

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

**MINUTES**

**October 29, 2007**

**Council Chamber**

**RECONVENE:** 5:36 p.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Michelle Anderson, Member  
Councilmember Gladys C. Baisa, Member  
Councilmember Bill Kauakea Medeiros, Member  
Councilmember Michael P. Victorino, Member

**EXCUSED:** Councilmember G. Riki Hokama, Member  
Councilmember Jo Anne Johnson, Member  
Councilmember Danny A. Mateo, Member

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

**ADMIN.:** Colleen Suyama, Deputy Director, Department of Planning  
Michael Miyamoto, Deputy Director, Department of Public Works  
Patrick Matsui, Chief of Planning and Development, Department of Parks and Recreation  
David Taylor, Wastewater Reclamation Division Chief, Department of Environmental Management  
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Charles Jencks, Owner's Representative, Honua`ula Partners, LLC  
Steven J. Goodfellow, Goodfellow Bros., Inc.  
Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc. (Applicant's entitlement consultant)  
Wayne Yoshioka, Manager, PB Americas, Inc. (Applicant's traffic consultant)  
B. Martin Luna, Esq., Carlsmith Ball, LLC (Applicant's attorney)

Joyclynn Costa  
Kimokeo Kapahulehua  
Stephen West  
Additional attendees (10)

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

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

CHAIR MOLINA: . . .(*gavel*). . . The recessed October 18, 2007 Land Use Committee meeting is in session. It is Monday, October 29<sup>th</sup>. Members, we’ve just received a proposed condition from the Parks Department and our Budget and Finance meeting ended a little later than anticipated, and I do realize some of you would like to finish up on your dinners. So if there are no objections, the Chair is going to recess until 5:50, Members? Or 5:00 even. . .

COUNCILMEMBER VICTORINO: Six o’clock.

CHAIR MOLINA: Six o’clock, is that the pleasure? All right. Six o’clock it is, Members. We shall return to the Chambers at 6:00, Members, and then we will go as long as we can, as long as we got quorum. Okay. This meeting is in recess until 6:00 p.m. . . .(*gavel*). . .

**RECESS: 5:37 p.m.**

**RECONVENE: 6:03 p.m.**

CHAIR MOLINA: . . .(*gavel*). . . The recessed Land Use Committee Meeting is now back in session of October 18<sup>th</sup>. It is just--hang on, Mr. Victorino, Mr. Victorino.

COUNCILMEMBER VICTORINO: Wait. . .(*inaudible*). . .

CHAIR MOLINA: You, you, you can’t leave the room. We have quorum, please. . . .(*Inaudible*). . . Okay. Thank you, Mr. Victorino. Okay. Members, I gave you guys an extended break, so let’s get to work.

COUNCILMEMBER BAISA: We’re ready.

CHAIR MOLINA: Okay. We are on condition, we last left on Condition No. 11 which is on Page 7 of your matrix, and I believe Mr. Pontanilla had a consideration for this Committee. Mr. Pontanilla, I will give you the floor, but before we do that, let me just announce who is in attendance from the body. We have Members Molina, Anderson, Baisa, Medeiros, Pontanilla, and Victorino. Excused are Members Mateo, Johnson, and Hokama. From Committee Staff, we have Carla Nakata and we have our Committee Secretary, Tammy Frias. And we have from the Planning Department, Deputy Director Colleen Suyama and Corporation Counsel, Michael Hopper and from the Parks Department, Mr. Pat Matsui. So, Mr. Pontanilla, you have the floor.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chair. I had a conversation with Mr. Matsui in regards to the possibility of making an amendment so that, you know, can, we can have the district park fully excavated. But after my conversation with Mr. Matsui, the amount of monies

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that's going to be received as well as through park assessment, that the grading of the 40-plus acres can be done. So I will not be making an amendment. I, I do have something here, though, from Mr. Matsui and I think you have a copy, too, in regards to an amendment that the Parks want to add to No. 11.

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. And we'll get right to that. Mr. Matsui, can you share your comments with the Committee on this proposed condition?

MR. MATSUI: Okay. The condition just kind of memorializes what we've been talking about that the development would give a cash contribution in, in lieu of land and that the parks that they are developing and open spaces will not be counted toward the park assessment. So we just wanted to make sure it's in the conditional zoning. . .so that in the future if, if there's other people involved, you know, it would be there in black and white.

CHAIR MOLINA: Okay. Thank you, Mr. Matsui. Members, any questions for Mr. Matsui?

COUNCILMEMBER MEDEIROS: Chair.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah. Just, just, can you give me a reference condition number and page?

CHAIR MOLINA: You should have been given a copy. Staff, did we get a copy of the, Mr. Matsui's condition to everybody? It's a condition --

COUNCILMEMBER MEDEIROS: Eleven?

CHAIR MOLINA: --from Mr. Matsui. It should, it should be on a document here. Yeah.

COUNCILMEMBER MEDEIROS: This one?

CHAIR MOLINA: And that relates to the Parks' condition, which was Condition No. 11, regarding the Little League field.

COUNCILMEMBER MEDEIROS: Okay. Thank, thank you, Chair.

CHAIR MOLINA: Okay. And that's on Page 7 of your matrix. Okay. Members, if there are no questions for Mr. Matsui. The Applicant, Mr. Jencks, can you come, are you prepared to give comment on this or would you like to withhold your comments?

COUNCILMEMBER ANDERSON: Chair, if we could have someone read it into the record, so people who are watching know what we're talking about.

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CHAIR MOLINA: Okay. Let me ask Mr. Jencks first to give comments and then we'll have it read into the record if this is what the body wants as a condition. Mr. Jencks.

MR. JENCKS: Thank you, Mr. Chair. Good evening everyone. That has been our representation from the beginning and that's our story, we're sticking to it.

CHAIR MOLINA: Okay. Thank you, Mr. Jencks. Staff, can you go ahead and read the proposed condition?

MS. NAKATA: "That Honua`ula Partners, LLC is proposing to develop private parks and open spaces within the development. Said private parks shall be open to the public and privately maintained. Furthermore, said private parks and open spaces shall not be used to satisfy the park assessment requirements under Section 18.16.320, Maui County Code, nor for future credits under said subdivision ordinance. The Director of the Department of Parks and Recreation and the developer agree that the park assessment shall be satisfied with an in lieu cash contribution for the entire project. The amounts and timing of payment of said in lieu fees shall be subject to the provisions of Section 18.16.320, Maui County Code."

CHAIR MOLINA: Okay. Thank you, Staff. Staff, is it appropriate to consider this as a separate condition or attach it to Condition 11?

MS. NAKATA: It may be cleaner just to attach it as a separate condition.

CHAIR MOLINA: Okay. Members, you've heard the recommendation from Staff and we will have Staff, I guess, give it the appropriate numbering at a later point. Unless, Staff, you have a number that you can attach to it, or would you prefer to do it at a later point?

MS. NAKATA: At a later point please, Mr. Chair.

CHAIR MOLINA: Okay. Thank you. All right. Members, do we have consensus on incorporating this as a separate condition? Member Anderson?

COUNCILMEMBER ANDERSON: Mr. Chair, I would like to see us spell out the acreage for the private parks and open spaces so that--you know, the other thing I'd like to see us do, which might satisfy my concern here, is that we attach the Concept Plan as part of the ordinance like we did with Maui Lani. Because when you're looking at a project district that's over 20 years in development, you know, there's going to be many other councils down the road that are going to be dealing with this, and it's very likely they'll be coming in for amendments and changes. And it's only because we had the Maui Lani site plan attached to the ordinance that we were able to see what the original intentions were of previous councils. So, you know, I think that this condition is, is great the way it is, but I think we need to spell out what parks and open space, the amount of land that will be dedicated for those uses particularly since, Chair, we are going to have affordable housing in this project. It will not all be, you know, second and third

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homebuyers who are essentially visitors, it'll be residents. And there will be a need for parks within this project for the children of the affordable housing.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Mr. Matsui, can you provide us with the specific acreages into this condition? Or we can do that at a later point, Members, if we want to move this as a condition and the Parks, Mr. Matsui can provide the specifics. I think I can support that request from Member Anderson. Mr. Matsui?

MR. MATSUI: Mr. Chair, I, I would have to request that from the, from Mr. Jencks.

CHAIR MOLINA: Okay. Mr. Jencks, can you come up?

MR. JENCKS: Mr. Chairman, as it stands right now we have allocated 90 acres of the total acreage for park and open space area. Six acres of that 90 acres is actual park area in the, in the current acreage breakdown for the project.

CHAIR MOLINA: Okay. Members, you heard the specifics from Mr. Jencks. Any comments or questions for him on that? Staff can--go ahead, Member Anderson.

COUNCILMEMBER ANDERSON: I'm sorry, Staff was just talking with me right then. So you said 6 acres for park, and that would leave how much for open space?

MR. JENCKS: It would be 84 acres for open space, 6 acres for park.

COUNCILMEMBER ANDERSON: Eighty-four acres open space?

MR. JENCKS: Depending upon what happens with the conservation, preservation area, that number would go up as well.

COUNCILMEMBER ANDERSON: And, and currently the, what you're proposing for conservation, Mr. Jencks, I thought, did you say it was 23 acres?

MR. JENCKS: We had an 18 acre--

COUNCILMEMBER ANDERSON: Eighteen acre.

MR. JENCKS: --conservation area.

COUNCILMEMBER ANDERSON: So that 18 acres would be added to the 84?

MR. JENCKS: That's correct, that would be additional open space.

COUNCILMEMBER ANDERSON: Okay. If we could add that, you would have no objection to us adding those acreages in to this condition?

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MR. JENCKS: I would rather do that when we have consensus on the conservation issue. That's why.

COUNCILMEMBER ANDERSON: Well, yeah, I mean leaving that part aside for now, but, but as far as the open space and the park?

MR. JENCKS: Certainly.

COUNCILMEMBER ANDERSON: And I appreciate that, Mr. Jencks, because, Members, the original zoning on this, the condition, the current zoning for a good portion of this called out for a 6-acre park that included the Little League field. So I think that's a good deal for him to put in the 6 acres of park. And I see, Mr. Jencks, on your concept map that you have one, two parks called out. So the, would that mean that each park is a 3-acre park?

MR. JENCKS: Yes.

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

CHAIR MOLINA: Thank you, Member Anderson. Members, I would recommend we move this condition on and depending on what happens with the condition related to the cultural plan, the numbers could change. There could be an increased amount of acreage for open space as well. So for the time being we're looking at 84 acres open space and 6 acres for the park, subject to change with a possible increase in open space. So is that clear? And once we deal with the condition on the cultural plan, then we can always revert back to this and make whatever necessary adjustments as it relates to the total number of acres for open space as well. Member Anderson?

COUNCILMEMBER ANDERSON: Did, did you say that we were going to add this to Condition 11?

CHAIR MOLINA: No. I think that Staff recommended to us that we do this as a separate condition. And then we could add the specific language with regards to the acreage into the condition.

COUNCILMEMBER ANDERSON: Okay. Thank you, Chair.

CHAIR MOLINA: Okay. All right. Members, any other matters related to Condition 11 before we move on to address other matters?

MS. NAKATA: So, Mr. Chair, could Staff just clarify then? We're looking at adding in to the first sentence of Parks' new condition, "Honua`ula Partners, LLC is proposing to develop 6 acres of private parks and 84 acres of open space within the development."

CHAIR MOLINA: That is correct for now, subject to change in terms of the number of acres for open space. Okay. Okay. Members, we shall move on Condition 11. Okay. Consensus?

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COUNCIL MEMBERS: Consensus.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: RH, JJ, DM).

CHAIR MOLINA: Okay. All right. Okay. Thank you very much, Members. All right. Let us go on, the Chair would like to discuss Condition No. 2. We have Mr. Miyamoto here from the Public Works Department. This has to do with traffic improvements. . .continue the discussion on that, and that is on Page 2 of your matrix. We're looking at the Department of Planning's recommendation, which is in the fourth column. . . This matter was previously discussed on August 1<sup>st</sup>, August 15<sup>th</sup>, and August 19<sup>th</sup>. So, Members, additional questions? Mr., first of all, Mr. Director, is there anything else you would like to elaborate on as it relates to this condition since we last met on it? And I believe we also--did I say September 19<sup>th</sup>?--yeah, that was the last time we discussed it. Mr. Director.

MR. MIYAMOTO: I have nothing further to add. The Applicant's consultant is here for additional questioning.

CHAIR MOLINA: All right. Planning Director Suyama, any additional comments?

MS. SUYAMA: No. No additional comments.

CHAIR MOLINA: Okay. Members, the floor is open for questions for the Director. Member Anderson?

COUNCILMEMBER ANDERSON: Mr. Chair, I, I would like to see Item A., "Piilani Highway, from Kilohana to Wailea Ike Drive, shall be upgraded to four lanes of traffic. The improvements shall be constructed prior to occupancy of the first unit." That means there's going to be an awful lot of construction traffic on this two-lane road. And as Members recall the pictures that I showed you, we are already beyond Level of Service F during commuter times, which is a minimum of two hours in the morning and two hours in the afternoon. I'd like to see us request that this construction be done prior to any construction on the project.

CHAIR MOLINA: Okay. Members, comments? Or would you like to propose that as a separate, an amendment, an addition to the condition?

COUNCILMEMBER ANDERSON: The, the improvements shall be constructed. . .prior to the issuance of a grading permit.

CHAIR MOLINA: So you would be--

COUNCILMEMBER ANDERSON: If Ms. Suyama can help me on that. I would think that the grading permit would be the first permit they would need to get in order to start construction of a golf course or anything.

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CHAIR MOLINA: Okay. So you would delete “prior to”, excuse me, “occupancy of the first unit”. So you would recommend that, or you’re proposing that, that be deleted and substituted with the issuance of the grading permit?

COUNCILMEMBER ANDERSON: Of first grading permit--

CHAIR MOLINA: Okay. First--

COUNCILMEMBER ANDERSON: --unless Ms. Suyama has better language.

CHAIR MOLINA: Director?

MS. SUYAMA: Normally the first construction permit is the grading permit to clear the land. But however, I would, I would assume that by this comment what you’re saying is that they would be allowed to do the other permitting requirements, like they need to get project district approval, the Phase II and the Phase III approval.

COUNCILMEMBER ANDERSON: Oh, yeah. We wouldn’t want them to have to do that--

MS. SUYAMA: Okay.

COUNCILMEMBER ANDERSON: --until they at least get to that point where they know they’ve got a green light.

MS. SUYAMA: Okay.

COUNCILMEMBER ANDERSON: But that way I think we have some assurance that upgrades to that road will be taken care of before we add any additional traffic to the roadway.

MS. SUYAMA: So, the only other thing I would say, the improvements shall be, instead of constructed, completed. I’m assuming that you want the road to be completed prior to, prior to issuance of the first, of the grading permit. Is that what, is that your intent?

COUNCILMEMBER ANDERSON: Right. So “completed” would be substituted for “constructed”. And of course this applies specifically to the four-lanes upgrade for Piilani between Kilohana and Wailea Ike.

MS. SUYAMA: Okay. So what I would suggest, “The improvements shall be completed prior to issuance of a grading permit for the site.” So it’s, so you know where it is, it’s the site that we’re talking about.

COUNCILMEMBER ANDERSON: Thank you, Ms. Suyama.

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CHAIR MOLINA: Okay. Member Anderson, is that something you are going to propose based on the recommendation from the Planning Department?

COUNCILMEMBER ANDERSON: Yes, please.

CHAIR MOLINA: Okay. So let me, let Staff, I guess, if they can get that on the record. So it shall read, "prior to the issuance of the first grading permit for the site"?

COUNCILMEMBER ANDERSON: Right.

CHAIR MOLINA: Okay. Staff, is that clear?

MS. NAKATA: And "constructed" would be changed to "completed" in the--

COUNCILMEMBER ANDERSON: Right.

MS. NAKATA: --second sentence?

CHAIR MOLINA: Shall be completed, yeah, we will knock out the word "construction" and substitute it with the word "completed". Okay. Members, do we have--Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. This is for Public Works. In regards to the construction of the highway, the added two lanes, is there like specific time they can start and specific time they can quit so that the traffic congestion problem is, you know, lessened? In other words, we know we get heavy traffic going in, in the morning for the workers and in the afternoon when they get through working. If a construction time like say, you know, like highway projects sometimes they go from 9:00 to 3:00. Is that something your Department provide or, or, or indicate to the developer that these are the times that you can work?

CHAIR MOLINA: Mr. Director?

MR. MIYAMOTO: Mr. Chair. The, the highway is a State highway so it, obviously it falls under the State highway jurisdiction and being sensitive to the area, the corridor being surrounded by residential, obviously nighttime work would be a significant impact; and the more restrictions you put on the construction time, the shorter the timeframe at which they will actually be able to do physical construction, dirt moving, and those types of activities. And the end result is a longer construction period is what's. . .going to be the end result of the shorter construction time period.

VICE-CHAIR PONTANILLA: Looking at the area, Wailea, is there--and again I don't know who owns the road within Wailea; I'm sure it had been turned over to the County--in regards to rerouting traffic just in that particular construction area so that traffic can be, I, I guess traffic congestion can be lessened somewhat by rerouting traffic either along Kihei Road or along Wailea Alanui through to, up to Kilohana and then moving towards Piilani Highway?

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CHAIR MOLINA: Mr. Director?

MR. MIYAMOTO: Mr. Chair. These alternative routes probably are going to end up being routes that the locals are probably going to take automatically. You know, they'll see, either go down straight to, to South Kihei Road or like you say go through Wailea Alanui all the way to Kilohana, come up till you hit Kauhale. And, you know, it's certainly going to have significant impacts to the adjacent neighborhoods as far as traffic impacts, because a lot of the residential neighborhoods have children playing at those times. So, you know, when the Applicant comes through and provides their traffic control plan, I mean it's going to be a State issue, but certainly because it's impacting County roads we'll certainly look at it. And, you know, obviously the more roads you can spread it over the, the lesser the impact, it's not focused on one corridor. But the South Kihei Road I guess in that area is not as developed commercially. The, I'm trying to think of the first opportunity will probably impact that first park area where they could probably tie back into Piilani Highway. But it's certainly going to be something that we're going to be reviewing when the Applicant comes in for construction.

VICE-CHAIR PONTANILLA: Thank you.

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

VICE-CHAIR PONTANILLA: I got a question for Mr. Jencks.

CHAIR MOLINA: Okay. Mr. Jencks.

MR. JENCKS: . . .Yes, sir.

VICE-CHAIR PONTANILLA: Thank you. Mr. Jencks, in your estimation to do the improvements between Kilohana and Wailea Ike Drive, what kind duration we looking at?

MR. JENCKS: Well, my assumption at this point, Mr. Pontanilla, is that we're probably going to be doing an EIS for the work and that's a very lengthy process. I would say to completion you're probably looking at three years.

VICE-CHAIR PONTANILLA: In regards to the construction itself?

MR. JENCKS: I would say the construction is probably 18 months.

VICE-CHAIR PONTANILLA: Eighteen months.

MR. JENCKS: Uh huh.

VICE-CHAIR PONTANILLA: Okay. Thank you.

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CHAIR MOLINA: Mr. Jencks, just as a follow-up. So an EIS you're looking at what, roughly six months?

MR. JENCKS: Oh. At least.

CHAIR MOLINA: Maybe, yeah, so add on to that the construction time of 18 months.

MR. JENCKS: Yeah.

CHAIR MOLINA: So if things go accordingly, then you're looking at a, just a conservative estimate, two years at least?

MR. JENCKS: At, at least that, Mr. Chair. I, if I may respond to the, to the suggestion. Right now it reads, "prior to occupancy of the first unit in the Project District". We are, as we discussed last week, doing a significant amount of work in North Kihei for affordability. Ideally for us the shortest distance between a start and the, and the ability to occupy is the best for cash flow purposes and return on the investment. If you, if you push us out and so we can't even start any grading work until the highway is completed, that pushes that return that much farther out for us and increases the risk. We are certainly willing to talk about carpooling, reducing the traffic anyway we can. A lot of the work that will be going on on-site would not require a lot of manpower 'cause we have a lot of machinery. We have a crushing facility most probably at some point in the project, roadway work, those kinds of things. Be pleased to talk about ways we can reduce the construction traffic on the highway, but still allow us to get a leg up and start the basic groundwork that's necessary to get that point where we can actually get a return on our investment. The three years I think pushes it, pushes it out to a point where it's, it's difficult.

CHAIR MOLINA: Okay. Thank you, Mr. Jencks. Members, questions for Mr. Jencks? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mr. Jencks, in, in hearing Member Anderson's modification to Condition 2.A., would that include for you the intersections of the letter that we received from you as part of the required development of four lanes?

MR. JENCKS: That would, yes, that would include the Kilohana, Mapu, the Okolani-Mikioi intersections, as well as the Wailea Ike-Piilani intersection.

COUNCILMEMBER MEDEIROS: Okay. But also attached to your letter are intersections down by the Shops of Wailea. Would that be part of you having to do four lanes at all of these intersections?

MR. JENCKS: At a point in time when the intersection improvements are warranted as it describes in the condition, yes, when they're warranted, which could be sometime in the future.

COUNCILMEMBER MEDEIROS: Okay. So it's not attached or part of Condition 2.A. that Member Anderson made some changes to?

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MR. JENCKS: That, that's correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Jencks.

CHAIR MOLINA: Thank you, Mr. Medeiros. Members, any other questions for the Applicant related to Condition 2.A., the modification being proposed by Member Anderson? Okay. Member Anderson, questions for Mr. Jencks?

COUNCILMEMBER ANDERSON: Yeah. You know, we discussed this sometime ago and the 18 months to construct the four lanes includes the amount of time it's going to take to blast all the blue rock on either side of that roadway. And I'm just wondering, Mr. Jencks, you said that the first thing you'll probably be doing is the golf course, is that correct?

MR. JENCKS: Grading for the golf course and the roadway system.

COUNCILMEMBER ANDERSON: Right. And so there's going to be a lot of. . .semis hauling dirt and that's my concern that, you know, it's well and good to say that you're going to try to carpool people, but it's the construction trucks that I'm especially concerned about, Mr. Chair. So that's why I want this condition, because we already know DOT says it needs to be done now whether they build out or not. And, you know, from the photographs I showed you folks, I live, I, I enter the highway on Mikioi which has Mikioi and Okolani, and there's no traffic signal there. And, you know, if you're trying to get on the highway right now during construction time or get off the highway to turn on to Mikioi, you can wait an awful long time. And in fact a lot of people who are trying to leave Maui Meadows during those commuter times, right now they're, if they would normally go on Mikioi, they drive through Maui Meadows and go down to--what is it?--Mapu where the light is. So, you know, I think it's warranted, Mr. Jencks, and the reason you would have to do an EIS is because you're constructing on State land, right? That's the trigger?

MR. JENCKS: And they are some new triggers as well for highway work that require an EIS.

COUNCILMEMBER ANDERSON: Other triggers rather than working on State--

MR. JENCKS: Yeah.

COUNCILMEMBER ANDERSON: --land?

MR. JENCKS: Yeah. There's some additional triggers that were just passed I think in the last Legislative Session that addressed highway work requiring an EIS.

COUNCILMEMBER ANDERSON: Okay. So, you know, it's a pretty straight forward EIS and I would hope that, you know, you could move forward on it and get it done. And we already heard from the Director of Water Supply that it's going to be most likely three years before there would be enough water for him to do the improvements at North Kihei in order to do the affordable

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multi-family units there. So I see this all in sync, Mr. Jencks, that, you know, I don't think this would hold you up any farther than you're going to be held up already. It's just putting the horse in front of the cart, which is what I'd like to see us do. Thank you, Chair.

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

COUNCILMEMBER MEDEIROS: Hearing what Member Anderson said and looking at your submittal as of today, Mr. Jencks, it shows on your drawings that Okolani and Mikioi intersection will see some improvements, and it shows the symbol of a traffic light which is, the legend says will be future traffic signal. Now, the future traffic signal, will it be part of your improvements or will come at a different time?

MR. JENCKS: There's two actions that'll happen at that intersection, Mr., Mr. Medeiros. One, Wailea Resort will be putting an interim signal in the very near future, and then when we complete the intersection improvements, a formalized signal will be put in.

COUNCILMEMBER MEDEIROS: Okay. That's at Okolani and Mikioi?

MR. JENCKS: That's correct.

CHAIR MOLINA: Mr. Medeiros, could I just interject for the other Members' benefit? I presume you're looking at document, this document dated October 29<sup>th</sup> today which is the traffic improvement details for LU-38. So just for the other Members' consideration in case Members are not sure where we're at. Continue, Mr. Medeiros.

COUNCILMEMBER ANDERSON: Wait a minute, Mr. Chair. Could I add to that for clarification? If you look at the condition that would--

COUNCILMEMBER MEDEIROS: Mr. Chair. Yeah. Can I complete my questioning first?

CHAIR MOLINA: Okay. Member Anderson, can, can you yield just to Member Medeiros and I'll come back to you?

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

COUNCILMEMBER ANDERSON: Yeah. I was just going to help him out with the conditions and how they tie to this.

COUNCILMEMBER MEDEIROS: Okay. I just have a final question. So if there's going to be an interim light, that interim light, traffic light is going to be available during your highway and traffic, I mean intersection improvements?

MR. JENCKS: Yes.

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COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Jencks. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. Member Anderson, any additional comment?

COUNCILMEMBER ANDERSON: Well, I just wanted to point out that if you go further down on these conditions, they spell out exactly when they are proposing to do these improvements, these intersection improvements. And I guess we'll go forward with each one of them. But I don't know that maybe they would change if, if we get the highway constructed prior to a grading permit. Because a lot of these have to do with the occupancy or completion of the project to a certain extent. And it may be more cost effective for them to do it when they're widening the highway, but we'll have to ask Mr. Jencks that as we go along with each condition.

CHAIR MOLINA: Okay. Thank you. . . .*(change tape, start 1B)*. . . considerations on the floor for Member Anderson's proposal to insert a modification of the language. I seem to have lost my place here. Staff, could you again read the proposed condition, Staff?

MS. NAKATA: Yes, 2.A. would read, "Piilani Highway, from Kilohana Drive to Wailea Ike Drive, shall be upgraded to four lanes of traffic." And then the second sentence would read, "The improvements shall be completed prior to issuance of the grading permit for the site."

CHAIR MOLINA: Okay. Member Anderson, would you like, would you like to propose that as an amendment? Or, or, Committee Members, do you want to just incorporate that, unless there are objections?

COUNCILMEMBER ANDERSON: Well, I thought we were doing consensus, Mr. Chairman, if whatever--

CHAIR MOLINA: Okay. Well--

COUNCILMEMBER ANDERSON: --the pleasure. . . .*(inaudible)*. . .

CHAIR MOLINA: --we can always, one option is we can always vote on it formally if that is a request of the body at a later point. But we can move it on for the time being, incorporating your language as a consensus. Members, consensus at this point to incorporate Member Anderson's consideration?

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: RH, JJ, DM).

CHAIR MOLINA: Okay. We'll move it on for the time being and at a later point sometime we can come back and vote on it. Okay. Members, additional questions regarding Condition No. 2 for the Public Works Director, Mr. Miyamoto? Okay. Ms., Member Anderson?

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COUNCILMEMBER ANDERSON: You know, I am a little concerned because most of these conditions all have to do with Piilani Highway, at least E., C., and D. When we get down to E., that's Wailea Alanui/Wailea Ike, E. I'm not so concerned about; F. is modifying Piilani at Kilohana and Mapu; G. is Wailea Ike Drive and Kalai Waa Street; and H. is Wailea Alanui and Kaukahi. My concern, Mr. Chair, is all of these conditions that have to do with modifications to Piilani are regional traffic improvements. And we don't have a review yet on the traffic impact analysis that, the third one that was done for the regional traffic improvements. And I, I have spoken to this in the past and my concern is that until DOT reviews it and gives us their comments on it, we don't have any verification that the road, the, the traffic counts in the report are reasonable or reflect, you know, accurate counts, which DOT would in their review check against their, their traffic counts. And, you know, if, if my, my condition that we just got a consensus on passes, then I'm not going to be so concerned because it's going to be done upfront.

And, but if, if, if not, then I would like to entertain a condition that would require that the Applicant provide a traffic impact analysis for a regional traffic assessment that includes all buildout plans for the Wailea Resort community and Makena Resort which includes review and comments by State DOT and the Department of Public Works prior to Phase II approval. And that would then allow us as a Council to review the comments of that impact analysis prior to Phase II approval, which would allow us the opportunity to add additional conditions if warranted by the final traffic impact analysis. And the justification for that, Members and Mr. Chairman, is that it's a requirement of our Change in Zoning application. And that has not been fulfilled by the Applicant, we were told that, and if you look at the letter from DOT, they are still waiting for the final buildout on Makena. And we were told by--the final buildout numbers for Makena--we were told by their traffic consultant that they used current figures, not taking into consideration any of the changes that may be coming forward on the application that is still pending before this Council.

But in my review the numbers are less than what we have in the buildout in the application still pending. So this is critical that we have a really accurate regional traffic impact analysis that has been reviewed by DOT. After all it is their roadway and as I said, they aren't so concerned about when things happen. Just take a look at Honoapiilani Highway. What their concern is, is who's going to share the cost and, and if they don't have to worry about that, then they say go ahead and do whatever you want to do in approving it. Because Wailea 670 has already said that they'll work out the cost share and they'll, you know, they'll eat the cost upfront and then try to get it back from the other, 20 percent from Wailea Resort and the other--what is it?--

CHAIR MOLINA: Forty percent.

COUNCILMEMBER ANDERSON: --40 percent from Makena. But, you know, we don't know if Makena is going forward or not. So I, I would like to just hold that in abeyance, Mr. Chair, in case this condition that we just received consensus on for some reason doesn't hold. Then I would be asking for a condition that we get an approved regional impact assessment prior to

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Phase II with comments and review by DOT per our application requirements so that the Council then has a chance to review it to see if there needs to be any changes in conditions to make sure.

You know, its timing is everything and if we have the, the, the time when these things need to happen spelled out, such as we do in these conditions that the Planning Department gave us, which I'm very appreciative of because at least we have a way to hold them to the timing. And in the past that's been difficult to do because it's not, it's not, the improvements have never been attached specifically to a specific point in the project. So that's my concern, Mr. Chairman, and, you know, when you look at some of these other conditions that we have the extension for two lanes of traffic from Wailea Ike Drive to Kaukahi Street. . .that is, they're calling that out to be completed at 50 percent of the project. I'm not so certain that that's adequate because we don't have a reviewed traffic impact analysis. The signalization at Mikioi would be done before occupancy of the first unit, you know, I think it needs to be done now actually.

And I won't go through all of them but, Members, you can see most of these have to do with improvements on Piilani. So if nobody else is concerned, I mean I live down there, I see this every day, I know what the impacts are today. And anything additional is going to be a burden not only on the residents who live down there, Mr. Chairman, but on our working, but on the employees at the hotels who are commuting in and out of here. An extra half hour on your commute in the morning and in the afternoon can be a big burden to working parents who have to meet schedules.

So I'm just hoping that, I don't know, I have a feeling that we need to have some of these things done before the timing that we have called out here, especially the modification to Kilohana and Mikioi. Because, you know, if, if, if and when the, the extension of Piilani--well, that's the wrong term--the current Piilani between Kilohana and Wailea Ike as that is being expanded, you're going to have traffic rerouting itself. As Mr. Miyamoto said, even if you don't reroute them, they're going to reroute themselves because you're already dealing with backed-up traffic and, and that's on, you know, a fully functioning two-lane road. And when you narrow that down to one lane for both directions in order to allow the construction and the blasting and all that, then you're going to have more traffic rerouting itself on Wailea Ike, Wailea Alanui, and coming out at Kilohana. And, you know, what they're saying here is providing two left-hand lanes for south bound, you know, I, I just think that this is kind of guesswork. I'm thinking that we need maybe some more help on Kilohana where the traffic is going to be rerouting itself. So, you know, I, I'm just, I guess what I'm saying is I don't see this really meeting the needs once this all starts happening.

And the other problem I have, Mr. Chair, and I don't know if the, this would probably maybe not be the place to do it, but maybe it is. I think we need to have Piilani extended all the way through the project and, and somehow providing a mauka access for evacuation purposes. Now there is a, a roadway already there, granted it's not, you know, built to standard for heavy traffic. But should there be a need for evacuation and, and if the, if the extension of Piilani all the way through the project, then would be a way to, for people to get to Makena without having to go through Wailea. And if Makena Resort expands, then it would be a natural extension for Makena

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and Wailea 670 to help with a mauka route. And I just feel very strongly about an evacuation route, Mr. Chairman. You know, if there, God forbid, was fire like they had in L.A., granted the mauka would not be of help because the fire would likely come down from the mountain or spread up the mountain. But if we had a tsunami or, you know, any kind of other--

CHAIR MOLINA: Natural disaster.

COUNCILMEMBER ANDERSON: --thank you--natural disaster, we're putting all kinds of people at the end of a dead-end road with no hope to evacuate in time. And so I would like to see us address that in some manner, Mr. Chairman, and I think it's only a natural. . . You know, when you look at the, the maps that were drawn when this project was first conceived and designated in our Community Plan, it was all around the extension of Piilani through this project up to Ulupalakua. And now that that's not happening it doesn't mean we still can't make it happen, it's our, you know, purview. Just because DOT doesn't want to do it, and I don't think DOT ever wanted to do it. In fact you go back to letters from 1988, they call out for the developer to do it. And so, why are we letting them off the hook? You know, if they want to intensify the density down there for profit, then they need to make sure that it's done in a safe manner so that all the community down there is not put at risk, including the new owners on their property.

CHAIR MOLINA: Thank you, Member Anderson. And Member Anderson was making reference I presume--correct me if I'm wrong--on the far column on the far right which is the comments, I guess, from the Planning Department as well, Members. It makes references to Mikioi and Okolani Drive as well so. All right. Members, any additional comments? For the time being we'll move this on and at a later point we can come back for additional discussion. And, Member Anderson, if I'm correct, the initial condition you proposed, I guess, sort of giving us a heads up if that does not reach, is not approved by the body, then you would have an alternative condition to propose?

COUNCILMEMBER ANDERSON: Well, I mean, what the condition would be is that they finalize--

CHAIR MOLINA: Traffic analysis.

COUNCILMEMBER ANDERSON: --a regional impact analysis that is sufficient for DOT to do a review and a comment and, and allow that to happen prior to Phase II approval so that after that happens it comes back to the Council for our review and allows us to put in additional conditions based on that review. And, you know, for now I guess I'll just let the rest of these timeframes stand as is, but again I don't think that they are sufficient given the conditions that we're currently facing down there. You know, it's, it's all crafted in a manner that works financially for the developer but, you know, I'm sorry they're, they're going to be making multi-millions of dollars off of this. They have huge corporations with financial assets backing them. They certainly can put the investment in upfront and if they can't then, you know, they picked the wrong place to develop. So in the meantime I will pass a map down for Members so that they can see that mauka route as it was originally intended.

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CHAIR MOLINA: Yeah. This was from the application back when, the late, from late '80s, the one, a part of the original application? . . .(inaudible). . .

COUNCILMEMBER ANDERSON: Well, actually what I'm going to show you is the routes, a map that I have that showed all the various routes for the Kihei-Upcountry road showing that original route so that...and it's just a convenient map that I can put my fingers on immediately so that everyone can see. You know, at a later time I could also pull out the, the 1988 EIS that shows this route. So, and again, Members, when the EIS for this project was done in 1988, it was done based on that conception. And so we have a whole different ball game, so to speak today. And I just think that we need to get the best we can possibly get for safety purposes for the residents that live down there.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, additional comments on Condition 2 before we move it on via consensus and come back to it at a later point for a vote? Okay. Seeing none, Members, Mr. Miyamoto, we'll go ahead and excuse you for now. I'd like to work on Condition 14 regarding the golf course water.

COUNCILMEMBER MEDEIROS: Chair.

CHAIR MOLINA: Yes, Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah. I'm sorry. I didn't know you were going to excuse Mr. Miyamoto.

CHAIR MOLINA: Oh, do you have questions for him?

COUNCILMEMBER MEDEIROS: Yeah. Please.

CHAIR MOLINA: Oh. Go ahead, go ahead. By all means, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair. Mr. Miyamoto, the improvements on Piilani Highway, being that it's a State highway and I think when Member Pontanilla asked the question, you deferred his question to the developer's traffic engineer. What role, if any, does the Department of Public Works, Highways and Engineering play in any of this on Piilani Highway?

CHAIR MOLINA: Mr. Director?

MR. MIYAMOTO: Mr. Chair. Typically when it's a State highway, unless it's somehow impacting a County facility, like on the cross...some of the crossroads if their improvements go beyond there, the intersection proper that they control, then they would coordinate that with us. If there's some kind of a drainage facility that they may be modifying that may impact the downstream facilities, then they would certainly contact us to let us review such, such an analysis.

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COUNCILMEMBER MEDEIROS: So if their improvements stay within the State corridor or the State right-of-way, then basically Public Works Engineering and Highways really doesn't play a role in it, unless like you say it may connect to some of our drainage and so forth?

MR. MIYAMOTO: Yes.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Miyamoto. Thank you, Mr. Chair.

CHAIR MOLINA: Thank you, Mr. Medeiros.

VICE-CHAIR PONTANILLA: Chair.

CHAIR MOLINA: Mr. Pontanilla followed by Member Anderson.

VICE-CHAIR PONTANILLA: Thank you. Kilohana Drive and Mapu Place, Piilani Highway intersection. . .you know, we're talking about moving cars. At that particular intersection if and when construction do start, when do we say provide a traffic cop out there to route traffic or to guide traffic onto Piilani from either Kilohana or Mapu Place?

CHAIR MOLINA: Mr. Director?

MR. MIYAMOTO: I guess to try and answer that question, it's going to depend on the traffic control plan they have at that time. I mean if there's, you know, at the signal if some modification takes the signal out temporarily as they reroute some cables or impacts the functionality of that traffic signal, certainly they should have a police officer there to, for, for safety reasons to control the traffic. And anything that, like for example if they, they sever one of the loops, the main loops of. . .that controls the electronics to the system, they would certainly have a, a police, they should have a police officer there.

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

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

COUNCILMEMBER ANDERSON: Thank you, Chair. As an alternative I would like to also offer up, you know, we have all these other, these private agreements that Wailea 670 has with Haleakala Ranch as well as Ulupalakua Ranch and Wailea Resort regarding roadway improvements. And one of the agreements they have with Ulupalakua Ranch is an exclusive roadway that is an extension. I'll just pass the map down, Members. I'm sorry, I wasn't really prepared to bring this out right now, but at least I have the map that shows the access point. So what I'm talking about, what I was talking about originally and this would also, Members, take care of the need for a mountain access. Right now there, there is a requirement in the State code as well as in our application for Change in Zoning, as well as in their current conditions of zoning that are already deeded on the land to provide traditional mountain access trails across the property and any additional access trails that may be required as determined by the Council.

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That's currently deeded on the land and we do know that there are jeep trails, traditional jeep trails running across this property. And, you know, they could possibly use those jeep trails, I don't know, as an extension that would allow mauka access not only for native Hawaiian gathering rights but also for evacuation should it be necessary. You know, I'm not saying that they need to build a road to State or County standards for, for everyday use. But anything that would provide a mauka route for evacuation is better than nothing. So I'm going to pass the map down that shows the roadway, and this is, this is, you know, a variation and I don't see it being extended the way this roadway is. And I'm sorry, Members, I don't have the EIS with me right now to show you the way it was originally configured, but just to give you an idea of how the roadway would go up. We do have a jeep trail and I can show you that on another map. But what I wanted to bring your attention to is that they already have a, an agreement with Ulupalakua Ranch to provide them access from mauka to makai. And that roadway goes into Kaukahi Street, I mean I'm sorry, into Wailea Ike. And it's already in a signed agreement and I will pass this down so you can see it. It's at the very northern end of the property, the very other direction from what I was talking about, right up next to Maui Meadows. And so I'll pass both of these maps down and hopefully be able to get a map for you from the EIS as soon as possible.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, any other questions for the Director? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Maybe either for the Director or for Member Anderson. Maybe she can give me some clarification on these jeep trails that she's proposing become possible escape routes. Now being that it's, it's not going to be to County standard, so these are going to be private roads, and who would accept the liability responsibility?

CHAIR MOLINA: Good question. I guess we'll start first, well, maybe. . .I don't know if Corporation Counsel can chime in on that one as well. Mr. Director, would you prefer Corporation Counsel taking the ball first on that? Mr. Hopper, any comments with regards to liability on a private road--

COUNCILMEMBER MEDEIROS: Non-standard.

CHAIR MOLINA: --for a possible evacuation route on a non-standard--

COUNCILMEMBER ANDERSON: First of all, Chair, it's not a private road.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: It's a government road.

CHAIR MOLINA: Old government road, right, is that what it is? Okay. Mr. Hopper, on an old government road. From my understanding with old government roads, County and State there's that debate as to who accepts responsibility for it. Any, can you respond to it at that time--

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MR. HOPPER: I'm sorry, I would need some more details, like I mean, to know about the road itself, the condition. I mean if it's a County-owned the road, then I mean, you know, then the, the County would be responsible for it. If it's a private road, typically the County is not responsible for it, and I can't give much more than, you know, that blanket answer without knowing some more particulars--

CHAIR MOLINA: More research?

MR. HOPPER: --of the point.

CHAIR MOLINA: According to Member Anderson, this is an old government road. Mr. Jencks, can you give additional clarification?

COUNCILMEMBER MEDEIROS: And. . .

CHAIR MOLINA: This is regarding the jeep trail.

COUNCILMEMBER MEDEIROS: Yeah, Mr. Chair, before Mr. Jencks answers. Yeah. Because, you know, there's a lot of roads throughout the County designated old government road. But there's never a clear title or a responsibility to any government agency who has jurisdiction over the road.

CHAIR MOLINA: And who maintains, right?

COUNCILMEMBER MEDEIROS: And who maintains it, who accepts liability. So with that in mind, you know, I think we need more clarification on this, but maybe Mr. Jencks can further comment on that.

CHAIR MOLINA: Mr. Jencks.

MR. JENCKS: I have no indication whatsoever, Mr. Chair, that any of the trails whether they be traditional jeep trails or any other kind of trail is a government road of any kind in this property. It's not recognized as such in the title report or anywhere.

CHAIR MOLINA: Well, what is it recognized in the title report?

MR. JENCKS: Jeep trail.

CHAIR MOLINA: Just strictly jeep trail and that's it?

MR. JENCKS: That's it. Jeep trail.

CHAIR MOLINA: Okay.

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MR. JENCKS: With regard, Mr. Chair, to the, to the connection across the property for Ulupalakua Ranch, indeed we have discussed in this Committee a number of times that agreement. The purpose of that access was for cattle operations, for ranching operations from Ulupalakua Ranch down to Piilani Highway. And the exact alignment of that connection will be on roads built within the project that are yet to be defined, and there will be private roads in the project and it's purely for ranching operations for Ulupalakua Ranch.

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

COUNCILMEMBER ANDERSON: It's spelled out very specifically on an exhibit attached to the agreement, Mr. Jencks.

MR. JENCKS: And, and it's subject to relocation as well within that exhibit and that easement agreement.

COUNCILMEMBER ANDERSON: Okay. Well, I'll, I'll take a look at that, but at any rate there is already an agreement to allow for mauka-makai access for Ulupalakua and their ranching operations and I don't know why they need access to Wailea Ike for ranching operations. But nonetheless if they have it, I think we should be able to access it for evacuation purposes under emergency situations. What are we going to do, say, you know, the public be damned and anybody that has a key to the gate is saved? I don't think so. I mean if there is a mauka route and we are required to provide mauka access. So, you know, here's our opportunity, Members. This property has been undeveloped and if it's going to be developed, now is the time to put that access in place, otherwise it's a lost opportunity.

CHAIR MOLINA: As an emergency route, Member Anderson?

COUNCILMEMBER ANDERSON: Yeah.

CHAIR MOLINA: Okay. Mr. Jencks, can you comment on that consideration?

MR. JENCKS: We have said repeatedly that the roads in the project will be privately built and maintained but open to the public. So in the event...and a good example is, you, you know, you've added a condition in two, in Condition 2 that provides for the extension of the Piilani Highway right-of-way to a point where we can connect with Kaukahi Street. That is an excellent example of thinking forward in providing for access out of Wailea in a mauka direction to Piilani Highway. The, the balance of the roads in the project that would lead mauka, once again, are privately built and maintained but open to the public. The issue you're dealing with here is not in the project, it's the private property that's above Wailea 670 that's owned by another entity with which no one has any control. That's the issue you're dealing with. The property that we're talking about here in this Committee meeting, the roads are privately built and maintained but open to the public. The extension of the highway to the Kaukahi Street extension would provide for access out of Wailea and Makena to Piilani Highway.

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CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: So I would say to that, Mr. Chairman, already on the current zoning under General Standards of Development, it says traditional native Hawaiian beach and mountain access trails across the property shall be provided, and additional access trails may be required as determined by the Council. Our application requirements also call out for identification of traditional beach and mountain access trails and additional trails which may be required for public access to the mountains and, if applicable, a preservation, mitigation plan, comments from...this probably says DLNR, DLNR and the Office of Hawaiian Affairs. . . .(change tape, start 2A). . .you know, we're supposed to be following the law, Members. And, you know, nobody's telling Mr. Jencks he has to do anything beyond his property, but he has to make that connection for us. And if there is a connection that Ulupalakua is accessing, then they should share that connection for evacuation purposes and not just so they can make a quick dash down to their beach property. I've also heard that there is an agreement that Ulupalakua Ranch has made with the new owner of the Silver Cloud Ranch that allows her access to Wailea from Ulupalakua. Now we all know that there is a traditional road from Ulupalakua to Makena and, you know, are we going to leave that to the exclusive use of certain people at the detriment of the public who would need that road for evacuation purposes? So I'm just bringing it forward, Members, here is our opportunity because Wailea 670 is the connecting property and we're required by law to provide that mountain access.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, additional questions for the Deputy Director of Public Works before we move on? Okay. Seeing none, thank you. And we will look at some of those proposals from you, Member Anderson, at a later point.

COUNCILMEMBER ANDERSON: Thank you, Chair. And I'll try to get better maps.

CHAIR MOLINA: Okay. Thank you. Okay. Mr. Miyamoto...Members, with no objections, I'm going to excuse Mr. Miyamoto for the night.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Thank you. Members, let's look at Condition 14 on the golf course water. I have kept Mr. Matsui here as well, and Mr. Taylor from the Wastewater Division is here as well.

COUNCILMEMBER VICTORINO: What page, Chair?

CHAIR MOLINA: Condition 14 can be found on Page No. 8 of your matrix, I believe, Members. And we will look at the Department of Planning's comments as well that tie into 14. So we'll have maybe, Mr. Matsui, if you want to comment first on Condition 14. Staff, can you go ahead and read the condition from I guess the Maui Planning Commission column, which is the second column. I don't see any revised one from the Planning Department, although they do have comments. Staff?

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MS. NAKATA: "That Honua`ula Partners LLC, its successors and permitted assigns, shall use effluent to irrigate the golf course when it becomes available; however, in the interim, Honua`ula Partners, LLC, its successors and permitted assigns, may utilize nonpotable ground water."

CHAIR MOLINA: Okay. Thank you, Staff. Mr. Matsui, do you have any comments from the Parks perspective on this before I call upon Mr. Taylor from the Wastewater Division?

MR. MATSUI: I really don't have comments. You know, I think it's a good idea to use effluent to irrigate the golf course.

CHAIR MOLINA: Okay. Thank you, Mr. Matsui. Members, questions for Mr. Matsui? If not I will excuse Mr. Matsui for the night. I don't believe...well, I don't see any other conditions left that we would need Mr. Matsui for any questions. So you are, you have been dismissed, Mr. Matsui, unless, Members, you have a dire need for him to stay with us. Thank you for your time. Mr. Taylor, you can come up and join us? Okay. Mr. Taylor, your comments on Condition 14 regarding the use of the golf course and water irrigation and, I guess, the use of effluent water?

MR. TAYLOR: We, we completely support the use of effluent for golf course irrigation.

CHAIR MOLINA: Okay. Thank you, Mr. Taylor. Deputy Director Suyama, you made comments on the proposed condition. Can you elaborate on that with the Committee? I believe we did discuss it on August 1<sup>st</sup>. Refresh our memories with your comments.

MS. SUYAMA: It, it was not just specifically to the golf course that we were talking about that if you're going to use effluent for irrigation purposes, as much as possible you would want to use it throughout the project district especially for the, you know, in the residential areas for the landscaping, at least for like the street landscaping. And what we're saying is that in order to do that the Applicant should be doing like a dual irrigation system so that when effluent is available you can easily hook into a dual system. Because if you depend on, once the subdivisions are built, that the associations are going to get the monies together to build the dual system, it's probably not going to happen unless, you know, the infrastructure is put in from the onset. And that was our comment.

CHAIR MOLINA: Thank you, Director. Committee Members, questions or comments related to Condition 14? Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. I recall Mr. Jencks telling us that he intends to put dual lines in and. . .but I think it's very good to spell it out. So I just want to make certain that we're looking at Condition 14 in Column 1, not Condition 14 in Column 2. Is that correct?

CHAIR MOLINA: We are looking at the Maui Planning Commission at this point. That would be in the second column, yeah, so. . .

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COUNCILMEMBER ANDERSON: Oh. I'm sorry second--

CHAIR MOLINA: Yeah.

COUNCILMEMBER ANDERSON: --yeah.

CHAIR MOLINA: Second column. And if the Members or if you would like to propose we include language that requires the developer to do the dual irrigation line. Mr. Jencks, any comments?

COUNCILMEMBER ANDERSON: Chair, I wasn't finished.

CHAIR MOLINA: Oh. Go ahead, Member Anderson.

COUNCILMEMBER ANDERSON: I was just wondering since we have Mr. Taylor up there, you know, we have R1 and would it be better to say R1?

CHAIR MOLINA: More specific rather than just using the word effluent?

COUNCILMEMBER ANDERSON: Yeah.

CHAIR MOLINA: Mr. Taylor?

COUNCILMEMBER ANDERSON: And, and also do we want to spell it out that it would be from the Kihei Wastewater Plant? Because I know Mr. Jencks wants to use the effluent from his wastewater plant. But it could be many years down the road before he has enough effluent from that plant to utilize. So I'm just wondering how we would word this in a manner that would take care of both those issues.

CHAIR MOLINA: Mr. Taylor, comments?

MR. TAYLOR: I think you have two separate issues there. The first question about whether or not you would specify R1. Either R1 water or R2 water would be, could be used for irrigating that golf course or, or greenways depending on the system that was built. So I think if you just say effluent, all of a sudden the Department of Health reuse rules take into effect--

COUNCILMEMBER ANDERSON: Right.

MR. TAYLOR: --and they just have to meet those. So I don't think you need specify R1 or R2 or R3.

COUNCILMEMBER ANDERSON: Okay.

MR. TAYLOR: And as far as your second question, I think that dovetails onto Condition 16 about their requirement whether or not they're going to build their own plant or tie into ours and, and fund

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portions of it. So perhaps the Council may want to revisit that issue after you discuss Condition 16.

CHAIR MOLINA: Fourteen.

COUNCILMEMBER ANDERSON: Well, you know, my concern with that, Mr. Chairman, is that they're going to do the golf course first and, you know, we're telling them to use effluent to irrigate the golf course. But it may not work out for them because they won't have enough effluent from the sewage treatment plant to irrigate the golf course until they've built a number of the units, and there. . .and I don't know how many units that would take. But they've already told us they're only, they're only going to build 100 units per year. So in the meantime, it's my understanding that Mr. Jencks intends to use the brackish wells that are currently on the Wailea 670 project to irrigate the golf course until they get enough effluent and then, I don't know, mix it, you know, then they're going to have their--it's all very confusing because we don't have a plan for us to look at. You know, then they're saying once they get their desalinization plant up and running and they have enough waste from that plant, they'll be mixing the waste with the brackish water that they have currently wells on the Wailea 670 project drilled for in order to--what do you call?--dilute the brine water from the desal plant so that they can either use it for irrigation, put it in ponds, inject it. We don't know yet what they're planning to do. So those are my questions.

CHAIR MOLINA: Okay. Mr. Jencks, can you provide us more specificity on this?

MR. JENCKS: Thank you, Mr. Chair. I did say at an earlier Committee meeting that the intent of the project would be to install three different systems: a domestic supply system that would be most probably reverse osmosis water at some point in time; a, a nonpotable water system as opposed to a reclaimed water system; domestic supply, nonpotable supply for domestic use for irrigation purposes because you can't use effluent for domestic purposes in all situations, it's fairly restricted by the Department of Health; and then, once again, the effluent line that would deliver water to certainly the golf course and any other areas where we have the need to irrigate that's, that meets the guidelines from the Department of Health--you know, parkways, median strips, that kind of thing. You can use that kind of water, I'm pretty sure. So that's the intent and the, the main supply and systems that would serve those areas would be installed as a part of the baseline infrastructure. And then as you develop neighborhoods, then you would tie into those systems, bring the domestic water in, bring the nonpotable water in. You probably wouldn't have an application for reclaimed water given the guidelines from the Department of Health. But it's a three, basically a three-tiered system, that's our intent.

CHAIR MOLINA: Okay. Thank you, Mr. Jencks. I note that you have, I guess in your version of the condition, you have that recommendation where you've added to the Maui Planning condition, condition where your organization its, its successors may include nonpotable ground water in the event that you don't have effluent at the time.

MR. JENCKS: That's correct.

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CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. That's just what I was going to get to is, so you feel that you have enough brackish water in the two wells that you currently have on Wailea 670 property? This is different from the new wells they did on Haleakala property for, for domestic use?

MR. JENCKS: Yes.

COUNCILMEMBER ANDERSON: So you feel there's enough water there to get your golf course up and going until you have enough effluent from your wastewater system?

MR. JENCKS: Yep.

COUNCILMEMBER ANDERSON: Okay.

CHAIR MOLINA: Okay. Thank you, Member Anderson. The Chair would like to recommend maybe what we do is we incorporate the language from the Applicant's condition, add to it to the Maui Planning condition where it says nonpotable ground water may be used. Oh, maybe it's already there, may utilize nonpotable ground water. . .I guess in the event that there isn't any effluent. And also include language for the dual irrigation line. Members, is that something you'd like to consider? So that way we have assurances that the Applicant would do the dual irrigation line which he has agreed to do. Staff, can you incorporate that language into Condition 14?

MS. NAKATA: Okay. So as far as incorporating the Applicant's language, are you just suggesting that "for this purpose" be added on to the end of that sentence?

CHAIR MOLINA: . . .*(Inaudible)*. . .

MS. NAKATA: They utilize nonpotable ground water for this purpose?

CHAIR MOLINA: Yeah. Add the words "may be used for this purpose".

MS. NAKATA: And then from the Planning's comments, something along the lines of "the dual irrigation line within the project shall be built as each individual development occurs to ensure that a system will be in place once the dual line is constructed in the area."?

CHAIR MOLINA: That is correct. So again, Members, we have, just to go over what Staff is going to incorporate. The underlined words from the Applicant in the third column, we'll add the words "may be used for this purpose.", and then we'll incorporate the language that Staff went over with regards to the dual irrigation line. Is everybody clear on that? Member Anderson?

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COUNCILMEMBER ANDERSON: Chair, I got a problem with the Department's language, although I, I'm appreciative of it and I agree with it. We just had Mr. Jencks tell us that their intention is to put in three lines. So I think what we should, we should spell that out.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: The Applicant shall--

CHAIR MOLINA: Build.

COUNCILMEMBER ANDERSON: --thanks, install--

CHAIR MOLINA: Install.

COUNCILMEMBER ANDERSON: --a domestic water supply system line, a nonpotable supply, water supply system line, and an effluent supply system line.

CHAIR MOLINA: And where would you like those words inserted? Right after. . .

COUNCILMEMBER ANDERSON: Oh. Wherever it fits good. . . *(inaudible)*. . .

CHAIR MOLINA: Okay. Staff?

MS. NAKATA: Mr. Chair, is this condition specific to irrigation?

CHAIR MOLINA: I believe Mr. Jencks said he would choose from either one of those three sources as part of this condition.

VICE-CHAIR PONTANILLA: Not potable.

CHAIR MOLINA: Staff, you know what, do you need a little time? Maybe we can work with you. Members, let's take a short recess and then we'll have Staff work on this language. Why don't we take ten minutes. This meeting is in recess till 7:30. . . *(gavel)*. . .

**RECESS: 7:20 p.m.**

**RECONVENE: 7:35 p.m.**

CHAIR MOLINA: . . . *(gavel)*. . . This Committee meeting of October 18, 2007 is now back in session. It's 7:35, Monday night, October 29<sup>th</sup>. Members, we've worked out some simplified language for Condition 14 related to the use of effluent water for the golf course. If I could have Staff read the proposed language that we worked out with Member Anderson as well, it might be a little bit more simpler and to the point.

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MS. NAKATA: "A nonpotable water supply system shall be utilized for all irrigation purposes."

CHAIR MOLINA: Okay. Members, did you hear that? Or was that too quick for you?

COUNCILMEMBER BAISA: I'm sorry, one more time.

CHAIR MOLINA: Okay. Member Baisa is requesting a repeat, Staff. And also Mr. Taylor was involved in helping us craft the language as well. Staff, can you go ahead and repeat the proposed reworded condition for No. 14?

MS. NAKATA: "A nonpotable water supply system shall be utilized for all irrigation purposes."

CHAIR MOLINA: Okay. Thank you. And with regards to the issue of the dual line, I believe Mr. Taylor informed us that any type of nonpotable use, it'll be assumed that the Applicant will have to put in a dual line anyway. Is that...I just want to confirm that with you, Mr. Taylor.

MR. TAYLOR: That's correct.

CHAIR MOLINA: Okay. Thank you. So it encompasses every concern at this point that we had discussed. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Just so that I'm clear on this condition because I know there was earlier discussion with Mr. Taylor about effluent, and if I heard it right or wrong. Was there a discussion to connect to the wastewater plant?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: Whether or not it's connected to the wastewater plant, it will be part of Condition 16 and 17. But regardless of whether, what the Council decides on that, this condition would basically require that some sort, some type of nonpotable water be used for irrigation.

COUNCILMEMBER MEDEIROS: So it's my understanding from the discussion that the Applicant will follow this condition, but with on-project sources? Is that correct?

CHAIR MOLINA: I believe so, Mr. Medeiros. Let's bring the Applicant up to clarify that. Mr. Jencks, can you respond to Mr. Medeiros' inquiry?

MR. JENCKS: Our proposal and assumption at this point is that this system will be on-site, operated and managed by, managed by the project.

COUNCILMEMBER MEDEIROS: Okay. If Mr. Jencks can stay there. So if, if there's a condition or the Applicant is made to connect to our wastewater plant, will he have to assume the cost of doing that?

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CHAIR MOLINA: Yeah. Mr. Medeiros, before you go on I believe that was related to Condition 16--

COUNCILMEMBER MEDEIROS: Okay.

CHAIR MOLINA: --and 17.

COUNCILMEMBER MEDEIROS: And you're going to go to that?

CHAIR MOLINA: Yeah. We'll go to that. But if we could take care of Condition 14 first and because I have Mr. Taylor here I wanted him to address that, those two conditions which we did pass by consensus. However, he did want to offer some comments on that. I believe he was unable to give some comments on the action that we took the last time. So--

COUNCILMEMBER MEDEIROS: Okay. Thank you. Yeah.

CHAIR MOLINA: Any other--

COUNCILMEMBER MEDEIROS: No. That's all until that condition comes up. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. And thank you, Mr. Jencks. So, Members, any objections to the reworded condition for No. 14?

COUNCILMEMBER BAISA: No objections.

CHAIR MOLINA: That we. . .*(inaudible)*. . . Member Anderson?

COUNCILMEMBER ANDERSON: I thought we were going to also add in that effluent from the Kihei Wastewater, Kihei Wastewater Facility--oh dear, we changed this too many times--that effluent from the Kihei Wastewater Reclamation Plant shall be utilized for dust control during construction. And the reason I want to call that out, Mr. Chair, if. . .you know, that's Condition 15.

CHAIR MOLINA: Fifteen. Uh huh.

COUNCILMEMBER ANDERSON: Ms. Nakata was mentioning during the break that we could combine those two conditions.

CHAIR MOLINA: So eliminating Condition 15, basically?

COUNCILMEMBER ANDERSON: Eliminating it, but combining that request into 14?

CHAIR MOLINA: Okay. So leaving in Condition 15, but adding additional language to Condition 14?

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COUNCILMEMBER ANDERSON: Yeah. I mean I think it's really important, Mr. Chairman, that we...here's an opportunity for us to use that R1 water and not inject it into the, into the ground. And Mr. Taylor had told us some time previously that, you know, they are, maybe it wasn't you, maybe it was Milton Arakawa. Anyway, someone told us that I think Public Works said that they are requiring people now to take their trucks and use the R1 water. So, you know, during construction they aren't going to have effluent from their own plant to use for dust control, and I just assume they not use their brackish water for dust control, they'll be using that to irrigate with. And here's an opportunity for us to get some of that R1 water out of the injection wells and used in a positive manner.

COUNCILMEMBER VICTORINO: Mr. Chair, point of order.

CHAIR MOLINA: Mr. Victorino?

COUNCILMEMBER VICTORINO: I..I get so lost that I don't know. But I thought if I go over to Column 4 we had consensus on 8/3, "That during the construction all dust control shall utilize nonpotable water or effluent, which shall be obtained from the Kihei Wastewater Reclamation Plant."

CHAIR MOLINA: ...*(inaudible)*...

COUNCILMEMBER VICTORINO: It's there and I thought that we had consensus on that from the 8/3 meeting?

CHAIR MOLINA: No, no. Yeah. We're, we're just, what Member Anderson is looking is incorporating some of the same language in 15 to put that into 14. That's what she's asking--

COUNCILMEMBER VICTORINO: Well that's 15--

CHAIR MOLINA: --to consider.

COUNCILMEMBER VICTORINO: --oh, well, okay.

CHAIR MOLINA: Yeah. We're still on Condition 14, Mr. Victorino, yeah. We haven't...well, the Chair doesn't intend to look at Condition 15. But she, I guess because it's below Condition 14, Member Anderson is asking to incorporate some of the language to use some of the effluent water to add to the condition that some of the effluent water from the Kihei Wastewater Reclamation Facility can be used for irrigation purposes as well. Am I correct on that, Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. And, and Member Victorino is right, I mean that language we already got a consensus on, but--

CHAIR MOLINA: Right.

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COUNCILMEMBER ANDERSON: --then if you look above in the very first column at the bottom. Dust control, it says consider in combination Conditions 10 and 14. You know, this is getting so confusing, but as long as we keep that language I don't care if it's a different, a separate condition or not. But I just want to make sure that they're using the effluent from the wastewater treatment plant.

CHAIR MOLINA: Okay. What is the pleasure of the body? Would it, do you guys want to incorporate that additional language into 14 as Member Anderson is suggesting? The Chair is open--

VICE-CHAIR PONTANILLA: Chair.

CHAIR MOLINA: --to either proposal. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: The topic dust control, I think it's more clear if you leave it in 15.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER VICTORINO: Yeah. Just leave it be where it is.

CHAIR MOLINA: Yeah. But I think Member Anderson's request wasn't related to dust control, it was more for irrigation to get that water from the Kihei Wastewater Reclamation Facility.

COUNCILMEMBER ANDERSON: No. No. It was for dust control.

CHAIR MOLINA: Was it for dust control as well?

COUNCILMEMBER ANDERSON: I'm fine leaving it where it is, Chair.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR MOLINA: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Maybe ask--I even forgot your name, see.

CHAIR MOLINA: Mr. Taylor. Okay. Mr. Taylor, can you comment?

COUNCILMEMBER VICTORINO: Mr. Taylor, I'm sorry. I'm sorry. I'm sorry. Go ahead.

MR. TAYLOR: Thank, thank you, Chair. As far as a comment, I just want to put out, not leading you to make a decision one way or another, but just remember that when you irrigate with R1 water from the treatment plant in trucks, you are burning diesel fuel, you're running trucks up and down the highway and they're not very big. You're making a lot of trips with trucks. I did hear the Council mention earlier a concern about, you know, running trucks up and down the highway

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and traffic and those kind of things. These environmental issues are not simple and I just want to point out there is a negative drawback to irrigating with, with trucks from the Kihei Treatment Plant versus using a nonpotable source on-site. So that's a difficult balance and I'll leave it up to the Council to, to weigh that in their best judgment.

CHAIR MOLINA: And I believe the Applicant mentioned that they could use some of their brackish water on-site as well. Member Anderson?

COUNCILMEMBER ANDERSON: Oh, dear. He brings up a good point. I just hate seeing that, I mean, you know, I would rather see them burn diesel fuel than inject more nutrient rich R1 water that is going to further degradade [*sic*] our reef. I mean, you know, what do we give up here? Do we give up the coral reef--

CHAIR MOLINA: So the lesser of the two evils.

COUNCILMEMBER ANDERSON: --or do we, you know. . .

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR MOLINA: Hang on. Mr. Victorino?

COUNCILMEMBER VICTORINO: I have a question for Mr. Taylor since we are bringing this up. How much or how far is from where we end right now with our R1 water outside of the Kihei Treatment Plant to this project?

COUNCILMEMBER ANDERSON: Not very far.

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: The R1 system just stops right outside the treatment plant and it turns north. So I don't know how far it is from Welakahao Road to the project site, probably, probably about three miles I would guess. I'm not sure if Mr. Jencks, he's shaking his head. So probably around three miles.

COUNCILMEMBER VICTORINO: Around three miles. Okay.

COUNCILMEMBER ANDERSON: And, and, Chair, I don't know if there's a possibility that they could access the property from the reclamation plant mauka. I mean maybe, you know, there's a possibility Haleakala Ranch would allow them that access.

CHAIR MOLINA: Let me ask Mr.--

COUNCILMEMBER ANDERSON: You know, there's all kinds of ranch roads up there. I don't know, maybe there is a way they can access the property without having to go on the highway.

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CHAIR MOLINA: Let me ask Mr. Jencks if he can give some added insight onto this matter. Mr. Jencks, can you respond to Member Anderson's comments regarding I guess access as in, I guess, a route for these trucks to deliver the reclamation water?

MR. JENCKS: Certainly. The reclamation facility is bounded on the mauka side by land, it's owned by Haleakala Ranch, and that land goes all the way up to basically Kula Highway. I'm not sure what the elevation is of the reclamation plant, but to get over the top of Maui Meadows and back down to the project is a significant gain in elevation. The top of Maui Meadows is at about 600 feet; I would guess that the plant is at maybe 100 feet--I'm, I'm not sure--above sea level. So it's a significant gain and a very large cost to pump water, that elevation. We were just talking about the number of gallons per day. If we were, if we were looking at maybe 100 trips per day, if we were going to haul water from the treatment plant and use it for dust control purposes, that's 100 truck trips per day. That's a significant amount of diesel fuel and traffic you're adding to the highway, which translates into more cost for everything. On the other hand using the, the existing nonpotable wells during the course of construction makes a lot of sense from that standpoint. Condition 15, as it reads right now, says "That during construction all dust control shall utilize nonpotable water or effluent, which may be obtained from the Kihei Wastewater Reclamation Facility when available." If you leave it just the way it is, it creates some flexibility for us. If there's an opportunity to the water, to use the water, fine, but it gives us some flexibility there.

CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: You know, I, I guess I have to concede on practicality, 'cause I sure don't want to see 100 trucks driving down that road every day. But that means, Mr. Taylor, that we're going to be very aggressive in getting this R1 water out of those injection wells. And if that means the Water Resources Committee and the Budget and Finance Committee finding a way to get some more lines in, then I guess that's what we need to do. And we won't make Charlie the fall guy.

CHAIR MOLINA: Thank you, Member Anderson. All right, Members, so we will. . .if there are no objections, the Chair would like to leave the condition as modified, Condition No. 14. Member Baisa, any comments?

COUNCILMEMBER BAISA: No.

CHAIR MOLINA: No?

COUNCILMEMBER BAISA: No objections.

CHAIR MOLINA: All right. Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. No.

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CHAIR MOLINA: All right.

COUNCILMEMBER ANDERSON: No objection.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: RH, JJ, DM).

CHAIR MOLINA: Okay. The Chair will entertain, I guess, a motion to accept Condition 14 as modified.

COUNCILMEMBER MEDEIROS: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR MOLINA: Okay. All right. Where do we start? Okay. We'll go with Member Medeiros making the motion, seconded by Mr. Victorino. Any discussion? Okay. Seeing none, we will accept condition with the, Condition 14 with the modified language as read by Staff. Okay. Thank you, Members. Okay, and, Members, we have, since we have Mr. Taylor here, he did bring up an issue regarding conditions--

VICE-CHAIR PONTANILLA: Chair.

MS. NAKATA: Excuse me, Mr. Chair.

COUNCILMEMBER ANDERSON: Fifteen.

MS. NAKATA: Can Staff just clarify?

CHAIR MOLINA: Oh, okay. For the record, the vote we have ayes from Members Anderson--

COUNCILMEMBER VICTORINO: You didn't call for the vote.

VICE-CHAIR PONTANILLA: Call for the vote.

CHAIR MOLINA: Oh, we didn't, we didn't take the vote?

COUNCILMEMBER BAISA: No. We didn't.

CHAIR MOLINA: Oh. I'm sorry. I'm sorry. Getting ahead of myself. Okay. All in favor of Condition 14 as modified, signify by saying aye.

COUNCIL MEMBERS: Aye.

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CHAIR MOLINA: All those opposed? Okay. Chair marks it six ayes; three excusals, Members Mateo, Johnson, and Hokama.

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

**NOES:**       **None.**

**EXC.:**       **Councilmembers Hokama, Johnson, and Mateo.**

**ABSENT:**   **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

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

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: Before you go on to 16, maybe we should reconsider 15 because we had gotten a consensus that they shall use Kihei Wastewater effluent. And if we go back to the original 15 from the Planning Commission, as Mr. Jencks just read it, that gives them the option of using nonpotable or effluent. And that way as long as they have nonpotable on-site and they're able to use it, then they have that option. And I guess, you know, given what we just heard that's probably the smartest thing for us to go with.

CHAIR MOLINA: Okay. So you're asking for a reconsideration of Condition 15? I think, did we just move that out as consensus, Staff? Or there was no formal vote taken on 15, am I correct?

MS. NAKATA: Yes. Just consensus.

CHAIR MOLINA: Okay. So we can just go ahead and discuss it without having a formal motion to consider. So if you want to go ahead and modify, propose to modify 15, Member Anderson.

COUNCILMEMBER ANDERSON: Well, I would just make a motion that we accept Condition 15 in Column 2, which would then override the consensus we had previously done.

COUNCILMEMBER VICTORINO: Second.





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CHAIR MOLINA: Okay. Mr. Taylor, we'd like to hear from you with regards to these two conditions, they're both related. I guess your concern related to the language of the conditions?

MR. TAYLOR: Yes. Thank you, Mr. Chair. We feel that the combined language of Condition 16 and 17 at this point needs some clarification because as they stand. . .do not really direct what type of wastewater system there would be as far as would it be tied to the County system or not, and whether or not there would be a reclaimed water system built back from the Kihei Treatment Plant or not. It, it sort of leaves, it sort of leaves a lot of question as to exactly what is supposed to be built and, and what isn't.

CHAIR MOLINA: So you're saying it's very open-ended the way you interpret it?

MR. TAYLOR: It's opened-ended and, and isn't really consistent with any, with any system that will end up being built. It doesn't really define what to do and it doesn't, yet it doesn't, it doesn't allow options. So as it stands now I'm not sure that anyone really knows what it means.

CHAIR MOLINA: Okay. I, I believe the Applicant--well, that's putting it bluntly--I believe the Applicant stated he wanted to build their own wastewater system. And I personally would support that rather than the County spending, you know, the money for, you know, expanding our capacity for this potential project should it pass. Mr. Jencks, do you have anything to add just to make sure we clarify on record? Your application does say you are requesting that you are building your own private wastewater treatment plant. And are we correct?

MR. JENCKS: That's correct, Mr. Chair. I think if you look at it from a cost point of view, the cost to build a plant in the project to serve the project makes far more sense economically from an energy point of view and a cost point of view than extending lines down Piilani Highway with all the issues associated with that issue: pumping, wastewater, and the continued, greater exposure to the public.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: Greater exposure to the public?

MR. JENCKS: Pump failures, spills, easier to manage in the project.

CHAIR MOLINA: Okay. So, Members, as we look at the conditions I don't believe, well, the Applicant's version of it. . .I don't see anything specific where everything's going to be laid on the Applicant's shoulders as far as building their own private wastewater plant. So maybe we should consider incorporating specific language. Mr. Pontanilla, you had a question? Thought I heard from you. Followed by Member Anderson.

VICE-CHAIR PONTANILLA: Which one we're looking at, 16 or 17?

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CHAIR MOLINA: Well, 16 for now. Okay. We'll, we'll take them one at a time. But Mr. Taylor wanted a discussion for both 16 and 17. So for now let's look at 16. Mr. Taylor.

MR. TAYLOR: Mr. Chair, may, may I elaborate on my--

CHAIR MOLINA: Sure.

MR. TAYLOR: --my concerns? The, the language for 16 basically says that the developer shall participate in their fair share of development and funding of the wastewater and the effluent transmission system between the project site and the Kihei Wastewater Reclamation Facility.

VICE-CHAIR PONTANILLA: Right.

MR. TAYLOR: "Fair share" usually means that the County is building a project and each developer contributes a portion of the money. But the County currently has no plans to build any such project and there are no other developers planning on developing mauka of the highway in that area. So we're a little confused in what their fair share would be and that what, would that, would that indicate that we, the County, as a CIP project are supposed to build something and then charge them a portion? Because that's usually what "fair share" means. And then we're a little more confused is what if we don't build the system? Then there is no fair share. Does this mean that the developer can't build the project until we do a CIP project? And, and that's really where the, where the, where we think the clarification needs, where we need this clarified, 'cause we're really unclear about what our responsibility is as the Division to do a CIP project or not.

CHAIR MOLINA: Okay. Thank you, Mr. Taylor. I guess with the term "fair share" it's assumed that the County will cost share with the developer and I, for one, would prefer the developer taking on the cost completely. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yeah. I think when Mr. Taylor was here last, we talked about and he indicated that today's technology in regards to water treatment or wastewater reclamation facilities are good, better than good, they're excellent because of the new technology. And when we last met I, we were looking at a backup, I guess, and the backup would be a CIP project by the Environmental Management Department. But according to Mr. Taylor right now, you know, we don't have any CIP planned for that area in regards to a transmission system. So I think what Mr. Taylor told us the, previously in regards to, you know, wastewater treatment plants, the technology, technology has changed, they're very efficient. Probably cost savings, too.

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Member Anderson? You, you need more time?

COUNCILMEMBER ANDERSON: No. I think I got it.

CHAIR MOLINA: Okay. Go ahead.

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COUNCILMEMBER ANDERSON: Thank you, Chairman. You know, the condition that currently runs with the land, and I think this was one of the concerns with--here we go--that Chair Hokama had is that, you know, when we build a waste, a wastewater reclamation plant, we build it with a certain amount of capacity in mind and a certain amount of shared costs. And the idea being that as other projects come online that are, that have been planned and designated when you build that plant, you know that there are so many units designated to be developed in that area. And so as these new projects come online they're supposed to pay their fair share into that system so that we further distribute the cost of the system in an equitable manner. And, you know, I know they're saying that they don't have any intentions to further expand the system at this point, but that doesn't mean that it won't ever expanded and that...I mean have you seen, Mr. Taylor, the long-range planning map for West Maui and all the mauka development that is planned? And we certainly are going to have to expand the wastewater treatment plant or build another one to accommodate that growth if that growth indeed is going to happen. And I would venture to guess that Wailea Resort or, you know, all that new stuff that's coming online, aren't they tapping into the sewage system right now? So, you know, are they paying a fair share cost for that? They are? They're paying into it?

MR. TAYLOR: They are, they are paying as everyone else. They're paying the designated impact fees by ordinance.

COUNCILMEMBER ANDERSON: Okay. So, you know, obviously there isn't enough capacity currently in the, in the system to allow Wailea 670 to come on board, is that correct?

MR. TAYLOR: That is not correct. There is enough capacity to allow them on board.

COUNCILMEMBER ANDERSON: There is? So then the, the only glitch would be that they would have to put in transmission lines to the system and pay their impact fee, their fair share of the impact fee?

MR. TAYLOR: That's one of the glitches.

COUNCILMEMBER ANDERSON: And so, you know, this, Members, is the current zoning that runs with the land which was done in 1980...1992. And the language says, "The development shall not burden government agencies to provide substantial infrastructure improvements.", meaning that they have to pay. . .if there's any burden on government facilities, they have to pay for that burden and assume the cost. And, you know, I just have a hard time with, with us privatizing municipal services. Just because the technology is there, we don't know what the cost is, we don't know, you know, what the cost is going to be to the individual homeowners to maintain the system. We don't know what the disposal method is, we basically know nothing about the system. And so that's my recollection of why we put this condition in that they would have to, you know, pay their fair share cost to connect to the system. If they're tearing up the roadway, I don't know, you know, how much of a burden it would be to put lines in.

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But, you know, I'm not going to fight the issue, Mr. Chairman, if, if nobody else cares to fight it. But if that's the case, if we're going to allow them to do a private system, then I certainly think that we need to have, based on our, again, Members, our application requirements. . .Item 14, Section 19.510, Application and Procedures, "Sewage disposal analysis, a description of a proposed method of sewage disposal, and comments, if applicable, from the departments of health and land and natural resources of the State and departments of public works and water supply of the County." And so I would be proposing a condition to that extent, Mr. Chair, that they would have to provide that analysis that has been reviewed and commented on by the required agencies prior to Phase II approval so that it could be submitted to the Council for our review and subject to any additional conditions or amendments that the Council might deem appropriate based on the sewage disposal analysis, which we don't have today, for a private wastewater system.

CHAIR MOLINA: Okay. Members, you have heard the consideration from Member Anderson. This would be for Condition 16 only or to also--well, when we get to 17. That is a consideration for 16 from Member Anderson. Is there any second?

COUNCILMEMBER ANDERSON: Chair, before we go there I would like to hear other Members. I'm sorry Mr. Hokama is not here because he felt very strongly about requiring them to participate in the Kihei Wastewater Facility. Thereby, you know, if they don't need to expand it for capacity and they have to...what would the, what would the impact fee be, Mr. Taylor, for 1,400 units?

CHAIR MOLINA: Mr. Taylor?

MR. TAYLOR: I believe the impact fee at the treatment plant is, I think it's around 5 or \$6 times 350, so maybe...it's, it's about \$2,000 a house, something like that, for the treatment plant.

COUNCILMEMBER ANDERSON: So that doesn't seem in the bigger scheme of things to be that much money.

MR. TAYLOR: Well, I--

COUNCILMEMBER ANDERSON: I mean obviously they're going to have to spend that, way more than that to develop their own system.

MR. TAYLOR: And I think, Member Anderson, that's really the point is that the impact fee was passed by ordinance and it was based on a construction project done in the mid '90s that expanded the plant some gallonage of capacity. And the impact fee was designed to recover the original principal of the construction project but not the interest. As we all know when we float bonds on a project we basically, over 20 years, pay back about twice as much as the original principal. So the impact fees, first of all, only, only recover about half of the money we expended, it's only the principal, not the interest. And second, if we were going to expand the treatment plant again, we've already expanded it basically to its fence lines. The next expansion would be far more expensive, not just because of inflation, but because it would be a very difficult project. So the

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value of keeping that capacity is far greater than the impact fees we'll collect. Because for the money we collect we can't expand it that much again. So we're very concerned, not about this project, but about the next project and the project after that. And we're especially concerned about saving capacity for infill within Kihei.

COUNCILMEMBER ANDERSON: Like a high school?

MR. TAYLOR: Like a high school or development down on Kanani Road or somewhere in Kihei where they can't build their own treatment plant. And if we let projects, sort of on the, on the periphery of the, of the town, fill the collection system in the treatment plant, how are we going to deal with infill? We're going to have to dig up all the roads, we're going to have to dig up South Kihei Road and it's going to be a nightmare. So the best way to deal with it--and the impact fees don't collect enough money to do the next expansion which would be far more than the last one. So that's kind of how the economics work and that's why that the money is much smaller that we collect in impact fees than what it would cost to expand the plant again. And that's why we're trying to be careful about, you know, not collecting a little bit of money now and having a big financial problem later.

COUNCILMEMBER ANDERSON: Right. And so then are you saying, Mr. Taylor, that any future large scale development in South Maui, you know, going north we would have to develop a new wastewater treatment plant?

MR. TAYLOR: In general, I don't want to say any, I don't want to--

COUNCILMEMBER ANDERSON: Right. Right. Right. Right.

MR. TAYLOR: --talk in total generalities.

COUNCILMEMBER ANDERSON: But--

MR. TAYLOR: But--

COUNCILMEMBER ANDERSON: --large scale.

MR. TAYLOR: --a large project that's sort of far away from the treatment plant, that's on the outskirts of town would economically be better off to build its own plant, do 100 percent reuse for irrigation because that's where the irrigation opportunities are, and not waste the money building transmission systems to move all the wastewater to the plant and then another transmission system to move all the, all the reclaimed water back with long-term electrical costs. So this decentralization of wastewater treatment is definitely, in our opinion, the best way to maintain reliable wastewater treatment plants, have efficient use of economy, and increase the total amount of wastewater that is reused. And just to add, I just returned last week from the National Wastewater Conference, and this concept of decentralization is core in almost every community across the Country for exactly the same reasons that we're looking at: to have developers pay

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for their own infrastructure, to increase the use of reclaimed water, and to decentralize having more redundancy and make things more efficient and not have long-term operation and electrical costs. So this move to decentralize wastewater is very common and I was unable to find a single community that's going in the opposite direction. So it's not just us, everyone has the same problems and everyone is looking toward the same solutions.

COUNCILMEMBER ANDERSON: And so high electrical costs are a big consideration?

MR. TAYLOR: They're a huge consideration--

COUNCILMEMBER ANDERSON: Yeah.

MR. TAYLOR: --because moving water costs a lot of money and to bring it from the, the outskirts of town to the center and then pump it all the way back, as you've heard before, that's the main reason that the reclaimed water systems haven't been expanding is because the irrigation opportunities are on the outskirts of town and the treatment is at the center. So the answer is to have distributed decentralized treatment and use the water, treat the water, reuse the water in the same location, and then all of a sudden all the distribution costs disappear. And the only reason it wasn't done in the past is there wasn't reliable technology for small plants and that is completely reversed where now the small plants have a newer technology that's frankly more reliable than, than what we have at our treatment plants. So the whole nation is kind of reversing this trend toward centralization and these decentralized smaller treatment plants is really where all the small communities like ours are going.

COUNCILMEMBER ANDERSON: Okay. Thank you, Mr. Taylor. In that, in that case, Mr., Mr. Chair, I would like to propose a condition to replace--

CHAIR MOLINA: Condition 16?

COUNCILMEMBER ANDERSON: --16, I guess and 17.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: I don't really see the difference in 16 and 17. Does any...

CHAIR MOLINA: Yeah. I believe we had discussed that 16 and 17 be consolidated. Am I correct, Staff? I think if we look at that column it does make reference to that, 16 and 17 would be possibly consolidated. So they are both related. Go ahead, Member Anderson, with your consideration.

COUNCILMEMBER ANDERSON: If I could have Staff pass this condition out to the Members.

CHAIR MOLINA: Okay.

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COUNCILMEMBER ANDERSON: Or I can just pass it down since we're all right here. And then maybe she can...I'll read it into the...well, I'll wait for everyone to get it.

*(note: long pause)*

COUNCILMEMBER ANDERSON: Ready?

CHAIR MOLINA: Okay. Go ahead, Member Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chairman. This is based, this condition is based on the application requirements, Members. And so that's why I think it's very important that we do it not only because it's a requirement of the application, but also because we are going to be having affordable units in this project, and I think we need to know what the cost is going to be to those people who will be living there. The condition reads Honua`ula...oh, I'm just going to say "Wailea 670, its successors and permitted assigns shall provide a Sewage Disposal Analysis that has been reviewed and commented on by the Department of Health and the Department of Land and Natural Resources of the State and the Department of Public Works and Water Supply of the County prior to Phase II approval. The Sewage Disposal Analysis, along with reviews and comments, shall be submitted to the Council for review and project shall be subject to additional conditions or amendments by Council if warranted by Sewage Disposal Analysis.

Now that, Members, gives us the opportunity to have this information in a manner that allows us to make any changes necessary, conditions, you know. You know, folks, analysis. . .I mean just the definition of what an analysis is means that you have hard data to analyze. We don't have any hard data at all. You know, the application said, you know, instead of a sewage disposal analysis, it just said the Applicant is going to provide their own private system. Well, you know, that's great but how are they going to do it? What's the cost of developing it? What's the cost of operating it? How are they going to dispose of the effluent? At what level are they going to treat it? I mean those are all things that need to be spelled out in an analysis and that way we know as the decision-makers what it's going to be and, and we would, we are not now. . .by accepting this condition we are not forgoing our option and our opportunity according to the application requirements to review that analysis and make conditions as necessary prior to Phase II approval. Because since we don't have it now, I'm just trying to force the application requirements in a manner that should this project go forward we still have the option to take a look at it and make sure that everything is in place in a manner that's not going to be detrimental to the environment or detrimental to the homeowners who live there or surrounding homeowners or the near-shore waters due to injection wells. And those are all things we should know, we should have known it with the application, Chair. We don't know it now and I think it's irresponsible to just pass this through without having the opportunity for not only us to review it, but the Department of Health and DLNR and our own County Public Works Department as required in Chapter 19.

CHAIR MOLINA: Okay. So your consideration--

VICE-CHAIR PONTANILLA: Chair.

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COUNCILMEMBER MEDEIROS: Chair.

CHAIR MOLINA: Oh. Okay. All right. We got a horse race over here. We'll start first with Mr. Pontanilla followed by Mr. Medeiros.

VICE-CHAIR PONTANILLA: Thank you. This is for Member Anderson. In regards to the County departments--

COUNCILMEMBER MEDEIROS: Yeah.

VICE-CHAIR PONTANILLA: --why Public Works rather than Environmental Management?

COUNCILMEMBER MEDEIROS: Environmental Management.

COUNCILMEMBER ANDERSON: Well, that's a good point, we should change that language. I just actually took it right out of our--that reminds me, Corporation Counsel, we need to change Title 19. I just took it out of Title 19 the way it reads right now, "The departments of public works and water supply of the County." So I guess the more appropriate language, as Mr. Pontanilla just said, would be the Department of Waste, Environmental Management.

COUNCILMEMBER MEDEIROS: Environmental Management.

CHAIR MOLINA: Okay. Members, we're going to make that change then. I guess prior to the addition of the Environmental Management Department, it would have been Public Works in the past. So I think it's a good point to be made, so it'll be Environmental Management along with the Department of Water Supply. All right, Mr., Mr. Pontanilla, are you done?

VICE-CHAIR PONTANILLA: Yeah.

CHAIR MOLINA: Okay.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: No. I, I was going to point out the same thing. Now that we have two separate departments, the department that has more oversight over something like this would be Environmental Management. And my question, but I think Member Anderson kind of answered it, is why would Water Supply be included for this analysis?

CHAIR MOLINA: Okay. Member Anderson, are you able to respond to Mr. Medeiros' inquiry?

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COUNCILMEMBER ANDERSON: Well, I guess maybe we should ask Ms. Suyama that. I mean it's, as I said, Members, this is how it's spelled out in our--you know, maybe the reason would be in case...it's the way the language currently reads in our Change in Zoning application requirements and that's why I put it in. Maybe it would be prudent for them to look at it in case there might be some conflict with, you know, a well system that they're planning or whatever.

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: I also know that there is an underground injection control line that needs to be considered so that you're not having sewage disposal conflicting with potable wells.

CHAIR MOLINA: Okay. I'll ask Mr. Taylor first before Director Suyama. Mr. Taylor, do you want to comment?

MR. TAYLOR: Yeah. Member Anderson is exactly correct. That's why the Department of Water Supply looks at it and the Department of Health will also look at the underground injection control line. And as you noted, the Department of Water Supply will make sure that the injection well effluent or whatever the effluent disposal method is does not interact with any sort of potable water sources.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR MOLINA: Okay. Director Suyama, any additional comments?

MS. SUYAMA: No. I was going to say the same thing.

CHAIR MOLINA: Okay. All right. Members, the matter is up for consideration. Do we have acceptance or, Member Anderson, would you like to do that as a formal motion for Condition 16 and 17?

COUNCILMEMBER ANDERSON: So moved, Mr. Chair.

CHAIR MOLINA: Okay.

VICE-CHAIR PONTANILLA: Second.

CHAIR MOLINA: All right. Member Baisa?

COUNCILMEMBER BAISA: Could we ask the Applicant his reaction to this?

CHAIR MOLINA: Before we--okay. All right, Mr. Jencks? Are there any objections, Members?

COUNCIL MEMBERS: No objections.

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CHAIR MOLINA: Okay. Mr. Jencks.

MR. JENCKS: Thank you, Mr. Chair. Thank you, Ms. Baisa. Reading the condition, I really have no problem with it, Mr. Chair. This system as I, as I've informed this Committee before will be a PUC regulated system given the number of people it will serve. There's also a requirement in State law now that, well, I have to do an EIS for this, this wastewater treatment system plant that has extensive review through the State Department of Health and, of course, the Department of Water Supply and Environmental Management here in Maui County, plus lots of public review and comment, notification, discussion on the EIS. So I think from a regulatory point of view, it's handled. With the PUC involvement it's handled with regard to what we can charge these folks and how that fee structure is handled. I'm very concerned, Mr. Chair, about requirements to bring back specific documents back to this Council after and during the time in which this development entity is making significant investments in infrastructure in South Maui. Given the regulatory environment for this particular issue which is second to none in the State of Hawaii, it's a very high profile issue, as Mr. Taylor can tell you, with the issue of consent decrees and in dealing with the Environmental Protection Agency, the regulatory environment really tells us what we got to do. Bringing back a document to the Council for review and comment, all the while there is significant offsite investment being made, is I don't think fair to the project. So I would, I would ask you, fine, the top part of this condition not a problem, but bringing it back for any discussion given all of the regulatory exposure and review and comment and approval, including an EIS, I don't think is appropriate.

CHAIR MOLINA: Okay. Thank you, Mr. Jencks. Member Anderson? I'm sorry, I think Member Baisa had made the request. I'll, I'll ask Member Baisa first if she has a question.

COUNCILMEMBER BAISA: No. I'd like to thank the Applicant for the comments. Thank you.

CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: You know, that's all well and good, Mr. Jencks. But if you had fulfilled the application requirements, this condition wouldn't be necessary. You've known all along that you were going to do a private wastewater system and, Members, if you want me to pass, pass out for you what our application calls out for, I'll be happy to do it. Nobody's asking you to get your EIS done, get your PUC application done, get anything done before you bring this back to us. This says prior to Phase II approval. You could go get this sewage disposal analysis done, you know, in two weeks and bring it back to this Council and let us review it so that you know before you go forward with any other investment whether or not this Council finds this analysis and the comments from the agencies that are required, Mr. Chairman, by the rule of law that we are sworn to follow as decision-makers in this County, that we deserve to know what these agencies think of this method of sewage disposal. And if it's all, you know, technologically feasible and what's the big deal? Do it and bring it back. And then, you know, we might be able to say, well if, if your sewage disposal analysis--who knows what DLNR might say. What DLNR might say, Mr. Jencks, you can't put this here because you're already up gradient from impaired water bodies that are being degraded daily by injection. . .(change tape,

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*start 3A).* . .so if you want to do this sewage plant, you better make sure you do it to a standard that all the water is going to be reused and none of it is going to be injected.

You know, we're right now injecting R1 water which is the highest grade effluent that you can possibly treat, and 70 percent of it is going into injection wells, full of nutrient loading to our near-shore waters. So, you know, I'm sorry, Mr. Jencks, I have no sympathy. If, if you had followed the application requirements, we wouldn't even need this condition. So, you know, don't just give us a pretty picture and say we're going to put in our private plant. Mr. Chairman, our Change in Zoning, County Code requirement says a sewage disposal analysis which has been reviewed and commented on by these various agencies, in the application. We should've had this seven years ago. The Planning Commission should have seen it. So all I'm doing is asking him to follow the County Code so that as the decision-makers we have that information so we're making an informed decision. I think that's our duty and responsibility to the people who put us in these honorable roles. And if we're going to turn our back on it because it's inconvenient to him, what are we doing here?

MR. JENCKS: Mr. Chair.

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

MR. JENCKS: Yeah. Certainly. Two comments. One, if the concern about effluent use related to injection wells is something that you're really concerned about, we have said from the beginning that this project would use all of its reclaimed water in the project, it's to our benefit to do that. So if you want to include a condition that says you have to use all the water for irrigation purposes and only injection wells as a backup, which is what the State Department of Health will probably require anyway, that's fine with me. Number two, if you look at the submittal documents for this application that go back to 2000, 2000 there was an infrastructure section in that submittal document that addressed water, drainage, sewage. It was sent out to all agencies for review and comment. And it wouldn't have been accepted by the Department of Planning unless that document was in that submittal package. It's there, it's a part of that large infrastructure submittal package. It's there for you to review. It was a master plan level application for a Change in Zoning that identified options and issues as a part of the application.

COUNCILMEMBER ANDERSON: Well, I would beg to differ with you, Mr. Jencks. I have not seen a sewage disposal analysis, it's not mentioned in the Planning Department reports, three different reports that we got. If you can bring that forward, Mr. Jencks, and show us that it's been reviewed by the various agencies that are required under our Change in Zoning application, that's a different thing. You know, if, if you're going to use all of your effluent for irrigation purposes, then put it in your sewage disposal analysis. All I'm saying, Mr. Chairman, is that we're sworn to follow the law and all of these application requirements are in place for a purpose so that as decision-makers we're making an informed decision, and we know that the decision we make is not going to adversely impact our community or those people who will be living on this site. And, you know, if you want to just take his word for it, then, then we're abdicating our responsibility. And I don't see where the big...you know, what is it, what are you afraid of

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showing us, Mr. Jencks? I mean we're not asking you to do anything that you shouldn't have done already. And if you have done it, let's see it. Has it been reviewed by DLNR? Has it been reviewed by Environmental Waste Management? Has it been reviewed by the Department of Health or the Water Supply Department as our application requirements state, Mr. Chair? It's all I'm trying to do. We had an incomplete application, this is not the only application requirement that was not provided. And I'm giving him an opportunity to complete the application, so there aren't going to be any problems down the road for anybody, including us as decision-makers.

CHAIR MOLINA: Okay. Member Anderson, let me ask Deputy Director Suyama if she has comments on what, regarding Mr. Jencks' statements?

MS. SUYAMA: The application when it was received by the Department, it did include all of the requirements in terms of what infrastructure improvements were being proposed by the Applicant, and those reports were sent out to all the various agencies. It's normal that not always do the agencies, you know, comment on every specific portion of the application. So all we do is compile the agency comments that came back from these agencies. Sometimes they specify certain, you know, issues that are within the whole application format. Like Public Works, you know, before it was Department of Public Works and Environmental Management, they generally will comment about traffic, sewers, you know, infrastructure improvements that are under their Department in general terms and they may recommend certain recommendations for conditions, but that's about it. And we take whatever their comments are, the same thing with the Department of Health, and a lot of times the Department of Health comments basically is we have no comments or we'll wait until subsequent review processes in which to make our, you know, official comments or more specific comments. Same thing with the Water Department. The Water Department generally comments in very general terms as to what is their anticipated demand for water resources based upon their calculations. And they usually generally have comments about the water system, you know, the adequacy of the water system. In those days in 2000, you know, it was basically saying that the Central Maui system at that time, you know, the aquifer was in danger and they usually gave us, you know, what they estimated to be the remaining capacity within the aquifer. And they usually had general comments about conservation methods as well as concerns about best management practices in order not to degrade the underground water resources. But they normally in terms of comments from the agencies are very general and not to the specifics.

Because throughout the whole process. . .because there's other permits that come down the line that they have to come through. For example, the Project District Phase II approval as well as the Phase III approval, and usually as they come down the line and they have more specific development plans, then the agencies will have more comments because now they're dealing with an actual project and not just in general terms that we're just dealing at this portion with just 1,400 units and not the really specific layouts of all of these units and what the makeup, the mix of the units are. So normally the agencies don't have that real specific, you know, information. They do it at the next level, you know, as you go down the level, all the way down to when you actually come in for your ministerial permits which is like your building permits where they then come down to the specific code requirements. So it's like a, you know, it's from very general

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terms all the way down to the very specific that runs through the whole permitting process that's continually being reviewed and updated.

CHAIR MOLINA: Okay. Thank you, Director. Members, you heard the comments from the Director. Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. I appreciate those comments, Mr. Chairman. But anybody that would like to look at the minutes from the 2001 Planning Commission meeting where they passed this through, every single request regarding impact was answered with "That can be dealt with at Phase II". They got no information with which to ascertain what kind of impact this project might have. And, you know, I'll tell you something, I was a planner with OEQC, I reviewed an awful lot of projects and, you know, the old adage, garbage in, garbage out. You can't make comments if you don't have information with which to analyze in order to make comments. And the application that we got on this project did not provide a sewage disposal analysis. You know, everything in the application said that they're going to do a private sewage plant so therefore, you know, they don't have to address the County sewage capacity or anything having to do with sewage because they're doing a private plant. The application request does not say anything about not doing a sewage disposal analysis if you're doing a private plant. It says, "Provide a sewage disposal analysis, a description of a proposed method of sewage disposal and comments from the departments of health, land and natural resources, public works and water supply." There's a reason this is here, all this language in the application was well thought-out, Members, by previous Planning Department staff and Council Members to ensure that when we make our decision we're fully informed and we're meeting the criteria of approval in our decision-making process.

And, you know, do I need to remind you that in order for us to find that this application meets the purpose and intent and, and, and the purpose and intent of the objectives of the Community Plan, but that we are making a decision in concert with our duty as elected officials to follow the law? We have to find that the application would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway, transportation, all these public conveniences and improvements, and that there will not be any deleterious effect to the general public. Now that's why all these application requirements are in place, Mr. Chairman. And if we're going to ignore them and just hope for the best then, I mean, that's not what we're elected to do. And, and do we know that what he's going to do is not going have an adverse effect on the near-shore waters? Do we have any guarantee in writing that he's not going to inject the effluent? You know, we're not going to be here forever, Members. By the time this project is built out, where is the, where is the assurance? Where's the condition? Where's the analysis? And that's all I'm trying to do, Mr. Chairman, is follow the County Code requirements to the "T" and that's what I'm asking Members to support.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Members, it's roughly 8:30. The Chair had made a commitment to cease our deliberations tonight at 8:30, so we'll leave this on the floor for consideration at our next recessed meeting, which I would like to throw at you right now. I'm looking at Thursday at 1:30. I understand Mr. Mateo is looking at possibly Thursday morning to

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recess his Policy Committee meeting. So I'm, at this point he, I was informed that he is not looking at going into the afternoon; however, if there is a chance he goes into the afternoon, we could always open up this meeting then recess it and complete Mr. Mateo's portion of his meeting as well. So I'll give you a couple of minutes to go check your calendars, Members. Let's come back at 8:40. Meeting in recess. Five minutes. . . .(gavel). . .

**RECESS: 8:35 p.m.**

**RECONVENE: 8:42 p.m.**

CHAIR MOLINA: . . .(gavel). . . The recessed Land Use Committee meeting of October 18, 2007 is now back in session. It is 8:42 Monday, October 29<sup>th</sup>. We last left off with a consideration for a recess date of November 1<sup>st</sup>, Thursday, 1:30 p.m. That is the Chair's recommendation. Comments, Members? Everyone available to meet at 1:30? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: I need to make arrangements. I have a previous engagement. So I'll let you know tomorrow.

CHAIR MOLINA: All right. Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: I can be here until 5:30, then I have another prior commitment which I cannot change, but probably that's, what, an hour and a half, so I may be back. If you're going to go late, I'll be back at like 7:30.

CHAIR MOLINA: Okay. Well, there is that possibility we could go real late depending on quorum. Thank you, Mr. Victorino. Member Baisa?

COUNCILMEMBER BAISA: I, I could rearrange my life to be here from 1:30 till maybe about 5:15, but I cannot come back, I have a commitment that night.

CHAIR MOLINA: Okay. Thank you, Member Baisa. Member Anderson and Member Medeiros, any comments with regards to the Chair's recommendation for a recessed meeting of 1:30, November 1<sup>st</sup>, this Thursday?

COUNCILMEMBER MEDEIROS: Go, go ahead.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: I'm sorry. I missed your ending time, Chair.

CHAIR MOLINA: Yeah. Again, the Chair is open to go all the way through the night. We've heard that, I guess Mr. Victorino has to leave at one point around maybe 5:00, but he could return later in the evening. Mr. Pontanilla's going to double check, I guess, related to a prior commitment

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that you had, Mr. Pontanilla, so you're not 100 percent sure in other words at this point on your availability for Thursday.

COUNCILMEMBER ANDERSON: You know, Mr. Chair, my preference since we are, you know, getting into the home stretch here, that I wouldn't mind coming at 1:30 to 5:00, but we have a Council meeting the next day, we also are attempting to reconvene my Water Resource meeting and hopefully finalize the bill that we've been working on for months, and then we have an off week. So I would prefer that we get, you know, a full day on the off week when we, all nine Members can be here and we can just, you know, go to the finish line and, and do it in a manner that allows us some recovery time. If we have to stay here till 10:00, 11:00 at night to get this done, then so be it. But at least we don't have to be down here and fresh for a Council meeting the next morning. I mean, you know, I'm all for getting this done, good God we've been a year at this, but not at the expense of my health or anybody's else health or at the expense of our other responsibilities, Mr. Chairman.

CHAIR MOLINA: All right. The Chair will take that into consideration. Well, Members, we are close and I would. . .if not, we're not able to conclude Thursday, I would hope that the following week is the last. We have spent, just for the record we have spent I believe, since January, since the start of this term, roughly 20 meetings, pushing 70 hours. I think the public is expecting us to make some kind of decision soon. So, you know, I'm sorry if I'm maybe pushing you guys, but we have other considerations in the Land Use Committee as you well know. So we're so close to getting this matter done and I'm really hoping it doesn't drag on past November and start going into our holidays, and I think that in itself would be doing the public a disservice by, first of all, wearing us down and also maybe neglecting some other matters that needs to be addressed in our community. So, Members, if, if not this Thursday, I would hope that we can all focus on wrapping this up the following week. So if I could get at least some sort of informal commitment, I think that could work for me. 'Cause we have to crack the whip at some point, Members. So with that being said, we will see what happens. If Thursday is the agreed-upon date, we will see what happens on Thursday and then we will consider a potential recess date into the following week. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah. Chair, yeah, I'm going to be available Thursday and you're going to get back to us whether we have quorum?

CHAIR MOLINA: Yes. I'll have Staff poll you as a follow-up--

COUNCILMEMBER MEDEIROS: Okay.

CHAIR MOLINA: --to tonight's proceedings to see again the availability for Thursday as well. Member Anderson?

COUNCILMEMBER ANDERSON: Yeah. I was just trying to get an ending time, Chair, so that--

CHAIR MOLINA: Okay. So we have an idea.

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COUNCILMEMBER ANDERSON: --I know whether--

CHAIR MOLINA: All right. Again depending on quorum, but let's say for the time being 5:30 maybe? Okay. We'll look at tentative 5:30 and if we have quorum to go another couple hours that night, then so be it. If not, well, then we'll have to look at a potential recess day into the following week. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. I like the idea, what Member Anderson had spoken. You know, if we quit at 5:30 Thursday, you know, we should devote one whole day and complete this thing--

CHAIR MOLINA: Okay.

VICE-CHAIR PONTANILLA: --on the off week.

CHAIR MOLINA: All right. And I do realize it's during a committee week, it's already, you know, taxing on our physical abilities. You know, we're not spring chickens anymore. I mean I'll speak for myself. But--

COUNCIL MEMBERS: . . .(*chuckle*). . .

COUNCILMEMBER VICTORINO: Okay. As long as you're not speaking for me. Okay.

COUNCILMEMBER ANDERSON: Cluck, cluck.

CHAIR MOLINA: Okay. Members, first and foremost our health and mental wellbeing takes priority.

COUNCILMEMBER VICTORINO: Mental wellbeing.

CHAIR MOLINA: So with that being said, Members, get a good night's rest. We have a Policy Committee as well as Member Baisa's Planning Committee meeting tomorrow morning. So get some rest. . .9:00 a.m. and she wants all Members there sharp.

So we will recess this meeting till Thursday, November 1<sup>st</sup>, 1:30 p.m. here in the Council Chambers. Any other comments from Staff before we recess? Okay. Seeing none, the recess date and time has been stated for the record. It is 8:47, Monday, October 29<sup>th</sup>. This meeting is in recess until Thursday. . . .(*gavel*). . .

**RECESS:** 8:49 p.m.

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APPROVED:



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MICHAEL J. MOLINA, Chair  
Land Use Committee

lu:min:071029r

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

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

DATED the 13th day of November, 2007, in Pukalani, Hawaii



Daniel Schoenbeck