15           Hawaii, and it's -- it's about environmental  
16           monitoring of the marine coastal lands that we're  
17           talking about and it's -- it's kind of a mixed  
18           report. It shows that, you know, there are  
19           concerns -- it really is not definitive about  
20           exactly what causes the problem or whatever, but I  
21           think that what Member Anderson is suggesting is  
22           very good. Like she says, it's preventative. And  
23           while the debate can go on among scientists -- and  
24           we see this in our work all the time, this one says  
25           it's good, the other one says it's bad, and, you

1 know, that's just the way of the world that we have  
2 people with differing viewpoints, even on this  
3 Council -- but I think we can all agree that we're  
4 very concerned about the quality of our marine life  
5 and our coastal lands and our water, and I don't  
6 think that erring on the side of caution is a bad  
7 thing. So, I will be in support.

8 CHAIR MOLINA: Okay. Thank you, Member Baisa.

9 Mr. Jencks, your comment before the Chair  
10 calls for the vote?

11 MR. JENCKS: Good morning, everyone.

12 COUNCILMEMBER BAISA: Good morning.

13 MR. JENCKS: I just quickly reviewed the proposed  
14 condition. My only comment would be that -- well, I  
15 have two comments. Number one, we've already  
16 started the baseline monitoring -- water quality  
17 monitoring, so this -- that will be helpful in  
18 establishing the baseline as to where we go from  
19 here in the area.

20 When I looked at the matrix, I looked at  
21 Condition 12, Mr. Chair, and that is the condition  
22 that deals with the water quality monitoring. It  
23 would seem to me you would just take what  
24 Ms. Anderson is proposing and just put it right  
25 there, then you -- I think you -- what Ms. Anderson

1           has proposed is a much more detailed condition, but  
2           it does the same -- it provides better direction to  
3           everybody, and I think if you just substitute those  
4           you'd be in top shape.

5           COUNCILMEMBER MEDEIROS: Chair, what page?

6           CHAIR MOLINA: Okay, hang on. Chair's looking for it, as  
7           well.

8           MR. JENCKS: On Page 13.

9           COUNCILMEMBER MEDEIROS: 13?

10          MR. JENCKS: It's Condition 12. It's the third column  
11          over from the left.

12          COUNCILMEMBER ANDERSON: Condition 12?

13                         Are the conditions renumbered?

14                         Because I'm looking at my old matrix where my  
15          notes are.

16          MR. JENCKS: No, they shouldn't be renumbered.

17          COUNCILMEMBER ANDERSON: Well, 12 is about parks.

18          CHAIR MOLINA: Oh, Mr. Jencks, is this -- oh, this is  
19          your -- your Condition 12?

20          MR. JENCKS: Yes.

21          CHAIR MOLINA: Oh, yeah. Well, the Members --  
22          generally -- generally we work off of the Planning  
23          Commission's conditions.

24          COUNCILMEMBER BAISA: Page 13.

25          MR. JENCKS: Well, there was -- there was no

1 recommendation from the Planning Department.

2 CHAIR MOLINA: Yeah. So, yours is Page 13, which is --

3 MR. JENCKS: No. 12.

4 CHAIR MOLINA: Well, the Applicant's condition 12, so --  
5 just -- so that -- that's one reason why the Chair,  
6 when we are considering this condition, is not to  
7 even worry about numbers yet.

8 MR. JENCKS: Okay.

9 CHAIR MOLINA: So, we'll -- we'll discuss it with Staff --

10 MR. JENCKS: Chair, I think it's fine.

11 CHAIR MOLINA: -- and how we renumber it.

12 COUNCILMEMBER ANDERSON: Could I ask a question?

13 CHAIR MOLINA: Member Anderson?

14 COUNCILMEMBER ANDERSON: Mr. Jencks, you said you guys  
15 have already started a baseline study --

16 MR. JENCKS: Yep.

17 COUNCILMEMBER ANDERSON: -- which is very commendable.

18 Does it include a biota sampling?

19 Because that was the problem with this  
20 consultant's reports on Makena; there was no biota  
21 sampling. And that -- the biota sampling is -- we  
22 don't want to just know how much pollutant loadings  
23 go into the water; we want to know what the impact  
24 is to the biota. And without that biota sampling,  
25 you can't see the degradation. And, you know, if

1           we'd had that, maybe we could have stopped the  
2           degradation of the reefs before they got to the  
3           point where they are now. So --

4       MR. JENCKS: The scope of work is water quality  
5           monitoring. We didn't do any benthic surveys. But  
6           we would have to amend that scope with this  
7           condition, which is fine.

8       COUNCILMEMBER ANDERSON: Okay, great. Thank you very  
9           much.

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

11                   All right. Members, at this point the Chair  
12           will call for the question for the proposed  
13           condition.

14                   At this point we're -- the Chair is  
15           tentatively looking at numbering it as Condition 20,  
16           since we have 19 conditions we're considering from  
17           the Planning Commission.

18      COUNCILMEMBER ANDERSON: Chair?

19      CHAIR MOLINA: Member Anderson?

20      COUNCILMEMBER ANDERSON: I noticed Chair Hokama just came  
21           into the Chambers. I'm wondering if he's got a copy  
22           of the condition.

23      COUNCILMEMBER VICTORINO: Yeah.

24      COUNCILMEMBER ANDERSON: Okay, great.

25      CHAIR MOLINA: Okay.

1 All right. Members, Chair calls for the  
2 question: All those in favor of incorporating this  
3 condition which relates to water quality monitoring,  
4 signify by saying "aye."

5 COUNCIL MEMBERS: "Aye."

6 CHAIR MOLINA: All those opposed.

7 Okay. Thank you.

8 The Chair will mark it seven "ayes" and two  
9 excusals, Members Johnson and Pontanilla.

10 And the Chairman recognizes Chairman Hokama  
11 to our proceedings this morning.

12 Okay. Thank you very much, Members.

13 **VOTE: AYES: Councilmembers Anderson, Baisa,**  
14 **Hokama, Mateo, Medeiros, Victorino, and Chair**  
15 **Molina.**

16 **NOES: None.**

17 **EXC.: Councilmember Johnson and Vice-Chair**  
18 **Pontanilla.**

19 **ABSENT: None.**

20 **ABSTAIN: None.**

21 **MOTION CARRIED.**

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

23 CHAIR MOLINA: So, at this point, the Chair will assume  
24 that Condition 18, we have consensus on that. And  
25 we have incorporated this additional condition,

1           which we'll tentatively call Condition 20.  So,  
2           we'll move from there.

3   MS. NAKATA:  Mr. Chair, if Staff could just get  
4           clarification.

5                        Consensus on which version?  Is it the one  
6           proposed by the Chair this morning in the right-most  
7           column?

8   CHAIR MOLINA:  Yes.

9                        Members, any problems with the Chair's  
10          Condition 18, which basically added language?

11   COUNCILMEMBER ANDERSON:  Chairman?

12   CHAIR MOLINA:  Member Anderson?

13   COUNCILMEMBER ANDERSON:  The Condition 18 from the Maui  
14          Planning Commission is the condition that already  
15          runs with the land.

16   CHAIR MOLINA:  Uh-huh.

17   COUNCILMEMBER ANDERSON:  And, so, I'm wondering if  
18          Mr. Jencks can tell us the difference -- because  
19          his -- his conditions, you know, that he's proposing  
20          are a little more extensive.  So, I'm just  
21          wondering --

22   CHAIR MOLINA:  Maybe they go beyond what the --

23   COUNCILMEMBER ANDERSON:  Well, yeah, I'm wondering the  
24          difference and if he might tell us what the  
25          difference is --

1 CHAIR MOLINA: Okay.

2 COUNCILMEMBER ANDERSON: -- because I'm having a hard time  
3 seeing the difference. There may be no difference  
4 at all, but there must be since he -- he proposed  
5 it. So, maybe he could call that out for us just so  
6 that we make sure we're --

7 CHAIR MOLINA: Okay. Mr. Jencks?

8 COUNCILMEMBER MEDEIROS: Mr. Chair, so we're back on  
9 Page 10, Condition 18?

10 CHAIR MOLINA: Yeah, let's go back to matrix -- to your  
11 matrix Page 10. We're looking at Condition 18.

12 COUNCILMEMBER MEDEIROS: Okay.

13 CHAIR MOLINA: The Chair's initial recommendation was to  
14 go with the Planning Commission's Condition 18, and  
15 Member Anderson is asking for more clarification on  
16 the Applicant's version of Condition 18. It seems  
17 to be -- I guess there's been a few more things  
18 added -- or maybe added to Condition 18. I'm not  
19 sure, but we want the clarification from Mr. Jencks.

20 MR. JENCKS: Thank you, Mr. Chair.

21 My recollection is that -- that our  
22 recommendations included not only the Planning  
23 Commission, but also those that Ms. Anderson  
24 mentioned before that were already recorded against  
25 the land for the golf course zoning approval,

1           which -- which included some additional --  
2           additional elements. That's why you'll see -- the  
3           Planning Commission No. 18 goes from A through F.  
4           Our recommendation is -- numbered No. 30 goes from A  
5           through -- let's see, A through K, which also  
6           includes transportation issues and things like that.  
7           So, it's -- it's just a little more encompassing and  
8           includes all the same stuff plus a little bit more  
9           from the golf course zoning.

10          CHAIR MOLINA: All right. Members, the choice is up to  
11          you.

12                         Do you want to consider the Applicant's  
13          version of Condition 18 or the Planning  
14          Commission's?

15                         Mr. Victorino?

16          COUNCILMEMBER VICTORINO: Oh, no, no, no, no questions.

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

19          COUNCILMEMBER HOKAMA: Chairman?

20          CHAIR MOLINA: Mr. Hokama?

21          COUNCILMEMBER HOKAMA: Clarification, please, so you can  
22          bring me up to speed, Chairman.

23                         How are you, this Committee, viewing the golf  
24          course? Are we viewing it as a completely private  
25          course?

1 CHAIR MOLINA: I believe at our last meeting we had  
2 permitted it as one day for public play but is  
3 presumed to be private at this point.

4 COUNCILMEMBER ANDERSON: I can't see any differences,  
5 either, okay. That's why I asked him. But --

6 COUNCILMEMBER HOKAMA: So right now it's viewed as just a  
7 simple private -- a full private course?

8 CHAIR MOLINA: At this point.

9 COUNCILMEMBER BAISA: I think it's the length of the  
10 column.

11 COUNCILMEMBER HOKAMA: Okay. Chairman, I think I've made  
12 my comments earlier about how I view private golf  
13 courses on this island.

14 Thank you.

15 CHAIR MOLINA: Okay. Thank you, Mr. Hokama.

16 Okay. Members, the Chair's initial  
17 recommendation was to go with the Planning  
18 Commission's version of Condition 18.

19 Is there another consideration before we move  
20 on with this?

21 Member Anderson?

22 I'm sorry -- I'm sorry, Member Mateo, you had  
23 your hand up first. I'm sorry.

24 Member Mateo and to be followed by Member  
25 Anderson.

1 COUNCILMEMBER MATEO: Thank -- thank you very much,  
2 Mr. Chair.

3 I think I'd like to ask to have Mr. Jencks  
4 come back down again, because his reference to the  
5 conditions reference A to F and he indicated that  
6 his -- or the company's recommendation went all the  
7 way to K, where Planning also goes to K.

8 And if you can just tell us, you know, the --  
9 still Ms. Anderson's question what the difference is  
10 between your proposed -- your proposed language  
11 versus the Planning Department's.

12 CHAIR MOLINA: Mr. Jencks?

13 MR. JENCKS: I beg your pardon. You're absolutely  
14 correct, they do go to K. I, for some reason,  
15 didn't pick that up. I'm not sure there is much of  
16 a difference, frankly.

17 Now that I'm looking at it, it looks pretty  
18 much the same.

19 COUNCILMEMBER MATEO: Okay. Thank you, Mr. Jencks.

20 Chairman, thank you.

21 MR. JENCKS: I beg your pardon.

22 CHAIR MOLINA: Thank you, Mr. Mateo.

23 Member Anderson?

24 COUNCILMEMBER ANDERSON: The only difference I've seen is  
25 that on Condition I it actually spells out the --

1           and, Members, you can kind of cross-reference --  
2           it's actually in the middle -- spells out the  
3           Natural Resources Conservation Service of the U.S.  
4           Department of Agriculture and it doesn't spell that  
5           out in this other one; it just says Department of  
6           Environmental Management and Public Works, Health  
7           and Soil Conservation Service.

8                         So, you know, I think that it -- we should go  
9           with the Planning Commission's condition,  
10          Mr. Chairman.

11         CHAIR MOLINA: Thank you, Member Anderson.

12                         All right. Members, we will go with the  
13          Planning Commission's recommendation for Condition  
14          18. All right. So, we'll leave it at that so we  
15          have consensus, I'll assume.

16                         All right. Members, the Chair is going to  
17          call for a short five -- five-minute recess. Don't  
18          go anywhere.

19                         Meeting in recess till 10:00 a.m. (Gavel.)

20         **RECESS:**           9:55 a.m.

21         **RECONVENE:**       10:07 a.m.

22         CHAIR MOLINA: We're going to reconvene. (Gavel.)

23                         The recessed Land Use Committee meeting of  
24          October 18th, 2007, is now back in session. It is  
25          seven minutes after 10:00 o'clock, Monday,

1           October 22nd.

2                     Thank you, Members.

3                     So, again for the record, we have general  
4           consensus for Condition 18, and we've incorporated  
5           tentatively numbered Condition 20 related to water  
6           monitoring conditions.

7                     The Chair was hoping to have the Water  
8           Director here to expound a little further on  
9           Condition 1, but I believe he's still in a meeting  
10          with the Mayor.

11                    So, the Chair would like to look at Condition  
12          5. We did not reach consensus on that. And that  
13          relates to the proposed affordable housing  
14          requirements from the application.

15   COUNCILMEMBER VICTORINO: Page?

16   CHAIR MOLINA: Page number 4 of your matrix.

17                    Condition 5, Maui Planning Commission  
18          Condition No. 5. This is the last time the Chair  
19          would like to spend on this condition; and if no  
20          consensus is reached, then so be it; we will move  
21          on.

22                    Members, additional comments?

23                    I believe the last -- I guess the bone of  
24          contention seemed to have been the location of the  
25          first 200-plus units, whether it be on the project

1 site or outside of that. I've -- of course we have  
2 the Applicant, Mr. Jencks, available. And I believe  
3 there was also an issue related to water for the  
4 first 200-plus units.

5 Members, would you like to have a brief  
6 discussion on this and see if we are able to reach  
7 consensus on something?

8 And if nothing, then so be it.

9 Okay. Mr. Mateo, as the affordable housing  
10 guru, any opening comments on this before the Chair  
11 opens up the floor?

12 Being with such short notice, we're not able  
13 to get a hold of Director Medeiros for this, as  
14 well.

15 Mr. Mateo?

16 COUNCILMEMBER MATEO: Chairman, thank you very much.

17 And maybe at this point, Chairman, the  
18 possibility of having Mr. Jencks also down at the  
19 podium to join us.

20 CHAIR MOLINA: Sounds like a very reasonable suggestion.

21 Mr. Jencks?

22 COUNCILMEMBER MATEO: Thank you.

23 MR. JENCKS: Yes, sir.

24 COUNCILMEMBER MATEO: Thank you.

25 And I guess at this point, Mr. Jencks, we are

1 primarily just reiterating some of the information  
2 that you have already shared with us. The 250 units  
3 that will be planned or proposed for off-site, your  
4 water needs for this particular unit -- unit --  
5 these units are not specifically the waters that you  
6 will be developing, but this is County source that  
7 will be used to accommodate the 250 units?

8 MR. JENCKS: Yes, that's -- that's correct. The -- as I  
9 stated the other day, the -- the subdivision within  
10 this -- within which this project would be located  
11 was allocated a two-inch water meter by the County  
12 of Maui.

13 COUNCILMEMBER MATEO: Uh-huh.

14 MR. JENCKS: Now, that may or may not be adequate, but we  
15 can certainly add to that when water is available.  
16 Part of the civil improvement plans for that entire  
17 area include the construction of a one  
18 million-gallon water tank for source and supply  
19 dedicated to the County of Maui. So, that's a part  
20 of the concept plan, as well -- the civil plans.

21 COUNCILMEMBER MATEO: Thank you.

22 Another -- another issue that has been  
23 mentioned, Mr. Jencks, was the -- the fact that 250  
24 of the affordable units, which is primarily what  
25 this 250 complex is, the fact that it is in a light

1 industrial area has been a bone of contention for --  
2 for awhile.

3 Can you -- your -- your vision of this  
4 particular project itself being in a light  
5 industrial park-type setting?

6 Because I can take a look at the light  
7 industrial and I can drive down to Iao Parkside and  
8 I don't have that kind of an issue.

9 So, can you please comment on the issues that  
10 you have been getting regarding the use -- putting  
11 these so-called affordables in the light industrial  
12 area?

13 MR. JENCKS: There have been a few comments here in the  
14 Chamber about the conflict of uses, the  
15 incompatibility between residential, whether it's  
16 apartments or any kind of residential, and light  
17 industrial uses. But I think one of the things we  
18 have to remember here is that in the context of our  
19 current zoning code, the Light Industrial District  
20 in Maui County is the only district that allows you  
21 to combine, if you will, the work/live type of  
22 combination of uses, where you can actually build an  
23 office or light industrial space and put residential  
24 above it. So -- and I think that was intentional  
25 because it was -- the idea was to combine those uses

1           so you'd get some economy in terms of, you know,  
2           energy use and people living where they work. There  
3           have been some negative comments. And I'm not sure,  
4           maybe some of them were negative because they  
5           thought maybe we were trying to segregate people,  
6           and that is -- that is not the case. As I said here  
7           a number of times, if it's the wish of this Council  
8           that -- or this Committee that we put all the units  
9           in the project, that's fine. Our only proposal here  
10          was to get something done quickly other than outside  
11          the project to maybe help the housing situation.

12        COUNCILMEMBER MATEO: The additional 450 affordable units  
13          to be built on-site, are we talking single-family?  
14          Or are we talking multi-family? A combination of  
15          both? What is the intent of reaching the additional  
16          450 affordables?

17        MR. JENCKS: The 450 units would be built in the project  
18          and they would be a combination of some  
19          single-family and multi-family attached. When I say  
20          "multi-family," I don't want you to think of  
21          apartments or stacked flats like Iao Parkside. I'd  
22          like you to think more of things like townhomes,  
23          duplexes, triplexes, those kinds of projects, as  
24          well, because there's some good options out there  
25          for us.

1 COUNCILMEMBER MATEO: Okay. I know in the 250 complex  
2 off-site, the lower economic ranges will be  
3 addressed in those units.

4 On-site, are we primarily looking at the --  
5 the higher median income levels?

6 MR. JENCKS: I was -- you know, I was thinking about that  
7 this morning. I'm glad you asked the question. The  
8 250 units that we would be building off-site are  
9 rental units in compliance with the Work Force  
10 Housing Ordinance. I think those are at 60 percent  
11 or less. I can't remember the exact -- maybe it's  
12 50 percent or less of the County median. The 450  
13 units -- and that would satisfy the very bottom end  
14 of our affordable requirement. But the balance --  
15 and I think we'll be starting at about 120 percent,  
16 maybe a little bit lower, those would be on up to  
17 160 inside the project. So, it would be some of the  
18 120 percent product, 140, and 160 percent.

19 COUNCILMEMBER MATEO: Okay. So, in the project itself  
20 there is no 100 percent medians of -- it's all  
21 starting at 120 and above?

22 MR. JENCKS: That's correct.

23 COUNCILMEMBER MATEO: So, the 100 percent of the median  
24 income level will be taken care of in the 250  
25 complex?

1 MR. JENCKS: That's correct.

2 COUNCILMEMBER MATEO: Okay. And nothing set in concrete?

3 MR. JENCKS: No.

4 COUNCILMEMBER MATEO: So -- so, the consideration of  
5 having a mix on-site of the lower median income  
6 levels, as well?

7 MR. JENCKS: Sure.

8 COUNCILMEMBER MATEO: Okay. Thank you.

9 Chairman, thank you.

10 CHAIR MOLINA: Thank you, Mr. Mateo.

11 So the Chair gets an understanding of how the  
12 condition is written -- I don't know if Corporation  
13 Counsel can comment -- as is, the Applicant is to  
14 build all affordable units on-site unless there is  
15 an agreement made with the -- via through the  
16 Housing Director or this body decides that 250 of  
17 those affordable units are built off-site.

18 Mr. Giroux, can you comment? As the -- the  
19 condition as written right now, all the affordable  
20 units are to be built on-site?

21 MR. GIROUX: Chair, can you just specify which column?

22 We've got three -- three columns.

23 CHAIR MOLINA: Oh, I'm sorry. Condition No. 5 -- let's  
24 look at the third column, which is the update from  
25 the Planning Department. I guess the change was

1           made by the Planning Department to include that the  
2           Applicant must comply with the Workforce Housing  
3           Policy, which at -- which when the Planning  
4           Commission met, I guess a couple of years ago, there  
5           was no policy to consider at that time.

6           MR. GIROUX: And your question, Chair, is about location?

7           CHAIR MOLINA: Yeah. So, basically, it's silent in there  
8           as far as location for the affordable units.

9                           Am I correct?

10          MR. GIROUX: Right. As I read it, it -- it just says that  
11           it has to comply with Chapter 2.96, but it does not  
12           have any indication about what location those --  
13           those units would be placed.

14          CHAIR MOLINA: Uh-huh.

15                           And that would have to be -- that's where  
16           this body makes a decision if we want to include the  
17           250 off-site? Or is that something that the  
18           Applicant and the Housing Director must decide?

19                           Mr. Jencks, as Mr. Giroux's looking at that,  
20           have you -- have you had talks since with the  
21           Housing Director as to their position on including  
22           the 250 off-site?

23          MR. JENCKS: Only in Chambers, Mr. Chair, and within the  
24           context of the -- remember we talked about the  
25           special needs concept a while back. But we have had

1           conversations about the 250 here in Chambers, and  
2           that's been the extent of the conversation.

3       CHAIR MOLINA: I'm trying to recall if the Housing  
4           Director had some concerns about the off-site  
5           proposal.

6       MR. JENCKS: I did talk to Ms. Ridao about it and she  
7           thought it was a great -- good idea.

8       CHAIR MOLINA: Okay. Thank you.

9       COUNCILMEMBER MATEO: Chairman, point of information?

10      CHAIR MOLINA: Mr. Mateo?

11      COUNCILMEMBER MATEO: The Committee's attempt to contact  
12           the Director?

13      CHAIR MOLINA: Well, we -- we didn't have -- had the  
14           Director planned for today. We were hoping to be in  
15           discussions with Water at this point, so that is  
16           why -- out of the air I pretty much pulled Condition  
17           5 to expound upon a little further until we get the  
18           Water Director here.

19                    Again, if -- if anyone wants to propose that  
20           the 250 units be built off-site, you know, the Chair  
21           is open to that, to incorporate that into Condition  
22           5. Otherwise, if it's left as is, it's assumed that  
23           the 700 proposed affordable units will be built  
24           on-site.

25      COUNCILMEMBER MATEO: Uh-huh.

1 CHAIR MOLINA: Mr. Mateo?

2 COUNCILMEMBER MATEO: Chairman, you know, I think at this  
3 particular point in time one of our biggest  
4 difficulties has been getting the -- getting  
5 affordables built. And I think in the discussion  
6 that we have had throughout the last number of  
7 weeks, I think, you know, we differ -- you know, the  
8 Members on this body differ in the need to have it  
9 built on project site versus off-site. My -- my, I  
10 guess, difficulty is waiting for affordable housings  
11 to be built concurrently with market. That takes  
12 too long. And I think we've heard the need of our  
13 people saying we want it now. And I don't have a  
14 problem in moving that the 250 units be built within  
15 the community plan area.

16 CHAIR MOLINA: Okay. There's a -- so, are you proposing  
17 that as a motion?

18 COUNCILMEMBER VICTORINO: Second.

19 CHAIR MOLINA: Okay. Is there a second?

20 COUNCILMEMBER VICTORINO: I second.

21 CHAIR MOLINA: It's been moved by Member Mateo and  
22 seconded by Mr. Victorino.

23 And the motion, again, the Chair would --  
24 please correct me, Mr. Mateo, if I'm wrong -- that  
25 250 units be built in accordance with the community

1           plan, and that would be off-site in the area that  
2           Mr. Jencks has mentioned.

3           COUNCILMEMBER MATEO: Yeah.

4           CHAIR MOLINA: Mr. Mateo, discussion?

5           COUNCILMEMBER MATEO: Yes. (End of side B, tape 1) --

6           body formulated the residential Workforce Housing  
7           Policy, and especially for myself who had gone the  
8           gamut of this island talking to the various  
9           communities. One of the reasons that there is a  
10          specific clause in the Workforce Housing Policy that  
11          indicates that that project can be built -- that the  
12          affordables does not have to be built only on-site,  
13          but it could be built within the community plan  
14          region was because there was a lot of discussion  
15          during our visits that said, I didn't want to live  
16          in a specific district. As long as it -- in a  
17          specific project site. As long as it was within the  
18          same region, they didn't really have a problem with  
19          it, and that was, in part, a preference. So, we  
20          added it in as a component to the policy to allow  
21          for this kind of flexibility in meeting the total  
22          need of communities. So, I'm quite comfortable in  
23          looking at these units being built in another area  
24          but within the same projects -- community plan  
25          regions, Chairman.

1 Thank you.

2 CHAIR MOLINA: Okay. Thank you, Mr. Mateo.

3 And the 250 units would be built primarily, I  
4 guess, as a way -- up first.

5 Am I correct, Mr. Jencks?

6 MR. JENCKS: Yes.

7 COUNCILMEMBER MATEO: Yes.

8 CHAIR MOLINA: That would be built first before any market  
9 units.

10 Okay. We have Member Victorino, who was the  
11 seconder of the motion, to be followed by Member  
12 Baisa.

13 COUNCILMEMBER VICTORINO: Thank you.

14 And I -- I have to concur with my Member from  
15 Molokai. My colleague is right. We need this  
16 housing and we need it now. I think the nay-sayers  
17 who are out there saying that this is to be built  
18 outside of the project itself would be a segregation  
19 of our community, I totally disagree with that. We  
20 are a community of a whole. Because I live  
21 somewhere, I'm not part of this community, that's  
22 always appalled me. Because I'm not part of a  
23 community, be it by name, that means I'm eliminated,  
24 I do not agree with that. You live in an area where  
25 you're most comfortable with. And if this housing

1 is made affordable for rentals as well as purchase  
2 purposes, whatever they may come, and be built in  
3 the next two, three years, which we so desperately  
4 need right now, I think it's all encumbersome (sic)  
5 on us to make sure that it can be done. That's why  
6 I was in favor of this from the beginning; I still  
7 favor it. I do not agree, again, with the  
8 statement, well, it should always be there because  
9 you're segregating people. I live in a community  
10 called Maui County. I'm not segregated, except --  
11 and I'll say this exception -- is when we have gated  
12 communities and I've always been appalled at that.  
13 So long as I'm in this Council, I will never approve  
14 another gated community; but that's another issue  
15 and another conversation.

16 But thank you, Mr. Chair, for the time. And  
17 I hope that this project or any project coming forth  
18 will be able to understand that affordable housing  
19 rentals be a big component so that our working  
20 people, our people of Maui County will be taken care  
21 of.

22 Thank you.

23 CHAIR MOLINA: Thank you, Mr. Victorino.

24 Member Baisa, followed by Member Hokama and  
25 Member Anderson and Member Medeiros. I guess

1           everybody's got something to say.

2                   Member Baisa?

3       COUNCILMEMBER BAISA: Thank you, Chair.

4                   I'd like to speak in support of Member  
5       Mateo's motion. I am very excited that I see an  
6       opportunity here for us to actually get some  
7       affordable housing built. You know, we have talked  
8       and talked and talked about affordable housing, but  
9       the fact that Mr. Jencks and his company are telling  
10      us that they're ready to go is very impressive to  
11      me.

12                  I share Member Victorino's feelings about a  
13      segregation and discrimination. You know, I grew up  
14      in, I guess, an area that was not elite. I grew up  
15      in a plantation camp and we had segregation then.  
16      We had the owners who lived in beautiful fancy  
17      estates and we lived among the folks, and it was  
18      just a way of life. We all had comfortable homes;  
19      we were okay. And, you know, that's just the way it  
20      is. We can't all live in an elite area or an elite  
21      home. What we really need is a home. And, you  
22      know, I always hearken back to one of the public  
23      hearings that I attended some time last year, and it  
24      was a discussion about a development for affordable  
25      homes that was going on in Lahaina, and there was a

1 very poignant moment when a lady got up with a tiny  
2 child and she was a single mom and with tears in her  
3 eyes she said, you know, if I could have a home of  
4 my own, a place to go home and, you know, rest my  
5 child at night, whether I owned it, rent it, or  
6 whatever, she said, I'd probably never own anything.  
7 If it was made out of cardboard, I'd be happy. And,  
8 you know, those of us who are -- have always had a  
9 home and do not understand what it's like to live on  
10 the beach or live in a car or not have a place to go  
11 at night, sometimes I think we set very  
12 unrealistically high standards. But there's many  
13 people who would just love to get into a place of  
14 their own, and we need to make those accommodations  
15 because they're not available at the moment. So, I  
16 will be supporting this.

17 I do have two questions, and one was -- I  
18 wanted to ask Mr. Jencks again, when he said he  
19 could build them quickly what that means.

20 And, Mr. Jencks --

21 CHAIR MOLINA: Mr. Jencks?

22 COUNCILMEMBER BAISA: -- how quick is quick?

23 MR. JENCKS: How quick is quick?

24 Well --

25 CHAIR MOLINA: Depends how quick we are.

1 MR. JENCKS: Yeah.

2 COUNCILMEMBER BAISA: Oh, notwithstanding that we're  
3 holding you up.

4 But, you know --

5 MR. JENCKS: No --

6 COUNCILMEMBER BAISA: -- if we said go ahead, how soon  
7 could we have a home?

8 MR. JENCKS: With regard to that specific project, this  
9 Council or Committee is not holding it up. It's  
10 zoned, community planned. The civil drawings have  
11 been in review with the County of Maui and we're  
12 expecting to get those wrapped up by the end of this  
13 calendar year with a bonded subdivision approval for  
14 the large lot. And the nice thing about the map is  
15 that one of the large lots is this 13-acre piece for  
16 the affordable housing. So, that will be broken out  
17 and a final subdivision approval, and the civil  
18 plans will be approved and we can proceed with the  
19 first increment of the highway and the water tank  
20 work. So, I would say, you know, within the year  
21 certainly those things will be under construction.  
22 And that will be a ways before you'll see any  
23 product within 670.

24 COUNCILMEMBER BAISA: Okay. Well, that -- that's very,  
25 you know, reassuring.

1           The other question that I have is in regards  
2           to the water. And I'm sorry that we don't have the  
3           Water Director here, but maybe you can help us.

4           You mentioned that you have a two-inch water  
5           meter on the property.

6           MR. JENCKS: That's correct.

7           COUNCILMEMBER BAISA: And do you have any idea how much  
8           more you're going to need?

9           I'm assuming that this water with this  
10          two-inch water meter is reserved somewhere so that  
11          if you needed it they -- it would be available.

12          MR. JENCKS: The meter's been installed. It's usable  
13          today.

14          COUNCILMEMBER BAISA: Okay. And then tell me now how does  
15          the water tank's storage connect? You will be able  
16          to pump enough water to store?

17          MR. JENCKS: The water for that tank comes from the  
18          Central Maui system and it -- actually, the Central  
19          Maui system coincidentally crosses diagonally  
20          through this 88-acre piece of land. We're going to  
21          reroute that water line to remove the encumbrances  
22          on the land. But that system will feed the new one  
23          million gallon tank that will be located mauka, at  
24          the 220-foot elevation. So, that tank then would  
25          serve this project area, the 88 acres, including

1           this apartment complex.

2           COUNCILMEMBER BAISA: Thank you. That answers my  
3           question. And, you know, it also reinforces my  
4           position, the fact that we can get some truly  
5           affordable housing for people. It might not be our  
6           best idea of what they need, but I'm sure people  
7           will be happy to move in there to have a home.

8                        And secondly, I think the idea of smart  
9           growth, where you do have homes close to jobs and  
10          close to the bus system and close to the services,  
11          is not a bad thing.

12                       So, thank you very much.

13          MR. JENCKS: Sure.

14          CHAIR MOLINA: Thank you, Member Baisa.

15                       Chairman Hokama, followed by Member Anderson  
16          and Member Medeiros.

17          COUNCILMEMBER HOKAMA: Chairman, thank you very much.

18                       I think Mr. Mateo provides us with another  
19          way to approach affordable housing, Mr. Chairman.  
20          All we're doing is we're adding, now, another  
21          project to the project before us. So, now we're  
22          looking at, in my point of view, multiple projects,  
23          because this 250 is of a size to be a project by  
24          itself, in another location in the Community Plan,  
25          to address a component of the 670 project before

1           this Committee. And I can appreciate, you know, the  
2           Members taking to heart that they want housing now.  
3           Anybody that's built a house knows that it doesn't  
4           happen now. There's things to -- that are required,  
5           plans to be done, and issues to mitigate or  
6           eliminate prior to the actual construction. So,  
7           with this 250, I believe the Members, like myself,  
8           have received some comments regarding concerns of  
9           what this 250 project will bring about to certain  
10          areas of the Community Plan, Mr. Chairman. Those  
11          need to be mitigated, or at least we should be aware  
12          that if we move this condition through, what are we  
13          imposing then on this 250-unit site?

14                    Is there no mitigation for traffic required?

15                    I don't know.

16                    Is there no further improvements on our part  
17          or the Applicant's part regarding all  
18          infrastructure?

19                    I'm not sure at this time.

20                    One thing I do know, Mr. Chairman, is that if  
21          we are looking at this and it looks like the  
22          Committee's interested in -- in a timely and knowing  
23          impact of how this project is going to go forward,  
24          then I would say it's something I just came back  
25          with last week from Dallas in our meetings on

1 transportation, is that we might want to then view  
2 how this is going to support us with our efforts for  
3 a sustainable economy. Because what I think, then,  
4 we should consider, Mr. Chairman, is if timing is of  
5 importance, then let us put clocks on the components  
6 of this application. And I hear the component of  
7 time on this one is that they want this first before  
8 all others, which is the market homes.

9 But I would take it one step further,  
10 Mr. Chairman. If we are supporting sustainability,  
11 we already know our market is strong, our economy is  
12 hot.

13 Should we not then consider putting a clock  
14 on the effectiveness of this ordinance for its  
15 approval and put a date and time that makes sense  
16 for us to continue an economy that is to our benefit  
17 and continue to find where we're going to put more  
18 people in housing we haven't built, because the  
19 trend is to still bring in employees, workers.  
20 We're not trying to take care of our own workers;  
21 we're still looking for housing for workers who are  
22 coming here. So, I take Mr. Mateo's question to  
23 heart: Who are we building them for?

24 If you believe the way we are going -- and we  
25 see it statewide now -- and the Superferry issue,

1 Chairman, has magnified not the ferry issue, the  
2 growth issue, the issue of growth, which this  
3 project is one of the buttons, I guess, for the  
4 short-term, is are we going to then make the  
5 appropriate adjustments. Because what we don't want  
6 to talk about, but I'll say, we are creating social  
7 unrest by economic levels, and it's simmering out  
8 there, Chairman. You've seen the comments; you've  
9 seen some of the physical reactions our community is  
10 displaying. We see it on the Big Island, we see it  
11 on Kauai. Every neighbor island County is boiling  
12 regarding this social conflict that is ready to  
13 erupt. It's going to be an us-and-them issue. It's  
14 going to be what -- the have-nots to the haves. The  
15 State is going -- is acting blind to this, Chairman;  
16 we cannot act blind. Because I won't support  
17 throwing our own people in jail for being strangers  
18 in their own home.

19 So, Members, what do we want?

20 I think, Chairman, you know, it's a good  
21 project, but I don't think the timing is right. And  
22 I think if we push this button we are going to get  
23 undesirable effects. And I think what I would ask  
24 the Members is to consider when should this be in  
25 place? And let's put dates, Chairman. You have

1 frustration just like I, Chairman. We know how many  
2 units of thousands are owed this County for  
3 affordable units. We did not put the clocks and  
4 requirements. Well, let us not escape with this  
5 project without clocks and requirements because it's  
6 going to happen, people, and you're going to see not  
7 a social revolution of '54; you will see a social  
8 war of 2000.

9 Thank you.

10 CHAIR MOLINA: Okay. Thank you, Member Hokama.

11 Member Anderson, followed by Member Medeiros.

12 COUNCILMEMBER ANDERSON: Thank you, Chair.

13 I'd like to ask Mr. Jencks some questions.

14 CHAIR MOLINA: Okay. Mr. Jencks?

15 COUNCILMEMBER ANDERSON: Mr. Jencks, you said that you  
16 have a two-inch water meter for the industrial  
17 subdivision, light industrial subdivision.

18 MR. JENCKS: That two-inch water meter was provided to the  
19 project; so, yeah, that -- true statement.

20 COUNCILMEMBER ANDERSON: And does that include a water  
21 reservation? In other words, how much water will  
22 that two-inch water meter allow you?

23 Because we were told by the Director that  
24 there is no water for the affordable housing, so --  
25 the Water Department Director.

1                   So, how much water -- when you were issued  
2                   that two-inch water meter, it was issued for the  
3                   purpose of what?

4           MR. JENCKS: It was issued for the subdivision, which is a  
5                   four-lot, large-lot subdivision.

6           COUNCILMEMBER ANDERSON: And -- so, I mean, you know, when  
7                   they give you a two-inch meter -- I mean, a two-inch  
8                   line -- a meter for a two-inch line, it's with the  
9                   expectation that you're going to use water for a  
10                  four-lot subdivision, large-lot subdivision, not for  
11                  a high-density, 250-unit residential project.

12                   So, you know, having been the former Public  
13                  Works Director --

14           MR. JENCKS: Uh-huh.

15           COUNCILMEMBER ANDERSON: -- what -- how far are -- are you  
16                  off from having the water necessary to do a 250-lot  
17                  residential -- a 250-unit residential project?

18           MR. JENCKS: Well, the water meter was issued to the -- to  
19                  the TMK, which is the 88 acres, and it's -- and it's  
20                  now got a large-lot subdivision preliminary map  
21                  approved that we're finalizing, and that will divide  
22                  the property into four lots. I can take that sub --  
23                  that meter, which is owned by the ownership, and  
24                  allocate it to one lot. I will need additional  
25                  water for the completion of the subdivision, but I

1 don't know when that would be available. The  
2 two-inch meter will provide approximately 230,000  
3 gallons per day. The water lateral was installed,  
4 the meter was installed, and I get billed for that  
5 meter every month. And, so, that meter would be  
6 used -- I could use that meter for this project,  
7 which is a component of the larger subdivision, a  
8 separate lot, but I can't build anything until -- I  
9 need fire control, I need lots of other source  
10 issues to be addressed, and that's why part of the  
11 requirement is to develop that one million gallon  
12 tank above Ohukai, at about the 220-foot elevation  
13 to complete the water system for that entire area.  
14 But even when that's completed, I may not get -- I  
15 may not get any additional meters, for example, for  
16 the balance of the light industrial until these  
17 other source issues are resolved by -- by the County  
18 Department of Water Supply.

19 COUNCILMEMBER ANDERSON: And, so, you're saying that the  
20 Department has guaranteed you 230,000 gallons per  
21 day from that?

22 MR. JENCKS: That is -- that is a design capacity, as I  
23 understand it, for a two-inch water meter. And if I  
24 go out there today I can use the meter. I can hook  
25 up a nursery or whatever I choose to do.

1 COUNCILMEMBER ANDERSON: And the reason I'm asking these  
2 questions, Mr. Chairman, is because the whole  
3 impetus here is do it now; and, so, I want to make  
4 sure they can do it now.

5 So, you also have to do major roadway  
6 improvements. You have to do an access road, which  
7 would be the entry to the Upcountry highway to  
8 Federal standards.

9 Is that correct?

10 MR. JENCKS: We have to construct the intersection with  
11 Piilani Highway -- the intersection of the Kihei-  
12 Upcountry highway with Piilani has to be  
13 constructed, as well, that's correct.

14 COUNCILMEMBER ANDERSON: And, so, when do you anticipate  
15 that being done?

16 MR. JENCKS: That's all going to be done as a part of that  
17 overall improvement plan -- the water tank, the  
18 intersection with the highway, a fully signalized  
19 intersection, all those improvements will go in at  
20 one time.

21 COUNCILMEMBER ANDERSON: Yeah.

22 And when will that be?

23 That's what we're trying to get at, is a  
24 date.

25 MR. JENCKS: As soon as I can get my plans approved.

1 COUNCILMEMBER ANDERSON: And how soon can you get them  
2 approved?

3 MR. JENCKS: That's a really good question. I have been  
4 working with the County now for about a year and a  
5 half on that process. I think we're very close.

6 COUNCILMEMBER ANDERSON: And who has to approve them?

7 MR. JENCKS: Well, they're approved by the State  
8 Department of Transportation and the County of Maui,  
9 Department of Public Works and Department of Water  
10 Supply, and I think the Department of Health.

11 COUNCILMEMBER ANDERSON: And, so, who is processing your  
12 application in the Public Works Department?

13 MR. JENCKS: The construction plans that are submitted for  
14 review by Development Services Administration.

15 COUNCILMEMBER ANDERSON: You don't know the particular  
16 person that's processing your application,  
17 Mr. Jencks?

18 MR. JENCKS: No, I -- no, I do not.

19 COUNCILMEMBER ANDERSON: Well, I think we should find that  
20 out, Mr. Chairman, and find out from -- you know,  
21 our resource people -- where this application is,  
22 what might be holding it up, what the possibility is  
23 for it to be going forward in a timely manner so  
24 that we can put some time conditions on this.

25 What do you know about sewage for these 250

1 units?

2 MR. JENCKS: The project will run a sewer line from the  
3 mauka side of the highway in the project, underneath  
4 Piilani Highway to connect to the County system.

5 COUNCILMEMBER ANDERSON: And yet have you received any  
6 approvals or any indication that there's adequate  
7 capacity for those 250 units within the Kihei  
8 system?

9 MR. JENCKS: There's capacity in the plan, and the  
10 Department of Public Works -- well, the Wastewater  
11 Division reviewed the plans and made comments on the  
12 plans, that we then incorporated into the plans for  
13 the connection.

14 COUNCILMEMBER ANDERSON: And their comments were that  
15 there was capacity?

16 MR. JENCKS: Yeah.

17 COUNCILMEMBER ANDERSON: Because we've heard that there  
18 isn't capacity. So, I'd like to know what that is  
19 and what the time on that is.

20 Then I recall at one of our previous meetings  
21 where we discussed this, Mr. Jencks, I asked if you  
22 would put a park in this 250-unit subdivision and  
23 you said yes.

24 MR. JENCKS: Yes.

25 COUNCILMEMBER ANDERSON: So, you must have looked into

1           that, you know, given a 250-unit development on 13  
2           acres and the County's park assessment program.

3                       What would be the equivalent size of park you  
4           would have to do?

5       MR. JENCKS:   It's approximately three acres.

6       COUNCILMEMBER ANDERSON:   And, so, could you do a  
7           three-acre park with parking and bathroom facilities  
8           and still have enough room in the remaining ten  
9           acres for the housing?

10      MR. JENCKS:   The -- I've got 13 acres and I want to build  
11           250 units.   To provide the park, which is  
12           approximately -- it's about 500 square feet per  
13           unit, give or take.   That's about three acres of  
14           park area.   I certainly have the park -- the  
15           apartments at two parking spaces per unit.   It's  
16           going to be -- it's going to be tight, but I think  
17           we can make it fit on that piece of land.

18      COUNCILMEMBER ANDERSON:   So, you think you can do a  
19           three-acre park, or even a two-acre park?

20      MR. JENCKS:   Yep, certainly.

21      COUNCILMEMBER ANDERSON:   Okay.   And then basically what  
22           you're saying is that you're going to be doing all  
23           the 100 percent and below as rental apartments.

24                       And -- you know, I've got a real problem with  
25           that, Mr. Chairman, because 70 percent -- and that's

1 a rounded out figure -- 69.8 or something, of the  
2 working people of Maui County make 100 percent --  
3 and not the working people, the households -- make  
4 100 percent and below the median income. These are  
5 the people who need the housing. These are the  
6 people who want a piece of the American dream.  
7 People who make 120 percent to 160 percent, that's  
8 30 percent of our resident -- residential  
9 population, and, you know, a good portion of them  
10 already have homes. They may be buying up into this  
11 project. Good for them. But my concern is with the  
12 people who don't have housing.

13 You know, I had a locksmith at my house this  
14 morning and he's got five adult children living with  
15 him, and two of them make really good money.  
16 They're making \$4,000 a month, and they can't afford  
17 more than \$225,000 for a home. They're skilled,  
18 professional people.

19 And, so, what do we say to them?

20 Hey, go rent in a three-story apartment  
21 complex and raise your family there. I don't think  
22 that's appropriate, Mr. Chairman, I think we can do  
23 so much better.

24 And, so, I'm asking you, Mr. Jencks, that of  
25 those 250 apartment units that you make, at least --

1 at least half of them ownership units. The  
2 Workforce Housing Ordinance calls out for that.  
3 And, you know, if these are going to be entry-level  
4 units for the bulk of our population, then give them  
5 a shot at home ownership so that they can then step  
6 up some day, take that equity, and move up to a  
7 \$168,000 house, which by the time they ever get the  
8 opportunity it may not be at 168,000. You know, it  
9 may be at 468,000 by then. But when you look at the  
10 breakdown, people making 101 percent of the median  
11 income for a family of -- well, let's just do a  
12 family of two, let's just say, you know, a husband  
13 and wife that don't even have kids yet, they're  
14 looking at \$287,000 just to buy in at 101 percent.  
15 If they've got a family of four, two kids, they're  
16 looking at \$388,000 for the entry level house  
17 affordable in Mr. Jencks' project. Now, if you want  
18 to call that elite, I'm sorry. I think all of Maui  
19 residents are elite. I think they all should have  
20 an equal standing in our community. And I think our  
21 community needs to be integrated as such. Because  
22 if you put -- if you put the 100 percent and below  
23 people within the rest of the project, you're going  
24 to guarantee that it's quality, because those  
25 millionaires up on the hill don't want it otherwise.

1           And our Community Plan says that we require a mix of  
2           affordable and market-priced housing in all major  
3           residential projects, unless the project is to be  
4           developed exclusively as an affordable housing  
5           project. So, I want some kind of -- I mean, if this  
6           is -- you know, the whole idea of putting these  
7           lower -- you know, actually what we're calling is  
8           below moderate income. I don't like the term  
9           "lower." It's actually defined in our ordinance as  
10          below moderate income, and that's from 100 to 80  
11          percent of the median income. So, you know, if  
12          we're going to put 100 percent and below income  
13          earners in -- you know, and I do call it segregated  
14          because there isn't going to be any high-end housing  
15          around them. You know, there's going to be  
16          businesses and industrial, light industrial stuff.  
17          And, you know, it's not that I don't think that that  
18          can be used appropriately at times. You know, a lot  
19          of people in our light industrial areas, business  
20          people, they lived up top their unit -- their units  
21          so they could, you know, afford to start a business  
22          from the ground level, and that's fine.

23                   But do you want to raise a family like that?

24                   I don't know. I don't want my kids to have  
25                   to cross a highway to get to the ocean.

1 CHAIR MOLINA: Member Anderson, do you have another -- can  
2 I ask you to hold your thought, then I can go to  
3 Member -- we'll come back to you.

4 COUNCILMEMBER ANDERSON: Well, no. I want an answer from  
5 Mr. Jencks, Mr. Chairman. I'm sorry. I'm  
6 passionate about this and I -- I'm getting a bit  
7 carried away.

8 So, Mr. Jencks, would you be willing to offer  
9 at least half of those 250 units at 100 percent and  
10 below the median income as ownership units rather  
11 than all rental?

12 CHAIR MOLINA: Mr. Jencks?

13 MR. JENCKS: I would say I don't have any reason to think  
14 why we couldn't do that. I'd like to get back to  
15 you. Give me a few minutes to check on that. But I  
16 don't see why that couldn't happen.

17 COUNCILMEMBER ANDERSON: Okay. Well, then, that's  
18 something that we could call out in this condition.

19 MR. JENCKS: I'd like to confirm that.

20 COUNCILMEMBER ANDERSON: Okay. That would be great if you  
21 could do that. And --

22 MR. JENCKS: So, that will be 125 at 100 percent or less  
23 ownership, fee ownership; correct?

24 COUNCILMEMBER ANDERSON: That's right.

25 MR. JENCKS: And then 125 rental per the Workforce Housing

1 Ordinance?

2 COUNCILMEMBER ANDERSON: Yeah, because -- you know, I'm  
3 the first to admit, since I rent and have been  
4 renting for the last 25 years -- I mean, I used to  
5 be a homeowner. I used to own a couple homes. But  
6 given the circumstances that happened in my life I'm  
7 now a renter and I probably will never own a home,  
8 being a single-income earner. But -- and, so, I  
9 know there's a need for rentals. But I'm lucky  
10 enough to have a cottage, you know. I'm not -- I  
11 don't know if I could survive in an apartment  
12 complex.

13 So, as long as -- you know, I want some kind  
14 of guarantee, Mr. Jencks, that when we say now,  
15 we're not talking, you know, oh, gee, you know, I  
16 got held up on this, that, and the other and -- and  
17 it's going to take three years for people to turn  
18 the key, because if that's the case, then, you know,  
19 you might as well put this within the rest of the  
20 project and give everybody, you know, equal dignity.

21 Thank you, Mr. Chairman.

22 CHAIR MOLINA: Thank you, Member Anderson.

23 Mr. --

24 MR. JENCKS: Mr. Chair, if I may.

25 CHAIR MOLINA: Okay. Quick response, Mr. Jencks.

1 MR. JENCKS: I just -- you know, I think I need to say  
2 once again, the whole idea here behind the 250 units  
3 was to help out. This wasn't used as a carrot,  
4 because I said in this Chamber, as well, that I'm  
5 perfectly willing and capable of putting all of  
6 these units in the project. I think the goal here  
7 is to work together, the County of Maui, this  
8 Council, and the project team to get something done  
9 that's of value and contributes to society. It's  
10 difficult for anyone to say, I will start this  
11 project on this date, with all the variables that  
12 are out there, be it water, State Department of  
13 Highways, whatever it could possibly be. Our goal,  
14 however, stated very clearly, has been to try to  
15 accomplish something before we start turning dirt in  
16 670, get housing provided before the project starts.  
17 That's a couple years away. That's our goal. We've  
18 endeavored to do that with the submissions to the  
19 State and the County to date, and that's our intent.

20 CHAIR MOLINA: Thank you, Mr. Jencks.

21 All right. Members, before I recognize  
22 Member Medeiros, just for your information, the  
23 Water Director, Mr. Eng, is here. And upon  
24 Mr. Medeiros completing his line of questioning,  
25 Chair is going to maybe call for a short recess and

1 check up on Mr. -- Director Eng's availability of  
2 time to -- (end of side A, tape 2) -- and however  
3 long Mr. Eng is available for us we'll expound on  
4 Condition No. 1.

5 So, Member Medeiros?

6 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

7 Yeah, I need to ask Mr. Jencks --

8 CHAIR MOLINA: Mr. Jencks?

9 COUNCILMEMBER MEDEIROS: -- some questions, please.

10 CHAIR MOLINA: You might as well pull up a chair there for  
11 the rest of the day, I think. You're getting a lot  
12 of walking in there.

13 MR. JENCKS: It's all right.

14 CHAIR MOLINA: Mr. Medeiros?

15 COUNCILMEMBER MEDEIROS: Thank you, Mr. Jencks.

16 Yeah, I -- you know, I'm in support of Member  
17 Mateo's motion for the reason that I had stated in  
18 previous meetings, that I don't look at it as  
19 segregating people because the units are built away  
20 from the project itself. I think many of us forget  
21 that when we started in our young lives, you know,  
22 most of us rented, you know. That's how I started,  
23 you know, rented. In fact, I lived in a home once  
24 that there were four adults and eleven children; and  
25 we did well; you adapt to it and you just try to

1 improve your situation and your financial abilities.  
2 But I wanted to -- because we don't have anybody  
3 from Housing here, I wanted to ask Mr. Jencks if he  
4 could help answer some of the questions.

5 The proposed rental units that would be by  
6 the light industrial area, will that be multi-story?

7 MR. JENCKS: Yes.

8 COUNCILMEMBER MEDEIROS: And how many stories?

9 MR. JENCKS: Possibly three.

10 COUNCILMEMBER MEDEIROS: Three, okay.

11 And I'm not sure how this will work, and  
12 that's why I wanted to ask the Housing, but in the  
13 rental units, do you know who would manage that  
14 facility, that housing once people move in?

15 MR. JENCKS: Well, there's a couple of choices. There  
16 are -- there are groups on Maui, management  
17 organizations that can do that. There are new  
18 organizations coming along. For example, the -- the  
19 land trust, the Community Land Trust, potentially  
20 they could manage it, as well.

21 COUNCILMEMBER MEDEIROS: Okay.

22 MR. JENCKS: They don't have any experience to date, but  
23 that's an entity that could do that.

24 COUNCILMEMBER MEDEIROS: Okay. And one of the reasons  
25 that I supported having some of the affordable units

1 built away from the project was because of the real  
2 property taxes. I think, you know, having housing  
3 on the project area with the high-end housing there,  
4 the assessed value of the properties would be higher  
5 than the assessed value of property next to a light  
6 industrial area.

7 And do you know if that is so?

8 MR. JENCKS: I -- I'm not a -- I'm not that familiar with  
9 the tax rates and how they assess, so it would be  
10 difficult for me to say.

11 COUNCILMEMBER MEDEIROS: Okay. You -- Member Anderson  
12 brought up a scenario of some of the units being fee  
13 ownership.

14 Now, when you -- when you say -- or agree to  
15 that, does it mean that the owners will own the  
16 building only and not the land that we have seen,  
17 you know, in other areas? How would that work?

18 MR. JENCKS: They would own a percentage common interest.

19 COUNCILMEMBER MEDEIROS: Of the land?

20 MR. JENCKS: Of the building.

21 COUNCILMEMBER MEDEIROS: Of the building only?

22 MR. JENCKS: And the land.

23 COUNCILMEMBER MEDEIROS: And the land.

24 Okay. And my final question -- and you may  
25 not be able to answer this, either, because I think

1           it should have been answered by our Housing  
2           Department -- is how are the -- how would the real  
3           property taxes be distributed?

4       MR. JENCKS: Between the ownership and the rentals?

5       COUNCILMEMBER MEDEIROS: The tenants, yeah, the tenants or  
6           the owners.

7       MR. JENCKS: Well, the rental fees will be based on a  
8           strict schedule that's based upon income and -- and,  
9           so, you -- you know, you're limited on the rents you  
10          can charge because the ordinance that you've passed  
11          is fairly explicit and the HUD guidelines are fairly  
12          explicit on what you can charge for rent. So,  
13          some -- some are within all of that formula of the  
14          rent you get, the revenue that you have coming in,  
15          and your expense is water, sewer, park maintenance,  
16          property tax; it all has to figured in -- be figured  
17          in and worked within the rental income you have  
18          coming in for the rental side. On the -- my only  
19          guess would be on the -- on the -- on the fee  
20          ownership side there could be a direct pass-through  
21          to those -- to those owners on some percentage  
22          basis. It would probably be based upon -- on unit  
23          size, which is typically -- in the condominium  
24          regime in the State of Hawaii, the fees you pay are  
25          based upon the unit size you purchase. You don't

1           all pay the same.

2           COUNCILMEMBER MEDEIROS: Thank you, Mr. Jencks.

3                     Thank you, Mr. Chairman.

4           CHAIR MOLINA: Thank you, Mr. Medeiros.

5                     If the Members will permit, Member Baisa has  
6           a pressing follow-up question from Mr. Medeiros to  
7           Mr. Jencks, and then we'll recess.

8           COUNCILMEMBER BAISA: Thank you very much, Chair. I  
9           appreciate it.

10                    I'm wanting to ask this question; and like  
11           Mr. Medeiros, I really wish I could address it to  
12           the Housing Director, but since she's not here,  
13           maybe Member Anderson can help me understand this.

14                    You know, when we talk about median income,  
15           it implies to me, that if the median income for Maui  
16           for a family of four is so much, that means that 50  
17           percent of the people who live here earn more and 50  
18           percent of the people who live here earn less;  
19           that's why it's median. But, yet, I hear a  
20           disturbing statistic, and I'm trying to put the two  
21           together, and I don't know how that works.

22           CHAIR MOLINA: Are you asking that direct question to  
23           Member Anderson?

24           COUNCILMEMBER BAISA: Would you please.

25           CHAIR MOLINA: All right. Member Anderson?

1                   Briefly, please, Member Anderson, as best you  
2                   can.

3           COUNCILMEMBER ANDERSON:  It is very confusing, because you  
4                   would think the median is a hundred -- you know,  
5                   right in the middle.

6           COUNCILMEMBER BAISA:  Yes.

7           COUNCILMEMBER ANDERSON:  But the demographics don't show  
8                   that.  The median income is based -- is actually set  
9                   by the Federal government, Housing and Urban  
10                  Development.

11          COUNCILMEMBER BAISA:  But what do they base it on?

12          COUNCILMEMBER ANDERSON:  They base it on a number of  
13                  factors, you know.  They look at the cost of living  
14                  index, all different kinds of factors.  But if you  
15                  look at what median -- what they're saying is  
16                  median -- and it doesn't -- it's not based on  
17                  population numbers, the number of people; it's based  
18                  on a range of income.  And currently for the County  
19                  of Maui, \$65,700 is considered median income.  And  
20                  they base that on -- you know, it changes.  For a  
21                  family of one, median income is different for a  
22                  family of four.  So, generally that 65,700 figure --  
23                  and just for, you know -- I guess, for convenience  
24                  purposes and looking at stats and stuff, they  
25                  generally use what a family of four makes as median.

1           So, the 65,700 would be representative of a family  
2           of four. And that means, you know, if you're a  
3           family of four and you're making \$65,700, that means  
4           that you should be able to afford at 100 percent --  
5           that's the 100 percent figure -- that means you  
6           should be able to afford a house selling for  
7           \$352,820. And that -- those are figures as of 2007,  
8           based on this chart we got from our Housing  
9           Development.

10                   Then -- then if you look at the demographics  
11           of Maui and you compare that -- and during our  
12           break, Mr. Chairman, I'll get those for Member Baisa  
13           and maybe pass it down for others, so you can get an  
14           idea -- it shows how many people in Maui County  
15           make -- how many households, excuse me, it's not  
16           people, it's households --

17           COUNCILMEMBER BAISA: Uh-huh.

18           COUNCILMEMBER ANDERSON: -- what households earn. And the  
19           last figures that we got -- and I believe they might  
20           have been 2005, but I think they are 2006 figures,  
21           it showed 68.9 or 69.9, 69.8, somewhere around  
22           there, of our households earn 100 percent or below.  
23           And that's why it's so critical to me, because --

24           COUNCILMEMBER BAISA: But you can understand why I cannot  
25           put those two numbers together. They don't make

1 sense.

2 COUNCILMEMBER ANDERSON: I know. But somebody needs to  
3 explain how HUD develops their guidelines in a more  
4 clear manner.

5 COUNCILMEMBER BAISA: I think this -- I think this is why  
6 it would be helpful if we had the Housing Director  
7 at some point.

8 CHAIR MOLINA: Okay. Well, the Chair had stated before --  
9 you know, when we took a break, a nearly one-month  
10 break to ask all of you if you could meet with some  
11 of the department heads to get clarification on  
12 information on, you know, how median income is  
13 determined. But if that's the will of the body,  
14 then expect a longer day, Members, if you guys want  
15 some of the department heads to come back. Or, if  
16 you can, if you want to try and reduce some of the  
17 Committee time, if you can go out and get those  
18 answers on your own and then share with the  
19 Committee what you found. But we will make an  
20 effort to get the Housing Director here. I cannot  
21 guarantee that they will be here today because --  
22 you know, we hadn't planned on having the Housing  
23 Director here. The Chair had preferred to focus on  
24 the issues of water and other related issues for  
25 today. But if we can't get the Water Director

1           here -- excuse me, the Housing Director here today,  
2           we'll try and see if that person can be made  
3           available tomorrow.

4                        So, that being said, Members, this meeting is  
5           in recess. We shall come back at 11:10. (*Gavel.*)

6       **RECESS:**           11:00 a.m.

7       **RECONVENE:**       11:20 a.m.

8       CHAIR MOLINA: (*Gavel.*) The recessed Land Use Committee  
9           meeting of October 18th, 2007, is now back in  
10          session. It is 11:20, Monday, October 22nd.

11                       Members, we have been discussing a proposed  
12          motion on the floor to place 250 of the proposed 700  
13          affordable units into another site -- or, actually,  
14          off-site, and we've had Q and A with regards to  
15          that. At this point, we do have Mr. Eng now, the  
16          Director of the Water Department, and I would ask  
17          him to comment.

18                       And, Members, he is here only until 12:00  
19          noon. He is obviously a very busy man, and he did  
20          come here a little earlier, but we got into a very  
21          extended discussion on the subject matter.

22                       So, Mr. Eng, if you could give your comments  
23          as it relates to the proposed 250 units off-site  
24          and, I believe, the two-inch water meter from the  
25          Applicant.

1                   And then, Members, I'll ask you to ask  
2                   Mr. Eng questions only of the proposed 250 units and  
3                   not stray into other areas of water related to the  
4                   project. So, just keep it confined to only the 250  
5                   units, the off-site area.

6                   Mr. Eng?

7                   MR. ENG: Thank you.

8                   Good morning, Chairman Molina.

9                   And good morning, Committee Members.

10                  COUNCIL MEMBERS: Good morning.

11                  MR. ENG: You know, to be perfectly honest with you folks,  
12                  I -- I don't have a whole lot of information about  
13                  this off-site affordable project. I believe it's  
14                  about a month or so ago was the last time I was  
15                  before you and answered a few questions, and even  
16                  then I was pretty much perplexed. I believe I  
17                  responded to you folks that I really hadn't met with  
18                  the developer on this off-site project, so I really  
19                  didn't have much to go by. I do understand, though,  
20                  this past Friday there -- there was some additional  
21                  information regarding the project as far as number  
22                  of units and, I guess, the potential there is an  
23                  existing two-inch meter, and that's all I know, is  
24                  really what came out on Friday. So, if there's any  
25                  information that you can provide me to help me make

1 my comments, I'd appreciate it.

2 Thank you.

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

4 Members, questions?

5 Also, we have the Applicant available, as  
6 well, to respond to any questions.

7 We'll start with Member Anderson.

8 COUNCILMEMBER ANDERSON: Thank you, Chairman.

9 Thank you for being here, Director Eng.

10 Mr. Jencks just told us that the two-inch  
11 water meter was issued for a large-lot subdivision,  
12 which this 250-unit multi-family complex is being  
13 proposed to be within this four-lot, large-lot  
14 subdivision.

15 So, would it be -- and he -- and he says of  
16 the two-inch water line, he has water up to 230  
17 gallons per -- 230,000 gallons per day. So, if you  
18 could confirm that.

19 And is it possible to use this two-inch water  
20 meter for that one 250-unit, multi-family project?  
21 In other words, change -- change its use for the  
22 purpose of a large-lot industrial subdivision to  
23 then use it for that one particular purpose?

24 CHAIR MOLINA: Mr. Director?

25 MR. ENG: Thank you, Mr. Chair.

1           Member Anderson, let me confirm. I'll have  
2           to get back to you on the 230,000 gallons per day  
3           capacity for that meter. It sounds like pretty high  
4           for a two-inch meter. A two-inch meter isn't that  
5           large. Just on the face value of things, I don't  
6           think it could serve a 250-unit, multi-family  
7           facility as well as provide the outside irrigation,  
8           and I think I overheard that there is a two-acre  
9           park attached to this. So, it would really be  
10          insufficient at this time, I would think.

11          You know, just looking at the potential  
12          demand for this project -- and I just did a quick  
13          calculation while I was in the gallery -- per our  
14          multi-family standards we utilize 560 gallons per  
15          day per unit. So, if you multiply that times the  
16          250 units, you need 140,300 gallons per day; and  
17          then for the additional park, if you roughly  
18          estimate maybe up to 5,000 gallons per acre per day,  
19          that would be another 10,000 gallons per day. So,  
20          again, roughly it would be 150,000 gallons per day,  
21          just for planning purposes. Now, there could be  
22          other things that tweak that, such as low-flow  
23          fixtures, you know, reduced irrigation, depending on  
24          how much landscape treatment, things like that. But  
25          that's a ballpark figure. But a two-inch meter, to

1 me, seems to be, again, on the surface,  
2 insufficient.

3 COUNCILMEMBER ANDERSON: Because of the size of the lot --  
4 the line that the two-inch meter serves? Or --

5 MR. ENG: Yes, basically the amount of flow rate.

6 COUNCILMEMBER ANDERSON: Flow rate.

7 MR. ENG: Maximum flow rate.

8 COUNCILMEMBER ANDERSON: Now, Mr. Jencks also said that he  
9 was going to do -- what was it? A million gallon  
10 tank? -- that he wants to put in a million gallon  
11 tank.

12 So, would that make any difference?

13 And I'm assuming that's something that you  
14 would have to approve since he would be filling it  
15 with County water.

16 MR. ENG: Yes, that would definitely have to be approved  
17 by the Department and meet Department standards of  
18 construction and design, and we would have to meet  
19 with him as far as the siting of that storage  
20 facility. And because there are other developments  
21 planned for that area, we may want to look into,  
22 like, consolidating them into, you know, larger  
23 storage facilities rather than having two or three  
24 scattered all over the place for operational  
25 reasons, maybe for -- for cost reasons. But, yeah,

1           it would have to be looked at by the Department.

2           COUNCILMEMBER ANDERSON: And, so, is the Department in a  
3           position that within a year's time they could  
4           upgrade the size of this meter? And would that be  
5           something that the Department would be amenable to?

6           MR. ENG: At this time, within a one-year period, I -- you  
7           know, I don't think we'd be in a position to upgrade  
8           that meter due to the -- as you know, the water  
9           availability issues that we're dealing with in  
10          Central Maui, and I don't think we'll have a  
11          sufficient new source available in one year.

12          COUNCILMEMBER ANDERSON: Okay. Thank you, Mr. Eng.

13                         Thank you, Mr. Chair.

14          CHAIR MOLINA: Thank you, Member Anderson.

15                         Committee Members, any other questions for  
16          Mr. Eng related to the proposed 250 units off-site  
17          for this project?

18                         Mr. Mateo?

19          COUNCILMEMBER MATEO: Chairman, thank you.

20                         So, Mr. Eng, to continue and follow up, a  
21          two-inch meter, then, would be able to produce how  
22          many -- how much water?

23          MR. ENG: You know, I have to check my little chart in my  
24          office as far as maximum flow rate.

25          COUNCILMEMBER MATEO: Okay. So -- but you're saying it

1           does -- it will not be able to produce the amount of  
2           water that we were --

3                       What was that number?

4   CHAIR MOLINA:   230,000?

5   COUNCILMEMBER MATEO:   Yeah.

6   CHAIR MOLINA:   Yeah.

7   COUNCILMEMBER MATEO:   It would not be able to -- for --

8   COUNCILMEMBER ANDERSON:  150 gallons (sic) per day --

9   COUNCILMEMBER MATEO:   -- 150,000 gallons was what this  
10                   two-inch line can --

11   MR. ENG:   With a two-inch meter, again, it's based pretty  
12           much on meter size and on, obviously, the number of  
13           fixture units that it serves, as well as the diurnal  
14           demand during the day.  And, you know, you -- you  
15           know, again, I'll have to verify the flow capacity  
16           on that.  But, you know, you're not running that  
17           meter 24 hours full flow.  You know, you're  
18           basically matching the demands of your domestic  
19           needs in that facility.  And, obviously, when people  
20           wake up in the morning there's a big hit of demand  
21           for that facility; as people arrive home, pau hana,  
22           you know, at nights, very little flow.  But you're  
23           really sizing it and basing it on the maximum flow  
24           demands for that meter.

25   COUNCILMEMBER MATEO:   Okay.  So -- and, Mr. Eng, your

1 comment a little bit ago was that within a year you  
2 still don't see that there is sufficient water to  
3 take care or address the needs of this particular  
4 project?

5 MR. ENG: You know, I can't say there won't be any. I  
6 mean, if we can -- as we're working on currently,  
7 developing, you know, some very strong conservation  
8 legislation. You know, a lot of communities have  
9 had a lot of success and extracting more water by  
10 saving water, and that's my hope. But given the  
11 course we're currently on, there wouldn't be water  
12 available in one year.

13 COUNCILMEMBER MATEO: And that will be due because of  
14 our -- the County's inability to provide the  
15 transmission?

16 MR. ENG: No, it's inability to get new sources on-line in  
17 that time frame --

18 COUNCILMEMBER MATEO: Okay.

19 MR. ENG: -- as well as a lot of the new sources we get  
20 on-line is meeting new demand, too. So --

21 COUNCILMEMBER MATEO: The only reason I ask is because at  
22 our last Water Resource meeting, when USGS was here,  
23 they indicated that -- and it was contrary to your  
24 own position that there is a crisis, because USGS  
25 said there was no crisis. So, you know, I'm just

1           concerned with announcements, announcements that can  
2           cause confusion, because we have the Director who  
3           has the hands-on and we have USGS that has the  
4           responsibility of addressing source, needs, quality,  
5           quantity, et cetera, and we're getting two different  
6           messages. So, I don't know what to do other than to  
7           ask you, you know, of a current status, because USGS  
8           says that there is water available.

9           MR. ENG: Yes, thank you. That was confusing to me, too,  
10           last week Monday. And I think, looking back, even  
11           the USGS realized that they have given a mixed  
12           message to this community, because they have  
13           illustrated to us through their research that the  
14           aquifers are changing, and not for the good. And  
15           the best example is this Waiehu deep well,  
16           monitoring well. And the charts are graphic. You  
17           know, they have showed the transition or the  
18           salinity levels slowly rising over time in the 25  
19           years that they've been monitoring that well, and  
20           they're also showing that the water levels are  
21           decreasing, which means the fresh water lens is  
22           thinning, getting -- becoming narrower. Okay. Now,  
23           these are long-term studies. And, so, when they  
24           said there's no crisis, they meant there's no  
25           immediate crisis. We're good. We could pump at

1           these rates and at the locations of our existing  
2           wells for the next, probably, 5 or 10 years without  
3           tasting salt in our drinking water. But I think  
4           it's our duty, that given the data that we have --  
5           and they're finding this on other wells -- based on  
6           our pumping scenarios, that things are changing over  
7           time. And that's why when we have them run out our  
8           pumping scenarios, it is over a 30-year period,  
9           because we're trying to best manage the aquifers and  
10          the pumps for the long-term. I mean, we could close  
11          our eyes and not worry about what happens in 25 or  
12          30 years, but we can't ignore that. You know, the  
13          facts are there, the data is there. So, when they  
14          say there's no crisis, again, there's no immediate  
15          crisis today. But, again, they're only studying the  
16          situation of the aquifers, the characteristics of  
17          the aquifers, and the chlorides, changes. They're  
18          not looking at our ability to serve customers;  
19          they're not looking at the amount of infrastructure  
20          we have in. So, in regard to that, we're in a  
21          crisis.

22          COUNCILMEMBER MATEO: So, Mr. Eng, are you prepared to  
23          call for a moratorium?

24                         We don't have water, which is what I'm  
25          hearing.

1           So, if we don't have water, at what point is  
2           the Director going to take that position and call  
3           for a moratorium?

4       MR. ENG: That's a tough question I toil with all the  
5           time, especially over this past few months, since  
6           summer, and when we realize exactly where we are in  
7           regard to water availability, and that's why I've  
8           tried to promote this open discussion with this  
9           body, with other committees, and with the Mayor, and  
10          the community, because it's a hard decision to  
11          declare a moratorium; we all know that. And I don't  
12          think it's the duty of one person to make that call,  
13          either. I mean, we all have our personal opinions  
14          of what we should do. And I toil with it all the  
15          time, and it's a tough one because there's so many  
16          things we need to consider. You know, to declare,  
17          let's say, a moratorium today, we know the impacts  
18          of that in regard to our construction, you know,  
19          labor force, for all the construction that is  
20          ongoing, that are expecting to come in within the  
21          next year for a meter. Whatever we do -- and I  
22          don't know what we will do --

23       COUNCILMEMBER MATEO: But the Department has stopped  
24          issuing water meters; right?

25       MR. ENG: No, we continue to issue meters. There is no

1 moratorium. Now, we're issuing them just a few at a  
2 time, you know. And, currently, a lot of them that  
3 we've recently issued has been just for  
4 single-family projects. Now, again, our approach  
5 right now is we want to work on legislation. But  
6 even -- and beyond that, one of those bills that I  
7 would like to see, that we don't have in place, is a  
8 meter allocation plan, and I've tried to check with  
9 Corp Counsel and Staff, and I think in the history  
10 of the Council there have been attempts to develop a  
11 plan and for whatever reasons it hasn't gotten  
12 finalized. But that's one of the first things that  
13 we need to address once we conclude with this Show  
14 Me the Water bill. I'd like to definitely jump  
15 right into the meter allocation plan; and then,  
16 after that, some -- some water conservation  
17 ordinances, too, that really restrict the waste in  
18 the water, you know, and really mandating some steps  
19 we have to take. And I think that might be our  
20 quickest bang for the buck. But it's a lot of  
21 things that we are -- need to all work on and --  
22 before we, you know, make any hard, hard decision.

23 COUNCILMEMBER MATEO: Okay. Thank you, Mr. Eng.

24 Chairman, I will yield.

25 CHAIR MOLINA: Okay. Thank you very much, Mr. Mateo.

1           And thank you, Members, for -- I know we can  
2           really get drawn into this discussion of moratorium,  
3           but I think we need to keep our focus mainly just  
4           with this application first and then, you know,  
5           moratorium, at least on a broad sense, needs to be  
6           discussed in another committee or another policy, I  
7           guess, action that the Administration would  
8           consider. But for now, again, let's keep our  
9           questions as it relates to water availability for  
10          this proposed 250 units for Wailea 670.

11                   Member Baisa?

12          COUNCILMEMBER BAISA: Chair, this is a very confusing  
13          discussion. We have some conflicting information,  
14          and somebody's going to help -- have to help us sort  
15          it out.

16                   We were told by the Applicant that he has an  
17          approved two-inch water meter for the property. He  
18          estimated or was told, or I don't know where this  
19          figure came from, that it could produce 230,000  
20          gallons. Then the Director tells us that, you know,  
21          he's not really sure how many gallons this water  
22          meter can produce, but estimates that we will need  
23          about 150,000 gallons per day. If we knew what the  
24          water meter could produce, it might help us make a  
25          decision; otherwise, we're going to be spinning our

1 wheels. Because, of course, the desired outcome  
2 today is to decide whether or not we can go for this  
3 subdivision or not. And, you know, the water's  
4 crucial. I -- we know that we can't do it without  
5 it. So, I think we have to figure this out one way  
6 or another. And if that means having to take a  
7 break to get the number and come back, then I think  
8 we have to do that.

9 CHAIR MOLINA: Okay. Thank you, Member --

10 MR. ENG: Excuse me, Mr. Chair.

11 CHAIR MOLINA: Director Eng?

12 MR. ENG: You know, I don't know if this could help you  
13 folks. But, you know, if the developer has a  
14 conceptual understanding of that project, you know,  
15 they do know how many units, you know, I don't know  
16 how many bedrooms, bathrooms, what other --

17 COUNCILMEMBER BAISA: Would it help if we got the  
18 developer up, Chair?

19 CHAIR MOLINA: Yeah, hang on. Let me let Mr. Eng finish  
20 and then we'll ask the developer to come up.

21 Mr. Eng, you want to finish your thoughts?

22 MR. ENG: Well, I just wanted to make a comment and  
23 recommendation, that if he has a conceptual idea of  
24 that project, then if he has a mechanical engineer  
25 on contract, then they could put some numbers and

1           determine what is the demands on that project, as  
2           well as the potential size meters, and he -- and  
3           that mechanical engineer could confirm for him and  
4           for this body what the requirements are in regard to  
5           meter sizes.

6           CHAIR MOLINA: Mr. Director, if I could just ask for more  
7           clarification.

8                         So, when did you last talk to the Applicant  
9           as it relates to this 250 units? Did you have any  
10          formal discussions yet on water for this 250 units?

11          MR. ENG: No, I have not discussed this with the Applicant  
12          at all.

13          CHAIR MOLINA: Okay. I think this is where, I think, the  
14          Committee seems to be a little confused. Some of us  
15          are under the impression that, you know, there were  
16          discussions that took place as it related to the 250  
17          units, and then we're hearing from you that  
18          apparently there was not. So, I think we need to  
19          get some clarification.

20                         Mr. Jencks, if you could please come up.

21          COUNCILMEMBER BAISA: Mr. Jencks?

22          MR. JENCKS: Yes.

23          COUNCILMEMBER BAISA: If you could please edify us as to  
24          where this -- the figures came from and what you  
25          know, it would really be helpful.

1 MR. JENCKS: Okay. In the context of my civil engineer's  
2 work on the light industrial subdivision and the  
3 installation of the two-inch water meter, the civil  
4 engineer advised me that a two-inch water meter,  
5 unrestricted flow, 230,000 gallons a day. In the  
6 context of this project or this proposal for 250  
7 units, which indeed I have not discussed with the  
8 Water Director, but I have discussed with this  
9 Department in the context of this overall  
10 subdivision and the other improvements we would be  
11 making, which they requested. I also advised the  
12 Committee that in order to build 250 units there are  
13 other water improvements we would have to make. One  
14 would be the completion of this one million gallon  
15 tank which is above Ohukai to serve not only this  
16 area but other areas in North Kihei, as well as  
17 detector check valves for fire suppression. There's  
18 a -- there are a lot of other improvements that have  
19 to take place prior to actually building units, and  
20 the Department of Water Supply would have to approve  
21 those.

22 I might also add, the Director mentioned the  
23 issue of landscape watering. The light industrial  
24 subdivision is not allowed to use domestic water for  
25 irrigation. We have to -- we actually pulled a

1 permit to dig a brackish water well that we would  
2 use, and that water well would pump approximately  
3 maximum -- (end of side B, tape 2) -- irrigation,  
4 for all the median strips on the new Upcountry  
5 highway, within the project, et cetera, so that  
6 water would not be domestic water; it would be re --  
7 it would be brackish water, well water for the park.

8 COUNCILMEMBER BAISA: Mr. Jencks, what was your reaction  
9 to the Director's estimate of about 150,000 gallons  
10 a day needed?

11 MR. JENCKS: I think that's -- based upon his projection  
12 for the number of gallons per unit, that's  
13 reasonable. I mean, that's -- it's all domestic  
14 flow. That's the water that goes directly to the  
15 treatment plant for wastewater treatment. That's  
16 not unreasonable at all. But, once again, the  
17 estimate for the irrigation flow for landscape  
18 shouldn't be a part of that component because it's  
19 not allowed to be, by zoning.

20 COUNCILMEMBER BAISA: Okay. Well, I guess that's as clear  
21 as it gets.

22 CHAIR MOLINA: Okay. Thank you, Member Baisa.

23 Committee Members, any other questions for  
24 Mr. Jencks?

25 Member Anderson?

1 COUNCILMEMBER ANDERSON: Mr. Jencks, should this go  
2 forward and you do the 250 units and you have one  
3 two-inch meter, would you then go to the Department  
4 and ask for individual meters for each of the units?

5 Because I don't know how you're going to, you  
6 know, be able to fairly distribute the water and the  
7 cost of the water to each unit. You know, one might  
8 have a family of four or five that take long showers  
9 and one might have two people that take short  
10 showers.

11 So, how do you fairly -- yeah, how would you  
12 fairly do that?

13 And I'm wondering, then, if the Department  
14 would -- well, anyway, see if you can answer that.

15 MR. JENCKS: The Department's going to have to review and  
16 approve all the water connections to the -- to the  
17 apartment complex, and they're not going to do that  
18 until there's adequate fire suppression water  
19 available, which means the completion of the one  
20 million gallon tank, the detector valves are in  
21 place, that we've got enough water in that tank to  
22 serve this project. So, there's a lot of work to  
23 do. They would have the ultimate say. And in the  
24 end, when the project is actually connected to the  
25 system, it would be a series of gang meters, whether

1           it's one meter of -- I don't know how -- the detail  
2           of that, but there's only one meter for the project.  
3           You'd have a detector check for fire suppression  
4           because it will probably be sprinklered, and then  
5           you'll have a domestic flow meter, most probably,  
6           maybe two.

7           COUNCILMEMBER ANDERSON: But my question is, how are the  
8           home -- the tenants going to be paying for their  
9           share of the water? Are you going to have internal  
10          meters?

11          MR. JENCKS: No. You know --

12          COUNCILMEMBER ANDERSON: I mean, how's that going to  
13          happen if you have one two-inch meter and you're  
14          serving 250 units?

15          MR. JENCKS: As in -- as in most condominium complexes  
16          that I'm aware of, other than landscape water, it's  
17          just on a pro rata basis. You divide it up.

18          COUNCILMEMBER ANDERSON: You just divide it up by the  
19          number of --

20          MR. JENCKS: Because you don't have individual meters for  
21          every unit. And assuming that you're breaking out  
22          the landscape water and you're just talking about  
23          domestic flow, it's fairly -- it's fairly even --  
24          evenly distributed between the units. So, they just  
25          divide it up by unit. Well, I -- I mean, I can

1           prove that out and get back to you on that, be happy  
2           to.

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

4 COUNCILMEMBER ANDERSON: Okay. Thank you.

5 CHAIR MOLINA: Thank you, Member Anderson.

6 COUNCILMEMBER ANDERSON: And, so, could I just --

7 CHAIR MOLINA: Okay. Let me ask if anybody else has a  
8           question for Mr. Jencks, first, before I allow him  
9           to sit down, and then I'll go to you for your  
10          question to Mr. -- to Director Eng.

11                   Anybody else with questions for Mr. Jencks?

12                   Okay.

13                   Okay. Member Anderson, you can proceed with  
14          questions for the Water Director.

15 COUNCILMEMBER ANDERSON: So, Mr. Director, you just told  
16          us that you didn't feel a two-inch line would be  
17          adequate because of -- did you say the suppression  
18          rate?

19 MR. ENG: No, I based it more on, like, to meet the, you  
20          know, maximum and peak demands of facilities.

21 COUNCILMEMBER ANDERSON: Oh, yeah.

22 MR. ENG: Again, I can confirm this rate. But, again, it  
23          really takes more of a study and analyzing the  
24          project's needs to determine the proper meter size.

25 COUNCILMEMBER ANDERSON: And then would there be any

1 control by the Department to, you know, prevent  
2 overuse?

3 In other words, I'm sure that they're going  
4 to want to go forward and, you know, do other  
5 projects in that area if they're putting all this  
6 investment; and the roadway, they've got to do a  
7 Federal standard roadway and all that kind of stuff.

8 So, you know, if they want to use, say, 150  
9 gallons (sic) for the affordables and then they only  
10 have -- what -- 80,000 left for other projects  
11 within the light industrial subdivision, would there  
12 be some way for the Department to control how much  
13 water they take out of this two-inch meter?

14 MR. ENG: Oh, certainly. You know, again, if they had any  
15 other projects, they'd have to bring it before the  
16 Department for review to make sure there's proper  
17 water system improvements in place for fire flow and  
18 things like that. Currently, I'm not sure how this  
19 land here is subdivided, if it's been -- if it's a  
20 resubdivision, if it's four separate lots. In  
21 accordance with our rules, we only allow one meter  
22 per lot; so, therefore, even if they don't use all  
23 the -- let's say the capacity of this existing meter  
24 is 230,000 and they only utilize 150, well --

25 COUNCILMEMBER ANDERSON: That's it?

1 MR. ENG: -- they can't use it on another, separate  
2 parcel.

3 COUNCILMEMBER ANDERSON: So, one meter per lot?

4 MR. ENG: Yes.

5 COUNCILMEMBER ANDERSON: And they told us that they got  
6 the meter for a four-lot, large-lot subdivision.  
7 And a large-lot subdivision is -- basically, say you  
8 have 200 acres and you want to divide it up into  
9 four large lots so that you can then sell off 25  
10 acres -- did I say 100 acres? -- you want to sell  
11 off one lot to somebody and another lot to somebody  
12 to further develop, so if they have that one  
13 two-inch meter for a four-lot subdivision and they  
14 want to use it for a 13-acre resubdivision of one of  
15 those large lots, would that be allowed by the  
16 Department, if the meter was issued for a four-lot  
17 subdivision?

18 MR. ENG: Yes, we could probably assign that meter to one  
19 of those lots, so that shouldn't be a problem.

20 COUNCILMEMBER ANDERSON: Okay. Thank you, Chairman.

21 Thank you, Mr. Eng.

22 CHAIR MOLINA: Thank you, Member Anderson.

23 Committee Members, any other questions for  
24 Director Eng before we go to Condition 1 with the  
25 limited amount of time we have with Mr. -- with

1 Director Eng?

2 Okay. Members, just a reminder, we do have a  
3 motion on the floor for the 250 units to be located  
4 off-site. Apparently some other issues have  
5 surfaced with regards to the amount of units to be  
6 set aside for people 100 percent and below, as well  
7 as the water questions that have been -- have  
8 arisen.

9 So, what is the pleasure of the body? Would  
10 the body consider a withdrawal of the motion and --  
11 or a deferral? Or does the body want to vote on the  
12 proposed motion, which would be to put -- place the  
13 250 units off-site?

14 Mr. Mateo, as the maker of the motion, I'll  
15 give you first opportunity to give comment.

16 COUNCILMEMBER MATEO: Chairman, at this point, I would be  
17 receptive to withdrawing my motion.

18 CHAIR MOLINA: Okay. Any other comments?

19 Mr. Mateo's considering withdrawing the  
20 motion; Mr. Victorino made the second.

21 Any comments from you, Mr. Victorino?

22 COUNCILMEMBER VICTORINO: Well, if the Chair -- with so  
23 many unanswered questions, I think at this point I  
24 would also withdraw my second.

25 CHAIR MOLINA: Okay. So noted. The Chair will recognize

1 the withdrawal of the motion.

2 And, Mr. Director, when can you get that  
3 information on the water to us? Would it be  
4 possible tomorrow?

5 MR. ENG: In fact, I might be able to give you a call back  
6 later today with that data.

7 CHAIR MOLINA: Okay. All right. If time permits. But I  
8 would like to resolve this matter of where the  
9 250 -- or whether the 250 units should be located  
10 off-site, so at our next discussion of this I would  
11 hope a decision can be made. We need to move on  
12 with that.

13 Okay. So, we will withdraw the motion for  
14 the time being.

15 Okay. Members, let's go back to Condition 1  
16 on Page 1. We have about 15 minutes with Director  
17 Eng. If you'll note on the far right column the  
18 Chair has made a recommendation as far as for the  
19 wording of the condition from the Planning  
20 Commission.

21 Staff, can you go ahead and read out the  
22 condition?

23 MS. NAKATA: "That Honua'ula Partners, LLC, its successors  
24 and permitted assigns, shall, at their own cost and  
25 expense, develop, maintain, and operate, or cause to

1 be developed, maintained, and operated, a private  
2 water source, storage facilities, and transmission  
3 lines for the Wailea 670 project in accordance with  
4 Department of Water Supply standards. Honua'ula  
5 Partners, LLC, its successors and permitted assigns,  
6 shall comply with all reporting requirements of the  
7 State Commission on Water Resource Management. A  
8 'private water agreement' shall be executed with the  
9 County of Maui prior to filing of the Project  
10 District Phase II approval."

11 CHAIR MOLINA: Okay. Thank you, Staff.

12 And you'll see the notation down there, it's  
13 a deletion of the second sentence from the Maui  
14 Planning Commission version and adds a provision for  
15 a private water agreement. And, of course, the  
16 entity was changed from WCPT/GW Land Associates to  
17 Honua'ula Partners, LLC.

18 Okay. Members, comments or questions on the  
19 condition? Or questions for Director Eng as it  
20 relates to this?

21 Member Anderson?

22 COUNCILMEMBER ANDERSON: So, I'm a little confused,

23 Mr. Chair. You're reading --

24 CHAIR MOLINA: Yeah, it's way on the right, far right.

25 COUNCILMEMBER ANDERSON: -- the consensus or

1 recommendation for discussion?

2 CHAIR MOLINA: Right. Based on the discussions that  
3 occurred --

4 COUNCILMEMBER ANDERSON: So, you rewrote it based on that?

5 CHAIR MOLINA: Right, exactly.

6 COUNCILMEMBER ANDERSON: And, so, I'm kind of confused on  
7 what you mean by a private water agreement since the  
8 Department of Water Supply has already said they're  
9 not interested in participating in this water  
10 system.

11 CHAIR MOLINA: Okay. It was my understanding -- I guess  
12 the Applicant has said that they wanted to do a  
13 private water agreement. Again, I just put it out  
14 there for the body's consideration. If, you know,  
15 the body does not want the Applicant to do a  
16 private -- get into a private water agreement, then  
17 it's up to --

18 COUNCILMEMBER ANDERSON: Do you mean a private water  
19 agreement between the developer and the County?

20 CHAIR MOLINA: And the County, I believe so.

21 COUNCILMEMBER ANDERSON: Well, we were already told by the  
22 Director that they're not interested in being -- in  
23 participating in this proposed water system.

24 CHAIR MOLINA: Okay.

25 COUNCILMEMBER ANDERSON: So --

1 CHAIR MOLINA: Again, I believe this was based -- Staff,  
2 this was based on discussions that we had when we  
3 had the --

4 MS. NAKATA: Actually, this was based on the Department of  
5 Planning's comments in the column immediately to the  
6 left, that the condition should include a provision  
7 for a private water agreement.

8 CHAIR MOLINA: Yeah. Members, if you look at the next  
9 column to it, it came from the Planning Department,  
10 that suggested that a private water agreement be  
11 conducted with the County, I guess based on the  
12 assumption that the developer is going to drill for  
13 his own -- for their own water. So, I can only  
14 assume that the Planning Department recommended that  
15 we include the wording of a private agreement with  
16 the County.

17 Member Anderson?

18 COUNCILMEMBER ANDERSON: Well, like I said, the Department  
19 has already said they're not interested. And I -- I  
20 have a wholly new condition that I'd like to propose  
21 having to do with water development for this  
22 project, because there's still so many unanswered  
23 questions that we don't have, Mr. Chairman, as far  
24 as desalinization, how much water they actually are  
25 going to have to have, you know, to go through the

1 desalinization plant, how they would possibly  
2 process the industrial waste from the desalinization  
3 plant. There's unanswered questions in the private  
4 water agreement they already have with Haleakala  
5 Ranch and --

6 CHAIR MOLINA: Okay. Member Anderson, go ahead and  
7 propose your condition.

8 COUNCILMEMBER ANDERSON: My condition?

9 CHAIR MOLINA: Uh-huh.

10 COUNCILMEMBER ANDERSON: Then I would like to pass this  
11 out to the Members, if I may, Mr. Chair.

12 CHAIR MOLINA: We'll have Staff assist you with that.

13 COUNCILMEMBER MEDEIROS: Chair?

14 CHAIR MOLINA: Mr. Medeiros?

15 COUNCILMEMBER MEDEIROS: Point of information.

16 CHAIR MOLINA: Uh-huh.

17 COUNCILMEMBER MEDEIROS: Before Member Anderson proposes  
18 her condition, can we ask the Water Department  
19 Director about his current position regarding this,  
20 before we move on?

21 CHAIR MOLINA: All right. If there are no objections,  
22 Members, while we have the information being passed  
23 out regarding Member Anderson's condition.

24 Proceed and ask your question, Mr. Medeiros,  
25 to Director Eng.

1 COUNCILMEMBER MEDEIROS: Director Eng, Member Anderson  
2 alluded to the fact that in a previous meeting the  
3 County, through your Department and your  
4 Administration, would not participate in the private  
5 water agreement, and I just wanted to know if that's  
6 currently your position.

7 CHAIR MOLINA: Mr. Director?

8 MR. ENG: Yes, thank you, Mr. Chair.

9 Yes, I just want to confirm that is the  
10 Department's position, that we acknowledge that they  
11 would be developing their own private system and  
12 that we have no plans to -- to acquire it. It will  
13 be a stand-alone, private system. And, again, there  
14 is a condition that they will be reporting to the  
15 Water Commission as needed, and that's fine, too.

16 As far as executing a private water  
17 agreement, if that is necessary for them to move  
18 forward on this project, we can execute an agreement  
19 with them. From my perspective an agreement  
20 wouldn't be needed because it is private. We really  
21 have no need to agree to anything, you know, except  
22 to acknowledge it's private, so even any -- any, you  
23 know, engineering plans or whatever, construction  
24 plans, we don't even have to bother to look at. It  
25 is private; it doesn't go to the Department for

1 review.

2 COUNCILMEMBER MEDEIROS: Okay. So, if Member Anderson  
3 would allow me one more question.

4 CHAIR MOLINA: Okay. Go ahead.

5 COUNCILMEMBER MEDEIROS: Chair?

6 So, Director, you're saying that, yes, you  
7 know, the County through your Department does not  
8 want to participate in this private water agreement;  
9 but then you also just said that if it requires a  
10 private water agreement for the Applicant to proceed  
11 forward you would consider that.

12 MR. ENG: Yes, I am sorry I confused you. I probably  
13 confused myself a little bit, too.

14 I'm not aware of why we would need a private  
15 water agreement, is really what I wanted to say.  
16 But if one is necessary for this project to document  
17 that they're private, then of course we can execute  
18 that document.

19 COUNCILMEMBER MEDEIROS: Okay. Now I understand what you  
20 mean.

21 Thank you, Chair.

22 And thank you, Member Anderson.

23 CHAIR MOLINA: Okay. Thank you very much, Member  
24 Medeiros.

25 Member Anderson, you can proceed with your

1 proposed amendment.

2 COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

3 I would like to first preface that by saying  
4 I have handed out guidelines from the Department of  
5 Health. They're basically guidelines based on the  
6 Administrative Rules for the Department of Health's  
7 Safe Drinking Water Branch. And we're going to be  
8 talking about this more, just to put a plug in,  
9 Mr. Chair, for the Water Availability Bill in the  
10 Water Resource meeting that's coming up next week.  
11 But these guidelines, Members, show what is required  
12 for a public water system in order to be approved by  
13 the State Department of Health, and I think it needs  
14 to be clearly understood that a public water system,  
15 according to the Department of Health's regulations  
16 and their guidelines, is any -- is defined as any  
17 system that serves over 15 dwelling units or 25  
18 people. So, even though it might be privately  
19 developed and privately operated, it's still a  
20 public water system because it's serving the public.  
21 So, the purpose of handing out these regulations is  
22 so that you can understand my condition that I'm  
23 proposing is in accordance with the regulations that  
24 are already in place in order for Wailea 670 to  
25 develop this private/public water system.

1           And I would also like to note that in our  
2           Change in Zoning Requirements, Section 19.510.010,  
3           Section D.13, applications shall provide: Water  
4           source, supply, and distribution analysis which  
5           includes, but is not limited to, methods of  
6           irrigation existing on the parcel and proposed for  
7           the application, location and use of groundwater and  
8           nonpotable water sources, and, if applicable, a  
9           water master plan, which includes, but which is not  
10          limited to, comments from the Department of Land and  
11          Natural Resources of the State and the Departments  
12          of Water Supply and Public Works of the County.

13           Now, that was required in our application --  
14          in Mr. Jencks' application. We have not received  
15          that. This is an analysis. An analysis means, you  
16          know, give us some data. So far -- and, you know,  
17          to be fair to Mr. Jencks, when he did provide his  
18          application in November of '0 -- 2001 to the  
19          Planning Commission, he did have an analysis but it  
20          was not -- it was for wells way up the mountain,  
21          which were -- you know, violated the Community Plan.  
22          So, what we have now is a whole different scenario  
23          that does not present us any analysis.

24           So, my request in my condition would be,  
25          "Prior to any land alterations, WCPT/GW Land

1 Associates, LLC, its successors and permitted  
2 assigns, shall provide a Water Source, Supply and  
3 Distribution Analysis to verify viability of  
4 proposal to produce 2 million gallons a day of  
5 desalinized potable water. This shall include  
6 exploratory drilling of the proposed wells and  
7 adequate pump tests performed on all wells to  
8 confirm a stabilized draw necessary to produce the  
9 quantity of required potable water."

10 In there I wanted to also add, Mr. --  
11 Mr. Chair, "including necessary backup well,"  
12 because we have since been told by the Director that  
13 they have to have a backup well in case the pumps go  
14 down on something.

15 CHAIR MOLINA: Okay. And where would you want this  
16 inserted?

17 COUNCILMEMBER ANDERSON: I think the good place would be,  
18 "to confirm a stabilized draw necessary to produce  
19 the quantity of required potable water, including  
20 necessary backup well."

21 CHAIR MOLINA: Okay.

22 COUNCILMEMBER ANDERSON: "Or required backup well."

23 CHAIR MOLINA: So, we'd take away the period after "water"  
24 and insert the words "including -- "

25 COUNCILMEMBER ANDERSON: "Required backup well."

1 CHAIR MOLINA: " -- required backup well."

2 COUNCILMEMBER ANDERSON: Thank you.

3 "This analysis shall include verification of  
4 source available for non-potable irrigation of golf  
5 course, disposal method of desalinization  
6 wastewater, and the effects of this water plan on  
7 down gradient wells." And then I wanted to add  
8 after that, Mr. Chairman, on down gradient wells  
9 "and adjacent coastal waters and wetlands." "Cost  
10 of operation of the plant and fees to be charged per  
11 unit shall be included. The analysis shall be  
12 performed by a certified hydrologist or geologist  
13 and shall be reviewed by the Department of Land and  
14 Natural Resources, the Department of Water Supply,  
15 and the Department of Environmental Management.  
16 Results shall be submitted to the Council before any  
17 land alterations are approved. Should source prove  
18 unreliable, zoning applications shall be recommitted  
19 to the Council for reconsideration."

20 CHAIR MOLINA: Okay. Members, do you have --

21 COUNCILMEMBER ANDERSON: Now, Chair, if I may, the point  
22 of this is that we all know -- this all hinges on  
23 water and we don't have any proven reliable source  
24 yet. And, you know, it's going to be a costly  
25 endeavor and we don't know what that cost is. And,

1           you know, because there are going to be affordable  
2           homes included in this project, I think it's very  
3           necessary for us to know what the cost of operation  
4           for the plant is and what the fees charged per unit  
5           will be, because, you know, what may look affordable  
6           now may not end up being affordable because of all  
7           the private fees that may be attached to these  
8           affordable homes. And given the situation that  
9           we're in right now, which I would be happy to stick  
10          my neck out and say is a water crisis, that I think  
11          it's only responsible for us and for the developer  
12          to show that they have a reliable source, that  
13          they've gone through the process.

14                   And, you know, if you look at the  
15          requirements here, Members, for getting an approval  
16          for a public water source such as this, they are  
17          required to provide to the Department of Health,  
18          along with six copies to various agencies for  
19          review, an engineer's report, and the engineer's  
20          report basically requires all the things that I  
21          stated here in this condition, except that I did  
22          spell out an exploratory drilling. Well, we already  
23          know they've drilled two wells, but they haven't  
24          pumped them long enough, they haven't done, you  
25          know, any kind of certified testing, and that's what

1           they've got to do to get the Department of Health to  
2           approve this. And that engineer's report not only  
3           comes to the Department of Land and Natural  
4           Resources, the Department of Health, US Geological  
5           Service, University of Hawaii Resource Center, DOH  
6           Wastewater Branch, and our own County Water  
7           Department. Once that engineer report is submitted,  
8           they have 30 calendar days to respond. So, I feel  
9           that it's only prudent, given that these regulations  
10          are already in place and this is something they're  
11          already going to have to do, that they do that, you  
12          know, as a condition of this zoning. I think they  
13          should have done it before this application ever  
14          came to us so that we wouldn't have been spending  
15          weeks trying to figure out if there's really viable  
16          water for this project. But given that they haven't  
17          done that, I feel this condition is only fair  
18          because, not only does it reassure all of us that  
19          before they go forward they actually do have the  
20          water to make the project viable, but that the water  
21          they're going to be using is not going to have an  
22          adverse impact to all the people down gradient who  
23          already pull brackish water from this aquifer and  
24          depend on it for their irrigation purposes.

25                   So, that is the purpose and justification

1 behind this condition, Mr. Chairman.

2 Thank you for the time.

3 CHAIR MOLINA: Thank you, Member Anderson, for this  
4 consideration.

5 Members, before we open up the floor for  
6 comments from the body -- I know Mr. Eng is on a  
7 tight schedule; I would like to get his comments  
8 before he has to leave on the proposed condition.

9 Anything to add, Mr. Eng, Mr. Director?

10 MR. ENG: The only comment is, again, these new guidelines  
11 from the Department of Health just really came out I  
12 think around September 12th of this year. They're  
13 really a refinement and an update of the  
14 requirements that have always been required by  
15 Department of Health, so it's nothing really new  
16 here. And as you can see, it does give you a lot of  
17 good information to go by to -- to make a decision  
18 whether or not to have an adequate source of water  
19 supply. So, you know, incorporating this as a  
20 requirement, again, the developer would be required  
21 to submit this -- prepare and submit this to  
22 Department of Health anyway, so it does give, you  
23 know, this body an opportunity to look at it early.

24 Thank you.

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

1                   Members, any questions for the Director  
2                   before he has to leave?

3                   Okay. Thank you very much, Mr. Director.

4                   Okay. Mr. Medeiros, followed by  
5                   Mr. Victorino, comments on the proposed condition.  
6                   And, at a later point, we'll call up the Applicant,  
7                   as well, to give his -- share his comments.

8                   Mr. Medeiros?

9                   COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

10                   No, I just wanted to get the -- the new  
11                   addition wording that Member Anderson gave, the  
12                   second part, the one after "gradient wells."

13                   What was the added verbiage on that?

14                   CHAIR MOLINA: Okay. After the word "wells," we would  
15                   take out the period and add the words "and adjacent  
16                   coastal waters and wetlands," period.

17                   Am I correct, Member Anderson?

18                   COUNCILMEMBER ANDERSON: Yes.

19                   CHAIR MOLINA: Okay.

20                   COUNCILMEMBER MEDEIROS: Thank you, Mr. Chair.

21                   CHAIR MOLINA: Okay. Mr. Victorino?

22                   Oh, sorry.

23                   COUNCILMEMBER ANDERSON: And, Chair, if I just might --

24                   The purpose of that, Members, is because the  
25                   water in the aquifer currently underground is

1           seeping down into the coastal waters and into our  
2           wetlands, and if they're going to be drawing that  
3           water out, there should be some study to determine  
4           whether or not it's going to have an adverse impact  
5           on the wetlands and the coastal waters.

6           CHAIR MOLINA:   Okay.   Mr. Medeiros?

7           COUNCILMEMBER MEDEIROS:   Yeah, just to confirm that  
8           verbiage, "and adjacent coastal waters and  
9           wetlands"?

10          CHAIR MOLINA:   That is correct --

11          COUNCILMEMBER MEDEIROS:   Thank you, Mr. Chairman.

12          CHAIR MOLINA:   -- and a period after "wetlands."

13                           Thank you.

14                           Mr. Victorino?

15          COUNCILMEMBER VICTORINO:   Yes, thank you, Chair.

16                           I guess the question -- the comment I'm going  
17           to make or the -- on this whole issue is, you know,  
18           these are requirements that are set forth.  These  
19           are the requirements that have recently been  
20           implemented.  I don't think the developer is going  
21           to have a lot of choices on the matter.  I concur  
22           that, you know, we have to make sure that there is  
23           no impact on other users of the aquifer and the  
24           other means of supplying water to the project.

25                           So, I think the confusing part I'm having

1 right now is, though I understand this whole matter,  
2 I've heard two different versions, and maybe we need  
3 the developer again.

4 Because wasn't it last week he said he had  
5 one well or two wells that could provide 700,000  
6 potable water, not treated and all that?

7 Now, you're shaking your head and one's  
8 saying yeah, one's saying no. So, obviously my own  
9 Members heard differently during the meeting. So,  
10 maybe we should call the developer up again -- it's  
11 up to you, Mr. Chair -- because I agree with what  
12 you're doing and what you're bringing forth,  
13 Ms. Anderson. I just want to get this confusion  
14 up -- we have wells that's supposed to put potable  
15 water in the system, we have wells that's going to  
16 put treated water with reverse osmosis and all that;  
17 I've heard various discussion. I want us to be  
18 clarified.

19 What is going to be done where following  
20 these regulations?

21 Because if these regulations are law, then  
22 they're law and there's not much we can debate about  
23 it. But I just want clarification from the  
24 developer, if that's okay with you, Mr. Chair.

25 CHAIR MOLINA: No problem, Mr. Victorino.

1                   Mr. Jencks, can you respond to

2                   Mr. Victorino's request?

3           MR. JENCKS: Certainly. I'll take them one by one.

4                   With regard to my -- to my discussion with  
5                   the Committee last week, I did talk about the  
6                   existence of two wells on property and the nominal  
7                   yield based upon the 16-hour pumping day of 700,000  
8                   gallons a day cumulative, both wells.

9                   With regard to the requirements and our  
10                  responsibilities with regard to the State of Hawaii  
11                  Department of Health Drinking Water Branch, this  
12                  handout, I mean, does a really good job of  
13                  describing what our responsibilities are. This is  
14                  State law. And I'm not quite sure why -- this is a  
15                  very thorough analyses of what we have to  
16                  demonstrate in order to provide domestic water to  
17                  these people. If we follow this, that's -- that's  
18                  pretty rigorous. That's a lot of work. And it  
19                  provides very thorough analyses and recommendations  
20                  and standards and specifications and technical  
21                  responses to what the Department of Health wants to  
22                  see, which includes not only that making sure that  
23                  we're not going to poison people, that we're  
24                  providing good, clean water to people, but also the  
25                  system that delivers that water is well designed.

1           It involves an engineering report on tanks,  
2           pipelines, pumping, et cetera, which also addresses  
3           the aquifer and the sustainability of the aquifer,  
4           and specifically its relationship to other users in  
5           that aquifer downstream, because there aren't any  
6           upstream.

7                   My recommendation to you would be, if you  
8           adopt this and say they've got to follow these  
9           guidelines, I mean, to me, that's what we should be  
10          doing, and then report it as -- frankly, I think  
11          that reporting this is a part of the -- of the -- of  
12          the Phase II submittal is a good idea, because that  
13          goes to the Planning Commission for review and  
14          comment and approval, as well.

15                   And I -- just one comment on the  
16          recommendation from Ms. Anderson, in the first  
17          sentence -- no, I guess it's the first sentence it  
18          talks about 2 million gallons a day. The net  
19          deliverable to the project per the agreement is 1.5  
20          million gallons a day, and it's -- I'm -- at this  
21          point, with regard to what we would have to pull out  
22          of the ground to treat to the 1.5 we don't know, but  
23          I think it should reference the 1.5 deliverable to  
24          the project every day.

25          COUNCILMEMBER VICTORINO: Okay. Mr. Jencks -- and pardon

1 me, Ms. Anderson, I'm not -- (end of side A, tape  
2 3) -- challenge you referred to up front just now,  
3 and I heard you say that last week, was supposedly  
4 potable water that need not be treated as far as  
5 this was concerned.

6 MR. JENCKS: As of -- as of today, those wells are  
7 potable. They tested out at 215 and 225 milligrams  
8 per liter chloride, which is potable standard.  
9 However, I did say it is expected that once you  
10 pump, the chlorides will increase and we will have  
11 to treat that water with reverse osmosis.

12 COUNCILMEMBER VICTORINO: Okay. So, for -- for all  
13 intents and purposes, you start out as potable  
14 water, but down the road you need to treat it, and  
15 no one's certain when that would occur?

16 MR. JENCKS: It's possible.

17 COUNCILMEMBER VICTORINO: Yeah, okay.

18 Then the other part of the 1.5 or 2 million  
19 or let's say -- let's use -- just for conversational  
20 purposes, if I may, the 2 million gallons that  
21 Ms. Anderson makes reference for that you would  
22 treat to get the 1.5 -- and we don't know exactly  
23 what it is, but let's use it just because it's  
24 easier to discuss -- would that 700,000 be  
25 subtracted from that or would that be a part of --

1           because we're talking different wells at that point;  
2           right?

3           MR. JENCKS: We're talking additional wells, and it would  
4           be included as a part of that number.

5           COUNCILMEMBER VICTORINO: It would be included.

6                         Would those wells be the same aquifer as  
7           you've been referring to?

8           MR. JENCKS: Yes.

9           COUNCILMEMBER VICTORINO: Okay. Thank you, Mr. Chair.

10          CHAIR MOLINA: Thank you, Mr. Victorino.

11                         Member Anderson?

12          COUNCILMEMBER ANDERSON: Thank you, Chair.

13                         I just want to make -- get some real tight  
14          clarification here, Mr. Jencks, because I -- I just  
15          heard you say -- and I'm trying to find the letter  
16          you gave us last week -- my good friend Danny Mateo  
17          is helping me out.

18                         Thank you very much.

19                         I just heard you say that two wells on the  
20          property are delivering a cumulative 700,000  
21          gallons.

22                         Now, do you mean on the Wailea 670 property?

23                         Or -- because last week I was -- and the letter  
24          clearly makes it sound like you drilled two wells on  
25          Haleakala Ranch property.

1                   So, which is it?

2       MR. JENCKS:   The two wells I'm referring to, that I just  
3                   addressed to Mr. Victorino, are the two wells that  
4                   are addressed in that letter which are on Haleakala  
5                   Ranch property and --

6       COUNCILMEMBER ANDERSON:   Okay.   So, there are two new  
7                   wells that you drilled.

8                   Okay, great.

9                   And, yeah, maybe 225 -- the chlorides on one  
10                  well are 225 milligrams per liter and the other one  
11                  shows 215.   And, you know, I do know that they  
12                  consider 250 the limit.   But the County of Maui  
13                  stops at 200.   They don't like to go above 200  
14                  milligrams per liter of chloride.   And the fact is,  
15                  that these are newly drilled wells.   And where you  
16                  have pump test here, you say projected supply at 300  
17                  gallons per day/16-hour pump, so I assumed last week  
18                  that that meant that you did a 16-hour pump test on  
19                  both of these.   And, you know, the paragraph below  
20                  says, clearly based upon a nominal 16-hour pump rate  
21                  these wells will deliver over 700 gallons (sic) per  
22                  day for the project.

23                  So, can you confirm that you did a 16-hour  
24                  pump test on each one of these?

25       MR. JENCKS:   Last week I responded to you and said we did

1 not do a 16-hour pump test.

2 COUNCILMEMBER ANDERSON: Oh, you did not?

3 MR. JENCKS: We did not. That 16-hour number pertains to  
4 the amount of time that you could nominally pump the  
5 wells and get that kind of capacity out of --

6 COUNCILMEMBER ANDERSON: Nominally.

7 So -- so, the point is, is that, you know,  
8 until you actually pump the wells to get -- and as  
9 it says in my condition, "adequate pump tests  
10 performed on all wells to confirm a stabilized  
11 draw," and that's what's important, Mr. Chair,  
12 because it -- you know, the first suck out of the  
13 straw is going to look good; but when you suck on it  
14 for, you know, a week, you're liable to hit bottom.  
15 And -- and, you know, the Department regulations,  
16 Department of Health regulations, they want to see  
17 what a stabilized draw is. And the more you draw,  
18 the likelihood of the higher content of the  
19 chloride. So, that's why I think the condition is  
20 important, because -- and I really appreciate,  
21 Mr. Jencks, that you've already drilled the wells,  
22 because that could make this exercise in this  
23 condition not so difficult. Because you've drilled  
24 the wells, and that, to me, is probably the biggest  
25 expense up to date, and then, you know, doing a

1           24-hour, five-day pump test, and then allow the  
2           wells to -- then you do a test on the chlorides, and  
3           then you allow the well some recovery time, see what  
4           the -- what the draw will be after that one-week  
5           pump, then we'll have a better idea. Because  
6           700,000 gallons is only half of what he needs in  
7           finished project -- product. And we were told, you  
8           know -- and Mr. Jencks, you know, admitted up front  
9           all along that there's going to have to be  
10          desalinization because it is a brackish aquifer, and  
11          the more you pump it, the more you're going to have  
12          to -- and when I say the more you pump it, if you  
13          pump it for a week, he's going to have a  
14          confirmation probably by then of how much chloride  
15          is going to have to be removed in order to make the  
16          water potable. So, the reason I put 2 million  
17          gallons a day, Mr. Chair and Members, is because I  
18          knew at the time that to get 1.5 potable he's going  
19          to have to draw at least 2 million gallons. Since  
20          then we have found from the Director that he's going  
21          to have to have a backup well. So, if you've got  
22          two wells pumping -- he's got two wells pumping 700,  
23          that means he's going to have to have two more wells  
24          to get 150 raw water, and maybe one of those wells  
25          will give him more, maybe not, maybe he's going to

1           have to have two more wells so that he can have --  
2           say if they all drew 350,000, so that he could end  
3           up with enough raw water to desalinize it to 1.5  
4           million plus have one well for backup should a pump  
5           go down or whatever. So, this is minimum.

6                     And the whole point in asking for this,  
7           Mr. Chairman, is that it isn't prudent for us to  
8           entitle land, for them to go forward with all the  
9           other commitments, financial commitments, only to  
10          find that to pull out enough water in order for them  
11          to make their project viable, that means that -- all  
12          these other brackish wells -- and Members, remember,  
13          the picture you saw from the injection well plume,  
14          that's the way water -- you know, the injection  
15          distributes itself, so it's very likely that the  
16          same distribution is going to happen with any draw  
17          of liquid and -- within the aquifer. And I want to  
18          make sure that if we approve this project, and he  
19          has to draw, say, you know, 2.5 million gallons or  
20          more out of that aquifer in order to produce 1.5  
21          potable, that all these other brackish wells that  
22          are currently being used by condominiums and the  
23          golf courses and whatnot, that they'll still have a  
24          viable source. We already know that the chloride  
25          levels are rising in -- in some of these wells, you

1 know. I've been told by people in the industry,  
2 irrigation experts, that you cannot use a potable  
3 well with a thousand parts per million -- or parts  
4 per liter of chloride to -- you know, salinity  
5 levels that high, and we already see that, you know,  
6 down gradient there are wells at 1,700 -- actually  
7 up where the Haleakala Ranch area is, you know, the  
8 place where Mr. Jencks wants to pump these wells.  
9 So far they -- you know, they're 5 -- at least the  
10 salinity levels on the wells I was able to  
11 ascertain. They run from 545, 600, 640. So, I  
12 mean, they're still all very viable wells. And  
13 there's also wetlands in that area.

14 So, that's the purpose, Chair and Members,  
15 that -- you know, we have to protect -- this is an  
16 iffy source, Mr. Jencks, you know. And I appreciate  
17 the boldness in your going forward in trying to  
18 develop water out of this brackish aquifer for these  
19 homes. But we should know up front how viable it is  
20 and that it won't impact current users or the  
21 nearshore water environment.

22 So, that's the purpose here, Chairman.

23 CHAIR MOLINA: Thank you, Member Anderson.

24 The Chair has a question for the Deputy  
25 Planning Director just to get her comments.

1                   Anything that should -- we need to be aware  
2                   of or we need to be alerted to, to the proposed  
3                   condition before the Chair offers a recommendation?

4       MS. SUYAMA: Well, one of the things that I do have  
5                   concerns about is, that if the Council determines  
6                   that they want this report submitted to them  
7                   regarding, you know, the adequacy of the source or  
8                   the system, then it should be filed not before any  
9                   land alterations are approved, but I would suggest  
10                  that it's filed prior to filing of any Project  
11                  District Phase II application so that, in other  
12                  words, the information is available, you know, for  
13                  the Phase II review process.

14                  The other thing is, that in the last sentence  
15                  where you're talking about recommitted to Council  
16                  for reconsideration, one of our concerns is, who  
17                  determines if the source is unreliable? And I would  
18                  think that it would be DLNR, the Department of Water  
19                  Supply, and DOH who would determine whether the  
20                  source is unreliable; and based upon that, rather  
21                  than saying recommitted to Council for  
22                  reconsideration, I would propose that if it's  
23                  determined by these agencies that the source is  
24                  unreliable, then no Project District Phase II or  
25                  Phase III approval shall be granted until new

1 sources are obtained. So, I would think that way --  
2 so that it doesn't go any further than just a zoning  
3 issue.

4 CHAIR MOLINA: Thank you, Deputy Director.

5 Members, comments?

6 Member Anderson?

7 COUNCILMEMBER ANDERSON: I appreciate those comments,  
8 Ms. Suyama.

9 You know, if Mr. Jenck -- Mr. Jencks and his  
10 developers want to go forward with this water  
11 source, they're going to have to follow -- I mean,  
12 this condition really follows in line with the  
13 regulations that are already in place by the  
14 Department of Health.

15 And just as a side comment, Members, the  
16 guidelines that I passed out, they're really a  
17 summary of the regulations that are already in  
18 place. So, I would agree with Ms. Suyama that --  
19 and, actually, when I wrote this condition, Members,  
20 the agencies that I called out in this condition are  
21 agencies that are already in the application  
22 requirement, so I was just trying to duplicate that.  
23 But, really, what we need as -- is approval of the  
24 source from the Department of Health, who is really  
25 the governing agency over -- and would be the agency

1           who says whether or not this application for a new  
2           source of water gets approved.  And, of course, we'd  
3           also want it to go to our own Department of Water  
4           Supply, and possibly DLNR, because it's already  
5           called out in our application requirements.  So, I  
6           have no problem changing that.

7                     And prior to Phase II approval, that's okay.  
8           I mean, you're not going to alter any land, anyway,  
9           until you get Phase II approval.  And, so, that's  
10          why I put prior to land alterations.  So, I would  
11          like, you know --

12          CHAIR MOLINA:  To reword -- reword that bottom portion?

13          COUNCILMEMBER ANDERSON:  We could reword that and put  
14          in --

15          CHAIR MOLINA:  Okay.

16          COUNCILMEMBER ANDERSON:  -- prior to the Phase II.

17                     And, you know, it wouldn't be the Council  
18          who's making a determination on whether or not the  
19          engineering report -- basically, I'm asking them to  
20          do the engineering report that's already required by  
21          DOH.  And if DOH finds that the engineering report  
22          does not prove that they could take that much water  
23          and not have adverse impact to surrounding users,  
24          then, you know, they're dead in the water, anyway,  
25          pardon the pun.

1 CHAIR MOLINA: Thank you, Member Anderson.

2 Deputy Director Suyama, can you provide  
3 something in writing with the recommended changes so  
4 we can work with Staff to provide this change into  
5 Member Anderson's amendment?

6 MS. SUYAMA: I can work with the Council Staff to come up  
7 with new wording on the condition. The only other  
8 thing is that instead of Department of Environmental  
9 Management, which really deals with wastewater, I  
10 would -- I would put the Department of Health in  
11 there.

12 CHAIR MOLINA: Okay.

13 MS. SUYAMA: Because the water system is reviewed by --  
14 source is reviewed by DLNR, the Water Commission.  
15 DOH looks at --

16 COUNCILMEMBER ANDERSON: The reason -- excuse me,  
17 Ms. Suyama.

18 The reason I put Environmental Waste  
19 Management in there is because the disposal method  
20 of his desalinization plant is going to be critical.

21 MS. SUYAMA: Okay.

22 COUNCILMEMBER ANDERSON: And I think, you know, if it  
23 involves injection wells or if it involves mixing  
24 with R-1 water or whatever -- I mean, because we  
25 don't know. We don't know what the plans for the

1 desal plant are, and that's why I included them in  
2 there.

3 MS. SUYAMA: Right.

4 I would just add Department of Health and --  
5 as well.

6 CHAIR MOLINA: Okay. Thank you. We'll have you work with  
7 Staff.

8 Members, as -- now looking back on the  
9 original condition from the Maui Planning Commission  
10 and then amended later by the Chair and the Planning  
11 Department.

12 So, is it the body's pleasure -- well, the  
13 Chair's recommendation would be to remove that  
14 initial Condition No. 1 and replace it -- well, I'll  
15 put it up for your consideration right now, although  
16 it hasn't been officially amended yet, Member  
17 Anderson's condition.

18 For the time being, then, would the body  
19 consider removing the original Condition 1 as  
20 amended by the Chair and the Planning Department for  
21 the time being, until we get Member Anderson's  
22 condition for consideration? Any comments?

23 That will be the Chair's recommendation at  
24 this point.

25 COUNCILMEMBER ANDERSON: I support it.

1 COUNCIL MEMBERS: No objections.

2 CHAIR MOLINA: Okay. So, we can move on. We'll remove  
3 that -- that condition as worded by the Planning  
4 Commission. And then once we get Member Anderson's  
5 condition with the additional language and changes,  
6 then the Chair will put that up for consideration.

7 MS. NAKATA: Mr. Chair?

8 CHAIR MOLINA: Staff?

9 MS. NAKATA: For clarification, did the Committee want to  
10 consider retaining the first sentence in the  
11 Planning Commission's --

12 CHAIR MOLINA: Oh, yes, we need to -- yeah, we need to  
13 change it to -- Member Anderson, I think you had it  
14 under the old entity, WCPT. We'll replace that with  
15 Honua'ula Partners.

16 COUNCILMEMBER ANDERSON: And I think she means the  
17 language prior to any land alterations. I don't  
18 have a problem saying prior to Phase I -- Phase II  
19 approval. Phase II approval, for Members who may  
20 not know how the Project District zoning ordinance  
21 works, we're giving them Phase I approval, if we do,  
22 and then they have to go to the Planning Commission  
23 and get Phase II approval. So, between the time it  
24 leaves Council and goes to the Planning Commission,  
25 they're going to have to get this condition

1 fulfilled and bring the engineer's report and its  
2 results back to the Council so that the Council  
3 knows whether or not they have an adequate supply,  
4 because that gives us the opportunity to reconsider  
5 the zoning if they don't.

6 Thank you, Chair.

7 CHAIR MOLINA: Okay. Thank you, Member Anderson.

8 MS. NAKATA: Excuse me, Mr. Chair.

9 CHAIR MOLINA: Staff?

10 MS. NAKATA: Staff wanted to clarify whether the Committee  
11 wanted to consider retaining the first sentence from  
12 your recommended condition, the one that says that  
13 Honua'ula shall at its own cost and expense develop,  
14 maintain, and operate or cause to be developed,  
15 maintained, and operated a private water source,  
16 storage facilities, and transmission lines,  
17 et cetera.

18 CHAIR MOLINA: Committee Members, any questions -- any  
19 comments on that?

20 This Chair has no problem with retaining that  
21 first sentence, then attaching at a later point  
22 Member Anderson's consideration.

23 Any -- any objections retaining the first  
24 sentence of the original Planning Commission  
25 condition, as amended?

1 COUNCIL MEMBERS: No objections.

2 CHAIR MOLINA: Okay. We will leave that -- that first  
3 portion in and then later consider Member Anderson's  
4 condition.

5 Member Anderson?

6 COUNCILMEMBER ANDERSON: Yeah, I think you might want to  
7 check with the Department, because it says in  
8 accordance with Department of Water Supply  
9 standards, and we do not have any standards in place  
10 for developing a desalinization plant at this time.

11 CHAIR MOLINA: Okay. We'll make note of that. We'll  
12 check with Mr. -- Director Eng on that, as well.

13 COUNCILMEMBER MATEO: Chairman?

14 CHAIR MOLINA: Mr. Mateo?

15 COUNCILMEMBER MATEO: Chairman, and just a comment, just a  
16 comment, because I think the time has come for us to  
17 actually pursue desalinization. My worry becomes  
18 this is expensive water.

19 And if we're developing a subdivision that  
20 has affordable units in, how the hell are they going  
21 to pay their water bills?

22 So, while it is a necessity, I worry about  
23 the cost factors that the affordable people will  
24 have a struggle with, because the water is inclusive  
25 with sewer in most bills. So, I'm just worried

1           about it, because that is a reality we will have to  
2           address down the road.

3                        So, thank you, Chairman.

4   CHAIR MOLINA: Thank you, Mr. Mateo.

5                        Deputy Director Suyama?

6   MS. SUYAMA: I just have one question.

7                        You know, for Condition No. 1 as stated, I  
8           think the second sentence dealing with the reporting  
9           requirements to the State Commission on Water  
10          Resources, I think you want to keep that in your  
11          proposed condition and just take the last sentence  
12          out, which is dealing with the private water  
13          agreement.

14   CHAIR MOLINA: Okay. Members, you've heard the  
15          recommendation from the Planning Department.

16                        Any comments?

17                        I think -- wasn't it already incorporated in  
18          yours, as well, Member Anderson?

19   COUNCILMEMBER ANDERSON: Not the reporting requirements.

20   CHAIR MOLINA: Oh.

21   COUNCILMEMBER ANDERSON: But those are already a  
22          requirement of the State. And, you know, whether  
23          it's a condition in there or not, they've already  
24          got to do it.

25   CHAIR MOLINA: Yeah.

1 COUNCILMEMBER ANDERSON: So -- and -- I mean, I don't have  
2 any problem with putting that in. But I just wanted  
3 to, you know, point out, the reason I put in cost of  
4 operation of the plant and fees to be charged per  
5 unit shall be included was to address Member Mateo's  
6 concern that he just stated. Because -- you know,  
7 and I think we need to do the same thing with their  
8 sewage system. What -- you know, it's great that --  
9 well, I don't think it's great, but I guess if the  
10 developer wants to develop this land, and -- and our  
11 infrastructure system is already overtaxed, then  
12 they have no choice but to privately develop all  
13 these systems.

14 But what really is the cost of these systems  
15 going to be to the people who are going to be living  
16 there full-time?

17 I mean, most of the market houses are going  
18 to be second and third homes. I don't really care  
19 about that -- the cost to them. But I do care about  
20 the cost to the residents who will be living there.  
21 Even if they're paying 4 or \$500,000 for a house,  
22 they're going to be stretching to make that mortgage  
23 payment. So, I think we need to know that up front.

24 CHAIR MOLINA: Thank you, Member Anderson.

25 So, no objections. We will leave that

1 sentence which includes the State Commission on  
2 Water Resource Management from the original  
3 condition and then add on Member Anderson's proposed  
4 condition when we get the -- I guess the condition  
5 worked out with the additional recommendation.  
6 So -- so, basically, that's how we'll proceed with  
7 Condition 1.

8 And I'm glad the issue of desalinization was  
9 brought up by you, Mr. Mateo. I think in our local  
10 paper we were -- I guess all elected officials were  
11 ostracized and -- well, I took it as being, like,  
12 challenged or criticized as to why someone hasn't  
13 proposed desalinizing water, and it's -- one reason  
14 is, I think, the simplistic view that the editor  
15 took was they never considered the cost factor. It  
16 is pretty darn expensive. So, it's not something  
17 that can just be, you know, thought up and, you  
18 know, considered. So, I would hope the editor or  
19 the person that wrote that story, you know, share  
20 with the public the whole story behind  
21 desalinization. It takes a lot of electricity, a  
22 lot of energy, and a hell of a lot of money. So,  
23 please, if that person is watching and those who  
24 read that editorial, keep in mind the full view of  
25 what desalinization involves and the money factor,

1           and that's going to come out of the pockets of the  
2           taxpayers. So, please understand why elected  
3           officials have to approach this thing very, very  
4           carefully.

5                           Member Anderson?

6           COUNCILMEMBER ANDERSON: Thank you for saying that,  
7           Mr. Chairman, because, you know, so easy to -- what  
8           do they call it? -- armchair quarterback.

9           COUNCILMEMBER VICTORINO: Monday morning.

10          COUNCILMEMBER ANDERSON: Yeah, when you're not -- when  
11          you're not reading the plays and you don't know all  
12          the inside details. This County's already done a  
13          study on desalinization, and it is very expensive.  
14          And for the County to do a project such as that,  
15          it -- boy, it better be well thought out, because  
16          the expense is going to be passed on to every water  
17          user in the County through a rate increase. And,  
18          you know -- I don't know how fair it is to increase  
19          the water rates for the people Upcountry who still  
20          haven't got their water meters for their ohanas just  
21          so we can develop more, you know, high-end housing  
22          somewhere else on the island. So, it's not an easy  
23          solution and -- and I would appreciate if those  
24          people who are criticizing would become more  
25          informed before they decide that they have a better

1           idea.

2                       Thank you, Chair.

3 CHAIR MOLINA: Thank you, Member Anderson.

4                       Mr. Victorino?

5 COUNCILMEMBER VICTORINO: Also to tack along with Member

6 Anderson and Member Mateo, the waste residual also

7 would be a real major issue. I mean, we're already

8 grappling with solid waste on this island, and I'm

9 part of that Committee, and Member Medeiros and I

10 know the challenges that we're facing with that, and

11 then you compound that with desalinization, not only

12 the expense, but the residual that is left behind.

13                       You know, we have -- we're at a crossroads in

14 many areas, and I think Member Mateo used that "M"

15 word a couple of times today, that -- "M" word, you

16 know the "M" word. And, so, we've got to really

17 face the facts that we are coming to a point where

18 we need to really look very closely on how and what

19 we do and where we're going to develop and how we're

20 going to make these projects work for the people of

21 Maui County, and I think that's the bottom line in

22 all of this. They've got to be able to make money

23 and do all the things they need.

24                       But how does it work for our people, the

25 people of Maui County who exist here, the working

1 people?

2 I like the 250 units up on north end. I  
3 think that's great, something that can be done in  
4 the next two, three years.

5 But do we have the water?

6 That hasn't been answered. A number of  
7 things haven't been answered today. And it's not  
8 the fault of the developer entirely. I think it's  
9 just the circumstances that we have finally  
10 realized. Like, former Member Nishiki came in, he  
11 said, Hey, you've got the responsibility, you got  
12 the challenge, you got the honor. Well, I take all  
13 of that very carefully and to heart and it's going  
14 to work, and I'm going to make sure it works. And I  
15 don't care who comes in front of us. It's got to  
16 work for the people of Maui County or it's just not  
17 going to fly.

18 Thank you, Mr. Chair.

19 CHAIR MOLINA: Okay. Thank you, Member Victorino.

20 All right. Members, we've got about 20  
21 minutes left. I'd like to discuss Condition 19. We  
22 have the Deputy Director here.

23 COUNCILMEMBER VICTORINO: Page?

24 CHAIR MOLINA: Page 11 of your matrix. There was no  
25 consensus reached, and we are going to lose quorum

1 at about 1:00 o'clock. Chair is very mindful of  
2 that. So, let's move on with this.

3 So, Deputy Director Suyama, if you could give  
4 us comments on this.

5 And the Chair will read out what the  
6 condition is. It's that "WCPT/GW Land Associates,  
7 LLC, its successors and permitted assigns, shall  
8 execute appropriate agreements with the State of  
9 Hawaii and County of Maui agencies regarding  
10 participation in improvements of infrastructure and  
11 public facilities where such improvements are  
12 reasonably related to WCPT/GW Land Associates,  
13 LLC's, project."

14 Of course, if this condition is considered,  
15 we will have to replace the WCPT with the Honua'ula  
16 namesake.

17 Deputy Director Suyama, your comments.

18 MS. SUYAMA: This is basically a catchall phrase or  
19 condition in saying that if there's infrastructure  
20 improvements that need to be done as determined by  
21 different agencies, the -- the Applicant or the  
22 landowner executes whatever agreements. In other  
23 words, if you need to do transportation  
24 improvements, you execute the necessary agreements  
25 with either the Department of -- you know, State

1 Department of Transportation or the Department of  
2 Public Works for the County of Maui. But whatever  
3 the infrastructure improvements that are determined  
4 to be required, you do whatever necessary agreements  
5 to ensure that those improvements will be done at  
6 whatever time phase or time period that it is  
7 required of you.

8 CHAIR MOLINA: Okay. Thank you, Deputy Director.

9 Members, comments?

10 Now, there was no consensus reached when we  
11 discussed that, I believe on August 1st and  
12 August 10th.

13 Member Anderson?

14 COUNCILMEMBER ANDERSON: Yeah. You know, as I recall,  
15 from my notes, what we were really asking for was  
16 that the actual specifics of the infrastructure that  
17 needs to be upgraded or improved be spelled out so  
18 that it's a condition in the zoning, not just, you  
19 know, an agreement after we pass this out, if we do,  
20 between the developer, the County of Maui, and the  
21 State. I mean, we're the decision-makers, and I  
22 think that we need to know that this -- and it needs  
23 to be a condition of the zoning because that's what  
24 runs with the land, not just a vague, you know,  
25 generic statement. And, you know, it's my

1           understanding that they're going to be selling off  
2           parcels of this land to other people. And, so,  
3           those conditions of infrastructure improvement need  
4           to be spelled out as conditions so they are deeded  
5           on all of the land, so anybody who buys the land  
6           knows what their fair share is toward contributing  
7           to the upgrade of the infrastructure.

8                        I also still have -- we -- we wanted  
9           conditions specific to the requirements within the  
10          Community Plan to be spelled out, and that's not  
11          part of this, either. And, you know, this goes back  
12          to August, Mr. Chair, when this was requested. So,  
13          I would like to maybe hold off on this and pull up  
14          the minutes from those meetings and get specifics,  
15          because I don't think that this condition is  
16          responsive to what we asked for, at least what I  
17          asked for at that time.

18          CHAIR MOLINA:   Okay.

19          COUNCILMEMBER ANDERSON:   And I'm -- I'm seriously  
20          considering asking that whatever -- you know, the  
21          widening of Piilani be done prior to any  
22          construction, because we're already, you know, at  
23          maximum capacity, over maximum capacity at peak  
24          time. And if -- I mean, you folks saw the pictures.  
25          It's that way every morning and every afternoon.

1           It's already maxed out. And, so, if we add any more  
2           construction work and -- shoots there's going to be  
3           plenty more as they develop Wailea Gateway; they've  
4           broken ground on that already. That's going right  
5           down to the corner where this project is going to be  
6           also breaking ground. So --

7           MS. NAKATA: Excuse me, Mr. Chair.

8           CHAIR MOLINA: Okay. Thank you.

9                               Staff?

10          MS. NAKATA: Staff would just note that that highway

11                       widening improvement is noted in Condition No. 2.

12          CHAIR MOLINA: Okay.

13          COUNCILMEMBER ANDERSON: Thank you, Ms. Nakata.

14          CHAIR MOLINA: Okay. Thank you, Member Anderson.

15          COUNCILMEMBER MATEO: Chairman?

16          CHAIR MOLINA: Staff, have we -- (end of side B, tape 3)

17                       -- this condition that was discussed August 1st and

18                       8 and August 10th? Do you need time to --

19          MS. NAKATA: Regarding specifics for this condition?

20          CHAIR MOLINA: Yeah, for Condition No. 19.

21                               Maybe I can ask the Applicant, if no

22                       objections, Members.

23                               Mr. Jencks, your comments?

24                               And I believe -- did you provide some

25                       responses for this condition when it was initially

1           discussed on the 19th?

2       MR. JENCKS: Mr. Chair, I was looking at the condition as  
3           proposed by the Maui Planning Commission. And, you  
4           know, we -- this -- this condition, as Ms. Suyama  
5           described, is a -- if you excuse the pun, catchall  
6           condition; that means I've got to enter into  
7           agreements on all these improvements I've got to  
8           make, whether it's off-site traffic improvements of  
9           the County of Maui or whether it's improvements for  
10          the State Department of Transportation for the  
11          highway or whether it's water -- whatever it happens  
12          to be, I have to enter -- Parks Department, whatever  
13          it happens to be, I have to enter an agreement.  
14          Those improvements are already detailed in the  
15          conditions that we've identified.

16       CHAIR MOLINA: So, basically, you interpret this as a  
17          broad --

18       MR. JENCKS: This is a broad --

19       CHAIR MOLINA: -- condition?

20       MR. JENCKS: -- basket that covers all of those conditions  
21          that are already identified, things I need to do  
22          off-site and on-site to satisfy your concerns and  
23          the public's concerns. And I don't -- I never  
24          recall getting a request to address, okay, so what  
25          improvements is it that I would have to do this

1 agreement for? I never got that request. But  
2 clearly they're all here in the conditions to date.  
3 And there may be additional -- additional conditions  
4 added, perhaps. But with the conditions that -- the  
5 improvements that are addressed here are those that  
6 are included to date in the conditions.

7 CHAIR MOLINA: Okay. Deputy Director Suyama, so, is this  
8 pretty much a standard condition for all projects?

9 MS. SUYAMA: We've been putting this like a standard  
10 condition in terms of when we do things with the  
11 Planning Commission and when we're doing things like  
12 the SMA permit approvals. That, you know, they are  
13 responsible for whatever infrastructure, and they  
14 need to do whatever necessary agreements with the  
15 public agencies.

16 The one thing -- you know, the only one that  
17 we addressed was the transportation because traffic  
18 had specific conditions that were identified. The  
19 other agencies didn't come up to that specificity.  
20 I mean, they didn't say you're going to have to  
21 build, you know, transmission lines, "X" number of  
22 transmission lines, from where to where. They just  
23 said -- like, in terms of the wastewater, that  
24 Public Works, Department of Environmental Management  
25 supported they building their own sewer treatment

1 plant, you know. I mean, only in those broad terms.  
2 Like Water Department is saying we support them  
3 doing their private water system because the County  
4 of Maui cannot supply the water to the project. But  
5 only in those general terms. And as development  
6 goes by, you know, through the different phases,  
7 there's always new requirements once they know what  
8 the exact project is. There's always new  
9 requirements, and those new requirements may also  
10 include some more regional improvements that they  
11 need to do. So, unless the Council knows exactly  
12 what those regional-type improvements are, it's  
13 going to be very difficult for the Department to  
14 make specific recommendations for the other  
15 improvements, because we don't know at this point.

16 CHAIR MOLINA: Okay. Thank you, Deputy Director.

17 Mr. Mateo, you had a question?

18 COUNCILMEMBER MATEO: Chairman, my comments was real  
19 brief.

20 I think this is redundant.

21 Secondly, I question Planning's  
22 interpretation of what is reasonably related. I  
23 don't even think they know what is reasonably  
24 related. So, you know, this, to me, is redundant  
25 because all of the agreements that need to be

1 covered I believe is. And just her reference to  
2 infrastructure, you know, if you're looking at  
3 parks, for example, you've got your infrastructure  
4 needs there and it's addressed in here. If you're  
5 talking transportation, it's addressed in here.  
6 Water, it's addressed in here. So, all of these  
7 primary agreements is what the developer already  
8 have to comply with. So -- so, myself, for Item 19,  
9 I think it's redundant, and I think the developer  
10 will have to provide a response to Item 19, not  
11 individually as we have it here under one condition,  
12 but cumulatively, I believe, all of these items  
13 will.

14 Thank you, my two cents' worth.

15 CHAIR MOLINA: Thank you, Mr. Mateo.

16 All right. Members, any other comments?

17 The Chair is open either way to just leaving  
18 this in or, if we need, be taken out, because I  
19 think the Applicant made it a point that no matter  
20 what he's going to have to address all of the  
21 concerns. It would just seem like it's a -- maybe a  
22 formality, if you will, that it's just being added  
23 into the application. We can leave it in or take it  
24 out, if we want to save paper, save print. I mean,  
25 it's -- at this point it's not a big concern for the

1 Chair whether we leave it in or take it out.

2 Mr. Medeiros?

3 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

4 I agree with Member Mateo. I think it's  
5 redundant. We should just remove it.

6 Thank you.

7 CHAIR MOLINA: All right. Any other comments, then?

8 If that is -- Member Baisa, do you have a  
9 comment?

10 COUNCILMEMBER BAISA: I agree with my colleagues. I think  
11 we have enough paper and enough conditions.

12 CHAIR MOLINA: All right.

13 COUNCILMEMBER BAISA: And I think pretty much the major  
14 issues and the things that are of real concern are  
15 covered in other places.

16 CHAIR MOLINA: Okay.

17 All right. Any other comments?

18 Member Anderson?

19 COUNCILMEMBER ANDERSON: I will yield to my colleagues on  
20 this, Mr. Chairman. I think, really, what -- I'm  
21 trying to remember back to August. It's really a  
22 stretch. But I think part of the concern was  
23 setting specific time guide -- timelines on when  
24 things need to be done, because, you know, if we  
25 just leave it up to the State, sometimes they don't

1           get around to forcing a condition to happen. And I  
2           know Chair Hokama had concerns with that, that if we  
3           have a condition, you know, specifically spell  
4           out -- like, for instance, on Condition 18, right  
5           above K, roadway improvements to the satisfaction to  
6           the -- of the State DOT and the County Department of  
7           Works and Environmental Management and proposed  
8           agreements are incorporated in the application and  
9           site plan and finalized as part of Phase II.

10                   Well, what exactly are those roadway  
11           improvements that we expect to see?

12                   And that's not specifically spelled out. And  
13           I think that's what we were attempting to get when  
14           it said revised to include specifics regarding  
15           infrastructure that is required.

16                   So, you know, it's just not a matter of  
17           having them develop agreements. I mean, they've  
18           basically already come to some agreement or the  
19           conditions wouldn't already be here. It's just the  
20           timing of when they're supposed to do it, at what  
21           point of the build-out, and, you know, something  
22           finalized to show that they have agreed to do it.  
23           So --

24                   You know, and I'm just going to go back and  
25           mention that in the past we've always had a standard

1 agreement that says something to the effect that the  
2 developer will work with DOT and the County Public  
3 Works Department to provide its pro rata share of  
4 required improvements. Well, that is so general.  
5 And then we found out from DOT that they haven't  
6 been collecting pro rata share from anybody for  
7 years, forever. So, I mean, just because it says  
8 that as a condition and that makes us all feel like,  
9 well, you know, DOT is going to collect their share  
10 from the developer, we think it's all taken care of;  
11 but in fact it never got taken care of, which is  
12 why, you know, our roadways are so congested,  
13 because we're not getting that pro rata share  
14 collected by the State. So, I think that was the  
15 impetus for all of this and the questioning of how  
16 these agreements were going to be done, just to get  
17 something, you know, more specific and more tight,  
18 tight as far as timing.

19 CHAIR MOLINA: Uh-huh. Another option, Member Anderson,  
20 if you'd like to propose incorporating additional  
21 language to the condition to, I guess, stress or  
22 emphasize specificity, if you will, that's something  
23 the Chair would be open to, leaving Condition 19  
24 with additional language to --

25 COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. I'll have

1 to have some time for that.

2 CHAIR MOLINA: Sure.

3 COUNCILMEMBER ANDERSON: Hopefully I could look at that  
4 tonight.

5 CHAIR MOLINA: Okay. So, for now, if there are no  
6 objections. Unless the body would not want to  
7 consider it, the Chair will leave Condition 19 as is  
8 for the time being.

9 And Member Anderson would like to propose  
10 some additional language to strengthen it, if you  
11 will.

12 So, I guess we can say we have general  
13 consensus on Condition 19.

14 All right. Very good.

15 Members -- Members, we did a lot today. We  
16 even moved a few major conditions -- well, we made  
17 some progress with it. So, at this point, the Chair  
18 is going to recess. But before we do, Members, I  
19 would like you to check your calendars. I'm looking  
20 at another recess. We're going to -- first of all,  
21 we're going to come back at 3:30, and then  
22 afterwards the Chair is looking at another day this  
23 week to come back. I'm throwing out the days of  
24 either tomorrow morning or Thursday morning. So,  
25 I'll let you gnaw on that.

1           And tell you what, why don't we just go ahead  
2           and recess, and then from now till 3:30 you can let  
3           the Chair know so we can get a head start. I know  
4           some of you have to go take care of your needs. So,  
5           we're going to recess this meeting until 3:30 this  
6           afternoon.

7                           Meeting in recess. (*Gavel.*)

8           **RECESS:**           12:51 p.m.

9           **RECONVENE:**       3:50 P.M.

10          CHAIR MOLINA:   The recessed Land Use Committee meeting of  
11                           October 18th is now back in session.

12                           Members, it is 3:50, Monday, October 22nd.

13                           And Members, initially our plan for today was  
14           to go from 3:30 to at least 5:00 o'clock today.  
15           However, some unforeseen circumstances occurred. As  
16           of Friday, we initially had bare quorum for this  
17           afternoon's session. One of our Members incurred a  
18           back injury this morning, which basically left us  
19           with no quorum. Mr. Mateo had initially told us  
20           that he would be unable to be here.

21                           And I want to thank Mr. Mateo who has joined  
22           us here right now. We've interrupted his meeting  
23           with his constituents in order for him to reconvene  
24           our meeting here, as well as Mr. Victorino, just so  
25           we can announce that we will have to -- since we

1           have bare quorum as it is right now, in the Chair's  
2           opinion it might be better for us to just reconvene  
3           at another time and day. So, the Chair is looking  
4           at tomorrow morning, 9:00 o'clock, right back here  
5           in the Chambers, 9:00 o'clock.

6                     Staff, can -- just for -- can you just read  
7           into the record who is -- will be available, and  
8           Members, from what time to what time?

9                     The Chair is looking at a 9:00 to 5:00 day  
10          tomorrow.

11       MS. NAKATA: For tomorrow, we have the Chair available all  
12          day; Councilmember Johnson from 9:00 to 4:30;  
13          Councilmember Mateo from 9:00 to 1:00; Councilmember  
14          Anderson all day; Councilmember Pontanilla from 9:00  
15          to 1:00; Councilmember Victorino from 9:00 to 10:00  
16          and 1:00 to 5:00; we have not yet received a  
17          response from Councilmember Medeiros.

18                     The Members who are unavailable are  
19          Councilmembers Hokama and Baisa.

20       CHAIR MOLINA: Okay. Thank you very much, Staff.

21                     So, at this point we're looking at six, maybe  
22          seven Members tomorrow. So, that is the Chair's  
23          recommendation.

24                     So, any comments or concerns from the body?

25                     The Chair wants to thank you all for your

1           efforts today. We did make some progress. So, with  
2           that being said, Members, go get some rest.

3                   And I want to thank especially Mr. Mateo and  
4           Mr. Victorino for being here so we -- in order for  
5           us to reconvene, short as it may be, about three  
6           minutes.

7                   So, with that being said, this meeting is in  
8           recess until tomorrow, Tuesday, October 23rd,  
9           9:00 a.m., right here in the Council Chambers.

10                   This meeting is in recess. (Gavel.)

11           **RECESS:**       3:53 p.m.

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